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LAND REFORM IN CHILE

James Becket

Of all the generalizations about Chile, those dealing with geography are the most accurate.¹ Geographical facts have given shape and character to Chilean life and Chilean problems. Nature gave the heart of Chile patches of excellent soil and a climate kind to man. But this central valley is isolated, bounded on the north by desert, the east by towering mountains, the west by a cold and tempestuous ocean, and the south by the end of the world. Ownership of the land has been the keystone of Chilean history, and the fertile land is in the core region of the nation. There, in Mediterranean Chile², live three-quarters of the nation's population, there resides the political power in a unitary republic in which the president appoints provincial governors and there are no provincial assemblies, there are owned and managed the enterprises of north and south.

Beyond this area were the risks of sandstorms, blizzards, earthquakes, Antarctic currents and storms, but within the valley an agrarian society developed relatively free of natural catastrophe. Chileans pay little attention to the sea, while the mountains are too forbidding. Thus, hemmed in between these forces, Chilean agriculture battles erosion as the water of the mountains seeks the level of the sea.

This paper deals with the natural and human material which will form the structure of any change in the land tenure system. This includes the history of land tenure, the law, the state of agriculture, and the prospects and methods of change.

Historical Background

The Spanish Empire was the personal property of the king, and was distinct from the Spanish state.³ In 1541, a small band of *conquistadores* departed from the vice-royalty of Peru, headed south, crossed the great

¹ E.g., "Long and narrow land," "no race problem," "an island," "democratic traditions," etc.

² This apt phrase appears in G. J. Butland, *Chile: An Outline of its Geography, Economics, and Politics* (London: Royal Institute of International Affairs, 1951).

³ It can better be thought of as a great feudal estate owned by one person, the king.

Northern Desert and arrived in the Central Valley of Chile. There they fought the fierce Araucanians, who were to battle the settlers of Chile for over 350 years. Certain immediate facts were to shape the development of this area. There were very few Spaniards, hardly any Spanish women, the country was isolated and had to be self-sustaining, the Indians were few in number relative to other colonies, and there was a large area of land relative to the number of inhabitants.⁴ Those who came were not settlers with their families, but adventurers seeking military conquest and gold. They were warriors, reckless and cruel, who had no interest in working with their own hands.⁵

The indigenous people had developed a rudimentary feudal system and an agriculture that utilized irrigation. They had very strong family units and collectivized societies. In many villages, the land was held collectively. The policy of Spain was not to change the social system of the Indians, but to take the already available social unit and simply impose above it a superior allegiance that ran up the feudal scale to the king.

In Chile, diverse methods were used to distribute the land. Land distribution theoretically was an organized and systematic procedure, unlike the loose individualistic pattern of the English and French colonies. Pedro de Valdivia,⁶ leader of the original expedition, had the authority to found a city and parcel out land according to an urban plan that was set forth in royal decrees.⁷ He also had the power to grant *encomiendas*. This institution derived from the feudal concept of conquered peoples' owing tribute. It was a grant of Indians on the land they inhabited given by the king or in his name as a reward for service rendered in the conquest of the continent.⁸ It was a charge or a trust where certain Indians (*encomendados*) were "recommended" to an individual (*encomendero*) to whom was owed tribute or service. Reciprocal obligations flowed up and down the feudal ladder. The

⁴ Fernando Campos Harriet, *Historia Constitucional de Chile* (Santiago: Editorial Jurídica de Chile, 1956), p. 71. The measurement of size often used was head of cattle rather than units of land.

⁵ This "deshonor de trabajo" is a tradition lasting up to the present time. Horacio Serrano Palma in his book *¿Por qué somos pobres?* (Santiago: Editorial Universitaria, 1958) says that the Chileans are the fusion of two warrior races, the Spanish and the Araucanians, who with constant warring never beat their words into plowshares. They became citizens, but not workers.

⁶ Cf. Barros Arana, *Historia jeneral de Chile* (Santiago, 1884), I, 436.

⁷ Campos Harriet, p. 70. Part of the royal test for selection of the site was the complexion and health of the natives, and the sky's being clear and benign.

⁸ G. M. McBride, *Chile: Land and Society* (New York: American Geographical Society, 1936), p. 65. This is the classic study in the field.

Indians were to have the right of peaceful occupation of the land. They had to give up a certain amount of produce and they had to devote a certain time to labor in the gold mines. The *encomendero* had to pay taxes, maintain bridges and roads in his domain, and be prepared for military service. The obligation of military service was considerable as there were constant wars. Though this system was not intended to be a land grant, it indirectly became the basis for the large *haciendas* which have survived into modern times. Few Indians understood the concept of private ownership of a particular piece of land and the *encomenderos* who supervised this area came to think of the land as their own. The system thus came to be equivalent to virtual acquisition of the land.

In 1545, Santiago was granted a *cabildo*, which gave out plots in the town. Direct grants of land were made by royal decree and some properties in central Chile trace their title to this.⁹ The governors were also given the power to grant land as a reward to *conquistadores* and *encomenderos*. From the beginning, grants of land and grants of Indians were so vague that there was constant confusion over title. Some of the more aggressive took more land than they were granted, and the Indians were often "recommended" twice, or simply a number of unspecified Indians was given. A commission of the *Cabildo*¹⁰ was set up very early to adjudicate and arbitrate land disputes and claims. In 1603, a special surveyor¹¹ was sent by the Crown to review all titles. As the royal policy was to create many modest holdings, those that held too much land would theoretically have to return the excess to the Indians. This survey was too late, as the doctrine of prescription had in effect confirmed the *latifundia* system.

The number of Indians available for *encomiendas* very quickly diminished. There was constant pressure on the labor supply, as the non-toiling colonists needed men for mining, farming, and building. Yet the intention of the Crown was not to enslave the native population. Spain felt that the savages would surrender a measure of their property and their freedom in return for the protection and Christian instruction they would receive.¹² Strict laws relating to work and working conditions were passed. The Church was the organization that held much of

⁹ Campos Harriet, p. 70.

¹⁰ Junta de Composición.

¹¹ Jines de Lillo.

¹² The great debate in the early days of empire was whether the Indians were animals or actually humans. The latter view, backed by the Church, won out and with this argument as to classification resolved decrees were issued to protect the Indians.

the excesses in check. With the *encomenderos'* search for profits and shortage of labor, however, these laws were not respected. For example, a law provided that no Indian could be a domestic servant, yet all had Indian servants. The local administration tended to side with the colonists. The Indian's plight was exacerbated by Spain's loss of interest in the colony as it bore no promise of great riches. The native communities dwindled to nothing through disease, the rigors of forced labor, "chastisements" and flight to the free south.

The Spanish attempt to weld the two systems failed.¹³ The Spaniards never really understood the nature of the Indian system, and they failed to deal with the most important chiefs. They made grants hopelessly vague. Due to the uncertainty of title, there were constant disputes.

Encomiendas were abolished in the Empire in 1720. This was not important for Chile as by the time the decree was carried out in 1789 it made little difference as there were so few living under this old system. A new system was emerging in response to new conditions — the *hacienda* system which remains in large measure to the present day. There was a period of consolidation of the great *latifundia* whose actual title derived from direct grants of land, from possession, from marriage to a chieftain's daughter and thus partaking of kinship rights, and indirectly through the *encomienda*. With the tremendous demand for agricultural labor, a new laboring class was formed, which lived on the *estancia* of the master. This class was composed of descendants of the recommended villages, those of mixed blood who were directly hired, those captured in war, and Indians bought from their fathers. These people were called *inquilinos*. The *hacienda* system is often described as a distinctly Chilean institution, yet it follows a broadly recognizable pattern. The *haciendas* became the dominant economic, social, political, and population unit.

The *inquilinos* had certain defined rights; they had to work for the master for about 160 days of the year and they had a separate plot to sustain themselves.¹⁴ A two-class society of Master and Man developed.¹⁵ The landholders were the creole aristocracy during the colonial period. This small class intermarried to a high degree. With the abolishing of the *encomiendas*, another Spanish legal institution served to perpetuate the large estates. This was the entail (*vinculación*). The most important legal doctrine in this category was the *mayorazgo* or pri-

¹³ See Helen Douglas-Irvine, "The Landholding System of Colonial Chile," *The Hispanic American Historical Review*, Vol. VIII (November, 1928), pp. 486-488.

¹⁴ McBride, p. 47.

¹⁵ These are McBride's terms.

mogeniture.¹⁶ It meant that goods would be placed under the perpetual dominion of one family with a prohibition against division or alienation. This legal institution preserved the power and property of the group that once held the *encomiendas*. Like the *encomiendas* this became a source of conflict and controversy.

The revolution which brought Chile independence was in no sense a social revolution, as it was merely a substitution of creole for Spanish rule. This creole society has been described as "conservative by instinct, habit, and conviction."¹⁷ Whether to maintain or abolish the *mayorazgo* was an important issue during the period of 1810-1833, when many constitutions were drawn.¹⁸ The great patriot of Chile, Bernardo O'Higgins, abolished *mayorazgo* by decree in 1818. This contributed in part to his downfall, and the right was restored. The constitution of 1833 was made by the landowners for the landowners, and it lasted as they were the only really viable political force in Chile. After 1833, a period of authoritarianism developed a sense of respect for tradition, for property interests, and for judicial order. *Mayorazgo* was finally abolished as a result of laws passed in 1852 and 1857.¹⁹ A list of the families that enjoyed these rights coincides with those who controlled the political life of Chile.²⁰ These laws led to some inroads on the absolute power of the landholders, but they still managed to maintain the *haciendas* as one family units, and, as the price of land rose, they maintained their economic power.

