I
Bronze Age

Mikhail Rostovtzeff (1926) has provided the classic description of how, during the early centuries of our modern era, Rome's wealthiest landowning families managed to throw taxes onto the classes below them. This prevented any "middle class" of "yeomanry" from emerging out of the ranks of the *curialis* class. Much the same phenomenon is found in the East Roman (Byzantine) empire from the 9th through 11th centuries. In England, warlord Norman kings parcelled out the land in huge tracts to their companions and barons in exchange for the latter providing money and services, only to see this reciprocity of obligations cut away by the Magna Carta in 1215, by the Uprising of the Barons in 1258-65, by the enclosure movements, and by the Glorious Revolution of 1688. Today, large developers in many cities and countries typically are reimbursed for their campaign contributions by receiving tax breaks for their property.

Internationally, repressive regimes gain support by turning over mineral and land rights to foreigners, while running into debt to build infrastructure to speed the process of denuding their forests, depleting their soil and mines, shifting the land from producing domestic food grains to export crops, and leaving holes in the ground where their national patrimony once lay - while taxing local populations to provide the roads, port facilities and cleanup costs needed to provide these to investors at as low a cost as possible, so as to provide as large a surplus as possible, to be capitalized as a basis for borrowing the money to set the process in motion. This is the strategy of international finance capital and the industries and agribusiness it has drawn into its sway.

In each society the winning of tax-exemption by well-placed landholders and natural-resource appropriators appears as a singular, nearly accidental result of jockeying for position, but looking over the broad sweep of history, a common pattern emerges spanning over four thousand years, extending back to the Middle Bronze Age, 2000-1600 BC. Typically a politically weak ruler is confronted with a strong aristocratic leader mobilizing the leading families behind him. Mesopotamian rulers countered this by periodically restoring "economic order," that is, by issuing Clean Slate proclamations, but this practice did not survive into oligarchic Greek and Roman antiquity.

Social functions of archaic land tenure

Self-support was the key to the economic survival of archaic communities. Recognizing this fact, the guiding Bronze Age spirit (dare we say ideology?) was basically one of mutual aid in a militarized context. Citizens were assured the means of self-support on the land in return for providing military service in the draft, often supplemented by various types of seasonal *corvée* labor.

Most tribal and other precommercial land tenure was communally allocated. Citizenship status typically was defined by the allotment of land rights so as to enable citizens to support their families. The objective was not anything so modern as to enable citizens to make money by leasing out the land for rent, much less to exploit it commercially by hiring landless cultivators. Certainly the aim was not to transfer land into the hands of absentee buyers. Rather, the objective was largely military. Armies were composed of all able adult males from the landed families. In addition to their military role, their labor might be requisitioned for communal tasks such as building dikes or harvesting grain on public lands. Newcomers, refugees seeking asylum, and the growing domestic population were either provided with their own land, or became dependents in the households of landholding families, or had to emigrate to colonial offshoots (typically after serving in the army to obtain veteran status).

Archaic communities restricted the sale or forfeiture of subsistence landholdings in order to preserve self-sufficiency for their members. Selling one's land, or even borrowing against it, impaired the ability of citizens to perform their communal duties, for it meant a loss of self-support. Archaic interest rates were beyond the ability of many debtors to keep up with, and property once mortgaged was often lost. This is why Mesopotamian communities, where interest-bearing debt is first attested, long blocked the land from being pledged and forfeited for more than merely temporary duration. If it had to be sold as a result of need, relatives or neighbors typically had the right of first refusal and the sale was only temporary, being subject to redemption. This redeemability sanction preserved land in the hands of local communities and their kinship groupings rather than letting it be forfeited or sold to outsiders, including merchants and royal officials.

Borrowing money to acquire land, the hallmark of modern real-estate development, was unheard of.

How the Sumerians maintained economic balance

Southern Mesopotamian land tenure involved numerous types of property (Diakonoff 1982 provides the classic review). Rural land was allocated to citizens as their means of self-support. Individual lots appear to have been redistributed periodically, normally to the heirs of its customary holders. These lots could be alienated temporarily as pledges for loans or other obligations, or even sold for emergency money, but were expected to be redeemed by the debtor, his relatives or neighbors as soon as economic conditions permitted. Failing such redemption, they were restored to their customary owners when rulers proclaimed "economic order" - *amargi* in Sumerian, *andurarum* in Akkadian and Babylonian, *misharum* in Babylonian, and *shudutu* in Hurrian, culminating in the biblical *deror* legislation of Leviticus 25, popularly known as the Jubilee Year.

Sumerian communities also set aside land in the form of perpetual holdings for their local temples to provide sustenance for their administrators and nonagricultural dependents who could not work in agriculture because of being widowed or orphaned, or because of illness, blindness, birth defects or other infirmities.

