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BAGHDAD WILAYET, JUDICIAL DEPARTMENT.

REPORT

ON THE

ADMINISTRATION OF CIVIL JUSTICE

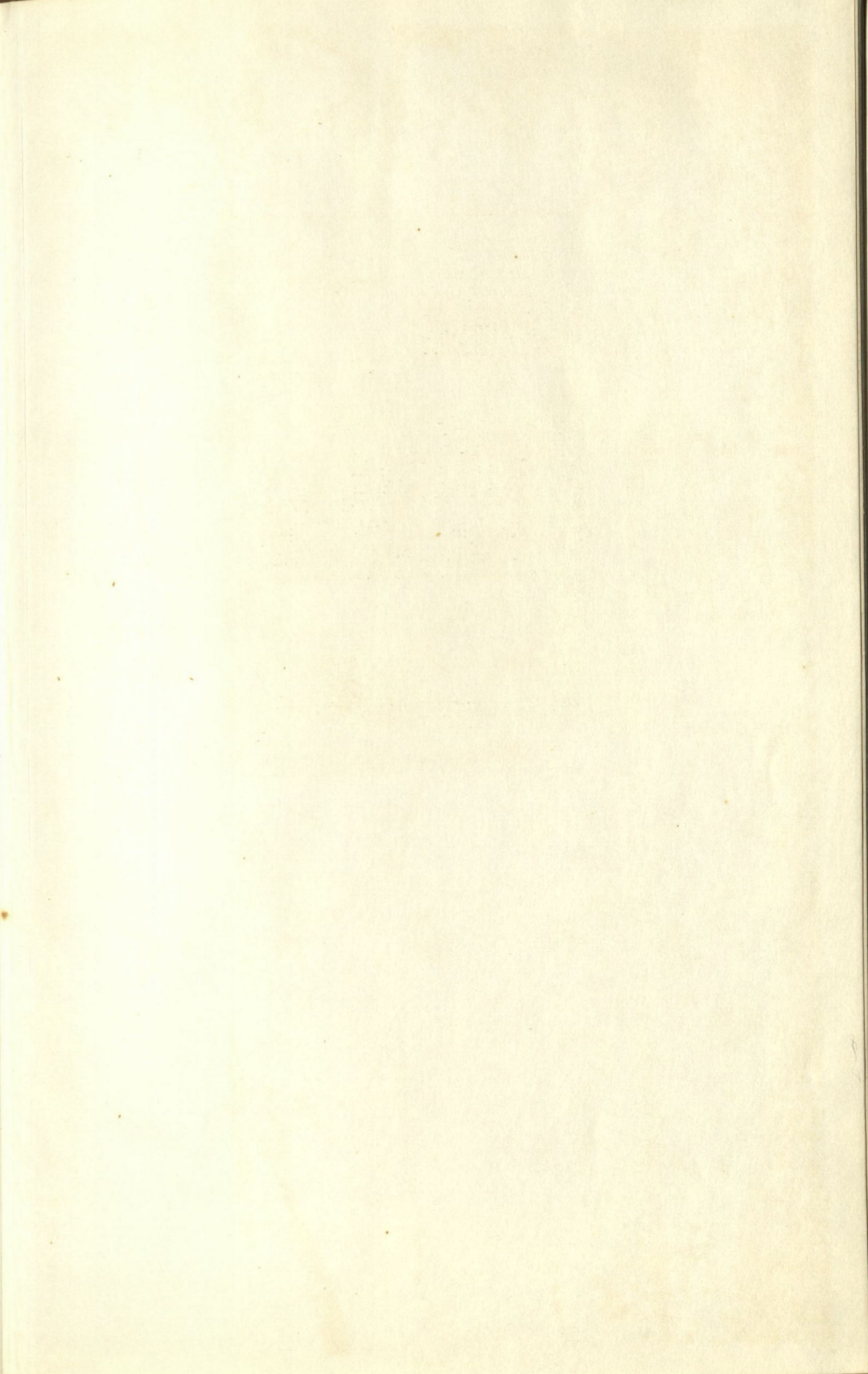
FOR THE YEAR 1918.

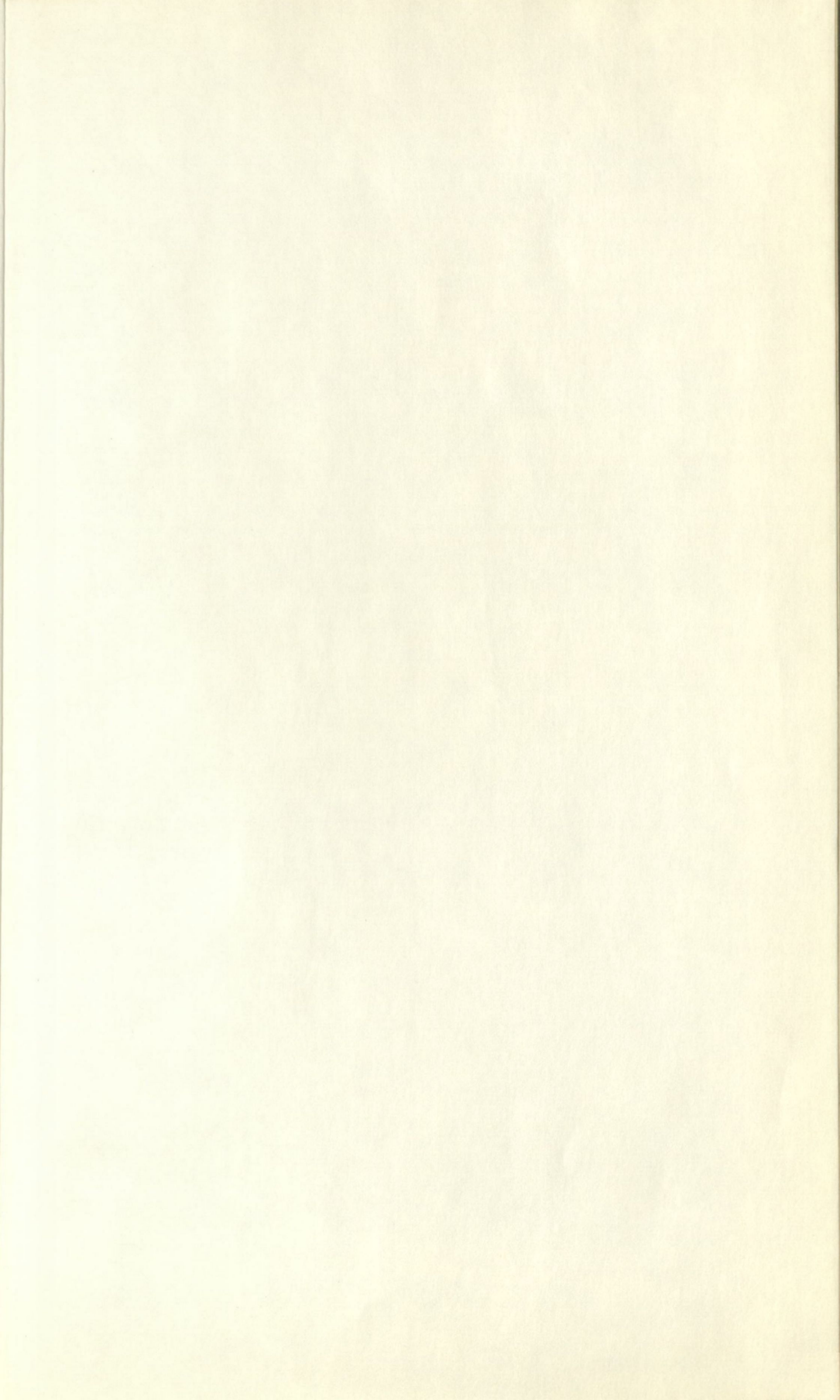


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BAGHDAD WILAYET, JUDICIAL DEPARTMENT.

Report on the Administration of Civil Justice for the year 1918.

To

THE CIVIL COMMISSIONER,

BAGHDAD.

1. The report on the administration of justice in the Baghdad Wilayet, which I submitted last January, after describing the organization of the Courts and the system of justice under Turkish Rule, explained and justified at some length the policy, which it had been decided to follow in re-establishing a system of civil justice, namely, to continue the Turkish system of law and procedure, making such immediate modifications only as were necessary to ensure justice and a reasonably efficient administration. The report further detailed the preliminary steps which had been taken to carry out this policy. These included the opening of a Civil Court of First Instance at Baghdad, the provision made for the opening of a Court of Appeal, the continuance of the Baghdad Small Cause Court known as the Peace Court and of the Baghdad Mohammedan Law Court, and the issue of Rules regulating Court Fees and of rules regulating the profession of advocates.

The present report deals with the further steps which have been taken during the course of the year in the carrying out of this policy, under the headings "Civil Courts", "Criminal Courts" and "Shara' Courts". It then describes the measures which have been decided on for the amalgamation of the Basrah and Baghdad Courts and for the formation of a Department of Justice under Judicial Secretary. Paragraphs on the Personnel of the Courts and on the Legislation of the past year so far as it affects the administration of justice follow, and the report concludes with a few remarks on the statistics of the work of the Courts.

CIVIL COURTS.

2. The Civil Court of First Instance was re-opened at Baghdad at the beginning of last January after being closed since the date of the occupation of the town in the previous March. Mr. H. F. Forbes, I.C.S., was appointed President and two former members of the Baghdad Court of Appeal, Daud Effendi Samra and Abdul Jabbar Effendi, were appointed members. A second Chamber was added in July under the Presidentship of Mr. B. H. Bell, a barrister serving in the Sudan Civil Service, with Sayed Effendi Saleh and Reuben Effendi Battat, both formerly members of Baghdad Courts, as his colleagues. A Court of First Instance was opened at Ba'qubah in May, and recently a similar Court has been opened at Hillah. The Ba'qubah Court was composed of Mr. E. L. Norton, I.C.S., who was subsequently replaced by Major Bros, of the Cyprus Judicial Service, and Ahmed Izzet Effendi. The Hillah Court was opened under the Presidentship of Major Drower, who has had many years' experience in the Sudan, with Abdul Hamid Effendi Midhat as member. Following the Turkish practice the Qadhis of the Mohammedan Law Courts at Ba'qubah and Hillah also officiate as Judges of the Civil Court. Major Drower has recently been replaced at Hillah by Captain Holmden, M.C., a New Zealand Barrister. A Small Cause Court was opened at Khaniqin in June with Faiq Effendi Alusi as the Judge.

Upon the occupation of Mosul, the Civil Court of First Instance and the Peace Court at that place continued its functions. Major Drower has recently taken up the position of President of the Court of First Instance.

A considerable part of the Wilayet is still without a Civil Court within reach. A further Court of First Instance is needed, and the appointment of further native Peace Judges are also desirable. It has not however been possible hitherto to obtain the necessary staff, either British or Arab. With the approach of demobilization and the return of Arabs from detention, it is hoped that staff will be available. But the chief obstacle during the next few years in the way of efficiency, in the administration of justice will be the difficulty in finding British Judges who are Arabic Scholars, and Arabs who are trained lawyers.

3. The opening of the Baghdad Courts coincided with the termination of the Moratorium, which had been proclaimed by the Ottoman Government at the beginning of the war for all pre-war debts. This Moratorium had been extended by the Ottoman Government from time to time, subject to the payment of instalments of the debts. The last extension which had been made previously to the occupation of Baghdad by the British Forces and was applicable to this Wilayet, expired on the 13th December, 1917. Previous to the expiration, careful consideration was given to the question whether any further extension should be allowed. In accordance with the advice of local merchants, who advise that as a result of the British occupation prosperity had become so general that no further extension was necessary, it was decided that no further extension of the Moratorium should be granted. A Proclamation to this effect was issued by the General Officer Commanding.

Large numbers of creditors who were able to meet their debts had taken advantage of the Moratorium and the absence of Courts to delay payments. A great number of bills were protested at the end of the Moratorium; indeed so great was the number that it was impossible for the recently appointed Notary Public to protest them within the time laid down by the Proclamation

and a considerable extension was necessary. With the opening of the Courts, however, creditors realized that delay was no longer in their interest. The majority paid up, or came to fresh arrangements with their debtors. The number of cases brought in the Courts was comparatively small, and a remarkable proof of the prosperity which the British occupation had already brought to the mercantile community. The refusal to renew the Moratorium was wholly beneficial. It restored credit, which had reached a low ebb, and placed merchants in a position to recommence trading as suitable opportunities occurred.

4. I pointed out in my last report that one of the reasons of the unsatisfactory condition of the Courts under Turkish Rule was the inadequate salaries paid to the Judges and to the officials of the Court. Judges of Courts of First Instance received from L.T. 7½ to L.T. 10 monthly, while an ordinary Judge of the Court of Appeal received L.T. 15. Such low salaries were an incentive to dishonesty. While it has not been considered advisable during the war to lay down definite scales of pay for Judges, it was obviously necessary to make an immediate increase in their salaries. Judges of the Baghdad Civil Court are now receiving salaries of from Rs. 525 to Rs. 900 monthly. The salaries of the Clerks of the Court have also been much increased over the rates paid under the Turks.

5. From the statistics given in the Schedule to this report it will be seen that the Civil Courts have accomplished a great deal of work.

I have no hesitation in stating that the work has been done efficiently. The number of appeals has been small in comparison to the number of cases. Cases have been decided within a short period of the plaints being filed. And the enforcement of judgments by execution has been effective.

There can be no doubt also that the Courts are regarded with confidence and are popular. I should hesitate to make this statement, if it was based merely on the assurances I have received from many classes of the community. Any one who has lived in the East will not put much reliance on the complimentary expressions which most Easterners consider themselves bound to use in speaking to Government officials of Government measures. But, apart from the fact that justice is being enforced with an honesty and efficiency which has hitherto been rare, there are solid reasons why the Courts should be popular. For the first time for centuries justice is being administered in Baghdad in the Arabic tongue. The whole of the clerical staff and the majority of the Judges are Arabs. And the Courts are following the law and customs with which the people are familiar.

Both the procedure of the Courts and the law administered by them require wide revision and amendment. This should be one of the first tasks taken in hand after the conclusion of Peace.

CRIMINAL COURTS.

6. Upon the occupation of the country the first duty of the administration was the establishment of public order. The Turkish Criminal Courts had never been successful in maintaining order, and most of the Judges withdrew before the occupation or were unwilling to continue their functions. It was necessary to establish Military Courts for the trial of criminal offences committed by inhabitants of the country against one another. Military Governors and Political Officers were given jurisdiction to try offences committed by inhabitants of the country and were vested with powers of punishment. Sentences of death required confirmation by the General Officer Commanding-in-Chief.

According to the theories of International Law, upon the occupation of an enemy country, local criminal law should be continued, if this is possible and consistent with the welfare of the Army of Occupation. In Iraq this was obviously impossible, both because few British Officers are acquainted with Turkish, and because Ottoman Law requires a multitude of Courts, enquiring magistrates and prosecutors, much in excess of what could be provided whether from the Army, or from the officials of the former Government. But apart from this, the Ottoman Penal Code is ill-arranged and incomplete and difficult to interpret. While the Ottoman Criminal Procedure Code, however suitable an instrument it may be for other more advanced and populous parts of the Ottoman Empire, is overcomplicated and ill-adapted for application amongst the backward rural and nomad population of Mesopotamia,

To replace the Ottoman Penal Code and the Ottoman Criminal Procedure Code, Codes have accordingly been published, entitled respectively the Baghdad Penal Code and the Baghdad Criminal Procedure Regulations. Explanations of the sources and objects of these Codes having been given in the Prefaces to these Codes, I shall confine myself here to repeating one or two observations.

Both these Codes have been prepared to meet the conditions under which the country is now being administered, and are intended as temporary laws. They will no doubt be replaced, after the conclusion of peace, by more finished and fully considered legislation.

7. The Baghdad Penal Code is based on the Ottoman Penal Code, which at the date of occupation was in force in Baghdad as elsewhere in the Ottoman Empire. The Ottoman Penal Code is itself based on the French Penal Code, but contains important divergencies from that Code. It was published in the year 1859, and has frequently been amended. Such amendments have usually been clumsy. The result is that the Ottoman Code as it now stands is unscientific, ill-arranged and incomplete. It was necessary therefore to make very considerable amendments and additions to the Ottoman Penal Code. These have mostly been taken from the Egyptian Penal Code, which is also based on the French Penal Code, or from other Egyptian sources. The local conditions in Egypt and this country have so many resemblances that provisions which have been found to work well in that country are likely to be suitable here. While large additions and

amendments have been made and provisions from Egyptian sources have been substituted bodily for some of the most unsatisfactory parts of the Ottoman Code, a complete revision has not been attempted.

8. The Baghdad Criminal Procedure Regulations are based on the Sudan Criminal Procedure Code, which was prepared under the instructions of Lord Kitchener after the reoccupation of the Sudan and which has proved very suitable to that country. The Sudan Penal Code is itself in the main based on the Indian Penal Code, but draws important provisions as regards constitution of Courts, confirmation and appeal from British Military Law. The Regulations also adopt certain provisions from the Ottoman Criminal Procedure Code, the ultimate source of which is the French Code of Criminal Procedure.

Four classes of Criminal Courts are constituted by the Regulations, namely—

- (1) Courts of Session,
- (2) Courts of Magistrates of the First Class.
- (3) Courts of Magistrates of the Second Class.
- (4) Courts of Magistrates of the Third Class.

Political Officers and British Judges are Magistrates of the First Class.

An Assistant Political Officer is a Magistrate of the Second Class.

The Civil Commissioner may appoint any person a Magistrate of the First, Second or Third Class.

A Court of Sessions is a Court consisting of three Magistrates, inclusive of at least one Magistrate of the First Class. In Districts where a British Judge is stationed, he will ordinarily be appointed President of the Court of Session.

Finding and sentences of Sessions Courts require confirmation by the Civil Commissioner. Findings and sentences passed by Magistrates do not require confirmation; but, if the sentence exceeds that which the Magistrate can pass summarily, an appeal lies against it, either to the Political Officer or to the Civil Commissioner.

In addition to the powers vested in them as regards cases which are brought before them by way of appeal, Political Officers and the Civil Commissioner have powers of revision. A Political Officer may call for and revise the judgment of any Magistrate subordinate to him, while the Civil Commissioner may call for and revise the judgment of any Criminal Court.

9. Mention may be made of two leading principles followed in the Baghdad Criminal Procedure.

In the first place ample provision is made that crimes should be tried locally, and without unnecessary delay. This principle is important in every country, but it is especially important in Mesopotamia, where the camel and the donkey are still the principal means of conveyance for the people and where large parts of the population are in a backward condition. The bringing of accused and witnesses long distances for trial is often in itself a serious hardship. Further an accused person who has an honest defence can make it most easily in his own country where he is known: while a dishonest defence, which would not be plausible at the place of the crime, may pass muster if advanced in a distant district. Witnesses will speak the truth more readily in their own districts, where the evidence will at once reach the ears of their neighbours, than amongst strangers, in a court remote from their home. And a long journey affords opportunities for communication between witnesses, and even between witnesses and accused which not infrequently lead to evidence being concocted.

