

THE ROLE OF THE MUJTAHIDS OF TEHRAN IN THE
IRANIAN CONSTITUTIONAL REVOLUTION 1905-9

Thesis submitted for the Degree of Ph.D.

by

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ABSTRACT

The thesis discusses the role of the mujtahids of Tehran in the Constitutional Revolution, considering their contribution both in ideas and organisation. The thesis is divided into eight chapters, the first of which deals with the relationship between the ʿulamā and the state, and the problem of accommodation with a ruler who was illegitimate according to Twelver Shi'ite law. The second chapter discusses the economic and social position of the ʿulamā, concentrating on their financial resources, their legal duties, and their relationships with other groups, and attempting to show the ways in which they were subject to pressure. In the third chapter, the role of the ʿulamā, and particularly the mujtahids, in the coming of the Revolution is examined, especially their response to the centralisation of government, and the financial crisis at the turn of the century. The ideological contribution of the leading pro-constitutional mujtahid is discussed in the fourth chapter and an attempt made to identify the influences upon his ideas. Chapters five and seven deal with the role of the pro-constitutional mujtahids as the Revolution developed, considering their relationship with their following, the part they played in political organisation, and in the legitimising of the new Majlis, as well as their reactions to financial and legal reform. Chapters six and eight concentrate upon the arguments of the leading anti-constitutional mujtahid, and examine his relationship with the supporters of absolutism. The main themes of the conclusion are the contribution of both pro- and anti-constitutional mujtahids, ideologically and in organisation; their relations with their following; their attitude in general to reform; and the effect upon the ʿulamā of the long term trends, of which the Revolution may be said to form a part. The conclusion also draws in the work of other scholars on the subject, especially Hairi, Algar, Lambton and Arjomand.

TABLE OF CONTENTS

	<u>Page</u>
Abstract	1
Acknowledgements	3
Transliteration and abbreviations	4
Introduction	5
Chapter I: The Basis of the Relationship between the <u>'Ulamā</u> and the State.	32
Chapter II: The Social and Financial Position of the <u>'Ulamā</u> .	62
Chapter III: The <u>'Ulamā</u> and the Coming of the Revolution.	94
Chapter IV: Ṭabaṭabā'ī and the Campaign for the Council of Justice.	128
Chapter V: The <u>'Ulamā</u> and the Establishment of the National Consultative Assembly.	163
Chapter VI: Constitutionalism and the Law of Islam.	196
Chapter VII: Reform and Reaction - September 1907 to June 1908.	232
Chapter VIII: Shaikh Faḏlallāh and the Absolutist Cause.	266
Conclusion	302
Appendix A	322
Bibliography	323

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A Note on the Transliteration

The transliteration system is basically that of the Cambridge History of Islam with the Persian additional and variant forms permitted under that system. Well-known place names, such as Tehran, Isfahan, have been rendered without diacritics, as have been commonly used words of Persian or Arabic origin found in the Oxford English dictionary, such as 'bazaar' and 'mullah', and the names of dynasties, e.g. Qajar, Safavid. Where an Iranian author has published a work in English their name has been rendered in the form they have chosen.

Abbreviations

BMFA	Belgian Ministry of Foreign Affairs
BSOAS	Bulletin of the School of Oriental and African Studies
CUL	Cambridge University Library
ZDMG	Zeitschrift der Deutschen Morgenländischen Gesellschaft

INTRODUCTION

This thesis examines the events of the Iranian Constitutional Revolution from 1905-9, and the part played in those events by a particular group of the 'ulamā. Strictly speaking the 'ulamā are those possessed of 'ilm (knowledge of the sacred texts), and in the narrowest definition should include only those who have completed many years of theological study. In Qajar Iran, however, the term tended to be used of those who made their living from religious offices or connections, such as rhapsodists (rauža khvāns), certain descendents of the Prophet (sayyids) and students (tullāb). In this thesis the term 'ulamā is used in the same sense, that is to denote what might be called the religious estate. In the delimitation of the thesis attention has been focussed on the highest ranking of the 'ulamā, the mujtahids, but it is on occasion artificial or distorting to mention only the mujtahids, in which case the 'ulamā as a whole are referred to.

The Constitutional Revolution formed part of a process of change which began in the early 19th century. This process comprised new institutional developments and ideological influences, trends which affected, amongst others, the 'ulamā. These changes arose primarily as a result of the influence that Europe exerted upon Iran, politically, economically and ideologically. The Shah and his governments were aware of the weakness of Iran as compared to Europe and inaugurated reforms in the fiscal system, the administration and the army, which, however, made little progress. As McDaniel has pointed out, such attempts to centralize the government amounted in a traditional Islamic society to a policy that might be called unconstitutional.¹ It brought the government into conflict

1. R.A. McDaniel, The Shuster Mission and the Persian Constitutional Revolution (Biblioteca Islamica, Minneapolis 1974), p.20.

with powerful interest groups, notably the landowners, the provincial authorities, the tribal leaders and the 'ulamā.

The movement towards reform had tentative beginnings in the reign of Fath 'Alī Shāh (1797-1834) when the Crown Prince, 'Abbās Mīrzā, began a reform of the army. Other efforts at reform followed throughout the century, but as McDaniel has remarked, without the support of a modern centralizing bureaucracy, the army succumbed to inefficiency and the peculation of bureaucrats.² Amīr Kabīr, the chief minister between 1851 and 1853 tried to reform the legal system by establishing loose control of the sharī'a courts, an attempt which brought him into conflict with the 'ulamā. In the 1870's, Mīrzā Muhsin Khān, Sipah Sālār, imposed similar measures with equal lack of success. In 1872, in an attempt to develop the country's resources, the Sipah Sālār advised Nāṣir al-Dīn Shāh (1848-1896) to grant a concession to construct railways to a British subject, Baron de Reuter, but he was defeated by a combination of his personal enemies, and the 'ulamā, fearful of foreign penetration. A few years later the Shah attempted further administrative reforms along the lines of the Ottoman Tanzimat, but the measures were thwarted by the provincial authorities, including the 'ulamā.³

The 'ulamā perceived all these proposals as a threat to Islam, but they made little or no distinction between the interests of Islam and those of the 'ulamā. The movement towards centralization threatened the independent power base of the religious estate. Attempts at law reform questioned by implication the functions of the mujtahid, the highest ranking of the 'ulamā, and suggested government control of an important source of revenue. In the late 1880's, the Shah, partly to replenish the treasury and partly to assist the

2. Ibid, p.22.

3. For an example see Abbott to Rosebery, No.6, 6th April 1875, Incl.2, FO 60/374.

development of the country, adopted a policy of selling concessions to foreigners. As Lambton has pointed out, this seemed to the 'ulamā to encourage foreign intervention, threatening the Islamic basis of the state.⁴ Thus the centralizing policy taken up by the government in response to pressures from Europe exacerbated relations between the 'ulamā and the state, whilst an increased foreign presence from the 1880's led them to believe the Shah was failing in his duty to protect Iran, the land of Shi'ism.

The West was a source of tension in another sense. During the latter part of the century Iran was increasingly penetrated by Western political thought. In the writings of Malkum Khān, in particular, the practice of sole responsibility by the Shah was questioned, and tentative moves made towards the sharing of power.⁵ From the 1860's various reformers including Malkum Khān and Mīrzā Yusif Khān, Majd al-Mulk, placed emphasis on the need to form a code of laws to which government officials would be answerable. Such ideas were propogated with renewed force in the magazine Qānūn published in London in the early 1890's by Mīrzā Malkum Khān. Another influential reformer was Sayyid Jamāl al-Dīn al-Afghānī, who advocated Islamic unity in the face of European expansion, and the regeneration of Islam.⁶ He is said to have acquired a number of disciples on a visit to Iran in 1890. Ideas such as those of Malkum Khān changed the traditional perception of the nature and duties of government, and influenced a few of the 'ulamā amongst others. Certain of the 'ulamā also responded to Jamāl al-Dīn al-Afghānī's pan-Islamic message attempting

4. A.K.S. Lambton, 'The Persian 'Ulamā and the Constitutional Revolution', in Le Shiisme Imamite Colloque de Strasbourg, 1968 (Paris 1970), pp. 245-269.
5. H. Algar, Mīrzā Malkum Khān (California 1973). The book is a biographical study of his life and ideas.
6. For a discussion of Afghānī, see N.R. Keddie, Sayyid Jamāl al-Dīn "al-Afghānī" (University of California Press 1972).

to unite all Muslims with its call of Islam in danger. But the secularizing tendency of Western thought, and the radical institutional changes it would engender were not necessarily apparent to those of the 'ulamā who gave it their attention.

Virtually none of them had any experience of Western style government. Furthermore, the reformers couched their proposals in strictly orthodox terms in the hope, as Lambton and Keddie have pointed out, of not offending the 'ulamā and involving them in the protest movement.⁷ The penetration of Western ideas was still slight, which probably explains why the body of the 'ulamā made little effort to support or refute them before the revolution. It is also doubtful whether those few who responded understood fully the practical implications of the reformers' ideas. In any case the number who responded were small. In 1902 a member of the lesser 'ulamā assessed that not 80 out of 2000 in the madrasas of Tehran were attuned to the country's problems.⁸

Towards the end of the century economic factors were forcing the government towards change. As figures are scant, and usually no more than rough estimates, it is difficult to assess with any certainty the economic position of Iran in the latter part of the 19th century and the early years of the 20th. It seems inflation was a problem throughout the century but particularly felt during the last decade. The chief evidence of the government's financial difficulties was a budget deficit which grew in the 1890's from £80,000 to £300,000,⁹ leading the government to try and impose increases in taxation.

7. A.K.S. Lambton, 'Secret Societies and the Persian Revolution of 1905-6', St. Antony's Papers, No.11, (London 1956), p.55; N.R. Keddie, 'The Origins of the Religious Radical Alliance', Past and Present XXXIV 1966, p.77.
8. De Graz to Lansdowne, No.107, 21st July 1902, FO 60/651.
9. Lascelles to Russell, No. 106, 20th June 1893, FO 60/543, Spring Rice to Salisbury, No.7, 9th Jan. 1901, FO 60/636.

All these forces, institutional adjustments, the impact of new Western ideas and values, and economic difficulties were at work in the period just before the Revolution and during the Revolution itself. The response of the 'ulamā to these factors and their part in politics during the Qajar period has been studied from different aspects and in varying depth. The main body of interest has so far fallen on the role of the 'ulamā in the coming of the Revolution in, for example, the studies of Lambton,¹⁰ Keddie,¹¹ and Algar.¹² Little, however, has been written about their role during the events of the Revolution. S.A. Arjomand's article on the 'ulamā's traditionalist opposition being the only work so far to consider the matter in any detail.¹³ One of the purposes of this study is therefore to examine the role of the 'ulamā during the course of the revolution. Of course, some attempt has also been made to consider their part in the period before the Revolution and to weigh the conclusions in the light of the work of the above mentioned scholars.

The period of study ends in the summer of 1909 as after that point the 'ulamā became much less significant. With the arrival of the revolutionaries from the North and the Bakhtiyārī chiefs in the capital, new and more national forces came to dominate the political arena in Tehran. After the fall of the Shah the anti-constitutionalist 'ulamā were silenced, whilst the pro-constitutionalists increasingly withdrew from politics.

10. A.K.S. Lambton 'Persian 'Ulamā', op. cit.
11. N.R. Keddie 'Religious Radical Alliance', op. cit.; Religion and Rebellion in Iran (London 1966); 'Religion and Irreligion in Early Iranian Nationalism', Comparative Studies in Society and History, IV Part 3 (April 1962), pp. 268-295.
12. H. Algar, Religion and State in Iran 1785-1906, (Berkeley 1969).
13. S.A. Arjomand 'The 'Ulamā's Traditionalist Opposition to Parliamentarianism: 1907-1909', Middle Eastern Studies, XVII No.2 1981, pp. 174-190.

The 'ulamā made a significant contribution to the Revolution in ideological terms, and from this point of view two centres were important, Najaf and Tehran. The arguments advanced by the 'ulamā of Najaf have already been comprehensively covered by A.H. Hairi.¹⁴ The theories of the pro- and anti-constitutional 'ulamā of Tehran and their significance have not, however, so far been examined. The campaign against constitutionalism was led from Tehran by Shaikh Faḡlallāh Nūrī, and one of the prime purposes of this study is to examine the bases and validity of his arguments, and the manner in which the constitutionalists, both lay and clerical, attempted to refute them at the time.

It was decided to confine the study to Tehran itself because of the diverse and decentralized nature of the body politic in Iran at this period. The government was minimal so each province was ruled as a separate entity in a manner which had seemingly changed little over time. As a result, conditions varied from region to region, the Russian influence, for example, predominating in the North and the British in the South. The bazaar had greater influence in Tabriz, whilst the Shrine of Imām Riḡā was significant in the politics of Mashhad. Transport was rudimentary, there being by 1900 only a few miles of railway and hardly any passable roads. The most significant change in communications was the building of the telegraph lines in the 1860's. Then each region was largely autonomous both politically and economically. Therefore to understand the role played by the 'ulamā in any one region, it would be necessary to examine closely the conditions prevailing in that region, necessitating a breadth of study outside the scope of this thesis.

The studies already mentioned of the role of the 'ulamā up to the Revolution have dealt with them in a mainly general way. The time has perhaps come to distinguish between the

14. A.H. Hairi, Shī'ism and Constitutionalism in Iran (Leiden 1977).

different types of 'ulamā, most particularly between the orthodox and the heterodox. The latter were active during the Revolution, but they were not committed to the same theoretical and material goals as the orthodox 'ulamā. To the Azalī Bābīs, for example, it was of little consequence whether the interests of the sharī'a were considered in the drafting of the Fundamental Law. This study really concerns the orthodox 'ulamā, but partly because it is not always possible to say for certain whether or not an 'ālim is orthodox, particularly amongst a numerous class, and partly because information on individuals is rare, it was decided to focus upon the mujtahids, though the interests of the religious estate as a whole are also kept in view. Only three mujtahids emerge from the sources as being of outstanding significance - Shaikh Faḡlallāh Nūrī, Sayyid 'Abdallāh Bihbihānī and Sayyid Muḡammad Ṭabāṭabā'ī. Most of the other orthodox 'ulamā, including the lesser mujtahids formed part of constellations centred around these three leaders, whom, on the whole, they allowed to speak for them. Thus information as to the particular viewpoint of other individuals is sparse. Another reason for focussing on the mujtahids is that, with their training in jurisprudence, their eminent stature and the privileges accorded to them, their role in the judiciary and in the administration of the religious endowments, they had the largest investment in the protection of the interests of the religious estate.

This thesis seeks to answer a number of questions. One of these concerns the basic relationship between the mujtahids, as leaders of the 'ulamā, and the state both in theory and in practice. It has been argued, chiefly by Algar, that the 'ulamā regarded the state as fundamentally illegitimate, that they saw themselves as the only legitimate authority in the land as the General Agents of the Imām, and that they were therefore in conflict with the state throughout the 19th century.¹⁵ Yet the question has remained, especially in the

15. H. Algar, Religion and State, op. cit.

light of recent events, as to why they did not call upon the authority they derived from the doctrine of the General Agency, or indeed why they did not make significant mention of the Imām in the Revolution of 1905-9. An attempt has been made to explore this problem and offer a possible explanation.

Another point under consideration is that the 'ulamā as a group and particularly the mujtahids had a great deal in common as members of the religious estate as identified by Arjomand, yet they did not unite during the Revolution to defend their common interests. The sources of their often bitter divisions have been examined in this study.

Connected with this question is that of what links the 'ulamā, especially the mujtahids, had with other members of the community. This point has been touched upon by G. Gilbar¹⁶ and W.M. Floor.¹⁷ No attempt has, however, been made so far to consider in detail the relations of the 'ulamā with other groups and how these affected the policies of the 'ulamā. The tendency in works so far has been to see the 'ulamā as a self-motivated and largely self-sufficient group, the prime movers in the various opposition movements of which they formed part. In this study an effort has been made to show that the religious estate was not autonomous, that although the 'ulamā, above all the mujtahids, possessed considerable financial resources, these resources were not under their sole control. Indeed like most other groups in Qajar Iran their position was insecure and vulnerable to pressure.

16. G. Gilbar, 'The Big Merchants and the Iranian Constitutional Revolution of 1906', Asian and African Studies, II No.3 1977, pp.275-303.
17. W.M. Floor, The Guilds in Qajar Persia, unpublished Ph.D., University of Leiden 1971; 'The Guilds in Iran - an Overview from the Earliest Beginnings to 1972', ZDMG, CXXV 1975, pp. 99-166.

The mujtahids played a significant part in what became a movement for reform, yet it may be asked whether they had a serious interest in reform or understood its implications. This study attempts to examine the attitude of the mujtahids to the reforms of the Majlis as they were introduced, and in the light of their interests as an elite group in the Qajar state and to consider how far Floor's conclusion that the 'ulamā were not reformist is correct.¹⁸ It also looks at the response of the mujtahids to the movement towards centralization of government, accountability and institutional change, and to consider how they were affected by it.

The study concentrates upon the role of the mujtahids in the events of the Revolution itself. It is noteworthy that they divided ostensibly into two groups, pro- and anti-constitutional. It is necessary to examine why they adopted these positions, what they understood by them and how far they adhered to them, and further to consider whether this was a profound, or as Arjomand suggests, a superficial difference.

The mujtahids' role in the organisation on both sides has also been studied, including the part played in the early opposition movement in 1905-6, in the establishment of the Assembly. The mujtahids have also been considered in relation to the formation of political factions in the first Majlis. The contribution of the anti-constitutionalist mujtahids to the organisation of the absolutist campaign against the Assembly is discussed as well.

As mentioned above, detailed study has been given in the thesis to the ideological standpoint of the mujtahids at the time of the Revolution. This subject really falls into two

18. W.M. Floor, 'The Revolutionary Character of the Iranian 'Ulama: Wishful Thinking or Reality?', International Journal of Middle Eastern Studies, XII 1980, pp. 501-524.

parts, the reformist policies advocated by Tabātabā'ī and the anti-constitutional theories propounded by Shaikh Faḡlallāh. With regard to Tabātabā'ī an effort has been made to ascertain the sources of his ideas to divine what he understood by terms drawn from Western thought and to define his exact goals in the period 1905-6. The vexed question of what was intended by the 'adālatkhāna and its relation to Tabātabā'ī's aims has also been taken up.

Shaikh Faḡlallāh has attracted much attention in recent years, particularly in Tehran itself. His arguments against constitutionalism have been touched on by Hairi but no detailed study has so far been made. This study attempts to identify the basis of his objections, as well as the themes of his arguments and their strength as against the constitutionalist refutations. The arguments are also discussed in their particular political context together with the problem of Shaikh Faḡlallāh's relationship with the absolutist cause. The same considerations are given to Shaikh Faḡlallāh's advocacy of mashrūṭa-yi mashrūṭa and the implications of this phrase.

For the study, a variety of Persian sources have been used. Of the primary sources, the richest in material is still probably Nāẓim al-Islām Kirmānī's Tārīkh-i Bīdārī-yi Irāniyān.¹⁹ This work appears to have been begun as the minutes of the Secret Society which Nāẓim al-Islām formed in 1905, was subsequently extended into a diary, and was finally turned into a book in 1911 with an introductory section on 19th century reformers and leading participants in the Revolution. During 1907-1908 Nāẓim al-Islām was engaged on the newspaper

19. Nāẓim al-Islām Kirmānī, Mīrzā Muḡammad, Tārīkh-i Bīdārī-yi Irāniyān (History of the Awakening of the Iranian People), Tehran 1357/1978-9 edition.

Kaukab Dārī which published some sections of his writings, so unfortunately there is a break in the Bīdārī for that period. The book chronicles with remarkable detail the political events of the period, reproducing where possible both the rescripts issued by the Shah and the propoganda leaflets (shābnāma) distributed by the opposition. The author had a variety of contacts among ʿulamā, bazaaris and bureaucrats, and, of the Persian accounts, his work has usually proved the most accurate since, on the whole, he resists the temptation of embellishment. Though Nāzīm al-Islām was a client of Tabātabāʿī, and the work is biased in favour of the constitutional cause, it has the immense advantage for the historian of not carefully selecting the events described and of not being moulded by hindsight.

Another contemporary account is the Ḥayāt-i Yahyā²⁰, the autobiography of Mīrzā Yahyā Daulatābādī. The author claims to have begun writing his memoirs as early as 1310/1892-3 and at least part of his work was known to Nāzīm al-Islām in 1911. The work is slightly marred by Daulatābādī's desire to inflate his own role in events, a feat which is sometimes achieved at the expense of accuracy. Nevertheless it is a useful source because Daulatābādī had a closer acquaintance with some of the Qajar notables, in particular, Iḥṣhām al-Saltāna, a Qajar prince and second president of the Majlis, than did Nāzīm al-Islām, and his work provides greater insight into the factional struggles within both the government and the Majlis.

Two more contemporary accounts are the diaries of Mīrzā ʿAlī Khān, Ẓāhīr al-Dawla,²¹ and of Ḥājī Mīrzā Sayyid

20. Y. Daulatābādī, Tārīkh-i Muʿāṣir yā Ḥayāt-i Yahyā (A Contemporary History or the Life of Yahyā), Tehran 1337/1958-9.

21. Zāhīr al-Dawla, Mīrzā ʿAlī Khān Qājār, Khāṭirāt va Asnād-i Ẓāhīr al-Dawla (The Memoirs and Papers of Ẓāhīr al-Dawla), ed. by I. Afshār, Tehran 1348/1969-70.

Aḥmad Tafrishī Ḥusainī, both edited by I. Afshār.²² Zāhīr al-Daula, a Qajar prince of enlightened views, was, during the period under study, governor first of Hamadān, and then of Gilan and of Mazandaran. However, from the point of view of the historian of events in Tehran his diary and papers are useful because of his many well placed correspondents in the capital. The Rūznāma of Ḥusainī is a spare account of events with little comment, but nevertheless containing some interesting details.

For the period just before the Revolution Mīrzā 'Alī Khān, Amīn al-Daula's memoirs²³ reveal the factional struggles within the government and the impediments placed in the path of reform, particularly by the 'ulamā. Some of the leading constitutionalists such as Sayyid Hasan Taqīzāda²⁴ and Mīrzā Ṣādiq Khān, Mustashār al-Daula²⁵ have written their own versions of events at various times. These works are valuable on such points as the role of the Tabriz deputies, the working of the Majlis committees of which they were members, and the struggles over the word mashrūṭa in 1907. They are perhaps more fruitful for a study of the militant constitutionalists, especially those from Tabriz, than for one on the 'ulamā. One unusual autobiography is Āqā Najafī Qūchānī's sharp and vivid account of the hardships of his youth.²⁶ It gives much information of value on the life of a minor member of the 'ulamā during this period.

22. Tafrishī Ḥusainī, Hājī Mīrzā Sayyid Aḥmad, Rūznāma-yi Akhbār-i Māshrūṭiyyāt va Inqilāb -i Irān 1321-1328 (A Dairy of the Constitutional Movement and the Iranian Revolution 1321-1328) ed. I. Afshār, Tehran 1351/1972-3.
23. Amīn al-Daula, Mīrzā 'Alī Khān, Khāṭirāt-i Siyāsī, (Political Memoirs), ed. I Afshār, Tehran 1341/1962-3.
24. Taqīzāda, Sayyid Ḥasan, Khiṭāba, Tarīkh-i Avā'il-i Inqilāb-i Mashrūṭa dar Irān (The History of the Beginning of Revolution and Constitutionalism in Iran, from the Lectures of Taqīzāda), Tehran 1338/1959-60, p.46
25. Mustashār al-Daula Mīrzā Ṣādiq Khān, Yāddāshthā-yi Tarīkhī Mustashār al-Daula (The Historical Notes of Mustashār al-Daula), ed. I. Afshār, Tehran 1361/1982-3.
26. Najafī Qūchānī, Āqā Ḥasan, Siyāhatnāma-yi Sharq (Journey to the East: An Autobiography of Āqā Najafī Qūchānī), Mashhad 1351/1972-3.

A further major source on the Revolution, particularly for the period 1907-1908 is the Persian newspapers. For the years prior to the Revolution there are such papers as the Habl al-Matīn of Calcutta and the Akhtar of Cairo, published abroad. These latter would perhaps be most useful for a student of the development of reformist and westernising opinion, since their content is largely discursive. Their lists of contributors to various projects are interesting, especially as many of these were merchants. As chronicles of events in Tehran they are not to be compared in reliability with the accounts, especially in the British archives, of those on the spot. The vast body of the newspapers published in the capital during the Revolution were pro-constitutional. Fortunately E.G. Browne made a large and fairly comprehensive collection of these papers, which is now in Cambridge University Library. There is also a much smaller collection in the British Library. As with the newspapers published abroad, the contents are largely discursive, dealing with the progress of the Majlis and of proposed reforms. From the point of view of this study the most useful have been Majlis, with its accounts, published on average three or four times a week, of the debates of the Assembly. These accounts are undoubtedly flawed. To begin with, as contemporary observers commented, the debates themselves were often rambling and disorderly. Discussion would either go in circles round a point or else a subject scheduled for debate might suddenly be dropped in favour of an extraneous issue raised by one of the speakers. In addition, the account of the debates is precised, and whoever made the précis had particular interests and prejudices of his own. The result can often make very frustrating reading. There is a further difficulty in that Majlis was owned and run by relatives of the leading ʿulamā so that material detrimental to the prestige of the ʿulamā is edited out. Thus for the period of the crucial debate over the Supplementary Fundamental Law in 1907, during which the ʿulamā vehemently opposed certain articles, the debate contents appear in the briefest précis, and indeed only a few issues of

the paper were published, because, or so the editor explained, there was a shortage of the right size of paper in Tehran. Nevertheless the debates are important in giving an understanding of the preoccupations of the Majlis, of the views of particular deputies, and their role and as a source of information on current events. They may be supplemented by the shorter but sometimes more coherent accounts in the British archives. It should be remembered, however, that much of the work of the Majlis was carried out in committees, and it was the members of these committees, who sometimes contributed little of note to the debates, who were the most powerful deputies.

Not all the constitutionalist press was either well informed or responsible. Certain papers were recognized by Browne²⁷ as having a higher standard than others, including Habl al-Matīn of Tehran, Majlis and Šūr-i Isrāfīl. These newspapers primarily have been used for this study as the source for contemporary constitutionalist refutations of the arguments of Shaikh Faḡlallāh. Certain other papers are of value for particular purposes. Muḡākīmāt, for example, published the records of the trials of the Shah's roughs. They are valuable in giving an insight into the anti-constitutionalist demonstrations, and indeed into how a mob might be raised and organized.

It is not entirely clear why the absolutists did not set up their own press since they cannot have lacked the money. Perhaps it was because in 1907 support for the Majlis was overwhelming so they felt it fruitless. The difficulties encountered by Shaikh Faḡlallāh (see below) in persuading any printer to publish his leaflets, suggest a kind of unofficial censorship was operating, anti-constitutionalists being intimidated from coming into the open. Such open protests as they were able to organize took a religious form, which afforded them some protection.

27. E.G. Browne, The Press and Poetry of Modern Persia (Cambridge 1914), p.23.

Whatever the reason, the only anti-constitutionalist press set up at this time, undoubtedly with money provided by the Shah and the conservatives, was that of Shaikh Fażlallāh in the Shrine of Shāh 'Abd al-Aẓīm. Its productions can hardly be termed newspapers being more accurately called propoganda leaflets. They are mostly only two or three sheets, and do not have the usual attributes of a newspaper such as an editorial, information or comment on current events, or letters. Their purpose is simply to convey, usually in a single article, the anti-constitutional message. Their leaflets have been collected and published with an introduction by M.I. Riżvānī.²⁸

In addition to his newspaper, Shaikh Fażlallāh also published a treatise entitled Tadhkirat al-Ghāfil wa Irshād al-Jāhil (A Reminder to the Negligent and a Guide to the Ignorant). In it he sets out in some detail his arguments against constitutionalism. A treatise in refutation of Shaikh Fażlallāh's arguments was published anonymously by Majlis press. These two treatises together with copies of other documents and correspondence have been obtained from Iran with the kind assistance of Dr. H. Modarressī.

In recent years a number of invaluable collections of documents and memoirs including many from the period under study have been edited and published, most notably through

28. M.I. Riżvānī, 'Rūznāma-yi Shaikh Fażlallāh' (Shaikh Fażlallāh's Newspaper), Tārīkh, (Appendix to the Journal of the Faculty of Humanities, Tehran University), II Part I, pp. 159-209, 2536 Shāhanshāhī/1977.

the efforts of I. Afshār²⁹ and I. Şafā'ī³⁰. These papers include correspondence sent to Amīn al-Sultān, Şadr-i A zam during his period of exile, by his adherents in Tehran. Though comparatively scant some of these letters provide an insight into the views of those who were sceptical of or opposed the constitutional movement. Another important source of published documents is the various Persian journals particularly Barrisīhā-yi Tārīkhī, Rāhnamā-yi Kitāb, Yaghmā and Vahīd. Material from these journals has included letters from various members of the 'ulamā, the memoirs of Hāj Shaikh Mahdī Sharīf,³¹ and the reports of the government spies which have also been published by Yaghmā'ī in his book on Sayyid Jamāl al-Dīn Isfahānī.³²

29. I. Afshār, Maqālāt-i Taqīzāda (The Articles of Taqīzāda), ed. I. Afshār, Tehran 1359/1970-1; Aurāq-i Tāzah Yāb-i Mashrūṭiyyat Marbut bi Şālḥā-yi 1325-1330 Qamarī (Newly Discovered Documents on the Constitutional Revolution), ed. I Afshār, Tehran 1359/1980-1; Mubāriza bā Muḥammad 'Alī Shāh (The Campaign Against Muḥammad 'Ali Shāh), Tehran 1359/1980-1; Yāddāshthā-yi Qazvīnī (The Notes of Qazvīnī), ed. I. Afshār, Tehran 1333-45/1954-66.
30. I. Şafā'ī, Asnād-i Siyāsī-yi Daura-yi Qājāriyya (Political documents of the Qajar Period), Tehran 1346/1967-8; Asnād-i Mashrūṭa (Documents of the Constitutional Period), Tehran 1348/1969-70; Asnād-i Nau Yāfta (Newly Discovered Documents), Tehran 1349/1970-71; Asnād-i Barguzīda az Sipah Sālār, Zill al-Sultan, Dabir al-Mulk (A Collection of Documents from the Qajar Period), Tehran 1350/1971-2.
31. Sharīf Kāshānī, Hāj Shaikh Mahdī, 'Tārīkh-i Mashrūṭiyyat-i Irān' (A History of the Constitutional Movement in Iran), Vahīd Nos. 206-9, 215-16, 218-20 1356/1977-8.
32. I. Yaghmā'ī, Shahīd-i Rāh-i Āzādī, Sayyid Jamāl al-Dīn Isfahānī (Sayyid Jamāl al-Dīn Isfahānī, a Martyr on the Road to Freedom), Tehran, 2537/1978.

Most of the published Persian sources that exist consist of the dairies, letters and memoirs of those who were in support of the constitution. As a result the sources convey overwhelmingly one point of view. Unfortunately such persons as 'Ain al-Daula and Amīr Bahādūr do not appear to have attempted any memoirs. Perhaps, however, there may be papers in the possession of their descendents which await publication, and which may throw more light on the views of the absolutists.

It has been extremely disappointing that during the period of research for this study it has not been possible because of the political situation there to go to Tehran itself. There is almost certainly a good deal of unpublished material there, some of it in libraries such as the Majlis and Millī Libraries and some of it in private archives, such as that of the Maḥdāvī family, the descendents of Amīn al-Ẓarb. It was originally hoped in particular to find more material for Chapter I, especially of examples of treatises lending justification to the rule of the Shah.

In default of an opportunity to research into the Tehran libraries, close reference has been made to Persian books and manuscripts in the British Library, the India Office Library, the Bodleian and Cambridge University Library. Through the kind assistance of Dr. J. Gurney the library of Wadham College, Oxford, has also been used. A search was made particularly for works pertaining to the relationship between the 'ulamā and the state but although these libraries possess innumerable works of fiqh little came to light that was relevant to this study. The one notable exception was a hitherto unknown tract by Shaikh Faḥlallāh entitled Su'āl va Javāb, a copy of which is in the British Library.

Perhaps the best known secondary source in Persian on the Constitutional Revolution is A. Kasravī's Tārīkh-i

Mashrūṭa-yi Irān.³³ The work is a comprehensive study of the events of the Revolution in Tehran and Tabriz with particular emphasis on the latter. Like virtually all Persian historians writing on the subject Kasravī is dedicated to the constitutionalist cause. His work is based on a variety of sources both oral and written, but the account of the early years of the Revolution is derived largely from the Bīdārī of Nāzīm al-Islām Kirmānī. Kasravī does publish in full some of the documents he used which include papers from the family of Shaikh Faḏlallāh. Kasravī scrutinized the role of the ʿulamā in particular and was at pains to show they understood little of the term 'constitutionalism'. It has been said of Kasravī's work that he was the first to stress the role of the poor and unknown in the Revolution. However, this effect is achieved largely by employing the most unhelpful word 'the people' (mardum). On closer examination Kasravī's mardum usually indicates merchants or guildsmen who were not specially poor or unknown. Of the viewpoint of the mass of the very poor, constituting over half the population little is recorded. Probably the most illuminating comment so far has been made by E. Abrahamian in his article on the crowds in the Revolution.³⁴

A further weighty work in Persian is the seven volumes of M. Malikzāda's Tārīkh-i Inqilāb-i Mashrūṭiyyat-i Irān.³⁵

33. A Kasravī, Tārīkh-i Mashrūṭa-yi Irān (A History of the Constitutional Movement in Iran), Tehran 1319/1940-1.
34. E. Abrahamian, 'The Crowd in the Persian Revolution', Iranian Studies, II 1969, pp.128-150.
35. M. Malikzāda, Tārīkh-i Inqilāb-i Mashrūṭiyyat-i Irān (A History of the Iranian Constitutional Revolution), Tehran ed. 2536/1977-8.

The study suffers primarily from the author's desire to give prominence to the part played in the Revolution by his father, Malik al-Mutakallimīn. The major source for the early part of the book, largely unacknowledged, is Daulatābādī's Ḥayāt-i Yahyā, which at times Malikzāda repeats word for word, and at others distorts in accordance with his aim of glorifying his father.³⁶ Malikzāda has, however, probably been most gravely misleading on the subject of the secret society or anjuman, which he claims his father belonged to before the Revolution. Close examination of this anjuman suggests strongly that it did not exist in the form he describes it.³⁷ In spite of these considerable flaws Malikzāda's account is still a source that cannot be ignored. Most important he has published in full original documents which are so far not otherwise available. These include the long fatvā issued by Shaikh Faḥlallāh some time after the fall of the Majlis. Some of his material, though not always reliable or verifiable, is based on oral accounts of participants in, or eye witnesses to,

36. Compare for example his account of the events of the bast in Shāh 'Abd al-'Aẓīm 1905-6 Vol.II, pp. 47-90 with that of Daulatabādī, Vol.II, pp. 10-33.
37. The reasons for this contention are that although Daulatabādī and Haj Shaikh Mahdī Sharīf Kashānī are listed as belonging to the secret society neither mentions such an organisation in his memoirs, and it is highly unlikely they would have omitted it if it had existed. Even though security appears to have been more lax under Muzaffar al-Dīn Shāh than under Nāṣir al-Dīn Shāh (see Nāẓim al-Islām, op. cit., Vol.I, p.252-3) it is scarcely credible that there could have been a secret gathering with 53 members, without considerable risk of detection. Nāẓim al-Islām's secret society, the best documented so far, had only about seven members, and that of Haj Shaikh Mahdī Sharīf five members. Amongst the projects of the secret society that of uniting Tabataba'ī and Bihbihānī is given, but Nāẓim al-Islām's account shows this suggestion in fact comes from his society. . Finally it may be noted that 1904 would have to be the date when the society was founded as in 1905 Malik al-Mutakallimīn was in Kurdestan in the service of Sālār al-Daula.

events. Further, he himself though a child at the time of the Revolution could look back with a certain understanding on the social and political conditions of the period. Thus some of his comments, as for example on the nature of the link between the 'ulamā and the merchants, are illuminating.

More recent works in Persian on the Revolution include M.I. Rizvānī',³⁸ a clear succinct account which makes use of original material, notably from the memoirs of the Mukhbir al-Saltāna. Other recent works, though perused, have not been included in the bibliography as they do not appear to use any new sources or present a fresh or original point of view. The outstanding exceptions are the works of F. Ādamiyyat.³⁹ These include Afkār-i Ijtimā'ī va Siyāsī va Iqtisādī, a compendium of treatises and other documents edited in collaboration with H. Nāṭiq and providing much valuable original material; Andīsha-yi Taraqqī va Hukūmat-i Qānūn, on the reforms of Sipah Sālār, showing the influence of the Ottoman reforms of the Tanzimat and tracing the development of new ideas on government and administration; Īdī'ūluzhī-yi Nahzat-i Mashrūṭiyyat-i Irān on the influence of western ideology and concepts on the constitutional movement up to and including the Revolution; and Fikr-i Dimūkrāsī-yi Ijtimā'ī dar Nahzat-i Mashrūṭiyyat-i Irān which deals with social democratic thought during the constitutional movement.

38. M.I. Rizvānī, Inqilāb-i Mashrūṭiyyat-i Irān (The Iranian Constitutional Revolution), Tehran, 1344/1965-6, p.145.
39. F. Ādamiyyat, Afkār-i Ijtimā'ī va Siyāsī va Iqtisādī dar Āsar-i Muntashir Nashuda-yi Daura-yi Qājār (Social, Political and Economic Thought in Unpublished Documents of the Qajar Period) ed. F. Ādamiyyat and H. Nāṭiq, Tehran 1356/1977-8; Andīsha-yi Taraqqī va Hukumat-i Qānūn 'Asr-i Sipah Sālār (The Idea of Progress and the Rule of Law during the Period of Sipah Salar), Tehran 1352/1973-4; Īdī'ūluzhī-yi Nahzat-i Mashrūṭiyyat-i Irān (The Ideological Background to the Constitutional Movement), Tehran 2535/1976; Fikr-i Dimūkrāsī-yi Ijtimā'ī dar Nahzat-i Mashrūṭiyyat (Social Democratic Thought in the Background to the Constitutional Movement), Tehran 2535/1976.

Of the non-Persian primary sources, the British diplomatic Archives at the Public Records Office are the most extensive. These fall into several groups. The FO 60 series contains the diplomatic correspondence from the Legation up till 1906 arranged by date order. From 1906 onwards it is superseded by the FO 371 series in which correspondence is arranged partly by subject and partly by date in a somewhat confusing manner, and the index to it is not complete. In addition there are FO 539 and FO 416 confidential print series. In this study reference has been made to the original papers in the FO 60 and FO 371 series, but sometimes the originals listed in the Legation ledgers are missing, in which case reference has been made to the confidential print. The diplomatic correspondence provides a continuous detailed and often perspicacious comment on contemporary problems. Unlike the Persian sources which tend to see the ills of the country in terms of those who desired reform from below, the British sources show the difficulties confronting the government as it struggled to effect reform from above. On the other hand, the British officials necessarily viewed events primarily with the furtherance and protection of British interests in mind. Where government attempts at change impinged on these interests, they could be as subjectively critical as any other group whose interests were affected. During the Constitutional Revolution a number of the Legation staff became devotees of the constitutional cause without always considering its full implications for Iran, and even giving it precedence over the foreign policy of their own government. Many of their contacts were with the Iranian constitutionalists, such as Taqīzāda and Daulatābādī so that one point of view may be represented overwhelmingly and others become submerged. These prejudices and preferences must be taken into account in using the British diplomatic archives.

In addition to the diplomatic correspondence there is the FO 248 series containing consular papers, correspondence to and from Iranians, and miscellaneous correspondence. The

consular papers contain despatches often not sent on to London with a great deal of information provided by consuls who were sometimes long-resident in their area. The correspondence to and from Iranians consists largely of papers connected with the Iranian Ministry of Foreign Affairs, but has yielded some useful letters from members of the 'ulamā and others. The miscellaneous correspondence contains the despatches from the British representatives in Turkish Arabia, and provides comments on the 'ulamā of Najaf, with whom the British had a certain amount of contact over the management of foundations endowed from India, such as the Oudh bequest. Although they cannot provide the same insight into the inter-relations of the 'ulamā of the 'Aṭabāt as some Persian sources, they possess a degree of objectivity not always found in the uncritical and often life-long devotion of a member of the 'ulamā to his particular maître. One other useful series is the FO 800, Private Collections of Ministers and Officials.

Since the involvement of a number of the 'ulamā in the reform movement began with the campaign against Joseph Naus, the Belgian Minister of Customs, the Belgian archival material in the Ministry of Foreign Affairs in Brussels has also been examined. This highlights more clearly than the British sources the reform programme begun in 1897 of which the customs reforms formed a part. Further, although the campaign against Naus was led by the 'ulamā, the Belgians significantly identified the merchants and certain of the notables as their real opponents. The Belgian material provides an independent point of view that would be valuable in a study of Anglo-Russian activity in Iran, and also much that would be of use in research on the economy.

With the aim of obtaining fresh evidence a limited knowledge of Russian was laboriously acquired by the present writer. The telegrammes and despatches from Hartwig to Izvolsky published by the Russian Ministry of Foreign Affairs

in 1911⁴⁰ as a collection in a book constitute an important primary source, particularly on the events of the Maidān Tūpkhāna in 1907 and the coup of 1908. Of course one of the problems with this correspondence is that Hartwig's policy differed from Izvolsky's and his presentation of events cannot always be relied on.

A special effort was made to find fresh material in personal archives in this country but unfortunately the effort did not prove very fruitful. Some years ago Dr. R.M. Burrell made a thorough research of material available in private and public archives which yielded most particularly the discovery of Churchill's Biographical Notes of 1905 in the papers of the 4th Earl of Minto in the National Library of Scotland.⁴¹ On the advice of Dr. Burrell the National Register of Archives, Historical Manuscripts Commission was consulted for this study, as new private collections become available from time to time. Of the public servants posted to Tehran at the turn of the century A. Hardinge and C. Marling were listed. However, nineteen letters of Hardinge in the Library of Hastings Town Hall proved to be little more than brief notes, none of them relevant to the period under study. The Marling family when contacted, made a search for correspondence relating to Iran, but without success. Spring Rice's letters were collected and published by Gwynn,⁴² and Hardinge wrote his memoirs in his old age.⁴³

40. Russian Ministry of Foreign Affairs, Sbornik diplomaticheskikh dokumentov kasaiushchiksia sobytii v. Persii s kontsa 1906 g. po iul. 1909 g. (Collection of Diplomatic Documents Relative to the events in Persia from the End of 1906 to July 1909), St. Petersburg 1911-1913.
41. R.M. Burrell, Aspects of the Reign of Muẓaffar al-Dīn Shāh of Persia 1896-1907, Ph.D. (London University 1979).
42. S. Gwynn, The Letters and Friendships of Sir Cecil Spring Rice: A Record (London 1929).
43. A. Hardinge, A Diplomatist in the East (London 1928).

The two main collections of private papers at present available are both in the Cambridge University Library. One is the correspondence of Sir Charles Hardinge which contains a number of letters from diplomats at the Tehran Legation during the period under study. The other is the large collection of papers of E.G. Browne recently donated to the library by his family. Although still quite unsorted the collection has been made accessible to research students through the most helpful efforts of Mr. K. Dalby, Assistant Under Librarian. It contains letters in both Persian and English including some material which Browne gathered for his book on the Constitutional Revolution but did not use. There is also some interesting material still unpublished for the years 1910-11, chiefly letters from members of the Legation.

Of secondary sources on the Revolution the earliest is E.G. Browne's The Persian Constitutional Revolution 1905-9.⁴⁴ Although written with a strong liberal bias the book contains useful primary material and some enlightening observations by the author. In more recent years the Constitutional Revolution and the Qajar period in Iran have attracted a good deal of attention and a number of studies have come out. The works of Algar, Keddie, Lambton, Hairi and Arjomand have already been mentioned. In his work on monarchy, bureaucracy and reform S. Bakhash examines attempts at reform from above and analyses why they failed, noting particularly the influence of rival political factions in undermining each others' endeavours.⁴⁵ McDaniel in his study of the Shuster Mission⁴⁶ introduces the new and important argument that much of the dissatisfaction at the time of the Revolution arose from the government's centralizing policy, and not, as had previously

44. E.G. Browne, The Persian Constitutional Revolution 1905-9, first published 1910 (London 1966 edition).

45. S. Bakhash, Monarchy, Bureaucracy and Reform under the Qajars: 1858-1896 (London 1978).

46. R.A. McDaniel, Shuster Mission *op. cit.*

been argued, from decline and growing oppression. In his history of Iran in recent times E. Abrahamian sees the Revolution as a result of the growth of a new bourgeoisie but does not really illustrate that there had been the growth in trade, industry and enterprise to produce such a class, though there is evidence of an interest in reform amongst the bazaaris.⁴⁷ In a recent book on 19th century heterodoxy and dissent M. Bayat has provided an excellent concise and lucid summary of 19th century Iranian heterodoxies involving the study of material often complicated and obstruse.⁴⁸ Her theory, however, of a continuity between these heterodoxies and the Constitutional Revolution must be questioned. For one thing, as she herself points out, the heterodoxies are the product of a medieval world view. For another they are essentially religious offering few ideas on a new political structure or a new theory of political authority. Constitutionalism may be described as irreligious but this is not the same as heterodox. On the subject of foreign relations Kazemzadeh's work gives a broad outline of Russian and British policy towards Iran from the mid-19th century to the early twentieth century, touching on the constitutional period.⁴⁹

A number of articles have also proved useful in the study. With regard to the relationship between the ʿulamā and the state, A.K.S. Lambton has commented on the arguments of Mirzā Qummi⁵⁰ and touched on Shaikh Jaʿfar Najafī's limited proposals in her study of his view of jihād.⁵¹

47. E. Abrahamian, Iran between Two Revolutions (Princeton 1982).
48. M. Bayat, Mysticism and Dissent (New York 1982).
49. F. Kazemzadeh, Russia and Britain in Persia, 1864-1914 (New Haven 1968).
50. A.K.S. Lambton, 'Some New Trends in Islamic Political Thought in Late 18th Century and Early 19th Century Persia', Studia Islamica, XXXIX 1974, pp.95-128
51. A.K.S. Lambton, 'A Nineteenth Century View of Jihād', Studia Islamica, XXXII. 1970, pp. 180-192.

S.A. Arjomand has highlighted the attempts to find a concordance between religion and state.⁵² The sources of authority of the Iranian 'ulamā have been identified by Binder and compared with those of the Sunnis.⁵³ N. Keddie has shown the influence of the heterodox and radicals on Iranian reformism and nationalism.⁵⁴ She has also pointed out the way the reformers made westernising ideas acceptable to the 'ulamā by presenting them in Islamic guise.⁵⁵ A.H. Hairī has given an introductory translation of the fatvā issued by Shaikh Faḏlallāh after June 1908.⁵⁶ The part played by the 'ulamā of Najaf and the manner in which their opposition was utilized by the British is discussed by R.L. Greaves.⁵⁷

The involvement of other groups has also been brought out recently. G. Gilbar has drawn attention to the role of the major merchants in organizing and funding the bast in 1906.⁵⁸ The organisation and the social and economic links of the guilds, including the fact that the 'ulamā acted as brokers for them with the state has been discussed by W.M. Floor.⁵⁹

52. S.A. Arjomand, 'The Shi'ite Hierocracy and the State in Pre-modern Iran: 1785-1890', European Journal of Sociology, XXII 1981, pp. 40-78.
53. L. Binder 'The Proofs of Islam: Religion and Politics in Iran', Arabic and Islamic Studies in Honour of H.A.R. Gibb (Leiden 1965).
54. Keddie, 'Roots', op. cit.
55. Keddie, 'Religious Radical Alliance', op. cit.
56. A.H. Hairī, 'Shaikh Faḏlallāh Nūrī's Refutation of the Idea of Constitutionalism', Middle Eastern Studies XXIII No.3 1977, pp. 227-239.
57. R.L. Greaves 'British Policy in Persia 1892-1903' Bulletin of the School of Oriental and African Studies XXVIII (1965) I, pp. 34-60, II, pp. 284-307.
58. Gilbar, 'Merchants', op. cit.
59. Floor, 'Guilds', op. cit.

A number of theses have proved illuminating, notably N. Calder's work on authority in Shi'ite jurisprudence⁶⁰ which traces the development of the fundamental doctrine of the delegation of authority from the Sixth Imām to the 'ulamā, and their assumption of the executive powers of the absent Imām. M. Ettehadieh Nezam Mafi's thesis based on much fresh material discusses the development of political organisations during the period.⁶¹ H. Modarressi's work on kharāj in Shi'ite law concentrates on the lawfulness or otherwise of the 'ulamā's accepting the proceeds of the kharāj tax, touching on the relationship between religion and state.⁶²

60. N. Calder, The Structures of Authority in Imāmī Shī'ī Jurisprudence, unpublished Ph.D. (London University 1980).
61. M. Ettehadieh Nezam Mafi, Origin and Development of Political Parties in Persia 1906-1911, unpublished Ph.D. (Edinburgh University 1980).
62. H. Modarressi, Kharāj in Shī'ī Law from the Beginnings to the 10th/16th Century, unpublished D.Phil. (Oxford University 1982).

CHAPTER I

THE BASIS OF THE RELATIONSHIP BETWEEN THE 'ULAMĀ AND THE STATE

The basis of the relationship between the 'ulamā and the state is profoundly affected by Shi'ite juristic theory, which developed along lines different to the Sunnī. The essentials of Shi'ite doctrine evolved largely under Sunnī rulers and accorded them no legitimate status in Shi'ite law. The advent of the Safavid Shahs, who were Shī'a, posed the problem of what authority the 'ulamā could grant to a Shi'ite ruler. This problem was accentuated under the Qajars who had no claim to the throne other than the seizure of power.

The Shī'a, like the Sunnīs, accepted the message and authority of the Prophet, but not the authority of the Companions. They believed that men could not avoid sin unless they had an infallible leader to stand in the place of the Prophet and carry out all his functions except revelation. None of the Prophet's Companions were infallible except his son-in-law, 'Alī, whose place as the rightful successor to the Prophet was usurped. 'Alī was the first Imām, or infallible leader, and his descendents, who are likewise infallible, are the only legitimate leaders of the Shi'ite community. There are twelve Imāms in all including 'Alī, but the twelfth has gone into occultation, a conclusion reached by the Shī'a in the 10th century. The reasons given for his occultation have been several, but the foremost is perhaps his fear of his enemies among men. At first the Imām was represented by a series of four deputies, each a nā'ib-i khāṣṣ or Specific Agent. After their passing, interpretation of the law remained with its custodians, the 'ulamā. They derive their authority from a delegation from the Sixth Imām, Ja'far al-Sādiq, and it is conferred on them because of their knowledge of the Imami hadith. The theory of the delegation, which evolved first in the 10th-

11th centuries, appears to have referred only to judicial authority.² The executive functions of the Imām were considered lapsed, (sāqit). As Calder has shown, in the period between the 11th and the 16th centuries the ‘ulamā assumed most of the executive duties of the Imām. These included qaḏā, control of the canonical taxes, khums and zakāt, and defensive jihād.³ As a result of the delegation, as Binder has pointed out, the Shī‘a ‘ulamā are in a stronger theoretical position than the Sunnīs.

The guidance of the community by the ‘ulamā is provided not only in answers to questions, but in the example of the highest ranking and most learned of their number, the mujtahids. They may act according to their own judgement, ijtihād. Other believers must imitate their example, and are called muqallid. The theory of ijtihād was first explicitly expressed in the work of Ḥasan ibn Yusif ibn Muṭahhar al-Ḥillī al-‘Allāma (d. 1325 A.D.). He stated that it was both permissible and incumbent for the muqallid to act on the basis of the opinions of the mujtahid.⁴

The mujtahids owe their eminence to their knowledge of the roots of law, and it is this which entitles them to exercise ijtihād, that is:

'The searching for a correct opinion (ra‘y-yi ṣavāb) particularly in the deducing of the specific provisions of religious law (furū‘) from principles (usūl) and ordinances (aḥkām).⁵

This provides the believer with the logical proof without which he may not act. The obligation of the Imāmīs to follow the direction of a mujtahid is also based on the duty of loyalty and obedience to the Hidden Imām, which is

2. N. Calder, *op. cit.*, p.72, p.77.

3. *Ibid.*, p.77, p.78, pp.121-130.

4. *Ibid.*, p.240.

5. Algar, Religion and State, *op. cit.*, p.6.

transferred to his representatives, the mujtahids. Apart from his learning, the mujtahid is an ordinary believer.⁶ The mujtahid is known as a marja^ʿ-i taqlīd, an example to be imitated, and it is to him that the mugallid personally pays his contributions of khums and zakāt. From the nineteenth century there has on occasion been one marja^ʿ-i taqlīd of all the Twelver Shīʿa, but on the whole the Shīʿa system resists such hierarchical structure.

Fundamentally, the chain of authority in Shiite jurisprudence leads from the Divine word to the Prophet and the Imāms, and thence to the ʿulamā. According to this chain the only legitimate ruler is the absent Imām, and there is no place within it for the temporal ruler. In practice, however, the executive powers of the ʿulamā, as defined in their theory of jurisprudence, do not cover all aspects of government, and in particular do not deal with the keeping of good order or the means of defending the country. Like the Sunnīs the Imāmī ʿulamā had to contend with powers who established themselves without the benefit of religious sanctions. Their response was largely one of passivism, following a dictate of the Sixth Imām not to engage in revolutionary activity.⁷ The major works of fiqh up to the 16th century studied by Calder discussed the principles of government service twice, once under a just and rightful sultan, and once under a sultān al-jaur. The just sultan can, almost certainly, only be the Imām. However, a treatise by Sharīf al-Murtaḍā (d. 1044) studied by Madelung, appears to conclude that a ruler who recognises the Imāms and applies their commands, that is the sharīʿa, could be recognised as

6. J.F. Eliash, 'The Ithnā 'ashara-shīʿī Juristic Theory of Political and Legal Authority', Studia Islamica XXIX 1969, p. 26.
7. W. Madelung, 'A treatise of the Sharīf al-Murtaḍā on the legality of working for the government', BSOAS XLIII Part 1 1980, p.18.

just. Such a ruler, in Madelung's view, acquired a 'derivative, functional legitimacy' and was entitled to the support of the community.⁸ It may perhaps be understood that such a ruler would also be a Shi'ite. Up till the 16th century, the Shi'a lived largely under Sunnī government, and jurists on the whole took the view that it was permissible to take office as long as it was possible to implement Shi'a law and to protect the Shi'a community. They considered they were applying the law not on behalf of the ruler but on behalf of the Imām.⁹

Before the establishment of the Safavid empire in 1500 A.D. there had been no extensive long lasting Twelver Shi'ite state. The Safavids claimed descent from the Imām Mūsā, as well as employing the title Zill Allāh, Shadow of God, like Sunnī rulers before them. They thus asserted their right to rule on two counts, the first on behalf of the Imāms by descent, and the second by direct appointment from God, a claim which required no further validation and disposed of all intermediaries. The fundamental Imāmī theory remained unaffected by these aspirations and the religious claims of the Safavid Shahs were hardly even mentioned and certainly not condoned by Safavid works of jurisprudence.¹⁰ Nevertheless the elevation of Shi'ism to the religion of the state brought major changes in its relationship with the temporal power. The security of the state was regarded as bound up with the right religion so that unorthodoxy was severely dealt with. The ʿulamā participated in the organisation of the state as they had not previously done, and many of them gave tacit support to the

8. Ibid., p.30.

9. Binder, 'Proofs of Islam', op. cit.

10. Calder, op. cit., p.90.

temporal power. Modarressī has shown that under the Sunnīs the Shī'ī 'ulamā were rarely given government grants, most of which came from the kharāj.¹¹ Under the Safavids, however, the Shī'a received large sums as pensions and grants, so that kharāj became a main source of livelihood. This led Shaikh 'Alī al Karakī, one of the leading mujtahids, to argue in 1510 A.D. that the imposition of kharāj and its disbursement among believers was lawful. His attitude to the ruler, however, remained ambivalent. He did not regard the government as legitimate, yet frankly acknowledged that the 'ulamā owed much of their power and prestige to the support of Shi'ite kings.¹²

The mutual cooperation of religious estate and government was most clearly expressed in the royal appointment of the Sadr or leading 'ālim. He was charged with the disbursement of clerical revenues from which he gained great power. Another leading 'ālim was the Shaikh al-Islām, who adjudicated in all civil matters.¹³ From such offices, and those of qāzī, as well as many lesser positions bestowed by government patronage, a wealthy and influential religious class grew up.

During the Safavid period there were a variety of opinions on the relationship of religion and state. Chardin reports that on the one hand there was the commonly held view that the Shah drew his authority from God:

'That the King is God's representative and the Prophet's in guiding the people; and that the Sadr and all other clerics must not interfere in the government or politics.'¹⁴

11. Modarressi, op. cit., p.144.

12. Ibid., p.157.

13. J. Chardin, Voyages en Perse et autres Lieux de l'Orient (Paris 1811), VI, p.48.

14. Ibid., VI, p.48.

On the other hand he states that the 'ulamā and the pious believed the royal power to have been usurped. Officials of the 'urf courts were correspondingly held to be ministers of a tyrannical power founded only on force.¹⁵ Chardin also reports an opinion that accords to the 'ulamā a greater authority than the execution of their sharī'a duties. It was that during the occultation true authority belongs only to a mujtahid - a man who possesses sanctity and knowledge beyond all others.¹⁶ Since the mujtahid would be a holy and peaceful man, there must be a king who carries the sword for the exercise of justice, but he would be like a minister to the mujtahid.

The first of the great Safavid mujtahids, Muḥammad Baghir Majlisī (d. 1699), recognised the necessity of cooperation with the temporal power and admitted the interdependence of religion and de facto government: he wrote:

'Know that justice 'adl of kings and amirs is one of the greatest things conducive to the well-being of man. The justice and righteousness of kings and amirs is the cause of the righteousness of all the people....It is related by a reliable source that the Prophet said, "There are two classes (ṣinf) in my community such that if they are righteous and worthy my community will also be righteous, and if they are corrupt, my community will also be corrupt".'¹⁷

These two classes were the fuqahā and the umarā'. Majlisī was not concerned with the right by which kings arrive at their position, but he saw their authority as being validated by the performance of certain functions connected to the religion. Majlisī saw subjects and rulers as having mutual rights and duties. The subjects were to show the king respect, pray for his welfare and not oppose his authority. Kings had corresponding duties:

15. Ibid., VI, p.47.

16. Ibid., VI, p. 216.

17. Quoted in A.K.S. Lambton, State and Government in Medieval Islam (OUP 1981), p.283.

'Know that kings who follow the true religion have many claims upon their subjects, whom they protect and whose enemies they repel, and whose religion, lives, wealth and honour are safe through the protection of kings.'

From the phrase 'kings who follow the true religion' it would seem that this theory applied to Shi'ite rulers. It would seem also that the foremost obligation of the ruler was protection.

By the late Safavid period it would seem, therefore, that there were a number of different theories on the relation between the religion and state. There was the fundamental, jurisprudential theory that the Imām is the only legitimate ruler and all others are unjust; there was the view that a king who exercised the sword in the service of Shi'ism had a qualified authority as long as he recognised the superiority of the mujtahid as reflected in Chardin; and there was Majlisi's view that fuqahā and umarā' must combine in enforcing righteousness, and that the first duty of the ruler was to defend the Imāmī faith. These last two views may have derived from strands of thought that always existed alongside the fundamental theory, or they may represent the response to the arrival of a powerful Shi'ite state.

An examination of the 19th century, with which this study is most closely concerned, reveals a diversity of opinion among the 'ulamā on the nature of their relations with the state, and among ordinary Shi'ites on the authority of the mujtahids themselves.

The position of the 'ulamā vis-a-vis the Qajars was stronger than it had been under the Safavids. Shi'ism, of which they regarded themselves as the legitimate custodians, had become the predominant religion of the land. Also many of their number, following the instability in Iran in the 18th century, resided in the Shrine cities in Ottoman Iraq

outside the control of the Iranian government.¹⁸ The Qajars, like the Safavids, appointed the official representatives of the 'ulamā in the main towns, the Shaikh al-Islām and the Imām Jum'ā, but as Lambton has remarked they never had the institutional control over the 'ulamā exercised by the Safavids in such appointments as the Ṣadr.¹⁹

In addition, as Algar has shown, the mujtahids were strengthened by a reformulation of their role which had taken place in the 18th century.²⁰ This emerged as a result of a dispute between the Uṣūlī and Akhbārī branches of Imāmī Shi'ism over the functions of the mujtahid. The Akhbārī school was founded by Muḥammad Amīn Astarābādī (d.1626/7), and came to dominate Shi'ite jurisprudence by the beginning of the 18th century to the point where there is no mention of important mujtahids in the history of Shī'ī law during the middle of the 18th century. The Akhbārīs rejected the paramount role of the mujtahid as incompatible with the authority of the Imām, and considered the use of ijtihād reprehensible. They rejected the division of the community into muqallid and mujtahid, in favour of the idea of all believers being muqallid to the Imām. They preferred to rely only on guidance through the interpretations of traditions reporting the judgement of the infallible Imāms. Bayat has pointed out that Akhbārī doctrine represented a reaction to the power acquired by the mujtahids.²¹ De Gobineau mentions

18. A.K.S. Lambton, 'Quis Custodiet Custodes? Some Reflections on the Persian Theory of Government', Studia Islamica VI 1956, p.143.

19. Ibid., pp. 142-4.

20. Algar, Religion and State, op. cit., pp. 33-36.

21. M. Bayat, op. cit., pp. 21-2.

that Akhbārī theory enabled the adoption under the title of the opinion of the Imāms, ideas that were not strictly orthodox, and that the theory had a following amongst lesser officials and the bourgeoisie.²²

The Akhbārī theory was refuted by the Uṣūlīs, particularly Muḥammad Bāqir Bihbihānī (1705-1803 A.D.). The Uṣūlīs derived their name from the four principles or uṣūl used by the mujtahids in deducing the law,²³ to which they gave preference over the traditions and thus a more significant role to the interpretations of the mujtahids. The doctrine produced a concept of orthodoxy centred on and expounded by the mujtahids.²⁴ The principles of fiqh laid down by Bihbihānī and modified by Shaikh Murtaẓā Anṣārī (1801-1864 A.D.) applied throughout the Qajar period. The position of the mujtahids was strengthened not only against the temporal power, but in the elimination of dissent.

The authority of the mujtahid was not accepted by all ordinary Twelver Shi'ites. The end of the 18th century and the beginning of the 19th saw a resurgence of Sūfī'ism. The Ni'matallāhī order in particular gained a large following in Kerman. Since a Sūfī looks to the head of his order as the example to be emulated, and possessed of the esoteric knowledge of the Imāms, this represented a challenge to the authority of the mujtahids. According to Ma'sūm 'Alī Shāh, one of the Pīrs of the Ni'matallāhī, the sharī'a represented only the outward path of the Imāms, whilst the inner divine truths were found in Sūfī'ism.²⁵ Ma'sūm 'Alī Shāh also questioned the validity

22. De Gobineau, Les Religions et les Philosophies dans l'Asie Centrale (Paris 1866), p.30.
23. M. Bayat, op. cit., pp. 21-2.
24. Algar, Religion and State, op. cit., pp. 33-6.
25. Ibid., p. 37.

of the fatvās of the mujtahids because of their frequent contradictions, and claimed that Islam, being perfect, stood in no need of the ʿulamā. Another Pīr, Nūr ʿAlī Shāh, considered that the power of the Qutb of order was greater than that of any ruler.²⁶ The influence of the Niʿmatallāhīs seems to have reached the highest in the land. The ʿulamā of Gilan complained to the Shah that the Governor there and his chief official had adopted the Niʿmatallāhī cause, and that the sharīʿa was being undermined.²⁷ Fath ʿAlī Shāh was not personally antipathetic to Ṣūfīism, but the ʿulamā nevertheless persuaded him to suppress the movement, as Malcolm explained:

'They have always succeeded in convincing his judgement that the established religion was necessary to the support of the state, and that nothing could be more dangerous than the progress of a spirit of infidelity, which, by unsettling men's minds, was calculated to throw them into a state of doubt and ferment.'²⁸

The persecution of the Niʿmatallāhīs provides an interesting example of the collaboration of ʿulamā and state and the manner in which they understood their interests to be intertwined. It also has implications for the position of the ʿulamā on the legitimacy of the Shāh to be discussed below.

