



Durham E-Theses

A study of Lyautey's administration of Morocco, in relation to indigenous and Islamic institutions

Scham, Alan M.

How to cite:

Scham, Alan M. (1967) *A study of Lyautey's administration of Morocco, in relation to indigenous and Islamic institutions*, Durham theses, Durham University. Available at Durham E-Theses Online:
<http://etheses.dur.ac.uk/7977/>

Use policy

The full-text may be used and/or reproduced, and given to third parties in any format or medium, without prior permission or charge, for personal research or study, educational, or not-for-profit purposes provided that:

- a full bibliographic reference is made to the original source
- a [link](#) is made to the metadata record in Durham E-Theses
- the full-text is not changed in any way

The full-text must not be sold in any format or medium without the formal permission of the copyright holders.

Please consult the [full Durham E-Theses policy](#) for further details.

Academic Support Office, Durham University, University Office, Old Elvet, Durham DH1 3HP
e-mail: e-theses.admin@dur.ac.uk Tel: +44 0191 334 6107
<http://etheses.dur.ac.uk>

A STUDY OF LYAUTEY'S ADMINISTRATION OF MOROCCO,
IN RELATION TO INDIGENOUS AND ISLAMIC
INSTITUTIONS

The copyright of this thesis rests with the author
No quotation from it should be published without
his prior written consent and information derived
from it should be acknowledged

Thesis Presented for the Degree of Doctor of Philosophy
at the School of Oriental Studies
of the University of Durham

by

ALAN M. SCHAM, B.A.

1967

TABLE OF CONTENTS

	PAGE
LIST OF FIGURES	xiii
LIST OF MAPS	xiv
PREFACE	xv
ABERREVIATIONS	xix
CHAPTER	
I. DIPLOMATIC STEPS LEADING TO THE ESTABLISHMENT OF THE PROTECTORATE	1
I. Introduction.	1
II. Italy	5
III. Great Britain	8
IV. Spain	13
V. Germany	22
VI. France and Morocco.	40
II. LYAUTEY: THE SOLDIER-ADMINISTRATOR	48
I. 1854-1911	48
II. 1912-1925	67
III. GOVERNMENT	127
I. Central Administration.	127
A. Before 1912	127
1. The Sultanate	128
2. The Vizirates	129

a.	Ouzir el-A'dham	129
b.	Ouzir el-Bahr	130
c.	Ouzir el-Malia.	132
d.	Ouzir el-Harb	134
e.	Ouzir ech-Chikayat.	135
E.	Central Administration, 1912-1925	140
1.	The Makhzen	142
a.	The Sultanate	143
b.	Ministerial Reorganization.	143
2.	Direction des Affaires Chérifiennes	145
3.	Central Administration of the Protectorate.	150
a.	Commissaire Résident Général.	151
b.	Délégué à la Résidence Générale	152
c.	Secrétaire Général du Protectorat	153
d.	Residential and Neo-Sherifian Departments	154
(1)	Direction des Affaires Indigènes et du Service des Renseignements.	155
(2)	Direction Générale des Finances	156
(3)	Direction Générale de l'Agri- culture, du Commerce et de la Colonisation	158
(4)	Direction Générale des Travaux Publics	160

(5) Direction Générale de l'Instruction Publique, des Beaux-Arts et des Antiquités.	162
(6) Other Directions	164
e. Regional Administration.	164
(1) Military Regions and Officiers de Renseignements .	167
(2) Civil Regions and Contrôleurs Civils	169
f. Conseil du Gouvernement, and Chambres d'Industrie, de Commerce et d'Agriculture	174
II. Municipal Administration	180
A. Before 1912	180
1. Pacha or Caïd.	180
2. Customs.	184
3. Amin el-Moustafad.	184
4. Mohtaseb	186
5. Cadi, Mufti, Adoul	187
6. Nadir.	188
7. Bou Maouarith.	190
B. Municipal Administration under the Protectorate	191
1. Pachas or Caïds.	191
2. Chef des Services Municipaux	193
3. Commissions Municipales.	194
4. Judicial Organization.	199

III. Tribal Organization	201
A. Before 1912	201
Tribal Administration	202
B. Tribal Administration, 1912-1925.	206
IV. PROPERTY	212
I. Introduction.	212
Property Registration	215
II. Acquisition of Real Property by Foreigners. . .	226
III. Habous	231
A. Prior to 1912	231
1. Habous Administration	232
2. Habous Property and Tenancy Rights. . .	234
B. Habous Property During Lyautey's Administration.	248
1. Habous Administration	248
2. Habous Property and Lease Revision. . .	251
3. Verification and Revision of Leasehold Rights	256
4. Public Utilities of the Habous.	261
IV. Collective Property	263
A. Official Djemaas.	264
B. Tribal Property, 1912-1925.	265
1. Administration, Ownership, Alienation .	265

2.	Leases	269
3.	Revenues from Collective Property. . .	271
4.	Delimitation and Registration of Collective Lands	274
5.	Alienation of Berber Property.	276
V.	Public and State Domain.	278
A.	Introduction.	278
B.	Administration	281
C.	Delimitation and Registration of Domain Properties	284
VI.	Expropriation.	287
VII.	Colonization	292
A.	Immigration.	293
B.	Development of Colonization.	295
V.	FRANCO-MUSLIM EDUCATION.	311
I.	Before the Protectorate.	311
A.	Introduction	311
B.	Primary Education.	312
C.	Secondary Education.	312
D.	Higher Education	313
II.	Franco-Muslim Education, 1912-1925	315
A.	Introduction	315
B.	Muslim Education	316

C.	Franco-Muslim Education	317
1.	Primary Education	319
a.	Primary Schools	320
b.	Écoles de Fils de Notables.	322
2.	Technical Education	323
a.	École Professionnelle of Fez.	324
b.	École Indigène d'Agriculture.	325
3.	Secondary Education	328
	Collèges Musulmans.	329
4.	Higher Education.	350
a.	Qaraouiye University	351
b.	Institut des Hautes Études.	355
c.	Institut Scientifique Chérifien	363
d.	École Militaire d'Élèves-Officiers Marocains	364
VI.	JUDICIAL ORGANIZATION OF MOROCCO	369
I.	Before the Protectorate	369
A.	Introduction	369
B.	Traditional Muslim Judicial Organization in Morocco before 1912.	370
C.	Muslim Judicial Procedure.	375
II.	French Judicial Organization, 1912-1925.	379
A.	Introduction	379
B.	French Judicial Organization, Jurisdictions and Competence	380

1. Tribunaux de Paix	382
2. Tribunaux de Première Instance.	384
3. Cour d'Appel	387
4. Circuit Courts	388
5. Assessors.	389
6. Administration of the Judicial Organiza- tion	391
7. Chambre du Contentieux de l'Immatricula- tion.	392
8. Special Courts.	393
9. Secretariats, Lawyers, Interpreters and Experts	394
a. Secretaries	394
b. Lawyers	394
c. Judicial Interpreters and Experts	395
III. Muslim Courts under the Protectorate, 1912-1925	397
A. Religious Courts.	397
1. Judicial Personnel of Chrâa Courts.	399
a. Muftis	399
b. Oukils	399
c. Adoul.	400
2. Registers	401
3. Supervision by the Vizirat de la Justice	402
4. Procedure	402
5. Appeals	405
6. Tribunal d'Appel du Chrâa	405

B.	Secular Courts	406
1.	Competence of the Pacha's or Caïd's Court	406
2.	Commissaires du Gouvernement	408
3.	Procedure.	411
4.	Défenseurs Agréés.	412
5.	Appeals.	413
6.	Haut Tribunal Chérifien.	415
7.	Supervision of Native Justice.	419
IV.	Jewish Courts under the Protectorate	421
A.	Tribunaux Rabbiniques	421
1.	Composition	421
2.	Jurisdiction	422
3.	Procedure before Tribunaux Rabbiniques	423
4.	The Jewish Notariate	424
5.	Peremptory Challenges.	426
B.	Haut Tribunal Rabbinique	427
VII.	A CRITICAL ASSESSMENT OF LYAUTEY'S ADMINISTRATION	430

APPENDICES:

I	Convention of Madrid, 3 July 1880	463
II	Franco-Italian Declaration, 28 October 1912	467
III	Hispano-Italian Agreement, 4 May 1913	468

IV	Italian Recognition of the Protectorate, 12 February 1913	469
V	Secret Franco-Spanish Agreement, 1 September 1905.	470
VI	Franco-Spanish Convention, 23 February 1907, Franco-Spanish Declarations, 16 May 1907	473
VII	Hispano-Moroccan Agreement, 16 November 1910	475
VIII	Franco-Spanish Agreement, 27 July 1911	481
IX	Franco-Spanish Convention, 27 November 1912.	482
X	Franco-Spanish Declaration, 7 March 1914	494
XI	Franco-Spanish Declaration, 17 November 1914	495
XII	Franco-Spanish Agreement, 29 December 1916	496
XIII	Franco-German Declarations, 8 July 1905, and Franco-German Agreement, 28 September 1905	499
XIV	Act of Algeciras, 7 April 1906	502
XV	Franco-German Declaration, 9 February 1909	529
XVI	Franco-German Convention, 4 November 1911.	530
XVII	Franco-Moroccan Protocol, 20 July 1901	535
XVIII	Franco-Moroccan Agreement, 20 April 1902, and Additional Articles, 7 May 1902.	538
XIX	Franco-Moroccan Agreements, 4 March 1910	545
XX	Decree of 28 April 1912	551
XXI	Tangier Convention, 18 December 1923	552
XXII	"Du rôle colonial de l'armée".	571
XXIII	Chronology of Residents General, 1912-1956	589
XXIV	"Préface" to <u>Rapport général sur la situation au Maroc au 31 juillet 1914</u>	590

XXV	Chronology of Sultans, 1873-1967	608
XXVI	Report of 19 March 1913 on Judicial Organization . .	609
XXVII	"Politique de Protectorat -- rapport au gouverne- ment le 3 décembre 1920".	616
XXVIII	Letters of Resignation	625
XXIX	Powers of the Resident General, Decree of 11 June 1912	630
XXX	Habous Donation.	631
XXXI	Transliteration of Terms	632
XXXII	The Protectorate, 1912-1925.	636
	BIBLIOGRAPHY	637

LIST OF FIGURES

FIGURE	PAGE
1. Ministry of Finance before the Protectorate	136
2. Makhzen before 1912	138
3. Makhzen: 1912-1925	149
4. Residential and Neo-Sherifian Directions, 1912-1925	165
5. Municipal Administration before 1912.	189
6. Municipal Administration, 1912-1925	195
7. Property under the Protectorate, 1912-1925. . . .	218
8. An 18th Century Habous Donation	242
9. Habous Administration, 1912-1925.	258
10. Tribal Administration, 1912-1925.	272
11. Public and State (Private) Domain, 1912-1925. . . .	285
12. European Immigration to Morocco, 1912-1928.	295
13. Colonization	300
14. Muslim and Franco-Muslim Education, 1912-1925	366
15. Judicial Organization under the Protectorate, 1912-1925	409
16. Muslim Judicial Organization in 1925	417
17. Rabbinical Courts, 1912-1925.	425

LIST OF MAPS

MAP	PAGE
I. Étapes de la Pacification du Maroc, 1907-1934.	43
II. Railways Planned by 1922	108
III. Cities Recognized as "Municipalities" during Iyautey's Administration.	192
IV. French Judicial Organization, 1912-1925 . . .	390
V. Carte Administrative et Militaire (1916). . .	Back Pocket
VI. Tribal Map of Morocco.	Back Pocket

PREFACE

The purpose of this thesis is to outline the main institutional changes made in Morocco during the early phase of the French Protectorate, when a very remarkable man, Marshal Lyautey, held office as the first French Resident General (1912-1925). I have not attempted to discuss Lyautey's military achievement in pacifying and uniting Morocco, partly at a time when the First World War was in progress; nor to survey the economic developments and social changes which took place. I have limited the thesis to developments in the governmental apparatus, land and property administration, education system and judicial organization. I have documented it from the laws and decrees promulgated during the period and published in the Bulletin Officiel du Protectorat de la République Française au Maroc.

I chose this subject for three principal reasons: no detailed and systematic study of it has yet been done; such a study is badly needed if any historical survey of the Protectorate is to be undertaken (and none has yet been published); Lyautey's works, despite changes of policy under his successors, determined the character of official institutions in Morocco during the entire period of the Protectorate (1912-1956).

I have presented this study in seven chapters. The first chapter briefly discusses the reasons why France wished to make Morocco a

Protectorate, and the diplomatic steps taken by the French in accomplishing this. The second chapter discusses Iyautey's colonial career, explaining some of the key events which formed his ideas on colonial administration, and shows how these ideas were applied in Morocco. It gives a background and explanation of events which led to the setting up of the institutions discussed in the following chapters. Chapter III explains the position of the Government before the establishment of the Protectorate, at central, municipal and tribal level, and how and when the French changed it. The next chapter, on property, explains the position of property in Morocco again before the French came, how they changed its structure, and how and from where land for colonization was made available. The fifth chapter discusses the entirely new Franco-Muslim educational system set up by the French; while the sixth chapter explains the changes and innovations in the judicial organization of the French Zone of the Protectorate. The final chapter looks at some aspects of Iyautey's work in retrospect.

I have added maps and diagrams throughout the study for further clarification of the text. Two large maps -- one tribal, one administrative -- are in the pocket of the back cover. Maps I, II, V and VI have been taken from official French sources. I am responsible for Figures 1-7, 9-11 and 13-17, Maps III and IV, and Appendices XXIII, XXV, XXXI

and XXXII. I have cited numerous treaties and other documents throughout the thesis, and many of the more important ones are located in the Appendices, although those selected had to be greatly restricted in number. In order to make this work as compact as possible, I have abbreviated most of the periodicals, and a few of Lyautey's works which I have consulted, and a list of these abbreviations immediately follows this Preface. All other works are listed with complete bibliographical information when first cited and are generally referred to thereafter by a shortened title or merely by the author's name (if only one work of the author is referred to). In order to avoid any confusion in referring to a particular work or author, and to permit the reading of any one chapter without necessarily having to refer to another one, full bibliographical information about each work discussed is mentioned once in each chapter. Thus, for example, as two articles and one book of de Laubadère are consulted in various chapters, each particular work is cited in detail, generally at the beginning of the subject concerned, thereby permitting for the most part the omission of the sometimes ambiguous use of op. cit.

Perhaps the most difficult problem encountered in a study of this nature is that of transliteration. Ordinarily there is the problem of whether to put Arabic words in academic or popular transliteration. Instead of choosing between these systems I have used the French system

of transliteration as works on the Protectorate are usually in French, or those very few in English generally keep to the French terminology and transliteration. I have, however, also compiled a list of most of the Arabic terms referred to in the thesis and added their English equivalent (see Appendix XXXI). Again I have referred to Moroccan proper nouns according to the French spelling, with the exception of a few names of cities known commonly in English, such as Tangier, Fez and Marrakesh.

ABBREVIATIONS¹

- AF = Bulletin du Comité de l'Afrique Française.
- AG = Annales de Géographie.
- AHES = Annales d'Histoire Économique et Sociale.
- AIEO = Annales de l'Institut d'Études Orientales.
- AM = Archives Marocaines.
- BO = Bulletin Officiel du Protectorat de la République Française au Maroc.
- CAIU = Cahiers de l'Alliance Israélite Universelle.
- CEA = Cuadernos de Estudios Africanos.
- CL = Choix de Lettres (by Lyautey).
- CSMS = Convegno di Scienze Morali e Storiche.
- DDF = Documents Diplomatiques Français.
- EI = Encyclopaedia of Islam.
- F-M = France-Maroc.
- IBLA = Revue de l'Institut des Belles Lettres Arabes.
- LA = Lyautey l'Africain -- Textes et Lettres du Maréchal Lyautey.
- PA = Paroles d'Action (by Lyautey).
- RC = Renseignements Coloniaux.
- REI = Revue des Études Islamiques.
- RJPUF = Revue Juridique et Politique de l'Union Française.
- RMM = Revue du Monde Musulman.
- RP = La Revue de Paris.
- VM = Vers le Maroc. Lettres du Sud-Oranais (1903-1906).
(By Lyautey).

¹Works having a title of one word (e.g., Hespéris and La Géographie) have not been abbreviated.

CHAPTER I

DIPLOMATIC STEPS LEADING TO THE ESTABLISHMENT OF THE PROTECTORATE

In this country there is nought of interest passing. Our Sultan Moulay Abd Er-Rahman is a fanatic, and is guided by a set of ignorant and venal ministers, who are doing all they can to ruin the commerce of the country by a system of monopolies. It is no use talking or writing to those who, it appears, won't or can't understand.

SIR JOHN DRUMMOND HAY
in a letter to Sir Stratford
Canning. February 1851.

"He whose molar tooth pains him should search for pincers."

"The snake said, 'Burning by fire is better than leaving the nest.'"

MOROCCAN PROVERBS

I. Introduction.

If French troops had not landed at Sidi Ferruch, Algeria in June 1830¹, French North Africa might never have existed. When those troops disembarked they stayed, and their arrival marked the beginning of growing French interest in the Maghrib, an interest which was ultimately to lead to the political, diplomatic, military, cultural and economic conquest of North Africa.

¹On French Algeria see: Charles-André Julien, Histoire de l'Algérie contemporaine, Vol. I: La conquête et les débuts de la colonisation (1827-1871) (Paris: Presses Universitaires de France, 1964); and Claude Martin, Histoire de l'Algérie française, 1830-1962 (Paris: Edition des 4 Fils Aymon, 1963).

As early as February 1851 Sir John Drummond Hay, a British consular representative at the Sherifian Court, wrote most perceptively about the Moroccans, in the letter quoted above, to Sir Stratford Canning in Constantinople: "Their disputes with the French, about [the Algero-Moroccan] frontier, &c., have ceased for the moment, but there are difficulties we must expect to the end of the chapter -- or rather, until Algiers becomes Morocco or Morocco part of Algiers."² Sir John foresaw the establishment of the French in Morocco more than sixty years before the event. France, however, was not the only European power with an eye on Morocco. In July 1875 Drummond Hay reported the considerable interest Spain was showing in Morocco as a future colony,³ an interest which increased after Spain's great territorial losses in the Spanish-American War of 1898. France really began to show an interest in Morocco during the Third Republic (at the same time as she was establishing herself in Tunisia),⁴ and as J.-L. Miège points out in his excellent work, the European Powers began to be aware of this interest from 1880.⁵ At this time the French Republic was represented in Morocco by the aggressive M. Ordega, who said in a dispatch to the Quai d'Orsay in June 1883: "If I were not afraid of anticipating the future too much,

²Sir John Drummond Hay, A Memoir of Sir John Drummond Hay (London: John Murray, 1896), p. 139.

³Ibid., p. 317.

⁴See Jean Poncet's valuable work: La colonisation et l'agriculture européennes en Tunisie depuis 1881 -- étude géographique, historique et économique (Paris: Mouton & Co., 1962), pp. 139 et seq; and, Marcel Peyrouton, Histoire générale du Maghreb -- Maroc, Algérie, Tunisie des origines à nos jours (Paris: Albin Michel, 1966), pp. 203 et seq.

⁵Jean-Louis Miège, Le Maroc et l'Europe (1830-1894), Vol. IV: Vers la Crise (Paris: Presses Universitaires de France, 1963), p. 36.

"I would give our policy in Morocco a specific role, that of making the sovereign of this country accept the protectorate of France."⁶

Sir John Drummond Hay was anxious about the serious undermining of the stability of the Sherifian Empire by certain European Powers. Among the causes contributing to Morocco's weakness was the tendency of the foreign Powers to increase the number of protégés and the resulting evasion of taxation by many Moroccan businessmen and farmers which, as the number of protégés grew, did nothing but harm the Moroccan Treasury. At Sir John Drummond Hay's instigation the major European Powers met in Madrid to discuss the protégé system, and this led to the Convention of Madrid of 3 July 1880⁷. Unfortunately, satisfactory results were not achieved, though the right of protection was defined a little more clearly, as is seen in Articles XII and XIII, which insisted that all foreigners or protégés owning or renting cultivated land must pay the agricultural tax, and that foreigners and protégés owning animals must pay the gate taxes throughout the Empire.

J.-L. Miège has summed up most clearly the position in Morocco in the late 19th century with regard to Europe⁸: "Throughout the second half of the 19th century European penetration, although limited and contained, made itself felt more and more effectively. The value of commerce quadrupled, the foreign colony -- almost non-existent in 1830 --

⁶Ibid.

⁷See Appendix I where the Convention is quoted in entirety; it was ratified at Tangier on 1 May 1881, after Russia had finally agreed to it on 4 April 1881. The following countries were signatories to it: Great Britain, Austria-Hungary, Belgium, Denmark, France, Germany, Italy, Morocco, the Netherlands, Portugal, Spain, Sweden and Norway, the U.S.A. and Russia.

⁸Miège, p. 409.

"exceeded 8,000 persons at the death of Moulay Hassan [in 1894], the number of associés and protégés having increased in like proportions."

+ + + +

A new phase of French interest developed in the late 1890s which represented a definite step towards the establishment of French supremacy in Morocco. France was now determined to add Morocco to her empire for several reasons: (1) From the military point of view, to end harrassment by Moroccan tribes along the Algero-Moroccan frontier; (2) to ensure protection of Europeans living in Morocco; (3) economically, to provide new markets and sources of income for France; and (4) diplomatically, to secure the rest of France's North African possessions from the threat of other European Powers.⁹

The celebrated Fashoda Incident was one of the first events to indicate the necessity for a settlement of European interests in Africa. In 1898 a French military expedition, led by Captain Marchand,¹⁰ reached and claimed the southern Sudan along the Nile, whereupon Kitchener immediately sailed up the Nile to investigate the affair. The Fashoda Incident led to an acute crisis in Anglo-French affairs, but was settled in 1899¹¹ when a treaty between the two nations was signed

⁹See Eugène Guernier's interesting views, La Berbérie, l'Islam et la France, II (Paris: Editions de l'Union Française, 1950), pp. 85-87.

¹⁰See the In Memorium article, "Général J.-B. Marchand", Académie des Sciences Coloniales, XXI (1934), pp. 37-51.

¹¹See the Anglo-French "Declaration" which was signed at London on 21 March 1899, in G. P. Gooch and Harold Temperley, British Documents on the Origins of the War, 1898-1914, Vol. I: The End of British Isolation (London: H. M. Stationery Office, 1927).

defining territorial borders and spheres of influence in that belt of Africa.

In order to establish a Protectorate in Morocco, France had to clear the way, diplomatically, so that the other three countries which had strong interests in the countries bordering the North African coast of the Mediterranean -- Spain, Italy and England -- would not interfere with this process.

II. Italy.¹²

Italy's interest in North Africa was not new, for she had been supplying military instructors, arms and munitions to the Sultan since the 1880s, and strong Italian "colonies" and commercial interests were established in the Maghrib. In consequence, relations had been tense between France and her Mediterranean neighbour under the Crispi ministry, and a détente was brought about only in the late 1890s, which resulted in the Treaties of 28 September 1896 concerning Tunisia, and the Commercial Agreement of 21 November 1898. Strained relations still existed, however, concerning Libya and Morocco. Both France and Italy wanted assurances of a hands-off policy in their respective African spheres of influence, and after more than a year and a half of tedious

¹²See Émile Bougreois' study of European foreign policy throughout this period in his Manuel historique de politique étrangère, Vol. IV: La politique mondiale (1878-1919), empires et nations (4th ed; Paris: Librairie Classique Eugène Belin, 1925).

negotiations, final secret agreement was reached in Rome in December 1900. This Agreement, ratified in 1902, was the work of the French Ambassador, M. Camille Barrère, and the Italian Foreign Minister, the Marquis Visconti-Venosta, and was in the form of two letters, as follows:

M. Camille Barrère to Marquis Visconti-Venosta.

Rome, 14 December 1900.

Following the conclusion of the Convention of 21 March 1899 between France and Great Britain, my Government, replying to your honourable predecessor, had the opportunity of giving him, through my intermediary, information of such a nature as to do away with any equivocal aspects concerning the significance of that instrument.

Since then Your Excellency has expressed the opinion that these assurances, reiterated in a most explicit manner, would contribute to strengthening friendly relations between our two countries.

I have, in consequence, been authorized by the Minister of Foreign Affairs to make known to you, because of the friendly relations which have been established between France and Italy and in the belief that this explanation will lead to even greater understanding, that the Convention of 21 March 1899 -- by leaving the vilayet of Tripoli outside the division of influence which it sanctions -- duly stipulates for the sphere of French influence -- in relation to Cyrenaican Tripolitania -- a frontier beyond which the Government of the French Republic have no intention to go and that they are not entering into any projects which would interfere in Tripoli's caravan communications with the regions comprised in the above-mentioned Convention.

These explanations, which we have agreed to hold secret, will contribute -- and I have no doubt about it -- to the consolidation, on this point as on others, of the friendly relations between our two countries.

The Marquis Visconti-Venosta to M. Camille Barrère.

Rome, 16 December 1900.

Mr. Ambassador,

The present situation in the Mediterranean, and the eventualities which may result there, have been the object of a friendly exchange of ideas between us, our two Governments being equally animated by the desire to put aside, concerning this also, anything which might be capable of compromising, in the present and the future, good mutual understanding.

In that which most especially concerns Morocco, it has been made evident from our conversations that the action of France has as its aim the exercise and safeguarding of rights which result to her from the proximity of her territory with this Empire.

It has also been understood that, if a modification of the political or territorial status of Morocco were to result, Italy would reciprocally reserve the right to develop eventually her influence in Cyrenaican Tripolitania.

These explanations, which we have agreed to keep secret, will no doubt contribute to the consolidation of friendly relations between our two countries.

Yours &c.

The Agreement was confirmed by a Franco-Italian Declaration of 28 October 1912,¹³ after the establishment of the French Protectorate of Morocco in March 1912. A similar Agreement was drawn up between the Royal Governments of Italy and Spain on 4 May 1913,¹⁴ giving reciprocal assurances of respect for the interests of each country, in Libya and Morocco. On 12 February 1913 the Italian Government officially recognized the Treaty of Fez establishing the Protectorate.¹⁵

¹³See Appendix II for this Declaration.

¹⁴See Appendix III.

¹⁵See Appendix IV.

III. Great Britain.

Agreement between Great Britain and France was officially reached in one of the Conventions of the Entente Cordiale of 1904. England had two main interests in Morocco: (1) She wished to protect her trade there, a trade larger than that of any other European country; (2) she did not want any other European Power to gain control of the southern shore of the Straits of Gibraltar. In Egypt English policy always had to compete with French interests, and a free hand in Egypt was greatly welcomed by Cromer.¹⁶ The Entente Cordiale, signed in London on 8 April 1904, by Lord Lansdowne and Paul Cambon, satisfied Britain on all three points: British trade in Morocco was respected; the Straits of Gibraltar were not to be fortified on the Moroccan coast; and French harrassment in Egypt was to cease. France, too, was contented with a good day's work: her commercial interests in Egypt were respected; England had agreed to allow her a free hand in Morocco and had also agreed to a future partitioning of Morocco between France and Spain. The Treaty, including the Secret Articles, is as follows:¹⁷

ANGLO-FRENCH DECLARATION CONCERNING EGYPT AND MOROCCO

¹⁶See David S. Landes' excellent work, Bankers and Pashas (London: Heinemann, 1958), which gives a lucid account of French financial interests in Egypt.

¹⁷Also signed on the same date by France and Britain were: (1) a Convention concerning Newfoundland and West and Central Africa; and (2) a Declaration concerning Siam, Madagascar, and the New Hebrides.

ARTICLE I

His Britannic Majesty's Government declare that they have no intention of altering the political status of Egypt.

The Government of the French Republic, for their part, declare that they will not obstruct the action of Great Britain in that country by asking that a limit of time be fixed for the British occupation or in any other manner, and that they give their assent to the draft Khedivial Decree annexed to the present Arrangement, containing the guarantees considered necessary for the protection of the interests of the Egyptian bondholders, on the condition that, after its promulgation, it cannot be modified in any way without the consent of the Powers Signatory of the Convention of London of 1885.

It is agreed that the post of Director-General of Antiquities in Egypt shall continue, as in the past, to be entrusted to a French savant.

ARTICLE II

The Government of the French Republic declare that they have no intention of altering the political status of Morocco.

His Britannic Majesty's Government, for their part, recognise that it appertains to France, more particularly as a Power whose dominions are coterminous for a great distance with those of Morocco, to preserve order in that country, and to provide assistance for the purpose of all administrative, economic, financial and military reforms which it may require.

They declare that they will not obstruct the action taken by France for this purpose, provided that such action shall leave intact the rights which Great Britain, in virtue of Treaties, Conventions, and usage, enjoys in Morocco, including the right of coasting trade between the ports of Morocco, enjoyed by British vessels since 1901.

ARTICLE III

His Britannic Majesty's Government, for their part, will respect the rights which France, in virtue of Treaties, Conventions, and usage, enjoys in Egypt, including the rights of coasting trade between Egyptian ports accorded to French vessels.

ARTICLE IV

The two Governments, being equally attached to the principle of commercial liberty both in Egypt and Morocco, declare that they will not, in those countries, countenance any inequality either in the imposition of customs duties or other taxes, or of railway transport charges.

The trade of both nations with Morocco and with Egypt shall enjoy the same treatment in transit through the French and British possessions in Africa. An agreement between the two Governments shall settle the conditions of such transit and shall determine the points of entry.

This mutual engagement shall be binding for a period of thirty years. Unless this stipulation is expressly denounced at least one year in advance, the period shall be extended for five years at a time.

Nevertheless, the Government of the French Republic reserve to themselves in Morocco, and His Majesty's Government reserve to themselves in Egypt, the right to see that the concessions for roads, railways, ports, &c., are only granted on such conditions as will maintain intact the authority of the State over these great undertakings of public interest.

ARTICLE V

His Britannic Majesty's Government declare that they will use their influence in order that the French officials now in the Egyptian service may not be placed under conditions less advantageous than those applying to the British officials in the same service.

The Government of the French Republic, for their part, would make no objection to the application of analogous conditions to British officials now in the Moorish service.

ARTICLE VI

In order to insure the free passage of the Suez Canal, His Britannic Majesty's Government declare that they adhere to the stipulation of the Treaty of the 29th October, 1888, and that they agree to their being put in force. The free passage of the Canal being guaranteed, the execution of the last sentence of paragraph 1 as well as of paragraph 2 of Article VIII of the Treaty will remain in abeyance.

ARTICLE VII

In order to secure the free passage of the Straits of Gibraltar, the two Governments agree not to permit the erection of any fortifications or strategic works on that portion of the coast of Morocco comprised between, but not including, Melilla and the heights which command the right bank of the River Sebou.

This condition does not, however, apply to the places at present in the occupation of Spain on the Moorish coast of the Mediterranean.

ARTICLE VIII

The two Governments, inspired by their feeling of sincere friendship for Spain, take into special consideration the interests which that country derives from her geographical position and from her territorial possessions on the Moorish coast of the Mediterranean. In regard to these interests the French Government will come to an understanding with the Spanish Government.

The agreement which may be come to on the subject between France and Spain shall be communicated to His Britannic Majesty's Government.

ARTICLE IX

The two Governments agree to afford to one another their diplomatic support, in order to obtain the execution of the clauses of the present Declaration regarding Egypt and Morocco.

In witness whereof his Excellency the Ambassador of the French Republic at the Court of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty's Principal Secretary of State, for Foreign Affairs, duly authorized for that purpose, have signed the present Declaration and have affixed thereto their seals.

Done at London, in duplicate, the 8th day of April, 1904.
LANSLOWNE. PAUL CAMBON.

SECRET ARTICLE I

In the event of either Government finding themselves constrained, by the force of circumstances, to modify their policy in respect to Egypt and Morocco, the engagements which they have undertaken towards each other by Articles IV, VI and VII of the Declaration of to-day's date would remain intact.

SECRET ARTICLE II

His Britannic Majesty's Government have no present intention of proposing to the Powers any changes in the system of the Capitulations, or in the judicial organisation of Egypt.

In the event of their considering it desirable to introduce in Egypt reforms tending to assimilate the Egyptian legislative system to that in force in other civilised countries, the Government of the French Republic will not refuse to entertain any such proposals, on the understanding that His Britannic Majesty's Government will agree to entertain the suggestions that the Government of the French Republic may have to make to them with a view of introducing similar reforms in Morocco.

SECRET ARTICLE III

The two Governments agree that a certain extent of Moorish territory adjacent to Melilla, Ceuta and other Presidios should, whenever the Sultan ceases to exercise authority over it, come within the sphere of influence of Spain, and that the administration of the coast of Melilla as far as, but not including, the heights on the right bank of the Sebou shall be entrusted to Spain.

Nevertheless, Spain would previously have to give her formal assent to the provisions of Articles IV and VIII of the Declaration of to-day's date, and undertake to carry them out.

She would also have to undertake not to alienate the whole or a part of the territories placed under her authority or in her sphere of influence.

SECRET ARTICLE IV

If Spain, when invited to assent to the provisions of the preceding article, should think proper to decline, the Arrangement between France and Great Britain, as embodied in the Declaration of to-day's date, would none the less be applicable.

SECRET ARTICLE V

Should the consent of the other Powers to the draft Decree mentioned in Article I of the Declaration of today's date not be obtained, the Government of the French Republic will not oppose the repayment at par of the Guaranteed, Privileged and Unified Debts after the 15th July, 1910.

Done at London, in duplicate, the 8th day of April, 1904.
LANSDOWNE. PAUL CAMBON.

IV. Spain.

In the last half of the 19th century both Spain and France had made known their interests in Morocco. Admittedly, Spain had prior, more historical claims to Morocco and already held the Spanish Sahara, on Morocco's southern frontier, as well as Ifni, in southern Morocco, and several presidios including Ceuta and Melilla; while the prevalence of the Spanish language in northern Morocco further attested to Spain's deep roots in the Sherifian Empire.

From 1902 France and Spain tried to work out an arrangement for the partition of Morocco, and in that year Spain believed that she had been promised almost all of northern Morocco including Fez, though not Tangier, by M. Delcassé; the Agreement, however, was never signed. Later it was agreed by France and Spain, and then by France and Great Britain, that upon the signing of the Entente Cordiale of 1904 France would immediately come to an official agreement with Spain in accordance with the principles of the Entente as well as with those put forward in the Franco-Spanish discussions of 1902. Spain, however, after waiting to be notified by France that the Entente had taken place, did not receive immediate confirmation of this from the

Quai d'Orsay. The Spanish Ambassador to Paris broached the subject at the Quai d'Orsay just before the signing of the Entente and found the French Government uncommunicative. When pressed by the anxious Spanish Ambassador at London, Lord Lansdowne, Secretary of State for Foreign Affairs, reassured him that this was quite natural at that time, as the negotiations had not been officially completed, and then told the Ambassador that throughout the negotiations for the Entente, England had always ". . . insisted that the interests of Spain were to be kept in view."¹⁸ France, however, remained elusive and did not discuss Spanish claims in Morocco until the first week of May, a delay which considerably surprised the British. After much haggling and anxiety, a Declaration and a Secret Convention were signed at Paris on 3 October 1904, by M. Delcassé, the French Foreign Minister,¹⁹ and the Spanish Ambassador, de León y Castillo. The Declaration stated that France and Spain would respect the integrity of the Moroccan Empire under the sovereignty of the Sultan. The Convention, however, stated that Spain adhered to the terms of the Entente Cordiale and then defined Spain's sphere of influence along the Moroccan coast, and how and when ". . . Spain would be able to exercise freely her right of action in the region delimited in the preceding articles and which constitutes as of the present its sphere of influence."²⁰ The only remaining point of interest is Article IX in which the special

¹⁸Gooch and Temperley, op. cit., Vol. III: The Testing of the Entente, 1904-6. Dispatch from the Marquess of Lansdowne to Sir E. Monson (in Paris) of 12 April 1904, p. 25.

¹⁹T. Delcassé was French Foreign Minister from 1898-1905.

²⁰See Art. III.

position and character of Tangier was recognized. The Convention is quoted as follows:

DECLARATION CONCERNING THE INTEGRITY OF THE MOROCCAN EMPIRE

The Government of the French Republic and the Government of His Majesty, the King of Spain, having agreed to determine the extent of the rights and the guarantee of interests which result, for France, from her Algerian possessions, and, for Spain, from her possessions along the coast of Morocco, and the Government of His Majesty, the King of Spain, having in consequence, given its adherence to the Franco-English Declaration of 8 April 1904, concerning Morocco and Egypt communication of which had been made to it by the Government of the French Republic.

Declare:

that they remain firmly attached to the integrity of the Moroccan Empire under the sovereignty of the Sultan.

In witness whereof the undersigned, His Excellency the Foreign Minister and His Excellency the Ambassador Extraordinary and Plenipotentiary of His Majesty, the King of Spain, to the President of the French Republic, duly authorized for that purpose, have drawn up the present Declaration and have affixed thereto their seals.

Done at Paris, in Duplicate, on the 3rd day of October, 1904.

DELCASSÉ

DE LÉON Y CASTILLO

SECRET CONVENTION CONCERNING MOROCCO

The President of the French Republic and His Majesty, the King of Spain, wishing to fix the extent of the rights and the guarantee of interests which result for France, from her Algerian possessions, and for Spain, from her possessions on the coast of Morocco, have decided to conclude a Convention and have named their Plenipotentiaries /Théophile Delcassé and de Léon y Castillo/. . . .

ARTICLE I

Spain adheres, according to the terms of the present Convention, to the Franco-English Declaration of 8 April 1904 concerning Morocco and Egypt.

ARTICLE II

The region situated to the west and north of the line determined hereafter, constitutes the sphere of influence which results for Spain from her possessions along the Moroccan coast of the Mediterranean.

In this zone is reserved for Spain the same right of action which is recognized for France by paragraph 2 of Article II of the Declaration of 8 April 1904 concerning Morocco and Egypt.

Nevertheless, taking into account present day difficulties and the reciprocal interest which there is in smoothing them away, Spain declares that she will exercise this action only after agreement with France during the first period of application of the present Convention, a period which shall not exceed fifteen years from the time of the signature of the Convention.

For her part, during the same period, France, desiring that the rights and interests recognized to Spain by the present Convention always be respected, will inform the Government of the King prior to this, of her action with the Sultan of Morocco in that which concerns the Spanish sphere of influence.

Upon the expiration of this first period, and so long as the status quo lasts, the action of France with the Moroccan Government, in that which concerns the sphere of influence reserved for Spain, will be exercised only after agreement with the Spanish Government.

During the first period, the Government of the French Republic will do all in their power in order that, in two of the customs ports of the region determined hereafter, the delegate of the general representative of the bondholders of the Moroccan loan of 12 July 1904 will be of Spanish nationality.

Starting from the mouth of the Moulouya, in the Mediterranean Sea, the line discussed above will proceed up the thalweg of this river as far as the alinement of the crest of the closest heights on the left bank of the Oued Delfa. From this point, and without being able, in any case, to cut across the course of the Moulouya, the demarcation line will join as directly as possible the crest line separating the basins of the Moulouya and the Oued Inaouen, from that of the Oued Kert, then it will continue

towards the West by the crest line separating the basins of the Qued Inaouen and the Qued Sebou, from those of the Qued Kert and the Qued Ouergha, to reach the most northerly crest of the Djebel Moulai-Bou-Chta. It will then proceed northwards, remaining a distance of at least 25 kilometers to the east of the road from Fez to Ksar-El-Kébir, by Ouezzan, until it comes to the Qued Loukkos, or Qued EL-Kous, the thalweg of which it will then descend for a distance of 5 kilometers down stream from the crossing of this river with the aforesaid road from Ksar-El-Kébir, via Ouezzan. From this point, it will reach, as directly as possible, the shore of the Atlantic, above the lagoon of Ez-Zerga.

This delimitation conforms with the delimitation traced out on the map appended to the present Convention under enclosure no. 1.

ARTICLE III

Should the situation arise where the political state of Morocco and the Sherifian Government would no longer be able to continue, or if, through the weakness of this Government and their persistent lack of power to achieve public order and security or for any other reason to be acknowledged by common accord, the maintenance of the status quo should become impossible, Spain would be able to exercise freely her action in the region delimited in the preceding article and which constitutes from the present time her sphere of influence.

ARTICLE IV

The Moroccan Government having, by Article VIII of 26 April 1860, conceded to Spain an establishment at Santa Cruz de Mar Pequeña (Ifni), it is understood that the territory of this establishment will not go beyond the course of the Qued Tazeroualt, from its source up to its confluence with the Qued Mesa and the course of the Qued Mesa, from this confluence to the sea, according to map no. 2, appended to the present Convention.

ARTICLE V

In order to complete the delimitation indicated by Article I of the Convention of 27 June 1900, it is understood that the demarcation between the spheres of French and Spanish influence will start from the intersection of the meridian $14^{\circ}20'$ west of Paris with the latitude 26° .

north which it will follow eastwards up to the meridian 11° west of Paris. It will then proceed up this meridian to its meeting with the Oued Draa,²¹ then the thalweg of the Oued Draa as far as its meeting with the meridian 10° west of Paris, finally the meridian 10° west of Paris up to the crest line between the basins of the Oued Draa and the Oued Sous, and will follow, in a westerly direction the Oued Sous, then enter the coastal basins of the Oued Mesa and the Oued Noun, up to the closest point of the source of the Oued Tazonalt. This delimitation conforms with the delimitation drawn on map no. 2 already mentioned and appended to the present Convention.

ARTICLE VI

Articles IV and V will be applicable at the same time as Article II of the present Convention.

Nevertheless, the Government of the French Republic permits Spain to establish herself at any time in the part defined in Article IV, on the condition of having previously received the Sultan's consent.

Likewise, the Government of the French Republic recognize from the present time full liberty of action for the Spanish Government over the region comprised between the latitude $26^{\circ}40'$ north and the meridian 11° west of Paris, which are beyond Moroccan territory.

ARTICLE VII

Spain undertakes neither to alienate nor to cede under any form, even by temporary title, any or part of the lands designated in Articles II, IV and V of the Convention.

ARTICLE VIII

If, in the application of Articles II, IV and V of the present Convention, a military action were imposed on one of the two contracting parties, that party would immediately warn the other.

In no case will it appeal to the help of a foreign Power.

ARTICLE IX

The city of Tangier will keep a special character which the presence of the diplomatic corps and its municipal and sanitation institutions will give it.

²¹From this passage, the delimitation was modified by Art. II of the Convention of 27 November 1912.

ARTICLE X

So long as the present political state lasts, the various enterprises such as public works, railways, highways and canals starting from one point of Morocco in order to end in the region considered in Article II, and vice versa, will be carried out by companies which will be made up of Frenchmen and Spaniards.

Likewise, it will be permissible for Frenchmen and Spaniards in Morocco to form companies in order to develop mines, quarries, and in general, enterprises of an economic order.

ARTICLE XI

The Spanish schools and establishments presently existing in Morocco will be respected. Circulation of Spanish money will be neither prevented nor hindered. The Spaniards will continue to enjoy in Morocco rights which the Treaties, Conventions and usages in force assure them, and include therein the right of navigation and fishing in Moroccan ports and waters.

ARTICLE XII

Frenchmen will enjoy, in the regions designated in Articles II, IV and V of the present Convention, the same rights which are, by the preceding article, recognized to the Spaniards in the rest of Morocco.

ARTICLE XIII

Should the Moroccan Government forbid the sale of arms in its territory, the two contracting Powers undertake to take, in their possessions in Africa, necessary measures to prevent arms and munitions from being introduced as contraband in Morocco.

ARTICLE XIV

It is agreed that the zone visualized in §1 of Article VII of the Franco-English Declaration of 8 April 1904 concerning Morocco and Egypt begins on the coast thirty kilometers south-east of Melilla.

ARTICLE XV

Should the denunciation foreseen by §3 of Article IV of the Franco-English Declaration concerning Morocco and Egypt take place, the French and Spanish Governments will work together for the establishment of an economic system which especially responds to their reciprocal interests.

ARTICLE XVI

The present Convention will be published when the two Governments will judge, by common accord, that it may be able to be done without inconvenience.

In any case, it can be published by one of the two Governments on the expiration of the first period of its application, a period which is defined in §3 of Article II.

In witness whereof the respective Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Paris, in duplicate, the 3rd day of October, 1904.

DELCASSÉ

LÉON Y CASTILLO

This Convention, however, did not end matters, for several more treaties were to be signed before and following the establishment of the Protectorate in 1912.

A Secret Agreement, meant to be nothing more than a stop-gap until the joint-Protectorate could be set up, was signed on 1 September 1905²² to regulate the functioning of the Convention of 3 October 1904. The Agreement was divided into three sections: (1) police and ports; (2) suppression of contraband and arms; and (3) economic and financial interests. This Agreement remained secret, although some aspects of it were incorporated in the General Act of Algeiras in the following year.

Because of the changes necessitated by the 1906 Act of Algeiras, a new Convention was signed in Paris on 23 February 1907²³ between

²² See Appendix V.

²³ See Appendix VI.

France and Spain concerning the organization of the Sherifian police and to ensure collaboration between France and Spain at Tangier and Casablanca. Franco-Spanish Declarations of 16 May 1907²⁴ followed, agreeing to a general maintenance of the status quo and of the security of communications of France and Spain with their African possessions of the Mediterranean and Atlantic.

On 16 November 1910²⁵ an Agreement was drawn up between Spain and Morocco, involving Spanish possessions already in Morocco, such as Alhucemas, the Peñon de Velez and Ceuta; but as it did not affect the international situation, this Agreement will not be discussed here.

In July 1911 Spain occupied El Ksar El Kebir and Larache and as a result France and Spain concluded a modus vivendi to avoid a repetition of incidents which had caused trouble among nationals of the two countries. It was agreed that Frenchmen should not be hindered in their journeys from northern cities, via El Ksar, and that Spaniards should not enlist deserters from the Moroccan army or allow their soldiers to mix with native soldiers.²⁶

After the establishment of the French Protectorate in 1912, a Franco-Spanish Convention was concluded at Madrid on 27 November 1912,²⁷ defining the respective positions of France and Spain in Morocco. The Convention laid down regulations concerning (1) the establishment

²⁴ Ibid.

²⁵ Appendix VII.

²⁶ Appendix VIII.

²⁷ Appendix IX.

of the frontier delimiting the two zones; (2) the free passage of the Straits of Gibraltar and restrictions on coastal fortifications; (3) the maintenance of consulates, schools and other institutions of both countries; (4) the supplying of provisions for the Makhzen; (5) financial and fiscal aspects; (6) the division of customs receipts in the two zones; (7) the Banque d'État; (8) the tobacco monopoly; (9) the Tangier-Fez Railway; (10) the revision of the protégé system; (11) arbitration; (12) judicial organization; (13) the abolition of arms contraband; (14) arbitration by the Hague Court; and (15) the special character of Tangier.

A Franco-Spanish Declaration signed at Madrid on 7 March 1914, followed by a similar one on 17 November 1914,²⁸ stated that Spain and France mutually agreed to withdraw all consuls from the other's zone and renounced all rights and privileges which had accompanied those offices.²⁹

The previous treaties were completed by an Agreement between France and Spain on 29 December 1916, settling the questions of judicial relations between the two zones.³⁰

V. Germany.

Until 1904 the Kaiser, Wilhelm II, had not shown any interest in Morocco. Few Germans were living in the Sherifian Empire and Germany's

²⁸Appendix XI.

²⁹Appendix X.

³⁰Appendix XII.

economic interests in Morocco were far less important than those of either England or France.³¹ The year 1905 was the turning point in relations between Germany and France, for on 31 March 1905 Wilhelm II made his celebrated and dramatic trip to Tangier where he proclaimed that he would safeguard German interests in that country and uphold the Sultan's sovereignty. This led to an immediate crisis, with the Chancellor, von Bülow, playing a strong hand,³² the result of the Kaiser's Tangier visit being Germany's request that the Sultan ask for an international conference to settle Moroccan affairs.³³ Germany appeared to be interested in occupying a part of the Moroccan coast, which worried France very much. In the meantime, the King of Spain, Alfonso XIII, arrived at Paris on 31 May 1905 as part of the plan to affirm Franco-Spanish interests. Meanwhile German pressure was applied effectively for the meeting of an international conference, insinuating that she would risk war over the Moroccan issue, if need be. In the Chamber of Deputies, the members stated that France was not prepared for such a

³¹In 1901 Britain was exporting 31 million francs worth of goods to Morocco, while France's exports there totalled 24 million francs. By 1905, however, France's exports to Morocco exceeded those of Britain. See Charles F. Stewart, The Economy of Morocco, 1912-1962 (Cambridge, Mass: Harvard University Press, 1964), p. 38. By 1911 these figures (now including Germany) were: France and Algeria, 77,000,000 francs; England and Gibraltar, 49,000,000; Germany, 25,000,000; Spain, 12,000,000. See, Augustin Bernard, Le Maroc (Paris: Félix Alcan, 1913), p. 383. See also, W. O. Henderson, Studies in German Colonial History (London: Frank Cass & Co., Ltd., 1962).

³²Prinz Bernhard Fürst von Bülow was Imperial Chancellor from 1900-1909. See, Bernhard Fürst von Bülow, Denkwürdigkeiten, Vols. I and II (Berlin: Verlag Ullstein, 1931).

³³On 29 May 1905.

war, and M. T. Delcassé, the Foreign Minister, who was absolutely opposed to going to a conference brought about by German pressure, resigned on 12 June 1905; plans for the preparation of the conference went on, and nearly a month later, on 8 July, two Franco-German Declarations were drawn up at Paris by M. Rouvier, the Prime Minister and Foreign Minister, and Prince Radolin, the German Ambassador.³⁴ The Declarations stated, ". . . that the Imperial Government would not allow at the proposed Conference [i.e., Algeciras] any claim which compromised the legitimate interests of France in that country [Morocco], or which was contrary to the rights of France resulting from the treaties or arrangements and in harmony with the following principles. . . which were:

- (1) Sovereignty and independence of the Sultan;
- (2) Integrity of his Empire;
- (3) Economic liberty and complete international equality;
- (4) Introduction of financial and police reforms to be regulated internationally;
- (5) The special position of France in Morocco because of the adjacency of her Algerian territory.³⁵

In other words Germany at once agreed to respect the special position of France, but at the same time hoped for the internationalization

³⁴Appendix XIII.

³⁵Ibid.

of the Sherifian Empire. An Agreement was signed shortly afterwards at Paris, on 28 September 1905, by Rouvier and Radolin, drawing up a tentative programme for the Algeciras Conference which was to include the establishment of an international police force (except on the Algero-Moroccan frontier), the creat^{ion} of a State Bank and monetary reforms, the opening of new credits to the Makhzen for payment of equipment, police, and urgent public works (i.e., ports), and a reassessment of the tax and revenue system of Morocco.³⁶

The stage was now set for the international meeting at Algeciras which lasted from 17 January to 7 April 1906. The same Powers which had taken part in the Convention of Madrid now met at Algeciras: Great Britain, Germany, Austria-Hungary, Belgium, Spain, the United States, France, Italy, Morocco, the Netherlands, Portugal, Russia and Sweden.

The Conference resulted in the General Act of Algeciras of 7 April 1906;³⁷ Germany, however, the instigator of the Conference, did not get out of it what she had hoped. If Morocco were to be internationalized to some extent -- for example, in police and financial organization -- it was not with Germany in a predominant position, or

³⁶ Ibid.

³⁷ See Appendix XIV. The ratifications of the Act of Algeciras were deposited in Madrid on 31 December 1906. See, André Tardieu's definitive work: La conférence d'Algésiras: histoire diplomatique de la crise marocaine (15 janvier - 7 avril 1906) (3rd ed.; Paris: Félix Alcan, 1909); and Eugene N. Anderson's, The First Moroccan Crisis, 1904-1906 (Hamden, Conn: Archon Books, 1966); Yves Fanchon, Le Maroc -- d'Algésiras à la souveraineté économique (Paris: Editions des Relations Internationales, 1957); and A. Bernard's, Le Maroc.

as Augustin Bernard summed it up:³⁸ "The Algeciras Conference was obviously one step further on the road to the internationalization of Morocco, begun by the Madrid Conference [1880]. But we [France] had avoided as much as possible the institution in Morocco of international organisms capable of becoming a worry and menace for us, especially the creation of an international police force³⁹ which could quickly have become a source of conflict; practically speaking, matters remained much as they had been."

Eugene N. Anderson summarizes the situation thus:⁴⁰

The conclusion of the Conference relaxed the tension in Europe and cleared the way for a gradual improvement in the relations of the Powers. Both sides expressed satisfaction with the results, which, according to official interpretation, left neither victor nor vanquished. None the less it was evident that Germany had been defeated. She had tried to obtain a material interest in Morocco; she had endeavored to break the Entente Cordiale and therewith the other French ententes; she had sought to disrupt or to modify the Dual Alliance. And she had failed in every effort. In attempting to restore her dominating position of the time before the formation of the Entente Cordiale, Germany had only driven France, Great Britain, and Russia into closer intimacy and had furthered the very alignment of the Powers which she had feared. By defending an international right which no one else valued she had permitted her isolation, except for the support of Austria, to be exposed to all the world. At the Conference she had forced Russia, Italy, and even the United States reluctantly to take the French side. Germany had entirely miscalculated the situation.

³⁸ A. Bernard, p. 335.

³⁹ Bernard pointed out that the police were French and Spanish and that even German instructors were not sent to Morocco.

⁴⁰ Eugene N. Anderson, pp. 397-98.

Germany left the Conference table dissatisfied with the results for, as Eugene Anderson pointed out, she had accomplished little beyond announcing to the world her new interests in Morocco. On 9 February 1909 a joint Franco-German Declaration was signed in Berlin⁴¹ by the French Ambassador, Jules Cambon,⁴² and von Kiderlen-Wächter,⁴³ the Foreign Minister, in which the principles of the Act of Algeciras were upheld: France was to continue to maintain and respect the integrity and independence of Morocco and to safeguard economic equality and was not to hinder German commercial or industrial interests in Morocco; at the same time Germany reiterated that her only real interests in Morocco were economic and that she wanted these interests respected. In fact the Wilhelmstrasse was not as interested in Morocco -- for the economic value of trade between Morocco and Germany -- as at first might have seemed the case. Germany's real motive was that she found herself playing a lesser role on the international scene; fewer diplomatic arrangements were taking place via Berlin, until recently the diplomatic capital of Europe. The Triple Entente -- England, France and Russia -- intensified Germany's feeling of isolation, and hence her aggressiveness, and the fact that Spain was now closely bound to England and France, and Italy by the secret agreement mentioned previously weakened Germany's Triple Alliance.

⁴¹ Appendix XV.

⁴² Jules Cambon held two important ambassadorial posts during the key, pre-war crises: Ambassador to Spain 1903-1907, and then to Germany from 1907-1914.

⁴³ Von Kiderlen-Wächter succeeded von Schön completely only in 1910 and remained as Foreign Minister until the end of 1912.

One of the Wilhelmstrasse's greatest blunders had been to end the pro-Russian policy so carefully cultivated by Bismarck, and this was to be seen most clearly when World War I broke out. When an opportunity presented itself, Germany now attempted to produce rifts and discord among those aligned against her; and so far as the German mentality was concerned, prestige was, in certain circumstances, as great a prize as economic or territorial gains; Algeciras consequently did not extinguish the fire, but merely left it smouldering. The Franco-German Declaration of February 1909 was not meant to stop that smouldering, but only to keep it under control, after a series of internal troubles in Morocco. The Declaration was welcomed by both parties, for it was hoped that it would result in economic collaboration between France and Germany, but this did not occur and by the early spring of 1911 Germany was thinking not only of Morocco but also of obtaining the whole of the French Congo as an alternative.¹¹¹

Then an event took place in Morocco which supplied Germany with the pretext she had been awaiting in order to go back on the 1909 Declaration. Sultan Moulay Hafid, as a result of tribal raids on Fez by Rifi tribesmen, in March 1911, asked the French Government for military assistance. General Moinier was sent in with troops and occupied Fez, Meknes and Rabat. Germany's pretext was that the economic

¹¹¹Memorandum from Kiderlen-Wächter to Bethmann-Hollweg (who succeeded von Bülow as Chancellor, 1909-1917), dated 5 February 1911.

equality promised in 1909 was no longer being respected.⁴⁵ On 23 March 1911 the Chancellor even suggested the possibility of war to the Reichstag.⁴⁶ Kiderlen-Wächter told Jules Cambon, in Berlin, that the occupation of Rabat appeared to be contrary to the Act of Algeciras, which guaranteed the integrity of Morocco, but this argument also was merely a pretext for the Foreign Minister's own territorial demands which he went on to make.⁴⁷ Germany's spokesman asked for a Moroccan port -- for example, Mogador (Essaouira) -- in which case ". . . Germany would leave you [France] free to make what you liked of Morocco. . . ." ⁴⁸ Studying this proposal over half a century later, one wonders how serious Kiderlen-Wächter was. If France had offered Mogador to Germany -- which would have been most unwise, for it would have given Germany a foothold in the Sous and an opportunity to cause many more difficulties -- would this really have satisfied the Wilhelmstrasse? The handing over of Mogador to Germany would have given her some prestige (always a welcome commodity), but economically, the gesture would have meant comparatively little, and it must be considered in this light, and

⁴⁵E.g., see letter of Jules Cambon to M. Cruppi, dated, Berlin, 9 April 1911. Ministère des Affaires Étrangères, Documents Diplomatiques Français (1871-1914). 2e série (1901-1911), Vol. XIII (Paris: Imprimerie Nationale, 1955), p. 419. See also "Secret Dispatch" dated 22 June 1911 from Cambon to Cruppi, DDF, Vol. XIII, p. 672. Geneviève Tabouis also mentions a dispatch of 6 April 1911, from Cambon to Cruppi. See G. Tabouis, The Life of Jules Cambon, trans. C.F. Atkinson (London: Jonathan Cape, 1938), p. 197.

⁴⁶Letter of 3 April 1911 from Jules Cambon to his brother, Paul. DDF, XIII, pp. 400-401.

⁴⁷Dispatch from Cambon to Cruppi, 9 April 1911, DDF, XIII, p. 419. Germany almost immediately withdrew her complaint about Rabat, but it had served its purpose as a diplomatic wedge.

⁴⁸Ibid.

indeed for some years Germany had hinted that she might accept a large portion of French Equatorial Africa to compensate for exclusion from Morocco. Jules Cambon realized that final agreement with Germany was now an urgent necessity, for he saw other threats to France's future position in Morocco as well. He feared that if agreement with Germany were not reached soon, Germany might very well "open her arms to Spain",⁴⁹ which could lead to several possibilities so far as the future Spanish sphere of influence in northern Morocco was concerned, and as Cambon pointed out to M. Cruppi, at the Quai d'Orsay:⁵⁰

Also I continue to think that we must -- especially if we reach an understanding with Germany -- remain faithful to the spirit which has inspired our Spanish agreements of 1904, and not extend the Protectorate over the whole of Morocco -- which is what the Spaniards reproach us with -- but leave a zone of influence to them. A policy of rancour or disdain towards Spain would be dangerous. It is bad enough that Tunis cost us the entry of Italy into the Triple Alliance; and, if we come to an understanding with Germany, to the detriment of the Spaniards, we would be striking the greatest blow to the Entente Cordiale which unites us with England.

Cambon here is directly referring to the fact that France had already incurred Spain's distrust by leading Spain to think that Spain was to get a much larger section of northern Morocco than was assigned to her when the Franco-Spanish Agreement was drawn up in 1904, following the outlines mentioned in the Entente Cordiale with England.

⁴⁹ Jules Cambon to Cruppi, in a dispatch dated 22 June 1911. Ibid., p. 673.

⁵⁰ Ibid.

Germany was now determined to reach a final solution of the Moroccan question once and for all, even if France were not, and in July 1911 the German gunboat, Panther, arrived at Agadir, on the southern coast, purportedly to protect German interests at that sleepy port. On 1 July the German Chargé d'Affaires, representing the absent Ambassador, presented a note to the new Foreign Minister, M. de Selves, announcing the arrival of the German ship, and giving the following reasons for its arrival:⁵¹

1. Because the considerable interests of our nationals in that area appear to be threatened as a result of the agitation caused by El Glaoui's men⁵² who are preparing to avenge his disgrace and who could cause an uprising as soon as they have finished harvesting their crops;

2. Because public opinion in Germany would not permit the Imperial Government to appear disinterested much longer over the Moroccan question at a time when the French and Spaniards seem to want to seize the country. Thus we have decided to send the Panther, which had been located at Tenerife.

The real meaning of this note was made even clearer when the German Government made it known that they were ". . . fully prepared to enter into a friendly exchange of views with the French Government over the solution of the Moroccan question satisfying all the Powers

⁵¹Ibid., Vol. XIV, pp. 4-5. Note by von Berckheim to de Selves, dated 1 and 2 July 1911. For a good study of the issue leading up to the Agadir incident see, Ima Christina Barlow, The Agadir Crisis (Chapel Hill, No. Carolina: University of North Carolina Press, 1940).

⁵²This refers to the dismissal of T'hami El Glaoui's brother, Madani, from the post of Grand Vizir by Sultan Moulay Hafid, who had become jealous of the power and wealth which El Glaoui had accumulated. See: Gavin Maxwell, Lords of the Atlas: The Rise and Fall of the House of Glaoui, 1893-1956 (London: Longmans, 1966), pp. 119-121.

"and eliminating this international question once and for all."⁵³

The final negotiations of this stage took place at Berlin on 4 November 1911 when Jules Cambon and Kiderlen-Wächter signed two Conventions: one concerning Morocco (quoted below) in which Germany gave France a free hand in Morocco, and the other in which France gave her in exchange about 100,000 square miles of the Congo.⁵⁴

FRANCO-GERMAN CONVENTION AND EXCHANGE OF NOTES

The Government of the French Republic and the Government of His Majesty, the Emperor of Germany, as a result of troubles which have occurred in Morocco and which have demonstrated the necessity of pursuing there, in the general interests the task of pacification and of progress foreseen by the Act of Algeciras, having judged it necessary to define and complete the Franco-German Agreement of 9 February 1909, have resolved to conclude a Convention to this effect. . . .

ARTICLE I

The Imperial German Government declare that, pursuing only economic interests in Morocco, they will not hinder the action of France in lending her assistance to the Moroccan Government for the introduction of all administrative, judicial, economic, financial and military reforms which she needs for the effective administration of the Empire, as well as all the new regulations and modifications to the existing regulations which these reforms involve. Consequently, they adhere to the measures of reorganization, supervision and financial guarantees which, after agreement with the Moroccan Government, the French Government would find necessary to take for this purpose, contingent upon the condition that the action of France will safeguard economic equality amongst all nations in Morocco.

Should France be forced to define and extend her supervision and protection, the Imperial German Government,

⁵³Note quoted on pp. 3-4 of DDF, Vol. XIV.

⁵⁴Appendix XVI.

recognizing full freedom of action for France, and contingent upon the maintenance of commercial freedom, mentioned by the previous treaties, will not hinder her.

It is agreed that there will be no obstruction to the rights and actions of the Banque d'État of Morocco, such as defined by the Act of Algeciras.

ARTICLE II

With this in mind, it is understood that the Imperial Government will not hinder France, after agreement with Morocco, if she proceeds with the military occupation of Moroccan territory deemed necessary for the maintenance of law and order and security of commercial transactions, and if she exercises any police action over Moroccan lands and waters.

ARTICLE III

Henceforth, if His Majesty, the Sultan of Morocco, should happen to confide the representation and protection of Moroccan subjects and interests abroad to the diplomatic and consular agents of France, the Imperial Government declare that they will not object.

If, on the other hand, His Majesty, the Sultan of Morocco, were to confide to the French representative to the Moroccan Government the responsibility of being his intermediary with foreign representatives, the German Government would not object.

ARTICLE IV

The French Government declare that, being firmly attached to the principle of commercial freedom in Morocco, they will not countenance any inequality either in the imposition of customs or other taxes, or transport charges by railway, river navigation or any other means and notably in questions of transit.

The French Government will also exert themselves with the Moroccan Government in order to prevent any differential treatment among the nationals of the various Powers; they will in particular oppose any measure -- for example, in the promulgation of administrative ordinances on weights and measures, marking of weights, etc. . . -- which lowers the position of the merchandise of a foreign Power.

The French Government undertake to use their influence over the Banque d'État in order that the latter will confer in rotation on the members of its board at Tangier the posts of delegate of which it disposes, to the Commission of Customs Values and to the Permanent Customs Committee.

ARTICLE V

The French Government will ensure that no export duty will be collected from the mineral iron exported from Moroccan ports. No special tax will be levied on the exploitation of iron or iron production or on the means for working it. They will support, apart from general taxes, only a fixed rent, calculated per hectare and per annum, and a rent proportionate to the gross extracted product. These rents, which will be based on Articles XXXV and IXL of the mine regulations project appended to the Protocol of the Paris Conference of 7 June 1910, will also be applied to all mining enterprises.

The French Government will ensure that the mining taxes are collected regularly without individual remissions and from all or **part** of these taxes being allowed as exceptions under any pretext whatsoever.

ARTICLE VI

The Government of the French Republic undertake to ensure that the work and supplies necessitated by the eventual construction of highways, railways, ports, telegraph systems, etc. be conducted by the Moroccan Government according to the rules of adjudication.

They also undertake to ensure that the conditions for adjudications, especially in that which concerns the supplying of goods and the waiting periods granted for tenders, do not place the nationals of any foreign power in a position of inferiority.

The development of the large enterprises mentioned above will be reserved for the Moroccan State or freely conceded by it to third parties having the ability to provide the funds necessary for this. The French Government will ensure that in the development of railways and other means of transport as in the application of regulations destined to assure this, no difference in treatment will be made among the nationals of the various Powers using this means of transport.

The Government of the Republic will exercise their influence over the Banque d'État to ensure that it confers in turn upon the members of its management at Tangier the post of delegate, of which it disposes, to the General Commission for Adjudication and Markets.

Likewise, the French Government will ensure that the Moroccan Government, during the period in which Article LXVI of the Act of Algeciras is in force, confides to a national of one of the Powers represented in Morocco one of the three posts of Sherifian delegate to the Special Committee for Public Works.

ARTICLE VII

The French Government will ensure that the Moroccan Government that owners of mines and other industrial or agricultural developments -- regardless of nationality and conforming with regulations to be enacted which will be inspired by French legislation on this subject -- will be authorized to build railways which will connect their centres of production with the main railway line or the ports.

ARTICLE VIII

Each year a report will be issued on the development of the railways of Morocco, drawn up in a form and under the same conditions as the reports submitted at the meetings of the shareholders of the corporations of French railways.

The Government of the Republic will make one of the administrators of the Banque d'État responsible for the drafting of this report which, with the elements upon which it is based, will be sent to the auditors, then made public with -- if there are any -- observations which the latter believe necessary to append according to their own information.

ARTICLE IX

In order to avoid diplomatic claims as much as possible, the French Government will work with the Moroccan Government in order that the latter submit to an arbiter designated ad hoc for the particular purpose by common consent by the consul of France and by that of the other Powers concerned or, failing that, by the two Governments of these consuls, the complaints which may be brought by foreign nationals against the Moroccan authorities, or the agents acting as Moroccan authorities, and which could be settled by the intermediary of the French consul and by the consul of the Government concerned.

This procedure will remain in force until a judicial system has been instituted, inspired by the judicial rules of the legislation of the Powers concerned and destined to replace, after agreement with them, the consular tribunals.

ARTICLE X

The French Government will ensure that foreign nationals will continue to enjoy fishing rights in Moroccan waters and ports.

ARTICLE XI

The French Government will co-operate with the Moroccan Government in order that the latter gradually opens new ports to foreign commerce, according to the needs of this trade.

ARTICLE XII

In order to answer a request by the Moroccan Government, the two Governments undertake the revision -- in agreement with the other Powers and on the basis of the Convention of Madrid -- of lists and position of foreign protégés and agricultural associés in Morocco to whom Articles VIII and XVI of that Convention refer.

They also agree to pursue with the Signatory Powers all the modifications of the Convention of Madrid which concern the alteration of the protégé and associé system.

ARTICLE XIII

All clauses of Agreements, Conventions, Treaties or regulations which are contrary to the preceding stipulations are and remain hereby abrogated.

ARTICLE XIV

The present Agreement will be communicated to the other Signatory Powers of the Act of Algeciras with whom the two Governments undertake to lend their mutual support in order to obtain their adherence.

ARTICLE XV

The present Convention will be ratified and the ratifications will be exchanged at Paris as soon as this can be accomplished.

Done at Berlin, in duplicate, on the 4th day of November, 1911.

JULES CAMBON.
KIDERLEN.

My dear Ambassador,

In order to define more clearly the Agreement of 4 November 1911 concerning Morocco and in defining its full significance, I have the honour to make known to Your Excellency that should the occasion arise when the French Government would believe that they ought to assume the protectorate of Morocco, the Imperial Government would put no obstacle in their way.

The adherence of the German Government, granted in a general manner to the French Government by Article I of the said Convention, applies naturally to all questions concerning the making of regulations and alluded to in the Act of Algeciras.

On the other hand, you have kindly let me know that, should Germany wish to acquire from Spain, Spanish Guinea, Corisco Island and the Elobey Islands, France would be disposed to renounce in her favour the exercise of the priority rights she holds as a result of the Treaty of 27 June 1900 between France and Spain. I am happy to note this assurance and to add that Germany will not consider herself involved in any private agreements which France and Spain may feel necessary to make with each other concerning Morocco, it being understood that Morocco includes the entire area of North Africa stretching between Algeria, French West Africa and the Spanish Colonies of Río de Oro.

The German Government, by renouncing a request of prior determination of the part to be played by German industry in the construction of railways, relies on the fact that the French Government will always be happy to countenance associations of interest among the nationals of the two countries in the affairs which they will respectively be able to work on.

They also expect that the inviting of tenders for the Tangier to Fez Railway, which is of interest to all countries, will be but the first of such invitations for tenders, for works of other Moroccan railways and that the French Government will propose to the Moroccan Government the opening of the port of Agadir to international trade.

Finally, when the network of railways of general interest is being studied, the German Government ask that the French Government ensure that the Moroccan Administration will take into consideration the economic interests of Morocco, and that which, notably the

determination of the placing of railway lines of common interest, facilitates as much as possible the junction of mining regions with the (railway) lines of public interest or with the ports destined to serve them.

Your Excellency has wanted me to assure that, when the judicial system mentioned in Article IX of the aforementioned Convention has been established and when consular tribunals have been replaced, the French Government will ensure that the German nationals are placed under the new jurisdiction in exactly the same conditions as French nationals. I am happy to note and at the same time to make known to Your Excellency that, on the day that the judicial system comes into force, after agreement with the Powers, the German Government will consent to the suppression of their consular tribunals at the same time as do the other Powers. I might add that, as I see it, the expression, "the changing of the protégé system", found in Article XII of the Convention of 4 November 1911 concerning Morocco, involves the abrogation -- if it is judged necessary -- of the section of the Convention of Madrid which concerns the protégés and agricultural associés.

Finally, wishing to give to the said Convention the character of a contract destined not only to put aside any cause of conflict between our two countries, but also to help further their good relations, we have agreed to declare that the differences which may arise between the contracting parties concerning the interpretation and application of the clauses of the Convention of 4 November 1911 and which will not have been regulated by diplomatic means, will be submitted to an arbitration tribunal constituted according to the terms of the Hague Convention of 18 October 1907. A compromise will have to be drawn up, and will proceed according to the regulations of the same Convention, unless modified by an express agreement at the time of the litigation itself.

Yours &c.,
VON KIDERLEN-WAECHTER.

Jules Cambon to von Kiderlen-Waechter:

Berlin, 4 November 1911.

My dear Secretary of State,

I have the honour to note the declaration which Your Excellency has wished to make to me that, should the occasion arise that the French Government feel it necessary to assume the protectorate of Morocco, the Imperial Government will not oppose this, and that the adherence of the German Government, granted in a general manner to the French Government by Article I of the Agreement of 4 November 1911 relative to Morocco applies naturally to all questions concerning the making of regulations foreseen in the Act of Algeciras.

On the other hand, I have the honour to confirm that should Germany wish to acquire from Spain, Spanish Guinea, the Island of Corisco and the Elobey Islands, France is prepared to renounce in her favour the exercise of her rights of preference with Spain. I am happy, moreover, to receive the assurance that Germany will remain uninvolved in the private agreements between France and Spain concerning Morocco, it being understood that Morocco includes the entire section of North Africa extending between Algeria, French West Africa and the Spanish colonies of Río de Oro.

I am also pleased to inform you that the German Government by renouncing their request for prior determination of the part to be played by German industry in the construction of railways, the French Government will always be happy to see associations of interests arising among the nationals of the two countries, for affairs in which they can respectively participate.

You may also rest assured that the invitation of tenders for the Tangier to Fez Railway which concerns all nations, will be only the beginning of the invitation of tenders for works of any other Moroccan railway and that the French Government will propose to the Moroccan Government the opening of the port of Agadir to international commerce.

Finally, when the network of railways of general interest is put under study, the French Government will ensure that the Moroccan Administration will take into careful consideration the economic interests of Morocco and that notably the determination of the proposed railway lines of general interest shall facilitate as much as possible the junction of mining regions with the

main railway lines or with the ports destined to serve them. Your Excellency may also rest assured that when the judicial system foreseen in Article IX of the Convention of 4 November 1911 concerning Morocco has been established and when the consular tribunals have been replaced, the French Government will see to it that German nationals are placed under the new jurisdiction under exactly the same conditions as French nationals.

On the other hand, I am happy to note, that on the day when the new judicial system is enforced, after agreement with the Powers, the German Government will consent to the suppression of her consular courts, at the same time as do the other Powers. I also note that in Your Excellency's thought, the expression, "the changing of the protégé system" quoted in Article XII of the aforementioned Convention, implies the abrogation -- if it is judged necessary -- of the section of the Convention of Madrid which concerns the protégés and agricultural associés.

Finally, wishing to give the Convention of 4 November 1911, concerning Morocco, the character of a contract destined not only to put aside any cause for conflict between our two countries, but also to aid in their good relations, we have agreed to declare that the differences which may arise between the two contracting parties about the interpretation of the application of the provisions of the said Convention and which have not been able to be settled by diplomatic channels, will be submitted to an arbitration tribunal constituted according to the terms of the Hague Convention of 18 October 1907. A compromise will have to be drawn up and it will proceed according to the regulations of the same Convention unless modified by an express agreement at the time of the litigation itself.

Yours &c.
JULES CAMBON

VI. France and Morocco.

Because of continuing frontier problems, between Algeria and Morocco, M. Delcassé, French Foreign Minister, and Si Abd-alkerim ben Sliman, Moroccan Foreign Minister, signed a Protocol

on 20 July 1901⁵⁵ concerning the application and execution of the Treaty of 1845 involving south-western Algeria. The purpose of both this Protocol and the Agreement of 1902 was to re-establish order and security along the frontier with Algeria. Unfortunately, little was accomplished as a result of the lack of co-operation by Morocco, and the following year, the Agreement of Algiers, signed on 20 April 1902,⁵⁶ was drawn up to enforce the Protocol. Neither the Protocol nor the Agreement, however, succeeded in reducing friction between France and Morocco concerning their joint frontier, mainly because the Sultan had neither the authority nor the means to maintain peace, despite France's offer of military aid.

In the meantime incidents were occurring, usually followed by French military action, which only hastened the approaching end of Moroccan independence. Two French army captains were killed in 1902;⁵⁷ Raisouli kidnapped an American and an Englishman in May 1904, and in May 1906 a Frenchman was murdered at Tangier. Late in 1906 after disorders at Arzila, a Franco-Spanish naval force was sent to Tangier; in March 1907 a French citizen, Dr. Mauchamp, was murdered at Marrakesh, and a few months later the celebrated Caïd MacLean was

⁵⁵Appendix XVII.

⁵⁶Appendix XVIII. See also the "Additional Articles" completed on 7 May 1902.

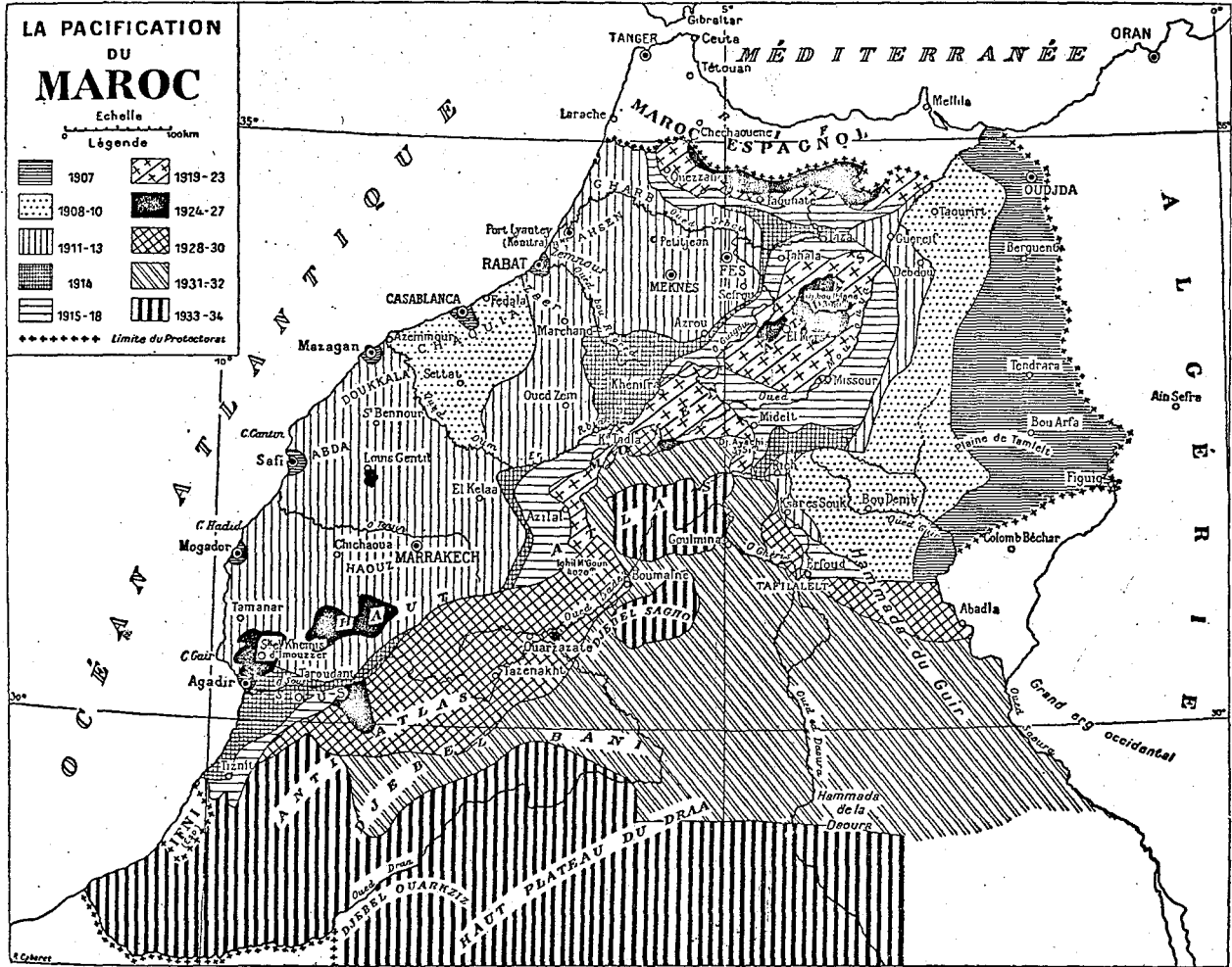
⁵⁷For an interesting description of Morocco at this time, see the account of the then French Minister to Morocco -- G. Saint-René Taillandier, in, Les origines du Maroc français -- récit d'une mission (1901-1906) (Paris: Librairie Plon, 1930).

kidnapped by Raisouli. The culminating incident took place in July 1907 when nine European workmen (three of them Frenchmen) were murdered in Casablanca. As a result of this latter incident, a French expeditionary corps, under the orders of General Drude, landed and occupied Casablanca. This marked the beginning of the occupation of regions along the Atlantic (including some areas of the interior) which was to continue until the establishment of the Protectorate. In the middle of 1909 the murder of some Spaniards by Riffians resulted in an expedition led by General Marina. In February 1910 a French army lieutenant was murdered, and as a result on 4 March 1910 three new Franco-Moroccan Agreements⁵⁸ were drawn up by M. S. Pichon, Hadj Mohammed ben Abdesselam El Mokri and Si Abdallah El Fasi. The first Agreement was concerned with the evacuation of the Chaouïa region, around Casablanca; the second with the evacuation of the Algero-Moroccan frontier zone; and the third with Moroccan finances and a loan from France.

The Agreement concerning Chaouïa allowed for the complete evacuation of Chaouïa as soon as the Makhzen had installed a military force of 1500 men there to replace the French troops, as a type of peace-keeping police force, and for the imposition on the tribes of the Chaouïa of a fine of 2,500,000 francs for the Casablanca murders. Unfortunately for Morocco, she was again unable to keep her part of

MAP I

ÉTAPES DE LA PACIFICATION DU MAROC, 1907-1934



the bargain and the French troops not only remained but continued to pacify the rest of Morocco.

In 1907 the French, following another incident near the Algero-Moroccan border, occupied part of the frontier area, and in May 1908 General de Vigy occupied Bou Denib and Bou Anane; after the murder of Dr. Mauchamp General Lyautey occupied Oujda in March 1907, and it was this area which was dealt with later in the 1910 Agreement. The preceding map shows the stages of the French occupation of Morocco from 1907 through 1934. France did not evacuate these areas, as stipulated in the Franco-Moroccan Agreement of 1910, for Morocco was unable to maintain peace and security there.

The third Agreement of 1910 provided for some financial measures to be taken almost immediately, resulting in a loan by France to Morocco of 101,124,000 francs on 21 March 1910.

+ + +

Time was running out for the Sherifian Empire. Revolts and disorders continued in much the same way as they had over the past several years. Towards the end of March 1911 Fez was besieged by neighbouring tribesmen, and the French, at the Sultan's request, again came to the rescue, knowing that they were once more justifying the need for a permanent occupation under the form of a protectorate. On 30 March 1912 the Treaty of Fez was signed by the Sultan, Moulay Hafid, and M. Reghnault for France, officially establishing the

Protectorate, bringing to an end the long negotiations and resulting in a triumph for French diplomacy. The short Treaty, quoted below, promised sweeping reforms, at the same time upholding the Sultan's integrity.

TREATY OF FEZ

The Government of the French Republic and the Government of His Sherifian Majesty, anxious to establish a stable Government in Morocco, founded on order and security, which will allow the introduction of reforms and the economic development of the country, are agreed on the following provisions:

ARTICLE I

The Government of the French Republic and of His Majesty, the Sultan, have agreed to the creation in Morocco of a new régime involving administrative, judiciary, scholastic, economic, financial and military reforms which the French Government will judge useful to introduce in Moroccan territory.

This régime will safeguard the religious position, the traditional respect and prestige of the Sultan, the practice of the Muslim religion and its religious institutions, viz. those of the Habous. It will allow the organization of a reformed Sherifian Makhzen.

The Republican Government will act with the Spanish Government regarding the interests which that Government have as a result of their geographical situation and their territorial possessions on the Moroccan coast.

Similarly, the town of Tangier will keep the special character which has been recognized to it and which will determine its municipal organization.

ARTICLE II

His Majesty, the Sultan, will henceforth permit the French Government, after having told the Makhzen, to proceed with the military occupation of Moroccan territory which they judge necessary in order to maintain law and order for commercial transactions and to exercise all police action on Moroccan land and waters.

ARTICLE III

The Government of the Republic assumes the responsibility of always supporting His Sherifian Majesty against all dangers which may threaten his person or throne or which may compromise the tranquillity of his States. The same support will be lent to the heir to the throne and to his successors.

ARTICLE IV

The measures which the new régime of the Protectorate will necessitate will be decreed, on the proposal of the French Government, by His Sherifian Majesty or by the authorities to which he will have delegated power. There will also be new regulations and changes in those already existing.

ARTICLE V

The French Government will be represented at the Court of His Sherifian Majesty by a Resident Commissioner General, as the depository of all the powers of the Republic in Morocco, who will ensure the execution of the present Agreement.

The Resident Commissioner General will be the sole intermediary of the Sultan with foreign representatives with the Moroccan Government. He will in particular be put in charge of all questions involving foreigners in the Sherifian Empire. He will have the power to approve and promulgate, in the name of the French Government, all decrees pronounced by His Sherifian Majesty.

ARTICLE VI

The diplomatic and consular agents of France will be put in charge of the representation and protection of Moroccan subjects and interests abroad.

His Majesty, the Sultan, undertakes not to conclude any act of an international character without first receiving the consent of the Government of the French Republic.

ARTICLE VII

The Government of the French Republic and that of His Sherifian Majesty reserve for themselves the right to establish, by common accord, the bases of a financial reorganization which, by respecting the rights conferred to the holders of titles of Moroccan public loans, permits the guarantee of the engagements of the Sherifian Treasury and the regular collection of the revenues of the Empire.

ARTICLE VIII

His Sherifian Majesty is forbidden to contract in the future, directly or indirectly, any public or private loans, and to grant concessions, under any form, without the permission of the French Government.

ARTICLE IX

The present Convention will be submitted for ratification by the Government of the French Republic and the instrument of the said ratification will be given to His Majesty, the Sultan, as soon as possible.

In witness whereof the undersigned have drawn up the present Act and have affixed thereto their seals.

Done at Fez, the 30th day of March, 1912 (11 Rebiah 1330).

REGNAULT
MOULAY ABD-EL-HAFID

+ + +

On 28 April 1912 the Prime Minister, Raymond Poincaré, announced that General Hubert Lyautey was to be the first Resident General of the new Protectorate,⁵⁹ and on 15 July 1912 the Law approving the Protectorate Treaty was passed by the Senate and the Chamber of Deputies.⁶⁰

⁵⁹Appendix XX. On the same day, Poincaré, who was also Foreign Minister, sent a circular to the French embassies announcing this.

⁶⁰Tangier, which was to be internationalized, was dealt with in final form in the Convention of 18 December 1923, signed at Paris. See Appendix XXI.

CHAPTER II

LYAUTEY: THE SOLDIER-ADMINISTRATOR

I. 1854 - 1911.

. . . how I enjoy this kind of life! It is as though I had been put on the earth just for this. After twenty years of a routine career in France, after the anguish of being overlooked by fate so often, during the past three years I feel that I have finally been forging ahead, confident in what I am doing, leading my type of life, people and affairs. I always felt as though I had been born to create, and now I am creating, to command and now I am commanding, to mull over new ideas, projects and works, and now I am doing just that, and by the bucket-full. . . .

LYAUTEY TO HIS SISTER,
25 November 1897.

Indeed there is only one opinion about you [Lyautey]: that you are doing an excellent piece of work and are one of our finest hopes. No doubt you cause jealousy in some circles, but precisely because you are what you are!

JONNART TO LYAUTEY,
16 December 1904.

Louis-Hubert-Gonzalve Lyautey was born in Nancy on 17 November 1854. Laurence de Grimoult de Villemotte, his mother, came from an aristocratic family, being the daughter of a viscount from Normandy and a noblewoman from Lorraine. His paternal grandfather, Hubert, after whom he had been named, and two of his great uncles, reached the rank of General, while a fourth was killed as a young officer in Spain.

His father, Just Lyautey, was a civil engineer. From his mother's family he inherited his interest in the fine arts, and from his father's, a longing for a life of action and duty. Both families bequeathed to Hubert Lyautey royalist sympathies.

As a boy, Hubert Lyautey and his family divided their time between their town house in Nancy and the family estate, Crévic (also in Lorraine). He was brought up in the aristocratic and intellectual society of Nancy, as well as in the simplicity of country life, where he came into contact with the family's tenants and peasant children with whom he played and who, upon his return to the charred ruins of Crévic many years later, were to greet a saddened General with a touching, "Bonjour M'sieur Hubert".

When he was eighteen months old Lyautey slipped from a balcony of the family house in Nancy to the street below.¹ The spinal injury which resulted was to cause him pain and embarrassment for many years. He underwent major surgery two years later and was in bed until the age of six, when he was first able to hobble about with the aid of crutches. It was not until 1864, four years later, that he was able to begin a fairly normal life, with the aid of a steel brace (which he wore for two years).² During this long period of enforced inactivity, Lyautey read a great deal.

In his teens he attended several schools including the Lycée

¹ André Maurois, Lyautey (Paris: Plon, 1931), p. 3.

² Ibid.

in Nancy and the École Polytechnique, and at the age of eighteen he was accepted for the French military academy, Saint-Cyr, which he entered in October 1873.³ This had been his great childhood aim and was a considerable achievement in view of his early spinal injury.

A salient feature of Lyautey's character was always his great zest for life, and he was disillusioned when he discovered that this enthusiasm was not shared by the staff of Saint-Cyr. An important event in his life at this time was his introduction by one of the Fathers at the École de la Rue des Postes to the writings of Albert de Mun. During his first year at Saint-Cyr Lyautey succeeded in meeting de Mun at the Rue des Postes; as Maurois put it, Lyautey left the first meeting "conquered"⁴. From his boyhood Hubert Lyautey needed someone to look up to and respect, and sought a worthwhile meaning to life, and de Mun, who was then A.D.C. to the Military Governor General of Paris, helped to provide this meaning.⁵ Captain de Mun was deeply interested in Catholicism and social reform, interests which captured young Lyautey's imagination, and as Maurois writes, ". . . finally an officer, an elder, gave him a reason for living, one more exalted than the mere bearing of arms. . . ." ⁶ Lyautey and three fellow cadets went up to de Mun's house, rang his bell and announced: "Our life is yours. What do you want us to do?"

³Général Yves de Boisboissel, Dans l'ombre de Lyautey (Paris: André Bonne, 1954), p. 333.

⁴Maurois, p. 21.

⁵Ibid.

⁶Ibid.

"Command. We shall obey."⁷ This enthusiasm and desire for duty of his youth remained with Lyautey throughout his professional career, both as soldier and administrator.

Hubert Lyautey completed his studies at Saint-Cyr at the end of 1875 and entered the Military Staff School in January 1876.⁸ Again, he was disillusioned and bored.⁹

Lieutenant Lyautey left the Staff School in the spring of 1880 and joined a cavalry regiment which left for Orléansville, Algeria, the same year.¹⁰ It was there that he first became acquainted with Islam, North Africa and colonial administration. His last six months in Algeria were spent in an isolated outpost in the south, and ". . . again it seemed to him that his life was lacking in purpose and his need for devotion going unfulfilled."¹¹ This restlessness was manifested in what appeared to be a religious crisis.

In September 1882 he was promoted to the rank of Captain and ordered to join the IVth Regiment of the Chasseurs Légers at Épinal.¹² Back in France early in 1883 he was ordered on a two months' mission to Italy, and afterwards presented a report on the Italian cavalry to the Ministry of War, for which he was warmly praised by General Villemot, then Chief of the General Staff, for the Minister of War.¹³ His trip to Italy was ostensibly official but meant much more to

⁷ Ibid.

⁹ Maurois, p. 24.

¹³ The official notification is quoted in Dans l'ombre, p. 343.

⁸ Boisboissel, p. 333.

¹⁰ Ibid.

¹¹ Ibid., p. 27.

¹² Ibid., p. 32.

Iyautey, in the throes of understanding his maturing personality.

On his way to Italy he stopped in Austria to meet the exiled Comte de Chambord, at Goritz, which was to be a highly emotional experience; immediately following that interview he wrote:¹⁴

"I have just left Him. The emotion from this is such, the soaring feeling so strong, that I cannot regain consciousness of my own personality, which has abdicated, been lost in Him during those hours of grace. The King of France! -- I have seen Him, touched Him, heard Him . . ." Twenty-seven year old Iyautey was lost in the ecstasy of a man committed to a cause. Later on that same trip, when he reached Rome, he again underwent an intensely emotional period when he had an audience with Pope Leo XIII, on 31 March 1883. Iyautey returned from the Vatican deeply shocked and confused, when he discovered that Leo XIII was a republican and not a royalist.¹⁵ The impact of this event, closely following the earlier meeting with the Comte de Chambord, cannot be under-estimated; it resulted in a climactic clash of values, hopes and dreams with realities. Iyautey had always been deeply religious, and he felt now that his religion was failing him when he most needed it. He remained in Rome during April, completing his military work, with his mind in turmoil, further aggravated by the hostility towards France in the Italian capital as a result of the occupation of Tunisia by France. When Iyautey returned

¹⁴Ibid., pp. 28-29.

¹⁵Ibid., p. 29.

to his regiment at Épinal, in May, it was in a totally different state of mind than when he had left for Austria two months earlier. To others on the train to Épinal, Lyautey was just an officer, carrying out a mission, but within he was a tormented young man.

In the autumn of 1883 he was appointed A.D.C. to General L'Hotte, then Inspector General of Cavalry, at Commercy, after which he returned to his regiment at Épinal. Again, isolated, Lyautey had an opportunity to think, read and write, and he was especially interested in Herbert Spencer, Auguste Comte, Strachey, and various religious works.

According to Maurois, Lyautey finally accepted the Republic after the death of the Comte de Chambord, sometime between 1887 and 1891,¹⁶ whereas he remained basically a royalist (accepting the Republic de facto, but not ideologically).

In September 1887 he was given command of a cavalry squadron at Saint-Germain.¹⁷ where he began to develop certain definite ideas about the army and army life, especially as it concerned the enlisted men. He wanted to improve the soldiers' life, by providing recreation rooms for the soldiers where they could read and play billiards in the evening, and in fact the first recreation rooms were set up according to his ideas.

At thirty-three years of age, however, Lyautey felt bored and

¹⁶ Ibid., p. 35.

¹⁷ Boisboissel, p. 333.

even stifled, and craved for action. It was at this time that he came under another influence, which gave a new dimension to his existence. Captain Lyautey went to visit an old family friend, M. de Guerle, and while there on various occasions came into contact with a literary salon, where among others he met T. d'Haussonville, Eugène-Melchior de Vogüé, the Baignères and Coppée. Lyautey and Vogüé soon became firm friends, and with him Lyautey discussed Lamartine and de Vigny. At the home of the Baignères he met de Régnier, J.-E. Blanche and Marcel Proust.¹⁸ These social and literary contacts were a source of great happiness for Lyautey, for he was one of those rather rare men who enjoyed both sword and pen.

One day while discussing the army reforms for which he hoped with de Vogüé, the latter asked him to prepare some notes on his ideas for an article Vogüé wanted to write for the Revue des Deux Mondes. After reading through the notes which Lyautey submitted to him, Vogüé was so unexpectedly pleased with the results that he did not alter them and had the article published anonymously in the Revue in 1891,¹⁹ under the title: "On the Social Role of the Officer in Universal Military Service." His article came to the attention of several prominent persons, and was later to help his career indirectly.

In March 1893 he was promoted to the rank of Major, and in October of the same year he was made Chief of Staff of the VIIth Cavalry

¹⁸Maurois, pp. 36-37.

¹⁹An officer was not permitted to publish material while on active duty.

Division at Meaux.²⁰ Lyautey, however, was still bored and impatient with life, for ". . . the truth was that he was disgusted with the comfortable sterility. . . ." of the life he was then leading.²¹

Lyautey seemed to lead a charmed life, for nearly every time he most needed it, fortune came to his aid. In August 1894, when thirty-nine years old, Major Lyautey while on manoeuvres in Brie received a telegram from the Ministry of War informing him that he was to be sent to Indochina.²² The article which he had published had aroused considerable resentment and hostility among certain officers, and the Chief of the General Staff, General Boisdeffre, felt it advisable to remove Lyautey from the scene.

Among Lyautey's fellow passengers on the voyage from Marseille, were colonial officers and administrators. It was a new experience for him, and he at once felt much happier. "In these talks [i.e., on board ship] with men of action, I feel far from the falsity of the salons de lettres and dinners of Paris, and just as far from the mummification of our moribund, idle, routine-plagued army. It is a resurrection."²³

In November 1894 he arrived at Saigon, where he met the Governor General of Indochina, M. de Lanessan, and both men took an immediate liking to each other. On the journey to Hanoi, Lanessan gave him some advice on colonial administration which Lyautey was later to find invaluable.²⁴

²⁰Boisboissel, p. 333.

²²Ibid., p. 51.

²¹Maurois, p. 49.

²³Ibid., p. 52.

²⁴Ibid., p. 54.

In every country there is a social framework. The great error of the Europeans who come as conquerors is to destroy these frameworks. The country so deprived falls into anarchy. One must govern with the mandarin, and not against him. The European, not being superior in numbers, cannot take his place, but only supervise. Therefore do not offend local traditions; do not change customs. There is in every society a leadership class, born to direct the affairs of the people, without which one is powerless. Use that class in our best interests.

As a staff-officer in Indochina Lyautey was soon given enough responsibility and action to satisfy even him, and he learnt a great deal about the army and colonial administration. He had been in Indochina only a few weeks when he met the man who was to wield a particularly strong influence in his life, Colonel -- later Marshal -- Joseph Gallieni.²⁵ He struck Lyautey as being no common run-of-the-mill soldier. Lyautey came to admire him greatly, an admiration which lasted over the years. Gallieni too was impressed by Lyautey and obtained Lyautey's appointment as his Chief of Staff.²⁶ It was common for them to spend the evenings talking together, often over a game of whist, to the accompaniment of Chinese musicians. Lyautey always entered into the spirit of his surroundings and enjoyed drenching himself now in the spirit of the East, just as he was later to do in things Moorish; and various native objects were to be found in his

²⁵ Marshal Joseph Gallieni (1849-1916) had an impressive career, serving in the French Sudan and Indochina, and later pacifying and reorganizing Madagascar (1887-1905). His career culminated unhappily as Minister of War (1915-1916). He was made a Marshal posthumously in 1921.

²⁶ Maurois, p. 64.

home at Tonking, including miniature pagodas and opium-pipes.

During this period Lyautey began learning the means of taking, securing, administering and developing areas presently in enemy hands, or subject to enemy attack, and he followed the basic principles involved, later in Madagascar, Algeria and Morocco. They were based on the well-being of the natives, providing them with security in their everyday life, and administering them with understanding, respect and generosity.²⁷

The relationship between Lyautey and Gallieni was so close that when late in 1896 Lyautey, then aged forty-one, heard that General Gallieni was being sent to Madagascar, he wrote to a friend that he was even considering leaving the army, to return to France, perhaps to marry and even to run for office, with the ultimate hope of becoming a colonial governor.²⁸ To another friend he revealed his frustration:²⁹

I am most definitely a creature of action. I have always believed this very much, and facts have finally confirmed it. After twenty years of being held down, I at last believed that I had reached that goal of action. I believed that favourable circumstances would put me in the saddle to do a bit of 'Cecil Rhodism' and that, perhaps, I would leave behind my mark on a rich and lasting work. I believed that I was going to be one of those in whom men believe, in whose eyes thousands seek command, with whose voice and pen roads are re-opened, countries repopulated and built. I hoped for all that,

²⁷ See Appendix XXII. "Du rôle colonial de l'armée".

²⁸ Maurois, p. 70.

²⁹ Lyautey to A. de Margerie, 15 Aug. 1896. CL, pp. 112-113.

and if that escapes me, it will be a harsh blow. For, more than ever, I feel that without being able to accomplish productive, imperative and immediate action, I shall become corroded and corrupted, and my abilities will remain unused. I am the antithesis of the anonymous and indirect agent, of the bureaucrat. I conceived of command only as the direct and personal form, of being present at the place, of always making the rounds [in person], of setting to work by talk, by personal charm, by the visual and oral transmission of one's faith, of one's enthusiasm And now the messenger brings us news of Gallieni's departure for Madagascar. Why did not the Havas Agency telegraph it to us? I cabled him that I was ready [to join him] and the devil on all this. Today, he is gone. Too late. What a shame! I have a terrible thirst for finding again an intense life, one of personal responsibility, and command, where I could work to my heart's content.

What happened was not difficult to foresee. Gallieni, as the first Resident General of Madagascar, asked the Colonial Minister to let him have Lyautey; Lyautey was ordered to join his chief in March 1897, and five months later was promoted to the rank of Lieutenant Colonel.³⁰ The dejection reflected in his personal correspondence soon ceased:³¹ "The essential thing is to know what one wants and where one is going. Now, I know what that is: to make social duty predominate over all other duties, the duty of freeing this country [Madagascar] from decay and ruin." At long last his energies and abilities had the outlet for which he had so long hoped. Like Bugeaud³² earlier in the century, he was now a soldat-administrateur a position for which he had longed, and he worked enthusiastically

³⁰Boisboissel, p. 334. Madagascar had been annexed by France in 1896.

³¹Maurois, p. 75.

³²Marshal Thomas Bugeaud de la Piconnerie (later the Duc d'Isly), 1784-1849, famous for his defeat of Abd el-Kader and conquest of Algeria where he was Governor from 1840-1847.

under a man he greatly admired:³³ "What a joy to give oneself to a task and to see it accomplished. What a reason to live for; while in France one always works at that which is never achieved . . ."

During the winter of 1897-1898 a dream of Lyautey's became a reality; he created his first city, and concerning this "coup de collier créateur", as he called it, he said:³⁴

. . . I had the joy of the urbs condita in building this small city of Ankazobé, the plan for which I had myself sketched out on the ground and from which I saw it rise up with fatherly interest, house by house, street by street, tree by tree.

During the years in Madagascar, Lyautey was to come into his own, with a new assurance, pride and happiness. It was now that he asked his sister to send out to him a special ring, engraved with a short quotation in English by Shelley:³⁵ "The soul's joy lies in doing." Few quotations could have been more appropriate for Lyautey. That his political and military ideas had matured is shown in an article he had written in 1891 "On the Social Role of the Officer" in which he said:³⁶

The military and territorial commands must be brought together in the same hands. When the military chief is also the administrator of the area and takes a pocket of resistance, he thinks about the market place he will establish there after the fighting is over and he therefore does not take that area in the same way.

³³Lyautey to Max Leclerc, 21 Sept. 1897. CL, p. 161.

³⁴Maurois, p. 80.

³⁵Lyautey to his sister, 25 Nov. 1897, CL, p. 164.

³⁶Republished in Maréchal Lyautey, Du rôle social de l'officier (Paris: René Julliard, 1946), pp. 31-60.

Lyautey returned to France in 1899 on leave,³⁷ and he was promoted to a full Colonel in February 1900.³⁸ In February 1902 he returned to France as Commander of the XIVth Hussards,³⁹ at Alençon, a position which, although it did not especially please Lyautey at the time, was to prove most eventful, for during the summer of 1903 at a luncheon with a close friend, M. Jules Charles-Roux, he met the newly appointed Governor General of Algeria, M. Jonnart.⁴⁰ Jonnart spoke to Lyautey of his difficulties in Algeria, especially the increasing number of frontier incidents, and he seems to have been impressed by the remarks of the forty-eight year old Colonel, especially when Lyautey spoke of Gallieni's methods of pacification. Late that summer more incidents occurred along the Algero-Moroccan frontier and Jonnart contacted the Minister of War, General André, asking him to send him Colonel Lyautey. In September 1903 Lyautey was on his way, to command the subdivision of Ain Sefra, and a month later he was promoted to the rank of Brigadier General.⁴¹

Ain Sefra was a desert post in south-western Algeria and a subdivision of the Oran command, but at Lyautey's request Ain Sefra was made his own independent command. Algeria was to be the final proving grounds for Lyautey, for it was there that Jonnart taught

³⁷Maurois, p. 85.

³⁸Boisboissel, p. 334.

³⁹Ibid.

⁴⁰Maurois, p. 96. Célestin-Auguste-Charles Jonnart (1857-1927) was a member of the Chamber of Deputies, 1889-1914, and of the Senate after 1914; Minister of Public Works, 1893-94; Governor General of Algeria, 1903-1911, 1918. During the World War he was the French High Commissioner in Greece; and Ambassador to the Vatican from 1921 to 1924.

⁴¹Boisboissel, p. 334.

him how to deal with politicians and ministers.

If Lyautey knew that a course of action were right, nothing would prevent him from pursuing it. Thus, though forbidden to pass over the Moroccan frontier in pursuit of raiding tribal bands, Lyautey occupied Béchar across the frontier, for which the Minister of War immediately rebuked him. Jonnart came to Lyautey's rescue, giving him his full support, and informed the Minister that Lyautey was not even at Béchar, but at Colomb (the name Lyautey had just given to Béchar, and which soon became known as Colomb-Béchar).⁴² Great insecurity prevailed in this area as a result of the terrorism of the outlaws of Bou Amama and El Rogui. Lyautey ordered his men to occupy Ras el Aïn and Berguent, in order to protect the Moroccans living there. The Moroccans were protected, but the Sultan complained to the Quai d'Orsay and the Minister of War ordered Lyautey to withdraw. Lyautey telegraphed a strong reply to Paris. The reasons for his refusal to withdraw he later explained to his superior:⁴³

As I had the honour to inform you [previously], my personal word has been given to the [Moroccan] populations who are gathered around us and to whom I thought I was able to guarantee protection from France. Although I might have acted wrongly, facts proved the necessity of the action,

⁴²See, VM, pp. 75 et seq.

In fact Jonnart was in Holland at this time and only heard about Lyautey's actions two days later, when he immediately sent off a telegram to the Prime Minister stating: "1. General Lyautey has acted under my orders [which was not so]. 2. I approve of everything he has done. 3. If the order for evacuation is maintained, I shall leave to join him at his post myself." PA, p. 77. (Colomb-Béchar is situated just south-west of Figuiq and is today a part of Algeria. See map later in this chapter.)
⁴³VM, pp. 90-91. Lyautey quotes this in a letter to Major Henrys, 7 Aug. 1904.

but I must bear the responsibility for it. If I ought, as a soldier, to assure the execution and transmission of the first orders [from Paris ordering evacuation], I should be unable -- not only without tarnishing my honour, but even without seriously compromising the word and prestige of French authority -- to proceed myself with the evacuation of Ras el Aïn, that is, to abandon populations to whom I have solemnly guaranteed the protection of the French Republic. I therefore have the honour of addressing to you the enclosed, to be sent to the Minister of War, which is my request to be relieved of my command and put on half-pay.

Lyautey believed that Moroccan terrorism could only be stopped by taking definite action; he also knew that the Moroccans wanted security and if given it would prove useful allies later. Furthermore, he had guaranteed the protection of the French Republic to the Moroccans, and French prestige would suffer if France declined this responsibility; and of course by committing the French to protect Morocco, he had at the same time committed himself and did not intend to go back on his word. Lyautey was a proud man, and his pride nearly brought his career to an abrupt end at several junctures. He believed that what he was doing now was not only morally right for him, but also morally right for France, and several months after this frontier operation Lyautey, himself, admitted: ⁴⁴ "This pénétration discrète of Morocco which I began clandestinely and which has scarcely begun, is so passionate a feeling that to leave would truly be a cruel chagrin for me."

⁴⁴Maurois, p. 136.

Lyautey was always a man of action and needed action, as bankers need money. He was a soldier who loved soldiering and camp life and camaraderie. "Lyautey, in this land of sunshine and great desert chieftains, was happy. . . . his love of fine uniforms and horses and brilliant escorts matched that of the Arabs; and like them he wore a large black burnous, to which were attached silver stars [indicating his rank of General]."⁴⁵ Lyautey, enraptured with life described one of his encampments . . .⁴⁶

It is ten p.m. My lamp is lit on my camp table, in the large tent of the bach-agma, Si-Eddin, of the Ouled Sidi Cheikh. He sent it from Geryville with three others for me. It is as large as an apartment, lined in broadcloth and silk, and a layer of carpets covers the ground. The entrance is wide open and my flag is flapping. A tall red Spahi is on guard; my officers are smoking their last pipe around a glowing fire. A horse is whinnying, tugging at his rope. The servants are removing the leftovers from dinner under the supervision of the caïd from the neighbouring tribe, who is dressed in a purple burnous . . . and the moon makes this night so refreshing after the hot day . . .

Jonnart was more than happy with Lyautey who in December 1906 was promoted to General of Division and appointed to take over the Oran command.⁴⁷

In Morocco, incidents were on the increase. Dr. Mauchamp was killed in Marrakesh in 1907 and that summer some French workers

⁴⁵ Général Gouraud, Lyautey (Paris: Hachette, 1938), p. 35.

⁴⁶ Maurois, p. 138.

⁴⁷ Appointed by Décision ministérielle of 9 Dec. 1906. See footnote, p. 345, VM.

were killed in Casablanca. In March 1907 Lyautey received orders to occupy Oujda,⁴⁸ while General Drude was sent with a force to occupy Casablanca in September. Meanwhile the Quai d'Orsay was slowly laying the foundations for a French take-over of Morocco, planned since 1900. Lyautey knew little or nothing about the secret treaties which the Quai d'Orsay was drawing up, but he realized that something had to be done, for as he pointed out to de Vogüé . . .⁴⁹

Regardless of what one might want, Morocco is a danger to the flanks of Algeria, and unless we evacuate from the latter, it will be necessary to intervene with force, in Morocco, for its anarchy has a direct repercussion on our authority and our Algerian interests . . . But (and the crux of the problem lies here) the unfortunate part of it is that our military and civil authorities conceive of this intervention [at Oujda] only as an "expedition", which is indeed frightening. Now, it is this idea which enrages me, which hurts me, to think that after four years, after what I have written and done here and elsewhere, no one yet understands anything about my method . . . When at the first incident or massacre I am given carte blanche in my choice of means and persons and complete latitude in time, I shall press on to Fez in a definitive fashion, without regrets and at minimal expense. But then I shall make use simultaneously and constantly of political and military means, based on my intelligence reports and dealings within the tribes, to break them up, to create in advance a favourable party for me there, to make a snowball . . . in a word, to practise my formula for the "mobile organization". What a fine and original task I would have! What a pity . . . I guarantee you that I suffer as a Frenchman, far more than as a man.

⁴⁸ Général Catroux, Lyautey le Marocain (Paris: Hachette, 1952), pp. 16 et seq. Catroux, who was an officer under Lyautey at this time, discusses these events.

⁴⁹ Lyautey to E.M. de Vogüé, 27 Sept. 1907. CL, p. 263.

In September 1907 M. Regnault, the French Minister to Fez, was sent on a special mission to Sultan Abd el-Aziz, accompanied by Lyautey. Regnault was able to come to agreement with the Sultan over police organization on the Algero-Moroccan frontier.⁵⁰

Upon Lyautey's return to Oran, news came of more trouble with a Moroccan tribe, the Beni Snassen, who only capitulated on New Year's Day, 1908. By now Lyautey's stock was going up, and the unknown junior staff officer of Indochina was now a well known General in Algeria. He was summoned to Paris by President Clemenceau in February 1908.⁵¹ General d'Amade had replaced General Drude in Casablanca, and now Clemenceau asked Lyautey to replace d'Amade. It was a game of political musical chairs; a game which few professional soldiers like. Lyautey refused the post, saying that he must first study the situation, for he did not want to hurt d'Amade, whom he respected as a soldier and a man. Instead he received permission to go to the Chaouïa (the region running parallel to the coast behind Casablanca) in the spring of 1908 to study the situation on the spot. His report to Clemenceau supported d'Amade completely. At the end of 1908 Lyautey sent another report to Paris, on the Algero-Moroccan frontier problem, in which he stated⁵²-- "We must, when it involves the policing of natives, always keep this formula in mind: make a show of strength in order to avoid having to use it."

⁵⁰Maurois, p. 164.

⁵¹Ibid., p. 170.

⁵²Ibid., p. 176.

Towards the end of December 1910 General Lyautey was appointed Commander of the Xth Army Corps in France.⁵³ Before leaving Algeria he married Madame Fortoul, the widow of an army Colonel by whom she had had a son. Lyautey took command at Rennes in April 1911.⁵⁴

On the international scene tension between Germany and France increased in July 1911 when the German gunboat, Panther, arrived off Agadir. This proved the catalyst which the Germans had hoped for, and in November of that year a Convention was signed by the two countries finally giving France a completely free hand in Morocco. On 30 March 1912 the Treaty of Fez, establishing the French Protectorate of Morocco, was signed.⁵⁵

⁵³ PA, p. 63.

⁵⁴ Ibid.

⁵⁵ François Charles-Roux and Jacques Caillé, Missions diplomatiques françaises à Fès (Paris: Éditions Larose, 1955), Ch. VIII, "La mission d'Eugène Regnault en 1912", pp. 217-248.

II. 1912-1925.

The French Third Republic in the second and third decades of its existence produced a type of military officer who found in the pacification and administration of France's overseas possessions the opportunity to practise an art not suited to the European battlefield. Organization and administration were the activities in which he showed his skill, not in military strategy. In such endeavors Gallieni and Lyautey were the outstanding figures.

RAYMOND F. BETTS,
Assimilation and Association in
French Colonial Theory, 1890-1914.¹

The pacification of Morocco is a huge task requiring a long period of time, and do not deceive yourselves about it. . . .

LYAUTEY,
21 December 1912.

This country must not be ruled by force alone. The rational method, and the only effective one -- the one, moreover, for which I have been sent to carry out here, and no one else -- is the continued and combined game of political preparation and military strength.

LYAUTEY TO ALBERT DE MUN,
10 October 1912.

Morocco represents the end achievement of French colonization and, with Lyautey, its triumph.

RENÉ GALLISSOT,
Le patronat européen au Maroc -- action
sociale, action politique (1931-1942).

I once read somewhere that no really great human oeuvre has ever been achieved, without its having been a labour of love.

LYAUTEY, quoted by Boisboissel,
Dans l'ombre de Lyautey.

A work rises only in the hand of its master.

A MOROCCAN PROVERB

¹This interesting work was published in New York by Columbia University Press in 1961.

Regnault, himself, was designated as the first Resident General of the new Protectorate, in April 1912. That same month, however, serious riots broke out in Fez in which French officers were killed and the Sultan's life was threatened. Regnault immediately realized that Morocco needed a soldier-administrator at its helm and not merely a diplomat. MM. Millerand (Minister of War) and Poincaré (the Prime Minister) considered three men for the post: Generals Gallieni², d'Amade and Lyautey. On 27 April 1912 the Cabinet met at Rambouillet, which resulted in the appointment of General Lyautey as first Resident General of Morocco.³ Lyautey was summoned the next day to Versailles by Millerand to be instructed about his new post. He left Paris on 8 May for his new destination. At Marseille Lyautey embarked on the cruiser Jules-Ferry for Mers el-Kebir, Algeria, to discuss the Algero-Moroccan situation with various military commanders, and after a brief visit to Tangier proceeded to Casablanca, where he landed on 13 May.⁴

After a three-day stay at Casablanca where he spoke optimistically to the French community, Lyautey and Colonel Gouraud⁵ left on horseback

²Gallieni, when approached, stated that he was too old for the post and recommended Lyautey instead. Amédée Britsch, Le maréchal Lyautey: le soldat, l'écrivain, le politique (Paris: Renaissance du Livre, 1921), p. 129.

³Maurois, p. 186. See Appendix XXIII for a list of Residents General, 1912-1956.

⁴Britsch, pp. 131-132. Lyautey summed up his first two years' work in Morocco in his "Preface" to his Rapport général sur la situation du Maroc au 31 juillet 1914 (Rabat: Imprimerie Officielle, 1916). Appendix XXIV. See also, Général Bernard, "La conquête et l'organisation du Maroc, 1912-1919: l'oeuvre du Général Lyautey", La Géographie, XXXIV (June-Dec. 1920), pp. 337-360, and 458-478.

⁵General Henri-Joseph-Eugène Gouraud (1867-1946) worked under Lyautey in 1912. In 1915 he became Commander of the French Eastern Forces, and then of the IVth Army Corps; he later pacified Syria and ultimately became Governor of Paris (1923-1937).

for Rabat, and from there to Meknes and Fez. Lyautey was a couple of hours from Fez when an intelligence officer rode up and informed him that the situation in Fez was very serious. Shortly afterwards General Moinier⁶ rode up, and was greeted by his new chief, "Bonjour, Moinier. It seems things aren't going very well." "Not well!" exclaimed Moinier, "Who told you that! It's finished . . . I really am glad to see you, but from a military point of view it's all over."⁷ This was the situation which faced Lyautey.

M. Regnault met the Resident General at the gates of Fez, and placed himself at Lyautey's disposal.⁸ Lyautey moved into the Dar Menehbi in Fez and had not even unpacked before General Brulard called upon him also telling him that it was too late, that the situation was hopeless; but nothing could deter Lyautey. The next day M. Regnault introduced General Lyautey to the Sultan, Abd el-Aziz, and that evening the French community gave a small dance in honour of the new Resident General.⁹ The long awaited attack on Fez came about 11 pm on 25 May.¹⁰

⁶Moinier was at that time Commander of the Occupation Troops.

⁷(Maurois, p. 191.

⁸Officially Regnault was still the Minister of France.

⁹Britisch, p. 133.

¹⁰LA, I, p. 7. The first investment of Fez had lasted from 1 March until 21 May 1911 when General Moinier arrived with a relief column; this was followed by rumours of discontent among Moroccan troops. A second siege of Fez began on 12 April 1912 (just after the signing of the Treaty of Fez), followed by a mutiny and massacre on 17 April. The second siege was over by 21 April, though a series of courts-martial for the mutineers (lasting from 25 April-25 May) increased the fanatical anger of tribes surrounding Fez and led to the third siege of that city (12 May-31 May) during which Lyautey arrived on the scene. G. H. Selous, Appointment to Fez (London: The Richards Press, 1956), pp. 123-125, and 135 et seq. for the mutiny. Selous served in Morocco as a British consular official from 1910 to 1928 and was a personal friend of Lyautey, whom he first met in May 1912, at Fez.

Morocco was pacified in four stages: (1) 1912-1914, submission of the Bled el-Makhzen; (2) conquest of the Middle Atlas, 1912-1920; (3) Rif War, 1921-1926; (4) submission of the High Atlas and the Anti Atlas and the edge of the Sahara.

The situation was as serious as Moinier had said, for Moroccan troops had massacred their French officers the month before and this had excited the local population. In a city with a native population of 90,000 Muslims, Lyautey had only 4,000 French troops.¹¹ He called a meeting with the oulama¹² and chorfa¹³-- who represented the upper and middle classes of Fez -- in order to gain some support, from within the city at least, pointing out to them that they, as property-owners, had as much to lose from a siege, if not more, than anyone else.¹⁴ One evening after all preparations were made and there was nothing more that General Lyautey could do, he summoned one of his officers who was also a poet and asked him to read him some of his latest poems and some of de Vigny's. (Gallieni would have smiled had he seen this.) When Lyautey awoke on 1 June he found to his amazement that the attack had ceased, for the tribes had been forced to retreat under the French artillery barrage.¹⁵ He had written to his sister on 26 May, ". . . this is neither a sinecure nor an enviable post which I have here; just a lot of troubles, and what risks!",¹⁶ though of course he liked nothing better. Finally, on 31 May reinforcements arrived from Meknes.¹⁷ In a letter to de Mun he revealed some of his immediate preoccupations:¹⁸

¹¹ Lyautey left the military command of Fez in Moinier's hands, so as not to embarrass the latter. Lyautey gives these figures in LA, I, p. 10.

¹² Learned doctors of the law; sing. alim.

¹³ Muslim nobles; sing. cherif.

¹⁴ LA, I, p. 10.

¹⁵ Ibid., pp. 14-15.

¹⁶ CL, p. 288. Tribesmen had broken into the city the previous day and heavy house-to-house fighting resulted.

¹⁷ Maurois discusses the siege, pp. 191 et seq.

¹⁸ Letter of 16 June 1912, CL, p. 290.

Now the South, the Haouz and Marrakesh worry me greatly. I have not a man I can spare to send there. If I had two extra months, I would go and see the important feudal lords there myself -- El Glaoui, Si Aïssa Ben Omar, Anflous, Mtougui -- to win them over to our side or to play them off against one another. For the time being, however, I must complete and cement my building of Fez, which is the key to the whole situation. . . .

Five factors led Lyautey to judge the situation as "very bad."¹⁹ The Sultan had decided to abdicate, and though Moulay Hafid was doing more harm than good, Lyautey needed him for the time being, "Because of the obstacles with which each day he impedes our collaboration, I should indeed prefer his abdication, but I believe we must delay this at any price because of its effect on the international scene."²⁰ Secondly, because the population was so agitated, he feared that a Muslim "holy war", or jihad, might be declared, and that another Abd el-Kader might appear and receive widespread backing. Thirdly, there was the problem of foreigners and protégés ". . . and the open hostility from everything and everyone German or Spanish, the constant anxiety of having to come up against foreign cover as soon as we find ourselves faced with a case of insubordination, an offence or protest -- all that holds up everything." The fourth problem was the lack of competent commanding officers, apart from Gouraud and Brulard, and although he was quite content with the quality of his younger officers,

¹⁹Ibid. All quotations in this paragraph are from the same letter.

²⁰On 20 May, however, Lyautey also feared Moulay Hafid's abdication because of the further incitement it would cause in the tribes around Fez. LA, I, p. 5. The Sultan forcefully announced his desire to abandon Fez, for Rabat, on 26 May. LA, I, P. 7.

he needed at least "five or six seigneurs" in the upper ranks. Lastly, several more battalions were necessary to relieve his strained and overworked men, ". . . but I am not asking for them yet, as I must first put everything in order so as to see what I need, and then where I need them. . . ."

Gradually Lyautey built up his administration. He did not have to confer with the metropolitan Government over such decisions as the creation of offices and appointment of officials, which pleased Lyautey who liked to take the initiative and to work quickly although, as funds for his projects came from France, he had to go to Paris at least once a year to arrange for the funds he needed. He made laws, drew up projects for public works and was eventually able to realize his plans for the effective organization of Morocco. Maurois wrote that Lyautey believed, ". . . that a colony should be administered for itself, not for metropolitan France. . . ." and that it would thereby ". . . become a source of strength for France only by its own prosperity."²¹ Lyautey added that ". . . the two fundamental institutions of a colony are free-exchange [mental and physical] and no gendarmes."²² The next thirteen years were to prove that freedom and confidence breed far more success than restrictions and suspicion.

Lyautey had qualities which appealed to the Moroccans, Berber or Arab. He was a man of decision, integrity and justice; he liked

²¹Maurois, p. 213.

²²Ibid.

a good show; he was a superb horseman, and a born leader. One of his greatest qualities was that he could adapt himself to new situations without restricting himself to any specific formula in his administration of Morocco . . . ²³

Everything depends upon the time and place. You tried one method in Indochina and it succeeded; that does not mean it is going to work in Madagascar or Morocco. What is suitable for some is not necessarily suitable for others: climate, religion, race, history -- so many elements can change the problem.

When he did something, he believed in doing it well, or in his own words, ²⁴"It is as important to place a picture in a good position on a wall, as a [new] city in the countryside." His plasticity of thought often made him the foe of rigid and unadaptable regulations, as Guillaume de Tardé related: ²⁵

I remember General Lyautey's anger once. He had just visited a small outpost in Morocco, and the young official who had shown him about on his visit had struck him by his intelligence, energy and ability . . . to get things done. Getting into his car the General said to his chef de cabinet: 'There is a remarkable boy; make him a contrôleur [civil intelligence officer].' 'Impossible, General, he hasn't been in the service long enough; the regulations state . . .' 'Then do I have to let a force which is really alive rot in these unimportant outposts; do I have to condemn this gentleman to mediocre tasks, under the pretext that he is not old enough? What nonsense! As if we had too many good men . . . And where does this

²³Robert Garric, Le message de Lyautey (Paris: Éditions Spes, 1935), p. 177.

²⁴Maurois, p. 214.

²⁵Quoted by Maurois, p. 215.

regulation of yours come from in the first place? From France, naturally . . . but what is valid over there, perhaps, for drowsy ministries is detestable here where we have still to create everything . . . Now go and find the means for me. That boy must be made a contrôleur immediately. . . .

This episode was very typical of Morocco's Resident General. When Lyautey reached a decision he wished it to be carried out immediately, without having first to consult regulations, or having it typed in triplicate and sent out through various clerical channels. He had a tendency to make snap judgments of people and obviously believed his judgments were valid, as they usually were.

André Maurois relates that one day Lyautey was asked about a technical matter, to which he replied: "I have my technicians for that sort of thing." "And you?", the Resident General was then asked, "What do you do?" "Why I am the technician of general ideas."²⁶ Needless to say a man of Lyautey's temperament immediately repelled or attracted men, and the type he attracted were usually men who shared his values and outlook -- to them he was simply "le patron".

On 1 August 1912 General Lyautey went to Rabat in order to ensure the abdication of Sultan Moulay Hafid, which he now wanted, but which the Sultan was suddenly reluctant to do. Moulay Hafid finally abdicated on 12 August in favour of his younger son, Moulay Youssef.²⁷

²⁶Maurois, p. 216.

²⁷Britsch, pp. 136-137. PA, p. 67. Moulay Hafid retired to Tangier on a pension of 375,000 francs.

On 18 August, however, a pretender, El Hiba, had himself proclaimed Sultan in Marrakesh, which his forces had just taken; and he now menaced the entire Chaouïa region.²⁸ Colonel Mangin, however, freed Marrakesh from El Hiba's bands on 8 September, with the support of the grands caïds, so that Moulay Youssef was able to make his first official entry into that city on 15 September, where he was again proclaimed Sultan, by that city's oulama, according to Moroccan custom.²⁹ On 20 October the new Sultan entered Rabat for the first time.³⁰ The Resident General intended that Moulay Youssef should travel to the various cities of his Empire in order to be officially received and recognized by them, for Lyautey wanted the people to accept the Sultan as their Sovereign and not as a puppet of the French. He even went so far as to keep French troops and officials out of sight as His Majesty approached the major cities.

The staff of the Resident General at this time was still only skeletal in structure, consisting of . . . a Directeur Général des Finances, a Directeur Général des Travaux Publics, Lyautey's Délégué, a Secrétaire Général du Gouvernement Chérifien and a Secrétaire

²⁸ Britsch, p. 138. LA, I, p. 28.

²⁹ LA, I, p. 38. See Appendix XXV for a chronology of Sultans from 1873 till 1967.

³⁰ PA, p. 70.

Général du Protectorat.³¹ Lyautey chose his chief administrators personally and expected a great deal from them, as the following words of his show:³²

In order to assist in the birth of this country -- I don't want to see any Molière-type doctors gadding about in pointed caps and speaking Latin -- but instead sturdy practitioners rolling up their sleeves and getting down to their work.

In the middle of August he addressed the French colony of Rabat for the first time. Throughout his Moroccan career he kept in contact as much as possible with the French immigrants, in order to co-ordinate their joint efforts, as well as to explain his own programme and aims. This co-ordination was increased when he created local professional organizations whose members met periodically,

³¹The full development of the Administration is discussed in Ch. III, "Government". During Lyautey's thirteen years in Morocco, the following officials held the key administrative posts: The Comte de Saint-Aulaire was the first Délégué des Affaires Étrangères à la Résidence (till May 1916), Lallier du Coudray held an interim appointment to this office and finally Urbain Blanc was appointed to it permanently; the Secrétaire Général du Protectorat was Paul Tirard, then Lallier du Coudray, and finally Pierre de Sorbier; the Secrétaire Général du Gouvernement Chérifien (on the abolition of this office in May 1917 it was known as Conseiller du Gouvernement Chérifien) was M. Gaillard; M. Marc was Conseiller du Gouvernement Chérifien; the Directeur Général des Finances was first M. Gallut and then M. Piétri; Travaux Publics was headed by M. Delure and later by M. Delpit; the Direction de l'Enseignement (which became the Direction de l'Instruction Publique, des Beaux-Arts et des Antiquités in December 1920) was headed by M. Georges Hardy; M. Malet was Directeur Général de l'Agriculture, du Commerce et de la Colonisation; Postes, Télégraphes et Téléphones were the responsibility of M. Walters; and Guillaume de Tarde was Directeur des Affaires Civiles (abolished in May 1922). Boisboissel, pp. 122-123.

³²Réginald Kann, Le Protectorat marocain (Paris: Berger-Levrault, 1921), pp. 76-77.

and later through the Conseil du Gouvernement. At this meeting with the French colons, in Rabat, he wanted them to understand that all would not be easy, or as he put it, "Every time you harvest a field of corn just remember that not an ear of it could have grown without our troops being willing to die in order to protect you."³³

The period from June to August of that first year was a critical one; although one ex-Sultan and one ex-pretender to the throne were out of the way, Lyautey still had much to contend with:³⁴ "religious fanaticism, a strong attachment [by the people] to medieval Islam, the ferocious fight for independence, anarchy and xenophobia." As he had learnt in Indochina, under Gallieni,³⁵ it was necessary to give conquered peoples something which they could understand -- military and economic security. Thus he planned to develop commerce, build railways, schools, hospitals, roads and ports; for, as he said later that year, it is ". . . certain that military force alone does not suffice and that -- in order to double [our progress] -- we must speed up action as much as possible for economic and civilizing penetration."³⁶ Discussing this period of the Protectorate with students in Paris in December of the same year, he explained what he called the "bonne méthode" which included ". . . the unceasing combination of military and pacific action, which demands a high degree of

³³PA, p. 70.

³⁴Ibid., p. 73.

³⁵Iyautey considered him to be "le maître des maîtres coloniaux", PA, p. 76.

³⁶Ibid., p. 74.

"firmness and foresight, energy and generosity, a method requiring vast stores of patience, during which time one must never let go or be discouraged."³⁷

As often as not Frenchmen raised as many difficulties for the Resident General as Moroccans, and especially French politicians. For instance, back in July, the Government had recommended that the Residency General should be a roving post only, having no permanent office -- Lyautey thereby being able to move from one trouble spot to another; Lyautey vetoed this because he felt it essential to have a permanent base at the centre of economic, military and civil activity. This was essential not only because of the physical necessity of having to channel governmental business, and because of the confusion which would result from having an army of administrators (and their inevitable files) always moving about with him, but also from the psychological point of view, for a permanent headquarters also represented stability, and permanency in the eyes of both colons and Moroccans. Lyautey won his point and sufficient funds were allocated to build temporary barrack-type structures for himself and his administration, although he did not have permanent administrative quarters for another nine years.³⁸

³⁷Ibid., p. 79.

³⁸Lyautey had asked for fifteen million francs for the buildings needed for the judicial and administrative services; he was only given 2,350,000 for setting up the courts and a mere 500,000 francs for administrative buildings. Due to the peripatetic nature of his office, Lyautey had -- in addition to his principal administrative headquarters in Rabat -- three others: in Casablanca, Fez and Marrakesh.

In October 1912 an event took place without Lyautey's knowledge and without sollicitation on his behalf, namely his election to the Académie Française; but he was not able to deliver the traditional reception speech until eight years later.³⁹

In December 1912 Lyautey returned to Paris to report to the Government on the situation in Morocco and to present his plans for the organization of that country to the Commission des Affaires Extérieures et Coloniales, and ask for funds for his first credit.⁴⁰

Upon his return to Morocco three months later, he now had some money to spend on badly needed basic facilities. In March 1913 the Resident General sent a report to the Foreign Minister containing a draft of a tentative reorganization of French, Muslim and Jewish judicial administration, and requested that a commission of jurists be drawn up to examine and elaborate on this outline.⁴¹

Even bureaucracies can move quickly when prodded, and in August 1913 the new judicial organization was officially set up, and by October the Cour d'Appel was opened in Rabat.⁴² That same month Lyautey accompanied President Poincaré to Madrid to meet Alfonso XIII⁴³

³⁹ Maurois, p. 227.

⁴⁰ LA, I, pp. 170-179. PA, p. 71.

⁴¹ For this report, see Appendix XXVI. Lyautey was not always satisfied with the first drafts of laws and one day when handed some he said to the officials, "One should be able to read and understand a law as clearly and and as easily as one can a newspaper article. The text you are drawing up here is too complicated; that's how it seems to me anyway . . ." Boisboissel, p. 123.

⁴² PA, p. 94.

⁴³ Alfonso XIII (1886-1941) was King of Spain until his abdication in 1931.

and his ministers. Lyautey was then invited to revisit Madrid in March the following spring.⁴⁴

As Resident General, Lyautey had constantly to receive and entertain visitors. In April and May 1914, the President of the Chamber of Deputies toured various Moroccan cities and military fronts and was present on 16-17 May at the meeting of the columns of Gouraud and Baumgarten in their march on Taza in a successful attempt to open the corridor between eastern and western Morocco.⁴⁵

In the early part of 1914 Lyautey began to realize what a menace uncontrolled immigration into Morocco could be. Though he welcomed colons who were willing to contribute something to the country, mass immigration could and did lead to difficulties. Furthermore, Lyautey did not believe it was the mission or duty of Europeans to force their civilization and religions upon the natives of colonized countries, but on the contrary, as Georges Hardy has so aptly put it . . .⁴⁶

It [colonization] undertakes to respect the original talents and contributions of colonial populations, their moral personality, and everything which constitutes their

⁴⁴LA, I, pp. 279 et seq.
⁴⁵LA, II, p. 170. The Fez-Taza Corridor was sufficiently cleared and secured to permit rail and highway traffic by the end of 1916, the first military railway from Casablanca (via Rabat, Salé, Kénitra, Meknes) reached Taza on 5 Feb. 1915, and the first military railway between Oujda and Taza was completed on 14 July 1915.

⁴⁶Georges Hardy, Portrait de Lyautey (10th ed.; Mayenne: Bloud & Gay, 1949), p. 371, and also p. 216. Hardy became Directeur Général de l'Instruction Publique under Lyautey, and years later Directeur de l'École Coloniale, in Paris. See also, Wladimir d'Ormesson, Auprès de Lyautey (Paris: Flammarion, 1963), pp. 152-153. D'Ormesson worked directly under Lyautey from Dec. 1916 - Dec. 1917.

personal being and maintains in them the goût de vivre. It improves their existence without disorientating them, without forcing them to break with their past. It raises the level of existence without sacrificing their own variety of life, which is the privilege of our species and no doubt their best guarantee of remaining a vigorous people.

To be sure Lyautey believed that Europeans did have certain very specific civilizing tasks. Europeans could introduce into the country modern forms of transport and communication and manufacturing which would produce equipment and provide employment. Europeans could introduce modern medicine and hygiene, new languages and knowledge -- or what Lyautey termed his "arsenal pacifique"⁴⁷ Hardy's attitude to colonization was similar to that of many enlightened Frenchmen.⁴⁸

. . . one of the greatest privileges of colonization is that it is in fact capable of enriching the greatest number of people without impoverishing anyone in return. It develops unused property; it makes productive, land which is unoccupied or still being cultivated by primitive methods; it develops and uses virgin forests and valuable mines which have been abandoned. It introduces industrial methods in areas still familiar only with handicrafts. In sum, it develops dormant wealth to the greatest benefit of humanity. If it sometimes causes spoliation, that is because it has been misused, for it provides enough to satisfy both the colonizers and the colonized. There is no need to use inhuman methods in order to attain its purpose, and it can -- if done properly -- produce only benefits to everyone.

⁴⁷ VM, p. 68.

⁴⁸ Hardy, pp. 362-63.

By July 1914 a few thousand immigrants were entering Morocco each month. They needed accommodations, land to lease or purchase, and work; and to add to these problems the cost of living was rising all the time. One partial solution was to carry out the programmes for public works which would both create employment and enrich the country. The Resident General had in mind vast projects:⁴⁹ the development of the ports of Casablanca, Mogador (Essaouira), Mazagan (El Djadida), Rabat and Kenitra (or Port Lyautey, now Port Hassan II); the building of roads (he had 1500 kilometers of roads on the drawing boards), including a coastal road from Mazagan in the south to Kenitra in the north, roads from Mogador to Marrakesh, from Mazagan to Marrakesh, from Casablanca to Marrakesh, from Kenitra to Fez, and a road bridging the corridor, from Oujda to Taza. Because of the anarchy and lack of security prior to the Protectorate, no roads had yet been built in Morocco.⁵⁰ General Lyautey had a gigantic task before him, large enough to humble the dreams of even an ambitious civil engineer, and his public works' programme did not stop at roads and ports, for civilian railways too were an absolute necessity. All public works had to be carried out by international tenders and, in the case of the Tangier-Fez Railway,⁵¹ had to be authorized

⁴⁹ PA, pp. 109-112.

⁵⁰ It was ironic that the Sultans never had an opportunity to ride in their splendid carriages imported from Europe.

⁵¹ The Franco-German Treaty of 1911 had stipulated that no railways for commercial use (i.e., normal gauge) could be built before the completion of the Tangier-Fez Line, though World War I changed this arrangement.

by both the French Parlement and Spanish Cortes. Bids were accepted for the first railway, from Tangier to Fez, in the summer of 1914. Lyautey realized that such works took time and patience. He told his fellow Frenchmen that summer:⁵²

Ports, roads and railways are long-term projects. They can only advance slowly; and in this huge country one is always ready to fail to recognize the imperative technical needs involved in works of this nature, and thus ready to mistake slowness for inertia.

I therefore ask you to be realistic and honest and as a result of your own practical experience not to accept promises and dreams, but instead works in progress, and to give us credit for what we are doing and have to cope with, and try to understand how essential it is not to bungle things, or cause ruinous improvisations which our resources cannot permit us to risk.

Although commercial railways could not be built before the Tangier-Fez Railway was completed, narrow-gauge military railways were built and in December 1911 the first railway line was laid down in Morocco, from Casablanca to Rabat.⁵³ Although the 1911 Treaty stipulated that the narrow-gauge lines should not be used for commercial traffic, they were in fact opened to commercial traffic later during the war.⁵⁴

During this period Lyautey also had to deal with the complex problem of property and property registration. Property registration was initiated in August 1913,⁵⁵ and in October 1914 the first requests

⁵²PA, pp. 112-113.

⁵³Charles F. Stewart, The Economy of Morocco, 1912-1962 (Cambridge, Mass: Harvard University Press, 1964), p. 148.

⁵⁴Ibid., p. 149.

⁵⁵See Ch. IV, "Property".

for property registration were received by the Administration⁵⁶ (these, once accepted, gave a guaranteed title of ownership to the property which thereafter could only be dealt with in French courts, if litigation arose).

Lyautey needed a great deal of money to carry out his projects and he frequently complained that he never had sufficient funds. On 16 March 1914 he finally obtained from the French Government a long-term loan⁵⁷ which

⁵⁶PA, p. 118.

⁵⁷The Law of 16 March 1914 authorized the French Government to lend 170,250,000 francs to the Protectorate, repayable in seventy-five years, the first installment of which, 70,250,000 francs, was made available on 1 June 1914. The Law of 25 March 1916, however, increased that loan to a total of 242,000,000 francs. J. Goulven, Traité d'économie et de législation marocaines, Vol. II (Paris: Marcel Rivière, 1921), pp. 178-181.

