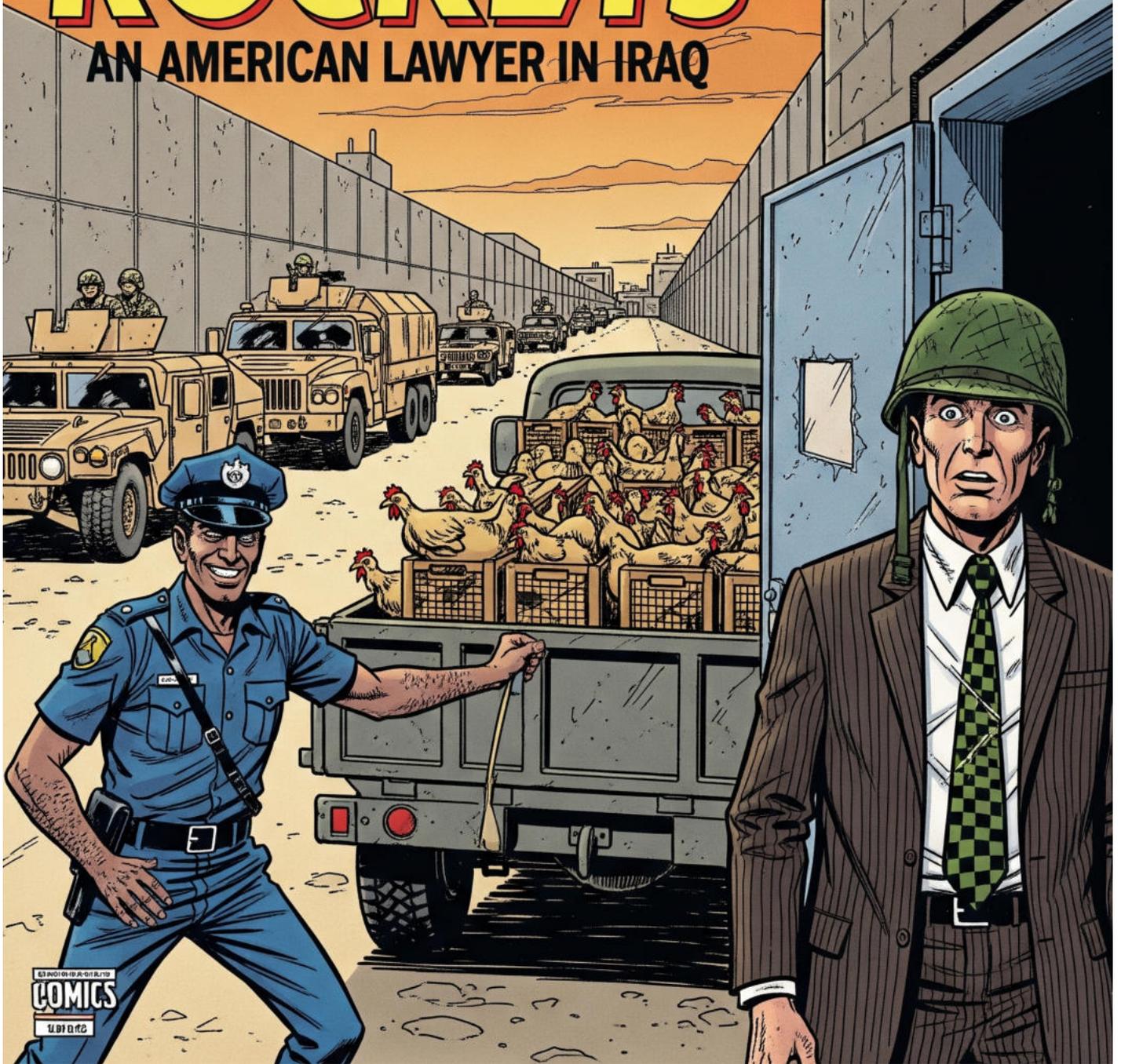


LAW AND ROCKETS

AN AMERICAN LAWYER IN IRAQ



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An American Lawyer in Iraq



MICHAEL O'KANE

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Law and Rockets: An American Lawyer in Iraq

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“And I have seen what other men sometimes have thought they’ve seen.”

