LAND TENURE AND NATIONALISM IN EASTERN EUROPE, 1919-1929:

DIPLOMATIC ASPECTS OF AGRARIAN REFORM

By
Kenneth Jerome Deacon

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PREFACE

The enactment of land reforms in favor of the lower peasantry has been recognized as an outstanding achievement of the small eastern European nations during the years 1919-1929. I have aimed at narrating the story of controversies which arose among these states from the application of agrarian reforms. This subject has previously been treated in brief and isolated articles or in accounts written on behalf of parties to the disputes. Although usually well-written, partisanship of the latter has disappointed American readers who more than ever before are seeking an objective understanding of eastern European affairs.

In most instances, changes in land tenure swept aside prewar property systems and enabled the peasantry to acquire ownership of the soil. While such measures had an immediate bearing on land economics, they also exercised an influence on the public affairs of Europe owing to the relationship of classes and nationalities. The land disputes show that states may drift apart not only through the arrogance and ambition of their rulers, but also through the pursuit of popular reforms which benefit one nationality at the expense of another. If any moral is to be derived from this study, it is that lasting peace requires some restraint on national policies that are incompatible with international obligations.

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CHAPTER I

THE PROBLEM

The object of this essay is to trace the interrelation of eastern European nationality and land tenure problems during the years 1919-1929. Prior to 1919 national divisions frequently coincided with social classes. In the decade which followed, these dividing lines were shifted by agrarian reforms which enabled the peasants to acquire land formerly belonging to large estates. If in the past questions of property and nationality were considered as pertaining to separate compartments of knowledge, a study of the aftermath of World War I reveals their vital and intimate connection.

Measures affecting trans-frontier and minority landowners were removed from a domestic setting to the sphere of international relations especially when one of the nations lost its formerly dominant position as was the case of the German magnates in Polish Upper Silesia or the Magyars in Transylvania. In these and similar instances where nationality conflict ran high, the partition of estates was applied with greater severity or was resisted with greater hostility than in regions where the nationality question was settled. In consequence of measures affecting property, certain eastern European states became involved in controversies with minority landowners and neighboring states. One party sought to create, the other to preserve, rival property systems in which both could not flourish at the same time.

How did changes in land tenure affect the relative position of the several nationalities in eastern Europe? What diplomatic issues arose over land policies which jeopardized the status of different national groups?

Did intervention on behalf of alien and minority landowners succeed in preserving their property rights? These are questions which this essay will seek to answer.

A REGION OF CONFLICT. Controversy over land has been one among many disturbing elements in eastern Europe. This has been an unstable region and hence one of conflict - a battleground of mutually antagonistic nations, creeds, and ways of life. For centuries its unprotected plains have invited migrations from all directions, bringing in mixtures of languages, faiths, and customs. As the crossroads of the East and West, it is especially significant.[1] During the interwar period this region was diplomatically regarded as the cordon sanitaire, a zone of buffer states that would arrest the westward expansion of communism. Its agrarian system based upon small peasant holdings created by the land reforms in a sense mediated between capitalistic enterprises of the West and collective farms of the Soviet Union.[2] Within twenty-five years, two world wars of our lifetime originated as struggles for dominion over this area; furthermore, it promises to remain the key to war and peace in the twentieth century.

This is the agricultural belt of Europe. In the 1920's, agriculture provided a livelihood for an overwhelming proportion of the inhabitants. Only in Austria and Czechoslovakia, where 31.9 and 40.3 per cent of the respective populations were engaged in farming, did other economic activities cumulatively attain greater importance.[3] Where so many people derive

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1. The interwar period refers to the years 1919-1939.

2. For two provocative and readable studies dealing with the role of eastern Europe in world affairs, see Francis Delaisi, Les deux Europes. Europe industrielle et Europe agricole...(Paris, 1929) and Feliks Gross, Crossroads of Two Continents (New York, 1945).

an existence directly from the soil, the matter of land ownership is of vital importance to their welfare. Until quite recently, moreover, the ownership of land was necessary for the enjoyment of personal dignity, independence, and political rights. Reformers who sought to ameliorate the condition of agricultural workers and tenants voiced perennial demands for the creation of peasant freeholds by the division of large landed estates. These proposals, although popular and recurrent, met with disfavor by prewar governments which were dominated by the landowning aristocracy.

At this point it may be appropriate to establish a criterion by which estates may be differentiated as to size. It will subsequently be noted that the typical eastern European farm was smaller in area than the twenty-seven acres of Manhattan real estate belonging to William Randolph Hearst, who elsewhere owned nearly two-million acres.[4] A distinguished authority on agrarian problems, Dr. Adolf Damaschke, has found the following classification of rural property a convenient one:[5]

Type	Area in hectares
Latifundia	over 1000
Large estates	500 - 1000
Middle estates	100 - 500
Large peasant farms	20 - 100
Middle peasant farms	10 - 20
Small peasant farms	3 - 10
Dwarf holdings	under 2

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3. League of Nations, International Statistical Year-Book, 1929 (Geneva, 1930), Table 4, p.45.

4. "Hearst," Fortune, XII (October, 1935), 51-52; cf. below,

5. Adolf W.F.Damaschke, Die Bodenreform...(Jena, 1916), 209. A hectare is the metric equivalent to 2.471 acres.

THE CHALLENGE OF NATIONALISM. Agitation for an equitable distribution of land was strongly reinforced by prewar nationalist movements. Wherever the landlords constituted the chief support of alien rule, national independence appeared a sine qua non for land distribution. In Poland and Hungary socially progressive elements were joined by a limited part of the aristocracy and some of the lesser gentry in opposition to the ruling dynasties, the latter groups having embraced the national cause without seeking to change the existing social system. Elsewhere nationalists appealed to the landless by showing the connection between the great landowners and foreign domination.

Nationalism in eastern Europe too frequently has been characterized by a fanaticism suggestive of religious bigotry. Writers expounded labored and contradictory arguments that are worth knowing only because they reveal the errors of their ways. Some delegations at the Paris Peace Conference of 1919 referred to events happening a thousand years earlier as forming an integral part of their current claims. The Serbs, for example, sought to annex the southern provinces of Austria on the grounds that these regions had been Slavic until the Frankish invasions around the year 800.[6] M. Beneš proposed by uniting Slovakia to Bohemia to vindicate the defeat suffered by Svatopluk II at the hands of the Magyars in the year 893.[7] Similarly, M. Dmowski explained to the Allied Supreme Council that Poland could not be satisfied with the historical boundaries of 1772, for these would exclude Silesia,

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6. Kingdom of the Serbs-Croats-and-Slovenes. Peace Conference Delegation, 1919. Mémoire de la Délegation du Royaume des Serbes, Croates et Slovènes présenté à la Conférence de la Paix, pt. 4, Frontière norde (Paris, 1919), 3.

7. David Hunter Miller, My Diary at the Conference of Paris, with Documents, XIV ([New York, 1924]), 220.

which had been lost in the fourteenth century.[8]

Unrepressed nationalism, which triumphantly disintegrated the Dual Monarchy, remained a critical problem in eastern Europe during the interwar years. The ties that link humanity make it impossible for any particular group to pursue its narrow interests indefinitely without regard for its neighbors' rights. A glance at the map of this region indicates an increase from nine states in 1914 to thirteen as established under the general peace treaties six years later. By the shifting of frontiers, Austria-Hungary was partitioned among six states: Austria, Hungary, Yugoslavia, Rumania, Czechoslovakia, and Poland; likewise, the western border provinces of Russia went to form Finland, Esthonia, Latvia, Lithuania, Poland, and Rumania. Bulgaria lost territory to Greece, Yugoslavia, and Rumania; Germany, to Poland and Czechoslovakia, while Turkey relinquished a small sector to Greece.

This increase in the number of uncoordinated sovereignties further confused the formal distinction between foreign and domestic phases of public policy which already was becoming highly complex owing to the distant ramifications of trade, finance, and science. This territorial arrangement of 1919-20 created a situation in which many persons found themselves in the status of minorities or aliens whose estates were situated under a foreign flag. In the period preceding 1914, the application of agrarian legislation in eastern Europe had, in general, a domestic rather than an international significance.[9] During the interwar years, on the other hand, tremors arising from changes in the property structure at home were bound to radiate far beyond parochial borders and to collide with the

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8. Ibid., 62.

interests of neighboring states. If peace were to be maintained, the conduct of public affairs would require conformity to the mutual interests of members of the international community.

The international implications of the eastern European agrarian upheavals will be clarified by an examination of this subject through several main sections. The first deals with socio-economic cleavages that undermined the prewar order and the second with the legislative reforms in their domestic and international settings. The remaining three treat of the expulsion of recently established peasant colonists, mass migrations and the liquidation of property rights, and the defense of the magnates.

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9. With one exception, division of large properties before the war took place only with the consent of the landlords and not by compulsory means. The striking violation of rights connected with private property was the Prussian law of March 20th, 1908, which authorized the government to expropriate land for the purpose of interior settlement.

PART I

THE EVE OF AGRARIAN REFORM

CHAPTER II

MAGNATES AND GENTRY, 1918

To appraise the interrelationship of nationality and land problems, it is well to understand the cleavages that undermined rural society and to analyse the forces which reshaped eastern Europe after 1918. This section deals mainly with the social structure of eastern Europe which at the time of the armistice of 1918 was divided into three classes: the landlords, few in number but politically dominant; the independent peasant proprietors; and the rural poor, who formed the bulk of the population. Separation of these groups by social, economic, national, and religious barriers led to conflicts of interests between the masters and the masses. As suffrage and office-holding were largely determined by property qualifications, ownership of land was the key to political rights and privileges. The landed interests were strongly entrenched in the imperial legislatures and even more dominant in the country diets which served as meetings of the provincial squires and their delegates. Being members of the aristocracy, the landowners preempted a substantial share of high offices of state, church, and army. Careers and social interests led them to the great European capitals where they became as much at home as in the provinces where their estates were located. Some who were inveterate absentees paid more attention to revenues from their land than to social conditions of their tenantry. The drain of wealth from the countryside held back the development of agriculture, impoverished and brutalized the submerged masses, and

widened the gulf between the social groups.

THE BALTICUM. Owing to historical circumstances, land ownership was highly concentrated in prewar Esthonia and Latvia. Between the thirteenth and fourteenth centuries when the crusades were diverted from the Holy Land to other regions, the Teutonic Knights established Christianity and property among the heathens of the Balticum. The text they preached was Luke 18:25, which by all accounts expedited the salvation of their converts who for the next six centuries had little impedimenta to hinder their entry into heaven. When the Teutonic Order was secularized at the time of the Reformation, its property was divided among the knights. Henceforth known as Baltic barons, they were subsequently forced to acknowledge the sovereignty of Sweden, Poland, and Russia; but with insight acquired by long experience, they succeeded in retaining their patrimonial privileges. After the czars had acquired the Baltic provinces, the barons secured recognition of their sole right to own land. It took fifty years from the abolition of serfdom before the peasants were even permitted by law to acquire land.[1]

Despite numerical inferiority, the barons not only ruled the provinces by controlling the diets, but also exercised remarkable influence at St. Petersburg. In 1883, over eighteen per cent of the officers comprising the imperial suite of Alexander III were Balts, and corresponding ranks

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1. Great Britain. Foreign Office. Historical Section. Peace Handbooks, IX, no. 50 (London, 1920), 15-27; Latvia. Peace Conference Delegation, 1919. Memorandum on Latvia addressed to the Peace Conference by the Lettish Delegation (Paris, 1919), 7-8; Anatole Leroy-Beaulieu, "Russes, Allemands et Polonais," La Revue Nouvelle, XXI (avril, 1883), 743.

which they held in other circles aroused the envy of non-Germanic subjects of the czars.[2] Toward the end of the nineteenth century, the Russian Government undertook to curb the power of the barons by playing the native Esths and Letts against them. This policy was reversed after the agrarian revolution of 1905, when in a setting of fear and insecurity the czar returned to the historic policy of reliance upon the Balts. In that year, a plebian uprising spread from Riga to the country districts and about two-hundred manor houses were sacked before order was restored.[3] The extent to which baronial domination of this region impeded an adjustment of the agrarian problem can be measured by the fact that fifty-eight per cent of the territory of Esthonia and Latvia belonged to less than two-thousand families, each possessing an average of over two-thousand hectares.[4]

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2. Ibid., 734-37; Esthonia. Peace Conference Delegation, 1919. Mémoire sur l'indépendence de l'Esthonie presenté à la Conférence de la Paix par la Délégation Esthonienne ([Paris, 1919]), 4-5; Peace Handbooks, IX, 23-24. For the influence of the Baltic barons in German military and nationalist circles, see Albrecht Mendelssohn-Bartholdy, The War and German Society. The Testament of a Liberal (London and New Haven, 1937), 102-04.

3. Peace Handbooks, IX, no. 50, p.23-25. It is highly significant that during World War I, the Russian Government dispossessed peasant colonists of German and Austro-Hungarian origin, but spared the much wealthier Russo-Germanic aristocrats. See David G. Rempel, "The Expropriation of the German Colonists in South Russia during the Great War," Journal of Modern History, IV (March, 1932), 61. For the perpetuation of social distress in the Baltic provinces, cf. Mémoire sur l'indépendence de l'Esthonie, 3, and M. Walters, Lettland, seine Entwicklung zum Staat und die baltischen Fragen ([Rome], 1923), who on p.474 writes: "Agrarian reform proposals were not judged on merits but in terms of political ramifications, as the Russian Government would not act contrary to the will of the Baltic nobility, in whom the czars sought and also found support."

4. Morduch Tcherkinsky, "Le régime foncier en Europe," International Institute of Agriculture, Documentation pour la Conférence Européenne de la Vie Rurale, 1939 (Rome, 1939), 116.

The upper classes of Lithuania had over a course of centuries become assimilated to the Polish aristocracy.[5] In this connection, the Lithuanian origin of such princely families as the Radziwills, Sapiehas, and Sanguszkos may be cited.[6] Other large landowners were chiefly Russians who acquired property taken as reprisals from the revolutionaries of 1794, 1830, and 1863.[7] Practically no persons of Lithuanian speech belonged to the wealthy landowning class. In 1905, about forty-five per cent of the area of the districts of Kovno and Vilna (which were to form the territory of the independent Lithuanian Republic) belonged to large private estates.[8]

POLAND. Since the partitioning of Poland, the condition of the magnates depended upon the separate policies of the annexing powers. When Polish independence was restored, there remained 1964 estates of over 1000 hectares, amounting to a total of 6,348,600 hectares, or an average of 3200 hectares apiece.[9] In every province except Polish Upper Silesia, the Poles

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5. L. Lubienski, "Mémoire sur la Lithuanie." Poland. Commission of Work Preparatory to the Conference of Peace. Les confins orientaux de la Pologne (Paris, 1919), 8-9.

6. The Almanach de Gotha; annuaire généalogique, diplomatique et statistique (Gotha, annually) is a repository of genealogical information concerning the European titled nobility which is very helpful in tracing the origins of the highborn.

7. For statements regarding these confiscations, cf. Lithuanian National Council, Lithuania. Facts concerning her Claim for Reestablishment as an Independent Nation (Washington, 1918), 31, and Lubienski, loc. cit., 7, and also S. Kutrzeba, "Aperçu des méthodes employées par le gouvernement russe pour affaiblir l'élément polonais en Lithuanie," Confins orientaux de la Pologne, 5.

8. Peace Handbooks, VIII, no. 44, p. 60-61, 125.

9. Max Sering (ed.), Die agrarischen Umwälzungen im ausserrussischen Osteuropa (Berlin and Leipzig, 1930), 157. Statistics cited herein were from the Polish census of 1921.

constituted the predominantly landowning class. Here the Germans owned 152,700 hectares and the Poles, 14,500 hectares of the area embraced by estates exceeding 50 hectares.[10]

In Prussian Poland (Posen and Pomerelia) large estates belonged to old Polish families and to the Junkers.[11] The Settlement Law of 1886 and subsequent amendments enacted for the avowed purpose of "strengthening the German element against Polish strivings," resulted in breaking up some large properties belonging to both national groups.[12] There was, however, a wide gap between the intent and the accomplishment of this legislation, as shown by the fact that the proportion of Polish-owned land actually increased in spite of administrative discrimination against the Polish peasants.[13] If anything, the appreciation of rural real estate which resulted from purchases by the Colonization Commission, Polish banks, and individual Germans and Poles worked to the advantage of the magnates - a fact suggesting that the ulterior motives of land settlement may have

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10. Ibid.

11. A detailed presentation of property classified as to area is in Max Sering, Die Verteilung des Grundbesitzes und die Abwanderung vom Lande (Berlin, 1910), Chart III.

12. Between 1886 and 1906, the Colonization Commission purchased 179 large properties from Poles, aggregating 97,307 hectares (or an average of 543 hectares apiece); 425 large estates from the Junkers, comprising 209,190 hectares (an average of 492 hectares apiece); and twelve from the Crown accounting for 7987 hectares (an average size of 665 hectares). W. Schultze, "Ansiedelungsgetz, preussisches, für Posen und Westpreussen," Handwörterbuch der Staatswissenschaften, I (Jena, 1909), 511.

13. See below, p.25.

been to strengthen the financial resources of the landed aristocracy at the expense of the gullible nationalistic masses. At any rate, these provinces still remained regions of large estates. In 1921 there were 321 manors totalling 710,500 hectares, for an average of 2216 hectares per property. Landed estates in excess of fifty hectares belonging to the Germans amounted to 596,800 hectares, and corresponding Polish properties comprised 944,800 hectares.[14] In Polish Upper Silesia, the concentration of land was considerably greater, and mostly in German hands. Here were thirty large manors, aggregating 159,700 hectares (an average of 5323 hectares apiece), and belonging to some of the wealthiest landowners of Germany.[15]

Galicia (formerly Austrian Poland) was likewise distinguished by the presence of large estates. After the Cracow insurrection of 1846 had been unexpectedly accompanied by an uprising of serfs against their masters, the gentry abandoned the idea of resistance and returned to the Hapsburg fold for the defense of their privileges.[16] Their way of life was more befitting to the ancien régime than to the realities of the contemporary era, and many were deeply in debt from living on a lavish scale.[17] There were 435 manors accounting for a total of 1,209,000 hectares (an average of 2779 each).[18] The western part of this province was

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14. Sering et al., op. cit., 157.

15. Ibid.; see below, p.134.

16. Peace Handbooks, VIII, no. 46, p.16.

17. Ibid.; Geoffrey Drage, Austria-Hungary (New York, 1909), 69-70.

18. Sering et al., op. cit., 161.

thoroughly Polish, but in the east, the Ukrainians (Ruthenes) were predominant,[19] and the land was divided among many owners. Very few Ukrainians belonged to the gentry: of forty-five representatives of great landowners who sat in the Galician diet, all except one were Poles (1914).[20] According to the Polish census of 1921, the Ukrainian share of large properties here constituted only 14,000 hectares, or an average size of 230 hectares apiece.[21] To the rift between the two nationalities - economic, national, and religious - may be traced the assassination of Count Potocki, governor-general of Galicia, by a fanatical Ukrainian student in 1908.[22] In Teschen Silesia, the remaining Polish territory under Austrian rule, forests belonging to the Hapsburg family comprised over thirty-thousand hectares or about thirty per cent of this region.[23]

Polish insurrections against the czars miscarried and led to repression and autocracy. In spite of heavy confiscations of property belonging to the patriots of 1830 and 1863, the regime of large estates was still very impressive in Russian Poland. Confiscated lands were sold or presented to Russian courtiers, thus accounting for the presence of non-Polish landlords in central Poland and in the eastern border provinces. In 1921, there were 533 manors in Congress (central) Poland, comprising a total of 1,400,700 hectares (an average size of 2627 hectares apiece). Twenty-nine large

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19. Leon Dominian, The Frontiers of Language and Nationality in Europe (New York, 1917), 130-31.

20. Peace Handbooks, VIII, no. 46, p.34-35.

21. Sering et al., op. cit., 163-64.

22. Roman Dyboski, Poland (New York, 1933), 60.

23. Sering et al., op. cit., 160.

estates owned by Russians averaged 538 hectares apiece, and twenty-three owned by White Russians averaged 239 hectares, indicating the overwhelming predominance of Polish landowners.[24] Taken together, the Poles constituted a minority in the eastern palatinates: Vilna, 57.4 per cent; Nowogrodek, 54 per cent; Podlesia, 24.3 per cent; and Volhynia, 16.8 per cent; but, on the other hand, three-quarters of the area of estates exceeding fifty hectares belonged to Poles. The peasant masses were mainly of Ukrainian, Russian, and White Russian stock.[25] In these provinces there were 645 manors embracing 2,868,600 hectares (an average size of 4448 hectares), resembling the national-economic division of Polish Upper Silesia on a magnified scale.[26] As in Eastern Galicia, the land struggle in the eastern borderlands coincided with religious and national antipathies - Poles versus Ukrainians, Roman Catholics versus the Russian Orthodox.

AUSTRIA-HUNGARY. Most of the great estates of the Austrian and Hungarian nobility were situated in the very regions which broke away from the Hapsburg Monarchy in 1918. For the most part, the underlying population differed in speech and national feeling from the ruling landlords - a fact which provides a clue to the instability of that empire. Entails were commonplace, and prevented freedom of alienation. Under the laws of inheritance, the income but not the principal of such properties could be mortgaged, thus

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24. Ibid., 165.

25. Ibid., 170.

26. Ibid..

providing a safeguard against foreclosure for debt.[27] Since 1870, the nobles had been acquiring peasant lands and converting meadows and pastures into hunting grounds. August Bebel, prewar German Social Democratic leader, warned that unless this practice were checked, Austria would become a second Scotland. "Poverty spreads over entire communities," he wrote, "because they are denied the right of keeping their cattle on Alpine pastures."[28]

Writing on the eve of World War I, a British traveler described the landlords of Bohemia as "perhaps the wealthiest and probably the most reactionary and mediaeval" of Europe.[29] Czech nationalists repeatedly excoriated the close association of the Crown, the cosmopolitan nobility, and the upper clergy as an obstacle to national progress. For three centuries after the battle of White Mountain (1620), when the native nobility had perished and their property transferred to leaders of the imperial armies, Bohemia had been ruled by a foreign dynasty and an imported aristocracy. In 1908, 776 proprietors owned over one-third of the total area of Bohemia, and similar conditions obtained in Moravia and Silesia.[30] Thirty-one persons owned from 5000 to 10000 hectares each and twenty-one from 10000 to 20000 each. Seven persons of high rank (members of the Lobkowitz, Kinsky, Schwarzenberg, Windisch-Graetz, Waldstein, Harrach, and Buquoy families) possessed from 20000 to 30000 hectares apiece; four others representing

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27. Drage, op. cit., 61-62.

28. August Bebel, Die Frau und der Sozialismus (Stuttgart, 1919), 360. As late as 1931, over one-sixth of the area of Scotland consisted of deer forests. International Institute of Agriculture, The First World Agricultural Census (1930), III (Rome, 1939), 559.

29. Drage, op. cit., 36.

30. Peace Handbooks, I, no.2, p.61-62.

the Gassas, Czernin, Lichtenstein, and Fürstenberg families owned between 30000 and 40000 each. Count Colloredo-Mansfeld's Bohemian lands embraced 57,691 hectares and Prince Schwarzenberg's, 177,310.[31]

Prewar Hungary was another region of large rural estates, including many that were entailed. Possessions of the Magyar elite were no less impressive than those of their Austrian confreres, and, as in Greater Austria, ecclesiastical properties were very extensive.[32] A relatively small number of intermarried families exercised great influence over the Magyar nation which in turn ruled the more numerous subordinate nationalities. Among the great property-owners and masters of prewar Hungary were the Counts Palffy and Karolyi, the Archduke Frederick, and the Princes Festetich and Coburg-Gotha, whose possessions ranged from 100,000 to 175,000 jochs. Count Schonborn and Prince Esterhazy owned 248,858 and 402,820 jochs, respectively.[33]

As with the Poles, the Magyar nobility exhibited a strong romantic strain,[34] and while they were vigorous defenders of their own rights and honor, they seemed incapable of recognizing corresponding feelings among

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31. Oszkár Jászi, The Dissolution of the Hapsburg Monarchy (Chicago, [1929]), 224-25; Bebel, op. cit., 362.

32. Carlile A. Macartney, Hungary (London, 1934), 167.

33. Ibid.; Jászi, op. cit., 223-24.

34. This similarily was noted by the Polish literary historian, Roman Dyboski, who wrote: "Poland is bound to Hungary by a thousand strong ties of historical association and temperamental sympathy. Constituting for centuries an outpost of Europe against the Islam, very much like Poland, the Hungarians acquired the same soldierly characteristics as the Poles: dashing horsemen and foolhardy fighters like them, they also coupled chivalry with nonchalance, and romanticism of disposition with refinement of manners, in the fashion set by the country gentry, which in Hungary as in Poland, was the elite and model of the nation." Dyboski, op. cit., 408.

their underlying social classes and subject nationalities.[35] Indeed, most of the non-Magyars were treated almost as aliens under Hungarian domination. Of a total of 453 members of the parliament at Budapest, only fifty came from the other national groups, and not a single one represented the rural landless or urban working class.[36] Even during the peace negotiations of 1920, the Hungarian claim to ethnocratic preeminence was revealed in their lament that Americans have often confused Slovak immigrants with the Magyars. This error, the Hungarian Peace Delegation insisted, was

> no honour to the Hungarians because the Slovaks... were considered the hardest-working, most enduring, stingiest, most unclean, uncharitable, lowest-class and most underpaid workers.[37]

From these remarks one might reasonably conclude that in prewar Hungary it was shameful to work for an honest living.

SOUTHEASTERN EUROPE. Nearly half of the agricultural land of prewar Rumania belonged to about four-thousand proprietors, the boyars, who affected French speech and manners and held aloof from the rest of the nation.[38] Under Turkish rule the ancestors of this class had been merely heads of villages and were entitled to a tithe of the harvest. The gradual liberation

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35. The cleavage between the aristocracy and other elements of Hungary provides an explanation to the peasants' alliance with the Turks in the battle of Mohacs (1526) and to the support given to the Hapsburgs by the Croats, Slovenes, and Walachians against the Hungarian revolutionists in 1849.

36. Oszkár Jászi, "Dismembered Hungary and Peace in Central Europe," Foreign Affairs, II (December, 1923), 271. The establishment of Magyar as the official language further limited the opportunities of the Slavs and Walachians in the public service.

37. Hungary. Peace Conference Delegation, 1920. The Hungarian Peace Negotiations. An Account of the Work of the Hungarian Peace Delegation at Neuilly s/S, from January to March, 1920, I (Budapest, 1921), 400.

38. Sering et al., op. cit., 344.

of Moldavia and Walachia from the Ottomans was accompanied by the enrichment of the village heads at the expense of the peasantry, the former transforming their right to collect tithes to full ownership of the land while the latter sunk into serfdom.[39] In this instance national liberation brought social regression, for "with every release from foreign control the strength of the landlords increased, and the burdens which they laid upon the peasants increased in the same degree."[40] By the twentieth century the boyars had become habitual absentees, and the Rumanian land system resembled that of nineteenth-century Ireland. Management of their estates was entrusted to agents of Jewish, Greek, or Armenian origin, and in many instances leased to land trusts which in turn sublet parcels to the cultivators.[41] From the viewpoint of the peasants, their chief interest seems to have been to press every claim which might increase their revenues. In 1908 the trust of the Gebrüder Fischer alone controlled nearly a quarter-million hectares of land.[42]

The remaining large landlords of the Balkans were Moslem beys, whose position in the twentieth century was very precarious. They were descendants of native apostate landowners or of the Turkish conquerors. Liquidation of Moslem properties almost inevitably accompanied the reverses of Turkish dominion in Europe, with the result that only in Albania, Bosnia-Herzegovina,

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39. Feliks Gross (ed.), European Ideologies; a Survey of Twentieth Century Political Ideas (New York, c1948), 1023-24; David Mitrany, The Land and the Peasant in Rumania; the War and Agrarian Reform (1917-21) (Economic and Social History of the World War) (London and New Haven, 1930), xxxi-xxxiv.

40. Ibid., xxxiv.

41. Fritz Connert, "Zur Frage der Agrarreform in Siebenbürgen," Nation und Staat. Deutsche Zeitschrifte für das Europäische Minoritätenproblem, I (Dezember, 1927), 238; cf. Hungarian Peace Negotiations, I, 231.

42. Sering et al., op. cit., 348.

Macedonia, and Thrace the Moslem landlords still remained. The Balkan Wars (1912-1913) wrought disaster to many of them. When Upper Epirus came under Greek authority, violence and confiscations were directed against the Moslems; and when Macedonia was partitioned among Greece, Bulgaria, and Serbia, similar upheavals occurred.[43] On the other hand, in Bosnia-Herzegovina, which was formally annexed by Austria in 1908, and in Dalmatia, an Austrian possession since the Congress of Vienna, the beys still retained their possessions.[44] A scheme for protection of the Bosnian Moslems was provided by conventions of 1879 and 1881 between the Porte and Austria-Hungary. The Moslem religion and civil law were protected and local government remained in Moslem hands - in short, the prerogatives of the beys were upheld until[45] these provinces were transferred to Yugoslavia after World War I.

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43. Miller, Diary, I, 294-95; Greece. Peace Conference Delegation, 1919. La Grèce devant le Congrès de la Paix, signé par E.K. Veniselos ([Paris, 1919]), 5; Peace Handbooks, IV, no.20, p.85-86, and no.21, p.66-67.

44. Turkish land tenure had been temporarily modified when Dalmatia formed part of the Napoleonic Kingdom of Italy, but was restored and maintained under Austrian rule. Peace Handbooks, II, no.11, p.59-60. The Restoration of 1815 similarly impeded social progress in the case of the Duchy of Warsaw. Here the Constitution decreed the abolition of serfdom, and although this reform was never put into practice, it was revoked after Congress Poland was reannexed by Russia. Bernadotte E. Schmitt (ed.), Poland (The United Nations Series) (Berkeley and Los Angeles, 1947), 51.

CHAPTER III

PEASANT PROPRIETORS

A discussion of peasant proprietors may well begin with a definition formulated by Werner Sombart: "A peasant...is a man who supervises an agricultural enterprise, gathers the grain or other crops into his own granary, and himself follows the plow. The peasant farm is that agricultural enterprise which this man works with his family..."[1] From Damaschke's classification,[2] peasant farms may vary considerably in size, but in any event they must be large enough to provide a livelihood for the family. The peasantry cling to a social code based upon class feeling and family pride. They form a separate class from the gentry, and likewise regard the rural poor (farm-workers and small tenants) as equally removed from their social circle. Thrifty and industrious, peasant families attain a high degree of self-sufficiency, utilizing their land and labor to produce their own food, clothing, fuel, and building materials.

The existence of a class of peasant proprietors in certain parts of eastern Europe may be explained by special conditions which enabled them to escape pressure from the magnates and gentry. One group in Transylvania, the Saxons, were descended from colonists who had been exempted from feudal dues and who came directly under the jurisdiction of the sovereign. Peasants of Serbia, Bulgaria, and Montenegro acquired their land after expelling the

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1. Werner Sombart, Das Wirtschaftsleben im Zeitalter des Hochkapitalismus, II (München, 1927), 967, reprinted in Pitirim A. Sorokin et al. (ed.), A Systematic Source Book in Rural Sociology, I (Minneapolis, 1930), 445.

2. See above, p.3.

Turks, who had previously eliminated the native landlords. A third category of medium peasants who were scattered throughout eastern Europe were for the most part former serfs or their descendants who had been able to purchase land from the gentry or from their less energetic neighbors. The status of these peasants will be discussed in the rest of this chapter.

PEASANT COLONISTS. In the last six centuries, colonization has successively recurred in the wake of wars fought over dynastic and national claims. It has been instituted in order to bring in a dependable and permanent group to maintain the defense of frontier zones or to develop sparsely populated regions. When living among conquered peoples, new settlers usually have been accorded privileges not extended to the natives. Envied by the landless and resented by ambitious landlords who sought to extend their domains, it was only natural that they should cooperate closely with their respective sovereigns. To a considerable degree the policy of interior colonization has been responsible for the existence of many national enclaves found in eastern Europe, and to it are traceable some of the international danger zones of the interwar period.[3]

The eastward migration of German peasants was an important factor in the creation of Austria and Prussia. Sometimes conquest preceded colonization; at other times settlers were invited by rulers who were interested in developing agriculture and town life.[4] The Saxon nation of Transylvania, invited by the Hungarian Crown in the thirteenth century to settle that

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3. Carlile A. Macartney, National States and National Minorities (London, 1934), 68-77.

