COLONIAL POLICY

BY

Dr. A. D. A. DE KAT ANGELINO

Abridged translation from the Dutch
by G. J. RENIER Ph. D.
in collaboration with the author

VOLUME II

THE DUTCH EAST INDIES

HANGCHOW CONFERENCE
OCTOBER 21 TO NOVEMBER 4, 1931

THE HAGUE
MARTINUS NIJHOFF
1931

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Hangchow Conference
Edition

Published for the
AMERICAN COUNCIL OF THE INSTITUTE OF
PACIFIC RELATIONS
by
MARTINUS NIJHOFF
THE HAGUE
1931

IN TWO VOLUMES

VOLUME I
GENERAL PRINCIPLES

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ISBN 978-94-011-8234-8 ISBN 978-94-011-8904-0 (eBook)
DOI 10.1007/978-94-011-8904-0

HANGCHOW CONFERENCE
EDITION

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CHAPTER I

THE ADMINISTRATIVE SYSTEM

The Dutch East India Company

As a result of the emancipation of the indigenous administration [1]), of administrative reform [2]), and of the establishment of autonomous units like provinces [3]) and regencies [4]), the administrative system of the Dutch East Indies has, in the course of recent years, undergone great modifications. At the present stage we shall only discuss these modifications in so far as they do not more appropriately find a place in the fifth chapter, which will deal with political construction. For this construction has brought about a fundamental modification in the East Indian political system and has thereby given to so-called administrative reform an aspect altogether different from what the use of this restricted term might lead us to expect.

The following pages will therefore give only a description of the development of the administrative system from the time of the Company until the period which definitely starts in 1922 and

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[1]) The emancipation of Indonesian administrative officials in Java aimed at a better observation of the ancient principle of protectorate, put down in article 67 of the Government Act (now art. 118 I.S.) which wishes to leave the population as much as possible under its own chiefs. The principal of these officials, the Regents, can at the same time, in view of their traditional position in Indonesian society, be called chiefs. The Dutch administrative corps saw numerous functions passing into the hands of its indigenous colleagues and had to limit itself more particularly to the task of leadership and supervision. This transfer started on a modest scale in 1912 and was continued in 1918 (Staatsblad 674), 1921 (Stbl. 310, 779), 1922 (Stbl. 438), 1923 (Stbl. 276), 1925 681), 1926 (Stbl. 412, 413), 1927 (Stbl. 380), 1928 (Stbl. 344).

[2]) Cf. i.a. Stbl. 1922, 216 (Art. 119—122 Indian State Organisation 1925), 1925 (Stbl. 285, 404, 579), 1927 (Stbl. 558—561). See for a general survey Dr. L. Pronk: *De bestuursreorganisatie Mullemeister op Java en Madoera*, etc. 1929, p. 81—129.

[3]) Stbl. 1925, 378 (prov. West-Java); Stbl. 1928, 295 (prov. East-Java); Stbl. 1929, 227 (prov. Central-Java).

[4]) Stbl. 1925, 379—396, designation of the Regencies of West Java as autonomous communities; Stbl. 1928, 296—327, for East Java, and Stbl. 1929, 228—253, for Central Java.

which shows an attempt to transform the earlier mechanical structure into an organic state construction. Meanwhile, in considering the administrative system, our perspective will have to be somewhat extended in order to include the administration as a part of the task of government and the administrative organisation as a part of state organisation. This is all the more necessary as in the course of well-nigh three centuries of colonial contact the essentially administrative organisation has been placed at the service of all government activity, such as administration, police, justice, and legislation, a practice conforming with the formerly universal habit of concentration of functions, which even nowadays are scarcely if at all distinguished from one another, whether in Eastern states or in Eastern communities in the colonial world [1]).

This section also contains a historical survey, in view of the fact that the administrative system in its development is most intimately connected with the whole conception of government. It lends itself therefore to such a historic treatment and creates thereby the historical background which is indispensable to an appreciation of the monographs dealing with justice, education, agrarian policy, etc., that follow. In the other chapters, less reference will therefore have to be made to the past. Let us now begin by a glance at the conceptions of authority and at the administrative organisation during the régime of the East India Company [2]).

In the days of the Company there could scarcely be a question of a real administrative or judicial organisation. The Company was a trading organisation and it always most frankly admitted its mercantile character. Its policy aimed at making as big and as quick profits as possible in order that it might pay large dividends to its shareholders. Therefore its organisation, even the High Government of Batavia, was first of all a trading organisation. Apart from sailors, military men, a few judges, clergymen and schoolmasters, its personnel consisted of trade agents who were at the same time entrusted with diplomatic, administrative, judicial,

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[1]) Prof. Van Vollenhoven: *Scheiding van macht in het regeeren overzee*, "*Kol. Tijdschr.*" 1929, p. 228.

[2]) *Cf.* article *Compagnie* in *Encyclopaedia van Nederlandsch-Indië*; Colenbrander, *Koloniale Geschiedenis*, 1925, II, esp. ch. XI—XIV; F. de Haan, *Priangan*, 1910, I; J. E. Heeres, *De Oost-Indische Compagnie*, in *Neerlands-Indië*, 1929, p. 293 sqq.

and other functions which the Company saw itself compelled to delegate to its representatives as its own sovereignty increased.

The Company itself had not the slightest desire for an extension of its territorial power. If it had had its own wish, it would merely have established undefended trading counters along the coasts between Africa and Japan. It would have made everywhere trade contracts, preferably of a monopolistic nature, with rulers and peoples and would have assured to itself the exclusive import of trade articles, and still more the export of the highly desirable Eastern products. But it was precisely this desire of monopoly that led it to accept authority. To begin with, it resulted in clashes with the Portuguese, the Spaniards, the English, and other Western competitors. Moreover, in some commercial centres already existent in the Archipelago the Company's monopolistic policy naturally was not welcome. Company diplomacy succeeded in concluding all kinds of favourable and less favourable treaties, but the exercise of authority and sometimes ruthless violence proved to be necessary in order to protect and to maintain the monopolies so gained. Once invested with sovereign authority, the Company became involved in all kinds of complications in relation to East Indian potentates and their internal affairs, because it was deeply interested in the maintenance of peace as a corollary of satisfactory production. More and more threads were thus woven attaching the Company to the Archipelago.

Originally the Company assumed the character of the roving adventurer who never definitely settles down. This was the period of the great journeys of discovery when ships were sent out in all directions, when trade counters or settlements were sown here and there, when there was a perpetual search for markets in order to be able to send rich return fleets to the motherland. The Company's power of expansion was all the stronger then because it restricted itself to superficial contacts, exclusively established with commercial aims. Its activities could cover half the inhabited globe, as it was not yet seriously hampered by other spheres of influence, and was not burdened by the duties the imposition of which, at a later stage, the sovereign authority of the Company was unable to combat. The ocean, says Dr. de Haan [1]), was the

[1]) *Op. cit.*, I, p. 34*.

domain of the Company, not the land. Its seal was a navigating ship, and its motto, taken from the poet Cats, referred to the sea as a source of commercial profits and a builder of flourishing big cities. "Therefore plough the sea!"

Thus, in the course of half a century, this trading corporation was able to extend its settlements across an immeasurable territory.

> "Its trading area now reached from Mocha and Aleppo to Timor and from the Cape to Decima in Japan. It had been organised in the manner of the Portuguese and was administered from fortified settlements on the coast or from small islands. Outside the Archipelago, its fortifications existed at Paliakate, at Negapatnam, in Ceylon, on the coast of Malabar, and on the Cape. In the undefended factories of Hooghli, Surat and Gamron, there were garrisons of soldiers, but usually, and especially in very powerful states, the Company maintained its character of a purely trading concern, as it did in Siam, Cambodia, Tonkin, Mocha, and Japan. Where it appeared possible, the Company aimed at creating a monopoly, even outside the Archipelago. This was the case in Ceylon; but usually this aim was not deemed possible of fulfilment. It was altogether different in the Archipelago itself." [1]).

These last words describe the course of events during the following centuries. In this rich but poorly developed island world, the Company seized the opportunity to establish its monopoly slowly but surely. Elsewhere, in China for instance, its efforts broke upon the resistance of powerful Eastern states or of Western competitors who were equally zealously at work carving out spheres of influence for themselves. In this way, the Company was gradually compelled to change its policy of expansion only touching the surface into one of concentration within a smaller though by no means less promising field of action. This policy of concentration began to emerge after the middle of the seventeenth century, but it had already been pre-determined by the conquest of Djakatra in 1619, where Batavia was founded, and of the stronghold of Malacca, taken from the Portuguese in 1641.By this double conquest the Company dominated the straits of Sunda and Malacca, the two main accesses to the Archipelago. In 1667 the fall of Macassar [2]) consolidated the Company's strategic clo-

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[1]) Colenbrander, *op. cit.* II, p. 170.

[2]) The Macassarese and Bouginese appear to have been sailors and traders since an-

sure of the highways in the Archipelago, while at the same time a serious obstacle in the way of their monopolistic policy in the Great East (the Moluccas, etc.) was removed. The eastern part of the Archipelago was now in the hands of the Company. Java saw the ways of communication and of world traffic passing increasingly via Batavia. The Company was to a large extent left in unmolested occupation of its future island territory. But it was compelled to curtail its capacity for expansion if it wished to pluck to the full the fruits of the conquered territory. Probably its concentration of force in the Archipelago, especially in Java and in the Great East, corresponds directly with a weakening in the periphery of its commercial territory. For in 1661 Formosa was lost, without much concern being shown at this setback.

The Company dominated the commercial situation in the Archipelago by its occupation of the ways of access to it. There was no intention to occupy further points without strict necessity and no more was done than to establish garrisons and trade counters in a few centres such as Padang, Palembang, Djambi, Banjermasin, and Manado, and to conclude treaties by which competitors were as far as possible excluded from the western part of the Archipelago. In view of the fact that Java possessed the most promising hinterland, the desire for trade produce caused ever deeper penetration into this island; while the interior of Sumatra, Borneo, Celebes, and other islands remained to a large extent unknown territory [1]).

By the foundation of Batavia as a centre of activity almost upon the frontier of the two most powerful countries of Java, Mataram and Bantam, the further course of the history of Java was settled. Soon the Company had to fight with all its strength for its square yard of territory. Subsequently it gradually began to repel its opponents, and to increase its own territoriy at their expense. Finally it succeeded in making itself recognised as the

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cient times (Colenbrander II, p. 162), but Macassar became a powerful commercial state only when the short-sighted policy of Mataram had destroyed the trade of Java (Schrieke, *Prolegomena*, "*Tijdschr. voor Ind. T.-, L.- en V.*", LXV, 1925, p. 90 *sqq*).

[1]) Doctor de Haan (p. 74*) however points out that commercially Java was behind Ceylon until far into the eighteenth century and that even a factory as Decima, not to mention the Moluccas or Bengal, was of much more importance in the eyes of the Dutch East India Company in 1700 than the Preanger Lands. This remark shows how gradual the process of concentration had been.

paramount power throughout Java by the descendants of those very princes who had in earlier days been modestly approached by the Company in its capacity of a vassal.

The fall of Malacca brought the economic and also the political independence of Mataram into jeopardy. The Company thereby obtained the key position to a political and economic predominance which was indisputable. By 1646, the Company was able to make peace with Bantam and Mataram upon terms which would have been unthinkable a few years earlier. In 1652 Mataram agreed to the delimitation of frontiers to the east of Djakatra in accordance with the wishes of the Company. In 1659 Bantam, after a vigorous war, agreed to the same thing on the west. Twenty years afterwards Bantam gave up its claims to Cheribon and witnessed the rise of a Company stronghold in its capital. By about 1750, this once powerful country had been reduced to the status of a feudatory state, to be finally annexed soon after 1800.

In 1705 Mataram also recognised the sovereignty of the Company over Cheribon as well as over the whole of Preanger; while in the course of the following half century its authority was accepted in the east corner of Java, in Djapara, Rembang, Surabaya, and Madura. By claiming for itself, moreover, the whole coastal zone and other advantages, the Company made Mataram entirely dependent and cut off this country from all communication with the outer world. In 1748 it consolidated its coastal territory to the east of Cheribon under the government of Java's north east coast, with a governor residing at Samarang. The east corner of Java was placed under an official residing at Surabaya.

Remembering the formidable attacks made on it by Mataram at the time of its first settlement, the Company continued for a long time to feel a certain fear of this country; but the weakness displayed by it against rebels and against marauders from Macassar in 1676 opened the Company's eyes. The Susuhunan was compelled to call on the Company for assistance in order to protect his tottering throne, and after a severe struggle (1676—1680), which gave the Company that consciousness of power which characterised its later policies, it was successful.

These feats of arms and, to no less a degree, its diplomacy turned what had been a trading organisation in the Great East

and in Java into a powerful organisation which no longer bought what produce it needed like any ordinary merchant, but, in its capacity of sovereign, imposed the cultivation and exacted the delivery of such products as it required, as a kind of tribute, either gratis or against a very low payment. Its trading agents in consequence acquired an entirely new position, although titles like "Opperkoopman", i. e., chief merchant, and others were still preserved. This fact should have been taken into account by a more careful selection of the personnel. But notwithstanding protests from the Indies a misguided sense of economy always prevented this from taking place. Salaries were low, pensions were introduced only at a much later date, and nepotism was introduced from the mother country. Moreover, the pioneer's existence offered little attraction to most people and the Company would have had to follow a very different policy if it had wished to attract to its service the best elements available.

Close-fistedness still further restricted offers of service. It became necessary therefore to accept whatever could be got — even adventurers, people who had nothing left to lose, and boys who should still have been at school. And yet again and again from this unpromising material men of great vision, ability, courage, and probity emerged into the foreground; they could have done even more than they did if abler forces had supported them. Its economies profited the Company as little as they did the indigenous population. If the latter were exploited by their own headmen and by the officials of the Company, the Company was deceived on all sides, and, according to witnesses of the day, malpractices and secret trading by its servants went well-nigh to ruining it.

The directors of the Company in the mother country soon realised that they could not consider the interest of countries so far distant. The Company consisted of half a dozen fairly independent corporations established in different towns which settled independently of one another all kinds of commercial transactions and acted each for itself in despatching employees. They were administered by directors whom the town and provincial authorities selected from among the shareholders of the Company. From these directors the central board in control of general affairs called "de Heeren XVII", the seventeen gentlemen, was elected. This

board was eventually to acquire a growing influence upon the direction of affairs. The organisation thus outlined could not be called particularly strong, and a narrow and clique-ish spirit was greatly encouraged by deterioration in the direction of the Company and in administrative circles in general.

The States General, which were the government of the Republic of the United Provinces, gave little or no guidance to those in charge of the affairs of the Company. In theory the government possessed supreme sovereignty. In 1602 it had drawn up the first charter, given the Company a trade monopoly, and empowered it to act as a sovereign body in the East in the name of the States General. It could renew or end the charter of the Company every twenty-one years and could demand an oath of fidelity from highly placed officials sent out to the Indies. On all instructions destined for the East Indian Government, the States General had to be consulted and were given a right of control. But in practice the Company was left entirely free. It paid for its privileges important contributions to the treasury of the Dutch Republic, especially in order to secure the prolongation of the charter. At the same time the government itself respected the Company as though it had been a sovereign body.

In 1609 the East Indian Government, consisting of a Governor-General and of the Council of the Indies (which had led a vagrant existence until Batavia was selected as a fixed seat for the East Indian Government) was organised. The Governor-General himself was a member of the Council, which consisted of five members and a few extraordinary members. This Council embodied a corporate government. In the mother country much restraint was exercised towards it. In article 8 of the first instruction it was laid down: "As regards the way in which you act in business, government, commerce, and traffic, as well as in relation to the kings and potentates of the Indies, we cannot give you definite instructions. We can only advise, instruct, and co-ordinate". Financial results usually formed and remained the criterion for interference from the mother country. But distance, lack of knowledge, and the form of organisation prevailing in the motherland made it practically impossible for the directors to offer any effective guidance in East Indian affairs.

The instruction of 1609 was repeatedly modified, and in 1650

it was embodied, as a result of past experience, into a more elaborate general instruction of which the main lines remained unmodified during the whole Company period. The Governor-General was therein called the supreme head of the government. The councillors continued to possess their attribute of co-governors, but in practice it was the Governor-General who governed, and he, in the case of conflicts with the Council, was usually backed by the supreme authority. In fact, it was the Governor-General who was invested with complete powers and who was bound to look after the maintenance of order, justice, police, and commerce. The word police [1]) must be taken in the broadest sense — not only as what we understand by police, but to include all acts of administration and legislation which might be necessary for the maintenance of order and peace or might be imposed in the interests of regular and ordered government. The separation of powers was in those days not considered as the *conditio sine qua non* for the exercise of the task of government.

In articles 3 and 7 of the instruction of 1609 the Council of the Indies, i. e., the High Government, was entrusted with arbitral jurisdiction "in fairness and good conscience such as will be necessary for the good of the service of the country and the profit of the Company". In the different settlements, jurisdiction was originally entrusted to courts martial. In 1620, however, a local corporation of aldermen was established at Batavia, as well as a general tribunal especially for officials of the Company which was eventually called the Board of Justice. At Samarang also a Board was eventually established which dealt more particularly with Europeans and whose jurisdiction extended to central and eastern Java. In settlements outside Java the administration of justice was regulated in much the same way; there was licence to appeal to the Board at Batavia. Towards the end of the seventeenth century the latter became more independent of the government, which lost the right of dismissing and appointing its members. After that time, jurists were made judges while elsewhere the boards of justice were composed of administrative persons from the locality.

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[1]) For the meaning of the term police see Heeres, p. 346 and Van Vollenhoven in "*Kol. Tijdschr.*" 1929, I, p. 4.

Little was done in the way of jurisdiction for the indigenous population. In Ambon alone a tribunal (Landraad) on which native headmen also sat, was created. In Samarang a similar *Landraad* was established, as late as 1747, under the presidency of the governor. In Western Java, in the neighbourhood of Batavia a "Commissioner for and about native affairs" was entrusted with the administration of justice. Jurisdiction over Indonesians was guided mainly by native customs, conceptions, and prescriptions. It proved, however, entirely unsatisfactory. Parties and witnesses had sometimes to wait for weeks at Batavia, as well as at Samarang, with the result that the population was, quite justifiably, strongly averse from having recourse to Company justice, and witnesses could often only be brought forward in chains. In practice, the population settled its affairs by itself or continued to submit to the justice meted out by its own chiefs.

Concerning the administration of justice by the Commissioner for native affairs, Dr. de Haan (p. 284 *) mentions his almost unlimited power over the freedom of the population in the neighbourhood of Batavia and even in the Preanger Regencies.

> "A supervisor or Regent had only to send him a person who was suspect, or supposed to be so, and the Commissioner, after having set in motion a merely formal enquiry which entirely depended upon the contents of the papers that had been sent up with accusations against the detained, got him condemned to the chain.. The incredible light-heartedness with which the Government disposed of the freedom of its Javanese subjects can only be excused by the consideration that it was unable to provide otherwise than in the most rough and ready manner for the protection of persons and property in the estates where the system was applied. As insecurity increased about the end of the eighteenth century, cases of banishment in chains continued to increase."

This increasing insecurity was to no small extent due to unsatisfactory administration of justice to the Javanese population, and was one of the reasons why Daendels as well as Raffles gave so much attention to improving it.

In the course of his previously quoted article (p. 317), Professor Heeres, writing about Company legislation, says, "In 1621, the XVII ordered that the rights and laws which were observed in Holland should be proclaimed in the Indies". In 1625, De Carpentier obeyed this injunction, but in the proclamation announcing

this, it was said "In so far as practicable in this country". The instruction of 1632 decreed that justice at Batavia and in other places under the jurisdiction of the Company might be administered according to the instructions and practices which in the United Provinces were observed in the civil and in the criminal courts, always provided that legal prescriptions which had been evolved in the Indies themselves did not already cover the same ground; and of these there was soon a large number. Van Diemen also got to work in these matters. In 1641, he entrusted the able John Maetsuyker with the task of codifying public and private law. In July 1642, the "Ordinances and Statutes of Batavia" were solemnly proclaimed, and this code was given provisional validity in 1650 until such time as the mother country gave its approval. This, however, never happened. Codification of ordinances subsequently promulgated was undertaken only a century later, and was distinguished from the previous code by being called the "New Statutes of Batavia".

The East Indian government needed a large personnel for the defence of its trade interests and of its possessions, for administration, the exercise of justice, etc.[1]) Batavia had a very large staff placed mainly under the Director General, superintendent of the whole trading organisation, himself a member of the Council, and usually left so independent that even the Governor-General could scarcely exercise any restraining influence over him. In other settlements, regional administration was organised. The chief administrative areas, comprising the North East coast of Java, Macassar, the Moluccas, Amboina, and Banda in the Archipelago, and, outside it, Malacca, Ceylon, and the Cape, were under the control of governors. For less important posts, the titles of Director, Commander, Upper Chief, and others were used, while the representatives attached to the courts of the rulers in Java were called Residents. Usually these local administrators were assisted by a so-called police board, of which the personnel, with the addition of other members, also functioned as a board of justice. These boards consisted of the highest officials present in the locality, presided over by the highest local administrator. The higher personnel of

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[1]) The encyclopaedia (Article "*Compagnie*") mentions for about 1750 a staff of 18,000 men, including the army. To this were to be added 3,500 sailors.

the trading organisation was therefore as a rule also entrusted with administrative and judicial functions. In Java, moreover, there were also the so-called supervisors — European officials whose duty it was to supervise the cultivation that was so important to the Company.

Practically no control was exercised upon the activities of these local administrators, although regular inspections had been decreed. The Governor of the administrative unit of the North East coast of Java, established in 1748, under whom there were no less than 36 regencies ruled by semi-feudal Javanese administrators, was the most powerful of them all. Neither the East Indian Government nor the supreme authorities were able to curb this potentate. The same could be said of the almost equally strong autocrat of Western Java, the so-called "Commissioner for and about the affairs of the Natives", whose functions developed during the period from 1686—1716. His territory, says Dr. de Haan, was as extensive as his functions. He dealt in reality with everything which concerned the population. He was always a favourite or a relative of the Governor-General — an instance of the nepotism of those days. As the Governor-General intentionally tried to prevent the Council of the Indies from exercising any influence in the affairs of Preanger, his favourite was able to govern more or less as he liked. "He often did not wait for the approval of the Government, but, with utter nonchalance, took the most far-reaching decisions" (de Haan, p. 227* fol.). All the other wheels in the organisation of the Company displayed the same tendency to independence; while its sense of responsibility was not improved by the uncertain delimitation of powers which forms one of the most striking characteristics of the political system of the old régime (p. 290*).

The Company displayed, though to a lesser degree, an image of the still under-developed administrative capacities of the mother country. People there were not used to the strictness of a régime of unity, and it could not be expected therefore that in the overseas possessions great efforts would be made in order to achieve what was still lacking in Holland. The fact that this weak organisation of a Company, which had at its disposal only a handful of soldiers, proved so irresistible throws a strong light upon the internal debility of the Indonesian states, where, under the appearance

of strength, a discord even more hopeless was hidden [1]). Often the Company was little better equipped than the far more numerous indigenous armies. The little army with which it saved the Susuhunan, in 1677, consisted of 1200 men, of whom 300 only were Europeans [2]). This fact illustrates the degree to which organising power and foresight were lacking both in the rulers and in the nations of the Indian Archipelago.

The Company did not deem it one of its duties to change this situation. Its own defective organisation was being constructed over the heads of the Indonesian rulers, with whose own spheres it had no wish to interfere more than was dictated by its trade interests. Even in the territory which came under the Company's direct administration, it looks as though the sailing ship was never forgotten as an emblem. The relations of its officials with the populations were limited to indispensable business dealings, and it is on this opportunist administration that we must concentrate in the present chapter because, from the point of view of administration, nothing is more important than the relations between the Western authorities on the one hand and the population with its own chiefs on the other. Moreover, the present day administrative system is entirely incomprehensible unless one has acquired a certain familiarity with the curious development which the régime of the Company partly achieved and partly prepared. While the previous part of this chapter has been concerned with the Company's apparatus of government, the following pages will give particular attention to the indigenous system and to its function as a link between the Western and the Eastern spheres.

"Outside the towns, every immediate contact between the Dutch and the population suddenly ceased. Even in the closest proximity to the towns, which of course was the most completely subjugated part of Java, administration was carried out on behalf of the Company by Javanese chiefs who paid for this privilege or by private people who bought large estates and thereby acquired seigneurial rights. The main part of Java was administered for the

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[1]) R. van Goens says in the description of his journey to the court of Mataram in 1656 how he has been amazed about the sovereign power of this prince, and that he has considered it rather a miracle than an ordinary thing that such a great nation could be governed like slaves (*Bijdr. Taal, Land en Volkenkunde van N. I.* 1856, IV, p. 321).

[2]) Colenbrander, II, p. 224.

Company under various forms of Protectorate. When the Company had made war against a ruler and defeated him, he always lost something of his independence, but usually either he himself or a member of his family was allowed to exercise the principal administrative functions which the Company did not want to claim for itself. Sometimes changes were made in the higher political indigenous organisation, but there were few districts and those only in the neighbourhood of Batavia and Cheribon where the highest rulers were completely ousted and the districts were administered by the Company through lower Javanese headmen. Usually, the principal officials of the old governments were maintained as regents of the Company, and their function was generally hereditary" (Clive Day).

The genuinely Dutch title of Regent was in those days, unlike to-day, a general denomination without much meaning and applied to many Javanese chiefs whose powers and rank differed very considerably. Their relation to the Company was equally uncertain [1]). The creation of the seventy-five regencies of Java which now exist, almost equal and systematically sub-divided, in place of the former chaos, has been a lengthy process extending over the whole 19th Century. For the Company, only the highest Javanese officials in conquered territory had any importance. In powerful Mataram the same kind of development had occurred as that by which in the 3rd century B.C. the first Ch'in Emperor of China had abolished the feudal system and forcibly replaced it by a bureaucratic state. But notwithstanding its twelve provinces, Mataram in 1650 was by no means as advanced as China had been two thousand years before. The attempted development was not successful, and the extirpation of the entire nobility by the Susuhunan did not help matters, for some altogether different action was called for.

Professor Schrieke says in regard to this point:

> "this attempt at the formation of a state in a society with closed produce-economy and an undeveloped system of communications, was bound to fail here as elsewhere under similar conditions. It led to a débacle which resulted in the Company's keeping for itself the administration of a large portion of Java, but when this took place there was no autochthonous aristocracy left. The Regents

[1]) De Haan, *op. cit.* p. 338*, p. 19*.

had administrative titles like Kiai, Toemenggoeng, Ngabehi, Rangga, Kentol according to their rank. The titles of nobility Pangeran and Raden were reserved for the families of the rulers, and for the aristocracy against which the last ruler had taken such drastic action. But even without the backing of heredity, the authority of these royal functionaries was not less real, as it resulted from the social structure" [1]).

Thus it was, and it could not easily have been otherwise. The Regents who, in the course of their compulsory visits to Mataram's court, had to weed the open space before the ruler's palace as a sign of their submission, felt themselves to be powerful princes in relation to the population [2]). When the Company acquired their districts one after the other, no fundamental change took place in the situation. The Company's diplomacy was far better able to adapt itself to the duality of this official function allied with feudal glory than Mataram itself had been. The idea that the Preanger Regencies formed an indispensable barrier against Mataram, and later against Solo and Djokja, just as Tanggeran was against the Sultanate of Bantam, remained a leading thread in its policy[3]). It could not detach itself from the policy which had enabled it to dominate the situation everywhere by arbitrating between indigenous powers, with a minimum of expense and of armed force. Instead of considering the whole Preanger as its own territory, and the Regents as its own officials, it often made itself believe in the sovereign authority of these Regents, just as did the population.

Dr. de Haan and Professor Schrieke point to the amazing contrast displayed under this policy not only between feudal theory and official practice, but also between official theory and feudal practice. The first author remarks that

"the natural course of affairs had already knocked the bottom out of the independence of the Regents who, like other Dutch or Javanese officials, were appointed, promoted, dismissed, and punished" [4]).

But on the other hand, he no less strikingly shows how even

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[1]) *De Inlandsche Hoofden*, 1928, p. 27.

[2]) De Haan p. 27*. See also Rouffaer's Article "*Vorstenlanden*" in Encyclopaedia for N.I.

[3]) De Haan, p. 345*, 341*.

[4]) P. 341*.

under the Company the Regent stood towards the population under him in some respects as a sovereign. And the Regent himself regarded his position exactly as did the population.

> "He himself like a Mataram ruler was in the habit of considering his Regency with all it contained as his property, with this restriction, that he, with all his property, was under the control of the Company. He administered the Regency with almost no interference. He made his power felt mainly in three ways: by demanding services, by levying taxes, and by administering justice. But, if it might please the Company to leave him in the enjoyment even of some rights which nowadays are considered sovereign rights, if, out of the plenitude of its authority, the Company expanded these rights, and gave some Regents the power of life and death, which they had not possessed under Mataram, in relation to the Company he occupied a modest place as something between a vassal and an agent.... If he was sometimes numbered among the allies and friends of the noble Company, he had also, upon occasions, to be satisfied with the less high-sounding title of Inspector. His extensive competence was only the result of the reluctance felt by the Company for interfering with the indigenous household, a reluctance which found a ready excuse in the silent submissiveness of its subjects. Otherwise the Regent's authority was curtailed whenever this appeared to be necessary without reference to general directives and also without any consideration of contradictions of policy" [1]).

The Company contented itself therefore by placing its sovereign authority over the feudal structure from which the Javanese society of that day could not have freed itself. It was to this statesmanship that the Company owed its ability to assure the peace and to realise a great part of its wishes through a highly imperfect organisation. Javanese feudal notions went perfectly well with its policy and if sometimes the so-called vassals were dealt with in a rather arbitrary way, this must be considered as a method of adaptation to the conceptions of power of an Eastern autocrat rather than as the conscious administrative action of a Western bureaucracy towards one of its officials. As late as 1800, Nederburgh would still scarcely admit in theory

> "that the Company was the legal sovereign of the Regents. In practice he himself treated them as officials.... This error, which has had such evil results, was probably fostered by the so-called Acts of Connection, signed by the Regents in the Government of Java's

[1]) De Haan, p. 339*.

N. E. coast upon their appointment. Even these Acts, however, which, moreover, contained nothing in the nature of a mutual contract, were not used in the Preanger. Here only acts of appointment existed which were, as of old, delivered to the Regents" (de Haan, p. 340*).

The sharp opposition between feudal theory and bureaucratic practice which was pointed out so clearly in a previous quotation seems unreasonable, but in reality there was much to be said for the policy of the Company. The less there transpired outside of the real relation of the Company and its Regents, the more these Javanese servants remained invested by the population with their feudal halo. After all, it would not be difficult to find similar contrasts in our own time if the position of headmen and governments of Indonesian States were to be considered too dogmatically. The Residents of the Company entrusted with the supervision of the indigenous administrators in its own territory, or residing at the courts of semi-independent rulers could after all always enforce their will. But in the ordinary course of affairs there was no need for the population to be aware of this influence. If these officials had wished to exercise their influence to the good, a thing which was too seldom the case, they could, therefore, have prevented many abuses and much corruption, but, as a result of bad payment and of injudicious selection, many of them, on the contrary, set a bad example [1]).

It is therefore obvious that the Protectorate of those days cannot be held up as an example for our own time, as is sometimes done by those who resent modern interference. The Company's Protectorate was purely opportunist, hence its policy of indifferent abstention at moments when the interests of the population emphatically dictated interference. Hence also the inconsiderate punishments, interference, and discourteous treatment to which the Regents were subjected, even by cultivation inspectors who were usually ex-soldiers, when there was something wrong with contingents or deliveries. Our conception of the Protectorate is based upon the cultural and material interests of the population, and it demands from princes and chiefs loyal co-operation in the task of popular development. It maintains the Indonesian system on principle, not through indifference, and it interferes without

[1]) *Cf.* Van Deventer, *Het Landelijk Stelsel op Java*, I, p. 12.

hesitation in this system whenever it fails or proves unable to succeed without assistance from above. Professor Schrieke gives in his "Excurs" an idea of the real situation in what is sometimes presented to us as a genuine Protectorate. His sketch concerns the Javanese Regents of the Preanger whose position can be distinguished from that of their colleagues elsewhere in theory rather than in practice.

"Until the days of Daendels (1808), a difference existed in their relation towards the Company between the Regents of the N. E. coast of Java and those of the Preanger. The first signed an Act of Connection called by Daendels a contract, which however only contained a list of obligations; they also had to provide fixed supplies of various agricultural products cultivated by the population of its own free will, and therefore to be distinguished from the so-called deliveries. The Regents of the Preanger were given an Act of Appointment and had to provide deliveries of the produce of compulsory cultivation. To this distinction Daendels put an end. The so-called Preanger system which had been inaugurated by the Company was however maintained by Daendels and by the British administration and remained, even after the introduction of the Land Rent elsewhere, unmodified in principle until 1871. The cultivation system of Van den Bosch was inspired by it. In its main lines it amounted to this: that in the Preanger the government did not exact any taxation from the population, but that the population was compelled to grow coffee and to hand over this produce to the authorities at a price fixed by the government, while the Preanger Regents were not salaried, but had the right to levy taxation on the population with the obligation of providing the payment of the lower Javanese chiefs.

"Initially trade remained the chief aim: the Company wanted produce. If this came in irregularly, the Regents had to be remonstrated with. Soon, however, more forceful terms began to be used.... if at the beginning there were negotiations about prices with the Regents, the Government soon fixed them itself, and determined what and how much had to be delivered, while the Regents had to do all that was necessary to meet these demands. The compulsory cultivation which resulted from this system required control and improvement and was therefore placed under supervision. Commissions travelled about to carry out inspections. The Company increasingly adopted the airs of a sovereign. The Regents had to come and pay their respects at Batavia periodically. Moreover, differences between Regents made it necessary for the government to interfere [1]). Meanwhile, the Company still

[1]) De Haan (p. 342* *sqq.*) points out that in view of its policy of the balance the Company did not dislike these disputes.

hesitated to remove the Regents in case of neglect of their duties. For as economic reasons urged interference with the power of the Regents, political considerations counselled abstention. As the Company's authority became more settled (1705), economic motives acquired the upper hand. Earlier, however, the local officials of the Company had taken more liberties towards the Javanese chiefs than the government at Batavia cared to risk. After 1704, the Regents of Preanger received their act of appointment, but their instructions continued to be vague. In those days the Regents were not yet fully aware of the fact that they were subordinate to a sovereign and controlling power. Gradually, however, the powers of the Regents were curtailed: they were no longer allowed to appoint the district chiefs although they still had to pay them. Van Imhoff busied himself with the internal administration of the Regencies. The Resident of Cheribon began to interfere with the Regent's administration of justice; the government vigorously followed suit, and finally nothing remained of the autochthonous administration of criminal law. The Regents were more and more treated as officials.

"With the demand of compulsory deliveries of coffee at a price fixed by the Company below market price, the tone of the Government in any case had become more authoritative. Javanese chiefs had been instructed in 1726 to uproot no coffee plants on pain of the chain, because they stood upon the lands of the Company, of which they, the chiefs, enjoyed the use only as a favour and until further notice. The decline in its cultivation which was the result of the low price was attributed to the exactions of the chiefs. This is why the appointment of European supervisors was considered [1]). Meanwhile the Regents became more and more in debt to the Company, in particular owing to the system of advances [2]). The Regents were made responsible and threatened with penalties. They were even repeatedly dismissed. Control became sharper, exactions by the chiefs had to be prevented. Annual inspections brought about more freedom in expressions of dissatisfaction and serious reprimands. The Regents of the Preanger were entirely dependent upon the Commissioner for and about native affairs, whom 'from childhood onward they had learned to respect as their god and to obey blindly as long as he is in service without speaking a word against him'."

This quotation draws in brief lines an image of the gradual change in the position of Javanese rulers towards Western authority, which formed an autocratic super-structure over this world of feudal notions and customs. This authority began to be felt more

[1]) About the supervisors, *c.f.* De Haan p. 326*—337*.

[2]) *Cf.* de Haan p. 344*, a page that is not flattering for the morals of that period.

and more, and therefore to deprive the indigenous system of a good part of its centrifugal tendencies. Although it remained as much as possible outside the Indonesian system, it had nevertheless been able to adjust the latter to the notion of the supremacy of a mighty central authority which at times did not hesitate to interfere even in the smallest details. This feeling of subordination, common to all Regents and Rulers, is undoubtedly from the administrative point of view the principal result of two centuries of activity on the part of the Company in so far as it was not limited to trade matters. The relation between the indigenous system and the Western authorities continued to bear a one-sided character because it was determined by the endeavour to obtain cheap produce, but the contact was of a different nature from that under the despotism of Mataram; while it had already become sufficiently organised to make it possible for another and more enlightened colonial policy to effect reforms in favour of the Indonesian community.

The need of such an enlightened and active régime was already felt in the later days of the Company. More than one symptom points to the fact that a new orientation was about to announce itself. It was felt that unbridled feudal authority was an instrument of but doubtful value. For if in relation to the Company it had lost all independence and initiative, in relation to the population it had acquired, as a result of the Company's backing, as powerful a position as might have been expected in an abnormal Eastern society. There, under normal conditions, custom still reigns which cannot be lastingly neglected by a dynasty. The power of the Company and the way in which it applied it through the intermediary of the chiefs detached them from the population, a development which was not in the interests of the population and encouraged despotism. Although the Company recommended to the chiefs the interests of the population, it was inclined to overlook many things in practice as long as it regularly received its produce and its levies.

It realised perfectly, however, that in one definite respect, its interests coincided with those of the population. Moreover, there was never a complete lack of high minded men in whom humanitarian ideas prompted consideration of the well-being of the population. This humanitarianism, allied to the consciousness of

power of the East Indian government and its local representatives towards the indigenous rulers and chiefs, prepared the period of reform which was about to start with Daendels and which received still greater impetus under Raffles. It was going to act as a brake on abuse of power by European officials and to modify the feudal position of the indigenous authorities.

Reviewing the Company régime, one finds that it achieved an extensive preparation for the later state administration. It made the whole Archipelago familiar with the presence of an irresistible Western power, it brought certain districts under the slowly infiltrating influence of a central government, whose actions absolutely differed from those of the deified Indonesian rulers. It must be admitted that the business methods of this supreme government have had an immense influence. Notwithstanding the high-handedness of the Company, the reception of the Regents and Chiefs at Batavia differed completely from the partly religious, partly servile veneration exacted by Mataram. Undoubtedly this Westernisation of relations and of etiquette has deeply modified the whole East Indian administrative system, much to the benefit of later reform.

The Company furthermore developed norms and principles in instructions, legislation, justice, and administration, the utility of which survived the fall of the Company. Let us recall for instance the composition of the East Indian Government which in 1854 still entrusted the power of government to a Governor-General and a Council of the Indies which was partly advisory and partly shared in the government. This did not agree with the theory but with the actual practice of the period before 1800. Let us recall also the dualism of European and Indonesian legislation, justice and administration, and further the independence which was for long left to regional administrators, and finally the principle of concordance (aiming at a reasonable unity of legislation for Holland and the Dutch East Indies) of Article 131 I.S., with the same reservation as known by the Company, and with the same endeavour to respect as far as possible Indonesian customs and manners (Articles 118, 128, 130, 131, 134 I.S.). Let us recall also the continuation of autochthonous justice in many spheres, the idea of the Protectorate, to which we owe the existence of 75 dynastic Regencies, covering the island of Java, 300 autonomous Indo-

nesian states, covering more than half of the Indies, and tens of thousands of living Adat communities which have been recognised as rural municipalities.

The Company had also already made a beginning with the construction of roads, a work which Daendels was to continue with unbridled energy.

For the population itself, the Company had, directly, done very little indeed. The administration of justice was still unsatisfactory. The police system was grossly neglected, which was the principal reason of the insecurity against which the authorities with their small personnel of patrolling gendarmerie were unable to do anything. Education, it is true, is mentioned in the instructions and apart from work done for the missions by professional clergymen, schools had been erected here and there. But all this was of little significance. Education for the European colony was almost equally unsatisfactory, and the children were doing badly. The principal result of the Company's régime was peace, which caused an increase of population. Professor Colenbrander points to Crawfurd's calculation, according to which from 1740—1810 the population had trebled in the territory administered by the Company [1]). If one also considers that since 1810 this population has further increased tenfold, it becomes clear how great had been the failure of the Indonesian rulers before the days of the Company. An occasional century of good indigenous rule may have achieved similar results, but such a régime always speedily broke down and in its fall it dragged with it more lives and more prosperity than had been created in the course of its existence. With a population of from one to two million souls, little can be achieved in a large territory like Java, for a certain density of population is the indispensable basis of further progress. We must therefore consider this result of the Company's rule as establishing a credit in favour of the balance of its activity, even from the Indonesian point of view.

Much more could have been achieved if trade considerations had not continually pushed the duties of sovereignty into the background. Muntinghe and many before him had realised the fatal results of a narrow-minded hunt for monopolies and for cheap

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[1]) *Op. cit.* II, p. 253.

produce to the detriment of free production, trade, and enterprise. A prosperous population and the paternal furtherance of its interests, with a system of direct taxation, formed according to him a better basis of policy and provided a better formulation of its aims as well as a better method. It was to be the task of the 19th century to demonstrate the truth of this conception. But notwithstanding its obstinately mercantile conceptions, the Company might still have performed great things if it had taken care to select its personnel wisely and to provide it with training. The economy practised in this direction must be considered the greatest mistake of the Company. In this respect, too, the 19th century had thoroughly to revise the previous point of view.

The mistakes of policy and in the official organisation of the Company have been pointed out sufficiently in the previous pages to enable us to understand where the reformers who followed it, Daendels, Raffles, and the Kingdom of the Netherlands, would find support for their work, and also at what points they would have to reform with a strong hand. It should also be remembered that the transition from the 18th to the 19th century was stormy, that it was a period when everything broke away from its moorings, and when it was the fashion to brush aside without scruple everything traditional. In theory it was a humanitarian and enlightened period and in practice it was extremely drastic. These reformers who wanted to achieve in a few years what had been quietly prepared in the course of centuries sometimes mistakenly placed themselves against the past on which they were really constructing their work. The reforms of Daendels and of Raffles — for instance, those they took towards the Javanese system — were often not as revolutionary and abrupt as they appeared to be.

We shall not here consider in detail the events of the period during which the Company was dissolved, in which the overseas possessions of Holland were lost, and the Mother Country itself temporarily lost its independence. Something has been said about this matter in the Introduction to the first volume in order to give an idea of the violence with which the liberal ideas that had slowly percolated through the world suddenly burst out at the end of the 18th century. The figure of Daendels is a fixed point in this stormy period of crisis.

The period of Daendels

It was the task of Daendels to translate the new theories into acts, and also to defend Java, which was soon the last remnant of the vast colonial empire of the Netherlands, more for France than for the Netherlands against the British. Only 3 years, 1808-1811, were vouchsafed to him for his great task of reform and reconstruction. Of this brief period, he had moreover to spend a not inconsiderable part in breaking down the power of the rulers of Bantam, Cheribon, and Central Java, and to put Java in a state of defence, for which reason the great coastal road across almost the whole length of Java was put under construction. Daendels had the advantage of being a newcomer. He was free from the traditions which had so long held in thrall the servants of the Company and caused them to perpetuate conditions that had become unreal. Daendels had a good eye for the practical, and did not hesitate to accept the consequences of the developments which had taken place in the closing period of the Company's régime. But at the same time he under-estimated the significance of the living tradition of indigenous society, although he proved to be intelligent enough to leave this bulwark of peace and order in the main untouched.

His attention was immediately drawn by the loose official organisation of the Company, its completely inadequate measures for police and the administration of justice, and the unsatisfactory delimitation of the prerogatives of its so-called representatives as well as its ambiguous policy towards the Regents. He dealt without fear with the Javanese rulers and did not in the least show himself inclined to continue the Company's policy of equilibrium towards the Regents, which was based on the assumption that somehow they were still independent potentates instead of being servants of the Company. He radically broke, says Dr. de Haan, with this wisdom of old men, and only continued the policy of equilibrium developed by his predecessors in important cases such as those concerning the Sultanates of Solo and Djokja.

There could be even less question of perpetuating the practical independence of the direct official servants of the Company. The post of Commissioner in Western Java for and about native affairs, against which serious grievances had already long been heard, had been the object of plans of re-organisation before

Daendels arrived. He abolished the government of Java's N. E. Coast. The Residents at the Javanese courts, who were placed under the almost omnipotent Governor, were made directly dependent upon Batavia. In place of the previous divisions, he established nine prefectures and abolished the mercantile titles, the emoluments, and the excessive rights upon personal service which existed under the old régime. In short, he aimed at a strong centralisation, the formation of a salaried and disciplined corps of European officials and at unburdening the central government of all red tape and administrative formalism, which could be left more easily to lower organs. The establishment of a general Audit Office may be considered one of his most important measures.

The number of tribunals was increased, each prefect became also the president of a prefectural tribunal, each Regent of a regency tribunal, while at Surabaya, a Landraad for Javanese was established. He wanted to introduce systematic taxation, but dared not because he did not consider the simple Javanese economy ready for this measure. He continued therefore the system of contingents and of deliveries in kind, and tried, though with little success, to fight the abuses inseparable from this system. Under his régime the pressure of enforced cultivation and of compulsory labour was increased still further because the unfavourable financial situation and the measures necessary for the defence of Java compelled him to act despotically to such a degree that his name has retained unpleasant associations to this day. He liberated the population from all kinds of burdens, says Clive Day, but only to press them still further for the benefit of the Government.

In the frame of our present examination, Daendels' attitude towards the Regents is the most important matter. He considered them as indispensable but nevertheless subordinate *officials* who ought to be appointed, paid, and dismissed in the same way as Dutch officials. He deprived them of their hereditary right to their function, gave them military rank, placed them under prefects, and gave them official seals and instructions. The lower chiefs also became government officials appointed and dismissed by the Government and not by the Regents. The jurisdiction of the Regents became limited to the tribunal of peace, from which appeals to the prefectural tribunals were allowed. Furthermore their claims to personal services (Pantjen) were reduced. Never-

theless, no official salary was granted to the Regents. According to custom they retained their right to collect tithes, and to receive those personal services which mean so much prestige in the Javanese world. They also continued to be entrusted with the payment of the lower chiefs who depended on them. As already remarked, the system of contingents and deliveries was continued so that the Regents remained none the less the pivot round which the most essential relations between the authorities and the population revolved.

This method of absorbing the apparatus of Javanese authority into the Western administrative machine may appear to be far-reaching and violent, but the population was scarcely aware of the change that had taken place. The diminution of Pantjen services was perhaps of greater importance in relation to the traditional authority of the Regents than all the other innovations taken together. Most of the others concern the relations between the Regents and the Dutch authority, which was a sphere far removed from popular life. It is often through the secondary results of reform that the population is made to understand that great changes have taken place.

One might perhaps summarise the administration of Daendels by the remark that it effected a transformation, with roughness, of a commercial and loose organisation into a centralised state authority supported by a disciplined Dutch and Javanese administrative body. Otherwise it dovetailed into the era of the Company in a way which one would not suspect at first sight. One can observe this fact better when looking at the reforming tendencies of the latter days of the Company, and by comparing not the principles but the practice of policies. In the same way, the fitting of indigenous authority into official administrative organisation does not consist at bottom in much more than an open confirmation of a practice which had gradually developed in the course of the previous two centuries. In the feudal notions of the population this transformation was, for the time being, to cause little more difference than had taken place in the previous centuries.

The British interregnum

Just as the Company had prepared the way for Daendels to a much greater extent than he would have cared to admit, Daen-

dels' administration was of more significance as a forerunner of the British interregnum (1811—1816) than Raffles may have realised. Professor Heeres stresses this point when he says that there could have been no Raffles without Daendels. One might perhaps add that in Holland, as in France and England, the defects of the Company's administration had been realised, that all kind of proposals for their correction had been made on different occasions, and that a public opinion was beginning to develop which, sooner or later, would have imposed effective reform. Holland had the misfortune, which no housewife would wish to befall her, of being compelled to abandon the direction of affairs in the midst of spring cleaning. In this way, the reform of colonial policy was inevitably dated from and identified with the British interregnum, while the ideas of reform held by Dutchmen and the labour of those who held them faded into the background. The sad reaction in the system of cultivation, which was the last resort in 1830 for saving the house from bankruptcy, sheds a still more favourable light upon the British colonial system and a more unfavourable light upon the Dutch.

During the British interregnum the Archipelago was not governed as an administrative unit. The territory was cut up into four administrative provinces: Java with some other regions under Raffles, Sumatra, the Straits, and the Great East, each directly dependent upon the British Governor-General of Bengal. Only Raffles's administration was of lasting significance. He deposed the Sultans of Bantam and Cheribon, diminished the Javanese states in Central Java, and interfered there also with internal administration and justice.

He also continued Daendels' policy by a further organisation of administration, police and justice. He extended the number of prefectures, which was 10 in 1811, to 16, and re-named them residencies. This administrative division also covered the Javanese states — in other words, the whole of Java and of Madura except Batavia, which remained an enclave until 1819.

The Residents had now to carry on the administration. They were instructed therefore to make regular tours in order to establish direct contact with the population, which was granted the right of placing its wishes and grievances before the Resident himself. In order to allow the Resident to carry out a more inten-

sive administration reaching down to the population itself, they were given assistants. This is the first appearance of the Assistant Resident; we are beginning to perceive the emergence of the system of organisation which has lasted until our own day. The main object was to push on one side the institution of semi-feudal Regents, which was considered antiquated and illiberal. Salvation was expected, mistakenly as it proved, from direct contact between an enlightened European administration and the Javanese population.

Raffles wanted to see in the whole Javanese system that spread from the village population to the European authorities nothing but a matter of fact official hierarchy without traditional rights or political attributes. The village community he considered to be the only living unit. Regents and subordinate chiefs were only intermediates whom he would have preferred to dispense with in order directly to settle business with the village administrations. The villages were given the right to choose their own headmen which, according to Raffles, followed ancient custom [1]). In the first part of this work, we have explained very fully why normal suffrage was out of the question in this connection, so that we need not enter into the matter afresh.

In so far as he considered village organisation to be a concern of the village Raffles was not mistaken, though it must also be remembered that the village had to respect local custom and that a confirmation by feudal or official powers was very usual throughout the East. Above these villages, Raffles saw only administrative units, divisions (the present-day districts), districts (now Regencies), and Residencies. Assistant-Residents were not allotted their spheres of jurisdiction till later. Justice and police were ordered on the same hierarchical basis: there were divisional and district Tribunals and Residents' boards, there was a divisional and district sub-division of police. Daendels, as we have already said, had pointed the way with his Peace Tribunals and Prefectural Tribunals. His successor organised more systematically, divided police functions from judicial functions, and even wanted to introduce the jury system into indigenous jurisdiction.

The police organisation was for the first time systematised by Raffles. The village police with its village chief and its patrols by

[1]) Van Deventer, *Landelijk Stelsel op Java*, I, p. 331.

villagers who took their turn remained the basis. The village headman was entrusted under the district administrator with the task of organising a police service, including judicial police. In each district, or division as it was called by Raffles, a police office was established with a staff consisting of a few "mantri" police and other personnel. The Regent, assisted by a head *Djaksa*, exercised control over this body of police. The judges on circuit reported to the Government on the police system in the various Residencies. This organisation, which continued to place almost the whole burden of administration on the village headmen, was by no means yet particularly good, but it was a meritorious beginning upon which the Commissioners General of 1817 could continue to build.

The system of land rents which took the place of contingents and of deliveries in kind, which Raffles himself considered to be the most important measure effected by his administration, fitted in with this administrative organisation and with a policy that aimed at de-feudalising the Regents [1]). By assessing charges upon the basis of the village, he believed that he could in large measure make the whole indigenous administrative system supererogatory and in any case that he would deprive it of the opportunity of acquiring influence and of abusing its power. He was not mistaken in adopting the Eastern point of view that everything under the sky belonged to the ruler. Nor was it incorrect to decree that the Western sovereign who had ousted the Indonesian rulers was entitled to a share of the harvest, which he fixed at the rate of two-fifths, to be paid either in specie or in kind. But it was a mistake to take as his point of departure the fiction that there was a relation in private law by which the ruler was the owner of all agricultural land and the peasant, the actual owner, was only the tenant, who had therefore to pay rent, not a tax. If he had demanded the payment of a reasonable share of the harvest to the Government as a tribute, he would have been nearer a true understanding of the problem, and a better transition to modern taxation would have been achieved.

Clive Day is therefore justified in his disagreement with Pierson, according to whom the great novelty of Raffles's system was the introduction of taxation as a source of income instead of pro-

[1]) S. van Deventer, *Bijdr. tot de Kennis van het landelijk stelsel op Java*, 1865, 3 vols.

fits from trade. He points out that there was after all no difference between the rice contingent of the Company and the land-rent of Raffles, which could also be paid in kind; but one cannot share his view that in both cases the imposition was really merely a tax.

The Company never realised its own position very clearly, but its utterances all the same point to an adaptation to a feudal society from whose heads it demanded, in its quality of a kind of paramount chief, the payment of a tribute. Raffles was averse from all feudal notions. He would probably have preferred a clear and clean relationship as between a modern government and a population which simply owed taxes to it. His point of departure for the raising of this tax, the rent, was however, rather a "capitis diminutio" than an emancipation. It seems therefore better to emphasise his aim, which was enlightened and noble. It is in aim that the cardinal difference between his administration and the old régime lies. Clive Day concluded that the great and only difference between the new and the old sources of income was one of administration: the whole process of assessment and collection was brought into line with European notions of honesty, economy, and justice. But we prefer to insist upon Raffles's entirely different intention, which bore witness to his paternal care, because it is there that the real breach with the past must be sought.

Raffles's intention was excellent, but notwithstanding his admirable efforts better to explore indigenous society, he was naturally unable in the few years given to him to become fully acquainted with its inner being. His system was simple. The land was divided into wet and dry fields, sub-divided into three classes according to their average production. Each class was assessed at a definite percentage of the estimated harvest, varying between 50 per cent and 25 per cent, and for preference to be paid in money in order to encourage production and economy. The population was left free in the cultivation of its crops. With a view to the collection of the land rent, Raffles wanted to let out to village notables, as a rule village heads, large and small lands to which in reality a number of peasant owners had, according to their own views, indisputable rights. These village notables had to pay at once the whole sum at which the fields of a given village were assessed, while they could in their turn collect from their fellow villagers, who had

become their tenant farmers, the rent due to them individually.

No sooner, about the end of 1813, had a start been made with this system, which was to make the village headmen the real pivot of authority in the place of the Regents, than Raffles had decided to try to improve its organisation. He believed that he could likewise do without the farmer village headmen who might sooner or later make bad use of their power. For this reason, he wanted to assess the individual peasant farmer directly. His aim was to dispense altogether with the Javanese apparatus of Adat and feudal administration and to establish direct contact between Western enlightenment and the Javanese agriculturist.

The first thing needed for the execution of his plan was a careful cadastral survey, a large staff of conscientious harvest tax assessors and tax gatherers. The cadastral survey in itself required a labour of which people in those days had little idea [1]). The Residents were to be given the assistance of a number of surveyors and controllers. Village by village, all the land was to be mapped out; in every village the data necessary for assessment were to be carefully collected and noted, after which the assessor would fix the tax (i. e. the land rent) of every agriculturist. As in practice the village headman was indispensable, he became under the new regulation a tax assessor instead of a farmer who had to assist the European collector in his endeavour to draw up accurate assessments. The village headman had moreover to collect the tax and to deliver to the peasants a receipt mentioning all the details upon which the assessment was based.

All this, as Clive Day remarks, had to be accomplished in a country where scarcely one village headman could read or write. As there was no money for the staff and the administration necessitated by this plan, the Residents sought in vain for the surveyors and collectors they needed. It is unnecessary to relate the details of this well meant reform. In this as in other matters Raffles's great merit should be sought in his pointing the way which it was for his successors to follow, and this merit is not decreased by the fact that, as Clive Day remarks, there never was a system the execution of which was further removed from the plans of its originator. In practice the village headmen were able to deal with taxation as they liked. Oftentimes the taxes were simply farmed

[1]) *Cf. Het Kadaster in N. I.*, by L. C. F. Polderman, "*Ind. Gen.*" Jan. 1925.

out over large territories, the tax farmer became omnipotent and the population became the victim of the uncertainty that existed about its obligations, and of the arbitrariness to which it was subjected.

In his treatment of the higher indigenous administration Raffles followed in the footsteps of Daendels. The latter had formed his prefectures by the juxtaposition of existing Javanese semi-feudal administrative circles. Raffles aimed at more uniformity; he wanted the Residencies to consist administratively of divisions of approximately equal extent under the administration of Regents. For their instructions, he took as his example those issued by Daendels. In this official function the Regents were to have no real independent power. In short they would be the subordinates of the still very autocratically inclined Residents of the time. The district administration which had existed in the days of the Company, but had everywhere been utilised according to the personal needs and views of the Regents as an auxiliary organ with indeterminate functions, was organised under the Regents in pursuance of the same effort at establishing a systematic administration.

The nineteenth century was to impose a great task on this district administration (Art. 70 R.R.). Gradually it became better organised, and by 1874, it had developed into a finished organisation. Raffles's reforms proceeded from the democratic spirit of his time. He was not well disposed towards the Javanese chiefs: he considered them as the natural oppressors of and parasites on the population. He would willingly have deprived them of their halo. The Regents continued therefore to be deposed from their hereditary position, while he wished to replace their privileges and their rights to personal service by salaries. More from reasons of prudence and from fear of provoking resistance on the part of a powerful group than from the point of view of good administration, he maintained the Regents as administrative chiefs of their divisions. Lack of money compelled him, however, to pay them mainly in land, with the result that the occupants of the land continued, according to ancient custom, to make compulsory deliveries in kind and to perform services, although this had been forbidden by Raffles.

Notwithstanding Raffles's attack on the position of the Re-

gents, the real intention of his measures could not immediately be understood by the population. The worst blow undoubtedly was the abolition of the system of contingents and deliveries in kind (except in the Preanger Regencies) whereby the Regents lost a source of great power. Moreover they were systematically excluded from the collection of the land rent which took the place of services and deliveries. They lost thereby an essential part of their functions, precisely where the feudal aspect of their position was most obvious to the population. By these measures Raffles again, although more systematically, continued the policy of Daendels towards the Regents, hastened the de-feudalising process, perfected the administrative machine, and placed the Regents under autocratic Residents, who themselves were instructed to establish direct contacts with the population. He therefore followed in the tracks of Daendels and chose for Java mechanical organisation rather than development of a living autochthonous system. From the point of view of administrative organisation, this is undoubtedly the most important result between the fall of the Company and the restoration of Dutch authority in 1816.

The question as to what would have happened had Raffles been able to administer Java for a longer period would lead to many conjectures. He would have continued his liberal policy, but there is little doubt that at many points he would have had to mark time, that lack of money would have imposed still further departure from his principles, as happened to the first Dutch Governor-General (1819—1826). He would have had frequent occasion to realise that his predecessors were not actuated by commercial greed only, but that reasons of prudence had prevented various reforms which he also could no more than initiate. He also was compelled to shut his eyes to many evils, he too had to continue the compulsory cultivation of coffee in the Preanger. As Clive Day points out, his administration appears to have gravitated steadily towards former policies and became gradually so commercialised that Crawfurd felt justified in comparing the administration with a warehouse keeper. It made a return to the policy of the Company which followed during the period of compulsory cultivation easier by preserving the principal cultivation areas until that period.

It was given to Raffles to link his name to a short period of

transition in which the preceding silent development of more humane doctrine throughout the West suddenly took shape, and during which, on the other hand, ambitious programmes were proclaimed which it took the hard work of three generations after him to sift and to put into execution.

Historical justice compels one to make this remark, just as the same sense of justice has compelled Dutch historians like Van Deventer to express their admiration of the far reaching vision of Raffles whose spiritual greatness was in proportion to the greatness of the time that placed him in office. There is especially room for feelings of obligation towards England which, according to the agreement of August 1814, returned the most important possessions of Holland in the Archipelago in 1816 in better condition than when she acquired them [1]). Holland thereby was given the opportunity of continuing the work that had been started, and which was to be lifted up into a higher sphere by the spiritual evolution of the whole West, much to the benefit of the Indonesian population.

The restoration of Dutch authority

When in 1816 the Commissioners General whose task it was to take over the East Indian possessions from the British landed in Java, they found themselves before the heavy task of organising the administration in accordance with conditions which had changed much since 1800. Their means were insufficient, their personnel inadequate in number and in capacity, their finances but sparse. Nevertheless, in the course of no more than two years they were able to wind up the process of transfer, to establish the first provisional administrative organisation, to regulate the system of land rent upon a practical and lasting basis, and to draw up an East Indian constitution "for the conduct of the government, justice, cultivation and trade, in the country's Asiatic possessions" (Stbl. 1818 No. 87). Thus ended their task, and the time had arrived for instituting a new government entrusted as of old to a Governor-General assisted by a Council of the Indies (Art. 2, 12 sqq.).

If Holland had in this way once more taken over her inheritance

[1]) Malacca and a few settlements in India were also returned, but in 1824 they were exchanged for British possessions in Sumatra (Bencoolen).

from her fathers, it was to be long before the nominal transfer was followed by the definite establishment of Dutch authority throughout the Archipelago. The late Dr. Kielstra has pointed out that in the main parts of the Archipelago this inheritance did not amount to much [1]):

> "Sumatra, Borneo, Celebes and a number of smaller islands were in reality only nominal possessions.... We shall not err greatly if we maintain that outside Java and Madura our colonial empire has been entirely built up in the course of the last century.... Moreover, at the beginning of the 19th century direct Dutch administration in Java was still rather limited. The Vorstenlanden (Javanese states) in 1816 still possessed the old Residencies Madioen, Kediri, Banjoemas, and Bagelen. The Preanger was only in name under direct Dutch authority. It was only with the so-called reform of the Preanger system of June 1871 that it was placed in the same relation to the government as other Residencies. Madura was still under Madurese chiefs, who especially after 1830 were considered more as faithful and practically independent allies than as servants of the state. Since 1816, therefore, and particularly in the last few years of the century, more was done in Java as well as elsewhere for the establishment of Dutch authority than had been done in the days of the old Dutch East Indian Company. And this has happened notwithstanding the fact that available resources were very limited".

It was indeed by no means given to the Kingdom of Holland to pick without effort the fruit of the labours of its predecessors. Even in territory that had long since been under Dutch authority all kinds of attempts at resistance had to be suppressed. In Java there was even a long rebellion (1825—1830). Nevertheless we must not under-value the preparatory labour of the Company, as can be proved by pointing to the subordinate position of the Preanger Regents. We may be sure that Dutch authority had spread deep into the interior a certain reputation which no doubt suffered a decrease in prestige after 1800, and was to be put to the test several times, but which after a few demonstrations and without much trouble re-established recognition once more.

For the time being, a few points only were occupied outside Java, such as Padang and Palembang in Sumatra; Pontianak, Sambas and Bandjermasin in Borneo; Macassar and the Minahas-

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[1]) E. B. Kielstra, *Uitbreiding van ons Gezag sinds 1816*, republished by Krom in "Neerlands-Indië", 1929, p. 351 *sqq.*

sa in Celebes. In practice, authority was exercised only in Java and in the Moluccas, which formed the ancient bases of the Company, and in a few other important places with their immediate surroundings. Till the Java War broke out, the Dutch had their hands full with their efforts to restore their authority in the islands outside Java and especially in Sumatra and Celebes. This war however forced a concentration of all available strength in Java while the empty treasury after 1830 made necessary, according to the conception of the administrators of the day, an intensive exploitation of Java (the compulsory cultivation system) and complete abstention from active assertion of authority in the other possessions, which were not considered to be of great economic value. This policy of abstention lasted till about 1860. Only then did Holland regain sufficient strength to compel the recognition of the central authority. Since then a remarkable power of expansion has manifested itself. At the outset it was almost entirely absorbed by the Atjeh War and only later (after 1900) in the well known period of Van Heutsz did it acquire its greatest impetus [1]).

We shall not here describe all the facts of this expansion. In this chapter, it is sufficient to point out that it lasted throughout the 19th century, and continued into the 20th, after the end of the Atjeh War. One may conclude therefrom that the Kingdom of Holland was unable immediately to spread a good administrative organisation over the Archipelago. Much rough work had to be done first, and it was only after many feats of arms and periods of pacification that very slowly the web of administrative organisation began to be woven into an ordered whole.

The gradual organisation of administration in Java

The Commissioners General upon starting their labours found that the indigenous system which had preserved its own orientation under the Company had been definitely changed by Daendels and Raffles to fit into a foreign administrative mechanism. They too had no intention of reviving the former feudal position of the Regents. Nor did they see the chance that still existed in

[1]) *Cf.* the same article and Kielstra's fascinating work *Indisch Nederland*, 1910, and Colenbrander's *Koloniale Geschiedenis*, 1926, III, p. 163—243.

those days of re-organising the Regencies as units of indigenous governmental authority, preparing them by guidance and supervision, and especially by the education of the Regents, for the unfolding of a better governmental system within the traditional framework. Generally speaking, the Commissioners General were not disinclined to follow the direction of Raffles, albeit with more prudence and with a better understanding of the value which respect of Eastern tradition would have, in particular as regards the usefulness of traditional or feudal chiefs in an official function.

They maintained the relations between Residents and Regents as they found them, and also the principle of land rent which, however, was to be assessed on the basis of the village as a unit. They realised the indispensability of the Regents as leaders of Javanese administration and police in the divisions of the Residencies, but they did not shirk the natural consequence of giving official positions to Javanese functionaries: namely, that in compensation for the loss of traditional rights they expected some kind of payment in money. The occupation of fields in virtue of official functions was abolished. The Regent's position was regulated shortly afterwards by the "regulations regarding the obligations, titles and ranks of the Regents in the island of Java" (Stbl. 1820, No. 22), which regulations, notwithstanding various modifications, have remained substantially in force until the recent administrative reforms (Cf. Stbl. 1926, No. 181).

The first article of this regulation says, "The Regents are among the Javanese population the first persons in their Regencies; they stand under the immediate orders of the Residents". The second Article says, "In affairs which concern indigenous administration, the Regents are the trusted advisers of the Residents who will treat them as younger brothers". The Regents were further enjoined to look after agriculture, cattle-raising, security, public health, irrigation, roads, education, a fair division of rates and taxes, registration, and the execution of laws, a proof that the task of a Javanese administrator and of the supervising European administrator was by no means a sinecure. They also had to inform the Residents on all subjects or events of importance. They were likewise instructed to supervise all affairs relating to the Mohammedan religion, a measure also due to the initiative of

Daendels [1]). Finally, the titles, ranks, etiquette and retinue of the Regents and of their relatives were regulated to the minutest detail.

The dignity of the Regents was thus much more carefully systematised than during the earlier period described by Dr. de Haan. Much nevertheless still remained to be done. One Regent was not as important as another; a number of insignificant Regencies and the three distinct ranks among Regents which still existed in 1820 have gradually disappeared till we have at last achieved a division into equal Regencies administered by practically equal Regents. After many experiments at suspending and sub-dividing Regencies, the present arrangement of 75 for Java and Madura was reached. The sub-division into districts under Wedonos and of districts into sub-districts under Assistant Wedonos displays this gradual process of an increasingly better administrative organisation [2]). Regional administration was divided by the Commissioners General over 20 Residencies (Stbl. 1819, No. 16) whose jurisdiction for the first time covered the whole of Java and Madura. The Residents, in an Instruction included in this measure, were also charged with the supervision of judicial and administrative police in their territories. The Assistant Residents especially acquired by this arrangement greater power. The Procurator General was entrusted with the supervision of the judicial police exercised under Europeans by the public prosecutors. The judicial police in control of the indigenous population (acting concurrently as administrative police) was placed under the Residents, who in this capacity also in some cases received instructions from the Procurator General. The Resident had at his disposal a Javanese head Djaksa to assist him in the performance of his police duties, the Regent a Djaksa. After 1848 (Judicial Organisation Rules, Art. 181) the Procurator General became competent to give orders to Residents in the matter of repressive as well as of preventive police. His relation to the Residents thereby became more that of a leading chief in police mat-

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[1]) Schrieke, *op. cit.* p. 75. Dr. de Haan (*op. cit.* p. 339*) points out that in the period of the Company the Regent already drew a portion of the religious taxes and receipts.

[2]) *Cf.* Pronk, *op. cit.* p. 4–19, for the organisation of the administrative bodies from 1808 to 1900.

ters. A few regions in Java still remained for some time Assistant Residencies, but most had already become Residencies. In 1866 the main administrative units acquired the rank of Residencies. The further sub-division into smaller administrative units under Assistant Residents with their own administrative divisions was of great importance (Stbl. 1818, No. 49) [1]. As the Assistant Residency usually coincided with the semi-feudal Regency, we see here for the first time coming into the foreground the double administrative organisation which was a peculiar characteristic of the Dutch administrative system in Java up to the time of the recent administrative reforms (1925).