A few of the Niʿmatallāhīs found refuge in the court of of the Valīʿahd ʿAbbās Mīrzā, and one of their disciples, Ḥājī Mīrzā Āqāsī won ascendancy over the mind of Muhammad Shāh (1834-1848 A.D.). Indeed the Shah seems to have looked upon him

26. Nūr ʿAlī Shāh, Hidāyat Nāma, an unpublished letter quoted in N. Pourjavady and P. Lamborn Wilson, Kings of Love: The Poetry and History of the Niʿmatullāhī Sufi Order (Tehran 1978), p.117.
27. Mīrzā Muhammad Taqī Sipihr, Lisān al-Mulk, Nasīkh al-Tavārīkh, ed. J. Qāʿim Maqāmī, I, p. 44
28. J.A. Malcolm, A History of Persia (London 1815), 2 Vols., II, p.414.

as his Qutb, considering him 'the pole of the firmament of sharī'at and ṭarīqat' and 'the source of revelation and excellence.'²⁹ This would be consonant with the view that the authority of the ruler is second to that of the qutb, but Hājī Mīrzā Āqāsī does not seem to have pressed the point. In a letter to the Shah he refers to him as 'Pādishāh- i islām- panāh ki vālī-yi amr allāh ast'. (Pādishāh Protector of Islam who is the Guardian of the Command of God)³⁰ which although not very clear, seems to be close to the idea of the Shah as the Shadow of God, and does not seem to denote any particular Sūfī idea of kingship. Algar has maintained that the Shāh's open profession of Sūfīism endangered the standing of the 'ulamā, but as he afterwards admits, the Shah's beliefs were probably no more than a mild irritant to them.³¹ This was probably because Sūfīism as a popular force had ceased to be a serious threat to their own authority. Moreover Muḥammad Shāh was a pious ruler who ordered his court to attend the mosque every Friday.³² Hājī Mīrzā Āqāsī himself encouraged the 'ulamā of the provinces to come to Tehran so that it might develop into a centre of learning.³³ His chief enemies were the umarā', other politicians like himself, and it was they who brought about his downfall.

In the early part of the 19th century a further challenge to the authority of the mujtahids emerged from Shaikhism. The founder of this sect, Shaikh Ahmad Aḥsā'ī (1753-1826 A.D.)

29. Lisān al-Mulk, op. cit., II, p.40.

30. H. Sa'ādat Nūrī, 'Hāj Mīrzā Āqāsī, Pt.4, Yaghmā, No.184 1342/1963-4, pp. 357-8.

31. Algar, op. cit., p.107.

32. Lisān al-Mulk, op. cit., II, p.211.

33. Sa'ādat Nūrī, op. cit., Pt.9, Yaghmā, No. 190 1343/1964-5, pp. 65-7.

insisted that the source of all his knowledge was the Imāms themselves.³⁴ He believed knowledge was acquired through a visionary perception of the Divine, which he held much superior to the mujtahid's use of discursive reasoning. He also rejected the mujtahid's judgement as humanly fallible and denounced taqlīd. Ahsā'ī propounded the doctrine of the Perfect Shī'a, rare beings, specially guided by the Imām to act as authoritative examples for the faithful. Any necessary change in the Holy Law comes from the Imām through the perfect Shī'a. Indeed the Shaikhīs accorded more authority to the Imams than the orthodox,³⁵ using direct inspiration from them to form a chain of authority that by-passed the mujtahids.

Three leading 'ulamā passed the takfīr (excommunication) against Shaikh Ahsā'ī, and the Shaikhīs were forced to moderate their opinions, at least outwardly, particularly after the rise of Bābism (see below). However they remained active and Muzaffar al-Dīn Shāh (1896-1907) was said to have Shaikhī proclivities as a young man.³⁶ It is possible that some of those active in the cause of reform in 1905 in Tehran were Shaikhīs. One of the members of Nāzīm al-Islām's secret society cited Shaikh Ahsā'ī and other Shaikhī writers as authorities in a speech at one of the meetings, which was accepted without comment by the others present.³⁷

34. M. Bayat, op. cit., p.38.

35. A.L.M. Nicholas, 'Le Cheikhisme', Revue du Monde Musulman X 1910, p.513.

36. H. Sa'ādāt Nūrī, 'Muzaffar al-Dīn Mīrzā va Shaikhīgarī', Vahīd, V No.3, 1346/1967-8, p.290.

37. Nāzīm al-Islām, op. cit., I, p.296.

The most dangerous heterodoxy to emerge in the 19th century was Bābism, which arose from the claim of Sayyid 'Alī Muhammad in 1843 to be the Bāb, or Gateway to the Hidden Imām.³⁸ The Bāb issued laws and regulations like a prophet in a book called the Bayān, the decrees of which purported to explain the essence of the Divine Word. The Bāb was regarded as the head of the faith and the temporal sovereign of the world. Certain Muslim tenets were no longer held obligatory, such as formal prayer, fasting at Ramaẓān, and the avoidance of certain foods. Bābism appealed to all classes and seems to have meant different things in different regions. In Mazandaran in 1850 the downfall of the Qajar dynasty was decreed, and was linked to the number of Qajar princes and the money needed to support them. 'Ulamā and government combined to suppress Bābism in a vigorous campaign. The followers of the Bāb divided into two, Azalīs and Bahā'īs of which the former were to be very active in the agitation leading to the Constitutional Revolution.³⁹ One prominent preacher, and member of the Qajar family, Shaikh al-Ra'īs, was reportedly a Bahā'ī, but otherwise the Bahā'īs followed a quietist policy.⁴⁰

The persecution of the Sūfīs and the Bābīs highlights the interdependence of religion and state, for if right religion helped guarantee political stability, it also needed

38. For a discussion of Bābism see Sheil to Palmerston, No. 20, 12th Feb. 1850, FO 60/150, and No. 72, 21st June 1850; M. Momen, The Bābī and Bahā'ī Religions 1844-1944 (Oxford 1981); W. McElwee Miller, The Baha'i Faith (California 1974). It is not entirely clear whether the Bāb was claiming to be the Gate to the Imām, or the Imām himself, in other words a major manifestation of the Diety; see W.M. Miller, op. cit., pp. 15-16.

39. Keddie, 'Religion and Irreligion', op. cit., pp. 267-74.

40. Momen, op. cit., p. 364.

the coercive power of the state to enforce it. A persistent complaint of the 'ulamā against the state in the latter part of the 19th century was that the government was not sufficiently diligent in suppressing heterodoxy, particularly Bābism. The 'ulamā also did not have the means to protect the country and Shi'ism against foreign invasion, nor at this stage the inclination to assume such a responsibility. The practical alternatives to a Shi'ite ruler were possibly Sunnī rule, more likely anarchy, or even worse, infidel domination.

In the 19th century the 'ulamā were not only stronger vis-à-vis the temporal power because of the reformulation of the role of the mujtahid but also because, unlike the Safavids, the Qajar dynasty, which established itself in 1785 A.D. did not claim legitimacy by right of descent from the Imāms. The true basis of Qajar rule was power, as is illustrated in the coronation ceremonies of the Qajar Shahs, in which the 'ulamā played little part. Āqā Muḥammad Qājār (1785-1797 A.D.) was considered eligible to assume the title of Shah when he had conquered most of the lands ruled by previous Shahs. At the ceremony, 'he put on the royal regalia at the request of his well-wishers, being the assembled princes (umarā') and learned men (fuḏalā)',⁴¹ According to another account he put on the sword of the conqueror and mounted the jewelled throne, and promised to rule 'in the manner of former kings and customs of past sultans'.⁴² Malcolm explains that the sword had a particular significance as it was:

'Consecrated at the tomb of the holy founder of the Suffavean family; and he became, by that act, pledged to employ the sacred weapon in defense and support of the Shi'ah faith.'⁴³

41. Riḏā Qūlī Khān Hidāyat, Rauḏat al-Safā-yi Nasīrī (Tehran 1270-4q./1853-60), I, p.291.

42. Lisān al-Mulk, op. cit., I, p.44.

43. Malcolm, op. cit., II, pp. 287-8.

The Shah's rule was thus based on power, but at the same time the coronation emphasized the Shī'a character of the new dynasty, and the function of the Shah as defender of the faith. The coronation of subsequent Qajar Shahs followed a similar pattern. Fath 'Alī Shāh also donned the royal regalia, and in addition promised to rule justly.⁴⁴

Muhammad Shāh (1834-1848 A.D.) and Nāṣir al-Dīn Shāh (1848-1896 A.D.) were similarly confirmed in office by the recognition of the powerful.⁴⁵ Muzaffar al-Dīn Shāh mounted on the throne in the presence of all the dignitaries of the state. The role of the 'ulamā had grown a little more prominent as the Kayānī Crown, now recognised as the rightful crown of Iran, was placed upon the Shah's head by the Imām Jum'a.⁴⁶ At Muhammad 'Alī Shāh's coronation the mujtahids sat whilst everyone else stood. When the Shah ascended the throne they rose and in the name of God hailed him as Shah. He, however, placed the crown on his head himself.⁴⁷ The Qajar coronation ceremonies were therefore based on the crown as the symbol of power, and the recognition of the powerful, including the 'ulamā as notables. In 1908 Muhammad 'Alī Shāh stated quite plainly that his ancestors had conquered Iran by the sword and he intended to keep it by the sword.⁴⁸ The ceremonial at court was also deliberately intended to enhance the power of the Shah. As Malcolm commented:

'The nature of absolute power requires that it should be supported by a continued revival of the impression of its high and almost sacred character. Many of the usages of Persia are calculated to produce this object: Everything connected with the royal name or authority is treated with respect that is increased by the form which attends it.'⁴⁹

44. Lisān al-Mulk, op. cit., I, p. 52.

45. Lisān al-Mulk, op. cit., II, p.14, p. 29; Hidāyat, op. cit., X, p. 457, p. 461.

46. Ṣahīr al-Daula, op. cit., p. 41.

47. Spring Rice to Grey, No.22, 30th Jan. 1907, FO 371/303 No. 5274.

48. Marling to Grey, No. 146, 17th June 1908, FO 416/37, No.53.

49. Malcolm, op. cit., II, p.564.

The later Shahs also used descent to stress their right to rule in such titles as al-sultān bin al-sultān.

Nevertheless the Qajars recognised the need for a legitimising doctrine for their authority, and like the Safavids before them they claimed to be the Shadow of God upon earth, zill allāh. In so doing they were asserting that they derived their authority directly from God, by-passing any intermediaries including the Imāms. As Fath 'Alī Shāh (1797-1834) expressed it, God:

'Gave glory and adornment to our princely person of blessed attributes through the sultanate, and the caliphate and the rulership of the world.⁵⁰

and Nāsir al-Dīn Shāh claimed:

'We consider the rayahs to be a trust given on the part of the Almighty and the means by which we hold our sovereignty.⁵¹

Such a claim had no validity according to the fundamental Imāmī doctrine whereby all authority must derive from the Imāms. The idea of an all-powerful Shah, with his authority bestowed by God, was not acceptable to most of the 'ulamā. Probably for this reason the Qajars did not insist on the title Zill Allāh, as will be discussed later.

Algar has argued that the 'ulamā viewed the Shāh from the fundamental de jure position that he was a usurper, and that the state was not legitimate, and no doubt some of them did. As Calder has pointed out, however, the potential opposition in the idea of nā'ib-i 'āmm was rarely stressed. He has shown how, within the works of jurisprudence themselves, some kind of modus vivendi with the temporal power was

50. A. Lambton, 'Quis Custodiet', op. cit., p. 143.

51. Thomson to Derby, No.56, 20th April 1875, FO 60/371.

recommended.⁵² Thus, for example, it was considered permissible to work for a usurper if he be relatively just, or to accept the proceeds of taxes collected by the officials of the 'unjust' ruler. Such notions continue to assume, however, that the ruler is fundamentally unjust.

For the nineteenth century certain treatises have come to light which suggest that many, if not most, of the 'ulamā did not carry the fundamental juristic theory into practice. Realising the advantages of being ruled by a Shi'ite power, they sought, in different ways, accommodation with the state. But the de facto power of the Shah, and the de facto recognition of it by the 'ulamā, was not enough. A need was evident for some theoretical recognition of the Shah's authority and the 'ulamā's cooperation with him. The problem was how to give the Shah such authority without weakening the fundamental juristic theory. There developed a number of what might be termed accommodatory theories which helped gain acceptance for the rule of the Shah. Most of these attempted to take the problem out of the restraints imposed by the traditional context of fiqh, and study it within new parameters.

One such theory is propounded in the Irshād-nāma addressed to Fath 'Alī Shāh by Mīr-zā Abu'l Qāsim Qummī (d. 1815-16 A.D.), one of the leading 'ulamā of his day. Mīr-zā Qummī addresses the Shāh as Shadow of God but gives careful qualification to the term.⁵³ He avoids any implication of divine power and attributes, and discusses it instead in the sense of exemplary emulation. Thus the Shah had a duty to be just and to set a high moral example recalling the attributes of the Creator.

52. N. Calder, 'Accommodation and Revolution in Imami Shi'i Jurisprudence: Khumayni and the Classical Tradition', Middle Eastern Studies, XVIII No.1 1982, p.5.

53. Lambton, 'Some New Trends', op. cit., pp. 114-118.

In enjoining the Shah to protect his subjects and care for the needs of the weak, Mīrzā Qummī says it is incumbent on him because God has placed this duty upon him. He adds that God has created all men equal but made one his deputy (jānishīn) with special responsibilities. Thus according to Mīrzā Qummī the Shah's authority derives from God:

'The principle (aṣl) of kingship is derived from the decree (taqdīr) of God.'

But it does not follow that every action committed by a king was made necessary by divine decree. Kings would be rewarded and punished in the next world for the manner in which they carried out their responsibilities.

Mīrzā Qummī's theory is interesting in that he sees rulers as having duties in the performance of which they also have God-given authority. They do not act as agents or intermediaries, even of the Prophet or the Imāms. The argument seems to be that the possession of power itself confers certain God-given responsibilities. One of the king's primary purposes is to protect the world of men, whilst the purpose of the ʿulamā according to Mīrzā Qummī is to guard the religion from all forces that might weaken it. Qummī seems to see a division of authority between the ruler and the ʿulamā. Likewise, the carrying out of duties, particularly the function of protection, is an important part of kingship.

If Mīrzā Qummī found validity for the Shah's rule outside the sharīʿa chain of authority, Shaikh Jaʿfar Najafī (d. 1821) found a place for him within it, albeit with a strictly limited and probably temporary role.⁵⁴ When the Russians threatened Iran in the early 19th century, ʿAbbās Mīrzā approached the ʿulama for fatvās sanctioning a jihād.

54. Lambton, 'Jihād' op. cit.; E. Kohlberg, 'The Development of the Imāmī Shīʿī Doctrine of Jihād', ZDMG, CXXVI 1976, pp. 64-86.

The mujtahids responded by making explicit their claim to be collectively the Deputy of the Imām, nā'ib-i 'āmm-i imām and declared Fath 'Alī Shāh their Special Agent, nā'ib khāss. The argument as stated by Shaikh Ja'far was that offensive jihād could only be instigated by the Imām, but defensive jihād was the responsibility of the mujtahids in the absence of the Imām. If they were not present they could appoint another to lead the jihād and whoever disobeyed him, disobeyed them, and therefore the Imām, the Prophet and God himself.⁵⁵ As a mujtahid Shaikh Ja'far gave permission to Fath 'Alī Shāh to take such measures as were necessary, including the collection of land tax, and the canonical tax, zakāt, to repel the infidel.

The fatvās issued by the 'ulamā were collected in a volume entitled Risāla-yi Jihādiyya. A treatise on the Risāla by Abū'l Qāsim, the second Qā'im Maqām, son of the famous minister of that title who served the Valī'ahd, 'Abbās Mīrzā, explains that it was put together by order of Fath 'Alī Shāh so that at a time of infidel threat the opinions on the subject might be easily available for reference.⁵⁶ It acknowledges that the approval of the 'ulamā for jihād is essential.

'A sign has been revealed to the most learned 'ulamā that the blessed person of his majesty should in this time that the Imām is absent act as the Special Agent of the General Agency, and in order that the commands of the government should carry the utmost weight, he should take over the sword of jihād of the Imams.'⁵⁷

Qā'im Maqām emphasises that the Shāh's functions in the service of Islam are to act as the keeper of good order and the keeper of the religion in addition to his being the pillar of the kingdom and the shāhanshāh of the world.

55. Lambton, 'Jihad', op. cit., p. 189.

56. Abū'l Qāsim Qā'im Maqām, Munsha'āt-i Qā'im Maqām (The Correspondence of Qā'im Maqām), Tehran 1337/1958-9, p. 294.

57. Ibid., p. 294.

The concept of the Shah as nā'ib-i khāṣṣ-i nā'ib-i 'āmm does not appear to have been pursued by either side. As Lambton has commented the mujtahids gave the Shāh only temporary validity to act as leader in a particular jihād. To the Shāh there was little advantage in seeking permanent recognition of such a subordinate role.

Arjomand has recently drawn attention to an important treatise on the relations between religion and the state by Sayyid Ja'far ibn Abī Ishāq Kashfī (d. 1850) and entitled Tuḥfat al-Mulūk. In it Kashfī seems to argue more clearly than anyone else so far known for a division in the spheres of authority of the 'ulamā and the Shāh. During the occultation of the Imām the two main functions of the Imamate, religious leadership and the wielding of power, pass to two groups who act as his deputies, the 'ulamā and the rulers:

'The mujtahids and the rulers both hold the same office which office is that of the Imamate, transferred to them from the Imām through the Viceregency (niyābat) and consisting of two pillars (rukṅ) 'knowledge of Prophetic matters which is called religion; and the implementation of the same in the course of imposing order on the world, called kingship or sovereignty.'⁵⁸

Both these are found in the Imām, and should co-exist in his Deputy, but the 'ulamā, because of the opposition of rulers, have abandoned sovereignty and the power of the sword, and rulers have yielded to the 'ulamā understanding and interpretation in matters of religion. It is in the interests of both to maintain this consensus, for when it breaks down the 'ulamā suffer from the stagnation caused by disorder, and the ruler is left with mere power. Then both groups fail to discharge their office. Using a tradition derived from the Imām 'Alī, Kashfī asserts that the 'ulamā and the rulers were each a 'Special Deputy' (nā'ib-i khāṣṣ) of the Imām, the one in the matters of knowledge ('ilm) and the other in the matter of the sword. One of the conditions of kingly rule and for the 'Special Deputyship' is justice.

As Arjomand has commented this theory provides religious legitimisation for the ruler only in the sphere of his own functions, and was not intended to confer any religious authority upon him. Certain elements in the theory, including the division in functions and the duty of the ruler to impose order, have been noted in earlier writers, Majlisī and Qummī. They also stressed justice although they did not make it a precondition of office. In the earlier theories, however, the Shāh's authority to carry out his duties came from God, whereas Kashfī introduced the idea that it derived from the Imām. The Shāhs do not, however, seem to have taken up the idea that they were Special Deputies of the Imām claiming, as mentioned above, that they derived their authority from God. Enough is not yet known about the views of the ʿulamā in Qajar times to say how far this theory found acceptance among them.

The idea of a separation of powers was put forward by Mullā ʿAlī Kanī in a letter to Nāsir al-Dīn Shāh in 1873. In it he denies an accusation by the Shāh that the ʿulamā are overstepping their authority.⁵⁹ He asserts the Imām's function of power (salṭanat) and knowledge (ʿilm) have become divided in Occultation. During that time God had appointed a nāʾib for each of the Imām's functions - the ʿulamā are to fulfil the duties relating to knowledge, and the Shāh those relating to law and order and protection of the subjects. Kanī differs from Kashfī in saying that the ruler derived his authority from God and not from the Imām, a more nebulous and therefore less dangerous, justification of the royal power.

The mutual dependence of religion and state, and their close relationship were stressed by Shaikh Fażlallāh Nūrī (c. 1840-1909 A.D.). In Suʾāl va Javāb first published

59. Ibid., p.56.

sometime before 1892 and purporting to repeat the views of Mīrzā Hasan Shīrāzī, who led the opposition to the Tobacco Concession in 1891 he takes up the topic of seditious ideas:

'During the periods when the government (daulat) and (the leadership of) the community (millat) was fixed in one person, it was his responsibility to carry them out. Now, through the exigencies of the divine ordinances, each of these duties is in separate hands, so it is the responsibility of each, with the assistance of the other, to guard and preserve the religion and the world of worshippers (dīn va dunya-yi 'ubhād) so that the roots of Islam may be protected in the absence of the Imam.'⁶⁰

He goes on to say that if one of the responsible entities, the government, is slow to act, the other, the community (millat), must encourage, intimidate and threaten it until it does so. By the community it is probable that he meant their leaders, the 'ulamā. The theory in effect propounds an active role for the 'ulamā in the political sphere, when necessary, whilst recognising the authority of the Shah. The main point of friction was likely to be whether the Shah considered matters had reached the point where they might interfere, or not.

In a fatvā issued in 1908 in support of Muḥammad 'Alī Shāh, Shaikh Faḡlallāh again took up and elucidated further the question of the division of the authority of the Prophet:

'Prophecy (nubuvvat) and power (salṭanat) differed in the earlier prophets. Sometimes they were united and sometimes separate. But the truth of the matter was otherwise in the blessed existence of the most great messenger and Seal of the Prophets and his successors.'⁶¹

Then, due to a series of accidents, these two principles, that is the application of the religious precepts and the wielding of power became separate:

60. Shaikh Faḡlallāh, Su'āl va Javāb, op. cit., pp. 61-2

61. Malikzāda, op. cit., IV, p.217

'In truth these two are supplementary and complementary to each other, and the foundation of Islam depends on them. Without these two Islamic precepts (ahkām-i islāmiyya) that is deputyship in the affairs of prophecy (niyābat dar umūr-i nabaviyya) and power (salṭanat) the religion would collapse.'

Shaikh Faḡlallāh then defines the nature of worldly power:

'Worldly power (salṭanat) is the authority to execute the commands of Islam, on which justice depends. And in Islam promises and threats such as applying the prescribed penalties (iqāmat-i ḥudūd) are both the work of the executive, although warning is more its concern.'

He goes on to say that anyone desiring justice must support the two groups which sustain the religion, that is the ʿulamā and the sultans.

Shaikh Faḡlallāh does not seem to have followed Kashfī in claiming the Shah was a Special Deputy, nor does he state that the Shah derived his authority from God. Indeed he does not seem to concern himself with the justification or lack of it whereby the ruler arrives at his position. The sultanate conferred a responsibility on its holder, to execute the commands of Islam, for which the ruler was presumably answerable to God. And because of this responsibility the people are bound to obey him. Like Majlisī he recognised the need for coercive power to sustain the religion, and believed that the justice and righteousness of the community depended not only on the ʿulamā, but also on the powerful, the sultan and the umarā. He follows Majlisī, Qummī and Kashfī in seeing a division in functions as between the ruler and the ʿulamā, the primary duty of the former being to keep order.

Another ʿālim who upheld the authority of the actual government and one who did not agree that all rulers were usurpers was Muḡammad Rafiʿī Tabāṭabāʾī, Niḡām al-Islām Tabrīzī. In his treatise Huḡuq-i Duval va Milal (The Rights of Governments and Peoples) written in 1887, he

discussed the question of not helping a ruler who is a usurper, and a pretender to the imāmate. He said that governors who are rightful (ahl al-ḥaqq) and whose intentions are good, are not included in the precepts on the governors being usurpers, and it was therefore obligatory to obey them. But he also concluded that the Sultan must in any case be obeyed:

'The Prophet himself said, "Obedience to the Sultan is obligatory, and whoever disobeys the Sultan, disobeys God.....For power is necessary to protect the country and its people. This cannot be done except by a government. For this reason they must not delay in paying their taxes and other dues for the well-being of the country, and the order, peace and progress of society depend upon the payment of taxes (māliyāt). And their payment is an act of devotion (ṭā'at).'⁶²

So a member of the Shiite ʿulamā reaches the same conclusion as the Sunnis on the necessity for coercive power and unquestioning obedience to it, though unlike the Sunnis he does not accord it legitimacy.

Sayyid Muḥammad Ṭabāṭabāʾī (1841-1918) believed that the traditional system of government was not adequate either for defending Shi'ism or for ensuring just government. The one true Shah was the Imām of the Age,⁶³ but since he was absent and no one knew when he would return, Ṭabāṭabāʾī, like others before him, was forced to consider what form of government was best for the temporal polity in default of the ideal. He was one of the first mujtahids to turn to Western political thought for a solution. He said that in order to understand the true meaning of salṭanat it was

62. Niẓām al-ʿUlamā Tabrīzī, 'Ḥuqūq-i Duval va Milal' (The Rights of Governments and Peoples) in Ādamiyyat and Nātiq, Afkar-i Ijtimaʿī, op. cit., pp. 68-70.

63. Nāzim al-Islām, op. cit., I, p. 453.

necessary to study the new science ʿulūm-i jadīd. Influenced by ideas on constitutional government he gave to salṭanat a meaning closer to sovereignty than to temporal power. The Shah, in his view, was appointed by the people on condition he keep good order and protect the country. If he failed the people would remove him and appoint someone else in his place.⁶⁴

Similar ideas were put forward by Muḥammad Husain Nāʾīnī (1860-1936 A.D.) who also stated that the ideal government was that of the Imām. Of the alternatives he argued in favour of constitutional government. He defined tyrannical rule as consisting of three kinds of injustices: injustice to God; injustice to the Imām; and injustice to the people. Constitutional rule consisted of only one kind of injustice, that which applied to the Imām.⁶⁵ Thus if all government was illegitimate in the absence of the Imām, constitutionalism provided the least reprehensible alternative.

None of the theories mentioned above were accepted by all the ʿulamā, or had the complete agreement of the state. But, by the end of the nineteenth century, before Western ideas made a major impact, there appears to have been an approximate consensus on the practical relations between religion and state. This consensus is reflected in the correspondence, rescripts and other documents of the time. The well being of the general community (ʿamma-yi millat), government (daulat), monarchy (salṭanat) and country (mamlakat) were seen as interconnected. The role of the Shah in ensuring this well being is reflected in the title most frequently used for him, Protector of Islam. Thus

64. See Chapter IV for further discussion.

65. Hairī, Shīʿism and Constitutionalism, op. cit., p. 103.

Mīrzā Hasan Āshtiyānī addressed the Shah in a letter in 1891 as 'shāhanshāh-i islāmiyān panāh', Shāhanshāh Protector of Muslims.⁶⁶ His contemporary in Najaf, Mīrzā Hasan Shīrāzī, referred to the Shah as 'shāhanshāh-i islām panāh'.⁶⁷ In a letter from various ʿulamā to the Shah in 1906 he is called 'Pāsbān-i millat va ḥamī-yi shariʿat' the Guardian of the Community and the Protector of the Shariʿa.⁶⁸ Shaikh Faḡlallāh Nūrī, writing to a colleague in the ʿAḡabāt calls him 'shāhanshāh-i dīn panāh'. The Shah was occasionally also referred to as 'Sultān-i Islām'.⁶⁹ Correspondingly Iran is called 'mamālik-i maḡrūsa-yi Īrān', the protected lands of Iran.⁷⁰ Āshtiyānī defined the functions of the Shah in his letter as:

'Protector of the true religion and guardian of the law of the Prophet, the foundation of the government.....The establishment of his government and the strength of his authority perpetuates the safety and security which are the greatest benefit from God.'⁷¹

Nasir al-Dīn Shāh put the point more bluntly:

'Without the state (daulat) your wives and children would be seized by Russian cossacks, Ottoman soldiery, the British army, or Afghans and wolves.'⁷²

Elsewhere the Shah is referred to as the executor of the shariʿa, the protector of the religion and the preventor of sedition.⁷³ Muzaffar al-Dīn Shāh likewise regarded his

66. Nāzim al-Islām, op. cit., I, p. 24.

67. Ibid., I, p. 36.

68. Ibid., I, p. 364.

69. Ibid., I, p. 40.

70. Ibid., I, p. 36.

71. Ibid., I, p. 24.

72. Ibid., I, p. 23.

73. Malikzāda, op. cit., IV, p.229, p. 235.

function as primarily one of protection:

'God has entrusted the protection of the Kingdom of Persia to us - it is also necessary for us, whilst making it our duty to look after the Kingdom and protecting the subjects, to be constantly careful.'⁷⁴

The Shah referred to the ʿulamā as the 'well-wishers of the government and the leaders of the community'.⁷⁵ Āshtiyānī called them 'the leaders of the religion and the community' ruʿasā-yi dīn va millat.⁷⁶ They also acted as intermediaries with the 'mardum-i ʿavām', the ordinary people. The view of the division of function between the ʿulamā and the Shah already noted in ʿulamā theories found an echo in the opinion of the state. Zill al-Sultān, Nāṣir al-Dīn Shāh's eldest son wrote:

'There are two sorts of influence, one of which is moral such as the Prophet enjoys, and the other consists in the possession of material force.'⁷⁷

It was recommended that the Shah and the ʿulamā must cooperate for the good of Islam. Thus some of the ʿulamā wrote in 1908 to Muḥammad ʿAlī Shāh:

'By the firm order of the creator of the world, the protection of the foundations of Islam throughout the centuries is in the trust of the Sultan of the age and the exalted ʿulamā'.

Āshtiyānī explained to Nāṣir al-Dīn Shāh that when he saw a matter was contrary to the good of the government and the community, and would weaken the country and the sultanate,

74. Hardinge to Lansdowne, No. 119, 7th Aug. 1903, FO 60/666.

75. Nāẓim al-Islām, op. cit., I, p. 366.

76. Ibid., I, p. 24.

77. Lascelles to Rosebery, No. 12, 18th Jan. 1893, FO 60/542.

he would contest it. What destroyed the independence of the sultanate would also demolish the foundations of the religion. The problem was that Shah and ʿulamā did not always agree on what was good for the community and when the religion was in danger. Thus the ʿulamā sometimes interfered in affairs where the Shah felt they had no right.

On the whole, however, the rulers and most of the ʿulamā seem to have agreed on certain points. One of these was that they had separate functions, the ʿulamā being responsible for matters of religion and interpretation of the sharīʿa, the Shah for the protection of the community and the keeping of good order. The Shah was also expected to uphold the Imāmī sharīʿa and, in so far as he did so, was not treated as illegitimate or unjust. The vexed questions of whether or not he held a legitimate position according to Shiite jurisprudence, whether he was a 'just sultan', and whether he was appointed by God, were allowed to lapse.⁷⁸ A similar sort of accommodation was arrived at in Oudh in India, where the rulers and mujtahids cooperated to establish and organise a Shi'ite state.⁷⁹

78. The term sultān-i ʿādil was used on rare occasions of the actual ruler; see for example Shirāzi to Nāṣir al-Dīn Shāh in Nāṣim al-Islām, op. cit., I, p. 37. Nāṣir al-Dīn Shah on the sample of coins I have examined, seems most frequently to have employed the title 'al-sultān bin al-sultān'; see H.L. Rabino 'Album of Coins, Medals and Seals of the Shahs of Iran 1500-1941' (Hertford 1945) and R.S. Poole 'Catalogue of Coins of the Shahs of Persia in the British Museum (London 1887).

79. S.A. Ahmad, Two Kinds of Awadh (Aligarh 1971), p. 129. There is some evidence that the ruler of Oudh regarded himself as the Deputy of the Imām, but it is not clear whether this was acceptable to the ʿulamā there; see J.N. Hollister, The Shi'ā of India (London 1953), p. 97 and p. 130.

CONCLUSION

The evidence on the theoretical basis of the relationship between the ʿulamā and the state in 19th century Iran is still incomplete, but it would seem there was no one standard theory. From the point of view of the Shah it was recognised that the basis of Qajar rule was power, but since some form of legitimisation was necessary the Shah claimed to have authority from God. There is a view that the ʿulamā were hostile to the Shah, basing their opposition on the theory that his government was illegitimate, being a usurpation of the powers of the Imām. This view has been greatly exaggerated. The evidence does not suggest that this theory, evolved in the sphere of jurisprudence, was applied in the world of practical politics by the ʿulamā as a body. Whilst some, no doubt, adhered to it literally, as Algar has mentioned, others, recognising that in this imperfect world there must be a distinction between ideal theory and practice, sought accommodation with the ruler. And in consequence they developed accommodatory theories to lend acceptance to his rule and their support of it. Although the Shah was, on occasions, referred to as 'sultān-i ʿādil' the question of justice and its connection with the ruler's legitimacy was on the whole avoided. The Shah's right to unquestioned authority and to consequent obedience rested on the satisfactory performance of two main functions, the keeping of order and the protection of the Imāmī sharīʿa and its adherents.

There are strong indications that in the 19th century a partnership developed between the ʿulamā and the state based on the cooperation in the upholding of Imāmī Shi'ism. The Shah fulfilled the functions of protection, whilst the ʿulamā were guardians of the sharīʿa and guides of the community, with a consequent division in authority. Their mutual enemies were the seditious within and the infidel or Sunnī aggressors without. This partnership came under stress,

not because the ʿulamā regarded the Shah as illegitimate, but because they considered he was failing to perform his necessary functions to their satisfaction. The existence of an approximate agreement on the division of authority and the mutual recognition of each other's position as valid, may explain why, at the time of the Constitutional Revolution, the ʿulamā did not raise the question of the Shah's legitimacy.

The majority of the population does not seem to have questioned that the Shah was legitimate. As Weber has argued, legitimacy may be bestowed in different ways depending on the type of normative system. In a modern order it is bestowed by positive enactments of recognised legality. In a traditional order such as Qajar Iran, authority rests upon an established belief in the sanctity of immemorial traditions and the legitimacy of the status of those exercising authority over them.⁸⁰ In such orders there is a connection between authority and the use of certain kinds of regulatory utterances, gestures and symbolic acts. In Qajar Iran the performance of acts such as those exemplified in the coronation ceremony, and the keeping to the traditions in such matters as religious observance, and the performance of such functions as defense legitimised the authority of the Shah within the state.

80. M. Weber, Law, Economy and Society, ed. M. Rheinstein (Harvard 1954).

CHAPTER II

THE SOCIAL AND ECONOMIC POSITION OF THE ʿULAMĀ

In 19th century Iran members of the ʿulamā held positions of varying importance. At their head were the mujtahids, followed by ordinary mullahs, vuʿāz or preachers, rauża khvāns, religious rhapsodists, and at the lower end sayyids, descendents of the prophet, and tullāb, students. In the Safavid period this order had to some extent been institutionalised under the Ṣadr, but in the Qajar period the organisation of the religious classes was more informal. Normally there was no one acknowledged head of the Twelver Shīʿa. Only Shaikh Murtaḏa Anṣārī (d. 1864), and Mīrzā Hasan Shīrāzī, from the time of the protest against the Tobacco Concession in 1891 till his death in 1895, seem to have held the position of marjaʿ-i taqlīd of all the Twelver Shīʿa.

Of the mujtahids, those in the Shrine cities in Ottoman Iraq held preeminence, whilst within Iran the mujtahids of Tehran looked upon themselves as taking precedence over their colleagues in the provinces.¹ As mentioned in the previous chapter, each mujtahid had a following of ordinary Shiʿites or muqallids, who were required to emulate him and to whom he was thus a marjaʿ-i taqlīd. The mujtahids' duties included giving judgement in legal matters, executing wills, supervising endowments, giving advice on ritual observance, distributing khums and zakāt, and teaching tullāb. According to Malcolm they were meant to be protectors of the weak against the strong, exemplary in their conduct, and free of all connections with the Shah or government officials.² In

1. Hardinge to Salisbury, No.58, 7th May 1897, FO 539/76 No. 74.

2. Malcolm, op. cit., p. 443.

Malcolm's time there were only about five mujtahids in the whole country, but by 1890 Curzon reported that numbers were much less restricted,³ and Āqā Najafī Qūchānī, speaking of the turn of the century in his autobiography, complained of the ease with which certificates or ijāzas were awarded so that people might become mujtahids.⁴ In Tehran, at the beginning of the century, there were about twelve persons claiming the title of mujtahid, of whom three or four tended to be more prominent at any one time. In theory a mujtahid was expected to combine exemplary character with great learning. In practice many mujtahids inherited their positions; thus in Tehran, in the period under study, the influential mujtahids Bihbihānī, Ṭabāṭabā'ī, Murtaẓā Āshtiyānī and Ṣadr al-ʿUlamā, all succeeded their fathers in office.⁵ Nevertheless they had all undergone a course of study, for which most mujtahids in Iran went to the Shrine cities.⁶ The life of Āqā Najafī Qūchānī reveals the immense difficulties of attaining the rank of mujtahid without pecuniary assistance or family connections.

In practice a mujtahid tended to specialise in some duties and not in others. This depended in some measure upon his place of residence. Isfahān and Mashhad were known as teaching centres, although the Shrine cities were the real centres of learning. All the great mujtahids there held classes, and Āqā Najafī Qūchānī found the teaching of Ākhūnd Mullā Khurāsānī in Najaf of a much higher standard than the

3. G.N. Curzon, Persia and the Persian Question (London 1892), p. 452.
4. Najafī Qūchānī, op. cit., pp. 212-3.
5. I. Safā'ī, Rahbarān-i Mashrūṭa (Leaders of the Constitutional Movement), Tehran 1344/1965-6, p. 173, 207; M. Bāmdād, Sharḥ-i Ḥal-i Rijāl-i Irān dar Qarn 12, 13, 14 Hijrī (A Dictionary of National Biography of Iran from 1700-1960), Tehran 1347/1968-9, I, p.241.
6. Curzon, op. cit., I, p.452. The leading mujtahids of Tehran at the period under study had all spent some years in the ʿAtabāt.

level he had experienced at Mashhad and Isfahān.⁷ Of the mujtahids of Tehran only Shaikh Faḏlallāh is reported as giving regular classes,⁸ whilst the others appear to have concentrated on legal and administrative duties, as well as a role of leadership in the community.

Ideally a mujtahid might attain religious leadership of his particular city by exhibiting the necessary qualifications of learning and qualities of character. In practice pre-eminence depended on a variety of factors. One of the most important was wealth as shown by the example of Āqā Najafī, the foremost mujtahid of Isfahān, noted neither for his learning nor his character, but immensely rich.⁹ Another factor was a devoted following. Thus when the leading mujtahid of Mashhad died in 1896, the battle for his position depended upon the number and character of the adherents of each protagonist, as well as on their influence.¹⁰ In Tehran rivalry amongst the ʿulamā became entangled with political rivalries, and much was to be gained from good contacts in the higher bureaucracy. The rise to prominence of both Bihbihānī and Shaikh Faḏlallāh was much assisted by their respective connections with Amīn al-Sultān and ʿAīn al-Daula.

In addition to following a local mujtahid most Twelver Shiites appear also to have been mugallid to a mujtahid in the Shrine cities. Thus Ḥāj Mīrzā Husain Ḥāj Mīrzā Khalīl

7. Najafī Qūchānī, op. cit., p. 294.

8. See Iʿtimād al-Saltana, Mīrzā Muhammad Hasan Khān, Ruznāma-yi Khaṭirāt (The Diary of Iʿtimād al-Saltana), ed. I. Afshār, Tehran 1345/1966-7, p. 1046; Nāẓim al-Islām, op. cit., I, p. 321.

9. Biographical Notes 1906, p. 61.

10. Elias to Durand, Mashhad Diary for 31st July and 4th Sept. 1896, in FO 248/632.

was the marja'-i taqlid of Tehran and its districts.¹¹ Pilgrims to the Shrine cities brought alms to the mujtahid they regarded as their marja'i taqlid.¹² This emergence of influential maraja'-i taqlid in the 'Atabat, such as Shirazi, was particularly due to improvements in communications which enabled khums, formerly expended locally, to be paid direct to the mujtahids of the 'Atabat.¹³ Money could be sent straight to them by telegramme from members of the 'ulamā, merchants or notables.¹⁴ Although there was usually no overall leader of the Twelver Shiites, precedence was given to the most aged of the learned mujtahids, for which reason Ḥāj Mīrzā Husain who was around ninety years of age, was sometimes referred to as the most eminent mujtahid at the time of the Revolution.¹⁵ Hindsight has created a list of maraja'i taqlid¹⁶ but again at the beginning of the century the lists drawn up by the British in reference to the Oudh bequest, and based on specific questioning of the mujtahids of the 'Atabat, do not reveal any one person as leader.¹⁷ After the death of Ḥāj Mīrzā Husain, Ākhūnd Mullā Khurasānī and Muhammad Kāzīm Tabātabā'i Yazdī were both considered the most respected.¹⁸

11. Najafī Qūchānī, op. cit., p. 366.
12. Ibid., p. 434.
13. A.K.S. Lambton, 'A Reconsideration of the Position of the Marja' al-Taqlid and the Religious Institution', Studia Islamica XX 1964, p. 132.
14. Yaghmā'i op. cit., p. 240.
15. M. Malikzāda, op. cit., II, p. 47.
16. M. Fischer, Iran: From Religious Dispute to Revolution (Harvard 1980), p. 252.
17. Newmarch to Hardinge, No. 63., 24th Feb. 1903, FO 248/801 No. 31.
18. Ramsay to the Government of India Foreign Dept., No.153, 13th Feb. 1909, quoted in J. MacPherson, 'Summary of Events in Turkish Arabia', 5th. Dec. 1910, No. 1084, p. 10, L/P & S/10/77, India Office Records.

One mujtahid in each city who occupied a unique position was the Imām Jum'ā, the official link between the government and the 'ulamā. He was powerful as long as the government was strong, but in times of instability, his prestige sank considerably and he could remain isolated and discredited. In addition to being in Tehran pīshnamāz, or prayer leader, of the main mosque, the Masjid-i Shāh, he received from the Shah rich yaqf endowments, such as the wealthy Madrasa-yi Khān Marvī. Like many other offices the title of Imām Jum'ā was usually held by one family, the son of each incumbent being confirmed in his position on his father's demise. Zain al-'Ābidīn was still a child when his father died, but his uncle took over his duties until he came of age, and was appointed Imām Jum'ā by the Shah.¹⁹ The Imām Jum'ā's were similar to the al-Bakrī family in Egypt in holding an office confirmed by the state for several generations. Their relationship with the state was, however, less systemised than that of the Al-Bakrī. Both had administrative control of rich government auqāf, but in the case of the Imām Jum'ā this appears to have been limited to the supervision of funds from specific endowments under his jurisdiction, whilst registration of the Dīwān al-Auqāf in Cairo depended on the recommendation of the Al-Bakrī.²⁰ No evidence has yet emerged that the Imām Jum'ā had such close links with the Dīwān-i Auqāf in Tehran. One of the Imām's main roles was to act as a channel of communication, and important government announcements on matters relating to the religion were made in the Masjid-i Shāh.²¹

19. Dūst 'Alī Khān, Mua'yyir al-Mamālīk, 'Zain al-'Ābidīn Imām Jum'ā', Yaghmā, Year 12 No.12 1338/1959-6, pp. 565-576.
20. F. de Jong, Turuq and Turuq Linked Institutions in Nineteenth Century Egypt (Leiden 1978), p. 32.
21. G.W. Brasswell, A Mosaic of Mullahs and Mosques: Religion and Politics in Iranian Shi'ah Islam, Ph.D. Thesis, University of North Carolina 1975, p. 209.

The two main functions of an ordinary mullah were to give classes, and to act as pīshnamāz, or prayer leader, of a local mosque. As a teacher ustād in a madrasa his function was purely educational. As a pīshnamāz he had more general duties, including administration, distribution of alms, occasionally giving sermons, counselling in sharī'a matters, and giving classes. In the villages classes were taught by the mullah and included the alphabet, arithmetic, and recitation of the Quran in Arabic.²² Sermons in the mosque were often preached not by the pīshnamāz, but by a vā'iẓ or preacher. These latter formed an important group as their function was not only to expound upon religious themes, but to spread propoganda, often of a political nature. During the Revolution, Ḥāj Shaikh Mahdī, Sulṭān al-Mutakallimīn, acted as propogandist for the pro-constitutional mujtahids Bihbihānī and Tabātabā'ī, and Sayyid Akbar Shāh, having served the same cause, switched to the anti-constitutionalists. In Isfahan, Shaikh Murtaẓā was known as the mouthpiece of Āqā Najafī.²³ A popular preacher would draw crowds to a mosque adding to the prestige of the pīshnamāz. For this reason the Imām Jum'a of Shīraz asked Ḥāj Mīrzā Naṣrallāh Bihishtī, known as Malik al-Mutakallimīn, to preach in his mosque,²⁴ and Sayyid Jamāl al-Dīn Isfahānī was for the same reason invited to preach in the Masjid-i Shāh in Tehran. The oratorical skills of the vā'iẓ were also enlisted in personal rivalries amongst the powerful. Sayyid Jamāl al-Dīn Isfahānī was invited to speak in favour of Shu'ā al-Daula in Shīraz,²⁵

22. Curzon, op. cit., II, p. 493; see also Qūchānī, op. cit., p. 26.

23. Aganoor to Durand, No. 5, 1st March 1898, FO 248/676.

24. M. Malikzāda, Zindigānī-yi Malik al-Mutakallimīn (The Life of Malik al-Mutakallimīn), Tehran 1325 /1946-7, p. 58.

25. I. Yaghmā'ī, op. cit., pp. 14-15.

and was given a title by both Zill al-Sultān and Muḥammad 'Alī Mīrzā, rivals for succession to the throne, for extolling their virtues, the one whilst in Isfahān, the other in Tabriz.²⁶ Malik al-Mutakallimīn acted as propagandist and agent for Prince Sālār al-Daula.²⁷

During the 19th century in Iran virtually the only form of education was religious, and many who completed their course of study, entitling them to the name of mullah, did not perform religious duties. Malcolm noted that they followed various occupations and did not class themselves with the 'priesthood'.²⁸ These occupations included study and literary pursuits. A number of the reformist 'ulamā in the constitutional period belonged to this group, including Nāzīm al-Islām Kirmānī, who edited a newspaper before the Revolution, and Majd al-Islām who was for a while in the employ of the notable, Sa'd al-Daula and the merchant, Mu'in al-Tujjār.²⁹

Another group who made a living from religious affairs were the rauza khvāns or religious rhapsodists, who performed at ceremonies on holy days, particularly over 'Āshūrā. These ceremonies were often used for political purposes, both as a pretext for gathering an audience and as an opportunity for incitement. Shaikh Faḡlallāh used the pretext of a rauza khvān on the anniversary of the death of the Prophet's daughter, Fatima, to draw together the opponents of the abolition of tuyūl.³⁰ Sayyid Akbar Shāh employed the same tactic in his

26. Ibid., pp. 11-12.

27. Majd al-Islām Kirmānī, 'Ṣafha'ī az Tārīkh-i Mashrūta' (A Page from the History of the Constitutional Movement), Yaghmā, Year 4 No.6 1330/1951-2, pp. 257-62.

28. Malcolm, op. cit., p. 575.

29. Nāzīm al-Islām, op. cit., II, p. 328.

30. Kasravī, op. cit., p. 374.

campaign of opposition to the constitution.³¹ On another occasion a rauža khvān was held to celebrate an alliance between two groups of roughs in Tehran.³²

The lowest ranks of the 'ulamā were the sayyids, descendents of the Prophet, and ṭullāb, students. Mujtahids who were sayyids had slightly greater prestige than those who were not. There were, however, many poor sayyids who lived on alms. Some of them had occasional duties such as giving readings from the Quran. They were supervised by an official known as the Naqīb al-Sādāt, whose duties were to divide up khums contributions collected from the various mosques and to punish offenders on the part of the government.³³

The ṭullāb formed the major part of the 'ulamā numbering in Tehran between one to two thousand.³⁴ After beginning at the local maktab they passed to a madrasa where they studied the various branches of fiqh, the text and commentaries on the Quran, some philosophy and the discourses of the learned. Different teachers taught different subjects. According to Āqā Najafī Qūchānī the quality of teaching varied greatly and classes were often disorderly. He considered the lessons of the famous Āqā Najafī of Isfahan to be 'noisier than a women's bath-house'.³⁵ He was able to join classes wherever

31. Nāzim al-Islām, op. cit., II, p. 89.

32. Muhākamāt, 15th Muharram 1326.

33. A. Amin, 'Irān dar Sāl 1311 Hijrī Qamarī' (Iran in the Year 1311 A.H.), Majalla-yi Barrasiha-yi Tarikhi, Year 9 No. 4 1353/1974-5, pp. 75-100.

34. Daulatābādī calculated that these were about 2000 'ulamā in the madrasas of Tehran; see Des Graz to Lansdowne No. 107, 21st July 1902, FO 60/651.

35. Najafī Qūchānī, op. cit., p. 162.

he chose with little or no formality. On the other hand supervision was at a minimum, and he spent two years as the student of Khurasānī in Najaf before he submitted any work for inspection.³⁶ Places in a class were easily found but there was fierce competition for the cells of the madrasa, frequently leading to quarrels.³⁷ Both tuition and residence were free. Āqā Najafī Qūchānī was critical of his fellow students, saying they were often ignorant and even contemptuous of knowledge, that they studied where it was financially fruitful and that they preyed upon pilgrims at the shrines.³⁸ According to the British Consul in Mashhad they were not necessarily young men, and many would remain students all their lives, living on the endowments of the college to which they were attached.³⁹

Family connections and intermarriage were strong, at least amongst the higher ʿulamā, and may have influenced their political position. Generally the lead was given by the senior mujtahid, lesser and junior persons falling in behind him. Marital links are more noticeable amongst those who supported the government. Thus Bihbihānī took bast in the Shrine of Shāh ʿAbd al-ʿAzīm accompanied by his son-in-law, Muhsin, and the latter's brother, the mujtahid Ṣadr al-ʿUlamā. Another son-in-law, ʿItimād al-Islām was active in the movement. Ṭabāṭabāʿī brought with him his brother, Sayyid Aḥmad, with his family as well as his own three sons. He was also accompanied by the mujtahid Murtaẓā Āshtiyānī, and the latter's brother, Muṣṭafā. Generally Ṭabāṭabāʿī and Bihbihānī acted as the spokesmen for their following so it is difficult to ascertain if individual members had a different standpoint.

36. Ibid., pp. 372-3

37. Ibid., p. 309.

38. Ibid., p. 213, p. 160, pp. 367-8.

39. Ringler Thomson to Durand, Mashhad Diary, 10th May 1895, FO 248/612.

The 'ulamā enjoyed a privileged position, particularly the mujtahids, whom it was difficult for the government to curb. As Shaikh Faḡlallāh told the followers of Bihbihānī when they came to enlist his support for the opposition to the government in November 1905, the ṢadrīA'zam could not touch Bihbihānī but he could destroy them.⁴⁰ Likewise members of the secret society to which Nāẓim al-Islām belonged complained that it was all very well for him to conspire against the government as he was under the protection of Ṭabaṭabā'ī but they were entirely vulnerable.⁴¹ A powerful mujtahid was in a position to give sanctuary to opponents of government policy in his house as Ṭabaṭabā'ī did for both Malik al-Mutakallimīn and Āqā Sayyid Jamāl al-Dīn. The 'ulamā as a whole, however, had a certain immunity from punishment, even when engaged in quarrels that disturbed the peace and embarrassed the government. In 1903, after a disturbance between the students of two rival schools, the ṢadrīA'zam and the Governor of Tehran had them punished in a manner they considered a slight to their dignity and despatched to prison in Ardebil. The 'ulamā at once united in indignation as, until that time, such an incident had never been punished with such severity, particularly where sayyids were involved.⁴² The 'ulamā guarded their privileged position jealously, as when in 1904 students beat the nephew of the ṢadrīA'zam for what they considered maltreatment of one of their number.⁴³ Āqā Najafī Qūchānī also reports rigorous objection by sayyids and students against 'maltreatment' or punishment by the state authorities.⁴⁴ One privilege which was determinedly defended

40. Nāẓim al-Islām, op. cit., I, p. 272.

41. Ibid., I, p. 280.

42. Ibid., I, p. 213.

43. Hardinge to Lansdowne, No. 150, 16th Aug. 1904, FO 60/682.

44. Najafī Qūchānī, op. cit., p. 61.

against all attempts by the state to abolish it was the right of sanctuary, particularly in the house of a mujtahid. A typical dispute arose in 1876 when some servants of the Imām Jum'ā of Tehran, who had taken sanctuary in his house, were bastinadoed in his presence, so that he suspended public prayers and withdrew from the city.⁴⁵

The ʿulamā were most privileged, however, with regard to their financial position. They had resources, derived from the religious foundations, their sharʿ offices, and the canonical taxes, which rendered them completely independent of the state. The most lucrative source of income came from the vaqf or religious foundations, reckoned at the turn of the century to be 4,000,000 tomans, that is approximately half of the total state revenue.⁴⁶ This was, of course, a rough estimate, as in the absence of government control, little was known of the real value of vaqf properties, and the system of accounting was obscure. There was no government control or registration as for example existed in Egypt. The foundations consisted of landed property and its income, left for the building and maintenance of religious schools, mosques, shrines and tombs. The land could also be used for commercial enterprises such as shops and caravanserais. Vaqf property was, however, not equally distributed throughout the country, and the Shrine at Mashhad, for example, received about \$235,000 per year,⁴⁷ which was proportionately greater than the income from vaqf elsewhere.

45. Thomson to Derby, No.113, 5th Aug. 1876, FO 60/380.

46. M. Durand, 'Memorandum on the Situation in Persia', 27th Sept. 1895, Part I Section 6, FO 60/566 (Henceforward 'Durand Memorandum').

47. Donaldson, op. cit., p. 183.

The management of vaqf revenue rested primarily with the legal trustee mutavallī who might be a mullah or an ordinary layman, and who was theoretically responsible for the trust; in practice misappropriation of funds was not unknown, and indeed happened at one of the madrasas attended by Āqā Najafī Qūchānī, where the mutavallī was subsequently removed.⁴⁸ All foundations had to have a mutavallī but he might be appointed in a variety of ways. The bequeather might designate himself as mutavallī and the office pass to his heirs. He might on the other hand appoint another person in whose family the office would then become hereditary, though possibly to be confirmed in each generation by the heirs of the bequeathers.⁴⁹ The mutavallī might have carried out his duties with the cooperation of a mujtahid, who was sometimes referred to as the nāzir, supervisor. Occasionally the bequeather designated the nāzir in the vaqfnāma or deed of endowment.⁵⁰ Of the two the mutavallī appears to have had the firmer authority. The deed of endowment also usually specified how the money was to be spent, the most frequent items listed being upkeep and fuel, with a certain proportion, usually a tenth, going to the trustee, and sometimes a further tenth to the nāzir. The remainder might be spent amongst the poor if the property was a mosque, and the teachers and students if it was a madrasa.⁵¹ The students of a school did not always receive a stipend from the endowment, though they might be provided with fuel.⁵² The mujtahid was allowed discretion in disbursing the income he received from a vaqf, which might be disbursed among the poor, his students, or even his family.

48. Najafī Qūchānī, op. cit., p. 77.

49. A.K.S. Lambton, Landlord and Peasant, (O.U.P. 1953), p. 231.

50. M. Sutūda, Az Āstārā tā Istarbād (From Āstārā to Istarbād), Tehran 1353/1974-5, VII, pp. 513-6, 552-56.

51. Ibid., pp. 506-12, 552-6.

52. Ibid., pp. 513-6.

According to two leading mujtahids of the 'Atabāt, the income they derived from the Oudh bequest was intended for charitable purposes, for the maintaining and aiding in the creation of mujtahids, and for maintaining those family members and adherents of the mujtahid who were without support.⁵³ Vaqf lands might be sold if greater profits accrued to the religious body thereby.⁵⁴ Shaikh Faẓlallāh, for instance, negotiated a sale on commercial terms of the vaqf lands of Qā'im Maqām to the Russian Road Company.⁵⁵

Certain important foundations were under the control of the Shāh who appointed the mutavallī of a shrine or school or the pīshnamāz of a mosque. This was true of the Shrines of Mashhad and Qum⁵⁶ and of certain important foundations in Tehran such as the Mosque of Sipah Sālār, which was particularly well endowed.⁵⁷ Usually in the case of such grants it was understood that the recipient's heir would be confirmed in the same office. If, however, the recipient incurred the royal displeasure, the Shah could remove him from his office. Such an instance occurred when certain of the 'ulamā took bast in the Shrine of Shāh 'Abd al-'Azīm in December 1905. The Shah dispossessed Mīrzā Murtāzā Āshtiyānī of the lucrative Madrasa-yi Khān Marvī and bestowed it on the Imām Jum'ā who had remained loyal to the government.⁵⁸ Evidently the Ṣadrī A'zam also had a say in the disposal of vaqf property, for this same school had previously been held by the father of the Imām Jum'ā, who lost it when he incurred the enmity of Amīn al-Sultān.

53. Ramsay to the Secretary of the Government of India Foreign Dept., No. 153, 12th Feb. 1909, L/P & S/10/77 India Office Records.

54. Lambton, Landlord, op. cit., p. 234.

55. Nāzim al-Islām, op. cit., I, p. 637.

56. Ringler Thomson to Durand, Mashhad Diary, 25th Jan. 1895, FO 248/611; Lascelles to Salisbury, No. 117, 15th July 1892, FO 60/532.

57. Lambton, Landlord, op. cit., p. 234.

58. Daulatābādī, op. cit., II, pp. 15-16.

There were fierce struggles amongst the 'ulamā for control of vaqf property where the office of mutavallī had fallen vacant, because of the income and influence to be gained from making the appointment. Usually a mujtahid held particular influence in the quarter where he lived and would thus have the best chance of attaining control of any vacant religious office in that area. The numerous students dependant on the mujtahid formed the front line in such battles. Towards the end of 1903 a quarrel broke out between the students of the Madrasa-yi Sadr and the Madrasa-yi Muhammadiyya over the Madrasa-yi Afsariyya.⁵⁹ Behind the students were two mujtahids, Sayyid 'Alī Akbar Tafriḡhī and the Imām Jum'ā, who were in competition for control of the Afsariyya. In Mashhad where there was a considerable amount of vaqf property, battles between rival mujtahids and their students were even more frequent.

A certain amount of vaqf income was sent to the 'ulamā of the Shrine cities. For example Khurāsānī received 2000 tomans yearly from the vaqf lands of Qā'im Maqām, which were under the supervision of Shaikh Faḡlallāh in Tehran.⁶⁰ It is not clear why he in particular received this payment, as he is not specially mentioned as a close connection of Shaikh Faḡlallāh. Connections between the mujtahids of the 'Atabāt and those of Tehran over vaqf are clearer in the matter of the Oudh bequest. This money was left by the King of Oudh for distribution amongst the pious of Najaf and Karbalā by the King of Oudh, who had nominated the British Government as trustee. The money was given to a particular mujtahid for distribution, but in 1902 Newmarch, the Political Agent in Baghdad, was ordered to reorganise the distribution on more regular lines.⁶¹ This produced fierce competition amongst the

59. Nāzim al-Islām, op. cit., I, pp. 211-2.

60. Ibid., I, p. 637.

61. Newmarch to Hardinge, No. 63, 4th Feb. 1903, FO 248/801 No. 31.

'ulamā there. The news travelled quickly to Tehran, and Hardinge, the British Representative, was besieged by requests from members of the 'ulamā with friends and relatives in the 'Atabāt to have them put on the list of recipients.⁶²

A further means of financing the religious estate was by the contributions of the faithful. The most significant of these were the canonical payments of khums, the share of the Imām, amounting to one fifth of the donor's yearly income, and zakāt, alms. Khums and zakāt were originally supposed to have been paid to the Imām, but in his absence, there being no other legitimate authority, they were paid to the mujtahids. Indeed, the mujtahid had the right to demand zakāt and it was incumbent upon the faithful to pay him.⁶³ Distribution of zakāt, other than through a mujtahid, or his agent, did not carry the same spiritual credit. Khums and zakāt were thus important not only as a source of income but also in that their method of payment was a recognition of the role of the mujtahid. Distribution of the religious payments also gave the mujtahid great influence. On the other hand payments were made not only for religious reasons, but because of the mujtahid's ability to represent the grievances of the less powerful classes. If he failed in this function, religious payments might be withdrawn, or given elsewhere, so the mujtahid was to some extent directed by his followers.⁶⁴ It is noticeable that at the time of the Constitutional Revolution the 'ulamā formed constellations around a leading mujtahid, each of whom had his own following of mullahs, students, sayyids and preachers. He also tended to dominate religious affairs in his own quarter. This may reflect the movement of funds in collection and disbursement by the mujtahid.

62. A. Hardinge, op. cit., p. 373.

63. Calder, Jurisprudence, op. cit., p. 121.

64. See Fischer, op. cit., p. 95, for illustration of the influence of the muqallid on the mujtahid in present day Iran.

The ‘ulamā also received a much less considerable income from government stipends and pensions. In 1895 it was reckoned that about 500,000 tomans were disbursed by the government to members of the ‘ulamā, ṭullāb and sayyids. No demands were made upon the recipients of pensions, who carried out their studies or duties independent of government control.⁶⁵ The basis for awarding a pension was usually either personal contact or hereditary right. At the death of a pensioner a third of his pension passed to his heir, but usually the payment of a sum to the Shah ensured that the pension continued for another life. Several attempts were made to reform this state of affairs, as in 1903 when Amīn al-Sultān tried to suppress hereditary pensions descending through daughters as well as sons, but such measures had little effect. Many ‘ulamā were also ṭuyūldār, or fiefholders, that is to say they were in receipt of a grant from the government. Such grants varied, being sometimes a grant on the revenue attached to a certain office; sometimes a grant of khālīṣa or crown lands in lieu of salary; or a grant to collect taxes in a given area which might be crown property, or the property of a third person, or that of the person to whom the ṭuyūl was granted.⁶⁶ In the last case it amounted to an immunity from taxation. Āqā Najafī Qūchānī obtained such an immunity for his father for several years on condition the money remitted went to subsidize the son's religious studies.⁶⁷ In another case a member of the ‘ulamā was permitted 264 tomans per year from taxes due on his land for his own account, any revenue in excess being due to the local treasury.⁶⁸

65. 'Durand Memorandum', Part I Section 6.

66. Lambton, Landlord, op. cit., p. 139.

67. Najafī Qūchānī, op. cit., p. 199.

68. M.A. Karīmzāda-Tabrīzī, 'Chand Sanād-i Tārīkhī' (Some Historical Documents), Barrasīhā.-yi Tārīkhī, Year 8 No. 4 1352/1973, p. 8.

Titles as well as offices carried a stipend, the title sometimes belonging with the office and sometimes not. In 1896/7 a mullah named Sayyid Fakhr al-Dīn, who undertook religious duties amongst the royal bodyguard (the exact nature of the duties is obscure), was awarded the title Fakhr al-Ashrāf by Muẓaffar al-Dīn Shāh.⁶⁹ He was also given a grant of 7 tomans cash plus a certain amount in kind annually to be paid in addition to his salary. This sum had previously been paid to someone else, recently deceased, but it is not clear whether he had held the title as well. His duties, however, had not been the same. In this case the money came from the taxes of Khurāsān, but it was to be collected from the Royal Treasury in Tehran. The nomination was made by Amīr Bahādur Jang, the Commander of the Royal Bodyguard, but nominations were most commonly made by the Ṣadr-i Aʿẓam.