4. Jászi, Dissolution of the Hapsburg Monarchy, 38-39.

region for frontier defense, provides an example of peaceful colonization. The Saxons received an elaborate charter which embraced guarantees to personal liberty, sanctity of property, self-government, and preservation of their customary law. They could be tried only before their own judges or by the king himself. Their land was a common fief, and intestate property escheated to the community.[5] While the colonists could receive additional land and titles of nobility from the king on an equal footing with the Magyar nobles, such grants were effective

> only beyond the boundaries of the Saxonland, because within the boundaries of the land the ennobled Saxons...could claim no privileges over their fellow-citizens, as they...were equally subject to pay tithes and taxes and share in the public charges.[6]

In return for these rights, they agreed to develop the wasteland by building villages, forts, and towns; by paying royal dues and imposts; and by defending the realm against the Turks.[7] In virtue of the consolidation of the Hungarian State in the nineteenth century, many of these privileges were revoked; nevertheless, the value of free institutions was clearly demonstrated by the flourishing state of this community on the eve of World War I.[8]

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5. Hungarian Peace Negotiations, I, 220.

6. Ibid., 301.

7. Ibid., 220.

8. The Hungarians at the Peace Table of 1920 acknowledged the progress and diligence of these German agriculturalists. Ibid., 180. Similar recognition has been extended to a smaller Germanic enclave, the Swabians of the Banat, a "highly prosperous yeoman class," who, owning their land, were noted as farmers and horse-breeders. Peace Handbooks, I, no. 6, p.39-40.

Another distinctive group in Transylvania, the Szeklers, numbered about 500,000 at the time of the Armistice of 1918 and constituted a "sturdy and independent race of freemen."[9] They were descendants of border troops that held land on a community property system. Although the military organization had been abolished in 1851, this form of land tenure was subsequently confirmed by Francis Joseph I. In theory members of the Szekel community were entitled to equal right to the land; moreover,

> they knew neither feudal (large) estates, nor the state of being bound to the soil. The military organization of the Szekely people knew only freemen, with an equal enjoyment of rights and landed property.[10]

Peasant estates were more strongly established in Prussian Poland than in Polish territories under Austrian or Russian rule.[11] Development of farm units in Posen received encouragement from the Settlement Law of 1886, which stemmed from the feeling that there were too few peasants and

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9. Ibid., 21-23.

10. Hungarian Peace Negotiations, I, 143. It may be pointed out that the contrast between the Szeklers, who regarded themselves as being of noble race and the Magyar nobility illustrates the fact that it is the possession of land, rather than the claim to nobility, which confers power on an aristocracy. Cf. Wladislaw Reymont, The Peasants, tr. by Michael H. Dziewicki (New York, 1937), 132, for reference to the "nobility of Rzepki," - peasants of noble ancestry, who were very poor, but who held aloof from the common peasantry.

11. Estates of 50 to 100 hectares amounted to the following areas in the several regions of Poland (1921): Prussian Poland, 178,700 hectares; Galicia, 25,700 hectares; Congress Poland, 111,100 hectares, and the eastern palatinates, 119,000. Sering et al., op. cit., 157, 161, 165, 170.

too many Poles in this region.[12] Colonization was simultaneously being carried out in other German provinces - Pomerania, East Prussia, Mecklenburg, Hanover, and Brandenburg[13] - but in Posen it was ill-timed and malevolently conducted. It followed the controversy between the German Government and the Church of Rome over religious and educational policies (the Kulturkampf), and it appeared as if the introduction of German Protestant settlers was intended to reduce the power of the Church as well as that of the Polish nation.[14] Originally, 100-million marks were placed at the disposal of the Colonization Commission to purchase land and assist German colonists, but by 1914, appropriations for this purpose had accumulated to ten-fold this amount.[15] In spite of the support given by the state to the German element, the Poles, far from abandoning hope, actually flourished by standing together as a nation fighting for the right to survive. They organized a counter-colonization movement and collected funds for purchasing land. The price of real estate soared to such an extent that the German Government at length authorized the Colonization Commission

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12. Georg F. Knapp, Grundherrschaft und Rittergut (Leipzig, 1897), 21.

13. Damaschke, Bodenreform, 220.

14. Most of the settlers brought into Prussian Poland were of the Evangelical faith. According to the nationalist point of view, this was very important, "for there was the danger that German Catholics might succomb to Polonization." Schultze, loc. cit., 515. It is noteworthy that the Catholic Center Party of Prussia defended the Polish cause in this land struggle. Mendelssohn-Bartholdy, op. cit., 161, note.

15. In addition to 555,000,000 marks for colonization, 500,050,000 were appropriated to purchase estates and forests, to protect German peasant holdings and workingmen's colonies, and to assist German-owned property in general. Series C, no.3, III, pt. I, p.74.

to expropriate landowners (1908).[16] Between 1896 and 1912, 170,497 hectares of land passed from Germans to Poles, while only 117,963 hectares were sold by Poles to Germans in Posen.[17] Similar results were noted in West Prussia. From an agrarian point of view, however, there was a noticeable increase in the number of peasant farms through purchases, both private and public, from the large estates. Thus in Posen between 1882 and 1907, estates exceeding one-hundred hectares were reduced by 11.4 per cent of their former agricultural area.[18] It will be seen that much dissention found in the restored Polish state was a heritage of Prussian misrule during the prewar generation.

SOUTH SLAVIC PEASANTRY. In Serbia, Bulgaria, and Montenegro nearly all the land was owned by the peasantry. Turkish conquests of bygone centuries had brought an end to feudal tenure; native landowners had been turned out, save those who accepted Islam, thereby breaking completely with the masses.[19] While the Turks unceremoniously liquidated the feudal landlords, they extended considerable autonomy to their alien subjects, none of whom ever lost language or religion under Turkish rule. Little concerned with the inner life

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16. The Expropriation Act was opposed by the Conservative Party, which represented the landed interest, and was put into effect on only three occasions. Both imperial Germany and czarist Russia were responsible for undermining the sanctity of property under the guise of national interest. See before, p.9, note 3; Macartney, National States and National Minorities, 129, note; Peace Handbooks, VIII, no.45, p.26-29.

17. Ibid., 47. An anecdote which illustrates the difficulty of Prussianizing Poland tells of an interview between an inspector of the Colonization Commission and a settler. When asked how he was getting along with his Polish neighbors, the latter replied, "At first, not very well, for I knew only German and they only Polish. Since I've learned to speak their language, however, we've been the best of friends."

18. Peace Handbooks, VIII, no.45, p.46.

19. Under Turkish rule, adherence to Islam was made a sine qua non to land ownership. A parallel trend was evident in the penal legislation applied to Catholics in Ireland during the seventeenth and eighteenth centuries.

of the community, the Turks allowed peasant traditions to survive. A form of communal tenure known as the zadruga persisted among the southern Slavs long after such communities had disappeared within the Austrian empire.[20] The zadruga has been described as a community of property, life, work, and kinship. Descendants of the same ancestor lived within a common enclosure and shared land, livestock, and funds. Upon marriage, a girl received a dowry and left the community, waiving any claim to the patrimonial property. Most zadrugas had six to ten, while a smaller number exceeded thirty members. Several zadrugas might temporarily combine for harvesting or marketing, especially if they formed the same village. By their essential nature, they did not develop into latifundia nor did they permit a parcellization of land.[21]

Early in the nineteenth century, when the Serbs threw off Turkish rule, the beys were expelled and the cultivators became owners of the soil. Opportunities for the development of large estates were unfavorable as both Kara George and Milos Obrenovich discouraged their followers from carving out large private estates, with the result that small and moderate holdings

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20. Otto F. von Gierke, Political Theory of the Middle Age, tr. by Frederick W. Maitland (Cambridge, 1900), 87-88, 99-100; Dragolioub Novakovitch, La Zadrouga. Les Communautés familiares chez les Serbes (Paris, 1905), 89-90. While once common between the Adriatic and Black Seas, these communities receded into the hinterlands during the last century under the impact of individualism and state intervention. See also Laveleye, Émile L.V., Baron de, De la Propriété et de ses Formes primitives, 4ième éd. (Paris, 1891), 464-65 and Eugen Ehrlich, Fundamental Principles of the Sociology of Law, tr. by Walter L. Moll (Cambridge, Mass., 1936), 371.

21. Laveleye, De la Propriété et de ses Formes primitives, 467-69; Novakovitch, op. cit., 88, 104-11, 152-57; Laveleye, Balkan Peninsula, 227-28; Peace Handbooks, IV, no.20, p.83.

became widely distributed. The Serbian homestead law, moreover, forbade foreclosure for debt on peasant farms, livestock, and tools.[22] In 1900, 91.5 per cent of the peasant families owned their farms. There were only three estates exceeding 300 hectares and eighty-six proprietors with more than 100 hectares. More than half of the arable land was composed of farms ranging from three to twenty hectares.[23]

Bulgaria was also a country of small peasant holdings. The beys left the country and sold out to the peasants, so that by 1912 not a single large Moslem landlord remained. This shift in ownership was accomplished without intervention by the state save in the southeastern districts, where one-hundred and fifty villages were purchased for allotment among the inhabitants.[24] On the eve of World War I, eighty-eight per cent of the agricultural area was composed of farms ranging from two to one-hundred hectares.[25] Finally, in Montenegro, a peasant country par excellence, a law forbidding individual ownership of more than twenty acres prevented the development of any large properties.[26]

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22. Laveleye, Balkan Peninsula, 184.

23. Dragolioub Yovanovitch, Les Effets économiques et sociaux de la Guerre en Serbie (Paris, [1930]), 5-6.

24. Georgi T. Danáillow, Les Effets de la Guerre en Bulgarie (Paris and New Haven, [1932]), 4-6.

25. Leo Pasvolsky, Bulgaria's Economic Position. With special reference to the Reparation Problem and the Work of the League of Nations (Washington, 1930), 25.

26. Laveleye, Balkan Peninsula, 281.

OTHER MEDIUM ESTATES. At the time of peasant emancipation in eastern Europe, one-third of the land belonging to the large estates was ordinarily allocated to the former serfs. The gentry were compensated by their governments from a special tax levied on peasant property. On the eve of World War I, the amount of land owned by the peasants was considerably greater than in the previous generation. Properties under one-hundred hectares now comprised the majority of the area of eastern Europe, and even after making allowance for ownership of some of these by the other classes, the gains made by the peasantry remain significant. The increase of land in peasant hands was offset by a corresponding growth in population, leaving the agrarian problem still unsettled. In some regions, however, a relatively strong class of peasant proprietors was developing.

In Finland, where serfdom was unknown, rural property was widely distributed. After the right to acquire land had been extended to all Finnish subjects (1863-64), a steady alienation of nobles' land began to take place. Within forty years, the area owned by the nobility had dwindled from 1,639,397 to 364,437 hectares.[27] In 1901, farms of ten to twenty-five hectares constituted 30.8 per cent, and farms of twenty-five to one-hundred hectares, 38.9 per cent of the cultivable area, an indication of a substantial peasant class.[28]

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27. Gosta Grotenfelt, "L'Agriculture en Finlande vers la fin du XIX Siècle," Notices sur la Finlande. Publiées a l'occasion de l'Exposition Universelle à Paris en 1900 (Helsingfors, 1900), 17-19, 24-25.

28. Sering et al., op. cit., 59.

Peasant properties were weaker in other countries where the nobility had extensive holdings. About two-ninths of the cultivator families of Latvia and Esthonia possessed holdings of twenty-four to thirty-six hectares.[29] The average peasant farm in prewar Lithuania was about sixteen hectares, which was adequate to support their owners and their families.[30] In Galicia, there was a comparative absence of farms exceeding twenty hectares. In contrast to 361,470 properties of ten to twenty hectares, there were only 7923 properties between twenty and fifty hectares (1902).[31] In Bohemia, Moravia, and Silesia, estates of ten to twenty hectares accounted for 17.45 per cent, and estates of twenty to fifty hectares, 18.67 per cent of the agricultural area.[32] Middle-size peasant farms were very weak in prewar Rumania, where those of ten to one-hundred hectares accounted for only 10.8 per cent of the area; but in Transylvania, properties of this size comprised 28.9 per cent of the region.[33]

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29. Peace Handbooks, IX, no.50, p.54-55.

30. Ibid., VIII, no.44, p.123-24.

31. Ibid., VIII, no.46, p.46, 53.

32. Antonin Pavel, "Public Guidance in Land Utilization in Czechoslovakia," American Academy of Political and Social Science Annals, CL (July, 1930), 267.

33. Sering et al., op. cit., 344, 377.

CHAPTER IV

THE RURAL POOR

Certain agricultural groups with approximately accuracy may be designated as forming the rural poor of eastern Europe: cottars or dwarf-holders, tenant-cultivators, and agricultural workers. Frequently these conditions overlap: a cottar might rent an additional holding or find employment on a larger agricultural enterprise. In general their problem could be traced to the fact that the serfs received insufficient land for their numbers when they were emancipated in the nineteenth century. They found it necessary to rent and to work on unfavorable terms, often without fixed tenure. Because the poor were so numerous and competition for land so great, they had to pay an exorbitant share of the harvest or perform services on the landlords' estates for access to the soil.

THE BALTICUM. In prewar Finland, social conditions were in line with the general progress of this duchy. The chief source of agrarian discontent was among farm tenants (torpare) who were required to perform a given amount of work on their landlords' estates as conditions of their leases. They constituted about one-third of the rural population and were either cottars or landless.[1] Highly unfavorable circumstances accompanied peasant emancipation in Latvia and Esthonia (1816-19). One-third of the land was originally marked out as tenancies for the peasants, thus keeping them economically dependent upon the barons. A century later, about two-thirds of the

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1. Grotenfelt, loc. cit., 26; Peace Handbooks, VIII, no.47, p.36, 55; International Institute of Agriculture, The Agrarian Reform I. Austria - Finland - Latvia - Lithuania - Poland (Rome, 1930), 16-17, hereinafter cited as The Agrarian Reform.

rural population were agricultural laborers.[2] In Lithuania, the agrarian problem was complicated by the fact that the aristocracy was of Polish speech and sympathy while the cultivators were unreceptive to Polish influences. Although a considerable number of the latter had acquired land, many were dependent upon the large landowners for employment.

POLAND. Agrarian problems of the Poles varied in the regions under foreign rule. Most of the agricultural workers in Posen were Poles, who were hired by the day, season, or year. Ordinarily a garden plot from the estate was granted as part of their wages. Every year, many landless Poles would migrate throughout Germany in search of work. The German land settlement program of 1886 and the following years was especially reprehensible by its deliberate exclusion of Poles from its benefits.[3] In Galicia, a higher percentage of land was owned by the peasantry - 59.4 per cent in 1902 - but excessive subdivision created a special problem. There were 75,400 holdings of less than 0.5 hectare; 128,532 from 0.5 to one hectare; and 240,104 between one and two hectares in size. As late as 1930, almost half of these diminutive farms consisted of many scattered plots, a system that is traceable to equal division among heirs.[4] Rational cultivation was impossible; much land was devoted to boundary-markings and paths; cattle could not be kept; and finally, much time was lost in walking from one strip to another.

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2. Mémoire sur l'Indépendence de l'Esthonie, 5-6; Peace Handbooks, IX, no.50, p.54-55.

3. Ibid., VIII, no.45, p.46.

4. Ibid., p.46, 53; Waclaw Ponikowski, "Polish Agricultural Land Organization since the World War," American Academy of Political and Social Science Annals, CL (July, 1930), 291.

Most of the dwarfholders sought employment on the larger estates, even though remuneration was very low. Agrarian disturbances occurred in 1898, 1902, and 1903, following which the workers' share of the harvest was increased from one part in twelve to one in ten.[5] In Russian Poland the scattered plot system was also widely prevalent.[6] Here easements enabled the peasants to gather wood or pasture livestock on the squires' estates.[7] By 1904, about forty-nine per cent of the agricultural area belonged to the peasants. In spite of the trend toward peasant ownership, there were still about 800,000 landless rural workers. That many of the holdings were too small for full-time utilization is evident from the fact that over one-third of the lower peasantry worked on nearby estates in addition to their own land.[8]

AUSTRIA- HUNGARY. In regions where possessions of the nobility reached the maximum extent, there was a corresponding impoverishment of the native peasantry. In prewar Bohemia, Moravia, and Silesia, land was excessively divided into over a million tiny farms averaging slightly more than an acre apiece. Accounting for over seventy per cent of the total number of holdings, they covered only six and one-half per cent of the land area.[9]

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5. Drage, op. cit., 69-70; Annual Register, 1898, 34, 266.

6. In central Poland, 47.1 per cent, and in eastern Poland, 60 per cent of properties under fifty hectares were organized on the scattered plot system. Ponikowski, loc. cit., 291.

7. Peace Handbooks, VIII, no.44, p.34-35, 82-84. These easements or servitudes led to interminable disputes between the gentry and the villagers.

8. Ibid., 72.

9. Pavel, loc. cit., 267.

Almost as bad conditions existed in Slovakia and Ruthenia, where prior to land reform fifty-one per cent of the landowners possessed only 5.8 per cent of the land.[10] It is well to remember that peasant emancipation in the Austrian Empire brought an end to rights in the woods and commons, which were engrossed by the great landlords. Poverty in rural areas explains the heavy emigration of Czechs, Slovaks, and Ruthenes before World War I.[11]

SOUTHEASTERN EUROPE. It is noteworthy that the Walachian peasants showed a tendency to occupy the bottom of the economic strata of Bessarabia, Bukovina, Transylvania, and The Banat - territories that were awarded to Rumania after 1918. Whether at home or under the Romanoffs or Hapsburgs, their lot was for the greater part one of monotonous uniformity - cottar, tenant, or farm laborer. Under the boyar regime the oppression of the Walachian peasants was scandalous beyond imagination. When the Rumanian principalities acquired autonomy in 1829, the oligarchy of landowners imposed such burdens on the cultivators that "many fled from their own fatherland to Russia, Turkey, and Austria-Hungary, leaving behind their houses and property."[12] Emancipation in 1864 left them still politically and economically unfree; compulsory labor was permitted through laws on agricultural contracts and payments in labor and produce.[13] In the ruthless exploitation of the tenantry, most

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10. "Social Aspects of Land Reform in Czechoslovakia," International Labour Review, XII (July-August, 1925), 49.

11. Peace Handbooks, I, no.2, p.53; no.3, p.27-28; Hungarian Peace Negotiations, I, 474, 477, 488.

12. Gross et al., op. cit., 1024; Mitrany, op. cit., 38-41.

13. Ibid., 76-77.

rents soared from 100 to over 500 per cent between the years 1870 and 1906. Unable to make such payments, the peasants fell into perpetual debt and service to the landlords by interest charges which ranged from 60 to 528 per cent.[14] They ordinarily gave half to two-thirds of the harvest to the boyars and paid in labor what they could not pay in cash. Thus the worst features of serfdom were retained by the institution of peonage. Five peasant revolts between 1888 and 1907 attested to the agrarian crisis, the last uprising requiring 140,000 troops to quell. Originally directed against the land trusts, violence spread against the gentry as well.[15] Following merciless reprisals, the government ended the system of leasing public lands to middlemen, and in 1912 land trusts were forbidden by law.[16]

Mention has been made of the fact that peasant ownership was the rule in Montenegro, Serbia, and Bulgaria. Growth in population without a corresponding increase of unoccupied land or improvement of agricultural techniques brought about a situation in which many holdings were reduced below economic limits. Estates under five hectares constituted fifty-five per cent of the Serbian, and seventy-eight per cent of the Bulgarian properties.[17] Under these conditions further division of land could in no way satisfy land hunger.

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14. Ibid., 83-84.

15. See above, p.18. On the basis of previous and subsequent policies of the Rumanian Government toward the Jews, there are reasons to suspect that pogroms accompanying such uprisings were sanctioned, if not encouraged, in order to divert discontent from the government into anti-semitic channels. For the miserable condition of Rumanian Jewry, see John Bassett Moore, Digest of International Law, VI (Washington, 1906), 359-67.

16. William Miller, The Ottoman Empire and Its Successors, 1801-1927, with an Appendix, 1927-1936...rev. and enl. ed. (Cambridge, 1936), 464-65; Sering et al., op. cit., 348; Annual Register, 1888, 20, 305-06, and 1907, 335.

Agrarian as well as racial and religious tension characterized the Balkan regions that were still under the Turkish land system. The Christian population constituted the share-tenantry (kmets or colonate) of Bosnia-Herzegovina, Dalmatia, and Epirus and contributed a share of harvest and labor to the beys according to the custom of the village. When Count Burián was governor of Bosnia-Herzegovina, the diet initiated a program for the gradual liberation of the kmets to whom credit was extended to commute their services.[18] It will be seen, however, that the final solution to their problem came only after World War I.

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17. Yovanovitch, op. cit., 5-6; Danáillow, op. cit., 13.

18. Graf Stephan Burián von Rajecz, Austria in Dissolution; being the Personal Recollections of Stephan, Count Burián (London, 1925), 303, 306.

PART II

EASTERN EUROPE IN TRANSITION

CHAPTER V

NEW POLITICAL AND LEGISLATIVE CURRENTS

THE WAR AND SOCIAL CHANGE. When the armed might of imperial Russia and the Central Powers failed to survive the ordeal of 1914-18, the socio-political system described in the preceding chapters quickly crumbled. Defeat from without was accompanied by disruption within, enabling subject peoples from the Baltic to the Adriatic to break the bonds of foreign domination and to realize their dreams of self-determination. Revolutions throughout eastern Europe heralded overdue political and social reforms, and attacks on large landed property brought on an agrarian upheaval of great magnitude. The intensity of such attacks balanced between the needs of the rural population and the influence of the landlords with the new regimes. The legislative basis of compulsory changes in land tenure, described more fully in the next chapter, to some extent violated traditional rights of private property. In many instances, moreover, the shift in ownership from landlords to cultivators inevitably involved the forced transfer of land from members of formerly dominant minorities to members of majority groups. Before proceeding to the controversies which accompanied the agrarian reforms, the position of alien and minority landowners under international law will be set forth to show why measures affecting their rights were of international concern.

World War I released forces which threatened to upset the existing social structure. Widespread social unrest became the common legacy of

of the nations at war, and the claims of men who did the fighting had to be met. It was the peasant more than any other class that formed the soldiery on the eastern front. Casualties, disease, and hunger caused mounting resentment against the rulers, who, in order to retain the loyalty of their people, promised to bring about popular reforms. Such commitments had been made before which had not been fulfilled, but in this instance they proved to be irrevocable, for the consequences of the war were beyond the control of the men who launched it. In this regard Count Burián, wartime foreign minister of Austria-Hungary, later reflected:

> If the war had ended differently, the victorious armies would on their return home to their native countries have demanded, as a reward for their achievements, much of what the peoples have acquired from the fragments of the shattered monarchy. Who would have had the power to prevent them?[1]

Visualize peasants who before 1914 had spent a quiet and humble existence, aloof from political activity. Their collective opinion then carried practically no weight, and save for occasional agrarian disturbances, their demands received scant attention from official circles. One writer relates that Serbian peasants felt ashamed to look at a newspaper, which they considered to be a gentleman's pastime.[2] Peasant soldiers who spent some time in Germany or advanced parts of Austria-Hungary witnessed methods of cultivation and standards of living often superior to their own, and the presence of foreign troops in their native lands left comparable impressions on the people.[3] Thus travel, contacts, and experiences aroused, broadened,

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1. Burián, op. cit., 150; cf. the observations of Jászi, Dissolution of the Hapsburg Monarchy, 454.

2. Yovanovitch, op. cit., 314-15.

3. Ibid., 310-12.

and sometimes distorted the minds of the masses. A foretaste of the coming agrarian upheaval took the form of spontaneous uprisings against the landlords by intimidation, stoppage of rents, and pillage of manors. Sweeping changes were unquestionably in the offing, but as to how, by whom, and to whose advantage they would be carried out depended upon the final military outcome.

While Russia was convulsed by revolution, national councils of Esthonia and Latvia seized the opportunity to proclaim the independence of these provinces. Their national existence was from the start challenged by revolutionary and reactionary forces - Reds and barons. Through local diets the latter declared for union with Germany and summoned the Germans to occupy the country and to put down bolshevist and nationalist agitation. Having plans for the colonization of German peasants on the large estates, Germany sent an expeditionary force into the Balticum that temporarily kept the barons in power.[4] After these troops were withdrawn, baronial rule collapsed, and it became clear that the landlords had played a losing card by demonstrating that their leadership was incompatible with national independence.[5] It is understandable, then, why the native Esths and Letts, after gaining undisputed control of their homelands, completed the ruin of their former masters by stripping them of their landed possessions.

The German High Command also sought to extend German farm settlements

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4. Memorandum on Latvia, 13; Malbone W. Graham, New Governments of Eastern Europe (New York, 1927), 260-61. Winston Churchill speaks of German plans of setting up a refuge in the Balticum for the distressed nobility of East Prussia. See The Aftermath (New York, 1929), 93-94.

5. Memorandum on Latvia, 9; Pour l'Esthonie Indépendente, 6, 18, 30-31; Charles Seignobos, "Aristocracy's Downfall in Europe; Triumph of the Small Landowner," Current History, XI (October, 1919), 155.

almost as far east as Warsaw by expropriating all Polish-owned land and exchanging the native inhabitants for colonists of German origin then living in Russia.[6] The military defeat of Germany in 1918 put an end, for the time being, to the Drang nach Osten and shifted the offensive to the Polish nation. Much land along the Russian frontier, from Lithuania to western Ukraine, belonged to Polish landlords who were driven out by the Russian revolution. Émigrés streamed into Poland with reports of the Red terror, destroying hopes of effecting conciliation between Poland and Russia.[7] Recovery of confiscated estates depended upon the restoration of the historic boundaries of Poland, and efforts to accomplish this objective brought the Poles into conflict with bolsheviks, Lithuanians, and Ukrainians.[8] Early in 1920 Poland and Lithuania were fighting against their common enemy, the Soviet Union, but in July Lithuania withdrew, leaving Poland to continue the struggle alone. After desperate flight from Russian territory, the Poles called upon the Western Powers for assistance. France

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6. Marcel Handelsman et al., La Pologne. Sa Vie économique et sociale pendant la Guerre (Paris and New Haven, [1933]), 48-49, 206-07.

7. Ibid., 143-44.

8. Professor Charles Seignobos ascribed the territorial ambitions of Poland to private interests, charging that "in order to divert the cupidity of the Polish peasants from their own large estates...the magnates are trying to extend their political domination over neighboring countries, where they hope to find land for colonization." Seignobos, loc. cit., 155. The Polish reply to this and similar charges of imperialistic and undemocratic government was stated in the appeal to the world for help against the Russians. During this struggle for national existence "the Polish nation received her first Diet elected on the basis of universal suffrage, initiated a scheme of far-reaching social reforms, and finally nominated a Government at whose head stands a peasant representative of the biggest peasant party in Poland, with next to him a leader of Polish workmen." Annual Register, 1920, 205.

responded by sending a military mission under General Weygand, and in mid-August the Reds were driven back.

Freed of the Russian menace, the Poles with the support of the Lithuanian aristocracy next challenged the independence of Lithuania by attempting to restore the historic union of the two nations. Brief hostilities over the ancient Lithuanian capital of Vilna which the Lithuanians now occupied were brought to a close by an agreement arranged through the League of Nations (October 7th, 1920). Two days later the Polish general Zeligowski duplicated D'Annunzio's occupation of Fiume by seizing this disputed city, which the Poles henceforth refused to relinquish. For the next fifteen years all diplomatic and economic relations between the two nations remained suspended despite protracted efforts by the League to effect a settlement. In the eyes of Lithuanian nationalists the Polonized gentry were scarcely better than traitors, for which reason many were to suffer confiscations and exile.[9]

The boundaries of Poland were more successfully extended over Eastern Galicia, long a region of agrarian tension. Between 1918-20 this province was torn by civil war as Ukrainian peasants fought against Polish landlords in a vain attempt to establish an independent republic. R. Dmowski, head of the Polish delegation at the Paris Peace Conference, protested that

> Austrian troops on their return from Eastern Galicia distributed their arms amongst the people, and...were guilty of atrocious massacres, particularly of landowners. It was estimated that some 2000 landowners with their families were murdered in this fashion.[10]

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9. See below, p.149ff.

10. Miller, Diary, XIV, 59.

A striking denial, indeed, of the right of self-determination to the inhabitants of Eastern Galicia, as once more the Polish gentry were compelled to admit that the peasants were their worst enemies.[11]

PARTIES AND LEADERS. In step with the social conditions noted above were the new parties and leaders. Many of the latter who had formerly met with official disapprobation took a dynamic role in the democratic revolutions of 1918. In this regard the careers of Pilsudski, Masaryk, and Stambuliski may be cited. Josef Pilsudski (1867-1935) had been exiled to Siberia for five years on charges of conspiring to assassinate Czar Alexander III. In 1900 he was arrested for socialist activities but escaped to England. And the third time, he was imprisoned by the Germans for refusing to support the Central Powers (1917-18). During the war, Thomas Garrigue Masaryk (1850-1937) and his colleagues were proscribed by the Austrian Government for their activities in connection with Czechoslovakian independence. Aleksandr Stambuliski (1879-1923) was condemned to life imprisonment for his opposition to Bulgaria's entry into the war.

Three outstanding men of the new Poland, Paderewski, Dmowski, and Pilsudski were all of the gentry class. His father's exile into Siberia had taught Paderewski as a child the meaning of Russian oppression.

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11. On November 20th, 1919 the Allied Supreme Council decided to establish a Polish mandate over Eastern Galicia. The provincial diet was to have autonomous powers, including authority to enact agrarian reforms. So spirited was Polish opposition to this program that Premier Paderewski was forced out of office because he supported it. In 1922 limited autonomy was projected but never put into operation for the three provinces of Lemberg, Tarnopol, and Stanislau. They were not permitted to deal with agrarian reform even on paper. Raymond L. Buell, Poland: Key to Europe, 2nd ed., rev. (New York and London, 1939), 271-73; Annual Register, 1920, 197.

Dmowski, leader of the Nationalist Party, which favored an understanding with imperial Russia, presented a marked contrast to Pilsudski, socialist leader and organizer of the Polish underground movement, who directed the expulsion of the Red armies from Poland in 1919-20. It was Paderewski who secured harmony between these two rivals, thereby giving Poland unity of purpose at the Peace Conference. The spokesman for the Polish peasant was Vincenty Witos, himself of peasant origin, who served as prime minister in 1920, 1923, and 1925.[12] Pilsudski's coup d'état of 1926 eclipsed the careers of Witos and Dmowski alike, and considerably restored the influence of the big landowners. Witos fled to Czechoslovakia, and the agrarian movement, which bore much promise in 1919, was considerably toned down.

The Church and landlords were treated with open hostility by the young Czechoslovakian Republic, and it has been suggested that the expropriation of ecclesiastical properties was motivated out of hostility to the Roman Catholic Church.[13] The setting aside of the anniversary of

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12. The following statement by Witos leaves little doubt as to his attitude toward the landed aristocracy: "It was not the Potockis or the Branickis or even those whom Moskow presented with whole Bialobrzesk districts for their services, it was not they who tilled the soil... Whoever first gave the opportunity of acquiring land to the German Colonization Commission or to the various Russian Banks, whatever his name was, Radziwill or otherwise...must surely have been heir to a great family and proud name. Such are the men who claimed and still claim to be the fathers of the nation - for my part I should be ashamed to have them as stepfathers." Vincenty Witos, "Speech on Agrarian Reform, 1919," Manfred Kridl et al. (eds.), For Your Freedom and Ours (New York, 1943), 239-40.

13. Fifty years earlier, the Altgraf of Salm-Lichtenstein correctly prophecied that Bohemian autonomy would spell the ruin of the aristocracy and upper clergy. Laveleye, Balkan Peninsula, 7-8. On February 5th, 1919 M. Beneš told the Allied Supreme Council that his nation "had risen against a mediaeval Dynasty backed by bureaucracy, militarism, the Roman Catholic Church, and, to some extent, by high finance." Miller, Diary, XIV, 211.

the execution of Jan Hus as a national holiday further strained relations between Prague and the Holy See. In the heat of controversy, M. Beneš, minister for foreign affairs, accused the Vatican of having sympathized with the Central Powers during World War I out of religious differences with Great Britain, Russia, France, and Italy. This accusation was vigorously denied by the Pope and the Czechoslovakian bishops.[14]

During the war, leaders of the Bulgarian Peasant Party were imprisoned and silenced, but their opportunity for governing came in the wake of national defeat. The elections of 1920 gave them control of the parliament, and under Stambuliski a purely agrarian cabinet was formed. The principle behind the Bulgarian agrarian law, the most important enactment of his party, was that no one should own more land than his family could cultivate, and land in excess of this amount was subject to expropriation. Compulsory labor service replaced military conscription,[15] and a shift of taxation from the peasantry to the towns produced considerable resentment among the urban population. The War Government was brought to trial and conviction under an ex post facto law for the prosecution of the warmongers. To retain control over the state, Stambuliski suppressed opposing political parties and hostile newspapers. In June, 1923 he was killed in a military insurrection and his agrarian dictatorship was overthrown.[16]

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14. Revue de Droit international, de Sciences diplomatiques, politiques et sociales, V (Genève, janvier-mars, 1927), 79.