The Assistant Resident usually exercised in his own division the same powers (mainly administration and police services) as was exercised by the Resident over the whole Residency. The Regent, although higher in rank than his Dutch colleague, owed him obedience because the Assistant Resident was the local representative of the head of the regional administration, who was the superior of both of them. This close juxtaposition of European and Javanese administration has led to the view that the Regent retained no elbow room for the exercise of his independence in the political, economic, and policing duties entrusted to him. As a consequence, he was in various respects unable to act on his own initiative and the Javanese point of view was not sufficiently emphasised. The number of Assistant Residents gradually grew; in 1844 there were in Java only 32, in 1866 there were already 60, and in 1900 there were 77. As a result of the extension of the number of Assistant Residents, the Resident need no longer directly handle every affair concerning the administration of justice and the task of policing the territory. The head Djaksa, whose task it had been to assist him, saw therefore his sphere of activity curtailed to the division directly administered by the Resident himself. Henceforth his function did not differ from that of the Djaksas in the other Assistant Residencies-Regencies. Guard-duties were performed in each Regency by a corps of armed pradjoerits, who, however, did not count for much as factors in the general security.

Gradually the administrative offices and the organisation of

[1] *Cf.* article 2, Provisional Instruction for Officials and Employees of the Land-Tax Administration and Land-Tax Collection.

the lower Javanese administrative personnel (Mantris) were also systematised. Secretaries were now attached to all Residents; while Regents had their Patihs [1]), a sort of viziers, who assisted them, helped to see that the orders of the Regents were executed throughout the Regencies and who therefore formed pre-eminently the element of contact between the Regents and the lower officials. The Assistant Residents had at their disposal Dutch Controllers who started by being fiscal officials and gradually became administrative ones (Stbl. 1872, No. 225). At no time did they acquire executive authority, but within their province they had to see that the orders of their chiefs (Resident and Assistant Resident) were carried out and to draw attention to everything relevant to the welfare and the development of the population. They and the Wedonos became the pivot round which the whole administrative organisation revolved. It is especially in the position of the Controllers that we can see a reflection of the gradual evolution of administrative policy and system.

When the administration of rural taxes was re-organised in 1827, the title of Controller was given to the receiving officials instead of that of supervisor which they had acquired in 1818 and which recalled the titles under the Company. They did not therefore belong fully, notwithstanding the fact that they were responsible to the Residents and the Assistant Residents in their fiscal capacity, to the administrative body. In accordance with their real function, they were placed under fiscal Collectors, who usually were the Residents themselves, and of the separate Direction for Cultivation which was established later on [2]). For many years they remained in fact supervisors for the receipt of rural taxes. Later, after 1830, they also dealt with the measures for compulsory cultivation which were at that time re-introduced with much energy (Cf. Stbl. 1818, No. 49; 1827, No. 109; 1837, No. 20).

They were divided into three grades (1827, No. 109 sub B.). They could gain promotion into the administrative ranks (Assistant Residents and Residents), and could enter the Civil Service without preliminary training as probationers (sub N.). The system of land rent imposed upon them a very intimate contact with the

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[1]) The Patihs, administrators for Indonesian Rulers or feudal lords, Were the effective rulers.

[2]) Art. 5. Provisional Instruction, Stbl. 1818, 49.

population, which was deemed desirable on other grounds already mentioned. The land rent was assessed and collected upon the basis of the village because the individual basis of Raffles proved entirely impracticable [1]). His fixed principles for assessment (division into classes of soil with fixed percentages of the harvest) had been given up because it was too arbitrary. The European officials had to fix the assessment in conjunction with the village authorities, an operation in which all possible details had to be taken into account. In general, the settlement of previous assessments was followed; but the actual produce of the land, the condition of the growing crops, and all favourable and unfavourable developments in the village community were also considered. This second endeavour to establish on a more satisfactory base direct contact between European officials and the village produced better results than might have been expected in view of the lack of experience and the small number of the available staff. Receipts grew regularly, and many abuses that were still possible at the outset were gradually discovered and prevented. The Java War and its aftermath, the system of compulsory cultivation, however, caused the intended improvement in the system of collecting taxes to be lost sight of, and its place was taken by compulsory cultivation which brought in a far larger revenue.

It is clear that the officials who had to make the assessments were bound to enter into closer relations with the population than any other European, apart from the missionaries, could ever hope to do. The significance of this kind of work has already been explained in the previous volume, but it is equally obvious that such a contact can lead to little good unless the officials concerned possess a knowledge of the language and the customs of the people. Muntinghe in his Report to the Commissioners General (July 14, 1817) [2]), which has since become famous, gave advice in this sense:

> "Knowledge of Indonesian languages, of Indonesian customs and institutions, and appreciation of the character and of the useful qualities of the population are, we consider we may suggest to your Excellencies, indispensable requisites in all officials who will

[1]) Van Deventer judges more favorably of this but experience shows that our judgement is justified.

[2]) *Cf.* Van Deventer I, p. 338.

in future be entrusted with the collection of rural revenue. We further consider that the good and regular functioning of a system of taxation must depend on the abilities of these officials".

No wonder that the Commissioners General insisted that capable officials should be sent out from the mother country;[1]) while already in 1818 opportunity was offered at Samarang for the study of the Javanese language. The study of Indonesian languages and institutions was made compulsory for lower regional officials (Stbl. 1819, No. 34), and in 1832, an Institute for the study of the Javanese language was opened at Surakarta[2]). In Stbl. 1825, No. 32, for the first time, after two centuries of colonial history, rules were laid down governing the admissibility of officials destined for the East Indian service, while in 1843 a somewhat broader basis was given for the training of these officials by making the University of Delft available for this purpose. In 1864 a new regulation for admissibility to the East Indian Civil Service was promulgated (Stbl. 1864, No. 194), by which the so-called great official examination was imposed upon the candidates. This did not yet provide an ideal preparation for the task of administration, which was regarded in too exclusively technical a light, but it showed that a greater understanding of the demands made by the evolution of administrative policy — too long interrupted (1830–1860) — was being acquired. It was an evolution which became perceptible especially in the new orientation of the work of the Controllers. It is highly to be deplored that the Java War and, still more, the desperate financial position of the mother country necessitated a delay in the introduction of the new taxation policy. If it had been possible gradually to remedy some faults which still handicapped the scheme, and to follow the liberal policy toward European capital and enterprise advised in 1827 by Du Bus de Gisignies, the new spirit which was already animating the administrative officials would have followed more consciously in the right direction. Now that financial necessity made a short term policy attractive, the Governor-General, Van den Bosch (1830), succeeded in throwing a halo over the still influential traditions of the past against which even the first Governor-General Van der Capellen had been

[1]) *Cf.* Van Deventer p. 262.
[2]) *Ibid.* II, p. 44—49.

unable to make headway. These traditions certainly did not deserve such respect, especially from the liberal point of view which began to develop fairly generally in Europe about 1830. Clive Day is inclined to make the policy of Van der Capellen, and especially his jealous refusal to admit private Western enterprise, almost equally responsible with Van den Bosch, the father of that system.

This conception is not altogether unjustified. By refusing to admit private Western enterprise, notwithstanding the proclamation of freedom of trade and agriculture for the Javanese, contact with world markets was prevented, a system of communications could not be developed and the population was delivered to a few gross exploiters, themselves mostly of Javanese origin. Taxation was based on market prices, but only a small percentage was received by the farmers owing to the jobbery of the buyers. It would sometimes happen as a result of this discrepancy in prices that the taxation due exceeded the entire proceeds of the produce sold. It was scarcely to be expected that much enthusiasm could be worked up for the cultivation of produce destined for the European market. Nevertheless, Van der Capellen's policy, however unwise it may have been in itself, cannot possibly be made exclusively responsible for the disappointing failure during the years 1816–1830 to apply Raffles's admirable principles: free labour, cultivation, and trade and a guarantee of the enjoyment of the fruits of his labour to the Javanese. In its great simplicity, Javanese society could not yet profit by such a liberal policy and it was only after long years and a long and by no means easy apprenticeship that this direction could be chosen. On the other hand, it must be admitted that the opening of the Indies to the Western spirit of enterprise provided an indispensable stimulus to the process of changing the extremely primitive Indonesian economy into a more rational system of production.

However this may be, the system of compulsory cultivation, allied to the Preanger system already described, was regarded as the only salvation in the time of need; it came, it saw, and it conquered; it gradually defeated the newly born principles of liberal and good administration, it defeated the new spirit in the administration. We need not repeat what we have on more than one occasion said on this subject.

It seems amazing that compulsory cultivation should have

placed its imprint so deeply upon a period of some thirty years, with an aftermath of another thirty years. The compulsory cultivation system so entirely dominates historiography during those years that it is currently believed that the entire population in the Dutch East Indies groaned under a system of compulsory cultivation. As a matter of fact there was never any question of this. The system was only partly introduced on the West Coast of Sumatra, in Manado and in Java, for the simple reason that in those days the Dutch East Indies were considerably smaller, for practical politics, than they are now. Java especially was of significance, and even there large portions remained entirely free. Between 1840 and 1850, the period of its greatest expansion, compulsory cultivation still covered only a very small proportion of the arable land: in 1845 about 5.5 per cent of the total, in 1855 3.2 per cent [1]).

The remainder of the arable land was subject only to land rent, the assessment and collection of which had just been subjected to a certain amount of purification by more careful administration. It seems strange, therefore, that the whole administrative policy should have become infected by the evils which soon proved to be inherent in the putting into execution of the system of compulsory cultivation, which by itself would appear to have been quite acceptable. It seems strange, but it is very easily explained; it is remarkable to what a degree the spirit which rules in the highest government circles percolates through the whole staff, even to the tens of thousands who are on the lowest rung of the official ladder. If the process is not so quick where forward reforms are concerned and where inertia and self-interest have to be defeated, the inverse process is particularly rapid. The same applies to the direction of big enterprises. A lack of sense of duty, immoral practices, and unreasonableness at the top soon spoil a good staff.

Now, at the time of the system of compulsory cultivation, the government seemed to have an eye only for abundant, good, and cheap products, an attitude which was not in agreement with the interests of the population. The government became not only mean but avaricious. Reforms that would have cost money were not effected. Nothing further was done to improve the collection of the land rent, and the evils of this system naturally continued

[1]) G. H. van Soest, *Gesch. van het Kultuurstelsel*, 1869—71, III, p. 167.

to increase. The heavy compulsory cultivation services soon made the administration so used to disposing freely of the labour of the people that an enormous increase in compulsory labour for the construction of roads and bridges took place everywhere else, i. e. in the regions outside the sphere of the cultivation system, and the admitted aim was to save the treasury as much expense as possible. Moreover, Javanese officials were so badly paid, again from mistaken considerations of economy, that they were compelled to indemnify themselves in some way or other at the expense of the population.

The government, realising that without the influence of the Regents nothing of its new policies could be achieved, had again restored their power as far as possible. The restoration of the hereditary character of their function, which had been promised to a few families of Regents during the Java War, was now promised to all of them. Once more land was given in virtue of their function to Regents and to lower officials, or else they were not interfered with when they seized land. The consequences were bad, as one can well imagine.

The population was therefore left without any kind of protection against the arbitrary power of its chiefs and the Javanese officials. Even the European officials it could see only as harsh rulers. The direct contact which had but recently been initiated gave place to distrust and silence. Multatuli's "Max Havelaar" is aimed not at the Civil Service, but at the government which had again delivered the population over to an almost defeated feudal atavism, and which opposed its best officials when they sided with the population. The Controllers heard nothing more, and the old Javanese régime came back into its own.

The fact that administrative officials were given percentages on the produce of compulsory cultivation in order to make them interested in its working was a particularly bad feature of the system. No worse method of spoiling the morale of a staff could be devised. As for an improvement in the methods of training and selection of the staff, nobody in those days gave it much thought. There was moral breakdown in every respect. Driven from consequence to consequence, those responsible for policy had in the end to agree to actions from which they would have shrunk back at an earlier stage. It is an ever present danger whenever a gov-

ernment takes to buying and selling on such a scale: intolerable interference, abuse of power, and direct tyranny follow only too quickly, as contemporary communist experiments show.

Such is the lesson of the system of compulsory cultivation. We have no reason for Pharisaic gratitude that our time is so much better than that of our grandfathers. We are not under the pressure of a financial crisis. We have definitely done with powerful traditions which were then still in existence; we have infinitely more experience, organisation, and means. Raffles himself was compelled to continue the system of compulsory cultivation and even he came to favour monopolies, while he sold large tracts of land with their Javanese occupants, and these were the private seigniorial estates which in our time have to be re-purchased for many millions of pounds.

We may leave the compulsory cultivation system at this juncture. From the administrative point of view it had still further mechanised the indigenous administration, because the whole Javanese system had been still further alienated, divorced from the people, and made subordinate to European administrative purposes. This tendency was still further strengthened by the fact that intimate administrative contact between Controllers and population had been largely lost, with the result that the European administration considered almost exclusively the interests of the government, not those of the population, which it ought to have protected even against the Javanese rulers themselves. From the point of view of the people, the Regents and their subordinates had reverted to the old state of feudal chiefs, although — a thing that was of little importance to the population — they had in reality become more dependent than ever before upon the authority of the Dutch.

We have now reached a milestone in the new orientation of Dutch colonial policy, the point when the population itself was at last to become the object of administrative care. The double administrative organisation meanwhile had become an almost completely rounded off whole: Dutch Residents, Assistant Residents, and Controllers on one side, Javanese Regents, Wedonos, and Assistant Wedonos on the other. Right at the bottom were the village administrations, not appointed by the Government, and not possessed of any official function, but whose authority derived

from Javanese institutions and was recognised and utilised by the government [1]), sometimes to such a degree that some people have regarded the village chiefs as occupying the lowest rank in the official scale. Before we consider the evolution of this regional administration in the period after 1860, we must examine more closely the development of the central organisation.

The development of the central organition of government after 1816

In 1818 the relationship between the mother country and the Dutch East Indies was expressed by the attribution of the highest power of government to the King. The Minister of Colonies was not responsible to Parliament, but was only the King's agent. In the Indies power resided, under the supreme supervision of the King, with the Governor-General appointed by him and with the Council of the Indies which till 1836 shared with him the task of governing. In that year, in order to prevent any possibility of opposition by the Council against the Governor-General, who was the executive agent of the compulsory cultivation system, the Council was made into a merely advisory body. Until 1855, therefore, the Governor-General was *de facto* the East Indian government. The East Indian Government Act of 1854 restored to the Council the most important functions, mainly from the legislative point of view. It then became a separate body that was partly advisory and partly co-governing. This situation remained unchanged until 1927, after the East Indian Constitutional Act of 1925 (i.e. the revised Government Act of 1854) had elevated the advisory Council of the People to a co-legislative body. Since then the Council of the Indies has been mainly an advisory organ.

In the years of the compulsory cultivation system, the Governor-General was invested with a fulness of power which was scarcely less than that of an absolute ruler. The supreme authority in Holland had at its disposal a very imperfect organisation, and was therefore able to influence the course of affairs but little. From the Indies came only sparing communications. Further, the poor system of communication and the small knowledge in Holland of East Indian affairs, made intensive interference from the mother

[1]) Cf. Van Vollenhoven: *Samenstelling van Regeerorganen in het Staatsrecht overzee*, "*Kol. Tijdschr.*" Sept. 1929, p. 417 sqq.

country almost as unthinkable as it would have been in the days of the Company. In the Indies, moreover, there was no organised public opinion, no active corporate life, and no good press. Private European settlers were excluded so jealously that in the middle of the 19th century they did not number a thousand. In addition, the influential Nederlandsche Handelmaatschappij, strong through its monopoly, killed all competition. The Government dominated agriculture, shipping, industry, and trade to such an extent that there was insufficient independence and no possibility of criticism in any direction.

While the compulsory cultivation system was applied, almost nothing was known of its consequences in Holland. The States General received communications of a Delphic terseness. The Minister himself was equally unable to picture the state of affairs adequately from the reports that were sent to him. The Governor-General was therefore practically independent. The central and regional administrations derived their powers from him, and everyone looked up to him alone. Outside this administrative authority derived from the central governing power, the old Adat communities and principalities in Java continued, up to a point, to revolve about their own axis while over the greater part of the islands outside Java an almost independent government of princes and chiefs continued for another half century.

Immediately ministerial responsibility to the States General was introduced in 1848, East Indian administrative policy was also brought within the sphere of Dutch public opinion. Great changes were bound to take place. In 1848 a revision was just taking place of the East Indian Government decree of 1836. This revision was, for the first time in Dutch colonial history, to be submitted to the judgement of responsible popular representation. The States General had finished this task only in 1854. The Dutch legislator now received control of the overseas administration, the Council of the Indies was to a large extent restored to its previous position, and certain fundamental rights and guarantees were legally assured to the inhabitants. Aware of their lack of knowledge, the States General hesitated to demand for themselves too far reaching powers in the matter of East Indian legislation. The settlement of most matters was left to the so-called General Regulation, a term which left the legislative power to take all ne-

cessary steps either to the Legislature or to the King alone or to the Governor-General acting with the Council of the Indies.

By the fundamental law of 1848, however, the Dutch Legislature was pronounced exclusively competent to pass the East Indian Government Act which served as a Constitution of the Indies, to regulate coinage, and to control colonial revenue and expenditure. Furthermore, it was allowed by law to legislate on every other point "as soon as the need would appear to exist". By 1854 the laws mentioned in the constitution of 1848, viz. the East Indian Government Act and the Coinage Act, had been passed by the States General. In 1864 followed the East Indian Civil Account Code (Ind. Stbl. No. 106). In the East Indian Government Act itself a few subjects (inter alia in Art. 129, the regulation of customs duties) had been reserved to the Dutch Legislature, but the predominating opinion at the time still was that the Crown should usually settle these matters, as has been the rule during the following years. Only a few subjects such as the East Indian Mining Act were settled by law, owing to their imperial or international character, or for other reasons. On the other hand, one sees the Crown settling legislation as important as the East Indian Codes of penal and civil law.

By such incidental legislative Acts as have been passed from time to time by the States General since 1854, the influence of the Dutch Legislature in East Indian affairs could not have become predominant. Of much greater importance was the controlling power over the East Indian budget after 1866, in pursuance of the Act of 1864. By acquiring the disposal of the purse the Legislature was able to exercise as much control over the executive power as it cared. The Minister, it is true, was responsible, but this did not prevent his being compelled in certain circumstances to give way to the wishes formulated by the States General. Henceforth, at every debate upon the budget, the Minister of Colonies saw himself subjected to a real cross-examination which often touched on small details about which he was by no means always so well informed as the man who put the question. The great power of the Governor-General, of course, came to an end. He had to keep the Minister informed, for the Minister could not meet the States General without having at his disposal full information about all matters large and small. Moreover, the Minister who was now

made to feel his responsibility for everything very acutely began to demand that he should be put into possession of all the facts. In the Indies themselves, it thus became natural that the Governor-General also should aim at getting all the strings in his own hands in order that independent action by his subordinates should not cause him and the Minister to be made responsible for actions of which they had known nothing. Centralisation, therefore, everywhere resulted from regular parliamentary interference. From the administrative point of view, the most important result of such a development is that the whole administrative organisation, including the indigenous administration, becomes too exclusively an organ of the central authorities, bound to perform meticulously all orders from above and having too little freedom to act upon its own initiative in the popular interest, which varies so much from one locality to another. The administration was, therefore, threatened with considerable loss of initiative and with the decrease of opportunity to make use of local experience. The population was threatened with uniformity and with the neglect of its local and special needs. The more traffic spreads, the more strongly can the central authorities make themselves felt, and the less discretion is left to regional and local administration. In Java this centralising influence made itself felt much more quickly and powerfully than in the districts outside Java. The central organisation itself had therefore to expand and to re-organise itself in order to fulfil its new task.

Like the regional administration, the central administration originally was also directed very one-sidedly towards the interests of the treasury. Under the Commissioners General it was still very modest in its extent. There was the General Audit Office established in 1816, and a few offices and boards were entrusted with the administration of branches of the service which mainly looked after the receipts and properties of the Government. The general direction of affairs was left to the Governor-General assisted by the principal bureau of the Government, the General Secretariat which in those days was already fairly extensive [1]).

Until 1826, administration was left mainly to a board called the Head Direction of Finance. In that year a Director General of

[1]) P. H. van der Kemp, *De Geboorte van de Algemeene Secretarie, "Ind. Gids"*, 1910, I, p. 433 sqq.

Finance took its place. Two officials with the title of Directors were appointed under him, one for Revenue and Government-lands, one for Produce and Civil stores (Stbl. 1826, No. 63). In 1832 (Stbl. No. 15), a Director for Cultivation was added to their number. In 1854 (Stbl. No. 100) a fourth Director, for Public Works, was appointed. The East Indian Government Act of 1854, however, prescribed (Art. 64 R.R.) that the different branches of the general civil administration were to be controlled by Directors under the orders and the supreme supervision of the Governor-General, and that the number, work, and attributes of these Directors was to be fixed by the King.

The departments which had been embraced until 1854 under one general direction of Finance had, therefore, after the growth of thirty years, reached the moment of sub-division and differentiation which occurs in the life of every growing organism. The general direction was abolished (Stbl. 1855, No. 23). Five separate departments were established: finance, revenue and lands, produce and civil stores, cultivation, and civil public works.

This change, says the Report of the Commission for the re-distribution of administrative functions of 1921–1923, really introduced no modification "either into the extent or the division of the task of the administration". As a description of this task, the word "general civil administration" had taken the place of "general administration of finance" (Report p. 11). Professor Kleintjes [1]) rightly remarks: "This enumeration proves that the general administration in those days resolved itself into a financial administration, and that care of the country came down above all to care for lining the treasury." Clive Day similarly remarks concerning an earlier period that the prosperity of the Javanese did not count in the considerations of the government and that practically nothing was done for them. The first general budget for the Dutch East Indies, that of 1840, shows that almost all the expenditure was allotted in favour of Dutch military and political influence and for the satisfaction of fiscal requirements. The Department of Finance, Trade, and Cultivation cost more than 30 million guilders, and that of War almost 7 million. General Administration and Police cost $3\frac{1}{2}$ million. The sum of 500,000 guil-

[1]) P. Kleintjes, *Staatsinstellingen van N. I.*, 1927–9, I, p. 280.

ders was allocated to Justice and a still smaller amount to agriculture, religion, arts and sciences.

The new terminology of 1855 was, however, more than an external sign. It opened out, as the Report of the commission of 1923 shows, the opportunity for a wider conception of the task of the authorities, a conception which, after the passing of the East Indian Civil Account Code in 1864, was to express itself in the reorganisation of the departments of general administration (Stbl. 1866, No. 127), which entrusted the administrative direction to four departments — "Internal Administration, Education with Public Worship and Industry, Civil Public Works, and Finance". This list is eloquent; it differs very considerably from that of 1855. It bears witness to a conception of the administrative task as an aim in itself, no longer as being merely partly fiscal, partly police, while the establishment of a Department of Education was no less significant. The faithful execution of Art. 128 R.R., "the Governor-General takes care that schools for the indigenous population are established", was, however, in fact to be postponed for thirty years. The extension of popular education proceeded in an extremely gradual manner until about 1900; while Western elementary education orginally was meant only for the children of Indonesian notables, and normal schools were available only to a very limited extent.

It is remarkable that the need of a separate Department of Justice was felt only in 1870 (Stbl. No. 42). In 1840 the money spent on justice, as we saw, was still very small. We have, however, to remember that the civil administration was also entrusted with the administration of justice and with various other functions which did not bring it extra emoluments. Justice had only partly detached itself from administration. Until 1870, it had been thought that a Director of Justice would not be able to find a sufficiently large field of action, and his functions had therefore been entrusted to the Procurator General and to the President of the High Court [1]).

Finally in 1904 (Stbl. 380) a Department of Agriculture was established which at a later period (Stbl. 1911, No. 467) became the Department of Agriculture, Industry, and Trade, and in 1907 (Stbl. No. 406) a Department of Government Enterprise was

[1]) P. Kleintjes, *Staatsinstellingen N. I.*, 1926–9, I, p. 280.

started, under which were placed those enterprises and services which were organised as purely financial and economic concerns. In 1907, there existed, therefore, including the two military Departments of War and of the Navy, nine departments.

At present one still frequently hears a wish that different branches should be brought under a Department of Traffic or under a tenth department with definite social attributions. Labour and public health, which now come under justice and education, would be the first to be taken into account if this happened. But we have not yet moved so far. The above mentioned decree of 1866 was withdrawn late in 1918 (Stbl. 1919, No. 2). A new definition was then given of the sphere of activity of the departments of general administration, but the sphere itself was not modified by the new definition.

A biography of these departments, like the series which has been appearing for some time in England, would make more interesting reading than some people might think [1]). In compressed form, it would show the whole history of the growth of government care. It is typical that an important branch of the service can be traced perhaps to the interest of one person, who began to extend his field of activity somewhat, attracting auxiliary forces until at last his new field became so extensive that it had to be entrusted to a branch of the service that was outgrowing its original zone. Then perhaps a new process of growth and division starts, giving a faithful image of social differentiation and growing government care. The main lines of this development show themselves very clearly, and make it easier to visualise the inter-dependence between events and government action in every phase of growth.

It is not by chance that simultaneously with this fundamental reorganisation of the central system administrative training should also have been improved to a considerable degree, that administration and justice were separated, that regional administration strongly progressed in quantity and quality, that an extensive agrarian investigation was started in 1867, and that agrarian legislation began in 1870, that the organisation of districts and sub-districts was rounded off completely, so that the government

[1]) The Whitehall Series, edited by Sir James Marchant. Already appeared *Home Office, Ministry of Health, India Office* (1926), *Dominion and Colonial Offices*, etc.

police were given the sub-districts as their smallest unit and were in consequence greatly improved. It cannot be coincidence that in 1871 re-organisation of the whole police system was considered, that the instructions to Javanese officials and chiefs were brought up to date [1]), that a number of compulsory cultivations and also the Preanger system dating from the days of the Company were abolished (June 1, 1871), and that in 1866 an end was made to paying percentages on the produce of compulsory cultivation to European officials, that, finally, the Controllers of land rent and compulsory cultivation were changed in 1872 (No. 225) into "Controllers under the Interior Administration". From those days also dates the growing sense of responsibility towards the territories outside Java. The first symptoms appeared in the course of the fifties and the sixties [2]). Later it increased, and it became very strong under van Heutsz, so that Dutch authority was definitely established everywhere in the Archipelago and an opportunity was given for fulfilling the duties of an all-embracing government care. The policy of exploitation in the territory of the old Company and its abstentionism in the other islands ended, and had to end simultaneously. All this in turn is connected with the re-organisation of the central organism, which had become necessary as a result of the same change of spirit and of the influence of Dutch public opinion.

From the preceding outline, it is clear that, about the end of the sixties, the central organisation entered on an extremely mobile stage and a period of considerable growth. The increasing need of an adequate performance of the duties of authority had called into existence a strong regional administrative organisation which had been rounded off about 1870; but the central organisation was still weak and insufficiently equipped for the impending differentiations in social and administrative care. The apparatus of regional administration, the so-called Interior Administration, was able for some time to cope with its growing concerns by an expansion of personnel and by multiplying its functional many-sidedness. At that period we see the administrative officials taking on all kinds of functions which we now leave to highly specialised branches

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[1]) Stbl. 1867, 114, (cf. 1859, 102; 1886, 244; 1907, 192) for the Regents; 1867, 114, for the Wedonos; 1874, 93 for the Assistant Wedonos.

[2]) Kielstra, *op. cit. passim.*

of different services. The same officials were then in charge of the functions of administration, police, and justice. They were notaries public, auctioneers, engineers for roads, irrigation, and the building of bridges; they had to carry out agricultural, veterinary, and cadastral work. We even see them rendering modest but highly valuable services as apothecaries and doctors. It was a time of rough and ready methods, a beginning of fresh interest; but things could not remain thus. The same growing administrative care which had first completely to re-organise internal administration and was eventually to over-burden it, after these first steps in the right direction was to find itself obliged to entrust all kinds of work to special branches of the administration. The central authorities began with feverish haste to extend their influence to the extreme periphery. The administrative body in the Residencies was of primary importance in this, but it was more and more accompanied by other specialised staffs, and by the professional differentiation which began to grow within society itself. This influence that came from the centre and the allied centralising tendency were necessary because along no other way could primitive society be put in possession of modern organisation, technical ability, and specialised knowledge. Though compulsory cultivation had restored financial equilibrium, all this could scarcely be paid for, and that is why these stimulating elements had to be concentrated into one power station from which everything had to be done, until intellectual and economic capacities had been sufficiently strengthened to make it possible to allow democratic regional or communal authorities to erect their own small plants. Hence the indispensable centralisation of the last half century and the equally indispensable decentralisation of the last few years.

It is clear that the expansion of the central apparatus could not always proceed in an equally systematic way. Some administrative branches changed their character and floated from one department to another in search of their right place. A certain number of subjects which did not form a harmonious whole were to be found under the roof of one definite department. An extension of the number of departments was sometimes the only method of achieving a better grouping of administrative care. Nevertheless, this division of labour still left much to be desired, and it is to the realisation of this that the appointment in 1921 of

the Commission for the re-distribution of administrative functions was due, and this forms a kind of resting point after half a century of amazing expansion. It had to examine one by one all the spontaneous growths that had been re-organised from time to time. It had to test the standard of system and efficiency to which a modern administration must conform.

The Commission had therefore to enquire into the best way of achieving a more efficient division of the different subjects of government care among the departments of general administration. It had to bring back a few branches of services which had gone on their own way like meteors and to replace them within the planetary system of the departments in accordance with the explicit rules of Art. 64 R.R. The Commission had to investigate in how far it was desirable and possible that the General Secretariat at Buitenzorg should be restricted by transferring certain of the attributes of the Governor-General to the heads of departments or by the modification of the existing organisation of government. The recommendations of the Commission were by no means bad for the natural growth of the previous years. Its conclusion, for instance, rejected the supposition that "in case of the preservation of the actual number of departments of general administration now in existence, a considerably modified distribution of the task of the authorities over these departments would be more effective than at present". On the other hand the Commission considered that as soon as the authorities had their hands freer financially, a far reaching re-distribution of the task of the authorities would become unavoidable. In this connection one has for instance to think of the further expansion of the number of departments.

Shortly afterwards, the decision of 1918, mentioned above, was withdrawn. In Stbl. 1924, No. 576, a provisionally satisfying and more effective description of the activities of the departments was given. A glance at this enumeration is sufficient to realise that in this short space of time, a completely equipped and modern apparatus of state had been built up in the Dutch East Indies. Names of departments have as little meaning in this connection as the names of departments in the mother country. One has therefore to consider the subjects of government care entrusted to each of the departments if one wishes at all to understand the extent and the many-sidedness of these departmental spheres of labour.

At the same time, in order to understand the task of the regional and local interior administrative organisation, one has to realise that though they no longer have to fulfil the functions of postal officials or veterinary surgeons, yet their co-operation is still in many affairs indispensable. In this way the regional Civil Service officials save an immense amount of expansion of diverse central special branches, and, by making use of the village administrations, enable government care to penetrate to the centre of the popular sphere. There are many who regret this utilisation of village administrations because the popular chiefs threaten to become officialised. A simple and economically weak society, however, demands that every available administrative instrument should be used by the centre to the fullest degree. Wonders have been achieved in this way and it is precisely the village administrative bodies which give, in their capacity of linking elements between central and local authorities on the one hand and the population on the other, the very best guarantee for the gradual adaptation of the evolutionary influences that come from above. The significance in principle of both the Dutch and the indigenous Civil Service, notwithstanding the enormous expansion of the central administration, will, therefore, be appreciated. No change can occur in these conditions until the population can organise its own regional and other power stations, pay their expenses, control them, and staff them with experts.

The Report on re-distribution of functions referred to the Departments of Agriculture, Industry, and Trade, Civil Public Works, and Government Enterprises as a group of public welfare departments, which seems to be an adequate designation if one considers the subjects which fall under their jurisdiction. The three Departments of Justice, Finance, and Internal Administration were, with the two military Departments, placed in a special inner circle of Departments of State, because in them departmental organisation was rounded off in a sober structure outlining the strict fundamentals of the task of the state. As third group, the Report distinguished the Department of Education, Arts and Public Worship, under which also falls the public health service, because this department aims at the care of physical, intellectual, and spiritual interests of the people, and therefore has only an indirect bearing on welfare or prosperity, but bears directly on popular development.

This classification should not make us lose sight of the fact that other departments also care for important aspects of welfare and even of popular development. Let us remember popular banks and co-operation which fall under the Department of Internal Administration, and the organisation of education by the Department of Agriculture which teaches veterinary surgery, agriculture, and especially those agricultural subjects which can be taught by demonstration in practical open-air schools for adults, and where more pedagogical knowledge is required than in any other school [1]). Under Justice, again, comes the care of the whole labour problem, with which are connected many questions of popular welfare and development as well as the work resulting from the probational system, reformatory institutions, supervision of educational establishments for juvenile criminals, the fight againt immorality, a task which often has to consist in education or moral influence in the interest of the socially backward.

Under the Department of Finance comes the service of the opium monopoly, which, according to some people, is an eloquent symptom of the financial purpose with which this service is said to be established and continued. In another chapter this insinuation will be examined. At present we shall only remark that this service by control and gradual limitation of popular evils that work like a cancer, uses the only possible weapon, in the existing circumstances of the Far East, for causing the death of a worm which gnaws at popular prosperity. It is due, moreover, to the devotion of a few very able leaders of this service that the Dutch system has received from abroad many expressions of appreciation.

From the large increase in number of all these branches of the service, it can be seen how much the authorities further welfare and development along many different ways, and also how the administrative service has at present become no more than one out of many services. Needless to say, the assurance of order and peace by good legislation and justice, and of security and observance of the law by good police, gives to the administrating organs of authority in their capacity of furtherers of the interests of the people the basis upon which their constructive work has been possible. Finally, looking once more at all these departments with

[1]) *Cf.* A. J. Koens, *Landbouwpaedagogiek*, "*Kol. Stud.*" April 1927, p. 266–277.

the central services they contain one may say that an impressive organisation has arisen. In conclusion, it may be stated that already no single aspect of government care, such as most modern Western states know, can be mentioned for which there is not a still growing equivalent in the Dutch East Indies.

It is remarkable to reflect that before the decentralising legislation of 1903 and the much greater decentralisation which has come about since 1925, one man only, the Governor-General, was responsible to the Crown, just as the Minister of Colonies in his turn was responsible to the States General. According to Art. 64 R.R., already cited, the Directors, the heads of departments were not personally responsible members of the Government in the same way as Ministers are in the mother country. Departments in the Dutch East Indies have a far wider range of activity, as one can understand when one remembers that they cover a territory sixty times the size of Holland and with a very varied population of over sixty million. The cares entrusted to the Chief of an East Indian Central Department are therefore not smaller, and are possibly rather larger than those of a Dutch Minister.

In Western states, it is true, there may be a more delicately jointed state organisation corresponding with the much higher level of popular development. On the other hand, the problems of Eastern societies in process of evolution demand from Western authorities a foresight, a psychological intuition, a practical readiness, and a delicate execution which most certainly is never needed to such a degree in the West. Moreover, the establishment of local councils on the basis of the decentralisation legislation of 1903 has unburdened the central government to but a very small extent. The Act for Administrative Reform of 1922 promises more in this respect. Gradually the Government will transfer a large part of its task to the governments of provinces, regencies, municipalities, and other autonomous and self-governing units still to be established. In this respect the Indies are naturally far behind Holland, with the result that the central authorities are still overwhelmed with the mass of local details. There is another reason why, theoretically only, the chief of a department is said to be less heavily burdened than a Minister. It is that not he but the Governor-General is deemed to be responsible for his actions. The principle of responsibility, however, does not in fact

lighten the burden of the chief of the department, of the chiefs of services, of administrators any more than that of the youngest clerk. It only results in a shared responsibility which finally places the burden carried by tens of thousands of shoulders upon those of one single man, the Governor-General. If in our own country decentralisation was yet in its infancy and the Prime Minister were made responsible for the work of all his colleagues, one would see a relationship such as at present exists in the Dutch East Indies, unless the executive were to acquire a position similar to that which it formerly possessed in Germany, and still does to some extent in the United States.

This comparison will perhaps explain the special character of the central state organism of the Indies. A Prime Minister, who personally would have no department of his own but would exercise direction and supervision over the Secretaries of State, would soon, like the Governor-General, have to form his own central department in order to be able to bear his responsibility towards a very powerful parliament. This department, if he really wished to exercise actual control and supervision, would have to correspond on a small scale to the departmental spheres and their main divisions. For an all-embracing responsibility of the executive towards another independent organ need not strengthen the sense of duty which undoubtedly exists in every good President, Chancellor, or Prime Minister, but it requires undeniably more than what is usually understood under general direction and supervision and it necessitates more than the taking of decisions on general principles, while important details are left to experts. Such a constellation often requires from the Governor-General the formation of an independent and personal opinion. That of course is the reason for the creation of a General Secretariat in the Dutch East Indies, an extensive and influential office without which no Governor-General has been able to manage. Only a natural emancipation of the departments and political decentralisation can make a difference in this respect.

The Directors stood under the authority and the supervision of the Governor-General and were dependent agents whose work he had to control, just as he did control that of the regional and local administrators, to keep their individual efforts in agreement with the general interest of the country and with the directing

lines of colonial policy indicated by the supreme authority, i. e. the Crown, acting through the Minister of Colonies. With the growth of government care, it was inevitable that the correspondence which kept flowing daily towards the Governor-General required more copious baskets every year, and that at the same time the Governor-General's bureau, the General Secretariat, was bound equally to increase in size and significance.

A generally applicable explanation of the matter is given in the following quotation from the report on Re-distribution (p. 48)

> "The East Indian state organisation cannot do without a General Secretariat. It does not owe its existence to a well-considered plan settled beforehand by the legislator. In the East Indian Government Act it finds no place. It was born under the pressure of circumstance and its inevitability seals its credentials. As long as the Crown represented by the Minister of Colonies bears full reponsibility towards the States General for the government of the Indies, and the Governor-General in the Indies is the exclusive bearer of this responsibility, it is impossible to hand over anything like an important portion of responsibility to the heads of Departments. It is the extent of the task of the Governor-General in the state organisation which determines the extent of the task of the General Secretariat".

In this absolute form, one would find it difficult to subscribe to this last remark, for it rests with the Governor-General to decide in whom to place his trust. Anyhow, the development of the last few years has rather caught it up. The departments have gradually specialised to such an extent that no central bureau can see the whole sphere of activity unless it duplicates at great expense the technical personnel of each of the departments. The point of gravity thereby slowly moves towards the departments. Their heads become the trusted advisors of the Governor-General who, for better or for worse, has to rely upon their specialised knowledge. It is this inevitable development which is more and more limiting the activities of the Central Secretariat to general functions. Then there are a great number of purely administrative affairs and numerous important matters of direction which are nowadays left to the chiefs of departments. This particularly concerns matters relating to personnel, where the chiefs of departments are now allowed to take final decisions, much to the relief of the Governor-General's work. The latter continues to

be responsible, but his responsibility merely concerns the necessity of exercising care in appointing the higher personnel and in an impartial judgement of ability and sense of duty.

This divided responsibility cannot possibly be laid down in regulations. One of the first proofs of the sense of responsibility in an official is that he does not bother his chief with details, and sees unerringly exactly where his chief must judge and decide. By a practice that imperceptibly arises from experience and from personal relationships, the chief of a service acts in the same way towards the head of the department, and the latter towards the Governor-General. The Governor-General may expect of the heads of his departments that they shall continually take account of the reality of his own responsibility, and at the same time not overwhelm him with insignificant matters; in short, that they will always co-operate in order to put him fully in the position of exercising supreme management and supervision.

It is more and more to the latter functions that the work of the Governor-General has to limit itself since the task of government has increased so considerably. The position of the Directors was bound gradually to modify itself. Especially since the establishment of the representative Council of the People, and its promotion to a body which shares the task of legislation, have the Directors come into the limelight, for to the Council they regularly explain and, if necessary, defend the part of government care which comes under their department. This very important function in its turn assures a regular contact with the Governor-General and gives far more relief to their task of acting as advisers of the Government. Formerly one heard the complaint that the General Secretariat placed itself too much between the Governor-General and the chiefs of departments. The previous lines sufficiently show that this situation was bound to alter, even if no regulation had ever been made, and why it did.

The East Indian Government Act, however, has been altered to take into account the practice of life. Its Art. 115 no longer speaks, as did Art. 64, of Directors, but of heads of departments. It does not speak about the orders and the supreme supervision of the Governor-General, although as we have said there has been no change in principle from the old situation. The great difference between the position of these heads of departments and Ministers

appears when, as spokesmen of the Government, they have to defend in the Council of the People actions of the Government, even if these are not in agreement with their own conceptions and approval.

As the Council of the Indies is, in all important affairs (Art. 22 I. S.) the adviser of the Governor-General, it appeared desirable to keep the technical competence and the specialised experience of the departments in touch with the Council of the Indies, whose experience is of a more general kind. It was decided not to treat them as two entirely isolated bodies [1]), because otherwise the unity of the Government's policy would suffer. The heads of departments would not have sufficient opportunity of comparing their conceptions with the significance of more general and political considerations. They would also on occasions have been compelled, as representatives of the Government, to defend policies which they could support only to a restricted extent. The Council would, it is true, have at its disposal departmental proposals and explanations, but it would not become acquainted with the arguments adduced in support of them if the reflections of the Council had been known beforehand. The Governor-General himself would, as the result of insufficient preliminary co-operation between the Council and the departments, be placed without reason in the position of an umpire between his technical and his general advisers.

This does not mean that in departmental propositions only the technical and expert side of a problem is explained, or that recommendations from the Council never display technical ability. What we mean here is only the obvious fact that a different emphasis may often be expected from such recommendations. A twofold way of looking at things is of great utility and guarantees completeness, provided there has been complete co-operation while the recommendations were being elaborated. This is what Art. 8 I. S. aims at. It gives heads of departments the opportunity to be present at the meetings of the Council (e. g. at the discussion of the project of the annual budget), and to take part in the delibera-

[1]) *Cf.* S. Ritsema van Eck, *Koloniaal-Staatkundige Studiën*, 1912—1918, p. 7, sqq, giving a clear explanation of the necessity of a distinction between the general task of the administration which must remain in the hands of the Governor-General, and the care for special state functions for which expert heads of departments must be made responsible.

tions of the Council in regard to proposals relating to the sphere of activity of their own department.

Objections have been raised against the increased independence of the heads of departments and against the danger that the unity of direction which used to be ensured by the Governor-General might in the long run become affected, because the unity of principles which keeps a parliamentary cabinet together does not here come into play. It is therefore of much importance that, in conformity with Art. 116 I. S., a Board of heads of departments has been formed; for this collegiate co-operation, which will certainly increase in future, will facilitate the maintenance of the unity of policy embodied in the Governor-General. It forms a counterpoise to centrifugal tendencies and will therefore help to secure a more harmonious functioning of departments as organs of the body of Government [1]).

In the same way as the delegation of decisions in administrative affairs from the Governor-General to the heads of departments has meant a considerable lightening of his labour, a similar division of the task between central and local official authority can be attempted. Here, of course, arises more acutely the universal dilemma between the necessity to leave to the discretion of local authorities the decision as to the best mode of execution of central measures and the care of specifically local interests, and the difficulty of interfering as little as possible with local administration without unnecessarily allowing unity of direction to be jeopardised. Three desiderata which by no means naturally run parallel have to be conciliated. Regional and local administration must be given sufficient room for differentiation according to needs in the execution of higher orders, and for initiative in the matter of the defence of local interests. On the other hand, respect for the frame of unity must be imposed because otherwise there will be an arbitrary differentiation leading to chaotic confusion. Finally the higher interference must be sufficiently considerable to be able to prevent or to discover in time unjust or mistaken actions by the local authorities for which the central authorities remain responsible. It is absolutely impossible that anywhere in

[1]) *Cf.* J. J. Schrieke, *De Indische Politiek*, 1929, p. 119–126, who fears a serious weakening of the central organisation and wants to prevent this by joining the heads of departments in a new Council of the Indies, giving them also more independence and executive power.

the world this problem can ever be solved in a satisfactory way unless the local population can be fully entrusted with the lion's share of the supervision of its local authorities. In a territory administered by an official autocracy, the policy of leaving local authorities a free hand is, as elsewhere, a blessing so long as this liberty is utilised in the right way and incites to a healthy independence. But sooner or later it happens that somewhere things go wrong. At the same moment the central authorities are made to share full responsibility. The guilty, negligent, or incapable official is replaced by somebody else, but the authorities as well as public opinion probably easily conclude that a repetition of such events must be prevented for the future. It is then that salvation is sought from more detailed regulations for the whole territory, more control, more preliminary consultation, and more inspection. In its turn this tendency to over-centralisation which attempts to prevent all mistakes *a priori*, but which thereby automatically does away with all initiative, meets with no less resistance. Complaints are heard then about the undermining of the sense of responsibility of local officials, about placing secretariat routine above experience acquired in the field, about uniformity and the sacrifice of special local needs, which are not sufficiently realised at the centre, and are therefore easily neglected. Thus the tide comes and goes, and extreme differences are best prevented by giving the local authorities a reasonably free hand, while, on the other side, very exacting demands have to be made on the persons appointed to such responsible positions. And finally immediate dismissal must follow when incapacity in the discharge of any function is revealed by the person who exercises it.

A thorough change in this respect, going farther than what we have just described, would not be easy unless political decentralisation devolving upon autonomous authorities responsible to the local population took the place of the policy of allowing local officials a reasonably free hand, which is considered by many to be only a palliative, and which might be called a bureaucratic decentralisation [1]). This democratic solution is preached continually, and always with an enthusiastic Eureka, although it is by no means equally applicable in every case.

[1]) See Van Vollenhoven's article in "*Koloniaal Tijdschrift*", Nov. 1929, p. 528 *sqq.*

It is very easy to show that a real unburdening of the Governor-General, the Council of the Indies, the Council of the People and the central departments demands that large and small territories should acquire an autonomous and self-governing status, should each maintain their own household, manage their own finances, and should have their own authorities entrusted with the task of government, and responsible only to the local population. It is easy enough to point out after the first steps have been taken in this direction that too many matters still continue to come within the central sphere or that the financial separation between the central treasury and that of the young autonomies still leaves much to be desired.

One overlooks, however, the fact that such a political decentralisation would be an irresponsible act, having consequences far more serious than over-centralisation or excess of freedom for local officials, as long as a strong civic sense has not manifested itself among the whole population. For it is this civic sense alone which can produce and organise a well informed public opinion, and only the latter can create and keep alive the consciousness which compels local representatives, authorities and their personnel to keep on the right track. If this sense of citizenship has not yet been achieved, the Government is soon compelled to sharpen its control of municipalities, local divisions, regencies, provinces, etc., to the extent that a sense of citizenship is lacking. In other words, the old situation is indirectly and silently revived, with the difference that the exercise of guidance and supervision becomes more difficult, more delicate, and more complicated while the organisation has become more expensive and less efficient.

As this consciousness, however, increases in quality in the leading personalities, and in quantity in the whole population, political decentralisation can increase in volume and in depth. In expectation of this, the process of unburdening and shifting will have to be made more gradual in order to agree with the process of development of the civic sense taking place among the population. The same consideration, moreover, holds in respect of the relations, provided for with much wisdom and subtlety by the East Indian Constitution Act of 1925, between the Home Government and the States General on the one hand and the overseas governmental organs on the other. Here also there is political decentra-

lisation within the Kingdom of the Netherlands in the interest of the Dutch East Indies, Surinam, and Curaçao, which in principle continues to make the Minister of Colonies responsible for everything while in practice the Home Government as well as the States General show their willingness to aim at a self-limitation which restricts itself to general leadership and supervision.

It is now incumbent upon the whole population of the Dutch East Indies as part of the Kingdom and upon the local populations of the autonomous provinces, regencies, districts or municipalities which have been formed there to show that this decentralised responsibility can be continually extended. The same applies to the lower Adat communities recognised as autonomies, and also to the higher indigenous federations, native states, etc. In expectation of this, the power to legislate and to act with regard to all internal affairs was not left to these autonomous territories organised in a modern way as is the case in Holland (Constitution Artt. 134 and 144). Instead, councils are established "for the regulation and administration of their internal affairs" (Art. 119 par. 2 and 121 par. 2 I.S.). In other words, this internal sphere of activity will be outlined from above and may be extended from time to time by more detailed regulations [1]). In this way it is possible continually to expand the field of autonomy and self-government according to local capacity, while gradually the central responsibility will correspondingly decrease.

Many people do not like this gradualness. Sometimes this whole method of political emancipation is called a mere pretence, but one rarely sees an effort made to prove this assertion by showing that the strength of the people is capable of carrying and executing greater responsibilities. Not unjustly, the remark is added to this reproach that present day decentralisation does not sufficiently unburden the central organisation. Some alleviation, however, can already be detected, while the future will bring ever more satisfaction along the way that has just been indicated. Moreover, the co-called bureaucratic or official decentralisation has attempted to alleviate the task of the central authorities by the delegation of powers to regional heads of administration. The Governor-General as well as the departments can for the time being be very well assisted in this way. If, in view of the fact that

[1]) *Cf.* van Vollenhoven's article in "*Koloniaal Tijdschrift*", 1928, 3, p. 266.

the Governor-General remains responsible for all that is done by his local representatives (Governors, Residents), one wished to give real significance to such an explicit or tacit delegation of powers, it would also be necessary to envelop the confidence to be placed by the Governor-General in his representatives with all the necessary precautions. The heads of regional administrations would have to satisfy the highest requirements, so that they could be given with confidence an important part of the task previously performed by the Centre, subject only to general supervision. They would also need to have at their disposal an organisation enabling them to look independently after important parts of the task of local government. With these two demands, it was thought existing regional administrative organisation could not comply. It did not seem possible to select from a relatively small administrative body some forty born leaders who would be capable of performing independently this higher administrative task [1]).

The existing number of Residencies (37) would therefore have to be diminished; in other words, larger administrative units would have to be formed by the amalgamation of smaller ones. This was necessary, moreover, because the Treasury would only be able to give the requisite equipment to these new governments if their number was kept as low as possible. Finally, it was considered that the sphere of action of many central services, viz. traffic and communications, irrigation, necessarily had to cover large territories and could not be adjusted with the division and sub-division of the field of labour over a large number of small Residencies. This consideration has even led to a serious plea in favour of making islands the regional unit. Java and Sumatra would then have formed large island governments, as a consequence of which the whole system of transport, including railways, could have been entrusted to the regional administration.

After long and repeated investigations, of which we shall have more to say eventually, Java and Madura have now been divided into five governments. The administrative governments of West Java, East Java, and Central Java have been one after another converted into autonomous provinces, while the Javanese States Djokjakarta and Surakarta keep their distinct position within the governments of the same name. This special position results

[1]) *Cf.* Pronk, p. 21, 85 *sqq.*

from the traditional respect in which these Javanese autonomous states have always been held. Outside Java this partly administrative partly political reform has scarcely started. A Government of the Moluccas has been established, and it is intended to begin now with Sumatra [1]). As a result of the administrative reform in Java (Stbl. 1922, 216. Cf. Articles 119, 120, 121 I. S.), a complete transformation of administrative organisation has been effected. Smaller Residencies have been formed as administrative divisions of the new governments, but the old sub-division into Assistant Residencies and the double administrative formation which was embodied in the Assistant Resident and the Regent has disappeared. In some respects the Regent has taken the place of the Assistant Resident, in others the Resident. Many other changes have taken place to which we shall refer elsewhere. The above considerations were only made in order to show how the central organisation, after having showered its blessings over an immense territory, has begun to find the burden too heavy. The Governor-General's task has already been alleviated in some degree by delegation to the heads of departments. Official and especially political decentralisation will further, in the long run, greatly unburden the central organism, including the legislative Council of the People and the advisory Council of the Indies. All these government organs will then be able to devote themselves to important affairs or to limit themselves to general guidance and supervision.

In order to assure as much co-operation as possible between central and regional organisation, while leaving to the latter the free hand that is so desirable, the Government continually aims at closer contact.

For the more the regional heads of administrations are familiar with and penetrated by the great principles of the intended policy of the Government and of the methods which it wishes to follow, the greater will be the independence which, without fear of conflict, they will be able to embody in their actions. It is especially in this light that the annual administrative conferences must be considered. To these the Governor-General invites all the

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[1]) An interesting monograph about this Government has recently appeared by A. J. Beversluis and A. H. C. Gieben, *Het Gouvernement der Molukken* (*Meded. Afd. Bestuurszaken der Buitengewesten, Serie A. No. 2*), 1929.

Governors and Residents, the heads of departments, the central advisers, and other high officials, while similar conferences are held to ascertain the views of the Regents. Regional leaders in this way learn better to understand the requirements of general policy; while the central leaders become better informed as to local variations and situations.

It is of no less importance that the Government continually keeps a vigilant eye upon the contact between its central services and the regional administration, because for both, and especially in the interests of the population, this is absolutely indispensable. We may quote as an example the circular letter of August 18th, 1927 (Bijblad No. 11426) in which this tendency can clearly be observed:

> "The Governor-General has repeatedly received complaints — at the most recent administrative conference this complaint was also heard — that officials of services to whom a task of their own has been given put themselves while executing it directly into touch with the population and passed over the local Dutch and indigenous administration. If, as a matter of course, the administration is best informed about local situations, so that for this reason alone it cannot be recommended to act outside this administration, such a line of conduct would in the opinion of His Excellency also result in a loss of prestige and position by this administration. In so far as there is no question of periodically recurring ordinary functions of service, in which case regular contact with the local administration in any case exists, the Governor-General considers it necessary that if officials have to execute, in Java and Madura, special tasks or have to make special investigations in a definite district, with which the population is also concerned, they must inform the heads of the local administration and the Regent; while before taking up their work, they will call on the Javanese administrative officials and endeavour to keep contact with them as much as possible.
>
> "In connection with the different circumstances in the islands outside Java, the intervention of European administrative officials in those parts will have to be asked for as an introduction to the higher Indonesian officials or headmen.
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> "In consequence of the foregoing, the Governor-General furthermore wishes to draw attention to the fact that concerning measures which lead to far reaching interference on the part of local Civil Servants, no proposals may be introduced nor arrangements made upon the official's own authority before the Governors or Residents of the regions where these measures will have

to be applied have been given an opportunity of expressing their views about the matter".

From the point of view of administrative policy this is perhaps one of the most important among the thousands of supplements published since 1856. The spirit which it breathes is the child of colonial experience. It sheds some light on the preceding outline of the central organisation and its relation to the regional administrative organs. As long as such a spirit prevails, one need feel scarcely any fear about the dilemma of over-centralisation and official independence, of uniformity and differentiation according to need. In any case, one can form an idea of the central framework in which the regional administrative organisation is placed, and of the influences which are interchanged. The further examination of the regional administrative organisation which in Java lasted until 1925, and about which so far we have mainly given historical data, will now be seen in a better perspective.

Development of the regional administrative organisation in Java since 1870.

The last quarter of the nineteenth century found an adult administrative organisation in Java. There were eighteen Residents, some sixty Assistant Residents, about one hundred Controllers (Collectors), and some seventy Regents, four hundred Wedonos (district officials), and one thousand Assistant Wedonos. This administrative hierarchy formed a double contact between the Government and the population, which lived mainly in rural communities under its own village administration. In 1875 the population of Java numbered about 18,000,000; in 1900, 28,000,000, in1930, 42,000,000. This enormous increase in population demanded the highest standards of administrative efficiency. Up to 1900 the Dutch administrative corps had, therefore, been expanded by eighteen Assistant Residents and an almost equal number of Controllers, with about fifty additional Assistant Controllers. Notwithstanding the disappearance of the compulsory cultivation system, which formerly required so much of the administration's attention, the work of the administration had, therefore, rather increased than diminished.

It is clear that administration must have been turned into some other channel where it found even more work than under the

system of compulsory cultivation. This direction can be indicated in one word: protection — the protection of the Javanese population against undue pressure from obligations, compulsory labour, usury, corruption, etc. The intention was to remove all these abuses, to promote prosperity, and to bring about greater security, for instance by a better police system [1]). The giving up of compulsory cultivation necessarily implied a change of attitude towards the spirit of Western enterprise. The Commissioners General, Du Bus de Gisignies and Elout, had forty years earlier rightly felt that private enterprise would introduce the propelling force needed by agriculture, trade, industry, and shipping, that would help the Treasury, and, more particularly, would stimulate the population itself towards progress. All these sound ideas had been pushed into the background by the system of compulsory cultivation. With the fall of this system they automatically returned to the foreground. Free labour for the Javanese and encouragement of Western enterprise became the motto after the victory of colonial liberalism in the serious parliamentary conflicts of the sixties. The agrarian law (Stbl. 1870, No. 55) added a few points to the East Indian Government Act of 1854 (Art. 62) which aimed at protecting the agrarian property of the population as explicitly as possible, and at making possible the cession of uncultivated land in lease by the Government, and the letting of arable land by the people.

The core of the agrarian legislation (Cf. Stbl. 1870, No. 118 and 1875, No. 179) can be seen in the continued vigilance against alienation of land owned by Indonesians, thus preventing the formation of a landless proletariat. All arable and uncultivated land was declared to be government property (Art. 1, Royal decree 1870), a declaration which is of no significance as far as arable land is concerned and, for the reasons which have already been mentioned in criticising the views of Raffles, may be said to translate inaccurately Eastern conceptions into Western private

[1]) In 1897 at last improvements were introduced in the police organisation of Java and Madura which had been insufficient until then. More personnel was appointed. Armed police, as existed already for the other isles, was introduced. Since then, measures have been taken (1911, 1914, 1919) by which the backwardness of the police organisation has been remedied. A satisfactory organisation now exists in town and countryside. For details we refer to the Encyclopaedia of the Dutch East Indies, Vol. III, p. 445, and Supplement p. 336. And also to Van Vollenhoven's article in "*Kol. Tijdschrift*" March 1930, and A. Hoorweg's article in "Ind. Gids" Feb. 1929.

law. It should also be observed that protection in this respect comes within the competence of every government, and that there is no need, therefore, to base it upon a private law right of property. The Government has, however, considered its so-called property only as a trusteeship and merely wished to use its right to arable land in order to protect the population against its own carelessness. This has been completely successful. In the same way, the Government has supervised the letting of land by the population to Western agricultural enterprises, as we shall see in another chapter.

The results of this liberal turn were incredible. Big agricultural enterprise by Europeans has since been able to develop, although not without severe crises. This enterprise has made communications, telephone, telegraph, and postal services profitable, and has therefore enormously encouraged their development. We have sufficiently emphasised the importance of all these factors in the evolution of a primitive society.

The Western impetus was multiplied tenfold under the influence of these events, and the new task of the administrators was to derive its content from this evolution. The economic and social weakness of Indonesian society was bound to become obvious by contrast with advancing Western influences. No wonder that the administration at the beginning, probably more unconsciously than otherwise, began to aim at the protection of this society. From this protection inevitably the further aim, that of educating for self-exertion, was born. This education led the policy of the Government into the most many-sided developments, from the political as from the social point of view [1]).

The Civil Service in this way acquired an important and grateful task, and it is especially in connection with these endeavours that the increase during the quarter of a century of 50 per cent in expenditure on that head is due. One by one the last areas of compulsory cultivation disappeared, and with them compulsory labour, while taxation in labour was gradually decreased. Its last remainders had disappeared from Java and Madura by 1916,

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[1]) See C. J. Hasselman, *Karakter van ons Koloniaal Beheer* (in *Neerlands Indië*, II, p. 37), who distinguishes three periods: State exploitation 1830—1880; improvement of the position of the Indonesian population, 1880—1900; education of the people, 1900 to the present day.

except in the Javanese states and on a number of large private estates whose owners had in the days of the Company and Raffles been given various seigniorial rights [1]).

The government gradually assumed full responsibility for the making and upkeep of roads, bridges, and works of irrigation which were highly useful to the population. In the course of the period mentioned this expenditure increased nearly ten times. Education of Indonesians was extended in the same measure. This does not mean much, for in 1875 little more than half a million guilders was spent in this way, but after 1900 this item on the budget leapt up with great speed to about sixty million guilders.

By degrees the system of taxation was improved. All farming out of taxes, including the fatal opium tax, was gradually abolished. The land-rent, which was still based upon the system of bargaining between village administrations and officials, attracted special attention. Many evils were cleared away, and it was realised that a careful cadastral measurement would provide the only reliable basis of assessment. This necessary reform has now been effected, with a full realisation of the immense labour involved.

At the same time, health services, of which the cost doubled in the course of a quarter of a century, increased their activity. The fight against usury and the establishment of a system of popular credit, the ever increasing care for agriculture and cattle-raising added to the burden of government. A separate Department of Agriculture was established for this latter purpose. The Government aimed at collecting information about Indonesian society from the best sources. As an example of the results of these investigations, we may point to the final summary of the agrarian investigation in Java and Madura (1876—1896) which may rightly be called a gold mine of data. In this manner, supervising the contact of East and West, official care widened and deepened in every direction after it had made its influence first clearly perceptible in 1870. The administrative corps especially improved steadily in quality, and had the privilege of transforming, as gradually as possible, an enlightened policy into action, as well

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[1]) Encyclopaedia for D. E. I., art. "*Heerendiensten.*"

as of drawing the attention of the Government to the needs and requirements of Indonesian society [1]).

It is obvious that the position of the Javanese Civil Service had also to undergo important modifications during this period. The compulsory cultivation system had welded it mechanically to the Dutch structure, and even under that system, which after all had to rely upon the support of administrative Javanese chiefs, there was no lack of complaints about the autocratic attitude of Residents who often treated the Regent not as a younger brother but rather as a subordinate official. At the same time, however, the feudal régime had, up to a point, regained its standing in the eyes of the population. The East Indian Government Act of 1854 recognised the hereditary dignity of the Regents under definite

[1]) We may also mention the creation in 1876 of chairs of Indology in the University of Leyden and of a municipal institution copied from that of Delft for the preparation for the Higher Civil Servants Examination (Stbl. 1883, 249). In 1907 (Stbl. 230) the training, after previous selection, was placed upon a better basis, while Stbl. 1922, 650 brought about the existing academic preparation. For the regulations concerning training and eligibility until about 1900, see Margadant, *Het Regeeringsreglement van Nederlandsch-Indië*, 1895, II, p. 5 sqq.; C. J. Hasselman, *De Opleiding der Europeesche Ambtenaren bij het Binnenlandsch Bestuur in Nederlandsch-Indië*, Ind. Gids 1899, p. 300—328; K. W. van Gorkom, *Gids voor de Controleurs bij het Binnenlandsch Bestuur*, 1896, p. 17 sqq; J. Chailley Bert, *Le Recrutement des Fonctionnaires des Colonies Hollandaises*, 1893; the same, *Java et ses Habitants*, 1914, p. 174 sqq. For the changes since 1900, see the same, Introduction, p. CXI sqq. with extensive note, and especially for the reasons which have finally given birth to the present system Prof. Snouck Hurgronje, *Verspreide Geschriften*, IV, part 2, p. 51 sqq. This savant was not in favour of maintaining the existing basis of technical training, however improved, which was preceded by a selective examination and followed for the best officials by a course of study at an administrative academy established at The Hague (after six or ten years' service). He wanted to break with "the amphibious system that gave training at a University without University education", p. 73, and he demanded academic studies in order to make European administrators in the Indies "full representatives of European civilisation", p. 70. After investigation by a commission under the chairmanship of this professor (1912 and 1919), this idea led to the present regulation. The study of Indology now consists of a linguistic candidate's examination followed by an economic doctoral examination, or of an economic candidate's examination followed by a linguistic doctoral examination. The former comprises: Malay, Javanese or another Indonesian language, comparative ethnology, Islam, and history of the Dutch East Indies. The second: economics and statistics, or alternatively public and administrative law of Holland and its overseas possessions, as well as history of politics including the principal data of that part of the group which has not been chosen, and furthermore a juridical, literary or other branch at the choice of the candidate. For those who prefer the candidate's examination in economics followed by a linguistic doctoral examination, the sphere of studies has also been fixed with great care, so that they are prepared for gathering the experience which practice will give them, and are enabled to become the real bearers of Western culture. See also the report of the commission for the Reform of the Training of East Indian Administrative Officials established on September 18, 1919 (1920) and an article in Pol.-Econ. Weekblad, Dec. 10, 1929, pointing to a lacuna in the regulation concerning subject branches at the choice of the candidates.

conditions (Art. 69, section 4, R. R.). Dutch policy has maintained this principle up to the present (Art. 126, section 4, I. S.). The Regent is therefore by no means an ordinary official, although it is true that Regents have been repeatedly dismissed, that the function did not always pass to the son or the next of kin, and that members of other families were promoted to this dignity. The Regencies themselves, with the exception of a few changes and modifications of frontiers, continued as before (Dr. Pronk, p. 13, 66). The Government, however, resumed the old policy of de-feudalisation which had been pushed into the background by the compulsory cultivation system. Occupation of land in virtue of office was definitely abolished (Stbl. 1867 No. 122), while at the same time personal services were limited and in 1874 forbidden to a large number of officials. In 1882 (Stbl. 136) pantjen services in favour of Javanese officials were entirely abolished. These measures must have weakened the feudal halo of the Regents far more than their smaller degree of independence in relation to the Resident or the Assistant Resident. The Regents themselves, however, perfectly recognised the significance of these measures, which might appear secondary to us, as is shown by an utterance of a Regent noted by Prof. Schrieke:

> "The principal affairs in which the small man felt himself the servant of his master, the Regent, were formerly religion, justice, and service. The first is now neglected by many Regents — the second they have to share with others, and it is, in any case, controlled by the European administration. For some years there remained only the third. By rendering services, the inhabitants of the dessa became the 'abdis' of the Regents and the headmen. The latter were still able to dispose of their labour, which you Europeans could not. They felt that we were their masters. By abolishing the 'pantjen', the last narrow link between master and subject has disappeared".

The instructions made for internal administration, which contained regulations for Regent and Resident alike, took into account the modified circumstances (Stbl. 1867, No. 114). For Wedonos an almost identical instruction was published at the same time (1867, No. 114 and 1886, No. 244); while in 1874, after a uniform sub-division into sub-districts had been established in almost the whole of Java (Stbl. 1874, No. 72), the Assistant Wedonos in their turn received as a guide the instructions previously

issued to Wedonos, which were in reality those issued for the Regents (Stbl. 1874, No. 93). Several other remainders of earlier days, the last of the compulsory cultivation percentages, also disappeared; while their status was decreased and the rendering of honours diminished. The latter, or Hormat, the expression of respect towards a superior exacted by Eastern etiquette, may, again, appear an insignificant affair, a kind of change of fashion. But in reality it is a symptom of an internal revolution when, as at present, enlightened Regents themselves plead for the abolition of these ancient customs.

Having shown the new administrative hierarchy, we have now to say a word to make clear the necessity of this formation. Many people who are only familiar with European administrative systems will not know how to cope with these general administrative bodies or how exactly to situate them. What, people will be inclined to ask, is the use of these officials when one considers that we are well able to manage with our municipal, county or provincial organisation, plus a few government officials for taxation, justice, general police, and postal services. In Holland, at any rate, one is used to leaving local interests in the commune, the polder, the waterboard circle, the province, to those who are interested, to the population itself, to its representative council and its executive board. Nevertheless, from the Dutch arrangement, though so utterly different, it is not impossible to form an idea of the position of the internal administration of the Indies. The Commissioners of the Queen and the burgomasters, the presidents of legislative and executive bodies in provinces and communes are also representatives of the government authorities. The Commissioner is entirely a government official. If the Dutch population were still scarcely able to look after its own interests or to assure their being looked after according to its own wishes, the central government would have to do much that at present lies within the competence of the provincial or communal administration. It would furthermore be forced to entrust far less of its own concerns to the lower autonomous organs. As a consequence, this field of activity of the Commissioners of the Queen and of the burgomasters who would then have to be also completely officials of the government, would become much larger and much more a central field administered by central agents than is now the case. They would

require a large staff salaried by the country. There would even have to be authorities placed somewhere between provincial governors and burgomasters, in view of the volume of central business that would have to be transacted. An official hierarchy, a Civil Service charged with internal administration, would then have been brought into existence as the executive organ of the central authorities. Inversely, administration dependent on a special Civil Service becomes less voluminous and may even atrophy in relation to the ability of autonomous organs produced by the population to take care of local business. In the Indies the population is unable to take care of its interests or to have them looked after in accordance with modifying social and political relations. One does not find there, as in most Dutch villages, educated notables such as the burgomaster, the clergyman, the head of the school, teachers, the notary public, the doctor, the chemist, the veterinary surgeon, the gentleman farmer, the prosperous industrialist, all persons able to take a long view — people who have indeed seen far beyond the circle of their own village. It is therefore little trouble for us to find one or more persons prepared to take pains when some question or other of public or social importance has to be settled. In the Dutch East Indies, such elements of social contact are almost entirely lacking and therefore the contact between the organism of unity and the population has to be established by the government itself by means of its special administrative bodies.