A second feature of the Baghdad Criminal Procedure Regulations is that it provides adequate machinery by means of appeal and confirmation for the supervision of criminal justice throughout the occupied territories. The Political Officer of a Division is given powers of revision of cases tried by Magistrates within his Division. The Civil Commissioner, for whom the Judicial Secretary will exercise functions similar to a Judge Advocate General, confirms all cases tried by Sessions Courts and has power to revise any case tried by a Magistrate. On the other hand the system avoids the principal objections which are incident to a system of appeals to a formally constituted Court. There should be a minimum of delay and little room for the upsetting of decisions on purely technical grounds.

SHARA' COURTS.

10. In my annual report for last year I justified at some length the re-establishment of Shara' Courts to deal with cases of personal status amongst Mohammedans. I drew attention to the respect with which the Shara' Courts are regarded in Mohammedan countries, and the practical conveniences of having cases which are governed solely by the principles of the Mohammedan Law heard and decided by Mohammedan Judges. I also pointed out the advantage of associating with the Government the religious class of Ulema from which the Qadhis are drawn. The policy has been pursued during the year, and in addition to the Qadhis at Baghdad and Ba'qubah, Sunni Qadhis have been appointed for Khaniqin, Mandali, Shahraban, Rumadi, Hit, Falluja, Kubeisa, Anah, Hillah and Kifri, and appointments are about to be made for Samarra and Diwaniyah.

Except for the Mehkemah at Baghdad it has been possible to do very little in the way of supervising these Mehkemas. A regular and thorough system of inspection is very necessary, but it has not been possible to find a suitable Arab Lawyer to undertake this duty.

11. Under the Turkish regime, appeal from the decisions of the Mehakim Shara' lay to Ulema at Constantinople. It was necessary to find a substitute, and a Court of Appeal of three Ulemas has

been established at Baghdad consisting of Mufti Zada Said Effendi, a former Mufti of Baghdad, Abdul Malik Shawaf Effendi, a former Mufti of Basrah, and Sayed Effendi Khidr. The powers of the Shara' Court of Ulema at Constantinople were limited to quashing judgments appealed against and sending them back for re-trial. Under existing conditions, it would have involved too radical a change to adopt the rational system of allowing the Court of Appeal to itself decide the cases appealed against. That reform is postponed for the future, and the powers of the present Court of Appeal are limited in the same way as those of the Court of Ulema at Constantinople.

12. The Shi'ah population of Mesopotamia, though outnumbering the Sunnis, had under Turkish rule to submit their disputes arising out of family relations to the Sunni Mohammedan Law Courts where they were decided in accordance with Sunni Law. This grievance has been remedied by permitting Shi'ahs to refer their cases to Shi'ah religious Judges. A Shi'ah Judge under the title of Naib El-Jaafariyah was appointed at Baghdad, ^{Mansur} Haji Shukrallah, the Director of the Principal Shi'ah school in the town having been selected for the purpose. The appointment has been received with great satisfaction amongst the Shi'ahs, and I believe without resentment amongst the Sunnis in Baghdad. His Court has been busy.

Shi'ah Judges have also been appointed at Ba'qubah, Hillah, Afej, Diwaniyah and Deltawah. Further appointments are contemplated. Though petitions received against the decisions of the Shi'ah Courts have been remarkably few, the establishment of a Shi'ah Court of Appeal is obviously desirable from an administrative point of view. The matter however presents difficulties and is not one to be hastily embarked on.

AMALGAMATION OF THE BAGHDAD AND BASRAH COURTS AND CREATION OF A DEPARTMENT OF JUSTICE.

13. Upon the occupation of Basrah, the Turkish Courts broke up, and it became necessary to establish courts and to provide a law for them to administer. There were almost insuperable difficulties in the way of continuing the Turkish Courts and Laws. The former Turkish Judges and staff had most of them fled or were unwilling to continue in their positions, and no other staff was available that had any experience of Turkish Law. It was accordingly decided to borrow both the system of Courts and of law from India. The Indian Codes were brought into force : and a District Court and Sessions Court, besides minor Courts, were established at Basrah.

The gradual extension of the territories under British control culminating with the occupation of Baghdad brought a fresh set of considerations into force. The application of Indian Law to the mixed seafaring and commercial population of the Port of Basrah and the surrounding district was justifiable and perhaps necessary. But to do the same for the whole of Mesopotamia would have run counter both to the principles of International law and to the traditions of British administration. In the Proclamations issued upon the occupation of Baghdad the inhabitants were informed that it was not the wish of the British Government to impose on them alien institutions. In accordance with this policy, the Courts of Baghdad were reorganized approximately on their former lines, and follow, subject to necessary modifications, Turkish Law.

It was decided that from the 1st January, 1919, the system of justice in force in the Baghdad Wilayet should be extended also to Basrah. It was anticipated that this decision will cause some immediate diminution to the efficiency of the Basrah Court, since the Indian Codes are much in advance of the Turkish Codes. But the change is desirable both on administrative and political grounds. It will enable the Courts to be staffed with Arabs to a much greater extent than has hitherto been possible : and will substitute a procedure and law with which litigants are familiar for one which was strange and foreign to them.

14. Another change which also took place on the 1st January, 1919, was the formation of a Judicial Department under an administrative head, the Judicial Secretary, who is responsible to the Civil Commissioner for the administration of justice and exercises no judicial functions. Some explanation of this change may be of interest. Great Britain, unlike almost every continental nation, has never possessed a Ministry of Justice. The absence of such a Ministry cannot be justified on logical grounds, but is due to historical causes. The British system has been adopted in most British Colonies and Dependencies, without the justification of the historical reasons which exist in Great Britain. It is arguable that even in Great Britain the administration of justice would benefit by the establishment of a Ministry of Justice. However that may be, for building up a system of justice in a Dependency there are undoubted advantages in placing the Courts under an administrative head, who, forming part of the central administrative staff, is familiar both with the policy of the Government and the tendencies of the Courts, and who is open to the criticism of his colleagues and the public. The efficient administration of justice is dependent not solely on the correct decision of isolated cases, with regard to which Judges under any system must be absolutely independent, but on questions of administration. This is especially the case, where, as in this country, two sets of courts, the Civil Courts and the Shara' Courts, exist side by side, and where there are considerable districts the population of which are not sufficiently advanced for a highly developed and rigid Judicial system.

PERSONNEL.

15. The following is a list of the principal officers holding appointments in the Judicial Department of the Baghdad Wilayet on 31st December, 1919 :—

E. Bonham Carter, C.M.G.	...	...	...	Senior Judicial Officer.
Dikran Ekmekjian	...	...	...	Superintendent.

BAGHDAD CIVIL COURTS.—

H. F. Forbes, I.C.S.	...	...	...	(On transfer to Basrah.)
B. H. Bell	...	...	...	President.
E. L. Norton, I.C.S.	...	...	...	Vice-President.
Dahud Smara	...	...	...	Judge.
Jamil Zada Abdul Jabbar	...	...	..	Do.
Sayed Saleh Bin Sayed Ahmed	...	...	...	Do.
Reuben Battat	Do.
Nuri Yacob Naham	Notary Public.

PEACE COURTS.—

Abdul Wahab	Judge.
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BA'QUBAH CIVIL COURT.—

Major H. A. Bros	President.
Ahmed Izzet el Higazi	Judge.

HILLAH CIVIL COURT.—

Major E. M. Drower	...	...	...	(On transfer to Mosul.)
Captain T. N. Holmden, M.C.	...	...	...	President.
Abdul Hamid Effendi Midhat	...	...	...	Judge.

BAGHDAD SHARA' COURT.—

Alusi Zada Haj Ali	...	...	...	Qadhi.
Senawi Zada Suleiman	Assistant Qadhi.

BA'QUBAH SHARA' COURT

Mullah Hussein	Qadhi.
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HILLAH SHARA' COURT.—

Abdul Haq	Do.
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MENDALI SHARA' COURT.—

Amin Ani	Do.
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KHANIQIN SHARA' COURT.—

Abdul Latif al Rawi	Do.
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KHANIQUIN PEACE COURT.—

Faiq Alusi	Judge.
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SHARA' MEJLIS OF APPEAL.—

Mufti Zada Said	President.
Abdul Malik Shawaf	Member.
Sayed Khidr	Do.

JA'AFARIYAH COURT, BAGHDAD.—

Haj Shukrallah	Shi'ah Alim.
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JA'AFARIYAH COURT, BA'QUBAH.—

Kubbah Zada Abdul Amin	Shi'ah Alim.
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The following table shows the nationality of the Judicial and Clerical staff of the Judicial Department of the Baghdad Wilayet on the 31st December, 1918 :—

British	...	...	...	6
Mohammedan (Arab)	...	...	...	82
Jewish (Arab)	...	...	...	9
Christian (Arab)	...	...	...	1
Armenian	...	...	...	2

It will be seen from the above figures that the policy of employing Arabs in all positions, in which they are capable of employment, has been fully carried out.

The figures do not include the staff of the Mosul Courts nor of the Basrah Courts, as these Courts did not come under my control during the year 1918.

I take this opportunity of bringing to your notice the valuable services of the Arab Judges and staff since the re-occupation. The Turks when they retired from Baghdad threatened the officials of the old government with the dire fate any one might expect, if he took service under us and the Turkish Government subsequently returned. Although it was generally believed that the Turks would never return, it required some courage on the part of the official classes to turn that belief into action. Indeed unwillingness amongst men, who were not compelled by want to accept service under us, was very general. Some credit is therefore due to those who associated themselves with the new administration in the early days. Without their help it would have been

hardly possible for the small British staff, none of whom had any practical experience of Turkish Law, to carry out the policy of applying Turkish Law and Procedure. The relations between the British Judges and their Arab colleagues have throughout been of the most cordial character. And it has been an asset to the Government to number amongst its officials men of the reputation and position of Ali Effendi Alusi, the Qadhi of Baghdad and Haj Shukrallah, the Naib El Ja'afaryah for the same place.

On the other hand I should not be drawing a true picture, if I failed to say that the number of Arabs in the country who are competent both in character and training for high judicial positions is very limited. Although the number of applicants are now numerous, I have the greatest difficulty in making suitable selections for appointments of Judges and Qadhis.

LEGISLATION.

16. Legislation has been limited to what is essential to meet existing requirements, but a considerable amount of temporary legislation has been necessary. The following is a list of Proclamations and Regulations of a Civil character :—

Proclamations issued by the General Officer Commanding-in-Chief.

28th December, 1917	...	Organizing Courts in the Baghdad Wilayet.
19th January, 1918	...	Extending the period for protest of bills subject to the Turkish Moratorium Law.
27th July, 1918	...	Tribal (Criminal and Civil) Disputes Regulation.
8th August, 1918	...	Bringing into use new issue of postage stamp.
7th August, 1918,	...	As to debts due to British and Allied Subjects in Mesopotamia taken over by Turkish Commissioners of Hostile Trading but remaining uncollected.
14th August, 1918	...	Postal fees.
25th September, 1918	...	Compulsory Land Acquisition.
4th October, 1918	...	Opium.
20th October, 1918	...	Civil Postal Regulations.
11th November, 1918	...	Trading with the enemy.
15th November, 1918	...	Criminal Procedure Regulations.
21st November, 1918	...	Penal Code.
2nd December, 1918	...	Inland Customs.
18th December, 1918	...	Temporary settlement of land disputes in certain districts.
24th December, 1918	...	Extending to the Basrah Wilayet the system of Courts in force in the Baghdad Wilayet.

JUDICIAL RULES AND ORDERS.

No. 1	...	The Baghdad Civil Courts Fees Rules, 1918.
No. 2	...	The Advocates Rules, 1918.
No. 3	...	Order on the application in Peace Court of the Fees Rules.
No. 4	...	The Baghdad Civil Courts Rules, 1918.
No. 5	...	The Baghdad Wilayet Peace Courts Rules, 1918.
No. 6	...	The Baghdad Peace Courts Rules, 1918 (No. 2).
No. 7	...	Order as to the jurisdiction of Political Officers as Peace Judges.
No. 8	...	Proof of lost judgments of Turkish Courts.
No. 9	...	The Baghdad Muhammedan Law Courts Rules, 1918.
No. 10	...	The Baghdad Law Courts (Conflict of Jurisdiction).
No. 11	...	Courts Amalgamation Rules.

With the conclusion of peace much new legislation will be required, and, as has already been pointed out, the existing Codes and Laws need wide revision and amendment. The creation of a strong legislative drafting department and translation bureau will be a necessity.

COURTS STATISTICS.

17. Statistics as to the work of the Courts are given in the schedule. The Baghdad Civil Court, the Baghdad Peace Court and the Baghdad and Ba'qubah Shara' Courts were the only Courts which were open for the full year.

The number of cases instituted before the Baghdad Court of First Instance were as follows: Cases other than cases of personal status 1,053, cases of personal status between non-Mohammedans 184, cases of personal status between Shi'ahs 673. The fees collected amounted to Rs. 110,315.

The large number of 3,326 cases were instituted before the Baghdad Peace Court, and Rs. 23,927 were collected in fees.

One thousand one hundred and nine cases were instituted before the Baghdad Sunni Shara' Court and 286 before the Ba'qubah Shara' Court. The fees collected in the former Court were Rs. 10,833 and in the latter Rs. 3,057.

The Baghdad Execution office undertakes execution for all the Courts in Baghdad City. The number of applications for execution amounted to the large number of 2,047. Of these more than a third were applications for executions of decrees for maintenance from the Sunni Shara' Courts. Rs. 27,602 were received in fees.

The Notary Public attached to the Baghdad Court had a large amount of work and received Rs. 33,261 in fees.

The Court of Appeal disposed of 22 applications of Appeal from the Baghdad Civil Court. It confirmed the judgment of the lower Court in 12 cases and quashed or varied it in 8 cases, and 2 cases were dismissed owing to the non-appearance of the parties. It heard 73 appeals from Peace Courts: and of these it confirmed the judgment in 17 cases, quashed or varied the judgment in 45 cases and 21 cases were dismissed for non-appearance of parties. The fees collected amounted to Rs. 9,299.

SUMMARY.

18. The principal results of the first year's work of the Judicial Department may be summed up as follows:—

1. The establishment of Civil Courts which base their decisions on the existing law of the land and employ the Arabic language, and in which the fullest use is made of Arab Judges and Personnel.

2. The extension to Shi'ahs, who form the majority of the population, of similar rights of having their cases arising out of family relations decided in accordance with their personal law, as was formerly reserved to Sunnis, and the association of Shi'ah jurists with the Government by the establishment of Shi'ah Courts.

3. The establishment of a Court of Revision for Sunni Mohammedan Law Courts.

4. The publication of a Code of Criminal Procedure and a Penal Code, the latter being based on the Ottoman Code but containing large amendments and revisions.

5. The extension to the whole of the occupied territories of the system of justice in force in the Baghdad Wilayet.

6. The constitution of a Department of Justice.

Upon the occupation of Baghdad, General Maude informed the people of Baghdad that it was not the wish of the British Government to impose on them alien institutions, but it was its hope that they would flourish and enjoy their wealth and substance under institutions which should be in consonance with their sacred laws and their racial ideals. Whatever may be the shortcomings and defects of the Judicial system which has been established during the last year, and no one could be more aware of them than myself, the plan drawn by General Maude has been faithfully followed. The foundations of the fabric of justice have been laid under British supervision but by Arab hands on the firm rock of the native law and customs of the people.

E. BONHAM CARTER,

Judicial Secretary.

Baghdad, 28th January, 1918.

I. Courts of First Instance under the Senior Judicial Officer, Baghdad.

	BAGHDAD CIVIL COURTS.			BA'QUBAH CIVIL COURT.		HILLAH CIVIL COURT.		TOTAL.
	Cases other than cases of personal status, 1st Jan. 1918 to 31st Dec. 1918.	Cases of personal status, Non-Mohammedan, 1st Jan. 1918 to 31st Dec. 1918.	Cases of personal status, Shi'ahs, 1st Jan. 1918 to 31st Dec. 1918.	Cases other than Peace Court cases, 16th May 1918 to 31st Dec. 1918.	Peace Court cases, 16th May 1918 to 31st Dec. 1918.	Peace Court Cases, 2nd Oct. 1918 to 31st Dec. 1918.	Cases other than Peace Court cases, 2nd Oct. 1918 to 31st Dec. 1918.	
No. of cases pending at beginning of 1918.	36	...	...	...	...	...	...	36
Cases instituted during the year 1918.	1,053	184	673	91	419	12	194	2,626
Cases in which judgment was given.	608	150	397	62	227	...	90	1,534
Not proceeded with by parties and dismissed.	69	11	6	...	71	...	...	157
Settled by agreement before any hearing.	195	...	...	4	76	...	...	275
Dismissed owing to non-appearance of plaintiff and non-payment of fees.	...	...	...	...	...	1	...	1
Transferred to other Courts or postponed under Sec. 12 of Proclamation of 28th December, 1918.	19	...	12	...	...	...	...	31
Oppositions made	45	...	...	...	4	...	...	49
Pending at the end of 1918 in which summonses have been taken out.	156	23	200	5	42	...	30	456
Pending at the end of 1918 in which summonses have not been taken out.	87	...	64	14	...	11	32	208
Total Fees received Rs.	94,787	1,826	4,683	3,603	4,150	...	1,366	110,415

Court of Appeal.

	Civil Court, Baghdad.	Civil Court, Ba'qubah.	Peace Court, Baghdad.	Peace Court, Ba'qubah.	Peace Court, Khaniqin.	TOTAL.
Applications to Senior Judicial Officer for appeals against judgments of Peace Courts.	...	...	218	13	...	231
Number of appeals ...	44	2	86	3	3	138
Cases in which judgment was approved.	12	...	17	...	...	29
Cases in which judgment was quashed or varied.	8	...	44	1	...	53
Appeal dismissed owing to non-appearance of parties.	2	...	19	...	2	23
Pending at the end of 1918 ...	22	2	16	2	1	43
Total Fees received Rs. ...	7,060	215	1,872	57	95	9,299

Baghdad Notary Public Statistics for the period, 1st January, 1918 to 31st December, 1918.

Protests on Bill of Exchange	...	...	...	...	740
Protests otherwise than on Bill of Exchange	...	...	...	...	543
Documents registered	...	...	...	...	...
Bills of Exchange undertakings to pay money	...	...	...	...	1,926
Procurations	...	...	...	...	573
Contracts	...	...	...	...	116
Lease of Premises	...	...	...	...	117
Agricultural Leases	...	...	...	...	42
Guarantees	...	...	...	...	178
Miscellaneous	...	...	...	...	268

Total Fees collected Rs. 33,261

EXECUTION DEPARTMENT.