The money the ʿulamā derived from fees from legal documents and contracts was one of their most significant sources of income. As a proportion of their total income it would have varied according to the individual mujtahid or mullah, and so far no estimates for this period have come to light. One area that was particularly lucrative was the administration of government sharʿ business, which in Tehran was usually passed to one particular mujtahid.⁷⁰

The ʿulamā paid little to the state in the way of taxes. Khums and zakāt were not taxed, salaries and pensions had a duty imposed on them only just before the Revolution. As owners of land, they were, however, liable to payment of the

69. I am grateful to Dr. Mehrdad Shokuhi for giving me a photograph of this farman, which is in his possession.

70. See Nāzim al-Islām, op. cit., I, p. 210, for the example of Shaikh Faḡlallāh and ʿAin al-Daula.

land tax. But as the Governor General of Mashhad told the British Consul there:

'None of the mujtahids who were among the chief landowners in the country paid a twentieth of the revenue that could be justly demanded of them.'⁷¹

The 'ulamā were also exempt from the arbitrary levies of money exacted by high officials.⁷²

The mujtahids were often very wealthy, and a mullah who had a secure position was relatively well-off. Students, however, frequently found life hard and precarious, unless they were supported by their families. Āqā Najafī Qūchānī was often without money for food, or had to sell his books to eat, or took up labouring work to earn his bread (which was regarded as demeaning for a member of the 'ulamā).⁷³ His account of the hardship to be endured is similar to that of the seventeenth century divine, Sayyid Ni'matallāh.⁷⁴ Funds came from different sources. He received small amounts from his father, but otherwise existed from the general distributions from the mujtahids, and from special gifts made to the poorer students.⁷⁵ At one point he received money from two mujtahids, one his teacher, and the other the supervisor of the school where he lived. Khurāsānī, who evidently wished to encourage serious students only gave donations to those who had attended classes for two or three years, and thus proved a serious intent.⁷⁶

71. Hardinge to Lansdowne, No. 26, 3rd March 1903, FO 60/665, Incl. I, quoting the son of the Governor General of Mashhad.

72. Nāzīm al-Islām, op. cit., I, p. 254.

73. Najafī Qūchānī, op. cit., p. 320, p. 169, pp. 75-6.

74. E.G. Browne, A History of Persian Literature (C.U.P. 1969 ed.), IV, pp. 361-6.

75. Najafī Qūchānī, op. cit., pp. 371-2, 325.

76. Ibid., p. 324.

The ‘ulamā had strong links with other groups, notably the merchants and trades guilds. These links were forged by the religious and legal services which they performed, and, where the ‘ulamā were also landowners, by economic links they had in common. Amongst the mujtahids the connection does not seem to have extended to marriage, but it did amongst the lesser ‘ulamā.⁷⁷ The ‘ulamā were looked upon as mediators between the ordinary people and the government. In conformity with the theory discussed in Chapter I that the ‘ulamā and the Shāh were partners in the good ordering of the community of Islam, the ‘ulamā were expected to cooperate with the government by acting as guides, helping quell disturbances, and passing on and explaining government policy to the populace.⁷⁸ On the other hand the ‘ulamā were also one of the main channels whereby popular grievances could be brought to the attention of the higher state authorities, and discontent be conveyed to the government. People who were victims of extortion and arbitrary acts of state officials looked for protection to the ‘ulamā, and especially the mujtahids. Thus when the Vazīr Makhsūs tried to build a ganāt (water channel) on his land without agreeing the water rights with the local villagers, some of them took bast with Bihbihānī, who succeeded in putting their point of view.⁷⁹ In 1896 when a drought caused a water shortage in Chāla Maidān, Tehran, and soldiers and water officials (mīrāb) took advantage of the situation, the local people made representations to Shaikh Faḡlallāh, who brought the problem to the attention of the Governor of Tehran.⁸⁰

77. W.M. Floor, 'The Merchants (tujjār) in Qajar Iran', ZDMG CXXVI 1976, p. 104.
78. See Nāzim al-Islām, op. cit., I, p. 28; Hardinge to Lansdowne, No. 69, 24th March 1905, FO 60/698; Barclay to Grey, No. 202, 25th Nov. 1908, FO 371/507, for examples of the Shah assigning this role to the ‘ulamā.
79. Sharīf Kashānī, op. cit., Vahīd No. 206 1356/1977-8, p. 59.
80. A.A. Jalīlvand, 'Chigūnagī-yi Āb-i Pāytakht dar Daurān-i Qājariya' (Potable Water in the Capital during the Qajar Period), Vahīd 219-20 1356/1977-8, pp. 28-40.

Often the best means whereby other classes, especially the mercantile groups, could press for a particular policy, or change in policy, was by linking themselves to an influential mullah.⁸¹ It is likely the connection took concrete form in the payment of khums and zakāt to the mujtahid or to one of the mosques from which he collected these dues. To be sure not to lose these contributions to a rival, the mujtahid had to be to some extent amenable to the wishes of his following. An ambitious mujtahid needed the financial resources for patronage, without which he could not attain prestige. Thus a mujtahid seeking influence needed to be attuned to current opinion and discontent.

There are many instances where the ‘ulamā appeared to be leading an agitation, but where in reality the pressure was coming from their following. What appeared to be a religious campaign led by the ‘ulamā against the Jews in Tehran in 1899 really originated in a competition between Muslim and Jewish shopkeepers over the piece goods trade.⁸² The foreign firm of Ralli and Son in 1865 came under attack by the chief mujtahid of Tabriz at the instigation of a combination of local merchants.⁸³ Soon after the establishment of the Imperial Bank in Isfahān a dispute with a local money changer led to an attack by the ‘ulamā on the Chief Clerk.⁸⁴ In a similar protest in Yazd the Bank was accused of 'not respecting Islam'.⁸⁵ The best example is perhaps the protest over the Tobacco Concession in 1891 where the earliest signs

81. Malikzāda, Mashrūṭiyyat, op.cit., II, p. 27.

82. Durand to Salisbury, No. 74, 26th July 1899, FO 60/609.

83. Alison to Russell, No. 71, 30th June 1865, FO 60/290.

84. Conyngham Greene to Kimberley, No. 170, 14th Aug. 1894, FO 60/559.

85. Conyngham Greene to Kimberley, No. 142, 21st June 1894, FO 60/558.

of opposition came from the tobacco merchants in Tabrīz and Shiraz,⁸⁶ and the leading mujtahid of Tabriz initially refused to preach against the Concession, much to the discontent of local merchants.⁸⁷ In Tabriz placards appeared threatening the lives of the ‘ulamā if they did not protest.⁸⁸ It is interesting to note that in Tabriz with its powerful bazaar, the ‘ulamā joined the agitation, whereas in Mashhad, where they were largely dependant on the Shrine for a living, they remained loyal to the Shah and did their best to quell disturbance.⁸⁹

The ‘ulamā could also use their influence to arouse a mob for a particular cause. They tended to provide the leadership and others the money, whereas the organisation could be undertaken by either. In Tabriz at the time of the Tobacco protest the agitation was organised by a few influential citizens among the teashop keepers and small tradesmen. A petition was circulated through the bazaars by one of the lesser ‘ulamā, his method being to give it to the head of each guild and instruct him to secure the signatures of those engaged in his trade.⁹⁰ In the campaign leading up to the bast of July 1906 in Tehran, the money came from major merchants and high officials but the organisation was carried out by the ‘ulamā and bazaaris.⁹¹ One of the mob leaders, Mahdī Gāvkuṣh, known as the 'centurion' (yūzbāshī) for his

86. Kennedy to Salisbury, No. 123, 6th May 1891, and No. 89 Tel., 27th April 1891, FO 60/553.

87. Kennedy to Salisbury, No. 128, 20th May 1891, FO 60/553.

88. Kennedy to Salisbury, No. 180, 27th July 1891, FO 60/553.

89. Kennedy to Salisbury, No. 203, 6th Oct. 1891, FO 60/553.

90. Kennedy to Salisbury, No. 202, 3rd Sept. 1891, FO 60/553.

91. See Chapter V.

ability to raise a crowd, worked for the mujtahids Bihbihānī and Ṭabāṭabā'ī.⁹² When Sayyid Akbar Shāh took bast in the Shrine of Shāh 'Abd al-'Azīm in February 1907, he was accompanied by students and roughs (not always distinguishable) paid for by the Governor of Tehran. The mob who followed Shaikh Faḡlallāh at the time of the attack on the Majlis in 1907 was both subsidised and organised by the leading roughs of Tehran under the guidance of the Shah's chamberlain, Mujallal al-Sultān.⁹³ The attack on the Russian Discount Loan Bank in Tehran in November 1905, however, was set up by a mullah, the brother of the mujtahid Mīrzā Murtaḡā Āshtiyānī, using the residents of his locality and his students.⁹⁴ The leaders of the roughs of the different quarters of Tehran, such as Ṣanī' Ḥaḡrat from Chāla Maidān, Muqtadir Nizām in Sanqlaj, and Ḥāḡ Ma'sūm in Sar Pūlak, sold their services to whoever required them. Ṣanī' Ḥaḡrat, who led the mob attack on the Majlis in 1908 at the instigation of the Shah, had only recently been working for Bihbihānī.⁹⁵ Ḥāḡ Ma'sūm, one of the Shah's myrmidons in 1908, was resident in Bihbihānī's quarter and had also been linked to the mujtahid. For this reason Bihbihānī helped him to evade punishment by the Majlis, thereby gaining prestige with certain of the residents of his own quarter.⁹⁶ Protests were also joined by strangers from the countryside, who came into town in the expectation of pillage, usually in the guise of ṭullāb.⁹⁷ There may well have been a connection between these gangs of the roughs of Tehran also known as lūtīs, and the zūrkhānas, but so far no direct evidence has emerged.

92. Nāzim al-Islām, op. cit., I, p. 442.

93. Muḡakamāt, No. 38, 15th Safar 1326.

94. Kasravī, op. cit., p. 56.

95. Ibid., p. 506.

96. Daulatābādī, op. cit., II, p. 189.

97. Kennedy to Salisbury, No. 207, 12th Sept. 1891, FO 60/553.

Whatever the real motives, the protest was usually justified in religious terms, and found legitimacy in taking on a religious form. Bihbihānī warranted his attack on Naus, the Belgian Minister of Customs, in February 1905 by saying Naus had denigrated Islam, and that this act rendered him liable to sentence of death. In the Tobacco Protest one of the cries was that the Shah was permitting kāfirs to interfere in the tobacco business.⁹⁸ In the final stages of insurgence, in July 1906, after the killing of a sayyid, Ṭabāṭabā'ī and his followers came to the mosque in winding sheets, saying they were ready to emulate the martyrdom of Ḥusain to fight oppression.⁹⁹

One of the government's responses to ʿulamā-led agitation was to buy off the mujtahids. As the state weakened during the 1890's the government was increasingly forced to use this method, pursued particularly by Amīn al-Sultān. Amīn al-Daula resisted it, though for example he bought off Mīrzā Hasan Āshṭiyānī during agitation in 1897.¹⁰⁰ His refusal on the whole to give in, however, was contributory to his fall from power. Amīn al-Sultān managed to stave off opposition to the Russian loans of 1900 and 1902 by offering financial inducements to the mujtahids of Tehran.

It is unclear quite what services the mujtahids could perform for government officials in return for the frequent requests they made on the part of their following. One of their main services seems to have been the negative one of simply resisting popular pressure, or assisting to quell

98. Kennedy to Salisbury, No. 225, 5th Oct. 1891, FO 60/553.
99. Grant Duff to Grey, No. 182, 15th July 1906, FO 371/112.
100. Hardinge to Salisbury, No. 5, 7th May 1897, FO 539/76 No. 74.

incipient disturbances. Also by judicious administration of government patronage in the form of gifts, pensions, sharʿ business, and the supervision of endowment funds, they could help to build up support for a particular minister, as Bihbihānī did for Amīn al-Sultān. Occasionally they might perform a special favour for a high official, as Shaikh Faḡlallāh did when he issued a fatvā supporting Hishmat al-Mulk's claim to his father's possessions in Qāʾin,¹⁰¹ or when he sold vaqf land to the Russian Bank at the special request of ʿAīn al-Daula.¹⁰²

The most important function fulfilled by the ʿulamā was in the delivering of sharʿ judgements. The administration of the law in Iran was carried out in two types of courts, sharʿ and ʿurf. In common with practice in most Muslim countries civil law was mainly dealt with by the sharʿ courts, and criminal cases by the state authorities in the ʿurf or customary law courts. Sharʿ cases could be tried by a mullah, and if they were important they were referred to a mujtahid. Such trials were often informal in character and usually took place in the house of the mullah concerned. Likewise there were no properly constituted secular courts of law. The ʿurf law was administered by any official of rank who might have power to enforce the execution of his judgement, competence depending on that factor alone.¹⁰³ In the villages cases were usually referred to a gathering of elders, and then tried before the head-man or local mullah.¹⁰⁴ In a town they went before a local magistrate or dargāh and serious criminal cases were put to the governor of a town or province. Authority in ʿurf legal matters was delegated from the Shah, who was the ultimate court of appeal.

101. Marling to Grey, No.224 , 9th Oct. 1907, FO 371/312 No. 35492.

102. Nāzim al-Islām, op. cit., I, pp. 324-8.

103. 'Durand Memorandum', Part I, Section 7.

104. Curzon, op. cit., I, 454.

The civil law dealt with by the shar' courts mainly covered personal law, such as marriage, divorce, wills and transfer of property. It was also concerned with religious rights and duties, and crimes against religion, such as heresy and sacrilege. In addition the courts dealt with judicial procedure. A decision was written out with a citation from the holy texts or commentators on which it was based. In giving judgement the 'ulamā were independent of, and in no way responsible to, the state authorities.

The 'urf law varied in different parts of the country, and it was unwritten since no law except the sharī'a could be written.¹⁰⁵ Little attempt was made to refer to precedent and decisions were promptly given and executed. The principal checks on government officials were dread of their superiors, and the fact that trials were held publicly.

Although criminal law was usually tried in the secular courts criminal cases of difficulty were referred to the mujtahids, who pronounced sentence according to the sharī'a. In cases where execution was decided upon, proof of guilt was taken according to the sharī'a, and sent to the Shah to obtain his mandate. With murder, however, the law of retaliation often applied, and cases were settled by compensation. After the governor had sentenced the criminal, his family requested the intercession of a mujtahid in inducing the victim's family to accept blood money.¹⁰⁶ Payments in such cases were also made to the mujtahid and the governor general.

105. Malcolm, op. cit., II, p. 439.

106. P.M. Sykes, A History of Persia (London 1921), II, p. 385.

In civil law, especially in such matters as deeds and contracts, there was a certain amount of overlap between the sharʿ and ʿurf systems. There was no special ruling to determine which courts had the power to deal with matters of this kind, and the plaintiff might present his case wherever he felt it was most in his interest to do so. A dispute over vagf property as between the Shrine of Shāhzāda Ḥusain and some of its tenants in Qazvin, which was referred to Shaikh Faḥlallāh, reveals the confusion in authority as between conflicting judgements of different mullahs, and between them and the Ministry of Justice, all of which could cause delays in the judiciary system.¹⁰⁷ At that time Shaikh Faḥlallāh's judgements supposedly carried the greatest weight.¹⁰⁸ The confusion led to rivalry between the sharʿ and ʿurf courts, the former arguing that the latter were not legitimate. Curzon reported that during the reign of Nāsir al-Dīn Shāh the influence of the sharʿ courts declined.¹⁰⁹ With the weakening of government authority in the 1890's there appears to have been a slight growth in the influence of the sharʿ courts, there being more frequent cases of their overturning the judgements in ʿurf courts.¹¹⁰ The fact, however, that the ʿulamā could not execute their own decisions, whereas the state could, gave an advantage to the secular authorities. The actual execution of the law in all cases was carried out by state officials called farāshes.

Commercial cases and civil cases concerning such matters as titles to property were frequently referred neither to the sharʿ or ʿurf authorities, but decided by private arbitration.

107. I am grateful to Dr. H. Modarressi for providing me with a photograph of this document.

108. H.A. Burhān, 'Shaikh Faḥlallāh va Dār Kishidān-i U' (Shaikh Faḥlallāh and his Execution), Vahīd No. 203 1335/1976-7, p. 876.

109. Curzon, op. cit., I, p. 453.

110. 'Durand Memorandum', Part I, Section 7.

A gathering of merchants heard both sides of the case, and after inspecting the documents, gave a decision in the nature of a compromise.¹¹¹ The verdict might be ratified by the seal of a mujtahid. The commercial law, like commercial organisation, was rudimentary compared to that which backed European capitalists. There was no insurance, or guarantee, and little hope of reclaiming lost property, with a consequent lack of confidence.¹¹² Merchants were also subject to the arbitrary actions of powerful officials.¹¹³

The government made repeated attempts at judicial reform. In the 1850's courts of justice were set up to try civil cases but soon disappeared without a trace. In 1858 and 1862 decrees were passed establishing a Ministry of Justice with provincial branches, thus introducing a new authority into the existing judicial system. Further attempts at improving the judicial system through the Ministry of Justice were made under the Sipah Sālār in the 1870's (see Chapter IV). The duties of the Ministry included the hearing of cases in the Tehran region, and the execution of judgements delivered by the 'ulamā. It also had agents in every town to take note of the local administration of the law, but since they were nearly always subservient to the local governor, they were ineffective.¹¹⁴ The Ministry also dealt with matters of commercial law, for which reason it was initially combined with the Ministry of Commerce. In the 1890's the two were separated and commercial law cases were referred to the latter. After the Shah's return from Europe in 1889, he ordered that the law be codified, and translations of the Code Napoleon, and the Indian Muslim Code were commenced but never completed.¹¹⁵ One of the main

111. Curzon, op. cit., I, p. 455.

112. Wood to Hardinge, Incl.I in Hardinge to Salisbury, No. 82, 23rd June 1897, FO 539/77.

113. Nāzīm al-Islām, op. cit., I, p. 254.

114. 'Durand Memorandum', Part I, Section 7.

115. Encyclopaedia Britannica, 1902, Persia.

problems with these reforms was finding the personnel to carry them through. The chief obstacle, however, was the opposition of the powerful interest groups, especially the ‘ulamā and the provincial authorities. As a result, beyond the formation of the Ministry of Justice, judicial reform made little progress.

Curzon noted a number of deficiencies in the Iranian judicial system.¹¹⁶ They included the confusion of judicial and executive functions, which might be carried out by the same official; overlapping jurisdiction of religious and secular courts, and the lack of distinction between their prerogatives and functions; the absence of competent tribunals to administer the law; of proper guidance for magistrates; and of a systemised legal code. It may be added that this latter point was to the advantage of the ‘ulamā and that the secular authority was weakened by the fact that the ‘urf law was unwritten, and that the sharī‘a did not exist in a form that was accessible to laymen.

The Iranian failure in legal reform may be contrasted with the work of the Ottomans over the same period, which, though imperfect, was much more advanced. The reforms included the Commercial Code of 1850, translated from the French, the Penal code of 1858 again based on the French and abolishing most of the defined punishments of the sharī‘a (hadd), the Code of Commercial Procedure of 1861, and the Maritime Code of 1868.¹¹⁷ Between 1869-79 most shar‘ precepts relating to civil matters were codified in the Mejjelle, enabling secular courts to ascertain that law. As a result all civil

116. Curzon, op. cit., I, p. 459.

117. See Coulson, A History of Islamic Law (Edinburgh 1964), p. 151; B. Lewis, The Emergence of Modern Turkey (O.U.P. 1961), pp. 107-8, 116-121.

jurisdiction, excepting that of personal status, came within the competence of the secular authorities. During the 1870's the Nizāmiyya, a new system of secular courts, was established to apply these codes. Provision was also made for new municipal councils and a municipal code.

The lack of a regular system of law, and the constant interference of mullahs and governors in commercial affairs led in 1884 to a new and unusual attempt at the reform of the commercial law. The proposal was to set up an assembly of the representatives of the merchants of Iran as a means of carrying out a programme of economic development and the encouragement of foreign trade.¹¹⁸ Its responsibilities were to include the establishing of commercial law courts. The leading merchant who proposed it, Amīn al-Ẓarb, believed that the mercantile classes should have a say in the affairs of the country, since they were its chief source of prosperity. In addition, the representatives of the merchants would cooperate with the guilds for the protection of their rights, for which it was evident, in their opinion, that one single law was necessary. The proposed assembly was to examine many projects later taken up by the Majlis. These included the development of the country's resources, the setting up of factories, the opening of mines, restrictions on foreign goods, and the establishing of a national bank.

Amīn al-Ẓarb was especially critical of government officials, who in his view lacked knowledge and experience, and were not sufficiently accountable. For this reason he wished the proposed assembly to take judicial precedence over the provincial governors in commercial affairs. It was to

118. Ādamiyyat and Nātiq, op. cit., p. 299.

give the merchants protection against arbitrary action, such as the seizure of property. Amīn al-Ẓarb was also critical of the ‘ulamā for taking bribes, and for their habit of over-ruling each others' decisions. Abroad, he commented, people did not have to pay taxes to mullahs.¹¹⁹ Some of Amīn al-Ẓarb's comments, particularly on government administration and legal failings, reflect the ideas of Malkum Khān, and are similar to criticism put forward by the mujtahid Ṭabāṭabā’ī in 1905-6.

A rescript for the formation of the Council of Merchants was issued by Nāṣir al-Dīn Shāh in August 1884. Elections to the Councils took place in September 1884. Their existence was immediately threatened by provincial governors, led by the Shah's eldest son, Zill al-Sultān, who claimed the existing system was quite adequate. Opposition from the ‘ulamā was also not long in emerging, and, in Tabrīz, Ḥāj Mīrzā Javād Mujtahid claimed that the Council's activities were contrary to the sharī‘a, and his ṭullāb began harrassing its representatives.¹²⁰ In Qazvin the Councils were labelled 'a new sedition'. The combined opposition of governors and ‘ulamā finally forced the Shah to give up the councils, which were allowed to lapse.

The lack of any written law outside the sharī‘a or even administrative regulations, meant that government in Iran was arbitrary and unsystematic. Many of the complaints of the merchants, amongst others, related to arbitrary taxation and to maladministration of the revenues. As Malcolm noted, the whole question of collecting the revenue was so closely connected with the administration of justice that the two subjects cannot be separated.¹²¹ One of the themes of the

119. Ibid., p. 302.

120. Ibid., p. 356.

121. Malcolm, op. cit., p. 470.

Constitutional Revolution, that government be regulated by law, derives from the connection between these two issues. It is also noteworthy that the cry for justice and law, so persistent among Iranian reformers, hardly occurs in the writings of their Ottoman counterparts, illustrating once again how much less developed the Iranian system was.

CONCLUSION

Under the traditional system of the Qajar state the ‘ulamā enjoyed a position of power and privilege which could hardly be possible under modern centralised government. This was particularly true with regard to taxation and the law. They paid little or no taxes on the substantial income from vaqf foundations. The canonical taxes were paid to them directly so the government had no say in the distribution of money from such a source. Their fiefholdings, salaries and pensions were likewise untaxed, though comparatively small, and the government made no exactions on their income from legal business. In addition, members of the religious classes had a greater immunity from punishment than others, this being particularly true of the mujtahids. The latter were also especially privileged in their right to give sanctuary to their followers in their own house, which they frequently used to add to their own prestige and undermine that of the government.

On the other hand, the position of the ‘ulamā was also vulnerable, and to some extent insecure. This was partly because competition amongst them for a share in their allotted sources of income was fierce. At the lower end there were many sayyids claiming alms, and many more students than there were cells and stipends. Salaries and pensions, though small and irregularly paid, were eagerly sought after. Mujtahids had to battle for a share of lucrative government shar‘ business, and control of vaqf foundations. Only a

a sizeable income would bring a mujtahid the patronage he needed. Without patronage he might be respected for his learning, but he could not attain the goals of influence and prestige which many sought.

The ‘ulamā were also vulnerable because their sources of income, apart from those they inherited, were not under their own control. Endowments, for example, could be subject to stipulations by the bequeather and his heirs. Certain wealthy bequests were the responsibility of the Shah, especially in Tehran itself. The goodwill of the Shah or of a powerful notable had often to be won to obtain a trusteeship, fief, salary or pension. The interests and policies of the mercantile classes had to be served if their religious contributions were to be retained.

The authority of the ‘ulamā in the administration of the law made them, together with the provincial governors, the chief impediments to judicial reform. Their insistence that the sharī‘a be the only written law prevented the codification so necessary to change, and without which it was impossible to set up properly regulated tribunals. Resistance by the shar‘ courts hampered efforts to make the judicial system more efficient through the institution of the Ministry of Justice. These deficiencies were most apparent to reformers from the higher bureaucracy, such as Mīrzā Malkum Khān and those whom he influenced, but the attempt to establish the Council of Merchants suggests a growing awareness amongst the merchants that the existing system did not give them the security to assist trade and development, and the protection, especially against arbitrary taxation, which they might otherwise hope for.

Overall the advantages enjoyed by the religious classes as a whole under the traditional Qajar state meant that it was in their interests to conserve what already existed, rather than champion the cause of strong modernised government.

CHAPTER III

THE 'ULAMĀ AND THE COMING OF THE REVOLUTION

In 1890, in an attempt to increase the profits of the tobacco industry, and direct some part of them into the Treasury, a concession for the monopoly of collection, manufacture and export of tobacco was sold to a British subject. This provoked combined opposition from what Keddie describes as a coalition of 'ulamā, nationalists, discontented merchants and city populations.¹ The first petitions against the Concession, however, came from the merchants in Tehran in February 1891, and later in the year from Tabriz, Mashhad and Isfahan. The pattern of protest has led Gilbar to argue that the merchants played the central role in the agitation which eventually led to the cancellation of the Concession at the cost of £500,000 in compensation to the Company.² He concluded the merchants desired to resist measures such as the Concession which would lead to increasing activity in the commercial field where they largely had a free hand. Indeed the Concession may also have seemed an agreement between the government and a foreign country to the detriment of Iranian merchants.

During the 1890's the government found itself increasingly in financial difficulties, the chief evidence of which was a deficit which grew from £50,000³ not including the debt caused by the cancellation of the Tobacco Concession of 1890 to £300, 000 by 1900.⁴ Nāṣir al-Dīn Shāh had to some

1. Keddie, Religion and Rebellion, op. cit., p. 131.
2. Gilbar, op. cit., p. 290.
3. Lascelles to Russell, No. 106, 20th June 1893, FO 60/543.
4. Hardinge to Lansdowne, 16th April 1902, FO 60/650.

extent made up the shortfall by auctioning off governorships more frequently, making about £100,000 in this way,⁵ and by vigorous demands for pīshkīsh. His milder successor tried to give up the sale of governorships as pernicious, but in addition found the provincial governors frequently neglected to send even that portion of māliyāt or land tax they were supposed to remit to the central government, so that by 1905 hardly any money was coming in at all.⁶ The only other revenue of any significance was the customs dues, which until 1898 were farmed out and made about £200,000 a year.⁷ Other dues bringing in sums of a few thousand pounds each were posts, telegrammes and passports, and the Caspian Sea royalties, worth about £20,000.⁸ The sale of concessions was supposed to bring in about £100,000, but most of this source of revenue had been forestalled as payments had been commuted for lump sums.

At the time the economic difficulties were blamed on the extravagance of the court, corruption, and a growth in the pension list. It is true that Muzaffar al-Dīn Shāh's (1896-1907) three costly trips abroad, the growth in the bureaucracy and, according to Bakhash, the greater tendency of officials to siphon off the revenues,⁹ must have contributed. The major problem, however, appears to have been inflation, the rate of which accelerated towards the end of the century rising from 23 krans in 1861, to 29 krans in 1883, 36 krans in 1889, 50 krans in 1897, and 58 krans in 1905.¹⁰ From the

5. 'Durand Memorandum', Sub Section 14.
6. Safā'ī, Asnād-i Mashrūṭa, op. cit., pp. 11-16.
7. 'Durand Memorandum', Sub Section 14.
8. Hardinge to Lansdowne, No. 69, 14th May 1903, FO 416/13 No. 366.
9. Bakhash, op. cit., p. 270.
10. Allison to Russell, No. 36, 2nd April 1861, FO 60/256; Thomson to Granville, No. 9 Comm., 18th Sept. 1883, FO 60/450; Drummund Wolff to Salisbury, No. 234, 10th July 1890, FO 60/512; C. Hardinge to Salisbury, No. 25, 15th March 1897, FO 60/584 (£5000 was estimated to be worth 30,000 tomans): Grant Duff to Lansdowne, No. 203, 12th September 1905, FO 416/ 24 No. 12.

later 1890's especially there were frequent reports of high prices and dearth of foodstuffs.¹¹ Bread riots took place in 1900¹² and indeed the high cost of living was to be a cause of hardship throughout the constitutional period.¹³

Inflation produced a sharp decline in the value of the māliyāt to the point where by 1900 prices were double those in 1876, but the value of the māliyāt had not increased at all, and the government felt too weak to enforce a reassessment.¹⁴

The abolition of the Tobacco Concession revealed the weakness of the government. Not only were there financial difficulties, but the Qajars, now remote from their tribal levies, and unable to develop or afford a modern army, had not the means to suppress protest. Amongst those who took advantage of the government's weakness in the 1890's were the provincial authorities. They not only increasingly failed to remit their taxes, but by 1900 the Russian, British and French representatives were agreed that their open disobedience to orders from Tehran was a major factor in the breakdown of the machinery of government.¹⁵ Another group who grew in power were the ʿulamā, especially some of the mujtahids. By playing upon popular discontent they were able to augment their own prestige whilst undermining the authority of state institutions, notably the Ministry of Justice,¹⁶ and the

11. Durand to Salisbury, No. 76, 25th July 1899, FO 60/609. The exact period of years is not given.

12. Nāzīm al-Islām, op. cit., I, p. 297.

13. See for example Majlis, No. 201, 2nd Nov. 1907.

14. Encyclopaedia Britannica, 1902, Persia.

15. Spring Rice to Salisbury, No. 91, 19th Sept. 1900, FO 60/618.

16. Amīn al-Daula, op. cit., pp. 225-6.

police.¹⁷ They were further able to defend their interests more rigorously both in Tehran and in the provinces.¹⁸ Certain of them were increasingly caught up in political intrigue, most particularly in the power struggle between the Chief Ministers, Amīn al-Daula and Amīn al-Sultān. They tended to support Amīn al-Sultān, who was willing both to heed their protests and to buy them off, whereas Amīn al-Daula resisted their interference in government.¹⁹

Amīn al-Daula, Sadr-i A'zam from 1897-8, held strong reformist views and determined to begin by tackling the country's financial problems. Assisted by a council of like-minded persons he embarked on the first major reform programme for more than twenty years.²⁰ The Minister of Finance, Abu'l Qāsim Khān, Nāṣir al-Mulk, put forward a plan of reform inspired by his study of the financial organisation of European states.²¹ Its first item was the abolition of the farming of the customs. Instead Europeans were to be placed in all the main ports to control receipts and supervise individual employees. A European official was to reorganise the central administration of the finances, and control of the collection of taxes was to be removed from the provincial to the central government. The officials chosen were Belgian, and they arrived in March 1898. Their representative, Gerard, was however not optimistic about their prospects:

17. Ibid., p. 156

18. Beyens to Favereau, 22nd Sept. 1897, No. 152/46, Folio 2981 I to III, BMFA.

19. Amīn al-Daula, op. cit., pp. 225-6.

20. Ibid., p. 218.

21. Beyens to Favereau, 13th Feb. 1897, No. 64/17, Folio 2981 I to III, BMFA.

'The customs are vital to increasing government income. Unfortunately their fruits, far from being consecrated to works of development, are being squandered by the Court.'²²

He felt the new style of administration would be at odds with the traditional one:

'How is it possible to suppress abuse by the present officials without condemning the principle of the method of government itself.'

He also foresaw opposition, firstly because the existing tariff was not levied, a present to the official in charge usually ensuring exemption; secondly because vested interests from the Valī'ahd (Crown Prince) downwards considered they had a right to make deductions from the customs revenues. Most especially he feared:

'Problems because of the retrogressive rather than progressive tendency of the population and religious fanaticism. ...In such difficult circumstances what possible effect can the efforts of foreigners have on the Persian administration unless it be to bedevil the present system of government.'

The Ministry of Amīn al-Daula did not long survive the introduction of the reforms as financial difficulties brought it down. When he tried to secure a loan from Europe in 1898, he was resisted by a combination of the supporters of Amīn al-Sultān, merchants and 'ulamā ostensibly unhappy at a possible foreign loan, but in Hardinge's view really intent on the return of Amīn al-Sultān.²³ Amīn al-Daula's reform programme survived him to be tentatively pursued by his successor Amīn al-Sultān and more vigorously by 'Ain al-Daula.

22. Gerard to Favereau, 3rd Dec. 1898, No. 296/94, Folio 2981 I to III, BMFA.

23. Hardinge to Lansdowne, No. 152, 17th Nov. 1897, FO 539/77.

The financial crisis deepened, and the government was able to find only two options to deal with it: to borrow money or to carry out far reaching reforms in the fiscal system. The first would meet with criticism as making the country dependant on foreigners; the second, as Amīn al-Sultān saw, would arouse opposition from powerful vested interests, and might well lead to rebellion.

Joseph Naus, the leader of the Belgian customs administration proposed a detailed programme of reform. The prevailing system had certain anomalies, the most significant of which was that trade in the hands of foreigners was subject to a 5% ad valorem duty, whilst that in Iranian hands paid duty at 2-4%. Trade in Iranian hands was also subject to many and various internal duties such as road tax. Naus proposed a uniform tax of 5% ad valorem on all exports and imports whatever the origin of the goods and nationality of the trader. He also requested suppression of transit dues in the interior. His plan was accepted and put into effect late in 1898. By September 1900 the new administration had raised the customs revenues from £200,000 per annum to £350,000-£400,000 per annum.²⁴

The former system of customs collection had allowed some degree of flexibility. Although a tariff was supposed to be levied on goods entering and leaving the country, a present to the official in charge usually ensured freedom from taxation. Leading merchants came to agreements with the farmers of particular entry points, who would offer attractive reductions to draw in trade by their routes.²⁵ On condition a merchant guaranteed to bring in a given number of cases he

24. Spring Rice to Salisbury, No. 89, 18th Sept. 1900, FO 60/618; Gerard to Favereau, 3rd Dec. 1898, No. 246/94, Folio 2981 I to III, BMFA.

25. Independence, 5th Oct. 1904, in Folio 10.640, BMFA.

could pay a relatively low fixed sum per case of goods. Certain of the major merchants had acquired leases to farm the customs houses at a number of posts and Gilbar considers these major tujjār or wholesale dealers led the agitation.²⁶

Opposition to the customs reforms made itself felt. In June 1900 Spring Rice reported disgruntlement on the grounds of employment of foreign officials, but attributed the real reason to the loss incurred by the most important officials, who are unable to make favourable arrangements with the Belgians.²⁷ De Groote, the Belgian Representative, believed former farmers and sub-farmers were involved.²⁸ The opposition came into the open under the leadership of members of the ‘ulamā using the pretext that there must be no foreign administration in the country. The government replied there was no foreign administration, only a few foreign servants of the Shah. During 1900 there were demonstrations against the new tariff in Shiraz, Tehran and Isfahan, and in November in most commercial centres. In early 1901 there were riots in Tabriz, Tehran and Kashan. Naus offered to resign in August but his resignation was not accepted.

The introduction of a new tariff in March 1903 brought serious agitation in Tabriz against the new chief Belgian customs official, Priem. Naus considered that it was organised by the former employees of the customs with the possible complicity of those who stood to lose by the reform, including the Valī‘ahd.²⁹ In July the ‘ulamā of the ‘Atabāt, stimulated, the Belgians believed, by financial inducements, protested to

26. Gilbar, op. cit., pp. 293-4.

27. Spring Rice to Salisbury, No. 65, 26th June 1900, FO 60/617.

28. De Groote to Favereau, 9th Sept. 1900, No. 114/78, Folio 2981 IV to VII, BMFA.

29. De Villegas to Favereau, 5th June 1903, No. 136/58, Folio 2981 IV to VII, BMFA.

the Shah at the employment of foreigners.³⁰ They sent a letter to the leading mujtahid of Tabriz declaring the new tariff impious and impure as it allowed duty on wine and spirits.³¹ The campaign against Naus continued through 1904 and into 1905. There were protests in January in Mashhad, in April in Tabriz, Kermanshah, and several other towns, and in January 1905 again in Tabriz.³² Naus, however, remained in office and by early 1904 the customs receipts had risen to £600,000.³³

The customs receipts alone could not fund all domestic expenditure. In January 1900, following a series of small loans, Amīn al-Sultān borrowed £2,000,000. Realising the loan would only tide over immediate difficulties Amīn al-Sultān considered the possibility of reform, but was pessimistic as he foresaw serious opposition. He told Spring Rice in January 1901 that a careful survey of the finances had revealed an annual deficit of £300,000, and he had considered two possible solutions; one was an increase of the māliyāt, or internal taxes; the second was the reduction in unnecessary expenditure.³⁴ The problem with the first was that the landowners would hate him, and with the second that the pensioners would hate him. He also feared that Naus's customs scheme was provoking the opposition of the merchants and clergy, so that whichever way he turned he was met by irreconcilable opposition. Because of these difficulties reform could only come very slowly. In the meantime the proceeds of the first Russian loan were exhausted and in January 1902 a second loan agreement was concluded with the Russians for £1,000,000.

30. De Villegas to Favereau, 19th Aug. 1903, No. 195/87, Folio 2981 IV to VII, BMFA.

31. Hardinge to Lansdowne, No. 126, 17th Aug. 1903, FO 60/666.

32. Gilbar, op. cit., p. 295.

33. Hardinge to Lansdowne, No. 19, 30th Jan. 1904, FO 60/681.

34. Spring Rice to Salisbury, No. 7, 9th. Jan. 1901, FO 60/636.

Discontent was now affecting all classes, and in 1901 a plot involving diverse elements was uncovered. In August a proclamation was posted in public places accusing the government of selling the country to Russia.³⁵ In September seventy persons were arrested including two senior officials, the Shah's son-in-law and some members of the lesser ‘ulamā.³⁶ One criticism of note in the leaflets circulated was that the government had failed to give proper account of the Russian loan, and that it had misappropriated funds. Hardinge reported that there was general discontent at the waste of public money, with complaints coming especially from merchants and shopkeepers. Indeed the government's proclamation after the plot gave a prolonged justification of the customs reforms, which it seemed to consider to be the most powerful cause of enmity.

The second loan brought signs of unease from the leading ‘ulamā, who had been largely quiescent since the return to power of Amīn al-Sultān. Although the ‘ulamā were reported as representing misgivings on the part of some of the notables and merchants, the strongest opposition in this matter seems to have come from their own fear that the country was becoming dangerously dependant on Russia. The government, anxious that they should not incite a populace already discontented at the dearness of provisions, attempted to buy them off one by one.³⁷ This was sufficient to divide them for a while, and stop open opposition, but when the Shah left for Europe in April 1902 only the Imām Jum‘a appeared at his departure. According to Hardinge they were talking openly of excommunicating the Shah (presumably by issuing a takfīr)

35. Hardinge to Lansdowne, No. 124, 18th Aug. 1901, FO 60/637.

36. Hardinge to Lansdowne, No. 136, 6th Sept. 1901, FO 60/637.

37. Hardinge to Lansdowne, No. 23, 14th Feb. 1902, FO 416/8 No. 125.

unless he changed his policy.³⁸ In August the opposition came into the open and achieved a brief moment of unity when the mujtahids of Tehran swore almost unanimously on the Quran that they would renounce allegiance to the Shah if Amīn al-Sultān returned to Iran with him as Prime Minister.³⁹ The sincerity of some participants may be doubted as Sayyid ‘Abdallāh Bihbihānī, who was known for his association with Amīn al-Sultān, was said to have drawn up a long indictment of him. The ‘ulamā opposition was as usual entangled with political intrigue as one of its mainsprings was the Governor of Tehran, ‘Abd al-Majīd Mīrzā, ‘Ain al-Daula, who aspired to be Prime Minister. The Shah, however, supported Amīn al-Sultān, and by November the ‘ulamā were once more divided into two camps, with one for and one against the Prime Minister.

The ‘ulamā of the ‘Atabāt, who were now being incited by the British, as well as by numerous complaints against the authorities from all over Iran,⁴⁰ sent a remonstrance to the Shah accusing the government officials of embezzling state money, so that money had to be borrowed from Russia, which was then not used for the general good. They also protested at the employment of Europeans in the customs administration, which they termed 'oppressive' and at the possible involvement of Europeans in the collection of the taxes.⁴¹ The proceeds of the second loan had now been spent, and since a third was likely to arouse intransigent opposition, Amīn al-Sultān could find no more money, and was forced to resign. At the end of

38. Hardinge to Lansdowne, 27th Aug. 1902, FO 800/177, p. 155,

39. De Graz to Lansdowne, No. 107, 21st July 1902, FO 60/651.

40. Newmarch to Hardinge, No. 412, 18th July 1903, FO 248/802; See also Hardinge, Diplomatist, op. cit., p. 323.

41. Hardinge to Lansdowne, No. 18, 4th Feb. 1902, FO 60/650.

1903 a takfīr appeared against him purporting to emanate from the Shrine ʿulamā. Although there was some doubt as to the validity of this document, the Shrine ʿulamā never seriously denied it.

In the meantime the scheme for the reform of the māliyāt had not been entirely forgotten. In 1902 Naus pointed out that despite the fall in the value of the toman the land tax had not been revised, and might be increased without injury to the taxpayer. In the spirit of Nāsir al-Mulk's proposals of 1898 he added that the māliyāt should be removed from the hands of the provincial governors, and made the responsibility of the Ministry of Finance. Amīn al-Sultān agreed with him, but feared the unpopularity of the proposals. At the end of the year Naus again pressed his scheme, suggesting in addition that an assessment be made on all classes including government officials, the ʿulamā and the landowners. But in view of the opposition, particularly since, as Keddie has noted, the ʿulamā of Mashhad were in touch with the Shrine ʿulamā on this matter, Amīn al-Sultān felt the proposals were too dangerous.

On the fall of Amīn al-Sultān, ʿAbd al-Majīd Mīrzā, ʿAin al-Daula, became Prime Minister. He determined to incur no further loans but pursue instead a vigorous policy of financial reform, retrenchment and increased taxation. He began by ordering that the māliyāt from the Crown lands be paid in kind, or at its real value. In April 1904 Naus placed a further scheme for the reorganisation of the māliyāt before a meeting of provincial governors. In Hardinge's words it was intended to:

'Strengthen the hold of the Central Government over the Provincial Administration, and assist in the gradual transformation of the Provincial Governors from Achaemenian Satraps to French Prefects.'⁴²

42. Hardinge to Lansdowne, No. 69, 22nd April 1904, FO 60/681.

The scheme proposed that the provincial authorities have fixed salaries. After these had been paid the surplus was to be sent to a central treasury in Tehran under Naus.

'Ain al-Daula had early enforced economies in the royal household. In May 1904 he introduced a tax on salaries and pensions of 10%. In addition arrangements were made for recipients to discount their salaries on payment of 20% with Naus.⁴³ In actual fact the system was expected to benefit the recipients as salaries were to be paid regularly in quarterly instalments, and a discount of 20% on a government draft was in many cases less than what they might receive from the money changers in the bazaar. Hardinge was doubtful whether recipients would welcome the change in system:

'This new tax on salaries and pensions, from the uniform and systematic character of its incidence, is most distasteful to the Persian bureaucracy, as well as to the Princes, hereditary governors and aristocratic classes generally, who have hitherto milked the state whilst being milked from time to time by those immediately above them, and having grown up under this corrupt and gambling system, they have so adapted their methods to it, that any change in it confuses and alarms them.'

He reported that the discontent against 'Ain al-Daula's policy of retrenchment was very great. 'Ain al-Daula also attempted to revive a proposal of Amin al-Daula's to impose a tax on shari'a documents, but was obliged to give way on the resistance of the 'ulamā.⁴⁴ With his policy, 'Ain al-Daula managed briefly in 1904 to balance the budget, but the fall in the customs revenues in 1904, together with the Shah's insistence on a third trip to Europe, meant there was again a large deficit in 1905. By the end of the year the finances

43. Hardinge to Lansdowne, No. 87, 19th May 1904, FO 60/682.

44. Hardinge to Lansdowne, No. 10, 6th Jan. 1905, FO 60/698.

were still in confusion and 'Ain al-Daula needed £800,000 to balance his accounts. Grant Duff commented that no Prime Minister could reorganise the finances without offending the vested interests of the court, the 'ulamā and the pensioners. If he did so the Shah would overthrow him, or there would be a popular outbreak he had neither the money nor the troops to deal with.

The different groups making up the population of Tehran were variously affected by the financial crisis and the government's various responses to it. The population may be roughly divided into officials of the court and state administration, 'ulamā, including tullāb, merchants, members of the guilds, and servants and labourers, each of whom are discussed briefly below. Since this study is primarily concerned with the 'ulamā, their position will be examined in greater detail.

The population of Tehran in 1905 was about 250,000,⁴⁵ of which perhaps two thousand held official positions. Certain of the senior officials, or notables, were landowners and their consequent wealth brought them influence in addition to their position. The proposals regarding the māliyāt would have affected them, but this particular attempt at reform seems to have been greeted largely by passive resistance.⁴⁶ With regard to those more dependant on salaries, Houtum Schindler considered the value of their earnings had fallen because of inflation.⁴⁷ Those at court were discontented with 'Ain al-Daula's retrenchments. Salaries, nearly always in arrears were further behind than usual. But the major grievance affecting both high and low seems to have been the

45. See Note 81 below.

46. Hardinge to Lansdowne, No. 69, 22nd April 1904, FO 60/681.

47. Encyclopaedia Britannica, 1902, Persia.

10% stamp tax.⁴⁸ In this general picture a strong division existed as between the clients of the Prime Minister in power, 'Ain al-Daula, and those of the one out of power, Amīn al-Sultān, many of whom had lost their positions with his fall. Crossing this division was yet another between those officials who favoured westernising liberal reforms, such as those advocated by Malkum Khān, and those who were either indifferent or opposed. Many, if not most, of the readers of foreign based Persian language newspapers were bureaucrats. Marling referred to those in the customs as being 'of the partially or sometimes highly educated reading class, which has been most influenced by the nationalist propoganda preached therein.'⁴⁹ Amongst the higher bureaucracy was also a group, most of them educated abroad, who had clustered around Amīn al-Daula during his brief period in office, and who had been largely out of power since his fall. They included Murtaẓā Qūli Khān, Ṣanī' al-Daula, educated in Berlin,⁵⁰ and Nāṣir al-Mulk, educated in England, who drew up the original plan for financial reform. Also of the group was Naṣrallāh Khān, Mushīr al-Daula. Of relatively humble origin he had risen through the bureaucracy and sent one of his sons, Ḥasan Khān, Mushīr al-Mulk to be educated in Russia, and another, Husain Khān, Mu'tamin al-Mulk to France.⁵¹

48. Hardinge to Lansdowne, No. 10, 6th Jan. 1905,
FO 416/22 No. 49.

49. Marling to Grey, No. 167, 14th July 1908,
FO 371/506 No. 26812, Incl. Cox to the Government of India

50. Biographical Notes of 1906, p. 77.(National Library of
Scotland).

51. Ibid., p. 58, p. 60.

Of all groups the merchants, who probably numbered a few hundred,⁵² seem to have been in the greatest state of discontent. Their major grievance, as already discussed, was the customs reforms. In April 1905 the leading merchants of Tehran closed their shops and went to the Shrine of Shāh 'Abd al-'Azīm in protest against the customs administration.⁵³ The Shah, who was about to go to Europe, placated them with promises of Naus's possible removal on his return. The merchants had also not been happy over the foreign loans and the connection between the loans and the customs reforms was not lost on them. As De Groote, the Belgian Representative reported:

'The one serious reform affected in Iran - the reorganisation of the customs, has only served to allow the Shah to conclude two loans, a large part of which has been squandered in Europe. ...The opposition points out that at least under the old system of farming the millions remained in Iran.'⁵⁴

It was not simply that the government had raised the taxes, they had failed to account for what they had done with the money. A quite different but also significant grievance

52. Strictly speaking the word tujjār, merchants, means the major wholesale merchants who dealt in the import export trade. Persian sources, however, use tujjār to mean merchants generally, including bunakdars (retail dealers), dallāls (agents) and ṣarrāfs (money changers) - see for example Daulatabadi, op. cit., p. 71 referring to bunakdars as tujjār of the 'third rank'. Their functions were also not rigidly divided as tujjār might also be ṣarrāfs. Picot in the Biographical Notes of 1897, FO 60/592 lists 28 important merchants, mainly wholesale dealers and money changers. Thomson in 1870 reckoned that there were about 250 'influential merchants' whom he distinguished from shopkeepers and artisans (Thomson to Clarendon, No. 2 Comm., 20th Jan. 1870, FO 60/327). The possible estimate of 'a few hundred' is based on the definition used in the Persian sources.
53. Hardinge to Lansdowne, No. 121, 12th May 1905, FO 60/699.
54. De Groote to Favereau, 29th July 1902, No. 172/81, Folio 2748, BMFA.

of a section of the merchant class was that of the sarrāfs, who had 70,000 tomans owing to them from the treasury.⁵⁵ During 1905 they took bast in the house of the Imām Jum'ā but left without making good their claim.

The merchants were reportedly unhappy over the prevalence of foreign goods, and the manner in which local industry had been destroyed. At the time of the establishment of the merchant councils, one of their complaints was that foreign goods were so abundant that Iranian workshops had ceased to exist.⁵⁶ According to Ḥabl al-Matīn of Calcutta one of the aims of the demonstration of April 1905 was to force the government to encourage home industries and to protect them against competition from Russian goods.⁵⁷ Contemporary reports from Tehran itself do not mention such a request, and stress the demonstration was intended to be against the customs reforms. The question of the impact of foreign goods remains unresolved with Gilbar contending that the wholesale merchants profited from the increased trade⁵⁸ and Floor believing it pushed them into a position of dependancy they resented.⁵⁹ This was a long term problem and does not seem to be among the immediate causes of discontent in 1905.

It is uncertain how far the merchants were interested in reform. Their attempts to establish improved legal conditions in 1883 have already been discussed in Chapter II. Amīn al-Ẓarb, in his account of conditions in Iran at the time,

55. Ḥāj Shaikh Mahdī Sharīf, op. cit., Vahīd No. 208 1355/1977, p. 63.

56. Ādamiyyat and Nātiq, op. cit., p. 318.

57. Ḥabl al-Matīn, Calcutta, 19th June 1905, quoted in Gilbar, op. cit., p. 301.

58. Gilbar, op. cit.,

59. W.M. Floor, 'Merchants', op. cit., p. 124-5.

evinced discontent with the system of government.⁶⁰ He was exceptional in his wealth (about 2-3 million tomans), and in having business connections in places as widespread as Paris, Cairo, Damascus, Warsaw, Moscow, and Bombay.⁶¹ But another merchant involved in the Tehran council, Ḥāj Muhammad Ismā'īl Maghāzi'ī corresponded for many years with Zain al-'Abidīn Marāgh'ī author of the reformist book, 'The Travels of Ibrāhīm Fīg'.⁶² He was estimated to be worth about 30,000 tomans in 1898, about average for a leading wholesale merchant at that time, and carried out trade with Istanbul, Baghdad and Russia.⁶³ Both he and another significant merchant, Mu'īn al-Tujjār Būshihri, were active in the demonstrations against Naus in April 1905.⁶⁴ Mu'īn al-Tujjār Būshihri was reckoned one of the shrewdest merchants in the country, who whilst continually augmenting his wealth, was also frequently engaged in projects almost invariably stillborn, such as bridging the Kārūn at Shushtar.⁶⁵ The motive behind his projects is not clear, but he may have been attempting to inaugurate developments of which the profits went neither to foreign concerns, nor to the Iranian government, but to an Iranian merchant. Of course Iranian merchants had neither the capital nor the legal or administrative support for such projects which is why they frequently failed. Amīn al-Ẓarb, with greater resources, had managed some small successes, including a short railway for the transport of goods in the Caspian.

60. Ādamiyyat and Nātiq, op. cit., pp. 301, 305, 364, 366.

61. Biographical Notes 1897, FO 60/592, p. 206.

62. Nāẓim al-Islām, op. cit., I, p. 298.

63. Biographical Notes 1897, p. 210.

64. Kasravī, op. cit., p. 51; Hardinge to Lansdowne, No. 69, 24th March 1905, FO 60/698.

65. Marling to Grey, No. 228, 10th Oct. 1907, FO 416/34 No. 117.

Other merchants of note were the Zoroastrian ṣarrāf, Arbāb Jamshīd, and another ṣarrāf, Ḥāj Muḥammad Ḥasan, who in 1898 took bast in the British Legation because the government had owed him, or rather a group of merchants for whom he was acting, 20,000 tomans for three years.⁶⁶ One other way merchants evinced an interest in reform, was in subsidizing the establishment of new schools, such as those of Ḥāj Mīrzā Ḥasan Ruṣḥīyya in Tabriz and Tehran.⁶⁷ When Yaḥyā Daulatābādī founded the Madrasa-yi Sādāt in 1899 the merchants, both of Tehran and abroad, sent donations.⁶⁸ Indeed the merchant class was amongst not only the wealthiest but also the most highly educated sections of the population.⁶⁹

Some of the merchant community were thus interested in modernising ideas and development, yet following Gilbar's point they were also desirous that more money should not pass into the hands of the government, and without government initiative it is difficult to see how major reforms could be undertaken. No real evidence has yet emerged that the merchants were working towards a constitutional government before 1906, so their position in 1905 was a conservative one - what they sought was the lifting of the customs dues.

If Thomson's estimates for Tehran in 1870 are correct, the guilds (aṣnāf) formed a substantial section (approximately 5-7,000)⁷⁰ of the total male population, which Thomson put at about 29,000. The proportion in 1905 was presumably about

66. Durand to Salisbury, No. 118, 11th Nov. 1898, FO 60/595.

67. F.R.C. Bagley, 'Religion and State in Iran', Islamic Studies X 1971, p. 10.

68. Daulatābādī, op. cit., I, pp. 249-50; Surayyā No. 46, p. 6, 3rd Ja. I, 1317.

69. Rossiya, 19th May 1909, Browne papers.

70. Thomson to Clarendon, No. 2 Comm., FO 60/325.

the same. Floor has defined a guild as a group of townspeople engaged in the same trade or craft, who elect their own leaders and pay guilds tax.⁷¹ There was some overlap between the guilds and the merchants in that the brokers dallāl and the moneychangers ṣarrāf paid guilds tax and were usually referred to as tujjār, merchants. In addition to their corporate tax the guilds were frequently called upon to give a pīshkish (present) to the governor at feasts. As mentioned above, the guilds looked often to the ʿulamā to represent their grievances. They were also dependant on the wholesale merchants bunakdār for their supplies, their consumer market, and their capital on credit.⁷²

In the period just before the Revolution, Houtum Schindler considered the guilds were less affected by inflation than others as they were better able to keep up incomes in relation to increased prices.⁷³ They seem, however, to have suffered to some extent from the government's raising dues. In mid-1902 ʿAin al-Daula, as Governor of Tehran was said to have incurred their hostility owing to his 'extortions'.⁷⁴ In 1905 there were complaints that he was taking large sums in the name of taʿāruf (gifts) from the butchers and bakers of Tehran.⁷⁵ But they had had to contend with demanding governors before, as in 1899 when they repeatedly paid Nāʿib al-Sultāneh 200,000 tomans.⁷⁶

71. W.M. Floor, The Guilds in Qajar Persia, unpublished Ph.D. thesis, University of Leiden, 1971, pp. 16-17.

72. Ibid., p. 51.

73. Houtum Schindler, Encyclopaedia Britannica 1902, Persia.

74. Erskine to Lansdowne, No. 155, 8th Nov, 1902, FO 60/651.

75. Nāzīm al-Islām, op. cit., I, p. 254.

76. Floor, Thesis, op. cit., p. 56.

One of the leading reformers, Sayyid Jamāl al-Dīn Isfahānī, had a large following among the artisans and labourers of the bazaar.⁷⁷ The substance of his speeches seems to have amounted mainly to attacks on government officials and foreign enterprise.⁷⁸ On the subject of law he informed his audience they were ignorant of their rights, and then spelling out the word 'qānūn' he got his audience to repeat it after him. Reform was a new concept and constitutionalism quite unknown. The main cause for discontent among the guilds in general may be summed up as high prices and government exactions on the butchers and bakers in particular. These do not seem to have been appreciably worse than during the 1890's. Unrest among the guilds in 1905 seems to have been incited largely by the merchants, who for example, obliged all the drapers to close their shops in April 1905,⁷⁹ and later in the year by the agitation of some of the 'ulamā.

Of the specific problems of the lowest class, labourers and servants, little is recorded except that they suffered greatly from the high prices, as had been the case for many years. According to Thomson in the 1870's, large numbers came to Tehran annually from the countryside in search of work for a season.⁸⁰ They were usually poorly housed and fed, lodging fifteen to twenty to a room in caravanserais and stables on the outskirts of the town where they stayed for four to five months. A feature of the period is the growth in the population of Tehran from approximately 100,000 in 1870 to

77. Browne, Revolution, op. cit., p. 116.

78. Yaghmā'ī, op. cit., pp. 16-20.

79. Hardinge to Lansdowne, No. 101, 12th May 1905, FO 60/699.

80. Thomson to Clarendon, No. 2 Comm., 20th Jan. 1870, FO 60/327.

280,000 in 1908.⁸¹ As mentioned in Chapter II the districts of Chāla Maīdān on the east of the city and Sanglaj, an old mixed district in the centre, were particularly crowded, providing fertile ground for agitators and persons seeking mass support for a political cause.

As has been mentioned, the 'ulamā had been unhappy for some time at the increasing foreign presence in the country and the Shah's failure to stem it. Gilbar has given three main reasons why they were particularly discontented with the government in 1905.⁸² One was that they were engaged in wholesale commercial activity and thus suffered from the customs reforms like the major merchants. This may have been true of the 'ulamā of Isfahan, but it was not the case with those of Tehran, who do not seem to have had commercial interests of their own. The second was that those who owned land or administered augāf feared an increase in the land tax, and its possible collection by foreigners. This point was worrying the 'ulamā of Mashhad, but it does not seem to have preoccupied the 'ulamā of Tehran. The third point was that salaries and pensions, on which many of the 'ulamā and tullāb were dependant, were three years in arrears. This added to the general discontent because it was a longer time than normal, but it was not a new situation. What was new was the 10% tax and it did create considerable discontent.⁸³

The 'ulamā, however, were not united. There were rivalries amongst them, and differences of opinion. Amongst the mujtahids the accession to power of 'Ain al-Daula had

81. Thomson to Clarendon, No. 2 Comm., 20th Jan. 1870, FO 60/327.

82. Gilbar, op. cit., p. 302.

83. Hardinge to Lansdowne, No. 10, 6th June 1905, FO 60/698.

accentuated the divisions. The early years of the century had seen the passing of an older generation of mujtahids. Mīrzā Hasan Āshṭiyānī died in 1901; his successor as senior mujtahid of the capital, Sayyid ʿAlī Akbar Tafriṣhī, in 1905; the most liberal minded of the ʿulamā, Shaikh Hādī Najmābādī in 1902; and Zain al-ʿĀbidīn, Imām Jumʿa in 1903. In Najaf Mīrzā Hasan Shīrāzī died in 1895, and there was no marjaʿi taqlīd. Sharabiyānī and Mamaghānī, who successively followed him as most senior mujtahid, had died by 1905. Ḥājī Mīrzā Husain Ḥājī Mīrzā Khalīl, who at over ninety years of age was the most venerable mujtahid, was held in the highest respect, but there was not either in Tehran or the ʿAtabāt one overall leader of the ʿulamā to repudiate government policies on their behalf as there had been at the time of the Tobacco Concession.

In the autumn of 1905 in Tehran there were four mujtahids of outstanding importance, Sayyid ʿAbdallāh Bihbihānī, Sayyid Muhammad Tabāṭabāʾī, Shaikh Faḏlallāh Nūrī, and Mīrzā Abu'l-Qāsim, Imām Jumʿa. The first three, who were to play a significant role in the Constitutional Revolution, were about sixty. The Imām Jumʿa was a young man in his thirties. By far the most politically active was Bihbihānī, who has already been referred to for his close links with Amīn al-Sulṭān. Through this connection he had charge of government business in the sharīʿa courts which was very profitable both in material terms and in the patronage it brought him.⁸⁴ He was likewise connected to the British and charges concerning British subjects and protected persons were referred to him.⁸⁵ In addition to his own mosque in Sar Pūlak, Bihbihānī also

84. Nāzim al-Islām, op. cit., I, pp. 210-11.

85. Hardinge to Lansdowne, No. 23, 14th Feb. 1902, FO 60/650.

preached in the important Mosque of Sipah Sālār, which was in the gift of the Shah. Tabātabā'ī came from a long line of religious figures, his father Sayyid Šādiq having been approached by Malkum Khān in 1860 as a mujtahid likely to favour reform (see Chapter IV). The most learned of the 'ulamā of Tehran was Shaikh Fażlallāh Nūrī who had spent much of his life in the 'Atabāt and only returned to Tehran in the late 1880's. He became involved in the Tobacco protest with the other 'ulamā, but otherwise appears to have been only rarely active politically during the 1890's. In 1897 he was reported as leading a secluded life and being poor but much respected.⁸⁶ Visitors usually found him surrounded by students.⁸⁷ He joined Āshtiyānī in 1898 in opposing the policies of Amīn al-Daula, who was trying to curtail the influence of the 'ulamā.⁸⁸ In 1902 he was one of those who worked for the removal of Amīn al-Sultān. The Imām Jum'ā came from a long line holding that office, and was very rich, having control of much vaqf land. Having spent eighteen years in Najaf he succeeded his father in January 1904.

Shaikh Fażlallāh and Tabātabā'ī had been amongst those who opposed the loan policy of Amīn al-Sultān and actively sought to remove him. After meetings which also included Tafrišī and Zain al-'Ābidīn, Imām Jum'ā, and 'Ain al-Daula, they wrote letters to the 'ulamā of the other cities of Iran

86. Biographical Notes 1897, p. 219, FO 60/592.

87. I'timād al-Saltāna, Rūznāma-yi Khātirāt-i I'timād al-Saltāna (The Diary of I'timād al-Saltāna), ed. I. Afshar, Tehran, 1345/1966-7, p. 1046; Nāzim al-Islām, op. cit., I, p. 321.

88. Majd al-Islām Kirmānī, Tārīkh-i Inqilāb-i Mashrūṭiyyat-i Īran (A History of the Iranian Constitutional Revolution), Tehran, 1351/1972-3, pp. 171-2.

and to those of the 'Atabāt. Shaikh Faḥlallāh's cousin, Mīrzā Muhammad Nūrī, was especially active amongst the Shrine 'ulamā.⁸⁹ Amīn al-Sultān silenced Tafriṣhī and others by bribery, but Tabātabā'ī and Shaikh Faḥlallāh regarded his policies as detrimental to the country, and continued to work with 'Ain al-Daula in opposition.⁹⁰ When 'Ain al-Daula came to power in 1903, Tabātabā'ī withdrew from association with him, but Shaikh Faḥlallāh remained as his major supporter amongst the 'ulamā. In this he was joined by the new Imām Jum'a.

'Ain al-Daula was anxious to reduce the influence of Bihbihānī as one of the leading partisans of Amīn al-Sultān. He removed from his care the responsibility for government business in the sharī'a courts and gave it to Shaikh Faḥlallāh, so that Bihbihānī declined in influence whilst Shaikh Faḥlallāh prospered.⁹¹ Association with the government gave him and the Imām Jum'a extensive patronage, and their following consequently grew. When Bihbihānī protested at the arrest and imprisonment of some brawling tullāb, 'Ain al-Daula seized the opportunity to make an example of him for interfering in government affairs, and replied that the government was not responsible to Mr. Bihbihānī.⁹² From then onwards Bihbihānī did his utmost to subvert the government.