15. Max Lazard, "Compulsory Labour Service in Bulgaria," International Labour Organization Studies and Reports, Series B, no. 12 (October, 1922).

16. A. Omelianov, "A Bulgarian Experiment," Sorokin et al., op. cit., II, 638-47.

For Hungary, the Armistice of 1918 brought tribulation and confusion. Upon the abdication of the Hapsburgs, an ill-starred republic was proclaimed by the National Assembly under Count Michael Károlyi, a great magnate and son-in-law of Count Andrássy. Breaking with his fellow aristocrats, Count Károlyi advocated autonomy for national minorities, universal suffrage, and expropriation of the latifundia. He donated 50,000 acres of land to the Republic as the National Assembly passed a law for the reduction of all estates to a maximum of about 700 acres. In a later discussion of this action, he traced his family's wealth and fame to the spoliation of Prince Rakoczi's estate in return for defection to the Hapsburgs in 1711. Thus he has written:

> My share of the estate, which I would rather I had never accepted, I have returned to those to whom it belongs, the Hungarian people, and I have gone the way which I should have gone in my ancestor's position, the way into exile.[17]

A communist revolution in March, 1919 put an end to the Károlyi experiment. Under the Red dictator, Bela Kun, large estates were confiscated outright, and by June almost one-third of the arable land was transformed into collective farms. This policy alienated the peasants who wanted freehold estates and they refused to send food to Budapest, stronghold of the Communists.[18] While Nicholas Horthy, former admiral of the Austro-Hungarian

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17. Count Michael Károlyi, Fighting the World: the Struggle for Peace (New York, 1925), 2-3.

18. Malbone W. Graham, assisted by Robert C. Binkley, New Governments of Central Europe (New York, 1924), 212-16, 221. Kun was later arrested in Vienna (April, 1928) for seditious activity, for which he was sentenced to three-month's imprisonment and expulsion to Russia. The Austrian Government rejected the Hungarian request for extradition on account of the political nature of Kun's offense. Annual Register, 1928, 156.

fleet, was organizing counter-revolutionary forces within Hungary, Kun was driven from power by Rumanian troops (August 1st, 1919). The general elections of the following January gave Horthy's party a sweeping victory and he was named regent. His associates were such aristocrats as the Counts Bethlen, Apponyi, Teleki, and Julius Károlyi who succeeded in invalidating the legislative measures of the Károlyi and Kun regimes. Apart from territorial changes, they kept the new Hungary as much like the old as possible even to the extent that Hungary was now a kingdom without a king.

CONSTITUTIONAL CHANGES. At the outset, democratic constitutions were adopted after western European models. Among provisions common to these was universal suffrage, which now, for the first time, was extended entirely throughout eastern Europe. Property and tax-payment qualifications were cleared away in a broad sweep. The new constitutions ordained that voting be "equal, secret and direct," thus giving political expression to many persons who heretofore had been ineligible to vote or who had enjoyed limited franchise. To ensure the application of popular sovereignty, universal suffrage was implemented by the initiative and referendum. Traditional bills of rights were extended to embrace socio-economic objectives which revised the former conception of inviolability of property. Whereas traditional rights protected the individual from outside interference, social rights implied that the state had the authority to intervene in the sphere formerly restricted to individual enterprise. From some quarters, these social rights have been regarded as a guide to legislative and administrative activity.[19] Needless to say, much was left to the discretion of the government

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19. Arnold J. Zurcher, The Experiment of Democracy in Central Europe... (New York, 1933), 225.

as to whether the traditional or social aspects would predominate.

Certain constitutions, moreover, went directly to the point of investing land reform decrees with legality. This was the case of the Yugoslav, Rumanian, and Austrian constitutions.[20] With the expansion of Serbia the former bill of rights became effective throughout the newly-annexed regions. Class privileges were abolished by the declaration that all men were equal before the law (Article 7) and by the abolition of titles of nobility (Article 8). The Yugoslav constitution of 1921 specifically nullified archaic property relationships: fideicommissa were abolished (Article 38); feudal land dues were annulled retroactively to the day of liberation, and the kmets were granted full possession of the soil they cultivated (Article 42). The next article promised an agrarian reform program based upon the expropriation of large landed estates.

The Rumanian constitution of 1923 incorporated certain agrarian legislation of 1920 and 1921 (Article 131). Article 10 abolished privileges hitherto accorded to any class and invalidated titles of nobility. By Article 149 of the Austrian constitution, titles of nobility were likewise abolished, and banishment of the Hapsburgs and confiscation of their landed property were decreed. On the other hand, the First Hungarian Constitutional Law of 1920 reversed this trend by declaring the ordinances of the interim governments null and void. By Organic Law number 26 of 1925, the franchise was restricted for elections to the Diet, and the following year the

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20. For the texts of European constitutions, the following sourcebooks are especially valuable: François R. and P. Dareste, Les Constitutions modernes, 4ième éd., rév., 5 vols. (Paris, 1928-32), and Boris Mirkine-Guetzevitch, Les Constitutions de l'Europe nouvelle, 2ième éd., rév. et augm. (Paris, 1930).

Table of Magnates was restored, thus bringing Hungary nearer to a prewar constitutional organization than any other state in central Europe.

In retrospect, the agrarian movement throughout eastern Europe was promoted by the liberation of nationalities in 1918. The people were enabled to organize their homelands along political, social, and economic lines which they favored. Prewar reforms which had been projected by peasant parties were speedily initiated at the commencement of the interwar period. At this time the broadened political rights of the peasants enabled them to secure public policies which favored the ownership of land by the cultivator.

Problems of government, however, were especially complicated in states that were formed from divergent territorial and national elements. It was very difficult to set up a uniform administrative system that would be acceptable to all regions in the multi-national state. This condition held true countries which had been enlarged as well as for the restored Poland, whose people had been divided for a century and a half among three different systems of government. It would require farsighted legislators and highly skilled administrators to surmount such difficulties, but most of these countries suffered from the want of trained and experienced public servants. A gap between the forms of democracy and actual practice widened as time went on, until at length it became clear that the liberal-democratic ideals were remote from attainment. Multiplicity of political factions jeopardized responsible government, and fear of disintegration from within and war from without caused men to accept military rule as an alternative to unknown tribulations. Lofty pronouncements were followed

by the suspension of constitutional government and free elections, and by these means the peasantry was subordinated as a political force. In spite of repression, the peasants clung to the land which they had acquired, and no government, no matter how unsympathetic it might feel toward them, dared to take back this land without incurring the risk of civil war.

CHAPTER VI

FUNDAMENTAL AGRARIAN REFORMS

In any country, nature places a limit on the availability of land. From this fact it follows that possession by one man means the exclusion of others. For eastern Europe where ever-increasing numbers swelled the ranks of the landless, the slogan, "land to the cultivators," necessarily implied a reduction of large and even medium estates. Owing to the weakness of constitutional limitations, the more radical agrarian laws of 1919-1929 paid less heed to the traditional rights of property than to the demands of the rural poor.

THE PATTERN OF AGRARIAN LEGISLATION. A perusal of important laws on land tenure during this decade reveals a pattern that was frequently followed. A number of features common to most of the reforms may be briefly summarized. Certain classes of land were designated as subject to agrarian measures. These included possessions of the former crown or state, of the nobility, of churches, and of private landlords. In view of the fact that expropriation was carried out in stages, limitation of proprietary rights or even compulsory administration was effected until the state could secure possession. Among the reasons for this may be cited an effort to maintain the land at a productive level, to prevent disaffected landlords from destroying or disposing of their assets, and to prevent the transfer of title to third parties, real or fictitious, so as to evade application of the law. The compulsory purchase of land (expropriation) was often hardly distinguishable from virtual confiscation. In some cases, moreover, certain types of land were taken without any pretext of compensation. Generally, property was appraised at prewar levels (based upon

the gold standard), but indemnities were paid in paper without reference to depreciation. There was a good deal of truth in a jocular statement made by the Rumanian statesman, Nicolas Titulesco:

> If, by some miracle, the Rumanian currency returned to a gold basis, there would no longer be any problem of the Hungarian optants. Everyone would be satisfied.... In order, therefore, to distinguish between liquidation and expropriation, it would no longer be necessary to study treaties and the intention of the incriminated State, but merely to follow the quotations of the money market.[1]

After large estates had been broken up, their owners were ordinarily permitted to retain a moderate holding with their dwelling and farm buildings. The size of these residual estates varied greatly in different countries. An effort was made to increase the size of dwarf-holdings

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1. OJ, IX (April, 1928), mins. 2139, p.412. The prewar value of the German mark was 23.82 cents; of the Austro-Hungarian krone, 20.26 cents; of the Russian rouble, 51.5 cents; and of the Bulgarian, Greek, Rumanian, and Serbian units, 19.30 cents (the same as the franc). The following chart, based upon statistics from the Federal Reserve Bulletin (January, 1931), 32, 395-98, shows conversion rates of eastern European currencies in terms of the American cent for the years 1922-1928. Asterisks indicate revaluation.

Country and Unit		1922	1923	1924	1925	1926	1927	1928
Austria	krone	.009	.001	.001	.001			
	schilling				14.06	14.07	14.07	14.07
Bulgaria	leve	.688	.883	.728	.731	.721	.723	.720
Esthonia	mark	.023	.023	.026*	.026	.026	.026	.268*
Czechoslovakia	crown	2.415	2.955	2.954	2.965	2.961	2.962	2.960
Finland	markka	2.163	2.683	2.507	2.521*	2.520	2.519	2.517
Greece	drachma	3.305	1.714	1.790	1.561	1.257	1.317	1.304*
Hungary	krone	.090	.016	.001	.001			
	pengo					17.56	17.47	17.44
Poland	mark	.018	.001	.				
				19.22	17.74	11.17	11.28*	11.20
Rumania	leu	.696	.493	.498	.483	.462	.604	.613
Yugoslavia	dinar	1.352	1.072	1.281	1.705	1.764	1.759	1.759

to render them capable of supporting a peasant family. Closely associated with this from the standpoint of operating efficiency was the consolidation of scattered plots and the elimination of easements. Tenants on large estates were usually given the opportunity to transform their leases into freehold estates. Landless agricultural laborers were also eligible to acquire a parcel of the estate on which they habitually worked. When no land was available in an overpopulated community, the landless were sometimes settled in other regions. Veterans of the national legions held priority in acquiring new farms, thus combining military bonus with land reform; however, many ex-soldiers in the succession states, having served in defeated armies, could not qualify and might even be regarded as enemies of national independence.

THE BALTICUM. The agrarian laws of the Balticum brought about the liquidation of large rural property save in Finland, where property was already in many hands. The important Finnish land laws had as objectives the transformation of farm tenants into freeholders and the settlement of the landless on unoccupied soil. These laws did not apply to property situated in the Aaland Islands.

The law of October 15th, 1918, recognized the right of a tenant to purchase the holding which he personally cultivated.[2] By the law of March 30th, 1922, this privilege was extended to peasants who cultivated parcels on large estates and common lands.[3] Changes in ownership were brought about through direct negotiations between landlord and tenant;

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2. The Agrarian Reform, 18.

3. AILA, XII, 707-07.

however, if these were unsuccessful, such questions were adjudicated by committees representing both interests. The government compensated the landlord in money, bonds, or both, and the new owner repaid the state either in a lump sum or in deferred payments. By the end of 1928, slightly over one-hundred thousand farm tenancies had been converted into freeholds of an average area of 18.5 hectares.[4]

The Finnish land settlement legislation provided for setting aside land owned by the state for interior colonization. The law of May 20th, 1922 enabled tenants to purchase forest land on which they worked.[5] The law of May 29th provided for long-term payments, exemption from seizure for debt, and placed restrictions against alienation or subdivision.[6] The homestead law of November 25th, 1922, popularly known as the Lex Kallio, was designed to promote settlement on state domains or private estates by means of government assistance.[7] Applicants had to guarantee to set up farm buildings, give evidence of having adequate training, and have little or no land. Estates exceeding two-hundred hectares, or smaller estates belonging to absentees were subject to expropriation; but such properties were exempted if they were systematically cultivated or if they were essential to industry. Only part of an estate was subject to forced sale, depending upon its size, with a maximum of fifty per cent of estates

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4. The Agrarian Reform, 23, 34-35.

5. AILA, XII, 707-18.

6. Ibid., 718-24.

7. Ibid., XIII (1923), 830-48.

exceeding five-thousand hectares. The state compensated the owner according to local prices not exceeding the average selling price of the previous five years. New homesteads did not exceed twenty hectares in southern Finland or seventy-five hectares in Lapland, and their owners repaid the state in deferred annual payments. Nearly one-hundred thousand homesteads had been created through this program by the end of 1928.[8]

The agrarian policies of Finland's Baltic neighbors were of a more radical character. The agrarian law of October 10th, 1919, enacted while the Russian war was still in progress, sketched the general outlines of the Esthonian reform.[9] A reserve was created from the land, livestock, and equipment formerly belonging to the Crown and private landlords. By the loss of 1149 estates, the economic ascendancy of the barons was extinguished. Their properties amounted to about eighty-five per cent of the land designated for the reform. Payment for livestock was at the price level of 1914, but equipment was paid for at current prices.

Expropriated land was allotted to educational institutions and industries for long-term utilization and to cultivators on short-term leases. Forests were nationalized and could not be alienated to individual owners. Subsequent legislation further clarified the Esthonian peasant policy. A decree of February 28th, 1920 specified that small parcels might be leased to tenant cultivators for a six-year term, at the expiration of which and upon compliance with certain conditions the land would

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8. The Agrarian Reform, 35, 42.

9. IYAL, XV (1925), 896-900.

be left to the farmer in hereditary working.[10] The law of June 16th, 1925 provided for homestead allotments to a maximum of seventy-five hectares which peasants could purchase in sixty annual instalments.[11] Results of the Esthonian reform to the year 1926 are indicated in the following chart:[12]

	Number	Area in Hectares
New farms	56,076	640,000
Enlarged holdings	9,277	35,000
Residual estates	23,479	470,000
	88,832	1,145,000

Relief for expropriated landowners was partially accomplished by the laws of May 26th, 1925[13] which provided for residual estates of a maximum of fifty hectares and of March 5th, 1926[14] which gave the terms of indemnification. No indemnities were paid for the following classes of land: (a) domains of the former Russian State or of the Agrarian Bank; (b) land belonging to institutions of the nobility; (c) peasant farms rented from manorial estates; and (d) properties whose owners had worked in an active manner against the independence of the Esthonian Republic from November 24th, 1918 to February 2nd, 1920. Indemnities were based upon the value of the land up to two-thousand hectares, with a reduction by five per cent for each additional thousand hectares to a maximum of forty per cent on all estates above nine-thousand hectares. Compensation was paid in bonds bearing 2.66 per cent interest, retroactive to October,

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10. Ibid., 900-14.

11. Ibid., 915-19.

12. Tcherkinsky, loc. cit., 117.

13. IYAL, XV (1925), 896-915.

14. Ibid., XVI (1926), 526-27.

1919 and redeemable in sixty years.

As similar conditions existed in Latvia, it was to be expected that this country's legislation would parallel that of Esthonia. The Latvian law of September 16th, 1920 provided for the creation of a land reserve by expropriating former Crown lands, forests, and private estates together with a share of livestock and equipment.[15] Of the residual estates, 857 amounted to fifty, and 392 to one-hundred hectares.[16] Leases on land subject to expropriation were annulled; however, tenants continued to cultivate their holdings until the state took possession. The state paid the mortgages on expropriated estates and a special amendment was foreseen to regulate payment of indemnities. In practice, however, former owners received no compensation for the land they surrendered.[17] Compensation for livestock and equipment was based on local market values. Persons who had committed hostile acts against the state were deprived of any right to compensation. The accompanying chart indicates the sources of land computed in hectares which was expropriated by the Latvian Government:[18]

	Arable	Forest	Waste	Total	Percentage
Private estates	1,409,501	1,128,446	447,902	2,985,848	81
Crown lands	188,782	362,374	76,578	627,734	17
Parish lands	56,456	6,063	4,311	66,830	2
	1,654,739	1,496,883	528,791	3,680,413	100

15. AILA, X (1920), 683-89.

16. The Agrarian Reform, 50.

17. Ibid., 48.

18. Ibid., 50.

The law of December 21st, 1920 provided for distribution of land to enlarge dwarf-holdings to a maximum size of twenty-two hectares and to form new farms of fifteen to twenty-two hectares.[19] The state charged the peasants ten lats ($1.93) per hectare of average land and twice this sum for better land.[20] By January 1st, 1928 the agrarian reform was nearly completed,[21] and the distribution of land was carried out as follows:

	Number	Area in Hectares
New farms	64,259	961,503
Former units rented	6,780	238,690
Units formed for other purposes	28,608	290,374
	99,647	1,490,567

Most of the remaining land consisted of forests, which remained in possession of the state.

In Lithuania the land reform was instrumental in breaking up large Polish and Russian estates.[22] The first estates to be expropriated were the largest and most neglected. Properties under one-hundred and fifty hectares that were managed by their owners were left undisturbed until larger estates had been taken; however, any neglected farm was expropriated irrespective of size. Other land subject to expropriation included (a) properties of the state and of the former ruling dynasty; (b) entailed estates and those administered under a feudal title; (c)

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19. Ibid., 44-45; AILA, XI (1921), 993-96.

20. The Agrarian Reform, 44-45.

21. Ibid., 51.

22. OJ, VI (April, 1925), annex 757b, p.602-06.

estates confiscated by the former Russian Government, or belonging to the Bank of the Russian Peasants or to the Bank of the Russian Nobility; and (d) land belonging to monasteries and religious foundations.[23]

For purposes of appraisal, arable land was divided into six categories and pasture into four. Higher prices were paid for properties near railway stations or large towns.[24] No compensation was granted to persons who had been hostile to Lithuanian independence, as evidenced by having served in the Polish Army or under the White Russian commanders, Bermondt or Virgolitch.[25]

In creating new farms and settlements, allotments varied from eight to twenty deciatines depending upon the classification of land.[26] By January 1st, 1928, an area of 430,000 hectares of agricultural land, not including forests, had been expropriated. Twenty-thousand dwarf-holders received 72,000 hectares and thirty-thousand landless peasants acquired allotments averaging ten hectares apiece. The agricultural area of the former large estates was reduced by more than fifty per cent.[27]

Although the measures taken by these three Baltic nations have been regarded as radical in respect to the elimination of large landed property, they avoided the pitfalls of excessive parcellization and produced a

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23. The Agrarian Reform, 61-62.

24. AILA, XI (1921), 1005-24.

25. OJ, VI (April, 1925), annex 757b, p.604-05.

26. One deciatine is the equivalent of 1.0925 hectares or 2.7 acres.

27. The Agrarian Reform, 66.

system in which medium and large peasant farms were predominant.

CENTRAL EUROPE. The agrarian program of the Austrian Republic was limited by the fact that most of the great Austrian estates were situated in territories lost since 1918. Except in the Burgenland the existing distribution of land did not suggest a need for drastic reform. In this region, awarded to Austria by the peace settlement, there was a high proportion of large Magyar estates. Agrarian reform was not applied here, and in this respect Austria was the only state to acquire Hungarian territory that carried out no expropriations.[28] It has been suggested that the Austrian Government exercised restraint in this matter to avoid a dispute with Hungary.[29]

Austrian legislation was concerned with the restoration and resettlement of former peasant lands and with the purchase of leaseholds. A decree of November 25th, 1921 was designed to restore to small cultivators land which had been held since 1870 for speculative purposes or had been converted into private parks and game preserves.[30] Lists of such properties were published, and farmers, cooperative associations, and public bodies were entitled to demand their expropriation. Compensation was fixed according to the income from such land for the years 1915-1921, balancing the interests of both parties. The law of April 26th, 1921 enabled tenants to acquire ownership of land which they had farmed since 1880 without

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28. The Agrarian Reform, 11.

29. Macartney, Hungary and Her Successors, 64.

30. AILA, XI (1921), 925-42.

interruption. Tenants notified the land authorities of their intention to purchase, and they in turn tried to arrange an amicable settlement with the landlord. If this were impossible, the land authorities could designate a price based upon the current rent.[31] Results were anything but spectacular - only about five-hundred former peasant holdings were restored and about twenty-two hundred dwarf-holdings were enlarged. Financial difficulties stood in the way of the peasantry to acquire more land. The Austrian budget provided an average of 60,000 schillings ($8400) annually for this purpose, and in view of high interest charges from other sources, it can be seen why such a slight modification of the land system took place.[32]

Land reform in Hungary left the prewar property structure comparatively unaffected. Having nullified the agrarian legislation of 1918-1919, the Regency showed considerable indulgence toward the great estates. Most of the land was retained by the magnates, an exception being Count Michael Károlyi, whose properties were confiscated in 1927.[33] The state acquired about 248,400 hectares from a capital levy and 217,800 hectares for which full value was paid. Under the revised agrarian program, which received the blessing of the landlords, this land was distributed among the impoverished peasantry, especially those who had participated prominently in the counter-revolution of 1919.[34] A maximum of three jochs (1.725

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31. Ibid., 920-25.

32. The Agrarian Reform, 13.

33. Annual Register, 1927, 184.

34. Macartney, Hungary, 167.

hectares) was set for new farms and fifteen jochs for enlarged holdings. Between the years 1921-1936, six-hundred thousand jochs were distributed in parcels averaging less than one hectare apiece.[35]

The Czechoslovakian law of April 16th, 1919 dealt with expropriation of estates exceeding 150 hectares of arable or 250 hectares of other land.[36] Supplementary legislation was foreseen which would provide for compensation; however, properties belonging to enemy aliens, to members of the Hapsburg family, and to foundations of the nobility were confiscated outright. To repress negligence on the part of disgruntled landowners between the date of sequestration and the time when the state would formally enter into possession, the law of February 19th, 1920 set up government authorities charged with the duty of securing the maximum productivity of the estates in question.[37] An elaborate system of indemnification was provided in the law of April 8th, 1920.[38] Average prices for the years 1913-1915 determined the indemnity for estates below one-thousand hectares. As for larger estates, the rate was progressively reduced by a minimum of five per cent on properties between 1000 and 2000 hectares to a maximum of forty per cent on estates exceeding 50,000 hectares. A share of livestock and farm equip- was expropriated by the state at the average market price. Payment was made in cash or in bonds bearing three per cent interest. The law also

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35. Tcherkinsky, loc. cit., 134-35.

36. AILA, IX (1919), 909-12.

37. Ibid., X (1920), 723-30.

38. Ibid., 731-47.

recognized the right of former employees of expropriated estates to pensions and to preference in employment on state lands and in the distribution of peasant holdings. To eliminate a serious barrier to the transfer of real estate, the law of July 3rd, 1924 dissolved entails and trust deeds and prohibited formation of such properties.[39]

Allotment of land was regulated by the law of January 30th, 1920.[40] Not all estates were partitioned; some were kept by the state or assigned to communes, agricultural schools, and cooperatives in order that they might be operated more efficiently than if they were subdivided. Normal sized farm lots created by the reform ranged from six to ten hectares, but a maximum area of fifteen hectares was permitted in some instances.

Land reform in Poland was initiated by the law of July 10th, 1919, which will receive further attention in connection with the German peasant colonists in Posen.[41] This measure was superseded by the law of December 28th, 1925 which established a long-range program.[42] Among types of land made available for the peasantry were the state domains, properties held in mortmain, land which had been acquired under conditions imposed by the "former usurping Russian authorities," and other large private estates. Expropriation of ecclesiastical properties was regulated by the Concordat of February 10th, 1925[43] and their distribution by the

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39. IYAL, XIV (1924), 1027-33.

40. Alfred Légal, "Tchécoslovaquie et la Réforme agraire," Société de Législation Comparée Bulletin, LII (juillet-septembre, 1923), 270-71.

41. See below, p.30ff.

42. IYAL, VI (1926), 549-86.

43. Articles 14, 16, and 24 of the Concordat dealt with expropriation

stipulation that apportionment would be only among members of the cult in question. A list was prepared of all estates subject to division during the year, with parcelling at the rate of two-hundred thousand hectares annually. Proprietors retained sixty hectares near industrial localities and large cities, three-hundred hectares in the eastern provinces if their forefathers had managed this land prior to 1864, and 180 hectares elsewhere. Indemnities to former owners were partly in cash and partly in bonds, the proportion of the latter increasing with the size of the property. Article 37 is of special interest inasmuch as it applied to foreign nationals whose properties were taken pursuant to the reform. Unless indemnification were regulated by an agreement between Poland and the other nation, aliens were entitled to an indemnity on the same basis as their country granted to Polish subjects.

The agrarian reform enlarged dwarf-holdings, created new farms, and provided lots for rural artisans and workmen. Agriculturalists who were tenants or employees of expropriated estates, ex-soldiers and their dependents, agricultural students, and political refugees from foreign states were declared eligible to acquire allotments. They were given forty-one years in which to pay for these farms. Results of the Polish agrarian reform for the years 1919-1937 is as follows:

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of ecclesiastical property for the purpose of agrarian reform. Among the important points herein, individual properties were to be treated as distinct units, and the several types of religious establishments were guaranteed minimum areas of land which each might retain. Concordats conclus durant le Pontificat de sa sainteté le Pape Pie XI (Rome, 1934), 113-17, 127-29.

	Number	Area in Hectares	Average Area[44]
New farms	145,600	1,366,900	9.4
Enlarged holdings	476,400	958,500	2
Workmen's allotments	70,800	68,900	1
Others	3,600	55,000	15.3
	696,400	2,449,300	

SOUTHEASTERN EUROPE. The agrarian problem of Greater Rumania was complicated by the fact that large properties in the provinces were almost entirely owned by minority landlords - Russians in Bessarabia, Germans and Poles in Bukovina, and Magyars in Transylvania - while the Walachians in these regions constituted the submerged rural class. Perhaps the most striking feature of the Rumanian legislation was found in different standards applicable to the several regions. The size of residual estates showed great variation: in The Regat (Old Rumania), 100 to 500 hectares; in Bukovina, 100 to 250 hectares; in Bessarabia, 25 to 100 hectares; and in Transylvania, 5.75 to 287.5 hectares. Except in The Regat forests were nationalized.[45] Mortmain, alien-owned, and absentee-owned estates were subject to complete expropriation. As the Rumanian Church had been despoiled some fifty-five years earlier, the current legislation was felt almost exclusively in the new territories. Restrictions against alien- and absentee-owned land were likewise felt with greater severity outside The Regat.

Minority landowners immediately noted these variations which appeared more advantageous to the boyars of The Regat, but actual results of the

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44. Tcherkinsky, loc. cit., 125.

45. Sering et al., op. cit., 20-21.

reform indicate that it was no milder there than in the provinces. Most opposition came from the Magyars of Transylvania who complained that the overwhelming proportion of property had been taken from them while the Walachians received the lion's share of allotments. In Transylvania, seven per cent of the expropriated land came from the state domain, six per cent from Rumanian and Saxon sources, and the remaining eighty-seven per cent from the Magyars. Land was distributed here among 227,943 Walachians and only 82,640 members of other national groups.[46] Appraisals were based on the prewar rent calculated in terms of the gold standard; indemnities, however, were payable in fifty-year, non-negotiable bonds redeemable in the highly inflated lei. If the landlords lost, the peasants gained, for they acquired land from the state at one-half the price that was paid to former proprietors.[47] The following tables summarize the results of land reform in Rumania:[48]

Region	Area occupied by Large Estates (1000 hectares)		Percentage of Area	
	Pre-reform	1929	Pre-reform	1929
The Regat	3398	621	42.5	7.8
Transylvania	2751	1088	37.0	14.6
Bessarabia	1844	352	44.1	8.5
Bukovina	115	39	22.1	7.5
	8109	2101	40.3	10.4

Region	Expropriated Area (1000 hectares)	Received Land
The Regat	2555	648,843
Transylvania	1689	310,583
Bessarabia	1492	357,016
Bukovina	76	76,911
	5812	1,693,353

46. Aldo Dami, Les nouveaux Martyrs; Destin des Minorités (Paris, [1936]), 243.

47. J. Braesco and G. Sescioreano, "La Réforme Agraire en Roumanie," Société de Législation Comparée Bulletin, LIV (juillet-septembre, 1925), 371.

48. Sering et al., op. cit., 366-83; Tcherkinsky, loc. cit., 126-27.

The objective of the Yugoslav reform was to extend the land system of Serbia throughout the entire kingdom. It brought an end to the predominance of large Moslem, Austrian, and Hungarian estates in the newly-annexed provinces. Following division of the chitlika, 113,000 kmet families in Bosnia-Herzegovina and 29,733 families in Yugoslav Macedonia acquired freeholds averaging slightly over five hectares apiece. The reform was without effect in Serbia and Montenegro, for both regions were lacking in large estates. In the northern provinces where much of the landed property belonged to Austrian and Hungarian nobles, 29,084 landless families acquired about four hectares apiece and 143,891 dwarf-holdings were augmented by an average of slightly less than one hectare each.[49] All forests became the property of the state.

Although the Bulgarian program was probably the most radical of any, only a slight modification of the existing land system was brought about. The government took drastic action to enable refugees from neighboring states to acquire small holdings. A law of rural property based on labor (July 21st, 1924) reaffirmed the principle of the social function of land.[50] A land reserve was created from properties belonging to the state, from monastic lands which were not systematic cultivated, and from properties of individuals and corporations. The law strictly limited the amount of land a person could own. A maximum of 150 hectares of cultivable area was permitted to model farms. Thirty hectares could be retained

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49. Ibid., 124-29.

50. IYAL, XV (1925), 881-96.

by a peasant family of four, with an extra allowance of five hectares for each additional member. In event that the owner did not cultivate the land himself, his right of ownership was limited to five hectares if he were single, ten if married, and fifteen if married and with children. An exception was made for war veterans and their survivors to own up to ten hectares in the event that they did not personally cultivate the land. Estates in excess of these maximum figures were expropriated at half the average sales price of 1923. Compensation was partially in cash and the rest in bonds bearing eight per cent interest and maturing in twenty years.

A maximum of four hectares was granted to landless peasants and dwarf-holders, with preference extended to refugees, war veterans, and persons from bleak mountainous regions. They repaid the state by a down payment of at least ten per cent and had twenty years to amortize the balance. These allotments could not be resold or mortgaged for a period of twenty years except to the Agricultural Bank. The law also provided for compulsory restriping of scattered lots in event that at least fifty per cent of the owners who possessed fifty per cent of the land of a locality should vote for it. By 1936, one-hundred thousand Bulgarian families, of which thirty-thousand were refugees, were settled on the land. Altogether, 269,600 hectares of land were distributed.[51]

In Greece, land distribution was stimulated by the necessity of providing a home for over 1,400,000 refugees from Asia Minor, about half of whom were accustomed to agriculture. A detailed exposition of this problem will be found in Part IV of this study.

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51. Tcherkinsky, loc. cit., 138.

RESULTS OF THE LAND REFORMS. By 1929 the agrarian reforms described in this chapter led to a deconcentration of rural property in eastern Europe. The following tables on the distribution of land for the years 1929-34 show how thoroughly this region had become one of small peasant holdings.[52]

Percentage of Estates by Size Groups

Country	1-5 hectares	5-10 hectares	10-50 hectares	over 50 hectares
Czechoslovakia	70.8	15.7	12.5	1.0
Esthonia	17.6	16.2	61.0	5.2
Greece	79.3	14.3	5.9	0.5
Hungary	67.7	17.3	13.3	1.7
Latvia	15.7	19.5	57.7	7.1
Lithuania	18.6	27.2	51.4	2.8
Poland	64.2	24.8	10.5	0.5
Rumania	75.0	17.1	7.2	0.7
Yugoslavia	67.8	20.5	11.3	0.4
			10-30 hectares	over 30 hectares
Bulgaria	63.3	24.0	12.2	0.7
	under 2 hectares	2-10 hectares	10-50 hectares	over 50 hectares
Finland	27.0	49.5	22.2	1.3

Percentage of Agricultural Area by Size Groups

Country	1-5 hectares	5-10 hectares	10-50 hectares	over 50 hectares
Czechoslovakia	15.4	13.6	27.6	43.4
Esthonia	2.5	6.1	73.3	18.1
Greece	16.9	11.7	21.6	49.8
Hungary	14.6	12.0	22.1	51.3
Latvia	2.3	7.8	64.4	25.3
Lithuania	3.7	13.9	67.3	15.1
Poland	14.8	17.0	20.9	47.3
Rumania	28.1	20.0	19.7	32.2
Yugoslavia	28.0	27.0	35.3	9.7
			10-30 hectares	over 30 hectares
Bulgaria	29.4	21.9	32.8	5.9
	under 2 hectares	2-10 hectares	10-50 hectares	over 50 hectares
Finland	3.3	30.2	52.1	14.4

52. Tcherkinsky, loc. cit., 120, 130, 138; Wilbert E. Moore, Economic Demography of Eastern and Southern Europe (1945), 82. Cf. The First World Agricultural Census (1930), I-III (Rome, 1939), passim for fuller details.