To this may be added that the Javanese local administration with the Regent at its head was not yet sufficiently developed to understand the aim and methods of the modified policy, still less to be able to realise in what sense the influences of world traffic required self-renovation on the part of Indonesian society. In short, the indigenous administration itself had to be driven before it could in its turn drive the village headmen and the population. This was by no means a commendable method. The more the headmen-officials are driven, the less their headmanship comes into its own, and the sooner will they degenerate into lifeless prolongations or instruments of the Dutch administration (Cf. Snouck Hurgronje, IV, II, page 149). They no longer function then as a barrier or as a filter between the East and the West. They simply transmit the instructions they have received upon the same wa ve-

length, instead of regulating them carefully and adapting them so that they may be received by the popular mind. The only educative method in this connection would have been the education of these feudal Regents and headmen. They themselves would then have acquired a true insight into the intentions and methods of Dutch policy and on their own initiative they would gradually have discovered the most popular manner of putting necessary measures into execution.

An administrative school of such a calibre was not very possible in those days, and could certainly not have been organised in a few years [1]). But from a remarkable conservatism which even nowadays is not rare in certain circles in the West itself, the idea of such training found very little favour. Practice and experience were then all the thing, and it was overlooked that a plea for a good education in no way diminishes appreciation of experience that is afterwards to be acquired. On the contrary, the better the training, the better the subsequent observation and the capacity to assimilate what has been seen: the better in short the ability to acquire experience. But, as we have said, such an understanding was only some years later to make headway in the Indies.

The indigenous administration, therefore, could not render its services as well as otherwise might have been expected. The conception of indirect rule, akin to that of protectorate, of leaving a population under its own heads, thus became less respected, as had often been the case in the days of the Company. This neglect would have had serious consequences if practice had not provided the Government with a satisfactory although provisional solution. The Resident and the Assistant Resident would probably, under

[1]) In 1879 and 1880 the so-called schools for chiefs were established at Bandung, Magelang, and Probolinggo. They have later been transformed into "Training Schools for Indonesian Officials", which exist also at Madiun, Fort de Kock, and Macassar. There are about 500 pupils and the aim is general development; the lower section (recently replaced by Mulo schools) taught Dutch, Malay, one or more regional languages, geography, history of the D. E. I., natural history, mathematics and drawing, while the higher section (3 years) also teaches principles of law and administration of D. E. I., political economy as applied to D. E. I., and further practical subjects like surveying, map drawing, agriculture, etc. The graduates can at once be appointed Probationer Indonesian Civil Servant, and can then rise to be Assistant Wedono, and Wedono. There exists, moreover, an academy with a two years' course for active civil servants. *Cf.* A. Neytzell de Wilde: *De Opleidingsscholen voor Inlandsche Ambtenaren en Inlandsche Rechtskundigen op Java*, "*Ind. Gen.*" Dec. 1913; Prof. Kleintjes, *Staatsinstellingen van Ned.Indië*, I, p. 355 *sqq.*; Stbl. 1922, 563; Bijblad 8167, 8661, 8802, 8815, 8908, 9256.

the pressure of ever-increasing administrative care, have found themselves tempted to give autocratic orders without ceremony, and the indigenous administration would have lost its true function, would no longer have considered the disposition of the population, and explained its interests and ideas to their Dutch chiefs.

The Controller and indirect rule

Into this unsatisfactory situation, before the era of emancipation of the indigenous administration of Java, entered the Controller [1]). Thanks to him an element of contact has been created which has almost entirely filled the void. The more one studies the problem of East and West and learns to understand the peculiar task of an enlightened administration, the more admiration does one feel for the policy which called the Controller into being and was able to give him the position through which, under the above-mentioned circumstances, he has been able to diminish the threatening difficulties. This policy does not appear to be the result of penetrating foresight. The Dutch policy has much in common with that of the British in so far as it shrinks away from beautiful projects, perfect systems, which become dogmatical and might tie the future too much. The policy of both therefore acquires the semblance of opportunism as though, as Mr. Hasselman remarks, it were guided not exclusively by a well-considered aim but more by events [2]). This characteristic might be accepted with the addition that provided it does not cause an absolute lack of direction, it is an advantage rather than a disadvantage. For it makes one disinclined to be too sternly dogmatic and enables one to leave it to experience to point the right way once the general direction has been settled in its main points. This entirely agrees with a national cautiousness which prefers to look a second time at a cut-and-dried scheme of which the consequences may be far reaching, and prefers if necessary to spend ten years in this preliminary examination, but in the end, thanks to its innate respect

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[1]) Among the capacities transferred from the Dutch to the Indonesian administrative officials are the supervision of the renting of land, reclamation of wild land, appointments and dismissals of lower government employees, the recruiting of coolies, the inspection of education, the assessment of taxes and the election of dessa headmen.

[2]) *op. cit.* p. 50.

for experience, will overcome the difficulties and find a solution which foreign observers have sometimes wrongly attributed to genius.

The position of the Controller is a striking example of this Dutch prudence. Only rare genius or realism allied with carefulness could have brought such a remarkable function into being. This function has gradually grown with practice. It was not until 1872 (Stbl. 225) that Controllers were definitely included in the interior administration to which in practice they had already belonged for half a century. Nevertheless the experimental instruction of 1855 for "Controllers of rural revenue and cultivation" continued to apply to them till 1878. This instruction, published in Bijbl. No. 1067, is highly instructive. It proves that the Controllers already fulfilled an important administrative task and had, in fact, become the most essential formation of the administrative corps .In Art. 4 of this Instruction, which contained 52 articles, the Government portrays the "model Civil Service official" and it introduces its exhortations with the pronouncement, particularly flattering for this modest body, "that the furthering of the high interests of Java and the Mother Country is greatly dependent upon the way in which they converse with the Indonesian chiefs and the population".

To summarise this extensive instruction in a few words one may say that the Controllers had to know everything about the population — its way of living, its health, its agriculture and cattle — throughout their control section, which usually covered one-third or one half of an Assistant Residency. They really had to have their section in their pocket, to assist the Javanese officials with their knowledge, ro remind them gently of their shortcomings, and especially to inform their chiefs, the Assistant Resident and the Resident, on all subjects of importance, and eventually to present propositions to them.

Amidst all these executive Dutch and Javanese administrative officials, the Controller was therefore the only one who had no orders to give to anybody. His social and his personal influence with the indigenous administration, the headmen and population, was however none the smaller. But notwithstanding his active share in the administration, he acted only through and for others. He was the element of contact, belonging by the official formation

to the Dutch corps, and through the nature of his work being among his Javanese colleagues. Being placed under the Assistant Resident, whose administrative division usually coincided with a semi-feudal Regency, he had particularly to co-operate with the Javanese district administration under the Regent. The Controller and the Wedono became, if not in theory, at any rate in practice, the inseparable David and Jonathan of this administrative system, by whom the administration was mainly supported. A good Controller was really the antenna of the Dutch as well as of the Javanese Civil Service. He knew everything in the section under his control — often far more than the Regent, the Wedono, and the Assistant Wedonos themselves, and what Assistant Residents knew about the Javanese administration and the population they usually knew from their Controllers [1]). Their incessant journeys on foot and on horseback, their continual sojourn by day or by night in the midst of the population, and their daily contact with headmen and village administration assured them an experience rarely to be found among Western officials in the East. During their whole further career they were able to profit by the experience they had acquired as Controllers.

All this knowledge they utilised in order to adapt higher orders as much as possible to the mentality and the circumstances of the population, and in order to enable their Javanese colleagues to understand the sense of these orders, and to familiarise them with the spirit which the administration wanted to call forth for the benefit and development of the population. In this way an imperceptible influence radiated from the Controller, an influence such as a good college training might have communicated to the Javanese administrative officials, although this was not realised in those days. The Controller became the pilot of the whole Javanese administration, while by his information and proposals he exercised a synthetic influence upon the administration of his chiefs and through them upon the policy of the Government.

The Government considered what instructions it should give to this important body, and it came to the conclusion that the experimental instruction should be abrogated and that a new instruction in the literal sense of the word was not required. This

[1]) F. Fokkens, *De ontworpen Reorganisatie van het Bestuur in Nederlandsch-Indië*, 1911, p. 20.

indeed is a decision which shows that the Dutch are able at the right moment to embody the lessons of practice in good statesmanship. The decision of the Government was remarkable. It had issued instructions for Residents, Regents, Wedonos, and Assistant Wedonos. The Assistant Residents, as local representatives of the Residents, had to a large extent to adapt their acts to the instructions given to the Residents; while their functions as heads of local administration were already sufficiently indicated by various general ordinances [1]). For the rest, the regional heads of administrations could make instructions for the subordinate European executive officials, a power which has been explicitly confirmed by Stbl. 1902, No. 421, but which according to Bijbl. No. 5801 applies mainly to officials whose functions have not been sufficiently circumscribed in other ordinances, such as Post-Holders, Civil Commanders, and Controllers in Indonesian states. It seems strange, therefore, that for the Controller in Java, who was not to become an executive official, an instruction was declared definitely undesirable.

The motives of the Government are quoted by Dr. Van Gorkom in his interesting Guide for the Controllers of the Interior Administration [2]). The Government did not want an instruction because

> "the Controller does not occupy an autonomous place in official hierarchy and is not charged with public authority in the execution of his special work, so that his official duty is mainly solved in subordination towards and execution of the orders of authorities placed above him in so far as he can be deemed to be concerned with them.
>
> "Now this activity of the Controller", continues the Government, "would become too independent if an instruction were to set out in detail what he has to do. The idea that the Controllers have the task of assisting the heads of regional and local administrations is incompatible with such an instruction. If the Government were to explain to the smallest detail what the Controllers have to do, it is obvious that Residents and Assistant Residents would consider that they could refrain from doing what has already been declared to be the task of the Controller. They would consider

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[1]) Stbl. 1884, 76, and Bijbl. 3808, and 10217, for the explanation of the term "daily administration". In Java and Madura the Assistant Resident, not the Controller, was head of the local administration. In the other Isles this local or daily administration is not in the hands of the Assistant Residents, but usually in that of the heads of sub-divisions, the Controllers or the Commanders.

[2]) *Gids voor de Controleurs bij het Binnenlandsch Bestuur*, 1896.

that in this business they would only be supervising the Controller instead of working themselves with the assistance of the Controller. The point of gravity of the administration would in this way be displaced and nothing would be more effective than a detailed instruction in causing Assistant Residents to withdraw their attention from a number of affairs.

"An appropriate division of work so useful in view of the knowledge already acquired and of that still lacking in the Controller cannot exist in the case of such an instruction being issued. An Assistant Resident or a Resident must have the power to make a Controller supervise more particularly those things with which he is most familiar, while he himself takes care of another part. This is possible when in principle the administrative official looks after the general good, is responsible for it, and makes use for that purpose in the most effective way of the services of his subordinates without there being an instruction which describes in detail the activities of the Controller".

In other words, in everything that he did or omitted, the Controller had to consider himself and behave as the delegate of his chief.

This relationship did not in the least impede the Controller in his labours. On the contrary, it only tended to increase his freedom of movement. One sees him, indeed, giving his attention to all the details of administration. Mr. Fokkens (p. 21) enumerates these activities as follows:

"Everything that concerns the administration of the Javanese population, the domestic affairs of the Dessa, agriculture and industry, agrarian conditions, taxation and compulsory services, health and education, public works for the benefit of the population, all things of which the working and the result depend for a large part upon their ability and industry; while, at the same time, they exercise a considerable influence upon the understanding and co-operation between the Javanese chiefs, the population and the Dutch authorities. Furthermore, they assist the police in detecting the authors of misdemeanours, and usually act as magistrates. Especially when there are elections for the heads of Dessas, when complaints from the Dessa are investigated, the assessment of the land-rents distributed, compulsory services shared out, when conversations have to be held and investigations made in the Dessa during times of scarcity or when the harvest has failed, when there are frequent cases of illness or death among the cattle, when proofcuts are made of the paddy plantations for the assessment of landrent, when the establishment of Dessa schools or of rice savings banks is discussed, the Controllers come into confidential contact

with the small man, the village heads, and the village administration.

"These officials (page 20) exercise the real supervision upon the indigenous administration, upon its actions and shortcomings, upon the weal and woe of the Javanese population.... They form, as it were, the bridge between the European and the Javanese administration and the population, they transmit the orders of the European authorities and see to it that they are properly executed. At the same time they defend the interests of the population and of its chiefs".

Dr. van Gorkom, when discussing the relation between the Controllers and the indigenous administration (p. 14 sqq.) places the principle of indirect rule of Art. 67 R.R. (at present Art. 118 I. S.) in the foreground. By these wise policies, he says that Holland has been able to make Western strength take root in the East Indian Archipelago, to assure peace and order and contentment to diverse populations, and to make possible an administration with a relatively very small number of officials.

It is a fact that the Dutch administrative bodies in Java and Madura were not considerable. If one adds the younger men who were still receiving practical training, the Assistant Controllers [1]), who had a good schooling under experienced administrators, the active body comprised about 250 men — certainly not an excessive number if one considers that the number of inhabitants then was 30,000,000 and the period a very difficult one. The Javanese superior Civil Service, of course, had to be far more numerous. Each sub-district contained about 30,000 inhabitants, each district 100,000, each Regency, the real unit of indigenous administration, over 400,000. It is clear that a relatively intensive administration could be exercised by this formation. The Controller was the real motive power which worked from inside this Javanese administrative frame of about 1500 men.

Everything, we are continually reminded of this, depended upon his behaviour. Dr. van Gorkom thus summarises the views of the Government upon this matter:

"By his unusual position between the administration and the administered he is called upon to endeavour, in a suitable

[1]) The system has gradually bein simplified, the class distinction for Controllers having disappeared in 1900 (Stbl. 3), while it had disappeared in 1873 (Stbl. 212) for Assistant Residents, in 1900 for Assistant Wedonos.

way, as can be expected from a man of education, to secure the confidence of the Javanese officials, chiefs, and population, of whom he has to consider himself the natural friend and adviser, by his conduct and his behaviour. He tries as much as possible to prevent the arbitrary use and abuse of power by the chiefs and also all speculation, by whomsoever made, upon the ignorance and carelessness of the population. And he always gives a ready ear to requests for advice or information and, without becoming provocative, to complaints, which he tries to understand calmly without exaggeration or emphasis.... It should never be forgotten that the Regent is at the head of the Javanese population in his Regency and that all other Javanese officials and chiefs inside the Regency are subordinate to him. All the actions of the Controllers concerning Javanese officials, chiefs or the population must therefore be taken in concert with the Regent."

In this way the Controller had to become above everything the worker in the field. The Government has always considered this to be his real task, although it was not entirely able to prevent the increase of his administrative office work. He personally investigated complaints by the population, the so-called dessa complaints. The weekly gatherings of village chiefs in sub-districts, the monthly ones in the principal place of the districts, the regular meetings of Assistant Wedonos and Wedonos which are prescribed by the "Inlandsch Reglement", he tried to attend as much as possible, and according to the importance of the business on the agenda.

There is no better way than tours and collective discussion to observe the situation among the population and the measure in which the chiefs and the officials fulfil their duties, or in order to assist in securing the satisfactory execution of the orders that have been issued, to assist the indigenous administration in the most informal and friendly manner with hints and advice. Dr. Van Gorkom's guide-book mentions as follows some of the subjects discussed at these regular meetings: Police (particular incidents, watch houses, watch services, and criminal cases under investigation), taxation (general assessment,re-distribution among individual tax-payers, collection, paying in by collectors of moneys received), cultivation (situation, irrigation, paddy proofcuts, harvest, sale of produce, market prices), agrarian questions (reclamation, checking of breaches of hereditary individual rights, conversion of communal into individual land-ownership, farming

of lands), compulsory government services and dessa-services (number of days, maintenance of roads, water conduits etc.),cattle (illness, theft, cattle-fodder), health (sickness, hygienic measures, vaccination). The reader who is not acquainted with the simplicity of small Eastern societies will be amazed at the extent of administrative care which is revealed by this little list. He must get the impression that he has been introduced into a nursery where a population of adult men and women is being treated like infants. When a Controller on tour noticed an unplanted garden in a village, it was not unusual for him to draw the attention of the Wedono or Assistant Wedono to the fact and express the opinion that it would be better if the occupier cultivated fruit trees and vegetables. The village headman in his turn was informed of this remark by the Assistant Wedono and tried to move his fellow-villager to act as suggested. Such interference seems intolerable to us, and even in those surroundings it can become intolerable, although such patriarchal care is received in a different spirit and is praised in most Eastern history books when met in a ruler or an official. We may well believe that some officials have been guilty of exaggeration [1]). The economic weakness and the lack of sense of the future among the people, described in our first volume, have, however, been the main cause of this administrative interference.

As long as the Dutch administrative officials act only through the intervention of Indonesian officials and chiefs, this paternalism will create no dissatisfaction. It is another matter when they put aside the notion of indirect rule and put themselves upon the seat of Indonesian princes, officials, chiefs, and headmen [2]). In the preceding sketch of the fitting in of the whole indigenous system in Java, we have tried to convey the impression that there is, in Java, no question of a protectorate in the true sense of the word. We have pointed out already that Daendels and Raffles had practically removed the possibility of development in the direction of a protectorate over the Javanese States and Regencies as they existed in the days of the Company in Java.

In the other islands one finds a relationship which with some reservation might be described as a genuine protectorate. It

[1]) Far going measures concerning Indonesian agriculture were not allowed without the consent of the Government. *Cf. Bijbl.* 6373, 9192. 10682.

[2]) Sharp criticism can be found in Chailley-Bert, *op. cit.*, p. cxxvii. One should however avoid generalisations based on special cases.

amounts to the indirect form of administration which is characterised as follows in the work of Temple:

> "By Indirect Rule I mean a system of administration which leaves in existence the administrative machinery which had been created by the natives themselves, which recognises the existence of Emirs, chiefs and native Councils, native Courts of Justice, Mohammedan Courts, Pagan Courts, native Police controlled by a native executive, as real living forces, and *not* as curious and interesting pageantry, by which European influence is brought to bear on the native indirectly through his chiefs, and not directly through European officers-political, police etc., and by which the European keeps himself a good deal in the background, and leaves the mass of native individuals to understand that the orders which come to them emanate from their own Chief rather than from the all-pervading white man. The underlying policy of this system is to assist the native to develop that civilisation which he can himself evolve."

The administrative system in Java does not satisfy this criterion. According to the views of the author, it would be between this system of direct and indirect administration which he considers to be the most objectionable relation both for the European and for the autochthonous administration:

> "The half-way house, where native institutions are to be supported pro tem. I admit that where the ultimate object is to establish Direct Rule circumstances may render it necessary to adopt this system, but I wish to emphasise that it is the system which imposes the greatest hardship imaginable on the natives of all classes, and upon the European executive officers responsible for carrying it out effectively. If you frankly abolish your Emirs (I may mention in parenthesis that this policy has been adopted by the French in West Africa, who are radical direct rulers), divide the country up into districts, and place a European in charge of each, both natives and Europeans know exactly where they are.. But if a complete re-organisation of this sort does not take place, and the Emir and the native institutions are left in existence, but continually hampered, curtailed in their powers, and overlooked in a hostile manner by a European officer, the mental and physical hardship entailed on all concerned is past belief".

In view of the fact that this subject is in this chapter of primary importance, our enthusiastic protagonist of the indirect method of administration will be left to speak below in order to show how this method may be conciliated with the requirements of good

administration. The chief aim of the regional or local adminstrator must be, according to him, (p. 67):

"to create a situation resembling as far as possible that which existed, or might be imagined to have existed, were a thoroughly able, well-meaning, liberal-minded Emir ruling over a unit untouched by foreign influence. He must as far as possible keep his authority in the background and concealed, if not from the Emir and his immediate entourage, at all events from the people generally. At the same time he must be on the alert to stamp out and if possible forestall the growth of the thousand and one measures by which oppression and malpractices can be exercised. When abuses arise he must put an end to them, not by outward and visible acts of his own, generally speaking, but by causing the Emir to move in the right direction. To do this he must be well and fully informed as to all that is going on among the people, that is to say he must be in touch with the people, he must get his knowledge at first hand; it follows that he must be really accessible to the common folk.

"At the same time he has to be on his guard lest by so doing he should encourage the people to despise their own Courts and thus impair the authority and prestige of the Emir. Should he fall into this error he will, as a first result, place the Emir in a difficult position, lessen his power over his people, and engender hostility in his breast towards the European administration, and as a second result find himself spending hour after hour, day after day, settling the ownership of a goat, a fowl, or a native robe worth five shillings".

The author here seems to wish to conciliate contradictory desiderata, for he asks in one breath that the administrative official shall know everything in his area and this at first hand, i. e. from the population itself, which in this manner will give him its confidence to such a degree that it applies if necessary directly to him, that he shall oppose all abuse of power by indigenous rulers and even prevent it, and, while achieving all this, he must at the same time try to remain invisible to the population.

He feels himself what demands he is making here upon the European administrative official, and he says:

"It may be readily supposed that this keeping in touch with the people without impairing the authority of the Emir and consequently of the whole native administration, is no easy task, and one on which any amount of administrative tact and ability can be exerted.... It will be evident also that the Resident must keep himself in the background, resist the temptation to become a po-

pular hero with the people (a comparatively easy thing to do), to fill the position of a big native chief, to wear, figuratively speaking, the turban of the Emir, a temptation to which human nature renders him susceptible. But on the other hand he must be a *living* force regarded with confidence by the people as their protector in the last resort, and with respect by the Emir and his Chiefs, who must feel that they cannot throw dust in his eyes, but at the same time they can rely on him to support them in the exercise of their legitimate authority. The true measure of his success (p. 70) will be the respect and regard with which the populace hold their own Chiefs and Elders, and not him, combined with the general good relations between the private individuals which compose the clan, and the general prosperity of the unit. This is a hard lesson to instil into the mind of many a political officer. The desire to bulk large in the eyes of a native population is a very natural temptation to fall into, and indeed it is a very laudable ambition, but where the policy of a Government is to rule indirectly the political officer must be satisfied with the knowledge, locked securely in his own breast, that he is very important to the native population, although they are not aware of it".

The good European administrative official must therefore endeavour, under the indirect administrative method, to be a silent power, always active and perceptible, but still exercising his influence invisibly, indirectly i.e. through the intervention of the indigenous organisation radiating into African or Eastern society.

After all that has been said about the Dutch administrative system in Java, one might be tempted to consider it as the direct opposite of Temple's stipulations regarding true indirect rule. This would be an altogether erroneous conclusion and the remark may be added that Temple's desiderata have been found to be altogether irreconcilable with actual needs wherever indigenous organisation is poorly developed. The Dutch system as practised breathes much more the spirit of indirect administration than theory might suggest. This is due to the unusual position of the Controllers, which really beggars description.

The Controller approached as closely to the omniscient, the omnipresent trusted mysterious force of Temple's aspiration, preventing abuses and yet acting through the chiefs, as was practically possible under the circumstances. The Assistant Resident endowed with executive authority would, on the contrary, have been unable to achieve what was done by his deputy, the Controller, free of instruction and acting in a friendly and familiar way

without having to push, to brush aside almost the whole indigenous administrative organism. Thanks to his position, the Controller could be felt as one of themselves by the indigenous administration, and as a patriarch of their own by the population. The Controller, too, encouraged the Wedonos and Assistant Wedonos to express roundly at the next meeting to the Assistant Resident, the objections felt by the population to the execution of certain higher orders. The Dutch Controller stood next and behind his Javanese colleagues even against his Dutch chiefs, if that were necessary. In this way, the Controller became on the one hand an organ through which the Western administrative influence penetrated much more deeply into the indigenous system and society, while on the other he consolidated from inside the indigenous administration, whereby he strengthened the barrier mentioned in Art. 118 I. S. filling its gaps with his support, his hints, and his advice to the indigenous administration and with his frequently unequalled knowledge of the section under his control.

In many appreciations too little has been said of the latter aspects of the work of the Controller which often enough well earned for him the appellation of *Bapak* (father) given to him by the population. The tendency was rather to point to statistics showing how many new Controllers had been added to the number during the last twenty-five years, to what extent the costs of administration had increased, and one drew the conclusion that the autochthonous administration had been entirely overgrown and stifled by Western administration. It was not realised that this system was experiencing an exceptional inner self-renovation and a moral strengthening, especially as the result of the fruitful work of the Controller who was all the more indispensable because the alternative solution — that of giving the right training to the Regents and the lower officials — had not been applied in time.

When the great French Colonial writer, Chailley-Bert, who unhappily recently died, visited Java in 1900 and studied our system there, he was not a little surprised, on being present at a dessa election, to see what a leading part the Dutch Controller played. The eminent expert in Colonial policy could only conclude that the indirect method of administration had been given up in this connection, and he wrote [1]):

[1]) Chailley-Bert: *Java et ses Habitants*, 1914, p. 161.

"The ceremony is over. I summarise it in three words: From one end to the other correctness, freedom, justice. But I ask this question: Why is the Controller always upon the stage? Why in the presence of the population does he continue to perform the principal part and the Javanese chiefs only that of walkers-on? What becomes of the protectorate? Patience, we shall soon have a reply. The Dutch have restricted, or rather curtailed the nature of a protectorate. It implies two things, Protection and Education. They for the present still keep only to protection".

This description is in the main correct The protection of the small man was the first care of the Controller, and there was good reason for this. The small man (Wong Tjilik) had the right at last to his turn, after almost three centuries of exploitation by the West and by chiefs who had made him still smaller than the village community desired [1]). In the often exaggerated care for the weak peasant which is prescribed in so many government ordinances, and which Art. 55 R.R. of 1854 (Art. 45 I.S.) has endeavoured to make actual, there is a warm human feeling which affects the spectator pleasantly after the heartlessness of earlier times. Above all, however, the truth must not be lost out of sight: this policy of protection did not exclude the educative element, as Chailley tended to believe [2]).

Indeed, the school education of Indonesian officials and of the population was not taken energetically in hand until the twentieth century. The great task of educating the Javanese administration had however in earlier years already been achieved in no mean measure. The fanatical care of the small man, the protection of the people was, at the same time, the best education for the Javanese administration. First this protection must have surprised them not a little — a feeling for which, unhappily, they had reason enough. But this tendency was this time not the result of the mood of a moment. It was due to a change of mentality in the whole of Western society. This was to grow day by day in strength and consciousness; it was to become irresistible, and the whole autochthonous administration was to be turned in a direction which it had neglected or where it had moved only a few steps before the Dutch period. It was the direction which changes domi-

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[1]) See our Introduction in Vol. 1, showing that things were not so much better in the West until the beginning of the nineteenth century.

[2]) At present the Controller no longer exercises an influence (see *Stbl.* 1926, 413).

nion over the population into the duty of service to its interests.

It is precisely the strong penetration of the indigenous superior Civil Service by the enlightened spirit of Western administration which has made possible the present policy of evolution, administrative reform, and political decentralisation, of giving to indirect rule a fuller scope by lifting it up to the highest conceivable level of modern administrative care, more even than it proved to possess in practice during the period of administrative abstention under the Company. Without the intensity of the preceding administration, there could have been no question of this. The incredible increase in population and the increasing inter-dependence of autochthonous and Western economic interests after 1870, moreover, demanded more efficiency and intervention by the administration than might be necessary in the backward and sometimes scarcely populated interior of Sumatra, Borneo, Celebes, or New Guinea. A density of population of 2—20 souls per square kilometre makes quite other demands on an administrator than one which, as in Java, sometimes reaches 600 and even more per square kilometre. No wonder that the administration in the other islands is usually not so severely judged by those who disapprove of administrative interference because this factor is insufficiently taken into account. When similar circumstances present themselves, as on the West Coast of Sumatra, then corresponding necessities come into existence and entirely similar complaints can be heard. It is a dilemma from which no government can escape.

The Regent

However intensely the Dutch administration in Java has made itself felt, it has not forced the Javanese administration into the background. It has initially allowed the Regent insufficiently to come into his own and, by neglect of his school training in modern ways of administration, it has been slow to urge him to acquire the vision and to fulfil the function which should be expected from semi-feudal officials occupying such a commanding position (cf. Chailley, p. 231—246) [1]). The point of gravity, in consequence,

[1]) On the other hand the Dutch administrative corps has usually tried to preserve an honourable position for the families of Regents. There has also been for a long time a certain conservatism among the families of Regents, especially concerning the education of their daughters.

rested on the lower Javanese officials, of whom an increasing number had received an education in the schools for Chiefs, established since 1879, and who had later gone through a fairly rigorous practical schooling, and ended by acquiring a large experience in very active work. The Wedono (the district officer) in this way became the real axis of the indigenous administration. The Regent was left too much in the position of a nominal potentate; the education of his son and successor was not encouraged. As Chailley says: "I have known Regents who wished to secure for their sons the benefit of a European education. They met with an unspoken and obstinate opposition, not, it is true, from the higher government, but from subordinates, of such a nature that only Europeans with a broader mind enabled them to overcome it".

Many feared in those days that a Western education would cause the loss of all respect for tradition and would estrange this intelligentsia from their own society, with the result that the Regents would lower in the eyes of the people the real dignity of their position. This is a fear which is not as narrow-minded as might perhaps be thought. It is obvious that education will have to take into account the possibility of such fatal results. The point of view in question has been slowly defeated, and highly educated men, some of whom have already served as representatives of the Netherlands in international conferences, are at present an ornament to the body of Regents. A University education must eventually become the rule for them, because to their halo in the eyes of the population they must also ally a claim to regard which only the possession of education and a culture as high as that of many members of the non-official Indonesian intelligentsia can give them.

This is quite a different question from that of the appointment of Mantris (Indonesian lower officials), Assistant Wedonos, Wedonos, and even Patihs. In their case, the Government is entirely free to make increasingly stringent demands of ability, acquired by complete training in a school for indigenous officials, of character, and of experience. As regards the Regent, the Government is tied by the principle of heredity (Art. 126, section 4 I.S.), with the reservation, however, that the next in succession must possess ability, activity, honesty, and fidelity. The modern period — for instance the function of presiding over the Regency

council and its executive board — makes very great demands on the Regent. No wonder, therefore, that many people would like to see this dignity, in the interests of evolution, granted only on grounds of education and character to prominent Indonesians, whatever their descent. The Government does not wish to give way to this demand; it does not at present consider the importance of descent so small. It knows what the halo of old Regents' families, which are sometimes of princely descent, means to the population; even though it is sometimes compelled to appoint to this dignity *homines novi*, it dislikes interfering with tradition. Professor Schrieke pointed out that new Regents are also respected by the population, as a result of the existing social structure. Nevertheless, the link between one generation and another of ruling Regents' dynasties and the population must not be undervalued.

The discussions on hereditary succession [1]), against which even certain Regents have expressed themselves, are interesting as a symptom of the incredible changes in the attitude adopted in Indonesian circles themselves towards the task of administration. In this connection the Government has indicated the line of conduct which the Residents have to take into account when presenting candidates for government appointments of Regents (cf. Bijblad 8579 of 1913). Candidates must not only have served in the lower ranks but also at least about two years as district chief or as Patih and must have been completely satisfactory as such; while they must also understand and speak the Dutch language. No special examinations have to be passed, but it is made clear that the requisite ability will not be deemed to be present unless at least the full curriculum of one of the schools for the training of indigenous officials has been followed.

In discussions on the hereditary character of the dignity of the Regents in the light of modern administrative requirements, which has often come before the Council of the People, it was frequently said that what is left of the Regent's dignity is merely an official function, that the Regent has lost, as a consequence of administrative interference, all his influence upon the population, that the glamour of his position has disappeared; in short, the old grievance about the principle of protectorate receding

[1]) Pronk. *op. cit.* p. 107—115, and debates of the Volksraad, 1924, p. 466 and 487.

into the background and its supposed causes were being repeated. The Government (cf. Dr. Pronk, p. 109) remarked, not unjustly, that the decrease of prestige of the indigenous administration was due mainly to the evolution of our time. It is desirable further to emphasise this point. Could one be naïve enough to expect that at a period when the earlier prestige of Occidentals and the sacred character of everybody — high or low official, Oriental potentate, Mandarin, Samurai, Daimyo, the divine Emperor himself — disappear, and have even been overthrown by revolution, could one really believe that, in such a time of new consciousness, the Regent alone would preserve his prestige to the full? This is indeed a vain fancy.

No doubt the natural evolution of the time was especially helped by the action of Dutch Civil Service officials, whom one may therefore make responsible in an indirect way, but even without them the course of affairs would have been unavoidable and certainly less gradual, as has been seen very clearly in various Eastern countries where there were no Western administrative officials. Notwithstanding such a fundamental change in administrative policy and system, Western interference has shown more respect for the indigenous system than has usually been admitted. This may appear from the fact that it may be said without any fear of contradiction that nobody in the whole of Java, whether Eastern or Western, enjoys more authority and prestige among the population than the Rulers of the four small Javanese States and the Regents in directly administered territory. In the light of the sharp reproaches as to the management of administration to the detriment of indigenous prestige, this result is surprising and not so bad after all.

The social structure has made this possible, but in no less a measure the administrative system, which has maintained to a large degree the spirit of indirect rule even though the form has departed. Notwithstanding the preponderance of Dutch officials invested with executive authority, notwithstanding the insufficient encouragement in the past of independence in the Regent and the Wedono, the population could on the whole retain the feeling that it was standing under its own Chiefs, although it knew it could find protection against the abuse of power by application to the Controller. If the Controller had not been enabled — for in-

stance, by his right to interfere with the dessa complaints, elections, etc., which gave him his intimate knowledge — to establish contact naturally, he would have become the superfluous fifth wheel of the administrative chariot, instead of being the axle of the whole organisation. If one understands this function one understands the whole administrative system and even administrative policy. This is not a function one can invent. It originated as a fruit of the Dutch national character, which possesses enough patience to learn by experience and to find quietly in this way solutions which elsewhere would have had to wait for a stroke of genius.

Dutch administration in the other islands

We now can leave Java. The recent changes (emancipation of Javanese superior Civil Service, administrative reform, and political decentralisation) belong to another chapter (Chap. 5). Efforts for the better organisation of the villages of which there are still about 20,000 in Java into efficiently working autonomous units will also be dealt with in that chapter [1]). The time has come to cast a glance upon the other islands the administrative organisation of which will not require an extensive explanation because what has preceded naturally gives in many respects, and especially as regards the spirit of administrative policy, information which applies to the whole Dutch East Indies. Nevertheless, important differences exist which are due to situations that are sometimes very divergent among themselves.

The period 1850—1909 shows continual expansion of Dutch authority over those regions. The interior of Sumatra, Borneo, and Celebes had still to be discovered. Dutch New Guinea is still being explored to day. The discoveries made in those territories did not appear at the outset to be very important, nor did they make people incline to intensify contacts. Moreover, the populations themselves by no means always appreciated such contacts.

[1]) Not including the Javanese States where thousands of village communities have been founded since the start of the agrarian re-organisation in 1912. The number of dessas in Java amounted at one time to 30,000. Since the reunion of small villages into a larger one, the number has greatly decreased (20,000). Laceulle, *Eindverslag Dessa Autonomie Onderzoek op Java en Madoera*, 1929, p. 6, mentions not less than 4515 such amalgamations for the ten years 1918—1927. His opinion of this policy is not favourable; the difficulty is due probably to the fact that the dessa is not only a civil, but also a religious community.

Initially, relations mainly concerned the courts of the rulers. There were frictions and flashes in which large sultanates like Palembang, Djambi, Atjeh, went down. The Government, then, became heir to a loose conglomeration of small indigenous units of which little or no administrative capacity was to be expected. One would have liked to found Dutch administration upon semi-feudal units in the style of the Regencies of Java. But there were none. There could be no thought of establishing a uniform administrative formation such as had been set up in Java. Every new territory brought under the authority of the Dutch, whether annexed or placed under their suzerainty, had to be studied by itself. In the end, these big islands were entirely pacified, and were gradually divided into nineteen regions of which the dimensions were usually several times greater than those of the seventeen Java Residencies. Here, too, most chiefs of regional administration had the title of Residents, a few of them in the most important territories were called Governor; while the small island of Billiton had the honour of being allowed to remain a separate administrative unit, though the head had to be satisfied with the title of Assistant Resident.

As in Java, the Residencies and Governments were also divided into divisions usually placed under Assistant Residents which in their turn were divided into sub-divisions usually placed under Controllers. In very backward territories, some Post-Holders were placed, not as genuine administrators but merely as representatives of the Dutch authority. Initially they were practically uncontrolled and had to satisfy no other requirement than that of being Dutch subjects. This situation has now come to an end. The few existing Post-Holders are now placed under normal administrative supervision.

Next to the ordinary corps of administrators, these islands had at first a number of Civil Commanders, military officers entrusted with administrative work. This lasted as long as it was desirable to leave military and administrative functions in the same hands. Furthermore, the lack of indigenous administrative energy of the quality that was so highly appreciated in Java led to a continual extension of the Dutch *cadre*. Training for a good local indigenous administration involved many difficulties, while it was deemed undesirable to leave Java bare by transplanting too many Dutch

administrative officials. In those circumstances, a more incidental method, which later became more systematic, for filling up the administrative body with auxiliary forces was evolved. For this purpose private persons were appointed as Civil Commanders of less important places and in distant territories. They had received no preliminary administrative training. Their position was eventually improved (Stbl. 1904, No. 76 and 1908, No. 72). Since 1911 probationer Civil Commanders have been appointed. These officials thus secured practical training before their appointment as chiefs of sub-divisions and divisions. There was a great need for these additional officials and in 1914 their number had already risen to over a hundred. In the same year, they were given the title of Commanders in the Internal Administration (Stbl. 503). By force of circumstances, a second body of administrative officials had arisen, the significance of which could not escape attention, in view of the plans meditated since 1909 for the reform of the administration. The Government Commissioner for the reorganisation of the administration remarked (in Ch. II, p. 27) that what was intended and started as an emergency measure could not easily be transformed into an institution of lasting character [1]). In connection with the circumstance that an unprecedented increase of officials of the Dutch Civil Service or a speedy growth of an indigenous Civil Service in these islands could not be hoped for, he deemed the institution of auxiliary administrative officials to be a settled fact which had to be accepted as such. That is why all things considered, a satisfactory regulation of their official and financial prospects was urgent; while sufficient care had to be taken to give them a good training.

In the frame of the administrative reform which was then being studied, and which was to bring about seven governments with only 47 divisions instead of the existing nineteen Residencies with about 100 divisions, it seemed to him that the preservation of this auxiliary body was all the more necessary from the point of view of promotion of the members of the superior Civil Service, all of whom had enjoyed University training.

In accordance with these ideas, arrangements were at once made about the position and for the training of the Commanders

[1]) S. de Graaff: *Verslag omtrent de verdere Voorbereiding eener Hervorming van het Bestuurswezen in Nederlandsch-Indië*, 1914.

(Stbl. 1914, 502) and an institution for administrative studies, the so-called Bestuursschool, was established at Weltevreden [1]). The candidates for Commanderships had to follow a course of studies for two years, after which they had to pass the examination for Assistant Commander, whereupon after practical apprenticeship they would be appointed Commanders. They form a separate body the members of which cannot attain higher administrative posts.

Apart from this particular auxiliary corps, the organisation in the islands outside Java differs from that in Java by the fact that the Controllers there are officials with executive authority in their sub-divisions and are entrusted as chiefs of the local administration with the so-called daily or direct administration. It would, of course, be impossible to entrust the Assistant Residents with daily administrative tasks in their large divisions, which are several times larger than the divisions in Java, except, of course, in the sub-division where their own seat of office is situated. The task of the Controller towards the population is actually the same as in Java, but here he is an executive official with his own sphere of activity while the Assistant Resident exercises a controlling function. In Java his sphere of activity consisted in performing whatever his chiefs entrusted to him from the mass of their own work, so that he really was performing their work. In practice this distinction alters the position of the Controller a good deal as he acts directly through the intermediary of lower Chiefs but it affects the nature of his work less than might be supposed, because everywhere his task consists mainly in protection of the population and in promoting its power of self-exertion. But another circumstance meant that in Java the Dutch administration was much less independent than the administration in the other territories. This was the minutely regulated system of administration and the stronger influence of the central Government in Java. For future members of the superior Civil Service who were studying at Leyden, this used to be the main point when, after their first or preparatory examination, they had to decide in view of the different languages they would have to study according to their choice, whether they wanted to make their career in the other territories or in Java. And indeed for very independent char-

[1]) See its rules in *Stbl.* 1914, 504; 1916, 414; 1917, 351; 1922, 543, 563, 752.

acters the duties in those less developed regions were, and still are, more attractive. During the last few years the Dutch administrative bodies in Java and outside Java have been amalgamated — a proof that the contrast which dates from the time of the Company is beginning to wear off. Sumatra, Borneo, Celebes and other islands are well on the way to catch up the more advanced Java [1]).

Except for the lack of staff, the organisation of Dutch administration in the territories outside Java has not occasioned great difficulties, after the experience already acquired in Java. The instruction issued to the Residents of Java was considered to be applicable also to the other territories (Stbl. 1867, 114, II and 1861, 44). The *cadre* of the administration about 1910 was not much larger than in Java, although these islands cover together an area that is more than ten times that of Java. It was found sufficient to have about the same number of Residents or Governors, somewhat over fifty Assistant Residents (there are now ninety), and about a hundred and eighty Controllers, to whom later more than one hundred Commanders and a number of Post-Holders were added [2]). If one compares these gigantic territories with Dutch provinces, one will better appreciate their size and see what a tour in such a territory means.

The real difficulty in these territories did not so much consist in the formation of a European administration as in the indigenous administration. As there were as a rule no traditional heads of the capacity of the Java-Regents, who in Java had really become the axle of the administrative hierarchy, the link had to be sought lower down in the district administration. Here, however, there was no question of taking over a traditional district administration that was already in existence, as had been the case in Java at the time of its Javanese rulers, and of merely ordering it on a more uniform and systematic basis. The Indonesian states which were found outside Java were by no means as far advanced in their internal organisation as those of Java. Binding influences have been active to a much smaller degree; civilisation and traffic were restricted, apart from a few regions, and the

[1]) For the new general organisation of the whole administrative staff, *cf. Stbl.* 1925, 622.

[2]) The nineteen Residencies were divided into 94 divisions of which 35 were administered not by Assistant-Residents or Residents, but by Controllers or Commanders.

people's capacity for local administration was insignificant. The local variation created different problems in every locality when contact was sought with the indigenous system. If it had been possible everywhere to maintain the existing rulers and their states, one would at least have possessed an organism which might have developed greater administrative powers under the system of protectorates. But where large states had been annexed this top fell away and one had to climb down to the chiefs of the modest popular communities and to the loose federations which these communities had sometimes formed.

The annexation of these states is often blamed as an unwise policy because, in view of the lack of a trained district administration, the Dutch administration was placed too close to the population. In such case the inclination, of course, is to treat the popular chiefs as though they were ordinary officials like Wedonos and Assistant Wedonos, to make them work and exercise their influence upon the population in a purely Westernised direction. This reproach is not unjustified, but justice also compels one to recognise that the East Indian Government has often displayed a patience which contemporaries by no means considered to do it honour. Continual intrigues, insults, an increase of insecurity, of piracy, of widow burning, or of very bad oppression of the population led to incessant remonstrations, which had no effect other than the humiliation of the central authorities, and compelled them at last to take drastic action to depose the ruler in order to be able to clear up situations that were sometimes really chaotic. The territory of the non-annexed Indonesian states to-day still covers more than half the Archipelago; while in Java it still comprises Djokjakarta, and Surakarta, so that the moderation of the East Indian Government cannot really be in doubt. Below we shall first discuss the administrative principles applied to these little states, after which we shall conclude the chapter by considering the treatment of the district and sub-district administration in the annexed or so-called directly administered territories.

The Indonesian states

The Company had concluded treaties with princes and rulers, a competence which under the State administration was also given

to the Governor-General in various East Indian Government Acts (Art. 44 R.R. of 1854, at present Art. 34 I.S.). The contents of these treaties had to be communicated to the States General and, since 1925, also to the Council of the People. In the Indonesian states, the general legislation, administration, police and justice are applicable only in so far as is compatible with the independence left to these states. From the point of view of legislation, Art. 21 section 2 I. S. makes an explicit reservation in this spirit, but the principle would apply without that reservation to the whole field of government.

The measure of independence appears from the contracts made with these states, in which formerly on both sides rights and duties were enumerated and which for that reason were called Long Contracts. Repeatedly — for instance in the case of succession of an heir to the throne — these contracts were modified in accordance with modified needs. Since 1898, another system has been used in order to leave a free hand to the East Indian Government when any kind of interference on its part might prove necessary. The government of an Indonesian state was henceforth made to sign the so-called Short Declaration [1]). In this it recognised the sovereignty of Holland, promised not to have political connections with foreign countries and engaged itself to follow all the rules and prescriptions declared by the East Indian Government to be applicable to any or to this particular state. Almost all existing Indonesian states, with the exception of some fourteen which still have Long Contracts, have now signed the Short Declaration. The total of these states is now about two hundred and sixty.

It is clear that with the Short Declaration the Government practically acquired freedom to act as it likes. It could have hollowed out the independence of these small governments until nothing but an empty shell (their territory) remained. But this was not the intention of the Dutch authorities. They only wanted to possess the fullest opportunity in order to be able to guide and educate the small organisms, as is sufficiently proved by the self-limitation which it imposed upon itself in its Indonesian States Rules of 1919 (modified by Government decree, published in Stbl. 1927, 190). In fact, there is little difference in principle be-

[1]) This short contract is mainly based upon the model for Atjeh drafted by Prof. Snouck Hurgronje and General van Heutsz in 1898.

tween the status of the Indonesian states that still possess the Long Contract and the large majority of those with the Short Declaration, although it is true that the status of states with Long Contracts cannot be modified at the wish of one side only; while the Short Declaration leaves complete liberty in this respect to the Government.

From all of them, indeed, without any exception, it is demanded that they shall take to heart the welfare and the development of the population; to all of them a considerable portion of their own power of government is left; and supervision from above is exercised over all. Only people from the Indonesian state itself fall under its government, while all other persons, even Indonesians from other territories, possess an exterritorial status and are therefore under Government legislation, administration, police, and justice. Everywhere states treasuries have been formed and under the guidance of the central Government a satisfactory budgetary development can be observed [1]). In short, in its rules, the Government practically imposes upon itself the same restrictions as the little states with a Long Contract might expect from it.

For the development of the Indies along lines of their own, the Indonesian states are of great importance. The indigenous system, which has been left untouched to such a great extent, forms a natural barrier against an excessively impetuous influence from the West; while leadership and supervision nevertheless stimulate the desire for self-renovation and increase the power of self-government. The education of the sons of the rulers is an equally commendable method of leading indigenous capacities towards the greater development of their own energies. Here we find the form as well as the spirit of the protectorate.

The government, however, in the Long Contracts as well as in the Indonesian States Rules, has taken under its control various subjects of Greater East Indian interest, such as the regulation of the leasing of land to persons who do not belong to the indigenous population (Art. 14 of the Rules). Art. 12 is important: it says:

"The legislation and the administration of the affairs of the self-

[1]) H. Colijn: *Onze Staatkunde ten aanzien van de Buitengewesten*, in "*Neerlands-Indië*", 1929, II, p. 23.

governing State are left to its government, albeit under the direction of the head of the regional administration and, according to his discretion, under that of his subordinate officials".

The Dutch authorities also supervise the administration of justice (Art. 17), while mixed cases between subjects of the Indonesian states and people from elsewhere are reserved to the tribunals and judges of the central Government. In Art. 21, the obligation is put down of fixing annually a budget of receipts and expenditure and of observing it unless the Resident sanctions a modification (Art. 22). The special expenditure made by the central Government in favour of the Indonesian state must be returned, while the quota for general due expenditure (defence, government, etc.) is to be balanced (Bijbl. No. 6672, sub. g.) against the contribution out of indirect taxation (customs duties) which comes in from the states. Furthermore, the central Government can indemnify the states for rights it has taken over by the payment of an annual subsidy. Customs duties are in every case taken over by the central Government.

If general or other ordinances or regional decrees acquire binding power over a state, then its own government must, if invited to do so, see to their satisfactory execution (Art. 15). There are more stipulations of this kind which, on the whole, are appreciated by well informed judges as being an effort to find the golden mean between excessive interference and abstention.

In the Long Contract the Government has gradually also reserved more influence to itself. Mr. Spit [1]) (1911), rather pessimistically, said:

"There are few regulations which grant new powers to the Indonesian ruler.... the contract.... is nothing else than the iron hand in the velvet glove which gently but surely squeezes the breath out of independence".

Of the four states of Java, he said that the power of their rulers to resist our will has considerably decreased. In 1893 the Susuhunan had to promise not only that he would observe

"all the agreements made with predecessors but moreover that he would submit to the arrangements which the Government might wish to make about a dozen points (such as the improvement of police; organisation and administration of justice, in police, in

[3]) H. J. Spit: *De Indische zelfbesturende Landschappen*, 1911, p. 2.

criminal, and in civil affairs; the right of removing subjects who are dangerous to the public order and peace; taxation — 'that I shall levy no new taxes until after consultation with and approval of the Government')".

In Long Contracts made with states in the territories outside Java, the Government has reserved similar although less far-reaching capacities for itself. In order that these different arrangements should not unnecessarily degenerate into a confusing multiplicity of contractual relations, a model uniform contract was drawn up in 1875 which had henceforth to be used as nearly as possible. Upon this basis regional models have since been drafted (for Celebes of 1904, for the East Coast of Sumatra in 1906, and others). These models are published as appendices in Mr. Spit's work, already quoted, that gives a brief, but very complete, survey of the whole matter [1]).

In order to further co-operation between the states in a larger system which nevertheless would remain within the familiar indigenous sphere, the Government aims at the construction of a higher organisation. In Art. 26 of the Indonesian States Rules, it gave expression to this desire by declaring that the Governor-General has the power to establish for two or more states a collective "Princes' Council" by which council the legislative capacities left to the states or part of them could be exercised. Then the Governor-General can also determine (Art. 27) in connection with the establishment of such a council, or otherwise, that several states situated within one Residency will possess one common treasury with common revenue and expenditure. Much success has already been achieved in this direction, and this is especially important because in this way the indigenous power of government is increased while at the same time it helps to open a road towards a Greater East Indian Unity.

This process of unification will for the present be restricted to

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[1]) *Cf.* also Kleintjes, *op. cit.* I. p. 52—64, II, p. 214—222; *Politiek beleid en Bestuurszorg in de Buiten-Bezittingen*, 1907—1914; *Mededeelingen van het Bureau voor de Bestuurszaken der Buiten-Bezittingen over De Buiten-Bezittingen* (1904—14); E. Moresco, *De Inlandsche Zelfbesturen en de rechterlijke Organisatie*, 1903, and *Onze politiek t.a.v. de Inlandsche zelfbesturen*, "*Ind. Gen.*" April 1908; W. Verbeek, in "*Kol. Stud.*" 1919, p. 455—480; J. H. Meijer, "*Kol. Tijdschr.*" May 1914, p. 584—605; B. J. Haga, *Indonesische en Indische Democratie*, 1924; F. M. Baron van Asbeck, *Onderzoek naar den juridischen Wereldbouw*, 1916; Th. H. M. Loze, *De Indische zelfbesturende Landschappen in het nieuwe Staatsbestel*, 1929, which is the most up to date.

the frontiers of existing Residencies. But we may expect in future the establishment of large governments or provinces in the islands outside Java, perhaps island governments or island provinces, and in that case the small states would have to be organised either directly or in groups within more extensive modern autonomous units. "Political reform cannot be completed outside the three hundred larger or smaller Indonesian states. The question must be solved how these valuable political units can find their place in our modern edifice of State [1])".

With the existing administrative division into Residencies, divisions and sub-divisions, the frontiers of the Indonesian states have been followed as much as possible. It would not be advisable to draw the limits of two Residencies or divisions straight across a state, which would then have to deal with two different Residents and other officials. It is desirable to make the administrative divisions fit in with the traditional territorial units that live in the mind of the people. This is just the opposite of the identification of the territory of a feudal or Adat law community with the official areas of jurisdiction of central administrative officials. This desideratum applies moreover equally in the annexed territory, to Regencies, to lower and higher indigenous federations, and even to villages. It has not always been respected, and such disregard of tradition has repeatedly been blamed by Adat scholars [2]).

If we ask what the future may hold for these states, we are bound to feel that the attitude of the central Government must be decisive. And this reminds us of Mr. Spit's reasons for alleging an excessive claim of the right of interference by the Government. The opportunity for spreading the influence of Dutch leadership in the states also should, however, be no reason for pessimism. It is by no means a result of self-seeking and autocratic imperialism. If this had been the case, these three hundred states could have been annexed with the greatest ease. The Rules would have been made very different, if this had been wished. The aim was to utilise the principle of protectorate or indirect rule which wants to develop the indigenous system along lines of its own.

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[1]) See Colijn and Staargaard, *op. cit.* p. 23.

[2]) Van Vollenhoven, "*Kol. Tijdschr.*", 1928, p. 258, and "*Kol. Tijdschr.*" 1928, p. 376. See also Haga, *Inwerking Westersche Bestuursvoering Inl. maatsch.. Buiieng.*, p. 8.

But those who would like to identify this idea with an administration that leaves these states in the outer darkness of backwardness, ignorance, and evil, interpret the idea of indirect rule in a different spirit from the Government of the Indies. It is in the same light that one must regard its intervention, which has not always waited for the consent of Indonesian rulers and has sometimes been in opposition to their wishes.

Mr. Spit could not stand the idea that such exceptional cases were justified with an appeal, sometimes also heard in India, to the supreme responsibility of the Paramount Power (p. 130, sqq.). He wanted punctual observance of the text of the Long Contracts, although even he had to qualify this desideratum and to acknowledge the good faith of the Government. But he considered it (this was in 1911) desirable that the East Indian Government Act, with a view to such cases of necessary interference, should also include a stipulation according to which these rights and duties could be extended if, in the judgement of the Queen and the Governor-General, such an extension was definitely imposed for the sake of the defence or maintenance of Greater East Indian interests. In fact, even without such a stipulation, the demands of the whole commonwealth have always remained the criterion of the Government, as has been amply proved by the policy followed since 1911.

There can be no question of arbitrariness or of a contempt for the rights of a weaker party. This can be seen from the fact that almost twenty years later rules for the Indonesian states in the spirit above described have come into being. Here, also, a process of growth is taking place, which from time to time creates the need of a further regulation of the function of the centre and of the local organs. The more the states, by making use of leadership and education, discover how to adapt themselves to the requirements of an enlightened administration that wishes to place the well-being and development of their subjects above all else, the less reason there will be for interference, and the more useful will become this federalistic or decentralising construction upon an indigenous basis.

One might be inclined to ask whether the Government of the Indies has not made a serious mistake in not establishing a similar political system in the directly administered territory. Why,

for instance, has it not organised the Regencies in Java as autonomous states with an almost complete power of government? Why has it not decentralised them from the financial point of view and placed them under the Regent assisted by a bureau, a district and sub-district administration, and, eventually, a council of Javanese grandees and educated people, retaining advisory powers or even in budgetary and legislative affairs powers of co-decision? All this, of course, under supervision and guidance from above. When these questions are put, it should be remembered that praise of the policy adopted towards the states in the islands outside Java need not imply criticism of the policy followed elsewhere, which utilises other methods. Other circumstances usually require other methods; many roads can lead to the same goal.

In Bali, for instance, an attempt has been made to move in the same direction in directly administered territory. This has not always been done in the same consequent manner, but at present the value of this policy is sufficiently recognised to make superfluous any fear of a return to the detriment of the indigenous system. The policy of inter-twining in annexed territory feudal and popular Chiefs with a Western system of government might be characterised as feudalistic or federalistic decentralisation leading to the creation of autonomous indigenous federations and other units with a status similar to that of the Indonesian states. It comes down to this, that the territorial units which have continued to live in the mind of the people are to be recognised as such in some form or another; that they are being given means of self-development under the descendants of rulers or chiefs respected by the population; that their chiefs or organs are given as considerable a power of government (administration, police, justice and legislation) as is compatible with the supervision that remains the first duty of the central Government, which aims at the protection of the population against whoever may attack it. But this road cannot be followed everywhere and it will not apply to Java.

The nineteenth century, which scarcely touched the islands outside Java, has radically modified the system that prevailed in Java. This process, which has been gradual and actually covers a portion of the period of Company régime, has led us into an era in which the Regents themselves stand up and plead for the abol-

ition of all Hormat (etiquette), and even of the hereditary character of their dignity. This process has enriched Javanese society with tens of thousands of people who have had a modern education, and with hundreds of real intellectuals. It has developed in Java a mobility, a consciousness, and an endeavour which Java has never known before, and which the subjects of most states outside Java still do not know. This society has been absorbed in world traffic, and annually about a million of its members is temporarily absorbed by enterprises built up by Western initiative. The system of states with almost complete power of autonomy no more fits such an environment than it will be adaptable to the states when, in their turn, they have grown together organically and formed Greater East Indian organisms.

In the states, Western influence began to penetrate only some twenty or thirty years ago. Only now is an attempt being made to create better conditions out of conditions that were usually very primitive indeed. The demands which can be made on these states remain, therefore, still rather modest, and will do so for a considerable time. As development increases, the Princes' power of governing will also grow under the guidance of the central Government and it will be possible to increase it without much difficulty — even to keep it ahead of popular development for some time to come.

But in the annexed territory, and especially in Java, intensive administration has created entirely different conditions, combinations of interests, a complicated society and a modern Javanese élite full of aspirations. There a primitive system of autocratic government would no longer achieve anything; an ultra-modern form of government is required. The problems of communications, of food, education, irrigation, agricultural care, popular credit, hygiene, etc., require twentieth century intelligence, technique, organisation, and methods. Otherwise, everything would go wrong. This applies to the whole of Java, and will soon be equally true of some parts of other islands. In a century's time it will probably apply to all of them, even to the most backward which are still satisfied with a purely indigenous system.

Let us not consider further what will be the situation in a hundred years. The differences we have just enumerated are still at the present day so obvious that the difference of method

adopted in various parts of the Archipelago can be understood without difficulty. And yet, paradoxical though it may sound, the policy of federalistic decentralisation adopted towards the states outside Java covers a centralising tendency. One may even say that this is the main tendency hidden in the system. What is happening here is at bottom nothing but the careful exercise of an influence upon these freely moving independent units which further and further drags them within the magnetic field of the Greater East Indian planetary system.

Conversely, in a seemingly not less paradoxical interpretation, we must seek in the over-centralisation of the directly administered territory, and especially in Java, the germ of contemporary and future decentralisation upon a modern basis. For it was by this intensive administration that the authorities were able to make themselves perceptible even in the smallest dessa and to accustom it to twentieth century standards of administrative care, justice, and traffic. But the task of this administrative care grew in the end so crushing that decentralisation in the modern sense became the watchword. The influence of Dutch activity concentrated in Java, which has gradually increased during three centuries, and the policy of abstention in the other islands, which lasted till 1875 or even 1900, have therefore called into being remarkable differences which statesmanship must take into account. Hence the different methods for Java and the other islands. In Java decentralisation must, therefore, not be allowed to cause a lowering of the administrative level which has been reached and is already very high. On the contrary, it is because the power of the central organisation and of its regional administrative personnel is incapable of extending this care still further and carrying it still higher that it calls the population to arms. This population, of which the indigenous element composes 98 per cent, is able up to a point, but by no means sufficiently, to co-operate in this task. For this reason the Government carefully transfers its task, one part after the other, to the modern autonomous organs it has created in Java, all the time carefully observing that the high standard it has achieved is maintained. For the question is one of the autonomy of organs belonging to a *modern* body of the finest structure. They must, therefore, satisfy the same exacting demands as the central organisation itself. Hence the fact for

which the Government has sometimes been blamed, that no complete local power of government is being conferred; that on the contrary, the local organisation in only slowly entrusted with different tasks of government responsibility.

In the other islands, on the contrary, practically the whole power of government was left to the states, including the administration of justice, a thing of which there could no longer be any question in the Regencies of Java. It is precisely because in those very backward states there was so little governing to be done that one could, if necessary, leave them full power of government. In any case, it was sufficient to claim for the time being for the Dutch authorities only the general right of supervision, in order to put an end to oppresive rule wherever it might be found to exist and gradually to stimulate the indigenous system into greater activity.

It is not right, therefore, to draw a contrast between the modest dimensions of the autonomous functions of the Javanese Regencies and the almost complete power of government of the states outside Java. For the first are, notwithstanding their initial limitation, of a modern and much higher order than these states, just as the Javanese states with less complete autonomy are none the less the most efficient and reputed states in the Archipelago. The very fact that the power of government in backward territories can be so complete marks the real nature of the situation. Those states still gyrate round their own centre; they are still in a state of medieval self-containedness. As they advance intellectually and economically, conditions will change. Numerous links will then join together the states and the larger East Indian unity, for even the largest of these autonomous states would by their own initiative be able to undertake only a very small portion of the government care and assistance which will be more and more necessary to their subjects.

Soon some of these territories, and eventually all of them, will have a population whose economic, intellectual, hygienic, justicial, and traffic requirements will greatly transcend the resources of their small circle. The more the population progresses, the more these needs will make it dependent upon a care for its interests which can only be performed by larger units like the province or the state. Notwithstanding an external form of federalism,

there will in the end have to be a relationship which will not greatly deviate from that which, in various modalities, every modern state organisation displays. The Indonesian state will, in the long run, grow into the larger unity with no less completeness than the still incompletely developed autonomous Regency of Java has done so far. But this organic evolution, which historical development that cannot be undone has granted to Java in a lesser degree, guarantees to the indigenous system of the states a fair chance of expressing its inner potentialities in greater forms of its own.

Just as the states so far maintain a loose connection with the larger East Indian unity, so there is also between the states and their inhabitants a link of a loose nature. We must make a distinction between the principalities and the customary communities based upon Adat, the villages and village unions, and federations of village unions, which sometimes have also been accorded the status of Indonesian states by the Government of the Indies. There are further some states whose territory and organisation are not, or are insufficiently, supported by customary law, and which have been called into existence by the Central Government itself. In the republican states, as one might call them, one finds an organisation similar to that of corresponding Adat communities in annexed territory, where they had to be satisfied with the status of communes, and sometimes continued without being noticed to perpetuate their old authority within their own sphere.

These spheres as a rule can be sub-divided into smaller group-connections with a genealogical or territorial basis, representatives of which formed together a corporate organ of authority of which one member could be considered the leader, the *primus inter pares*. The recognition of such circles by the Government, whether as communes or as states, always leads to a greater preponderance of the first Adat chief over the others, than would be tolerated in unadulterated Adat situations. He has a tendency to develop in an autocratic direction, in which case the other popular chiefs, and with them the special groups of population to which they belong, lose a part of their influence upon the policy of the Indonesian state. It is probable that under the pressure of various circumstances a similar course of events also took place in former times and resulted eventually in the consolidation of

loose Adat connections into autocratic or oligarchic little states governed by a rajah alone or by a rajah and his state council.

The term consolidation may appear an unhappy one, seeing that an organic connection appears to give place in such a process to an autocratic and mechanical connection imposed from above. But sociologically this characterisation is not unjustified, and we may refer to the sociologist Durkheim who explains the transition of Eastern democracy within these small federations into Eastern despotism [1]). The ruler who becomes invested with power formerly belonging to lower popular chiefs has also to take over a part of their functions with a religious hue, and becomes a sacred intermediary between the popular and the world order. He is therefore not as free in his actions as is sometimes imagined. He has to perform an unwritten code of duties, the Dharma, of the ruler. It is of course well known that this doctrine of duties leaves open many issues through which arbitrariness can still reach the population.

Under the ruler, the old Adat communities can continue to exist with their corporate administration; while in other cases district administration organised by the ruler partly takes the place of the Adat chiefs. In some cases a ruler governed with the assistance of a council of state composed of the members of his family to which were or were not added some popular chiefs; in other cases there was a council of state consisting of representatives of confederated small states with the most influential ruler as their leader, a form which recalls the corporate form of government of less pretentious higher Adat communities in directly administered territory. In Southern Celebes, where this form of Indonesian state organisation is found, these federative states are composed of so-called "ornamentships" over which the chiefs have great authority because they are the keepers of certain sacred objects like meteoric stones, flags, etc. From this one fact one may gather the medieval mentality of this environment. In the thesis of Dr. Haga, which has already been quoted, there are a great number of data concerning the internal affairs of these little principalities (pages 158—197).

A great work of construction is being performed by the Dutch administration in this extensive territory. The task is twofold:

[1]) Durkheim, *De la Division du Travail Social*, 5th ed., p. 173 sqq.

there is the formation of an organic connection between the states and the higher East Indian unity, and there is the furthering of an organic division of labour inside the states between their government and their lower popular organs. In both connections there is a corresponding looseness of relations. We have said enough already about the first point, while the second can be made clear with the help of Dr. Haga's study, where we find the following remarks: (p. 181)

> "It is this system of one-headed authority uninfluenced by the people, without the opportunity of bringing to the surface that which lives in the population, without office for receiving complaints, that has given birth to the wish for a democratisation of the Native States. The question really is of a much more serious nature than in the case of the villages and the village unions where the population has a fairly considerable influence upon the government of its local community in matters of its own domestic interests, while the village meeting and the meetings of the corporate representations in the islands outside Java are also useful as an unofficial means of expression of the popular will in matters concerning the local execution of the orders of the central or local government.
>
> "Nothing of this kind exists in the Native States. The population has no influence either upon the government exercised by the central authority of the States concerning the internal affairs of the States nor upon the local execution of the orders of the Central or Regional Government, which as far as the subjects of the States are concerned, is performed by the European administration through the intermediary of the administration of the States. A democratisation of the States might perhaps conciliate the opposite opinions of those who want to abolish them because they despair of the capacity of the rulers ever to learn adequately to govern, and those who want to preserve the Native States."

The inclusion of the states in the larger system of the Dutch East Indies has inaugurated the progress of centralisation in this field and a corresponding increase in the authority of the ruler. In some cases the state council has been brushed aside by the rulers and everywhere its influence, and with it the possibility of popular influence, became smaller, while that of the ruler made itself felt more strongly and even penetrated more deeply into the popular sphere by means of the organisation of a district administration. One may regret this, but it cannot always be prevented. The modern task of government makes demands upon the rulers of the

states which could not possibly have been fulfilled by the old loose connection in which every village or federation anxiously and jealously kept within its own circle [1]). The governments of the states must continually better organise themselves and must make their progressive influence felt in the smallest popular community. But against this there is the fact that all organic life in the states must be saved in order that it may develop in a natural growth together with the body of the Indonesian State in which it exists. The bureaucratic district administration of the ruler, district justice instead of justice administered by the popular chiefs, and all other infringements of Adat attributes of the popular community cannot be called unmixed blessings.

The Government of the Indies is endeavouring to delimit the autonomous spheres for the communities based upon Adat law in the states (Stbl. 1930, 25); old traditions and loyalties can in this way be preserved and can learn to adapt themselves to the use of the additional functions which modern demands must impose on even the smallest communities.

Moreover, in Art. 4 section 2 of the Indonesian States Rules, the governments of the states are empowered to appoint an advisory council if they wish it. In view of the fact that in such a council by the side of grandees some popular chiefs might also be appointed, popular influence might, in a more modern way, by this means be able to establish a link between the lower Adat communities and the governments of the states. In this manner, the great process of renovation which has already started will not only strengthen these governments from inside and tie them to the larger unity, but it will also solidify the popular communities in the states and utilise them as living organisms for bringing the popular power to exert its influence within the higher sphere of the government of the states and through them upon the Greater East Indian unity.