The main body of the 'ulamā was now divided into three main groups. The first led by Shaikh Faḥlallāh and the Imām Jum'a supported 'Ain al-Daula. The second, of which Bihbihānī was the leader, was working for the return of Amīn al-Sultān,

89. Newmarch to Hardinge, No. 387, 15th July 1903, FO 248/802.

90. Nāzim al-Islām, op. cit., I, p. 210-11.

91. Ibid., p. 210.

92. Ibid., p. 213.

in collaboration with the latter's following amongst the bureaucracy. They were resentful of 'Ain al-Daula's efforts to curtail the influence of the ʿulamā, and were joined by others who were especially discontented over the tax on salaries and pensions. The third group, led by Ṭabāṭabā'ī, considered 'Ain al-Daula no better than Amīn al-Sultān, and desired not only his removal but a change in the whole apparatus of government.

Early in 1905 the group led by Bihbihānī joined up with the merchants discontented over the customs reforms. Bihbihānī had made no criticism of Naus during the regime of Amīn al-Sultān, but on ʿAshūrā, supported by students in a state of great excitement, he made an impassioned address against Naus, saying that the merchants' complaints about him to the Shah had been ignored.⁹³ A photograph of Naus dressed as a mullah was circulated at the religious gatherings. Naus was accused by the followers of Bihbihānī of insulting Muslims and taking over the Muslim customs and Post Office. 'Ain al-Daula sent heavy bribes to Bihbihānī and the ʿulamā of his faction. In addition the government obtained a telegramme from the ʿulamā of the ʿAṭabāt in support of their policies, and the agitation subsided.⁹⁴

At about the same time Ṭabāṭabā'ī had also been preaching against the government, but for different reasons. He complained that the appalling state of the country was due to oppression and only regulation by proper laws could bring about improvement. At the same time he encouraged the reformist ʿālim, Nāzim al-Islām Kirmānī to start a secret

93. Hardinge to Lansdowne, No. 69, 24th March 1905, FO 60/698.

94. Hardinge to Lansdowne, No. 76, 1st April 1905, FO 60/699.

society to work towards constitutionalism.⁹⁵ The society began meeting on 19th March 1905. A decision was taken to work on anyone with a grievance against the government, and to contact Bihbihānī in particular.⁹⁶ Seeing his campaign to undermine 'Ain al-Daula was so far unsuccessful, and moreover that he was in danger of losing yet more of his influence because he could not afford to pay his students, he welcomed the idea of collaboration with Ṭabāṭabā'ī.⁹⁷ He sent a message to Ṭabāṭabā'ī, who agreed on the condition Bihbihānī gave up his limited aim of removing 'Ain al-Daula and worked for reform.

The society founded by Nāzīm al-Islām was not the only one active at the time. Since the Tobacco Protest there had been occasional reports of secret societies, but very little is known about them. Nāzīm al-Islām's society or anjuman seems to have consisted of about eight persons (from the names recorded), belonging, as Lambton has remarked, to the middle ranks of the ʿulamā.⁹⁸ Malikzāda records that his father helped found a secret society in 1904, but his account is suspect, especially as it enhances the role of his father Malik al-Mutakallimīn.⁹⁹ The latter was, however, one of a number of middle ranking ʿulamā who knew each other and who favoured reform. They included Sayyid Jamāl al-Dīn Isfahānī, a preacher like Malik al-Mutakallimīn, and Yahyā Daulatābādī, who had been active in founding a new school. All these

95. Nāzīm al-Islām, op. cit., I, p. 243.

96. Ibid., p. 269.

97. Ibid., p. 271.

98. A.K.S. Lambton, 'Secret Societies and the Persian Revolution of 1905-6', St. Antony's Papers No. 4 1958, p. 53.

99. Malikzāda, Mashrūṭiyyat, op. cit., II, p. 10-11.

three held somewhat unorthodox religious opinions, Malik al-Mutakallimīn and Yahyā Daulatābādī being almost certainly Azalīs, and Sayyid Jamāl al-Dīn, a freethinker.¹⁰⁰ Another Azalī, Shaikh Mahdī Sharīf, mentions that he founded a society of five persons to struggle against oppression, but says little more about it.¹⁰¹

Nāzim al-Islām's society is thus the only one which is reasonably reliably documented. Its members seem to have held a variety of opinions from strictly religious viewpoints to those such as Fīlsūf Shīrāzī's showing a fair knowledge of western political developments. Early meetings were largely spent reading newspapers whilst members ascertained each other's positions. Nāzim al-Islām remarks on this point that most of those present had previously not read newspapers. In discussions on qānūn (law) some seem to mean the sharī'a, and others not. Loyalty to either the religion or the fatherland vaṭan was permitted. These 'ulamā seemed to have differentiated themselves from others more senior and possibly more orthodox as one of their aims was 'to limit the power of both ministers and mullahs'. It was not until the seventh meeting that Nāzim al-Islām unveiled the true purpose of the society - to work for constitutionalism (mashrūṭa) through revolution. He said:

'Until you see a revolution (inqilāb) in this country you will not see reforms.'¹⁰²

By the end of the year the society had acquired some cohesion in an agreed programme and was attempting to set up cells.

100. E.G. Browne, Materials for the Study of the Bābī Religion (Cambridge 1918), p. 221; Keddie, 'Religion and Irreligion', op. cit., p.274.
101. Sharīf, op. cit., Vahīd 208, p. 42.
102. Nāzim al-Islām, op. cit., I, p. 28; See also pp: 289-90 for a discussion on constitutionalism.

To the bureaucrats already referred to may thus be added the mujtahid, Tabātabā'ī, a few of the middle ranking 'ulamā and some tullāb. As a whole they were probably no more than a small percentage of the 'ulamā.

The opposition movement did not get underway until October 1905 mainly because the Shah was in Europe for the spring and summer. In October 1905 the governor of Kerman inflicted the bastinado on a prominent mujtahid for instigating a riot. On 26th October Bihbihānī came secretly to Tabātabā'ī's house to discuss the matter and the two mujtahids made a firm agreement to campaign against the government. Some of the preachers, especially Sayyid Jamāl al-Dīn Isfahānī and Malik al-Mutakallimīn, who were associated with Tabātabā'ī began calling for freedom, justice and the law. The collaboration of the two mujtahids produced a following of several hundred persons, students, mullahs and artisans, with connections with discontented bureaucrats, the clients of Amīn al-Sultān, and the major merchants. No detailed programme had been given, and although Tabātabā'ī was seeking reform, the main objective was most likely, as Browne has stated, the removal of Naus and 'Ain al-Daula.¹⁰³

Messengers were sent to other members of the 'ulamā to try and persuade them to join the opposition against government 'oppression'. When Tabātabā'ī's emissaries approached Shaikh Faḡlallāh, they found his policy differed from theirs. He showed a concern for order which in the common interest took priority over the grievances of a particular group.

'The governor of each province must maintain order in the area. Anybody who disturbs the peace must be punished, whether he be mullah or sayyid, or whatever. Ḥājī Muhammad Riḡā (the mujtahid in Kerman)

103. Browne, Revolution, op. cit., p. 111, p. 113.

has been the cause of sedition and revolt.¹⁰⁴

Shaikh Faḏlallāh showed a firm belief in the Shah and in the existing system of government, which must not be weakened:

'I have said the seditious must be punished. We, the people of Iran, need a Shah; we need an 'Ain al-Daula; we need the bastinado and the executioner. Whether mullah or sayyid we must submit to the government of the Shah.'

One of the reformers brought up the subject of mashrūṭa, and linked it with the term mashrū'ā, 'according to the sharī'a', to persuade Shaikh Faḏlallāh that it provided a legitimate alternative to the existing form of government.

The slogan mashrūṭa-yi mashrū'ā was later to be turned against the constitutionalists by Shaikh Faḏlallāh. He was not now deceived by their attempt to make mashrūṭa respectable by explaining it as the enforcement of the laws of Islam.

'Your argument is the same as that in the newspapers. Far from being in accordance with the sharī'a, to advocate mashrūṭa and jumhūriyyat (republicanism), especially in the newspapers, is seditious.'

Indeed Shaikh Faḏlallāh showed suspicion of any ideological innovation that might undermine faith in the existing system. Referring to recent attempts to found schools on modern lines, he said:

'Are these new schools not contrary to the sharī'a? Will entry to them not lead to the overthrow of Islam? Will lessons in foreign languages and the study of chemistry and physics not weaken the students' faith?'

The constitutionalist sources state that 'Ain al-Daula made Shaikh Faḏlallāh privy to the affairs of state and consulted him on matters of policy. There is no record,

104. Nāzim al-Islām, op. cit., I, pp. 321-4.

however, of his intervening on a single political event of any importance. Yet he evidently believed the ʿulamā should be consulted and should make an effort to keep abreast of the times. Asked by a reformer if a mullah of three hundred years ago would be useful to the people nowadays, he replied:

'Certainly not. A mullah nowadays must be aware of the exigency of the times and well-informed on international relations.'

Shaikh Faḥlallāh appears to have firmly supported the retrenchment and reforms of ʿAin al-Daula. The telegramme which came from Najaf in March 1905 was sent in reply to a letter from one of his associates, ʿAlī Akbar Burūjirdī, and was signed by one of his connections, Muhammad Kāẓim Ṭabāṭabāʾī Yazdī, one of the most learned and respected of the Shrine ʿulamā, as well as by Ākhūnd Mullā Khurāsānī, another leading mujtahid. It stated that since the appointment of ʿAin al-Daula many beneficial reforms had taken place, particularly in the adjustment of revenues and expenditure, so there should be no further financial obligations to foreigners.¹⁰⁵

The constitutionalist writers vilified Shaikh Faḥlallāh as one of their most powerful opponents, and were at pains to show him as grasping and self-interested. Although he appears to have prospered through his connection with ʿAin al-Daula, acquiring a carriage and a garden, there is no evidence he was better off than most of the other mujtahids. Even in the constitutional sources there are traces of an earlier opinion from before his opposition to constitutionalism was fully realised. Nāẓim al-Islām wished that he would join the opposition, as of all the ʿulamā he was the most dignified in

105. Hardinge to Lansdowne, No. 76, 1st April 1905, FO 60/699,

his conduct.¹⁰⁶ Malikzāda said his word carried the greatest weight in Najaf.¹⁰⁷

The first major outburst of popular unrest came in December 1905 when a group of merchants were bastinadoed for having raised the price of sugar. The merchants had heard by telegram that prices had risen in Russia, and consequently in Rasht and Mashhad, so they moved to raise them in Tehran. The punishment was represented by the opposition as a great injustice on the part of 'Alā' al-Daula, Governor of Tehran. Merchants went in groups to the leading 'ulamā to ask them to protest. The Imām Jum'ā called a meeting at the Masjid-i Shāh at which Sayyid Jamāl al-Dīn spoke. He began by saying the 'ulamā gathered in the Mosque were the deputies of the Imām of the Age (nuvvāb-i imām-i zamān) and all were resolved to pluck out the roots of oppression and innovation. He then spoke of the duties of Muslim sultans in establishing justice and prohibiting injustice, saying:

'If the Shah were a true Muslim, he would cooperate with the 'ulamā.'¹⁰⁸

He was interrupted by the Imām Jum'ā whose followers set on him and on Bihbihānī. The opposition thus had their hand forced, and Tabātabā'ī feared disorders leading to bloodshed which he and Bihbihānī were always anxious to avoid. He was also aware that the 'ulamā might be charged with supporting merchants who put up the price of sugar, and discredited in the eyes of the common people.¹⁰⁹ Evidently a sizeable

106. Nāzīm al-Islām, op. cit., I, p. 504.

107. Malikzāda, Mashrūṭiyyat, op. cit., II, p. 157.

108. Ibid, II, p. 42; Nāzīm al-Islām, op. cit., I, p. 333.

109. Ibid., I, p. 339; Taqīzāda, Maqālāt, op. cit., I, p. 324.

section of the populace was not in sympathy with the merchants, and the opposition ʿulamā feared being overwhelmed by a mob incited by ʿAin al-Daula and the Imām Jumʿa. On the other hand, Ṭabāṭabāʾī could not take the alternative course of deserting the merchants as they were subsidizing the opposition. So he decided to take sanctuary for a few days, as he anticipated, along with Bihbihānī and their followers, in the Shrine of Shāh ʿAbd al-ʿAzīm.

CONCLUSION

In conclusion, as McDaniel has stated, the centralising policies of the government in the second half of the nineteenth century had already brought it into conflict with the ʿulamā. These policies had, on the whole, resulted in little progress. In the 1890's a serious financial crisis compelled the government to make a more persistent attempt than ever before at fiscal reform. The inaugurator of these reforms, Amīn al-Daula, fell from power after a brief tenure. His successor, Amīn al-Sultān, maintained the customs reforms but preferred a policy of borrowing from Russia to introducing other tax reforms to which he anticipated severe opposition. His loan policy was defeated mainly by the ʿulamā. ʿAin al-Daula, who followed him, rejected the loan policy, persisted with the customs reforms, and began a reorganisation of the māliyāt, with increased government control in the provinces, and laid a particular burden on Tehran with a tax on salaries, retrenchment at court, and increased taxes on the butchers and bakers at a time when prices had risen because of inflation, and when there was already discontent over the customs reforms. It may be said that the Constitutional Revolution began as a revolt against increased taxation.

Of the new taxes the greatest burden fell on the merchant class. From the introduction of the reforms in 1899 to 1905

they agitated constantly, not only in Tehran, but in all the major commercial centres. Gilbar has drawn attention to the wholesale merchants in particular as the leaders of the discontent. The ṣarrāfs to whom the government owed money were also significant, and between them, with the assistance of the ʿulamā they mobilised the bazaar. Together with the increase in taxation may be noted the beginnings of the idea that the government must account for its revenues. This was to be one of the most significant themes in the Constitutional Revolution.

Of the ʿulamā in general in the period before the Revolution it may be said that any attempt at reform must cut across their considerable vested interests, and they were therefore an impediment to change. As Hardinge pointed out to one of them in 1902:

'The best hope of salvation for Persia lay in the reorganisation of her finances, and particularly the "maliat"...but the chief obstacle to any such reform was the fear entertained by a timid government that it would arouse such opposition amongst the privileged classes, and especially the clergy, as to cause the downfall of any minister attempting it.'¹¹⁰

The ʿulamā of Tehran can be divided into particular groups. A considerable proportion of those who believed in revolutionary change were of heterodox opinion. Amongst the orthodox, a majority were aggrieved at the tax on salaries and pensions. A sizeable group, led by Bihbihānī, were deprived of profitable contacts and lucrative business by the fall of Amīn al-Sultān, and were working for his return. They joined up with merchants campaigning against the customs reforms, who wanted the removal of Naus. Keddie and Algar have seen the ʿulamā as the leading spirits in the protest movement, but the merchants were at least as

110. Hardinge to Lansdowne, No. 77, 5th May 1905, FO 416/9, No. 164.

important in view of their powerful sense of grievance and the funds they could provide in mobilising the bazaar. Another group of 'ulamā, led by Tabāṭabā'ī, and much smaller, were working for reforms in the whole spirit of government and the way power was wielded. The third group, led by Shaikh Faḏlallāh, comprising probably over a third of the 'ulamā, supported the reformist policies of 'Ain al-Daula. The letter sent to Najaf suggests that some, at least, perceived the dilemma facing the government, and preferred the reforms to the loan policy. How far they would have countenanced Naus's centralising plans if they had been fully implemented is a mute point.

The position of Shaikh Faḏlallāh Nūrī, as well as the motives of Bihbihānī and his group, offers evidence in refutation of Algar's view that the Constitutional Revolution was the culmination of a long period of conflict between the 'ulamā and a state they considered illegitimate. Indeed the single piece of evidence to support his argument from this period, is the speech made in December 1905 by Sayyid Jamāl al-Dīn Isfahānī, who was not a mujtahid, but a preacher of unorthodox views. The position of Shaikh Faḏlallāh's and Bihbihānī's groups, in other words of the majority of the 'ulamā, must also lead to questioning of Lambton's view that the movement was a demand for the restoration of just and righteous government. It may thus be argued that the protest of 1905 happened not because what had formerly existed had gone wrong but because something new and alien had appeared in Iranian political life, and that was European means of government that required higher taxation. Finally, it may be pointed out that there is as yet no evidence for a constitutional movement before 1906 apart from small groups of reformers who met for discussion.

CHAPTER IV

TABĀTABĀ'Ī AND THE CAMPAIGN FOR THE COUNCIL OF JUSTICE

The constitutionalist writers set Tabātabā'ī apart from all the other leading ʿulamā, Malikzāda, for example, referring to him as the leader of the nation and the struggle for the law. At the same time Malikzāda distinguished him from other reformers, saying that although he was not really one of the āzādīkhānān, (reformist group) he encouraged their efforts.¹ Tabātabā'ī took an interest in reformist ideas from an early age. His father, Sayyid Sādiq, was reputed to have belonged to Malkum Khān's Farāmūshkhāna, the group founded in 1859 to make people familiar with modern ideas and development.² The effort made by Malkum to recruit Sayyid Sādiq derived from his tactic of identifying reform with religion. Tabātabā'ī himself was accused of being a freemason.³ Rā'īn, however, in his study of Freemasonry in Iran, shows there was no properly constituted lodge before that founded by Adīb al-Mamālik in 1908.⁴ Malkum Khān's Farāmūshkhāna was loosely based on Freemasonry and as a result there has been confusion between the two organisations. As Algar has pointed out, the idea of Freemasonry, with its semi-secret bonds, fitted into the pattern of Iranian political life, with the difference that it provided a greater degree of organisation.⁵ It is possible that, with his father's links with the Farāmūshkhāna, Tabātabā'ī as a young man entered into this milieu.

1. Malikzāda, Mashrūṭīyyat, op. cit., II, p. 20.
2. Ādamiyyat, Taraqgī, op. cit., p. 67.
3. Malikzāda, Mashrūṭīyyat, op. cit., I, p. 27.
4. I. Rā'īn, Farāmūshkhāna va Frāmāsūnārī dar Irān (The Farāmushkhana and Freemasonry in Iran), Tehran 1347/1968-9, II, p. 27, p. 57.
5. H. Algar, 'An Introduction to the History of Freemasonry in Iran', Middle Eastern Studies, VI 1970, pp. 276-296.

Another idea which clung to his name was that of republicanism (jumhūriyyat). Nazīm al-Islām says he was warned by a friend to avoid Tabātabā'ī as he wanted a republic and the country to be ruled by laws.⁶ The Shah also believed that he was working for a 'jumhūrī'.⁷ The only time Tabātabā'ī is on record as raising the matter was at a public sermon, during which he denied republican sympathies and expressed support for the Shah.⁸ Yet these remarks were made in a public speech and it was still dangerous to criticise the monarchy even in secret.⁹ In his memoir written in 1911, however, Tabātabā'ī went out of his way to exonerate both Sayyid Jamāl al-Dīn Isfahānī, and Sayyid Jamāl al-Dīn Afjā'ī from the charge of making remarks prejudicial to the Shah.¹⁰ The root of the problem is that republicanism, constitutionalism, the limitation of royal power, and legal reform, were not always clearly distinguished from each other, as Algar has indicated.¹¹ Tabātabā'ī certainly supported legal reform and the limitation of royal power, and was ultimately probably seeking a government by popular sovereignty, but there is no real evidence that he was a republican in the true sense of the word, that is one who positively seeks a government without a monarchy.

Another influence on Tabātabā'ī in his youth was the enlightened mujtahid, Shaikh Hādī Najmābādī, who held daily

6. Nāzīm al-Islām, op. cit., I, p. 63.
7. Ibid., p. 497.
8. Ibid., p. 444.
9. Ibid., I, p. 247.
10. I. Kāzimiyya, 'Yāddāshthā-yi Sayyid Muḥammad Tabātabā'ī' (The Notes of Sayyid Muḥammad Tabātabā'ī), Rāhnāma-yi Kitāb, No. 8-9 1350/1971-2. p. 476-7.
11. Algar, Malkum Khān, op. cit., p. 48.

discussions attended by people of all ranks. He was at heart a free-thinker,¹² and also used to inveigh against the government, meaning the Shah, his family and his courtiers, accusing them of oppression and extortion.¹³ Ṭabāṭabā'ī attended his discussions, but later reportedly denounced them as heretical. It may be that, whilst sharing Shaikh Hādī's reformist views, he found his freedom of thought on religious matters abhorrent.

From 1883 to 1895 Ṭabāṭabā'ī studied at Samarra, and whilst there corresponded with Afghānī, who urged him to lead the struggle against oppressive government. This was part of Afghānī's campaign to encourage the ʿulamā to fight for the protection of the Islamic lands against the infidels.¹⁴ Whether influenced by Afghānī or not, one of Ṭabāṭabā'ī's major objectives was to save Shiism from infidel aggression. Afghānī does not seem to have urged on Ṭabāṭabā'ī the Pan-Islamic idea of joining other Muslim countries in the struggle against European incursions, or looking to the Ottoman Sultan as the leader of all Muslims. Pan-Islamic ideas were current in Iran at the turn of the century, touching even Shaikh Faḡlallāh.¹⁵ At the time of the Russian loans there was much talk amongst the ʿulamā of appealing to the Sultan against Amīn al-Sultān, but it was probably more with the idea of frightening their own government, and discouraging European interference, than anything else.

12. Browne, Revolution, op. cit., p. 406.

13. Rabino to Browne, 20th March 1911, Browne Papers.

14. Keddie, Afghānī, op. cit., p. 142, p. 336.

15. Hardinge to Lansdowne, No. 239, 31st Dec. 1904, FO 60/683.

On his return from Samarra, Ṭabāṭabā'ī became friends with the reformist minister, Amīn al-Daula. He was involved in the establishment of a new school, the Madrasa-yi Mubārak-i Islāmiyya, which intended to strengthen Islam, and to show both modernising and traditionalist ʿulamā that the new European style of education was in conformity with the Muslim religion. At the beginning of 1905, Ṭabāṭabā'ī became seriously agitated about what he considered was the parlous condition of the country. He complained from his pulpit of government oppression, saying the only remedy was the regulation of the affairs of state by laws (qānūn).¹⁶ In February 1905, he urged Nāzīm al-Islām to set up a secret society to work for reform and for constitutionalism (mashrūṭa). In his memoir written in 1911 Ṭabāṭabā'ī stated that he worked for constitutionalism (mashrūṭa) and the establishment of a national consultative assembly (majlis-i shūrā-yi millī) from the time of his return to Tehran in 1895, and that Nāṣir al-Dīn Shāh sent messages asking him not to mention the matter in his sermons as Iran was not ready for it.¹⁷ Ṭabāṭabā'ī's memoir, recorded when he was old and ill, gives a brief and not very coherent account of events up to 1906. A clearer exposition of his aims before the Revolution comes in Nāzīm al-Islām's account of the discussion between them in February 1905.¹⁸ Ṭabāṭabā'ī complained that he had been striving for progress in Iran for the past eight years. He had started discussions on the subject and educational projects to awaken the people, and had worked for the exile of Amīn al-Sultān, who had quashed these endeavours. Now Amīn al-Sultān had been replaced by ʿAin al-Daula, whom he considered ill-informed and oppressive.

16. Daulatābādī, op. cit., II, p. 7.

17. Ṭabāṭabā'ī, 'Yāddāshthā', op. cit., p. 474.

18. Nāzīm al-Islām, op. cit., I, p. 243.

Nāzīm al-Islām then raised the problem of who else could govern the country. Tabātabā'ī replied that:

'The problems of Iran cannot be solved until it has a constitutional government (mashrūṭa) with a fundamental law (qānūn-i asāsī). Then despotism (istibdād) will be overthrown and reform (islah) and good order (intiẓām) will be introduced.'

But constitutionalism could not be introduced until people were aware of their national rights (ḥuqūq-i millī). If people understood their rights they would never again have to live under oppression (zulm) and injustice (jaur). Both Malkum Khān and Yūsif Mustashār al-Daula, the author of Yak Kalima, had spoken of the need to make people aware of their rights, and to awaken them from their ignorance.¹⁹

Nāzīm al-Islām asked how and when Iran would have constitutional government, to which Tabātabā'ī answered:

'When people have knowledge and are awakened from their ignorance. Then they will comprehend not only their rights but understand the meaning of nationhood (milliyyat) and nationality (qaumiyyat), and realise that what is to the advantage of the country affects all of its citizens.'

Knowledge and education were the key to the whole problem, but unfortunately time was short and the country was in grave peril. The people must be induced to unite and work together in the service and struggle (mujāhida) of Islam and their homeland (vaṭan).

Tabātabā'ī then passed to Nāzīm al-Islām the 'Siyāhatnāma-yi Ibrāhīm Bīg' (The Travels of Ibrāhīm Bīg), written c. 1890 by Zain al-'Ābidīn Marāgha'ī, which he had just been reading and he strongly recommended the book. The

19. Mīrzā Yūsif Khān, Mustashār al-Daula, Yak Kalima, edition published Tabriz 1327/1907-8, p. 4. It was read by Nāzīm al-Islām's secret society, see his book Vol.I; p. 267.

writer, who came of a merchant family, lived in Cairo and Istanbul, and was influenced by the ideas of Malkum Khān. Many of the ideas expressed in the book are similar to those voiced by Ṭabāṭabā'ī. Marāgha'ī also spoke of rights (ḥuqūq), which he defined as the protection of life, property and honour against oppression, both internal and external.²⁰ He commented on the disorder in Iran and the lack of laws (qavānīn) and advocated national unity to solve the country's problems. The people should gather together in a consultative assembly (majlis-i shūrā).²¹ He also lamented the extreme weakness of Iran and the consequent danger from foreign interference. His loyalty, however, was distinctly to the homeland (vaṭan) rather than to Islam. Ṭabāṭabā'ī's loyalty, as will be discussed below, was more towards Islam. Margha'ī's ideas on rights were probably drawn ultimately from Rousseau and Montesquieu. The book, as Bakhash has remarked, is a rather confused mixture of medieval Islamic ideas on government with 18th and 19th century European political theory.²²

The discussion between Ṭabāṭabā'ī and Nāẓim al-Islām ended with Ṭabāṭabā'ī recommending that Nāẓim al-Islām begin a campaign to educate people to understand their rights, to be carried out by the setting up of associations and societies, at which those who were progressive (mutamaddin) could discuss the problems of the homeland. The most immediate practical problem with his objectives was that it would take time to achieve them because so few people understood their meaning.

20. Zain al-ʿAbidīn Marāgha'ī, Siyāḥatnāma-yi Ibrāhīm Bīg (The Travels of Ibrāhīm Bīg), Tehran 1353/1974-5, p. 81.
21. Ibid., p. 213.
22. Bakhash, op. cit., p. 353.

It is not fully clear from this discussion how far Ṭabāṭabā'ī understood the working of constitutional government, or exactly what he meant by the terms mashrūṭa and huqūq-i millī. It is evident, however, that they were intended to uproot the oppression and misgovernment that were weakening the country.

Nāzīm al-Islām duly founded the society that Ṭabāṭabā'ī had advocated. He stressed the advantage of acting whilst the society had the support of a mujtahid such as Ṭabāṭabā'ī as he was:

'So knowledgeable and aware; he reads foreign books, understands politics, and knows about international law.'²³

Ṭabāṭabā'ī had studied French, and one of his vocabulary lists including the word patrie has come to light,²⁴ but it may be doubted that he read difficult works in that language. He requested the British Legation to find out if a Persian translation of La Civilisation Arabe by G. Le Bon existed, and it is most probable that he read other works in translation.²⁵ There is no evidence that he knew Ottoman, but as a mujtahid he was familiar with Arabic. It is almost certain that he had read Kawākabī's Ṭabā'ī al-Istibdād.²⁶

During 1905 Ṭabāṭabā'ī was chiefly concerned with awakening the people to the need for reform, and he agreed to work with Bihbihānī, providing that reform in the general

23. Nāzīm al-Islām, op. cit., I, p. 247.

24. H.M. Ardakānī, 'Sayyid Muhammad Ṭabāṭabā'ī', Rāhnamā-yi Kitāb, No. 21 Parts 1-2 1357/1978, p. 28.

25. Marling to Ṭabāṭabā'ī, 30th Dec. 1907, FO 248/920, No. 527.

26. See below. . . . A number of translations of foreign books were made at the turn of the century, for example Fénelon's Télémaque, presumably for its criticism of absolutist government. See Adamiyyat, Idī'ūluzhī, op. cit., pp. 55-85.

interest was the ultimate aim. At the time of the ʿulamā's departure for Shāh ʿAbd al-ʿAzīm in December 1905, according to his memoir, his purpose was a majlis-i ʿadālat, and the meeting in the Masjid-i Shāh was, according to him, called partly for this purpose.²⁷ No mention was made of mashrūṭa at this point. The main aim of the body of the ʿulamā and of Bihbihānī, was, as discussed in the previous chapter, most probably the dismissal of ʿAin al-Daula.

Those who accompanied Tabāṭabāʾī and Bihbihānī to the Shrine included members of their families and their students as well as several other mujtahids; Mīrzā Muḥammad Riżā Qummī, said to have come from the ʿAtabāt at the same time as Tabāṭabāʾī, and considered one of the most learned and respected of the ʿulamā of Tehran,²⁸ who later withdrew from even a slight involvement in politics and may be considered an example of a learned but apolitical mujtahid; Sayyid Jamāl al-Dīn Afjāʾī who scorned world power and spoke in a derogatory fashion of the Shah.²⁹ Also amongst those who made an exodus were well known preachers and a number of lesser mullahs. They were joined by students from the theological schools including those under the control of the Imām Jumʿa, as well as by Shaikh Mahdī, son of Shaikh Fażlallāh, who professed support for the opposition movement and was on bad terms with his father. A limited number of merchants accompanied them, most preferring to keep a low profile, and they also had a following from the guilds. In all the bastis numbered about two thousand. After the

27. Tabāṭabāʾī, 'Yāddāshthā', op. cit., p. 476.

28. Nāzim al-Islām, op. cit., I, p. 345.

29. Ibid., p. 353.

departure to the Shrine the Shah removed some of the vaqf property from the charge of those mujtahids who had gone and gave it to those who remained.

Of the ʿulamā who remained in Tehran and continued to support ʿAin al-Daula, Shaikh Faʿzlallāh and the Imām Jumʿa were by far the most important. Others included the mujtahid, Shaikh Mīrzā Abū Tālib Zanjānī, a mujtahid who was exceptionally well-informed on western ideas and in the confidence of ʿAin al-Daula.³⁰ Ṣaif al-Dīn, a descendent of Fath ʿAlī Shāh and ʿAin al-Daula's chief confidant among the ʿulamā;³¹ and Sayyid Raiḥānallāh, a mujtahid who had been active in the movement to replace Amīn al-Sultān by ʿAin al-Daula.

An organisation was set up to supply the bastīs with provisions. Funds were collected from bazaar sources by two brothers, Ḥāj Muḥammad Taqī Bunakdār, and his brother Ḥāj Ḥuṣain.³² Expenses for subsistence, such as food, tea, tanbākū and cigarettes were disbursed from their fund. Of the known contributors to the funding of this bast, the highest contributions came from the notables, who may be divided into three groups. These were aspirants to the throne, including Sālār al-Daula, who sent a large sum through Malik al-Mutakallimīn; the Valīʿahd who distrusted and detested ʿAin al-Daula is also said to have sent a large contribution in the belief that the bast was largely directed against the Ṣadr-i Aʿẓam. The second group were the family and clients of Amīn al-Sultān. According to Browne, Amīn al-Sultān

30. Hardinge to Lansdowne, No. 40, 28th Feb. 1905, FO 60/698.

31. Grant Duff to Grey, No. 101, 22nd April 1906, FO 371/109, No. 16412.

32. Nāẓim al-Islām, op. cit., I, p. 344.

provided the very large sum of 30,000 tomans to subsidize the bast.³³ The third group, who according to Nāzīm al-Islām wanted a change in the form of government, included the Foreign Minister, Mushīr al-Daula, and his sons, Mushīr al-Mulk and Muṭamin al-Mulk. The encouragement from these political factions was to be more consistent than that of the bazaar. The support of the guilds flagged and when Malik al-Mutakallimīn tried to raise more money in the latter part of the bast, the merchants would give him next to nothing. By that time it was fairly clear that they were not going to dislodge ʿAin al-Daula and Naus.

The manner in which the money was disbursed depended on the amount and source. All small amounts and contributions from the merchants were given to the two brothers. Large amounts from outside sources, such as the followers of Amīn al-Sultān, were received directly by the leading ʿulamā, and divided amongst them. One of the lesser ʿulamā told Nāzīm al-Islām that the only money he received was 60 tomans from Ṭabāṭabāʾī for daily expenses.³⁴ A certain amount of the cost was borne by the mujtahids and wealthier ʿulamā themselves. Ṭabāṭabāʾī's brother complained that he had had to pay out 1000 tomans in the first two weeks or so of the bast.

ʿAin al-Daula responded to the situation with the usual government policy of quelling ʿulamā opposition by means of threats and financial inducements. A week after the ʿulamā left, Amīr Bahādur Jang, the Minister of Court was sent with a company of armed men to bring them back. A serious incident occurred when Sayyid Jamāl al-Dīn Afjāʿī referred

33. Browne, Revolution, op. cit., p. 113.

34. Nāzīm al-Islām, op. cit., I, p. 345.

to the Shah as an ass. Fearing bloodshed, Tabātabā'ī agreed to return with Amīr Bahādūr, but certain of those in sanctuary who feared for their lives prevented him from doing so by dragging the leading mujtahids into the sanctuary and surrounding them. The Sadr-i A'zam also tried to separate Tabātabā'ī from Bihbihānī with a bribe, and even succeeded in winning over the former's brother Ahmad, who, however, did not have sufficient influence to sway the 'ulamā. Accounts suggest that of all the 'ulamā Bihbihānī was the most determined not to emerge without some advantage over 'Ain al-Daula.

Since threats and financial inducements had failed a process of bargaining began. According to Nāzīm al-Islām two lists were submitted through Ahmad Tabātabā'ī. The first, made secretly with the agreement of only a few others, included the following conditions:

1. Dismissal of 'Alā al-Daula, Governor of Tehran.
(His punishment of merchants for putting up the price of sugar had started the agitation.)
2. Dismissal of Zafīr al-Saltāna, Governor of Kerman.
(His bastinadoing of the mujtahid there was taken by the 'ulamā as a primary example of 'oppression'.)
3. Removal of 'Asgar Gārīchī, the conveyancer on the Qum road.
(He was annoying the 'ulamā of Qum and the request was calculated to win their support.)
4. Compensation for the mujtahid punished in Kerman.³⁵

This list probably represents the wishes of a minority of the 'ulamā anxious to extricate themselves from the Shrine. The

35. Ibid., p. 353.

second list, said to be more representative, was the same, except that it included one more condition:

5. Dismissal of 'Ain al-Daula, Ṣadr-i A'zam.³⁶

According to Nāzīm al-Islām this was the primary aim of the 'ulamā, and, it may be added, of most of their supporters as well. 'Ain al-Daula managed to prevent the fifth condition from reaching the Shah and the 'ulamā found it impossible to circumvent him. It is to be noted that no request for reform is included on the lists. It is fairly certain that Ṭabāṭabā'ī and his small circle desired reforms but they were very much in the minority. The 'ulamā's requests were rejected and they declined to leave the Shrine.

At the same time Bihbihānī was trying to find a way round 'Ain al-Daula, to establish contact with the Shah, who was less resolute and not antagonistic on account of personal opposition. He sent a book and a note explaining the position of the 'ulamā to the Ottoman Ambassador, Shams al-Din Beg, asking him to see the Shah on their behalf.³⁷ The Ambassador had long been resident in Tehran and had many connections among the notables. He was reputed to hold the Iranian government in profound contempt.³⁸ However, he declined to intervene in the matter, but was persuaded to change his mind through the intervention of Yahyā Daulatābādī and his brother, who were personal friends. According to Daulatābādī's own account he won the Ambassador over on the grounds that his intervention would help bring about reform. Daulatābādī further says he received from the 'ulamā the following list to pass to the Ambassador:

36. Ibid., p. 357

37. Daulatābādī, op. cit., II, p. 19.

38. Spring Rice to Grey, No. 289, 4th Dec. 1906, FO 416/29, No. 301.

1. Dismissal of 'Alā al-Daula, Governor of Tehran.
2. Dismissal of Naus from the Customs and other offices.
3. Amnesty for the followers of the 'ulamā on their return to the city.
4. Return of the confiscated vaqf property.
5. Removal of 'Asgar Gārīchī from the Qum road.
6. Compensation for the Kerman mujtahid.
7. Abolition of the 10% stamp tax.³⁹

Daulatābādī claims that he could not have given a list representative only of the interests of the 'ulamā when he was supposed to be acting in the cause of reform. He himself, therefore, rewrote the list adding the deliberately ambiguous phrase:

'Qarārdādī dar iṣlāḥ-i kulliyya-yi umūr bā ru'āyat-i huqūq-i 'ulamā.'

(Agreement to reform in all affairs with consideration to the rights of the 'ulamā.)

The list was then passed from the Ottoman Ambassador to the Shah through Mushīr al-Daula, and returned with agreement to all the first six conditions except for the dismissal of Naus. For the seventh condition an explanation was demanded. Daulatābādī and fellow reformers, such as Malik al-Mutakallimīn, then held a meeting at which they redrafted the seventh condition as follows (or so Daulatābādī recounts):

'In order to carry out reforms in all affairs it is necessary to establish a Council of Justice (dīvān-i 'adālat) in conformity with the law of Islam as compiled in a book (kitāb), and a national consultative assembly (majlis-i shūrā-yi millī) to ensure that the law be executed equally in all parts of Iran so that there can be no difference between high and low, and all may obtain redress of their grievances.'

39. Daulatābādī, op. cit., p. 22.

The list with the newly drafted seventh condition and the Shah's comments was sent to the 'ulamā with the admonition that negotiations could go no further unless there was some general request for reform. The 'ulamā returned the revised list only slightly amended and it was once more passed to the Ottoman Ambassador.

According to Nāzīm al-Islām a final (and, in his version, third) list was submitted for the Shah's attention after consultations involving Daulatābādī and his brother, the Ottoman Ambassador and the four leading younger 'ulamā (Nāzīm al-Islām is not precise as to who played what role). The list was submitted through the Ambassador and included the following conditions:

1. Removal of 'Asgar Gārīchī from the Qum Road.
2. Compensation for the Kerman mujtahid.
3. Return of the vaqf property confiscated from some of the 'ulamā who had gone into bast.
4. The establishment of an 'adālatkhāna in every province which would redress the grievances of the subjects, and conduct itself in a just and suitable manner.
5. The execution of the law of Islam for each individual regardless of anyone (i.e. impartially).
6. The dismissal of Naus from his directorship of the customs and finance.
7. Dismissal of 'Alā al-Daula, Governor of Tehran.
8. Abolition of the 10% stamp tax on government salaries and pensions.⁴⁰

40. Nāzīm al-Islām, op. cit., I, p. 358.

The important question with regard to these lists is how the term ʿadālatkhāna found its way there and what it signified. Ṭabāṭabāʾī's own account is brief and not very clear:

'I wrote down whatever anybody wanted, for example, that the Madrasa-yi Khān Marvī should be taken back from the Imām Jumʿa, and ʿAsqar Gārīchī should be removed from the Qum road. The purpose, however, was a majlis-i ʿadālat, to which they agreed. Then ʿAin al-Daula obstructed our requests, and we went to Qum.'⁴¹

It should be noted that the term he used was majlis-i ʿadālat, and not ʿadālatkhāna, which will be discussed further below.

On the other hand Daulatābādī's account must be questioned because it gives undue importance to his own role. It is improbable that the leaders of the ʿulamā would have so passively accepted such a major change from a person of comparative insignificance, even on the grounds Daulatābādī gives. Nāẓim al-Islām and Ḥāj Shaikh Mahdī Sharīf both agree that Daulatābādī and his brother played an invaluable role in persuading the Ottoman Ambassador to act as intermediary. Nāẓim al-Islām, in a comment written in 1911, accepted the gist of Daulatābādī's account, but said he himself had repeatedly mentioned the idea of an ʿadālatkhāna to Ṭabāṭabāʾī before the departure to the Shrine.⁴² Elsewhere he says the list the ʿulamā gave the Shah was in the handwriting of Murtaẓā Āshtiyānī, with the word ʿadālatkhāna added in the margin by Ṭabāṭabāʾī.⁴³ This conflicts with Ṭabāṭabāʾī's account, and with Nāẓim al-Islām's own third list. Since Nāẓim al-Islām's 1911 comment suggests that he did not really know, the version just mentioned may have been contrived in response to an accusation that the request for reform did not really come from the ʿulamā.

41. Ṭabāṭabāʾī, 'Yāddāshthā', op. cit., p. 477.

42. Nāẓim al-Islām, op. cit., I, p. 359.

43. Ibid., p. 377.

Grant Duff reported on 28th December that the ʿulamā had asked for 'some form of representation of the people',⁴⁴ but he was being fed information by persons of reformist sympathies and even translated as authentic a leaflet distributed in the bazaar that purported to emanate from the ʿulamā and asked for a full constitutional government. Some months later Ṣaif al-Dīn told Churchill that:

'Other and more far-seeing people have the clergy the idea of asking for a code of laws and other liberal institutions.'⁴⁵

The demand for an ʿadālatkhāna was not welcome to the government but the ʿulamā had dropped their goal of removing ʿAin al-Daula himself, and might also be persuaded to forego the dismissal of Naus. ʿAin al-Daula opened his own negotiations with them through his nephew, Amīr Khān Sardār. It was agreed that the four younger ʿulamā, Abu'l-Qāsim Tabātabā'ī, Mīrzā Muṣṭafā Āshṭiyānī, Mīrzā Muḥsin and I'timād al-Islām, who were involved in the negotiations, should meet ʿAin al-Daula on 9th January. The following day a rescript was issued granting the requests of the ʿulamā (except for the dismissal of Naus and ʿAin al-Daula) and promising:

'The establishment of a State House of Justice (ʿadālatkhāna-yi daulatī) to execute the laws of the shariʿa and ensure the security of the subjects is our foremost objective. To carry out this sacred objective, the law of Islam, which consists of the establishment of the boundaries and the execution of the precepts of the shariʿa, must be enforced immediately throughout the land. There shall be no difference in the treatment of the subjects, regardless of their status; nor shall considerations of personal interest play any part in the execution

44. Grant Duff to Grey, No. 277, 28th Dec. 1905, FO 416/26, No. 98.

45. Grant Duff to Grey, No. 101, 22nd April 1906, FO 371/109, No. 16412.

of the law. Clarification of the law will be given in a code shortly to be issued, which will be in conformity with the sharī'a. Its provisions will be enforced in all the provinces.⁴⁶

The body to be set up was thus an 'adālatkhāna. The description of the law as the sharī'a was probably convenient to most, and literally believed by many. The 'ulamā returned to Tehran on 12th January seated in honour in the royal carriages. Sayyid Jamāl al-Dīn Afjā'ī, however, travelled back on a mule.

The term 'adālatkhāna occurred in previous Iranian attempts at legal reform. As early as 1860 a member of Malkum Khān's Council of Reform had proposed a diwān-i 'adālat or dīvānkhāna-yi 'adliyya a court of justice to prevent the governors and state officials from oppressing the people, and acting according to their own interests.⁴⁷ In the same year an 'adālatkhāna or dīvānkhāna-yi 'adliyya was set up by 'Abbas Qūlī Khān, Mu'tamad al-Daula.⁴⁸ It constituted part of a reorganisation of the Ministry of Justice and aimed at prohibiting provincial governors from interfering in judicial affairs. It consisted of a high court in the capital and an independent presiding judge in each province who was responsible only to Tehran. The reform was obstructed by the provincial governors and proved fruitless. In the 1870's the Sipāh Sālār tried to establish what he called 'hukūmat-i qānūn' which meant a reform and limitation of the absolutist system. Law reforms were introduced with the aim of regulating personal and political rights along European lines. They included the reorganisation of the Ministry of Justice under

46. Nāzīm al-Islām, op. cit., I, p. 366.

47. Ādamiyyat and Nātiq, Afkār-i Ijtima'ī, op. cit., p. 212.

48. Ādamiyyat, Taraqqi, op. cit., p. 81.

Yūsif Khān, Mustashār al-Daula, who brought some of the Code Napoleon to Iran for translation. In addition to the Ministry of Justice (vizārat-i-ʿadliyya.-yi aʿzam) there were also to be tribunals (ʿadālatkhānahā) in the provinces. Each one was to have a supervisor nāzir and seven courts (maḥkama). The nāzir might summon the perpetrators of illegal acts to the ʿadālatkhāna and was particularly responsible for counteracting the illegal actions of government officials. The courts were intended primarily to deal with criminal law, but it was the purpose of Sipah Sālār to reorder the ʿurf courts in such a way that the ʿulamā remained in charge of religious affairs and personal law and kept out of other matters. These reforms were part of his overall aim to secure centralisation of government, and make the provincial authorities accountable.⁴⁹

There is strong evidence that the Sipah Sālār was influenced by the Ottoman reforms of the Tanzimat. He had spent some time in Istanbul in the 1860's and many of his ideas echo the Ottomans', particularly with regard to centralisation and reorganisation. In the 1860's and 70's the Ottomans were also in the process of reforming the legal system. In the Ottoman Empire two main judicial bodies existed. One was the Divan-i Ahkam-i Adliye (Council of Judicial Ordinances), whose president was in effect the Minister of Justice. By 1879 all non-religious courts came under its control. The second body was the Shura-yi Devlet (Council of State), which was modelled on the French Conseil de l'État. It was a high court of appeal for administrative cases, with some consultative and quasi-legislative responsibilities.⁵⁰

49. Ibid., p. 181.

50. See B. Lewis, op. cit., p. 179; S.K. and E.J. Shaw, History of the Ottoman Empire and Modern Turkey (C.U.P. 1977), pp. 80-1; E. Engelhardt, La Turquie et le Tanzimat (Paris 1882), II, p. 19.

It was composed of a number of different councils with duties to examine and prepare all projects of law; judge government officials accused of misconduct; and one of its purposes was to increase the efficiency of administrative departments by subjecting them to close scrutiny. The Conseil de l'Etat of France, on which the Shura-yi Devlet was modelled, is the pinnacle of a system of special courts quite separate from the ordinary courts of law. Their purpose is to investigate and adjudicate complaints by the ordinary citizen against the government and its administration.⁵¹ It was also used following the French Revolution to formulate legislation and reorganise the administration completing the process of centralisation in France.

Sipah Sālār's reorganised Ministry of Justice shows similarities with the Ottoman reform, itself influenced by the French administrative and judicial system. The most significant feature in all these bodies is that they had tribunals to which the government administration was accountable, and these tribunals were established throughout the provinces under a central body in the capital. All three also had certain quasi-legislative features in terms of drafting law. In the French and Ottoman systems the Conseil de l'Etat and the Shura-yi Devlet were separate from the judicial system. In Iran, however, the functions of supervising the executive tended to be combined and confused in the Ministry of Justice.

The reforms of the Sipah Sālār lapsed after his fall, but an attempt to revive some of his ideas was made by Amīn al-Daula in 1893. At this time an order was given to the Ministry of Commerce and Justice to set up an ‘adālatkhāna to

51. See L. Freedman The Conseil de l'État in Modern France (New York 1961), pp. 1-8

deal correctly and firmly with trials, and with the protection of the rights of the subject. It was also to reorganise the government courts.⁵² It thus combined in a slightly confused way the functions of administering justice and watching over the executive.

Not long before 1890 Malkum Khān had called for a more regular system of justice in the newspaper Qānūn. He demanded government according to the law and called for security and protection from oppression by properly regulated tribunals of justice (ʿadālatkhānahā).⁵³ In a later edition the same year he pointed to the Ottoman law reforms and compared the progress in the making of laws and the organising of ʿadālatkhānahā in the Ottoman Empire with the anarchic and oppressive system in Iran.⁵⁴

Thus up to 1905 the word ʿadālatkhānahā had two basic meanings: the first was a system of tribunals under the Ministry of Justice with the function of watching over the provincial authorities and obtaining redress of grievances against them; the word could also be used to refer to a single one of these tribunals. These functions, however, were to some extent confused with the ordinary administration of the law. In 1905-6 definition of the term was further complicated by confusion with other ideas such as representative government, consultation and sharing of power. It was seen primarily, though, as an institution whose purpose was to limit the arbitrary power of the state.

To return to the lists of the ʿulamā enumerated above and the Shah's rescript, the ideas expressed in Daulatābādī's

52. Amīn al-Daula, op. cit., p. 156.

53. Qanūn, No.3, p. 4.

54. Qanūn, No. 16, p. 3.

and Nāzim al-Islām's list, and the rescript though vague, are in conformity with a reformed Ministry of Justice with subsidiary tribunals with powers to supervise the conduct of the executive. However, only Nāzim al-Islām repeats the word ʿadālatkhāna, Daulatābādī employing the term divān-i ʿadālat. Tabātabāʾī refers to a majlis-i ʿadālat, and once used the term ʿadālatkhāna in a speech when he asked for a majlis-i mashrūʿa-yi ʿadālatkhāna. As will be discussed below, the majlis-i ʿadālat he sought was a different concept to the ʿadālatkhāna defined in the rescript. There was indeed a great deal of confusion about what exactly the ʿulamā had asked for, which is reflected in the reports of the foreign legations. The British translation of the rescript refers to the ʿadālatkhāna as 'courts of justice' but the accompanying memorandum reports the concession as 'a representative assembly' to be composed probably of government officials, mullahs and merchants.⁵⁵ The Belgians reported the reform as intending:

'to create a Higher Tribunal in every important town as well as a kind of Council of the Empire which will be engaged in discussing legal projects.'⁵⁶

This grasps some points of the intended reform but not the fact that it aimed to watch over the administration.

The fact that Tabātabāʾī was not seeking the ʿadālatkhāna as defined in the rescript suggests that the initiative for the idea did not come from him. Apart from Daulatābādī's account there remains another possibility, although the evidence is as yet slight. According to Ḥāj Shaikh Mahdī Sharīf, some of the higher bureaucracy (unnamed) sent a message to Bihbihānī in the spring of 1905 during the campaign against Naus, telling him to ask for an ʿadālatkhāna to reform

55. Grant Duff to Grey, No. 23, 30th Jan. 1906, FO 416/26, No. 155.

56. Sanservens, 15th June 1906, No. 23/13, in Doc. 1281, BMFA.

the affairs of the country.⁵⁷ Bihbihānī, however, intent on removing 'Ain al-Daula, did not take up the suggestion. As previously mentioned the senior bureaucrats were active in assisting the 'ulamā whilst they were in bast. The name of Mushīr al-Daula occurs as being of particular importance in all accounts. Nāzīm al-Islām says he and his sons gave much assistance to the 'ulamā. According to Tabātabā'ī he was assisted in passing his requests to the Shah by Mushīr al-Daula. Daulatābādī prints a letter to himself from the Ottoman Ambassador in which the latter states that Mushīr al-Daula had promised full cooperation. Hāj Shaikh Mahdī Sharīf reports that Mushīr al-Daula encouraged Bihbihānī to persevere and sent him 500 tomans via Shaikh Mahdī Sharīf himself.⁵⁸ Mushīr al-Daula was the only one of the more progressive minded senior bureaucrats still in office, and he may have been encouraged and abetted by others who were not. Some sent letters to Bihbihānī whilst he was in bast telling him not to be tricked into submission, and after the return of the 'ulamā came to thank him for what he had done.⁵⁹ According to Grant Duff in February the 'ulamā were receiving moral and pecuniary support from high officials, one of whom he named as Sa'īd al-Daula.⁶⁰

With regard to Bihbihānī himself, it may be noted that the question of the 'adālatkhāna was not raised until it became apparent that the 'ulamā were not in a strong enough position to remove 'Ain al-Daula. Shaikh Mahdī reports that Bihbihānī was determined to come out of the Shrine with some advantage.⁶¹ This was in the face of considerable difficulties

57. Mahdī Sharīf, op. cit., Vahīd No. 208, May 1977, p. 62.
58. Ibid., Vahīd 219-20, p. 47.
59. Ibid., Vahīd 219-20, p. 47, and No. 238, p. 42.
60. Grant Duff to Grey, No. 60, 28th Feb. 1906, FO 371/107, No. 9434; See also Grant Duff to Grey, No. 21, Tel., 14th Jan. 1906, FO 416/26, No. 44.
61. Mahdī Sharīf, op. cit., Vahīd, 219-20, p. 46.

in financing the bast and controlling his following.⁶² The request of the ʿadālatkhāna enabled him to emerge from the bast without loss of prestige, and it may be that he was more instrumental in putting the reform on the list than Ṭabāṭabāʾī.

The question of exactly how the ʿadālatkhāna was included in the ʿulamā's requests cannot be finally answered on present evidence. With regard to Daulatābādī's account, although it was not fully refuted by contemporaries, it must be noted that it was published after two of the major participants in events, Bihbihānī and Mushīr al-Daula, were dead, and the Ottoman Ambassador was no longer in Tehran. The situation was very confused and it may be that no one person could be sure exactly what happened. It seems fairly likely, though, that Bihbihānī and Ṭabāṭabāʾī were instigated by either the reformers of the secret societies, or members of the highest bureaucracy, or both, to ask for an ʿadālatkhāna but that the majority of ʿulamā, intent on removing those who imposed higher taxes, knew little about it and understood less.

The issuing of the rescript granting the ʿadālatkhāna was primarily a means whereby the ʿulamā and the government could come to terms in a dangerous crisis. The government, whilst making concessions such as the removal of the stamp tax, refused to give way on the most important points, the dismissal of Naus and ʿAin al-Daula. The ʿulamā, however, had escaped from a difficult position with their prestige enhanced and the safety of their followers guaranteed. But the opposition factions seeking the exile of the Ṣadr-i Aʿẓam, the merchants discontented at the customs reforms, and the reformers working for a major change in government were not

62. Malikzāda, Mashrūṭiyyat op. cit., Vol. II, p. 72, p. 82; Daulatābādī, op. cit., II, p. 25.

likely to rest there. Events in Russia were being closely watched and discussed, particularly amongst the tullāb, who, hearing that the Russian people were trying to obtain their 'freedom', began openly to demand 'freedom' themselves. At the same time the difficulties of the Russian government removed the fear of a Russian occupation of the north if there was an uprising in Iran.⁶³

In the period following the return from bast the ʿulamā took no further steps towards attaining reform, and the government consequently did nothing. The rumour had begun to spread that with the establishment of the ʿadālatkhāna the ʿulamā would have to 'close shop', that is to say much of their legal business would be curtailed. Those seeking reform, therefore, started to pressurise the ʿulamā chiefly via leaflets distributed through the bazaar. ʿAin al-Daula, as before, played on the divisions amongst the ʿulamā and offered them financial inducements to desist. Some of the younger ʿulamā, however, used the popular ferment to further their own ambitions. Sadr al-ʿUlamā professed himself in sympathy with the tullāb and acquired the largest following amongst them.⁶⁴ The younger ʿulamā formed a faction known as the Islamic Circle (Hauḏa-yi Islāmī) to press for the execution of the Shah's rescript.

The Islamic Circle demanded a say in the compilation of the code of laws. The government recognised that judgement in sharīʿa affairs would have to be dealt with by the ʿulamā but resisted their participating any further in the matter. When ʿAin al-Daula passed the ʿulamā the section concerning the sharīʿa he hoped that it would create disagreements amongst

63. Grant Duff to Grey, No. 277, 28th Dec. 1905, FO 416/26, No. 98.

64. Nāzīm al-Islām, op. cit., I, p. 381.

them which they could not easily resolve, so responsibility for delay in the reform could be placed at their door.⁶⁵ A major part of the new code was to be a translation of the Ottoman law codes.

Prompted by the reformers, Ṭabāṭabā'ī wrote to 'Ain al-Daula sometime in the spring of 1906, reminding him of his promise.⁶⁶ In the letter the ideas expounded to Nāẓim al-Islām at the beginning of 1905 are given further expression. Ṭabāṭabā'ī pointed to the extreme weakness of the country and the danger from foreign invasion:

'We wish to live under our own Shah and Sadr-i A'zam under the Russians, the Ottomans or the British.'

Iran was so weak it was in danger of extinction. The only solution to the country's problems was unity. This could only be achieved by the establishment of a council (majlis) in which the government (daulat) and the people (millat), the notables of the government (rijāl al-daulat) and the 'ulamā were united. Finally, Ṭabāṭabā'ī urged 'Ain al-Daula to act for the same reason that he himself was acting:

'For this is a great work and will cause my name to be written in the pages of posterity.'

The majlis that Ṭabāṭabā'ī was now asking for implied not a reformed Ministry of Justice, but a council uniting government and people to consult and obtain better government. How its members were to be chosen was not clear.

At about the end of May 1906 Ṭabāṭabā'ī wrote directly to the Shah.⁶⁷ Again he returned to the theme of Iran being

65. Ibid., p. 408.

66. Ibid., pp. 390-1.

67. Ibid., pp. 403-5.

weak and endangered, but his identification of Iran with Shi'ism is much clearer:

'If Iran is thrown to the winds, Islam will become weak and Muslims humiliated.Iran is not only their vaṭān but the place where their religious goals are fulfilled.'

This strong identification of Iran with Islam is not found in more secular reformers such as Marāgha'ī, and it must be doubted that Tabātabā'ī had quite the same concept of nationality, or understanding of nationalism as they did.

Tabātabā'ī identified the bane of Iran as oppression (istibdād) by the governors and other state officials, describing it as follows:

'They (the governors) seize people's property whenever they have the opportunity. They vent their anger and greed on whomsoever they wish and beat and kill and mutilate.'

He added that:

'Thousands of Iranians have fled abroad from the oppression of the governors and state officials to become porters and labourers, and they die in an abject state.'

This view of Qajar government is close to that reflected in the Siyāḥatnāma-yi Ibrāhīm Bīg, which in parts it repeats nearly word for word. Marāgha'ī also wrote that many Iranians had fled abroad from the oppression of the governors to work as porters and labourers and that they had died in an abject state.⁶⁸ He too commented that there was no security. Of course, both Mustashār al-Daula and Malkum Khān, especially in Qānūn, had described the system of government in Iran as oppressive.

Tabātabā'ī again raised the matter of the majlis, calling it a majlis-i 'adālat, as a remedy for oppressive government.

68. Marāgha'ī, op. cit., p. 24, p. 67.

He described it as a council (anjumān) composed of all sections of the population (tamām-i aṣnāf-i mardum). In it all would be equal, the people could obtain public redress of their grievances, and through it the country would prosper. It is not clear whether the term 'all sections of the people' would include the guilds.

Early in June an agitator named Maḥdī Gāvkuṣh was arrested for seditious activity and severely beaten. His family were also so badly treated that one of his children died. Ṭabāṭabā'ī made this episode a pretext for a long speech from the pulpit on the state of the country and the need for reform.⁶⁹ He began his speech with a call for justice, presenting it as a legitimate Shiite demand:

'The Prophets and the saints have commanded justiceJustice is emphasized in the Qurān and the message of the Prophet'.

He identified the main problems of Iran as being injustice, disunity and tyranny:

'Some say the disease is injustice and its cure is justice. Some say the disease is association (shirk) and the cure is oneness (tauḥīd). Some say the disease is tyranny (ẓulm) and its cure is deliberation (shaur) and consultation (mashvarat)'.

This passage which would appear to have religious origins, in fact comes from Kawākibī's Ṭabā'ī al-Istibdād, in which he said that despotism meant shirk, that it is the sharing of the despot in God's powers, and its remedy was tauḥīd, belief in God's oneness.⁷⁰ The concept of disease and cure may also derive from Kawākibī, who spoke of the problems of eastern

69. Nāẓim al-Islām, op. cit., I, pp. 444-53.

70. K.S. Al-Husry, Three Reformers (Beirut 1966), p. 63; See also pp. 26-29 of the Persian translation by 'Abd al-Ḥusain Qājār, printed 1325/1907-8. Ṭabāṭabā'ī must have read the Arabic, unless he saw a draft of this translation.

countries in those terms.⁷¹ Kawākibī's book, based very largely on the Della Tirannide of V. Alfieri, comprised an analysis of tyranny (zulm), how it grew and thrived, and how both oppressors and oppressed were subject to fear.⁷² In his view the reason for the decay of Islam was the tyrannical system of government, a view shared by Ṭabāṭabā'ī.

Ṭabāṭabā'ī again brought up the subject of his majlis-i 'adālat as an institution that would unite people and government in an effort to 'solve the country's problems'. The theme of uniting people and government was to become one of the main goals of the Revolution, as Arjomand has pointed out.⁷³ It occurs also in Marāgha'ī, who proposed the unity of people and government in a majlis-i shūrā.⁷⁴ But the idea of bridging the gap between people and government had been considered by those with reformist ideas since the time of Malkum Khān's discussions in 1859. The concept implies a sharing of power producing a fairer, more efficient administration.

The question of constitutionalism was also raised in the speech and Ṭabāṭabā'ī swore that other people had attributed this aim to him. Indeed a long letter exists from Nāsir al-Mulk to him trying to dissuade him from this objective.⁷⁵ It may be that Nāsir al-Mulk believed Ṭabāṭabā'ī was seeking constitutionalism, or it may be that in a climate of intense debate on possible reform he wished to counterbalance those

71. 'Abd al-Husain Qājār, op. cit., pp. 6-7.

72. S. Haim, 'Alfieri and al-Kawākibī', Oriente Moderno, XXXIV 1954, pp. 321-334.

73. Arjomand, 'The 'Ulamā's Traditionalist Opposition', op. cit., p. 176.

74. Marāgha'ī, op. cit., p. 213.

75. Nāzīm al-Islām, op. cit., I, pp. 454-62.

who were trying to pressurise Ṭabāṭabā'ī towards it. Ṭabāṭabā'ī said again in his speech that the people of Iran 'have not yet reached the necessary level of education and are not capable of constitutionalism', repeating what he had told Nāẓim al-Islām. In his belief that constitutionalism would only be arrived at gradually, he may have been at least partially influenced by Kawākibī.⁷⁶ This view is probably the reason he advocated a majlis-i 'adālat rather than a majlis-i shūrā like Marāgha'ī. It seems fairly clear, however, that government by popular sovereignty was his long term goal.

At the end of his speech Ṭabāṭabā'ī further defined his council as one in which Shah and beggar would be equal according to the law. This latter phrase may have come from Yak Kalima in which it also occurs. The idea, of equality according to the law, borrowed from western constitutionalism, was translated in Iranian terms as equal according to the sharī'a, thereby creating confusion on the nature of the law codes that were to be introduced. Elsewhere Ṭabāṭabā'ī spoke on the need for qavānīn, laws, and for the necessity of executing the law of Islam. It is probable, however, that he did not literally desire the execution of the sharī'a. At that time it was dangerous to advocate qānūn, law, for two reasons. The first was that it implied another written law, which was regarded with suspicion by many of the 'ulamā.⁷⁷ Secondly, it implied a system of government where the monarchy was limited by laws. It is unfortunately not possible to conclude exactly what Ṭabāṭabā'ī's views on the law were at this stage. But from his reading of Marāgha'ī, from the probability that he was familiar with some of Malkum Khān's ideas, from the fact that Yak Kalima was read in the

76. For Kawākibī's views see Husry, op. cit., pp. 67-9; Haim, op. cit., p. 331.

77. Nāẓim al-Islām, op. cit., I, p. 300.

secret society he instigated, and from his policy after the establishment of the constitutional regime, it is most likely that he envisaged a system similar to that proposed in Yak Kalima, that is a code of laws partly drawn from the shari'a and at least not contrary to it, according to which the state administration could be regulated in secular affairs. Such a code had, after all, been drawn up in the Ottoman Empire, and was probably the one being translated in the spring of 1906.