With exception of the Baltic states, the land reforms left a predominance of small and dwarf holdings, and did not bolster the number of middle size farms as originally was planned. It seems quite clear that in attempting to distribute land among as many claimants as possible, governments paid slight heed to the economic need for well managed medium and large agricultural units. On the whole, intensity of the reforms balanced between the needs of the rural population and the influence of the gentry with the government. Where hostility existed between the propertied interests and the new ruling classes, a condition which was especially true when landowners were aliens or members of minority groups, the land reforms ignored many premises underlying the rights of property. In the next chapter the position of alien and minority landlords will be discussed in terms of the political theory underlying the European state system of the interwar period.

CHAPTER VII

THE POSITION OF ALIEN AND MINORITY LANDOWNERS

THE PEACE TREATIES AND ALIEN-OWNED PROPERTY. The peace treaties of 1919-20, more than just prescribing boundaries and conferring statehood, were basic to the public law of Europe. "Taken together, these treaties set up the laws of peace of 1919, and they...virtually established a new constitution for Europe, if not for the whole world."[1] These austere and ponderous documents placed specific curbs on the signatories in respect to property rights. The restoration of, or indemnification for property belonging to Allied nationals in the former enemy states was guaranteed. These states were prohibited from enacting confiscatory or discriminatory legislation applicable to the property belonging to Allied nationals.[2] On the other hand, the victorious powers were permitted to retain and liquidate enemy property that had been seized as exceptional war measures. This privilege, however, was so hedged in by reservations as to be virtually nullified.[3]

Former subjects of enemy states who were resident in transferred territories were granted the right of option by which they might retain their former nationality or acquire that of the succession state. In event of choosing their former status, they were guaranteed free passage and retention of rights over immovable property situated in the succession state.[4] Property of Austrian and Hungarian nationals in

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1. Clyde Eagleton, "La Révision des Traités, est-elle nécessaire?" L'Esprit International, V (janvier, 1931), 61.

2. Versailles, Arts. 297-98; St.-Germain, Arts. 249-50; Trianon, Arts. 232-33; Neuilly, Arts. 177-78.

territory detached from Austria-Hungary by the treaties could not be retained or liquidated by the Allied powers, but had to be restored to the owner.[5] Finally, persons whose property was protected by these clauses had recourse to mixed arbitral tribunals established by the same treaties. A national arbitrator would be designated by each of the interested governments and the third and presiding arbitrator would be selected from a state that had remained neutral during the war.

INTERNATIONAL COMMON LAW AND ALIEN-OWNED PROPERTY. The treaties, far from enunciating a new rule in respect to private property, simply restated principles of long standing. Change of sovereignty leaves private ownership of land intact. To hold to the contrary would be to confuse the state's sovereignty with its ownership of territory.[6] Even in cases of conquest, to cite a famous passage from Chief-Justice Marshall's opinion in United States v. Percheman,

> the people change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other, and their rights of property, remain undisturbed.[7]

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3. Versailles, Art. 297; St.-Germain, Art. 249; Trianon, Art. 232; Neuilly, Art. 177.

4. Versailles, Art. 85, par.4, Art. 91, pars.7-8; St.-Germain, Art. 78, pars.4-5; Trianon, Art. 63, pars.4-5.

5. St.-Germain, Art. 267; Trianon, Art. 250.

6. The territory forming a state is composed of two parts - one over which the state exercises rights as sovereign but not as owner; the other over which the state exercises at the same time the rights of both sovereign and landlord. The latter category is called the fiscus under Roman law or public domain under American law.

7. 7 Peters 51. This celebrated case "stands today as an authoritative

A state, furthermore, has not the authority to take property belonging to aliens without payment of a just and previous indemnity.[8]

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principle unquestioned by the courts." Francis B. Sayre, "Change of Sovereignty and Private Ownership of Land," American Journal of International Law, XII (July, 1918), 481. Similar homage is paid by Georges S.F.C.Kaeckenbeeck, "La Protection Internationale des Droits Acquis," Recueil des Cours, LIX (1937 - I), 340, 471, and by Hugh H. L. Bellot, "The Protection of Private Property," Revue de Droit International, des Sciences Diplomatiques, Politiques et Sociales, IV (janvier-mars, 1926), 5-15.

8. Resolutions adopted by the Vienna Conference of the International Law Association in 1926 constituted an important step in the codification of the international law of property and may be appropriately cited:

> "1. It is generally recognized by the constitutions, civil codes or common law of civilised States that private property may not be expropriated without compensation.
>
> "2. In so far as the question of the immunity of private property from confiscation arises in international relations the same principle is generally accepted.
>
> "3. A State is by the Law of Nations entitled to intervene to protect its nationals in another State (a) from injury to their property resulting from measures which discriminate between them and the nationals of such other State; (b) from actual injustice even if there is no discrimination.
>
> "4. The principle that private property ought to be inviolable is recognized by the Peace Treaties (although the mode of carrying it out is unsatisfactory) which contains express provisions for the purpose of preventing the expropriation of ex-enemy private property without compensation.
>
> "5. It is contrary to the principles of International Law to deprive a foreigner, or a member of a protected minority, of the fundamental rights of which he is entitled as owner, through indirect ways which, though not in law, but in fact, lead to an expropriation without real compensation."

International Law Association, Vienna Conference, 1926, Report of the Protection of Private Property Committee, 248-49. Cf. the articles by R. S. Fraser, "International Status," Revue de Droit International, de Sciences Diplomatiques, Politiques et Sociales, VII (janvier-mars, 1929)

At the International Economic Conference held in Genoa in 1922, only the Russian delegates contended that expropriation without compensation was valid for the reason that "ordinary international law was not applicable to the work of the Russian Revolution."[9] When asked by M. Cattier, the Belgian expert, about restoration of foreign bank deposits seized by the Bolsheviks, the Russian representative explained that they had been nationalized and were therefore beyond restitution. To M. Cattier's query regarding the Bolshevik attitude toward Russian deposits in Belgian banks, the reply was, "We should insist on their being paid to us, because you have not nationalized them."[10] In short, the Soviet stand was that foreigners had no right to complain for they were treated on the basis of equality with native property owners.

While a state may ordinarily treat its nationals according to its own codes, under certain circumstances it may be required to accord preferential treatment to aliens. By the doctrine of an international standard of justice it is held that a state is not excused from its international obligations simply because it treats its own citizens and foreigners on the same footing.[11] This is the view that the United

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37-45; Bellot, loc. cit., 5-15; and Alexander P. Fachiri, "Expropriation and International Law," and "International Law and the Property of Aliens," British Year-Book of International Law for 1925 and 1929, 159-71 and 32-55, respectively, which are in accord with these propositions.

9. J. Saxon Mills, The Genoa Conference (New York, 1922), 189.

10. Ibid.

11. Edwin M. Borchard, The Diplomatic Protection of Citizens Abroad; or, The Law of International Claims (New York, 1916), 39; Clyde Eagleton, The Responsibility of States in International Law (New York, 1928), 83-86, 108, and 131; and his International Government (New York, [1932]), 141.

States, under Republican and New Deal administrations alike, has consistently upheld; and recently in the controversy over the Mexican agrarian reform, Secretary of State Hull declared:

> We do not question the right of a foreign government to treat its own nationals in this fashion if it so desires. That is a matter of domestic concern. But we cannot admit that a foreign government may take the property of American nationals in disregard of the rule of compensation under international law. Nor can we admit that any government unilaterally and through its municipal legislation can, as in this instant case, nullify this universally accepted principle of international law, based as it is on reason, equity and justice.[12]

Failure to comply with the international standard of justice involves the responsibility of the state. Modes of redress against an offending state may range from diplomatic protest to actual war, followed by penalties depending in part upon the relative power of the contending parties.[13] Happily, amicable methods were found for the settlement of international disputes arising from agrarian legislation during the interwar period.

THE GENEVA SYSTEM. The League of Nations came into existence with the ratification of the Treaty of Versailles (January 10th, 1920). As successor to the Concert of Europe in the role of guardian of the peace, the

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12. Note dated July 21st, 1938 of Secretary Hull to the Mexican Ambassador in Washington, cited in Green H. Hackworth, Digest of International Law, III (Washington, 1942), 656. In reply to the Mexican argument of equality of treatment, Secretary Hull charged that this had been invoked "not in the protection of personal rights and liberties, but as a chief ground of depriving and stripping individuals of their conceded rights." Note dated August 22nd, 1938 of Secretary Hull to the Mexican Ambassador in Washington, ibid., 659.

13. Eagleton, Responsibility of States, 182-205, and International Government, 142-43.

League was more formal and better organized than its predecessor. Having a permanent Secretariat and regularly scheduled sessions, the League was always in readiness to bring statesmen together for the maintenance of international peace. The Permanent Court of International Justice, the principal judicial organ of the interwar period, came into existence in 1922.[14] Jurisdiction of the Court embraced the following matters:

> (a) The interpretation of a Treaty; (b) Any question of international law; (c) The existence of any fact which, if established, would constitute a breach of an international obligation; (d) The nature and extent of the reparation to be made for the breach of an international obligation.[15]

Stated otherwise, the Court was competent to hear justiciable disputes between states, and, as a means for the determination of rules of law, to apply:

> (1) International conventions...establishing rules expressly recognized by the contesting States; (2) International custom, as evidence of a general practice accepted as law; (3) The general principles of law recognized by civilized nations; Subject to...Article 59, judicial decisions and the teachings of the most highly qualified publicists...[16]

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14. Similarity of names has often confused the Permanent Court of International Justice with the Permanent Court of Arbitration (1899 -) and the International Court of Justice, recently established in connection with the United Nations. The Hague was selected as the seat of these three tribunals.

15. Article 36, Statute of the Permanent Court of International Justice.

16. Article 38, Statute.

As the judiciary holds no jurisdiction over political questions, means were placed at the disposal of the League to prevent such matters from disturbing the peace (Articles 11-17 of the Covenant). Requests to the Council under Article 11 succeeded in bringing about a peaceful settlement of disputes which had brought nations to the brink of war. Recourse to this article was made on no less than six occasions during the first decade of the League relative to controversies over the land question,[17] a fact that warrants its citation for reference:

> 1. Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise the Secretary-General shall on the request of any Member of the League forthwith summon a meeting of the Council.
>
> 2. It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstances whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

MINORITIES GUARANTEES. The Allied Supreme Council recognized that the new frontiers in eastern Europe were incompatible with the concepts of self-determination carried to their ultimate conclusion. Before securing international recognition, the newly-constituted states were obliged to offer guarantees to protect the rights of members of minorities of

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17. These appeals to the Council under Article 11 were made by Bulgaria on March 31st, 1923 and October 22nd, 1925; Albania, on December 17th, 1923 and June 5th, 1928; Hungary, March 15th, 1927; and Rumania, March 7th, 1927.

race, religion, and language who lived within their borders.[18] The signatory (minority) states duly pledged that the stipulations of these engagements should be recognized as fundamental laws, and that no municipal law, regulation, or official action should conflict with them. These obligations were placed under the guarantee of the League

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18. These guarantees were adhered to at different times and under different circumstances. The following classification is taken from Special Supplement No. 73 of the Official Journal, Documents relating to the Protection of Minorities by the League of Nations...(Geneva, 1929), 43 and 87.

I. Minorities Treaties signed at Paris during the Peace Conference:

1. Poland	Versailles	June 28th, 1919
2. Yugoslavia	St.-Germain	September 10th, 1919
3. Czechoslovakia	St.-Germain	September 10th, 1919
4. Rumania	Paris	December 9th, 1919
5. Greece	Sèvres	August 10th, 1920

II. Special Chapters inserted in the General Treaties of Peace:

1. Austria	St.-Germain-	September 10th, 1919
2. Bulgaria	Neuilly	November 27th, 1919
3. Hungary	Trianon	June 4th, 1920
4. Turkey	Lausanne	July 24th, 1923

III. Special Chapters inserted in other Treaties:

1. German-Polish Convention on Upper Silesia	May 15th, 1922
2. Statute annexed to Convention concerning the Memel Territory	May 8th, 1924

IV. General Declarations made before the Council of the League of Nations:

1. Albania	October 2nd, 1921
2. Esthonia	September 17th, 1923
3. Latvia	July 7th, 1923
4. Lithuania	May 12th, 1922

V. Special Declarations made before the Council of the League of Nations:

1. Finland in respect to the Aaland Islands, June 27th, 1921.

of Nations.[19]

Whereas in earlier drafts the express protection of property was explicitly stipulated, there was virtually no mention of this in the final documents.[20] All minority states, however, guaranteed that race, religion, or language would not debar any of their inhabitants from civil, political, or religious rights. It should be noted that the Finnish Guarantee relative to the Aaland Islands contained a stipulation which regulated land tenure. Article 3 of the Finnish Law of Autonomy for the Aaland Islands provided for the maintenance of landed property in local hands by giving the Islanders the right of preëmption whenever real estate might be offered for sale to outsiders.[21] Article 13 of the Greek Minorities Treaty guaranteed the property rights of the non-Greek monks of Mount Athos, reaffirming their rights under Article 62 of the Treaty of Berlin (July 13th, 1878):

> The monks of Mount Athos, of whatever country they may be natives, shall be maintained in their former possessions and advantages, and shall enjoy, without any exception, complete equality of rights and prerogatives.[22]

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19. On October 27th, 1920, the Council adopted a report by M. Tittoni defining the meaning of the expression, "guarantee of the League of Nations," which reads: "this stipulation means, above all, that the provisions for the protection of Minorities are inviolable; that is to say, they cannot be modified in the sense of violating in any way rights actually recognized, and without the approval of the majority of the Council of the League of Nations. Secondly, this stipulation means that the League must ascertain that the provisions for the protection of Minorities are always observed." OJ, I (November-December, 1920), 8.

20. Henry P. Jordan (ed.), Problems of Post-War Reconstruction (Washington, [1942]), 95.

21. "When landed estate situated in the Aaland Islands is sold to a person who is not legally domiciled in the Islands, any person legally

Procedure for the enforcement of minorities guarantees was a compromise between the conflicting principles of humanitarian intervention and national sovereignty. The League was informed by petition of an alleged infraction or danger of infraction of a minorities guarantee. Upon recommendation of the Minorities Section of the Secretariat, such complaints were submitted to the interested state for consideration. That state was expected to make a reply, but if none were made, the petition was then circulated among members of the Council. The president of the Council and two additional members appointed by him examined the evidence, and upon finding a legitimate grievance, they attempted to adjust the differences between the state and the minority. If these preliminary attempts at conciliation failed, the committee presented the problem to the Council for official action. By publishing the facts of a case, the Council held a moral advantage in dealing with an incriminated state. A rapporteur was selected from a neutral country to continue negotiations with the minority state. In a number of instances the Permanent Court of International Justice was called upon to clarify the legal issues, and a ruling by the Court ordinarily proved sufficient to expedite settlement of a particular minorities question.

Possessing the right to apply for redress before national courts

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domiciled in the Islands, or the Council of the province, or the commune in which the estate is situated, has the right to buy the estate at a price which, failing agreement, shall be fixed only by the Court of First Instance (Haradsratt) having regard to current prices." OJ, II, Special Supplement No.5 (July, 1921), 25.

22. OJ, XI (July, 1930), 829.

as well as further appeal to Geneva, it appeared at least in theory that the status of minorities in the succession states was secure and protected under the rule of law.[23] The German Settlers Case, which is set forth in the following chapter, presented the first occasion for the League and the Permanent Court to deal with a minority dispute arising from the application of land reform.

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23. Reference to certain agrarian reform cases which were heard before national courts is in Sir John Fischer Williams and Hersch Lauterpacht (eds.), Annual Digest of Public International Law Cases (London, etc., annually), hereinafter cited as Annual Digest. Examples are found in the following volumes: 1919-1922 - Polish State Treasury v. V. Osten, and Sazonow v. District Land (Reform) Board of Bialystock (Cases No. 37 and 174); 1923-1924 - Polish State Treasury v. Von Bismarck (Case No. 39); 1925-1926 - Czechoslovak Agrarian Reform (Swiss Subjects), Czechoslovak Agrarian Reform (German Subjects), Czechoslovak Agrarian Reform (Expropriation)(Cases No. 5, 98, and 99); 1927-1928 - Czechoslovak Agrarian Reform (Swiss Subjects) (Case No. 94).

PART III

THE EXPULSION OF RECENT COLONISTS

CHAPTER VIII

THE GERMAN SETTLERS IN POSEN

The case of the German settlers in Posen well illustrates the national factor in Polish agrarian policy. Before the war, the former German Government had liberally endowed thousands of farm colonists for the purpose of reducing Polish influence in this region. Economically they were better off than many of their landless Polish neighbors who had been systematically excluded from any rights under the Settlement Law of 1886. As representatives of a phase of aggressive German imperialism, their national feeling was totally incompatible with that of the Polish people. Mindful of these facts and uneasy lest this minority might serve as the advance guard of future German penetration, the Polish Government undertook to invalidate certain land titles and leases with the intention of making such properties available to peasants of Polish origin.

The colonists thereupon met this challenge by calling upon the League of Nations to intervene on their behalf under the international guarantees afforded by the Polish Minorities Treaty. Through an organization called the Germanic League for the Protection of the Rights of Minorities (Deutchstumsbund zur Wahrung der Minderheitsrechte), the settlers protested to the League against the expropriation of several thousand peasant families who had been ordered by the Polish Government to leave their farms by December 1st, 1921.[1] With the deadline only three weeks off, the Secretary-General

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1. OJ, III (March, 1922), 254-55.

immediately communicated this petition to Professor Askenazy, the distinguished historian and chief of the Polish Delegation to the League.[2] He replied that the time limit was extended beyond December 1st since this question had already arisen at the Council of Ambassadors at Paris. His delegation sent a written answer to the same effect, and upon returning to Warsaw the following week, he confirmed the postponement of the execution of eviction orders up to May 1st, 1922.[2]

Two further memoranda from the Germanic League and a petition from Heinrich von Tiedemann were submitted to the Secretary-General. A landed magnate and one-time political leader in Prussian Poland, Herr von Tiedemann was best known as a founder of the German Association of the Eastern Marches (Deutscher Ostmarkenverein), an agency of the Pan-Germanic movement. Numbering fifty-four thousand adherents in 1914, it had then been a powerful lobby for eastward expansion and colonization; since the war its chief efforts were directed toward revising the German-Polish frontier and strengthening the German element in Poland.[3]

A committee composed of M. Hymans (Belgium), president of the Council, Marquis Imperiali (Italy), and Viscount Ishii (Japan) met during the winter and spring of 1922 to study the dispute. On January 14th, 1922, the committee recommended that the Council should request the Polish Government to suspend all measures affecting the German minority until further observations were submitted by that Government.[4] This report was communicated to the Council and to M. Askenazy, who, in a letter dated

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2. Ibid.

3. From the initials of the last names of the founders, von Hansemann, Kennemann, and von Tiedemann, the Poles called it the HKT-Verein and its members, "Hakatisten."

January 17th, 1922 replied that this recommendation had been complied with in advance. The subject of the petitions was no longer urgent, for the Polish Government had already suspended liquidation of von Tiedemann's property by reason of his death.[5] The Polish Government submitted further observations on January 26th, 1922. Finding the problem more time-consuming than originally envisaged, the committee requested Poland to postpone evictions until October 1st. M. Askenazy promised to bring this recommendation to the notice of his Government and to give his wholehearted support to it.[6] In a note dated July 3rd, 1922, the Polish minister for foreign affairs extended the deadline to the requested date.[7]

On May 17th the minorities committee submitted an extended report and contrasted the statements made by the Polish Government and the Germanic League.[8] The petitioners alleged that the agrarian law of 1920 had been enacted with the intent of depriving them of their land. They argued that in districts where the majority of landlords were Poles, the reform was not applied to estates under four-hundred hectares, while in German districts, estates as small as one-hundred and eighty hectares might be partitioned. The Polish Government held that the agrarian law was neither

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4. OJ, III (March, 1922), 254-55.

5. Ibid.

6. OJ, III (June, 1922), mins. 678, p.555; annex 366, p.702.

7. OJ, III (November, 1922), annex 414, p.1297.

8. OJ, III (June, 1922), annex 366, p.702-07.

anti-German in origin nor application. By its provisions, the maximum size of property was set in inverse ratio to the density of population, and in the district of Posen where the Germans were in possession of large landed property the maximum limit of four-hundred hectares was permitted.

A second disputed point concerned tenants who were being evicted from the state domains.[9] The petitioners asserted that these tenants not only held valid leases but even offered to pay higher rents. The Polish version was that the former Prussian authorities had leased the land on very lenient terms exclusively to Germans in order to Germanize this province. Rents were deemed "absurdly low," amounting to about thirty marks per hectare. As for revision of the leases, the Polish Government noted that only thirteen of two-hundred and thirty-seven tenants had agreed to enter into new contracts.

A third phase of the problem concerned the rights of peasant colonists who had been settled under the auspices of the Prussian Colonization Commission (Ansiedlungskommission).[10] The petitioners claimed that the Polish agrarian authorities ignored the rights of settlers who held contracts from the Colonization Commission, but who had not been entered as owners in the land register or whose names had been entered therein after the Armistice of November 11th, 1918. In respect to holdings which had previously been inscribed in the land register, the Polish Government ordained that in event of alienation such land should be transferred exclusively to a person of Polish origin. The Polish reply dealt with former Prussian policy as

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9. Ibid.

10. Ibid.

illustrated by the activities of the Colonization Commission and the Ostmarkenverein. Since 1886 ten-thousand German families had been settled in western Poland under a colonization scheme which barred all opportunities to the Polish peasants. In the period between the Armistice of 1918 and the Treaty of Versailles, the German Government, fully aware that this territory would be retroceded to Poland, continued to bring in settlers. Thus, in 1919, nine-hundred families had been established here, and over thirty-five hundred other German colonists could show no right or title to the land which they occupied.

In summary, the report of May 17th, 1922 noted that there were three categories of settlers. (1) Some had obtained their contracts before the Armistice, but their names were not inscribed in the land register at that time. (2) Others had obtained contracts since the Armistice. (3) A third group had purchased land from persons who had been settled by the Colonization Commission. The question was whether the right to purchase such property, if denied to Germans but permitted to Poles, would contravene the minorities treaty.[11] The contradictory statements made by the settlers and the Polish authorities convinced the committee that further information was needed before a decision should be reached. The Polish representative was invited to discuss with the Secretary-General questions of law raised in this report in order to enable the Council to decide whether the Permanent Court of International Justice should be asked to give an advisory opinion. The Polish Government was requested to postpone any administrative or judicial measures likely to affect the German minority through application

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11. Ibid.

of the agrarian law until the Council had an opportunity to make a decision in this matter.[12]

Within a month, however, the Supreme Court of Poland handed down a decision in the V. Osten case which authorized the State Treasury to cancel leases which had been granted by the former Prussian Government.[13] In December, 1920, Osten, who held a lease from the Prussian Government, was given the choice of either entering into a fresh contract with the Polish State or quitting the property by July 1st of the following year. After he had failed to conclude a new contract, the State Treasury initiated legal proceedings to evict him. Judgment in favor of the Treasury was given by the lower courts, and upon final judgment, by the Supreme Court on June 9th, 1922. The Court ruled that Poland had become owner of this property in virtue of Article 256 of the Treaty of Versailles which did not impose any duty upon Poland to take over the former obligations of Prussia, and asserted:

> there is no international custom ordering a State which acquires property under an international treaty to respect contracts of lease concluded by the predecessor State, unless there is a special treaty stipulation to that effect.

During the summer of 1922, negotiations continued between the Polish delegation and the Secretariat. Notes from the Polish foreign minister dated July 5th and August 30th minimized the effect of agrarian reform in western Poland.[14] For financial reasons, it had been impossible to put through expropriations on a large scale and the reform was not being carried

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12. Ibid., mins. 679, p.555.

13. Annual Digest, 1919-1922, Case No. 37.

out as originally intended. The note of July 5th stated that no landed property in former Prussian territory had been expropriated and that throughout the entire country scarcely 8500 hectares had been taken up. Out of a total of some twenty-four thousand farmers who had been settled by the Colonization Commission, 3518 were occupying lands without what the Polish Government deemed to be legal title. In this category were the following groups: (a) colonists who had concluded contracts of purchase during or prior to the war and who were entered in the land register only after the Armistice; (b) colonists who obtained contracts as well as entry after the Armistice; (c) colonists who had not complied with any formality of the law, or whose names were not inscribed in the register. The remaining settlers, who comprised about eighty-five per cent of the total number, would continue to enjoy their acquired rights, subject only to the condition that if they would retain German nationality, their property would be liable to liquidation. In this event, Poland would compensate such persons for the total value of their property.

THE COMMITTEE OF JURISTS. In making this report to the Council, M. da Gama (Brazil) proposed that a small committee of legal experts be called together to study the legal aspects of the case. Adopting this proposal, the Council called upon the Secretary-General to summon such a committee, which would be asked to present a report within seven days if possible.[15] While assenting to this suggestion, the Polish delegate, M. Askenazy raised doubts as to the propriety of establishing a precedent by which special committees of jurists

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14. OJ, III (November, 1922), annex 414, p.1293ff.

15. Ibid., p.1298.

might be summoned to deal with questions which could be more expeditiously handled by the Council.[16] This committee was composed of M. Botella (Spain), M. Fromageot (France), Sir Cecil Hurst (Great Britain), and Dr. van Hamel, head of the Legal Section of the Secretariat. Their conclusions were reported to the Council on September 30th, 1922.

They regarded the registration of ownership as a formality, holding that "it would scarcely seem fair to invoke the lack of legal title against the colonists" who had received contracts before the Armistice but who before that date had not been registered. On the other hand, they upheld the Polish contention that colonists who had received contracts after the Armistice from the Colonization Commission should not be permitted to put forward their claims as against the interests of the Polish Government, and that the state was entitled to exercise the right of repurchase as one of the conditions of the contracts which remained in force.[17] Following the reading of this report, the Council requested that the Polish representative bring it to the notice of his Government at the earliest possible moment. M. Askenazy observed that it was to some extent "divergent on essential points from the opinion of his Government," which had already been submitted to the Council during the preceding nine months.[18]

The time limit preceding expulsion of the colonists (October 1st, 1922) arrived before a formal reply was made by the Polish Government. On December 7th, 1922 the Polish foreign minister announced that his Government

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16. Ibid., mins. 764, p.1181.

17. Ibid., annex 414A, p.1299-1300.

18. Ibid., mins. 790, p.1205.

could not be bound by the report of the committee of jurists and furthermore would not

> grant title deeds of property to persons, who, in pursuance to an anti-Polish policy, have established themselves on sites belonging to the Polish State.... A further respite to these colonies is out of the question, and unfortunately, their expulsion will be carried out in circumstances which are less advantageous to the colonists than...if no respite had previously been granted.[19]

The following month, M. Askenazy sharply criticized the consequences of the international protection of minorities. He held that an extended interpretation of the minorities treaties was made to the detriment of the smaller states. Speaking as historian, he reminded the League that one-hundred and fifty years earlier similar intervention by foreign powers had led to the destruction of Poland. At the present time, he declared that

> German, Lithuanian, White Ruthenian and Ruthenian minorities are, to a greater or less extent, under the influence of Germany, of the Lithuania which is governed from Kovno, of Soviet Russia and of the Soviet Ukraine. Even the Jews are under the influence of the Zionist organizations abroad, whose eyes are turned toward Palestine.[20]

Foreign intervention, he warned, would hinder the development of normal relations between the majority and minorities, and at worst might "sow the seeds of disunion, with consequences fatal both to the State and to the minority itself."[21] (All too true!) He excoriated the procedure of receiving petitions from self-named champions of minorities who had no

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19. OJ, IV (March, 1923), annex 474, p.396.

20. Ibid. (May, 1923), 481.

21. Ibid.

authority to express the will of the people concerned. Such a system was a challenge to the integrity of the state.[22]

THE ADVISORY OPINION OF SEPTEMBER 10TH, 1923. It was quite clear than an impasse had been reached. On February 2nd, 1923, M. da Gama informed the Council that Léon Bourgeois (France) had proposed to postpone dealing with this question owing to the conflict of opinion. M. Askenazy defended this proposal, explaining that the property rights of colonists who retained German nationality were subjects of negotiations then pending at Dresden.[23] As evidence of the moderation of the Polish Government, he cited the fact that evictions had twice been suspended and that during the entire period of 1920-22 only ten expulsions had been made. The president of the Council suggested that the Permanent Court of International Justice was the competent authority in deciding the merits of the dispute. Following an exchange of views, the Council voted to request the Court for an advisory opinion, and the next day, February 3rd, adopted a resolution calling upon the Court to decide: (1) whether the disputed points involved international obligations pursuant to the Treaty of Versailles and whether they came within the competence of the League of Nations, and, if answered in the affirmative, (2) whether the position adopted by the Polish Government was in conformity with its international obligations.[24]

Meanwhile another important decision affecting German property was

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22. Ibid.

23. OJ, IV (March, 1923), mins. 662, p.231-32.

24. Ibid., mins. 876, p.240.

was handed down by the Supreme Court of Poland in the case of the State Treasury v. von Bismarck (April 28th, 1923), which cleared the way for expulsion of persons whose names were not inscribed in the land register.[25] The contract for the purchase of the property in question had been concluded in 1912, but the defendant's name had not been entered in the land register until September, 1919. The Polish State Treasury refused to recognize this entry and demanded the eviction of Frau von Bismarck. Appeals of the defendant were dismissed by the court at Torun and by the Supreme Court, the latter holding that there was neither a legal nor a moral obligation on the part of Poland to recognize an imperfect title to properties which had been formed for the Germanization of Poland.

This interpretation of the law of property was rejected by the Permanent Court of International Justice. Public hearing of the German Settlers Case was from August 2nd-10th, 1923. Sir Ernest Pollock and Count Rostworowski were counsel for Poland and Herr Schiffer pleaded on behalf of the German settlers. A month later, September 10th, 1923, the Court delivered one of its most important advisory opinions.[26] This was a leading case in international law, being the first occasion for the Court to enunciate and elaborate on the meaning of the international protection of minorities. The fundamental question was whether the position adopted by the Polish Government toward the settlers was in conformity with its international obligations. But this raised other questions. Was the subject matter of the dispute within the competence of the League of Nations? Upon examination

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25. Annual Digest, 1923-1924, Case no.39.

26. Series B, No.6.

of Articles 12 and 93 of the Treaty of Versailles and the Polish Minorities Treaty, the Court answered in the affirmative, declaring:[27]

> In order that the pledged protection may be certain and effective, it is essential that the Council, when acting under the Minorities Treaty, should be competent, incidentally, to consider and interpret the laws or treaties on which the rights claimed to be infringed are dependent.

Were the rights of landowners enforceable at law prior to their entry in the land register? To this question, the Court, upon examination of the contracts found:[28]

> that the purchaser had rights to the land even before the Auflassung. He gave valuable consideration in money and in cultivation, for the acquisition of this interest, and it was an interest recognized by law and which might be safeguarded by legal proceedings.

What was the effect upon these contracts of change of sovereignty and of ownership of the state domains in the territory ceded to Poland? The Court upheld the long-standing rule that change of sovereigns does not extinguish private rights, declaring:[29]

> even those who contest the existence in international law of a general principle of State succession do not go so far as to maintain that private rights including those acquired from the State as owner of property are invalid as against a successor in sovereignty.

The Court, moreover, found that no argument for annulment of these

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27. Ibid., 25.

28. Ibid., 33.

29. Ibid., 36.

contracts could be based upon the political motives originally connected with them, for their character as contracts still endured under civil law. As to depreciation of the currency in which the instalments were payable, this was such a widespread condition that it would be unfair to single out these contracts while allowing others to remain in force. How did the date of the Armistice affect the validity of the contracts in question?[30] The answer of the Court was:

> The settlers were already in legal possession of the lands in which they had invested their money, and to which they had already acquired rights enforceable at law; and the Prussian State was not forbidden to perform the usual administrative acts under its pre-existing contracts with private individuals, especially where the delay in the performance of such acts had been due to the disturbed conditions arising from the war.

Were the leaseholds affected by the transfer of sovereignty? The Court found that they must be recognized by the successor state. As to the validity of land contracts granted after the Armistice to lessees, the Court upheld their legal force on the grounds that "the exchange of the Pachtvertrag for the Rentengutsvertrag was a reasonable and proper operation in the ordinary course of management of land."[31]

In conclusion, the Court was of the opinion that the problem came within the competence of the League of Nations as defined in the Polish Minorities Treaty and that the position adopted by the Polish Government was not in conformity with its international obligations.[32]

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30. Ibid., 40.