We have not yet by any means reached this stage, except in Java where the Rulers recently have decided to establish representative advisory councils(Baleh Agoeng) whose functions may be gradually extended. The above sketch of the internal conditions

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[1]) W. Middendorp, *The Administration of the Outer Provinces of the Netherlands Indies* in "The Effect of Western Influence on Native Civilisations in the Malay Archipelago", edited by B. Schrieke, 1929, p. 55, and also p. 66—69.

in the various states and of what they still have to become, is therefore a striking addition to what has been said elsewhere about the loose connection between the autonomous states and the Dutch East Indies. The present outline, therefore, confirms the characterisation of the states outside Java as meteors that are still moving freely and are only very gradually drawn within the magnetic field of unity. At the same time, it confirms the qualification of the modern Regency in Java, notwithstanding the modesty of the field of activity allotted to its council and executive board, as an organ of the great body which shows its capacity to fulfil some important duties and to which the centre can entrust more of its own functions at present and in the future. Thence the entirely distinct organisation and task of the Regency, at the head of which is a council the majority of whom are elected by the Javanese population itself; while the Chairman, who is the Regent, assisted by a board set up by the council, is entrusted with the executive task. This is an ultra-modern organisation which may certainly be accused of being premature, but which nevertheless has good grounds for marking a distinction between the historical differences of the evolution in Java and in the other islands, differences about the significance of which the previous pages cannot have left any doubt.

The status of the Indonesian states, which at present is, on the whole, rather simple, will become much more complicated in future; while the modern Regencies, which look somewhat out of their place between the past and the future, will continually function in a better way and will become full grown organs of a twentieth century political organisation. As soon as all this is realised, it will be possible to distinguish the unity of principle and of direction in all these methods that may seem paradoxical. In this connection, there is no need to consider further the subject of the Indonesian states, and we may leave it now in order to examine how the government of the Indies has organised local administration in the annexed portions of the islands outside Java.

District administration in annexed territories

The administrative division of the islands outside Java into

Residencies, divisions, and sub-divisions, administered by Dutch officials, pays no regard to the political distinction between Indonesian states and annexed territory. Nevertheless, the administrative task is naturally in many respects different according to whether the territory contains only directly administered portions or contains also portions where there are Indonesian states as well. The division into Residencies in a few cases coincides with the frontiers that existed between former large states, but in general the states, owing to their small dimensions, and to the restricted number of their population, did not offer sufficient points of support for division into Residencies and divisions. Subdivisions could be more easily arranged because they could be made to coincide with one or more states or to cover together with contiguous sub-divisions the area of a large state. In the annexed territory, it was desirable to make the administrative units coincide with ethnical circles or with the territory of former independent states that had disappeared, or with a number of circles based on customary law, which usually were not lacking. This procedure has not always been followed, with the result that an Adat unity was sometimes situated in two different sub-divisions.

Where the policy of intertwining administrative and traditional units was not disregarded, according to Dr. Haga [1]) it proved to be useful for the Adat connection, because the heads of the indigenous communities "regularly gather in order to discuss administrative questions with the Dutch Controller and usually form the highest indigenous tribunal with him...." Against these examples can be mentioned several cases when, upon the establishment of sub-divisions, no connection has been sought with the Adat situation of society. This does not apply to sub-divisions which contain a number of smaller units or Adat federations, but to those divisions in which the same Adat federation or even lower units like *Margas* are divided over two divisions, a thing which is detrimental to the traditions of the Adat connection.

Formerly, the authorities were not adequately informed of these Adat relations, which had not yet been explained so clearly by the studies of Prof. Van Vollenhoven. The heads of the Adat connec-

[1]) Haga: *Inwerking van de Westersche bestuursvoering op de Inlandsche maatschappij in de Buitengewesten*, 1929, p. 8.

tions, or part of these heads, had been noticed, but not the popular organism of which the head was only the centre. Moreover, it was not always realised that the lowest communities are often part of greater organic connections (leagues of villages or federations of such leagues) which equally deserved recognition and consolidation, and which were of greater importance from the point of view of political construction. For the greater the old indigenous circle, the more content it would be possible to give by and by to its internal organisation and the greater the capacities of administration which would be developed by its own political system. In this way popular co-operation can also make itself useful for the local execution of the task of the central Government in a relatively independent manner.

This way of overlooking old Adat connections had to be made good at a later stage, although it appears that there is still much difference of opinion about the methods that ought to be used. Until the present the fact that the Adat organisation has been able to maintain itself in more than one respect, without even the recognition of the higher authorities, has on the whole protected the latter from committing irreparable mistakes. It might also be possible still further to harmonise the administrative division with the existing ethnical units, Adat law circles, and subsisting Adat connections. The enlargement of sub-divisions, which is now becoming possible as a consequence of better communications, higher popular development, better trained popular chiefs and more capable indigenous district administration, might also be made to serve the purposes of still greater respect for the indigenous system and for the future organic political construction.

It is not until about 1910 that the higher indigenous connections began to come into their own. When the authorities discovered them at the time of Dutch expansion outside Java they were often prepared to recognise them as Indonesian states or as indigenous communes upon the basis of Art. 71 R.R. (Art. 128 I.S.). In so far as such communes (to which the later Communal Government Regulations did not give a complete power of government, such as is implied by the indigenous system) were situated in territory to which its traditional power of administering justice had been left (Art. 74 R.R., 130 I.S.), the popular chiefs indirectly were allowed to preserve also part of their judicial powers, which

was useful for their authority and prestige. Even where this was not the case the Government always aimed at preserving existing indigenous institutions by recognising them as communes. The communal status in itself can, however, not be considered as a complete compensation for the old Adat functions to which the population often continued silently but obstinately to cling, particularly from the point of view of the administration of justice[1]). Since the recent completion of Art. 71 R.R. (now Art. 128 I.S.) with a fifth section, which opened the opportunity to grant indigenous communes the right to levy taxes in the modern way and to enter the field of penal legislation, the institution of the communal status has been made more Occidental in two directions. It is, therefore, all the more necessary to adapt the working of this system as far as possible to the indigenous system and not to remove any living Adat prematurely.

Until 1910 the preference was for the recognition embodied in the investiture of their chiefs, of the lowest Adat communities resembling the Javanese villages, sometimes village unions like the Margas or territorialised tribal connections in Southern Sumatra, or the Koerias in Tapanuli — but the largest indigenous connections were rarely officially recognised. The consequence was that the contact between the Dutch administration and the indigenous organisation, which as a result of the lack of a feudal link was already too direct, became still more so, as would have been the case in Java if there had not been Regents, Wedonos and Assistant Wedonos, and fairly well-schooled village administrations. In such a case in Java also the administration would have found itself dealing directly with, and even placed in the midst of, village organs which were rooted in the depths of the popular sphere. Possibly the local execution of central orders would then have pushed that of domestic village administration entirely into the background. It need scarcely be pointed out that this would usually have created an impossible situation. To have a reasonably efficient administration, one would have needed not a hundred but a thousand Controllers for Java alone. And even this expensive staff would not by any means have been able to achieve the things which indigenous administrators, especially if invested

[1]) Van Vollenhoven, "*Kol. Tijdschr.*" 1928, p. 268 sqq. W. van Royen: "*Kol. Tijdschr.*" Sept. 1929, p. 425—437; Haga, *Inwerking* etc. p. 16—19.

with traditional authority, could have done with the population. This commonsense insight, of which our period is also beginning to appreciate the moral foundation, has certainly been the main reason of the acceptance of the system of indirect administration which comes best into its own when the Dutch administration and educated chiefs invested with traditional or Adat authority can co-operate directly. Unhappily this has not always proved possible.

In the islands outside Java an endeavour was made to utilise as much as possible the lessons learned in Java. Wherever the need existed, the authorities attempted to establish intermediary persons whose duty it was to transmit administrative orders to the lower popular chiefs and see to it that they were executed. A class of chiefs thus gradually trained would, in the opinion of the central authorities, have to be invested with the character of officials even more than the Regents in Java. For this purpose, indigenous society would need to have at its disposal a group of persons whose traditional authority elevated them above the lower Adat chiefs in the eyes of the population. The formation upon this basis of a link between the Dutch administration and the lower popular chiefs was, therefore, especially difficult in regions, such as Minangkabau, with strong lower but very weak higher communities [1]). The Adat system, which was meant for primitive relations and much divided small societies, could not produce the form of indigenous authority needed for territories as large as our own administrative areas, and could not perform the leading influence to the degree in which our administrative aims required it. It did not prove possible to give to the territorial heads (Panghoeloe-Kapalas and Laras chiefs) appointed by the Dutch the prestige they needed.

In other regions, such as Southern Sumatra, where higher indigenous connections (the Marga federations) existed, the difficulty, which in Minangkabau resulted from the lack of intermediary authority and of higher connections, might in the long run have been overcome to a certain extent by a recognition of these federations side by side with the recognised individual Margas, but this would not have brought an immediate solution. For higher federations of this kind aim often enough only at the satisfaction of temporary

[1]) Schrieke, "*Kol. Stud.*" Febr. 1927, p. 57 sqq.

(defensive) or some very special needs, e.g. in the sphere of justice (arbitration between villages), and they were then, like their chiefs, by no means adapted to the fulfilment of the function which a full autonomous task of their own or the local execution of central orders would have demanded from them. In various regions the Government has tried to achieve cohesion with certain higher units by making their territory an administrative or judicial circle, and by using their chiefs as judges or as district administrators, while the old Adat community itself, with its own traditional functions, was by no means always recognised as such.

In this way the hereditary chiefs in Atjeh became district chiefs under the Government, while in the eyes of the population they remained in the first place heads of the ancient community. As long as the Government respects the true character of such officials (Stbl. 1917, No. 87), among other things by appointing only those who can make a claim through birth and by not transferring them elsewhere, the population need not observe much of the far-reaching changes which have taken place. Only slowly will it, by the multiplication of interference and by the different substance of administration, discover that its chief has really to serve another will. It must be said that the mixture of the functions of chief and of official is not useful in some respects to the connection between the chief and the population, once the latter has discovered the real situation.

Between the village communities (Gampongs) of Atjeh and the hereditary chiefs (Oelèëbalangs), one also finds the so-called Moekims. Originally a circle of a few villages which constructed a collective mosque, the Moekim, under the influence of the former Sultanate, became the kind of administrative circle that remains in existence nowadays as a sub-district. These Oelèëbalangships used to be joined into federations (Sagi's), offensive and defensive alliances, at the head of which was the most influential Oelèëbalang, the Panglima Sagi. The Government of the Indies has now invested all these chiefs with administrative authority, and in this way it has made the administrative organisation fit in with popular institutions.

In the island of Bali, the Government has acted in the same way. Formerly, the island contained ten principalities whose rulers, starting from the position of umpires between Dessa-repub-

lics, had gradually succeeded in acquiring a hereditary and absolute position of power [1]). One by one their little states were annexed, but here again an endeavour was made to establish a connection with indigenous institutions. Karang Asam at the outset was even given the status that has already been described, and that may be characterised as "feudalistic decentralisation", while, moreover, the partition into sub-divisions followed the former state frontiers. At the head of the sub-divisions descendants of princely houses were appointed as Regents, while the former official organisation, the Poenggawa's, was used as district administration. The personnel of the water-administration was kept on, local administration of justice was maintained by the so-called boards of Kerta. Apart from Karang Asam, such a recognition of these units as autonomous communities has not taken place in Bali, but it is clear that the indigenous system nevertheless maintained its strength and was able to develop to greater efficiency owing to the influence of Dutch administrative officials, not to mention the blessings of the change of despotism into administrative care. Thanks to this interference, allied with a self-restraint that was on the whole exemplary, a flourishing, contented population which is developing along lines of its own is now living in Bali, and will probably very soon take its future into its own hands to a still larger extent.

In Southern Celebes, where higher connections that were well-organised were also met with, they have been recognised as indigenous communes in so far as they were not given the status of an Indonesian state. This is a sign that in practice the term "commune" is not restricted to small village communities. For permanent federations are here concerned, of which the smallest have 1,000 inhabitants and the largest more than 50,000. Here also the administrative organisation has aimed at fitting into the old régime by appointing the chiefs of "ornamentships" as Regents, district heads, etc.

It is a matter of course that the governmental administrative organisation was influenced by the character of the Adat communities which were encountered in the annexed territories, or by the existing feudal or indigenous official organisation, and finally by the extent of the appreciation that was still felt for the existing

[1]) *Geschriften van F. A. Liefrinck: Bali en Lombok*, 1927, p. 298 *sqq.*

system. In regions where no Adat communities or only those of the lowest kind were found, the task of the central Government would as a rule be greater, and in any case the Government administration would have to bring its sphere of action much nearer to the population. Where the indigenous system itself covered a much higher and wider sphere, by whatever name this sphere was known, the Government could weave the tops of these spheres into its official organisation in a way which brought about the dual character of official and traditional chiefs known in Java, although as has already been said, this might not always be entirely useful to the traditional capacity of the chief. Inversely, by ignoring the real traditional chiefs, the government was sometimes led to call into being a dualistic exercise of authority [1]). In autocratically governed circles, this will naturally be a less important objection, because the Indonesian ruler has largely replaced the lower chiefs. In the centre of real oriental democracy, where the chief is no more than *primus inter pares*, the one-headed administration must, on the contrary, borrow its authority from the Dutch government. Adat, in the case of such an investiture of the equal as a superior, follows with great hesitation. And moreover, even where such a dominating authority has found recognition in the Adat, it could only do so to the extent of the ancient Adat functions, and not of the far going interference which modern administration must impose upon its servants.

In this way, in many regions of the directly administered part of the islands outside Java, even where higher indigenous connections have been found and recognised, the need seems to have been felt for a trained modern district and sub-district administration. Especially since 1912, the establishment or re-organisation of such a purely official indigenous administrative corps has been introduced, which has had to be organised regionally owing to the very different regional conditions. It would lead us too far if we had to discuss the organisation in each separate Residency. The reader may be referred to Dr. J. H. Heslinga's thesis on indigen-

[1]) Haga, Inwerking etc. p. 20, gives an interesting example. In the Lampung districts, the Marga headmen have not until 1928 been recognised by the Government. The task of the central Government was performed there by the village headmen who were under the district or sub-district chiefs and the European administration. However, numerous village interests and Adat affairs still continued to be submitted by the population to the decision of its recognised Adat and Marga chiefs. There was therefore a dualistic organisation of authority.

ous administration and its re-organisation in the Dutch East Indies, in which a detailed description has been given, quoting the official collection of the ordinances concerned. Let it suffice to say that efforts were made to give to the heads of the sub-division a district administrator with three or more sub-district administrators under him, each with his own administrative circle.

In regions where so far the dualistic popular chief and official had been the only instrument, this re-organisation meant that the existing chiefs were no longer officially appointed and charged with the execution of higher orders. They retained, however, the chieftainship in their old Adat circles. Over them functioned an official organisation composed of an indigenous district and sub-district administration. Whether this innovation may be called a success, or stands a chance of becoming a success, is a question which receives varying answers. It depends upon the character of the administration. Dr. Heslinga points out, for instance, that in Tapanuli the old chiefs, who incidentally had lost both their administrative and judicial functions, and as pure popular chiefs no longer received official salaries, felt that they had been wronged. They became dissatisfied, and their great authority with the population, through which an unpopular measure had often been made acceptable, was missed by the new district administration.

Similar and other objections had everywhere to be surmounted by the organisation of indigenous auxiliary officials, and of the modern district administration. The matter here is not so much one as to the desirability of a district organisation which is necessary in regions where indigenous organisms are weak or too small, but rather the question of execution, of method, for which a continual interest will continue to be urgently needed. That this body of indigenous local officials forms an indipensable link between the Dutch administration and the population as long as the latter is not yet able to produce higher communities with a satisfactory power of administering themselves is generally recognised. Opinions, however, as to the character which should be given to this intermediary body (administrative assistants or executive officials with a sphere of their own) varies greatly [1]). A good

[1]) P. de Roo de la Faille: *Het Sumatra's Westkust Rapport en de Adat*, 1928, p. 70, and Haga, *op. cit. Cf.* also the West Coast Report itself, 1928, III, p. 9—23. J. C. Vergouwen: *Verslag Inheemsche Rechtspraak Tapanoeli*, 1929; Van Vollenhoven in "*de Gids*" 1930.

training of able young men from locally important families will, it is hoped, eventually enhance the prestige of these indigenous administrative officials or administrative assistants. Slowly in this way there would come an end to the less desirable situation by which Indonesians from other parts sometimes come to act as administrative officials over a population where they are strangers. Popular chiefs and district administration would then, according to this opinion, form more intimate connections.

If finally one asks what will in future become of the function of the district administration in the directly administered regions of the islands outside Java when the traditional communities of the population have acquired a greater power of government and their popular chiefs a higher degree of education, there are two possibilities which can be visualised. Wherever higher indigenous connections, which have already been recognised or which might yet be recognised, are in existence, a satisfactory evolution of them might gradually enable them to take over the function of district administration, at least in part and perhaps in the main. For such a modernised local administration could be placed upon a level with Regency administration in Java and Indonesian state government in the non-annexed territory [1]). The administrative power of these higher units would, it is true, continue to show all kind of differences during the period of transition, but they agree in this, that all of them, once they had developed a satisfactory power of governing, would decreasingly need official intermediaries between them and the Western authorities. For they themselves would gradually learn to function as organic parts of the great unity. For this reason, the dominating organ of authority, the Dutch and the indigenous administration which now mechanically includes all these units, and thereby liberates them from a self-sufficient limitation and isolation, would be able to a

[1]) Owing to the lack of territorial units under Indonesian traditional authority as large as the Regencies in Java, it will be necessary to create larger autonomous spheres in the other isles. This is not an easy task because the support provided in Java by the fact that both official and traditional authority are simultaneously embodied in the function of the Regent, is not at the disposal of the organisers. The emancipation of the Regent as a Government official was therefore automatically useful also to the Regent's traditional position in Java, while a similar emancipation of the official district administration in the other isles would on the contrary be unfavourable to the traditional heads of Adat communities. In this case therefore it will be necessary to aim at the strengthening of existing higher connections and at the creation of new autonomous circles.

large extent to transfer its function, partly to modernised local popular organs and partly to special central or provincial branches of the administration, which would be created if they were not in existence. The form to be given to the district administration must serve this development. The modernisation of popular communities, in so far as they have been recognised as indigenous communes, has so far followed the lines which are displayed in the various Indigenous Communal Government Ordinances [1]), which however require modification and completion in various respects [2]).

There is therefore still an immense amount of extremely delicate work to be performed, and until the population sufficiently develops its civic sense — a process of long duration — it is impossible to assure good administration without the assistance of an indigenous administrative corps. On the other side, this arrangement must on no account do away with the Adat authority, a step which indeed is not being attempted. As the knowledge, interest, and civic sense of the population increase, this district administration can be restricted, and can be concentrated in the principal place as auxiliary forces for the Dutch chiefs of sub-divisions, with the suppression of their own administrative circles. Where there are no Adat connections, or where they have too little content and character of their own to mean much under present day circumstances, the policy of devolution could perhaps be directed towards the district administration, and a body of indigenous administrators for the district and sub-district selected and trained with care could form the nucleus for future autonomous units to be created by the authorities.

And where, finally, strong lower Adat communities exist, whose sphere in spite of all development is too small to be able to effect amalgamation with the greater unity without the assistance of a higher organ, there also it will be necessary to create higher

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[1]) For Java, *cf. Stbl.* 1906, 83, and the separate Communal Government Ordinances for the Javanese States. For the West Coast of Sumatra *cf. Stbl.* 1918, 677. For Palembang 1919, 814; for the Lampungs 1922, 564; for Bencoolen 1923, 470; for Tapanuli, 1923, 469; for Bangka, 1919, 453; for Billiton, 1924, 75; For the Southern and Eastern divisions of Borneo, 1924, 275; for Amboina, 1923, 471; for the Native States *cf. Stbl.* 1930, 25.

[2]) *Cf.* Dr. Adam: *De Autonomie van het Indonesisch Dorp*; Haga, *Indonesische en Indische Democratie*; Schrieke, "*Kol. Stud.*" Feb. 1927, p. 90; *Sumatra's Westkust Rapport*, I, p. 156; III, p. 29 *sqq.*

autonomous units, as soon as the members of the smaller popular communities prove to possess a sufficient conception of the existence of a wider horizon, so that they can take an interest in matters that transcend their little local concerns. The organs of such higher communities will perhaps at the start accept a certain federal character, because the small spheres will still for a considerable period maintain a great hold upon the minds of their members in the local or district council, even though they are developing a wider consciousness. In practice they will therefore feel themselves more as delegates of the small communities in the local council, entrusted with the care of the concerns of their communities, than as the direct custodians of the interests of the greater local sphere. Gradually, very gradually, the widening of the social horizon (see our first volume) will be established, so that a mechanical link cannot for the time being be dispensed with. All kinds of shortcomings and contradictions will therefore still be noticeable, which should not be attributed to a mistaken policy on the part of the authorities, but to the difference in tension of the dynamic sphere of the great unity and the multitude of small static spheres still largely medieval in character and function.

Conclusion

This attractive figure of the future cannot arrest us any longer. It was useful to give it a final glance in order to be aware of the fact that the present administrative organisation, with its many-sided functions, is still the real propelling power that animates and guides this evolution. Therefore, in this matter, too, vigilance is imperative to prevent a premature structural weakening before organic life is able joyfully to take over the burden. Those who favour an organic development cannot make themselves heard often enough, but they must remember that the Government of the Indies will only be able to achieve this aim with the help of a strong administrative arm.

It seems to us that further details about the Dutch administration may be omitted. The unity of past, present, and future seems to have been sufficiently pointed out in the previous pages, as well as the dominating significance of the administrative system, in the great process of expansion which has been described in our first volume. The description of government policy and of

state organisation which will be given in the following chapters will become clearer through it. The general utility of the administrative system for the well-known aims of colonial policy, the welfare and the development of the population, have similarly become sufficiently obvious. The way in which the administrative phalanx marches into the different territories, occupies them and wins them for the good cause of popular interest and popular development also can no longer fail to be understood by the reader. Every young Hollander who is wondering what course of studies to take and what profession to choose, may perhaps hear a call, after reading these pages, towards the East.

The highest task, the task without precedent, is that which awaits the East Indian Civil Service official. The Dutch Civil Service is our first regiment of the Guards and it should be considered as the highest honour to serve in its ranks. The youth of Holland ought to flock in ever increasing numbers to the annual competitive examination which admits candidates to the East Indian Civil Service, first of all to extremely interesting academic studies and then to an unparalleled career. In this way the nation will enable its Government to gather together from the rich crowd of those who have already been selected, the select body which will fulfil the mission of Holland overseas.

CHAPTER II

THE ADMINISTRATION OF JUSTICE

The separation of powers

If, permeated with the relatively young and yet already ageing Western conception of the *trias politica*, one formed a conception of the Eastern administrator as the executant of the decisions of an independent legislative power, who has at the same time to enforce the preservation of order and tranquillity and to impose respect for the prescriptions of the law, while he himself is partly assisted and partly controlled by another sovereign state organ, the independent judiciary power, one would be far from comprehending the actual relationships as they exist. The good Oriental administrator, like the good Western administrator, has always conceived of his task as consisting in the preservation of harmony between his state and the revealed world-order, as well as between his subjects among themselves; finally in taking to heart the moral and material welfare of those subjects. In modern terminology this function might be described as the preservation of law and order and care for the interests of the people.

This task, in which in the East the care for the interests of the population took but a small place — since the village republics, the village unions, and the federations of village unions, the genealogical and functional connections could more appropriately look after these interests — invested its executant, and to a certain extent also the official and feudal representatives, with a divine halo the fulness of which embodied itself in the function of the ruler. The consecration inherent in all functions of authority, even that of the popular chiefs, reached its zenith in the ruler, to whom all feelings of piety and loyalty were directed.

Everything that had to be done in the performance of the ruler's task, therefore, sprang from this exclusive pre-ordained source

of power and returned to it, just as in the popular sphere all functions of authority borrowed their direction and their content from the sacred complex in which respect for Adat and Adat authority was rooted [1]). In this consecrated sphere, which had to make the whole task of the authorities subordinate to the harmony between the community and the world order, there was, as in the West until fairly recently, no room for a theoretical distinction between the different functions of the authorities, administrative, police, judicial, and legislative. All these functions claimed respect from the fact that they were rays emanating from the focus in which the world order had incarnated itself. In such an order of ideas, independent legislative or judicial powers found no place. The administration of justice, on the contrary, was only one of the means by which rulers or popular authorities protected the threatened or disturbed harmony, and imposed by force their interpretation of this harmony which agreed with the popular conception. Legislative acts aimed only at fixing this interpretation of various points. Like all the sacerdotal functions that belonged to the ruler, justice and legislation had almost everywhere a special sacred character. Rulers endowed with power, official or feudal executive officers, popular chiefs were representatives or instruments of the world order and were therefore endowed with some religious status.

Notwithstanding the fact that authority could therefore not be bridled by division of powers within its own bosom, it nevertheless always felt itself surrounded, in the unlimited fulness of its power, by another equally independent and equally undivided power, that of public opinion, which was based upon respect for tradition, custom, and religious conceptions and which, if necessary, could find an equally precise formulation in the popular sphere towards the popular chiefs, as it found in the higher spheres through the literati, the priests, the prophets, towards the ruler. The ruler might be conceived of as the representative of God, the son of Heaven, as one sanctified by a lofty Dharma, as invested with a higher power, but in his turn he had to remember that the voice of the people was the voice of Heaven. And the people dared even to make its wishes and its grievances directly

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[1]) Cf. J. Mallinckrodt: *Het Adatrecht van Borneo*, 1928.

perceptible to the ruler, albeit much indeed had to happen before such a step was taken [1]).

In China there was a special college of Censors whose special duty it was continually to remind the Emperor of the voice of Heaven and of the people, while in the provinces and the districts the mandarin as a rule gave way immediately to a general manifestation of popular dissatisfaction. In the same way, even today in Japanese government circles, a special emotion can be perceived if a sudden manifestation of popular dissatisfaction takes place. This sensitiveness to popular opinion is entirely different from anything found in the West. It can easily lead to the resignation of the whole cabinet, even if the latter be not held responsible for what has happened. All this proves that in this environment there is a certain equilibrium of power which gives to the popular sphere a kind of democratic character, too little organised, however, to exercise a timely check on a rising despotism.

It seems remarkable that the distinction between the various functions of government (administration and police, justice, legislation) has been so little felt and that there has never been in the East a thought of basing government upon this equilateral triangle of power. Yet it is not so very difficult to understand, apart even from the fact that entirely analogous conditions existed in Europe until the 18th century and even later. In our countries, parents in every household continually exercise functions of administration, police including judicial police, regulation, and justice without being conscious for a single moment that they are committing actions for which in European constitutional law it is usually deemed desirable that there should exist a separation of powers. In the patriarchal atmosphere of Eastern authority, the same conditions prevail. Furthermore, as Professor van Vollenhoven points out [2]), other solutions of the problem of the division of power can be conceived, while furthermore in practice in the West there is a continual confusion between various powers, and sometimes they are grafted on to one another. On the other hand, an independent public opinion does not refrain from

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[1]) In the Dutch East Indies there is the old custom of a mass protest, the Metilas (withdrawal of obedience) and suchlike. Cf. Haga's thesis, p. 126—140.

[2]) "*Kol. Tijdschr.*" 1929, no. 3; *ibid.*, no. 1.

entering every field of government activity; in an institution like the Rekenkamer (Court of Exchequer) one can see an organ which, with a little goodwill, might be called an additional independent power. In truth and in practice the division of powers in our Western countries has become invisible and has been dissolved in a great dynamic field of power. The suddenly evolved theory of the division of power has never been really accepted in its entirety by political life. All these considerations ought to prevent us from taking a doctrinaire view of Oriental situations.

The division of powers in the Western sense, which is already becoming antiquated, was not known in the East. But it existed in another sense. In China certain old institutions, like that of the Censors and the organisation of State examinations, were felt so much as custodians of the equilibrium of power between the government and the general sense of justice that the modern constitution has enriched the Western *trias politica* with two ancient powers dressed in a modern garb, the censorate and the examinations power. In the same way, one meets everywhere with unwritten divisions of power between religious and worldly leaders (priests, scribes, literati, brahmins) which should not be deemed inferior, in view of the dominating religious complex, to the modern practice of constitutional law.

In the history of the peoples one often observes, from ancient Egypt to the Maya-Empires, a quiet or even a furious struggle between the priests, the literati, and the scribes on the one side and the temporal ruler on the other. The terrible Ch'in Emperor found no way out except that of killing all the learned men and burning all books, in order to break the pious tradition of the equilibrium of power, and so established absolutism in its place. This measure was useless, for the Chinese literati were soon more powerful than ever before and have remained so since. This division of power tried, however, not to separate functional spheres in principle. It rather governed the whole activity of the authorities in order to make their actions harmonise as much as possible with the revealed world order.

After this, one notices in organised states an official differentiation, which did not result from constitutional law theories but from the necessity of specialised knowledge and experience. Even the remarkable function of Qadhi in Mohammedan countries is

no exception to this rule. For in the first place, as Dr. Juynboll remarks [1]),

> "The judges were usually compelled to bend the law in accordance with the will of the authorities. With this is connected the double judicial organisation which is everywhere found in Islamic countries, and which observers have, not without reason, distinguished as religious and worldly jurisdiction. Only litigation falling within the sphere of family law and everything which the popular consciousness more or less directly connects with religion, such as matters concerning pious foundations, must be, according to the canonic law, brought before the religious judge. All other affairs belong,according to the usual conception,to the competence of the temporal authorities who, as laymen, must naturally settle the matter in dispute according to other principles. This separation between worldly and religious jurisdiction is found in the whole Islamic East and even among others in the holy city of Mecca."

For the rest, the popular mind continued to be influenced by magical mysticism and to endow the ruler with a special consecration to which he was entitled as the intermediary between a higher order and earthly society.

In the Dutch East Indies, conceptions of this kind have dominated people's minds from olden times. Popular chiefs and rulers owe the consecration of their persons to the same complex of religious and mystico-magical conceptions, which are also the touchstone for the degree of appreciation felt by the people for its chief or its ruler, whether silently, complainingly, or in actual refusal of obedience. In Eastern Adat communities, says Professor van Vollenhoven, "administration, police, justice, and regulation were generally undistinguished and in the same hands; there was not even a conception that they might be separate functions of authority". Elsewhere, this scholar, speaking about the phenomenon of a division of powers which is partly functional and partly based on principle, expresses the following opinion, which finds support also in the past and in the present of the West:

> "Of the four mentioned functions, administration, police, justice and regulation (legislation), the administration of justice has probably been distinguished first of all as something apart within the government complex. Afterwards, later and in a less pure manner,

[1]) Th. W. Juynboll: *Handbuch des Islamischen Gesetzes*, 1910, p. 313, 64; Prof. Snouck Hurgronje: *Verspreide Geschriften*, IV, I, p. 19 *sqq.*

legislation, which has long been mixed up with justice, and, last of all, the police, in the sense of supervision by the authorities and compulsion on their part to live according to the existing law, are distinguished" [1]).

He adds that Montesquieu had not yet reached this number of four and that he included administration under police, while in the East Indies there are numerous Adat communities which do not even distinguish between acts of administration and of legislation.

"The concept 'regulation' has not yet fully developed there, and nowhere is administration in the narrower sense of care for the interests of the people distinguished from police, which is supervision or even compulsion. Even where the administration of justice has been of old something apart — separate forms, separate places or days, separate officials — one repeatedly sees, nevertheless, village decisions which are in the nature of administration as much as justice" [2]).

It is not surprising, therefore, that in Oriental surroundings, from olden times to our day, acts of administration, police, justice and regulation emanate from provincial or local officials, in view of the fact that their administration, with the proviso of some central control and central instruction, comprises the complete local power of government without much account being taken of a distinction in principle between various functions. When Western authority begins to form a dome over an Oriental population, which can only see the power of government as the attribute of an undivided personified "authority carrying the sword", the aspect of which, as representative of Heaven and as preserver of the harmony between society and the world order, dominates all functional distinction, the Western authorities must, as far as possible, take all this into account.

It would be disregarding the essence of the unity of a sacred complex of representations and functions if one deprived immediately and without any preparation all Eastern rulers and chiefs of their legislative and judicial attributes and placed entirely independent organs at their side to fulfil these functions. A division of their task according to principle into administration, justice,

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[1]) "*Kol. Tijdschr.*" 1929, p. 228; also p. 4, 7—9.
[2]) *Ibid.*, p. 7, 8.

etc., even without placing these functions in the hands of separate organs, would also have little utility at the beginning, and would more probably create confusion. It is true that Western division of power, notwithstanding all kinds of deviations in different countries, probably contains a universally valid wisdom acquired by experience which arms itself against an equally universal tendency to misuse power. But this means that, precisely from this point of view, careful guidance is needed if deeply rooted traditions and morality are not to be disregarded.

This development is necessary in view of the weakness of human nature.

An evolution of this kind is mostly assisted by the example which works slowly through from above to below. In this way another atmosphere is spread over the real popular sphere without there being a need directly to affect it. Until 1848 the Dutch form of administration agreed in the main with indigenous norms. For all power of government concerning the Dutch East Indies was embodied in the person of the King. In that year, the States-General acquired a share of the authority which gradually began to extend not only over legislation but also over administration and other government functions [1]). In the Dutch East Indies since 1903, as a result of decentralising legislation, the legislative capacities of the regional administrative organisation, especially in Java, are being more and more exercised by regional and local councils.

Further decisive steps in the direction of the division of power have been taken by limiting the legislating capacity of the Crown in the fundamental law of 1922 and, concerning the government of the Indies, by giving to the Council of the People since 1927 a share in the power of legislation. On the other hand, in the provinces and regencies that have been recently established, administration and legislation of internal affairs have been entrusted to the same body, the councils that have been appointed at their head. All this proves that practical considerations only are taken into account, which do not result from doctrinaire theories of constitutional law but from a democratic principle and from the needs of functional differentiation.

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[1]) Van Vollenhoven, "*Kol. Tijdschr.*", 1928, p. 298 *sqq.*

Division of administration and justice

As regards the administration of justice, the principle of separation of powers has been for long applied in the Western colonial sphere, though not upon indigenous society. During the régime of the Company there was little question of this [1]). Daendels and Raffles did not trouble much about it, although Nederburgh had already, in 1803, described the careful distinction between justice and political power as an excellent maxim of state; and the charter of 1804 (Art. 74) had interdicted the intervention of the Government in affairs of justice [2]). But Daendels and Raffles had established a great constructive piece of work in the sphere of judicial organisation, and Raffles applied the principle of separation to indigenous justice, by placing the circuit tribunals under the chairmanship of jurists who were members of the Superior Courts of Law (Raden van Justitie). "In 1818", Mr. Idema remarks, "this base, linked with the apex that had already been projected by Nederburgh (the High Court), formed a pyramid of which the angles were set out in the East Indian Government Act of 1818 and the lines drawn up in a new judicial organisation". Thanks to the institution of the High Court that had been needed for years, the highest supervision of the administration of justice could be entrusted to this Court which was also entrusted with the revision and approbation of all sentences of more than three months hard labour passed by the tribunals for Indonesians. This meant an end to the discretionary power of the Governor-General, not only in theory (Art. 57, 59, RR.) but also in practice (Mr. Idema, p. 320). The Superior Indigenous Courts (Landraden) were furthermore organised as tribunals with several judges sitting together, with the consequence that Residents who previously administered justice alone had to take into account a certain counterpoise; while extensive rules were made for the administration of justice to the indigenous population, in the "regulation for the administration of the police and of criminal and civil procedure among the Indonesians" (in Stbl. 1819, No. 20). This forms the basis of the "Inlandsch Reglement" of 1848, which still exists to-day, and which also aims at increasing security of justice among the indigenous population.

[1]) J. de Louter, *Handboek van het Staats- en Administratief Recht van N. I.*, 1914, p. 460.

[2]) H. A. Idema, "*Kol. Stud.*" Dec. 1928, p. 313, 314, 319 ,320.

The distinction between political power and justice only forms a beginning of the endeavour towards a systematic division of administrative and judicial functions among different organs of state, as appears from the further development of affairs. In Holland itself, in 1822 (according to the decision about conflicts), a painful reaction on this subject had taken place [1]). The problem of the division of administration and justice was prominent in the Indies, but after the restoration of Dutch authority, efforts to settle it had to be postponed to a later date, at least in the indigenous sphere.

> "Division of powers begins with the diminution of the administrative and police powers of the Regents of Java, by depriving them of the power of collecting, if necessary by force, Government revenue, in order to prevent financial temptation .... As against this from 1816 District Chiefs and Regents in Java and in a few Residencies outside it, and village headmen in the Ambonese Islands, were allowed to administer justice in the name of the King, a natural system which has sometimes been condemned on theoretical grounds. It was only in 1910 that the power to punish Indonesians without the existence of a preliminary penal stipulation was withdrawn from the Regents of Java and Madura who were endowed with the power of administering justice (Stbl. 1908, no. 536; 1910, no. 499), a power which had given them the opportunity to make rules of conduct according to their own arbitrary decision" [2]).

As regards European administrative organisation, justice was so much considered as a means of administration, especially during the compulsory cultivation era, that the Commission charged with the drafting of a new regulation for judicial organisation (1839) had, upon the authority of Baud (Minister of Colonies from 1840—1848), to give up "its highly dangerous notion of appointing as chairman of the Superior Indigenous Courts (Landraden) a European judge independent of the Resident".

The Minister's view prevailed

> "that according to the existing internal organisation of Java, and the administration of justice, the Resident is the hub round which everything turns.... While the Division and Regency judges

[1]) This arrangement dating from the time of government by decree placed the judicial power under the control of the administration, an action which has been sharply criticised.

[2]) Van Vollenhoven, "*Kol. Tijdschr.*", 1929, p. 232.

> continue to be under the influence of the Resident, the Regents, members of the Superior Indigenous Courts, would join together under the chairmanship of an official independent of the Resident, in order to take decisions which occasionally would obviously be in opposition to the feelings of the Resident, and imply disapproval of his decisions and measures, and of those taken under his authority and influence. The Regents in this way would be more frequently reminded of the existence of a power independent of the Governor-General and of his representative, the Resident, namely, the power of justice, than happened when the High Court disapproved of the acts of Superior Indigenous Courts or modified them.... The chairmen of these Courts (to which position often young or inexperienced jurists would be appointed) would soon become the so-called protectors of the common man against his Javanese chiefs, whose authority, influence and position of confidence would thereby become more and more undermined while in the same measure the feeling of subordination would be weakened in the lower people" [1]).

On the ground of the same considerations, Art. 110 of the regulation of the Judicial Organisation promulgated in 1847, maintained in the hands of the Resident the function of magistrate in the matter of small offences without higher appeal [2]). On similar grounds, the immovability of the president of the High Court by the Governor-General was not yet extended in 1848 to the members of this Court [3]). On the other hand in this regulation the principle of separation of Executive and Judiciary was applied to the High Court, the Superior Courts of Law in Java, and later also in other islands, and the presidents of the circuit tribunals (Art. 99 sqq. Judicial Organisation); subsequently (1869) to the lower courts for Europeans, and to indigenous tribunals; later still, in 1914, to the so-called police jurisdiction (magistrate's courts). Only in 1869 (Stbl. 47) was the principle of appointing an independent jurist instead of the Resident as chairman of the Superior Indigenous Court accepted.

Art. 1 of this Royal decree says: "As a principle it is settled that the officials of the regional administration in the Dutch East Indies must gradually lose their chairmanship of courts for the indigenous population, and also their special power of jurisdiction

[1]) A. J. Immink: *De regterlijke Organisatie van N. I.*, 1882, p. VI *sqq.*, XX sq.; Idema, "*Kol. Stud.*" Febr. 1929, p. 58 *sqq.*

[2]) A. J. Immink: *op. cit. ibid*; Idema, *op. cit. ibid.*

[3]) For the situation nowadays art. 148 *sqq.* I. S. and art. 18 *sqq.* Judicial Organisation.

mentioned in Arts. 108 and 150 of the regulation for Judicial Organisation and for the administration of justice". The principle of the independence of the judicial power was, therefore, already contemplated in 1804, and found its place in the East Indian Government Act of 1854 (Art. 81; Art. 137 of I. S.), whereas in 1848 the principle, scarcely less important to those who sought justice, of the separation of Executive and Judiciary was introduced into the highest sphere and, since 1869, has worked downwards with increasing vigour.

Slowly the transfer of the chairmanship of Superior Indigenous Courts to special trained jurists took place throughout Java, and later, after the re-organisation of the judicial organisation started in 1874, in the islands outside Java also. The different regulations of the system of justice in these islands confined the chairmanship of Residency Courts (charged with settling minor civil and law-breaking cases in which Europeans were either defendants or accused) as a rule to these special chairmen of Superior Indigenous Courts. In Java also the special judicial power of the Residents passed to the Chairmen of Superior Indigenous Courts, while in Stbl. 1901, No. 15, the chairmanship of Residency Courts was definitely entrusted to the judicial officials in question (Art. 116, c. Judicial Organisation). This process of separation has now practically closed in so far as the above mentioned courts and judges are concerned [1]). The District and Regency judges, an attempt to replace whom by courts consisting of more than one judge was made in 1842, have now as a rule been made permanent, in view of the fact that the population is deemed to prefer judgement by its chief rather than by tribunals [2]) with several judges sitting together.

Police jurisdiction, which, owing to considerations of authority, was still in 1848 removed from the effects of the principle of separation, and which even in 1869 was still explicitly excluded, now followed the general trend. It dealt with breaches of local or police regulations by Indonesians which could not be punished more heavily than by a fine of 25 guilders, and also with affairs which before 1848 were settled on the so-called Police Roll. These matters

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[1]) J. H. Carpentier Alting: *Grondslagen der Rechtsbedeeling in N. I.*, 1926, p. 218 *sqq.*

[2]) G. André de la Porte: *Recht en Rechtsbedeeling in N. I.*, 1926, p. 100.

had been written upon the Roll and brought before the Resident, or, as the case might be, the Assistant Resident or Controller, who decided without appeal. In the islands outside Java, the so-called Magistrate's Court was entrusted with this jurisdiction, which corresponds exactly to the Police Roll of Java, and is as a rule exercised in each sub-division by local officials of the internal administration (usually Controllers). Since 1914, this magistracy has given place throughout Java to Land Tribunals (Landgerechten) held by special judges who sit alone and deal with small penal matters that used to be dealt with by Police Courts for Javanese and by Residency Courts for Europeans (Stbl. 1914 No. 317; 1917, No. 577; 1928, No. 236). For all groups of the population therefore, the same judge has been appointed, which is a significant exception to the dualistic system that is still generally in force, and that maintains not only a different law but also different judges for each group. The European administration of Java has, therefore, already been unburdened of the heavy task of administering justice.

> "The Controllers were intentionally not entrusted with jurisdiction, police functions, and the collection of taxes, apart from one exception in 1894 (Stbl. 216, 217), in order that they could more easily acquire the confidence of the population. Officials of the internal administration outside Java, who as chiefs of sub-divisions and divisions have still police duties and have to collect taxes, have retained the power of jurisdiction in only eighteen Superior Indigenous Courts out of 170 [1]); but everywhere they continue to act as magistrates and in many Residencies the guidance of indigenous traditional jurisdiction has been left to them, which again gives the opportunity of imposing punishment without the previous existence of a penal law. The unavoidable consequence of this is that jurisdiction is usually considered to be a means of power in the hands of the administration (Revision report 1920, p. 115). Of this last conjunction of power, the most dangerous aspect is, not that justice is administered by a layman, but that the same man can be at the same time administrator, policeman, and judge" [2]).

The systematic separation of Executive and Judiciary continues, however, uninterruptedly. As regards indigenous ad-

[1]) This figure apparently refers to the total number of Superior Indigenous Courts (90 in the other isles, and 85 in Java). *Cf.* Government Chronicle and Directory 1931, II, p. 97 *sqq*, 116 *sqq*.

[2]) Van Vollenhoven, "*Kol. Tijdschr.*" 1929, 3, p. 233.

ministration, judicial powers have still been left to Regents and District heads in Java and to the District administration outside Java in their capacity of Regency or District judges who sit alone, or to District Courts in the case of several judges sitting together as is the case in Tapanuli and the West Coast of Sumatra [1]). These, however, are lower judges for small civil and penal affairs in relation to Land tribunals and Magistrates just as the latter are lower judges in relation to the Superior Indigenous Courts which are usually called "Landraden". In connection with what has been said before about indigenous conceptions of authority, it will be understood why the principle of separation has not been introduced into these lower courts.

The judicial organisation in Java.

The preceding review of the separation of Executive and Judiciary has also given an idea of the organisation of Government jurisdiction, i. e. jurisdiction in the name of the King, going out from the central Government. According to Art. 27, Judicial Organisation of 1848, justice is administered in the Indies in the name of the King, so that, just as in Holland where provinces, waterboards, and communes neither received nor could retain powers of justice, all lower legal communities were to leave this subject entirely to the Government of the Indies. In the East Indian Government Act of 1854, Art. 74, the validity of this principle was excluded in regard to the indigenous population, wherever, until 1854, the latter had been enjoying its own jurisdiction.

This is the case in the larger part of the directly administered portion of the territories outside Java [2]), while the Indonesian states, either on the ground of their long contracts or on that of the Indonesian States Rules, have preserved for a large part their own jurisdiction. In the four states in Java little remains of this old jurisdiction (since Stbl. 1903, 8; 1907, 516). Of course, throughout Java there still remained the free indigenous village justice, but no special regulations were made for it. It has not been explicitly preserved or even regulated by the authorities, as has happened in the other islands, but it has been silently tolerated. Some

[1]) *Stbl.* 1927, 227, art. 18 *sqq.* The district judges or courts of the other isles are on the whole to be placed on the same line with the Regency courts of Java.

[2]) See the map of page 190 in *De Buitenbezittingen 1904—1914* (*Meded. Encycl. Bureau*).

people consider it as a friendly settlement as mentioned in article 25, Inlandsch Reglement, or as the exercise of a certain disciplinary jurisdiction. Other people talk of village justice as a portion of the indigenous jurisdiction which has been left to the population, seeing that it has not been explicitly [1]) taken away from it, and they judge that the validity at law of its sentences stands above all doubt [2]). We shall later on examine the independent jurisdiction which has been left explicitly or in fact to the population as well as to the self-governing states. We shall first of all consider the jurisdiction of the government over the indigenous population, in which matter a number of data about the judicial organisation and the administration of justice must be mentioned; while we shall also have to pay attention to the law as it is applied.

We have pointed already to the dualism that has existed for ages in administration, justice and legislation. In the days of the Company it was due more to opportunism that to principle. The Company left administration, justice, and regulation to the indigenous chiefs and rulers. Even where it drew to itself jurisdiction over the indigenous population, it exercised little influence in favour of the modification of material private law, but more in the matter of procedure and material penal law. Moreover, it had, by the side of the Superior Courts of Law, among other things, a few Superior Indigenous Courts especially established for the indigenous population, a proof that the Company considered that dualistic jurisdiction was desirable in practice. Daendels and Raffles gave a great extension to this government jurisdiction over Javanese, and by so doing they appear to have considered dualism as an active principle rather than as one that resulted from abstention. At the same time, Raffles also displayed tendencies to unification. The "regulation for the administration of police and of criminal and civil procedure among the natives" of 1819 followed in this dualistic path, like the Inlandsch Reglement for Java and Madura of 1848 which continues its system, and the regulation for Judicial Organisation of the same year. The latter definitely made dualistic jurisdiction the basis of the judicial organisation and continued this principle consistently. Initially, this

[1]) See however art. 26 I.R.
[2]) Carpentier Alting, *op. cit.* p. 164, 287; *Bijbl.* 7246.

had not been entirely the case in the settlements of the Company, and under state administration, in the towns and suburbs of Batavia, Samarang, and Surabaya. There, the indigenous population was also judged, until 1824, by European tribunals.

In the other islands, since 1874, the reform of the judicial organisation has been taken in hand very energetically. The judicial organisation of 1848, which applied mainly to Java, with the exception of the Javanese states, has been utilised as far as possible. Different sections of the Judicial Organisation, such as those dealing with the High Court, with barristers and solicitors, applied to the whole of the Indies. The judicial organisation for the territories outside Java has been regulated severally in separate "regulations for the system of justice" which were drawn up between 1874 and 1908, and applied gradually to all territories. As they differed little among themselves, an attempt has at last been made to unify them (Stbl. 1927, No. 227). In this "regulation of justice in the islands outside Java", in the "Indigenous Regulation for Java and Madura" (Inlandsch Reglement), and in the "regulation for the judicial organisation and the administration of justice in the whole of the Dutch East Indies", one finds, in the main, the regulations governing judicial organisation, civil procedure, criminal procedure, and the performance of the task of police, in so far as it concerns government care for the administration of justice over the indigenous population.

During the last three quarters of a century, the Government has conceived of its task more and more seriously and has achieved much. In Java, courts with judges who sit alone have been established as far as possible in every District and in each Regency; Land Tribunals have been established in all divisions, Superior Indigenous Courts in all Regencies; three Superior Courts of Law have been appointed as superior judges (of appeal and of revision); and finally, for the indigenous population in and outside Java, there is a High Court, which supervises the administration of justice in the whole of the Dutch East Indies, as Court of Cassation (sometimes judging in appeal or revision) [1]. Outside Java one finds Regency and District Judges,

[1] For the European population the Superior Court of Law is the ordinary court; there is a higher appeal to the High Court while for small civil cases the Residency Courts are competent and the Land Tribunals for infringements of the law. In the other isles the Residency Courts also have jurisdiction in small penal affairs, unless

District Courts, Land Tribunals, but the lion's share of government jurisdiction has been entrusted there to Magistrates who adjudicate in small civil affairs, and who as penal judges of the indigenous population perform the same function as did in Java the Police Roll (nowadays supplanted by Land Tribunals). Finally, there are about ninety Superior Indigenous Courts. The Superior Courts of Law of Batavia and Surabaya contain within their jurisdiction some eight Residencies outside Java. The other Residencies belong to the territory of the Superior Courts of Padang, Macassar, and Medan.

The District Court in Java consists of the head of the District as judge, assisted by as many indigenous chiefs, who serve as his advisers, as have been appointed by the divisional chief (the Resident) after consultation with the Regent. The Court takes cognisance, subject to appeal to the Regency Court, of all civil actions against Indonesians, below the value of 20 guilders [1]). It further takes cognisance, without appeal, of infringements of legal stipulations, punishable with a fine of not more than 3 guilders (Judicial Organisation Arts. 77—80). A few provisions concerning procedure and for the execution of sentences are given in Arts. 84—99, I. R. [2]). Sentences of District Courts must be carefully written down in a register of which every fortnight the District chief must send a copy to the Regent, who subsequently sends it to the Dutch chief of the division, with his comment if needs be. The execution of the sentences is left by the District chiefs to the village chiefs or to other subordinate officials.

In every Regency in Java or in every portion of the Regency where the Regent is represented by a Patih, there is, furthermore, a Regency court. It is formed by the Regent or the Patih as sole judge, assisted by minor indigenous chiefs as councillors whose number is fixed in accordance with custom by the Resident. There is also a Djaksa (the Javanese public prosecutor) and the so-called Panghulu, chief of staff of the mosque, who has been

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Land Tribunals have been established in the Residency. In definite cases the Superior Court of Law also acts as exceptional judge for non-European groups of the population.

[1]) The administration of justice by District and Regency courts, is free of charge; see artt. 99 and 114 I.R.; for the Superior Indigenous Court, see artt. 237 *sqq.*

[2]) See the text of the Inlandsch Reglement published in *Stbl.* 1926, 559, in a new form.

inexactly entitled a priest by the law (Art. 134 par. 2 I. S.). The Panghulus are held to be conversant with family and hereditary law according to Mohammedan doctrine. They can give assistance when the oath has to be taken and they also exercise within their own jurisdiction the function of Mohammedan judge (Qadhi) in the settlement of differences concerning family and inheritance questions, as well as in the appointment of guardians for Mohammedan minors of indigenous extraction. Sometimes they minister in the ceremony of marriage and supervise the administration of pious institutions. Art. 7 Judicial Organisation requires attendance at Court sessions of the Panghulus as advisers in civil and penal actions when Mohammedans are concerned in them, either as defendants or as accused persons. Their advice must be asked in matters concerning religious laws, institutions, and customs. About their religious jurisdiction as Qadhis (hakims), we shall say more below.

The Regency Court pronounces, in the first instance and subject to appeal to the Superior Indigenous Court, in all civil actions against Indonesians, when the object in dispute has a value of not less than 20 guilders and not more than 50, and in the case of infringements of statutory provisions which are punishable with detention of not more than six days or with a fine of not more than 10 guilders, in so far as these acts do not belong to the competence of the District Court. Note is made of all the proceedings in a register of which an extract is sent to the president of the Superior Indigenous Court, who can make all remarks and observations which he deems useful. These lower Courts are, therefore, not compelled to follow a complicated procedure, [1]) but all that is necessary has been done in order to guarantee as much security as possible by supervision and by the availability of appeal. This Court, furthermore, takes cognisance in the highest instance of appeals from District Courts. In civil actions before the Regency and the District Courts, legal assistance or representation is permitted without being obligatory in the same way as before Superior Indigenous Courts (Bijbl. 6539).

On the subject of religious jurisdiction [2]), the recently mod-

[1]) Cf. W. A. P. F. L. Winckel: *Rechtsbedeeling onder de Inlanders etc. in Ned.-Indië*, 1920, p. 346.

[2]) See the extensive historical description in I. A. Nederburgh, *Wet en Adat*, 1896—98, II, p. 1—168.

ified article 134 I. S. (by Stbl. 1929, 221) stipulated that civil actions which, according to religious law or custom should be decided by priests or chiefs [1]), remain subject to their jurisdiction. This form of jurisdiction was characterised by some people as being of an indigenous nature, while others considered it as being incorporated into Government jurisdiction (they pointed to art. 3 Judicial Organisation and Art. 7 Stbl. 1882, No. 152). Prof. Carpentier-Alting characterised it as an indigenous enclave in the sphere of government jurisdiction. As such it will be treated here in connection with the government jurisdiction of District and Regency Courts, which still have an indigenous colouring, and before the more Western jurisdiction of Superior Indigenous Court and Land Tribunal.

The term priest justice, which existed until recently, was very incorrect because Islam has no priests, but only pious leaders, scribes, and so on, and does not know a many-headed administration of justice but only judges who sit alone. In order to distinguish them from the lower officials of the mosques, who are attached to district and village houses of prayer (Kaoem or Naib), the chiefs of the Regency mosques, who are also administrators of the mosque funds, are usually called Head Panghulus. Prof. Carpentier-Alting, (p. 288) says:

> "Those appointed by preference to this function, which is at the disposal of the Government, are conversant with religious law (for which reason they are considered as muftis), so that they can also be entrusted with confidence with the function of judges in religious affairs. These Panghulus, when they act as judges, perform their function according to old Javanese custom, which has remained fairly pure in the States of Java, in the front gallery of the mosque (surambi) in the presence of the staff of the mosque.... A resolution of 1835 (Stbl. 58) described their capacities in this way, that they were entrusted with the settlement of differences in matrimonial affairs — division of property and so on — which had to be decided in accordance with Mohammedan law, with the addition that civil action for the payment of monies due under their decisions had to be brought before ordinary tribunals. A Royal decree of 1882 (Stbl. 152) regulated this subject more precisely [2]), maintaining the erroneous term of priest, and adding new mistakes. The court, which really consisted of one judge who sat alone, was considered as a many-headed court, the former

[1]) This means Chinese chiefs (cf. Kleintjes II, p. 260 note).
[2]) See also *Stbl.* 1926, 232.

assistants were made members, with the right to vote, and the Panghulu Court was given the name of Court of Priests.

"In Java such a Court of Priests is therefore found by the side of every Superior Indigenous Court, and the Regent exercises some kind of administrative supervision over it. The competence of these 'Courts of Priests' has not been detailed in the above mentioned Royal decree. Therefore the instruction of 1835 still applies. In practice these Courts take cognisance of requests for settling the shares in inheritances and for attributing these shares to those who are entitled to them; of demands for divorce made by the women in cases indicated by Moslem law; they also decide as to whether conditions stipulated in the case of conditional repudiation (taalik) have been fulfilled. The decisions of the Courts of Priests cannot be enforced directly[1]). If execution cannot be arranged in a friendly manner, the interested party must obtain force of execution for the decision from the highest indigenous court of justice (art. 3 Judicial Organisation), by which is meant the Superior Indigenous Court (Landraad)".

This scholar then points to the fact, which is often spoken of with disapproval, that this regulation withdraws from the ordinary civil judge cases which really belong to his competence (Art. 134, I. S. section 1), while in the conceptions of the population it does not really find the moral support which, in the opinion of the legislator, it appeared to receive. Various experts, among them Professor Snouck Hurgronje and Professor André de la Porte (op. cit. p. 93), are even in favour of the abolition of this Court and would like to entrust the decision of the questions that are submitted to it to the ordinary indigenous judge, in which case the Panghulu would no longer intervene in the capacity of judge but in that of adviser. Others, moreover, point to the high cost of this jurisdiction and to the fact that this regulation gives preponderance to Mohammedan law over Adat conceptions [2]). This is, according to critics, by no means in consonance with the living sentiments of justice of the population, which in many respects prefers to keep to its own Adat law. The composition and the competence of these Courts has formed for a considerable time the subject of an exchange of view (c. f. also Mr. Enthoven's study on

[1]) These decisions are written in a register which has to be presented by the Regent every three months to the head of the regional administration, who initials the register (*Rijbl.* 3962).

[2]) A similar objection is made in the case of the advisership of the Panghulus, according to art. 7, Judicial Organisation. Cf. Carpentier Alting, p. 337 *sqq.*; Kleintjes II, p. 245.

Adat law in jurisprudence, p. 79 sqq., 192). An investigation has been started, and a new regulation has already been passed by the Volksraad and there will soon be a more satisfactory situation when Panghulu Courts have been established to deal with definite matters. Art. 134 section 2 I. S. was modified with this view at the end of 1928 (Stbl. 1929, 221) [1]). By ordinance, special civil affairs can be withdrawn from the jurisdiction of a religious judge. At the same time jurisdiction (by Chinese chiefs) was suppressed, and the incorrect term priest was left out. Finally, it may be noticed that outside Java this religious jurisdiction is also found here and there, and has been left unregulated.

We have said before that in Java since 1914 the Land tribunals have caused the administrative officials to lose the function of Magistrates. Already in 1839 the abolition of these functions was one of the principal points on the programme of the Judicial Commission appointed in that year in order to determine how the new Dutch legislation of 1838 could be applied to the Dutch East Indies. The first task of this Commission was to be the drawing up of a plan for a judicial organisation. Mr. Immink provides us with very interesting data on the work of this Commission [2]). If Baud persuaded the Commission to give up the idea of appointing a European judge independent of the Resident as president of the Superior Indigenous Court (Immink, p. XXI), it had nevertheless previously succeeded (Art. 93) in transferring police jurisdiction to the Superior Indigenous Court, and removing it from the Resident.

There was, indeed, some reason to add such a guarantee to the administration of police justice which, apart from fines up to 25 guilders, could also inflict severe punishments such as strokes with a stick up to the number of 20, arrest in the stocks for five days, imprisonment up to eight days, and compulsory labour for three months. Protests were received from the Indies against this Art. 93, which seemed to attack the principle of one man's rule; and the end of the exchange of views which followed — in which Baud, the Minister of Colonies, takes, as was to be expected, the side of the authorities — was a new Article 110, Judicial Organisa-

[1]) Kleintjes, II, p. 266, note 1. Cf. also I. A. Nederburgh "*Ind. Gids*", Jan. 1928, p. 7—12, and Stbl. 1931, 53.

[2]) A. J. Immink, *op. cit.*; "*Tijdschrift voor Nederlandsch-Indië*", 1839, I, p. 221 *sqq*; J. van Kan: *Uit de Geschiedenis onzer Codificatie*, 1927.

tion (1848), which once more entrusted to the Resident such cases as the head Djaksa had written upon the police roll. The decisions of the Resident were not to be subject to appeal [1]). The Minister preferred to risk withdrawing from the Judiciary affairs that came within its competence rather than to weaken the administrative authorities.

A few years later, 1854, the Procurator-General declared the arbitrary treatment of cases on the police roll to be open to "one of the weightiest objections against the existing regulation of the administration of justice among the indigenous population". He remarked that the extensive power of the administrative official, conferred upon him by Article 110, led to a state of affairs in which acts other than those marked as transgressions by statutory regulations were punished, and penalties other than those determined by law were applied: in fact, such acts as the official personally considered objectionable were punished, by such penalties as he himself considered to be fitting. The critics, among other things, pointed to a letter of the Resident of Surabaya of July 2nd, 1863, which declared that the number of strokes suffered in his Residency, excluding the isle of Bawean, during the years 1860 and 1862 had amounted to the appalling figure 76,152 [2]).

It is remarkable that the same Procurator-General, who felt that there was something wrong in this situation, nevertheless remarked that, so long as practically no single obligation of the indigenous population was put down in the law, the imposition of arbitrary punishment under the police roll could not be abolished without the break-down of all social restraint among the indigenous population. In 1866 he proposed to raise the fine of 25 guilders, mentioned in Art. 110, to the sum of 100 guilders, because there was no real proportion between the other punishments which the police judges could mete out, seeing that they could condemn offenders to as much as three months' labour on public works. He particularly pointed to the fact that the obscure wording of Art. 110 created the impression that all those cases which, at the introduction of the legislation of 1848, were dealt with under the police roll, had still to be settled in the same way.

[1]) Immink, p. xxi *sqq.*, 266 *sqq.*, 269.
[2]) *Ibid.*, p. 269.

Most chiefs of the administration conceived these words as a permission not only to inflict punishment against those misdemeanours liable to punishment by law, but moreover against such acts as, in their own view, had to be punished in the interests of public order.

He remarked, "that this conception conflicted with the principle laid down in Art. 88 R. R.", [1]) and that, as far as concerns the consequences of this neglect of principle in practice, "in looking into the registers of the prisons, one was amazed at the number of things considered punishable under the police roll, and at the manner in which, according to the individual conception of each police judge, new causes for imprisonment continually arose". It seemed desirable, therefore, to suppress the words in Art. 110 of the Judicial Organisation and to remind the heads of regional administration (Residents) of their power to issue police ordinances by which it could be laid down in advance whether a specific action was punishable or not.

As a result of these proposals, Art. 110 was improved by the Royal decree of 1869 (No. 4). Henceforth the maintenance of public order was entrusted to the police judge no longer in accordance with his own interpretation but according to regulations of general or local nature. The East Indian Government waited, before proclaiming this important reform, until the incompleteness of the existing police regulations had been remedied, and until the code of penal law for Indonesians, which was in preparation, had been introduced. Under further pressure of the Government in Holland, the promulgation took place in 1870 (Stbl. 152), but the reform was not to come into force until Jan. 1st 1873, at which date the general police regulations for the indigenous population in the Dutch East Indies (in virtue of Art. 2 Stbl. 1872 No. 111) came into operation. Art. 89 I. R. (old) gave the Resident power to entrust Assistant Residents in the divisions and in the capital of the Residency where such officials were especially appointed to take charge of police functions, with the settlement of such cases on the police roll as were suitable, with the obligation of sending monthly a register of their decisions to the Resident.

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[1]) Nobody may be prosecuted or condemned except in the way and in cases provided for by a general ordinance.

Under Stbl. 1894, 216, this power could also be given to the Controllers.

For the rest, police justice remained practically unmodified, pronouncing sentence in case of transgressions which did not fall under the District and Regency Courts, and which were punishable by no higher penalty than 100 guilders (later 500 guilders) or eight days' imprisonment or three months' compulsory labour without payment. There was no appeal from decisions of the police judges. In his capacity of police judge the administrative official was as independent of his superiors as any real judicial official can be. Although an important improvement had now been reached, the less desirable situation continued to exist by which an administrative official who had also police functions might be the same man who had first to order the investigation, afterwards the prosecution and finally to act as judge.

It is desirable once more to return to this fact, more particularly from the point of view of practice, because to a large extent it dominates the development of the East Indian judicial organisation, up to the present day and for the future. It is more important than any of the details mentioned below in connection with this development. We are concerned, therefore, with the fact that has already been noted, that in a purely Eastern environment, administration, police, justice, and legislation were and are by no means distinguished in principle and that the administration of justice is felt, according to Oriental conceptions, as an instrument of administration rather than as an independent function. The systematic separation of the Executive and the Judiciary, in the West, is an important guarantee for those to whom justice is administered and who know that justice will not be an instrument of administration.

This does not mean that in the West administration and justice have to be hermetically closed in two separate spheres, between which there can be no natural and serious contacts. On the contrary, both functions and the organs which exercise them must be considered as the left hand and the right of the same body, and for both of them the real task is the preservation and improvement of the same social order. The thoroughly active share which the administrator takes in the development of society may, however, easily betray him into prejudice and one-sidedness in his

functions of police officer and judge. This may have the result that, following his own entirely individual conceptions, the official interferes on a larger scale than can be allowed under the limited freedom which practical considerations everywhere have left to administration or police [1]). In his capacity of judge, he will then, more unconsciously than otherwise, be inclined to consider the administration of justice not only as an end in itself, but as an instrument for power for assuring definite administrative aims.

According to quotations we have already given, there was from the days of Minister Baud (1840—48) until 1869 an express intention to entrust the administration of justice in Superior Indigenous Courts and in Magistrate's Courts to European administrative officials. There was no desire to protect the common man by an independent judge against his chiefs, the administrative officials or even against the government. And as the separation of administration and justice proceeded, the experience, as Professor van Vollenhoven remarks, "with the practice of separation and of balancing the powers in the Indies was not always attractive. In 1868 it was pointed out to the population of Java that, in case its agrarian rights were infringed, it could complain to the judge, but a real or imaginary protection of Indonesians against administrative officials by the judiciary more than once gave rise to unpleasant squabbles between the two bodies, as happened in 1892 in Macassar" [2]).

All this is undeniably true, but although it now belongs to the past, the question has still enough importance, even to-day, to make it desirable to point to the other aspects of the matter, which is that a judge, as servant of an impersonal and too abstract conception of justice, may tend too much to withdraw his mind from the peculiar conditions of an evolving Eastern society, which can be put down in no laws and where the administration in the interests of the population itself is continually struggling in order to maintain a continually shifting balance. This attitude of the judiciary sometimes very considerably increases the task of the administration and tends to sustain a conception of justice which, paradoxical though it may sound, does not sufficiently protect the social order. The judge also must stand in the midst of life and be

[1]) Van Vollenhoven, "*Kol. Tijdschr.*" 1929, p. 13 and p. 234, 240.
[2]) Van Vollenhoven *ibid.*, p. 233. M. C. Piepers, Macht tegen Recht, 1884.

conscious that his task too should serve the growth of a living society.

This is a universal truth, but it applies in particular to every territory where a formerly static society has entered upon a period of transition. In such a society, justice has, indeed, been a natural means of administration invested with a particular sanction, and the evolution of judicial activity into a function of higher order must there respect the pace of social development as much as possible, under penalty of upsetting social equilibrium.

In this environment, therefore, as we have said, gradualness, the influence of the slowly working example, is the only right way for a development which cannot in itself be tied to one place and which must probably be expected throughout the world. This gradual change has caused the administration of police justice by administrative officials to give place to justice administered by Land tribunals, regulated in the so-called Land tribunal regulation (Stbl. 1914, 317). The abolition of the police roll (Magistrate's Court) in Java was also caused to no small extent by a desire to end some disagreeable features of dualism in matters of justice, and to purify it from the appearance of putting Indonesian and other groups of Asiatic populations behind Europeans. In the Residency Court, there was a procedure which gave better guarantees than under the police roll. The more fully conscious Chinese group has especially, since about 1905, protested continually against this system. The reform of 1914 was, therefore, important in principle for more than one reason.

Art. 116*bis* et seq. of the Judicial Organisation, originating from the above-mentioned Stbl., lays down that there shall be at least one Land tribunal in every Residency of Java and Madura. Later such a Court was established for at least every division [1]). As far as possible, the Land tribunal sits daily. It consists of a jurist who is land-judge, assisted by an indigenous official, the "Fiscal Griffier", the clerk of the Court. When no officials who are jurists are available, the function of land judge can be entrusted to other suitable persons. In this case officials who are specially entrusted with this function, such as pensioned civil servants, are as a rule appointed, but if this is not possible, ordinary administrative officials take their place (Stbl. 1925, 230). The latter measure is only

[1]) See for nowadays Stbl. 1925, 437; 1928, 236, 237, 248.

a result of a lack of staff and it is obviously something entirely different from the former reunion in principle of administrative and judicial functions in one hand. The land judges judge without appeal and without distinction of nationality or origin all transgressions which are not punishable by more than three months detention or a fine of 500 guilders. They must follow certain rules of evidence, and the Fiscal Griffier makes notes of all transactions in a register, which the High Court may at any time ask to see.

By the institution of the Land tribunal on the one hand the police roll in Java disappeared and on the other the Residency Court for Europeans was deprived of jurisdiction in cases of police offences. While all groups of population are subject to the jurisdiction of this tribunal, the former dualism for the preliminary investigation of penal affairs has been preserved. For Europeans it follows the rules for the regulation of penal procedure (Stbl. 1847, 40), while for non-Europeans there is the Inlandsch Reglement, which gives in one frame simultaneous rules for police, civil, and penal procedure among the indigenous population and other groups subject to the same regulations.