Tabāṭabā'ī also considered the role of the Shah within his altered system of government. At the beginning of his speech he emphasised that it was not true that he sought to depose the Shah. He stressed that the Shah was a Muslim and that if there were reforms whilst he reigned, it would prevent any further decline. However, he was less concerned with the position of the Shah than with the urgent need for change. He argued that the reforms he advocated would not affect the Shah's place:

'Why shouldn't there be a Council of Justice in a country that has a Shah?'

Indeed, in view of the danger from abroad, reform would strengthen the position of the monarchy, for good government would produce a prosperous country and a full treasury.

At the end of the speech Tabāṭabā'ī stated that the one true Shah was the Imām of the Age, but in a brief analysis of the nature of human society, he showed that the Shah of the time had a valid function within the political system, and that he must be obeyed as long as he fulfilled it. He turned to the question of the meaning of saltanat and told his listeners:

'If you had studied in the new learning, if you knew about history and law, if you were educated, then you would understand the meaning of saltanat.'

The emphasis on the need to have studied modern learning (ʿulūm-i jadīd) to comprehend the meaning of salṭanat shows his interpretation of the word was drawn from European thought. According to the theory which Ṭabāṭabāʾī propounded, God has given each creature certain qualities to enable it to survive. But unlike other creatures man is not simple in the things that he needs for his livelihood. For example, he needs bread, clothing and buildings. One person cannot supply all of these so communities have grown up to serve the needs of individuals. But these communities are in danger of destroying themselves because of the forces of rage and greed which lead men to destroy each other. Therefore, the wisest men decide to appoint one person to protect their community. The appointment is made on the understanding that members of the community devote their lives and property to the one person, on the condition that he protect them from oppression both from outsiders and from each other. This one person is the Shah, and he has been provided with taxes to keep soldiery to enable him to carry out his duties. If the Shah does not fulfill his functions, but is idle and self-interested, his people may withdraw their allegiance (life and property) and bestow it upon someone else.

It is not certain from where Ṭabāṭabāʾī derived these ideas which seem to combine the traditional Muslim view of the role of the Shah as the protector of his people and the keeper of good order, with the notion drawn from European thought that the ruler is accountable to the people. Ṭabāṭabāʾī's pessimistic view of human nature recalls Hobbes, but there is no evidence he read Hobbes, whose theory hardly fits in with Ṭabāṭabāʾī's other political ideas. The right of people to choose a ruler and then remove him for dereliction of duty suggests the influence of contractual theories of government, particularly Locke and Rousseau. The idea may well have come to him though, through a contemporary thinker. Kawākabī, for example, argued that men could choose a

government by their own reason and will, and remove it if it failed their expectations. It might, on the other hand, be argued that Ṭabāṭabā'ī was thinking of the Muslim ba'ya 'the act by which a certain number of persons, acting collectively or individually, recognise the authority of another person.'⁷⁸ But Ṭabāṭabā'ī stressed himself that his ideas were drawn from a new source. Further he stated that the ruler had duties to the community, who had the right to remove him if he failed them, but in Muslim theory, the ruler is responsible to the sharī'a, the law of God, and can only be removed if he violates the law, which Ṭabāṭabā'ī completely fails to mention in this context. He may have amalgamated these theories from general reading to form one of his own, or more likely, they were derived from a particular contemporary work, but so far investigations into possible European works, Farsi translations, Ottoman and Arab thinkers, have failed to bring an obvious source to light.

Ṭabāṭabā'ī ended his speech with an exhortation to action couched in the traditional Shiite terms of a demand for justice. Using what Fischer has termed 'the Kerbala paradigm' he compared the oppression of the present regime to that endured at the time of Ḥusain. Like Ḥusain he and his followers might be martyred in the cause of justice, but his children would carry on the struggle. Finally, he reminded the Shah of the tenuous basis of his authority:

'Our true Shah is the Imām of the Age, and we are his servants who fear no one.'

He did not, however, make any reference to the role of the ʿulamā as the nā'ib-i ʿāmm.

78. Encyclopaedia of Islam, 2nd edition, Ba'ya.

In this manner what was essentially a demand for a form of government based on ideas and values derived from Europe, was legitimised as a traditional Shiite protest against oppression and injustice.

CONCLUSION

In conclusion, Ṭabāṭabā'ī was influenced by ideas on reform current since the 1860's at least, and found in the works of such writers as Malkum Khān and Kawākibī. Ṭabāṭabā'ī legitimised his demands for reform by presenting them as a traditional Shiite cry for justice against oppression, but he himself stressed that his ideas came from the 'new learning'. Ṭabāṭabā'ī was the leader of the reformist ʿulamā of Tehran, Bihbihānī being almost certainly concerned with regaining his position of influence, and the body of the other ʿulamā seeking the removal of those who imposed higher taxes. Only the members of Ṭabāṭabā'ī's family and a few others, mainly heterodox, thought as he did. There is therefore little indication that the ʿulamā led protest had much to do with Shi'ism or the return to rightful Shiite government. The government in 1905 was particularly weak because of lack of funds but was otherwise much as it had been for a very long time. What was new was the growing influx of political ideas, models of government and values from the West.

It is difficult to say for certain quite what Ṭabāṭabā'ī's aims were, partly because he had to obfuscate his intentions for fear of being labeled seditious, and partly because he himself was perhaps not clear as to some of the concepts he had studied. With regard to constitutionalism (mashrūṭa), Ṭabāṭabā'ī perceived it as a system of government existing in Europe for which conditions in Iran at that time were unsuitable. It was the ideal for which he worked, and for which he regarded education as the key. This education included

understanding of the rights and limitations of both people and government. When he asked for rule according to laws, he almost certainly meant regulations in conformity with the sharī'a, applying largely to secular affairs already under the government sphere of authority. It is possible that he would have accepted a code based on the sharī'a of certain sections of civil, though probably not personal, law. It is unlikely, however, that he really understood the conflict that might arise under the constitutional system between a law based on the word of God and one based on the popular will.

In default of the immediate establishment of constitutional government, Ṭabāṭabā'ī devised a majlis-i 'adālat as an intermediate reform, better suited to Iranian conditions. This majlis would have only sufficient powers to make the government accountable, and remedy what Ṭabāṭabā'ī termed oppression. Unfortunately he did not work out how his majlis was to be chosen and what the limits of its authority were. For this reason his proposal fell before the pressure of constitutionalism in 1906, as the constitutionalists could at least borrow a fully worked out model.

Some attempt has been made to unravel the confusion that surrounds the term 'adālatkhāna. It has been suggested that the majlis-i 'adālat which Ṭabāṭabā'ī sought was not the same as the 'adālatkhāna of the rescript, as the former seems to have been a council with a representative element, whereas the latter is in conformity with previous uses of the term to denote a reformed Ministry of Justice with special powers to supervise state officials. The origins of the 'adālatkhāna may be found in two ideas, a reformed Ministry of Justice in charge of all secular courts of law, and the Ottoman Shura-yi Devlet, derived from the French Conseil de l'État, with powers to investigate the executive, and certain quasi-legal functions.

It must be noted that the confusion is exacerbated by the fact that other terms, such as dīvān-i 'adālat, were used to describe the same institution, and, on the other hand, the word 'adālatkhāna came in 1905-6 to acquire connotations of representative government.

How the 'adālatkhāna came to be included in the 'ulamā's list of requests remains problematic. Daulatābādī's is still the only detailed account, not properly refuted and yet not probable, though it may well contain a gist of truth. The other possibility is that the term was included at the instigation of those progressive bureaucrats who had not joined 'Ain al-Daula's government, and of whom Mushīr al-Daula, then still in power was in the most advantageous position. The term was to some extent all things to all men, but the way it was understood involved an important contradiction. The 'adālatkhāna granted to the 'ulamā was seen by many as a means of limiting the power of the state. The original Conseil de l'État, and the Shura-yi Devlet, were, however, instruments for centralising government and thereby strengthening the power of the state. Although purporting to regulate bureaucracy, the 'adālatkhāna was an idea that might be favoured by centralising bureaucrats.

On their return, the 'ulamā, as Ādamiyyat has noted, showed little enthusiasm for the 'adālatkhāna, probably because they realised it might threaten their privileges in the administration of the law. They were obliged to pursue it because of pressure from their following, merchants and guildsmen discontented over the government's fiscal policies, tullāb influenced partly by events in Russia, and secret societies such as Nāzīm al-Islām's, who were fuelling popular unrest. Also significant were the political cliques out of power who had largely financed the bast in December-January.

CHAPTER V

THE 'ULAMĀ AND THE ESTABLISHMENT OF THE NATIONAL
CONSULTATIVE ASSEMBLY

Towards the middle of June 1906 agitation against the government mounted with Tabātabā'ī and Bihbihānī, as well as other 'ulamā, preaching to large congregations and demanding an 'adālatkhāna,¹ On 10th July Grant Duff received a message from Bihbihānī saying the people were prepared to overthrow the present government, and requesting pecuniary assistance.² He replied that the British government could not support opposition to the government of Iran. On 11th July 'Ain al-Daula ordered the arrest of Shaikh Muḥammad Vā'iz, the leading preacher of Tehran, whose sermons were particularly incendiary. When a party of students attempted to rescue the prisoner, the officer commanding the guard shot one of them. His body was taken to a nearby mosque, and messages sent to the leading mujtahids. The body was carried in procession to the Masjid-i Jum'ā. The government sent troops to prevent the bazaar closing in protest, but with no success. The mujtahids tried to contain the situation, sending criers round the bazaar asking people not to loot, and the butchers and bakers to remain open.

The Imām Jum'ā was out of town, but the opposition was joined for the first time by Shaikh Faḏlallāh, who was obliged by a large crowd of persons who presented themselves at his house, to come to the Masjid-i Jum'ā.³ When the Imām

1. Grant Duff to Grey, No. 167, 21st June 1906, FO 371/112, No. 23147.
2. Grant Duff to Grey, No. 178 Tel., 10th July 1906, FO 371/112, No. 23516.
3. Daulatābādī, op. cit., II, p. 70.

Jum'ā returned, he also joined the opposition. In this manner the leading ʿulamā were induced into a semblance of unity.

After troops had been picketed throughout the bazaar, the Shah issued a rescript to the ʿulamā expressing disapproval of the agitation, and promising to redress rightful grievances, but refusing to dismiss the Ṣadr-i Aʿzam. On Thursday 12th July the situation remained unchanged, with the shops closed, and a large crowd filling and surrounding the Masjid-i Jum'ā. On the morning of the 13th a procession parading the shirt of the dead sayyid formed in the bazaar with a number of people wearing kafan, winding sheets, and crying the names of Ḥasan and Ḥusain. Bihbihānī tried in vain to calm them. When the soldiers attempted to stop the procession, the commanding officer gave the order to fire and about a dozen people were killed. That evening Bihbihānī said from the pulpit that his demands for justice had been met with bloodshed. However, he enjoined the people to maintain order. For the whole of the 14th negotiations took place between the government and the leading ʿulamā who remained in the Masjid-i Jum'ā surrounded by troops. Their demands were still the dismissal of the Ṣadr-i Aʿzam, and the institution of an ʿadālatkhāna.⁴ Negotiations continued throughout the 15th when the mujtahids also ordered the shops to open; however, the bazaar remained closed.

Sayyid ʿAlī Yazdī, who had influence at court, spoke to the Shah on behalf of Shaikh Faḏlallāh and Bihbihānī. On the subject of the ʿadālatkhāna, the Shah commented:

4. Grant Duff to Grey, No. 193, 19th July 1906, FO 371/112, No. 26753.

'You well know that Bihbihānī and Shaikh Faḡlallāh do not want an 'adālatkhāna, as it would be detrimental to their interests. In fact if an 'adālatkhāna were established, they would be the first to speak against it.'⁵

By the term 'adālatkhāna, the Shah probably understood the the institution envisaged in the rescript in January, similar to the Ottoman Shura-yi Devlet. Tabātabā'ī he considered desirous of a republic, and of political reforms impossible in Iran.

The 'ulamā asked permission of the Shah to go to the 'Atabāt, and this being granted the great majority of them departed from Tehran on Sunday 15th July. The next day they changed their destination to Qum because to go to the 'Atabāt would be too costly. Shaikh Faḡlallāh delayed his departure by three days. 'Ain al-Daula brought pressure on him either not to go, or to go and try to persuade the others to come back.⁶ Finally, probably realising that he would be stripped of all influence and prestige with the populace of Tehran if he stayed, he left on 18th July with a large following. 'Ain al-Daula was much weakened by the departure of Shaikh Faḡlallāh, whose support had prevented his regime from being discredited by the 'ulamā as a body. With the great majority of the 'ulamā absent little legal business could be carried on in the capital.

As he was leaving for Qum on 16th July, Bihbihānī sent Grant Duff a second communication stating that discussions between himself and the Ṣadri Aḡam on the fulfilment of the Shah's rescript of January, and the institution of an 'adālatkhāna had only led to bloodshed. He ended with the ambiguous request that:

5. Nāzim al-Islām, op. cit., I, p. 496.

6. Ibid., p. 503.

'In view of the friendship that exists between us, that you should on no account refrain from endeavouring to put an end to the oppression and transgression.'⁷

On 18th July, according to Grant Duff, two persons unknown to the Legation came to 'Abbās Qūlī Khān, the Second Oriental Secretary, and said about 500 merchants proposed to take bast there.⁸ According to Malikzada the major merchants made preparations for the bast in the British Legation before the 'ulamā left for Qum.⁹ This was done in cooperation with leading reformers, and with the ultimate aim of using popular pressure to secure constitutional government. The merchants were said to have used their influence in the bazaar to win widespread support for the bast. The leading merchants had thousands of tradesmen in the bazaar in their debt, for they sold the merchandise they imported into Iran to the small tradesmen in instalments.¹⁰ According to Malikzāda, a merchant such as Ḥāj Muḥammad 'Alī Shālfurūsh gave the small tradesmen reductions on their debt to bring them into the opposition movement and force the closing of the bazaars. Malikzāda also mentions the Zoroastrian Ardishīrjī as claiming to have acted as an intermediary between those in the Masjid-i Jum'ā and the British Legation on the possibility of a bast in the Legation grounds.¹¹ He states the Legation obtained permission from London to shelter those whose lives were in danger. This account does not agree with the British documents where there is no

7. Grant Duff to Grey, No. 194, 19th July 1906, FO 371/112, No. 26754.
8. Grant Duff to Grey, No. 193, 19th July 1906, FO 371/112, No. 26753.
9. Malikzāda, Mashrūṭiyyat, op. cit., II, p. 168; Gilbar, op. cit., p. 297.
10. Malikzāda, Mashrūṭiyyat, op. cit., II, p. 28.
11. Ibid., p. 168.

mention of Ardi shīrjī.¹²

According to Daulatābādī, Bihbihānī told some of his following to take refuge in the Legation after the ʿulamā left for Qum.¹³ He adds that this unprecedented order had been agreed with certain notables of the government who were working with him secretly. The account in Nāẓim al-Islām is more detailed and agrees substantially with the British sources. Before the departure for Qum, Bihbihānī told his merchant following that if harrassed by ʿAin al-Daula, they should take refuge in the British Legation. On 15th July a meeting of lesser merchants and ṣarrāfs was held in the house of Āqā Muḥammad, the agent of the Russian Bank.¹⁴ The two bunakdārs, Ḥāj Muḥammad Taqī and Ḥāj Muḥammad Husain, who had organised the provisioning of the bast in December, came in and explained that they and others were in danger from ʿAin al-Daula. A message was sent to Bihbihānī, then on his way to Qum, to ask what to do. He replied to do as he had told them and take refuge in the British Legation. The merchants were worried since they had no dealings with or knowledge of the British Legation. Finally a merchant named Āqā Mīrzā Maḥmūd Isfahānī went to the Legation's summer quarters at Qulhak, where they spoke to one of the officials (evidently from Grant Duff's account, ʿAbbās Qūlī Khān). The official at first refused but in the end agreed

12. Ardi shīrjī is almost certainly the same as Ardershīr Reporter, a Parsee from Bombay who sometimes acted as an intermediary between the Iranian government and the British Legation. It may be he intervned in this case, and that his intervention is not mentioned as he was a confidential agent. However, his account given to Malikzāda does not tally with the British correspondence or with Nāẓim al-Islām and must therefore be regarded as unreliable. (I am indebted for the information on Ardershīr Reporter to Sir Denis Wright).

13. Daulatābādī, op. cit., II, p. 71.

14. Nāẓim al-Islām, op. cit., I, p. 510.

on condition that there should be no bankrupts or criminals. They then informed their friends and on 19th July some fifty merchants and mullahs (probably tullāb and sayyids) took bast in the Legation.¹⁵ Nāzīm al-Islām's account, like the British sources makes no mention of Ardishīrjī, and agrees that the first contact was made by two persons coming to the Legation. It indicates no proper plan or organisation before the bast, such as that described by Malikzāda. The bast was instigated by the lesser merchants prompted by Bihbihānī, not by the major merchants. This point is further reinforced by the fact that when some days later the Shah sent the major merchants to talk to those in bast, the refugees at first rejected all discussion with them as being not of their number.¹⁶ The idea for the bast seems to have come from Bihbihānī, and may, as Kasravī suggests, have been a ploy to use the Charge d'Affaires as an intermediary between himself and the Shah, as he had used the Ottoman Ambassador in the previous bast. It is nevertheless not impossible that, as Daulatābādī mentions, he had discussed the matter with notables sympathetic to reform, and as Gilbar believes, with the major merchants such as Amīn al-Ẓarb. It is possible too that once the bast began the major merchants used their influence in the bazaar to maintain it.

According to Nāzīm al-Islām, the tullāb and sayyids joined the bast at the instigation of the merchants.¹⁷ He says, however, that two of the British Indian Officials (their names are given as Husain Qūlī Khān Navāb and Mīrzā Yahyā Munshī) suggested to the merchants that they invite

15. Grant Duff to Grey, No. 203, 13th Aug. 1906, FO 371/112, No. 29707.

16. See page 176 below.

17. Nāzīm al-Islām, op. cit., I, p. 511.

others to join them, as there was greater safety in larger numbers. It is more probable that the merchants themselves decided to bring the students in to create a larger pressure group. The merchants initially invited the tullāb from the Madrasa-yi Sadr and Dār al-Shafā, some of whom they paid. Certain payments were organised by Āqā Sayyid Muhammad Taqī Simnānī, one of the followers of Bihbihānī, who had remained in Tehran for this purpose, and were made through Āqā Mīrzā Mahmūd Isfahānī. These two were the most active in contacting sayyids and students.

The numbers in the Legation mounted rapidly. By 21st June there were 700, with representatives of the guilds having joined. The number had risen to 5000 by the 24th, 10,000 by the 27th and 14,000 by 2nd August.¹⁸ Altogether 80-90 guilds or groups were represented ranging between wealthy merchants and sayyids, and including nearly all the trade and craft guilds.¹⁹ Only a proportion of the guild members were represented. They were so organised that each guild had their own tent, and meals were prepared in a common kitchen, and served in huge cauldrons to each guild in turn. Grant Duff estimated that they cost £350 per day at the height of the bast. According to one account a meeting of 72 persons, including merchants and leaders of the guilds, was held to discuss provisions as the students and guild workers complained that they could not subsidize themselves.²⁰ The meeting decided that a large amount would

18. Grant Duff to Grey, No. 192 Tel., 21st July, No. 197 Tel., 24th July, No. 200 Tel., 26th July, 1906, FO 371/112, Nos. 25173, 25310, 25684.

19. Grant Duff to Grey, No. 211, 15th Aug. 1906, FO 371/112, No. 29712.

20. I. Safā'ī, Panjāh Nāma-yi Tārīkhī (Fifty Historical Documents), Tehran 1350/1971-2, p. 159.

be sent by the guilds' leaders to the students. The expenses of the bast were defrayed from the fund organised by Ḥāj Muhammad Taqī.²¹ Browne heard that the fund amounted to 30,000 tomans raised by subscription from merchants and ʿulamā.²² Malikzāda, as stated above, believed the funding came largely from the merchants. Daulatābādī attributed the funding to merchants and officials working for the return of Amīn al-Sultān.²³ However, Vakīl al-Daula, one of the main correspondents of Amīn al-Sultān, did not know where the money came from, and like other officials believed the British had a hand in it.²⁴ He considered most of the bastīs were there for the free dinners. Another account reported that the merchants had contributed 100,000 tomans.²⁵ Nāzim al-Islām states that the merchants subscribed to the sum to be distributed by the heads of the guilds to the students, and that this sum was also intended to support the students' families.²⁶ He also says that after the bast was over, Ḥāj Muhammad Taqī and his brother raised the question of expenses at a meeting of the merchants, saying that they had spent 32,000 tomans. The merchants got an account for 18,000 tomans from the brothers and pointed out to them that they had had other assistance. Finally, on the insistence of Bihbihānī and Tabātabāʾī, the major merchants divided the lesser sum between them, the most notable contributors being Amīn al-ʿArb, Ḥāj Muḥīn al-Tujjār Būshihri, Ḥāj Muhammad Ismāʿīl and Arbāb Jamshīd.²⁷ The evidence would

21. Nāzim al-Islām, op. cit., I, p. 512.

22. Browne, Revolution, op. cit., p. 120.

23. Malikzāda, Mashrūṭiyat, op. cit., II, p. 170.

24. Ṣafāʾī, Mashrūṭa, op. cit., pp. 42-44.

25. Tafrishī Husainī, op. cit., p. 29.

26. Nāzim al-Islām, op. cit., I, p. 539.

27. Ibid., p. 590.

suggest, therefore, that although the bastīs, particularly the guilds' leaders and the lesser merchants, were to some extent self supporting, the major part of the expenses was defrayed by the leading merchants. The merchants also ensured the solidarity of the bast. When a small group, evidently bribed, left the British Legation for the Russian, the merchants sent roughs, who, after enticing them out, beat them up.²⁸

Most accounts indicate that the demand for a National Assembly evolved during the bast. Many persons were active in arousing the multitude. Dhū'l-Riyāsatain Kirmānī, a member of Nāzim al-Islām's secret society, stood on a chair and addressed the bastīs on the subject of awakening. Fakhr al-Islām, another member, got out a book in French every day, read it, and translated it. Fīlsūf Shirāzī and other members read out articles from the newspaper Ḥabl al-Matīn.²⁹ According to Nāzim al-Islām, the Legation became like a 'school' with people sitting in circles under tents, whilst those 'with a knowledge of politics' taught them. Matters which hitherto no one dared mention were brought to the attention of the people. Daulatābādī also mentions that those of reformist views mingled with the people and made good use of the occasion.³⁰ Vakīl al-Daula reported that:

'The people in the Legation are learning politics and law....for example, that the meaning of the word 'shah' is 'representative of the nation'. And when the nation no longer wants a shah he is not recognised.'³¹

But not all the audience were receptive. Fīlsūf Shirāzī was chased from one tent when he suggested the bastīs should

28. Smart to Browne, July 1906, Browne Papers, Cambridge Univ. Library.
29. Nāzim al-Islām, op. cit., I, p. 512, p. 514.
30. Daulatābādī, op. cit., II, p. 74.
31. Ṣafā'ī, Mashrūṭa, op. cit., p. 78.

ask for a proper law (qānūn).³² As Browne's correspondent remarked, the vast majority of bastīs were probably quite ignorant of the principles of democratic government.³³

On 23rd July Grant Duff conveyed the first demands of the bastīs to the Shah. They included:

1. The removal of 'Ain al-Daula.
2. The establishment of 'law courts'.
3. The return of the 'ulamā from Qum.

The 'law courts' - the English version of the Persian 'adālatkhāna-were further defined as having an administration not in the hands of venal officials.³⁴

The bastīs refused to leave the Legation until their requests were granted, and claimed their lives and property were no longer secure. Muḥtasham al-Saltāna, the Head of the Foreign Ministry, was sent to deal with them but no one would see him. He was told that all complaints would be submitted through the mediation of Grant Duff.³⁵ On 26th July the leading merchants of Tehran, who had not gone to the Legation, were summoned before the Shah. They numbered about nine persons and included Amīn al-Ẓarb, Ḥāj Muḥammad Ismā'īl and Mu'īn al-Tujjār.³⁶ The Shah demanded to know what 'this rabble' was doing in the British Legation. The merchants remained silent, apart from professing loyalty to the Shah. He sent the merchants to deal with the bastīs, who, however,

32. Nāzim al-Islām, op. cit., I, p. 512.

33. Browne, Revolution, op. cit., p. 122.

34. Grant Duff to Grey, No. 206, 13th Aug. 1906, FO 371/112, No. 29707. see also No. 193 Tel. of 27th July 1906.

35. Daulatābādī, op. cit., II, p. 74.

36. Ibid., p. 75.

refused to negotiate through them. When they swore they were in sympathy with the bastīs, the latter told them that the requests made so far were for the return of the 'ulamā, the establishment of an 'adālatkhāna, and that the government should honour its bills of credit (a particular grievance of the ṣarrāfs). When the merchants returned to see 'Ain al-Daula, Mu'īn al-Tujjār disassociated himself from the others, who, he said, were in collusion with those in the Legation, and had the same aim, the establishment of an assembly (majlis).³⁷ 'Ain al-Daula said he had promised an 'adālatkhāna, to which Mu'īn al-Tujjār replied that the bastīs wanted an elected assembly. As Gilbar has pointed out, the bastīs had not asked for an elected assembly, but for an 'adālatkhāna.³⁸

On the 27th 'Ain al-Daula replied to Grant Duff through the Foreign Minister about the list of requests. The reply stated that the government would offer sufficient protection; that there were still 'ulamā in Tehran to transact business; and that an 'adālatkhāna already existed. Such a body could not be in the hands of any one other than government officials.³⁹ Evidently he interpreted the word to mean a reformed Ministry of Justice rather than some sort of council to make the administration accountable to law. This response was greeted with laughter by the bastīs. That same day they submitted three petitions, one by the ṣarrāfs, one by the tullāb and one general, to the Shah through Grant Duff detailing their grievances. The contents of the petitions are not clear, but Grant Duff does not say they included a request for an assembly (majlis).

37. This may have been a ruse as Mu'īn al Tujjār paid the main costs of the bast along with the other leading merchants.

38. Gilbar, op. cit., p. 299.

39. Grant Duff to Grey, No. 206, 13th Aug 1906, FO 371/112, No. 29707.

On the 27th also the merchants were again summoned to see 'Ain al-Daula, who, according to Daulatābādī, ostensibly agreed to the request for a majlis, and stated that he wished to cooperate with the merchants in order to circumvent the 'ulamā, whose growing intervention in affairs both he and the merchants mistrusted.⁴⁰ This probably represented an attempt to separate the 'ulamā from their following and save his own position. Daulatābādī considered he was not sincere. It was agreed that Mushīr al-Daula was to go to Qum to inform the 'ulamā that a national consultative assembly (majlis-i shūrā-yi millī) had been granted. Grant Duff also reports that Mushīr al-Daula was to go with a rescript granting 'courts of justice' (the British translation of the term 'adālatkhāna), a consultative assembly and the return of the 'ulamā.⁴¹

In the meantime the Valī'ahd telegraphed the Shah in support of the 'ulamā and what he believed was a movement to overthrow his enemy, the Ṣadr-i A'ẓam, who was reportedly opposed to the Valī'ahd's succession. 'Ain al-Daula's position was also seriously undermined when the soldiers and police made apparent their discontent over their lack of pay, and threatened to join the bast. His efforts to save his position having failed, he resigned on 29th, Mushīr al-Daula being appointed Ṣadr-i A'ẓam.

Among the bastīs in the Legation a movement had begun to induce the participants to ask not only for the exile of 'Ain al-Daula, who would only return after a few months, but to demand fundamental changes in the system of government

40. Daulatābādī, op. cit., II, p. 76.

41. Grant Duff to Grey, No. 201 Tel., 30th July 1906, FO 371/112, No. 25830.

by the opening of a national assembly. Nāzīm al-Islām says that the members of his secret society were particularly active in this respect from about July 27th onwards.⁴² According to what Taqizāda told Browne a commission was formed amongst the bastīs, which was advised by the better educated Iranians.⁴³ This last group seems to have included Sanī' al-Daula⁴⁴ and Mukhbir al-Mulk.⁴⁵ When the bastīs were informed of the resignation of 'Ain al-Daula, some of them prepared to leave. The commission persuaded them to remain, pointing out that his resignation was no longer the issue, and that a more fundamental change was needed. In this way the demand for an 'adālatkhāna developed into the demand for a majlis-i millī. It seems, however, that the issue of the majlis was first raised by the merchants in their interview with the Ṣadr-i A'zam the 26th and the list Mushīr al-Daula was to take to Qum, including a consultative assembly, was instigated by that meeting. The merchants were most probably also in touch with the commission in the Legation to ensure pressure in favour of their requests from the bastīs, but exactly how is not clear. They may well also have been in contact with the better educated Iranians, such as Sanī' al-Daula.

Mushīr al-Daula, being appointed Ṣadr-i A'zam could not go to Qum himself, so 'Azad al-Mulk, the head of the Qajar tribe, was designated to take the list of demands, and he left on 1st August. But the government's intentions over the majlis were evidently mistrusted. The Legation bastīs sent word to the 'ulamā in Qum not to leave until the Shah

42. Nāzīm al-Islām, op. cit., I, p. 534.

43. Browne, Revolution, op. cit., p. 122.

44. Biographical Note of 1906.

45. Majlis, No. 16, 17th February 1907.

had granted all requests. They further asked Grant Duff that the majlis should be one in which merchants, 'ulamā and other ranks of people should be represented.⁴⁶

Until the resignation of 'Ain al-Daula the telegraph lines to Qum were cut, and contact with the 'ulamā was maintained by messengers. Mīrzā Ibrāhīm 'Aṭṭār, whose shop and house were near that of Tabāṭabā'ī, was the bearer of packets and messages brought on foot from the 'ulamā to the bastīs.⁴⁷ The 'ulamā themselves were in touch with their colleagues in Najaf and elsewhere in Iran by telegraph. Tabāṭabā'ī informed the 'ulamā of Hamadan that they had received a message not to leave Qum until the merchants in Tehran told them to.⁴⁸ Bihbihānī sent Grant Duff a telegram asking him to tell the merchants and guilds in the Legation that the 'ulamā would not leave until they had heard from the Legation bastīs.

The Shah telegraphed the 'ulamā asking them to return. In reply they complained of oppression by the government and of the failure to execute the sharī'a.⁴⁹ The promise of an assembly of justice (majlis-i 'adālat), to ensure justice in all affairs, and counter disorder and sedition had not been fulfilled, although it would strengthen the authority of Islam (saltanat-i islāmiyya) and protect the country against foreign interference. They now asked for the establishment of a majlis to include:

46. Grant Duff to Mu'tamin al-Mulk, No. 381, 3rd Aug. 1906, FO 248/889.
47. Nāzīm al-Islām, op. cit., I, p. 536.
48. Zahīr al-Daula, op. cit., p. 130.
49. Nāzīm al-Islām, op. cit., I, p. 546-8.

'Ministers, senior government officials who will act in a disinterested fashion; merchants who are informed on subjects of economy and trade, and may be consulted on the well-being of the people and government (millat and daulat); representatives of the 'ulama, and learned persons who have knowledge. The assembly would, under the control of the Shah, oversee all the offices of government and introduce reform in all affairs'.

The constitution of the assembly would be written out in a set of articles; its character, however, would be Islamic, as it should:

'Aim to enforce the sharī'a, enjoin good and prohibit evil; and act as a check on agreements with foreigners according to the sharī'a.'

The assembly would also be the means of reforming the affairs of Muslims according to the law of Islam, defined as 'the customary and sovereign law of the land' (qānūn-i rasmi va saltanati-yi mamlikat).⁵⁰ Evidently the assembly would be composed of chosen representatives of the higher classes (the guilds are not mentioned).⁵¹ It was not, however, to be a constitutional or national assembly. Its character appears to be Islamic and its purpose a development of Tabātabā'i's earlier majlis-i 'adālat. Its legislative functions are left vague, though possibly the passing of laws not contrary to the sharī'a in the areas at present largely under the 'urf law was envisaged. The assembly is also subordinate to the Shah and no definition of his powers is suggested. It is also unequivocally Islamic, and different to the assembly the merchants and other bastis were in the process of demanding in Tehran.

50. The exact meaning of this phrase is uncertain but it may have originated with one of the 'ulama who had some familiarity with western thought, such as Muhammad Ṣādiq Tabātabā'i.

51. This suggests the links of the leaders of the 'ulama were closer to the merchants than the guilds. It may reflect the fact that they were largely funded by the merchants.

On 3rd August a rescript was read to the people in the Legation granting a majlis for Tehran only, and with powers defined in such a way that it was clearly subject to the royal office, and that the Shah would not be obliged to execute the bills passed.⁵² It was to include representatives of the princes, landowners, 'ulamā and merchants only. The merchants and guilds rejected it saying they wanted an independent majlis with authority throughout the country. The Shah must ratify its laws, whether he agreed with them or not. In fact what they appeared to be asking for was a national assembly with a limited monarchy.

On 6th August a rescript was posted on the walls of Tehran granting:

'The establishment of a majlis of elected representatives of the princes, 'ulama, notables, landowners, merchants and guilds to assemble in Tehran and give necessary assistance in consultation on affairs pertaining to the government, the country and the people, to the Shah's ministers. It will bring about reforms necessary for the prosperity of the country, which will be executed by the Shah and enforced in accordance with the shari'a.'⁵³

It is to be noted that the guilds were for the first time to be included in the franchise.⁵⁴ The rescript, however, was torn down from the walls, the bazaars remained closed and the bastīs stayed in the Legation although some had wanted to accept.⁵⁵ They informed Grant Duff that they considered the wording ambiguous, and refused to accept the rescript.

52. Nāzim al-Islām, op. cit., I, p. 548.

53. Ibid., p. 551.

54. None of the sources report a struggle to include the guilds in the franchise, but there must have been a specific request, or else they would not have been included in the rescript of 3rd August.

55. Tafriṣhī Husainī, op. cit., p. 40.

There were two points at issue: the first the exact nature of the majlis - as Kasravi has pointed out the word 'millī' was not included;⁵⁶ the second was the limitation of the Shah's powers.

The ʿulamā had, in the meantime, sent Muhammad Ṣādiq Ṭabāṭabāʾī and the two sons-in-law of Bihbihānī to Tehran with their requests and they arrived on 7th August. Their main request was 'the establishment of a majlis in the correct manner!'.⁵⁷ The leading conservative courtiers seem to have taken this opportunity to try and divide the merchants and guilds from the ʿulamā, and the Shah issued an amendment to his rescript describing the assembly as 'an Islamic consultative assembly' (majlis-i shūrā-yi islāmī), which would execute the laws of the sharīʿa. On 8th August Grant Duff took one part of the leading bastīs for discussion with the Ṣadr-i Aʿẓam whilst another, consisting of the major merchants, went to see the Shah. It was probably on this occasion, though possibly a day or so earlier, that the merchants spoke to the Shah on the drafting of the rescript. They informed him they should determine who the members of the majlis were, that is the Shah should have no say in who was chosen as a representative. Secondly the laws passed by the majlis must be executed, which was the major bone of contention. The Shah argued that he would only ratify a law if he considered it suitable, that is he retained final authority. The merchants replied that the situation would then remain unchanged and added in a manner which startled the court by its bluntness:

56. Kasravī, op. cit., p. 120.

57. Nāẓim al-Islām, op. cit., p. 558.

'The law must be what the majlis decides. We will not accept the Shah's order and signature in this matter, nor that of the Şadr-i A'zam nor that of the 'ulamā either. Nobody is to interfere in the laws of the majlis. We have no business with the Şadr-i A'zam nor the 'ulamā....we do not want any orders except those of a just assembly. If the 'ulamā want to come back, let them; they are as bad as you are. Whatever we save each year from thieves slips into the sands. Whatever we preserve from the depredations of the governors, the Sadr-i A'zam and the Shah, has to be given to the house of the sharī'a. When the 'ulamā return we are not going to accept any more orders from them either.'⁵⁸

Following this interview, and the discussion with the Şadr-i A'zam as well as consultation with the three 'ulamā who had arrived from Qum, it was finally agreed that the assembly should be described as the majlis-i shūrā-yi millī, and the Shah's rescript was issued with this amendment.⁵⁹ In the British version the major points of difference between the final version and that of the 6th August were that the majlis was described as a national assembly, and that the proposals of the assembly would be submitted by the Sadr-i A'zam for the Shah's signature, and thus put into force.⁶⁰ As the Shah's rescript in the Persian as reproduced by Nāzim al-Islām changes only on the point of millī the second difference may represent verbal agreement. The law to be enforced was still described as the shari'a though this probably meant that the laws passed would be in conformity with the shari'a.⁶¹

58. Malika-yi Irān to ẓahīr al-Daula, in ẓahīr al-Daula op. cit., p. 136. Malika-yi Irān was his wife and a Qajar princess. She was educated, well-informed and close to the court. It is unlikely that she would have invented this speech so there is no reason to doubt that it is more or less correct.
59. Nāzim al-Islām, op. cit., I, p. 564.
60. Grant Duff to Grey, No. 210 Tel., 10th August 1906, FO 371/112, No. 27347.
61. Nāzim al-Islām, op. cit., I, p. 562.

The assembly, though national, in other words representative of the popular will, was still not constitutional, and the exact delineation of the Shah's authority was left vague.

The rescript was published on 10th August, and all but 200 bastīs, who had individual grievances, and the most significant of whom were the ṣarrāfs, left the Legation. The bazaars opened the next day. A telegram was sent to the ʿulamā in Qum telling them to leave, and the merchants sent money to help pay their debts in Qum and defray the expenses of the return.⁶² Amīr Bahādur told Muḥammad Ṣādiq Tabātabāʿī that the ʿulamā would never accept a majlis as it was against the sharīʿa and their own interests. When Muḥammad Ṣādiq replied that the Prophet had enjoined consultation, Amīr Bahādur said Muslim consultation was beneficial, but asked why they had agreed to 'national consultation' (shūrā-yi millī). Muḥammad Ṣādiq replied that religion could be used as a pretext to exile the opponents of the government by designating them as irreligious, whereas the word millī would prevent such tactics.⁶³ He also stated that from now on the requisition and collection of taxes, and the payment of salaries, would be the responsibility of the majlis, and that government expenditure would be controlled.⁶⁴ This, of course, had not been defined in the rescript, and was to be another major point of conflict. The court hoped that once the majlis was formed it would represent so many divergent opinions that the movement would come to nothing.

62. Ibid., p. 566.

63. Such tactics were in fact to be employed by Shaikh Faḏlallāh.

64. Vakīl al-Daula to Qavām al-Saltāna, Safāʿī, Mashrūḩa, op. cit., p. 68.

The ʿulamā returned from Qum on 15th August, and a meeting of leading ʿulamā, government officials and members of the merchants and guilds was held on the 18th in the old military school to make arrangements for the establishment of the majlis. From 19th to 27th August the gathering was engaged in drawing up the electoral rules. Dabīr al-Mulk wrote to Amīn al-Sultān that everybody was busy writing the regulations they wanted and ignoring everybody else.⁶⁵ Mukhbīr al-Saltāna wrote to him that:

'A number of totally uninformed people are busy writing the electoral rules in the Military School. About two thousand meet there about twice a week and ask for their 'rights'. The government is trying to avoid implementing the rescript, and there is likely to be a struggle between them and the people. The members of the government suppose that they can deceive the people, and the people think that they can achieve these wonderful results free of cost.'⁶⁶

According to Daulatābādī there were three main groups at work, those whom he calls the 'liberals' or reformers, together with notables educated abroad, Sanīʿ al-Daula and Mushīr al-Mulk, and some of the merchants; certain of the ʿulamā led by the sons of Tabāṭabāʾī; and representatives of the court.⁶⁷ Malikzāda adds that the court group had secret supporters amongst the ʿulamā.⁶⁸

The group led by Sanīʿ al-Daula were the first to submit a draft to the gathering for approval. The faction headed by the sons of Tabāṭabāʾī objected to it, and withdrew to compose their own version, which would give religion more prominence and nation less.⁶⁹ The draft was also altered by

65. Safāʾī, Qājāriyya, op. cit., p. 381.

66. Ibid., p. 384.

67. Daulatābādī, op. cit., II, pp. 87-8.

68. Malikzāda, op. cit., II, p. 188.

69. Daulatābādī, op. cit., II, p. 87.

Amīr Bahādur in such a way as to protect the powers of the Shah.⁷⁰ The court urged the Shah to allow representatives from Tehran only, depriving the assembly of its national character, and thus its main basis of legitimacy.⁷¹ The court camarilla led by Amīr Bahādur then tried to suborn Bihbihānī, who was promised a piece of land. He was invited to meet the Shah and given the altered regulations to present to the people. The merchants complained vehemently to Tabātabā'ī, who remonstrated with Bihbihānī.⁷² His students threatened to take his life, and a large crowd gathered at his house so he was forced to abandon the amended draft. It was a clear and prime example of a mujtahid being dictated to by his following. On 30th August two drafts, one written under the guidance of Sanī' al-Daula, and the other by the younger 'ulamā, led by Tabātabā'ī's sons, were read to the gathering at the military school. After a few changes the former draft was accepted, again indicating that the influence of the merchants and bureaucrats was stronger than that of the 'ulamā. After some demur the Shah signed the electoral rules on 10th September.

The regulations provided for 200 members, 60 of whom came from Tehran. Mukhbir al-Saltana, who was one of those responsible for drawing up the regulations, wrote that preponderance was given to Tehran because it was anticipated that the provincial deputies would take time to arrive, and it was feared that unless some means was found for establishing the Majlis immediately the court camarilla would

70. Safā'ī, Qājāriyya, op. cit., p. 381.

71. Grant Duff to Grey, No. 226, 11th Sept. 1906, FO 416/29.

72. Nāzim al-Islām, op. cit., I, p. 636.

take advantage of the delay. Of the 60 Tehran deputies, 32 represented the guilds, 10 the merchants, 10 the landowners, 4 the 'ulamā, and 4 the Qajar family. Despite their number, the guilds representatives were reported as being simple people, overawed by the proceedings and the more powerful members. Even later on only one or two took an active part in the debates.

The elections took place on 29th September, the total number of electors being no more than a few hundred in each of the five classes. One of those elected for the 'ulamā resigned and was replaced by Muhsin, brother of Sadr al-'Ulamā, and son-in-law of Bihbihānī, without any further elections taking place.⁷³ This indicated scant regard for the meaning of representation, but Nāzim al-Islām commented that anyway few persons in Tehran understood the meaning of assembly, deputy and elections, and that the provinces were no better. The religious minorities wanted their own deputies, but the members of Nāzim al-Islām's secret society, realising that this might cause a reaction amongst the 'ulamā, induced the Armenians to let Tabātabā'ī represent them, and the Jews Bihbihānī. The leading merchant Arbāb Jamshīd, however, won the right of representation for the Zoroastrians, reportedly by bribing Bihbihānī. The reformers of all kinds were aware of the need to keep the good will of the 'ulamā, as the 'will of the people' was still a tenuous basis of legitimacy, and there was known to be powerful opposition amongst the notables. Therefore, though the deputies had general immunity from arrest, this did not apply if they said anything contrary to the laws of Islam. The formidable nature of the latent opposition was soon apparent when the Valī'ahd

73. Ibid., p. 644.

forbade the publication of the Shah's rescript on the assembly in Azarbaijan and only yielded after disturbances in Tabriz.

The Majlis opened as soon as the Tehran deputies were elected, on 7th December. Its debates were somewhat rambling, and though the President, Sanī' al-Daula, maintained a certain degree of order, there was no order of the day for speakers. Bihbihānī and Tabāṭabā'ī attended regularly and often interrupted the proceedings. They were not official members, but seem to have had an undisputed right to attend as mujtahids and leaders of the 'millat'. Their presence gave the Assembly religious sanction. Their role indicates how far the old order was still confused with the new. Of the other 'ulamā, Ḥāj Naṣrallāh Akhavi, one of the representatives of the 'ulamā of Tehran, spoke regularly, usually as a moderate, except in defense of religious interests, when he was rigorous. Mīrzā Muḥsin, another of Tehran 'ulamā, contributed only occasionally. Of the provincial 'ulamā, the Imām Jum'ā Khū'ī, from Azarbaijan, was to be the only significant contributor, again as a moderate. There is no indication that the 'ulamā coalesced as a group in the Majlis, or that at this stage they perceived themselves as having a group interest. As before the Assembly was founded, their concern was to represent the views of their contacts among other groups, and in the Majlis itself this role was chiefly carried out by Bihbihānī and Tabāṭabā'ī as the leading figures.

The sons and relatives of the mujtahids found an outlet for their ambitions in the establishment of the newspaper Majlis which received, through the influence of Bihbihānī, the sole right to report the proceedings of the Assembly. The original concession had been granted to Daulatābādī who first mooted the idea.⁷⁴ The concession was, however,

74. Ibid., p. 650; Daulatābādī, op. cit., II, p. 91.

withdrawn from him and given to Muhsin, son-in-law of Bihbihānī, and Muḥammad Ṣādiq Ṭabāṭabā'ī, partly because Daulatabādi's views were suspect (he was believed to be an Azalī Bābī), and partly because the younger Ḥulamā desired control of such a potentially influential paper. The paper's first editorial shows the Islamic preoccupations of its editors in stating its intention to work for knowledge and progress such as Islam had shown in the past, and in its perception of Iran less as a nation than as the home of Shī'a Muslims.

Shaikh Faḏlallāh rarely attended the Majlis and no instance has come to light of his making a speech. When the Ḥulamā returned from Qum he found himself isolated and much reduced in influence, partly through the exile of 'Ain al-Daula, and partly through not having taken part in the opposition movement early on. He seems to have tried to disassociate himself from his former friends, so when Sipahdār, who was responsible for firing on the crowd in the Masjid-i Jum'a, asked Shaikh Faḏlallāh to intercede on his behalf, the latter replied that 'this is a personal matter and does not concern me'.⁷⁵ He also seems to have tried to regain recognition by establishing contact with those involved in the reform movement. He wrote in September 1906 to Zahīr al-Daula, Governor of Hamadan, saying he had hitherto been excluded from 'these sacred intentions', and asking to be kept informed of the reforms Zahīr al-Daula was introducing.⁷⁶ In a letter to Spring Rice on the occasion of his arrival in Tehran he said:

'I am taking this opportunity to congratulate Your Excellency on behalf of myself and the other religious leaders of the people (millat), who have always considered themselves in accord with the

75. Ṣafā'ī, Mashrūṭa, op. cit., pp. 141-2

76. Zahīr al-Daula, op. cit., p. 157.

respected and progressive British.'⁷⁷

But Shaikh Faḏlallāh was well excluded from regaining his former influence by Bihbihānī who, in mid-October, humiliated Faḏlallāh's son, Maḥdī, in Faḏlallāh's presence in the Majlis, just as Maḥdī was about to protest over the irregularities in the elections of the ḥulamā.⁷⁸ Shaikh Faḏlallāh felt obliged to withdraw, and thereafter hardly attended. In any case it is doubtful that he ever really sympathised with the Majlis. The frequent reports from the autumn onwards that certain of the ḥulamā were unhappy over the effect the Majlis might have on their own authority almost certainly referred to him, and Daulatābādī considered him closely in touch with the court conservatives. On 19th August 1906 he had a meeting with Muḥṣir al-Daula, Tabātabā'ī and 'Azād al-Mulk at which the main subject discussed was that the law of Islam must be executed, and more particularly, that the law on taxation (māliyāt) must be in conformity with the sharī'a.⁷⁹

By the beginning of December two bodies of opinion were discernible in the Majlis, the moderates led by Sanī' al-Daula and the radicals, consisting chiefly of the merchants and guilds, led by Sa'ad al-Daula. In reality this distinction was somewhat arbitrary. The earlier division between government and people exemplified in court and Assembly was breaking down, but conflict between different groups in the Majlis had not yet clearly emerged and there were no party divisions. The Majlis seemed to have been

77. Shaikh Faḏlallāh to Spring Rice, received 6th Oct. 1906, FO 248/887, No. 363. The letter is written in the fair hand of a scribe and is not signed but it bears on the back a square seal with the legend, 'Dhālika fadlu Allāhi yu'tīh man yashā'u' (Such is the grace of God which He giveth unto whom He will - Quran, Surah 5, No. 54). This was well known as the seal of Shaikh Faḏlallāh (see Burhān, op. cit., p. 876). The letter is therefore most probably genuine.

78. Nāzim al-Islām, op. cit., I, p. 640.

79. Ibid., p. 577.

composed of myriad constellations which formed and reformed as their members cooperated over one particular immediate interest, and then moved on to unite with someone else over another interest. The Majlis was, for a while, dominated by Saʿd al-Daula, a largely opportunist politician who found a power base in representing some of the grievances of the merchants and guilds, which he used to embarrass his personal opponent, Sanīʿ al-Daula. The latter, as MacDaniel has remarked, was in a difficult position as President because he had to find compromises with the government which were not always popular with the Majlis.⁸⁰ In this pattern Ṭabāṭabāʾī and Bihbihānī seem to have oscillated between collaborating with Sanīʿ al-Daula and the merchants, and acting as conciliators as the need was recognised for compromise with the court conservatives.

During the autumn the constitution was under discussion, and in the contentious issue of the creation of the Senate, the mujtahids sided chiefly with the merchants and the guilds, who were led by Saʿd al-Daula and Amīn al-Ẓarb. It was proposed that the Senate have a two thirds majority elected by the people and a third appointed by the government, but this idea met with stiff resistance from the court camarilla, who still hoped to use the Senate to check the lower house. The government was desperately short of money and the conservatives tried to bargain the Assembly into granting a foreign loan in return for ratification of the constitution. The Majlis responded by stipulating that an essential condition of their raising the money locally was the Shah's signature on the Constitution. On 25th December the government proposed a compromise whereby a small majority of the Senate would be chosen by the government. Sanīʿ al-Daula was inclined to accept, but Saʿd al-Daula and the

80. MacDaniel, op. cit., p. 63.

merchants vehemently opposed it, in which they were supported by the mujtahids.⁸¹ Sanī' al-Daula resigned but was induced to reconsider by the mujtahids, and eventually on 29th December a compromise was reached whereby the government and people selected half the members of the Senate each. The Shah at first refused to sign, but when the mujtahids in response to popular pressure warned him that if he did not there would be trouble all over the country, he signed on 1st January 1907.

Battle between the Assembly and the new Shah, Muḥammad 'Alī, was soon joined over the issue of ministerial responsibility. The Ministers attended irregularly, which the Assembly interpreted as lack of cooperation, and a letter of complaint on this point was sent to the Shah by Bihbihānī and Tabātabā'ī, probably at the instigation of Sanī' al-Daula. As a result eight Ministers appeared in the Majlis on 31st January.

From its inauguration the major problem facing the Majlis was that of finances. There was no prospect of revenues and salaries were well in arrears. Furthermore, it was impossible to implement reforms without funds. An attempt in November to raise a joint Anglo-Russian loan met with opposition from the ʿulamā, on the grounds that it threatened the country's independence (in which they appear to be expressing their own point of view) and from the mercantile deputies, who were mistrustful of what the government would do with the money. The Majlis continued to treat all loans with suspicion, taking the view that they would have no really effective guarantee that the money would be expended for the purposes shown unless they received it themselves. The government declined to sign any loan agreement unless they received the money, so the result was a deadlock.

81. Spring Rice to Grey, No. 5, 3rd Jan. 1907, FO 371/301., No. 2204.

It was recognised that some order must be put in the finances and a proper budget drawn up. Following suggestions by Nāṣir al-Mulk, Minister of Finance, a committee was formed to examine the government requirements, and discuss the degree of control of the Assembly over the accounts. One aim was to abolish madākhil, the old system of unregulated gifts in the collection of revenue, and pīshkish for the bestowing of appointments. Ṭabāṭabā'ī spoke out against such 'bribery and corruption', and said the Majlis would be powerless until something had been done about it.⁸² Spring Rice preached (as he put it) for an hour on the subject of corruption to another mujtahid (almost certainly Bihbihānī):

'He answered with a story about the Prophet. A man brought his son to him asking that he would warn him against eating dates. The Prophet said, "Bring him tomorrow". The father said, "Why not today?" The Prophet answered, "Because I have just breakfasted off dates".'⁸³

The finance committee, which consisted of Sanī' al-Daula and the major merchants, submitted its recommendations on 19th March. They comprised the beginnings of reorganisation and centralisation along European lines. All provincial revenues were to be paid into the treasury and the governors were to receive salaries. The collection of the revenues was to be undertaken not by the governors, but by the Agents of the Ministry of Finance under the supervision of local councils.⁸⁴ A draft law dealing with the regulations for provincial councils was already under discussion.⁸⁵ In effect these reforms were similar to those of Naus, and in line with the centralising proposals set in motion by the higher bureaucracy in the 1890's under Amīn al-Daula.

82. Spring Rice to Grey, No. 38, 27th Feb. 1907, FO 371/301, No. 7801.

83. Spring Rice to Grey, 30th Jan. 1907, FO 800/70.

84. Spring Rice to Grey, No. 65, 28th March 1907, FO 371/301, No. 11863.

85. Spring Rice to Grey, No. 38, 27th Feb. 1907, FO 371/301, No. 11863.

As an alternative to a foreign loan, the leading merchants Amīn al-Zarb, Muḥīn al-Tujjār, Ḥāj Muḥammad Ismāʿīl and Arbāb Jamshīd, proposed to set up a National Bank based on subscriptions, which would then lend money to the government. During the last week in November they circulated subscription lists, but no large contributions were forthcoming. Nāzīm al-Islām commented that the organisers had insufficient funds for such an enterprise and doubted their integrity.⁸⁶ Similar suspicions were voiced in the Majlis. There was an additional problem that the amount of coin in the country was limited and mostly in the hands of the Imperial Bank, which had the concession to issue bank notes.⁸⁷ By March 1907 the National Bank had still not been able to collect adequate funds to help the government. Sanīʿ al-Daula proposed the Bank raise a foreign loan and then re-lend the money to the government, in return for the right to exploit concessions to be granted to the Bank by its Charter. Negotiations commenced for a German loan, and in return for a small advance the Government confirmed the concession of the National Bank. The chief features of the Charter were that all revenues from Tehran or the provinces were to be paid into the Bank, which would then pay the national expenses. It also had the right to undertake loans in accordance with the sharīʿa, and to construct roads and railways and exploit mines.⁸⁸ It is still not entirely clear what the major merchants intended by the National Bank, but it may be observed that the project itself, as well as items on its Charter, such as the development of mines, were amongst the proposals put forward by the merchant councils in 1883. It is possible the Bank represented an attempt by the merchants to raise capital to enable them to play a greater part in the economic development of the country.

86. Nāzīm al-Islām, op. cit., II, p. 20; see also Majlis, No. 12, 31st Jan. 1907.

87. Spring Rice to Grey, No. 290, 4th Dec. 1907, FO 416/29 No. 302.

88. Serstevens to Favereau, 19th March 1907, No. 112/53, Folio No. IV to VI, BMFA.

Another aim it served was to assist in making the government finances accountable. The matter of the National Bank illustrates the powerful role played by the merchants in the Majlis at this stage.

With the assistance of Sa'd al-Daula, the merchants also secured the dismissal of Naus, whom they held responsible for raising the money the government had, in their view, misspent, before the Revolution. Sa'd al-Daula had a personal grudge against Naus who had reported him for grossly overcharging the government on the purchase of machinery for the new mint.⁸⁹

Beset on the one hand by a powerful court working outside it, the Majlis was also harrassed on the other by the radical and increasingly militant onlookers. Both these elements had some representation in the Majlis, but essentially they were not absorbed by the institution. From December 1906 there was a growing militancy amongst the populace of Tehran. Secret societies proliferated, Nāzīm al-Islām joining a new society where each member vowed to form an additional cell.⁹⁰ An Anjuman-i Tullāb was active distributing leaflets on the subject of the Valī'ahd and the Majlis.⁹¹ Members of these societies were amongst the onlookers who were beginning not only to disrupt the Majlis but also to intimidate its members. When the Majlis went into closed session on one occasion there was very nearly a major disturbance only just quelled by Bihbihānī.⁹² In February

89. H. Rabino to Browne, 31st Jan. 1911, Browne Papers.

90. Nāzīm al-Islām, op. cit., II, pp. 73-4.

91. Ibid., p. 32.

92. Ibid., p. 81.

1907 a society called the Anjuman-i Ittiḥādiyya, with reportedly 4000 members, began drilling to form a sort of national guard against the Shah's expected attack on the Assembly.⁹³ At the beginning of 1907 newspapers began to appear, and though most were moderate, a number contained articles of an inflammatory nature, which the government was not permitted by the Assembly to censor. Thus by the time the Tabriz Deputies, who, according to Browne were particularly radical, arrived in Tehran in early February, there was already a militant movement afoot.

As the situation polarised, Bihbihānī and Ṭabāṭabā'ī did their utmost, with some success, to play a conciliatory role. Bihbihānī stressed the need for unity between government and people, and attacked the authors of anonymous radical pamphlets. In March the two mujtahids induced the so-called National Guard, then drilling, to disband,⁹⁴ and Ṭabāṭabā'ī spoke against any society that was not properly constituted.

CONCLUSION

In conclusion, with regard to the bast, the evidence of Nāẓim al-Islām and the British sources against that of Malikzāda, suggests that there was no properly constituted plan. The bast was instigated by Bihbihānī, whose initial aims appear to have been twofold: to secure a refuge for some of the merchants from 'Ain al-Daula, and to use the British as intermediaries to bring pressure on the Iranian authorities. There was no talk of a national consultative assembly until the end of July. There is strong evidence that

93. Spring Rice to Grey, No. 43 Tel., 5th March 1907, FO 371/308 No. 7334.

94. Spring Rice to Grey, No. 47 Tel., 8th March 1907, FO 416/31 No. 166.

the bulk of the financing came from the merchants, including major tujjār, bunakdārs, and ṣarrāfs, with the highest contributions being made by four of the wealthiest tujjār. The reasons for their involvement await further research, but it may be said that their interests varied. The retail and wholesale dealers were angry at the customs dues, whereas the moneylenders were demanding payment of claims long overdue. There was, however, a common indignation at government misspending in the years before the Revolution, and a desire to make the government accountable. To some the Majlis may have represented a chance to achieve such goals as improvements in the law, as they indicated to the Shah, and participation in the economic development in the country. At this stage, and after the establishment of the Majlis, the guilds were largely under the guidance of the merchants and mujtahids.

Of the notables, most seemed anxious to maintain a low profile. Not all went so far as to advocate the establishment of a national assembly, both Nāsir al-Mulk and Mukhbir al-Saltāna being sceptical. The more progressive ones, such as the sons of Mushīr al-Daula and Sanī' al-Daula, were able to use their knowledge of European systems to give shape to the popular movement in the absence of any other clearly conceived ideology.

The telegrams of Ṭabāṭabā'ī and Bihbihānī at the time of the bast indicate how far they were being guided by their merchant following, and the National Assembly that was established differed from the Islamic assembly the ʿulamā appear to have desired. However, on their return the ʿulamā made no objection, perhaps because they did not yet understand the full implications of the difference. Once the Majlis was established the mujtahids were needed to help legitimise it. There is no indication that they initiated policies, their role being either to act as conciliators to

keep the popular movement together in view of the conservative opposition at court, and to mediate with the government. As before the Revolution they represented the views of their following, and were thus probably one of the impediments to the formation of political parties. Bihbihānī's loyalty to reform was less noticeable than that of Ṭabāṭabā'ī, who commented on the Shah's coronation, that the Shah had been crowned with a constitutional crown, and that if he turned against the constitution, he would no longer be recognised as sovereign.

Shaikh Faḏlallāh said little to make his view apparent. Ostensibly he supported the Majlis in the autumn of 1906, most likely because of his isolation after the fall of Amīn al-Daula, and his lack of attendance gives evidence of lack of enthusiasm.

By February the Majlis was having to contend with radical societies outside it and a powerful, but largely unrepresented, court faction led by Amīr Bahādur. The impression is less of the Majlis changing political habits than being overwhelmed by traditional patterns, such as diffusion of authority and shifting allegiances, now made overt by the collapse of the Shah's coercive power.

CHAPTER VI

CONSTITUTIONALISM AND THE LAW OF ISLAM

In the course of the struggle over the responsibility of ministers in early 1907, Mushīr al-Daula, the Ṣadr-i A'zam, pointed out that an assembly had been granted, but not constitutional government. Indeed the royal rescripts had so far avoided the word mashrūṭa. The Majlis immediately demanded a rescript from the Shah confirming that the government of Iran was constitutional, a demand which the Shah resisted. There was commotion in both Tehran and Tabriz, which had received the news of the struggle from the Tabriz deputies.¹ On the 10th February the Shah sent a message that he would not grant an assembly that was mashrūṭa (constitutional) but that he would grant one that was mashrūṭa (in accordance with the sharī'a).² On the following day Mukhbīr al-Saltāna told the Majlis on behalf of the government that:

'It is not advisable for the government of Iran to be constitutional, for in a constitutional government all things are free, and in this case there must also be freedom of religion. Certain persons will insist upon religious freedom, which is contrary to the interests of Islam.'³

This argument was resisted in both Tabriz and Tehran, where Tabātabā'ī and Bihbihānī, under strong pressure from their following, who refused to let them go home, would not accept.⁴ That evening a rescript was issued conceding that Iran now had constitutional government. It is not clear where the government derived the idea of mashrūṭa and the point about freedom of religion, but it may have come from Shaikh Faḡlallāh.

1. Taqīzāda, Khiṭāba, op. cit., p. 46.
2. Spring Rice to Grey, No. 38, 27th Feb. 1907, FO 371/301, No. 8664.
3. Kasravi, op. cit., p. 222.
4. Nāzīm al-Islām, op. cit., II, pp. 84-5.

Shortly afterwards, on February 19th, one of the better known preachers of Tehran, Sayyid Akbār Shāh, preached a sermon against the assembly in which he said that the laws of the Prophet were sufficient for Muslims, and true believers should protest against the introduction of the laws of infidels.⁵ Sayyid Akbār Shāh had been one of the ʿulamā who had accompanied Ṭabāṭabā'ī and Bihbihānī to Shāh ʿAbd al-ʿAzīm, but had lately fallen out with them over payments due to him in the Shrine and after.⁶ He was joined by another preacher, Shaikh Muḥammad Vā'iz, who had also been in the Shrine. He was backed up by the Imām Jum'ā and another mujtahid, Sayyid Muḥammad Tafriṣhī, who had lost control of a large amount of vaqf land to Bihbihānī, as well as by Zain al-ʿĀbidīn Zanjānī, and complained that his students were smitten with freedom and no longer showed him any respect. On 23rd February Sayyid Akbar and his group, together with a student following of about 70 persons, took bast in Shāh ʿAbd al-ʿAzīm, where they were said to be subsidized by the Vazīr Makhsūs, acting on behalf of the Shah. They continued to preach against the Majlis, but were largely ignored by popular opinion, and eventually, through the mediation of Ṭabāṭabā'ī and Bihbihānī, they were allowed to return to Tehran.