This was broken down as follows:

(1)	Payement des dettes contractées par le Makhzen; dettes diverses.	25,000,000
(2)	Indemnités aux victimes des événements de Fez, de Marrakech, etc.	5,000,000
(3)	Travaux du port de Casablanca.	50,000,000
(4)	Travaux de routes aux Maroc.	71,750,000
(5)	Installation de services publics:	
	(a) Aménagement provisoire de la Résidence générale et des services administratifs à Rabat	3,000,000
	(b) Installation des services administratifs dans les villes autres que Rabat.	2,000,000
	(c) Installation des services judiciaires et pénitentiaires.	2,000,000
(6)	Construction, aménagement, installation:	
	(a) D'hôpitaux, d'ambulances, de bâtiments divers pour l'assistance médicale	10,000,000
	(b) D'écoles, de collèges, de bâtiments divers pour l'instruction publique	10,000,000
	(c) Installation de lignes et de postes télégraphiques et téléphoniques, de bureaux postaux ou télégraphiques	12,000,000
(7)	(a) Premières dépenses nécessitées par la mise en valeur des forêts du Maroc	4,500,000
	(b) Irrigation, champs d'essais, dessèchement et marais et autres travaux d'intérêt agricole	4,000,000
	(c) Exécution de la carte du Maroc	500,000
	(d) Premiers travaux d'exécution du cadastre.	1,500,000

permitted the beginning of the various projects outlined for the Protectorate.

On 27 July the Quai d'Orsay informed Lyautey that war was imminent.⁵⁸ Shortly afterwards he received a telegram from the Minister of War telling him that he would probably have to send back to France almost his entire military force.⁵⁹ When war was declared on 3 August, General Lyautey was asked to send home thirty-five battalions and to withdraw the remainder of his men to coastal regions. Lyautey informed the metropolitan Government that he did not feel it necessary to withdraw to the coast (thereby evacuating most of Morocco), but that he was sending to France thirty-seven battalions of infantry, one cavalry brigade, six battalions of artillery, three companies of engineers and two companies of telegraphists.⁶⁰ As Georges Hardy

⁵⁷ continued:

(8)	Subvention aux villes du Maroc pour travaux municipaux	27,050,000
(9)	Études de lignes de chemins de fer	1,500,000
(10)	Conservation des monuments historiques	2,500,000
(11)	Reconstitution du patrimoine immobilier du Makhzen:	
(a)	Travaux de première mise en valeur du patrimoine makhzen; achats d'immeubles nécessités par l'exécution des plans d'extension des villes et la création de lotissements urbains et ruraux. . .	3,000,000
(b)	Rachat de droits immobiliers de l'ancien sultan Moulay-Hafid	2,500,000
(12)	Apurement des deux comptes spéciaux ouverts dans écritures du Trésorier général du Protectorat: l'Installations provisoires de la Résidence actuelle et des service centraux et achats et ventes d'immeubles domaniaux à Rabat	4,200,000
	TOTAL DES DETTES:	<u>242,000,000</u>

⁵⁸ LA, II, p. 228.

⁵⁹ Ibid., pp. 229-230.

⁶⁰ Ibid., pp. 266-267, 233-257. PA, p. 128.

put it,⁶¹"The Government could scarcely reject such a proposition, which, at the same time satisfied its own basic requirements."

Despite the decrease of the number of effectives, Lyautey not only kept every foot of land he held on 3 August 1914, but even increased French gains during the war years. In September 1914 the Minister of War sent Lyautey, in return, sixteen battalions of infantry (territorials and older men).⁶² Despite the great reduction in his forces, and although most of those replacing his regulars were older men, Lyautey found these reinforcements satisfactory:⁶³

They brought not only the indispensable material contribution needed, but also a solid moral backing as well. They consisted of older men, whose manly bearing strongly impressed the natives. They also supplied skills in many fields -- public works, agriculture, sanitation, and rendered inestimable service to us.

The War had its effect in Morocco. Morocco had been at war off and on for centuries, and casualties and fighting were nothing new to the Empire, but now there were also other elements. German propaganda and German agents were at work in the Sherifian Empire, and German submarines were in the Atlantic. Fear and propaganda began penetrating many areas, and German agents stirred up some fighting in presumably long secured areas,⁶⁴ while the presence :

⁶¹Hardy, p. 213.
⁶²LA, II, p. 335. In July 1914 Lyautey had 61 battalions and by June 1915, only 19. See also, PA, p. 129.

⁶³PA, p. 129.
⁶⁴E.g., Khenifra where 33 officers and 650 men were killed towards the end of 1914. Letter to his sister, 5 Dec. 1914, CL, pp. 310-311. On German interference in Morocco see, e.g., LA, III, pp. 34-45.

of German submarines led to talk of bombardment of various Atlantic ports.

Another element Lyautey had to contend with, a very important one, yet one which rarely -- curiously enough -- seems to have been noted was the change in his mental attitude. A mood of pessimism or negativism, perhaps mingled with a degree of bitterness, developed within him, though he did not show it outwardly.

Lyautey's earlier self-confident mood has been expressed in a letter to his sister, the Comtesse de Ponton d'Amécourt, written in May 1912:⁶⁵

The situation is becoming more and more serious and difficult but I am surrounded by so much confidence and devotion by all my men, such a boon in itself, that I find in this incomparable strength.

This same self-confidence appears in a letter of October 1912 to Albert de Mun:⁶⁶

I have been living in a fairy-tale land for the last ten days; there is no oriental picture which could portray what I have seen since my arrival at Marrakesh, on that sunny morning. The Arab multitudes, the colourful horsemen, the large military standards, the continuous parades, the joyous fanfares of our troops, the perfume and liveliness of victory, the backdrop of the snow-covered High Atlas Mountains, and the encampment of the victorious column in the Sultan's large gardens; the reception of the officers in a palace drowned in verdure. . . .

⁶⁵Letter to his sister, 12 May 1912, CL, p. 287.

⁶⁶Letter to de Mun, 10 Oct. 1912, CL, p. 299.

By the end of April 1913, when the military situation in Morocco was easing, he remained optimistic and showed no signs of depression.

In October 1914, however, he complained in a letter to de Mun about his men for the first time, who were angry because he was keeping them in Morocco away from the Great War, and who, in consequence, no longer rallied round their chief as in the past;⁶⁷ Lyautey added how useless he felt to his country, although he realized that he was doing something of value, required by his country . . .⁶⁸

That suffices then for my conscience, but not for my heart, because I feel that our country [France] will not understand it [i.e., Lyautey not fighting at the Front], and that here even the officers (with the exception of a small elite) do not understand it. Our race is above all too undisciplined and argumentative, and it is not easy to command them. My command is henceforth stripped of any consolation it might have had for me. For too many years I had rejoiced in the feeling of being loved and understood [by his men], and now that is no longer so. . . . My sacrifice has been complete, and I shall hold on to the very end; except that when a man has exercised such a command under such conditions, he is finished and has only to disappear.

Lyautey was not given a command on the Western Front (though Gouraud and Brulard were), and he was now left with only Henrys,

⁶⁷De Tarde also attests to this, and how deeply it hurt Lyautey. Guillaume de Tarde, Lyautey -- le chef en action (5th ed.; Paris: Gallimard, 1959), pp. 192-193. The author of this book served under Lyautey for several years. He was Secrétaire Général Adjoint du Protectorat (Feb.-Aug. 1914); interim Secrétaire Général (Aug. 1914-July 1915); Chef Adjoint du Cabinet Civil at the War Ministry (Dec. 1916-March 1917), and finally Directeur des Affaires Civiles (June 1917-Dec. 1920).

⁶⁸Letter of 6 Oct. 1914, CL, p. 309.

Poëymirau and a few others, the last of those with whom he really liked to work. Furthermore, his family estate, Crévic, with all his possessions and manuscripts, had been burnt to the ground by the Germans just a few weeks before, and ". . . a worse disaster could not have happened to me."⁶⁹ In a letter to his sister in November 1914 he wrote:⁷⁰

Really, the older I become, the more I feel how, for people with deep roots like ourselves, houses and people are identified with each other; it is in the traditional houses that one relives best and most easily with one's memories.

So great a disaster was the destruction of Crévic to Lyautey, that he could never bring himself to have the ancestral house rebuilt after the War.

In another letter to his sister Lyautey explained why he felt so bad about being kept in Morocco, not being allowed to the Front in France:⁷¹

You are aware just how much I suffer from being kept here, realizing only too well that those who have not participated in the War in France will [afterwards] be disqualified [in the eyes of the public] and will then have only to be buried, knowing only too well that, though people throw flowers over me, crying from the

⁶⁹Ibid., p. 310.

⁷⁰Letter of 24 Nov. 1914, CL, p. 310.

⁷¹Letter of 5 Dec. 1914, CL, p. 311.

rooftops that I have 'saved Morocco', deep down, they have been only too happy to keep me out of the War, [thereby] annihilating my strength and authority for the future.

In the following year his depression was echoed in his correspondence with his sister . . .⁷²

Here I must appear smiling and in good spirits to keep the others going, but I always feel so tempted just to let myself go and lose myself in despair, for there are so many things I want to cry out to the world, things which I feel are irremediable, which will leave me crushed after the War, but I stop myself from thinking about them.

He of course could not stop such gloom from pervading his existence, and he was only too right about the feeling of being crushed after the War. In fact he never completely got rid of this negative attitude, and indeed it was intensified after the spring of 1917. He was never again the same man that he had been prior to the War; by January 1918 he was writing that he was "on the razor's edge."⁷³

Another depressing factor was the death of close friends, which intensified his growing feeling of isolation. Vicomte E.-M. de Vogüé had died in 1910, Comte Albert de Mun in 1914⁷⁴ and General Gallieni in 1916.⁷⁵ Three of his favourite officers who had served under him since 1903 at Ain Sefra also died: Colonel Berriau died in 1918,

⁷²E.g., see letter of 27 Aug. 1915, CL, p. 312.

⁷³Letter to his sister on 12 Jan. 1918, CL, p. 315.

⁷⁴CL, p. 285. Boisboissel discusses these men: see Ch. IV, pp. 121 et seq.

⁷⁵

Pierre Lyautey, Gallieni (Paris: Gallimard, 1959), p. 305.

Colonel Delmas in 1921, and General Poëymirau in 1924, while another favourite officer and friend, General Henrys, had been sent to France in 1916.⁷⁶

The War did have some good results for Morocco and Lyautey, however, for it enabled Lyautey to gain more of a free hand in the administration of the country. From the autumn of 1914 until December 1916 he was given more scope as a result of the sudden reduction of control and interest in Morocco by metropolitan politicians and the decline in immigration. During this period Lyautey built roads, cities, hospitals, dispensaries and schools for Europeans and Moroccans.⁷⁷

In 1915, in addition to continued military and political action, Lyautey found another front on which to fight, that of morale and economics. On 9 May 1915 he opened an Horticultural Exhibition at Casablanca.⁷⁸ Two months later he went to France to see Government officials and toured the Western Front, also managing to spend some time with his sister and her family.⁷⁹ August again found him in Casablanca, preparing for the first "real offensive" of the new front, the Casablanca Exhibition, which opened on 5 September 1915.⁸⁰ This trades-fair displayed the primary import and export products of Morocco and France, and was the first of three such fairs held in Morocco during the War, in pursuance of Lyautey's "politique du sourire";

⁷⁶PA, p. 274.

⁷⁸LA, III, pp. 46-51; PA, p. 137.

⁷⁹PA, p. 164.

⁷⁷G. de Tarde, p. 132.

⁸⁰Ibid., p. 143.

he considered them to be an essential part of the war effort.

Their purpose was twofold:⁸¹

- (1) To show France the economic value of Morocco;
- (2) To give the Moroccans a feeling of stability, strength and prosperity, so as to keep their confidence.

In Lyautey's words, ". . . this double objective was fully achieved."⁸² The first Casablanca fair was a splendid success, politically and economically. Several metropolitan officials came to Morocco for the fair and were doubly impressed when Lyautey's estimate of its psychological effect on the Moroccans quite unexpectedly proved correct. A rebellious tribal chief fighting General Henrys along the Northern Front had heard amazing things about the fair and asked for a truce in order to see it for himself. The chief was granted permission to go to Casablanca with complete immunity against arrest and was so impressed by all that he saw that he returned to his men and surrendered with them to the French.⁸³

In October 1915 Morocco was visited by some important French officials, including the Minister of Education, Albert Sarraut, who came to award Lyautey with the Médaille Militaire and the Croix de Guerre.⁸⁴ Another honour was bestowed on Lyautey that same month when King George V

⁸¹Ibid., pp. 143 and 199.

⁸³Ibid.

⁸²Ibid.

⁸⁴Ibid., p. 155.

of Great Britain made him an Honorary Knight Grand Cross of the Order of St. Michael and St. George.⁸⁵

At the end of 1915 General Lyautey left again for France to discuss with the Government the tricky problem of finance, and also troops, transport and supplies for Morocco. In the New Year spirits were not very high anywhere in Paris and in February came the disaster of Verdun. Five days after his return on 29 February 1916 from a tour of the Western Front, Lyautey gave an interesting speech to the Chamber of Commerce of Lyon in which he discussed some of the difficulties of colonial government.⁸⁶

Of these difficulties, the greatest and most inextricable, at least initially -- for it only becomes untangled gradually -- is to conciliate, in a country where one has just arrived, the legitimate interests of the natives and those of newly arrived Europeans. This is perhaps the most delicate problem for colonial governments.

And he went on to say . . .⁸⁷

The duty of the Government is precisely just that, to conciliate these interests. It is neither easy nor pleasant because whoever says conciliation has to make compromises and reciprocal concessions, and, consequently, dissatisfaction arises from all quarters.

He added that the problem was aggravated in Morocco by the uncontrolled influx of European immigration.⁸⁸

⁸⁵Selous, p. 190

⁸⁷Ibid., p. 168.

⁸⁶pA, pp. 165-166.

⁸⁸Ibid., p. 170.

Throughout the entire [Atlantic] coastal region of Morocco, there was a veritable invasion [of immigrants], while nothing was yet ready to receive it, and my poor and very limited administrative personnel which I then had at my disposal, has been literally inundated ever since.

He explained to the businessmen of Lyon that before settlers could come to Morocco a complete study of the land and its resources must be made and maps (until then non-existent) must be drawn up. Property had to be found which was both reasonable in price and held in clear, legitimate title of ownership before any official colonization programme could be started. "Wait and be patient", said Lyautey to his audience.

He always emphasized that Morocco, unlike Algeria, was not a colony but a Protectorate, ". . . and that [distinction] is no mere formality."⁸⁹ Although the Resident General could be charming and polite, he usually did not mince words or attempt to disguise the truth. He was deeply attached to Morocco and her people and he wanted Frenchmen to respect Moroccans as much as he himself did, as can be seen in this passage from his speech at Lyon:⁹⁰

. . . there you have an industrious, really hard-working, intelligent race, a race open to progress, and from whom much can be achieved, provided that what they want to have respected is scrupulously respected. Therefore we

⁸⁹ Ibid., p. 172.

⁹⁰ Ibid., pp. 173-174. His attitude to Morocco can be described as paternal and Rom Landau calls Lyautey's attitude there as being one of "a benevolent autocracy and conscientious feudalism!" Rom Landau, Moroccan Drama, 1900-1955 (London: Robert Hale, Ltd., 1956), p. 93.

shall find in that country the most favourable conditions in which to accomplish the finest and best achievement, in co-operation with the natives, if we only leave behind at the port when we first enter the country, something which has elsewhere countered the effect of our original action, and can be summed up by the expression of sale bicot [dirty Arab] applied uniformly to every native, an expression so deeply shocking and dangerous, that those to whom it is addressed cannot but help understand it immediately and all the scorn and menace that it includes as a result of which they nurture a bitterness which nothing can erase, as I have seen only too often.

No country better suits a Protectorate-type régime, one which is not transitory but definite, the essential characteristic of which is close association and co-operation between the autochthonous race and the protecting race, joined in mutual respect, and the scrupulous safeguarding of traditional institutions. No system of administration permits so well the utilization to our benefit of the local institutions and the development of their resources Just remember that in Morocco there exists a number of persons of rank who, until just six years ago, were Ambassadors of independent Morocco to Saint Petersburg, London, Berlin, Madrid and Paris, accompanied by their secretaries and attachés, cultured men who dealt as equals with European statesmen, who are skilled politicians and diplomats; nothing similar exist in either Algeria or Tunisia.

The Resident General left for Morocco in March,⁹¹ stopping again at Madrid to see the King of Spain, as well as some of the Spanish ministers, about affairs concerning the dual Protectorate. After a short stay in Tangier he reached Casablanca on 24 March.⁹²

⁹¹PA, p. 164.

⁹²Ibid., p. 177.

In the spring of 1916 General Lyautey appeared to be his old self again, though late in June his troops were engaged on all fronts (except around Marrakesh) and he had to deal with a general increase in military resistance.⁹³ Another trades-fair (officially called a Samples Fair this time) held in Fez in October,⁹⁴ resulted in an increase of commerce and had a psychologically reassuring effect on the natives.⁹⁵

As mentioned previously, German agents in Morocco and submarines off the coast were a constant worry to Lyautey, especially during this period, in which intercepted German messages led to the expectation of attacks on shipping and the ports of Casablanca and Rabat.⁹⁶ Lyautey feared bombardment for two reasons: his lack of sufficient artillery to protect the ports, and the lack of faith in the French by the Moroccans such attacks could engender.

In Rabat General Lyautey received a most unexpected telegram from Briand⁹⁷ asking whether he would accept the post of Minister of War if invited to do so. Morocco was in a particularly difficult

⁹³CL, p. 314.

⁹⁴PA, p. 193.

⁹⁵Ibid., p. 199.

⁹⁶Ibid., p. 207.

⁹⁷Ibid. Unfortunately, M. Pierre Lyautey has omitted the period Dec. 1916-March 1917 when editing his otherwise valuable Lyautey l'Africain.

Aristide Briand (1862-1932) was Prime Minister from 1909-1911 and again in 1913. He was Minister of Justice in Viviani's cabinet (1914-1915), headed a coalition government from 1915-1917 (during which Lyautey served), was Prime Minister again in 1921-1922, Minister of Foreign Affairs, 1925-1932, Prime Minister 1925-1926 (just after Lyautey resigned). In 1926 he was awarded the Nobel Peace Prize jointly with Gustav Stresemann. He became Prime Minister for the last time in 1929.

position at this time, and Lyautey was taken aback, although he realized that one of the great problems in France during the Great War was the lack of co-ordination and unified control and authority (which he believed he could change for the better). In his reply Lyautey informed Briand that the situation was difficult in Morocco and that he did not feel that he could leave, but that all really depended upon whom they could find to replace him, for there was no one in Morocco who could do so.⁹⁸ When General Gouraud, then commanding the IVth Army in Champagne, was suggested, the Resident General acquiesced. In tentatively accepting this new post it was not without grave doubts and anxiety. Before Lyautey had been notified officially that he was to be replaced by Gouraud, to his annoyance the Havas Agency announced the replacement, but without stating that Gouraud's appointment as Resident General was only an interim one, until Lyautey returned later. Other events proved even more disconcerting. Just before the Resident General was appointed to his new ministerial post, the new Cabinet chose General Nivelle as Joffre's successor, and Lyautey was informed about this officially only upon his arrival in Paris on 22 December. 1916.⁹⁹ This appoint^{ment} of a new Commander-in-Chief without consultation of Lyautey, as War Minister designate, was an

⁹⁸PA, p. 208.

⁹⁹Wladimir d'Ormesson, Auprès de Lyautey (Paris: Flammarion, 1963), p.38. D'Ormesson, now a member of the Académie Française served on Lyautey's staff throughout his brief career in Paris and discusses the events from Dec. 1916 to March 1917 in great detail.

insult to him; and worse was to come, for the Cabinet had recently -- unbeknownst to Lyautey -- split up the powers of the Minister of War by creating a War Committee, which removed both Transport and Armament from the authority of the Ministry of War, at a time when Lyautey believed centralization was so essential. On the morning of 13 December 1916 Lyautey was informed of the constitution of the new Government,¹⁰⁰ which included Lyautey's own name as War Minister.

Briand, following his typical policy of failing to inform persons at once of changes, had not notified Lyautey of the great reduction of his powers by the creation of the War Committee. Lyautey sent Briand the following telegram:¹⁰¹

¹⁰⁰This telegram is quoted by Maurois, p. 278.

<u>Présidence du Conseil, Affaires Étrangères</u> . . .	Briand
<u>Justice, Instruction Publique</u>	Viviani
<u>Finances</u>	Ribot
<u>Intérieur</u>	Malvy
<u>Guerre</u>	<u>Général</u> Lyautey
<u>Marine</u>	<u>Amiral</u> Lacaze
<u>Économie Nationale, Commerce, Industrie,</u>	
<u>Agriculture</u>	Clémentel
<u>Transports, Ravitaillement Civil et Militaire</u> .	Herriot
<u>Colonies</u>	Doumergue
<u>Armement, Fabrications de Guerre</u>	Albert Thomas
<u>Sous-Secrétariat État, Santé</u>	Godard
<u>Transports</u>	Claveille
<u>Fabrications de Guerre</u>	Loucheur

¹⁰¹Ibid., p. 280.

It is with great surprise that I read about the constitution of the Ministry [of War] in the communiqué.

I see there that Armement and Fabrications de Guerre, on the one hand, Transports and Ravitaillements Militaire on the other -- that is, the fundamental and vital organs of modern warfare -- have been removed from the Minister of War, to which they should be subordinate, and now form two distinct ministries.

Now, it is the Ministry of War which I have been offered and it seems to me that it would only have been right to have informed me that it was to be reduced in authority, and that in consequence will no longer be capable of an efficacious role.

In the period of extreme crisis which our country now faces, there is one basic necessity which is obvious to everyone, to intensify the unity of direction of the war, and yet this unity is being diluted even more.

I thus formally reserve my acceptance of the Ministry of War, under the new and unforeseen conditions, until I am able to see for myself whether or not I am actually being given both the Ministry of War and the powers and means of action which circumstances render indispensable.

I shall hand over my office to Gouraud, on Monday, at Gibraltar.

The Resident General took official leave of his officers and officials at Rabat on 16 December 1916,¹⁰² and that same evening Sultan Moulay Youssef came to the Residency to say good-bye to the Lyauteys. Lyautey left on a submarine for Gibraltar, where he met Gouraud as scheduled and briefed him on the situation in Morocco. He stopped at Madrid to confer with King Alfonso, and arrived in Paris on 22 December.¹⁰³

¹⁰²PA, p. 208.

¹⁰³D'Ormesson, pp. 18-19, 38. Lyautey and Alfonso XIII got along very well. D'Ormesson quotes a typical remark made by Lyautey to the King (back in Oct. 1913): "If Your Majesty were not King of Spain, how I should like to have him on my general staff!" D'Ormesson, pp. 18-19. Maurois, p. 282.

Once there, he still did not immediately accept the post, for he wished to examine the position closely and to ask for the advice of various friends in high position. Lyautey did not like what he found, but -- despite the advice given to him -- he accepted the post, just in time to stop the affronted Joffre (who had recently been replaced by Nivelle) from resigning his commission.¹⁰⁴

A few days later he entered the Ministry for the first time; but he was just not cut out to be a cabinet minister. In the words of Maurois:¹⁰⁵

Everything irritated him. As a technician of general ideas he naturally had a great horror of useless details [which in Morocco he had been able to leave for his staff to deal with] and would have preferred to have given his time to creative work. Instead, however, he had to receive senators and deputies who came to ask special favours of him, and to report to him about generals who were then hostile to politicians. He could not complain about either Albert Thomas, or Herriot, for both were very loyal to him. But he needed to work in an atmosphere full of enthusiasm, and in this coalition of 1917, tout était cabale, intrigue, méfiance.

Lyautey received no co-operation from the difficult Nivelle or from Nivelle's General Headquarters. In order to increase over-all unification and co-ordination of interallied command, he travelled to Rome and later to London. As early as January 1917, on his return to Paris, following the Rome Conference (4-9 January), he was

¹⁰⁴Ibid. It was on Lyautey's initiative (and despite much political hostility) that Joffre was promoted to the rank of Marshal. Britsch, p.201.

¹⁰⁵Maurois, pp. 286-287.

reported to have told one of his officers, "Really, I don't know what more I can do there [i.e., in the War Ministry]."¹⁰⁶ Shortly afterwards he prepared a note both to the President of the Republic and Briand, stating that he might as well step down, for both the Rome Conference and the War Committee had been quite ineffective; unfortunately, he decided not to send the note.¹⁰⁷ At this time General Lyautey received the Nivelle Plan, for the latter's intended offensive, and this horrified him. Nivelle sent Colonel Georges Renouard to explain this plan to the Minister; Renouard had been a Captain under Lyautey in Algeria several years before, so these two men were not strangers. Their meeting at the Ministry was a good example of Lyautey's way of handling men. Renouard placed various papers before the Minister and began explaining everything in a cold, aloof manner which puzzled Lyautey, because of their former friendly relationship. Lyautey turned in surprise to Renouard asking him what he thought of Nivelle's plan, but Renouard refused to comment.¹⁰⁸

'Renouard, I am asking you [te] to answer me; I am no longer the Minister of War and you are no longer Colonel Renouard; we are two Frenchmen standing face to face and dealing with the well-being of France . . . What do you personally think about the plan you have brought me?' 'I have no right to judge my chief.'

¹⁰⁶ Ibid., p. 292.

¹⁰⁷ D'Ormesson, pp. 63-67.

¹⁰⁸ Maurois, pp. 296-297.

Lyautey then took him by the shoulders and shook him: 'All right, let's see, mon petit Georges,' he said emotionally, 'look at me straight in the eyes . . . For one minute put yourself back into the skin of my officer in Ain Sefra whom I held in confidence and tell me the truth . . . What do you think of it?' Then, for a few seconds the mask fell from the Colonel's face. Tears came to his eyes. 'General, I feel the same way you do about it . . . it's crazy.'

The remaining weeks of his career as Minister were none too happy. He tried, in vain, to have Nivelle's plan dropped, and even to have Nivelle replaced. His career ended abruptly, not so much because of Nivelle, but because of politicians and political fickleness and dishonesty and because he always felt ". . . ill at ease in his relationship with Briand, Joffre and Parlement. . . ."109

In March 1917 Lyautey attended an inter-allied meeting in London. As he also wanted to attend an open session on aviation in the Chamber of Deputies on 14 March, he travelled all night from London to Paris in order to get there on time. In Paris he went directly from the railway station to the Cabinet where he learnt that Briand had broken his word and had decided to have this session held in secret after all, contrary to what Lyautey wanted and had been promised before his departure. Lyautey sat in silence throughout the morning session, only going to the tribune in the afternoon when an open session was held in the Chamber of Deputies. He had barely begun speaking before he was interrupted so abruptly and violently that he had to stop and

¹⁰⁹ De Tarde, p. 137.

the session was adjourned. He immediately tendered his resignation,¹¹⁰ and Briand's Government fell four days later.

On 25 March, five days after forming a new Government, Ribot contacted Lyautey and asked him to return to Morocco to his old post, as Resident General, which the General willingly accepted.¹¹¹ As he was unwell at this time, however, he first left for treatment at Vichy in the first week of April, returning to Paris a month later to settle various matters pertaining to finance, public works and the army. He left for Morocco on 20 May, stopping en route at Madrid (on 22-23) to confer again with the King and some ministers; there he also met Gouraud who briefed the returning chief. Lyautey was back in the Sherifian Empire within a matter of days,¹¹² while Gouraud returned to the Western Front to resume command of the IVth Army.

Upon his return to Morocco on 29 May Lyautey was faced with disaffection in three large zones,¹¹³ while at the same time the international situation was complicated by Russia's internal disorders. Lyautey found it necessary to boost morale as often as possible. At Casablanca, in August, the French authorities gave a celebration for the tenth anniversary of the landing of the first French troops in that city.¹¹⁴ However, on his return to Morocco

¹¹⁰ PA, pp. 213-214. This speech is in PA, pp. 214-221.

¹¹¹ D'Ormesson, p. 112.

¹¹² PA, p. 222. Britsch, pp. 222-223.

¹¹³ D'Ormesson, p. 156.

¹¹⁴ PA, p. 226.

Lyautey was ". . . no longer a victor, but vanquished. He had lost faith in mankind, no longer only because, as in August 1914, his men were attracted to other poles, but today because his own personal attraction had decreased; he had failed. Much worse than that, he had lost faith in himself."¹¹⁵

At Rabat the following month the Resident General opened the third trades-fair since the beginning of the War, an occasion which he called a "geste de guerre, foire de combat." In his speech opening the fair, Lyautey gave his views on colonization, contrasting the destruction of war with the constructive work of the colonial army in Morocco.¹¹⁶

While the terrible European War is heaping up ruins and daily destroying the work of centuries, the grandeur and beauty of the colonial war -- which our troops are engaged in here -- is that soon, on the very day following the cessation of fighting, it begins to create life, and instead of leaving the earth dead behind it wherever it goes, it makes it productive, and cities and harvests arise, thus making available all sorts of possibilities for the future in regions until now bogged down in inertia.

1918 was a difficult year, and as Lyautey later said . . .¹¹⁷

Losses accumulated; the restrictions and privations of daily life, aggravated in Morocco by distances and difficulty of communications, increased daily.

It was above all necessary to be with the troops whose efforts became every day more difficult, and I

¹¹⁵ De Tarde, pp. 200-201.

¹¹⁶ PA, p. 239.

¹¹⁷ Ibid., p. 245.

spent almost all my time along the various fronts in Morocco, only returning to Rabat for brief stays when circumstances made it necessary.

Both the Allies and Axis Powers were preparing for their last great offensive of the War, while in Morocco German agents were still at work, and rebel forces were successful in closing the Taza Corridor again, for a few days, although General Poëymirau and the Foreign Legion soon re-opened it permanently.¹¹⁸

The Armistice was declared on 11 November 1918, but ironically it was to prove the cause of further problems for Lyautey, not the least of which were caused by the exhaustion of French troops and the immediate demobilization of the territorials. A month later his trusted assistant, Colonel Berriau, died.

January 1919 did not find the Resident General's position in Morocco any easier, and indeed began with a minor crisis when General Poëymirau was seriously, though not fatally, wounded in southern Morocco. As Lyautey had no one to replace him, he took over the command himself in the middle of January, and held it for several weeks until Poëymirau could return to his post.¹¹⁹ This was a critical period because of the demobilization and lack of replacements; and just at this time Lyautey was faced with serious resistance around the Moulouya River in the north-east, which obliged him to make frequent

¹¹⁸

Ibid., p. 245.

¹¹⁹Ibid., p. 284; and Britsch, p. 238.

visits to military fronts and administrative posts.¹²⁰ At the same time he was faced with numerous administrative problems, including the sudden post-war influx of colonists.

In April 1919 a dahir (decree) was promulgated which was to have far-reaching and permanent consequences for tribal society and property. On 27 April the Protectorate permitted tribal property to be broken up. Although ownership of tribal land could only be transferred between members of the tribe or to the State, land thus acquired by the State might be reserved for the creation of "colonization perimeters".¹²¹ Plans for an official colonization programme had been begun during the War and were now being put into effect, although unofficial colonization had long preceded this. By permitting the alienation of tribal property, Lyautey was paving the way for the break-up of many tribes, and the loss of allegiance and values of their traditional way of life; in a word, it was the beginning of detribalization. These things were a side-effect and an inevitable result of the colonization programme, but were not its purpose.

Lyautey returned to France for the first time since his resignation in September 1919, to discuss the serious problems caused by the dwindling numbers of his troops (due in part to the French and

¹²⁰PA, p. 284.

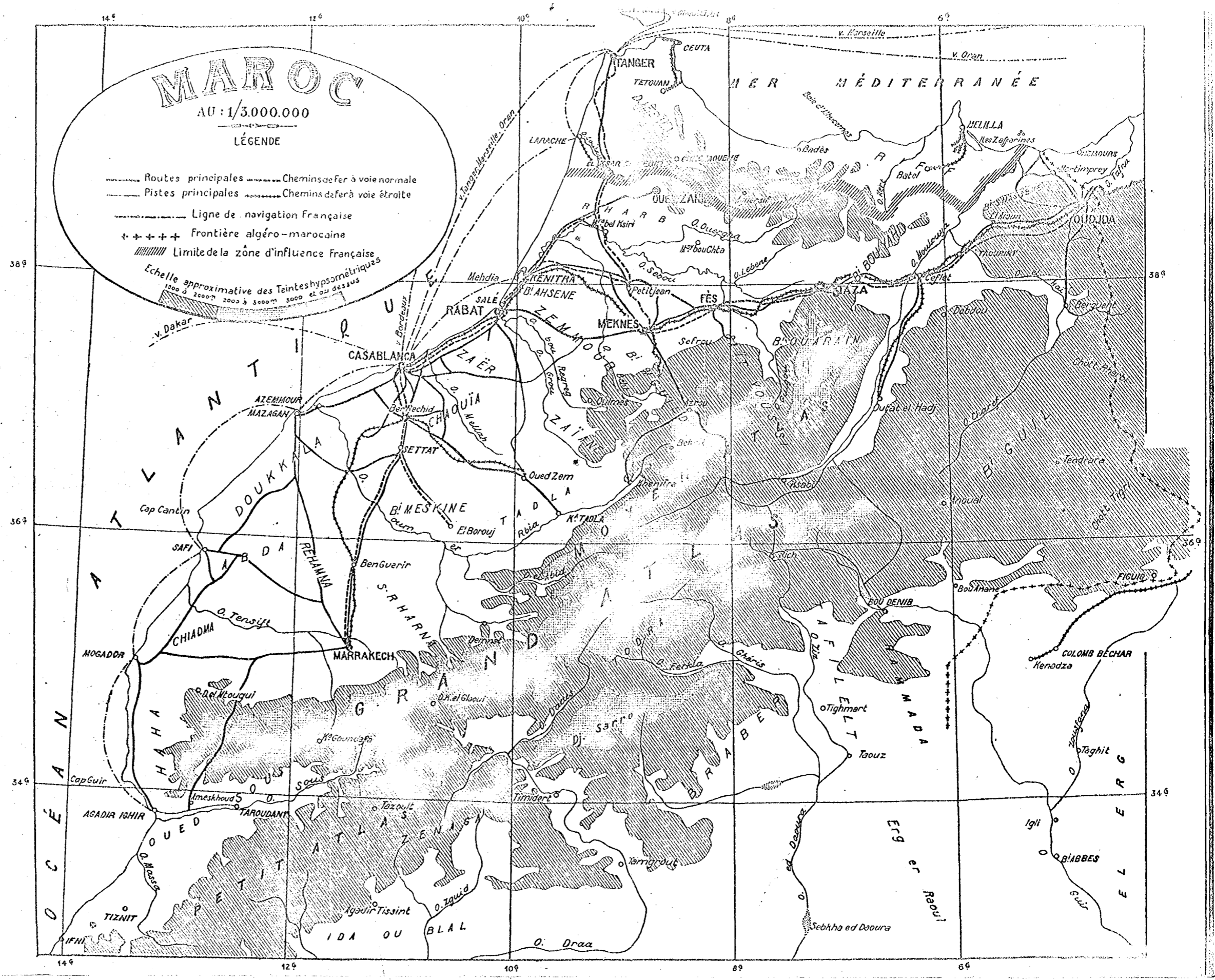
¹²¹See Dahir of 27 April 1919, discussed in §^v of Ch. IV, "Property".

international monetary crisis). During Lyautey's absence a grave economic and political crisis arose which reached such proportions as to result almost in a radical change in the Moroccan administrative structure. Inflation set in, silver was hoarded and the Banque d'État almost failed. The metropolitan Government in October took action to stabilize the situation which caused a complete standstill in everyday business transactions. Despite the attempt of Urbain Blanc, Lyautey's Délégué and second-in-command, to restore confidence in the Government, the press and public furiously attacked the Administration, demanding the resignation of the Directeur des Finances, M. Piétri, the creation of a Moroccan Parlement, members being elected by the colons, to assist a Résident Civil who would replace the Resident General. On 29 October 1919 Clemenceau issued a decree giving complete support to Lyautey and thus preventing any plans the colons might have had for the administrative reorganization of Morocco.¹²² After this business gradually picked up and life returned to normal.

When Lyautey returned to Morocco on 24 November, he brought some good news, for he had received authorization to plan the first civilian railway in Morocco (apart from the Tangier-Fez line), from Petitjean (now Sidi-Kacem) -- via Kenitra and Rabat -- down to Casablanca.¹²³

¹²²LA, IV, pp. 50-59; Britsch, pp. 243-245.

¹²³PA, p. 295. See also the map of the transport system on the following page.



Although the post-war agitation among the colons for more direct French rule of Morocco, as illustrated by the recent mutiny of colonists, threatened to put an end to Lyautey's colonial principle of close collaboration with the Moroccans, Lyautey prevailed and on 7 December 1919 informed the Sultan at Rabat that the principle of the Protectorate remained in force and that there was no danger of direct administration.¹²⁴

In March 1920 another step was taken to alleviate the monetary situation in Morocco when it was decreed that the franc would be the sole legal tender in Morocco (and not also the peseta hassani), though Lyautey felt it a mistake to call this tender the franc rather than the hassani.¹²⁵

The post-war period brought about changes in the entire way of life in Morocco, of which Lyautey was fully aware. As he said, ". . . all proportions have changed. Even the same words no longer convey the same meaning. The old formulas have become meaningless, simply hiding the void which has been created."¹²⁶ The world of either-or, no longer existed; it was no longer a case of either being at peace or at war, for in Morocco one had to live and contend with both, and the new rapid means of communication only made this all the more vivid. Lyautey commented in January 1920:¹²⁷

¹²⁴PA, p. 302.

¹²⁵LA, IV, pp. 58-59; Britsch, pp. 247-248. The franc notes issued by the Banque d'État gradually replaced the notes of the Banque de France and those of the Banque d'Algérie.

¹²⁶PA, p. 306.

¹²⁷Ibid., p. 308.

It is a situation without precedent and almost paradoxical, seeing a country, a third of which is resisting us and still remains to be conquered, where means of communication push ahead, where railways advance daily, where the oeuvre colonisatrice is developing with an intensity and rapidity which has never been seen anywhere else, under the protection of an Occupation Corps in full combat, whose mobile front traces out the borders of the areas thus far submitted to us, and whose casualty lists which reach me each evening, record the funereal but glorious statistics, while in our coastal cities life goes on apace quite normally.

Although 1920 was a difficult year, it also had its compensations, for General Poëymirau received the submission of the large Zaian (Berber) Confederation on 1 June,¹²⁸ and French forces finally occupied Ouezzan in October.¹²⁹

Lyautey had gone far in his career, and had worked hard in his civilian-military capacity. As the former British consular official, G.H. Selous wrote:¹³⁰ "All waking hours were working hours for him." Selous, who knew Lyautey personally throughout his Moroccan career, has described a typical working day in his life at this time, explaining first of all that as a result of his childhood back trouble and of a liver ailment contracted in Madagascar, he had to spend a great deal of time in bed during the last few years.¹³¹

¹²⁸ Boisboissel, p. 131.

¹²⁹ Ibid., p. 132.

¹³⁰ Selous, p. 180.

¹³¹ Ibid. For a picture of Lyautey during the first years of the Protectorate see, A. Britsch, pp. 140-142. Britsch quotes P. Azan [from the latter's, Souvenirs de Casablanca (Paris: Hachette, 1911)] which shows Lyautey's inderatigability and the demanding life he asked of his closest officers: "Often I heard in camp -- while everyone else was asleep -- whether at 11 p.m. or at 4 a.m., the General's voice suddenly calling out: 'Poëymirau!' and immediately the faithful echo: 'Voilà, mon général!'" Poëymirau presented himself two minutes later before the 'patron' and we could hear the sound of their voices dictating and rereading orders."

And so his large bedroom became his morning study or workroom and there, propped almost bolt upright in his bed by many pillows, he would begin promptly at 8 a.m. seeing the chief of his military cabinet in order to learn the latest reports from all military posts along the frontiers which were ever being pushed further into dissident territory; discussing with directors-general of the various Residency departments questions of policy, etc.; and transacting any other business offering until around 11.45 a.m.; when he would attend to the tiresome but unavoidable task of getting up. At about 12.30 he would appear in the reception saloons ready for lunch which, in his presence, was always a gay affair. Thereafter and, with but the dinner break, till 1 a.m. he never ceased to deal with business. Never was there a great chief more constantly available for the transaction of affairs of State, big or small, than Iyautey. He was most accessible, although well defended by his excellent staff against undeserving callers. Whenever he travelled about the Protectorate, as he constantly was doing, his car was always followed by several others full of secretaries and typists. No sooner had the day's final destination been reached, scarcely had the convoy of cars come to a halt, than the Resident-General's chancery was in the throes of being set up, ready within a quarter of an hour or so to despatch the business of the moment.

In May 1920 the Resident General left for France where he had to defend his budget before Parlement. On 21 May, in Paris, a special decree was issued (confirming one issued the previous October) to the effect that Iyautey could remain at his post indefinitely, thus waiving the usual age restrictions, though Iyautey by this time was more in a mood to give up his office permanently than to continue and he said as much publicly.¹³² On 8 July he was finally

¹³²

Britsch, pp. 248-250.

able to attend the official reception given in his honour at the Académie Française.

When he returned to Casablanca on 31 September after a five-month absence, he brought another loan for Morocco and final authorization to begin work on the civilian railways, which in addition to those already mentioned, included connections between Fez and Oujda, Kenitra and Souk el-Arba, Casablanca and Marrakesh.¹³³

Lyautey revisited France the following year and upon landing at Marseille on 19 February 1921 was informed that he had just been promoted to the rank of Maréchal de France, the highest military rank in France.¹³⁴ He was then sixty-six years of age. The decision to promote him had been reached that very morning by the Cabinet, on the recommendation of Louis Barthou, and countless receptions awaited the new Marshal in Paris. Lyautey recorded his feelings in March while addressing the Ligue Maritime et Coloniale.¹³⁵

First let me tell you of my complete surprise, and how moved I was. I certainly had not expected such a manifestation. I can of course understand how such a thing could be done for our great war leaders, for those who on the Marne, Somme and Rhine, saved France, civilization and the world. But when one thinks of my military accomplishments alongside theirs, without any false

¹³³PA, p. 313; Britsch, p. 251; LA, IV, p. 59. The signing of contracts for work on the railways was provided for by the Law of 21 Aug. 1920. See also "Politique de Protectorat", Appendix XXVII.

¹³⁴PA, p. 319.

¹³⁵Ibid., p. 320.

modesty, I find it entirely unexpected that, after the little I have done, I am in such a place today before such an assembly.

Lyautey was as surprised as he had been when elected a member of the Académie Française without warning eight years before. He had always expected to be given fairly good commands, just as he had probably always expected to reach the rank of General (a not uncommon event in his family), for he always recognized his own merits; but to be made a member of the Académie Française, or a Maréchal de France, was another matter.

This trip to Paris was also satisfactory in that the Government agreed to give Lyautey the necessary resources (starting in 1922) to pacify most of the remaining rebellious areas of Morocco within a period of "three or four years". At that time Lyautey's troops were facing three "veritable Kabylies" in Morocco.¹³⁶

If you leave me what I already have in troops and resources, then I ask of you France not one man or one sou more. With intense effort and great sacrifices by our men, thanks to the even greater energy of our generals, officers and men, I affirm that -- within three or four years -- you will have been relieved of these three Kabylies whose continual confrontation we cannot afford. If, on the contrary, you reduce our resources by even a few hundred men or a few thousand francs, then it is impossible for me to envisage just how long it will take to pacify Morocco, because it will be necessary to fall back and maintain the status quo.

¹³⁶ PA, pp. 330-332.

During the remaining four and a half years of his administration, however, Lyautey was to suffer humiliating setbacks -- personal, political and military -- and ironically enough, none of which was due to his own actions.

The newly promoted Marshal returned to Morocco in April 1921. He afterwards made several speeches at Casablanca and received visitors from the Continent, including (from 8-13 October) the King and Queen of Belgium, whom he had to leave for a tour of the fronts along the Zaïan and the Beni Ouaraïn, south of Taza.¹³⁷ The year 1921 ended tragically when the Chief of Staff, Colonel Delmas, died in December.¹³⁸

The peripatetic Resident General again had to leave for France early in January 1922 on Government business and to receive instructions for the intended visit to Morocco in April by the President of the Republic, Alexandre Millerand.¹³⁹ While in the capital Marshal Lyautey was asked to lecture to the Institut Colonial in February on the risks involved in rushing the development of Morocco.¹⁴⁰

Nothing in the world is more dangerous than to believe in El Dorados, and I have always feared this 'enthusiasm' over Morocco. Morocco is obviously at the present time 'in the public eye', if I may say so. Everyone is being most kind to me. It is à la mode to be so, but I do not

¹³⁷ Ibid., p. 348.

¹³⁸ Ibid., p. 354.

¹³⁹ Ibid., p. 356. Millerand (1859-1943) a radical socialist, was President of the Republic, 1920-1924.

¹⁴⁰ Ibid., pp. 357-358.

know how long that will last. For the time being, however, that is very useful to us in the matters with which we have to deal; only that always makes me apprehensive, because, in our country [France], which is so fickle, enthusiastic outbursts are often followed closely by deceptions. That is why I say: 'Be careful'. Morocco is what she is; she is not any more than that. I believe that she has admirable possibilities for the future; a great deal is being done there; if I am but a small part of it, I have had the good fortune to have a team of admirable collaborators whom you have seen at work and who have been going at full steam since the very beginning. But, from the economic point of view, from the point of view of organization, Morocco is still in her infancy. Like all children, we must let her grow up; and we must let her achieve full growth in every sense. That is why I never stop saying: do not ask too much of Morocco, too soon.

He went on to say . . . 141

Despite many imperfections, many modifications still to be made in our methods of colonial policy, there is nevertheless one thing we have achieved: that is the knowledge of how to win the sympathy of the native. We do not have vis-à-vis him that arrogance, that aloofness which he in fact least forgives. . . . we have often been behind other colonial countries in the machinery and equipment built up in our colonies and in putting them into operation, but, despite everything, these races have remained faithful to us, for they have always felt that our heart is with them, and have therefore never felt an arrogance, coldness and scorn between us. The results of this policy were the steady backing we received from them during the War, and which we shall find tomorrow.

Iyautey thought it of the utmost importance that the French should be able to understand Islam and the values of a Muslim world, for as he put it, "It is above all on the sympathies which we find in it [Islam]

¹⁴¹ Ibid., p. 359.

"that our establishment in North Africa rests, and which has become such an important factor in our national destiny."¹¹²

Marshal Lyautey returned to Morocco on 29 March 1922. President Millerand's ten-day visit began on 5 April.¹¹³ The President arrived in Casablanca and worked his way across Morocco, ending it at Oujda when on 15 April he was greeted by Algeria's Governor General and Lyautey's future successor, Steeg, who was to be Millerand's host on the next stage of his North African tour.¹¹⁴

Lyautey spent most of May and June with his troops at Tadla and on the Moulouya. He left again for Paris on 24 June, stopping at Marseille to see the Moroccan Pavilion at the Colonial Exhibition there. On 7 July 1922, just after he had reached Paris, he was attacked by a serious and painful liver ailment.¹¹⁵ His attacks usually occurred without any warning, and this time he was forced to stay in bed for several weeks, getting up only briefly to accept his Marshal's baton from President Millerand on 14 July at a review at Vincennes. The next several weeks were spent in convalescence in Lorraine. By 19 October he was well enough to attend the inauguration of the Mihrab of the mosque in Paris.¹¹⁶ He returned to Morocco at the beginning of November.¹¹⁷

¹¹²Ibid., p. 361.

¹¹⁵Ibid., p. 369.

¹¹³Ibid., p. 362.

¹¹⁶Ibid., p. 370.

¹¹⁴Ibid.

¹¹⁷Ibid., p. 375.

A month later, speaking before the second annual Congrès des Hautes-Études Marocaines at Rabat, the Resident General took the opportunity of stressing to the Franco-Muslim audience the importance of close collaboration, and that attempts should not be made to destroy the rich culture of Islam or Morocco, for ". . . the more I am with the natives, and the longer I live in this country, the more I am convinced of the greatness of this nation. . . ." and therefore, ". . . one can make a good and fine Morocco by remaining both Moroccan and Muslim."¹⁴⁹

One result of President Millerand's visit to North Africa earlier that year was the President's decision to co-ordinate French action in the Maghrib through permanent liaison of the three administrators of Morocco, Algeria and Tunisia. The first annual Conférence Nord-Africaine was held in Algeria on 6 February 1923.¹⁵⁰

On 11 February while motoring back to Rabat Lyautey suddenly had another sharp liver attack.¹⁵¹ He was taken to Taza and then Fez. This attack was so serious that it seemed that Lyautey was dying, and his doctors, at Fez, decided that the Resident General must go to Paris as soon as possible for the removal of his gall-bladder. At Fez Lyautey was in excruciating pain and his condition was aggravated by the hot spring sun. The local oulama and imams

¹⁴⁹Ibid., p. 378.

¹⁵¹Ibid., p. 385.

¹⁵⁰Ibid., p. 382.

crowded into the courtyard near Lyautey's quarters and said the Ia el-Affif prayer for him, which, in the words of G.H. Selous was "as unprecedented as unexpected."¹⁵² A few days later he was sufficiently well to be driven to the coast, and Maurois has recorded how, as he was about to leave, the imams asked him to enter one of their mosques, a singular honour as North African Muslims never permit non-Muslims to enter their holy places. Lyautey's reply was typical: "I have always forbidden Europeans to enter your mosques; don't ask me to violate the very regulation which I myself established."¹⁵³

Lyautey reached Rabat on 27 March and though he felt slightly better had to remain in bed most of the time. His illness did not, however, prevent him from attending the inaugural ceremonies celebrating the opening of the Port of Casablanca¹⁵⁴ and then the opening of the first section of the Rabat-Fez railway,¹⁵⁵ when he had to meet several French parliamentarians, and attend a large banquet at the Residency.¹⁵⁶ At the inaugural address he discussed not only the stages in the development of the port but also the general problem of colonization,

¹⁵²Selous, p. 205.

¹⁵³Maurois, pp. 310-312.

¹⁵⁴Britsch, p. 154. Permission to begin this project had been granted by the Commission Internationale des Adjudications and the French Government on 25 March 1913.

¹⁵⁵In June 1923 the Petitjean-Kenitra and Kenitra-Rabat lines were opened of the Tangier-Fez line. The Petitjean-Meknes section was also opened in June 1923, while the Meknes-Fez line was opened in October 1923. The line from Casablanca to Khouribga was inaugurated in September 1923 (and extended to Oued Zem in 1926). The Rabat-Casablanca line was opened in 1925. The Tangier-Fez line, however, was not fully completed until January 1927.

¹⁵⁶PA, p. 386.

and again stressed that France must not violate her treaties with Morocco by switching over to direct administration, ". . . I should like to add, that, thanks to this method [i.e., his own], I have never seen here, at least so far, any uprooted groups [in Moroccan society], any déclassés, or any 'Young Turks'."¹⁵⁷ He went on to stress the lessons he had learnt in Indochina which he had applied in Morocco:¹⁵⁸

I believe, with all my heart, soul and experience, that the best method of serving France in this country is to assure the solidity of the establishment here, and that is the way to obtain the full support of this people.

It is in material well-being that we have the best guarantee, that which will in the near future alleviate our burdens, for a confidence acquired as a result of our care and welfare for their moral and material interests will be for us a far more efficacious support than the protection of bayonets.

It is in the moral sphere, the most noble, the highest and purest one, that the most worthy work of France and her traditions is associated with the destiny of the Moroccans -- not as a subjected people -- but as a people who are benefiting, thanks to our Protectorate, from the fullness of their natural rights and the satisfaction of all their moral needs.

That then is the real essence of this native policy, of the policy of the Protectorate, to which I so firmly adhere through patriotism and conviction. For my country's sake, I hope that my successors will be as firmly attached to it as I am.

Iyautey's health afterwards deteriorated and on 16 May he left for Paris where he entered a clinic and was operated on. Following his operation, President Millerand visited him and he took advantage

¹⁵⁷ Ibid., p. 394.

¹⁵⁸ Ibid., p. 395.

of his visit to ask the President to find a successor for him, because . . . "If I return to Morocco, I shall end up by dying there [y claquer]." Millerand is reported to have replied: "Fine, leave your hide in Morocco, that will be très chic."¹⁵⁹ This was the Marshal's first attempt to resign from the Residency. He stayed in the clinic for two months and left for a long period of convalescence in Lorraine.¹⁶⁰ In his absence, his Délégué, M. Urbain Blanc, took over control, while General Calmel became acting Commander-in-Chief.

Guillaume de Tarde relates how Lyautey's character changed in his last few years in the Residency, ever since his short stay at the Ministry of War. "In this daily struggle which he fought against his moral and physical weakening, and against political opposition, Lyautey's two greatest enemies took possession of him more and more: doubt in himself and suspicion of others."¹⁶¹

Marshal Lyautey returned to Paris at the end of 1923 and went back to Morocco with a new programme, only after much persuasion by Millerand and because he felt it his absolute duty to do so.¹⁶² The second annual Conférence Nord-Africaine was held in Rabat in April 1924; Governor General Steeg represented Algeria and Resident General Lucien Saint the Tunisian Protectorate.¹⁶³ Immediately following

¹⁵⁹Maurois, p. 312. ¹⁶⁰PA, p. 395. ¹⁶¹De Tarde, p. 149.
¹⁶²PA, 404. Unfortunately, Millerand, who always supported Lyautey, was out of office the following year; had he remained in office, Lyautey's last year in Morocco would have been far different.
¹⁶³PA, 406. LA, IV, p. 233.

the Conference, Lyautey had to return to Paris for a second operation, but he was back in Morocco on 18 June where he intended this time to stay only temporarily, for as he said, "I felt even more than during the previous year that I had the right to rest and that the moment had come to pass on my work to a younger, stronger successor."¹⁶⁴ When, however, the Resident General toured the northern front, on the Ouergha, he found that the withdrawal of Spanish troops from the Rif on the other side of the Protectorate Zone had increased the success of Abd el-Krim. As Lyautey later said . . . "From that time on, I realized I could no longer -- at least for the time being -- plan on leaving, duty compelling me not to flee before a situation which seemed so menacing."¹⁶⁵ In August he returned to France to discuss the growing threat of Abd el-Krim with the Government.¹⁶⁶

I spent my stay communicating my fears to the ministers who were involved with Morocco and doing my utmost to have the means made ready to deal with the situation, that is during the first few months of 1925. The Foreign Minister, the Prime Minister and the Minister of War listened to me with all the attention and seriousness necessitated by the gravity of the situation, which they clearly realized. But, in my conferences at the Ministry of War, the Minister and I realized the impossibility of finding sufficient amounts [of troops and equipment] which would be necessary, all the means then available being

¹⁶⁴PA, p. 409.

¹⁶⁵Ibid.; LA, IV, pp. 244-272. Abd el-Krim had inflicted a disastrous defeat on the Spanish army in July 1921, and as a result the Rif rebels had obtained almost unlimited military supplies, including one hundred and sixty-six pieces of artillery (and munitions to match). See Selous, p. 205.

¹⁶⁶PA, p. 413

-- as represented to us at least -- required in the occupation of the Rhineland and the Levant.

Marshal Lyautey returned to Morocco in November 1924 filled with anxiety but still outwardly cheerful in order to give his soldiers and the Moroccans the confidence they needed.¹⁶⁷ On 11 December 1924 he sent a telegram to Paris describing the military situation and the measures to be taken.¹⁶⁸ In reply Prime Minister Herriot authorized Lyautey's measures. On 21 December Lyautey sent a detailed memorandum to Paris specifying the required military reinforcements, including five battalions and two engineer companies to be sent to him forthwith, in addition to the following by 1 April 1925: four more infantry battalions, two spahi squadrons, two mountain batteries, one signals half-company and two air squadrons.¹⁶⁹ At the same time he requested a special credit of 5,000,000 francs for the extension of road communications. (It should be noted that Paris had reduced his troops from ninety-five thousand in 1921 to sixty-five thousand in 1923.)¹⁷⁰

. . . I take the liberty of stating that this minimum must be forthcoming in entirety -- otherwise, and at an early date, much more will be required; and it must be forthcoming by the indicated dates -- i.e. in time, a factor which of itself will constitute the greatest economy.¹⁷¹

The outcome was tragically different. In the words of G.H. Selous,

¹⁶⁷ Ibid.

¹⁶⁹ Ibid., pp. 267-272.

¹⁷¹ Ibid., p. 271.

¹⁶⁸ LA, IV, pp. 264-266.

¹⁷⁰ Ibid., pp. 227, 252.

". . . the French Government signally failed to play up and execute his minimum requirements, modest as they were and clearly as, with studied insistence upon and re-iteration of essential points, he had specified them in language and with a lucidity of expression worthy equally of a highly experienced general and a member of the Academy."¹⁷² On 29 December Lyautey was informed that only two battalions were on their way to him, and that by the middle of February three more battalions and two sapper companies would be available. The four battalions promised for April 1925, however, would be made available only on the Cabinet's decision following another specific request by Lyautey at that time.¹⁷³ One of the reasons for this failure by Parisian politicians to give Lyautey what he required was that the Resident General of Morocco was not at all popular in the socialist governmental circles then ruling French destinies.

The first five or six months of 1925 taken up with direction of military operations against Abd el-Krim taxed Lyautey's energies to the utmost.¹⁷⁴ By mid-July the critical period had passed and reinforcements were finally arriving.¹⁷⁵ The unrelenting military demands on him, made him realize that he could not be everywhere at once,

¹⁷²Selous, pp. 207-208.

¹⁷³Ibid. It should be noted that when Pétain took over as Commander-in-Chief in Aug. 1925, he immediately requested an additional 28 battalions and got them! Catroux, p. 243.

¹⁷⁴Abd el-Krim surrendered on 27 May 1926.

¹⁷⁵LA, IV, pp. 372-376.

especially in his state of health, and he asked for what he termed a military "ad latus", who would relieve him of at least some part of his heavy burden. General Naulin was in consequence appointed on 5 July to take over the Moroccan military command, under Lyautey's over-all responsibility, and arrived at the end of July.¹⁷⁶

I began to envisage the end of the crisis in the not too distant future, provided that my methods of political and military action -- which had for such a long period proved themselves -- would be continued.

On 18 August Lyautey was sent an unexpected and curt telegram from Paris informing him he had been relieved of the military command of Morocco:¹⁷⁷

Marshal Pétain will take over the general direction of the troops and military services of Morocco. Marshal Lyautey will place at Marshal Pétain's disposal all the personnel and material he requests for the accomplishment of his mission.

PAUL PAINLEVÉ

Pétain arrived on 27 August.

On 24 September 1925, the seventy-year old colonial veteran asked

¹⁷⁶Catroux, p. 225. PA, pp. 417, 419. In July 1925 Paris decided to send out Pétain to report on the Rif situation (17-27 July) without even notifying Lyautey of this. General Catroux reports that Lyautey not only co-operated with Pétain, but did so amiably, Lyautey believing Marshal Pétain ". . . had not come as an investigator, that his purpose was not to weaken but to strengthen his authority. . . ." Catroux, p. 224. General Catroux states that the relationship between Naulin and Lyautey was very good.

¹⁷⁷Catroux, p. 244. Paul Painlevé's government was in office from 17 April until 23 November 1925. For French political background at this time see, Jacques Chastenet's Histoire de la Troisième République, Vol. V: Les années d'illusions, 1918-1931. (Paris: Hachette, 1960, pp. 135 et seq.

to be relieved of the supreme command in Morocco, for the third and last time.¹⁷⁸ On 29 September Lyautey received a telegram from the Foreign Minister, Briand, on behalf of the Prime Minister and the Cabinet accepting his resignation.¹⁷⁹ The Resident General bade farewell to the Sultan in Rabat on 10 October,¹⁸⁰ and before a huge crowd gathered on the quayside left Morocco for the last time as its patron.¹⁸¹

On his arrival at Marseille no senior officials, military or civilian, were waiting to greet him on his last return. In fact, he had returned to France on a small commercial ship, no naval craft being made available for him. Indeed it was only the British who, in his honour, provided him with an escort of two destroyers through the Straits of Gibraltar.

Lyautey spent most of his remaining years at Thorey, in his beloved Lorraine, preparing a few volumes of letters for publication. He died on 27 July 1934 at the age of seventy-nine, and in October 1935 his ashes were conveyed by a French naval squadron, accompanied by fourteen ships of the British Second Battle Cruiser Squadron, to his mausoleum in Rabat.¹⁸²

+ + + +

¹⁷⁸ PA, p. 420. For his letters of resignation, see Appendix XXVIII.

¹⁷⁹ Ibid., p. 426.

¹⁸⁰ Ibid., p. 427. He was officially replaced by M. Théodore Stéeg by Décret of 11 Oct. 1925 (BO, 679, 27 Oct. 1925, p. 1705).

¹⁸¹ Ibid., p. 429.

¹⁸² Selous, p. 211. Several honours came to him during his retirement, including the bestowal of the Gold Medal of the Royal African Society on 4 December 1928, in London, the first time it had ever been given to a foreigner. Selous, p. 193.

The following chapters are concerned with the administrative achievements of Iyautey, who by common consent was the founder of modern Morocco.

CHAPTER III

GOVERNMENT

I. Central Administration.

A. Before 1912.

As a result of recent events, Morocco has been returning to a state of internal chaos. At present the State survives only because of the resistance of the Makhzen, that is to say, by the only element of cohesion still capable of imposing itself over national anarchy.

EUGÈNE AUBIN,
Le Maroc d'aujourd'hui [1904].

The administration of the Sherifian Empire has varied throughout the centuries.¹ During the reign of Sultan Moulay el-Hassan (1873-1894) the administration of Morocco was reshaped for the last time before the establishment of the Protectorate.² The salient feature of this Sultan's government was the lack of any real delegation of power to the vizirs. The function of the vizirs was, in the main, restricted to seeing that the Sultan's decisions were executed; no vizirial decrees were issued until after 1912 when they were introduced by the French.

¹ See J.F. P. Hopkins' work: Medieval Muslim Government in Barbary, until the Sixth Century of the Hijra (London: Luzac & Co., Ltd., 1958).

² René Maudit, "Le Makhzen marocain", RC (1903), p. 297.

1. The Sultunate³

The Sultan came to power by one of three means: through a power struggle; through nomination as heir presumptive by the previous Sultan; through selection from among the members of the royal family by the College of Oulama of the Empire, those of Fez taking pre-dominance in the decision⁴

The Sultan was both secular and ecclesiastical ruler. His powers (at least in the effectively governed parts of the Empire) were vast, undefined and unquestioned. As the religious leader of his people, the Sultan was the Imam and the Caliph and Amir el-Moumenin (Commander of the Faithful). In an Islamic state religion was so inextricably a part of everyday life that there was no separation between the temporal and ecclesiastical aspects of life, no more than there was separation in classical Hebraic society. The people of Morococco, unlike those of Algeria or Tunisia, mentioned the name of their own ruler in their Friday prayers, whereas the Algerians and Tunisians repeated the name of the Ottoman Sultan.

Domestic and foreign policy was initiated by the Sultan, and in the legal field he was the Islamic equivalent of a Supreme Court.

³For a general study of the court and Makhzen, see: Augustin Bernard, Le Maroc (Paris: Félix Alcan, 1913), Book III, Ch. V; and Eugène Aubin, Le Maroc d'aujourd'hui (Paris: Armand Colin, 1904), Ch. X-XII.

⁴A. de Laubadère, "Les réformes des pouvoirs publics au Maroc", RJPUF, II (1948), p. 15.

2. The Vizirates.

Although the Sultan could and did delegate powers to vizirs (ministers), their main task was to help the Sultan examine affairs of state and to execute his decisions.

Mohamed Lahbabi points out in an interesting work that Moulay Hassan introduced two innovations in his reorganization of the Makhzen, or Government.⁵ He defined the duties and powers of his ministers, and regularized the hours and work of government officials; thereafter vizirs and secretaries were to appear at their beniqas (ministries) at specific hours (a most unoriental innovation)⁶ and the Council of Vizirs was to meet daily. Under Moulay Hassan there were five vizirs.

a. Ouzir el-A'dham.

The Ouzir el-A'dham, known also as Essadr el-A'dham, or simply, el-A'dham, was in effect the Grand Vizir. This title was of fairly recent creation, this official having previously been known simply as the Ouzir. El-A'dham was now restricted to domestic affairs, but as Minister of the Interior and Counsellor to the Sultan⁷ he was a most

⁵Mohamed Lahbabi, Le gouvernement marocain à l'aube du XXe siècle (Rabat: Éditions Techniques Nord-Africaines, 1958), pp. 136-137.

⁶E.g., from 6-10 a.m. and from 3 p.m. to sundown. On vizirial reform see also, Jean-Louis Miège, Le Maroc et l'Europe (1830-1894), Vol. IV: Vers la crise (Paris: Presses Universitaires de France, 1963), pp. 130-135; and also Eugène Aubin, Ch. X-XII.

⁷Lahbabi, p. 140.

important minister, and a person to be reckoned with, working more closely with the Sultan than almost any of the other visirs.

El-A'dham was the direct intermediary between the Sultan and the Moroccan people, on both the tribal and municipal levels in political matters.⁸ He arranged for franchises, concessions and so on, involving the tribes; he kept an eye on religious fraternities to ensure that they were not undermining the Sultan's authority, and also supervised matters involving military contingents and mobilization, besides supervising the imposition of taxes and the nomination of administrators.

The Ouzir el-A'dham nominated each new caïd,⁹ cadi,¹⁰ mohtaseb,¹¹ khatib,¹² and m'dris¹³ of the Qaraouiye University and examined each one's background.¹⁴ Because of the complexity of his work, he was assisted by two administrative Secretaries, the Secretary of the North, and the Secretary of the South.

b. Ouzir el-Bahr.

The Ouzir el-Bahr acted as Foreign Minister for the Sultan, and he and the Ouzir el-A'dham were the two most powerful vizirs. The Ouzir el-Bahr often acted in the Sultan's name outside the Empire on political and commercial missions to Europe, just as he did in Morocco

⁸Ibid., pp. 140-144.

⁹Governor or mayor of a city.

¹⁰Religious judge.

¹¹Market inspector.

¹²Leader of the prayers.

¹³Professor.

¹⁴Lahbabi, pp. 144-146.

in matters pertaining to international frontiers (such as border incidents, or surveying of undelimited areas). For instance, he represented Morocco in the meeting with the Foreign Ministers of Spain and France in Rabat late in 1907.¹⁵

The Ouzir el-Bahr dealt with the following matters involving Europeans living within the Empire: (1) claims submitted to the Government for indemnities, (2) questions arising from the protection of favoured individuals (which were brought to his attention usually by a caïd or amel),¹⁶ (3) disputes concerning commerce, trade, imports and exports and customs,¹⁷ and (4) acquisitions of real estate.

The Makhzen had already realized in the 19th century the danger of foreign commercial and political penetration of Morocco; and following the Convention of Madrid, of 1880, it tried to limit the "protection" offered by foreign Governments to Moroccans. Thereafter the foreign consuls in Morocco had to submit to the Ouzir el-Bahr an annual list containing the names of proposed protégés.

Indemnities, a painful aspect of the Ouzir's duties, involved the multifarious claims put forward to the Moroccan Government by the foreign legations for payment of debts and reparations. An

¹⁵Ibid., pp. 147-148. Officials other than the Ouzir el-Bahr, however, could be sent abroad to represent Morocco; e.g. Moulay Hassan once sent the Governor of Ribât el-Feth to Spain. See Ahmed ben Khâled Ennâsiri ESSLÂoui, Kitâb Elistiqsa Li-Akhabâri Doual Elmagrib Elaqsâ, trans. Eugène Fumey, AM, X, 2 (1907), p. 319.

¹⁶Lahbabi, p. 149.

¹⁷Ibid., p. 151.

example of this was a claim made for compensation when a foreign ship was wrecked off the Moroccan coast in the late 19th century.¹⁸

The acquisition of real estate, which was greatly restricted, was dealt with through his office only.¹⁹

There was only one exception to the rule that cases in these four categories had to be submitted to the office of the Ouzir el-Bahr, and that was when they originated in Tangier where most of the foreign delegations were located. There the Sultan dealt directly with the foreign diplomatic corps through his Naib, usually bypassing the Ouzir el-Bahr.²⁰

c. Ouzir el-Malia.

The office of the Ouzir el-Malia, or Minister of Finance, was created by Moulay Hassan. Before his reign, no single official had supervised the various components of State finances. There had been an amin ed-dakhl²¹, or administrator of revenues, an amin el-kharadj, administrator of expenditures, and an amin el-oumana, supervisor of administrators, the latter having under his control the oumana of the customs departments of the ports and the oumana el-moustafad of the

¹⁸Eugène Fumey, Choix de correspondance marocaine (Paris: 1903), Part I, pp. 1-2 (Official Documents). The great harm caused by the insidious pervasion of such claims in Egypt is described in David S. Landes', Bankers and Pashas (London: Heinemann, 1958).

¹⁹The complexities of property acquisition by foreigners in Morocco are discussed in Ch. IV, "Property".

²⁰Although Morocco had sent ambassadors to Europe from time to time, permanent embassies there were never established, and although foreign legations had existed in Morocco for a long time, the diplomatic corps was only created in 1906 by the Act of Algeciras.

²¹Amin, or administrator (oumana in the pl.).

cities of the realm.²²

Under Sultan Moulay Hassan, the office of amin el-oumana was raised to that of Ouzir el-Malia and important administrative reforms were carried through.²³ For instance, Moulay Hassan raised the salaries of all officials in the Ministry of Finance, including those of the oumana of the ports. The Sultan brought the various oumana under his personal supervision, and attached to each local caïd well paid oumana whose duty it was to take the census, impose taxes, and so on.

The Ouzir el-Malia was in charge of all State finances and held extensive powers, though he was not empowered to contract State loans.²⁴ He had to compile an annual list of businessmen living in the four commercial cities of the Empire -- Tetuan, Salé, Rabat and Fez -- who might be capable of holding the office of amin in the customs departments. The Ouzir el-Malia supervised all the oumana of the country, that is to say, the oumana of the customs, the oumana el-moustafad and the oumana el-khers.²⁵ The amin el-moustafad of Fez, also under the Ouzir el-Malia, was the administrator of the Dar A'dyél Treasury, which provided for the expenses of the Royal House.²⁶ The Ouzir el-Malia personally administered the Bit el-Mal el-Mouslimin, or Public Treasury,

²²The city tax collector (i.e., taxes from the gates and markets).

²³Lahbabi, pp. 157-163. See also, E. Michaux-Bellaire, "L'organisation des finances au Maroc", AM, XI, 2 (1907), pp. 171-251; and Michaux-Bellaire's other excellent study, "Les impôts marocains", AM, I (1904), pp. 56-96.

²⁴Lahbabi, p. 158.

²⁵These officials evaluated the achour, estimated the harvests for tax purposes and had those taxes collected.

²⁶Lahbabi, p. 160.

which received the zekkat and achour, the customs duties, the market and gate taxes, and the revenues from Makhzen properties. The Sultan's Private Treasury, the Bit el-Mal ed-Dakhli, however, was administered personally by the Sultan.

The Ouzir el-Malia had three important officials in his beniqa (ministry):²⁷ the amin ed-dakhl, the amin es-sayar and the amin el-hassab. The amin ed-dakhl was the administrator of all funds received by the Bit el-Mal, whereas the amin es-sayar, or administrator of expenditures, paid the salaries of the vizirs, the guich troops and all State expenses. The amin el-hassab was in charge of all accounts of the Ministry of Finance, and was the senior bookkeeper.

Prior to the establishment of the Protectorate, the large loans contracted by Morocco in 1904 and 1910 had led to the establishment of the Moroccan Administration du Contrôle de la Dette and its administrator effectively controlled the Sherifian ports, as 60% of port duties went to the Contrôle de la Dette.²⁸

e. Ouzir el-Harb.

The Ouzir el-Harb, Minister of War, was another official appointed

²⁷Lahbabi, p. 160.

²⁸The Contrôle de la Dette was established in June 1904 as a result of the French loan of 62,500,000 francs to Morocco. A further loan of 101,124,000 francs was authorized in 1910. The Franco-Spanish Treaty of 26 Nov. 1912 forbade the Contrôle de la Dette to collect duties at any of the ports of the Spanish Zone of Morocco; normal collections continued in the French Zone. Comte de La Revelière, Les énergies françaises au Maroc: études économiques et sociales (2nd ed; Paris: Plon, 1917), pp. 373, 375, 377.

to meet the needs of the 19th century. This Vizir supervised the payment and equipment of the army and at times commanded the army in person.²⁹ Prior to the creation of this ministry the allaf el-kebir had carried out most of the functions of this minister.

f. Ouzir ech-Chikayat.

It is difficult to define the powers of the Ouzir ech-Chikayat or find the English equivalent to his office. He combined the roles as Minister of Administrative Appeals and as Inspector General³⁰ with a variety of functions and powers overlapping those of the Ouzir el-A'dham (Grand Vizir). In addition he was a special Counsellor to the Sultan,³¹ advising him on the management of Makhzen and Treasury property.

He examined the granting of privileges and concessions for the moustafadats, as well as the renewal of exemptions from taxes. He recorded the dahirs, or imperial decrees, concerning such matters and ensured that they were put into effect.³²

He also decided on the suitability of officials (for example, nadirs, khatibs, mouariths, etc.) and confirmed them in their posts. It was in this aspect of his work that the Ouzir ech-Chikayat's powers seemed to overlap those of the Ouzir el-A'dham, who examined the

²⁹Lahbabi, pp. 165-166.

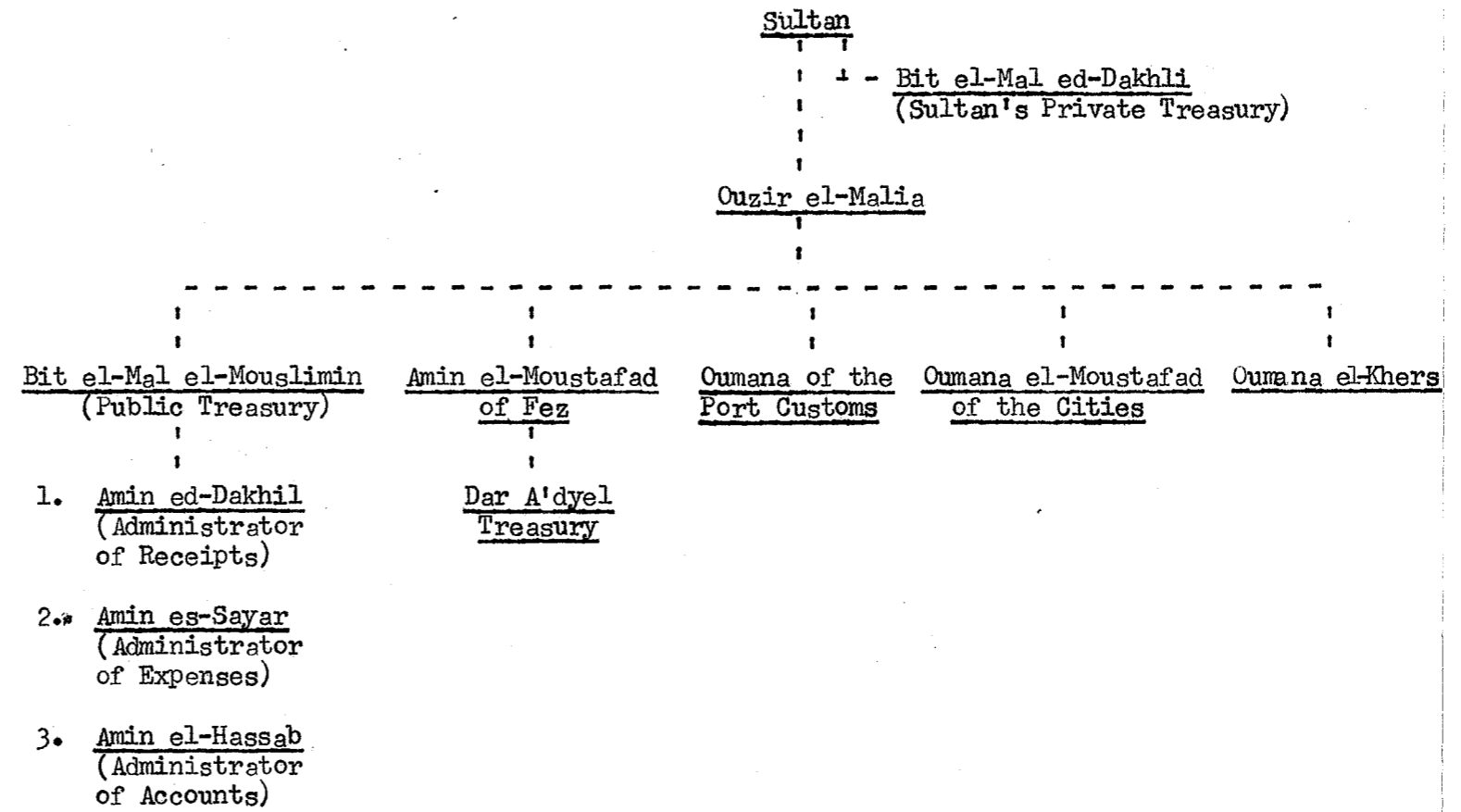
³⁰The French refer to him as the Ouzir des Réclamations.

³¹Lahbabi, p. 177.

³²Ibid.

FIGURE 1.

MINISTRY OF FINANCE



suitability and proposed the nomination of municipal officials such as caïds, mohtasebs and cadis.

The most important work of the Ouzir ech-Chikayat was in the field of appeals and supervision. He was a ". . . veritable guardian of the lower administrative authorities. . . ." ³³ of the realm. He examined complaints by local officials or complaints against them (for example, abuses such as unlawful imprisonment by local authorities, ³⁴ or the inability of the local authorities to carry out their task, or when the abuse of power by these officials was made known). If the Vizir considered the complaint justified, he submitted it to the Sultan who would issue a dahir calling the delinquent official to order, or ordering an individual to obey the local authority. If there were a dispute between two officials, one stating that the other was acting in his jurisdiction, the aggrieved official could appeal to the Ouzir ech-Chikayat who could order that the division of powers -- between the two offices -- be respected.

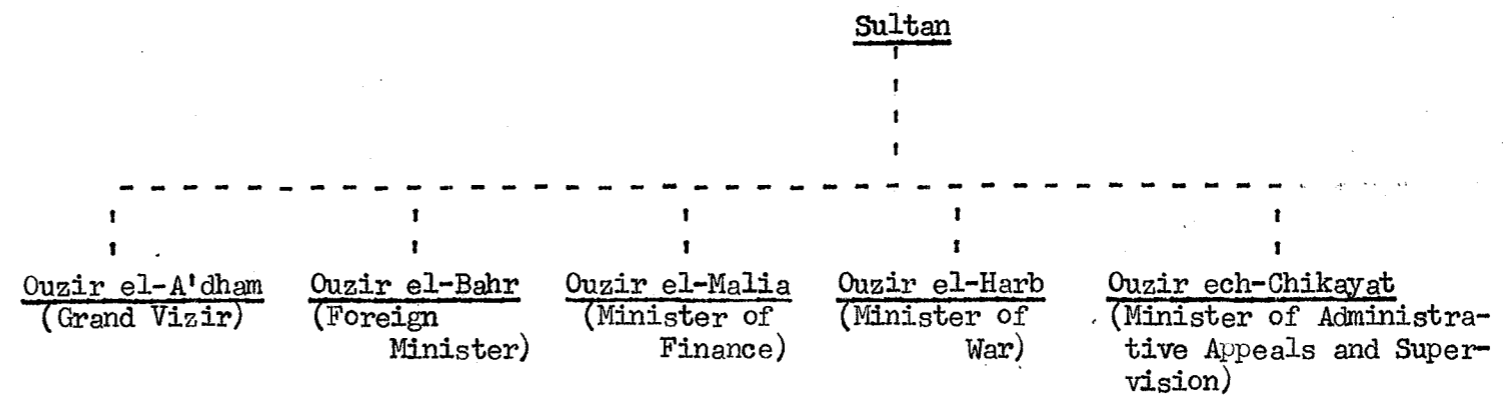
A salient feature of the above-mentioned procedures and cases was that the Ouzir ech-Chikayat had no punitive powers. He could not, for example, remove an erring official from his post or imprison him; he could only "invite" the guilty official to make immediate amends. The Sultan, however, could mete out a punishment (such as imprisonment and confiscation of property) if the Vizir's warning were not heeded.

³³ Ibid., p. 178.

³⁴ Ibid., p. 179.

FIGURE 2.

MAKHZEN BEFORE 1912



+ + + + +

Summary

The central administration of the Empire before 1912 was very simple. All power and authority lay in the hands of one man, the Sultan, who had five ministers to execute his orders and to keep him informed, although they personally possessed little power. Moulay Hassan reorganized much of the central administration, creating new posts and defining authority. Morocco, however, had always been a difficult country to rule, as a result of the diversity of languages, customs and geographical areas, and the real strength of the land depended upon the Sultunate alone. Under Moulay Hassan, such a system of administration worked fairly well, but, when the rule of the land fell to a weak ruler, such as Abd el-Aziz, inefficiency, corruption and chaos made their inroads. As will be seen in the following section, the French not only installed an entirely new technical administration in Morocco, but thoroughly reorganized the Makhzen (or Moroccan Government).

B. Central Administration, 1912-1925.³⁵

The task was singularly vexatious, for at the time of the establishment of the Protectorate, in 1912, we found ourselves before an absolute void. The Sultan was reigning over only that part of the Empire which was kept under control by our bayonets. The old edifice of the Moroccan State, which had been threatened by ruin for such a long time, had collapsed. The first thing we had to do was to revive the fallen government.

RÉGINALD KANN,
Le Protectorat marocain. 1921.

The duty of the French Government and public opinion is to provide them [i.e., Lyautey's administration] with the means of carrying out their difficult task and to leave them complete freedom [of action] along with full responsibility. In practice, moreover, the Protectorate will be inspired by the circumstances and the development of Morocco. On paper everything looks simple enough, but reality is less accommodating; difficulties crop up day by day and it is only as they occur that they can be tackled. This, however, does not prevent one from first coming there prepared with an over-all plan, with a set purpose already laid out. This goal should not be merely the various forms of development of Morocco, to the greatest benefit of France, without injuring in any way the interests of other European Powers in that which rightfully concerns them.

The political programme of the French Protectorate may be defined in a few words. It is, above all, a matter of re-establishing law, order and security, conditions which are essential for a normal life in the country, and which have always been lacking until now.

AUGUSTIN BERNARD,
Le Maroc. 1913.

³⁵For the general organization of the Spanish Zone of the Protectorate, see: Tomás García Figuera, España y su protectorado en Marruecos (1912-1956) (Madrid: 1957); García Figueras and Fernández Llebrés, Manuales del Africa española (Madrid: 1955); José-María Cordero Torres, Organización del protectorado español en Marruecos, 2 vols. (Madrid: 1943). Nevill Barbour briefly discusses it in his, A Survey of North West Africa (The Maghrib) (London: Oxford University Press, 1959). The Spanish Government's official publication in Morocco was the Boletín Oficial de la Zona which was published as of 1913.

The administration established by the French Government in Morocco was legally defined as a protectorate. Unlike a colony, a protectorate implies only temporary intervention in the affairs of another nation, by common consent of both parties through an international agreement.

To some a protectorate means that the protected country can no longer be considered to have the character or status of a State, while to others the country is still a State, although it no longer possesses any sovereignty whatsoever over its own territory. Still others believe that the protected country remains a sovereign State, its sovereignty being indivisible, and thus the protecting country has no sovereignty over the other's territory. To Frédéric Brémard, however, there exists an intermediary stage, ". . . that of the duality of sovereignties, of the association of sovereignties."³⁶ This was the French policy followed in Morocco.

According to it, the sovereignty of the protector country and that of the protected country are exercised concurrently over the same territory, each operating in the particular domain reserved to it. The Protectorate is a contractual tie between two States, the weaker of which transfers -- in favour of the stronger one -- a part of its rights of sovereignty, in return for the material and moral support which the stronger supplies; but it maintains a part of its own sovereignty.

³⁶ Frédéric Brémard, Les droits publics et politiques des français au Maroc (Paris: R. Pichon & R. Durand-Auzias, 1950), p. 23.

Thus there is no division, but an association of sovereignties. Over Moroccan territory, two sovereignties are exercised concurrently, French sovereignty and Sherifian sovereignty; or if one prefers another formula, one can say that there is in Morocco, French participation in Sherifian sovereignty.³⁷

+ + +

The French are thorough administrators and have developed bureaucracy into a fine art. This must be borne in mind when considering the innovations which they introduced into the government of the Sherifian Empire. Indeed they did more than innovate; they swept away almost the entire administrative structure of the Empire, at least at the ministerial level.

Of the five ministries existing before 1912, all but the Grand Vizirate were swept away, and this latter was greatly altered. The French divided the central administration of their Protectorate into two sections: (1) The Makhzen or Sherifian departments, headed by Muslim officials; and (2) the Residential and Neo-Sherifian departments which were primarily technical ministries, administered by Frenchmen.

+ + +

1. The Makhzen.³⁸

³⁷Ibid., p. 24.

³⁸For a brief study of the Protectorate, see: Réginald Kann, Le protectorat marocain (Paris: Berger-Levrault, 1921), Ch. V-XI; see also, E. Durand, "La réforme politique et administrative du gouvernement chérifien depuis 1912", RJPUF, IX (1955), pp. 83-122; and Pierre Lyautey, "La politique du protectorat en Afrique marocaine. Ses origines de 1905 à 1918" CSMS, II (1938), pp. 987-1002.

The Makhzen or Sherifian ministries were modified in structure during the first years of the Protectorate; some ministries were abolished and new ones were set up.³⁹

a. The Sultunate.

Legally, the Sultan stood at the head of the Government, but although the monarchy was maintained, the Sultan was now more or less a figure-head, the real ruler of the country being the Resident General. The Sultan remained the supreme religious leader of the Moroccan Muslim population, while in the temporal sphere his powers were limited to signing the dahirs (imperial decrees) placed before him by the Resident General, and to investing and dismissing his officials,⁴⁰ but he had no power to appoint officials without the approval of the Resident General, and no say in foreign affairs.

b. Ministerial Reorganization.

The Makhzen was first reorganized by the French in October 1912,⁴¹ when four Sherifian ministries were set up.⁴²

³⁹ See F. Brémard's interesting study of the theory of the Protectorate, the Sultan's sovereignty, and the idea of association -- Les droits publics et politiques des Français au Maroc, Titre Ier, Ch. II-III.

⁴⁰ Albert Ayache, Le Maroc -- bilan d'une colonisation (Paris: Éditions Sociales, 1956), p. 82. Lyautey realized that the Sultan was merely a puppet and tried to alter this -- see Appendix XXVII.

⁴¹ Sherifian Firman of 31 Oct. 1912, BO, 3, 15 Nov. 1912, p. 17; see also General Lyautey, Rapport général sur la situation du Protectorat au Maroc au 31 juillet 1914 (Rabat: Résidence Générale, 1916), Part Two, Ch. I,

"Le Makhzen".

⁴² Sherifian Firman, 31 Oct. 1912, Art. 1.

- (1) The Prime Minister, the Grand Vizir,
- (2) The Minister of War,
- (3) The Minister of Finance,
- (4) The Minister of [Muslim] Justice.

The functions of the Minister of War, however, were immediately transferred to the Commander-in-Chief of the French troops, in Lyautey's time, the Resident General.⁴³ The Ministry of War under the French Protectorate was no more than a legal fiction. Two years later, in 1914, the Moroccan Ministry of Finance was officially abolished, its powers passing to the Grand Vizir,⁴⁴ and ultimately to the French.

Two new vizirates were created by the French. The Vizirat des Habous was created in 1912⁴⁵ and the Vizirat des Domaines, or of State (Private) Domain in 1919.⁴⁶ Thus during Lyautey's period of administration there were four Sherifian ministries:

- (1) The Prime Minister, the Grand Vizir,
- (2) The Vizir de la Justice,
- (3) The Vizir des Domaines,
- (4) The Vizir des Habous.

⁴³Ibid., Art. 3.

⁴⁴Dahir of 5 Aug. 1914, BO, 96, 21 Aug. 1914, p. 690.

⁴⁵Dahir of 31 Oct. 1912, BO, 3, 15 Nov. 1912, p. 17.

⁴⁶Dahir of 27 April 1919, BO, 342, 12 May 1919, p. 421. This vizirate also had a brief existence; it was suppressed shortly after Lyautey's retirement (i.e., in 1927).

Lyautey always liked to think of the Protectorate as a benevolent protector of the Sherifian Empire, its institutions and government and his policy was that the French should govern Morocco by supervision rather than by direct administration.⁴⁷ Therefore the Makhzen, that is, these four ministries, were to come under the supervision of the Protectorate administration and in 1920 all Makhzen affairs and ministries were placed under the Direction des Affaires Chérifiennes, which was directed by a Frenchman, the Conseiller du Gouvernement Chérifien, acting as intermediary between the Makhzen and the French.⁴⁸ The French maintained a close liaison with the Secrétaire Générale du Protectorat. The four ministers, convening as the Conseil des Vizirs, met every Saturday at the Palace, presided over by the Conseiller du Gouvernement Chérifien.⁴⁹

2. The Direction des Affaires Chérifiennes.

The Direction des Affaires Chérifiennes, which now encompassed

⁴⁷ Résidence Générale, La renaissance du Maroc: dix ans du Protectorat, 1912-1922 (Rabat: Imprimerie Officielle, n.d.), p. 113.

⁴⁸ Dahir of 24 July 1920, Art. 1-2. The office of Conseiller du Gouvernement (Counsellor of the Sherifian Government) had taken over the powers of the Secrétaire Général du Gouvernement Chérifien; the Secrétariat was abolished by the Decree of 19 May 1917, BO, 241, 4 June 1917, p. 611.

⁴⁹ A. de Laubadère, "Réformes des pouvoirs publics", p. 2. An equivalent Conseil des Directeurs of the Residential and Neo-Sherifian Directions was set up in 1929. Cf. Residential Circular of 19 March 1929. Although Lyautey was very much opposed to the idea of joining these two councils, they were eventually united as the Conseil des Vizirs et des Directeurs, under Resident General Juin by Vizirial Decree of 15 September 1947. See also, Laubadère, p. 25.

the Makhzen, was created in 1920.⁵⁰ The Conseiller du Gouvernement⁵¹ was in charge of Muslim affairs, that is relations with the Makhzen, the administration of native justice, and the supervision of Muslim education and institutions.⁵² He took part in the Conseil des Vizirs where he was the permanent and direct agent of French supervision. He had a double role, to present to the Sultan and the Makhzen the measures to be taken by the French administration (and explain the reasons for them to the Moroccans), and to report to the French authorities the effect which the French measures had in Moroccan circles and all the means necessary to bring about complete understanding on both sides.⁵³

The Direction des Affaires Chérifiennes was divided into three sections: The Section d'État, the Contrôle des Habous, and the Interprétariat Général et Protocole.

The Section d'État consisted of six sub-sections:

- (1) Matters concerning the Sherifian Palace.
- (2) Native administration, including the Grand Vizirate, the Vizirat des Domaines, and Jewish institutions. Theoretically, the

⁵⁰Dahir of 20 July 1920, BO, 408, 17 Aug. 1920, p. 1407.

⁵¹The Conseiller du Gouvernement Chérifien was created by Art. 4. of the Decree of 19 May 1917.

⁵²Général Lyautey, Principes fondamentaux de l'organisation gouvernementale du Protectorat marocain (Rabat: Imprimerie Officielle, 1918), p.6.

⁵³J. Goulven, Traité d'économie et de législation marocaines, Vol. I (Paris: Marcel Rivière, 1921), p. 134.

Grand Vizir, who sat on several important committees was given wide powers, but in fact he was limited to presenting projects drawn up in his office in the form of dahirs for the Sultan's signature. His pre-Protectorate powers of acting as a sort of Minister of the Interior and supervising the municipal administration run by the pachas and caïds were transferred to French officials.

The Vizir des Domaines was in charge of the Service des Domaines which was directly administered by a lower official. The Vizir's main task was to present all dahirs concerning State Domain to the Sultan for his signature, and relevant vizirial decrees to the Grand Vizir for his signature. The Vizir signed all important leases, documents and contracts,⁵⁴ studied all reports made each week by his chef du service concerning management of State Domain, and received claims from Moroccan citizens. (For a detailed account of this Service, see Chapter IV, "Property".) In 1920 the Service des Domaines was transferred to the Direction des Finances.⁵⁵

Jewish institutions, their judicial organization and so on were dealt with by a special sub-section (described in Chapter VI, "Judicial Organization").

(3) The Vizir de la Justice supervised cadis and their courts and appeals against sentences given by cadis, and heard lawsuits by

⁵⁴Dahir of 27 April 1919, Art. 3-4.

⁵⁵Dahir of 6 July 1920, BO, 404, 20 July 1920, p. 1203.

natives against the Protectorate authorities.⁵⁶ (Muslim Justice and Judicial Organization are discussed in Chapter VI.)

(4) Makhzen Justice and judicial organization, including the secular courts of the pachas and caïds, the Haut Tribunal Chérifien, and matters involving representation of the Makhzen before French courts were all handled by the fourth sub-section of the Section d'État.⁵⁷

(5) Religion and higher Muslim education were the responsibility of a special Deputy of the Grand Vizir.

(6) Another sub-section handled all matters concerning the personnel of the native judicial and administrative services of higher education and religion.⁵⁸

+ + +

The Vizir des Habous was responsible for the study and preparation of Habous legislation. (For the intricacies of Habous administration, see Chapter IV, "Property".)

+ + +

The Interprétariat provided translations of official documents; it was also the Chancellery of the Sherifian Orders and handled all matters of protocol concerning the Sherifian Palace.⁵⁹

⁵⁶Dahir of 24 July 1920, Art. 3., BO, 407, 10 Aug. 1920, p. 1366.

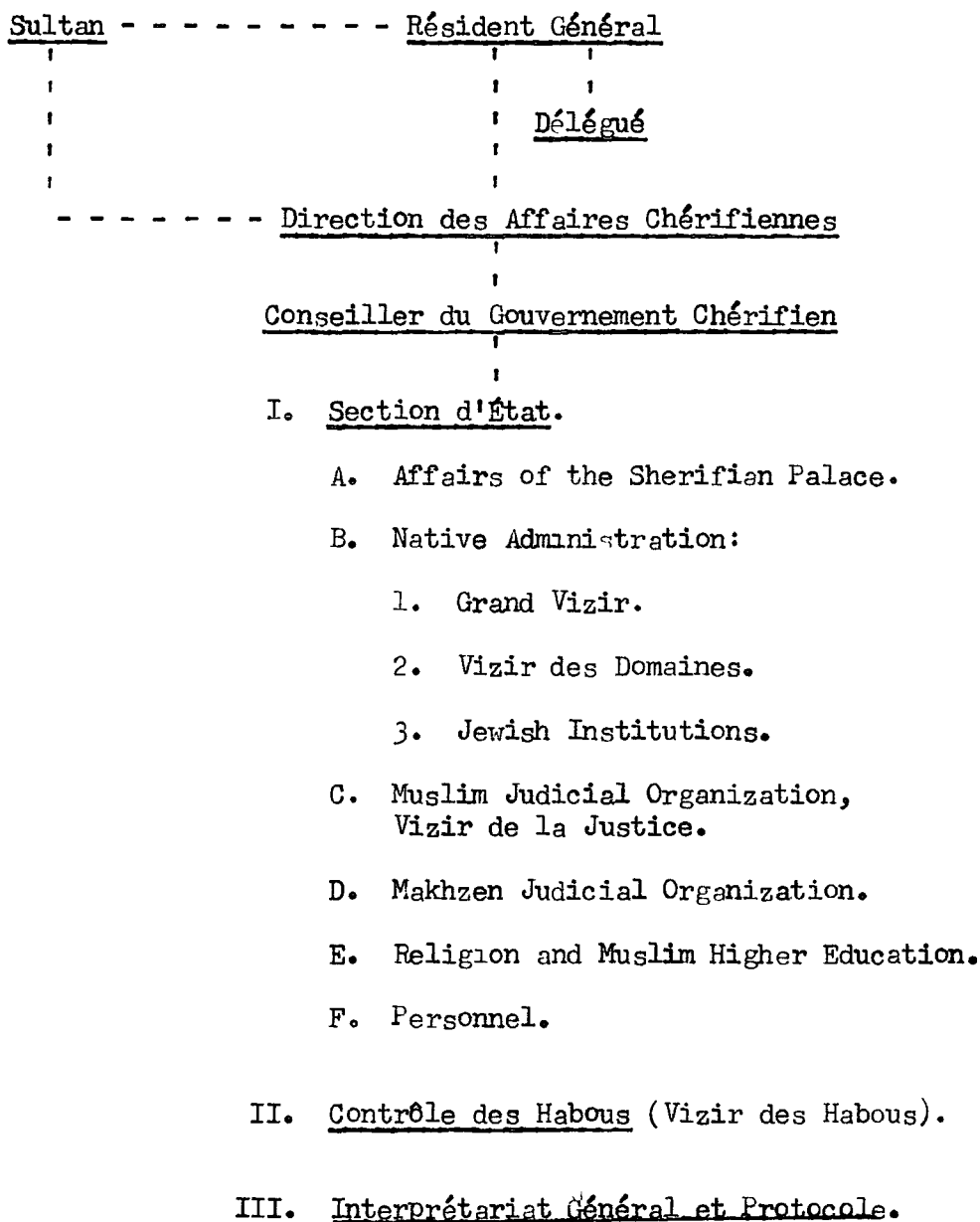
⁵⁷Ibid.

⁵⁸Ibid.

⁵⁹Ibid.

FIGURE 3.

MAKHZEN: 1912-1925



+ + + + +

Summary

The Protectorate stripped the Sultan and his Makhzen of most of their independent powers. The Sultan was still the highest religious official of his Empire, but he had very little temporal power. The Makhzen still administered most aspects of Moroccan religious and temporal law, the Habous and traditional Muslim education, but only under French supervision, while health and sanitation, postal and telephone and telegraph services, public works, finance, foreign affairs, military policy and the like were now out of the control of the Makhzen. The Protectorate reduced the Moroccan Administration to a skeleton.

3. Central Administration of the Protectorate.

Morocco was administered de facto by three important individuals -- the Resident General,⁶⁰ the Délégué to the Residency, and the Secrétaire Général du Protectorat. They were assisted by the individual Directeurs of the various Residential and Neo-Sherifian

⁶⁰The Comte de La Revelière believed that the success and prosperity of a protectorate depended upon four factors: (1) the type of man selected to head the protectorate; (2) respect for the Moroccans; (3) French colons with the right mental attitude, prepared to work hard, and to take the initiative in agriculture, industry, commerce and finance; and (4) the ". . . pioneers having sufficient capital, or credit made available for the development of the Protectorate." De La Revelière, Les énergies françaises, pp. 10-47.

departments (to be discussed in the last section of this chapter).

a. Commissaire Résident Général.

The first Commissaire Résident Général, or Resident General as he will be referred to, took office in April 1912, as a result of the Treaty of Fez of 30 March 1912.⁶¹ The Resident General, as the chief administrator of the Protectorate, possessed great authority and was responsible only to the French Foreign Minister.⁶²

He had four general duties.⁶³ He directed the over-all administration of the Protectorate;⁶⁴ he was the intermediary between the Sultan and foreigners, thus acting as Morocco's Foreign Minister;⁶⁵ as Minister of War, he was the Commander-in-Chief of the land and sea forces of Morocco;⁶⁶ and he drew up and approved all the decrees and laws required for the administration and reform of the Protectorate.⁶⁷

⁶¹Art. 5 of the Treaty stated that: "The French Government will be represented at the Court of His Sherifian Majesty by a Resident Commissioner General, as the depository of all the powers of the Republic in Morocco, and who will ensure the execution of the present agreement." For a study of the Government in the early days, see General Lyautey, Rapport général sur la situation du Maroc au 31 juillet 1914, Part II, Ch. II, "La Résidence générale et les services centraux." See also, René Pourquier and Roger Chagneau, Cours élémentaire d'organisation administrative marocaine (Rabat: Editions "La Porte", issued in 10 fascicules in 1949, 1950, and 1951).

⁶²Decree of 11 June 1912, Art. 1, BO, I, 1 Nov. 1912, p. 2; and also Art. 5-6 of the Treaty of Fez. The Decree of 11 June 1912 announced the powers of the Resident General and is quoted in Appendix XXX.

⁶³See on this, Résidence Générale, La renaissance du Maroc, pp.124-125.

⁶⁴Decree of 11 June 1912, Art. 2.

⁶⁵Ibid.

⁶⁶Ibid.

⁶⁷Ibid.

Four cabinets -- Civil, Diplomatic, Political and Military -- assisted him in these tasks. In addition he had the two Residential Directions -- the Direction des Affaires Chérifiennes and the Direction des Affaires Indigènes et du Service des Renseignements -- also responsible to him.

Lyautey's powers were quasi-dictatorial, in as much as no one in Morocco could prevent him from acting, and though later there were consultative assemblies of both Moroccans and Frenchmen, they had no voting or veto power against the Resident General. The most effective check over Lyautey was the Commission des Finances of the Chamber of Deputies in Paris, which decided on the amount of credit to be given the Protectorate.⁶⁸

b. Délégué à la Résidence Générale.

The Délégué à la Résidence Générale, or Délégué as he will be referred to, was the Minister Plenipotentiary and second-in-command to the Resident General. His task was two-fold: to act in place of the Resident General when necessary;⁶⁹ and to supervise the civil administration of the Empire, in addition to handling diplomatic questions.⁷⁰

⁶⁸PA, p. 100.

⁶⁹Decree of 11 June 1912, Art. 4.

⁷⁰Decrees of 19 May 1917, Art. 2, and of 20 July 1920, Art. 1.

c. Secrétaire Général du Protectorat.⁷¹

After the Resident General the Secrétaire Général du Protectorat was the most important official of the Protectorate, and in Lyautey's own words it was he ". . . who truly put the administrative organization of the Protectorate on a sound footing."⁷²

He assisted the Délégué and deputized for him when he was absent,⁷³ and had the general task of maintaining central control of civil and administrative matters over the Neo-Sherifian Directions.⁷⁴ The real importance of his office only grew gradually, and its authority was greatly increased after the abolition of the Direction des Affaires Civiles in May 1922⁷⁵ and transfer of its powers to the Secrétaire Général.⁷⁶ He was in charge of the Service des Études Législatives,⁷⁷ and of the Service du Bulletin Officiel.⁷⁸ He headed the very important Service des Contrôles Civils et du Contrôle des Municipalités,

⁷¹Lyautey's first civil administration was embryonic, consisting of five chief officers, with Paul Tirard as Secrétaire Général du Protectorat, M. de Sainte-Aulaire, as Délégué, M. Gaillard, as Secrétaire Général du Gouvernement Chérifien, M. Delure as Directeur Général des Travaux Publics and M. Gallut as Directeur Général des Finances.

⁷²PA, p. 83.

⁷³Decree of 20 July 1920, Art. 1.

⁷⁴Ibid., and A. de Laubadère, "Les réformes des pouvoirs publics", p.20; see also E. Durand, "La réforme politique et administrative", pp. 83 et seq; Renaissance du Maroc, pp. 126 et seq.

⁷⁵Residential Decree of 15 May 1922, BO, 499, 16 May 1922, p. 800, and another Residential Decree of the same date.

⁷⁶Another Residential Decree of 15 May 1922, Art. 1.

⁷⁷It was this Service which first examined legislative or regulatory questions and then prepared the resultant Sherifian legislation. Renaissance du Maroc, p. 126.

⁷⁸The Bulletin Officiel (or simply BO) was the official publication of the Protectorate.

through which he was placed in charge of the entire programme of civil supervision in the French Zone.⁷⁹ The Service de la Sécurité Générale⁸⁰ was also under him, and he directed and supervised the police of Morocco, and in connection with this, also the Service Pénitentiaire, or prisons.⁸¹ He furthermore directed the Service de l'Administration Générale.⁸² A Residential Decree of May 1922 attached the Bureau du Travail, de la Prévoyance et des Études Sociales to the already mentioned Service des Études Législatives.⁸³ He was also responsible for the Civil Cabinet of the Resident General, while the Secrétaire Général Adjoint was the Chef du Cabinet Diplomatique, and as such directly responsible to Lyautey.⁸⁴

d. Residential and Neo-Sherifian Departments.

The Residential and Neo-Sherifian departments, or Directions, were under direct French administration and included the modern, technical branches of the Government, in addition to those concerned with native

⁷⁹ Residential Decree of 15 May 1922, Art. 1. A Corps du Contrôle Civil was established by the Decree of 31 July 1913 (BO, 25, 5 Sept. 1913, p. 343) responsible to Lyautey. When the Direction des Affaires Civiles was created in 1920, the Corps du Contrôle Civil was transferred to it, and when this latter Direction (Affaires Civiles) was abolished in 1922 the Service des Contrôles Civils was attached to the Secrétaire Général du Protectorat and became known as the Service des Contrôles Civils et du Contrôle des Municipalités (by Residential Decree of 21 July 1920, BO, 406, 3 Aug. 1920, p. 1318, Art. 1).

⁸⁰ Residential Decree of 15 May 1922, Art. 2.

⁸¹ Ibid., Art. 3.

⁸² Ibid.

⁸³ Ibid., Art. 4.

⁸⁴ General Lyautey, Principes fondamentaux, p. 4.

affairs. At the beginning of the Protectorate, there were only two over-all departments: the Direction des Finances -- responsible for the budget, treasury, property, and postal, telephone and telegraph services; and the Direction des Travaux Publics -- responsible for public works, agriculture, forestry and historical monuments.⁸⁵

As the Protectorate expanded territorially and developed these two departments grew so much that additional Directions were set up until by 1925 there were eight in all.⁸⁶

- (1) Direction des Affaires Indigènes et du Service des Renseignements.⁸⁷

The Direction des Affaires Indigènes was created in 1917;⁸⁸ the Direction du Service des Renseignements was attached to it and became

⁸⁵Victor Piquet, Le Maroc: histoire et géographie -- mise en valeur (Paris: Armand Colin, 1917), p. 267.

⁸⁶In this total I am excluding the Direction des Affaires Civiles, due to its brief existence; its duties and offices were transferred to the Secrétaire Général du Protectorat. It was created by Dahir of 23 Oct. 1920 (BO, 418, 26 Oct. 1920, p. 1818) and consisted of five Services (Art. 2): (1) the Service de l'Administration Générale, (2) the Service de la Police Générale, (3) Service Pénitentiaire, (4) Service de l'Administration Municipale, and (5) Bureau du Travail, de la Prévoyance et des Études Sociales. When these Services were transferred to the Secrétaire Général (when the Direction des Affaires Civiles was abolished by Dahir of 15 May 1922, BO, 499, 16 May 1922, p. 800) they were sometimes changed in title, though they more or less had the same duties. For example the Service de l'Administration Municipale was joined with the Service du Contrôle Civil taking the new name of Service du Contrôle Civil et du Contrôle des Municipalités (see Residential Decree of 15 May 1922, Art. 1).

⁸⁷After further development, it became known as the Direction des Affaires Politiques in 1936, and then Direction de l'Intérieur, in 1946. See Laubadère, p. 21; and Frédéric Brémard, L'organisation régionale du Maroc (Paris: R. Fichon & R. Durand-Auzias, 1949), p. 101.

⁸⁸Dahir of 2 June 1917, Art. 1, BO, 242, 11 June 1917, p. 631.

the Direction des Affaires Indigènes et du Service des Renseignements shortly thereafter.⁸⁹ This was a Residential Direction and thus under Lyautey. It dealt with most of the political matters involving the Moroccans and consisted of a Section Historique,⁹⁰ a Section Sociologique⁹¹ and a Service des Renseignements.⁹² It was administered by a Directeur, and one of its most important tasks was to handle tribal affairs, especially tribal property (the Directeur des Affaires Indigènes being also president of the Conseil de Tutelle which managed tribal affairs),⁹³ and it was the guardian of the native collectivités (tribes), managing tribal property and regulating their Sociétés de Prévoyance (Provident Societies).⁹⁴

The Direction included the very important Service des Renseignements the work of which is described later under "Regional Organization." The Directeur was the senior officer in charge of native police; he was the chief of the intelligence officers, and supervised all administrative action taken by them.⁹⁵

(2) Direction Générale des Finances.

⁸⁹Ibid., Art. 3.

⁹⁰Created by Vizirial Decree of 13 Sept. 1919, BO, 378, 19 Jan. 1920, p. 106.

⁹¹Created by Vizirial Decree of 14 Oct. 1919, BO, 366, 27 Oct. 1919, p. 1215.

⁹²Dahir of 2 June 1917, Art. 3.

⁹³Discussed in detail in Ch. IV, "Property", "§IV Collective Property".

⁹⁴La renaissance du Maroc, p. 134.

⁹⁵Lyautey, Principes fondamentaux, p. 5.

The Direction Générale des Finances was created in the first year of the Protectorate, but it was not completely organized in its final form until 1920.⁹⁶ It consisted of five Services:⁹⁷ the Service du Budget et de la Comptabilité, the Service des Impôts et Contributions, the Service des Douanes et Régies, the Service de l'Enregistrement et du Timbre and the Service des Domaines.

The Service du Budget et de la Comptabilité drew up the budget, kept the accounts of the Government's revenues and expenditures,⁹⁸ floated loans, handled the movement of funds and monetary questions in general, dealt with relations with the Banque d'État, administered the Moroccan Debt, and the tobacco monopoly, and made all necessary financial studies.⁹⁹ It also managed the Caisse de Prévoyance for Government employees, and had charge of municipal tax collections and receipts, and direct taxes, and it inspected the accounts of the various Services, the municipalities, public establishments and societies under State supervision.¹⁰⁰

The Service des Impôts et Contributions was in charge of the urban tax and the tertib (the principal agricultural tax), even in military regions, and also managed the native Sociétés de Prévoyance, and the liquidation of loans.¹⁰¹

⁹⁶Dahir of 24 July 1920.

⁹⁸Ibid., Art. 3.

¹⁰¹Ibid.

⁹⁹Ibid.

⁹⁷Ibid., Art. 2.

¹⁰⁰Ibid.

The Service des Douanes et Régies was in charge of the collection of customs duties, the supervision of the coast and frontiers, the suppression of contraband, and most matters having to do with exports and imports.¹⁰²

The Service de l'Enregistrement et du Timbre drew up and collected the registration duties and stamp duties, and assessed real estate values for official purposes.¹⁰³

The Service des Domaines collected financial proceeds from the State domains, preserved and managed existing and newly acquired State domain, including properties acquired by the State because of lack of heirs or through default. It also had the important task of preparing plans for colonization, including the demarcation, sale and establishment of colonization parcels.¹⁰⁴ This Service was transferred to the Direction des Finances in July 1920.

(3) Direction Général de l'Agriculture, du Commerce et de la Colonisation.

This Direction also evolved into a fully independent department in 1920.¹⁰⁵ Like the Direction Général des Finances, it was one of the key instruments of the Protectorate; its work was divided among seven separate Services.¹⁰⁶

¹⁰²Ibid.

¹⁰³Ibid.

¹⁰⁴Ibid. For a detailed account of the activities involved, see CH. IV, "Property", "§V. Public and State Domain".

¹⁰⁵Dahir of 24 July 1920, BO, 409, 24 Aug. 1920, p. 1433, and modified by Dahir of 28 Feb. 1921, BO, 437, 8 March 1921, p. 395.

¹⁰⁶Ibid., Art. 2.

The Service de l'Agriculture et des Améliorations Agricoles was very important to both European and Moroccan farmers, as it provided all kinds of technical information on agriculture; it carried out agricultural experiments, sought to combat diseases affecting crops, drew up rural legislation, and provided mutual credits and agricultural co-operative aid.¹⁰⁷

The Service de l'Elevage supplied information concerning livestock and methods of improving breeds. It also conducted zoological experiments, fought animal diseases and maintained veterinary and health inspectors.¹⁰⁸

The Service du Commerce et de l'Industrie was set up to inform the public of new commerce and industry opportunities; it studied the economy, encouraged industry and commerce, immigration, labour and tourism, and protected industrial, literary and artistic property.¹⁰⁹

The work of the Service de la Colonisation was to seek lands which could be made available for colonization. It drew up annual programmes for official colonization, supplied information to immigrants and studied the economic uses of colonization centres. It also made studies of rural colonization sectors in co-operation with the Service des Domaines.¹¹⁰

¹⁰⁷ Ibid., Art. 3.

¹⁰⁹ Ibid.

¹⁰⁸ Ibid.

¹¹⁰ Ibid.

The Service de Chimie et de la Répression des Fraudes prepared and applied legislation against any type of adulteration of drinks, foods and agricultural products, and carried out technical and scientific research. It also set up farm stations, drew up agronomical maps in collaboration with the Service Géologique, and carried out research on the industrial use of products of the soil.¹¹¹

The Direction des Eaux et Forêts and the Service de la Conservation de la Propriété Foncière were also attached to the Direction de l'Agriculture. The Service de la Conservation de la Propriété Foncière played a particularly important role in the Protectorate.¹¹² (Both of these last two categories are discussed in Chapter IV, "Property".)

(4) Direction Générale des Travaux Publics.

The Direction Générale des Travaux Publics, one of the oldest departments of the Protectorate, was reorganized in 1920.¹¹³ Four Services were directly responsible to the administrator, the Directeur Général, who was co-director of several other bureaus.

The Service Ordinaire saw to the upkeep of highways and the

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ Dahir of 24 July 1920, BO, 409, 24 Aug. 1920, p. 1436. The above study includes the modifications made by the Dahir of 23 April 1924, BO, 606, 3 June 1924, p. 861.

management of Public Domain,¹¹⁴ and supervised insalubrious areas, freshwater navigation, and power and light distribution.¹¹⁵

The Service Maritime built and maintained ports, lighthouses, beacons, buoys, managed all Public Domain in the ports, administered the Service de l'Aconage, and supervised maritime commerce, navigation and fishing (under the Service du Commerce, de la Navigation et de la Pêche Maritimes). A ship mortgage office was also set up.¹¹⁶

The Service des Chemins de Fer constructed the railway lines planned by the State and supervised the construction and use of all railways and tramways. The Contrôle des Transports also worked through this office.¹¹⁷

The Service des Mines dealt with all aspects of mining, including geological surveys and maps.¹¹⁸

Public and Private Domain including highways, harbours, lighthouses, etc. are discussed in Ch. IV, "Property".¹¹⁹

Three other Services -- the Service de l'Hydraulique Industrielle, that of the Hydraulique Agricole, and that of Travaux de Colonisation -- were co-directed by both the Directeur Général des Travaux Publics and the Directeur Général de l'Agriculture.¹²⁰

The Service des Travaux Municipaux came under the co-direction

¹¹⁴See Ch. IV, "Property", "Public and Private Domain".

¹¹⁵Dahir of 24 July 1920, Art. 3.

¹¹⁶Ibid.

¹¹⁷Ibid.

¹¹⁸Ibid.

¹¹⁹See Dahir of 1 July 1914, Art. 6.

¹²⁰Dahir of 24 July 1920, Art. 5.

of the Directeur Général des Travaux Publics and the Chef du Service des Contrôles Civils et du Contrôle des Municipalités.¹²¹ The initiative concerning projects involving any of the last four Services, however, did not lie with the Directeur Général des Travaux Publics, but with the other co-director.

The Directeur Général also had the task of constructing all necessary civilian public buildings,¹²² which in the past had been the responsibility of the oumana el-moustafad and the Makhzen.

(5) Direction Générale de l'Instruction Publique, des Beaux-Arts et des Antiquités.

This Direction had undergone several changes by the time it was reorganized in 1920 and 1921.¹²³ At the beginning of the Protectorate there was a single Direction de l'Enseignement, headed by a Muslim, in charge of both religious (Muslim) and secular education. In 1914, however, when religious and secular education were separated, religious education became the responsibility of the Vizir de la Justice and secular education was transferred to the French.¹²⁴ The new Direction de l'Enseignement was created in December 1915.¹²⁵ A Service

¹²¹ Ibid.

¹²² Ibid., Art. 6.-- added by Dahir of 23 April 1924.

¹²³ Dahir of 28 Feb. 1921 modified the Dahir of 26 July 1920, BO, 408, 17 Aug. 1920, p. 1393.

¹²⁴ Dahir of 5 Aug. 1914, BO, 96, 31 Aug. 1914, p. 690, and Dahir of 9 March 1915. See Ch. V of this thesis for a study of modern Muslim education.

¹²⁵ Dahir of 23 Dec. 1915.

des Antiquités, Beaux-Arts et Monuments Historiques had been created as early as 1912,¹²⁶ and in 1918 the Office des Industries d'Art Indigène was set up,¹²⁷ the latter being attached to the Direction de l'Enseignement in March 1920.¹²⁸

In February 1921 the Direction Général de l'Instruction Publique, des Beaux-Arts et des Antiquités was set up, consisting of six Services.¹²⁹ the Service de l'Enseignement des Indigènes dealt with the organization and administration of native schools.¹³⁰ The Service de l'Enseignement Primaire, Secondaire et Technique Européens was concerned with all European schools.¹³¹ The Service de l'Enseignement Supérieur et Organisation Scientifique administered and supervised higher education, institutes of scientific research and libraries and archives.¹³² The Service des Antiquités Préislamiques was responsible for the supervision and preservation of antiquities, and the direction and inspection of excavations.¹³³ The Service des Monuments Historiques, Palais Impériaux et Résidences was concerned with the preservation of historical monuments, and the construction and maintenance of imperial palaces and museums.¹³⁴ The Service des Arts Indigènes organized, administered

¹²⁶Residential Decree of 28 Nov. 1912, BO, 5, 29 Nov. 1912, p. 26.

¹²⁷Residential Décision of 12 Jan. 1918, BO, 274, 21 Jan. 1918, p. 50.

¹²⁸Vizirial Decree of 9 March 1920, BO, 386, 16 March 1920, p. 454.

¹²⁹This Direction was created by Dahir of 26 July 1920, BO, 408, 17 Aug. 1920, p. 1393, its official title being altered to the above by Dahir of 28 Feb. 1921. The Service structure was reorganized by Dahir of 17 Dec. 1920, BO, 426, 21 Dec. 1920, Art. 3.

¹³⁰Dahir of 17 Dec. 1920, Art. 3.

¹³¹Ibid.

¹³²Ibid.

¹³³Ibid.

¹³⁴In 1924 the name of this Service was changed to that of Beaux-Arts et Monuments Historiques (Dahir of 1 April 1924).

and supervised apprenticeship to professions in the native arts, and maintained museums of native art.¹³⁵

(6) Other Directions.

The two remaining Directions are not discussed in this thesis and need be mentioned only briefly here. A Direction du Service de Santé et Hygiène Publiques was first organized in March 1915, and served both civilians and military personnel, Moroccans and Europeans.¹³⁶ The Direction de l'Office des Postes, des Télégraphes et des Téléphones became an independent department in January 1916.¹³⁷ In addition, two other sections should be mentioned here. An Office du Transport was created in February 1920 (but unlike any of the above Directions, was under the direct authority of the Délégué),¹³⁸ and an Office Chérifien des Phosphates was created in August 1920.¹³⁹

+ + + +

e. Regional Administration.

The Sherifian Empire, unlike the Ottoman Empire, had never possessed a system of provincial administration, primarily as a result

¹³⁵Dahir of 17 Dec. 1920, Art. 3.

¹³⁶See Residential Decrees of 20 March 1915, 3 January 1916, 9 March 1918, 21 June 1919 and 21 January 1920.

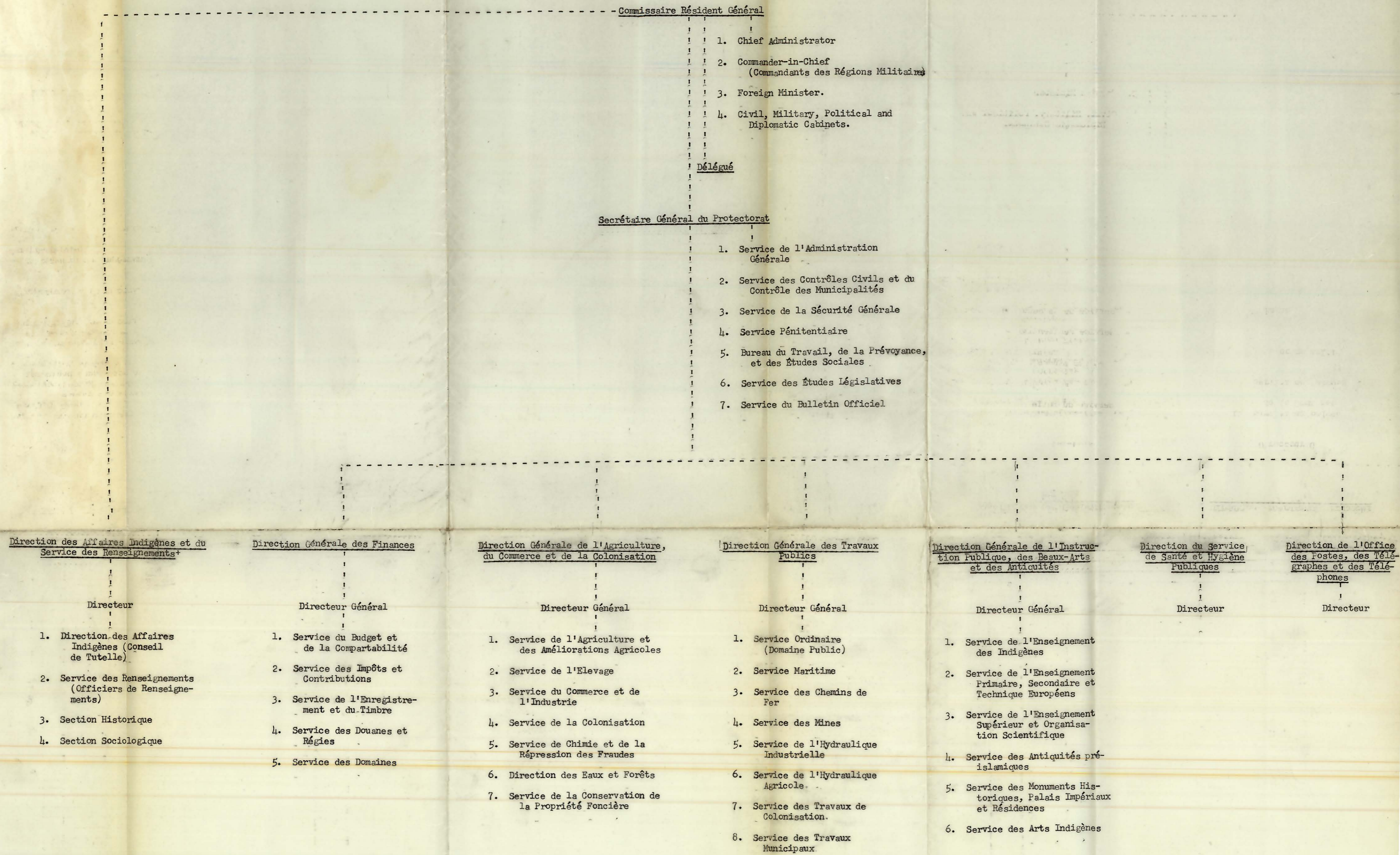
¹³⁷Dahir of 21 January 1916.

¹³⁸Ordre of 8 February 1920.

¹³⁹Dahir of 7 August 1920.

FIGURE 4.

RESIDENTIAL* AND NEO-SHERIFIAN DIRECTIONS, 1912-1925



*The Direction des Affaires Indigènes et du Service des Renseignements is the only Residential Direction listed here; the only other Residential Direction was the Direction des Affaires Chérifiennes shown previously.

of the weakness of the sultanate. The only institutions which could be called regional were those of the tribes, which were in most cases independent of Makhzen control.

The French established a system of regional administration in an effort to control the country more effectively.

They set up two types of regional administration in Morocco: military and civil, the country being divided up into a series of régions, territoires, cercles, circonscriptions, annexes and postes, in that order.¹⁴⁰ Every region was first under military control, and then, after being gradually pacified, passed to a civil administration. The regional military areas began functioning in 1912,¹⁴¹ but the first officially designated civil regions were not set up until 1919 and 1920, consisting of Rabat, Casablanca, Oujda and the Rharb.¹⁴²

In December 1923 a Residential Decree announced a completely revised regional organization consisting of:¹⁴³

A. Civil Zone

1. Régions Civiles of:

a. Rabat.

¹⁴⁰

See Map V, Administrative Map of Morocco in 1916 (in the back pocket).

¹⁴¹

Instruction of 4 Aug. 1912, BO, 2, 8 Nov. 1912, p. 10.

¹⁴²

The Régions Civiles of Rabat and Casablanca were created by Residential Decree of 27 March 1919, BO, 336, 31 March 1919, p. 289. Oujda was created by Residential Decree of 22 Dec. 1919, BO, 377, 12 Jan. 1920, p. 59. The Rharb was created by Residential Decree of 6 Nov. 1920, BO, 422, 23 Nov. 1920, p. 1981.

¹⁴³

Residential Decree of 11 Dec. 1923, BO, 585, 8 Jan. 1924, p. 25.

- b. Chaouïa (chef-lieu, Casablanca).
 - c. Rharb.
 - d. Oujda.
2. Contrôles Civils of:
- a. Mazagan.
 - b. Safi.
 - c. Mogador.

B. Military Zone

Régions Militaires of:

- a. Fez (including Taza).
- b. Meknes.
- c. Marrakesh.

This regional organization was flexible and was revised on several occasions under later Residents General.¹⁴⁴

(1) Military Regions and Officiers de Renseignements.¹⁴⁵

¹⁴⁴In 1926, 1935 and 1940, to wit: The Residential Decree (of Théodore Steeg) of 26 Nov. 1926, BO, 737, of 7 Dec. 1926, p. 2303 (as a result of the ending of the Rif War); Residential Decree (of Henri Ponsot) of 29 Sept. 1935, BO, 1196, of 11 Oct. 1935, p. 1182, and also Residential Decree of 20 Dec. 1935, BO, 1211, of 10 Jan. 1936, p. 34 (following the general pacification and unification of Morocco); and Residential Decree (of General Noguès) of 19 Sept. 1940, BO, 1456 bis of 23 Sept. 1940, p. 911.

¹⁴⁵Marshal Bugeaud in the 19th century first created Bureaux Arabes in Algeria which later became the Service des Affaires Indigènes, and the Service des Renseignements in Tunisia.

Each region had its chef de région, who in the military areas was the military commander, under whom were officiers de renseignements, who were responsible to the Directeur des Services des Renseignements in the Direction des Affaires Indigènes et des Services des Renseignements, and Lyautey had direct control over these officials, whose number was reduced to 220 for the whole of Morocco by 1927,¹¹⁶ whereas in the summer of 1914 there were 120 in the Chaouïa alone.¹¹⁷

The officier de renseignements had three main duties: military, political and administrative, the order of priority varying with the extent to which each region had been pacified. He collected all important military and political information from his area in order to facilitate military action in it if necessary. He also advised on the systematic pacification of the area, and on the preparation of the administrative and political groundwork in the light of the native tribal structure. He had Moroccan auxiliary forces at his disposal to aid him when necessary.¹¹⁸ The second stage of this work was chiefly administrative, and he had to supervise all the details of the functioning of the administration and judicial organization of the Moroccans, which included examining cases, penalties and fines, and

¹¹⁶ Arthur Girault, Principes de colonisation et de législation coloniale, V (5th ed; Paris: Recueil Sirey, 1928), p. 252.

¹¹⁷ Lyautey gave this figure in July 1914. PA, p. 118.

¹¹⁸ Girault, p. 252; also André Colliez, Notre protectorat marocain: la lère étape, 1912-1930 (Paris: Librairie des Sciences Politiques et Sociales, 1930), p. 180.

ensuring that justice was meted out; he also had to supervise the collecting of taxes.¹⁴⁹ Thus he generally supervised and advised the local native authorities, but at all stages he had to prepare and channel all questions regarding native policy to the Residency.¹⁵⁰

Once the Région Militaire had been pacified and organized by the officiers de renseignements, it was then transferred to civilian responsibility, becoming a Région Civile.¹⁵¹

(2) Civil Regions and Contrôleurs Civils.

The contrôleurs civils, as civil supervisory agents, were put in charge of a Région Civile, and under the authority of the Secrétaire Général du Protectorat and were in the Service des Contrôles Civils et du Contrôle des Municipalités. The Contrôle Civil was instituted by a Decree of July 1913, and was further regulated by Residential Circulars of August 1917 and April 1919, and a Residential Decree of April 1920.¹⁵² During Iyautey's administration, the powers and competence

¹⁴⁹Goulven, Traité d'économie, I, p. 193.

¹⁵⁰Girault, p. 253.

¹⁵¹Britsch briefly described what occurred when on 1 April 1913 the Chaouïa was converted, unofficially, to a civil region. Amédée Britsch, Le Maréchal Iyautey -- le soldat, l'écrivain, le politique (Paris: Renaissance du Livre, 1921), pp. 152-153.

¹⁵²Residential Decree of 31 July 1913; Residential Circulars of 27 Aug. 1917 and 25 April 1919; Residential Decree of 3 April 1920. Iyautey sent out this letter to the Chefs des Services Municipaux concerning the post of contrôleur civil, on 4 May 1914:

"The contrôleur civil cannot himself administer anything personally; but he is, at the same time representative of the Government of the Protectorate with the local native authorities, and guide, counsellor and supervisor of these authorities. They are not, in fact, prepared for our stage of development or our methods of administration; they receive instructions from a higher authority, the Makhzen, but these instructions, prepared upon the advice and initiative of officials of the Protectorate, are not always well received by the local native

of the contrôleurs civils were purely supervisory, though during later stages of the Protectorate they became administrative and were increased significantly.¹⁵³

¹⁵²continued:

"authority. It is up to the agents in charge of supervising them to explain the meaning of such instructions, to guide the native authority, and to supervise the execution of the instructions."

I cannot recommend too highly, as regards this part of your powers, to keep in close contact with the native leaders, to send for them any time you feel it necessary, but without your summons sounding imperative or compulsory; finally and especially, to go to them personally every time you can spare the time, and this, even without any specific purpose in mind, in order to win their confidence, to get to know them and to make them know you, to hear their desiderata or their complaints, to obtain their criticisms of the administrative or judicial organizations and reforms which may have repercussions on their functions, to make them know and appreciate our methods and the purpose we are pursuing, etc. Finally, to consider various questions which have arisen or which might have come to your knowledge through complaints by individuals or through communications from the Resident General.

Learn quickly of the importance in not dealing with the natives through written correspondence only; a verbal message followed, when it is such, by a succinct note to record the agreement reached, you will render far more service than a mere exchange of letters which often are not understood. This procedure may also be used efficiently even for the municipal decrees or other acts of municipal administration, the meaning of which is so often not realized by the pachas who sanction them with their signatures.

I do not need to insist on the necessity of maintaining with regard to the native leaders an attitude of courtesy and deference which they never fail to notice, and of never giving them advice of any kind before witnesses other than your immediate collaborators." Quoted in J. Goulven, I, Traité d'économie, p. 195. See also, LA, III, pp. 273-279.

¹⁵³See Decree of 3 Oct. 1926, Residential Decree of 19 Sept. 1940, etc. Frédéric Brémard discusses these later developments clearly and in detail: L'organisation régionale du Maroc, pp. 53 et seq. This treatise is probably the most valuable one of its kind on regional organization, although J. Goulven's Traité d'économie et de législation marocaines is excellent for the early period of the Protectorate.

J. Goulven has best described the eight categories of tasks of the contrôleur civil:¹⁵⁴

1. The principal mission of the contrôleurs is the supervision of native authorities, whose place they must never take themselves, because their role is not to administer. This mission is a most important one, and the manner of exercising it is as important as the formula of the Protectorate itself. It is through the personal influence which the contrôleurs civils gain over the native leaders, with whom they are placed, that the development of the oeuvre civilisatrice of France in Morocco will depend. In fact, not only must they play the part of censor with the representatives of the Makhzen, but they must also serve as their educators. The means of action of the contrôleurs civils available for accomplishing their task are powerful, because nothing which concerns the native authorities of their circonscription can escape them. No nomination, no sanction, no dismissal may be made without their advice and consent. No administrative service may correspond with the native authorities without going through the obligatory intermediary of the contrôleurs civils.

On the other hand, the contrôleurs civils have to intervene in some matters, often difficult, such as the preparation of the lists [of taxpayers] and the collection of taxes which are the tasks of the caïd; these are seconded by commissions presided over by the representative of the autorité de contrôle locale. Moreover, the Sherifian Government, for the purpose of giving protection, has created Sociétés de Prévoyance Agricole. It has entrusted the chairmanship of them to the caïds, but the representative of the contrôle has been placed beside them. The contrôleurs civils may even receive a delegation of some powers from the chairman of these societies.

2. But it is the supervision of the cadis which represents

¹⁵⁴J. Goulven, Traité d'économie, I, pp. 197-201. Goulven bases this study on the Residential Circular of 27 Aug. 1917. See also, Girault, Principes, V, pp. 250-251, and Colliez, Notre protectorat marocain, pp. 182 et seq; and for the ultimate regional organization, Stéphane Bernard's Le conflit franco-marocain, 1943-1956, Vol. III: Institutions et groupes sociaux, annexes (Bruxelles: Editions de l'Institut de Sociologie de l'Université Libre de Bruxelles, 1963), pp. 44-45.

one of the most delicate tasks, and at the same time one of the most demanding which fall upon the shoulders of the contrôleurs civils. A delicate task because the cadi is a religious personage; a difficult task, because it is he who handles all real estate matters, and because the recognition of real property rights is surrounded in Muslim countries by considerable difficulties which colonists, as newcomers on African soil, must always come up against. The cadis must hold a certain number of registers recording the acts which they draw up. These registers must all be submitted for the inspection and then initialling of the contrôleurs civils.

3. The contrôleurs civils must also handle municipal matters, either directly or indirectly. As a general rule, they only do this indirectly, because the municipalities are all situated in important areas and possess a specialised personnel. In this case, the correspondence of the Chefs des Services Municipaux passes entirely through the hands of contrôleurs civils of the area, whether incoming or outgoing. These officials must then express opinions without entering into the details of these administrations. In exceptional cases, the Services Municipaux are directed by the contrôleur civil of the area, when the importance of these services does not necessitate a division; that is what is found, for example, in Settat, Salé and Kenitra.

4. The contrôleurs civils have no judicial powers, but the Dahir of 12 August 1913 on the judicial organization of the French Protectorate in Morocco has made them officiers de police judiciaire, as auxiliaries of the commissaire du gouvernement with the courts. A Dahir of 24 March 1914 has also, provisionally and temporarily, authorized that the French judicial organization, when required to proceed with an inquiry or a visit to places, or an interrogation in civil matters, at a distance from the seat of the competent jurisdiction, may be placed in the hands of the contrôleurs civils. The latter must naturally second the French judicial organization in every search into crimes and offences in their areas. They must facilitate its task with the native authorities, but they must scrupulously abstain from intervening in the procedure itself. They are recommended, when an European is involved in a penal matter, to work in liaison with French judges.

5. The contrôleurs civils have, naturally, an important rôle to place with regard to colonization, the development of which they must ensure. They must seek lands suitable for colonists. A Residential Circular of 25 April 1919 charged the contrôleurs civils to intervene actively in the real estate disputes during registration procedures, to try to conciliate the parties involved and thus to help the colonists who are looking for the security indispensable in appraising property which they have purchased. The contrôleurs civils preside over the commissions in charge of distributing the subsidies for stock-farms. They must supervise the execution of proper measures to be taken to avoid the outbreak and spread of cattle diseases. During locust invasions they have an active rôle to play in getting the native leaders to act in the struggle for protection. The contrôleurs civils preside over the commissions in charge of drawing up the electoral lists of natives for the Chambres d'Agriculture et de Commerce, and in supervising the election of members of these Chambres.

6. The contrôleurs civils are consulted about the execution of large-scale public utility works: roads, bridges, etc., located in their areas. They have to sponsor the construction and maintenance of tracks and obtain secondary agents to help them with this. The expenses involved in these works come from the general budget. In the Chaouïa, a special fund-raising group has been instituted in order to provide these works, and there the Administration des Travaux Publics fulfills this rôle, which moreover devolves upon the contrôleurs. The contrôleurs civils must also work in liaison with the Service Hydraulique Agricole to provide water-holes, wells, drinking-troughs, irrigation works, etc. . .

7. The contrôleurs civils are consulted in everything having to do with education in their areas. Their assistance is especially useful in the organization of native education.

8. To ensure public health and hygiene, to fight epidemics, to provide hygiene facilities in native

quarters are the tasks of contrôleurs civils who have two categories of doctors attached to them to ensure the measures of hygiene necessary for the preservation of public health: the médecins-chefs of mobile sanitation groups, and the colonization doctors.

+ + + +

f. The Conseil du Gouvernement, and the Chambres d'Industrie, de Commerce et d'Agriculture.

The Chambres Consultatives de Commerce, d'Industrie et d'Agriculture were created in 1913 at Rabat and Casablanca, their members being appointed by the Resident General¹⁵⁵ to give the colonists a means of defending their interests. By the end of 1917 the Chambres were permitted to elect their own presidents.¹⁵⁶ In June 1919 permission was given for the election of these bodies by the French farmers, individuals and businessmen themselves,¹⁵⁷ while in the same year a Moroccan section was added, whose members, however, were nominated by vizirial decree.¹⁵⁸

There were three types of Chambres: (1) Chambres Consultatives de Commerce et d'Industrie, (2) Chambres Consultatives d'Agriculture, and (3) Chambres Consultatives Mixtes d'Agriculture, de Commerce et d'Industrie. By 1927 there were Chambres de Commerce et d'Industrie

¹⁵⁵By Residential Decree of 29 June 1913, BO, 37, 11 July 1913, p. 236. See also, Laubadère, p. 139, and Girault, pp. 216 et seq.

¹⁵⁶Residential Decree of 28 Dec. 1917, BO, 271, 31 Dec. 1917, p. 1412.

¹⁵⁷Two Residential Decrees of 1 June 1919, BO, 349, 30 June 1919, pp. 654 and 660.

¹⁵⁸Dahir of 20 Jan. 1919, BO, 327, 27 Jan. 1919, p. 71.

at Rabat, Casablanca, Kenitra and Mogador;¹⁵⁹ Chambres d'Agriculture at Casablanca and Rabat: and six Chambres Mixtes d'Agriculture, de Commerce et d'Industrie at Meknes, Fez, Oujda, Mazagan, Safi and Marrakesh.¹⁶⁰ The primary role of all of these Chambres, which were purely consultative, was to provide a means of liaison with the Residency by expressing the views and wishes of the professional classes concerned. A Conseil Supérieure de l'Agriculture and a Conseil Supérieure du Commerce et de l'Industrie were set up in 1921 to work with these Chambres.¹⁶¹

+ + + +

In March 1919 Lyautey created a new Residential institution, the Conseil du Gouvernement.¹⁶² At first it met monthly and consisted of the presidents and vice-presidents of the various Chambres, and of the Comités d'Études Économiques; later it also included delegates from the Commissions Municipales.¹⁶³ The chief purpose of this Conseil was to discuss budgetary and economic matters; it had no official voice in the Government, which did not have to act on its suggestions. In

¹⁵⁹Girault, p. 262.

¹⁶⁰Ibid.

¹⁶¹Two Dahirs of 15 Jan. 1921, BO, 433, 8 Feb. 1921, p. 206.

¹⁶²Residential Decision of 18 March 1919.

¹⁶³Laubadère, p. 138; F. Brémard, Les droits publics, pp. 84 et seq. Lyautey established the Comités d'Études Économiques (composed of colons) in order to provide a further means of liaison between his administration and the economic needs of the colons.