In consequence of Art. 9 Penal Procedure, Public Prosecutors are now entrusted with the task of investigating and prosecuting all crimes and offences which come under the jurisdiction of the Superior Courts of Law and of the Land tribunals (in so far as Europeans are concerned). As regards non-Europeans also, the preliminary investigation is not left to the Fiscal Griffier attached to this Court, but to the administrative officials mentioned in the Land Tribunal Regulation (Art. 2) and in the Inlandsch Reglement (Art. 78). If the Public Prosecutor or the Resident considers that the case has been sufficiently investigated and should come before the Land tribunal, he sends the documents to the competent Land judge, who decides himself as to committing cases for trial, which happens by writing them down in a register called the Roll of Penal Cases (Art. 4 Land Tribunal Regulation). In case of discovery *flagranti delicto* the police can forthwith take the accused and the witnesses before the Land judge. This summary procedure can, in favourable circumstances, result in punishment within an hour after the commission of the offence, which will make the penalty much better understood. For the procedure of these tribunals we may refer to the regulation already mentioned.

The most important indigenous court, which is usually called the "Landraad" (Superior Indigenous Court), takes cognisance in the highest instance of sentences of the Regency Courts against which appeals have been lodged and it is furthermore and especially the ordinary indigenous court by the side of the above mentioned lower judges; while the Superior Courts of Law or the High Court (as *forum privilegiatum*) can in definite circumstances act in a special capacity (Stbl. 1867, 10) [1]). In Java Superior Indigenous Courts have been established in all capitals of Regencies and in a few other centres. They hold sessions weekly and are composed of a jurist, who is the chairman, of the Regent, and of such important indigenous chiefs as have been appointed as members by or on behalf of the Governor-General. They are assisted by a griffier or a sub-griffier (Art. 92, Judical Organisation). Their competence is regulated by Art. 95. Appeal can be made to the Superior Courts of Law in the cases mentioned in the subsequent articles. Formerly the Head Panghulu also belonged to this Court. Stbl. 1901, 306, put an end to this. In view, however, of the fact that Art. 7, Judicial Organisation, requires the presence of an adviser of their own nationality or religion at every tribunal or court before which non-Europeans have to appear as accused or as defendants, the Head Panghulu can always be met at every session in this capacity. Legal assistance is not obligatory. It is only prescribed for those who are conducting a civil action before a Superior Court of Law or the High Court. Before the Superior Indigenous Court, civil actions must be tried orally, so that there only people who hold powers af attorney or advisers of parties are known [2]). The indigenous persons who make it a profession to give legal assistance were up to a short time ago as a rule known very unfavourably. They had little or no knowledge of law and many of them were only there in order to promote litigation or to envenom existing actions. At the Superior Indigenous Court one also finds an Indonesian public prosecutor, the so-called Head Djaksa or Djaksa, who receives complaints about punishable actions and, in the place

[1]) Carpentier-Alting, *op. cit.* p. 270 *sqq.*, 257.

[2]) Stbl. 1927, 496, issues a regulation for assistance and representation of parties in civil causes before the Superior Indigenous Courts. Artt. 119 and 132 I.R. (*Stbl.* 1926, 559) declare the President of the Superior Indigenous Court competent and therefore under the obligation when necessary to give advice and assistance to plaintiff or his representative at the time of the initiation and of the hearing of the case.

where the Court resides, makes the preliminary investigation, together with the administrative official charged with this task; while he himself is mainly responsible for sending out the necessary summons. At the session of the Court he acts as though he were the real Public Prosecutor, which he is not, any more than is the fiscal griffier at the Land tribunal. One can rank these officials as belonging to the corps of Public Prosecutors [1]) in view of the fact that they perform some of its functions, but they lack the independence which characterises the Prosecutors, who represent the central Government in its capacity of preserver of law and order at the Courts, and can decide at their own discretion whether punishable acts are to be prosecuted or not. The Djaksas have, therefore, a somewhat different position; in the Regency Courts they are mere advisers.

The Superior Indigenous Courts have, on the whole, been highly appreciated, since the replacement of the Resident as chairman by jurists [2]). Formerly it was usually just the opposite. The number of these Courts (the Residency Courts of Raffles) was originally still very small, although, when compared with former days when they also had less power, they had made great progress. Art. 89, Judicial Organisation, of 1848 still speaks of one Court at the capital of every Residency, and at such other places as the Governor-General may deem necessary. Next to this relatively small number of Courts, there were also in those days the so-called Circuit Courts, which judged serious offences, but whose powers passed in 1901 to the Superior Indigenous Courts. The extension of the number of Assistant Residents in 1866 (Stbl. 5) enabled the Government to take better care of the police and of the administration of justice in the interior. In this manner, we see already in 1877 the mention of 87 Courts for Java and Madura, of which 32 were presided over by jurists. Circuit Courts were, however, still maintained although they worked unsatisfactorily. Already in 1848 the Circuit Courts would have had to give way to Superior Indigenous Courts if Baud had not insisted on their preservation[3]).

There were, however, continual re-appearances of this plan, and it was decided to do away with these tribunals as soon as all the

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[1]) Carpentier Alting *op. cit.* p. 235.
[2]) For the procedure of the Superior Indigenous Courts etc., cf. Winckel *op. cit.*
[3]) Immink, *op. cit.* p. 237 *sqq.*

Superior Indigenous Courts in Java had received a jurist as chairman. The conviction that the organisation of justice for the Indonesian population was by no means satisfactory has grown ever since 1848. An enquiry in 1862 into the working of the new legislation in the course of that year has, therefore, also tackled this problem. The replies obtained led to the conclusion that the administration of justice by the Superior Indigenous Courts was inadequate, and that no improvement of this important section of justice for Indonesians would be possible unless there was a separation of Executive and Judiciary. Immink quotes on page 200 one of the replies which gives still further prominence to the remarks of Professor van Vollenhoven, because the Superior Indigenous Courts were tied considerably more, both by material and procedural law, than had been and still is the case of the genuinely indigenous administration of justice which in many regions has been left to the population.

This reply says that:

> "No greater boon can come to Java in this respect than by a separation of administrative and judicial authority as complete and as speedy as possible. The argument that Eastern populations are accustomed to a union of administrative and judicial authority and that the administrative authority would be undermined in their eyes by separation, is not an argument if this conception is in conflict with justice and leads to injustice. The political views of the administrative official must always remain in the front of his considerations when he administers justice. The written law and the formalities of orderly jurisdiction, with which they are as a rule not conversant and which they do not understand, have much less importance in their eyes than the preservation of authority, order, quiet, and prosperity in their district. They believe that they only do their duty when they sacrifice justice in order to achieve a more important aim. Although these views are just as well applied in civil actions, they naturally deserve our particular attention because they also play a part in criminal actions."

In this debate it is useful to remember that we are concerned with a dilemma that is of great actual significance in the sphere of jurisdiction which so far has been left to the population. It must also be taken into consideration that although our jurisdiction with its formalities aims at as much security of justice as possible and may therefore be defended against reproaches of unnecessary formalism, on the other hand the strict application of the rules of

our procedure would be less appreciated by the population than is suggested by the practitioner quoted above. In this dilemma, the Government acted wisely by cautiously starting the development of a better and purer system of justice. There was, however, no chance of getting the required number of jurists at a moment's notice — all the more because they had first of all to make themselves familiar with Indonesian languages, Adat law, customs and opinions.

But when once the principle of separation was admitted to apply to the Superior Indigenous Courts (1869), Courts were placed in rapid succession under chairmen who were jurists and whose growing number made it possible to transfer also to them the functions of the Residents as judges for Europeans, and at the same time gave the opportunity for the gradual abolition of the rather unsatisfactory Circuit tribunals (Stbl. 1879, 106). Thanks to these steps, the Judiciary properly speaking was considerably extended, a thing which in the opinion of the Government served to improve the not very rosy prospects of promotion of judicial officials. The necessary attention was also given to their financial position. The consequence of these measures was that the judicial powers of the Residency Courts and Superior Indigenous Courts could be extended. By 1883 fifty-nine Superior Indigenous Courts were presided over by jurists. The rules as to civil and penal procedure before the Superior Indigenous Courts had been laid down in the Inlandsch Reglement, a large part of which is devoted to the rules of procedure for these Courts. Above the Superior Indigenous Courts one finds the previously mentioned Superior Courts of Law (the ordinary Court for the European population), which takes cognisance in the first instance of certain definite matters without respect to the nationality of the parties or of the accused (Art. 125, 129, Judicial Organisation). Appeals from the judgements or sentences of the Superior Indigenous Court are also within their competence (Art. 127, 129 *a*, *ibid.*) and some other cases (see Art. 128 and as "forum privilegiatum") in the settlement of which they act as indigenous judges de facto. In some instances an appeal to the High Court against judgements or sentences of the Superior Court of Law is permissible (Art. 126, 129 *ibid*).

Judicial organisation outside Java

In the other islands the judicial organisation, as far as justice administered by Government judges is concerned, differs little from that in Java. According to Art. 1 of the regulation for the system of justice in the islands outside Java, Stbl. 1927, 227, the judicial power there, in so far as it has not been left to the indigenous population and has not been dealt with otherwise, is exercised by Regency Courts, District Courts with one or more judges, Magistrate's Courts, Superior Indigenous Courts, Land Tribunals, Superior Courts of Law, and the High Court.

It is not necessary to mention below various peculiarities relating to this many-coloured range of courts and tribunals in view of the fact that varying local definitions do not affect the main lines which have already been described.

It should be noted that in Ambon only there is a Regency Court in every village, and that there the Regent cannot be compared to the Regents of Java, whose Regencies are much larger. District Courts with a judge who sits alone are found in Bangka, Billiton, and Manado in every district; District Courts with judges who sit together on the West Coast of Sumatra and in Tapanuli; Magistrate's Courts in the sub-division of every magistrate. By separate ordinances it is laid down which officials may fulfil the functions of a magistrate. As it is set forth in these executory ordinances (Stbl. 1927, 228—245), European executive officials (Assistant Resident, Controller, Commander) and also sometimes officers of the army may serve as such. The presence of the Chief of the defendant or the accused is required during the session of the Magistrate's Court, even when an indigenous Public Prosecutor is present. It should also be noted that these Courts (Art. 30, A), which are really police courts, also judge civil actions, sometimes (Art. 32) in the highest instance, when judgements of Regency and District Courts are submitted to appeal; while in many Residencies their judgements in civil cases are subject to appeal before the Superior Indigenous Courts (Art. 31). In Chapters II, III and IV of the above mentioned regulation for the system of justice in the islands outside Java, the provisions concerning civil procedure, the exercise of police powers and the detection of punishable offences, as well as procedure in criminal cases, have been brought together in such a way that they can be surveyed at a

glance. The separate regional regulations for the system of justice could, therefore, fall into abeyance — except in South New Guinea and the territory of the Upper Digul where arrangements are still entirely provisional — whereby a long-felt need of unification has been satisfied.

From the above pages it appears that outside Java the separation of the Executive and the Judiciary which has long ago been introduced as regards the High Court and the Superior Courts of Law, and also in the case of the chairmanship of most of the Superior Indigenous Courts, has not yet been effected, any more than it has been in Java, for the membership of the Superior Indigenous Courts. It has not been accepted at all for the lower indigenous courts and in particular for the Magistrate's Courts. Where Land tribunals have been established, as for instance on the East Coast of Sumatra, they are given police jurisdiction, while the Residency Court for Europeans, wherever the Superior Indigenous Court is established under a jurist as chairman, is conducted by the chairman of that Court. In view of the fact that this is the case almost everywhere, and that most presidents of Superior Indigenous Courts are no longer administrative officials, the separation of administration and justice has also made appreciable progress in the islands outside Java, and has there begun to penetrate even into the sphere of indigenous police jurisdiction. The latter, however, is still almost exclusively left to the European administration, while, as has been said, the lower indigenous courts consist of Indonesian chiefs.

The law and dualism

As concerns the law applied by these different Government judges to the Indonesian population, it also takes into account the varying needs of the population. It has already been made clear that the judicial organisation and the rules of procedure are based upon the dualistic principle: different judges and different laws for different groups of the population [1]). It is therefore not surprising that the same dualism is also observed for civil and criminal law. Enough has been said in the first volume about this

[1]) Civil Procedure Ordinance, Penal Procedure, and Inlandsch Reglement for Java and a corresponding differentiation in the Judicial Regulation for the other isles.

dualism in the Dutch East Indies, where it was considered against the background of the dualism of the ancient world. We also remarked in that place that, notwithstanding the apparently racial basis of dualism, in Art. 109 of the East Indian Government Act of 1854, it results neither from racialism nor from domination.

Even in the days of the Company, dualism was not based upon lust of domination but upon impotence, a spirit of abstentionism, and common sense. In the settlements of the Company, dualism in judicial organisation and in law was, therefore, by no means strictly observed. It was practice, lack of means, and a matter of fact mentality which prescribed a modus vivendi that increasingly deviated from the naïve theory which had originally recommended a uniform law based upon the Dutch pattern. As extension of territory took place, more understanding of indigenous conditions was acquired. Daendels considered that to do away with all Javanese laws, customs, and jurisdiction in favour of a foreign system was as wrong as to cling exclusively to the indigenous system [1]). His policy aimed at perpetuating that which was really Indonesian, with a very definite reservation concerning the need to complete and improve it.

Raffles continued along the same road, only at a quicker step. He aimed at European guidance, supervision and method, and gave to the Circuit tribunals established for Indonesians the right also to judge Europeans, while on the other hand his land rent introduced a policy of differentiation in taxation. The Commissioners General continued the separation of European and indigenous judicial organisation, but nevertheless they introduced a still larger proportion of Western ideas into the judicial organisation and the procedure followed for Indonesians (Stbl. 1819, 20). The influences from the West — which had long been noticeable and increased especially after 1800 — particularly those upon Indonesian penal law and penal procedure, became stronger and started the stream which a century later was to terminate in the

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[1]) It should be noted that in the time of the Company already there was an effort to codify Indonesian and Chinese hereditary law. In 1754, says Idema (p. 297), a beginning was made with the establishment of a Commission on Adat Law. In this way Freijer's *Compendium* (1760) was composed. It was approved by the Government and a resolution of 1786 strengthened it with a declaration that "here (at Batavia) no Mohammedan or Chinese laws may be applied otherwise than with the permission of the Government". Nevertheless the living Adat continued to prevail.

complete unification of all penal law for all the groups of the population, and into plans for a uniform regulation of penal procedure. In 1819, meanwhile, Adat penal law was still maintained in principle (Art. 121) [1]).

The Dutch Government found legislation in the Indies more confused even than in Holland itself [2]). In view of the fact that the Commissioners General wanted as much agreement as possible between legislation in the mother country and overseas, they decided to wait for the new laws to be introduced into the Netherlands (Civil Code, Commercial Code, Penal Code, Judicial Organisation, Civil Procedure, and Penal Procedure). It was necessary to wait till 1838. Some steps had been taken in 1830 [3]), but without much result. After 1838, however, the work was seriously taken in hand. In 1839 the necessary preliminary labours for making the eventual introduction of Dutch laws into the Indies was started. After a long and heavy period of labour, the Indies at last acquired in 1848 (Stbl. 1847, 23, 57) a civil code, a commercial code [4]), a regulation of judicial organisation, a code of civil procedure (Stbl. 1847, 52), and of criminal procedure (Stbl. 1847, 40). At the same time, some general provisions, dating from 1846 (Stbl. 1847, 23), were introduced. In 1866 (Stbl. 55), the penal code followed; in 1872 (Stbl. 110) the general police penal regulation was introduced. Almost all these codes and regulations were only intended for the European population. Indonesians were given special civil and penal procedure in the previously mentioned Inlandsch Reglement (1848, 16), while their own judicial organisation was continued in order that a procedure as simple as possible and fitting in with the needs of the population could be applied. As regards civil law it was decided, after some hesitation, to respect existing Adat law. Finally, in 1872, a separate code of penal law and a general penal police regulation (Stbl. 85, 111) for Indonesians were promulgated. Henceforth there was dualism along the whole line of material and formal penal and private law. But, as will soon appear, this dualism contained very little that can be explained as an expression of the spirit of domination,

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[1]) Cf. I. Cassutto: *Het Adatstrafrecht in den N. I. Archipel.*

[2]) Van Kan, *op. cit.* p. 7 sqq.

[3]) *Ibid.*, p. 4 *sqq.*

[4]) The third book was repealed by *Stbl.* 1906, 348, and replaced by the Bankruptcy Ordinance (*Stbl.* 1905, 217).

such as was shown in the compulsory cultivation system [1]).

The General Provisions (Art. 6—10) which have just been mentioned started from the existing difference in social and legal needs as a general fact, and distinguished two groups with different legal needs — Europeans and Indonesians — while all those who did not belong to one of these main groups were treated in the same way as either Europeans or Indonesians. The criterion for this method was to be religion. Non-Indonesian Christians were subject to the same legislation as Europeans. On the other hand, the so-called foreign Orientals (Chinese, Arabs, British Indians etc), were subject to the same legislation as Indonesians. Their legal position, however, differed in many important respects from that of the indigenous population. They have always formed a group of their own with sharply distinct sub-groups. Between the Europeans and those who had been put upon the same footing, however, there was absolutely no difference. The consequence was that, in practice, there was an all-round sub-division into three classes, Europeans, Indonesians, and foreign Orientals.

This division would seem to have a racial basis, but it was by no means inspired by racialism or views as to white domination, but rather by the fact that at the period the distinction in legal requirements on the whole seemed to coincide with racial difference. The fact that religion was used as a criterion in equalising certain people shows that it was exclusively a question of legal needs and not of racial discrimination [2]).

If one makes an effort to discover proofs of the domination complex, one must rather look, as we said, at the compulsory cultivation system. In jurisdiction, except in the matter of the police roll, or in administration and taxation, it certainly did not play an important part. It was rather the natural result of historical growth, of common sense understanding and a lack of Western means. Racialism on principle was so little the basis of the new legislation of 1848 that it was nearly decided gradually to complete Indonesian Adat law by Dutch law or even to do away with

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[1]) Carpentier-Alting, "*Ind. Gen.*" Dec. 1921, p. 186 *sqq*; one may recall the objections of the minister Baud, which have already been mentioned.

[2]) Ph. Kleintjes: *Het Staatsrecht van Ned. Indië*, 1911, I, p. 116, who says that the legislator deemed it desirable to base the distinction upon the difference between the Christian religion and those that were upon another basis, because this presented the best criterion of development, social and legal needs, and conceptions of justice.

it altogether in favour of Dutch civil and commercial law [1]).

Arts. 11 & 12 of the General Provisions of 1846, which indicate the foundations on which was to be based private and penal law, found as a matter of fact a starting-point in the dual division of the population as indicated in the foregoing paragraphs. The East Indian Government Act of 1854 (Art. 75) adopted this dualistic principle which fitted in with the division of the population laid down in Art. 109 of this same Act, almost without modifying it. But in the first place, the Commission for the new legislation was only moved after much dispute and consideration to adopt the view that the new laws would be written almost exclusively for Europeans. And in the second place the Governor-General was empowered (Art. 7 of the Royal Decree in Stbl. 1847, 23) to declare at the proper moment all the parts of the new legislation applicable to the Indonesian population.

The application of European legislation to foreign Orientals (Stbl. 1855, 79) was originally meant "as a regulation for both Indonesians and foreign Orientals". The Government then decided, however, that the Indonesian population was not yet in need of this legislation while the foreign Orientals were, and this decision was based upon the consideration that it seemed a wise policy to leave the indigenous population "under its own religious laws, institutions and customs" [2]). This formulation witnesses a sane, healthy differentiation, as does the administrative dualism which aimed at leaving the population under its own heads. It has little to do with racialism or domination.

Domination, however, was in those days still something so natural in colonial policy that at a later period we have acquired a tendency to find in absolutely all differentiation made in those days an intentional discrimination, which, in view of the preceding historical review, was not the case to any great degree either in the days of the Company or in the course of the nineteenth century. Those, moreover, who by their education or their profession had entirely abandoned their Eastern relationships could submit to the law that applied to Europeans. This, again, is a proof that the dualism resulted from an attempt to harmonise as

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[1]) Van Kan, *op. cit.* 161 *sqq.*

[2]) P. H. Fromberg: *De Chineesche Beweging op Java*, 1911, p. 19—22. Also van Kan, op. cit. A brief review of the subject is given by Idema, "*Kol. Sud.*" 1929, p. 56, 57.

much as possible existing needs and legal status. Only the development of non-European groups of population after 1854 called forth a consciousness and a legal need, which was to give a semblance of discrimination to a differentiation made according to criteria fixed beforehand, such as race, religion, and the family law of the country of origin. And this development was to lead to a policy of unification or of differentiation of law according to social and legal needs and without any fixed criterion whatsoever.

Western law and Adat law

In this so-called dualism in law, moreover, lay the tendency to make unification the ultimate goal where the Indonesian seemed likely to profit from more security of justice or an extension of his legal sphere. This is yet another proof that distinctions were not looked upon from the point of view of dogmatic principle. In the readiness to enable the Indonesians to share in the Western law that had been developed by the West with so much difficulty, not enough thought was given at the outset to the development of the Eastern system. What was really indigenous was either left alone or else Western law and Western conceptions had, notwithstanding the external dualism, to fill the gaps that existed or were wrongly supposed to exist. The greatly simplified but to a certain extent westernised procedure of the Inlandsch Reglement and of the regulations for the judiciary outside Java; the rule imposed upon the judge (old Art. 75, section 3 R.R.) to make use, in dealing with private law, of religious law, institutions and customs — in other words, of Adat law (Stbl. 1911, 569), but to administer justice according to the general principles of European civil and commercial law whenever Adat law was silent or seemed unjust (old Art. 75, Section 3 and 6 R.R.); the practically admitted applicability of penal law for Europeans (except for some difference in the penal system) embodied in the penal code and in the general penal police regulation of 1872 for Indonesians: all this unmistakably points to the deep influence of the idea of legal equality of races, under a veneer of dualism. For this reason also, private law in the Superior Indigenous Court under Dutch chairmanship could not be lett without the completing principles of

Dutch law [1]), while the practice of jurisdiction went further, some times even decreeing gaps in Adat law which according to critics really did not exist or else by wrongly filling existing gaps, not by applying general principles of Western law adapted to Adat law, but merely by applying concrete stipulations of the law made for Europeans.

The first method would have been an attempt to enrich Adat law. The second in certain circumstances would be more than the necessary expansion of the indigenous legal sphere, and it might then consist in the introduction of foreign elements which sometimes stifled living Adat law and sometimes cut off the development of this law along lines of its own. The practice of Superior Indigenous Court jurisdiction gave rise from time to time to the complaint that the prescribed application of Adat law practically remained a fiction. Others took an opposite point of view, saying that the application of the old Adat law to strongly modified conditions would be impossible, that "Adat law is either unsatisfactory, or non-existent, or still to be discovered", and that therefore the impossible cannot be asked from the judge. This point of view further gave rise to pleas in favour of complete or partial codification, "in the interests of the unity of law, of security of justice, and of progress, because Adat law cannot be applied to a developing Eastern society, nor can it adapt itself, whereas on the contrary our legislation could replace it to a large extent" [2]).

It may be useful that at this juncture we should, in passing, defend the Judiciary against the suspicion which might arise that they may have neglected their duty to apply Adat law. When one meets with these objections, one should remember the incredible difficulties that often confront the judge [3]). In the explanatory introduction accompanying the draft for a general civil code ap-

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[1]) Carpentier-Alting, p. 267.

[2]) K. L. J. Enthoven, *Het Adatrecht in de Jurisprudentie*, 1912, p. 2. Mr. Fromberg who has always been considered a friend of the Chinese and the Indonesians, was in favour of declaring all parts of European property law contained in the civil code and the commercial code applicable to Indonesians. He expected an assimilation of legal needs and convictions as a result of continued development (*op. cit.* p. 20, 21).

[3]) Further difficulties which tend to diminish the security of rights can be detected in the absence of various registers with legal force and of Indonesian Notaries Public accessible to the small man (Cf. Carpentier Alting, *op. cit.* p. 402). *Stbl.* 1916, 42, 44, and 46, have already partly met the need for documentary evidence. More however has still to be done in this direction.

plicable to all groups of the population, written by Professor F. J. H. Cowan, one reads (p. 6 sqq.):

> "Among officials entrusted with indigenous jurisdiction the conviction was already generally established before the end of last century, that greater security of justice had become an urgent need. They found themselves more and more confronted with the necessity of giving verdicts on points where Adat law, in so far as they could observe it in their own circle, completely failed to give an answer, and they had to guide themselves by the general principles of the civil and commercial law applicable to Europeans. It should be pointed out at once that, although this certainly may have happened on occasions as a result of a misunderstanding of the actual conditions in indigenous society or even from a love of ease, when the alternative would have been painfully to trace Adat institutions hitherto unknown to the judge, yet no attempt should be made to explain a universal phenomenon by referring to incidental shortcomings and still less to reproach the great majority of a body of conscientious servants of the country with incompetence or neglect of duty.
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> "I say this because in fact the argument in certain writings on Indonesian Adat law amounts to such an interpretation. As a matter of fact, the phenomenon could not be disposed of so easily. It was more deeply seated, and it was an inevitable result of the development of Indonesian society since the end of the compulsory cultivation system owing to the improvement of maritime and other means of communication after the middle of the nineteenth century. The separation of the magistracy from the administration, and the appointment of jurists as chairmen of the Superior Indigenous Courts about 1870 were expressions of the same tendency. As social life became more many-sided and more complicated, among non-European inhabitants of the Indies, and especially when this development came to proceed more and more quickly, customary law could no longer adapt itself rapidly enough. As the isolation of the various groups of the population gave place to mutual contacts and legal connections that continued to grow in number, the adaptation of Polynesian Adat law to the new circumstances came to be out of the question" [1]).

It appeared, therefore, that the problem which we have touched here often presents the greatest difficulties to the judge. The reproaches which are levelled at him are not less comprehensible and are sometimes not less unfair than those which have been levelled at Western administrative interference, education,

[1]) *Cf.* also apart from Enthoven *op. cit.*, Carpentier Alting, *op. cit.* p. 183 sqq.; H. J. Scheuer: in "*Onze Eeuw*" 1910, p. 33 sqq.; I. A. Nederburgh, *Wet en Adat*, 1896—98.

foreign economic influences, etc. The study of Adat law has, however, facilitated the application of Art. 75 section 3 R.R. (old) in some respects. Prof. van Vollenhoven has tried to meet the Superior Indigenous Court chairman in his "Adat Wetboekje" (1910) by framing the general features common to a number of Adat circles in an easily understandable scheme of Indonesian private law, which they can use as a kind of handbook when administering indigenous law. It may be hoped that the ever growing knowledge of Adat law, the attention given to it by the studies of candidates for the East Indian judiciary and future administrative officials, will help Adat law to adopt a direction which will lead to its further development [1]).

The investigations of Mr. Enthoven into the jurisprudence of 1849—1912, completed by those of Mr. Van der Meulen (1912—1923) [2]), concluded that the desirability of making European law applicable to indigenous society does not follow from jurisprudence in so far as it has been published, and "that revision of the regulations for the administration of justice to the indigenous population is urgently needed;" that, moreover, above all, true justice must be aimed at, based upon the real facts and upon a law intelligible to the indigenous population, without tying the hands of the judge by rules aiming solely at the ascertainment of the legalities of a question or by the European law which the population cannot understand (Enthoven, p. 188 et sqq), for, he says, "according to indigenous conceptions a man who has reasons for complaining has only to go to the judge in order to be given justice. What kind of justice and against whom it is left for the judge to decide: such discretion, our regulations for the administration of justice do not allow" [3]).

This and other authors wish therefore to give a still larger place to a living and growing Adat law, which should not be displaced by Western law and should not be imprisoned in a codification, as indeed is not required by Art. 131 I.S. They also want an ad-

[1]) Kleintjes, II, p. 247.

[2]) This work is a sequel to D. J. Jongeneel (*Nadere Jurisprudentie* 1882—1916) and also to the work of Enthoven.

[3]) See also the essays of F. C. Hekmeijer "*Ind. Gids*". Nov. 1909, *sqq.* which protest against the erroneous conception that the extension of the Indonesian's legal sphere over a region which has not been touched by Adat Law can be put on the same level as an attack upon Adat Law. Cf. also G. André de la Porte: Beter Recht voor den Inlander, 1911.

ministration of justice which is still less bound, still freer, and by a thoroughly active judge who should have complete liberty to use his own initiative and to judge according to the real facts. The advantages that are expected in this direction are, by other people, opposed by the dangers of arbitrariness and uncertainty of justice, which are not imaginary. This proves that in the intense disputes which arise on subjects like these there is no difference in the ardent wish to give to the indigenous population laws and jurisdiction that are as excellent as possible. The difference consists only in the *modus vivendi*, which practice and experience that are continually being acquired upon the spot, and a sound preparation for those jurists who are going to the Indies, will enable us to see more and more clearly.

Meanwhile, under the influence of the practice outlined above, of social development, of a growing resistance against the appearance of discrimination, and of the wish to acquire as much certainty of justice as possible, a movement had started which opposed both an aprioristic division into different groups of population (Art. 109 R.R. old) and the dualistic principle (Art. 75 R.R. old) which seemed to prescribe a theory of complete difference of law that had never been applied in practice. A law of December 31, 1906, (Stbl. 1907, 205) [1]) suppressed the system of equalisation either for the European or for the indigenous group, and the treble distinction into Europeans, Indonesians, and foreign Orientals came to be dependent on differentiation according to different needs or conditions of groups and sub-groups of the population. This new Article 109 R.R. was re-modified in 1919 (Stbl. 622), and in this form it has passed into the East Indian Constitutional Act (Art. 163 I.S.). At the same time (Stbl. 1907, 204; 1919, 621), a new Art. 75 R.R. (131 I.S.) had come into existence, which does not reject or impose in principle a future unified law for the whole population (penal and private law and procedural law), but which continually recommends the reform of law to the attention of the legislators wherever it may be necessary, and which in this spirit impartially bases the existing difference in law upon the question whether the difference of social and legal needs is lasting or not. This Article furthermore expresses the wish for a codification of all the law that is to be applied, as a result of which, after

[1]) This law only came into force in Jan. 1, 1920. Cf. *Stbl.* 1917, 12.

such codification, the uncodified Adat law would remain in so far only as the law explicitly refers to it.

In his inaugural lecture of October 16, 1918, about "codification of private law, in particular of Dutch East Indies Adat law", Prof. André de la Porte opposes such a codification, if it is to be more than guidance for the judge and a description of living law.

> "But," he says, "the Indonesian should not be given instead of this living law a codified law which, in its incompleteness and its inflexibility, often becomes the caricature of law. The judge must be given the right of continuing to look for the law in life itself, where it is found more easily than in the code, because there is the place where it is born and where it grows in infinite and indescribable variation, and he should be given the liberty, in cases where no law rule is applicable because the rarity of the case challenges all rules, to follow, in completing this living law, his own sense of justice, in order that he should never become an author of injustice instead of the maintainer of justice (p. 25)".

One will not find it difficult to agree with the modest desideratum expressed in the last words, because it only pleads for a reasonable freedom. On the other hand, with all the appreciation one feels for the noble point of view that appears from the opening of the quotation, one must nevertheless ask whether the individual sense of justice of a judge could give either in the West or in the East of the future a better basis, and whether it is not preferable to discount these disadvantages that are inherent in all human work rather than to admit the uncertainty which would be bound to accompany an almost complete judicial freedom.

Unification and differentiation of law

As regards private law among the indigenous population, the force of the old Article 75 R.R. is still intact. The making of ordinances regulating private law for the whole population was recommended, but this has not yet taken place. As long as such ordinances have not been promulgated, the existing civil law, in other words the locally varying Adat law, mentioned in the old Article 75 R.R., continues to be in force [1]). Concerning the penal law, a code of penal law valid for the whole population came into force

[1]) One distinguishes Javanese, Balinese, Atjehnese, Batak, and other types of Adat Law, which are distributed over nineteen Adat circles. (Cf. Van Vollenhoven, *Adat recht*, I, p. 135).

on January 1st, 1918. Apart from it, there are in existence many ordinances which impose penalties, issued by the general legislator, by local councils, provincial councils, regency councils, local water boards, regional administrative heads, and finally by the indigenous communes which, according to some people, have always retained their power of making penal regulations (Art. 128, section 5 I.S.). The power granted by Art. 131 I.S. to promulgate unified codes for civil and criminal procedural law has not yet been utilised. Concerning penal procedure, however, a draft bill has been worked out and one may expect that the differentiation which in this respect more than any other is liable to misinterpretation as discrimination will eventually yield to unification.

Efforts have also been made to reach more unity in definite parts of private law. After the modification of Art. 75 R.R. in 1906, a special commission studied this matter and has published a number of projects to which, however, no sequel has been given. Later a further draft for a general civil code was made, which contains valuable material and very interesting considerations in its explanatory introduction [1]). But the Government has again hesitated to take decisive steps which, of course, is as much applauded by one side in this delicate controversy as it is regretted by the other [2]). Prof. Alting in general declares himself in favour of unification in the sphere of penal law because it concerns public law, in which the interests of public order may demand equal norms. He would not even object in principle to the application of this principle to procedural law, where codification has already long existed, because this would give to all parties the same guarantees of an impartial expert jurisdiction. According to him, however, private law is in an entirely different position, because it has to regulate the relations between private persons. Here, it is true, the general interest must be considered, but the basis of positive private law remains, according to him, the legal need and the consciousness of justice of the persons that are concerned. This distinction, however, is by no means generally accepted. A few quotations from Mr. Enthoven's study have already been given

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[1]) Project of a Civil Code for the Dutch East Indies applicable to all groups of the population, with explanations, 1920 (published 1923).

[2]) Van Vollenhoven, "*Kol. Stud.*" 1925, p. 293 *sqq.*

to prove that a unified procedural law would at present be in greater danger of the reproach that it cannot give the Indonesian justice in the way which his sense of justice expects, in short that the procedure which, according to Western conceptions, aims at an increase of order and of security of justice would rather create upon the indigenous population the impression of uncertainty of law and perhaps even of injustice. In the same spirit, Prof. van Vollenhoven pointed out that the ending of inequality at law in the sphere of public law and its maintenance in the field of private law (including agrarian law) would only be justifiable if inequality of law were an abomination in public law and something natural in private law. But, he says, the delimitation does not go that way: "Even in the sphere of public law inequality of law is continually needed". The professor, of course, means differentiation.

The point of view of the Government has already been given. It does not wish for an aprioristic criterion or for aprioristic delimitations, either for law and the administration of justice or for administration, education or taxation, and it does not hasten to introduce codification unless this appears likely to increase certainty of justice. Its criterion wherever there are dilemmas and points of dispute is: the need of the different groups of population, of the Adat communities, the local circles, and so on, provided it agrees with the requirements of the frame of unity. This does not mean that it is already able in every direction to differentiate in the right way or to group people together in the right way. For its policy has not yet reached perfection. But its principle is true, and all that is needed is to apply its principle better in practice by using the lessons of experience and not by going out from a doctrinaire point of view.

While now the judge has still to base himself in civil jurisdiction upon the law of Adat, the validity of this law can be limited either as regards certain persons, by a complete or partial, an incidental or a silent acceptance of the law which applies to Europeans (Art. 75 section 3 R.R. old, and Stbl. 1917, 12), or by declaring the general ordinances issued for Europeans applicable, if necessary with some modifications, to the indigenous population or to a part of it (Prof. Alting, p. 191, sqq). In a number of cases use has been made of this possibility. Independent regulations of certain matters of private law for non-Europeans have also been

established, such as a regulation about coming of age (Stbl. 1917, 738).

At the close of this description of Government jurisdiction, we must point to the fact that since 1917 educated Indonesians are admitted to all judicial functions. Already in 1905, the Queen had given permission to express to the Government of the Indies her wish that no Indonesian who satisfies the legal requirements for occupying a judicial position should be excluded from it because he is an Indonesian (Bijbl. 6395). This declaration was the origin of the school for the training of Indonesian jurists at Batavia in 1909. The Government considered, indeed, that there was no reason why Indonesians should not be given judicial functions in the first place over their fellow-countrymen. Well-trained Indonesian jurists would perhaps be better able to do justice to the particular legal needs of Indonesian society than their Dutch colleagues. This law-school had two sections, one preparatory, forming the continuation of an elementary European school, one juridical and both with a course of study lasting three years [1]). In 1924 an Academy of Law was established at Batavia, as a result of which the law-school for Indonesians could gradually be closed (General Report on Education, 1926, I. p. 260).

We can now take our leave of the subject of government jurisdiction in the Dutch East Indies. We have been able to observe its gradual growth and its improvements, and its organisation, which is continually more satisfying. We have also seen how the judge has received indispensable support from a collection of law codes; we have seen how dualism or pluralism in the judicial organisation, the law and the administration of the law have entirely turned in the direction of equality before the law, appointment to all judicial functions, unity of law, or differentiation according to needs; and how, in the endeavour to acquire the greatest possible security of justice, among other things by good laws of procedure and by the codification of private law, efforts have been made to abstain from over hasty steps and to keep close contact with indigenous conceptions, in so far as these are prepared to measure the security of justice by other criteria. Above all, we have seen justice lifting itself above political might, jurisdiction emancipating itself from being a means of administration, and

[1]) A. Neytzell de Wilde: "*Ind. Gen.*", Dec. 1913.

becoming exclusively a means to preserve the law. We can therefore now pass to an examination of indigenous justice left to the Indonesian population in directly administered territory and of the administration of justice in self-governing states.

Administration of justice in the Indonesian states

In the autonomous states where the general ordinances are only applicable in so far as they can be conciliated with the right of autonomy (Art. 21 I.S.), there is as a rule place for Government jurisdiction only over those who are not subjects of the states. As regards subjects of the states, government jurisdiction concerns only such definite subjects or cases as have been reserved for it in the long contracts or in the Indonesian States Rules. In Java, however, in the Javanese states, very little is left of their original jurisdiction (Stbl. 1903, 8; 1907, 516). By the side of the ordinary jurisdiction of the central Government and of its judicial organisation, one also finds in three of the four little states a few indigenous tribunals and courts for administering justice to highly-placed officials, relatives of the Rulers and their wives, while in the Sultanate of Djokjakarta there also exists the tribunal for settling agrarian disputes which are not at the same time civil matters, and also the Surambi, previously mentioned, which administers religious justice.

In all these little states the penal code and the penal regulations contained in other general ordinances are applicable. European private law is there also applicable in part to the indigenous population, in the same way as in the directly administered territory. For the rest, indigenous law applies, and all regulations are made by an edict of the Ruler (pranatan) [1]. In the Sultanate of Pontianak (Borneo) indigenous jurisdiction has also disappeared. In other states in the Western division of Borneo, it has become greatly restricted. At Manado and Ternate, it is in the hands of special Government tribunals (Rijksraad) which deal with penal

[1]) For Javanese Law and Justice cf. R. A. Kern in "*Bijdr. Taal-, Land- en Volkenkunde van N. I.*" 1927, Part 82, fascic. 2 and 3, and Raden Mas Dr. Mr. Soeripto: *Ontwikkelingsgang der Vorstenlandsche Wetboeken*, 1929. This author concludes his review of the highly promising development of the Javanese lawbooks which might have kept an Indonesian character of their own, notwithstanding Western influence, with a complaint about the abrogation of their own jurisdiction in the Javanese States in 1903 and 1907. See also *Stbl.* 1911, 569.

affairs, and at Ternate also with some civil matters. These tribunals are presided over by chairmen of the local Superior Indigenous Courts and are composed of chiefs of the states and of officials.

A few states have therefore lost a large part of their power of jurisdiction and all states have seen those matters which did not exclusively concern their own subjects withdrawn entirely or in part, and they have also lost jurisdiction over some civil and penal matters which have been drawn within the jurisdiction of the Government judges. Nevertheless, the lion's share has remained in the hands of the existing states. This jurisdiction is, however, by no means free from higher supervision. Art. 17 of the Indonesian States Rules says:

> "As concerns the subjects of the states, justice is given under the guidance and the supervision of the European administration, and, taking into account the rules given in this ordinance [1]), in the regulations made by the states, and in the rules which have been made by the head of the regional administration, or which he may yet make, in regard to the interference of the European administration with this jurisdiction, and in accordance with the religious laws, popular institutions and customs, in so far as they are not incompatible with generally recognised principles of fairness and justice."

Section 2 mentions the cases and subjects which are reserved for the tribunals or judges of the central Government. Section 4 requires that all sentences condemning to loss of freedom for more than one year or fines of more than 100 guilders must be submitted to the Resident or Governor before they are executed. This chief can then make such modifications in favour of the condemned as seem equitable to him.

He can also annul a sentence and order the re-trial by an indigenous tribunal with other members. He has the same powers concerning sentences of less than one year or one hundred guilders, as long as the sentence has not yet been executed. In civil cases this administrative head has similar capacities. If one of the parties requests it, a judgement concerning matters in dispute of a value of more than 100 guilders cannot be executed before it has been approved by this chief. In this case, the annulment of the

[1]) This does not really apply to an ordinance but to a regulation by Governmental decree (Van Vollenhoven, "*Kol. Stud.*" Oct. 1928, p. 2).

judgement and the re-trial of the case are also permissible. The chief of the administration, however, possesses these powers only in cases where an appeal to a higher Indonesian judge or tribunal is not possible. Furthermore, the Governor-General can exercise the prerogative of pardon in the case of a sentence imposed by indigenous judges, while the penalty cannot be applied before the Governor-General has had the opportunity of using this prerogative.

It appears, therefore, that this indigenous justice is under strong Government influence. It is not only that the administrative chief is allowed to interfere, but also that there is guidance and supervision of the administration, and furthermore that judiciary and jurisdiction may be regulated by Residential decrees or ordinances; while finally penal and private law may not be in conflict with generally recognised principles of fairness and justice. The chairmanship and the supervision of local administrative officials, to whom sometimes the power to judge has been given, must be considered as the real and regularly applied means for exercising influence upon the administration of justice. This influence can, of course, have less desirable effects, and it re-kindles again the grievances against administrative interference. Personal qualities are, in this respect, an important factor over which the central Government never can have a complete say. On the other hand, guidance and supervision have been and are absolutely indispensable to an honest administration of justice as well as in the interest of the development of Adat law which may be allowed in no circumstances to stand still or to become rigid if it is to remain of value for the future.

We shall now give a short sketch of a few regulations of the system of justice in different Indonesian states, in order to make the existing situation as clear as can be. We shall follow Dr. Mieremet's useful study [1]). A few examples taken from his description of the arrangements in Atjeh and the Deli-Dusun, where the Batak population is under the jurisdiction of the Sultanate of Deli, and finally in Celebes, are sufficient to typify the great diversity of this indigenous judicial organisation, of which an exhaustive description would require a volume. "The Atjeh judge can be represented fairly precisely", says this author.

[1]) A. Mieremet: *De hedendaagsche Inheemsche Rechtspraak in Ned.-Indië en haar regeling*, 1919.

"The so-called musapat-system consists in a double organisation [1]), on the one side a tribunal (musapat) and on the other hand a judge who sits alone (a district chief, the head of a state, or the chief of a Gajo family). In the divisions of Great Atjeh and in the sub-division of Singkel, which have been annexed while the remaining part of the territory is autonomous.... there is a musapat in every sub-division [2]). It is presided over, and not merely guided by, the head of the administration of the sub-division, who is either an administrative official or an officer. The Assistant Resident of Great Atjeh may preside over every musapat in his division, while in his absence the Governor provisionally appoints an acting chairman. The chairman directs the proceedings and has an advisory vote. This is why the name of leader would apply better to him. The tribunal is composed of the district chiefs (ulèëbalangs) of the sub-division which forms the province of the musapat.... The Governor may also appoint other important Indonesians as members of the tribunal to sit together with the official members; while he has at the same time the power to suspend members for a definite period provided he gives his reasons. This is undoubtedly an important arrangement.

The musapat is assisted by an indigenous public prosecutor, a function that is fulfilled by the clerks to the administrative officials of the sub-division. They are placed under the guidance of these officials (i.e. therefore of the chairmen). Their task is to investigate and prosecute all offences; the Dutch president can, therefore, directly influence investigation and prosecution. At the session of the tribunal they give their advice as to culpability and penalty. There is also present at every session a Mohammedan scribe or ulama (see Bijbl. 3775, p. 313, and for his salary Stbl. 1909, 332). He is appointed by the Governor. He has an advisory vote. We see that the unsatisfactory stipulation of Art. 7, Judicial Organisation, has been followed for indigenous justice. The arrangement by which the musapat meets at the official residence of its president or at such other places within his jurisdiction as the president judges necessary, must also be approved, because it gives the tribunal mobility. A session is only legally valid when the president is present with at least three members and the ulama. In penal affairs, the presence of the indigenous public prosecutor is also necessary. The district chief (ulèëbalang), each one for his own administrative province, settles minor cases and sits alone.

[1]) This is also the regulation of judicial competence that exists in other regions. There is a higher general judge and a lower exceptional judge for less important matters.

[2]) For Indonesians in Atjeh there are therefore three kinds of jurisdiction: Government jurisdiction (*Stbl.* 1881, 82; 1909, 207; 1927, 227, 235); Indonesian jurisdiction which has been "left" to the population in annexed territory (regulated *i.a.* in *Stbl.* 1881, 83, 1904, 472), and jurisdiction of Indonesian States (regulated *i.a.* in *Stbl.* 1904, 473; 1916, 432).

For the Government of Atjeh (c. f. Stbl. 1916, 432; 1918, 481; 1925, 81), outside the division of Great Atjeh and the sub-division of Singkel (this part is in its entirety autonomous, and comprises 103 small states), a musapat arrangement which is practically equivalent applies. There is one musapat for the division of Alaslands and one for every sub-division. It is presided over by the chief of the division of the Alaslands in the first case, and by the chief of the sub-division in the latter. The administrative chiefs of the other divisions have the power to preside over every musapat within their own jurisdiction. The tribunals are composed of the heads of states who have signed the 'short declaration'; while the Governor has the power if necessary to appoint prominent persons belonging to the indigenous population as additional members. The function of indigenous public prosecutor is performed by the indigenous clerks to the chiefs of divisions and sub-divisions. Judges who sit alone are, in the Alaslands, the chiefs of the states; in the other sub-divisions the chiefs of districts or, in their absence, the chiefs of tribes (families). The Governor decides which Indonesian chiefs can be considered to be district chiefs or chiefs of families. From other points of view this arrangement does not differ from that previously described" (p. 24—26).

From all this, one can well understand to what extent the central Government and the Residents or Governors and heads of divisions and sub-divisions can influence indigenous justice. One can see, at the same time, that in the Government of Atjeh indigenous justice in the self-governing states agrees on the whole with that which has been left in directly administered territory to the population (Stbl. 1881, 83). Art. 14, Stbl. 1916, 432, for instance, says that Adat law, even in these states, may not be in opposition to generally recognised principles of fairness and justice. Also that tribunals and judges must, as regards procedure, take into account as far as possible what is prescribed in this connection in the regulation of the system of justice for Atjeh (government justice)[1]) concerning the Superior Indigenous Court and the Magistrate's Court. Mutilations, judgement of God as evidence, are forbidden, while the penalties of the penal code are prescribed as much as possible.

The difference between indigenous justice in autonomous states and in Government territory consists in such cases in the circumstance that in these states it is a part of the government

[1]) *Stbl.* 1881, 82; 1909, 207, withdrawn in *Stbl.* 1927, 227, art. 1 sub. 7; art. 14 of *Stbl.* 1916, 432, which refers to Government courts' procedural law agrees with art. 14 of *Stbl.* 1881, 83 concerning jurisdiction left to the population in annexed Atjeh territory.

power of semi-independent units and that as such, it excludes administration of justice organised by the central Government; while the higher tribunals in directly administered territory are usually not organs of Adat communities, but are composed of individual popular chiefs or officials. Furthermore, this jurisdiction, which has been left to the population in annexed territories according to Art. 74 R.R. (130 I.S.), must be considered there as an exception to the rule that justice is given "in the name of the King", while in the states it places government jurisdiction in an exceptional position.

This organisation for Atjeh is contained in various ordinances which have sometimes been submitted for approval to the Crown and in regulations made by the Governor of Atjeh, so that no regulations of the states could be permitted (Cf. Art. 14 sub. S; Art. 16, section 1, Indonesian States Rules). On the East Coast of Sumatra, however, where a few important states are situated which have a long contract, extensive regulation of indigenous justice has been laid down in states ordinances, which are all drawn up in agreement with the Governor. We find here examples of a more complicated judicial organisation which, for instance, shows a hierarchy formed by about five judicial authorities for the Bataks of the Deli-dusun, in the Sultanate of Deli.

> "As (c. f. Dr. Mieremet, p. 32) the lowest functions the Panghulu (or village chief) assisted by his anak beru and his senina [1]). Then, the Head Panghulu (or chief of a ruling village) who in his own village acts concurrently as Panghulu. Both administer justice as judges who sit alone. The Kerapatan Kitik or Balei forms a board, of which there are two in every urung (village league) or province, one for the upper and one for the lower regions. They are presided over by the perbapaan (principal headman) who is also a member of the kerapatan dusun.... Together the headmen of both baleis in every urung form the kerapatan urung (provincial tribunal). In case of legitimate absence, their place can be taken by their anak beru or senina (guarantors). The chief of the urung is chairman, and if he is legitimately absent a headman is appointed by him in agreement with the Controller for Batak affairs. He sees to it that the members are called up in time and determines the place and the time of the session in agreement with this Controller. Decisions are taken by a majority of votes and the chairman has a casting vote.

[1]) Cf. an interesting description of the society of the Karo-Bataks by W. Middendorp (edited by Schrieke in *the Effects of Western Influence*, p. 51).

"A Panghulu balei, to be appointed in agreement with the abovementioned Controller, assists the urung headman as Djaksa (Indigenous public prosecutor). His presence is necessary in penal affairs for the session to be legally valid. The Controller for Batak affairs must always be invited to be present at the session. The highest judicial power in the whole dusun is exercised by the Kerapatan Dusun. It consists of four urung headmen and of the principal perbapaans of the upper and lower regions and is presided over by the Sultan of Deli or his representative. He determines the place and the time for the meeting in agreement with the Controller for Batak affairs and sees to it that the chiefs and the parties concerned are called up in time. Judgement is rendered by majority of votes and the chairman has a casting vote."

The author continues his sketch with a description of justice in the autonomous Karo-Batak States (sub-division Karo-Lands) which in the main coincides with the system already described, and into which we need not therefore enter. It may be mentioned as an interesting point that these states are joined together into two groups in order to make possible the formation of a higher court for such a collective territory. It is sometimes highly desirable that a common peak should arise above the small miniature states and the principle has also been followed as much as possible elsewhere.

We must now allow Mr. Middendorp to speak (p. 56 sqq.), so that we may acquire an idea of Western influence upon the situation as it used to exist previously.

"In the time of their independence the jurisprudence of the Karos was regulated in the following manner. At the sittings of the village court, the assembled ward chiefs (assisted by the anak beru and senina) of a village decided all lawsuits of their villagers so that they administered justice both in the smallest civil cases and the greatest crimes. The decisions were taken, as in the old Polish diet, only by unanimous vote. Punishment, even in murder cases, consisted of fines, the payment of which could be enforced by confinement in the stocks. If the parties concerned in a lawsuit belonged to different villages, justice was administered by all the ward chiefs of both villages at a joint sitting, which was not held in the court house of one of the villages but in the open field. In some cases the lawsuits fell under the competency of the court of the village union.... As the administrators were also the judges, it is obvious that the Netherlands Indian Government, while it was making drastic changes in the administration, separated the existing judicial authority from the executive power. This was again a

necessity which could not be avoided. It was obviously impossible to allow, even under control, the rulers in 250 villages to pass judgement on all the crimes of their subjects including murder and manslaughter. Good supervision from above to guard against abuse of power was absolutely necessary, now that an unfairly punished or injured party had no longer recourse to the highest tribunal — the decision of war. It is true that in the olden days great injustice was done by means of these wars, but at the same time the declaration of war had a certain amount of preventive influence.

"In the olden days it was in the interests of the headman to administer justice to his people, as otherwise he was in danger of violence or of losing their recognition of his authority, which was dependent on the number of his followers. On the establishment of the Government his authority was no longer dependent entirely on his own people, but primarily on the central authority above him. The source of authority was now different as was also the juridical relation. Now that it was no longer possible to maintain 250 village courts with equally complete jurisdiction without control, it was necessary to invent a control system.

"The 250 existing village courts were retained, but their competence was limited in civil suits to cases which did not involve more than *f* 25 — and, in cases of violation of police regulations, where the fine did not amount to more than *f* 4. Appeal against their sentences was allowed to the village union court, which as we have seen previously only administered justice in special cases, but which now decided in the first instance all civil lawsuits up to an amount of *f* 75 — and all criminal cases in which the fine does not exceed *f* 25. Further five new local courts were instituted, whose competence in civil cases is limited to *f* 150 — and in criminal cases to *f* 60 — fine, and one court for the whole of the subdistrict which decides all civil lawsuits above *f* 150 — and crimminal cases where the punishment exceeds the above mentioned figure. In these four steps of the jurisprudence appeal is always allowed to the next highest court.

"We see therefore a change in the judicial organisation of the Karos which became necessary owing to circumstances, but which left the Karos in possession of their own jurisprudence, so that they were subject to a law which they understood and which, according to their unwritten adat, was just and fair; the only exceptions were the principles of fairness and justice which made it possible to substitute imprisonment for the fine in cases of serious crimes and for the barbarous penalty of the stocks. The fines even for the more serious offences were not unjust in the olden days, but they became unjust as soon as money assumed a different value and produce economy made way for money economy. Previously money fines were fair, but with increasing individual

inequality, they resulted in unequal justice.... The judicial consequences of placing anyone in the stocks is the same. We now regard that as a very barbarous punishment, but in the old Karo society the enforcement of the payment of fines and debts by placing the debtor in the stocks was good or rather useful and necessary in order to maintain the Karo society. In the new social world this measure was unnecessary, in fact it was an evil, now that its organisation can and must make use of another means — the prison. ....Judges must be salaried. What was the position in the old community? The fines which were imposed were for the judges, who were therefore directly interested in seeking out and settling criminal cases: also in lawsuits for debts they received a tenth of the value in dispute. This system was allowed to remain and it was not until 1920 that fines and table money were deposited in the districts funds and the judges were paid fixed amounts for their services."

This summary gives much matter for thought to the reader. It enables him to form a picture of the deep social changes that have taken place in such simple and highly divided small societies, when the magical wand of the West touched the walls behind which hostile isolation was hiding, and made them crumble into dust. The same hand must then intervene to develop the old morality into stronger growths and to lift up the indigenous cultural possessions to a higher plane. And it is good to see how the Government and its right arm, the administrative corps, are able to point, notwithstanding a number of mistakes with which they are reproached either rightly or wrongly, to numerous instances which bear witness to great adaptation, to wise self-limitation, but also to conscious intervention whenever a widening of the horizon, a heightening of the zenith, and a development of the personality as its result made this imperative.

The establishment of a judicial hierarchy over the ever widening circles is one of those measures of which the significance is incalculable, because, most of all, they lead self-satisfied exclusivism into a broader sphere of experience, social morality, and sense of justice. Numerous considerations could still be attached to these influences that are working on in silence, all of which can be traced back to these regulations covering judicial organisation, the delimitation of competence, appeals, penal stipulations, division by majority, rules of evidence (such as the exclusion of trial by ordeal), rules of procedure, etc. In view of the fact that the whole

first volume was consecrated to this aspect of the case, we need not go deeper into it at present. Everyone should try to be a judge for himself and to realise by the description of facts, measures, and circumstances what are the internal causes, consequences, and social changes which must be detected inside this process.

Let us finally glance towards the system of justice as it has been organised in thirty-one, which is the larger part, of the autonomous states of the Government of Celebes. An impression as to the variation in this indigenous justice will then be conveyed as fully as the sketch of government justice tried to do. Dr. Mieremet says (p. 38):

> "The thirty-one states in the Government of Celebes and its dependencies have regulated indigenous justice in their states by means of identical States' ordinances, which have been approved by the Governor, by decree of July 25, 1910, and which contain executory stipulations completed by a decree of September 30, 1910. The ordinance determined that the administration of justice lies with judges who sit alone, and with indigenous tribunals. The first are to be appointed by the Governor, who has made use of this power by deciding that heads of sub-divisions or the civil commanders, or the officers in command of detachments, will fulfil this function, upon the understanding that the chiefs of sub-divisions will always remain qualified, if it is desirable, to perform the function of sole judge in definite circumstances. They must always be assisted by the headmen of the kampong (village) of the accused. This shows as clearly as was the case in Tapanuli that the words "a population to which has been left its own system of justice" do not prove that the system of administering justice as it existed under the old Adat law still fully remains, for the task of the administrative official has not remained limited to giving guidance and exercising control. No, the decision in the lower court is his, and the situation before European interference cannot possibly have been what it is now. It is therefore incorrect to talk of continuation.
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> "The case of higher indigenous courts is altogether different. They are established in the capitals of every state, and furthermore wherever the Governor considers it necessary. He has the power to determine the jurisdiction of every court. In a state that does not contain more than one sub-division, one indigenous court is established. If a state contains more than one sub-division, there is one in every sub-division. It consists of the Ruler of the state, the members of the hadat (state council), and of those grandees who are considered to belong to the hadat, as well as other persons whom the Governor may wish to invite to participate. (The hadat is the

council of prominent grandees of the Native State, with the Ruler as the first among his equals). The chairman, who is to be appointed by the Governor, is the chief of the sub-division; while, if necessary, with the agreement of the Governor, the chief of the division can act as chairman. He directs the proceedings and has an advisory vote (it would therefore be better to call him a leader), and he has the right to call upon experts when he judges it necessary. In so far as circumstances permit, he is compelled to do this when accused or defendants belong to a group which is not represented on the tribunal. The function of indigenous public prosecutor is performed by the highest salaried indigenous clerks to the chiefs of sub-divisions. The indigenous courts sit as often as their chairman judges necessary, at his residence or elsewhere within their jurisdiction, if they think it necessary. The Governor can suspend members of the indigenous courts for a certain period and has the power to appoint in special circumstances persons who can sit upon the tribunal for the trial of a definite case."

The judicial organisation, the powers of judges and tribunals in self-governing states, the law of procedure, supervision, execution, etc. are regulated in ordinances, regional decrees or circulars, in states ordinances, drawn up in agreement with the Governor, and in executory regulations made by him, so that Western influence is not less decisive in the field of regulation than in that of supervision and guidance of justice. As regards the law of procedure, there is sometimes (e.g. in Atjeh and Celebes) merely a reference to what is prescribed in the regulation for Government Superior Indigenous Courts and Magistrate's Courts in the directly administered territory, with this restriction, that no negligence of some formality can legally entail the annulment of the judgement. Dr. Mieremet characterises the procedure as prescribed for these indigenous courts as a watering down of the Western law of procedure, a thinned-out solution of the regulations for the administration of justice originally only meant for Government jurisdiction.

The endeavour to strike a compromise between Adat procedure [1]) and the procedure prescribed for Government justice amongst the indigenous population is displayed also in the Indonesian states ordinances or regulations of Residents or Governors, although they preserve better the features of Adat law. The regulations of the Government are in their turn a compromise between

[1]) Cf. B. ter Haar, *Het Adatproces der Inlanders*, 1915.

Western conceptions of guarantees of certainty of justice and of indigenous simplicity. As concerns penal and private law, Adat law is in general valid, with different and sometimes very important deviations and additions which result from the application of general, regional, and local ordinances and of regional police regulations. But Adat law may not be in conflict with generally recognised principles of fairness and of justice. Sometimes also there is a reference to the penal code, in order gradually to introduce modern penal principles and ideas about extenuating circumstances, complicity, and lack of responsibility.

There is a great variation in all these regulations. By the side of states which have preserved little or no jurisdiction of their own, there are others which preserve their own jurisdiction, but for which the Western penal system and Westernised procedure have been held out as an example, either for the whole field of jurisdiction or else only for higher tribunals; while finally there are other states where a considerable amount of Adat procedure, and penal and private Adat law, are still applicable. Then there are states in which the administrative official acts as a decisive and sole judge, or as the chairman of courts; while in others none of the government officials have the right directly to interfere with indigenous justice. But however much and according to circumstances the form of higher influence may vary, sufficient contacts have been established for it to be able to stimulate an important portion of the indigenous cultural possession and the living organs which belong to it, in order to make them unfold and function in the way demanded by present-day and especially by future requirements.

The moot question whether the government and the administration are not exercising too much influence will not be discussed here. Some people think it is the case; others do not, and still others believe that the best thing for the population would be the immediate introduction of government jurisdiction into the whole Dutch East Indies. Debates such as this are too often marred by one-sidedness, which results either from a disregard for the remarkable changes that have taken place in indigenous societies, or from a disregard for the differences which continue to be very considerable between Eastern and Western society. It is undeniable that in this immense sphere a large opportunity remains of enriching indigenous law and at the same time serving justice in a

better way than used to be possible. The fact that the Government has left administration and jurisdiction in the same hands in these circumstances must be looked upon in the same light, and will undoubtedly be understood after the introductory remarks of this chapter. We have yet to consider indigenous justice where, notwithstanding the annexation of territory, it has been left to the population, as a result of practical considerations, whereas it has been left to autonomous states as part of their semi-independent status [1]).

Indonesian justice in annexed territories

The Indonesian states occupy more than one-half of the islands outside Java, which themselves cover more than 90 per cent. of the Dutch East Indies. Therefore, with the exception of a few states where government jurisdiction has been introduced, almost one-half of the Archipelago has been left in the enjoyment of its own jurisdiction, as is the case also in the remaining half, which has indeed been annexed but where the latitude given in Art. 130 I.S. has assured a similar privilege to the population in not less than fourteen out of nineteen Residencies (either entirely or for some part). In Atjeh, as we have said, there is no real difference between the system as applied in government and Indonesian states territories. In Celebes also, the system is practically the same in both territories. In Palembang, Djambi, and Bencoolen, the whole indigenous population outside the capitals enjoys its own jurisdiction, and this is also true in the recently established Government of the Moluccas, except a few islands (Ambon, Ooliassers, and the Banda group) and also in a large part of Bali and Lombok. One sees, therefore, that the Government has convincing proofs showing that it is in earnest when it speaks of respecting as much as possible all that is indigenous, although, on the other hand, it must be admitted that various grievances of the friends of Adat were justified and have perhaps given rise more quickly to a decision in favour of Adat law. The hesitations of a Government in the dilemma between abstention, unfolding, expansion of the

[1]) For village justice in the Indonesian States *cf. Stbl.* 1930, 25, which shows the interest of the Government in living Indonesian Adat organisms and their functions.

indigenous legal sphere, or restriction, are quite understandable. Moreover, it must be remembered that government jurisdiction (District judges, District Courts, and Regency Courts) in its lower layers still breathes so much of the indigenous sphere that the lower tribunals can be considered to a certain extent by the population as its own trusted organs.

If, however, one analyses this indigenous justice in directly administered territory, it appears again that no small part of it is in reality a creation of the Government. The Government, as we have already explained, sometimes used to place over various small states a collective higher judicial board; in the same way, in the annexed territory the small communities based on Adat law or their groupments have been organised under judicial organisations, the tops of which often dominate a wider circle than had been known by Adat law. And for this reason the Government has had to regulate more in these spheres that go above or outside Adat law than would have been necessary within the smaller regions of the traditional Adat circles [1]). It is for this reason that some critics characterise this jurisdiction as pseudo-indigenous or as simplified Government justice, whereas in reality "in the lower layers the judges who sit alone and village justice usually strongly recall the ancient indigenous justice with its roots in popular institutions and custom" (Mieremet, p. 3).

As regards village justice, this still exists in the whole of the Dutch East Indies. Dr. Mieremet, however, on page 9 points to the fact that most authors dealing with indigenous justice understand by this such justice of the Indonesian population as has been explicity preserved. But an implicit respect for this justice is, according to him, of equal value. The so-called village justice of Java and Bali would have to be considered equally as indigenous justice, and not merely as amiable arbitration and disciplinary justice, although its basis is only a situation in fact and not an explicit preservation. This conception, by the way, is by no means universally accepted (cf. Articles 25, 26, I.R. and Bijbl. 7246). From Dr. Mieremet's point of view, almost the whole of the Indies and even the whole of Java therefore up to the present day still

[1]) The population has often continued to take its litigation before the heads of the old Adat communities, with the result that it is felt desirable to recognise and to regulate this popular jurisdiction which has still a great significance in the minds of the population.

possesses indigenous jurisdiction in the form of a village justice for which the higher authorities have but seldom made any regulations.

Prof. Alting says about this matter (p. 287): "We have already spoken several times about village justice when we dealt with village legislation and village penal law. The way in which this justice is administered is, as long as any regulation from above and by law is still lacking, altogether left to village institutions. And the same thing applies to the execution of eventual village judgements. The organs of the central Government or of provincial and local governments will have to respect the contents of these judgements, for their validity at law, as has been already explained, cannot be doubted."

We will merely state the fact that village justice is still universally in existence. We can then note that wherever indigenous justice is maintained upon the old footing, as has happened in the regulations of the system of justice of Bencoolen, Palembang, Djambi [1]), village justice may be considered to be included under this terminology, so that it possesses a specific legal basis even if specific regulation was not made. As has already been stated, it is not intended to allow village justice to continue indefinitely without supervision or regulation. It will be regulated and made to fit into the judicial system [2]). In view of the fact that further definite steps have not yet been taken in this direction, we cannot say anything more about it.

Higher indigenous justice, on the contrary, has been, as a rule, explicitly preserved by crown ordinances and by ordinances or by regulations and circulars of Residents or Governors. Regional regulations especially are sometimes of great importance, as Prof. van Vollenhoven remarked, for instance, in the Residencies Djambi, Palembang, Bencoolen, where indigenous justice covers almost everything outside the capital; there, they constitute the actual regulation of justice and as such have far more significance than the official regional regulations for Government justice. There, too, the guidance of indigenous tribunals is as a rule en-

[1]) *Cf.* art. I of the judicial regulation for the other isles (*Stbl.* 1927, 227).

[2]) Apart from conciliatory arrangements by civil village jurisdiction, there is an internal disciplinary control (cf. artt. 26, par. 7, and 33 par. 8 of the Project Ordinance in the recently published final report about dessa autonomy for Java and Madura, 1929, p. 75 and 77).

trusted to the members of the administrative corps and jurisdiction is strongly influenced both as regards procedure and penal system by regulations regarding procedure in Government Courts and Government penal law. Supervision and sometimes the sanctioning of sentences is left to the Resident. The members of these judicial boards are, however, almost always Adat chiefs. In describing the judicial organisation of the Indonesian states, we showed that this agrees in many respects with the system that exists in Government territory, in so far at least as indigenous justice has been preserved there. It is not necessary, therefore, to stop at this in detail.

Let us point to a single example: to Bencoolen. In this Residency, indigenous justice (Stbl. 1880, 32; 1912, 450) was preserved outside the capital upon the same footing, i.e. inclusive village justice. Later, no minute regulations followed, but the subsequent Residents gave repeatedly all kinds of instructions to the leaders of the tribunals (rapats), who were administrative officials, instead of regulating the whole subject in one comprehensive decree. In view of the fact that successive Residents could not always agree in their views, it is clear that this was likely to give rise to confusion whereby the confidence of the population in this justice, which was considered to be its own, was liable to diminish. Prof. Alting points out (p. 301) how in 1917 the indigenous population of Bencoolen strongly urged the introduction of genuine Government justice instead of its own. According to the author, this desire, and similar wishes which one sometimes meets elsewhere, is based upon the wish to be delivered from the continually changing regulations of Residents in order to share the guarantees offered by Government justice, especially because the latter gives the opportunity of appeal.

Dr. Mieremet draws a picture of indigenous justice in the Residency of Bencoolen which we summarise (from his pp. 28, 106, 129 sqq., 189). There is a great Rapat (tribunal) in every sub-division, of which the Controller is the leader. He has to be present to the end of the session, but has no vote in determining the guilt or the innocence of the accused and in determining the period of punishment. As members, there are at least five chiefs of margas and independent chiefs of pasars, or, if there are none such, village (dusun) chiefs who are fitted for the work. The marga is a union of

villages, in fact it is a territorialised tribe. Pasars are autonomous village communities, originally ordinary villages which have developed and whose headmen have eventually become equal in rank with the headmen of village unions, the so-called pasirahs or marga-chiefs. Village chiefs (dusun chiefs) become members of the tribunal if there are not sufficient marga and autonomous pasar chiefs, and if Adat does not forbid the membership of these particular chiefs. As lower tribunals are mentioned, apart from smaller rapats, the village rapats (marga and dusun) consisting of a few headmen.