31. Ibid., 42.

32. Ibid., 43.

FINAL NEGOTIATIONS AND SETTLEMENT. On September 27th, 1923, M. de Mello-Franco (Brazil) announced to the Council the advisory opinion of September 10th. "It is now for the Council, under the terms of the Treaty, to decide what action should be taken," he indicated, and suggested that the Council should request the Polish Government to foretell the course of action contemplated toward the settlers. During the past year, new problems had arisen as a result of application of the agrarian law: numerous colonists had been dispossessed and forced to leave the settlements. Most of them had flocked into Germany as refugees.[33]

M. Skirmunt, the Polish representative to the Council, gave assurance that while it would require additional time for his Government to complete a thorough study of the Court's opinion, Poland would endeavor to find a solution to the problem.[34] The Council then adopted the following resolution proposed by M. de Mello-Franco:[35]

> The Council notes the advisory opinion given by the Permanent Court of International Justice dated September 10th, 1923, on the international obligations of Poland with regard to certain colonists of German race but Polish nationality.
>
> And invites the Polish Government to communicate to it, before the next session of the Council, information showing what measures the Polish Government proposes to take in order to settle the question of these colonists.

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33. OJ, IV (November, 1923), annex 574, p.1489.

34. Ibid., mins. 1081, p.1333.

35. Ibid.

Although nearing a solution in 1923, this problem still remained unsettled. On December 14th, the Council adopted a resolution based upon a report by M. de Souza-Dantas (Brazil) to have the question examined by a committee composed of the representatives of Brazil, Great Britain, and Italy.[36] On December 17th, Viscount Cecil (Great Britain) spoke of the importance of securing fair and equitable treatment for the fifty-million members of European minority groups as a requisite to international peace. He pointed out that during the past year the Polish Government had expelled some two-thousand colonists in spite of the opinions of the Committee of Jurists and of the Permanent Court. M. Skirmunt replied that by these evictions Poland was redressing a national injustice, for these settlers had been originally established in Posen out of political and strategic considerations. M. de Souza-Dantas thereupon presented a draft resolution that was adopted by the Council in slightly modified form, calling for the following: (a) This question could only be settled on the basis of the advisory opinion, with which the Council was in agreement; (b) it being impracticable to restore holdings to settlers who had already been expelled, Poland should provide just compensation for their losses; (c) the Council noted the assurance given by the Polish representative that unexecuted eviction orders would not be carried out; (d) the minorities committee would continue to deal with this problem and report to the Council at the next session.[37]

During the winter and spring of 1924, the committee continued to work

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36. OJ, V (February, 1924), mins. 1139, p.351. Members of this committee were M. de Souza-Dantas, Lord Phillimore, and Count Bonin-Longare.

37. Ibid., mins. 1140, p.359-61.

toward a solution. On March 15th, 1924, Lord Parmoor (Great Britain) addressed two questions to the Polish delegate. Would Poland exempt from eviction colonists against whom no legal proceedings had been begun as well as those against whom proceedings had been initiated but who had not yet been expelled? Would evicted persons be permitted to repurchase land with the money to be paid as indemnities for their losses? The Polish delegate replied in the affirmative to both questions.[38]

In April and May the committee reached an agreement with the Polish representatives whereby a lump sum of money would be designated as compensation to the settlers. Captain Phillimore was sent to Warsaw as expert delegate, and on June 3rd, 1924, Count Zamoyski,[39] foreign minister, set forth the terms of the settlement.[40] Resolutions taken by the Council on February 3rd and December 17th, 1923 would apply to settlers who could claim Polish nationality on the day which the agrarian law of July 14th, 1920 had been applied to their holdings.[41] These settlers were entitled to compensation, as were also an indefinite number of persons who might acquire Polish citizenship in virtue of negotiations then carried on between Germany and Poland at Vienna. Being unable to determine immediately the

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38. Ibid. (April, 1924), mins. 1204, p.548.

39. During World War I, the Zamoyski family, a great name in Polish history, is reputed to have spent one-million pounds sterling on behalf of Polish independence in advocating a free Poland and in maintaining the Polish legions in France. It is a sad commentary on the gratitude of republics that in 1933 Count Zamoyski was forced to surrender about 125,000 acres of land to settle up for overdue taxes. H. Hessell Tiltman, Peasant Europe (London, 1934), 186.

40. OJ, V (July, 1924), annex 656, p.1020-21.

41. See above, p.89, 94.

exact number of colonists entitled to indemnification, the Polish Government offered to establish a compensation fund of 2,700,000 zlotys on the basis of five-hundred claimants. Provision for modification of this sum was made in event that the number eligible for compensation should be either more or less than that number. Upon the approval of the minorities committee, Captain Phillimore notified Count Zamoyski that his proposal was acceptable (June 9th, 1924).[42]

On June 17th, M. de Souza-Dantas reported to the Council on the successful negotiations at Warsaw. In reply to queries by Lord Parmoor, Captain Phillimore disclosed that the average indemnity amounted to 220 pounds sterling, some settlers to receive more or less depending upon the size of their holdings.[43] Thus, after three years of tortuous detours, the German settlers affair was finally settled in a spirit of moderation and justice. The international protection of minorities had been tried and found equal to the test.

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42. OJ, V (July, 1924), annex 656, p.1020-21.

43. Ibid., mins. 1248, p.926-27.

CHAPTER IX

HUNGARIAN FARMERS OF THE BANAT AND TRANSYLVANIA

A second example of the interaction of nationalism and land tenure is seen in a controversy between farm colonists of Hungarian origin and the Rumanian Government over the Transylvanian agrarian reform. The causes of this dispute were fundamentally the same as those affecting the German settlers in Posen. Toward the end of the nineteenth century, Szeklers whose ancestors had migrated to Moldavia and Bukovina were repatriated and granted land belonging to the Hungarian Crown in The Banat and Transylvania.[1] They had established eighty-eight villages in the heretofore uncultivated woodlands of the Bega Valley. Their holdings were all under fourteen hectares and none required outside labor. The Hungarian Government extended long-term credit for payment of these properties, but as in the German settlers controversy, the owners' names were not entered in the land register until after the Armistice of 1918.[2] While these colonists were far below the social level of the Magyar aristocrats, they were also more favorably situated than the landless Rumanians, who had not been permitted to acquire similar properties. Change of masters in 1920 reversed the incidence of discrimination as the Rumanian Government took steps to partition these farms into smaller units and to distribute them among the landless. This policy in no way altered the total amount of land in peasant hands; rather, it trebled the number of small proprietors and altered the ratio of property held by the Rumanian and Hungarian nationalities. Facing

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1. OJ, IV (August, 1923), mins. 969, p.869.

2. OJ, VI (July, 1925), annex 781, p.1000-02.

imminent eviction, the colonists appealed to the League of Nations in February, 1925 to enjoin the Rumanian Government from taking their land.

They objected to two aspects of the Rumanian land code as being adversely discriminatory - Article 10 of the general agrarian reform for Transylvania (July 23rd, 1921) and an enactment of November 2nd, 1921, which they spoke of as the "Farmers Spoliation Law." Article 10 reads as follows:

> Allotments of farmers settled since January 1st, 1885, shall be entirely confiscated insofar as they are in excess of the standard allotment due to beneficiaries...in their respective districts.[3]

The so-called"Farmers Spoliation Law" provided that entries of colonists' names in the land register since December 1st, 1919 were null and void.[4] It may be recalled that the Rumanian agrarian program established differential limits to residual estates, and in this regard agrarian legislation applicable to Transylvania was far more drastic than corresponding measures for The Regat.[5] As the distribution of land was more equitable in Transylvania than elsewhere in Rumania, the suspicion of the Magyar minority that land reform was a veiled move to transfer their property to the Rumanians is understandable.

In the autumn of 1922 the Rumanian Government began to evict the colonists. They were permitted to retain up to 3.8 hectares, while new settlers were brought in who received from eight to eleven hectares in the

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3. Ibid., 1010. Article 97 of this law provided for "standard allotments" up to 3.8 hectares according to the quality of the soil and permitted a maximum area of 9.2 hectares in farm colonies.

4. Ibid., 1010-12.

5. See above, p.63-64. In examining this controversy, David Mitrany, a sympathetic student of the Rumanian agrarian movement, has commented: "Such a measure, applied to smallholders who owned much less than the minimum generally exempted from expropriation, could have had only a nationalist aim." Op. cit., 176.

same districts. Sons of colonists, furthermore, were declared ineligible to acquire land for the reason that their fathers were landowners.[6] On March 2nd the Secretary-General circulated this petition among members of the Council. A committee composed of representatives of Brazil, Great Britain, and Sweden requested the Rumanian Government to withhold any action that might affect the interests of the colonists until the Council could examine the observations yet to be given by the Rumanian Government.[7]

THE RUMANIAN OBSERVATIONS AND OFFER OF COMPENSATION. A reply by the Rumanian foreign minister dated April 27th, 1925 was analogous to the Polish argument in the German settlers case. According to the Rumanian viewpoint, Magyars had been encouraged to form settlements on the state domains in Transylvania, notwithstanding the fact that impoverished Walachian inhabitants here were practically landless. Before World War I, the Walachians constituted over sixty per cent of the population of The Banat, Ardeal, Crisana, and Maramures, but possessed less than one-quarter of the total cultivable area. It was deemed a matter of social necessity by his Government to expropriate even medium holdings in these regions in order to provide for this heretofore neglected class. Denial was made that any national distinction had been observed in carrying out the land reform. As to the law of November 2nd, 1921, the foreign minister asserted that only those names which had been irregularly inscribed had been expunged. Then he argued that the injured parties had no reason to petition the League of

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6. Ibid., 1003-04.

7. Ibid., 1000.

Nations for they enjoyed legal redress before municipal tribunals. In conclusion[8] came the oft-repeated and expected statement:

> the application of this law is a domestic matter and does not come within the competence of any of the international organizations which have been established by the Peace Treaties to safeguard the rights of racial minorities.

It seems that the Advisory Opinion of September 10th, 1923 was completely ignored by the Rumanian Government for reasons that are not difficult to ascertain.

On May 7th these observations were communicated to members of the Council and the dispute was placed on the agenda of future business.[9] A month later the rapporteur of this case, M. de Mello-Franco, informed the Council that M. Titulesco, Rumanian representative, had assured him that his Government would suspend any measures changing the status quo of the colonists until the Council could give a final opinion on the question.[10] A basis of settlement was agreed to at the session of September, 1925. On September 5th, M. Titulesco discussed the problem before the Council, emphasizing four main points.[11] (1) By the terms of their contracts, the colonists enjoyed far from complete proprietary rights. They could not lease, sell, or alienate their holdings - in short, they were virtually held to the soil for a political purpose. Nor had they even been recognized as owners while Transylvania belonged

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8. Ibid., annex 781A, p.1012-14.

9. Ibid., annex 781, p.1000.

10. OJ, VI (July, 1925), mins. 1527, p.891.

11. Ibid. (October, 1925), mins. 1551, p.1341-52.

to Hungary as witnessed by the absence of their names from the land register.[12]

(2) M. Titulesco cited three possibilities for dealing with these properties. (a) To confiscate all the land - this his Government had rejected out of humanitarian reasons. (b) To maintain these colonies unimpaired was likewise deemed unreasonable. He made much of the geographical factor in the distribution of property which necessitated expropriating even small farms in certain regions. Resettlement of the native landless in other parts of the country would have compelled them to abandon their homes, schools, and churches. In view of the peasant outlook on life he asked, "What would have been the fate of those two-thousand colonists if the inhabitants of twenty-six villages had been forced to leave?"[13] It would seem that such reasoning would be more persuasive to the canaille than to a body of statesmen. Morally, a state cannot excuse itself from tolerating injustice on the grounds that popular violence might ensue, for justice and order are two postulates underlying the concept of government. In the words of a former American secretary of state,

> independence imposes duties as well as rights. It presumes ability in the independent nation to fulfill the obligations towards other nations and their nationals which are prescribed and expected to exist in the family of nations.[14]

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12. Ibid., 1342. M. Titulesco held that Rumanian sovereignty took effect in Transylvania in 1918. In the German settlers case, the Permanent Court ruled that the former Prussian Government retained and continued to exercise administrative and proprietary rights in the ceded territory until this territory passed to Poland under the Treaty of Peace. Series B, No.6, p.42. It is difficult to understand how Rumania could be excused from this rule.

13. OJ, VI (October, 1925), mins. 1551, p.1345.

14. Henry L. Stimson, "The United States and other American Republics," Foreign Affairs, IX (April, 1931), supplement, iv.

(c) The decision taken by his Government, M. Titulesco explained, was to redistribute the holdings in equal proportions. Allotments ranged to 3.8 hectares, depending upon the amount of land and the number of claimants in each village. Not a single colonists had actually been driven off the land in consequence of the so-called "Farmers Spoliation Law," but transfer of property was taking place through the application of the general agrarian reform.[15]

(4) He then discussed delayed and irregular entries in the land register. Names of individual colonists had not been inscribed therein until Transylvania was hopelessly lost by Hungary, when that Government "had a sudden fit of generosity, and ordered the immediate registration of all colonists' titles."[16] This he described as a "posthumous sovereign act." His Government had made an inquiry concerning each colonist, and the summary of this study was as follows: (a) Only eight of these colonies existed prior to the twentieth century; the rest had been established up to 1911. (b) These properties were only partially paid for, inasmuch as the term of amortization was fifty years.[17] After the land reform, colonists were permitted to retain their buildings and forty per cent of the area. Recognizing that the agrarian law affected the colonists more harshly than many other landowners, his Government now consented to pay 700,000 gold francs or two and one-third times more than what was previously offered to compensate their losses.[18]

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15. OJ, VI (October, 1925), mins. 1551, p.1340-47.

16. Ibid. On the basis of the Advisory Opinion of September 10th, 1923, the action taken by Hungary seems to have been within that country's sovereign rights. Series B, No.6, p.40-42.

17. OJ, VI (October, 1925), mins. 1551, p.1348.

18. Mitrany, op. cit., 176; OJ, VI (October, 1925), mins. 1551, p.1348.

Immediately after M. Titulesco's speech, M. de Mello-Franco recommended that the Council should accept the offer by the Rumanian Government. Although his committee doubted the validity of Article 10 of the Law of January 23rd, 1921, it was felt that the compensation offered by Rumania would provide a satisfactory arrangement. The Council thereupon approved the settlement of the dispute on this basis.[19]

AN UNSATISFACTORY OUTCOME. On December 11th, 1925, M. de Mello-Franco presented a plan for the distribution of the funds which the Rumanian Government had set aside for the colonists. The villagers were to select delegates to draw up schedules showing the expropriated areas, and which would be submitted to the Rumanian Government. Each colonist would receive a share of the 700,000 gold francs proportionate to the amount of land taken from him. This plan met with the approval of the Council.[20]

The colonists, on the other hand, withheld from cooperating in this measure, lest by lending their assistance it might appear that they endorsed the expropriation of their farms and the compensation provided for them. They denied any social purpose to the agrarian reform, pointing out that their children were ineligible to acquire allotments on the pretext that their status as landowners still remained unchanged. They considered, furthermore, that the indemnity did not exceed one-fifteenth to one-twentieth of the current value of the land they lost.[21] Weary of the dispute, the Council

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19. Ibid., 1348-52.

20. OJ, VII (February, 1926), annex 833, p.331-32; mins. 1625, p.160-61.

21. Ibid. (August, 1926), 1084-87. On the basis of two-thousand claimants, the average indemnity amounted to $67.50.

accepted the Rumanian Government's proposal to reorganize the machinery for distribution of the funds, thereby terminating the cause of the Hungarian colonists.

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22. Ibid.

CHAPTER X

RUSSIAN COLONISTS IN LITHUANIA AND POLAND

This chapter will show how land reform in Lithuania affected the position of certain landowners of Russian origin. Ancestors of these landowners acquired estates which had been confiscated from native patriots who had participated in the insurrection of 1863. The cleavage between the two nationalities was deepened by the bitter realization that the prosperity of the colonist class was predicated on repression and exploitation of Lithuania under the czars. Among the grievances of Lithuanian nationalists was that the Russian Government, having suppressed the independence of their country, endeavored

> to expel the local population from the soil, so as to proceed with the colonisation of...Lithuanian regions by a foreign (Russian) population introduced in their place.[1]

Lithuanian independence inevitably involved counter-measures against the once-favored Russian minority: witness a section of the agrarian law of February 15th, 1922, which provided for expropriation without compensation of

> properties of various private persons, confiscated by the Russian Government after January 1st, 1863, and distributed to colonists and other persons for the purpose of "Russification," if such property... remained in the possession of persons to whom it was given, or their heirs.[2]

The fact that neither compensation nor a minimum residual area was accorded

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1. The Agrarian Reform, 59.

2. OJ, XI (February, 1930), annex 1195, p.184.

points to the rift between these proprietors and the Lithuanian nation. Without specific mention of national origins, it is apparent that this enactment almost exclusively concerned the Russian colonist class. The latter, accordingly, turned to the League of Nations, claiming an infringement of their rights established under the Lithuanian Minorities Declaration. They asserted that their families had lived in Lithuania for centuries and that they were legitimate owners of the properties in question. They depicted themselves as victims of spoliation on account of their minority status.[3]

A QUIBBLE OVER PROCEDURE. On October 3rd, 1928 the Secretary-General sent the petition to the Lithuanian Government for observations relative to the complaint. As no acknowledgement was received, the Secretary-General sent telegrams on November 15th and 28th calling attention to the charges. A reply from the Lithuanian Government dated November 27th curtly stated that inasmuch as the question was not on the agenda of the Council, it would be premature to submit any observations. Four days later the petition and the letter were communicated to members of the Council, who appointed a committee composed of Hjalmar Procopé (Finland), Sir George Graham (Great Britain), and Vittorio Scialoja (Italy).[4]

The committee examined this question at the session at Lugana, where M. Procopé, upon meeting M. Voldemaras, Lithuanian minister for foreign affairs, attempted to converse with him on this subject.[5] As M. Voldemaras

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3. Ibid.; OJ, X (July, 1929), annex 1151, p.1262-63.

4. Ibid.

5. OJ, XI (February, 1930), annex 1195, p.179.

later explained, the festering controversy over Vilna was exhausting the patience of his nation, and any reply at that time would have further aroused public opinion against both the Government and the League of Nations.[6] Such arguments have frequently been put forth by statesmen in reply to enquiries regarding minorities in their countries. Thus they justify the prolongation of proceedings on grounds that internal discord would ensue if concessions were made public at a time of crisis.

Having failed to obtain any information from the Lithuanian Government on the facts asserted in the petition, the committee decided on December 15th to postpone activity until the coming session in March. On February 1st, 1929 the director of the Minorities Section wrote to the Lithuanian Government for its observations. No reply was made by March 8th, when the committee met, and two weeks later the director of the Minorities Section again solicited the Lithuanian Government for a statement on its intentions relative to submission of observations. Finally, on April 6th, 1929, M. Zaunius, then minister for foreign affairs, simply confirmed the stand taken previously by his predecessor on November 27th, 1928.[7] As the Lithuanian Government did not consider that any explanation would be in order until this question had been placed on the agenda of the Council, the committee requested the Secretary-General to inscribe it on the agenda of the current session, and on June 14th, 1929, explained by note to the Council the reasons for this step.[8] Upon being informed of this action, the

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6. OJ, X (November, 1929), mins. 2492, p.1473.

7. OJ, XI (February, 1930), annex 1195, p.179-80; see above,

8. OJ, X (July, 1929), annex 1151, p.1263.

Lithuanian Government inquired what, specifically, had been called to the Council's attention that constituted an infraction or danger of infraction of the Minorities Declaration. On June 15th, upon the report by M. Adatci, the Council decided to adjourn this question until September in order to enable the Lithuanian Government to prepare its observations.[9]

On September 6th, 1929, when the question was reopened by the Council, M. Voldemaras scornfully denounced the subject matter of this complaint, declaring that "the figures involved could not amount to more than some ten Swiss francs at the outside. No one was entitled to abuse the Council's attention for such a bagatelle."[10] This was clearly a masterpiece of understatement, for it was subsequently disclosed that thousands belonging to the Russian minority were adversely affected by the Lithuanian land reform.[11] The Lithuanian representative continued to protest against the procedure in this affair. His Government, he declared, desired that no private plaintiffs should appear before the Council and that any accusation should be formulated by a member of the Council on his own responsibility. As for the petitioners, these he denounced as "persons with a political past." He recalled the recent period of Russian domination when Lithuanians who fought for liberty lost their lands and were sent into exile. Now the Lithuanian people reclaimed their own property, which, he asserted, had been usurped by Russian colonists. It was a matter of national honor that no quarter be granted to descendants of those who sought to

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9. Ibid., mins. 2456, p.1031; OJ, XI (February, 1930), annex 1195, p.180.

10. OJ, X (November, 1929), mins. 2492, p.1472.

11. OJ, XI (August, 1930), 967-68.

destroy the "language, the religion and the nationality of Lithuania..." Upon conclusion of these heated remarks, the Council decided to defer consideration of this question to a later meeting.[12]

In preparing for the coming discussion, M. Adatci compiled a report dated December 27th, 1929, which was very systematic and thorough in its treatment of the case.[13] This was communicated to the Lithuanian Government, of whom data relative to the substance of the petition was requested. When it was submitted to the Council, a reply was concurrently received from M. Zaunius, minister for foreign affairs. Again denial was made that any member of the Council had so far proven the existence of any infraction, or any danger of infraction, of the Minorities Declaration. M. Zaunius insisted that the terms of the agrarian law of 1922 were applied to all "without distinction of race, language, or religion."[14] The Council thereupon returned this question to the committee for examination in light of this note.

DISMISSAL OF THE COMPLAINT. On the following day, January 16th, 1930, the committee conferred with M. Zaunius, who assured them that expropriations under the Lithuanian agrarian law affected persons of various national origins. He explained that the petitioners had received no compensation for the reason that they were unable to prove having made either full or partial payment to the former Russian Government for their properties. Amendments to the law of 1922, however, now provided for compensation

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12. OJ, X (November, 1929), mins. 2492, p.1472-74; mins. 2517, p.1681-83.

13. OJ, XI (February, 1930), annex 1195, p.179-85.

14. Ibid., annex 1195A, p.185.

amounting to fifty per cent of the current market value of such land as well as distribution of peasant allotments to expropriated colonists.[15] In view of these findings, the committee submitted a letter to the Council stating that they considered the affair of the Russian colonists to be satisfactorily closed.[16]

THE POLISH DOCTRINE OF POSTLIMINIUM. Whereas in Lithuania the property claims of Russian colonists were annulled by legislative decree, in Poland this same objective was also attained by what is known as "judge-made law." According to the doctrine of postliminium as put forth by Polish jurists, the Republic was not a new or successor state, but the continuation of the pre-partition Kingdom of Poland. They maintained that as the foreign rulers of Poland were usurpers without legitimate authority, their acts which were contrary to Polish law would henceforth find no sanction in the courts.[17]

A court battle between Kulakowski et al. (appellants) v. Szumkowski (respondent) served as a leading case in which this doctrine was applied to restore land to Polish hands.[18] The father of Szumkowski had participated in the Polish insurrection of 1863, for which the Russian Government exiled him to Siberia and confiscated an estate of about eight-hundred acres belonging to him and his brother. This property was then

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15. OJ, XI (August, 1930), p.967-68.

16. This letter was signed by Messrs. Procope, Dalton, and Grandi.

17. Lassa F. L. Oppenheim, International Law. A Treatise, 6th ed., edited by Hersh Lauterpacht (London, 1944), 480-84.

18. Annual Digest, 1927-1928, Case no.375.

sold to Rubtsov, chief-clerk of the Governor-General, for about 350 pounds sterling - actually less, in fact, for it was purchased in twenty annual instalments of about 17£10s. Upon the restoration of Polish independence, Szumkowski brought suit against the heirs of Rubtsov to recover the estate. The Circuit Court of Bialystok ruled that he was the rightful owner and directed that the estate be returned to him. The defendants then appealed to the Court of Appeals at Warsaw which upheld the decision of the lower court, and noted that to maintain the present status of this estate would continue to penalize a Polish patriot's family and would fail to recognize the legal consequences of the restoration of Poland. Appeal was made to the Supreme Court of Poland, which on May 12th, 1928 confirmed the previous decisions. The Court decided that the heirs of Rubtsov were without title to this property for their ancestor's acquisition of it had been legally invalid in the first place. Property based upon illegal confiscations could be upheld only so long as the power of the czars remained in force. The plea of prescriptive rights could not be raised, because no Russian court could have restored the property to the rightful owners; hence, the Supreme Court held that it had been a legal impossibility for the plaintiff to press his claim until Poland regained her independence.

PART IV

THE EXCHANGE OF MINORITIES AND PROPERTY LIQUIDATIONS

CHAPTER XI

MASS MIGRATIONS AND PROPERTY RIGHTS IN THE BALKANS

Struggle over nationality reached maximum intensity in the Balkans, long a region of religious and political discord. From 1912 to 1923, large-scale population movements occurred in consequence of intermittent and bitter fighting. Changes in military fortune were followed by expulsion of one nationality and reinstatement of another. Landowners in particular were terrorized and forced to take flight, whereupon their abandoned property was sequestered by the victors. Exclusive of the Greco-Bulgarian and Greco-Turkish conventions on reciprocal migration dated 1919 and 1923, respectively, there were fifteen repetitions of this cycle of brutality in Macedonia alone.[1] This chapter will show how population transfers affected property rights in Greece and Bulgaria.

THE CONVENTIONS OF NEUILLY AND LAUSANNE. Racial migrations continued during the decade 1919-1929 through policies of Greece, Bulgaria, and Turkey to eliminate national minorities from their borders. The general peace treaty signed by Bulgaria and the Principal Allied and Associated Powers at Neuilly on November 27th, 1919 foreshadowed diplomatic negotiations to provide for "reciprocal and voluntary emigration of persons belonging to racial minorities" (Article 56, paragraph 2). That same day a convention on this subject was signed by the Greek and Bulgarian representatives at the peace table.[2] The mutual shift in minorities made less

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1. A. A. Pallis, "Racial Migrations in the Balkans during the Years 1919-24," Geographical Journal, LXVI (October, 1925), 317-20.

2. Treaty Series, I, 68-72.

change in the social structure than in the national composition of the two countries, for both groups of emigrants came from peasant stock. In spite of oppression, considerable opposition to departure came from persons who were reluctant to abandon their land. The problem of assuring them that they would receive adequate compensation for property left behind proved one of the major obstacles to the administration of the Greco-Bulgarian population transfer.

A similar agreement was signed by Greece and Turkey at Lausanne (January 30th, 1923), three months after the Greek military disaster in Asia Minor.[3] Faced with decimation at the hands of infuriated Turkish forces, Greek civilians[4] fled the country by land and by sea. By October, 1922 about 750,000 refugees - mostly women and children - were scattered throughout Greece, living in appalling poverty.[5] This exodus, so tragic in the annals of modern Greece, required great sacrifices of a war-torn nation. Poverty rights yielded to human need as houses, barns, stables, and land were requisitioned for the homeless. The compulsory character of this exchange was immediately determined by recognition of the fact that land belonging to the Moslem beys in Greece was essential to refugee settlement. Such were the conditions which preceded the Convention of Lausanne, which to a considerable degree acknowledged a *fait accompli*.

The influx of refugees also accentuated racial conflict between Greek

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3. *Ibid.*, XXXII, 76-87.

4. More properly, Turkish nationals of the Greek Orthodox religion.

5. *OJ*, III (November, 1922), 1141. Telegram from Dr. Nansen to the Secretariat, October 11th, 1922.

and Bulgar, transforming for all practical purposes the plan for voluntary migration to one of compulsory movement. Until the Greco-Turkish war, few members of the Greek or Bulgarian minorities took advantage of the Convention of Neuilly. While the aim of this instrument was to encourage the departure of persons to the states formed by their compatriots, minority pledges signed by these states presupposed peaceful adjustment of the minority problem without recourse to emigration. Indeed, the Greek Minority Treaty of August 10th, 1920 sharply deviated from the Neuilly Convention by guaranteeing Bulgarian optants the right to retain immovable property in Greece.[6] This stipulation explains why so many Bulgars refused to take advantage of the Convention until it became clear that their minority rights were incapable of enforcement.

Meanwhile, in the spring of 1922 the Bulgarian and Hungarian delegations made representations on behalf of Bulgars and Magyars living in neighboring countries at the Genoa Conference.[7] The Bulgarian note discussed the plight of some 500,000 refugees,[8] many of whom in desperation had turned to brigandage in the frontier zone. To eliminate this unrest which was menacing Bulgaria's relations with her neighbors, the Bulgarian

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6. Treaty Series, XXVIII, 243-65.

7. OJ, III (August, 1922), annex 382, p.921-22.

8. This figure seems to be an exagerration. According to the final estimate presented by Sir John Hope Simpson, The Refugee Problem: Report of a Survey (London, 1939), 25, the number of Bulgarian refugees was as follows:

Country of origin	Number
Greece	121,677
Rumania	27,911
Turkey	70,294
Yugoslavia	31,427
Total:	251,309

Government urged that the Balkan states should declare an amnesty, allowing these refugees to return; that their abandoned property should be restored; and that minorities guarantees should be enforced as soon as possible.[9] This request was transmitted to the League of Nations, where no action was taken on the ground that it failed to cite a specific infraction of the minorities treaties. On March 31st, 1923 the Bulgarian Government appealed to the League Council under Article 11, paragraph 2 of the Covenant, citing acts of violence toward the Bulgarian minority in Greece, with particular reference to deportations from the mainland. The complaint alleged that

> after having forced the Bulgarian inhabitants to offer hospitality to Greek refugees, the Greek authorities ... were doing everything in their power to compel them to quit their homes and abandon their property, banishing to remote islands those who refuse to do so.[10]

At the Council meeting of April 19th, M. Todoroff, Bulgarian delegate, held that such measures were in keeping with the policy of eliminating Bulgars and Moslems from Western Thrace and Macedonia with a view of assigning their homes to refugees. While admitting these deportations to be a fact, the Greek delegate described the victims as sympathizers of the comitadjis, whose lawless acts menaced the Government.[11]

While this was happening, the Rumanian Government was evicting Bulgarian peasants in the Dobrudja who were unable to produce freehold

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9. OJ, III (August, 1922), annex 382, p.921-22.

10. OJ, IV (June, 1923), annex 494, p.642-43.

11. Ibid., mins. 915, p.562-64.

papers. Bulgaria had accepted the fact of undisputed possession as evidence of ownership and no title deeds were issued after Turkish authority collapsed. After this province passed to Rumania such properties were seized for the purpose of interior colonization and the dispossessed small-holders migrated to Bulgaria.[12] In dealing with similar properties in Greece and Bulgaria the Greco-Bulgarian Mixed Commission established under the Convention of Neuilly adopted a more liberal policy for the determination of property rights by recognition of the fact that regular titles and deeds were exceptional. The Mixed Commission rightly accepted as proof of property rights titles conforming to Ottoman law in territory acquired since 1912, judgments of tribunals, tax-receipts, and testimony of witnesses. "Even ownership of large areas...," notes an authority on this subject, "was proved by mere testimony of witnesses."[13]

THE GRECO-BULGARIAN FRONTIER CLASH. Subjected to innumerable vexations and annoyances, many Bulgars fled from Greece to Bulgaria, and with the tacit approval of that Government, occupied Greek villages situated there. The outcome was that practically the entire Greek minority in turn migrated to Greece.[14] The Convention of Neuilly had sought to avert this state of affairs by enabling emigrants to receive payment for their property before they left either country. It had foreseen an orderly movement of people on a voluntary basis which would minimize the minorities problem as a source of international friction. Instead, ill-feeling between the two

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12. Hamilton Fish Armstrong, "The New Balkans," Foreign Affairs, III (December 15, 1924), 301-02; Royal Institute of International Affairs, Survey of International Affairs, 1926, 214.

13. Stephen P. Ladas, The Exchange of Minorities. Bulgaria, Greece and Turkey (New York, 1932), 143, note 16.

14. Ibid., 105-08.

countries mounted and reached a climax on October 19th, 1925, when Greek forces invaded Bulgaria to a depth of eight kilometers in the Struma Valley. Three days later the Bulgarian foreign office appealed to the League of Nations to intervene under Articles 10 and 11 of the Covenant.[15] Spokesmen for both countries were heard at the special session held in Paris (October 26th-30th), the Bulgarian accusing the Greeks of aggression, and the Greek delegate placing the blame on the comitadjis for making raids into his country.[16] Securing a pledge from both Governments to restrain further hostilities, the League appointed a commission of enquiry under the direction of Sir Horace Rumbold, British ambassador to Madrid.[17]

On December 7th, 1925 the Rumbold Commission reported to the Council, and in finding the Greek Government responsible for the breach of peace recommended that damages of 45,000 pounds sterling be awarded to Bulgaria. Noting that this was only one among many similar incidents, the commission called attention to the socio-economic tension from which this clash was engendered. On both sides of the frontier the inhabitants were mutually hostile, and the commission reported:

> Most of the Bulgarians formerly inhabited the neighboring districts of Macedonia which they have been forced to abandon and in which they have witnessed the settlement of refugees whom they regard as intruders. The Greek refugees possess the mentality of populations who have undergone great sufferings and are undergoing great want.[18]

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15. OJ, VI (November, 1925), mins. 1594, p.1696-1700.