June 1919¹⁶⁴ the delegates to the Chambres Françaises Consultatives were permitted to be elected by the colonists, industrialists and businessmen of the various Chambres.

In May 1923 a second college of members was added to the Conseil made up of Moroccans: the presidents and vice-presidents of the Chambres Marocaines Consultatives. At the same time the French representatives were limited to the presidents and vice-presidents of the Chambres Françaises Consultatives d'Agriculture, de Commerce et d'Industrie and of the Chambres Mixtes.¹⁶⁵

In 1926 Resident General Steeg added a third and final college to the Conseil du Gouvernement,¹⁶⁶ in which French citizens in Morocco, other than the farmers, businessmen and industrialists already represented, now gained a voice.¹⁶⁷

+ + + + +

Summary

The French brought to their administration of Morocco experience gained not only in their native country, but also in their colonies. Previous experience in North Africa was of especial value to the French

¹⁶⁴Residential Decree of 1 June 1919.

¹⁶⁵This was done by two Residential Décisions of 10 May 1923, BO, 553, 29 May 1923, pp. 663-664.

¹⁶⁶Residential Décision of 13 Oct. 1926, BO, 730, 19 Oct. 1926, p. 979.

¹⁶⁷The Conseil was not altered again until the Residential Décision of 20 Dec. 1947 (BO, 1835, 26 Dec. 1947, p. 1334), when Moroccan representation was increased, and a representative of Moroccan Jewish interests was added.

in the various problems of an administration in a country historically difficult to govern.

(1) The population of Morocco was almost entirely Muslim, and great care had to be exercised by the French in their attitude towards the institutions and values in a State where the secular and the ecclesiastical were so inextricably woven together; moreover, unlike either Algeria or Tunisia, Morocco had a rich history, and a monarchy dating back for centuries.

(2) The Sherifian Empire was to be administered as a protectorate, and not as a colony -- and this difference, though seemingly subtle, was none the less distinct. Lyautey desired as far as possible to supervise the Moroccan governmental mechanism rather than administer it directly. This was only possible to some extent, as the French had to introduce an entirely new technical branch of administration -- through the Neo-Sherifian departments -- into a land unfamiliar with the modern world which it was about to enter. At the same time Lyautey attempted to maintain as much of the past as possible, and to introduce the Moroccans to modern administrative practices, at first only at a junior level.

(3) Another factor lay in the racial and linguistic differences in Morocco reflected in the distinction between the Hamitic Berbers and the Semitic Arabs. The French were to be sharply criticized for

trying to make more out of such differences than was warranted, thereby causing an unnatural cleavage between the Berbers and Arabs. Since the French had to adapt a new system of government to a country made up of different peoples, languages, laws and customs, the administration had to be plastic as well as uniform.

+ + +

As Commander-in-Chief of the French military forces in Morocco, it was Lyautey's task to restore order, and as head of the Government of the Protectorate he had to set up a totally new civil administration. The latter necessitated a series of evolutionary steps, and modifications resulting from trial and error; offices were created, abolished or modified or combined in the light of experience, and the administration of the Protectorate -- as it ultimately appeared in 1925 -- was very different from the awkward nucleus first introduced in 1912. It was only natural that the original nucleus should grow, divide, and be redefined and reorganized as the country became more settled and administrative needs more complicated and demanding. The French had a huge task awaiting them in Morocco in 1912. Not only had they to pacify the country, but also to reorganize most of the government

and introduce new means of communication, modern financial methods, modern utilities, modern medical and sanitation facilities, etc. Certainly part of the groundwork was already laid down when the French arrived, as a long established system of law and a fairly reasonable system of municipal and tribal administration existed; but there was little else the French could incorporate into the Protectorate.

Réginald Kann has summed up the accomplishment of the early years of the Protectorate when he said:¹⁶⁸ "Despite some errors, the pacification and development of the Sherifian Empire remains the best conducted colonial enterprise which has been seen in a very long time and the one which has obtained the greatest results."

¹⁶⁸ Réginald Kann, Le protectorat marocain (Paris: Berger-Levrault, 1921), p. 277.

II. Municipal Administration.

A. Before 1912.

In the Sherifian Empire, municipal administration usually meant the possession by a few men of almost dictatorial powers, something not necessarily to be condemned as not all societies work efficiently under a democratic régime. Unfortunately, however, a keen interest in public welfare was not one of the characteristics of Oriental administrators. In order to describe government at the local or municipal level, I shall take Rabat as my example, although municipal government often varied from city to city in consequence of numerous factors, such as whether the city was closely under the Sultan's authority or not, whether it was a port or inland city, whether it was in close contact with Europeans or in a remote region.

1. Pacha or Caïd.

Most towns or cities were headed by a pacha or caïd. In Tangier the city's chief administrator was known as pacha, while in Rabat his title was caïd. In small towns, however, an amel (governor) might be in charge of the over-all administration of perhaps three different towns, having appointed a khalifa (lieutenant governor) to administer each town directly. A khalifa administered El Qçar El Kebir in just

this way, although in reality he was the amel's puppet and powerless.¹ The caïd or pacha was appointed by the Sultan, and often the post was held by the same family for generations.² Such posts were usually obtained by the individual who spent his money most wisely at the Sultan's court. In cities which were free from direct interference by the Sultan, though still under his over-all authority, such as Rabat (but not Tangier), the caïd's powers were sweeping. He was the administrative head of the city, the senior police official, the judge in all cases not involving Chrâa courts, the commander of the local military forces, the senior religious official (imam),³ and also a tax collector.

The caïd or pacha had furthermore to handle matters involving Europeans, such as claims for indemnities or protection, although in such cases all decisions were made at the ministerial level by the Ouzir el-Bahr (Foreign Minister).⁴ In Tangier, however, where the

¹E. Michaux-Bellaire and Georges Salmon, "El Qçar El Kebir: organisation administrative", AM, II, 2 (1904), p. 37.

For a sketchy history and study of the administrative changes of Tittāwūn or Tetuan, see A. Joly, in collaboration with MM. Xigluna and L. Mercier, "Tétouan. Deuxième Partie: Historique", AM, V, 2 & 3 (1905), pp. 161-264 and 311-430. This article is primarily historical, rather than being a systematic administrative survey.

²This was the case in Rabat.

³L. Mercier, "L'administration marocaine à Rabat", AM, VII (1906), pp. 350 et seq. Cf. the position in Fez in Roger Le Tourneau's interesting work, Fès avant le Protectorat: étude économique et sociale d'une ville de l'Orient musulman (Casablanca: Société Marocaine de Librairie et d'Édition, 1949).

⁴M. Lahbabi, pp. 149-150.

diplomatic corps resided, the Sultan was represented directly by a special official, his naïb (agent).⁵

One of the most important administrative tasks of the caïd or pacha was that of periodically sending locally collected taxes to the amin el-oumana at the Ministry of Finance in Fez,⁶ because of the insecurity of the Bled el-Makhzen, an elaborate convoy was usually required to accompany the taxes.

The caïd's or pacha's primary role in certain cities, such as Rabat, was to head the troops and police force.⁷ The caïd of Rabat, for instance, had nearly 2,000 soldiers (all but 50 of them infantry) under him, although only about 250 of them were regular troops; they were used mainly for guarding the gasba and manning the city's batteries.⁸ As senior police official, the caïd had forty men at his service, and of these, seven or eight supervised the Customs. The name makhzen was also applied to the police who were headed by their chief constable (or mechâoury), who took his orders from the caïd.⁹ The mechâoury and his policemen (mekhazenya) received no official

⁵Ibid., p. 149. The office of naïb was only created under Sultan Moulay el-Hassan in the last quarter of the 19th century. The diplomatic corps was not created until the Act of Algeciras (1906); prior to it legations represented claims by Europeans. Ibid., p. 151.

⁶L. Mercier, "L'administration marocaine à Rabat", p. 355. In Tangier, however, the local oumana of the customs department sent their taxes directly to Fez.

⁷In El Qçar El Kebir the local administrator had no real power. See, Michaux-Bellaire and Salmon, "El Qçar El Kebir", p. 37. In Tangier the pacha had strong administrative powers and was also a judge, but he had no direct command over military units -- G. Salmon, "L'administration marocaine à Tanger", AM, I (1904), p. 2.

⁸Mercier, p. 355.

⁹Ibid., pp. 355-356.

salary and hence had to fend for themselves; they were usually recruited from special tribes around Rabat. They kept order in the city and were responsible to the mohtaseb when he required them to arrest persons guilty of fraud, etc. in the city markets. Apart from the mohtaseb, they arrested or freed all persons only on the orders of the caïd or cadi.¹⁰ They were also used as official courriers by local officials.

As the local religious leader (imam), the caïd of Rabat used to go to the Djama' Moulay Sliman, escorted there and back by regular infantrymen preceded by musicians, and lead the Sabbath prayers every Friday.¹¹

As judge in commercial and criminal cases (that is, all cases not subject to the Chrâa), the caïd held his audiences in his mahakma, assisted by his deputy (khalifa). These audiences were usually held at nine in the morning, and in the afternoon from two to five.¹²

The caïd also had to convey the Sultan's messages to the people and usually did this by means of a town crier.

In Rabat the caïd was in charge of collecting the hedya, the only direct tax paid by the citizens, and the frida, a type of arbitrary tax levied by the government on the rural populations whenever it was short of funds.¹³

¹⁰ Ibid., p. 356.

¹¹ Ibid., p. 357.

¹² Ibid., p. 358.

¹³ Ibid., p. 353.

The pacha or caïd received a monthly salary, from the oumana of the Customs.

2. Customs.

The amin ed-diouana, or Délegué du Contrôle des Douanes pour le Service de la Dette Marocaine,¹⁴ and two native oumana,¹⁵ headed the customs' department and managed most of the city's finances. They levied the 10% ad valorem duty on imported merchandise,¹⁶ confiscated contraband, received the market taxes (mekous) collected by the amin el-moustafad¹⁷ and sent them to the caïd for shipment to Fez; they paid the salaries of the Makhzen officials, including the caïd (except for officials such as the cadi, mufti, and lesser employees, who were paid by the Habous)¹⁸, farmed out to the highest bidders the right to collect the various mekous (market taxes), and auctioned fruit and other produce from Habous property, in accordance with the directions of the nadir.¹⁹ The responsibility of the oumana was considerable and their work was vital to the life of the city.

3. Amin el-Moustafad.

The amin el-moustafad was responsible for all the market and gate taxes in the city. As has been seen, the amin ed-diouana

¹⁴This official was only created in 1904.

¹⁵Oumana, pl. of amin.

¹⁶Mercier, p. 379.

¹⁷Discussed below.

¹⁸Mercier, p. 379.

¹⁹Ibid.

auctioned off the privilege of collecting the market and gate taxes each year to tax-farmers. Those tax-farmers used their own employees to collect the market and gate taxes in the city, who in turn gave the funds to the amin el-moustafad, who in turn delivered them to the amin ed-diouana.²⁰ Surprisingly, the amin el-moustafad was also responsible for removing the trash and refuse of the city, although Monsieur Mercier describing the situation in Rabat as he saw it in 1906, wrote:²¹

If the amin el-moustafad were at all conscientious, he could maintain the city in excellent condition. But this [i.e., the collection of refuse] is done very irregularly, being suspended altogether during rainy weather until the mud has dried up; and the city is then horribly filthy when it rains, for there is a bed of liquid mud at least ten centimeters deep in which all the animals splash about, in the middle of the street, splattering the pedestrians.

The amin el-moustafad was chosen for his post by the Makhzen with the caïd's approval from among the honourable businessmen of the city and appointed by the Sultan.²² In inland cities, the amin el-moustafad was of more importance than in coastal cities such as Rabat.²³ In the inland cities he was the chief of the city's financial services (whereas in Rabat this position was held by the amin ed-diouana).²⁴

²⁰Ibid., p. 391.

²¹Ibid.

²²Michaux-Bellaire and Salmon, "El Qçar El Kebir", p. 41.

²³Lahbabi, p. 159.

²⁴The amin el-moustafad of Fez, however, held a higher rank than those of the other cities of the Empire, for he was also in charge of the Dar A'dyel Treasury to which all market and gate taxes of the Empire were paid, and including the duties from tobacco, kif and sulphur. Lahbabi, p.160.

In all cities, however, the amin el-moustafad was in charge of the collection of gate and market taxes and also responsible for the upkeep of all Makhzen (Government) buildings and the Sultan's palaces.²⁵ In addition he was in charge of the official Makhzen postal services;²⁶ and paid city officials such as the caïd or pacha when there was no amin ed-diouana or customs department in the city.²⁷ It is interesting to note some of the taxes imposed at the city gates and the markets for which the amin el-moustafad was responsible.

Taxes were collected on every camel- or donkey-load entering and leaving the city,²⁸ the amount depending upon the load capacity of the animals as well as the type of load or material being carried. A camel, for instance, carrying a load of barley was charged more than a donkey carrying the same grain, but in lesser quantity. There were also slaughter-house dues, levies on most animals sold in the city's markets, and levies on hides, rugs and almost everything sold in the city.²⁹

4. Mohtaseb.

The mohtaseb was chosen for his post from among the wealthiest and most honest businessmen of the city, and was appointed by the Sultan.

²⁵Ibid., p. 159.

²⁶"El Qçar El Kebir", p. 41.

²⁷Ibid.

²⁸Except when the person possessed a nefoula, or receipt, proving he had already paid.

²⁹L. Mercier, pp. 388-389.

He was the chief of the market police, or market inspector, and was thus very powerful in the world of commerce; he inspected all products for standards of work (e.g. the quality of the dyes), including food products, set the price each day for the staple food products sold in the markets, and sampled the main food products. As chief of the market police he could have businessmen arrested by the police (assigned to the market by the caïd) if they had committed fraud or sold products at prices other than those fixed by himself daily.³⁰ Mohtasebs in Morocco at the turn of the century had a high reputation for honesty.

5. Cadi, Mufti, Adoul.

The cadi, mufti and adoul are discussed below in Chapter VI, on "Judicial Organization".

The cadi of Rabat, as head of the Chrâa judicial organization was appointed by the Sultan, whereas in Tangier the pacha proposed the nominee to the High Cadi of Fez, the Cadi 'l-Coudat, who then made the appointment.³¹ The cadi in turn selected the adoul (notaries) from among the faihs of that city, the mufti, and the bou maouarith.³² The cadi's competence was restricted to matters subject to the Chrâa and was only extended to criminal cases at the special request of

³⁰Ibid., pp. 392-393.

³¹Salmon, "L'administration marocaine à Tanger", p. 3.

³²Mercier, p. 394.

the caïd or pacha. He neither gave written judgments nor held records of any type, and was not entitled to any payment from parties involved in a litigation, his salary being paid by the nadir of the Habous.³³

The mufti (jurisconsult) was also paid by the local nadir, and in addition he received fees from litigants requiring a fetoua,³⁴ or opinion or interpretation extracted from Muslim law, in support of their case before a cadi.

6. Nadir.

The nadir was the administrator of a specific local group of properties belonging to the Habous, or pious foundations (known as Wakf in other Muslim countries). He was appointed by the Sultan³⁵ and was usually a fairly old and very honest individual. (For a detailed account of the nadir and the Habous, see Chapter IV, "Property".) The nadir saw to the upkeep of Habous property, the harvesting and selling of its crops, the payment of salaries of public officials dependent on the Habous, and the leasing of Habous property.

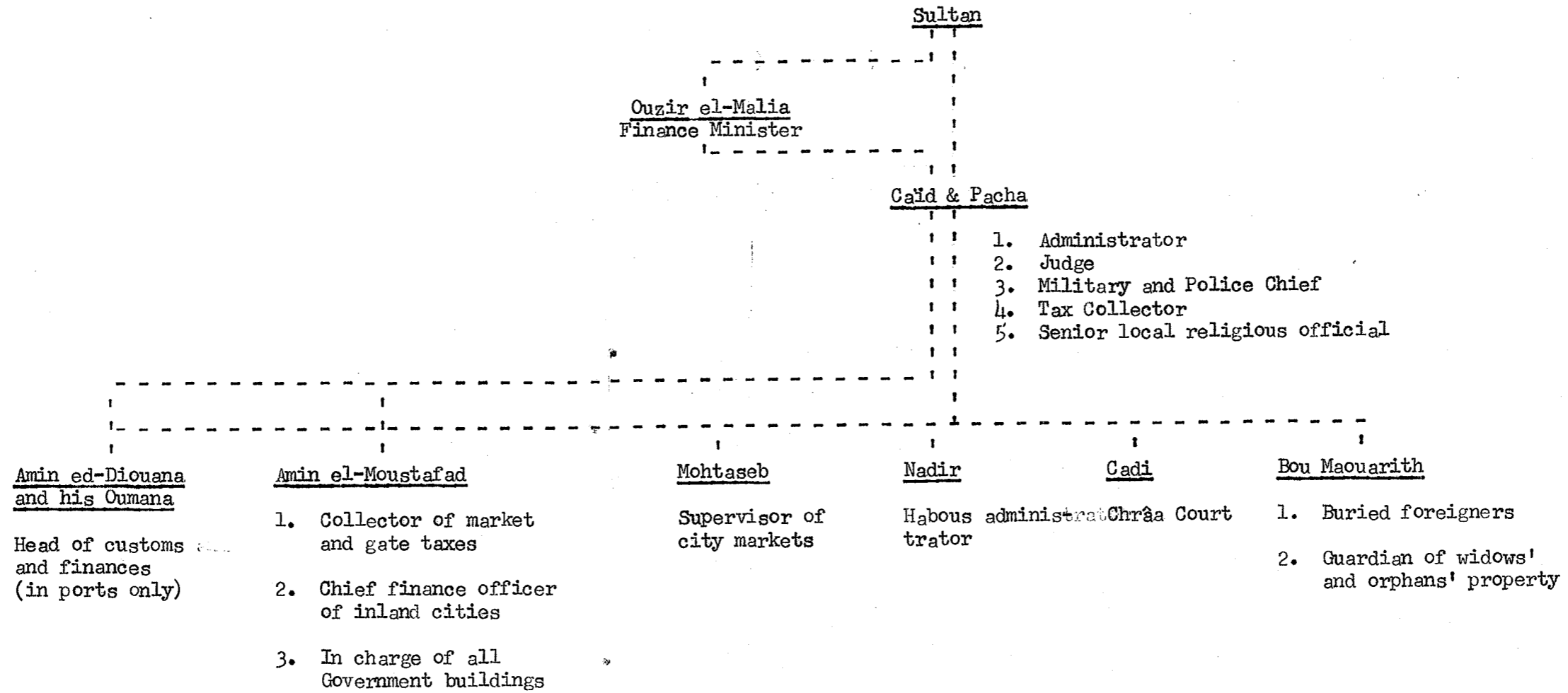
³³At Tangier, however, the cadi was paid by the Customs' oumana. "L'administration marocaine à Tanger", p. 24.

³⁴Mercier, p. 399.

³⁵This means of appointment was relatively recent, having been started in the 19th century by Sultan Moulay Abd er-Rahman (1822-1859).

FIGURE 5.

MUNICIPAL ADMINISTRATION BEFORE 1912



7. Bou Maouarith.

The bou maouarith had the task of burying all strangers who died in the city. He also managed the property of widows and of orphans (until they reached their majority).³⁶

+ + + + +

Summary

The Moroccan city prior to the Protectorate was run by a handful of men who had considerable power. The caïd or pacha ruled the city. He was the administrative chief, senior police officer, judge, often commander-in-chief of the local army units, and tax collector. The city's financial department was administered either by the amin ed-diouana (if the city was a port) or by the amin el-moustafad, the latter being responsible for all market and gate taxes. The administrative policing of the markets was carried out by the mohtaseb who was usually a man of known integrity. The cadi and mufti dealt with matters subject to the Chrâa, and the nadir administered the local Habous.

After 1912 the relatively simple administration of a Sherifian city underwent sweeping changes.

³⁶Mercier, p. 401.

B. Municipal Administration Under the Protectorate.

Officially organized municipalities were created by the French in the spring of 1917,³⁷ and in Lyautey's time were set up in the following cities:³⁸

Casablanca,	Meknes,
Rabat,	Marrakesh,
Salé,	Fez,
Kenitra,	Azemmour,
Mazagan,	Sefrou,
Safi,	Settat,
Mogador,	Taza,
Ber-Rechid,	Oujda. ³⁹

1. Pachas or Caïds.

The pacha or caïd, helped by his khalifa, continued to be the titular head of the municipality. His previous autocratic powers were naturally abolished, though he remained the central municipal authority and the sole judge in legal matters brought before the Makhzen court.⁴⁰

The pacha or caïd was nominated by dahir,⁴¹ just as in the past. He was responsible for the administration and maintenance of municipal

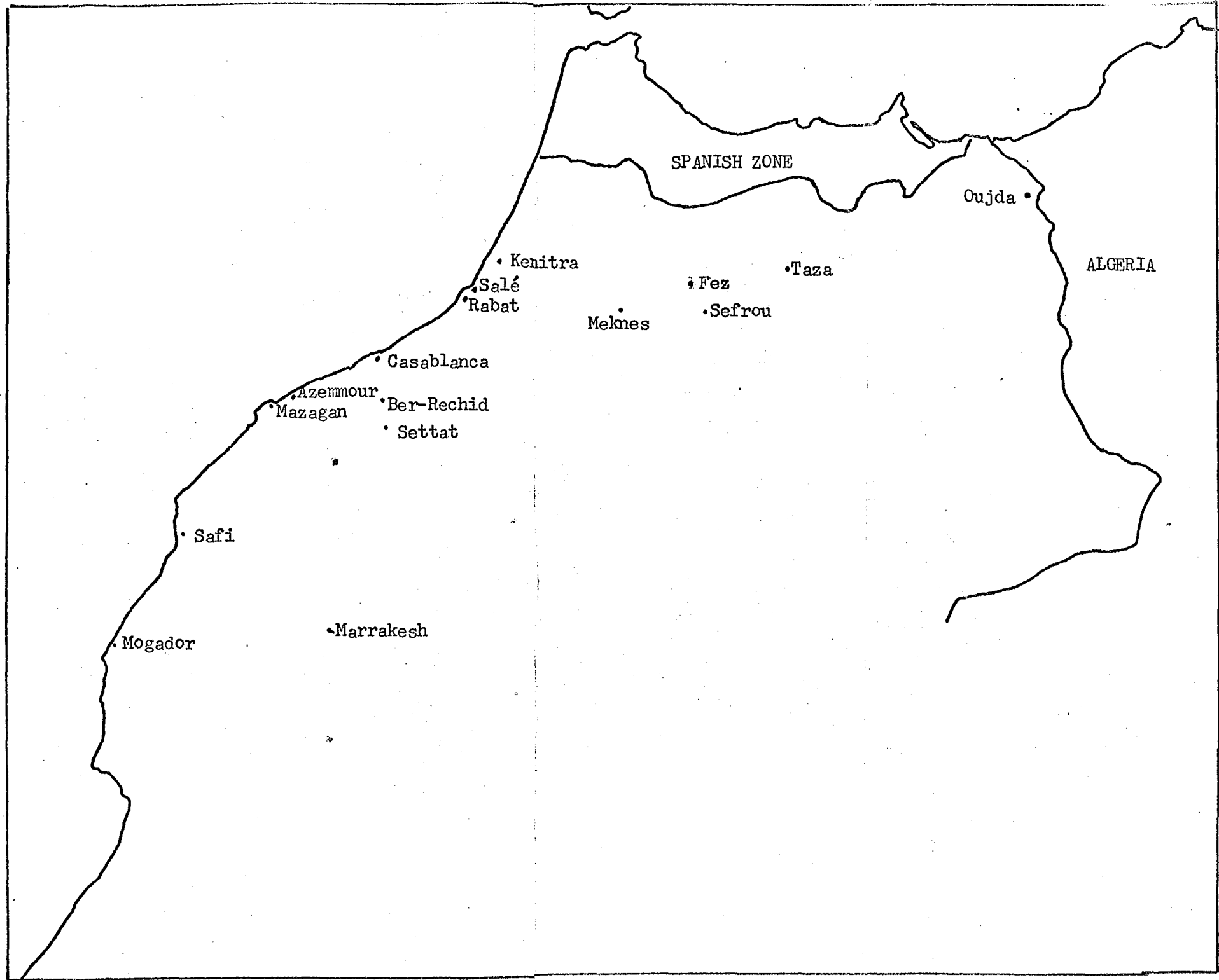
³⁷ Dahir of 8 April 1917, BO, 236, 30 April 1917, p. 486. See also, F. Brémard's, Droits publics et politiques, pp. 90-94, and J. Goulven's, Traité d'économie et de législation, I, pp. 210 et seq.

³⁸ Vizirial Decree of 28 April 1917, Art. 1, BO, 236, 30 April 1917, p. 489.

³⁹ Oujda was added by Vizirial Decree of 22 March 1920, BO, 388, 30 March 1920, p. 524. Ouezzan (not listed above) was only added after Lyautey's departure (added by Vizirial Decree of 18 Dec. 1926, BO, 740, 28 Dec. 1926, p. 2485.).

⁴⁰ To be discussed later in this chapter; see also Ch. VI, "Judicial Organization".

⁴¹ Dahir of 8 April 1917, Art. 2.



SPANISH ZONE

ALGERIA

Oujda

Taza

Fez

Sefrou

Meknes

Kenitra

Salé

Rabat

Casablanca

Azemmour

Mazagan

Ber-Rechid

Settat

Safi

Mogador

Marrakesh

properties, and he represented the municipality when it was involved in a litigation.⁴² The police powers formerly belonging to the pacha or caïd, or the mohtaseb in the markets, passed in 1924 to the French Police du Service Général.⁴³ The military powers of the pacha or caïd were also taken from him. He now administered the municipal finances⁴⁴ in collaboration with the Chef des Services Municipaux and after consultation with the Commission Municipale, to draw up the budget, to execute the budget once approved, and to handle the municipal administrative accounts. The Chef des Services Municipaux, working also with the Commission Municipale, was now responsible for the supervision of municipal government, and the pacha's or caïd's only remaining position of authority was as judge, even his judicial powers were reduced considerably.

2. Chef des Services Municipaux.

The Chef des Services Municipaux, to whom were delegated most of

⁴²Ibid.; see also, Goulven, I, pp. 215-218.

⁴³The pacha's original police powers had been stated in Art. 4. of Dahir of 8 April 1917, but were rescinded by Art. 13 of Dahir of 1 March 1924, BO, 596, 25 March 1924, p. 545.

⁴⁴The municipal budget received funds primarily from the gate taxes, special duties, in addition to State taxes, various municipal taxes, revenue from municipal property and resources drawn from certain commercial and industrial sources (such as from public utilities -- water, and electricity -- and public transport). On the other hand, municipalities were authorized to contract loans and to receive subsidies from the State. Municipal expenses were the expenses incurred in administering the municipality (such as municipal salaries, equipment, the functioning of various services, public works and their maintenance), and various subsidies (given for certain public institutions and schools). See, F. Brémard, L'organisation régionale du Maroc, p. 122.

the pacha's powers, assisted and supervised the pacha or caïd in the municipal administration, and counter-signed any decrees made by him.⁴⁵ His principal responsibility was to ensure that the Municipal Services functioned smoothly: municipal works, municipal police,⁴⁶ public health, public assistance and architecture.⁴⁷ He also worked as a supervisor, liaison officer and co-ordinator between the civil and military services involved in the municipality.⁴⁸ The Chef des Travaux Municipaux, who was responsible for all engineering works and programmes, was under the supervisory authority of the Chef des Services Municipaux and the technical authority of the Directeur Général des Travaux Publics.⁴⁹

3. Commissions Municipales.

Two types of Commissions Municipales were created by the French.⁵⁰ The Commission Municipale Indigène and the Commission Municipale Mixte.

⁴⁵ Dahir of 8 April 1917, Art. 8. The Chef des Services Municipaux was nominated by Residential Decree.

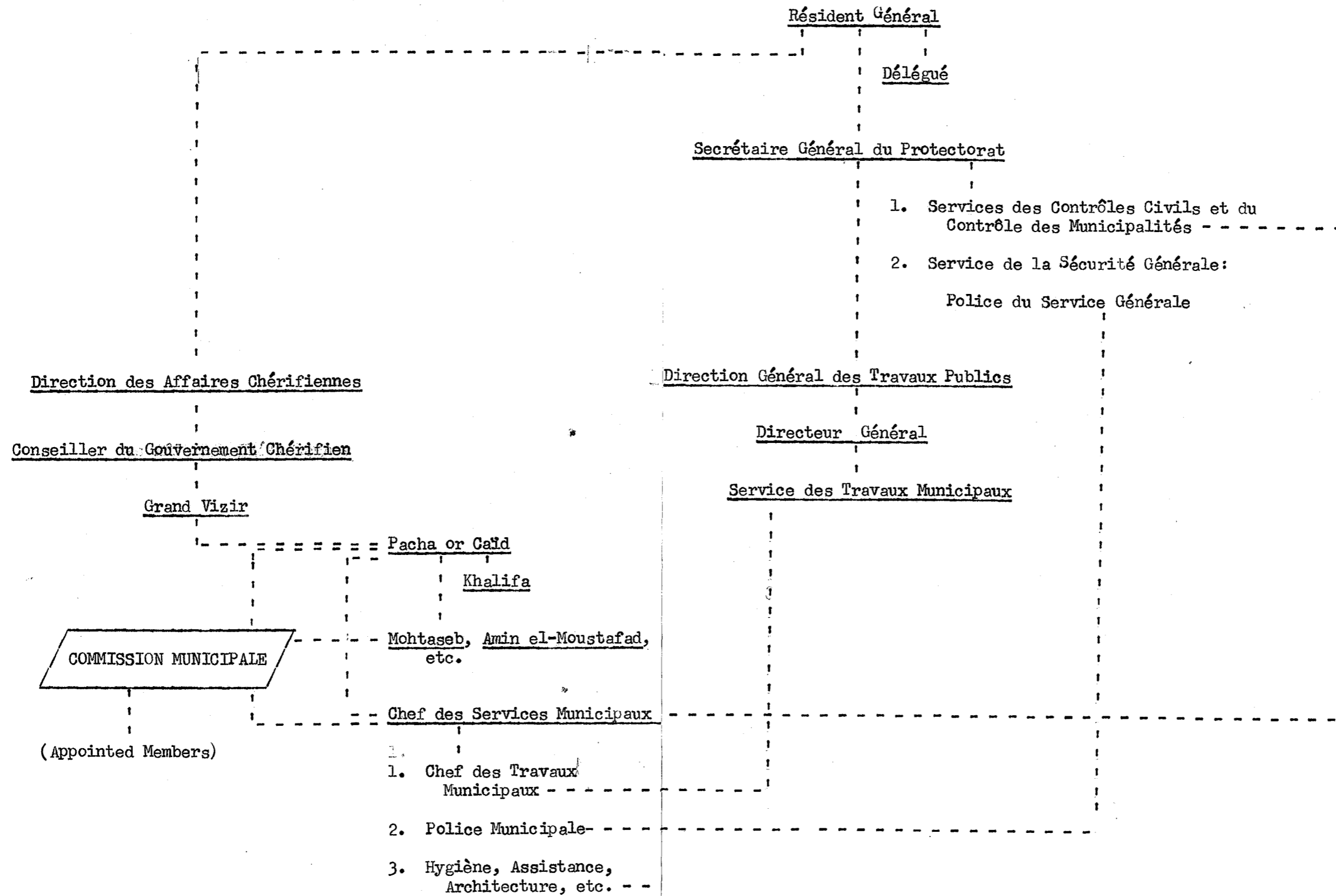
⁴⁶ The Service de la Sécurité Générale was attached to the Secrétaire Général du Protectorat by Dahir of 1 March 1924, and included the three main categories of police in the Protectorate (excluding the Police Mobile): (1) Police de Surêté, (2) Police du Service Général, and (3) Police Spéciale. The Police du Service Général was responsible for police work in the municipalities.

⁴⁷ Dahir of 8 April 1917, Art. 8. ⁴⁸ Ibid. ⁴⁹ Ibid.

⁵⁰ A third type of Commission, totally unlike the others -- being both deliberative and elective -- was created for Fez by the Dahir of 2 Sept. 1912. It was the only one of its kind and it was abolished by Dahir of 23 March 1944. See also, Laubadère, pp. 155-159.

FIGURE 6.

MUNICIPAL ADMINISTRATION, 1912-1925



All the members of the Commission Municipale Indigène were Moroccans, with the exception of the Chef des Services Municipaux.⁵¹ This type of Commission could be divided, at the pacha's suggestion, into two distinct sections, each functioning separately: a Muslim section, representing the interests of the Muslim community in the city, and a Jewish section, representing the interests of the Mellah. The Commission Municipale Mixte consisted of both European and native sections, and the native section could likewise be divided into Jewish and Muslim sections.⁵²

⁵¹Art. 12, Dahir of 8 April 1917. The only existing Commission Municipale Indigène, that of Sefrou, was transformed into a Commission Municipale Mixte on 1 January 1927. See also, A. Girault, Principes de colonisation, V, p. 257.

⁵²The Commission Mixte of Meknes, for instance, consisted of (1) the pacha, who was president, (2) the Officier du Bureau des Renseignements, who was the Chef des Services Municipaux, acting as vice-president, (3) the Chef des Travaux Municipaux, (4) the amin el-moustafad, (5) the mohtaseb, (6) six Muslim notables, (7) two Jewish notables, and (8) three French notables. See, Victor Piquet, Le Maroc, pp. 278 et seq.

By 1927 the size of many Commissions Mixtes had altered considerably, consisting of the following:

	EUROPEANS	MUSLIMS	JEWS
Casablanca	24	12	3
Azemmour	1	6	2
Kenitra	12	6	1
Marrakesh	9	9	3
Mazagan	6	6	2
Meknes	12	9	4
Mogador	6	6	3
Oujda	12	6	1
Rabat	15	12	3
Safi	6	6	1
Salé	3	6	2
Settat	2	1	1
Taza	3	6	0
Sefrou	1	6	3
Ouezzan	3	6	1

Girault, Principes, p. 257.

Each Commission Municipale Mixte was set up by decree issued by the Grand Vizir, which specified the number of European and native notables to be appointed to it.⁵³ It is noteworthy that no one in the municipal government, including members of Commissions, held an elective post. The members of the Commissions were appointed for one year only.⁵⁴ The local pacha presided over the two types of Commissions, while the Chef des Services Municipaux served as vice-president.⁵⁵ The native and European members voted, each in their separate sections, on any proposal brought forward; the votes of both sections were totalled separately, then added together, and the decision of the majority prevailed.⁵⁶ In addition to the voting members, the following non-voting municipal officials took part in municipal deliberations: the montaseb, the Chef des Travaux Municipaux, the Directeur du Bureau Municipal d'Hygiène, and the Receveur Municipal.⁵⁷ Not only were none of the municipal offices elective, which is not surprising at this early stage in the development of the Protectorate, but none of the meetings of the Commissions Municipales were open to the public.⁵⁸ The members of the Commission were consulted by the pacha on the following matters:⁵⁹

- (1) Acquisitions, exchanges or alienations, or any other transaction having to do with municipal property;

⁵³Dahir of 8 April 1917, Art. 15 (as modified by Vizirial Decree of 27 Jan. 1923).

⁵⁴Ibid.

⁵⁷Ibid., Art. 16.

⁵⁵Ibid., Art. 16.

⁵⁸Ibid.

⁵⁶Ibid., Art. 18.

⁵⁹Ibid., Art. 20.

- (2) Acceptance by the city of gifts and legacies;
- (3) Legal matters other than those involving confiscation;
- (4) The drawing up of the municipal budget and taxes, and the approval of municipal accounts and loans;
- (5) The authorization of contracts entered into by the municipality involving at least 5,000 francs annually.
- (6) Programmes of public municipal works;
- (7) The opening, closing or changing of local markets;
- (8) Fixing of the price list for staple food products sold in the markets;
- (9) The granting of permits for the opening of permanent theatres.

These nine preceding points show some of the striking changes made by the French. Most property in cities not owned by the Habous or individuals was owned by the Makhzen and was now administered by the Commission Municipale and not by the amin el-moustafad. A city could now for the first time be involved in a legal action. Its public utilities, which had previously been administered by the Habous, were now transferred to the municipality which also had to maintain them. Municipal budgets were introduced for the first time to regularize the city finances. Taxes were no longer imposed by the amin ed-diouana, the pacha or the amin el-moustafad, but by the Commission Municipale. Public works which had been administered by the Habous or Makhzen,

depending upon the type of project involved, became the responsibility of the Commission. The mohtaseb's traditional task of fixing price lists for staple food products was now done by the Commissions, which also saw to the opening, closing or changing of markets.

The French, though maintaining some of the outward forms, swept away most of the traditional powers of the municipal officials and for the most part transferred them to the Chef des Services Municipaux and the Commissions Municipales. In cases of disagreement between the Commissions and the pacha, the matter was referred to the Grand Vizir who had the authority to decide on the matter there and then.⁶⁰

4. Judicial Organization.

The judicial organization in the municipalities consisted of the religious courts and the civil and criminal courts. In criminal cases, the pacha or caïd could impose penalties of imprisonment for up to two years only, and fines up to 2,000 P.H. only.⁶¹ More important cases were tried in the Chambre Criminelle of the Haut Tribunal Chérifien. All civil and commercial cases were tried by the pacha except those involving persons within the jurisdiction of

⁶⁰Ibid., Art. 21.

⁶¹Dahir of 4 Aug. 1918, Art. 1, BO, 306, 2 Sept. 1918, p. 838.

French courts, those concerning real estate, which were dealt with either by Tribunaux du Chrâa, or French courts when registered property was involved, and those concerning personal status or inheritance among Jewish subjects which were settled by Tribunaux Rabbiniques. Thus the pacha's (caïd's) competence in his traditional role as judge was greatly restricted though he remained the sole judge, just as in the past.

+ + + + +

Summary

Although the old framework remained to some extent, vast changes within it were brought about by the Protectorate. The office of the pacha was retained but only now as a figure-head in most aspects of municipal administration with only a vestige of his traditional legal prerogatives. Instead a French adviser, the Chef des Services Municipaux, supervised the city administration, especially in the technical bureaus. In most cities of the Empire Commissions Municipales were created to deal with budgets, taxes, contracts, markets, etc. In the past the pacha or caïd had wielded almost dictatorial powers and was a man to be feared. Many public officials of all ranks had siphoned off public funds, albeit in the tradition of the Orient, and the citizens had been left to fend for themselves. Modernization in administration and integrity of administrators were essential if Morocco were to fulfill the requirements of a new age.

III. Tribal Organization.

A. Before 1912.

As Morocco's society has always been largely based on tribal organization, no study of government in Morocco would be complete without a glance at tribal organization in the Empire.

The Moroccan tribes could be classified as follows: (1) the naiba, or taxpaying tribes, which came under the authority of the Makhzen, (2) the guich tribes, which supplied troops for the Makhzen, in lieu of taxes, and (3) those tribes which usually managed to escape governmental authority.

Tribal organization consisted of four administrative levels: a confederation, a tribe, a fraction or canton, and a village. The confederation was made up of several tribes; the tribe of several fractions; the fraction in turn consisted of several villages, or ksour; and the village of a few clans. Of these four levels, the confederation was rarely formed, except in times of crisis.¹

¹A notable exception was the Ait Atta of the Sahara. See, Georges Spillmann, Les Ait Atta du Sahara et la pacification du Haut Dra (Rabat: Félix Moncho, 1936). See also, A. Bernard, Book IV, Ch. Iv.

There were approximately 600 tribes in Morocco (see Map VI in the back pocket), the average tribe consisting of 10,000 - 15,000 persons; each fraction consisted of 2,000 - 3,000 inhabitants in from four to twenty villages; each village, ksar (pl. ksour) or douar, consisted of from a few families to perhaps a thousand persons. F. Brémard, L'organisation régionale du Maroc, pp. 125-127.

Tribal Administration

One caïd generally headed each tribe, although there were exceptions to this rule. He was aided by, or himself assisted, a djemaa (assembly of notables). The caïd -- in naiba tribes -- was usually chosen by the Makhzen (as for instance in the Rharb)²; in other words by the Sultan. In the Bled el-Makhzen the djemaa sometimes held far less power than in the Bled es-Siba, beyond the Sultan's authority, for though the caïd had to treat the djemaa with respect, he could, if the need arose, request military aid from the Makhzen without consulting the djemaa. In a tribe totally free from interference from the Makhzen, the caïd -- or sheikh, as the leader of each fraction -- usually paid the greatest deference to the djemaa, being chosen by the djemaa and not by the Makhzen. If a caïd displeased his djemaa, he could expect imprisonment as well as confiscation of his property.³ Among the tribes of the Rif, which were for the most part not under Makhzen control, differences between fractions or cantons

²See, E. Michaux-Bellaire's article, "Le Gharb", AM, XX (1913); see also by the same author, "Quelques tribus de montagnes de la région du Habt", AM, XVII (1911), especially pp. 42 et seq.

³In the Bled el-Makhzen tribes could only seize the chattels of a man, for the Sultan alone had the right to seize any real property. Among the tribes of Figuig, however, which were beyond the control of the Sultan, the djemaa could have a man's real property confiscated by the tribe, though in such a case the djemaa usually limited itself to one piece of property, not taking all that a man owned. See, Roger Gromand, "La coutume de la 'Bezra' dans les ksour de Figuig", REI, V, 3 (1931), pp. 277-312; and G.H. Bousquet's, "Le droit coutumier des Aït Haddidou des Assit Melloul et Isselatena (Confédération des Aït Yafelmanes): notes et réflexions", §VI, AIEO, XII (1954), pp. 158-169.

supporting rival candidates for caïd often led to physical clashes,⁴ because it was the traditional right of the amr'aren (notables) of every fraction of the tribe to choose the caïd. A caïd thus usually represented the interests of one or more fractions of the tribe and naturally showed deference to them, while the notables of other fractions had to submit to him.⁵ Among the tribes of the Figuig area, however, the djemaa reigned supreme.

In mountainous areas of southern Morocco, there were tribes whose chiefs ruled almost dictatorially, backed by personal power and prestige; that was not always the case there and tribal societies were often even more complex in the south. In the Oued Dra' area, the town of Nesrat⁶ was governed by two assemblies,⁷ the Upper Assembly

⁴See A. Rezzouk's interesting article, "Notes sur l'organisation politique et administrative du Rif", AM, V, 2 (1905), pp. 265-275.

⁵Ibid., pp. 268-270.

⁶Nesrat, though tribal in structure (the Nesarta and Aït Insrat) lived a sedentary existence within the immediate area of the town, with an embryonic form of urban life. Nesrat had its own permanent Tribal House (Dar el-Qbila), mosques, schools, cemeteries, irrigation works, and permanent officials to run these. See, F. de La Chapelle, "Une cité de l'Oued Dra' sous le Protectorat des nomades: Nesrat", Hespéris, IX, 1 (1929), pp. 29-42.

⁷Ibid., pp. 31-32. See also, Robert Montagne, Les Berbères et le Maghzen dans le sud du Maroc (Paris: Félix Alcan, 1930); and the same author's Villages et Kasbas berbères: tableau de la vie sociale des Berbères sédentaires dans le sud du Maroc (Paris: Félix Alcan, 1930). Montagne stresses that the family organization was the basis of all social life among the Berbers of southern Morocco, and this was true of tribal societies throughout Morocco. Discussing the Berber "republics" of the High Atlas, R. Montagne gives the following divisions in social life: One group of families, perhaps 15 to 20 of them, which made up one clan, formed the ikhs. Each ikhs had its chief who was both elderly and rich; the next social unit was the village, consisting of two or three ikhs, which centred around a mosque and irrigated fields held more or less in common. The next unit was the canton, or republic, which consisted of several villages; one council of notables administered each republic,

(Djemaa el-Kebira) and a Lower Assembly (Djemaa el-Amma). The Upper Assembly was composed of twelve to fifteen members, and was presided over by two of its members.⁸ As indicated by its name, it was the senior of the two Assemblies, with a member from the important families of each fraction, who could not be removed from office unless they committed some very serious offence.⁹ They decided on the policies to be followed by the town, maintained relations with the neighbouring tribes and with the suzerain nomads who acted as guardians of their town, to protect it from marauders. They were also responsible for maintaining a police force within the ksar, offering hospitality to strangers, selecting the outside tribe which would protect the town, declaring war, settling disputes over land or water, and trying crimes committed within the town. The Lower Assembly, or Assembly of the People, held an inferior position in the administration. it handled policing beyond the city walls, daily relations between the

⁷ continued:

its members being chiefs who represented each ikhs. The republic was roughly equivalent to a fraction and several cantons or fractions equalled one tribe, the cantonal administration being by far the most important. In the High Atlas, in the independent republics or cantons, the Council of Notables selected a mogaddem as president, who usually had great power and sometimes became uncontested master of not only his canton (especially in the High Dra and the Dadès), but even of the tribe. For a discussion of Berber tribal structure see, Saïd Guennoun, La montagne berbère -- les Aït Oumalou et les pays Zaïan (Rabat: Éditions Omnia, 1933), e.g., pp. 139-171. See also, F. de La Chapelle, "Les tribus de Haute montagne de l'Atlas occidental: organisation sociale et évolution politique", REI, II, 3 (1938), pp. 339-360. De La Chapelle shows the traditional basis of tribal organization, the purpose and structure of organization being similar, despite differences in nomenclature. For a valuable study of the physical structure of some Berber groups (as well as their tools), see, André Adam, La maison et le village dans quelques tribus de l'Anti-Atlas (Paris: Collection

Hespéris, 1951).

⁸ F. de La Chapelle, "Une cité de l'Oued Dra'", pp. 31-32.

⁹ Ibid., p. 33.

inhabitants and the protecting tribe, and tried lesser breaches of the law.¹⁰ Its members, usually twenty in number, were selected by the Upper Assembly from the members of each fraction. In legal matters, jurisdiction was divided between the assemblies and the cadi.¹¹

Towns like Nesrat were, by their own choice, the vassals of other tribes. The protector tribe was ruled by a powerful chief or amghar, appointed to office for one year, who governed his tribe through an Assembly of Notables.¹² A special official, called the amghar l'ar, handled daily relations between the tribe and its vassals.

Thus, although tribal structure was essentially the same throughout the Empire, it varied according to the local needs of particular tribes. For example, Nesrat had a double assembly system (as compared with the single assembly system which prevailed in most other areas of Morocco -- the Rharb, Rif, Figuig, or the High Atlas) while its protector tribe created a special officer to act as intermediary between vassal and tribe.

Guich tribes, on the other hand, did not possess a normal tribal structure,¹³ having originally been based on Turkish military lines, each group having at its head a caïd, as commander. The caïd's command was divided into rhas of five hundred horses, each rha being commanded by a caïd er-rha. The rha in turn was subdivided into five miyas, each miya under one caïd el-miya. In all guich structures, regardless of their geographical location, the above organization was maintained.

¹⁰Ibid.

¹¹Ibid., p. 34.

¹²Ibid., p. 37.

¹³E. Michaux-Bellaire, "Le Gharb", p. 145. See also, Eugène Aubin, Le Maroc d'aujourd'hui, pp. 184 et seq.

B. Tribal Administration, 1912-1925.

They [the Moroccans] still do not know us well. We frighten them. They still remain rather withdrawn, but they are easy to win over when one shows them intelligent sympathy, especially when they feel that they are appreciated. For the secret is a welcoming hand, and not a condescending one, a loyal man-to-man handshake, made in order to understand one another. As Colonel Berriau said: 'this race is not inferior to us, it is merely different'. Let us learn their ways, just as they are learning ours. Let us both adapt.

MARSHAL LYAUTEY,
Rabat, 26 May 1921.

After entering Morocco, the French found it relatively easy to make changes in the central administration but difficult to make changes at the grassroots level [was more complicated.] Although Sultans had come and gone, and methods had varied with them, tribal administration, with little essential variation throughout the centuries, was not so easily altered.

The French realized that they could not sweep away institutions which were so much a part of the people -- and a very conservative people -- instead they brought about changes in the bases of power and authority within the tribes.

From the beginning, the French made a point of differentiating between Arab and Berber. This policy culminated in the famous Berber

Dahir of 1930.¹⁴

+ + +

¹⁴In 1928 the French authorities published a tentative list of tribes officially recognized as following Berber customary law: See Vizirial Decree of 16 April 1928, BO, 838, 2 Sept. 1928, p. 1273.

BENI M'TIR.

GERROUAN DU SUD (Ait Yazem, Ait Ouikhelfen and the two douars Ait Makchoum and Ait Krat of the Ait Lhassen).

BENI M'GUILD (Irchlaouen, Ait Arfa, Ait Ouahi, Ait Mouli, Ait Meghoul, Ait Mohand ou Lhassen, Ait Lias, Ait Bougueman, Ait Ougadir, Ait Messaoud).

AIT YOUSSE (except the fractions belonging to the Pachalik of Sefrou and the fractions Ait Makhoulouf, Ait Kalas and Haï Nadjen).

AIT SEGHROUCHEN of IMMOUZER.

AIT SEGHROUCHEN of SIDI ALI.

AIT SEGHROUCHEN of HARIRA.

AIT SEGHROUCHEN DU SUD (Ait Bouchaouen, Ait Bou Meryem, Ait Mesrouh, Ait Khalifa, Ait Saïd, Fouanis, Ait Ben Ouadfel and Ait Belhassen)

ZEMMOUR.

ZAIAN (Zaian ou Ait Sgougou).

IDA OU TANA.

AIT BRIHIM.

IDA OU BAKEL.

IDA OU GUERSMOUK.

AIT OUTFERKAL.

AIT ABBÈS.

AIT BOU GUEMMEZ.

IREZRANI.

BENI ALAHAM.

AIT ATTA N'OU MALOU.

AIT BOUZID.

AIT SERI (Ait Oumel Bert, Ait Ouirra, Ait Mohand, Ait Abdelouli).

AIT IZDEG.

AIT OUAFELLA.

AIT AISSA

AIT AYACHE.

ICHKERN.

AIT IHAND.

AIT ISHAQ.

BENI OUARAIN.

MARMOUCHA.

AIT SOKHMAN (Ait Saïd ou Ali, Ait Daoud ou Ali, Ait Abdi and Ait Hamama).

AIT ALI.

AIT HASSAN.

AIT MORRAD.

AIT HADDIDOU.

AIT ATTA.

KEBALA of GUIR and of ZIZ.

AIT M'HAMED.

AIT OUGOUIDID.

DEMSIRA.

DOUIRANE.

SEKSAOUA.

IDA OU MAHMOUD.

GEDMIOUA (fractions, Ait Gair, Imelouane, Iouensekten, Ait Gassa, Ait Tiksit).

BENI YOUN.

BENI ZEHNA.

BENI ZEGGOUT.

AHL ISIOUANT

Apart from the cities, the administration of Morocco before the Protectorate was largely in the hands of the tribes and their djemaas. As the French gradually pacified more and more of the country, the newly installed French overlapped the authority of the traditional tribal djemaas. Most of the tribes which formerly lay beyond the control of the Makhzen, from 1912 were gradually drawn within it by the French so as to link up and unite all parts of the Empire.

As early as 1914,¹⁵ the French announced their intention of respecting Berber customs and laws, as distinct from Islamic law of the Arab tribes; but it was not until 1916¹⁶ that official reorganization of Moroccan tribes was first attempted. The French acted on the presumption that some of the traditional administration must be changed. They therefore created official, legal djemaas to represent the tribes and tribal units of the Empire.¹⁷ At the tribal level, the djemaas was presided over by the caïd, and at the fractional level by the sheikh.¹⁸ At both levels, however, its members were no longer appointed by the tribes or fractions, but by the French chef de région (military or civil)¹⁹ discussed earlier in this chapter. The notables appointed to the djemaas remained members of it for three years only.²⁰ The djemaas

¹⁵Dahir of 11 Sept. 1914, BO, 100, 21 Sept. 1914, p. 742. ". . . the tribes of Berber custom are and remain regulated and administered by their own laws and customs, under the supervision of the [French] authorities . . ." See also, Laubadère, "Réformes des pouvoirs", p. 160.

¹⁶Dahir of 21 Nov. 1916, BO, 217, 18 Dec. 1916, p. 1170 (modified by Dahir of 11 March 1924).

¹⁷Ibid., Art. 1.

¹⁸Ibid., Art. 3.

¹⁹Ibid., Art. 2.

²⁰Ibid.

now also included French supervisory agents (autorités locales de contrôle) who, in agreement with the president (caïd), fixed the agenda of the meetings and the times when the djemaa was to be convoked;²¹ furthermore, minutes of the proceedings were now recorded. The traditional authority of the djemaa was so greatly reduced that the original djemaa was scarcely recognizable; it was limited to giving advice on matters involving its group, and to managing its tribal property;²² and it could thus no longer summon troops, declare war, raise taxes, and so on. The djemaas established by the Dahir of November 1916 may be termed Official or Administrative Djemaas; they never succeeded in taking on the appearance of a living tribal institution. One critic has gone so far as to call them "still-born" institutions;²³ while another thought that the so-called "protection" given to the tribes by the French was stifling the capabilities and responsibilities to which these assemblies had long been trained.²⁴

Under the reorganized administration, tribal matters were handled by the Directeur des Affaires Indigènes,²⁵ assisted by the Conseil de

²¹Ibid., Art. 3.

²²Ibid., Art. 4.

²³Laubadère, p. 162.

²⁴Louis Milliot, Les terres collectives (blâd djemâ'a) -- étude de législation marocaine (Paris: Ernest Leroux, 1922), pp. 113-114. Milliot thought that ". . . the most serious reproach with which the Protectorate could be accused, was the exaggerated prudence exercised in the legislation concerning management of collective property." Milliot, p. 113.

²⁵Dahir of 27 April 1919, Art. 3, BO, 340, 28 April 1919, p. 375.

Tutelle which held important powers over tribal income and property²⁶
(discussed in Chapter IV, "Property").

Theoretically, the first Administrative Djemaas created by the French also acted as a separate djemaas in its management of the tribe's collective property. It was not until 1937 that management of such property was withdrawn from the competence of the Administrative Djemaas and handed over to djemaas specially created for that purpose.²⁷ Several other modifications of tribal administration occurred years after Lyautey's retirement. Judicial Djemaas, limited to Berber tribes and functioning as Tribunals of Customary Law were brought into being,²⁸ as well as special Berber djemaas to handle local (douar) matters. In 1946 more power was given to the djemaas at douar level when delegates from the Berber tribes were permitted to elect members to these djemaas.²⁹

+ + + + +

Summary

The French reunited Morocco, administratively, as never before

²⁶ Ibid. The composition of the Conseil was first stated in Art. 3 of the Dahir of 27 April 1919, but was changed by Dahir of 20 May 1924, to include: (1) the Directeur des Affaires Indigènes, as president, (2) the Conseiller du Gouvernement Chérifien, (3) the Directeur Général de l'Agri-culture, du Commerce et de la Colonisation, (4) the Chef du Service des Contrôles Civils et du Contrôle des Municipalités, and (5) two Moroccan notables, appointed by the Grand Vizir. See also, Girault, p. 260. The composition of the Conseil de Tutelle was again altered by the Dahir of 9 Oct. 1937, and that of 28 July 1956. See also, Albert Guillaume, La propriété collective au Maroc (Paris: Librairie de Médicis, 1960), p. 26.

²⁷ Dahir of 19 Oct. 1937 (BO, 1313, 24 Dec. 1937, p. 1644).

²⁸ Dahirs of 16 May 1930 (BO, 918, 30 May 1930) and of 8 April 1934 (BO, 1120, 13 April 1934), p. 306.

²⁹ Dahir of 14 Feb. 1946.

in the history of that Empire, and gradually set up effective administration in nearly every corner of the land. Although the authority of tribal dignitaries and institutions was greatly reduced, the tribes retained more power on their level than the Sultan on his. The reduction of tribal power had many secondary effects on the tribal units throughout Morocco. Tribal solidarity and the feeling of pride and aggressiveness in individual tribes were greatly weakened. Younger generations no longer looked to their tribe for their future, as they once had. The people were bound to lose much of their parochial outlook, as they came into contact with foreigners and with foreign ideas and values which they could neither suppress nor evade. Tribesmen had to face a new world which was changing their traditional ways before their very eyes.

CHAPTER IV

PROPERTY

I. Introduction.

The concept of land holding and ownership varies according to the times, values, laws and religions of the society. In Western Europe private ownership of land is more prevalent than public or State ownership, and even though public ownership of land or institutions, such as schools and hospitals, is fairly common, the financial means of maintaining them are often far different from those employed in Islamic lands. Hence the frequent inability of the Western European to understand the bases of institutions in Islamic society.

Islam is a communal religion. In theory at least, during the developing periods of medieval Islam, newly conquered land became the property -- not of the individual warriors, their families or tribes -- but of the Muslim Community as a whole;¹ this was especially

¹See, Louis Gardet, "La propriété en Islam", IBLA, XXXVIII, 2 (1947), p. 114; E. Michaux-Bellaire, "Le droit d'intervention du nadir des habous, de l'amin el moustafad et du pacha, dans les transmissions d'immeubles", RMM, XIII, 3 (1911), p. 488; Michaux-Bellaire and Paul Aubin, "Le régime immobilier", RMM, XVIII, 1 (1912), p. 33. As the authors of this last article point out, the situation in Morocco, as regards Muslim conquest of land, tends to be confused; for historically speaking, Morocco cannot be considered as a land of Muslim conquest, except for El Qçar El Kebir, Tangier, Arzila, Larache, Mehedyia, Casablanca, Azemmour, Mazagan, Safi and Agadir -- the ports which had been occupied by Christians and reoccupied by Muslims and thus considered as territories conquered by Muslims.

Territories have traditionally been divided into two theoretical categories, so far as the Chrâa was concerned, the Bled el-Islam (the land ruled by the Muslims) and the Bled el-Harb (the territory held by infidels, the territory of war, which had yet to be conquered). The Bled el-Islam

so in Morocco.

Every country has had its share of dichotomies, however, and Morocco has certainly had hers, as will be seen later, for example, when customary property rights are discussed. Therefore, although in theory State land belonged to the Muslim Community, exceptions have always been made, and in consequence various categories of property ownership arose²

From the ethno-geographic point of view, Morocco was divided into more or less three divisions. These divisions, which had existed for several centuries may be said to have taken shape under the Saadian Sultan, El-Mansour in the late 16th century³, and in fact

I continued:
was divided into territories conquered by force (anouâ), territories of capitulation (çolha), whose inhabitants converted to Islam in order to retain their property. These categories are very important in so far as the future structure and economy of the country are concerned, for conquered lands according to Muslim law were considered Wakf, or Habous, as they are called in Morocco, i.e., inalienable property belonging to the entire Muslim Community, funds derived from which were used for a variety of public needs, to be discussed later in this chapter. E. Michaux-Bellaire "Quelques tribus de montagne de la région du Habt", AM, XVIII (1911), p.161; and also the same author's, "Le droit d'intervention du nadir", p. 488, and his, "La propriété et les habous", AM, XX (1913), p. 94.

All land which had capitulated was of importance to the sultanate because it was over its inhabitants alone that the Sultan could demand both the djezya and kharadj taxes. In Morocco, however, over the centuries the sultanate began to consider all the lands as its own and tried to exercise the kharadj over everyone (except the Habous). This policy of all-embracing sovereignty was begun by the Almohades, under Abdelmouen ben Ali towards the middle of the 12th century A.D., and was continued until the 20th century

²Theoretically, however, private ownership of property was in fact permitted. Gardet, "La propriété en Islam", pp. 111, 117, 120.

³Ch.-André Julien, Histoire de l'Afrique du Nord -- Tunisie, Algérie, Maroc, Vol. II: De la conquête arabe à 1830 (Paris: Payot, 1956), p. 212.

represented the degree to which the Sultan's authority was respected.

The first of these three divisions was known as the Bled el-Makhzen, or the area in which the Sultan's government ruled the people in both secular and spiritual aspects and where the Sultan was considered the supreme religious and secular authority, and actually appointed local government leaders and collected taxes.⁴ This, the most Arabized area, consisted of less than one-third of the country. The tribes there were either the tax-paying naiba, or the guich who in return for military service were exempt from taxation.⁵

The Djebala region, stretching from the River Sebou up to the Mediterranean, consisted of Berber mountain tribes which, though they acknowledged the Sultan as the supreme religious authority (Amir el-Moumenin) and thus paid the two religious taxes, the zekkat and the achour, nevertheless kept their sovereignty over their land and did not pay the djezya and the kharadj.⁶

The third division was the Bled es-Siba ("land of dissidence"), by far the largest area of Morocco, including most of the eastern and southern regions of the Empire, where the Berber tribes only recognized the Sultan's authority as Imam (religious leader) and paid little or no taxes.

⁴The djezya (capitation tax) or the kharadj (property tax), and the zekkat (alms) and achour (harvest tax).

⁵Michaux-Bellaire, "Quelques tribus", p. 163.

⁶Ibid., p. 162.

Property and property rights in the Sherifian Empire varied not only according to ethno-geographic divisions, but also often varied considerably within each division according to tribal custom and dictates.

The changes in land and property holdings in Morocco under the French Protectorate will be considered in their several categories after the general machinery installed by the French authorities to deal with property holdings and rights has been described. The chaos and corruption of previous régimes necessitated a thorough reform of the Moroccan property administration by the French. General Lyautey acted without delay. His tactic in this administrative field was very different from what it would have been in a military operation; he ordered a sharp frontal attack on the "enemy", that is, on the administrative confusion remaining from the rule of past Sultans.

+ + + +

Property Registration.

The key to the entire real property administration under Lyautey's régime was the system of land and property registration. This system was instituted in August 1913,⁷ although the first requests for

⁷Dahir of 12 Aug. 1913, BO, 46, 12 Sept. 1913, p. 206. This Dahir was modified by lois of 27 Oct. 1916, 2 May 1917, 24 Sept. 1917, 10 June 1918, 10 March 1921 and 23 Feb. 1924. See also, J. Goulven's study of property registration, in Traité d'économie et de législation marocaines, II (Paris: Librairie des Sciences Économiques et Sociales, 1921), pp. 309 et seq.

registration were not accepted by the Government until October 1914.⁸ Its purpose was to register most of the real estate in the Sherifian Empire, and thereby to ensure that all property would be held under clear titles in the Protectorate, especially that of Frenchmen who, before the Protectorate, had felt little confidence in the Muslim attitude which was generally hostile towards them as far as acquisition of property was concerned.

All properties now registered were placed under the exclusive jurisdiction of French courts,⁹ although these courts -- either Tribunaux de Première Instance, or the Cour d'Appel -- could call in Muslim consultants, should the need arise.¹⁰ Registration of property was for the most part optional, being obligatory only in the case of

⁸PA, p. 118

⁹Dahir of 12 Aug. 1913, Art. 2. This article refers to the French judicial organization discussed in another Dahir of 12 Aug. 1913 (in BO, 46, 12 Sept. 1913, p. 9).

Prior to the Protectorate all real property litigations were dealt with by the cadi; eight years after the establishment of the Protectorate, this situation was altered so that cadis, who were still competent to handle many categories involving real property, were now excluded from two important categories:

- (1) When a French national or assimilé was involved in a real property litigation (Dahir of 1 Sept. 1920, Art. 2);
- (2) When the real property concerned was registered with the Conservation, regardless of the nationality of the parties involved, even if they were all natives (Dahir of 12 Aug. 1913, Art. 3).

See also, P. Marty, "La justice civile musulmane au Maroc", REI, V, 4 (1931), p. 289.

¹⁰Dahir of 12 Aug. 1913, Art. 5.

alienation or exchange of Domain properties, in the exchange of properties which had previously been, but which were no longer, part of the public Habous,¹¹ or when so ordered by a judicial institution in the course of attachment proceedings.¹²

+ + +

As has been seen in Chapter III above, the Service de la Conservation de la Propriété Foncière¹³ or simply the Conservation, was one of the seven services of the Direction Générale de l'Agriculture, du Commerce et de la Colonisation. It was regulated by provisions outlined as early as the summer of 1915.¹⁴ Other aspects of Muslim property came under the authority of several different Directions,¹⁵

¹¹Ibid., Art. 7. See also, Arthur Girault, Principes de colonisation et de législation coloniale, V (Third Part) (5th ed; Paris: Recueil Sirey, 1928), pp. 343 et seq; and Charles F. Stewart's, The Economy of Morocco, 1912-1962 (Cambridge, Mass: Harvard University Press, 1964), p. 72.

¹²Dahir of 12 Aug. 1913, Art. 8; and, Girault, p. 366.

¹³The section on the Service de la Conservation de la Propriété Foncière in Art. 3 of Dahir of 24 July 1920, reads as follows:

"The preparation and application of the legislation concerning the property registration system. Execution of the operations prescribed in order to apply legislation relative to the property system. Demarcation and the drawing up of a cadastral plan of the properties to be registered. A Cadastral survey. Application of the clauses with a view to the functioning of the Commission d'Arbitrage et de Conciliation in real property litigations."

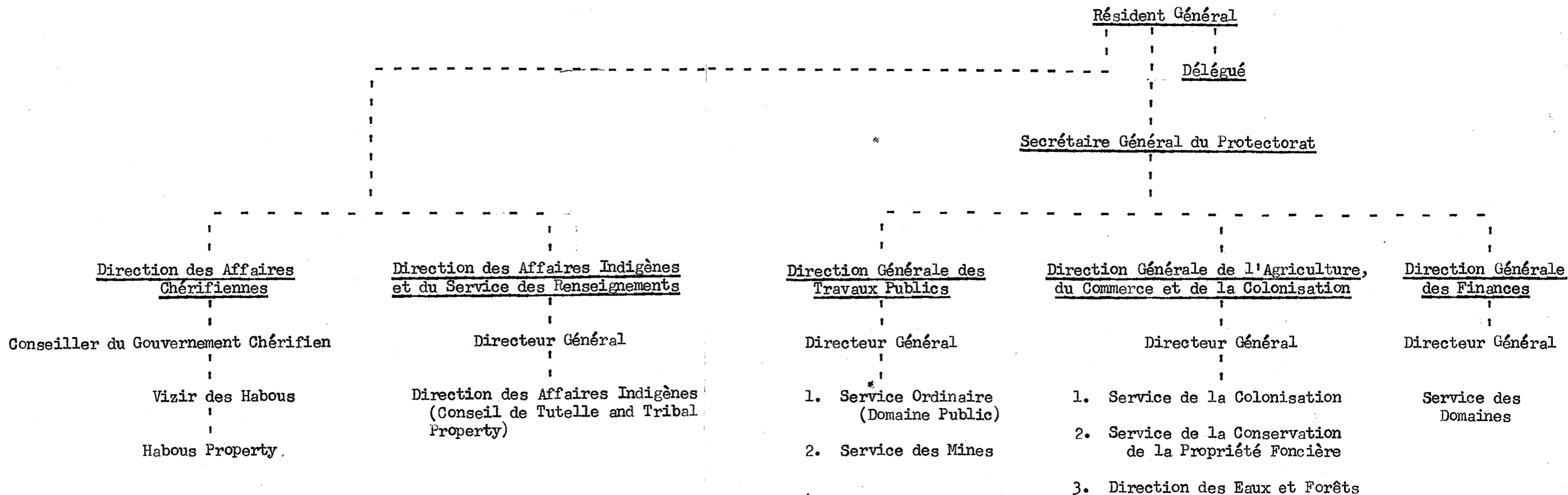
¹⁴Vizirial Decree of 4 June 1915, BO, 137, 7 June 1915, p. 336 (modified by others, e.g. Vizirial Decree of 11 March 1917), while Dahir of 2 June 1915, BO, 137, 7 June 1915, p. 319, regulated registration itself.

¹⁵See Figure 7 on the following page. The Services regulating property in Morocco were:

(1) The Service de la Conservation de la Propriété Foncière, under the Direction Générale de l'Agriculture, du Commerce et de la Colonisation.

FIGURE 7.

PROPERTY UNDER THE PROTECTORATE, 1912-1925



but it was through the Conservation, however, that all property to be registered was channelled.

Offices of the Conservation were set up throughout the French Zone of the Sherifian Empire, and their number was gradually increased as new regions were pacified.

The officials of the Service de la Conservation de la Propriété Foncière were nominated by the Sherifian Government, on the recommendation of the Resident General, and were directly responsible to the Chef du Service de la Conservation.¹⁶

The officials of the Conservation had the following duties:¹⁷

- (1) Registration of property;
- (2) Registration of real estate rights;
- (3) Registration and preservation of all maps and documents concerning registered property, including cadastral surveys;

¹⁵ continued:

- (2) The Habous, under the Direction des Affaires Chérifiennes.
- (3) Domaine Public (or Domaine de l'État), under the Direction Générale des Travaux Publics.
- (4) The Service des Domaines, under the Direction Générale des Finances.
- (5) The Direction des Eaux et Forêts, under the Direction Générale de l'Agriculture, etc.
- (6) Affaires Indigènes (tribal property), under the Direction des Affaires Indigènes et du Service des Renseignements.
- (7) The Service des Mines, under the Direction Générale des Travaux Publics.
- (8) The Service de la Colonisation, under the Direction Générale de l'Agriculture, du Commerce et de la Colonisation.

¹⁶Vizirial Decree of 4 June 1915, Art. 3.

¹⁷Ibid., Art. 4; the organization of the administrative personnel was dealt with in Vizirial Decree of 29 Sept. 1920, BO, 419-420, 2 and 9 Nov. 1920, p. 1870.

- (4) Communication to the public of information concerning the properties currently being dealt with by the Conservation;
- (5) Collection of all fees necessary for the various formalities involved in registration.

Offices of the Conservation, with jurisdiction in the respective cities, were opened at Casablanca in 1915,¹⁸ Oujda in 1917,¹⁹ Rabat²⁰ and Marrakesh in 1919,²¹ and Meknes in 1923.²²

A Conservation Officer of Real Estate and Mortgages was appointed in every town which was the seat of a Tribunal de Première Instance and had charge of registration in an area equivalent to the jurisdiction of the Tribunal.²³ Apart from obligatory registration, the following persons were allowed to apply for registration:²⁴

- (1) Owners of real estate;
- (2) A joint-owner of property subject to the chefâa right²⁵ of the other joint-owner;
- (3) Holders of the following real property rights: usufruct, occupancy, long-term leases conferring mortgage rights,²⁶ and antichrèse (i.e., the contract permitting the creditor to enter

¹⁸ Dahir of 5 June 1915, BO, 137, 7 June 1915, p. 344.

¹⁹ Dahir of 11 March 1917, BO, 233, 9 April 1917, p. 418.

²⁰ Dahir of 25 Oct. 1919, BO, 368, 10 Nov. 1919, p. 1285.

²¹ Ibid.

²² Dahir of 25 Sept. 1923, BO, 572, 9 Oct. 1923, p. 1225.

²³ Dahir of 12 Aug. 1913, Art. 9.

²⁴ Ibid., Art. 10.

²⁵ Chefâa, right of pre-emption. See below, Dahir of 2 June 1915, BO, 137, 7 June 1915, p. 319, fixing legislation applicable to registered properties -- Art. 22-24.

²⁶ Muslim canon law did not recognize "mortgages". L. Gardet, "La propriété en Islam", p. 121.

into possession of the debtor's properties and to collect any and all profit from his properties until complete repayment of his debts);

- (4) Holders of a real property right resulting from the division of property admitted by Muslim law;
- (5) Holders of real property easements, or of mortgages, with the consent of the owner.

The mortgagor could also ask for registration when the mortgage had not been paid at maturity, in which case he could seize the property.²⁷ Property could also be registered by the legal guardian of an incapacitated person.²⁸ Persons qualifying under one of these categories had to send a written declaration in French to the nearest Conservation office, giving all particulars pertinent to the property.²⁹ The pending registration was announced by town crier in the area concerned and was posted in public places, and published in Arabic and French in the official journal of the Protectorate, the Bulletin Officiel.³⁰ If there were any opposition or litigation, the matter was

²⁷ Dahir, of 12 Aug. 1913, Art. 11.

²⁸ Ibid., Art. 12.

²⁹ Ibid., Art. 13. This included:

- (1) His name, profession, civil status, nationality, domicile and name of spouse;
- (2) Domicile in the locality of the Conservation in which jurisdiction the property was located;
- (3) Full legal description of the property proposed for registration;
- (4) Estimated purchase price and assessment of the value of the property;
- (5) Details of the real property rights existing on the property, including full particulars about the possessors of those rights.

³⁰ Ibid., Art. 18. Even the local Juge de Paix, cadi and cadi of each district were closely involved in carrying out various aspects of the registration. Art. 14-61 deal with these details.

to be settled by a specially created Commission Permanente d'Arbitrage et de Conciliation.³¹

In June 1915³² the Protectorate officially announced the real property rights which would be recognized:³³

- (1) Ownership of real property;
- (2) Usufruct of real estate;
- (3) Habous property;
- (4) Occupancy rights;
- (5) Long-term leases;
- (6) Surface rights;
- (7) Antichrèse;
- (8) Claims of creditors and mortgagees;
- (9) Muslim customary rights, such as, gza, istidjar, guelsa, zina, houa;
- (10) Acts and transactions carried out by the Conservation.

It is significant that the French authorities recognized and honoured Muslim legal customary property rights. Prior to 1912 even Muslim jurists had never agreed on the definition of these rights; in consequence, the French immediately appointed a special Commission

³¹This Commission was first discussed in the Instruction Résidentielle of 25 April 1919. J. Goulven also discusses it (vol. II, p. 312).

³²Dahir of 2 June 1915, BO, 137, 7 June 1915, p. 336.

³³Ibid., Art. 8.

to study these rights.³⁴ This resulted in lucid French drafting of legislation on the above-listed property rights.³⁵

+ + + +

-----Summary

The process of establishing real property registration was complicated and involved some of the most important rights of the Muslim population. Basically it meant that persons who held property or property rights which had been clearly established by the Conservation de la Propriété Foncière, and registered in the Livre Foncier,³⁶ thereafter held titles which were definitive and unimpeachable in the eyes of the French judicial organization throughout the Empire.³⁷ Furthermore, the registration process gradually removed much property from the control of Moroccan courts, and also exposed many Moroccans

³⁴See, Louis Milliot, Démembrement du habous -- menfa'â, gzâ, zînâ, istighraq (Paris: Ernest Leroux, 1918).

³⁵These will be discussed later.

³⁶Dahir of 12 Aug. 1913, Title Two. By 31 Dec. 1925, 204,943 hectares of property had been registered under this system. Girault gives the following breakdown of these statistics:

Number of Registrations		Their Value in	Their Area in
		Millions of Francs	Hectares
URBAN	(French . . . 3,388	247.5	1,761
PROPERTY	(Foreign. . . 1,320	85.1	478
	(Moroccan . . . 840	61.5	351
RURAL	(French . . . 1,176	47.1	150,309
PROPERTY	(Foreign. . . 210	4.1	3,854
	(Moroccan . . . 581	9.7	48,188
TOTAL:		7,521	204,943

Girault, Principes, V, p. 371.

³⁷Dahir of 12 Aug. 1913, Art. 62.

who held their property titles through oral agreement, who were totally ignorant of the new French registration system, or who could not afford the costs involved in registration of property which was rightfully theirs, to risks of damages or injustice.³⁸

Be that as it may, a system of ensuring property and property rights was very much needed. The system employed by the French was as good and as valid as any at the time, and so far as the Moroccans were concerned, efforts were made to inform the public and to notify the interested parties, orally and in writing, in French and in Arabic.

+ + + + +

Scholars have usually classified property in Morocco into four categories: Melk, Makhzen (State) Property, Habous and Collective Property. For purposes of elucidation, this classification can be further broken down as follows:³⁹

- (1) Real estate held by foreigners;
- (2) Habous;
- (3) Collective, or tribal property;

³⁸Costs involved in registration were published in the Vizirial Decree of 25 Feb. 1920, BO, 384, 2 March 1920. Dr. Charles F. Stewart is critical of the registration system in relation to the Moroccan -- Economy of Morocco, p. 72.

³⁹For an early study of property in Morocco, see Émile Amar, L'organisation de la propriété foncière au Maroc: étude théorique et pratique (Paris: Paul Geuthner, 1913).

- (4) Public Domain;
- (5) Makhzen property, or State Domain;
- (6) Colonization sectors;
- (7) Melk (private property);
- (8) Property owned by Jews;
- (9) The Sultan's personal property.

Of these categories, the first six contained most of the property in the Sherifian Empire and will be discussed in this chapter.

II. Acquisition of Real Property by Foreigners.

The right of foreigners to acquire real property in Morocco was established for the first time in 1880 by the Convention of Madrid,¹ Article XI of which stated:

The right to own real property in Morocco is hereby recognized for all foreigners.

The purchase of real property must be carried out with the prior consent of the Moroccan Government, and title deeds of these properties must follow the forms prescribed by the laws of that country.

Any questions which arise concerning this right will be decided by these same laws, through appeal to the Minister of Foreign Affairs stipulated in the treaty.

It also stated that all foreigners and foreign protégés who either owned or leased agricultural land must pay the local agricultural tax.²

A detailed agreement on the property which foreigners could own was not, however, made until 1906 by Article LX of the Act of Algeiras:³

In conformity with the right which has been granted them by Article XI of the Convention of Madrid,

¹Convention of Madrid of 3 July 1880; see Appendix I. In Turkey foreigners were permitted to own property from 1867; in Tunisia from 1857; Egypt from 1864.

It is interesting to note that a French Ordonnance of 1761 forbade Frenchmen to purchase land or property in Morocco (or any Muslim country), apart from absolute necessities, such as a house, shop, etc. Michaux-Bellaire and P. Aubin, "Le régime immobilier au Maroc", p. 37.

On this and other aspects of property rights of foreigners, see also, Émile Amar's work.

²Art. XII.

³Signed on 7 April 1906; see Appendix XIV.

foreigners will be able to acquire real property throughout the entire Sherifian Empire and H.M. the Sultan will give necessary instructions to the administrative and judicial authorities in order that authorization for the drawing up of such acts shall not be refused without a legitimate reason. As for subsequent transfers by legal act between living persons, or after their demise, they will continue to be exercised without hindrance.

In the ports open to commerce and within a radius of ten kilometers around these ports,⁴H.M. the Sultan henceforth accords in general, permission to foreigners to purchase property, without the previous authorization required for each purchase by Article XI of the Convention of Madrid any longer being necessary.

The above-mentioned permission is also granted to foreigners in El Ksar El Kebir, Arzila, Azemmour, and ultimately in other coastal and inland areas, but only for acquisitions within a two-kilometer radius of these cities.

Wherever foreigners have acquired property, they will be able to construct buildings, in conformity with the regulations and customs [of the country/].

Before authorizing the drawing up of real property conveyance acts, the cadi must ensure, conforming with Muslim law, that all the title deeds have been regularly established.

The Makhzen will appoint in each of the cities and jurisdictions indicated, cadis whose duty it will be to certify these titles.

Sultan Abd el-Aziz, however, could not, in spite of the Algeciras agreement, authorize the purchase of property everywhere in his Empire, because his authority was not recognized by much of the Berber population

⁴These ports were: Tangier, Casablanca, Rabat, Mazagan, Safi, Mogador, Larache and Tetuan.

outside the Bled el-Makhzen, as indeed the Sultan, himself, had admitted.⁵ In the Figuig area, for instance, there was a special, non-religious custom called the bezra which forbade the population to sell, give away, or transfer their real estate to "foreigners", meaning anyone not of their own tribe.⁶ If any member of the tribe were to defy this custom, his property would be subject to confiscation by the local djemaa.

In some cases, however, Europeans did not act according to the letter of the law, for more than one property was purchased in the Bled el-Makhzen without Sherifian consent; indeed this was generally the case in the Chaouïa.⁷

Although Europeans were able to purchase real property in Morocco, provided that they carried out such transactions through Muslim courts,⁸ they disliked having to deal with the Moroccan judiciary. In consequence, Europeans generally went before their consular courts

⁵See "Sherifian Letter", wherein the Sultan admitted this, in his instructions to his delegates at the Algeciras Conference. "Le régime immobilier au Maroc", p. 39.

It was the Ouzir el-Bahr (Foreign Minister) who directly controlled and authorized the acquisition of real estate by foreigners. Mohamed Lahbabi, Le gouvernement marocain à l'aube du XXe siècle (Rabat: Éditions Techniques Nord-Africaines, 1958), p. 151.

⁶See Roger Gromand's interesting article, "La coutume de la 'Bezra' dans les ksour de Figuig", REI, V, 3 (1931), pp. 277 et seq.

⁷"Le régime immobilier au Maroc", p. 40.

⁸See Art. XI of the Convention of Madrid and Art. LX of the Act of Algeciras.

which then had to decide the question of competence and enforcement, and whether or not to send their nationals before a Moroccan court.⁹ The French consular courts, for instance, asserted their competence in all property matters and applied the principles of the Code Civile to Frenchmen whenever such cases arose, thereby obviating the application of the lex rei sitae.¹⁰

In Algeria much of the land and property owned by Frenchmen entirely escaped Muslim jurisdiction and was governed by the Code Civile, including:¹¹

- (1) Properties purchased by Europeans;
- (2) Properties belonging to Muslims, either when the owner was also a French citizen, or when he had been granted a deed of title by a French court.

As has been seen, the Act of Algeciras permitted foreigners to acquire property within ten kilometers of the eight ports open to commerce. Unfortunately, this arrangement was complicated later by the acceptance of a 101,124,000 franc loan in 1910¹² from France by Morocco, which pledged the revenue from the domain lands of the

⁹"Le régime immobilier", p. 42.

¹⁰Ibid.

¹¹Ibid., p. 44.

¹²Loan of 21 March 1910; see Section 4 of Art. III. The loan was to be amortized over a 75-year period, which meant all security for the loan (and there were five sources of security) would be pledged for that period. This treaty is in P.-Louis Rivière, Traités, codes et lois du Maroc, Vol. I: Accords internationaux (Paris: Recueil Sirey, 1924), p. 163.

ten-kilometer areas around these ports as partial security for the loan. Another difficulty was the fact that all the land within an area of two kilometers around El Ksar El Kebir was Habous property and therefore inalienable, while most of the land within an area of ten to twelve kilometers around most ports of the Sherifian Empire was Makhzen property, much of it in the hands of guich tribes.¹³

Thus, what at first glance seemed a fairly clear-cut definition of properties available to foreigners, was in fact far from defined or legally available.

¹³"Le régime immobilier", pp. 42-44. The guich tribes were: Ehl Sous, the Oudaïa, Cheraga, Oulad Djama, the Bouakhar, and Er-Rifi.

III. Habous

A. Prior to 1912.

In Morocco Habous properties belonged to the Muslim Community and were consecrated in perpetuity for religious purposes.¹ The income from them went, for the most part, towards the upkeep of mosques and mosque officials, hospitals, schools and students, the payment of salaries of professors, judges and special collectors of religious taxes, relief for the poor, and so on.² Habous property, or pious foundations, are said to have been first established by the Prophet in the 7th century and have since developed in every Islamic land.³

¹See, J. Luccioni, Le habous ou wakf (rites malékite et hanéfite) (Casablanca: Imprimeries de la Vigie Marocaine, et du Petit Marocain, n.d.), pp. 13-15.

²Al-Moutabassir, "Les habous de Tanger", RMM, I, 3 (1907), pp. 329-330. The author gives excellent, detailed accounts of expenditures of Habous funds in Tangier.

³A building or piece of land became Habous property at the wish of the owner who bequeathed it to the cities of Mecca or Medina, or to a pious foundation, a mosque, a zaouïa or for the creation of a school or hospital. Habous property probably reached its zenith in wealth and extent under the Almohades or Merinids.

El Boukhari related in his collection of Hadith that Omar ibn el-Khattab one day approached the Prophet, telling him he would consider it a great privilege to dedicate some of his land for a worthy cause, whereupon the Prophet told him to put it into Habous and distribute its revenues to the poor. E. Michaux-Bellaire, "Les biens habous et les biens du Makhzen, au point de vue de leur location et de leur aliénation", RMM, V, 7 (1908), pp. 438-439. See also, Asaf A.A.A. Fysee, Outlines of Muhammadan Law (London: Oxford University Press, 1955), p. 232.

Frede Løkkegaard, however, cannot give the specific date of the creation of this institution or of its creator.

"Probably the waqf came into existence in a conflux of ideas descended from the Byzantine institution of piae causae, charitable institutions, and the Iranian one of ruvânakan, legacies for the benefit of the souls of the deceased which no doubt, carried on their existence in connection with the cult of Mazdaism under Islam."

In the Ottoman Empire and Persia they were known as waqfs.

+ + +

1. Habous Administration.⁴

Traditionally there had been one nadir, or Habous administrator, in each mosque or zaouïa. He was appointed by and from among the notables of the quarter of the town or city in which the mosque was situated. He paid the salaries of the mosque officials, kept the property in repair, and so on.

Towards the middle of the last century, an important change was introduced by Sultan Moulay Abd er-Rahman (1822-1859).⁵ In order to channel the vast funds of the various Habous into his own hands, if only indirectly, he did away with private nadirs (and all nadirs had hitherto been private, that is, not government officials) of each mosque

³ continued:

"Probably the institution has even been influenced, in some way or other, by the Jewish qarban system. In fact there exists between them some rather striking points of resemblance, and on the whole much speaks in favour of a strong Jewish influence upon the forming of the entire fiqh system."

Frede Løkkegaard, Islamic Taxation in the Classic Period (Copenhagen: Branner Og Korch, 1950), p. 53.

For accounts of waqf development in Turkey, see: Muhammed Ahmed Simsar, The Waqfiyah of 'Ahmed Pasa (Philadelphia: University of Pennsylvania Press, 1940), Excursi I and II; H.A.R. Gibb and Harold Bowen, Islamic Society and the West, I, Part II (London: Oxford University Press, 1957), Ch. XII; Fyzee, Ch. IX, for India; Doreen Warriner discusses very briefly the position in Egypt, Syria and Iraq in Land Reform and Development in the Middle East (London: Oxford University Press, 1962), Ch. II; Ann S.K. Lambton for Persia: Landlord and Peasant in Persia (London: Oxford University Press, 1953), Ch. XI.

⁴For a general discussion of this, see J. Luccioni, pp. 76-78.

⁵Al-Moutabassir, pp. 332-333; Michaux-Bellaire, "Les biens habous et les biens du Makhzen", p. 443.

and replaced them with two nadirs for each city.⁶ These two nadirs, appointed by the Sultan and virtually his agents, controlled the administration of the Habous of each city.

These nadirs were subject to the general supervision of the Ouzir ech-Chikayat,⁷ a Minister of Administrative Appeals and Inspector General,⁸ whose task was to see that the Habous Administration functioned smoothly and that funds were used as intended by law.

This system introduced by Moulay Abd er-Rahman remained in force until the Protectorate, although in practice this centralization was never as efficient as that which was later developed under the French. Under Sultan Moulay Abd er-Rahman the amount of Habous property and the resultant income were greatly reduced, because the new nadirs destroyed most of the former property registers which had been handed over to them by the private nadirs, so that they could usurp for themselves any Habous property which suited them,⁹ and transferred the title deeds of the remaining property into new registers. As E. Michaux-Bellaire has pointed out, it was in Moulay Abd er-Rahman's time that the alienation of Habous property began in earnest.¹⁰

⁶Rabat, however, had only one nadir; see, L. Mercier, "L'administration marocaine à Rabat", AM, VII (1906), pp. 399-400.

⁷The extent of his power naturally ended with that of the Sultan, i.e., where the Bled el-Makhzen ended and the Bled es-Siba began. In the latter, nadirs were usually appointed by the local djemaas.

⁸M. Lahbabi, p. 176; see also, Ch. III, §I of this thesis.

⁹Al-Moutabassir, p. 333.

¹⁰Michaux-Bellaire, "Les biens habous", pp. 443-444.

2. Habous Property and Tenancy Rights.

There were two general classifications of Habous property:¹¹ Habous constituted for a religious establishment directly, without intermediary parties or heirs, which was called tahbis, or Habous endowment,¹² while Habous constituted to bring profit to one or more private intermediary parties before payment of the remainder to a religious foundation was called ta'qib, or private Habous. The private party might be either a family or a zaouïa.¹³ Generally speaking, land

¹¹Jews and Christians also were permitted to constitute property into waqfs, L. Gardet, "La propriété en Islam", p. 125.

¹²Michaux-Bellaire, "Les biens habous", p. 438; Al-Moutabassir, p. 327.

¹³Goulven considers the zaouïa as a third category. J. Goulven, Traité d'économie et de législation marocaines, II, p. 296.

The endowment could also take the form of a perpetual charity in favour of some or all of the founder's relatives and their descendants. Michaux-Bellaire, "Les biens habous", p. 439. Family Habous were established to act as trusts for family property, to ensure that it would not be confiscated by the Government, or as Løkkegaard puts it, ". . . for dodging the tax assessors and to safeguard personal property in other ways." Løkkegaard, p. 54.

There were two types of zaouïa Habous in Morocco: the most well known were the private religious schools organized by marabouts; the others were for a particular saint's grave. The nadirs of this latter type of zaouïa Habous were usually appointed by the local village or tribal djemaa. A great many of these latter zaouïas did not have any Habous at all and therefore did not have a nadir, but simply a moqaddem who collected the offerings which served to maintain the tomb. The Habous of mosques or saints in isolated areas usually consisted of fields, gardens, olive trees, vineyards, orchards, even flocks of sheep. The revenues received from a saint's Habous were divided up in three ways. One part of the revenues went to the descendants of the saint (perhaps one-half of the total amount), another part provided for the maintenance of the saint's tomb, while the third share went to the nadir of the local mosque towards mosque revenues. Mosque revenues (outside the Bled el-Makhzen) were used for maintenance of the mosque, etc., for hospitality of guests and for a special fund in each village (e.g., in the Djebala) for buying arms and ammunition to defend the village.

See Michaux-Bellaire's extremely interesting work on this subject, "Quelques tribus de montagnes de la région du Habt", especially pp. 173 et seq.

was considered Habous property either through conquest or testamentary bequest.¹⁴

When property was constituted as Habous, three principal effects were produced: (1) the act of constitution was irrevocable; (2) the constituted property was inalienable; (3) the property could not be inherited (though rights to income from private Habous could be inherited).¹⁵

There were exceptions to the principle of inalienability of Habous property. According to Sidi Khalil, if a mosque needed to be enlarged and if the sale of a piece of Habous property could provide the funds necessary for the enlargement, alienation of the property was permitted with the Sultan's authorization.¹⁶ Or, if a person wished to acquire the ownership of some Habous property, he could arrange for an exchange of that particular Habous property for another one of his own which he would give to the Habous in its stead, but the property given in exchange by the private individual had to be of greater value than the one ceded to him by the Habous; moreover, the transaction required the Sultan's authorization.¹⁷ Such an exchange

¹⁴L. Gardet, p. 125.

¹⁵Sautayra and Eug. Cherbonneau, Droit musulman -- statut personnel et des successions, Vol. II Des successions (Paris: Maisonneuve, 1874), p. 395.

W. Heffenig, "Wakf", EI, IV (1934), p. 1096. Some Moroccans have complained that strict observance of Malekite rulings over Habous caused much harm, and that a more realistic view, such as that of the Hanafi school, was needed. Al-Moutabassir, p. 326.

¹⁶Michaux-Bellaire discusses Sidi Khalil in, "Les biens habous et les biens du makhzen", p. 439.

¹⁷Ibid.

was called el-mou'auadha. Likewise Habous property could be sold to enlarge streets, to build cemeteries or for the maintenance of Habous property.¹⁸

Habous property was often leased to private persons, through the local nadir, although such leases were not to have been of long duration. Sidi Khalil, for example, stated that the lease could be for two years, while other jurists declared three to be the maximum,¹⁹ although the duration of the lease could be extended if the building were in need of repair. In such a case the nadir could consent to a lease for the time judged necessary and the rent would be used instead entirely for reconstruction or repairs.²⁰ The extension of leases in order to carry out repairs served as a legal loophole, and led to serious distortions of the original intention of the Habous jurists.

When Sidi Khalil stated that ownership of Habous property was indefeasible, he meant that no one could claim ownership of Habous property on the grounds of the length of his residence on the property, not even when the rent had been paid over a very long period of time.

There could be no moulkiya²¹ in Habous.²²

¹⁸Michaux-Bellaire, Vol. XXII: Les Habous de tanger -- registre officiel d'actes et de documents, AM (1914), p. 17. Vol. XXIII also deals with the subject.

¹⁹"Les biens habous", p. 440.

²⁰Ibid.

²¹Moulkiya refers to private ownership of property, though in Berber areas it often refers to perpetual possession of a piece of land though the person held no title to its ownership. Moulkiya was attested to before two adoul by twelve known witnesses supporting the possessor's claim and stating that the claimant had been living on the property for at least the past ten consecutive years.

²²"Les biens habous", p. 440; Michaux-Bellaire, "Le droit d'intervention du nadir des habous", pp. 489-490.

In Morocco public Habous fell into two sub-categories: land and property²³ administered directly by Habous officials, or nadirs; and land and property leased by nadirs to private parties²⁴ (as distinct from private or family Habous).

The simplest form of Habous was that which was administered and used directly by the nadirs themselves. The revenues derived from such properties were not taxable²⁵ and were administered by the nadirs for the maintenance and further development of these properties, and after deduction of such expenses, to pay the mosque personnel, the nadir and his personnel, the cadi, the mufti, etc.

The second category of Habous property consisted of lands (fields, orchards, and the like) and buildings leased by the nadirs to private parties, for farming, business and habitation.²⁶ Among the tenancy rights involved were the following:

menfa'a
intifâ'
gzâ
guelsa
haloua
zina

zerîba
ghibthâ
meftâh
istighrak
hazaqa²⁷

Within the category of tenancy rights of Habous property were

²³This included mosques, schools, hospitals, charitable institutions, gardens, aqueducts, fountains, baths, shops, etc.

²⁴The nadir arranged to have these properties leased at public auction.

²⁵It was only under the French that they were first taxed: See Residential Circular of 14 May 1918, discussed later.

²⁶Al-Moutabassir discusses many of these, pp. 336-342.

²⁷Applicable only to Jewish tenancy of property owned by Muslims.

to be found many contradictions as to legality or illegality, especially where there was a discrepancy between local custom and the prescriptions of the Chrâa. The position of the various jurists concerning what was or was not legal, with regard to property rights and customary practice, is fully analyzed by Louis Milliot in his valuable work.²⁸

One of the main difficulties arising over leases of Habous property was the problem of length of tenancy. According to Islamic law, the length of tenancy of Habous property had to be specified in the original tenancy contract and could not be of long duration, whereas in fact it was common to find tenancy agreements which not only failed to specify the length of tenancy, but which even led to, and often implied, perpetual tenancy. This virtual right of perpetual tenancy, which had become very common over the centuries, led tenants to consider the rent due to the Habous, not as a rent, but almost as a tax; and usually the amount charged by the administration was so little that by the 20th century the Habous were financially ruined. Much of the trouble was also due to the fact that Muslim jurists had never been greatly concerned with defining the various types of tenancy and tenancy rights.

In order that the difficulties between types of tenancies may

28

Louis Milliot, Démembrement du habous -- menfa'â, gzâ, zînâ, istighraq (Paris: Ernest Leroux, 1918).

be understood,²⁹ some of the main points are listed below.

Menfa'a was the use and tenure of a property whether or not it was accompanied by ownership of the property and entitled the holder to the profit of the property. By its nature the menfa'a right could be transferred to a third party; for Muslim jurists were opposed to intifâ', that is untransferable tenure of the right of usufruct.³⁰ Consequently, the menfa'a right could be detached from the property, ceded and acquired separately from the right of ownership. As will be seen later, the power to sublet (tenancy rights) was the basis of most other tenancy rights recognized by Islamic jurisprudence in Morocco. The menfa'a right could not only be transferred or acquired separately from the ownership right, but could be done either in exchange for payment or free of charge as a legacy or a donation. The transfer of the menfa'a right was included as an intrinsic part of the rent paid for the use of the property.³¹ Furthermore the holder of the menfa'a right could lend the use of the property, whereas the occupant of a zaouïa, medersa or ribat -- being the holder of the right of intifâ' -- could not cede his right of occupancy to a third party.³² The difference between menfa'a and intifâ' was a very important legal point.

In Morocco two other tenancy rights had been the subject of much

²⁹ See also, Luccioni, pp. 101-112.

³⁰ Milliot, Démembrement, p. 10; Løkkegaard, p. 53; Luccioni, p. 101.

³¹ Milliot, Démembrement, p. 9.

³² Ibid., p. 10.

dispute over the past centuries; they were known as the guelsa and the gzâ rights, and were both forms of menfa'a rights.³³

In the case of the guelsa right the owner of the land sold the guelsa right and at the same time leased the property to one and the same person.³⁴ The guelsa, more than any other tenancy right, caused confusion and difficulty, and more than one jurist had condemned it³⁵ on the grounds that it did not originate from the Chrâa,³⁶ and that the early oulama had never mentioned it,³⁷ and that it could not be justified by qiyas (analogy).³⁸ The only sanction for the guelsa was customary use, which was often in complete contradiction with the Malekite exposition of the Chrâa.³⁹ The guelsa rights consisted of the right to occupy a piece of property, enjoy the use of it and draw profit from it, but without being the owner of the property.⁴⁰ Difficulty arose from the fact that the guelsa rights, as customary rights, also presupposed perpetual tenure.⁴¹

Both the guelsa and gzâ were remarkable in that while they did not emanate from the Chrâa but from custom (orf) and usage (âda),⁴² they were nevertheless admitted by most of the Muslim jurisconsults.

³³ Heffenig, pp. 1096, 1100.

³⁴ Ibid.

³⁵ Al Medjaci said: "The guelsa is among the evil things to which men are accustomed. . . ." Mohammed ben Al Hasan Al Medjaci, "Naouazil", trans. Michaux-Bellaire, RMM, XIII, 2 (1911), pp. 239-241.

³⁶ Ibid; Milliot also comments on Al Fâsî's study of As-Sidjilmâsi, Démembrement, p. 14.

³⁷ Al Medjaci, op. cit.

³⁸ Milliot, Démembrement, p. 14.

³⁹ There were four schools of legal thought in medieval Islam, and the Malekite School has been followed in Morocco.

⁴⁰ Michaux-Bellaire, "La guelsa et le gza", RMM, XIII, 2 (1911), p. 97.

⁴¹ Démembrement, p. 64.

⁴² "La guelsa et le gza", p. 197.

Islamic law distinguishes between ownership and occupancy of property⁴³ and thus a person could occupy land, as in the case of the guelsa, without being its owner. The guelsa and gzâ were property rights leased by persons who, by custom, had obtained permanent occupancy,⁴⁴ by virtue of their being the first occupants of the property.

The gzâ rights, too, were rights to occupancy (without ownership) of property in return for rent; but these were applicable only to agricultural land, whereas the guelsa rights were applicable to houses and workshops.⁴⁵ Both the gzâ and guelsa served to facilitate the perpetual use and tenure of Habous estates or properties and as Louis Milliot has pointed out, so far as Muslim law and judicial sanction are concerned -- in theory at least -- they were both null and void.⁴⁶ Yet as Abderrahman al-Fâsî, the celebrated Moroccan jurist, stated à propos of customary practices of Fez, these two tenancy rights, although neither established nor recognized by the Chrâa, had become amel, that is, current practice with the force of law,⁴⁷ and were based on the right of prior occupancy.⁴⁸

Rent derived from property of the Muslim Community was paid to the Bit el-Mal Treasury (discussed in Chapter III), and this was true of the rent received from the guelsa and gzâ of such property. It was

⁴³ Gardet, "La propriété en Islam", p. 112.

⁴⁴ "La guelsa et le gza", p. 202.

⁴⁵ Ibid., p. 197.

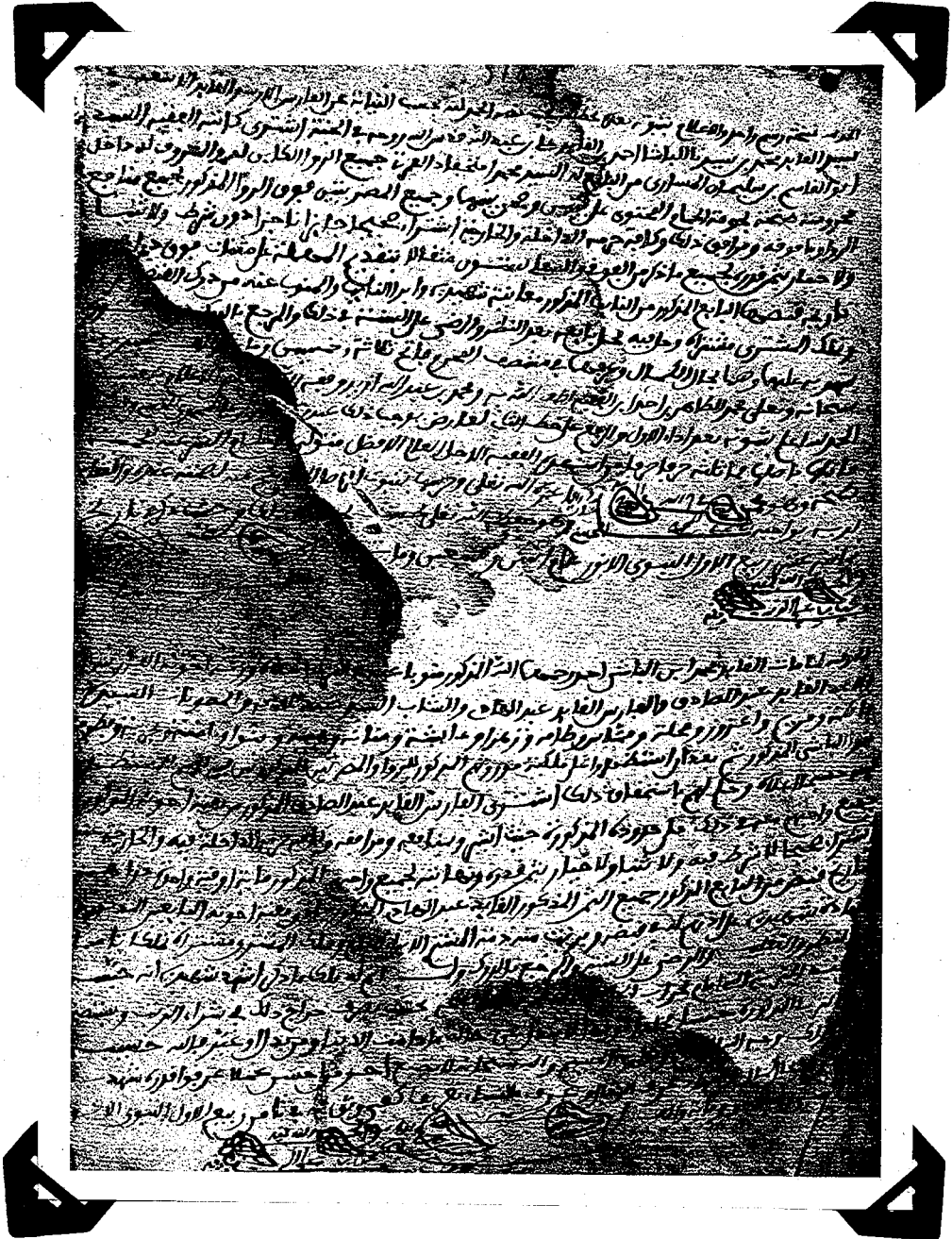
⁴⁶ Milliot, p. 13.

⁴⁷ "Commentaire de Sidi Mohammed ben Qasim As-Sidjilmasi Ar-Rabati", trans. Michaux-Bellaire, RMM, XIII, 2 (1911), p. 217.

⁴⁸ "La guelsa et le gzâ", p. 202. The right of first occupancy was also the basis for the Jewish tenancy right, the Hazaqa.

FIGURE 8.

AN 18TH CENTURY HABOUS DONATION^x



^xFor translation, see Appendix XXX.

paid nominally as kharadj (property tax), which just before the Protectorate was known as naiba.⁴⁹

The guelsa was exercised almost exclusively over improved, or built-up Habous and Makhzen property, but very rarely over private property.⁵⁰ It was a right of acquired possession, not derived from paying a sum to the owner of the property, but from the fact that the tenant had remained on a rented property for a certain time; and the tenant could rent or sell this right to a third party, on condition that the later continued to reimburse him for the guelsa and the rent due to the owner of the property; thus it was a type of sub-lease.⁵¹ Another method of obtaining a guelsa right for a property was by an arrangement with the nadir of a mosque property. If a shop or house belonging to that particular Habous had remained empty and thus unproductive for a certain period,⁵² a new lessee ready to pay the arrears from the period during which the property had remained unoccupied could obtain a guarantee of permanent occupancy from the nadir on condition that in the future he would continue to pay the same rent. The lessee thereby achieved the guelsa, or "key right", and with the sanction of the Habous administration itself, and could in turn sublet the property for a higher rent than he himself had

⁴⁹E. Michaux-Bellaire, "L'impôt de la naiba et la loi musulmane," RMM, XI, 8 (July-Aug. 1910), p. 396.

⁵⁰"La guelsa et le gza", p. 203.

⁵¹Ibid., p. 204.

⁵²The regulations dealing with Habous properties made it mandatory that no Habous property should be unproductive for a long period.

been paying, or sell his guelsa right to a third party, who would then have to pay the rent arranged by the nadir with the original contracting party.⁵³ It is clear from the foregoing that the guelsa right to a property often brought appreciable profits to its holder while the rent stipulated for the Habous and the Bit el-Mal would perforce remain the same, even over a span of centuries. This was the situation in Morocco at the turn of the 20th century.

A third way by which Makhzen and also Habous properties could be placed in the possession of an individual was by royal grant. This practice had been traditional throughout the Islamic world, for example in the Ottoman Empire, though with many variations. The administrator of all the property belonging to the Muslim Community was in principle the Imam, who was also the Sultan. In compensation for services rendered, or for any other reason, the Sultan could issue a decree, called a tenfida, or concession,⁵⁴ granting to an individual the tenure of one or more properties belonging to the Makhzen, or also in later times, belonging to the Habous. Payment of rent for such properties was generally demanded; but sometimes Makhzen properties were given to beneficiaries who were not required to pay rent and who thus gained virtually complete ownership. This type of grant was common in both medieval Europe as well as in medieval

⁵³ "La guelsa et le gza", p. 204.

⁵⁴ Al-Moutabassir, pp. 338 et seq.

Islam.⁵⁵ In the case of Habous properties, however, similar gifts could only be made by the Sultan when accompanied by the revenue from the properties, which were not sent to the Bit el-Mal but to the local Habous.⁵⁶

+ + +

After the establishment of the Protectorate, the French authorities soon became aware of the confusion surrounding Muslim property rights, and in 1913 appointed a Commission to study them; it was called the Commission d'Étude des Droits de Gzâ, Guelsâ, Clé et d'Autres Droits, and consisted of high-ranking Muslim officials.⁵⁷ The Commission drew up definitions of the various tenancy rights with the purpose of clarifying but not altering meanings.

Gzâ, or istidjar, was defined as a lease of unimproved land in order to raise buildings, or plant crops on it. The duration could

⁵⁵"La guelsa et le gza", pp. 204-205.

⁵⁶Ibid., p. 205.

⁵⁷The Sultan of Morocco appointed the following persons to take part in this Commission, along with the Directeur Général des Habous:

The Grand Vizir, Fakih Si Mohammed Guebbas,

The Minister of Justice, Fakih Si Bouchaïd Doukkali,

The Minister of Finance, Fakih Si Abderrahman Bennis,

The Second Secretary of Justice, Fakih Si Larbi Naciri,

The Secretary of the Beniqa (Ministry) of the Habous,
Si Larbi Djerrari,

The two oulama of Fez, Si Mohammed Mani Senhadji, and

Si Abdelaziz Bennani,

The two oulama of Rabat, Si Ahmed Bennani, and Si Mohammed Rounda,

The two oulama of Salé, Si Ahmed Aouad, and Si Allal Taghraoui,
MM. Calderaro and the Sherif Omar, delegates of the Secrétariat

Général du Gouvernement Chérifien.

The definitions were made at the session of the Commission on 26 Dec. 1913. Milliot has printed these minutes in the fourth appendix of his work, Démembrement, pp. 124-132.

either be determined -- for twenty years for example -- by month and year, or else left undetermined. The origin of the gzâ contract was as follows: When the Habous or Makhzen possessed land which was unproductive, the nadir, who could not obtain any return from it, rented it to a party who could use and develop it, for a specific duration.⁵⁸

The guelsa right, as defined by the Commission, was the usufruct of a property by virtue of a perpetual contract of lease. It was applicable to shops, workshops or factories. This kind of contract had usually come into existence when the country was sparsely populated or lay in ruin. The nadir, being incapable of restoring the estates under his supervision, leased them to a party who could install himself there with the appropriate materials, paying a monthly sum, due forever, even if he later left the property.⁵⁹

Connected with the guelsa was the zina ("improvement"), that is the lessee's title to improvements and accessories, for example, windows, installed by him. When the holder of a guelsa found the property inadequately equipped and himself incurred expenditure on necessary improvements, his ownership of these improvements was recognized. This was the position where Habous property was concerned. In Makhzen property the zina was equivalent to the gzâ of the Habous. The occupant built a house or construction on Domain land given to him

⁵⁸ Démembrement, p. 126.

⁵⁹ Ibid., pp. 126-127.

for unlimited duration, for which he paid a specified sum.⁶⁰

The key right (sometimes called the orf, ghibta, haloua) meant the transferee's right to obtain possession of the guelsa and to obtain the transferor's renunciation of future profits in his favour.⁶¹

The istighrak right arose when a rent was paid to the Habous for a property in a dilapidated state. The lessee put the leased estate in order and then enjoyed the use of it for a small sum. Any deed or contract of this nature was usually for a long duration.⁶² The following example was given by the Commission: when a Habous property was in a ruined or nearly ruined state, a party might propose to repair it. The cost of repairs was estimated by experts on the spot and was paid off by agreed deductions from the rent. The remainder of the rent went to the owner of the repaired property (i.e., the Habous). In the meantime, however, the lessee might carry out further repairs, thus obtaining an excuse for continuing to pay a reduced rent; and the Habous seldom succeeded in recovering its property.⁶³

The menfa'a rights included all the preceding ones, and as in the past permitted the beneficiary to dispose of them to a third party.⁶⁴ The intifa'a, on the other hand, restricted the tenancy of an estate to the original tenant, having been contracted for his benefit alone.⁶⁵

⁶⁰Ibid., p. 127.

⁶¹Ibid.

⁶²Ibid.

⁶³Ibid., pp. 127-128.

⁶⁴Ibid., p. 128; see also, Heffenig, p. 1096.

⁶⁵Démembrement, p. 128.

B. Habous Property During Lyautey's Administration.

As stated previously, there were two types of Habous properties in Morocco: public and private (the latter including zaouïas). Both continued under the Protectorate to be governed by many of the original Muslim regulations and customs,⁶⁶ and were administered by a special office dealing solely with the Habous.

Since the Habous properties were so important in the daily life of Morocco, as in other Muslim countries, Lyautey quickly saw the urgency of tackling the problem of their administration. A series of dahirs and residential circulars on this subject was issued from 1912 almost up to the time of Lyautey's resignation, while the immediacy of the problem as judged by Lyautey is seen by the fact that most of the legislation concerning the Habous was dealt with between 1912 and 1918.

1. Habous Administration.

Habous property was defined by French legislation as being mortmain, non-commercial, indefeasible and inalienable, usually connected with pious works.

In the years immediately prior to the establishment of the

⁶⁶Dahir of 2 June 1915, Art. 75, BO, 137, 7 June 1915, p. 319.

Protectorate many of the Habous properties had disappeared, while many others had become unproductive through negligence or dishonesty of Habous officials.

The Direction Générale des Habous was established in October 1912.⁶⁷ Its Directeur Général was responsible to the Secrétaire Général du Gouvernement Chérifien; throughout the first years of the Protectorate, however, there was much reshuffling of titles and offices at nearly every level of government administration, and in 1915 the Direction des Habous became the Vizirat des Habous, and its director was made a vizir. In May 1917 the office of Secrétaire Général du Gouvernement Chérifien was replaced by that of the Conseiller du Gouvernement Chérifien⁶⁸ and, in July 1920 the Conseiller was made director of the newly created Direction des Affaires Chérifiennes⁶⁹ housing the Makhzen ministries, the Habous thereby becoming one of the three administrative groups placed under the Conseiller.⁷⁰

The powers and duties of the Habous Ministry (its director will be referred to as vizir, hereafter), as outlined in July 1913,⁷¹ included the centralization of the administration of the Habous (both public and private)⁷² and the ensuring of close supervision of the

⁶⁷Dahir of 31 Oct. 1912, BO, 3, 15 Nov. 1912, p. 17. See also, Goulven, II, pp. 300 et seq.

⁶⁸Decree of 19 May 1917, Art. 4, discussed in Chapter III.

⁶⁹Dahir of 24 July 1920, BO, 407, 10 Aug. 1920, p. 1366.

⁷⁰See Ch. III, §I, B.

⁷¹Dahir of 13 July 1913, BO, 47, 19 Sept. 1913, p. 357.

⁷²Ibid. By tradition, in theory the Habous such as zaouïas and mosques were placed under the supervision of the cadis who had to see to it that they were kept in good repair, etc., whereas in reality zaouïas escaped the control of the cadis. Michaux-Bellaire, "Les habous de Tanger -- registre officiel d'actes et documents", p. 10.

nadirs and mourakibs.⁷³ The Vizir des Habous thereby succeeded to the post held by the Ouzir ech-Chikayat in pre-Protectorate Morocco.

The Vizir des Habous was assisted by the Conseil Supérieur des Habous which had been set up in May 1914.⁷⁴ Its main task was to supervise all actions of the Habous and to study all questions concerning the effective administration of Habous property.⁷⁵ It was empowered to . . .⁷⁶

- (1) Verify accounts of completed transactions;
- (2) Examine general and supplementary budgets produced by the Vizir des Habous;
- (3) Create a reserve fund;
- (4) Deduct amounts for necessary expenses;
- (5) Reinvest Habous funds, etc.

The decisions of the Conseil Supérieur des Habous were to be taken

⁷³As the local Habous administrators they were responsible for every local Habous transaction which had to be duly recorded in one of the following registers:

- (1) One for the recording of all the Habous properties in that locality.
- (2) One for the annual adjustments of accounts.
- (3) One for all matters concerning guelga and gzâ rights.
- (4) One for all requests for long-term leases.
- (5) One containing all requests made by individuals wishing to purchase Habous property.
- (6) One containing all transfers (alienating Habous property) for works of beneficence or for some general need.
- (7) One for the recording of correspondence received.
- (8) One for registration of correspondence set out.

Dahir of 13 July 1913.

⁷⁴Created by Dahir of 16 May 1914, BO, 83, 29 May 1914, p. 384. It only met for the first time in Aug. 1917.

⁷⁵Ibid., Art. 2.

⁷⁶Ibid.

by majority vote and then submitted to the Sultan.⁷⁷ The importance of the Conseil can be seen from its membership, which consisted of:⁷⁸

- (1) The Grand Vizir, as president;
- (2) The Vizir de la Justice, as vice-president;
- (3) The Conseiller du Gouvernement Chérifien, or his deputy;
- (4) The Vizir des Habous;
- (5) The Chef du Service de Contrôle des Habous;
- (6) A senior official of the Direction Général des Finances;
- (7) A member of the Conseil Supérieur d'Ouléma;⁷⁹
- (8) Five Muslim notables.

2. Habous Property and Lease Revision.

The first task of the Vizir des Habous was the appointment of Commissions for every city and town to list and evaluate all Habous property, which was initiated in December 1912.⁸⁰ These Commissions

⁷⁷ Ibid., Art. 5.

⁷⁸ Ibid., Art. 1.

⁷⁹ See Ch. VI, "Judicial Organization", §III.

⁸⁰ Dahir of 11 Dec. 1912, BO, 14, 31 Jan. 1913, p. 69. Each Commission was presided over by a nadir and consisted of:

- (1) Two experts in business affairs;
- (2) An agricultural expert;
- (3) A construction expert;
- (4) A master joiner;
- (5) An architect or similar person.

drew up an inventory of all Habous assets throughout Morocco, which was to be the basis for future legislation concerning lease and rent revision in respect of Habous properties.⁸¹

In June 1913 as a further step towards ending the traditional abuses at the expense of the Habous, adoul (notaries)⁸² were forbidden to draw up leases over Habous property comprising the guelsa, zina, etc. without the authorization of the local cadi.⁸³ Subsequently, when land or property rights were to be leased or sold, it was the local nadir's duty to make a full inquiry into the matter and trace back the legal ownership of such rights. In the past such care had not been taken, the ownership of property having been established merely by the testimony of witnesses before adoul, or by adoul alone, if the person involved was known to the adoul already.

Frenchmen too were guilty of abuses concerning Habous property and in June 1913 General Iyautey forbade all municipal and military authorities to occupy Habous property without authorization from the Habous Ministry.⁸⁴

The Direction Générale des Habous informs me that, in certain regions of the Protectorate, municipal officers and military authorities have, in some cases, installed themselves in Habous properties.

⁸¹See Circular of the Direction Général des Habous of 24 Jan. 1913, BO, 14, 31 Jan. 1913, p. 69.

⁸²Adoul--adel in the sing.

⁸³See Dahir of 26 June 1913.

⁸⁴Iyautey's Residential Circular of 28 June 1913. See also a similar Residential Circular issued on 10 Sept. 1913.

I should like to draw your attention to the inconveniences caused, so far as policy is concerned, by the occupation -- even if temporary -- of property of pious foundations: In the eyes of the natives it may be interpreted as spoliation if a rent -- even a low one -- is not determined by the local nadir. For foreigners, it creates unwelcome precedents which they do not fail to quote, and not without reason, when they have difficulties with the Habous.

We must not lose sight of the fact that we are held responsible for discretion in matters of pious foundations, and that these properties may not be occupied on the strength of dubious claims, or be alienated without authorization by the administration concerned.

In exceptional cases when the local authorities might be in absolute necessity of using a particular Habous property, the nadir responsible for it could seize it, as a preliminary step. These authorities will, at the same time, have to submit their request to the Secrétariat Général du Gouvernement Chérifien in order that the matter be adequately studied by the Direction. The principle of compensation or of rent to be paid will, however, always have to be respected, and the allocation of any property will only be permissible through the agency of the competent administration.

As has been seen, Protectorate officials had immediately begun to supervise the activities of local Habous officials, with the object of eliminating negligence in the drawing up of deeds, leases and property rights and in the handling of accounts. The antiquated rent system and lack of definition of the length of leases were dealt with in July 1913.⁸⁵ The ludicrously low rents hitherto demanded for Habous property were to be reassessed throughout the Empire; and it was hoped that efficient and expeditious machinery could be created

⁸⁵The detailed Dahir of 21 July 1913, BO, 47, 19 Sept. 1913, p, 358.

to deal with this and all other Habous business.⁸⁶ Revenues derived from Habous property were dealt with in five categories: (1) current rents, (2) long-term leases, (3) cash payments for Habous property, (4) sale of fruit and harvested crops, and (5) transfer of Habous property and leases.

There were no longer to be leases of Habous property of an undetermined duration.⁸⁷ Shops, fondouks, heris, Moorish baths and houses were to be let at public auction for a period of two years only,⁸⁸ and unimproved agricultural land was to be let at public auction for a period of one year,⁸⁹ all auctions being carried out in Arabic and French. The long-term leases were to be leases of unimproved land or else land on which stood dilapidated buildings, which could be let for a period of ten years.⁹⁰ New measures were introduced to adapt rents to the rise in the cost of living. Thus if a lessee chose to renew his lease for another ten years, he was required to pay 20% more rent than previously; this was increased by another 20% if the same party elected to renew his lease for a third period of ten years. After the third period, or after thirty years, the lease automatically expired and was not renewable.⁹¹

Precise legal descriptions of all properties were to be recorded:

⁸⁶Ibid., e.g. see §I, 4; and §II, 21.

⁸⁷The procedure involved in auctioning leases on Habous property is set forth in Dahir of 22 May 1917.

⁸⁸Dahir of 21 July 1913, §I. Tenures of Habous property encumbered by any of the menfa'a rights (i.e., guelsa, gzâ, etc.) were still valid on a perpetual basis. They will be discussed later.

⁸⁹Ibid.

⁹⁰Ibid., §II.

⁹¹Ibid., §II, 22.

dates of the contracts, names and professions of the contracting parties, etc. Adjudication Commissions were set up with power to give final decisions on leases and other matters pertaining to Habous properties.⁹² The decisions arrived at by such Commissions were final and could not be appealed against.⁹³

The sale of Habous properties was not permitted except in the case of unimproved land. A person wishing to purchase a parcel of such land was to apply the request to the local nadir, who forwarded this request to the Vizir des Habous who alone had the authority to dispose of such property.⁹⁴ In the event of the latter agreeing to the sale, the parcel in question thereby ceased to be Habous and became melk (private property).⁹⁵

All fruits and crops harvested from Habous property were to be sold at public auction, as in the past; and, as in the case of real property, the auctioning was to be carried out in both French and Arabic.⁹⁶

The Census and Evaluation Commission recommended in August 1913 that the nadirs immediately enforce payment of the present-day rent due by occupants of Habous property, who were to be given a three-month period in which to comply or vacate the property.⁹⁷

⁹²Ibid., §II (clause 2 of the second part). Each Commission consisted of:

- (1) The local cadi (or his naïb), as president;
- (2) The mourakib of the Habous;
- (3) The nadir of the Habous;
- (4) The two adoul of the cadi.

⁹³Ibid., clause 3.

⁹⁴Ibid., §III.

⁹⁵Ibid.

⁹⁶Ibid., §IV.

⁹⁷Dahir of 13 Aug. 1913. (This Commission had been created by Dahir of 20 April 1913.) It was not until 1916, however, that artisans renting Habous shops were notified of the newly fixed rents recommended by the Commission. Dahir of 4 June 1916 (resulting from Dahir of 21 July 1913).

As has been seen, the abuses practised by the adoul in the drawing up of Habous contracts and leases prompted the French authorities to subject them to close supervision by the cadis and nadirs. This still did not solve the problem of irregularities at the local level, because even some cadis were themselves responsible for gross irregularities, especially concerning private Habous of families and of zaouïas.⁹⁸ For instance, cadis were in some cases authorizing leases of up to sixty years' duration, although this was no longer legal and they were even disposing of private Habous property, which should have reverted to the public Habous when there were no longer any living heirs. To curb such actions, as of December 1913 cadis were no longer permitted to sell Habous property on their own authority, and further were only allowed to authorize leases of Habous property of up to two years' duration.⁹⁹

3. Verification and Revision of Leasehold Rights.

Although a general revision of leases and rents of Habous properties had been decreed in July 1913, there remained one very important group of Habous property which had escaped specific mention and re-evaluation: the gzâ, istidjar, zina, guelsa, and so on. As has been shown in this chapter, the rents received by the Habous for the lease of these

⁹⁸ A zaouïa was a Muslim brotherhood, and a combination of a private school and monastery. Family Habous came under the supervision of the Vizir des Habous, whose authorization was required for any lease exceeding two years.

⁹⁹ Dahir of 2 Dec. 1913, BO, 71, 6 March 1914.

rights were in most cases unrealistically low, having sometimes been unchanged for hundreds of years. The rents received were so minimal, that by the 20th century they usually did not even cover the cost of the repairs of the properties, although the original holders had often sublet them at ten and even twenty times the unchanged original rent.

In February 1914 these rights were revised and reapportioned.¹⁰⁰ The existing holders of such rights were confirmed as the rightful holders, provided that they conformed to the new regulations.¹⁰¹ Of the revised rent due to the Habous for each property, 30% was to go to the Habous, whereas 70% was to be returned to the lessee, that is to say, was not paid.¹⁰² Furthermore, there was to be no immediate change in the amount of rent due for the first two years (that is, from February 1914 to February 1916),¹⁰³ after which there was to be a progressive rise in rents in the following manner: (1) 15% of the rent was to be paid in the six years after February 1916, (2) after which this was increased to 20% for the next six-year period, (3) during a further six-year period 25% of the rent was due, (4) following the expiration of the last six-year period the full 30% of the newly stipulated rent was to be paid.¹⁰⁴

¹⁰⁰ Dahir of 27 Feb. 1914, BO, 74, 27 March 1914, p. 183.

¹⁰¹ Ibid., Art. 1-2.

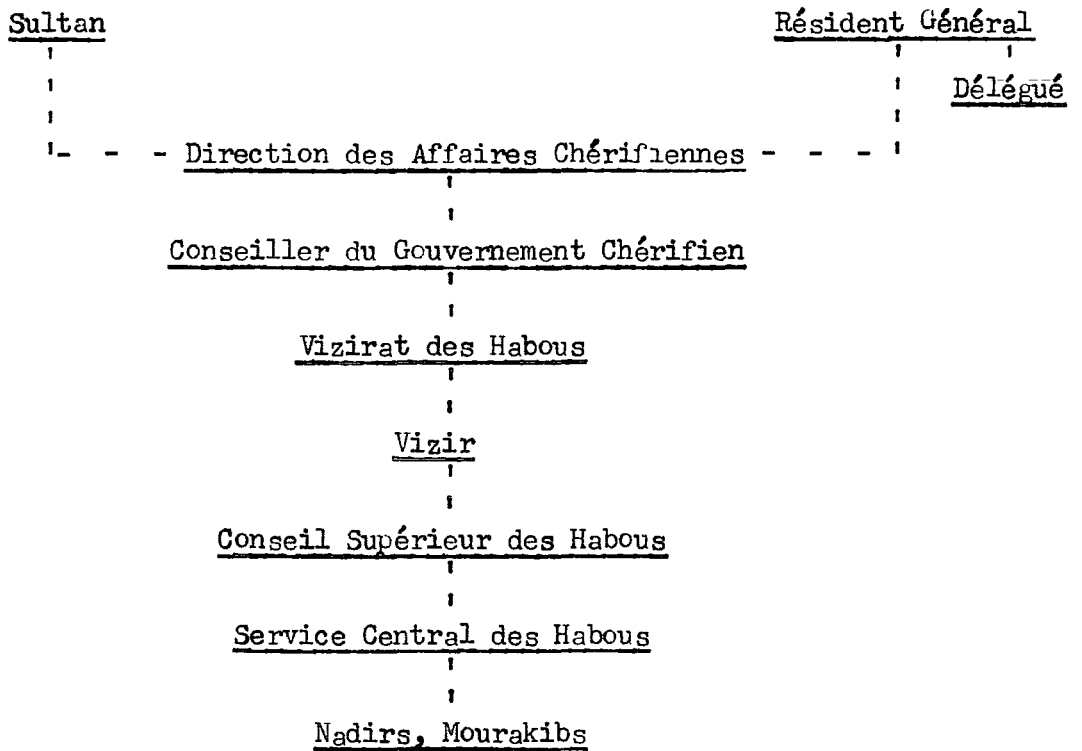
¹⁰² Ibid., Art. 3.

¹⁰³ Ibid., Art. 4.

¹⁰⁴ Ibid., Art. 5. Rent on such properties was based on 6% of the value of the particular property concerned, and thus ultimately, only 30% of that 6% evaluation was to be paid.

FIGURE 9.

HABOUS ADMINISTRATION, 1912-1925



Since this measure would not have sufficed to safeguard the interests of the Vizirat des Habous in the event of further rises in the cost of living and value of property, in July 1916 it was agreed to set up a special Commission to re-evaluate Habous rents every three years.¹⁰⁵

+ + +

Income due to the Habous from the various types of leases and rights encumbering Habous property had thus been ensured through a fair revision of rents over a graduated period; it still had not been established, however, who in fact legally held the tenures encumbering Habous property. The French authorities therefore proceeded in June 1918 to bring about the establishment of two types of Commissions for this purpose: Commissions d'Enquête and a Commission de Révision des Droits Réels Grévants les Biens Habous.

The Commissions d'Enquête was set up in June 1918 in the principal cities of the Empire with the purpose of registering the declarations of all persons purporting to hold any Habous leasehold rights.¹⁰⁶ Each Commission was composed of local Habous officials,¹⁰⁷ who

¹⁰⁵Dahir of 8 July 1916, BO, 196, 24 July 1916, p. 758.

¹⁰⁶Dahir of 25 June 1918, Art. 1, BO, 299, 15 July 1918, p. 673.

¹⁰⁷Ibid., Art. 2. Each Commission consisted of:

- (1) The mourakib of the local Habous district, as president;
- (2) The nadir in whose jurisdiction the Commission was held;
- (3) Two former nadirs, or naïbs of nadirs, or two adoul;
- (4) Two adoul, one acting as secretary.

registered all property rights encumbering Habous property and then made a full inquiry into the legality of each right, including a thorough examination or analysis of the titles involved.¹⁰⁸ A dossier concerning each case was then sent by the presidents of the Commissions d'Enquête to the Commission de Révision des Droits Réels.¹⁰⁹

One Commission de Révision des Droits Réels Grévants les Biens Habous was set up in Rabat in June 1918, and was composed of the following officials:¹¹⁰

- (1) The Vizir des Habous, as its president;
- (2) The Vizir de la Justice;
- (3) The Conseiller du Gouvernement Chérifien;
- (4) The Chef du Cabinet Diplomatique;
- (5) The Chef du Service du Contrôle des Habous;
- (6) The Conseiller Judiciaire du Protectorat;
- (7) Two Oulama;
- (8) Two Muslim notables;
- (9) A secretary-interpreter.

The task of the Commission de Révision was to hear and settle any cases or disputes involving Habous property which had arisen in the Commissions

¹⁰⁸ Ibid., Art. 7.

¹⁰⁹ Ibid., Art. 8.

¹¹⁰ Dahir of 25 June 1918, Art. 1, B0, 299, 15 July 1918, p. 674.

d'Enquête.¹¹¹ The Commission de Révision was empowered to order a further inquiry into any particular case, and to uphold or reject any claim.¹¹² Any person failing to declare his titles, or to appear before either a Commission d'Enquête or the Commission de Révision was presumed to hold an irregular title to any rights he claimed, and was given a three-month period in which to present himself; if, however, he then failed to appear, he automatically forfeited any rights to which he might have been entitled.¹¹³ Decisions made by the Commission de Révision were final and could not be appealed against.¹¹⁴

4. Public Utilities of the Habous.

Traditionally, the Habous had as a rule been responsible for the maintenance of urban services, such as sewers, city gates and walls, bridges, streets, watering-troughs and water supplies. These services and utilities were handed over in August 1914 to the Service des Travaux Publics of the various municipalities.¹¹⁵

+ + + +

Summary

The Protectorate initiated a thorough study and analysis of the Habous, and created a new ministry to administer and supervise Habous

¹¹¹ Ibid., Art. 2.

¹¹² Ibid., Art. 4.

¹¹³ Ibid., Art. 5.

¹¹⁴ Ibid., Art. 7.

¹¹⁵ Residential Circular of 20 Aug. 1914, Art. 1-2. Muslim cemeteries were still maintained under Habous administration, Residential Décision of 12 Sept. 1915.

officials. None of the past offices was done away with; nadirs, mourakibs and adoul kept their traditional positions. Thus the Moroccans were not upset by a multitude of innovations repugnant to their inherited traditions. The institutions of Habous trusts and property, and all public and private Habous were also respected and maintained, although they were now brought under close supervision; and consequently funds and properties no longer suddenly disappeared from Habous registers. Traditional usufruct rights, such as the guelsa and gzâ, were also respected, but only after titles to them had been rigorously checked by Muslim officials. All Habous property leases were revised and defined, permitting tenancy for specific periods only. All Habous property was registered and reassessed, and as a result, revised rent schedules were implemented, though only gradually over a period of twenty years.

Some properties and responsibilities were transferred from the Habous to the municipal authorities, but in general only those which involved public services and utilities which could be more efficiently maintained by the municipal authorities and the Services des Travaux Publics.

The result of this intensive reorganization was to end abuses and the gradual depreciation of Habous assets, to make the Habous an efficient and useful institution, as it was first intended to be.

IV. Collective Property.

We are trying to convince them [the Moroccans], and we have already been able to make them understand that the only real form of property is individual private property. And thus, as we transform collective tribal property into private property, as we increase the value of the estate of each member of the tribe, we ask in return to have a part of the collective tribal property transferred to State ownership. It is on this same collective property that we are creating sectors to be made ready for French colonization.

MARSHAL LYAUTEY,
Paris, 5 December 1923.

Until recently a map of Morocco would have shown a conglomeration of tribal lands, forming a patchwork of irregular boundaries. The larger territories were usually the lands of tribal confederations, each of which included several tribes.¹ In a sense, the tribal confederation was to Morocco what the state is to the U.S.A., the county to England, or the département to France. Most of Morocco was inhabited by tribes which controlled the Bled es-Siba, that is, the very extensive territories where the Sultan's administrative authority was not recognized.

The Sultan considered himself the ultimate owner of all tribal lands throughout the Sherifian Empire, with the tribes as the perpetual occupants, which in turn could grant special sub-leases and thereby enable each family of a tribe to dispose of its property. Important

¹There were perhaps 600 tribes in the Empire. See Map VI in the back pocket.

decisions pertaining to the tribe were made generally by the djemaas (tribal council) consisting of the tribal notables and family heads; the nominal head of the tribe, the caïd, took orders from the djemaas.

+ + +

Although the traditional names of offices and institutions were maintained by the French, tribal structure was fundamentally altered.

The Directeur des Affaires Indigènes was the chief administrator of tribal affairs, along with the Conseil de Tutelle. At the local level officiers de renseignements or contrôleurs civils, depending whether the region were military or civil, worked directly with the tribes.

A. Official Djemaas.

The French created official tribal djemaas (discussed in Chapter III) in November 1916², whose members consisted either of all the family heads, or else of the tribal notables, all of whom were nominated for a three-year period by vizirial decree upon the recommendation of the chef de région (to whom the autorités locales de contrôle were responsible)³.

²Dahir of 21 Nov. 1916 (modified by Dahir of 11 March 1924), BO, 217, 18 Dec. 1916, p. 1170. Albert Guillaume discusses the full evolution of djemaas under the French in his legal treatise, La propriété collective au Maroc (Paris: Librairie de Médicis, 1960), especially pp. 19 et seq.

³Dahir of 21 Nov. 1916, Art. 1.

The official djemaas had few real powers and these being limited to:⁴

- (1) Advising the French autorité locale de contrôle of the interests of the tribe;
- (2) Administering collective property of the tribe or fraction;⁵
- (3) Representing the tribe, with the assistance of of the autorité locale de contrôle, in all legal matters.⁶

The autorité locale de contrôle, generally a contrôleur civil, was always present at every meeting of the djemaas, and helped the caïd to prepare the agenda.⁷

B. Tribal Property, 1912-1925.

The administration of tribal property was dealt with at length in April 1919,⁸ and will be considered in the following categories: Administration, Ownership and Alienation; Leases; Revenues from Tribal Property; Delimitation of Collective Property.

1. Administration, Ownership and Alienation.

The djemaas managed the ownership rights of its collective property,

⁴Ibid., Art. 4.

⁵Submitted to the regulations of the Dahir of 7 July 1914 (Part One, Title I, clause 2), BO, 90, 17 July 1914, p. 579, making tribal property inalienable, along with that of guich tribes.

⁶27 April 1919, Art. 5.

⁷Dahir of 11 March 1924, Art. 3.

⁸Dahir of 27 April 1919, BO, 340, 28 April 1919, p. 375.

but only under the guardianship and supervision of the State, which at the executive level was represented by the Directeur des Affaires Indigènes⁹ and the Conseil de Tutelle.¹⁰ This Conseil, established in April 1919,¹¹ was an important institution in tribal affairs and its membership, as altered in May 1924, included:¹²

- (1) The Directeur des Affaires Indigènes et du Service des Renseignements, as its president;
- (2) The Conseiller du Gouvernement Chérifien;
- (3) The Directeur Général de l'Agriculture, du Commerce et de la colonisation;
- (4) The Chef du Service des Contrôles Civils et du Contrôle des Municipalités;

⁹Ibid., Art. 1-3.

¹⁰Ibid., Art. 3.

¹¹Ibid.; this first Conseil consisted of:

- (1) The Directeur des Affaires Indigènes, as its president;
- (2) The Conseiller du Gouvernement Chérifien;
- (3) A French judge, appointed by the Premier Président of the Cour d'Appeal;
- (4) Two Muslim notables, appointed by the Grand Vizir.

It also had a secretary and an interpreter (Art. 12).

¹²Dahir of 20 May 1924, BO, 607, 10 June 1924, p. 881. In 1937 the Conseil was again modified (by Dahir of 9 Oct. 1937).

It was reorganized for the last time by Dahir of 28 July 1956 and was made up of:

- (1) The Ministre de l'Intérieur, as president;
- (2) The Ministre de l'Agriculture;
- (3) The Directeur des Affaires Politiques du Ministère de l'Intérieur;
- (4) The Directeur des Affaires Administratives du Ministère de l'Intérieur;
- (5) Two members appointed by the Ministre de l'Intérieur.

(The Directeur des Affaires Indigènes et des Renseignements had by this time become the Ministre de l'Intérieur.) See also, A. Guillaume, La propriété collective, Chapter 2.

- (5) Two Moroccan notables, appointed by the Grand Vizir.

Although, as a general rule, tribal property remained inalienable, exceptions were now permitted. No individual tribesman could sell his particular share of the land;¹³ but if the majority of the members of the djemaa agreed to a division of tribal land by allocating a specific portion to each head of family of the tribe, that division might be authorized by the Conseil de Tutelle, and the parcels of land could then be alienated, or given in collateral security, or sold to foreigners, but only with the authorization of the Conseil, and following a ten-year waiting period, which in exceptional cases could be reduced to five years.¹⁴ Yet ownership of collective property

¹³In Berber tribes individuals were permitted to part with melk (private) property, even to non-tribal members or to foreigners (depending on the tribe). The consent of the djemaa was required, however (Dahir of 15 June 1922, Art. 1-3, BO, 505, 27 June 1922, p. 1034). The autorité locale de contrôle then notified the Conservation de la Propriété Foncière of the alienation and if the Berber had a clear title to the land, its sale could be authorized, although it had to be registered immediately with the Conservation (Ibid., Art. 3 et seq.). In most other respects Berber tribes were reorganized in the same manner as any other naïba tribe. Cf. Dahir of 5 Sept. 1921, and Dahir of 28 Nov. 1921.

¹⁴Dahir of 27 April 1919, Art. 4.

This ten-year waiting period was introduced so as to put an end to speculation, for, as Louis Milliot wrote, if the native were ". . . free to alienate his property immediately, he would be greatly tempted by the high prices offered him. And it is thus not the European speculator here whom he would have to worry about." Louis Milliot, Les terres collectives (blâd djema'â)--étude de législation marocaine (Paris: Ernest Leroux, 1922) p. 118.

