

## Taxation and Redress in Early Yemen

By SIDNEY SMITH

THERE IS NO TRUTH less often recognized in the study of almost any subject than the importance of understanding the history of the subject itself. No one has more consistently urged the need for such study than Dr. Francis Neilson, more especially in understanding the subject of the rights of the individual. These lines are set down in the hope that he may himself be interested in a few facts that are little known about the administration of economic justice in a remote corner of the ancient world.

Oriental monarchies have, nowadays, a uniformly bad press. Whenever an editorial writer, more particularly in *The Times* of London, wants to abuse some tyrannous system in Europe, "Oriental" monarchs, unnamed, are dragged in, or, if the case is particularly bad, more often than not the Assyrians are mentioned; Byron's words stick in the mind from childhood, and the *cliché* will not lead to a libel. Short reflection might suffice to recall that Eastern monarchies have been innumerable and very different in type. A little reading might show that some have been firmly based on the loyal support of their subjects, and it would not be difficult, in the lands of Islam at any rate, to find a reason for that. The Sultans have in general obeyed the tenets of their creed and Arab custom, essentially equalitarian in questions of personal liberty, by allowing the individual Moslem free access to his ruler. Each case is generally considered speedily and cheaply, bribes included, an advantage more highly organized systems, however perfect theoretically, do not always afford.

## I

EARLY YEMEN was divided into four, and sometimes into more, kingdoms, Ma'in (the southern Jawf), Saba (roughly the modern Imamate), Qataban (rather larger than the Aden Protectorate) and Hadhramawt. Each thrived on the caravan traffic in incense and similar goods, and was able, therefore, to support the immense labor of creating irrigation systems; only so could the seasonal deficiency of water be overcome and an increasing settled population supported.

Any dynast in these kingdoms, whether he inherited the throne or usurped it, was dependent on the support of his people, more especially of the fighting men. The way to obtain that support lay through the administration of the kingdom's resources to the advantage of the majority; that is, by securing to each citizen as great wealth as possible at the cheapest rate in taxation. This, of course, is a truism but it is more important in this instance because the emphasis should be on 'resources.' These were not expressed in terms of any coinage, for then, as now, coinage, after it was introduced at a rather late date, was very restricted, and almost confined to two denominations. The goods that were presumably brought in from Palestine and Syria as exchange by the caravans were necessary imports. Taxes were collected in kind or in labor. In cases where taxation grew too heavy, payment might be a physical impossibility, and constantly mounting arrears irredeemable. Remission was then essential, and some of the inscriptions are decrees dealing with such cases, recorded on stone as a proof of validity.

Mere remission of a tax that has proved impossible to collect is, perhaps, a belated admission of injustice rather than an act of justice. The real interest lies in the machinery employed, and to explain that it is necessary to have a concrete case. Here is a paraphrase—exact translation of the ancient lan-

guage is still impossible—of a decree of a king of Saba, remitting taxes collected earlier in his reign, and stating how an annual valuation is to be made of seasonal produce which must be included with prices received and goods taken in exchange in totals liable to taxation.

Thus replied *Ykrb-mlk Wtr*, king of Saba, son of *Yd 'El Byn*, together with those who were summoned and the 'friends' who have perpetual entry, and the 'boon companions,' the chiefs, and the *nzbt*-officers and the 'collectors' and the *mswd*, all of them, on this wise.

All demands and proclamations and the alms and increases and deliveries of goods that he demanded of them, namely of the Sabaeans and their tribes, are rejected and ended as imposts on his subjects, namely the Sabaeans and the tribe *Yhbblh* and their sons and their allies, their *mswd* and their *qsd* and their dependents—let them post (the decree) up (??) in the north and in the south—as far back as the season (so-and-so) in the year of the eponym (so-and-so), the time when *Yd 'El Byn*, king of Saba, son of *Kariba-El Wtr* constituted the assembly of Saba and *Yhbblh* and caused them to mix so that they might hold meetings and mingle in the town Sirwah, in accordance with the inscribed answer *Yd 'El Byn* returned to them.

Fruits shall be sold unripe among the things for purchase and things returned (*i.e.* goods exchanged) so that they may render their things for purchase and things returned in accordance with their written and verbal accounts.

This reply was made on (such-and-such a date). List of witnesses, (headed by the name of the king of Saba, and ended by that of the 'king' of the settlements).

