

# The Wise Men of the Land of Morning

**T** O ONE who knows the real Oriental Kadi the Judge of the true Land of the Morning, it is amusing to hear an unjust Occidental judge called "Kadi" in derision, and as a term to describe his low moral standard. In truth, we western peoples who are lost in the complexities of legislation and precedent, extending backward for ages, have much to learn from the simple and clear logic of the Oriental Kadi.

I do not refer to the Kadi who holds court in European Turkey, or even in the western parts of Asiatic Turkey, where the subtleties of law have begun to make their way from civilized Europe.

Western culture has touched these Kadis and their education has made them largely European, because many of them have studied in German, Austrian and French colleges. They may be Oriental still in form and habits, but they are not permeated with Orientalism as are the Kadis of the true east, where life still is much like the life described by the story tellers of the Arabian Nights.

Presumably, the general Occidental idea that the Kadi is a corrupt and cruel judge, springs directly from the stories in those same Arabian Nights. The "generality of people do not stop to realize (although it is plain though) that the Oriental story teller is a satirist, and that he portrayed not the typical Kadi, but the exceptional one.

In the lands in the east of Palestine and farther east of them and in Arabia, sit the Kadis of whom I have knowledge, and who typify the Kadi of the Orient. Of course, there are corrupt and wicked and cruel and ignorant men among them, as there are in any class or profession in all parts of the world. But, as a whole, the Kadis are remarkable men with wisdom as great today as it was in the days when there began the tales of the wise and deep judgments of the Oriental judges.

The story of the Jar of Olives has its duplicate today in real life in many similar instances of simple clear-sightedness and of verdicts that are delivered according to no iron formula of written laws, but according to the dictates of common sense, vitalized by thorough knowledge of the human heart.

Among these kadis are men who never have traveled from their little villages and towns hidden away in the edges of deserts, and living still in the day of the caravan. Among them are men who have been Kadis for forty years, and who sit, ever serene and placid, listening to interminable stories of petty village disputes, with no sign of impatience or weariness.

These judges are in love with their profession; power and prosperity do not weigh with them against their ardor in the study of man; they are not impatient at the pettiness of a case, because to them no act of humanity is petty. It is the man whom they judge and not his trivial acts.

I have seen these men sit in judgment. Day after day they are as calm and self-contained as the sands that stretch away from their gates.

The secret of it is that they have no doubts. No tangle of previous decisions or conflicting statutes or constitutionality or policy confronts them. Every judgment goes back to the fountain head—the Koran. It answers all their questions. It is the compass that guides the ship of law in the true Orient.

These Kadis do not venture to sit in judgment if they are ill or perplexed by private affairs or unhappy because of misfortune of themselves or friends. They will not even sit in judgment if they are hungry or thirsty. They will not judge if they are in haste to be gone.

Not long ago I saw a witty article, written by a really experienced and keen traveler, in which he told about the calmness with which an Oriental kadi adjourned his court because he wished to take some refreshment and smoke his pipe. I suppose that this story, which was entirely correct as to facts, impressed those who read it with the autocracy and barbaric simplicity of justice in Arabia, where the traveler witnessed the scene.

But, as a matter of fact, that occurrence was a typical proof of the conscientiousness of the Oriental kadi. For what says the Koran for his direct guidance?

"Thou shalt not judge, oh, judge, hast thou pain within thy body, dost thou feel thy spirit troubled for thy soul, dost thou sorrow for thy friend! Thou shalt not judge, oh, judge, feelest thou hunger or dost thou thirst, until thou hast reached a spring to refresh thee! Thou shalt not judge, oh, judge, feelest thou in thy soul that God hath not willed it to let thee judge!"

"What!" said an old kadi to me when I praised a certain German judge, and, in proof of it, told how he had sat awake all night studying a case and then had sat for twelve hours to hear it in court. "What! Do you mean to tell me, O Gisor, that he dared to sit in judgment when he was weary and fatigued so that his soul and mind were not at peace? Unhappy judges of the Evening Lands, to whom the sweetest duty of man means wretchedness! For

surely no man can do justice unless he is happy and at rest with himself and the world!"

"And are you never unhappy?" I asked, "when you face a complex case that puzzles you?"

"Nay," said he. "We are never unhappy when we judge. If we be unhappy, we do not judge."

And so they sit, white bearded, undisturbed, patient, while fifty witnesses swear before them concerning a missing camel or the right to get water at a well. And when all the evidence is in they judge as carefully and conscientiously as if the fate of the Moslem world depended on their verdict.

These men are truly at rest. They have made the good fight, for they can become Kadis only after they have made it. They have no ambitions save to fulfill the words of the Koran. They smile at the strife that plays before them, and maintain their own souls in quietness.

Therefore the Kadi is not merely a judge in cases of law. He is the Wise Man of the district. Men come to him with their quarrels and disputes and embarrassments to be judged, even when the cases are not at all within legal jurisdiction.

In Arabia and the Eastern Asiatic Turkey a man cannot become Kadi by accident of birth and station or by favor of politics or other influence. He must choose the profession and train himself to it from early youth.