The position concerning division and alienation of tribal property was subsequently altered several times; for instance, the Dahir of 28 May 1938 confirmed that tribal land could be divided up and alienated, but only after a period of thirty years (which was reduced to ten years in exceptional cases). This was done in order to prevent an expected rush to buy land in the Boufekrane area. In 1945 (Vizirial Decree of 14 Aug. 1945), a right of perpetual tenancy was given in some tribes to each tribal

remained indefeasible except for members of the tribe, and then only for the parcels which they had personally inhabited and possessed at that time and with the consent of the other co-owners.¹⁵

Immediate alienation of tribal property could only be arranged and acquired by the State, and then in two ways only.¹⁶ Collective land might be expropriated by the State by right of eminent domain for public works programmes, etc.,¹⁷ or when the Protectorate authorities wished to establish "colonization perimeters" on it.¹⁸ In either case the collectivity (that is, the tribe) was indemnified for the loss of its property.¹⁹ Although the djemaas could not veto such expropriation,

14 continued:
member. By the Dahir of 19 March 1951, alienation of tribal property (i.e., to private individuals) was authorized, with a view to ensuring a rational assessment of rural collective property and to encouraging urban construction. Such sales, however, were carefully regulated by the Protectorate. Finally, the Dahir of 22 Jan. 1952 simplified the means by which the State could acquire tribal property, if all parties agreed to the alienation, and permitted expropriation if the collectivities and the Conseil de Tutelle were unwilling.

The Circular (no. 2976) of 13 Nov. 1957 recognized an innovation begun by some tribes in 1950. It authorized the equal division of tribal lands among the families of the tribe, while keeping some land in reserve. The families paid no rent in cash, but did give a part of their harvest to the tribe. This type of division was in effect a tribal lease; the lands were let for a ten-year period, and if the male head of the family died, a widow with children was permitted to keep the land till the children were married. This Circular was applied particularly in the Chaouïa, Rharb, and areas around Meknes and Fez. See also, Albert Guillaume who discusses these latter events, pp. 27-30, 97-99.

¹²Dahir of 27 April 1919, Art. 10. ¹⁷Dahir of 31 Aug. 1914.

¹⁶Ibid.

¹⁸Dahir of 27 April 1919, Art. 10. In this case the application of the Chef du Service des Domaines was proceeded with, according to the view taken by the Directeur de l'Agriculture.

¹⁹Ibid., Art. 14.

they were consulted, if only for the sake of form. Both the djemaa and the Conseil de Tutelle were consulted for their opinion of an intended expropriation;²⁰ for as the guardians of tribal property it was their duty to see to the tribe's welfare. Thus, for instance, the Conseil was responsible for ensuring that each tribe possessed ". . . lands sufficient for its normal development."²¹ At the same time the Conseil de Tutelle also had to take ". . . into account its estimate of the advantages which the natives would gain from European settlement of the region, or from the setting up of agricultural or industrial centres."²² Be that as it may, and even if the Conseil objected to the proposed expropriation, the Directeur des Affaires Indigènes had the authority to overrule it.²³

2. Leases.

Three categories of leases were defined under French legislation: short-term, long-term, and perpetual leases.

A tribal djemaa was empowered to grant a lease for tribal property for a duration not exceeding three years, and such leases had to be recorded by written contract (as opposed to the traditional oral agreement);

²⁰Ibid., Art. 11.

²¹Ibid., Art. 13.

²²Ibid. Today this may sound like out-and-out hypocrisy on the part of the French, and indeed there were certainly strong financial interests in the background applying pressure on the French Government (e.g., Cf. Albert Ayache's Le Maroc -- bilan d'une colonisation (Paris: Editions Sociales, 1956); the ubiquitous French mission civilisatrice, however, was also sincerely believed in by many, e.g. Lyautey.

²³Ibid., Art. 11; Cf. Art. 5.

they could only be renewed to the same lessee with the authorization of the Conseil de Tutelle.²⁴ Likewise the djemaas could authorize leases of one year for the grazing of livestock, leases which could be renewed twice for an additional year, without the Conseil's authorization,²⁵ but any extension beyond the first three-year period would require authorization.

Only one form of long-term lease was now permitted, a lease for a period of ten years, which could only be granted by the djemaa with the consent of the Conseil de Tutelle.²⁶

The djemaa was also permitted, with the Conseil's consent, to alienate some of its property in perpetuity (through a lease, not a sale), under the following conditions:²⁷

- (1) The alienated property had to be registered with the Conservation de la Propriété Foncière in the name of the tribe;
- (2) The consent of the majority of the members of the djemaa was necessary and had to be attested by an authentic document;
- (3) Alienation had to take place at public auction;

²⁴Ibid., Art. 6.

²⁵Ibid.

²⁶Ibid., Art. 7. This was done in the following manner: the djemaa requested authorization of the lease from the autorité locale de contrôle who in turn submitted it, with a detailed report, to the Directeur des Affaires Indigènes, who passed it on to the Conseil de Tutelle which would accept or reject it. If the lease were approved by the Conseil, the autorité de contrôle formally drew up the boundaries of the leased property in the presence of all parties concerned (members of the djemaa, lessee, neighbours).

²⁷Ibid., Art. 8.

- (4) An annual and perpetual rent was to be paid the tribe.

3. Revenues from Collective Property.

When tribal property was leased, expropriated by right of eminent domain or for colonization, or alienated in any other way, it was the Conseil de Tutelle which had to decide, in each case, how best to reinvest the sums received, whether as compensation for alienated property, or as rents.²⁸ Generally speaking, all such amounts received were either credited to the savings account for tribes with the Trésorerie Générale du Protectorat (entitled "Collectivités, Leur Compte de Fonds en Dépôt"), or went directly to the tribes.²⁹

All capital credited to the tribal "savings account" was paid in by the Directeur des Affaires Indigènes, and it was he alone who could withdraw any of it.³⁰ The account for tribes at the Trésorerie Générale was "general", and all funds received from all tribes went into one general account; whereas current accounts for each individual tribe were held at the Direction des Affaires Indigène (Service des Collectivités)³¹

The use of the sums received was decided by both the Conseil de Tutelle and the djemaas.³² Proceeds received from expropriation, leases or alienation of the rights of perpetual tenure could not be used by the

²⁸ Ibid., Art. 8; Vizirial Decree of 26 Dec. 1920, Art. 4, BO, 430, 18 Jan. 1921, p. 83.

²⁹ Vizirial Decree of 26 Dec. 1920, Art. 1.

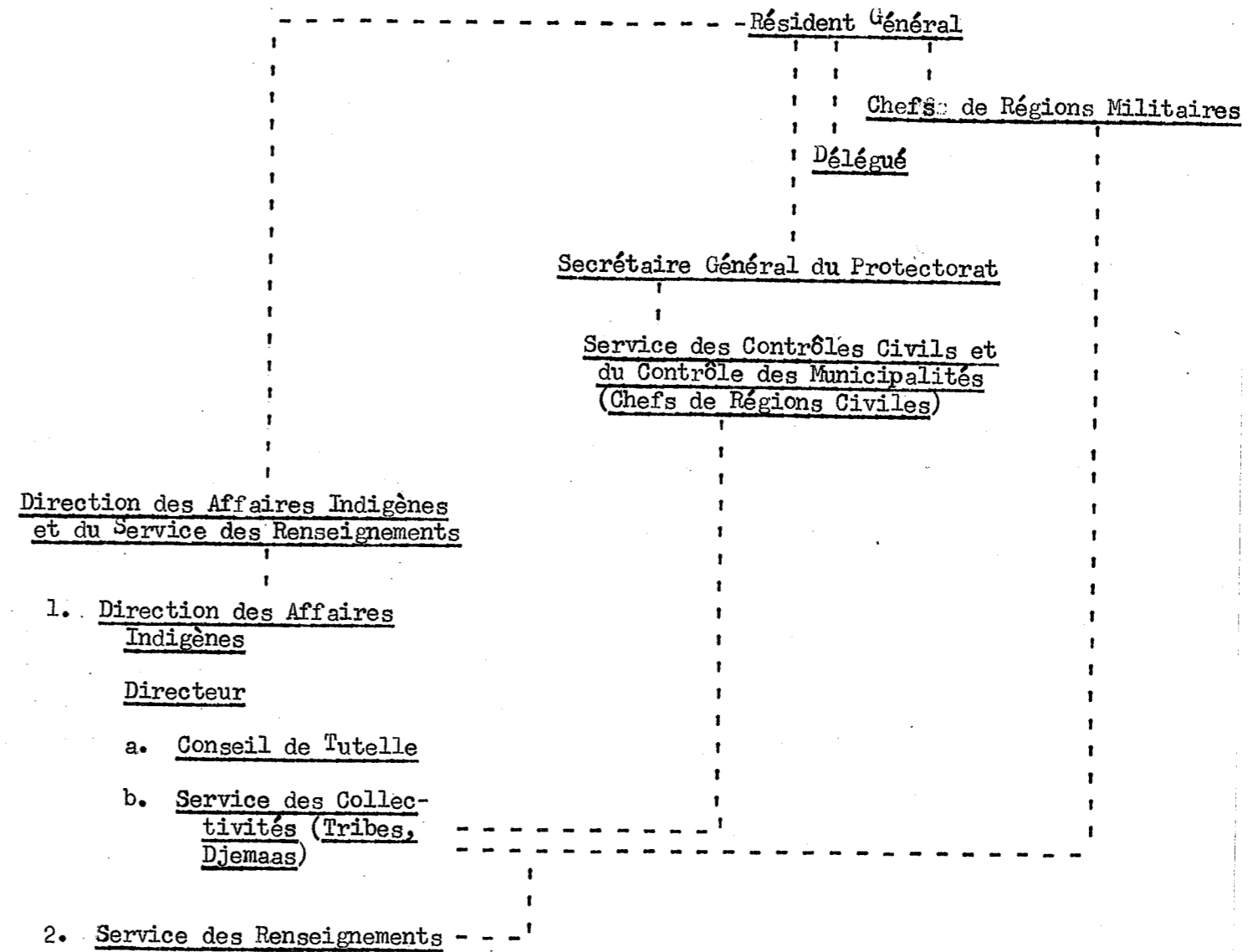
³⁰ Ibid., Art. 2.

³¹ Ibid., Art. 3.

³² Ibid., Art. 4.

FIGURE 10.

TRIBAL ADMINISTRATION, 1912-1925



Conseil for the construction of highways, wells and watering-troughs, or for the improvement of sanitation, unless the djemaa specifically requested this. Sums accruing from perpetual rents or from long-term leases were to be distributed among the families of the tribe, if this were feasible;³³ otherwise the money, including sums received from the alienation or expropriation of tribal property, was to be invested in real estate or to be applied generally to benefit the tribe, for instance for charity, tribal legal costs, improvement of land and buildings, cultivation of virgin land, construction of shelters for flocks, planting of crops and orchards, purchase of animals or agricultural materials, or irrigation projects.³⁴ In most cases sums received from the various categories went directly to the Trésorerie Générale and were later withdrawn as required; in the case of revenues received from leases and the like, they could be distributed among the tribal families, as shown above.³⁵

When the djemaas wished to use funds from revenues and compensation moneys, they sent a written request to the Conseil de Tutelle stating the manner in which they wished to have the funds used.³⁶ After studying the request of the djemaa, and hearing the views of the autorité locale de contrôle (and in some cases, of the local representatives of the

³³Dahir of 27 April 1919, Art. 14.

³⁴Ibid; Vizirial Decree of 26 Dec. 1920, Art. 4.

³⁵Vizirial Decree of 26 Dec. 1920, Art. 1.

³⁶Ibid., Art. 4.

Directeur de l'Agriculture, the Service d'Élevage and the Service des Domaines), the Conseil would make its decision,³⁷ which was conveyed to the Directeur des Affaires Indigènes who issued authorization for the withdrawal of the necessary funds.³⁸ The Conseil thus had the key role in permitting the distribution of funds, and of living up to its paternalistic title, by ensuring that tribes did not squander their patrimony.

4. Delimitation and Registration of Collective Lands.

In pursuit of the policy of defining all property and property rights within the Sherifian Empire the Directeur des Affaires Indigènes as the guardian (tuteur) of "collectivities", was empowered to request delimitation of the boundaries of collective properties, although the djemaas were also consulted.³⁹ The properties were then studied and surveyed by a special Commission,⁴⁰ while the procedures involved in the survey of property borders were announced to the public in advance and news of the delimitation being posted in the cadi's mahakma, the

³⁷ Ibid.

³⁸ Ibid., Art. 2.

³⁹ Delimitation of tribal property was first introduced by Dahir of 18 Feb. 1924, BO, 596, 25 March 1924, p. 542. See Art. 1.

⁴⁰ Ibid., Art. 2. Each Commission consisted of the following:

- (1) A representative of the Conseil de Tutelle;
- (2) A representative of the autorité locale de contrôle;
- (3) The djema of the area;
- (4) The caïd;
- (5) A surveyor;
- (6) A representative of the Direction Générale des Travaux Publics (if necessary);
- (7) An interpreter;
- (8) Two adoul.

Conservation de la Propriété Foncière, all French courts in the area, the offices of the Direction des Forêts, the Service des Domaines and the Direction des Affaires Chérifiennes.⁴¹ Any parties opposing a delimitation had the right to lodge their objections with the Commission or the autorité locale de contrôle for hearing under a prescribed procedure.⁴²

The purposes of such delimitations were generally to facilitate the alienation and expropriation of tribal land for public works or colonization settlements, or to halt unofficial alienation of tribal land by Moroccans. The Directeur des Affaires Indigènes was now empowered to have tribal properties registered with the Conservation de la Propriété Foncière,⁴³ which at the same time placed all collective properties in

⁴¹Ibid., Art. 4.

⁴²Ibid., Art. 5-6.

⁴³Ibid., Art. 10. Albert Guillaume, in his La propriété collective, gives the following figures for surveyed and registered tribal property (p. 36):

(1) Area of collective property registered by 1960:

Rabat.	58,243	<u>hectares</u>
Casablanca	36,047	
Fez.	8,879	
Meknes	4,935	
Oujda.	3,784	
Mazagan.	6,449	
Oued-Zem	14,651	
Agadir	25	
Marrakesh.	23,906	

TOTAL: 156,919

(2) Area of collective property delimited by 1960:

Province of Oujda	481,100.97	<u>hectares</u>
" " Taza	458,617.13	
" " Fez	48,510.96	
" " Meknes.	196,400.23	
" " Tafilalt.	117,033.20	
" " Rabat	201,462.23	
" " Casablanca.	236,890.73	
" " Tadla	117,845.27	
" " Marrakesh	981,465.47	
" " Ouarzazate.	187,604.00	
" " Agadir.	82,313.67	

TOTAL: 3,149,246

this category under the sole jurisdiction of French courts.

5. Alienation of Berber Property.

In June 1922 special provisions were made whereby Berber tribesmen adhering to customary law (as opposed to the Chrâa) were permitted to alienate melk property only.⁴⁴ In such a case the djemaa made a complete study of the property concerned (boundaries, etc.), notifying the autorité locale de contrôle of the intended sale, who in turn informed the local office of the Conservation de la Propriété Foncière.⁴⁵ If everything were in order immediate consent was given, and the property was registered with the Conservation.⁴⁶

In all other respects, however, the regulations governing tribal property, issued in April 1919, applied to Berber tribal property.⁴⁷

+ + + +

Summary

The reorganization of tribal administration and property brought about important changes. Tribes were no longer independent, autonomous units. Although their traditional administrative forms were maintained, they were for the most part façades, real authority being in the hands

⁴⁴ Dahir of 15 June 1922, Art. 1, BO, 505, 27 June 1922, p. 1034. Tribes classified as adhering to Berber customary law were listed in the Vizirial Decrees of 5 May 1923, 8 March 1924, and of 16 April 1928; see Chapter III, §III, B, where these tribes are listed.

⁴⁵ Dahir of 15 June 1922, Art. 3.

⁴⁶ Ibid., Art. 4.

⁴⁷ Dahir of 5 Sept. 1921; see also Dahir of 2 June 1923.

of the autorités locales de contrôle, Conseil de Tutelle and Directeur des Affaires Indigènes. Both in 1914⁴⁸ and 1919 the French stressed that tribal property was inalienable; nevertheless, the Dahir of 27 April 1919, while reiterating this point, admitted to certain important exceptions to the rule. For example, the State could expropriate tribal property either for public works -- such as highways or railways -- or for colonization settlements. Tribal interests were now being forfeited to those of the French authorities.

The changes in the structure of tribal property led to a definite change within the tribes and gradually developed a desire by tribesmen to obtain their own private plots of land -- often just a few hectares.⁴⁹ This later development of individual holdings occurred many years after Iyautey's departure, and resulted from the need of the tribes to protect themselves and their individual property rights and from having to appeal to their djemaas for such protection.

⁴⁸ Dahir of 7 July 1914 included tribal property as one of the eight categories classified as inalienable.

⁴⁹ A. Guillaume. See Ch. IV (pp. 65-86) and V (pp. 87-110).

V. Public and State Domain.

A. Introduction.

Although Public Domain, State (Private) or Makhzen property, Habous, and collective property are all forms of public property in Morocco, the distinctions between them are important. Whereas Habous property is of a specifically religious nature, and collective property is purely tribal, Public Domain and State or Makhzen Domain are technically public property. Prior to 1912 no real distinction was made between Public Domain and State or Makhzen property,¹ and the confusion led to malpractices and alienations by Makhzen (i.e. Government) officials. In 1895 the Sultan's regent tried to halt such abuses by having an inventory drawn up of existing Makhzen property,² which consisted of Government buildings throughout the Empire, some natural resources, properties confiscated by the Government or Makhzen from public officials or important persons who had fallen into disgrace, property which had reverted to the State when an individual died without leaving an heir, and guich lands.³

¹By Makhzen property I refer to Makhzen melk and private domain. Cf. "Le régime immobilier", pp. 22-24. This was also confused with the Sultan's private property.

²Dahir of 25 April 1895. Lahbabi, p. 159; Émile Amar, p. 27.

³At the time of the establishment of the Protectorate there were six groups of guich tribes and they were considered Makhzen tribes:

- | | |
|---------------------------------------------------|-------------------------------------------------------------------|
| (1) The <u>Ehl Sous</u> (at Fez and Marrakesh), | (4) The Oulad Djama (the Cherâda, on the left bank of the Sebou), |
| (2) The Oudâla (Marrakesh and Rabat), | (5) The Bouakhor (Negroes, Meknes), |
| (3) The Cherâga (between the Sebou and Fichtala), | (6) Er-Rifi (around Tangier). |

Cf. Labour Survey of North Africa (Geneva: International Labour Office, 1960), p. 52; Émile Amar, pp. 37-39.

+ + +

There were two general categories of Domain property in the Sherifian Empire -- Public and Private (or State, Makhza) -- and three sub-classifications.

Public Domain⁴, which the Protectorate authorities declared to be inalienable,⁵ included the following:⁶

- (1) The seashore to the furthest limit of the tides, as well as a zone of six meters measured from that limit.
- (2) Roadsteads, ports, harbours and related installations.
- (3) Lighthouses, beacons, navigational works.
- (4) All waters above or beneath the ground, water-courses and all sources of water.⁷
- (5) Lakes, pools, lagoons, etc.
- (6) Navigation canals, irrigation canals, etc.
- (7) Artesian wells, public wells and watering-troughs.
- (8) Dikes, barrages, aqueducts, and similar projects falling within the category of public works.
- (9) Highways, roads, streets, railways, tramways, bridges, and generally all means of communication for public use.

⁴Dahir of 1 July 1914, BO, 89, 10 July 1914, p. 529.

⁵Ibid., Art. 4.

⁶Ibid., Art. 1.

⁷According to Muslim law, waters could not become private property. "La propriété en Islam", pp. 112-113, and 130.

- (10) Telephone and telegraph lines.
- (11) Defence and fortification works, military posts, etc.

Although Public Domain had been declared inalienable, if there were portions which were of no use to the public, they could be classified as alienable, by the Directeur Général des Travaux Publics,⁸ who was the general administrator of all Public Domain. By the same token, the authorities later consented to leasing Public Domain⁹ for temporary occupation to tribes or private persons, when this would not harm the public interest.¹⁰ Applications to lease Public Domain were addressed to the Directeur Général des Travaux Publics, who could consult the Chef du Service des Domaines when assessing the rent to be paid.¹¹ As in the case of Habous, leased Public Domain was closely supervised by the Government.¹² The lease could not exceed ten years in duration, and the rent was to be paid annually.¹³ All rents were subject to periodic revision, at least once every five years.¹⁴

The three sub-classifications of Private Domain were: mines and minerals; forest; and Makhzen melk (which could be alienated and used for colonization).

⁸ Dahir of 1 July 1914, Art. 5. The Directeur Général notified the Grand Vizir, who in turn issued a decree to that effect.

⁹ Dahir of 30 Nov. 1918, Art. 1-2, BO, 326, 20 Jan. 1919, p. 37.

¹⁰ Ibid.

¹¹ Ibid., Art. 2-3.

¹² Ibid., Art. 5.

¹³ Ibid., Art. 6-7.

¹⁴ Ibid., Art. 7.

B. Administration.

Domain properties were administered by four different departments of the Sherifian Government:

Public Domain was administered by the Direction Générale des Travaux Publics,¹⁵ and all legal matters pertaining to it came under the exclusive jurisdiction of French courts.¹⁶

Private Domain, however, even though it was classified in only three categories, was administered by four different authorities, as follows:

The Service des Mines, established in 1920, was subordinate to the Direction Générale des Travaux Publics.¹⁷

The Direction des Eaux et Forêts, which came under the authority of the Directeur Général de l'Agriculture, du Commerce et de la Colonisation,¹⁸ prepared and applied forestry legislation, saw to the delimitation and upkeep of forests and the development of their resources, planted new forests, prevented the spread of sand dunes, and

¹⁵Dahir of 1 July 1914, Art. 6. Any contract alienating, temporarily or permanently, Public Domain as concessions to third parties required the counter-signature of the Directeur Général des Finances; the Dahir of 8 Nov. 1919 (Art. 2) gave the Directeur Général des Travaux Publics the right to immediate possession of any Public Domain, without the concurrence of any other authority.

¹⁶Ibid., Art. 8.

¹⁷Dahir of 24 July 1920, Art. 3, BO, 409, 24 Aug. 1920, p. 1436.

¹⁸Ibid., Art. 2. This was previously a Service, but became a Direction by Dahir of 8 Feb. 1922, Art. 1, BO, 487, 21 Feb. 1922, p. 306.

examined questions concerning hunting, fresh-water fishing, and related subjects.¹⁹

The Service des Domaines was established in September 1912, becoming the Vizirat des Domaines in April 1920.²⁰ It was attached to the Direction Générale des Finances in July 1920,²¹ and thus passed under the dual supervision of the Vizir des Domaines and the Directeur Général des Finances, while continuing to be administered directly by the Chef du Service des Domaines. The Vizir had an executive rather than an administrative post, for he brought all dahirs concerning State Domain to the Sultan for his seal, presented all vizirial decrees concerning State Domain to the Grand Vizir for his signature,²² received weekly reports from the Chef du Service des Domaines,²³ and received complaints from Moroccan citizens.²⁴ The chef du service administered all property belonging to the Makhzen, and he and the Vizir des Domaines together signed all leases and contracts relating to the use and development of State Domain.²⁵ As administrator of the State Domain, the chef du service was responsible for the disposal of products from Private, or State Domain, as well as for the upkeep and general management of its properties, which included properties reverting to the State because of lack of heirs

¹⁹ Ibid., Art. 2.

²⁰ Dahir of 27 April 1919, BO, 342, 12 May 1919, p. 421. This ministry was suppressed in 1927. See A. de Laubadère, "Les réformes des pouvoirs", p. 18.

²¹ Attached by Dahir of 6 July 1920, and Dahir of 24 July 1920, Art. 2.

²² Dahir of 27 April 1919, Art. 3.

²³ Ibid., Art. 5.

²⁴ Ibid., Art. 6.

²⁵ Ibid., Art. 4; Dahir of 24 July 1920, Art. 3.

as well as those reverting to the State through legal default. The Service des Domaines also drew up plans, maps and documents pertaining to colonization (mainly of guich properties) derived from State Domain and included the demarcation and sale of colonization areas.²⁶ In November 1912 a Commission Spéciale de Révision des Biens Makhzen was set up²⁷ to study all rights, claims and titles to Makhzen property so as to define further Makhzen holdings. The work of this Commission soon came to halt, mainly because several of its original members left it^{and} were not replaced. In 1918 the Commission was reconstituted so as to be able to resume its work,²⁸ its new membership including:²⁹

- (1) The Vizir des Domaines, as its president;
- (2) The Chef du Cabinet Diplomatique, or his deputy;
- (3) The Directeur des Affaires Chérifiennes, or his deputy;
- (4) The Chef du Service de l'Interprétariat of the Cour d'Appel, at Rabat;
- (5) The Chef du Service des Domaines, or his deputy, acting as reporter;
- (6) An alem,³⁰ appointed by the Vizir de la Justice Chérifiennne;

²⁶Dahir of 24 July 1920, Art. 3, §5.

²⁷Vizirial Decree of 9 Nov. 1912.

²⁸Dahir of 3 Feb. 1918, BO, 280, 4 March 1918, p. 218.

²⁹Ibid., Art. 1 (as modified by Dahir of 16 July 1919).

³⁰Alem (pl. oulama) was a jurisconsult.

(7) An interpreter-secretary.

All cases and claims submitted to the Commission were studied by it³¹ and it had the authority to settle each case then and there, without there being any right of appeal.³²

+ + +

Following the traditional Moroccan method reward, it was decided to grant parcels of State Domain not exceeding two zouijas to Moroccan ex-soldiers,³³ and a special Commission under the authority of the Directeur des Affaires Indigènes was set up in Rabat³⁴ to compile a list of all Domain properties which could be used for this purpose.³⁵ These plots were given to soldiers provisionally -- during which period they could not be transferred, attached or encumbered in any way -- and later granted in full ownership.³⁶

C. Delimitation and Registration of Domain Properties.

³¹Dahir of 3 Feb. 1918, Art. 2.

³²Ibid., Art. 5.

³³Dahir of 27 Dec. 1919. In Morocco the Sultans had traditionally followed this practice, remnants of which were still visible during the the Protectorate, for the guich tribes had been given their land in just such a manner.

³⁴Vizirial Decree of 27 Dec. 1919, Art. 2. It consisted of:

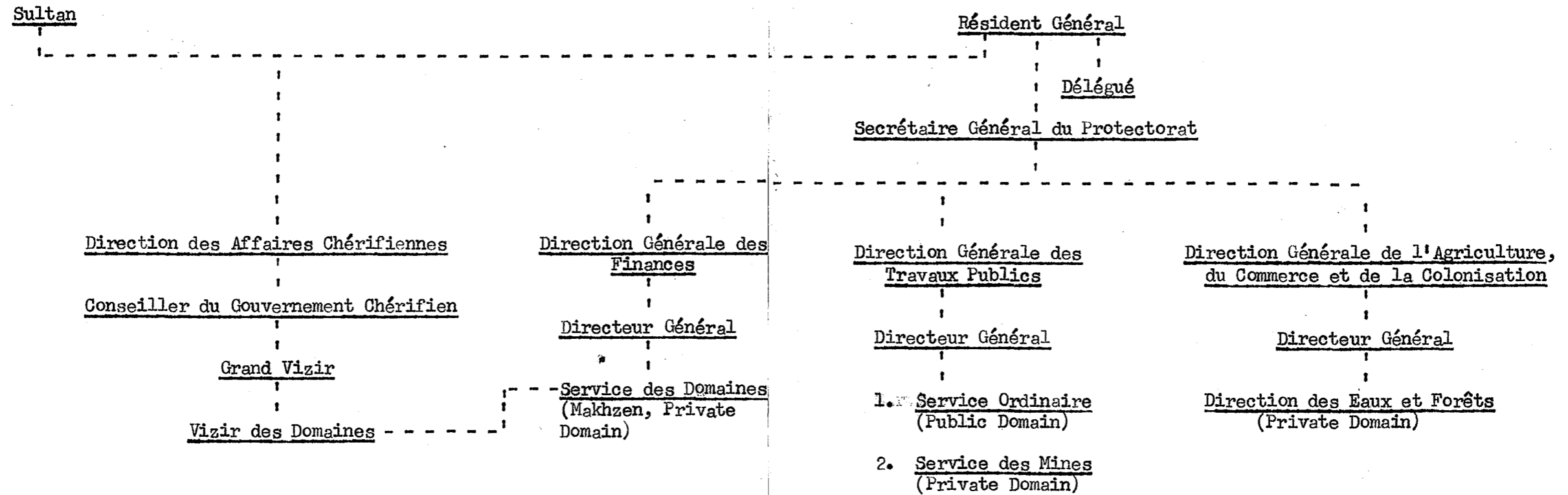
- (1) The Directeur des Affaires Indigènes, as its president;
- (2) The Directeur des Affaires Civiles (whose office was suppressed by Dahir of 15 May 1922);
- (3) The Directeur Général de l'Agriculture, etc.;
- (4) The Conseiller du Gouvernement Chérifien;
- (5) The Chef de la Section Marocaine à l'Etat-Major;
- (6) The Chef du Service des Domaines.

³⁵Ibid., Art. 2.

³⁶Dahir of 27 Dec. 1919, Art. 4-5.

FIGURE 11.

PUBLIC AND STATE (PRIVATE) DOMAIN, 1912-1925



In order to define properties classified as State Domain, delimitation of this property was begun in January 1916,³⁷ while the same could also be done for Public Domain.³⁸

By securing for the State clear titles of ownership, delimitation served to obviate unnecessary lawsuits, and in May 1922 registration of Domain properties, already delimited, was provided for automatically, thus permanently securing all such titles.³⁹

+ + + +

Summary

The reorganization of the Public Domain and Private State Domain by the French authorities in Morocco provided several results. Domain property was divided up and defined, each according to its special character, for examples, mines came under a special Service, as did forests and Makhzen melk, which involved a totally different administration. All categories of Domain properties were closely supervised so as to put an end to corruption. Domain properties were officially delimited and registered and thereby placed under the exclusive jurisdiction of French courts. Furthermore, the French, by creating the Service des Domaines, also openly acknowledged their intention to use some of its lands for colonization.

³⁷Dahir of 3 Jan. 1916, Art. 1, BO, 167, 10 Jan. 1916, p. 36.

³⁸Dahir of 1 July 1914, Art. 7, BO, 89, 10 July 1914, p. 529.

³⁹Dahir of 24 May 1922, BO, 502, 6 June 1922, p. 919.

VI. Expropriation.

In the Protectorate of Morocco the term expropriation meant either (1) the mandatory seizure of property, by right of "eminent domain", for public welfare, or (2) the mandatory seizure of property for colonization.

The ability to exercise a right of "eminent domain" is necessary for any civilized state. The French authorities laid down the basis for their programme in Morocco in 1914.¹ Public and private property could now be claimed for the following:²

- (1) Construction of highways;
- (2) " " railways;
- (3) " " ports;
- (4) Urban works;
- (5) Military works;
- (6) Foresty management and development;
- (7) Redevelopment of mountain lands;
- (8) Preservation of historic sites or monuments, etc.

Several categories of property were specifically exempt from this right of eminent domain: mosques, sanctuaries, official cemeteries,

¹Dahir of 31 Aug. 1914, BO, 101, 28 Sept. 1914, p. 755. This was modified by Dahirs of 8 Nov. 1914, 3 May 1919, 15 Oct. 1919 and 17 Jan. 1922.

²Ibid., Art. 3.

Public Domain and military property.³

Nowhere in either the Dahir of August 1914 or in any of those which subsequently modified it, was colonization mentioned as one of the reasons for which property could be expropriated. Indeed expropriation for purposes of creating colonization "sectors" only occurred, indirectly, in legislation concerning tribal property and Makhzen melk, or State Domain, as seen previously.⁴

Most declarations of intended expropriation emanated from the Direction Générale des Travaux Publics, while all expropriations had to be cleared through French courts.⁵ No construction -- or whatever was the intended purpose of the expropriation -- could be begun without the authorization of the Directeur Général des Travaux Publics.⁶ In every case of expropriation compensation was to be paid to the party concerned.⁷

Generally an expropriation occurred in the following way:⁸ The Service des Travaux Publics issued a notification to the pacha or caïd of the locality stating the property required. The pacha or caïd then published a draft decree to this effect, which was published in the Bulletin Officiel and local newspapers. It was the

³Ibid., Art. 7.

⁴Large numbers of expropriations of collective property occurred in the 1925-1935 period. Albert Guillaume, p. 69. Expropriation of tribal property was first mentioned in Art. 10, Dahir of 27 April 1919. An example of tribal property expropriated for future colonization is found in the Vizirial Decree of 29 July 1925, BO, 699, 18 Aug. 1925.

⁵Dahir of 31 Aug. 1914, Art. 2 and 12.

⁶Ibid., Art. 4.

⁷Ibid., Art. 10 (modified by Dahir of 17 Jan. 1922).

⁸Ibid., Art. 5 (modified by Dahir of 3 May 1919).

duty of the caïd and the autorité locale de contrôle to notify the owners of the property concerned.⁹ Within a month of that announcement the owner was required to report to the autorité locale de contrôle in order to agree upon the compensation for the property.¹⁰ The case then went before the Tribunal de Première Instance of the locality where the expropriation was announced, and the compensation fixed.¹¹

The compensation to be awarded was based upon the following factors:¹²

- (1) The value of the property prior to expropriation (including buildings and crops);
- (2) The appreciation or depreciation of the remainder of the property which was not expropriated.

If the party affected were not satisfied with the amount awarded him, he had the right to appeal, provided that the value of his property were more than 3,000 francs.¹³ When a piece of expropriated property was encumbered by a right of usufruct, the owner of that property had to negotiate the matter privately with the holder of the usufructory right, after the court had fixed the compensation, in order to arrive at the share which would result to the holder of the right.¹⁴ If a piece of unimproved property (or property having only wooden buildings)

⁹Ibid., Art. 8.

¹⁰Ibid., Art. 10 (modified by Dahir of 17 Jan. 1922).

¹¹Ibid., Art. 12.

¹²Ibid., Art. 13.

¹³Ibid., Art. 17.

¹⁴Ibid., Art. 15.

were urgently needed by the Service des Travaux Publics, it could be expropriated immediately (with dispensation from the normal procedure), whereupon the party appeared without delay before the local Juge de Paix who announced the amount of the compensation to be awarded, although the party also had a right to state the amount he wished to receive and could appeal if the value of his property amounted to more than 500 francs.¹⁵ If property had to be occupied temporarily by the Directeur Général des Travaux Publics for a public works' project -- such as any of those listed above -- the party whose property was being temporarily occupied was also compensated by the Government.¹⁶ Temporary occupancy, however, could not exceed a period of five years; if a longer period were required, and the party affected did not agree to a further extension, the Government had to expropriate his land.¹⁷ Temporary expropriation did not include the occupancy of the courtyard, orchards and gardens attached to dwelling houses, and surrounded by enclosures.¹⁸ Military authorities were also permitted to expropriate property, or to occupy it temporarily, under certain circumstances.¹⁹

+ + + +

¹⁵ Ibid., Art. 27.

¹⁶ Ibid., Art. 30. Land or other matter might have to be extracted or excavated, etc.

¹⁷ Ibid., Art. 35.

¹⁸ Ibid., Art. 30.

¹⁹ Dahir of 8 Nov. 1914, BO, 108, 16 Nov. 1914, p. 830; and Dahir of 23 July 1924, BO, 618, 26 Aug. 1924, p. 1356.

Summary

The right of eminent domain could thus be exercised over most property in the Sherifian Empire. When it was not permitted, this was in order to respect traditional values of the Moroccans, such as their religious institutions. When property was expropriated, or occupied temporarily, the party had a right to state what he considered a fair price for his property which he worked out with French officials. If he were not satisfied with the ultimate decision, he could appeal if the property were of sufficient value.

VII. Colonization.

What we from our [European] point of view call colonization, missions to the heathen, the spreading of civilization, etc., has another face -- the face of a bird of prey seeking with cruel intentness for distant quarry -- a face worthy of a race of pirates and highwaymen.

C.G. JUNG,
Erinnerungen, Träume, Gedanken.

Installing French colonists in Morocco conforms both with the framework of interests of the Protectorate and with that of the native population. Sufficiently numerous French colonists are necessary in order to constitute the armature upon which the action of the Protectorate is based and to make French influence dominant in this country. On the other hand, not only do European agricultural works offer an advantageous outlet to native labourers seeking work, but, too, these works are necessary in order to give the right example to the native landowners, so that the superiority of European agricultural methods can be seen and appreciated. Yet this European colonization does not risk developing into an invasion. Thus, under such circumstances the native population has nothing to fear.

ARTHUR GIRAULT,
Principes de colonisation et de législation coloniales. Vol. V.

What is bitter does not become sweet, even though it is in the bottom of a bee.

A MOROCCAN PROVERB.

Conquest of a foreign land has often led to subsequent colonization, and perhaps no nation in modern history has colonized so thoroughly as has France, especially in Tunisia, Algeria and Morocco. To be

sure, most conquered countries have not been very attractive for European civilization. The climatic conditions of the Sudan or of the Indian Sub-continent certainly discouraged any permanent mass colonization, but Morocco was a different story. The climate is generally like that of the Côte d'Azur or of Southern California.

France went into Morocco primarily for military and economic reasons, and colonization naturally played a big part. In Algeria, colonization had developed on a huge scale, and the colon lobbyists became very strong indeed. In Morocco, however, colonization never reached the proportions achieved in Algeria, nor in Tunisia,¹ and one of the most important reasons for this was that though Lyautey supported colonization, he did not believe in colonizing the country to the detriment of the Moroccans, or in bringing in colonists who were not already prepared with the knowledge or capital needed for agricultural work. Another obstacle to massive colonization was that -- unlike Algeria for instance -- Morocco did not contain vast stretches of uninhabited, unclaimed land, because all land there was owned by the tribes, the Habous, the State or by individuals.

A. Immigration.

¹Jean Poncelet, La colonisation et l'agriculture européenne en Tunisie depuis 1881 -- étude de géographie historique et économique (Paris: Mouton & Co., 1962), p. 330. In Tunisia, which was territorially much smaller than Morocco, over 750,000 hectares had been colonized by 1950, while in Morocco only 250,000 hectares over that figure were ultimately colonized. See also, Jean Despois, La Tunisie orientale -- Sahel et basse steppe: étude géographique (Paris: Presses Universitaires de France, 1955), especially Part IV, Ch. IV and V.

There was no system of regulated immigration during Lyautey's administration, and this in itself was to prove a source of difficulty. Some legislation governing the entrance of foreigners into Morocco was enacted but it had little or no effect on French immigration.

From November 1914 any foreigner landing in a port in the French Zone of the Empire had to prove his identity, his last address, his means of maintaining himself in Morocco as well as his reason for coming there;² and in December 1915 the French listed four categories of persons who were automatically denied entry into Morocco, including persons who had been expelled from, or forbidden entry into, France or French territories.³ In addition, a Service de Surveillance de l'Immigration was created in June 1915.⁴

The numbers of immigrants permitted to enter remained entirely unregulated, and in consequence Protectorate officials never knew how many immigrants to expect. In 1913, for instance, approximately 29,000 immigrants flooded into the ports of the Empire, which led Lyautey to remark in 1914:⁵

But when it is a question of such a numerous and rapid immigration as that which Morocco attracts, how does one discern, how can one distinguish at first glance -- in this influx of arrivals in which the older established

²Ordonnance of 13 Nov. 1914; Goulven, II, p. 446.

³Dahir of 8 Dec. 1915. See Goulven, II, p. 446.

⁴Created on 8 June 1915; it was under the authority of the Chef du Service de la Police Générale at Rabat.

⁵PA, p. 121.

colonists are lost amongst the newcomers -- when the adventurers are not distinguishable from the real workers?

By 1915 the number of immigrants had fallen to less than 5,000, while in 1921 it was again up to over 13,500, as seen in the following chart:⁶

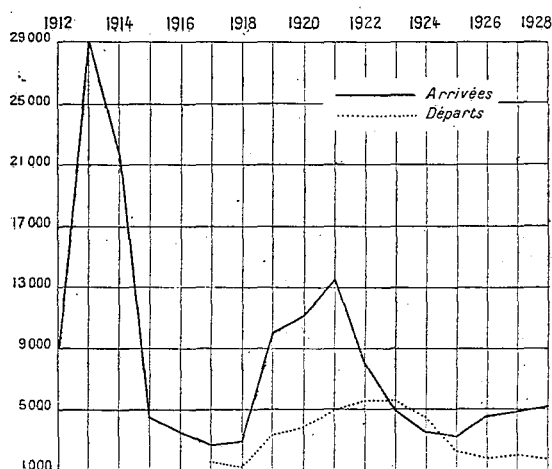


FIGURE 12

EUROPEAN IMMIGRATION TO MOROCCO, 1912-1928.

+ + + +

B. Development of Colonization.

Despite Lyautey's sometimes unsympathetic attitude, legislation and programming were developed to pave the way for colonization.

⁶ Jean Célérier, Le Maroc (Paris: Armand Colin, 1953), p. 216.

A Comité de Colonisation was set up in 1916 to establish close liaison between the various Services involved in the preparation and execution of future colonization programmes,⁷ though the apparatus to deal with colonial development, the Service de la Colonisation, was not founded until July 1920.⁸ This Service came under the authority of the Direction de l'Agriculture, du Commerce et de la Colonisation, and its task, in collaboration with the Service des Domaines, was to locate lands which could be used for colonization (which included the study and development of rural parcels), to establish annual programmes for colonization, and to supply information to interested immigrants.⁹

Land for official colonization came from two principal sources: tribal collective property and Private State Domain (chiefly Makhzen melk, including guich property).¹⁰ In February 1918 a Commission Spéciale de Révision des Biens Makhzen was set up to develop areas for colonization from the Private Domain of the State,¹¹ and in April 1919 the way was officially paved for alienating tribal (naïba) land for

⁷Residential Decree of 9 Nov. 1916, BO, 27 Nov. 1916, p. 1108. It was presided over by the Délégué à la Résidence Générale and consisted of various chefs de services. See also, G. Jacqueton, "La colonisation française au Maroc", AG, XXXIII (1924), p. 309; Girault, Principes, V, pp. 382-384.

⁸Dahir of 24 July 1920, BO, 409, 24 Aug. 1920, p. 1443. For a good discussion of colonization, see Stephen H. Roberts, The History of French Colonial Policy, 1870-1925 (London: Frank Cass & Co, 1963), pp. 582-587.

⁹Dahir of 24 July 1920, Art. 2, §4.

¹⁰Guillaume, p. 54; Ayache, p. 151; Goulven, II, p. 465

¹¹Dahir of 3 Feb. 1918, BO, 280, 4 March 1918, p. 218. In 1923 the Directeur Général de l'Agriculture, etc. stated that 100,000 hectares of State Domain at the most were available. Jacqueton, p. 310. Cf. the situation in Tunisia where Habous property far exceeded State Domain. J. Despois, Ch. I, IV, V of Part V.

colonization,¹² as discussed previously in sections IV and VI of this chapter.

Land made available for official colonization by the Government was distributed in the following manner:¹³

- (1) 25% to recently arrived immigrants;
- (2) 25% to Moroccan ex-soldiers;
- (3) 50% to immigrants who had already been in Morocco for at least two years but who had not yet purchased any agricultural land.

The Government, however, did not give free concessions of land -- in contrast with Algeria; all portions of land were sold, at reasonable prices and on accommodating payment terms. In December 1921 colonists were officially permitted to have their property registered by the Government with the Conservation de la Propriété Foncière,¹⁴ and in 1922

¹²Dahir of 27 April 1919, Art. 10, BO, 340, 28 April 1919, p. 375.

¹³Résidence Générale, La renaissance du Maroc: dix ans de Protectorat, 1912-1922 (Rabat: Imprimerie Officielle, 1922), p. 285.

¹⁴Dahir of 5 Dec. 1921, BO, 482, 17 Jan. 1922, p. 58. In Tunisia the same property registration system was used (based on the Torrens Act); in Tunisia, however, the colons (colonists) were very slow to register their property in the 1880s although at the time the French openly admitted that the reason for registration was ". . . to support the right of ownership of the present master of the land [i.e., the French] while at the same time breaking all former claims to this soil, not only by the khammes [peasant labourers], but also by the traditional occupants and those holding it as djeddari [perpetual lessees] and enzélistes [i.e., equivalent to the customary property rights of Morocco, such as the guelsa]." Poncet, p. 150. See also, Al-Moutabassir, "Les habous de Tanger", p. 331.

Paul Cambon in 1885, then Resident General of Tunisia, in his report to the Government stated that the reason for establishing the Loi immobilière tunisienne du 1er juillet 1885 (property registration) was because ". . . in order to attract and hold capital (necessary for the development"

they were permitted to request, on their own initiative, that their property be registered in their own names, in order to facilitate the arrangement of mortgages.¹⁵

Three categories of property were made available by the Government to colonists:¹⁶

- (1) Small colonization lots:
 - (a) Lots for market-gardening, of 2-5 hectares;
 - (b) Lots for orchards and dairies of 20 hectares;
- (2) Medium-sized colonization lots: 200-400 hectares;¹⁷
- (3) Large-sized colonization lots: up to thousands of hectares.

To help colons acquire land, special facilities for mortgages were arranged by the Government.¹⁸ Lots falling within the first two categories

III continued:
"of natural resources), it is important that we protect the acquirers of property from their ignorance of the language, laws and customs of the country, as well as from any unforeseen claims, in a word, that we ensure the facility and security of such transactions. Now, under the system of Muslim legislation and local customs, such facilities and security did not exist. . . .", quoted by Poncet, p. 147.

¹⁵See Dahir of 22 May 1922, BO, 502, 6 June 1922, p. 918. Prior to that, only the Government could request registration.

¹⁶Goulven, II, pp. 288-295; Girault, p. 382.

¹⁷Two important conditions were attached to anyone applying for medium-sized lots: (1) He was not permitted to possess more than a total of 500 hectares in Morocco; (2) he had to live on, and work the land himself. Goulven quotes all requirements and procedures, Goulven, II, pp. 289-294. In the first years of the Protectorate, however, Lyautey envisaged medium-sized lots of 100-150 ha. only. LA, III, p. 198.

¹⁸E.g., Dahir of 22 Dec. 1919, modified by Dahir of 14 May 1920. Goulven, II, pp. 216-217.

were sold at fixed prices (set by the Protectorate authorities) to buyers singled out by public lottery from among the applicants.¹⁹

The medium-sized lots were by far the most popular; they were grouped into rural settlements,²⁰ located at Matmata, Bir Tam Tam, Boufekrane, Petitjean, Ain el Aouda (Rabat), Boulhaut, Bir Djedid Chavan, Foucauld, Sidi Bennour, Ouedzem and Marchand.

Large-sized colonization lots were sold to colons at public auctions to the highest bidder.²¹ Of these, from 1918 to October 1924, eighteen lots were sold, totalling some 14,000 hectares in addition to another 10,000 hectares held by the Compagne du Sebou in the Rharb.²² In 1923 Lyautey estimated that there were over 1,000 colons on 400,000 hectares.²³ In 1924 a little over a year before Lyautey retired, about 500,000 hectares had been acquired by colons, consisting of 1,274 lots -- most of them cultivated for crops -- the majority of which ranged from 2 to 500 hectares.²⁴ Yet by 1922 only 57,000 hectares had been allocated through the official colonization programme, of which 30,000 hectares

¹⁹To be paid in ten annual payments. Goulven, II, p. 291. A Commission d'Expertise consisting of officials and colons was set up to establish the prices to be asked.

²⁰Albert Ayache, p. 153.

²¹Ibid.

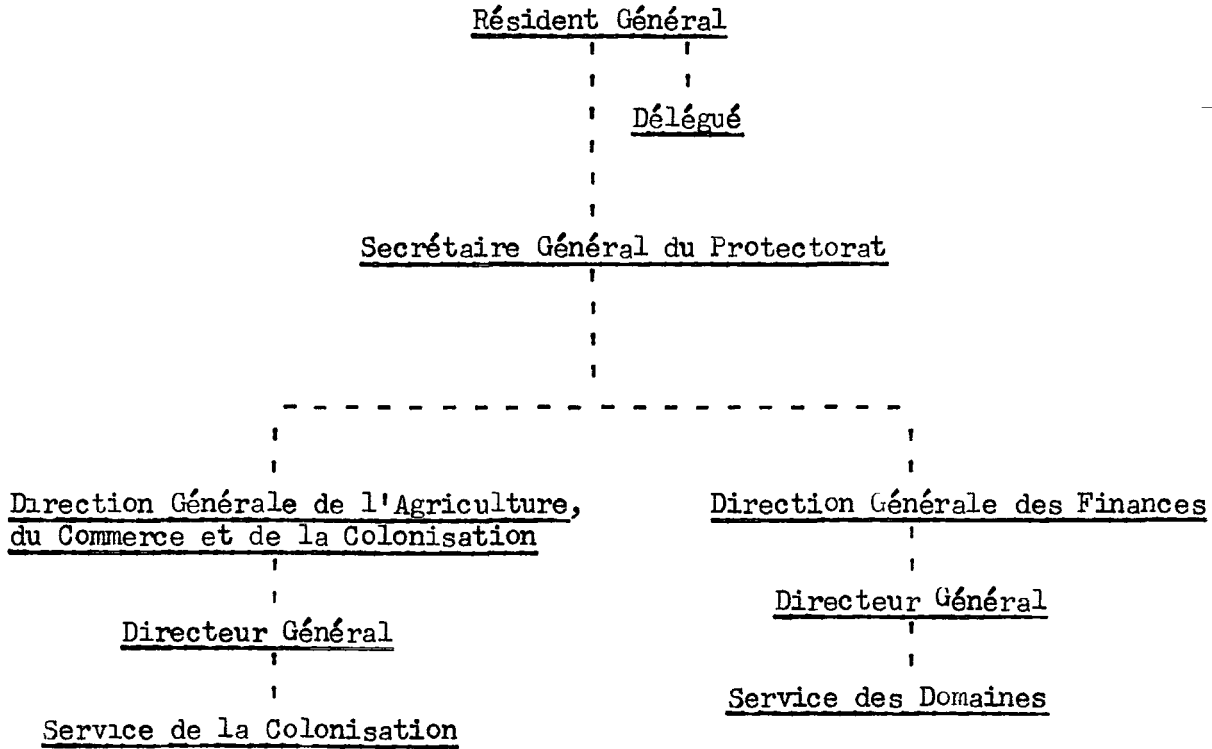
²²Ibid. The Compagne du Sebou was controlled by the Banque de Paris et des Pays-Bas. René Passeron, Les grandes sociétés et la colonisation dans l'Afrique du Nord (Alger: 1925), pp. 275 et seq.

²³Lyautey's address before the Académie d'Agriculture, on 5 Dec. 1923, PA, p. 398. Charles Stewart states that 8,000 hectares were allocated by the Protectorate between 1916-1918 and that from 1918-1923 official colonization accounted for 71,500 ha., divided into 449 parcels. Stewart, p. 77.

²⁴P.-L. Rivière, Traité, codes et lois du Maroc, III, 832.

FIGURE 13.

COLONIZATION



had been set aside from former tribal properties.²⁵ An intensified period of expansion followed between 1923 and 1932, when over 200,000 hectares were officially allocated by the Protectorate authorities.²⁶ The world economic crisis hit the colons especially hard between 1930 and 1932 and resulted in a sharply reduced official colonization programme²⁷ as well as an equally sharp increase of bankruptcies among them; the last sales of official lots took place between 1933 and 1935.²⁸ By 1935 a total of 271,000 hectares had been officially distributed by the Protectorate among 1,735 parties.²⁹

Unofficial, private colonization was also taking place and indeed had begun before the establishment of the Protectorate. It far

²⁵Louis Milliot, Les terres collectives, pp. 108-109. Most of this total was subdivided into 6 colonization lots:

- (1) 4,000 ha. from the Guernouan Tribe (of the south) near Meknes;
- (2) 5,000 ha. in the Fez area;
- (3) 7,000 ha. from the Sfafa Tribe and from the Oulad Yahia Tribe in the Rharb (north-east of the Mamora Forest);
- (4) 5,600 ha. near Kenitra;
- (5) 4,500 to 4,000 ha. from the Mazamza Tribe (in the southern Chaouïa area);

(6) 1,800 ha. in the northern Chaouïa area, from the Ziaida Tribe. Ayache gives a figure of 57,000 ha. by 1922 and Charles F. Stewart, 71,500 ha. divided up among 449 parcels, by 1923. Ayache, p. 153; Stewart, p. 77.

²⁶René Gallissot, Le patronat européen au Maroc (1931-1942) (Rabat: Editions Techniques Nord-Africaines, 1964), p. 18. Ayache, p. 153. Stewart claims that the most active period lay between 1926-1933. Stewart, p. 77. The official colonization programme was administered by the Service de la Colonisation. Private colonization was unofficial and unregulated, private parties purchasing property from other private parties.

²⁷This occurred in the Tunisian Protectorate during the same period. Poncet, p. 290.

²⁸Ayache, p. 153.

²⁹Ibid.

outstripped the official programme. During the same 1923-1932 period, seen above for official colonization, 358,000 hectares were purchased privately from Moroccan owners;³⁰ which in itself far surpassed the entire amount of official colonization achieved by the Protectorate authorities from its establishment until independence in 1956. By 1935 a total of 840,000 hectares had been acquired by colons, and by 1953, just under 200,000 hectares more had been added to the 1935 figure.³¹ Of these, the largest holdings were in the areas of Casablanca, Rabat and the Rharb, Meknes, Fez and Marrakesh consecutively.³²

Incentives and aid were given the settlers by the Government. During Lyautey's administration subsidies were given for clearing virgin land³³ and for planting olive trees.³⁴ Most valuable of all was the provision of short, medium and long-term agricultural credits, which were first distributed by the Caisses de Crédit Mutuel, established in 1923, and later by the Caisse Fédérale and the Caisse des Prêts Immobiliers.³⁵ Most of the capital was supplied for these Caisses by the State, and it was the State which also provided two-thirds of the capital required to found Sociétés Coopératives, which numbered 23 by 1939 and 73 by 1954.³⁶

³⁰Ibid.

³¹Ibid., p. 154; Gallissot, pp. 18-19; Stewart, p. 77. Of a total of 1,017,000 hectares, 728,000 hectares had been acquired privately.

³²Ayache, p. 154.

³³Suppressed in 1923. Ayache, p. 155.

³⁴Suppressed in 1936. Ayache, p. 155. During World War II there were subsidies for the purchase of agricultural materials, and also reductions in fuel prices.

³⁵Ayache, p. 155.

³⁶Ibid.

+ + + +

Results and Summary

More than any other country, Morocco lends itself to fruitful development; it is a country with a future. It possesses great wealth, which for the most part has not yet been developed, and is thus capable of offering real hopes for our French national activity. But let us not forget that it is definitely not a bled yet to be discovered. That has already been done; it has been inhabited and cultivated for many centuries, and we must not think that, on arriving there, we have only to set up a tent, purchase some land and begin some sort of business or farm in order to realize appreciable profits.

In reality it is quite different. The future colon will have to act cautiously, making a thorough study of the situation, as a necessary first step.

COMTE DE LA REVELIERE,
Les énergies françaises au Maroc. 1917.

Many Moroccans have naturally denounced the French rule of their country, and Albert Ayache has drawn up a very strong and well documented case for the Moroccan viewpoint in his book Le Maroc: bilan d'une colonisation. On the subject of French colonization he says:³⁷

The immediate preoccupation of the new régime [the Protectorate] was to favour the appropriation of Moroccan land by foreigners and to give a definitive character to this appropriation by surrounding the

³⁷ Ibid., p. 148. For a valuable and stimulating study of France's legacy in North Africa, see: Eugène Guernier, La Berbérie, l'Islam et la France, II (Paris: Éditions de l'Union Française, 1950).

property with incontestable judicial guarantees. This was the object of the Dahir of 12 August 1913 regulating the registration of property, and the establishment of the Service de la Conservation Foncière in 1915.

As is often the case with sweeping generalizations, aspects of truth and fiction are interwoven in this statement. It is true that France went into Morocco for among other reasons, economic aggrandizement and to help towards this the French went to the tremendous expense of colonizing Morocco. When Ayache states, however, that the immediate preoccupation of the new régime was to favour and develop colonization, he is wrong; for Lyautey, the master of the new régime, was opposed to large-scale appropriation and colonization. He feared especially that Morocco might experience the large-scale speculative colonization carried out in Tunisia by strong companies in the 1880s which had resulted in the first French colons being speculators or ". . . an aristocracy of absentee owners and of large, indirect developers. . . ." rather than farmers working their own land.³⁸ Indeed, the programme for official colonization was not put into effect until after the 1914-1918 War. Furthermore, the first official large-scale colonization did not begin in earnest until the mid-1920s, just as Lyautey was resigning his post as Resident General. What is more, the percentage of land expropriated by the French for colonization, in contrast with that which was purchased privately from

³⁸

Poncet, p. 141.

the Moroccans, was certainly small.

Ayache claims that already by 1913 Europeans possessed more than 100,000 hectares,³⁹ even though at that time no system of guarantees for property had been established by the Protectorate; indeed, most of these acquisitions had been made before the establishment of the Protectorate.⁴⁰ He goes on to state that ". . . during the course of 1912 and 1913, abuses reached such proportions [as regards colonization] that a Dahir of July 1914 declared 'the lands occupied collectively by the tribes' to be inalienable." In fact the French authorities were trying to stop the land-grabbing⁴¹ which Ayache contends they were trying to encourage,

³⁹C.F. Stewart quotes a figure of 73,000 hectares, p. 75. According to official figures there were about 5,400 French citizens in Morocco on 1 Jan. 1911, but by 1 Jan. 1914 this figure had jumped to 26,000. Général Lyautey (ed.), Rapport général sur la situation du Protectorat du Maroc au 31 juillet 1914 (Rabat: Imprimerie Officielle, 1916), p. 482.

⁴⁰Ayache, p. 149.

⁴¹Lyautey was under great pressure from colon lobbyists, such as the powerful M. Obert who, when addressing the Congrès de Marseille in 1922, asked that another million hectares be colonized by 1942 -- of this amount he anticipated that 755,000 hectares would be taken from tribal djemaas and another 155,000 hectares from Private State Domain! Jacqueton, p. 311. The Directeur Général de l'Agriculture, du Commerce et de la Colonisation, M. Malet, stated in 1923 that only 100,000 hectares at the most could be colonized from Private Domain. See Jacqueton, p. 310. As has been shown, even by the 1950s less than 300,000 hectares had been officially colonized (i.e., from tribal and Domain property). G. Jacqueton was a fervent expansionist and defended further colonization of guich lands in Morocco, for as he put it, ". . . il n'y a pas de temps à perdre: toute heure perdue pour la colonisation rurale, pour le peuplement français du bled marocain, pourrait contribuer à la compromettre." Jacqueton, p. 312.

and this Dahir was issued for the precise purpose of stopping alienation of tribal lands to speculators. Ayache fails to point out that "abuses" (that is, land-grabbing and speculation) were also practised by Moroccans, especially between 1913 and 1919, and to such an extent that the economy was damaged and tribal holdings were reduced. Individual Moroccans benefited to the detriment of the tribes and of French colonization also.⁴²

⁴²Milliot, Les terres collectives, pp. 115-116. He points out that a great many Frenchmen -- "thousands", he says -- had to give up the idea of settling in Morocco for want of (inexpensive) land. Milliot, p. 120.

Milliot gives an example of how Moroccans were threatening their own patrimony, in such a way that the French were afraid to stop them for fear of being accused of "spoliation".

"In 1913 all the land extending between Casablanca and Rabat, along the coast, was certainly collective [tribal] property. Apart from a few gardens or orchards, there were scarcely any crops there, except some basins of low lying ground fertilized by alluvial deposits. Since 1919 the situation has been reversed; planted fields of a single native owner cover tens of kilometers, now replacing fallow land. The new occupants claim a right of private property over these lands held collectively by tribes, with the result that the Administration is afraid to contest the matter, since the inventory of collective lands available for colonization in the Chaouïa at the beginning of 1921 covered several thousand hectares.

"For those who doubt the accuracy of our facts, we point out in advance that the same phenomenon is taking place all along the highway between Fez and Taza.

.....
Are the natives going to be permitted to install themselves as private owners [over this tribal land] without our realizing that they are violating the land title by their occupation, without reserving for our colonization a part of this land, the peaceful possession of which France now assures to the natives?

"Until 1919 the Protectorate confined itself to stopping the alienation of tribal property, leaving it to the cadis and caïds to enforce this ruling. We now know only too well that this task has been betrayed [by the caïds and cadis]. In contempt of dahirs and custom, the cadis have applied Chrâa to tribal land. The caïds have closed their eyes to the whole matter. As for the French autorités de contrôle, we really cannot blame them for not having protected an institution which the legislator could not define. Had they indeed

Altruism is more theoretical than realistic, and the French did not incur the great expense of administering another country without the intention of ensuring that they would profit from it. At the same time the French claimed that the Moroccans would benefit from French colonial settlements and industrial installations,⁴³ and so they did, in the long run, just as they benefited from contact with European civilization and values, or French civilization as Frenchmen chose to

42 continued:

known about it they would not have been able to prevent the natives from unceasingly decreasing the amount of fallow land [to the detriment of the tribes]. On the contrary, it was their duty to encourage it by every possible means and they did not fail to do so. Now, this effort accomplished, the native is fully convinced that he is now the sole [legal] owner of this land, and if he is denied this traditional right, he feels that he is being robbed [by the French]."

Milliot here refers to the fact that the Moroccan Muslim traditionally had the right of ownership of any fallow, virgin land. Herein lies the crux of M. Milliot's complaint, for, according to Islamic law, tribal property is not one of the three legally recognized categories of property (i.e. (1) property owned by the Muslim Community, (2) melk, and (3) Habous) and tribal land is not strictly speaking an Islamic institution, for there is no reference to it either in the Koran or in the Hadith. Nevertheless, it is in fact recognized by the Chrâa (See A. Guillaume, La propriété collective, pp. 12-14). Hence, Milliot's objection to the Chrâa being applied to such property cases for, according to the Chrâa, property of the Muslim Community which has lain fallow for at least seven years can be vivifiés by the planting of crops on it, which in turn permits the new occupants to claim individual right of ownership over the land. However, as M. A. Guillaume has pointed out . . . "It is impossible to contest the fact that the form of collective property has not come down to us from Muslim law, and yet it is in fact recognized by the Chrâa." Albert Guillaume, p. 14, and also pp. 11-13. In other words, in collective or tribal property, we have a new classification of property which was created by custom and subsequently recognized by Islamic law. Milliot's complaint is that tribal land was being alienated to individual Moroccans even though the French specifically forbade the alienation of collective property except under certain strict conditions. See Vizirial Decree of 1912, of 6 March 1914 and Dahir of 27 April 1919.

⁴³E.g., see Dahir of 27 April 1919, Art. 13, discussed earlier in this chapter.

call it. Gabriel Hanotaux gives this explanation:⁴⁴

Races are great and powerful because of the importance and results of the tasks which have been assigned to them.

Let me be clearly understood -- this is not only a matter of a great number of conquests; it is not even a matter of increasing public and private wealth. It is a question of extending abroad to regions which only yesterday were still barbarian the principles of a civilization of which one of the oldest nations of the world [i.e., France] has the right to be proud.

Nevertheless, the Moroccan had to pay for these new benefits.

He was placed under foreign rule and much of his richest land or most important pasture land was taken for colonization. Although he was compensated for its loss -- a point which M. Ayache fails to make -- the compensation could not in itself be adequate. Monetary payments could not compensate for the effects of the loss of pasture land which led to a reduction of the size of flocks kept by mountain tribes⁴⁵ and to

⁴⁴Gabriel Hanotaux, L'énergie française (Paris: Flammarion, 1902), p.365. Many others expressed similar feelings regarding the French civilizing mission. In 1922 Charles Castre put it this way:

"There lives in French hearts a spontaneous piety (in the nature of a spiritual instinct) for the civilizing mission to which France has ever dedicated herself."

Charles Castre, The Ideals of France (New York: The Abington Press, 1922), p. 34.

A minority did not agree with this view, e.g. Alfred Fouillée:
". . . we are often naive enough to believe that what makes us happy will make everyone happy, that all of humanity must think and feel as does France."

Alfred Fouillée, Psychologie du peuple français (Paris: Félix Alcan, 1914), p. 181.

⁴⁵Jacques Berque illustrates this in Le Maghreb entre deux guerres (Paris: Éditions du Seuil, 1962). See especially pp. 117-125. He cites the Marmouch Tribe which in 1926 descended from the mountains with 120,000 sheep, as they did each winter, but which by 1931 -- due to French policies -- had been reduced to 37,000 sheep. A reduction of more than two-

loss of income which resulted from smaller harvests. Yet there were Frenchmen at that time who tried to look realistically at the situation and its effects. Louis Milliot, the jurist and author, saw the situation in 1922 as follows:⁴⁶

. . . a great deal of tribal land is fit only for the transhumance of flocks, and the land which is rich enough to grow crops should only be taken away by compulsory purchase after broad consideration of present and future needs on the basis of the needs of the present occupants. The Moroccan population is very prolific and the quelling of civil wars, together with the improvement in the general conditions of hygiene and the reduction of infant mortality, will rapidly raise the figure. Let us not uproot these people and, by thoughtless measures congest the cities with a proletariat which will be ready to follow agitators or trouble-makers. Besides, the Moroccan native will not allow large slices of his land to be taken away. Hard-working, intelligent and open to modern ideas, he is jealous of his land, which he fears will be taken from him, as was that of the Algerian. It is not without great difficulty that we have succeeded in making him understand that the alienation of collective land will ultimately be to his own advantage. Any untimely or premature measure, such as a large distribution of small colonization parcels, will certainly convince him that he has been the victim of vast spoliation, from which serious trouble could result. It is better to see the situation the way it really is: Morocco is not a colony established for the settlement of immigrants, but Frenchmen can appear there in the form of large companies possessing large amounts of capital. Their role should be to educate the native and to introduce him to modern methods of production; to have associated him with their resultant fortune will represent their real profit.

~~45~~ continued:

thirds in five years' time. Professor Berque also quotes from a letter written by a French officer in 1921: 'Cette colonisation, soit officielle, soit privée, a pris une telle ampleur qu'elle a réduit dans une proportion très appréciable les terrains dont disposaient les tribus du Nord.' Berque, p. 122.

⁴⁶ Milliot, Les terres collectives, p. 110.

In fairness to the Protectorate authorities, it should be stated that out of approximately 1,000,000 hectares colonized by 1953, less than one-third had been expropriated by the Protectorate for official colonization,⁴⁷ the remaining two-thirds having been purchased privately by Frenchmen from Moroccans. Ayache fails to make this point also.⁴⁸

This is not to say that the French were altruistic missionaries, but rather that France has often been the home and birthplace of dreams and ideals and that men like Gallieni and Lyautey were products of such an environment. Lyautey was an idealist; he was not out for "all he could get", while his consideration and moderation often sheltered the Moroccans from the harshness of metropolitan French politicians and lobbyists, a harshness they were later to feel directly, once men like Lyautey were gone.

⁴⁷In 1960 Albert Guillaume estimated total tribal holdings (including desert areas) at about 6,000,000 hectares. Guillaume, p. 36.

⁴⁸Frenchmen complained about the great difficulty they had in purchasing land privately from Moroccans. As Milliot put it, during Lyautey's régime, ". . . the European encounters the greatest difficulties in surmounting the native's reluctance to sell him his land, while on the contrary the Moroccan speculator has no trouble at all." Milliot, Les terres collectives, p. 118.

CHAPTER V

FRANCO-MUSLIM EDUCATION

I. Before the Protectorate.

A gentleman without reading is like a dog
without training.

A MOROCCAN PROVERB.

A. Introduction.¹

Prior to the Protectorate there was neither a centralized educational authority nor a central budget for education in the Empire. Primary and secondary schools were maintained for Muslim children in the cities, towns and most villages. There were also Jewish and European schools. The teaching in the Muslim schools, and also Koranic instruction in the mosques, were financed by gifts from local people and funds from the Habous. The Jewish schools were maintained by the local Jewish communities.

Traditionally, there were three levels of education in the Sherifian Empire: primary, secondary and higher.

¹Unfortunately, very few works or articles have been published on this subject; one of the best is E. Michaux-Bellaire's excellent study, entitled "L'enseignement indigène au Maroc", RMM, XV, 10 (Oct. 1911), pp. 422-452. It is on this article that most of this section is based. For background on zaouïas, see Michaux-Bellaire's Conférences which is the entire volume XXVII of the Archives Marocaines (1927), especially Ch. I-IV.

B. Primary Education.

Primary education in Morocco was based on the Koran and was given in schools called msid in the cities and djemaa in the tribal areas. The students (m'hadra)² were taught by a faqih ("theologian"). In primary schools books were not used, because the faqih had memorized the Koran, which was the only text studied. After the children had been taught the alphabet, the faqih proceeded to dictate the Koran, sura by sura, and the children were made to memorize one sura at a time.

Some schoolboys naturally were not capable of memorizing the entire Koran, though everyone would attempt to memorize it, and when these students left their schools they either learnt a craft or became shepherds. The schoolboy who successfully memorized the Koran was called a taleb.³ By the turn of the 20th century, there were very few children who did not attend a Koranic school for at least a certain length of time.

C. Secondary Education.

Only a small number of the primary students ever reached the secondary schools. Here they learnt, by memorization rather than by discussion and understanding, classical Arabic grammar, the fundamental doctrines and practices of Islam, and some of the simpler

²In the singular, m'hadri.

³In the plural, tolba.

aspects of Islamic law. The following authors and works were generally studied:

(1) Grammar and syntax:

Genhadji's El-Adjouroumiya, and Ibn Malik's El-Alfiya, two famous versified textbooks on grammar.

(2) Fundamentals of Islam:

Ibn Achir's work, El-Mourchid El-Mo'in ala Ed-Darouri min Oloum Ed-Din and commentaries on it.

(3) Law:

Touhfat El-Houkam fi Nakat El-Oqoud ou El-Hakam, another versified text, and commentaries of it; it was simpler than the standard textbook by Sidi Khalil.

D. Higher Education.

Although in former times there had been facilities for higher education in several cities of the Empire, for a long time prior to the Protectorate they had survived only in Fez, at the Qaraouiyne Mosque.

The students lived in medersas (colleges) only five of which remained by the 20th century. The students were not taught in these buildings, but in the Great Qaraouiyne Mosque. The courses included grammar, law, theology and rhetoric.⁴ Surprisingly, history

⁴These courses are discussed in detail in the next section of this chapter.

had never been taught at the Qaraouiye University and geography
not for a long time past.

II. Franco-Muslim Education, 1912-1925.

Everyone knows what a difficult task it is to organize education in a foreign country which is open to European influence: if we are satisfied merely with transplanting our French academic institutions, then we risk falsifying the entire work, upsetting the natives, producing social refugees, malcontents and fire-brands of anarchy. Thus above all we must seek a means of adapting education to the needs of the country Morocco. The Protectorate, from the very beginning, has undertaken to accomplish this to the best of its ability.

GEORGES HARDY,
Histoire des colonies françaises
et de l'expansion de la France
dans le monde, III: Le Maroc,
la Tunisie, la Syrie.

We shall never be able to do anything without these intellectual bonds which are indeed the strength, honour and grandeur of a society.

LYAUTEY, 7 December 1922,
Address to the Congrès des Hautes
Études Marocaines, at Rabat.

A. Introduction.

Before the Protectorate, as already mentioned, the schools in Morocco were Muslim, Jewish and European. All Muslim and Jewish schools were religious.¹ Although the French did not tamper with the religious schools, they completely changed the educational emphasis in Morocco through the creation of a new type of school for children,

¹With the exception of those established and administered by the Alliance Israélite Universelle. The Alliance's first school was set up in Morocco in 1862. Gérard Israël, L'alliance israélite universelle: 1860-1960. Numéro Spécial, CAIU, 127 (Feb. 1960), p. 77.

known as the Franco-Muslim schools.

B. Muslim Education.

Under the French Protectorate, the traditional Islamic schools were left in being but were now brought by the French under one central governmental authority, the Direction des Affaires Chérifiennes and the Grand Vizir. In 1915 the Vizir de la Justice was put in charge of all Islamic education,² including the traditional primary and secondary Koranic schools,³ and the Qaraouiyne University which was supported entirely by Habous funds.⁴ All these schools with some exceptions remained much as they always had been⁵ their purpose being to produce Muslim teachers, university lecturers, lawyers, judges and notaries. The French did not assume the administrative power to supervise

²Dahir of 9 March 1915, BO, 129, 12 April 1915, p. 187.

³At first one official, Faqih Si Mohammed El Hadjoui, headed the Direction de l'Enseignement, as it was originally called; but this Direction was abolished in Aug. 1914 (by Dahir of 5 Aug. 1914, BO, 96, 21 Aug. 1914, p. 690). Previously it had dealt with not only religious education, but also modern education, including the sciences, arts and foreign languages. By 1914 the French authorities concluded that no Moroccan was yet capable of handling all these branches of study, and hence it was abolished and reorganized. Religious education did remain under Moroccan control, but all other education was allocated to a newly created Direction directly under the French, as will be seen later under "Franco-Muslim Education".

⁴See André Colliez's excellent book, Notre protectorat marocain: la première étape, 1912-1930 (Paris: Librairie des Sciences Politiques et Sociales, 1930), p. 276.

⁵The modern Koranic schools, or Écoles coraniques rénovées in which French was now taught.

and inspect education in these schools.

C. Franco-Muslim Education.⁶

The new educational system superimposed by the French was directed by the Direction Générale de l'Instruction Publique, des Beaux-Arts et des Antiquités.⁷ Franco-Muslim education was administered by the Service de l'Enseignement des Indigènes on the primary and secondary level, and by the Service de l'Enseignement Supérieur et Organisation Scientifique, for higher education.⁸

The purpose of Franco-Muslim education was to supply an education system solely for Moroccans which would, at the primary school level, run parallel with the traditional Koranic schools by providing the rudiments of modern knowledge in addition to religious lore. For each school or group of schools the French set up Comités de Patronage, and a Conseil de Perfectionnement for the more important schools. An interesting feature of these local committees is that they were made up of both Frenchmen and Muslims who worked out their problems together.

Heading the whole programme was the Conseil Supérieur de

⁶ For a general discussion, see Georges Hardy, "L'éducation française au Maroc", RP, 8 (15 April 1921), pp. 773-788. For a study of the first few years of the Protectorate, see Général Lyautey (ed.), Rapport général sur la situation du Protectorat au Maroc au 31 juillet 1914 (Rabat: Imprimerie Officielle, 1916), Part II, Ch. IX, "Enseignement public".

⁷ Created by Dahir of 28 Feb. 1921, BO, 437, 8 March 1921, p. 395, which modified Art. 1^{er} of Dahir of 26 July 1920, BO, 408, 17 Aug. 1920, p. 1393. In 1915 (Dahir of 23 Dec. 1915) this had first been called the Direction de l'Enseignement.

⁸ Dahir of 26 July 1920, Art. 3 (as it was modified by Dahir of 17 Dec. 1920, BO, 426, 21 Dec. 1920, p. 2133).

l'Enseignement des Indigènes, created in February 1916, but reorganized in October 1921⁹, as follows:¹⁰

- (1) The Grand Vizir, as its president;
- (2) The Directeur Général de l'Instruction Publique, as its vice-president;
- (3) The Vizir de la Justice;
- (4) The Grand Vizir's Délégué to the Direction Générale de l'Instruction Publique.
- (5) The Directeur des Affaires Indigènes et du Service des Renseignements;
- (6) The Chef du Service de l'Enseignement des Indigènes;
- (7) The directors of Muslim schools of higher education;
- (8) Three Muslim notables.

The Conseil was consulted on all general questions pertaining to the organization of native education.¹¹

The above Conseil was quite distinct from the Conseil de l'Enseignement established in 1919 and modified in 1925, which dealt with the supervision of all matters concerning private schools in Morocco,¹² including the authorization of the opening of new private schools, as

⁹By Dahir of 31 Oct. 1921, Art. 5, BO, 474, 22 Nov. 1921, p. 1793. See Colliez, p. 269.

¹⁰Dahir of 31 Oct. 1921. For the original composition see Dahir of 17 Feb. 1916, Art. 6, BO, 175, 28 Feb. 1916, p. 218.

¹¹Ibid., Art. 6.

¹²Dahir of 15 Oct. 1919, Art. 1-2, BO, 368, 10 Nov. 1919, p. 1284; Dahir of 26 June 1925, BO, 666, 28 July 1925, p. 1269.

well as the texts to be used in them.¹³ It was composed of the following members:¹⁴

- (1) The Directeur Général de l'Instruction Publique, as its president;
- (2) The Premier Président of the Cour d'Appel, or his delegate;
- (3) The Procureur Général of the Cour d'Appel, or his delegate;
- (4) The Grand Vizir's Délégué to the Direction Générale de l'Instruction Publique;
- (5) A representative of the Délégué à la Résidence Générale;
- (6) A representative of the Secrétaire Général du Protectorat;
- (7) A representative of the Cabinet Diplomatique;
- (8) An inspector, a headmaster and a teacher of secondary education (appointed by the Directeur Général de l'Instruction Publique);
- (9) Two teachers from private schools (also appointed by the Directeur Général de l'Instruction Publique).
- (10) A secretary.

+ + + +

1. Primary Education.

¹³Dahir of 15 Oct. 1919, Art. 3.

¹⁴Dahir of 26 June 1925.

Two streams of education were established by the French for the Moroccans: one for the majority of the people, leading to apprenticeship in one of the crafts or building professions, the other for the élite of Moroccan society, who were to be trained for higher forms of education, leading to posts in the government and professional employment.

a. Primary Schools.

These schools, established in rural and urban districts, were intended to provide a skill or vocation for their pupils,¹⁵ as well as a special course in practical French. Practical, manual work was especially stressed. The schools in the cities prepared their pupils for industrial apprenticeship and sometimes had small workshops, while the rural schools prepared the children for agricultural work;¹⁶ these schools thereby provided each child with a useful skill required in his particular area. The vocational courses included basket-weaving, the making of cases and mouldings, joinery, metal-work and general repair work.

Both the urban and the rural schools were headed by French

¹⁵The French generally called them écoles de quartier. See Dahir of 18 Feb. 1916, Art. 9-10.

¹⁶Colliez, Notre Protectorat marocain, p. 271.

headmasters, assisted by French and Moroccan staff.¹⁷ In 1925 Fez had three of these schools with a total of just over 100 students,¹⁸ and by 1929 the French increased the number of primary schools to 29 for boys with 5,462 pupils, and 12 schools for girls with 1,894 pupils.¹⁹

Upon completion of their work in these schools, the pupils could then go on to an école professionnelle.

+ + +

There were also other types of primary schools, termed by the French, écoles coraniques rénovées, which were unofficial. They were set up by Moroccans as a first attempt to blend the East with the West. In addition to the traditional courses on the Koran and Arabic grammar, the pupils were also taught some elementary French.²⁰ These schools were quite popular; in Fez about one-fifth of the city's school children attended them, while in Rabat about one quarter of the children attended them.²¹ By 1930 André Colliez estimated that between 25,000 and 30,000 pupils were attending them throughout the Empire.²² As these schools were unofficial, however, the French had no authority or power of supervision over them.

¹⁷Paul Marty, "L'enseignement primaire et professionnel des indigènes à Fez", RC, 3 (March 1925), p. 75. Cf. Paul Bernard's "L'enseignement primaire des indigènes musulmans de l'Algérie", RMM, I, 1 (Nov. 1906), pp. 5-2

¹⁸"L'enseignement primaire et professionnel des indigènes à Fez", p. 78

¹⁹Colliez, p. 271.

²⁰"L'enseignement primaire et professionnel des indigènes à Fez", p. 75.

²¹Ibid.

²²Colliez, p. 270.

b. Écoles de Fils de Notables.

Schools were established in February 1916²³ for the sons of the upper classes of Morocco and the boys accepted for them were carefully selected.²⁴ The purpose of these schools was to prepare their pupils for admission to the Collèges Musulmans. They were fee-paying schools, although scholarships were available for certain pupils.²⁵

The course of studies lasted four years and was made up as follows:²⁶

- (1) Study of the Koran (taught by a faqih according to the traditional methods of the Koranic schools);
- (2) Arabic (taught by a Moroccan);
- (3) Moral Islamic religious studies (taught by a faqih);
- (4) French culture (taught by a Frenchman). This course was to be a means ". . . of entering into relationship with the French in general and facilitating the development of business between them." It included the study of language, spelling, reading, recitation, French composition, general humanities, mathematics, rudiments of the history and civilization of North Africa and France, elementary geography and drawing.

At the end of the four-year course each student who successfully

²³Dahir of 18 Feb. 1916, Art. 2, BO, 175, 28 Feb. 1916, p. 219.

²⁴Marty reports that approximately 100 pupils were registered in Fez early in 1925 ("L'enseignement primaire et professionnel des indigènes à Fez" p. 77), while by 31 Dec. 1926, there were five such schools in Morocco (Colliez, p. 275).

²⁵Dahir of 18 Feb. 1916, Art. 4.

²⁶Marty, op. cit., 72.

completed his studies was given a certificate and became eligible to enter one of the two Collèges Musulmans.²⁷

2. Technical Education.

The technical schools developed from the vocational training units added to the urban primary schools. Out of the fourteen technical schools established by the late 1920s, ten were concerned principally with apprenticeship in European trades, such as metal and woodwork, whilst the remaining four emphasized native arts, especially cabinet work, leather work and ceramics.²⁸

By the late 1920s the technical schools were training about 550 students. The most obvious deficiency was the lack of instruction in agriculture, for agricultural instruction of any importance was only given at one school for Muslims, to be discussed later.²⁹ For a primarily agricultural country such as Morocco, this was a surprising oversight. Some of the reasons for the lack of agricultural instruction were the need for craftsmen in the vast building programme being inaugurated by the French, the belief that the newly established French colons could supply all necessary food requirements for the time being, and the fact that governmental

²⁷Dahir of 18 Feb. 1916, Art. 5-7.

²⁸Colliez, p. 272. These four were located at Salé, Mogador, Marrakesh and Safi.

²⁹Located in Fez. The French also had a very small agricultural school attached to the Ecole Professionnelle (Technical School) of Casablanca in 1924, although it did not include its own experimental farm. Colliez, p. 265.

expenditure could not permit any more allocations for agricultural study at that stage in the Protectorate's development.

a. École Professionnelle of Fez.

The Muslim technical school is illustrated by the curriculum of the Bou Djeloud École Professionnelle at Fez.³⁰ Although this school was for boys only, there were also special schools for Moroccan girls at Casablanca, Rabat, Salé, Marrakesh and Mogador, where the girls were taught traditional crafts such as carpet weaving and embroidery.³¹

The curriculum of the École Professionnelle in Fez was divided into four sections:³²

- (1) Joinery with plenty of equipment (work-benches, bench-vices, lathes, millstones, forges, planing-machines, moulding machines, band-saws), power being supplied by two electric motors.
- (2) Locksmithing, ironwork and machine repair work (including farm machinery).
- (3) Pottery and ceramics.
- (4) Copper and metal work, provided with lathes, etc.

The first three sections were supervised by French master craftsmen, the fourth by a Moroccan. Students usually began their studies at

³⁰Marty, op. cit., pp. 78-79.

³¹Ibid., p. 79. In 1925 there were 250 girl students.

³²Ibid.

twelve years of age, and by 1925, 78 students were attending the courses in Fez.³³

Theoretical work was also taught, by the school's director, and every day each section received instruction in French in a technological subject, drawing and mathematics. Students were also taken on tours of nearby European factories.

The successful graduates from Fez went on to attend the École Industrielle et Commerciale of Casablanca,³⁴ where they were further trained as electricians, mechanics, foremen and draughtsmen; they could also receive preparation for the French écoles d'arts et métiers, for the various instituts électro-techniques, and the École Centrale.

b. École Indigène d'Agriculture.

In view of the basic importance of agriculture in the Moroccan economy, it is important to examine the type of training young Moroccans received at the École Indigène d'Agriculture, at Fez, which was first planned in January 1923 and opened one year later.³⁵

Its programme consisted of a two-year course intended to provide both a general and technical education.³⁶

³³Ibid.

³⁴The École Industrielle et Commerciale was opened primarily in order to train French colons and by 1929 had over 380 students. Colliez, p. 266.

³⁵Marty, op. cit., pp. 81-82.

³⁶Ibid.

I. Technical Instruction: 18 hours per week.

A. Botany: 3 hours.

Plant biology; principles of production and improvement of plants; useful and harmful plants; diseases caused by parasitic plants. Aspects of botanical geography. The structure of plants. Botanical excursions.

B. Agriculture: 3 hours.

General agriculture; special crops, colonial crops, soil evaluation. Viticulture: biology of vines, structure and upkeep of vineyards, study of vine-plants. Arborescent shrubs of large productions: olive trees, orange trees, fig-trees, etc. Elements of forestry.

C. Horticulture and Fruit Arboriculture: 3 hours.

Vegetable and market-gardening crops, arboriculture and orchards, ornamental plants. Preparation and physical properties of soil. Nutrition of plants. Their multiplication. Size and complement. Planting. Diseases and harmful insects. Care and treatment.

D. General and Agricultural Physics and Chemistry: 3 hours.

Revision of materials concerning agriculture and industry; qualifying and quantitative analyses; experiments with agricultural materials: physiology of plant nutrition, study and improvement of soils: oil-works, flour-mills, attars, various other agricultural industries; conservation of agricultural products; elements of meteorology and agricultural geology.

E. Mechanical Agriculture: 3 hours (either at the Agricultural School or at the Experimental Farm).

Applied mechanics, motors, farm equipment, tractors, agricultural hydraulics and rural construction. Stables, pigsties, cowsheds, granaries, livestock. Practical exercises.

- F. Animal Anatomy and Physiology. Hygiene and Veterinary Medicine: 3 hours (either at the School, or at the Veterinary Infirmary).

Raising and breeding of livestock, rational feeding, principles and methods of breeding and use and improvement of domestic animals. Crossbreeding. Castration. Horses, donkeys, camels, cattle, sheep, goats and poultry. Agricultural zoology, useful and harmful species, bee-keeping; breeding of silkworms, etc.

II. General Instruction: 12 hours per week.

- A. French: 6 hours.
B. Mathematics, surveying, contours: 4 hours.
C. Economic geography: 1 hour.
D. Human hygiene: 1 hour.

+ + +

Practical Work.

One-half day per week was set aside for demonstrations at the Experimental Farm (which covered 700 hectares).

At times of important seasonal work the students went to the Experimental Farm and participated in practical farm work: planting, hoeing, trimming, harvesting, grape-harvesting, reaping, mowing, fruit picking, etc. They learnt how to use various types of farm machinery. They also did practical work in the nursery garden.

+ + +

The programme of the École Indigène d'Agriculture was a broad one -- one of the most important instituted by the French. The numbers enrolled, however, were very limited. Twenty-five students attended courses in the first year, though this figure had nearly doubled in the second year.³⁷

3. Secondary Education.

Originally secondary education was given to only a select few at the Collèges Musulmans at Fez, opened in 1914,³⁸ and at Rabat, opened in 1916.³⁹ They were renamed in 1923: Collège Moulay Youssef, at Rabat, and Collège Moulay Idriss at Fez.⁴⁰

All students applying for admission to either of these two Collèges (or to the École de Fils de Notables) had to be examined and screened by the autorité locale de contrôle in order to restrict the number of candidates, because acceptance of too many might ". . . lead to the formation of déclassés."⁴¹ These colleges were meant to receive for the most part only the cream of Moroccan society, boys from cultured, educated, upper-class Moroccan families; the French realized that a

³⁷Marty, "L'enseignement primaire et professionnelle", p. 83.

³⁸Alfred Bel, "A propos de l'enseignement des indigènes à Fez", RC, 5 (May 1925), p. 147.

³⁹Created by Dahir of 18 Feb. 1916 (BO, 175, 28 Feb. 1916, p. 219; also Dahir of 31 Oct. 1921, Art. 1, BO, 474, 22 Nov. 1921, p. 1793 (modified by Dahir of 13 March 1923, BO, 544, 27 March 1923, p. 394).

⁴⁰Vizirial Decree of 14 March 1923, BO, 544, 27 March 1923, p. 399.

⁴¹Colliez, p. 274.

leadership class of Moroccans was necessary for Morocco. The boys usually entered the Collèges between the age of 12 and 14.⁴²

The Écoles de Fils de Notables were to the Collèges Musulmans what the elementary schools of France were to the lycées and collèges, except that those in Morocco trained their students mainly for commercial or government work and rarely for professional careers. The Collèges Musulmans were also on a lower academic level than the lycées and collèges in France. The course of studies lasted for six years, divided fairly evenly between French and Arabic, and included both modern sciences and Islamic studies. In the last two years of the six-year cycle, administrative or commercial specialization was introduced.

By December 1926 there were five Écoles de Fils de Notables and two Collèges Musulmans, with a total of 802 pupils.⁴³

+ + +

Collèges Musulmans.

Each Collège Musulman was under the supervision of a Conseil de

⁴²P. Marty, "Le Collège musulman, Moulay Idris", RC, 1 (January 1925), p. 5.

⁴³Colliez, p. 275. In 1925 there were 70 students at the Collège Moulay Idris, at Fez. Marty, "Le Collège musulman, Moulay Idris", p. 5.

Perfectionnement⁴⁴ the primary purpose of which was to follow the progress of the students, give advice on the drawing up and application of syllabuses, supervise the students, and make suggestions regarding the organization of the colleges.⁴⁵

At every level in the programme of Franco-Muslim education there was co-ordination between the French authorities, represented by the Directeur Général de l'Instruction Publique, and the Makhzen, represented by the Grand Vizir's Délégué to the Direction Générale de l'Instruction Publique. For instance, the Délégué headed the Conseil de Perfectionnement.

The courses in the two Collèges Musulmans led to a Certificat d'Études Secondaires Musulmanes and later to a Diplôme d'Études Secondaires Musulmanes.⁴⁶

⁴⁴Dahir of 17 Feb. 1916, Art. 5, BO, 175, 28 Feb. 1916, p. 218. The Conseil consisted of:

- (1) The Grand Vizir's Délégué to the Direction Générale de l'Instruction Publique, as president;
- (2) The Directeur Général de l'Instruction Publique, or his representative, as vice-president;
- (3) The pacha of the city (Fez or Rabat), or his representative;
- (4) The cadi of the city;
- (5) The autorité locale de contrôle;
- (6) Three Moroccan notables (appointed by the Grand Vizir);
- (7) The director of the Collège, as secretary.

See Dahir of 31 Oct. 1921, Art. 3 (modified by Dahir of 13 March 1923). The three notables were selected from among the parents of the students at the Collège.

⁴⁵Dahir of 31 Oct. 1921, Art. 4 (modified by Art. 2 of Dahir of 13 March 1923).

⁴⁶Dahir of 17 Feb. 1916, Art. 4.

+ + + +

(1) The Certificat d'Études Secondaires Musulmanes:⁴⁷

The subjects required in the final examination for this Certificat were as follows:

(a) Written Examination:⁴⁸

- 1) An Arabic composition;
- 2) A French composition;
- 3) One problem in mathematics and one in science;
- 4) A composition and its translation.

(b) Oral Examination:

- 1) Explanation in Arabic of an Arabic text;
- 2) Explanation in French of a French text;
- 3) Questions, in Arabic, on Muslim law;
- 4) " " " " in French, on the sciences;
- 5) " " " " " mathematics;
- 6) " " " " " history;
- 7) " " " " " geography;
- 8) " " " " " commerce.

⁴⁷ Vizirial Decree of 4 Sept. 1920, Art. 1-2, BO, 416, 12 Oct. 1920, p. 1730. It modified all previous programmes. E.g. Muslim law, in the oral examination for the Certificat had previously omitted.

⁴⁸ The examinations varied from three to four hours each, depending upon the subject.

(2) The Diplôme d'Études Secondaires Musulmanes.⁴⁹

This examination consisted of two sections, a general section and one on economics, each of which was divided into written and oral parts.

(a) The written examination for the general section:

- 1) A literary Arabic composition;
- 2) A French composition;
- 3) Mathematics and science problems;
- 4) A composition and its translation.

(b) The oral examination for the same section:

- 1) A literary and grammatical explanation in Arabic of an Arabic text, followed by questions on Arabic literature;
- 2) Explanation in French of a French text;
- 3) Questions in French on history;
- 4) " " " " geography;
- 5) " " " " science;
- 6) " " " " the administrative organization of Morocco.
- 7) Questions in Arabic on Muslim law.

+ + +

⁴⁹ Vizirial Decree of 21 May 1919, Art. 6-10, BO, 345, 2 June 1919, p. 543.

(a) Written examination for the section on economics:

- 1) A composition in French on economic studies (e.g. commerce, agriculture or industry);
- 2) A composition in Arabic on a similar subject;
- 3) Mathematics and science problems;
- 4) An Arabic-French translation of a composition and one from French to Arabic.

(b) Oral examination:

- 1) A problem in French on accountancy;
- 2) " " " " " commercial technology;
- 3) An explanation in Arabic of an economics problem;
- 4) An explanation in French of an economics problem;
- 5) Questions in French on economic geography;
- 6) Questions in French on general knowledge of European industry and agriculture;
- 7) Questions in Arabic on Muslim law.

As may be seen the French language was stressed very much throughout the courses, and a serious attempt was made to introduce the Moroccans to the 20th century while maintaining Arabic and some traditional Islamic studies.

As the Collèges Musulmans were usually the highest institutions of education attended by most of the upper-class Moroccans, it is important to go into more detail concerning the courses offered, to better understand the outlook and abilities of the pupils as a result of their new education.

The purpose of the French in setting up these two schools is shown in the following quotation from the Vizirial Decree of 1920:⁵⁰

Secondary education destined for the Muslims must prepare the young Moroccans for a general cultural background which, without turning them away from their traditions, prepares them to accept, and become interested in, the various aspects of modern life.

This educational programme is prepared for an élite whom it must improve from the moral, intellectual and material viewpoint and adapt to the new conditions of Moroccan life. The motto, "L'École pour la Vie", must especially become theirs. It is not a question of giving to the young Moroccans in the Collèges a bookish education foreign to their social milieu, to their intellectual tastes, to the needs of their country, to the interests of the students themselves, or to their future. On the contrary, it is necessary to form in the young people of these establishments a good Muslim background, and to touch sufficiently upon European civilization in order that they may contribute to the normal development of their country towards its new destiny. . . .

In consequence, the fundamental formula of the Collèges Musulmans is reduced to this: Muslim culture and French education. Muslim culture is taught by Moroccan Muslim teachers and is based on the study of Arabic language and literature, moral studies and religious law; French education is taught by French teachers, and includes the study of the French language, etc.

+ + +

⁵⁰Vizirial Decree of 4 Sept. 1920.

The students followed a six-year period of studies which was divided into two cycles. The first cycle lasted for four years, during which the students received a general education, culminating in the examination for the Certificat d'Études Secondaires Musulmanes. Having obtained this Certificat, they proceeded to enter the last two-year period of study, during which they had to specialize, either in commerce, or in a general section which prepared them for administrative work in the Makhzen, after which they were examined for the Diplôme d'Études.

Each cycle was divided into the following work-week:⁵¹

Courses: 18 hours per week.
Exercises: 20 hours per week.

(1) Arabic and Islamic Studies:

a. Arabic grammar	3 hours
b. Written exercises on Arabic grammar.	1 "
c. Explained Arabic readings.	2 "
d. Supervised individual reading.	1 "
e. Muslim law and <u>ibâda</u>	3 "
f. Exercises in composition	<u>1 "</u>
Total:	11 hours

(2) French Studies:

a. French grammar exercises	1 hour
b. Compositions (preparation and correction)	1 "
c. Class exercises	1 "
d. Explained readings	2 "
e. Supervised individual reading.	1 "
f. Vocabulary exercises	<u>1 "</u>
Total:	7 hours

⁵¹Ibid.

(3) Various Other Studies:

a. Translations	1 hour
b. Translating exercises.	1 "
c. Mathematics.	1 "
d. Application exercises.	1 "
e. Science	1 "
f. History.	1 "
g. Geography.	1 "
h. Cartography, graphics.	1 "
i. Commerce	1 "
j. Typing exercises	2 "
k. Drawing.	1 "
l. Writing.	<u>1 "</u>

Total: 13 hours

(4) Recreation and physical education 5 hours

(5) Visits, walks, discussions. 2 hours

The students thus had 38 hours of lessons per week, over seven hours a day for five days weekly, and three hours on the Muslim day of prayer.

The average day was divided up as follows:

Hours

8 to 10	lessons
10 to 11	Practical Exercises
1 to 3	Lessons
3 to 4	Games
4 to 5	Exercises.

The courses listed above were made up as follows:⁵²

⁵²Ibid.

I. Teaching of Arabic, and Religious Education:

A. General Principles.

"The teaching of Arabic and juridico-religious studies constitutes the humanities of the Collèges Musulmans; it provides Muslim culture for pupils, the least that can be said about it is that it is indispensable."⁵³

B. Arabic and Arabic Literature.

1. Grammar:

1st year. -- Study of the Adjouroumiya. Grammatical analysis. Exercises.

2nd year. -- Study of the Lamiya el Afaâl (conjugations) in the first term. Study of the Alfiya. Grammatical analysis. Exercises.

3rd year. -- Continuation and end of the Alfiya. Grammatical analysis. Exercises.

4th year. -- Rudiments of Arabic rhetoric.

5th year. -- (General Section) -- Rhetoric and prosody.

6th year. -- (General Section) -- Same syllabus.

Commercial Section (5th and 6th years).

2. Applied Reading and Literature:

1st year. -- Selected works in prose. Explanation from grammatical and lexicographical viewpoint. Use of the dictionary. Dictations with questions. Supervised individual readings.

2nd year. -- Selected works in prose and verse. Grammatical and lexicographical explanations. Use of Arabic dictionary. Dictations with questions. Supervised individual readings.

3rd year. -- Choice of Andalusian and Maghrebian poets and prose writers. Supervised individual readings. Reading in class of newspapers and administrative correspondence.

4th year. -- Choice of Oriental poets and prose writers. Sketch of Arabic literature and history. Reading in class of newspapers and administrative correspondence.

Commercial Section (5th and 6th years). -- Explained reading of documents, periodicals, and books on commerce, industry, agricultural and political economy.

General Section (5th year) -- Literary history of the pre-Islamic period till the end of the Abbasids. Authors read: Moallaquat (the Chamaqmaqiya), Farazdaq, El Khansa, Abounouas, Moutanebbi, Abou Firas, Hariri. Some Hispano-Maghrebian authors. Individual readings followed as often as possible by oral summaries and discussions.

6th year. -- Literary history: from the Abbasids to the present time. Picture of the whole of Hispano-Maghrebian literary history. Authors: Ibn-Ishaq, Tabari, Maçoudi, Abou el Faraj Isfahani, Ibn-Khallikan, Ibn el Athir, Kalila el Dimna, Ibn-Khaldoun, Maqrizi, Soyouti, Maqqari, Romance of Antar, Loqman.

3. Arabic Composition:

1st year. -- Creative exercises based on the explained reading. Copying down of narrations, fables heard in class.

2nd year. -- Descriptions drawn from Arab life.

3rd year. -- Narration.

4th year. -- Moral dissertations, letters, reports.

Commercial Section (5th year). -- Dissertations on political economy, commercial and administrative correspondence.

6th year. -- Same syllabus.

General Section (5th year). -- Moral dissertations; compositions on subjects relating to the administrative and economic life of the country.

6th year. -- Same syllabus.

4. Religious Education:

1st year. -- The Mouqaddimma and the Fiqhiya of Sidi el Qader el Fassi.

2nd year. -- The Ussala of Ibn Abou Zeid El Qairwani. Readings from notarized acts.

3rd year. -- Benou Achir. Readings from notarized acts.

4th year. -- The Tohafa by Ibn Acem. Readings from notarized acts.

Commercial and General Sections (5th year). -- Sidi Khalil. Sales, loans, donations, marriage property, drawing up of notarized acts. Study of Arabic astronomy applied in determining the hours of prayer (touquit).

6th year. -- (Commercial and General Sections) -- Sidi Khalil. Inheritance. Review of the chapters on law which pupils have not had sufficient opportunity to learn in detail. Drawing up of notarized acts. Applied Arabic astronomy.

+ + +

II. Education in French.

A. French Grammar:

1st year. -- Regular verbs. Sequence of tenses. Participles. Grammatical analysis acting as a review of the grammar course.

2nd year. -- Irregular verbs. Sequence of tenses. Logical and grammatical analysis. Ideas on the composition and derivation of words.

3rd year. -- Irregular verbs. Sequence of tenses. Grammatical and logical analysis. Systematic study of the derivation and composition of words. Study of the principal suffixes and prefixes. Homonymes and synonyms.

4th year. -- Irregular verbs. Sequence of tenses. Grammatical and logical analysis. Study of roots. Some elementary aspects of rhetoric.

Second cycle -- Review of the course of study of authors in explained readings and literature.

B. Explained Readings:

1st year. -- Explained reading of selected works. Use of the French dictionary. Dictations. Recitations.

2nd year. -- Same syllabus.

3rd year. -- Explained reading of selected works. Succinct ideas on literary history concerning reading exercises. Recitations.

4th year. -- Same syllabus.

During these four years there were also supervised individual readings and oral summarized accounts of work done.

Commercial Section (5th and 6th years). -- Explained reading of commercial periodicals, of the Bulletin Officiel, summaries of corporation reports, discussions on political economy.

General Section (5th and 6th years). -- Scenes or selected pages from Molière, La Fontaine, Voltaire, Florian, Châteaubriand, Musset, Victor Hugo, Lamartine, Loti, A. Daudet, Fromentin, Chevrillon, and J. and J. Tharaud. /Regarding these authors, the text of the decree states (p. 1734): "A special place must be made for the French authors who have written on the Orient and Morocco and who have never failed to bring out the sympathy of France for Islam. . . ." This is a good example of how carefully, and in what detail, the French dealt with their projects./

C. French Composition.

1st year. -- Narrations, tales, legends of the country.
Readings and composition of telegrams.

2nd year. -- Descriptions of present life.

3rd year. -- Same syllabus as second year, and dissertations.

4th year. -- Dissertations, letters, reports.

Commercial Section (5th and 6th years). -- Commercial
correspondence. Dissertations on subjects concerning
political economy.

D. French translation.

1st year. -- Translation of separate phrases with the
purpose of learning a special rule or form, French
or Arabic.

2nd year. -- Composition and its translation. Free trans-
lations conveying precise meaning, but not word for word.
The same degree of study of grammar as in the first year.

3rd year. -- Composition, and its translation. A literary
translation. Learning to keep close to the text.

4th year. -- Composition, and a literary translation of it.
A free translation. Translation of official documents.
Literary translations.

Commercial Section (5th and 6th years). -- Essay, and its
translation. Translation in both languages of commercial
documents, articles on political economy and judicial
documents.

Language and Literature Sections (5th and 6th years). --
Essay, and its literary translation. A free trans-
lation. Translations of an administrative or literary
nature. A large part to be done in modern Arabic.

III. Physical and Natural Sciences.

- 1st year. -- Zoology: Summary descriptions of the human body especially the functions of nutrition (6 lessons). The general divisions of the animal kingdom. Vertebrates. Mammals. Birds. Reptiles. Batrachians. Fish. Articulata. Molluscs. Echinodermata and coelenterata. Sponges. Protozoa. Microbes. (Based on examples from Moroccan fauna, etc., 15 lessons.) Useful and harmful animals. Breeding. Agriculture. Pisciculture (6 lessons). Hygiene (6 lessons).
- 2nd year. -- Botany: Study of organs and physiological functions of plants. Applications to agriculture, horticulture, and forestry (about 22 lessons). The general divisions of the plant kingdom. Summary study of families of plants using the most important ones of the region (10 to 12 lessons).
- 3rd year. -- Geology: The earth and its present state. Age of the various changes. The main geological periods. Sources. Wells. Rocks. Strata. Mines. Arable land, physical analysis. Agricultural value of various types of land. Fertilizing minerals. Practical study of luminous phenomena. Photography. Luminous projections. Cinematography. (15 lessons).
- 4th year. -- Natural Forces: Gravity. Flow and stability of liquids. Pressure. Water-wheels and turbines. Refrigeration. Chemical study of the air and water. Combustion and industrial combustibles: carbons and petroleum. Various explosives, and detonating devices. The winds, their uses.
- 5th year. -- (For both sections). -- Principles of Practical Mechanics: Inspection of machines, their efficiency. Conservation of energy. Loss of usable energy. Electricity, electric sparks. Electric currents, intensity, voltage. The electric current as source of chemical and heat energy, electrolysis, electric lighting and heating. General aspects of chemistry. Use of formulae. Metalloids and metals used today: chlorine and derivatives, sulphur and derivatives, compounds of nitrogen, phosphates, silicates, potassium, soda, lime, cement, plaster. Common metals.
- 6th year. -- (For both sections). -- Magnetism and electromagnetism. Electric current as a source of mechanical energy, transport of energy, telegraph, telephone: Summary study of wave motion and its propagation. One lesson on

sonor waves. Alternating current. Transformers. Electric waves. Radio-telegraphy. Principles of organic chemistry and analytical chemistry. Hydrocarbons: petroleum, acetylene. Fermentations, alcohol, vinegar. Fat bodies: soap, candles. Sugar, starch, paper. Tanning and dyeing. Analysis of water, of arable land, of some minerals or fertilizers, etc. Agriculture and raising of animals. Derived industries.

IV. Mathematics.

A. General Principles: ". . . must be eminently practical."

B. Division by Class.

1st year. -- Revision of fundamental operations on whole numbers; decimals. Powers of numbers. Problems of a practical nature concerning whole numbers and decimals. (Sale, purchase, transport, exchange, division. . .) Ordinary fractions; concrete ideas; multiplication or division of two terms by the same number. Practice of simplification and reduction to the common denominator. Addition, subtraction. Exercises.

2nd year. -- Revision of addition and subtraction of fractions. Exercises. Rule of three by the composition to the unit. Simple interest. Commercial discount. Rent. Simple problems regarding various subjects. Relationship of two large objects. Proportions. Metric system. Length, area, volume, weights, money. Some rules for the solving of areas and volumes. Exercises.

3rd year. -- Arithmetic. Literal representation of numbers; use in problems. Sum and difference of sums or differences unsolved. Addition and subtraction of algebraic numbers. Product of a sum and of a difference not affected by a number, by a sum and those not affected. Deducing the rule of multiplication of algebraic numbers. Division of algebraic numbers. Monomials and polynomials. Exercises.
Use of the ruler, compass and protractor. Planes, straight lines. Circle and its properties. Angles. Their measurement by the protractor. Perpendicular, square. Tracing perpendicular to the square by the compass.

Construction of triangles having one common side and two adjacent angles; two sides and the angle included; three sides. Deduction of the case of the equality of two triangles.

Isoceles triangles, and equilateral triangles.
Rectangles, their construction and their special case of equality.

4th year. -- Arithmetic problems and exercises. Character of divisibility by 2 and 5, 4 and 25, 3 and 9. Proof by 9 of multiplication and division. Practice in square roots.

Solving equations of the first degree. Application to common problems.

Parallels. Their construction with the aid of the common perpendicular. Construction with the ruler and protractor: corresponding angles.

The sum of the angles of a triangle. Sum of angles of a convex polygon.

Parallelogram, rectangle, rhombus, square.

Area of a square, rectangle, parallelogram, triangle, polygon, by decomposition. Measurement. Simple exercises of a surface integrator on the earth.

Proportional lines, like figures, increase or decrease of a figure. Metric relations in the rectangles. Definition of trigonometric lines.

Regular polygons. Length of the circumference and area of a circle.

5th year. -- (General Section) -- Principles of first numbers. First fractions P.G.C.D. -- P.P.C.M. Simplification and reduction of fractions to their simplest expression, P.P.D.C. Arithmetical problems concerning -- especially fractions -- proportions and metric system.

Formula solving a second degree equation. Problems and exercises over first and second degrees.

Simple principles regarding planes, the straight line in space, straight lines and parallel or perpendicular planes. Orthogonal projection. Prism, pyramid, cone, sphere, lateral and total surface, volume.

Surveying. Aspects of topography.

Geometric representation of common objects. Simple designs.

6th year. -- (General Section) -- Arithmetic problems. Progressions, logarithms, use of tables, compound interest, annuities. Review of algebra. Exercises.

Review of the geometry course. Exercises. Topography exercises.

Aspects of cosmography: constellations, diurnal motion.

Meridional plane. Axis of the world. Poles. Circumpolar stars, polar star. Parallels. Equator. Sideral day.

Concerning the earth: its shape, poles, meridians, parallels, equator (relations with the preceding). Longitude and latitude of a point. Local time. Measure of longitude. Measure of latitude by the height of the sun above the horizon. Radius of the earth. The sun. Ecliptic equinox, solstices. Earth's circumference, volume, mass. Eclipse of the sun and moon.

General principles about the solar system. Planets.

5th year. -- (Economics Section) -- Simple interest. Law of demand. Discount. Current accounts and interest. Various systems of weights and measures. Monetary system. Change of currencies.

6th year. -- (Economics Section) -- Stock market operations. Cash and long term transactions. Compound interest. Short term investments. Amortization of loans by annuities. Ordinary loans and obligations. Rents and revenues. Long term financial transactions.

V. History and Geography.

A. History.

1st year. -- General history of civilization (with special attention to France).

2nd year. -- Islam, the Prophet, the first Caliphs, the schism, the spread of Islam (taught by a Muslim).

3rd year. -- The history of Morocco up to the Sherifs; the conquest of Spain.

4th year. -- History of Morocco under the Sherifs.

5th year. -- Scientific progress in France in the 19th century. Relations between France and North Africa in the 19th and 20th centuries.

6th year. -- Detailed study of certain historical aspects of civilization, selected by the director and teacher.

B. Geography.

1st year. -- Brief study of general geography. Aspects of the globe. Morocco.

2nd year. -- North Africa.

3rd year. -- France and her colonies.

4th year. -- The chief world powers and their colonies.

5th year. -- (Economics Section) -- Elements of the wealth of a country. Agriculture, mining, industry, commerce, communications. Economic equipment. Internal commerce. Foreign commerce (exports). Commercial geography of Morocco.

6th year. -- (Economics Section) -- Commercial geography of France and her colonies. Relations established and to be established between France and Morocco. Commercial geography of the chief world powers. Main economic trends in the world.

5th year. -- (General Section) -- The world (excluding Europe).

6th year. -- (General Section) -- Europe (excluding France).

VI. Commerce.

A. General Principles.

"Commercial education has as its aim the development of the business aptitudes of young Moroccans; it emphasizes the establishment of relations between Morocco and the French commercial houses."⁵⁴

B. Courses.

1st year. -- Reading of various catalogues. Business orders, typing.

2nd year. -- Principles of commerce. Study of commercial documents, typing.

⁵⁴Ibid., p. 1737.

3rd year. -- The postal service. Customs. Postal packages. Transit. Types of transport. Insurance. Banks. Typing.

4th year. -- Accountancy. Typing.

5th year. -- (Economics Section) -- Political economy. Commercial technology. Commercial legislation of Morocco and France. Advertising. Accountancy. Shorthand and typing (French).

6th year. -- Political economy (continued). Commercial technology. The economic offices of Morocco. The development realized and to be realized, of commerce, industry and agriculture in Morocco. Structure and development of commercial enterprises. Shorthand and typing (French).

VII. Administrative Organization of Morocco.

This instruction was only for those pupils in the second cycle who wished to hold administrative offices in the Protectorate or in the Makhzen.

"The teacher will show them [the students] that on the contrary [i.e., to rigid principles, etc.], a progressive administration must follow the country in its development and must be supple and capable of adapting to necessary changes. He will underline the importance of collaboration of the natives with the French administration in the interests of the peace and prosperity of their country."⁵⁵

VIII. Writing.

"French and Arabic writing are more important than is generally acknowledged. Calligraphy especially can be for the native a means of earning his livelihood. Moreover Arabic calligraphy is a true art."⁵⁶

1st year. -- The mehsout.

2nd year. -- The mjouher.

3rd year. -- The messenend.

⁵⁵Ibid., p. 1738.

⁵⁶Ibid.

4th year. -- Cursive and square kufic.

5th year. -- (General Section) -- Copying of inscriptions.
Illuminating of manuscripts.

6th year. -- (General Section) -- Same syllabus as 5th year.

IX. Drawing.

A. Geometric drawing. See programme for mathematics.

B. Dimensional sketching:

1st year. -- Principles of dimensional sketches. Planes, sections, elevation of geometric volumes.

2nd year. -- Same syllabus. Scale.

3rd year. -- Drawing of common objects to a given scale.

4th year. -- Sketches of architectural subjects and of movable property (furniture).

5th year. -- (For both sections). Sketches of parts of machines. Practice tinting, drawing. Mosaic work.

6th year. -- (For both sections). Plans or maps (of houses, gardens, streets, cities). Local cartography.

C. Ornamental Drawing.

1st and 2nd years. -- Copying of decorative elements and of Moroccan art in bandings, mouldings, sculpture, painting, pottery, mosaics. Study of the floral elements in nature.

3rd and 4th years. -- Copying of grouped decorative elements taken from Moroccan art. Copying of foreign Arabic art analogous to Moroccan elements. Characterizing Hispano-Moorish art. Study of floral elements in nature.

5th and 6th years. -- (General Section only) -- Copying of decorative elements from Arabic art. Decorative compositions. The stylization of floral elements taken from nature.

X. Other Instruction.

A. Physical Education.

"This must avoid anything which would simulate military training, and must thus be confined to games, races and jumping. The teacher will give an account of the state of health of his students and will avoid physical over-exertion which quickly affects the natives of the upper-class.

"Physical education in the Collèges Musulmans has as its purpose not so much the development of muscles as the exercise of a healthy influence on character and morality."⁵⁷

B. Discussions.

No detailed programme for discussions was introduced. Oulama, eminent Muslims and Frenchmen were invited to prepare moral discussions: French and Moroccan businessmen, industrialists, doctors and officials came to talk to the students about their professions, the country, its wealth, and about foreign countries, informing the students about life and the world in general. It was hoped that these discussions might act as an influence in helping the students choose their future careers.

+ + +

In 1921 a badly needed department for student-teacher training was set up at the Collège Musulman of Rabat:⁵⁸ a Section Normale

⁵⁷Ibid.

⁵⁸So popular did the education prove at the Collèges Musulmans that special adult courses were also given by the Collège Moulay Idris. Four to five courses were given weekly in the following subjects: (1) French and Arabic literature and grammar, and explanation of the works and authors; (2) contemporary history and current events; (3) Moroccan legislation and administration; and (4) a monthly course on hygiene, prophylaxis and simple scientific explanations. See Paul Marty's, "La nouvelle jeunesse du Maroc", RC, 5 (May 1925), pp. 133-146.

d'Élèves-Maîtres Musulmans.⁵⁹ Students with a Certificat d'Études Primaires Musulmanes were selected for the course and studied at the Collège for at least three years, after which they worked as assistant teachers for at least another five years.⁶⁰

+ + + +

4. Higher Education.

The French were dissatisfied with the teaching at the Qaraouiye University at Fez. Its methods were completely out-of-date, and the curriculum reduced to a study of grammar and canon law. Being unable to reorganize this university themselves, as it was a religious institution, the French did the next best thing and created their own institutions of higher learning: the Institut des Hautes Études Marocaines, and the Institut Scientifique Chérifien. The former prepared students for admission to administrative, judicial, academic and commercial careers of Morocco and its courses, consisting of two sections -- administrative and literary -- lasted three years. The Institut Scientifique made up for the serious deficiency in scientific studies.

⁵⁹Vizirial Decree of 19 March 1921, Art. 1, BO, 442, 12 April 1921, p. 631.

⁶⁰Ibid., Art. 2 & 5. A Section Française was also opened for student-teachers interested in teaching in native primary schools in Morocco, at the École Normale d'Instituteurs de l'Enseignement des Indigènes d'Alger-Bouzaréa. Established by Vizirial Decree of 31 Aug. 1921, BO, 464, 13 Sept. 1921, p. 1425.

The two institutions were supplemented, at a lower level, by the French lycées and collèges in Morocco, which Moroccans could also attend. By 1929, however, only 41 Muslims were registered at the Lycée of Casablanca.⁶¹

a. Qaraouiyne University.

The Qaraouiyne University taught more or less the same subjects as it had before the Protectorate. It specialized in canon law (Chrâa) and Arabic literature and grammar. In 1938, F. Jabre bitterly complained about the great change since 1924 which had resulted in the loss of its traditional religious character.⁶²

The Qaraouiyne during Lyautey's régime was still old-fashioned in its teaching methods. The academic day was usually divided into six periods, lasting from one to one and a half hours. The curriculum consisted of: law, inheritance, theology, Prophetic tradition, mysticism, encomium of the Prophet, grammar and syntax, philosophy of grammar, prosody and poetry, logic and rhetoric.

In detail these courses were made up as follows:⁶³

⁶¹Colliez, p. 262.

⁶²F. Jabre, "Dans le Maroc nouveau: le rôle d'une université islamique", AHES, X, 51 (31 May 1938), pp. 193-207.

⁶³Paul Marty, "L'université de Qaraouiyne", RC, 11 (Nov. 1924), pp. 329-353; see especially pp. 334 et seq.

See also Michaux-Bellaire's "L'enseignement indigène au Maroc", in which the courses taught in 1911 are listed. They are quite similar, with a few variations in texts and authors. Mathematics was also taught at that time, but not by 1924.

A. Juridical Sciences:

1. Law (canon law): authors and works explained and commented on.
 - a. The Summary by Sheikh Khalil, with commentaries by Zerqani, Al Kharachi and Deriri; the first of these commentaries was accompanied by glosses and textual criticisms by Bennani and Rehouni, the second by Saïdi, and the third by Dessouqi.
 - b. The Tohfa by Ibn Acim, with commentaries by Tsouli and Taoudi, glosses by Al Ouazzani.
 - c. The Lamiya by Zoqaq with commentaries by Taoudi and Al Ouazzani's notes.
 - d. The Mourchid Mouin by Ibn Achir, commentaries by Miyara.
 - e. The Rissala by Sheikh Qarraouani.

These judicial studies were comprehensive but laid particular stress on personal status and Habous law and were sometimes accompanied by practical exercises.

2. Inheritance (Faraïdh).

Khalil was the author chiefly studied, along with the gloss and commentaries mentioned above.

3. Principles of Law (Ouçoul al-fih).

This section covered the study of the four principal judicial sources:

- (1) The Koran.
- (2) Tradition, or Sunna.
- (3) Consensus of the Muslim Community, or Idjmaa.
- (4) Analogical reasoning, or Qiyas.

The authors and works were Ibn Sobki's Summary with a commentary by Mahalli and gloss by Bennani. Only the Malekite school was taught.

B. The Religious Sciences.

1. Theology (Taouhid).

The teaching of theology and metaphysics was more and more confined to the mosques of Fez. Only two very brief courses on theology were given at the Qaraouiyye, both based on Ibn Achir, with commentaries by Miyara and Sheikh Taieb ben Kiran.

2. Prophetic Traditions (Hadith).

Only a few courses were given on the life and teachings of the Prophet, his maxims and reflections:

- a. Çahih by Bokhari.
- b. Çahih by Moslim.
- c. Mouatta by Imam Malik.
- d. Chamaill by Thirmid.

3. Mysticism (Taçouf).

One or two courses only were given, based on the works of Ibn Achir, with two commentaries by Miyara.

4. Encomium of the Prophet (Amdah).

Again, brief courses only were held, based on two classical works: Borda and Hamziya.

C. Grammatical Sciences.

1. & 2. Syntax and Morphology.

A total of 35 grammar lessons were given per week.

- a. The principal work was the Alfiya by Ibn Malik, a treatise of 1,000 verses to be learnt by heart, with three commentaries: by Al Makoudi, by Ibn Aqil, and the Taoudih by Ibn Hicham, commented on by Al Azhari.
- b. The classical work Adjjouroumiya by Ibn Adjjouroum, commented on by Al Azhari.
- c. Morphology (çarf) was studied either in part of the Alfiya, or in the Lamiyat al-afaal, with commentaries by Bahraq, and the glosses of Ibn Al Hadj and Rebaï.

3. Rhetoric (Boulagha).

This consisted of three parts:

- (1) The exposition (baiân).
- (2) The idea or invention (maani).
- (3) The ornaments of style (badia).

There were only a couple of courses in rhetoric, using:

- a. The Telkhiç by Qazouini, commented on by Saad in his Summary and Amplified.
- b. The Poem by Sheikh Taïeb ben Kiran, commented on by Al Bourï and with the gloss of Ahmed bel Khiyat.

4. Prosody and Poetry (Aroudh and Kouâfi).

One or two courses were given on Arabic metrical versification, based on Khazradjiya, together with commentaries by Zakariya and Damamini.

5. Philosophy of Grammar (Oudâa).

Only one course was given, covering the first principles of grammar, rhetoric and logic, based on Rissala al-Adhoud with commentaries by Samarqandi.

D. Philosophic Sciences.

1. Logic (Menteq).

This came from the Organon of Aristotle, commented on and adapted by Avicenna. Only one course was given, based on the Sollem of Sheikh Abd er-Rahman Lakhdari, commented on by Sheikh Bennani.

+ + +

This was the organization of the Qaraouiyye as it stood at the time of Lyautey's retirement. It had a staff of 172 teachers and about 700 students, 419 of whom were living in the various medersas (colleges); the remainder were Fassis, who lived at home.⁶⁴

+ + + + +

b. Institut des Hautes Études.

An École Supérieure de Langue et Littérature Arabes et d'Études Dialectales Berbères was founded at Rabat as early as 1912;⁶⁵ it became the Institut des Hautes Études Marocaines in 1921.⁶⁶

As mentioned previously, this institution was created by the French to serve as an equivalent of what they felt the Qaraouiyye

⁶⁴Ibid., pp. 334 and 337.

⁶⁵Residential Decree of 15 Nov. 1912, BO, 4, 23 Nov. 1912, p. 22. See also, Ismaél Hamet's, "L'école supérieure de langue arabe", F-M, V, 26 (1 July 1921), pp. 121-124. In 1920 the École was reorganized -- Vizirial decree of 5 Sept. 1920, BO, 412, 14 Sept. 1920, p. 1588.

⁶⁶Vizirial Decree of 18 Sept. 1921, BO, 469, 18 Oct. 1921, p. 1633.

University should have been. When it was reorganized in 1920, its new objectives were stated as follows:⁶⁷

- (1) The development and maintenance of scientific research on Morocco and her people;
- (2) Specialization in, and propagation of, practical knowledge of the Arabic and Berber languages, and the geography, history, ethnography and civilization of Morocco.
- (3) The preparation of Moroccan students for examinations necessary for higher or professional education.

The École Supérieure was administered by a Director, in conjunction with a Conseil de Direction which met once a month and was made up of the various directors of studies of the École, presided over by the Director. When the École Supérieure was reorganized and became the Institut des Hautes Études Marocaines, the Conseil de Direction was replaced by a Conseil d'Administration, consisting of:⁶⁸

- (1) The Directeur Général de l'Instruction Publique, des Beaux-Arts et des Antiquités, as its president;
- (2) The Grand Vizir's Délégué à l'Enseignement, as vice-president;
- (3) The Directeur of the Institut;

⁶⁷

Vizirial Decree of 5 Sept. 1920, Art. 1.

⁶⁸Vizirial Decree of 18 Sept. 1921, Art. 1, 11-12.

- (4) The Directeur Adjoint of the Institut;
- (5) The Directeur d'Études;
- (6) The Inspecteur de l'Enseignement Secondaire
(Adjoint au Directeur Général de l'Instruction Publique), as its secretary.

The teachers themselves were to meet together one a term.

The Institut was divided into various sections: (1) Arabic language and Berber dialects, (2) Higher Moroccan studies, (3) Moroccan judicial and administrative studies, and (4) a school for interpreters.

- (1) Department of Arabic, and Berber Dialects.⁶⁹

Examinations in Arabic and Berber dialects followed the traditional French pattern of written and oral work, and the students then sat for three degrees of examinations: the certificat, brevet and finally the diplôme.

(a) Written Examination in Arabic:

1) Certificat d'Arabe:

- a) An essay.
- b) A translation.

2) Brevet d'Arabe:

- a) An essay in classical Arabic.
- b) A translation into classical Arabic.
- c) An administrative Arabic translation.

⁶⁹Vizirial Decree of 23 July 1921, Art. 2, BO, 459, 9 Aug. 1921, p. 1240.

3) Diplôme d'Arabe:

- a) An essay in classical Arabic.
- b) A translation into classical Arabic.

(b) Written Examinations in Berber Dialects:

1) Certificat de Berbère:

- a) An essay in a Moroccan dialect (to be selected by the Institut).
- b) A translation into the same dialect as the essay.

2) Brevet de Berbère:

- a) An essay in a Moroccan Berber dialect (one selected by the Institut).
- b) A translation into the same dialect as the essay, with an analysis of Berber roots.
- c) A translation of a colloquial Arabic text.

3) Diplôme de Dialectes Berbères:

- a) An essay in two Moroccan Berber dialects (chosen by the Institut).
- b) A problem on comparative lexicography, or on Berber grammar.
- c) A classical Arabic translation.

(c) Oral Examinations in Arabic:

1) Certificat d'Arabe Parlé:

- a) The reading and translating at sight of a text in the Moroccan dialect of Arabic.
- b) An exercise in oral interpretation.

2) Brevet d'Arabe:

- a) An explanation of a literary text with an analysis of the grammatical forms.
- b) An explanation of an administrative text.
- c) An exercise in oral interpretation.

3) Diplôme d'Arabe:

- a) An explanation of, and commentary on, a prose text or a literary poem in classical Arabic.
- b) An explanation of, and commentary on, a Moroccan (Arabic) literary text.
- c) Questions on Arabic dialects;
- d) Questions on the history and geography of North Africa, especially Morocco.

(d) Oral Examinations in Berber Dialects:

1) Certificat de Berbère Parlé:

- a) The reading and translating of a Moroccan Berber text.
- b) An exercise in interpreting.

2) Brevet de Berbère:

- a) An explanation of a Berber text, with questions on the grammar.
- b) An oral composition including the translation of a French text into a Moroccan Berber dialect (chosen by the Institut).
- c) An exercise in interpreting.
- d) Conversation in colloquial Moroccan Arabic.

3) Diplôme de Dialectes Berbères.

- a) An explanation of a Berber text with a comparison of dialects.

- b) Exercises in translating into various dialects.
- c) Questions on the history and customs of the Moroccan Berbers.
- d) Conversation in colloquial Arabic.

+ + +

(2) Department of Higher Moroccan Studies.⁷⁰

Unlike the Department of Arabic and Berber Dialects, the Department of Higher Moroccan Studies taught senior students only, who had already been awarded their Brevet d'Arabe or Brevet de Berbère.⁷¹ In this department they studied for the Diplôme Supérieur d'Études Marocaines. The course of studies comprised:⁷²

- (a) Arabic dialects, and classical and literary Arabic.
- (b) Moroccan Berber dialects.
- (c) Moroccan ethnography.
- (d) Moroccan history and geography.⁷³
- (e) Berber and Muslim law.

To complete the course of studies and obtain the Diplôme Supérieur the student had to fulfill the following requirements:⁷⁴

⁷⁰Vizirial Decree of 5 Sept. 1920, Annexe II, Art. 1.

⁷¹Ibid., Art. 4 (added by Vizirial Decree of 9 April 1921).

⁷²Vizirial Decree of 5 Sept. 1920, Annexe II, Art. 1.

⁷³Added by Vizirial Decree of 9 April 1921, Art. 1.

⁷⁴Vizirial Decree of 5 Sept. 1920, Annexe II, Art. 2.

- (a) The submission of a thesis on Morocco, agreed to by the Conseil.
- (b) An oral examination on the subject of the thesis.
- (c) An oral examination on one of the Arab authors taught in the department, chosen by the candidate, or else an examination on comparative Berber grammar. An oral examination in Arabic was required of candidates of § (a), Arabic literature, etc., or § (d) Moroccan history and geography. An oral examination in Berber was required of candidates of § (b), Berber dialects. Candidates of § (c) could chose between Arabic or Berber.
- (d) An oral examination on a subject taught in the department (chosen by the candidate).

+ + +

(3) Department of Moroccan Administrative and Judicial Studies.⁷⁵

The courses studied here covered a two-year period, and a Certificat d'Études Juridiques et Administratives Marocaines was awarded on completion.

In the preparatory year the following courses were given:⁷⁶

- (a) Civil law (the first and second years of the Licence en Droit).
- (b) Administrative law.
- (c) Commercial or criminal law (at the candidate's choice).
- (d) Colonial economy and legislation.

⁷⁵Ibid., Annexe III (added by Vizirial Decree of 24 May 1922, BO, 501, 30 May 1922, p. 893.

⁷⁶Ibid., Art. 2.

The students could not proceed to the second and final year unless they had passed examinations on the courses given in the first year.

The curriculum of the second year comprised:⁷⁷

- (a) Moroccan civil legislation (personal status, obligations and contracts, judicial organization and civil procedure).
- (b) Moroccan administrative law.
- (c) Muslim law (including Muslim judicial organization in Morocco).
- (d) Berber customary law.
- (e) History, geography and ethnography of Morocco.

+ + +

(4) Department of Interpreter Training.⁷⁸

The course for interpreters lasted two years, at the end of which students were examined on the following:⁷⁹

- (a) Written:
 - 1) A paper written in literary Arabic.
 - 2) A literary translation.
 - 3) An essay on administration.
 - 4) A Berber translation.
 - 5) An essay in Berber.

⁷⁷ Ibid., Art. 3.

⁷⁸ Ibid., Annexe IV.

⁷⁹ Ibid., Art. 3.

(b) Oral:

- 1) Explanation of a classical Arabic text.
- 2) Explanation of a modern Moroccan Arabic text.
- 3) An Arabic translation.
- 4) Explanation of a Berber text.
- 5) A Berber translation.
- 6) Questions on Moroccan history.
- 7) " " " geography.

After passing both parts of the final examination the students were awarded a Certificat d'Aptitude à l'Interprétariat, and could become official interpreters for the Civil Service.

+ + + + +

c. Institut Scientifique Chérifien.

In 1920 the groundwork was prepared for another institution of higher learning⁸⁰ to deal solely with secular, scientific subjects, none of which had been included in the curriculum of any other institution then existing in Morocco. The Institut Scientifique Chérifien was responsible to the Direction Générale de l'Instruction Publique, and was organized in 1921⁸¹ and located at Rabat giving

⁸⁰Vizirial Decree of 24 Jan. 1920, BO, 380, 3 Feb. 1920, p. 182.

⁸¹Vizirial Decree of 6 March 1921, BO, 437, 8 March 1921, p. 400.

courses of study in:⁸² comparative anatomy, anthropology, parasitology, botany, phytopathology, geology, mineralogy, astronomy, meteorology, physical geography, oceanography, applied physics and chemistry.

In January 1925 a Comité de Direction et de Perfectionnement was set up,⁸³ meeting monthly to draw up plans for research projects, in co-ordination with the Directeur of the Institut, and to supervise the results.

+ + + + +

d. The École Militaire d'Élèves-Officiers Marocains.

A special military academy was created for Moroccans called the École Militaire d'Élèves-Officiers Marocains. This institution was approved in September 1918⁸⁴ and began functioning in July 1919, in the Dar el-Beïda at Meknes.⁸⁵ It was responsible to the Direction des Affaires Indigènes et du Service des Renseignements. Its courses

⁸²Ibid., Art. 2.

⁸³Vizirial Decree of 10 Jan. 1925, BO, 640, 27 Jan. 1925, p. 117. It consisted of:

- (1) The Directeur Général de l'Instruction Publique, des Beaux-Arts et des Antiquités, as its president;
- (2) The Directeur Général de l'Agriculture, du Commerce et de la Colonisation, as its vice-president;
- (3) The Directeur de l'Institut Scientifique Chérifien, as its secretary;
- (4) The Inspecteur Adjoint au Directeur Général de l'Instruction Publique, as the Rapporteur des Travaux de l'Institut Scientifique;
- (5) The Directeur Général des Travaux Publics, or his delegate;
- (6) The Directeur Général des Services de Santé, or his delegate;
- (7) The Présidents des Chambres d'Agriculture de Rabat et Casablanca;
- (8) A representative of the Conseil Supérieur du Commerce.

⁸⁴Created by Vizirial Decree of 3 Sept. 1918.

⁸⁵Askri, "L'école militaire d'élèves-officiers marocains de Meknès", AF, 4 (4 April 1921), p. 109.

lasted two years, and the age of entry was between 18 and 20. Perhaps more than any other European or Muslim institution in Morocco, the École Militaire was highly exclusive. Its applicants were carefully screened; in the first year only fourteen candidates were admitted, while in the second year only ten of the thirty applicants were accepted.

The course of studies, which included trips throughout Morocco, was divided into three sections:⁸⁶

- (1) French language;
- (2) History and geography of Morocco, France and the colonies;
- (3) Military studies.

Candidates passing the examinations at the end of the second year were commissioned as second lieutenants.

+ + + +

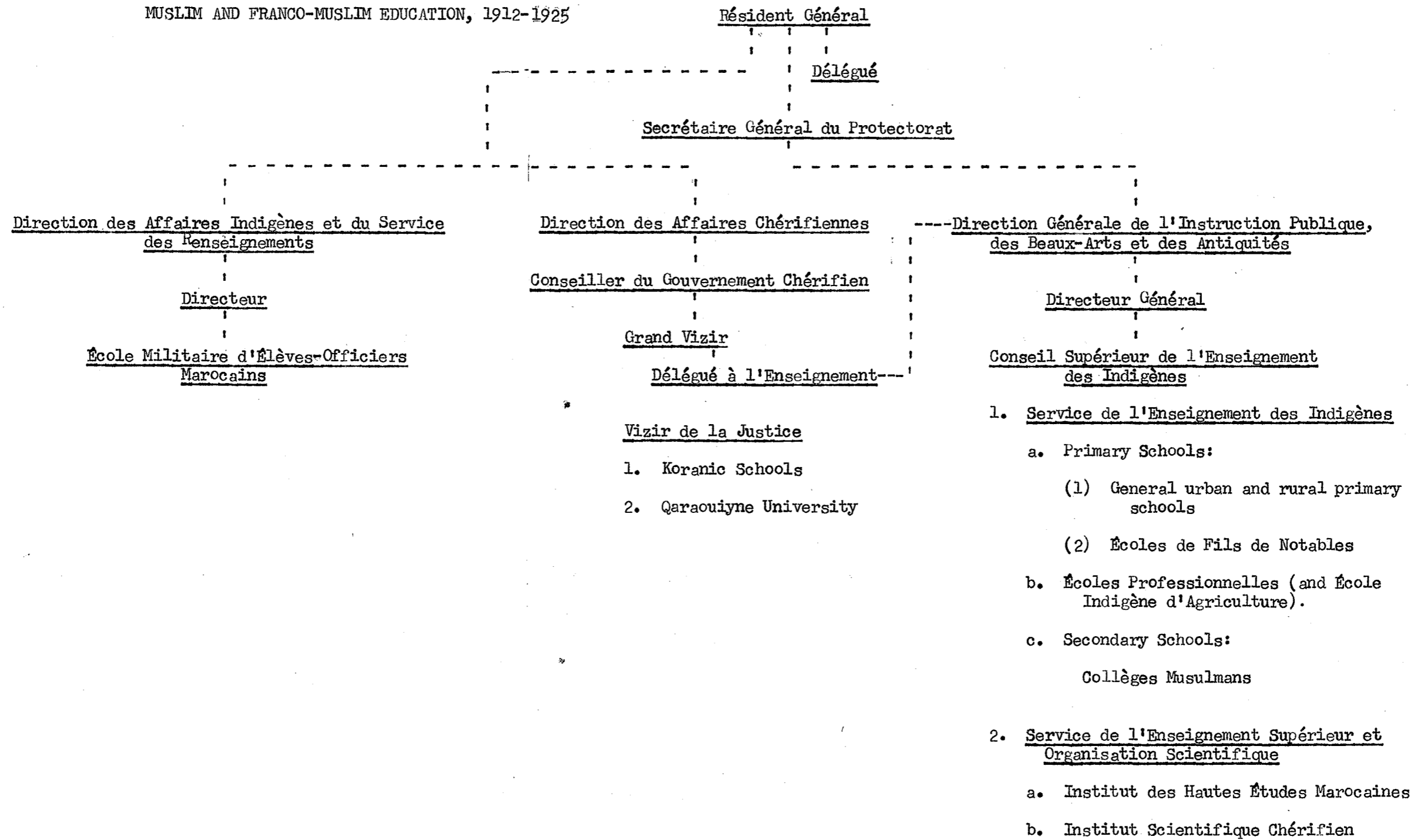
Summary⁸⁷

The French faced a formidable task when they drew up plans for the educational system of the Sherifian Empire. Two problems presented special difficulties both of principle and practice: the blending of a

⁸⁶Ibid.

⁸⁷Cf. Eugène Guernier's assessment, La Berbérie, l'Islam et la France, II (Paris: Éditions de l'Union Française, 1950), pp. 120-124.

FIGURE 14.



modern education with the religious requirements and restrictions of Islam, and secondly the provision of education for girls.

In order to avoid any misunderstanding the French did not try to alter the traditional Islamic schools in any way -- whether at the primary or higher levels. Instead, they created an entirely new educational system, from the primary level upwards. If they had omitted one of the intermediary stages -- such as primary or secondary education -- the plan would not have been successful, for education is progressive and one learns by stages; had there not been Franco-Muslim primary or secondary schools, the Moroccan students would not have been prepared, would not have had the linguistic and cultural background necessary for higher academic studies.

Together with the new programmes in language and culture, the French provided practical work at all levels, as they realized from the outset only a few students possessed the requisite ability or social background to enter the élite stream of education. The French view was that the other students could and should be given practical vocational training -- in the crafts, industrial apprenticeship and agriculture, while the sons of the leadership classes were prepared for positions of importance as government officials, teachers, judges, etc.

The French efforts to prepare the way for girls to attend classes

met with the opposition to be expected in a traditional Muslim society, but gradually achieved a measure of success.

Among the disadvantages of the educational system were that only a small number of students received an advanced education, either for a profession or academic career or in a vocational skill, and the working classes had very little chance of receiving anything but a practical education and were therefore virtually debarred from social and intellectual advancement.

The first of these defects can be explained by the very limited budget with which the educational authorities had to work, and they had to cope with a similar problem in regard to European schools in Morocco. The second defect must be considered in the light of the class distinctions which riddled the contemporary world.

CHAPTER VI
JUDICIAL ORGANIZATION OF MOROCCO

I. Before the Protectorate.

A. Introduction.

The French Protectorate established in 1912 was to change radically the judicial organization of Morocco. To understand better the significance of the French changes, it is first necessary to study the judicial system prior to 1912 in its traditional composition and role.

There were three distinct judicial organizations in the Sherifian Empire before the Protectorate: consular courts, rabbinical courts and religious and customary Muslim courts.

The consular courts exercised jurisdiction over the nationals and protégés of foreign states having consulates in Morocco. Their powers were regulated by the Convention of Madrid of 1880¹ and the Act of Algeciras of 1906²

The rabbinical courts were a traditional prerogative of the

¹See Appendix I.

²See Appendix XIV. The following countries had one consular court in Morocco prior to 1912: Austria, Belgium, Italy, Portugal, Russia and the United States; England, France and Germany had two consular courts each, one at Tangier, another at Casablanca. Spain had six, one at each of the following: Tangier, Larache, Rabat, Casablanca, Safi and Mogador. Louis Holtz, Traité de législation marocaine -- droit public et droit privé du Protectorat (Paris: Edition des Juris-Classeurs, 1914), p. 166

Jews in Morocco, who had been in the country since at least the 3rd century A.D.³ Civil and criminal matters concerning members of the Jewish population were handled by the Jewish judicial authorities. The French were to alter this in certain respects.