Turning over this land, as well as herds of animals and other assets to their city-temples to enable them to be self-supporting was the Sumerian alternative to taxation. These endowments were permanent, making their public holders the first documented landlords, at least in the sense of absentee landlords collecting a net usufruct from the land. These temple and palace lands thus represent history's first documented "permanent" property devoted to producing a regular rent-usufruct. Most of this land was let out on a sharecropping basis, usually via palace managers as middlemen, settling at a third of the crop by the end of the third millennium. Widowed mothers and orphaned children were placed in handicraft workshops to weave textiles for exports or perform other tasks compatible with their infirmities.

Whereas private land transfers were only temporary in duration, land transfers to the public sector were permanent. Temple lands could not be alienated, nor were those of the palaces, which emerged after about 2750 BC in southern Mesopotamia. Palace rulers purchased lands from the communal groupings (as documented for instance in the Stele of Manishtushu in the Akkadian period c. 2250 BC).

Merchants and other well-to-do citizens acquired town-houses, which they could buy or sell freely, including individual floors or rooms, without being subject to any repurchase options or other redistributive measures. Inasmuch as these properties were not part of the subsistence sector, there was no pressing need to redistribute them when rulers "proclaimed order." Their ownership was left intact, as were commercial silver-debts as opposed to consumer barley-debts. The overall economy thus was allowed to grow, while taking measures to prevent its wealth from being used in ways that would undercut the rural sector's long-term balance. *Only subsistence lands were protected from permanent alienation, so as to preserve a self-supporting rural population intact alongside a commercial urban economy.*

What concerned rulers was that in addition to being a misfortune for debtors (who typically lost their status as citizens when they lost their land), foreclosures caused fiscal problems for the public sector. Creditors wanted the land's usufruct, often at the expense of the palace in the case of royal sharecropping lands leased in exchange for a third or more of the crop as rent. Debtors were tied to their creditors virtually as servants, and hence were not available for the army or to provide labor services and pay fees.

To rectify this situation, rulers cancelled back taxes and the debts stemming from them, and also reversed the forfeitures of personnel and land to collectors and other creditors. These "restorations of order" were proclaimed at least once each generation, most typically when new rulers took the throne or when they celebrated their thirtieth anniversary of rule, or occasionally as economic and military conditions warranted.

Communal land tenure helped guarantee the supply of labor services to the public sector as part of the reciprocal responsibilities between community members, the palace and its administrative bureaucracy. This reciprocity was interrupted by absentee land acquisition on the part of members of the royal bureaucracy. *Tamkaru* merchants collected taxes and often, in the process, establishing financial claims on community members by paying on their behalf the moneys due - arrears which mounted up at interest.

Military disruption also disturbed the circular flow of products and money. When men were called away from their land to fight, or when fighting devastated the land, some families fell into arrears and ended up pledging their servant girls, children, wives, or cattle to creditors. In time they pledged their lands, or more accurately, their crop usufruct, for until a labor market developed in the second millennium, debtors were left on the land, where they were needed to plant and harvest the crops for their creditors.

The first response of Hammurapi and other Babylonian rulers to the land-foreclosure problem was to proclaim laws preventing creditors from interfering with the "originally" envisioned balanced order. Even more important, they proclaimed *misharum* acts, that is, Clean Slates. These edicts were designed to restore the idealized and symmetrical "straight order," or at least the *status quo ante*, by returning to customary holders the lands that had been forfeited for debt or, what virtually was the same thing, sold below market price.

This put local big-men and other members of Babylonia's royal bureaucracy in their place by taking away the land with which they had aggrandized themselves at the expense of the palace. Many of these lands had been foreclosed in settlement of unpaid tax obligations. Moneys owed by these officials to the palace likewise were annulled, enabling a new, equitable and debt-free fiscal and financial start to be made. This restored the ability of localities to perform the military duties with which they were charged and on which the palace depended.

Public temples as communal corporations

An archaeological review of Bronze Age Mesopotamia throws light on the debate over the "tragedy of the (unmanaged) commons" - the alleged tendency for communalistic forms of property to be unregulated, unmanaged and indeed, unmanageable. Communal resource-users are deemed unable to devise rules to restrain overgrazing on the land and other selfish exploitation of communal resources. A corollary is that communal ownership is not conducive to capital investment.

These ideas, as enunciated by Hardin (1968), have been used to defend the idea of private property's natural superiority. They convey the impression that no workable means have been found to allocate capital expenses communally, even by charging equitable user-fees. Capital improvements on the land, to say nothing of handicraft industry and its workshops, are supposed to be made only by replacing communalist use-rights with a regime of private ownership. A natural selection thus appears to be at work favoring privatization over communalistic modes of property rights in land.

If this idea is wrong, it is wrongheadedness with a political purpose. The purpose is to distract observers' eyes from the inception of economic enterprise in the public sector, starting with the Sumerian temples and palaces. An examination of economic history ranging from 3rd-millennium Sumer through the Byzantine empire reveals the reverse of the Hardin thesis. *Privatized property is what turns out to be unmanageable and inequitable!* In a nutshell, a narrowing layer of landowners and other wealthy families monopolize the economy's wealth and, in the political sphere, divest themselves of fiscal responsibility to contribute to their societies' survival.