## II

CERTAIN LEGITIMATE INFERENCES from this document can be reinforced by the consideration of other passages in inscriptions which are not always clear in detail, because the expressions used are not readily translatable through Arabic equivalents. The decree is framed as a 'reply,' obviously to a plea made by certain inhabitants, 'settlers,' of the important city Sirwah, drawn from the Sabaean tribes and principally, it would seem, from the one actually named. These 'settlers' had the right of assembly by themselves and to representation

in the town council of Sirwah from their first introduction into the city in the time of the father and immediate predecessor of the king issuing the decree. During his reign the king issuing the decree had made certain demands upon these men, called in this phrase "Saba and their tribes," (because they were not only Sabaeans but men of the sub-tribes) by way of requisition and edict ('demands and proclamations'), by religious taxes steadily augmented ('alms and increases') and by calls for supplies, probably during a time of war ('deliveries of goods'). The plea was presented to the royal council representative of the whole nation, a significant institution in all these Southern Arabian kingdoms. Such councils can and do exist under many forms of monarchy; there is nothing 'republican' about them, though this is not infrequently stated, but they are, in monarchy or republic, where they exist, organs for insuring the execution of administrative orders and for securing local equity. What is significant in the present case is the right of appeal to such a council by a part of the population of Sirwah.

The royal councils appear fairly frequently in the inscriptions from Saba and Qataban, and are sometimes described, in the case of Qataban, as 'Qataban, that is the *mswd* who attend the assembly, and Qataban, that is, the people.' It was, then, representative of the whole people through a two-fold division, much like the Macedonian division into classes, cavalry—infantry. The word *mswd*, though it is often taken to mean in itself a council, is really a collective plural like *masbaikh*, denoting the body of elders, men with the training and experience to administrate and advise, the senatorial element, with whom administrative officers are sometimes mentioned. The king's officers in the present case were the 'friends,' presumably the active ministers of state as the 'friends' were in Egypt, and those chiefs who accompanied

the king on campaigns, at the hunt and at the table, the 'boon companions,' a term which came to mean something very like 'sot' to the followers of Muhammad, when the institutions of the pagans were reviled. The *nzbt* were men who drew up such official documents as this decree, and were present to perform their duties. The 'collectors' are presumably men engaged in collecting dues from the king's subjects.

But the 'settlers' were themselves represented on this particular occasion, and it is significant that, in the list of signatories to the decree, just as the king of Saba comes first, the 'king of the settlers' comes last. These settlers had been introduced into Sirwah in the time of a king who was one of a line which established Sabaeen control over the incense trade route from about the northwestern border of Hadhramawt as far north as the borders of the southern Jawf. That control was only secured and maintained by constant wars, sometimes against local chiefs who claimed an independent right to levy tolls on passing caravans; the inevitable result of such campaigns was that veteran soldiers had to be rewarded in the normal way of ancient times, by settling them on the land. The only land worth settling soldiers on was confined to the wadis in which well-constructed irrigation systems made settled agriculture, especially the cultivation of the date-palm, profitable; one of the richest areas of the kind was Sirwah. The act of settlement was accompanied by the 'constituting of an assembly' of the place settled, just as before a war or any important act of state an 'assembly' of certain national gods was 'constituted,' so that they might approve the act. The purpose of the constitution was to secure the rights of the settlers both as forming themselves a community and as citizens of Sirwah.

### III

GOVERNMENTS RARELY ABIDE by promises and agreements. It is not much good blaming monarchies in this respect, for

all types of government can be proved to share this characteristic. The means employed for breaking down privileges previously granted are nearly always the same, decrees, 'Orders in Council' or whatever they may be called. There is always, or perhaps it would be better to say generally, a good reason for the first breach, due to some emergency. The first imposition of new taxation is most often ascribed to the need for defense, and the necessity for maintaining an army in the field. Hence the requisitions of supplies and proclamations calling upon men declared free from service and all the other demands which, once imposed, are never willingly relaxed by officers of State and often exceed the ability of the community concerned to pay. In a council representative of the whole nation, the particular position of a relatively small community is not likely to receive careful attention, especially if the administrative and executive officers of State are fully represented. It is therefore peculiarly interesting to find that in this, as in another exceptional decree of the same kind, the first members of the council concerned to consider this plea of the settlers were 'those who were summoned.' This phrase, not immediately intelligible to us by itself, requires interpretation.

In Abyssinia, at any rate until quite recent years, private disputes were settled in public places, but without recourse to any official unless such recourse was specially desired. The disputants would call upon certain persons to act as judges of the question put before them, and the persons thus summoned consented to act in this way as a discharge of their normal duties as citizens. Evidence was given in the form of question and answer, and there were of course interminable speeches; bystanders often joined in the discussion. Such cases amount to something like a *procès verbal*. The aim was to obtain an admission from one party or the other that he was wrong; any

decision by the judges had no other claim to validity than the consent of the disputants. Where such disputes could not be settled by consent, the legal officer of the district appointed by the king would be required, and there was, at least theoretically, the right of appeal to the provincial Ras or even to the king himself.

This accords with very ancient legal practice; the same sort of choice is exemplified in documents belonging to the nineteenth century B.C. from Cappadocia, in which the trade disputes of Syrian and Assyrian merchants engaged in the metal and textile trades were recorded. In such cases two or three men were 'seized' by the disputants, and recorded the pleas and evidence on either side. Binding decisions could only be obtained from the officials representing the governing body of the trading colony, the 'quay house.' The main duty of the persons 'seized,' who had to be scribes or persons who could write, was to see that a proper record was made.