Arthur Rimbaud, *Le Bateau Ivre* (The Drunken Boat), trans. Ted Berrigan

Introduction

I WAS ALREADY WORKING AS A young lawyer in Panama when I came across a copy of Norwood Allman's *Shanghai Lawyer* in a used bookstore in Minneapolis. Allman was an American lawyer who practiced before the United States District Court for China. The Imperial Japanese Army had invaded Shanghai and closed foreign institutions there. Allman avoided arrest and internment and made it back to the United States, where he wrote a book about his experiences working as an attorney in China.

When Allman published his book in 1942, the United States was at war against Japan. Allman fully expected that Chiang Kai-Shek would be restored to power and the foreign concessions in Shanghai renewed. The court where he had built his practice over many years would open again and he would return to the practice of law. He was wrong. Chiang's return to power was brief and the court simply disappeared. Allman never returned to China. In the United States he began a new career.

The closing of a court is a rare occurrence which most often happens on account of war. The courtrooms of the Venetian Republic host tour groups today;

after Napoleon conquered the Republic in 1798 there was no use for them. In 1982 the United States District Court for the Canal Zone closed due to the Panama Canal Treaties. United States district courts rarely go out of business: The chief judge of the Fifth Circuit Court of Appeals, Charles Clark, attended the ceremony. So did a Panamanian colonel named Manuel Noriega, who did not wear a general's rank until later.

The Southern District of Florida in Miami has built four new "main" courthouses since 1983 on account of the drug war. Today, like the empty Venetian courts, one of those Miami courthouses is no longer needed. The drug war has been replaced with real wars.

Law is not normally thought of as an international profession; it travels poorly. British lawyers enjoy more of an international practice since they are welcome in those countries where the outline of the Empire's footprint can still be seen. Today, British-flavored courts and arbitration centers with common-law rules and procedures are growing up in places like Dubai and Qatar.

The American lawyer who wants to work overseas has been less fortunate. The public sector has a limited amount of foreign practice opportunities and the private sector is even more limited. Nevertheless, some Americans have practiced law internationally. Allman was one of them and I am fortunate to have been one of their number too. Allman left a record of his experi-

ences practicing law overseas. I take my lead from him; I feel I have a duty to do the same.

After practicing for several years in Panama, I went north to Miami. South Florida was the epicenter of the War on Drugs, and if you were an attorney who had tried a few cases, spoke Spanish and had gone to high school in Colombia it was hard not to get involved. I had a drug war practice for several years. But with no enemy to surrender, no Reichstag to storm or embassy to evacuate by helicopter, the drug war just kind of petered out.

My next overseas mission was Saudi Arabia. I had been trying to get back to Latin America when I got the call. By 9/11 I was already in Riyadh. Before the airplanes hit the Twin Towers and the Pentagon, Saudi Arabia had been a faithful ally in the Cold War struggle against Communism. Saudis could pick up U.S. tourist visas at travel agencies—only exceptional cases merited an interview at the embassy. After 9/11 all of this changed and Saudi Arabia came to be seen as untrustworthy if not an outright enemy. My practice in Saudi Arabia was mainly corporate/commercial, consisting of contracts, construction matters and some dispute resolution.

I was not yet fifty years old when the United States went to war against Iraq. Unlike the drug war, this was a real war. In March, 2003 I flew back to Saudi Arabia in an empty Lufthansa jet. Everyone who could was leaving the Gulf in anticipation of the war; virtually

no one was traveling in the opposite direction. British Airways pulled out of the Kingdom entirely that March, 2003. Saddam had bombed Riyadh during the first Gulf War and people were afraid he would aim his Scud missiles at Riyadh once again.