"In the beginning," large-scale capital accumulation necessarily was communal, if only because individual families lacked the capital to invest in major undertakings. Starting with the land, this communal investment extended to irrigation systems and the accumulation of herds, culminating in something unprecedented and not subsequently repeated: public-sector investment in handicraft workshops and transport systems (boats, transport canals and donkey caravans). What is remarkable is that this was done in ways that were compatible with personal entrepreneurial drives. Individuals could benefit as temple or palace merchants, collectors and other public positions. Indeed, their opportunities for gain followed mainly from their status as public servants.

This public-sector mode of Sumerian investment has not been more broadly acknowledged mainly because of the political winds of our times. It is ideologically out of favor to notice that the commons almost never are unmanaged, as Hardin (1991) was later to acknowledge. Communal land normally is open only to community members, not to everyone. In exchange for access to land, members traditionally are obliged to provide reciprocal duties to the community, *e.g.* in the form of labor services (both in the military draft and corvée labor) or money to cover the cost of someone else providing these services. They also are obliged to pay user-fees to cover the costs of making capital improvements such as irrigation systems, and for the labor of public professional workers. The organizers of these services in the first instance - and hence, the first recipients of their user-fees - were the temples and palace, not private providers.

Where Sumer went further than, say, medieval England in undertaking public investment was in endowing city-temples and their workshops with capital resources to pursue export production and related commercial surplus-generating activity. Many of the resulting commercial gains were reinvested, making temple (and later, palace) investments the world's major capital accumulations of the Early, Middle and even Late Bronze Age, 3500-1200 BC.

Earlier generations of archaeologists were prevented from recognizing this complex dynamic of public enterprise by their private-enterprise blinders on the one hand, and on the other by the temple-state theory popular in the 1920s, holding that the temples owned all the land. Instead of perceiving Sumer to be the mixed economy that it was, speculation focused on an either/or choice between individualism and nearly despotic statism. Bronze Age Mesopotamia was made to appear as an entirely different continuum (which Marxists called Oriental despotism), not as the inception of western economic civilization and enterprise. Since the 1960s, however, the researches of Igor Diakonoff and Ignace Gelb have shown that communities endowed their temples with land and other resources to undertake large-scale investment as corporately demarcated bodies, set apart to perform particular economic and ceremonial functions, including the first systematic surplus-producing market activities.

Civilization's first formally *economic* investment thus was public. As it became privatized over subsequent centuries - indeed, millennia - the result was not a takeoff as much as it was a descent into anarchy. Once wealth became irreversibly centralized in the hands of the Few, economic polarization destroyed the traditional economic order. Royal restorations of order and equity became a thing of the past. This undercut the archaic social value system based on ideas of righteousness and equity.

Anarchy and corruption are precisely what Hardin and his fellow private-property advocates insist tend to result from communally managed assets. This may seem true of Soviet-type bureaucracies and third-world kleptocracies, but the earliest documented public enterprise had checks and balances to prevent such mismanagement. Indeed, cuneiformists have traced how the inception of writing was developed in response to the need for account-keeping as a check on the behavior of bureaucratic administrators. The auditing of annual balance sheets was part of an institutional complex of practices that included annual meetings and their attendent festivities, the invention of standardized weights and measures, and the standardization of economic phenomena in general, so as to regularize impersonal bulk exchange on equal terms for all buyers and sellers. Uniform rent rates were established, along with interest rates, incomes and professional fees for public occupations (as specified in Hammurapi's laws), and contractual formalities. These economic phenomena mark the watershed beyond the looser, interpersonal ("anthropological") exchange. Products of the explosive flourescence of Mesopotamian public enterprise, they were woven into the economic and social cosmos so smoothly as to become part and parcel of Bronze Age natural law.

This Mesopotamian flourescence brought into being, and legitimized, the social values associated with gain-seeking enterprise. Such enterprise was created on a relatively large scale mainly because it required a quantum leap to establish its new norms. If it began in "households of the gods" rather than in individual households - even those of big-men and chieftains - this was largely because the Bronze Age was still an epoch when well-to-do individuals were expected to be openhanded. They consumed their affluence conspicuously rather than accumulating wealth as a lever to gain yet more wealth, without limit. Social values had not yet developed to the point where community members were willing to permit individuals to disenfranchise citizens by monopolizing subsistence lands and reducing citizens to irredeemable bondage. It was to preserve the functioning of their communities economically intact that rulers regularly reversed private subsistence-land appropriations by "restoring order."

Historians are permitted - are indeed, obliged in the light of today's economic strains - to ask whether the privatization of Bronze Age public enterprise had a salutary effect or contributed to economic devolution and disintegration. Did the emerging class of personal landholders develop a protestant ethic, thereby pulling their civilization ahead to a higher plane? Or, did they indulge themselves in the traditional ethic of conspicuous consumption to the point of interfering with society's economic linkages and basic needs? Did the emerging aristocracies tend to invest their wealth productively, or to sink it into the acquisition of more land and dependent clients, and to indulge in warfare and looting in a drive to gain from foreigners the revenue they no longer could produce at home?