The best that can be said for this social system was that a patriarchal relationship arose between master and man, a relationship assisted by the mixture of blood. In many respects, it is reminiscent of southern U. S. plantations, where there were, however, both good and bad masters. Those born into the system had no opportunities and no mobility, for if they left the *hacienda* they became social derelicts. Whatever close rural relationship may have sprung up became the exception as the fam-

¹⁶ "Mayorazgo — in Spanish law, the right to the enjoyment of certain aggregate property, left with the condition thereon imposed that they are to pass in their integrity, perpetually, successively to the eldest son." (Henry Campbell Black, *Law Dictionary*, fourth edition (St. Paul, Minnesota: West Publishing Co., 1951), p. 1131.)

¹⁷ R. A. Humphreys, *Liberation in South America 1806-1827* (London: University of London, 1952), p. 66.

¹⁸ P. V. Shaw, *The Early Constitutions of Chile 1810-1833* (New York: Chile Publishing Company, 1931).

¹⁹ Domingo Amunátegui Solar, *Historia Social de Chile* (Santiago: Editorial Nascimento, 1932), p. 312. "This move represented a reform of such transcendent significance as the abolition of *encomiendas* at the end of the 18th century. If the constituents of 1833 had foreseen the result, they would not have opened the road for such a measure."

²⁰ For this list see Campos Harriet, p. 76.

iliar pattern of absentee ownership grew. While the master passed his time in the city or abroad, a farm manager sought profit. Just as slavery was one of the very foundations of society in the Old South of the United States, so was this form of serfdom a foundation in Chile. Any change in it would necessarily mean a change in the society. This system, however, did provide relative order for Chile. The political conflict that existed among the aristocracy found expression during the nineteenth century in a monarchical view that sought a strong executive and in an oligarchical view that sought a strong legislature. In 1891, these forces fought a brief civil war which the oligarchical forces won.

The turn of the century witnessed change. Mining in the north, independent farming in the south, and some manufacturing signalled the rise of a laboring class as a separate group with its own interests. Improved communication and revolutionary ideas from abroad added to create a class consciousness.²¹ Chile was torn by strikes and violence and general social unrest, and the government resorted to repression as a solution. In a society in which law was sufficiently ingrained in the national mentality, this social unrest found release in the election of a man of the people, Arturo Alessandri. The impatience for change gave impetus to demands for a new constitution, a constitution which would provide social justice.

Legal Background

Constitution of 1833

The guarantees of security and property — Article 10.

No. 5 — The inviolability of property of all kinds, whether belonging to individuals or communities. No one shall be deprived of his property or any part thereof, however small, or of any right therein, except by virtue of a judicial decision, or when the interest of the State, declared by law, requires the use or condemnation thereof; but in this case proper indemnification to be determined either by agreement with the owner or by valuation made by a jury of competent men shall be previously made.²²

Constitution of 1925

Article 10 — The Constitution insures all the inhabitants of the Republic:

No. 10 — Inviolability of all property, without distinction.

No one can be deprived of property under his control, or of any part thereof, or of the right he may have therein, except by virtue of a judicial decree or (a writ of) expropriation on account of public use, conformable to a law. In this case indemnification, as may be agreed on, or as may be fixed by a corresponding judicial sentence, shall be paid the owner in advance.

The exercise of the right of property is subject to the limitations or principles that the maintenance and

²¹ Lewis Hanke, *Modern Latin America: Continent in Ferment* (New York: D. Van Nostrand Co., 1959), Vol. II, p. 146.

²² J. I. Rodríguez (ed.), *American Constitutions* (Washington: 1907), Vol. II. I have changed "comunidades" to communities rather than corporations, as this reference in the constitution was to confiscated religious communities whose rights were restored.

advancement of social order demand, and, in this sense, the law may impose servitudes for public benefit in favor of the general interests of the state, of the health of the citizenry, and of the public welfare.²³

Early in 1925, President Alessandri convened an assembly which represented every segment of Chilean life. After this meeting a decree was issued which named the Consultive Commission which was to proceed with the drafting of the Constitution. Two subcommissions were formed, one of them was the subcommission of reform and it was this group that discussed the section on property. Many considered this to be the most important area of reform, and five sessions were devoted to it.²⁴ On the level of theory these discussions bring out the conflict between the rights of the individual and the interests of the community as a whole, and on the level of reality the conflict between the landholders and the rest of society.²⁵ The *hacienda* system was what was being expressly attacked and defended; it was the real issue at stake in this section of the Constitution.

The general conviction that change was necessary found its most effective expression in a sentence of Léon Duguit, the radical French legal writer. It was first quoted in the meeting by the President: "It can be said that in fact the concept of property as a subjective right is disappearing in order to be replaced by the concept of property as a social function." This concept of property's having a social function was the most repeated expression of the meetings.²⁶ One element feared it,

²³ A. J. Peaslee (ed.), *Constitutions of Nations* (Concord, N. H.: 1950), Vol. I, p. 414. The Spanish texts are the same except for two details in the first and second paragraphs of both documents; one can see here the difference in translation. "Writ of" is not found in the Spanish.

²⁴ The minutes of all these meetings were published by the Ministry of the Interior under the title, *Actas oficiales del proyecto de nueva constitución política* (Santiago, 1925). Discussion of reference to this section of the Constitution is found at pp. 47, 82, 85-92, 94, 96, 98-100, 104-116, 118, 121-123, 125, 127, 128, 130, 131-136, 187, 188, 480-481, 517.

²⁵ It is interesting to note that the first section of Article 10 of the Constitution reads, "In Chile there is no privileged class." This was ridiculed by Sr. Guerra, who said it was clear as the noonday sun that there were two classes, that a landed oligarchy ran Chile. See the statements of Hidalgo in *Actas oficiales del proyecto de nueva constitución política* (hereinafter cited as *Actas Oficiales*), pp. 47, 106.

²⁶ "Social function" (*función social*) can appear a meaningless combination of two broad words, but meaning has been poured into its general structure through constant use, writings, and reference. Public use carries with it a sense of necessity such as a road or water. "Social function" will take into account minority groups or the poverty-stricken. For example, dividing up one person's land into plots for 100 families is a social function; it tends toward the redistribution of wealth. Public use would not permit taking land for private use. The felt necessity that required this

and the other wanted it put concretely as a program of subdivision of the land.²⁷ Restraining this contemporary view was the inviolability of property concept as stated in the Constitution of 1833. Almost all, however, agreed to this as a basic principle. Many advocates of change envisioned every Chilean as a property holder, so they too were anxious to protect private property.²⁸ The conservative, landholding element regarded the change of a single word as an invitation to internal revolt and external loss of confidence.²⁹ The liberals wanted an explicit statement that Congress would initiate a program of subdivision.³⁰

It is interesting to note the different arguments used, as many are offered today in response to the same problems. The defenders of the *latifundia* system wanted to divert the discussion to the expropriation of land for a better transportation system. What Chile needed, they insisted, was rapid transportation, security in the countryside, and a strong currency. Inevitably, they did defend their system, saying that it had given Chile a very progressive agriculture, that natural subdivision was taking place and that natural economic laws should be allowed to operate, that the real problems were a lack of capital and a shortage of labor, that any change would cause disinvestment and social unrest, that small holdings had been a failure in the past, and that this method of agriculture provided an important source of foreign exchange. The proponents of change opposed the system mainly on social grounds, saying that there was no liberty for a man under a *patrón* in a country ruled by an oligarchy of landholders and bankers, that the revolution had given them a mandate to change this, that future social tranquility would be maintained only by subdivision of the land, and that there was a monopoly of the market which forced food and other prices up.³¹ Those espousing the ideas of Duguit saw rights as gradually evolving and

concept is explainable historically. President Carranza of Mexico used the same expression. For a good definition of social function see the Agrarian Reform Act of Venezuela, Chap. II, Sec. 1, 19, 5 March 1960, *Gaceta Oficial*, No. 611, Extraordinario, 19 March 1960, p. 1.

²⁷ *Actas Oficiales* p. 87. Sr. Guerra stated that whether or not property has a social function is a play on words. All agreed it should be more subordinate than it was. The land should be subdivided.

²⁸ *Ibid.*, p. 101. Sr. Cárdenas.

²⁹ *Ibid.*, p. 127. Sr. Yáñez.

³⁰ *Ibid.*, p. 95. Sr. Guerra proposed the following, "The Congress will pass laws to facilitate the subdivision of real property, and uncultivated lands will bear the burden with special contributions." This later became part of Section 10-14 of the Constitution, a much neglected part.

³¹ *Actas Oficiales*, *supra*, note 24.

changing. This idea was opposed by the conservatives who conceived of rights in property as something inherent and absolute.³²

Those in the middle who sought to reconcile the two positions recognized that there must be some change which would reflect the real change in Chile's thinking and expectations. If there were no change, the courts would be compelled to hold unconstitutional many laws that were needed and wanted.³³ One of the drafting principles agreed upon was that as much as possible of the older document would be retained.³⁴ The compromise that finally resulted did retain virtually intact the text of the 1833 Constitution. A new section was added, however, which incorporated into the new Constitution the greater emphasis on the interests of the community. From this first section flow all the procedures and requirements of expropriation which act to protect the individual's property rights.³⁵ The new paragraph gave a framework in which the contemporary concept of property could develop. So the Constitution really preserved and expressed this basic conflict between the individual and society, while adding weight to society's side of the scale. It would be up to the legislative process, executive decree laws, and the courts to live and work within this delicate balance.

In an official speech explaining what had been done, President Alessandri made clear that property now had social obligations, and that the Constitution took into account modern social evolution and adjusted the right of property to this reality.³⁶ A Justice of the Supreme Court summed this up in a recent statement when he said that, "the whole

³² During one of the later sessions, Sr. Silva Cortés, a conservative, in groping for a basic justification, said that property is the fruit of work; the origin of property is work. A better historian in the group, Sr. Hidalgo, reminded him how rights in land in Chile originated. Cf. José Guillermo Guerra, *La Constitución de 1925* (Santiago: Balcels & Co., 1929), p. 97 ff., where he discusses natural law aspects in the concept of the Constitution's "insuring" to all rights that flow from the nature of man rather than from his juridical creations.