The Majlis, in the meantime, was considering how it might save money, and a recommendation that tuyūl be abolished was added to the report of the Finance Committee. Since fiefholders included many of the notables and ʿulamā, opposition soon began to build up. Nāẓim al-Islām, whose secret society was worried by the effect of such radical measures, requested Ṭabāṭabā'ī to try and restrain the Majlis

5. Spring Rice to Grey, No. 38, 27th Feb. 1907, FO 371/301, No. 8664.

6. Kasravī, op. cit., II, pp. 88-9.

on this issue, and suggest that it could wait for another year.⁷ Tabātabā'ī brought up the matter on 16th March, but was not given a chance to explain his case. The opposition, led by Taqīzāda, managed to carry the vote in favour of abolition by a small minority. A decision was also taken to examine and reduce pensions, a measure Daulatābādī considered ill-advised as it not only provoked opposition, but affected people of small means, as well as the notables.⁸

Consequently a reaction began against the Majlis, and, to the covert opposition of the Shah and the court factions, was added the discontent of other groups, who began to realise they stood to gain more under the old system. Spring Rice reported that:

'The priesthood are fully conscious that their turn will come, and that, when the court is dealt with, the mullahs will not have long to wait before they find their masters. The Shah had little difficulty in showing them that their interests are bound up with his. Their support of the popular cause is manifestly lukewarm, but they have to seem to lead for fear that it will be plain to everyone that they will be forced to follow.'⁹

He does not, however, indicate to which members of the 'ulamā this statement refers.

As part of the original constitution it had been stated that no oath of allegiance would be sworn to the Shah and the 'nation' by the deputies, and the Shah requested that this should be accomplished in early March. On the 5th, Sanī' al-Daula and about thirty deputies subscribed to the oath, but Sa'd al-Daula refused because he said the

7. Nāzim al-Islām, op. cit., II, p. 118.

8. Daulatābādī, op. cit., II, p. 113.

9. Spring Rice to Grey, No. 81, 24th April 1907, FO 416/32, No. 130.

constitution required further modification. The spectators, with whom he was in league, rushed into the Majlis and tore up the draft of the oath, which was in the handwriting of Shaikh Fażlallāh.¹⁰ Students and sayyids then began drilling outside the town in support of the Majlis. Bihbihānī and Tabātabā'ī persuaded the students and sayyids, who were calling themselves the 'national guard' to disband, and on 7th March they administered the oath to the deputies.¹¹

Without assistance in men and money the Shah had no means of suppressing the Assembly. He had for some time been in contact with Amīn al-Sultān concerning the possibility of the latter's return to office. Amīn al-Sultān said that, although Iran was little suited to representative institutions, the Majlis must be sustained, and, unless the Shah agreed, he would not take office.¹² By mid-April Amīn al-Sultān was on his way home, and whilst some believed that he would use his statecraft to incapacitate the Majlis, others considered him the one person capable of reconciling the differences between the Assembly and the Shah. His supporters included Bihbihānī as well as the President of the Majlis, Sanī' al-Daula, Mukhbīr al-Saltāna and Amīn al-Zarb.¹³ On his arrival Amīn al-Sultān concerned himself with the pressing problem of the finance, and the need to raise a loan. There were reports that the Shah mistrusted him, and it was considered that any influence Amīn al-Sultān had at court was largely due to his being on good terms with the Russian Legation.¹⁴

10. Safā'ī, Asnād-i Nau, op. cit., p. 217.

11. Spring Rice to Grey, No. 43, 5th March and No. 47, 8th March 1907, FO 416/31.

12. Goschen to Grey, No. 35, 5th April 1907, FO 416/36, No. 27.

13. Daulatābādī, op. cit., II, p. 127.

14. Spring Rice to Grey, No. 110, 21st May 1907, FO 371/312, No. 18869.

By April 1907 many of the ʿulamā were evincing disquiet over the Majlis, and were particularly worried about the Commission on the Supplementary Law, which was completing its work. A series of meetings was arranged between deputies and leading ʿulamā to examine the law article by article. Shaikh Faʿlallāh and his group came to the meetings determined to have the law drafted in conformity with the sharīʿa. On 5th May he wrote to his son in Najaf that:

'My time is so taken up with all this business that there is no chance to read or write a letter. All the lands of Iran from Tabriz to Isfahan to Shiraz are in a state of chaos. A variety of people and societies have been stirring up events in a manner destructive to the community and the government of Islām (daulat va millat-i islām) in a way no one could have expected.'¹⁵

The most contentious point in the Law was Article 8 which stated that all the people of Iran were equal before the law of the state (qānūn-i daulatī) irrespective of their creed. As Mukhbir al-Saltāna pointed out there was no qānūn-i daulatī,¹⁶ but the radicals obviously intended to rectify this. Some ʿulamā objected to Article 19 on the establishment of state schools and compulsory education, which they insisted was contrary to the sharīʿa. A further point of controversy was Article 21 giving freedom of the press, although this was qualified by the prohibiting of books that might undermine Islām. The exact nature of such books was not defined.

To counter the constitutionalists, Shaikh Faʿlallāh composed an article to be included in the Supplementary Fundamental Law to the effect that no bill should pass the

15. Kasravī, op. cit., p. 293.

16. From Mukhbir al-Saltāna Guzārish-i Irān quoted in Riżvanī Mashruṭiyyāt, op. cit., p. 145.

Majlis without the consent of the ʿulamā (see Appendix A). The article did not clarify the important point of how the Council would be chosen. Copies were circulated for about a month, and in the meantime, the Shah proposed sending the whole Law to the ʿulamā of Najaf for approval, hoping thereby to create divisions and delay.¹⁷ On the other side there were disturbances in Azarbaijan, following messages from the Tabriz deputies.¹⁸ In mid-May there were heated discussions in the Majlis on the Law. Sayyid Taqī Farātī, one of the followers of Bihbihānī, propounded the view that Islam was the religion of the country, and the Fundamental Law must be in accordance with it. The Law must therefore be meticulously studied by the ʿulamā.

The Supplementary Fundamental Law was put to the Majlis on 16th May in the presence of all the mujtahids. On the subject of equality all the ʿulamā except Tabātabāʾī objected on the grounds that infidels and Muslims could not be subjected to equal penalties or possess equal rights according to the sharīʿa. The mujtahids were absent from the next debate on the 19th, and there was strong criticism of them, at which all the ʿulamā deputies rose and left, an unusual example of their demonstrating unity in defense of their interests. Shaikh Faḏlallāh's amendment was to be read to the Majlis on that day but Taqīzāda managed to have it deferred, there being some possibility that it might be ratified, owing to the influence of the ʿulamā over some of the deputies. An attempt to cast aspersions on the motives and loyalty of the Tabriz deputies was repulsed by Tabātabāʾī.¹⁹

17. Spring Rice to Grey, No. 113, 23rd May 1907, FO 371/301, No. 18872.

18. Kasravī, op. cit., p. 294.

19. Ibid., p. 324.

In the meantime, Shaikh Faḏlallāh was reportedly active in propogating his cause. Each day he was said to summon about 80 students to his house, feed them, lecture them on the evils of constitutionalism, give them two krans each and send them away.²⁰ These activities were believed to be assisted by donations from members of the court. He also made common cause with Hāj Mīrzā Ḥasan, the most prominent mujtahid of Tabriz who had recently been expelled by the local anjūman, and with Hāj Khummāmī, who had likewise been compelled to leave Rasht. On May 30th students in the pay of Shaikh Faḏlallāh entered the Majlis and abused the members.²¹ The students thus mobilised formed a counterpoint to the radical anjūmans, who had contacts with the constitutional leaders, and affrays began to develop between them.

Discussions on the Fundamental Law amendment resumed on 1st June, when Sanī' al-Daula, probably trying in his position as President to effect a compromise, suggested that certain clauses be sent to the ʿulamā of Najaf. On 11th June Taqīzāda pointed out that Article 27 of the Fundamental Law already stipulated that any laws passed must be in conformity with the sharīʿa, so the amendment was superfluous.²² Pressing the advantage of the divisions amongst the ʿulamā he added that they should all watch over the laws, not just a few of them. This argument was supported by the newspaper Habl al-Matīn:

'The right of judging what is in conformity with the sharīʿa belongs to all the ʿulamā. The Council of ʿulamā might well ratify a law which would be rejected by all the rest.'²³

20. Ibid., p. 361.

21. Spring Rice to Grey, No. 137, 21st June 1907, FO 371/301, No. 22402.

22. Kasravī, op. cit., p. 370.

23. Habl al-Matīn, No. 30, 15th June 1907, p. 4.

The amendment was again introduced on 12th June but with a significant alteration concerning the selection of the members of the Council, defined as follows:

'There shall at all times be a Council of not less than five persons who are mujtahids or jurists, well versed in the religious law, and aware of the exigencies of the age. They shall be chosen in the following manner: The leading ʿulamā and those who are marajīʿi taqlid of the Shīʿa shall submit the names of twenty persons having the aforementioned qualities to the Majlis. Five or more of those, according to the exigencies of the times, shall be appointed by agreement or ballot of the National Consultative Assembly.'²⁴

It is not clear where this compromise draft emanated from, but it may have been Sanīʿ al-Daula in collaboration with Bihbihānī and Ṭabāṭabāʾī. The important point was, of course, the participation of the Majlis in the selection of the members of the Council. Given the divisions amongst the ʿulamā this would in effect permit the dominant faction in the Majlis to choose those who acquiesced in their views. There is little indication that such a faction would be in agreement with Shaikh Faḏlallāh.

On the 15th the matter was again debated, and Ṭabāṭabāʾī asserted angrily that the Majlis would not be allowed to exist unless the Council of ʿulamā was accepted. He added that the Council must have full authority to reject any bills passed by the Majlis if they were deemed contrary to the sharīʿa. The article was carried by a large majority. It is likely that, as Spring Rice observed, a number of deputies at least realised that they could not openly attack the ʿulamā at present. The article also had the advantage of cutting the ground from under Shaikh Faḏlallāh's feet.

The ʿulamā who supported the Majlis had made some attempt to mollify Shaikh Faḏlallāh and induce him to

24. Kasravī, op. cit., p. 372.

compromise. On 11th June all the leading ʿulamā signed a fatvā which stated that the Majlis and all its laws must be in accordance with the sharīʿa. Shaikh Fażlallāh is said at this time to have made a promise not to oppose the constitution any further. But he was clearly not happy with the second draft of his article, and he and his group continued to preach against constitutionalism in the pulpits, and sent emissaries to the provinces to incite opposition there. It is possible, as Kasravī suggests, that his attitude may also have hardened because of links with members of the court.

On 19th June Shaikh Fażlallāh's followers erected a large tent, said to have been lent to them by the Shah, ostensibly to hold a rauża khvān. When large numbers of roughs gathered there it became evident the purpose was to rally support for the anti-constitutionalist cause. Supporters of the constitution attacked the tent and succeeded in dismantling it. Next day a meeting of the anjūmans was held at the Sadr School, to which the leading constitutionalist ʿulamā were brought. The crowd was threatening, and Ṭabāṭabāʿī only succeeded in pacifying them by promising that if Shaikh Fażlallāh continued to oppose mashrūṭa, he himself would personally see him out of the city.

Shaikh Fażlallāh and his group realised that things were going against them, and the situation was growing more dangerous. That evening they set out for the Shrine of Shāh ʿAbd al-ʿAzīm, including in their number, Shaikh Fażlallāh himself, Shaikh Luṭfallāh, Mullā Muhammad Āmulī, Sayyid Muhammad son of Muhammad Kāẓim Ṭabāṭabāʿī Yazdī, and Sayyid Ahmad, the brother of Ṭabāṭabāʿī, and Ḥāj Mīrzā Hasan, the mujtahid from Tabriz. They were joined by tu yūldārs, many ṭullāb, and some of the poorest classes

(aubāsh), amounting to about 500 persons.²⁵ Unlike the group who had taken bast in February, Shaikh Faẓlallāh and his following enjoyed considerable prestige.

On 24th June Mullā Muḥammad Āmulī sent a telegram to Najaf announcing their presence in the Shrine, and explaining it as arising from 'a heretical rebellion' which was to the revulsion of all the ʿulamā, excepting two persons (by whom he presumably meant Bihbihānī and Tabātabāʾī). They also wrote to the Shah saying that they intended to go to Qum and win over the ʿulamā there, adding:

'This Majlis has nothing to do with out four principles - unity, prophecy, imamate, and resurrection.'

The bastīs also sent a telegram to the ʿulamā of the main cities of Iran on 28th June, announcing their presence and explaining their intention as being to protect the laws of Islam.

In the Majlis deputies complained of the government's failure to stop Shaikh Faẓlallāh, and said that if the government did not soon intervene, the 'Nation' would. The leading constitutionalist mujtahids went to see Shaikh Faẓlallāh and try to persuade him to return to Tehran. He reportedly refused to return unless about 25 deputies were banished.²⁶ Tabātabāʾī had considerable trouble restraining the anjumans, with whom he was in contact through Sayyid Jamāl al-Dīn, from evicting the bastīs from the Shrine by force.²⁷ The Majlis also urged restraint on the anjumans,

25. Ibid., p. 376. The Shah had signed the bill for the abolition of tuyul on 16th May, not, it was reported, without a certain satisfaction at the disagreements it would cause.

26. Spring Rice to Grey, No. 137, 21st June 1907, FO 371/301 No. 22402.

27. Yaghmāʾi, op. cit., p. 285.

fearing any major disturbance would give the Shah a pretext to ask for Russian intervention.²⁸ In addition they urged the bazaaris not to close shop, which they were presumably threatening to do for fear of disturbances.²⁹ The Majlis further sent a telegram to the provinces accusing Shaikh Faḡlallāh of acting from motives of personal gain.

It was widely believed that the bast was subsidized by the Shah, and indeed it would have been impossible to sustain such an undertaking without a substantial and reliable source of income. According to Malikzāda, Shaikh Faḡlallāh was financed by the notables whose pensions and salaries were to be cut by the Majlis, and also the holders of tuyūl.³⁰ Kasravī considered that he was already receiving money from the government early in June.³¹ Daulatābādī was of the same opinion and stated that the money came from the Vazīr Makhsūs, Governor of Tehran, from funds transferred by the Shah to the Russian Bank.³² A sufficient amount was reportedly paid monthly to Shaikh Faḡlallāh's followers and each of their families. Spring Rice reported that Shaikh Faḡlallāh had received money from the Russian Bank which might have come from the Shah's private account but was said to be paid with Russian consent.³³ He estimated the cost of the bast as £100 per day and said it was universally believed the money

28. Spring Rice to Grey, No. 164, 19th July 1907, FO 371/304, No. 26051.

29. Kasravī, op. cit., p. 379.

30. Malikzāda, Mashrūtiyyat, op. cit., III, p. 30.

31. Kasravī, op. cit., p. 373.

32. Daulatābādī, op. cit., II, p. 129.

33. Spring Rice to Grey, 18th July 1907, FO 800/70.

came from the Shah.³⁴ It was also the belief of Amīn al-Sultān that the Shah was subsidizing Shaikh Faḡlallāh. He told Spring Rice that, when the Majlis pressed him on the subject, had he denied it, they would probably have confronted him with proof.³⁵

On 7th July Spring Rice brought up the subject in an interview with the Shah, and the latter replied that the Majlis was filled with socialists and meddling ʿulamā and there was a need for new elections.³⁶ According to the regulations of the Majlis this was not possible before the two year term was up. Spring Rice related the Shah's comments to Shaikh Faḡlallāh's demand that twenty five members be purged and observed that the Russians had put forward similar arguments before the recent dissolution of the Duma. In effect Shaikh Faḡlallāh and the Shah were arguing for a practical restoration of the old regime, according to his view. The Majlis would continue to exist because of popular support for such an institution but it would be purged and thus become an instrument of royal policy.

In the interim the controversy had spread to Najaf, whence the Majlis requested a telegram in its support.³⁷ Of the leading mujtahids there Ākhūnd Mullā Khurāsānī and Shaikh ʿAbdallāh Māzandarānī complied, but Sayyid Kāzīm Ṭabātabāʾī Yazdī refused, giving only a brief explanation that the matter concerned the religion of Islam and the need to safeguard the souls and qualities of Muslims, which could

34. Spring Rice to Grey, No. 143, 10th July 1907, FO 416/34, No. 136.

35. Spring Rice to Grey, No. 164, 19th July 1907, FO 371/304, No. 26051.

36. Spring Rice to Grey, No. 143, 10th July 1907, FO 416/33, No. 136.

37. Kasravī, op. cit., pp. 379-85.

not be accomplished except through the sharī'ah. Khurāsānī and Māzandarānī's telegram asserted that the Majlis would counter tyranny and protect Islam and the sharī'ah, but Khurāsānī and Māzandarānī saw the Majlis as the best means of doing this, whereas Tabātabā'ī Yazdī did not. Shaikh Faḥlallāh claimed in a leaflet that the majlis he was seeking was precisely the one desired by Khurāsānī, and that the Majlis in existence was being taken over by Bābīs. Khurāsānī had supported Shaikh Faḥlallāh's amendment, and probably considered that measure adequate. It is difficult to escape the impression that Shaikh Faḥlallāh was to some extent right, and that Khurāsānī did not grasp the essence of the conflict in Tehran.

In about the middle of July the bastīs in Shāh 'Abd al-'Azīm set about propogating their cause in printed leaflets.³⁸ They are reported to have had difficulty persuading any of the printing houses in Tehran to publish their writings, so at first they wrote out their tracts very clearly and circulated them as photographs. Since this was an expensive method, they bought their own lithograph and took it to the Shrine. Browne says there were nineteen leaflets in all³⁹ but according to Kasravī there were more, a first series of more than nineteen written in nastalīq script, some of them dated, and a second series of nineteen written in naskhī script.⁴⁰ Kasravī published three of the leaflets in his history, and Riḥvānī has the largest collection of them which he has published in Tārīkh.⁴¹

38. Ibid., p. 409.

39. E.G. Browne, The Press and Poetry, op. cit., p. 94.

40. Kasravī, op. cit., p. 411.

41. Ibid., p. 410, pp. 414-423, pp. 432-438; Riḥvānī, op. cit., pp. 159-209.

Altogether approximately fourteen have been published, each being about 2-4 pages long. In these two published sources there are four leaflets written in nastalīq bearing the legend 'Published in the Shrine of Shāh ʿAbd al-ʿAzīm to Awaken the Brothers in Religion and Remedy their Errors'. Two bear dates, 12th Jamādī II (23rd July)⁴² and 18th Jamādī II (29th July)⁴³ but no numbers; and two bear numbers, No. 8⁴⁴ and No. 9⁴⁵ of which the latter is dated 23rd Jamadi II (3rd August). There are also two in naskhī script bearing the numbers 18⁴⁶ and 19,⁴⁷ and the same layout, but different titles, the first being called 'Awakening and Admonition' and the second 'Against Doubt'. Neither are dated, but the second refers to the bastīs being in the Shrine for two months, and must therefore date from about 20th August 1907. Other examples in the naskhī script are, however, dated 26th Jamādī II (6th August), 2nd Rajab (11th August) and 4th Rajab (13th August).⁴⁸ Thus Kasravī may be right that there was an earlier series in nastalīq and a later one in naskhī. Of the leaflets published so far, the earliest is dated 23rd July but those circulated as photographs were probably sent out in mid-July; the latest was printed about 20th August. The period of publishing the leaflets seems thus to have been about six weeks. Of the available leaflets only two are actually signed by Shaikh Faḡlallāh.⁴⁹ Most have no signature or are simply

42. Riḡvānī, op. cit., pp. 185-189.

43. Ibid., pp. 167-173; Kasravī, op. cit., pp. 416-23.

44. Riḡvānī, op. cit., pp. 191-194.

45. Ibid., pp. 195-7.

46. Ibid., pp. 202-3.

47. Ibid., pp. 204-6.

48. Ibid., p. 174, p. 184, p. 198.

49. Ibid., p. 187, p. 178.

signed 'Written by the refugees in Shāh 'Abd al-'Azīm'. One gives the text of a long speech by Shaikh al-Ḥijjī,⁵⁰ whose name does not occur elsewhere, and who may have been a preacher designated to publicize the bastīs' arguments. Otherwise some leaflets reproduce letters and telegrams from the ʿulamā of Najaf to justify the bastīs' arguments.⁵¹ As both Kasravī and Rižvānī have remarked, their purpose is one of propoganda, making explicit the arguments of the bastīs, rather than discussion or the conveying of news. The available evidence is not sufficient to distinguish marked differences of views between different groups in the Shrine, nor does it demonstrate any notable shift of opinion over the approximate six weeks that the leaflets were published. Generally, the leaflets were known as the 'Rūznāma-yi Shaikh Fażlallāh', 'Shaikh Fażlallāh's Newspaper',⁵² and refutations of their contents were directed against him personally. In the following analysis they will therefore be taken as representing a body of opinion, that of the bastīs, amongst whom Shaikh Fażlallāh was the leading proponent.

The most powerful argument the bastīs brought against the constitutionalists was that of establishing an institution that had no legitimate basis in sharīʿa law, and creating thereby a conflict in sources of legal authority. They accused the constitutionalists of working for a 'revolution in the sharīʿa' and of trying to change it according to 'the works of the parliaments of Paris and England'.⁵³ In trying to introduce the law of a European parliament the constitutionalists were omitting to take account of the fact

50. Kasravī, op. cit., p. 431.

51. E.g. Rižvānī, op. cit., p. 190, pp. 177-8.

52. Browne, Press, op. cit., p.94.

53. Rižvānī, op. cit., p. 187.

that the people of Iran had the sharī'a, of which they claimed:

'Its provisions cover all regulations of government, and specify all obligations and duties, so the needs of the people of Iran in matters of law are limited to the business of government, which, by reason of universal events, has become separated from the sharī'a. ...Now the people have thrown out the law of the Prophet and set up their own law instead.'

The bastīs accused the deputies of the Majlis of interfering in the revealed law, which they had no right to do.⁵⁴ They strongly rejected the argument put forward by many constitutionalists, that the law of Islam could be altered according to the exigencies of the age. They explained why it was not possible to alter the revealed law:

'God has never left the world empty of proof (ḥujjat), and that proof is the Prophets. To each Prophet He sent the law in a Holy Book to regulate the affairs of this world and the next. To our Prophet, He revealed the law in the Qūran, which is the perfection and completion of all previous laws, and will remain until the Day of Reckoning. Therefore there is no need to follow the example of the law of Europe and Germany. If the Law of the Seal of the Prophets were defective it would be necessary for God to send another Prophet and another law, so that his proof to the people be not defective.'⁵⁵

In other words the only legitimate source of law is the Divine Will made manifest from time to time in the Prophets and their Holy Books. The bastīs also questioned the basis of the Majlis's legitimacy by demanding to know from what book or prophet the constitutionalists got their ideas.⁵⁶ Without true basis for its power, i.e. the Divine Law, the Majlis did not belong to things that had to be obeyed. Those

54. Ibid., p. 209.

55. Kasravī, op. cit., p. 437.

56. Riżvānī, op. cit., p. 198.

were fixed in God, the Prophet, the Imāms and those who derive their deputyship from them. The Majlis could not claim, therefore, to be the ultimate source of authority - ūlū al-amr.⁵⁷

The second significant charge which the bastīs brought against the constitutionalists was that they had perverted the original idea of the institution the ʿulamā had sought, and had created instead a European parliament:

'You must distinguish between the Great Communal Place of Consultation of the Jaʿfari Shīʿa and foreign parliaments.'⁵⁸

They were particularly indignant that the word 'Islāmī' had been dropped from the original description of the Majlis. Shaikh Faḏlallāh defined the majlis the ʿulamā had sought as:

'The Great Islamic House of Consultation established through the efforts of the Proofs of Islam and General Agents of the Imām to serve and assist the Twelver Shīʿa Government, and to protect the rights of the followers of the Jaʿfari faith.'⁵⁹

They stressed the strictly Islamic basis of the Majlis the ʿulamā had wanted. National Consultation (shūrā-yi millī) and constitutionalism (mashrūṭa), they claimed, had not been heard of until the events of the British Legation.⁶⁰ The ʿulamā had wanted an institution based on Islam, on the Quran, the sharīʿa and on the principle of 'amr-i bi maʿrūf va nahy az munkar', the command to enjoin good and prohibit evil. Instead, after the founding of the Majlis,

57. Ibid., p. 204.

58. Ibid., p. 197.

59. Ibid., p. 187.

60. Ibid., p. 200.

Bābīs and other irreligious persons had come out into the open, and had turned the Majlis into an institution based on the command to enjoin evil and prohibit good.⁶¹ The heretics and infidels had introduced such concepts as 'national consultation', freedom, equality and a fundamental constitutional law, all clothes made for a foreign figure, and outside the Divine Law and the Holy Book.⁶² Their influence was such that any majlis that was now set up, would have for every ten members, four materialists, one Bābī, two foreign mimics (farangī ma'āb), and three ignorant Ja'farī Shiites.⁶³ Whilst the bastīs' assessment of the intentions of the more determined members of the Majlis was probably correct, their designation of their opponents as Bābīs, was not based on fact. It was indeed the common technique of slandering the opposition.

As an alternative to the existing scheme of affairs, the bastīs asked for mashrūṭa-yi mashrūṭa. This phrase, borrowed from the constitutionalists stated aims before the revolution, was now used against them. In itself it has no meaning, as 'constitutionalism according to the sharīṭa' does not exist, and Shaikh Faḡlallāh otherwise used mashrūṭa to mean constitutionalism. Indeed he was really demanding the replacement of the word mashrūṭa with the word mashrūṭa.⁶⁴ In fact the word mashrūṭa was very popular at that point so mashrūṭa-yi mashrūṭa made a convenient slogan. In the later leaflets the slogan emphasised was 'niḡāmnāma-yi islāmī',

61. Ibid., p. 192.

62. Ibid., p. 199.

63. Kasravī, op. cit., p. 434.

64. Ibid., p. 414; Riḡvānī, op. cit., p. 185.

'an Islamic book of rules,' which gives a more accurate summation of the bastīs' aims:

'The meaning of 'niẓāmnāma-yi islāmī' is precisely that law which has been amongst us for 1300 years or more.'⁶⁵

In other words, the Divine Revelation was the only legitimate basis for law.

The bastīs took up the point of Shaikh Faẓlallāh's amendment on the Council of ʿUlamā. They denied that the Majlis had any right to interfere in the selection of the mujtahids on the Council.⁶⁶ They demanded that there be twenty supervisors appointed by the ʿulamā alone, and that the clause should be unalterable. They accused the deputies of assuming an authority to which they had no right, and of overstepping the bounds of their duties. They also demanded to know the duties of the Majlis and its deputies, their rights and the limits of their authority (ḥuqūq va ḥudūd), the implication being that they were infringing the rights and duties of the ʿulamā, and the prerogatives of the sharīʿa. The authority of the ʿulamā was strongly upheld:

'And the Prophet said, "An offence to an ʿālim is an insult to me, and an insult to me is an affront to God. And to contradict the ʿulamā is to contradict me and to disobey God."⁶⁷

They complained of the current lack of respect for the ʿulamā and that their authority was ignored. They also complained of the denigration of the Shah:

'Every few days there is a bold attack on the exalted sultanate by groups of hired thugs.'⁶⁸

65. Ibid., p. 180.

66. Kasravī, op. cit., p. 422.

67. Ibid., p. 437.

68. Riẓvānī, op. cit., p. 193.

The aims of the Bābīs and materialists, the bastīs asserted was to alter the sultanate.⁶⁹ Presumably they were referring to the attempt to make the sovereign answerable to the will of the people, rather than the sharī'a. In asking why the existing system should be altered the bastīs pointed out that:

'The land is the land of Islam, the Sultan is the Sultan of Islam, and the ʿulama are the ʿulama of Islam.'⁷⁰

Shaikh Faḡlallāh also made an interesting distinction, upon which he unfortunately did not enlarge, between the Shī'a Muslim terms and the secular terms for oppressive government:

'The business of government (kārḡā-yi saltānatī)... is called in the language of the fuḡahā, unjust government (daulat-i jā'ira), and in the language of politicians, despotic government (daulat-i istibdād)'.⁷¹

Elsewhere the bastīs stated that:

'The name of arbitrary government shall henceforth be known in the language as despotism (saltānat-i istibdād) and contractual government shall be called constitutional monarchy (saltānat-i mashrū'a)'.⁷²

The implication is that the constitutionalists have introduced a new vocabulary, with new values, into the language, and that it has been linked to Shī'ite concepts, but in reality the new ideas and those of Shī'ism belong in different contexts and serve different purposes, so the same inferences cannot be drawn from them. The impression remains that the bastīs desired for the Shah the continuation of his role in the traditional, and in their view, Islamic system of government.

69. Kasravī, op. cit., p. 421.

70. Ibid., p. 438.

71. Ibid., p. 422.

72. Riḡvānī, op. cit., p. 167.

The bastīs also implied that the reformist cry for justice was delusive:

'The freedom seekers have deceived our brothers by the use of two enticing words, justice and consultation, into making common cause with atheists. ... Islam, the most complete, the most perfect, took the world by justice and consultation. What has happened that we must bring our regulation of justice from Paris, and our plan of consultation from England.'⁷³

They implied that the constitutionalist goal of justice was merely a deceptive means to another end, presumably a banner around which to rally support. According to them it was obvious that such a goal was not realistic:

'Absolute justice is limited to the time of the appearance of his Lordship the Proof, and you have always known this....so why have you become so weak in resolution that for the rumour of a majlis of justice you rebel against tyranny and oppression.'⁷⁴

The constitutional measure that had most antagonised the ʿulamā and had driven Shaikh Faḡlallāh into open opposition to the Majlis was the article asserting the equality of all subjects regardless of their creed. It highlighted the differences between a law based on the will of the citizens of a nation state, and on one based on the Divine Will, in which believers have a privileged position distinct from that of unbelievers. As an example of the Majlis's alleged desire to prohibit good and enjoin evil, they stated:

'For example it gives the Zoroastrians the freedom to propagate their faith. Now anyone who tries to stop this is labelled a despot, and accused of trying to destroy the Majlis'.⁷⁵

73. Kasravī, op. cit., p. 410.

74. Ibid., p. 433.

75. Riḡvānī, op. cit., p. 192.

The bastīs also took issue with the current call for liberty. In their view liberty was confined by the precepts of the sharīʿa. Most particularly they attacked freedom of the press. They maintained it was causing sedition and permitting the spreading of anarchy. They demanded stricter control, and particularly that all articles and books published should be in conformity with the sharīʿa. Since Shaikh Faḡlallāh had recently excommunicated Talibov and banned his books, this term could be susceptible to fairly dogmatic interpretation.

Another point of contention was compulsory education, which the constitutionalists were trying to introduce. The bastīs asserted it was contrary to the sharīʿa, and that the real intention was to create European schools and inculcate immature children with foreign habits,⁷⁶ that is mistakeach impressionable persons who did not know better.

The bastīs said little on the subject of the impending financial reforms. They took up the constitutionalist criticism of the present deployment of money:

'They say that the ignorant people of Iran spend twenty krore tomans a year on obtaining the waters of Zamzam and the ground for a tomb, and that if they were not wild and barbaric, they would not kill cows, sheep and camels at 'Id-i Qurban.'

and again:

'They argue that the funds for rauḡa-khvāns and pilgrimages to the Holy Places should instead be used for the creation of factories, for the building of roads and thoroughfares and other novelties like railways, and to promote foreign style industries.'⁷⁷

76. Ibid., p. 434.

77. Ibid., pp. 416-8.

Finally the bastīs accused the constitutionalists of causing chaos and anarchy. Since the appearance of the Majlis, there had been a breakdown of security, and invasions and uprisings. This, they were careful to say, was not the result of the Majlis itself, but of the influence in it of those of seditious opinions. They fulminated particularly against the anjumans as a cause of anarchy and pointed out:

'In England there is only one Parliament, yet you are setting up an assembly in every corner of Tehran.'⁷⁸

It was certainly true that the anjumans were impeding the work of the Majlis, and contributing to the growing disorder.

The constitutionalists set about refuting the bastīs in the press, in the Majlis, and in the publication of tracts. On the question of law they brought a variety of arguments. One of the Tabriz deputies, Mīrzā Fażl 'Alī Āqā, made a long and ingenious speech in the Majlis on 16th July 1907. He affirmed that the sharī'ah would not be altered, and that the Majlis would legislate in conformity with it. This would be accomplished as follows: the laws the majlis passed would be of two kinds. The first would define particulars of questions on which the sharī'ah made general pronouncements - he gave examples including the whole area of government administration. The second would concern matters which are permissible, that is to say not obligatory by the sharī'ah, but regarding which, for the preservation of order some form of agreement must be entered, though not in the name of the sharī'ah. These laws will be a definition of the essential meaning of the sharī'ah, made according to the exigencies of the age. If it were impossible because of treaties or other matters to execute the fundamental ordinances of the sharī'ah, then on the principle that

78. Ibid., p. 438.

necessity justifies avoidance, secondary regulations would be put into effect. Thus in no case would the laws of the Majlis be contrary to the sharīʿa. Therefore a law voted by the Majlis did not have to be referred to anybody for approval.⁷⁹ This was an impressive argument, but posed practical problems, for example, there is not always agreement over what is permissible, and how was a situation to be judged as warranting the application of the principle that necessity justifies avoidance. Ḥāj Sayyid Naṣrallāh objected that this example was correct on fixed precepts, but matters that were doubtful had to be referred to the ʿulamā.

The newspaper Tamaddun came up with another argument exploring the idea of essential and secondary principles, and different areas of legislation. It maintained that the law is divided into two parts, the roots and the branches. The roots of the law were also divided into two sections, that which pertains to politics, and that which pertains to worship. The laws of the branches are laws which merely channel and make explicit the laws of the roots, like organising ministries and keeping account of taxes. These laws may occasionally be changed according to the exigencies of the age, but the laws of the roots which came from God may never be altered.⁸⁰ The problem with this argument was that it presupposes a division between religion and politics that in theory does not exist in the sharīʿa although in 19th century Iran it was to some extent evident in practice; also it presupposes a more rigid distinction between what is primary and what is secondary law than in fact exists.

79. Habl al-Matīn, No. 41, 15th June 1907, p. 4;
Spring Rice to Grey, No. 147, 16th July 1907,
FO 371/301, No. 26034.

80. Tamaddun, No. 4, p. 4.

The newspaper Majlis, in an article written by Muḥammad Taqī, put forward the idea of the Majlis confining itself to legislation in a certain area. According to this argument the duty of the Majlis was to pass 'political' (siyāsī) laws for the country as a whole, and regulations for the ordering of government departments. The paper then went on to define a law:

'A law is that which establishes the limits of the monarchy; which secures the basis of the constitution, and makes the ministers responsible. A law is that which executes the precepts of the sharī'ah, and sets the affairs of the country in order.'⁸¹

Majlis also argued that legislation on limitation of the actions of the government and making ministers responsible should take place in the area of ṭurf law, and added that in this way taxes might be collected in a legal manner, without extortion or oppression.

An anonymous treatise written in about mid-August 1907 in refutation of Shaikh Faḡlallāh, and published by Majlis newspaper took up this same point. The writer quoted the bastīs' argument that the sharī'ah had a precept on every matter and a duty for every situation, so the need for the enactment of laws was limited to government business, and pointed out that the argument was inconsistent, adding:

'What is meant by the enactment of laws? Is this a compromise? Is it a recognition of existing practice? Is it theoretically correct?'⁸²

The writer then added this contention would take too long to answer.

In August 1907, 'Ḥabl al-Matīn' devoted space in at least three editions to the bastīs' arguments. On the above

81. Majlis, No. 159, 18th August 1907, pp. 2-3.

82. Published by Majlis press, c. mid-August 1907. (I am grateful to Dr. H. Modarressi for providing me with a copy).

point on the limitation of law-making to the matters of government it said:

'From this it is clear that Shaikh Faḏlallāh wants the conduct of government officials to be limited by law, but that the government should not have a law. But in this he is mistaken because the deputies have been elected by the people and given rights to introduce laws which will give them peace and security. They want a law that concerns the whole nation, a law that covers all government.'⁸³

However, this comment ignores Shaikh Faḏlallāh's contention that the deputies had no authority to do any such thing. The paper also examined the slogan mashrūṭa-yi mashrūṭa and asked what Shaikh Faḏlallāh intended:

'If by mashrūṭa-yi mashrūṭa the Shaikh means why wasn't the word mashruṭa written alongside mashruṭa, the answer is because in all books of law, especially the Fundamental Law, it is repeatedly stated that legislation must be in accordance with the sharīṭa. If the Shaikh means that mashrūṭa should be written instead of mashruṭa, the answer is that the implication of the word mashruṭa relates to a political problem, for when constitutionalism becomes law in our country, and after it has borne fruit, we will be known to belong to the group of constitutionally governed countries. Then if tomorrow the ruler acts despotically, they may assist us to prevent it.'

The first point would be refuted by saying there was no guarantee that the Majlis would legislate in accordance with the sharīṭa. The second argument may be less naive than an attempt to justify mashrūṭa other than by saying the government be made responsible to the people. It would have been wholly repugnant to the bastīs as it could invite infidel intervention.

The more radical newspapers such as Ṣūr-i Isrāfīl employed more sweeping arguments, such as saying that Islam should

83. Ḥabl al-Matīn, No. 86, 10th August 1907, p. 2; and No. 106, 2nd Sept. 1907, pp. 1-2.

conform to the exigencies of the age, and an Islam that was not in conformity with the exigencies of the age was counterfeit Islam, invented by a number of opportunist ʿulamā.⁸⁴

The constitutionalists were resourceful in their refutations of Shaikh Faʿlallāh's arguments on the sources of law and the area of legal jurisdiction, but they never really answered the fundamental point that there was a conflict between a law based upon the revealed will of God and one founded on the sovereign will of the people in parliament.

On the subject of equality the constitutionalist arguments were from the point of view of the sharīʿa of doubtful validity. Majlis brought forward the view that God bestowed rights on everybody according to what was suitable.⁸⁵ Throughout the world and in every sect each person has their rights and duties. The Fundamental Law concerned public rights (ḥuqūq-i ʿamma) which all prophets had recommended. On the possible conflict between 'public rights' and 'sharīʿa rights' the paper made no comment. More pertinently the paper queried why the Shaikh had not insisted upon the application of the sharīʿa rights under the former 'despotism'.

On the question of freedom of the press, the constitutionalists were on surer ground, as the Shaikh was not arguing that this was inherently contrary to the sharīʿa, but rather that the press was denigrating religion and the ʿulamā. The 'Treatise in Refutation' pointed out that most

84. Ṣūr-i Isrāfīl, No. 5, p. 4.

85. Majlis, No. 162, 21st August 1907, p. 3.

of what the bastīs were complaining about was in the anonymous leaflets shabnāma , which had nothing to do with the Majlis. The treatment of the ʿulamā in the press bears out some of Shaikh Faḡlallāh's complaints. More moderate papers such as Ḥabl al-Matīn were circumspect, but the more radical papers such as Tamaddun put forward some extreme arguments; for example that the foundations of the Majlis were based upon the Holy Law of the Prophet, and each of its members was therefore a protector and guardian of the sharīʿa,⁸⁶ which in effect meant usurpation of the authority of the ʿulamā. It also accused the ʿulamā of deliberately obscuring the principles of religion in language only they could understand in order to enhance their own authority, an argument which was also employed in Reformation Europe, and possibly comes from a European source.

The impression remains that much of what the bastīs objected to could have been controlled by a law of libel and the judicious application of a limited censorship. Where, however, the press touched upon the conflict of authority between the sharīʿa and constitutional government, the problem was much less tractable.

In discussing the complaint that the word islāmī had been deliberately dropped from the title of the Majlis, the 'Treatise in Refutation' maintained that it was only the corrupt Islam of the past that had gone.⁸⁷ It was stated firmly in the Fundamental Law that whatever takes place in the Majlis must be in accordance with the sharīʿa. In reply to Shaikh Faḡlallāh's complaint that the attempt to bind the

86. Tamaddun, No. 5, p. 4.

87. Treatise in Refutation, op. cit., p. 12.

Shah and government by contract was a transgression, the Treatise expostulated that the aim was not only to limit the powers of the government but of all classes and all sects, so that each individual knew his rights and duties, and no one could then be oppressed and enslaved.⁸⁸ The writer was also insistent on the loyalty of all Muslims to the Shah.

The Treatise also attempted to define the nature of the Majlis, affirming that it was not a foreign parliament introducing an alien law.⁸⁹ In answer to Shaikh Faḡlallāh's demand for a definition of its rights and duties, and the limits of its authority, the Treatise specified it as being a place of consultation which fixed the limits and established the rights of the people, and enacted the political laws of the kingdom. It was also the means of executing the religious law. It was concerned with the affairs of the country, and not with the religion. This reflects the more moderate constitutional view, but still presents unresolved problems on the possible conflict in duties as between the Majlis and the government, and the legal arrangements according to which these reforms would be carried out.

The constitutionalist arguments against Shaikh Faḡlallāh and the bastīs are, on the whole, weak. Because of the close dependancy of religion and state, to question the authority of Islam at that time was to lay oneself open to the charge of sedition, not only against religion, but against the state. Also the constitutionalists could not afford to

88. Ibid., pp. 4-5

89. Ibid., p. 27.

dispense with the influence and legitimising presence of those ʿulamā who, for whatever reason, still sided with them. Therefore they had to preserve the fiction that constitutionalism is inspired by and in conformity with Islam. This meant that they had to contend with Shaikh Faḏlallāh on his own ground, and on that ground he was very nearly irrefutable.

Shaikh Faḏlallāh and the bastīs had some success with their propoganda. Daulatābādī reports that they gained influence over the more pious members of the guilds.⁹⁰ They are also said to have instigated closures in the bazaar as an expression of discontent with the Majlis.⁹¹ This was supposed to be achieved with money supplied by the court but in any case was not successful. The bastīs' activities produced bitter debates in the Majlis in August. When it was reported that Shaikh Faḏlallāh had been to see the Shah on 16th August, Ṭabāṭabāʾī remarked angrily on someone who had behaved so to the millat being received by the Shah.⁹² A delegation had been sent to see the Shah but only evasive replies were expected. Questions were asked on 19th August as to why the authorities did not take firmer action, and it was clear Faḏlallāh's propoganda was having sufficient effect to cause unease. In particular, the Majlis was vulnerable to the aspersions he cast on its legitimacy.

The situation over the summer of 1907 had not improved. Amīn al-Sulṭān had tried in vain to find the money to finance reform, but all loan projects met with no success. Proposed financial and administrative reforms had been drafted but not yet put into effect. On 20th August when the regulations of the Ministry of the Interior were discussed, Ṭabāṭabāʾī

90. Daulatābādī, op. cit., II, p. 131.

91. Ḥabl al-Matīn, No. 94, 27th August 1907, p. 3.

92. Majlis, No. 159, 18th August 1907, p. 2.

strongly protested at a clause stating that the government had the right to supervise the administration of vaqf land, and left the Majlis.⁹³

In the meantime the disorder complained of by Shaikh Fażlallāh increased. At the end of May, Spring Rice reported that the resistance to all authority was spreading and was strongest in Azarbaijan and Tehran.⁹⁴ By 24th August the situation had worsened, and Ṭabāṭabā'ī made disturbances in Rasht a pretext to deliver a speech against the anjumans:

'We went to much trouble to establish this Majlis and make it fruitful, but these numerous anjumans and certain deputies, the soundness of whose credit is not known, are creating so much disorder that the country is nearly lost. There are 70 anjumans in Tehran alone. These should unite and work for the country, not interfere in its political affairs. We must work against the sedition and anarchy being caused by the anjumans.'⁹⁵

During the same debate Ṭabāṭabā'ī suggested that the Supplementary Fundamental Law be sent to the ʿulamā of Najaf for approval, a proposal formerly put forward by the Shah. It was reported that at this time the Russian Legation was in communication with both Bihbihānī and Ṭabāṭabā'ī, and that the latter had paid a secret visit to the Russian Minister on 15th August.⁹⁶ On the 22nd August, before the above mentioned debates, the Russian Oriental Secretary was said to have called on both Ṭabāṭabā'ī and Bihbihānī and this visit was linked to the opinion on the anjumans expressed by Ṭabāṭabā'ī in the debates.

93. Majlis, No. 161, 20th August 1907, p. 2.

94. Spring Rice to Grey, No. 113, 23rd May 1907, FO 371/301, No. 18872.

95. Majlis, No. 164, 24th August 1907, p. 4.

96. Spring Rice to Grey, No. 205, 13th Sept. 1907, FO 371/304, No. 32480.

These events may, however, be connected to the activities of Amīn al-Sultān, who from his return seems to have set about creating a moderate party in the Majlis as a means of reconciling that institution with the Shah and the more moderate notables and members of the court. Those who appear to have been won over included Sanīʿ al-Daula and his brother, as well as the leading merchants Ḥāj Muḥammad Ismāʿīl, Amīn al-Ẓarb and Muʿīn al-Tujjār, and some of the representatives of the guilds, as well as Bihbihānī and his group.⁹⁷ At the same time Amīn al-Sultān managed to have removed from the cabinet the more hardline conservatives, such as Vazīr Humāyūn, and most particularly the Shah's uncle and father-in-law, Nāʾib-i Saltāna.

The strongest opposition to Amīn al-Sultān came from Taqīzāda and the Tabrizis, who lost influence as that of the Ṣadr-i Aʿẓam grew, to the point where they sometimes had difficulties in speaking in the debates. The anjumans, especially that of Azarbaijan, in which Taqīzāda was prominent, were deeply suspicious of Amīn al-Sultān's tactics, which they considered to be aimed at sapping the Majlis to the point where it proved ineffective and lost respect and support. This was probably an extreme view of a policy that may have been aimed at achieving a compromise between the Majlis and the Shah over their respective powers, and a degree of collaboration in resolving the country's problems.

On 31st August the situation changed completely with the assassination of Amīn al-Sultān. This led in turn to the resignation of Sanīʿ al-Daula, President of the Majlis, in the belief the deed was the result of a court intrigue, and that he was next on the list; it also led to the

97. Daulatābādī, op. cit., II, p. 125.

resignation of Vazīr-i Makhsūs, Governor of Tehran, who was convinced it was the work of a radical secret society who would shortly attack him.⁹⁸ Many deputies were deeply disturbed, and a telegram of condolence was sent to the Shah as well as one to the provinces informing them of the loss. The anjumans, on the other hand, received the news with joy and held lamp lighting ceremonies in celebration.

On 16th September Shaikh Fażlallāh emerged from bast. Kasravī linked the timing to the death of Amīn al-Sultān, whom he considered was supporting him, although no evidence for this has yet come to light. Daulatābādī considered the reason to be that the supply of money from the court had dried up.⁹⁹ He also stated that the implication of the assassination, that the Revolution had entered a more violent phase, created fear in certain quarters, and that Shaikh Fażlallāh was affected by it. Spring Rice reported on 13th September that his propoganda was having little effect. This may be a reason why his source of funds dried up. Certainly he does not seem to have shaken the control of the anjumans over a large part of the populace of the capital. Another possible reason for the Shaikh's emergence at this time, although nowhere stated or implied, was that the Shah was supporting him not only to give ideological justification to his own position, but also to bring pressure upon Amīn al-Sultān just as the latter was building up a party in the Majlis and the government to induce him to cooperate.

Shaikh Fażlallāh was able to emerge with some honour through the good offices of Tabātabā'ī and Bihbihānī. A

98. There may, as Ettehadieh Nezam Mafi suggests, have been two plots to assassinate Amīn al-Sultān; see her thesis, op. cit., p. 219.

99. Daulatābādī, op. cit., II, p. 146.

question he drafted was put to the Majlis by Ṣadr al-ʿUlamā asking what the limits of its authority were. In a written answer the Majlis affirmed that it would not interfere in the affairs of the sharīʿa, and that its responsibility lay in matters covered by the ʿurf law, and concerned reform of the country.¹⁰⁰

CONCLUSION

Although Shaikh Faḏlallāh did not come out in open opposition to the Majlis till May 1907, there is some evidence that he was disquieted with the course of events, and collaborating with the new Shah, who also opposed the Majlis, soon after the latter's accession in January. By May 1907 unease, not only among members of the court but among others such as the holders of tuyūls and pensions, gave Shaikh Faḏlallāh sufficient support to manifest his discontent. The article on equality, pressed by the Tabrizis and the religious minorities, provided him with a clear pretext on which the designate constitutionalism as contrary to the sharīʿa.

Shaikh Faḏlallāh's most powerful argument was that the constitutionalists wished to replace the sharīʿa with a law of foreign origin, which had no legitimate basis in the sharīʿa since it did not derive from the sharʿ sources of authority. The constitutionalists struggled to refute this argument either by dividing the sharīʿa precepts into essential and non-essential, or by attempting to define an area of law, formerly in practice under government administration, in which the Majlis might legislate without contravening the sharīʿa. Both these divisions are nebulous, and in effect the constitutionalists were not able to refute Shaikh Faḏlallāh.

100. Riḏvānī, op. cit., p. 208.

It must be asked how far the bastīs really wanted a majlis. As Spring Rice commented, at that time it was virtually useless to advocate a return to the old system. In this context the call for mashrūṭa-yi mashrūṭa may be taken as a slogan to win support for what was in effect to be a constitution framed from the sharīṭa. Remarks in the leaflets, such as having a majlis for a period, the need to purge certain members, and the functions being to help and advise the government, suggest that any majlis the bastīs accepted would not only be based on the sharīṭa but also be compliant with the royal wishes. The main sources of difference with the constitutionalist mujtahids were firstly that they desired a limitation of the Shah's authority, and secondly that they perceived a sphere of jurisprudence where the Majlis might legislate without interfering with the sharīṭa.

Shaikh Faḡlallāh's propaganda seems to have had a slight effect in the bazaar, particularly amongst the pious members of the guilds. How far this was due to the respect in which he was held, and how far to discontent with the Majlis is difficult to assess. Otherwise, his adherents were those with an interest in the old order, and those the constitutionalist writers termed aubāsh. Again it is difficult to know if the latter were mostly poorer persons who profited little from constitutionalism, or roughs in the pay of the Shah. The Majlis was most worried about Shaikh Faḡlallāh's opposition because it undermined the legitimacy of the assembly, and created a serious division in the original unity of the people against the Shah and court.

In the spring Ṭabāṭabā'ī appears to have had frequent contacts with the anjumans, but by August he was expressing strong disapproval of their activities, and seems to have identified with the factions clustered round Amīn al-Sulṭān

rather than with the Tabrizis and the anjumans. His vehement objection to the idea of government administration of vaqf land reveals the ambivalence of his position in supporting a western style of government whilst defending the privileges of the religious estate.

CHAPTER VII

REFORM AND REACTION - SEPTEMBER 1907 TO JUNE 1908

The Supplementary Fundamental Law came before the Majlis for debate in late September and early October 1907. The ʿulamā, led by both chief mujtahids, but particularly Bihbihānī, objected to many points which threatened their privileges and authority. The most serious dispute was over judicial authority (qaḏāvat). The ʿulamā demanded that the articles relating to this matter be drafted in such a way that their judicial powers be in no way impaired. The radical constitutionalists, led by Taqīzāda, wanted all cases referred initially to the Ministry of Justice, which would then decide whether they should go before a civil or a sharīʿa court.¹ This would give the state the authority to decide what went before the sharīʿa courts, and thereby remove judicial control from the ʿulamā. The problem of what types of cases came within the purview of the sharīʿa and of the secular courts was for the present avoided. Bihbihānī, however, firstly disputed the right of the Ministry of Justice to decide, and secondly contended that judgement in the important areas of property, petitions and life (amvāl, aʿrāḏ va nufūs) should be referred to the sharīʿa courts, and customary law matters (umūr-i ʿurfīyya) should go before the tribunals at the Ministry of Justice. He did not get as far as explaining what he meant by umūr-i ʿurfīyya, but from the beginning the ʿulamā seem to have been seeking reform in the area of government administration and not that which pertained to their own jurisdiction. It cannot be said, however, that they appear to have given much thought to the practical workings of any new system. Bihbihānī's speech was greeted by an uproar in the Majlis, and members of the anjumans appeared, adding to

1. Marling to Grey, No. 231, 10th Oct. 1907, FO 416/34 No. 116.

the commotion, so that Bihbihānī felt it unsafe to leave the building.² To achieve a compromise the article under discussion (No. 27) was drafted ambiguously: the matter of who should decide to which courts a case was to be referred was not mentioned, nor was the question of which cases came under what jurisdiction. It was simply stated that sharī'a cases were to be tried in the sharī'a courts and ʿurf cases in the government tribunals. Article 71 dealing with the powers of the Tribunals of Justice was drafted with similar obfuscation. Likewise Article 86, setting up a court of appeal in every provincial capital, did not state whether it would consider appeal against a sharī'a decision, but merely defined the court as dealing with judicial matters in accordance with the regulations concerning the administration of justice (not yet drafted). A further proposal that the ʿulamā be compelled to try their cases in the courts of the Ministry of Justice, and not in informal tribunals in their own homes or elsewhere,³ also appears to have been dropped.

The power of making laws was vested in the Shah, the Majlis and the Senate, with the proviso that they could only become operative if deemed not contrary to the laws of Islam. In Article 2 the ʿulamā ostensibly reserved the right to decide what constituted infraction of the sharī'a, but their lack of organisation, the divisions amongst them and the method of selecting the committee of supervision made it unlikely that this negative power could be used to much effect. On 5th October the constitutionalists also proposed an article ending the right of bast in a mujtahid's house.⁴ The Majlis showed determination to pass the measure, but it was vehemently opposed by the ʿulamā and did not become law.

2. Daulatābādī, op. cit., II, p. 150.
3. Marling to Grey, No. 242, 7th Nov. 1907, FO 371/313, No. 38673.
4. Marling to Grey, No. 231, 10th Oct. 1907, FO 371/303, No. 35499.

On other points the ʿulamā do not seem to have again contested the article on equal rights. Freedom of the press was allowed, with the provision that nothing be published detrimental to Islam, (Article 20). There was no mention, however, of any mechanism for determining which publications were contrary to Islam. The acquisition of scientific knowledge was also permitted except what was forbidden by Islam (Article 18). Details of what scientific knowledge might be contrary to Islam do not seem to have been discussed. The ʿulamā are not recorded as objecting to Article 19, that all primary and secondary schools must be under the direction and surveillance of the Ministry of Education, and perhaps considered it as applying to secular schools only. Since there were very few of these schools, the full import of this article was possibly not yet apparent.

With regard to other matters, the powers of the Shah, by contrast with the Law of December 31st 1906, were severely curtailed. Sovereignty was defined as a trust which is bestowed by the nation on the sovereign (Article 35). The ʿulamā did not contest this, most probably because they took the word millat (nation) to mean the community as led by themselves and not, as the radical constitutionalists intended, the popular will. Responsibility rested not with the sovereign but with his ministers (Article 440) who were responsible to the Assembly (Article 58), though the Shah retained the right to appoint them (Article 46). Most significant, there was to be strict control of the state revenue by a State Accounts Department (Article 102).

The articles of the Fundamental Law relating to the judiciary are fairly evenly balanced between the interests of a modern nation state with a centralised administration, and the traditional Islamic legal system. Many articles are deliberately ambiguous, and the intention, though possible to deduce, is left in obscurity. The

constitutionalists could not afford a breach with those of the ʿulamā who supported the Majlis, in view of the antagonism of the Shah and many powerful wealthy notables. Also in a country still profoundly influenced by traditional concepts, the 'will of the people', imperfectly understood, was still not sufficient legitimate basis for the Majlis. The approval of the mujtahids was also needed to legitimise it. Pressure to complete the Fundamental Law was brought on the Majlis by representatives of the anjumans, who took up positions in the House, and it was signed by the Shah in October 1907.

The Majlis, however, remained in difficulty for other reasons as well. Marling reported on 10th October:

'The treasury is empty; there is no public force to maintain order and enforce it; the moral authority of the old regime has been destroyed by the local Anjuman and the Assembly is powerless to create any respect for itself; there appear to be no statesmen of constructive ability; taxes are being paid with the greatest irregularity and even the framework of such elementary administration as once existed has well nigh disappeared.'⁵

As McDaniel has remarked, the forces of the central government were neutralised by the internal conflict and fear, with ministers fearing to take any action not popular with the Assembly.⁶ The Majlis was thus little more than the local government of Tehran, its power resting on the strength and support of the anjumans. Any opposition was immediately interpreted as support for the Shah.

The major problem facing the Majlis remained finance. The National Bank continued to be discussed as a panacea for all ills, and about 320,000 tomans were said to have been

5. Marling to Grey, No. 230, 10th Oct. 1907, FO 416/34, No. 119.

6. McDaniel, op. cit., p. 74.

collected, but only 12,500 was in cash, the remainder being in Treasury receipts. In an attempt to balance the budget cuts were made in the amount allowed to the Shah so that he informed the royal household that their salaries would be reduced and some members dismissed.⁷ It was also known by mid-October that the salaries of princes and notables were to be cut by 50% and only those wholly dependant on their salaries were to receive them in full. Their dissatisfaction was therefore added to that of the tuyūldārs and the numerous dependants of the royal household.

Tension between the Majlis and the Shah began to build up again towards the end of October in the frequently uneasy month of Ramaẓān. The Shah made urgent pleas to the Russians for money. Rumours of a movement to depose the Shah were meanwhile gaining ground, particularly of a largish faction supporting the claims of Zill al-Sultān, the Shah's uncle.⁸ Some anjumans were reported to have sent messages to Zill al-Sultān asking him if he would be a 'constitutional monarch'.⁹ The cabinet of reformist ministers led by Nāṣir al-Mulk was virtually powerless.

The anti-constitutionalist ʿulamā had once again become active. Shaikh Faẓlallāh was reported to be one of those influencing the Shah against the Majlis,¹⁰ and Sayyid ʿAlī Yazdī began preaching against the Majlis in early November, the students of his madrasa gathering round the pulpit so that no one could interrupt him. He was believed to have support from members of the court. Another preacher, Shaikh Muhammad Vāʿiẓ, who had been a prominent member of the opposition

7. Kasravī, op. cit., p. 488.

8. Marling to Grey, No. 326 Tel., 4th Nov. 1907, FO 371/313, No. 36529.

9. Marling to Grey, No. 248, 8th Nov. 1907, FO 371/313, No. 38679.

10. Daulatābādī, op. cit., II, p. 161.

movement in 1906, attacked Ṭabāṭabā'ī and Bihbihānī, as well as Sayyid Jamāl al-Dīn. His message was similar to the one propounded by Shaikh Faḏlallāh during the summer. 'This is not the mashrūṭa we wanted - it has been perverted by Bābīs and materialists'. As Kasravī remarks, Shaikh Muhammad was always one of those who understood mashrūṭa as literally implementation of the sharī'a.¹¹

On 19th November the anjumans wrote a letter jointly to the Majlis requesting the formation of a National Army.¹² This proposal seems to have represented an attempt by the anjumans to create a legal force of their own to protect the Majlis. The proposal was opposed by the leading merchant, Mu'īn al-Tujjār, who said such a force was needed on the frontier and not in Tehran. The matter was, however, again taken up by Bihbihānī and Ṭabāṭabā'ī on 29th November when they put forward a plan which they stressed was intended to strengthen the government, not weaken it, for a volunteer force which would receive money and arms from the government. Though they were evidently worried about the lack of order, the pressure for this proposal appears to have come from the anjumans for Ṭabāṭabā'ī and Bihbihānī stated the 'millat' had a strong desire for such a force. The Majlis was reluctant to agree, and discussion on the proposal was deferred by putting it to a committee.

By early December both the Shah and the anjumans were mustering their forces, and the Shah was said to be trying to organise an armed force composed of his own bodyguard and his father's guard under Amīr Bahādur,¹³ as well as bringing

11. Kasravī, op. cit., p. 482.

12. Majlis, No. 212, 20th Nov. 1907, p. 2.

13. Marling to Grey, No. 263, 5th Dec. 1907, FO 416/34, No. 441.

tribal elements to Tehran from Azarbaijan.¹⁴ Certain courtiers were believed to be organising anjumans in support of the Shah, for example the Anjuman of the family of Muhammad, consisting of savyids who held meetings under the slogan 'The Family of Muhammad does not want constitutionalism'.¹⁵ Shaikh Faḡlallāh was held to be ready with a takfīr against certain members of the Majlis, should the anjumans be dispersed.

The radical anjumans, receiving rumours of activity on the Shah's part, blamed him and his hardline advisors for the country's problems. They particularly castigated Sa'ḡd al-Daula, Amīr Bahādur, Shapshal (the Shah's former tutor), Shaikh Faḡlallāh and Sayyid 'Alī Yazdī. At a meeting of the anjumans on 13th December speeches were made by Sayyid Jamāl al-Dīn and Malik al-Mutakallimīn demanding the removal of Sa'ḡd al-Daula. The Shah retorted by claiming liberty of person under the constitution and on 14th summoned the cabinet, which being unable to deal with the crisis, resigned.

At sunrise on the following day, groups of roughs numbering about 6-700, from the Sanglaj and Chāla Maidān quarters occupied one of the courtyards of the Sipah Sālār Mosque, the main meeting place of the anjumans. Bihbihānī, having been summoned, sent a message to one of their leaders to ask what they were doing.¹⁶ He replied that they had been sent to defend the Majlis, but shortly afterwards the mob attacked the Majlis building itself, and shots were fired at the door. Those in the Majlis itself were unarmed but members of the anjumans fired a few shots from the walls of the mosque, and the mob retreated. When the Majlis requested

14. Hartwig to Izvolsky, 7 Dek./20th Dec. 1907, Sbornik, p. 57.

15. Daulatābādī, op. cit., II, p. 160.

16. Kasravī, op. cit., p. 506.

that the Cossack Brigade be sent to maintain order the Russian Colonel, Liakhoff, refused.¹⁷ The Brigade, indeed, played no part in the attempted coup.

The mob departed to Maidān-i Tūpkhāna where they were joined by camel drivers, muleteers, canonkeepers, servants of the guard house and soldiers of the Sīlārkhur regiment of Amīr Bahādur.¹⁸ The President of the Majlis sent his brothers to intercede with the Shah, who promptly arrested them. In the afternoon the Prime Minister, Nāsir al-Mulk, was also seized and had to be rescued by the British Minister. On his arrest the Majlis dispersed. It seemed briefly that the Shah had won, as the Majlis and the anjumans had been thrown off their guard and offered no resistance. The Shah, however, did not press his advantage - according to some because of his lack of resolution, but probably, as Browne suggests, because he could not rely on his 'troops'.¹⁹ Kasravī considered his main objective was to create a disturbance to show that the people did not support the Constitution. This view is borne out by a telegram from Hartwig in which the crowd in the Tūpkhāna is represented as a vast throng of different sections of the community expressing support for the Shah and antipathy to the Constitution and the Majlis.²⁰

The following day the Majlis regained the advantage. The anjumans gathered round it, with about 3000 men with rifles.²¹ The opposition was largely organised by the Tabriz deputies, and the Anjuman-i Ādharbāyjān who sent messages to

17. Marling to Grey, No. 380 Tel., 15th Dec. 1907, FO 416/34, No. 378.

18. Kasravī, op. cit., p. 505.

19. Browne, Revolution, op. cit., p. 163.

20. Hartwig to Izvolsky, 11 Dek./24th Dec. 1907, Sbornik, pp. 61-2.

21. Daulatābādī, op. cit., II, p. 167, p. 170.

the provinces. When the Shah requested the Majlis adjourn whilst he restore order, meaning disperse the anjumans, his message was rejected.

The crowd in the Maidān-i Tūpkhāna was now joined by mullahs, including the preachers Sayyid 'Alī Yazdī, and Akbar Shāh, as well as well-known opponents of constitutionalism such as 'Alī Akbar Burūjirdī, Mullā Muḥammad Āmulī, and the mujtahids, Abū Tālib Zanjānī, Muḥammad Tafrishī and Shaikh Faḥlallāh. Kasravī maintains that Shaikh Faḥlallāh was party to the whole plan, but from a letter from one of Faḥlallāh's retainers to his son in Najaf, it is clear that he was brought from his house reluctantly by the Shah's roughs, who had been sent to fetch him.²² The crowd was also joined by students and sayyids, and more armed roughs appeared from Varamīn led by a mullah. The crowd was provided with some protection by Cossacks with guns. Two partisans of the Majlis who went to survey the scene were set upon and killed.