Looking over the economic dynamic emanating from Bronze Age Mesopotamia as constituting a long wave, one can see that *privatizing the debt system and establishing monetary claims on property was the major lever that led to privatizing the land.* As needy plot-holders came to pledge and forfeit their customary property rights as collateral for debt, personal debt became an irreversible lever transferring the customary communal rights enjoyed by the Many (the right to self-support on the land) into private property for a narrowing Few. This financial dynamic brought anarchy and disorder, until the idea of order itself was redefined and indeed, inverted from the traditional system.

The idea of "freedom" underlying Clean Slates

Outright "free" landownership, in the sense of cultivators being able to alienate their lands free of communal restrictions, was slow to come into being. Bronze Age Mesopotamia's idea of freedom was not one of free markets, but of protecting the rural community from the adverse effects of wealth and economic polarization. Instead of the idea of order being one of freedom for creditors to foreclose irreversibly on the lands and bond-pledges of the economically weak, it was one of rulers restoring economic order by annulling personal debts and reversing debtor forfeitures of family members and property. This restored the means of self-support on the land for the population at large.

In practice this concept of social order and liberty meant that the land — and hence the economic freedom to be self-sufficient — was inalienable, much as America's Bill of Rights holds up certain personal freedoms as being inalienable. Families could not sell their lands under duress without recourse, nor could they forfeit them permanently to creditors. As a result, the earliest inroads of private absentee landlordship were only temporary, save to heads of state (beginning with members of Sargon's family).

The idea of property

The Middle Bronze Age — the half-millennium from 2100 to 1600 BC — is one of the most important transition periods in the history of civilization, precisely because it was a time of decentralization and breakdown. In such periods forward momentum is lost, creating a power vacuum which affords a flexible environment for new structures to emerge.

What gave this half-millennium its quality of "middleness" was the dissolving of centralized public ownership and direction of industry, enabling enterprise to become increasingly private in character. Civilization's first "stock market" developed for shares in the revenue generated by temple properties. The rights to crop revenues on earmarked lands were inherited and subdivided, bought and sold. A real-estate market developed for townhouses, and also for farmland.

Yet there are no Bronze Age words for property as such. The French legal cuneiformist, Emile Szlechter (1958:121), finds that although there are terms and regulations for deposit, pledge, pawn and so forth, "One will look in vain in the Babylonian sources for a general orderly definition of the notion of property. . . . although the expressions *lugal* (in Sumerian) and *belum* (in Akkadian) are habitually translated as *proprietor*, one does not find in the Sumerian and Akkadian vocabulary a term which designates 'property' in the abstract sense of *law of property*." The closest the Middle Bronze Age came to using a term for property was what cuneiformists translate as "domain of the lord," indicating temples as the first permanent absentee owners.

Land tenure thus had not yet evolved into fully autonomous ownership as the modern world knows it. For one thing, Bronze Age land had too many public-service obligations attached to it to be deemed "private" in the modern sense of the term. It also lacked one of the most important hallmarks of private property: the ability to be sold freely or otherwise transferred outside of its local kinship grouping. "Without doubt," concludes Szlechter (*ibid.*:135f.), "it is not merely a matter of chance or poverty of the Sumerian and Akkadian languages that has left us no term for property in the actual sense of the word. It really appears that this notion has not entirely disengaged itself to the degree found in Roman or modern law."

Military acquisition of land by palace rulers and warlords for their private family use

Temple officials of the old order had been losing ground to the palace and its nominees at least since the 25th century BC. Circa 2360, the ruler Lugalanda is found in control of the major Lagash temples, as was his successor, the reformer Uruinimgina. A generation later the conqueror Sargon of Akkad placed members of his family (female as well as male) in key priesthood positions throughout southern Mesopotamia. His successors purchased large tracts of hitherto group-held land (Gelb, Steinkeller and Whiting 1991:16f., 26). Subsequent rulers continued this practice.

Meanwhile, new sources of revenue developed in the wake of bureaucratic decentralization, leaving authority — and in time, land and even temple workshops — in the hands of local administrators, chieftains and big-men. In a word, temple offices were privatized.

With regard to the Inanna temple at Nippur during this period, Richard Zettler (1992: 441, 461) makes the point that "the family archive of the chief administrator is mixed in with records of the temple operations." In a similar vein Stone (1987:17f.) finds that business was conducted increasingly in the private apartments of temple administrators, and adds that "a few offices had associated prebend fields," but the best estimate of their value "is that they entitled the owner to a share of the sacrifice." By the Isin-Larsa period (2000-1800 BC) these revenue flows "had become a kind of private property which could have been passed on to the heirs of the owner."

Temple offices and their revenues were being organized along the lines that modern economists would call profit centers. Each produced an earmarked usufruct. As this revenue was bequeathed to family members, it came to be subdivided into smaller and smaller units. The earliest contracts with regard to temple offices "record the control of whole or half offices," notes Stone (1987:21), "suggesting that these offices had either only been in the family for a short period of time or that they were neither heritable nor divisible before the time of the first contracts." Her hypothesis is that "the offices became heritable and divisible at the time they were given to these families," whose possession of substantial agricultural land suggests a rural foundation.