The term "Muslim" courts is somewhat misleading, for it in fact includes Muslim religious courts and Muslim courts of customary or secular law, as well as the tribal courts of Moroccans living beyond the reach of the Sultan's authority.

B. Traditional Muslim Judicial Organization in Morocco Before 1912.

If a wealthy man steals, they say that he forgot (that the thing did not belong to him), and if a poor man forgets, they say he stole.

A MOROCCAN PROVERB

At the head of the Muslim Community of Morocco was the Imam,⁴ or religious leader, who was considered the lieutenant of the Prophet⁵ and his representative on earth.⁶ As the Imam, the Sultan administered the properties and protected the interests of the people. He was also the temporal sovereign of the Community.⁷ Theoretically, he was

³Nahum Slouschz, "Etude sur l'histoire des juifs et du Judaïsme au Maroc", AM, IV, 2-3 (1905), p. 381.

⁴The Imam was the only supreme authority recognized by the Chrâa. E.I.J. Rosenthal, Political Thought in Medieval Islam (Cambridge: Cambridge University Press, 1962), pp. 22-23.

⁵Ibn Khaldoun, Prolégomènes d'Ibn Khaldoun, trans. de Slane (Paris: 1863) 1st Part, p. 468.

⁶A. Péretié, "Organisation judiciaire au Maroc", RMM, 3 (1911, p. 510. For, ". . . there are no two swords, a spiritual and a temporal, in Islam." ". . . there is of course no separation between Church and State" Rosenthal, p. 23.

the absolute master of his subjects and could dispose of their persons or property at will so long as he did not violate Muslim law.⁸ Because of his position as spiritual and temporal sovereign in the Sherifian Empire, the Sultan was also the highest "court" of appeals.

In principle, the cadi was the only religious judge. Throughout the centuries, however, his powers had been encroached upon by the Sultan's governors, or oummal,⁹ and by 1912 the cadi's authority was limited to certain civil matters. The cadi, who was, technically speaking, the head of the local judicial organization,¹⁰ could in practice only judge criminal cases when requested to do so by the amel (pacha or caïd).¹¹ Prior to the Protectorate the cadi dealt with cases arising from inheritance, property, family matters, joint ownership, and at times with creditors' claims.¹² Such crimes as theft and murder were judged by the Makhzen, that is by the pacha or caïd of the city or locality where the crime had been committed, although other matters were referred to the cadi when complications arose over a religious point. Formerly, the cadis were appointed by the High Cadi

⁸Ed. Michaux-Bellaire, "L'islam et l'état marocain", RMM, VIII, 7-8, (1909), p. 313.

⁹Amel in the singular. Péretié, p. 511. In principle the cadi remained competent in all matters. Holtz, p. 163.

¹⁰L. Mercier, "L'administration marocaine à Rabat", AM, VII (1906), p. 394. For a full study of the qualifications required of the cadi and other judicial officials, as well as the historical background of these offices, see Prolégomènes d'Ibn Khaldoun. (Plural of cadi is coudat.)

Tyan discusses the religious and judicial status of the cadi in detail in his excellent work: Émile Tyan, Histoire de l'organisation judiciaire en pays d'Islam (Leiden: E.J. Brill, 1960), Chapter II.

¹¹Mercier, pp. 393 et seq. See also Holtz, p. 164.

¹²Péretié, p. 516. The Makhzen usually withdrew such claims from the cadi's competence.

of Fez (the Cadi el-Djemaa), whereas by the turn of the 20th century, the High Cadi's role was limited to proposing to the Sultan the nomination of the cadis of the large cities and ports,¹³ whom the Sultan appointed by dahir.

The cadis of the smaller towns and localities in the Bled el-Makhzen were appointed by the Sultan after nomination by the local governor.¹⁴ The governor would send his nominee to the Dar el-Makhzen (Government House, the main administrative office) at Fez, the nominee accompanying his request for the office with a small sum of money for the Sultan's entourage; the Sultan would confirm the appointment.¹⁵ The cadis of the interior were thus more or less responsible to the local governor, which further weakened their independence. Another weakening factor was that, although in theory the cadis were to be paid from the income from Habous property,¹⁶ in reality this was rarely so and they were often forced to accept gifts

¹³ Ibid. E.g. this was true of Meknes and Rabat. The nomination for the cadi-ship of a city, however, was made by the pacha or caïd of that city, who forwarded his nomination to the High Cadi of Fez, who in turn forwarded it to the Sultan. The High Cadi was also known as the Cadi el-Coudat. G. Salmon, "L'administration marocaine à Tanger", AM, I (1904), p. 3. See also, Michaux-Bellaire and G. Salmon, "El-Qçar El-Kebir: Organisation administrative", AM, II, 2 (1904), pp. 36 et seq; E. Tyan, pp. 128 et seq. The applicant for the cadi-ship had to be (1) male, (2) intelligent (3) free (not a slave), (4) a Muslim, (5) an honourable person, (6) mentally competent, and (7) qualified in jurisprudence. Tyan, pp. 160-170.

¹⁴ Péretié, p. 516. This happened in El Ksar El Kebir. According to M. Péretié, the man nominated to the cadi-ship by the governor was often a relative who obtained the governor's favourable mention by giving him a hediya (gift).

¹⁵ Ibid.

¹⁶ Ibid., p. 517.

from litigants. Legally, cadis had no right to remuneration from the parties to a lawsuit, except when acting as executor of an estate.¹⁷

In the areas where the Sultan's authority was not recognized, or was only in part recognized, the position was different. The Sherifian Empire had been traditionally divided into two distinct areas, the Bled el-Makhzen, where the Sultan's authority was more or less respected by all, and the Bled es-Siba, where it was not effective;¹⁸ but in reality this situation was not so clearly defined, for there was a third area between the Bled el-Makhzen and the Bled es-Siba, known as the Djebala.¹⁹ There the Sultan still had some power,²⁰ though greatly diminished, and the tribal assembly of notables (the djemaa) nominated the cadi,²¹ although it gave its nomination of the new cadi to the tribe's caïd who publicly announced this nomination.²² The djemaa, however, had the power to execute the cadi's judgments.²³

In the Bled es-Siba the Berber tribes had greater independence than any other group within the Sherifian Empire. Here not only was the Sultan's temporal authority completely ignored, but also his

¹⁷Mercier, p. 395. Usually 2% of the entire value of the estate went to him; the two adoul who assisted in the inventory were also paid from the same source.

¹⁸This ethno-geographical division in Morocco has existed since Saadian rule, under El-Mançour, in the late 16th century.

¹⁹Péretié was one of the few scholars to recognize this third division within the Empire. Péretié, pp. 526-527.

²⁰I.e. the Sultan could still nominate the caïd or sheikh of a Djebala tribe, although these officials held very little power.

²¹Péretié, p. 527.

²²Ibid.

²³Ibid.

spiritual authority.²⁴ These tribes often had cadis, but the complete Muslim jurisdiction of the cadis was far from effective, the tribal assemblies dealing more or less with any judicial matter, as well as punishments.²⁵ A special meeting of tribal notables heard all complaints and claims made by tribal members.²⁶ These notables worked on a circuit basis, travelling from area to area, to mete out justice.²⁷ In some cases there was also a special official called the caïd er-rebi who saw that pasturage rights were respected.²⁸ Business disputes, murders and other crimes were settled through mutually agreed upon azref, or arbitration, by one judge.²⁹

In the Bled el-Makhzen every community of any size had at least

²⁴In these areas the Sultan was only recognized in his titular capacity as Imam. Mohamed Lâhbabi's interesting discussion, Le gouvernement marocain à l'aube du XXe siècle (Rabat: Éditions Techniques Nord-Africaines, 1958), pp. 41-45.

²⁵Péretié, p. 529. Some tribes had no cadi and followed local customary law as opposed to the Chrâa; the French were later to make much of this indigenous Berber characteristic.

²⁶Ibid.

²⁷Ibid.

²⁸E. Michaux-Bellaire, "Les coutumes berbères dans les tribus arabes", RMM, IX, 10 (1909), p. 234.

²⁹An anonymous article translated by G. Salmon, "Les institutions berbères", AM, I, 1 (1904), pp. 127 et seq.

In cases of murder, the arbiter handled the matter as follows: the family of the victim and that of the murderer were summoned before the arbiter. The latter debated with them in order to establish a diyyah, or blood price, which was to be paid to the victims. After agreement as to the amount, the sum was handed over to the victim's family and the opposing parties left amicably. Péretié, however, noted that among certain Rif Berbers, e.g. the Zenata, the murderer was usually executed, and interminable vendettas often resulted. In an azref settlement, the relatives of the victim, having accepted the diyyah, sometimes also took revenge and killed the murderer, whereupon the entire amount of the diyyah had to be returned, as opposed to the position in Arab tribes where the diyyah would have been kept.

one mufti to help the cadi reach his verdict. As the head of the local judicial organization, the cadi appointed his adoul and the mufti.³⁰ In the Ottoman Empire, however, official muftis were appointed by a high-ranking official in the central government, the Şeñû 'l-Islâm.³¹

C. Muslim Judicial Procedure.³²

The procedure in cases heard before the cadi in the Chrâa Court, was as follows:

A complaint was lodged with the cadi³³ and if the defendant wished to avoid imprisonment, he had to deposit a sum of money analogous to bail bond (or damen oudjoh) as a guarantee that he would remain in the vicinity in which the trial was taking place. The plaintiff could refuse to grant this type of bail; if this happened, the defendant might pay a second amount and if it too were refused, a third and still higher amount was paid, which the plaintiff had to accept. A second type of bail was the damen mouadjaba which the defendant also had to pay to guarantee execution of the sentence; as in the case of the former bail, the third or highest amount offered might only be accepted. The cadi could excuse the defendant from payment of these two bails if he felt that the defendant's character alone presented sufficient guarantee.

³⁰Mercier, p. 394.

³¹H.A.R. Gibb and Harold Bowen, Islamic Society and the West, I (London: Oxford University Press, 1957), Part II, Ch. X, iii.

³²For a study of this, see Péretié, pp. 517-523.

³³Traditionally in the Middle East the cadi held his court in a mosque or medersa (school). Tyan, p. 279.

The defendant could also present a counter-claim and require that the plaintiff present him with a damen oudjouh and a damen mouadjaba.

The plaintiff, like the defendant, could defend himself before the cadi, or else hire a lawyer, or oukil, to do this.³⁴

The plaintiff and his lawyer then went before two notaries (adoul) to present his case, the lawyer repeating his client's claims and supplying the necessary judicial forms. This procedure was called the tagyid el-maqal. After the adoul had recorded all the facts they affixed their signatures to the document they had just recorded.

The defendant then asked the cadi for a copy, or neskha, of the tagyid el-maqal and could also ask the cadi for a recess in which he might consult a mufti, so as to discover the best means of answering the charges while conforming with the Chrâa. Later he went before the adoul with his oukil to answer the charges and to have his side of the story officially recorded. The plaintiff could now ask for a copy of the defendant's reply, and so this process would be repeated, the defendant continually answering the charges brought before him, until one of the parties could no longer afford to go on; for each tagyid el-maqal required immediate payment of a fee to the adoul, and

³⁴The oukil was not a lawyer in the Western sense of the word, but only a type of high-ranking clerk, familiar with certain judicial formalities. He had more power than one possessing a power of attorney, but far less than a European or American advocate. See also, Tyan, p. 262.

the mufti had to be paid for every fetoua he drew up.

When these preliminary steps and documents had been completed, the cadi was ready to pronounce judgment. After judgment had been pronounced the condemned party could ask for a copy of the sentence, and again consult a mufti³⁵ and return with yet another fetoua and present it to the cadi. The cadi could either reply to the mufti's fetoua and stand by the original sentence, or find the arguments of the fetoua valid and pass a new sentence. In either case, depending who was placed in the defensive position, that party could then request a copy of the latest judgment and again consult a mufti. This would continue until the cadi eventually agreed that the mufti's arguments conformed with the Chrâa. One of the parties could renounce any further action because he felt that the matter were not worth any further expenditure or because he could not afford to continue. Muslim justice in such a case far too often meant a triumph of wealth, rather than of justice, although the ability of being able to appeal one's case immediately after the verdict had been given, certainly had its advantages over lengthy Western procedures.

When an important case was heard, for example, concerning real estate, the cadi could, before giving his final verdict, request the Sultan (or at Tangier, his naïb) to summon a medjlis, or council, which

³⁵ Emile Tyan discusses the position of the mufti in detail. Tyan, pp. 219 et seq.

was usually made up of four oulama; the cadi would then pronounce judgment according to the opinion of the medjlis. In this case, an appeal against the sentence could only be made by laying the case before the representative of the Sultan, which was usually what happened (at Tangier) when Europeans were involved in a lawsuit.³⁶

³⁶

This conformed with Art. XI of the Convention of Madrid.

II. French Judicial Organization, 1912-1925.

Permit me to draw your attention to the urgency of the proposed [judicial] reform. It is, in my opinion, the first reform which we must make in Morocco; in fact it is the basic condition necessary in order to abolish the capitulations régime and, in consequence, the basic step necessary for the administrative reorganization of Morocco, the care and responsibility for which the Government has entrusted me.

LYAUTEY, to the Minister of
Foreign Affairs, 19 March 1913.

Already your red robes are following in the path of our victorious arms.

LYAUTEY,
Rabat, 15 October 1913.

A. Introduction.

In 1912 Morocco became a French Protectorate and in 1913 the first machinery for the judicial reorganization of Morocco was put into operation.¹ Under the Protectorate consular jurisdictions, with two exceptions, were done away with; the competence of the Muslim courts was redefined and their procedure was reformed; a totally new judicial organization was introduced for Europeans; and even the rabbinical courts were altered to some extent.

¹For a detailed study of the entire organization, see: Stéphane Berge, La justice française au Maroc -- organisation et pratique judiciaire (Paris: Leroux Editeur, 1917); see also J. Caille, L'organisation judiciaire au Maroc (Paris: Librairie Générale de Droit et de Jurisprudence, 1948). For the original outlines of the organization, see Général Lyautey, Rapport général sur la situation du Protectorat du Maroc au 31 juillet 1914 (Rabat: Imprimerie Officielle, 1916), Part III, Ch. I; or Appendix XXVI.

B. French Judicial Organization, Jurisdictions and Competence.²

French courts were set up in the Protectorate for the first time in August 1913.³ Three types of courts were created:⁴

- (1) Tribunaux de Paix,
- (2) Tribunaux de Première Instance,
- (3) A Cour d'Appel.

These courts were to deal with French nationals or "justiciables," and had no power over Moroccans unless a French national were involved. When French courts (Tribunaux de Première Instance and the Cour d'Appel) heard real estate cases involving French and Moroccan nationals, two Muslim assessors could be added to the court, though these assessors

²E. de Viguera Franco briefly discusses the French, Spanish and Moroccan judicial organizations in "Sistemas orgánico-judiciales en Marruecos", CEA, 8 (1949), pp. 9-54. See also Tomás García Figueras' work, España y su Protectorado en Marruecos (1912-1956) (Madrid: Instituto de Estudios Africanos, 1957), see Part II, Ch. A, "Justicia".

³Established by Dahir of 12 Aug. 1913, BO, 46, 12 Sept. 1913, p. 9. Lyautey considered judicial reform to be of primary importance. M. Landry, the Public Prosecutor for the French Republic at Oran, was given the task of outlining the entire judicial organization in French Morocco. This was accomplished early in 1913, and was based mostly on experience in French colonies. On 19 March 1913 Lyautey sent a report to the Foreign Minister in which he presented the plans drawn up by Landry, and asked that a Commission of juriconsults be set up to examine and elaborate on Landry's outline. The above-mentioned Dahir of 1913 was the first result of their achievement.

The Commission, which was drawn up by the Foreign Minister, consisted of: MM. L. Renault, Hebraux, Romieu, Bouilloche, S. Berge, Grünebaum-Ballin, Geuffre de Lapradelle, Chardenet, G. Teissier, Cruchon-Dupeyrat, Jean Labbé, Gauthier, Collavet and Kammerer. Also taking part were MM. de Saint-Aulaire (Délégué à la Résidence), and Paul Tirard (Secrétaire Général du Protectorat). They met for the first time on 7 May 1913. Lyautey, Rapport général, p. 220.

⁴Dahir of 12 Aug. 1913, Art. 1.

had a consultative voice only.⁵

Article Four of the Dahir of August 1913 reserved for Moroccan Muslim or Jewish courts cases pertaining to personal status and inheritance.

French courts were declared competent to judge Moroccans in the following circumstances:

- (1) When crimes were committed by Moroccan subjects⁶ against Frenchmen, Europeans, or protégés of the various European powers.
- (2) When crimes were committed within French jurisdictions by Moroccan subjects, with Frenchmen or protégés as accomplices.

This article was made all-inclusive so as to qualify any Moroccan acting against any Frenchman, French law or institution. Nationals of countries which had renounced their former consular jurisdictions in Morocco, or which had never had consular jurisdiction in Morocco were now also under French jurisdiction.⁷

⁵Ibid., Art. 3.

⁶This was modified by Art. 6 of Dahir of 16 May 1930 (the Berber Dahir) which gave French courts full jurisdiction for all crimes committed in "pays berbères".

⁷Only Great Britain and the U.S.A. maintained consular jurisdictions in Morocco after 1912.

The position with regard to company law in Morocco should also be clarified. French courts alone were competent to handle civil and commercial cases by or against companies, notably the sociétés anonymes and the sociétés à responsabilité limitée, whether they were French, Moroccan or foreign. (See Art. 4 of Dahir of 11 Aug. 1922 and Art. 7 of Dahir of 1 Sept. 1926). This was the case even when both parties were Moroccans.

In penal matters, however, infractions against companies were held by French or Moroccan jurisdictions according to the general regulation of penal competence in Morocco. In principle, Moroccans were to be tried by Makhzen courts, Frenchmen and foreigners by French courts, regardless of the nationality of the victim. But Art. 6 of the Dahir on judicial organization quoted above conflicted with this. See Paul Decroux, Les sociétés au Maroc, zone française--zone tangéroise: statut juridique et fiscal (Paris: R. Pichon & R. Durand-Auzias, 1950), e.g. pp. 123-125.

1. Tribunaux de Paix.

The first three Tribunaux de Paix were opened in 1914 and by 1925 their number had increased to twelve. These courts were competent to handle the following:⁸

- (1) Lawsuits and cases relating to (chattel) property, civil and commercial, involving up to 500 francs in value without right of appeal, and up to 1000 francs in value with right of appeal (to a Tribunal de Première Instance);
- (2) Cases involving up to 500 francs without right of appeal, and up to 3,000 francs with right of appeal in the following: travel and transport, leases and repairs, disputes involving civil damages to property regarding work, property, taxes, etc;⁹
- (3) Authorization of married women, or minors, to enter into a litigation when necessary;
- (4) Criminal cases relating to (a) minor offences dealt with in France by summary courts, (b) offences punishable by fine only, such as vagrancy or mendicity, (c) an offence punishable by up to two years' imprisonment.

In criminal cases the Tribunaux de Paix added assessors to the bench who had a deliberative voice in the verdict and sentence.¹⁰

⁸See Art. 9, Dahir of 12 Aug. 1913; S. Berge, pp. 137-144; J. Goulven, Traité d'économie et de législation marocaines, II (Paris: Librairie des Sciences Économiques et Sociales, 1921), pp. 66-68.

⁹For details, see Goulven, II, pp. 66-68, and Berge, pp. 137-144.

¹⁰Art. 9, Dahir of 12 Aug. 1913.

The Tribunaux de Paix consisted of:¹¹

- (1) A Juge de Paix,
- (2) One or more Juges Suppléants Rétribués,
- (3) A Juge Suppléant (or if this were not possible, a member of the judicial police appointed by the Procureur Général, to act as public prosecutor).

During Lyautey's administration there were twelve of these courts, in the following cities:¹²

Two in Rabat	Two in Casablanca
One in Oujda	One in Fez
One in Meknes	One in Kenitra
One in Marrakesh	One in Mazagan
One in Safi	One in Mogador

Circuit sessions of these courts in the neighbouring areas within their jurisdiction were also provided for in 1920,¹³ while each of

¹¹Dahir of 20 Nov. 1922. The first five Tribunaux de Paix had been set up at Rabat, Casablanca, Oujda, Safi and Fez, Art. 18 of Dahir of 12 Aug. 1913. Dahir of 1 Feb. 1914, BO, 70, 27 Feb. 1914, added Mazagan, Mogador and Marrakesh.

The Tribunal de Paix at Casablanca was at least twice as busy as any other in Morocco, for in the calendar year 1913-1914 it heard 2,327 cases, and by 1915-1916 this number had increased to 4,327 cases, as compared with only 216 and 454 consecutively for the same years at Marrakesh. Most of these cases were criminal by 1915-1916, though this percentage (civil vs. criminal) varied according to the area. See Berge, pp. 797-802.

¹²Dahir of 20 Nov. 1922.

¹³Art. 3 of Dahir of 1 Sept. 1920, BO, 421, 16 Nov. 1920, p. 1929. The precise jurisdiction of each of the twelve Tribunaux was announced in Dec. 1920, Art. 1 of Dahir of 29 Dec. 1920, BO, 429, 11 Jan. 1921, p. 35.

the Tribunaux de Paix was placed under the jurisdiction of one of the three Tribunaux de Première Instance, as follows:

- (1) Under the Tribunal de Première Instance of Casablanca:¹⁴

The Tribunaux de Paix of Casablanca,
" " " " " Mazagan,
" " " " " Safi,
" " " " " Mogador,
" " " " " Marrakesh.

- (2) Under the Tribunal de Première Instance of Rabat:¹⁵

The Tribunaux de Paix of Rabat,
" " " " " Meknes,
" " " " " Fez,
" " " " " Kenitra.

- (3) Under the Tribunal de Première Instance of Oujda:¹⁶

+ + +

2. Tribunaux de Première Instance.

During Lyautéy's régime, Tribunaux de Première Instance were

¹⁴Art. 3, Dahir of 29 Dec. 1920 (as it was modified by Art. 2 of Dahir of 3 March 1923, BO, 543, 20 March 1923, p. 367).

¹⁵Ibid.

¹⁶Ibid.

located at Casablanca, Rabat and Oujda¹⁷ and were competent to handle the following:¹⁸

- (1) Appeals from the Tribunaux de Paix,
- (2) Lawsuits and appeals (including chattel property) involving from 1000 to 3000 francs in value, and real estate cases when up to 120 francs in income was concerned.
- (3) Appeals (and with no further appeal) taken against decisions of consular courts; suits or cases involving public administrators or public administration; and also any cases involving the personal status of Algerian Muslims.
- (4) Serious criminal cases involving imprisonment of more than two years. In criminal cases six assessors were added to the bench, all having a deliberative voice in the verdict and punishment.

The Tribunal de Première Instance of Casablanca was divided into three chambers and made up of the following members:¹⁹

¹⁷Art. 17 of Dahir of 12 Aug. 1913. This article was modified and added to by Dahir of 10 June 1924, BO, 613, 22 July 1924, p. 1133. The Tribunal of Rabat was established by Dahir of 22 Dec. 1916, BO, 228-229, 5-12 March 1917, p. 266. The Tribunaux of Casablanca had been created by Art. 17 of Dahir of 12 Aug. 1913, while the Tribunal de Première instance of Marrakesh was not created until 1926 (by Dahir of 2 July 1926). Two more were created later.

From the opening of the Tribunaux de Première Instance, that of Casablanca was by far the busiest, with a total of 809 cases heard in 1913-1914, as compared with only 273 at Oujda. The majority of cases heard at both Tribunaux was commercial. See Berge, pp. 794-797.

¹⁸See Berge, pp. 114-115; Goulven, II, pp. 68-69.

¹⁹As modified by Dahir of 10 June 1924. (Originally in Art. 17 of Dahir of 12 Aug. 1913). The third chamber dealt with real property matters only and is discussed later in this chapter. Dahir of 10 June 1924, as it modifies Art. 11 of Dahir of 1 Sept. 1920.

- (1) A president,
- (2) Two vice-presidents,
- (3) Eight Juges (two of whom were Juges d'Instruction, or examining magistrates),
- (4) Three Juges Suppléants,
- (5) A Procureur Commissaire du Gouvernement (i.e., public prosecutor),
- (6) Two Substituts (i.e., for the Procureur).

The Tribunal de Première Instance of Rabat was divided into two chambers, consisting of:²⁰

- (1) A president,
- (2) Five Juges (one of whom was the Juge d'Instruction),
- (3) Two Juges Suppléants,
- (4) A Procureur,
- (5) A Substitut.

The Tribunal de Première Instance of Oujda was composed of:²¹

- (1) A president,
- (2) Three Juges (one acting as Juge d'Instruction),
- (3) A Juge Suppléant,
- (4) A Procureur,
- (5) A Substitut.

²⁰Ibid.

²¹Ibid.

The three Tribunaux de Première Instance were under the jurisdiction of the Cour d'Appel.²²

3. Cour d'Appel.

The Cour d'Appel sat at Rabat and was established in 1923.²³ As the highest court of the land it heard all appeals taken against decisions on civil and criminal cases by the Tribunaux de Première Instance. It was composed of:²⁴

- (1) A Premier Président,
- (2) A Président de Chambre,
- (3) Four Conseillers,
- (4) The Procureur Général,
- (5) A Substitut.

The Cour could be divided into chambers at the request of the Premier Président, and decisions were reached by three judges.²⁵

+ + +

²²Art. 3 of Dahir of 3 March 1923.

²³Art. 1 of Dahir of 12 Aug. 1913; see Berge, p. 145.

²⁴Ibid., Art. 16. During its first year (1913-1914) the Cour d'Appel heard 73 cases, the majority of which were criminal, and it was the criminal category which tended to predominate in the years to follow. Berge, p. 793. The number of Conseillers gradually increased (see Dahirs of 23 July 1926 and of 23 July 1927) so that by 1927 there were six Conseillers and also an Avocat Général. Arthur Girault, Principes de colonisation et de législation coloniale, V (Paris: Recueil Sirey, 1928), p. 311.

²⁵Art. 16, Dahir of 12 Aug. 1913.

All judges for any of the three types of courts were appointed by the President of the French Republic and were nominated by the French Ministers of Justice and Foreign Affairs.²⁶ The French judicial organization of the Protectorate was under the dual authority of the French Ministries of Justice (directly) and Foreign Affairs (indirectly, via Lyautey).

4. Circuit Courts.

Circuit sessions during Lyautey's administration were begun in 1914 and extended to seven localities by the time of his resignation in 1925. These circuit sessions were Tribunaux de Paix and heard civil, commercial and criminal cases.²⁷

The first session was authorized in 1914 for Kenitra²⁸ and was a circuit session originating from Rabat and sitting on the last Friday of each month.²⁹ A circuit session was authorized for Ber-Rechid in 1918;³⁰ it was held by a Tribunal de Paix from Casablanca once each month.³¹ The Tribunal de Paix from Oujda held sessions in Berkane from 1919, once a month.³² A circuit was authorized for Meknes in the summer of 1920 by the Tribunal de Paix of Fez and was convened once a week.³³ In 1921 the circuit held at Ber-Rechid was extended to Settat,³⁴ and

²⁶Decree & Dahir of 7 Sept. 1913, Art. 2, BO, 46, 12 Sept. 1913, p. 8.

²⁷Ordonnance of the Premier Président of the Cour d'Appel of 4 July 1911

²⁸Ibid. ²⁹Ibid.

³⁰Ordonnance of 27 March 1918, BO, 285, 8 April 1918, p. 346.

³¹Ibid.

³²Ordonnance of 7 Nov. 1919, BO, 369, 17 Nov. 1919, p. 1317.

³³Ordonnance of 15 June 1920, BO, 402, 6 July 1920, p. 1130.

³⁴Dahir of 25 July 1921, BO, 459, 9 Aug. 1921, p. 1226.

likewise the hearings at Kenitra were extended.³⁵ In 1922 a circuit for Taza, originating from Fez, was set up,³⁶ and the same year a circuit from Oujda reached Taourirt.³⁷ In 1924 a circuit from Casablanca was set up for Oued-Zem³⁸ thereby completing the development of the circuit court system under Lyautey's administration.

5. Assessors.

Judicial assessors (assesseurs) were employed under two circumstances: when property cases were heard by a Tribunal de Première Instance or the Cour d'Appel, and when criminal cases were tried in a Tribunal de Première Instance.

When a case arose involving real estate and was in the jurisdiction of a Tribunal de Première Instance or the Cour d'Appel, these courts added two Muslim assessors, although they held a consultative voice only.³⁹

In criminal cases six assessors were added to the Tribunal de Première Instance.⁴⁰ If the accused were all of foreign nationality, three French assessors and three foreign assessors were added to the

³⁵Ordonnance of 20 Sept. 1921, BO, 466, 27 Sept. 1921, p. 1507.

³⁶Ordonnance of 9 Oct. 1922, BO, 521, 17 Oct. 1922, p. 1522.

³⁷Ordonnance of 9 Oct. 1922, BO, 521, 17 Oct. 1922, p. 1522.

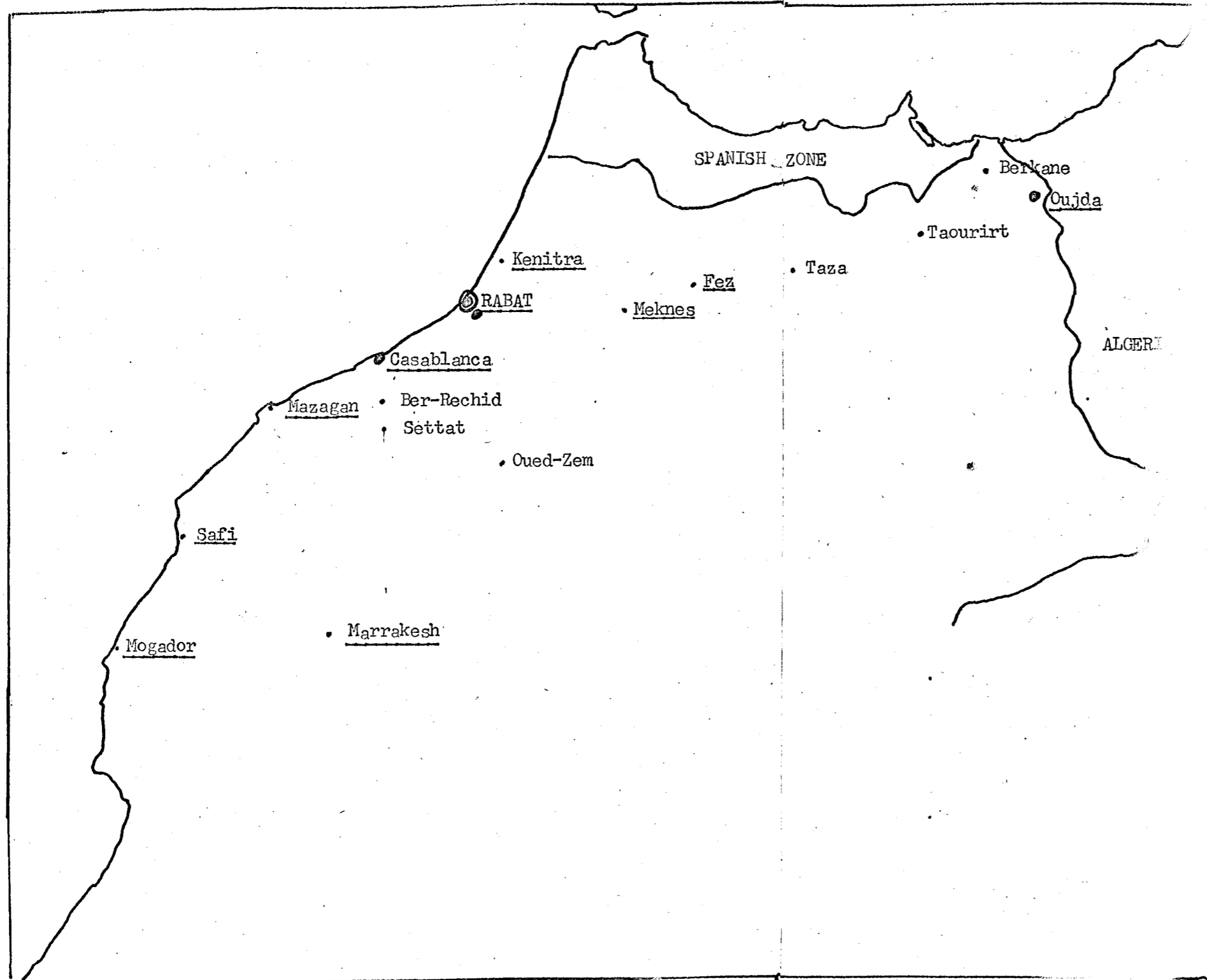
³⁸Ordonnance of 6 March 1924, BO, 596, 25 March 1924, p. 562.

³⁹Dahir of 12 Aug. 1913 (BO, 46, 12 Sept. 1913, p. 9) §1, Art. 3 (modified by Art. 2 of Dahir of 1 Sept. 1920).

⁴⁰Ibid., §3 (modified by Dahirs of 22 Aug. 1923 and 17 Feb. 1923), Art. 7

MAP IV

FRENCH JUDICIAL ORGANIZATION, 1912-1925



COUR D'APPEL

Ⓒ RABAT

TRIBUNAUX DE PREMIERE INSTANCE

- Rabat
- Casablanca
- Oujda

TRIBUNAUX DE PAIX

- Rabat
- Casablanca
- Mazagan
- Safi
- Mogador
- Marrakesh
- Kenitra
- Meknes
- Fez
- Oujda

CIRCUIT SESSIONS

- Kenitra
- Ber-Rechid
- Berkane
- Meknes
- Taza
- Taourirt
- Qued-Zem
- Settat

bench.⁴¹ If the accused were a native, three Frenchmen and three Moroccan assessors would be called to sit in on the case.⁴² If the accused were foreigners and natives, three French assessors, two foreign assessors and one native assessor were called in.⁴³ These six assessors held a deciding voice in the verdict and sentence.⁴⁴

6. Administration of the Judicial Organization.

The Premier Président of the Cour d'Appel of Rabat was the administrative head of the entire French judicial organization in Morocco, with the exception of the public prosecutors. His status was roughly equivalent to that of a Directeur Général in the civil administration.⁴⁵ He had a dual function as judge and administrator. All other judges ranked beneath him, regardless of the court over which they presided. The Premier Président discussed his work and all questions pertaining to the French judicial organization of Morocco with the Procureur Général, or Attorney General, and acted in accordance with the latter's advice.⁴⁶ The Premier Président supervised all the other judges, regardless of their rank or seniority.⁴⁷ The Procureur Général was in charge of all public prosecution throughout the French Zone of the Protectorate,⁴⁸ and both he and the Premier

⁴¹Ibid.

⁴²Ibid.

⁴³Ibid.

⁴⁴Ibid., Art. 8.

⁴⁵Dahir of 1 Sept. 1920, BO, 421, 16 Nov. 1920, p. 1927.

⁴⁶Ibid., Art. 2.

⁴⁷Ibid., Art. 3.

⁴⁸Ibid., Art. 6.

Président had to notify each other if they discovered irregularities in the other's jurisdiction.⁴⁹ Thus the French judicial organization was subject to a sort of dual control by the Premier Président and the Procureur Général. Both officials also had to supervise the recruitment and discipline of the Secretariats and Interpretariats.⁵⁰ The Premier Président and the Procureur Général sent regular reports to the French Minister of Justice as well as to the Resident General.⁵¹

7. Chambre du Contentieux de l'Immatriculation.

The Chambre du Contentieux de l'Immatriculation, the third chamber of the Tribunal de Première Instance of Casablanca,⁵² had a very exclusive role to play in the judicial organization of the Protectorate. It dealt with matters relating to real property and its registration, confiscation, and the like,⁵³ and was closely linked with the Conservation de la Propriété Foncière (see Chapter IV). It was made up of:⁵⁴

- (1) A vice-president,
- (2) Four Juges.

These members were chosen from among the members of the Tribunal de Première Instance by the Premier Président of the Cour d'Appel.

⁴⁹ Ibid., Art. 3.

⁵⁰ Ibid., Art. 4. The Secretariats and Interpretariats will be discussed in a later section of this chapter.

⁵¹ Art. 7 of Dahir of 1 Sept. 1920.

⁵² Ibid., Art. 11, as modified by Dahir of 10 June 1924.

⁵³ Dahir of 10 June 1924.

⁵⁴ Ibid.

In the Tribunaux de Première Instance other than that at Casablanca, the Premier Président could, if necessary -- usually at the suggestion of the president of the Tribunal in question and on the advice of the Procureur Général -- order one or more judges to examine certain real estate matters for that locality.⁵⁵

8. Special Courts.⁵⁶

There were other special French courts which were convened when necessary but did not form normal components of the judicial system.

The Conseils de Guerre, or Courts-Martial,⁵⁷ had jurisdiction over the military personnel, French⁵⁸ of civil status, natives of the Moroccan auxiliary corps of the French Army and more or less anyone else within an unpacified area. A Commission Arbitrale des Litiges Miniers was set up in January 1914,⁵⁸ and a Tribunal des Pensions was created in 1923.⁵⁹

⁵⁵ Ibid.

⁵⁶ It should be pointed out that, unlike the Conseils de Préfecture and the Conseil d'État of France, the French courts in Morocco could not censure or annul the acts of the administrative authority in the Protectorate (Art. 8, Dahir of 12 Aug. 1913). See also, P.-Louis Rivière, Traités, codes et lois du Maroc, II (Paris: Recueil Sirey, 1925), p. 473.

⁵⁷ By the early 1920s there were Courts-Martial at Casablanca, Fez, Rabat, Meknes and Oujda (each consisting of 5 judges and 1 reporting government commissioner). See Holtz, p. 176 and especially Goulven, II, pp. 487-491, where the subject is covered in some detail.

⁵⁸ Dahir of 19 Jan. 1914, BO, 66, 30 Jan. 1914, p. 63.

⁵⁹ Dahir of 16 Jan. 1923. It also had a Cour de Pensions at Rabat for appeals -- see Art. 1.

9. Secretariats, Lawyers, Interpreters and Experts.

a. Secretariats.

A Secretariat was set up with each French court of the Empire.⁶⁰ It supplied each court with its clerks, notaries, accountants, etc., who carried out various clerical duties, including summoning, executing orders and collecting court fees.⁶¹ The Secretariats of the public prosecutor of each court, an entirely different organization,⁶² were under the ultimate authority of the Procureur Général.⁶³

b. Lawyers.

A professional organization for lawyers, the Ordre des Avocats, was founded in January 1924.⁶⁴ It acted as the Bar Association of the Protectorate, though on a governmental basis. This Ordre was established with the Cour d'Appel and a branch of it was maintained with each of the Tribunaux de Première Instance, except that of Rabat.⁶⁵ The purpose of this association was to enroll lawyers whose ethics and qualifications were approved by the Government, and to maintain the moral standards demanded in the legal profession. The Ordre listed the activities to which the lawyers were restricted, if they wished to practise law in Morocco.⁶⁶ Each local bar was administered by a

⁶⁰Art. 26 of §V of Dahir of 12 Aug. 1913.

⁶²Dahir of 18 March 1921, BO, 440, 29 March 1921.

⁶⁴Dahir of 10 Jan. 1924, BO, 586, 15 Jan. 1924, p. 48.

⁶⁵Ibid., Art. 1.

⁶⁶Ibid., Art. 9.

⁶¹Ibid.

⁶³Ibid.

Conseil de l'Ordre des Avocats, consisting of from five to fifteen members (depending upon the number of lawyers in each organization).⁶⁷

c. Judicial Interpreters and Experts.

The Organic Dahir of 12 August 1913 also drew up lists of judicial interpreters, working with the Cour d'Appel and the other courts,⁶⁸ and made arrangements for providing judicial experts when needed.⁶⁹ The organization of the corps of interpreters was only fully established in 1920⁷⁰ and was administered by the Chef du Service de l'Interprétariat Judiciaire.⁷¹

+ + + +

Summary

The French introduced into Morocco an entirely new system of courts under purely French administration (to replace the former consular courts). This new judicial organization was created primarily for the benefit of French and European nationals, leaving Moroccans under their traditional jurisdictions (with certain exceptions, such as when a case involved Europeans and Moroccans, or real property

⁶⁷ Ibid., Art. 10.

⁶⁸ Art. 45 of Dahir of 12 Aug. 1913.

⁶⁹ Ibid., Art. 46.

⁷⁰ Dahir of 20 Feb. 1920, BO, 384, 2 March 1924, p. 348.

⁷¹ Ibid., Art. 2.

which had been registered with the Conservation de la Propriété Foncière) and thus was not meant to replace Moroccan judicial institutions. Lyautey, himself, stated in 1913 what he expected the new judicial measures to accomplish:⁷²

To apply always the most modern formulae the excellence of which has been proven through experience, and not to hesitate to bring about reforms which have been rejected in France and abroad for such a long time. Simplicity in procedure, rapidity in arriving at solutions, reduction of fees, protection of litigants against lawyers -- such have been the objectives pursued by the authors of the [Judicial] reform.

⁷²PA, p. 95.

III. Muslim Courts Under the Protectorate, 1912-1925.

The term "Muslim" is applied in this section both to the Moroccan Muslim religious courts and to the Moroccan secular courts. The religious courts in Morocco were not solely Muslim, because the Moroccan Jews continued to have their rabbinical courts.

Muslim courts were mentioned only indirectly in the Sherifian Firman (Edict) of October 1912,¹ by which the Makhzen ministries were organized. A Moroccan Vizir de la Justice (Minister of Justice) was appointed² who was to be under the authority of the Conseiller du Gouvernement Chérifien; in 1920 he automatically came under the authority of the Direction des Affaires Chérifiennes.³

The Muslim religious courts were under the Vizirat de la Justice, while the secular courts were placed under the Grand Vizir.⁴

A. Religious Courts.

¹Sherifian Firman of 31 Oct. 1912, BO, 3, 15 Nov. 1912, p. 17.

²Ibid., Art. 1 & 5. The term Vizir is used so as to distinguish the Moroccan Minister of Justice from the Minister of Justice of the French Republic.

³Dahir of 24 July 1920, BO, 407, 10 Aug. 1920, p. 1366. The Vizir de la Justice was one of the four Vizirs under the Direction des Affaires Chérifiennes. See Chapter III, "Government"; André de Laubadère, Les réformes des pouvoirs publics au Maroc -- le gouvernement, l'administration, la justice (Paris: Librairie Générale de Droit et de Justice, 1949), pp. 29 and 74 et seq.; Goulven, II, §I.

⁴Résidence Générale de la République Française au Maroc, La renaissance du Maroc: dix ans du Protectorat, 1912-1922 (Rabat: Imprimerie Officielle, n.d.), p. 117.

The position of religious courts⁵ in Muslim life was in no way challenged during Lyautey's régime. The cadi was kept as the judge in matters of Muslim family law, inheritance, etc., and his decisions were still to be based on the Chrâa, interpreted if necessary with the aid of the mufti's fetoua, as had been the case throughout the centuries. The French authorities defined, rather than changed . . . they defined the number of persons holding office, their qualifications and means of carrying out their work.

⁵Dahir of 7 July 1914, Part 2, BO, 90, 17 July 1914, p. 579. As the French distinguished between the Berbers and Arabs, politically, from the very outset, it is not surprising that they also did so in law. Many Berber tribes were regulated by customary law, and not the Chrâa, and the French maintained their independent legal system (see Dahir of 11 Sept. 1914, BO, 100, 21 Sept. 1914, p. 742). See also Girault, p. 345. Most of the Berber tribes were "resolutely Muslim" -- to use Jacques Berque's phrase; at the same time, they followed their own customary law, and to quote J. Berque again, "Many Berber tribes of the Maghreb remain independent of Muslim canon law to this day." Jacques Berque, Le Maghreb entre deux guerres (Paris: Seuil, 1962), p. 227. See also Roger Le Tourneau, Évolution politique de l'Afrique du Nord musulmane, 1920-1961 (Paris: Armand Colin, 1962), p. 182. In 1928 a fairly complete list of Berber tribes adhering to Berber customary law was published (Vizirial Decree of 16 April 1928, BO, 811, 8 May 1928, p. 1273). For a list of these, see Chapter III, "Government" (§ III. Tribal Organization). It was not until 1930, however (i.e., the "Berber Dahir" of 16 May 1930, BO, 918, 30 May 1930) that the fully independent Berber judicial organization was set up, recognizing the judicial competence of the djemaas and creating Tribunaux Coutumiers de Notables charged with applying local custom to all civil or commercial actions, and also matters involving personal status and inheritance. Tribunaux Coutumiers d'Appel were also created at that time. All penal matters, however, were under the sole competence of French courts. See also, Ch.-André Julien, L'Afrique du Nord en marche -- nationalismes musulmans et souveraineté française (2nd ed; Paris: René Julliard, 1953), p. 146. In 1934 all penal cases, however, were transferred to caïds and pachas (for lesser crimes) and the Haut Tribunal Chérifien (for the more serious ones), but to keep to the principle of customary law, a Section Pénale Coutumière was created where two notables could inform the Tribunal of the nature of the customary laws involved. See Dahir of 8 April 1934, BO, 1120, 13 April 1934, p. 306.

1. Judicial Personnel of Chrâa Courts (excepting the Cadi).

a. Muftis.

The muftis remained in their traditional position as judicial consultants, although their number was now limited.⁶ A list of specially authorized muftis was drawn up for each city by the Vizir de la Justice,⁷ and posted at the cadi's mahakma, or court, in a place accessible to the public.⁸ After 1914 only fetouas of these recognized muftis were accepted in the French Zone of Morocco.⁹

b. Oukils.

The oukils were to the Chrâa courts what the defence consels, or défenseurs agréés, were to the Makhzen courts.¹⁰ Regulations concerning oukils were fairly complete by 1925, when they were granted the monopoly of acting as defence counsels before the Tribunal d'Appel du Chrâa and the Tribunaux du Chrâa of the cadis; at the same time rigid rules were drawn up governing the eligibility of candidates for the post of oukil.¹¹

Cadis were henceforth required to choose a number of candidates for the post of oukil from among persons previously performing this

⁶Art. 1 of Dahir of 7 July 1914.

⁷Ibid.

⁸Ibid.

⁹Ibid.

¹⁰See §B of Part III of this chapter, "Défenseurs Agréés".

¹¹Art. 1 of Dahir of 7 Sept. 1925, BO, 675, 29 Sept. 1925, p. 1569. See also, Girault, p. 343.

function (i.e., before the new regulations went into effect),¹² or from persons of known integrity.¹³ The cadi drew up a list of candidates and their qualifications and sent it to the Vizir de la Justice who made the final choice.¹⁴ The Vizir's authorized list of oukils was then posted by each cadi in his mahakma.¹⁵

c. Adoul.

Every adel (notary public or legal clerk) was chosen for his post by the cadi who was usually assisted by the oulama of the city, and the Vizir de la Justice issued a decree authorizing his nomination.¹⁶ There were two categories of adoul, one was to draw up all acts or contracts, while the other was to draw up only contracts concerning commercial transactions, debts, marriage, divorce, and the like, but nothing having to do with property, Habous, will, inheritances, or sentences and writs for the Chrâa Tribunaux.¹⁷

Every notarized document had to be drawn up by two adel,¹⁸ just as before the establishment of the Protectorate, although these acts now had to be more definitive, with the specific date of the contract, the names and domiciles of the adoul and of the contracting parties.¹⁹ In real estate matters, the acts had to define all boundaries involved.²⁰

¹² Art. 2, Dahir of 7 July 1914.

¹⁴ Ibid.

¹⁷ Ibid.

²⁰ Ibid.

¹⁵ Ibid.

¹⁸ Ibid., Art. 4.

¹³ Ibid.

¹⁶ Ibid., Art. 3.

¹⁹ Ibid.

Latitude was given the interpreter, if one were assisting the parties, to mention in the margins of the document that he had read it to his proxies in the dialect which they could understand; and he was to assist in affixing their signatures to the act upon its completion (i.e., when it had been executed).²¹ The act had to be confirmed, signed and sealed, and recorded in the registers of the mahakma within three days of its being drawn up.²² The only time that the adoul could ever draw up an act without prior authorization of the cadi was in the extreme case when a dying person wished to make a declaration.²³

2. Registers.

Each mahakma now had to keep registers in its archives for the following:²⁴

- (1) Acts pertaining to real estate transactions.
- (2) Marriages, divorces, etc.
- (3) Matters concerning inheritance and guardianship.
- (4) Acts concerning procedure and sentences.
- (5) Requests to begin legal proceedings or requests to draw up contracts.
- (6) Requests for appeals.
- (7) Summonses to appear in court.

²¹Ibid.

²²Ibid.

²³Ibid., Art. 5.

²⁴Ibid., Art. 6-7.

Whenever any matter was brought before the cadi, it now had to be recorded immediately in a register.²⁵

3. Supervision by the Vizirat de la Justice.

The Vizir de la Justice had to appoint an agent for mahakmas of the cities and ports who was to act as an inspector, ensuring that regulations concerning Sherifian civil justice were kept and the necessary fees paid.²⁶ Each month the agent inspected the registers of the mahakma assigned to him.²⁷ He also had to examine all complaints or claims made against any cadi, mufti, adel, oukil, acoun or other official of the Sherifian judicial services within his jurisdiction.²⁸

4. Procedure.

A complaint was brought to the attention of the cadi. If the defendant were not present at that time the cadi sent him notice to appear at a specific time and date with fifteen days in which to reply.²⁹ If both parties agreed to appear in a shorter period of time, this was allowed.

When the defendant duly appeared, the case would follow its normal course, the plaintiff giving evidence in support of his allegation or

²⁵Ibid., Art. 8.

²⁶Dahir of 7 July 1914, Part III, Art. 1.

²⁷Ibid., Art. 2.

²⁸Ibid., Art. 3.

²⁹All information on the procedure of the cadi's court is found in Art. 8 of Dahir of 7 July 1914 (Part II).

action. In inheritance or real property cases, the plaintiff had to make known all evidence; the defendant was then able, in the fifteen days allowed him, to obtain a copy of the case against him in order to know how to argue his defence. Once the defendant had replied, the plaintiff in turn had fifteen days in which to counter the defendant's statement. If the evidence presented by the plaintiff were reversed by evidence presented by the defendant, the cadi then gave a verdict. If, however, the cadi thought that the plaintiff had made a convincing case for himself, he summoned the defendant to present his counter-arguments. These arguments were made known during the session itself, or else during the recess, and so the process went on. The recess granted in order to rebut the latest evidence by the opposing party was always a period of fifteen days.

A copy of the plaintiff's final case was given to the defendant at his request. The last recess granted to the defendant for preparation of his final defence could be extended by an additional three days. The final summons to appear before the cadi also mentioned that judgment would be pronounced on the date announced.

At the last session the cadi assembled all documents and exhibits and studied them in order to rule on the case without any further delay, although a special recess could be ordered if the cadi felt this necessary.

In the event, however, that parties were summoned to a Tribunal du Chrêa, and failed to reply or appear after three summonses, the cadi on the strength of his examination of the evidence could pass judgment by default. The defaulting party was always notified by the cadi before the sentence was pronounced.³⁰ Judgment by default was an innovation introduced by the French.

When a case required the aid of experts, the two parties were invited to agree on a choice of experts.³¹ Failing this, the cadi would officially appoint the experts himself from the list supplied by the Ministry of Justice.³²

+ + +

Every judgment pronounced by a cadi contained the following information:³³

- (1) Names, occupations and domiciles of the parties.
- (2) The charge(s).
- (3) Statements and evidence given by the parties.
- (4) Position of the law on the point(s) in question.
- (5) Verdict and penalty.
- (6) Date of sentence.
- (7) Methods by which the parties were to meet the costs.

³⁰Ibid.

³²Ibid.

³¹Ibid., Art. 9.

³³Ibid., Art. 10.

5. Appeals.

If a party wished to appeal against the cadi's decision, he could, in two months' time, notify the Makhzen either directly or through the local authorities.³⁴ Ultimately the appeal reached the Vizir de la Justice who reached a decision after he had consulted the Conseil Supérieur d'Ouléma.³⁵ If the Vizir thought it advisable, he could have the case returned for retrial to its original jurisdiction, or else to some other venue.³⁶ If the case were returned for retrial appeal could then be made within a month of the retrial, and the Vizir de la Justice would give the final decision.³⁷

6. Tribunal d'Appel du Chrâa.

In February 1921 the Conseil Supérieur d'Ouléma was raised in status and renamed the Tribunal d'Appel du Chrâa.³⁸ The Tribunal d'Appel consisted of two chambers and was made up of the following persons for each chamber (in addition to one president):³⁹

- (1) Two Juges,
- (2) Two Juges Suppléants,

³⁴Art. 12, Part II, Dahir of 7 July 1914.

³⁵Ibid. This Conseil was abolished in 1921; see §6 of this chapter.

³⁶See also, Louis Milliot, Recueil de jurisprudence chérifienne -- tribunal du ministre chérifien de la justice et conseil supérieur d'ouléma (medjlès al-istinâf), I (Paris: Éditions E. Leroux, 1920), p. 10.

³⁷Dahir of 7 July 1914.

³⁸Art. 1, Dahir of 7 Feb. 1921, BO, 437, 8 March 1921, p. 396.

³⁹Ibid., Art. 2.

- (3) A clerk,
- (4) A secretary.

As seen before, the Tribunal dealt with appeals against judgments pronounced by cadis.⁴⁰

+ + + +

B. Secular Courts.

1. Competence of the Pacha's or Caïd's Court.

In August 1918 the Makhzen or secular courts and jurisdictions were officially reorganized.⁴¹

The pacha or caïd was kept in his position as judge, but changes were made in court procedure: (a) judgment by default was added, (b) a systematized right of appeal was introduced, and (c) commissaires du gouvernement were appointed.

+ + +

The pacha or caïd judged all offences by Moroccans of the common law, with the following exceptions:⁴²

- (1) Infractions which came under French jurisdictions;

⁴⁰Ibid., Art. 3.

⁴¹Another Dahir of 4 Aug. 1918, BO, 306, 2 Sept. 1918, p. 838. It was modified by Dahirs of 25 Dec. 1918 (BO, 327, 27 Jan. 1919, p. 54) and of 24 March 1920 (BO, 390, 13 April 1920, p. 623).

⁴²Ibid., Art. 2.

- (2) Infractions of a very serious nature, reserved for the Chambre Criminelle of the Haut Tribunal Chérifien.⁴³

The pacha or caïd could pronounce penalties of up to two years' imprisonment and impose fines of up to 2,000 P.H.⁴⁴ The Haut Tribunal Chérifien tried cases involving heavier penalties.

The pacha or caïd was competent to judge any civil or commercial case submitted to him, with the exception of the following:⁴⁵

- (1) Persons under the jurisdiction of French courts;⁴⁶
- (2) Questions concerning real property, which were either the responsibility of the Tribunaux du Chrâa or of the French courts;⁴⁷
- (3) Disputes regarding the personal status or inheritances of Muslim subjects, which were under the exclusive jurisdiction of the Tribunaux du Chrâa;⁴⁸
- (4) Disputes regarding the personal status and inheritances of Jewish subjects, which were under the exclusive jurisdiction of Tribunaux Rabbiniques.⁴⁹

⁴³This court will be discussed in §6 of this chapter.

⁴⁴Dahir of 4 Aug. 1918, Art. 1. P.H. = Peseta Hassani. The Vizirial Circular of 8 Jan. 1913 limited the competence of the caïd's or pacha's court to penalties of one year's imprisonment and 1,000 P.H. fine. All criminal cases of a more serious nature were submitted to the Conseil des Affaires Criminelles (created by Dahir of 11 Nov. 1913) which existed until 4 Aug. 1918 when it was suppressed and replaced by the Haut Tribunal Chérifien. In 1918 the competence of the caïd's or pacha's court was also increased, to hear cases involving penalties of up to two years' imprisonment and fines of up to 2,000 pesetas.

⁴⁵Art. 2, Dahir of 4 Aug. 1918.

⁴⁶See Art. 2 & 7 of Dahir of 12 Aug. 1913.

⁴⁷See Art. 3 of the Organic Dahir of 12 Aug. 1913, and also the Dahir on Property Registration of 12 Aug. 1913 (BO, 46, 12 Sept. 1913, p. 206).

⁴⁸Art. 4. of Organic Dahir of 12 Aug. 1913 (BO, 46, 12 Sept. 1913, p.9).

⁴⁹This conformed with Dahir of 12 Aug. 1913, and Dahir of 22 May 1918 (BO, 292, 27 May 1918, p. 523), and will be dealt with in §IV of this chapter.

The secular magistrate could refer the matter to a cadi if a point of religious law were involved, and could call in experts for advice on technical aspects of a case.⁵⁰

If any serious matter came to the attention of the caïd or pacha, he sent all relevant information to the Chambre Criminelle of the Haut Tribunal Chérifien. Before doing so, however, he heard all witnesses, proceeded with the confirmation of facts, examined and arrested suspects, verified allegations, confronted the accused with the plaintiff's witnesses, ordered medical experts when necessary, etc.⁵¹ If no serious criminal charge had been brought against the suspect, the pacha or caïd could order his provisional release.⁵² It was only after the above-mentioned examination of the case that all documents were immediately forwarded to the Chambre Criminelle.⁵³

2. Commissaire du Gouvernement.

The commissaire du gouvernement differed from the agent appointed by the Vizir de la Justice to supervise the Tribunaux du Chrâa, for each court of a pacha or caïd functioned with the assistance of one of these commissaires, who performed the functions of a type of public prosecutor and had to ensure that justice was carried out effectively according to regulations.⁵⁴ Thus his powers were greater than those

⁵⁰Art. 2 of Dahir of 4 Aug. 1918.

⁵¹Ibid., Art. 3.

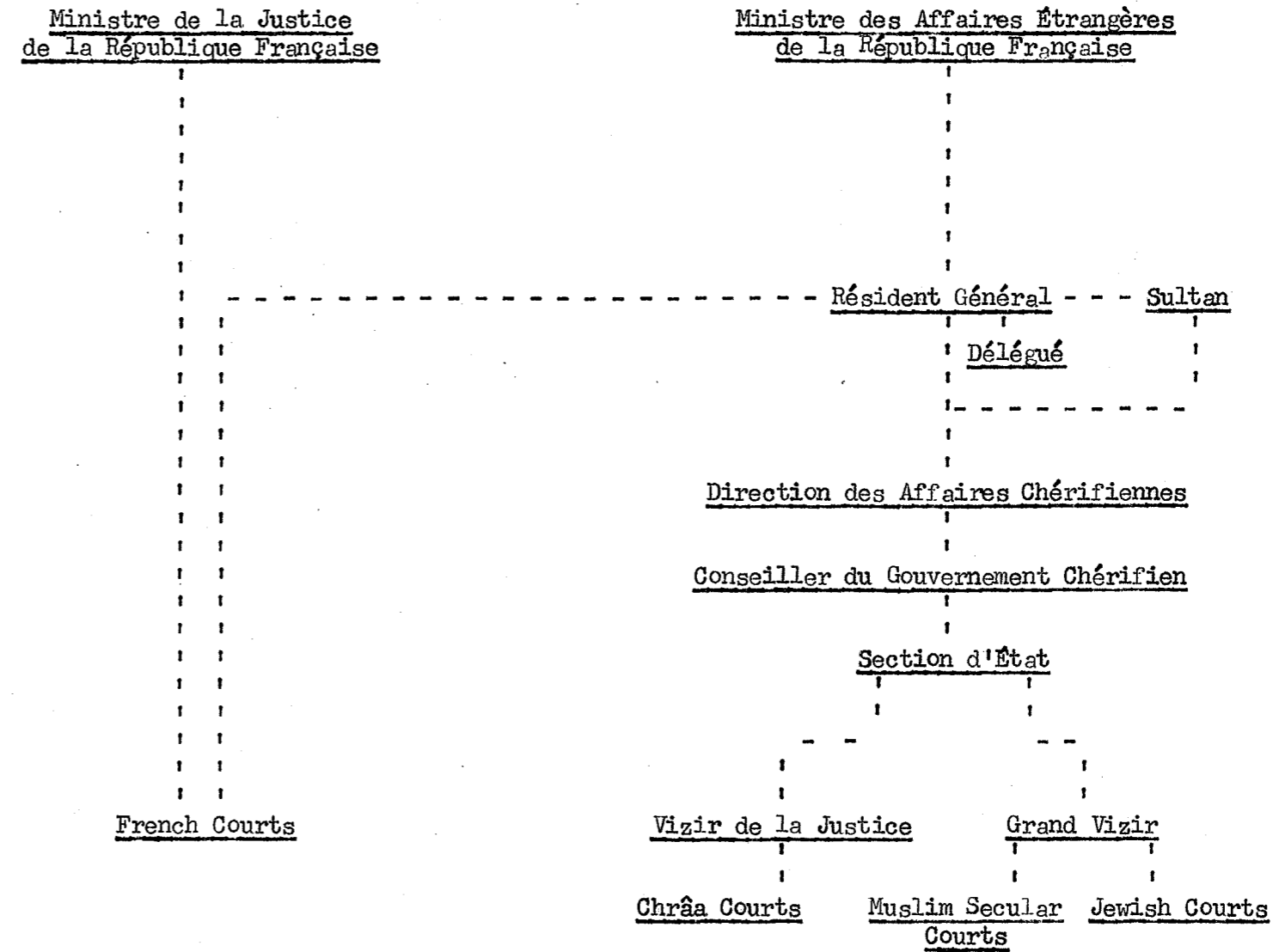
⁵²Ibid.

⁵³This was done by the commissaire du gouvernement, discussed in the next section.

⁵⁴Art. 21, Dahir of 4 Aug. 1918.

FIGURE 15.

JUDICIAL ORGANIZATION UNDER THE PROTECTORATE,
1912-1925



of the agent of the Tribunaux du Chrâa. The commissaires du gouvernement came under the immediate authority of the Grand Vizir, whom they had to notify of any irregularity in the judicial administration within their jurisdiction.⁵⁵

The commissaire left his findings with the court in every case concerning public welfare, and he could intervene in all civil or commercial cases,⁵⁶ as well as in penal cases which he decided how to have classified (as to the type and seriousness of the alleged offence).⁵⁷ The commissaire du gouvernement assisted in the sessions held by the caïd or pacha; he did not, however, intervene directly in the actual proceedings or in the sentencing, although he could request an appeal against a sentence within a period of one month after pronouncement, regardless of the penalty or degree of seriousness of the case.⁵⁸

Another important aspect of the commissaire's supervisory powers was that he authorized all summonses to appear before the court, sentence to and release from prison, notifications and extracts of sentences, receipts of fines, and any other orders issued by the pacha or caïd.⁵⁹ In addition he inspected the registers of the sentences and appeals and sent all appeals and inquiries to the Haut Tribunal Chérifien.⁶⁰

⁵⁵ Ibid.

⁵⁸ Ibid., Art. 24.

⁵⁶ Ibid., Art. 22.

⁵⁹ Ibid., Art. 25.

⁵⁷ Ibid., Art. 23.

⁶⁰ Ibid., Art. 26.

3. Procedure.

No party could be condemned or sent before the Chambre Criminelle of the Haut Tribunal Chérifien without a hearing by a lower court,⁶¹ and anyone arrested now had to be examined (and this recorded) within twenty-four hours of the time of his arrest.⁶² The remand of a suspect was brief, long enough only to complete any necessary inquiries. It could not exceed a period of forty-eight hours when the penalty was less than a fortnight's imprisonment or a fine of 50 P.H.⁶³ The pacha or caïd could of course order provisional release on bail.⁶⁴

In civil and commercial cases, request for proceedings was sent in writing to the pacha or caïd, who ordered the request to be recorded in a register and then summoned the parties to appear before him, at which time he proceeded with the hearing.⁶⁵ In civil and commercial cases the parties could request the aid of an expert; if both agreed on the choice of an expert, the pacha or caïd authorized it; if, however, the litigants could not come to a mutual agreement on their choice, the magistrate chose the expert.⁶⁶

The hearings of the Tribunaux de Pacha (or Caïd) were open to the public, and were held in his court at fixed days and hours, at least four times a week.⁶⁷ All interested parties had to be heard.⁶⁸

⁶¹Ibid., Art. 4.

⁶⁴Ibid.

⁶⁷Ibid., Art. 8.

⁶²Ibid.

⁶⁵Ibid., Art. 6.

⁶⁸Ibid.

⁶³Ibid., Art. 5.

⁶⁶Ibid., Art. 7.

If the judge thought that a public hearing were not appropriate, he could order a hearing in camera,⁶⁹ but the sentence was always pronounced in public.⁷⁰

Every judgment given by the pacha or caïd had to contain the same information as given by the cadi (discussed previously)⁷¹ and likewise had to be signed by the pacha or caïd who had pronounced it, and recorded within three days of its pronouncement, with the exception that now it had to be submitted to the commissaire du gouvernement.⁷²

In civil, commercial and penal cases alike, judgment could now be pronounced by default when the defendant failed to appear after two summonses without a valid excuse.⁷³ The defaulting party had to be notified by the commissaire du gouvernement within eight days after sentence had been given.⁷⁴

4. Défenseurs Agréés.

Défenseurs agréés, or defence counsels, were also created under Iyautey, although not until 1924.⁷⁵ They were accredited to Makhzen (secular) jurisdictions only,⁷⁶ and were equivalent to the oukils of the Tribunaux du Chrâa, though their training and qualifications were different. The défenseur agréé had to be either Moroccan, French or

⁶⁹He could do this if he thought it would endanger public morals, etc.

⁷⁰Art. 8, Dahir of 4 Aug. 1918.

⁷¹Ibid., Art. 9. See p. 404 of this chapter.

⁷²Ibid., Art. 10.

⁷³Ibid., Art. 11-12.

⁷⁴Ibid., Art. 15.

⁷⁵Dahir of 10 Jan. 1924, BO, 586, 15 Jan. 1924, p. 54.

⁷⁶Ibid., Art. 1.

a justiciable to French courts.⁷⁷ He was required to hold either the Certificat d'Études Juridiques et Administratives Marocaines awarded by the Institut des Hautes Études Marocaines of Rabat,⁷⁸ or the Certificat de Droit Musulman et de Coutumes Indigènes awarded by the Faculté de Droit of Algiers. He also had to produce a Diplôme d'Arabe given by one of the following:⁷⁹ the Institut des Hautes Études Marocaines of Rabat, the Faculté des Lettres of Algiers, the École Spéciale des Langues Orientales Vivantes of Paris, or the École Supérieure de Langue et de Littérature Arabes of Tunis.⁸⁰ A candidate with a French Licence de Droit could, however, dispense with the certificates concerning Islamic law.⁸¹ Non-Moroccan lawyers practising in Makhzen courts had to be capable of defending their clients in both written and oral Arabic.⁸² An interesting restriction for the défenseurs agréés was that they could not exercise any administrative or judicial function in the Protectorate, or be a member of the French Bar.⁸³ A commissaire du gouvernement involved in a civil or criminal case could order a défenseur agréé to defend anyone who could not afford a legal defence. In this case the défenseur agréé supplied by the State was paid entirely by the State.⁸⁴

5. Appeals.

⁷⁷Ibid., Art. 2.

⁷⁸See Ch. V, "Franco-Muslim Education" where it is discussed.

⁷⁹Art. 4, of Dahir of 10 Jan. 1924.

⁸⁰Ibid., Art. 5.

⁸³Ibid., Art. 9

⁸¹Ibid.

⁸⁴Ibid., Art. 19.

⁸²Ibid.

Appeals could be made within eight days against sentences passed by default. The person, however, who defaulted a second time could no longer lodge an appeal.⁸⁵

Appeals could not in general be made against verdicts of the courts of the pacha or caïd in the following cases:⁸⁶

- (1) In civil and commercial cases when the object in dispute did not exceed 1,000 francs in value.
- (2) In criminal cases when the penalty did not exceed three months' imprisonment or a fine of 300 francs (or in specifically designated cases dealt with by special legislation).

In all other cases appeals could be lodged within fifteen days with the Haut Tribunal Chérifien -- Chambre Criminelle for criminal cases, or Chambre des Appels for civil cases.⁸⁷ In criminal cases, appeal could also be lodged within the same period by the civil party whose claim was rejected in part or whole when more than 1,000 francs was involved.⁸⁸ In both civil and criminal cases appeals could be lodged during the same session, with the commissaire du gouvernement, with the Haut Tribunal Chérifien or even with the warden of the prison where the appellant was imprisoned.⁸⁹

When the pacha or caïd received notification that an appeal

⁸⁵Art. 16 of Dahir of 4 Aug. 1918.

⁸⁶Ibid., Art. 17 (as modified by Dahir of 24 March 1920).

⁸⁷Ibid. ⁸⁸Ibid.

⁸⁹Ibid., Art. 18 (as modified by Dahir of 24 March 1920).

had been made against one of his judgments within the time-limit, he forwarded all documents of the appellant's file to the commissaire du gouvernement, who in turn sent them to the Haut Tribunal Chérifien.⁹⁰ If the sentence had not already been carried out, it was suspended, or if the appellant had already been imprisoned he was released provisionally.⁹¹

6. Haut Tribunal Chérifien.

One of the most important reforms made by Lyautey's administration was the creation of a special secular court of appeals (for Muslims) at Rabat in August 1918 called the Haut Tribunal Chérifien.⁹² This court, which was responsible to the Grand Vizir,⁹³ consisted of two chambers: a Chambre Criminelle and a Chambre des Appels.⁹⁴

The Chambre Criminelle (which replaced the earlier Conseil des Affaires Criminelles) dealt with the following:⁹⁵

- (1) Rebellion, or incitement to rebellion.
- (2) Wilful or involuntary homicide; wounding when the cause of death or mutilation, infirmity or permanent illness; infanticide; miscarriage of justice.
- (3) Rape.
- (4) Abduction of a minor.

⁹⁰Ibid., Art. 19

⁹¹Ibid., Art. 20.

⁹²Another Dahir of 4 Aug. 1918, BO, 306, 2 Sept. 1918, p. 840.

⁹³Ibid., Art. 1.

⁹⁴Ibid. Years later this was enlarged to include four Chambers: Chambre Criminelle, Chambre d'Appels Correctionnels, Chambre des Appels Civils et Commerciaux, and Chambre d'Appel (for judgments rendered by Tribunaux Coutumiers).

⁹⁵Art. 1, Dahir of 4 Aug. 1918.

- (5) Theft, under extenuating circumstances.
- (6) Misappropriation of public funds, embezzlement, corruption by officials.
- (7) Forgery.
- (8) Manufacture and circulation of counterfeit monies; fraudulence or misuse of labels; fraudulent use of weights and measures.
- (9) Arson.
- (10) All offences specified in Sherifian dahirs promulgated since 30 March 1912, and punishable by penalties exceeding two years' imprisonment and fines of 2,000 P.H.

The Chambre des Appels heard appeals against civil and commercial sentences pronounced by pachas or caïds.⁹⁶

The Haut Tribunal Chérifien had one president sitting in the two chambers and was made up of:⁹⁷

- (1) Two Juges,
- (2) One Juge Suppléant,
- (3) One secretary,
- (4) Two clerks,
- (5) An interpreter

The two chambers of the Haut Tribunal worked with the assistance of a commissaire du gouvernement who had the same powers (except for the right of appeal) as the commissaires who assisted the pacha or caïd.⁹⁸

⁹⁶

Ibid.

⁹⁷

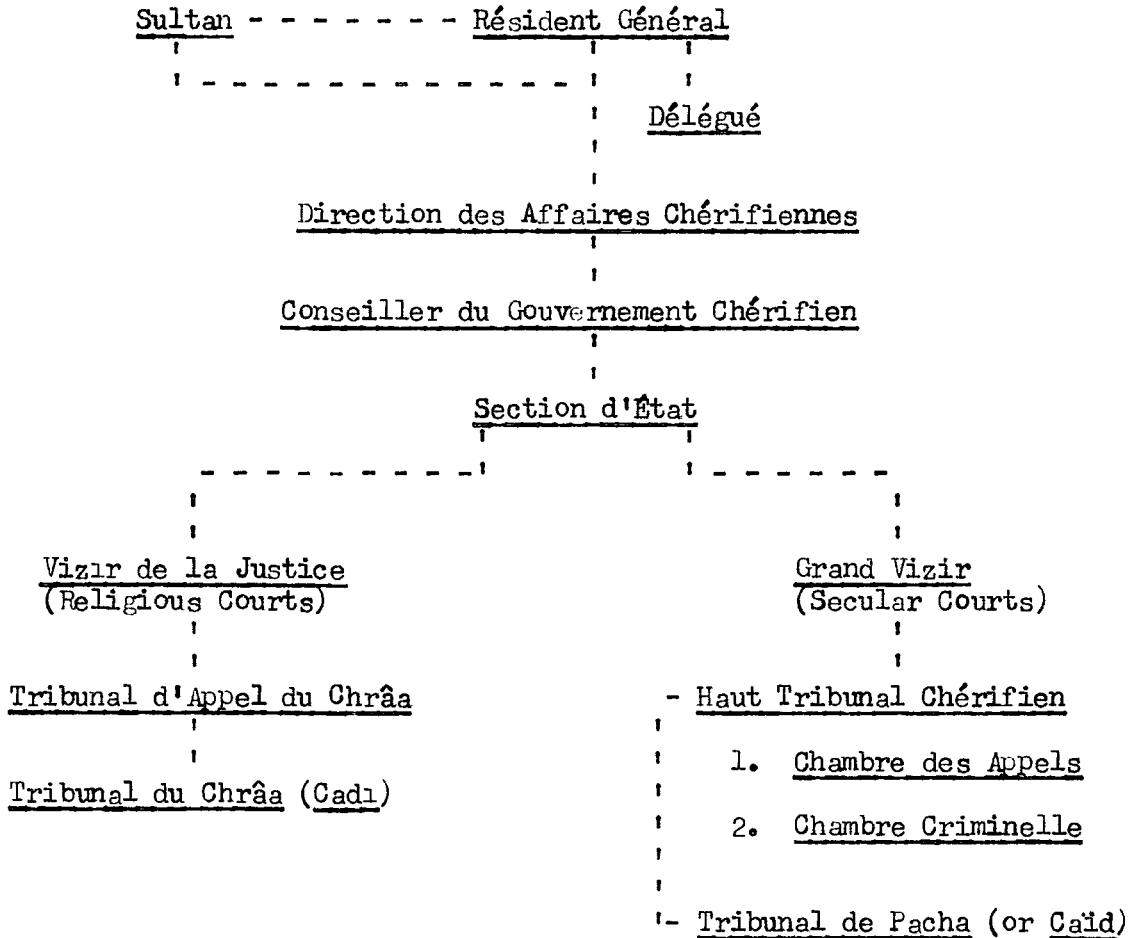
Ibid., Art. 2.

⁹⁸

Ibid.

FIGURE 16.

MUSLIM JUDICIAL ORGANIZATION IN 1925



When the president of the Haut Tribunal received the file of an appeal, he forwarded it to the appropriate chamber and appointed one of the members of that chamber to examine and report on it.⁹⁹ The examining judge could order further inquiry by the qualified authority; he could summon parties and witnesses before the Haut Tribunal, appoint experts, and proceed with any examination which he thought necessary.¹⁰⁰ Persons summoned to appear before the judge were notified by the commissaire du gouvernement.¹⁰¹

As with other native courts, the period of pretrial detention had to be kept as brief as possible, and was always deducted from the final sentence. The president of the Haut Tribunal could always order provisional release on bail.¹⁰²

The case was heard during the first subsequent session of the Haut Tribunal. The president examined all parties himself and the commissaire du gouvernement made known his conclusions. Sentence was pronounced during the same session.¹⁰³

In civil or commercial cases judgment was pronounced by default when the summoned party had not appeared, just as in other secular courts.¹⁰⁴ In criminal cases, a provisionally released party who did not appear was judged by default.¹⁰⁵ Every judgment had to contain the same classifications of information as in judgments of lower religious or

⁹⁹ Ibid., Art. 3.

¹⁰² Ibid., Art. 4.

¹⁰⁵ Ibid., Art. 7.

¹⁰⁰ Ibid.

¹⁰³ Ibid., Art. 5.

¹⁰¹ Ibid.

¹⁰⁴ Ibid., Art. 6.

secular courts.¹⁰⁶ An appeal could be lodged within eight days against a judgment pronounced by default.¹⁰⁷ If a new fact were revealed, or previously unknown documents came to light, of such a nature as to establish the innocence of the condemned party, the sentence of the Chambre Criminelle was revised at the request of either the condemned party or the commissaire du gouvernement.¹⁰⁸

7. Supervision of Native Justice.

It should be mentioned that the Sherifian Judicial Services supervised native justice until 1920 when supervision of Muslim justice (religious and secular) came under the Section d'État of the newly organized Direction des Affaires Chérifiennes.¹⁰⁹

+ + + +

Summary

Although the French altered the structure of the organization of both Muslim secular and religious courts, they did not fundamentally change their jurisdiction or competence. The same officials remained at their posts, though a few new officials were added, and higher and more specific requirements were demanded of them. Procedure was systematized and a means of appeal introduced -- at both secular and

¹⁰⁶ Ibid., Art. 9; see p. 404 of this chapter.

¹⁰⁷ Ibid., Art. 11.

¹⁰⁸ Ibid., Art. 12.

¹⁰⁹ By Dahir of 24 July 1920.

religious court levels -- which included the addition of high courts of appeal. Defence counsels were now provided for defendants appearing before a secular court. The right of habeas corpus was also introduced. Court fees were regulated and an earnest attempt made to stamp out irregularities. The office of commissaire du gouvernement was introduced in secular courts to act as a combination public prosecutor and supervisory agent. In addition both types of Muslim courts -- secular and religious -- were required to maintain specific records of every proceeding, which were inspected regularly.

IV. Jewish Courts Under the Protectorate.

Rabbinical courts were as indigenous to the Jewish population of Morocco as Muslim courts to the Muslims,¹ and though the French authorities began to reorganize Muslim courts almost immediately upon the establishment of the Protectorate, they did not reorganize Jewish courts until 1918.² This was because the Jewish population formed a small minority within the Empire, and because the First World War delayed many of the administrative reforms planned by the Protectorate authorities.

A. Tribunaux Rabbiniques.

1. Composition.

In 1918 Tribunaux Rabbiniques were authorized by the French in the cities and ports of the Sherifian Empire.³ Every Tribunal Rabbinique was made up of:⁴

- (1) A rabbi, as president,

¹Nahum Slouschz, op. cit., p. 347. Large Jewish colonies had appeared in North Africa from about 320 B.C.

²They were mentioned only briefly in Dahir of 12 Aug. 1913. They were dealt with specifically by Dahir of 22 May 1918, BO, 292, 27 May 1918, p. 523.

³Art. 1, Dahir of 22 May 1918. The traditional Rabbinical court was called the Beth Din (House of Justice) and was composed of three judges; it heard all cases, except criminal matters which were heard by the "gardien de l'ordre". See André Chouraqui, La condition juridique de l'israélite marocain (Paris: Presses du Livre Français, 1950), p. 119.

⁴Art. 2 of Dahir of 22 May 1918.

- (2) Two rabbis, as judges (dayyanim),
- (3) A clerk.

These officials were nominated by vizirial decree. Since the Jewish population was often too small in many communities to support a Tribunal Rabbinique, a rabbi could be specially appointed by vizirial decree to supervise all notarized transactions and the like within the jurisdiction.⁵ In this latter case if the parties involved in a dispute voluntarily presented themselves before this special rabbi, his ruling was final and could not be appealed against.⁶

2. Jurisdiction.

When the French officially organized the Jewish judicial organization they deviated greatly from the past, especially in jurisdiction. Unlike the traditional Beth Din, the Tribunal Rabbinique was only competent to hear cases involving personal status and inheritance (i.e., marriage, divorce, adoption, legacies, etc.).⁷ Any case involving a civil or commercial matter (even if between Jews only) had to be submitted to a Muslim secular court (of the caïd or pacha).⁸ Furthermore, when a litigation pertaining to personal status occurred involving a

⁵Ibid., Art. 3.

⁶Ibid.

⁷Ibid., Art. 1.

⁸Ibid. Chouraqui, p. 128. This was only really enforced by a Residential Circular of General Noguès, of 15 Feb. 1938, which caused much ill-will in Jewish communities.

Jewish subject and a Muslim, the case automatically had to be heard before a Tribunal du Chrâa only, and all cases relating to real estate which were not registered with the Conservation de la Propriété Foncière (and thus under French jurisdiction) were also eligible to be heard before a Tribunal du Chrâa alone.⁹ Any criminal matter was heard by a special Jewish magistrate.

3. Procedure Before Tribunaux Rabbiniques.

Proceedings were started by a written request addressed to the president of the Tribunal Rabbinique. The president ordered the subject of the request to be recorded, summoned the parties to appear before the Tribunal and examined the case.¹⁰ They could appear either in person or through a legal representative, though the personal appearance of a party could be ordered.¹¹ The hearings were public and held at fixed times and dates. As in the case of Muslim courts, however, the president could order hearings in camera if he deemed it necessary. Judgment was always pronounced in public.¹²

Every judgment contained the following information:¹³

- (1) Names, professions and domiciles of the parties.

⁹See Chouraqui who discusses this in detail.

¹⁰Art. 4, Dahir of 22 May 1918.

¹¹Ibid., Art. 5. There were no traditional lawyers.

¹²Ibid., Art. 6.

¹³Ibid., Art. 7.

- (2) Subject of the dispute or case.
- (3) Statements and evidence given by the parties and witnesses.
- (4) Grounds for the verdict.
- (5) Sentence.
- (6) Date of judgment, according to the Hebrew and Gregorian calendars.

All judgments of these courts were given in Hebrew, and within twenty-four hours of their pronouncement they were recorded in special registers which were then signed by the three judges.¹⁴

Judgment was pronounced by default if the party, who had been summoned twice -- each summons separated by an interval of fifteen days -- were absent without a valid excuse.¹⁵

Every person who had been a party to the proceedings was able to obtain a complete copy and French translation of the minutes. The copy was certified by the clerk, counter-signed by the president and stamped with the court's seal; it was now considered an authentic document, although it had no executory value.¹⁶

An account of the sentences given in the Tribunal Rabbinique was drawn up by the clerk at the end of every month and sent to the president who forwarded it to the Grand Vizir.¹⁷

4. The Jewish Notariate.

¹⁴Ibid., Art. 8.

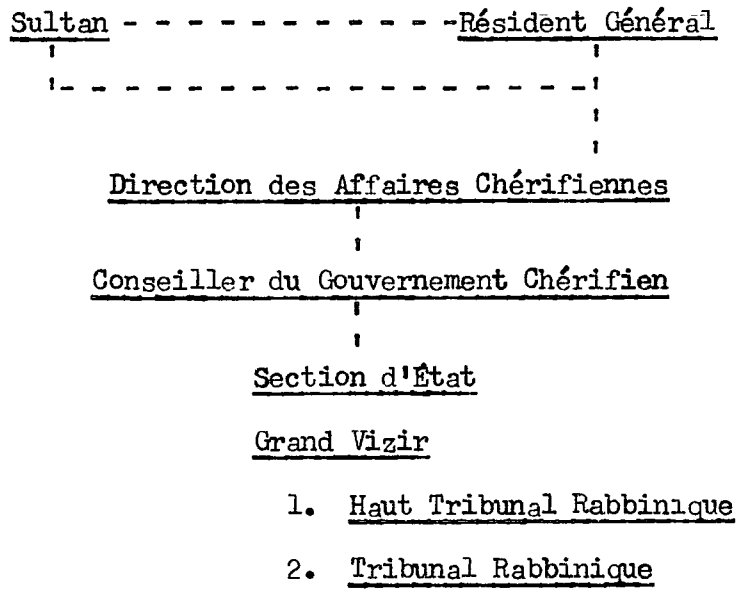
¹⁶Ibid., Art. 10.

¹⁵Ibid., Art. 9.

¹⁷Ibid., Art. 11.

FIGURE 17.

RABBINICAL COURTS, 1912-1925



The sofer, or notary (sofrim in the plural), resembled the adel of Muslim courts. He was appointed by vizirial decree on the proposal of the president of the local Tribunal Rabbinique.¹⁸ As in the Muslim courts, all notarized documents were drawn up and signed by two notaries, and contained the date, names and domiciles of the sofrim and the parties.¹⁹ All documents requiring notarial authentication were recorded in special registers by the sofrim within three days' of notarization,²⁰ and were examined and initialled by the president of the local court.²¹ The acts of the Jewish notaries, however, were not considered valid before Makhzen Muslim courts.²²

5. Peremptory Challenges.

An interesting right granted to persons involved in a case before a rabbinical jurisdiction was that of peremptory challenge. This right was instituted in 1919.²³

The party could now challenge a judge's competence to hear the case. This right was based on the idea that the judge might be in some manner connected with, or related to, the party (because of the smallness of the Jewish community) and consequently be prejudiced for or against him.²⁴ Once a challenge had been made, it had to be accepted,²⁵ and when the challenge concerned a member of a Tribunal

¹⁸ Ibid., Art. 21.

¹⁹ Ibid., Art. 22.

²⁰ Ibid., Art. 23.

²¹ Ibid.

²² Chouraqui, p. 129.

²³ Dahir of 17 May 1919, BO, 343, 19 May 1919, p. 457.

²⁴ Ibid., Art. 2.

²⁵ Ibid., Art. 3.

Rabbinique, the dayyan, or rabbinical judge, objected to was replaced by another rabbi appointed by the Grand Vizir.²⁶ When the peremptory challenge concerned a member of the Haut Tribunal Rabbinique, the judge was again appointed by the Grand Vizir but he always had to be a president of one of the Tribunaux Rabbiniques.²⁷

B. Haut Tribunal Rabbinique.

At the same time as the Tribunaux Rabbiniques were created, a Haut Tribunal Rabbinique was established at Rabat²⁸ to act as a high court of appeals against decisions of the Tribunaux Rabbiniques.²⁹

The Haut Tribunal Rabbinique was made up of:³⁰

- (1) A rabbi, as president,
- (2) Two rabbis, as judges,
- (3) A clerk.

These officials were appointed by decree of the Grand Vizir.³¹

Summonses to appear before the court were issued in the normal way.³² As in other Jewish and Muslim courts, judgment was pronounced by default when the party who had been twice summoned, failed to appear.³³ Final verdicts pronounced by this court contained all particulars

²⁶Ibid., Art. 4.

²⁷Ibid.

²⁸Dahir of 22 May 1918. (There were two dahirs of this date pertaining to Jewish courts.)

²⁹Ibid., Art. 1.

³⁰Ibid., Art. 2.

³¹Ibid.

³²Ibid., Art. 3.

³³Ibid., Art. 4.

required by other rabbinical and Muslim courts,³⁴ and sentences were recorded in a special register and were examined and initialled by the president of the Haut Tribunal.³⁵

Similarly a report of the sentences pronounced every month was drawn up by the clerk of the Haut Tribunal at the end of each month and given to the president of the Haut Tribunal who forwarded the report to the Grand Vizir.³⁶

+ + + +

Summary

The French reorganized the rabbinical courts much as they did Muslim courts, especially their creation of a specific means of appeal and a special new court of appeals. Here, however, the similarity ended, for the French altered the basic concepts of Mosaic jurisdiction because all commercial and civil cases -- traditionally under rabbinical courts -- were now placed under the jurisdiction of Muslim secular courts, a change which caused much bitterness throughout the Jewish communities of Morocco.³⁷

³⁴Ibid., Art. 5.

³⁵Ibid.

³⁶Ibid., Art. 8.

³⁷ André Chouraqui has best summarized the criticisms of the French changes:

"This [new] judicial organization, which might seem satisfactory were there also a competent secular jurisdiction alongside it, in reality sanctifies inequality between Moroccan Muslims and Jews. This discrimination is easily seen in five specific aspects. . . .

1. Jewish law courts are absolutely forbidden to hear suits of a civil or commercial character, even if in these cases all the parties are Moroccan Jews, and even if the parties wish to go before"

37 continued:

"these [rabbinical] courts of their own accord."

Now the cadi, apart from his competence in matters of inheritance and personal status, has maintained the right to hear civil and commercial cases, provided that all parties are Moroccan Muslims. In these latter cases, he judges concurrently with the caïds and pachas.

2. When, in a case regarding personal status, the two litigants are made up of one Muslim and one Jew, the affair must be brought before the jurisdiction of the Chrâa.

3. The Muslim Chrâa court is competent ratione personae to rule in all proceedings against Muslims, whether the other party is a Muslim or not. In complete contrast to this, rabbinical jurisdictions must refer the parties to the French or American courts, according to the case, if one of them is Jewish, though not of Moroccan nationality.

4. A Muslim never appears before a rabbinical jurisdiction; and yet in real property matters, if a property is involved which has not been registered [with the Conservation], the only competent court is that of the cadi. Thus the Jew in such a case has to appear before a court of Muslim canon law.

5. The acts of the sofrim are not considered valid before Makhzen jurisdictions, but those of the adoul attached to each mahakma of the local cadi are considered valid and authentic.

These measures are all the more resented as nothing justifies their existence. While, in fact, the judgments of rabbis usually leaves all parties contented, and while the judges of rabbinical courts always prove to be men of integrity, such cannot usually be said in Chrâa jurisdictions.

Procedure is long and consequently expensive; cadis are often ignorant of the law; their venality has frequently caused the Government to recall them from office.

There we have a situation of injustice which it is important to redress by a complete reorganization of the judicial system in Morocco."

Chouraqui, pp. 129-130.

CHAPTER VII

A CRITICAL ASSESSMENT OF LYAUTEY'S ADMINISTRATION

The foregoing chapters have surveyed some of Lyautey's achievements in the administration of the Moroccan Protectorate. In this chapter, an attempt is made to assess their significance.

The choice of criteria for such an assessment is by no means easy. After the Second World War and the establishment of the United Nations Organization, colonialism got a bad name, and colonial régimes, in so far as they continued to exist, came to be regarded as temporary trusteeships responsible for guidance of non-self-governing peoples to earliest possible independence. Although this concept was first formulated in the Mandates set up by the League of Nations after the First World War, the colonial powers did not then regard it as generally applicable to their overseas territories. The French were still confident of the inherent superiority of their own civilization and had not begun to contemplate a future dissolution of their empire. They considered Algeria to be a part of France, and expected their dominant influence in Tunisia and Morocco to be long-lasting or even perpetual.

In Morocco itself, nationalism in the modern sense did not begin to become important until the 1930s, when Moroccan graduates of French colleges made their way into active life and ideas of Islamic reform emanating from Egypt began to gain ground. It would therefore be historically anachronistic to try to assess Lyautey's work from the standpoints of modern trusteeship theory or of modern Moroccan nationalism.

Morocco, unlike Turkey, Egypt and Tunisia, had not undergone any significant modernization during the 19th century, and until 1912 had remained an essentially medieval society. Lyautey was thus called upon both to consolidate the French Protectorate and to lead Morocco into the 20th century. For both purposes pacification of the tribes was a necessary first step. Lyautey endeavoured to do this with a minimum of bloodshed and ill-will in most parts of the country and achieved a large measure of success, though the task was not fully accomplished until 1934. At the same time he laid the foundations of most of Morocco's modern institutional structure and shaped the development of its cities, ports and lines of communication. The successful achievement of all these tasks was the more remarkable because Lyautey was handicapped by a shortage of military, financial and personnel resources, especially during World War I. To a very great extent this success must be attributed to his personal force of character and wisdom.

All these tasks would of course have been incumbent on the first French Resident General and Commander in Chief in Morocco, whoever he might have been. Lyautey's distinction, aside from his exceptional force of character, was that, unlike most contemporary French colonial officials, he was not an "assimilationist". He felt a sincere respect for Moroccan civilization, and did not think it either possible or desirable simply to Frenchify the Moroccans. He hoped that Frenchmen and Moroccans would be able to collaborate in the necessary modernization of Morocco without destroying intrinsically valuable Moroccan

traditions and characteristics. He wanted the Protectorate to be a genuine protectorate, not a disguised colonial administration.

Lyautey's own declared principles would seem to be the best criteria by which his work may be assessed. How far did he, and his subordinates, actually put them into practice? To what extent did his successors maintain or reverse them?

As has been stated, it was a matter of primary importance to Lyautey that Moroccans and Frenchmen should co-operate closely. On many occasions he declared that he hoped for such an association. In reality, apart from his personal contacts, he does not appear to have done as much as might have been done to bring this about. The French tended to hold themselves more aloof from the Moroccans than did their counterparts in the Spanish Zone. This was probably the result of an inbred haughtiness or of a feeling of the superiority of French civilization. Lyautey himself was responsible for the practice whereby the French in Morocco (unlike Algeria) built their own cities outside Arab cities; he wished to preserve the character and charm of the Arab cities. Even so, this separation accentuated the French tendency to look upon the Moroccans as the "natives", holding a lower position in the social and class structure. In practice, French officials failed to work closely with the Moroccans at most of the higher levels of government. In his report of December 1920 to the French government, Lyautey stated that he was very disappointed over the degree of collaboration so far established between high-ranking French officials and the Sultan and

the vizirs. He openly described the Sultan as a figurehead with no real authority. Yet he was well aware that this state of affairs ought to be remedied; and more responsibility could certainly have been given to Moulay Youssef, who was an intelligent man. In fact Lyautey made no attempt to strengthen the authority of this Sultan, and left him with insufficient knowledge of developments in the Neo-Sherifian and Residential (i.e., French) Directorates, about which his primary informants were supposed to be the Conseiller du Gouvernement Chérifien and the Resident General himself.

Another most important field where collaboration should not have been too difficult was between the Moroccan vizirs and the French chefs de service. Yet as Lyautey had to admit in his 1920 report:

There is almost no collaboration between the chefs de service and the vizirs. Nothing galvanizes the Makhzen, which in turn is slipping into a gentle lethargy.

Below the Makhzen level, the participation of the native element in affairs is still far too insufficient.

Although at the beginning of the Protectorate, Lyautey had requested that the chefs de service and the vizirs meet weekly to discuss civil and military matters, the practice gradually fell into disuse; the Directeur des Renseignements, for example, sent a lower official to represent him. Lyautey could have solved this problem either by making such top-level meetings mandatory, or by forming a joint Conseil des Vizirs and Conseil des Directeurs; but as Monsieur de Laubadère pointed out in his article, "Réformes des pouvoirs public au Maroc",¹ Lyautey was

¹
A. de Laubadère, "Réformes des pouvoirs publics au Maroc", RJPUP, II (1948), pp. 2-25.

opposed to such a scheme, though it is not clear why. Such a council had been set up in the Tunisian Regency, where the vizirs and Directeurs met jointly as the Conseil des Ministres et des Chefs de Service. Eventually a similar council was established in Morocco, but not until 1947 under General Juin.

Various factors may partly explain this situation. At the beginning of the Protectorate, Lyautey may have considered participation impossible because the Moroccans had not been sufficiently trained nor their loyalty proven; but since he drew a fairly sharp line of distinction between Moroccans and Frenchmen in nearly all spheres of activity, this may have been just an extension of his general policy. In the final analysis the blame appears to rest fully on Lyautey, for he was the one man strong enough to enforce a policy of collaboration, and could foresee more clearly than any other individual the negative results of the lack of such a policy. What actually happened was that Lyautey allowed an unnecessary and harmful cleavage to arise between Moroccans and Frenchmen at the higher levels, those of policy-making and execution. It is a remarkable fact that while Lyautey always stated that the French were in Morocco to "supervise" and not to "administer directly", to uphold the existence of a single government and not to organize two totally separate ones, yet in practice this is just what he seemed to foster by his failure to bridge the gap between Moroccans and Frenchmen, between the Makhzen and the Protectorate administration. When the

French policy at the highest level was so clearly inclined towards segregation, it could hardly be expected that integration would proceed smoothly at the lower level, e.g., in the training of young Moroccans for posts in the various Residential Directions. When Moroccan officials were not permitted to collaborate with French officials at the top, it is not surprising that the natives were denied any other voice in government policy, except to a small extent through municipal commissions and various local assemblies. Perhaps during the first years of the Protectorate, when the French still had to subdue most of the country militarily, they had grounds for thinking that direct collaboration with the Moroccans was not feasible. They may also have thought that if they associated Moroccans with them from the outset, the latter would demand and perhaps obtain administrative powers which French officials would be reluctant to part with. It may be mentioned here that Lyautey was constantly fighting strong political pressure for a more direct type of administration, which would make of Morocco another Algeria.

Lyautey was a French aristocrat, and of the old school; although he accepted the French Republic, he was not by nature a republican. This background was reflected in his attitudes to governmental problems. Moreover, since the French had only just entered Morocco and hoped to remain there a long time, most of them probably thought that immediate collaboration with the Moroccans would not be compatible with French interests. Nationalism was a word which frightened colonists, and

Lyautey himself feared a "Young Turk" movement in Morocco, as he several times admitted during his term of office as Resident General.

+ + +

The French Protectorate has been criticized for over-protecting Moroccans and their institutions, and above all for over-protecting tribal institutions. Before the Protectorate, tribal assemblies had managed tribal business, property and funds well; but their powers were taken over by the French and tribal government became a Protectorate responsibility. The French put forward several reasons for this move: they feared that Moroccan tribesmen might squander or mismanage their tribal patrimony; that they might simply slip out of the Protectorate administration's control; and that if tribal affairs throughout the country were not co-ordinated by French officials, no effective planning could take place on a national level.

The results of this French protection of the tribes were partly beneficial, but also for several reasons, partly harmful. (1) The central Protectorate authorities -- all French -- took all major initiatives in tribal matters, and the tribal leaders became mere dependents; (2) Moroccan tribesmen lost their former "grass-roots" ability to administer their own affairs and take direct responsibility; (3) the members of the tribes consequently ceased to look with respect upon their own assemblies, thereby breaking down the strength and place of the tribes in Moroccan society. This contributed to the growth

of a feeling of inferiority among the Moroccans about their own administrative abilities and their position in society in general.

Over-protection was also applied at the municipal level. Frenchmen administered all major cities, despite the maintained figurehead position of the caid or pasha, and made all major decisions on budgetary matters, sanitation, engineering and public works. Thus the Moroccan Muslims, apart from certain traditional figures, were not introduced to the administration of the modern world even at the local level. Although expert supervision was probably more needed in the cities than elsewhere, with the introduction of modern installations (sewage, water, electricity), taxation and accountancy procedures, the municipalities could have been proving grounds for young Moroccan administrators if they had been allowed better opportunities to work their way up -- e.g., in public works (at the local level), municipal engineering, accounting, etc.

At the central level of administration, the main opportunity for Moroccans was within the structure of the Moroccan (Makhzen) civil service. They were more or less excluded from the vast areas covered by the Residential Directorates -- areas admittedly beyond their traditional experience, but holding the keys to their country's future. Thus they were kept out of the main business of administering the country in native administration, agriculture, commerce and industry, public health, public works, public instruction, and communications. How could Moroccans be expected to run the country at some later date when at least 75% of the present business of its administration and management was kept out of their hands at almost every important level? Their

feelings about this matter were reflected by Moroccan nationalists in 1934 when they presented a request to the Residency for specific reforms, including a reorganization of the Moroccan government so as to include new ministries and vizirs for Public Instruction, Finance, Economy, the Interior, Communications and Public Health, with subordinate French advisers when necessary. At the same time they demanded that the Moroccans should have a "deliberative voice" (i.e., a right to be consulted) in various governmental councils.

The main excuses given by the French for this policy of excluding Moroccans even from local responsibilities were that the Moroccans, through their own ignorance and maladministration in the past (i.e., prior to the Protectorate) had shown themselves incapable of handling such matters, and that the younger generations first had to be trained in modern French schools before being capable of taking over. These were the same reasons which they gave for excluding Moroccans from higher positions in the central administration. Yet the same French policy tended to discourage the young Moroccan from acquiring or even seeking a modern education or training; for why should he go to all the work of becoming well educated when in the end his talents would remain unused?

Thus in practice at all levels -- tribal, municipal and central -- native talents were on the whole neither searched for nor tapped. This neglect led to a stunting of Moroccan abilities -- abilities which were sorely needed by both the French and the Moroccan administrations

for both the present and the future. The failure of the French to integrate Moroccans gradually into modern, technical fields at all levels was their worst shortcoming, and all the more remarkable because Lyautey was forever commending Moroccan loyalty, intelligence and hardwork. Inability to obtain satisfactory employment under the French was the greatest grievance of the Moroccan jeunesse évoluée throughout the history of the Protectorate.

+ + +

Another sphere of French policy under Lyautey is also open to criticism, namely colonization. France came to Morocco with various aims and prerogatives. As the conqueror she saw herself as possessing certain rights (perhaps not considered ethically valid today, but traditionally regarded through the centuries as belonging to conquerors). Among these were the right to make the Moroccans pay the costs of the French administration, armed forces, military operations, buildings and construction projects; and the right to treat Morocco as a special field for French trade, investment and banking and for French colonization.

As seen earlier in this work, the French did not colonize Morocco to the same extent as Algeria or Tunisia. Vast areas were not just taken and given away to settlers (as was done in Algeria). Nonetheless, the Moroccans lost much land, including a large portion of their richest soil. Against this, the Moroccans were to a certain extent compensated for their losses. A discussion of the ethics of this

transfer of rich soil from natives to Frenchmen must take into account the realities of the contemporary situation. (What, after all, had happened in Spain during the Muslim conquest?) In addition to the fact that they paid for expropriated land, the French could also claim that they were bringing two important benefits, namely the introduction of modern farming methods, and the provision of work for Moroccans. Basically, the last point was not valid, in so far as the Moroccans concerned would have had some sort of work on the same land, if it had remained theirs. The first point was basically true, and the French agricultural colonists provided rising tax revenues and export earnings; but the government might itself have purchased modern equipment and appointed agricultural advisers to train Moroccan tribesmen -- as Mohammed V later did -- so that they might acquire technical knowledge while still remaining the owners of their land. This last course, however, was probably not feasible in the circumstances of Lyautey's time. There are good grounds for recognizing that the French agricultural colonization produced some good results for Morocco, and that its harmful effects to some degree were mitigated.

Another ethical aspect of this problem concerns the transfer to French colonists of lands which had formerly belonged to Moroccan tribes. This had several consequences. (1) The tribesmen lost much of their land, and with it all or part of their traditional livelihood -- whether in farming, or in sheep-breeding and transhumance. (2) This led to the break-up of the tribal structure, as members of the tribe

were forced to leave their ancestral abodes and go elsewhere in search of a livelihood. Most went to the cities, thereby adding to the pool of unskilled and often unemployed labour in the slums (bidonvilles). This caused a great upheaval in Moroccan traditional life, the effects of which are still felt today. (3) Indirectly another result was a break-up of the concept of communal property and a changeover to private property in former tribal territories. French agricultural colonization, along with other French policies, thus led to detribalization and a crumbling of much of the essence of Moroccan society, something which the British in Muslim territories under their rule generally tried to avoid. All the same it must be recognized that tribalism has everywhere been decaying under the pressure of economic forces.

The French authorities wanted to establish French influence throughout Morocco, and regarded colonization as one of the most important instruments for this purpose. Aside from the question of principle, they may be criticized because they imposed no system of control over the number of colonists entering the country. Immigration might at least have been restricted to persons qualified in various fields or possessing adequate capital so that they would not have to depend on the Moroccan government for financial help. The only check on French agricultural colonization was in fact the price, and amount of land available for acquisition by them after their arrival in the

country. Control would have been far wiser, not only because of the land factor, but also because the influx of colonists made it necessary to provide amenities and medical and educational facilities for them at the government's expense. Despite the logic of such considerations, any suggestion of immigration restrictions would certainly have been countered by political pressure from France, as the average Frenchman felt that it was his right to live in Morocco if he so chose.

+ + +

Closely linked to the problem of colonization was that of property registration. Prior to the establishment of the Protectorate, property holdings had fallen into classes which were defined for the most part in different and sometimes conflicting ways. Most property matters had been dealt with by Chrâa (Muslim religious) courts. Agreements had in many cases only been concluded orally, and because of the lack of written documentation it had often been difficult and sometimes impossible to trace a property back through successive ownerships and prove title to it. No title deed was automatically valid before a court. The French instituted their property registration system in order to untangle past claims to titles and ensure the validity of future title deeds, especially though not solely for the benefit of French colonists. As soon as ^{the} title to a property was registered with the French authorities, all future changes of title and other matters

pertaining to it passed into the exclusive jurisdiction of the French courts and out of the competence of the Chrâa.

In all the Muslim countries during the 19th and 20th centuries, governments, whether independent or imperial, found it necessary to introduce land and property registration systems; and all learnt that the task is very difficult and very slow. The French Protectorate in Morocco was no exception. Registration, when accomplished, would mean that established titles (i.e., those established under the new system) would be guaranteed before the courts (in Morocco, before the French courts). The system would also eventually produce an inventory of property holdings in the territory, which would facilitate taxation, and at the same time prevent usurpation of public and waqf (Habous) properties, which in the past had too easily disappeared from the public records.

These advantages of property registration have everywhere been accompanied by disadvantages. In Morocco natives might lose their legally held property if they did not see or hear of official notifications concerning it which had been posted in the court or market.

- According to the rules, such notifications were to be communicated both in Arabic and in French and both in writing and orally; but in practice this system, even when conscientiously and diligently applied, sometimes resulted in loss of property by native owners, without their knowing what was in the wind. On religious grounds also, Moroccans could object that the sphere of the Chrâa courts was being progressively diminished as more and more property was registered and transferred

to the jurisdiction of the French courts. All the Muslim states, however, have sooner or later transferred property jurisdiction to modern secular courts. The French claimed that their system was fair to all and ensured equal treatment to Moroccans and Frenchmen alike whereas the traditional Muslim system had been unsatisfactory, ineffective and often corrupt. The fees charged in the French system though seemingly light, were possibly heavy enough to weigh on poor Moroccans, who might otherwise have taken advantage of it. In most cases, however, property registration was not mandatory; and thus the French could claim, on the whole rightly, that Moroccans could freely choose which jurisdiction to accept.

+ + +

In the field of civil engineering and transport, the French achieved great things and only deserve criticism for their failure to train and employ more competent Moroccans. In 1912 no modern transport systems had been developed in Morocco, not even a primitive road system, let alone railways (such as the Ottoman Empire possessed).

Immediately after their arrival the French started drawing up plans for a modern highway network linking the cities; and almost all of it was brought into being before the end of Lyautey's term in Morocco. Railway development -- apart from some narrow-gauge military lines -- was delayed for the first several years by difficulties arising from international conventions and the European War; but by the time of

Iyautey's departure this too was well on the way to becoming a reality. New cities, schools, hospitals, dams and other important projects were completed. Probably the most important advance was in the ports -- a matter particularly dear to Iyautey -- and especially in the vast and complex new port of Casablanca, which Iyautey decided to develop as the country's principal outlet.

Morocco today still owes much of its infrastructural equipment to those opening years of the French Protectorate. The Spaniards achieved nothing comparable in their admittedly much poorer zone.

+ + +

The judicial organization set up in Morocco under Iyautey was also well founded. Generally speaking, the French, Muslim, Berber and Jewish legal systems worked satisfactorily, with only a few exceptions such as the removal of Jewish civil and commercial cases from rabbinical courts to the jurisdiction of Muslim secular courts. Although strict Muslims feared innovations, the new legal measures enforced by the French, such as the introduction of appellate jurisdictions, were a great improvement over the old system. Moroccans benefited in that they were allowed to maintain and reform their traditional courts, whereas in Algeria the natives were judged by French courts in all criminal cases.

+ + +

The French also introduced major educational reforms in Morocco, while taking care not to disturb traditional Muslim institutions. They set up schools for two types of pupils: those of the lower classes, and those of the upper. The French schools of the former type aimed at introducing the French language and training artisans such as carpenters, plumbers, electricians, etc., for the needs of everyday life. The schools of the second type, forming what was called the Franco-Muslim educational system, provided education at every level for a small number of Moroccan pupils from the more cultured classes. This system is to be criticized on two main grounds. In the first place its output of trained pupils was extremely low. Secondly the curriculum was almost wholly restricted to commerce, government, law and the humanities. Little or no preparation was given to pupils who might otherwise have wished to proceed to further training as teachers or medical doctors. Even today Morocco suffers from a shocking shortage of doctors and teachers, two professions which are essential to the welfare of any society and particularly of a developing nation.² Lyautey has been rightly blamed for negligence in these two fields. He also failed to provide for the training of enough engineers, and even worse of enough agricultural experts, although a modest start was made in agricultural training before his resignation to encourage young men to train in agriculture. It was

²By October 1954 there was a total of only 530 Moroccans with high school diplomas in Morocco; in addition there were 625 Jews. In the professions there were only 36 Moroccan doctors (17 of whom were Jewish) in the country, 5 dentists (including 3 Jews) and surprisingly only 48 lawyers (including 21 Jews). There were approximately 30 Moroccan engineers. Georges Spillmann, Du Protectorat à l'Indépendance: Maroc, 1912-1955 (Paris: Plon, 1967), pp. 153-154.

on Lyautey's suggestion, however, that a Military Academy was created to train Moroccan officers; but again only a pitifully small handful was admitted.

For the medium of instruction in the new schools, Lyautey chose French and not Arabic. In this he followed the precedents of French policy in Algeria and Tunisia. This policy had been partly determined by the traditional French colonist aim of cultural assimilation. Other factors had been the gap between written Arabic and the spoken Maghribi dialects, and the weak state of written Arabic. The modern renaissance of written Arabic in Syria and Egypt had scarcely begun by 1881, though it had progressed a long way by 1912. Whatever its motives, the French educational policy meant that the modern world was presented to the youth of Morocco, as of Algeria and Tunisia, through French and not Arabic. Moreover, Frenchmen in Morocco, with the exception of a few experts, took little interest in traditional Moroccan or other Arabic literary culture. All this tended to demean the traditional culture in the eyes of the future élite, who grew up with a far better knowledge of French than of their mother tongue. This cultural dichotomy is still one of the gravest problems facing Morocco and the other Maghreb countries.

Various reasons may explain the failure of Lyautey and the French administration to do more for Moroccan education. Lyautey himself came from an environment of traditional class barriers, and perhaps

for this reason leaned instinctively towards the principle of priority in education for a small but élite group. Another reason for the relative neglect of education was financial stringency. There were even some French colons who could not afford to send their children to the new lycées because the fees were too high. The French government in Paris expected the Moroccan Protectorate to pay its own way, apart from loans and from contributions to military expenses; and in any case France was heavily burdened by the cost of World War I and its aftermath, and by the cost of maintaining troops in Syria, Tunisia, Algeria and other territories as well as Morocco. Lyautey was obliged to spend a large part of the Moroccan revenues on military pacification of the tribes; and he evidently considered expenditure on communications and public works more important than expenditure on education. Even so, there was probably a more significant underlying reason. French officials feared the growth of nationalism, and foresaw that the development of education and professional training for Moroccans would do more than anything else to stimulate it.

+ + +

It has been alleged that Lyautey sought to separate the Berbers from the Arabs, and to isolate the Moroccans from the rest of the Muslim world. In point of fact the divisions between Berber-speaking tribes, Arabic-speaking tribes, and Arabic-speaking sedentary Moors

had existed for centuries, and none of the Moroccan sultans had been able to overcome them. Lyautey only accepted existing facts when he confirmed the administrative rights and customary laws of the various tribes, including the Berber tribes. Had he not done this, he would have been criticized for over-riding long established rights and customs. It could be argued that in the interest of Moroccan unity he ought to have promoted Arabic at the expense of the Berber languages through tribal schools, and to have substituted the Chrâa for customary law in the tribal courts; but any such measures would have been censured as unfair anti-Berber discrimination. The evidence indicates that Lyautey did not seek either to separate or to unite the Berbers and Arabs, but saw the division between them as a normal aspect of the Sherifian Empire. In the task of pacifying the tribes, Lyautey certainly used "divide and rule" tactics, and may well have taken advantage of Arab-Berber frictions, although this is denied by Georges Spillmann;³ but even if so, such conduct on Lyautey's part was temporary and tactical, and did not reflect any permanent policy of creating Arab-Berber disunity.

As regards the charge that Lyautey sought to isolate Morocco from the Muslim world,⁴ history shows that under the independent sultans Morocco had led a self-contained existence since the French conquest,

³Du Protectorat à l'Indépendance.

⁴Sidi Mohammed (V) only openly pleaded for closer ties with the rest of the Muslim countries for the first time during the régime of Erik Labonne in 1947.

and indeed since the Turkish conquest, of Algeria. Only with Mecca, and at times with Muslim West Africa, did Morocco have close contacts. In the early years there was a possible danger that dissident politically-minded Moroccans might look to the Pan-Islamic Ottoman Empire and its ally Germany. After the First World War, young Moroccans receiving educations in Paris and also Muslim theologians of the Qaraouiyne University at Fez began to learn of the Egyptian and Syrian nationalist movements and of the "Salafiya" Islamic reform movement in Egypt. Lyautey feared that these influences, together with the impact of modern European civilization, might bring into being a group of "Young Moroccans" comparable with the "Young Turks", whose presence would disturb France's work in Morocco. There can be little doubt that for this reason he did in fact try to discourage Moroccans from contact with other Muslims and to prevent Morocco's tenuous relations with other Muslim countries from becoming any closer.

+ + +

An important question which must be asked is how the French Protectorate in Morocco compared with other French colonial-type enterprises in North Africa and the Middle East?

The mandates of Syria and Lebanon were given to France in 1920 by the League of Nations, in accordance with the trusteeship principle which did not apply to the French colonies and protectorates. The two

territories were allowed to choose their own Presidents and parliaments, which was a big step ahead of anything allowed in North Africa. On the other hand, the French High Commissioners could dissolve these parliaments and veto their decisions. In practice the parliaments were at most times either powerless or non-existent, when the French High Commissioner exercised virtually dictatorial powers.

Algeria was a different case altogether. There was no native parliament. The Governor General did not have military powers, his post being purely civil. Every important appointment made by him had to be authorized by the metropolitan government, and his civil powers were thus not nearly so great as those of the High Commissioners at Beirut and the Residents General at Tunis and Rabat. The northern section of Algeria was legally part of France and was divided into three départements (counties). The desert territory in the south was separately administered. The population was classified into French citizens and French subjects. Only persons willing to submit to French law in all fields (including family law) could become French citizens; almost all the Muslims clung to Muslim law and remained French subjects. As part of France, northern Algeria was represented in the French parliament (Chambre des Députés) at Paris; but in practice only the Christians (mostly French colons) possessed the right to vote.

Tunisia resembled Morocco, in that it was also a protectorate, with a native government under the Bey and fairly similar French Directions. The Resident General, however, held only civil powers over

the country, and the natives possessed more extensive rights of collaboration at the highest levels after the creation in 1922 of a joint council consisting of Tunisian Ministers (one-third) and French chefs de service (two-thirds).

The Moroccan Protectorate would have benefited through the introduction of at least two of the institutions set up in these other territories, if only in modified forms. A joint council of vizirs and chefs de service could have been set up as in Tunisia; this was not done in Morocco until 1947. Secondly, some sort of elected parliament, with at least a consultative voice, might have been set up, as in Syria; and the legal status of the Sultan might have been changed from that of an absolute monarch to that of a constitutional monarch.

+ + +

The above discussions have been concerned with what the French did or might have done in Morocco during Lyautey's term of office. The question arises to what extent was he personally able to shape the new Protectorate régime and its institutions?

Lyautey has sometimes been said to have had almost dictatorial powers: he could personally select the members of his government; he was empowered to initiate laws and programmes, such as the setting up of new types of schools (e.g., the Military Academy); and being at the same time Commander in Chief, he personally planned military campaigns (which were removed from the competence of his successor, Steeg).

Besides all this, Lyautey could give a moral impetus to his policies, through his charisma and personality. There were many factors, however, which he could not control. The French parliament had the last word in matters of general policy and in matters of finance, more particularly on the tricky question of loans. The Ministry of Foreign Affairs in Paris handled Morocco's foreign relations. In military matters, Lyautey was sometimes restricted by the metropolitan Government; for instance during World War I, and during the Rif War when his requests for additional troops and supplies were not met. Another curb on Lyautey's authority was the presence of French colonists. He was not able to control the type or influx of colons, nor the activities of large Paris-based corporations which planted deep roots in Moroccan finance, agriculture, and mining. After World War I, when the colons were dissatisfied with economic conditions and wanted a more direct voice in the administration of the Protectorate, they nearly succeeded in ousting Lyautey, who was only saved by the intervention of the President of the French Republic. During his last years of office, the growing power of the socialists in the French parliament made it difficult for Lyautey to act decisively in Morocco. Finally it must be said that French officials and officers had (and still have) their own long-established bureaucratic, legalistic and military traditions. While those who worked under Lyautey served him well, not even he could have fundamentally

changed their ingrained attitudes and ways of doing things. Nevertheless Lyautey, through his personal zeal, charm and idealism, impressed both the French and the Moroccans themselves as a great leader.

+ + +

Lyautey's successor, Théodore Steeg (1925-1929), had experience in both the parliamentary and the colonial fields. He came to Morocco directly from Algeria where he had served as Governor General, and was influenced by this experience in his policy-making in Morocco. Intelligent and honest, he was an austere man who took his job very seriously. His tenure, however, had a detrimental effect on the Protectorate and tended to undermine much of Lyautey's work. He was anti-military in outlook, and after the end of the campaign to put down Abd El-Krim he put a stop to the plans of the French generals for further operations to subdue the tribal areas; consequently it was not until 1934 and only after heavy expenditure and bloodshed, that Morocco was finally pacified. Unlike Lyautey, Steeg favoured a more direct administration of Morocco and greatly increased the number of French civil servants. During his time colonization advanced significantly, with a corresponding diminution of Moroccan land holdings. At the same time he allowed an excessive increase in the Moroccan public debt. His coldly aloof personality did not endear him to high Moroccan officials and leading families, and tended to alienate them from France. In many ways Steeg must go down in Moroccan history as one of the least satisfactory administrators of the Protectorate.

Lucien Saint (1929-1933), had served in France as a préfet. Although he declared his respect for Lyautey and his work, he did little to change Steeg's policies, and let the number of French officials increase still further. It was during his term, in 1930, that the famous Berber Dahir was issued. Article 6 of this laid down that any Berber who committed a crime, either against another Berber or an Arab, would come under the jurisdiction of French courts. The decree aroused a storm of indignation, both in Muslim religious circles and among the new generation of French-educated Moroccan intellectuals. It was thought that the French were trying not only to separate the Berbers from the Arabs, but also to wean the Berbers away from Islam. The protest movement which ensued was the first manifestation of modern Moroccan nationalism. Saint had serving under him at one and the same time no fewer than four future Residents General of Morocco: Juin, Guillaume, Noguès, and Labonne (then Secrétaire Général du Protectorat).

Henry Ponsot (1933-1936) had previously been French High Commissioner in the Levant. Impartial, honest and hard-working, he righted some of the errors of his predecessors. He set out to reappropriate the budget, so that more of the expenditure would go to meeting the needs of the Moroccans and less for those of the French colons, so that the colons would pay more of the tax-revenues. He also suppressed Article 6 of the Berber Dahir, and instead placed

criminal cases involving Berbers under the jurisdiction of the Haut Tribunal Chérifien. Despite his work for the Moroccans, Ponsot did not get on with the Sultan; and this, together with the effects of the world depression, the activities of the nationalists, and the hostile attitude of the colons to his pro-Moroccan policy, greatly hampered his work.

Marcel Peyrouton, the next Resident General, was only in Morocco for a few months in 1936. His successor, General Charles Noguès (1936-1943), was an outstanding figure in the history of the Protectorate. Noguès was a disciple of Lyautey, and a quiet, reflective man, who worked with courage and impartiality. He tried to become a real friend of the Sultan and the higher Sherifian officials, even though this alienated many of the local French. During his term there was a renewed liberalism. New periodicals and newspapers were allowed to circulate, although many were soon closed down as a result of student and nationalist demonstrations. Noguès was interested in education; he wanted more and better Franco-Muslim schools, better education for girls, reform of the Qaraouiyne University, better supervision of the free state schools and of the unofficial renovée and Koranic schools, and more aid for the better unofficial schools. He caused a study to be made of government and public posts which newly graduating Moroccans could fill. Noguès also continued Ponsot's policy of allocating more of the budget for Moroccan needs. He called for the building of entirely new cities for the working-classes to replace the bidonvilles

(suburban slums), and promised aid to artisans for the creation and development of co-operatives, and to peasants and tribesmen for better use of collective land. In architecture he wished the styles to be Moroccan rather than French. During his Residency an important dam and irrigation programme was begun, which was eventually to bring about a great increase in the output of electric power and in the amount of land under cultivation. Noguès thus continued much of Iyautey's work, and filled in some of the gaps which he had left. Unlike Iyautey he was not in favour of isolating Morocco from the world, and sought to increase her contacts, including those with other Muslim countries. To increase the efficiency of the administration, he sent many of the French officials to study colonial administrative techniques at the Centre des Hautes Etudes d'Administration Musulmane in Paris.

Although he was anti-German, Noguès remained in office under the Vichy régime during World War II. His departure in 1943 marked the end of effective personal ties between the Sultanate and the Residency, and coincided with a great intensification of the nationalist demand for freedom from French rule. President Roosevelt had met the Sultan, Mohammed V, at Casablanca in January of the same year, and had told him that the days of French colonialism were numbered, and that Morocco's position would be different after the war. This meeting initiated a new era in the history of the Protectorate.

Gabriel Puaux (1943-1946), who succeeded Noguès, was a career

diplomatist, formerly Secrétaire Général du Protectorat of Tunisia and High Commissioner in the Levant. He was courteous, good-willed, well-informed on the Muslim world, and courageous; but he came to Morocco when a man with even his qualifications and abilities could no longer exercise a decisive influence on the course of events. The tide of nationalism, with the additional impetus given to it by Roosevelt dominated the scene. Despite reforms and efforts to help Moroccan agriculture, Fuau's term was marked by bloody anti-French riots and by a deterioration of relations with the Sultan.

Erik Labonne (1946-1947) also had a record of pertinent experience, having been Secrétaire Général du Protectorat in Morocco, Ambassador to Moscow, and Resident General of Tunisia. He was a specialist in economic matters, especially mining and industry, but with little interest in agriculture. He was tenacious and yet generous by nature, but also peremptory. He scorned technocrats and bureaucrats and "specialists of native affairs", and had little liking for the French colons. He introduced various reforms, but had little success because of his poor relations with both Moroccans and colons.

----- When General Alphonse Juin (1947-1951) first came to Morocco, he ----- stressed the need for Moroccans to have more of a say in the administration of the country, but met with resistance both from the colons and in Paris. He also had plans for reforms, such as the creation of an Ecole d'Administration Marocaine, and other innovations;

but the circumstances of the time were not propitious. Juin was in frequent conflict with the Sultan, Mohammed V, and the nationalists.

Juin's successor, another general, Augustin Guillaume (1951-1954), was an old Moroccan hand, having worked in the Service des Affaires Indigènes and headed the Direction des Affaires Politiques under Noguès. He came at a time when French groups, together with a Berber leader, el-Glaoui, and a religious (marabout) leader, el-Kettani, were pressing for the deposition of Mohammed V. This was done on August 20, 1953. At the same time thousands of nationalists were arrested. The new Sultan, Sidi Mohammed ben Arafa, signed away most of the remaining powers of his office. This was the worst blunder made by the French in Morocco. The exiled Mohammed V became a national hero for all groups of the people, including the Berber tribes. Even el-Glaoui finally changed his mind.

Three men quickly filled and vacated the office of Resident General after Juin: Francis Lacoste (June 1954-June 1955), Gilbert Grandval (June-August 1955), and General Pierre Boyer de Latour du Moulin (August-November 1955). Under du Moulin Mohammed V was restored to the throne on November 18, 1955, shortly after the issue of the Declaration of La Celle-Saint-Cloud, whereby France undertook to terminate the Protectorate. André Dubois then served a short term as France's last Resident General, with the task of negotiating the details. The Moroccan government became independent on March 2, 1956, and took over the Spanish and Tangier Zones later in the same year.

Of the fourteen Residents General of the Moroccan Protectorate, only Lyautey and Noguès emerge as great statesmen and administrators. Both showed real concern for the welfare of Morocco as well as the interests of France. Perhaps Noguès could have accomplished as much or more than Lyautey if the Second World War and the resultant wave of nationalism had not supervened. As it was, only Lyautey has left a lasting stamp on Morocco. He certainly made errors both of omission and commission; some of his policies are viewed with disfavour by present-day Moroccans; others were abandoned by his successors. Even so, it seems that Lyautey has left a lasting good name in Morocco, for his great services to the country.

+ + +

In conclusion it may be fitting to quote a tribute, albeit rather highly coloured, which the young monarch Mohammed V paid to Lyautey in a speech at the Colonial Exhibition at Vincennes in 1931.

Coming to admire the Colonial Exhibition, which is a wonderful achievement of your [French] genius, it is Our special pleasure on this occasion to convey Our greeting to the great Frenchman who was able to safeguard Morocco's ancient traditions, morals and customs, while at the same time introducing the spirit of modern organization, without which no country could exist today.

Can we in fact forget that upon your arrival in Morocco, the Sherifian Empire was threatened with ultimate ruin? Her institutions, her arts, her faltering administration -- all were calling for an organizer, a renovator of your ability to put her back on the right path, to direct her towards her destiny. By taking into consideration the susceptibilities of her inhabitants, by respecting their beliefs and customs,

you have drawn them to la France protectrice by your noble qualities of heart and by the grandeur of your soul.

In less than fifteen years, new cities have been erected without our old cities losing any of their character in the process. Highways facilitating commerce have been quickly laid out across the entire extent of Our Empire. Ports which excite the administration of everyone have been opened to allow for the development of Moroccan commerce. Schools built with most artistic taste and in a most practical way have brought to Our subjects the science indispensable to understand modern life and to enter onto the path of progress. Everywhere dispensaries and hospitals have appeared, while France, being compassionate for those who suffer, has made possible, without counting the costs of struggling against illness.

All your work cannot be mentioned in one speech alone.

It would take a book to say what Morocco owes you. You have remembered, Monsieur le Maréchal, the solid friendship which you promised Our noble and lamented Father [the former Sultan, Moulay Youssef]. By his attitude to you, by family ties which We cherish as a precious memory, We know that he always considered you as the most faithful and deeply cherished of his friends.

When he left this ephemeral world, he left us with a legacy of sacred duty to maintain that friendship. You know with what joy We convey to you in addition the expression of Our gratitude assuring you that, throughout all of Morocco, the name of Marshal Lyautey will remain engraved in all our hearts and will be the symbol of the finest qualities of the French race, being synonymous of magnanimous grandeur and everlasting glory.

A P P E N D I C E S

APPENDIX I

CONVENTION OF MADRID, 3 JULY 1880

ART. I. Les conditions dans lesquelles la protection peut être accordée sont celles qui sont stipulées dans les Traités Britannique et Espagnol avec le Gouvernement Marocain, et dans la Convention survenue entre ce Gouvernement, la France, et d'autres Puissances, de 1863, sauf les modifications qui y sont apportées par la présente Convention.

II. Les Représentants étrangers, Chefs de Missions, pourront choisir leurs interprètes et employés parmi les sujets Marocains ou autres.

Ces protégés ne seront soumis à aucun droit, impôt, ou taxe quelconque, en dehors de ce qui est stipulé aux Articles XII et XIII.

III. Les Consuls, Vice-Consuls, ou Agents Consulaires, Chefs de Poste, qui résident dans les États du Sultan du Maroc, ne pourront choisir qu'un interprète, un soldat, et deux domestiques parmi les sujets du Sultan, à moins qu'ils n'aient besoin d'un Secrétaire indigène.

Ces protégés ne seront soumis non plus à aucun droit, impôt, ou taxe quelconque, en dehors de ce qui est stipulé aux Articles XII et XIII.

IV. Si un Représentant nomme un sujet du Sultan à un poste d'Agent Consulaire dans une ville de la côte, cet Agent sera respecté et honoré, ainsi que sa famille habitant sous le même toit, laquelle, comme lui-même, ne sera soumise à aucun droit, impôt, ou taxe quelconque en dehors de ce qui est stipulé aux Articles XII et XIII; mais il n'aura pas le droit de protéger d'autres sujets du Sultan en dehors de sa famille.

Il pourra, toutefois, pour l'exercice de ces fonctions, avoir un soldat protégé.

Les Gérants des Vice-Consulats, sujets du Sultan, jouiront, pendant l'exercice de leurs fonctions, des mêmes droits que les Agents Consulaires, sujets du Sultan.

V. Le Gouvernement Marocain reconnaît aux Ministres, Chargés d'Affaires, et autres Représentants le droit (qui leur est accordé par les Traités) de choisir les personnes qu'ils emploient, soit à leur service personnel, soit à celui de leurs Gouvernements, à moins toutefois que ce ne soient des Cheikhs ou autres employés du Gouvernement Marocain, tels que les soldats de ligne ou de cavalerie, en dehors des Maghanias préposés à leur garde. De même ils ne pourront employer aucun sujet Marocain sous le coupe de poursuites.

Il reste entendu que les procès civils engagés avant la protection se termineront devant les Tribunaux qui en auront entamé la procédure. L'exécution de la sentence ne rencontrera pas d'empêchement. Toutefois, l'autorité locale Marocaine aura soin de communiquer immédiatement la

sentence rendue à la Légation, Consulat, ou Agence Consulaire dont relève le protégé.

Quant aux ex-protégés qui auraient un procès commencé avant que la protection eût cessée pour eux, leur affaire sera jugée par le Tribunal qui en était saisi.

Le droit de protection ne pourra être exercé à l'égard des personnes poursuivies pour un délit ou un crime avant qu'elles n'aient été jugées par les autorités du pays, et qu'elles n'aient, s'il y a lieu, accompli leur peine.

VI. La protection s'étend sur la famille du protégé. Sa demeure est respectée.

Il est entendu que la famille ne se compose que de la femme, des enfants, et des parents mineurs qui habitent sous le même toit.

La protection n'est pas héréditaire. Une seule exception, déjà établie par la Convention de 1863, et qui ne saurait créer un précédent, est maintenue en faveur de la famille Benchimol.

Cependant, si le Sultan du Maroc accordait une autre exception, chacune des Puissances Contractantes aurait le droit de réclamer une concession semblable.

VII. Les Représentants étrangers informeront par écrit le Ministre des Affaires Étrangères du Sultan du choix qu'ils auront fait d'un employé.

Ils communiqueront chaque année au dit Ministre une liste nominative des personnes qu'ils protègent ou qui sont protégées par leurs Agents dans les États du Sultan du Maroc.

Cette liste sera transmise aux autorités locales, qui ne considéreront comme protégés que ceux qui y sont inscrits.

VIII. Les Agents Consulaires remettront chaque année à l'autorité du pays qu'ils habitent une liste, revêtue de leur sceau, des personnes qu'ils protègent. Cette autorité la transmettra au Ministre des Affaires Étrangères, afin que, si elle n'est pas conforme aux règlements, les Représentants à Tanger en soient informés.

L'Officier Consulaire sera tenu d'annoncer immédiatement les changements survenus dans le personnel protégé de son Consulat.

IX. Les domestiques, fermiers, et autres employés indigènes des Secrétaires et Interprètes indigènes ne jouissent pas de la protection. Il en est de même pour les employés ou domestiques Marocains des sujets étrangers.

Toutefois, les autorités locales ne pourront arrêter un employé ou domestique d'un fonctionnaire indigène au service d'une Légation ou d'un Consulat, ou d'un sujet ou protégé étranger, sans en avoir prévenu l'autorité dont il dépend.

Si un sujet Marocain au service d'un sujet étranger venait à tuer quelqu'un, à le blesser, ou à violer son domicile, il serait immédiatement arrêté mais l'autorité Diplomatique ou Consulaire sous laquelle il est placé serait avertie sans retard.

X. Il n'est rien changé à la situation des censaux telle qu'elle a été établie par les Traités et par la Convention de 1863, sauf ce qui est stipulé, relativement aux impôts, dans les Articles suivants.

XI. Le droit de propriété au Maroc est reconnu pour tous les étrangers.

L'achat de propriétés devra être effectué avec le consentement préalable du Gouvernement, et les titres de ces propriétés seront soumis aux formes prescrites par les lois du pays.

Toute question qui pourrait surgir sur ce droit sera décidée d'après ces mêmes lois, avec l'appel au Ministre des Affaires Étrangères stipulé dans les Traités.

XII. Les étrangers et les protégés propriétaires ou locataires de terrains cultivés, ainsi que les censaux adonnés à l'agriculture, paieront l'impôt agricole. Ils remettront chaque année à leur Consul la note exacte de ce qu'ils possèdent, en acquittant entre ses mains le montant de l'impôt.

Celui qui fera une fausse déclaration paiera, à titre d'amende, le double de l'impôt qu'il aurait dû régulièrement verser pour les biens non déclarés. En cas de récidive cette amende sera doublée.

La nature, le mode, la date, et la quotité de cet impôt seront l'objet d'un règlement spécial entre les Représentants des Puissances et le Ministre des Affaires Étrangères de Sa Majesté Shériffienne.

XIII. Les étrangers, les protégés, et les censaux propriétaires de bêtes de somme paieront la taxe dite des portes. La quotité et le mode de perception de cette taxe, commune aux étrangers et aux indigènes, seront également l'objet d'un règlement spécial entre les Représentants des Puissances et le Ministre des Affaires Étrangères de Sa Majesté Shériffienne.

La dite taxe ne pourra être augmentée sans un nouvel accord avec les Représentants des Puissances.

XIV. La médiation des Interprètes, Secrétaires indigènes, ou soldats des différentes Légations ou Consulats, lorsqu'il s'agira de personnes non placées sous la protection de la Légation ou du Consulat, ne sera admise qu'autant qu'ils seront porteurs d'un document signé par le Chef de Mission ou par l'autorité Consulaire.

XV. Tout sujet Marocain naturalisé à l'étranger, qui reviendra au Maroc, devra, après un temps de séjour égal à celui qui lui aura été régulièrement nécessaire pour obtenir la naturalisation, opter entre

sa soumission entière aux lois de l'Empire et l'obligation de quitter le Maroc, à moins qu'il ne soit constaté que la naturalisation étrangère a été obtenue avec l'assentiment du Gouvernement Marocain.

La naturalisation étrangère acquise jusqu'à ce jour par des sujets Marocains, suivant les règles établies par les lois de chaque pays, leur est maintenue pour tous ses effets, sans restriction aucune.

XVI. Aucune protection irrégulière ni officieuse ne pourra être accordée à l'avenir. Les autorités Marocaines ne reconnaîtront jamais d'autres protections, quelle que soit leur nature, que celles qui sont expressément arrêtées dans cette Convention.

Cependant l'exercice du droit consuetudinaire de protection sera réservé aux seuls cas où il s'agirait de récompenser des services signalés rendus par un Marocain à une Puissance étrangère, ou pour d'autres motifs tout à fait exceptionnels. La nature des services et l'intention de les récompenser par la protection seront préalablement notifiées au Ministre des Affaires Étrangères à Tanger, afin qu'il puisse au besoin présenter ses observations; la résolution définitive restera néanmoins réservée au Gouvernement auquel le service aura été rendu. Le nombre de ses protégés ne pourra dépasser celui de douze par Puissance, qui reste fixé comme maximum, à moins d'obtenir l'assentiment du Sultan.

La situation des protégés qui ont obtenu la protection en vertu de la coutume désormais réglée par la présente disposition sera sans limitation du nombre pour les protégés actuels de cette catégorie, identique pour eux et pour leurs familles, à celle qui est établie pour les autres protégés.

XVII. Le droit au traitement de la nation la plus favorisée est reconnu par le Maroc à toutes les Puissances représentées à la Conférence de Madrid.

XVIII. La présente Convention sera ratifiée. Les ratifications seront échangées à Tanger dans le plus bref délai possible.

Par consentement exceptionnel des Hautes Parties Contractantes les dispositions de la présente Convention entreront en vigueur à partir du jour de la signature à Madrid.

En foi de quoi les Plénipotentiaires respectifs ont signé la présente Convention, et y ont apposé le sceau de leurs armes.

Fait à Madrid, en treize exemplaires, le 3 juillet, 1880.

L.S. SACKVILLE WEST
G.E. SOIMS
SID. MOHAMMED VARGAS
JAURÈS
OAKERMAN
J. GREPPI

A. CANOVAS DEL CASTILLO
LUCIUS FAIRCHILD
E. LUDOLF
HEILDEWEIR
ANSPACH
CASAL RIBEIRO

APPENDIX II

FRANCO-ITALIAN DECLARATION CONCERNING THE RELATIONS BETWEEN THE TWO COUNTRIES IN LIBYA AND MOROCCO.

Le Gouvernement Royal d'Italie et le Gouvernement de la République française, désireux d'exécuter dans l'esprit le plus amical leurs accords de 1902, confirment leurs mutuelle intention de n'apporter réciproquement aucun obstacle à la réalisation de toutes les mesures qu'ils jugeront opportun d'édicter, l'Italie en Libye et la France au Maroc.

Ils conviennent de même que le traitement de la nation la plus favorisée sera réciproquement assuré, à l'Italie au Maroc et à la France en Libye; ledit traitement devront s'appliquer de la manière la plus large aux nationaux, aux produits, aux établissements et aux entreprises de l'un et l'autre États, sans exception.

Paris, le 28 octobre, 1912.

TITTONI

POINCARÉ

APPENDIX III

HISPANO-ITALIAN DECLARATION, 4 MAY 1913.

El Gobierno Real de España y el Gobierno Real de Italia se han puesto de acuerdo para expresar su mutua intención de no suscitar recíprocamente ningún obstáculo para la realización de cuantas medidas juzguen oportuno establecer, España en su zona de influencia en Marruecos, é Italia en Libia.

Igualmente se han puesto de acuerdo respecto á que el trato á que se refiere la Declaración franco-italiana, fechada en París el 28 de Octubre del año 1912, sea análogamente reconocido, á España en Libia y á Italia en Marruecos (zona de influencia española); de suerte que el mismo trato de favor que en Marruecos y en Libia se conceda por una y otra parte á los racionales, á los productos, á los establecimientos, á las empresas de cualquier tercer Estado, sea adquirido inmediatamente por la otra Potencia signataria del presente acuerdo.

Hecho en Roma por duplicao el día 4 de Mayo de 1913.

R. PIÑA Y MILLET

A. DI SAN GIULANO

APPENDIX IV

ITALIAN RECOGNITION OF THE FRENCH PROTECTORATE
IN MOROCCO.

Il Ministro Degli Affari Esteri all'Ambasciatore di Francia
in Roma.

— Roma, 12 febbraio 1913.

Signor Ambasciatore,

Con sua nota del 25 dicembre p.p. l'Eccellenza Vostra, in conformità alle sue istruzioni, mi notificava il trattato di protettorato franco-marocchino firmato a Fez il 30 marzo 1912, il cui testo era annesso alla stessa sua comunicazione, e chiedeva che il Governo di S.M. il Re d'Italia desse la propria adesione al medesimo atto internazionale.