³³ *Actas Oficiales*, pp. 108-120. Sr. Edwards Matte.

³⁴ Guerra, p. 124.

³⁵ See *Código de procedimiento civil* (Code of Civil Procedure), Título XVI, Libro V, Articles 1092-1102 (hereinafter cited as CPC.).

³⁶ *Actas Oficiales*, "Versión oficial de la conferencia dictada por S. E. el Presidente de la República, Don Arturo Alessandri," 3 July 1925, p. 721. "However, this principle is very rigid for the contemporary epoch. Humanity has changed much in the matter of social relations between men and has come to establish that property has obligations to society which it must fulfill; that its origin and its end is society . . . Consequently we have yielded a tribute to modern evolution and have established the right of property, adjusting it to the reality of social evolution."

spirit of the Constitution is that nothing can prevail above the right of society to its own maintenance and progress.⁸⁷

Expropriation

Legal application of Article 10, No. 10, of the Constitution comes under the rubric of expropriation. Any large-scale land reform in Chile would have to use this device. The Constitution requires that there be legislation which selects the course to be followed on the basis of public use, and that there be prior compensation, the amount either agreed upon or fixed by judicial decision. Any law that is passed must conform to the Constitution.⁸⁸ As the two competing interests are apt to collide it has been up to time and the courts to bring into sharper focus the dividing line of constitutionality. Much of the law close to the line is unsettled law. For a large-scale program of land reform, this conflict in cases produces a crucial margin of unknowns in cost, time, and administrative personnel. For example, if the courts adopted the position that the government under the Constitution must pay all costs of land appraisal rather than half, this would greatly raise the total cost of the program; or, if it were held that the state could not use the land until all appeals were exhausted, the delay might destroy the effect of the program. It is important to examine the legal aspects and the procedures of expropriation, as this is the traditional mechanism for forced land transfer in this ordered society.

There is a basic resemblance between the law of expropriation in Chile and the law of eminent domain in the United States.⁸⁹ The equitable considerations are the same, based as they are on a respect for private property. Both countries have a history of relative order and the social upheavals of this century which radically altered property rights have not upset the patterns of order. The United States has been more adaptable and has pushed the Fifth Amendment to its Constitution in a way that has met the needs of the time. This can be explained, though, in the nature of the legal systems and in the fact that in Chile there has been no real countervailing power to the landed interests. Beginning with a basic belief in private property, it is interesting to

⁸⁷ Humberto Bianchi Valenzuela, "La Expropiación por causa de Utilidad Pública y su Procedimiento," *Revista de Derecho* (Concepción), Año XXII, No. 89 (July-September, 1954), p. 264. See also Pedro Eduardo González García, *Reformas religiosas, sociales, electorales, económicas y políticas de la Constitución del año 33 promulgadas el 18 de septiembre de 1925* (Santiago, 1927), tomo III, capítulo II, "Property before the Constitution of '33 and the Reforms of '25".

⁸⁸ See *Código Civil* (hereinafter cited as CC), Article 6.

⁸⁹ See United States *Corpus Juris Secundum* (hereinafter cited as CJS) Vols. XXIX, XXX, "Eminent Domain".

note a similar pattern of development in both countries. Conflicting decisions occur at the same points of stress where competing interests in both societies collide.

Expropriation falls under no main legal category. It is *sui generis*, an Act of Authority permitted by the Constitution for reasons of public utility.⁴⁰ It is not a contract nor a sale as the element of free will is absent.⁴¹ The legislation itself is what gives origin to the title.⁴² The normal obligations that the law places on buyers and sellers do not apply to the state as it can halt an expropriation even after the property is under its control. It can, in effect, break the contract.⁴³ The decision to exercise the power is a political one. This gives the state a measure of flexibility and choice within constitutional bounds.

Patrimonio

Ranged against this power of the state stands the individual and his rights, which are brought together in the legal concept of *patrimonio*.⁴⁴ Without attempting to probe its metaphysical complications, suffice it to say that the notion of *patrimonio* is made up of all rights and obligations of a person. More abstractly, it is a whole, a distinct entity independent of the elements that compose it. If a person's legal rights or debts change, that does not modify the existence or the unity of the *patrimonio*. It belongs in equal measure to a newborn child, to the rich, to the poor; it cannot be taken away by any means nor can it be transferred. To give an example, the taking of land would affect the *patrimonio* so that it would have to be restored through compensation of equal value. An example of how this concept would be used can be

⁴⁰ Arturo Alessandri Rodríguez, *De los contratos*, second edition, 1940, p. 261. A definition in a case on May 22, 1957 was, "The forced expropriation is an act of authority founded in the common good and pertains to the field of public law." *Revista de Derecho y Jurisprudencia*, Tomo 54, p. 81 (hereinafter cited as RDJ).

⁴¹ CC, sec. 1437 (Contracts); sec. 1793 (Sales). Bianchi in his article *supra* n. 37, attributes the view that it is a contract of sale to A. Alessandri R., citing *De la compra-venta y de la promesa de venta*. Cf., *De los bienes* in which he says it is not a sale as it is forced. A. Alessandri R., *De los bienes*, second edition (Santiago, 1940), p. 54.

⁴² A. Alessandri R., *De los bienes*, p. 53.

⁴³ Bianchi Valenzuela, *loc. cit.*, p. 261. Cf., 41 RDJ 71 (section 2a) (Corte de Apelaciones de Santiago).

⁴⁴ For a Chilean discussion of this civil law concept, see A. Alessandri R., *Curso de Derecho Civil*, Ed. of Antonio Vodavic H. (Santiago: Editorial Nascimento, 1945). This concept does not appear in the Chilean Civil Code, but it is often used in the cases. The Code talks of *Dominio* which is the right to use, enjoy, and convey real property. See CC, Art. 582. Some commentators limit *patrimonio* to pecuniary value. When talking of expropriation, however, one is dealing with pecuniary value, so for our purposes either view is applicable.

demonstrated in a sentence of Justice Bianchi's, ". . . a compensation of an equivalent worth of a kind that the integrity of the *patrimonio* of the expropriated is not altered."⁴⁵

Pago Previo

One of the crucial problems in any agrarian reform scheme arises with the issue of compensation. It is clear that in Chile the state can expropriate and that under the social function doctrine it could expropriate for a land subdivision program. But, it is equally clear and explicitly stated in the Constitution that full prior indemnity is a condition precedent to the passage of title. In addition, the present state of the law is that payment must be made in cash.⁴⁶ The traditional response, when confronted by this insurmountable economic barrier, has been to issue bonds, and this has been attempted in Chile. A law entitled "General Law of Construction and Urbanization" authorized a municipality to pay for expropriation in bonds at par value payable over a three-year period. When this was tested in the *Arzobispado de Santiago* case, the court labelled it "openly unconstitutional".⁴⁷ Every other attempt has met the same result.

The United States, with its broad constitutional provision, has not been fettered by the word prepayment. As *Corpus Juris Secundum* reports:

Generally prepayment is not required where the taking is by the United States, a state, or a municipal subdivision of the state, in the absence of constitutional or statutory provisions so requiring . . .⁴⁸

With the Constitution of Chile so plain, there appears no chance that the law will develop naturally so as to permit deferred payment (*pago diferido*). Even in a wealthy country, this would present an impossible obstruction to a major land reform program. On the valid assumption that prepayment is impossible, the most reasonable proposal is that the constitution be amended to permit payment in bonds.

⁴⁵ Bianchi Valenzuela, *loc. cit.*, p. 261.

⁴⁶ *Ibid.*, p. 267.

⁴⁷ 45 RDJ 304 whereby Art. 82, inciso 3rd, of Decree law 345, of the 20th of May, 1931, which authorized par bonds by an expropriating municipality, was held unconstitutional. See also 47 RDJ 331; 47 RDJ 485.

⁴⁸ CJS, Vol. XXIX, "Eminent Domain", Sec. 187, p. 1073-4.

Agricultural Background

Much energy and print have been devoted to study of Chilean agriculture.⁴⁹ For our purpose, it will be necessary to draw a general picture and indulge in a few statistics, since the agricultural sector is the raw material of any agrarian reform. The wide divergence in climate and topography in the distinct sections of Chile produces different agrarian problems. Atlantic Chile is dedicated to sheep farming.⁵⁰ Desert Chile with its scattered settlements is not an important part of the agricultural picture. A group outside the typical patterns are the German immigrants found in the lake district whose enterprise has given this area the title of the "granary of Chile."⁵¹ There is a different pattern of land tenure in this area, in that holdings tend to be commercial family-size farms. Abstracting out these areas we can concentrate on the Central Valley where the *hacienda* system predominates.

There are certain basic facts and conclusions that those who have studied the subject agree upon. The old economic fact is that Chilean agriculture fails to support its own population.⁵² The land can easily produce enough to support the population. Much of the land is underutilized. The system of land tenure is obsolete. Much land is in the hands of a few, and little land is in the hands of many. The agricultural sector is the most serious brake on economic development.

Very little land of the country is arable. As the rain falls outside of the growing season, irrigation is necessary, and there is an available water supply. Rough figures estimate that 60% is not suitable for anything, 10% is forest, 20% is scrub. What remains amount to 12.7 million hectares, of which 6.8 is in pasture, 2.7 is fallow in natural grass, and 3.2 is under actual cultivation.⁵³ Animal husbandry is the predominant land use, "food crops are grown on only 6% of the productive land and

⁴⁹ E.g., International Bank for Reconstruction and Development and the Food and Agricultural Organization of the United Nations, *The Agricultural Economy of Chile* (December, 1952) (hereinafter cited as IBRD & FAO); Ministerio de Agricultura, *La Agricultura Chilena* (Santiago, 1957); Economic Research Institute of the University of Chile, *Survey and Perspectives of Chile's Economic Development 1940-1965* (Santiago, 1957) (mimeographed), etc.