	BAGHDAD CIVIL COURT.		TOTAL.	Hillah Civil Court, 2nd Oct., 1918 to 31st Dec., 1918.	Ba'qubah Civil Court, 16th May, 1918 to 31st Dec., 1918.	TOTAL.
	Decrees of Courts other than S u n n i S h a r a ' Courts, 1st Jan. to 31st Dec., 1918.	Decrees of Sunni Shara' Courts, 1st Jan., to 31st Dec., 1918.				
For maintenance ...	...	535	535	...	37	572
For Dowry ...	...	203	...	...	...	203
On behalf of Awqaf Department for rent	79	...	79	...	...	79
For fixed sums in Civil cases	1,082	1	1,083	12	59	1,154
For fixed sums in Civil cases of personal status ...	...	...	...	...	11	11
For delivery of property ...	141	2	143	1	34	178
For delivery of persons ...	...	4	4	...	1	5
Total ...	...	...	2,047	...	...	2,202
Number of sales in Executions	...	4	4	...	...	4
Number of persons imprisoned	52	106	158	...	...	158
Total Fees collected Rs. ...	22,981	4,621	27,602	74	827	28,503

II. Peace Courts under the Senior Judicial Officer, Baghdad.

	Baghdad Peace Court, 1st Jan., 1918 to 31st Dec., 1918.	Khaniqin Peace Court, 1st June, 1918 to 31st Dec., 1918.	Mandali Peace Court, 5th July, 1918 to 31st Dec., 1918.	TOTAL.
No. of cases pending at beginning of 1918 ...	997	...	...	997
Instituted during the year 1918 ...	3,326	139	166	3,631
Cases in which judgment was given ...	1,577	41	80	1,698
Cases not proceeded with by parties and dismissed	328	17	...	345
Settled by agreement before any hearing ...	...	...	79	79
Dismissed owing to non-appearance of plaintiff and non-payment of fees ...	1,551	4	4	1,559
Oppositions made ...	335	...	...	335
Pending at the end of 1918, in which summonses have been taken out ...	...	...	3	3
Pending at the end of 1918, in which no summonses have been taken out ...	532	67	...	599
Total Fees received Rs. ...	22,897	1,030	...	23,927

STATISTICS OF THE SHARA' COURT.

III. Sunni Courts under the Senior Judicial Officer, Baghdad.

	Baghdad Shara' Court, 1st Jan., 1918 to 31st Dec., 1918.	Dilaim Shara' Court, 24th Aug., 1918 to 31st Dec., 1918.	Khaniqin Shara' Court, 21st Aug., 1918 to 31st Dec., 1918.	Ba'qubah Shara' Court, 1st Jan., 1918 to 31st Dec., 1918.	Mandali Shara' Court, 5th July, 1918 to 31st Dec., 1918.	TOTAL.
Number of suits instituted in the Courts	1,109	27	53	286	150	1,625
Number of Ilams issued ...	1,011	2	45	185	68	1,311
Number of Huggas issued ...	446	...	...	...	...	446
Number of Kassams issued ...	529	...	25	161	2	717
Number of permits of marriage issued ...	1,874	22	35	341	80	2,352
Total amount of fees collected Rs. ...	10,833	119	317	3,057	737	15,063



MESOPOTAMIA JUDICIAL DEPARTMENT

REPORT

ON THE

ADMINISTRATION OF JUSTICE

For the year 1919.

BAGHDAD:

PRINTED AT THE GOVERNMENT PRESS:

1920.

MESOPOTAMIA JUDICIAL DEPARTMENT.

Report on the Administration of Justice for the year 1919.

To

THE OFFICIATING CIVIL COMMISSIONER,
BAGHDAD.

I.—SCOPE OF REPORT.

1. I have the honour to submit this report on the administration of Justice in the Occupied Territories of Mesopotamia for the year 1919.

The report which I submitted, shortly after my arrival at Baghdad, on the administration of Justice in the Baghdad Wilayat in the year 1917 described in some detail the organization of the Courts and the system of justice under Turkish rule, and explained the policy which it was proposed to follow in re-establishing Courts of Justice in the Baghdad Wilayat.

The policy was to carry on, in general, the Turkish organization of the Courts and the Turkish Law, making such modifications only as were necessary to ensure justice and a reasonably efficient administration.

My report for the year 1918 described the measures which had been taken in the course of the year towards carrying out this policy both as regards the Civil Courts, Criminal Courts, and Religious Courts, and referred to the decision that from the 1st January, 1919, the system of justice in force in the Baghdad Wilayat should be extended to Basrah.

The Courts of the Mosul Wilayat, which was occupied by His Majesty's Forces in October, 1918, also came under the same system in January, 1919.

It will be fitting therefore that the present report, which is the first Judicial Report to deal with the whole of the Occupied Territories, shall contain some account of the organization of the Courts as they now exist and of the law administered by them, as well as the usual account of their work and statistics.

II.—ORGANIZATION OF THE COURTS AND THE LAW APPLIED BY THEM.

A.—CIVIL COURTS.

2. *Grades of Civil Courts.*—The Civil Courts which replace the civil and commercial jurisdiction of the Turkish Nazamiya Courts, have general jurisdiction except in cases which are within the jurisdiction of the Religious Courts.

They are of three grades—

- (a) The Baghdad Court of Appeal *Cassation*
- (b) Courts of First Instance :
- (c) Peace Courts.

3. *Court of Appeal.*—The Court of ^{*Cassation*} Appeal, which sits at Baghdad, is the supreme Court of Appeal for the whole of the Occupied Territories. It replaces the three Turkish Courts of Appeal for the Baghdad Wilayat, the Basrah Wilayat and the Mosul Wilayat. But whereas the decisions of those Courts were subject to revision by the Court of Cassation at Constantinople, the decisions of the present Court of ~~Appeal~~ ^{*Cassation*} are final. *Cassation is final.*

The Court of Appeal is at present composed of a British President and two Arab judges. The Turkish Court of Appeal was normally composed of a Turkish President and four Arab judges. The present Arab judges of the Court of Appeal receive a salary of Rs. 1,000 a month. The President of the Turkish Courts of Appeal received £T 35 a month and an ordinary member of the Court of Appeal £T 15 a month.

An appeal lies from every judgment of a Court of First Instance to the Court of Appeal.

According to the Turkish System, judgments of Peace Judges were not liable to appeal but were liable to revision, or to speak more correctly to be set aside, by the Constantinople Court of Cassation. Now applications for revision from judgments of Peace Courts lie to the Baghdad Court of Appeal, which in addition to the powers possessed by the Turkish Court of Cassation of setting aside the judgment and ordering a new trial, can, if it has the necessary facts before it, give a final judgment in the case.

4. *Courts of First Instance.*—Under the Turks there was a Court of First Instance at the headquarters of each Liwah and of each Qadha. At the headquarters of Liwahs and in the more important Qadhas, the Court consisted of a President who received a salary of £T 16 a month and of two members who received £T 10 a month. At Baghdad the Court comprised a Civil Chamber and a Commercial Chamber—In less important Qadhas, the Qadhi of the Shar'a Court was Presi-

dent, and the two members were local inhabitants without legal training who received a small allowance. In the Wilayats of Baghdad, Basrah and Mosul there were altogether 10 Liwah Courts of First Instance and 40 Qadha Courts of First Instance.—It is obvious that there were far too many Courts and that, having regard to the salaries paid, the majority of these Courts were incompetent.

These Courts have been replaced by the following Courts :—

(i) Court of First Instance, Baghdad, consisting of a British President, an Arab Vice-President and four members. The Court sits in two chambers, one presided over by the British President and one by the Arab Vice-President.

(ii) Court of First Instance, Hillah, consisting of a British President, an Arab Judge, and of the Qadhi of the Sunni or Shi'ah Shar'a Court.

The President goes on circuit and holds Courts also at Najaf and Karbala.

(iii) Court of First Instance, Ba'qubah, consisting of a British President, an Arab Judge and the Qadhi of the Sunni Shar'a Court.

The President also holds Courts at Khaniqin and Mandali.

(iv) Court of First Instance, Basrah, consisting of a British President and two Arab Judges.

(v) Court of First Instance, Mosul, consisting of a British President and two Arab Judges.

The President also holds Courts at Arbil.

The Arab Vice-President of the Baghdad Court receives a salary of Rs. 800 a month, and most of the judges of Courts of First Instance receive a salary of Rs. 525 a month. Having regard to the high cost of living, it will be necessary in due course to increase the salaries of the latter.

If the number of Courts of First Instance under the Turks was excessive, the present number is insufficient and must be increased as suitable staff becomes available.

5. *Peace Courts.*—These Courts on their civil side were Small Cause Courts having jurisdiction to hear cases up to £T 50. They had been established a short time before the outbreak of the War, and existed as separate Courts only in two or three places in Mesopotamia.

Since the occupation, Peace Courts have been established at Baghdad, Mosul, Basrah, Amarah and Kirkuk. Elsewhere Judges of Courts of First Instance and Qadhis officiate as Peace Judges in addition to their other duties. And in places where there are no other Courts, Political Officers, Assistant Political Officers and other Government officials also officiate as Peace Judges with varying powers.

6. *Law Administered by the Civil Courts.*—As already stated the Courts follow in general Turkish Law.

The procedure of the Civil Courts is governed by the Code of Civil Procedure and subsequent Amending Laws. The Code is based on the French Code of Civil Procedure.

The substantive Civil Law consists of—

- (1) The Majallah or Ottoman Civil Code.
- (2) The Commercial Code.
- (3) The Marine Commercial Code.
- (4) The Body of Ottoman Legislation.
- (5) Proclamations issued by the General Officer Commanding.

The Majallah is a Code published in the year 1869 of Hanafi Mohammedan Law. Being based on the Shar'a, it is regarded with much respect in Mesopotamia, but it is not a satisfactory Code by which to regulate modern transactions.

The Code of Commerce is a translation with some omissions of the Articles of the French Code of Commerce relating to partnerships, companies, bills of exchange and bankruptcies.

The Marine Commercial Code is principally based on French Law.

B.—RELIGIOUS COURTS.

7. *Sunni Mohammedan Law Courts.*—As I described in my annual report for 1917 the functions and organisation of the Mohammedan Law Courts (Mahakim Shariyah) in the Baghdad Wilayat before the occupation, it will be sufficient to state that these Courts had jurisdiction in matters relating to personal status, such as marriage, divorce, guardianship, wills and succession and Mohammedan Charitable Endowments (Awqaf) that the law administered by these Courts was that of the Hanafi sect of Mohammedan Sunni Law: that a Mohammedan Law Court presided over by a Qadhi was established in every Qadha and that an appeal from the judgments of the Qadhis lay to the Shara'h Court of Revision at Constantinople.

As the Shi'ah population of Mesopotamia outnumbers the Sunni, it was a hardship that Shi'ahs were obliged to take their cases to Sunni Judges and to have them settled according to Sunni Law. To remove this grievance, instructions have been issued to the Sunni Mohammedan Law Courts limiting their jurisdiction to cases arising between Sunnis, and Sunni Mohammedan Law Courts have been re-established only in districts where there is a Sunni population.

Some 30 Sunni Mohammedan Law Courts have been appointed in the Occupied Territories since the occupation. A list of them will be found in appendix III.

A Court of Revision (Majlis al Tamyiz) consisting of three Sunni Judges has been established at Baghdad to deal with appeals from the judgements of the Sunni Mohammedan Law Courts.

8. *Shi'ah Mohammedan Law Courts.*—In places where there has been a demand for them personal status arising between Shi'ahs. A list of such Shi'ah Courts is set out in appendix V.

The establishment of a Shi'ah Court of Appeal, though desirable from a judicial point of view would give rise to considerable difficulties, and the time is not yet ripe for such an innovation.

9. *Christian and Jewish Ecclesiastical Courts*—Under the Turks the Christian and Jewish Ottoman Communities which were officially recognized by the Government had Ecclesiastical Courts with a limited jurisdiction in matters of marriage legitimacy and family relations. These Courts continue to exercise their former jurisdiction.

C.—CRIMINAL COURTS.

10. *Organization and powers of Criminal Courts*.—The Criminal Courts, which are now in existence, are regulated by the Baghdad Criminal Procedure Regulations and apply the Baghdad Penal Code. In my last annual report I explained the reasons which had necessitated the substitution of these Regulations and this Code for the Ottoman Code of Criminal Procedure and the Ottoman Penal Code, and explained some of their chief features.

The Baghdad Criminal Procedure Regulations is derived through the Sudan Criminal Procedure Code from the Indian Criminal Procedure Code, but adopts certain provisions from the Ottoman Criminal Procedure Code, the ultimate source of which is the French Code of Civil Procedure.

The Baghdad Penal Code is based on the Ottoman Penal Code, which is itself based on the French Penal Code, but has been largely amended and rearranged, most of the amendments being taken from Egyptian sources.

Four classes of Criminal Courts are constituted by the Baghdad Criminal Procedure Regulations—

- (1) Courts of Session, which may award any punishment authorized by law.
- (2) Courts of Magistrates of the first Class, which may award a sentence not exceeding two years penal servitude or imprisonment.
- (3) Courts of Magistrates of the Second Class which may award a sentence not exceeding six months' imprisonment.
- (4) Courts of Magistrates of the Third Class which may award a sentence not exceeding one month's imprisonment.

Political Officers and British Judges are Magistrates of the First Class.

Assistant Political Officers and Arab Judges are Magistrates of the Second Class.

The Civil Commissioner may appoint any person a Magistrate of the first, second or third class.

A Court of Session is a Court consisting of three Magistrates, of whom one at least must be a Magistrate of the first class. In places where a Civil Court is established, it ordinarily consists of the same members as compose the Civil Court, that is to say, a British Judge and two Arab Judges.

Findings and sentences of Sessions Courts require confirmation by the Civil Commissioner. Findings and sentences of Magistrates do not require confirmation: but, if the sentence exceeds that which a Magistrate can pass summarily, an appeal lies against it, either to the Political Officer or the Civil Commissioner.

In addition to the powers vested in them as regards cases which are brought before them by way of appeal, Political Officers and the Civil Commissioner have powers of revision. A Political Officer may call for and revise the judgment of any magistrate subordinate to him, while the Civil Commissioner may call for and revise the judgment of any Criminal Court.

In the exercise of his functions of confirming, appellant and revising authority, the Civil Commissioner is assisted by the Judicial Secretary, who performs similar duties to that of a Judge Advocate General.

III.—WORK OF COURTS IN 1919.

11. *Civil Court of Appeal*.—Statistics of the work of the Court of Appeal are contained in Appendix I. In 1918 the Court heard 22 original appeals and 71 cases referred to it on revision. For the first six months of 1919 the corresponding figures are 59 and 61. For the final six months 95 and 6,122. The increase is not, I think, due to any growing love of litigation but arises solely from the re-establishment of Courts of First Instance and Peace Courts.

During 1918 the Court of Appeal was formed of members of either of the Court of First Instance at Baghdad under the presidency of the Judicial Secretary. The first change in establishing a separate Court of Appeal took place on the appointment of Lt.-Colonel S. G. Knox as President on 17th January. Colonel Knox went home on leave on 14-5-1919 and was replaced by Mr. H. F. Forbes, I.C.S., C.I.E., on 5-7-1919.

It was not however until October that it was found possible to relieve Daud Effendi Samra and Sulaiman Effendi Faidhi from their other duties and thus complete the Bench. By this time the considerable increase of work in appeal owing to the re-establishment of the Courts generally had necessitated a Bench whose whole energies would be devoted to appeal work. Mr. H. F. Forbes, the President of the Court writes of the work of the Court of Appeal as follows:—

“The Court of Appeal reflects the gradual settling down of Iraq to peace conditions, both in the constitution of the Court and in the constant increase of work consequently on the re-opening of the Courts generally throughout the country. A review of the past year's work would therefore be incomplete without a reference to the former Turkish Judicial System and the gradual and successful progress achieved in making the Courts self-contained and independent of Constantinople.

Up to the outbreak of war there were combined civil and criminal Courts of Appeal or Courts of First Instance with limited appellate powers in Basrah, Baghdad, Ba'qubah, Karbala, Kirkuk, Muntafiq, Mosul and Diwanayah. Their decisions were final save that a further petition might be presented to the Court of Revision at Constantinople. This right of revision was very necessary, owing to the composition of the benches. These were composed largely of men of straw, many of whom had little or no knowledge of law and were in fact little but dummies useful only in recording and enforcing the views of the President. The President was usually a Turk and the work of the

Court was entirely in his hands. If he were energetic and honest, the outturn was excellent but if not the dummy tail could always be trusted to enforce his views by their majority vote. As a result every case which was appealed was taken on to the Court of Revision as a matter of course. The Court of Revision however had not power to issue a decree. It could confirm or set aside a decree directing the Court of Appeal to issue a fresh decree. In this way cases usually took years to decide and the whole bench had frequently changed when the case finally returned to the Court of First Instance.

By the issue of the Appendix to the Code of Civil Procedure in 1328 compelling the appellant to appeal his case as a whole and not piecemeal as he had done previously and by the promulgation of the Peace Judges' Law in 1329 restricting the right of appeal to sums over £50, the Turks had effected a much needed reform. The full effects of these changes however were not yet evident when war broke out and practically put an end to all litigation. The Courts of Appeal had been overburdened with such a mass of arrears that even in Mosul they had not been worked off in six years from 1329-35.

Our present Court has a considerable advantage in thus starting with a fairly clean slate which indeed was made cleaner by the destruction of the Court records generally throughout Iraq by the retreating Turkish Army. The enforcement of the new laws should make one bench sufficient to hear all appeals from Iraq for some time to come. It is further to the advantage of the litigants that they should be able to employ the Baghdad Bar in their appeals, as the Bar outside Baghdad is for the most part of very mediocre quality. The whole country will benefit by the reduction in expenditure caused by combining eight courts of appeal into one. The opening up of communications will remove any hardship the litigants may find in coming to Baghdad. The formation of a strong and independent bench—unlike the dummies of the past—will, I trust, more than compensate for the loss of the right of revision.

I now turn to the revision of judgments of Peace Judges. As I have already stated no appeal lies from a decree for less than £50; there is however a right of revision. The procedure is as follows:— The aggrieved party presents a petition to the Judge who heard the case asking that his case may be referred to the Court of Revision. To this petition he may attach a memorandum. The Judge thereupon sends all the papers of the case, together with the petition and memorandum to the Court of appeal. Two judges of the Court of Appeal thereupon go into the case on the papers. If they consider that the decree is correct the petition is rejected. If however they are doubtful of its correctness a copy of the memorandum of appeal is sent to the other party for his reply. On receipt of his reply the whole bench of the Court of Appeal examines the case and gives a decision on the papers. The Court of Appeal does however give a final decision when possible and not a mere order of remand as was done under the Turkish law. This is a very useful amendment of Turkish procedure which I believe has given universal satisfaction. The Court of Appeal in Baghdad thus replaces the Court of Revision in Constantinople and completes the release of the Iraq Courts from Turkish control."