In risposta alla nota succitata, ho l'onore di partecipare all'Eccellenza Vostra che il Governo Italiano formalmente dichiara di riconoscere il protettorato della Francia sul Marocco, sancito dal trattato di Fez del 30 marzo 1912.

Frego l'Eccellenza Vostra di voler portare questa dichiarazione a conoscenza del Governo della Repubblica.

A. DI SAN GIULIANO

APPENDIX V

SECRET FRANCO-SPANISH AGREEMENT, 1 SEPTEMBER 1905.

I. POLICE DES PORTS.

Les corps de police militaire qui devront être organisés le plus tôt possible dans les ports de l'Empire chérifien devant être formés de troupes indigènes, la France d'accord avec l'Espagne, admet que tous les chefs, officiers et sous-officiers qui seront chargés de l'instruction et du commandement desdites troupes dans les ports de Tetouan et de Larache devront appartenir à la nationalité espagnole; de son côté, l'Espagne, d'accord avec la France, admet que tous les chefs, officiers et sous-officiers qui seront chargés de l'instruction et du commandement des troupes de police dans les ports de Rabat et de Casablanca devront être de nationalité française.

En ce qui concerne le port de Tanger, en raison des stipulations de l'article 9 du traité du 3 octobre 1904, il est convenu que la police de cette ville sera confiée à un corps franco-espagnol commandé par un Français. Ce régime sera soumis à révision, à l'expiration de la période de quinze ans, prévue à la convention du 3 octobre 1904.

II. SURVEILLANCE ET RÉPRESSION DE LA CONTREBANDE DES ARMES.

Conformément à l'esprit de l'article 18 dudit traité, et en vue d'assurer son exécution, il est entendu que sur terre la surveillance et la répression de la contrebande des armes demeurent à la charge de la France, dans la sphère de sa frontière algérienne, et à la charge de l'Espagne dans la sphère de toutes ses places et possessions africaines.

La surveillance et la répression de cette contrebande sur mer seront confiées à une division de navires de guerre des deux puissances, qui en fixeront les types. Cette division sera commandée alternativement, pendant un an, par un officier de la marine de l'une des deux puissances, et, l'année suivante, par un officier de la marine de l'autre puissance, le commandement devant être exercé la première année par un officier de la marine française.

Les deux gouvernements établiront d'un commun accord les règles à observer pour la répression de cette contrebande, lorsqu'il s'agira de l'exercice du droit de visite, dans les cas où l'exercice de ce droit serait indispensable à l'efficacité de la répression.

III. INTÉRÊTS ÉCONOMIQUES ET FINANCIERS.

En vue d'assurer de part et d'autre dans le sens le plus amical l'exacte interprétation des articles 10, 11 et 12 de la convention du 3 octobre 1904, il demeure entendu :

1. Que les entreprises de travaux publics, de chemins de fer, de routes et canaux, d'exploitation de mines et carrières, et toutes autres de caractère commercial et industriel, sur le territoire du Maroc, pourront être exécutées par des groupes constitués par des Espagnols et des Français; les deux gouvernements s'obligent mutuellement à favoriser par les moyens dont ils disposent la création de ces entreprises mixtes, sur la base de l'égalité des droits des associés, dans la proportion du capital engagé.

A l'expiration du délai de quinze ans, prévu par la convention du 3 octobre 1904, les deux Hautes Parties Contractantes pourront exécuter les travaux auxquels se réfère le paragraphe précédent, conformément aux règles qu'il indique, dans leurs zones d'influence respectives;

2. Les Espagnols et les Français, ainsi que leurs établissements et écoles actuellement existants dans l'empire marocain, seront respectés; en tout cas, ils jouiront pour toujours au Maroc, dans l'exercice de leurs professions et la réalisation de leurs opérations commerciales et industrielles en cours ou projetées, des mêmes droits et privilèges, de manière que l'état juridique des sujets et ressortissants des deux nations soit constamment le même. Les marchandises des deux pays jouiront pour leur introduction, circulation et vente dans l'Empire, d'un traitement identique. Les deux Hautes Parties Contractantes emploieront tous les moyens pacifiques en leur pouvoir et se prêteront mutuellement leur concours auprès du Sultan et du Makhzen en vue d'empêcher que, présentement comme dans l'avenir, cette clause ne vienne à être modifiée par l'autorité marocaine par suite de l'établissement de règles différentes en ce qui concerne l'état juridique des personnes et des conditions auxquelles seront soumises les marchandises des deux nations;

3. La monnaie d'argent espagnole continuera à être librement introduite comme elle l'a été jusqu'ici dans l'Empire, sans que, directement ou indirectement, ou à la suite d'une mesure quelconque prise ou à prendre, il puisse être porté atteinte à la liberté de l'introduction et de la circulation ainsi qu'à la valeur libératrice de ladite monnaie.

Les deux gouvernements s'obligent respectivement à ne pas laisser créer d'obstacles directs ou indirects à ce qui se trouve énoncé au paragraphe précédent, par les institutions commerciales ou industrielles organisées dans l'Empire marocain par leurs sujets respectifs et à employer tous les moyens pacifiques dont chacun d'eux dispose pour que des participations dans le capital et les travaux de toutes les entreprises publiques soient offertes aux sujets des deux nations.

4. Les Gouvernements espagnol et français étant d'accord sur la nécessité de créer au Maroc un établissement de crédit sous la dénomination de Banque d'Etat ou tout autre établissement dont la présidence sera réservée à la France en raison du plus grand nombre d'actions souscrites par elle, s'entendent également sur les points suivants:

a) La participation en actions de toutes espèces et les parts de bénéfice à réserver à l'Espagne seront supérieures à la part de chacune des autres puissances prises séparément, la France exceptée;

b) Le personnel espagnol de l'administration de cet établissement et de celle de ses dépenses sera proportionnel à la part de capital souscrit par l'Espagne;

c) Cet établissement pourra se charger de travaux et de services publics dans l'Empire du Maroc, avec l'assentiment ou en vertu d'un accord avec le Sultan. Il pourra soit les exécuter directement, soit les transférer à d'autres groupes ou entreprises. Toutefois, pour l'exécution de tous ces travaux et services publics, les stipulations des paragraphes ci-dessus a et b devront être observées;

5. Les deux gouvernements espagnol et français augmenteront d'un commun accord le nombre actuel des sujets espagnols délégués dans le service des douanes de l'Empire, réorganisé en garantie de l'emprunt contracté en dernier lieu par le Sultan auprès des banques françaises, emprunt dans lequel se trouve englové l'emprunt contracté antérieurement par Sa Majesté Chérifienne auprès des banques espagnoles.

Iv.

Les deux puissances s'engagent à observer cet accord, même dans le cas où les stipulations de l'article 17 de la convention de Madrid de 1880 viendraient à être étendues à toutes les questions d'ordre économique et financier. Elles s'efforceront par leur action pacifique constante auprès du Sultan et du Makhzen d'assurer l'accomplissement loyal de tout ce que stipule le présent accord.

En outre, l'Espagne étant fermement décidée à marcher complètement d'accord avec la France, au cours des délibérations de la conférence projetée, et la France se proposant d'agir de même avec l'Espagne, il demeure convenu entre les deux gouvernements qu'ils s'aideront mutuellement et procéderont d'un commun accord dans lesdites délibérations, en ce qui concerne les stipulations de la convention du 3 octobre 1904, dans son interprétation la plus large et la plus amicale, comme en ce qui concerne les différents objets du présent accord.

Ils s'engagent enfin à se prêter réciproquement le concours pacifique le plus entier sur toutes les questions d'ordre général concernant le Maroc, ainsi que le comporte la cordiale et amicale entente qui existe entre eux par rapport aux affaires de l'Empire Chérifien.

APPENDIX VI

FRANCO-SPANISH CONVENTION CONCERNING THE ORGANIZATION OF THE SHERIFIAN POLICE, 23 FEBRUARY 1907.

This Convention was drawn up to deal with the Franco-Spanish police organization in Tangier and Casablanca, but was never put into effect because of later events and thus only its outlines are listed here.

ARTICLE PREMIER. Attribution d'une zone spéciale à chacune des deux sections de police: urbaine et suburbaine.

ART. 2. Commandement de la police dans les deux sections.

ART. 3. Coopération de la police des deux sections.

ART. 4. Effectifs des troupes de police.

ART. 5. Relations entre l'instructeur français et l'instructeur espagnol.

ART. 6. Règlement des différends éventuels entre ces deux instructeurs.

ARTICLE ADDITIONNEL SECRET. Augmentation éventuelle des effectifs.

FRANCO-SPANISH DECLARATIONS CONCERNING MAINTENANCE OF STATUS QUO.

No. 1. FRENCH DECLARATION.

Animé du désir de contribuer par tous les moyens possibles à la consécration de la paix et convaincu que le maintien du statu quo territorial et des droits de la France et de l'Espagne dans la Méditerranée et dans la partie de l'Atlantique qui baigne les côtes de l'Europe et de l'Afrique doit servir efficacement à atteindre ce but, tout en étant profitable aux deux nations qu'unissent d'ailleurs les liens d'une amitié séculaire et la communauté des intérêts,

Le Gouvernement de la République française désire porter à la connaissance du Gouvernement de Sa Majesté Catholique la déclaration dont la teneur suit, avec le ferme espoir qu'elle contribuera non seulement à affermir la bonne entente qui existe si heureusement entre les deux Gouvernements, mais aussi à servir la cause de la paix:

La politique générale du Gouvernement de la République française dans les régions susindiquées a pour objet le maintien du statu quo territorial, et, conformément à cette politique, ce Gouvernement est fermement résolu à conserver intacts les droits de la République française sur ses possessions insulaires et maritimes situées dans lesdites régions.

Dans le cas où se produiraient de nouvelles circonstances qui, selon l'opinion du Gouvernement de la République française, seraient de nature à modifier ou à contribuer à modifier le statu quo territorial actuel, ce Gouvernement entrera en communication avec le Gouvernement de Sa Majesté Catholique, afin de mettre les deux Gouvernements en état de se concerter, s'il est jugé désirable, sur les mesures à prendre en commun.

Paris, le 16 Mai 1907.

S. PICHON

No. 2. SPANISH DECLARATION.

Animé du désir de contribuer par tous les moyens possibles à la conservation de la paix et convaincu que le maintien du statu quo territorial et des droits de l'Espagne et de la France dans la Méditerranée et dans la partie de l'Atlantique qui baigne les côtes de l'Europe et de l'Afrique doit servir efficacement à atteindre ce but, tout en étant profitable aux deux nations qu'unissent d'ailleurs les liens d'une amitié séculaire et la communauté des intérêts,

Le Gouvernement de Sa Majesté Catholique désire porter à la connaissance du Gouvernement de la République française la déclaration dont la teneur suit, avec le ferme espoir qu'elle contribuera non seulement à affermir la bonne entente qui existe si heureusement entre les deux Gouvernements, mais aussi à servir la cause de la paix;

La politique générale du Gouvernement de Sa Majesté Catholique dans la région susindiquée a pour objet le maintien du statu quo territorial, et, conformément à cette politique, ce Gouvernement est fermement résolu à conserver intacts les droits de la Couronne espagnole sur ses possessions insulaires et maritimes situées dans lesdites régions.

Dans le cas où se produiraient de nouvelles circonstances qui, selon l'opinion du Gouvernement de Sa Majesté Catholique, seraient de nature ou à modifier ou à contribuer à modifier le statu quo territorial actuel, ce Gouvernement entrera en communication avec le Gouvernement de la République française, afin de mettre les deux Gouvernements en état de se concerter, s'il est jugé désirable, sur les mesures à prendre en commun.

Paris, le 16 Mai 1907.

F. DE LEÓN Y CASTILLO

APPENDIX VII

HISPANO-MOROCCAN AGREEMENT, 16 NOVEMBER 1910.

El Ministro de Estado de S.M. Católica y el Ministro de Negocios Extranjeros, de Hacienda y Obras Públicas de Su Majestad Jerifiana, debidamente autorizados, convienen en las siguientes estipulaciones, con objeto de poner término á las dificultades suscitadas en las regiones limítrofes de las plazas españolas, así como de facilitar y asegurar el cumplimiento de los Tratados en lo que se refiere al orden, sosiego y desenvolvimiento del tráfico mercantil en dichas comarcas:

I. Ambos Gobiernos consideran, en primer término, que el régimen que habrá de ponerse en práctica se basa en los Acuerdos anteriormente estipulados entre ellos á este respecto; Acuerdos que se completan con las disposiciones que á continuación se expresan:

DISPOSICIONES CONCERNIENTES Á LA PARTE OCUPADA DEL RIFF Y Á LAS VECINDADES DE ALHUCEMAS Y PEÑÓN DE VÉLEZ.

II. El Majhzen configurará al Bajá del campo de Melilla, previsto por el artículo 5.º del Convenio de 5 Marzo de 1894, las funciones de Alto Comisario para concertarse con un Alto Comisario español, á los efectos de la ejecución de los Convenios de 1894 y 1895 entre ambos países. El Alto Comisario jerifiano será investido, sin dilación, de los poderes necesarios para el ejercicio de sus atribuciones y especialmente de la facultad de proponer, previo acuerdo, con el Alto Comisario español, el nombramiento y renovación de los Kaides y demás funcionarios marroquíes de la región ocupada y de las kabilas de Tamsaman, Beni-Urriaguel y Bokkoia. Si la experiencia demostrase la necesidad de extender esta facultad á la kabila de Beni-Itteftt, se hará de común acuerdo entre los dos países. Una vez que el régimen consignado en los Convenios se aplique íntegramente y en términos que correspondan á los comunes intereses de ambos Gobiernos, y una vez que las tropas españolas evacuen el territorio en las condiciones más abajo estipuladas, las atribuciones de los Altos Comisarios español y jerifiano quedarán determinados por el párrafo primero de este artículo.

III. En atención á las nuevas necesidades, la fuerza jerifiana, prevista por los Tratados, se aumentará á 1.250 hombres; se organizará con el concurso de instructores españoles, en armonía con el Reglamento de la Policía de los puertos; tendrá cuadros marroquíes; será autónoma; dependerá directamente de los Altos Comisarios español y marroquí, que

le transmitirán sus decisiones por medio del instructor español correspondiente, é informarán, al mismo tiempo, de ellas á las Autoridades marroquíes; se pagará con el producto de la Aduana de Melilla y de las contribuciones é impuestos de las tribus de las regiones indicadas en el artículo anterior. La organización se llevará á cabo en el territorio ocupado. Tan pronto como esté organizado un primer contingente de 200 hombres, se enviará á las vecindades de Alhucemas, y tan pronto como haya otro igual, se enviará á las vecindades del Peñón. A medida que se aumente el resto del efectivo de la Policía del Majhzen, organizada conforme á los principios indicados, las tropas españolas que ocupan una parte del Riff irán disminuyendo. Cuando dicha fuerza del Majhzen llegue al efectivo mencionado de 1.250 hombres, y cuando se la juzgue capaz de velar por la ejecución de los acuerdos entre los dos países, de mantener la seguridad, de facilitar las transacciones mercantiles y, en fin, de hacer seguro el cobro de los impuestos y contribuciones, las tropas españolas se retirarán á los límites del territorio español.

IV. El presupuesto de la Policía antes aludida se formará, de común acuerdo, por los dos Altos Comisarios y será sometido á la aprobación de S.M. Jerifiana.

El Gobierno de S.M. Católica sufragará los primeros gastos de instalación de la Policía y los que su sostenimiento pudiera irrogar, conforme al presupuesto, hasta que empiecen á percibirse los ingresos previstos en los artículos siguientes, siempre que el coste total de lo que sea menester adelantar no exceda de un millón de pesetas. De esos gastos será reintegrado el Gobierno español en un plazo de trece años con los rendimientos de la Aduana de las vecindades de Melilla y en esta forma:

Los tres primeros años el Majhzen satisfará únicamente un interés de 3 por 100 anual, pagadero por semestres vencidos; cada uno de los diez años siguientes abonará, además de ese interés de 3 por 100 anual, una suma de 100,000 pesetas. La deuda de que se trata tiene, en lo que se refiere á los rendimientos de dicha Aduana, carácter de preferente sobre cualquier otra.

V. S.M. Jerifiana reinstalará la Aduana en las vecindades de Melilla. El emplazamiento de los puestos de que se componga la línea aduanera se efectuará de común acuerdo por los Altos Comisarios español y marroquí, y los derechos que se perciban no serán otros, ni más altos, que en cualesquiera otras fronteras del Imperio.

El Gobierno de S.M. Católica pondrá á disposición del de S.M. Marroquí un empleado del Cuerpo Pericial español de Aduanas con objeto de que intervenga en el aforo de las mercancías, percepción de los derechos de

contabilidad, etc. Será nombrado por los dos Altos Comisarios y su nombramiento participado al Majhzen. Los umanas y adules serán nombrados y relevados por S.M. Jerifiana. Para cada nombramiento el Alto Comisario marroquí le presentará una lista de cuatro individuos, formada de acuerdo con el Alto Comisario español. Así aquéllos como el Interventor español percibirán sus haberes con cargo á la renta de la Aduana.

VI. Para el desarrollo de la prosperidad de la comarca, así como para el objeto á que se refiere el artículo III del presente Acuerdo, se favorecerá el establecimiento de mercados en los lugares de las regiones mencionadas en el artículo II, donde los Altos Comisarios lo estimen oportuno, percibiéndose los derechos que se fijen de común acuerdo. Los impuestos Zekkat y Achur se cobrarán según la regla aplicada en el Imperio jerifiano.

La recaudación de los impuestos y recursos del Majhzen se efectuará por los umana y Kaidés, con ayuda de un funcionario español, mientras no haya terminado la evacuación. En cuanto á los gastos de administración del territorio, tales como haberes del Alto Comisario jerifiano, de los umana y otros, se sufragarán con los ingresos dichos. Su total será objeto de una cuenta que se enviará al Majhzen y el remanente se entregará al Tesoro jerifiano.

DISPOSICIONES CONCERNIENTES Á LAS VECINDADES DE CEUTA.

VII. El Gobierno de S.M. Jerifiana se compromete con el de S.M. Católica, en razón á las relaciones de buena amistad y vecindad entre los dos países, á no construir fortificaciones, emplazar artillería, realizar obras ó trabajos estratégicos ó situar fuerzas en cualquier punto que pueda constituir un riesgo ó amenaza para Ceuta, así como á evitar que otros lo hagan.

VIII. El Kaid previsto por el último párrafo del artículo 4.º del Convenio de 5 de Marzo de 1894 será nombrado en las condiciones establecidas por el artículo 5.º del mismo Pacto respecto al Bajá del campo de Melilla, ó sea:

El nombramiento recaerá en quien, por sus condiciones especiales, ofrezca garantías suficientes para mantener las relaciones de buena armonía y amistad con las Autoridades de la plaza y campo de Ceuta. De su nombramiento y cese deberá el Gobierno marroquí dar previo aviso al de S.M. Católica. Dicho Kaid podrá por sí mismo resolver, de acuerdo con el Gobernador de Ceuta, los asuntos ó reclamaciones exclusivamente locales, y en caso de desacuerdo entre ambas Autoridades se someterá su resolución á los Representantes de las dos naciones en Tánger, á excepción de aquellos que por su importancia exijan la intervención directa de ambos Gobiernos.

Dicho Kaid gobernará tan sólo el trozo de la región fronteriza de Ceuta comprendido entre la zona neutral de un lado, y de otro los ríos Rmel y Lit, una línea de la Cudia de Ain Xixa á la de Ain Yir, el camino del zoco el Telata hasta su intersección con el río Lamund, y después este río, que toma los nombres de Mufak, Menizla y Fenidak, hasta su desembocadura. La línea queda indicada, en tinta azul, en el plano anejo á este Acuerdo.

IX. La fuerza prevista por el último párrafo del artículo 8.º del Convenio de 5 de Marzo de 1894 será de 250 hombres, bajo el mando del Kaid antes mencionado. Este fijará los puntos entre los que ha de repartirse. Para ayudar á la organización de esa fuerza, destinada á asegurar el orden, la tranquilidad y la libertad de las transacciones comerciales en la comarca puesta bajo el gobierno de dicho Kaid, el Gobierno de S.M. Católica pondrá á disposición de Su Majestad Jerifiana un Capitán, un Teniente y cuatro sargentos, cuya designación será sometida al beneplácito del Sultán. Un contrato entre dichos Oficiales y sargentos y el Majhzen, en términos análogos á los fijados por el artículo 4.º del Acta de Algeciras, determinará las condiciones del compromiso de los Oficiales y sargentos mencionados y fijará sus haberes, que no podrán ser inferiores al doble de los que disfrutaban en su país. El Gobierno de S.M. Católica se reserva sustituir esos Oficiales y sargentos por otros, sometidos al beneplácito de Su Majestad Jerifiana y con contratos en las mismas condiciones. Las facultades de los Oficiales y sargentos españoles serán las que marca el artículo 4.º del Acta de Algeciras.

X. El presupuesto de la fuerza que acaba de mencionarse será formado por el Majhzen, ajustándose al que sirva para el Riff. En el millón de pesetas á que se refiere el artículo IV de este Acuerdo se entenderán también incluidos los primeros gastos de dicha fuerza.

XI. Una vez creada la Aduana de Melilla, y cuando el Gobierno de S.M. Católica, en armonía con el artículo 103 del Acta de Algeciras, lo pidiera, S.M. Jerifiana establecería, en la frontera de Ceuta y en el lugar que de común acuerdo se fije, una Aduana, donde se cobrarán los mismos derechos de importación y exportación que en los puertos. Los ingresos de dicha Aduana se dedicarán primeramente, en todos los casos, á los gastos de su administración, al pago de los haberes del Kaid mencionado en el artículo VIII del presente Acuerdo y demás funcionarios, y al sostenimiento de la fuerza prevista en el artículo IX.

Para ayudar á S.M. Jerifiana en la organización y buena administración de esa Aduana, el Gobierno de S.M. Católica pondrá á su disposición á un empleado del Cuerpo Pericial español de Aduanas, que intervendrá en el aforo de las mercancías, percepción de los derechos, contabilidad, etc., durante todo el tiempo que ha de durar el reembolso de los gastos militares y navales del Riff. Si por efecto de la creación de la Aduana de Ceuta se produjera, con persistencia, en los ingresos de las Aduanas de Tetuán y Tánger una baja que pudiera afectar á los intereses de los

tenedores de los empréstitos de 1904 y 1910, el Majhzen, de acuerdo con el Gobierno español y de concierto con los expresados tenedores, examinará si, y en qué medida al producto de dicha Adouana de Ceuta, debería contribuir á compensar la baja.

XII. Mientras la Adouana de Ceuta no produzca rendimientos suficientes para el sostenimiento de la fuerza á que se refiere al artículo IX del presente Acuerdo, S.M. Jerifiana proveerá á la diferencia.

DISPOSICIONES CONCERNIENTES AL PAGO DE GASTOS HECHOS POR ESPAÑA.

XIII. En atención á las circunstancias económicas del Imperio marroquí y como testimonio del interés que el bienestar del mismo le inspira, el Gobierno de S.M. Católica sólo reclama 65 millones de pesetas para los gastos militares y navales hechos en el Riff hasta 31 de Octubre de 1910, por los gastos militares y navales efectuados á consecuencia de los sucesos de Casablanca en 1907 y por los socorros prestados á los moros y hebreos refugiados en Melilla desde 1903 á 1907. El Gobierno de S.M. Jerifiana se compromete á pagar durante setenta y cinco años la suma anual de 2.545.000 pesetas.

El pago queda garantido, en concepto de preferente: primero, con el 55 por 100 de los impuestos y utilidades previstas por el Reglamento minero, á que alude el artículo 112 del Acta de Algeciras, que correspondan al Majhzen; segundo, con el remanente de los productos de la Aduana de Ceuta.

XIV. El importe de las contribuciones mineras que, según el Reglamento previsto en el artículo 112 del Acta de Algeciras, hayan de satisfacerse por los contribuyentes mediante entregas en el Banco de Estado, ingresará en éste; pero el Ministro de Hacienda de S.M. Jerifiana expedirá instrucciones al efecto de que el 55 por 100 de la parte del Majhzenense incluya en una cuenta especial á la disposición del Gobierno de S.M. Católica, sin que en ningún momento y por ningún motivo el Majhzen ni el Banco de Estado puedan retener en todo ni en parte los fondos en cuestión. Un Delegado español en el Servicio marroquí de minas tendrá derecho, sin inmiscuirse en la administración del mismo, á examinar los registros de peticiones, concesiones, transferencias, declaraciones de caducidad, etc., á cotejarlos con la cuenta especial en el Banco de Estado y á provocar con quien corresponda tome las medidas autorizadas por el Reglamento minero para conseguir el pago por los contribuyentes.

Dicho Delegado comunicará al Majhzen los nombres de los Agentes que el Gobierno de S.M. Católica designe para el cobro de la parte correspondiente á éste en los demás impuestos y utilidades mineras del Majhzen. A fin de asegurar los intereses del Estado español,

las atribuciones de estos Agentes se fijarán, de común acuerdo, entre los Gobiernos de S.M. Católica y de S.M. Jerifiana al promulgarse el Reglamento de minas, previsto por el artículo 112 del Acta de Algeciras y en armonía con el mismo.

Si en el transcurso del año el producto de los recursos dichos llegase á bastar para el pago de la anualidad, el excedente ingresaría desde luego en el Banco de Estado á disposición del Majhzen.

XV. En caso de que el Gobierno marroquí conviniera satisfacer anticipadamente todo ó parte de sus deudas con el Gobierno español, se entablarían al efecto negociaciones entre los dos Gabinetes.

XVI. En los gastos á que se refiere el artículo XIII del presente Acuerdo, no está incluido el de 1.500.000 pesetas á que ascienden las mejoras hasta ahora incluidas en el territorio ocupado y que serán cedidas al Majhzen, no oponiéndose éste á que pueda ser satisfecho el importe con fondos de la naturaleza de los previstos en el último párrafo del artículo 66 del Acta de Algeciras, por lo que concierne al Riff.

En fe de lo cual, los infrascritos han extendido este Acuerdo por duplicado en los idiomas español y árabe, y lo han firmado en Madrid á 16 de Noviembre de 1910 de la Era cristiana y 13 de El Kaada el Haram 1328 de la Hégira.

MANUEL GARCÍA PRIETO

Firmo este Acuerdo á reserva de la aprobación del Majhzen jerifiano, acordando ambas partes fijar un plazo de dos meses para esa aprobación:

MOHAMED EL MOKRI, que Dios
le asista.

APPENDIX VIII

FRANCO-SPANISH AGREEMENT CONCERNING MOROCCO, 27 JULY 1911.

Les officiers et les soldats de la mahalla chérifienne ne franchiront pas le Louqqos et resteront sur sa rive gauche, et les officiers et soldats espagnols ne franchiront pas l'oued et demeureront sur sa rive droite.

L'autorité militaire espagnole n'enrôlera plus de déserteurs provenant des mahallas chérifiennes et les autorités militaires chérifienne et espagnole se remettront réciproquement les chevaux et armes des soldats qui auraient déserté.

Aucune entrave ne sera apportée au passage des Français venant de Tanger, Fez ou Larache, par El-Kçar. Ils devront cependant être munis d'une attestation de leur représentant diplomatique ou consulaire constatant leur identité. Ils seront autorisés, ainsi que les personnes les accompagnant, à conserver leurs armes.

APPENDIX IX

FRANCO-SPANISH CONVENTION CONCERNING THE RESPECTIVE POSITIONS OF FRANCE AND SPAIN IN MOROCCO, INCLUDING APPENDED LETTERS, 27 NOVEMBER 1912.

Le Président de la République française et Sa Majesté le
Roi d'Espagne,

Désireux de préciser la situation respective de la France et
l'Espagne à l'égard de l'Empire chérifien;

Considérant, d'autre part, que le présent traité leur offre
une occasion propice d'affirmer leurs sentiments d'amitié réciproque
et leur désir de mettre en harmonie leurs intérêts au Maroc,

Ont convenu les dispositions suivantes:

ARTICLE PREMIER. Le Gouvernement de la République française
reconnaît que, dans la zone d'influence espagnole, il appartient à
l'Espagne de veiller à la tranquillité de ladite zone et de prêter
son assistance au Gouvernement marocain pour l'introduction de toutes les
réformes administratives, économiques, financières, judiciaires et
militaires dont il a besoin, comme aussi pour tous les règlements
existants que ces réformes comportent, conformément à la Déclaration
franco-anglaise du 8 avril 1904 et à l'Accord franco-allemand du
4 novembre 1911.

Les régions comprises dans la zone d'influence déterminée à
l'article 2 resteront placées sous l'autorité civile et religieuse
du Sultan, suivant les conditions du présent accord.

Ces régions seront administrées, sous le contrôle d'un Haut
Commissaire espagnol, par un khalifa choisi par le Sultan sur une liste
de deux candidats présentés par le Gouvernement espagnol. Les fonctions
du khalifa new seront maintenues ou retirées au titulaire qu'avec le
consentement du Gouvernement espagnol.

Le khalifa résidera dans la zone d'influence espagnole et habituelle-
ment à Tétouan; il sera pourvu d'une délégation générale du Sultan, en
vertu de laquelle il exercera les droits appartenant à celui-ci.

Cette délégation aura un caractère permanent. En cas de vacance,
les fonctions de khalifa seront provisoirement et d'office remplies par
le pacha de Tétouan.

Les actes de l'autorité marocaine dans la zone d'influence
espagnole seront contrôlés par le Haut Commissaire espagnol et ses
agents. Le Haut Commissaire sera le seul intermédiaire dans les
rapports que le khalifa, en qualité de délégué de l'autorité impériale
dans la zone espagnole, aura à entretenir avec les agents officiels
étrangers, étant donné d'ailleurs qu'il ne sera pas dérogé à l'article
5 du traité franco-chérifien du 30 mars 1912.

Le Gouvernement de Sa Majesté le Roi d'Espagne veillera à l'observation des traités, et spécialement des clauses économiques et commerciales insérées dans l'Accord franco-allemand du 4 novembre 1911.

Aucune responsabilité ne pourra être imputée au Gouvernement chérifien du chef de réclamations motivées par les faits qui se seraient produits sous l'administration du khalifa dans la zone d'influence espagnole.

ART. 2. Au Nord du Maroc, la frontière séparative des zones d'influence française et espagnole partira de l'embouchure de la Moulouïa et remontera le thalweg de ce fleuve jusqu'à un kilomètre en aval de Mechr-Klila. De ce point, la ligne de démarcation suivra jusqu'au Djebel Beni-Hassen le tracé fixé par l'article 2 de la convention du 3 octobre 1904.

Dans le cas où la commission mixte de délimitation visée au paragraphe 1er de l'article 4 ci-dessous constaterait que le marabout de Sidi-Maarouf se trouve dépendre de la fraction Sud des Beni-Bouyah, ce point serait attribué à la zone française. Toutefois, la ligne de démarcation des deux zones, après avoir englobé ledit marabout, n'en passerait pas à plus d'un kilomètre au Nord et à plus de deux kilomètres à l'Ouest, pour rejoindre la ligne de démarcation telle qu'elle est déterminée au paragraphe précédent.

Du Djebel Beni-Hassen, la frontière rejoindra l'oued Ouergha au Nord de la Djema des Cheurfa-Tfraout, en amont du coude formé par la rivière. De là, se dirigeant vers l'Ouest, elle suivra la ligne des hauteurs dominant la rive droite de l'oued Ouergha jusqu'à son interception avec la ligne Nord-Sud définie par l'article 2 de la Convention de 1904. Dans ce parcours, la frontière contournera le plus étroitement possible la limite Nord des tribus riveraines de l'oued Ouergha et la limite Sud de celles qui ne sont pas riveraines, en assurant une communication militaire non interrompue entre les différentes régions de la zone espagnole. Elle remontera ensuite vers le Nord, en se tenant à une distance d'au moins 25 kilomètres à l'Est de la route de Fez à El-Kçar el-Kébir par Ouezzan jusqu'à la rencontre de l'oued Loukkos, dont elle descendra le thalweg jusqu'à la limite entre les tribus Sarsar et Tlix. De ce point, elle contournera le Djebel-Ghani, laissant cette montagne dans la zone espagnole, sous réserve qu'il n'y sera pas construit de fortifications permanentes. Enfin, la frontière rejoindra le parallèle 35° de latitude Nord entre le douar Mgarya et la Marya de Sidi Slama, et suivra ce parallèle jusqu'à la mer.

Au Sud du Maroc, la frontière des zones française et espagnole sera définie par le thalweg de l'oued Draa, qu'elle remontera depuis la mer jusqu'à sa rencontre avec le méridien 11° Ouest de Paris; elle suivra ce méridien vers le Sud jusqu'à sa rencontre avec le parallèle 27°40' de latitude Nord. Au Sud de ce parallèle, les articles 5 et 6

de la convention du 3 octobre 1904 resteront applicables. Les régions marocaines situées au Nord et à l'Est de la délimitation visée dans le présent paragraphe appartiendront à la zone française.

ART. 3. Le Gouvernement marocain ayant, par l'article 8 du traité du 26 avril 1860, concédé à l'Espagne un établissement à Santa-Cruz-de-Mar-Pequeña (Ifni), il est entendu que le territoire de cet établissement aura les limites suivantes: au Nord, l'oued Bou-Sedra depuis son embouchure; au Sud, l'oued Noun depuis son embouchure; à l'Est, une ligne distante approximativement de 25 kilomètres de la côte.

ART. 4. Une commission technique, dont les membres seront désignés en nombre égal par les Gouvernements français et espagnol, fixera le tracé exact des délimitation spécifiées aux articles précédents. Dans son travail, la commission pourra tenir compte, non seulement des accidents topographiques, mais encore des contingences locales.

Les procès-verbaux de la commission n'auront valeur exécutive qu'après ratification des deux Gouvernements.

Toutefois, les travaux de la commission ci-dessus prévue ne seront pas un obstacle à la prise de possession immédiate par l'Espagne de son établissement d'Ifni.

ART. 5. L'Espagne s'engage à n'aliéner ni céder sous aucune forme, même à titre temporaire, ses droits dans tout ou partie du territoire composant sa zone d'influence.

ART. 6. Afin d'assurer le libre passage du détroit de Gibraltar, les deux Gouvernements conviennent de ne pas laisser élever de fortifications ou d'ouvrages stratégiques quelconques sur la partie de la côte marocaine visée par l'article 7 de la Déclaration franco-anglaise du 8 avril 1904 et par l'article 14 de la Convention franco-espagnole du 3 octobre de la même année et comprise dans les sphères d'influence respectives.

ART. 7. La ville de Tanger et sa banlieue seront dotées d'un régime spécial qui sera déterminé ultérieurement; elles formeront une zone comprise dans les limites décrites ci-après:

Partant de Punta-Altarès sur la côte Sud du détroit de Gibraltar, la frontière se dirigera en ligne droite sur la crête du Djebel-Beni-Meyimel, laissant à l'Ouest le village appelé Douar-es-Zeitoun et suivra ensuite la ligne des limites entre le Fahs d'un côté et les tribus de l'Andjera et de l'Oued-Ras de l'autre côté jusqu'à la rencontre de l'oued Es-Seghir. De là, la frontière suivra le thalweg de l'oued Es-Seghir puis ceux des oueds M'harhar et Tahadartz jusqu'à la mer.

Le tout conformément au tracé indiqué sur la carte de l'État-Major espagnol qui a pour titre: "Croquis del Imperio de Marruecos" à l'échelle de 1/100.000^e, édition de 1906.

ART. 8. Les consulats, les écoles et tous les établissements français et espagnols actuellement existants au Maroc seront maintenus.

Les deux Gouvernements s'engagent à faire respecter la liberté et la pratique extérieure de tout culte existant au Maroc.

Le Gouvernement de S. M. le Roi d'Espagne, en ce qui le concerne, fera en sorte que les privilèges exercés actuellement par le clergé régulier et séculier espagnol ne subsistent plus dans la zone française. Toutefois, dans cette zone, les missions espagnoles conserveront leurs établissements et propriétés actuels, mais le Gouvernement de S. M. le Roi d'Espagne ne s'opposera pas à ce que les religieux de nationalité française y soient affectés. Les nouveaux établissements que ces missions fonderaient seront confiés à des religieux français.

ART. 9. Aussi longtemps que le chemin de fer Tanger-Fès ne sera pas construit, il ne sera apporté aucune entrave au passage des convois de ravitaillement destinés au Makhzen, ni aux voyages des fonctionnaires chérifiens ou étrangers entre Fès et Tanger, et inversement, non plus qu'au passage de leur escorte, de leurs armes et bagages, étant entendu que les autorités de la zone traversée auront été préalablement avisées. Aucune taxe ou aucun droit spécial de transit ne pourra être perçu pour passage.

Après la construction du chemin de fer de Tanger-Fès, celui-ci pourra être utilisé pour ces transports.

ART. 10. Les impôts et ressources de toutes sortes dans la zone espagnole seront affectés aux dépenses de ladite zone.

ART. 11. Le Gouvernement chérifien ne pourra être appelé à participer à aucun titre aux dépenses de la zone espagnole.

ART. 12. Le Gouvernement de S. M. le Roi d'Espagne ne portera pas atteinte aux droits, prérogatives et privilèges des emprunts 1904 et 1910 dans sa zone d'influence.

En vue de mettre l'exercice de ces droits en harmonie avec la nouvelle situation, le Gouvernement de la République usera de son influence sur le représentant des porteurs pour que le fonctionnement des garanties dans ladite zone s'accorde avec les dispositions suivantes:

La zone d'influence espagnole contribuera aux charges des emprunts 1904 et 1910 suivant la proportion que les ports de ladite zone, déduction faite des 500.000 pesetas hassani dont il sera parlé plus loin, fournissent à l'ensemble des recettes douanières des ports ouverts au commerce.

Cette contribution est fixée provisoirement à 7,95 p. 100, chiffre basé sur les résultats de l'année 1911. Elle sera révisable tous les ans,

à la demande de l'une ou de l'autre des parties. La revision prévue devra intervenir avant le 15 mai suivant l'exercice qui lui servira de base. Il sera tenu compte de ces résultants dans le versement à effectuer par le Gouvernement espagnol le 1er juin, ainsi qu'il est dit ci-après.

Le Gouvernement de S. M. le Roi d'Espagne constituera chaque année, à la date du 1er mars pour le service de l'emprunt 1910, et à la date du 1er juin pour le service de l'emprunt 1904, entre les mains du représentant des porteurs de titres de ces deux emprunts, le montant des annuités fixées au paragraphe précédent. En conséquence, l'encaissement au titre des emprunts sera suspendu dans la zone espagnole par application des articles 20 du contrat du 12 juin 1904 et 19 du contrat du 17 mai 1910.

Le contrôle des porteurs et les droits s'y rapportant, dont l'exercice aura été suspendu en raison des versements du Gouvernement espagnol, seront rétablis tels qu'ils existent actuellement dans le cas où le représentant des porteurs aurait à reprendre l'encaissement direct conformément aux contrats.

ART. 13. D'autre part, il y a lieu d'assurer à la zone française et à la zone espagnole le produit revenant à chacune d'elles sur les droits de douane perçus à l'importation.

Les deux Gouvernements conviennent:

1^o Que, balance faite des recettes douanières que chacune des deux administrations zonières encaissera sur les produits introduits par ses douanes à destination de l'autre zone, il reviendra à la zone française une somme totale de 500.000 pesetas hassani, se décomposant ainsi:

- a) Une somme forfaitaire de 300.000 pesetas hassani applicable aux recettes des ports de l'Ouest;
- b) Une somme de 200.000 pesetas hassani applicable aux recettes de la côte méditerranéenne, sujette à revision lorsque le fonctionnement des chemins de fer fournira des éléments exacts de calcul. Cette revision éventuelle pourrait s'appliquer aux versements antérieurement effectués, si le montant de ceux-ci était supérieur à celui des versements à réaliser dans l'avenir; toutefois, les versements dont il s'agit ne porteraient que sur le capital et ne donneraient pas lieu à un calcul d'intérêts.

Si la revision ainsi opérée donne lieu à une réduction des recettes françaises relatives aux produits douaniers des ports de la Méditerranée, elle entraînera ipso facto le relèvement de la contribution espagnole aux charges des emprunts susmentionnés.

2^o Que les recettes douanières encaissées par le bureau de Tanger devront être réparties entre la zone internationalisée et les deux autres zones, au prorata de la destination finale des marchandises. En attendant que le fonctionnement des chemins de fer permette une exacte

répartition des sommes dues à la zone française et à la zone espagnole, le service des douanes versera en dépôt à la Banque d'État l'excédent de ces recettes, paiement fait de la part de Tanger.

Les administrations douanières des deux zones s'entendront par l'entremise de représentants qui se réuniront périodiquement à Tanger, sur les mesures propres à assurer l'unité d'application des tarifs. Ces délégués se communiqueront à toutes fins utiles les informations qu'ils auront pu recueillir tant sur la contrebande que sur les opérations irrégulières éventuellement effectuées dans les bureaux des douanes.

Les deux Gouvernements s'efforceront de mettre en vigueur, à la date du 1er mars 1913, les mesures visées sous le présent article.

ART. 14. Les gages affectés en zone espagnole à la créance française, en vertu de l'accord franco-marocain du 21 mars 1910, seront transférés au profit de la créance espagnole et, réciproquement, les gages affectés en zone française à la créance espagnole, en vertu du traité hispano-marocain du 16 novembre 1910, seront transférés au profit de la créance française. En vue de réserver à chaque zone le produit des redevances minières qui doivent naturellement lui revenir, il est entendu que les redevances proportionnelles d'extraction appartiendront à la zone où la mine est située, lors même qu'elles seraient recouvrées à la sortie par une douane de l'autre zone.

ART. 15. En ce qui concerne les avances faites par la Banque de l'État sur le 5 p. 100 des douanes, il a paru équitable de faire supporter par les deux zones non seulement le remboursement desdites avances, mais, d'une manière générale, les charges de la liquidation du passif actuel du Makhzen.

Dans le cas où cette liquidation se ferait au moyen d'un emprunt à court ou long terme, chacune des deux zones contribuerait au paiement des annuités de cet emprunt (intérêts et amortissement dans une proportion égale à celle qui a été fixée pour la répartition entre chaque zone des charges des emprunts de 1904 et 1910).

Le taux de l'intérêt, les délais d'amortissement et de conversion, les conditions de l'émission et, s'il y a lieu, les garanties de l'emprunt seront arrêtés après entente entre les deux Gouvernements.

Les dettes contractées après la signature du présent accord seront exclues de cette liquidation.

Le montant total du passif à liquider comprend notamment: 1° les avances de la Banque d'État gagées sur le 5 p.100 du produit des douanes; 2° les dettes liquidées par la commission instituée en vertu du règlement du corps diplomatique de Tanger en date du 29 mai 1910. Les deux Gouvernements se réservent d'examiner conjointement les créances autres que celles visées ci-dessus sous les numéros 1 et 2, de vérifier leur légitimité et, au cas où le total passif dépasserait sensiblement la somme de 25 millions de francs, de les comprendre ou non dans la liquidation envisagée.

ART. 16. L'autonomie administrative des zones d'influence française et espagnole dans l'Empire chérifien ne pouvant porter atteinte aux droits, prérogatives et privilèges concédés, conformément à l'Acte d'Algésiras, à la Banque d'État du Maroc, pour tout le territoire de l'Empire, par le Gouvernement marocain, la Banque d'État du Maroc continuera de jouir dans chacune des deux zones de tous les droits qu'elle tient des actes qui la régissent, sans diminution ni réserve. L'autonomie des deux zones ne pourra pas faire obstacle à son action, et les deux Gouvernements faciliteront à la Banque d'État le libre et complet exercice de ses droits.

La Banque d'État du Maroc pourra, d'accord avec les deux puissances intéressées, modifier les conditions de son fonctionnement en vue de les mettre en harmonie avec l'organisation territoriale de chaque zone.

Les deux Gouvernements recommanderont à la Banque d'État l'étude d'une modification de ses statuts permettant:

1^o De créer un second Haut Commissaire marocain qui serait nommé par l'administration de la zone espagnole, après entente avec le conseil d'administration de la Banque;

2^o De conférer à ce second Haut Commissaire, pour sauvegarder les intérêts légitimes de l'administration de la zone espagnole, sans porter atteinte au fonctionnement normal de la Banque, des attributions autant que possible identiques à celles qu'exerce le Haut Commissaire actuel.

Toutes démarches utiles seront faites par les deux Gouvernements pour parvenir à la révision régulière dans le sens indiqué ci-dessus des statuts de la Banque d'État et du règlement de ses rapports avec le Gouvernement marocain.

Afin de préciser et de compléter l'entente intervenue entre les deux Gouvernements et constatée par la lettre adressée le 23 février 1907 par le Ministre des Affaires Étrangères de la République à l'ambassadeur de S. M. le Roi d'Espagne à Paris, le Gouvernement français s'engage, en ce qui concerne la zone espagnole, sous réserve des droits de la Banque: 1^o à n'appuyer aucune candidature auprès de la Banque d'État; 2^o à faire connaître à la Banque son désir de voir prendre en considération, pour les emplois de ladite zone, les candidatures de nationalité espagnole.

Réciproquement, le Gouvernement espagnol s'engage, en ce qui concerne la zone française, sous réserve des droits de la Banque: 1^o à n'appuyer aucune candidature auprès de la Banque d'État; 2^o à faire connaître à la Banque son désir de voir prendre en considération pour les emplois de ladite zone les candidatures de nationalité française.

En ce qui concerne: 1^o les actions de la Banque qui pourraient appartenir au Makhzen; 2^o les bénéfices revenant au Makhzen sur les opérations de frappe et de refonte de monnaies, ainsi que sur toutes les autres opérations monétaires (art. 37 de l'Acte d'Algésiras), il est entendu qu'il sera attribué à l'administration de la zone espagnole une part calculée d'après le même pourcentage que pour la redevance et les bénéfices du monopole des tabacs.

ART. 17. L'autonomie administrative des zones d'influence française et espagnole dans l'Empire chérifien ne pouvant porter atteinte aux droits, prérogatives et privilèges concédés, conformément à l'Acte Général d'Algésiras, pour tout le territoire de l'Empire, par le Gouvernement marocain, à la Société Internationale de Régie coïntéressée des Tabacs au Maroc, ladite Société continuera à jouir, dans chacune des zones, de tous les droits qu'elle tient des actes qui la régissent sans diminution ni réserve. L'autonomie des deux zones ne pourra par faire obstacle à son action et les deux Gouvernements lui faciliteront le libre et complet exercice de ses droits.

Les conditions actuelles de l'exploitation du monopole, et en particulier les tarifs des prix de vente, ne pourront être modifiés que d'accord entre les deux Gouvernements.

Le Gouvernement français ne fera pas obstacle à ce que le Gouvernement royal se concerte avec la régie soit en vue d'obtenir de cette société la rétrocession à des tiers de l'intégralité de ses droits et privilèges, soit en vue de lui racheter à l'amiable, par anticipation, lesdits droits et privilèges. Dans le cas où, comme conséquence du rachat anticipé, le Gouvernement espagnol désirerait modifier dans sa zone les conditions générales de l'exploitation du monopole, et, par exemple, s'il voulait réduire les prix de vente, un accord devra intervenir entre les deux Gouvernements dans le but exclusif de sauvegarder les intérêts de la zone d'influence française.

Les stipulations qui précèdent s'appliqueront réciproquement dans le cas où le Gouvernement français désirerait faire usage des facultés reconnues ci-dessus au Gouvernement espagnol.

La régie pouvant faire objection à un rachat partiel, les deux Gouvernements s'engagent dès maintenant à faire exercer dans l'une et l'autre zone, aussitôt que possible, c'est-à-dire le 1er janvier 1933, en prévenant la régie avant le 1er janvier 1931, le droit de rachat prévu à l'article 24 du cahier des charges. A partir du 1er janvier 1933, chacune des deux zones deviendra libre d'établir selon ses convenances les impôts qui font l'objet du monopole.

Les deux Gouvernements se mettront d'accord pour obtenir, en respectant le cahier des charges:

- a) La création d'un second Commissaire nommé par l'administration de la zone d'influence espagnole;
- b) La définition des attributions qui seraient nécessaires à ce second Commissaire pour sauvegarder les intérêts légitimes de l'administration de la zone espagnole, sans porter atteinte au fonctionnement normal de la régie;
- c) La répartition par moitié entre les deux Commissaires, de la somme de 5.000 rials makhzanis, argent versé annuellement par la régie pour le traitement du Commissaire.

Afin de maintenir pendant la durée du monopole l'identité du tarif des prix de vente dans les deux zones, les deux Gouvernements prennent l'engagement de ne pas assujettir la régie ou ses ayants droit à des impôts nouveaux sans s'être préalablement entendus.

Le produit des amendes prononcées contre la régie pour inexécution du cahier des charges ou abus (art. 31 du cahier des charges) sera attribué au Trésor de la zone dans laquelle les infractions ou abus auront été commis.

Pour le partage de la redevance fixe annuelle et des bénéfiques (art. 20 à 25 du cahier des charges), on appliquera un pourcentage qui sera déterminé par la puissance de consommation de la zone espagnole, comparativement à la puissance de consommation totale de l'Empire. Cette puissance de consommation sera évaluée d'après les perceptions douanières restant effectivement entre les mains de l'administration de la zone espagnole, compte tenu du reversement prévu à l'article 13 ci-dessus.

ART. 18. En ce qui concerne le comité des valeurs douanières, le comité spécial des travaux publics et la commission générale des adjudications, durant la période où ces comités resteront en vigueur, il sera réservé à la désignation du khalifa de la zone espagnole un des sièges de délégué chérifien dans chacun de ces trois comités.

Les deux Gouvernements sont d'accord pour réserver à chaque zone et affecter à ses travaux publics le produit de la taxe spéciale perçue dans ses ports en vertu de l'article 66 de l'Acte d'Algésiras.

Les services respectifs sont autonomes.

Sous condition de réciprocité, les délégués de l'administration de la zone française voteront avec les délégués du khalifa dans les questions intéressant la zone espagnole et notamment pour tout ce qui concerne la détermination des travaux à exécuter sur les fonds de la taxe spéciale, leur exécution et la désignation du personnel que cette exécution comporte.

ART. 19. Le Gouvernement de la République française et le Gouvernement de Sa Majesté Catholique se concerteront en vue de:

1^o Toutes modifications qui devraient être apportées dans l'avenir aux droits de douane;

2^o L'unification des tarifs postaux et télégraphiques dans l'intérieur de l'Empire.

ART. 20. La ligne de chemin de fer de Tanger-Fez sera construite et exploitée dans les conditions déterminées par le protocole annexé à la présente convention.

ART. 21. Le Gouvernement de la République française et le Gouvernement de Sa Majesté Catholique s'engagent à provoquer la révision, d'accord avec les autres puissances et sur la base de la convention de Madrid, des listes et de la situation des protégés étrangers et des associés agricoles, et éventuellement l'abrogation de la partie de ladite convention concernant les protégés et associés agricoles.

ART. 22. Les sujets marocains originaires de la zone d'influence espagnole seront placés à l'étranger sous la protection des agents diplomatiques et consulaires de l'Espagne.

ART. 23. Pour éviter autant que possible les réclamations diplomatiques, les gouvernements français et espagnols s'emploieront respectivement auprès du Sultan et de son khalifa pour que les plaintes portées par des ressortissants étrangers contre les autorités marocaines ou les personnes agissant en tant qu'autorités marocaines, et qui n'auraient pu être réglées par l'entremise du consul du Gouvernement intéressé soient déférées à un arbitre ad hoc pour chaque affaire, désigné d'un commun accord par le Consul de France ou celui d'Espagne et par celui de la puissance intéressée ou, à leur défaut, par les deux Gouvernements de ces Consuls.

ART. 24. Le Gouvernement de la République Française et le Gouvernement de Sa Majesté Catholique se réservent la faculté de procéder à l'établissement dans leurs zones respectives d'organisations judiciaires inspirées de leurs législations. Une fois ces organisations établies et les nationaux et protégés de chaque pays soumis, dans la zone ce celui-ci, à la juridiction de ces tribunaux, le Gouvernement de la République française, dans la zone d'influence espagnole, et le Gouvernement de S. M. le Roi d'Espagne, dans la zone d'influence française, soumettront également à cette juridiction locale leurs nationaux et protégés respectifs.

Tant que le paragraphe 3 de l'article 11 de la Convention de Madrid du 3 juin 1880 sera en vigueur, la faculté qui appartient au Ministre des Affaires Étrangères de Sa Majesté Chérifienne de connaître en appel des questions de propriété immobilière des étrangers fera partie, pour ce qui concerne la zone espagnole, de l'ensemble des pouvoirs délégués au khalifa.

ART. 25. Les puissances signataires s'engagent à prêter, dès maintenant, dans leurs possessions d'Afrique, leur entier concours aux autorités marocaines pour la surveillance et la répression de la contrebande des armes et des munitions de guerre.

La surveillance dans les eaux territoriales des zones respectives française et espagnole sera exercée par les forces organisées par l'autorité locale ou celles du Gouvernement protecteur de ladite zone.

ART. 26. Les accords internationaux conclus à l'avenir par Sa Majesté Chérifienne ne s'étendront à la zone d'influence espagnole qu'avec le consentement préalable du Gouvernement de S. M. le Roi d'Espagne.

ART. 27. La convention du 26 février 1905, renouvelée le 3 février 1909, ainsi que la convention générale de La Haye du 18 octobre 1906, s'appliqueront aux différends qui viendraient à s'élever entre les parties

contractantes au sujet de l'interprétation et de l'application des dispositions de la présente convention et qui n'auraient pas été réglées par la voie diplomatique. Un compromis devra être adressé et il sera procédé suivant les règles des mêmes conventions en tant qu'il n'y serait pas dérogé par un accord exprès au moment du litige.

ART. 28. Toutes clauses des traités, conventions et accords antérieurs qui seraient contraires aux stipulations qui précèdent sont abrogées.

ART. 29. La présente convention sera notifiée aux gouvernements signataires de l'Acte général de la Conférence internationale d'Algésiras.

LETTRES ANNEXES AU TRAITÉ FRANCO-ESPAGNOL DU 27 NOVEMBRE 1912

I

Madrid, le 27 novembre 1912.

(L'Ambassadeur de France au Ministre d'État.)

Pour bien préciser la portée des dispositions de la convention signée aujourd'hui, qui ont trait à la nomination du khalifa et aux rapports de celui-ci avec les agents étrangers, Votre Excellence me permettra de lui rappeler qu'elle a bien voulu me déclarer que :

En ce qui concerne le premier de ces points, la désignation du khalifa de la zone espagnole pourra être utilement préparée par des pourparlers confidentiels entre les deux Gouvernements dans le but de s'assurer que le choix du Sultan se portera sur celui des deux candidats visés dans l'article 1er de ladite convention qui aura les préférences du Gouvernement royal. Il est toutefois entendu que, quels que soient les avantages de cette façon de procéder, chacune des deux puissances est libre d'y renoncer dans des cas particuliers et de s'en tenir strictement aux clauses de la présente convention, qui, d'un côté, oblige l'Espagne à la présentation d'une liste de deux candidats, et, d'un autre côté, stipule que le choix de Sa Majesté Chérifienne aura à se porter sur l'un de ces deux candidats. Il va enfin de soi que ceux-ci devront être des personnalités de marque.

En ce qui touche les rapports que le khalifa, en tant que délégué de l'autorité impériale dans la zone espagnole, aura à entretenir avec

les agents officiels étrangers, il est entendu que, lors de la rédaction du traité, le mot "officiels" a été substitué au mot "consulaires", en vue d'éviter, suivant l'expression de Votre Excellence, des difficultés dans la pratique; ces difficultés pourraient surgir du fait que certaines puissances, n'ayant au Maroc d'agent consulaire de carrière que dans la zone française, ne pourraient suivre directement avec l'administration de la zone espagnole les affaires afférentes à cette zone et que, seule, ladite administration a qualité pour trancher aux termes de notre convention d'aujourd'hui. Pour les relations diplomatiques des gouvernements étrangers avec le Sultan, il est bien entendu, en effet, que la mention faite dans la présente convention de l'article 5 du traité franco-chérifien du 30 mars 1912 en réserve à la France le monopole.

Agréez, etc...

GEOFFRAY

II

(The letter from Garcia Prieto repeats the preceding.)

APPENDIX X

FRANCO-SPANISH DECLARATION, 7 MARCH 1914

Los infrascritos, debidamente autorizados por sus Gobiernos respectivos, hacen, de común acuerdo, la siguiente Declaración:

Tomando en consideración las garantías de igualdad jurídica ofrecidas á los extranjeros por los Tribunales franceses del Protectorado, el Gobierno de S. M. renuncia á reclamar para sus Cónsules, sus súbditos y sus establecimientos en la zona francesa del Imperio jerifiano todos los derechos y privilegios nacidos del régimen de Capitulaciones. Los Tratados y Convenios de toda clase en vigor entre España y Francia se extienden de pleno derecho, salvo cláusula contraria, á la zona francesa del Imperio jerifiano.

En cuanto le concierne, el Gobierno de la República francesa se compromete á renunciar igualmente á los derechos y privilegios existentes en favor de sus Cónsules, sus súbditos y sus establecimientos en la zona española tan pronto como los Tribunales españoles sean establecidos en dicha zona.

La presente Declaración producirá efectos á los diez días de su fecha.

Hecho por duplicado en Madrid el 7 de Marzo de 1914.

MARQUÉS DE LEMA

GEOFFRAY

APPENDIX XI

FRANCO-SPANISH DECLARATION, 17 NOVEMBER 1914

Los infrascritos, debidamente autorizados por sus Gobiernos respectivos, hacen, de común acuerdo, la siguiente Declaración:

Tomando en consideración las garantías de igualdad jurídica ofrecidas á los extranjeros por los Tribunales españoles del Protectorado, el Gobierno de la República francesa renuncia á reclamar para sus Cónsules, sus súbditos y sus establecimientos en la zona española del Imperio jerifiano todos los derechos y privilegios nacidos del régimen de Capitulaciones. Los Tratados y Convenios de toda clase en vigor entre España y Francia se extienden de pleno derecho, salvo cláusula contraria, á la zona española del Imperio jerifiano.

La presente Declaración producirá efectos á los diez días de su fecha.

Hecho por duplicado en Madrid el 17 de Noviembre de 1914.

MARQUÉS DE LEMA

GEOFFRAY

APPENDIX XII

FRANCO-SPANISH AGREEMENT, 29 DECEMBER 1916

ARTICLE PREMIER. Les autorités judiciaires, administratives, de police ou de contrôle d'une zone sont seules compétentes pour tous actes ou mesures de recherches, d'arrestation, d'instruction, de procédure, d'exécution à effectuer dans cette zone, même sur la réquisition des autorités judiciaires ou de police de la zone voisine.

ART. 2. Les individus arrêtés en vertu de décisions, mandats, réquisitions de la justice répressive d'une zone dans l'autre zone, seront livrés aux agents de l'autorité requérante aux points d'échange des limites de zones qui seront déterminés, cela sans frais, jusqu'au point d'échange, à titre de réciprocité.

ART. 3. Si l'individu réclamé était recherché par la justice de la zone requise à raison de quelque autre infraction, il ne sera remis à la zone requérante qu'après jugement définitif de ce chef. Au cas de nouvelle condamnation dans la zone requérante, l'ensemble des peines encourues pourra être exécuté dans les établissements pénitentiaires de ladite zone, sauf règlement des frais de détention, ainsi qu'il sera dit à l'article 6 ci-après.

ART. 4. Les jugements, arrêts, mandats, décisions, actes des juridictions ou des autorités judiciaires de l'une des zones, seront exécutoires dans le territoire de l'autre, sans exequatur, homologation, révision, contrôle ou enregistrement judiciaire, à la diligence de l'autorité de la zone où se trouvera la partie recherchée ou intéressée.

L'exécution aura lieu aux frais des poursuivants s'il s'agit d'exécution de décisions de la justice civile et conformément aux tarifs en vigueur dans la zone où sera assurée cette exécution.

L'exécution aura lieu sans frais, s'il s'agit de décisions de la justice civile au profit d'assisté judiciaire et, encore, s'il s'agit de décisions, actes ou mandats en matière de justice répressive, le tout à charge de réciprocité.

ART. 5. Les mandats, extraits de jugements, d'arrêts, réquisitions d'incarcération à titre de contrainte par corps, recommandation d'écrou au cas de faillite pouvant entraîner arrestation, privation de liberté, recouvrements d'amendes ou de frais de justice seront exécutés d'une

zone à l'autre par les soins des officiers de justice locaux, quelle que soit la nature de l'inculpation ou de la prévention.

Les sommes recouvrées au titre d'amendes, réparations civiles, frais de justice seront passées en compte au budget de la zone dont émanera la réquisition d'exécution.

ART. 6. Les autorités judiciaires intéressées pourront convenir que les peines privatives de liberté prononcées dans une zone, par décisions ayant acquis l'autorité de la chose jugée, seront exécutées dans les établissements pénitentiaires d'une autre zone, mais ce, à charge de remboursement des frais de détention lorsqu'il ne s'agira pas de condamnations ou décisions des tribunaux ou autorités judiciaires indigènes.

ART. 7. L'autorité administrative de la zone requise sera seule compétente pour apprécier la réclamation élevée contre l'arrestation d'un réfugié par la puissance dont il se prétendait le national ou le protégé.

ART. 8. Le présent accord ne fait point échec aux mesures qui pourraient être concertées spécialement au sujet des déserteurs ou insoumis.

ART. 9. Les autorités judiciaires de la zone française et les autorités judiciaires de la zone espagnole feront l'échange d'extraits des décisions répressives intervenues en chaque zone contre tout ressortissant à leur juridiction.

Avis des décisions d'interdiction de séjour ou des arrêtés de rapatriement de l'autorité consulaire seront, dans les mêmes conditions, assurés.

ART. 10. Ces communications auront lieu conformément au type d'extrait annexé à la présente convention et au verso duquel seront, s'il y a lieu, relatés les antécédents judiciaires. Les mentions postérieures à la rédaction de l'extrait seront, au plus tôt, communiquées à l'autorité à laquelle l'extrait aura été adressé.

ART. 11. Le service de ces échanges sera assuré, en zone française, par le procureur général près la Cour d'appel de Rabat et, en zone espagnole, par le représentant du ministère public à Tétouan.

Les échanges auront lieu par l'entremise de M. le Résident général de la République française, pour la zone française et du Haut Commissaire d'Espagne, pour la zone espagnole.

Ces échanges de pièces et documents auront lieu sans frais, à charge de réciprocité.

ART. 12. Le présent accord entrera en vigueur le 1er du mois qui suivra celui au cours duquel les ratifications auront été échangées. Il restera en vigueur pendant un an à date du jour où il aura été dénoncé.

ART. 13. Le présent accord sera ratifié dans le plus bref délai possible. Les ratifications seront échangées à Madrid.

En foi de quoi, les plénipotentiaires respectifs signent le présent accord et y apposent leurs cachets.

Faith en double expédition à Madrid, le 29 décembre 1916.

GEOFFRAY

AMALIO GIMENO

APPENDIX XIII

FRANCO-GERMAN DECLARATIONS CONCERNING THE ALGERIRAS
CONFERENCE, 8 JULY 1905

Monsieur Rouvier, Président du Conseil, Ministre des Affaires
Étrangères, au Prince Radolin, Ambassadeur d'Allemagne à Paris.

Paris, le 8 juillet 1905.

Le Gouvernement de la République est convaincu, par les conversations qui ont eu lieu entre les représentants des deux pays, tant à Paris qu'à Berlin, que le Gouvernement impérial ne poursuivait à la Conférence proposée par le Sultan du Maroc aucun but qui compromît les légitimes intérêts de la France dans ce pays, ou qui fût contraire aux droits de la France résultants de ses traités ou arrangements et en harmonie avec les principes suivants:

Souveraineté et indépendance du Sultan;

Intégrité de son empire;

Liberté économique sans aucune inégalité;

Utilité de réformes de police et de réformes financières dont l'introduction serait réglée, pour une court durée, par voie d'accord international;

Reconnaissance de la situation faite à la France au Maroc par la contiguïté sur une vaste étendue, de l'Algérie et de l'Empire chérifien et par les relations particulières qui en résultent entre les deux pays limitrophes, ainsi que par l'intérêt spécial qui s'ensuit pour la France à ce que l'ordre règne dans l'Empire chérifien.

En conséquence, le Gouvernement de la République laisse tomber ses objections premières contre la Conférence et accepte de s'y rendre.

ROUVIER

S.A.S. le Prince Radolin, Ambassadeur d'Allemagne à Paris, à
Monsieur Rouvier, Président du Conseil, Ministre des Affaires
Étrangères.

Paris, le 8 juillet 1905

Le Gouvernement de la République, acceptant de se rendre à la Conférence proposée par le Sultan du Maroc, le Gouvernement impérial m'a chargé de vous confirmer ses déclarations verbales, aux termes

desquelles il ne poursuivra à la Conférence aucun but qui compromette les légitimes intérêts de la France au Maroc ou qui soit contraire aux droits de la France résultant de ses traités ou arrangements et en harmonie avec les principes suivants:

Souveraineté et indépendance du Sultan;

Intégrité de son empire;

Liberté économique sans aucune inégalité;

Utilité de réformes de police et de réformes financières dont l'introduction serait réglée pour une courte durée par voie d'accord international;

Reconnaissance de la situation faite à la France au Maroc par la contiguïté sur une vaste étendue, de l'Algérie et de l'Empire chérifien, par les relations particulières qui en résultent entre les deux pays limitrophes, ainsi que par l'intérêt spécial qui s'ensuit pour la France à ce que l'ordre règne dans l'Empire chérifien.

RADOLIN

Cet échange de lettres a été suivi de la déclaration suivante:

Le Gouvernement de la République et le Gouvernement allemand conviennent:

1° De rappeler à Tanger simultanément leurs missions actuellement à Fez aussitôt que la Conférence se sera réunis;

2° De faire donner au Sultan du Maroc des conseils par leurs représentants, d'un commun accord, en vue de la fixation du programme qu'il proposera à la Conférence sur les bases indiquées dans les lettres échangées sous la date du 8 juillet 1905 entre le Président du Conseil, Ministre des Affaires Étrangères, et l'Ambassadeur d'Allemagne à Paris.

Fait à Paris, le 8 juillet 1905.

ROUVIER

RADOLIN

FRANCO-GERMAN AGREEMENT CONCERNING THE ALGERIRAS
PROGRAMME, 28 SEPTEMBER 1905

Les deux Gouvernements se sont mis d'accord pour proposer au Sultan le projet du programme suivant élaboré en conformité des principes adoptés dans l'échange des lettres du 8 juillet;

I. 1^o Organisation, par voie d'accord international, de la police hors de la région frontière;

2^o Règlement organisant la surveillance et la contrebande des armes. Dans la région frontière, l'application de ce règlement restera l'affaire exclusive de la France et du Maroc.

II. Réforme financière.

Concours financier donné au Makhzen, par la création d'une Banque d'État avec privilège d'émission, se chargeant des opérations de trésorerie et s'entremettant pour la frappe de la monnaie dont les bénéfices appartiendraient au Makhzen.

La Banque d'État procéderait à l'assainissement de la situation monétaire.

Les crédits ouverts au Makhzen seraient employés à l'équipement et à la solde des troupes de police et à certains travaux publics urgents, notamment à l'amélioration des ports et de leur outillage.

III. Étude d'un meilleur rendement des impôts et de la création de nouveaux revenus.

IV. Engagement par le Makhzen de n'aliéner aucun des services publics au profit d'intérêts particuliers.

Principe de l'adjudication, sans exception de nationalité, pour les travaux publics.

Fait à Paris, le 28 septembre 1905.

ROUVIER

RADOLIN

APPENDIX XIV

GENERAL ACT OF THE INTERNATIONAL CONFERENCE AT ALGECIRAS,
7 APRIL 1906

CHAPITRE I. DÉCLARATION RELATIVE À L'ORGANISATION DE LA POLICE.

ART. 1. La Conférence appelée par Sa Majesté le Sultan à se prononcer sur les mesures nécessaires pour organiser la police, déclare que les dispositions à prendre sont les suivantes.

2. La police sera placée sous l'autorité souveraine de Sa Majesté le Sultan. Elle sera recrutée par le Makhzen parmi les musulmans marocains, commandée par des Caïds marocains et répartie dans les huit ports ouverts au Commerce.

3. Pour venir en aide au Sultan dans l'organisation de cette police, des officiers et sous-officiers instructeurs espagnols, des officiers et sous-officiers instructeurs français, seront mis à Sa disposition par leurs Gouvernements respectifs, qui soumettront leur désignation à l'agrément de Sa Majesté Chérifienne. Un contrat passé entre le Makhzen et les instructeurs, en conformité du règlement prévu à l'article 4, déterminera les conditions de leur engagement et fixera leur solde qui ne pourra pas être inférieure au double de la solde correspondante au grade de chaque officier ou sous-officier. Il leur sera alloué, en outre, une indemnité de résidence variable suivant les localités. Des logements convenables seront mis à leur disposition par le Makhzen qui fournira également les montures et les fourrages nécessaires.

Les Gouvernements auxquels ressortissent les instructeurs se réservent le droit de les rappeler et de les remplacer par d'autres, agréés et engagés dans les mêmes conditions.

4. Ces officiers et sous-officiers prêteront, pour une durée de cinq années à dater de la ratification de l'Acte de la Conférence, leur concours à l'organisation des corps de police chérifiens. Ils assureront l'instruction et la discipline conformément au règlement qui sera établi sur la matière; ils veilleront également à ce que les hommes enrôlés possèdent l'aptitude au service militaire. D'une façon générale, ils devront surveiller l'administration des troupes et contrôler le paiement de la solde qui sera effectué par l'Amin, assisté de l'officier instructeur comptable. Ils prêteront aux autorités marocaines, investies du commandement de ces corps, leur concours technique pour l'exercice de ce commandement.

Les dispositions réglementaires propres à assurer le recrutement, la discipline, l'instruction et l'administration des corps de police seront arrêtées d'un commun accord entre le Ministre de la Guerre chérifien ou son délégué, l'inspecteur prévu à l'article 7, l'instructeur français et l'instructeur espagnol les plus élevés en grade.

Le règlement devra être soumis au Corps Diplomatique à Tanger qui formulera son avis dans le délai d'un mois. Passé ce délai, le règlement sera mis en application.

5. L'effectif total des troupes de police ne devra pas dépasser deux mille cinq cents hommes ni être inférieur à deux mille. Il sera réparti suivant l'importance des ports par groupes variant de cent cinquante à six cents hommes. Le nombre des officiers espagnols et français sera de seize à vingt; celui des sous-officiers espagnols et français, de trente à quarante.

6. Les fonds, nécessaires à l'entretien et au paiement de la solde des troupes et des officiers et sous-officiers instructeurs, seront avancés au Trésor chérifien par la Banque d'État, dans les limites du budget annuel attribué à la police qui ne devra pas dépasser deux millions et demi de pesetas pour un effectif de deux mille cinq cents hommes.

7. Le fonctionnement de la police sera, pendant la même période de cinq années, l'objet d'une inspection générale qui sera confiée par Sa Majesté Chérifienne à un officier supérieur de l'armée suisse dont le choix sera proposé à Son agrément par le Gouvernement fédéral suisse.

Cet officier prendra le titre d'Inspecteur général et aura sa résidence à Tanger.

Il inspectera, au moins une fois par an, les divers corps de police et, à la suite de ces inspections, il établira un rapport qu'il adressera au Makhzen.

En dehors des rapports réguliers, il pourra, s'il le juge nécessaire, établir des rapports spéciaux sur toute question concernant le fonctionnement de la police.

Sans intervenir directement dans le commandement ou l'instruction, l'Inspecteur général se rendra compte des résultats obtenus par la police chérifienne au point de vue du maintien de l'ordre et de la sécurité dans les localités où cette police sera installée.

8. Les rapports et communications, faits au Makhzen par l'Inspecteur général au sujet de sa mission, seront, en même temps, remis en copie au Doyen du Corps Diplomatique à Tanger, afin que le Corps Diplomatique soit mis à même de constater que la police chérifienne

fonctionne conformément aux décisions prises par la Conférence et de surveiller si elle garantit, d'une manière efficace et conforme aux traités, la sécurité des personnes et des biens des ressortissants étrangers, ainsi que celle des transactions commerciales.

9. En cas de réclamations dont le Corps Diplomatique serait saisi par la Légation intéressée, le Corps Diplomatique pourra, en avisant le Représentant du Sultan, demander à l'Inspecteur général de faire une enquête et d'établir un rapport sur ces réclamations, à toutes fins utiles.

10. L'Inspecteur général recevra un traitement annuel de vingt-cinq mille francs. Il lui sera alloué, en outre, une indemnité de six mille francs pour frais de tournées. Le Makhzen mettra à sa disposition une maison convenable et pourvoira à l'entretien de ses chevaux.

11. Les conditions matérielles de son engagement et de son installation, prévues à l'Article 10, feront l'objet d'un contrat passé entre lui et le Makhzen. Ce contrat sera communiqué en copie au Corps Diplomatique.

12. Le cadre des instructeurs de la police chérifienne (officiers et sous-officiers) sera espagnol à Tétouan, mixte à Tanger, espagnol à Larache, français à Rabat, mixte à Casablanca, et français dans les trois autres ports.

CHAPITRE II. RÉGLEMENT CONCERNANT LA SURVEILLANCE ET LA RÉPRESSION DE LA CONTREBANDE DES ARMES.

13. Sont prohibés dans toute l'étendue de l'Empire chérifien, sauf dans les cas spécifiés aux Articles 14 et 15, l'importation et le commerce des armes de guerre, pièces d'armes, munitions chargées ou non chargées de toutes espèces, poudres, salpêtre, fulmi-coton, nitro-glycérine et toutes compositions destinées exclusivement à la fabrication des munitions.

14. Les explosifs nécessaires à l'industrie et aux travaux publics pourront néanmoins être introduits. Un règlement, pris dans les formes indiquées à l'Article 18, déterminera les conditions dans lesquelles sera effectuée leur importation.

15. Les armes, pièces d'armes et munitions, destinées aux troupes de Sa Majesté Chérifienne, seront admises après l'accomplissement des formalités suivantes: --

Une déclaration, signée par le Ministre de la Guerre marocain, énonçant le nombre et l'espèce des fournitures de ce genre commandées à l'industrie étrangère, devra être présentée à la Légation du pays d'origine qui y apposera son visa.

Le dédouanement des caisses et colis contenant les armes et munitions, livrées en exécution de la commande du Gouvernement marocain, sera opéré sur la production:

1^o de la déclaration spécifiée ci-dessus,

2^o du connaissement indiquant le nombre, le poids des colis, le nombre et l'espèce des armes et munitions qu'ils contiennent. Ce document devra être visé par la Légation du pays d'origine qui marquera au verso les quantités successives précédemment dédouanées. La visa sera refusé à partir du moment où la commande aura été intégralement livrée.

16. L'importation des armes de chasse et de luxe, pièces d'armes, cartouches chargées et non chargées, est également interdite. Elle pourra, toutefois, être autorisée:

1^o pour les besoins strictement personnels de l'importateur,

2^o pour l'approvisionnement des magasins d'armes autorisés conformément à l'Article 18.

17. Les armes et munitions de chasse ou de luxe seront admises pour les besoins strictement personnels de l'importateur, sur la production d'un permis délivré par le Représentant du Makhzen à Tanger. Si l'importateur est étranger, le permis ne sera établi que sur la demande de la Légation dont il relève.

En ce qui concerne les munitions de chasse, chaque permis portera au maximum sur mille cartouches ou les fournitures nécessaires à la fabrication de mille cartouches.

Le permis ne sera donné qu'à des personnes n'ayant encouru aucune condamnation correctionnelle.

18. Le commerce des armes de chasse et de luxe, non rayées, de fabrication étrangère, ainsi que des munitions qui s'y rapportent, sera réglementé, dès que les circonstances le permettront, par décision chérifienne, prise conformément à l'avis du Corps Diplomatique à Tanger, statuant à la majorité des voix. Il en sera de même des décisions ayant pour but de suspendre ou de restreindre l'exercice de ce commerce.

Seules, les personnes ayant obtenu une licence spéciale et temporaire du Gouvernement marocain, seront admises à ouvrir et exploiter des débits d'armes et de munitions de chasse. Cette licence ne sera accordée que sur demande écrite de l'intéressé, appuyée d'un avis favorable de la Légation dont il relève.

Des règlements pris dans la forme indiquée au paragraphe premier de cet article détermineront le nombre des débits pouvant être ouverts

à Tanger et, éventuellement, dans les ports qui seront ultérieurement désignés. Ils fixeront les formalités imposées à l'importation des explosifs à l'usage de l'industrie et des travaux publics, des armes et munitions destinées à l'approvisionnement des débits, ainsi que les quantités maxima qui pourront être conservées en dépôt.

En cas d'infractions aux prescriptions réglementaires, la licence pourra être retirée à titre temporaire ou à titre définitif, sans préjudice des autres peines encourues par les délinquants.

19. Toute introduction ou tentative d'introduction de marchandises prohibées donnera lieu à leur confiscation et, en outre, aux peines et amendes ci-dessous, qui seront prononcées par la juridiction compétente.

20. L'introduction, ou tentative d'introduction, par un port ouvert au commerce ou par un bureau de douane, sera punie:

1° D'une amende de cinq cents à deux mille pesetas et d'une amende supplémentaire égale à trois fois la valeur de la marchandise importée;

2° D'un emprisonnement de cinq jours à un an; ou de l'une des deux pénalités seulement.

21. L'introduction, ou tentative d'introduction, en dehors d'un port ouvert au commerce ou d'un bureau de douane, sera punie:

1° D'une amende de mille à cinq mille pesetas et d'une amende supplémentaire égale à trois fois la valeur de la marchandise importée;

2° D'un emprisonnement de trois mois à deux ans; ou de l'une des deux pénalités seulement.

22. La vente frauduleuse, le recel et le colportage des marchandises prohibées par le présent règlement seront punis des peines édictées à l'Article 20.

23. Les complices des délits prévus aux Articles 20, 21, et 22, seront passibles des mêmes peines que les auteurs principaux. Les éléments caractérisant la complicité seront appréciés d'après la législation du tribunal saisi.

24. Quand il y aura des indices sérieux faisant soupçonner qu'un navire mouillé dans un port ouvert au commerce transporte en vue de leur introduction au Maroc des armes, des munitions ou d'autres marchandises prohibées, les agents de la douane chérifienne devront signaler ces indices à l'autorité consulaire compétente afin que celle-ci procède, avec l'assistance d'un délégué de la douane chérifienne, aux enquêtes, vérifications ou visites qu'elle jugera nécessaires.

25. Dans le cas d'introduction ou de tentative d'introduction par mer de marchandises prohibées, en dehors d'un port ouvert au commerce, la douane marocaine pourra amener le navire au port le plus

proche pour être remis à l'autorité consulaire, laquelle pourra le saisir et maintenir la saisie jusqu'au paiement des amendes prononcées. Toutefois, la saisie du navire devra être levée, en tout état de l'instance, en tant que cette mesure n'entravera pas l'instruction judiciaire, sur consignation du montant maximum de l'amende entre les mains de l'autorité consulaire ou sous caution solvable de la payer, acceptée par la douane.

26. Le Makhzen conservera les marchandises confisquées, soit pour son propre usage, si elles peuvent lui servir, à condition que les sujets de l'Empire ne puissent s'en procurer, soit pour les faire vendre en pays étranger.

Les moyens de transport à terre pourront être confisqués et seront vendus au profit du Trésor chérifien.

27. La vente des armes réformes par le Gouvernement marocain sera prohibée dans toute l'étendue de l'Empire chérifien.

28. Des primes, à prélever sur le montant des amendes prononcées, seront attribuées aux indicateurs qui auront amené la découverte des marchandises prohibées et aux agents qui en auront opéré la saisie: ces primes seront ainsi attribuées après déduction, s'il y a lieu, des frais du procès, un tiers à répartir par la douane entre les indicateurs, un tiers aux agents ayant saisi la marchandise, et un tiers au Trésor marocain.

Si la saisie a été opérée sans l'intervention d'un indicateur, la moitié des amendes sera attribuée aux agents saisissants et l'autre moitié au Trésor chérifien.

29. Les autorités douanières marocaines devront signaler directement aux agents diplomatiques ou consulaires les infractions au présent règlement commises par leurs ressortissants, afin que ceux-ci soient poursuivis devant la juridiction compétente.

Les mêmes infractions, commises par des sujets marocains, seront déférées directement par la douane à l'autorité chérifienne.

Un délégué de la douane sera chargé de suivre la procédure des affaires pendantes devant les diverses juridictions.

30. Dans la région frontière de l'Algérie, l'application du règlement sur la contrebande des armes restera l'affaire exclusive de la France et du Maroc.

De même, l'application du règlement sur la contrebande des armes dans le Riff et, en général, dans les régions frontières des Possessions espagnoles, restera l'affaire exclusive de l'Espagne et du Maroc.

CHAPITRE III. ACTE DE CONCESSION D'UNE BANQUE D'ÉTAT.

31. Une Banque sera instituée au Maroc sous le nom de "Banque d'État du Maroc" pour exercer les droits ci-après spécifiés dont la concession lui est accordée par Sa Majesté le Sultan, pour une durée de quarante années à partir de la ratification du présent Acte.

32. La Banque, qui pourra exécuter toutes les opérations rentrant dans les attributions d'une banque, aura le privilège exclusif d'émettre des billets au porteur, remboursables à présentation, ayant force libératoire dans les caisses publiques de l'Empire marocain.

La Banque maintiendra, pour le terme de deux ans à compter de la date de son entrée en fonctions, une encaisse au moins égale à la moitié de ses billets en circulation, et au moins égale au tiers après cette période de deux ans révolue. Cette encaisse sera constituée pour au moins un tiers en or ou monnaie or.

33. La Banque remplira, à l'exclusion de toute autre banque ou établissement de crédit, les fonctions de trésorier-payeur de l'Empire. A cet effet, le Gouvernement marocain prendra les mesures nécessaires pour faire verser dans les caisses de la Banque le produit des revenus des douanes, à l'exclusion de la partie affectée au service de l'Emprunt 1904 et des autres revenus qu'il désignera.

Quant au produit de la taxe spéciale créée en vue de l'accomplissement de certains travaux publics, le Gouvernement marocain devra le faire verser à la Banque, ainsi que les revenus qu'il pourrait ultérieurement affecter à la garantie de ses emprunts, la Banque étant spécialement chargée d'en assurer le service, à l'exception toutefois de l'Emprunt 1904 qui se trouve régi par un Contrat spécial.

34. La Banque sera l'agent financier du Gouvernement, tant au dedans qu'au dehors de l'Empire, sans préjudice du droit pour le Gouvernement de s'adresser à d'autres maisons de banque ou établissements de crédit pour ses emprunts publics. Toutefois, pour les dits emprunts, la Banque jouira d'un droit de préférence, à conditions égales, sur toute maison de banque ou établissement de crédit.

Mais, pour les Bons du Trésor et autres effets de trésorerie à court terme que le Gouvernement marocain voudrait négocier, sans en faire l'objet d'une émission publique, la Banque sera chargée, à l'exclusion de tout autre établissement, d'en faire la négociation, soit au Maroc, soit à l'étranger, pour le compte du Gouvernement marocain.

35. A valoir sur les rentrées du Trésor, la Banque fera au Gouvernement marocain des avances en compte-courant jusqu'à concurrence d'un million de francs.

La Banque ouvrira, en outre, au Gouvernement, pour une durée de dix ans à partir de sa constitution, un crédit qui ne pourra pas dépasser les deux tiers de son capital initial.

Ce crédit sera réparti sur plusieurs années et employé en premier lieu aux dépenses d'installation et d'entretien des corps de police organisés conformément aux décisions prises par la Conférence, et subsidiairement aux dépenses de travaux d'intérêt général qui ne seraient pas imputées sur les fonds spécial prévue à l'Article suivant.

Le taux de ces deux avances sera au maximum de sept pour cent, commission de banque comprise, et la Banque pourra demander au Gouvernement de lui remettre en garantie de leur montant une somme équivalente en Bons du Trésor.

Si, avant l'expiration des dix années, le Gouvernement marocain venait à contracter un emprunt, la Banque aurait la faculté d'obtenir le remboursement immédiat des avances faites conformément au deuxième alinéa du présent Article.

36. Le produit de la taxe spéciale (Articles 33 et 66) formera un fonds spécial dont la Banque tiendra une comptabilité à part. Ce fonds sera employé conformément aux prescriptions arrêtées par la Conférence.

En cas d'insuffisance et à valoir sur les rentrées ultérieures, la Banque pourra ouvrir à ce fonds un crédit dont l'importance ne dépassera pas le montant des encaissements pendant l'année antérieure.

Les conditions de taux et de commission seront les mêmes que celles fixées à l'Article précédent pour l'avance en compte-courant au Trésor.

37. La Banque prendra les mesures qu'elle jugera utiles pour assainir la situation monétaire au Maroc. La monnaie espagnole continuera à être admise à la circulation avec force libératoire.

En conséquence, la Banque sera exclusivement chargée de l'achat des métaux précieux, de la frappe et de la refonte des monnaies, ainsi que de toutes autres opérations monétaires qu'elle fera pour le compte et au profit du Gouvernement marocain.

38. La Banque, dont le siège social sera à Tanger, établira des succursales et agences dans les principales villes du Maroc et dans tout autre endroit où elle le jugera utile.

39. Les emplacements nécessaires à l'établissement de la Banque ainsi que de ses succursales et agences au Maroc seront mis gratuitement à sa disposition par le Gouvernement et, à l'expiration de la concession, le Gouvernement en reprendra possession et remboursera à la Banque les frais de construction de ces établissements. La Banque sera, en outre, autorisée à acquérir tout bâtiment et terrain dont elle pourrait avoir besoin pour le même objet.

40. Le Gouvernement chérifien assurera sous sa responsabilité la sécurité et la protection de la Banque, de ses succursales et agences. A cet effet, il mettra dans chaque ville une garde suffisante à la disposition de chacun de ces établissements.

41. La Banque, ses succursales et agences, seront exemptes de tout impôt ou redevance ordinaire ou extraordinaire, existants ou à créer; il en est de même pour les immeubles affectés à ses services, les titres et coupons de ses actions et ses billets. L'importation et l'exportation des métaux et monnaies destinés aux opérations de la Banque seront autorisées et exemptes de tout droit.

42. Le Gouvernement chérifien exercera sa haute surveillance sur la Banque par un Haut Commissaire marocain, nommé par lui, après entente préalable avec le Conseil d'Administration de la Banque.

Ce Haut Commissaire aura le droit de prendre connaissance de la gestion de la Banque; il contrôlera l'émission des billets de Banque et veillera à la stricte observation des dispositions de la concession.

Le Haut Commissaire devra signer chaque billet ou y apposer son sceau; il sera chargé de la surveillance des relations de la Banque avec le Trésor Impérial.

Il ne pourra pas s'immiscer dans l'administration et la gestion des affaires de la Banque, mais il aura toujours le droit d'assister aux réunions des Censeurs.

Le Gouvernement chérifien nommera un ou deux Commissaires adjoints qui seront spécialement chargés de contrôler les opérations financières du Trésor avec la Banque.

43. Un règlement, précisant les rapports de la Banque et du Gouvernement marocain, sera établi par le Comité spécial prévu à l'Article 57 et approuvé par les Censeurs.

44. La Banque, constituée avec approbation du Gouvernement de Sa Majesté Chérifienne, sous la forme des sociétés anonymes, est régie par la loi française sur la matière.

45. Les actions intentées au Maroc par La Banque seront portées devant le Tribunal consulaire du défendeur ou devant la juridiction marocaine, conformément aux règles de compétence établies par les traités et les firmans chérifiens.

Les actions, intentées au Maroc contre la Banque, seront portées devant un Tribunal spécial, composé de trois magistrats consulaires et de deux assesseurs. Le Corps Diplomatique établira, chaque année, la liste des magistrats, des assesseurs, et de leurs suppléants.

Ce Tribunal appliquera à ces causes les règles de droit, de procédure et de compétence édictées en matière commerciale par la législation française. L'appel des jugements prononcés par ce Tribunal sera porté devant la Cour fédérale de Lausanne qui statuera en dernier ressort.

46. En cas de contestation sur les clauses de la concession ou de litiges pouvant survenir entre le Gouvernement marocain et la Banque, le différend sera soumis, sans appel ni recours, à la Cour fédérale de Lausanne.

Seront également soumises à cette Cour, sans appel ni recours, toutes les contestations qui pourraient s'élever entre les actionnaires et la Banque sur l'exécution des Statuts ou à raison des affaires sociales.

47. Les Statuts de la Banque seront établis d'après les bases suivantes par un Comité spécial prévu par l'Article 57. Ils seront approuvés par les Censeurs et ratifiés par l'Assemblée générale des actionnaires.

48. L'Assemblée générale constitutive de la Société fixera le lieu où se tiendront les Assemblées des actionnaires et les réunions du Conseil d'Administration; toutefois, ce dernier aura la faculté de se réunir dans toute autre ville s'il le juge utile.

La Direction de la Banque sera fixée à Tanger.

49. La Banque sera administrée par un Conseil d'Administration composé d'autant de membres qu'il sera fait de parts dans le capital initial.

Les administrateurs auront les pouvoirs les plus étendus pour l'administration et la gestion de la Société; ce sont eux notamment qui nommeront les Directeurs, Sous-Directeurs et Membres de la Commission indiquée à l'Article 54, ainsi que les Directeurs des Succursales et Agences.

Tous les employés de la Société seront recrutés, autant que possible, parmi les ressortissants des diverses Puissances qui ont pris part à la souscription du capital.

50. Les Administrateurs, dont la nomination sera faite par l'Assemblée générale des actionnaires, seront désignés à son agrément par les groupes souscripteurs du capital.

Le premier conseil restera en fonctions pendant cinq années. A l'expiration de ce délai, il sera procédé à son renouvellement à raison de trois membres par an. Le sort déterminera l'ordre de sortie des Administrateurs; ils seront rééligibles.

A la constitution de la Société, chaque groupe souscripteur aura le droit de désigner autant d'Administrateurs qu'il aura souscrit de parts entières, sans que les groupes soient obligés de porter leur choix sur un candidat de leur propre nationalité.

Les groupes souscripteurs ne conserveront leur droit de désignation des Administrateurs, lors du remplacement de ces derniers, ou du renouvellement de leur mandat, qu'autant qu'ils pourront justifier être encore en possession d'au moins la moitié de chaque part pour laquelle ils exercent ce droit.

Dans le cas où, par suite de ces dispositions, un groupe souscripteur ne se trouverait plus en mesure de désigner un administrateur, l'Assemblée générale des actionnaires pourvoirait directement à cette désignation.

51. Chacun des établissements ci-après: Banque de l'Empire Allemand, Banque d'Angleterre, Banque d'Espagne, Banque de France, nommera, avec l'agrément de son Gouvernement, un Censeur auprès de la Banque d'État du Maroc.

Les Censeurs resteront en fonctions pendant quatre années. Les Censeurs sortants peuvent être désignés à nouveau.

En cas de décès ou de démission, il sera pourvu à la vacance par l'établissement qui a procédé à la désignation de l'ancien titulaire, mais seulement pour le temps où ce dernier devait rester en charge.

52. Les Censeurs qui exerceront leur mandat en vertu du présent Acte des Puissances signataires devront, dans l'intérêt de celles-ci, veiller sur le bon fonctionnement de la Banque et assurer la stricte observation des clauses de la Concession et des Statuts. Ils veilleront à l'exact accomplissement des prescriptions concernant l'émission des billets et devront surveiller les opérations tendant à l'assainissement de la situation monétaire; mais ils ne pourront jamais, sous quelque prétexte que ce soit, s'immiscer dans la gestion des affaires, ni dans l'administration intérieure de la Banque.

Chacun des Censeurs pourra examiner en tout temps les comptes de la Banque, demander, soit au Conseil d'Administration, soit à la Direction, des informations sur la gestion de la Banque et assister aux réunions du Conseil d'Administration, mais seulement avec voix consultative.

Les quatre Censeurs se réuniront à Tanger, dans l'exercice de leurs fonctions, au moins une fois tous les deux ans, à une date à concerter entre eux. D'autres réunions à Tanger ou ailleurs devront avoir lieu, si trois des Censeurs l'exigent.

Les quatre Censeurs dresseront, d'un commun accord, un rapport annuel qui sera annexé à celui du Conseil d'Administration. Le Conseil d'Administration transmettra, sans délai, une copie de ce rapport à chacun des Gouvernements signataires de l'Acte de la Conférence.

53. Les émoluments et indemnités de déplacement, affectés aux Censeurs, seront établis par le Comité d'étude des Status. Ils seront directement versés à ces agents par les Banques chargées de leur désignation et remboursés à ces établissements par la Banque d'État du Maroc.

54. Il sera institué à Tanger auprès de la Direction une Commission dont les membres seront choisis par le Conseil d'Administration sans distinction de nationalité, parmi les notables résidant à Tanger, propriétaires d'actions de la Banque.

Cette Commission, qui sera présidée par un des Directeurs, ou Sous-Directeurs, donnera son avis sur les escomptes et ouvertures de crédits.

Elle adressera au rapport mensuel sur ces diverses questions au Conseil d'Administration.

55. Le capital, dont l'importance sera fixée par le Comité spécial désigné à l'Article 57, sans pouvoir être inférieur à quinze millions de francs, ni supérieur à vingt millions, sera formé en monnaie or et les actions, dont les coupures représenteront une valeur équivalente à cinq cents francs, seront libellées dans les diverses monnaies or, à un change fixe, déterminé par les Statuts.

Ce capital pourra être ultérieurement augmenté, en une ou plusieurs fois, par décision de l'Assemblée générale des actionnaires.

La souscription de ces augmentations de capital sera réservée à tous les porteurs d'actions, sans distinction de groupe, proportionnellement aux titres possédés par chacun d'eux.

56. Le capital initial de la Banque sera divisé en autant de parts égales qu'il y aura de parties prenantes parmi les Puissances représentées à la Conférence.

A cet effet, chaque Puissance désignera une Banque qui exercera, soit pour elle-même, soit pour un groupe de banques, le droit de souscription ci-dessus spécifié, ainsi que le droit de désignation des Administrateurs prévu à l'Article 50. Toute banque, choisie comme chef de groupe, pourra avec l'autorisation de son Gouvernement être remplacée par une autre banque du même pays.

Les États, qui voudraient se prévaloir de leur droit de souscription, auront à communiquer cette intention au Gouvernement Royal d'Espagne dans un délai de quatre semaines, à partir de la signature du présent Acte par les représentants des Puissances.

Toutefois, deux parts égales à celles réservées à chacun des groupes souscripteurs seront attribuées au Consortium des banques signataires du contrat du 12 juin 1904, en compensation de la cession qui sera faite par le Consortium à la Banque d'État du Maroc :

- 1° des droits spécifiés à l'Article 33 du contrat;
- 2° du droit inscrit à l'Article 32 (§ 2) du contrat, concernant le solde disponible des recettes douanières sous réserve expresse du privilège général conféré en premier rang par l'article 11 du même contrat aux porteurs de Titres sur la totalité du Produit des Douanes.

57. Dans un délai de trois semaines à partir de la clôture de la souscription, notifiée par le Gouvernement Royal d'Espagne aux Puissances intéressées, un Comité spécial, composé de délégués nommés par les groupes souscripteurs, dans les conditions prévues à l'Article 50 pour la nomination des Administrateurs, se réunira afin d'élaborer les Statuts de la Banque

L'Assemblée générale constitutive de la Société aura lieu dans un délai de deux mois, à partir de la ratification du présent Acte.

Le rôle du Comité spécial cessera aussitôt après la constitution de la Société.

Le Comité spécial fixera lui-même le lieu de ses réunions.

58. Aucune modification aux Statuts ne pourra être apportée si ce n'est sur la proposition du Conseil d'Administration et après avis conforme des Censeurs et du Haut Commissaire Impérial.

Ces modifications devront être votées par l'Assemblée Générale des Actionnaires à la majorité des trois quarts des membres présents ou représentés.

CHAPITRE IV. DÉCLARATION CONCERNANT UN MEILLEUR RENDEMENT DES IMPÔTS ET LA CRÉATION DE NOUVEAUX REVENUS.

59. Dès que le tertib sera mis à exécution d'une façon régulière à l'égard des sujets marocains, les Représentants des Puissances à Tanger y soumettront leurs ressortissants dans l'Empire. Mais il est entendu que le dit impôt ne sera appliqué aux étrangers,

(a) que dans les conditions fixées par le règlement du Corps Diplomatique à Tanger en date du 23 novembre 1903,

(b) que dans les localités où il sera effectivement perçu sur les sujets marocains.

Les autorités consulaires retiendront un tantième pour cent des sommes encaissées sur leurs ressortissants pour couvrir les frais occasionnés par la rédaction des rôles et le recouvrement de la taxe.

Le taux de cette retenue sera fixé, d'un commun accord, par le Makhzen et le Corps Diplomatique à Tanger.

60. Conformément au droit qui leur a été reconnu par l'Article XI de la Convention de Madrid, les étrangers pourront acquérir des propriétés dans toute l'étendue de l'Empire chérifien et Sa Majesté le Sultan donnera aux autorités administratives et judiciaires les instructions nécessaires pour que l'autorisation de passer les actes ne soit pas refusée sans motif légitime. Quant aux transmissions ultérieures par actes entre vifs ou après décès, elles continueront à s'exercer sans aucune entrave.

Dans les ports ouverts au commerce et dans un rayon de dix kilomètres autour de ces ports, Sa Majesté le Sultan accorde, d'une façon générale, et sans qu'il soit désormais nécessaire de l'obtenir spécialement pour chaque achat de propriété par les étrangers, le consentement exigé par l'Article XI de la Convention de Madrid.

A Ksar el Kebir, Arzila, Azemmour et, éventuellement, dans d'autres localités du littoral ou de l'intérieur, l'autorisation générale ci-dessus mentionnée est également accordée aux étrangers, mais seulement pour les acquisitions dans un rayon de deux kilomètres autour de ces villes.

Partout où les étrangers auront acquis des propriétés, ils pourront élever des constructions en se conformant aux règlements et usages.

Avant d'autoriser la rédaction des actes transmissifs de propriété, le Cadi devra s'assurer, conformément à la loi musulmane, de la régularité des titres.

Le Makhzen désignera, dans chacune des villes et circonscriptions indiquées au présent Article, le Cadi qui sera chargé d'effectuer ces vérifications.

61. Dans le but de créer de nouvelles ressources au Makhzen, la Conférence reconnaît, en principe, qu'une taxe pourra être établie sur les constructions urbaines.

Une partie des recettes ainsi réalisées sera affectée aux besoins de la voirie et de l'hygiène municipales et, d'une façon générale, aux dépenses d'amélioration et d'entretien des villes.

La taxe sera due par le propriétaire marocain ou étranger sans aucune distinction; mais le locataire ou le détenteur de la clef en sera responsable envers le Trésor marocain.

Un règlement édicté, d'un commun accord, par le Gouvernement chérifien et le Corps Diplomatique à Tanger, fixera le taux de la taxe, son mode de perception et d'application et déterminera la quotité des ressources ainsi créées qui devra être affectée aux dépenses d'amélioration et d'entretien des villes.

A Tanger, cette quotité sera versée au Conseil sanitaire international, qui en réglera l'emploi jusqu'à la création d'une organisation municipale.

62. Sa Majesté Chérifienne, ayant décidé en 1901 que les fonctionnaires marocains, chargés de la perception des impôts agricoles, ne recevraient plus des populations ni sokhra ni mouna, la Conférence estime que cette règle devra être généralisée autant que possible.

63. Les Délégués chérifiens ont exposé que des biens habous ou certains propriétés domaniales, notamment des immeubles du Makhzen, occupés contre paiement de la redevance de six pour cent, sont détenus par des ressortissants étrangers, sans titres réguliers ou en vertu de contrats sujets à révision. La Conférence, désireuse de remédier à cet état de choses, charge le Corps Diplomatique à Tanger de donner une solution équitable à ces deux questions, d'accord avec le Commissaire spécial que Sa Majesté Chérifienne voudra bien désigner à cet effet.

64. La Conférence prend acte des propositions formulées par les Délégués chérifiens au sujet de la création de taxes sur certains commerces, industries et professions.

Si, à la suite de l'application de ces taxes aux sujets marocains, le corps Diplomatique à Tanger estimait qu'il y a lieu de les étendre aux ressortissants étrangers, il est dès à présent spécifié que les dites taxes seront exclusivement municipales.

65. La Conférence se rallie à la proposition faite par la Délégation marocaine d'établir avec l'assistance du Corps Diplomatique:

- (a) un droit de timbre sur les contrats et actes authentiques passés devant les adoul;
- (b) un droit de mutation, au maximum de deux pour cent, sur les ventes immobilières;
- (c) un droit de statistique et de pesage, au maximum de un pour cent ad valorem, sur les marchandises transportées par cabotage;
- (d) un droit de passeport à percevoir sur les sujets marocains;
- (e) éventuellement, des droits de quais et de phares dont le produit devra être affecté à l'amélioration des ports.

66. A titre temporaire, les marchandises d'origine étrangère seront frappées à leur entrée au Maroc d'une taxe spéciale s'élevant à deux et demi pour cent ad valorem. Le produit intégral de cette taxe formera un fonds spécial qui sera affecté aux dépenses et à l'exécution de travaux publics, destinés au développement de la navigation et du commerce en général dans l'Empire chérifien.

Le programme des travaux et leur ordre de priorité seront arrêtés, d'un commun accord, par le Gouvernement chérifien et par le Corps Diplomatique à Tanger.

Les études, devis, projets et cahiers des charges s'y rapportant seront établis par un ingénieur compétent nommé par le Gouvernement chérifien d'accord avec le Corps Diplomatique. Cet ingénieur pourra, au besoin, être assisté d'un ou plusieurs ingénieurs adjoints. Leur traitement sera imputé sur les fonds de la caisse spéciale.

Les fonds de la caisse spéciale seront déposés à la Banque d'État du Maroc qui en tiendra la comptabilité.

Les adjudications publiques seront passées dans les formes et suivant les conditions générales prescrites par un Règlement que le Corps Diplomatique à Tanger est chargé d'établir avec le Représentant de Sa Majesté Chérifienne.

Le bureau d'adjudication sera composé d'un représentant du Gouvernement chérifien, de cinq délégués du Corps Diplomatique et de l'ingénieur.

L'adjudication sera prononcée en faveur du soumissionnaire qui, en se conformant aux prescriptions du cahier des charges, présentera l'offre remplissant les conditions générales les plus avantageuses.

En ce qui concerne les sommes provenant de la taxe spéciale et qui seraient perçues dans les bureaux de douane établis dans les régions visées par l'Article 103 du Règlement sur les douanes, leur emploi sera réglé par le Makhzen avec l'agrément de la Puissance limitrophe, conformément aux prescriptions du présent Article.

67. La Conférence, sous réserve des observations présentées à ce sujet, émet le vœu que les droits d'exportation des marchandises ci-après

soient réduits de la manière suivante: --

Pois chiches	20	pour	100
Maïs	20	"	100
Orge	50	"	100
Blé	34	"	100

68. Sa Majesté Chérifienne consentira à élever à dix mille le chiffre de six mille têtes de bétail de l'espèce bovine que chaque Puissance aura le droit d'exporter du Maroc. L'exportation pourra avoir lieu par tous les bureaux de douane. Si, par suite de circonstances malheureuses, une pénurie de bétail était constatée dans une région déterminée, Sa Majesté Chérifienne pourrait interdire temporairement la sortie du bétail par le port, ou les ports qui desservent cette région. Cette mesure ne devra pas excéder une durée de deux années; elle ne pourra pas être appliquée à la fois à tous les ports de l'Empire.

Il est d'ailleurs entendu que les dispositions précédentes ne modifient pas les autres conditions de l'exportation du bétail fixées par les firmans antérieurs.

La Conférence émet, en outre, le voeu qu'un service d'inspection vétérinaire soit organisé au plus tôt dans les ports de la côte.

69. Conformément aux décisions antérieures de Sa Majesté Chérifienne et notamment à la décision du 28 septembre 1901, est autorisé, entre tous les ports de l'Empire le transport par cabotage des céréales, granes, légumes, oeufs, fruits, volailles, et, en général, des marchandises et animaux de toute espèce, originaires ou non du Maroc, à l'exception des chevaux, mulets, ânes et chameaux pour lesquels un permis spécial du Makhzen sera nécessaire. Le cabotage pourra être effectué par des bateaux de toute nationalité, sans que les dits articles aient à payer les droits d'exportation, mais en se conformant aux droits spéciaux et aux règlements sur la matière.

70. Le taux des droits de stationnement ou d'ancrage imposés aux navires dans les ports marocains se trouvant fixé par des traités passés avec certaines Puissances, ces Puissances se montrent disposées à consentir la revision des dits droits. Le Corps Diplomatique à Tanger est chargé d'établir, d'accord avec le Makhzen, les conditions de la revision qui ne pourra avoir lieu qu'après l'amélioration des ports.

71. Les droits de magasinage en douane seront perçus dans tous les ports marocains où il existera des entrepôts suffisants, conformément aux règlements pris ou à prendre sur la matière par le Gouvernement de Sa Majesté Chérifienne, d'accord avec le Corps Diplomatique à Tanger.

72. L'opium et le kif continueront à faire l'objet d'un monopole au profit du Gouvernement chérifien. Néanmoins, l'importation de l'opium spécialement destiné à des emplois pharmaceutiques sera autorisée

par permis spécial délivré par le Makhzen, sur la demande de la Légation dont relève le pharmacien ou médecin importeur. Le Gouvernement chérifien et le Corps Diplomatique régleront, d'un commun accord, la quantité maxima à introduire.

73. Les Représentants des Puissances prennent acte de l'intention du Gouvernement chérifien d'étendre aux tabacs de toutes sortes le monopole existant en ce qui concerne le tabac à priser. Ils réservent le droit de leurs ressortissants à être dûment indemnisés des préjudices que le dit monopole pourrait occasionner à ceux d'entre eux qui auraient des industries créées sous le régime actuel concernant le tabac. A défaut d'entente amiable, l'indemnité sera fixée par des experts désignés par le Makhzen et par le Corps Diplomatique, en se conformant aux dispositions arrêtées en matière d'expropriation pour cause d'utilité publique.

74. Le principe de l'adjudication, sans acception de nationalité, sera appliqué aux fermes concernant le monopole de l'opium et du kif. Il en serait de même pour le monopole du tabac, s'il était établi.

75. Au cas où il y aurait lieu de modifier quelque'une des dispositions de la présente déclaration, une entente devra s'établir à ce sujet entre le Makhzen et le Corps Diplomatique à Tanger.

76. Dans tous les cas prévus par la présente déclaration, où le Corps Diplomatique sera appelé à intervenir, sauf en ce qui concerne les Articles 64, 70, et 75, les décisions seront prises à la majorité des voix.

CHAPITRE V. RÉGLEMENT SUR LES DOUANES DE L'EMPIRE ET LA RÉPRESSION DE LA FRAUDE ET DE LA CONTREBANDE.

77. Tout capitaine de navire de commerce, venant de l'étranger ou du Maroc, devra, dans les vingt-quatre heures de son admission en libre pratique dans un des ports de l'Empire, déposer au bureau de douane une copie exacte de son manifeste, signée par lui et certifiée conforme par le consignataire du navire. Il devra, en outre, s'il en est requis, donner communication aux agents de la douane de l'original de son manifeste.

La douane aura la faculté d'installer à bord un ou plusieurs gardiens pour prévenir tout trafic illégal.

78. Sont exempts du dépôt du manifeste:

- 1° Les bâtiments de guerre ou affrétés pour le compte d'une Puissance;
- 2° Les canots appartenant à des particuliers, qui s'en servent pour leur usage, en s'abstenant de tout transport de marchandises;
- 3° Les bateaux ou embarcations employés à la pêche en vue des côtes;
- 4° Les yachts uniquement employés à la navigation de plaisance et

enregistrés au port d'attache dans cette catégorie;

5° Les navires chargés spécialement de la pose et de la réparation des câbles télégraphiques;

6° Les bateaux uniquement affectés au sauvetage;

7° Les bâtiments hospitaliers;

8° Les navires-écoles de la marine marchande, ne se livrant pas à des opérations commerciales.

79. Le manifeste, déposé à la douane, devra annoncer la nature et la provenance de la cargaison avec les marques et numéros des caisses, balles, ballots, barriques, &c.

80. Quand il y aura des indices sérieux faisant soupçonner l'inexactitude du manifeste, ou quand le capitane du navire refusera de se prêter à la visite et aux vérifications des agents de la douane, le cas sera signalé à l'autorité consulaire compétente afin que celle-ci procède avec un délégué de la douane chérifienne, aux enquêtes, visites et vérifications qu'elle jugera nécessaires.

81. Si, à l'expiration du délai de vingt-quatre heures indiqué à l'Article 77, le capitaine n'a pas déposé son manifeste, il sera passible, à moins que le retard ne provienne d'un cas de force majeure, d'une amende de cent cinquante pesetas par jour de retard, sans toutefois que cette amende puisse dépasser six cents pesetas. Si le capitaine a présenté frauduleusement un manifeste inexact ou incomplet, il sera personnellement condamné au paiement d'une somme égale à la valeur des marchandises pour lesquelles il n'a pas produit de manifeste, et à une amende de cinq cents à mille pesetas, et le bâtiment et les marchandises pourront en outre être saisis par l'autorité consulaire compétente pour la sûreté de l'amende.

82. Toute personne, au moment de dédouaner les marchandises importées ou destinées à l'exportation, doit faire à la douane une déclaration détaillée, énonçant l'espèce, la qualité, le poids, le nombre, la mesure et la valeur des marchandises, ainsi que l'espèce, les marques et les numéros des colis qui les contiennent.

83. Dans le cas où, lors de la visite, on trouvera moins de colis ou de marchandises qu'il n'en a été déclaré, le déclarant, à moins qu'il ne puisse justifier de sa bonne foi, devra payer double droit pour les marchandises manquant, et les marchandises présentées seront retenues en douane pour la sûreté de ce double droit; si, au contraire, on trouve à la visite un excédent quant au nombre des colis, à la quantité ou au poids des marchandises, cet excédent sera saisi et confisqué au profit du Makhzen à moins que le déclarant ne puisse justifier de sa bonne foi.

84. Si la déclaration a été reconnue inexacte quant à l'espèce ou à la qualité et si le déclarant ne peut justifier de sa bonne foi, les marchandises inexactement déclarées seront saisies et confisquées au profit du Makhzen par l'autorité compétente.

85. Dans le cas où la déclaration serait reconnue inexacte quant à la valeur déclarée et si le déclarant ne peut justifier de sa bonne foi, la douane pourra, soit prélever le droit en nature séance tenante, soit, au cas où la marchandise est indivisible, acquérir la dite marchandise, en payant immédiatement au déclarant la valeur déclarée, augmentée de cinq pour cent.

86. Si la déclaration est reconnue fautive quant à la nature des marchandises, celles-ci seront considérées comme n'ayant pas été déclarées et l'infraction tombera sous l'application des Articles 88 et 90 ci-après et sera punie des peines prévues aux dits Articles.

87. Toute tentative ou tout flagrant délit d'introduction, toute tentative ou tout flagrant délit d'exportation en contrebande de marchandises soumises au droit, soit par mer, soit par terre, seront passibles de la confiscation des marchandises, sans préjudice des peines et amendes ci-dessous qui seront prononcées par la juridiction compétente.

Seront en outre saisis et confisqués les moyens de transport par terre dans le cas où la contrebande constituera la partie principale du chargement.

88. Toute tentative ou tout flagrant délit d'introduction, toute tentative ou tout flagrant délit d'exportation en contrebande par un port ouvert au commerce ou par un bureau de douane, seront punis d'une amende ne dépassant pas le triple de la valeur des marchandises, objet de la fraude, et d'un emprisonnement de cinq jours à six mois, ou de l'une des deux peines seulement.

89. Toute tentative ou tout flagrant délit d'introduction, toute tentative ou tout flagrant délit d'exportation, en dehors d'un port ouvert au commerce ou d'un bureau de douane, seront punis d'une amende de trois cents à cinq cents pesetas et d'une amende supplémentaire égale à trois fois la valeur de la marchandise ou d'un emprisonnement d'un mois à un an.

90. Les complices des délits prévus aux Articles 88 et 89 seront passibles des mêmes peines que les auteurs principaux. Les éléments caractérisant la complicité seront appréciés d'après la législation du tribunal saisi.

91. En cas de tentative ou flagrant délit d'importation, de tentative ou flagrant délit d'exportation de marchandises par un navire en dehors d'un port ouvert au commerce, la douane marocaine pourra

amener le navire au port le plus proche pour être remis à l'autorité consulaire, laquelle pourra le saisir et maintenir la saisie jusqu'à ce qu'il ait acquitté le montant des condamnations prononcées.

La saisie du navire devra être levée, en tout état de l'instance, en tant que cette mesure n'entravera pas l'instruction judiciaire, sur consignation du montant maximum de l'amende entre les mains de l'autorité consulaire ou sous caution solvable de la payer acceptée par la douane.

92. Les dispositions des Articles précédents seront applicables à la navigation de cabotage.

93. Les marchandises, non soumises aux droits d'exportation, embarquées dans un port marocain pour être transportées par mer dans un autre port de l'Empire, devront être accompagnées d'un certificat de sortie délivré par la douane, sous peine d'être assujetties au paiement du droit d'importation et même confisquées si elles ne figuraient pas au manifeste.

94. Le transport par cabotage des produits soumis aux droits d'exportation ne pourra s'effectuer qu'en consignat au bureau de départ, contre quittance, le montant des droits d'exportation relatifs à ces marchandises.

Cette consignation sera remboursée au déposant par le bureau où elle a été effectuée, sur production d'une déclaration revêtue par la douane de la mention d'arrivée de la marchandise et de la quittance constatant le dépôt des droits. Les pièces justificatives de l'arrivée de la marchandise devront être produites dans les trois mois de l'expédition. Passé ce délai, à moins que le retard ne provienne d'un cas de force majeure, la somme consignée deviendra la propriété du Makhzen.

95. Les droits d'entrée et de sortie seront payés au comptant au bureau de douane où la liquidation aura été effectuée. Les droits ad valorem seront liquidés suivant la valeur au comptant et en gros de la marchandise rendue au bureau de douane, et franche de droits de douane et de magasinage. En cas d'avaries, il sera tenu compte, dans l'estimation, de la dépréciation subie par la marchandise. Les marchandises ne pourront être retirées qu'après le paiement des droits de douane et de magasinage.

Toute prise en charge ou perception devra faire l'objet d'un récépissé régulier, délivré par l'agent chargé de l'opération.

96. La valeur des principales marchandises taxées par les Douanes marocaines sera déterminée chaque année, dans les conditions spécifiées à l'article précédent, par une Commission des valeurs douanières,

réunie à Tanger et composée de:

- 1^o Trois membres désignés par le Gouvernement marocain.
- 2^o Trois membres désignés par le Corps Diplomatique à Tanger.
- 3^o Un délégué de la Banque d'État.
- 4^o Un agent de la Délégation de l'Emprunt marocain 5%, 1904.

La Commission nommera douze à vingt membres honoraires domiciliés au Maroc, qu'elle consultera quand il s'agira de fixer les valeurs et toutes les fois qu'elle le jugera utile. Ces membres honoraires seront choisis sur les listes des notables, établies par chaque Légation pour les étrangers et par le Représentant du Sultan pour les marocains. Ils seront désignés, autant que possible, proportionnellement à l'importance du commerce de chaque nation.

La Commission sera nommée pour trois années.

Le tarif des valeurs fixées par elle servira de base aux estimations qui seront faites dans chaque bureau par l'administration des douanes marocaines. Il sera affiché dans les bureaux de douane et dans les chancelleries des Légations ou des Consulats à Tanger.

Le tarif sera susceptible d'être révisé au bout de six mois, si des modifications notables sont survenues dans la valeur de certaines marchandises.

97. Un Comité permanent, dit "comité des douanes," est institué à Tanger et nommé pour trois années. Il sera composé d'un Commissaire spécial de Sa Majesté Chérifienne, d'un membre du Corps Diplomatique ou Consulaire désigné par le Corps Diplomatique à Tanger, et d'un délégué de la Banque d'État. Il pourra s'adjoindre, à titre consultatif, un ou plusieurs représentants du service des Douanes.

Ce Comité exercera sa haute surveillance sur le fonctionnement des Douanes et pourra proposer à Sa Majesté Chérifienne les mesures qui seraient propres à apporter des améliorations dans le service et à assurer la régularité et le contrôle des opérations et perceptions (débarquements, embarquements, transport à terre, manipulations, entrées et sorties des marchandises, magasinage, estimation, liquidation et perception des taxes). Par la création du "Comité des douanes," il ne sera porté aucune atteinte aux droits stipulés en faveur des porteurs de titres par les Articles 15 et 16 du Contrat d'emprunt du 12 juin 1904.

Des instructions, élaborées par le Comité des douanes et les services intéressés, détermineront les détails de l'application de l'Article 96 et du présent Article. Elles seront soumises à l'avis du Corps Diplomatique.

98. Dans les douanes où il existe des magasins suffisants, le service de la douane prend en charge les marchandises débarquées à partir du moment où elles sont remises, contre récépissé, par le

capitaine du bateau aux agents préposés à l'acconage jusqu'au moment où elles sont régulièrement dédouanées. Il est responsable des dommages causés par les pertes ou avaries de marchandise qui sont imputables à la faute ou à la négligence de ses agents. Il n'est pas responsable des avaries résultant soit du dépérissement naturel de la marchandise, soit de son trop long séjour en magasin, soit des cas de force majeure.

Dans les douanes où il n'y a pas de magasins suffisants, les agents du Makhzen sont seulement tenus d'employer les moyens de préservation dont dispose le bureau de la douane.

Une révision du Règlement de magasinage, actuellement en vigueur, sera effectuée par les soins du Corps Diplomatique statuant à la majorité, de concert avec le Gouvernement chérifien.

99. Les marchandises et les moyens de transport à terre confisqués seront vendus par les soins de la douane, dans un délai de huit jours à partir du jugement définitif rendu par le tribunal compétent.

100. Le produit net de la vente des marchandises et objets confisqués est acquis définitivement à l'État; celui des amendes pécuniaires, ainsi que le montant des transactions, seront, après déduction des frais de toute nature, répartis entre le Trésor chérifien et ceux qui auront participé à la répression de la fraude ou de la contrebande.

Un tiers à répartir par la douane entre les indicateurs,

Un tiers aux agents ayant saisi la marchandise,

Un tiers au Trésor marocain.

Si la saisie a été opérée sans l'intervention d'un indicateur, la moitié des amendes sera attribuée aux agents saisissants et l'autre moitié au Trésor marocain.

101. Les autorités douanières marocaines devront signaler directement aux agents diplomatiques ou consulaires les infractions au présent règlement commises par leurs ressortissants, afin que ceux-ci soient poursuivis devant la juridiction compétente.

Les mêmes infractions, commises par des sujets marocains, seront déférées directement par la douane à l'autorité chérifienne.

Un délégué de la douane sera chargé de suivre la procédure des affaires pendantes devant les diverses juridictions.

102. Toute confiscation, amende, ou pénalité devra être prononcée pour les étrangers par la juridiction consulaire et pour les sujets marocains par la juridiction chérifienne.

103. Dans la région frontière de l'Algérie, l'application du présent règlement restera l'affaire exclusive de la France et du Maroc.

De même l'application de ce règlement dans le Riff, et, en général, dans les régions frontières des Possessions espagnoles restera l'affaire exclusive de l'Espagne et du Maroc.

104. Les dispositions du présent règlement, autres que celles qui s'appliquent aux pénalités, pourront être révisées par le Corps Diplomatique à Tanger, statuant à l'unanimité des voix, et d'accord avec le Makhzen, à l'expiration d'un délai de deux ans à dater de sone entrée en vigueur.

CHAPITRE VI. DÉCLARATION RELATIVE AUX SERVICES PUBLICS ET AUX TRAVAUX PUBLICS.

105. En vue d'assurer l'application du principe de la liberté économique sans aucune inégalité, les Puissances signataires déclarent qu'aucun des services publics de l'Empire Chérifien ne pourra être aliéné au profit d'intérêts particuliers.

106. Dans le cas où le Gouvernement chérifien croirait devoir faire appel aux capitaux étrangers ou à l'industrie étrangère pour l'exploitation de services publics ou pour l'exécution de travaux publics, routes, chemins de fer, ports, télégraphes et autres, les Puissances signataires se réservent de veiller à ce que l'autorité de l'État sur ces grandes entreprises d'intérêt général demeure entière.

107. La validité des concessions qui seraient faites aux termes de l'Article 106 ainsi que pour les fournitures d'État sera subordonnée, dans tout l'Empire chérifien, au principe de l'adjudication publique, sans acception de nationalité, pour toutes les matières qui, conformément aux règles suivies dans les législations étrangères, en comportent l'application.

108. Le Gouvernement chérifien, dès qu'il aura décidé de procéder par voie d'adjudication à l'exécution des travaux publics, en fera part au Corps Diplomatique; il lui communiquera, par la suite, les cahiers des charges, plans, et tous les documents annexés au projet d'adjudication, de manière que les nationaux de toutes les Puissances signataires puissent se rendre compte des travaux projetés et être à même d'y concourir. Un délai suffisant sera fixé à cet effet par l'avis d'adjudication.

109. Le cahier des charges ne devra contenir, ni directement ni indirectement, aucune condition ou disposition qui puisse porter

atteinte à la libre concurrence et mettre en état d'infériorité les concurrents d'une nationalité vis-à-vis des concurrents d'une autre nationalité.

110. Les adjudications seront passées dans les formes et suivant les conditions générales prescrites par un règlement que le Gouvernement chérifien arrêtera avec l'assistance du Corps Diplomatique.

L'adjudication sera prononcée par le Gouvernement chérifien en faveur du soumissionnaire qui, en se conformant aux prescriptions du cahier des charges, présentera l'offre remplissant les conditions générales les plus avantageuses.

111. Les règles des Articles 106 à 110 seront appliquées aux concessions d'exploitation de forêts de chênes-lièges, conformément aux dispositions en usage dans les législations étrangères.

112. Un firman chérifien déterminera les conditions de concession et d'exploitation des mines, minières et carrières. Dans l'élaboration de ce firman, le Gouvernement chérifien s'inspirera des législations étrangères existant sur la matière.

113. Si, dans les cas mentionnés aux Articles 106 à 112, il était nécessaire d'occuper certains immeubles, il pourra être procédé à leur expropriation moyennant le versement préalable d'une juste indemnité et conformément aux règles suivantes.

114. L'expropriation ne pourra avoir lieu que pour cause d'utilité publique et qu'autant que la nécessité en aura été constatée par une enquête administrative dont un règlement chérifien, élaboré avec l'assistance du Corps Diplomatique, fixera les formalités.

115. Si les propriétaires d'immeubles sont sujets marocains, Sa Majesté Chérifienne prendra les mesures nécessaires pour qu'aucun obstacles ne soit apporté à l'exécution des travaux qu'Elle aura déclarés d'utilité publique.

116. S'il s'agit de propriétaires étrangers, il sera procédé à l'expropriation de la manière suivante:

En cas de désaccord entre l'administration compétente et le propriétaire de l'immeuble à exproprier, l'indemnité sera fixée par un jury spécial, ou, s'il y a lieu, par arbitrage.

117. Ce jury sera composé de six experts estimateurs, choisis trois par le propriétaire, trois par l'administration qui poursuivra l'expropriation. L'avis de la majorité absolue prévaudra.

S'il ne peut se former de majorité, le propriétaire et l'administration nommeront chacun un arbitre et ces deux arbitres désigneront le tiers arbitre.

A défaut d'entente pour la désignation du tiers arbitre, ce dernier sera nommé par le Corps Diplomatique à Tanger.

118. Les arbitres devront être choisis sur une liste établie au début de l'année par le Corps Diplomatique et, autant que possible, parmi les experts ne résidant pas dans la localité où s'exécute le travail.

119. Le propriétaire pourra faire appel de la décision rendue par les arbitres, devant la juridiction compétente, et conformément aux règles fixées en matière d'arbitrage par la légation à laquelle il ressortit.

CHAPITRE VII. DISPOSITIONS GÉNÉRALES.

120. En vue de mettre, s'il y a lieu, sa législation en harmonie avec les engagements contractés par le présent Acte Général, chacune des Puissances signataires s'oblige à provoquer, en ce qui la concerne, l'adoption des mesures législatives qui seraient nécessaires.

121. Le présent Acte Général sera ratifié suivant les lois constitutionnelles particulières à chaque État; les ratifications seront déposées à Madrid le plus tôt que faire se pourra, et au plus tard le 31 décembre 1906.

Il sera dressé du dépôt un procès-verbal dont une copie certifiée conforme sera remise aux Puissances signataires par la voie diplomatique.

122. Le présent Acte Général entrera en vigueur le jour où toutes les ratifications auront été déposées, et au plus tard le 31 décembre 1906.

Au cas où les mesures législatives spéciales qui dans certains pays seraient nécessaires pour assurer l'application à leurs nationaux résidant au Maroc de quelques-unes des stipulations du présent Acte Général, n'auraient pas été adoptées avant la date fixée pour la ratification, ces stipulations ne deviendraient applicables, en ce qui les concerne, qu'après que les mesures législatives ci-dessus visées auraient été promulguées.

123 et dernier. Tous les traités, conventions et arrangements des Puissances signataires avec le Maroc restent en vigueur. Toutefois, il est entendu qu'en cas de conflit entre leurs dispositions et celles du présent Acte Général, les stipulations de ce dernier prévaudront.

En foi de quoi, les Délégués Plenipotentiaires ont signé le présent Acte Général et y ont apposé leur cachet.

Fait à Algéiras le septième jour d'avril, mille neuf cent six,

en un seul exemplaire qui restera déposé dans les archives du Gouvernement de Sa Majesté Catholique et dont des copies, certifiées conformes, seront remises, par la voie diplomatique, aux Puissances signataires.

Pour la Grande-Bretagne:
A. NICOLSON

Pour l'Allemagne:
RADOWITZ
TATTENBACH

Pour l'Autriche-Hongrie:
WELSERSHEIMB
BOLESTA-KOZIEBRODZKI

Pour la Belgique:
JOOSTENS
COMTE CONRAD DE BUISSERET

Pour l'Espagne:
EL DUQUE DE ALMODÓVAR DEL RÍO
J. PÉREZ-CABALLERO

Pour les États-Unis d'Amérique
(Sous réserve de la déclaration faite en séance plénière de la Conférence le 7 avril 1906):
HENRY WHITE
SAMUEL R. GUMMERÉ

Pour la France:
RÉVOIL
REGNAULT

Pour l'Italie:
VISCONTI VENOSTA
G. MALMUSI

Pour le Maroc (See Additional Protocol.)

Pour les Pays-Bas:
H. TESTA

Pour le Portugal:
CONDE DE TOVAR
CONDE DE MARTENS FERRAO

Pour la Russie:
CASSINI
BASILE BACHERACHT

Pour la Suède:
ROBERT SAGER

PROTOCOLE ADDITIONNEL. LE 7 AVRIL 1906.

Au moment de procéder à la signature de l'Acte Général de la Conférence d'Algéciras, les Délégués de la Grande-Bretagne, d'Allemagne, d'Autriche-Hongrie, de Belgique, d'Espagne, des États-Unis d'Amérique, de France, d'Italie, des Pays-Bas, de Portugal, de Russie et de Suède,

Tenant compte de ce que les Délégués du Maroc ont déclaré ne pas être en mesure pour le moment, d'y apposer leur signature, l'éloignement ne leur permettant pas d'obtenir à bref délai la réponse de Sa Majesté Chérifienne concernant les points au sujet desquels ils ont cru devoir lui en référer,

S'engagent réciproquement, en vertu de leurs mêmes pleins pouvoirs, à unir leurs efforts, en vue de la ratification intégrale par Sa Majesté Chérifienne du dit Acte Général et en vue de la mise en vigueur simultanée des réformes qui y sont prévues et qui sont solidaires les unes des autres.

Ils conviennent, en conséquence, de charger Son Excellence M. Malmusi, Ministre d'Italie au Maroc et Doyen du Corps Diplomatique à Tanger, de faire les démarches nécessaires à cet effet, en appelant l'attention de Sa Majesté le Sultan sur les grands avantages qui résulteront pour Son Empire des stipulations adoptées à la Conférence par l'unanimité des Puissances signataires.

L'adhésion donnée par Sa Majesté Chérifienne à l'Acte Général de la Conférence d'Algéciras devra être communiquée, par l'intermédiaire du Gouvernement de Sa Majesté Catholique, aux Gouvernements des autres Puissances signataires. Cette adhésion aura la même force que si les Délégués du Maroc eussent apposé leur signature sur l'Acte Général et tiendra lieu de ratification par Sa Majesté Chérifienne.

En foi de quoi, les Délégués de la Grande-Bretagne, d'Allemagne, d'Autriche-Hongrie, de Belgique, d'Espagne, des États-Unis d'Amérique, de France, d'Italie, des Pays-Bas, de Portugal, de Russie et de Suède ont signé le présent Protocole additionnel et y ont apposé leur cachet.

Fait à Algéciras, le septième jour d'avril, mille neuf cent six, en un seul exemplaire qui restera déposé dans les archives du Gouvernement de Sa Majesté Catholique et dont des copies, certifiées conformes, seront remises, par la voie diplomatique, aux Puissances signataires.

(Signatures again followed, as well as additional documents.)

APPENDIX XV

FRANCO-GERMAN DECLARATION CONCERNING MOROCCO.

Berlin, le 9 février 1909.

Le Gouvernement de la République Française et le Gouvernement Impérial Allemand, animés d'un égal désir de faciliter l'exécution de l'Acte d'Algésiras, sont convenus de préciser la portée qu'ils attachent à ses clauses en vue d'éviter toute cause de malentendu entre eux dans l'avenir.

En conséquence,

Le Gouvernement de la République Française, entièrement attaché au maintien de l'intégrité et de l'indépendance de l'Empire Chérifien, résolu à y sauvegarder l'égalité économique et, par suite, à ne pas y entraver les intérêts commerciaux et industriels Allemands --,

et le Gouvernement Impérial Allemand, ne poursuivant que des intérêts économiques au Maroc, reconnaissant d'autre part, que les intérêts politiques particuliers de la France y sont étroitement liés à la consolidation de l'ordre et de la paix intérieure et décidé à ne pas entraver ces intérêts --,

déclarent qu'ils ne poursuivent et n'encouragent aucune mesure de nature à créer en leur faveur ou en faveur d'une Puissance quelconque en privilège économique, et qu'ils chercheront à associer leurs nationaux dans les affaires dont ceux-ci pourront obtenir l'entreprise.

JULES CAMBON

KIDERLEN-WAECHTER

APPENDIX XVI

CONVENTION BETWEEN FRANCE AND GERMANY CONCERNING THEIR POSSESSIONS IN EQUATORIAL AFRICA, 4 NOVEMBER 1911.

Le Gouvernement de Sa Majesté l'Empereur d'Allemagne et le Gouvernement de la République française comme suite et complément de la Convention du 4 novembre, 1911, relative au Maroc, et en raison des droits de protection reconnus à la France sur l'Empire shérifien, sont convenus de procéder à des échanges territoriaux dans leurs possessions de l'Afrique équatoriale et ont résolu de conclure une Convention à cet effet.

En conséquence,

M. de Kiderlen-Waechter, Secrétaire d'État des Affaires Étrangères de l'Empire d'Allemagne; et

M. Jules Cambon, Ambassadeur extraordinaire et Plénipotentiaire de la République française auprès de sa Majesté l'Empereur d'Allemagne;

Après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions ci-après:

ART. I. La France cède à l'Allemagne les territoires dont la limite est fixée comme il suit: La frontière partira du côté de l'Atlantique d'un point à fixer sur la rive orientale de la baie de Monda, vers l'embouchure de la Massolié. Se dirigeant vers le nord-est, la frontière obliquera vers l'angle sud-est de la Guinée espagnole. Elle coupera la rivière Ivondo à son confluent avec la Djoua, suivra cette rivière jusqu'à Madjingo (qui restera français) et de ce point se dirigera vers l'est, pour aboutir au confluent de la Ngoko et de la Sangha au nord d'Ouesso.

La frontière partira ensuite de la rivière Sangha à un point situé au sud du centre d'Ouesso (qui reste français) à une distance de 6 kilom. au moins et de 12 kilom. au plus de cette localité, suivant la disposition géographique des lieux. Elle obliquera vers le sud-ouest, pour rejoindre la vallée de la Kandéko, jusqu'à son confluent avec la Bokiba. Elle descendra celle-ci et la Likouala jusqu'à la rive droite du fleuve Congo. Elle suivra le fleuve Congo jusqu'à l'embouchure de la Sangha, et de façon à occuper sur la rive du Congo une étendue de 6 à 12 kilom., qui sera fixée suivant les conditions géographiques. Elle remontera la Sangha jusqu'à la Likouala-aux-herbes, qu'elle suivra ensuite jusqu'à Botungo. Elle continuera ensuite du sud au nord, selon une direction à peu près droite, jusqu'à Béra Ngoko. Elle s'infléchira ensuite dans la direction du confluent de la Bodingué et de la Lobaye et descendra le cours de la Lobaye jusqu'à l'Oubanghi au nord de Mongoumba.

Sur la rive droite de l'Oubanghi et suivant la disposition géographique des lieux, le territoire allemand sera déterminé de façon à s'étendre sur un espace de 6 kilom. au moins et de 12 kilom. au plus; la frontière remontera ensuite obliquement vers le nord-ouest; de façon à gagner la rivière Pama en un point à déterminer à l'ouest de son confluent avec le Mbi, remontera la vallée de la Pama, puis rejoindra le Logone oriental, à peu près à l'endroit où cette rivière rencontre le huitième parallèle à la hauteur de Goré. Elle suivra ensuite le cours du Logone vers le nord jusqu'à son confluent avec le Chari.

II. L'Allemagne cède à la France les territoires situés au nord de la limite actuelle des possessions françaises dans les territoires du Tchad et compris entre le Chari à l'est et la Logone à l'ouest.

III. Dans le délai de six mois à compter de l'échange des ratifications de la présente Convention, une commission technique dont les membres seront nommés en nombre égal par les deux Gouvernements français et allemand déterminera le tracé de la frontière dont l'indication générale résulte du texte des articles I et II.

Dans le délai de dix-huit mois à compter de la signature du procès-verbal des travaux de la commission technique, il sera procédé d'un commun accord, le plus rapidement possible, à l'abornement des frontières conformément audit procès-verbal, ainsi qu'à la désignation et à l'abornement des terrains loués à bail au Gouvernement français, comme il est dit à l'article VIII ci-après.

IV. La commission technique et les agents chargés de l'abornement dont il est parlé dans l'article précédent, pourront tenir compte d'un commun accord de la configuration du terrain et des circonstances locales, telles que, par exemple, la facilité de la surveillance de la frontière ou la communauté de race de la population. Ils devront autant que possible faire suivre à la frontière les limites naturelles indiquées par les cours d'eau, et dans le cas où la frontière couperait la direction des rivières, lui faire suivre la ligne du partage des eaux.

Les procès-verbaux de la commission technique et ceux des agents d'abornement ne seront définitifs qu'après ratification des deux Gouvernements.

V. Les présents échanges de territoires sont faits dans les conditions où ces territoires se comportent au moment de la conclusion du présent accord, c'est-à-dire à charge pour les deux Gouvernements de respecter les concessions publiques et particulières qui ont pu être consenties par chacun d'eux. Les deux Gouvernements se communiqueront le texte des actes par lesquels ces concessions ont été accordées.

Le Gouvernement allemand est substitué au Gouvernement de la République française dans tous les avantages, droits et obligations résultant des actes dont il est parlé ci-dessus au regard des sociétés concessionnaires qui passeront sous la souveraineté l'autorité et la juridiction de l'État allemand. Une Convention spéciale réglera l'application des dispositions ci-dessus.

Il en sera de même pour l'État français au regard des concessions qui seraient situées dans les territoires qui passeront sous sa souveraineté, son autorité et sa juridiction.

VI. Le Gouvernement allemand n'apportera aucun obstacles à l'exploitation, à l'entretien et aux travaux de réparation et de réfection de la ligne télégraphique française existant actuellement le long de l'Oubanghi et qui restera française sur son parcours au travers du territoire allemand. Les autorités allemandes pourront transmettre leurs communications par cette ligne dans des conditions qui seront réglées ultérieurement.

VII. Si le Gouvernement français désire continuer au travers du territoire allemand un chemin de fer entre le Gabon et le Moyen-Congo et entre cette dernière colonie et l'Oubanghi-Chari le Gouvernement allemand n'y mettra pas obstacle. Les études ainsi que les travaux se poursuivront suivant les arrangements qui seront faits, le moment venu, entre les deux Gouvernements, le Gouvernement allemand se réservant de faire connaître s'il voudrait prendre une part dans l'exécution de ces travaux sur son territoire.

Si le Gouvernement allemand désire continuer sur le territoire français un chemin de fer établi au Cameroun, le Gouvernement français n'y mettra pas obstacle. Les études ainsi que les travaux se poursuivront suivant les arrangements qui seront faits le moment venu entre les deux Gouvernements, le Gouvernement français se réservant de faire connaître s'il voudrait prendre une part dans l'exécution de ces travaux sur son territoire.

VIII. Le Gouvernement Impérial cédera à bail au Gouvernement français, dans des conditions à déterminer dans un acte spécial et en bordure sur le Bénoué, le Mayo Kébi et en deçà dans la direction du Logone, des terrains à choisir en vue de l'établissement de postes de ravitaillement et de magasins destinés à constituer une route d'étapes.

Chacun de ces terrains, dont la longueur sur le fleuve aux hautes eaux devra être au plus de 500 mètres, aura une superficie qui ne pourra pas dépasser 50 hectares. L'emplacement de ces terrains sera fixé suivant la disposition des lieux.

Si dans l'avenir le Gouvernement français voulait établir entre la Bénoué et le Logone au-dessus ou au-dessous du Mayo Kébi une route ou une voie ferrée, le Gouvernement Impérial n'y ferait pas obstacles. Le Gouvernement allemand et le Gouvernement français s'entendrait sur les conditions dans lesquelles ce travail pourrait être accompli.

IX. L'Allemagne et la France, désirant affirmer leurs bons rapports dans leurs possessions de l'Afrique centrale, s'engagent à n'élever aucun ouvrage fortifié le long des cours d'eau qui doivent servir à la navigation commune. Cette prescription ne s'appliquera pas aux ouvrages de simple sûreté destinés à abriter les postes contre les incursions des indigènes.

X. Les Gouvernements allemand et français s'entendront pour les travaux à exécuter en vue de faciliter la circulation des bateaux et embarcations sur les cours d'eau dont la navigation leur sera commune.

XI. En cas d'arrêt de la navigation sur le Congo ou l'Oubanghi la liberté de passage sera assurée à l'Allemagne et à la France sur les territoires appartenant à l'autre nation aux points où ceux-ci toucheront ces fleuves.