⁵⁰ See Gilbert J. Butland, "The Human Geography of South Chile," *The Institute of British Geographers*, Pub. No. 24 (1957). This thorough study of the area describes subdivision as "the most controversial, economic, social and political problem of South Chile." Both viewpoints of this issue are reviewed. Due to the nature of the land and the fact that these vast units are well run make this a separate problem not within the province of this paper.

⁵¹ Serrano Palma, p. 76.

⁵² According to the newspapers there was last year a 20% deficit, of \$100,000,000. *El Mercurio*, December 17, 1961.

⁵³ IBRD & FAO, p. 93.

12% of the land used for agriculture.”⁵⁴ Underutilization is a particularly grave problem; it is rational in this region not to overwork un-irrigated land, but in the provinces of the Central Valley between 28% and 57% of the irrigated land is not being used.⁵⁵ The World Bank team wrote “underutilization is mainly a problem of the large farms and is found to a large degree on irrigated land. The Mission found bad farm management by the owner or more often by the majordomo in his absence among the reasons for the large percentage of irrigable land lying fallow in the Central Valley.”⁵⁶

The reasons for this are not simply landowner perversity or neglect. Investments in agriculture are around 12% of gross total investment in Chile which is very low compared with its importance.⁵⁷ The profit level is 6.8% which is not only low but generally more than wiped out by inflation.⁵⁸ This lack of capital means that maintenance is inadequate, that requisites such as seeds and fertilizers often are simply not bought, that irrigation facilities are not expanded, that from year to year labor is cheaper than the large capital investment required for imported machinery. This cycle is promoted in part by the attitudes and conditions of the two agrarian classes.

The Hacendados

Perhaps the most easily grasped fact of Chilean agriculture is the high concentration of agrarian lands in the hands of a few.⁵⁹ The abolishing of the *mayorazgo* did not change the *hacienda* system. Even if the *hacienda* assumed multi-family ownership, it remained a single

⁵⁴ *Ibid.*, p. 94

⁵⁵ IBRD & FAO, p. 96. These figures are from the 1935-1936 period on a province to province basis, but the conclusion of the group at the time (1952) was that this pattern persisted. William Benton says “21% of all irrigated land in the most valuable areas is lying fallow.” *Britannica Book of the Year*, (1961), “The Voice of Latin America,” p. 16. This figure is probably more meaningful on its face as the IBRD & FAO quoted figures include extenuating circumstances relating to actual water supply.

⁵⁶ IBRD & FAO, p. 177.

⁵⁷ *Ibid.*, p. 113.

⁵⁸ *Ibid.*, p. 114. This condition appears to have persisted since 1952.

⁵⁹ There are various statistics on this. Butland says that 89 per cent of the land is in *haciendas*. A more recent figure which gives a meaningful picture is cited by Alberto Baltra in an article in *El futuro económico de Chile y de América Latina* (Santiago: Colección Saber, Editorial Universitaria, 1957), p. 43. 2,806 owners hold 19 million hectares which is 1.5% owning 75.1%, 130,000 owners own 608,000 hectares, that is, 72.3% hold 2.5% of the land. He says that the “agricultural structure of Chile is characterized by hypertrophy of the extremes.” See also IBRD & FAO, p. 100, “Farm Size and Land Use.” This breaks down farm sizes and percentages of irrigation and percentages of land owned. The farm sizes of 100-1000 hectares seem to be the most underutilized.

economic unit. Ownership of land has been a tradition and a way of life rather than a commercial activity. It still remains a status symbol, the new rich who buy land do not seem to apply their entrepreneurial background to the farm. The landed class assumes that it is entitled to a certain standard of living and it draws handsomely on the proceeds of farm operations regardless of the financial position. This attitude results to some degree in disinvestment and in inefficient farm operation. Methods are handed down by tradition and the technical know-how on the farm lags far behind the comparable know-how of industrial managers. This situation, like almost everything else in Chile, is changing; the younger generation is coming to the problem with economic tools. But this is a problem in itself, for capital goods are expensive, interest rates are high, loans are for short periods, and labor costs are very low. If one analyzes one's farm operation, one concludes that it is still cheaper to use men than machines.⁶⁰ Some economists seem to describe disparagingly this class as being against mechanization because they want to preserve a rustic charm.⁶¹ No matter the degree of truth in this it is still uneconomic to mechanize. The lack of an entrepreneurial attitude does militate against capital investment, against the economic allocation of crops; it allows prize show cattle to graze on the best land, and the savings if any to go into conspicuous consumption or into more land as a hedge against inflation.

The Inquilino

Regardless of the economic headaches experienced by the landowner, he is still at the more desirable end of rural society. Agriculture supports about 40% of the population and directly employs 30% of the labor force.⁶² This figure has been declining, although the real number has risen by 45% since 1930. The rate of population growth in Chile is 2.5-6%.⁶³ There has been the characteristic move to urban areas. In 1940 52.5% of the population was urban, by 1952 it was 60.2%. The national rate of rural illiteracy is 40.9% and it rises in the Central Valley under the feudal conditions of the *hacienda* system.⁶⁴ Malnutrition is a major problem with beans often the only protein consumed. Unions

⁶⁰ From correspondence with farm manager in Chile.

⁶¹ A. Baltra, *El futuro económico*, p. 44.

⁶² Contrast this with the fact that agriculture and forestry in 1958 provided 13.6% of national income. The 1950 figure was 16.3%. Merwin L. Bohan and Morton Pomeranz, *Investment in Chile* (Washington, D. C.: U. S. Bureau of Foreign Commerce, 1960), p. 53.

⁶³ *Ibid.*, p. 39 for sources. Chile has the third highest growth rate in Latin America, yet ranks thirteenth in density.

⁶⁴ *Investments in Chile*, p. 44.

have had very little success.⁶⁵ Traditionally the *inquilino* has never dared vote against his master's choice. The diversions of farm life have been gambling, rodeos, sex, violence, and alcohol. Alcoholism is a major problem. The brightest escape to the slums of the cities, and the level of efficiency has not increased with the percentage decline in farm labor. With labor so cheap and few machines, there is little skilled labor.⁶⁶ The lot of the *inquilino* has improved slightly of late; the government has a minimum wage law and seeks to a greater extent to guard his welfare. One of the rights the *inquilino* won over the ages was the right to be free from eviction, but this needed security did not increase incentive. The *inquilino* has both defenders and detractors. One view says that God made rich and poor, and that the *inquilinos* are dissolute, ambitionless, and happier with the way things are. McBride describes them as very adaptable workmen and shown to be hard working and inventive when they have become small holders. Discussion tends to bog down on the matter of environment. It is apparent that the *inquilino* is bred to a very servile status.

Government Policy

In contrast to its ailing agricultural sector, the rest of the economy has taken more contemporary prescriptions. The depression of the thirties hit Chile disastrously; in 1932 she went off the gold standard. Inflation became a fact of life. Various policies were implemented to thwart the depression. The development of industry was given priority. The public sector rapidly expanded; the government owned the railways, airlines, petroleum, and two-thirds of the electric power. In an effort to protect the country complicated economic policies evolved. High duties were placed on imports, foreign industrial products were limited. Differential exchange rates were first used in 1932. The World Bank team states that the effect of these rates used in the period of 1947-1951 "had the effect of a.) keeping prices low, b.) creating confusion among producers, and c.) distorting the pattern of production."⁶⁷ Barter agreements which brought in agricultural products damaged the confidence of farm producers.

The government fixed food prices to protect the standard of living of the urban worker. This made farming unprofitable which discouraged

⁶⁵ Butland, *Chile*, p. 37.

⁶⁶ An Economic Commission for Latin America (ECLA) study shows that out of 4000 economically-active people in rural areas, 3000 are *inquilinos* and 110 are skilled workers. U. N. EcoSoc Council, ECLA, *Analysis of Some Factors Which Act as an Obstacle to the Increase of Agricultural Production* (E/CN. 12/306) (1953).

⁶⁷ IBRD & FAO, p. 143.

capital investment. At first the regulations covered general categories, and thus did not distinguish unlike products. As different groups brought pressure for an adjustment of their particular situation, the regulations grew more refined. Soon they became hopelessly complex. The "rules of the game" were changed so often that prediction became impossible, market forces lost meaning.⁶⁸ What to grow became a gamble rather than an economic calculation.

Most observers blame government interference for the stagnation of agricultural production. René Silva, a Chilean economist, stated that its participation was erroneous to begin with, but incompetence was the norm and it regulated areas that had not even been investigated.⁶⁹ In 1956, there was a policy change and the controls on commodity prices were lifted. In 1958, however, it was necessary to re-impose them because a bad crop year made prices shoot up.

The Chilean agricultural scene is characterized by great need of investment, concentration of ownership, lack of skilled workers, feudal attitudes, government controls, and under-utilization.

Prospects and Proposals

Reasons for Agrarian Reform

Agrarian reform is often treated as the panacea for Latin-American ills. The need for it in Chile is almost too obvious. Whether or not Chile will have a basic land reform is a question of power. The significance of an agrarian reform lies more in its redistribution of power than in its redistribution of land. A technical and economic approach often loses sight of this underlying reality. Economic man can envision selling his land for a fair price, but real man has difficulty envisioning losing his prestige and prerogatives, as it is almost like losing life itself. Especially in Latin America, man tends to maximize prestige rather than profit. Before examining the realities of power in Chile and its implications, an attempt should be made to set out the basic reasons for agrarian reform.⁷⁰ In reality, the question is not "to reform or not to reform," but how much, how soon, and by what means. The arguments for reform run along political, economic, moral, and social grounds.