16. Ibid., mins. 1595 and 1596, p.1700-10.

17. Ibid., mins. 1597, p.1711-13.

18. OJ, VII (February, 1926), annex 815, p.199.

The commission felt it imperative for the Bulgars to accept a cash settlement in lieu of pressing their rights under the Greek Minorities Treaty, for the latter course would have involved eviction of the newcomers from Asia Minor. On the other hand the Greek Government was urged to make speedy restitution to the Bulgarian emigrants for their losses.[19]

THE DESTINY OF ABANDONED PROPERTY. Two major tasks of the Mixed Commission were to supervise emigration and to liquidate the immovable property of the departed populations. It is not within the scope of this essay to discuss the first problem in detail, which, suffice to say, was the simpler of the two. The main period of Greco-Bulgarian migration was from 1923 to 1928, during which years nearly the entire Greek minority of 30,000 left Bulgaria, and 53,000 of the 135,000 Bulgars left Greece.[20] Migration under the Convention of Lausanne was practically completed in 1926, bringing about 1,500,000 persons into Greece and about 500,000 into Turkey. These migratory movements all but eliminated Greek minority groups from Bulgaria and Turkey (save in Constantinople) and the Moslem population from Greek Macedonia.

It proved very difficult to protect the emigrants from pecuniary losses. In this respect the Greco-Bulgarian commission achieved greater success than the Greco-Turkish, which neither liquidated the properties nor paid indemnities to the exchanged populations. Under the Convention of Neuilly, the mixed commission appraised real estate at current market

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19. Ibid., annex 815, p.208-09. M. Kalfoff, Bulgarian delegate, declared that the mixed commission was unable to carry out liquidations in face of Greek opposition to the proposed scale for valuation of properties. Ibid., mins. 1600, p.110.

20. Ladas, op. cit., 122.

prices in terms of the American dollar because of its comparative stability. Emigrants fared better than native landlords whose lands were expropriated through agrarian reforms in both countries. Greek agrarian authorities paid less than one-thirteenth the price that land commanded on the open market, a fact which explains the reluctance of the Greek delegate on the mixed commission to agree with his colleagues in matters of appraisal.[21]

Greece and Bulgaria were obliged to finance the work of the mixed commission. When property was liquidated, the mixed commission issued a check for ten per cent of the appraised value, payable to the emigrant and drawn on the national bank of the country in which the property was situated. The remaining ninety per cent was paid in provisional bonds bearing six per cent which were issued by the state to which the emigrant moved. This procedure had the advantage of terminating claims by expatriates against their former governments. Each state became the creditor of the other for the total amount of these bonds. When the mixed commission concluded its operations, $17,579,505.97 worth of property had been liquidated in Greece and $5,841,193.70 in Bulgaria.[22] On the other hand, the Greco-Turkish mixed commission was unable to carry out appraisals and liquidations in the manner originally planned. The exchanged populations were settled on land which, for the most part, had been relinquished by proprietors who had hastily departed. There can be little doubt that substantial fortunes were lost by some *emigrés*.

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21. Ibid., 214-15; Andreadēs, op. cit., 174, notes that the depreciation of currency caused considerable hardship on former landlords. See above, p. 50 for the decline of the drachma.

22. Ladas, op. cit., 323.

THE SETTLEMENT OF REFUGEES. The settlement of refugees in Bulgaria and Greece was administered by special commissions established in virtue of protocols which both states deposited at the League of Nations. The financial clauses of the protocol signed by Greece (September 29th, 1923) provided that the proceeds of an international loan would be turned over to the Greek Refugee Commission. Two bond issues were floated, the first in December, 1924 for 12,300,000 pounds sterling and the second in January, 1928 for 6,500,000 pounds purchased by international banks and 2,500,000 pounds by the United States Government. Only 500,000 pounds of the 6,500,000 pound loan was assigned to the refugee commission, the balance being applied to satisfy claims of foreign creditors.[23] The Greek Government also guaranteed to assign 500,000 hectares of land (an area which eventually was increased to 861,000 hectares) to the refugee commission. The Greek agrarian law of 1926 imposed narrow limits on the maximum size of estates in order to provide for the needs of native as well as refugee peasants. In Thessaly, Macedonia, Epirus, and Thrace, regions where refugees were settled, estates in excess of ten hectares were subject to expropriation.[24] The accomplishment of the refugee commission is shown by the settlement of 551,468 persons as of December 1st, 1927, the average holding amounting to 3.5 hectares per family.

The protocol signed by Bulgaria (September 8th, 1926) provided for an international loan of 2,250,000 pounds sterling to cover the work of refugee

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23. OJ, VII (October, 1926), annex 901, p.1336; ibid. (December, 1926), 1599.

24. Andreadēs, op. cit., 171-74. The settlement of refugees Hellenized these frontier zones in which Albanians, Bulgarians, and Turks formerly constituted important minority groups.

settlement and to satisfy the claims of holders of Bulgarian treasury bills issued in France in 1912 and 1913 when the Banque de Paris et des Pays Bas placed 75,000,000 leva at the disposal of the Bulgarian Government.[25] Bulgaria undertook to provide 175,000 hectares of land for the purpose of refugee settlement. To avert a repetition of the frontier affray of October 19th, 1925, it was stipulated that refugees would be settled at least fifty kilometers from any frontier with the three neighboring states. By 1930, 23,342 refugee families were established in Bulgaria with average holdings of 3.58 hectares apiece.[26]

Turkey did not receive any international assistance in the settlement of refugees. In view of the fact that thrice as many Greeks left Turkey as Moslems who entered, it seems likely that the Turkish Government had an easier task than either Greece or Bulgaria to rehabilitate its newcomers.

THE SETTLEMENT OF CLAIMS. By the Caphandaris-Molloff Agreement between Greece and Bulgaria (December 9th, 1927), the execution of which was supervised by the Council of the League of Nations, provisional bonds which had been issued to emigrants were exchanged for final bonds which would mature in thirty years.[27] Greece, the debtor state, delivered sixty bonds payable in Bulgarian currency to a neutral bank, and these securities were to be presented semi-annually during a period of thirty years to Greece for payment.

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25. OJ, VII (October, 1926) annex 901, p.1336; ibid. (December, 1926), 1599.

26. OJ, XI (November, 1930), annex 1242, p.1566.

27. Treaty Series, LXXXVII (1929), 199-209. This agreement was named after the Greek and Bulgarian ministers of finance.

While Greece was in debt to Bulgaria for the balance arising from liquidations, Bulgaria at the same time owed reparations to Greece. In 1929 when the Reparations Commission granted a moratorium to Bulgaria, the Greek Government promptly claimed the right to deduct that sum from its obligation to Bulgaria. The Bulgarian Government thereupon notified the Mixed Commission that unless Greece would make payments as stipulated by the Caphandaris-Molloff Agreement, Bulgaria would have to discontinue service on the bonds issued to emigrants. When this problem was taken up in March, 1929 by the League Council, Sir Austen Chamberlain declared that the settlement of claims of Bulgarian landowners who could not be reinstated on account of the great influx of Greek refugees "was of first consequence for the peace of that district and for the good relations between the two countries concerned."[28] Both the Greek and Bulgarian representatives asserted that their governments would be unable to discharge their obligations unless they received payments that were due to them. On can agree with M. Politis, the Greek representative, that is was difficult to understand "why a state should be obliged to pay its debts when it was not receiving payments from its creditors,"[29] especially since this problem could be solved by an elementary bookkeeping procedure. In June the Council was informed that Bulgaria had in the meanwhile delivered reparations to Greece, and the latter country in turn had made its payment to Bulgaria under the Caphandaris-Molloff Agreement.[30]

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28. OJ, X (April, 1929), mins. 2391, p.549.

29. Ibid. (July, 1929), mins. 2444, p.1015.

30. Ibid., annex 1141, p.1181.

A general set-off of mutual claims by the Greek and Turkish Governments was provided in the Convention of Angora (June 10th, 1930).[31] This instrument confirmed a condition of long standing by transferring in complete ownership the property of exchanged persons to the state in which this property was located. Greece consented to remit £425,000 to the Mixed Commission for distribution among the Greeks established in Constantinople for the loss of their properties outside the city, the Moslems in Western Thrace for properties which had passed to the Greek Government, and the Turkish Government in final payment of the Greco-Turkish accounts. It would seem very likely that the Greek refugees suffered greater property losses than the Moslems who entered Turkey, especially if the rights associated with the conduct of lawful business were taken into consideration. A plausible explanation of why Greece paid this indemnity may be that it was considered vital to the establishment of friendly political and economic relations with the Turkish Republic.

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31. Treaty Series, CVIII (1930-31), 233-53.

CHAPTER XII

SPECIAL ASPECTS OF THE HELLENIC LIQUIDATIONS

Agrarian measures taken by the Greek Government affected properties other than those belonging to Greeks, Bulgarians, and Turks. This chapter will note certain complications which arose from the expropriation of three additional categories of landowners: (a) nationals of several Great Powers; (b) members of the Albanian minority; and (c) non-Greek monks of Mount Athos. It will be seen that different standards were applied in respect to the degree and procedure of compensation.

BRITISH, FRENCH, AND ITALIAN LANDOWNERS. Protection of British, French, and Italian nationals whose property was expropriated under the Greek agrarian law exemplifies the use of economic power as a diplomatic instrument. Full and adequate compensation was effected without publicity or recourse to the League of Nations. From 1898 the finances of Greece were partially under the control of the International Financial Commission, which after World War I was composed of British, French, and Italian representatives. The Commission was authorized to collect revenues assigned to it for application to service of loans placed under its control.[1] Its approval was required before Greece could float the Second Refugee Loan

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1. Moody's Manual of Investments: American and Foreign Government Securities (New York, 1930), 746. The International Financial Commission functioned up to the occupation of Greece (1940). After World War I, representatives of Germany and Austria were withdrawn. In 1943 England announced the withdrawal of its right to a representative as a friendly gesture toward Greece, and the Bank of England called in for redemption some Greek bonds guaranteed by England. U.S. Treasury Department. Office of the General Counsel. Preliminary Study of Certain Financial Laws and Institutions: Greece. Prepared by Louis E. Callis (Washington, 1944), 111.

of 1928. From the proceeds of this loan, 150 million gold drachmas were earmarked for indemnities to British, French, and Italian proprietors whose estates had been expropriated under the Hellenic agrarian reform. The compensation they received was fourteen times the rate paid to native proprietors, who had to accept depreciated currency.[2] M. Frasheri, Albanian delegate to the League, argued with more eloquence than success that Albanians who lost land in Greece should be indemnified on a comparable footing with the above-mentioned nationals.[3]

ALBANIAN PROPERTY IN GREECE. On December 17th, 1923 the condition of Albanian Moslems in Greece was brought to the attention of the Council by M. Blinishti, Albanian delegate, under Article 11, paragraph of the Covenant.[4] Members of this minority were erroneously treated as Turkish Moslems and consequently suffered a derogation of their civil and property rights. M. Blinishti further noted that the Greek agrarian law worked a special hardship to the Albanians of Epirus, who owned most of the large rural estates of this province. For this reason he urged that "in the application of this law, the interests of Albanians should be prejudiced as little as possible."[5] To protect their rights he recommended the establishment of a Greco-Albanian mixed commission which would prevent inclusion of Albanians in the Greco-Turkish population transfer and which would supervise

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2. See above, p. , footnote 1.

3. OJ, IX (July, 1928), mins. 2180, p.868-77.

4. OJ, V (February, 1924), mins. 1145, p.364.

5. Ibid., 365. By the agrarian law of 1926, estates as small as ten hectares could be expropriated in the border provinces in contrast to at least thirty hectares which were permitted in Old Greece. Andreadēs, op. cit., 171-74.

appraisal and payment for Albanian property in Greece. The reply by M. Caclamanos, Greek delegate, centered around the fact that a mixed commission was already in existence and was responsible for distinguishing between Turkish and Albanian Moslems. He avowed that his Government had no intention of including persons of Albanian race in the Greco-Turkish population exchange. After hearing both Parties, the Council decided to refer this matter to the Greco-Turkish Mixed Commission.[6]

At the Council meeting of September 29th, 1924 Mgr. F. S. Noli, Albanian delegate, asserted that despite assurances from the Greek Government and the Mixed Commission, his compatriots were under pressure to abandon their property and to leave the country. His argument that language should be used as the test for national origin brought the reply from M. Politis that "at that rate Greece could claim Mgr. Noli, who speaks the same language as myself, and Albania could carry off the President of the Greek Republic, Admiral Condouriotis, who, in the intimacy of his own home, speaks nothing but Albanian."[7] The following day the Council decided tho regard this controversy as a minorities question upon the recommendation of M. Quiñones de Léon, rapporteur.[8]

The Council advised neutral members of the Greco-Turkish Mixed Commission to take special precautions against forcible emigration of Albanian Moslems (December 11th, 1924), and during the summer of 1925 these neutral

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6. OJ, V (February, 1924), mins. 1145, p.368.

7. Ibid. (October, 1924), mins. 1314, p.1353-55.

8. Ibid., mins. 1325, p.1367-68.

members made a tour of the regions inhabited by the Albanian minority in Greece. Reporting to the Council on August 3rd, 1925, they noted that the Greek Government counted on the departure of as many Moslems as possible, while many Albanians preferred to remain. They also observed that some Albanians actually desired to migrate to Turkey to acquire land or because they regarded that country as the heart-land of the Moslem faith.[9] M. Frasheri was completely dissatisfied with this report. He contended that the Mixed Commission treated the Albanians as a "negligible factor," and that the Greek Government trampled over the rights of the Albanian minority.[10] He charged that the settlement of refugees in Epirus was administered in such a way as to force the Albanians out of the country, declaring that "in the whole of Epirus there...[was] not a single Greek refugee settled in a Greek house."[11] Was it fair, he asked, for a group which constituted but one-tenth of the population of that province to feel the refugee problem? He warned that unless the rights of the Albanian minority were respected, his Government might be forced to recriminate against the Greeks of Albania to make room for Albanian refugees.[12]

This proved to be an empty threat as Albania was in no position to coerce her stronger neighbor. On March 16th, 1926, Viscount Ishii reported to the Council that Greece promised to relent by abrogating all exceptional measures that might have been applied to Albanian Moslems who had been regarded as subject to forcible emigration.[13] By this time, however, the

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9. OJ, VI (September, 1925), 1218-20.

10. OJ, VII (February, 1926), annex 830A, p.310.

11. Ibid., 312.

12. Ibid., 315.

Greco-Turkish population transfer was nearly completed, which may explain this tardy concession by the Greek Government.[14] After 1926 no further occasion arose for continuation of this dispute.

In June, 1928 the Albanian delegate to the League, M. Frasheri, attacked the Greek agrarian reform as a threat to international peace. He requested the Council to establish a Greco-Albanian mixed commission which would be empowered to guarantee adequate compensation to dispossessed Albanian landlords. In noting that proprietors of British, French, and Italian nationality were protected from pecuniary losses by the International Financial Commission, he urged extension of this treatment to his compatriots.[15] The Greek spokesman, M. Politis, belittled the importance of these grievances and denied that they constituted a threat to international harmony. But one who sees an analogy in the situation preceding the Greco-Bulgarian frontier clash of 1925 and the current problem may disagree with the views of this distinguished statesman. He contended that the special consideration which certain foreign nationals received was extraneous to this problem inasmuch as the Albanians in Greece were Greek nationals.[16] After hearing both sets of arguments, the Council selected a committee headed by M. Zaleski,[17] Polish representative, who

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13. Ibid. (April, 1926), mins. 1682, p.510-11.

14. Ibid. (September, 1926), 1137-38.

15. OJ, IX (July, 1928), mins. 2180, p.868-73.

16. Ibid., 873-75.

17. Ibid., 877; mins. 2187, p.883.

reported on June 9th in favor of direct negotiations between the two Parties.[18] The Greek and Albanian delegates accepted this proposal, subject to the following qualification by M. Politis:

> My Government cannot abandon the legal view by which it maintains that...no State has any obligation to grant to foreigners, in connection with a question such as that with which we are now dealing, better treatment than that which it grants to its nationals by the terms of a general law.[19]

Thus this question was withdrawn from the Council agenda without prospects of settlement owing to the irreconcilable claims of the two Parties.

A curious sidelight of the Greco-Albanian property question remains for discussion. In a minority petition dated September 3rd, 1927 several Moslems of Albanian origin alleged that since the Greek occupation of Epirus in 1913 they had been unable to collect rent from sixteen villages which they claimed to own. Previous appeals to the Greek Government to enforce their proprietary rights had proved fruitless notwithstanding the fact that elsewhere the validity of Turkish land titles had been recognized. On the other hand, Greek observations disclosed that under the Ottoman regime the villagers had been compelled to pay tribute to certain

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18. Ibid., mins. 2212, p.943.

19. This view of M. Politis as statesman may be contrasted with a doctrinal comment on the international standard of justice which appears in a collection edited by him and Albert G. de Lapradelle, Recueil des Arbitrages Internationaux (1856-1872), II (Paris, 1923), 278: "To say that the foreigner cannot be better treated than the national is an inexact formula, because the treatment received by the national is determined by internal law, whereas the treatment of the foreigner is determined by international law, and the substance of the rules of the latter, although generally more restricted, might on certain points be exceptionally more extended than the substance of the first."

Albanian chieftains in return for protection against brigands. After the Greek occupation of this territory the peasants no longer saw any need to continue paying tribute. Litigation over this question lasted from 1913 to 1931, when the court at Janina finally upheld the right of ownership by the villagers on the ground that their customary payments constituted tribute rather than rent. The League Council accepted this decision with satisfaction, and rightly so, for the petitioners had used the pretext of minority persecution as a justification of incipient serfdom.[20]

MONASTIC PROPERTIES OF MOUNT ATHOS. A series of minority complaints followed the expropriation of certain monastic properties by the Greek Government. Article 13 of the Greek Minorities Treaty provides:

> Greece undertakes to recognize and maintain the traditional rights and liberties enjoyed by the non-Greek monastic communities of Mount Athos under Article 62 of the Treaty of Berlin of July 13th, 1878.[21]

This article in turn prescribes:

> The monks of Mount Athos, of whatever country they may be natives, shall be maintained in their former possessions and advantages, and shall enjoy, without any exception, complete equality of rights and prerogatives.[22]

What were these monasteries that received special notice in these treaties? Since the Middle Ages Mount Athos has been inhabited by monks of the Orthodox faith. According to legend this was the site from which Satan tempted Jesus, and through the centuries this spot has attracted Greek and Slavic monks. They have enjoyed self-government since the reign

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20. OJ, XIV (January, 1933), 147-49.

21. OJ, XI (July, 1930), 829.

22. Ibid.

of Emperor Alexius Comnenus (1081-1118), and both Greek emperors and Slavic princes have endowed them with properties outside the mountain (metoques). It is ironical that the Ottomans respected their autonomy but that their co-religionists, who have ruled since 1913, finally interfered with their rights.

Between 1927 and 1927 eleven petitions were submitted to the League of Nations by three non-Greek monastic establishments on Mount Athos - the Russian monastery of St. Panteleimon, the Bulgarian monastery of Zo-graf, and the Russian skite (hermitage) of St. Andrew. Their grievances were essentially the same and concerned the expropriation of metoques beyond the precincts of the monasteries proper. Three farms and a forest had been expropriated from the Russian monastery; two farms had been ex-propriated from the Bulgarian monastery and six others had been subjected to compulsory leases for the purpose of refugee settlement; and one farm had been taken from the Russian skite. These properties had been culti-vated by laymen under the supervision of the monks. The petitioners re-quested restoration of their properties in their original condition or payment of a sum equal to their actual value. They alleged that unlike Greek monasteries which had been expropriated, they had not yet received any compensation. In 1929 when the Greek Government initiated appraisal of the farms, representatives of the interested communities were not in-vited to participate in this work. They claimed that valuation by the secular authorities was based on inaccurate and incomplete data. The Government had even challenged the right of the Russian skite to own land on the ground that this community was subordinate to the monastery

of St. Valopedian.[23]

The Council appointed a committee to study these complaints and replies from the Greek Government. The latter indicated that there was no conflict in principle over the justice of the claims of the monasteries, and admitted that delays were occuring in the settlement of such problems as a consequence of the tremendous administrative task of refugee rehabilitation. The Government explained that compensation would be based upon the real value of such properties on the date of expropriation. Letters dated February 18th and 25th, 1929 revealed that the Government had deposited a sum of 5,000,000 drachmae at the National Bank as a trust fund from which interest would be applied to amortize the debt owed to the monasteries. The appraisals which had been criticized in the petitions consisted of provisional measures to determine the rent rather than final valuation. Since these had been undertaken, the monasteries of St. Panteleimon and Zograf had received rent for the period that the Government had sequestered their properties, and they would henceforth receive annual payments on the basis of the provisional evaluations. The Government promised to revise these appraisals to the advantage of the monasteries if a difference were found to exist between present rent and the interest on the amount as finally assessed. The Government denied that the Russian skite of St. Andrew, which was subordinate to the Valopedian monastery and forbidden under monastic rules to own property, had any right to protest against the expropriation of the metoque in question. Greece was willing, however, to award compensation to the Valopedian monastery, which in turn could indemnify the

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23. Ibid., 829-30.

skite.[24]

Willingness of the Greek Government to make restitution, even though belated, to the several monasteries paved the way for an amicable settlement of this problem, and on May 15th, 1930 the minorities committee announced to the Secretary General that questions arising from these properties were "already in the process of solution,"[25] thereby enabling the League to drop this matter from further study.

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24. Ibid., 830-31.

25. Ibid., 832.

PART V

THE DEFENSE OF THE MAGNATES

CHAPTER XIII

RURAL ESTATES IN POLISH UPPER SILESIA AND RENEWAL OF STRIFE IN WESTERN POLAND

In Polish Upper Silesia where the property structure closely followed national lines, the application of agrarian reform menaced the dominant position of the great German proprietors. For economic reasons this province was keenly contested by Germany and Poland. Before the war it ranked second only to the Ruhr in industrial life, teeming with smelting and rolling mills, textile, chemical, and paper factories, coal and iron mines, and farm lands which yielded grain, sugar-beets, and fruit. While agriculture was subordinate to industry in terms of capital investment, substantial deposits of coal enhanced the value of large landed estates which were further developed for the purpose of converting agricultural products into industrial goods. Farms and forests supplied the needs of refineries and distilleries, starch and syrup factories, linen mills, saw mills, and mines that were situated on the estates.[1]

Before 1914 some of the local magnates ranked among the foremost landowners of Germany.[2] One-quarter of the province belonged to seven proprietors. Large estates constituted nearly three-quarters of Tarnowitz

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1. William J. Rose, The Drama of Upper Silesia, a Regional Study (Brattleboro, Vt., 1935), 248-50.

2. Bebel, op. cit., 359, identifies among the six wealthiest landlords of the German Empire the princes of Pless, Ratibor, Hohenlohe-Oehringen, and the Duke of Ujest, all of whom held extensive properties in Upper Silesia.

and sixty per cent of Lublinitz.[3] Prince Pless, militant leader of the German Volksbund, possessed thirty-six per cent of Kreis Pless.[4] While most of the landlords were Germans, the poorer and more numerous class were Poles - a condition which combined the agrarian and nationality problems of Upper Silesia.

THE PARTITION OF UPPER SILESIA AND THE CONVENTION OF 1922. Land reform was made an issue in the plebiscite held on March 21st, 1921 to determine whether this province would remain with Germany or be assigned to Poland. In an appeal to the poor man's vote, Polish handbills contrasted the land policies of the contending nations. They warned that if German rule would continue the landlords would also remain; that settlers would be brought in from the Rhineland; that workers at best could become tenants, for the full market price would be charged for the land. On the other hand, if Upper Silesia became part of Poland, they promised to break up the large estates in favor of the rural poor. The Poles furthermore pledged not to colonize this province, but to offer land at one-half the market price with favorable credit arrangements so that local inhabitants might become owners of the soil.[5]

Although a majority voted in favor of Germany, the Poles were dominant in the industrial towns, and after riots and disorders, an international

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3. Sering et al., op. cit., 159.

4. The influence of this organization is described by Pablo de Azcarate, League of Nations and National Minorities, an Experiment, Eileen E. Brooke (tr.) (Washington, 1945), 151; and Julius Stone, Regional Guarantees of Minority Rights; a Study of Minorities Procedure in Upper Silesia (New York, 1933), 49.

5. "Zur Landfrage in Oberschlesien," Jahrbuch der Bodenreform viertelsjahrshefte, XVII (Mai 24, 1921), 125-29.

commission appointed by the League of Nations apportioned the province between Poland and Germany, assigning to the former the industrial and mining section. In view of the economic relationship of the partitioned sections, the Council of the League proposed special regulations to be imposed over the entire zone for a period of fifteen years. The Conference of Ambassadors endorsed this proposal (October 21st, 1921), and negotiations were entered into by Germany and Poland under the mediation of M. Calonder, Swiss delegate to the League.[6] On May 15th, 1922 a convention of 606 articles for the administration of Upper Silesia - perhaps the longest diplomatic instrument ever devised - was signed at Geneva.[7] As M. Calonder explained, this convention placed the supervision of minorities guarantees under the League of Nations and provided for recourse to the Permanent Court of International Justice for the settlement of other disputes.[8] Conditions under which property could legally be expropriated were hedged in by restrictions - concessions not only to the Germans who owned ten times as much land as the Poles but also to the economic needs of eastern Europe. A Germano-Polish Mixed Commission was established at Katowice and a Tribunal of Arbitration at Beuthen under presiding officials who were appointed by the League of Nations. Article 23 of the Convention

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6. OJ, III (February, 1922), annex 282, p.117-18.

7. The text does not appear in the Treaty Series but may be found in Martens Nouveau recueil général (3ième sér.), XVI, 645 ff. and in Georges S.F.C.Kaeckenbeeck, The International Experiment of Upper Silesia. A Study in the Working of the Upper Silesian Settlement, 1922-1937 (London, 1942), 567-822.

8. OJ, III (June, 1922), mins. 661, p.542.

conferred jurisdiction upon the Permanent Court in regard to disputes arising from the interference with property rights.

POLISH AGRARIAN REFORM AGAIN COMES BEFORE THE PERMANENT COURT. On December 30th, 1924 the Polish Government announced in the Monitor Polski, official gazette, the intention to expropriate a nitrate works at Chorzow and certain large landed estates in accordance with the expropriation act of July 14th, 1920.[9] On May 15th, 1925 Baron von Lucius, German minister to the Hague, filed an application with the Permanent Court alleging that by this action the Polish Government had committed a breach of the Geneva Convention.[10] Analysis of this application permits the distinction between two different causes: Affair I, connected with the Chorzow factory, and Affair II, connected with the large landed estates. The German Government requested the Court to give judgment in Affair II that the liquidation of rural estates belonging to a number of great landowners would not be in conformity with the Geneva Convention.

The roster of German plaintiffs included some of the proudest names of prewar European society. Among their number was Christian Kraft, Fürst[11] zu Hohenlohe-Oehringen, whose ancestry traced to the medieval nobility. During the past century, his family was conspicuous in military and political affairs. Prince Lichnowsky, another Silesian magnate, had served as

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9. This same law was also applied to the German settlers in Posen. See above, p. 80ff. The English translation is in Series C, no. 3, III, 26.

10. Series C, no. 9, I, 24.

11. Almanach de Gotha, 1915, 144.

German ambassador to the Court of St. James (1912-14). His forebears acquired the title of prince in Prussia during the eighteenth century, and from them he also inherited the majorat of Kuchelna (6839 hectares) and the manor of Gratz (4342 hectares).[12] A third plaintiff was Frau Gabriele von Ruffer (nee Grafin Henckel von Donnersmarck), whose ancestors had been confirmed among the Hungarian nobility in 1414 and among the Austrian nobility two centuries later. The princely branch of this family held entailed estates at Tarnowitz-Neudeck (2944 hectares) and Zyglin (13,558 hectares). The counts owned over eight-thousand hectares, and additional property held in joint possession by both branches amounted to 1674 hectares.[13] A fourth landowner whose properties were jeopardized by the Polish land reform was the Baroness Maria Anna von Goldschmidt-Rothschild (nee Friedlander-Fuld) whose marriage linked her to the most distinguished financial dynasty of modern times. The Friedlander-Fulds, however, were prominent in their own right, especially in Upper Silesia, where they held large investments in industry, coal mines, and real estate.[14]

THE COURT ASSERTS ITS JURISDICTION: JUDGMENT NO. 6. The Polish Government raised preliminary objections to the Court's jurisdiction on the grounds that the suit was premature, Poland not yet having decided whether expropriation would actually take place (June 26th, 1925). The Polish document

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12. Ibid., 355. A majorat is an estate regulated by primogeniture and entail. The account of Prince Lichnowsky's English mission, Heading for the Abyss, Sefton Delman (tr.) (New York, 1928), aroused world-wide attention.

13. Almanach de Gotha, 1929, 445-46.

14. Wer ist's, 1914, 464.

maintained that the Court should declare that it had no jurisdiction, or in the alternative, that the German application could not be entertained.[15] These objections were communicated to the German representatives, who on July 9th, 1925 filed a Counter-Case, noting that differences of opinion had arisen between the two Parties out of the construction and application of the Geneva Convention.[16] Representatives of both countries were heard from the 16th to the 20th of July, 1925. During these proceedings, a suit on behalf of Frau Vogt was withdrawn because competent Polish authorities had decided that she was entitled to retain her domicile in Polish Upper Silesia.

Jurisdiction of the Court was affirmed in Judgment No. 6 (August 25th, 1925).[17] The Court noted that six of the proprietors had already petitioned the Mixed Arbitral Tribunal to restrain expropriation proceedings and to declare that such proceedings were invalid. In respect to four of these actions, notice had not yet been served on the Polish Government; in one of the remaining two, Poland disputed the jurisdiction of the Mixed Arbitral Tribunal. In no instance, however, was it alleged that the notices which appeared in the Monitor Polski were followed by actual expropriation. The Court ruled that these notices curtailed the property rights of the owners. Under Articles 16 to 20 of the Geneva Convention, once notice

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15. Polish Exceptional Reply, June 26, 1925. Series C, No. 9, I, 119-25.

16. German Observations concerning Polish Exceptional Reply, July 9, 1925. Ibid., 156-73.

17. Series A, No. 6, p.4-41.

had been served an owner could not alienate his property without consent of the Polish Government. In view of this restriction on the rights of ownership, the Court dismissed the plea of the Polish Government and declared that the action instituted by Germany was admissible, reserving it for judgment on the merits. The President of the Court was instructed to fix the time for deposit of further documents of written proceedings.

The only dissenting opinion was made by Count Rostworowski, Polish judge ad hoc.[18] He denied the jurisdiction of the Court, arguing that (a) no official dispute existed between the two Governments; (b) the competence of the Mixed Arbitral Tribunal would be jeopardized by the Court's assertion of jurisdiction; and (c) questions of fact could not be ascertained by the Court, and hence, lay outside its jurisdiction.

A GERMAN LEGAL VICTORY: JUDGMENT NO. 7. On August 25th, 1925 Herr von Vieringhoff, German chargé d'affaires at The Hague, submitted a second application to the Court, requesting that two additional suits be joined to the Application of May 15th. The Court was asked to rule that liquidation of rural estates belonging to the Duke of Ratibor and Count Saurma-Jeltsch would not be in conformity with Polish obligations under the Geneva Convention.[19] The Dukes of Ratibor were members of the Hohenlohe family. The present head of this house was Victor-Augustus-Marie, third duke of Ratibor and third prince of Corvey.[20] By a decision of February 5th, 1926, the Court joined these causes with the previous ones.[21]

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18. Ibid., 31-41.

19. Series C., No. 11, I, 340-42.

20. Almanach de Gotha, 1929, 197-98.

21. Series A, No. 7, p.94-96.

During hearings that month, applications on behalf of Mmes. Vogt and von Ruffer and the Mala Dabrowka property of the Georg Giesche's Erben Company were withdrawn following the Polish Government's consent to rescind the notices concerning them. Further retractions of notices concerning estates of Baroness von Goldschmidt-Rothschild and urban property of the Georg Giesche's Erben Company and of the Vereinigte Königs-und-Laurahütte Company rendered these properties "once and for all immune from any possible expropriation under Article 15 of the Geneva Convention."[22] After receiving further information from both Parties and testimony by expert witnesses, the Court pronounced judgment on the merits of the German application (May 25th, 1926).[23]

To protect industrial production, the Geneva Convention had exempted rural estates which served local industry from expropriation.[24] The Court broadly interpreted the concept of "serving the needs of large industrial undertakings," holding that if the "needs in question... were genuine needs of the enterprise, it would be contrary to the letter and spirit of the clause to impose other conditions or limitations."[25] For this reason, whether services appeared to be immediate or remote, temporary or permanent, they would still be sufficient. Likewise, lands devoted to food production, garden allotments, and workers' housing could not be expropriated in view of

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22. Ibid., 58, 66, 71-72.