As background for how this state of affairs may have come about, Stone (1987:72ff., 124) observes that the *Lamentation over the Destruction of Nippur* describes how, during the reign of Ishme-Dagan (1953-1935 BC), "active warfare penetrated the city itself." The city was attacked, most likely by Amorite tribesmen who had entered from the northwestern Arabian-Syrian desert. Their first incursions into Mesopotamia are cited during the reign of Shu-Sin (2037-2029), who built a long fortified wall (the "Martu" or Western wall) to keep them out, but which the Amorites breached in large numbers in 2022.

What may have stopped the fighting, Stone suggests, was the decision by palace rulers to buy off "the leaders of these rural, tribal groups. . . . To stem future rebellion, the king moved them into the city, provided them with a large area of urban real estate, and co-opted the leaders with gifts of real estate and temple offices." Probably Iddin-Dagan (1974-54) and his Isin successors "initiated a program designed to pacify the countryside. Like the British during the mandate period, they brought the tribal leaders into the cities where they could be controlled." The chieftains were given temple positions, or at least the prebend revenues traditionally attached to these positions.

One result was to divorce temple revenue flows from the actual performance of temple functions. Indeed, it would have been a travesty if each individual receiving temple income actually had tried to carry out the associated position for just a few days. Whereas there was only a single *ugula-e* (head administrator) receiving income from the Inanna temple in the Ur III period, "by Old Babylonian times, when up to one hundred may have shared a single office, the ownership of an office can have had little to do with the bureaucratic activities implied by the title," for these titles remained indivisible. There was only one responsible functionary in any given period. Administrative functions thus became separated from the prebend income earmarked to support temple officials. (On this point see also Charpin 1986:62.) Ownership was divorced from management — precisely what Adolph Berle and Gardner Means described in the 1930s as representing the "new capitalism" of our modern epoch!

What was happening was that land, or at least the income associated with it, was passing out of the hands of public institutions to effectively private holders. Based on a study of the clergy of Ur in Hammurapi's dynasty, Charpin (1986:260ff.) likewise concludes that the subdivision of temple prebend incomes must have begun late in the Ur III period. Charpin finds that after 180 to 200 years so many successive bequeathings and partitions of these prebends had occurred that some holders received only a few days' income per year. Typical revenue subdivisions appearing in the cuneiform records are 15 days (1/24th of the 360-day administrative Mesopotamian year), 7° days (1/48th), 5 days (1/72nd), 3 days, and just 1 day per year. "The result, after a century and a half of successive divisions, is an extreme parcellisation of prebends: When we see an individual owning five days of service a year in the Nanna temple, we may conclude that this theoretically signifies that the income is divided among 71 other persons for that year." (The number depends on how many heirs were left by successive generations of each branch of the original family.) The result was an economic organization of temples "as a kind of joint-stock company whose shares have passed into the hands of the town notables." By the first millennium BC this became standard practice throughout the Near East.

Ownership of temple usufruct flows came to be sold with increasing liquidity. Stone (1987:18, 25) finds that after about 1800 BC, temple offices "carried none of the alienation restrictions which applied to the more traditional kinds of property, *i.e.*, fields and houses," for unlike the case with rural subsistence fields, the sale of temple offices was not restricted to one's kinsmen. A new economic class thus came into being: a *rentier* class of temple prebend-holders, history's earliest attested sinecures and absentee owners.

Land transfers occurred through creditor foreclosure

It was largely through debt foreclosure that communal subsistence landholdings were privatized, passing into the hands of public collectors and merchants when cultivators ran into problems. These alienations occurred especially in times of flood or drought, pestilence and,above all, war, when men were called away from the land to fight or when fighting devastated their own land. Most cultivators had little to pledge as collateral except for their family members - their wives, daughters, sons or servants. As an alternative, cultivators looked for something else that could be pledged. The most desirable asset was land.

What creditors really wanted, of course, was the land's usufruct, which they took as interest. Cultivators continued to work the lands that had been foreclosed. Without their labor, the land rights would not have been very valuable to creditors, for in the early centuries of land mortgaging there was not yet a body of "free" (that is, disenfranchised) seasonal labor for hire.

Pledging the land (or more accurately, its usufruct) as collateral for debt led to absentee ownership and, ultimately, to monopolization of the land, turning it into large estates. By the close of classical antiquity this dynamic culminated in the Roman *latifundia*, on which land-use was shifted to grow export cash crops such as olive oil and wine rather than food to support domestic cultivators. Society polarized between rich and poor, creditors and debtors, landowners and tenants. The wealthiest classes managed to avoid taxes altogether, throwing the fiscal burden onto the lower orders of the population. This destroyed the archaic economic and fiscal balance.