The former Residents' circulars are considered definitely illegal by this author. Prof. Alting, p. 296, also doubted, in view of the limited legislative capacity of the Resident, whether the very frequent regulations made by regional administrative chiefs could really be deemed to be legal. As has been remarked before, a draft ordinance for the regulation of indigenous justice in directly administered territory was presented on June 11, 1928, to the Council of the People, with the aim of meeting these just grievances and wishes, and of "normalising and legalising" the system which has grown up in practice. The draft upon which constructive criticism has been exercised from various sides is still under debate, but it may be hoped that within a short time a more satisfactory regulation will have been established [1]).

As a result of a re-organisation of the district and sub-district administration in the islands outside Java, especially after 1912, many Adat chiefs had to transfer their function as administrative officials to the new organisation which had been established in the form of a modern Government district administration. By this process they lost their former share in Government jurisdiction and the exercise of police powers, and sometimes, in regions where indigenous justice had been maintained, their share in the latter [2]).

One also hears two opinions about this administration of justice which in many respects raises similar problems to those created by the administration of indigenous justice in self-governing states. Prof. Alting, p. 301, summarises the difference between indi-

[1]) Van Vollenhoven "*Kol. Stud.*" Oct. 1928, p. 1 *sqq.* Ter Haar, "*Ind. Tijdschr. van het Recht*", Vol. 128, fasc. 3 and 4, 1928. Sessional Report of the Volksraad, session 1928—29, subject 25, piece 5.

[2]) Cf. Heslinga *op. cit.* p. 26.

genous and government jurisdiction in government territory as follows:

> "Difference in the applicable material law; greater freedom in indigenous jurisdiction in the method of procedure, but less guarantee of exactitude and impartiality; the frequent lack of opportunity for appealing to a higher judge, as exists in government justice, a lack against which administrative supervision cannot sufficiently provide; and, furthermore, the fact that a legal obligation to execute indigenous sentences by government authorities would seem to be lacking."

He concludes this summary by saying that the maintenance of indigenous justice in directly administered territory appears to be continually more unjustifiable.

> "The apparent advantages which are still connected with it, quick justice (which is in fact often absent), lack of formality, freedom of the judge to look for the real facts instead of having his hands tied by the form of the demand received from claimant and of being forced to adopt an unsuitable procedure: all these are advantages of a negative kind which exist only so long as government jurisdiction has not yet entirely adapted itself to the needs of those to whom it must apply. As against this, however, there are positive disadvantages which must be considered to weigh more heavily than the opposite advantages: jurisdiction by chiefs often not without consideration of the person, lack of really satisfactory expert control, lack of absolute certainty of the integrity of the indigenous judges — disadvantages which will always to a greater extent exist in indigenous than in government justice. A satisfactory solution of this problem resides in (*a*) purifying government jurisdiction from defects by abolishing all unnecessary formalism in so far as it still exists and (*b*) the introduction as far as possible of government justice where it does not yet exist."

An opposite point of view is expressed in the "attempt at a constitutional organisation for the Dutch East Indies" by the Oppenheim Committee (1922) which considers that indigenous jurisdiction ought to be preserved, and ought to be regulated in the same way as government justice. The Professor, however, wonders whether the consequence of this opinion would not be that everywhere direct government justice ought to be introduced. For the great advantage enjoyed by a population remaining under its own institutions would, in his opinion, have been lost already if such government regulation were introduced.

We see therefore our best experts, whose scientific capacity to judge and whose irreproachable impartiality are universally recognised, giving entirely divergent opinions, and this in a matter of such fundamental import. This does not make the task of the Government any easier, especially when it has to act and when its representatives have to act, without always being able to wait until the debate has been settled. Perhaps the method of testing the solution of the dilemma in practice may yet prove to have been the best way of escaping from the maze, although this is a method that has more than once failed to stand the test of the criticism of our very severe Dutch jurists.

In future, practice must none the less be permitted to pronounce a decisive word and regulation will have to limit itself to opening the road towards development. It would be a mistake to limit the choice to a policy of abstention in regard to indigenous justice or, at the other extreme, to the introduction of government justice. There is another way, a way which does equal justice to the truth of both equally correct points of view. This way prescribes the giving of a fair chance to indigenous law and justice, and this is the way which the Government wants to take. It wants to perpetuate this jurisdiction, to improve it by guidance and supervision, and to open it by regulation as regards general directives, to be completed in accordance with regional experience, for the same dynamic influences which have affected and which are modifying under our own eyes indigenous society down into its deepest being.

In this manner the Government is open to listen to every honest opinion, to every slowly-acquired experience, and attempts to walk the right road, earnestly endeavouring to assure to its millions of Indonesian subjects an administration of justice which tries to link up with the popular mind and which at the same time tries to attain to the highest summits of justice.

CHAPTER III

EDUCATION

Education as a social force

A dualism or pluralism similar to that which has been noticed in both the previous chapters in the administrative system and in the administration of justice can also be detected in the system of education. There are different schools with, as far as possible, teachers of the same group of the population as the pupils; there is different education and different inspection. Again, it would be a mistake to attribute this differentiation to racialism. Education has to fulfil a duty in different territories with very different groups and sub-groups of population, while the very different social activities of the Indonesian population, which is mainly agrarian, of the Oriental middle class (the Chinese, the Arabs, and the British Indians), and of the Indo-European group, the main part of which desires the closest connection with the Western leader class, would cause a uniform system of education to be out of touch with the structure of this peculiar society. Just as the administration of justice among the indigenous population must satisfy, as far as possible, its sense of justice, and must answer to its legal needs, education must adapt itself to the social environment from which it receives its pupils [1]).

But as administrative policy and administration of justice have a higher task than merely to adapt themselves like a chameleon to existing circumstances, which are not always in agreement with the universal criterion of human dignity, education also has to do more than be satisfied with the passive role of adaptation. It must not estrange the rising generation from an environment

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[1]) Cf. J. A. Jonkman: *Indonesisch-Nationale Grondslag van het Onderwijs ten Dienste der Inlandsche Bevolking*, 1918. This book exposes various shortcomings of popular education in the Indies; a large part of his wishes has since been complied with.

which can only be improved through the activity of these younger people. It must teach them to look a little beyond their immediate environment. It must also attempt to lift them up a little above what they see every day, in order that, without sterile self-elation, they may acquire the capacity of seeing the faults and limitations of their familiar circle. Only if they satisfy this double condition can they maintain equilibrium and be able to take part fruitfully in the many-sided development which the spirit of the time demands.

About 1900 Holland was still very far behind in this important direction. In India, Great Britain had half-a-century's start. This is probably due in large measure to the spirit of the system of compulsory cultivation which, like the Company, had written abstentionism on its banner and would only interfere if it expected profit from interference. Yet the arrears have been caught up fairly soon; while it must also be taken into consideration that the difference of time between the taking of serious steps in favour of popular education in the West itself and later in overseas territory cannot be called particularly large. As late as 1850 popular education in Holland was altogether unsatisfactory, and India, according to some people, had an organised system of education sooner than England itself. This shows that the West has usually hastened to give to its overseas subjects that which it has recognised as a blessing for itself. In the same way, Eastern countries have not been grudged the benefits of the painfully acquired social and political evolution of Western society and evolutionary influences were thus able to work almost contemporaneously in the West and in the East.

The irresistible Western predominance over the East, even before intellectual popular improvement had been undertaken in the West itself, shows equally how the organising force of Western expansion must not be sought in purely intellectual matters any more than the development of Eastern people of the future can be found there. The force of the West has been hidden in the wider horizon of an applied social sense of real citizenship, which must be clearly distinguished from the vision that, in quiet seclusion, can contemplate, throughout the world, a harmony of humanity as a whole, but is at the same time not strong enough to oppose the practice of life which accepts as its circle of social morality too small a sphere for it to be able to develop

into a social force. This is why our education will be of little utility unless it remembers, above all else, its social calling and unless it knows how to attune itself to all these small popular circles and intends firmly, by its applied morality and its active civic sense, to widen those circles. For education in this simple environment is a unique force from which almost exclusively must radiate that dynamic influence which reaches individuals in the West from hundreds of centres and develops in a sufficient number of them a social personality.

In the East, education has to do almost by itself all that in our countries is done by the influence of the independent monogamous household, religion, tradition, public opinion, social institutions, societies of all kinds, all of them generators of dynamic forces which would continue to radiate even if education were sterilised into an intellectual nourishment alone; in the East education is almost the only force, because environment often counteracts with dull inertia and uncomprehending traditionalism the other forces which might help to develop a wider social consciousness. In such an environment the task of the teacher is really entirely different from what it is in the West. This is not surprising if one remembers that an organisation like the East Indian administrative corps, which is not even needed in Holland because an army of social forces voluntarily fulfils its function, must remain in the Dutch East Indies the steel framework which makes construction possible.

We stand here before a social vacuum, before a lack of wide civic sense without which all construction on a large scale must be considered altogether impossible. Just as Western authorities embody the idea of unity in tangible forms of organisation, especially through their administrative services, in the same way education has also to be more than an instrument for intellectual nourishment. It has also to fill lacunae which are due to the existing social vacuum. Above all, the school must see its task as a social centre and as a nursery of social feeling. The smallest results which it can achieve in this direction amount to giant strides from the point of view of evolution; while a mechanical change from illiteracy into elementary knowledge does not carry society forward by one step. The stress, therefore, falls upon the social function of education.

Only when this point has been admitted will it be possible fully to recognise the indispensable blessing of an intellectual widening out: first of all by the disappearance of illiteracy, which definitely arrests progress at a certain point. The East itself has held this view for ages, and this is a fact which offers an excellent point of contact with the best educational views of our own time which, happily, want to re-instate the school as a social nursery. The thoroughly religious atmosphere of the school in old India can still be felt in Pearson's Shantiniketan, in the old schools of China and Japan, in the Buddhist schools in Siam, and in the Pesantren-schools in the Dutch East Indies. They all show the direction in which Eastern society was seeking expansion from its limitations and a strengthening of its suppressed social feelings. But the small social sphere in the East scarcely gave an opportunity for action to living spiritual forces. A force without field of action cannot function, and without functioning it cannot produce organs and make them grow into a powerful organism. On the contrary, the smaller the social sphere which a highly-divided society puts at the disposal of such a spiritual force, the sooner its organs will begin to atrophy.

The East has failed in this, and here lies the origin of its weakness. It had all the necessary love and loyalty within a small familiar circle and it had access to a wide spiritual sphere. But it refused to accept the width of this spiritual sphere as the frame of its social activity. Our education has first of all to fill this lack, but it must not lay a disrespectful hand upon the religious sense, the sense which, above all else, indigenous Eastern education was trying to develop, with the result that it gave insufficient attention to scientific and social sense. Our modern education, therefore, must develop the intellect and the sense of citizenship. In this way it will bring real Western gifts; at the same time, by a respectful attitude towards all things sacred, it must pay due regard to the innermost conviction which emerges from the content of the true old Eastern education. Then education will enrich without uprooting or destroying.

The following pages will convey the conviction that after much searching and experiment Holland has found for its constructive system of education overseas a foundation which will answer to the great demands that are made of it. As in all human work, there

are still many shortcomings. Our justifiable pride in what has already been established under difficult circumstances must be joined to the consciousness that time will perhaps yet reveal many failures and mistakes; while, after all, only a small part has been accomplished of the task which the Government took upon itself. Nevertheless, judging by the measure which world experience recommends now as the most trustworthy, it may be said that the organisation of education in the Dutch East Indies seems satisfactory from many points of view.

Its principle claim to appreciation is due to the fact that it possesses the suppleness of a living organism, strongly rooted in Eastern soil and consciously striving upwards towards the highest sphere of knowledge, science, wisdom, and culture, the sphere which absorbs all national spiritual life into the wide circle of international science and cultural development. In this chapter, we shall follow the growth of this plant, which was still so modest in 1900, in every one of its phases. The great problems of education will only be examined occasionally, because in our first volume we have already examined them most carefully, and the literature mentioned will give more detail to those interested.

Mohammedan popular and extension education

In another place we have already pointed in passing to the modest dimensions of education in the days of the Company, whether for the Indonesians or for the European colony [1]). During the period between the fall of the Company and the restoration of Dutch authority, the situation grew still worse. When in 1816 the Commissioners General landed in Java, even the European colony did not receive any government education. The East Indian Government Regulation of 1818 recognised the duties of the government in this matter, and opened the European schools in principle to Indonesians also. Government teachers were called from Holland, and a few years later the principal towns had government schools as well as a few private schools. Missions began to re-organise the neglected education of Christian Indonesians; while the instruction to Regents, by entrusting to them the super-

[1]) *Cf.* S. Kalff: *Indische Scholen onder de Oost-Indische Compagnie*, in series III, No. 4 of "*Onze Koloniën*", 1919.

vision of education, also showed a growing sense of responsibility on the part of the authorities. A few enquiries into the state of education of Indonesians proved that there was scarcely a trace of a general formative education. All that existed for the population was religious education in the so-called Koran schools and the Pesantrens, about which we shall say something more below [1]).

The very simple Koran education still exists to a large degree in the present day Dutch East Indies. All it does is to make the pupils recite the Koran in the Arabic text without insisting upon their understanding what they recite. At the same time, the children learn the right way in which to do ritual ablutions and the performance of the five daily devotions (sembahjang) in which the recitation of the Koran plays a large part. This instruction, for which a person more or less adequately equipped can be found in every village, is given in the prayerhouse of the village or sometimes in a specially constructed building (langgar), while those who are better off receive it at their homes, unless it is given in the verandah of the dwelling of the village religious teacher.

Many people, the most highly placed as well as the simple villagers, see to it that their children receive this elementary religious education. Sometimes the children are sent away from home in order to become more used to the religious atmosphere. They are placed in so-called pondoks, boarding schools of a very elementary kind, where they have to live more earnestly and under regular discipline and learn to recite and perform religious duties. They have to rise early in order to be able to take part in the first sembahjang between 4 and 5 a.m. The whole morning they have to read the Koran; and they are certainly not spoilt, as they have to cook their own rice, to cut their wood, and to clean the pondok. When the children of priajihs (the Javanese nobility) spend a few months thus among the children of the dessa, they learn much which can be useful to them in later life. From a democratic point of view, this is as useful an institution as are the elementary school and compulsory military service in Holland.

The method of this education, however, leaves much to be desired, as also does the equivalent popular education in other

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[1]) Encyclopaedia for N. I., artt. "*Pesantren*", "*Sembahjang*", "*Koran*", "*Islam*", "*Tarekat*"; *Cf.* Snouck Hurgronje: *Nederland en de Islam*, and *Verspreide Geschriften*, IV, I, p. 155 *sqq.*

Eastern countries. The description of a Koran school recalls the most vivid memories of the old schools in China. There also the children learned to recite simple school books based upon the classics, or parts of these classics, without any pains being taken to teach the children anything about the meaning of what they were reciting. A din of children's voices indicates to the stranger the place where the school is situated. The children have to sit down opposite the teacher in turn, loudly chanting under his direction what they have learned, while their comrades behind them imperturbably continue to rehearse for their turn.

We also find here the same obligation to be respectful towards the religious teacher as exists in China and really throughout the East. In certain regions, a special relationship continues to exist throughout life, especially if the children have received their first instruction in a pondok outside the place where their parents live. The reward of the religious teacher, as everywhere in the East, depends upon the means and the goodwill of the parents. Some children bring a small sum of money once a week, others pay nothing. Some parents make one total payment on the occasion of the kataman, a festivity to celebrate the fact that the child has read all the thirty chapters of the Koran. From time to time also small presents, food, etc. are brought to the master, while finally a religious tax (pitrah) is paid by the pupils, often throughout the life of the teacher.

Those who wish to receive more advanced religious education must go to the Pesantrens, the abodes of santris (pupils). They are educational establishments where pupils, collected sometimes from very distant parts, live together in order to apply themselves under the guidance of one or more masters, to the study of Mohammedan religious books. Sometimes they are so large, when the reputation of their masters has penetrated beyond the immediate surroundings, that they make the effect of a little village on its own. By the side of the houses of the masters and their household, one finds a smaller or larger number of small buildings (pondoks) where the pupils live under the supervision of an older pupil or of an assistant master. Usually there are also, apart from the school buildings, separate buildings, destined for the performance of devotions; while there are also barns where the rice and other provisions brought by the pupils are kept. Some pesantrens

are pious foundations, sometimes of former rulers who have then usually entrusted one or more villages in the neighbourhood with the care of the foundation, in return for which they were free from taxation and other impositions.

Study at the pesantrens aims exclusively at acquiring the sacred sciences of Islam: the law, doctrine, and mysticism as they are described in authoritative works on religion. In Java Arabic textbooks are generally used; elsewhere, usually Malay. In the former case it is necessary to take a preliminary language course. The studies last from two to ten years, sometimes even more, in accordance with the inclination and the intentions of the pupil. Those who study for a long time usually visit more than one pesantren in order to be able to enjoy the instruction of different reputed masters. Several of the latter have studied the holy sciences for some time at Mecca under the guidance of compatriots who have settled down there or of Arabic masters. Study in the holy city is considered as more desirable than anything else.

Pupils are not allowed to pay the masters. Small presents, gifts, and the religious tax paid by the pupils, the food which is sent on festive occasions from the whole neighbourhood, work done by the pupils on plantations which the master may possess, all this enables the masters to live, even though not salaried. The pesantrens no longer draw as many students as they used to do because government and private schools, which give more generally formative or specialised education, are now more highly appreciated. Nevertheless, one should not under-estimate the importance of these medieval schools, where tens of thousands of Indonesians have studied Moslem science for many years [1]). And certainly at a time when other education was practically non-existent, they had great utility because the students, especially if they also directed their steps towards Mecca or towards the celebrated El-Azhar school of Cairo, had the opportunity of acquiring great worldly wisdom.

We must also mention the Mohammedan mystic confraternities (tarekats), of which some are widely spread in the Dutch East Indies. Thousands of people are continually admitted into them in order to participate in the real mystical knowledge of God. Un-

[1]) The general report for Education, vol. I, (1926) p. 154, gives the number of Koran schools and Pesantrens as totalling 20.000 and that of the pupils as over 500,000.

der the guidance of a master, one learns to observe certain pious rules of life, to exercise a strong morality, mental concentration, and mystical meditation on the Supreme Being. The leaders must try to satisfy stern requirements, although they very often do not do so. Complete obedience to them is demanded. According to some sterner conceptions, the tarekats ought only to receive persons whose religious education has been practically or entirely terminated as regards the law and the doctrine. In reality, sometimes entirely uneducated people are admitted, and the requirements of a mystical education are usually reduced to the lowest level, generally consisting of fasting and the recitation of a few formulae. Most orders, moreover, practise collective religious exercises with the aim of inducing mystical rapture in the participants.

The Government has always left full liberty to the Koran schools, the Pesantrens, and the Tarekats. But, although fully respecting the sensitiveness of the population, it has not maintained a complete policy of abstention, like that which was aimed at formerly concerning everything religious (justice, education, pilgrimage, etc.) [1]). The supervision of Mohammedan religious education was lastly regulated by the so-called Guru ordinance (Stbl. 1925, 219), which is not yet working in all Residencies (Stbl. 1926, 499). The permission of the authorities, which formerly had to be asked by the religious teachers (Stbl. 1905, 550), is no longer required; they have only to inform the official who is concerned with this matter of their intention of giving such education. Administrative supervision aims only at the preservation of public order. According to the explanation given of this ordinance in Bijbl. 10832, all education respecting Mohammedan religion and subjects connected with it fell under this definition of religious education, and also initiation into a mystical or other doctrine (ngelmu). Language education in Arabic, in so far as it falls within this religious frame, was included in this regulation.

The growing demand for general formative education

From what has been said, it will be understood that the general education of the people was in a sad condition so long as the East

[1]) Snouck Hurgronje: *Nederland en de Islam*, 1915, p. 63 *sqq.*

Indian Government abstained almost entirely from organising a system of general formative education. It would be a mistake to imagine that the population next to its highly cherished religious education wanted this temporal education. Not so long ago in religious circles, it was feared that an introduction into the sphere of Western culture would endanger religion. Only slowly was it realised that "it was possible to remain faithful to religious ideas and customs of older days without continuing to live in the old ignorance, and that there is no better way to be free from the latter than by entrusting oneself to the training of a European school, and even if circumstances allowed it, to education in the European household" [1]). The Government has declared itself prepared to admit religious education in its own elementary schools when the population appreciates it. It gives sufficient proof, therefore, of its wish not to make use of general formative education as a means to estrange the population from the Mohammedan religion.

The urge towards better education has meanwhile become so considerable that many people send their children to private Christian schools when, for one reason or another, it is impossible to place these children elsewhere [2]). This change of attitude dates particularly from the beginning of the present century when the influences of world traffic began to penetrate into the smallest villages and gave rise to the notion that the old system would no longer do. A century ago affairs were still entirely different and the neglect of secular education by the Government was only felt as a shortcoming in the very highest circles.

The first organisation of education

Meanwhile after 1816 the number of European schools was gradually increased, and the beginning of organisation can be observed in the establishment of a superintendent, later of an inspector, and still later (1826) of an unsalaried High Commissioner for Education. Towards education of the indigenous population, nothing

[1]) Snouck Hurgronje, *ibid.* p. 87. The system of boarding schools which is very extensive in the Indies meets this requirement. One should also mention the Jan Pieterszoon Coen foundation which specially aims at giving a good upbringing to the children after school hours. For the subsidising of private boarding places see *Bijbl.* 11283, 11291.

[2]) According to the subsidy regulation in *Stbl.* 1924, 68, art. 4 religious education is not compulsory for pupils whose parents have conscientious objections, if there is no opportunity to obtain equivalent non-religious education in the locality.

was yet provided in the East Indian Government Regulation of 1836. In 1848, for the first time, the modest sum of 25,000 guilders was placed upon the budget to defray the cost of a few schools, mainly for the training of indigenous civil officials.

In 1851 the first training school for indigenous teachers was established, and in 1854 at last the East Indian Government Act (Art. 128) recognised the duty of the Government of establishing schools for the indigenous population. In 1849 the first general report of public education in the Dutch East Indies appeared; in 1866 a second training school, speedily followed by a number of others, was established and in 1867 a separate Department of Education was set up which was also entrusted with a few other matters. Thanks to the training schools which slowly began to deliver a great number of teachers, it was possible to start the erection of government schools for the population, which until then had been left almost entirely to their own devices.

In 1872 (Stbl. 1871, 104; 1872, 99) indigenous education was regulated in its entirety (elementary education, training schools, inspection), and in 1878, in order to meet the requirements of the upper classes, a few schools for the sons of the nobility and notables were opened. In 1875 also the Dokter-Djawa school (for medical students) of Batavia, dating from 1851, was re-organised; while furthermore a few schools existed for training indigenous agricultural experts and veterinary surgeons. At the same time the Government, while leaving elementary education to itself, tried, by means of subsidies (Stbl. 1874, 99) to popular schools opened by the population on its own initiative or by private persons, to encourage the extension of indigenous education. Private mission schools, however, were not subsidised. The Government considered that this would be incompatible with its policy of neutrality in religious affairs. In order to develop the population outside the schools also, rewards were offered to writers of good books in an Indonesian language (Bijbl. 2289), which reading books the Government published and distributed.

At the same time, more care was taken to compose textbooks for the schools, and mainly with this aim in view a depot of educational appliances for indigenous schools was established (Stbl. 1878, 32). It should be noted that according to the catalogue of this depot, at present a large number of textbooks and readers in

no less than twenty-four Indonesian languages are available [1]).

After continuing to work for some time upon the basis of 1872, the Government realised that it was on the wrong road. Various language-zones in the Archipelago had been considered to require separate training schools, a system which in itself was excellent. But the consequence was that too many and too expensive training schools had been established, while the programme of the elementary schools, which were mainly intended for the children of chiefs, had also been burdened with all kinds of optional subjects such as Dutch, geography, history, natural science, post-elementary arithmetic, etc. A more sober organisation was necessary. Simplification was started in the '80's [2]). Re-organisation only began in 1892 (Stbl. 1893, 125, 127, 128). The principle, already recognised by establishing special schools for the children of the upper classes (which later were transformed into training schools for indigenous officials), according to which there was to be differentiation to meet different needs, was now introduced upon a large scale. Indigenous schools were divided into two classes; the second-class schools were to give popular education properly speaking, the first were destined for children of the nobility, of the notables, and of the well-to-do. This differentiation was a pointer in the right way, and it was soon learned that the way would have to be trodden much further. At the same time, the Government declared itself ready (Stbl. 1895, 146) to take the mission schools also under its protection by subsidy, as a consequence of which this education has increased to a large degree (Cf. Stbl. 1906, 241; 1909, 238; 1923, 524).

After the re-organisation of 1893, education in the first-class schools was still insufficient for the upper class, whereas the congested curriculum of the second-class schools was still indigestible to the lower classes. There could be no thought of reaching the

[1]) According to this *Bijbl.* publication could be taken into consideration of all manuscripts the tenor of which aimed at spreading useful knowledge, or advancing morality and good taste, or fighting prejudices and errors (with the exclusion of any attack against religious doctrines), or which incited to reflexion and to the desire for investigation, or which provided entertaining reading for the Indonesian population. A reward from 50 to 100 guilders per sheet of print may be given to the author.

[2]) In 1875 there were nine training schools with an overburdened and not very practical programme. In 1885 four of them were suspended and the programme was simplified. Dutch disappeared from the programme. When in 1907 Dutch was introduced into the first class schools it was also restored in the training schools. Since then the number of training establishments has greatly increased.

whole population with the second class schools, however simple they might appear from a Western point of view. In both kinds of schools education was still given with the local language as the medium of instruction, with some reservations necessitated by the lack of text-books and readers in the language in question or by the primitive character of the language in which cases Malay, the *lingua franca* of the Archipelago, was used. In the first class schools with their five years curriculum, education was given in the local Indonesian language and in Malay. Arithmetic, local history, geography, natural history, drawing, and surveying were also taught, but all these very useful subjects could not compensate for the absence of the teaching of Dutch, with the result that many people tried to place their sons in European elementary schools, which were continued by the secondary education of the Hoogere Burgerscholen. For some time such admissions, which had been possible since 1818, were very easily granted. This was to the advantage neither of the European nor of the Indonesian children; but as long as no other way out had been found a few people at any rate could be helped in this way.

At a later period admission was limited to children who knew Dutch sufficiently to be able to follow the lessons. An age-limit of seven was imposed upon them. Many parents in the smaller towns whose position made them desire a purely Western education for their children were now disappointed as they were often unable to enable them to profit from earliest youth by appropriate preliminary education that was still so scarce at the period. In 1911 (Stbl. 104) the difficulty was solved by admitting those for whom European education could really be considered as necessary, and by adding a preliminary class to this school which could also prepare Indonesian children to a certain degree. Meanwhile, the first-class schools had gone in a direction which was making this exceptional way more and more superfluous. These indigenous elementary schools were being brought up to the level of European elementary schools in a way that would satisfy the highest aspirations of the class of notables; there had been, furthermore, a division of popular education properly speaking by building beneath the simple second class schools a broad basis of still simpler popular schools which would be able to reach the whole population.

Indigenous education in town and country

This would not have been possible in the case of the second class schools with a curriculum of three or four years. Their programme contained reading and writing of the local language or of Malay, the four main rules of reckoning, and, as optional subjects, a few of those taught in first class schools. General popular education in these schools as they now exist would cost more than 400,000,000 guilders with an annual increase of over 40,000,000. The staff figures of training schools, of inspectors, etc., would acquire fantastic dimensions even if sober calculation were made. The Director of Education estimated in 1918 the number of schools that were needed at that time at 36,000 needing 18,000 heads with the diploma of a training college and 18,000 with the diploma of the normal school, and finally 108,000 assistant teachers. In order to supply this staff in a regular way, 65 training colleges and 152 normal schools would be needed in Java alone. Technical school inspection would, at a low estimate, require a body of 81 European and 720 indigenous officials [1]). These figures may give an idea of the colossal task which the Government is at present executing with success.About 1900 the second class schools were, it is true, much simpler and far less expensive than at present, but even on the basis of the expenses incurred at that moment an All-Indian expansion would have been beyond the capacity of the treasury.

In 1907, steps were taken to perfect indigenous education both upward and downward. At last the first class schools intended for the notables were given Dutch as a branch in their curriculum. In 1910 practically all these schools, over 60 of them, had included it in their programme. The course of studies had increased to six years, in 1913 to seven years, and, since 1912, Dutch has been used as medium of instruction from the lowest form upwards. These steps, which succeeded each other at a quick pace, had separated the first class schools from their original indigenous basis, as had really always been the wish of the parents. The latter always wanted their children to advance in the world and aimed at their acquiring the so-called lower functionary's diploma, which, after the end of the period at the first class schools

[1]) Speech of the Director of Education in the Volksraad, June 21 and 22, 1918, p. 15.

could be acquired and gave access to those highly desirable government functions whence one could climb higher. Education was still looked upon too exclusively as a magic means to make a career. No Eastern country during the period of transition escaped this one-sided conception, which was bound sooner or later to bring about great disappointments. That secular education can be a great blessing and a great privilege for its own sake, and that it is also an aid to becoming a better agriculturist, labourer, tradesman, or craftsman was nowhere understood at the beginning of this intellectual modernisation [1]). If one goes to school, one must become something special, at least a lower official. To take his son from a plain peasant, who could use him at home, on the field or as a herdsman, in order to send him to school and merely to return him to the father after six years schooling that he may become a plain agriculturist like his father seems a cruel jest in the eyes of these simple people.

The notables, however, looked upon the matter with precisely the same eyes as the plain people. This phenomenon is in any case a symptom of transition. Society is still too little detached. There is still too little division of labour and professional choice. People do not know what to do with the newly-acquired knowledge unless a government post becomes vacant. And in view of the fact that in the whole colonial world education initially was to a large extent given with the aim of providing the authorities with auxiliary forces, it is not surprising that this tendency can be transferred into another course only with much difficulty.

It is certain then that the Government would have gone entirely astray if in 1907 it had not pointed a different road to its popular education; for, with the expansion of the second class school over the countryside, this type of education would undoubtedly have hypnotised the people by making them expect a career, preparing them in this way for great disappointments. For even the old boys of first class schools were soon to meet with bad years if they put their exclusive expectation upon government posts.

The year 1907 is therefore in more than one respect a decisive year in educational policy in the Indies. In that year the first class school

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[1]) Jonkman, *op. cit.*, who quotes Prof. Snouck Hurgronje saying that wherever Islam rules there is really only one science, that of the things man has to believe and to do in agreement with the will of Allah.

began to be torn out of the indigenous frame, while elementary education upon an Indonesian basis was divided into village schools of the most elementary type by the side of the already existing second class schools which were providing popular education in the town and in more developed regions with trade, traffic, and industry. In fact, these three types of schools represented for the Indonesian population three indigenous spheres with a continually decreasing Western influence.

The first class school was gliding into the Western sphere and eventually found itself on the same lines as the elementary European school which is on the same level as the elementary school in Holland. But the Dessa school was still satisfied with an education that was of a very simple general formative character and consisted mainly in fighting illiteracy in the real indigenous agrarian society of the countryside. The second-class school which stood between these two was the ordinary school for the more developed indigenous town population. There is a stroke of genius in the arrangement of this educational system. Something that recalls the position of the Controller in the administrative system which, as we saw in the first chapter, also possessed those remarkable possibilities of adaptation which are shown in the treble organisation of education.

When one sees the logical construction before one, it all seems so simple. But the builders of 1907 had the choice between a hundred different methods, of which some were already applied in other colonies. The Government of the Indies, however, chose another way of its own and it would appear that, with this excellent adaptation to the treble sphere of Indonesian society, a sound educational system was brought into existence.

The Dutch-Indigenous School and the problem of Westernisation

It is only with regard to education for the upper class, which has been most influenced by the West, that a certain reserve is not unjustified. From 1907 to 1912 it very nearly approached the type of the European elementary school, and had thereby to a large extent been estranged from the indigenous sphere. In 1914 the first class school was definitely re-organised (Stbl. 359). It was now incorporated into the system of education upon a Western

basis as the Dutch-Indigenous school with a curriculum of seven years and a preliminary course [1]). At the same time, a higher training college for indigenous teachers was established in order that a well-trained staff would speedily become available so as to take over in the future the task from a number of Dutch teachers. Some objections have been made from time to time to the far reaching Westernisation of the H. I. S. (Dutch-Indigenous School).

It is true that the circles from which the H. I. S. drew its pupils had come most strongly under Western influence. Among them lived the aspirations of the awakened East; but, in spite of this, they were still strongly tied to their Indonesian soil. Western influence had, even there, penetrated very little below the surface. The H. I. S. was, therefore, in harmony with the great idea of the treble sphere, intended to reflect this highest sphere as something indigenous although strongly influenced by the spirit of the West. According to many people, this is not what happened and there is no doubt that the purity of line of this great educational conception would have stood out still more clearly if it had used the mother tongue of the pupils as the vehicle of education until the third or fourth form [2]).

It should be remembered that language is, for the folk-soul, what the physiognomy of each man is for the individual. Both are the expression of the inner being. The fully developed Western language is a precious vehicle of the logical spirit, and the Western construction of the phrase is an image of dynamic power and tension. Every sentence rises up like a gothic arch in which one idea dominates all architectural elements, and all conceptions tend towards each other with the radiation that has been allotted them in their own connection. Each carries and is carried in turn. The Eastern languages, which have not undergone this influence, give much less proof of an effort towards the division of strength and a causal limitation of the radiating powers which are to be attributed to various concepts.

As against this, these languages reveal a preference for another

[1]) This *Stbl.* declares that a teacher of public European elementary education may be placed at the head of a school for Indonesians where Dutch is taught if the level of education is approximately equal to that of European public elementary schools. Such schools were to be called Dutch-Indigenous Schools. For the re-organisation of the H.I.S. *cf. Stbl.* 1914, 762, modified by *Stbl.* 1925, 488.

[2]) G. J. Nieuwenhuis. "*Ind. Gen.*" Oct. 1924, and his *Bronnenboek voor het nieuwe Taalonderwijs in Indië*, 1925.

vision of things, for the notion that there is a mystical cohesion in all that exists, the utterances of which are equivalent incarnations of an omnipresent power. Concept therefore places itself next concept, and action next to action in a familiar equality which recall Chinese and Japanese gardening and painting where perspective is avoided and quiet contemplation is given the opportunity to look with equal joy at each part and detail. A definite order strings the various word-images together into a whole.

The results of studies in the philosophy and the psychology of language are not yet sufficiently illuminating upon all details. The subject, however, is of such importance with regard to the question of the linguistic vehicle of education that a single illustration appears desirable in order to explain the question. Prof. Duyvendak [1]) puts the problem as follows:

> "Every word is indeed attached by thousands of capillary roots with innumerable subtle indications to a whole world of representations; all associations are determined by the direction of the Chinese spirit. This direction tends towards the universe: nature and humanity are indivisibly attached and mutually influence one another. All things form one great unity. Everything shares definite categories in which this unity is expressed. The celestial regions, the seasons, the elements, the planets, the colours, taste, musical notes, the members of the body, everything corresponds with everything else.
>
> "When I say East, this idea at the same time contains the notion of spring, wood, the planet Jupiter, green, sour, the musical note Tsjue, the gall and other things. When I say South this recalls the association with summer, fire, the planet Mars, red, bitter, the note Tsje, the lungs, etc. The contents of these concepts are all strongly coloured by these primitive representations.... In this world of representations, where everything is connected.... where everywhere invisible threads are spun between seemingly incompatible concepts, the Chinese spirit has learned to think in analogies, and not causally. The development of an idea consists in the juxtaposition of parts of the sentence which describe different aspects of an idea. Almost the only way of developing an idea is the use of rhythmical sentences placed opposite each other. Every word in every one of them fulfils an analogous role and has an analogous value".

[1]) J. J. L. Duyvendak: *China tegen de Westerkim*, 1927, p. 114 *sqq*; Granet, "*Revue Philosophique*", 1920 (*De la langue et de la pensée chinoises*) and his *Fêtes et Chansons anciennes de la Chine*, 1919; J. J. M. de Groot: *Universismus*, 1918; Masson-Oursel: *Esquisse d'une théorie comparée du Sorite*, "*Revue de métaphysique et de morale*", Nov. 1912.

What is said here about a writing which dates from antiquity recalls the frame of mind of magical mysticism, and it is not surprising that similar conceptions and associations seem to speak from the Indonesian languages of the Dutch East Indies. The hypotheses formed in this connection are still too uncertain to allow concrete methods to be based upon them, but an idea may be formed of the deep influence which Western languages that live in pure tension must effect when used as the vehicle of education for young Indonesian children. The different subjects, Western games, music, drawing, penetrate deeply into the sphere of magical mysticism, in the soil of which social morality is rooted. But language probably exceeds the influence of them all. It can be understood, therefore, that some educationists would like to temper this influence in the first years by giving education exclusively in the mother tongue, so that in this way it turns unnoticeably in another direction. When the mind has been gradually prepared for the Western sphere of logic and causality, the time has arrived for changing the vehicle.

Mr. Creutzberg recognised the necessity of giving education to young children in their mother tongue, and many others, among them especially Dr. Nieuwenhuis, have given the greatest attention to this delicate problem [1]). Meanwhile the wish to give the pupils of the H. I. S. the opportunity to learn the difficult Dutch language as thoroughly as possible has recommended the educational programme we mentioned above. Again there is a dilemma between various desirable possibilities in which experience only can give useful advice. An educational institution, the link school, which will be discussed later on, is an experiment of great importance in this respect.

The H. I. S. has, therefore, received a Western aspect. The Indonesian vehicular language gave place to Dutch, the indigenous head of the school to a Dutchman, assisted by Dutch teachers and a few Indonesians who had a sufficient knowledge of Dutch; while instead of the plain school building came a more costly one with a modern aspect. The indigenous character, however, was not entirely lost because the local language and Malay are given as subjects of study while the local language is even maintained in

[1]) K. F. Creutzberg, "*Ind. Gen.*" Jan. 1923, p. 17: G. J. Nieuwenhuis, "*Ind. Gen.*" June 1924.

part in the lower forms as the vehicular language. Mr. Creutzberg pointed to the fact that 32 per cent of the lessons are consecrated to the mother tongue and to Malay, or are given with the mother tongue as the vehicular language (Speech in the Council of the People, p. 38).

Apart from reading and writing in these Indonesian tongues, many of which already possess a large number of school books, the H.I.S. teaches the Dutch language, arithmetic, geography, history, natural history, drawing, physical education, and manual work. The last two branches are considered more important every year, but it is only recently that this has been the case. Manual work is not intended to create ability for any definite trade, it is only considered as a means of deepening and quickening education in other branches. It has, furthermore, an undoubted general pedagogical value.

Physical exercise is now on the programme of every government H. I. S. The second class schools also give a considerable place to games and sports. The influence of sports and gymnastics is difficult to exaggerate. Sport is conquering the whole East. When well guided, it mobilises a number of forces which are above all necessary for Eastern societies that are becoming modernised. The spirit of co-operation, the pursuit of a common aim which causes small ambitions to be left in the background, are commendable aspects from the social point of view with which the school children are becoming familiarised. Morally and physically, gymnastics and sports are extremely useful to the Indonesian youth, as can already be very clearly perceived [1]).

No wonder that in educated Indonesian circles the H. I. S. has received much appreciation. So great is the demand that the Government has to strain every nerve in order to satisfy it. In 1910 there were only some seventy first-class schools. Since the change into the H. I. S. type there are 350 of them with about 70,000 pupils [2]).

Improvement of government elementary indigenous education

The second class or standard schools, which have still kept

[1]) General report about Education, 1926, part 1, p. 41, 42; *Stbl.* 1920, 657; *Bijbl.* 11275, 11685, 11768.

[2]) In these figures the religious and neutral schools for Indonesians established by private initiative (150 schools with over 30,000 pupils) are included.

the name dating from 1892, although after the first class school became H. I. S. in 1914, this name has lost all meaning, were intended in the re-organisation of 1907 to be schools for the indigenous lower middle class while the more modest popular school was meant for the least developed. When practice changed this differentiation between the lower middle and the popular class into a mere distinction between town and countryside, it did nothing else than take a parallel road.

This road was better because it aimed at adapting education to the gradational modernisation of town and country, and gave up the almost impossible distinction between popular and middle classes. The urban indigenous population is much more open to modern influences, is more mobile, has more freedom in the choice of a career than the countryside, which remains to a large extent self-contained and immobile. In this manner the second class school, with a curriculum that has now in many places been extended to five years, has become the popular school in more important centres, whereas the three year school of the simplest type has become the ordinary school for less important places, especially in the countryside. Both types of school use the local Indonesian language as a vehicle and are organised upon an indigenous basis.

The urban popular school can cover a more extensive programme than the village school which has a curriculum of only three years. It teaches reading and writing in the local language and in Malay, the four rules of arithmetic, and also vulgar and decimal fractions, as well as weights and measures, drawing, geography, natural history, with some simple information on anatomy of the human body, to which in the course of the last years has been added gymnastics, games, and manual work.

Some town schools have even acquired a sixth class with a differentiated curriculum (commerce or agriculture). The teachers at these schools are better trained; they all have diplomas from training colleges or normal schools, or they possess the assistant teacher's diploma.

In 1918 the qualification of this staff still left much to be desired. The Government then expressed its intention gradually to place the principal second class schools under the direction of people with a training college diploma, and the others under peo-

ple with a normal school diploma. The assistant staff was to be composed of 12½ per cent of training college certificate holders and of 62½ per cent of normal school certificate holders. If one considers that the training college also produces teachers for the highly efficient H. I. S., one can understand what progressive plans the Government was considering for this type of extended popular education which is called standard education.

According to statistics [1]), at the end of 1928 there were 2750 schools belonging to this standard education with more than 400,000 pupils and 10,000 teachers. The fees are, according to the position of the parents, 15 Dutch cents per month or more, while poor children are admitted free [2]). In 1927, 1200 heads of schools had final diplomas of training colleges or normal schools and 1400 had the assistant teacher's certificate. Among the teachers 2,600 had similar final diplomas, more than 4,000 had the assistant teacher's diploma, 85 were pupil-teachers with the diploma, and only 69 had no diploma. As training colleges and normal schools are continually turning out more certificated teachers, the figures will soon become still more favourable, to the great advantage of the extension and the deepening of the teaching. Standard education will have more and more the right to bear that proud name.

Popular education in the village

The village schools established in 1907 under the influence of the democratic current in colonial policy testified with still greater eloquence to the determination to attack ignorance and inertia. Originally they were under the Department of Internal Administration, later under that of Education. Education consists only in teaching the reading and the writing of the local language in its own and in Latin characters, in reckoning up to 1,000, with decimal fractions up to two points of decimals. Sometimes also drawing and some practical knowledge are taught, while the subject matter is, as far as possible, adapted to the daily entourage of the children, giving them useful hints as regards conduct, hygiene, animals and plants, natural phenomena etc. Vocational education is not given, but attempts are made to give these schools

[1]) General report on Education in the Dutch East Indies, 1927, Part II.

[2]) School fees are paid in general according to proportional tariffs based upon the income of the parents, and according to different classes of payment for children from the same household (*Stbl.* 1925, 489—494 and 1926, 530; *Bijbl.* 10345, 10587, 10676).

a rural outlook [1]). They consist of three yearly forms, but often there is only one teacher, with the result that the hours of oral instruction have to be divided, 7.30 to 10 being given to the lowest form, and 10.30 to 1 to the second and third form.

Meanwhile the Government has taken much trouble to make this education as intensive as possible by increasing the staff. Much progress has already been made in this direction, so that by now half these schools have two teachers. These schools, unlike government schools, have been established and are maintained by the local indigenous community, while the Government gives them financial support. The division of cost is made upon the following basis. The village pays for the construction, the organisation and the maintenance of the school, but it can be supported in this work by the Government by loans which may or may not bear interest. The salaries of the teachers are, however, paid by the Government according to a fixed scale. An extra allowance may be given to a village teacher if he has a higher educational competence than is required of the popular teacher. The costs for the educational appliances, which are furnished from the Government Depot, are in principle chargeable to the villages, but if the capacity of the local commune is insufficient the Government may also pay for these. The school fees go to the village.

By this sharing of expenditure, the Government is able to determine the level of education, a wise regulation which entrusts to village lights no affairs which go far beyond their horizon. The method of payment for the school buildings does not seem a less intelligent arrangement, for the village will thereby feel that the school is its own institution which it has called into being by its own exertions. Gradually the village will feel so much interest in its own school that it will do more and more to improve education on its own initiative. We have not yet reached such a result in this simple environment, but the true method of awakening this good spirit without too heavy financial burdens seems to have been found by the arrangement we have outlined.

In order to achieve this aim it was, apart from the heavy burden for the central finances, and the difficulty of finding suitable persons, absolutely necessary to make these popular schools as simple as possible. Even if impressive school buildings and well-

[1]) See our first volume, and also Introduction, Education Report 1927, p. 2.

salaried and educated teachers could have been obtained in their thousands, even if all these millions of Indonesian village children knew Dutch, it would have been no blessing for the population. The school would have become a world entirely alienated from its surroundings, and at the end of his education none of the pupils would have consented to remain in the village. The phenomenon of deracination, which in the Indies is now relatively rare, would in that case have occurred much more frequently. It would have been impossible to absorb these unsatisfied people, and one may be sure that a flood of opposition against the Government and the social order would have resulted.

It is therefore not to be regretted that there is sometimes insufficient money to finance beautiful plans. We are here confronted with a wise natural law which demands equilibrium between the producing capacity and the consumption of every organism, of the social organism as of others. The modern richly-equipped popular school, highly developed popular teachers, will not be a blessing for the Eastern village so long as the village itself has not reached the degree of development which enables it to absorb the pupils into its own life, socially, economically, intellectually, and politically.

The popular school has therefore to take the lead from its environment. With its teacher it must form a social centre. The pupil when he leaves school must not consider himself too good to do the work of his father because he can read and write and his father cannot. Let him remain joined to his people by that precious feeling of piety, let him continue to honour his village headmen and the village elders, let him not spurn Adat. Yet let him learn to look a little further than his older neighbours do, just so much that he shall not become a stranger to them, but that he will see the possibility of progress and improvement.

The school must therefore be more than a mere institution where certain elements of knowledge are imparted. The villagers must feel it as an institution of their own, just like the village prayerhouse, the little Koran schools, the Pesantrens. They must be familiar with it and look upon it as a village organ which not only concerns their children but themselves as well, so that school and home shall not form different worlds. The village must itself construct and maintain its school, which will usually consist of

very simple little buildings, and the village schoolmaster must be a simple man, one of themselves, living and dressing as they do, although at the same time his higher degree of education gives him a certain consideration. In this way, gradually, he can acquire a traditional position which enables him to develop a natural daily contact, from which will issue the quiet influence that guarantees sound evolution. In this way a gradual mobility begins to exist in an environment of rigid tradition and exclusiveness. In this way the idea that other methods and means are possible and are even perhaps to be preferred to those they now employ, will gradually percolate among he villagers. Among the more energetic, the beginning of this vision, strengthened and fructified by the growing generation, will sooner or later induce them to enter upon new ways. In this manner, an outlet will be found for the greater knowledge and consciousness of the grown-up school children.

These considerations lead us to a sphere about which much has already been said in the first volume. This is why we may now satisfy ourselves with the remark that education and welfare policy mutually support each other, that the school can become a real social centre, and that above all the spirit of co-operation which breeds social habits can be cultivated among the school children. Popular education in the Dutch East Indies appears to satisfy the desiderata expressed in the first volume, so that the men of 1907, and particularly Governor-General Van Heutsz, deserve all our appreciation. At that time it was clearly realised that the first need of education was that it should be given in the local language, Javanese, Sundanese, Madurese, etc. Otherwise it would have been impossible to make this type of school fit into local indigenous society. It became necessary, therefore, to make use in examinations, in the training of popular teachers, and in technical school inspection, of these languages or dialects. In view of the multiplicity of languages in the Archipelago, this presented a great difficulty which might have been avoided simply by giving all education in Malay or in Dutch. In other colonies, this road has often been taken. In view of the pedagogical principle, however, the difficulty of multiplicity has been cheerfully faced in the Dutch East Indies.

Another important point is the quality of the popular teachers. Care has been taken, in the first place, to provide a good general

system of inspection [1]). Indigenous inspectors are chosen among the best teachers of the H. I. S. and of second class schools, and they are given areas covering a relatively small number of village schools (50 to 60). They have the opportunity, therefore, not only to inspect, but also to give personal guidance. There are, moreover, chief inspectors. A further considerable improvement has been made, as was announced in 1918 (speech in the Council of the People, p. 17), by bringing in the forces of the fully developed service of the central inspection of government schools for this education so that there has been a much more intensive strengthening of the link between the popular school and the second class school (cf. Stbl. 1912, 526).

For the training of the teachers of these village schools, the Government found in 1916 the golden mean of establishing courses of studies of two years which formed a sequel to the second class schools, for the education of popular teachers, and selected headmasters of second class schools were entrusted with this work. Special attention was given to the quality of these courses, among other things by the writing of appropriate manuals, in the use of which the future popular teachers have to be exercised and which, like the school literature of the popular schools, can also be used for moral education and for fighting popular vices [2]). In 1928 there were already 300 such courses for popular teachers, either public or private, with nearly 6,000 pupils. The public courses are attached to the government indigenous schools of the second class with a course of studies of two years (Bijbl. 10063). The future popular teacher is only admitted to these courses if he has finished the five years second class school curriculum. Theoretical teaching is given in the afternoon, which enables the student to gain practical experience in elementary teaching. Students who require it can be given a subsidy for their maintenance. If at the outset the number of these courses expanded in proportion to the growth of popular education, in the year 1923, an excess of students threatened, unless some limitation were imposed. That is why, in 1923, no new first-form was opened in a great number of courses, and why several were entirely suppressed at the end of

[1]) The local inspection is entrusted to Indonesian school commissions (*Stbl.* 1893,125 *Bijbl.* 4889, 10100).

[2]) *Cf.* the above mentioned Speech of the Director of Education before the Volksraad in 1918, p. 18.

1924. By discontinuing the financial subsidy, the number of candidates was considerably reduced. The result was that in some regions students came only from the town where the course was held, and not, as before, from the surrounding villages. This was not in agreement with the policy of the Government, that the teacher should be, before all else, a man issued from rural surroundings. In 1925 a shortage was once more in sight, and for this reason new students could be admitted and a number of courses were re-opened. After they have terminated their course of studies, successful candidates are given the diploma of popular teacher. It is a fact of great importance that the popular schools are already attracting a large number of girls, although these schools are mixed. The proportion is, approximately, 4 male pupils to 1 female. In order to increase the number of girls, the opening of elementary schools with female teachers exclusively for girls is being considered. The mixed courses for popular teachers also attract a number of women. Courses exclusively for women popular teachers will be started in the future wherever necessary.

It is regrettable that so many schools throughout the East, and also the popular schools in the Dutch East Indies, present the figure of a pyramid by the decreasing number of their students. The desire to persevere is still too small; but as the usefulness of education is realised, this evil will decrease. At present the proportion seems to be as follows. From 100 children in the first form, 72 remain in the second, 48 in the third, and only 33 finish the course. The enormous expansion of this popular education, 20 per cent of which is due to private initiative, shows how clearly the men of 1907 saw the situation, and how wise they were in keeping to the principle of extreme simplicity as regards popular education itself and the training of the popular teacher, notwithstanding all the criticism which has been levelled at this method. A higher training would have sent up the wage demands and the costs of popular education to such an extent that the finances of the Government and of the local communities would have been unable to provide the extension to every village and to every child which is now possible. As matters now stand, popular education costs the treasury only a relatively small sum. In 1923, Mr. Creutzberg estimated the cost of each popular school at about 600 guilders, to which must be added the comparatively small

contribution of the population. As, according to statistics, the average number of pupils is about 70, the average cost of each pupil is about 8 guilders.

To this estimate Mr. Creutzberg added the remark that East Indian educational policy is faced with important problems as a result of the economic situation of the country, if one takes into account that the opening of 1,000 new popular schools a year, which has seemed barely possible during the last years, would be insufficient to achieve a complete educational organisation in the course of half a century. Provisionally no more can be done, therefore, than to expand this simple education, because it is only in this way that it can be brought to the whole population of 60,000,000 souls, as long as the population itself has still so little economic strength. It is precisely this simple popular education which, once it has become general, will prove to be one of the mightiest levers of economic progress. Gradually then education will be deepened and widened.

There are at present already 15,000 of these popular schools, either public or private, with about 23,000 teachers and more than a million pupils, of whom 20 per cent are girls, so that including the pupils of the standard schools (i.e. the second class schools), one gets very near to the impressive number of 1,500,000 pupils undergoing indigenous elementary education. If the number of school-going children in Europe is taken to be 16 per cent of the total figure of the population (8 school years), this figure in the Dutch East Indies is 10 per cent, if one takes as basis the five years' standard education; while it is 7 per cent according to the present arrangements of 3 years in the countryside and 4 to 5 years elsewhere. The latter figure, which is necessarily approximate, gives us 7 per cent of 60,000,000 or 4,200,000 so that the Government may be said to have achieved nearly two-fifths of its gigantic task.

But far greater difficulties are still in view. We have alluded already to the fact that the simple village school cannot always remain as simple. What we must aim at is to make the standard education of the second class school the general elementary education of the country, so that it will then be possible to account for 10 per cent and, in the case of an eventual standard school of six years, 12 per cent of the total population. Not including a

further increase of population, one has then figures of 6 to 8 million pupils who would individually cost several times — probably eight times — as much as pupils cost now. This would lead us to the fantastic figure of 400,000,000 guilders, with an increase of 40,000,000 per year, as has already been pointed out. The population will still have to make great economic strides before there can be any question of introducing such a general educational standard.

The link between country and town education

Meanwhile there is no stagnation. When in 1907 village schools began to be opened, it was by no means intended entirely to deprive the population of the countryside of its existing second class schools and to make these the monopoly of the urban population, offering that education to the villages only when the whole countryside has acquired the simplest popular education. On the contrary, realising that there was also a large demand in the countryside for better education, the second class schools continued and were gradually considerably extended [1]). But while in the more important centres they became the normal educational institutions, they acquired in the villages an exceptional character, existing by the side of the village school, so that they became standard schools for continued elementary education. The intention of the Government was to establish at least one standard school in every sub-district (of 40,000 souls) in Java and in corresponding administrative units elsewhere.

The training of the staff of these schools was neglected at the beginning. The Government used to take no interest in the training of indigenous assistant teachers. The training colleges were the only establishments where indigenous teachers were trained by the Government. Apart from these, the Government supported private initiative in so far as it trained people for the assistant teachers' examination. This was a very simple examination, including knowledge of the vernacular language and of Malay, the four main rules of arithmetic, and geography of the Residency and of surrounding Residencies. In view of the fact that after the

[1]) At the end of 1928 their number had risen to 2750, ten per cent. of which were due to private initiative.

extension of first class schools, later H. I. S., nearly all teaching forces were absorbed, few teachers remained available for second class schools. The latter had, therefore, to manage, as best they could, with people who had passed the simple examinations of assistant teacher or pupil-teacher.

After 1908, the need for such forces increased, however, with the expansion of second class schools to such an extent that the Government decided to take the task of training them in hand. Two-yearly training courses were established in 1910, apart from which private training colleges and, till 1923, the so-called guru-bantu courses continued to exist. The students were chosen from those who had passed through a five-years second class school, they were given practice in giving lessons in the morning to a second class school and received theoretical training in the afternoon. These students received a subsidy for their maintenance. Teachers of the second class school gave the instruction and were given an extra allowance. These courses were cheap, and soon seventeen of them with over 700 pupils came into existence.

Although these courses already signified a great improvement, they did not satisfy the requirements if the quality of the standard education was to be improved. That is why, since 1915, these training courses have begun to be replaced with four-yearly normal schools having boarders under European direction which give a sound training, including the Dutch language, to future teachers. After a competitive admission examination, young men who have been through an indigenous school of the second class, or through an equivalent educational establishment, are admitted. The staff consists of a director who possesses the head teacher's certificate and a few Indonesian language diplomas and the diploma for sociology and ethnology, and, apart from him, some experienced indigenous teachers who come from the training colleges.

For the practical training of the students, two government indigenous schools of the second-class are usually attached to the establishment. These training schools, so-called public normal schools, already number fifteen, five of them for female teachers, with a total of 1100 students. At the end of their training the students usually become heads of the smaller second class schools. As the normal schools began to produce a sufficient number of teachers, the examination for the status of pupil-teacher and

assistant teacher could be abolished and the training courses became superfluous. Apart from the public normal schools, there are also about thirteen private normal schools or equivalent institutions. One can see from all this and from the data already given that the competence of the teachers in schools of the standard education type is bound to become better every year.

The further expansion of standard education is by its nature connected not only with the number of available teachers, which can now be speedily increased, but particularly with the expansion of simple village schools, among which they form a kind of central organisation in the countryside. To the pupils of these simple popular schools they give the opportunity, if they wish it, of continuing their education in the central standard school. By improving education in the village schools on the one hand, and by modifying the plan of education of the second class schools on the other, it is intended to make the contact between the two types of schools more complete. In this way a pupil who has been through the three years' course of the village school with good results can enter the fourth form of the second class school.

The countryside as a whole is therefore in any case brought to the same degree of knowledge which the urban population has acquired after three years of education, while all those who want further instruction by means of continued tuition in the upper forms of the second class school need in no way remain behind the inhabitants of the big centres. The grant of such central educational establishments, which weaken the contrast between town and village, is of incalculable importance. As we have repeatedly examined this problem in our first volume, we need not return to it.

It is evident that these standard schools, in so far as they were exclusively central institutions for continuation education in the midst of a circle of village schools, and had therefore not to satisfy strictly local needs at the same time, had no longer a real need for the three lower forms, which only duplicated the work of the three forms at the village school. At the outset, this was not yet the case. Gradually the contact between the two types of schools was established and in 1915 central schools could be started with only two classes, forming a direct continuation after the upper form of the village school. This type of school, of which the origin can be well

understood from the foregoing passages, was given the fitting appellation of continuation school. These continuation schools in some regions had yet a third form, in case the three years' course of the village school had not reached the standard of the three lower forms of the second class schools. But generally speaking, the continuation schools contain only a fourth and a fifth form.

Education for Indonesian girls

While the complete four or five year schools are usually mixed (97 per cent), in the central continuation schools [1]) only 85 per cent are mixed, and there are already 15 per cent for girls only. In this way, the reluctance felt by the population to use mixed schools, which are still unpopular among the less educated classes throughout the East, is being met. The objections against co-education [2]) are felt earlier in the East than in the West, owing to the earlier appearance of puberty — about the tenth or eleventh years for girls. The Government respects these feelings on the part of the more conservative portion of the population and does not wish to force them. In 1918 it expressed itself through the Director of Education in the sense that perhaps the best solution would be to establish special schools for girls who might without objection attend the mixed schools until their eleventh year. The Government believed that in this way it would not run ahead of the solution of the co-educational problem which would eventually be provided by society itself. These things show very clearly the reasonableness with which the authorities deal with the justifiable objections of the population.

In the present case there is a double reason for this, for in view of the future, and of the development of a sound family life, there is great importance in gaining the approval of the Indonesian woman of the popular and lower middle classes for the good cause of improvement and progress. This subject, again, has been dealt with so frequently in our first volume that we could leave it without further comment, but there is a quotation from Mr. Creutzberg's address to the Indisch Genootschap (East Indian Society)

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[1]) There are now 900 of them.

[2]) Eastern instinct might well prove to be wiser in this connection than intellectual modernism as people in Holland are nowadays beginning to realise. *Cf.* J. H. F. Kohlbrugge, *Practische Sociologie*, VI, p. 27, 28, 108, 124 (1929).

which mentions a few names and facts that must not be passed in silence:

"It cannot be mere chance", he said, "that education for Indonesian girls has always commanded the warmest interest on the part of the best friends of the Indies. I do not think that I shall do injustice to others if I mention four names in this connection: the late Raden Adjeng Kartini, who was well known and was far ahead of her fellow countrymen with her understanding of the significance of feminine education for the Indies; Mr. Abendanon, the first Director of Education, who tried to establish something in this direction and who can certainly not be reproached for lack of success in his endeavours; and Van Deventer, whom the Indies lost too soon and whose name has been, together with that of Kartini, rightly linked up with various establishments for the education of Indonesian girls, and finally Mrs. Van Deventer, who has continued the work of her husband in the same direction.

"In 1900 an enquiry, initiated by Mr. Abendanon, showed how indigenous society in general wanted absolutely no schools for girls; while now, some twenty years afterwards, few causes are more popular than education for Indonesian girls. Last year (1922) the first government elementary schools for Indonesian girls were opened, and this has been made possible because it was then that the first establishments for training Indonesian women teachers began to produce results. These establishments will also provide the forces that have been so strongly needed for a number of recently established and flourishing private Indonesian girls' schools.

The importance of this education can scarcely be over-estimated. Few things are more necessary in the Indies than the improvement of the position of the Indonesian woman, which in general is still a sad one. It is also of great importance that educated Indonesians shall be enabled to contract better marriages, marriages with women whose level of education does not differ so enormously from their own and who therefore give better guarantee for the education of the children. Popular health will also be favourably influenced by the education of Indonesian girls, who will be brought into the service of the spread of sounder hygienic notions. I am inclined, however, to place above all else the significance which the education of the Indonesian woman must have in the economic development of the population. Lifting up the woman means strengthening the family life, and this is the first condition for a solid establishment of social life and for the formation of good cittizens. The weak economic condition of the Indonesian population has naturally other causes as well which cannot all be removed, but in my opinion they are largely connected with loose family life. I am no less convinced that a change for the good can be brought about by the sound practical education of women, to

whom one may then confidently leave their modest task in the household, in such a way that, in all modesty, they will make another country of the Indies".

These excellent words deserve serious reflection. In the first place, this sketch of the patient reasonableness with which the East Indian government has, in the course of two decades, changed the reluctance of the population towards the education of Indonesian girls into a joyful co-operation takes our thoughts back to a consideration of the very same problem in Afghanistan. No better proof could be given in support of the true policy of synthesis, which always tries to place morality above moral systems. While the population of the Dutch East Indies twenty years ago still shared the narrow point of view of Afghanistan, it has now been gained by wise leadership to a higher degree of enlightenment [1]).

In the second place, more emphasis must be given to what has been said about the significance of the improvement of the position of women in the consolidation and sanctifying of marriage and family life. Although one is justified in paying attention to the economic consequences of a closer family life, there is nevertheless no doubt that, compared to the cementing of the family unit which dominates the future, all other results may be ignored. For good moral education will help more than anything else to achieve this supremely desirable result, and we must therefore not waste a single word in the appreciation of various other happy consequences, which may be expected from the social influence of feminine education. This one result is more than sufficient to make us put all our strength into the endeavour to ensure the success of the education of the future wife and mother.

This, however, does not mean that education to the same extent as that available for boys must henceforth be offered to girls. In 1918 already the Government announced as its intention, that

"whereas for the male youth a relatively large portion of elementary education must be directed towards further studies, the elementary school for Indonesian girls must aim mainly at preparing them for occupying a respectable place in the civilised Indonesian household. The Government recognises, therefore, provisionally,

[1]) As appears i.a. from the fact that not less then 29 percent of the H.I.S. pupils are girls; the complete standard schools which are largely co-educational have 17 per cent and popular education has almost 25 per cent.

the existence of only a limited need, such as the preparation for a few specifically feminine occupations, that makes it necessary to establish Dutch-Indigenous Girls' Schools with the programme of the mixed H. I. S. On the other hand, there is an almost unlimited need of girls' schools of the simpler type that shall be, however, so soundly organised, that they will assure a generally educative influence upon the future housewife and mother. The Dutch language will be taught at simple girls' schools in about the same proportion as it is given to youths. But it will only be a subject in the school curriculum, and will not aim at more than enabling the girls to conduct a simple conversation in Dutch. With these aims in mind, the Government provisionally considers that one training college for Indonesian women teachers at H. I. S. for girls will be sufficient, all the more since the possibility continues of a limited admission of girls to the ordinary training colleges where special arrangements have been made for their board and upbringing outside school hours. As the need arises, classes for Indonesian girls of non-Javanese origin will also be established in the training college for women teachers."

In order to make these simple girls' schools available for the whole population who may desire a more far-reaching education, the Government uses, apart from special complete standard schools for girls, special continuation schools for girls with three forms of one year each (Stbl. 1921, 556) [1]). Apart from continuation education, built upon the basis of the three years village school or upon the first three years of the second class school, instruction is also given in domestic branches and in Dutch. It is especially this addition which forms the great attraction of these schools, so that it can be stated with satisfaction that, provided there are enough schools feeding them, girls' schools flourish everywhere [2]). In practice, therefore, the opportunity has already been created for the male as well as for the female youth of town and countryside to acquire a very satisfactory and developing elementary education. In a few places the elementary school course of five years' duration has been extended to six forms, a system which will tend to become the rule in all economically progressive regions.

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[2]) At the end of 1928 about 9,000 girl pupils, a figure that will soon increase by several thousands. There are 30 complete standard schools for girls with about 5,000 pupils, and 48,000 girls attend the mixed schools.

[1]) See Education Report 1926, p. 130 and 1927, p. 125.

Future development of popular education

The enlightened reader will have grasped the perspective of the future from the previous pages. The Government will continue to establish three years popular schools wherever they have a chance of success. In the midst of these tens of thousands of village schools, thousands of continuation schools will be established, mixed, as well as special girls' schools, wherever a real need exists for continuation education.

A share of the expenses will in Java presently have to be borne by the autonomous Regencies, in the same way as the village communities do for the village schools. This will at the same time make an end to the injustice that is often pointed out by which the village must partly pay for its simple school while standard education (i.e. continuation schools and complete second class schools) is entirely paid for by the treasury. Formerly, however, there were not sufficiently large autonomous communities to which such a charge, which concerns a wider circle, could be entrusted. This is changing now, and a good standard will be acquired by which to measure the needs and the prosperity of the population (the monies which the Regency Council will be prepared to spend on continuation education). In other words, the further growth of this education will receive a sound basis: economic progress and popular interest [1]). This is again one of those happy symptoms of the widening out of the social horizon from the dessa to the Regency.

> "In this way", says Mr. Creutzberg [2]), "an indissoluble connection will be established between the prosperity of the population and the opportunity for better education than is given by the popular school. In the measure in which the economic power of the population increases, and with it also the need for better education, the number of continuation schools per number of popular schools will increase, until at last both types of schools will have grown completely together, and the normal six years indigenous elementary school becomes a reality. This is naturally a process

[1]) The transfer to the Regency Council of Indonesian education opens the possibility for locally applied compulsory education, a thing which has often been asked for by Indonesians. The attitude of the Government is that compulsory education can only be defended when the great majority of the population takes it as a matter of course that children should be sent to school. Measures like this are meant to compel a minority of inert people,not the whole population, and must therefore not run too far ahead of the popular consciousness.

[2]) "*Ind. Gen.*" Jan. 1923, p. 9.

that will spread over many decades, but I deem it the only possible one by which, inside the limits of the carrying-power of the Indies, a normal school system can develop."

In his recent contribution to the revised edition of *Neerlands Indië* [1]) concerning education in the Dutch East Indies, the same author adds the further remark that in this manner

"a great, simple, but well-ordered organisation of education upon an indigenous basis has been established in the Indies. In the Philippines such an organisation will be sought in vain, and in British India also native education has been treated in a different way. The great virtue of our organisation is its susceptibility to expansion and deepening. Expansion as well as improvement fall within the powers of the Indies, at least in normal times and provided gradualness is observed. This forms the great difference from elementary indigenous education before 1908, which could not possibly grow into a large whole because it was too expensive. It is only now that we can think of a systematic fight against illiteracy, which is the indispensable condition for the useful working of almost every activity on the part of the authorities. Work in favour of popular health, of agriculture and of cattle-raising, the fight against usury, all this and much else require measures which can only produce effects if the population can at least read, write, and reckon. There need be no dispute as to whether economic or educational development is more useful for the population. The first is simply impossible without the second. A mass of illiterates cannot be helped forward to any noticeable extent".

This consideration entirely agrees with what has been said in our first volume about the experience of local workers in other countries. It is encouraging, therefore, to reflect that this popular education upon an indigenous basis, which in 1900 applied to only 100,000, is now already providing 1,500,000 with this lever of progress. In a few years, therefore, there has been an increase of 1500 per cent, and it should be noticed at the same time that the quality of teachers and the efficiency of education also progresses from year to year. We may conclude, therefore, that indigenous elementary education, consisting of popular education and standard education which are gradually growing into one, is rooted in a perfect soil, and that everything is being done to assure its gradual development according to the needs and the carrying-power of the population. This education must be seen especially as a means

[1]) Vol. II, p. 270, *sqq.*

of improving the development of the population. Standard education is, therefore, to be considered as an institution of final education. This is the same throughout the world. For the mass of the population the elementary school gives general formative education. No country can afford to give secondary or university education to all its children, and least of all Eastern societies which have so little capital.