23. Ibid., 4-83. For depositions, see Series C, No. 11, I, 290-338.

24. Article 9, paragraph 2, sub-paragraph 2 states: "Rural estates which are devoted principally to serving the needs of large industrial undertakings (dairy farming estates, timber raising estates, etc.) shall be considered, for the purposes of this article, as forming part of the undertakings the requirements of which they serve."

25. Series A, No. 7, p.50.

their connection with the welfare of industrial workers. The Court justified retention of the surface of mines by their owners in spite of the Polish argument that the surface could be utilized for agriculture. The Court held that unless the owners retained the surface, fear of subsidence might hinder the complete exploitation of the seams or require expensive installations. They would, furthermore, be menaced by the prospect of litigation if the surface of the mines passed into other hands.[26] How these principles were applied may be seen in the outcome of individual suits.

The estate of Count Ballestrem, consisting of 320 hectares in the District of Swietochlowice, was farmed by the owner save for fifteen hectares of uncultivable land, and was situated over mines which belonged to him. A dairy farm on this estate provided food for the workers. In view of these circumstances, the Court upheld the claims of the plaintiff as serving the needs of industry and of workers connected with it.[27]

The Godulla Company's properties in Swietochlowice, Przcyna, and Rybnik embraced 2411 hectares according to Polish calculations and 3495 hectares according to those of the Germans. Most of the individual properties were under 100 hectares. The question was whether a number of small estates belonging to a single owner would be subject to expropriation if their cumulative area exceeded 100 hectares, as the Polish Government maintained. The Court held otherwise by interpreting the Convention as contemplating separate estates rather than the total area belonging to a single person. As to larger parcels which covered mines owned by the

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26. Ibid., 52-53.

27. Ibid., 53-56.

company and which were leased to workmen, the Court deemed such properties as adequately serving the needs of industrial enterprise.[28]

Five properties of the Georg Giesche's Erben Company, a corporation owned by German nationals, were declared to be immune from expropriation on account of their connection with industry. The Zalese estate consisted of 347 hectares of arable and 135 hectares of forest land. The principal claim of the Applicant was that the entire estate was situated over the company's mines; the second contention was that most of the agricultural land was leased to workmen and the rest was farmed by the company. The Jedlin estate of 283 hectares of forest and 306 hectares of farm land had originally been acquired for future requirements of the mines. The Mokre estate, amounting to 401 hectares of agricultural and 316 hectares of forest land, was situated over mines and coal seams, and portions were devoted to dairy farming. The Baranowice estate amounted to 1072 hectares, about equally divided into agricultural and forest land. The farms provided food for the workers and hay and straw for the pit ponies, while from the forest came timber for pit props in the mines. The Giezowiec estate of 1120 hectares coincided with mining concessions belonging to the corporation. Eight-hundred and seventy-six hectares of woods had been destroyed by fire, but re-forestation had been begun. Workmen's cottages and allotment gardens were situated on the agricultural land.[29]

In two other applications, nationality of the owners served as a bar to expropriation. A natural-born German, Prince Lichnowsky acquired

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28. Ibid., 75-78.

29. Ibid., 56-65.

Czechoslovak nationality in virtue of his domicile at Kuchelna under Article 84 of the Treaty of Versailles. Although dual nationality has frequently worked personal hardship, temporary acquisition of Czechoslovak citizenship exempted Prince Lichnowsky from expropriation. The Court held that under Article 17 of the Convention,[30] the Polish Government could not rightfully liquidate his estates which comprised an area of 1930 hectares in the District of Rybnik.[31]

Upon disclosure that ownership of the Vereinigte-Königs-und-Laura-hütte Company was vested in non-German hands, the Court held that this corporation was immune from expropriation. At the time the Polish Government served its notice, eighty per cent of the shares of stock belonged to four individuals: (a) Prince Henckel von Donnersmarck, a Polish national; (b) M. A. Weinmann, a Czechoslovak; (c) M. Bosel, an Austrian; and (d) M. Askenazy, a Pole. During the years 1921-22, two of the four, and in the following two years, all were members of the Board of Control. The Court noted the withdrawal of the Polish notice to expropriate the company's lands in the City of Katowice, and further observed that the company's 1984 hectares of land situated in the district of Rybnik mainly covered the company's mines and that the agricultural lands were providing foodstuffs

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30. Article 17 of the Geneva Convention reads: "German nationals who, ipso facto, acquire the nationality of an Allied or Associated Power by application of the provisions of the Treaty of Versailles or who ipso facto acquire Polish nationality by application of the present convention, shall not be regarded as German nationals for the purpose of Articles 16 to 23." The Lichnowsky majorat at Kuchelna was trisected by the international boundaries separating Germany, Poland, and Czechoslovakia. The manor house was located in Czechoslovakia, and by his residence there, Prince Lichnowsky automatically acquired Czechoslovak nationality.

31. Series A, No. 7, p.72-73.

for the workers and supplying industrial needs.[32]

The Court ruled in Poland's favor in the four remaining suits. (a) In respect to the estates of Christian Kraft, Fürst zu Hohenlohe-Oehringen, aggregating 361 hectares in Katowice, insufficient evidence had been produced to substantiate the claim that they were devoted to serving the needs of industrial enterprise.[33] (b) Aside from the Waldpark belonging to the City of Ratibor, which both Governments had agreed should not be subject to expropriation, 297 hectares of other real estate belonging to the city and situated in the District of Rybnik could be expropriated. On the basis of Prussian municipal law the Court held that Ratibor fell within the category of "German nationals" as designated by the Geneva Convention. Its outlying lands were subject to expropriation inasmuch as the German Government had not disputed their agricultural character.[34] Neither the estates belonging to (c) the Duke of Ratibor nor to (d) Count Saurma-Jeltsch, consisting of 495 and 439 hectares, respectively, would be immune from expropriation. In both instances the properties had been divided by the new frontier and the owners lacked domicile in Polish territory. Under these circumstances, they were unable to claim under Article 40 a domicile in Poland capable of retention.[35]

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32. Ibid., 65-71. Relative to the international status of this corporation, the Court held that "a special conception - that of a 'controlled company'" - had been adopted in the Geneva Convention instead of nationality. Ibid., 70.

33. Ibid., 64-65.

34. Ibid., 73-75.

35. Ibid., 80-81.

One may reasonbly inquire into the results of these legal battles. What action did the Polish Government take toward the four properties which the Court had found subject to expropriation? - toward the other properties? In both instances, the answer may be stated in one word: nothing. After a year and a half of wrangling and litigation, of objections and counter-cases, of depositions and hearings, nothing was liquidated, not even after the Court rejected certain German claims. In the words of Georges Kaeckenbeeck, president of the Arbitral Tribunal of Upper Silesia, "the net result of the Polish threat to liquidate was, in all cases, to give absolute immunity against liquidation."[36] This is explainable in reference to Article 15 of the Geneva Convention, which set a limit of two years from the date of notification to the time that liquidations might be put into effect. Financial weakness also barred administration of the reform as envisaged in 1920,[37] and in this connection Dr. Kaeckenbeeck shrewdly observes that

> the appetite to expropriate appears in inverse ratio to the subjection of the process to the rule of law, and to the probability of having to pay an adequate indemnity.[38]

Upper Silesia, it is true, remained a source of agitation and a danger spot in eastern European affairs, but for reasons other than agrarian reform.

RENEWAL OF STRIFE IN WESTERN POLAND. The Germano-Polish agrarian dispute next reverted from Upper Silesia to Posen and Pomerelia. After the earlier

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36. Kaeckenbeeck, International Experiment of Upper Silesia, 107.

37. Ibid.; cf. Rose, op. cit., 250-51.

38. Kaeckenbeeck, International Experiment of Upper Silesia, 107-08.

controversy in Posen had been settled in favor of the German settlers, a fresh dispute arose over the expropriation of Junker estates. A number of petitions were submitted to the League of Nations by large German proprietors, alleging that the law of 1925 was in conflict with the Polish Minorities Treaty.[39] They contended that the reform was applied more rigorously toward persons of minority status, who were also excluded from acquisition of land. The following chart, taken from a report presented by M. Nagaoka at the Council meeting of December 9th, 1932, indicates the trend of expropriations:[40]

	Percentage of total area subject to reform	Percentage of actual contribution to reform	
		1926-1929	1926-1932
Posen			
Poles	65	49.9	53.4
Junkers	35	50.1	46.6
Pomerelia			
Poles	39.3	27.2	31.2
Junkers	60.7	72.8	68.8

Disparity between the amounts owned and taken from the two national groups seems to substantiate the charge of differential treatment. It is noteworthy, however, that as the reform progressed, an increasing percentage of land belonging to Poles was actually expropriated. The dispute was taken from the Council in 1933, when the German Government applied to the Permanent Court for a declaration that the agrarian program constituted a violation of the Polish Minorities Treaty, that reparations should be made, and that interim measures of protection should be extended to the minority

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39. OJ, XIII (July, 1932), annex 1377a, p.1424-34; annex 1377b, p. 1434-38.

40. Ibid. (December, 1932), mins. 3185, p.1971-72.

landowners. On July 29th, 1933 the Court dismissed the request for interim protection,[41] and the suit was soon dropped by the German Government with the announcement of withdrawal from the League of Nations (October 27th, 1933).[42]

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41. Series A, No. 58; Series C, No. 71.

42. Series A, No. 60.

CHAPTER XIV

POLISH LANDLORDS IN LITHUANIA

A PUNITIVE LAW. In Lithuania conflict between gentry and peasantry was sharpened by dissention over the future status of the nation. The great landowners sought to restore the historic union of Lithuania and Poland that had existed for two centuries prior to the partitions; the peasants, on the other hand, opposed this unequal partnership and resolved to reorganize their homeland as an independent state. Traditional attachment to the Polish cause inevitably placed many landowners in opposition to Lithuanian independence. As the will of the majority of inhabitants came to prevail, those who had thrown support to Poland were consequently incriminated as enemies of the state. Some took refuge in the Polish-occupied Vilna territory and from here attempted to salvage their former privileges. They formed an organization known as the Committee of Exiled Poles, and between March and December, 1924 submitted a series of complaints against the Lithuanian Government to the League of Nations.[1]

In a telegram dated March 11th, 1924, the Committee of Exiled Poles protested to the League against the confiscation of forests exceeding eighty hectares in area and of landed estates belonging to Lithuanian nationals who had lately served in the Polish army. The Lithuanian reply to these charges was that the agrarian law applied equally to all landed property in the country, and that forfeiture of property was the penalty for service in foreign armies hostile to Lithuanian independence.[2]

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1. OJ, VI (April, 1925), annex 757A, p.582.

2. Ibid., 585.

The Committee's letter of June 1st, 1924 asserted that twenty-six per cent of Lithuanian soil consisted of estates larger than one-hundred hectares, which were owned by about three-thousand families, of whom more than ninety per cent were Polish. The petitioners claimed that Lithuanian agrarian legislation was unduly punitive and repressive, especially Article 60 of the Law of April 3rd, 1922, which proscribed estates of persons who had served in the Polish army. They pointed out that during 1918-19 many Lithuanian Poles had enrolled in the Polish legions in virtue of the fact that no definitive frontier had then existed between the two countries. They objected to a law of April, 1924, which empowered the Agrarian Reform Office to designate landowners other than those in Polish military service to be subject to forfeiture. Their argument, in short was that agrarian reform constituted a weapon by which the Polish minority was systematically despoiled of landed property.[3]

A committee of the League Council which was entrusted with this problem consisted of Dr. Eduard Beneš (Czechoslovakia), M. J. Quiñones de Léon (Spain), and Sir Austen Chamberlain (Great Britain). In order to examine the foundation to the complaints put forth by the petitioners, on December 11th, 1924 they requested

> that the Lithuanian Government should place at the disposal of the Council statistics showing how agrarian reform... had been put into practice;... to furnish the council with statistics concerning expropriation without compensation, carried out in the course of agrarian reform, indicating at the same time legislative provisions in virtue of which this expropriation was effected.[4]

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3. Ibid., 582-87.

4. Ibid., annex 757, p.581.

On March 6th, 1925 the Lithuanian delegate, M. V. Sidzikauskas, submitted a reply to the committee's inquiry. First of all, he disputed the right of the Committee of Exiled Poles to speak in the name of the Polish minority. This agency was branded as a tool of Polish imperialism, whose purpose was to divert attention from the Vilna struggle by dramatizing the condition of the Polish minority in darkest colors. Statistics advanced by the Lithuanian Government conflicted with the petitioners' claim that more than ninety per cent of the persons adversely affected by the agrarian reform belonged to the Polish minority. The accompanying chart gives the Lithuanian statistics:[5]

Former Proprietors	Units	Area in Hectares	Percentage of Total Area subject to Expropriation
Poles	1529	382,113	51.15
Lithuanians	825	209,356	28.13
Russians	278	74,701	9.99
Germans and Others	221	47,718	6.39

This memorandum admitted that the great landowners were predominantly of Polish speech, but added that the aristocracy was doomed not because of language or national origin, but because the regime of large estates would no longer be tolerated in Lithuania. If the fact that most of the large landowners were Poles precluded his Government from legislating on agrarian matters under the Minorities Declaration, then by the same token

> the Lithuanian Parliament would have been unable to vote a single law for the regulation of commerce, since more than fifty per cent of the persons in Lithuania actually affected by the provisions of such a law... belonged to the Jewish minority.[6]

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5. Ibid., annex 757b, p.594.

6. Ibid., 595.

The Lithuanian observations also discussed penalties against nationals who served in hostile foreign armies. Article 60 of the agrarian law provided for the confiscation of

> land belonging to persons, or the successors of persons, who have served in the Bermondt or Virgolitch armed detachments, or have served or are serving in the Polish army and who have worked or are working against Lithuanian independence; should their successors but not the proprietors themselves, have taken part in some action hostile to the Lithuanian Republic, such part of the land which, under the laws of succession, would be the property of the above-mentioned successors, shall be taken for purposes of agrarian reform.[7]

The Government explained that a number of substantial landowners had rendered financial assistance to the Poles during the conflict over Vilna, and that the operation of this law would prevent a recurrence of such acts.

Reporting to the Council on June 10th, 1925, M. de Mello-Franco found the above-cited legislation "difficult to reconcile with...equality of treatment in law and in fact guaranteed to minorities..."[8] He noted, however, that the Lithuanian Government was proceeding cautiously under this authority and expressed hope that it would be unnecessary to apply this clause in the future.[9]

M. Paul-Boncour, substitute for Aristide Briand, while agreeing that agrarian reform was essentially a question of internal legislation, saw a need for Lithuania to justify reprisals taken against persons who served in the Polish or other armies. Thus he argued:

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7. Ibid., 604-05. The Bermondt and Virgolitch detachments were composed of volunteer German and Imperial troops who fought the Reds in Kurland.

8. OJ, VI (July, 1925), mins. 1508, p.867.

> It was legitimate, and even necessary in many cases, for a Government to carry out an agrarian reform, but such reform should not be made a penal instrument for those persons domiciled in its territory who might have belonged to a different nationality. This did not seem to him to belong to social legislation but to a system of penal law. In this case it was for the tribunals alone to decide such expropriations which were real confiscations.[10]

After being questioned on this subject, M. Zaunius, Lithuanian delegate, admitted that Article 60 was not included in the penal code but in the agrarian program because it referred to the ownership of land.[11] M. Paul-Boncour again challenged the authority of the Agrarian Reform Office and the Ministry of Agriculture to make arbitrary condemnations of property as a denial of due process of law. The Council thereupon postponed further action on this question to the next session.[12]

THE OUTCOME. On September 5th, 1925, M. de Mello-Franco submitted a final report on the basis of additional information from the Lithuanian Government. It showed how the agrarian reform affected the private ownership of forests, and is statistically presented in the chart below:[13]

Former Proprietors	Expropriated Area in Hectares	Percentage of Total Area of Forest Land Expropriated
Poles	253,000	55.4
Lithuanians	87,000	19.0
Russians	77,600	16.9
Germans and Others	39,000	8.5

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9. Ibid.

10. Ibid., 875.

11. Ibid.

12. Ibid.

13. OJ, VI (October, 1925), annex 792, p.1453.

Although these landowners had received no indemnification for their properties, compensation was promised at a future time at the rate of one-quarter the value of arable land. It was also brought out that in putting the agrarian reform into practice the Government had omitted to assume responsibility for mortgages, liens, and other encumbrances attaching to property; however, the legislature was working on the problem of relieving the dispossessed landowners of this inequitable burden.[14]

The Mello-Franco report showed that in the distribution of allotments, applicants were required to obtain a certificate issued by authorities of the commune in which they were domiciled. An effort was made to grant land to persons living nearest to the subdivided properties - agricultural workers and tenants of the former estates and owners of adjoining diminutive farms. By such a policy, general colonization which might unduly benefit any particular nationality was reduced to a minimum.[15] Even though it was recognized that the Poles had lost more than fifty per cent of the land taken up for the reform, the conclusions of the Mello-Franco report were favorable to Lithuania. The rapporteur proposed that the Council, in dropping the matter, "should rely upon the wisdom of the Lithuanian Government," which he hoped would succeed in gaining the confidence of minorities in that country.[16] Once more the weakness of the "guarantee of the League of Nations" was revealed in matters involving conflicting claims of minority rights and national sovereignty.

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14. Ibid.

15. Ibid.

16. Ibid., 1454.

CHAPTER XV

THE HUNGARIAN OPTANTS DISPUTE

The controversy which is left for last in this discussion, not for want of importance, but rather because it overshadows the others, is the Hungarian optants dispute. A major source of friction between Hungary and Rumania, it concerned the rights of certain Hungarian nationals whose properties in Transylvania were expropriated by the Rumanian Government. In this former Hungarian principality the Magyars formed the elite in contrast to the more numerous Rumanian plebes and national divisions definitely coincided with social classes. The great Transylvanian landowners were more than provincial squires, for among their numbers were the real masters of Hungary - the Horthys, Bethlens, Esterhazys, and Karolyis. Action by the Hungarian State in support of their claims raised this dispute from a domestic question to one involving peace in central Europe.

The Hungaro-Rumanian land dispute first received international notice at the Peace Conference of Paris where Count Apponyi, chief of the Hungarian Peace Delegation, accused the Rumanians of seeking to despoil the Transylvanian landlords under the guise of agrarian reform.[1] For the next decade the two nations remained embroiled in this controversy, which now ranks as one of the causes célèbres of international law. Although this dispute was not submitted to the Permanent Court of International Justice, both parties engaged the services of eminent European and American publicists on whose part existed contradictory opinions on the merits of the

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1. Hungarian Peace Negotiations, I, annex VIII, 257-63.

optants' claims.[2] This in itself enables one to begin to measure the acceptance of a new attitude which challenged the premises underlying the institution of property.

THE BRUSSELS NEGOTIATIONS. After having twice applied to the Conference of Ambassadors for protection of the optants, the Hungarian Government appealed to the Council of the League of Nations under Article 11 of the Covenant (March 15th, 1923), and on April 20th representatives of both countries were heard by the Council.[3] Article 63 of the Treaty of Trianon (June 4th, 1920) and Article 3 of the Rumanian Peace Treaty (December 9th, 1919) guaranteed that property rights of Hungarians who chose to retain their former nationality would remain unimpaired in the succession state. The Hungarian Government maintained that the Transylvanian agrarian code was incompatible with Rumanian obligations under these treaties. The Hungarians raised objections against Article 6, paragraph 3 of the law in question which reads:

> The whole of the rural estates of absentees shall be expropriated. For the purposes of this law, an absentee shall be any person who was absent from the country from December 1st, 1918 until the date when this law was placed on the table of the Parliament [March 21st, 1921], unless such person was discharging official duties abroad. Rural estates not exceeding 50 jugars shall be exempt from the operation of this law.[4]

Article 19 of the Rumanian Constitution of 1923 also declares:

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2. Most journals devoted to international law and relations contain articles dealing with this dispute during the years 1923-1930.

3. OJ, IV (July, 1923), 729-35.

4. Ibid., 730.

> Under no circumstance can any but Rumanians acquire and retain landed property in Rumania. Foreigners shall only be entitled to an indemnity.[5]

Included among the absentees were persons who had opted for Hungarian nationality and had migrated to Hungary with the assurance that they could retain their land in Transylvania. The period by which absenteeism was determined coincided with the military occupation of this province and was marked by the flight of 180,000 refugees. Those who subsequently desired to return were barred from re-entering, for the Rumanian authorities treated them as enemies.[6] Absenteeism was defined one way in Transylvania and another in The Regat. In the former territory, absence of one day was sufficient to involve the penalty of complete expropriation; in The Regat, five years' absence was necessary before entailing the same legal consequences.[7] Compensation for expropriated estates was based upon the price level of 1913. The leu had meanwhile declined to about one-fortieth of its former worth. As the landlords were paid in non-negotiable bonds which were redeemable in fifty years and were worth about forty per cent of their face value, compensation in reality amounted to about one per cent of the value of the property.[8] Upon stating these charges, the Hungarian Government requested that the Council should order the restoration of immovable property to persons who opted in favor of Hungary, and that the landlords should be compensated for damages and exempted in the future from such abuses.[9]

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5. Ibid., 734.
6. Ibid., 733-34; (June, 1923), mins. 924, p.574.
7. Ibid., 576.
8. Ibid. (July, 1923), 733.
9. Ibid. (June, 1923), mins. 924, p.574.

M. Titulesco, Rumanian representative, explained that all landlords had been called upon to make sacrifices on a footing of absolute equality. He interpreted Article 63 of the Treaty of Trianon as meaning that the optant remained owner of the property in question; however, his property was still subject to the laws of the state. Compensation had been granted on an equal basis to all, and his Government was unwilling to place a foreigner in a preferential position. It was, furthermore, an impossibility to pay in gold for the expropriated land, and the Hungarians would have to accept sacrifices along with the native landowners.[10]

This discussion was suspended in order to enable M. Adatci, rapporteur, to make a further study of the problem. At the Council meeting of April 23rd, 1923 he noted the conflict in the interpretation of the treaties and proposed to submit the dispute to the Permanent Court of International Justice.[11] M. Lukacs, the Hungarian delegate, welcomed this proposal and

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10. Ibid., 574-75. This is tantamount to say that Hungarians should contribute to the costs of social reform in Rumania. Would Rumanians be willing to pay for such reforms carried out in other countries? The inconsistency of the Rumanian position was revealed in the concurrent financial dispute with Germany. When Rumania fell under German occupation in 1917, the Germans issued about 2-billion occupation lei. After the war the German Government offered to redeem that currency at the current value, but Rumania insisted upon redemption at prewar levels. In short, the Rumanian Government sought to collect debts in gold but to pay them in paper. In 1925 the Rumanian Government attempted to coerce Germany by raising tariff walls and threatening to liquidate German-owned property. Three years later the German Government agreed to pay 75-million gold marks to redeem the paper currency, a compromise which Rumania accepted. Annual Register, 1922, 203; ibid., 1925, 195; William J. Ronan, The Money Power of States in International Law (Diss.), New York University, April 1, 1940, p.90-112.

11. OJ, IV (June, 1923), annex 516, p.703-04; mins. 962, p.605.

challenged the Rumanian representative to do the same with these words: "If he does not, it will be a striking admission in the eyes of the whole world that Rumania fears justice and the light of truth."[12] While denying this charge, M. Titulesco refused to submit this dispute to the Permanent Court on the ground that such action might reopen the whole question of land ownership in his country. Thus he explained,

> Were it not that the question affected millions of peasants and would throw into confusion a situation which has only been stabilized after the greatest efforts, I would willingly accept the proposal before the Council.[13]

Being unable to offer any suggestion that might lead to an immediate solution, the Council then recommended that the two Governments seek an understanding by direct negotiations.[14]

Accordingly, upon the invitation of M. Adatci, representatives of both countries met at Brussels on May 27th, 1923 to negotiate on the land problem. Their conversations embraced five main points of contention that had been raised in the Hungarian request of March 15th, 1923. An examination of the minutes cited below indicates that little indeed was actually accomplished at Brussels.[15] The first point involved the discrepancy between the Rumanian agrarian law and the Treaty of Trianon. The Hungarian representatives admitted

> that the Treaty does not preclude the expropriation of property of optants for reasons of public

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12. Ibid.

13. Ibid., 608.

14. Ibid., 611.

15. OJ, IV (August, 1923), annex 553A, p.1012.

> welfare, including the social requirements of agrarian reform.

No compromise appeared possible between the views of either party in regard to the rate of compensation or to injuries to the optants which arose from the expropriation of absentees. Article 18 of the Rumanian Constitution was discussed and M. Titulesco indicated that, subject to the results of these negotiations, he was considering the possibility of making certain statements to the Council on this matter. Finally the minutes stated that further disputes arising out of the Rumanian agrarian law would have to be presented anew if it were necessary to bring them before the Council, for they had not been included in the original request.

Following these conversations, a resolution based on these minutes was drafted by the rapporteur and initialed by him, Count Csaky, and M. Titulesco. This apparently brought the dispute to the stage where it could be settled by direct diplomatic correspondence; however, the Hungarian Government soon afterward notified M. Adatci that it considered the Brussels negotiations a failure and could not accept the draft resolution contained in his report.[16] This action by the Hungarian Government created a fresh wave of controversy over the question as to whether the resolution, having been initialed, would be binding even if it were not ratified. When the minutes and report of the Brussels meeting were submitted to the Council on July 5th, 1923, Count Apponyi declared that it was unacceptable to his Government because it sidestepped any decision on the substance of the case. He maintained that as a legal problem it should be brought before the Permanent Court for adjudication. He charged that the Rumanian Government had

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16. Ibid., annex 553, p.1009-11.

discriminated against his countrymen in almost every possible way. He called to the Council's attention that not until Rumania had agreed to pay the nationals of Great Britain, France, and Italy full indemnities for property they relinquished in Bessarabia, did these states recognize the annexation of this province by Rumania.[17]

On the other hand, M. Adatci pleaded with the Council to accept his report and draft resolution as the basis for discussion of the optants problem.[18] M. Titulesco spoke of the Brussels draft resolution in firmer language - as an "actual contract and not simply the first step toward conciliation."[19] He asserted that agreement had been reached at Brussels on all questions save compensation - a statement which falls to the ground upon examination of the minutes. He disclosed that if all expropriated landowners were paid in gold values, it would cost 33-milliard lei ($165,000,000) or two and a half times the national budget. At such a cost, agrarian reform in his country would be an impossibility.[20]

The first phase of the optants dispute was brought to a close as the Council adopted a resolution proposed by M. Hymans which in substance was identical to that of M. Adatci:

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17. Ibid., mins. 989, p.886-93. Compensation paid to British and French nationals amounted to about forty times that received by Rumanian nationals for equivalent losses. George W. Wickersham, "Opinion regarding the Rights of Hungary and of Certain Hungarian Nationals under the Treaty of Trianon," Some Opinions, Articles and Reports bearing upon the Treaty of Trianon and the Claims of the Hungarian Nationals with regard to their Lands in Transylvania, II (London [1928]), 219.

18. OJ, IV (August, 1923), mins. 991, p.904.

19. Ibid., 905.

20. Ibid., mins. 989, p.898-99.

> The Council, after examining the report of M. Adatci dated June 5th, 1923, and the documents annexed thereto,
>
> Approves the report;
>
> Takes note of the various declarations contained in the minutes attached to the report...and hopes that both Governments will do their utmost to prevent the question of Hungarian optants from becoming a disturbing influence in the relations between the two neighboring countries;
>
> The Council is convinced that the Hungarian Government, after the effort made by both parties to avoid any misunderstanding on the question of optants, will do its best to reassure its nationals;
>
> And that the Rumanian Government will remain faithful to the Treaty and to the principle of justice upon which it declares that its agrarian legislation is founded, by giving proof of its goodwill in regard to the interests of the Hungarian optants.[21]

THE AGRARIAN CASES BEFORE THE MIXED ARBITRAL TRIBUNALS. The second phase of this controversy dates from December, 1923 to January 10th, 1927, during which time 350 dispossessed Hungarian nationals submitted claims to the Hungaro-Rumanian Mixed Arbitral Tribunal which was established under Article 239 of the Treaty of Trianon. The year 1924 saw little overt improvement in the land dispute. The Annual Register for this year noted two scandals in Rumania - the "Calineasca affair," in which officials of the Agrarian Reform Office were accused of accepting bribes, and the "Inculetz affair," in which the Court of Kishineff was accused of corruption in applying the agrarian reform in Bessarabia.[22] It has been suggested that many Hungarian landowners were saved from ruin, not through recourse to law, but only through venal arrangements with Rumanian officials.[23]

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21. Ibid., mins. 991, p.907; cf. annex 553A, p.1011.

22. Annual Register, 1924, 206.

23. C. Douglas Booth, "The Political Situation in South-Eastern Europe. II. Roumania and Bulgaria," International Affairs, VIII (September, 1929), 445-57.

On April 20th, 1925 the Rumanian Government filed objections to the jurisdiction of the Mixed Arbitral Tribunal on the ground that the claimants had previously appeared before national courts without invoking Article 250, thereby recognizing agrarian measures as expropriations and not as "liquidations" within the terms of that article. Following reply, rejoinder, and counter-rejoinder in 1926, the Tribunal began to hear oral arguments in Paris (December, 1926). Both parties were represented by eminent legal counsel - Rumania, by Messrs. Millerand, Politis, and Rosental; Hungary, by Messrs. Lakotos, Egry, Gidel, Brunet, and Barthelemy. Twenty-two cases selected among the 350 were set down for trial, and identical decisions were given by the Tribunal for all on the same day (January 10th, 1927). The leading case, Emeric Mulin, Sr., v. The Rumanian State ranks among the great legal battles on the international level.[24]

E. Mulin was the owner of a rural estate in Transylvania, which had been taken from him under the agrarian law; minimum compensation was promised but never paid; and the Rumanian Government was substituted for him in the land register as proprietor. The claimant asked the Mixed Arbitral Tribunal: (a) to declare that the agrarian reform was contrary to Article 250 of the Treaty of Trianon; (b) to order the Rumanian Government to restore the estate; (c) to order the Rumanian Government to pay damages for depriving him of the use of the land; (d) to require that the Government pay an indemnity in event that the property could not be restored; and (e) to enjoin the Government from the execution of all measures which might injure the property rights in question.

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24. Recueil des Décisions des Tribunaux Arbitraux Mixtes institués par les Traités de Paix, VII (Paris, 1927), 138ff.

The Rumanian Government contended that agrarian reform enacted for the national welfare did not fall under Article 250 of the Treaty, which referred to liquidations taken as a war measure. This plea the Tribunal rejected on the ground that Article 250 referred to either war-time or post-war liquidations - in fact to any measures "subjecting ex-enemy property, rights, and interests to a treatment which constitutes a derogation from the regulations ordinarily in force for the treatment of foreigners and from the principle of respect for vested rights."[25] Next, the Government maintained that the rapprochement at Brussels (May 27th, 1923) which had been endorsed by the Council Resolution of July 5th, 1923 recognized the compatibility of expropriations with Article 250. The Tribunal denied this claim, holding it legally inadmissible to take an isolated statement from the text of a verbatim report without regard for the circumstances under which it was made.[26] Thirdly, the Government argued that as the claimant had already appeared before national courts without invoking Article 250, he had thereby recognized the measures as expropriations and could not at this time contend that they constituted liquidations within the meaning of Article 250. The Tribunal rejected this argument on the ground that in international jurisdiction there is nothing to prevent the interested person from exhausting from the start all means of redress afforded by national legislation.[27]

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25. Ibid., 147.

26. Ibid., 149.

27. Ibid., 150.

The Tribunal declared itself to have jurisdiction, ordered the Rumanian Government to file a reply on the merits within two months, and reserved the costs.[28] Mssrs. Cedercrantz and Czakacs signed the judgment, while the Rumanian arbitrator wrote a dissenting opinion.[29] This action in certain respects parallels Judgment No. 6 of the Permanent Court of International Justice. Both Rumania and Poland entered objections to the jurisdiction of the respective tribunals; the sole dissents came from the Rumanian arbitrator and the Polish judge ad hoc; but whereas Poland accepted the judgment of the Permanent Court, Rumania rejected that of the Mixed Arbitral Tribunal.