Wealthy landowners gained immunity from taxation

When land passed out of the hands of the community into those of outside appropriators, the economy as a whole suffered. One of the first objectives of these rich and powerful individuals was to avoid paying taxes and related obligations. As they gained exemption from the traditional obligation to use their wealth to support the palace and other communal organs, the fiscal burden was thrown onto the community's poorer and less influential members - a trend that has remained characteristic throughout history. Being outsiders, absentee owners shed the communal duties that were part and parcel of archaic communal landholding - military obligations, *corvée* duties, payment of fees and the customary forms of mutual aid. This left a shortfall that had to be made up by the rural population at large.

The palace for its part lost militarily, for outsiders were not subject to local military service. Indeed, their foreclosures removed the debtor's draft status, preventing communities from fielding their own armed force.

Most Babylonian debts were due in the barley-harvesting month, Simann - the third month of the year, corresponding to our own late May and early June. Just prior to the harvest, cultivators found their resources to be at their lowest ebb. Matters were especially serious if a drought or other natural disaster gave creditors reason to believe that debts were about to be cancelled, and tried to anticipate matters by extorting what they could. To prevent creditors from prematurely trying to collect their debts by coercing debtors to pay and then refusing to refund their money when *misharum* was proclaimed, the Edict of Ammisaduqa (§5) prescribed the death penalty: if a creditor "prematurely collected by means of pressure, he must refund all that he received through such collection or be put to death."

As credit became more privatized, merchant-collectors and other lenders sought to make their financial claims immune from these royal restorations of economic order. Indeed, this seems to have become a major objective of aristocratic or oligarchic opposition to royal authority (especially in Rome, if written tradition is to be relied upon). Rulers for their part overrode such attempts, and in the early centuries they emerged victorious. One finds wealthy landowning creditor families emerging in most major towns, only to disappear suddenly from the cuneiform record.

Clean Slate Proclamations

The severe fiscal problems caused by absentee ownership gave rulers good reason to reinforce the traditional barriers to the land's alienability, and specifically to prevent its transfer to wealthy appropriators. This was particularly the case when the new owners were local officials or chieftains assembling power bases of their own. §37 of Hammurapi's laws annulled any sale of rural fields, orchards or houses that belonged to soldiers, commissaries or feudatories. §38 prohibited these soldiers, commissaries and feudatory tenants from pledging their fief-fields, orchards and houses as collateral for any obligation, or deeding them to their wives or daughters. However, §39 permitted property that already had been bought for cash to be resold, pledged for debt or deeded, evidently on the ground that such market property had passed out of the traditional communalistic or public sphere.

These restrictions against alienating the land were part of a long-standing Mesopotamian tradition. Szlechter (1958:133) points out that although pre-Sargonic records attest to land sales, "when the lease-fields become 'private property' they refer only to houses, orchards or fields, whose area is relatively small." The sellers were professional bodies, and the buyer invariably was the palace (Diakonoff 1982:8-19, 36ff., 67ff.). This is not at all the same thing as property being freely and autonomously transferred among individuals acting on their own account, following the dictates of market forces alone.

The most important royal proclamations deterring absentee landlords from evolving into a permanent wealthy aristocracy upheld the idea that the sale or forfeiture of such lands was only temporary, until the next *misharum* act restored the *status quo ante*. It seems that when rulers enacted *misharum*, all tax and debt tablets were supposed to be handed over to the authorities to be broken, along with all land-property contracts. "Astounding as it must appear to our normally skeptical eyes," concludes Finkelstein (1965:244ff.), instead of the *misharum* institution being "a pious but futile gesture," the fact is that "at the promulgation of the *misharum* formal commissions were established to review real-estate sales."

Finkelstein (1969:58) comments on Ammisaduqa's edict and its predecessors that "the provisions of these acts anticipated a certain amount of skullduggery and fraud aimed at circumventing the effect of the edict." One creditor, for instance, tried to collect the amount nominally due on a debt tablet predating one of Hammurapi's four *misharum* acts. The debtor sued and won on the ground that *misharum* had been declared since the document was drawn up. The judges in this case symbolically broke a clod of earth *in lieu* of the tablet, so that the latter should be considered null and void if the creditor ever again tried to collect.

Another way in which creditors sought to evade the royal proclamations was simply to get debtors to waive their rights following a Clean Slate. A Mari text dated to the sixth year of one of Hammurapi's contemporaries, Zimri-Lim, stipulates that "if an *uddurarum* is instituted, this silver will not be subject to that measure" (ARM VIII 33, discussed by Lemche 1979:17, and Charpin 1987:39). By writing this clause the creditor got his debtor to renounce formally any benefit of the debt remission.

Julius Lewy (1958:24f.) cites similar contractual clauses from another upstream town, Hana, during the reign of Kashtiliashu in the late 1700s. One clause contains "a brief reference to an oath pledging the contracting parties not to contest the validity of their agreement by raising claims against each other." If the complaining party seeks to recover his land, his head is to be "smeared with hot asphalt." Inasmuch as Kashtiliashu's date formulae indicates that he "established (social) justice" at least twice, Lewy infers that it was considered necessary to insert this clause into the contract because "without such a statement, the landed property... might have been liable to reversion to its former owner." Such clauses are banned in Ammisaduqa's edict of 1646, but are echoed finally in Rabbi Hillel's *prosbul* clause formulated nearly two thousand years later to circumvent the biblical Jubilee Year debt cancellations called for in Leviticus 25.