⁶⁸ See the chapter on the Rule of Law in F. A. Hayek, *Road to Serfdom* (Chicago: University of Chicago Press, 1944).

⁶⁹ Silva, *El futuro económico*, p. 114. He also points out that government services grew more than production. Government services increased 54.1% and production 45.9%. Page 116. *Investment in Chile*.

⁷⁰ In using the expression "agrarian reform" for this purpose, it will be broadly defined as a concerted action to change land ownership, which would in the case of Chile require expropriation.

The rationale of the political argument is survival. Unless concessions are made by the privileged few, they will go under in a wave of revolution. President Kennedy expressed this in one of his quotable phrases: "Those that make peaceful revolution impossible will make violent revolution inevitable."⁷¹ This argument has long been used in Chile. McBride, the keenest foreign observer, felt this strongly in the nineteen-thirties. One of his chapters ends with the dramatic statement: "the days of the latifundium are numbered".⁷² This argument of survival assumes that change toward distributive justice is somehow inevitable, that the landholders are blocking change, that it would be in their long-range interest to divest themselves of some wealth in order not to lose all, and that subdivision will avoid violence.

In Chile, the rural population is waking to the fact that its votes could effect change. From the standpoint of partisan politics, it becomes a practical matter to try to win this segment of the vote. Presumably, this newly-enfranchised group favors an amelioration of their conditions through reform.

The survival principle is no longer simply national in its application, but international as well, as it has become a policy in the Cold War. Reform is treated as a means to prevent Communism from taking over Chile and thereby ending Western interests and destroying a Western society.

As we have seen, Chile's lagging agricultural production is a drain on foreign exchange and a brake on the rest of the economy. The system of land tenure can be shown to be a cause of much of the inefficiency and under-utilization. Most land-reform programs have experienced a drop in production after reform, and then a gradual rise. This is not sufficient economic reason to reject change, especially in Chile where it is doubtful that there would be a decrease, since production is so far below potential. The United States has also declared it will use its surplus commodities to make up the deficit during the period of re-adjustment.

Reform is a requirement of the Alliance for Progress. Fulfilling this requirement would bring monetary aid which would be an economic benefit to Chile.

The system of land tenure has developed a society in which there is a great waste of human resources. The highly unequal distribution of wealth has created a very unfavorable social climate. This is expressed in alcoholism, illiteracy, incest, malnutrition, infant mortality, etc. The

⁷¹ *New York Times*, March 14, 1962, p. 1.

⁷² McBride, p. 277.

inquilino has little initiative; he cannot control his own destiny. With a revised relationship to the land, a different kind of society would emerge with regenerated attitudes.

Everyone draws on the moral argument for support and clothes reasons with righteousness. But as a practical means to change, it has not been sufficient unto itself. Moral reasons have existed since the beginning, but the twentieth century has brought new concepts to Chile which carry with them greater urgency. Time has brought ideas about the equal rights of everyman and notions that disparity of wealth is somehow wrong. Man looks at the land situation and describes it as "unjust," and few question that label.

Perhaps the most obvious source of morality is the Church in this predominantly Catholic country. The recent papal encyclical, *Mater et Magistra*, sanctions land reform.

On the secular side, the Alliance for Progress itself has a high moral tone. In the Preamble of the Charter of Punta del Este one finds "a common effort to bring . . . broader social justice within the framework of personal dignity and political liberty." Another moral source is the Chilean Constitution which envisioned land subdivision and a greater share for the people in the workings of democracy. This Jeffersonian concept regards small farmers as broadening the base of democracy and forming the backbone of a free society. These ideas all contribute to reform's being viewed as intrinsically right and just.

History of Land Reform in Chile

Talk of land reform in Chile is probably as old as the arrival of the Spanish. The Spanish Crown envisioned modest holdings in the New World, but its distant attempts to create this pattern were futile. It has been pointed out that under various royal decrees property really did have a "social function."⁷³ Ownership of farm land carried with it the obligation to till the soil and remain on it. If these conditions were not met, the person forfeited his title. This concept today would be considered hopelessly radical.

At the time of Independence, Bernardo O'Higgins attempted to establish the family farm. This attempt, like others, failed; the aristocracy had no interest in the small plots and the *inquilinos* could not pay the small amount required. The family homestead persisted in people's minds as the alternative to the *hacienda* system. There was the notion

⁷³ José María Ots Capdequí, *Instituciones sociales de la América Española en el período colonial* (Buenos Aires: Ed. Universidad de La Plata, 1934). These decrees were never effective.

that every citizen should own a portion of the *patria*. This school of thought found direct expression in the Constitution of 1925 in Section 10-14.⁷⁴ Its first progeny was a law which established the *Caja de Colonización Agrícola* (Bureau of Agricultural Colonization).⁷⁵ This organization was to colonize virgin land or land bought on the open market. It also could expropriate within specified limits, a power which to this day has not been used.⁷⁶ The plan was that the *Caja* would be funded at the start and then would operate with capital repaid it by colonists who bought land on easy terms.⁷⁷ Some early progress was made, but inflation soon made repayment nugatory, and the heavily-forested virgin lands of the South required heavy capital investment. New legislation in 1935 sought to put it on a firmer basis, but it had little real effect. Between 1940 and 1950, no new colonies were created. The World Bank team in 1952 complained that the meager resources of the *Caja* were being used to maintain the original colonies and to explore new possibilities. The organization had become more of an extension and soil-investigation service.

The basic reason for failure had been the unwillingness or inability of governments to put the *Caja* on a sound financial basis. Up to 1958, 82 large holdings of 434,233 hectares had been acquired and 3,343 holdings sold to colonists.⁷⁸ This figure contrasts with 200,000 landless families in Chile.

Since 1958, the new administration claims that it has distributed more land than the total of all previous years.⁷⁹ In 1960, new decrees with force of law bolstered finances and stepped up operations. A large amount of land owned and operated by the government was turned over to the *Caja*. With this land and other public lands and the land the *Caja* already holds, there is a total of over one million hectares.⁸⁰ This or-

⁷⁴ This section reads: "The State shall look after the proper division of property and the constitution of family homesteads." (author's translation). Reference to this section in *Actas Oficiales* is found at pp. 86, 87, 88, 95, 97, 98, 100, 101, 102, 104, 105, 106, 107, 111, 122, 123, 138, 377, 338, 390, 477, 481, and 482.

⁷⁵ Law 4496, December 10, 1928.

⁷⁶ McBride states that the grant of this power was the major factor in the downfall of the Ibáñez regime. *Op. cit.*, p. 271.

⁷⁷ The first colony was given over to German immigrants who were to serve as models of the self-reliant farmer. Also, the *Caja* established a few government-managed collectives. Colonization of new land is the most inoffensive way to establish more family units, but colonization outside the Central Valley will never be enough to cure the ills of the *hacienda* system.

⁷⁸ *Investment in Chile*, p. 222.

⁷⁹ Presidential Message to Congress, *El Mercurio*, January 17, 1962.

⁸⁰ Thomas F. Carroll, "The Land Reform Issue in Latin America," *Latin American Issues — Essays and Comments*, ed. Albert O. Hirschman, New York, 1961, p. 189. (Hereinafter cited as *Latin American Issues*.)

ganization has been handicapped by having a low priority in a country with money problems. It has been limited by the fact that great capital outlay is needed for land clearing, housing, irrigation, communication, and machinery. Inflation, by destroying the *Caja's* original plan of self-perpetuation, undermined its true aspirations.

Power

Whether or not an agrarian reform will be instituted is a question of power. In Chile's case, real agrarian reform is so basic that all the strands of the social fabric must stretch to the new shape. It is not a question that can be adjudicated within a framework of existing rules. Rather, it means a change in the rules themselves and this is a political process. Those who want agrarian reform must get the power to do it, or convince those with the power that it must be done. Before the economist presents his plan which treats reform as a technical matter, some examination of the power equation should be made. To analyze power in Chile one should deal comprehensively with the classes, groups, and political parties. One can categorize in this manner but due to the variety of views and pressures, it becomes highly complicated. For example, all the members of one social class do not belong to the same political party, nor is all the Church in the same party. What follows is a superficial look at some of the groups and classes.

The landholders' power today is greatly limited, both individually and collectively. Some of their influence derives from the momentum of their many years of ascendancy. Institutionally, their power resides in the legislature. The nature of this power is generally negative and obstructive, expressing itself by emasculating progressive legislation or refusing to grant funds to the executive. The President's veto power checks Congress from going off on its own. Today, the Chief Executive is not himself a landholder but an industrialist, and this is a factor that should not be overlooked. Class has a relation to agrarian reform which deserves comment. The *hacienda* system stemmed from a long Spanish tradition which created a certain refined way of life and a spiritual repose. Anyone from this class who considered changing this had to doubt that he was doing the right thing. It goes beyond the selfish doubt brought on by the fear of destroying one's own class and one's own way of life. One brought up in this environment could rationally view the *hacienda* as an outpost set against the vulgarity of industrial materialism, a defender of the sanctity of the family, an institution that bred genuine charity, a promoter of the arts, and a stronghold of gentility. Turning to the other side of life, one reasons that the poor are better off in a childlike state of nature, and that God made rich and He made

poor. Besides, poverty is something that only the outsider seems to notice. So, in a sense, to be of this class was to be by definition against change. But recent years have witnessed a deterioration in its position: industrialization has eroded its power; its children have gone into the world of commerce; and the very inadequacy of the agricultural sector has helped to cut its economic power. There is now sufficient reason to accept change, as what is to be defended is no longer so valuable. At a recent session of the landholders' powerful organization, the Sociedad Nacional de Agricultura,⁸¹ a vote was taken on whether or not to support a proposed constitutional amendment which would permit deferred payments for expropriation. A change in landholder thinking can be seen by the fact that the result was a tie.⁸²

These old landed families have remained upper class mainly in the social sense, rather than the power sense. This seems to be a natural concomitant of economic development that the aristocracy of the traditional society shifts from a position of power to a position of social status. The power shift in Chile, though, has gone in part to their progeny in the corporate and banking worlds. This capitalist class, which also contains the self-made and the foreign-born, is allied by kinship and respect for private property. This class tends to have the same paternalistic and authoritarian attitudes. Centralization of the power at the top is seen by the fact that many boards of directors for different companies are composed of mainly the same people. *El Mercurio*, the respected newspaper which supports these interests, has come out for an agrarian reform with the proper safeguards.⁸³

The middle class is essentially the creation of the industrialism of this century and does not have the stable tradition of merchants and craftsmen. For this middle class, reality has grown grimmer each year, and its impatience grows stronger. In Chile, all the leaders of the left come from this group, as do the Marxist professors. This group likes government paternalism. It professes complete reliance on the government, so much so that every individual failure becomes a failure of the government.⁸⁴ The frustration of this group adds an important element to the equation of power.