12. *Civil Courts of First Instance and Peace Courts.*—Statistics of the work of the Civil Courts of First Instance and of the Peace Courts are contained in Appendix II.

The Baghdad Civil Courts have throughout the year been under the Presidency of Mr. Bell.

The total number of cases heard by the Baghdad Civil Courts in 1919 shows an increase over the number for 1918, although it was supposed that the large number in 1918 was due to the ending of the Moratorium and to the fact that the Courts had been closed for nine months.

Claims for pre-emption and for partition have figured noticeably in the list of cases, as a result no doubt of the highland values existing at the present time in Baghdad. There have been no judgments for bankruptcy: in several cases of insolvency the matter has been postponed under the Proclamation. The total Court Fees show a very large increase.

The Execution Department has suffered to some extent from unavoidable changes in personnel. Nevertheless a large amount of work, often difficult and unpleasant has been got through.

The most noticeable addition to the Courts work is seen in the personal cases, both Shi'ah and non-Mohammedans. Many of these were merely simply certificates of heirship, but the fact that so many cases are decided with so little dissatisfaction to the parties throws great credit on the Judges in charge of these cases.

Thanks to the activity and tact of Major Holmden the President, the scope of the Hillah Civil Court has much widened during the year. Courts were established at Karbala and Najaf and these towns were regularly visited, while occasional circuits were undertaken to Diwaniyah and elsewhere.

The population of the Divisions served by the Hillah Civil Court is almost entirely Shi'ah and there is a considerable prejudice against the employment of Mohammedan employees other than those of the Shi'ah sect, and some jealousy on the part of the Shi'ah religious chiefs at the jurisdiction exercised by the Courts in Shi'ah personal cases. Owing to the fact that Shi'ahs were excluded from Government employment under the Turks it is difficult to find Shi'ahs with any legal experience whether as Judges or clerks, and the Courts have been seriously handicapped on this account.

The population of Ba'qubah had a bad reputation under the Turks for dishonesty and trickery in connection with the Courts. It is therefore to be regretted that the Court has been handicapped by changes of the President of the Courts. There has been a slight falling-off of the number of cases instituted.

At the beginning of the year the Courts of the Basrah Division, which since the occupation had been organized on Indian lines and to a great extent had been applying Indian Law, were brought under the same regime as the Courts of the rest of the Occupied Territories. The change was effected without difficulty and has been welcomed by the population, since it replaces a foreign system of law and procedure by one with which they are familiar. This Court has also been much handicapped by necessary changes amongst the Presidents and Judges but has got through a very large quantity of work.

The Court of Wards which was under the capable direction of Chaudhri Allah Bakhsh for the greater part of the year, and under the general supervision of the Military Governor, has been carrying on a very beneficial work. At the end of the year it had under its control 64 estates of a total value of Rs. 11,42,188.

The Mosul Court is the only Court in the Occupied Territories, which was taken over as a running concern from the Turks. As several of the Judges left with the Turks, it was possible at once to re-organize it. The number of judges were reduced and their salaries increased. The Court of which Major E. M. Drower was President for the greater part of the year accomplished a satisfactory amount of work.

New Peace Courts were opened in the course of the year at Amarah and Kirkuk.

13. *Mohammedan Law Courts.*—Statistics of the Sunni Shar'ah Courts are set out in Appendix III.

The only Courts at which the work was heavy were those of Baghdad and Mosul. At both the Government is fortunate in possessing honest and much respected Qadhis.

The work of the Qadhis in the out Districts is uneven and needs inspection. Most of the Qadhis are local men, who have had little previous experience of judicial work, and were appointed rather because they were of good reputation and believed to be honest than on account of judicial knowledge. Hitherto I have not been able to find an Arab lawyer suitable to undertake the work of inspection.

Statistics of the work of the principal Shi'ah Courts are set out in Appendix II together with those of the Civil Courts to which they are attached.

The appointment of these Courts has been fully justified. They have heard a large number of cases. The Government has been fortunate in obtaining the services of such widely respected men as Shaikh Shukrullah at Baghdad, Shaikh Ja'far Alwaji at Hillah and Shaikh Qasim at Basrah. Owing to the difficulty of forming a Court of Appeal, which would meet with acceptance throughout Mesopotamia, no Court of Appeal has yet been established and it is therefore the more satisfactory that complaints or petitions against the decisions of these Judges have been very rare.

Owing to the privileged position of the Shi'ah religious chiefs at Najaf and Karbala, the appointment of Shi'ah Judges at those places presents special difficulties. Since some part of the authority of the Shi'ah religious chiefs has been derived from the fact that the Shi'ahs have been accustomed to submit their disputes to their arbitration rather than to the Turkish Courts. An appointment has however recently been made for Karbala.

14. *Receipts of Civil and Religious Courts.*—The receipts of the Courts for the year were as follows :—

	Rs.
Appeal Courts	39,501
Civil Courts (including Execution and Notary Public)	5,23,128
Peace Courts	89,902
Shar'ah Courts	1,10,195

15. *Criminal Courts.*—Statistics of the work of the Criminal Courts are contained in Appendix IV.

The Criminal procedure Regulations and the Penal Code, although intended only as temporary laws, to be replaced by more fully considered and finished laws on the conclusion of Peace, have worked satisfactorily and have proved suitable for the requirements of the country. Many of the magistrates have little previous experience of criminal law, but cases have been tried carefully and the punishments awarded have in general been lenient.

As the country settled down to Peace conditions and the judicial staff increased, it was possible to arrange that most serious crime should be tried by Sessions Courts composed of a British and two Arab judges. This has the double advantage of providing a Court of trained judges, and of associating Arabs with the British staff in the administration of justice.

A considerable number of Arabs have also been appointed Magistrates of various classes.

The administration of criminal law in this country is difficult and demands in the magistrates not only the possession of an intimate knowledge of the language and ideas of the people but judicial experience and the exercise of much care. In many classes of cases the evidence is very unreliable. Perjurers may be divided into three main classes. First there is the witness coming from the large uncivilized and uneducated classes, who has no knowledge of the value of evidence and fails to distinguish what he has himself observed from what he has been told or has inferred.

Secondly there is the witness who having satisfied himself, very likely without adequate grounds, that the accused is guilty considers that the end justifies the means and attempts to add to the value of his evidence by invented details. This class of evidence frequently occurs in cases of murder of which the motive is revenge or a tribal feud. Such murders are usually committed under circumstances which prevent the certain identification of the offender by any person present. It is known to the friends and relatives of the murdered man that the murderer is one or other of a few individuals, and after a few hours' discussion all present at the murder are prepared to swear to the identity of the murderer or murderers.

To men brought up under the tribal custom that the tribe is responsible for a murder committed by any member of the tribe, it must seem of comparatively little importance which member of the tribe committed the murder.

For the two forms of perjury already described, some excuse may be found in the ignorance and customs of the people. No such excuse can be offered for the downright malicious perjurer. He is perhaps less common in this country than in some countries which are usually considered more advanced. But an exception must be made in the case of persons who are themselves accused of a crime. The obtaining of evidence by the offer of free pardons to accomplices seem

to have been a usual method adopted by the Turkish police. The result is to give rise to a popular belief that the safest course for an accused person is to incriminate someone else. The evidence of accomplices which in all countries is unreliable, is here especially so.

Considering the unsatisfactory state of public order under the Turks, and that periods of war are usually followed by a considerable increase in crimes of violence, the amount of crime has been less than could have been expected, and is a striking testimony to the efficiency of the Administrative work of Political Officers. Public Order has been well maintained. For some time after the occupation the Diyalah Division was disturbed by some daring highway robberies, and the same crime has been not uncommon in the Mosul Division. The capture and condemnation of the principal criminals in the Diyalah Division has re-established order there.

In Mosul Division the conditions are more difficult, but public order has been steadily improving.

During the year the death sentence was carried out on 28 individuals.

There are two forms of crime which are regrettably common and are so engrained in the habits of the people that they will be difficult to eradicate. The first is murder from motives of revenge or from a grudge. Such murders are often accompanied by circumstances of great brutality. A man will lie in wait at night at the door of his enemy's house and shoot him as he comes out of his house. Or a band of men will make their way at night to the house of their victim and shoot him while he is sleeping in his bed in the midst of his family.

The second is murder by her family of a girl or married woman who has been unchaste. Amongst tribal Arabs in this or in other countries there is no pity for the girl who has lapsed from the strict path of virtue. She has put a stain on the family honour that can only be washed out by her blood. But in Mesopotamia this feeling extends beyond the limits of tribesmen proper. And if the cases which have come before me during the last year are characteristic, the custom in this country differs discreditably from that observed by Arabs elsewhere. For here it would seem that the members of the girl's family do not, as elsewhere, risk their lives by meting out to the girl's lover the same fate as to the girl herself.

The Tribal Criminal and Civil Disputes Regulations provides a procedure for the trial by a Tribal Majlis appointed by the Political Officer of offences committed by tribesmen and for their punishment approximately in accordance with tribal law. The Regulations are valuable in enabling Political Officers to deal with cases between tribesmen, who owing to their inaccessibility or for other reason are not under strict Government control and with regard to whom the Government is not prepared to accept full responsibility for law and order: as also with cases between tribesmen, when the evidence is not sufficient for trial by an ordinary Criminal Court but the facts are well known within the tribe and can be dealt with by a Tribal Majlis who have sources of information which are not open to a Law Court. The punishments which may be awarded under the Tribal Criminal and Civil Disputes Regulations are limited to fine and imprisonment. A death sentence cannot be passed except by the ordinary Criminal Courts.

According to tribal law minor offences are punishable by compensation and fine. For murder, the law is a life for a life. It is the duty of the relatives of the murdered man to avenge his death, but they may compound the crime by accepting a fine and in this country are usually willing to do so. The object of vengeance is not limited to the murderer. If the murderer and murdered man belong to different families in the same sub-tribe, the relatives of the murdered man have the right to kill any one man of the murderer's family. If the murderer and murdered man belong to different sub-tribes, vengeance lies against any one man of the murderer's sub-tribe. If the murderer and murdered man belong to different tribes, vengeance lies against any one man of the murderer's tribe. So also the fine is payable not solely by the murderer, but by his family, sub-tribe, or tribe, as the case may be. For murder or other serious crime, a tribesman may also be banished from his tribe.

Tribal Law is not an effective deterrent to crime, in that the liability to punishment lies not on the individual who commits the crime, but the family, sub-tribe or tribe to which he belongs. The share of a blood fine which the actual criminal in fact pays may thus be insignificant. There was a tendency in some Divisions for Political Officers to make use of its provisions in cases which could be more effectively dealt with by the ordinary Courts. A circular was accordingly issued pointing out the limits within which the use of the Tribal Disputes Regulations should be confined.

It has naturally not been possible in the short time since the occupation to form an efficient and thoroughly disciplined police-force throughout the country. Speaking generally, the investigation and detection of crime is the weakest point in the administration of criminal law. Several Divisions of which Baghdad deserves special mention must however be excepted from this statement. In most of the country districts police officials and magistrates had no previous training or experience in the investigation of crime. In a country, where evidence is so unreliable, it is of special importance that every serious crime should be thoroughly investigated on the spot at the earliest possible moment after the commission of the crime. Witnesses should be examined separately, and if possible before they have had an opportunity of communicating with one another. I therefore welcome the approaching re-organization of the Divisional Police Forces under the supervision of an Inspector-General of Police.

16. *The Bar.*—No effective measures were taken under the Turkish Government to confine the practice of advocacy in Mesopotamia to qualified Advocates. One of the first reforms introduced upon the re-establishment of the Civil Court in Baghdad after the occupation, was the issue of "The Advocates' Rules, 1918" regulating the profession of advocate.

These Rules required all advocates to take out a licence and provided, that subject to certain exceptions, licences should be limited to persons who hold a diploma from a recognized Law School. Exception however was made in favour of advocates who were in actual practice although they possessed no legal diploma.

Consequent upon the opening of communications with the outside world after the Armistice, a considerable number of Advocates have returned to Baghdad.

At the end of December there were some 60 licenced advocates at Baghdad, 12 at Basrah and 3 at Mosul.

Although the standard of the legal knowledge of many of these is not such as to qualify them for a learned profession, there are competent lawyers amongst them and the Bar at Baghdad is taking a useful and creditable part in the administration of justice.

17. *Comparison of existing Courts with Turkish Courts.*—In concluding this summary of the work of the Courts in 1919, some comparison is called for between the existing Courts and the former Turkish Courts. It has been stated that the existing Courts follow Turkish procedure, and, with the exception of a few British Judges, are staffed by Arab Judges and clerks. How far then are they superior to the old Turkish Courts? Without attempting to be exhaustive, one may draw attention to the following considerations :—

- (1) The work of the Courts are conducted in Arabic and all the records of the Civil Court are kept in Arabic, instead of, as formerly, in Turkish, a foreign language in Mesopotamia.
- (2) The Judges of the Civil Courts are honest. The dishonesty of the Turkish Courts is proverbial in the East, and any one who takes the trouble to make enquires from residents in this country, who had means of knowing, cannot fail to be convinced that their evil reputation in this respect was well deserved.

It is said that during the last forty years before the occupation there were only two Qadhis of the Baghdad Shar'ah Court who were honest. There are men living at Baghdad who in the course of a few years' tenure of a poorly paid Qadhiship advanced from extreme poverty to wealth. I had occasion recently to read the reports and accounts of the Administrator of the estate of a British subject domiciled in Baghdad, who died a few months before the war. In the course of the administration, it became necessary to register some documents in the Qadhi's Court. A visit was paid by the Administrator to the Court, and he was assured by the Qadhi that the work was straightforward and would give rise to no difficulty. The heirs attended the Court on several occasions but were constantly put off. One of them realizing the cause of the delay, had an interview with the Qadhi and promised him a commission upon the completion of the work. No further postponement was then necessary, and the accounts of the estate in the records of the British Consulate contain the entry "To the Qadhi for his trouble £T 15." The work in this case being non-litigious, no wresting of justice was involved. But bribery was not confined to non-litigious work, nor to the Qadhi's Court. I have been informed by merchants of standing that they could never obtain justice without paying for it.

- (3) Cases are heard with reasonable promptitude both in the Courts of First Instance and in Appeal. The inordinate delays to which the Turkish system of appeal both in civil and criminal cases lent itself, is a thing of the past.
- (4) By reducing the number of the Courts, by careful selection of the Judges and by increasing their pay the status of Judges has been raised and a higher degree of competency has been obtained.

On the other hand, the Civil Courts are still hampered by medieval rules of evidence and antique laws.

IV.—LAW SCHOOL.

18. A Law School had been in existence at Baghdad for some seven years before the outbreak of war. The course was a four years' course. At the outbreak of war the school was closed down. Hence the students in their first, second and third years were deprived of the opportunity of obtaining a diploma and of qualifying themselves for practice at the bar or for judicial appointments.

Upon the conclusion of the Armistice, the re-opening of the School became an urgent question, and after the financial difficulties had been overcome, the necessary arrangements were made to re-open the School. Having regard to the difficulties of organization and of obtaining an adequate staff of teachers, it was decided that for the first year the School should be confined to pupils of the old law school whose studies had been interrupted by the War. The School was re-opened with some 50 pupils divided into two classes. The fee is Rs. 150 for a year's course. Teaching is wholly in Arabic.

Mr. H. F. Forbes, the President of the Court of Appeal, undertook the duties of Honorary Director and the School owes much to his enthusiasm and sympathy. Nishat Effendi Sanawi was appointed Vice-Director. They have been fortunate in obtaining as lecturers some of the most capable judges and advocates, who have patriotically given their services to the cause of legal education.

The School was formally opened by the Civil Commissioner on the 7th November in the presence of a representative gathering of notables of Baghdad. A message was subsequently received from the Secretary of State for India conveying his good wishes for the future of the School and was communicated to the students and the staff.

The reopening of the School has been very generally welcomed by the educated classes in Baghdad. Hitherto it has not been possible to find suitable accommodation for the School. The classes are being temporarily carried on in the Court Rooms, an arrangement which is as inconvenient to the Courts as it is to the students.

V.—LEGISLATION.

19. The following Proclamations and Legislation of a civil character were issued during the course of the year.

Proclamations issued by the General Officer Commanding-in-Chief :—

12th February, 1919	...	...	Inland Steam Vessels Act.
14th March, 1919	...	...	Sea Customs Act.
1st April, 1919	...	...	Land Acquisition, Amendment Proclamation.
23rd " 1919	...	...	Tax (Execution) Proclamation.
26th " 1919	...	...	Irrigation Offences Proclamation.
28th " 1919	...	...	Trade Names.
12th May, 1919	...	...	Repealing restriction of Rent Rules.
28th May, 1919	...	...	British Subjects, Registration of Births, Deaths and Marriges.
2nd June, 1919	...	...	Companies Proclamation.
17th " 1919	...	...	Postal Regulations Amendment.
5th July, 1919	...	...	Unregistered Sales Confirmation.
14th " 1919	...	...	Telegraph Proclamation.
18th " 1919	...	...	Baghdad Penal Code and Criminal Procedure Regulations Amendment Proclamation.
20th " 1919	...	...	Railway Proclamation.
30th " 1919	...	...	Immovable Property (Consent to alienation).
16th August, 1919	...	...	Motor Vehicles Registration.
30th " 1919	...	...	Re-publishing and repealing previous Proclamations.
8th September, 1919	...	...	The Mesopotamia Stamp Act.
8th October, 1919	...	...	The Port of Basrah (with notification).
8th " 1919	...	...	Unregistered Sales Confirmation (No. 2).
20th " 1919	...	...	Inland Water Shipping Proclamation.

JUDICIAL RULES AND ORDERS.

11th April, 1919	...	...	Civil Courts Rules (No. 1), 1919.
11th " 1919	...	...	Shar'a Court Fees Rules, 1919.
22nd May, 1919	...	...	Attestation by Political Officer Rules, 1919.
24th " 1919	...	...	Civil Courts Fees Rules, 1919.

Captain E. O. Mousley was appointed to the post of Chief Legislative Draftsman at the end of the year and about the same time the services of Ahmad Effendi Hilmi, an Egyptian Advocate, were obtained to supervise, amongst other duties, the translation of Legislation.

COMPANY REGISTRATION.

20. The Companies Proclamation, 1919, applied the Indian Companies Acts, subject to some slight modifications, to Mesopotamia.

In accordance however with Turkish Law, no Company may be registered except with the permission of the Civil Commissioner. Considering that the native commercial community have no experience of Company Direction, and that the financial conditions of the country are favourable to an undesirable form of speculation, this is a wise precaution.

Two companies, both under British Direction, were registered in the last 6 months of the year.

VI.—PERSONNEL.

21. A list of the principal officers holding appointments in the Judicial Department on the 31st December, 1919, is contained in Appendix V.