Anticipating that some creditors might try to perpetrate such deceptions by having their claims "drawn up as a sale or a bailment and then persist in taking interest" (§6), Ammisaduqa's edict voided such documents, thereby annulling the transfers. Creditors who attempted to "sue against the house of an Akkadian or an Amorite for whatever he had loaned him" were threatened with the death penalty, as in §5. (This was just the opposite of subsequent Roman law, which threatened only debtors with death, never creditors!) §7 laid down a similar punishment against creditors who claimed they had not given barley or silver as an interest-bearing loan, but rather as an advance for purchases or equity investment for mutual profit, or some similar form of credit exempted from debt cancellation in §8.

These Clean Slates restored liberty to bond-servants (while returning to their former owners house-born servants who had been pledged to creditors). Thus, not only was the land restored to its traditional equilibrium; so were family structures. But just as land tenure was undercut by the rural usury process, so were the customary family lineage structures.

The "fictive adoption" loophole

Prior to being able to mortgage their land rights, all that poor cultivators had to pledge was their family members. They became bond-servants to the creditors until the debt could be repaid. Inasmuch as interest rates typically mounted up at 33 % per year by 2100 BC, rural debtors often were unable to redeem these pledges. So disruptive was this loss of family members that the laws of Hammurapi dictated that bond-servants should be freed after three years, probably on the logic that creditors got their capital back in this time. Gradually, sanctions against pledging the land for a longer period of time were loosened, beginning with the "fictive adoptions" found in Babylonia by the 18th century BC and spreading upstream along the Euphrates to Nuzi by the 16th century.

It has become an axiom of history that wealthy individuals (usually creditors) tend to appropriate land by stratagems that public policy and laws have not anticipated. Under traditional Mesopotamian land-tenure arrangements, land could not be sold or pledged as collateral for debts, but could only be bequeathed to the heirs of its customary holders. Middle Bronze Age creditors thus could not purchase it directly or get it pledged as collateral for loans on more than a temporary basis. Their solution was to take a strategic detour, arranging to inherit the land upon the death of its seller/debtor, by being "adopted" as his legal son and heir. This ploy became one of history's first documented legal loopholes, opening the gates for major inroads to be made against the principle of self-sufficiency for landed kin-groupings.

The genius of this loophole was that it appeared to reconcile their radical objectives with the conservative force of communal traditions, with the compliance of debtors who were driven to the wall by economic need. In exchange for money to get by, debtors adopted their creditors as sons. Sometimes this entailed having one's daughter marry the creditor or his son. It probably was from such marriage and adoption arrangements that the Babylonian proverb arose, "A creditor has many relatives." When the debtor-landholder died, his adopted creditor-son inherited the land, to the exclusion of the natural sons.

Fighting over the inheritance loophole became a major focal point for legal wrangling over the transfer of property, most notoriously in Nuzi ca. 1500-1600 BC, but apparently already in the Old Babylonian period, according to Stone (1987:24). Describing the practice of "fictive" adoptions, she explains how an indebted Babylonian cultivator would adopt a rich creditor from outside his family, perhaps even from outside his community. The usual ploy was for the creditor (who might well be older than his debtor-adopter) to "pay off his adoptive father's debts and in exchange would inherit the property." The underlying reality, of course, was that the creditor ("son") adopted the debtor as "father" to get his family land-rights. It took some centuries for this process to be abbreviated so that lands could be alienated without the creditor-buyer having to go through the charade of being adopted by the debtor-seller.

In time this charade was dropped altogether, although Szlechter finds in the Old Babylonian period "no case of land appropriation by a family who retains possession and whose proprietor can dispose of it while living." This epoch thus was still far from developing the idea of private property rights in rural land. When such exclusive rights came into being, it was essentially in a negative way, in that it represented a loss of cultivation rights by the population at large, and also a loss to the palace.

In her subsequent study of *Adoption in Old Babylonian Nippur* (1991:2f.), Stone elaborates how Babylonia's "shallow patrilineal lineages" succumbed to the spread of inheritance contracts in which "the adoptee takes on the social role of the son or daughter," standing to receive land rights through inheritance "while the adopter [that is, the debtor] may receive an adoption payment [the *de facto* loan]. . . . the text may describe the monthly and annual rations which are to be delivered by the adoptee to support his new father until his death," these payments representing compensation for granting the land's use-rights as a legacy. The witnesses to such contracts are listed, and "the penalties for breaking the contract are spelled out."

One such contract finds a debt-ridden cultivator, Ur-Lumma, unable to support himself, yet "prevented by contemporary alienation restrictions from converting his property into cash through sale." He solved the problem by adopting the well-to-do Lu-Bau, son of a prominent temple official, "as his heir in exchange for support. The text includes an oath in which Ur-Lumma and his heirs foreswear all claims to Lu-Bau's new inheritance." For Ur-Lumma, the only way to alienate his property rights to land-use and its usufruct to obtain cash and security in his old age was through the back door of adoption; for Lu-Bau, the only way to obtain good property was through this same route (Stone 1991:9f.). As matters turned out, Lu-Bau died without issue. The natural sons of Ur-Lumma pressed their traditional claims to inherit the property and, "thanks to the accident of Lu-Bau's childlessness, they regained control."