By 17th December the fact that the Majlis had stood firm for two days helped to rally support. More arms appeared as well as workers on the telegraphs, the railway to Shāh 'Abd al-'Azīm and the tramways, who were sent back to work by the President. According to Daulatābādī, the Anjuman of the Guilds provided victuals for the other anjumans, and the costs were borne by a special commission set up for the purpose.²³ Contributions came secretly from wealthy notables, such as Zill al-Sultān, who were against the Shah. Zill al-Sultān had previously withdrawn £50,000 in Consols invested in London.²⁴ He was also said to have provided guns.²⁵

22. Kasravī, op. cit., p. 511.

23. Daulatābādī, op. cit., II, p. 168.

24. Marling to Grey, No. 391 Tel., 18th Dec. 1907, FO 416/34, No. 399.

25. Mustashār al-Daula, op. cit., p. 47.

Anjumans arrived from the outlying districts such as Shimirān.²⁶ According to one of Browne's correspondents those around the Majlis included young men in white collars, mullahs and sayyids, kulāh namādīs (labourers) and tradesfolk,²⁷ indicating the variety of support for the Majlis, and the many hopes held of it.

The Majlis now took the initiative and demanded the removal of Amīr Bahādur and Sa'd al-Daula; that the Cossack Brigade and other forces should come under the Ministry of War and that a National Guard of 200 persons be established to protect the Majlis; and that the exiled notables be allowed to return. The Shah in turn demanded the expulsion of 4 or 5 deputies. Whilst the idea of putting pressure on the Shah to restore order by removing his myrmidons was resisted by the Russians, the demand for the expulsion of the deputies was opposed by the British. On the evening of the 17th the crowd round the Majlis was estimated by the British at 6-7,000 and that in the Maidān-i Tūpkhāna at 1,500.²⁸ On the 17th, indicating that it felt more secure, as its supporters were evidently more numerous, the Majlis dismissed some of them, though a core remained in the Mosque. The same day telegrams began arriving from the provinces in support of the Majlis. That from the Tabriz anjuman advocated the Shah's deposition. On the 19th the Shah ordered the crowd in the Maidān-i Tūpkhāna to leave, and a number of them took refuge in the Arg (citadel). The Russians considered the Shah indecisive but also believed he had not sufficient support to deter the anjumans. They believed he would have been

26. Kasravī, op. cit., p. 515.

27. Browne, Revolution, op. cit., p. 165.

28. Marling to Grey, No. 283, 31st Dec. 1907, FO 416/35, No. 75.

victorious if he only had some military force to take advantage of the initiative he at first won.²⁹

By the 22nd the Majlis was getting the upper hand, largely through the efforts of the Tabriz anjuman, which sent telegrams calling for the Shah's deposition to all other cities, with the result that telegrams poured in from the provinces. On the evening of the 23rd the Shah yielded to all the Majlis's conditions, requesting only that Amīr Bahādūr be retained. When on the 24th the militants seemed poised to press their advantage further, the Russians and British agreed it was important to keep the Shah on the throne to prevent the country falling into anarchy.³⁰ As McDaniel has pointed out this attempt to maintain stability meant preventing either side from overwhelming the other.³¹ Finally, the Shah agreed to swear an oath in support of the Constitution, and the deputies in turn were to swear loyalty to him. The Majlis conditions relating to military forces appear to have been dropped, but the notables were to return and the Shah's roughs to be punished. By the 26th the situation was sufficiently secure for the bazaar to reopen.

The mullahs and roughs sheltering in the citadel were given 5 tomans each by the Shah's henchmen and escorted out. Whilst the Shah tried to put off punishing them, they took refuge in the Madrasa-yi Khān Marvī on the east side of the palace, dislodging the tullāb from their quarters. Food was supplied from the court. Sayyid 'Alī Yazdī made a speech from the pulpit demanding mashrūṭa-yi mashrū'a. To secure this he proposed that articles in the constitution

29. Hartwig to Izvolsky, 7 Dek./20th Dec. 1907, Sbornik, p. 58.

30. Marling to Grey, No. 283, 31st Dec. 1907, FO 416/35, No. 75.

31. McDaniel, op. cit., p. 75.

(nizāmnāma) which were contrary to the sharī'ah should be changed.³² Emissaries sent to the bazaar collected a miscellaneous following under the cry of 'Islam in danger'. On 28th Shaikh Faḏlallāh sent a telegram to the ʿulamā of all the provinces in the name of the sharī'ah and requesting assistance for himself and his following as they were oppressed (mazlūm). The following day some of the Ministers went to see Shaikh Faḏlallāh and request him to disperse his supporters. On 30th a telegram came from the three constitutional ʿulamā of Najaf in response to one from Tabātabā'ī and Bihbihānī. It declared Shaikh Faḏlallāh was the cause of sedition and his participation in affairs was forbidden.³³ The Shah reportedly sent a message to Shaikh Faḏlallāh saying the time for further resistance was not propitious and requesting that he disperse his following, so on 1st January they left the Madrasa. This following, about 500 in number, was evidently not paid for by the Shah. The Russians referred to it as the 'reactionary party', and considered it to be composed of the adherents of Shaikh Faḏlallāh who were in the pay of the more hardline members of the court.³⁴ In the next few days the newspapers 'Habl al-Matīn' and 'Majlis' published telegrams from the ʿulamā of the provinces accusing Shaikh Faḏlallāh of leading the people astray and trying to reinstate the 'despotism'. Though Shaikh Faḏlallāh seems initially to have been brought to open criticism of the Majlis on the Shah's initiative to give justification for the attempted coup, he himself, apparently then took a leading part in encouraging opposition to the constitution, using a number of the arguments he had employed in the summer.

32. Daulatābādī, op. cit., II, pp. 183-4.

33. Majlis, Year 2 No. 12, 31st Dec. 1907, p. 1.

34. Hartwig to Izvolsky, 14 Dek. /27th Dec. 1907, Sbornik, pp. 72-3.

It was generally recognised that the agreement between the Shah and the Majlis in December was only a truce. In an effort to convert this into a more lasting peace Bihbihānī asked Hartwig to use his influence with the Shah to give up his more hardline advisors and to show more trust in experienced men of moderate opinions.³⁵ Hartwig, who had considerable respect for Bihbihani 'since he is possessed of a keen mind unlike his colleague Sayyid Muḥammad', promised to induce the Shah to compromise, but although he made an effort in this direction he met with no success.

The problems of government were exacerbated by divisions within the Majlis itself. Ettehadieh Nezam Mafi has identified two parties in the Majlis, the Āzādīkhāhān and Mu'tadil. The former may be translated variously as the Liberals, Democrats or Radicals (Daulatābādī called the same groups the Tundravān - Radicals), and the latter as the Moderates. As Ettehadieh Nezam Mafi has shown, the Āzādīkhāhān formed a more cohesive group with an agreed programme of social and economic reform, the division of the secular and religious spheres, strict curtailment of the powers of the Shah, and such liberal-democratic tenets as freedom of the press.³⁶ The Moderates were concerned to limit government and make it accountable to laws and in finance. The Āzādīkhāhān were dominated by the Tabriz Deputies, led by Taqīzāda, and had a powerful organisation outside the Majlis in the Anjuman-i Ādharbāyjān, of which Taqīzāda was also the head. The Moderates were, in reality, composed of amorphous groups which formed and reformed according to what they perceived to be their immediate interest, and whose members at times allied themselves with

35. Hartwig to Izvolsky, 5 Jan./18th Jan. 1908, Sbornik, pp. 82-3.

36. M. Ettehadieh Nezam Mafi, op. cit., pp. 234-7.

the Āzādīkhāhān, if it suited them. The Moderates included the ʿulamā and some of the leading merchants who had been linked to each other from the time of the opposition movement to 'Ain al-Daula. They looked upon the Azarbaijan contingent as a group of unknown persons who had played little part in the establishment of the Majlis, and should not be allowed to take it over.³⁷ They included Bihbihānī and Tabātabā'ī, Amīn al-Zarb, Ḥāj Muḥammad Ismā'īl, Mu'īn al-Tujjār, and Ḥāj Muḥammad Taqī Bunakdār, and according to Malikzāda, they considered themselves 'the pillars of the mashrūṭa', and had great influence among the lesser deputies. They had hoped, with the return of Amīn al-Sultān, to overwhelm the most radical deputies and purge them from the Majlis, with the help of the government. They also had links with the anjumans, for example the Anjumans of the Guilds and Merchants. These factions within the Majlis, whilst being suspicious of each other, had a common bond in opposition to the Shah.

A somewhat isolated figure was the President, who was, from the autumn of 1907, Ihtishām al-Saltāna. Like Sānī' al-Daula before him, he was placed in a weak position because, by virtue of his office, he had to struggle to achieve some form of compromise with the Shah. He was, moreover, faced with the problem that when he became President he had only recently returned from abroad and had no time to build up a base of his own. Partly because the President sympathised with many of the reforms desired by the Āzādīkhāhān, and partly because one of his chief aims, as indeed of many of the higher bureaucracy, was to curb the influence of the ʿulamā, particularly Bihbihānī, since the President considered their rigorous defense of their privileges was interfering with the reform of the administration and the regular running of

37. Malikzāda, Mashrūṭiyyat, op. cit., III, p. 68.

government, he decided for the present to ally with the Tabrizis.³⁸ To win them over he kept them informed on all discussions, and allowed them a say which added to their influence. Bihbihānī and the leading merchants perceived that their position was being undermined and responded each in their own way. Amīn al-Ẓarb and Mu'īn al-Tujjār made a rapprochement with Ihtishām al-Saltāna, who, although advised by Taqīzāda to ignore Amīn al-Ẓarb, had to respond since he was in charge of the Majlis accounts. The other merchants, Ḥāj Muḥammad Ismā'īl and Sayyid Murtaẓavī, disliking the influence of both the Tabrizis and the ʿulamā, formed some links with the Shah, but on the whole remained in a neutral position. Bihbihānī, in danger of being isolated, knew that the Shah did not trust him, and that in any case to effect a reconciliation would mean losing all the prestige he had gained for his part in the opposition movement. His only alternative was to ally with the Tabrizis and detach them from Ihtishām al-Saltāna. This he achieved by increasingly voicing the opinions of the anjumans, even the most radical, in the Majlis. At the same time the alliance between Ihtishām al-Saltāna and the Tabrizis was shaken by the President's habit of arrogating a greater measure of executive powers to himself than his predecessor had done, and adopting a preemptory tone in discussion - usually to try and see business carried through. The constellations, thus reformed, with Bihbihānī and the Tabrizis allied against the President. One effect was to increase the representation of the radical section of the anjumans in the Majlis. Another was to exacerbate the difficulty of the President's task of reconciling the Majlis and the Shah, and to lay him open to charges of conniving with the Shah whenever he tried to represent the latter's point of view.

38. Daulatābādī, op. cit., II, p. 181, p. 193.

Following the failure of the coup of December 1907, the Shah became resigned to the existing state of affairs, and ceased, for a time, to actively oppose the Majlis. Perhaps partly as a result of his abstention, the divisions within the Majlis itself were now exacerbated. Whilst Ihtishām al-Saltāna had the support of many deputies his base was not strong enough for him to resist Bihbihānī and the Tabrizis. His necessary private audiences with the Shah, and his efforts to placate him by such measures as restriction of freedom of the press, led to rumours that he was betraying the popular cause. He was accused of having joined the Shah's faction and of planning to drive Taqīzāda from the house.³⁹ In January Ihtishām al-Saltāna openly attacked Bihbihānī and accused him of taking bribes and trampling on the people's rights.⁴⁰ Although a number of deputies agreed with him there was a furore in the Majlis. In Marling's summation:

'The popular view interpreted this action as a sign of treason to the popular cause. It has long been known that Bihbihānī is swayed by dishonest motives, but the present moment is not thought opportune for a breach. Bihbihānī, with Tabātabā'ī, is intimately connected with the popular movement. Ihtishām al-Saltāna is therefore thought to be acting in the interests of the Shah. The attack was a grave tactical error which has laid him open to the accusation of attempting to split the constitutionalist ranks.'⁴¹

The legitimising presence of a compliant mujtahid together with the influence he could exert on the pious, and with his multifarious connections, was of much greater value to the constitutionalist cause at this time than the influence of a reformist notable. The constitutionalists also recognised that as long as the Shah distrusted Bihbihānī,

39. Ibid., p. 194.

40. Ibid., pp. 192-3.

41. Marling to Grey, No. 18, 30th Jan. 1908, FO 416/35 No. 206.

the latter had no alternative but to support the Majlis whatever his real views and interests. They believed that if they could be assured the Shah would support the Majlis they could dislodge Bihbihānī and the other ʿulamā.

Ihtishām al-Saltāna was obliged to apologise publicly to Bihbihānī. At the end of March Ihtishām openly criticised the leader of one of the more radical anjumans over a disagreement he had had with the merchant, Muʿīn al-Tujjār.⁴² This gave the anjumans an opportunity to bring about his resignation, which he had in any case been seriously contemplating. In his place the Majlis elected Mumtāz al-Daula, who was compliant to the wishes of the Tabriz deputies, once again the dominant faction.

Most of February 1908 (Muharram) passed without disturbance. The British found it difficult to renew the minting contract of the Imperial Bank, which should have been automatic, because of the opposition of the Finance Committee of the Majlis, of which Amīn al-Ẓarb was a member.⁴³ He and Muʿīn al-Tujjār were the most active in blocking renewal of the contract, of which they sought to gain control. On February 26th two bombs were thrown at the Shah's car, but the Shah, who was travelling in a carriage behind, was unharmed. The apathy shown by the Majlis in finding the culprit, and the manner in which the anjumans obtained the release of persons ultimately arrested in April, caused bitterness to the Shah.

The battle over the authority of the ʿulamā and the Ministry of Justice in the administration of judicial affairs came to a head again in March 1908. The ʿulamā, led as usual by Bihbihānī, considered the Ministry of Justice to be

42. Daulatābādī, op. cit., II, p. 218.

43. Marling to Grey, No. 24, 14th Feb. 1908, FO 371/497, No. 6677.

'the servant of the sharī'ah',⁴⁴ the reformers, particularly members of the higher bureaucracy such as Mukhbir al-Saltāna with their centralising objectives, aimed for state administration of the judiciary, as well as for greater consistency and efficiency. The officials of the Ministry of Justice, in which the ʿulamā had no position, complained of the constant interference of the ʿulamā, and also that their contradictory judgements (aḥkām-i naskh va mansūkh) were causing chaos in the administration of justice. The ʿulamā still exerted the greater influence, and therefore authority, which enabled them to ignore the regulations issued by the Ministry of Justice when they chose. In the autumn of 1907, Mukhbir al-Saltāna, an assertive Minister, had attempted to ignore the sharī'ah aḥkām when incompatible with the workings of the Ministry, and to curtail Bihbihānī's influence in judicial matters.⁴⁵ But after the Cabinet of Nāṣir al-Mulk resigned, the ʿulamā once more gained the upper hand.

The result was paralysis in the work of the Ministry, which consequently made no improvement in the administration of justice. The primary aim of the first stage of the movement for reform had been judicial reform, and the Anjuman of the Guilds began to complain that all their efforts to confirm their rights and set up a proper Ministry of Justice (ihqāq-iḥaqq va dāshtan-i ʿadliyya) had come to nothing.⁴⁶ A meeting was called on 11th March 1908, of ʿulamā, Ministry officials and representatives of the anjumans to discuss the affairs of the Ministry of Justice. An indictment on the part of the Anjuman of the Guilds was

44. Majlis, Year 2, No. 111, 2nd May 1908, p. 2.

45. Daulatābādī, op. cit., II, p. 205.

46. Ibid., p. 213.

read complaining of the Ministry officials and of the lack of reform. The officials, after pointing out that the Ministry still had no suitable location, insufficient educated personnel, no civil law in accordance with the necessities of the times and no money, took the opportunity to launch an attack against the ʿulamā for creating anarchy in the legal system by their contradictory pronouncements. Mukhbir al-Saltana, who had attended, although no longer Minister, suggested that the ʿulamā should collaborate to examine all ordinances (aḥkām), burn those they considered null and establish what was correct. Everyone agreed to this suggestion except the ʿulamā, who included Bihbihānī, Ṣadr al-ʿUlamā and Muḥammad Riżā Qummī. They demanded to know what sort of meeting would suggest burning the ordinances of the sharīʿa, and left in high dudgeon.

The members of the guilds were distressed by their departure, firstly because, according to Daulatābādī, they were pious and simple people, secondly perhaps because the ʿulamā represented their grievances in powerful quarters, and there was still no other means of obtaining a hearing or redress. The reformers Malik al-Mutakallimīn and Sayyid Jamāl al-Dīn perceived that a dangerous rift was developing amongst the supporters of the Majlis, and decided that it was unwise to antagonise the ʿulamā. They therefore arranged a reconciliation between the guilds and the leading ʿulamā. The situation remained, however, that there could be no judicial reform without encroaching on the authority of the sharīʿa. There was still an inherent clash of interests between the ʿulamā and their following amongst the guilds, which was for the time being buried because of the need to maintain a united front against the Shah.

According to Daulatābādī there was also a division amongst the members of the guilds themselves as between the the more important members (rīsh sifidān) and the lesser

and younger ones who were particularly active in the Anjuman of the Guilds.⁴⁷ The former had links with certain government officials to whom they made representations on behalf of lesser members, which brought them both influence and pecuniary advantage. They were suspicious of change, of the younger members of the guilds and of the influence exerted amongst them by reformers such as Daulatābādī.

The ʿulamā continued to stall on the regulations of the Ministry of Justice. When, on 30th April, the President of the Majlis announced that the bill was ready for completion, Bihbihānī complained because it had not been given to a committee of ʿulamā to examine and expurgate.⁴⁸ Mustashār al-Daula (Tabriz) tried to persuade him that the regulations were in two parts, one of which was purely concerned with administration, and the other with the sharīʿa. It was not necessary for the ʿulamā to occupy themselves with the administrative arrangements. Bihbihānī retorted that all the regulations concerned the sharīʿa, especially since it was rumoured that the Majlis desired to limit the power of the sharīʿa courts, which in effect meant limiting the sharīʿa. Āqā Shaikh Husain, representing the guilds of Tehran, complained that the purpose of the Majlis was to give equal rights to rich and poor, and this was impossible as long as the ʿulamā issued contradictory ordinances. The more radical anjumans also tried to bring pressure on the ʿulamā by threatening to occupy their houses unless they at once began discussing the regulations. In the end, Bihbihānī, as previously, held his ground against any curtailment of the influence of the ʿulamā in the judiciary. A decision was taken to form a committee to include other deputies as well as the ʿulamā, but to examine the regulations article by article, whether they concerned the sharīʿa or administrative

47. Ibid., p. 216.

48. Majlis, Year 2 No. 111, 2nd May 1908, p. 2.

regulations. By the time of the June coup the committee had still reached no agreement.

The Majlis was becoming increasingly dominated by the radical and somewhat lawless element in the anjumans, which were by now very numerous. From the autumn of 1906 they had been playing an important role in political life. As shown in the events of 1907 the Majlis depended on the anjumans to act as its 'strong arm' against the Shah. On the other hand many members were worried by the growth of lawlessness, for whilst some anjumans had a serious political aim, others had no purpose but agitation. As Malikzāda commented:

'Many members belonged to the oppressed poor. They had little understanding of the rights and duties of members of a constitutional government, and constantly interfered in the work of government. Thus if a telegram arrived from the provinces complaining of the government officials, they at once organised a meeting, contacted other anjumans and went to the Majlis to lay a charge of transgression of rights or oppression, and also sent messengers to badger the relevant Ministry. The Shah complained that he was the protector of the rights of the people, not this collection of roughs.'⁴⁹

Yet whilst the anjumans formed pressure groups with radical aims and interests of their own, a number also took their leadership from deputies, notables or members of the ʿulamā. The most powerful and best organised of the anjumans was the Anjuman-i Ādharbāyjān which had 2,962 members, headed by Taqīzāda.⁵⁰ It was used to bring pressure to uphold the policies of the Āzādīkhāhān, giving them influence out of proportion to their numbers in the Majlis. Another radical anjuman was that of the Barādarān-i Darvāza-yi Qazvīn (the Brothers of the Qazvin Gate) led by Mīrzā Sulaimān Khān Maikada, the Quartermaster General.⁵¹ This anjuman appears

49. Malikzāda, Mashrūṭīyyat, op. cit., III, p. 82.

50. Marling to Grey, No. 39, 28th Feb. 1908, FO 416/35, No. 356.

51. Malikzāda, Mashrūṭīyyat, op. cit., III, p. 277.

to have been in the nature of a gang of retainers, since it collapsed at Sulaimān Khān's arrest in June 1908. Also militant was the Anjuman-i Muzaffari, led by the Tabriz Deputy, Ḥāj Mīrzā Ibrāhīm Āqā, and including amongst its members officers in the regiment of riflemen of Muẓaffar al-Dīn Shāh.⁵² They may have joined through discontent at being unemployed. As was customary, Muhammad 'Alī Shāh had instated his own bodyguard of Ādharbāyjānīs on his accession to the throne, dismissing his father's. Particularly radical was the Anjuman-i Mujāhidīn, which included among its members 'Abd al-Ḥusain Taimūr Tāsh, who had studied military science in Russia, and was later Minister of Court under Riẓā Shāh.⁵³ The anjuman was led largely by Malik al-Mutakallimīn, and its rank and file seem to have consisted of lesser tradesfolk and poorer persons.⁵⁴ About 70 anjumans were formed amongst the guilds of Tehran,⁵⁵ but with various purposes. Some reportedly held discussions reflecting modernist views, whilst others called for the reinstatement of Islam and many considered that the purpose of the Majlis was to lower or fix prices. Unfortunately not very much is known about them, but the police reports on the activities of Sayyid Jamāl al-Dīn Isfahānī reveal that they were numerous. Sayyid Jamāl had for several years had a following amongst the artisans, and in 1907 particularly was inciting them to press for a 'national militia' and to attack the bastīs in Shāh 'Abd al-'Azīm. His contacts included the Anjumans of the Grocers, Potters, Bricklayers, Cobblers, Goldsmiths, Patchers and Secondhand Dealers.⁵⁶ Sayyid Jamāl was the link between these organisations and their particular leaders in the Majlis,

52. Ibid., IV, p. 58.

53. Ibid., p. 57.

54. Ibid., p. 271.

55. Floor, Guilds (Thesis), op. cit., p. 71.

56. Yaghmā'ī, op. cit., pp. 281-3.

Bihbihānī and Ṭabāṭabā'ī.⁵⁷ The two mujtahids, whilst using their following as did the Tabrizis, to enhance their influence in the Majlis, also took pains to dampen its more extreme manifestations, a policy which required finely balanced manoeuvres. Ṭabāṭabā'ī did not actively express disapproval of the militia, but his remarks in the Majlis at this time reveal his anxiety over the extremist activities of the anjumans. They may also reflect the views of his other 'constituents' the leading merchants. Bihbihānī similarly calmed a meeting that proposed to send a militia force to fight the Ottoman encroachment on the frontier, and when a member of the audience objected, those present told him to be silent and obey Sayyid 'Abdallāh.⁵⁸ On the other hand Bihbihānī took up the demands for a militia to win popularity and prestige when his position in the Majlis was slipping in the autumn of 1907.

There is no sign of the merchants being involved in these activities, though they were occasionally present at meetings between leaders of the anjumans and the ʿulamā. They had their own anjuman reportedly held in respect, but it rarely featured in events.

The guilds also organised their own central anjuman, largely at the instigation of the reformer, Yahyā Daulatābādī, who wrote its regulations, and ran its newspaper.⁵⁹ Each guild elected one member, from whom twelve were chosen, with Daulatābādī, to form a central committee. Members of the guilds from the provinces also assisted in forming anjumans which looked to the Tehran anjuman as their head. It might be thought that this organisation had links with the guild members in the Majlis, but evidence of connections has yet

57. This point was first made by Charles Davis in a talk on Sayyid Jamal al-Din given at St. Antony's, Oxford, May 1982.

58. Yaghmā'ī op. cit., p. 286.

59. Daulatābādī, op. cit., II, pp. 116-7.

to emerge. The true representatives of most of the guild interests in the Majlis remained the mujtahids.

The tullāb as a group are rarely mentioned in 1908. There was reportedly an Anjuman-i Tullāb headed by Bihbihānī, and having slight conservative tendencies. In June 1907, Bihbihānī's tullāb tried to persuade him to stop Sayyid Jamāl preaching.⁶⁰ Shaikh Faḏlallāh retained a following of tullāb, and some are mentioned as being with the conservative opposition. If it is remembered how few tullāb could claim to be serious students of theology, it may be surmised that many donned secular garb, and became mujāhidīn or members of the anjumans.

The conservative opposition also established anjumans, for example, the Anjuman-i 'Ilmiyya reportedly set up at the instigation of Nā'ib al-Saltāna through the mullah Sayyid Husain Shūshtarī and including sayyids, mullahs, pīshnamāzes, rauza khvāns, and others dependant on religious offices.⁶¹ Each member was given a subsistence and encouraged to attack the ʿulamā who supported the Majlis. When a special anjuman for Isfahānī members of the guilds who were residents of Tehran was established, certain merchants with connections with the conservative courtiers got control of it.⁶² According to Daulatābādī, the Shah and his uncles had infiltrated a number of the anjumans with their own followers, and were much better informed on the activities of the anjumans and their strengths and weaknesses than in December.⁶³ An Anjuman-i Futuvvat, led by Zafar al-Saltāna, met in the house of the Imām Jum'ā Khū'ī, its purpose being reportedly to undermine the Anjuman-i Ādharbāyjān, particularly by organising demonstrations against cuts in salaries.⁶⁴

60. Yaghmā'ī, op. cit., p. 250.

61. Daulatābādī, op. cit., II, p. 271.

62. Ibid., p. 217.

63. Ibid., pp. 271-2.

64. Ibid., p. 161.

Arshād al-Daula organised an Anjuman-i Markazī, with the purpose of discrediting the Majlis and the Shah.⁶⁵ Members were encouraged to come to the Majlis and demand deposition of the Shah. According to Malikzāda, 180 anjumans in all declared themselves ready to support the Majlis in 1908.⁶⁶ Beyond the fact that some of the guilds' anjumans seem to have paid for themselves, and other anjumans were, as mentioned above, funded by particular notables, little is known of their financing. Malikzāda says that many were unemployed and so poor that they ate dried bread and slept on a mattress out of doors.

Accounts vary as to how many of the anjumans were armed but it was probably no more than two or three hundred, and most of these lacked ammunition. Some members took out loans and bought guns themselves.⁶⁷ Others were provided with guns by the anjuman to which they belonged. Thus Mīrzā Sulaimān Khān was accused of supplying arms to his own and other anjumans from both the arsenal and the tribes near Tehran with whom he had contact. The Zoroastrian merchant, Arbāb Jamshīd was also said to have supplied money for arms for the popular cause in December. Another source was said to be Zill al-Sultān. But though there was talk of thousands of armed men, when the Majlis actually came under threat in June, Malik al-Mutakallimīn tried in vain to get arms from a supplier named Ziyā al-Mulk.⁶⁸ He finally gave Malik al-Mutakallimīn and his companion 'two guns and some bullets, for which they were grateful'.

65. Mustashār al-Daula, op. cit., p. 31.

66. Malikzāda, Mashrūṭiyyat, op. cit., III, p. 271.

67. Yaghmā'ī, op. cit., p. 284.

68. Malikzāda, Mashrūṭiyyat, op. cit., IV, p. 66.

By the end of April mutual suspicion between the Shah and the radical anjumans had grown again. The authority of the Majlis, financially broke and increasingly intimidated by the anjumans, was at a minimum. At this point, reportedly at the behest of the Shah, the anti-constitutionalist religious party became active again. Sayyid Muḥammad Yazdī, a relative of Sayyid ʿAlī Yazdī, was implicated in posting leaflets in the bazaar in the name of the mujāhidīn of Tabriz, implying they were self-confessed Bābīs.⁶⁹ When Sayyid Muḥammad was caught and sentenced to long imprisonment even the ʿulamā who supported the constitution objected because he was a sayyid, but to no avail.⁷⁰

The Qajar family were now very anxious over the situation and a series of meetings took place for several days at the house of ʿAẓād al-Mulk, the chief of the Qajar tribe. The meetings were organised by three of the Qajar princes, particularly Jalāl al-Daula, son of Zill al-Sultān, and included ʿulamā, notables, deputies and representatives of the anjumans.⁷¹ The Russians considered they were part of a plot to bring Zill al-Sultān to the throne, and reported a telegram had been sent requesting him to act as Regent. Hartwig believed that Zill al-Sultān had been cooperating with the anjumans since December 1907, and that the Ministers and Majlis were now totally intimidated by the revolutionaries.⁷²

As a result of the meetings the Shah was told he must either cooperate with the Majlis, or the Qajar family would

69. Kasravī, op. cit., pp. 559-560.

70. Daulatābādī, op. cit., II, p. 232.

71. Zahīr al-Daula, op. cit., p. 324.

72. Hartwig to Izvolsky, 21 Maia/3rd June and 25 Maia/7th June 1908, Sbornik, p. 174, p. 180.

depose him. He was to prove his sincerity by removing his more hardline advisors, particularly Amīr Bahādur. The Shah felt obliged to agree and on 3rd June Amīr Bahādur took bast in the Russian Legation. Hartwig considered the Shah had thus been deprived of his most trustworthy support and protection, and that the revolutionary anjumans would take advantage of the general disorder to make an attack on his life.⁷³ The Ministers and Majlis he believed too intimidated to defend the Shah. In Hartwig's view, if the Shah, regarded as pro-Russian, were removed, Zill al-Sultān, who was considered pro-British, would take advantage of the anarchy to seize the throne. The threat gave Hartwig and the Shah the pretext they had long been waiting for to disperse the anjumans and purge the Majlis.

On 4th June, the Shah with a strong escort, left his palace for Bāgh-i Shāh, a residence just outside the west of the city, where Hartwig considered he would be safe under the protection of the Cossack Brigade.⁷⁴ On Saturday 6th June Jalāl al-Daula and two other Qajar princes were arrested and exiled. Amīr Bahādur joined the Shah in Bāgh-i Shāh and the telegraph lines were cut. Hartwig considered conditions now favoured the Shah more than in December because many in the Majlis were alienated from the anjumans.⁷⁵

The Majlis looked on the arrest of the princes as contravention of the Fundamental Law. On 8th June Bihbihānī and Tabātabā'ī sent a note to all the provinces saying an attack on the Majlis was feared.⁷⁶ The anjumans had meanwhile

73. Hartwig to Izvolsky, 21 Maia/3rd June 1908, Sbornik, p. 174.

74. Hartwig to Izvolsky, 22 Maia/4th June 1908, Sbornik, p. 176.

75. Hartwig to Izvolsky, 26 Maia/8th June 1908, Sbornik, p. 181.

76. Kasravī, op. cit., p. 587.

rallied in the Sipah Sālār Mosque and the Shah demanded their dispersal. The Majlis realised that whereas the Russians would support the Shah, the British would not support them. Further, there was not the same enthusiasm for the Majlis in the provinces as there had been in December.⁷⁷ It was decided to disperse the anjumans, though the move was resisted by Bihbihānī as a sign of weakness. The leading merchants were meanwhile active. At the instigation of Ḥāj Muḥammad Ismā'īl and several others, Malik al-Mutakallimīn and Sayyid Jamāl were ordered not to speak. Amīn al-Zarb and three other leading merchants seized what arms they could find and hid them.⁷⁸

The Shah, who had been moving arms and ammunition to Bāgh-i Shāh demanded that eight persons be either exiled or handed over to him. Nearly all of them were either militant preachers or members of the radical press. Some deputies were anxious to comply but Bihbihānī resisted the move on the grounds that the Shah would then demand something else.

The British and Russian Ministers meanwhile fell into disagreement over what their joint policy should be. Whilst the British continued to pursue a policy of non-interference, the Russians argued that this would enable Zill al-Sultān to seize the throne. Hartwig represented this as a grave danger to Izvolsky, who, whilst anxious to maintain the Anglo-Russian Agreement, realised that the Agreement would be jeopardised in Russia itself if it resulted in a Shah of Persia known for his British sympathies.

77. Hartwig to Izvolsky, 7 Iiun. /20th June 1908, Sbornik, p. 191.

78. Malikzāda, Mashrūṭiyyat, op. cit., IV, p. 25.

On 14th June the Shah's soldiers were given guns and ammunition. The bazaars closed, partly because of intimidation by the revolutionary anjumans.⁷⁹ The Majlis petitioned the Shah on the 15th complaining of his failure to enforce the constitution. In return the Shah demanded more authority than granted in the Fundamental Law, sole control over the army, and the right to suppress any 'national' forces.

The Majlis and the anjumans realised that an attack was imminent. The radicals slept in the Majlis for safety, but the organisation of their provisions, mainly from the Anjumans of the Guilds and Merchants, was haphazard because of lack of funds.⁸⁰ Bihbihānī proposed that the people and ʿulamā should congregate in the Masjid-i Shāh, and present themselves as the oppressed seeking their rights. In the event, on the 23rd Sadr al-ʿUlamā, other mullahs and members of the guilds put on winding sheets, and went to the Masjid, but were unable to gather popular support.⁸¹

On 22nd a demand from the Shah that the 8 radicals be handed over was rejected. At 6 a.m. the following morning 20 Cossacks were sent to arrest them. Being fired on from the Sipah Sālār Mosque, they withdrew. Reinforcements were brought in under Russian officers. Bihbihānī and Ṭabāṭabāʾī arrived with their following, but when the firing started again they fled to a nearby house where they were later arrested. Only the Anjuman-i Ādharbāyjān and some members of the Anjuman-i Muẓaffārī put up a fight. The mosque was forcibly cleared, and the Majlis building bombarded.

79. Hartwig to Izvolsky, 7 Jun. /30th June 1908, Sbornik, p. 216.

80. Daulatābādī, op. cit., II, p. 308.

81. Malikzāda, Mashrūṭiyyat, op. cit., IV, p. 84.

Bihbihānī and Ṭabāṭabā'ī, seized in the garden where they had taken refuge, were seriously manhandled by the Shah's soldiers and servants, but later rescued by an Iranian Cossack officer and taken to Bāgh-i Shāh. Shortly afterwards Bihbihānī was despatched to Iraq, later changed to Kurdestan, and Ṭabāṭabā'ī to Mashhad.

The circumstances and participants in the events of December 1907 and June 1908 were outwardly similar, yet the outcome was entirely different. One reason was the employment of the Cossack Brigade, which as a fighting force was much superior to the cohorts of muleteers, roughs and tribal levies the Shah had assembled in December. But probably of greater significance than the Russian decision to give the Shah firmer support in June than in December was that popular enthusiasm for the Majlis was ebbing away, a point not lost on the Russians. Already in December there were signs of disillusionment with the Majlis, and Ṭabāṭabā'ī complained that:

'We heard much praise of a constitutional form of government. If this is the result there is no advantage in it. Is it not the duty of the Sovereign to prevent disorders? Under present conditions, life in this city is impossible.'⁸²

By January accusations of corruption were being made. Marling reported that about £50,000 extorted from certain notables (presumably for the National Bank) had been lodged with one of the Vice Presidents (probably Amīn al-Zarb, who kept the Majlis books). No account had been given and the money was said to have been quietly absorbed by the Assembly and the anjumans. In late January there was a violent disagreement in the Majlis with deputies accusing each other

82. Marling to Grey, No. 261, 4th Dec. 1907,
FO 416/34 No. 439.

of pecculation and self-interest.⁸³ The Majlis was reported weaker than before, in February, and to be unpopular because of prevalence of the committee system.⁸⁴ It also incurred odium by paying its own members arrears of salary, which were denied to others. In March the Majlis continued to lose ground in popular esteem on account of its inefficiency and the committee system.⁸⁵ Marling commented that the Shah was doing nothing against the Majlis, possibly because he thought it was becoming 'so disordered and unpopular that it would die a natural death'.

Daulatābādī, in enumerating the reasons why the Majlis failed to defend itself in June 1908, gives lack of support as a major factor. He says that in December financial support came in for the Majlis and the anjumans, but that it was seriously short of money in June.⁸⁶ A major factor was the loss of enthusiasm on the part of the wealthy merchants. When in mid-June Bihbihānī sought funds to instigate a demonstration in the bazaar in support of the Majlis, both Amīn al-Zarb and Muḥīn al-Tujjār refused.⁸⁷ The merchants were critical of the militants and the radical anjumans and inclining towards the Shah. Arbāb Jamshīd, who was said to have provided money for guns in December, was worried by the murder of a Zoroastrian merchant, and, seeing that the Majlis was too weak to provide proper protection, was secretly in touch with members of the court. Amīn

83. Marling to Grey, No. 14, 29th Jan 1908, FO 416/35, No. 204.

84. Marling to Grey, No. 41, 26th Feb. 1908, FO 416/35 No. 357.

85. Marling to Grey, No. 77, 27th March 1908, FO 416/36, No. 65.

86. Daulatābādī, op. cit., II, p. 271.

87. Ibid., p. 303.

al-Zarb had disapproved of the militants, but for reasons unspecified was not on good terms with the Shah. Some of the provincial deputies sent telegrams home to the effect that the Shah was wronged and the anjumans and the extremists were the oppressors.⁸⁸ Many resented the interference of the ʿulamā in affairs, whilst others opposed the dominance of the Tabrizis. Also some of the Qajar clan, who had been able to influence the Majlis through Ihtishām al-Saltāna as long as he was President, were less enthusiastic when he was replaced by Mumtāz al-Daula, who was known to be close to the Tabrizis.⁸⁹ As a result, the Majlis lost their patronage.

CONCLUSION

In conclusion, the progress of reform from September 1907 to June 1908 and the reaction to it amongst the ʿulamā highlighted the divergence between the interests of the ʿulamā and those of many of their following and collaborators in the initial opposition movement. Resistance to the reforms in the judiciary brought them into conflict with westernising modernisers such as Taqīzāda and the Āzādīkhāhān, and reformist bureaucrats wanting centralised government, such as Mukhbir al-Saltāna. The chief impediment to an efficient and impartial Ministry of Justice as desired by the merchants and guilds was that such an institution would encroach upon the authority of the ʿulamā over the administration of the sharīʿa.

Yet the reformers in the Majlis, realising that they already had formidable opposition in the Shah and the

88. Ibid., p. 275.

89. Ibid., p. 273.

conservative courtiers, sustained by the Russians, perceived that it was as well for the present not to bring out their differences with the ʿulamā, especially as the support of the latter was still needed to legitimise the Majlis. Therefore the interests of Islam were placed on a level with those of Iran in the Fundamental Law, and the ʿulamā were able to hold their ground against the encroachments of reform.

The dependance of the mujtahid on his relations with other members of the community meant that leading ʿulamā, and particularly Bihbihānī, continued to represent the views and interests of those they were linked to. In the case of Bihbihānī and Ṭabāṭabāʾī these were the merchants, guilds and tullāb, and the anjumans in which certain of these groups were involved. The opinion of the pro-Majlis ʿulamā was to some extent conditioned by that of their following, as for example in the matter of the 'national militia'. Bihbihānī's rise to a position of considerable power was due to his ability to remain constantly in touch with popular opinion and represent it in the Majlis. It seems, however, that the dedication of the two mujtahids to the Majlis was greater than that of many of their following, as is witnessed by their firm defence of it at the end. On Ṭabāṭabāʾī's part this was mainly ideological - whatever the faults of the Majlis he never ceased to prefer it to the Shah. Bihbihānī had probably gone too far along the path of opposition to be reconciled with the Shah, and to desert the Majlis would mean the loss of his power and prestige.

Of the following of the two mujtahids, the leading merchants seem to have separated from them during 1908, largely because of the growth in lawlessness and the predominance of the radical anjumans over which they had no influence. The majority of the lesser merchants and the guilds appear to have either continued in their support or

else to have remained neutral in the battle with the Shah. The tullāb, though on the conservative side, do not appear to have opposed the Majlis as a group. No doubt many still followed the mujtahid who paid them, whilst others may have been absorbed by the anjumans.

Shaikh Faḡlallāh continued to provide the Shah, and those whose interests were vested in the traditional system, with an ideology for opposition - that the Majlis had been taken over by 'heretics' and that the Fundamental Law was not 'mashrū'a', suggesting justification for a purging of the Majlis and a redrafting of the Constitution. In the latter part of December 1908 Shaikh Faḡlallāh seems to have been campaigning on his own account with probable financial support from members of the court even less conciliatory than the Shah.

In the political manoeuvring within the Majlis Bihbihānī, leading the ʿulamā, behaved much as any politician bent on maintaining his power. Thus he joined up with the Tabriz deputies, with whom he had little in common, when both groups found their position threatened by Ihtishām al-Saltāna.

CHAPTER VIII

SHAIKH FAẒLALLĀH AND THE ABSOLUTIST CAUSE

In the immediate aftermath of the coup, with the attitude of the British in particular and the situation in the country in general still uncertain, the Shah and Shaikh FaẒlallāh felt it expedient to express themselves with caution on the subject of constitutionalism.¹ Shaikh FaẒlallāh said that constitutionalism must be in conformity with the sharī'a, and the Majlis limited. By mid-August he was feeling sufficiently confident to excommunicate the constitutionalist 'ulamā of Najaf, and say openly that constitutionalism was contrary to Islam.²

Nāẓim al-Islām's account reveals many people in Tehran, and his associates among the lesser 'ulamā in particular, as disillusioned with constitutionalism. On some points Nāẓim al-Islām had moved closer to Shaikh FaẒlallāh's view, saying that the previous constitutionalism had not been in conformity with the sharī'a, that freedom of the press had been abused, and that if the Shah had not acted against the seditious nothing would be left of Iran and Islam.³ He also opined that the three mujtahids of Najaf were ignorant of the conditions constitutionalism had created, and would not have supported it otherwise.

Amongst other sections of the populace, constitutionalism had become unpopular because their financial lot had deteriorated still further under its regime. Many existed

1. Nāẓim al-Islām, op. cit., II, p. 169.
2. Ibid., p. 183.
3. Ibid., pp. 236-7.

on salaries and emoluments provided by the government, and blamed the Majlis for their employer's lack of funds. According to Nāzīm al-Islām many merchants and guildsmen felt that matters had worked better under the despotism (istibdād - which word now acquired quite positive connotations).⁴

In contrast to many of his following, Ṭabāṭabā'ī retained his faith in constitutionalism, commenting that:

'In the next few months the people will be busy thinking of their own affairs, but then they will wake up and realise what a blessing they have lost. Then they will once again seek their rights and be "pulling at our skirts"'.⁵

On the whole the Shah seems to have had a fair amount of support amongst the people of Tehran, and for a few months the game was in his hands. Marling estimated that if he gave any proof of a capacity to govern, the bulk of the population would acquiesce 'for a time' to absolutism. In reality many regarded the question as a matter of choosing the lesser of two evils. Marling's view of the alternatives available was not optimistic:

'If the Shah is able to secure the return of subservient Deputies, the new Parliament will only serve to sanction the restoration of the old state of affairs which originally led to the constitutional movement; while, on the other hand, if the elections are free, they are likely to result in the return of a House as hostile to His Majesty as the last, but without the support of the Anjumans to make its opposition effective. In neither case would the cause of reform be forwarded.'⁶

4. Ibid., p. 364.

5. Ibid., pp. 363-4.

6. Marling to Grey, No. 213, 13th Aug. 1908, FO 416/37, No. 404.

To this may be added that a Majlis with the support of the anjumans would only produce the disorder and paralysis of government evident in early 1908.

The main thrust for the reintroduction of the Majlis came from the constitutionalists of Tabriz, but it was strongly pressed by the British and Russians. The British in particular believed the Majlis held the best prospect for introducing a proper system of financial control, and this view was to some extent endorsed by the Russians. Both realised that unless the turmoil in Tabriz was settled the Russians might become embroiled there, thus endangering the 1907 Anglo-Russian Agreement. On 8th September the two powers therefore made representations to the Shah to restore the Majlis. In his reply the Shah stated that it was his intention to form a Majlis which would 'suit the nature of the country, be in conformity with the religious laws and not again cause anarchy.'⁷ It would not, however, be established before the restoration of order in Azarbaijan, which condition really meant the Shah would be able to summon the Majlis he wanted, or indeed, no Majlis at all.

Throughout September and October a struggle took place between the Shah and the court camarilla on the one hand, and the British and Russians on the other, over the summoning of some sort of assembly. At about the end of October the Shah was openly joined by the anti-constitutional 'ulamā, led by Shaikh Faḡlallāh, who sent messages to the 'ulamā of the provinces requesting the despatch of telegrams signed by themselves, merchants, guilds and any others stating that constitutionalism had been tried in Iran and

7. Marling to Grey, No. 309 Tel., 19th Sept. 1908, FO 416/37, No. 540.

had failed. The present order of affairs was quite adequate and there was no need to alter it.⁸ In another missive the Shaikh announced that he was despatching an emissary to the 'ulamā of every district to explain his policies.

The 'ulamā of Najaf also took up the propaganda battle and sent the Shah a telegram implying he was a tyrant and saying his conduct in failing to grant representative government was an offence against the Absent Imām.⁹ These events caused commotion in Mashhad where Ṭabāṭabā'ī was accused of inciting agitation and had to write protesting his innocence to the Ṣadr-i A'zam.¹⁰ The 'ulamā of Mashhad wavered as between the two parties until a telegram from Shaikh Faḡlallāh recalled them to their anti-constitutionalist duties.¹¹

Shaikh Faḡlallāh's vigorous propoganda campaign produced a flurry of telegrams from the provinces. On 7th November a demonstration against the reintroduction of constitutionalism organised by the Shah's entourage took place in Bāgh-i Shāh. Some hundreds of persons attended including lesser merchants and guildsmen, notables and princes and Shaikh Faḡlallāh and his 'ulamā following. Court officials read out telegrams from the provinces requesting the abandonment of constitutionalism, and those present signed a petition in the same sense.

The British and Russian representatives, for whose benefit this had largely been staged, were not taken in.

8. Zahīr al-Daula, op. cit., p. 401.
9. Barclay to Grey, No. 287, 4th Nov. 1908, FO 416/38, No. 231.
10. Franklin to Barclay, Nos. 48 & 49, 28th Nov. 1908, FO 248/939, Nos. 232, 236.
11. Franklin to Barclay, No. 47, 21st Nov. 1908, FO 248/939, No. 225.

Informed by one Minister that he had only signed for fear of the consequences, Barclay considered that most of those present had done the same.¹² Accused of staging the demonstration the Shah denied that it was artificial and claimed a large section of the population regarded constitutionalism as contrary to their religion. Barclay countered that most people supported constitutionalism. In fact most people at this stage were probably either undecided or indifferent, but the Shah was using the objections of the 'ulamā to justify his own opposition to the Majlis, and Barclay was using the chimera of popular support to press for a Majlis which the British hoped would introduce order into the finances.

At about this point the constitutionalists began to take heart, and a petition signed by Sanī' al-Daula, several ex-deputies, members of the 'ulamā led by Ṣadr al-'Ulamā, and merchants, numbering 32 in all, was presented to the legations on 15th November.¹³ There was also a note by a mujtahid (Ṣadr al-'Ulamā?) stating that constitutionalism was in conformity with Islam. At about the same time a group of 'ulamā, led by Sayyid 'Alī Yazdī, who had switched sides, reportedly because the Shah had failed to compensate him adequately for previous services, held meetings at which the Shah was enjoined to open a Majlis.¹⁴

In response to the protests of the legations and the constitutionalist activity, a further demonstration was organised in Bāgh-i Shāh on 19th November, in which Shaikh

12. Barclay to Grey, No. 366 Tel., 8th Nov. 1908, FO 416/38 No. 162.

13. FO 248/947, No. 322, Received 15th Nov. 1908.

14. Malikzāda, Mashrūṭiyyat, op. cit., V, p. 67.

Faḡlallāh was more openly active. A petition was presented to the Shah which had been prepared under his auspices.¹⁵ It stated that a meeting of all classes had agreed that a national consultative assembly was inconsistent with the precepts of Islam, but that no rescript had been issued confirming this. Therefore:

'Since by the firm order of the Creator of the World, the foundation of Islam throughout the centuries has been in the trust of the Sultan of the Age and the ʿulamā, the issue of a rescript is requested.'¹⁶

In addition, a petition was read on behalf of the merchants and guilds stating they did not want constitutionalism as it created disorder. According to Malikzāda, considerable pressure had been brought to bear on most of them by Mufakhkḡar al-Mulk, Vice-Governor of Tehran.¹⁷ In response to 'the request of the ʿulamā' the Shah granted a rescript banning constitutionalism and an elected assembly. In it he stated that he had ever been ready to protect Islam, and now that the ordinances of the ʿulamā of the capital and the provinces had expressly stated that the institution of a majlis was contrary to Islam, he would abandon the idea.¹⁸

The British and Russians responded immediately with a strongly worded joint note on 22nd November. The rescript, which had been printed and promulgated to the ʿulamā of the provinces, but not yet posted in Tehran, was withdrawn on the 23rd. Barclay saw the Foreign Minister, ʿAlā al-Saltāna,

15. Nāzim al-Islām, op. cit., II, p. 234.

16. The wording of the request reflects the theory of a partnership between Shah and ʿulamā mentioned in Chapter I.

17. Malikzāda, Mashrūṭiyyat, op. cit., IV, p. 200; see also Tafrishi Husaini, op. cit., p. 279.

18. Barclay to Grey, No. 302, 25th Nov. 1908, FO 416/38, No. 386.

on 24th to demand a properly constituted Majlis, which would ensure the restoration of order in Azarbaijan. 'Alā al-Saltāna riposted with some truth that the trouble in Azarbaijan had nothing to do with constitutionalism, that Iran was not ready for constitutionalism, and that the majority of people were against it. Barclay responded that the 'educated classes' of the capital were in favour of it as a way of subjecting the Shah's advisors to some control. The Foreign Minister then produced an Egyptian newspaper, and asked Barclay why, if Britain thought constitutional government was such a benefit, she did not confer it upon Egypt. To this Barclay had no adequate response.

The rescript banning a constitutional majlis was posted all over Tehran on 1st December. Its publication was followed by an urgent message from the Shah to the British and Russian Ministers denying responsibility. An explanation of the incident may be provided by a letter from Shaikh Fażlallāh to the Ṣadr-i A'zam saying that since the printing of the notice had been delayed he himself had had it printed and distributed.¹⁹

In an attempt to placate the two powers, the Shah appointed a new body called the majlis-i shūrā-yi kubrā-yi daulatī or High Consultative Council of State. The members of this assembly were all of absolutist sympathies and measures were instigated by the government and ratified by the Shah. The two powers protested that this was not an elected assembly. Abu'l Qāsim Ṭabāṭabā'ī, who was a member of the Council, received a letter from his father in Mashhad saying constitutionalism and a correct Majlis were needed,

19. Malikzāda, Mashrūṭiyyat, op. cit., V, p. 270.

not this counterfeit assembly attended by false persons.²⁰

By December 1908 there appears to have been a shift in popular opinion in Tehran. Nāzīm al-Islām reported that members of his anjuman were despairing of the Shah and repenting of supporting him as there was no improvement in the country's condition. The Shah had been no more able to solve the country's problems than the Majlis. As in the summer, salaries remained unpaid, trade could not function because of disorders, and there was a shortage of money. The merchants were also reportedly discontented because they had once again no protection from extortion at the hands of the Shah's advisers.²¹

On 20th December forty persons took bast in the Ottoman Legation. Amongst their leaders was Ṣadr al-ʿUlamā, who had evidently assumed the mantle of Ṭabāṭabāʾī and Bihbihānī as the leading mujtahid of the constitutionalist cause. On 22nd the numbers in the Ottoman Legation had risen to 270, and a petition demanding the restoration of the constitution and stating it was in accordance with the laws of Islam, signed by 650 persons, including Sanīʿ al-Daula, was presented to the Austrian Legation.²² The British and Russians now fearing that the Germans and Austrians would capitalise on popular discontent, again pressed the Shah to issue an electoral law.²³

Shaikh Faḏlallāh resumed the pressure from the other side. He and Sayyid Aḥmad Ṭabāṭabāʾī organised meetings of

20. Nāzīm al-Islām, op. cit., II, p. 273

21. Barclay to Grey, No. 297, 15th Nov. 1908, FO 416/38 No. 329.

22. P.L.P. II, No. 375/139, 22nd Dec. 1908, BMFA.

23. Barclay to Grey, No. 446 Tel., 22nd Dec. 1908, FO 416/38 No. 417.

several hundred people which sent the Shah a request to the effect that constitutionalism was contrary to Islam and forbidden.²⁴ They were encouraged by the conservative notables, such as Nā'ib al-Saltāna. Thus when the British and Russians saw the Ṣadr-i A'zam on 24th December, he proved unexpectedly stubborn, and argued that elections by the people were contrary to Islam,²⁵ a point, no doubt, derived from Shāikh Faḡlallāh.

On 28th December the bazaars closed, but were forcibly reopened. The bast in the Ottoman Legation now included merchants, guildsmen, and officials, who, having received no salary, saw no point in supporting the existing regime.²⁶ On 29th December Sayyid 'Alī Yazdī, acting from a sense of grievance over payments, and Sayyid Jamāl al-Dīn Afja'ī, who had always supported constitutionalism, took bast in Shāh 'Abd al-Azīm, together with their tullāb. They were later joined by Mīrzā Muṣṭafā Āshtiyānī, who had been quiescent since the early days of the opposition movement.

Shortly afterwards, on the 8th January, an attempt was made on Shaikh Faḡlallāh's life, in which he was slightly wounded. His assailant, Karīm Davātsāz, who had a shop in the tinsmiths' bazaar, refused to divulge the identity of his associates, but according to Malikzāda, he had been put up to it by a secret organisation called the Jahāngīr Committee, set up by some of the constitutionalists resident in Qulhak, with links with Tabriz and Gilan.²⁷

24. Nāzīm al-Islām, op. cit., II, p. 270.

25. Barclay to Grey, No. 451 Tel., 25th Dec. 1908, FO 416/38 No. 423.

26. Zahīr al-Daula, op. cit., p. 414.

27. Malikzāda, Mashrūṭiyyat, op. cit., V, p. 109.

The committee was not the only group inimical to the Shaikh, as Barclay, who had for some time been advocating the removal of the Ṣadr-i A'zam and Amīr Bahādur, now added the name of Shaikh Faḡlallāh. On 21st February he telegraphed to Grey that the Shaikh should be removed from Tehran, for though he was not a minister he had a most baneful influence.²⁸ The Russians, however, considered the measure imprudent on the grounds that:

'This mujtahid enjoys great influence not only in conservative circles but also amongst moderate elements with whom it is indispensable to collaborate for the success of the reform project. Any steps which the two governments undertook against this Shaikh could provoke the discontent of the masses, especially in Tehran, where he has many adherents amongst the tullāb.'²⁹

That Shaikh Faḡlallāh had influence amongst conservatives such as court notables, fief and pension holders, and a large section of the 'ulamā, is almost certainly true, but it is difficult to find evidence of support amongst the 'moderates', presumably meaning those who would support a majlis with a limited franchise. Although he does not appear to have controlled vaqf property of any substance, he does seem to have been held in respect amongst the tullāb as a teacher, so he may have had a following amongst them. Of course, this influence may have been augmented by provision for their stipends. With regard to the poorer classes, he was identified in December 1907 with those of them who derived their income ultimately from the Shah, what Abrahamian calls 'the palace economy', and demonstrations by these persons were probably due less to Shaikh Faḡlallāh's influence than the organisation and inducements provided

28. Barclay to Grey, No. 111 Tel., 21st Feb. 1909, FO 416/39, No. 327.

29. Nicholson to Grey, No. 172, 18th March 1909, FO 416/39, No. 470.

by the Shah's roughs. Nevertheless, the Russians were probably correct in estimating that it would be unwise to interfere with such an eminent religious figure.

In the bazaars a struggle was taking place over whether to support the bast, with both the constitutionalists and the Shah using coercive tactics. The bast was evidently funded from the bazaar³⁰ with support from discontented notables such as Farmān Farmā. Possibly each group or individual funded themselves with the lesser merchants contributing more than others. Of the merchants who did support it at least two were money lenders, who were no doubt still owed large sums by the government. One notable feature is the absence of the influence of the major merchants. Amīn al-Zarb was bankrupt at this point. Hāj Muḥammad Ismā'īl had joined the absolutists, and was making a profit from the mint, where he was twice reprimanded for issuing false coin.³¹ Arbāb Jamshīd had grown cool on the idea of constitutionalism since the murder of the Zoroastrian merchant. Mu'īn al-Tujjār continued to prosper, but though he did come with Sanī' al-Daula to see the Shah in December 1908, he is not reported as actively sustaining the bast.

It appears some guilds were supporting the bast and some were not. The cobblers guild declared they had no business with either mashrūṭa or istibdād.³² When the bazaars finally closed in mid-February, the tobacco sellers, hat makers, shoe makers and sellers of second-hand items tried on several occasions to reopen.³³ No doubt they were influenced by the fact that their businesses were hard hit.

30. Nāzīm al-Islām, op. cit., II, p. 268.

31. Marling to Grey, No. 239, 3rd Sept. 1908, FO 416/37 No. 575.

32. Nāzīm al-Islām, op. cit., II, p. 270.

33. Ibid., p. 314.

In addition, pro-constitutionalists used coercive tactics to induce the bazaar to close. When some of the guilds tried to stay open in February, they were threatened with a bomb, and on 20th a bomb actually exploded in the quarters of the second-hand dealers, who promptly closed.³⁴ A leaflet was posted through the door of an ammunition seller who was told his duty was to stay open, not to close.³⁵ A similar leaflet was delivered to the house of a leading member of the ʿulamā who had not gone to bast in the shrine. Messages were passed round the bazaar that the guilds should stay closed and references made to an order of the ʿulamā of Najaf.³⁶

Various measures were also taken to force the bazaars to open. Ḥāj Muhammad Ismāʿīl managed to prevent some of the guilds closing in January.³⁷ The Russian Legation prompted the Russian Bank to reclaim immediately debts owed to them by the merchants in the Ottoman Legation. The government sent cossacks, soldiers and gendarmes to oblige the bazaars to open, but without success. Government ministers eventually tried to persuade some of the merchants, whom they seem to have regarded as the prime movers in the closures, to reopen the bazaar with promises that constitutional government would be reinstated, but to no avail.³⁸

The numbers in Shāh ʿAbd al-ʿAzīm had grown by March to 1000 persons. They were joined in mid-March by the aged mujtahid Raiḥānallāh, who had cooperated with Shaikh Faḥlallāh in the autumn, but now seemed to have changed with the wind.³⁹

34. Ibid., p. 314.
35. Ibid., p. 335.
36. Ibid., p. 295.
37. Ibid., p. 272.
38. Ibid., p. 311.
39. Ibid., p. 326.

The Shah had earlier been urged by Shaikh Faḥlallāh to take firm action against the bastīs in Shāh 'Abd al-'Azīm in particular,⁴⁰ and soldiers were sent on 14th March to stop Sayyid 'Alī Yazdī from preaching. On 23rd March Muṣṭafa Āshtiyānī and three others were assassinated in a house near the Shrine by the Shah's roughs led by Sanī' Ḥaḥrat. It was widely believed that Mufakhir al-Mulk was involved, though the incident seems to have been set up by Mujallal al-Sultān the Shah's Chamberlain and henchman.⁴¹ According to Sanī' Ḥaḥrat at his trial some months later, the original orders were to assassinate Sayyid 'Alī Yazdī, but since they could not find him and did not want to go back empty-handed, they entered a house by the Shrine and shot the inhabitants, who happened to be Muṣṭafa Āshtiyānī and his associates. Evidently the purpose of the attack was to frighten the bastīs into leaving the Shrine.

At the end of March Sa'd al-Daula, probably at the instigation of the Russians, proposed a meeting of all classes to give their view on the reinstatement of constitutional government. A letter from Shaikh Faḥlallāh published by Malikzāda may be a response to an invitation to attend the meeting. The letter was written not long after he was shot, as he refers to his joy at being able to stand up and walk.⁴² In it he was most scornful about a gathering to which he had been invited. There was no need for it especially as there had recently been large gatherings participated in by people of all kinds in support of the Shah. 'Last time the ambassadors complained we nevertheless got rid of the idea of an assembly, and things worked out well.'

40. Malikzāda, Mashrūṭiyyat, op. cit., V, p. 279.

41. Nāzim al-Islām, op. cit., II, p. 530.

42. Malikzāda, Mashrūṭiyyat, op. cit., V, p. 279.

A second letter from Shaikh Faḡlallāh to the Sadr-i A'zam also probably dates from this time.⁴³ It mentions that Sa'd al-Daula is in contact with the ambassadors who are also making representations. It also says that Tabriz is nearly taken so must date from the time when 'Ain al-Daula was threatening the city, but before the Russians entered on 20th April. He exhorts the government not to weaken as the disorders will grow worse. He shows only a limited understanding of the British and Russian policies and power. In his view the European powers are pressing the Shah now because they fear that if Tabriz falls there will be no further chance of constitutionalism. He goes on to say:

'I am an old worshipper with one foot in the grave. I have no desire for life, and that which I had to see of this world I have seen, but as long as I live I will never cease to struggle for Islam, and what life I have left I will sacrifice for it.'

The meeting proposed by Sa'd al-Daula took place on 26th March, notables and 'ulamā being invited. When constitutionalism was brought up, Abu'l-Qāsim Ṭabāṭabā'ī, who envisaged a division between religious affairs and those of the running of the state, propounded the view that where there was no law the wise men of the land had to enact laws.⁴⁴ In Iran there was the law of Islam, which had to be followed. However, the law of Islam did not cover certain matters not in existence in the early years of Islam, such as administration of the army or the running of the Ministry of Foreign Affairs. For these matters, which concerned state affairs, the people had to collect laws in a code, which would be in conformity with the sharī'a. His opponents

43. Ibid., pp. 261-4.

44. Nāzim al-Islām, op. cit., II, p. 339.

led by 'Alī Akbār Burūjirdī representing Shaikh Faẓlallāh, retorted that the laws of Islam covered all affairs, and the Prophet had dictated what was permitted and what was forbidden. Evidently in the face of this new attack Shaikh Faẓlallāh was being at his most fundamental. The meeting appears to have ended inconclusively.

The Shah, still under pressure from the two powers, summoned a further meeting to discuss the matter, and Shaikh Faẓlallāh again organised agitation against it. Large gatherings were held under the banner, 'We do not want constitutionalism, we are subject to the Quran'.⁴⁵ At the subsequent meeting, the debate grew acrimonious, with 'Alī Akbār Burūjirdī voicing Shaikh Faẓlallāh's views that elections were against the sharī'a, and that any majlis must be endorsed and participated in by the ʿulamā, and Saʿd al-Daula presenting the usual view of the higher bureaucracy that the ʿulamā should not intervene in government. The anti-constitutionalist ʿulamā lost and the gathering agreed to petition the Shah to grant a majlis in accordance with the wishes of the two representatives.

On 5th May the Shah issued a rescript restoring constitutional government, and on 9th May another ordering 'learned constitutionalists' to draft a new electoral law. The latter rescript also explained that it had been the Shah's intention to grant a Majlis in November, but that the 'ʿugalā' had beseeched him not to do so as it would be a cause of sedition. The Shah thus laid the blame for the failure to restore the constitution on the anti-constitutionalist ʿulamā, whom he was now evidently jettisoning as being of no further use to him. Possibly he held the meetings on restoring constitutionalism partly to disembarass himself of their arguments. The Shah finally signed the new electoral law in mid-June.

45. Ibid., p. 543.

In May 1909 Shaikh Faḏlallāh published a 'pamphlet' which set forth all his arguments against constitutional government. The 'pamphlet' is mentioned in the Russian newspaper Rossiya of 1st June which says it was published a few days before and freely distributed amongst the people.⁴⁶ This 'pamphlet' may be either of two works by Shaikh Faḏlallāh; the first is a treatise entitled Tadhkirat al-Ghāfil wa irshād al-jāhil, dated 1326 but written after the fall of the Majlis, that is between July 1908 - January 1909;⁴⁷ the second is a fatvā written after the fall of the Majlis, but otherwise undated, and published by Malikzāda in his Mashrūṭiyyat.⁴⁸ As the arguments expressed in the treatise and the fatvā are similar, the two will be treated together, and any difference or development from 1907 indicated.