⁸¹ McBride describes this organization, which was founded in 1838, at page 228.

⁸² *El Mercurio*, January 14, 1962.

⁸³ Editorial, *El Mercurio*, December 26, 1961, p. 4.

⁸⁴ In Chile, one out of eight persons holds a government job. For information on the middle class see Victor Alba, "The Latin American Style and the New Social Forces," *Latin American Issues*, p. 43; W. Guzzardi, "The Crucial Middle Class," *Fortune*, Vol. LXV, No. 2, (February, 1962), p. 98.

Some traditional groups, such as the Church and the Army which are crucial in other Latin-American countries, are not disposed to interfere. The Church since the thirties has departed from a reactionary position and is now strongly advocating reform. A pastoral letter in September, 1962, took frank account of the misery of the majority of Chileans. The Church has also initiated its own agrarian-reform programs, dividing up its land and organizing cooperatives. The labor movement is strongest in mining and weakest in agriculture, but its power to strike is an important factor.

The Communist Party in Chile is strong and Chileans have the idea that their local Communists are not like other Communists. There is a good possibility that their candidate could be elected in the Presidential election of 1964. This very possibility acts to pull the right, which now holds power, toward the center in order to attract dispirited democrats away from the far left.

Certain psychological aspects deserve mention, as they affect the mood of the country. Chile has talked for at least thirty-five years of agrarian reform. This will deprive any actual land reform of its dramatic impact, though one could argue that it will have been so long in coming that surprise will be impact enough. A cynicism pervades Chilean attitudes toward talk of reform and toward actual laws, which, though well drafted, fail to be effective. The newspapers report that this and that problem are being studied, and that proposals by groups are being made.

Inflation appears impossible to control and the lot of the average man fails to improve. A sense of discouragement and a cynical outlook are part of this power picture, a part which could lead the voters in 1964 to seek a radical solution to their problems.

Acquisition

There are two distinct steps in any large-scale land reform program: the first step is to acquire the land and the second is to do something with it.

Two historical methods have been used to obtain land. One is by force and the other is by law. For purposes of analysis, one can conceive of a scale with the status quo at one end and revolution at the other and expropriation at the mid-point. One can dismiss the status quo as being an impossible goal to maintain, but the opposite end of the scale deserves some attention. In considering the inaction in Chile, one wonders whether a violent revolution would not be the better, almost by

virtue of being the only, answer. Given landholder recalcitrance and peasant impatience, one is tempted to assume that there is some direct relationship between blood-letting and the degree of land reform, so much so that one could set up a direct ratio between the spilling of blood and tenure change. Yet, history has demonstrated that this is not true. In fact, a case can be made in Latin America that revolution accomplishes little, and that Bolivia, Mexico, and Cuba still have the same percentage of disparity in landholding as their neighbors who have used the legal method.⁸⁵ If this argument is well founded, it undercuts a major rationale for the method of force. Proponents of revolt would have to place significance not on the amount of land that changes hands, but the social impact that the change brings. But legal change is no less capable of social impact. Viewed in its most noble hopes, the route of force would sweep away a reactionary class, abolish a bureaucracy, redistribute the land without the capital loss compensation requires, and bring a healthy change in attitudes which would release a new constructive spirit. As we have discussed, one of the great potential values of popular revolution is its potential for mobilizing a nation to work for common aims. As in the case of Mexico, it can act to shake things loose, so that the base of opportunity is broadened.

Even maximizing these ideal effects and abstracting out the Cold War, the situation in Chile by no means requires violent revolution. Each country must be examined according to its own conditions and its own circumstance. As we have discussed, what the implementation of land reform has reflected is a power shift that made the reform possible. If the power transfer is solidly based, the society will institutionalize this change.⁸⁶ With Chile in delicate balance poised for a shift of power, internal re-adjustment toward the left could bring about a solid land-reform program. The legal way has the advantage of not sacrificing human life; revolution seldom stops at killing only the "unworthy," and especially in non-colonial countries it can build up divisive forces that can conflict for generations. Another recent advantage that acts to facilitate agrarian reform is the fact that it has become the thing to do; the United Nations publishes books on its progress. A peaceful "revolution" in Chile's case would strengthen a constitutional system which

⁸⁵ Oscar Alvarez Andrews, "La reforma agraria de la América Latina en la práctica," *El Mercurio*, December 20, 1961. This article seeks to demonstrate with figures that the pattern of disparity in the revolutionary countries is still as great as those that have used the legal way. The author concludes that the revolutionary path gains some time, but this is more than offset by the loss of "liberty, lives, and human dignity."

⁸⁶ E.g., Puerto Rico. Compare Guatemala, whose land-reform gains were nullified when the Arbens government was overthrown in 1954.

is democratically conceived and capable of fulfilling its intrinsic intentions.

Assuming the legal way to be the better way, we can turn our attention to the other side of the scale. Running from the status quo to the important mid-point of expropriation, there are certain less-drastring measures that can be used in the hope that they will achieve the desired social ends. Laws can be passed to encourage greater capital investment, rental rates can be regulated to improve the tenant's position, formal leasing arrangements can be improved, better access to the courts can be provided when a contract is broken, taxation can be used to encourage the best alternative use, etc. Chile has tried many of these relatively-moderate measures, but none can be said to have fulfilled the hopes of the proponents of subdivision. It is worthwhile to examine two areas which offer opportunity to force "natural" subdivision.

Taxation is a method that can be used to hasten the natural subdivision of the land. Unfortunately, the same "political reality"⁸⁷ operates in this area, and the distance between proposal and law, theory and practice is often great. Along with land reform, the system of taxation in Chile is the area considered to need reform most. Two basic kinds of taxation can be used. One taxes the land and the other taxes the income from the land. A progressive rate can be applied to either of these taxes. This is a contemporary method used in democratic societies to distribute wealth more evenly.

With the emphasis on combating under-utilization, taxation of the land's potential productivity theoretically would act to prevent this neglect. If the owner did not produce, then the taxes would be prohibitive and he would have to sell the land, presumably to one who intended to use it. Using a progressive scheme would place a greater burden on the larger landholder and would further force subdivision. The problem with this method is in the difficulty in evaluating land productivity. This calls not only for comprehensive soil analysis, but by its very complex nature is liable to work inequities. Only Finland and Germany seem to have had a measure of success with this method and that can be attributed to their thorough evaluations. The Organization of American States is now completing in Chile a very impressive aerial survey project. This is producing for the first time complete maps, and information concerning soils, irrigation, forestation, etc. Formerly, due to lack of manpower, tax agents had to rely upon maps provided by landholders. Now, however, a great deal of coordinated information is available, and the problem becomes one of application.

⁸⁷ This expression has lately appeared in the *New York Times* (February 28, 1962).

The other method is to tax real income that is derived from the land. This eliminates the problem of land evaluation, but in this case it would fail to encourage production in a society that is not basically productive-minded. To impose a progressive tax here would decrease incentive among the group from whom high production is most desired.

Chile has a real-estate tax based on assessed value.⁸⁸ It varies from province to province and includes fixtures like bridges which have special rates. The average tax rate for the whole country is 1.9 per cent of assessed value.⁸⁹ This assessed value tends to be very low, and runs behind inflation. In 1959, the government tried to increase assessments across the board by 140 per cent, but the clamor was so great that the increase amounted only to 40 per cent. In reality, this is an unimportant tax.

In the income area, Chile has instituted a method which avoids problems of rating potential, yet attempts to encourage capital investment. Prior to the tax year of May, 1959, to May, 1960, the farmowner declared a presumed income which was equal to 10 per cent of the assessed value of the property. Beginning with the new tax year, any person owning a farm with a total value of 50 times the annual living wage (*sueldos vitales anuales*)⁹⁰ in the same municipality has to keep books in accordance with the Internal Revenue regulations and declare his real income. At this point, the incentive is inserted as the government taxes only that income which is taken off the farm. That which is re-invested is not taxed. Those farms valued below 50 times the annual living wage continue on the 10 per cent basis.⁹¹ The annual living wage rises much more rapidly than assessments.

Inheritance taxation is another method that can be used to force the break-up of large family estates. Chile has no estate tax, but it does tax gifts and inheritance. The tax varies with the value and the relationship. 14 per cent is the maximum for close relatives and 40 per cent the most if distant kinship is involved.⁹²

The tax approach sounds better in theory than it works in actuality. The best and simplest measure would be a stiff real-estate tax. This

⁸⁸ "Structure and Taxation of Agriculture in Chile," *Conference on Agricultural Taxation and Economic Development*, ed. H. P. Wald, (Cambridge, Mass., 1954), pp. 337, 343.