At night on Saudi cable I watched Iraqi television. The Iraqi Army's press office had moved to an underground bunker. Whenever a bomb exploded closely, the newsroom curtains swayed back and forth prompting the uniformed telepresenters to hesitate—but just for a moment. Tariq Azziz, Saddam's press minister, tried to reassure the Iraqi public that all was well despite the American bombing raids. Herman Goering had once similarly reassured the German public that no bombs would ever fall on Berlin. Both were wrong.

Officially the war was over shortly after it began. The Iraqi Army put up little resistance to American forces, and the drive to Baghdad was more about moving men and equipment through the desert rather than an inch by inch fight for land. American troops reached Baghdad and quickly dismantled what was left of Iraqi command and control centers. They took out the Al-Jazeera news office in the Palestine Hotel with a rocket just for good measure. The embedded American media needed a photo op so one of the many statues of Saddam was pulled down with the cameras rolling. There had been little popular resistance to Saddam, but it wasn't difficult to find jubilant Iraqis who thought that

if they pulled down one of Saddam's statues the Americans would go home.

Then George Bush declared "Mission Accomplished" on board an aircraft carrier and everyone thought, "that's that."

The French ambassador to Saudi Arabia knew that it wasn't. The ambassador, probably an intelligence officer, had accompanied the French foreign minister to a meeting with Dick Cheney in January, 2003, just before the invasion. The minister told Cheney, "Our governments agree to disagree on Iraq. Fine. But we know that you are going in and we know that you will win. So we want to help with the reconstruction; we want to help rebuild Iraq. What are the post-invasion plans?"

Cheney told him there weren't any. Looking back, it is simply incredible to think that there were no post-invasion plans but there were none.

Cheney and his team hadn't thought that far ahead. Their mission was to disarm Saddam Hussein; whatever happened afterwards simply wasn't their concern. This became painfully obvious when the looting started. American troops stood by while the National Museum in Baghdad was sacked. Their rules of engagement did not include any orders to protect Iraqi institutions. This would soon change.

The United States threw together an occupation government when it realized that under the rules and usages of war it was responsible for running the country.

The Administration believed that just like in Panama, Germany and Japan the aftermath of invasion would primarily be political. Everyone thought that it would be so easy.

But it wasn't. Six years later the Americans are once again bogged down in a guerrilla war. Politics in Baghdad are divisive. Only a unity government could have sufficient moral authority to stop the fighting. The new Iraqi government was fiercely partisan and lacked power. Saddam was finally captured, tried in irregular Iraqi proceedings and then executed. The rule of law was mostly theater; the invading army was still in control. But the execution of the country's former leader was very, very real. Surely the execution would stop the fighting.

But it didn't. The fighting went on. But then General Petraeus' surge tactics showed some success. The tide was turning. In May, 2009 the Saudis finally listened to British Airways' years of begging and decided to let them resume flights to Riyadh. I was on their first flight out, returning to my house on 46th Street in Miami to work on the appeal of a murder case with tenuous links to the Obama White House. The client, Tom Tuduj, was desperate: at sentencing his own lawyers said that they considered him their enemy. The learned judge nevertheless permitted the sentencing proceedings to continue.

The Miami I came back to was not the one I had left years before. They say you can't go home

again for a reason. The most conservative American investment—the owner-occupied single family home—had lost 2/3rd's of its value in a severe economic recession. The U.S. Treasury's Troubled Assets Rescue Program (TARP) was sold to the American people as a solution for struggling homeowners, but the sale was a deception: as everyone knows today, TARP was a bank sector bail-out. I was so upside-down on the house that it made no sense to keep it. There really wasn't anything for me in Miami anymore. It was time to leave.

One day I received a telephone call from Liam Mooney, a recruiter who runs Blue Pencil Legal, a top-notch recruiting firm in Dubai. He told me about a German firm with offices in several cities in the Middle East. They even had an office in Baghdad. They were opening an office in the Green Zone. The firm is called MENA Associates, or MENA. They needed someone to staff that office.