The effect was to concentrate land in the hands of an emerging oligarchy, at the expense of poorer lineages. Such arrangements signal the breakup of family-lineage equality of opportunity. Indeed, creditor values historically have been counterpoised to traditional family values; or rather, credit relations become the new basis for kinship arrangements.

The emergence of a landed aristocracy

Hammurapi's feudal-type arrangements were a landmark catalyzing the privatization and secularization of Babylonia's economy. To pursue his ambitious plans of conquest, he needed to win the adherence of local chieftains. His strategy was to co-opt them into the royal bureaucracy, at the price of delegating broad authority to them. "Many of these new bureaucrats," finds Yoffee (1979:13), "appear to have come from mid- to upper-level elites of the community who had certain connections to resources embedded in local organizations that the crown wished to mobilize." Thus, whereas centralization of the economic surplus in the public sector had characterized southern Mesopotamia in the third millennium, Hammurapi sponsored its decentralization. This was the essence of his "feudalism," placing authority and, in time, property in the hands of local administrators, chieftains and headmen as the successors of the earlier temple and palace bureaucracies. In a nutshell, hitherto public offices were privatized.

Many Babylonian mortgage holders were public officials, who obtained land by paying the obligations of insolvent cultivators. What they needed to secure permanent rather than merely temporary title was to unseat rulers. This became easier as palace delegated authority to local headmen through quasi-feudal arrangements. Concerned mainly with securing an overall income and source of soldiers, the palace levied obligations on local communities, to be apportioned by their headmen. By classical antiquity these individuals gained enough power to block rulers from cancelling debts and redistributing the lands. The classical aristocracies overthrew kings altogether, replacing them with senates of elders.

Feudalization of imperial authority blurred the distinction between public and private. Rulers leased public land to well-placed individuals in the royal bureaucracy, and let local chieftains administer their territories on the condition that they turn over a specified yield (proto-taxes and contributions) to support the palace and its armed forces.

The idea was to make this decentralized enterprise yield as much to the palace as public enterprise would have done. This autonomy was part of the *quid pro quo* for getting chieftains and headmen to acquiesce in the palace's empire-building, allowing local head-men broad leeway as long as they provided the palace with the same flow of economic usufructs that would have obtained through its own direct management. Well-placed families thus served in effect as public proxies.

Economic polarization inevitably followed from the dynamics of extending local systems to imperial region-wide ones, going hand in hand with a "feudalization" of authority. The basic economic tension in Babylonia stemmed from the fact that although most creditors were *tamkaru* serving in the royal bureaucracy - and, as such, charged with acting in the public interest - they tended to put their own interests above that of the palace, taking the land's usufruct that formerly was available for taxes as payment for their own extensions of credit. Turning crops over to creditors prevented them from being turned over as royal sharecropping rent or sold to the palace.

This was what Hammurapi's laws sought to restrict, forbidding *tamkaru* from taking land from the families of soldiers. Rulers periodically restored the land's *status quo ante* by annulling all claims denominated in barley, that is, personal debts owed by cultivators, including claims for payment by "ale-women" and other public or quasi-public officials, as distinct from the silver-debts owed by and among merchants.

The designers of this system did not plan for the grey area that developed as rural subsistence landholders pledged and forfeited their land-tenure rights to creditors after falling into debt arrears, at archaic interest rates which were beyond the normal ability to pay in near-subsistence economies.

Rulers took steps to counter this development to the extent that they could do so in the weakening momentum of the Middle Bronze Age. Their delegation of authority did not immediately bring into being an aristocratic ruling class, for as just noted, wealthy families disappear after a few generations. Still, the seeds for such a class were being planted. Palace overrides were being undercut.

Summary

Economic individualism and private property emerged as a result of social devolution, not as deliberately thought out progressive policy

With the environmental breakdown and folk-wanderings during Western civilization's first Dark Age, 1200-750 BC, a new, decentralized mode of social organization emerged. In place of the Bronze Age palaces and chiefdoms, warlord bands subjugated local populations. In some areas of Greece, for instance, local Mycenaean palace or temple *basilius* administrators simply kept control in their own personal hands. The protective checks of Bronze Age public oversight of wealth were removed as aristocracies unseated rulers at the outset of classical antiquity. Privatization of debt, landownership and workshops destroyed the traditional social balance in which families were assured the means of self-support. With no rulers remaining to cancel rural debts perioically, redistribute the land and free individuals who had fallen into debt bondage, the well-to-do became predators on the weak and poor.

Gradually, sanctions against pledging the land were loosened, beginning with the "fictitious adoptions" found in Babylonia by the 18th century BC and spreading upstream along the Euphrates to Nuzi by the 16th century.