⁸⁹ *Investment in Chile*, p. 267.

⁹⁰ This is an amount that the government fixes periodically as the basic wage. It has the advantage of being adjusted to inflation.

⁹¹ Law 13,305 of April 4, 1959 (*Diario Oficial* of April 6, 1959, article 95, 2).

⁹² Law 5427 of February 26, 1934 (*Diario Oficial* of February 28, 1934) as amended by law 6334 of April 28, 1939 (*Diario Oficial* of April 29, 1939), Article 35.

suffers from the same "political reality" as does the matter of assessments. Proposed in the new tax reform is a steeper real-estate tax, but this again is still a proposal.

It has been suggested that since Chile is dependent on water, control of water could mean control of land and land use. Because of the topography, it is doubtful whether this method could break up the *hacienda* system. Chile has no large river system which would easily subject itself to centralized control. The good agricultural land lies in the valleys. The *haciendas* own the rich silt land of the valley floor, and own on up the mountain sides which are used for grazing. Small streams run from the upper snow fields down to the valleys, so in many instances each *hacendado* owns and controls the total length of his own stream. To try to control each one would not only be difficult, but a mis-allocation of scanty administrative resources. Though it would not seem to be a method to force great subdivision, it is one more method that does have some application where there is a larger river with different estates depending on it, where the government has already financed irrigation works, or where control over smaller holders is desired.

As one approaches the mid-point of expropriation, the legal system begins to feel the strain. In Chile, expropriation has been treated as equivalent to the loss of virtue. Regardless of any moral sentiments, the right of the state to take land is a part of the legal system. The greatest legal obstacle to a sweeping land reform lies not in any illegality in claiming the land, but rather in paying full compensation. It is a rare country that can pay for large land takings in cash. Most land reform programs have used some device to avoid paying full compensation. Bonds and then inflation have offered one way. Puerto Rico, for example, put teeth into a neglected law that forbade anyone from holding over 500 acres. The price of land dropped drastically and the government, backed by federal funds, turned out to be the only buyer for vast *latifundia*.⁹³ The legal system will be maintained through some kind of compromise which will provide a margin of satisfaction to the affected. It is not only the landless that constitute a potential threat to an obtuse legal system, but also the landed, if they do not achieve their margin of satisfaction. In a peaceful society desiring to maintain respect for law and achieve economic development, each group has its contribution to make. It would be a mistake to alienate or destroy this group in Chile as it contains much ability and education. It is important to note that some of the impulse for constitutional reform is coming from this sector.

⁹³ Thomas Mathews, "The Agrarian Reform in Cuba and Puerto Rico," *Revista de Ciencias Sociales*, (Puerto Rico), Vol. IV, No. 1 (March, 1960), p. 107.

Under present conditions, the *inquilinos* will never be able to buy land on the open market. To achieve democratic goals under the given conditions, Chile needs land, and it needs land in the Central Valley. This means expropriation and that the land will pass into the hands of the government. Whether or not it leaves the possession of the government becomes a question of what is to be done with the land once released from the control of the large landholders.

The announced goal in Chile has been the family homestead, the ideal of individual proprietorship for the many. The purpose of the 1960 legislation is "to provide under the good husbandry of the settler and his family, an adequate livelihood for them to enable them to make progress in farming."⁹⁴ There is an opposite trend in Hispanic-American thought that stems from centuries of state paternalism. This is reflected in social legislation which is designed to re-inforce the status of the *inquilino* as a wage earner. To make a broad categorical distinction, one can distinguish views of agricultural organization on an individualistic or a collectivist basis. The typical *inquilinos* are collectivized in that they are not affected either by the risks or benefits of ownership, respond to a centralized control and work on land owned by one legal person and entity. The main thrust of the ideals of the society as expressed in the constitution and party platforms is in individualistic terms.

These two strains will give impetus to the type or types of farm units that will replace the *hacienda* system. Before examining the implications of these two views, it might be best to consider what the *inquilinos* themselves want. Of the total agrarian population 50 per cent live on the large estates, 20 per cent are rural workers with unstable jobs, and 30 per cent own some land.⁹⁵

It is clear that at least some want their own land, as the United Nations report describes "petitions" and McBride, "land hunger".⁹⁶ It is also clear that there is an understanding of private property, unlike the Huberman and Sweezy account of the Cuban sugar-cane cutters who were unable to comprehend the concept of individual ownership.⁹⁷ It

⁹⁴ Decree Law No. 76, *Reorganizing the Land Settlement Fund*, 5 February 1960, Title III, Section 41. The president was granted the power to execute decree laws in certain restricted areas by Law 13,305 of 1958.

⁹⁵ *Agricultural Taxation and Economic Development*, p. 337, 343.

⁹⁶ United Nations, Department of Economic Affairs, *Progress in Land Reform*, New York, 1954. At p. 43 an answer to the U.N. questionnaire reads, "Although petitions have been received from small farmers and peasants urging the expropriation of badly cultivated farms, and have been reported on favorably by the competent technical agencies, such petitions have not been acted on owing to lack of government funds".

⁹⁷ Leo Huberman and P. M. Sweezy, *Cuba: Anatomy of a Revolution*, second edition, New York, 1961.

is probably the case, however, that both routes would be acceptable as both would be improvements over the current arrangement. A collectivist solution could with explanation develop the Socialist rationale that everyone shared in the land.

Proceeding on the basis of the family farm goal, the fact to be realized is that the land cannot be divided so that every head of a family will be a landowner. Some are going to be land-holders and others are going to be hired laborers. This requires a selection process. Under the circumstances, the market cannot do it. Chile's 1960 legislation, which reorganized the land settlement fund, provides for this with an elaborate point system. Preference is given on the basis of such criteria as agricultural experience, number of children, education, experience in a position of responsibility, and residence on the land to be colonized.⁹⁸ This system at least has the advantage of being based on provable facts, rather than committee opinion. There are threshold qualifications which require the applicant to be married, between the ages of 21 and 60, and of sound moral character.⁹⁹ This last standard permits non-objective considerations to play a role in the selection. If one pursues the line of reasoning that political considerations will cause discrimination, then one is led to some collectivist idea based on the notion that the land belongs to all people. Chile has had experience with state-owned and state-managed farms. According to the president they have been a failure, so much so that this land has been turned over to the *Caja* for distribution to small holders.¹⁰⁰

The logical course of action open for the development of an individualistic agriculture is to step up rapidly the operations of the *Caja*. This is what the new legislation passed in November, 1962, really does. It changes the name of the *Caja* to include the not-so-magic words "agrarian reform", and uses the same basic apparatus.

One of the immediate problems that arises here concerns the competence of the *inquilino* to manage his own farm. Foremen and those who have taken some responsibility have a better chance of success as they have handled money and have a concept of planning. This type is not accustomed to getting his hands dirty by doing any physical labor himself, however. He also does not understand enough about mechanics and electricity to operate and maintain equipment. Given the sociological pattern in Chile that whether the owner owns one acre or a thousand he sets himself off from the laborers, this type probably would hire labor. The laborers are good workers, but they have never had

⁹⁸ Section 49.

⁹⁹ Section 47.

¹⁰⁰ Decree with force of law, No. 49 (1959).

to make agricultural decisions or use money or plan for the future which would give them an understanding of reserves.

Many sharecrop on the side, but the value of this as an experience in individual enterprise is vitiated by the fact that the landowner often supplies the animals, tools, seeds, and other equipment. Usually, the one-half that is theirs is sold to the *patrón*, so that they lack marketing experience. They have practical wisdom, but it is of an inadequate, traditional nature.

Another aspect is that this land is presented to them cleared; there is no struggle involved. It remains a question whether the mere ownership of land will change an easy-going man into the hard worker which profitable farming demands.

The hoped-for advantage in creating owner-operator units is that the *inquilino* will be given incentive. This is the unpredictable aspect, as there is not sufficient precedent to judge this. The social side should be satisfied and all the blessings of ownership should accrue to him. Theoretically, he will be willing to give work to create capital formation, he will have the long-run point of view and use his leisure to build up capital in the form of fences and irrigation. The sharecropper on the other hand traditionally takes short cuts when it comes to fertilizer and conservation.

Chile has experimented with almost every type of agricultural unit, the corporate farm, the government-owned farm, the cooperative, the family homestead, the feudal estate, etc. Experience from these has no doubt been beneficial, but it would be a mistake to attach too much significance to their success or failure when tried as an experiment. The United States government in its aid program has given assistance to Chilean agriculture. The Chillán Plan is a pilot project supported by a number of organizations and run by the Agency for International Development (AID) and the Chilean government.¹⁰¹ One region has been intensively developed, and can serve as a valuable model. The principle here has been decentralization of operations, with Chileans making all decisions in the fields, and with U. S. technicians simply acting in an advisory capacity. The success of this project strengthens the argument that the Chilean farmer is eager to adopt modern methods and is capable of individual initiative.¹⁰²

¹⁰¹ *Investment in Chile*, p. 58

¹⁰² *Ibid.* Another example of AID activity points up some of the difficulties involved. AID agreed to construct many little farm villages between Maule and Llanquihue, each having a school and a shopping center. The main delay has been the failure of Chilean monopoly manufacturers to supply such things as nails, concrete, plumbing items, etc.

Before discussing some collectivist alternatives, one must realize that due to the particular situation government will be involved no matter what course of action is followed. Extension services will be absolutely necessary if the inexperienced owner-operator is to survive and contribute to the national economy. Cooperatives on the marketing and machinery level are still compatible with and essential to the goals of individual ownership.