The link between indigenous elementary and Western education

At the same time, the elementary school, for instance in Holland, has this advantage over indigenous elementary education, that it offers a sufficient basis to the few who want to go further, while the standard school and even the complete second class school in the Indies offers no link with continued education. Those who want to attend a Western elementary continuation school or a secondary school (what is called in Holland a Hoogere Burger School) have first to attend the H. I. S. with Dutch as vehicle of education, or the European elementary school. In view of the fact that the H. I. S. was originally a school for the upper class and was in any case not available for the greater part of the population outside the important centres, most people were precluded from any opportunity of satisfying higher aspirations they might possess. They could acquire popular and standard education, which undoubtedly was and will remain sufficient for the large majority, but which never offered the opportunity of further education.

In 1918 the Government could not yet see its way to make a bridge between indigenous elementary education and the establishments for education upon a Western basis. The way was discovered at last in 1921 when the so-called Schakel Scholen (link schools) were established. Children of promise, who had been through the three years popular school or the three lower forms of the five years second class school, can now be admitted to the link schools with a five year curriculum, where they learn Dutch and acquire general knowledge. The link school carries them to the same point as the H. I. S. takes the children of the notables and of the well-to-do. The H. I. S. as well as the link school established, therefore, a direct contact with extended Western elementary education (Mulo). There are some sixty of these schools

with about 4,000 pupils, of whom only 20 per cent belong to the upper classes, while the others belong to the lower classes or to the middle class. The creation of this really democratic link school has made the system of education, apart from the H. I. S., almost perfect in structure. The link school, again, impresses us as an invention of genius. It establishes a connection between the smallest Dessa school, built by plain country people, and the university. What an elevating symbol of the process of widening out! Indigenous elementary education, during its expansion in the coming years into a six years elementary school, is left as an institution of generally formative final education; but at the same time for all talent throughout the population the way to further secondary and higher education, and thereby access to every position and the highest offices in society and in the State, become available. What remains essential for the social significance of this school is careful selection.

Moreover, from national, cultural, and pedagogical points of view, the link school satisfies the highest demands and has even remained free from the difficulties regarding vehicular languages which have been met in the H. I. S. For during their first three years in the indigenous elementary schools, the children can remain mainly in their own sphere so that their spirit will have developed much more from Indonesian soil and along natural lines in the direction of logical and causal thought. The link school will, therefore, probably be able to work upon indigenous cultural possessions in a much more dynamic fashion than the H. I. S., which, perhaps, is only too likely to oust this possession [1]). It is too soon to have any certainty on this point. In any case, the result of the selective and less assimilative link school will as an experiment have the greatest importance from the educational point of view. Prohably the future will bring a decision in favour of an intelligent expansion of the link schools based upon selection (cf. Bijbl. 11549 and 11709).

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[1]) As there are symptoms that the Dutch-Indigenous schools are delivering too large a number of Indonesian pupils who cannot find suitable employment, the Government established in 1927 a commission for Dutch Indigenous Education, whose task it was to examine how far extension of this education is desirable. The conclusions of this commission, which have meanwhile become known, seem to point in the direction which we have indicated.

Training colleges

We have now to say one more word about the training college. We have seen already that after the exaggeration of the 'seventies, a more sober conception followed in 1885, which caused Dutch to be removed from the programme. In 1907 a better time came for these schools because they had to provide teachers for the greatly expanding first and second class schools. Since the re-organisation of 1927 a first-form diploma of extended Western elementary education (so-called Mulo) and a special admission examination are required. The training lasts six years, and an H. I. S. is attached to the training college in order to enable its students to work practically and under supervision.

There are eight modern H. I. training colleges with about 700 students, one of them being for girls. Of these eight schools, three, with 300 students, are private. Moreover, at Bandung and at Purworedjo the Government has established so-called higher training colleges for indigenous teachers in order to enable Indonesian teachers to take over the task now performed by Dutch teachers at the H. I. S. The best students of the training college can pass in the second or third year of studies to this higher institution where they can obtain the final diploma after three years. The number of students is now 240 [1]). Especially significant is the fact that in this sphere also the Government is giving every opportunity to indigenous forces to occupy the leading places that used to be reserved for Dutchmen.

Elementary vocational education

A number of special courses of vocational training connect with indigenous elementary education, in which vocational education (agriculture or trade) is given no place whatsoever. We have already mentioned the training for popular teacher and for teacher at the second class schools. There is also an opportunity of receiving domestic training or being taught the work of male and female nurses, vaccinators, midwives, laboratory assistants, mantris for popular health, wood and iron workers, electricians, chauffeur-mechanics, sailors and ships' engineers [2]). The courses for

[1]) A private school of this kind has been established and has 40 pupils.

[2]) Education Report, 1926, p. 281 *sqq.*, 301 *sqq.*, 343 *sqq.*, 363 *sqq. Cf.* also a good summary by J. F. W. van der Meulen in "*Wetenschappelijke Bladen*", 1929.

nursing, midwifery, trade, and agriculture are of special significance to the future of the population. When the number of these courses, establishments, and pupils is counted, one cannot help being surprised at the small dimensions of this part of education, which is in practice so important.

It seems that an immense amount of work still remains to be done in this direction, for a better care for popular health, agriculture, cattle-raising, domestic industries, and small industrial enterprise depends partly upon an intensification of government educational activity in this respect. It would certainly not be permissible to address reproaches to the Government of the Indies for having neglected elementary vocational education, in view of its impressive achievements in the field of general education. Everything cannot be done at once. And the Government certainly was not mistaken in deciding to use all its strength in the first instance for a strong frontal attack upon illiteracy. But at present so much territory has already been conquered that it is time to think of consolidation. The best means of consolidation is undoubtedly a strong increase in the provision of simple vocational education for trade and agriculture, and for nursing, including midwifery.

It is in this sense that Mr. Creutzberg expressed himself [1]):

> "There is more reason for the complaint that our education, even the simplest popular education, is not practical enough and aims too much at knowledge, not enough at action. Throughout the Indies there is an urgent need first of all for a strong extension of simple agricultural and trade education in which practical work must be the main point. But this is not enough. Even in schools where general formative education is given, much could be improved by cultivating the love of work.... In the last years this subject has been given special attention and the Board of Education, a young and very useful institution, has repeatedly given it its attention. One of the measures that have been taken consists in the appointment of a special expert for the preparation of future teachers to introduce courses of manual labour into the curriculum of the elementary schools. This expert is actively preparing pupils of various institutions for the training of indigenous teachers".

In view of the fact that the training colleges and normal schools

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[1]) "*Ind. Gen.*" Jan. 1923, p. 9.

are continually producing more teachers who will gradually introduce manual labour and gymnastic drill into the whole popular education, the situation will become more satisfactory every year. But there still remains the extension of trade, agricultural, and other vocational education to be given in an Indonesian language, through which all the more energetic of the population can be reached.

The Government care for trade and agricultural education of an elementary nature for the indigenous population really dates from 1907, a significant year for education in the Indies.

Protestant and Catholic missions had already set the good example. An enquiry made in the course of 1905 and 1906 by Controller Jasper, acting upon instructions from the Government, into the needs of wider and better technical education for the Indonesian population, showed that the population did not feel a definite urge towards education in the industrial direction, but that Indonesians with a certain degree of education with the aid of a satisfactory preparation could be trained into very good tradesmen, and that then an almost unlimited number of them could make a living in industrial enterprises directed by Europeans. As therefore the encouragement of technical education could bring a not inconsiderable amount of Indonesians to a higher social and economic level, the Government decided that, as part of the far-reaching plans that had been adopted in the budget for 1907 in favour of the extension and reform of indigenous education, there would also be a move in favour of trade education, and that, as a beginning, three technical schools would be established. This was done in 1909–10 at Batavia, Samarang and Surabaya, where schools with a three year course were established (Stbl. 1909, 476; Bijbl. 8559).

It was intended that these schools should make their pupils fit to exercise a trade either independently or in a large European industrial enterprise. Schooled workmen were therefore what these schools tried to provide. The Government conceived of a further expansion of this trade education, in the sense that from these technical schools smaller mobile schools would go out where certificated pupils of greater schools could, under supervision of European directors, spread the knowledge they had acquired among the population. The technical schools would, therefore, function

at the same time as a training school for popular vocational education. [1]) This education may include: carpentering, masonry, blacksmiths' work, tinkering, cartwrighting, horse-shoeing, fitting, mechanical metallurgy, furniture making, rotan working, painting, and coppersmiths' and tinsmiths' work. The pupils are divided into two groups, woodworkers and ironworkers. The vehicular language for this instruction is Malay. Young men of thirteen to seventeen years of age who have passed with success through the second class school are admitted. They pay a fee, from which the poorer can be exempted. Subsidies for maintenance can be given if necessary. These three schools, at the end of 1927, had 770 pupils, of whom 244 were in the woodworks section and 526 in the section of ironworking and chauffeurs-mechanics.

The first experience in the working of these technical schools was not very favourable. The pupils did not seem to realise exactly what they wanted from the future. The education did not reach the persons at whom it really aimed, but others who deemed themselves too important to be trained as workmen. An improvement of indigenous craftsmanship was not to be expected from such people. In 1914 the direction of trade education for the indigenous population was transferred to the Department of Agriculture, Commerce, and Industry [2]). It was intended to leave this education as simple as possible and to bring it within the reach of the villagers. Simple little trade schools were therefore to be established in the dessa, and as long as there were no trained indigenous teachers they were to be entrusted to the guidance of European teachers.

In 1915 the establishment of two years schools was started. The formation of adequate teachers continued to be left to the large technical schools. Their pupils went through a further three years' course, and were given theoretical, practical, and pedagogic training as indigenous trade teachers [3]). In the same way, it was also intended to advance indigenous industrial arts. An inspector of technical and trade education was appointed. Visiting

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[1]) Encycl. Art. "*Onderwijs*"; Education Report, 1926.

[2]) In 1920, industrial education was again placed under Education and under the supervision of an Inspector of Technical Education. A permanent commission was established to advise on technical and trade education.

[3]) A decree of May 21, 1928, *Bijbl.* 11652, and 11803, established a special one year course for selected persons who are being trained as Indonesian trade teachers.

committees, to be composed of officials and industrialists, also gave their co-operation, in order to keep this education as practical as possible. Apart from the three technical schools already mentioned, thirteen others have been founded, with a simpler plan and a two years' course, besides simple two year courses in fitting and smithery.

According to some people, theoretical education was given too much attention in the technical schools. In Bijbl. 8559 we read of: carpentering, fitting, iron forging, freehand drawing, linear drawing, professional drawing, arithmetic and geometry, the principles of physics and mechanics, and the knowledge of materials. The two years school gives instruction in woodworking, carpentering, and, in the ironworking section, in lathe, plate and fire working, as well as in the principles of metal turning. They further give professional drawing, arithmetic, geometry, and knowledge of materials. The two years' courses in fitting and iron forging are simply practical training courses. Private initiative has been active in this connection as well. A few sugar factories organised technical courses, while Catholic and Protestant missions established a number of small trade schools. One school with boarders has a four years' course and about 90 pupils. The municipality of Bandung also opened a trade school with two year courses in carpentering, fitting, and forging, and a one year course in masonry. In these trade schools also the point of gravity consists in training the pupils to practise definite trades.

The educational report for 1927 mentions as the total number of pupils undergoing the three and two years' trade school courses the figure of 2087, an increase of 40 per cent over 1926, but all the same disappointingly small, especially as all those who are certificated find, as far as is known, suitable positions. The critics of the three years trade schools disapproved of their theoretical education, their high demands for admission, the use of pupils after a brief practical training as trade teachers, and an unwise regulation of practical education as well as the limitation of the school programmes to wood and iron working, while no attention was given to other trades [1]). A part of this criticism still remains valid; while another part is being met by the more practical organisation of the simple trade schools and courses, which are gradually being placed

[1]) *Cf.* A. van den Bovenkamp, "*Kol. Stud.*" June 1919, p. 612 *sqq.*

more and more under indigenous guidance with mere control from the Dutch side. Furthermore, it should be remembered that trades have, in agrarian Eastern societies, still to develop to a large extent, and in any case cannot be compared with the expansion they have for a long time enjoyed in the West.

In this way, it is not possible for technical education immediately to link up with society, as can be done in the West. On the contrary, society will have to develop its trade life, and technical education gives the first impulse in this direction, which is really an unnatural relation that can only gradually be changed. In particular, the contempt for manual labour which can be observed throughout the modernising East, even among persons who can do no more than a little reading and writing, must disappear. And this can be effected through the spread of education, which initially tends to give an exaggerated importance to a little school knowledge. Ex-pupils of H.I.S. have been known to take service as contract coolies in the islands outside Java as they were ashamed of being seen at manual work by their acquaintances at home, a proof that the process of normalisation may sometimes be painful. Although these hard lessons can be of use and will lead more and more pupils back to agriculture and trade, where they will prove to be the elements indispensable to development, these lessons ought to be made as infrequent as possible by those who can manage events.

Meanwhile, there is room for the simplest trade education, as Ir. Schook has pointed out [1]):

> "In theory", he says, "indigenous trade schools are meant to produce workmen.... Social conditions, however, do not take these theoretical plans into account.... And now indigenous society is made in such a way that a person who can read, write, and reckon and who moreover knows a little more, does not enter into the ranks of so-called tukangs (workmen or tradesmen), but wants to start at once higher up. If possible he wants a supervisory technical appointment, and otherwise just any kind of job; but manual labour he usually considers as beneath his dignity. Employers rightly complain that the Government does nothing for the training of tukangs. The existing trade schools overreach their aim and provide only badly trained supervisors instead of good workmen.
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> "In fixing the programmes of these schools, Dutch trade schools

[1]) J. C. Schook, "*Kol. Stud.*" Oct. 1926, p. 689 *sqq.*

have been kept too much in mind, and the fact that the situation is altogether different has been entirely overlooked. Since the introduction of compulsory education in Holland the elementary school has become the minimum training of every Dutchman. Further technical education must, therefore, include an extension of this knowledge as well as the learning of a trade. In the Indies, however, the elementary school education is already something above the level of the masses and gives, therefore, access to all kinds of occupations that are more acceptable than manual labour. Manual labourers, therefore, have to be recruited from the big mass of people who have not received this preparatory education, and what must be done is to establish tukang schools with an extremely simple programme".

It has already been noted that the Government is busying itself with the organisation of simpler trade education, although much will still remain to be done in this direction. Moreover, as has been said, as it is elementary education especially that continues to spread with giant strides, elementary school knowledge will become so general that a time will soon come when people will no longer feel ashamed of doing manual labour even when they can read, write, and reckon. The next twenty years should therefore adjust trade education more normally to society. The increase of trained workers will be of the greatest importance to the industrial development of the Dutch East Indies, which, apart from large agricultural industries, is still very modest [1]).

Agricultural education

Apart from trade education, which forms a continuation of indigenous elementary education, it is agricultural education that particularly deserves our attention. Until 1905 the principle had been followed of considering agriculture as a business that should remain exclusively in the hands of the supervising interior administration. The Civil Service officials, however well acquainted with popular economy, had on the whole no technical agricultural knowledge. When the Government established in 1905 a Department of Agriculture, it entrusted it in the first instance with the framing of measures by which Indonesian agriculture could be helped forward in a lasting manner. The principal measures which have since been adopted are, apart from the provision of better

[1]) Cf. W. Huender: *Overzicht van den economischen toestand der Inheemsche Bevolking van Java en Madoera*, 1921, p. 134.

seed, the introduction of agricultural education and the establishment of a service of agricultural information. Agronomy is also included as a compulsory branch in training schools for indigenous teachers, and in training schools for Indonesian Civil Service officials. In view of the fact that Indonesian administrative officials and teachers live mostly among the population and come more intimately into contact with it, it was hoped that this measure would cause a quicker spread of agricultural knowledge among the whole population than would have been achieved by the establishment of a number of small agricultural schools.

These teachers and administrative officials cannot really be taken into account as agricultural experts. They are taught mainly natural science and given a little practice in the school gardens, but they do not develop much economic or technical insight into agricultural matters. They are, of course, only meant to be auxiliary forces, and it is as such that they are expected to make themselves useful. As a consequence, the agriculturally trained teachers of indigenous elementary schools begin to lay out small school-gardens, an example which is also followed in the popular schools. This does not amount to nor is it intended to be agricultural education, but it gives a still more rural aspect to the school and offers the opportunity for manual labour [1]). It enables the general formative power of popular education to enter into contact with the daily environment and with the work of the parents, and can therefore contribute to a larger consciousness and to independent thought on the part of the future agriculturist. The latter especially is of much more importance than actual agricultural education and it is in any case the best preparation for those who may eventually have the opportunity of attending such training.

Agricultural education, properly speaking, is given by means of simple agricultural schools, of which about twenty were established before 1920, by after-school training and by courses of simple agricultural education for young men in the villages. There are also courses of agricultural education for village schoolmasters. About this education, which has declined since 1920, it must be recognised that it is by no means proportionate to the signific-

[1]) Especially in the Philippines, where in all layers of education general and trade education are intimately connected and where elementary education in the countryside is imbued with agriculture, much has been achieved in this direction (Nieuwenhuis, *Opvoeding tot Autonomie* p. 90, p. 127 *sqq.*).

ance which ought to be attributed to it in a mainly agrarian country. It touches altogether less than a thousand pupils, although elementary education already reaches 1½ million pupils. Agricultural schools have been transformed since 1922 into agricultural establishments, so that now everywhere the pupils work according to a definite working-plan in an agricultural enterprise that has been organised as rationally as possible, and that bears the character of indigenous agriculture in the surroundings of the school. Every pupil works in the school fields under the guidance of the leader of the school at his own little enterprise, for which he is completely responsible [1]).

Apart from this, in the education given at the school the pupils have in the first place to analyse this enterprise and to learn to make calculations concerning it. Bookkeeping adapted to rural economy therefore forms one of the main branches, together with agricultural calculation. Only a small part of the time is used in teaching applied scientific knowledge to form the basis of agricultural technique. There has, therefore, been a complete change in agricultural education. Originally an attempt was made to give so-called generally formative agricultural education, which consisted mainly in giving some scientific and technical understanding of agriculture, while application of these principles was left too much to practice, which had to be acquired later in life. The economic aspect of agricultural enterprise was not taken into consideration at all. Now it is obviously entirely different [2]).

A large proportion of the old pupils of the schools have gradually settled as agriculturists, or work on the farms of their parents. By means of the agricultural information service which assists them in their work, contact is kept up with them as much as possible. It has been possible already in certain cases to see that these old pupils are exercising a favourable influence upon the agricultural methods of the surrounding population, between whom and the information service a closer contact could also be established. All this is naturally most useful for the agricultural information service that aims at adults, about which we shall speak in the next chapter. Agricultural training is given to village schoolmasters by

[1]) Education Report, 1926, p. 363.

[2]) A good summary as well as sound views can be found in the work of the Inspector of Agricultural Education, T. J. Lekkerkerker, *Het Landbouwonderwijs in N. I.* (Publications of the Department of Agriculture, Industry and commerce, 1921).

assistant agricultural advisers in afternoon courses that last two years. Schoolmasters who have passed through them in their turn give agricultural courses to their neighbourhood. The difficulty which confronts the Government in re-organising and expanding agricultural education is of a similar nature to that which we have observed in the trade schools. To the population almost every non-Mohammedan school, even the little village school, appeared as a means to open up a career to their children. When the careers do not materialise, as it is being gradually found out they may not do after attendance at popular and standard schools or even at the H. I. S., there is a feeling of indignation towards the authorities and a tendency to consider general education or technical education as a bad joke. There is no idea yet that education aims in the first place at making better human beings, better parents, better citizens, better and more intelligent workmen, and that it can lead to a higher career for only a very small percentage of the community. It is not really so long ago that in Holland the son of a gentleman-farmer who had the final diploma of a secondary school felt himself too good to take on his father's work. At present, however, the market value of these diplomas has sufficiently fallen to make agriculture one of the best careers that can be chosen by one of these people, and the time will come when a doctor of economics or agronomy will with equal readiness follow his father in his enterprise, and in this process of normalisation this enterprise will probably benefit as much as its highly educated director. The same applies, but in a higher measure, to Eastern society. Even the trade school or agricultural school is now still expected to lead to a career. If it does not do this, and if it brings forth with pride a more educated human being who takes his place among the peasants or the workmen, the population will feel very little appreciation of this achievement. And if it can foresee this result beforehand, it simply does not send its sons to school. The introduction of popular education has required much convincing and a certain amount of mild compulsion on the side of the authorities before the schools could be filled and a sometimes frightening absence figure reduced. It is natural, therefore, that even less understanding on the part of the population is to be expected in the case of generally formative agricultural education as a continuation to the popular school, which will produce agriculturists with

a broad outlook, but still agriculturists. This was the great difficulty for the authorities, a difficulty all the bigger when, during the first ten years of agricultural education, too much theory was taught, which only further increased the distance between the pupil and his father's trade while the application of this knowledge and its economic aspects were neglected. The transformation of agricultural schools into schools for agricultural enterprise, and the better adaptation of the courses to the practice of the neighbourhood, which dates from the 1920's, are steps in the right direction, although the desired aim has by no means yet been achieved.

Mr. Koens [1]) points out the way thither, and supports his view with considerations that well deserve our attention. Just as Professor Boeke distinguished the objective and the personal element in welfare policy [2]) and made an appeal for the development of self-exertion on the part of the population, while at the same time he recognised how indispensable remains the care given by the authorities to the material and collective interests of the population, there is also, in the views of Mr. Koens, an objective material and a personal imponderable element in agricultural education. Present day agricultural education is, in his opinion, objective in tendency or, as he calls it, speculative because it is directed towards the object, the improvement of production, the transformation into more rational enterprise, and to an increase of so many piculs with a decrease of so much in the working-expenses. He is also ready to appreciate that side of agricultural education as one of the best attractions to gain the interest of the population, but above all he wishes to give a generally formative character to this education by adapting it to the person, the future agriculturist, in order that the harvest shall be so many more conscious peasants and so much more popular strength devoted to agriculture (p. 709).

He gives the following reasons for his views:

"In order to give speculative education, i.e. objectively valuable education, a very intensive study of the agricultural enterprises

[1]) A. J. Koens, "*Kol. Stud.*," Oct. 1926, p. 699 *sqq.*; the same, "*Kol. Stud.*" Dec. 1920 p. 343 *sqq.*, and "*Kol. Stud.*" April 1927, p. 266 *sqq.*, as well as his articles in the communications of the section for agriculture, 1925, No. 8 and No. 9. Also communications by the Government on subjects of general interest 1923, and 1926. All this material has been summarised most usefully in his article of Oct. 1926, mentioned in the first place.

[2]) "*Kol. Stud.*" April 1927, p. 157 *sqq.*

of a fairly limited region is necessary. This means that one or more agricultural experts have to give the whole of their time to the investigation of possible improvements, for which purpose often small separate experimental enterprises are established. These studies are always of long duration, and occupy one or more experts for several years. Certainty as to the possibilities of increased production and improvement of the enterprise is only acquired after a relatively long time, and then only for a limited territory and a small number of agriculturists. In a country with millions of agricultural labourers this is like a drop in the ocean.

"First of all, it should be remembered that speculative education, which aims more at objects, can undeniably give advantages, but after all has a value only in each definite case. If, for instance, an agricultural expert has found out that in a certain district the regular ploughing of coconut plantations is favourable, then this discovery has value only for this particular object. The speculative thought of the future coconut grower may have been broadened, but the result need by no means be independent thought on the part of the peasant. Everyone will therefore give the preference to a genuinely formative education. To find out in the course of education, together with the pupils, whether regular ploughing is advantageous will produce much better agriculturists".

In other words, in the same way as a good housewifery school does more than give its pupils a book with recipes and prepares the girls for an able administration of their future household, in order to enable them to face all difficulties, the agricultural school also must do more than recommend better methods. It must develop the peasant into a rationally acting leader. He must learn to help himself, to think for himself, to observe for himself the changes in society and in markets, and to organise his enterprise according to the requirements of place and of time. Such education in the opinion of Mr. Koens is not "a thin solution of agricultural science in a general form" but the formation of a more independent spirit through continued general education, allied with a special directing of this greater consciousness towards agricultural enterprise. It is sufficient therefore to be generally satisfied with the accumulation of knowledge, the acquisition of a habit of critical observation, and practical application of novelties and improvements.

In view of the fact that we are in this way no longer dealing merely with a method which aims at indicating authoritatively concrete improvements which experiments have shown to be desir-

able in certain definite enterprises, one might expect that elementary agricultural education would be able to detach itself from the small experimental circles to which it is at present too much attached. If this new development materialises, it will still be just as possible to point out the utility of definite methods, manures, seeds, and systems of fighting disease. But from the point of view of these matters as well as from that of agricultural enterprise in all its aspects, it would then be possible to endeavour to develop an understanding of the significance and function of the enterprise and of the factors which influence it, as well as of the possibilities which a wise management may open in accordance with circumstances.

Let it not be thought that this merely concerns subtle differences. There is, after all, in every kind of generally formative education a speculative element, while in every education that aims at a career or at a concrete improvement of industry, there is a generally formative element. The difference lies in the orientation of the school, in the aim and the method of the teacher:

> "We must", said Mr. Koens [1]), "make them into schools for the sons of agriculturists. Our agricultural schools must become agricultural missions, taking into account the actual conditions of the people, where the sons of agriculturists, by being allowed to share in the life of a regular agricultural enterprise, will be given elements that may in later life increase their prosperity and happiness. Our schools must be made after the model of the great pesantrens. The pupils must be made to work hard, not, as in most of the pesantrens, for the teacher, but for the good of the institution itself. They themselves must help to cultivate the food and to harvest it. They themselves must learn to administer and direct all that is necessary to acquire food, cover, and further development. At the same time, for a period of every day, they should enjoy the theoretical wisdom of their leader.... Well organised enterprises of indigenous agriculture where the pupils really lead the life of true farmers must take the place of our existing dessa agricultural schools. My experience shows that this can be done and that there are among our indigenous agricultural teachers many who can very well co-operate in this direction".

As has been pointed out already, the Department of Agriculture under which agricultural education is now placed has adopted this method since 1922 by changing these schools into agri-

[1]) "*Kol. Stud.*" Dec. 1920, p. 357.

cultural enterprises. This transformation makes the year 1922 as important for elementary agricultural education as is 1907 for general elementary indigenous education. But in the Dutch East Indies the number of these schools is still far too small. In the Philippines there are, apart from some twenty farm schools for continuation agricultural education, several hundreds of settlement farm schools, which are small schools for agricultural enterprise of a simple character — more like general village schools. Moreover, schools of the Munoz-type give considerable stimulus to Filipino popular agriculture [1]). Just as in 1918 the aim was to get a central school of standard education for every sub-district (about 40,000 souls), and this aim has indeed been successfully achieved, so also it is perhaps not going too far to want one central elementary agricultural school for each sub-district in Java and analogous administrative units elsewhere [2]). Upon this basis the Dutch East Indies must acquire two thousand such schools whereas there are at present only twenty of them. A gradual extension may perhaps be achieved if, according to Mr. Koens's plan, the generally formative character of this education in a frame of practical hard agricultural labour is placed above the speculative aspect of such education. Even then, however, this can only succeed in so far as the population shows a greater interest in this education. This will lead to the formation of an elementary agricultural education more or less upon the basis of the Union schools connected with agricultural enterprise which have been recommended by Gupta in British India.

We may now leave the subject of vocational education upon an indigenous basis, except to mention that since 1929 the matter of simple commercial education has been dealt with by establishing courses in commercial knowledge for retail trade, with the aim of giving systematic training to indigenous teachers and assistant teachers who want to obtain the teacher's diploma for retail trade (Bijbl. 11282 and 11306). A well considered scheme for simple vocational education drawn up by the Government has, therefore, come into existence. The next few

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[1]) Nieuwenhuis, *op. cit.* 77 *sqq.*, 145 *sqq*, 162, and J. Sibinga Mulder, "*Ind. Gen.*" Jan. 1924.

[2]) The tenth congress of the Agricultural section recently strongly insisted upon extension of these agricultural schools.

years should bring about an impressive increase and expansion of such courses.

Western education for Indonesians

We now leave the indigenous sphere in which the little Koran schools, the pesantrens, mystical education, popular schools, continuation schools, second class schools, link schools, courses for popular teachers, training courses, higher and elementary training schools, vocational education for various professions and occupations, trade schools, agricultural schools and courses connected with them have been considered one after the other; we shall now cast a glance at the lines of the educational building which rises above this indigenous sphere. In fact, we have already been inside this Western sphere in discussing the historical development of the first-class schools into the Dutch-Indigenous Schools, apart from which a few so-called special schools, equivalent to the H.I.S., need only be mentioned in passing [1]).

If by following the existing building plan from foundation to top, we detect a direction which is opposed to the line of historical development, this must be attributed to the fact that there used to be a belief that the influence of education should permeate the whole population by drops falling, as it were, from above. If one follows history, one starts therefore with the description of the first class school (the later H.I.S.) destined for the nobility and the notables. This drop has everywhere proved to be purely legendary and everywhere now the example of Japan is followed: since 1907 education for all has become the aim in the Dutch East Indies. Meanwhile in this chapter, the line of historical development has actually been used in part as a guide, with the result that the H.I.S. has already been sufficiently discussed. This description must now be placed in its right position in the description that is going to follow. Let us only mention that the H.I.S. is numbered among the establishments of elementary education upon a Western basis with Dutch as the vehicular language. And let us further point out that it is in this case that dualism, in other words differentiation according to needs, is most sharply marked, for there

[1]) To this group belong *i.a.* the Depok school, the Ambon *Burgerschool*, and a few others at Saparua, Tondano, Menado, etc., as well as schools for the children of Indonesian military people. This group is more and more organised upon the model of the H.I.S.

are Dutch elementary schools, Dutch-Chinese schools (H.C.S.), and Dutch-Indigenous Schools (H.I.S.), which are all on the same level and are equivalent to the elementary schools in Holland. At the end of 1928, there were no less than 286 Dutch schools with 44,000 pupils, 330 H.I.S. with 68,000 pupils, and 104 H.C.S. with 20,000 pupils.

It may be asked why no general elementary East Indian school upon a Western basis for the whole population has been established. Is it not racialism if Dutch children are not sent to the same school as Indonesian or Chinese children? The answer is again that this differentiation is based upon different needs. If there were racialism in this matter, it would have been sufficient to establish schools for Dutch and other European children and schools for Indonesians together with all other non-European children. For Dutch-Chinese schools and for the separate and much more expensive Dutch-Chinese training college, there would have been no place at all in a racialist system. The environment of the Eastern child is entirely different from that of the Dutch child and the former has to cope with entirely different difficulties not only as regards language but also in the acquisition of all kind of ideas which the Dutch child has received from infancy in its home. Education has to take this into account. Furthermore, the Dutch child requires more discipline than can be imposed upon it by the indigenous teacher [1]).

Moreover, whenever the H.C.S. or the H.I.S. have no available places, or when there are other special reasons, it has always been the practice to admit Indonesian and Chinese children to the Dutch elementary schools. Statistics show that in these schools the proportion is one Indonesian child to eight Dutch, while the Chinese pupils are 8 per cent of the number of the Dutch [2]). In view of the fact that in this three-fold elementary education upon a Western basis there is no difference of educational value whatever between its different sections, reasons for placing non-European children in this purely Dutch sphere have gradually decreased. Nevertheless, a number of parents continue to appreciate it

[1]) For these points see the speech in the Volksraad, p. 30—32. The H.I.S. and the H.C.S. have usually a Dutch head and a mixed staff; in principle however as soon as the standard of education has been assured, it will be possible to have Indonesian or Chinese headmasters.

[2]) Education Report 1926, part II, Table XXVIII. *Cf.* also *Stbl.* 1911, 104.

and wishes of this nature that can be explained by past history must not be disappointed owing to merely formal considerations. People will end by seeing that elementary Western education in the H.C.S. and the H.I.S. satisfies all requirements and is preferable in many respects (for instance because the local language and Malay are taught) to the Dutch school, which alienates the children altogether from their environment.

In the higher layers of education, this reason for differentiation disappears. For secondary, preparatory higher, and higher education there is only one type of school for the whole population, which is a sufficient proof that there is no room for the criticism of alleged racial dualism in education. This is, therefore, another example of the policy of differentiation according to needs within the frame of unity, which has been so often discussed in our first volume. And it will be seen from this and from other chapters that our first volume did not merely try to express pious wishes and utopian speculation but that, on the contrary, it described the foundation on which is built the policy that is at present being applied.

It is not our intention to give an extensive description of secondary, preparatory higher, and higher education, because it really agrees entirely with the same or similar education in Holland itself. A few remarks may therefore suffice. In 1914 (Stbl. 447) continuation courses to European elementary schools were organised as independent schools for continued and extended elementary education, connecting with the threefold elementary education upon a Western basis. The significance of these so-called Mulo-schools may be seen, for instance, from the fact that they give after a few years of continued study an opportunity to H.I.S. pupils of choosing among a much larger number of careers. The H.I.S. diploma, however, naturally has lost much of its former market value since the appearance of the Mulo-diploma.

Independent Mulo-schools were later changed into sections of the General Secondary Schools (A.M.S.) that have been created since 1919 (Stbl. 260), and consist in an under-structure of three years Mulo-education, which may be final education, and a super-structure for those who want to continue, consisting of three different kinds of preparatory higher education, namely a mathematical and scientific section, a Western classical, and an Oriental

literary section. The time of study in such a section also lasts three years. The establishment of an Oriental literary section is of great significance; it is a noble proof of the real quality of synthesis. We must regard in the same light the establishment of the institution for furthering the knowledge of Indonesian languages (Stbl. 1920, 638), which gives guidance to the studies of teachers in Indonesian languages and ethnology, and which also organises the teaching of Indonesian languages in Mulo education.

There are sixty Mulo-schools with a total of 10,000 pupils, of whom more than half are Indonesians and over one thousand Chinese. The fact that over 30 per cent of these pupils are girls is due to the great number of Dutch pupils of the female sex. All the same, the number of Indonesian girls is a thousand, which is already strikingly large. There are about ten establishments for preparatory higher education which will soon have 1000 pupils. It must be remembered when reading the figures given in this chapter that in a very small period they may increase by thousands, tens of thousands, and hundreds of thousands, according to the type of education. And the Mulo-schools, for instance, in the year 1926—27, showed an increase of 1000 pupils. Apart from the General Secondary Schools, there are also two lyceums, seven "Hoogere Burgerscholen" with three year courses, and seven with five year courses, accounting together for 3,000 pupils of whom 160 are Indonesians.

In the General Secondary Schools, which are really equivalent to the H. B. S. or the Gymnasium (grammar schools preparing for the university), Indonesians have a large majority of 500. This General Secondary School appears therefore to be used by Indonesians as a bridge towards higher and even the highest regions of education, far more than is the H. B. S. which is more particularly suitable to secondary education for European children. The Advisory Committee which reported in 1916 saw this clearly, and helped to satisfy a real desire on the part of more educated Indonesians [1]). The final diploma of the General Secondary Schools gives admission to three academies in the Dutch East Indies and furthermore either directly, or in some cases after a complement-

[1]) Scholarships have been granted on a generous scale to young men who could otherwise not have continued their studies for financial reasons. The Education Report for 1927 mentions nearly 800 scholarships to the total sum of 180,000 guilders; the Statistical Annual Abstract for 1929 mentions the total sum of 294,000 guilders.

ary examination, to the universities in Holland, which is a sufficient proof that education in the Indies is not inferior to that of Holland. The East Indian academies [1]) are three in number; the technical (1920), the juridic (1924), and the medical (1927). They have more than 250 students, of whom more than 100 are Indonesians. The educational pyramid is therefore pretty well completed [2]). The top has only been built quite recently, and probably this has been wise for more than one reason.

One of these reasons is mentioned by Mr. Creutzberg [3]):

> "The serious scientific sense of Holland and its cautiousness and thoroughness are the reasons why, in comparison with other places, higher education made its entry so late into the Dutch East Indies. People may hold another opinion, and judge that quantity must not suffer for quality. The other point of view, which is not satisfied with inferior education and demands the same standard for the Indies as for the mother country, has, however, to be respected."

The author expresses himself in the same sense about the organisation of this education, which he calls, pointing to the legislative principle of Art. 131, section 2 (a) I. S., an application of the principle of concordance:

> "It guarantees an absolutely equivalent standard of education in the Indies and in Holland. It prevents a descent to a lower level, as has in some respects more or less taken place in British India, in French Indo-China, and in the Philippines, because there concordance with the mother country does not exist. It must be pointed out explicitly that concordance does not mean uniformity but equality of value."

The latter remark is of the highest importance, and points to the fact that continuation education can have an indigenous character and yet at the same time offer the best that Holland itself can offer [4]).

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[1]) *Stbl.* 1924, 456 and 457; 1927, 395 and 396.

[2]) Soon, perhaps in 1932, an Oriental literary faculty will be established.

[3]) *Neerlands Indië*, II, p. 301.

[4]) We may mention in passing that the Dutch East Indies are gradually making themselves self-supporting from the scientific point of view by the establishment of universities, libraries, museums, laboratories, and that especially from the point of view of investigations into natural science, important pioneer work is being performed. The Pacific Science Congress recently held in Java demonstrated the capacity of the Indies from the scientific point of view.

Another former Director of Education, Mr. Van der Meulen [1]) believes that "the Dutch East Indies, by the establishment of the General Secondary School, have progressed further in solving the problem of the education of young men between 12 and 18 than the mother country itself." This opinion he justifies as follows:

> "This secondary school lasts for six years, and is divided into a sub-structure of three years and a super-structure of three years. This division is based upon the consideration that after the first three years the time has arrived for a choice of career. The pupil has then reached the age when he will have to decide either to end his school career and to find work for himself with the assistance of the knowledge guaranteed by his certificate, or else to improve himself in some particular branch at a secondary technical school, or finally to continue with his general education in order to apply for admission to the university. Considered as final education, this first half of the secondary school course leads to a valuable diploma which opens the door to places in the Government administration and in private offices, where there is a good chance for the future. For most of the girls this diploma is the end of their studies, seeing that early marriage is the rule in the Indies."

One sees, therefore, that Holland has given a better system to the Indies than she has herself. It is no small alleviation of their responsibility for parents that they can postpone the difficult moment of a choice of profession to the age when they can know something more about the character, the inclination, and the talent of their children [2]).

We shall not say much about the secondary, or quasi-secondary, technical or trade education which is grouped around and above the different divisions of elementary education upon a Western basis. It corresponds with institutions that exist also in Holland and is accessible to everybody, apart from institutions meant for the training of Indonesian teachers and officials. After all, this is again a question of government activity which does not solely concern the interests of the Indonesian population and to which we cannot therefore attach considerations regarding evolutionary policy, to which this book is more particularly devoted. This is not meant to imply that other groups of the population enjoy the in-

[1]) J. F. W. van der Meulen, *op. cit.* p. 40.

[2]) The general secondary school has also the great pedagogic advantage that the forms education of the lower school is continued in the extension school by a mixed system of class and subject education which forms a helpful transition to education by subject in a higher degree.

terest of the Government less than the Indonesians, but we are concerned with reconnoitring in a definite territory that possesses its special and peculiar problems and solutions, the description of which is the sole object of this work.

The three-fold education upon a Western basis fits in with specialised education for administrative functions, for technical professions (building, water engineering, mechanical engineering), for teaching (and in this matter we may especially mention the recently introduced Froebel education), for commerce, agriculture, horticulture, forestry, mining, navigation, police, chemistry, etc. and for girls, domestic and industrial schools. The Mulo-sections of the General Secondary Schools fit in with training colleges and courses for teachers in the European elementary schools, and with the second section of the training schools for Indonesian administrative officials, the commercial, medical, and veterinary schools, the secondary agricultural schools, schools training for the mercantile marine, the army, etc. It should be observed in this connection that at the re-organisation in 1914, it had already been decided in principle [1]) to suppress the preparatory sections of the law school, the medical schools, the secondary agricultural school, the veterinary school, and the training schools for Indonesian officials, and to entrust the preparation for these schools, in so far as it did not require a specialised character, to the Mulo-schools (which have since become Mulo-sections of the General Secondary Schools). Formerly, the elementary schools upon a Western basis immediately led into these preparatory sections. At present the elementary schools lead continually more and more to the Mulo-sections, and only from these to the professional schools, whose preparatory sections are now disappearing one after the other. Eventually, as higher education makes progress, a portion of the secondary technical and professional education will itself become superfluous. In this way the secondary school for jurists and that for indigenous doctors at Weltevreden have been made superfluous by the establishment of a law academy and of a medical academy.

Private education

These general data must suffice. They show how much educa-

[1]) Speech before the Volksraad in 1918, p. 61.

tion has already become differentiated, and how much the influences of division of labour have changed the face of the old self-contained indigenous society. This society is beginning to put its hands to the work itself. A few Indonesian associations, among which the Mohammadijah and Taman Siswo may be especially noted, are performing an interesting and praiseworthy work by establishing schools which are partly on a Mohammedan basis, partly upon a national cultural basis, and partly upon a Western basis. For some time the A. B. C. Committee (Committee for fighting illiteracy), which tried to spread everywhere courses for teaching adults to read and to write, has given rise to great expectations. The masses, however, were still too indifferent towards this well-meaning and enthusiastic effort on the part of their élite, and there has been little success. Such experiences, however, ought not to cause discouragement. On the contrary, they should increase the energy put into the work which has been started and continued by the authorities, and at the same time create a better realisation of its immensity.

The activity of Protestant and Catholic missionaries in the service of education has been immense, as we have already pointed out several times [1]). Among the 786 elementary schools upon a Western basis, not less than 309 are private, due mainly to Christian initiative, which is strongly represented in all the branches of education. Formerly the authorities were strictly neutral towards private schools upon a Christian basis, but after 1890 and especially after 1908 another line of conduct was adopted because it was realised that the social activities of the organisations that were doing this work deserved to be supported. The authorities by themselves cannot do all the work. It would therefore be unjustifiable to remain indifferent towards these forces which are assisting their evolutionary labours. This is why the Government gives its support to all kinds of courses, such as those of the Netherlands Union, and to all kinds of schools upon a Christian, a neutral, or a Mohammedan basis, and will continue to do this towards all schools upon other bases, such as the national cultural ones. The Government's impartiality is, therefore, none the less still above all suspicion.

The same qualification is asked of all private schools that wish

[1]) P. Bergmeijer: "*Ind. Gen.*" Dec. 1927.

to receive a subsidy: their level of education must be equivalent to that of a corresponding Government school, and there must be a real demand for such education. This, again, is an impartial and, as everybody will agree, entirely correct attitude. If these requirements are fulfilled, the subsidy is decidedly generous, and covers more than half the cost of education, including the school building and the salaries [1]). The Government can ensure the fulfilment of its requirements through its ordinary body of inspectors.

There is of course also provision for compelling all non-subsidised education to take into account the demands of order, security, and morality. Teachers who do not observe this requirement and who use their education for illicit propaganda or similar aims are not allowed to continue teaching. Formerly education by Indonesians of Indonesians and of other non-Europeans was left entirely free [2]). This has now been rightly changed. A written announcement of the intention to teach is now demanded. Supervision, of course, mainly concerns the manner in which this education respects social order and morality (Stbl. 1923, 136; 1925, 260; Bijbl. 11638).

The Board of Education

We shall not go into details as to the further organisation of Government educational activity [3]), to which belong the Department of Education and its many branches of inspection. Those who are interested can see without much difficulty from the annual official educational reports that the efficiency of this administrative organism is not inferior to the standards set up by Western authorities in Europe itself. But there is one special body, the Board of Education, which must be mentioned separately because it has proved its utility so amply in the course of its ten years of existence. This body advises the Director of Education on subjects of a technical, sociological, and pedagogic nature. All sections of educational experience, as well as some associations, are represented in it. The constructive part of this work is done by the bureau

[1]) Cf. *Stbl.* 1924, 14, 15, 68, 154, 225; 1925, 296, and *Bijbl.* 10606.

[2]) For private education of Europeans, *cf.* art. 180 I. S. and *Stbl.* 1894, 192, art. 26 *sqq.* For private education by Europeans of non-Europeans a permit by the authorities is required (*Stbl.* 1880, 201; 1903, 389; 1912, 286), with the exception of Christian missionaries provided with a special admission in accordance with article 177 I.S.

[3]) The costs of education which in 1900 were only 4 million guilders are now above 50 million.

of the Board of Education, consisting of two delegated members. The bureau assists the Board in dealing with problems that have been brought before it, and apart from these problems it also deals with scientific work in the interests of education.

The bureau collects data about problems that are being considered, works these data into memorials and preliminary advices, follows all home and foreign literature of an educational nature, works important data into simple, popular pamphlets, initiates investigations of a pedagogic and educational kind, corresponds with foreign educational organisations, etc. Where it is necessary, special commissions, whether permanent or temporary, are instituted in order to investigate special problems of educational policy or of organisation, and to tender their advice to the Government[1]). We must also point at the Depot of educational appliances, a very well organised Depot for school books in twenty-four different Indonesian languages, where also all kinds of other school requisites wait until they are needed by the schools. Finally, we may mention the Bureau for Popular Literature which belongs to the Department of Education, and to which we shall give attention in the next chapter.

This, perhaps, gives a sufficient review of what the authorities have accomplished in the sphere of education, in the interests of Indonesian society, and what it further intends to do [2]). If we may summarise the results of this really impressive work in a few words, we must point out first of all that an organisation resting upon a broad indigenous basis has been established. This organisation, as soon as the population begins to show more interest — a thing which may perhaps result from the transfer of popular and standard education to the Regency Councils, which will soon take place — will within a fairly brief period place within the reach of every boy and, what is more, of every girl, a simple but for the time being satisfactory popular education [3]).

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[1]) In this connection should be mentioned the Dutch-Indigenous Education Commission which has issued publications with very interesting statistical data (1929, 1930).

[2]) In the Indonesian states education is given both by the Government and by private initiative. In the "Long Contracts" the governments of the states undertake strongly to further the cause of popular education, and considerable amounts are now being spent for education in the states.

[3]) In 1919 (*Bijbl.* 9369), the Government announced its plan for decentralisation in education; these plans will soon be put into practice, perhaps for elementary and technical agricultural education also.

Moreover, this popular education hides a lever, the central standard education, which can, already to-day, further develop all those who really desire it, and which in the future will lift up the whole of popular education to a higher level, now already represented by the six-years indigenous elementary school. The link school, that invention of genius, full of the essence of synthesis, is already making a bridge between this popular education and the university, a bridge across which soon the best will pass in their thousands, when the process of self-renewal has given to society more mobility, more progressiveness, and more productivity, socially and economically.

This solid basis of education must concern us all still more than the work, in itself not less worthy of appreciation, which has been established in higher regions, and which has found a solid top in the principle of concordance working even in the lowest layers of popular education and giving to the Indonesian the best that has been conquered by centuries of struggle in the West. If in the coming years, a similar expansion could be given to elementary trade and agricultural education, for which the right organisation has already practically been found, then it would appear that an excellent piece of work has been delivered from the workshops of the spirit of the West, which will enable millions of inhabitants of the overseas territories to devote themselves on their side also, with conscious strength and devotion, to the great labour of synthesis.

CHAPTER IV

THE CONSTRUCTION OF SOCIETY

Society and state

If this subject is now chosen after we have described the administrative system, justice, and education, and before we attack the subject of the next chapter, which will be political construction, there is a good reason. Society and state may in the spoken language indicate a rather vaguely defined complex of ideas. Even in sociological literature there are very different criteria for their being, their origin, and their cohesion, but the vagueness which exists in the use made of these terms does not prevent there being a general consciousness that society, the living, movable, always changing, society of men, must be considered as the primary creative force which produces from its fruitful soil language, custom, culture, justice, forms of production, countless connections and associations of persons and groups of persons, the political form, and innumerable other things.

All these results of co-ordination and co-operation between struggling groups of humanity must not, however, be considered as separate independent forms, as though they stood outside the living organism like a sort of house which gives cover and protection. On the contrary, these relations appear to us thoroughly organic. Language, custom, culture, state, law, etc., are all nothing but different aspects of social life and social need, organs or organic functions of the community by which it expresses itself. Just as in biological life organism, organ, and function present a complex unity which cannot easily be analysed, in which the whole makes the organs subservient to itself and to a harmonious division of the task, and where, at the same time, the bad functioning or the interruption of one organ may destroy the whole organism, in the same way one also detects in social life an

uninterrupted, reciprocal influence of an incessantly varying society and of its functions and organs. State organisation, essentially one of the expressions of social life, is in its turn an active causal factor amidst the component parts of society, the persons and the groups of persons, and in this secondary aspect the state acquires in the mind of men a value of its own, independent of any aim, and becomes, as Barth expresses it[1]), a central organ that tries to dominate the other growths of social life, instead of being exclusively serviceable to them in agreement with its essence.

This connection, which is difficult to divide, and which shows us a state at the same time as a means and as an aim, as an organ of living society and as its central leader, should not cause us to neglect the true relation which indicates society with its consciousness, its differentiation, and its spiritual and moral force, as the ever-changing soil from which the idea of state and the organisation of state are born. They can, as a rule, be nothing more than a relatively faithful reflection of the social, economic, intellectual, moral, and spiritual forces in society, and of the parts and cells which compose it. There are exceptions which may sometimes make the genetic connection between society and state organisation less evident, but they do not affect the natural rule.

It is necessary to give our full attention to this point when we enter the colonial world. For nowhere in the development of mankind does one find such a fundamental contrast to the postulate indicated above, and that precisely in this environment and in our own period. For here one sees adult Western state organisation in the midst of primitive divided Eastern communities of which the miniature spheres disappear into nothingness compared with the gigantic dimension of the social horizon with which a similar Western state organisation would correspond. Such an unnatural contrast can always be expected to some degree when political unity is imposed upon a number of social units that are not yet highly developed. The contrast was there in the first periods of the national states of Europe that had been forged with blood and iron. It existed in the Eastern states under their absolute Rulers, but it had not the sharpness of modern colonial relations because in the middle ages and in the East a definite mystical need solved the political contrast in a religious connection between the auth-

[1]) P. Barth: *Die Philosophie der Geschichte.*

ority of the Ruler and the small popular communities, whose essence harmonised with the static relation of earlier periods.

Modern state organisation, which is making its entrance everywhere in the colonial world, and which in the Dutch East Indies will soon deserve to be called full-grown in the twentieth century sense of the word, could not rest upon such a passive relationship. It requires a dynamic society moved by gigantic forces, and wide or even wider than the limits that have been drawn to state action. In a natural growth, the state, being a form of social life, follows this life. In Europe, therefore, where the most powerful centres of society, scientific, commercial, industrial, religious, social, party, and other organisations, have already for a long time transgressed the national frontiers, it is, notwithstanding the setback of 1914, and the reactionary customs policy of various states, a foregone conclusion that sooner or later states, however hestitatingly, will be forced by events to follow in the direction which an evergrowing consciousness of international inter-dependence indicates to them.

The great contrast and its solution

In the colonial world we now see an entirely different relation. There, a modern society, always actuated by an urge to create, and producing, among its many forms of expression, a state organisation, does not exist. On the contrary, we see the Western state organisation sowing in the Eastern social soil germs by which it hopes to develop the carrying power on which one day it can rest as an organic life-form of Eastern society. In this way we see, as a result of the colonial relationship which gives to the West of the twentieth century political leadership over large parts of the East that has, socially, economically, and scientifically, remained far behind, a situation which is entirely unnatural and which gives rise to an exceptional state of affairs in every field of state activity.

It is, indeed, in the same light that one must look upon the contrast between our Western schools and universities and the Koran or pesantren school, the real genuine popular school, the only one which the population would appreciate if left to itself. In the same light also, one can see the opposition between Western big enterprise and the rural sphere that surrounds it, a contrast

which impresses everyone who sees it. The Surabaya Handelsblad recently gave a description of this contrast, which, as one should not forget for a moment, really also applies, perhaps to a larger extent, to the contrast between Western state and Eastern society that now interests us. In the same light, finally, does one see the contrast between modern fast traffic and the footpaths between the dessas, wage earning and mutual assistance according to custom, the cinematograph and the wajang play, the journalist and the dalang who displays the wajang play, industrial agriculture and the closed produce-economy of restricted genealogical or territorial circles.

Mr. Zentgraaff sketched this striking contrast, which is perceptible everywhere, as follows: [1])

> "Yonder, in the wide plain, the life of the population retires into quiet little houses, hidden in the caressing shade of trees and shrubs. It is the time of the harvest, and gladness and generosity are in the air of the dessa. It is the time of *panen* which brings with it wedding and festivity. The sonorous voice of the gamelan calls people together from far and wide and they sit in a circle with the quiet and familiar satisfaction of those whose desires do not go to far and distant things. It is the time of great rural charm, and the life of the peasant moves again in the ancient patriarchal forms.
>
> Here in the factory with its shrill life, perfected industry moves, and the rapidity of machines transcends the slow capacity of even the Western mind, which cannot picture to itself anything like a turbine with 9,000 revolutions per minute.... The whole of this ingenious steel and iron construction labours and thumps, and in every phase of the mechanical and chemical process the raw material changes in essence and in structure. Over all this rises the deep voice of the mill giants, the awful noise of the breaking and crushing cylinders, and all the din of the mill battery swells out into a dull buzzing song, which is the festive chant of industry, while the throb of all these monsters shakes the earth far away in the neighbourhood".

In most of us who visit such an enterprise only on rare occasions the feeling involuntarily arises that we are standing in front of a daemonic force, represented by these crushing machines, and in this frame of mind we feel all the more inclined to extol the rural quiet outside. Perhaps both conceptions of the contrast are mistaken, as we have pointed out on earlier occasions. The so-called

[1]) H. C. Zentgraaff in the "*Soerabajasch Handelsblad*", 30th May-3rd June, 1927: *Van Westersch Grootbedrijf*.

daemonic machines are no more daemonic than their intellectual, economic, social, and political counterparts, which form an indestructible whole with the technical and traffic developments of our time, including modern state and international organisation. Social legislation, old age pensions, popular education, the protection of women and children on the large scale known in our age are simply inconceivable without this technique and organisation.

One might imagine that the idyll of the East could be protected if it were surrounded by a wall, but it is too late for that; the thinking East itself does not want this idyll any longer. Soon it will look with distinct hostility upon all those who want to protect its peoples, its institutions, and its methods of production against all modern influences, as though they were monuments of nature, calling them enemies and reactionaries. And the Young East is entirely justified in taking this attitude. The great contrast must be weakened and dissolved. The only means of achieving this is by the development of the East itself, the dynamising of its society. Western state organisation, by using all its strength to advance this social evolution, gives the best proof of its earnest wish to make its own wide sphere correspond with an equally wide social horizon in order to call forth a natural relationship between society and state. Inversely, too many members of the Eastern élite, even in the Dutch East Indies, form unwillingly the main obstacle towards political autonomy, because, blinded by the unnatural situation which is bound to accompany colonial relationships, they consider political organisation as a primary, and social organisation only as a secondary, consequence.

If it were different everybody would learn to understand the real state of affairs and would immediately concentrate all attention upon the socially divided and economically extremely weak society, while political independence would be brought nearer automatically by every social action however insignificant. As long as the activity of the authorities in the matter to be described in this chapter occupies such a dominant position, merely because private Eastern initiative still does so little, the description of political construction in the following chapter must place in the foreground various unnatural consequences of colonial relationships, which under existing circumstances have become almost natural.

Many people would perhaps like to recall that in the West also the state has taken upon itself a considerable share of social activity, and that therefore the situation in the colonial world is not so fundamentally different. They forget that in the West all complaints as to excessive interference by the state are altogether one-sided. The forces which come forth from Western society charge the state organisation in its capacity of their servant to perform a number of functions which the citizens themselves deem necessary, and whose performance they have entrusted to the state. But if these citizens consider that some interest can be better dealt with by themselves, they simply remove this interest from state control, as often happens, for instance, in the case of education. In view of the fact that society may be called a unity of contrasts, it is not surprising that almost every measure taken by the authorities is felt by some part of the citizens to be state compulsion; and since disagreeable impressions sink much more deeply into memory than neutral or pleasant impressions, it is not surprising that the legend of a tyrannical and always interfering state is so generally credited in the West.

Anybody looking upon the political practice of our day from a less one-sided point of view must recognise that things happen really in the opposite way — that the citizens are continually developing a greater power in their varying majority, and that nobody else is completely responsible for the extent and the content of state activity. Remarks about the way in which convictions formed within society crystallised, and about the more or less imperfect execution of these convictions by the authorities do not in the least affect what has been said. They may draw our attention to imperfections in our electoral system, in our parliamentary forms, or to the way in which bureaucratic methods creep into our public life; they may show regrettable defects of demagogic practices on the part of political parties, the press, etc., but all this concerns the method and not the principle itself.

We have shown, at the same time, the naturalness of the relation between state and society in the West, and the unnaturalness of that between the Western state and the highly divided society of the Eastern colonial world. We have also demonstrated that the modern state organisation which has been constructed in the Dutch East Indies, by its care for social evolution, is erect-

ing the only suitable basis for a wholesome political development. Never, however, will it be possible to effect a healthy evolution or a natural relation between society and state, let alone complete political autonomy, unless the Indonesian bourgeoisie (and in the first place its élite) begins to co-operate with the authorities, and assists them in their task, even taking it over in part. As soon as this happens, the point of gravity of government activity will automatically move toward the social sphere of the bourgeoisie, which in the colonial world too must become the living source of all initiative and action in the public cause.

An appreciation of this general truth is perhaps more illuminating than the most detailed knowledge of what the authorities in the East Indies have really done in the way of social construction, or what they intend to do. Society is still more many-sided than the individual. Its needs are still more extensive and much more varied. A description of the construction of society must therefore in any case be restricted to a sketch of its main lines — only a few of its prominent aspects can be placed in the light, and it must be left to the reader to complete what is missing in accordance with his own inclinations.

But, if it were a generally admitted truth acknowledged by everybody that society itself ought to function as a living, germinating soil, and that all educational work remains vain as long as this soil is not enriched, fructified, irradiated, and induced to produce a stronger and nobler growth, this chapter could really be left out altogether. For, in comparison with that fundamental principle, it matters little to learn where and how the incidental initiative and the specific activity of the authorities exercise stimuli upon society, which inversely ought in fact to charge the authorities on its own initiative with all social and other cares which it desires to see centralised, and which it wants to further through a compulsion derived from the general will of the people.

State organisation in the colonial world

In the previous description of the administrative system, of justice, and of education, we have already indicated the basis and the indispensable preparation for all social and political work. Administration, police, justice, and education develop in a natural growth as was favoured by circumstances in the West in the same

measure as society evolves. This evolution tends to a large extent to transfer the activities in the sphere of police, justice, and education and also those concerning traffic and communications etc., to the central or local government. The interest which everybody has in public order, security, justice, traffic, irrigation and drainage, and so on naturally indicates these functions as part of the activity of the authorities, and all social forces, however different their nature may be, can usually accept their official exercise with equanimity. But when there is a vivid consciousness of special interest, as is the case in Holland in the matter of education, there can be no question in the long run in a modern society of exclusive regulation and execution by the government. The government has then to be satisfied with general guidance, the indication of norms, and supervision. This restricted activity again is useful to all in the same measure. Otherwise, however, the citizens, with their inexhaustible power of organisation, take the initiative, in order to advance, in various forms within the general frame, their special varying interests. In this way manifold forces work with or against each other inside society and it may take a long time before in various fields a sufficient understanding of the interest common to all breaks through, and makes all agree to give to the state at least the power of indicating norms and of exercising supervision. With regard to industrial and commercial enterprise and labour questions, state intervention has for a long time been considered as something evil. Western society often feels a great hesitation in bridling, by a general acceptance of norms from above, the initiative of the forces born from its differentiation, and upon whose reasonable freedom its future, indeed, depends. With more difficulty still will it consent to entrust to the state exclusive care for the spheres of interest which are most intimately connected with its existing social differentiation.

In this way society in the West displays a certain jealousy towards the state, although the latter is nothing, from phase to phase, from form of growth to form of growth, and could be nothing else, than an expression and a form of the life of the national community and of its common will. The case is very different in the colonial world. Not only is care for the general interest readily left there to the authorities but moreover the field of action that

in the West is more particularly considered to be that of society remains fallow, simply because in the East there is no society in the modern sense but only an agglomeration of tens of thousands of small and isolated genealogical, territorial, or functional communities. The idea of state continues very often to be embodied in the village republic, the natural correspondent of village society. It is only when Western state organisation enters the territory of these closed village societies or encroaches upon the greater circles which are still felt as being closed, that the kind of jealousy, ill-will, and dissatisfaction which is also felt in the West begins to reveal itself. Otherwise, there is a tendency to treat all state interference with indifference. The frame of mind finally depends on the trouble or the comfort which is brought about by it, but the real principle born from the desire for self-assertion is usually absent.

In these circumstances, Western state organisation is compelled to call forth social consciousness and forces and to develop from the tens of thousands of isolated communities that wide and lofty social sphere from which in normal circumstances it would itself have been born. The state is thus engaged in calling into existence its unborn mother, the society that fits it. This is an unnatural and audacious action which is bound to cause innumerable difficulties, misunderstandings, and contradictions, although nothing can be proved against the rightness of this action. There is no other way, and as the state proceeds along it, misunderstandings and contradictions will disappear.

The Western structure of unity and Indonesian society

The construction of Oriental society under the aegis of colonial policy is, in the Dutch East Indies too, mainly a process of cementing upon gigantic dimensions. It takes place in two entirely different spheres of government activity, which, however, in practice are not always easily distinguishable. On the one hand, one sees the authorities building up a Western structure of unity which keeps together and draws upwards a divided Eastern society. On the other one sees them busily calling forth an organic process of growth inside this Indonesian society. In view of the fact that the latter may be called the real task of the colonial authori-

ties, the Western structure of unity must be regarded as a means to an end, manifesting the reality of the great unity till it reaches the smallest dessa, and in so doing radiating the influence of unity in an indirect way, at the same time contributing directly and immediately to the widening of the limited circle of Eastern social consciousness.

In the first chapter we outlined an administrative organisation which reveals explicitly to tens of thousands of Indonesian social units, from Sabang to Merauke, from Bantam to the Talaud Archipelago, the power and the will of the idea of unity embodied in Dutch leadership. This all important result is brought about although Dutch leadership in directly administered territory acts mainly through the intermediary of an Indonesian administrative corps usually recruited locally and of popular chiefs, and of Indonesian Rulers in autonomous states. Although this Western structure of unity super-imposed upon the countless variations of regional administrative organisation is accepted passively by the population, we may be sure that its actual presence works deep into the minds of the people and has prepared the soil for more direct influences which are being exercised for the benefit of the organic development of the population through the same administration. Although the Dutch and the Indonesian administrative corps now exercise in both functions the will to unity, these functions are to be sharply distinguished in principle. In their capacity of bearers of authority, they form the steel structure of unity, they are representatives of the state without its corresponding society, and their activity is directed towards the present. However, in their efforts to call forth budding organic life in the small communities within their official areas they are also, in fact, themselves organs of these small societies functioning as such by order of the state. In this dual character they are, therefore, also social forces of first class importance, and their activity is simultaneously directed towards the future.

Judicial organisation is rather in the same position. Justice is administered in the name of the Queen throughout the Dutch East Indies above and by the side of Indonesian regional and village justice, and it should therefore be looked upon as an attribute of Western mechanical unity imposed from above. In this capacity it has undoubtedly everywhere made a great impression on the

popular mind, and is thus preparing the future popular consciousness. In so far as government jurisdiction is active in its efforts to move Adat law and judiciary towards development along its own lines (a task which in autonomous states and also in large parts of the directly administered territory where indigenous jurisdiction is being continued and has been entrusted to the administrative officials), it is also a living organ of the small Indonesian societies, which enriches and fructifies indigenous cultural possessions, and its activity is directed towards the future which must provide the state with living roots drawing life-power from the motherly soil of Indonesian society.

The organisation of education which links the smallest village school to the university is also a part of the structural building of unity of the Dutch authorities. The generally formative elementary education, trade and agricultural education especially is entirely adapted to the development of indigenous society. It widens and enlivens small spheres that have been darkened by ignorance. It is directed towards the future. It already promotes initiative in indigenous society, calling forth various endeavours towards support of state activity or towards changing it into social action. People are already establishing their own schools for spreading generally formative and technical education. We can already see, therefore, a hopeful beginning, which by no means stands out as an isolated instance, although it must unhappily be recognised that we might be much further if the élite had understood earlier the real relation between state and society. Notwithstanding all unnaturalness in the existing relation between state and society, we see that the method followed is beginning to produce good results, and that the state may succeed in calling into existence the wide society which it needs. Unity of coinage [1]), a gradual unification of weights and measures [2]), linguistic unity (Dutch and Malay) furthered by the authorities, all this throws forth influences which must encourage the consciousness of unity in this fragmentary society.

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[1]) G. Vissering, *Muntwezen, Handel en Bankwezen*, in "*Neerlands Indië*", 1929, II, p. 182 *sqq*. Cf. also *Muntzuivering* in the Communications of the Government about matters of interest and importance, May 1929, Col. 63 *sqq*.

[2]) Year Book of the Department of Agriculture, Industry and Commerce in N. I., 1928, p. 270 (Stbl. 1928, 255 and 256; Bijbl. 11747 and 11916).

Traffic and Indonesian society

The system of communications created by the authorities is in this respect also of the greatest importance. Roads, railways, tramways, harbours, the telephone, the telegraph, the post, wireless, shipping, air transport are the great factors which put an end to isolation. Here also, we see that the active interest shown by the population is growing. In territories where the cultivation of coffee and rubber, for instance, is closely dependent on a good system of bridges and roads, it has on its own initiative asked for their construction or extension, declaring itself ready to contribute in money or in labour. Here, then, is a good instance of the will to progress which is developing in indigenous society, and of which few people would have dared to dream in 1900.

Dutch private initiative has also not remained inactive in this matter. It has given the Indies thousands of kilometres of roads, railways, and tramways — regular shipping connections with Europe, Asia, America, Australia, and between hundreds of ports in the Archipelago itself, as well as the growing air traffic between Holland and the Indies, and even a few airlines in the Indies themselves. To give an idea of the enormous expansion of traffic, we may mention a few data. In the days of the Indonesian Rulers and the Company little was done in the way of road building, though more than is generally admitted. The great road of Daendels (1808—1811) connected and continued large tracts of roads made by the Company. Since his day there has been at any rate one decent road through the whole length of Java. Gradually an expanding network of roads and ways, often made and kept up by labour in payment of taxes, radiated from it. The labour of people who are unschooled, untrained and unselected is not very efficient, and those who have sometimes looked at their work can well understand this. Non-metalled roads and secondary gravel-roads can perhaps be made in this way, but the first-class roads which traffic now requires can only be made by the most modern technique. One half of the roads in the Indies has now been asphalted; selected paid labour and technical direction alone can do this. The total length of excellent roads is already more than 60,000 kilometres, not including all kinds of landways. On these roads there is a vast number of motor cycles, cars, and omnibuses, which are very popular with the population. The number of these modern

vehicles already exceeds 100,000[1]). The influence of this circulation upon the mentality of the population is perhaps larger than all other educative means taken together. Traffic brings trade, and trade makes commercial agriculture and small industries worth while. We have repeatedly explained in the first volume what all this means, and shall not have to insist upon it here. The Karo plateau (East Coast of Sumatra), which a few years ago was still the scene of primitive conditions and of horrible customs, has been linked up with world traffic by a road so that the population has been enabled to make its agriculture pay commercially. Now it has become well-to-do, progressive, and fairly energetic, and it is more accustomed to the use of the most modern means of transport than some villages in Holland.

As regards rail- and tramways, they have been extended in half a century in such a way that their capital investment is now almost 1,000,000,000 guilders and their length nearly 10,000 kilometres. Java especially is well provided and within a short time Sumatra also will be covered with a railway along its length. Private Dutch initiative has greatly assisted the State. Among these companies the Netherlands Indian and the Deli Railway Companies deserve special mention. It may be said that when certain projects still in the course of execution have been realised, all reasonable requirements will be satisfied. As in Europe and especially in Great Britain, these railways have greatly to suffer from the competition of motor omnibuses and lorries. Even here the Indies are beginning to display ultra-modern conditions.