Beduin law retains some liberty of choice as to judges, provided the man chosen is a *qadbi*, a restriction due in part to the religious law schools. In Southern Arabia only one ancient document survives to prove that this system still held good for private law there also, and that is unfortunately only preserved in the opening lines. It is numbered 976 in the great *Corpus* containing these inscriptions, and is in the Bombay Museum. It starts with the names of two private persons, and continues: "Thus replied those who were summoned and the Sabaeans attending the assembly to (so-and-so)." The rest is lost. But that is enough for the present purpose; it serves to show that Abyssinia preserved in this respect, as in many others, customs prevalent in Southern Arabia before the Hejra. The only possible interpretation of this document is that the reply given was a judgment delivered. The persons delivering the judgment, whom we should call judges in a

court of first instance, are simply entitled 'those who were summoned,' men called to act as umpires in a private dispute.

## IV

'THOSE WHO WERE SUMMONED' to the royal council held specially to deal with the pleas of the settlers in Sirwah were probably just such persons as those mentioned in the private case, men nominated by the settlers to hear their grievances and attending the council with the record before them. The case they had to put can be guessed from the text. When originally settled, the new colonists would all have to pay a yearly tax, and the original custom in Southern Arabia seems to have been that the yearly tax on land was paid during a season called (for instance in the inscription no. 3566, line 22, of the *Répertoire d'Épigraphie Sémitique*), 'the time of imposts' (or, literally, 'of things rendered'). But harvests of different kinds do not fall together, and taxes were generally paid in kind. Hardship can be the result of constant payment in kind in dribbles, and no doubt the habits of inspecting officials, and the carriage of payment in kind to the place appointed, imposed variable costs that might ruin a small farmer. In any case the decree implies that one part of the settlers' plea demanded an annual valuation and a single collection of the tax on agricultural produce. The other part was for the removal of additional imposts from which the settlers claimed to be exempt. The decree itself shows that 'those who were summoned' were able to convince the king's council that both pleas were justified.

If the words used are legitimately paraphrased as above, in accordance with the Arabic roots—they have been interpreted to mean the opposite—the additional imposts, even those for temple revenue called 'alms,' were all remitted. The plea for the single collection of tax was settled by a method we should

consider normal, but which, so far as is known from earlier records in other lands, was not practiced in antiquity. The main obstacle, the valuation of the date harvest at the time of the grain harvest for the assessment of tax, obviously introduced difficulties, or perhaps, like other forms of speculation, was never conceived. In the decree the valuation of the future crop is called a sale of the unripe fruit; the amount is to be written, or given verbal account of, when the annual return of income, that is the results of barter or sale, was made. The sale of the unripe fruit contemplated was presumably a nominal one; the only immediate practical effect would be that the tax collector would demand the delivery of the government's dues, probably one-third of the 'price' arrived at, in some form, at some stipulated date. If the 'price,' that is the valuation of the future crop, was a fair one, then full justice was done to the settlers in this decree.

It is interesting to note that, whether in fact the valuations carried out under this decree, probably at some date a good deal earlier than Alexander the Great's invasion of Western Asia, were fair or not, the sale of unripe fruit became a by-word for extortion by the seventh century A.D. and was forbidden under Islam. The change which so constantly takes place in every country in every period is thus exemplified in ancient Yemen. What was apparently meant to be an act of justice introduced an administrative measure which led to great injustice, as such valuations arbitrarily imposed by an official might well prove to be.

## V

THERE HAVE BEEN THOSE who have found in every decree of the ancient kings of Yemen extortionate measures to secure more taxes; such scholars interpret these ancient texts in much the same way as one school of modern political thought

sees in the Reformation or the Industrial Revolution, or almost any event before the twentieth century, a wicked *bourgeoisie* exploiting the labouring classes. Their interpretation colors their translations of the texts. A more patient approach will not justify this view.

There were in some ancient monarchies institutions like the king's council in the present decree, assemblies in which both matters of State were considered and legal decisions were promulgated. Such assemblies are known from scattered references in the early city States of Mesopotamia, and, as so often elsewhere, are called by some 'republican.' Those in Yemen could differ in constitution and so meet particular needs.

The system was not ill devised to meet man's perpetual cry for justice, the cry which Dr. Neilson has followed through the ages in his book, "In Quest of Justice." But Justice is a word, or an idea, whichever you will, that has never been satisfactorily defined. Like health, or liberty, the individual only wants it if he hasn't got it—and most often for himself only.

Types of government meant to secure justice for all have throughout history proved corruptible, and become an instrument of oppression by one or by a few or even by an intolerant majority. By the Christian era the kings of Yemen had dispensed with such councils as that which helped the king to issue the decree described here.

*Department of Egyptian and Assyrian Antiquities,  
British Museum, London*