The most fundamental new concept that Shaikh Faḏlallāh introduced into his arguments against constitutionalism was that it interfered not only with the workings of the sharī'a but with its basic purposes. First he emphasised that the two systems, Islam and what he called infidelity (kufr) were

46. Rossiya, 19 Maia /1st June 1909, Browne Papers.

47. (A Reminder to the Negligent and a Guide to the Ignorant). The work bears no name, and Hairi originally believed it to be by Shaikh 'Abd al-Nabī Nūrī (see Hairi, Shi'ism, op. cit., p. 209, p. 260). Hairi has since referred me to M.A. Mudarrisi, Raiḥana al-Adab, Tehran n.d. VI, p. 264, who lists the Tadhkirat as one of the works of Shaikh Faḏlallah. The arguments are similar to those in the fatvā (see below), and on p. 36 is found the legend inscribed on Shaikh Faḏlallah's seal (Dhālika faḏlu Allāh... see Ch. V).

48. Malikzāda, Mashrūṭiyyat, op. cit., IV, pp. 211-221.

different and each possessed of a logic complete in itself. Thus he said:

'They (that is the constitutionalists) maintain that the law can be changed. Does this mean change from Islam to infidelity, or from infidelity to Islam? It is obvious either of these is false.'⁴⁹

He goes on to say:

'If such a change would be from Islam to Islam it is conceivable. But it is an error (ghalat) to make a law (which by its nature must be enforced) concerning an action which the Founder of Islam has designated as permissible (mubāh, i.e. that need not be obeyed or enforced), and as a consequence to punish (a Muslim) for non-compliance with a law which (according to the sharī'a) he need not obey.'

The argument devolves on the significance of the words mubāh and vājib. These terms are two of the five qualifications (al-Aḥkām al-Khamsa), namely: vājib, obligatory; mandūb, recommended; mubāh, permissible; makrūh, reprehensible; and haram, forbidden. Every act of a Muslim is subsumed in Islamic law under one of these five qualifications. They provide a scale of moral evaluation by which all acts and relationships are measured.⁵⁰ The sharī'a thus comprises an infallible doctrine of ethics covering the whole religious, political, social, and domestic lives of those who profess Islam.⁵¹ Problems, which in other legal systems belong to the moral or religious sphere only, come within the competence of the sharī'a jurist, and he is obliged to give a value judgement on all human actions.⁵² Certain actions are neither recommended or condemned, but regarded with indifference (mubāh). But in reality the fukahā still retain

49. Ibid., p. 215.

50. N. Coulson, A History of Islamic Law (Edinburgh 1974), p. 83.

51. Encyclopaedia of Islam, First Edition, Sharī'a

52. Y. Linant de Bellefonds, Traité de Droit Musulman Comparé (Paris 1965), I, p. 78.

ultimate authority over these actions because only they are empowered by their knowledge of fiqh to designate whether an action is permissible. The ultimate purpose of categorising every action by one of the five qualifications is to secure divine favour both on earth and in the hereafter. The Muslim community is intended to be so ordered by the sharīʿa that its individual members may secure favourable judgement on the day of resurrection. Thus, when Shaikh Faḥlallāh accused his opponents of interfering with the sharīʿa, and the five qualifications, by, for example, declaring obligatory what was permissible, he was in effect saying they were obstructing the basic purpose of Islam.

A process which in particular undermined the sharīʿa was the drafting of a constitutional law. In Shaikh Faḥlallāh's eyes this was contrary to Islam because it involved legislation, which he designated an innovation. Islam has no shortcomings so that it needs someone to complete it.⁵³ Shaikh Faḥlallāh was clearer and more emphatic on this point than he had been in 1907. He also reiterated that the emergence of new situations was no justification for legislation. In the case of such situations reference must be made to the Gates of the Provisions, that is the Deputies of the Imām.⁵⁴ This was a further clarification of his arguments of the previous year.

The Shaikh's fundamentalist arguments were disputed by Mīrzā Muḥammad Ḥusain Nāʿīnī (1860-1936) in his Tanbih al-Umma wa Tanzih al-Milla (The Admonition and Refinement of the People) written in Najaf in the spring of 1909.⁵⁵

53. Malikzāda, Mashrūʿiyyat, op. cit., IV, p. 219.

54. Ibid., p. 219.

55. Hairī, Shīʿism, op. cit., p. 210.

Nā'īnī claimed that where there were already specified Islamic provisions covering existing judicial and political problems, then there was no need for legislation.⁵⁶ But a number of problems had arisen which were not predicted by the sharī'a, and in this matter it was the duty of the authorised ruler to make an appropriate law. This argument was employed by some of the following of Ṭabāṭabā'ī and expressly stated by his son Abu'l Qāsim. On the matter of objection to change in the law, Nā'īnī claimed that as the law emerged from expediency, it was logically bound to alter to suit new circumstances. As Hairi has pointed out,⁵⁷ Shaikh Faḥlallāh's argument on this point stands, there can be no legislation in Islam, only logical deduction by a mujtahid of new provisions from the sharī'a. With regard to Shaikh Faḥlallāh's point that a constitutional law might enforce what was not compulsory, Nā'īnī gave an example of the same process taking place after a contract or on the basis of a vow.⁵⁸ Thus the performance of certain non-compulsory actions may become obligatory because they may be part of the performance of a compulsory action. This argument did not grapple with Shaikh Faḥlallāh's real point that interference with the five qualifications governing every action, by a power having no true knowledge of the sharī'a, constituted interference with the fulfilment of the moral and religious purpose of Islam.

Another point taken up by Shaikh Faḥlallāh was that of areas of authority in law. The matter is deeply confused and no one at this period ever really clarified it. This failure is perhaps because, as stated above, the sharī'a covers every aspect of a Muslim's existence, but

56. Ibid., p. 210.

57. Ibid., p. 211.

58. Ibid., p. 200.

in reality such a rigid doctrine is not practicable and the concept had long existed of umūr-i 'urfiyya with which the 'ulamā did not concern themselves in practice, leaving such matters to the state officials. Shaikh Faḥlallāh's position on this subject was ambivalent. At one point he stated:

'All matters, including the political (siyāsāt) fall within the scope of the sharī'ah.'⁵⁹

To the constitutionalist argument that they were working in the area of government law (qānūn-i daulatī), which was outside the sharī'ah, Shaikh Faḥlallāh contended that no government could consider itself outside the divine law, and make and execute laws. At another point, however, he admits that in practice:

'There have always been government affairs and regulations (dasturat) to cover them, but it is certain that these stipulations were outside the religion (khārij az dīn).'⁶⁰

Thus they had a de facto existence but were not legitimate according to the sharī'ah. From the phrase 'khārij az dīn' it would seem they are not permissible, simply extraneous. Faḥlallāh appears to see a division between the affairs of the government umūr-i daulatī and those of the religious community umūr-i 'amma:

'If their intention was to draw up a law especially to control the actions of government officials then it has no connection with the affairs of the community, on which the sharī'ah alone may speak.'⁶¹

In effect there are two spheres of authority in the state, one ordered by the government, in which the 'ulamā play little part and the other under the authority of the 'ulamā,

59. Tadhkirat, op. cit., p. 2.

60. Malikzāda, Mashrūṭiyyat, op. cit., IV, p. 214.

61. Tadhkirat, op. cit., p. 8.

in which no one else may intervene. The problem with constitutional government seems to be that, unlike the existing regime, it fails to recognise this division and attempts, for example, to enforce legislation in the umūr-i ʿamma, which it has no legitimate right by the sharīʿa to do. Thus he states that by contrast with the past when government regulations were generally recognised as outside religion, under the Majlis adherence to the regulations of the assembly were considered an obligatory duty.⁶²

The Majlis had claimed to be acting in accordance with the sharīʿa, and Shaikh Faḡlallāh refuted this claim on a number of points. But first he pointed out that if the constitutionalist intention really was to conform to the sharīʿa, how were they to judge whether their actions were consistent with it or not.⁶³ In other words he considered the Majlis had attempted to subsume the authority of the ʿulamā and interfere in the affairs of the community in a way that previous governments had not.

In 1908-9 Shaikh Faḡlallāh also took up another argument against the constitutionalists' supposed source of authority, that is representation of the will of the people followed by decision according to the wishes of the majority. In his challenge the Shaikh discussed representation in the sense it is used in fiqh, that is of one person appointing another to perform certain duties on his behalf. As Hairi has pointed out this arrangement involves individual matters and is not a communal concern.⁶⁴ The term used then and now

62. Malikzāda, Mashrūʿiyyat, op. cit., IV, p. 215.

63. Tadhkirat, op. cit., p. 8.

64. Hairi, Shiʿism, op. cit., pp. 204-5.

for a representative at the assembly is vakīl and his function is vikālat, but the Shaikh did not acknowledge this secular usage. Asking what was meant by vikālat, he said:

'What is the meaning of representation, who is represented and for what is the representative elected? ...If the matter concerns 'urf affairs, then this religious practice (tartibāt-i dīnī) is not necessary.'⁶⁵

Thus maintaining the idea of a division between the affairs of the community and those of the government, he said there was no need to introduce a concept drawn from sharī'a jurisprudence into customary administration. He continued:

'If it is intended (to introduce representation into) the sharī'a affairs of the community, then what is meant is not vikālat (representation) but vilāyat (deputyship).'

The basis for this point is that the representative of the people has no authority in sharī'a affairs, responsibility for which devolves on the deputies of the Imām, as Shaikh Faḏlallāh explains:

'Vilāyat (deputyship) in the time of the absence of the Imām devolves on the fuqahā and the mujtahids, not on just any grocer or draper depending (for his authority) on the will of the majority. Such a concept is erroneous in the Imāmī religion.'

In other words the will of the majority is not a basis for any claim to authority in Imāmī Shiite law, and hence has no role in the affairs of the community. Further:

'Participation in the affairs of the community by anyone other than the Imām amounts to denigrating the authority of the Prophet and the Imām..... If anyone else sits in his (the Imām's) place it is obligatory to oppose such an attempt and forbidden to support it. Do you not know that this work is outside the General Agency and usurpation of the right of Muḥammad and his descendents?'⁶⁶

65 Malikzāda, Mashrūṭiyyat, op. cit., IV, p. 211.

66. Tadhkirat, op. cit., pp. 27-8.

There is no more place for the representatives of the people in the chain of authority derived from the revealed will of God, than there is for a monarch, and if they lay claim to such a place then they, like him, are usurpers.

The constitutionalist ʿulamā had declared that support for the Majlis was part of the Islamic duty of amr-i bi ma'rūf va nahy az munkār (to enjoin good and prohibit evil). In refuting this point Shaikh Fażlallāh was obliged to admit the judgement of a mujtahid may be fallible. Having shown that support of the constitution was contrary to the sharī'a and the Quran, he declared the duty of taglīd (following the practice of a chosen mujtahid) was null in this matter if the mujtahid supported the constitution.

'If a thousand mujtahids write that this Majlis is founded on the command to do good and prohibit evil,....then you are a witness that this is not the case and they have erred...(exactly as if they were to say) this animal is a sheep, and you know it is a dog, you have to say "You are mistaken, it is unclean".'⁶⁷

Shaikh Fażlallāh did not attempt to reconcile this appeal to individual judgement with the argument that a defective intelligence could not gauge what was in conformity with the sharī'a,

Nā'īnī took up Shaikh Fażlallāh's contention that only the Deputies of the Imām could have authority in the umūr-i ʿamma. He stated that it was not necessary or even possible that a mujtahid should handle all the problems in the affairs of the community, and so he might authorise another person to do so on his behalf. Further, if the Agents of the Imām could not perform all necessary functions then responsibility

67. Ibid., pp. 24-6.

for them devolved on the just faithful (ʿudūl-i muʿminīn).⁶⁸ In his view, if the ʿulamā themselves could not take power, the best alternative was the creation of a constitutional regime, which was much preferable to tyranny. Any aberration in the legislation would be rectified by the mujtahids under Article II of the constitution. This was a pragmatic point of view but it raised problems in practice for the authority of the ʿulamā and the religious estate. To begin with a member of the assembly was a representative vakīl of the people and not a deputy ʿnāʿib of the ʿulamā. According to Faḏlallāh's understanding and experience, this contention created a new authority which threatened that of the ʿulamā. He also realised that Article II might sound promising in theory but in practice it left the ʿulamā with very weak control over the legislation of the assembly.

Nāʿīnī also argued that vikālat does not have to be religious representation to be rightful, in which he was correct, but Shaikh Faḏlallāh was arguing that if the representation was not religious representation then it belonged in ʿurf affairs, and had no rightful place in the sphere of the sharīʿa. On the subject of the majority Nāʿīnī contended that the payment of taxes by the people in the public interests gave them a right to a voice, which is not a principle recognised by the sharīʿa. He also believed Islamic rulership was based on consultation, mashvarat, implying the superiority of the majority of the wise men over the minority. In this he was confusing a general principle with a precise element in a chain of authority.

To Shaikh Faḏlallāh the best alternative in the absence of the Imām, was the Shah and as such he had to be supported.

68. Hairī, Shīʿism, op. cit., pp. 205-7.

It was at this point he produced the argument mentioned in Chapter I that Islam is based upon two supplementary authorities, deputyship in the affairs of the prophesy and kingship, defined as the power that executes the Islamic provisions. If justice is to spread it was necessary to strengthen these two groups, that is those who know the provisions and those who possess power among Muslims. The Shah maintained that he derived his authority from God, Shaikh Faḏlallāh, as already mentioned, does not raise the question, but maintains the Shah's authority is justified by the exercise of power in the interests of Islam. In the Tadhkirat Shaikh Faḏlallāh attacked the constitutionalists for undermining the government of Islam, composed of the Shah and the ʿulamā.⁶⁹ To Nāʿīnī, as to many other ʿulamā, kingship was usurped authority and liable to become tyrannical, for which reason constitutionalism, for all its shortcomings, was preferable. To Shaikh Faḏlallāh, kingship fell short of the original ideal government where both power and knowledge were invested in one person, the Imām, but provided the ruler acknowledged the superior authority of the sharīʿa, kingship was preferable to constitutionalism because it reinforced Islam, instead of standing over and against the sharīʿa and thereby weakening the faith.

In the fatvā, Shaikh Faḏlallāh goes into greater detail about his objections to the notion of equality. The most serious differences he mentioned were undoubtedly those between Muslims and non-Muslims, especially apostates, into which category Bābīs fell. He reminded his readers that if equality were introduced, Muslims would lose their special status under the sharīʿa.⁷⁰ Using his argument that only the ʿulamā have the authority in the umūr-i ʿammā he asked why different sects were to have a voice in its affairs.⁷¹

69. Tadhkirat, op. cit., p. 31.

70. Malikzāda, Mashrūṭiyyat, op. cit., IV, p. 215.

71. Tadhkirat, op. cit., p. 8.

Nā'īnī, in his attempted refutation, reveals himself, as Hairi comments, as confused by a vague interpretation of the constitutional notion of equality.⁷² He took the view that all should be equally summoned to court for an offence, but that they should be tried respectively according to the precepts which governed Muslims and non-Muslims. He did not appreciate, as Shaikh Faḏlallāh did, that in a modern nation state all citizens are equal before the law, and all law can only be valid if it is passed or condoned by Parliament. This was quite distinct from the system of communities (millets) regulating their own affairs under a distant or minimal government, as happened in Ottoman Iraq, where Nā'īnī resided.

Shaikh Faḏlallāh perceived that constitutionalism would mean greater government control, and greater taxation, with a consequent diversion of funds from the religious estate. He enlarged upon this point in the Tadhkirat, though with some exaggeration:

'Under constitutionalism the people of this country will pay taxes at the rate of 90%. Money will be extracted little by little on a thousand different pretexts. For example the municipality will take money from you every year by a hundred means. And every governor will have the right to take two contributions each year under the Fundamental Law. Also the new Ministry of Justice will exact more money from you.'⁷³

A new sort of oppression was about to exert itself:

'In brief the subjects must toil so the coffers of the National Bank will fill up, and they can organise the affairs of commerce.'

In his assessment of the economy under constitutionalism, he seemed only able to conceive of wealth as a fixed sum, and had no idea of economic development to a much greater wealth.

72. Hairi, Shī'ism, op. cit., pp. 223-4, p. 234.

73. Tadhkirat, op. cit., pp. 30-1.

Interestingly, Shaikh Fażlallāh, rare among contemporary commentators, identified some of the problems, other than lack of education, of establishing a nation state in Iran in particular:

'Parliament is not possible in Iran because of three characteristics: lack of an army; religious differences; and large tribal groups. These do not exist in other countries.'⁷⁴

Shaikh Fażlallāh gives an account in the fatvā of how he became involved in the early stages of the constitutional movement. He states that like many people he was beguiled by the constitutionalists' presentation of their cause, particularly the offer of justice.⁷⁵ This is not strictly true as he only joined the movement at the last possible moment, and then most likely because he would have been isolated if he had not. As he himself admits he initially acquiesced to the notion of representation, but tried to make it conform to Islam (he does not say how).

The Shah had yielded on the subject of constitutionalism because of pressure from the two powers, and financial embarrassment, and also because he was threatened on two sides by constitutionalist forces. The first of these, coming from the north, was an army led by Sipahdār-i A^ʿzam, Governor of Rasht, and including members of the Rasht anjuman, and Caucasian revolutionaries from Russia. The second was a force of Bakhtiyārīs led by discontented Khāns, and allied with the constitutionalists of Isfahan. In late April the Russians intervened in Tabriz where the populace was starving under seige by the Shah's forces. This impelled Sipahdār and his army to move towards Tehran, partly

74. Ibid., pp. 39-40.

75. Malikzāda, Mashrūṭiyyat, op. cit., IV, p. 211.

to escape the Russians and partly to compel the Shah to grant a constitution. The Bakhtiyārīs then also advanced on the capital.

In July, after an attempted compromise with the Shah had broken down, the two forces entered Tehran. Following their arrival, the Shah, who had taken refuge in the Russian Legation, was deposed by an 'Extraordinary General Council', consisting of notables, deputies, ʿulamā, merchants and guildsmen. Once it became clear that the 'Nationalist' forces were reasonably well disciplined, the return of constitutionalism was largely welcomed by the people of Tehran.

The Shah was joined in the Russian Legation by the conservative notables and by his henchmen, such as Mujallal al-Sultān. Saʿd al-Daula, who was in the British Legation, is said to have warned Shaikh Fażlallāh that he was in danger of his life, to which the Shaikh is said to have replied that his religious calling made it impossible to take refuge in a foreign legation. In a letter to Nāʾib al-Saltāna written just before the Nationalists entered Tehran, he says friends had sent messages that it would be better if he went to the north, but his own inclination was to stay in town, as it was quiet and the people would be agitated if he left.⁷⁶ He was determined to maintain the struggle and encouraged Sanīʿ Hażrat, with a large group of roughs armed by the Shah, to resist the advance of the Nationalist forces into the Sanglaj district, where Fażlallāh lived.⁷⁷ On 25th July their defenses were broken, and on 10th August, Shaikh Fażlallāh was arrested.

The newspaper accounts of his trial give only the long indictments against him.⁷⁸ They do not give any record of

76. Ibid., V, p. 265.

77. Ibid., VI, p. 50.

78. See Majlis, Year 3, No. 8, 7th Aug. 1909.

an interrogation, or say if there was one. Both Malikzāda and Kasravī searched for a transcript of the trial or any written account, but without success.⁷⁹ Malikzāda, who knew some members of the mixed tribunal who tried him, obtained verbal accounts, but as he himself says, these accounts must be treated with caution. Nāzim al-Islām claims Shaikh Faḡlallāh denied he was against constitutionalism.⁸⁰

In a letter to the new Regent, 'Aḡud al-Mulk, Shaikh Faḡlallāh expressed his sense of injustice at the idea of a trial, and hoped the judges chosen would be fair.⁸¹ In another letter to the same person, he attempted to defend himself, pointing out that he had not run away because he believed only in protection from God.⁸² He also disclaimed any fault, mentioning that as one of the founders of the Majlis he had spent 4000 tomans on it. If he had felt compelled to criticise it, it was because strangers had gained control of it, so it needed purging. He also mentioned that he was 35,000 tomans in debt, as the local money lenders would testify. It would seem that Nāzim al-Islām's assertion that he denied being against constitutionalism is correct, but in view of his policy after June 1908, hardly true. The mention of his debts is interesting as it suggests he spent large sums on the demonstrations against constitutionalism, as well as receiving money from the Shah and the notables.

79. Malikzāda, Mashrūḡiyyat, op. cit., VI, p. 128; A. Kasravī, Tārīkh-i Hijdah Sāla-yi Adharbayjan (An Eighteen Year History of Azarbaijan), Tehran 2537/1978, I, p. 661.

80. Nāzim al-Islām, op. cit., II, p. 536.

81. Majd al-'Alī, Majmu'a-yi Khāṡirāt, No. 3, 1359/1978-9 p. 89.

82. Ibid., p. 90.

The indictment against Shaikh Faḥlallāh was nearly all based on the assumption that to wage a sustained campaign against constitutionalism was tantamount to a crime. That he had consistently opposed constitutionalism is, as Malikzāda remarks, not much in doubt. It is the accusations concerning the methods he used that are disputable.

The first point raised against him was that, after the initial establishment of constitutionalism, he first supported it then turned against it.⁸³ He was also accused of first accepting the Fundamental Law and then rejecting it. This ignores the fact that his original wording of Article II was changed. He was, in addition, castigated for declaring mashrūḥa forbidden, when the ʿulamā of the ʿAtabāt had enjoined it as obligatory. He was, however, legally entitled to give his opinion as a mujtahid of eminence, and moreover he had the support of one leading mujtahid in the ʿAtabāt, Ṭabāṭabāʿī Yazdī.

One charge that is amply substantiated by Shaikh Faḥlallāh's leaflets is that he accused his opponents of being Bābīs and atheists, an accusation which amounts to the calumny with which he frequently charged his enemies, as there is no evidence that the majority of the constitutionalists were other than ordinary Muslims.

Shaikh Faḥlallāh was bitterly criticised for his part in the events of December 1907 and for his support of the Shah's unconstitutional policies after June 1908. It was a cause of some bitterness to the constitutionalists that in December 1907 he had organised demonstrations by poorer persons shouting, 'We don't want constitutionalism, we want tea and rice'.

83. Malikzāda, Mashrūḥiyat, op. cit., VI, pp. 128-131.

The Shaikh was also charged with involvement in certain incidents of a violent nature. These included fortifying his house in June 1909 and surrounding it with armed roughs, who fired against the 'nation'. The Shaikh is reported to have answered this accusation at his trial by saying: 'According to the basic rules of Islam any Muslim is bound to defend himself. I took steps to protect myself and my adherents'. In addition he was said to have planned the murders in Shāh 'Abd al-'Azīm in March 1909. As mentioned earlier, Faḡlallāh encouraged the Shah to take action against the bastīs, but there is no evidence that he instigated their murder.

Contrary to expectation Shaikh Faḡlallāh was reported not to have defended himself at the trial, but concerning his prop. ganda campaign, the treatise, leaflets, fatvā, letters and telegrams that he wrote, he is said to have commented:

'I am a mujtahid and in conformity with what was revealed to me through my power of ijtihād, and in the light of my knowledge of jurisprudence, I distinguished the way that was consistent with the sharī'a and followed it.'⁸⁴

The existing accounts of Shaikh Faḡlallāh's execution vary but an important point is raised in Browne's account.⁸⁵ On the scaffold he is reported to have said:

'Neither was I a reactionary nor were Sayyid 'Abdallāh and Sayyid Muḡammad constitutionalists. It is merely that they wished to exceed me and I them, and there was no question of reactionary or constitutional principles.'

84. Ibid., p. 129.

85. Browne, Revolution, op. cit., p. 330.

In addition to this a number of points are mentioned in the account in Browne. His son Shaikh Mahdī is said to have stood under the scaffold and cursed him. Faḏlallāh is said to have quoted the verse:

'If we were a heavy burden we are gone,
If we were unkind we are gone.'

After telling the executioner to do his work he was hanged in his turban and cloak. According to Malikzāda, the square was very full and noisy. No mention is made of his speaking but Malikzāda says the story about Shaikh Mahdī is quite unfounded.⁸⁶ An account published recently in a magazine in Qum in which Shaikh Faḏlallāh discarded his stick, his turban and his cloak as he proceeded up the scaffold, and waited till his servant had swallowed his seals, may be discounted.⁸⁷ In Nāzīm al-Islām's version, derived shortly afterwards from merchants who were present, two mujāhidīn removed his turban.⁸⁸ On the scaffold all he had a chance to say was: 'What good, what ill, I am gone.' A picture of the occasion shows an excited crowd, and the Shaikh with his cloak, but without his turban.⁸⁹ The account in Nāzīm al-Islām, therefore, probably comes closest to the truth, and the speech recorded in Browne, which has been taken as fact, was almost certainly apocryphal, and belongs to the constitutionalist historiographical tradition, which sought to attribute the Shaikh's political stance to personal motives alone.

The execution caused consternation amongst the other ʿulamā, Khurāsānī sending a telegram to try and save his life.⁹⁰ It is difficult to know why he was executed but most

86. Malikzāda, Mashrūṭiyyat, op. cit., VI, p. 132.

87. Majalla-yi Kausar No. 3 1359/1978-9.

88. Nāzīm al-Islām, op. cit., II, p. 535.

89. 'Akshā-yi Tārikhī', Vahīd, No. 200 2535/1976-7, p. 240.

90. Hairī, Shīʿism, op. cit., p. 114.

probably it was because his arguments threatened to undermine the legitimacy of the constitutional assembly, and it was felt necessary to make an example of him.

Both Tabātabā'ī and Bihbihānī were back in Tehran by the beginning of November, when the oath to the constitution was administered in their presence. Bihbihānī had been released from his prison near Kermanshah in the spring and had gone to Kerbala where he had forged stronger connections with the ʿulamā of the ʿAtabāt. Tabātabā'ī, on hearing of the overthrow of the absolutist regime had sent a telegram offering congratulations on "this moment which is one of the most blessed celebrations of Muslims".⁹¹ On his return, however, he withdrew from politics. He became unhappy with the course events were to take, writing in his notes: 'The mashrūṭa and majlis have once more been set up, but not in the way I wanted.'⁹² It is not clear what he meant by this, but perhaps he was referring to his original wish to establish a majlis-i ʿadālat,

Bihbihānī tried to regain his old position, but now that the Shah had been overcome he was no longer useful to the constitutionalists, who told him that as he was not an elected member of the Majlis he had no right to participate.⁹³ However, he retained a following amongst the guilds, who were instructed that the ideas of the radicals, led by Taqīzāda, especially on the division of religion and state, were contrary to Islam. Members of the guilds still brought their grievances to him in the traditional way. By means of this following, by his links with the ʿAtabāt, and by joining up with the more conservative faction led by Sipahdār, he was able to intervene in politics to some extent.

91. Nāzim al-Islām, op. cit., II, p. 521.

92. Tabātabā'ī, 'Yāddāshthā', op. cit., p. 473.

93. Daulatābādī, op. cit., III, p. 126.

At the end of June 1910, Khurāsānī telegraphed to the government urging the removal of Taqīzāda from the Majlis on the grounds that he was irreligious and his activities were harmful to the country's interests.⁹⁴ The ʿulamā of Najaf were said to have received information from various sources on Taqīzāda's line of conduct of which they disapproved.⁹⁵ Taqīzāda asked for, and obtained, three months leave, which was granted with practically the unanimous approval of the Majlis. The expulsion was also sought of the foreign fidāʾīs, on whom Taqīzāda and the militants mainly relied to maintain their influence. Bihbihānī was believed to be implicated in the denunciation of Taqīzāda by the ʿulamā of Najaf, and on 16th July he was shot by four fidāʾīs whose motives were said to be revenge.⁹⁶ The bazaars closed and a demonstration of merchants and ʿulamā demanded the arrest of the murderers, the expulsion of foreign fidāʾīs, and the dissolution of the existing Majlis. They also protested at the chaos brought about by the militants and their following.

CONCLUSION

In conclusion, to Shaikh Faḥlallāh the best form of government in the absence of the Imām was not constitutionalism but absolutism, that is government by the Shah in the traditional manner. It was at this point that he produced the argument mentioned in Chapter I that Islam is based upon two supplementary authorities, deputyship in the affairs of the Prophet and kingship, defined as the power that executes

94. Marling to Grey, No. 129, 15th July 1910, FO 416/45 No. 181; see also Afshār, Aurāq, op. cit., p. 207 and p. 209, for Khurāsānī's telegram and Māzandarānī's letter of explanation published in Ḥabl al-Matīn No. 28, Ramaḥān 1328.

95. Marling to Grey, No. 297 Tel., 22nd July 1910, FO 416/45 No. 125.

96. Marling to Grey, No. 292 Tel., 18th July 1910, FO 416/45 No. 102.

the Islamic provisions. This division in authority is reflected in the umūr-i 'āmma, the affairs of the religious community, covered by the sharī'ah, and the umūr-i daulatī, government affairs, of which the umūr-i 'urfiyya, customary affairs, formed a part. As was mentioned in Chapter I, these two spheres of authority were recognised in practice by both the Shah and the 'ulamā. The Shah's authority was justified by his services as the Protector of Islam.

Constitutionalism in the eyes of Shaikh Faḡlallāh, presented a much more dangerous threat to the authority of the sharī'ah than did the Shah. To begin with the Shah's claims to legitimacy were weak, but constitutionalism had a more solid and attractive legitimising doctrine in the enactment of the will of the people by their elected representatives in Parliament. This stood over and against the Shi'ite chain of Divine Will, Prophet, Imām, 'ulamā. Shaikh Faḡlallāh perceived that the will of the people as a source of authority was dangerous, not only because it was outside the Shi'ite chain, but also because it was the product of alien European thought. It was for this reason that he was at pains to attack representation as a basis of authority for legislation.

The pro-constitutionalist mujtahids, such as Nā'īnī and Bihbihānī and Tabātabā'ī, hoped that the constitutionalist government would confine itself to the sphere of umūr-i daulatī and umūr-i 'urfiyya but Shaikh Faḡlallāh saw that in practice this would not be possible, and that sooner or later constitutionalist government would impinge upon the sharī'ah and undermine the authority of the 'ulamā. An example arose in the matter of equality. The will of the people meant the will of the individual members of the nation regardless of creed. Such a theory was not possible according to the sharī'ah. Further, by interfering with the five qualifications, for example, rendering obligatory what the

sharī'a judges permissible, constitutionalism interfered with one of the fundamental goals of the sharī'a.

Therefore, in the battle between the Shah and the Constitutionalists, Shaikh Faḥlallāh supported the Shah, providing him with ideological ammunition against constitutionalism, and against the remonstrations of Britain and Russia. The Shah used Shaikh Faḥlallāh's arguments most notably in November 1908, and generally seems to have preferred them to his other defence that constitutionalism did not suit the conditions of the country.

It may be said that Shaikh Faḥlallāh identified the interests of the religious estate, and examined in detail the implications for Shi'ism of introducing constitutionalism into Iran, in a way that his contemporaries amongst the ʿulamā did not. Many of them gradually came round to producing arguments similar to his and indeed, found themselves in a position he had held, though they were on the whole reluctant to take the final step back towards positive endorsement of the royal authority.

Public opinion in general seems to have wavered between the constitutionalist and absolutist causes, but to have been on the whole, after the spring of 1908, either lukewarm or indifferent to either. Nāẓim al-Islām's account shows that there was a certain amount of support for the Shah after the coup, but as the Shah was unable to solve the country's economic difficulties, public feeling swung back towards constitutionalism. On present scanty evidence, the constitutionalist cause in Tehran seems to have been maintained by some of the bureaucrats, and by the lesser bazaar merchants, partly because of the Shah's failure to pay his debts, and partly because the government was resorting to its old tactics of extracting money from the populace and deploying it without account.

CONCLUSION

The ʿulamā of Tehran and particularly the mujtahids played an important role in the Constitutional Revolution of 1905-9, and yet it was not a united role. Ostensibly they divided into pro- and anti-constitutionalists, but as Arjomand has pointed out, the division was in fact superficial, and many ʿulamā did not maintain one position throughout the course of the Revolution.

Before examining the pro- and anti-constitutionalist division, however, it is necessary to consider the deeper divisions within the ʿulamā of Tehran as a group. It has already been stated that this study is concerned with the orthodox ʿulamā, so religious doctrine was not a dividing factor amongst this group. The main differences to be noted were financial. The chief economic sources of the ʿulamā, as discussed in Chapter II, were vaqf foundations, contributions from the faithful, fees for judicial services, and salaries and pensions. These sources of income, however, were not under the secure control of the ʿulamā, and the membership of the religious estate being large, there was fierce competition for the money available. Vaqf income might be in the hands of the Shah, or another layman, who could appoint or remove the mutavallī at will. The faithful, if dissatisfied with the representations made by a particular mujtahid on their behalf, or his political stance, might take their contributions elsewhere. They could also bring their sharīʿa business to any number of different mullahs. Salaries and pensions were in the gift of the state, most notably the Ṣadr-i Aʿzam, who would expect support in return for any grants bestowed.

On the other hand, a mujtahid's influence and prestige depended a great deal on his financial resources. Ideally a mujtahid attained his position of eminence by his knowledge of the sacred texts, by the judgements he gave, and by

conduct worthy of emulation. In practice, it was extremely hard to fund the long years of study which such an ideal required. Most mujtahids inherited their positions, as happened with Āshtiyānī, Bihbihānī, Ṭabāṭabā'ī and Ṣadr al-'Ulamā. Others, like Shaikh Faḏlallāh, were assisted by an eminent relative. Those mujtahids who inherited their office might also expect a certain amount of inherited wealth, particularly in the form of endowments made by their ancestors to their own family in perpetuity. Such inherited wealth alone, however, was rarely sufficient for an heir to assume his father's position, as the case of Sayyid Muḥammad Tafrishī shows, so the mujtahid had to struggle with rival mujtahids for the other sources of funds available to attain a prominent position. To do so he needed to be attuned to popular goals and discontent, or to the goals of those with means to contribute, so that the laity would bring him their canonical contributions. As Muṭaharrī has pointed out, this made the mujtahid vulnerable to popular pressure and obliged him to pursue ends with which he might not at heart be in accord.¹ The mujtahid also needed wealth for patronage, as in Qajar Iran influence without patronage in one's gift was virtually impossible. In particular he needed money to pay his ṭullāb, who were a symbol of his prestige and his strong arm against his enemies.

Unfortunately not a great deal is known as yet about the background of the mujtahids who participated in the Constitutional Revolution, but certain tentative conclusions are possible. It is notable that Bihbihānī, Ṭabāṭabā'ī, and Ṣadr al-'Ulamā came from long-established Tehran families. In addition they had close connections with the bazaar, and this may well have been a result not only of their influence in the quarter in which they lived, but of their families'

1. A.K.S. Lambton, 'Marja', op. cit., pp. 133-4.

long residence in the capital. Shaikh Fażlallāh, by contrast, does not appear to have come from an old Tehran family, his most notable relative being a mujtahid in the 'Atabāt. He does not seem to have earned much from vaqf property or bazaar connections, but lived rather on the fees of his sharī'a duties. He also seems to have developed links at court and risen to prominence largely through his cooperation with 'Aīn al-Daula when the latter became Ṣadr-i A'zam.

The influence of the mujtahid's following and connections upon him is most striking in the case of Bihbihānī. In the years before the Revolution he derived great influence from his link with Amīn al-Sultān. The fall of the latter and the consequent cutting of remuneration meant Bihbihānī lost influence. He strove to regain his previous position by working for the return of Amīn al-Sultān, and using popular grievances, he represented the complaints of the merchants against Naus. After the initial failure of this campaign, he found himself without money to pay his students. This was the factor which persuaded him to join with Tabātabā'ī in an attempt to remove 'Aīn al-Daula. It was near defeat at the hands of 'Ain al-Daula that induced him to press for an 'adālatkhāna. After this institution had been granted, there are signs that Bihbihānī changed his mind about the merits of such a body, but pressure from his following of merchants, guildsmen and ṭullāb induced him to pursue the matter. After the establishment of the Assembly he was again prevented from coming to terms with the conservatives by his following, this time with threats upon his life. In the succeeding two years most sources, Persian, British and Russian, agree that Bihbihānī was indifferent to constitutionalism, Hartwig commenting that if it ever became advantageous for him to join the anti-constitutionalists, he would not hesitate to do so. It never did become advantageous. His constituency lay with the merchants, guildsmen and anjumans, conservative views being well represented by Shaikh Fażlallāh.

If Bihbihānī was a pro-constitutionalist mujtahid, it was because his following dictated that he must be - deprived of his following he would have been without influence or prestige. Thus if Bihbihānī - and to some extent Tabātabā'ī - appeared to lead the constitutional movement, in reality it may be said they were quite as much pushed from behind.

A number of mujtahids who were ostensibly pro- or anti-constitutional were really probably governed by a variety of motives. This was true for a brief period of Shaikh Faḡlallāh himself, for he is known as one of the three mujtahids who founded the Majlis. Examination of his recorded actions reveals, however, that he was a firm supporter of 'Aīn al-Daula, until that minister proved powerless. As soon as constitutional doctrine, as such, was introduced, he began to manifest signs of discontent, coming into open opposition in 1907. By that time he had once again a strong ally in the new Shah. It is true that what he initially supported was an elected Majlis not a constitutional one, but subsequently he was to argue against representation, and it is difficult to conclude his conduct in 1906 was dictated by anything other than expediency. Other mujtahids seem to have changed their view at least partly for ideological reasons as the implications of constitutional government became clearer. Sayyid Murṭaza Āshtiyānī and Muḡammad Riḡā Qummī appear to have responded to these implications by withdrawing from political activity. Āshtiyānī was, however, drawn back onto the constitutionalist side for personal reasons, that is the murder of his brother. Pecuniary motives were also significant in dictating conduct, influencing the initial antagonism of Sayyid Akbar Shāh, and Sayyid 'Alī Yazdī's final support of the constitutionalist cause. A number of mujtahids preferred quite simply to be on the winning side. Chief among these 'Vicars of Bray' was the Imām Jum'ā, who changed sides no less than three times.

Rivalry was probably not a very significant factor in establishing the position of the mujtahid vis a vis the constitution. It has been argued by constitutionalist historians that the rivalry of Bihbihānī and Shaikh Faḡlallāh induced the latter to become an anti-constitutionalist since no place was allowed him on the constitutional side. However, Shaikh Faḡlallāh's opposition to constitutionalism went deeper than mere rivalry, as is shown by its very consistency, ending in his death. The constitutionalist historians have perhaps sought to obscure the gravity of the questions that he raised by attributing to him a trivial motive.

There is some evidence that kinship was a dividing factor among members of the ʿulamā. During the course of the Revolution members of one family tended to stay together. This was most noticeable at the initial stages at the time of the departure to Shah ʿAbd al-ʿAzīm. The group who took bast included both Āshtiyānīs, Bihbihānī and his two sons-in-law, and the brother of one of them, Ṣadr al-ʿUlamā. Ṭabāṭabāʿī's brother and three sons joined him. One of Shaikh Faḡlallāh's sons was an active opponent of the constitution in Najaf. Shaikh Mahdī Nūrī's espousal of the side opposing his father is perhaps the exception. Some of the initial family cohesion was broken in the course of the revolution for reasons both financial and ideological, as both Aḡmad and Abūʿl Qāsim Ṭabāṭabāʿī, for example, joined the opposition.

Another division was one of age. The younger members of the ʿulamā (āqāzādīgān) were denied much chance of power or prestige whilst their fathers lived. In 1906 in particular the reform movement was perceived by this group as a chance to make a name for themselves and acquire status. Notable among them were Ṣādiq Ṭabāṭabāʿī and Muḡsin, the brother of Ṣadr al-ʿUlamā, who gained control of the newspaper Majlis. Both continued to be active after 1909, Sayyid Ṣādiq ultimately becoming one of the Presidents of the Majlis.

It would seem, therefore, that Arjomand is correct in assuming that the attitude of the ʿulamā towards constitutionalism was not the defining feature in their behaviour. But Arjomand has taken the matter further and argued that:

'The divergent attitudes within the clerical estate are best looked at as relatively superficial differentia resting on a common outlook'.²

It cannot be denied that the mujtahids and the lesser ʿulamā had a great deal in common as members of the religious estate. This is reflected in the manner in which they defended their privileges, as for example, over the punishment of sayyids; It is shown in Bihbihānī's defense of the sharīʿa in the debates on the Supplementary Fundamental Law in 1907, in which he showed much in common with Shaikh Faḡlallāh; it is revealed also in his refusal to countenance a proposed tax on the sharīʿa. All the mujtahids except Ṭabāṭabāʾī agreed that equality was not compatible with Islam; after 1909 Bihbihānī and Khurāsānī found themselves at odds with the radicals, especially Taqīzāda, as Shaikh Faḡlallāh had been previously. As Arjomand has pointed out all were influenced not by nationalism, but by religious nationalism, that is the consideration of what might strengthen Islam.

Yet the fact is that the ʿulamā, even the mujtahids, did not work as a group, despite their common ground. There are perhaps two reasons for their divergences. One is that most of them simply did not understand constitutionalism, and the threat it presented to the interests of the religious estate. The debates even of Nāẓim al-Islām's secret society reveal their confusion, or failure to grasp many points. Although Ṭabāṭabāʾī realised that education was fundamental to the successful establishment of constitutionalism, he does

2. S.A. Arjomand, 'ʿUlamā's Traditionalist Opposition', op. cit., p. 184.

not seem to have comprehended that constitutionalism would create a centralised nation state that would seek to impose taxation on vagf land, and to severely curtail the authority of the sharīʿa. There is some evidence that Bihbihānī was doubtful about the benefits of the Majlis and constitutionalism, especially during 1906, but the only mujtahid who appears to have thought through all the implications of constitutionalism, particularly in terms of its conflict with the sharīʿa, was Shaikh Faḥlallāh.

More significant in the ʿulamā's lack of unity, however, were the divisions caused by the differences in their financial position already mentioned, and their links with other groups within the community. Bihbihānī and Ṭabāṭabāʾī had a different kind of following to that of Shaikh Faḥlallāh. The pressures imposed by his following led Bihbihānī in particular to pursue a course that was apparently not in his interests as a sharīʿa jurist. His policy seems to have been that he would deal with the long term disadvantages of constitutionalism in the long term. His immediate concern was to retain his position of power and influence, and this was best achieved for the present by identifying with constitutionalism. There was a good deal which members of the ʿulamā did not have in common. For example, a mullah such as Sayyid ʿAlī Yazdī, who depended for his income on the court, had perhaps less in common with a mullah who subsisted on contributions from his bazaari congregation, than he had with another dependant of the court. Members of the ʿulamā whose salaries and pensions were cut were likely to identify with notables in the same situation. Higher taxes on bazaar merchants no doubt made themselves felt in lower canonical contributions. Further, as mentioned in Chapter II, many of the lesser ʿulamā were linked to, or dependant on, a particular mujtahid, and their interests would, to a great extent, be identified with his, so they would most likely follow his lead. These significant divisions undermined the potential unity

identified by Arjomand, and lead the ʿulamā to follow different policies during the Revolution.

There was also an important ideological point which divided the pro- and anti-constitutional ʿulamā, and this concerned the role of the Shah. The anti-constitutionalists considered that in the absence of the Imām, the absolutist system best served the interests of Islam, as long as the Shah respected the sharīʿa and defended the religion. In the absolutist system the Shah was dependant on his service to Islam to justify his rule. The pro-constitutionalist ʿulamā, or at least a few of them led by Tabātabāʾī, believed that Islam would best be strengthened by the inauguration of an elected assembly. Such an assembly would render the government accountable, introduce new laws in the government sphere and thus make the administration and the army more efficient. These improvements would ultimately serve Shiʿite Islam by regenerating Iran, its homeland.

Tehran society at large was also divided into pro- and anti-constitutionalists, with equal lack of consistent conviction. The Shah and certain members of the court, notably Amīr Bahādur, opposed it from the first. They were joined, as time went on, by those whose interests were threatened, holders of tuyūl and of salaries and pensions, dependants of the palace who found themselves without pay after the Majlis had made economies. These persons, as both Hairi and Arjomand have remarked, found their ideological protagonist in Shaikh Faḡlallāh.

The opposing side was composed largely of merchants, guildsmen and ṭullāb. The initial opposition of the merchants was motivated largely by their desire to remove those who imposed higher taxes, notably ʿAīn al-Daula and Naus. By 1906 the merchants, as Gilbar has noted, were among the prime movers in the movement for an elective assembly, and the major

financiers of the bast. Their motives varied but appear to have included above all a desire to render the government accountable for its finances. Other possible goals were improvements in the law, and a chance to participate to a greater extent in the country's economic development. The major merchants were very active in the Majlis, sitting on important committees, such as that on the finances. Together with the mujtahids they, for a while, formed a moderate body of opinion in association with Amīn al-Sultān. By 1908, however, they appear to have become disillusioned, largely because of the breakdown in law and order with the rise of the anjumans. The role of the lesser merchants is less clear and awaits a more detailed study with close attention to their different functions. However, the evidence shows that the ṣarrāfs were active on the reformist side throughout the Revolution, one of their main reasons apparently being the failure of the government to repay its debts to them.

The guilds were also significant for their support of the Majlis. As with the merchants, this support appears to have begun as an objection to higher taxes, in part possibly instigated by the merchants. Opinion on constitutionalism seems to have varied amongst them, from those, who as the Revolution developed, made some attempt to understand and believe in it, to those particularly amongst the elders, who felt the old system served them well enough, to those to whom it remained a means to oblige the government to fix or lower prices. There is some indication that certain guildsmen perceived in the Majlis an opportunity for law reform, but not at the price of conflict with their mentors among the ʿulamā. On the whole the guildsmen appear to have taken their leadership from the ʿulamā and the merchants, making few significant contributions, for example, to the debates in the Majlis.

The tullāb may tentatively be divided into two groups. Those with a serious calling in theological studies, and those who clung to the madrasas as a means of subsistence. The tullāb were active particularly in 1906, and were reportedly influenced by events in Russia. After the establishment of the Majlis, they are mentioned less as a large group. This is perhaps because the ones with a desire to make a career in theological affairs still followed the mujtahid who paid them. The less dedicated ones may have swelled the ranks of the poor folk who made up the anjumans.

The ʿulamā, notably the mujtahids, played a significant role in organisation on both the pro- and anti-constitutionalist sides. Shaikh Faḏlallāh organised demonstrations in the summer of 1907, including the bast in Shāh ʿAbd al-ʿAẓīm, and also the continued protests after the events of the Maidān Tūpkhāna. He was also active in the demonstrations of the autumn of 1908 and the spring of 1909. The fact that he was in debt at the time he died suggests that he spent some of his own money on the absolutist cause. However, his role in that respect was equalled, if not surpassed, by that of the conservative courtiers. They are reported to have funded the Shaikh's activities at nearly every point, as well as founding anti-constitutionalist anjumans. Most important, however, was the Shah himself, and the trial of his roughs reveals that the major demonstrations were organised from the Palace through his special henchman for such purposes, the chamberlain, Mujallal al-Sultān.

The role of the mujtahids in organisation on the constitutional side was perhaps most important. Bihbihānī in particular had connections with the leading roughs of Tehran including Ṣanīʿ Ḥaẓrat Muqtadir-i Niẓām Ḥaj Maʿṣūm and Mihdī Gāvkuš. His links with the lesser merchants and his long standing relations with the British enabled him to instigate the bast of 1906. His connections with members of the higher

bureaucracy were possibly an important factor in bringing the bast of December 1905 to a successful conclusion. The two mujtahids were the point of connection between the rank and file of the opposition movement in 1906, the merchants who financed it, and the bureaucrats who gave it ideological direction. Through lesser ʿulamā such as Sayyid Jamāl al-Dīn Isfahānī they had contacts amongst the anjumans, though these do not appear to have been anything like as close or well organised as those of Taqīzāda and the Āzadīkhāhān with the Anjuman-i Ādharbāyjān.

Only two of the mujtahids of Tehran contributed significantly to the ideological debate on constitutionalism. These were Tabātabāʿī and Shaikh Faḡlallāh. It would appear that Tabātabāʿī was not desirous of establishing constitutional government in 1905-6, as he considered that conditions in Iran were not yet suitable, especially with the lack of education. Instead he advocated a majlis-i ʿadalāt, which would render the government accountable and remedy the ills of an arbitrary administration. He did not, however, work out in detail how his majlis would be organised, and the idea was thus overtaken by constitutionalism, which could call on a fully worked out system.

Tabātabāʿī's views on legal reform are not entirely clear, but most probably, like many of the pro-constitutional ʿulamā, he hoped for reform in the area of government administration, but in conformity with the sharīʿa. His defense, alone among the ʿulamā, of the principle of equality regardless of religion, and his remark that the establishment of the Majlis would mean the end of much business for the ʿulamā, suggest that he was willing to see a more extensive legal reform than his fellows. It is unlikely, however, that he really understood the inherent conflict between a legal system based on the revealed word of God, and one based on the will of the people represented in Parliament.

It has been maintained by some writers that the ʿulamā opposition in 1905-6 was a characteristic Shi'ite campaign against injustice. Algar in particular holds this view and sees the ʿulamā as leading the opposition in the role of nāʾib-i ʿāmm. Lambton views the aim of the opposition movement as the restoration of just and righteous, i.e., Shi'ite government. In response to this view it must be stressed that Ṭabāṭabāʾī was the ideologue amongst the ʿulamā of the movement against the absolutist government. The sources of his ideas, as indicated in Chapter IV, were primarily western, as he himself stated. There is no mention in any of his speeches of any major Shi'ite source, nor did he place any emphasis on the ʿulamā's role as nāʾib-i ʿāmm. It is true that the protests followed traditional patterns, with cries for justice, and crowds turning up in winding sheets declaring themselves ready for martyrdom. It must, however, be asked when there had ever been righteous Shi'ite government, and whether the justice envisaged was an ideal concept drawn from the past, or merely the restoration of the 10% deducted from one's salary or pension. Indeed, the mechanisms of protest must not be confused with the nature of what was demanded: in the case of the majority of the ʿulamā the restitution of personal grievances for themselves and some of their following, and in that of Ṭabāṭabāʾī and a few others, the implementation of new values, ideas and institutions drawn from western thought.

Shaikh Faḏlallāh was the ideologue of the absolutist cause. Hairi has discussed Shaikh Faḏlallāh's arguments on the drafting of a constitution, representation, legislation, liberty and equality. This study has sought to stress Shaikh Faḏlallāh's essential point, that constitutionalism and the sharīʿa are based on different sources of law. The one derives its authority ultimately from the revealed will of God. The other is based on the will of the people in Parliament. The Majlis therefore did not belong to the category of things that had to be obeyed, and could not claim

to be the ultimate source of authority. Shaikh Faḥlallāh perceived that constitutionalism threatened the sharīʿa more than absolutism because it had a dangerously attractive legitimising doctrine, which absolutism lacked. That is why he was at pains to attack representation and to make the point that vikālat used in the constitutionalist sense is different to vikālat as used in fiqh. The constitutionalists were employing vikālat where the fuqahā would use vilāyat, that is for authority over the affairs of the community.

As Hairi has pointed out, Shaikh Faḥlallāh sought to disqualify anyone, including a mujtahid, from legislation. The mujtahid can only elicit the provisions of the sharīʿa from the sacred texts. To this point it may be added that the constitutionalists argued that the laws may be changed according to the exigencies of the age. Shaikh Faḥlallāh responded that the sharīʿa may never be changed - it was complete and perfect and appropriate to all ages. It has been noted further in Chapter VIII that Shaikh Faḥlallāh believed that legislation would interfere with the fundamental purpose of the sharīʿa and the system which had been carefully constructed to achieve that purpose. In arguing that constitutionalism might, for example, make obligatory actions which the sharīʿa declared merely permissible, Shaikh Faḥlallāh was accusing the constitutionalists of interfering with the five qualifications which define every action of a Muslim. The purpose of these qualifications is to guide the Muslim to good conduct in this world and to salvation in the next.

The constitutionalist ʿulamā believed that the Majlis would only legislate in what they termed the umūr-i ʿurfīyya. By this they appear to have meant matters dealt with in practice by the state and customary courts. Shaikh Faḥlallāh also recognised that there existed in practice affairs that were under the authority of the secular power, and even conceded that there was a need for reform in such affairs.

These matters had fallen by a series of accidents outside the scope of the sharīʿa. Affairs which still remained within the scope of the sharīʿa he termed umūr-i ʿāmma (of course in practice under the traditional system the two spheres of authority, umūr-i ʿāmma and umūr-i ʿurfiyya had overlapped and been confused). The constitutionalist ʿulamā believed that the powers of the Majlis would be limited to the umūr-i ʿurfiyya. Shaikh Faʿlallāh, with his clearer understanding of the sources of law, realised that in practice constitutionalism would make no such distinction, which is why he demanded to know the boundaries (ḥudūd) of the Majlis. Constitutionalism was more likely to encroach upon the sharīʿa than absolutism because of its national basis and its powerful legitimising doctrine. The points of potential conflict between parliamentary law and the sharīʿa were not clear to the constitutionalist ʿulamā partly because the lay constitutionalists tended deliberately to obscure them, because of their need for the ʿulamā's support. One major example arose in the matter of equality. Constitutionalism based on the community of the nation state recognised the wishes of individuals regardless of creed. The sharīʿa based on the community of believers, could not accord to non-believers the same privileges as to Muslims.

It was Shaikh Faʿlallāh who drafted Article II of the Fundamental Law which provided for the supervision of legislation by a council of ʿulamā. This article had the support of two other leading mujtahids, but their attitude differed from that of Shaikh Faʿlallāh. To the constitutionalist mujtahids the Article was a satisfactory means of ensuring that legislation would be in conformity with the sharīʿa. To Shaikh Faʿlallāh it was a last resort to protect the sharīʿa against a system he regarded as a dangerous threat and would really rather not have accepted at all. Shaikh Faʿlallāh was criticised for drafting the Article and then reneging on his promise not to oppose the Majlis if it were

carried. This criticism did not take account of the fact that the Article as ratified differed from his initial draft most particularly on the point that in the final version selection of members of the council lay with the Majlis, not with the leading ʿulamā. As Shaikh Faʿlallāh foresaw the Article was rendered virtually nugatory.

Shaikh Faʿlallāh used the term mashrūṭa to mean that form of constitutionalist government that the westernisers were trying to impose on Iran. One of his demands in 1907 was for mashrūṭa-yi mashrūʿa, constitutional government in accordance with the sharīʿa. There is, however, no such thing, as Shaikh Faʿlallāh well knew, for the whole force of his arguments in his various pamphlets went to prove it. Mashrūṭa-yi mashrūʿa is best understood as a slogan used at an expeditious moment. It was originally devised by the constitutionalists in an attempt to win support amongst the ʿulamā. In the summer of 1907, when, as Spring Rice pointed out, constitutionalism was the universal cry, and it would have been fruitless to argue against the existence of a majlis, Shaikh Faʿlallāh turned the constitutionalists' own slogan against them. If, however, he had to have a majlis, then it must be based on the sharīʿa - a goal better summed up by his other slogan niẓāmnāma-yi islāmī.

The constitutionalists offered various arguments in their attempts to refute Shaikh Faʿlallāh. As already shown they tried to establish the existence of a division in authority between the umūr-i ʿurfiyya and the affairs covered by the sharīʿa. But they could work out no clear dividing line, and did not confront the problem of having two conflicting legal systems existing side by side. They tried to differentiate between the roots and the branches of the sharīʿa, between essential and secondary principles, but in fact no such divisions exist. They also tried to argue that the Majlis would execute the sharīʿa, but this brought them into conflict with the fact that law had first to be deduced

by the ʿulamā before it could be executed by anyone else. The constitutionalists never really answered Shaikh Fażlallāh's fundamental points on the sources of the authority of the Majlis and the limitation of its powers. As Hairi has shown, not even an ʿālim as eminent and gifted as Nāʿīnī was able to find adequate refutations.

In addition to providing ideological arguments on both sides the mujtahids had an important part to play in legitimising the view they supported. Shaikh Fażlallāh, by attacking the roots of constitutionalism and showing them to be contrary to Islam, as well as establishing the Shah as one of the executive authorities of the religion, served the absolutist cause. On the opposing side, although constitutionalism itself does not, of course, need religious sanction to legitimise it, in Iran at that time representation of the will of the people was little recognised and imperfectly understood. The authority of Ṭabāṭabāʿī and Bihbihānī was thus needed as further proof of the legitimacy of the Majlis in a still very traditional society, particularly in the face of the attacks of Shaikh Fażlallāh.

The mujtahids' role in the Revolution was significant only from 1905-1909, that is for a relatively short period. The influence of the anti-constitutionalist ʿulamā began to wane with the collapse of the absolutist cause. In the spring of 1909 the bankruptcy of the government, the opposition forming at Iṣfahān and Rasht, and the continued pressure from the British and the Russians led the Shah to seek a compromise with the constitutionalists. From this point an estrangement grew between him and the anti-constitutionalist ʿulamā. Their complete defeat in the summer of 1909 indicates how closely their cause had been identified with his. After the absolutist opposition crumbled, the constitutionalists likewise no longer needed Bihbihānī and Ṭabāṭabāʿī to legitimise the Majlis in terms of Islam. Ṭabāṭabāʿī, in any case, withdrew

from politics. Bihbihānī, with his political acumen, experience and contacts, continued to represent the views of some of his former largely bazaar constituency, the idea of the services of a parliamentary representation being still imperfectly understood, and the old and new arrangements existing side by side.

It has been argued by Algar that the 19th century in Iran was a period of conflict between the ʿulamā and the state, and that this conflict arose from the failure of Shi'ite Islam to accord legitimacy to the Shah. The irreconcilable differences between the ʿulamā and the state culminated in the Constitutional Revolution. In Chapter I of this thesis it has been contended that this was not the case. True, in fundamental jurisprudence the Shah had no legitimate place. But fundamental jurisprudence was not carried into practice by all the ʿulamā. Realising that they themselves had no adequate machinery to control political affairs, and recognising that a Shi'ite ruler was much preferable to the alternatives of Sunnī, or infidel rule, or anarchy, many ʿulamā sought accommodation with the state. Correspondingly they sought means to justify the Shah's authority and found them through God, the Imām, and through the proper execution of a legitimate function, the protection of Islam. There is evidence to suggest that by the latter part of the century a tacit agreement on the division of powers existed between Shah and ʿulamā. This agreement was to some extent shaken before the Constitutional Revolution by the centralising policies of the central government.

Although recognising that they had the authority to accord validity to a political institution, the mujtahids of Tehran do not seem to have seen themselves as Deputies of the Imām acting against an oppressive government. Tabātabā'ī made a vague reference to the Imām as the one true ruler, but he was, as has been discussed, primarily

influenced by ideas of western origin. The only reference to the ʿulamā as nāʾib-i ʿāmm, with aspersions cast upon the Shah, came from Sayyid Jamāl al-Dīn Isfahānī, who was not a mujtahid, and was a free thinker. The most powerful defendant of Islam, the one who argued most closely from the essentials of Shiite doctrine, Shaikh Faḡlallāh Nūrī, was at pains to justify the royal authority. Indeed he highlighted the position of the ʿulamā as nāʾib-i ʿāmm against the encroachments of constitutionalism, not against the royal power.

In 1905-6 the ʿulamā led a movement for reform, yet it is questionable whether with a few exceptions, they really understood or desired change. Under the traditional system they enjoyed a position of power and privilege, paying little or no taxes on substantial income, having superior control of the judiciary, and being invested with peculiar advantages in such matters as sanctuary and punishment. All these factors were obstacles to the creation of a uniform, national administrative and legal system. During the Revolution some of the discrepancies of the interests of the ʿulamā and their merchant and westernising associates became apparent. This was shown particularly in their resistance to legal reforms and to the taxation of vaqf property.

It is a remarkable paradox of the Constitutional Revolution that what began largely as a revolt against a policy of centralisation of government turned into an important stage in that very process. The chief reason is perhaps that the bureaucrats who had revived the policy in the 1890's took a leading part in the Majlis and the first constitutional cabinets. They were joined in 1907 by militant westernising reformers like Taqīzāda. In 1905-6, when there were so many groups with different goals and understanding of what was happening, members of the higher bureaucracy, such

as Sanī al-Daula, with their study and experience of the west, were alone in having clear objectives and the concept of a political ideology and organisation to carry them out. In the confusion of the situation they were able to implement some of their policies, assisted by those, like the merchants, who saw advantages in them for their own reasons. These policies included the reorganisation of local government with the provincial governors rendered accountable, the reordering of the finances with the introduction of the notion of a budget, of departmental accountability, and of something approaching a civil list for the Shah. As mentioned, at the Ministry of Justice, Mukhbir al-Saltana worked for legal reforms which gave greater power to the state. In all departments the notion of accountability desired by reformist bureaucrats, leading merchants and others before the Revolution was introduced. Because of the financial crisis and the disordered state of the country, these reforms, though ratified by the Majlis, remained in abeyance. However, they were not removed from the statute books, and were taken up and implemented under the Pahlavi regime. Considering the implications of the policy of westernisation and centralisation for the ʿulamā, Smart's comment in 1906 may be recalled:

'One remarkable feature of this revolution here - for it is surely worthy to be called a revolution - is that the priesthood have found themselves on the side of progress and freedom. This, I should think is almost unexampled in the world's history. If the reforms which the people, with their help, have fought for become a reality, all their power will be gone.'³

This is precisely what happened. The ʿulamā assisted in that process which they had so long resisted and which under the

3. E.G. Browne, Revolution, op. cit., p. 123: original letter in Browne Collection of Letters, Cambridge University Library.

Pahlavi regime was to create a new social, political and economic order, which reduced proportionally the numbers and influence of the religious estate, subjected them to taxation and control by state bodies (e.g. the Ministry of Auqāf) and took over many of their legal functions as well as curtailing the jurisdiction of the sharī'a.

Yet since the majority of Iranians remained loyal to Shi'ism, they retained an important residue of their former power as leaders of the Shi'ite community, which they were able to exploit when Moḥammad Riżā Shah's westernising and economic policies created social dislocation and widespread discontent. If Algar's view of the Revolution of 1905 as a culmination of conflict between religion and state was correct, it would be considered a Shi'ite revolution. In fact those who shaped its course, including Ṭabāṭabā'ī, were influenced by ideas drawn from the west, and it was therefore a constitutional revolution. The events of 1978 onwards might be more truly termed a Shi'ite revolution in that the doctrine that prevailed was, with some modifications, in the tradition of fundamental Shi'ite juristic thought.

APPENDIX A

Shaikh Fażlallāh's original draft of Article II
of the Supplementary Fundamental Law

The Sacred National Consultative Assembly, which has been established through the care of the Imām of the Age, may God hasten his coming, and the favour of His Majesty the Shāhanshāh of Islam, may God prolong his reign, and the diligence of the Proofs of Islam, and the whole community of Iran, may at no time pass a law that is not in accordance with the sacred precepts of Islam and the laws of His Excellency, the best of men, may prayers and peace be upon him. It is specified that it is the responsibility of the exalted ʿulamā, may the blessings of God be upon them, to distinguish whether the laws proposed by the National Consultative Assembly, have been and are in accordance with the sharīʿa. Therefore it is laid down that at all times a Council of mujtahids and jurists of the first rank should be in session, so that before laws are passed they may be first examined and discussed in that learned Council. If the proposal is contrary to the sharīʿa, it shall not be accorded the title of law. The judgement of the learned Council in this matter is final and must be obeyed. This article cannot ever be altered, 7th Rabīʿa I (20th April 1907).¹

1. Kasravī, op. cit., pp. 316-7.

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