The following table shows the nationality of the Judicial and Clerical staff as on the 31st December, 1919.

British	...	...	...	...	...	...	10
Indian	...	...	...	...	...	...	4
Arab (Mohammedan)	...	...	...	...	...	...	197
Arab (Jewish)	...	...	...	...	...	...	9
Arab (Christian)	...	...	...	...	...	...	9
Egyptian	...	...	...	...	...	...	1
Syrian	...	...	...	...	...	...	1

It may be mentioned that the British Staff contains representatives of the following races, Scotch, Irish, Welsh, New Zealanders, Jewish, and English.

During the war, the scope of the Department was limited to satisfying essential requirements, and was carried on with a minimum of British Personnel. It was recognized that the administration of civil justice, although a necessary consequence of the result of the occupation of Mesopotamia, did not justify any avoidable demand for British Staff which would take officers away from military duties. With the conclusion of the Armistice, it was hoped that it would be possible to obtain a moderate increase of staff sufficient to enable Courts to be established throughout the country. But it was not until the end of 1919, that any increase to the staff was in fact made. There has been therefore a severe strain on the staff, and especially on the British members, few of whom have had leave since before the war. I take the opportunity of bringing to your notice the admirable work performed by them in circumstances of exceptional difficulty. It is a pleasure to be able to add that the relations between the British and Mesopotamian Members of the Staff have been of a most harmonious and cordial character.

VII.—COURT BUILDINGS.

22. After occupying various not very suitable billets, the Judicial Department and Courts at Baghdad together with the Awqaf Department were allotted the old Turkish Military School. Both as regards accommodation and situation these buildings are very suitable for Law Courts, although the requirements of the Department are already outgrowing the available accommodation.

In most of the other stations the Courts are not adequately housed, and new buildings are urgently required. Mesopotamia like the rest of the world is as a consequence of the war very short of houses, and one of the difficulties in the way of opening new Courts is the absence of housing for the officials.

VIII.—CONCLUSION.

23. I trust that the foregoing report is a sufficient account of the work of the Judicial Department during the year 1919.

The principal events of the year have been the re-establishment in the Basrah Wilayat of the same system of Courts and legal procedure as in the rest of Mesopotamia, the constitution of a separate Court of Appeal, and the re-opening of the Law School.

Until Peace is signed and a regular Government established, it would be premature to make important changes in the organization of the Courts or in the Laws applied by them. The energies of the Staff have during the last year been in the main devoted to administering the existing laws efficiently and to introducing such improvements as are possible without legislation of a radical nature.

Before, however, the Courts, can take their full share in contributing to the creation of the better society, which the bravery and sacrifices of the British and allied armies have put within the reach of the inhabitants of Mesopotamia, considerable legislation will be necessary. Amongst other matters on which legislation is required, perhaps the most urgent are the questions of Consular jurisdiction and the revision of the Code of Civil Law.

E. BONHAM CARTER,
Judicial Secretary.

BAGHDAD,
27th May, 1920.

APPENDIX I.

Statistics of Civil Court of Appeal—

Table A.—Appeals and Revisions.

„ B.—Result of Appeals.

„ C.—Result of Revisions.

APPENDIX II.

Statistics of Civil Courts of First Instance (including Cases of personal status other than Sunni Cases)—

Table A.—Statistics of Suits.

„ B.—Statistics of Executions.

„ C.—Statistics of Notary Public.

„ D.—Statistics of Peace Courts.

APPENDIX III.

Statistics of Sunni Muhammadan Law Courts—

Table A.—Courts of First Instance.

„ B.—Court of Revision.

APPENDIX IV.

Statistics of Criminal Courts—

Table A.—Non-Summary Trials.

„ B.—Summary Trials. [Not printed.]

„ C.—Offences of which persons convicted by non-summary Courts. [Not printed.]

APPENDIX V.

List of Principal officials.

APPENDIX I.

Statistics of Court of Appeal from 1st January to 31st December, 1919.

TABLE A.—CASES IN APPEAL.

Balance from 1918	...	...	...	...	...	20
Appeals instituted	...	...	...	...	...	183
				Total	...	203
Decrees confirmed	...	...	...	...	...	75
Do. set aside	...	...	...	...	...	49
Dismissed in default	...	...	...	...	...	9
Do. on ground of jurisdiction	...	...	...	...	...	14
Adjourned without date	...	...	...	...	...	7
Balance	...	...	...	...	...	39
				Total	...	193

CASES IN REVISION.

Balance from 1918	...	...	...	...	...	16
Petitions for Revision	...	...	...	...	...	465
				Total	...	481
Rejected in Chambers	...	...	...	...	...	251
Referred to Court of Appeal	...	...	...	...	...	230
				Total	...	481

RESULT OF REFERENCE.

Decrees confirmed	...	...	...	...	...	63
Do. set aside	...	...	...	...	...	107
Do. corrected	...	...	...	...	...	4
Dismissed on ground of jurisdiction	...	...	...	...	...	6
Do. on compromise	...	...	...	...	...	3
Balance	...	...	...	...	...	47
				Total	...	230

APPENDIX I.

TABLE B.

*Table showing result of Appeal.***Decrees.**

Place.				Confirmed.	Dismissed in default.	Rejected on ground of jurisdiction.	Set aside.
Ba'qubah	...	...	...	2	1	...	1
Baghdad	...	...	...	51	6	8	20
Hillah	...	...	...	3	1	1	3
Najaf	...	...	...	1	...	...	...
Karbala	...	...	...	3	...	...	2
Basrah	...	...	...	1	...	1	4
Mosul	...	...	...	14	1	4	19
Total				75	9	14	49 = 147

APPENDIX I.

TABLE C.

Table showing result of references for revision.

Place.				Decrees confirmed.	Petitions dismissed in default.	Decrees corrected.	Decrees set aside.
Baghdad (Peace)	...	...	...	46	9	4	67
Do. (Single Judge)	...	...	...	5	...	...	4
Basrah	...	...	...	1	...	...	11
'Amarah	...	...	...	2	...	...	...
Khaniquin	...	...	...	...	...	...	2
Mendali	...	...	...	...	...	...	3
Kirkuk	...	...	...	...	...	...	3
Najaf	...	...	...	...	...	...	2
Hillah	...	...	...	2	...	...	3
Mosul	...	...	...	2	...	...	6
Dair al Zor	...	...	...	1	...	...	5
Ba'qubah	...	...	...	4	...	...	1
Total				63	9	4	107 = 183

APPENDIX II.

TABLE B.

Statistics Execution Department for the year 1919.

	Mainten- ance.	Dowry.	Rent for Waqf Depart- ment.	Fixed sums in civil cases.	Fixed sums in personal cases.	Delivery of property.	Delivery of persons.	Total	No. of sales in Execu- tions.	No. of persons imprisoned.	Total fees received.
Baghdad—											Rs.
Civil Executions ...	...	...	16	1,132	37	261	...	1,436	80	55	34,745
Shara Executions ...	580	213	...	...	...	7	20	820	27	79	7,947
Ba'qubah ...	43	13	...	76	12	29	3	176	5	10	3,139
Shamiyah ...	...	...	...	2	...	...	...	2	...	...	36
Kerbela ...	...	...	...	30	...	9	...	39	...	2	867
Hillah ...	60	7	...	129	...	62	1	259	...	2	2,965
Basrah ...	55	8	...	829	...	63	15	970	20	21	24,836
Mosul ...	102	22	...	340	7	38	...	509	9	9	4,918
Total	840	263	16	2,538	56	469	39	4,211	141	178	79,453

APPENDIX II.

TABLE C.

Statistics Notary Public Department for the year 1919.

	1. Protests on bills of exchange.	2. Protests otherwise than on bills of exchange.	3. Documents registered.	(a) Bills of exchange and undertakings to pay money.	(b) Procurations.	(c) Contracts.	(d) Lease of premises.	(e) Agricultural leases.	(f) Guarantees.	(g) Miscellaneous.	4. Total fees received.
Baghdad	308	1,459	...	560	1,168	4	178	64	138	790	37,216
Ba'qubah	4	57	...	30	29	...	14	17	11	16	1,236
Shamiyah	...	...	...	...	57	...	...	...	9	11	1,017
Karbala	...	6	...	7	103	...	...	...	9	30	902
Hillah	6	64	...	3	253	11	21	1	23	20	2,601
Basrah	308	1,284	...	193	982	112	16	...	308	100	34,067
Mosul	...	78	...	211	811	82	2	6	68	110	9,390
Total	626	2,948	...	1,004	3,403	209	231	88	566	1,077	86,429

Rs.

APPENDIX. II.

TABLE D.

Statistics of the Peace Courts for the year 1919.

Name of Courts.	No. of cases pending at the beginning of 1919.	No. of cases instituted during the year 1919.	No. of cases in which judgment was given dismissed and transferred.	Cases pending at the end of 1919.	Oppositions made.	Total fees collected.	REMARKS.
Baghdad Civil Courts	23	307	222	121	19	Included in Court of First Instance.	
Baghdad Peace Court	532	3,874	3,343	852	210	Rs. A.	
Samarrah	...	312	291	73	2	41,777 14	
Baqubah	42	420	367	95	12	2,095 12	
Khaniqin	1	297	294	110	5	4,958 12	
Mendali	2	312	196	3	1	4,395 10	
Diwanayah	...	57	73	13	1	3,697 0	
Hillah	65	1,266	1,161	226	31	451 4	
Kerbela	...	273	205	78	7	Included in Court of First Instance	
Shamiyah	...	54	44	11	...	Do.	
Basrah	...	1,732	1,513	291	23	Do.	
Amarah	...	582	474	108	11	Do.	
Mosul	4	1,648	1,531	201	23	6,632 2	
Erbil	30	1,250	1,786	19	6	15,868 6	
Kirkuk	...	714	689	65	10	2,353 0	
	...	...	...	...	...	7,676 2	
Total	699	13,098	12,789	2,266	367	89,902 0	

APPENDIX III.

TABLE A.

Statistics Shara Courts for the year 1919.

Name of Courts.	Cases Instituted.	Ilams Issued.	Huggas Issued.	Kassams Issued.	Marriage Permits.	Fees Collected.	REMARKS.
<i>Baghdad Division.</i>						Rs.	
Baghdad Shara' Court	1,203	975	845	1,210	2,311	27,768	From 1st January to 31st December, 1919.
<i>Samarra Division.</i>							
Samarra Shara' Court	196	172	95	19	191	1,308	" "
<i>Ba'qubah Division.</i>							
Ba'qubah Shara' Court	338	260	436	194	253	4,889	" "
Shahraban Shara' Court	178	57	101	54	35	1,810	" "
<i>Khanaqin Division.</i>							
Khanaqin Shara' Court	195	44	114	129	169	2,049	" "
Mandali Shara' Court	477	66	157	131	259	3,041	" "
Kizil Robat Shara' Court	55	26	60	18	42	650	" " "December, 1919."
<i>Diwaniyah Division.</i>							
Diwaniyah Shara' Court	27	15	30	25	25	412	From 16th May to 31st December, 1919.
Samawa Shara' Court	...	2	1	4	38	120	From June—December, 1919.
<i>Hillah Division.</i>							
Hillah Shara' Court	42	143	...	36	58	1,565	From 1st January to 31st December, 1919.
<i>Dulaim Division.</i>							
Ramadi Shara' Court	23	17	70	19	95	819	From 1st January to 31st December, 1919.
Falluja Shara' Court	200	98	24	5	55	758	" "
Hit Shara' Court	172	206	26	16	61	2,626	" "
Ana Shara' Court	82	132	43	3	293	1,835	" "
Kubeisa Shara' Court	14	166	8	17	86	1,495	" "

APPENDIX III—continued.

TABLE A—concluded.

Statistics Shara' Courts for the year 1919—concluded.

Name of Courts.	Cases Instituted.	Ilams Issued.	Huggas Issued.	Kassams Issued.	Marriage Permits.	Fees Collected.	REMARKS.
<i>Dair-el-Zor Division.</i>						Rs.	
... Dair-el-Zor Shar'a Court	530	79	397	7	252	3,951	From 1st January to 30th September.
... Mayadin Shar'a Court	99	83	55	1	43	999	Ditto.
<i>Basrah Division.</i>							
... Basrah Shar'a Court	374	146	37	6	138	25,866	From 1st March to 31st December.
<i>Amarah Division.</i>							
... Amarah Shar'a Court	90	73	87	47	45	1,123	From 20th June to 31st December.
<i>Mosul Division.</i>							
... Mosul Shar'a Court	1,114	106	729	4	718	9,368	From 1st January to 31st December.
... Arbil	482	47	196	1	238	2,146	Ditto.
... Duhok	28	23	29	3	6	360	Ditto.
... Zakho	...	12	43	4	84	1,006	Ditto.
... Agr'a	...	...	...	...	...	...	Ditto.
... Tall 'Afar	139	76	28	2	180	662	Ditto.
<i>Kirkuk Division.</i>							
... Kirkuk Shar'a Court	374	203	572	27	905	8,999	From 1st January to 31st December.
... Kifri	409	54	3	1	64	3,345	Ditto.
... Tikrit	107	165	11	16	66	1,215	From 1st July to 31st December, 1919.
... Total	6,948	3,446	4,197	1,999	6,710	1,10,185	

APPENDIX III.

TABLE B.

Statistics of Shara' Court of Revision for the year, 1919.

Place.			Number of applications for Revision.	Confirmed.	Quashed.
Baghdad	...	...	34	23	11
Basrah	...	...	1	...	1
Mosul	...	...	6	3	3
Diwaniyah	...	...	2	1	1
'Amarah	...	...	2	1	1
Dair-al-Zor	...	...	10	4	6
Ba'qubah	...	...	12	6	6
Hillah	...	...	5	1	4
Khanaqin	...	...	2	1	1
Mandali	...	...	5	3	2
Samarra	...	...	2	...	2
'Anah	...	...	3	1	2
Shahraban	...	...	1	1	...
Tikrit	...	...	3	...	3
Hit	...	...	7	1	6
Tall 'Afar	...	...	1	...	1
Zakho	...	...	1	...	1
Qizil Robot	...	...	2	...	2
		Total	99	46	53

APPENDIX IV.

TABLE A.

Statistics of non-summary trials during the year 1919 in Mesopotamia.

1 Division.	2 Courts of Session.			3 Magistrates First Class.			4 Magistrates Second Class.		
	No. of trials.	No. of persons tried.	No. of persons convicted.	No. of trials.	No. of persons tried.	No. of persons convicted.	No. of trials.	No. of persons tried.	No. of persons convicted.
...	1	2	3	1	2	3	1	2	3
1 Baghdad	22	35	32	129	189	179	111	162	147
2 Samarra	2	2	2	11	14	14	2	4	3
3 Ba qubah	10	20	9	43	52	37	15	29	17
4 Khanaqin	2	2	2	8	19	19	23	39	39
5 Diwanayah	6	17	17	31	35	31	54	66	40
6 Shamayah	...	...	...	...	...	...	...	...	...
7 Hillah	3	11	11	84	129	98	31	60	53
8 Dulain	4	7	7	6	7	7	6	7	7
9 Basrah	...	...	...	223	349	273	16	18	18
10 Amarah	1	1	1	17	30	25	45	76	63
11 Kut	...	...	...	...	...	...	...	...	...
12 Nasiriyah	...	...	...	1	1	1	82	84	82
13 Mosul	24	41	32	24	37	33	77	84	78
14 Arbil	1	8	3	25	59	41	2	2	1
15 Sulaimaniyah	...	...	...	...	...	...	...	...	...
16 Kirkuk	...	...	2	...	...	5	...	...	35
Grand Total	75	144	118	602	921	763	464	547	583

APPENDIX V.

PERSONNEL.

The following is a list of the principal officers holding appointments in the Judicial Department of Mesopotamia on 31st December, 1919.

Sir E. Bonham Carter, K.C.M.G., C.I.E.	...	...	Judicial Secretary.
Captain E. O. Mousley	...	...	Legislative Draftsman.
Ahmad Hilmi	...	...	Legal Assistant to Judicial Secretary.
Nashat Al Sinawi	...	...	Government Advocate.
Dikran Ekmekjian	...	...	Superintendent.
Civil Court, of Appeal—			
H. F. Forbes, C.I.E., I.C.S.,	...	...	President.
Dahud Samra	...	...	Judge.
Sulaiman Faidhi	...	...	Judge.
Civil Courts of First Instance, Baghdad Civil Courts—			
B. H. Bell, Sudan Civil Service	...	...	President.
Salih Pachaji	...	...	Officiating Vice-President.
Saiyid Salih ibn Saiyid Ahmad	...	...	Judge.
Reuben Battat	...	...	Judge.
Jemil Zada Abdul Jabbar	...	...	Judge.
Saiyid Khidr ibn Mohammad Agha	...	...	Officiating Judge.
Nuri Yaqub Nahom	...	...	Notary Public.
Ba'qubah Civil Court—			
A. I. MacLaren, M. C.	...	...	President.
Ahmad Izzat Al-Hijazi	...	...	Judge.
Hillah Civil Court—			
Major T. N. Holmden, M. C.	...	...	President.
Muhammad Ali	...	...	Judge.
Basrah Civil Court—			
Major E. M. Drower	...	...	President.
Abdul Majid ibn Mulla Yasin	...	...	Judge.
Abdullah ibn Abdul Salam Al Adhami	...	...	Judge.
M. P. Mehta	...	...	Assistant Judge.
Ghalib Thomas	...	...	Notary Public.
Mosul Civil Court—			
Major J. Prichard	...	...	President.
Sa'id Lutfi	...	...	Judge.
Muhammad Rauf	...	...	Judge.
Peace Courts, Baghdad Peace Court—			
Abdul Wahab, Al Naib	...	...	Judge.
Khanaqin Peace Court—			
Faiq Al Alusi	...	...	Judge.
Amarah Peace Court—			
Abdul Majid Ahmad Jamil	...	...	Judge.
Mosul Peace Court—			
Sadiq Madhar	...	...	Judge.
Kirkuk Peace Court—			
Muhammad Khurshid	...	...	Judge.
Sunni Shar'ah Courts—Baghdad Shar'ah Court—			
Alusi Zadha Haji Ali	...	...	Qadhi.
Senawi Zadah Sulaiman	...	...	Assistant Qadhi.
Samarra Shar'ah Court—			
Mulla Taha	...	...	Qadhi.
Ba'qubah Shar'ah Court—			
Mulla Husain	...	...	Qadhi.
Shahraban Shar'ah Court—			
Muhammad Fahmi	...	...	Qadhi.
Khanaqin Shar'ah Court—			
Abdul Latif Rawi	...	...	Qadhi.
Mandali Shar'ah Court—			
Saiyid Muhammad Amin	...	...	Qadhi.
Qizil Robot Shar'ah Court—			
Shaikh Mustafa ibn Shaikh Muhammad	...	...	Qadhi.
Diwaniyah Shar'ah Court—			
Saiyid Khalil	Qadhi.
Samawah Shar'ah Court—			
Saiyid Nuri	Qadhi.