XII. Les deux Gouvernements d'Allemagne et de France renouvellent les déclarations contenues dans le Acte de Berlin du 26 février, 1885 et assurant la liberté commerciale et la liberté de navigation sur le Congo et les affluents de ces fleuves ainsi que sur ceux du Niger. En conséquence les marchandises allemandes transitant au travers du territoire français situé à l'ouest de l'Oubanghi et les marchandises françaises transitant à travers les territoires cédés à l'Allemagne ou suivant les routes indiquées à l'article VIII, seront affranchies de tout droit.

Un accord conclu entre les deux Gouvernements déterminera les conditions de ce transit et les points de pénétration.

XIII. Le Gouvernement allemand n'apportera aucune entrave au passage des troupes françaises, de leurs armes ou munitions, ainsi que de leur matériel de ravitaillement par le Congo, l'Oubanghi, la Bénoué, le Mayo Kébi, ainsi que par le chemin de fer à construire éventuellement dans le nord du Cameroun.

Le Gouvernement français n'apportera aucune entrave au passage des troupes allemandes, de leurs armes et munitions, ainsi que de leur matériel de ravitaillement par le Congo, l'Oubanghi, la Bénoué, le Mayo Kébi, et le chemin de fer à construire éventuellement de la côte à Brazzaville.

Dans l'un et l'autre cas, les troupes, si elles sont purement indigènes, devront toujours être accompagnées par un gradé européen, et le Gouvernement sur le territoire duquel les troupes passeront prendra toutes les mesures nécessaires pour éviter qu'aucune difficulté soit opposée à leur passage et pourra au besoin déléguer un agent pour les accompagner. Les autorités locales régleront les conditions dans lesquelles les passages de troupes se feront.

XIV. L'égalité de traitement pour le transport des personnes ou des marchandises sera assuré aux ressortissants des deux nations sur les chemins de fer de leurs possessions du Congo et du Cameroun.

XV. Le Gouvernement allemand et le Gouvernement français cesseront à partir du jour de la cession réciproque des territoires concédés à l'Allemagne par la France et à la France par l'Allemagne, d'exercer aucune sorte de protection et d'autorité sur les indigènes des territoires respectivement cédés par eux.

XVI. Dans le cas où le statut territorial du bassin conventionnel du Congo tel qu'il est défini par l'Acte de Berlin du 26 février, 1885, viendrait à être modifié du fait de l'une ou de l'autre des parties contractantes, celles-ci devraient en conférer entre elles, comme aussi avec les autres Puissances signataires dudit Acte de Berlin.

XVII. La présente Convention sera ratifiée, et les ratifications seront échangées, à Paris, aussitôt que faire se pourra.

Fait à Berlin, le 4 novembre, 1911, en double exemplaire.

KIDERLEN.

JULES GAMBON.

APPENDIX XVII

FRANCO-MOROCCAN PROTOCOL, 20 JULY 1901.

Le Gouvernement français et le Gouvernement chérifien se sont mis d'accord sur les stipulations suivantes dans le but de consolider les liens d'amitié existant entre eux et de développer leurs bons rapports réciproques, en prenant pour base le respect et l'intégrité de l'Empire chérifien, d'une part, et, d'autre part, l'amélioration de la situation de voisinage immédiate qui existe entre eux, par tous les arrangements particuliers que nécessitera ledit voisinage.

ARTICLE PREMIER. Les dispositions du traité de paix, de bonne amitié et de délimitation conclu entre les deux Puissances en 1845 sont maintenues, à l'exception des points visés dans les articles suivants:

ART. 2. Le Maghzen pourra établir des postes de garde et de douane en maçonnerie ou sous une autre forme à l'extrémité des territoires des tribus qui font partie de son Empire, depuis le lieu connu sous le nom de Teniet Essassi jusqu'au qçar de Isch et au territoire de Figuig.

ART. 3. Les gens des qçar de Figuig et de la tribu des Aman Sabra continueront à user comme par le passé de leurs plantations, eaux, champs, cultures, pâturages, et s'ils en possèdent au delà de la ligne du chemin de fer du côté de l'Est, ils pourront en user entièrement, comme par le passé, sans qu'il puisse leur être suscité d'obstacle ou d'empêchement.

ART. 4. Le Gouvernement marocain pourra établir autant de postes de douane qu'il voudra, du côté de l'Empire marocain, au delà de la ligne qui est considérée approximativement comme la ligne de parcours des Doui-Menia et des Ouled-Djerir et qui va de l'extrémité du territoire de Figuig à Sidi-Eddaher, traverse l'oued Elkheraia et atteint, par le lieu connu sous le nom d'Elmara, le confluent de l'oued Felzaza et de l'oued Guir. Il pourra également établir des postes de garde et de douane sur la rive occidentale de l'oued Guir, du confluent des deux rivières susdites jusqu'à 15 kilomètres au-dessus du qçar d'Igli.

De même, le Gouvernement français pourra établir des postes de garde et de douane sur la ligne voisine des Djenan-Eddar, passant sur le versant oriental du Djebel Bechar et suivant cette direction jusqu'à l'oued Guir.

ART. 5. La situation des habitants du territoire compris entre les lignes de postes des deux pays indiquées ci-dessus est réglée de la façon suivante:

Pour ce qui concerne les gens des tribus Doui-Menia et des Ouled-Djerir, les deux Gouvernements nommeront des commissions qui se rendront auprès d'elles et leur laisseront le choix de celui des deux Gouvernements sous l'autorité duquel ils seront placés. Ceux qui choisiront l'autorité marocaine seront transportés de ce territoire à l'endroit que le Gouvernement marocain leur assignera dans son Empire et auront la faculté de conserver leurs propriétés et de les faire administrer par des mandataires ou de les vendre à qui ils voudront.

Les gens fixés sur le territoire susdit et vivant sous la tente autres que les Doui-Menia et les Ouled-Djerir demeureront sous l'autorité de l'Empire marocain et pourront y conserver leur résidence.

Les gens de qçar du territoire susdit auront le choix de l'autorité qui les administrera et pourront, en tout cas, continuer à habiter sur leur territoire.

ART. 6. Tous les gens relevant de l'autorité algérienne qui possèdent des propriétés, plantations, eaux, champs, etc., sur le territoire de l'Empire marocain pourront les administrer à leur gré. Il en sera de même pour ceux qui relèvent de l'autorité marocaine et qui possèdent des propriétés sur le territoire algérien.

ART. 7. Dans le but de maintenir de bonnes relations entre les tribus voisines relevant des deux Gouvernements, d'établir la Paix et de développer le commerce entre elles, les deux Gouvernements ont stipulé que leurs sujets respectifs pourraient se rendre librement sur le territoire compris entre les postes des deux pays et indiqué dans les articles 4 et 5 pour y faire du commerce et dans tout autre but, sans qu'on puisse leur réclamer de droits.

ART. 8. Les deux Gouvernements ont spécifié que les commissions indiquées à l'article 5 fixeraient sur place tous les points de garde et de douane spécifiés pour le Gouvernement marocain aux articles 2 et 4.

ART. 9. Il a été convenu entre les deux Gouvernements que, désormais, ils ne s'imputeraient pas réciproquement la responsabilité des réclamations qui surviendraient à l'avenir entre les tribus des deux pays et ne se réclameraient, de ce fait, aucune indemnité pécuniaire, cela dans le but d'éviter les difficultés qui sont soulevées périodiquement, à ce sujet, entre les deux Gouvernements.

Chacun des deux Gouvernements désignera annuellement deux Commissaires, l'un pour la région du Nord et l'autre pour la région du Sud, pour discuter et régler au mieux et sans retard les réclamations qui surviendront entre les tribus, et les autorités locales respectives leur prêteront l'appui nécessaire pour faire rendre justice par les intéressés.

Le Commissaire du Maghzen dans le Nord se rendra à Marnia pour étudier et régler les réclamations des tribus marocaines avec le Commissaire du Gouvernement de l'Algérie, dans les conditions susénoncées.

De même, le Commissaire du Maghzen dans la région du Sud se rendra dans la région du Djenan-Eddar pour étudier et régler les réclamations des tribus marocaines avec le Commissaire français dans les régions sus-énoncées.

De même, le Commissaire français du gouvernement de l'Algérie se rendra à Oudjda pour les réclamations des tribus algériennes du Nord, et le Commissaire, pour les réclamations de la région du Sud, se rendra à Figuig.

Écrit à Paris le 20 juillet 1901, correspondant au 3 Rabi II, 1319.

DELCASSÉ

ABDELKERIM-BEN-SLIMAN

APPENDIX XVIII

FRANCO-MOROCCAN AGREEMENT, 20 APRIL 1902.

En vue d'obtenir les résultats visés par le Protocole conclu à Paris entre le Ministre des Affaires Étrangères du Gouvernement français au mois de juillet 1901, et pour arriver à établir solidement la paix, la sécurité et un mouvement commercial destiné à rendre plus riches et plus peuplées les régions limitrophes algériennes et marocaines, le Général Cauchemez, chef de la mission française, et la fequih Si Mohammed El Guebbas, premier secrétaire du Ministre de la Guerre marocain, chef de la mission marocaine, après avoir examiné la situation sur les lieux mêmes, se sont mis d'accord sur les dispositions ci-après:

Ces dispositions complètent les traités d'amitié, de bon voisinage et d'accord réciproque conclus, en 1844 et 1845, entre les deux Gouvernements et sont destinées à affermir définitivement leur entente et le double et mutuel appui qu'ils se prêtent, dans les conditions spéciales qui correspondent à leur situation respective, pour assurer la prospérité et le développement des deux pays.

ARTICLE PREMIER. Le Gouvernement chérifien consolidera, par tous les moyens possibles, dans l'étendue de son territoire, depuis l'embouchure de l'Oued Kiss (Adjeroud) et le Teniet-Sassi jusqu'à Figuig, son autorité maghzenienne, telle qu'elle est établie sur les tribus marocains depuis le traité de 1845. Le Gouvernement français, en raison de son voisinage, lui prêtera son appui en cas de besoin.

Le Gouvernement français établira son autorité et la paix dans les régions du Sahara, et le Gouvernement marocain, son voisin, l'y aidera de tout son pouvoir.

ART. 2. En vue de développer les transactions commerciales, chacun des deux Gouvernements établira, dans les régions limitrophes, des marchés ainsi que des postes chargés de la perception des droits qui seront établis pour augmenter les ressources et les moyens d'action des deux pays.

Les droits à percevoir dans les postes ci-dessus mentionnés et dans les marchés feront l'objet d'un accord commercial annexé aux présentes stipulations.

ART. 3. Dans le Tell, les points où seront installés les marchés pour le compte de chacun des deux Gouvernements sont ainsi fixés:

Le Gouvernement chérifien établira un marché (souk) à Cherraa, près de l'Oued Kiss, dans le pays des Angad, un second à Oudjda, un troisième à la qaçba d'Aïoun Sidi Mellouk et un quatrième à Debdou.

Un marché mixte sera établi à Ras-El-Aïn, point connu pour appartenir aux Beni Mathar Ahel Ras-El-Aïn, dont il est fait mention à l'article 3 du traité de 1845, comme habitant à l'ouest de la ligne frontière.

Le Gouvernement français établira des marchés à Adjerou d'Algérie, à marnia et à El-Aricha.

Dans le Sahara, les deux gouvernements établiront également les marchés. Un marché français sera établi à Aïn-Sefra, un marché marocain à Figuig et des marchés mixtes, avec perception de taxes ou droits de marché, le long de la voie ferrée, à Beni-Ounif et à Kenadsa.

En outre, en raison des relations commerciales entre Figuig et Duveyrier, le Gouvernement français accepte l'installation d'un bureau de perception mixte en ce dernier point.

Chaque gouvernement désignera un contrôleur pour le représenter dans chaque marché mixte et dans chaque bureau de perception et pour percevoir les taxes au bénéfice des deux gouvernements.

ART. 4. Les points où seront institués des bureaux de perception entre Adjeroud et Teniet-Sassi sont les suivants:

Pour le Maroc:

1° Saïdia d'Adjeroud ou El-Heïmer; 2° Oudjda; 3° Un point dans la tribu des Mehaïa, en face de Magoura.

Pour la France:

1° Adjeroud d'Algérie; 2° Marnia; 3° El-Aricha.

ART. 5. Les chefs des deux missions ont examiné avec soin la question du régime douanier à établir entre le Teniet-Sassi et Figuig, et se sont efforcés de trouver une solution satisfaisante.

Il leur a paru impossible d'installer des douanes sur la ligne susindiquée. Ils sont tombés d'accord pour faire estimer la quantité de marchandises qui pénètre annuellement sur le territoire marocain entre ces deux points et la somme qui revient de ce chef au Gouvernement chérifien. Cette somme sera versée, à la fin de chaque année, à l'agent désigné par le Maghzen pour la recevoir.

Le Gouvernement français se charge, de son côté, d'asseoir les perceptions qui lui paraîtront les plus propres à le récupérer. Par cette clause du présent arrangement, il entend témoigner l'amitié sincère et pure qui existe entre les deux pays et leur intention de s'aider mutuellement de leur autorité dans ces régions.

Toutefois, le représentant du Maghzen à Figuig doit veiller sur les marchandises qui pénétreront à Figuig et provenant des régions susvisées. Se ces marchandises ont payé les droits de douane et si les caravaniers ont un reçu valable, ils ne seront point inquiétés. Dans le cas contraire,

ils seront astreints à payer les droits à l'amin du Maghzen à Figuig, qui en informera immédiatement le représentant du Gouvernement français, lequel sura la faculté de recevoir ces droits annuellement ou de les recevoir au fur et à mesure en donnant quittance, ou bien d'en faire abandon au Gouvernement chérifien.

ART. 6. De même qu'il a été reconnu impossible d'établir des douanes et des postes de garde dans la région comprise entre Teniet-Sassi et Figuig, de même les deux gouvernements renoncent à établir les postes de garde et les douanes prévues à l'article 4 du Protocole de Paris susvisé.

Le Maghzen installera à Figuig les postes de garde spécifiés ci-après à l'article 8. Il y installera également des bureaux pour la perception des droits qui seront indiqués dans l'accord commercial susmentionné.

ART. 7. Les chefs des deux missions sont tombés d'accord pour installer des postes de garde permanents entre Saïdia d'Adjeroud et Teniet-Sassi, afin d'obtenir la paix, la libre circulation entre les deux pays et de prêter main-forte au service des perceptions.

Le Gouvernement français installera les siens aux points ci-dessous :
1° Adjeroud d'Algérie; 2° Marnia; 3° El-Aricha.

Le Gouvernement marocain installera les siens aux points ci-dessous :
1° Saïdia d'Adjeroud; 2° Oudjda; 3° un point sur l'Oued Za.

ART. 8. Les postes de garde marocains de Figuig seront placés entre les qsour et les cols, de façon à assurer la sécurité et à prêter main-forte aux agents chargés de la perception des droits qui seront déterminés dans l'accord commercial précité.

Le Gouvernement français assurera la surveillance de la voie ferrée sur les deux côtés dans le Sahara, mais entre la ligne et le qsour de Figuig, il n'effectuera aucune construction militaire.

Des méfaits de toute sorte, principalement des assassinats, se produisent fréquemment au Djebel des Beni-Smir, et dans la région avoisinante où se trouvent campés les Oulad-Abdallah, fraction des Amour placés sous l'autorité marocaine; les chefs des deux missions ont employé leur zèle à rechercher les moyens de mettre un terme à cette succession de crime qui afflige profondément les deux pays amis et de ramener la tranquillité dans cette région.

Le seul procédé qui leur a paru efficace pour atteindre ce résultat consiste à établir, dans le Djebel des Beni-Smir, deux gardes distinctes fournies, l'une par le Gouvernement français et l'autre par le Gouvernement marocain.

Tout malfaiteur arrêté dans cette région sera jugé conformément aux lois et à la justice par l'autorité dont dépend la garde qui aura opéré l'arrestation.

Il sera procédé ainsi à l'égard de tous les habitants de la montagne dont il s'agit ou de tous ceux qui s'y réfugieraient habituellement.

En ce qui concerne les autres, ils seront jugés conformément aux usages et traités existant entre les deux pays.

ART. 9. Un Khalifa de l'Amel de Figuig sera désigné pour représenter le Gouvernement marocain dans l'un des trois qsour: Kenadsa, Béchar et Ouakda.

Il sera chargé de prêter main-forte aux autorités algériennes contre les mauvais sujets qui se réfugieront dans les qsour.

ART. 10. Les Commissaires des deux gouvernements voisins, prévus dans l'article 9 du Protocole signé à Paris, s'efforceront par tous les moyens en leur pouvoir de solutionner dans le plus bref délai possible tous les litiges qui surgiraient entre les habitants des deux pays.

Les Commissaires français seront:

Le capitaine du bureau arabe de Marnia et le capitaine chef des affaires étrangères de Djenan-Eddar ou de Beni-Ounif, ou tout autre agent désigné par le Gouvernement français.

Les Commissaires marocains seront: le Khalifa de l'Amel de Figuig; le Khalifa de l'Amel d'Oudjda, ou tout autre agent désigné par le Makhzen.

Les chefs des deux missions apposeront leurs signatures sur le présent accord, qui sera dressé en deux expéditions, renfermant chacune les deux textes français et arabe, placés l'un à côté de l'autre.

L'une de ces expéditions sera envoyée au Gouvernement français et l'autre adressée au Makhzen chérifien, pour qu'elles soient soumises à l'examen et à l'approbation des Ministres des Affaires étrangères des deux Pays.

Fait à Alger le vingt avril mil neuf cent deux, correspondant au douze du mois sacré de Moharrem, premier mois de l'année 1320 de l'Hégire.

CAUCHEMEZ

SID MOHAMMED EL GUEBBAS

A cet acte a été ajoutée, par accord subséquent, la mention suivante:

Le Gouvernement marocain, après avoir examiné le présent accord, l'a trouvé conforme aux nécessités du voisinage. Comme l'établissement des douanes prévues au Protocole de Paris pour la perception des droits de douane est impossible dans les circonstances présentes, on a décidé d'adjourner jusqu'au moment où il sera possible et de se borner actuellement à percevoir les droits de marché et de passage dans les postes à ce destiné, ainsi qu'il résulte des articles du présent accord. Sous cette réserve, ratification a été donnée le 16 décembre 1902.

ADDITIONAL ARTICLES OF AGREEMENT OF 20 APRIL 1902
(7 MAY 1902)

Exécution de l'article 2 de l'accord intervenu à Alger entre les chefs des deux Missions française et marocaine, le 20 avril 1902, correspondant au 12 moharrem 1320 de l'Hégire.

Louange à Dieu. Il n'est en rien dérogé au régime particulier qui a toujours existé pour les relations par voie de terre entre l'Algérie et le Maroc, mais en raison des conditions spéciales au voisinage de terre existant entre les deux pays les soussignés ont arrêté les dispositions suivantes qui seront établies en deux expéditions, écrites chacune en français et en arabe et soumises, comme l'accord ci-dessus fixé, à la ratification des ministres des Affaires étrangères de la France et du Maroc.

ARTICLE PREMIER. Le Makhzen maintient sa faculté d'établir:

- 1^o Des droits de sortie;
- 2^o Des droits de transit.

D'autre part, le Gouvernement français a déclaré son intention d'appliquer ou de maintenir, conformément à la législation en vigueur, les droits de statistique et de taxe sanitaire.

Les droits seront établis suivant les tarifs annexés au présent acte, auxquels les deux gouvernements déclarent ne pas faire objection et qu'ils s'interdisent de modifier sans un accord préalable.

ART. 2. Indépendamment des droits indiqués à l'article précédent, il peut être perçu des droits de place sur les marchés mixtes.

Les droits de place ont été fixés par les signataires du présent acte conformément au tableau ci-annexé.

A la fin de chaque marché, les droits réalisés seront partagés par moitié entre les agents des deux gouvernements.

Les modifications qu'il y aurait lieu d'apporter dans l'avenir aux tarifs de ces marchés mixtes seront faites d'un commun accord entre les autorités locales voisines, qui informeront leurs gouvernements respectifs.

Dans les marchés autres que les marchés mixtes mentionnés à l'article 3 de l'accord susindiqué, chaque gouvernement aura la faculté d'établir les droits qu'il jugera convenables, sans toutefois que ces droits puissent dépasser ceux adoptés d'un commun accord pour les marchés mixtes du Tell.

ART. 3. Les marchés algériens mentionnés à l'article 2 de l'accord du 20 avril 1902 dépendront exclusivement des autorités françaises. Toutefois, le Gouvernement marocain pourra y placer un agent pour éviter la contrebande. Lorsque des Marocains arriveront sur un marché algérien, avec des marchandises pour lesquelles ils n'auront pas payé les droits, l'agent français les contraindra à lui verser ces droits, dont il fera lui-même la remise à l'agent marocain. L'agent marocain sera, en outre, chargé d'étudier le mouvement commercial et la marche des caravanes. Il devra être indigène. Les marchés marocains prévus également à l'article 2

de l'accord précité dépendront exclusivement du Gouvernement chérifien. Mais le Gouvernement français pourra y installer un de ses agents, pour les mêmes raisons que ci-dessus. Cet agent devra être indigène.

ART. 4. Les marchés mixtes seront ouverts aux négociants des deux pays, qui y opéreront leurs transactions sur le pied d'égalité. Les deux gouvernements auront conjointement sur le marché, un agent qui procédera au recouvrement des droits spécifiés aux articles 1er et 2.

Les perceptions pour le compte des deux gouvernements seront faites dans un bureau de perception unique par les soins des deux agents qui les constateront sur un registre spécial et en donneront quittance sous leur double signature.

Les sommes réalisées seront partagées à la fin de chaque marché, et chacun des deux agents recevra la part revenant à son gouvernement; ils se donneront mutuellement quittance.

ART. 5. Le recouvrement des droits s'effectuera dans tous les bureaux de perception prévus à l'article 4 de l'accord du 20 avril 1902, d'après le tarif uniforme ci-annexé.

Dans les bureaux de perception mixtes les droits seront recouvrés dans les mêmes conditions que dans les marchés mixtes mentionnés à l'article 4.

Les agents des deux gouvernements sont responsables des sommes réalisées dont le partage sera effectué à la fin de chaque mois.

ART. 6. Les Commissaires institués par le Protocole signé à Paris en 1901 (correspondant à l'année 1319 de l'Hégire) ou leurs délégués, exercent le contrôle de toutes les opérations dont les agents de recouvrement des deux pays sont chargés sur les marchés et dans les postes de perception.

Ces Commissaires s'entendent, en outre, avec les autorités dont ils relèvent sur les mesures propres à assurer la sécurité et à faciliter la marche des caravanes qui relieront les marchés situés de part et d'autre.

ART. 7. Les droits à percevoir sur les marchés ou dans les bureaux de perception mixtes seront payés en monnaie française ou hassanienne.

Le cours du change de ces deux monnaies sera indiqué au commencement de chaque période trimestrielle, d'après une entente entre le Ministre de France et le Représentant de Sa Majesté Chérifienne à Tanger.

Le Gouvernement français et la Makhzen, avisés du cours ainsi arrêté, devront assurer son application par les agents chargés de la perception des droits.

ART. 8. Les droits mentionnés à l'article 5, dans l'accord du 20 avril, et dont le Gouvernement français s'est déclaré disposé à tenir compte au Gouvernement marocain, seront évalués au bout de la

première année, qui commencera le jour où l'accord aura été approuvé. Ils seront, aussitôt après, versés au Makhzen. Ces droits seront ensuite l'objet d'évaluations annuelles.

ART. 9. Les postes de garde mentionnés à l'article 7 de l'accord précité pourront, suivant les circonstances, être augmentés par chacun des deux gouvernements.

Ces postes devront exercer une surveillance vigilante et ne laisser passer que les marchandises dont les détenteurs sont munis de récépissés attestant qu'ils ont acquitté les droits. Ils devront agir de concert au mieux des intérêts des deux gouvernements.

ART. 10. Les deux gouvernements pourront, d'un commun accord, apporter aux stipulations ci-dessus les modifications qu'ils jugeront utiles.

Fait à Alger, le 7 mai 1902, correspondant au 27 moharrem de l'année 1320 de l'Hégire.

CAUCHEMEZ

MOHAMMED EL GUEBBAS

A cet Acte a été ajouté, par accord subséquent, la mention suivante:
Le Gouvernement marocain, après avoir examiné le présent accord, l'a trouvé conforme aux nécessités du voisinage. Comme l'établissement des douanes prévues au Protocole de Paris pour la perception des droits de douane est impossible dans les circonstances présentes, on a décidé de l'ajourner jusqu'au moment où il sera possible et de se borner actuellement à percevoir les droits de marché et de passage dans les postes à ce destinés, ainsi qu'il résulte des articles du présent accord. Sous cette réserve, ratification a été donnée le 16 décembre 1902.

APPENDIX XIX

FRANCO-MOROCCAN AGREEMENTS CONCERNING FOREIGN OCCUPATION, 4 MARCH 1910

Le Gouvernement de la République et le Gouvernement Chérifien, s'étant mis d'accord sur les dispositions complémentaires que prévoyaient les arrangements provisoires de Fez, ont arrêté définitivement les stipulations ci-après, qui ont pour objet de régler les difficultés pendantes entre la France et le Maroc.

ACCORD RELATIF A LA CHAOUÏA

ARTICLE PREMIER. Il a été convenu que le corps d'occupation évacuera complètement la Chaouïa lorsque le Makhzen aura installé dans cette région une force marocaine de 1.500 hommes, constituée et instruite, sous la direction de la mission française, dans des conditions analogues à celles de la police des ports et capable de maintenir dans la province la sécurité des personnes et des biens, ainsi que celle des transactions commerciales.

Lorsque cette force sera installée dans la Chaouïa, les troupes évacueront les postes qu'elles occupent à l'intérieur et seront alors ramenées dans leurs cantonnements à Casablanca.

ART. 2. Sa Majesté Chérifienne a promis de maintenir dans leurs fonctions les caïds actuels de la Chaouïa tant que leur conduite sera satisfaisante. De même, elle a promis de ne pas exercer de représailles contre les particuliers à cause de leur attitude.

Des instructions dans ce sens, concertées entre la légation de France et le Makhzen, seront données par écrit aux autorités indigènes de la Chaouïa, dès l'arrivée de Sa Majesté Chérifienne à Rabat.

ART. 3. Le Makhzen prendra possession des installations créées par le corps d'occupation dans la Chaouïa et Casablanca, telles que: télégraphes, ponts, chemins de fer, et, en général, les constructions élevées pendant l'occupation; ces installations seront maintenues et exploitées sous l'autorité du Makhzen. Le Makhzen chargera l'ingénieur qui dirige l'administration chérifienne des télégraphes sans fil, de la direction des télégraphes avec fil et de leur mise en exploitation pour le compte et sous l'autorité du Gouvernement chérifien. Le montant de ces améliorations sera compris dans le compte des frais d'occupation. Le Makhzen fixera une somme annuelle qui sera touchée à la Banque d'État et, à défaut, prélevée par les soins du khalifa du Sultan à Casablanca

sur les droits de marché indiqués à l'article 4, et qui sera affectée à l'entretien desdits travaux sous l'autorité de ce fonctionnaire.

Les dépenses occasionnées de ce chef seront effectuées par les soins de l'Amin El Moustafad de cette ville, après avoir été évaluées par la direction des travaux publics à Tanger; l'état et les pièces justificatives de ces dépenses seront envoyées au Makhzen.

ART. 4. La perception des moustafadat, des droits de portes et autres taxes municipales de Casablanca sera maintenue dans l'état actuel jusqu'à ce que le Makhzen établisse des municipalités dans les ports, sous réserve des droits engagés pour le service de l'emprunt de liquidation.

Les moustafadat et les impôts de la Chaouïa continueront à être perçus pour le compte du Makhzen; mais leur affectation sera réglée par une lettre du ministre des Finances de Sa Majesté Chérifienne adressée au Gouvernement français.

ART. 5. L'amende de 2 millions et demi imposée aux tribus chaouïa pour leur attitude dans les événements de Casablanca et acceptée par elles sera perçue par les caïds el oumana ou tout autre fonctionnaire désigné par le Makhzen, suivant la coutume qui régit chez elles la répartition du zekkat et de l'achour.

ART. 6. Le Gouvernement français a déclaré qu'en ce qui le concerne, il ne s'opposerait pas à ce que cette amende fût perçue par les censaux, si cette perception était étendue aux censaux des autres nations. Les 2 millions et demi précités seront acquittés par les tribus dont il s'agit; ils seront destinés à l'agrandissement des travaux de construction du port de Casablanca, après que le contrat relatif à cette augmentation aura été conclu entre le Makhzen et la Société française "La Compagnie Marocaine", conformément au plan qui sera présenté par l'ingénieur du Makhzen à l'agrément de Sa Majesté Chérifienne.

ART. 7. Les troupes du goum d'infanterie et de cavalerie organisées dans la Chaouïa, à l'effectif de 1.200 hommes, conserveront provisoirement leur organisation jusqu'au moment où le Makhzen sera en mesure d'installer dans la Chaouïa la force marocaine prévue à l'article premier; ces troupes feront alors retour au Makhzen et seront accompagnées d'un nombre suffisant d'instructeurs qui seront placés sous les ordres du chef de la mission française.

Sa Majesté maintiendra à ces troupes, pour une période d'un mois au maximum à compter du jour de leur arrivée, la mouna qui leur a été fixée par les soins du corps d'occupation.

A l'expiration de cette période, la solde de ces troupes sera ramenée au taux ordinaire de la solde des troupes chérifiennes. Ceux qui ne voudront pas rester au service avec cette mouna makhzénienne seront laissés libres de partir, et il appartiendra au Makhzen d'obliger leurs tribus à les remplacer.

ART. 8. Le Gouvernement chérifien reconnaît qu'il accepte de payer les frais de guerre occasionnés par l'occupation française dans l'Empire marocain; un accord particulier interviendra au sujet du mode de paiement de ces dépenses.

ART. 9. Les frais dont il s'agit prendront fin à la date du 1er janvier 1910, correspondant au 19 hédya 1327.

ART. 10. Le Gouvernement de la République n'a jamais cessé de considérer la ville de Casablanca comme territoire marocain et n'a pas l'intention d'y exercer une occupation définitive. Il en retirera ses troupes lorsqu'il aura pu juger que l'organisation prévue pour la Chaouïa est en état d'y assurer le maintien de l'ordre d'une manière efficace et lorsque des satisfactions suffisantes lui auront été données par le Makhzen, en ce qui concerne le remboursement des dépenses militaires mentionnées à l'article 8 et le versement des indemnités aux victimes des troubles de Casablanca.

Le Makhzen s'engage également à donner toutes satisfactions:

a) Au sujet du cheik Ma-el-Aïnin et des ennemis de la France au Sahara. Le Gouvernement chérifien devra empêcher que ces agitateurs ne reçoivent des encouragements et des secours en argent, armes et munitions; il adressera des lettres, dont la légation de France recevra copie, aux autorités du Sous et de l'oued Noun pour leur prescrire de réprimer la contrebande des armes dans ces régions;

b) Le Gouvernement chérifien devra adresser aux autorités locales des instructions formelles en vue de l'application intégrale de l'article 60 de l'Acte d'Algésiras (droit de propriété immobilière des étrangers).

ACCORD RELATIF A LA RÉGION FRONTIÈRE

ARTICLE PREMIER. Les deux Gouvernements considèrent tout d'abord que le régime à réaliser dans la région frontière repose sur les arrangements antérieurs conclus entre eux à ce sujet et qui sont complétés par les dispositions suivantes.

ART. 2. Le Gouvernement français déclare qu'il fera évacuer par ses troupes, dans les conditions ci-après indiquées, Oudjda, les Beni-Snassen, Bou-Anane et Bou-Denib, points qu'il a été amené à occuper sur le territoire marocain pour des raisons connues.

Sont maintenus dans leur état les autres postes actuellement occupés dans la région frontrière, situés sur le territoire de parcours des Doui-Menia et des Oulad-Djerir, qui ont accepté la juridiction du Gouvernement Général de l'Algérie, et de même, le poste de Ras-el-Aïn des Beni-Mathar, dit Berguent, lequel se trouve sur le territoire marocain, ces postes étant nécessaires à la protection de la frontière algérienne. Toutefois, pour couper court à tout malentendu à ce sujet, le Gouvernement français paiera au Gouvernement chérifien une indemnité qui sera fixée ultérieurement d'un commun accord.

ART. 3. Le Makhzen désignera un Haut Commissaire chérifien pour se concerter avec le Haut Commissaire français, en vue de la mise à exécution des accords de 1901 et 1902.

ART. 4. Le Haut Commissaire chérifien recevra sans délai les pouvoirs nécessaires pour l'exercice de ses attributions, notamment le droit de proposer, après entente préalable avec le Haut Commissaire français, la nomination et la révocation des caïds et autres fonctionnaires marocains.

ART. 5. Lorsque le régime prévu par les accords antérieurs aura été intégralement réalisé d'une manière qui réponde aux intérêts communs des deux Gouvernements et lorsque les troupes françaises auront évacué, dans les conditions prévues ci-dessus, les régions qu'elles occupent, les attributions des deux Hauts Commissaires français et chérifien resteront déterminées par l'article 3 du présent accord.

ART. 6. Les troupes françaises cantonnées dans la région frontrière seront diminuées au fur et à mesure de l'augmentation des effectifs de la police makhzénienne, qui sera organisée d'après les principes indiqués à l'article 9. Lorsque cette troupe makhzénienne aura atteint l'effectif de 2.000 hommes, chiffre indiqué à l'article 1er du traité de 1844, et qu'elle aura été jugée capable de veiller à l'exécution des accords mentionnés à l'article 5, de maintenir la sécurité et de faciliter les transactions commerciales, enfin d'assurer la perception des impôts et autres taxes, les troupes françaises seront ramenées en deçà de la frontière algérienne.

ART. 7. Les taxes des marchés et les droits mentionnés aux accords seront perçus selon les tarifs prévus, et les impôts zékât et achour selon les règles appliquées dans l'Empire chérifien; ces perceptions auront lieu par les soins des oumana et des gouverneurs du Makhzen avec l'assistance d'un fonctionnaire français pendant la durée de l'occupation.

Quant aux dépenses de l'administration des territoires occupés, telles qu'émoluments des oumana et autres, elles seront prélevées sur les recettes susdites; le tout sera inscrit dans un compte spécial qui sera envoyé au Makhzen; l'excédent sera versé au Trésor chérifien.

ART. 8. Les améliorations introduites par le corps d'occupation à Oudjda et chez les Beni-Snassen seront cédées au Makhzen dans les conditions indiquées par l'accord relatif à la Chaouïa. Leur montant sera compris dans les dépenses d'occupation.

ART. 9. La force makhzénienne prévue à l'article 6 sera organisée selon les principes suivants: elle sera composée de soldats musulmans marocains recrutés par engagements, instruits et commandés par des officiers et sous-officiers français et algériens en nombre suffisant; elle aura des cadres marocains. Elle sera autonome et placée sous l'autorité d'un commandant français agréé par le Makhzen et qui relèvera directement des deux Hauts Commissaires français et chérifiens. Elle sera payée sur le produit des impôts des tribus de la région frontière et des taxes et droits mentionnés aux accords.

ART. 10. En ce qui concerne Bou-Denib et Bou-Anane, le Gouvernement français est disposé à évacuer ces postes sans attendre que le Makhzen y ait installé une force organisée, mais à condition que la liberté des relations commerciales et la sécurité des caravanes soient suffisamment assurées. A cet effet, le Makhzen ordonnera à son khalifa, au Tafilelt, de veiller à la sécurité des caravanes qui circuleraient entre les ksour du Tafilelt et les postes de Bou-Denib et Bou-Anane; ou constituera pour cela des escortes destinées à accompagner les caravanes et qui auront à leur tête un chef marocain désigné par le khalifa du Sultan au Tafilelt. De plus, lorsqu'il sera possible, on construira des caravansérails où seront établis des postes de garde indigènes. Enfin, les autorités des régions limitrophes devront établir les relations officielles et régulières.

Dès que ce système fonctionnera d'une manière satisfaisante, les troupes françaises seront progressivement réduites et ramenées en Algérie.

Des mesures spéciales seront prises par le Makhzen pour que les droits de propriété des ressortissants algériens en territoire marocain puissent s'exercer sans entraves, conformément à l'article 6 de l'accord du 20 juillet 1901.

ACCORD RELATIF A LA QUESTION FINANCIÈRE

La question financière sera réglée conformément aux dispositions de la note remise à l'Ambassade chérifienne le 14 août dernier, avec les modifications contenues dans la note complémentaire remise à l'Ambassade le 21 décembre et sous réserve des indications formulées dans la lettre des ambassadeurs du Gouvernement chérifien au ministre des Affaires étrangères en date du 25 décembre.

Fait à Paris, en double exemplaire, le 4 mars 1910 correspondant au 21 safar 1328.

S. PICHON

Louange à Dieu. Le présent accord, comprenant la question de la Chaouïa et Casablanca, la question de la région frontière et les principes relatifs à la question financière, ayant reçu la ratification de Sa Majesté Chérifienne suivant sa lettre à ses ambassadeurs en date du 27 moharrem 1328, correspondant au 8 février 1910, nous le signons à titre définitif,

EL HADJ MOHAMMED BEN ABDESSELAM EL MOKRI
(Ministre des Finances)

SI ABDALLAH EL FASI
(Adjoint au ministère des Affaires étrangères)

APPENDIX XX

DECREE ANNOUNCING LYAUTEY'S APPOINTMENT

Décret

Le Président de la République Française,

Sur la proposition du Président du Conseil, Ministre des
Affaires Étrangères,

Décète:

ART. 1er. Le Général de division Lyautey est nommé Commissaire
Résident Général de la République Française au Maroc.

ART. 2. Le Président du Conseil, Ministre des Affaires
Étrangères, est chargé de l'exécution du présent décret.

Fait à Rambouillet, le 28 Avril 1912.

A. FALLIÈRES

Par le Président de la République:
Le Président du Conseil,
Ministre des Affaires Étrangères,

R. POINCARÉ

APPENDIX XXI

CONVENTION CONCERNING THE ORGANIZATION OF THE ZONE OF TANGIER (FRANCE, SPAIN, GREAT BRITAIN), 18 DECEMBER 1923

ARTICLE PREMIER. Conformément aux dispositions de l'article 1er du Traité de Protectorat du 30 mars 1912 et de l'article 7 de la Convention franco-espagnole, relative au Maroc, du 27 novembre 1912, les trois Gouvernements contractants conviennent que dans la région définie à l'article 2 ci-après et qualifiée de zone de Tanger, il appartient aux autorités et organismes désignés d'autre part et par délégation de Sa Majesté Chérifienne d'assurer l'ordre public et l'administration de la zone.

ART. 2. La zone de Tanger est comprise dans les limites fixées par le paragraphe 2 de l'article 7 de la Convention franco-espagnole du 27 novembre 1912.

ART. 3. La zone de Tanger est placée sous le régime de la neutralité permanente. En conséquence, aucun acte d'hostilité sur terre, sur mer ou par air ne pourra être accompli par ou contre la zone, ni dans ses limites.

Aucun établissement militaire terrestre, naval ou aéronautique, aucune base d'opérations, aucune installation susceptible d'être utilisés dans un but de guerre ne pourront être ni créés ni maintenus dans la zone.

Sont interdits tous dépôts de munitions et de matériel de guerre.

Sont toutefois autorisés ceux qui seront constitués par l'Administration de la zone pour les besoins de la défense locale contre les incursions de tribus ennemies. D'autre part, l'Administration pourra, dans la même limite, prendre toutes mesures autres qu'un groupement de forces aériennes et même élever des ouvrages et fortifications peu importants de défense sur le front de terre.

Les approvisionnements militaires et les fortifications ainsi autorisés sont soumis à l'inspection des officiers mentionnés au dernier paragraphe du présent article.

Les aérodromes civils établis dans la zone de Tanger sont également soumis à l'inspection des mêmes officiers.

Aucun approvisionnement aéronautique ne dépassera les quantités nécessaires à l'aviation civile et commerciale.

Toute l'aviation civile ou commerciale à destination, en provenance ou à l'intérieur de la zone de Tanger sera assujettie aux lois et dispositions de la Convention portant réglementation de la navigation aérienne.

Toutefois, les convois de ravitaillement et les troupes à destination ou en provenance des zones française et espagnole pourront, après avis préalable à l'administrateur de la zone de Tanger, utiliser le port de Tanger et les voies de communication reliant ce port à leur zone respective pour le passage à l'entrée et à la sortie.

Les Gouvernements français et espagnol s'engagent à n'user de cette faculté qu'en cas de nécessité réelle et pendant le délai strictement nécessaire à la mise en route et aux opérations du transbordement. En aucun cas, le délai ne devra dépasser quarante-huit heures pour une troupe armée.

Aucune taxe ni aucun droit spéciaux de transit ne peuvent être perçus pour ce passage.

L'autorisation de l'Administration de Tanger n'est pas nécessaire pour les visites de vaisseaux de guerre, mais avis préalable de ces visites doit néanmoins être donné à l'Administration si les circonstances le permettent.

Les Gouvernements contractants ont la faculté d'affecter à leurs Consulats à Tanger un officier chargé de les renseigner sur l'observation des engagements d'ordre militaire qui précèdent.

ART. 4. La surveillance de la contrebande des armes et des munitions de guerre dans les eaux territoriales de la zone de Tanger est exercée conjointement par les forces navales britanniques, espagnoles et françaises.

Les délinquants seront déférés au Tribunal mixte de Tanger.

ART. 5. La zone de Tanger dispose, par délégation de Sa Majesté Chérifienne et sous réserve des exceptions prévues, des pouvoirs législatifs et administratifs les plus étendus. Cette délégation est permanente et générale, sauf en matière diplomatique où il n'est pas dérogé aux dispositions de l'article 5 du traité de Protectorat du 30 mars 1912.

Toutefois les autorités qualifiées de la zone peuvent traiter avec les Consuls les questions intéressant la zone dans les limites de son autonomie.

ART. 6. A l'étranger, la protection des sujets marocains de la zone de Tanger et de leurs intérêts est confiée aux agents diplomatiques et consulaires de la République française, conformément aux dispositions de l'article 5 du traité de Protectorat du 30 mars 1912.

ART. 7. La zone de Tanger respecte les traités en vigueur.

L'égalité économique entre les nations, telle qu'elle résulte de ces traités, continuera à être observée à Tanger, même si lesdits traités venaient à être abrogés ou modifiés.

ART. 8. Les accords internationaux conclus à l'avenir par Sa Majesté Chérifienne ne s'étendront à la zone de Tanger qu'avec l'assentiment de l'Assemblée législative internationale de la zone.

Par exception, s'étendent de plein droit à la zone les accords internationaux auxquels toutes les Puissances signataires de l'Acte d'Algésiras sont parties contractantes ou auront adhéré.

Les dispositions des articles 141 et suivants du Traité de Versailles continuent à s'appliquer à la zone de Tanger. Les dahirs chérifiens pris en conséquence de ces textes ne peuvent être modifiés qu'après accord avec le Pouvoir central chérifien.

ART. 9. Par application des dispositions des articles 141 et suivants du Traité de Versailles, des articles 96 et suivants du Traité de Saint-Germain-en-Laye, des articles 80 et suivants du Traité de Trianon, les dispositions du présent statut ne pourront en aucun cas être invoquées par les ressortissants allemands, autrichiens et hongrois.

ART. 10. Il est interdit de se livrer dans la zone de Tanger à aucune agitation, propagande ou préparation d'entreprise contre l'ordre établi dans les zones française et espagnole du Maroc.

Il est de même interdit de se livrer à aucun agissement analogue contre tout pays étranger.

ART. 11. Sous réserve du respect de l'ordre public, le libre exercice des différents cultes est assuré dans la zone de Tanger.

ART. 12. Les Puissances signataires de l'Acte d'Algésiras ont le droit de maintenir dans la zone de Tanger les écoles et tous les établissements qui leur appartiennent ou qui appartiennent à leurs ressortissants à la date de la mise en vigueur de la présente Convention.

Les établissements qui viendraient à être créés devront se conformer aux règlements qui seront promulgués. Les principes généraux de ces règlements devront s'inspirer des dispositions en usage dans les zones française et espagnole de l'Empire Chérifien.

ART. 13. Par l'effet de l'établissement à Tanger du Tribunal mixte prévu à l'article 48, les Capitulations sont abrogées dans la zone. Cette abrogation entraîne la suppression du régime de la protection.

Les sujets marocains, dont les droits à la protection auront été préalablement reconnus, sont personnellement et leur vie durant justiciables du Tribunal mixte de Tanger.

Les listes de protection actuelles seront revisées dans un délai qui ne dépassera pas six mois, à dater de la mise en vigueur de la présente Convention, d'un commun accord entre le Représentant du Gouvernement chérifien et le Consulat intéressé.

Les dispositions de la Convention de Madrid du 3 juillet 1880 demeurent en vigueur en ce qui concerne la naturalisation. La liste des sujets marocains naturalisés à Tanger sera revisée de la même manière et dans le même délai.

ART. 14. A défaut de l'institution d'un Office Postal, Télégraphique et Téléphonique interurbain propre à la zone de Tanger, institution qui

ne pourra être provoquée qu'avec l'approbation unanime du Comité de contrôle, les Puissances signataires de l'Acte d'Algésiras pourront conserver, à Tanger, les bureaux postaux et les stations de câbles qu'elles y possèdent à la date de la mise en vigueur de la présente Convention.

En cas de création d'un Office Postal Télégraphique et Téléphonique interurbain propre à la zone de Tanger, l'Office chérifien des Postes et des Télégraphes transférera à cet Office les droits exclusifs qu'il détient en matière de télégraphe et de téléphone interurbain en vertu des accords intervenus entre le Gouvernement chérifien et la Société concessionnaire des Télégraphes et Téléphones interurbains.

Il ne sera pas porté atteinte aux droits des États ou Compagnies qui possèdent actuellement des câbles télégraphiques atterrissant à Tanger.

L'établissement de nouveaux câbles devra être concerté avec l'Administration de la zone.

ART. 15. D'accord entre un représentant du Gouvernement chérifien et le Consulat intéressé et dans un délai qui ne dépassera pas six mois à compter de la mise en vigueur de la présente Convention, la révision des détentions des biens habous et domaniaux, prévue à l'article 63 de l'Acte d'Algésiras, sera effectuée dans la zone de Tanger.

A défaut d'entente, le représentant du Maghzen et le Consul intéressé s'en remettront à l'arbitrage d'un membre du Tribunal mixte choisi par les parties ou désigné par le sort.

ART. 16. L'État chérifien remet son domaine public et privé, y compris ses droits sur les terrains "guich", à la zone de Tanger qui l'administre, en perçoit les revenus à son profit et en assure la conservation sans pouvoir en aliéner aucune partie.

Cette remise prend fin à l'expiration de la présente convention et le domaine remis à la zone fait retour à l'État chérifien.

ART. 17. Le domaine public comprend:

a) Domaine maritime: la mer et ses rivages avec un franc-bord de 6 mètres, déjà grevé de la concession consentie à la Compagnie concessionnaire du port que la zone de Tanger devra respecter. Les revenus de la pêche, y compris les redevances prévus en faveur de l'État dans les concessions de pêche déjà accordées par le Gouvernement chérifien, reviendront, ainsi que les obligations dérivant de ces concessions, à la zone de Tanger.

b) Domaine terrestre:

La route de Tanger à Tétouan;

La route de Tanger à Larache et à Rabat;

La route du cap Spartel;

La route de la gare au port et en bordure du port;

Les voies publiques urbaines;

Les égouts et adductions d'eau et leurs dépendances, étant réservés les droits de tout concessionnaire des eaux.

La zone doit:

1^o Entretien en priorité sur les fonds provenant des ressources de la taxe spéciale les routes de Tanger à Tétouan et de Tanger à Larache et à Rabat dans la zone de Tanger;

2^o Laisser à la disposition gratuite de la Compagnie du Chemin de fer franco-espagnol de Tanger à Fez les terrains du domaine qui seront nécessaires à ses installations.

c) Domaine fluvial.

Les cours d'eau.

Tous les droits antérieurs et tous les droits d'usage au profit des tiers sont réservés.

d) Domaine minier:

Les redevances minières dans la zone de Tanger et les perceptions sur la sortie des minerais extraits dans ladite zone reviennent à l'Administration de la zone.

e) Domaine forestier.

ART. 18. Le domaine privé comprend tous les immeubles bâtis et non bâtis inscrits sur les registres des biens Maghzen et non visés à l'article 17, ainsi que les abattoirs.

Sous réserve des dispositions de l'article 15 ci-dessus, les locations ou détentions de biens Maghzen par des particuliers, de même que tous les droits de gza, ou autres, établis sur lesdits immeubles, sont respectés. Il en est de même des affectations d'intérêt public dont ces biens sont grevés.

Toutefois, l'État chérifien entend se réserver pour les services publics qu'il conservera à Tanger les immeubles suivants:

L'ancienne Légation d'Allemagne et ses dépendances; le Palais du Sultan; la Kasbah et ses dépendances; le Bordj des Mokhaznis sur les remparts; le Terrain et le bordj de la montée du Marshan, actuellement occupés par la Compagnie chérifienne.

Toute location nouvelle en dehors de celles qui existent ne pourra dépasser le terme de la présente convention.

ART. 19. En vue de réserver à chaque zone le produit des redevances minières qui doivent lui revenir, les redevances proportionnelles d'extraction appartiennent à la zone où la mine est située, alors même qu'elles seraient recouvrées à la sortie par un bureau de douane d'une autre zone.

ART. 20. La douane de Tanger ne perçoit que les droits et taxes afférents aux marchandises destinées à la consommation exclusive de la zone.

Les marchandises débarquées à Tanger et destinées à être utilisées ou livrées à la consommation dans les zones française et espagnole bénéficient

des régimes ordinaires du transit, de l'entrepôt ou de l'admission temporaire, les droits de douane y afférents devant être perçus aux bureaux de douane de la zone de consommation.

Le régime du transit s'inspirera des conclusions de la Conférence de Barcelone de 1921.

Les marchandises d'importation transitant par les zones française et espagnole acquittent, de leur côté, les droits de douane à l'importation à Tanger.

Les droits d'exportation ne portent que sur les marchandises originaires de la zone.

ART. 21. La zone de Tanger participe pour sa part au service des emprunts de 1904 et de 1910.

Cette participation est proportionnelle au montant des recettes douanières encaissées par la zone par rapport aux recettes totales encaissées dans les ports des trois zones du Maroc pendant l'année précédente.

Le montant en est annuellement fixé sur les chiffres des recettes douanières après entente avec les autorités des deux autres zones.

Pour la première année, cette participation ne sera définitivement établie qu'en fin d'exercice et les prélèvements de la douane s'exerceront jusqu'à concurrence d'un forfait de 500.000 francs et donneront lieu, ultérieurement, à répétition ou restitution.

ART. 22. L'autonomie de la zone de Tanger ne pouvant porter atteinte aux droits et privilèges concédés, conformément à l'Acte d'Algésiras, à la Banque d'État du Maroc pour tout le territoire de l'Empire, la Banque d'État continue de jouir dans la zone de tous les droits qu'elle tient de son acte de concession et du règlement du 9 novembre 1906 sur ses rapports avec le Gouvernement chérifien.

La Banque d'État remplit d'autre part à l'égard de l'administration de la zone toutes les obligations qui lui incombent en vertu des actes précités.

Elle désigne un représentant chargé d'assurer ses relations avec l'administration de la zone.

Au cas où le statut judiciaire de la Banque d'État viendrait à être modifié dans les zones française et espagnole, le Tribunal mixte de Tanger aura, à l'égard de la Banque d'État, la même compétence que les juridictions françaises et espagnoles de ces zones.

ART. 23. Le franc marocain a cours légal et valeur libératoire dans la zone de Tanger.

Le budget de la zone, tous tarifs et opérations comptables qui s'y rattachent sont établis en francs marocains.

Conformément à l'article 37 de l'Acte d'Algésiras, la monnaie espagnole continue à être admise dans la circulation avec valeur libératoire.

Le taux d'échange entre les deux monnaies, notamment pour leur admission dans les caisses publiques, sera déterminé chaque jour par la Banque d'État du Maroc, après contrôle et visa du Directeur des Finances, qui aura mission de veiller à l'exactitude du taux fixé. Ce taux devra correspondre au change moyen entre les prix d'achat et de vente pratiqués sur la place le jour de l'opération.

Les déclarations de valeurs imposables pourront toujours être souscrites dans les deux monnaies. Les percepteurs et collecteurs seront tenus d'afficher dans leurs locaux les tarifs exprimés dans les deux monnaies.

ART. 24. L'autonomie administrative de la zone ne pouvant porter atteinte aux droits, prérogatives et privilèges concédés, conformément à l'Acte d'Algésiras, à la Société internationale de régie coïntéressée des Tabacs au Maroc, ladite Société continue de jouir dans la zone de tous les droits qu'elle tient des actes qui la régissent. L'autonomie de la zone de Tanger ne pourra pas faire obstacle à son action et les autorités lui faciliteront le libre et complet exercice de ses droits.

Les tabacs importés à Tanger et qui y seront admis sous le régime de la suspension des droits de douane, conformément à l'article 20 ci-dessus, n'y acquitteront ni droit de porte ni taxe indirecte locale.

Le droit de 2 l/2 p. 100, dont sont passibles les tabacs importés par Tanger, est intégralement acquis à la zone.

Le tarif des prix de vente des tabacs en zone de Tanger est celui de la zone française. Il ne peut être modifié que par un accord de l'Assemblée législative avec la Régie.

Pour le partage de la redevance fixe annuelle et des bénéfices (articles 20 à 23 du cahier des charges), on applique un pourcentage déterminé par la consommation effective de la zone dans l'année précédente par rapport à la consommation totale de l'Empire.

Le même pourcentage s'appliquerait à la charge de la zone de Tanger en cas de rachat anticipé de la Société.

ART. 25. L'autonomie de la zone ne pouvant porter atteinte aux droits de souveraineté de Sa Majesté le Sultan, ni à son prestige et à ses prérogatives de Chef de la communauté musulmane de l'Empire et Chef de la famille chérifienne en résidence à Tanger, l'administration de la population indigène et des intérêts musulmans dans la zone, ainsi que l'exercice du pouvoir judiciaire, continuent à être assurés, en respectant les formes traditionnelles, par un personnel marocain nommé directement par le Sultan et contrôlé par ses agents.

ART. 26. Sous réserve du maintien de l'ordre public, le respect et le libre exercice de la religion des indigènes et de ses pratiques traditionnelles, l'observation des fêtes religieuses musulmanes et israélites traditionnelles et de leur cérémonial sont garantis dans la zone.

ART. 27. Les trois Puissances contractantes s'engagent à faire élaborer dans le plus bref délai possible le statut administratif et juridique de la communauté israélite marocaine de Tanger.

ART. 28. Les sujets marocains, Musulmans et Israélites, jouissent en matière d'impôts et de taxes de toute nature d'une complète égalité par rapport aux ressortissants des Puissances.

Ils doivent acquitter exactement ces taxes et impôts.

Ils bénéficient dans les mêmes conditions que les ressortissants étrangers des oeuvres d'assistance, d'hospitalisation et d'enseignement que la zone viendrait à créer ou à subventionner.

ART. 29. Sa Majesté Chérifienne désigne pour la représenter à Tanger un Mendoub qui promulgue les textes législatifs votés par l'Assemblée internationale avec le visa, pour contreseing, du Président du Comité de contrôle. Le Mendoub administre directement la population indigène. Il remplit les fonctions de Pacha et exerce les attributions d'ordre administratif et judiciaire normalement dévolues à cette charge dans l'Empire. Il a droit d'expulsion à l'égard des sujets marocains. Il exerce le même droit à l'encontre des justiciables du Tribunal mixte, après avis conforme de l'Assemblée générale des membres titulaires du Tribunal.

Lorsqu'il s'agit d'un individu appartenant à une nationalité non représentée dans le Tribunal, son Consul a le droit de prendre part à la délibération.

L'expulsion est de droit lorsqu'elle est demandée par le Consul de l'intéressé.

Le Mendoub vise dans les considérants de l'arrêté d'expulsion l'avis du Tribunal.

Il a le devoir de faire observer et exécuter par ses administrés les clauses générales du statut de la zone et notamment d'assurer, par les moyens administratifs et judiciaires à sa disposition, l'exacte rentrée des impôts et taxes dus par la population indigène.

Le Mendoub préside l'Assemblée législative internationale et peut intervenir dans ses délibérations, mais sans prendre part au vote.

ART. 30. Le Comité de contrôle se compose des Consuls de carrière des Puissances signataires de l'Acte d'Algésiras ou de leurs intérimaires de carrière.

Les fonctions de Président du Comité de contrôle sont assumées à tour de rôle par chacun des Consuls de ces Puissances. Ces fonctions durent un an. Elles consistent à provoquer les réunions du Comité, à lui transmettre toutes les communications qui lui sont adressées et à suivre les affaires de sa compétence.

Le Consul appelé le premier à remplir les fonctions de Président est désigné par le sort. Le tour des Consuls en ce qui concerne la présidence est ensuite réglé d'après l'ordre alphabétique des Puissances représentées au Comité. Si le Consul désigné pour la présidence ne

pouvait, pour une raison quelconque, en accepter ou remplir les fonctions, elles seraient exercées par le Consul de la Puissance qui suit immédiatement dans l'ordre alphabétique. Il en est de même en cas de suppléance du Président pour absence, maladie ou tout autre empêchement.

Chaque membre du Comité de contrôle ne dispose que d'une voix.

Le Comité de contrôle a pour mission de veiller à l'observation du régime de l'égalité économique et des dispositions insérées dans le statut de Tanger.

Le Président, soit de sa propre initiative, soit à la demande d'un des membres, convoque le comité de contrôle et lui soumet les questions qui relèvent de sa compétence.

ART. 31. Le Comité de contrôle reçoit, par les soins de l'Administrateur, dans un délai maximum de huit jours, les textes législatifs ou règlements votés par l'Assemblée.

Dans un délai de quinze jours à compter de cette notification, le Comité de contrôle a le droit d'opposer son veto à la promulgation du texte.

Dans ce cas, ses décisions sont prises à la majorité. Elles doivent invoquer dans leurs motifs la non-observation des clauses et principes du statut de Tanger.

Sauf stipulation contraire, les votes du Comité de contrôle sont acquis à la majorité des voix.

En cas d'égalité, une seconde délibération doit avoir lieu dans un délai maximum de huit jours.

Si, au cours de la seconde délibération, aucune majorité n'est acquise, la voix du Président est prépondérante.

La décision du Comité est notifiée au Mendoub par le Président.

ART. 32. Les pouvoirs législatifs et réglementaires appartiennent à une Assemblée législative internationale présidée par le Mendoub et composée des représentants des Communautés étrangères et indigènes.

Toutefois, les Codes visés à l'article 48 ci-dessous ne peuvent être ni abrogés ni modifiés qu'après accord entre les zones française et espagnole de l'Empire chérifien et le Comité de contrôle statuant à l'unanimité.

Les textes réglementaires et fiscaux, dont la liste fait l'objet de l'article suivant, ne peuvent être ni abrogés ni modifiés pendant une première période de deux ans. A l'expiration de cette période, ils pourront être abrogés ou modifiés avec l'assentiment du Comité de contrôle votant à une majorité des trois quarts des voix.

Les codes, ainsi que les textes réglementaires et fiscaux ci-dessus, seront rédigés par les Commissions de techniciens britanniques, espagnols et français dont les travaux devront être terminés dans un délai de trois mois à dater de la signature de la présente Convention.

ART. 33. Les textes réglementaires et fiscaux prévus au paragraphe 3 de l'article précédent sont les suivants:

Dahir sur le régime des associations;
Dahir réglementant l'ouverture et l'exploitation des débits de boissons;
Dahir réglementant l'exercice des professions de médecin, pharmacien, dentiste, vétérinaire et sage-femme;
Dahir réglementant l'ouverture et l'exploitation des établissements insalubres, incommodes et dangereux;
Dahir sur la protection des monuments historiques et des sites;
Dahir sur les alignements, plans d'aménagement et d'extension, servitudes et taxes de voirie;
Dahir fixant le régime de l'expropriation et de l'occupation temporaire pour cause d'utilité publique;
Cahier des clauses et conditions générales imposées aux entrepreneurs de travaux publics;
Dahir déterminant les conditions de l'occupation temporaire des parcelles du domaine public;
Dahir établissant une procédure de délimitation des biens du domaine privé de l'État;
Dahir sur l'exploitation des carrières;
Dahir mettant au point le régime minier de 1914;
Règlement de comptabilité publique;
Dahir fixant la taxe et déterminant le régime des alcools;
Dahir réglementant les taxes de consommation sur les sucres, les principales denrées coloniales et leurs succédanés (thé, café cacao, vanille, etc.), les bougies, les bières;
Dahir sur l'enregistrement (droits de mutation) et le timbre;
Dahir précisant les conditions de la transmission de la propriété foncière selon le droit commun (chrâa).

ART. 34. En considération du nombre des ressortissants, des chiffres du commerce général, des intérêts immobiliers et de l'importance du trafic à Tanger des différentes Puissances signataires de l'Acte d'Algésiras l'Assemblée législative internationale comprend:

4 membres français,	4 membres espagnols,
3 membres britanniques,	2 membres italiens,
1 membre américain,	1 membre belge,
1 membre hollandais,	1 membre portugais,

désignés par leurs Consulats respectifs et en outre:
6 sujets musulmans du Sultan désignés par le Mendoub et
3 sujets israélites du Sultan désignés par le Mendoub et pris sur une liste de 9 noms présentée par la Communauté israélite.

L'Assemblée nomme, parmi ses membres, trois vice-présidents, un citoyen français, un sujet britannique et un sujet espagnol, chargés d'assister le Mendoub dans la présidence de l'Assemblée et de le suppléer en cas d'absence ou d'empêchement.

ART. 35. Un Administrateur exécute les décisions de l'Assemblée et dirige l'Administration internationale de la zone.

L'Administrateur a sous ses ordres deux administrateurs adjoints et deux ingénieurs.

Un des administrateurs adjoints est plus spécialement chargé, avec le titre de directeur, des services financiers.

Pour une première période de six ans, l'administrateur est de nationalité française; l'administrateur adjoint, chargé de services d'hygiène et d'assistance, est de nationalité espagnole; l'administrateur adjoint, chargé des services financiers, est de nationalité britannique. L'administrateur, les deux administrateurs adjoints et les deux ingénieurs sont nommés par Sa Majesté Chérifienne sur la demande du Comité de contrôle, à qui ils sont présentés par leurs consulats respectifs.

Après cette première période de six ans, l'Assemblée nomme l'administrateur et les administrateurs adjoints parmi les ressortissants des Puissances signataires de l'Acte d'Algésiras. Toutefois, les trois postes ne pourront être confiés qu'à des ressortissants de nationalité différente.

En raison des intérêts particuliers de la France et de l'Espagne dans les travaux publics, dans les entreprises et dans les concessions de travaux publics de la zone de Tanger, l'ingénieur des travaux publics d'État est de nationalité française; l'ingénieur chargé des travaux municipaux est de nationalité espagnole. Les deux ingénieurs sont présentés au Comité de contrôle par leurs Consulats respectifs.

Le Comité de contrôle pourra, le cas échéant, à la majorité des trois quarts des voix, soumettre une demande motivée de remplacement de l'administrateur à Sa Majesté Chérifienne qui nommera un candidat de même nationalité.

Si la collaboration d'un des administrateurs adjoints ou d'un des deux ingénieurs ne donne pas satisfaction à l'administrateur, celui-ci soumet une demande motivée de remplacement du Comité de contrôle qui présentera à Sa Majesté Chérifienne un candidat de la même nationalité.

ART. 36. Les traitements des fonctionnaires sont fixés par l'Assemblée.

Toutefois, pour une première période de six ans, les traitements annuels de l'administrateur, des administrateurs adjoints et des ingénieurs sont fixés comme suit:

Administrateur: 50.000 francs marocains;

Administrateurs adjoints: 40.000 francs marocains;

Ingénieurs: 38.000 francs marocains.

L'Administration pourvoit, en outre, au logement de ces fonctionnaires.

Au cours de la première période de six ans, visée ci-dessus, ces traitements peuvent, à titre exceptionnel, être modifiés sur la demande de l'Assemblée par décision motivée du Comité de contrôle statuant aux trois quarts des voix.

ART. 37. Le recrutement des fonctionnaires de l'Administration internationale autres que ceux prévus à l'article 36 ci-dessus est effectué par une Commission présidée par l'administrateur et composée des trois vice-présidents de l'Assemblée et du chef du service intéressé.

Les candidats agréés sont nommés par l'administrateur après approbation de l'Assemblée.

ART. 38. Le produit de la taxe spéciale revenant à la zone de Tanger est versé à la Banque d'État pour le compte de la zone.

Cette recette est affectée par priorité:

Aux travaux et à l'entretien dans la zone de Tanger des routes de Tanger à Tétouan et de Tanger à Larache et à Rabat;

Aux travaux d'amélioration et d'entretien de l'éclairage maritime et du balisage autres que les feux du port et le balisage du port;

- Le surplus des disponibilités sera affecté, conformément à l'article 66 de l'Acte d'Algésiras, aux dépenses et à l'exécution de travaux publics intéressant le développement de la navigation et du commerce en général.

ART. 39. L'Administration du Contrôle de la Dette conserve les droits, privilèges et obligations qu'elle tient de la Convention du 21 mars 1910.

Cette administration demandera au Gouvernement chérifien de désigner le chef du Service de la Douane de Tanger qui relèvera de l'administration des Douanes marocaines.

Le Service des Douanes et Régies de Tanger perçoit et encaisse les droits de douane sur les marchandises importées pour la consommation de la zone et sur les marchandises exportées de ladite zone.

Il perçoit et encaisse également les redevances et bénéfices du monopole des Tabacs et le droit de 2 1/2 p. 100 établi par l'Acte d'Algésiras au titre de la taxe spéciale des travaux publics.

Il perçoit et encaisse en outre le produit des diverses taxes de consommation.

Il ne perçoit pas les autres impôts et produits, notamment la taxe urbaine, le tertib, les droits aux portes, les revenus du domaine et les produits du mostafadat.

Le service des douanes et régies prélève d'office sur les sommes qu'il encaisse, et après remboursement de ses frais de régie, le montant des diverses dépenses obligatoires de la zone de Tanger qu'il remet à l'échéance aux créanciers auxquels elles reviennent:

1° à la délégation des porteurs de titres des emprunts de 1904 et de 1910: la part de Tanger dans le service desdits emprunts;

2° à l'État Chérifien:

les droits de douane payés par le Monopole des tabacs et ne correspondant pas à la consommation tangéroise;

3° à la Compagnie du Tanger-Fez:

la part de Tanger dans la garantie de ses emprunts;

4° à la compagnie du port de Tanger:

les annuités du service de ses emprunts.

Le Service des Douanes et Régies remet, d'autre part, le produit de la taxe spéciale à la Banque d'État du Maroc.

Si les recettes encaissées demeuraient inférieures au total des prélèvements ci-dessus, le déficit serait imputé par préférence sur l'ensemble des recettes de Tanger ou, le cas échéant, sur son fonds de réserve;

Si elles leur étaient supérieures, l'excédent serait versé à la Banque d'État, à la disposition de l'Administration de la zone.

Le budget du service de la douane est présenté chaque année, avant le 15 novembre, à l'administrateur qui le soumet à l'approbation de l'Assemblée. En cas de désaccord, le différend entre l'Administration de la zone et le service de la Douane est arbitré par le Comité de contrôle qui statue à la majorité des voix. Une majorité des trois quarts est nécessaire pour les différends relatifs à la création et à la suppression d'emplois.

Si l'approbation du budget du service de la Douane n'intervient pas avant le 1er janvier, les prévisions budgétaires de l'année antérieure s'appliquent d'office au nouvel exercice.

Le Comité de contrôle pourra, le cas échéant, et à la majorité des trois quarts, soumettre au Gouvernement chérifien une demande motivée de remplacement du chef du Service de la Douane.

ART. 40. Sous les conditions expresses ci-après, le Gouvernement chérifien délègue à la zone de Tanger:

1^o Les droits et charges qu'il tient du contrat de concession du port en date du 21 juin 1921;

2^o La reprise par déchéance, rachat ou fin de concession au profit de la zone de Tanger.

La zone s'acquittera intégralement des obligations incombant au Gouvernement chérifien d'après le contrat de concession. Les annuités du capital garanti par le Gouvernement chérifien seront payées par la zone de Tanger par prélèvement en priorité sur les produits des douanes et les bénéfices de l'exploitation et des terrains du port.

Seront soumis à l'approbation du Gouvernement chérifien:

- a) toutes modifications aux clauses du contrat et aux status de la Société cessionnaire du port;
- b) toute cession partielle ou totale de l'entreprise;
- c) déchéance;
- d) le rachat.

Tant que la garantie du Gouvernement chérifien restera en jeu, seront également soumis à son approbation:

- a) toute transformation d'actions nominatives en actions au porteur;
- b) tous traités, dispositions ou arrangements conformes aux dispositions du contrat et ayant pour effet d'augmenter le capital fourni par la Société comme il est dit à l'article 10 de la Convention du port.

L'Approbation du Gouvernement chérifien pourra être donnée en son nom par son représentant à la Commission du Port.

A défaut d'exécution par l'Administration de Tanger des obligations prévues aux paragraphes ci-dessus, le Gouvernement chérifien exercera

seul le contrôle financier de la concession.

Sur la demande de l'Administration de Tanger, le Gouvernement chérifien exercera le droit qu'il tient du dernier alinéa de l'article 6 de la Convention de concession du port de Tanger, étant entendu que cette Administration aura l'obligation expresse de rembourser au Gouvernement chérifien les charges nées de l'exercice de ce droit.

Sur la demande de l'Administration de Tanger, le Gouvernement chérifien exercera également le droit qu'il tient de l'article 6 de la Convention du port de Tanger d'accélérer l'amortissement des obligations garanties, dans la mesure où cette Administration, par ses propres moyens, assurera les frais de ladite accélération.

Les titres, tant actions qu'obligations, émis par la Compagnie concessionnaire seront, dans la zone de Tanger, exempts de tous impôts, taxes et contributions.

ART. 41. Il sera constitué une Commission du Port qui aura les attributions du Service du Contrôle telles qu'elles sont définies à l'Acte de concession et sous réserve des dispositions de l'article 40 ci-dessus.

En ce qui concerne l'exécution des travaux de construction et d'entretien, la Commission prendra ses décisions sur l'avis de l'ingénieur chargé des travaux d'État de la zone et de la surveillance des travaux du port à qui appartient la responsabilité technique. Dans le cas où la Commission serait en désaccord avec l'ingénieur, l'avis de ce dernier sera annexé au procès-verbal.

Sous l'autorité du Comité de contrôle, la Commission veille à l'observation du régime de l'égalité économique dans l'exploitation du port.

La Commission est composée:

- d'un représentant du Gouvernement chérifien;
- d'un représentant de l'Assemblée législative;
- d'un représentant du Comité de contrôle.

L'ingénieur assiste aux séances avec voix délibérative.

L'administrateur de la zone a le droit d'assister avec voix consultative aux séances de la Commission.

Y sont également appelés de droit, avec voix consultative:

Un représentant des intérêts commerciaux de Tanger, élu par les Chambres de Commerce et les Directeurs ou Chefs de service de l'administration internationale pour les affaires qui les intéressent.

Le Directeur local de la Société concessionnaire pourra aussi être entendu.

Sur leur demande, les consuls seront entendus sur les questions qui les intéressent.

En dehors des réunions périodiques qu'elle aura décidé de tenir, la Commission pourra être convoquée sur l'initiative d'un de ses membres et, en cas d'urgence, sur celle de l'administrateur de la zone.

Le règlement intérieur de la Commission sera approuvé par le Comité de contrôle.

La Commission désignera son Président. A défaut de désignation, la présidence sera exercée à tour de rôle par chacun des trois membres.

Les fournitures de matériaux importés ainsi que le matériel de l'exploitation (abstraction faite de toute fourniture ou achat de matériel relevant d'un contrat d'adjudication publique) feront l'objet d'appels à la concurrence, sous le contrôle de la Commission du Port.

La Commission, dans le cas de marchés de fournitures dont le montant excédera vingt mille francs sans être supérieur à cent mille francs:

1^o arrêtera le mode de passation des marchés et les conditions suivant lesquelles il sera procédé, soit aux appels d'offres en vue de marchés de gré à gré, soit aux adjudications publiques;

2^o approuvera les marchés et adjudications.

Pour les fournitures dont l'importance dépassera cent mille francs, il sera procédé à une adjudication publique.

ART. 42. Les droits d'ancrage existant en vertu des anciens traités de commerce sont remplacés par les droits de stationnement prévus au contrat de concession du port.

ART. 43. L'Administration de Tanger veillera à ce que les litiges qui pourraient survenir entre la Société concessionnaire du port de Tanger et la Compagnie du Chemin de fer de Tanger à Fez soient réglés par arbitrage comme il est respectivement prévu aux contrats des deux concessionnaires.

ART. 44. L'Administration de Tanger aura, en ce qui concerne le chemin de fer de Tanger à Fez, tous les droits et obligations qui lui reviennent dans l'étendue de la zone, d'après le Protocole Franco-Espagnol du 27 novembre 1912 et la Concession du 18 mars 1914 et ses annexes.

Tout avenant à la concession, intervenu après accord entre les Gouvernements français et espagnol, avant la mise en vigueur du présent statut, s'appliquera à la zone de Tanger.

ART. 45. Sauf stipulation contraire dans la présente convention, les droits et obligations résultant de toutes les concessions accordées dans la zone de Tanger avant la mise en vigueur de la présente convention reviennent à ladite zone.

Toute concession accordée, à l'avenir, par la zone de Tanger pour un délai dépassant la durée de la présente convention et celle des périodes pour lesquelles elle pourra être éventuellement renouvelée, n'engagerait le Gouvernement chérifien, en cas de non-renouvellement du statut, que si ledit Gouvernement avait, au préalable, formellement approuvé cette concession, à la diligence du soumissionnaire.

ART. 46. Il est créé un budget de la zone de Tanger.
Ce budget est établi et exécuté suivant les règles déterminées par le dahir organique ci-joint.

ART. 47. La sécurité dans la zone est exclusivement assurée par un corps de gendarmerie indigène mis à la disposition de l'administrateur. Cette force, commandée par un officier belge, du grade de capitaine, assisté de cadres français et espagnols, ne dépassera pas 250 hommes. Elle peut tenir garnison dans la ville de Tanger et entretenir des postes dans la banlieue.

Le règlement concernant la gendarmerie est annexé à la présente convention.

ART. 48. Une juridiction internationale, dénommée Tribunal mixte de Tanger et composée de magistrats français, britanniques et espagnols, est chargée d'administrer la justice aux ressortissants des Puissances étrangères.

Le Ministère public est confié à deux magistrats, l'un français et l'autre espagnol.

Le Tribunal mixte de Tanger fait l'objet du dahir spécial ci-joint. Il remplace les juridictions consulaires existantes.

Le dahir instituant le Tribunal mixte de Tanger ne pourra être modifié qu'avec l'assentiment de toutes les Puissances signataires de l'Acte d'Algésiras.

Les relations des autorités judiciaires de la zone française ou de la zone espagnole avec le Tribunal mixte de Tanger sont réglées par l'Accord du 29 décembre 1916 touchant les rapports entre les autorités judiciaires de ces deux zones.

Les trois Gouvernements s'engagent à faire établir, dans un délai de trois mois à compter de la signature de la présente Convention, les codes nécessaires pour le fonctionnement du tribunal. Ces codes sont les suivants:

- Code sur la condition civile des étrangers dans la zone;
- Code de commerce;
- Code pénal;
- Code de procédure criminelle;
- Code des obligations et contrats;
- Code de procédure civile avec une annexe fixant les frais de justice;
- Code de l'immatriculation.

ART. 49. A dater de la mise en vigueur du nouveau régime, les Agences diplomatiques à Tanger seront remplacées par des Consulats.

ART. 50. Les Commissions et Comités actuels de Tanger sont supprimés. Le soin de fixer le tarif des valeurs douanières applicable dans les trois zones, qui incombe actuellement à la Commission des valeurs

douanières, est confié à une Commission composée de représentants des trois zones. Cette Commission se réunira à Tanger au moins deux fois par an.

ART. 51. L'arabe, l'espagnol et le français sont les seules langues officielles dans la zone de Tanger. L'Assemblée législative réglementera leur emploi.

Les textes législatifs et réglementaires devront être publiés dans les trois langues.

ART. 52. Les jeux de hasard sont interdits dans la zone de Tanger. Il ne pourrait être dérogé à cette interdiction que par une décision du Comité de contrôle statuant à l'unanimité.

ART. 53. Les Gouvernements contractants reconnaissent que le Gouvernement chérifien conserve la propriété du phare du Cap Spartel, la Convention du 31 mars 1865 demeurant provisoirement en vigueur.

ART. 54. Les différends qui viendraient à s'élever au sujet de l'interprétation et de l'application des dispositions de la présente Convention seront portés soit devant la Cour permanente de Justice internationale, soit du commun accord des parties, devant la Cour permanente d'arbitrage de La Haye.

ART. 55. Sont abrogées toutes clauses de traités, conventions ou accords antérieurs qui seraient contraires aux stipulations du présent statut.

ART. 56. La présente Convention sera communiquée aux Puissances signataires de l'Acte d'Algésiras près desquelles les trois Gouvernements contractants s'engagent à se prêter mutuellement appui pour obtenir leur adhésion.

La Convention sera ratifiée et les ratifications seront échangées à Paris aussitôt que faire se pourra.

Elle est conclue pour une durée de douze années à partir de sa ratification.

Elle sera renouvelée de plein droit pour une ou plusieurs périodes égales si, au moins six mois avant son expiration, aucune des Puissances contractantes n'a demandé qu'elle soit révisée. En ce cas, elle continuera à s'appliquer pendant la durée de la révision effectuée d'un commun accord.

En foi de quoi, les Plénipotentiaires soussignés ont signé le présent Traité.

Fait à Paris, le 18 décembre 1923, en trois exemplaires.

ARNOLD ROBERTSON

G.H. VILLIERS

M. DE BEAUMARCHAIS

ANNEXE A LA CONVENTION DU 18 DÉCEMBRE 1923 RELATIVE AU STATUT DE TANGER.

RÈGLEMENT DE LA GENDARMERIE DE LA ZONE DE TANGER.

I. ORGANISATION

ARTICLE PREMIER. Il est constitué à Tanger une Gendarmerie de la zone.

ART. 2. Cette Gendarmerie doit:

- 1° Maintenir l'ordre dans la zone. Elle devra prêter son concours à la police locale sur la réquisition de l'administrateur;
- 2° Garantir d'une manière efficace la sécurité de la zone.

ART. 3. La Gendarmerie est placée sous l'autorité de l'administrateur de la zone.

ART. 4. Elle est commandée par un Capitaine qui aura sous ses ordres comme cadres européens:

- 4 Lieutenants ou Sous-Lieutenants dont un officier comptable;
- Un Sous-Officier adjoint à l'officier comptable.

ART. 5. Si ces officiers ou sous-officier européens sont promus au grade supérieur au cours de leur contrat, ils devront être remplacés par des officiers du grade prévu à l'article 4 ci-dessus.

ART. 6. L'effectif de la troupe sera au maximum de 250 hommes indigènes marocains, sous-officiers indigènes compris.

L'unité sera mixte (infanterie et cavalerie).

La répartition de l'effectif et l'encadrement seront fixés par l'Assemblée internationale avec l'approbation du Comité de contrôle.

ART. 7. Toutefois la composition de la Gendarmerie (proportion dans laquelle entre chacune des armes) pourra être modifiée selon les données de l'expérience.

ART. 8. Les frais d'entretien de la Gendarmerie sont à la charge de l'administration de Tanger.

ART. 9. Un contrat passé entre l'administration de Tanger et les officiers européens détermine les conditions de leur engagement et fixe leur solde qui sera ordonnancée par le Directeur des Finances.

II. RECRUTEMENT

ART. 10. La Gendarmerie comprend des sous-officiers, caporaux et soldats marocains, mariés ou célibataires, n'ayant encouru aucune punition grave.

Les hommes de troupe seront âgés d'un moins 24 ans et de 45 ans au plus.

ART. 11. Pour la constitution de la Gendarmerie, le capitaine commandant cette unité choisira de préférence parmi les gradés et les askers provenant des tabors de police no. 1 et no. 2 dissous.

ART. 12. Le recrutement des hommes de troupe se fait par voie d'engagement et de rengagement.

L'engagement est contracté pour une période de trois ans.

Tout homme qui, après trois ans de service dans la Gendarmerie, rengage dans cette unité pour une même période aura droit à une haute paye journalière de 0 fr. 50.

Tout engagement nouveau donnera droit à une nouvelle haute paye de 0 fr. 50 s'ajoutant aux précédentes.

III. ATTRIBUTIONS DU COMMANDEMENT. DISCIPLINE

ART. 13. Le capitaine commandant a toutes les attributions d'un chef de corps.

Il doit assurer l'instruction, la discipline et l'administration de l'unité.

En ce qui concerne la discipline:

Pour les Caïds Mia et les hommes de troupes marocains, il se conformera aux prescriptions du règlement qui sera établi ultérieurement.

Pour le cadre européen, le capitaine commandant adresse, sous sa responsabilité, un rapport avec des conclusions à l'administrateur de Tanger.

Celui-ci transmet ce rapport au consul de la nation à laquelle appartient l'officier ou le sous-officier en cause.

IV. SERVICE DES SALVES

ART. 14. La Gendarmerie assure avec un détachement prélevé sur son effectif le service de la batterie pour les salves réglementaires.

APPENDIX XXII

DU ROLE COLONIAL DE L'ARMEE

Le titre de cette étude: Du Rôle colonial de l'armée éveillera peut-être la pensée qu'il s'agit ici d'un plaidoyer exclusif en faveur du régime militaire aux colonies.

C'est au-devant de cette pensée, la plus éloignée qu'il se puisse de notre esprit, que nous voudrions aller tout d'abord.

La suite de ces quelques pages montrera que l'emploi de la force armée dans les entreprises coloniales, tel que nous le concevons, tel que la pratique l'a déjà sanctionné, peut être appliqué, quelle que soit la formule du régime, -- à moins que l'on ne suppose des colonies sans force armée, ce qui est, tout le monde l'admettra, au moins prématuré.

Du reste, si cinq années d'expériences coloniales nous ont appris quelque chose, c'est à coup sûr le plus complet éclectisme quant à l'étiquette du régime.

Le besoin des formules théoriques et l'amour des systèmes étant un des apanages de nos compatriotes, il suffit que la conversation s'ouvre entre "coloniaux" d'habits différents, pour aboutir presque toujours à une discussion passionnée sur les mérites respectifs du régime militaire ou du régime civil.

Or, il ne nous semble pas que la question se pose ainsi sous la forme d'un dilemme.

Il est du reste à remarquer que la discussion en arrive très vite à des questions de personnes, chacun tirant argument à l'appui de sa thèse du gouverneur X... ou du gouverneur Y...; et ainsi, sans le vouloir, adversaires et partisans de chacun des deux systèmes apportent leur témoignage à la formule de notre choix. Et, en effet, c'est qu'aux colonies, c'est bien moins la question de l'étiquette du régime qui importe que celle des "hommes". C'est que si, dans la métropole, les administrations, traditionnellement organisées, fonctionnent automatiquement et peuvent à la rigueur se passer d'hommes, -- quelque temps, -- aux colonies, au contraire, où l'imprévu est la règle et où la décision est la nécessité quotidienne, une formule domine toutes les autres, c'est the right man in the right place.

Or, l'habit ne fait pas le... right man. Et, que l'habit du chef soit civil ou militaire, la chose est indifférente une fois l'homme bien choisi, -- pour cette raison qu'il n'y a pas deux manières (j'entends bonnes) d'exercer le commandement colonial: il y en a une; et celle-là exige des qualités qui sont à la fois militaires et civiles, -- ou, plus exactement, administratives.

Quelles sont donc les qualités caractéristiques du chef militaire?

Est-ce seulement de savoir commander l'exercice et de connaître la lettre des règlements? Ou bien est-ce le don naturel du commandement, la décision, l'activité communicative, la promptitude du coup d'oeil,

le sang-froid dans le péril? Et, si elles sont telles, ne sont-elles pas nécessaires au chef colonial civil aussi bien qu'au militaire?

Et quelles sont les qualités qui doivent distinguer entre toutes l'administrateur colonial?

Est-ce seulement la connaissance méticuleuse des décrets et circulaires, le souci scrupuleux de leur stricte application? Est-ce le fétichisme du tchin, qui existe ailleurs qu'en Russie, l'état d'âme "fonctionnaire", en un mot? Ou bien est-ce l'initiative, la soif des responsabilités, l'appel constant au bon sens, la passion du mieux, l'interprétation la plus large, la plus libérale des règlements, et la volonté d'en subordonner la lettre à l'esprit? Et dira-t-on que de telles qualités sont moins nécessaires au chef militaire qu'au chef civil?

Est-ce que tout colonial, administrateur ou colon, ne fait pas oeuvre de militaire? Se prémunir contre les revirements toujours possibles chez les populations contenues par une poignée d'Européens, commander ses milices, ses engagés indigènes, n'est-ce pas faire acte de soldat?

Et le soldat qui organise le pays à mesure qu'il le conquiert, n'est-il pas un administrateur?

Sont-ce des civils ou des militaires, ces colons, ces agriculteurs qui, dans l'Afrique du Sud, en ce moment même, gagnent des batailles rangées?

Vainement on cherche la démarcation. La vérité, c'est que la vie du dehors, la mise aux prises constante avec la misère, les obstacles, les périls, la lutte quotidienne contre les hommes et les éléments plongent dans la même trempe tous les tempéraments. De ceux qui ont été soumis à cette rude école, les uns restent au premier tournant, mais des autres résulte un être spécial qui n'est plus ni le militaire, ni le civil, mais qui est tout simplement le colonial.

Et c'est à ce titre qu'il nous sera permis, sans être suspect d'y apporter le moindre "esprit de bouton", d'exposer à grands traits la façon dont le général Gallieni a entendu et appliqué, après d'illustres prédécesseurs dont il a développé les principes et les méthodes, l'utilisation coloniale de l'armée.

I

Voyons d'abord dans ses grandes lignes l'emploi de la force armée pour la conquête, tel que l'entend, avec le général Gallieni et quelques-uns de nos chefs coloniaux, l'école qui procède d'eux, -- car c'est un école.

Ce mode d'emploi exclut autant que possible¹ la colonne proprement dite,

¹Nous disons "autant que possible": car il doit être formellement entendu qu'il n'y a ici rien d'absolu. Il est évident qu'il y a nombre de cas dans les guerres coloniales où l'expédition militaire s'impose, sous sa forme classique et traditionnelle: au début d'une conquête, quand il faut atteindre avant tout un objectif précis, ruiner d'un coup la puissance matérielle et morale de l'adversaire, --aux Pyramides, à Alger, à Dénghil-Tépé, à Abomey; --dans la période suivante, lorsqu'il faut atteindre et frapper certains chefs irréductibles, tels Abd-el-Kader, Schamyl, Samory.--C'est à la progression normale de l'occupation dans les hinterlands coloniaux, après le premier coup de force presque toujours nécessaire, que s'applique la méthode qui fait l'objet de cette étude.--Et quand l'expédition militaire

et y substitue la méthode d'occupation progressive. Cette méthode peut se formuler ainsi:

"L'occupation militaire consiste moins en opérations militaires qu'en une organisation qui marche."

Le système repose sur trois organes essentiels: le territoire, le cercle, le secteur.

Il présente une différence fondamentale avec notre ancien organisme d'administration par les militaires, les bureaux arabes, -- auxquels il fait d'ailleurs de larges emprunts: -- car ce n'est pas ici qu'on trouvera une appréciation malveillante à l'égard de cette institution qui, après des années d'engouement, a subi des jugements sévères, fondés, comme il arrive toujours, sur des cas particuliers. L'opinion des coloniaux les plus autorisés, sans distinction d'habit, rend aujourd'hui justice à la grande oeuvre qu'ils ont accomplie et à leurs glorieux initiateurs: les Bugeaud, les Daumas, les Lamoricière, les Du Barail, dont nous tenons à honneur de nous réclamer. Mais les bureaux arabes étaient constitués par un corps d'officiers spécial, uniquement administrateurs, distincts du commandement des troupes. Or, la disposition constante et directe de la force armée est d'obligation dans ces immenses pays coloniaux, où il faut assurer la sécurité avec une poignée d'hommes en face de peuples entiers. Le système des bureaux arabes, en maintenant deux autorités parallèles, créait donc souvent, au lieu de l'unité d'action, un dualisme avec ses inconvénients.

Le système appliqué d'une manière absolue par le général Gallieni repose, au contraire, sur l'identité du commandement militaire et du commandement territorial.

La circonscription minimum, qui est le secteur, correspond à la région que peut tenir une compagnie, un peloton, dont le chef, capitaine ou lieutenant, est en même temps le chef du secteur.

Le cercle, réunion de plusieurs secteurs et par conséquent de plusieurs

Footnote continued:

proprement dite s'impose, c'est avec toutes les ressources de la tactique et de la science modernes, après la plus minutieuse préparation, avec la dernière vigueur, qu'elle doit être menée. --C'est la meilleure manière d'économiser le temps, les hommes, l'argent. Il est essentiel qu'il n'y ait sur ce point aucun malentendu. Du reste, puisque c'est de la méthode appliquée spécialement par le général Gallieni pour l'occupation progressivement des pays confiés à son commandement qu'il s'agit ici, ce serait méconnaître singulièrement une part essentielle de son oeuvre que d'oublier que, chaque fois qu'il l'a fallu, au Soudan, au Tonkin, en face de l'insurrection de Madagascar, il a débuté par de vraies opérations, par des colonnes proprement dites qui ont été d'autant plus courtes et efficaces qu'elles ont été plus scientifiquement combinées, plus puissamment organisées, plus militairement menées. Et, le cas échéant, c'est à cette ultima ratio qu'il faut recourir sans hésiter. Nous y reviendrons.

compagnies, correspond à l'action d'un officier supérieur.

Le territoire est l'organe supérieur d'action politique et militaire. Son rôle est le fondre l'action particulière des cercles dans l'action d'ensemble, d'empêcher que l'intérêt général ne soit subordonné aux intérêts régionaux. Ce sont de vraies lieutenances du gouvernement général, destinées à mettre en liaison des régions qui s'ignoreraient entre elles, à les faire entrer en relations économiques les unes avec les autres, à coordonner et à faire converger vers un but commun aussi bien les opérations militaires que les travaux de premier établissement. Ils correspondent à l'action d'un colonel.

Nous prévoyons l'objection: tout officier ne convient pas à ce double rôle, et le jeu seul du commandement des unités peut amener à l'administration territoriale des sujets qui n'y auraient aucune aptitude. Cela serait exact si tout corps d'occupation ne comportait pas deux éléments: -- l'un affecté à cette occupation régionale, l'autre formant les réserves, stationnées dans les grands centres, dans les ports, -- ou, si l'on veut, l'un de campagne, l'autre de garnison. Le second est tout préparé pour recevoir les officiers à qui le rôle d'administrateur ne convient pas ou qui ne conviennent pas à ce rôle. Néanmoins, il y a un intérêt de premier ordre à ce que le commandement territorial, avec les hautes responsabilités politiques et morales qu'il comporte, ne soit pas à la merci d'un choix arbitraire, d'un "tour de service"; à ce que, en un mot, il échoie toujours au right man. Aussi a-t-on formulé le vœu que, dans la future armée coloniale, la désignation des cadres destinés au double commandement militaire et territorial fût entourée de garanties spéciales. Un des derniers gouverneurs généraux de l'Indochine, M. Rousseau, avait vivement senti cette nécessité et, quand la mort l'a surpris prématurément, il se proposait d'étudier, de concert avec l'autorité militaire, les mesures nécessaires pour assurer à ce cadre une fixité relative et un recrutement d'élite.

L'un des caractères essentiels de cette organisation, telle que nous l'avons vu spécialement appliquer par le général Gallieni, c'est qu'elle ne suit pas l'occupation du pays, mais la précède.

Aussitôt l'occupation d'un territoire nouveau résolue pour des raisons politiques ou administratives, nous ne l'avons jamais vu procéder "par colonne en coup de lance" contre un objectif plus ou moins militaire, le souci de l'organisation restant réservé jusqu'à l'issue de l'opération; au contraire, tous les éléments de l'occupation définitive et de l'organisation sont assurés d'avance; chaque chef d'unité, chaque soldat sait que le pays qui va lui échoir sera celui où il restera, et chefs et troupes sont formés en conséquence. Et ainsi l'occupation successive dépose les unités sur le sol comme des couches sédimentaires. C'est bien une organisation qui marche.

C'est une méthode sans grands coups d'éclat, plutôt de cheminements que d'assauts, qui n'aboutit qu'exceptionnellement à une "grosse affaire"; aussi fut-elle à l'origine peu sympathique aux chercheurs d'aventures.

Déjà, elle avait été présentée et défendue dans un rapport adressé en 1895 par le général commandant en chef le corps d'occupation au gouverneur général de l'Indochine; il convient ici de signaler un passage de ce document:

Je vous demande la permission de préciser cette méthode et de répondre une fois pour toutes à la plus spécieuse des objections qui lui sont couramment opposées et qui se formule ainsi:

Cette méthode donne des résultats illusoire, parce qu'elle ne détruit pas les bandes, les refoule simplement à l'extérieur, d'où elles reviennent, à moins qu'elle ne les rejette dans les territoires voisins de ceux où elle est appliquée. L'oeuvre est donc sans cesse à recommencer.

J'estime que ce raisonnement part d'une fausse appréciation des conditions de formation et d'établissement des bandes pirates.

En premier lieu, l'expérience du passé démontre qu'on arrive rarement, sinon jamais, à la destruction par la force d'une bande pirate. Dans la chasse à courre que représente la poursuite d'une bande déterminée, tous les avantages restent du côté de l'adversaire avec une évidence telle qu'il est superflu de la détailler ici; et un résultat toujours partiel ne s'obtient qu'au prix de fatigues, de pertes, de dépenses, qui ne sont certes pas compensées par le succès.

En second lieu, il ne faut pas perdre de vue que le "pirate" est, si je puis m'exprimer ainsi, "une plante qui ne pousse qu'en certains terrains", et que la méthode la plus sûre, c'est de lui rendre le terrain réfractaire.

Il n'y a pas de pirates dans les pays complètement organisés; en revanche, il y en a, même en Europe, sous d'autres noms, dans les pays tels que la Turquie, la Grèce, l'Italie du Sud, qui n'offrent qu'une voirie incomplète, une organisation administrative rudimentaire, ou une population clairsemée. Si j'ose continuer ma comparaison, je dirai que, lorsqu'il s'agit de mettre en culture une partie d'un terrain envahi par les herbes sauvages, il ne suffit pas d'arracher celles-ci, sous peine de recommencer le lendemain, mais qu'il faut, après y avoir passé la charrue, isoler le sol conquis, l'enclôre; puis y semer le bon grain qui seul le rendra réfractaire à l'ivraie. De même de la terre livrée à la piraterie: l'occupation armée, avec ou sans combat, y passe le soc; l'établissement d'une ceinture militaire l'enclôt et l'isole; enfin la reconstitution de la population, son armement, l'installation des marchés et des cultures, le percement des routes, y sèment le bon grain et rendent la région conquise réfractaire au pirate, si même ce n'est ce dernier qui, transformé, coopère à cette évolution.

En exposant cette méthode à M. le gouverneur général Rousseau, le général Duchemin, commandant en chef le corps d'occupation, trouvait à qui parler. Rien ne le prouve mieux que le passage suivant d'une lettre où, à son tour, M. Rousseau donnait au gouvernement métropolitain les grandes lignes du système tel qu'il était appliqué au Tonkin :

La mission que remplit aujourd'hui notre corps d'occupation consiste avant tout à assurer la protection de la frontière et à procéder à la reconstitution sociale et à la remise en valeur de la haute région du Tonkin, organisée en territoires militaires, les expéditions et l'emploi de la force passant au dernier plan.

En arrière de la frontière existe une vaste région ravagée par vingt ans de piraterie, terrain vague qui constitue un danger constant s'il reste à l'état inorganique, véritable matelas de protection au contraire s'il se reconstitue, se repeuple, si les voies de communication s'y rouvrent, si la culture y renaît.

Or, à cet objet convient merveilleusement la méthode de colonisation militaire pratiquée sous l'impulsion du général Duchemin. Cette méthode consiste à couvrir le pays d'un réseau serré de secteurs à chacun desquels correspondent des unités militaires réparties en postes, constituant autant de noyaux de réorganisation locale sous la direction d'un personnel essentiellement dévoué et intègre, et formant ainsi une "population provisoire" à l'abri de laquelle se reconstituent la population réelle et la remise en exploitation du sol.

Certains territoires témoignent déjà de l'efficacité de cette méthode, l'évidence des résultants qui y ont été obtenus est une des choses qui m'ont le plus frappé à mon arrivée au Tonkin. Cette méthode a fait ses preuves; hors d'elle, il n'y a, vis-à-vis de la piraterie, que compromissions louches ou expéditions onéreuses et inefficaces.

Qu'il nous soit permis de rendre hommage en passant à l'oeuvre de ces deux grands chefs, le gouverneur général Rousseau et le général Duchemin, dont l'intime et féconde collaboration assura d'une manière décisive la destruction de la grande piraterie au Tonkin.

Or, nous le répétons, cette méthode est la négation de la grosse colonne proprement dite, de celle qui, pour ainsi dire, devient le but, au lieu de rester le moyen, qui traverse sans s'y arrêter, droit sur un objectif presque toujours fuyant, un pays qu'elle épuise d'autant plus qu'aucun de ceux qui le conquiert n'est directement intéressé à sa préservation.

Mais si, au contraire, toute la troupe jetée dans un pays neuf est celle qui doit y séjourner, y habiter, le coloniser; si son chef est celui qui doit le susciter, quelle différence! Et nous aboutissons alors à cette formule qui, prenant une bien autre portée, ne s'applique plus

seulement à des actions de détail, mais peut s'appliquer à toute guerre de conquête coloniale:

"Une expédition coloniale devrait toujours être dirigée par le chef désigné pour être le premier administrateur du pays après la conquête."

Oh! c'est qu'alors la route qu'on poursuit, le pays qu'on traverse vous apparaissent sous un tout autre angle!

Qu'on excuse ici un souvenir personnel. Dans une de mes premières expéditions, étant au bivouac sur la Rivière Claire, j'appris qu'un des jeunes officiers présents avait débuté sous l'un des chefs qui avaient laissé au Tonkin la trace la plus profonde, le colonel P..., et, dans mon zèle de débutant, je ne voulais pas laisser échapper cette occasion d'apprendre quelque chose sur sa méthode et sur son oeuvre. "Oh! me fut-il répondu, le colonel P..., j'ai marché avec lui. Au combat, il se préoccupait bien moins de l'enlèvement du repaire que du marché qu'il y établirait le lendemain." Sans le vouloir, ce jeune homme, qui croyait faire une critique, avait trouvé la formule de la guerre coloniale: car, lorsqu'en prenant un repaire on pense surtout au marché qu'on y établira le lendemain, on ne le prend pas de la même façon.

Et, lorsqu'on conquiert avec cet état d'esprit, certains mots ne gardent plus exclusivement leur signification militaire.

La route, alors n'est plus seulement "la ligne d'opérations", la "route d'invasion", mais la voie de pénétration commerciale de demain. Tel plateau, aux bonnes communications, aux abords faciles, ne vaut plus seulement comme position stratégique ou tactique, mais comme centre de relations économiques, comme emplacement d'un marché prochain, et tout s'y fait en conséquence. Telle riche plaine n'est plus seulement un point de ravitaillement militaire, mais un centre de ressources et de cultures à ménager, à gérer immédiatement en bon père de famille.

Et cela va du grand au petit.

Croit-on que, lorsque chaque soldat sait que le village qu'il aborde sera celui qui va devenir sa garnison pendant des mois ou des années, il le brûle volontiers? que ses rizières le nourriront, il les détruit? que ses animaux seuls lui donneront sa viande, il les gaspille? que ses habitants seront ses aides, ses collaborateurs de demain, il les maltraite? Non.

Du reste, les traits généraux de cette politique ont été magistralement exposés dans les instructions fondamentales du général Gallieni, en date du 22 mai 1898:

Le meilleur moyen pour arriver à la pacification dans notre nouvelle colonie est d'employer l'action combinée de la force et de la politique. Il faut nous rappeler que dans les luttes coloniales nous ne devons détruire qu'à la dernière extrémité, et, dans ce cas encore, ne détruire que pour mieux bâtir. Toujours nous devons ménager le pays et les habitants, puisque celui-là est destiné à recevoir nos entreprises de colonisation future et que ceux-ci seront nos principaux agents et collaborateurs pour mener à bien nos entreprises. Chaque fois que les

incidents de guerre obligent l'un de nos officiers coloniaux à agir contre un village ou un centre habité, il ne doit pas perdre de vue que son premier soin, la soumission des habitants obtenue, sera de reconstruire le village, d'y créer un marché, d'y établir une école. C'est de l'action combinée de la politique et de la force que doit résulter la pacification du pays et l'organisation à lui donner plus tard.

L'action politique est de beaucoup plus importante. Elle tire sa plus grande force de l'organisation du pays et de ses habitants.

Au fur et à mesure que la pacification s'affirme, le pays se cultive, les marchés se rouvrent, le commerce reprend. Le rôle du soldat passe au second plan. Celui de l'administrateur commence. Il faut d'une part étudier et satisfaire les besoins sociaux des populations soumises, favoriser d'autre part l'extension de la colonisation qui va mettre en valeur les richesses naturelles du sol, ouvrir les débouchés au commerce européen.

Et pour terminer ces citations par cette dernière qui en résume l'esprit :

Les commandants territoriaux devront comprendre leur rôle administratif de la façon la moins formaliste. Des règlements, surtout aux colonies et en matière économique, ne posent jamais que des formules générales prévues pour un ensemble de cas, mais inapplicables souvent au cas particulier. Nos administrateurs et officiers doivent défendre au nom du bon sens les intérêts qui leur sont confiés et non les combattre au nom du règlement.

II

Voilà pour la première période: conquête, occupation, pacification.

Voyons ce que devient la méthode, en quoi consiste le rôle colonial de l'armée dans la période suivante, dans la vie normale du pays pacifié.

Ici encore, il n'y a qu'à laisser la parole aux instructions du 22 mai 1898:

Le soldat se montre d'abord soldat, ainsi qu'il est nécessaire pour en imposer aux populations encore insoumises; puis, la paix obtenue, il dépose les armes. Il devient administrateur....

Ces fonctions administratives semblent incompatibles, au premier abord, avec l'idée qu'on se fait du militaire dans certains milieux. C'est là cependant le véritable rôle de l'officier colonial et de ses dévoués et intelligents collaborateurs, les sous-officiers et soldats qu'il commande. C'est aussi le plus délicat, celui qui exige le plus d'application

et d'efforts, celui où il peut révéler ses qualités personnelles, car détruire n'est rien, reconstruire est plus difficile.

D'ailleurs, les circonstances lui imposent inéluctablement ces obligations. Un pays n'est pas conquis et pacifié quand une opération militaire y a décimé les habitants et courbé toutes les têtes sous la terreur; le premier effroi calmé, il germera dans la masse des ferments de révolte que les rancunes accumulées par l'action brutale de la force feront croître encore.

Pendant cette période qui suit la conquête, les troupes n'ont plus qu'un rôle de police qui passe bientôt à des troupes spéciales, milice et police proprement dite; mais il est sage de mettre à profit les inépuisables qualités de dévouement et d'ingéniosité du soldat français. Comme surveillant de travaux, comme instituteur, comme ouvrier d'art, comme chef de petit poste, partout où l'on fait appel à son initiative, à son amour-propre, à son intelligence, il se montre à la hauteur de sa tâche. Et il ne faudrait pas croire que cet abandon momentané du champ de manoeuvre soit préjudiciable à l'esprit de discipline et aux sentiments du devoir militaire. Le soldat des troupes coloniales est assez vieux, en général, pour avoir parcouru maintes fois le cycle des exercices et n'avoir plus grand'chose à apprendre dans les théories et assouplissements auxquels on exerce les recrues de France.

Les services qu'on réclame de lui, au contraire, entretiennent une activité morale et physique qui est déculpée par l'intérêt de la besogne qui lui est confiée.

En outre, en intéressant ainsi le soldat à notre oeuvre dans le pays, on finit par l'intéresser au pays lui-même. Il observe, il retient, il calcule même, et souvent, au moment de sa libération, il sera décidé à mettre en valeur quelque coin de terre, à utiliser dans la colonie les ressources de son art, à la faire bénéficier, en un mot, de son dévouement et de sa bonne volonté. Il devient un des plus précieux éléments de la petite colonisation, complément indispensable de la grande.

Et nos soldats, fidèles à ces instructions, se sont transformés, dans la plus large mesure, en agriculteurs, en ouvriers d'art, en instituteurs.

Dire que cette adaptation s'est faite sans résistance, ce serait méconnaître la persistance des habitudes acquises et l'inertie des mouvements coutumiers. Rien que l'état moral et physique de nos troupes ait été ainsi autrement préservé que par l'oisive routine de la vie des

postes, les préjugés régimentaires n'en ont pas moins fait de vigoureux efforts offensifs, et il est à souhaiter qu'une réforme de l'organisation de ces troupes coloniales débarrasse le commandement territorial des obstacles qui, dans cet ordre, entravent encore trop souvent son action.

Bref, le but poursuivi par le général Gallieni, c'est l'utilisation coloniale de chaque homme du corps d'occupation conformément à ses aptitudes. Ce qu'il n'admet pas, c'est que la force vive que représente un Français aux colonies reste inemployée. Du jour où le secteur assigné à une compagnie a été pacifié et où le dernier coup de fusil a été tiré, cette compagnie ne représente plus seulement l'unité militaire, mais surtout une collectivité, un réservoir de contremaîtres, de chefs d'atelier, d'instituteurs, de jardiniers, d'agriculteurs, tout portés, sans nouvelles dépenses de la métropole, pour être les premiers cadres de la mise en valeur coloniale, les premiers initiateurs des races que nous avons la mission providentielle d'ouvrir à la voie industrielle, agricole, économique, et aussi, oui, il faut le dire, à une plus haute vie morale, à une vie plus complète.

Et combien cela est facile avec le cher soldat français, redevenu, une fois dispersé par un, par deux, parmi les villages malgaches, le paysan de France, l'ouvrier de France, avec tout ce que ces mots comportent de qualités d'ordre, de prévoyance, d'ingéniosité, et aussi d'endurance, de cordialité, de belle humeur!

Ah! cette idée audacieuse de la dispersion de nos hommes à travers les populations indigènes, tolérée, que dis-je, préconisée, ordonnée par le général Gallieni, que n'en avons-nous pas entendu dire par les gardiens des rites sacrés!

Or, les faits sont là.

Il me souvient d'avoir trouvé, dans un poste où je comptais établir le siège d'un commandement important, une compagnie d'infanterie de marine, épuisée par les trois années de campagne et d'insurrection, anémiée, oisive, incapable de fournir un service actif, mais d'ailleurs concentrée dans la main de son chef et accomplissant les rites métropolitains aux heures traditionnelles du tableau de service. Il était visible que ces hommes, à 3000 lieues de leur village, mal abrités, inoccupés, périssaient d'ennui, de spleen et de mal du pays. Malgré les objections tirées de l'état de santé de ces hommes, de l'impossibilité qui en résultait de les livrer à eux-mêmes, loin de l'infirmerie et de la surveillance, de leur état de dépression, de la nécessité de les avoir sous la main, je les ai dispersés sur l'heure. Ils se sont transformés en contremaîtres d'une école professionnelle, en chefs d'exploitation agricoles, en jardiniers, en constructeurs de routes, et, deux mois après, à ce ramassis d'infirmités s'était bien réellement substituée une compagnie prête à se rassembler au coup de sifflet, l'oeil clair, le jarret sec, l'allure dégagée et le fusil prêt. C'est que chacun d'eux, en face d'une responsabilité et d'une initiative, s'était ressaisi; qu'ils avaient retrouvé une raison de vivre.

Et cela fut l'histoire de la plupart des compagnies.

D'autre part, cette dispersion entraîne une autre conséquence: c'est que le soldat, au contact immédiat du pays, s'y attache et souvent

y reste.

A Madagascar, la petite colonisation par le soldat libérable (et non libéré) donne lieu à une expérience intéressante et jusqu'ici satisfaisante, bien que très localisée encore. Le soldat désireux de se fixer dans la colonie, et présentant d'ailleurs toutes les garanties, reçoit une concession dès sa dernière année de service et est mis en mesure d'en commencer immédiatement l'exploitation. Il est déjà acclimaté, connaît le pays, la langue, les ressources, a traversé aux frais de l'État la période de tâtonnements toujours si critique. Souvent, comme chef de poste ou chef d'exploitation, il a déjà eu l'occasion d'expérimenter les méthodes. En lui attribuant une concession, tandis qu'il est encore au service, tandis que l'État pourvoit encore à ses besoins et en lui faisant des avances de semences et de matériel, on l'amène graduellement à sa libération, qui coïncide avec le moment où il entre de plain-pied dans la période de rendement utile de son exploitation. Plusieurs de ces tentatives ont déjà eu plein succès sur le plateau central.

C'est la tradition du maréchal Bugeaud, mais modifiée sur un point essentiel. Il ne s'agit plus ici de "villages militaires", où tous les travaux de la vie rurale ou de la vie domestique étaient réglés au son du tambour: ceux-ci, au contraire, ont le stimulant de l'initiative, de l'intérêt personnel et de la responsabilité individuelle.

En échange de ces avantages, ils doivent à l'État, pendant trois ans, leur concours pour le maintien de la sécurité du pays et forment, avec leurs engagés, de petits corps de partisans; ils sont à l'égard des indigènes de vrais agents de surveillance et de direction.

Pour que l'expérience présentât toutes les garanties de succès et de durée, il faudrait qu'ils pussent se marier avec des femmes françaises. La ménagère n'est guère un produit exotique, et pourtant, ainsi que le mot l'indique, elle est, pour la réussite d'une exploitation, un élément essentiel. En outre, le métis est une mauvaise solution. Ce sont de vrais enfants de France dont il faut semer la race en Émyrne. Cette nécessité de faciliter le mariage à nos colons n'est pas passée inaperçue. Le comte d'Haussonville a parlé ici même² de l'oeuvre fondée par Mme Péjard: la Société d'émigration des femmes, inspirée de la grande oeuvre anglaise United British Women emigration association. Qu'il s'agisse de créer une émigration féminine ou d'obtenir de l'État des congés sans frais qui permettent à nos soldats libérables de venir se marier en France, l'essentiel est de réussir. Et si le problème trouve sa solution, si l'administration met tout en oeuvre pour la faciliter, on est en droit de prévoir sur ce plateau central si sain de Madagascar la formation d'une race de petits colons de bon sang français, trempés, habitués à peu, tenant à ce sol qu'ils auront mis en oeuvre, ayant gardé l'habitude héréditaire du fusil. Et, qui sait! ce sont peut-être des Boers français que l'on préparerait ainsi!

Nous n'avons envisagé jusqu'ici que l'emploi colonial des troupes européennes. Sans remplir le même rôle, certaines troupes indigènes

¹Arrêté du 23 avril 1899.

²Revue des Deux Mondes du 15 juin 1898.

peuvent être, elles aussi, largement utilisées. C'est ainsi que, dans le haut Tonkin, les postes de tirailleurs tonkinois autour desquels se groupaient leurs familles, ont été, dans les régions dévastées par la piraterie, les premiers agents de reconstitution locale. Ils y ont formé, comme l'indiquait la lettre de M. le gouverneur général Rousseau, précédemment citée, "une population provisoire à l'abri de laquelle se reconstituaient la population réelle et la remise en exploitation du sol". C'est ainsi qu'à Madagascar, des postes de tirailleurs hovas, établis sur de grandes voies de communication, traversant des régions désertes, ont été transformés en villages militaires avec concessions de terres en toute propriété, afin d'y créer des noyaux de repeuplement et des centres de ressources.¹

On s'élève souvent contre la charge onéreuse que présente pour la métropole l'entretien des corps d'occupation. On admet d'ailleurs que le moment ne semble pas précisément favorable à leur réduction. L'utilisation coloniale de ces corps ne donne-t-elle pas le meilleur moyen de ne pas les laisser à l'état de force improductive? Il est facile de se rendre compte de l'économie que représente, pour les budgets coloniaux ou métropolitains, un tel emploi de nos soldats s'il est partout compris et pratiqué. A Madagascar, une centaine d'écoles où les petits Hovas commencent à parler couramment le français, organisées et dirigées par nos soldats, des écoles professionnelles où les soldats contremaîtres ont formé des ouvriers, des chefs d'atelier même, parmi les indigènes, dans des régions où il n'y avait aucune industrie, aucun ouvrier d'art; des fermes-écoles où, sous la direction de soldats, s'apprend l'usage de nos instruments aratoires, où se fait l'expérimentation de nos graines et de nos cultures, et enfin les routes, les ponts, les constructions, dont les chefs de chantiers, les maçons, les briquetiers sont encore et toujours des soldats.

On se demande, ou plutôt la question est résolue par cela même qu'elle est posée, comment, avec les ressources budgétaires à peu près nulles dont

¹Décision du général Gallieni, du 20 janvier 1898, affectant une compagnie de tirailleurs malgaches à la route de Majunga: "...Considérant qu'il est utile de repeupler une route d'étapes importante en y créant des ressources pour les voyageurs, et que cet essai de colonisation militaire, déjà expérimenté avec succès dans d'autres colonies françaises et étrangères, est particulièrement intéressant au point de vue du repeuplement des parties actuellement désertes de l'île; --Considérant que cette organisation, en créant des intérêts à la troupe, contribue à l'amélioration de son état physique et moral dans des régions éloignées de tout centre de population.., décide...."

disposaient les commandants de cercles, une telle oeuvre aurait pu être réalisée, si, à défaut du réservoir militaire, il avait fallu faire venir de France à grands frais ce personnel.

Que quelques abus puissent se produire parfois de la part des soldats ainsi livrés à eux-mêmes, c'est incontestable. Il n'y a point d'institution humaine qui n'ait son revers, et qui résiste à l'examen des cas particuliers. L'argument est trop facile; et il appartient à l'autorité de réprimer avec la dernière rigueur les moindres abus, et surtout de les prévenir en choisissant avec quelque soin les hommes ainsi livrés à eux-mêmes. En tout cas, inconvénients pour inconvénients, le système inverse, qui laisse les hommes périr dans les postes d'oisiveté et de spleen, en a bien d'autres.

Ce qu'il faut voir, c'est l'ensemble et le résultat.

Reste la grande objection, celle à laquelle ont déjà répondu les instructions du 22 mai 1898 du général Gallieni, celle que les opposants ne cessent d'invoquer, le cliché de la "démilitarisation". On l'applique aussi bien aux officiers qu'aux soldats attelés à la besogne coloniale.

D'abord, jamais on ne nous fera admettre qu'un mode d'emploi qui met en oeuvre quotidiennement, à toute heure, toutes les facultés viriles, initiative, responsabilité, jugement, lutte contre les hommes et les éléments, démilitarise.... Il "décaporalise" peut-être, ce qui n'est pas la même chose.

Je me rappelle, à mon arrivée au Tonkin, tout proche encore de la douce vie de la métropole, encore accoutumé au confortable superflu qui devient un nécessaire, quelle impression me fit, à ma première tournée avec le colonel Gallieni sur la frontière de Chine, la rude vie des jeunes officiers chefs de poste. J'en revois un, à peine sorti de Saint-Cyr, habitué en France à une existence aisée et distinguée, élégant et charmant, qui, pour recevoir le colonel au poste perdu où il vivait, seul Français, avec ses trente tirailleurs, avait mis sa plus belle tenue, correct, ganté, comme pour le bal, et tandis qu, évoquant avec lui le souvenir de ses camarades de la cavalerie, où il eût pu entrer, et des brillantes garnisons suburbaines, je ne pouvais m'empêcher de remarquer et sa vie sévère loin des choses familières et aimées, et sa belle humeur: "Mais, fit-il vivement, je ne m'ennuie pas un instant: avec le soin de mes hommes, la reconstitution de ces rizières à peine reprises à la piraterie, mes briqueteries, mes constructions, mon marché, mes règlements de comptes avec le poste chinois d'en face, la topographie de la région, mes journées sont trop courtes!"

Un an après, presque jour pour jour, sur la haute Rivière Claire, dans les grands combats livrés par le colonel Vallière et si heureusement terminés par la destruction de la grande piraterie chinoise, il tombait, frappé en plein coeur, debout derrière sa ligne de tirailleurs déployés, en commandant le dernier feu de salve de la journée, après avoir combattu tout le jour. S'était-il démilitarisé, celui-là?

Ses compagnons l'ont enseveli dans un grand drapeau tricolore, sous les plis duquel il dort là-bas, sur la frontière de Chine. J'ai revu sa tombe quelques mois après, parmi des rizières mûres, auprès d'un marché ressuscité, dans ce coin de terre que, depuis vingt ans de piraterie, toute vie avait quitté.

Il n'était pas mort pour rien. Et c'est la grandeur de la guerre coloniale ainsi comprise, c'est qu'elle seule fait de la vie.

Et si des humbles je passe à ceux qui sont déjà, tout vivants, entrés dans la légende, était-il démilitarisé par trois années de brousse le jeune chef qui, de l'Oubanghi au haut Nil, obtenait de ses officiers, de sa troupe, les prodiges d'énergie presque surhumaine que chacun sait? Avait-il, loin du contact des écoles, perdu un atome de sa prudence, de son jugement, l'homme qui savait dire au sirdar égyptien les paroles mesurées et fermes dont notre patriotisme vibre encore?

Il y a dix ans, descendant le bas Danube jusqu'à son embouchure, je rencontrais à Soulina Sir Charles Hartley, le grand ingénieur qu'en 1856 la commission de navigation du Danube avait appelé, tout jeune, à rendre à la navigation le grand fleuve, qui depuis l'origine des temps se perdait dans les marais. Il s'était d'abord installé dans un abri de pêcheurs sur pilotis; toute sa vie, lutte de trente années contre la fièvre, contre les obstacles, contre la nature, avait été vouée à cette grande oeuvre, et maintenant, à cette même place où il n'y avait jadis que quelques huttes misérables, il y avait une ville et un port, et les plus grands bateaux suivaient ce bras du fleuve que franchissaient seules autrefois des barques de faible tonnage, et je regardais, -- avec quelle émotion! -- cet homme, vieillard aujourd'hui, qui pouvait s'endormir, sa bonne tâche accomplie, après avoir appelé à la vie ce grand fleuve inutilisé depuis l'origine du monde, l'avoir délié pour ainsi dire, -- et il me semblait qu'il ne pouvait y avoir de vie plus noblement remplie.

Je ne pensais guère alors que, plus tard, je verrais, vivant de leur vie, des chefs coloniaux pétrir de leurs mains créatrices des terres en friche pour en faire des rizières, des vallées endormies pour en faire des artères de vie, donner le coup de baguette qui met en oeuvre un coin du vaste champ offert à l'activité de l'homme. Quelle plus noble tâche pour l'homme d'action? Celui qui a trempé ses lèvres à cette coupe en garde à jamais le goût? Quel plus noble emploi pour la force armée, avec celui de défendre le sol natal, que de préparer, d'assurer et de développer de telles conquêtes?

III

Mais, pour une telle oeuvre, il faut une armée coloniale qui soit vraiment une armée coloniale et non pas seulement de l'armée aux colonies, ce qui n'est pas la même chose.

Nous nous garderons bien de rouvrir ici la moindre discussion sur le mode de rattachement de la future armée coloniale. La question est nettement posée devant les Chambres. Pour nous, la discussion est close. Du reste, c'est peut-être la question qui importe le moins. La loi projetée est large, libérale, souple, et elle a l'inappréciable avantage d'apporter une solution à une question qui ne peut rester plus longtemps en suspens. Elle ne pose que quelques principes et prévoit aussi peu que possible les moyens d'application. Or, tant vaudront ceux-ci, tant vaudra la loi.

C'est dans leur prévision que nous croyons opportun de poser quelques-unes des conditions auxquelles il faudra satisfaire pour qu'une armée coloniale puisse remplir la tâche que nous lui voyons assignée.

L'essentiel c'est que, quelle que soit la solution adoptée pour son rattachement, l'armée coloniale ait bien son autonomie, qu'elle ne risque pas d'être absorbée, uniformisée dans le grand organisme auquel elle se rattachera. Et que, bien distincte, elle ait aussi des chefs bien distincts chez qui l'idée coloniale et l'adaptation de l'outil à son emploi prime toute autre considération.

Ce qu'il faut souhaiter, c'est que les conditions d'entrée et de sortie y soient réglées de telle sorte qu'elle ne serve pas uniquement de tremplin aux mandarins munis de tous les grades académiques, auxquels il ne manque qu'une campagne facile et rapide pour franchir plus rapidement un échelon. Il faut beaucoup redouter les gens qui viennent aux colonies pour y rééditer Austerlitz, -- d'abord les colonies ne comportent pas Austerlitz; -- et puis, ils sont mal préparés aux besognes patientes, ingrates et obscures qui sont la tâche quotidienne, la seule féconde de l'officier colonial. Ce sera aux règlements d'application qu'il appartiendra d'assurer la constitution d'une "milice sacrée", qui fera, elle aussi, son engagement décennal.

Ce qu'il faut souhaiter, c'est que des dispositions nouvelles abolissent la rigidité des tours de départ. On sait que mécaniquement, automatiquement, tout officier des troupes de marine, au bout du temps de séjour colonial, deux ans, trois ans au maximum, est rappelé en France, quelle que soit la besogne qu'il est en train d'accomplir. Et il ne peut compter que sur le hasard pour revenir à la tâche commencée. Il a laissé à Madagascar ou au Tonkin un secteur en pleine formation, il s'y est donné corps et âme, il est plein de son oeuvre, il ne demande qu'à la poursuivre. Le tour prochain l'enverra faire du service de place à la Martinique ou à la Réunion. Cette instabilité est aujourd'hui une des choses les plus décourageantes, aussi bien pour l'officier voué à son oeuvre que pour ses chefs. Ah! je connais l'objection: c'est qu'il ne faut pas s'user aux colonies, que trois ans représentent le maximum de temps pour un rendement utile, et qu'après ce délai il est nécessaire de venir se retremper dans la métropole. Soit! Mais alors pourquoi ne pas introduire dans l'armée coloniale, comme il a lieu pour les fonctionnaires civils, le droit au congé administratif, pendant lequel on reste titulaire de son poste, où l'on est assuré de retourner, après s'être revivifié à

l'air de France, après aussi y avoir mis à profit son séjour pour le bien de sa circonscription? Combien sais-je d'officiers, aujourd'hui en France, qui ne demandent qu'à rallier leur ancien poste et ne se consolent pas à l'idée que ce n'est pas eux qui voient pousser leurs pépinières, leurs rizières, leurs maisons? Ils ont le mal du pays à rebours. Est-ce là un facteur négligeable?

On s'étonne parfois qu'il n'y ait pas un plus grand nombre d'officiers qui étudient les langues coloniales. Est-ce donc encourageant d'apprendre le malgache, si l'on ne doit plus l'utiliser qu'avec des Chinois? Ce qui est au contraire surprenant, c'est que, dans ces conditions, autant d'officiers encore prennent à cœur l'étude de ces langues, et, d'ailleurs, d'une manière générale, qu'autant d'entre eux se donnent comme ils le font, à plein collier, au développement de leur région, comme s'ils devaient y attacher leur vie et leur nom. Il est vrai qu'ils appartiennent, pour la plupart, à l'arme de tous les héroïsmes et de toutes les abnégations, j'ai nommé l'infanterie de marine. Souhaitons donc que les facilités les plus grandes pour la prolongation de séjour soient laissées dans l'organisation nouvelle à tout officier dont la santé le permet; que le congé soit prévu, et enfin que, dans la plus large mesure, les officiers qui le désirent restent affectés à la même colonie. Cette mesure ne peut être absolue, il convient de laisser un débouché aux curieux et aux inquiets, et d'ailleurs, au début d'une carrière, les expériences de colonies diverses se contrôlent l'une l'autre; mais, d'une manière générale, la conception la plus logique et la plus féconde, la plus vraiment coloniale, c'est celle d'une armée du Soudan, d'une armée de Madagascar, d'une armée d'Indochine, ainsi que d'autres nations nous en donnent l'exemple.

Enfin, il est une dernière considération qui exige que la direction suprême de cette armée soit bien autonome et surtout très, très coloniale. C'est que la base d'appréciation des services rendus ne peut pas, ne doit pas y être la même que pour les services militaires métropolitains.

Et cela est évident, puisque les deux armées n'ont pas le même rôle, et, si elles avaient le même rôle, point ne serait besoin d'armée coloniale, il suffirait d'armée aux colonies.

Il faut avoir été aux colonies pour savoir que le plus vrai mérite y réside dans les labeurs qui trouvent ici le plus difficilement leur sanction. Il n'est pas bon que le motif trop exclusif de récompense soit le "fait de guerre".

On comprendra sans qu'il soit besoin d'insister.

Croit-on qu'il faille nulle part une plus grande dépense d'énergie, d'endurance, d'autorité, qu'il n'en faut à l'officier chargé de la construction d'une route en pays sauvage? Il passe des mois, des années parfois, dans des abris improvisés, miné par la fièvre, compagne inséparable de tels travaux, allant d'un chantier à l'autre, n'obtenant qu'à force d'énergie, d'exemple, de volonté imposée, le rendement maximum de son personnel. Croit-on qu'il ne faille pas plus d'autorité, de sang-froid, de jugement, de fermeté d'âme, pour maintenir dans la soumission, sans tirer un coup de fusil, une population hostile et frémissante, que pour la réduire à coups de canon un fois soulevée?

Qu'on me permette d'évoquer à ce sujet le souvenir d'un commandant d'infanterie de marine. Chargé, il y a un an, de soumettre une région sakhalave insurgée, il s'était fait une loi absolue d'épargner, de pacifier, de ramener cette population. Je le revois abordant un village hostile, et, malgré les coups de fusil de l'ennemi, déployant toute son autorité à empêcher qu'un seul coup ne partit de nos rangs, et y réussissant, ce qui, avec des tirailleurs sénégalais, n'était pas facile. Je le revois, lui et ses officiers, en avant, à petite portée de la lisière des jardins, la poitrine aux balles, et, avec ses émissaires et ses interprètes, multipliant les appels et les encouragements. Et, comme cet officier était aussi un très bon et très habile militaire et qu'il avait pris d'heureuses dispositions, menaçant les communications, rendant difficile l'évacuation des troupeaux, il réussit, après des heures de la plus périlleuse palabre, à obtenir qu'un Sakhalave se décidât à sortir des abris et à entrer en pourparlers. Et ce fut la joie aux yeux que, le soir venu, il me présenta le village réoccupé, en fête, fraternisant avec notre bivouac, à l'abri du drapeau tricolore, emblème de paix. A peine de retour en France, il y a quelques mois, le commandant Ditte a succombé aux fatigues accumulées pendant cette campagne; et ce n'est plus qu'à une tombe que va l'hommage ici rendu à ce bon et loyal ouvrier.

Eh bien, croit-on que non seulement le résultat n'ait été plus fécond, mais encore qu'il n'ait pas fallu plus de fermeté et de courage, au sens propre du terme, pour faire une telle besogne que pour se donner le facile mérite d'enlever d'assaut ce village sakhalave?

Ce qu'il faut souhaiter, c'est que de tels actes puissent être qualifiés actions d'éclat dans l'armée coloniale de demain.

Nous avons essayé de donner, très sommairement et imparfaitement, une conception de l'emploi colonial de l'armée. Ce n'est pas une théorie spéculative. Des années et de vastes champs d'expérience l'ont déjà sanctionnée. A voir, en vivant de leur vie, nos petits soldats marquer de leur trace personnelle tant de points du globe, à retrouver leurs noms, comme ceux des légionnaires romains, gravés au seuil des voies nouvelles qu'ils ouvrent aux transactions des hommes, on se reprend aux longs desseins et aux espoirs impériaux.

Certes, ce n'est empiéter ici sur aucun domaine réservé que de constater autour de nous beaucoup d'inquiétude et de motifs d'inquiétude. Il est impossible, pour peu qu'on mette le pied hors de France, de ne pas constater par toute la terre les fluctuations de nos méthodes et le recul de notre action. C'est simple affaire de statistique de compter à Singapour, à Colombo, à Hong-Kong, à Zanzibar, les maisons nouvelles qui s'ouvrent d'une année à l'autre et de constater qu'elles ne sont pas françaises. La vie du dehors aussi nous apporte nos heures de doute et d'angoisse. Mais, après cette part, qu'il est sage de faire très large, au pessimisme, ouvrons la porte aux espoirs reconfortants en constatant, sur tous les champs du monde, la valeur persistante, sinon croissante,

du Français individu. Quels que soient les obstacles apportés à chaque pas à son développement et à son initiative, il est toujours là. Chez tous, colons, administrateurs, soldats, missionnaires, c'est la même endurance, le même ressort, le même rebondissement sous la mauvaise fortune, la même belle humeur. Ah! la belle pâte d'hommes!

A l'un des derniers repas officiels que nous fîmes à Madagascar, un consul étranger, notre voisin, nous demanda de qui était le charmant dessin qui illustrait notre "menu". "C'est l'oeuvre d'un sous-officier. -- Ils font donc tout, vos sous-officiers? Je les ai vus contremaitres, instituteurs, agronomes, guerriers, ils sont donc bons à tout?"

— Oui, ils sont bons à tout, et tous les autres aussi, soldats, colons, qui portent par le monde les inépuisables ressources de notre race. Attachés à l'oeuvre locale, dégagés des mauvais bruits de la métropole, exaltés par le résultat immédiat de l'action directe, par la responsabilité du commandement, ils sont tous des hommes de devoir actif et précis. Et, s'il n'y avait pas tant de raisons d'un autre ordre, c'en serait déjà une pour donner sa foi à l'oeuvre coloniale, cette incomparable pépinière d'énergies et de volontés qui ne peuvent pas être un capital perdu.

APPENDIX XXIV

"PRÉFACE" TO RAPPORT GÉNÉRAL SUR LA SITUATION DU PROTECTORAT DU MAROC AU 31 JUILLET 1914

Ce rapport a été préparé par les Services du Protectorat pendant la période de juin-juillet 1914. Il était presque terminé et quelques chapitres imprimés déjà, lorsque la guerre a éclaté. On conçoit aisément que cette oeuvre ait été, à ce moment, quelque peu délaissée: d'autres préoccupations dominaient les esprits, d'autres affaires, plus urgentes et plus graves, accaparaient les efforts d'un personnel réduit. Il n'était nullement question, pourtant, de l'abandonner. Et l'on gardait l'idée de publier un jour ou l'autre ce document, -- non pas seulement pour conserver le fruit d'un gros travail, pour éviter l'impression décevante du gaspillage -- mais surtout la conception de la guerre était telle à cette époque, qu'il semblait qu'elle dût marquer nécessairement pour le Maroc un temps d'arrêt dans son évolution, peut-être même une régression; ce rapport fixerait donc le tableau de l'oeuvre accomplie par le Protectorat au jour même de son arrêt; il marquerait le coup; il serait, pour ainsi dire, le testament du Maroc en paix.

Cette conception s'est vite modifiée. En raison de la durée encore indéterminée de la guerre, de son étendue, de l'universalité de ses moyens, il est vite apparu qu'un arrêt prolongé dans le développement du Maroc ne serait plus, comme on l'avait pensé, un temps de sommeil nécessaire, mais d'inaction malheureuse, et qu'à l'inverse, son réveil économique jetterait une force de plus dans la lutte générale. L'activité du Maroc, dès lors, a été intense. Cette activité même devait rejeter au second plan l'impression de ce travail et de sa publication. Les yeux n'étaient plus tournés vers le passé, mais vers l'avenir, l'avenir immédiat, toujours renouvelé.

Et pourtant, après 18 mois de guerre, après 18 mois de travail et de progrès, cette publication est apparue de nouveau nécessaire, -- non plus cette fois comme un testament, mais plutôt comme un compte de raison, -- pour marquer un stade d'une évolution qui s'est poursuivie et accélérée. En le rapprochant d'un autre document, dont la publication va être entreprise: Les Conférences de l'Exposition franco-marocaine, on aura sous les yeux l'image des deux échelons principaux de cette évolution: avant et pendant la guerre.

Il est donc essentiel, en lisant ce rapport aujourd'hui, en 1916, de ne jamais perdre de vue qu'il a été écrit avant la guerre et qu'il porte la date du 31 juillet 1914. Nous n'en sommes pas moins en 1916, et il faut être actuel. Or, depuis la guerre, beaucoup de progrès matériels ont été réalisés, beaucoup de réformes ou de créations, annoncées par ce rapport ou déjà amorcées en 1914, ont été accomplies. On doit signaler brièvement ces progrès, dans les grandes lignes. D'autre part, l'expérience même a provoqué des modifications à certaines idées de principe. On ne peut les passer sous silence.

+ + +

Au moment où la guerre a éclaté, le sentiment de tous, au Maroc comme en France, était que tout ce qui n'était pas la guerre d'Europe allait être suspendu. Dans ces premières heures, c'est tout au plus si l'on envisageait la possibilité de maintenir notre occupation militaire du Maroc dans les limites déjà acquises. Non seulement il n'était pas question de l'étendre, mais le développement administratif, la vie économique apparaissaient comme devant être totalement paralysés, les travaux publics, les entreprises commerciales et industrielles, les mesures en cours dans l'ordre de l'évolution sociale et politique du pays comme devant y être mis au cran d'arrêt. Si le Maroc ne nous échappait pas totalement ou partiellement, du moins semblait-il, dans le cas le plus favorable, devoir être "mis en sommeil" jusqu'à la paix.

Les circonstances en ont décidé autrement. La guerre s'est prolongée et se prolonge encore bien au delà du terme qu'on avait pu prévoir. Au Maroc après avoir pris les mesures militaires qui, malgré le prélèvement des deux tiers de l'effectif des troupes actives et grâce à l'appoint des bataillons de territoriaux envoyés de France, ont permis le maintien intégral de notre occupation et de notre situation militaire, on fut amené à reconnaître qu'une des conditions, la condition essentielle même, du maintien de notre situation consistait à inspirer aux indigènes la confiance la plus entière dans notre foi dans le succès, dans notre force, dans notre richesse, dans notre sérénité, bref, à leur donner l'impression tangible, comme on l'a dit, que "la séance continuait".

On fut donc amené rapidement, non seulement à laisser la vie administrative suivre son cours, mais encore à chercher par tous les moyens à rendre toute son activité à la vie économique, à l'intensifier même et à reprendre, à développer l'exécution du programme des travaux publics, condition première de la vie économique.

Dans l'ordre militaire, la décision de maintenir intacts les fronts intérieurs de notre occupation, "l'armature", comportait forcément l'obligation de maintenir une certaine activité à notre effort militaire. Il ne s'agissait plus, bien entendu, de réaliser l'achèvement intégral de notre occupation, de conquérir les difficiles régions encore dissidentes qu'il nous restait à aborder au moment de l'ouverture des hostilités: il s'agissait en principe de s'y maintenir sur les positions acquises, c'est-à-dire d'une action défensive par définition. Mais là nous étions à deux de jeu. Il ne suffisait pas de dire: "Nous nous arrêtons ici", il fallait que ceux d'en face y consentissent. Or, ils n'y étaient nullement disposés. Le fait seul d'arrêter notre progression, ininterrompue au Maroc depuis les premiers jours de l'occupation, était l'aveu d'une situation nouvelle et critique. Nos adversaires étaient d'ailleurs trop avertis des événements extérieurs pour s'y tromper, les agents de nos ennemis ne manquaient pas de leur donner tous motifs de reprendre confiance et tous moyens de mener avantageusement la lutte. Dès lors que nous n'attaquions plus, c'est eux qui attaqueraient et, dès les premiers jours,

ils ne s'en firent pas faute. Notre défensive ne pouvait donc être une défensive passive et inerte, mais devait être une défensive active, c'est-à-dire que, dans bien des cas, et dans toute la mesure où il était indispensable, elle devait être une offensive hardie qui prévient au lieu de se laisser prévenir. C'est ainsi que notre action militaire sur toute la périphérie, tout en écartant jusqu'à la fin des hostilités les opérations de grande envergure, tout en réservant jusqu'à ce moment la conquête des objectifs exigeant des moyens matériels dont nous ne disposions plus, conserva néanmoins une activité incessante qui, sur certains points, par le fait seul de la riposte aux attaques, étendit encore d'une manière sensible le champ de notre occupation.

Depuis dix-huit mois, le Maroc a donc continué à vivre et à évoluer aussi bien dans l'ordre militaire et politique que dans l'ordre administratif et économique.

Cette préface est donc une simple mise au point du rapport qui va suivre. Il n'a plus une valeur actuelle, mais historique; il doit donc être mis à sa place dans le temps.

+ + +

Il ne s'agit pas d'entrer dans le détail de l'oeuvre nouvelle réalisée dans chaque service depuis le 1er août 1914, mais simplement d'y indiquer les points sur lesquels d'importantes modifications sont survenues, les prévisions données comme immédiates ou prochaines que la guerre n'a pas permis de réaliser, parfois même les doctrines, les conceptions que les leçons d'une expérience continue ont fait évoluer.

+ + +

La première partie de ce rapport (La Pacification) se termine ainsi (page 37): "Il serait prématuré d'établir des prévisions pour l'avenir, notre occupation va-t-elle continuer à s'étendre et marcher rapidement dans le massif berbère? Son développement est intimement lié aux conséquences politiques de la jonction Taza-Fez et de la conquête du pays Zaïan qui ne peuvent être pleinement escomptés avant la fin de 1914. Il est également subordonné aux intentions du Gouvernement de la République et aussi à la situation internationale européenne."

Ce qu'est devenue, au lendemain du jour où ces lignes ont été écrites, la situation internationale européenne, on le sait, et c'est elle qui est venue peser de tout son poids sur les prévisions qui avaient été envisagées dans ce chapitre comme devant découler moralement des opérations qui venaient d'être terminées ou qui étaient encore en cours.

1° COULOIR DE TAZA

En juillet 1914, on prévoyait que la résistance des Riata, établis au sud de Taza, étant définitivement brisée et l'extension de notre établissement, au nord de cette ville, chez les Branès, devant se faire par simple action politique sans opérations militaires, la route de Taza

à Fez serait complètement dégagée, et la liberté de communications entre le Maroc et l'Algérie assurée avant la fin de 1914. C'est sur ce point que la guerre d'Europe apporta le plus sérieux mécompte.