While attention was focussed on the Hungaro-Rumanian land dispute, other Magyar landowners were putting forth claims against Czechoslovakia and Yugoslavia for losses incurred through the agrarian reforms of these nations. The courts of Czechoslovakia upheld the validity of agrarian legislation as applied to foreign subjects, denying that the latter were entitled to more favorable treatment than that accorded to Czechoslovak nationals.[30] Furthermore, the Supreme Court of Czechoslovakia dismissed charges that the agrarian reform constituted

> a disguised liquidation directed in fact against the former enemies of the Entente and against the minorities of the nationality or language of the former enemies,[31]

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28. Ibid.

29. Ibid., 151-62.

30. Annual Digest, 1925-1926, Case No. 98; Ibid., 1927-1928, Case No. 94.

31. Annual Digest, 1925-1926, Case No. 99.

as well as claims that the Peace Treaties exempted the estates of Austrian and Hungarian subjects from the reform.[32]

Four claims instituted in 1923 came up for hearing before the Czechoslovak-Hungarian Mixed Arbitral Tribunal at The Hague (January 15th, 1929). The claimants, the Marquis Pallavicini, Count Bartholomew Szechenyi, and M. Istvan Bacsak, had been affected in substantially the same way, and made precisely the same requests of this Tribunal as the Hungarian optants two years earlier. The Czechoslovak Government immediately raised the question as to the competence of the Mixed Arbitral Tribunal, maintaining (a) that it was inadmissible to apply to an international court on agrarian matters, for this would interfere with national sovereignty, and (b) that the Tribunal was incompetent to entertain these claims for reason that agrarian reforms were omitted from acts that a succession state could not apply to Hungarian property.[33] It was held by Arbitrators Schreiber and Szladits that the Tribunal was competent to hear these cases, the Czechoslovak member, Professor Hora, dissenting.[34]

In 1925 Frau Elisabeth Schmidt filed a claim before the Yugoslav-Hungarian Mixed Arbitral Tribunal for losses which arose from agrarian measures applied by the Yugoslav Government to her property situated in former Hungarian territory. Certain documents were produced by the claimant as evidence of administrative discrimination, one of which was a

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32. Ibid., Case No. 5.

33. Albert G. de Lapradelle (ed.) La Réforme agraire Tchécoslovaque devant la Justice internationale (Causes célèbres des Droit de Gens, II) (Paris, 1929), 19-25.

34. Ibid., 391.

directive by the agrarian reform office dated October 28th, 1921. This advised subordinate officials to determine whether each proprietor was a Yugoslav citizen or an alien and to judge his nationality "not only by his declaration, but also by his sentiments and...attitude."[35] The Government from the start contested the competence of the Mixed Arbitral Tribunal, but as in the preceding cases, this Tribunal affirmed its competence in a judgment handed down on May 14th, 1929 at Lucerne.[36] The Yugoslav arbitrator wrote a dissenting opinion.[37] Thus at Paris, The Hague, and Lucerne three independent mixed arbitral tribunals affirmed their competence over agrarian matters which disturbed rights recognized by the Peace Treaties; but intransigeance on the part of the incriminated states was to preclude a settlement of these disputes on their merits.

THE COUNCIL AGAIN TAKES UP THE CONTROVERSY. On February 24th, 1927 the Rumanian Government notified the Mixed Arbitral Tribunal that its arbitrator would no longer sit in those cases concerning agrarian reform, a step taken to prevent the Tribunal from functioning, and at the same time appealed to the League Council under Article 11 of the Covenant to explain the reasons for this action. M. Titulesco addressed the Council on March 7th, 1927 and sought to justify Rumania's position, indeed an embarrassing one, by shifting the blame to Hungary. He contended that the optants

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35. Albert G. de Lapradelle (ed.) La Réforme agraire Yougoslave devant la Justice internationale (Causes célèbres, III) (Paris, 1930), 258 and annex F8, p.136-37.

36. Ibid., 382.

37. Ibid., 383.

question had already been settled four times: (a) by the Hungarians at the Peace Conference when they expressed doubts that Article 250 was sufficient to prevent the Governments of Czechoslovakia and Rumania from applying agrarian reform in former Hungarian territory; (2) by the Hungarian Government in connection with the Brussels negotiations; (3) by the Council resolution on the basis of these negotiations; and (4) by the national courts of Rumania.[38] On this pretext he pleaded:

> we cannot for ever tolerate the menace held over us like the sword that dangled over the head of Damocles - the claims for the restoration of the expropriated estates, the claim for payment in gold.[39]

If the Brussels "agreement" were in force - and in force it was and would remain, he insisted - then the matter lay outside the jurisdiction of the Mixed Arbitral Tribunal. In event that the Tribunal would adjudicate in favor of the optants, his nation would be convulsed with social, financial, and political upheaval.[40] M. Cajzago, the Hungarian delegate, while naturally affirming the jurisdiction of the Mixed Arbitral Tribunal, was willing to refer the question of its competence to the Permanent Court of International Justice. He likewise proposed that the Council, acting under Article 239 of the Peace Treaty, should appoint two neutral substitutes to the Tribunal.[41]

After hearing this discussion, the Council appointed a committee

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38. OJ, VIII (April, 1927), mins. 1877, p.363.

39. Ibid.

40. Ibid., 361, 363.

41. Ibid., 369-70.

composed of Sir Austen Chamberlain, rapporteur, Viscount Ishii, and M. Villegas to study the question under consideration.[42] After discussions between the committee and representatives of the two parties failed to lead to any agreement, the committee proceeded to draft a report for the September session of the Council. This report, presented by Sir Austen Chamberlain on the morning of September 17th, 1927, was so provocative that it was discussed and debated for four successive meetings. The committee sought to define the jurisdiction of the Mixed Arbitral Tribunal by raising the following questions: (a) was it entitled to entertain claims arising out of the application of the Rumanian agrarian law to Hungarian optants and nationals? (b) if the answer to that question were in the affirmative, to what extent and in what circumstances would it be entitled to do so?[43]

Upon the advice of certain "eminent legal authorities" whose names were not disclosed the committee concluded that

> the claim of a Hungarian national for restitution of property in accordance with Article 250 might come within the jurisdiction of the Mixed Arbitral Tribunal even if the claim arises out of the application of the Rumanian Agrarian Law...[44]

The report went on to enunciate three principles which the acceptance of the Treaty of Trianon had made obligatory for Rumania and Hungary, namely:

> 1. The provisions of the peace settlement effected after the war of 1914-18 do not exclude the application to Hungarian nationals (including those who

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42. Ibid., 372.

43. OJ, VIII (October, 1927), mins. 2024, p.1381.

44. Ibid.

> have opted for Hungarian nationality) of a general scheme of agrarian reform.[45]

Thus far, the principle is satisfactory, but an explanatory notation was inserted declaring that "the question of compensation, whatever its importance from other points of view, does not here come under consideration."[46] This statement contradicts Judgment No. 7 of the Permanent Court which held that seizure without adequate compensation was prohibited.[47]

> 2. There must be no inequality between Rumanians and Hungarians, either in terms of the Agrarian Law or in the way in which it is enforced.[48]

This notation likewise contradicts Judgment No. 7 which held that "a measure prohibited by the Convention cannot become lawful under this instrument by reason of the fact that the State applies it to its own nationals."[49]

> 3. The words 'retention and liquidation' mentioned in Article 250, which relates only to the territories ceded by Hungary, apply solely to the measures taken against the property of a Hungarian in the said territories and in so far as such owner is a Hungarian national.[50]

An explanatory comment reads: "The measure must be one which would not have been enacted or which would not have been applied if the owner of the property were not a Hungarian."[51] Judgment No. 7 was equally incompatible to this notation.

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45. Ibid., 1382.

46. Ibid.

47. Series A, No. 7, p.32.

48. OJ, VIII (October, 1927), mins. 2024, p.1382.

49. Series A, No. 7, p.32.

50. OJ, VIII (October, 1927), mins. 2024, p.1382.

51. Ibid.

The committee then urged the Council to make the following recommendations: (a) to invite the two parties to conform to the three principles cited above; (b) to invite Rumania to reinstate her judge on the Mixed Arbitral Tribunal.[52] The committee further proposed that in event of refusal (a) by Hungary - the Council should not appoint two substitute arbitrators to the Tribunal; (b) by Rumania, provided Hungary would accept - the Council should appoint the two substitute arbitrators; (c) by both parties - then the Council would have discharged its duties under Article 11 of the Covenant.[53]

These proposals were acceptable to Rumania but not to Hungary, for they would have meant a denial of the very doctrines recently confirmed by the Permanent Court of International Justice. Count Apponyi asserted that the decision of the Tribunal was final, that the Council was obligated to appoint the deputy judges, and that he was willing to submit the question of the jurisdiction of the Tribunal to the Permanent Court. He challenged the validity of the three principles enunciated by the committee, and held that the Council, in being the sole interpreter of the Treaty, would usurp the authority of the Permanent Court.[54]

M. Titulesco, speaking at the afternoon session, accepted the proposals on behalf of Rumania. He held that the Council was not obligated to appoint the deputy arbitrators, and that Hungary in 1923 had recognized

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52. Ibid.

53. Ibid., 1383.

54. Ibid., 1383-87.

the Council's authority to interpret the Treaty by asking the Council to rule on the substance of the question. He ridiculed the Hungarian interpretation of Article 250 as conferring on Hungarian nationals "more rights than neutral or Allied nationals, and this, too, under the Treaty of Peace, concluded after a war which we were not the vanquished."[55]

The committee's report failed to secure unanimous acceptance by other members of the Council when it was discussed during September 17th and 19th. Following the objections of Herr Stresemann, Sir Austen Chamberlain withdrew the recommendation of sanctions in event of refusal of the proposals.[56] On September 19th, M. Villegas, president of the Council, proposed that the Council should recommend the first part of the report to the consideration of the two Governments. This the Council accepted, requesting the two parties to delay until December the statement of their formal decisions.[57]

On November 15th the Hungarian Government notified the Rumanian Government of its willingness to negotiate directly on the optants question, without surrendering any of its juridical claims.[58] Two weeks later, Hungary notified the Secretary-General that the report of September 19th was inacceptable.[59] The Council deferred taking up this question in December in consideration of the illness of M. Titulesco and the death of Jonel

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55. Ibid., 1393. On the other hand, his statement fails to account for the preferential treatment of British and French nationals. See above, p.161.

56. OJ, VIII (October, 1927), mins. 2024, p.1398.

57. Ibid., mins. 2026, p.1413-14.

58. OJ, IX (April, 1928), annex 1025, appendix B, p.571.

59. Ibid., 554-72.

Bratianu, prime minister of Rumania, who passed away on November 24th.[60]

In February of 1928 the Rumanian Government proposed a formula to Hungary by which sums to be awarded to the optants would be deducted from Hungarian reparations.[61] On March 8th, when Count Apponyi formally rejected the Council Resolution of September 19th, 1927, M. Titulesco, on the other hand, accepted it. On this occasion he reaffirmed his Government's intention of linking the Hungarian claims to reparations, insisting

> No international force can compel me to execute my obligations under the Treaty, and to suspend indefinitely my rights under the same Treaty.[62]

Speaking at the afternoon meeting that same day, Count Apponyi sought to disengage the two questions, using the weak argument that reparations were obligations of the Hungarian State to the Rumanian State, while the land dispute concerned obligations of the Rumanian State to Hungarian nationals.[63]

Protracted wrangling over procedure shoved the merits of the optants' claims into the background. In despair of reaching a settlement through the agency of the League, Sir Austen Chamberlain advised the two parties to end the dispute by mutual concessions.[64] Little headway was made during the spring and summer of that year, for Hungary was unwilling to abandon

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60. OJ, IX (February, 1928), mins. 2055, p.110-12.

61. Ibid. (April, 1928), annex 1025A, p.575.

62. Ibid., mins. 2139, p.408, 413.

63. Ibid., mins. 2140, p.417.

64. Ibid. (July, 1928), mins. 2209, p.934.

her legal position, while Rumania insisted upon the principles of September 17th, 1927 and the jointure of the optants and reparations questions.[65] Direct negotiations between their plenipotentiaries were painfully frustrating owing to their mutual intransigeancy. A year later Hungary notified the League that the dispute was still unsettled and requested the Council to appoint a deputy arbitrator to the Mixed Arbitral Tribunal. Mr. Henderson, British representative, was chosen by the Council as rapporteur (September 6th, 1929), and a week later he induced the two Governments to resume direct negotiations under his guidance with the assistance of financial experts.[66]

THE PARIS AGREEMENTS. A settlement was finally reached through the mediation of Mr. Henderson and experts of The Hague Reparations Conference of 1930. On March 12th, 1930 M. de Hevesy, the Hungarian delegate, withdrew the optants question from the Council agenda, subject to the coming in force of a set of agreements drawn up at The Hague, thereby removing an obstacle to European peace.[67] The Hungarian land dispute with Rumania, Czechoslovakia, and Yugoslavia was settled on the basis of four agreements signed at Paris on April 28th, 1930.[68] By their terms the Bank for International Settlement was given custody over two trust funds which were established to insure payment of claims to Hungarian nationals.

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65. Ibid. (October, 1928), annex 1062, p.1589-92.

66. OJ, X (November, 1929), mins. 2494, p.1475-76; mins. 2507, p.1673-74.

67. OJ, XI (June, 1930), mins. 2596, p.492.

68. Treaty Series, CXXI (1931-32), 69-151.

These funds were constituted from (1) reparations owed by Hungary to Belgium, Great Britain, France, Italy, Japan, and Portugal for the years 1930-1943; (2) all reparations to be made by Hungary from 1944 through 1966; annuities owed by Czechoslovakia to Belgium, Great Britain, France, and Italy for the Liberation Debt for the years 1930-1946;[69] and (4) payments for expropriated properties by the Succession States under their national legislation. Hungarian nationals whose land had been taken by these countries would henceforth be compensated from Fund A with a maximum capital set at 219,500,000 gold crowns. Indemnities were also made available to the Hapsburgs, the Church, and commercial interests from Fund B to which a maximum of 100,000,000 gold crowns was allotted. Regulations for disbursement of awards involved the establishment of arbitral tribunals to determine individual claims.

Who stood to gain by this settlement? Concessions in principle were made by all parties to these agreements. After it appeared evident that separate solutions to the optants claims and reparations were impossible, they were linked together inasmuch as they both involved financial accounts between Hungary and her neighbors. For this the latter had contended; moreover, they were not obliged to abrogate their land laws nor to pay unknown indemnities which might have nullified their agrarian reforms. Thus they were freed from the menace of the "sword of Damocles" which might have brought on serious social and political dislocations. The interrelationship of European society was recognized in this instance by the several nations that..

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69. A brief explanation of the Czechoslovakian Liberation Debt is given by Harold G. Moulton and Leo Pasvolsky, War Debts and World Prosperity (New York, 1932), 254-56.

made concessions for the sake of stability in central Europe even though they had no direct interest in the land disputes. Hungary had the satisfaction of securing redress for the dispossessed landowners; however, their awards were contingent on the continuation of Hungarian reparations, which for the most part were henceforth diverted directly or indirectly into the agrarian funds. The complex and confusing nature of this settlement obscured the fact that protection of the landowning interests had been secured only at the price of making commitments to pay reparations for the next thirty-six years. This latter condition aroused some criticism among Count Bethlen's opponents that the interests of the nation had been subordinated to bolster the privilege of the landowning ruling minority.[70]

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70. "The liberal leader, Rassay, even went so far as to accuse the Premier and the Government of being disqualified to deal with the question of the 'optants' on account of having personal interests in the affair, and the Socialists roundly charged him with having defended these interests and those of his class at the expense of the country." Annual Register, 1930, 208.

CHAPTER XVI

CONCLUSIONS

The purpose of this essay has been to trace the interrelation of eastern European nationality and land tenure problems during the years 1919-1929. Prior to World War I national divisions frequently coincided with social classes in such a way as to set most of the great landlords apart from other rural inhabitants. To a significant degree property qualifications deprived the masses from representation in prewar governments, which consequently did little for the welfare of the lower peasantry. THE NATIONAL-CLASS STRUCTURE BEFORE 1919. The extent to which separation of national groups corresponded to property divisions may be seen from the following summary. In prewar Esthonia and Latvia, where fifty-eight per cent of the entire territory was owned by fewer than two-thousand baronial families of Germanic origin, about two-thirds of the native population were landless. The magnates of Lithuania had become assimilated to the Polish aristocracy who, despite the partitions of the eighteenth century, still retained great economic influence. Throughout the eastern provinces of Russian Poland the great landowners were Poles and Roman Catholic, but the peasant masses were predominantly White Russian, Ukrainian, and Orthodox. Most of the landed wealth of the Austrian and Hungarian nobility was situated in regions which were severed from the Dual Monarchy in 1918. The instability of that empire may in part be explained by the consciousness of the underlying population of a difference in speech and national feeling from the landlords and ruling dynasty. About half of prewar Rumania belonged to the boyars who were notoriously inveterate absentees, and widespread

discontent was shown by five peasant revolts between the years 1888-1907. The remaining large landowners in the Balkans were Moslem beys who constituted a disappearing vestige of former Turkish dominion. In Serbia and Bulgaria the beys had already been expelled and the soil was distributed among many hands, but in Albania, Bosnia-Herzegovina, Dalmatia, and parts of Macedonia these Moslem landlords still formed dominant minorities in contrast to the Christian tenantry.

THE NATIONAL-CLASS STRUCTURE AFTER 1919. When the nationalist torrent of 1918 swept away the aristocratic organization of eastern European society, the landlords were virtually stripped of political strength in the new balance of power. Many who had enjoyed dominance and who had contemptuously disregarded the interests of the submerged agricultural classes were precipitantly reduced to the inenviable position of subordinate minorities or aliens whose properties were situated in foreign lands. Overdue reforms which had earlier been rejected from above were speedily initiated from below, and among these the land reforms constituted the most important legislative benefits to the peasantry since the abolition of serfdom.

Changes in land tenure greatly modified the position of different nationalities in eastern Europe. These measures ended the monopoly of the Baltic barons who were forced to yield over eighty per cent of the land designated for partition in Esthonia and Latvia. Large Polish and Russian estates were broken up in Lithuania, the former constituting more than half of the area which was expropriated. Land reform diminished the property of Junkers and German farm colonists in western Poland; little was done, however, to dismember the great latifundia in the eastern

palatinates, where the underlying rural population belonged to the White Russian and Ukrainian minorities. The proud Austrian and Magyar aristocrats suffered heavily from application of land reform in the succession states. In Yugoslavia semi-servile tenants were released from control of the beys, and other cultivators acquired holdings from former Austrian and Hungarian estates. Throughout Greater Rumania most large landed proprietors outside the Old Kingdom were either of alien or minority status, and for this reason land reform had complicating aspects, affecting Russians in Bessarabia, Germans and Poles in Bukovina, and Magyars who gave up eighty-five per cent of the expropriated property in Transylvania. From the standpoint of landownership, departure of the beys from most of Greece through the Greco-Turkish population exchange terminated the regime of large Turkish properties in that country. Measures enacted in Finland, Austria, and Hungary were comparatively mild, whereas drastic legislation made slight changes in the social system of Bulgaria where much property was already in peasant hands.

EVICTION OF FOREIGN COLONISTS. It has been shown that the dispossession of recently-established colonists came as a reaction against land policies of former governments. Lithuania and Poland opposed the interests of Russian colonists whose forebears had directly acquired land taken as reprisals from the insurrectionists of 1863. In Poland the case of Kulakowski et al. (appellants) v. Szumkowski (respondent) enabled heirs of despoiled patriots to recover their estates, whereas in Lithuania the agrarian law of February 15th, 1922 substituted the state as successor to such properties. Complaints to the League of Nations against the latter measure from Russian landowners who alleged that they were being persecuted on account

of their national origin could hardly be supported by equity or reason, for they had been enriched at the expense of the hitherto suppressed Lithuanians.

From 1885 to 1919 German colonists in Posen and Szeklers in Transylvania had received preferential treatment in order to advance the national interests of Germany and Hungary, whose land settlement programs offered nothing at all to the impoverished Poles and Malachians of these regions. Both groups of colonists were situated in areas that were sensitive to irredentist campaigns originating across the frontiers. After the formerly dominant nationalities had lost their privileged position the rural settlement programs which had worked in their favor were completely undone. The uprooting of these settlers was prompted more from national animosity than from a consideration of the welfare of the peasant class.

Consequences of the land and nationality struggle are not difficult to describe. As agrarian reform took the nature of spoliation, the dispossessed usually migrated to their homeland in search of livelihood and protection. By destroying the foundations of community spirit, such reprisals increased the prospects of war and rebellion. It has always been a temptation throughout European history to cite precedents for acts of injustice, with the result that cycles of repression have been set into motion which still present a grave barrier to international peace and stability. So long as access to the soil depends upon what national group may be at the helm, war and violence will serve as a principal means of asserting the rights of oppressed minorities.

PEASANT ALLOTMENTS AND LAND SETTLEMENT. An equitable distribution of

land among the cultivators being the legitimate purpose of agrarian reform, it would be well to note how the land programs were influenced by other considerations. All but the mildest reforms followed a pattern of first creating state land reserves which were destined for allotment among the rural poor. Agrarian reform offices thus controlled a good deal of patronage, and in all likelihood temptation was overpowering to treat the land as spoils. Granting or withholding land on the basis of political favoritism may not have been proven before courts of law, but few observers could expect otherwise from programs that left much to the discretion of political authorities.

Distribution of land as reward for military service heightened the nationalist tendency of the reforms. Former members of newly-constituted national legions enjoyed preference in the acquisition of farmsteads, whereas other ex-soldiers who had not transferred their allegiance early enough were often regarded as enemies of the state. This factor worked to the disadvantage of minorities to whom self-determination was a lost cause during the interwar years. The outcome of linking military with agrarian objectives was to renew interior colonization in regions inhabited by vanquished or disaffected peoples. Thus Czech colonists were brought into Slovakia and Ruthenia; Poles, into the eastern provinces where the White Russians were more numerous; Rumanians, into the Dobrudja and Transylvania; Serbs, into Croatia; and Greeks into the regions which Albanian and Bulgarian minorities once occupied. Eviction of minority landowners and the introduction of peasant colonists under these circumstances may readily be accounted for as an attempt of ruling nationalities to strengthen their

hold over areas where they had been most insecure.

DIFFERENTIAL TREATMENT OF LANDOWNERS. It has been shown that the principle of equality of treatment toward majority and minority landowners was violated by certain agrarian policies. The acid test was whether measures which actually were applied to ex-enemy landowners were also applied to landowners of the governing nationality. Laws authorizing the dispossession of colonists in Posen, Transylvania, and Lithuania, while not mentioning the ethnic origin of these groups, were unmistakably directed against members of the German, Magyar, and Russian minorities. Administrative discrimination was suggested by the fact that estates belonging to the Junkers were expropriated more rapidly than those belonging to the szlachta in western Poland. It has already been indicated that the Rumanian decrees on agrarian reform were harsher in Transylvania than in The Regat. Stated in socio-national terms, the laws pressed more heavily on the Hungarian magnates than on the Rumanian boyars. In Transylvania even moderate size farms were subject to expropriation, whereas in The Regat estates from 100 to 500 hectares were exempted from forced sale. Landowners of The Regat could be absent five years from the country before being considered as absentees; those of Transylvania might suffer complete expropriation for the absence of one day between December, 1918 and March, 1921.

On the other hand, any genuine land reform that would have been acceptable to the magnates is certainly difficult to envisage. They resisted changes that conflicted with their interests, and above all any redistribution of land that threatened their way of life. In Germany, Austria, and Hungary where they received full compensation, land reform existed mainly on paper owing to the financial weakness of these states. In other

countries where aliens and minorities constituted the only sizeable landowning class, the status quo would also have been frozen had the agrarian states been compelled to pay the market price to these groups. For this reason it was very difficult to secure cooperation between formerly dominant nationalities and subordinate groups which later gained ascendency. Out of a sense of insecurity the former inevitably drew together in opposition to the latter, and reluctance of either party to compromise frequently aggravated existing international tensions.

DEFENSE OF THE LANDOWNERS THROUGH THE RULE OF LAW. Having lost the ordeal of 1914-18, some proprietors still hoped to preserve their estates through recourse to the international protection afforded to alien and minority landowners. Possessing the right to seek redress before domestic courts and possibly further appeal to Geneva or to The Hague, they made every effort to have the rule of law applied to the expropriation of their property. Why did the position taken by the Council of the League of Nations on property questions at times diverge from decisions of the Permanent Court of International Justice? An answer is likely found in the contrasting attitudes held by diplomats and jurists towards international law. The former tend to use law as means to an end; the latter, on the other hand, regard law as an end in itself. The League Council endeavored to reconcile political differences and to find workable settlements that would satisfy both parties, but the Permanent Court was unreceptive to attitudes which undermined the sanctity of property and contract.

Contrast the outcomes involving the colonists in Posen and Transylvania or the magnates in Upper Silesia, Transylvania, and Lithuania. In

the German settlers case, after having failed in efforts toward conciliation the League Council invoked an advisory opinion of the Permanent Court. On the basis of the Court's opinion of September 10th, 1923 that the legal rights of the claimants had been violated, the Polish Government at length agreed to pay an indemnity which averaged 220 pounds sterling to each of the dispossessed settlers. By way of contrast, the Hungarian colonists dispute was treated more as a political than a legal question. In December, 1925, the League Council dismissed the complaint without further debate after Rumania offered to pay an average of $67.50 to each of the expropriated landowners, a sum so trivial that most of them did not even apply for their awards. Although this doubled the compensation that Rumania originally offered to pay, the outcome of this dispute left some doubt as to the effectiveness of minority protection by the League of Nations.

For reason that Hungary demanded a juridical, while Rumania would accept only a political settlement, the famous optants dispute was tedious and prolonged. As a preponderance of large estates in Transylvania were Hungarian-owned, it followed that any redistribution of land among the peasants would of necessity diminish the amount owned by the great Magyars. Fairness to the Rumanian Government calls for recognizing that for every landlord who filed a claim before the Mixed Arbitral Tribunal at Paris, one-hundred landless Magyars received allotments in Transylvania. It is debatable whether they would have gained as much had this province remained under the Crown of St. Stephen. In the end a settlement was reached by which the optants' claims were joined with the general problems of eastern European reparations. While losing land in the succession states, the

Hungarian optants were enabled to recover their wealth upon execution of the reparations agreements of 1930.

It was advantageous to the Germans in Polish Upper Silesia that their claims were settled according to the judgment of the Permanent Court, which on May 25th, 1926 ruled that most of the liquidations contemplated by the Polish Government were in conflict with the Geneva Convention of 1922. Following this decision, nothing was liquidated, not even in the suits that the claimants lost. No doubt the likelihood of being required to pay an adequate indemnity dampened the zeal of the Polish Government to apply land reform to these properties in question. The abandonment of land reform in Upper Silesia left the socio-economic ascendency of the German magnates unimpaired.

For having served in Polish legions, landowners with estates in Lithuania suffered forfeitures without any compensation whatsoever. Sixty years earlier the confiscation of Lithuanian property by the Czar aroused vigorous indignation among the natives here, and in the interwar years this same penalty brought on similar recriminations from the Polish minority against the Lithuanian Government. Aside from criticism that these reprisals had been arbitrarily made by the agrarian reform office, the League Council did little more on behalf of the restive landowners than to express a hope for closer cooperation between the two nationalities.

To the extent that the Greco-Bulgarian population transfers were regulated by international control, liquidation of the emigrants' property was carried out as fairly as possible. The Greco-Bulgarian Mixed Commission appraised real estate at current market prices in terms of the

American dollar, establishing a much higher rate of compensation than what was set for native landowners who were forced to relinquish property in Greece. Recognition of this fact explains the persistent though unsuccessful demand of the Albanian Government to secure an agreement with Greece whereby the property of the Albanian minority in the latter country would be liquidated by a mixed commission. It seems likely likely that the zeal displayed by the Greek Government in including Albanian Moslems in the Greco-Turkish population exchange was partially prompted by the fact that it acquired the property of the expatriates without restrictions from the mixed commission established to supervise this transfer.

DEFENSE OF THE LANDLORDS THROUGH FOREIGN INTERVENTION. Defense of expropriated landlords rested to a considerable extent upon support given by outside states. While the League of Nations could hardly remain indifferent to legitimate grievances of minority groups, it was unwilling to appear as a champion of social reaction. For this reason the Minorities Section tabled petitions submitted by Baltic barons who lost property in Esthonia and Latvia and by nobles whose lands were taken in Czechoslovakia. But minority and alien landowners who could effectively summon protection of the nation from which they originated were in a more favorable position to secure redress against arbitrary action. Thus Germans, Magyars, and Albanians found strong support in their homelands, where the landed interest still remained influential. On the other hand, Russian colonists of the former courtier class in Lithuania could hardly turn to the Soviet Union for reasons unnecessary to mention.

Success of intervention on behalf of private rights abroad was directly

correlated to the bargaining power of the states involved. Disparity between compensation paid to nationals of certain great powers and other landowners provides an interesting commentary on the principle of equality of states in international law. From the proceeds of the Second Greek Refugee Loan of 1928, British, French, and Italian proprietors were paid at fourteen times the rate granted to native and Albanian landowners. It seems more than coincidence that the International Financial Commission, which exercised partial control over Greek finances, was composed exclusively of representatives of these three states. British and French nationals who relinquished property in Bessarabia were compensated at forty times the rate accorded to the natives. In this instance these western powers refused to recognize Rumania's annexation of Bessarabia until their claims were satisfied. A third example of differential international status may be educed by the fact that properties in Polish Upper Silesia belonging to Prince Lichnowsky and the Vereinigte-Königs-und-Laurahütte Company could not legally be liquidated for reason of the former's claim to Czechoslovak citizenship and the latter's partial control by ex-allied nationals, whose properties were immune from expropriation under the Geneva Convention of 1922. On the other hand, smaller nations and ex-enemy states that were disarmed frequently were unable to secure similar recognition of their claims.

INTERVENTION AND TREATY REVISION. The controversy over property rights embraced more than protection of minority and alien landowners out of a disinterested regard for international law. The revisionist states - Germany and Hungary in particular - contended that the condition of their

former subjects under foreign rule was so intolerable as to justify the retracing of territorial boundaries. This thesis, of course, was especially supported by landowners who lost their privileged position in Rumania, Czechoslovakia, and Yugoslavia, and by the Ostmarkenverein and its adherents in Posen. Through the forum of the League of Nations the alleged injustices of the Versailles system were dramatized to the world, and the struggle over private property rights became tied to the subject of treaty revision. It is significant that between 1927-1929 practically every petition addressed to the League on behalf of minorities originated in Germany, which at that time held a permanent seat on the League Council. Smarting under the Treaty of Trianon, Hungary was no less opposed than Germany to the status quo, and kept the Transylvanian question open through accusations of Rumanian misgovernment of that province.

Had the revisionist movement succeeded, semi-feudal landlords would have undone the reforms just as they revoked the Károlyi legislation in Hungary and blocked agrarian measures in Germany. As revision implied the restoration of great landed properties and the nullification of social reforms in disputed regions, it is readily seen why this was intolerable to a majority of inhabitants. One party sought to restore, the other to institutionalize, rival property systems in which both could not flourish at the same time.

SUMMARY OF FACTORS. The land reforms, taken collectively, clearly revealed a combination of factors. Abolition of serfdom in the nineteenth century did not solve the agrarian problem, for the great reforms of 1848-1864 failed to relieve the increasing pressure of landhunger which proved

irreconcilable with the regime of large estates. The redistribution of land among many peasant proprietors after 1918 may be considered as an economic counterpart and consequence of national self-determination and universal suffrage. Normally the degree of agrarian change wavered between the needs of the rural population and the influence of the landlords in the new governments, a fact which accounts in part for varying intensity of the reforms. From the standpoint of certain governments, agrarian reforms were welcomed for they completed the struggle against property interests that had been closely associated with vanquished or hostile regimes: thus, in Latvia and Esthonia, the barons; in Lithuania, the Polonized gentry and Russian courtiers; in Poland, the Junkers and German farm colonists; in Czechoslovakia, Yugoslavia, and Rumania, the Hapsburgs, the nobility, and the Church of Rome; and in Greece, the Moslem beys. Redistribution of land, moreover, provided the underlying rural classes with a stake in the community that confirmed their interests to the emerging order. In this light, agrarian reform has been labeled a "homeopathic treatment for communism," but it was no less an immunization of the rural masses against treaty revision and Hapsburg restoration. Reprisals, spoliations, counter-colonization, and population transfers combined to destroy the national-aristocratic basis of prewar society. The nationality struggle thus helped to mold and control the eastern European land system from 1919 to 1929, and economic and social changes of this decade acted in turn to fortify the position of dominant nationalities.

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Abbreviations:

AILA / IYAL — See International Institute of Agriculture, Annuaire Internationale de Législation Agricole and International Yearbook of Agricultural Legislation.

OJ — See League of Nations, Official Journal.

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