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	Hillah Shar'ah Court—					
	Abdul Haq	Qadhi.
	Ramadi Shar'ah Court—					
	Muhammad Sa'id	Qadhi.
	Fallujah Shar'ah Court—					
	Ahmad ibn Abdul Muhsin	...	...	...	...	Qadhi.
	Hit Shar'ah Court—					
	Saiyed Shahab Al Din ibn Saiyid Ahmad	...	...	...	...	Qadhi.
	Anah Shar'ah Court—					
	Hajji Muhammad ibn Saiyid Salih	...	...	...	...	Qadhi.
	Kubaisyah Shar'ah Court—					
	Muhammad Amin Al Khatib	...	...	...	...	Qadhi.
4	Albu Kamal Shar'ah Court—					
	Muhammed Shariff	...	...	...	...	Qadhi.
+	Basrah Shar'ah Court—					
	Shaikh Qasim ibn Hajji Muhammad	...	...	...	...	Qadhi.
X PC	Amarah Shara'h Court—					
	Muhyuddin ibn Mahmud Yahyah	...	...	...	...	Qadhi.
4 P	Mosul Shar'ah Court—					
	Saiyid Ahmad	...	...	...	...	Qadhi.
7	Arbil Shar'ah Court—					
	Muhammad Rashid	...	...	...	...	Qadhi.
4	Aqrah Shar'ah Court—					
	Saiyid Mustafa ibn Saiyid Ali	...	...	...	...	Qadhi.
4	Tall 'Afar Shar'ah Court—					
	Ahmed Fakhri	...	...	...	...	Qadhi.
X	Dehok Shar'ah Court—					
	Ahmad Mukhtar ibn Shaikh Abdullah	...	...	...	...	Qadhi.
4	Zakho Shar'ah Court—					
	Ismail ibn Mahmud	...	...	...	...	Qadhi.
7 PC	Kirkuk Shar'ah Court—					
	Ahmad Hilmi	...	...	...	...	Qadhi.
	Kifri Shar'ah Court—					
	Saiyid Sa'id	...	...	...	...	Qadhi.
	Baghdad Shar'ah Court of Revision—					
	Mufti Zadah Sa'id	...	...	...	...	President.
	Abdul Malek Shawaf	...	...	...	...	Member.
	Seyed Khidr	...	...	...	...	Member.
	Shiah (Jafariyah) Courts—Baghdad Ja'fariyah Court—					
	Haji Shukrallah	...	...	...	...	Shi'ah Alim.
	Ba'qubah Ja'fariyah Court—					
	Qubbah Zadah Abdul Amin	...	...	...	...	Shi'ah Alim.
	Diwaniyah Ja'fariyah Court—					
	Shaikh Hussain	...	...	...	...	Shi'ah Alim.
✓	'Afaj Ja'fariyah Court—					
	Saiyid Hussain	...	...	...	...	Shi'ah Alim.
✓	Dagharah Ja'fariyah Court—					
	Saiyid 'Ali Al Hilli	...	...	...	...	Shi'ah Alim.
✓	Khidur Ja'fariyah Court—					
	Shaikh Abdul Hussain	...	...	...	...	Shi'ah Alim.
✓	Rumaithah Ja'fariyah Court—					
	Saiyid Mahmud	...	...	...	...	Shi'ah Alim.
	Hillah Ja'fariyah Court—					
	Shaikh Ja'far Alwash	...	...	...	...	Shi'ah Alim.
✓	Musaiyib Ja'fariyah Court—					
	Shaikh Abdulla	...	...	...	...	Shi'ah Alim.
	Basrah Ja'fariyah Court—					
	Saiyid Muhammad Ja'far	...	...	...	...	Shi'ah Alim.

MESOPOTAMIA JUDICIAL DEPARTMENT

REPORT

ON THE

ADMINISTRATION OF JUSTICE

For the year 1920.

BAGHDAD:
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1921.

MESOPOTAMIA MINISTRY OF JUSTICE.

Report on the Administration of Justice for the Year 1920.

To THE HIGH COMMISSIONER,
BAGHDAD.

I.—PRELIMINARY.

I have the honour to submit this report on the administration of Justice in Mesopotamia for the year 1920.

As, owing to my approaching resignation, this will be my last annual report, it may be of interest, if I begin by briefly recapitulating the history of the Courts since the reoccupation.

Upon the occupation of Basrah by the British forces, the Turkish Courts ceased to officiate, and it became necessary to re-establish Courts and to provide a law for them to administer. There were almost insuperable difficulties in the way of continuing the Turkish Courts and system of law. Most of the former Turkish judges and judicial staff had left the country, and no other staff was available that had any experience of Turkish Law. It was accordingly decided to borrow both the system of Courts and Law from India. The Indian Codes were brought into force: and District and Sessions Courts, besides minor Courts, were established at Basrah. It must be admitted that the introduction of a foreign system of law was not justifiable according to International Law except on the grounds of necessity, and the inconveniences of the course became increasingly obvious with the extension of the territory occupied by the British Forces. In the Proclamation which General Maude issued in March, 1917, he informed the inhabitants that it was not the wish of His Majesty's Government to impose on them alien institutions.

Upon my arrival in Baghdad in October, 1917, as Senior Judicial Officer for the Baghdad Wilayat, the position therefore was as follows:—

The Indian Codes and numerous Indian Laws had been applied to the Basrah Divisions and the Courts were constituted in accordance with Indian Law. In the Baghdad Division all the Courts had closed down upon the occupation and many of the judges had fled. The records of the Courts had been taken away or destroyed by the Turks. Shortly before my arrival a Small Cause Court and Mohammedan Law Court had been reopened. A large part of the Baghdad Wilayat and the whole of the Mosul Wilayat was still in the hands of the Turks.

In order to re-establish a system of civil justice two alternative courses were possible. The one was, following the precedent which had been set in Basrah, to make a clean sweep of the Turkish legal system and to replace it by a new system based on English models. The other was to carry on the Turkish organisation of the Courts, making such modifications only as were necessary to ensure justice and a reasonably efficient administration. In favour of the former course it could be urged that much Turkish Law is archaic, that the administration of justice under the Turks had been far from satisfactory, that British judges would find serious difficulty in applying Turkish procedure, especially as few Turkish Laws had been translated into English, and that the number of Arab Judges who were alike reasonably competent and willing to accept employment, while the war continued, was very limited. There could however be no doubt that the latter course was the right one, if it was possible. In my annual report on the administration of justice in the Baghdad Wilayat for the year 1917, I set out the principal reasons for the adoption of this course. Without repeating them at length it may be mentioned that, in the first place, this course is in accordance with International Law and that, in the second place, the abandonment of the legal system to which the people were accustomed must necessarily cause serious inconvenience to them and could not fail to be unpopular, especially having regard to the fact that much of the Law is religious in origin. I also laid stress on the fact that not the least of the advantages in maintaining the existing legal system would be that it would enable natives to be employed immediately in important positions in the administration of the country.

It was accordingly decided that so far as civil litigation was concerned the Turkish organization of Courts and system of procedure should in general be maintained. Various modifications were however introduced of which the following were the principal—

1. All the proceedings were to be conducted in Arabic instead of Turkish.
2. One of the principal reasons why the administration of justice under the Turks was unsatisfactory was that the salaries paid to the judges and Court staff were extremely inadequate with the result that many of them were incompetent or dishonest. It was decided to increase considerably these salaries.
3. The Turkish system of Courts had been framed without sufficient consideration of the fact that Mesopotamia is a poor and sparsely populated country. There was an excessive number of Courts and too high powers were entrusted to Courts composed of judges little qualified to exercise them. Both on the score of economy and having regard to the comparatively small number of men then available, who were fit for the position of judge, it was decided to reduce the number of Courts.

4. The right of appeal to the Court of Cassation in Constantinople was necessarily abolished.
5. The Court fees, which were very low under the Turkish regime, were increased.
6. Persons desiring to practise as Advocates were required to obtain licences and it was laid down that in future, subject to certain exceptions, only persons who had obtained diplomas from recognized law schools would be granted licences.
7. Amongst the grievances of the Shi'ahs, under the Turkish regime, not the least was that cases of personal status in which Shi'ahs were concerned were dealt with by the Sunni religious Courts, in accordance with Sunni religious law, and that Shi'ahs were entirely excluded from Government employment. With the object of partially remedying these grievances, Shi'ahs Jurists were appointed under the name of Nayibat-al-Ja'fariyah, for the trial of cases of personal status between Shi'ahs. At the same time the Ordinary Civil Courts were given powers of trying similar cases between Jews and Christians, so far as jurisdiction to try such cases was not vested by Ottoman Law in the special Courts of those Communities.

The reorganization of the Criminal Courts presented greater difficulties than that of the Civil Courts. Upon the occupation, the Ottoman Criminal Courts had closed, and Military Governors and Political Officers had been vested with powers as Criminal Courts. The Ottoman Criminal Courts had never been effective instruments for the maintenance of law and order, and it was neither possible nor desirable to reconstitute them during the war. It was also neither possible nor desirable to revert to Ottoman procedure, for Ottoman Criminal Procedure requires a multitude of Courts, investigating magistrates and procurators, which it would have been beyond the capacity of the Civil Administration to supply, nor would it have conducted to the effective administration of justice if the Magistrates, most of whom were English officers with little previous experience of the administration of law, attempted to follow the elaborate Ottoman Procedure. It was decided therefore to issue a special code of Criminal Procedure known as the Baghdad Criminal Procedure Regulations, taking as a basis the Sudan Code of Criminal Procedure which is itself based on the Indian Penal Code.

The question of the Penal Code also presented difficulties. The Ottoman Penal Code is based on the French Penal Code but was published more than 60 years ago and has frequently been amended, often without much skill. The result is that the Code as it now stands is unscientific, ill-arranged and incomplete and no adequate translation of it into English existed at Baghdad. It was decided therefore to issue a new Code known as the Baghdad Penal Code based on the Ottoman Penal Code, but with considerable additions and amendments, mostly taken from Egyptian sources.

Four classes of Criminal Courts were constituted by the Baghdad Criminal Procedure Regulations :—

- (1) Courts of Sessions, which may award any punishment authorized by law.
- (2) Courts of Magistrates of the First Class, who may award a sentence not exceeding two years penal servitude or imprisonment.
- (3) Courts of Magistrates of the Second Class, who may award a sentence not exceeding six months' imprisonment.
- (4) Courts of Magistrates of the Third Class who may award a sentence not exceeding one month's imprisonment.

Political Officers and British Judges were Magistrates of the First Class. Assistant Political Officers and Arab Judges were Magistrates of the Second class. The High Commissioner could appoint any person a magistrate of the first, second or third class.

A Court of Sessions is a Court consisting of three Magistrates of whom one at least must be a magistrate of the first class. In places where a Civil Court of First Instance is established, it ordinarily consists of the same members as compose the Civil Court; but the Court of Appeal has been the Court of Sessions for the Baghdad Division.

Findings and sentences of Sessions Courts require confirmation by the High Commissioner. Findings and sentences of Magistrates do not require confirmation, but if the sentence exceeds what the magistrate can pass summarily, an appeal lies against it either to the Political Officer or to the High Commissioner. In addition to the powers vested in them as regards cases which are brought before them by way of appeal, Political Officers and the High Commissioner have powers of revision.

Both the Baghdad Criminal Procedure Regulations and the Baghdad Penal Code were intended as temporary measures to be replaced, after the establishment of a National Government, by more carefully considered legislation.

In pursuance of the general policy which has been described, during the year 1918 Courts of First Instance composed of two chambers, each consisting of a British President and two Iraqi Judges, were established at Baghdad, and Courts of First Instance each composed of a British President and two Iraqi Judges were opened at Baqubah and Hillah. A Court of Appeal was also established at Baghdad consisting of the Senior Judicial Officer and two judges selected for the particular case from a Chamber of the Court of First Instance which had not heard the case as an original suit. Upon the occupation of Mosul by the British forces, the Court of First Instance was reorganized under a British President and the Court of Appeal at that place was suppressed.

It was decided that, from the 1st January, 1919, the system of Courts and justice in force in the Baghdad Wilayat should be extended to Basrah. The Basrah Courts, organized on Indian lines, were abolished, and replaced by a Court of First Instance consisting of a British President and two Arab judges, and by a Peace Court.

At the same time a Department of Justice was created under a Judicial Secretary who was responsible to the Civil Commissioner for the administration of justice in the whole of Iraq.

In the course of the year a separate Court of Appeal was constituted at Baghdad, consisting of a British President and two Arab Members.

This completed what may be described as the war time organization of the Courts as contemplated by me upon arrival in the country, except that, as staff and money became available, the opening of additional Courts in the Province was desirable.

A detailed account of the organization of the Courts as they existed at the end of the year 1919 and of the law applied by them is contained in the Annual Report on the Administration of Justice for that year.

2. The year 1920 was a year of difficulty for all Departments of Government. The long delay in concluding Peace with Turkey, and in determining the boundaries of the future 'Iraq State and the outlines of its future constitution not only had an unsettling effect on the public, but rendered it a matter of difficulty for heads of Departments to pursue a progressive departmental policy. Another source of difficulty arose from the fact that a considerable number of British officers, who had served in the Civil Administration during the war, now retired or went on leave and, as only temporary contracts of service could be offered, it was not always easy to get suitable men to replace them. Further, new officials can only be of limited use, until they have had time to learn the language and the local conditions. Nor was it easy to find suitable 'Iraqi officials to fill vacancies. As already stated, many of the 'Iraqi judges and of the Court staff had left the country during the war and though some of them returned after the Armistice, others remained in Syria or elsewhere.

In the Judicial Department the need for legislation in many branches of the law became more and more manifest, while the objections to the Military Authorities' legislating on such subjects increased with the probability of the early establishment of a regular Civil Government.

The insurrection which broke out in the summer naturally did not leave the Judicial Department unaffected. Schemes which had been financially approved for the opening of some additional Courts had to be cancelled, and other reforms postponed. The Court officials at Hillah and Najaf and Mandali fled or were taken prisoners. The Courts at Ba'qubah and Khaniqin were looted by the insurgents and the records were destroyed. The property of several British and Arab officials was looted. Fawzi Effendi, a clerk of Hillah Civil Court, was killed by a stray bullet, while at prayer, and Mulla Husain, the Qadhi of Ba'qubah, became involved with the insurgents and was killed.

The insurrection brought down on the British Administration in Mesopotamia severe criticism both from England and from Mesopotamia. This is not the place to discuss the very complex causes which led to the rebellion; but I believe I can claim that little, if any, criticism in connection with those causes was directed against the Judicial Department, whether from home or from abroad. The reason for this immunity is to be attributed to the policy which has been pursued in the Judicial Department, first, of making no alterations in institutions or laws with which the people were familiar, except in cases of clear necessity, and secondly, of making the fullest use of 'Iraqis as judges and officials of the Department.

II.—APPOINTMENT OF A MINISTER OF JUSTICE.

3. The principal development that has taken place in the Judicial Department in the course of 1920 was the appointment of a Minister of Justice in connection with the constitution of an Arab Council of State. Shaikh Mustafa Effendi Alusi, a Shar'ah official of great experience, who at one time held the post of Qadhi of Mecca, accepted the appointment. In consequence of this appointment, the post of Judicial Secretary was changed to that of Adviser to the Ministry of Justice. He has ceased to exercise executive functions, but keeps in touch with all the work of the Ministry and offers his advice to the Minister on all questions before action is taken.

As erroneous impressions exist, it may be mentioned, that the appointment of 'Iraqis as Ministers is a concession wrung from an unwilling British Government by the recent insurrection. Soon after the Armistice, I put forward proposals for associating Arabs more closely with the Government and suggested amongst other proposals the appointment of an 'Iraqi as Minister of Justice or as an alternative as Adviser to the Department. The appointment of an 'Iraqi Minister was thought premature but the appointment of an Adviser was approved and was in due course offered to an 'Iraqi who, however, refused the appointment. As no other suitable candidate appeared to be then available, the proposal was postponed for the time being.

In March of last year, I was appointed President of a Committee to submit proposals for the future constitution of the Government. The Committee recommended the constitution, as a temporary body, of a Council of State consisting of a mixed body of British Officials and Arab Ministers, and the summoning of an elected Constituent Assembly for the purpose of drawing up, subject to the concurrence of the British Government, a constitution for the State. These proposals were approved in principle, and were communicated to the chief notables of Baghdad, but in the meantime a political agitation for complete independence from British control had been started. The party of extremists who drew support and funds from abroad were well organized, while the moderates party was unorganized and the insurrection broke out.

III.—WORK OF COURTS IN 1920.

4. A list of the Courts existing at the end of 1920 is contained in the first Appendix. The only additions to the Courts which were made during the year was the opening of a Peace Court at Samarra and of a Court of First Instance at Kirkuk. The opening of other new Courts which had been contemplated was cancelled owing to the insurrection.

CIVIL COURT OF APPEAL.

5. Statistics of the work of the Civil Court of Appeal are contained in Appendix II. In 1919 the Court disposed of 164 original appeals and 433 petitions for revision. For the year 1920 the corresponding figures are 231 original appeals and 623 petitions for revision.

Sitting as a Court of Session for the Baghdad Wilayat the Court held 37 trials and tried 60 persons of which it convicted 51.

Mr. Bell, the President of the Court of Appeal writes: "An increase in the number of appeals will be noticed but this is not larger than might have reasonably been expected. The proportion of judgments set aside or varied has slightly decreased.

There is a very marked increase in the number of cases in which petition was made for revision. This is partly due to the fact that more Peace Courts have been established. A further increase may be confidently expected, for the process is simple and cheap. In the majority of cases revision is merely a means of putting off the day of reckoning, particularly is this so in cases of ejection. Nevertheless the cheapness of revision should undoubtedly be maintained, for with the wider establishment of Peace Courts the general standard of the judgments is not likely to be raised. There is room for improvement in the despatch with which revisions are disposed of. At present, delays occur which might be avoided. This is partly due to defective office methods, and partly to the slowness of the Post Office."

Mr. H. F. Forbes, C.I.E., I.C.S., held the appointment of President, of the Court of Appeal until the end of July, when he went on leave and subsequently reverted to India. He performed invaluable services first as President of the Baghdad Court of First Instance, then as President of the Basrah Court of First Instance and subsequently as President of the Court of Appeal, and more than any one else has been responsible for settling the procedure of the Courts. Owing to his sympathy and tact he gained the complete confidence of his colleagues and the Bar and his departure was much regretted. Mr. B. H. Bell, a Barrister of the Sudan Civil Service, succeeded to his position.

CIVIL COURTS OF FIRST INSTANCE AND PEACE COURTS.

6. Statistics of the work of the Civil Courts of First Instance and of the Peace Courts are set out in Appendix III. The work of all Courts was affected by the insurrection, and in some cases the records of the Courts were destroyed.