Notre occupation était encore trop récente, notre installation trop fragile, pour ne pas subir le contre-coup immédiat des importants prélèvements d'effectifs effectués dans cette région, ainsi que de la disparition des chefs (général Gouraud, général Baumgarten) qui y étaient en plein travail. Les Riata, battus mais non soumis, appuyés sur les irréductibles Beni Ouaraïn, reprirent immédiatement confiance, et les tribus de soumission récente, telles que les Branès, changèrent d'attitude. Une série d'agressions de plus en plus audacieuses et d'importance croissante, auxquelles nos effectifs ne permettaient plus de répondre avec efficacité, dirigées contre nos convois, nos lignes télégraphiques, nos travaux de chemin de fer, nos postes même, interceptèrent de fait la communication entre Oued Amelil et Mçoun, sur laquelle il ne fut plus possible de circuler qu'avec les convois périodiques escortés de tous les bataillons disponibles. Chacun de ces mouvements était marqué par de vifs engagements où nous subissions des pertes sensibles. Taza était virtuellement bloquée, et la question se posa même si nous ne serions pas forcés d'abandonner momentanément ce point et de renoncer jusqu'à des jours meilleurs à cette communication entre le Maroc occidental et le Maroc oriental devenue si précaire. Déjà il avait fallu renoncer à y poursuivre les travaux de routes et à y maintenir la liaison télégraphique. Il se formait là une consortium de nos principaux adversaires, les chefs des Beni Ouaraïn et des Riata au sud, le Chenguiti au nord en liaison permanente avec Melilla où, sous l'action intense d'agents allemands, se créait un foyer des plus actifs grossi progressivement de légionnaires déserteurs, de prisonniers politiques évadés et de personnalités venues de l'extérieur. Plus tard, en mars 1915, vint s'y ajouter Abd el Malek, neveu de l'Emir Abd el Kader, transfuge de Tanger, dont le prestige personnel, les ressources financières et les relations avec les agents turcs et allemands apportèrent un appoint notable à ce noyau hostile.

Mais, dès septembre 1914, le général Henrys, commandant la région de Meknès, avait été mis à la tête d'un nouveau groupement dit "Commandement général du Nord", comprenant les régions de Fez, de Meknès et du Tadla-Zaïan, puis, ultérieurement, le territoire de Taza et enfin toute la zone du Gharb limitrophe de la zone espagnole. Il eut ainsi sous ses ordres, y assurant d'une façon absolue l'unité de direction, tous nos fronts de combat, au nord face à la frontière espagnole, au sud face aux Beni Ouaraïn, aux Riata, aux Zaïan et aux Berbères du Moyen Atlas. Les mesures énergiques qu'il prit sans retard et sans répit, l'articulation qu'il donna à l'ensemble des moyens réduits dont il disposait, dégagèrent progressivement la situation et écartèrent une fois pour toutes l'éventualité de toute mesure extrême, telle que l'abandon d'une de nos positions ou d'une de nos lignes de communications. La ligne télégraphique fut rétablie: les travaux de chemins de fer continués amenèrent la locomotive de Mçoun à Taza même (le 15 juillet 1915). Une série d'opérations vigoureuses, sanctionnées par l'établissement du poste de Bab Moroudj, en plein pays Branès, ramenèrent cette tribu dans l'obéissance et dégagèrent le nord de Taza. Au sud, la

création des deux postes de Djebba à l'est du pays Riata, et d'Oued Matmata à l'ouest et au pied du massif Beni Ouaraïn, tint en respect les Riata, fit réfléchir les Beni Ouaraïn et, sans nous donner encore un libre champ d'action au sud, où nous nous heurtons de suite aux grands massifs montagneux occupés par les dissidents, assura du moins la sécurité immédiate du poste de Taza. La communication entre le Maroc occidental et l'oriental, c'est-à-dire avec l'Algérie, est ainsi restée ouverte, et sans être praticable aux isolés, l'est du moins en temps normal avec de faibles escortes. Néanmoins, ce point reste toujours le plus précaire de notre occupation parce que, tant que nous n'aurons pas abordé le massif Beni Ouaraïn, ce qui ne peut s'envisager qu'après la guerre et avec des effectifs importants, cet étroit couloir formera un véritable isthme entre les dissidents du nord et les dissidents du Sud en communication par une infiltration constante. Abd el Malek, établi sur notre flanc nord, appuyé à la zone espagnole, où il a, à Melilla, sa base d'opérations, en communication avec un foyer allemand qui ne cesse de grossir, reste pour nous une menace constante et même croissante. Par les Riata et les Beni Ouaraïn, il est en relations suivies avec les grands chefs dissidents du Moyen Atlas auxquels il prodigue les encouragements, leur assurant l'appui allemand, leur faisant parvenir les appels de Constantinople à la guerre sainte, les factums les plus hostiles et enfin de l'argent qu'il a en abondance.

2° FRONTIÈRE DE LA ZONE ESPAGNOLE

Il existe en bordure de cette zone, depuis Ouezzan jusqu'au nord de Taza, dans un pays des plus difficiles, un glacis que nous n'occupions pas encore. Jusqu'à la guerre, sauf au nord de Taza et au nord-est de Fez, il ne nous avait causé aucun souci. Nous vivions dans la meilleure intelligence avec les tribus qui le peuplaient, et nous n'avions à y envisager aucune opération militaire. A partir du début des hostilités, la situation s'y modifia progressivement. Des groupements s'y formèrent, alimentés par les tribus turbulentes de la partie espagnole du Rif, non encore occupée par nos voisins. Ils trouvèrent des chefs, Ali ben Abdesselam, Kacem ben Salah, protégés allemands ou autrichiens, et surtout subirent l'excitation violente de Raïssouli qui, malgré ses relations avec les autorités espagnoles, n'en passe pas moins, aux yeux des Marocains, comme l'agent le plus actif de l'action allemande contre nous. Cette effervescence toujours croissante aboutit, en mai et juin 1915, à une action d'ensemble, à une violente poussée contre les tribus soumises et contre nos postes qui nous causèrent les plus sérieuses préoccupations jusqu'aux abords même de Fez. Une action militaire des plus vigoureuses, dirigée par le général Henrys, qui dut momentanément dégarnir le front berbère, disloqua le bloc de nos adversaires. Ali ben Abdesselam fit même sa soumission. De nouveaux postes de surveillance furent établis le long et au nord de l'Ouergha, reliant Kelaa des Sless à Arbaoua, dans une zone que nous n'avions pas occupée jusque-là et, depuis août 1915, nous avons établi sur ces confins une tranquillité relative.

3° FRONT BERBÈRE

Le premier prélèvement d'effectifs en pays Zaïan, au mois d'août 1914, et la dislocation du groupe mobile de Khenifra réduit à sa seule garnison, eurent comme conséquence immédiate la rentrée en campagne des Zaïan, qui se ruèrent sur ce poste et sur nos communications, et le décrochage des unités renvoyées en France se fit difficilement et avec des pertes sérieuses. Une vigoureuse riposte les rejeta dans leurs montagnes et, peu à peu, sous l'influence de la misère dans laquelle ils y vivaient, devant l'approche de l'hiver et la constatation que nous maintenions intacte notre armature, se fit une détente dont on pouvait espérer le développement. Un incident des plus regrettables vint out remettre en question. Malgré les instructions contraires formelles, le commandant du poste de Khenifra crut devoir profiter du voisinage de Moha ou Hamou, chef des Zaïan, venu camper sans méfiance à El Herri, à quelques kilomètres du poste, pour le surprendre (13 novembre 1914). Cette initiative aboutit à un échec complet, à une perte d'hommes et de matériel importante qui eut un retentissement immédiat dans le Maroc entier. Une rapide et remarquable intervention du colonel Garnier-Duplessis, commandant la région du Tadla, et du général Henrys rétablit la situation et assura, une fois de plus, l'intégrité de notre front d'occupation. Mais la détente commencée ne se retrouva plus et, depuis lors, les Zaïan sont restés dans leurs montagnes, face à nous, dans une attitude jusqu'ici irréductible. Ce grave incident n'empêcha heureusement pas des progrès de se rééaliser sur d'autres points. Un très habile travail politique pratiqué chez les Beni Mguild de la vallée du Guigou aboutit, en 1915, à l'occupation de ce nouveau couloir, parallèle à notre front, au sud de la ligne Anocour-Azrou. L'installation des postes de Timhadit et d'Almis étendit ainsi la protection sud des régions de Meknès et de Fez ainsi que la sécurité des tribus soumises et nous mit en relations avec de nouvelles tribus avec lesquelles nous primes un contact pacifique. Enfin, il nous assure un gain d'une étape dans la direction de la Haute-Moulouya dont nous ne sommes plus séparés que par deux jours de marche. A cette progression correspondait un travail intéressant de nos troupes du Haut-Guir qui, sous l'habile direction du colonel Bertrand, poursuivaient, au nord de Gourrama, une progression pacifique continue, prenant de jour en jour contact avec de nouveaux groupements, et poussant des reconnaissances jusqu'en vue de Kasba el Makhzen. Aujourd'hui nos postes du Guigou sont déjà en relations par émissaires avec nos postes du Haut-Guir, préparant ainsi une liaison future sur la Moulouya, qui ne pourra être envisagée que lorsque l'issue de la guerre nous aura rendu des effectifs.

4° FRONT TADLA

De ce côté, on s'est borné à maintenir en principe les positions acquises: nous, sur l'Oum er Rebia; les Chleuh, dans leurs montagnes. Toutefois, le général Garnier-Duplessis, par une activité incessante et une série de coups de main heureux, a réussi, en dégagant le glacis sud

de l'Oum er Rebia, à donner de l'air à ses postes de Kasba Tadla et de Dar ould Zidouh. Il vient même (décembre 1915) de donner pour la première fois la main, au nord de Demnat, aux troupes de Marrakech venues y établir le poste de Tanant.

5° FRONT SUD. -- MARRAKECH. -- SOUS.

De ce côté a été menée, depuis la guerre et malgré la guerre, une action des plus intéressantes par les seuls moyens indigènes, dirigée par le Service des Renseignements sous l'impulsion constante du commandant de la région de Marrakech, le colonel de Lamothe.

Le rapport arrêté au 31 juillet 1914 signalait les progrès de notre influence dans le Sous, où commande Haïda ou Mouis, pacha de Taroudant.

Dès le début des hostilités, le prétendant Hiba, en relations suivies avec les agents allemands par la côt atlantique et ravitaillé par la zone de Rio de Oro, reprenait confiance et rentrait en campagne. Il exerçait une forte pression sur le sud du Sous, coupait les communications entre Tiznit, où commandait un pacha fidèle au Makhzen, et Agadir. Tiznit était investie étroitement, bloquée et mise dans le plus sérieux péril. Une vigoureuse offensive d'Haïda ou Mouis et de ses contingents, secondée par une intervention efficace de la Division navale, dégagait Tiznit (septembre-octobre 1914). Puis, se retournant à l'est, Haïda ou Mouis infligeait un sérieux échec aux partisans d'Hiba dans les montagnes qui bordent le Sous au sud de Taroudant (janvier 1915). Depuis lors, l'autorité du Makhzen n'a fait que s'affermir dans cette région où les efforts d'Hiba sont restés impuissants. Le Grand Atlas restait absolument indemne sous l'autorité des grands caïds Glaoua, Mtougui et Goundafi, dont la fidélité à notre cause n'a pas eu de défaillance depuis le début de la guerre. A l'est de Marrakech seulement, une certaine effervescence se manifestait dans les massifs montagneux à l'est de Demnat, et c'est pour en prévenir le développement que le colonel de Lamothe proposait et recevait l'autorisation d'étendre notre occupation de ce côté en y créant le poste de Tanant (décembre 1915), au débouché des couloirs qui mènent sur le revers du massif Chleuh. Ce poste, actuellement sentinelle avancée, forme ainsi une excellente base d'opérations pour le jour où, après la guerre, avec des effectifs reconstitués, nous pourrions régler la question Chleuh par une action concentrique partant de Tanant, Tadla et Khenifra.

En résumé, si la guerre d'Europe, la réduction de nos effects et l'obligation où nous nous trouvions de n'engager aucune opération risquée et de nous abstenir de tout engrenage, ne nous ont pas permis de poursuivre et peut-être d'achever la réduction totale du Maroc dissident, du moins avons-nous maintenu intactes les limites de notre occupation. Nous les avons même étudiées sur certains points.

Si notre communication avec l'Algérie par le couloir de Taza reste toujours précaire, du moins avons-nous étendu au nord la zone de sécurité de cette ville. En face de la zone espagnole, les ripostes aux agressions

dirigées contre nous ont étendu notre occupation portée sur certains points jusqu'à la frontière espagnole même.

Sur le front berbère, nous avons pu poursuivre, dans une certaine mesure, notre avance sur la Moulouya, à laquelle a correspondu une progression symétrique du Haut-Guir. Enfin, à l'est de Marrakech et dans le Sous, nous avons réalisé des gains sensibles et acquis une supériorité politique et morale incontestable. La carte placée à la fin de cette préface les fait ressortir clairement.

Il ne faut néanmoins pas perdre de vue que ces résultats ne pourront être maintenus jusqu'à la fin des hostilités que par une vigilance toujours en éveil, une activité incessante et une action politique intensive. Non seulement, les foyers de dissidence existent toujours, mais ils sont attisés par une action extérieure qui dispose de moyens puissants, que rien ne lasse et qui a ses bases d'opérations hors de notre portée. Enfin, notre situation militaire au Maroc reste toujours, de toute évidence, fonction de la situation militaire générale. Les événements d'Orient, notamment, par leur répercussion dans cette caisse sonore qu'est l'Islam, y exigent la plus sérieuse attention. Si détachés du Khalifat de Constantinople que soient les Marocains, dont le chef religieux est leur Sultan, ils ne sauraient être indifférents à rien de ce qui atteint les Musulmans à l'est du côté de la Tripolitaine, de l'Egypte, de la Syrie et de Stamboul, et il importe, pour ce qui concerne le Maroc, de garder l'oeil et l'oreille ouverts à tous les incidents, à tous les bruits, à tous les symptômes.

+ + +

Au point de vue de l'organisation régionale, la guerre n'a apporté de modification à ce qui est exposé dans le rapport du 31 juillet 1914 que sur un point essentiel.

Du fait de l'état de guerre, les commandements régionaux sont passés provisoirement aux mains de l'autorité militaire. Il n'y a donc plus, jusqu'à la fin des hostilités, à distinguer entre les régions, les commandements militaires et l'administration civile, ainsi qu'il était spécifié au chapitre V. Le Maroc occidental est aujourd'hui divisé en six subdivisions militaires (Fez, Meknès, Rabat, Tadla, Casablanca, Marrakech) commandées chacune par un officier général ou supérieur. Chacune de ces subdivisions forme en même temps une région politique et administrative, où l'unité de commandement militaire, politique, administrative est assurée dans les mains du commandant de subdivision.

Les circonscriptions qui étaient passées à l'administration civile ont néanmoins gardé, pour la plupart, leurs contrôleurs, mais ceux-ci, au lieu d'être autonomes et de relever directement de la Résidence générale, sont placés sous l'autorité du commandant de la région.

Comme il a été dit plus haut, trois de ces régions: Fez, Meknès, Tadla, et une partie de celle de Rabat, le Cercle du Gharb, ont été réunies temporairement, pour des motifs militaires et politiques, en un groupement nommé Commandement Général du Nord.

POLITIQUE INDIGÈNE. -- MAKHZEN. -- MEDJLESS.

Notre situation, au Maroc, ne pouvait être maintenue par des moyens purement militaires. L'envoi en France de la majorité des troupes actives aurait rendu impossible le maintien, pourtant si nécessaire, de l'"armature" et, par suite, de la paix au Maroc, si d'autres éléments de force n'étaient venus compenser cet affaiblissement considérable des moyens militaires. C'est, en effet, grâce à une politique indigène et à une politique économique intenses, incessantes, que le pays a pu se garder lui-même, à l'abri des postes avancés du front.

Politique indigène et politique économique, ce sont aussi les deux facteurs essentiels des progrès réalisés au Maroc depuis dix-huit mois. L'heure était bonne pour marcher de l'avant, et il fallait marcher de l'avant pour devancer en quelque sorte l'avenir.

Sauvegarder le Maroc dans la lutte actuelle et l'armer par avance pour la grande lutte économique qui suivra la guerre: tel a été le double objectif poursuivi depuis dix-huit mois, par les mêmes moyens.

+ + +

Le Maroc est un Protectorat. Mais ce mot, qui contient pourtant une doctrine coloniale grande et simple, est regardé le plus souvent comme une étiquette et non comme une vérité: on y voit, sinon un mensonge, du moins une formule théorique, une formule de transition, destinée à disparaître après des modalités successives. C'est là le résultat de la plupart de nos expériences coloniales. Et ce sentiment est tellement fort, qu'au Maroc comme ailleurs, avant la guerre, on résistait avec peine, et déjà presque sans conviction, à cette poussée, que beaucoup croient fatale, vers le gouvernement direct, vers l'annexion de fait précédent l'annexion légale. La guerre nous a fait une nécessité politique absolue de changer de voie; et cette expérience nouvelle, commencée dans un sentiment de prudence, a pleinement réussi. Le Protectorat apparaît ainsi, non pas comme une formule théorique et de transition, non pas même comme une formule, mais comme un réalité durable; la pénétration économique et morale d'un peuple, non par l'asservissement à notre force ou même à nos libertés, mais par une association étroite, dans laquelle nous l'administrons dans la paix par ses propres organes de gouvernement suivant ses coutumes et ses libertés à lui.

C'est dans ce sens que s'est orientée franchement et définitivement notre politique. On s'est attaché d'abord à rehausser le prestige personnel du Sultan, en faisant revivre autour de lui les anciennes

traditions et le vieux cérémonial de la cour, à garantir scrupuleusement l'autonomie de son pouvoir religieux, à raffermir sa confiance et son autorité en l'associant à nos projets, en sollicitant ses réflexions et ses avis. Le Makhzen a été associé plus étroitement chaque jour au gouvernement. Son rôle, avant la guerre, s'était réduit insensiblement, et par la force même de nos habitudes administratives, à un simple droit de veto sur les projets qui lui étaient communiqués. Il possède aujourd'hui, en fait, un véritable droit d'examen; et son initiative même est sollicitée dans bien des cas. Le Conseil des Vizirs est devenu une institution vivante, un organe normal de l'Administration. Tous nos projets y sont exposés, expliqués, dans leur esprit et dans leur tendance. L'administration des biens habous s'exerce de même sous le contrôle effectif d'un Conseil, dont une réunion particulièrement importante, ayant le caractère d'un véritable Congrès religieux, s'est tenue pendant la guerre.

Enfin partout, dans les provinces, on s'est efforcé de donner aux indigènes, non pas un pouvoir de façade, mais une part effective dans l'administration et une véritable autorité pour la garantie de leurs coutumes et de leurs "libertés". Il est donc inexact de dire que l'institution du medjless musulman de Fez ne correspond plus aux besoins actuels et que cette organisation doit être rapprochée du type municipal créé dans les autres villes. Car c'est dans le sens inverse que nous sommes orientés; et le medjless de Fez doit plutôt nous servir de modèle. Dans cette assemblée, en effet, les indigènes sont entre eux; les décisions qu'ils prennent, les avis qu'il émettent après discussion représentent vraiment leur opinion, et ils savent qu'il est impossible de n'en pas tenir compte. Dans les assemblées municipales des autres villes, les indigènes, noyés au milieu des Européens, incapables de suivre la discussion qui se poursuit en français et dont on leur donne de loin en loin un résumé hâtif, ont le sentiment d'être des figurants, et ils votent d'autant plus volontiers avec la majorité que leur vote ne signifie rien pour eux. La formule à laquelle il faut tendre est celle d'assemblées distinctes pour les Européens et pour les indigènes (ou peut-être de sections distinctes, siégeant séparément, dans une même assemblée). Cette formule seule, à l'heure actuelle, peut nous assurer une représentation sincère des indigènes, et une indépendance complète de leur avis.

ENSEIGNEMENT

C'est dans le même esprit que des réformes importantes ont été apportées dans l'enseignement indigène. La réussite du Protectorat, avec ses deux administrations associées qui s'aident mutuellement et se complètent, dépend de la valeur du personnel indigène autant que de la valeur du personnel français. Il faut donc songer dès maintenant à fonder une pépinière d'administrateurs indigènes, profondément instruits de leur législation et de leur civilisation propre, ouverts en même temps aux questions modernes, capables de comprendre nos intérêts comme nous comprenons les leurs et de se rendre compte en quoi ils se concilient. Ces éléments existent au Maroc: il suffit de les recueillir et de les instruire.

Une sorte d'enseignement secondaire musulman sera donc créé au Maroc: à l'échelon inférieur, dans chaque centre, des écoles payantes pour les fils de notables; au-dessus, à Rabat et à Fez, des collèges musulmans. L'enseignement donné comportera nécessairement l'étude de la langue française, car c'est par la communauté de langue que commence la communauté de pensée, mais cet enseignement, destiné à doter le pays d'administrateurs indigènes et non de fonctionnaires français, n'en sera pas moins essentiellement musulman; il formera des lettrés, et des lettrés modernes. Un Comité consultatif à Rabat et dans chaque centre un Comité de perfectionnement local, tous composés de personnalités indigènes, assureront la direction de cet enseignement.

En attendant ces résultats forcément lointains, il est créé auprès du Makhzen des postes de "stagiaires". Ces stagiaires, choisis après examen parmi les jeunes fils de notables les mieux doués, acquerront peu à peu la pratique du gouvernement des tribus et la connaissance de nos méthodes administratives.

Cette lacune importante devait être comblée.

Une réorganisation de l'Ecole supérieure arabo-berbère de Rabat, une organisation encore rudimentaire de l'enseignement professionnel, ont complété cette réforme.

ASSISTANCE INDIGÈNE

Les efforts devaient porter également sur le développement de l'assistance indigène, déjà en si bonne voie au début de la guerre. (L'instituteur et le médecin ont toujours été les deux agents essentiels de notre politique indigène au Maroc.) Et de grands progrès matériels ont été réalisés. Mais l'organisation même du Service de la Santé et de l'Assistance médicale a été l'objet d'une importante réforme.

Comme on le voit dans le rapport, l'organisation de ce service avait déjà subi, de 1912 à 1914, plusieurs transformations provenant aussi bien de la progression des besoins que des tâtonnements de l'expérience dans un pays nouveau. Ces tâtonnements avaient leur cause essentielle dans la coexistence de deux services distincts, l'un exclusivement militaire, le Service de Santé du corps d'occupation; l'autre d'un caractère plutôt civil, le Service de l'assistance indigène, deux services distincts mais dont les agents devaient être nécessairement confondus. Dans la plupart des postes, en effet, il n'y a qu'un seul médecin; il ne peut y avoir qu'un médecin; et c'est ce même médecin qui exerce à la fois les fonctions administratives et militaires de médecin-major auprès des troupes et l'apostolat médical auprès des populations indigènes. Ce médecin dépendait ainsi, au début, de deux chefs distincts.

La réforme de 1914, en réunissant dans les mêmes mains sous les ordres d'un directeur général, les deux Services de Santé militaire et de l'Assistance publique, avait remédié en partie aux conflits et aux chevauchements qui résultaient nécessairement de l'organisation précédente.

Cette centralisation était nécessaire. Par contre, la création de deux zones distinctes, la zone des villes et territoires civils, et la zone dite d'occupation, dirigées, pour tout le Maroc, par deux chefs distincts, mais ayant les mêmes attributions, et où prédominaient un personnel et un esprit différents, a donné de mauvais résultats. Ces deux centralisations parallèles étaient mauvaises.

Le Service a été réorganisé récemment sur des bases différentes.

Au centre, distinction entre les deux services. Ils sont toujours réunis entre les mains du médecin inspecteur, directeur général. Mais un médecin chef de service, placé sous ses ordres, a la direction et la responsabilité de l'Assistance médicale.

Dans chaque région, centralisation de tous les pouvoirs médicaux (santé, assistance, hygiène) entre les mains d'un médecin, directeur de la Santé et de l'Assistance publique de la région, seul responsable vis-à-vis de l'Administration centrale.

Ce système paraît tout concilier. Tous les médecins, dans chaque région, qu'ils soient médecins militaires ou médecins de l'assistance médicale, ou qu'ils cumulent les deux fonctions, sont sous les ordres directs d'un même chef local. Ainsi les chevauchements et les conflits sont évités.

Ce chef local dépend directement du médecin inspecteur, directeur général, véritable "ministre de la Santé et de l'Hygiène publiques" pour l'ensemble du Maroc, mais auprès et sous la direction duquel le directeur de l'Assistance publique centralise et suit spécialement tout ce qui concerne l'assistance indigène.

DÉVELOPPEMENT ÉCONOMIQUE

Nous venons de faire une mise au point, aussi succincte que possible, du rapport d'ensemble en matière indigène. Mais c'est dans le domaine économique, au sens le plus large du mot, que l'oeuvre du Protectorat a été la plus importante pendant la guerre. Là, plus que partout ailleurs, le rapport est en retard. La mise au point rapide qui va suivre intéresse particulièrement les 4e et 5e parties du rapport (organisation financière et organisation économique).

L'effort apporté, en premier lieu, sur l'outillage du Maroc.

Les Ports. -- Le programme général des travaux n'est pas modifié; un grand port moderne à Casablanca, des ports secondaires à Safi, Mazagan, Rabat et Kénitra. Mais le port de Kénitra, dont le développement s'est considérablement accru depuis la guerre et qui tend à devenir le débouché naturel de la région du Gharb et de Fez, mérite une mention spéciale. Les travaux ont avancé à Casablanca. Après un arrêt provoqué par la guerre, des nouveaux chantiers ont été constitués, permettant la reprise des travaux de la grande jetée.

La concession des ports de Kénitra et de Rabat avait été décidée, et les bases du régime de concession à peu près arrêtées avant la guerre. Les circonstances actuelles ne permettent pas de donner suite à ce projet. Les travaux d'un appontement à Kénitra sont néanmoins en voie d'exécution.

A la question des ports se lie celle du transbordement des marchandises. Le monopole de l'aconage est maintenu en principe, mais l'exploitation par l'Etat de ce service commercial a présenté de telles difficultés dans la pratique, par suite de l'insuffisance des taxes et du manque de souplesse d'une gestion trop administrative, que la concession de ce service a été envisagée et étudiée. Ce projet vient d'aboutir, en ce qui concerne Casablanca, à un contrat de concession entre l'Etat chérifien et la Société "L'Entreprise maritime et commerciale".

Les routes. -- La création d'un réseau de routes est une question urgente et vitale pour le Maroc, pays essentiellement agricole et qui manque de débouchés vers la mer. L'activité a été portée surtout sur ce point.

Le programme est sensiblement élargi. Il comprenait, dans ses grandes lignes, avant la guerre, un réseau d'environ 1.440 kilomètres, ainsi constitué: une route côtière allant de Mogador à Arbaoua, trois routes intérieures sur Marrakech (venant de Casablanca, Mazagan et Mogador); deux routes sur Fez (venant de Kénitra et d'Arbaoua). Il comprend aujourd'hui en outre:

- 1° La grande voie de jonction de l'Algérie au Maroc: Oudja-Taza-Fez;
- 2° Une grande voie de pénétration vers le Tadla: Casablanca-Boujad;
- 3° Enfin, tout un réseau secondaire de routes destinées à servir d'affluents aux routes principales et desservant les régions agricoles: Gharb, Chaouïa, Doukkala, Abda.

L'exécution de ce programme a été entreprise avec une activité telle qu'au jour où nous sommes plus de 300 kilomètres de routes sont construits et livrés à la circulation; une centaine de kilomètres de tronçons sont également construits; plus de 800 kilomètres sont en pleine voie d'exécution. Dès la fin de 1916 ou les premiers jours de 1917 le réseau principal sera terminé.

Les Chemins de fer. -- Malgré les difficultés de l'heure présente, le programme établi en 1914 a été poursuivi dans toute la mesure possible.

Les études du chemin de fer de Tanger à Fez sont presque terminées pour tout le tracé Fez-Mechra bel Ksiri. La Compagnie générale du Maroc, en raison de l'état du marché financier, a obtenu, par une convention nouvelle, l'élévation du taux de la garantie d'intérêt à la condition que l'exécution des premiers travaux soit entreprise dans les six mois.

Sur les autres lignes, les brigades d'études, appartenant tant au P.-L.-M. qu'à la Compagnie d'Orléans, opèrent activement, sous la Direction des Travaux publics, sur les lignes suivantes: Casablanca-Rabat, en partant de Casablanca; Kénitra-Sidi Kacem.

La question du régime à adopter pour les chemins de fer du Maroc, posée dès le mois de janvier 1914 et sur laquelle une Commission spéciale avait donné son avis, est restée toujours en suspens.

Les travaux urbains. -- Le "problème des villes", si l'on peut dire, est l'un des plus délicats qui se soit présenté à nous au Maroc, dès le début de l'occupation. Il avait été laissé dans l'ombre dans ce rapport.

L'immigration européenne, poussée subitement sur les côtes du Maroc, s'est trouvée en présence de villes indigènes compactes, malpropres, malsaines, et, autour de ces villes, de terrains déjà accaparés et dont la spéculation rendait les prix inabornables. On s'est installé n'importe où, on a bâti en toute hâte. Des constructions éparses, sans plan ni voirie quelconque, s'égaillaient au hasard sur un immense espace.

Trois objectifs s'imposaient à nous:

Protéger les villes indigènes, impropres à toute vie moderne et dont la plus complète indépendance morale et le pittoresque physique méritent à la fois d'être sauvegardés;

Orienter, diriger l'établissement des villes modernes, suivant un plan logique; prévoyant l'avenir et tenant compte du présent;

Assainir l'ensemble par des travaux de voirie appropriés.

Le premier programme a été réalisé. Le contrôle des constructions dans les villes indigènes est confié à la Direction des Beaux-Arts, qui a mission d'en sauvegarder le caractère. Les villes européennes, d'autre part, sont attirées en dehors de leurs murs.

Une mission spéciale est chargée, au Maroc, de l'établissement des plans de villes. Ce travail, à peine entrepris au moment de la mobilisation, est aujourd'hui très avancé, surtout en ce qui concerne Casablanca, Rabat et Marrakech. Par le choix judicieux des emplacements d'immeubles administratifs, par les abandons de terrains provoqués et gracieusement consentis, par la constitution de réserves prélevées sur les terrains domaniaux, on est arrivé à mettre un peu d'ordre dans les constructions, dans le tracé des voies, et à dresser, pour un long avenir, un programme d'ensemble qu'il suffira de suivre. A Casablanca, un échange important conclu entre l'Etat français et l'Etat chérifien met à notre disposition un lot considérable de terrains absolument nécessaire au développement de la ville.

Quant aux travaux d'assainissement ou de voirie (construction de chaussées, de trottoirs, d'égouts), ils ont été menés avec une activité particulière.

L'éclairage électrique de Casablanca va pouvoir être assuré à bref délai, à la suite d'un contrat passé avec la Société du port.

Un projet d'adduction d'eaux à Rabat a été dressé par les Travaux Publics.

Autres projets figurant au programme des Travaux publics. --

Les constructions scolaires sont très avancées: deux grandes écoles modernes ont été terminées à Casablanca: la troisième sort de terre. Des améliorations notables ont été apportées, dans chaque ville, à l'installation des écoles françaises et indigènes. A Rabat, la construction de l'Ecole supérieure arabo-berbère est aujourd'hui presque terminée.

Les hôpitaux s'organisent en même temps et de nouvelles formations surgissent de terre: hôpital de Marrakech, de Mazagan, infirmeries indigènes, etc...

Signalons, enfin, comme un élément important de l'outillage du Maroc, l'établissement d'une relation télégraphique sous-marine directe entre la France et le Maroc. Le câble Brest-Casablanca vient d'être livré à l'exploitation.

L'accélération apportée dans l'exécution du programme des travaux et l'extension même de ce programme ont profondément modifié la situation financière du Protectorat.

Au moment où la guerre a éclaté, un emprunt de 170 millions venait d'être autorisé. Cet emprunt était déjà insuffisant pour assurer la première mise en valeur d'un pays comme le Maroc, dont l'avenir agricole est si vaste, dont les ressources futures constituent un gage si sûr, et, d'autre part, il devait être consommé lentement.

Aussi le budget, déjà si lourd, supportait-il la charge d'un certain nombre de dépenses de premier établissement indispensables et que les crédits d'emprunt ne pouvaient englober.

La guerre survient. Elle nous impose, pour des nécessités politiques de tout ordre, l'exécution rapide, urgente, simultanée, de tous les travaux de premier établissement prévus. Le programme est élargi. Il en résulte des dépenses nouvelles, qu'il est nécessaire de liquider et de prévoir. Un examen de conscience complet de la situation financière du Maroc nous a conduits alors à une demande d'emprunt supplémentaire de 71 millions, actuellement soumise à la Chambre. Ces 71 millions, joints aux 170 millions autorisés en 1914, représentent la dépense véritable et sincère de la mise en valeur du Maroc.

La situation est désormais plus claire. Nous sommes assurés de pouvoir continuer jusqu'au bout cette politique de travaux, à laquelle nous devons, pour une large part, la sécurité complète du Maroc pendant la guerre, et qui nous vaudra, la guerre finie, la possession d'un empire outillé et armé pour la lutte économique. Le budget, d'autre part, dégagé d'un certain nombre d'impedimenta et ne représentant désormais en toute réalité que les dépenses d'exploitation du pays, peut espérer atteindre l'équilibre.

Mais, dans toute affaire importante et sérieuse à ses débuts, les bénéfices ne sauraient couvrir du premier coup ni suivre même de loin les charges grandissantes d'un capital qui s'accroît. Il convient d'en tenir compte. Au Maroc, quelle que soit l'augmentation des recettes pendant les premières années, la charge de l'emprunt, que les nécessités politiques, économiques, militaires même, forcent à consommer si rapidement, sera de beaucoup supérieur, pendant les premières années, à l'importance de ces bénéfices.

On l'avait si bien compris que, d'après la loi de 1914, la charge de l'emprunt n'incombait au Protectorat qu'à partir d'un certain chiffre de recettes de son budget. Mais, ce chiffre étant trop bas, la réserve était illusoire. Un système plus logique est proposé dans le nouveau projet du Gouvernement: il consiste à ne faire peser la charge de l'emprunt sur le budget du Protectorat qu'à partir d'une certaine date et ensuite progressivement pendant quelques années.

L'augmentation des charges budgétaires résultant, dans quelques années, de l'augmentation de la Dette, et dans un avenir immédiat, de l'entretien seul des travaux exécutés sur l'emprunt, impose dès maintenant une politique fiscale destinée à nous créer des ressources.

L'impôt foncier, le Tertib, dont l'assiette, la tarification, la perception étaient également arbitraires, a été remanié cette année et codifié. La réforme, expérimentée pour la première fois cet été, a donné d'excellents résultats. Elle ne donnera son plein que lorsque des agents spéciaux seront chargés du recouvrement de l'impôt; ce personnel ne pourra être recruté qu'après la guerre.

L'impôt sur l'enregistrement, dont la première application, entreprise pendant la guerre, avait soulevé quelques difficultés dans la pratique, particulièrement dans les milieux indigènes, a été également remanié par un texte nouveau. Les explications données au rapport ne sont plus exactes.

Enfin, d'autres impôts vont être établis. La création de patentes fera l'objet d'une étude immédiate.

+ + +

L'outillage économique du Maroc, qui fait l'objet de tout notre effort, a pour but essentiel le développement de l'agriculture et du commerce, en un mot, de la colonisation au Maroc. Mais ce n'est là que l'outil. Il convient d'en tirer le meilleur parti possible, et de seconder, d'organiser, d'orienter les initiatives privées en vue d'un développement agricole et commercial intense du Protectorat.

Cette tâche ne pouvait être menée à bien que si elle était centralisée dans les mêmes mains. Les questions de toute nature intéressant la colonisation en général étaient jusqu'ici dispersées entre plusieurs services: Secrétariat général chérifien, Service économique, Service de l'Agriculture, Service des Forêts. Le Secrétariat général du Protectorat, dont relèvent tous les services civils, ne pouvait assurer à lui seul une centralisation suffisante. L'étude de toutes les questions et la responsabilité de toute cette organisation sont confiées désormais à un directeur de l'Agriculture, du Commerce et de la Colonisation, dont relève le Service des Etudes économiques.

Le programme envisagé ne saurait être exposé dans ses détails. Mais c'est un article essentiel de notre politique au Maroc, sur lequel a porté toute notre attention, et il convient d'en donner une idée.

Ce programme comporte, à l'heure actuelle, deux grands chapitres:
Développement de la colonisation agricole;
Organisation commerciale.

Les difficultés du problème de la colonisation au Maroc proviennent de ce qu'elle a suivi de près, quelquefois même devancé, la conquête militaire et que ses espoirs étaient prématurés. Tant que la pacification

n'a pas été complète, tant que le pays n'a pu être outillé, si succinctement soit-il, il était impossible à un gouvernement prudent d'encourager la colonisation, destinée fatalement à une faillite. La situation n'est plus la même aujourd'hui; elle aura surtout changé après la guerre. Et il convient dès maintenant de préparer le terrain; et, pour acquérir l'expérience nécessaire, de tenter en temps utile les premiers essais.

Une des plus grosses entraves apportées au développement agricole du pays était la complexité, l'embarras, l'insécurité du régime foncier. Elle est levée aujourd'hui. Le régime de l'immatriculation des terres fonctionne, en fait, depuis le mois de mai dernier, et le nombre des réquisitions déposées est une preuve du besoin urgent auquel répondait cette institution. Dans le Gharb, où la situation est particulièrement difficile, une Commission arbitrale est offerte aux intéressés pour le règlement de leurs litiges, avant immatriculation.

Quant à la colonisation officielle, de premiers essais vont être tentés dans la banlieue de certaines villes, pour diminuer les risques et favoriser, d'autre part, la culture maraîchère. La reconstitution du patrimoine makhzen permettra d'aborder, dès la fin de la guerre, des essais plus importants: l'emprunt nouveau comporte un crédit spécial réservé à l'achat de terrains pour cet objet.

L'agriculture doit être, en outre, encouragée et aidée: réformes apportées dans le régime fiscal, directions et conseils à donner aux agriculteurs, toutes ces mesures ont été envisagées et étudiées. L'Exposition de Casablanca, en nous donnant la première documentation concrète, vivante, sur l'agriculture au Maroc, a marqué un progrès important. Nous possédons désormais les bases de toutes nos recherches, et nous pouvons nous orienter en connaissance de cause.

L'organisation du commerce et de la lutte économique est le complément nécessaire de ce programme. Dans ce domaine, toute l'activité du Protectorat a été tendue, depuis la guerre, vers un seul but: la main-mise par la France sur les places occupées par le commerce austro-allemand, et, dans un sens plus général, l'établissement d'une association commerciale étroite entre la Métropole et le Maroc. Cette activité a abouti, après les études, les enquêtes et les mesures préliminaires, à l'Exposition franco-marocaine de Casablanca.

Mais cette Exposition n'est que l'origine d'un mouvement. Elle est un départ et non une fin. L'oeuvre qu'elle a fondée continue par l'organisation de musées commerciaux permanents, par la création d'organes de relation permanents entre La Métropole et le Maroc, par une direction unique au centre.

Dans toute cette oeuvre, l'Administration devait être éclairée et secondée. La conception primitive, qui a présidé à la création des Chambres de Commerce et d'Agriculture, a paru, à ce point de vue, trop étroite. Tous les problèmes nouveaux et urgents créés par l'état de

guerre et par la politique économique intense qu'elle a provoquée, nécessitaient une consultation très générale, très approfondie, très sérieuse, des intérêts particuliers. A cette préoccupation a répondu l'institution des Comités d'Etudes économiques, organes qui se sont superposés aux Chambres de Commerce et qui comprennent l'ensemble des notabilités commerciales, industrielles ou agricoles de chaque région. L'oeuvre de ces Comités, le secours et l'appui qu'ils ont apportés au gouvernement dans une tâche écrasante lui ont été précieux. D'une réunion générale de tous les Comités, tenue à Casablanca à l'occasion de l'Exposition, est sortie l'élaboration commune, établie d'accord entre tous les intérêts particuliers et les intérêts généraux que représente l'Administration, d'un vaste programme d'ensemble, financier, commercial et agricole.

Ce n'est pourtant pas là la formule définitive, et il faut prévoir la création d'organismes à la fois plus restreints, plus souples et plus forts, ayant la personnalité civile et budgétaire. La réorganisation des Chambres de Commerce, fondée sur l'élection, suivra nécessairement l'institution des patentes.

+ + +

Le cadre de cette préface m'empêche de signaler encore toutes les autres mises au point nécessaires; le détail importe peu. Néanmoins, je dois noter, en terminant, comme devant être réservées les idées exprimées dans ce rapport au sujet du personnel. Il a été reconnu, à l'expérience, que le statut du personnel administratif, trop rigide et étroit, devait être à la fois élargi et assoupli. Une réorganisation complète de ce statut est en voie d'élaboration.

+ + +

Tels sont, d'une manière très rapide et très générale, les idées et les faits actuels qu'il faut connaître, avant de lire un rapport qui a déjà 18 mois de date. Dix-huit mois représentent déjà, pour une colonie en crise de croissance, une période de développement. Dix-huit mois de guerre représentent beaucoup plus encore pour le Maroc: un développement et une avance, une évolution et une anticipation. Il était impossible que le lecteur l'ignorât.

LYAUTEY

Janvier 1916.

APPENDIX XXV

CHRONOLOGY OF SULTANS, 1873-1967

Moulay el-Hassan	1873 - 1894
Moulay Abd el-Aziz	1894 - 1908
Moulay Abd el-Hafid.	1908 - 1912
Moulay Youssef	1912 - 1927
Sidi Mohammed (V) ben Youssef.	1927 - 1953
Sidi Mohammed ben Moulay Arfa.	1953 - 1955
Sidi Mohammed ben Youssef.	1955 - 1961
Hassan II	1961 -

APPENDIX XXVI

REPORT OF 19 MARCH 1913 ON JUDICIAL ORGANIZATION

Marrakech, le 19 Mars 1913.

Le Général de Division LYAUTEY,
Commissaire Résident Général de France
au Maroc,

à Monsieur le Ministre des Affaires Etrangères,
Paris

J'ai l'honneur de vous adresser ci-joint le projet d'organisation de la Justice française au Maroc. Elaboré dans des conditions rendues particulièrement difficiles par l'absence des ouvrages de droit et de jurisprudence les plus indispensables, ceux que j'ai commandés en France ne m'étant pas encore parvenus, ce projet contient sans doute bien des imperfections; je me suis efforcé d'établir, dès mon retour au Maroc, un texte aussi complet que possible que je sou mets aujourd'hui à votre bienveillante approbation: une commission de jurisconsultes, ainsi que je vous le propose à la fin de la présente lettre, pourra rapidement mettre au point notre projet et en combler les lacunes.

Je me permets d'attirer toute votre attention sur l'urgence de la réforme proposée: c'est, à mon sens, la première que nous devons réaliser au Maroc; elle est en effet la condition nécessaire de l'abrogation du régime des capitulations et, par suite, la condition même de la réorganisation administrative du Maroc dont le Gouvernement m'a confié le soin et remis la responsabilité.

Je me suis efforcé, dans l'élaboration du projet qui vous est soumis, de réaliser une organe judiciaire entièrement moderne. J'ai tenu à écarter tout ce que le mécanisme judiciaire français a de suranné, toutes les complications d'une procédure justement critiquée par les meilleurs de nos jurisconsultes et par les politiques les plus avertis des choses de droit. Par contre, pour des motifs tant diplomatiques que politiques, j'ai voulu qu'aucune des règles proposées n'apparût comme une innovation qui n'aurait pas subi l'épreuve de l'expérience; les organismes et les procédures dont je demande l'adoption, s'ils s'écartent parfois du droit commun, sont exactement tirés de textes actuellement en vigueur en France, en Algérie, en Tunisie ou aux Colonies; je me suis attaché, en outre, à mettre en oeuvre dès aujourd'hui diverses réformes actuellement soumises aux Chambres par le Gouvernement.

Le projet d'organisation judiciaire étant accompagné d'un commentaire par article du texte proposé, je me bornerai ici à en retracer les grandes lignes.

+ + +

La première question qui se pose est celle de savoir quelle est l'autorité compétente pour organiser les tribunaux français au Maroc.

Il m'est apparu qu'il est conforme à la fois à l'esprit et à la lettre du Traité du Protectorat du 30 Mars 1912 de confier à S. M. le Sultan, sous la forme d'un dahir revêtu de mon visa, le soin de réorganiser la justice de son empire. Le texte précité dispose, en effet, que la réforme sera effectuée, sur la proposition du Gouvernement français, par Sa Majesté Chérifième.

J'estime donc, les traités de protectorat devant être interprétés stricto sensu, que nous ne saurions, sans porter une atteinte imprévue par le texte à la souveraineté du Sultan, instaurer par une loi ou un décret des tribunaux français au Maroc. Cette doctrine est entièrement confirmée par la consultation que j'ai demandée à M. Jean Labbé, avocat au Conseil d'Etat et à la Cour de Cassation, dont vous trouverez ci-joint copie. Il résulte de l'étude de ce jurisculte que la Cour de Cassation a constamment reconnu la compétence et la légalité des décisions des tribunaux institués en exécution des dispositions d'un traité de protectorat approuvé par une loi et conformément à ces dispositions: s'il appartient généralement au Président de la République, statuant par voie de décret, de procéder à la réorganisation judiciaire dans nos pays de protectorat, il résulte des dispositions ci-dessus rappelées du traité du 30 Mars 1912, que ce soin a été laissé au Maroc à Sa Majesté Chérifième, sous le contrôle du Gouvernement français.

II

L'organisation des tribunaux français au Maroc comportera des Justices de Paix à compétence étendue, deux Tribunaux de première instance, une Cour d'Appel.

Les Juges de Paix à compétence étendue siégeront dans les mêmes conditions et auront les mêmes attributions qu'en Algérie. Des Juges de Paix titulaires seront institués dans toutes les villes de quelque importance, dans ces mêmes villes des juges de paix suppléants pourront être nommés. En outre, les fonctions de Juge de Paix pourront être confiées, le cas échéant, à des officiers.

Deux Tribunaux de première instance sont prévus, l'un à Casablanca, l'autre à Oudjda.

Enfin une Cour d'Appel est institutée à Rabat. Il m'a paru préférable de ne pas envoyer à Alger ou à Aix l'appel des décisions de première instance prises par les juridictions du Maroc; outre qu'une telle solution eût eu pour conséquence de retarder considérablement le règlement des affaires, elle eût nécessité l'intervention d'une loi pour établir la compétence de l'une de ces cours.

Au criminel, les Justices de Paix et les Tribunaux Correctionnels auront la même compétence qu'en Algérie. Le Tribunal, avec l'adjonction d'assesseurs jurés, aura, comme en Tunisie, la compétence de la Cour d'Assises. Le Jury délibérera, avec les magistrats, sur la culpabilité et sur l'application de la peine.

La question a été examinée de savoir s'il ne conviendrait pas de donner à la Cour de Rabat les pourvoirs de juge de Cassation. Cette solution offrait l'avantage d'une grande rapidité dans le règlement définitif des litiges; elle s'inspirait, d'autre part, de l'exemple de la juridiction du Conseil d'Etat. Il m'a semblé par contre qu'un grand avantage s'attachait au contrôle suprême de la Cour de Cassation sur les décisions rendues par les juridictions marocaines; les plaideurs français et étrangers y trouveront une garantie qui ne manquera pas d'accroître le prestige de notre organisation judiciaire et qui facilitera les négociations ouvertes en vue du retrait des capitulations. Aucune disposition spéciale, d'après M. Jean Labbé, n'est nécessaire pour donner compétence à la Cour de Cassation qui trouve son droit de contrôle dans le texte même du Protectorat et dans la loi approbative de ce traité. Il m'a paru toutefois que les Tribunaux marocains devant statuer au nom de S.M. le Sultan, il était nécessaire qu'un accord intervînt entre les deux Gouvernements pour soumettre les décisions des juridictions nouvelles à la censure de la Cour suprême. Cet accord donnera en même temps, force exécutoire, en France, aux décisions et actes de procédure émanant des autorités judiciaires chérifiennes, et réciproquement.

En ce qui concerne la composition des juridictions instituées, je me suis attaché, d'une part, à réduire le nombre des magistrats appelés à siéger, d'autre part, à faciliter les remplacements en cas d'absence. A cet effet, la Cour pourra siéger valablement à trois membres, conformément aux projets déposés à la Chambre par M. le Garde des Sceaux Cruppi. En outre les Juges de Paix pourront être appelés à monter au siège, conformément au projet déposé par M. le Garde des Sceaux Briand.

Des dispositions sont prévues qui tendent à éviter les abus auxquels ont parfois donné lieu les remplacements des magistrats dans nos colonies.

III

Le personnel des Tribunaux français au Maroc doit, dans ma pensée, être celui des Cours et Tribunaux de France et d'Algérie. Seul un cadre unique permet d'assurer un jeu nécessaire au développement de carrières normales et à une bonne administration de la justice.

Mais une loi serait, je crois, nécessaire pour autoriser les magistrats français à siéger en service régulier au Maroc et réciproquement. Devant l'urgence absolue qui s'attache au fonctionnement de nos tribunaux, j'ai l'honneur de vous prier instamment de solliciter de M. le Garde des Sceaux et de M. le Ministre des Finances l'envoi provisoire de magistrats français qui conserveraient leurs droits à la retraite, et seraient autorisés à remplir les fonctions judiciaires au Maroc, conformément au précédent établi pour M. Landry. Un projet de loi serait incessamment déposé qui réglerait définitivement la situation des magistrats français au Maroc.

Je me suis donc borné dans le projet qui vous est soumis, à préciser, pour donner toute garantie aux justiciables, que pourront seuls siéger dans les tribunaux marocains, des magistrats français ou des personnes légalement aptes à remplir les fonctions judiciaires en France. Un statut

règlant l'avancement et la discipline de ces magistrats est, en outre, institué en conformité des textes français ou des projets actuellement soumis aux Chambres.

IV

L'une des innovations les plus notables du projet d'organisation judiciaire est celle qui concerne les auxiliaires de la Justice.

Il m'a paru désirable d'éviter au Maroc l'établissement d'Officiers ministériels qui constituent une lourde charge pour les justiciables et dont l'institution en France a soulevé de nombreuses critiques. Aux Colonies et en Algérie, des plaintes se sont également élevées relatives aux abus qu'occasionnent les Offices d'Avocats-Défenseurs, les charges d'Officiers publics ou ministériels. Le Gouvernement général de l'Algérie a même récemment soumis à la Chancellerie un projet tendant à transformer les notaires en fonctionnaires et à les recruter au concours. On sait enfin quels regrettables scandales ont été récemment soulevés en France par la gestion de certains liquidateurs judiciaires.

Je n'hésite donc pas à vous proposer de confier l'ensemble des attributions dévolues en France aux divers auxiliaires de la justice: notaires, greffiers, avoués, liquidateurs judiciaires de sociétés, syndics de faillites, curateurs, etc., à un corps de fonctionnaires, divisés en classe et recevant, en principe, un traitement fixe. Ce corps de fonctionnaires est, d'ailleurs, destiné à devenir ultérieurement l'Administration de l'Enregistrement.

Cette solution, au reste, n'est pas nouvelle, elle est précisément celle qui a été adoptée par le Parlement à la suite des incidents précités et qui a consisté dans la remise à l'Administration de l'Enregistrement de la liquidation des biens des congrégations religieuses. (Loi du 29 Mars 1910)

Des dispositions spéciales tendent à régler le recrutement et la discipline du Barreau. Celle-ci est confiée au Tribunal, solution nécessaire dans un pays où l'intervention des avocats étrangers pourra être ultérieurement envisagée.

Enfin, en ce qui concerne le personnel des experts près les tribunaux, je me suis inspiré, pour les garanties à exiger des hommes de l'art, des dispositions du projet déposé au Sénat par M. le Garde des Sceaux Barthou.

V

Les Tribunaux français au Maroc seront compétents pour le règlement des affaires entre Français; entre Européens, lorsque les Capitulations auront été abrogées en matière immobilière ou mobilière; entre Indigènes, en toutes matières lorsque les deux parties accepteront cette juridiction; en matière mobilière, dans les affaires entre Européens et Indigènes. Je n'ai pas cru devoir, quant à présent imposer la compétence de la Juridiction française, c'est-à-dire dessaisir le Tribunal indigène, dans les causes immobilières entre Européens et Indigènes. D'une part,

le caractère spécial des questions immobilières au point de vue indigène, d'autre part, l'absence d'un régime foncier régulier m'ont amené à penser qu'il est préférable de surseoir, jusqu'à la promulgation d'une réglementation immobilière, pour étendre aux Indigènes la compétence des Tribunaux français. Cette réglementation est, dès à présent, mise à l'étude. Au cas où vous estimeriez qu'il convient de généraliser immédiatement la compétence des nouvelles juridictions, il me paraît nécessaire d'adjoindre pour le jugement de ces affaires, deux Assesseurs indigènes au Tribunal et à la Cour.

VI

Comme en Tunisie, les tribunaux français seront juges des affaires civiles, commerciales et administratives. Le contentieux administratif est soumis à une réglementation spéciale qui s'inspire des dispositions du Décret tunisien du 27 Novembre 1888. Il m'est apparu, en effet, qu'il convient dans l'état politique actuel du Maroc, de ne soumettre à la censure des Tribunaux judiciaires que le contentieux de pleine juridiction à l'exclusion du contentieux de l'excès de pouvoir. Cette solution n'ayant pas, à ma connaissance, soulevé de réclamations en Tunisie, j'ai l'honneur de vous proposer de l'étendre au Maroc, sous réserve toutefois de quelques modifications.

VII

Désireux avant tout d'instaurer au Maroc une justice rapide et peu coûteuse, j'estime inopportun de promulguer le Code de Procédure civile et le Code d'Instruction criminelle français. Le premier de ces textes surtout a soulevé de nombreuses critiques à raison des complications de procédure et des retards qu'il permet de susciter dans le règlement des litiges. J'ai pensé qu'il convenait plutôt de faire appel à une loi de procédure qui, expérimentée depuis plus de 20 ans, est unanimement reconnue comme excellente, la loi du 22 Juillet 1889 sur la procédure devant les Conseils de Préfecture.

C'est de ce texte que s'inspire le Code de Procédure civile dont j'ai l'honneur de vous proposer l'adoption. Je me suis attaché toutefois à y introduire toutes les procédures spéciales qui, en raison de leur simplicité, justifient la faveur dont elles sont l'objet de la part des plaideurs et des hommes de loi; c'est ainsi que la procédure des référés, complétée conformément aux dispositions du projet de loi déposé par M. le Garde des Sceaux Cruppi, a été insérée dans le nouveau Code chérifien. Je me suis également efforcé de simplifier, tant au civil qu'au criminel, la procédure du recours en cassation, par des dispositions qui trouvent leur force exécutoire dans la loi approbative du Traité de Protectorat, ou, le cas échéant, dans un décret du Président de la République à

intervenir. Les recours en cassation sur les incidents seront joints au recours sur le fonds, et, d'autre part, l'arrêté de cassation ayant pour effet le renvoi de l'affaire devant la Cour de Rabat ou devant une juridiction marocaine, la juridiction du renvoi sera liée, sur l'interprétation du droit, par l'arrêt de la Cour Suprême, procédure conforme à celle qui est suivie devant le Conseil d'Etat et qui permettra de limiter la durée et les frais de recours en cassation.

VIII

Au criminel, la procédure suivie, qui s'inspirera de celle de notre Code d'instruction criminelle, se rapprochera sensiblement néanmoins de celle qui est pratiquée devant les tribunaux institués en Algérie par le décret du 9 Août 1903. Il m'est apparu qu'il importait tout d'abord dans l'état d'insécurité du Maroc, que la justice criminelle fût rapide et que, tout en assurant les droits de la défense, l'exercice de l'action publique ne fût pas entravé par des incidents de procédure. J'ai estimé notamment que l'instruction des affaires devait pouvoir être conduite avec la plus grande célérité.

Enfin, m'inspirant du décret du 15 Septembre 1896 sur l'organisation judiciaire en Indo-Chine, j'ai prévu la constitution d'une Commission criminelle spéciale destinée à assurer la répression des crimes et délits intéressant la sûreté du Protectorat et des Colonies européennes; en cas de sédition une action judiciaire rapide peut devenir nécessaire et il m'a paru préférable de prévoir dès aujourd'hui, à toutes éventualités, une procédure légale offrant un minimum de garanties, procédure dont il a d'ailleurs été fait usage, en 1908, en Indo-Chine.

IX

Vous trouverez, enfin, annexé à la présente lettre, un tarif des frais de justice au Maroc. Ce tarif s'inspire de dispositions relatives aux droits de Chancellerie actuellement perçus devant les juridictions consulaires. J'ai désiré en outre que les frais de justice fussent, dans la mesure du possible, proportionnels à l'importance du litige. Cette règle est, en effet, celle dont s'inspirait le tarif des avoués élaboré, il y a quelques années, par le Conseil d'Etat sur le désir qui en avait été exprimé par le Parlement.

Ces frais sont perçus, par suite de l'absence d'Officiers ministériels, au profit du Trésor; ils constituent, en fait, des taxes destinées à compenser les charges du service judiciaire; ils sont payés, en principe, par le plaideur qui succombe ou répartis par le Tribunal entre les parties, selon les circonstances de l'affaire. Les droits taxés pourront, dans certains cas, atteindre un chiffre assez élevé: l'assistance judiciaire, organisée comme en Algérie, en dispensera les justiciables peu fortunés.

X

Les Tribunaux français au Maroc statueront au civil conformément aux règles du droit international privé. Au criminel, ils appliqueront les dispositions du Code pénal français. Je me réserve de constituer auprès du Secrétariat Général du Protectorat un service d'études législatives qui mettra au point et adaptera aux besoins locaux les lois et décrets qu'il y aura lieu par la suite de promulguer au Maroc.

XI

Telles sont les grandes lignes du projet que j'ai l'honneur de soumettre à votre approbation, avant d'en proposer l'adoption à S.M. le Sultan. Ainsi que je l'ai indiqué au débat de la présente dépêche, il me paraît nécessaire de le faire préalablement examiner par une Commission de jurisconsultes qui en corrigerait utilement les imperfections. Il conviendrait toutefois que cet examen fût conduit dans les conditions de la plus grande célérité afin de ne pas retarder la constitution des Tribunaux français au Maroc. A cet effet, j'ai fait établir, du projet organique, des projets de codes, des tarifs, de la consultation de M. Jean Labbé et de la présente lettre un nombre d'exemplaires suffisant. Sous réserve de votre haute approbation, je me permets de vous signaler tout le prix que j'attacherai à la collaboration, au sein de la commission, des personnalités suivantes :

MM. Herbaux, Conseiller à la Cour de Cassation,
 Berge, Conseiller à la Cour d'Appel,
 Georges Teissier, Professeur à l'Ecole des Sciences politiques,
 Romieu, Conseiller d'Etat,
 Jean Labbé, Avocat au Conseil d'Etat et à la Cour de Cassation,
 Paul Grûnebaum-Ballin, Président du Conseil de Préfecture de la Seine,
 Chardenet, Maître des Requêtes au Conseil d'Etat,
 X..., représentant de votre Département,
 Paul Boulloche, Directeur des Affaires civiles à la Chancellerie,
 Collavet, Chef-Adjoint du Cabinet du Garde des Sceaux.

Dès que la Commission sera constituée et les Rapporteurs désignés, je me tiendrai à votre disposition pour déléguer un fonctionnaire du Protectorat qui pourra fournir à la Commission toutes explications utiles et qui se mettra d'accord avec votre Département et avec la Chancellerie pour le choix des magistrats appelés à composer les nouvelles juridictions. J'attache le plus grand prix à ce que celles-ci fonctionnent immédiatement, dès leur constitution, et je ne doute pas que vous ne consentiez à me prêter tout l'appui de votre autorité pour la réalisation d'une des plus importantes réformes que le Gouvernement m'ait chargé de poursuivre au Maroc et qui est la base nécessaire de notre oeuvre de réorganisation.

GÉNÉRAL LYAUTEY

APPENDIX XXVII

POLITIQUE DE PROTECTORAT -- RAPPORT ADRESSÉ AU GOUVERNEMENT le 3 décembre 1920

Voici le moment de donner un sérieux coup de barre au point de vue de la politique indigène et de la participation de l'élément musulman aux affaires publiques.

Il faut regarder bien en face la situation du monde en général, et spécialement la situation du monde musulman, et ne pas se laisser devancer par les événements.

Ce n'est pas impunément qu'ont été lancées à travers le monde les formules du droit des peuples à disposer d'eux-mêmes et les idées d'émancipation et d'évolution dans le sens révolutionnaire.

Il faut bien se garder de croire que les Marocains échappent ou échapperont longtemps à ce mouvement général. Si, pendant des siècles, la xénophobie du Moghreb, son esprit d'indépendance jalouse, ont établi une cloison étanche entre lui et le reste du monde et l'ont maintenu figé dans une forme théocratique immuable, ces temps sont passés.

D'abord, le fait seul de notre arrivée dans le pays et, à notre suite, d'une immigration européenne croissante, de nos journaux, de nos habitudes de libre discussion et d'indépendance à l'égard de toute autorité, aurait suffi pour secouer profondément le pays et lui faire prendre conscience d'une foule de choses qu'il ignorait jusque-là. Mais la guerre survenant a multiplié les points de contact. Des milliers de Marocains sont allés en France, en Europe, et non seulement s'y sont battus côte à côte avec nos troupes, mais y ont servi dans les ateliers, ont séjourné dans les villes, ont appris le français, lu et écouté, et sont revenus au Maroc imprégnés d'idées nouvelles. En outre, les barrières se sont abaissées du côté de l'Est, laissant passer un afflux croissant d'indigènes algériens et tunisiens dont la mentalité est de moins en moins archaïque, et n'est généralement pays sympathique à notre domination. Ils deviennent peu à peu les agents des principales affaires, sont dans l'administration, s'infiltrèrent partout. Or, toutes ces influences tombent sur un peuple qui est de beaucoup le plus intelligent de toute l'Afrique du Nord et le plus apte à réagir.

Ce n'est ni le passif fellah d'Egypte, ni le Tunisien peu énergique, ni l'Algérien chez qui domine l'élément arabe, plié depuis des siècles sous des dominations variées, morcelé, dépourvu de groupements naturels de résistance.

Ici, nous avons réellement trouvé un État et un peuple. Il passait, il est vrai, par une crise d'anarchie, mais crise relativement récente et plus gouvernementale que sociale.

Si le Maghzen n'était plus qu'une façade, du moins tenait-elle encore à peu près debout et il suffisait de remonter à peu d'années pour retrouver un gouvernement effectif, faisant dans le monde figure d'État, avec de grands Ministres, des Ambassadeurs, ayant frayé avec les hommes d'État européens, et dont plusieurs survivaient encore et survivent toujours.

Mais, au-dessous du Maghzen, la plupart des institutions étaient encore debout, diverses selon les régions, mais représentant vraiment des réalités.

Si c'étaient, au Sud, les grandes et solides organisations féodales, c'étaient, dans le reste du Maroc, des institutions communales et sociales: administration des villes, fort bien gérées, comme nous pûmes encore le constater dans les années qui précédèrent le Protectorat, corporations, Djemaa des Tribus, grandes firmes commerciales avec des agents résidant dans les grands ports anglais, allemands ou italiens, une très forte bourgeoisie éclairée, riche et puissante. Rien d'analogue n'existait en Algérie.

Ajoutons que la masse du peuple, en grande majorité berbère, n'a rien de l'inertie habituelle des musulmans d'Orient. Elle est laborieuse, active, avide d'instruction, ouverte aux nouveautés, attachée au sol, à la propriété, à la culture, nullement nomade.

De cet exposé succinct, il résulte que nous sommes loin d'avoir affaire à des populations primitives, barbares et passives, qu'il n'y en a pas, dans l'Afrique du Nord, ayant plus de réceptivité aux nouveautés. Il n'y en a pas où les bêtises et les fausses manoeuvres se paieraient plus vite et plus cher. Dans ce pays déjà assez peuplé et appelé à se surpeupler très vite, l'immigration européenne, d'ailleurs limitée par le défaut de terres vacantes, ne formera jamais qu'une infime minorité; le Corps d'Occupation s'y réduira fatalement de plus en plus; d'ailleurs les éléments européens n'y sont, surtout depuis la guerre, qu'une faible minorité qui se réduira encore pour se restreindre peu à peu aux seuls spécialistes. La seule troupe européenne offrant quelque cohésion ne consistera plus guère que dans la Légion Étrangère dont la fidélité précaire n'est faite que de notre force.

Nous n'aurions donc qu'une digue bien fragile à opposer aux raz de marée. Il n'y aurait pas de pire péril que de laisser l'immigration européenne se livrer à des imprudences qui se paieraient cher, que de laisser croître chez ce peuple les germes de mécontentement et de malaise.

Ceci posé, où en sommes-nous?

Notre établissement dans ce pays est basé sur la doctrine du Protectorat. Nous le proclamons, le gouvernement le proclame à toute occasion. Mais est-ce autre chose qu'une fiction? A cet égard, depuis huit ans, sommes-nous en progrès ou sommes-nous stationnaires, sinon même en régression sur certains points.

+ + +

La conception du Protectorat est celle d'un pays gardant ses institutions, se gouvernant et s'administrant lui-même avec ses organes propres, sous le simple contrôle d'une puissance européenne, laquelle, substituée

à lui pour la représentation extérieure, prend généralement l'administration de son Armée, de ses finances, le dirige dans son développement économique. Ce qui domine et caractérise cette conception, c'est la formule: contrôle, opposée à la formule: administration directe.

Elle doit avoir comme résultante le minimum de frais généraux.

Comment se pratique actuellement le Protectorat au Maroc?

D'abord en ce qui concerne le Sultan:

Un très grand souci de sauvegarder ses prérogatives extérieures, de l'entourer d'égards protocolaires. Mais, sous cette apparence, quelle est la réalité?

Toutes les mesures administratives sont prises en son nom. Il signe les dahirs. Mais, dans la pratique, il n'a aucun pouvoir réel, n'a de rapports qu'avec le Conseiller chérifien qu'il voit journallement; mais c'est tout. Son avis n'est, de fait, demandé que pour la forme. Il est trop isolé, enfermé dans son palais, trop à l'écart du mouvement des affaires publiques, n'allant rien voir par lui-même, malgré le désir certain qu'il en aurait et l'intérêt très réel qu'il porte aux choses, mais y mettant une grande réserve, attendant qu'on le lui offre.

Au début, sur la volonté expresse du Résident Général, les principaux Chefs de Service allaient successivement au Conseil des Vizirs hebdomadaire, auquel assistait régulièrement le Directeur du Service des Renseignements, le mettant au courant de la situation politique et militaire. Peu à peu, l'habitude s'en est perdue. Le Directeur des Renseignements s'en est déchargé sur un Officier Subalterne. Le Grand Vizir, les Vizirs ne participent à aucune délibération sur les affaires importantes, traitées exclusivement et en dehors d'eux dans les Services français. Ils en sont très sommairement tenus au courant par le Conseiller Chérifien, qui n'en a lui-même qu'une connaissance restreinte et n'est pas muni pour en faire des exposés techniques.

Il n'y a presque aucun rapport de service ni d'affaires entre les Chefs de Service et les Vizirs. Le Maghzen, que rien ne galvanise, risque de s'enliser dans une douce somnolence.

Au-dessous du Maghzen, la participation de l'élément indigène aux affaires est encore trop insuffisamment assurée. Il y a une exception, le Medjless élu de Fès qui administre réellement la cité. En dehors de lui, si les Commissions Municipales sont théoriquement présidées par les Pachas et comprennent des membres indigènes, ce n'est, sauf sur certains points, qu'une fiction, et tout s'y règle entre les membres français et le Chef des Services Municipaux.

Les Chambres de Commerce et d'Agriculture indigènes, institutées il y a dix-huit mois, n'ont pas fonctionné. Une circulaire, il est vrai, vient de faire un vigoureux rappel à ce sujet, mais il faut en attendre le résultat. Les Corporations, jadis solidement organisées, ont disparu à notre arrivée, sauf à Fès et à Marrakech.

De fait, on en arrive de plus en plus à l'Administration directe.

Cette situation, outre qu'elle est formellement contraire à l'esprit du Protectorat, offre les plus sérieux dangers. Ce serait absolument une

illusion de croire que les Marocains ne se rendent pas compte de la mise à l'écart des affaires publiques dans laquelle ils sont tenus. Ils en souffrent et ils en causent.

De là à être accessibles, le jour venant, aux suggestions de revendication de leurs droits et aux inspirations hostiles, il n'y a qu'un pays. Ils sentiront de plus en plus ce qu'ils valent et leur force. Ils ne sont ni barbares ni inertes. Ils sont très curieux de ce qui se passe dans le monde et en sont très informés. Ils sont avides d'instruction et très adaptables. Il se forme chez eux une jeunesse qui se sent vivre et veut agir, qui a le goût de l'instruction et des affaires. A défaut des débouchés que notre administration lui donne si maigrement, et dans des conditions si subalternes, elle cherchera sa voie ailleurs, d'une part auprès des groupements européens qui sont tout prêts à l'accueillir et à s'en servir dans un but d'opposition, ou auprès des étrangers, ou auprès des groupements musulmans externes, et enfin elle cherchera à se grouper elle-même pour formuler ses revendications comme cela s'est déjà produit, en juin dernier, à la suite du regrettable discours de M. Guyot, Président de la Chambre d'Agriculture de la Chaouia, pour réclamer une presse indépendante, des réformes dans l'enseignement, etc....

On peut être certain qu'il est en train de naître, à côté de nous, à notre insu, tout un mouvement d'idées, de conciliabules, de commentaires sur les événements mondiaux et sur la situation faite à l'Islam, et qu'un de ces jours tout cela prendra corps et éclatera, si nous ne nous en préoccupons pas et si nous ne prenons pas sans délai la direction de ce mouvement.

Je sais très bien quelles sont les difficultés pratiques. Il n'est pas inutile de les rappeler. D'abord nous avons l'administration directe dans la peau, fonctionnaires venant de France, Officiers venant d'Algérie. Nous ne savons pas l'arabe. Nous ne sommes pas patients. Et pour établir les rapports de service avec l'indigène, il faudrait au début et pendant longtemps beaucoup de patience. C'est une besogne lassante, ingrate à cause de la différence des mentalités, des habitudes de travail, de la difficulté de les astreindre à traiter les affaires publiques avec précision et rapidité. Et pourtant le résultat serait plus vite atteint avec les Marocains qu'avec toute autre race musulmane, ainsi qu'on peut en juger par l'activité et le sens pratique qu'ils apportent aux affaires commerciales, dans leur coopération avec les Européens dans les affaires privées. Mais, chez nous, presque tout ce qui est administratif cède plus ou moins à la tendance de regarder l'indigène comme de race inférieure, comme quantité négligeable.

Il est urgent de crier: "casse-cou". Au contact de l'Européen et des Algériens et Tunisiens, soyons sûrs, je le répète, qu'il va se former très vite une jeunesse ambitieuse, se jugeant insuffisamment employée, s'éduquant elle-même, apprenant le français, et, dès qu'elle sentira sa valeur et sa force, se demandant pourquoi elle est tenue à l'écart de la gestion des affaires publiques.

+ + +

Il faut donc entrer résolument et vite dans une nouvelle voie.

Voici comment, d'une façon générale, je la conçois.

D'abord, le Sultan et le Maghzen.

Je voudrais que là l'organe de la Direction Chérifienne eût une action permanente de "galvanisateur", qu'il ne se bornât pas à être une boîte aux lettres et un organe de transmission, mais qu'il fît l'éducation du Sultan, des Vizirs et de tout le personnel du Maghzen, que, ne formant pas écran, il assurât leur liaison constante avec tous les services français, provoquant les réunions, les discussions en commun, ouvrant spontanément l'accès du Conseil des Vizirs et du bureau du Maghzen aux Chefs de Service, profitant de l'occasion de toute mesure nouvelle pour établir un courant circulatoire entre les benikas du Dar el Maghzen et les bureaux résidentiels; qu'il incitât le Sultan à convoquer chez lui tel ou tel Directeur pour le mettre au courant des questions importantes en cours, travaux publics, enseignement, finances, etc..., qu'enfin, le Conseiller Chérifien prît l'initiative de faire faire au Sultan des visites aux divers établissements, aux principaux chantiers, ce dont il serait enchanté, trop heureux de se faire donner toutes les explications sur place par nos Agents. Tel doit être son rôle, et s'il n'a pas été tel jusqu'ici, il faut dès maintenant le remplir résolument.

Il importe également d'apporter la plus grande attention à la formation des jeunes Princes, fils du Sultan, et spécialement de l'aîné appelé vraisemblablement à lui succéder un jour.

Nous serions inexcusables si nous ne préparions pas ses enfants, âgés de douz et dix ans, à leur rôle dans un régime de Protectorat. Ils ont déjà commencé l'étude du français; mais, faute d'émulation et bien que fort bien doués, ils n'ont pas progressé comme d'autres; à leur âge, rien n'est plus facile que d'éveiller leur esprit, de diriger leur curiosité vers toutes les questions intéressant le développement du Maroc. Il faut trouver des formules qui, sans abus et sans excès, leur ouvriront des contacts plus nombreux, les amèneront peu à peu à participer à la vie générale moderne.

J'estime que, dès maintenant, les Directeurs doivent prendre l'initiative de provoquer leur convocation au Conseil des Vizirs pour exposer leurs affaires. Le Directeur des Renseignements doit y reprendre régulièrement sa place. Ils doivent se lier avec les membres du Maghzen, les emmener avec eux, comme le Directeur de l'Enseignement vient de le faire avec le Délégué de l'Enseignement, dont il a apprécié l'ouverture d'esprit et la curiosité. Beaucoup de ces personnages souffrent incontestablement de se sentir ainsi temus à l'écart et inutiles.

Mais c'est surtout le Grand Vizir qu'il faut associer de plus en plus à l'Administration générale, en profitant de son expérience acquise des affaires européennes. Que le Délégué et le Secrétaire Général aillent le voir ou le convoquent, le mettent au courant des grandes affaires. Que les Directeurs n'hésitent pas à avoir recours à lui quand il s'agit d'une question importante.

Il y aura même intérêt à ce que, avec l'agrément du Sultan, il assiste souvent aux rapports administratifs et même aux Conseils mensuels du Gouvernement. Il comprend parfaitement le français, le parle un peu, et en le plaçant à côté d'un des Directeurs Arabisants, il suivra parfaitement les séances. Sa présence au milieu de nous sera la première et la meilleure affirmation de la pratique du Protectorat.

D'autre part, il y a à former un jeune personnel gouvernemental. Il existe dès maintenant, dans les familles du Maghzen, autour d'elles, des jeunes gens parlant le français, intelligents, ambitieux, à utiliser si on ne veut pas les voir dériver ailleurs à notre grand détriment. Il y a là trop de forces inemployées. Je m'adresse à tous les Directeurs pour leur demander de les rechercher, de les employer auprès d'eux, de leur créer des situations honorables, rémunérées, leur ouvrant des débouchés. J'avais, il y a quatre ans (1916), prévu des stagiaires dans les différents services, issus des cours supérieurs des collèges musulmans. C'est resté à peu près lettre morte. Je demande qu'on se reporte à ce texte. L'idéal d'une Administration de Protectorat serait de former une équipe d'auxiliaires aptes progressivement à remplacer les Français dans beaucoup d'emplois, remédiant ainsi à la pénurie du personnel.

Cela ne se fera pas en un jour. Il y aura des répulsions et des inerties à vaincre. Je demande spécialement au Directeur des Renseignements de prendre cette question en main en accord avec le Conseiller chérifien.

Le Sultan et les Vizirs sont à Meknès et à Fès pour plusieurs mois, mais, d'une part, les chefs de service peuvent profiter de leurs déplacements pour prendre contact et les tenir au courant; d'autre part, le gros du personnel du Dar Maghzen reste à Rabat, où l'on peut sans délai s'en occuper.

Je suis sûr que les Travaux Publics, les Finances, la Douane, l'Agriculture, les Beaux-Arts, les Cabinets même, la Liaison recruteront et formeront là des auxiliaires très intéressants.

ORGANES REPRÉSENTATIFS

Une circulaire du 13 novembre 1920, n° 2804 D/R2 vient de dire tout ce qu'il y avait à reprendre dans l'ordre des sections indigènes du Commerce et de l'Agriculture. J'y reporte.

Pour les Commissions municipales, il y a également à donner beaucoup plus de vie et de personnalité à l'élément indigène. Je laisse à Monsieur le Directeur des Affaires civiles, de concert avec le Conseiller chérifien et avec le Directeur des Renseignements, qui lui donneront les plus précieuses indications, le soin de dégager peu à peu la formule. Je rappelle que, au contraire de ce qui se passe en Algérie, je conçois que, pour celles des grandes villes où les agglomérations urbaines sont

distinctes, il faudra aboutir à des Commissions municipales distinctes, ne délibérant en commun par leurs bureaux que pour les rares questions communes.

Il faut peu à peu rétablir les Corporations (oeuvre à réaliser en commun par le Directeur de l'Enseignement, le Conseiller chérifien, le Directeur des Renseignements, le Directeur des Affaires civiles, le Service des Arts indigènes).

Il faut suivre et vivifier les sociétés de prévoyance indigènes (Directeur des Renseignements).

Il faut voir enfin s'il n'y aurait pas d'autres groupements intéressants et utiles à constituer: Conseils de perfectionnement ou de surveillance des Collèges musulmans, des Écoles, des Musées, des Arts indigènes, etc., etc....

ENSEIGNEMENT

C'est par là surtout que peut se faire l'oeuvre la plus profonde et la plus efficace, qu'on peut agir le plus sur l'évolution de l'esprit Jeune-Marocain.

Il y a là toute une oeuvre à reprendre qui a été un peu trop négligée.

C'est par les écoles que nous formerons une élite apte à s'associer à nous et à former la substance vivante du personnel du Protectorat.

Par les Collèges Musulmans, cela va de soi, auxquels il faut imprimer une vie intense avec le personnel le plus choisi, sans s'écarter des principes de leur institution.

Par les Écoles des Notables, qu'il faut également suivre de beaucoup plus près et développer.

Enfin, même, exceptionnellement, par les Lycées, où j'estime que l'on peut commencer à diriger, bien qu'en très petit nombre, les sujets de choix, dès lors qu'ils sont résolus à s'engager dans les professions européennes (il y en a) et qu'il vaut mieux prendre en main nous-mêmes que de les laisser se mettre à la remorque de Français quelconques, ou de les laisser aller chercher une instruction supérieure en France, ce qui va arriver fatalement.

Et aussi, par nos Écoles d'Agriculture, où je serais enchanté de voir quelques stagiaires indigènes, fils de gros propriétaires.

C'est ainsi qu'on formera une élite indigène appelée à collaborer avec nous. Les résultats remarquables déjà obtenus à l'École d'Élèves Officiers de Meknès prouvent ce qu'on peut réaliser dans la voie de l'adaptation.

Pour le peuple, il y a des Écoles Primaires et surtout des écoles professionnelles, qui ne sont encore qu'à l'état embryonnaire et qu'il y a tant à développer.

Pour cet effort scolaire, j'ai une confiance totale dans M. le Directeur de l'Enseignement qui apportera toute son intelligence, toute son initiative, sa haute expérience des indigènes et tout son coeur, et qui n'hésitera pas à provoquer toutes les mesures, toutes les réunions

nécessaires, sans jamais craindre de s'adresser à moi.

C'est certainement à lui qu'incombe le rôle prépondérant dans cette oeuvre de l'éducation et de l'évolution du peuple marocain.

+ + +

Et maintenant, quand nous aurons appris à l'élite à travailler avec nous, à s'appuyer sur nous, quand nous aurons assuré à ses aspirations et à ses légitimes ambitions des débouchés dignes de son histoire, de ses traditions et de ses aptitudes, il y aura beaucoup moins à redouter de la voir évoluer en dehors de nous, subir des influences externes et des suggestions révolutionnaires. Il n'y aura pas à s'effarer de prévoir la création de quelques journaux ou périodiques arabes libres, mais dirigés et contrôlés par nous. C'est d'ailleurs une évolution fatale à laquelle on n'échappera pas, en vue de laquelle il faut préparer le terrain.

Toutefois, il y a sur ce point à être très réservé et très prudent. A la différence de l'Algérie et de la Tunisie, nous sommes toujours ici en pleine guerre. Un tiers du pays est encore en dissidence et nous combat. Et ce tiers comprend les populations les plus fières et les plus guerrières, retranchées dans leurs montagnes, n'ayant jamais accepté la domination administrative des Sultans, tout en reconnaissant leur principat religieux. Elles ont de nombreuses accointances avec les populations soumises, vis-à-vis desquelles elles gardent le prestige de l'indépendance et de la résistance aux chrétiens. Tant que la pacification totale ne sera pas résolue, il faut jalousement préserver l'intégrité de notre autorité, élément capital de notre force, et nous ne saurions en tolérer la discussion par des organes rédigés en arabe qui, propagés chez les dissidents, ne pourrait qu'encourager leur résistance, affaiblir nos moyens. C'est là qu'est la raison primordiale et indiscutable qui nous interdit encore pour longtemps d'envisager ici un régime de tolérance de presse indigène analogue à ceux qui se pratiquent en Algérie et en Tunisie. Il suffit d'en lire les journaux pour comprendre quels périls ils offrent dans ce pays en guerre.

Il n'y a là que des premières indications générales. A mesure que nous entrerons dans cette voie, de nouveaux points de vue apparaîtront, des modalités s'imposeront. M. Urbain Blanc, d'ailleurs, avec son expérience tunisienne et son sens des indigènes, nous apportera d'autres et précieux points de vue et sera des mieux qualifiés pour exercer dans cet ordre d'idées une action constante.

Mais ce dont il faut être persuadé, c'est que des temps nouveaux se lèvent et menacent.

Le succès des bolchevistes en Crimée, leur approche de Constantinople, du Levant, le contre-coup qui va s'en produire en Islam, les proclamations d'indépendance en Égypte, en Tripolitaine, sont des événements mondiaux qui vont créer demain une situation nouvelle, il ne faut pas se laisser surprendre. La Tunisie et l'Algérie sont déjà profondément remuées.

Il serait inexcusable de s'endormir au Maroc et d'imaginer qu'on pourra longtemps éviter le contre-coup de tels événements. Le meilleur palliatif est d'y donner le plus tôt possible à l'élite marocaine les moyens d'évoluer dans sa norme en donnant à temps satisfaction à ses aspirations inévitables, en remplissant auprès d'elle dans toute son ampleur le rôle d'un tuteur, d'un grand frère bienfaisant auquel elle ait intérêt à rester liée, et en bénéficiant ainsi de l'avantage d'avoir affaire ici, non pas à de la poussière, mais à une nation dont l'émancipation se fera sous notre tutelle, sous notre direction, à notre profit, et alors que ce serait une si périlleuse illusion d'imaginer que nous la tiendrons indéfiniment en main avec notre mince et fragile pellicule d'occupation.

LYAUTEY

APPENDIX XXVIII

LETTERS OF RESIGNATION

Le Maréchal de France Lyautey, Commissaire Résident Général de France au Maroc, à Monsieur le Président du Conseil, Ministre de la Guerre. Paris.

Sous couvert de M. le Ministre des Affaires Étrangères. Paris.

J'adresse, par le courrier de ce jour, deux lettres à M. le Ministre des Affaires Étrangères, de qui je relève directement en qualité de Commissaire Résident Général au Maroc, et j'ai l'honneur de vous en envoyer ci-joint copie sous son couvert.

Le rétablissement de la situation militaire qui vient d'être réalisé par les dernières opérations me permet de renouveler la demande que j'avais formulée à plusieurs reprises en vue d'être relevé de mes fonctions. Je serais reconnaissant au Gouvernement de bien vouloir pourvoir à mon remplacement dans le plus bref délai.

LYAUTEY

Le Maréchal de France Lyautey, Commissaire Résident Général de la République Française au Maroc, à son Excellence Monsieur le Ministre des Affaires Étrangères. Paris.

Lettre d'envoi.

Les dernières opérations militaires viennent de réaliser un redressement qui nous replace sensiblement sur les lignes que nous occupions avant l'agression riffaine.

La situation du Protectorat se trouve rétablie telle qu'elle était en avril, c'est-à-dire au point où elle avait été portée après treize ans de progression continue.

Je crois avoir le droit de dire que ma tâche, telle qu'elle m'avait été confiée en 1912, a été remplie.

Tant que le Maroc a été en péril, je ne me suis pas permis de renouveler la demande de remplacement que j'avais présentée au Gouvernement en 1923 et en 1924, demande motivée par de graves accidents de santé et par le besoin d'un repos auquel mes trente ans d'activité coloniale me donnaient légitimement droit.

Du jour où la menace riffaine, que j'avais signalée avec une inquiétude croissante, s'est réalisée à l'époque où mes rapports l'avaient fait prévoir, je n'ai plus eu d'autre pensée que de tenir le coup avec les moyens réduits dont je disposais au début et de sauver la situation.

Aujourd'hui, on peut sincèrement affirmer que le danger est écarté et que, avec l'importance des effectifs à pied d'oeuvre, l'avenir peut être envisagé avec confiance.

C'est donc en toute sécurité de conscience que je demande à être relevé de mes fonctions de Commissaire Résident Général du Maroc.

Au demeurant, la question du Riff ouvre des problèmes nouveaux, comme je l'expose dans la lettre confidentielle ci-jointe, rappelant ce qui a été réalisé depuis l'agression riffaine.

A ces problèmes nouveaux, qui demandent à être abordés et suivis avec continuité, il faut un homme nouveau, dans la force de l'âge, bénéficiant de toute la confiance du Gouvernement.

Je demande que mon successeur soit désigné sans délai.

Je me tiendrai à sa disposition pour le renseigner au cas où il estimerait que mon expérience du pays pût lui être utile.

LYAUTEY.

Lettre jointe.

On peut considérer que, aujourd'hui, grâce à la vigoureuse offensive que l'arrivée de forces importantes a permis de mener depuis le début d'août sur tout notre front Nord, la situation militaire et politique du Protectorat français au Maroc est rétablie.

La récente occupation de la position de Ribane et du territoire des Beni Ouriaghel au nord de l'Ouergha, succédant au dégagement des abords d'Ouezzan et à la reprise en mains des Tsoul et des Branes sur nos deux ailes, à la progression sur le Leben et chez les Beni Zeroual, nous a reportés dans l'ensemble sur les lignes que nous occupions avant l'agression riffaine.

Nous les avons même dépassées sur un point que nous n'avions pu atteindre précédemment et qui présente une importance capitale, Amjot, centre de l'action religieuse et politique des Cheurfa Derkaoua, qui avait été, en avant de nos lignes, le premier objectif d'Abd-el-Krim. Son occupation réalise un intérêt politique majeur, en raison de l'action qu'y exercent ces personnages religieux, dont l'influence a toujours été au service du Sultan et du Protectorat.

La sécurité des points vitaux, tels que Fez, Taza, la communication avec l'Algérie, sont désormais garanties, grâce à la mise en ligne de forces qui permettent d'en assurer solidement la protection et la couverture.

Dans tout le Maroc, je le constate depuis mon retour, la répercussion de ce rétablissement a, dès maintenant, rendu toute confiance dans notre force et dans l'avenir du Protectorat.

C'est donc en toute sécurité de conscience que je puis

aujourd'hui demander au Gouvernement de me remplacer comme Commissaire Résident Général au Maroc.

Cette demande, je l'avais présentée dès la fin de 1923, à la suite des graves accidents de santé que je venais de subir.

Je l'ai formulée de nouveau en octobre 1924, avec la plus vive instance, auprès de M. le Président du Conseil, Ministre des Affaires Étrangères, et de M. le Ministre de la Guerre, en invoquant le besoin d'un repos auquel mon âge et trente années d'activité coloniale me donnaient légitimement droit.

Il m'a été opposé une fin de non-recevoir fondée sur la situation créée par la menace d'Abd-el-Krim, signalée par moi-même avec une anxiété croissante, et sur les services qu'on jugeait, avec exagération à mon avis, que ma présence rendait au Maroc.

Je n'ai pu que m'incliner devant ces pressants appels à mon devoir envers le Pays, mais en précisant que ma succession devait être regardée comme ouverte, et que, si je faisais le sacrifice de rejoindre encore mon poste, c'était sous la réserve que mon remplacement serait envisagé dans un délai aussi rapproché que possible.

Cette demande, je ne me suis pas permis de la renouveler cette année.

On ne demande plus à quitter son poste quand le péril est là; on n'a qu'à y tenir ferme.

C'est ce que je crois avoir fait.

D'abord en 'tenant le coup' avec les moyens si réduits dont je disposais au début. Grâce à la vaillance et à l'énergie de troupes admirables, luttant pied à pied pendant trois mois, nous avons réussi, au prix de plus rude effort, à nous maintenir au Nord de l'Ourgha sur les deux bastions de Taounat et de Tafrant, qui ont pu servir ainsi de bases à la reprise d'offensive qui vient de rétablir la situation. Nous avons pu nous maintenir à Taza et à son poste avancé de Kifane, d'où partira l'offensive de demain, et sans qu'un seul jour la communication avec l'Algérie ait été coupée, laissant ainsi le temps d'arriver aux renforts importants dont le Gouvernement a décidé l'envoi. Je ne rendrai jamais assez complètement hommage au dévouement et à l'énergie des Chefs, à la vaillance et à l'endurance des troupes, qui ont soutenu un tel effort pendant cette dure période. Tous ont bien mérité du Pays.

Les Français du Maroc, fonctionnaires, colons, commerçants, artisans, dont le dévouement et la confiance n'ont pas fléchi un seul instant, ont le droit d'être associés à cet éloge.

Le même témoignage est dû à la population marocaine, au loyalisme des villes, à la fidélité des tribus dont, à l'exception de celles au contact immédiat des Riffains, pas une n'a bougé, là même où elles étaient le plus récemment soumises et le plus douteuses. Leurs chefs ont fait preuve d'une loyauté absolue, à commencer par le plus haut de tous, Sa Majesté le Sultan, qui nous a apporté sans répit un appui dont la France doit lui garder une profonde reconnaissance.

Enfin, depuis la venue des renforts et l'arrivée du général Naulin, nous avons pu préparer et commencer le redressement qui, dès la fin d'août, dégageait nos deux ailes, au Nord d'Ouezzan d'une part, chez

les Tsoul et les Branès d'autre part, et nous rétablissait au centre sur la ligne de l'Ouergha.

Aujourd'hui, on peut sincèrement affirmer que l'heure du péril est passée, que le rétablissement de la situation antérieure à l'agression riffaine est réalisé et que, avec l'importance des effectifs amenés à pied d'oeuvre et la forte organisation du commandement, des résultats plus importants encore sont désormais assurés.

Si l'on objectait qu'il m'appartient d'assurer et d'exploiter les résultats politiques des opérations, je répondrais que les modifications apportées à mes attributions enlèvent toute efficacité à l'action politique inséparable de l'action militaire qu'elle doit déterminer, et que, de ce fait, ma présence ici, comme je le constate chaque jour depuis mon retour, est devenue inutile.

J'estime par ailleurs qu'il y a, pour le Gouvernement, pour le Maroc, pour la France, un intérêt de premier ordre à procéder à mon remplacement dans le plus bref délai.

Si, en effet, je crois pouvoir affirmer, comme j'ai dit plus haut, que la situation se trouve aujourd'hui dans le Protectorat sensiblement telle qu'elle était avant l'agression riffaine, il s'est posé à la frontière Nord de la zone française, du fait de l'évolution de la conception de l'Espagne dans sa zone, un problème nouveau.

Le Protectorat français au Maroc, tel que j'en ai reçu la charge en 1912, ne comportait pas de 'Front Nord', en prenant ce terme, non seulement au sens militaire, mais dans son sens politique et géographique le plus général. Ce front était constitué par la zone espagnole dont l'occupation devait se réaliser intégralement et se réalisait en effet sans discontinuité. De ce côté, nous nous tenions avec soin en deçà de nos limites, ne nous avançant qu'à mesure que les Espagnols avançaient, en jumelant nos postes avec leurs, de façon à ne nous mettre sur les bras aucune difficulté avec le Riff et le Djebel, dont la charge revenait entièrement à l'Espagne et où nous n'avions pas le droit d'intervenir.

Or, depuis un an, la conception de l'Espagne a évolué. Elle considère qu'il ne lui est pas indispensable d'occuper tout le pays pour exercer son action dans le cadre des traités.

Nous avons donc là, désormais, sur la frontière Nord du Protectorat, une zone qui n'est pas de notre ressort, mais que nous ne pouvons plus ignorer ni négliger. Elle est habitée par une population guerrière qu'a constamment attirée la zone voisine la nôtre, riche et pacifique, laquelle a toujours, historiquement, subi ses agressions. Avec les forces et les moyens dont nous disposons actuellement, et sous l'énergique direction du maréchal Pétain, il n'y a pas à douter du succès militaire final sur Abd-el-Krim. Mais, qu'il s'agisse d'Abd-el-Krim ou d'un autre, le Riff n'en existera pas moins, et il y a là une question nouvelle

à envisager, l'organisation politique, administrative aussi bien que militaire à prévoir et à réaliser pour mettre le Protectorat français à l'abri de toute menace ultérieure.

C'est un problème qui se pose dès maintenant et qui exige d'être abordé, puis suivi avec continuité. Il y faut donc un homme nouveau, dans la force de l'âge, ayant du temps devant lui, pénétré des vues du Gouvernement, bénéficiant de toute sa confiance et de celle de la majorité du Parlement. Il y a donc intérêt évident à ce que ce soit cet homme, mon successeur, qui aborde ce problème dès le début.

LYAUTEY

APPENDIX XXIX

DECREE OF 11 JUNE 1912 ASSIGNING THE POWERS
OF THE RESIDENT GENERAL

Décret.

Le Président de la République Française,
Sur la proposition du Président du Conseil, Ministre des Affaires
Étrangères,

Décrète:

ART. 1er. Le Représentant de la République Française au Maroc porte
le titre de Commissaire Résident Général et relève du Ministre des
Affaires Étrangères.

ART. 2. Le Commissaire Résident Général est le dépositaire de
tous les pouvoirs de la République dans l'Empire Chérifien.

Il est le seul intermédiaire du Sultan auprès des représentants
des puissances étrangères.

Il approuve et promulgue, au nom du Gouvernement de la République,
les décrets rendus par Sa Majesté Chérifienne.

Il dirige tous les services administratifs; il a le commandement
en chef des forces de terre et la disposition des forces navales.

ART. 3. Le Commissaire Résident Général communique par l'entremise
du Ministre des Affaires Étrangères avec les divers membres du Gouvernement
de la République; il les saisit, sans délai, des questions qui
intéressent leurs départements.

ART. 4. Le Commissaire Résident Général est assisté d'un Délégué
à la Résidence Générale, destiné à le remplacer, en cas d'absence ou
d'empêchement.

ART. 5. Le Président du Conseil, Ministre des Affaires Étrangères,
est chargé de l'exécution du présent décret.

Fait à Paris, le 11 juin 1912

A. FALLIÈRES

Par le Président de la République:
Le Président du Conseil,
Ministre des Affaires Étrangères,

R. POINCARÉ

APPENDIX XXX

HABOUS DONATION

This photograph was published by Ed. Michaux-Bellaire in the Archives Marocaines, XXII: Les Habous de Tanger. Registre officiel d'actes et de documents, texte arabe. (1914). This is an extremely valuable an interesting collection of contracts; the second part of it, vol. XXIII: Les Habous de Tanger. Registre officiel d'actes et des documents -- analyses et extraits. (1914), contains Michaux-Bellaire's translations of all these. Thus, the Habous donation in Chapter IV of this thesis is translated as follows (see pp. 147-48 of vol. XXIII).

Si Aboul Qasin ben Sliman El-Messari, secrétaire du qaïd Mohammed, fils du pacha Ahmed ben Ali ben Abdallah et agissant au nom de ce dernier, achète à Mohammed Anthafad El-Amarti, une écurie, sise dans le quartier du Hammam, moyennant 60 mitqals. Le 15 Moharrem 1153 (1740). Deux adoul et le qadi.

Copie certifiée avec le tasjdil du qadi et deux adoul.
18 Rebi I-1172 (1758).

Lorsque mourut le qaïd Mohammed, fils du pacha Ahmed, ses héritiers étaient ses frères: Abdeççadaq, Abdelhadi et Abdelqader et ses soeurs Fatma, Miryam, Azouz, Mahala, Mamas, Thama, Zahra, Aïcha, Mennana, Hiba, Ynou, Amina, Bahria et Ftouma; son frère le qaïd Abdeççadaq acheta les parts de ses frères et soeurs de l'écurie mentionnée dans le document précédent, moyennant 100 ouqias, puis il la constitua en habous pour l'entretien du lustre de la grande mosquée, en face du Mihrab, en huile, etc. 8 Rebi-I-1172 (1758). Deux Adoul.

APPENDIX XXXI

TRANSLITERATION OF TERMS

<u>French:</u>	<u>Transliteration:</u>
achour	' <u>ushūr</u>
adel (pl. adoul)	'ādīl (pl. 'udūl)
alem (pl. oulama)	'ālim (pl. 'ulamā')
amel (pl. oummal)	'āmil (pl. 'ummāl)
amin (pl. oumana)	amīn (pl. umanā')
amin ed-dakhil	amīn al-d <u>akhil</u>
amin ed-diouana	amīn al-diwānah
amin el-hassab	amīn al-hisāb
amin el-kharadj	amīn al- <u>kharāj</u>
amin el-moustafad	amīn al-mustafād
amin es-sayar	amīn al-sayyār
Amir el-Moumenin	Amīr al-Mu'minīn
anouâ	'anwa
aoun	'awn
azref	azraf
Berber	Barbar
Bit el-Mal ed-Dakhli	Bait al-Māl al-D <u>akhili</u>
Bit el-Mal el-Mouslimin	Bait al-Māl al-Muslimīn
Bled el-Makhzen	Bilād al-M <u>akhzan</u>
Bled es-Siba	Bilād al-Sībah

bou maouarith	abu 'l-mawārīth
cadi (pl. coudat)	qādī (pl. qudāt)
caïd (pl. cada)	qā'id (pl. qāda)
caïd er-rebi	qā'id al-rabī'
caïd er-rha	qā'id al-raḥṭ
caïd el-miya	qā'id al-mī'ah
chérif (pl. chorfa)	<u>sharīf</u> (pl. <u>ashrāf</u> or <u>shurafā'</u>)
Chrâa	<u>Sharī'</u> ah
çolha	ḡulḡah
dahir	zāhir
damen oudjou	dāmin al-wujūh
damen mouadjabah	dāmin al-muwājabah
Djebala	Jabalah
djemaa	jamā'ah
djezya	jizyah
fakih	faqīh
fetoua	fatwā
frida	faridah
ghibta	<u>ghibṭah</u>
guelsa	jalsah
guich	Jaysh
gzâ	jazā'
habous	ḡubūs
haloua	halwā'
hediya	hadiyah

imam	imām
intifâ'	intifā'
istidjar	istijār
istighrak	istighrāq
khalifa	<u>kh</u> alīfah
khatib	<u>kh</u> aṭīb
mahakma	maḥkamah
m'dris	mudarris
mechaoury	mushāwiri
medjlis	majlis
meftah	miftāḥ
meks	maks (pl. mukūs)
melk	milk
menfa'a	manfa'ah
mohtaseb	muḥtasib
moqaddem	muqaddam
moulkiya	milkiyah
mourakib	muraqīb
mufti	muftī
nadir	nāzīr
naïb	nā'ib
naïba	na'ibah
neskha	nusk ^h ah
orf	'urf
oukil	wakīl

Ouzir el-A'dham	al-Wazīr al-A'zam
Ouzir el-Bahr	al-Wazīr al-Bahr
Ouzir ech-Chikayat	al-Wazīr al-Shikāyat
Ouzir el-Harb	al-Wazīr al-Ḥarb
Ouzir el-Malia	al-Wazīr al-Maliyah
pacha	bāshā
sheikh	shaykh
tahbīs	tahbīs
taleb (pl. tolba)	ṭālib (pl. talabah or ṭullāb)
ta'qib	ta'qīb
taqyid el-maqal	taqyīd al-maqāl
tenfida	tanfidhah
tertib	tartīb
zaouīa	zāwiya
zekkat	zakāt
zeriba	darībah
zina	zīnah

THE PROTECTORATE, 1912-1925

Ministre de la Justice
de la République Française

Ministre des Affaires Étrangères
de la République Française

Sultan

(Résident Général

Délégué

Secrétaire Général du Protectorat

Residential Directions

Neo-Sherifian Directions

French Judicial Organization

Direction des Affaires
Chérifiennes

Direction des Affaires
Indigènes et du Service
des Renseignements

Direction Générale des
Finances

Direction Générale de
l'Agriculture, du Com-
merce et de la Coloni-
sation

Direction Générale des
Travaux Publics

Direction Générale de l'Instruction
Publique, des Beaux-Arts et des
Antiquités

Direction du Service
de Santé et Hygiène
Publiques

Direction de l'Office des
Postes, des Télégraphes
et des Téléphones

Conseiller du Gouverne-
ment Chérifien

Directeur

Directeur Général

Directeur Général

Directeur Général

Directeur

Directeur

Directeur

Vizirs

Moroccan Judicial Organ-
ization (Muslim and
Jewish Courts)

B I B L I O G R A P H Y

- I. Official Sources.
- II. Principal Works by Lyautey.
- III. Principal Works on Lyautey.
- IV. Articles.
- V. Books and Other Works.

BIBLIOGRAPHY

I. Official Sources.

Trattati e Convenzioni fra il regno d'Italia e gli altri Stati.

Vol. 22: Atti conchiusi dal 1^o gennaio 1912 al 31 dicembre 1913.
Roma: Tipografia del R. Ministero degli Affari Esteri, 1930.

British and Foreign State Papers. Vols. XCI-CVI: 1898-1913.

London: His Majesty's Stationery Office, 1902-1916.

Gooch, G.P. and Temperley, Harold. British Documents on the Origins of the War, 1898-1914. London: His Majesty's Stationery Office, 1927-1932.

Vol. I: The End of British Isolation.

Vol. II: The Anglo-Japanese Alliance and the Franco-British Entente.

Vol. III: The Testing of the Entente, 1904-6.

Vol. VII: The Agadir Crisis.

Public Record Office. Confidential Prints: Morocco. F.O. 413, nos. 32-58 (years 1900-1913).

Ministère des Affaires Étrangères. Documents diplomatiques. Affaires du Maroc (1901-1912). 6 Vols. Paris: Imprimerie Nationale, 1914.

Ministère des Affaires Étrangères. Documents diplomatiques français (1871-1914). Paris: Imprimerie Nationale, 1930-1959.

1re Série (1871-1900), Vols. XIV-XV.

2e Série (1901-1911), Vols. I-XIV.

3e Série (1911-1914), Vols. I-V.

Lyautey, Général (ed.). Rapport général sur la situation du Protectorat au Maroc au 31 juillet 1914. Rabat: Imprimerie Officielle, 1916.

Lyautey, Général. Principes fondamentaux de l'organisation gouvernementale du Protectorat marocain. Rabat: Imprimerie Officielle, 1918.

Résidence Générale. Renaissance du Maroc: dix ans du Protectorat, 1912-1922. Rabat: Imprimerie Officielle, n.d.

Bulletin Officiel du Protectorat de la République Française au Maroc. Rabat: Imprimerie Officielle.

Nos. 1 (1 Nov. 1912), 2 (8 Nov. 1912), 3 (15 Nov. 1912), 4 (23 Nov. 1912), 5 (29 Nov. 1912), 13 (24 Jan. 1913), 14 (31 Jan. 1913),

28 (9 May 1913), 34 (20 June 1913), 37 (11 July 1913),
 43 (22 Aug. 1913), 46 (12 Sept. 1913), 47 (19 Sept. 1913),
 50 (10 Oct. 1913), 51 (17 Oct. 1913), 66 (30 Jan. 1914),
 70 (27 Feb. 1914), 71 (6 March 1914), 74 (27 March 1914),
 83 (29 May 1914), 89 (10 July 1914), 90 (17 July 1914),
 96 (21 Aug. 1914), 100 (21 Sept. 1914), 101 (28 Sept. 1914),
 108 (16 Nov. 1914), 129 (12 April 1915), 137 (7 June 1915),
 148 (23 Aug. 1915), 168 (10 Jan. 1916), 175 (28 Feb. 1916),
 196 (24 July 1916), 214 (27 Nov. 1916), 217 (18 Dec. 1916),
 228-229 (5-12 March 1917), 233 (9 April 1917), 236 (30 April
 1917), 241 (4 June 1917), 242 (11 June 1917), 274 (21 Jan.
 1918), 306 (2 Sept. 1918), 326 (20 Jan. 1919), 327 (27 Jan.
 1919), 335 (24 March 1919), 345 (2 June 1919), 368 (10 Nov.
 1919), 378 (19 Jan. 1920), 380 (3 Feb. 1920), 384 (2 March
 1920), 386 (16 March 1920), 389 (6 April 1920), 390 (13 April
 1920), 402 (6 July 1920), 404 (20 July 1920), 406 (3 Aug. 1920),
 407 (10 Aug. 1920), 408 (17 Aug. 1920), 409 (24 Aug. 1920),
 410 (31 Aug. 1920), 412 (14 Sept. 1920), 418 (26 Oct. 1920),
 419-420 (2-9 Nov. 1920), 421 (16 Nov. 1920), 426 (21 Dec. 1920),
 429 (11 Jan. 1921), 430 (18 Jan. 1921), 437 (8 March 1921),
 440 (29 March 1921), 442 (12 April 1921), 447 (17 May 1921),
 459 (9 Aug. 1921), 464 (13 Sept. 1921), 466 (27 Sept. 1921),
 469 (18 Oct. 1921), 474 (22 Nov. 1921), 482 (17 Jan. 1922),
 499 (16 May 1922), 501 (30 May 1922), 502 (6 June 1922), 505
 (27 June 1922), 521 (17 Oct. 1922), 544 (27 March 1923), 547
 (17 April 1923), 553 (29 May 1923), 556 (19 June 1923), 572
 (9 Oct. 1923), 586 (15 Jan. 1924), 596 (25 March 1924), 599
 (15 April 1924), 606 (3 June 1924), 607 (10 June 1924), 618
 (26 Aug. 1924), 640 (27 Jan. 1925), 675 (29 Sept. 1925), 679
 (27 Oct. 1925).

II. Principal Works by Iyautey.¹

"Du rôle social de l'officier dans le service militaire universel."
 Published in Du rôle social de l'officier. Paris: René Julliard,
 1946 (and first published on 15 March 1891, in Revue des Deux
 Mondes).

Lettres de jeunesse: Italie (1883). Danube, Grèce, Italie (1893).
 Paris: B. Grasset, 1931.

¹See also, "Official Sources".

Lettres du Tonkin et de Madagascar (1894-1899). 2 Vols. Paris: Armand Colin, 1920, 1921.

Lettres du Tonkin. 2 Vols. Paris: Éditions Nationales, 1928.

"Du rôle colonial de l'armée." Published in Du rôle social de l'officier. Paris: René Julliard, 1946 (and first appeared as an article on 15 January 1900 in Revue des Deux Mondes).

Dans le sud de Madagascar: pénétration militaire -- situation politique et économique (1900-1902). Paris: Lavauzelle, 1903.

Paroles d'action -- Madagascar, Sud-Oranais, Oran, Maroc (1900-1926). 3rd ed. Paris: Armand Colin, 1938 (first published in 1927).

Vers le Maroc. Lettres du Sud-Oranais (1903-1906). Paris: Armand Colin, 1937.

Choix de lettres, 1882-1919. Ed. Lt.-Col. de Ponton d'Amécourt. Paris: Armand Colin, 1947.

Lyautey l'Africain -- textes et lettres du maréchal Lyautey. 4 Vols. Ed. Pierre Lyautey. Paris: Plon, 1953, 1954, 1956, 1957.
Vol. I: 1912-1913, Vol. II: 1913-1915, Vol. III: 1915-1918, Vol. IV: 1919-1925.

Les plus belles lettres de Lyautey. Ed. Pierre Lyautey. Paris: Calmann-Lévy, 1962. (These letters cover the period from 1880 to 1934.)

III. Principal Works on Lyautey.

Barthou, Louis. Lyautey et le Maroc. Paris: Éditions du 'Petit Parisien', 1931.

Bègue, Léon. Le secret d'une conquête: au Maroc avec Lyautey. Paris: Taillandier, 1929.

Boisboissel, Général Yves de. Dans l'ombre de Lyautey. Paris: André Bonne Éditeur, 1954.

Britsch, Amédée. Le maréchal Lyautey: le soldat, l'écrivain, le politique. Paris: Renaissance du Livre, 1921.

- Catroux, Général. Lyautey le Marocain. Paris: Hachette, 1952.
- Dubly, Henry-Louis. Lyautey-le-magicien. Lille: Mercure de Flandre, 1931.
- Espèrandieu, P. Lyautey et le Protectorat. Paris: Pichon et Durand-Auzias, 1947.
- Garric, Robert. Le message de Lyautey. Paris: Éditions Spes, 1935.
- Gaulis, B.-G. La France au Maroc: l'oeuvre du général Lyautey. Paris: Armand Colin, 1919.
- Goulven, Joseph. Lyautey l'Africain. Nancy: Humblot, 1935.
- Gouraud, Général. Lyautey. Paris: Hachette, 1938.
- Hardy, Georges. Portrait de Lyautey. 10th ed. Mayenne: Bloud & Gay, 1949.
- Heidsieck, Patrick. Rayonnement de Lyautey. Paris: Gallimard, 1941.
- Howe, Sonia Elizabeth. Lyautey of Morocco -- An Authorised Life. London: Hodder and Stoughton, Ltd., 1931.
- Leclerc, Max. Au Maroc avec Lyautey. Paris: Armand Colin, 1927.
- Maurois, André. Lyautey. Paris: Plon, 1931.
- D'Ormesson, Wladimir. Auprès de Lyautey. Paris: Flammarion, 1963.
- Postal, Raymond. Présence de Lyautey. 4th ed. Paris: Éditions 'Alsatia', 1944.
- Tarde, Guillaume de. Lyautey -- le chef en action. 5th ed. Paris: Gallimard, 1959.
- Usborne, Vice Admiral Cecil Vivian. The Conquest of Morocco. London: S. Paul & Co., Ltd., 1936.
- Vanlande, René. Au Maroc, sous les ordres de Lyautey. Paris: Peyronnet, 1926.

IV. Articles.

Agwani, M.S. "Morocco: from Protectorate to Independence." International Studies, I (1959-1960), 51-70.

Askri. "L'école militaire d'élèves-officiers marocains de Meknès." Bulletin du Comité de l'Afrique Française, 4 (4 April 1912), 107-110.

Bel, Alfred. "A propos de l'enseignement des indigènes à Fez." Renseignements Coloniaux, 5 (May 1925), 146-148.

Bernard, Général. "La conquête et l'organisation du Maroc, 1912-1919: l'oeuvre du général Lyautey." La Géographie, XXXIV (June-Dec. 1920), 337-360 and 458-478.

Bernard, Paul. "L'enseignement primaire des indigènes musulmans de l'Algérie." Revue du Monde Musulman, I, 1 (1906), 5-21.

Bousquet, G.H. "Le droit coutumier des Ait Haddidou des Assit Melloul et Isselatena (Confédération des Ait Yafelmanes): notes et réflexions." Annales de l'Institut d'Études Orientales, XII (1954), 113-229.

Durand, E. "La réforme politique et administrative du gouvernement chérifien depuis 1912." Revue Juridique et Politique de l'Union Française, IX (1955), 83-122.

Al Fasi, Abou-Zeid Sidi Abderrahman. "Commentaire de Sidi Mohammed ben Qasim as-Sidjilmasi ar-Rabati." Trans. E. Michaux-Bellaire. Revue du Monde Musulman, XIII, 2 (1911), 216-238.

Gardet, Louis. "La propriété en Islam." Revue de l'Institut des Belles Lettres Arabes, XXXVIII, 2 (1947), 109-134.

Gromand, Roger. "La coutume de la 'Bezra' dans les ksour de Figuig." Revue des Études Islamiques, V, 3 (1931), 277-312.

Hamet, Ismaël. "L'école supérieure de langue arabe." France-Maroc, V 26 (1 July 1921), 121-124.

Hardy, Georges. "L'éducation française au Maroc." La Revue de Paris, 8 (15 April 1921), 773-788.

Heffenig, W. "Wakf." Encyclopaedia of Islam, IV (1934), 1096.

"In memoriam, général J.-B. Marchand." Académie des Sciences Coloniales, XXI (1934), 37-51.

- "Les institutions berbères." Trans. G. Salmon. Archives Marocaines, I, 1 (1904), 127-148.
- Jabre, F. "Dans le Maroc nouveau: le rôle d'une université islamique." Annales d'Histoire Économique et Sociale, X, 51 (31 May 1938), 193-207.
- Jacqueton, G. "La colonisation française au Maroc." Annales de Géographie, XXXIII (1924), 307-312.
- Joly, A. (in collaboration with MM. Xigluna and L. Mercier). "Tétouan, Deuxième partie: historique." Archives Marocaines, V, 2 & 3 (1905), 161-264, and 311-430.
- La Chapelle, F. de. "Les tribus de haute montagne de l'Atlas occidental: organisation sociale et évolution politique." Revue des Études Islamiques, II, 3 (1938), 339-360.
- _____. "Une cité de l'oued Dra' sous le protectorat des nomades: Nesrat." Hespéris, IX, 1 (1929), 29-42.
- Laubadère, André de. "La réforme de l'organisation judiciaire marocaine." Revue Juridique et Politique de l'Union Française, II (1948), 443-465.
- _____. "Les réformes des pouvoirs publics au Maroc." Revue Juridique et Politique de l'Union Française, II (1948), 1-28, and 137-174.
- Lyautey, Pierre. "La politique du protectorat en Afrique marocaine. Ses origines de 1905 à 1918." Convegno di Scienze Morali e Storiche, II (1938), 987-1002.
- Marty, Paul. "Le collège musulman, Moulay Idris." Renseignements Coloniaux, 1 (Jan. 1925), 1-16.
- _____. "L'enseignement primaire et professionnel des indigènes à Fez." Renseignements Coloniaux, 3 (March 1925), 73-84.
- _____. "La nouvelle jeunesse intellectuelle du Maroc." Renseignements Coloniaux, 5 (May 1925), 133-146.
- _____. "L'université de Qaraouiyne." Renseignements Coloniaux, 11 (Nov. 1924), 329-353.
- Maudit, René. "Le makhzen marocain." Renseignements Coloniaux, 3 (1903), 290-299.

- Al Medjaci, Mohammed ben Al Hasan. "Naouazil." Trans. E. Michaux-Bellaire. Revue du Monde Musulman, XIII, 2 (1911), 239-241.
- Mercier, L. "L'administration marocaine à Rabat." Archives Marocaines VII (1906), 350-401.
- Michaux-Bellaire, E. "Les biens habous et les biens du makhzen, au point de vue de leur location et de leur aliénation." Revue du Monde Musulman, V, 7 (1908), 436-457.
- _____. "Les coutumes berbères dans les tribus arabes." Revue du Monde Musulman, IX, 10 (1909), 224-234.
- _____. "Le droit d'intervention du nadir des habous de l'amin el moustafad et du pacha, dans les transmissions d'immeubles." Revue du Monde Musulman, XIII, 3 (1911), 487-492.
- _____. "L'enseignement indigène au Maroc." Revue du Monde Musulman, XV, 10 (1911), 422-452.
- _____. "La guelsa et le gza." Revue du Monde Musulman, XIII, 2 (1911), 197-248.
- _____. "L'impôt de la naïba et la loi musulmane." Revue du Monde Musulman, XI, 8 (1910), 396-404.
- _____. "Les impôts marocains." Archives Marocaines, I (1904), 56-96.
- _____. "L'Islam et l'état marocain." Revue du Monde Musulman, VIII, 7-8 (1909), 313-342.
- _____. "L'organisation des finances au Maroc." Archives Marocaines XI, 2 (1907), 171-251.
- _____. and Aubin, Paul. "Le régime immobilier." Revue du Monde Musulman, XVIII, 1 (1912), 1-105.
- _____. and Salmon, G. "El-Qçar El-Kebir: une ville de province au Maroc septentrional." Archives Marocaines, II, 2 (1904), 1-228.
- Al-Moutabassir. "Les habous de Tanger." Revue du Monde Musulman, I, 3 (1907), 325-342.
- Péretié, A. "Organisation judiciaire au Maroc." Revue du Monde Musulman, XIII, 3 (1911), 509-531.

- Rezzouk, A. "Notes sur l'organisation politique et administrative du Rif." Archives Marocaines, V, 2 (1905), 265-275.
- Salmon, G. "L'administration marocaine à Tanger." Archives Marocaines, I (1904), 1-37.
- Slouschz, Nahum. "Étude sur l'histoire des juifs et du Judaïsme au Maroc." Archives Marocaines, IV, 2-3 (1905), 345-411; VI, 1-2 (1906), 1-167.
- Viguera Franco, E. de. "Sistemas orgánico-judiciales en Marruecos." Cuadernos de Estudios Africanos, 8 (1949), 9-54.

V. Books and Other Works.

- Adam, André. La maison et le village dans quelques tribus de l'Anti-Atlas. Paris: Collection Hespéris, 1951.
- Amar, Émile. L'organisation de la propriété foncière au Maroc: étude théorique et pratique. Paris: Paul Geuthner, 1913.
- Andersen, Eugene N. The First Moroccan Crisis, 1904-1906. Hamden, Conn: Archon Books, 1966.
- Aubin, Eugène. Le Maroc d'aujourd'hui. Paris: Armand Colin, 1904.
- Ayache, Albert. Le Maroc -- bilan d'une colonisation. Paris: Éditions Sociales, 1956.
- Barbour, Nevill (ed.). A Survey of North West Africa (The Maghrib). London: Oxford University Press, 1959.
- Barlow, Ima Christina. The Agadir Crisis. Chapel Hill, North Carolina: The University of North Carolina Press, 1940.
- Becker y Gonzales, Jerónimo (ed.). Tratados, convenios y acuerdos referentes a Marruecos y la Guinea española. Madrid: Imprenta del Patronato de Hérmanos de Intendencia a Intervencion Militares, 1918.
- Berge, Stéphane. La justice française au Maroc -- organisation et pratique. Paris: Leroux Éditeur, 1917.
- Bernard, Augustin. Le Maroc. Paris: Félix Alcan, 1913.

- Bernard, Stéphane. Le conflit franco-marocain, 1943-1956. 3 Vols. Bruxelles: Éditions de l'Institut de Sociologie de l'Université Libre de Bruxelles, 1963.
- Berque, Jacques. Le Maghreb entre deux guerres. Paris: Éditions du Seuil, 1962.
- Betts, Raymond F. Assimilation and Association in French Colonial Theory, 1890-1914. New York: Columbia University Press, 1961.
- Bourgeois, Émile. Manuel historique de politique étrangère, Vol. IV: La politique mondiale (1878-1919), empires et nations. 4th ed.
- Brémard, Frédéric. Les droits publics et politiques des français au Maroc. Paris: R. Pichon & R. Durand-Auzias, 1950.
- _____. L'organisation régionale du Maroc. Paris: R. Pichon & R. Durand-Auzias, 1949.
- Bülow, Bernhard Fürst von. Denkwürdigkeiten, Vols. I and II. Berlin: Verlag Ullstein, 1931.
- Cagigas, Isidro de las. Tratados y convenios referentes a Marruecos. Madrid: Instituto de Estudios Africanos, 1952.
- Caillé, J. L'organisation judiciaire au Maroc. Paris: Librairie Générale de Droit et de Jurisprudence, 1948.
- Castre, Charles. The Ideals of France. New York: The Abnington Press, 1922.
- Célérier, Jean. Le Maroc. Paris: Armand Colin, 1953.
- Charles-Roux, François and Caillé, Jacques. Missions diplomatiques françaises à Fès. Paris: Éditions Larose, 1955.
- Chastenet, Jacques. Histoire de la troisième république, Vol. III: La république triomphante, 1893-1906, Vol. IV: Jours inquiets et jours sanglants, 1906-1918, Vol. V: Les années d'illusions, 1918-1931. Paris: Hachette, 1955, 1957, 1960.
- Chouraqui, André. La condition juridique de l'israélite marocain. Paris: Presses du Livre Français, 1950.
- Colliez, André. Notre Protectorat marocain: la dernière étape, 1912-1930. Paris: Librairie des Sciences Politiques et Sociales, 1930.
- Cordero Torres, José-Maria. Organización del protectorado español en Marruecos. 2 Vols. Madrid: 1943.

- Decroux, Paul. Les sociétés au Maroc, zone française -- zone tangéroise: statut juridique et fiscal. Paris: R. Pichon &
- Despois, Jean. La Tunisie orientale -- Sahel et basse steppe: étude géographique. Paris: Presses Universitaires de France, 1955.
- Drummond Hay, Sir John. A Memoir of Sir John Drummond Hay. London: John Murray, 1896.
- Famchon, Yves. Le Maroc -- d'Algésiras à la souveraineté économique. Paris: Éditions des Relations Internationales, 1957.
- Fouillée, A. Psychologie du peuple français. Paris: Félix Alcan, 1914.
- Fumey, Eugène. Choix de correspondances marocaines. Paris: J. Maisonneuve, 1903.
- Fyzee, Asaf A.A.A. Outlines of Muhammadan Law. London: Oxford University Press, 1955.
- Gallissot, René. Le patronat européen au Maroc -- action sociale, action politique (1931-1942). Rabat: Éditions Techniques Nord-Africaines, 1964.
- García Figueras, Tomás. España y su protectorado en Marruecos (1912-1956). Madrid: Instituto de Estudios Africanos, 1957.
- _____ and Llebrés, Fernández. Manuales del Africa española. Madrid: Instituto de Estudios Africanos, 1955.
- Gibb, H.A.R. and Bowen, Harold. Islamic Society and the West, I, Part II. London: Oxford University Press, 1957.
- Girault, Arthur. Principes de colonisation et de législation coloniale, V. Paris: Recueil Sirey, 1928.
- Gordon, David C. North Africa's French Legacy, 1954-1962. Cambridge, Mass: Harvard University Press, 1964.
- Goulven, J. Traité d'économie et de législation marocaines. 2 Vols. Paris: Librairie des Sciences Économiques et Sociales, 1921.
- Guennoun, Saïd. La montagne berbère -- les Aït Oumalou et les pays Zaïan. Rabat: Éditions Ommia, 1933.
- Guernier, Eugène. La Berbérie, l'Islam et la France, II. Paris: Éditions de l'Union Française, 1950.

- Guillaume, Albert. La propriété collective au Maroc. Paris: Librairie de Médicis, 1960.
- El-Hajoui, Mohamed Omar. Histoire diplomatique du Maroc (1900-1912). Paris: G.P. Maisonneuve, 1937.
- Hanotaux, Gabriel. L'énergie française. Paris: Flammarion, 1902.
- Hardy, Georges, de Caix, Robert, and Dehérain, Henri. Le Maroc -- la Tunisie, la Syrie, l'oeuvre scientifique française en Syrie et en Perse. Vol. III of Histoire des colonies françaises et de l'expansion de la France dans le monde. Ed. Gabriel Hanotaux and Alfred Martineau. Paris: Société de l'Histoire Nationale -- Librairie Plon, 1931.
- Henderson, W.O. Studies in German Colonial History. London: Frank Cass & Co., Ltd., 1962.
- Holtz, Louis. Traité de législation marocaine -- droit public et droit privé du Protectorat. Paris: Edition des Juris-Classeurs, 1914.
- Hopkins, J.F.P. Medieval Muslim Government in Barbary, until the Sixth Century of the Hijra. London: Luzac & Co., Ltd., 1958.
- Israël, Gérard. L'alliance israélite universelle: 1860-1960. Numéro Spécial. Cahiers de l'Alliance Israélite Universelle, 127 (Feb. 1960).
- Julien, Ch.-André. L'Afrique du Nord en marche -- nationalismes musulmans et souveraineté française. 2nd ed. Paris: René Julliard, 1953.
- _____. Histoire de l'Afrique du Nord -- Tunisie, Algérie, Maroc, Vol. II: De la conquête arabe à 1830. Paris: Payot, 1956.
- _____. Histoire de l'Algérie contemporaine, Vol. I: La conquête et les débuts de la colonisation (1827-1871). Paris: Presses Universitaires de France, 1964.
- Kann, Réginald. Le Protectorat marocain. Paris: Berger-Levrault, 1921.
- Khaldoun, Ibn. Prolégomènes d'Ibn Khaldoun. Trans. de Slane. Paris: 1863.
- Labour Survey of North Africa. Geneva: International Labour Office, 1960.
- Lahbabi, Mohamed. Le gouvernement marocain à l'aube du XXe siècle. Rabat: Éditions Techniques Nord-Africaines, 1958.

- Lambton, S.K. Landlord and Peasant in Persia. London: Oxford University Press, 1953.
- Landau, Rom. Moroccan Drama, 1900-1955. London: Robert Hale, Ltd., 1956.
- Landes, David S. Bankers and Pashas. London: Heinemann, 1958.
- La Revelière, Comte de. Les énergies françaises au Maroc: études économiques et sociales. 2nd ed. Paris: Plon, 1917.
- Laubadère, André de. Les réformes des pouvoirs publics au Maroc -- le gouvernement, l'administration, la justice. Paris: Librairie Générale de Droit et de Justice, 1949.
- Le Tourneau, Roger. Évolution politique de l'Afrique du Nord musulmane, 1920-1961. Paris: Armand Colin, 1962.
- _____. Fès avant le Protectorat: étude économique et sociale d'une ville de l'orient musulman. Casablanca: Société Marocaine de Librairie et d'Édition, 1949.
- Løkkegaard, Frede. Islamic Taxation in the Classic Period. Copenhagen: Branner Og Korch, 1950.
- Luccioni, J. Le habous ou wakf (rites malékite et hanéfite). Casablanca: Imprimeries de la Vigie Marocaine, et du Petit Marocain, n.d.
- Lucien-Graux, Docteur. Le Maroc économique. Paris: Librairie Ancienne Honoré Champion, 1928.
- Lyautey, Pierre. Gallieni. Paris: Gallimard, 1959.
- Maroc. Encyclopédie Coloniale et Maritime. Ed. Eugène Guernier. Paris: Éditions de l'Empire Français, 1948.
- Martin, Claude. Histoire de l'Algérie française, 1830-1962. Paris: Édition des 4 Fils Aymon, 1963.
- Maxwell, Gavin. Lords of the Atlas: The Rise and Fall of the House of Glaoua, 1893-1956.
- Michaux-Bellaire, E. Conférences, Vol. XXVII of Archives Marocaines (1927).
- _____. Le Gharb, Vol. XX of Archives Marocaines (1913).

- _____. Les habous de Tanger -- registre officiel d'actes et de documents, Vols. XXII, XXIII of Archives Marocaines (1914).
- _____. Quelques tribus de montagnes de la région du Habt, Vol. XVII of Archives Marocaines (1911).
- Miège, Jean-Louis. Le Maroc et l'Europe (1830-1894), Vol. IV: Vers la crise. Paris: Presses Universitaires de France, 1963.
- Milliot, Louis. Démembrement du habous -- menfa'â, gzâ, zînâ, istighraq. Paris: Ernest Leroux, 1918.
- _____. Recueil de jurisprudence chérifienne -- tribunal du ministre chérifien de la justice et conseil supérieur d'ouléma (medjlès al-istinâf), I. Paris: Editions E. Leroux, 1920.
- _____. Les terres collectives (blâd djemâ'a) -- étude de législation marocaine. Paris: Editions E. Leroux, 1922.
- Montagne, Robert. Les Berbères et le makhzen dans le sud du Maroc: essai sur la transformation politique des Berbères sédentaires (groupe Chleuh). Paris: Félix Alcan, 1930.
- _____. Villages et kasbas berbères: tableau de la vie sociale des Berbères sédentaires dans le sud du Maroc. Paris: Félix Alcan, 1930.
- Ennâsiri Esslâoui, Ahmed ben Khâled. Chronique de la dynastie alaouite du Maroc. Trans. Eugène Fumey. Vol. X, Archives Marocaines (1907).
- Naval Intelligence Division. Morocco. 2 Vols. Oxford: H.M. Stationery Office, 1941, 1942. (Geographical Handbook Series, B.R. 506A)
- Passeron, René. Les grandes sociétés et la colonisation dans l'Afrique du Nord. Alger: Typo-Litho, 1925.
- Peyrouton, Marcel. Histoire générale du Maghreb -- Maroc, Algérie, Tunisie: des origines à nos jours. Paris: Albin Michel, 1966.
- Piquet, Victor. Le Maroc: géographie - histoire, mise en valeur. Paris: Armand Colin, 1917.
- Poncet, Jean. La colonisation et l'agriculture européennes en Tunisie depuis 1881 -- étude géographique, historique et économique. Paris: Mouton & Co., 1962.

- Pourquier, René and Chagneau, Roger. Cours élémentaire d'organisation administrative marocaine. Rabat: Éditions "La Porte", 1949, 1950, 1951 (released in mimeographed form in 10 parts).
- Rivière, P.-Louis. Traités, codes et lois du Maroc. 3 Vols. Paris: Recueil Sirey, 1924.
- Roberts, Stephen H. The History of French Colonial Policy, 1870-1925. London: Frank Cass & Co., Ltd., 1963.
- Rosenthal, E.I.J. Political Thought in Medieval Islam. Cambridge: Cambridge University Press, 1962.
- Sautayra and Cherbonneau, Eug. Droit musulman -- statut personnel et des successions, Vol. II: Des successions. Paris: Maisonneuve, 1874.
- Selous, G.H. Appointment to Fez. London: The Richards Press, 1956.
- Simsar, Muhammed Ahmed. The Waqfiyah of 'Ahmed Pasa^V. Philadelphia: University of Pennsylvania Press, 1940.
- Spillmann, Georges. Les Ait Atta du Sahara et la pacification du Haut Dra. Rabat: Félix Moncho, 1936.
- Stewart, Charles F. The Economy of Morocco, 1912-1962. Cambridge, Mass: Harvard University Press, 1964.
- Stuart, Graham Henry. The International City of Tangier. 2nd ed. Standford: Standford University Press, 1955.
- Tabouis, Geneviève. The Life of Jules Cambon. Trans. C.F. Atkinson. London: Jonathan Cape, 1938.
- Taillandier, G. Saint-René. Les origines du Maroc français -- récit d'une mission (1901-1906). Paris: Librairie Plon, 1930.
- Tardieu, André. La conférence d'Algésiras: histoire diplomatique de la crise marocaine (15 janvier-7 avril 1906). 3rd ed. Paris: Félix Alcan, 1909.
- Tyan, Émile. Histoire de l'organisation judiciaire en pays d'Islam. Leiden: E.J. Brill, 1960.

- _____. Institutions du droit public musulman. 2 Vols. Paris: Recueil Sirey, 19^{Fl}, 1956.
- Warringer, Doreen. Land Reform and Development in the Middle East. London: Oxford University Press, 1962.
- Westermack, E. Ritual and Belief in Morocco. 2 Vols. London: Macmillan, 1926.
- _____. Wit and Wisdom in Morocco: A Study of Native Proverbs. London: George Routledge & Sons, Ltd., 1930.
- Spillmann, Georges. Du Protectorat à l'Indépendance: Maroc, 1912-1955. Paris: Plon, 1967.

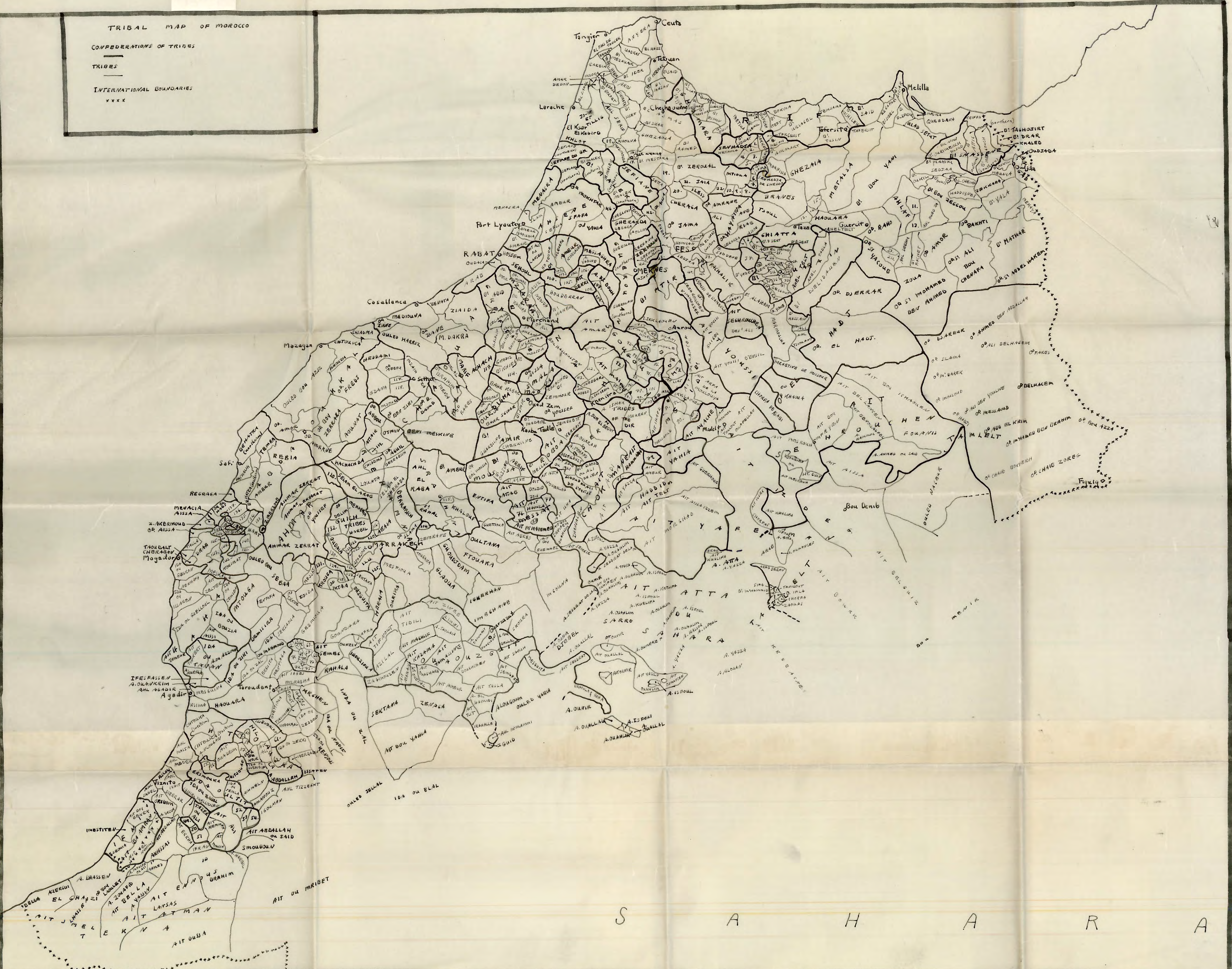
TRIBAL MAP OF MOROCCO

CONFEDERATIONS OF TRIBES

TRIBES

INTERNATIONAL BOUNDARIES

XXXX



- | | | | | | | | |
|----------------------|---------------------|-------------------|------------------------|--------------------------|--------------------------|----------------|-------------------|
| 1. JEMOU | 21. B. OURIAGUEL | 41. DANIL | 61. TOUTEL AZT | 81. A. ALI OU SHAMEM | 101. AIT BOU MZOUEN | 121. MRATIVE | 141. MAIRAT |
| 2. OUM HAK | 22. MEZMOUA | 42. MEDMOUA | 62. IDOUKA OU FELLA | 82. AIT KEBEL LAKRAM | 102. A. BOU YAMA | 122. CHEUCH | 142. O. B. NADIR |
| 3. OLANMED | 23. ALOUAYA | 43. ARAS OU SAH | 63. IDA OU MSATTOS | 83. A. MOHAB OU LAHEV | 103. ALJARA | 123. SABA | 143. HACHOUV |
| 4. THABAT | 24. O. RIH | 44. OKHILA | 64. TIOUGA | 84. AIT MERHOUEL | 104. AIT ABON | 124. THOULTANT | 144. O. OUY KUMIA |
| 5. O. B. CHEBIT | 25. O. BALI | 45. SECHOUKHEV | 65. MEDLOULAH | 85. AIT MERHOUEL | 105. AIT OULVI | 125. ANHOU | 145. AIT AKHINA |
| 6. FENEJA | 26. IMHOUV | 46. O. MOHAB | 66. A. BOU YAMA | 86. KABOUVE | 106. KABOUVE | 126. LAKHOUVE | 146. O. HASSOU |
| 7. O. OULID | 27. O. O. ALI | 47. A. BOU LAHEV | 67. IDA OU KAS | 87. AIT HALLI | 107. A. HANNOU | 127. TIGARIVE | 147. REGHAI |
| 8. SEMMOUJA DEMOUDAV | 28. O. ALI | 48. A. LIU | 68. FOLLARA | 88. AIT HALLI | 108. A. HANNOU | 128. TIGARIVE | 148. NAWIR |
| 9. RIDA | 29. O. B. A. | 49. TAIENT | 69. COGALHA | 89. A. DALAL | 109. A. DALAL | 129. TIGARIVE | 149. J. E. ELIM |
| 10. MEHAT | 30. IHOU | 50. TWAKER | 70. AIT YOUNG | 90. AMYU I MRADIA | 110. A. BELKACEN | 130. TIGARIVE | 150. KALDAT |
| 11. MEKARMA | 31. AIT OUKRA | 51. AIT BERRAKH | 71. AIT TAMEH | 91. A. BELKACEN | 111. MARRAKCHA | 131. TIGARIVE | |
| 12. SEJMA | 32. OUMAR | 52. TAGUEVLA | 72. TALENDANT | 112. A. HANNOU OU HANNOU | 112. A. HANNOU OU HANNOU | 132. TIGARIVE | |
| 13. MEKASSA | 33. O. A. | 53. OUSSEK ILIIGH | 73. IPEAD | 113. AIT OULVI | 113. AIT OULVI | 133. TIGARIVE | |
| 14. BEKRAK | 34. O. OUY ALI | 54. A. BOU KOUHA | 74. TALENT | 114. A. BOU MZOUEN | 114. A. BOU MZOUEN | 134. TIGARIVE | |
| 15. MESHROUA | 35. O. SALI | 55. A. HANOU | 75. AIT OUFERKAL | 115. A. C. | 115. A. C. | 135. TIGARIVE | |
| 16. AMI | 36. O. ZAYNA | 56. AIT MAZIGH | 76. A. JADIK | 116. AIT LAUCEV | 116. AIT LAUCEV | 136. TIGARIVE | |
| 17. MOBA | 37. AIT SEGHROUKHEV | 57. AIT MAZIGH | 77. A. JADIK | 117. A. MZIL | 117. A. MZIL | 137. TIGARIVE | |
| 18. LARAK | 38. AIT SEGHROUKHEV | 58. A. MZAL | 78. A. JADIK | 118. AIT LAUCEV | 118. AIT LAUCEV | 138. TIGARIVE | |
| 19. OUMESGILDA | 39. OUMESGILDA | 59. IMESH CAG | 79. S. YAMA OU YOUSSEF | 119. MTAIA | 119. MTAIA | 139. TIGARIVE | |
| 20. FIGHTALA | 40. AIT AYACH | 60. AFRA | 80. A. OUY GUERAVE | 120. CHADIA | 120. CHADIA | 140. TIGARIVE | |