MENA Associates is a law firm with offices throughout the Middle East: Cairo, Damascus, Dubai, Baghdad and Erbil, in Iraqi Kurdistan. Like not a few international firms, there was a link to the international firm Baker & McKenzie where the firm's principal, Florian Amereller, had once been an associate. Liam told me that the firm had a good reputation and was aggressively moving into Iraq. MENA appeared to be a medium-sized firm, small enough so that the

individual is not overlooked, but large enough to be able to offer a full range of services to its clients.

I was reassured by the Baker & McKenzie connection; many firms claim to be international ones but in fact are not. The presence of several functioning offices meant that I would not be on my own, even though the Green Zone office was small. There is a real difference between small and large law firms when it comes to administrative support. What is routine in larger firms can be an event in smaller firms. Having grown out of a larger firm, MENA would surely be familiar with the importance of developed back-office support. Even though I had never worked for a German firm before, I did not anticipate any difficulties. I had grown up in what had been a German-settled farming town in Illinois and had recently worked closely with a German lawyer in Riyadh.

Then Liam asked me,

“Would you be interested in going to Iraq?”

I said yes. This is the story of my brief career as an attorney in Iraq.

Miami–Cairo

July 22, 2010

JULY 2010. A tropical storm without a name settled on Miami and soaked the city. It was five in the morning and my two oversize suitcases were in the back of the pickup truck getting soaked. I was moving to Iraq and taking too much with me. Before six a.m. there was still relative peace on the roads. There was little traffic between Midtown and the airport; a straight shot from the entrance ramp at Miami Avenue to and past LeJeune Road. Traffic was starting to build up in the other direction; by 7:30 it would already be bumper to bumper. Inside the airport was another story. Flights from Brazil and Argentina arrived at three and four in the morning; the terminal was full of vacationers seeking to escape the Southern hemisphere's winter.

Since I was going to Iraq I really didn't have any reason to keep a house in Miami. But I knew from past experience that selling a house is never a hands-off affair. There is a constant back and forth with the realtor, documents to be signed, questions that have to be answered.

I asked my friend Donna if she would help me to handle day to day property matters while I tried to sell my house. Donna is an unemployed astrologer, qualified paralegal and former girlfriend of of Tony Garrudo, one of the principals of the Willie Falcón and Sal Magluta speedboat smuggling operation. Willie and Sal were legends in South Florida and for years handled transportation for the Medellin cartel. With these qualifications she could easily handle any matter relating to my home in Miami. In exchange, I told her that she could sell the furniture and other items left in the house in a yard sale and keep the proceeds.

My son Max drove me to the airport. A porter helped me unload the suitcases for the flight to New York. My suitcases could not be checked all the way through to Cairo; the firm had not sent me a ticket for the connecting flight. This is what happens when you travel on multiple tickets. I slept a little on the airplane to prepare myself for the ordeal that would be JFK; somehow I would have to lug these suitcases by myself from one terminal to another. I had spent the previous two weeks lifting boxes and packing. Now I hoped that I would be able to manage all the weight alone. It was good to have Max along to help and sad to say good-bye. He is a twenty-year old undergraduate studying in Chicago and has a full schedule of responsibilities and activities.

At JFK there is a People Mover which carries passengers from terminal to terminal. With all of my lug-

gage using the escalators was out of the question, but somehow I managed. Checking in at Egyptair was routine; Americans are given visas at the airport in Cairo. In 2002 an Egyptair flight from New York to Cairo crashed in the Atlantic. The National Transportation Safety Board concluded that the pilot had committed suicide. The Egyptian authorities reached a different conclusion. The Americans felt that the Egyptian's invocation of Allah in prayer was a sign of his lethal intentions. These cultural conclusions troubled me because I know that in Arabic God is invoked constantly.

Despite the accident, Egyptair remains a popular choice for travel to the Middle East because their fares are low. The general view is that an old accident is less important than low prices. In the Middle East, history is fickle. An Arab proverb says, "if it is not seen, it did not happen." Thus, passengers shouldn't be worried. Move along, please; here there is nothing for you to see.