The total number of cases disposed of by the two chambers of the Baghdad Court of First Instance show a decrease in the number in 1919, but the fees show the substantial increase of Rs. 12,000.

Mr. B. H. Bell was President of the Court of First Instance until April, 1920 when he went on leave and Mr. E. L. Norton, I.C.S., relieved him. On Mr. Norton's being appointed Adviser to the Ministry of Education and Health in November, 1920 Major T. M. Holmden, M.C., succeeded him.

Haji Salih Effendi Pachaji throughout the year presided over the second chamber of the Court. The only other change amongst members of the Court was that Khidhr Effendi was appointed Peace Judge at Samarra in the month of May and was replaced by Ahmad 'Izzat Effendi el Hijazi.

No records are available for the Ba'qubah Court of First Instance. The town fell into the hands of the insurgents in August and the Court rooms were looted. At the beginning of the year Mr. Mac Laren, M.C., was President of the Court with Ahmed 'Izzat al Hijazi as member. Upon Mr. Mac Laren's going on leave, he was replaced by Mr. J. Woodman, and upon Ahmad 'Izzat Effendi's transfer to Baghdad his place was taken by 'Abdul Hamid Effendi.

The work of the Hillah Court was seriously affected by the insurrection, the town being invested by the insurgents during the month of August, and military operations being carried on in the surrounding country during the next two months. Both Hillah and Karbala, where there were Court offices attached to the Hillah Civil Court, fell into the hands of the insurgents, and the Court clerks were either taken prisoners or were lucky in escaping, not without risk to their lives. The Court offices at both places were looted. Major T. M. Holmden was President of the Hillah Civil Court until November, when he was transferred to Baghdad. Khan Bahadur Mirza Mahammad, C.I.E., a Persian of the Shi'ah faith who has served for many years in the Indian Political Service was appointed in his place.

There was a considerable increase in the work of the Basrah Court of First Instance, 398 new cases having been instituted as compared with 312 in the previous year. There was also an increase in the total of the fees received by all branches of the Courts at Basrah.

Mr. Drower, the President of the Court, was on leave for several months, his place being taken by Major Prichard. Na'im Effendi Zilkha arrived from Syria in April, where he had held an appointment in the Court of Appeal at Beirut, and was appointed Vice-President.

In spite of serious disturbances in the Mosul Division, there was an increase in the work of the Mosul Court of First Instance, 477 cases being instituted against 406 in the previous year. Sitting as a Sessions Court, the Court also heard 23 cases.

A Court of First Instance was established at Kirkuk under the Presidency of Major Prichard at the end of October. The much needed opening of this Court, had been delayed owing first to the difficulty in providing it with staff and latterly in consequence of the insurrection.

There was a decrease in the number of cases instituted before the Baghdad Peace Court, the number of cases being 3,120 in 1920 as compared with 3874 in 1919. On the other hand cases instituted before the Basrah Peace Court increased from 1732 in 1919 to 2330 in 1920. As regards the Mosul Peace Court there was a slight decrease from 1648 cases in 1919 to 1624 cases in 1920. 1017 cases were instituted before the Amarah Peace Court. No other Peace Court reached 1,000 cases. A new Peace Court was opened in May at Samarra.

MOHAMMEDAN LAW COURTS.

7. Statistics of the work of the Sunni Mohammedan Law Courts are set out in Appendix IV. Those of the principal Shi'ah Courts are contained in Appendix IV with those of the Civil Courts to which they are attached.

I take the opportunity of again expressing my appreciation of the work of Haji 'Ali Effendi Alusi at Baghdad and of Shaikh Ahmad at Mosul. It is much to be regretted that owing to ill-health Haji 'Ali Alusi had to take leave at the end of the year, permission being granted him to appoint a deputy.

In previous reports I have drawn attention to the need of regular inspections of the work of the Shi'ah Courts. Another year's experience confirms the necessity for such inspections, but for various reasons it was not possible to arrange for the appointment of an Inspector.

The Shi'ah Courts at Baghdad, Basrah and Hillah have accomplished a great deal of work and have continued to carry on their duties in a manner which has earned the approval of their co-religionists. Shaikh 'Abdullah ibn Ibrahim of Shiraz was appointed Nayib al Ja'fariyah at Karbala in January, 1920. He carried out his duties in a very satisfactory manner until he was obliged to retire with other Government officials upon the breaking out of the insurrection at that place.

The establishment of Shi'ah Courts to decide cases of personal status between Shi'ahs is an innovation which has more than justified itself, but which requires time for the production of its full fruits. Its importance rests not only on the fact that it is a measure of justice to Shi'ah litigants that such cases should be tried and settled by judges of their own faith and in accordance with their own law; but also on the fact that it opens the Government service to Shi'ah 'Alims, a class who have hitherto always kept aloof from the Government and in general have tended to adopt an attitude of opposition to the Government. The innovation is not unaccompanied by difficulties. Amongst others, the absence of any work on Shi'ah Law which is universally accepted as authoritative may be mentioned.

Another difficulty to which I have called attention on previous occasions is that of forming a Court of Appeal from the decisions of the Shi'ah Courts, which would meet with general acceptance.

RECEIPTS OF THE CIVIL AND SHAR'AH COURTS.

8. The total receipts of the Courts for the year 1920 were as follows:—

				Rs.
Civil Court of Appeal	...	...	...	53,224
Civil Courts (including Execution and Notary Public)	...	...	...	562,702
Peace Courts	...	...	...	70,317
Shar'ah Courts	...	...	...	94,690
			Total	<u>780,933</u>

CRIMINAL COURTS.

9. Owing to the loss of records of several of the Courts during the recent disturbances and to the fact that at the time when the annual statistics would have prepared, the British Political Staff was in most Divisions being replaced by 'Iraqis no statistics of the work of the Criminal Courts for 1920 are included in this report. This omission is of less importance than it would otherwise have been, having regard to the fact that consequent upon the re-organization of the Provincial Administrative Staff a corresponding re-organization is necessary in the Criminal Courts, so that statistics of the Criminal Courts for last year would have little value for the purpose of comparison with the results of future years.

THE BAR.

10. The number of advocates who held licences to practise was 81, of whom 11 received licences after passing out of the Law School last July.

In all countries it is not possible to obtain the services of Advocates who stand at the head of their profession except at a high rate of remuneration. In Mesopotamia, at the present time, the fees charged by Advocates, who have no claim to eminence or to skill above the average, are on the whole very high, and must be described an excessive. This is an undesirable state of affairs, but if the public will not combine to protect themselves, I know of no remedy, except that as the number of Advocates increases, there may be a tendency on the part of practitioners of ordinary attainments to reduce their fees.

IV.—EXTENSION OF THE COURTS CONSEQUENT ON THE RE-ORGANIZATION OF THE PROVINCIAL ADMINISTRATIVE STAFF.

11. Although occurring in the present year (1921) I may be permitted to make some mention of the scheme for the extension of the Courts which has been recently approved by the Council of State. During the war the local Administration was entrusted to British Political Officers and Assistant Political Officers, who exercised at once both executive and magisterial functions. At the end of 1920 the Council of State was constituted and it was decided to revert to the local administrative system which was in force under the Turks, and to replace the British Political Officers and Assistant Political Officers by 'Iraqi Mu'tasarrifs and Qaimmaqams assisted by British Advisers who are to have no executive functions.

One of the essential features of the Turkish Administrative System was the complete separation of the executive and the judicial, and it became therefore necessary to increase and extend the Courts, so as to make provision for the trial of criminal cases throughout the country.

At the same time the opportunity was taken to strengthen the Court of Appeal by the addition of two judges and to vest in it the powers of confirmation and revision which had previously been vested in the High Commissioner. Similarly the powers of revision formerly exercised by the Political Officer within his Division will be transferred to the Court of First Instance for the Division.

In certain Divisions where the judicial work is light a Single Judge will be appointed with the powers of a Court of First Instance in civil matters. He will be assisted by an Assistant Judge. This is in accordance with a scheme which had been brought into force by the Turks shortly before the outbreak of war.

The Scheme as approved by the Council of State is as follows :—

Court of Appeal	...	1 British President. 4 Judges. 1 Assistant Judge.
<i>Baghdad Division—</i>		
Court of First Instance consisting of two chambers.		1 British President. 1 Vice-President. 4 'Iraqi Judges. 1 Assistant Judge.
Baghdad District Criminal Court	...	1 Criminal Magistrate. 1 Assistant Criminal Magistrate.
Baghdad Peace Court	...	1 Peace Judge.
Kadhimain Peace Court	...	1 do.
Samarra Peace Court	...	1 do.
Kut Peace Court	...	1 do.
<i>Dulaim Division—</i>		
Court of First Instance	...	1 Single Judge. 1 Assistant Judge.
<i>Baqubah Division—</i>		
Court of First Instance	...	1 British President. 1 Vice-President. 1 Judge. 1 Assistant Judge.
Khaniqin Peace Court	...	1 Peace Judge.
<i>Hillah Division—</i>		
Court of First Instance	...	1 President. 1 Vice-President. 1 Judge. 1 Assistant Judge.
<i>Karoola Division—</i>		
Court of First Instance	...	1 Single Judge. 1 Assistant Judge.
Najaf Peace Court	...	1 Peace Judge.
<i>Basrah Division—</i>		
Court of First Instance	...	1 British President. 1 Vice-President. 1 Judge. 1 Assistant Judge.
Basrah District Criminal Court	...	1 Criminal Magistrate.
Basrah Peace Court	...	1 Peace Judge.
<i>Amarah Division—</i>		
Court of First Instance	...	1 Single Judge. 1 Assistant.
<i>Munlafiq Division—</i>		
Court of First Instance	...	1 Single Judge. 1 Assistant.
<i>Mosul Division—</i>		
Court of First Instance	...	1 British President. 1 Vice-President. 1 Judge. 1 Assistant Judge.
Mosul District Criminal Court	...	1 Criminal Magistrate.
Mosul Peace Court	...	1 Peace Judge.
Aqrah Peace Court	...	1 do.
Tall 'Afar	...	1 do.
<i>Kirkuk Division—</i>		
Court of First Instance	...	1 British President. 1 Vice-President. 1 Judge. 1 Assistant Judge.
Arbil Peace Court	...	1 Peace Judge.
<i>Sulaimani Division—</i>		
Court of First Instance	...	1 Single Judge. 1 Assistant Judge.

Peace Judges will exercise both Criminal and Civil powers except in Qadhas where there is a separate Criminal Magistrate.

In Qadhas where there is no Peace Judge but there is a Qadhi, the Qadhi will exercise both the criminal and civil powers of a Peace Judge.

In certain Nahiyahs where there is a Qadhi he may be vested with limited powers as a Peace Judge: in other Nahiyahs a Government official may be granted limited magisterial powers.

At present the Court of Appeal exercises the functions of a Court of Revision for all Courts subordinate to it. It is intended as soon as the necessary arrangements can be made to establish a Court of Appeal of a President and two members separate from the Court of Revision. This is a reform on which the Council of State lays much stress, on the ground that it is in accordance with Ottoman Law and will provide a second appeal in civil cases of importance. It is also justifiable on the ground that the appellate and revisionary jurisdiction in criminal cases which is to be vested in the present Court of Appeal is likely to place on it too much work unless it is relieved of part of its existing work.

V.—LAW SCHOOLS

12. The first session of the reopened Law School came to an end in June, 1920. The number of students in the senior year was 18: of these 4 left the School in the course of their own accord. The remaining 14 took the examination: 13 passed, 1 failed and left the School.

There were 25 students in the Junior year. One left the School in the course of the year; 24 took the examination of which 20 passed. The promotion of the 4 who failed was retarded and thereupon two of them left the School.

The School was ably directed by Nishat Effendi Sanawi. In spite of the violent political agitation of the summer months, the discipline of the School was unaffected.

VI.—LEGISLATION.

13. The following Proclamations and Legislation of civil character were issued during the course of the year:—

PROCLAMATIONS ISSUED BY THE GENERAL OFFICER COMMENDING-IN-CHIEF.

- 5-1-20. Land Settlement Proclamation.
- 14-2-20. The Arab and Kurdish Levy and Gendarmerie Proclamation.
- 19-2-20. The Cotton Proclamation.
- 17-3-20. The Land Acquisition Amendment Proclamation.
- 23-3-20. The Baghdad Penal Code and Criminal Procedure Regulations Amendment Proclamation.
- 6-4-20. The German, Austrian and Bulgarian Property Proclamation.
- 27-4-20. The Telegraph Proclamation.
- 27-4-20. The Pilgrims Ship's Proclamation.
- 3-5-20. The Customs Proclamation.
- 14-5-20. The Customs Tariff Amendment Proclamation.
- 15-5-20. The Turkish Paper Currency Proclamation.
- 28-5-20. The Medical and Dental Practitioners Proclamation.
- 28-5-20. The Hakims and Midwives Proclamation.
- 3-6-20. The Inland Waters Shipping Amendment Proclamation.
- 11-7-20. The Police Proclamation.
- 13-7-20. The Baghdad Penal Code Amendment (No. 2).
- 22-7-20. The Motor Vehicles Proclamation.
- 14-8-20. The Port of Basrah Amendment Proclamation.
- 13-9-20. The Medical and Dental Practitioners Amendment Proclamation.
- 13-9-20. The Hakims and Midwives Amendment Proclamation.

PROCLAMATION ISSUED BY THE HIGH COMMISSIONER.

- 1-11-20. The Baghdad Penal Code Amendment Proclamation (No. 3).
- 1-11-20. The Mosul Division Unregistered Sales Registration Proclamation.
- 3-12-20. The Transference of Powers Proclamation.

VII.—COMPANY REGISTRATION.

14. During 1920 only one company was registered as incorporated in Iraq under the Companies Proclamation 1920.

PERSONNEL.

15. A list of the principal officers holding appointments in the Ministry of Justice on the 31st December, 1920 is contained in Appendix I. The following table shows the nationality of the Staff employed in the Ministry of Justice, excluding the menial staff.

British	... 11	Arab (Christian)	... 12
Indian	... 6	Arab (Jew)	... 12
Arab (Iraqi Mohammedan)	... 247	Syrian	... 1

It is interesting to compare these figures with the nationality of the Presidents and Members of the Nizamiyah Courts (*i.e.* the Civil Courts of Appeal, Civil Courts of First Instance and Peace Courts) under the Turkish regime immediately before the war. They were as follows:—

Turks	... 48	Jew	... 6
Kurds	... 11	Christian	... 4
Arab (Mohammedan)	... 35		

The great preponderance of the Turkish Judges compared with the Arabs is remarkable. In view of the criticisms which have been directed against the British Administration in Mesopotamia that it has employed an excessive number of British and Indian staff, one may be permitted to draw attention to the above figures.

The British staff in the Ministry of Justice is in fact inadequate in numbers for the duties it has to perform. Leave has in consequence been granted sparingly and the strain on the staff has been heavy. The conditions of service have also in many respects been arduous. Even allowing for the general rise of prices which has taken place in all countries, the cost of living in Mesopotamia is extremely high. Owing to the recent insurrection and the difficulties of obtaining house accommodation most married men have been separated from their families for long periods. The difficulties of obtaining the transport which is essential to make life pleasant in a hot country have been vexatious, and the more so owing to inequalities of treatment which have been difficult to prevent in the early stages of the administration. The uncertainty as to the future of the country and the impossibility, which has hitherto existed, of offering anything in the nature of permanent contracts of service, are necessarily a source of anxiety to all British officials in the country but especially to lawyers who, by remaining in this country, get out of touch with the conditions of their professions at home.

If the present standard is to be maintained amongst British officials, it is essential that at an early date they should be granted permanent conditions of service.

Where all have worked well, it is somewhat invidious to mention individual names but I should be wanting in gratitude, if I did not express my appreciation of the services of those officials who joined the service in its early days and have borne the heat and burden of the day; to Mr. Forbes whose services I have already described: and to Mr. Bell and Mr. Drower whose knowledge of the Arabic language and experience of Arab customs and character and whose professional attainments have been invaluable.

I have already mentioned the difficulty which was experienced in the early days of the occupation in finding suitable Arabic Judges. Many of the judges who had served under the Turks had left the country; those who remained hesitated to accept service under the British Government in view of the threats by the Turks against those who should do so and to the uncertainty as to the future of the country. Considerable credit is therefore due to those judges who accepted appointments in the early days of the occupation. Without them, the task of re-establishing Courts, which followed Ottoman procedure and applied Ottoman Law, would have not been possible.

With hardly a single exception, they have performed their duties in a most loyal fashion and with the whole hearted desire of raising the administration of justice to the highest possible standard. The relations between these and the British staff have invariably been of the most cordial and friendly character.

VIII. CONCLUSION.

16. In submitting this report on the administration of Justice in Mesopotamia just before my retirement, I would again repeat, what I have stated in previous reports, that the period during which I have been responsible for the administration of justice in this country has not been a period when it has been possible or desirable to make improvements in the laws applied by the Courts, except in case of clear necessity. A period of war when no representative legislative body is in existence is not the time for legislature of a radical character. Reforms also, which could be effected without legislation, have often been difficult to carry out owing to the necessity of subordinating the policy of the Department to that of the General Administration, or owing to the absence of funds or to the difficulty in finding suitable staff, whether 'Iraqi or English, to undertake them.

Amongst other reforms which are now needed, I would mention the following:—

1. The strengthening of the 'Iraqi element in the Central Administration of the Ministry of Justice.
2. The formation of a system of inspection for the Courts.
3. The establishment of a system accepted by the Powers in substitution for the consular jurisdiction under the Capitulations.
4. The revision of the Penal Code and Criminal Procedure Regulations.
5. The revision of the Code of Commerce with a view to introducing into it branches of commercial law, such as the law of partnership which are now omitted, and the substitution of the Bankruptcy Law by a more modern system.
6. The revision of the Procedure of the Civil Courts, so far as such procedure is still governed by the rules of procedure of the Majallah.
7. The regularizing of the position of the Shi'ah Courts and the creation of some system of appeal from their judgments.

Sd. E. BONHAM CARTER,
Adviser to the Ministry of Justice.

APPENDIX I.

The following is a list of all Courts and other principal Personnel of the Ministry of Justice on 31st December, 1920 :—

Ministry of Justice—

Mustafa Effendi Alusi	... Minister of Justice.
Sir E. Bonham Carter, K.C.M.G., C.I.E.	... Judicial Adviser.
E. M. Drower	... Assistant Adviser.
Dikran Ekmekjian	... Secretary.
Nishat al Sanawi	... Government Advocate and Acting President Law School.

Civil Court of Appeal—

B. H. Bell	... President.
Dahud Samrah	... Judge.
Sulaiman Faidhi	... "

Civil Court of First Instance Baghdad Civil Courts—

G. Alexander	... President.
Salih Pachahji	... Vice-President.
Saiyid Salih ibn Sayid Ahmad	... Judge.
Reuben Battat	... "
Jamil Zada 'Abdul Jabbar	... "
Ahmed 'Izzat al Hijazi	... "
Nuri Yaqub Nahom	... Notary Public.