When the Oriental boy is 12 years old he must enter the Medrese, a theological government school, if he wishes to enter either the theological or legal profession. There he learns the Koran by heart. It is expounded for him minutely, passage by passage. He is known as a Softa while he is studying. When he knows the Koran thoroughly, so that he can hold his own in arguments with the teachers, he assumes the name of Hafsa, and prepares for his examination. A student rarely rises to the degree of Hafsa until he is 20 years old.

When he passes the examination he must choose at once between theology and the law. Having chosen the latter, he faces five years of study even harder than any that has gone before. During that time he must make himself proficient in logic, rhetoric, morals, philosophy, theology and law.

Then he is ready to pass the examination which shall entitle him to become a kadi. But he is not advanced to that dignity immediately after he has passed the examina-

tion, for the most important and distinctive part of the training has still to come. He must become one of the poor and learn their daily life, their temptations and their sorrows, by hard, personal experience.

This stage of his career lasts three years and almost all its conditions are rigidly prescribed. He must practice in court during that time, taking the cases of the poor. His income from this source is almost nominal and he must keep himself alive by earning a petty income with all kinds of hard, mean toil. So he learns the world in which he is to be a judge, for he struggles for existence as do the people who will come before him some day to be judged.

But though he experiences their privations and their temptations he may not stumble like them. "To become a judge, oh Hafsa, the green cloth that thou wearest around thy feet must be ever unsoiled," is the law. It is bitter, hard service. But they who go through it untarnished are wise when they emerge. They are what the koran demands when it says that only a human being who has become a true man shall dare to judge other human beings.

Hans Forsten, the Orientalist, who knows the true eastern judge better, probably, than does any other European today, tells in a recent work of his talk with kadi of Safed—a talk which illustrates what I have said here about the class.

"Poor judges of the unbelievers," said the kadi of Safed, Hassan Bey, to me, after he had read several articles from the Turkish law to me, and I had, in turn, explained to him about the duties of our judges. "Poor judges of the unbelievers! How often you must suffer painful hours owing to your duties!"

"That was strange to hear from the lips of a man who had been a kadi hidden away in that little hamlet in Palestine for forty years and in that time had heard little or nothing about European judges. When I asked him if he had never, for even a moment, repented his choice of a profession, the aged man smiled and answered:

"Not for a moment. How can one feel repentance for that which gives him joy?"

"And that truly is the secret of the judges of the Orient," concludes Forsten. "They are peaceful. I know more than one. Their profession gives them joy. We ready pretty Arabic stories of the astounding judgments of the kadis. The stories are true of today. The kadis are the wise men of the Lands of the Morning." LUDWIG H. SOUDEN.

## Preserving the Public Domain for Actual Settlers

**A** SCORE of leading western members of senate and house met in the office of the secretary of the interior in secret session a short time before congress adjourned. They were there at the request of the secretary, and the assistant attorney general was also present in advisory capacity. The question under discussion was the rather large one as to whether congress should pass a law allowing the government to lease to the cattle and sheep rangers of the west the remaining 500,000,000 acres of public lands.

The conference in the secretary's office developed the most serious differences of opinion as to the wisdom of such a course and comments exchanged were at times by no means pleasant. Wyoming declared emphatically for leasing; Colorado, Montana, Washington and other states, through their representatives present, declared their emphatic opposition for all time against any move to authorize the leasing of the public lands.

Finally Nebraska came into the wrangle with a proposition that a leasing law should be enacted applicable to that state alone, with the idea, of course, that if it worked well its operations could be extended by congress to other states. Thus was born the so-called Nebraska leasing law.

At a meeting of the senate committee on public lands, held subsequent to the conference with the secretary, Senator Dietrich of Nebraska entered the room with a large bundle of papers in his hand. Giving them to the clerk he said: "There is the end of the Nebraska leasing bill so far as I am concerned. The big cattlemen say it does not give them enough and the little cattlemen are arming to resist it." Senator Dietrich, who introduced and stood sponsor for this bill, might have gone further and told of the contents of the papers he handed to the committee clerk. They contained protests against his bill which ranged from a joint resolution of the Nebraska legislature to the kick of a single cowman. And thus died the Nebraska leasing bill.

Judge Van Devanter, the outgoing assistant attorney general, has stated that he does not believe a law can be drawn for leasing the great area of public domain which will be just to all interests affected. Perhaps this is true, but there is a widespread belief that there must be some way out of what is apparently a hopeless tangle. In time a system of grazing licenses will be evolved which will permit of the scientific as well as the practical administration of the tremendous landed estate of the people of this country. Such a measure will create no vested

rights for temporary occupants, will give no shadows of titles, no monopolies, and will help rather than hinder settlement by homesteaders.

All legislative battles are not fought on slings. When it is realized that no land the floor of house or senate, in the pages of the Congressional Record or even in the committee room. Many really serious and important contests never come close enough to the surface to receive official recognition even in the preliminary stages of congressional procedure. For years past there has waged a relentless campaign for the control of the great landed property of the United States. Beginning with an area of over 1,000,000,000 acres of land held in trust for the people by the representatives in congress, these vast possessions have been decreased year by year through sale, grant, gift and other innumerable ways in which land can be transferred from one owner to another, until the unappropriated public domain today amounts in round numbers to about 500,000,000 acres.