The presence of a Coptic priest waiting in the gate area wearing an upside-down stubby stovepipe hat could only remind me of the need for spiritual protection of some kind. Next to the Triple 7 there was an Aer Lingus Airbus boarding as well. I couldn't see any priests at their gate. Perhaps religion is less of an issue on Aer Lingus flights.

As welcome as a vacation in Ireland would be, there would be no vacation for me. I was on my way to a war zone.

July 23

Cairo. Marriott Hotel in Zemalek. The flight was nine hours long. It wasn't too bad.

When I arrived in Cairo my suitcases were still damp from the Miami downpour. I unpacked them so they could dry out. I had received no instructions at all as to what to bring, so I had just guessed. I guessed wrong. Business suits may be the required uniform for attorneys in the United States but would be rarely used in the Green Zone. Black leather dress shoes would not only instantly be covered in dust but were not optimal for running. Slipping and falling during a mortar attack means that you won't reach the shelter. Still, if you fall, try to position your feet towards the direction of the blast so the shrapnel won't have your head as a target. And if there is only small arms fire, remember to crouch since ricocheting bullets hug the floor. Unfortunately no one provided me with necessary instructions like these. My mind was full of presumptions and guesses. Probably the biggest mistake I made was thinking that Iraq was safe.

Today I will meet Florian Amereller. On Monday, I should be leaving for Baghdad. There was a note that I would go via Abu Dhabi. This seems odd. A lot of things haven't been settled.

July 24

In the mid-afternoon Florian came to the hotel to pick me up. We went straight to the MENA office in Cairo where I met some of the attorneys working there. It seems to be a professional operation; it's a real office and not just a shop run by a sole practitioner. MENA's name is on the door. Once again I have an overseas job. Back in the saddle and all that. Just a couple of days ago I was hanging out on 46th Street; now I'm back in Big Law on my way to Baghdad.

Florian is married with children. He brought a Panamanian family to Egypt to help out at home. Arnulfo introduced me to the Panamanian family's old son, Arnulfo. Arnulfo has been in Egypt long enough to learn Arabic. Arnulfo tells me that he is excited about the office in Iraq and asks me question after question. I can't answer most of them as I have yet to be briefed. Arnulfo says that he doesn't think he will ever go to Iraq. As the conversation continues, it becomes obvious that Arnulfo has no real interest in Iraq whatsoever. The real reason for our conversation was to see if I could really speak and understand Spanish. Arnulfo was to report back with his findings to Florian. I know some Panamanian slang. *Chuleta*.

So, one of the first persons I met was an informant; a spy.

Florian is multi-tasking and not sure what to do with me. He has several overlapping dinner engage-

ments. He is a busy man. He boasted that he billed clients for several hour's work on the days his children were born. He suggests that Arnulfo take me to see the pyramids. He assumed that they would be open. Around 7:00 p.m. we left his home.

The pyramids had been closed for two hours when we left. No traffic may enter after five p.m. By the time we arrived it was after 8:30 and pitch black. Perhaps Florian wasn't aware of this detail. I'll try to go tomorrow, but given the state of things I don't think I'll get a chance. Florian is keen that I get to the Green Zone right away.

July 25

I wake up at 7:45 a.m.; there is a text message for me: we are leaving for Dubai promptly at nine. There will be no return trip to the pyramids. I checked out of the hotel after rushing to repack the suitcases. Luckily, I accomplished everything on time. Florian wanted to drop by the office before going to the airport even though we didn't have much time. Traffic was bad; it was stressful.

Florian wanted to drop by the office before we went to the airport. At the office I met Killian Balthazar, a German M&A attorney. The Cairo office had a good deal of depth for a medium-size firm. This was good news.

After less than a half hour in the office we drove

to the airport for a Singapore Airlines flight to Dubai. Singapore Airlines is part of the Star Alliance, which includes United Airlines. The cabin crew was very attentive. I figured I'd at least pick up some frequent flyer miles.

We arrived in Dubai and went to the Marriott Four Corners hotel on Sheikh Zayed Road near MENA's Dubai office. There was no time to check in. Florian wanted to go to the office immediately. We left our suitcases at the hotel. The office within walking distance, located just a few doors away in a building that fronted on Sheikh Zayed Road with a good view of the Dubai Metro.