Baqubah Civil Court—

J. Woodman	... President.
'Abdul Majid ibn Mulla Yasin	... Judge.

Hillah Civil Court—

Khan Bahadur Mirza Muhammad	... President.
Muhammad Ali	... Judge.

Basrah Civil Court—

S. S. Abrahams	... President.
Na'im Zilkha	... Vice-President.
'Abdullah ibn Abdul Salam al A'dhami	... Judge.
Ghalib Thomas	... Notary public.

Mosul Civil Court—

A. I. MacLaren M.C.	... President.
Sa'id Lutfi	... Judge.
Muhammad Rauf	... "

Kirkuk Civil Court—

Major J. Prichard	... President.
Muhammad Khurshid	... Judge.

Peace Courts—Baghdad Peace Court—

Abdul Wahab al Naib	... Judge.
---------------------	------------

Samarra Peace Court—

Saiyid Khidr ibn Muhammed Agha	... Judge.
--------------------------------	------------

Basrah Peace Court—

M. P. Mehta	... Judge.
-------------	------------

Amarah Peace Court—

'Abdul Majid Ahmad Jamal	... Judge.
--------------------------	------------

Mosul Peace Court—

Sadiq Madhar	... Judge.
--------------	------------

Sunni Shar'ah Courts—Baghdad Sharah Court—

Haji'ali al Alusi	... Qadhi (Sick).
Muhammad Darwish al Alusi	... Acting Qadhi.
Sanawi Zadah Sulaiman	... Assistant Qadhi.

Samarra Shar'ah Court—

Mulla Taha	... Qadhi.
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Baqubah Shar'ah Court—

Sa'yid 'Abdul Wahab	... Qadhi.
---------------------	------------

Shahraban Shar'ah Court—

Muhammad Fahmi	... Qadhi and Peace Judge.
----------------	----------------------------

Khaniqin Shar'ah Court—

Abdul Latif Rawi	... Qadhi and Peace Judge.
------------------	----------------------------

Mandali Shar'ah Court—

Saiyid Muhammad Amin	... Qadhi and Peace Judge.
----------------------	----------------------------

Qizlobat Shar'ah Court—

Shaikh Mustafa ibn Shaikh Muhammad	... Qadhi and Peace Judge,
------------------------------------	----------------------------

Diwanayah Shar'ah Court—

Saiyid Khalil	... Qadhi and Peace Judge.
---------------	----------------------------

Hillah Shar'ah Court—

'Abdul Haqq	... Qadhi.
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Ramadi Shar'ah Court—

Muhammad Sa'id	... Qadhi.
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APPENDIX I.—(Continued.)

<i>Fallujah Shar'ah Court—</i> Muhammad Khalid	... Naib Qadhi.
<i>Hit Shar'ab Court—</i> Saiyid Shahab al Din ibn Saiyid Ahmad	... Qadhi.
<i>*Anah Shar'ah Court—</i> Haji Muhammad Amin	... Qadhi.
<i>Kubaisah Shar'ah Court—</i> Muhammad Amin al Khalil	... Qadhi.
<i>Basrah Shar'ah Court—</i> Muhyuddin ibn Muhammad Yahyah	... Qadhi.
<i>*Amarah Shar'ah Court—</i> 'Abdul Majid Ahmad Jamil	... Qadhi.
<i>Mosul Shar'ah Court—</i> Saiyid Ahmad	... Qadhi.
<i>Arbil Shar'ah Court—</i> Muhammad Rashid	... Qadhi.
<i>*Aqrah Shar'ah Court—</i> Muhammad Rauf	... Qadhi.
<i>Tall' Afar Shar'ah Court—</i> Ahmad Fakhri	... Qadhi.
<i>Dohuk Shar'ah Court—</i> Saiyid Mustafa	... Qadhi.
<i>Zakho Shar'ah Court—</i> Saiyid Isma'il ibn Saiyid Mahmud	... Qadhi.
<i>Kirkuk Shar'ah Court—</i> 'Ali Hikmat	... Qadhi.
<i>Kifri Shar'ah Court—</i> Muhammad Sa'id	... Qadhi.
<i>Shaqlawah Shar'ah Court—</i> Mulla Taha	... Qadhi.
<i>Keui Shar'ah Court—</i> Muhammad	... Qadhi.
<i>Baghdad Shar'ah Court of Revision—</i> Mufti Zadah Sa'id	... President.
'Abdul Malak Shawwaf	... Member.
Saiyid Khidr	... "
<i>Shi'ah (Ja'fariyah) Courts—Baghdad Ja'fariyah Court—</i> Haji Shukrullah	... Shi'ah Alim.
<i>Balad Ja'fariyah Court—</i> Shaikh 'Ali 'Isa	... Shi'ah Alim.
<i>Ba'qubah Ja'fariyah Court—</i> Kubbah Zadah 'Abdul Amin	... Shi'ah Alim.
<i>Mandali Ja'fariyah Court—</i> Saiyid Muhammad Mahdi Tahrani	... Shi'ah Alim.
<i>Diwanayah Ja'fariyah Court—</i> Shaikh Hussain	... Shi'ah Alim.
<i>*Afaq Ja'fariyah Court—</i> Saiyid Hussain	... Shi'ah Alim.
<i>Dagharah Ja'fariyah Court—</i> Saiyid 'Ali al Hilli	... Shi'ah Alim.
<i>Khidhr Ja'fariyah Court—</i> Shaikh 'Abdul Hussain	... Shi'ah Alim.
<i>Rumathah Ja'fariyah Court—</i> Saiyid Mahmud	... Shi'ah Alim.
<i>Hillah Ja'fariyah Court—</i> Shaikh Ja'far Alwash	... Shi'ah Alim.
<i>Musaiyib Ja'fariyah Court—</i> Shaikh 'Abdullah	... Shi'ah Alim.
<i>Basrah Ja'fariyah Court—</i> Saiyid Muhammad Ja'far	... Shi'ah Alim.
<i>Court of Wards Basrah—</i> Saiyid Mustafa ibn Saiyid 'Abdul Rahman	... Director.
<i>District Magistrate Basrah—</i> G. F. St. J. Bell	... District Magistrate.

APPENDIX II.

TABLE A.

CASES IN APPEAL.

	1919.	1920.
Cases pending at beginning of year	20	39
„ instituted during the year	183	266
Judgments confirmed...	75	120
„ set aside or varied	49	55
Cases dismissed in default	9	11
„ „ on ground, Jurisdiction	14	30
„ „ owing to non-application for six months	...	12
„ adjourned <i>sine die</i>	7	3
„ pending at end of year	39	74
Total fees received	39501-2*	53224-3†

* Including revision fees.

† Does not include fees collected in Basrah and other Courts.

CASES IN REVISION.

	1919.	1920.
Cases referred, but pending decision at beginning of year.	16	48.
Petitions for revision ...	465	619
Rejected in chambers	251	400
Referred to Court of Appeal and decided	182	229
Referred, but pending decision at end of year	48	44

RESULT OF REFERENCE.

	1919.	1920.
Judgments confirmed...	63	25
„ set aside ...	107	188
„ varied ...	4	5
Dismissed by agreement	3	8
„ on ground of Jurisdiction	6	7

TABLE B.

Showing result of appeal.

	1919.				TOTAL.	1920.				TOTAL.
	Confirmed.	Dismissed in default or abandoned.	Dismissed on ground of jurisdiction.	Set aside or varied.		Confirmed.	Dismissed in default or abandoned.	Dismissed on ground of jurisdiction.	Set aside or varied.	
Baghdad ...	51	6	8	20	85	76	5	11	36	128
Basrah ...	1	...	1	4	6	14	6	6	5	31
Mosul ...	14	1	4	19	36	16	10	16	9	41
Hillah ...	3	1	1	3	8	3	...	...	2	5
Baqubah ...	2	1	...	1	4	5	1	...	1	7
Kirkuk ...	...	...	...	...	...	...	...	...	...	...
Karbala ...	3	...	...	2	5	5	1	4	1	11
Najaf ...	1	...	...	...	1	...	...	...	...	...
Amarah ...	...	...	...	...	...	...	...	2	...	2
Khaniqin ...	4	...	...	...	...	1	...	1	1	3
TOTAL ...	75	9	14	49	147	120	23	30	55	228

APPENDIX II.—*Concluded.*

TABLE C.

Showing result of reference for revision.

	1919.				TOTAL.	1920.				TOTAL.
	Confirmed.	Dismissed in default or abandoned.	Dismissed on ground or jurisdiction.	Set aside or varied.		Confirmed.	Dismissed in default or abandoned.	Dismissed on ground or jurisdiction.	Set aside or varied.	
Baghdad Peace ...	46	9	...	71	126	19	8	4	101	132
" Single Judge.	5	...	...	4	9	5	...	...	18	23
Basrah ...	1	...	...	11	12	...	...	...	12	12
Mosul ...	2	...	...	6	8	...	...	2	25	25
Hillah ...	2	...	...	3	5	...	...	1	7	8
Ba'qubah ...	4	...	...	1	5	1	...	...	14	15
Kirkuk... ..	...	...	...	3	3	...	...	...	2	2
Karbala ...	...	...	...	...	...	...	...	...	2	2
Najaf ...	...	...	...	2	2	...	...	...	2	2
'Amarah ...	2	...	...	...	2	...	...	...	1	1
Khaniqin ...	...	...	...	2	2	...	...	...	4	4
Samarah ...	...	...	...	...	...	...	...	...	4	4
Kut ...	...	...	...	...	...	...	...	...	1	1
Diwaniyah ...	...	...	...	...	...	...	...	...	1	1
Qizil Robot ...	...	...	...	...	...	...	...	...	1	1
Mandali ...	...	...	...	3	3	...	...	...	...	...
Dair al Zor ...	1	...	...	5	6	...	...	...	...	...
TOTAL ...	63	9	...	111	183	25	8	7	193	233

APPENDIX III.

STATISTICS.

Courts of First Instance in 'Iraq, 1920.

	Cases pending at beginning of year.	Cases instituted during year.	Oppositions.	Judgments given.	Cases not proceeded with and dismissed.	Settled by agreement before hearing.	Transferred.	PENDING AT END OF YEAR.		Total fees received.
								In which summonses taken out.	In which no summonses taken out.	
BAGHDAD.—										
Ordinary Jurisdiction...	203	682	47	527	106	42	7	208	42	1,47,206-13
Shi'ah Personal Cases...	468	1,851	9	1,068	198	954	...	81	27	9,728-10
Non-Mohammedan Cases ...	58	502	3	421	68	15	...	60	...	3,456-5
BASRAH.—										
Ordinary Jurisdiction...	60	398	16	347	18	35	4	51	19	1,65,909-5 Includes Peace Court fees.
Shi'ah Personal Cases...	38	543	...	417	...	105	2	46	11	
Non-Moslem Personal Cases ...	13	85	...	57	...	10	3	25	3	
MOSUL.—										
Ordinary Jurisdiction...	51	421	5	239	31	91	20	77	19	18,975-4
Non-Moslem Personal Cases ...	34	144	...	100	19	24	...	35	...	
HILLAH.—										
Ordinary Jurisdiction...	19	70	1	34	...	35	1	11	9	17,202-2 Includes Peace Court fees.
Shi'ah Personal Cases...	115	534	...	571	...	48	...	30	...	
BA'QUBAH.—										
Ordinary Jurisdiction.	...	26	...	9	...	3	1	9	4	1,432-8
KARBALA.—										
Ordinary Jurisdiction.	8	26	...	17	2	4	3	3	5	3,508-3 Includes Peace Court fees.
Shi'ah Personal Cases.	...	...	...	...	...	...	...	...	...
Arbil ...	...	21	...	11	...	...	...	10	...	4,759-11 Includes Peace Court fees.

APPENDIX III.—concluded.

STATISTICS.

Execution Departments in 'Iraq, 1920.

	Maintenance.	Dowry.	Rent for waqf Dept.	Fixed sums in civil cases.	Fixed sums in personal cases.	Delivery of property.	Delivery of Persons.	Total.	No. of sales in Execution.	No. of persons imprisoned.	Total fees received.
Baghdad :—											
Civil Execution	...	...	27	1,131	276	33	...	1,467	43	13	47,459-6
Shar'ah	572	142	...	...	...	...	22	736	10	37	9,349-3
Basrah	106	10	...	1,089	...	39	11	1,255	30	37	22,436-4
Mosul	84	8	...	393	3	67	...	555	11	10	7,915-4
Hillah	51	4	...	76	10	26	2	169	...	5	2,434-5
Ba'qubah	...	...	...	...	...	...	...	...	...	...	...
Kirkuk	5	3	...	100	...	13	...	121	10	3	1,693-14
Karbala	...	...	...	...	...	...	...	...	...	...	...
Najaf	1	...	...	16	...	1	...	18	...	...	155-15

STATISTICS.

Notaries Public in 'Iraq 1920.

	1.—Protests on Bills of Exchange or Promissory Notes.	2.—Other Protests or Notices.	3.—Documents registered.	a.—Bills of Exchange or undertakings to pay money.	b.—Procurements.	c.—Contracts.	d.—Leases of premises.	e.—Agricultural leases.	f.—Guarantees.	g.—Miscellaneous.	4.—Total fees received.
Baghdad ...	127	939		1,131	1,052	...	184	83	148	1,130	40,189-14
Basrah ...	826	1,445		171	806	93	12	...	314	170	42,247-6
Mosul ...	30	107		301	697	306	199	14	89	133	13,088-10
Hillah ...	1	135		5	58	4	22	2	4	40	1,732-0
Ba'qubah ...	...	...		...	...	...	...	...	...	...	...
Kirkuk ...	3	6		14	98	...	4	...	12	35	1,041-15
Karbala ...	...	...		...	...	...	...	...	...	...	...
Najaf ...	...	4		...	58	...	...	2	27	12	780-11

STATISTICS.

Peace Courts in 'Iraq 1920.

Court.	No. of cases pending at beginning of 1920.	No. of cases instituted during the year.	No. of cases decided or transferred.	No. of cases pending at end of 1920.	No. of Opposition.	Total fees collected.	Remarks.
Baghdad Court of first Instance.	127	359	269	237	19	...	Included in F.I. fees.
Baghdad Peace Court	852	3,120	2,914	757	301	30,022-7	Included in F.I. fees.
Basrah	193	2,330	2,414	253	144	...	Included in F.I. fees.
Mosul	121	1,624	1,658	87	80	20,194-4	Included in Ct. F.I. fees.
Hillah	24	323	328	19	19	...	Included in F.I. fees.
Ba'qubah	...	...	...	...	...	8,122-12	...
Kirkuk	28	875	877	26	35	...	...
Karbala	...	...	...	...	...	...	Included in F.I. fees.
Najaf	10	67	74	3	...	10,834-10	Includes Notary Public fees.
'Amarah	108	1,017	1,068	57	21	...	...
Khaniqin	...	...	...	...	...	1,143-7	...
Samara	36	202	155	83	1	...	Included in C.F.I. fees.
Arbil	15	700	699	11	5	...	...

APPENDIX IV.

TABLE A.

Statistics Shar'ah Court for the year 1920.

Name of Courts.	Cases Instituted.	Hams Issued.	Huggas Issued.	Qassams Issued.	Marriage Permits.	Fees Collected.	Remarks.
BAGHDAD DIVISION.							
Baghdad Shar'ah Court ...	1,111	916	692	877	1,617	21,758	
SAMARRA DIVISION.							
Samarra Shar'ah Courts ...	113	110	85	52	84	1,135	
Tikrit Shar'ah Court ...	140	144	3	6	76	1,297	
DIYALAH DIVISION.							
Ba'qubah Shar'ah Court ...	126	89	61	117	98	1,973	
Shahraban Shar'ah Court ...	77	28	64	34	29	873	
Khaniqin Shar'ah Court ...	118	50	108	75	133	1,575	
Mandali Shar'ah Court ...	290	123	...	70	187	1,764	
Qizil Robot Shar'ah Court ...	92	42	29	30	58	830	
DIWANIYAH DIVISION.							
Diwaniyah Shar'ah Court ...	54	32	12	17	45	270	
HILLAH DIVISION.							
Hillah Shar'ah Court ...	75	60	46	131	35	2,064	
DULAIM DIVISION.							
Ramadi Shar'ah Court ...	3	53	71	27	43	858	
Fallujah Shar'ah Court ...	101	42	30	10	37	472	
Hit Shar'ah Court ...	213	103	99	14	68	1,640	
Anah Shar'ah Court ...	18	18	25	1	115	688	
Kubaisah Shar'ah Court ...	130	106	11	7	104	473	
BASRAH DIVISION.							
Basrah Shar'ah Court ...	518	294	44	6	189	21,494	
AMARAH DIVISION.							
Amarah Shar'ah Court ...	168	140	155	59	67	4,172	
MOSUL DIVISION.							
Mosul Shar'ah Court ...	981	117	360	9	560	7,729	
Zakho Shar'ah Court ...	110	19	63	43	109	1,912	
Dohuk Shar'ah Court ...	70	49	44	2	47	770	
Tall 'Afar Shar'ah Court ...	7	5	3	...	47	815	
'Aqrah Shar'ah Court ...	88	25	52	...	56	771	
ARBIL DIVISION.							
Arbil Shar'ah Court ...	680	56	160	48	416	3,449	
Keui Shar'ah Court ...	137	25	93	...	212	1,233	
Rawanduz Shar'ah Court ...	50	20	5	...	10	125	
Shaqlawah Shar'ah Court ...	16	12	...	...	10	205	
KIRKUK DIVISION.							
Kirkuk Shar'ah Court ...	503	86	561	110	877	6,646	
Kifri Shar'ah Court ...	249	8	43	2	54	2,822	
Total ...	6,220	2,754	2,894	1,746	5,268	94,960	

APPENDIX IV.

TABLE B.

Statistics Shar'ah Court of Revision for the year 1920.

Place.						Number of Applications for Revision.	Confirmed.	Quashed.
Baghdad	...	...	...	...	...	43	32	11
Mosul	...	...	...	...	..	18	15	3
Basrah	...	...	...	...	...	11	6	5
Amarah	...	...	...	...	...	9	4	5
Kirkuk	...	...	...	...	...	7	3	4
Hillah	...	...	...	...	...	3	2	1
Arbil	...	...	...	...	...	4	2	2
Khaniqin	...	...	...	...	...	3	2	1
Samarra	...	...	...	...	...	6	1	5
Baqubah	...	...	...	...	...	6	3	3
Anah	...	...	...	...	...	5	1	4
Mandali	...	...	...	...	...	3	3	...
Qizl Robot	2	2	...
Hit	4	2	2
Shahraban	2	2	...
'Aqrah	1	...	1
Kubaisah	1	...	1
Tall 'Afar	1	1	...
Total						129	81	48

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