After a struggle, only equalled in the history of land legislation by the great fight which resulted in the enactment of the homestead law in 1862, congress passed the national reclamation act of a year ago and created a revolving fund, which will shortly amount to about \$20,000,000, to reclaim the fertile but arid territory of the western states.

President Roosevelt in his first annual message laid down the principle that "successful home-making is but another name for the upbuilding of a nation." In his message of last December he again called attention to the notorious and outrageous use of the present land laws. Great, however, is the political power of the landed interests of the sparsely settled western states.

In the years of the great trek to the west, when thousands upon thousands of native-born Americans and incoming foreigners were pushing the line of settlement west of the Mississippi, where the earth needed but tilling with the plow to produce sure harvest, it was then believed that the land business of Uncle Sam had reached its highest point. This belief was justified by the events of the few years following the 80s, for instead of alienating 25,000,000 or 26,000,000 acres of land a year to settlers, grantees and others, the amount disposed of annually fell to not over one-half, or even less.

In the year 1900 public attention was first thoroughly aroused to the great value for the future of the remaining public land as an outlet for increasing population, a remedy for social disorder, and as the future source of a food supply, which, from present indications, will become absolutely necessary within a few brief years. Speculation

and discussion became rife as to how best to conserve these values for present and future home-makers. The owners of large herds and flocks, land and timber speculators, and others who saw benefit direct or indirect in controlling large areas of real estate, recognized in this agitation a serious menace to their operations and set about the task of anticipating any action congress might be induced to take.

The land grabbers found it easy to accomplish their purpose under the present land laws and the methods of administration which prevail in the land office. In the first place the government requires only that the legal forms involved in securing land shall be letter perfect, and the receivers and registers of the land offices in the various western districts look no further into the practical application of the law than might be included in a view from their office windows. Under the present system they are machines for filling out blanks and not conservators or guardians of the people's interests.

The principle underlying all land legislation of the United States from the beginning has been that each citizen should be given a farm in return for which he was to live upon the land or so improve it as to benefit not only the new community of which he thus formed a part, but the country as a whole by increasing the aggregate wealth. That this principle has ceased to govern the land office in its disposal of the public land, except purely in theory, is a notorious fact proved by figures startling and compelling.

Of all the thousands of desert land entries, for instance, which have been filed in the last ten years, the land office only investigated 472, and out of these 297 were found fraudulent and eventually cancelled. The highest number of fraudulent claims investigated were upon the one point of speculative intent on the part of the settler, and in this respect Wyoming holds an unenviable position at the head of the list. Of twenty-three cases investigated in Wyoming nineteen of them were found fraudulent, or about 83 per cent of the filings are investigated except those in regard to which special contest or information is filed, and that in most cases there is no one so interested or so adventurous as to contest his neighbor's claim, the percentage of fraud in the cases actually investigated becomes of startling significance.

In 1900 the government of the United States deeded away over 13,500,000 acres of land; in 1901 these disposals reached a total of 15,500,000 acres, a figure which startled the country in its enormous proportions. In 1902, however, there was a gain of 4,000,000 acres, and the disposals made by the government reached the enor-

mous aggregate of nearly 20,000,000 acres. At the rate which has prevailed during the first six months of the fiscal year of 1903 the disposals will probably amount to at least 25,000,000 acres, or fully as much as was alienated at any time during the great rush of emigration to the west.

The population of the west is not increasing proportionately with this present rate of land disposal. In fact, in states where millions of acres have been deeded away to individuals there has been an actual decrease of the agricultural population.

All this simply means that under the homestead law as it stands today, under the desert land act, a measure born in selfishness and chicanery, and under the timber and stone act the people of the United States are being robbed of their landed estate, which, Lord Macaulay said, is the only thing which stands between the people of this country and the time when will come the real test of republican institutions.

In the city of Washington, about the lobbies of the hotels, in the corridors of the capitol, in the ante-room of the president's office, signs of this great struggle for the control of this tremendous empire were apparent daily during the session of congress. The tide surges from one end of the capitol to the other. The big range interests of the west have done and are doing everything in their power to get a measure through congress which will enable them to inclose with fences great areas of land upon which in time thousands of cabins can and will be built by homesteaders if these fences do not materialize.

During the last winter quiet but effective work has been done by those who are aware of the pernicious use to which the present land laws are being put, and, as public sentiment has been aroused to the real situation, the demand for a change of method is becoming more general. The situation is such today that it would practically be impossible to get any bill through congress which violated the now well-established principle of the conservation of the public land for homesteaders so clearly set forth by President Roosevelt in his two messages to congress.

### He Cleared It

"Will you allow me a moment to clear my throat?" huskily begged the condemned horse thief, with tears in his eyes. "Yes," said the leader of the vigilance committee.

With a quick movement of his hands, which they had neglected to tie, he slipped the rope from his neck, leaped from the barrel on which he was standing, mounted the fleetest horse in the lot and was off like a shot.—Chicago Tribune.