Aside from the legislation designed to stimulate the growth of family farms, there has been a development of social legislation which has extended into the agricultural sector to benefit the tenant farmer and the sharecropper. Benefits have been extended in the form of a minimum wage and social security and some protection has been given to the sharecropper who normally works on a 50-50 basis. None of this affects his ownership status, for he does not own the house in which he is born and dies. This legislation in no way compares with that enjoyed by the urban worker. It is inconceivable that this legislation would be increased to the point where it would match that of the industrial worker, and thus by this method improve the poor living standards and the social ills.

The collectivist alternative that is open to the government is to take over the *haciendas* directly, retaining farm managers as government employees (*sovkhos*). The government then could apply the investment directly and conspicuous consumption would be eliminated. There could be variations within this basic framework: the title to dwellings could vest in the occupant. This could assist any program for the improvement of housing conditions. Puerto Rico publically operated the large estates, but there were profit-sharing plans for the workers.¹⁰³ In a plantation agriculture it is obviously important from an economic standpoint not to break up the large estates. Chile does not have an analogous plantation product like the sugar of Cuba or Puerto Rico. The vineyards are small in area and are labor-intensive. It should be noted that Puerto Rico's agriculture has really been the failure of its peaceful revolution, and after this stage of government operation, the emphasis was put on the family-farm settlement.¹⁰⁴

Another argument used to advocate large holdings is that the tendency in a developed society is toward larger units, and that if the land were subdivided, it would only return to big units. The middle stage should be leapfrogged. The Cubans feel that they have skipped this stage. Again, Cuba with her export product, sugar, cannot afford to

¹⁰³ United Nations, Department of Economic Affairs, *Progress in Land Reform*, New York, 1954, p. 85.

¹⁰⁴ *Ibid.*

lose economies of scale. This argument is not so relevant to Chile as the agricultural section is so unproductive, and the social reasons for subdivision outweigh any theory about historical trends.

An argument voiced to support a collectivist arrangement is that there has been no private ownership tradition. This is one of the reasons why Mexico had some success with her *ejidos* and why Russia experienced so much opposition in organizing collectives by dispossessing peasant landowners. Chile falls somewhere between these two experiences. No large peasantry will be dispossessed, and the *comunidades* are generally isolated and represent a very small percentage of the total. In this theory, perhaps Chile's position would lead to a median solution compromising the individualist-collectivist dichotomy in a cooperative which shared profits among the participants.

The Proposed Constitutional Amendment

A commission of the political parties in power met in the last months of 1961 and framed a proposed constitutional amendment.¹⁰⁵ This was a response to the pressure for reform and an attempt to overcome the obstacle of prior compensation. This amendment was to be placed in Article 10-14, following the paragraph dealing with the subdivision of the land. In the original it read "The subdivision of rustic property etc.," as it was felt that this gave greater focus to the agrarian problem. The proposed amendment shows how the commission and the President would like to proceed in the field of agrarian reform.

If with such object abandoned rustic lands, or those that are notoriously badly exploited under the normal conditions predominating in the region for lands of analogous possibilities, are expropriated by reason of public utility, the owner has to be previously given no less than 20% of the indemnification which is referred to by the second paragraph of No. 10 of the present article, and the rest in equal semestral quotas, within a period not to exceed ten years, with adequate interest.

This form of indemnification can only be used in accordance with a law that would permit the expropriation to be challenged before a Special Tribunal, whose decision will be appealable before the Court of Appeals, and that establishes a system of annual readjustment of the remainder of the indemnification with the object of maintaining its value. New expropriations can neither be initiated nor effected if there exists a default on the payment of credits due on previous expropriations realized in accordance with the fifth paragraph.

In the Law of the Budget the necessary items for service of said credits will always be attended to, and its matured quotas will be serviced, aided by the National Treasury, in order to liquidate every type of obligation.¹⁰⁶

This is not the plain and stirring language that will send anyone to the

¹⁰⁵ Liberals, Conservatives, and Radicals.

¹⁰⁶ *El Mercurio*, January 17, 1962 (author's translation).

barricades; it represents a very cautious compromise. The landlords will receive an initial 20 per cent which is relatively high.¹⁰⁷ They are protected against inflation as their annual payments will be adjusted to real value. Aside from this adjustment, they will also receive interest. The cautious attack is levelled against those who have abandoned their land or are "notoriously" inefficient in exploiting it. One would have to interpret this proposal as meaning a reasonably well-exploited estate would have to be compensated fully and immediately. To judge "abandoned" offers no great problem, but the problem of the quality of exploitation could be very difficult after the most obvious cases are expropriated. At least this proposal attacks first the area where the greatest number of people agree that something must be done.

Chile's Agrarian Reform Law

In late November, 1962, an agrarian reform bill finally emerged from the legislative process.¹⁰⁸ The first article of this law places upon each landholder the legal obligation to exploit his land fully. Having placed the relationship between land and society in this new context, the legislation then sets forth the organizational structure for the implementation of agrarian reform.¹⁰⁹ Absorbing the old administrative machinery, the *Caja* now becomes the *Corporación de la Reforma Agraria* (CORA). Heavy emphasis is placed upon technical investigation and planning. Regional agrarian development plans are to be created, approved, and coordinated by central, government organisms.

Next, expropriation receives extensive treatment.¹¹⁰ Expropriable land includes: abandoned or notoriously ill-exploited properties, up to 50 per cent of land that is irrigated as a result of state financing, land encumbered by debt auctioned to credit institutions, *minifundia* for the purpose of consolidation, and even well-exploited land that is necessary to carry out a determined program of division. The regional plans will determine what is to be expropriated. Ample protection is given to those expropriated in the form of notification, compensation, and the right to retain part of their land. Special courts of agrarian expropriation are to be created to adjudicate these cases.¹¹¹ Compensation is determined by the commercial value, rather than the assessed tax value. The legislation permits a maximum 20 per cent immediate cash

¹⁰⁷ Cf. Mexican (1920) bonds at 20 years and 5% interest; Bolivia, 25 years at 2%; Cuba, 20 years at 4.5%; Venezuela, 20 years at 3%.

¹⁰⁸ Ley 15,020 (November, 1962).

¹⁰⁹ Arts. 3-14.

¹¹⁰ Arts. 15-16.

¹¹¹ Art. 29.

payment and equal installments over a minimum period of ten years.¹¹² The bonds will draw four per cent interest and will be adjusted to inflation. Since land values in Chile anticipate price increases, this means that the owner will, in effect, be compensated twice for inflation. The proposed amendment to the Constitution which would permit deferred payment, however, is still pending in the Congress.¹¹³

The tools of measurement which seek to make the system workable are the *unidad económica* and the *sueldo vital*. The often mystical concept of *unidad económica* is defined as that amount of land which will permit a family "to live and prosper with the rational application of their labor."¹¹⁴ It is the basic unit of subdivision, and has other applications. For example, *latifundio* is defined as more than twenty of these units,¹¹⁵ and an expropriated landholder is allowed to keep for himself the equivalent of ten *unidades económicas*.¹¹⁶

On January 4, 1963, twenty families ceremoniously became the first beneficiaries under the new law. The *Caja*, in its thirty-five year existence, created 4,880 new units. Assuming sufficient financing, CORA plans to create 5,200 new properties in 1963, and 7,500 in 1964.¹¹⁷ The relevant figure for comparison, the number of landless, can only be roughly estimated. It is estimated that the creation of 150,000 units would "solve" the agrarian problem in Chile. From the manpower standpoint, there is no doubt that over 300,000 units could be created.¹¹⁸

This is not the total picture, as there have been private and Church initiatives in land distribution. The Church, a large landholder, has begun to divest itself of land. It is establishing a cooperative system among present tenants, who will, under the guidance of an administrator, gradually assume total responsibility.

¹¹² Art. 11a.

¹¹³ Recent proposals have called for 10 per cent and 15 years. *El Mercurio*, January 9, 1963.

¹¹⁴ Art. 11b.

¹¹⁵ Art. 17.

¹¹⁶ Art. 18.

¹¹⁷ Various projections have appeared. These were made public by the Ministry of Agriculture at the beginning of the New Year. *El Diario Ilustrado*, January 1, 1963.

¹¹⁸ According to CEPAL studies, (*Suplemento Estadístico, Boletín Económico de América Latina*, Vol. VI, Santiago de Chile, I de 1961), the rural population of Chile is 33% of a total population estimated in 1960 at 7,600,000, or 2,627,000 persons, half of whom are men, 1,313,500, and 55% of whom are between the ages of 16 and 65, or a total of 748,695 potential property holders. According to the *III Censo Agrícola Ganadero* (1955), there are a total of 151,082 *explotaciones agrícolas*. Taking this as roughly the number of property holders and subtracting from 748,695, this would leave about 600,000 without land.

The legislation is essentially an extension of past colonization policy, designed to develop a rural middle class. The legislation is well drafted, and has a technical aura which leads its supporters to style it as scientific, rather than "demagogic", reform. CORA inherits the *Caja's* large reserve of government land, and will use this first; consequently, it will be some time before the unwilling *latifundia* are threatened. The basic problem remains one of emphasis and capital. These are interrelated as many government activities compete for scarce capital. Even assuming that sufficient funds could be found to honor the bonds, the drain of annual payment would inhibit the development of the country. There also is the probability that this money would leave the country or not move into domestic capital investment.¹¹⁹ Now that those to be compensated are so sophisticated about past methods of avoidance, some creative thinking must be done to arrive at a program which would satisfy not only both parties, but the national interest as well. A plea to money to be patriotic is unrealistic and inconsistent with the market principle. The conditions should be created to hold domestic capital.

¹¹⁹ One recent study of saving and consumption of large landholders concluded that these landholders had an average income roughly 75 times that of the average rural family and saved about 25% of this income. In the U. S. by comparison, the wealthy farmers in 1936 had incomes almost 15 times the average rural family income and saved about 74% of their income. See Marvin Sternberg, "Investment and Consumption Patterns of the Large Landholders," unpublished M.A. thesis (Berkeley: University of California, 1961).