I had a quick meet and greet with the attorneys and staff. Perhaps ten employees worked there. I found an empty office and waited for Florian. I thought that there might be personnel matters to attend to, but that wasn't the case. At some point after 5 p.m. we left the office and returned to the hotel so we could check in. Florian said we would be in Dubai for a few days so I started unpacking my suitcases.

In the evening, Florian and I went for dinner at MJ's Steakhouse in the Alcazar Hotel a few doors down from our hotel. This was our first opportunity to speak at length. Florian is well-connected to the secret world of the Middle East, the real world behind the one that gets reported. He tells me that Arafat's finance minister was a Kurd who now lives in Egypt. Arafat was offered 98% of the borders, millions of dollars and for refugees,

400,000 visas for the United States and a proportional amount for Canada. But Arafat said “no.”

I think I made a good decision by allying myself with what seems to be a quality firm. I wonder what awaits me in Iraq. I do not yet know what this new life will be like.

July 26

Florian is making preparations for Iraq. I feel that I’m already losing contact with people, but it’s supposed to be that way.

Tomorrow the Green Zone and Baghdad.

In the evening Florian and I and a few of the Dubai-based attorneys went out for dinner. One of the attorneys complimented me on my bravery. Somehow this is not reassuring. Or perhaps I have simply turned a blind eye to the danger. For me, this started out not so much as a journey to what the Arabs call the “House of War,” but merely as a return to the Middle East. I have never given much thought to the danger. But tomorrow I will land in Baghdad and in a very real sense begin a new life. I’m cutting off the life that I had before. Very little of it will survive. I have not thought about being brave. I simply have ignored whatever danger there might be.

I asked around today about what I should expect in Iraq and no one could tell me anything. No one but Florian had gone to the Green Zone. There was

no briefing, no orientation, no plans: I just need to get there. There has been no coordination with the military authorities. I should just go.

Green Zone

July 27

I GOT UP EARLY again to make our mid-morning flight to Baghdad. I marched the platoon of suitcases downstairs, Florian had already approached a group of a taxi drivers who were milling about in front of the hotel. He asked which of them really knew the way to the airport in Abu Dhabi, which was an hour away. Apparently Florian had once had difficulties with a driver who really did not know how to get to the airport, though there is just one road to follow. The drivers initially all claimed familiarity with the route, but then started correcting each other. Eventually, one of the drivers convinced Florian that he knew the way. It was a struggle getting my luggage into the taxi. Florian had only one suitcase that was just a little too large to check in if you were flying economy class, but you might get away bringing it aboard if you were flying business class. Florian wasn't staying in the Green Zone for long anyway, but I didn't know that. The trunk finally closed on my bags and we were off headed down Sheikh Zayed Road to Abu Dhabi, Dubai's wealthier but less flashy sibling. There wasn't much traffic and

soon we reached the airport turn-off from the main road.

We were flying Etihad business class from Terminal 1 and the separate check-in counter for Baghdad made the fact of our destination all too real. There were a few Iraqis already in line when we arrived. Though we were flying business class, because of security you can only have one carry-on; this is strictly enforced. Florian's bag had to be checked. The plane used for the flight was a small Airbus, the A320. The plane was brand-new, like most of Etihad's fleet.

In the business class lounge a German government official, Dr. Hans von Traven, greeted Florian and the two of them discussed plans in German. Dr. Hans is an academic. We discussed the current situation in Iraq. He disagreed with Florian's optimism and told me it would be ten years before things settled down in Iraq. He compared the current situation to that of Germany after the war.

As you are landing in Baghdad, depending on which side of the aircraft you are sitting, you can see a vast palace on an island in a lake. There is a construction crane visible from the air. I never learned whether this was one of Saddam's palaces or not. From the vantage point of the flight path there are no obvious signs of war, no signs of bombing. No bomb craters are visible.

The jetways at the newly-named Baghdad International Airport are not used. There were one or