The same things can be said about shipping. We may point to the impressive group of steamship companies — Nederland and the Rotterdam-Lloyd, the Java-China-Japan line, the Ocean and a number of foreign companies which connect the Archipelago with the world. It can be understood what this means to the Indonesian population when it is remembered that its exports amount to hundreds of millions of guilders in agricultural produce. In 1924, its export (mainly of copra, rubber, coffee, and pepper) amounted to 211 million guilders in the islands outside Java, which was higher than that of all the great European enterprises taken together (mainly tobacco and rubber) with their

[1]) See the Statistical Annual Reviews of the D.E.I., issued by the Central Office for Statistics in the D.E.I. under the heading "Communication".

export valued at 204 million guilders. In Java the produce of European enterprise is still of more importance than that of the population, especially since cane sugar, with exports to a value sometimes of 500,000,000 guilders sends the total figure up. In Java also, nevertheless, the export of indigenous produce (kapok, tobacco, copra, and cassava) had reached in 1924 the figure of almost 100,000,000 guilders [1]). The total figure of the export of agricultural produce by the indigenous population of the whole Dutch East Indies is now over 400,000,000 guilders, almost half that of the exports of European enterprise. Such figures are significant, and they give rise to even higher expectations for the future. Without the stimulus, direct and indirect, of big foreign enterprise, of a foreign Asiatic middle-class, and of traffic, there would have been no possibility of such progress.

Shipping within the Archipelago has equally increased. The Koninklijke Paketvaart Maatschappij with a fleet of about 150 steamers plays a great part here.

> "No fewer than 330 harbours", says Mr. Hummel [2]), "are served by the K.P.M. and many other harbours called at only irregularly must be added. If one includes the means of transport which are put at the disposal of commerce by other shipping lines, one can undoubtedly speak of a busy, prosperous, and continually increasing traffic. Comparative figures concerning the transport of goods within the Archipelago are not easy to give, but as regards the transport of travellers we find it put down that in 1869 the packet-steamers transported 48, 272 passengers, while in 1927 this figure had risen to 1,269,945. This does not take into account the transport of passengers by the many steamers which do not belong to the K.P.M., and by indigenous sailing vessels".

The same author reminds us (on page 261) of the liberal policy followed by Holland in this matter. Coastwise traffic, he says, was formerly allowed only to Dutch ships, to ships domiciled in the East Indies, and to indigenous craft. The main part of these regulations has now been abolished:

> "Coastal traffic nowadays is also allowed to ships under a foreign flag, except for a few restrictions which mean so little that,

[1]) C. Lekkerkerker: *Oeconomische toestand van Java in 1928* ("*Meded. no. 4 van het Nederlandsche Java-Instituut*", April 1929), attributes the favourable economic situation to the large increase of the export of purely Indonesian agricultural produce. Cf. also M. B. Smits: *Over den landbouw in N.I.*, 1929, p. 90 *sqq.*

[2]) A. C. Zeeman: *Het Verkeerswezen te Water* ("*Neerlands Indië*" 1929, II, p. 252 sqq.).

practically speaking, the whole Archipelago is open to ships of all nations" [1]).

There will be no harm in pointing out, especially when describing the construction of society, that Dutch colonial policy is characterised by an unusual spirit of free trade, an open door policy of the most undiluted kind. Art. 129 R.R. decrees that tariffs for imports, exports, and transit are to be fixed by law. It was not until 1865 (Stbl. 99) that the East Indian tariff law was passed. The strongly differential system of protection in favour of the industry of the mother country which had hitherto existed was much weakened. Some people endeavoured to break a lance in favour of the conception that the whole kingdom should be one tariff territory, a policy of combining free trade with protection.

Minister Van de Putte did not accept this view. In his explanatory memorandum he declared:

> "Holland and the Indies may politically form one State, but administratively and economically they certainly are not one. To exempt, therefore, Dutch linens or cotton prints entering Java while keeping a tariff on foreign goods would only tend to assure factories in this country a perpetual protection. Duties on foreign linens, and all other duties, would henceforth really be differential duties."

And this had to be said just at the time when it was intended gradually to abolish all differential rights [2]).

On January 1st, 1874, a new tariff law was introduced (Stbl. 1873, 35). Although modified from time to time, this law is still in operation. It has put an end to all differential rights. The text of this law, frequently modified, was re-published in its entirety in 1921 (Stbl. 346) and again in 1924 (Stbl. 487). Since then, it has again been modified and added to by some further laws (Stbl. 1925, 292, and 1927, 310).

All foreign and Indonesian capital and all spirit of enterprise is also admitted without discrimination to carry on agriculture, mining, commerce, banking, industry, and fishing. All import

[1]) Coastal navigation of foreign ships is now permitted everywhere in the East Indies except in the so-called closed harbours of directly administered territory.

[2]) We have had a similar dispute in our colonial literature recently. Cf. J. J. Schrieke: *De Indische Politiek*, 1929, p. 150 *sqq.*, and M. W. F. Treub: *Nederland-Indonesië* ("*Politiek-Economisch Weekblad*", 4 Oct. 1929). In discussions of this kind nowadays it is no longer the economic considerations but the political conceptions, especially the strengthening of the Commonwealth bond, which dominate.

and export is treated in the same way by the treasury, and when the tariffs are compared with those of other countries it will be difficult to assert that the treasury is very exacting [1]). In the Dutch East Indies one sees, likewise, with the exception of a few insignificant so-called closed harbours, the coasting trade open to all nations in a liberal fashion which is certainly anything but universal.

The meaning of this for indigenous social construction cannot escape attention. Holland is this respect takes up a lofty standpoint which is not yet generally adopted by mandatory powers. Indonesian society is thereby brought into contact with the very best produce, energy, and equipment which the world can offer. This society can therefore profit from the best and cheapest articles and choose the best market for its own produce. The Dutch industrialist, merchant, agricultural exporter, and others must therefore answer the highest requirements, or else they are pushed out by others who are more energetic, produce better goods, or have more relations with the world market than they. In other words, stimuli to economic progress are admitted unhindered from the whole world, while a national monopolistic policy would erect a formidable barrier and would furthermore easily lead to a slackening of Dutch industrial and commercial energy. Indonesian society would therefore be doubly harmed and its chances of development would be diminished in no small measure.

The post, the telegraph and telephone systems, which also belong to the system of communications, again show the great mobility which stimulates progress in Indonesian society by the help of the most modern means. The Government postal service has about 600 offices which, moreover, offer an opportunity to the population of depositing its money at a moderate interest in the safest manner (Stbl. 1897, 296; 1917, 672; 1927, 215; 1923, 18) [2]). This institution is continually growing in popularity, although results might be better if the population had more sense of the future and were more inclined, therefore, to save. Internal postal communications in 1929 numbered about 90,000,000 items, and the foreign post over 25,000,000. Postal receipts cashed in inter-

[1]) Cf. Government Chronicle and Directory 1931, appendix F.F.

[2]) W. Huender: *Overzicht van den economischen Toestand der Inheemsche bevolking van Java en Madoera*, 1921, p. 241.

nal traffic amounted to over 11,000,000 guilders, and postal orders to 135,000,000 .The Government telegraph service had at the end of 1929 over 1,200 offices, 33,000 kilometres of wires, 12,000 kilometres of submarine cables, and 1,300 of land cables. In the same year 1½ million inland telegrams and an almost equal number of foreign and transit telegrams were dealt with. Wireless stations transmitted over 400,000 inland and 350,000 foreign telegrams. The Government telephone service had 347 offices, 42,000 kilometres of trunk wires and cables, and 280,000 kilometres of local wires and cables.

Taking into account the area and the millions of the population we shall not find the figures amazing. Moreover, a by no means small proportion of these figures is due to the activity of non-Indonesian groups. Nevertheless, they are highly significant. They prove that the Government assisted by private initiative has built a structure of organisation, from the point of view of traffic as well as in other directions, which is strong and absolutely indispensable to the development of Indonesian society, and which expands from year to year, sometimes with great bounds. Transport is the skeleton of society, the organs of which cannot develop without it. A system of popular education without a system of communications is worse than useless, and welfare policy would under the circumstances remain barren.

The influence of foreign groups upon the Indonesian population

Without the activity of the Western spirit of enterprise and without that of foreign Oriental groups — among them the Chinese, numbering 1,200,000 — this system of communications would have been simply unthinkable [1]). But the chances of development in Indonesian society would then have been much diminished. According to some people, it would be still better for the indigenous population if there were no Chinese, Arabs, British Indians, Japanese, and private persons from the West, who are alleged to skim the milk and leave only the watery residue to the population. One hears words like 'drainage' used and sees calculations of the millions which annually leave the country, while it is

[1]) J. Gerritzen: *De Welvaart van Indië*, 1926, p. 27, who says that without the sugar industry the network of railways and tramways of Central and East Java could not exist.

pointed out that Indonesian society would show far healthier and more normal relations if all these profits could remain within the country. These critics consider also that the Indonesians themselves should form the whole bourgeoisie which is at present recruited for the greater part from other groups of the population. The Indonesians should likewise produce the hundreds of big enterprises engaged in agriculture, commerce, banking, shipping, mining, and industry, own them and conduct them; whereas at present they are usually in the hands of Western capital and intellect. It is even thought that foreign activity will prevent the growth of Indonesian society above a certain point. It is therefore necessary again briefly to review this problem, to which we have already given much attention in the first volume.

It is a fact that indigenous society would be much more normal if it could fulfil the functions of a bourgeoisie from within itself. There is little utility, however, in putting this problem in a way which disagrees with actuality. If Indonesian society could do all this, there would be no more need of the present colonial authorities than of the equally indispensable foreign directors of large and small enterprises in agriculture, trade, shipping, etc. In fact, this activity of Dutch and other capital, intellect, and energy fulfils a function similar to that of Western state organisation. Both fill a vacuum and fit together a structural building which, considered from the point of view of Indonesian society, appears to be mechanical. But both excercise directly as well as indirectly an influence which calls forth from this social soil a stronger organic life. [1])

As indigenous society reacts to this more and more, the number of middle class people within it will increase, and at the end of its evolution, big industry need no longer remain outside it. In the Dutch East Indies, there are already some hundreds of thousands of peasant households in better condition; tens of thousands of educated people in government service or in the liberal professions, and furthermore, especially outside Java (Lampongs, Palembang, Minangkabau, South Celebes, and among the coastal population), tens of thousands of traders and directors of small enterprises who are well-to-do; and there are even a number of indi-

[1]) M. B. Smits, *op. cit.* p. 114—122 pointing to the stimulus exercised by Western agriculture upon Indonesian agriculture.

genous enterprises far larger than the average middle class business [1]). This points towards capacities which may undoubtedly be deemed to be more generally present, but it does not alter the fact that an indigenous bourgeoisie engaging in middle class and big enterprises as a general phenomenon, not as an incidental one, postulates an entirely different basis from that which society can at present offer. The Government has recently created a commission to study the problem of the lower middle class and has thus proved its intention to take a hand in its development and organisation. The hopeful beginning which already exists will undoubtedly increase in significance all the more quickly if the Government supports the growing movement which it has itself called into existence in the right way.

Those who, while waiting for the dynamising of indigenous society, wish to expel Chinese, Arabs, and other foreign middle class people, and to exile from the Archipelago Western capital with its organisation, intellect, and technique, would act as unwisely from the economic point of view as those who, for the sake of the development of village republics, wish to abolish colonial Government and to proclaim an Indonesian republic. In this way, one would completely destroy the structure which gives strength and unity to indigenous society, and in this society the elements required to put a new structure in place of the one destroyed cannot yet be found. Communications, trade, and production would shrink. The State would not enjoy a quarter of its present income and would immediately have to scrap all education, welfare, and other social activities for which no further money would be available.

The course of events would, moreover, certainly not be so simple and systematic. Nothing less than a complete débâcle would result from following this fantastic policy, which is perhaps rarely publicly advocated but which none the less seems to be silently considered by many people as desirable in the interests of Indonesian social development. A large portion of the population in Java has to depend upon ground rent, wages, and the receipts from small trades dependent on Western big industry. The sugar in-

[1]) J. W. Meijer Ranneft and W. Huender: *Onderzoek naar den Belastingdruk*, 1926, p. 10, and "*The Economic Structure of Java*, by the first author, p. 81, 1929; both contain useful statistics.

dustry alone gives work during the period of the sugar harvest to one million persons, each of course having his family. Indonesian society does not yet possess a highly developed economic activity of its own which could bring it an equivalent source of income or which could draw world traffic towards the Archipelago to the same extent [1]).

One may regret that steam navigation does not hold out a prospect that the primitive ways of indigenous shipping will be able to continue indefinitely, that the motor lorry is taking the place of the *grobak*; that the imported article does away with a part of domestic industry; the sugar factory with the primitive mill; that service for wages is acquiring a position by the side of independent small agricultural enterprise and trade. It should be remembered, however, that owing to modern transport and foreign influence an unprecendented urge to progress is beginning to be felt by millions who are on the way towards becoming, however slowly it may be, a modern indigenous society, with the necessary knowledge and energy to utilise twentieth century technique and organisation. If one thinks of the modern sugar factory and of the hundreds of acres which feed it, and compares it with the small field that suffices for the primitive wooden sugar mill, one wonders what chance the latter has against the former. But this is not the right comparison. A spinning wheel should not be put against Manchester, a *prahu* against an ocean steamer, a *dukun* against a modern clinic, for it is a grievous mistake to tie the Indonesian down to the limitations of his present social and mental condition.

The drainage theory is guilty of similar economic mistakes [2]), which need not be examined here. In so far as objections can be made from an Indonesian national economic point of view against the exodus of profits and against the presence of an outside technical and organising superiority, it should not be forgotten that foreign energy is tapping new sources and is reclaiming waste lands, and that this same colonial constellation also produces the strongest influences in favour of economic progress, rational thinking, and the development of a sense of the future, as well as of technical and organising capacities. It is only with the assist-

[1]) *Ibid.* p. 77 where this source of profit is estimated for Java at 15% of the national income (about 200 million guilders) which, increased by about 80 million guilders from export of Java produce, makes imports possible.

[2]) J. van Gelderen: *Tropisch-koloniale Staathuishoudkunde*, 1927, p. 112—114.

ance of these qualities that indigenous society can progress. The material capital is, in comparison with these social forces, a very subordinate factor. The most valuable capital of every nation under the sun does not consist in its roads, its communications, its dwellings, its factories, and its provisions, but in its energy, its character, its intellect, and its industry which could in the course of twenty years re-create a large part of this material capital if it were to be lost as a result of a catastrophe.

Even if it were possible to keep all the profits of enterprise within the Indies by compelling the Chinese and other groups to stop remittances to their country of origin; if the Hadj (pilgrimage to Mecca), which causes some 30,000,000 guilders to leave the country every year, could be stopped altogether, the real formation of capital which must take place in the heads and the hearts of the Indonesian population would not be greatly assisted. To begin with, foreign enterprise would naturally not accept such treatment and would retaliate by diminishing or stopping its activities, which have a much greater stimulating effect, directly as well as indirectly, on Indonesian society than is generally admitted. Even if the millions of foreign profits could be divided at the end of the year among the Indonesians, what would it profit them it they did not possess the desire to save, a sense of the future, the will to advance, and rational thought, which are infinitely more indispensable than material capital for the development of Indonesian enterprises both large and small? Proletarians could certainly be made by such measures, but not men and women who can think and act independently. Conversely, hundreds of millions of capital can be attracted without difficulty from the whole world capital market for the development of Indonesian society as soon as this society exhibits a satisfactory degree of energy and a sense of the future, in other words, a solid basis for confidence and security.

When all this is realised, and when it is understood that capital is really a result and not a cause, it will also be agreed that precisely owing to this foreign mechanical economic structure, an organic formation of economic values is taking place in Indonesian society. It has already proved by the extraordinary development of indigenous export cultivation, which soon enough may have overtaken export by foreign enterprise, that it has a do-

minating significance in the formation of material capital. In the coming years, this will be proved still more explicitly, in particular as soon as the Indonesian élite has learned better to understand its duties. The opening of higher functions in big industry to the more educated Indonesians who are gradually appearing on the scene gives the opportunity to Western enterprise and to the population to grow into one organic whole. We may say, therefore, that from the economic structure supported by big enterprise and the middle class, a double influence goes out similar to that from the state organisation with whose foreign character this economic structure corresponds. There is no need, therefore, to deplore the disappearance of the spinning wheel, the weaving-loom, the *grobak* and many other instruments venerable by age. All the things that still have life in them, such as the weaving loom, may, with some improvements, continue to exist for years. The Government is ready, as will appear below, to give its co-operation to this end, but it is not prepared to base the future Indonesian society which must correspond with its state organisation upon an economy symbolised by the spinning wheel and the sailing *prahu*. In the period of transition, people are too much inclined to look only at the disappearance of the old and of all that was attractive in it. But it must be remembered that this disappearance opens the way for the new, which will give opportunity for the development of more powerful capacities even within the domain of art.

East Indian and Indonesian society

This road will appear to be very long. The formation, alone, of a strongly developed indigenous lower middle class, which is something quite different from the mere presence of a fair number of better off peasants, merchants, industrialists, and educated people who still have only very modest incomes, and can only fulfil a fraction of the social function which the lower middle class takes upon itself in our countries, requires in our time a complete self-renewal of indigenous society. Without the direct and the indirect influence of the other groups of the population, the Government would be unable to advance this process sufficiently. For this reason it welcomes this assistance, although it does not hesitate where necessary to limit the foreign impetus and to protect indi-

genous society and its patrimony by agrarian and labour legislation, by supervision and by intervention.

The question will perhaps be asked why the State is not satisfied with the existing society which, after all, seems to be complete and full grown, once the perspective is opened a little wider, and not only indigenous but also East Indian society, which means all groups of population taken together, is taken into account. East Indian society as a whole consists in the main of an agrarian indigenous population with an important and mostly Chinese lower middle class and Western big industry. Why, it may be asked, should we still wait for the development of indigenous society? Why do we not make our basis this East Indian society which, considered in its entirety, already corresponds with the total width and height of the sphere of the great East Indian part of the State of the Netherlands? As non-indigenous groups of Asiatic and European origin seem to have become an organic part of Indonesian society by mixing their blood with that of the autochthonous population, and the resulting Indo-Asiatics and Indo-Europeans are several times more numerous than the unmixed newcomers, there seems to be all the more ground for such an organic interpretation of East Indian society. One might postulate a similar growth to that which seems to have existed in Hindu-Javanese society [1]).

This organic vision is perhaps attractive, but it does not agree with reality. Undoubtedly these groups of Indo-Asiatics and Indo-Europeans form a valuable connecting link between the different unmixed groups of the population, while a few individual members of these mixed groups are gradually absorbed by the indigenous population; but the great majority, the groups as such, preserve their own specific stamp, which marks them as the non-autochthonous Asiatic and European population between whose mixed and unmixed members the Government makes no legal differentiation in principle, except that which results from the political difference between Dutch subjects, i.a. all those born on Dutch territory, and foreigners. In view of the fact that Indonesians, Dutchmen, Arabs, Chinese, Europeans, and others born in

[1]) Prof. C. C. Berg, in his speech: *Hoofdlijnen der Javaansche Litteratuur-Geschiedenis* (Feb. 20, 1929) argues that society in those days was by no means organic. Reviewing these conceptions in the August number 1929, of the *Tijdschr.* of the Java Instituut, p. 209 sqq., Prof. Hoesein Djajadiningrat takes an entirely opposite view.

Netherlands territory are Dutch subjects irrespective of the origin of their parents, this point remains entirely outside our subject matter. Therefore, in the Dutch East Indies, notwithstanding the mixture of blood, we are still confronted with large groups that remain distinct and which roughly divide East Indian society into different layers, Occidentals, continental Asiatics, and Indonesians, each with a social and economic function of its own.

A modern state organisation, which requires a society corresponding to its endeavour towards unity, cannot entrust its organisation and its functions to a society which consists of groups living so separately. *Mutatis mutandis*, this amounts to a similar difficulty to that discussed when we were considering the relationship between the State on one the hand and the tens of thousands of isolated indigenous communities belonging to about thirty different ethnical units on the other. Just as these small territorial or genealogical spheres must expand, under the influence of the broadening process which has already started, until they reach the social horizon which coincides with the sphere of modern state activity, so these functional spheres of the great indigenous, Asiatic, and European groups and sub-groups of the East Indian population must effect a closer co-operation, which by no means implies that they must fuse. Such co-operation, however, is only possible through the development of indigenous society, whose members, talents, energy, devotion and capital must try to acquire gradually a share in the functions of science, the lower middle class, and big enterprise. Self-exertion by means of economic and social endeavour will lead it towards this result.

Were the authorities to remain satisfied with the existing mechanically ordered East Indian society, and were they to entrust prematurely full responsibility to all these groups that are so detached from each other, whose outlook and functions are so different, nothing but friction and group politics would result. It would be folly to allow such a confusion between mechanical and organic society. In modern municipal councils, Regency councils, provincial councils, and the central Legislative Assembly, these groups are given the opportunity to learn to co-operate, within a definite sphere, for the common public good. Either as local governments or in a co-legislative function they can work for this aim. This has proved possible; little has been noticed so far of

group politics, and this is a hopeful phenomenon to which, however, no farreaching conclusions should be attached, as it is really the generally admitted impartiality of the central Government which prevents friction. In expectation of a working social co-operation, the central Government must be wise in its demarcation of autonomous spheres, while preserving ample opportunity for guidance and supervision, and it must on no account be made responsible to the Assembly which shares the power of central legislation. East Indian society is therefore given full opportunity by means already at its disposal of taking care of its general interests, but the State cannot at present go so far as to entrust its security and future to existing social foundations.

The Dutch nation and East Indian society

The basis required by the East Indian State can at present be found only in Dutch society in Holland, of which the Dutch group in the Indies is but a small vanguard. This vanguard may be very significant in so far as part of it represents and intensifies the influence of the spirit of the West. But this small group cannot be identified with the Dutch nation. This reality is strikingly expressed in the political relation, which makes the East Indian Government exclusively responsible to the Crown, and constitutionally makes the Minister of the Colonies responsible to the States General for the whole overseas policy.

In this manner the whole Dutch nation bears direct responsibility for overseas policy towards the Dutch vanguard as well as towards indigenous and other non-Dutch groups of population. The Dutch nation, therefore, is the nursery which produces at the same time the four state organisms which it entrusts with the task of governing in Holland itself, and in three overseas territories, in the West and the East Indies, while the Dutch legislature and the Dutch Government function as such for the whole kingdom, and moreover bear the character of supreme legislator and supreme executive towards all overseas territories. The East Indian State also, if we may use this term figuratively, still finds in this order of ideas its corresponding society in the Dutch people, not in indigenous society and not even in East Indian group society.

Every move of responsibility is in fact a move from the Dutch people towards the East Indian population, which is composed of

a number of groups and sub-groups. It cannot be a move towards the Dutch, in other words the European, or the Chinese or indigenous group; it must be a transfer towards the unified East Indian society that is slowly growing up from small indigenous fragments and large racial group divisions, and in this process unity must not be confounded with uniformity. A future Government of the Indies which were to be exclusively or almost exclusively responsible to the whole population of the Indies could in no respect lag behind the consciousness of unity and the capacities of the present Government. East Indian society must therefore endeavour to produce the consciousness of unity that is capable of providing the necessary base for East Indian autonomy; there can be no doubt that it must first itself become a thoroughly unified society so as to be able to suggest to its organic growth an East Indian State as a final manifestation of its social development.

The more educated groups have therefore to wait for the evolution of indigenous society, for otherwise a transfer of the duties of leadership would in practice merely amount to a transfer of the task of the authorities to the European and the Chinese groups; or, if a pseudo-democratic basis were to be used, in other words if the worship of numbers were aimed at, it would pass almost exclusively to the indigenous population, which is by no means ready for this task. True enough, the latter has a number of educated rulers, chiefs, officials, and others, but they also can only be considered as a small vanguard, and must not be identified with indigenous society as it must become. Dutch colonial policy has made it sufficiently clear that it rejects the one-sidedness of absolute, group, or oligarchic government. Its point of view remains that the millions composing indigenous society must be just as able to express themselves as can the other more developed groups of East Indian society and as can the Dutch nation in general, before the East Indian State will have found its corresponding East Indian society.

It is especially the development of indigenous society which becomes, therefore, the forerunner of the democratic future. This is self-evident, because development without freedom of initiative and of expression is not possible in our time. Science, trade, industry, shipping, banking, and agriculture cannot prosper with-

out the possibility of the free development of personality and initiative. This right of self-determination of the personality is the secret of Western development and the most real characteristic of democracy, whose political forms of expression can only represent one single aspect of its deepest feelings. It is entirely erroneous, therefore, to isolate this ultimate consequence, the political crowning of a many-sided social development from the process of social growth, and thereupon to identify it with the democratic idea or with its practice.

It appears, therefore, that the development of indigenous society is at the same time both calling into existence an East Indian society which can carry an East Indian State and automatically preparing a democratic future, and that therefore the standard of the social, economic, and intellectual development of the indigenous group (98 per cent of the whole) must be a decisive criterion for the transfer of power from the Dutch people to the population of the Indies. The political consequence of democratic developments such as the suffrage, government by boards, the freedom of the press, the right of association and assembly are dependent to a large degree on the success of social construction in the indigenous sphere. This view takes us back to the point of departure of this chapter, which makes politics subordinate to social evolution as a first condition of a healthy policy.

Education and preparation

While the unifying influence of state organisation, education, traffic, and the activity of other groups of the population are indispensable to the construction of indigenous society, the latter must moreover be induced by direct stimuli to strive after self-renovation. Direct educative activity is required in order to prepare indigenous society for self-defence. This society has at the same time to be protected by agrarian and other measures. The best way of preparing self-defence is to foster self-exertion. Nevertheless, the authorities, in their endeavour to strengthen social and economic capacity, only too often make use of hothouse methods by instructing, giving the example, interfering, and compelling. These methods have already often been looked upon with disapproval, and not always on good grounds, because self-exertion will prove to be the final result of a long process of evolution

which either would not take place at all without intensive activity on the part of the authorities or would at any rate come too late.

In this remarkable field of action, where the natural relations of State and society seem more than elsewhere entirely topsy-turvy, authority stands towards the adult members of indigenous society somewhat like a school teacher who is given adult pupils. The two methods on the whole agree. The Government tries to increase knowledge, to widen understanding, to give directions on hygiene, agriculture, irrigation, cattle rearing, industry, fishing, trade, credit systems, co-operation, social evils, and so on. It tries moreover to help the population to translate good intentions into right actions and the right thoughts into good forms of organisation.

The authorities run the risk of making the mistake which may be committed by the best educator, of transforming advice and demonstration into compulsion, the imposition of a fixed task, an organisation imposed entirely from above. More even than the teacher do they run this risk because circumstances not infrequently compel them to place protection first, and to neglect the future for the present. A definite change will only come in this situation if the most educated indigenous group succeeds in being an organic part of its society, in other words, if it turns its attention away from the final consequence of democratic evolution, the political right of self-determination, and begins to concentrate all its force upon the indispensable preparation, the unfolding of self-exertion in society.

The indigenous élite must assist in developing the social and economic capacity of this society, which will enable the authorities to leave to society what is really its own task. Thus will a first step be taken towards a more normal relation between the State and society, and in the end society will have to leave to its servant the State only that which it wishes to have settled in a centralised way. It is only when self-exertion and the volume of the task of the authorities begin to stand in an entirely different proportion that the matter of this chapter can form the basis for an organic political construction.

Welfare policy and welfare research

The authorities have been right in placing welfare at the top of

their programme of social development. In the instructions to the members of the administrative corps, welfare occupies a large place. The pressure of taxation in money and in labour since the period of compulsory cultivation also forms a constant object of attention on the part of the authorities. Taxation and obligatory services had to be fixed as precisely and to be demanded with as little hardship to the population as possible. We shall deal with this subject in our eighth chapter.

Meanwhile, all this activity has not prevented the period of economic transition from produce economy to commerce and money circulation from exercising pressure upon the population. Usury soon gave the first painful economic lessons to helpless ignorance much in the same way as it did to medieval society. It is probable that no society has ever escaped from this hard teacher, but, as a result of present-day economic contrasts, his rod hurts twice as much in the East of to-day. About 1900, instead of the desired progress, a decidedly retrograde movement was believed to be on the way. Already in 1897 a labour member of the Second Chamber, Van Kol, had referred to the question. In 1901 the Queen's speech mentioned the decreased prosperity of the indigenous population of Java, and in 1904 the speech from the throne held out a prospect that measures for increasing the economic vitality of the people would be taken. To this end a debt of 40,000,0000 guilders due by the Indies to the motherland was cancelled. From that time dates uninterrupted attention to popular prosperity and to the means of increasing it.

In 1902 a commission of enquiry into the causes of the decrease of prosperity was established. It drew up a careful questionnaire, which was sent out to all the competent authorities who were invited to answer after a local investigation. This local investigation was finished in 1905 and produced such an overwhelming amount of material that years of labour were necessary to co-ordinate it and publish the results, which filled a great number (33) of volumes. In 1920 the work was brought to a conclusion with an index and a summary which helped to clarify this vast mass of data. So many factors had been included in the investigation, so many contradictory opinions were formulated, that it was never possible to find a convincing proof of the alleged fact that there had been a decrease of prosperity. Meanwhile, of course, events easily

outpaced the investigation, which was mainly based upon the enquiry of 1904—5. The value of this investigation lies in the interesting facts it reveals, which provided a solid basis for increasingly scientific observation.

In 1904 Messrs. C. Th. van Deventer, Mr. D. Fock and Dr. E. B. Kielstra were instructed to report on various questions connected with colonial economy. The first of these reports, all of which were published, attracted wide attention [1]). This is its conclusion (p. 249):

> "Taking everything together, we may therefore conclude that there has been a backward movement, and certainly no progress in the prosperity of Javanese agriculturists."

This conclusion increased the anxiety felt. Its author began by mentioning data concerning the strength and the increase of the population. In 1880 the population of Java was over 19,000,000. In 1900 over 28,000,000 — an increase of 45 per cent, whereas 67 per cent of adult males relied on agriculture as their only means of existence in a country where good arable land had already for the most part been occupied by former generations.

This incredible increase of population explains the fact that notwithstanding the attention given to the prosperity of the people, income per head of the population may yet decrease. No government can provide arable land when all that is available has already been occupied. In 1900, the situation had not yet grown tense, while improved irrigation still offered prospects of a considerable increase in the usefulness of the soil. Mr. Van Deventer, however, judged that the surface of the arable land had increased to a much smaller degree than the population itself. In 1885 there were under cultivation 3,310,505 *bouws* (7,096 sq. metres) of wet and dry fields; in 1900 3,839, 654 *bouws* or an increase of only 16 per cent, although the area of dry fields in use, which is less productive, had increased by 56 per cent. Later surveys have proved that these figures do not allow us to draw definite conclusions. Faulty surveys and secret reclamation may have accounted for large expanses not included in the returns.

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[1]) C. Th. van Deventer: *Een Overzicht van den economischen Toestand der Inlandsche Bevolking van Java en Madoera*, 1904, with an appendix by G. P. Rouffaer on the principal industries of the Indonesian population of Java and Madura.

The report on the economic situation of the indigenous population (1924) says on this subject (Vol. I, p. 18):

"As is generally known, the old figures for the surface of arable land were too small; many pieces of land were not mentioned in the registers kept for land taxation purposes, partly because they had not been reported, and partly because being less than one-quarter bouw in area, they were not liable to land duty. As a result of new surveys carried out for the assessment of land rent, it was discovered that the amount of ground under cultivation recorded in the dessa registers was often incorrect. Usually it was too low, but sometimes too high. Between the years 1907 and 1920 when the so-called land rent regulation of the Preanger was introduced throughout Java and Madura, cultivated land in excess of that shown on the registers came to light in great quantity. Up to 1905 this regulation was in force only in the Preanger.

". . . . From the data obtained under the inspection of land revenues, during the period 1908—15, and from those of the agricultural statistics for 1910—20 (inclusive), the total under-estimation for the period 1905—20 proved to be 530,000 bouws. . . . It is impossible to discover how many of these sawahs or dry fields were already worked in 1905, how many were worked clandestinely before 1905, and how many were reclaimed without permission after 1905, how many of them were due to mistakes in the old surveys, and how many tegalans (dry fields) have been changed into sawahs (wet fields) and *vice versa*" (p. 19).

As to the figures relating to dry fields in 1905, before the new land tax had been introduced, we have to be even more careful, according to this report (p. 23 sqq.):

"The central office for statistics made an investigation and came to the conclusion that the figure for dry fields for 1915 was too low by about 814,000 bouws owing to gardens having become taxable, with an additional 240,000 bouws owing to the number of tegalans not yet definitely reclaimed and as such still untaxed. The total under-valuation therefore was at least 1,054,000 bouws. The total of detected under-valuation of dry fields alone for the period 1908 — 1920 was fixed by the central office at 2,277,202 bouws, which respectable expanse was discovered during those years. Of this area 1,054,000 bouws is accounted for by gardens and rotation tegalans becoming taxable. Apart from the farms and the rotation tegalans, under-estimates were found to be due to secret reclamation and to faulty surveying. The secret reclamation may have dated from before 1905".

Faulty surveys were certainly not lacking before 1905, from

which we may suspect that the conclusions drawn by Van Deventer in 1904 in regard to the relation between the expansion of arable ground and of the population were not in agreement with reality. For, since the whole surface of Java and Madura covers only 18,529,116 bouws, it is obvious that in the much less scientific surveys made about 1900 there may also have been considerable under-estimates. The increase of arable land in the possession of the population since 1900 appears from the fact that the above-mentioned report gives, for 1924, 10,571,042 bouws, of which 10,002,680 is used for Javanese agriculture [1]). Of the remainder, 3,250,281 bouws is occupied by djati-woods and wild wood forests, while 4,707,793 bouws are for the greater part uncultivated. They contain the so-called waste lands, as well as roads, railways, rivers, the tops of volcanoes, towns, and villages apart from the gardens round the habitations.

Another factor which made an unfavourable impression on Mr. Van Deventer was (p. 252) "the circumstance that the taxes paid by the indigenous population do not show a natural increase". In Java he found that, instead of the taxes upon trade-income and upon various articles of consumption of the population showing a strong natural increase, there was rather an opposite tendency. The total assessment for land tax, which was 19,200,000 guilders in 1880, had been increased by great efforts to over 20,000,000, but had later to be decreased. The trade-income tax brought in only 1,860,000 guilders in 1880, 1,560,000 in 1892, and 1,600,000 in 1902.

In 1921 Dr. Huender (op. cit. p. 245 sqq.) points to the same fact:

> "The taxes paid by the population do not show a healthy natural rise, a factor which must be due to lack of improvement in its economic situation. The land-rent (which is more in the nature of income -tax than of ground-tax) amounted in the first years after 1883 to somewhat over 17,700,000 guilders, and in the period between 1917—20 to about 21,500,000 guilders. Part of this increase, moreover, results from the taxation of fields that were formerly cultivated without being entered at the registry-offices. The old trade-income tax levied from Indonesians, which in 1920 was merged into the general income-tax, brought in 1,860,000 guilders for Java and Madura in 1880; in 1908—13 less; in 1914—18, an average

[1]) The statistical annual abstract of 1929, p. 254, mentions 10, 857, 414 bouw.

of over 2,000,000. Capitation and indirect taxation do not lend themselves so readily to comparison. Capitation was not levied to its full extent until after 1916, and indirect taxation was subject to repeated modifications; while it is not easy to reckon the share in these exactions paid by the Indonesians of the two islands. It is a disturbing symptom that there is no greater rise in the revenue from taxation. Such a pause, where there is a not inconsiderable growth of population, is tantamount to retrogression. On the other hand, the indigenous population is undoubtedly already taxed up to the hilt".

Mr. Van Vollenhoven tries to show that we must be careful with these figures also[1]). He rejects the view that land-rent should be considered rather as income-tax than as ground-tax, and he remarks that in practice the assessments for land-rent are usually fixed in such a way that they are really equivalent to a land-tax[2]), a factor upon which the actual income and the prosperity of the population exercise but a small influence. He also remarks that the trade-income tax is fixed, in accordance with ancient practice, in such a way that the total recorded in the ledger differs as little as possible from the final figure in the register of the previous year. Upon the basis of his calculations, he approved of the conclusion of the service charged with the administration of taxation that the assessments of trade-income taxation are incorrect, and that these figures certainly cannot be taken as proof of an unhealthy economic situation.

Mr. C. J. Hasselman, who had to draw up on the instruction of the Minister of Colonies a "general review of the results of the prosperity investigation of 1905", came to the conclusion (1914, Introduction p. XXI) that the prosperity of Java was rising rather than falling. In 1924, however, while the 1925 budget for the Indies was under discussion in the Second Chamber, the question of an apparent decrease in prosperity among the indigenous population was again raised and demands were made for a new investigation which, according to some speakers, would expose the miserable existence of millions of people and an economic situation often resulting in an actual lack of food. As a result, an enquiry

[1]) J. van Vollenhoven: *Over den economischen Toestand der Inheemsche bevolking van Java en Madoera, "Indische Mercuur"* of 29th Febr. 1924.

[2]) That the land tax is neither intended to be a pure tax on land nor works in this way is shown in J. W. Meijer Ranneft and W. Huender's *Onderzoek naar den Belastingdruk op de Inlandsche bevolking*, 1926, p. 30, 180 *sqq.* See also Meijer Ranneft: *Indische economie, "Kol. Stud."* April 1928, p. 159.

was made and its conclusions can be found in the previously quoted "Report upon the Economic Situation of the Indigenous Population". Its conclusion (p.8) is that: "there is no question of a serious drop in the level of prosperity of the population or of the miserable existence of millions of people".

The world-war and its aftermath have, of course, influenced the economic conditions of the indigenous population unfavourably. The situation necessitated an increase of taxation during the years 1920—26. The land-rent rose from 21 to 31 million guilders. This happened precisely at a period when world-wide economic depression made the rise of taxation, that had been too long delayed, more perceptible and painful than would otherwise have been the case. It was soon asked whether the indigenous population of Java was not too hard hit. Several people answered the question in the affirmative. The commission for revision of the existing system of taxation examined the matter in the second half of 1924, while a few months later an enquiry into the pressure of taxation was started by Messrs. Meijer Ranneft and Huender[1]). This thoroughgoing and highly interesting investigation, made in 1924—25, resulted in the publication of conclusions in 1926 remarkable especially by their considerations based on general principles. No reason for anxiety was found, but some useful recommendations were proffered.

The investigators considered that the system of taxation fell short [2]) because the proceeds originally were smaller than the needs of the State, and had therefore to be increased with pain and trouble, to the direct and indirect disadvantage of the Administration. They deemed therefore that a greater suppleness and more power of adaptation must be introduced into the system within a short period. The average pressure exercised upon the payers of taxes appeared to them heavier than was the case in 1913, and the heaviest pressure rested upon landed proprietors, especially upon those who were less well-off. Nevertheless, the levying of the most important taxes presented no difficulty, and

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[1]) A similar investigation has been held in the other isles starting with the West Coast of Sumatra. See Report for the West Coast of Sumatra, 1928, Vol. II. The whole investigation has recently been ended and has concluded that the pressure of taxation nowhere exceeds the capacity of the population.

[2]) R. J. W. Reys: *De Inkomstenbelasting der Inlanders en met hen gelijkgestelden in N.I.*, 1925, *passim*.

no disturbance in economic life was caused by the system of taxation. There was, however, a changed attitude among the population, especially in the case of some particular taxes, which was not general or disquieting, but which was clearly perceptible. Here and there it appeared that the system undoubtedly caused some friction, although this was unintentional. In these cases a definite elimination or decrease of pressure was deemed necessary; while furthermore the desirability of simplification of the system as a whole continually appeared more clearly. With a view to diminishing pressure, the investigators (p. 156) contemplated, in connection with their views concerning the revision and simplification of direct taxation, an eventual suppression of the capitation tax. They made their attitude towards this tax more or less dependent on the success of efforts to balance the budget, because they realised that its suppression would mean a serious financial sacrifice, since it had risen to about 12,000,000 guilders. Nevertheless the Government has made this sacrifice. On January 1st, 1927 the capitation tax was abolished in Java and Madura where it had mainly existed. It is, however, by no means absolutely certain that the pressure of taxation was really heavier in 1925 than in 1913, which was the last year before the abnormal period of war. This uncertainty will surprise nobody who takes into account the overwhelming multiplicity of factors which must be known before a definite judgement is possible. It is already extremely difficult to get a collective view of a great number of the most important factors. And even with the same figures, it is often possible to reach entirely conflicting and equally justifiable opinions, much in the same way as in the controversy as to the causes of the present economic world-depression.

Mr. Van Brink[1]) bases upon the investigation of 1925 and upon some calculations of his own, the conclusion that

"the contribution to the Treasury was in 1920 below the level of that of 1913 and, thanks to the considerable increase of taxation returns since 1920, this contribution has again reached its former level. Contrary to the usual opinion, this took place exclusively at the expense of the non-indigenous population. The fact that the increase of taxation after 1920 took place at a time of economic depression may also have contributed to this mistaken idea, because it created an impression that the indigenous popula-

[1]) H. J. van Brink, in "*Econ. Statist. Berichten*", Sept. 19 and 26, 1928.

tion was taxed to a disproportionate extent. All this does not alter the fact that the real pressure of taxation was, in 1924, still below that of 1913, in the case of Indonesians. And after the abolition in 1927 of the capitation tax, which decreased the pressure of direct taxation upon the indigenous population by about 20 per cent, the level of taxation for this group of the population went down still further. If this abolition had taken place before 1920, the level of taxation for the indigenous population in 1920 and in 1924 would have been about 46.5 per cent and 82.5 per cent of that of 1913, as opposed to 84.5 per cent and 153 per cent for the non-indigenous population. From the figures no conclusion can be drawn as to the actual pressure of taxation; here there is only a question of the relative incidence of Government taxes, based upon the figures of the year 1913. If pressure was too heavy upon the indigenous population in 1913, an assertion that may be doubted on good grounds, then the alleviation which took place after that date will have been sufficient to counter-balance the definite increase in local levies from this section of the population."

The author further notes that the proportion between direct and indirect taxation for Indonesians in 1913, 1920, and 1924, was as follows: — 62 to 38, 53 to 47, and 55 to 45, and for the non-indigenous population: 45 to 55, 61 to 39, and 68 to 32. He deduces therefore that

"taxation in the Indies is developing in the right direction, which is that of a preponderance of indirect taxation for the indigenous population and of direct taxation for the non-indigenous population".

We may add that the authorities have abolished all kind of personal services, which were traditional in indigenous society, as well as the oppressive system of farming out the collection of duties affecting markets, pawnshops, opium, etc. Moreover it has instituted searching investigations into the pressure of taxation in labour and dessa services [1]). Everything has been done to regulate and alleviate these services, for instance by replacing labour in payment of taxes in Java by an increase of the capitation tax which, as has been said, has in its turn been abolished. Finally, the Government decree of 6 October, 1926, No. 37, again establish-

[1]) Cf. F. Fokkens: *Eindrésumé van het bij G. B. van 24 Juli 1888 No. 8 bevolen Onderzoek naar de verplichte Diensten der Inlandsche bevolking op Java en Madoera*, 1901—3 (in 5 volumes). C. J. Hasselman: Eindverslag over het onderzoek naar den druk der dessadiensten op Java en Madoera, ingesteld krachtens G. B. van 25 Jan. 1902, no. 19; 1905.

ed a permanent commission to collect data regarding the prosperity of the indigenous population, especially in view of the extension of a compilation of prosperity statistics [1]). We may conclude, therefore, that the authorities have displayed an uninterrupted interest in the material situation of the population and that their policy of taxation has been open to all useful advice which might tend to make its levies in money or labour as easily bearable as possible. In the islands outside Java this problem, which has never been neglected, has at no time acquired the seriousness which the food supply and the general economic situation have sometimes assumed in Java [2]). For there a population numbering only two-fifths of that of Java has at its disposal an immense land capital at present unexploited. Even with the application of methods that are extensive rather than intensive, which are still connected with traditional temporary co-operation and with the primitive harvesting resulting from the agricultural processes due to temporary utilisation of the soil, agriculture there is often decidedly highly remunerative. Good and even excellent financial results sometimes accompany the simplest organisation, method and mentality.

Enquiries into prosperity as a basis for a welfare policy

The connection of all this with the construction of indigenous society may not be clear to everybody, for it is not possible at once to identify this unending series of investigations into prosperity with actual reconstruction. However, the interest taken by the authorities and their assistants has created the basis without which rational reconstruction would be impossible. For it is necessary in the first place to have a fairly accurate idea of the area of wet and dry fields, of their productivity, of the number of persons living entirely or partly on the produce, of the factors which may influence favourably or unfavourably these or other sources of income, of the methods within reach of the population for the improvement of agricultural, industrial, and other production. Without reliable data upon these matters, there is every

[1]) See its report. Cf. "*Kol. Stud.*" June 1929, p. 452 *sqq.* and a monograph of J. Keers in "*Kol. Stud.*" Dec. 1928.

[2]) A detailed review in Smits, *op. cit.*, p. 93—104, and "*Verslag belastingdruk Inl. bevolking Buitengewesten*", 1929.

chance of plunging into dangerous waters in the pursuit of an adequate welfare policy. As long, for instance, as it was possible that 1,000,000 bouws (about 1,700,000 acres) devoted to agriculture could escape registration, no satisfactory basis was available.

At present we are in possession of data and of scientific methods of building upon them such as could not have been conceived in 1900 in any Far Eastern country. Slowly a fairly accurate triangulation of the economic field of action of the population and the income drawn therefrom, about which guesswork alone was possible about 1901, has been in progress. For the Javanese agriculturist, the estimate still varied after 1920 between 158 guilders per head of a family and 161 guilders for the whole indigenous population of Java, to 600 guilders and 160 guilders respectively for landed proprietors who were heads of families and for share-farmers who were heads of families [1]). Messrs. Meijer Ranneft and Huender reached the figure for the total income of the people of Java in 1924 of 1,354,780,000 guilders, or from 160 to 200 guilders per household and 30 to 40 guilders per head. Poor landed proprietors in the countryside (27 per cent) could only count upon 150 guilders per family, share-farmers without arable land of their own (3.5 per cent) upon 120 guilders, agricultural labourers (12.5 per cent) upon 100 guilders, and casual labourers (19.5 per cent) upon 120 guilders (see p. 10 of the Report) [2]).

In his previously mentioned contribution, in *The Effect of Western Influence* (p. 80), Mr. Meijer Ranneft estimates the average income per family at not more than 200 guilders. Yet the situation according to him is "more favourable than it was a quarter of a century ago and much more favourable than a century ago". Considering that there has been an increase of population in the course of one century of almost one thousand per cent, such a result is a satisfactory, even a brilliant, testimony to the good activities of the authorities, which are too often unjustly condemned. Prof. van Gelderen [3]) accepts the figure of 80 per cent for Java as that of the number of people who nowadays directly depend upon agriculture, with an average property per landed owner of 1½ bouw (1 hectare or 2½ acres). All these calculations still remain too much

[1]) Huender, *op. cit.*, p. 139, 202 and Van Vollenhoven.

[2]) Cf. also the review of this report by the engineer E.P. Wellenstein in "*Kol. Stud.*" Feb. 1926, p. 115 *sqq.*

[3]) *Op. cit.* p. 31.

outside the indigenous household, and do not touch the degree of comfort which exists there or the degree of want, while it also does not touch the significance of small extra earnings, of the produce of the garden round the house, of mutual assistance, etc. There is always a danger of applying Western standards of prosperity, although there is nowadays less danger from the sort of dishonest propaganda which argues that people suffer terrible poverty because they have no shoes and stockings. As a matter of fact, it would be impossible to convert the Javanese agriculturist to the use of shoes and stockings even if one gave them to him as a present. No honest investigator would be affected by such a gross misinterpretation. But in this conflict of highly subjective standards of comfort it is difficult even for him to place himself in the right position or even to acquire the minute knowledge of detail which would complete the data gathered from the figures of taxation, imports and exports, extent of arable land, market and produce prices, pawnshops and loans.

Continued economic investigations are therefore to be welcomed because they provide the basis for an enlightened welfare policy and because they adduce complementary material taken from living economy. Especially interesting is the subtle analysis of indigenous individual budgets which was first started (1885—88) by the probationer Controller H. G. Heyting (Arminius). Prof. Boeke [1]) recently recalled the significance of his pioneer labours and the utility which an improved continuation of it would have in our own time. It would give a living contact with society such as can never be obtained from statistics however useful:

> "He was no longer satisfied", says the professor, "with manifold and confidential interrogations which was the method used to form a detailed idea of a few indigenous households. As a means of establishing an annual family-budget which would give an idea of the way of living and of the economic power of the indigenous population, the results were too sketchy. The people he questioned lacked all idea of a budget and were unable to give information about production, receipts and expenditure over so long a period. It was always the investigator who supplied the replies himself".

Mr. Heyting therefore arranged for a small staff of indigenous collaborators to keep a journal concerning households situated

[1]) Meijer Ranneft, "*Kol. Stud.*" April 1928, p. 161, and J. H. Boeke, "*Kol. Stud.*" April 1926, p. 228 *sqq.*

near their homes. A specification of all data required was made, divided into fifty subjects. In this way, Prof. Boeke, applying better methods, has recently further proceeded:

"The indigenous household", he says (p. 232 sqq.), "is an almost closed book to non-indigenous people, and yet continuous measures have to be taken which have a great influence upon this household and may disturb its balance. Hence the need of finding new ways to form an idea of this household. There are two methods of proceeding. Definite phenomena are studied, definite forms in which indigenous economic life expresses itself and especially the modifications that occur in them. One deduces therefrom a corresponding or an opposite modification of economic circumstances. In this way the level of wages, and the rise and fall that takes place in them, can be observed, the rise or the fall in the business of pawnshops, and of the controllable general need of credit, the rise and fall of the sale of imported goods, the fluctuations of the prices in village and town markets, the figures of the harvest, thefts of food, etc.

"There is another way of proceeding: by means of known or approximate general figures which are correlated with the number of the population, calculating in this way the share of each individual. This attempt was made, for instance, in the thirty-first communication of the central office for statistics dealing with the cost of living of the population in Java and Madura (1920—24). The drawback of both methods is that they do not go beyond an outline which lacks a living content. If the individual were known, such deductions and generalisations could be estimated at their true value. Now, externals are all the more dead because they are so general. What do we learn from the fact that in 1924 the average daily consumption of rice, maize, cassava, or sweet potatoes cost so much per 1000 persons and that the price was higher or lower than in some other year? Are we able to share any of the cares or the alleviations caused by these prices in the life of the inhabitant of the dessa? Are we able, finally, to determine definitely which is the most oppressive burden, upon which shoulders it lies most heavily, where assistance ought to be given, and how best it can be administered?

"A faithful image of the individual household in its entirety, of a series of individual households with all the distinctions of occupations, education, property, personal inclination, relations in the household, communal connection and local characteristics is indispensable for all this. A picture is wanted, therefore, that is the very opposite of the statistical average, one which tries to approach the many-colouredness of real life. All these are considerations which arise when we take up the point of view of the authorities. But how much more significant still must be this knowledge of

individual cases for those services and persons which are not, as in the case of the authorities, compelled to work for the mass of the people, to generalise and to level down, for those services and persons which approach for preference the individual and, not possessing executive authority, have to wait patiently for the results of their advice and measures. For social services such as those of agricultural information, popular credit, popular education, a penetration into the real living relations of the dessa is the first and absolute demand requisite, and every means of acquiring this knowledge must be seized".

From these considerations one can see how far investigation of the economic conditions of the population forms the indispensable basis for a welfare policy and for the construction of Indonesian society. With the assistance of a few collaborators, several hundreds of account books were distributed, in which for a whole year the receipts and expenditure in money of a definite household were put down. In this manner a certain idea could be acquired of the role played by money in the dessa household, for what purposes it was used, whence, when, and in what sums it was acquired. This method, of course, is by no means entirely satisfactory. The nature of the investigation itself makes it necessary to limit it to the more educated and better-placed people; while, moreover, it only touches that part of the household which is affected by the penetration of money economy. Nevertheless, the description of 32 budgets included in Prof. Boeke's contribution is highly significant and instructive [1]). Still more illuminating is the investigation recently made by Dr. L. Adam [2]) in the commune of Sidoardjo, the economic situation of which is described in the first part of his study, while in the second part data concerning individual investigations are reported. Colonial literature as a whole probably possesses no other such treasure of living economic data, and it may well be said that enquirers in the Indies are now moving in the right direction. They are now acquiring knowledge from real life, and the data thus secured are complementary to the equally important and more general statistical collections acquired by the authorities.

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[1]) Cf. also C. L. van Doorn: *Schets van de economische Ontwikkeling der Afdeeling Poerworedjo*, 1926.

[2]) L. Adam: *Economische Beschrijvingen. Enkele Gegevens omtrent den economischen Toestand van de Kaloerahan Sidoardjo*, 1929.

Statistics and welfare policy

These statistics have been placed upon a modern basis only since 1920. In the first decades of the nineteenth century, a number of data were already being collected. Since 1825 statistics about shipping and commerce, and since 1839 about agricultural production, have been collected and published. In 1864 a special bureau was established, the statistical survey of Java, while at the general secretariat at Buitenzorg a section for statistics was opened. Both had only a brief existence:

> "With a few exceptions, notwithstanding this intermezzo, the annual Colonial Report to be presented to Parliament remained for many years the only official publication which had a general statistical character, at least in its extensive appendices.... This information was decidedly influenced by the way in which it was collected. It was a compilation of communications and data which were received every year from a number of higher and lower authorities. There were no people specially trained or fitted for this kind of work. The collection of statistical data and the issuing of reports about them formed an additional duty of officials. It is natural that the accuracy, the completeness, and the uniformity of the figures should have suffered from this system. In the long run this method, which preceded expert statistical work in other countries also, was found insufficient. This became perceptible especially after 1900, when a noticeable increase in the speed of social and political development in the Indies made heavier demands upon the general administration and upon the guidance of economic life.
>
> "Two centres came into existence from which the endeavour to systematise general statistical information developed. The first was a bureau for the census which was entrusted with the census activities of 1920 and with the publication of its results.... The decisive step for centralising statistics was taken in 1924. The reason for this measure was the urgent necessity of a satisfactory improvement in the statistics for imports and exports" [1]).

The statistical bureau established in 1920 by the Department of Agriculture, Industry, and Trade was transformed in 1925 into the Central Bureau for Statistics, which is now fully developed.

Only since this time have system and method really come into their own in statistical observation. This bureau has performed an impressive amount of work. The economy of the population,

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[1]) See communications of the Government, May 1928, about the work of the Central Office of Statistics.

however, is not an easy object for statistics. It is difficult to get the right replies and to overcome distrust, so that all data directly concerned with the life of the people must be treated with care. One may be grateful to have at present at one's disposal co-ordinated trustworthy material concerning the subjects about which the authorities have regularly to deal with the population.

Agricultural statistics form a very important subject for the activity of the Central Bureau. They are based upon the data relating to land taxation. Fields which must pay land-rent have to be surveyed at regular intervals. This surveying takes place without interruption, and in Java the area covered by a year's survey amounts to one-tenth of the whole so as to be able to go the round of Java every decade. This provides a trustworthy basis for the knowledge of extension of arable land and for regular statistics of production. Monthly statistics are made of the planting and the harvesting of indigenous agricultural plants. These are regularly published in supplements of the weekly paper of the Department of Agriculture. Apart from these monthly statistics, annual statistics are got out containing definite figures concerning harvest failures, gathered harvests, and planted areas for different crops as well as the quantities produced of each kind. About 16,000 tests are made to form the basis of these statistics. Special experimental fields are reserved for the purpose, where harvests are gathered to allow the basis of the land-rent assessment to be fixed. These agricultural statistics have therefore a sound basis and compare favourably with the statistics of Western countries.

"The significance of statistics concerning indigenous agriculture," we read (p. 109) in the communications of the East Indian Government (May, 1928), from which passages have already been quoted, "cannot possibly be over-estimated. Few problems in the population's social and economic life can be conceived which are not directly or indirectly connected with agriculture. Data about fields, their use and their produce, can be useful in dealing with the most general problems such as the development of the productivity of the Indies, the problem of population, the food supply, popular prosperity, and also the very special and even local questions arising in connection with situations in the dessa, measures of agricultural policy and irrigation, applications of non-Indonesians for admission as farmers of land owned by the population or as long-lease tenants of waste land owned by the Government, the opening of new railways, tariff policy, the effects of popular credit

and pawnshops, school attendance and absence, the labour of women and children. Apart from the great value of agricultural figures for every consideration of political economy concerning the population of the Dutch East Indies, they have therefore a directly practical utility".

In short, thanks to this organisation, the authorities now possess a permanent systematic and scientific organ for the investigation of economic conditions, an infallible barometer whose indications are indispensable for a methodical welfare policy.

The Central Bureau also keeps statistics covering big agricultural enterprise and commerce; it follows the movements of the cost of living; it continually investigates wholesale and retail prices, tries to estimate the expenditure per household, and composes the annual Statistical Review, from which we have already quoted various data. This review (with text in both Dutch and English) covers nearly 500 pages and contains practically everything that can possibly be expressed in figures concerning the social and economic activities of the authorities. One will find information about the territory, meteorology, the population, popular health, education, public worship, the economic and social situation of the population, including criminal statistics, labour inspection, trade unions, etc. Furthermore, there is information concerning production, indigenous agriculture, cattle, industry; commerce, prices, wages, currency, banking and credit; transport, including shipping, post, telegraphs, telephones; and finally, the administration, representative bodies, and local autonomies. We may now leave the subject of the bases needed for a sound welfare policy and begin to consider the construction which may be founded upon them.

Education, irrigation, and emigration

Mr. van Deventer had already represented this architectural scheme in 1904 as a triad of projects which divide the activities of the authorities into three spheres, education, irrigation, and emigration. He rightly pointed to the neglect which still obtained in 1900 in the first sphere. Like everybody else who is seriously concerned with welfare problems, he was at once confronted by the lack of progressive spirit due to the absence of knowledge and understanding on the part of the population, to its superstitions

which made it reject many indispensable methods and means of assistance, to the way in which illiteracy made them, like a collection of deaf mutes, impervious to good advice. It may be said, therefore, that popular education is such a fundamental part of the work of construction that it must be deemed to fit immediately into the foundation indicated above, a sound knowledge of the economic situation of the population on the part of the authorities themselves. We have shown in the previous chapter that the most ambitious wishes of Van Deventer have been fulfilled since 1904 or are in a fair way to be fulfilled. The authorities have done their duty, and it is now the task of the Indonesian élite to utilise this precious capital which can create material capital, and to make their backward brethren who still lag behind in the race of life utilise it.

As regards irrigation and emigration, these subjects too have received much attention. Irrigation was taken in hand by the population itself, probably even before the arrival of the Hindus. In Bali [1]) it reached a more advanced stage, and a good organisation of the water system (Subaks) was called into existence by the inhabitants themselves, a fine proof of what indigenous initiative may accomplish under favourable circumstances. But in view of the fact that this capacity is generally lacking, there were nowhere, not even in Bali, any great works. In Java irrigation remained primitive, although much ingenuity was applied to it. Here it is that the authorities can fill up many gaps. Indeed, since 1900, about 200,000,000 guilders have been spent on irrigation in Java alone [2]). The artificial irrigation of 1½ million bouws of sawahs has thereby been made possible. This covers one-third of the wet fields on which land-rent has to be paid in Java. A good administration of forests and measures for suitable reafforestation are intimately connected with the problem of irrigation, and a well-trained staff is giving the necessary attention to these problems. To assure rainfall and to utilise rain-water as scientifically as possible, these measures are of primary importance; it is then that irrigation comes in, to assist in the work of distributing the water. The administration has at all times devoted

[1]) A. J. van der Heyden, "*Kol. Stud.*" Dec. 1924, 1925, for monographs on the water system in former South Bali.

[2]) In the other isles also considerable sums are spent for this purpose.

much care to irrigation, because it is the inseparable companion of paying agriculture, of prosperity, and of progress.

In 1854, the service of waterways was better organised and was placed under the Department of Public Civil Works. It was not until 1885, however, that technical knowledge began to be regarded as of more importance than local experience of administrative officials. Technique nowadays commands the whole organisation for flooding fields in Java. It might almost be called a living organism of the most delicate structure, which leaves none but the very smallest conduits where no technical difficulties are to be met, to the care of the population itself. As, at different periods of the agricultural season, there are very different needs as regards the quantity of water per bouw and per second, and as the quantities of water which are at the disposal of the organisers of irrigation vary considerably in the course of successive months, a very delicate organisation and much contact with the population is required if all those who want water are to get it, and if the various crops in a definite irrigation district are to receive at the right time their share of the available water [1]). With this end in view, a regular water administration has been organised by calling into existence irrigation sections under the direction of chief engineers of the service of waterways. Especially since 1900 numerous large water works, dams, water reservoirs (waduks) [2]), including impressive instances of technique and organisation, have been established. The work still proceeds and in all directions large and small waduks with large, secondary and tertiary conduits are being made, as harbingers of the security of the harvest and of popular prosperity. Those interested are given the opportunity, wherever possible, of looking after their own interests by the institution of waterboards, presided over by a Dutch administrative official. When autonomous provinces are established, they are entrusted with the care for irrigation, receiving grants in aid from the Government whenever extensive works have to be made which might go beyond the financial and technical capacity of the province.

While irrigation improves or extends the agricultural soil in the

[1]) See for this subject in the Encyclopaedia: the articles "*Bevloeiing*," "*Waterstaat*", "*Waterschappen*", "*Soebaks*", "*Wadoekstelsel*", and the contribution of J. Blackstone in "*Neerlands-Indië*", 1929, II, p. 93 sqq.

[2]) Art. in "*Kol. Stud.*" August 1920, p. 65 *sqq.*

populated districts, emigration in Van Deventer's view is the real means by which the population can be delivered from economic pressure. Indeed, notwithstanding all official activity, economic pressure must continue to exist if an increasing number of mouths have to be fed upon an area of arable land that nowadays is scarcely more than one hectare per household. In the islands outside Java, there is more than enough soil for a population which numbers now (1931) only 18,000,000. Java therefore is about thirty-six times as densely populated, although we must remember at the same time that as a result of the extraordinary fertility of its volcanic soil, it is far more suitable for agriculture than most regions outside Java. There are various instances in the Archipelago of emigration on the part of people from Java, Madura, Macassar and other places in Celebes, and Minangkabau. Barren Madura has always sent its most energetic people to Eastern Java where nowadays millions of new and old settlers from Madura live. From the not very fertile Bantam in West Java, people have continually swarmed to South Sumatra, where gradually Javanese settlements have been established. Western enterprises outside Java attract three to four hundred thousand Javanese labourers; while a number of emigrants also go abroad (Straits Settlements, Surinam, etc.). Most of these people return after a shorter or longer period to their place of birth. This kind of emigration does not give much relief. The figures seem to disappear when compared with those of the incredible rise in the population of Java. The organised emigration of hundreds of thousands, of millions even, would be necessary before Java could experience any relief and simultaneously could help the islands outside Java to develop at a quicker pace.

In the first place, there would be necessary a tendency among the population itself to seek better conditions of existence elsewhere. Such a tendency, however, cannot be detected. The agriculturist, especially if he owns land, has grown attached, as it were by living roots, to his field. This really applies to the whole country population. Communal connexion has a great bearing upon these feelings, although it has considerably decreased in the course of the last decades. The initiative of the authorities has also been necessary, therefore, for organising emigration. In 1905 an experimental colonisation by Javanese agriculturists was started

in the Lampongs (South Sumatra), while other settlements were also assisted with support from the authorities. Private Western initiative has also made its contribution in this connection. But it is obvious that not much can be achieved in this way as long as the population itself does not feel a keen desire to improve its condition. Only when inspired with this feeling does emigration lose its artificial character so that more results can be achieved with less expenditure of capital. Apart from the Lampongs, where about 30,000 colonists are now established, the experiments in colonisation have been disappointing and expensive. Meanwhile, the individual movement of people who take work elsewhere as labourers, as officials, etc., has gradually transplanted something like 800,000 Javanese (inclusive of their descendants) in the islands outside Java.

The problem of emigration is connected also with that of the supply of labour for big agricultural and other enterprises in regions outside Java with little or no population. It is connected in particular with the abolition of the so-called penal sanction, which makes breach of contract either of the employer or of the employee punishable and which has been instituted and, so far, maintained for the sake of the security of industry and of a proper care of the labourers, two points which in those uninhabited regions are intimately connected. Emigration followed by agricultural or labour colonisation has been too insignificant to bring the solution of this big problem in that direction much nearer. Exchanges of view on this subject take place from time to time between the Government and big enterprise on the East Coast of Sumatra. We shall return to this subject in the seventh chapter [1]). The swarming of Javanese to the pepper and rubber districts of Sumatra and Borneo, where they work for indigenous producers, is another symptom of increasing mobility. Still, it cannot yet be said that the desire for an improvement of their conditions on the part of the population, together with their increase in numbers, has succeeded in making Java ripe for emigration [2]).

The emigration which was advocated by Van Deventer has proved to be an expensive item for the authorities, and it is clear

[1]) E. J. Burger: *Landverhuizing bij de Inheemsche Bevolking in N. I. als koloniaal-economisch verschijnsel* 1928, p. 110; R. Broersma in "*Kol. Stud.*" Oct. 1919, p. 171 *sqq.*

[2]) See *Stbl.* 1919, 61 (art. 4); 1920, 781; 1927, 339; 1914, 613; 1915, 693; 1921, 505; 1924, 433, 434, and especially 1927, 142.

that it will provide a solution only when the population chooses it of its own free will. Japan has had the same experience in Korea, Manchuria, and Formosa (Karenko). Nobody indeed would advise the authorities to take drastic measures such as a compulsory transportation of tens of thousands of families. In the ancient world this happened often enough, but our period rejects such measures. The social and intellectual development of the population of Java will automatically further free emigration and the authorities will then only have to give their assistance in order to get through the first difficult years. The more natural and the freer this emigration can remain, the better it will be, if only because it should encourage a process of natural selection.

We might finally mention electrification, as following upon education, irrigation, and emigration. The available water power is being utilised to an increasing extent. Part of the railway system has already been electrified, and in many places such as Batavia, Bandung and their environs, electrical power and light are already generally available; while, furthermore, hundreds of small plants have been installed, mostly for agricultural purposes. More and more can be done in this direction, and it is probable that Indonesian industry, including domestic industries, will find a new stimulus in electricity, provided power does not become too expensive. The subject is sufficiently important to deserve a passing mention, especially when one realises that in Java alone a million kilowatts of water power must be available, of which about a tenth part has been utilised. Exploration in the islands outside Java has not yet been completed, but in Sumatra about a million H.P., in Celebes half a million, and in Borneo also a large amount of water power has been discovered. This is of infinite importance for the future [1]).

Government pawnshops and the fight against usury

Apart from the general activities of the Government, its stimulating intervention in more restricted spheres, such as the development of the popular credit system, of co-operation, agriculture,

[1]) An extensive article "*Waterkracht en electriciteit*" in the supplement to the encyclopaedia; also A. Groothoff, article on the same subject "*Kol. Stud.*" August 1919, p. 1—20. In 1917 (*Stbl.* 468), a service for water power and electricity was established. See also *Bijbl.* 5081, 6938, 9276 and 10320.

cattle-raising, fisheries, industry, and commerce, deserves equal attention. We have already explained at some length in the first volume what government activity at all these points and in particular as regards agricultural information, popular credit, popular co-operation, and rationalisation of industries, signifies in principle. We need therefore do no more than mention a few data at this point.

The need of money felt by the population is a symptom of a period of transition which can now be generally observed in the East. It arrives rather unexpectedly and finds an amazing simplicity and lack of sense of the future, which transforms this need into a positive social danger. Usury, and advances in money upon almost anything which can be achieved by labour or delivered in kind, mostly upon the heaviest conditions, are the pitiless companions of this need of money. The Government has, of course, taken the necessary measures against usury and extortion (Stbl. 1916, 643). But prohibitions do not achieve much in this matter[1]). The Government has also tried to exercise a certain amount of good influence by its control of pawnshops, which, except for an interlude of licensing between 1870 and 1889, were farmed out until about 1900.

This system of farming out what was a government monopoly was tried by Raffles in 1814 and extended later. The pawnbrokers paid the Government a certain sum and were granted in return the exclusive right of lending for interest sums to the amount of 100 guilders. Loans above this amount were free, but this did not mean much, in practice, for the population. The malpractices of the moneylenders caused an experiment to be made with a system of licensing all those who wished to venture into the business of lending money on pawns. For these licences the sum of 50 guilders a year had to be paid. By the year 1880 it had been established that the old system was preferable and should be re-introduced. A few restrictive measures were, however, taken against abuses inherent in the farming out system.

It was finally realised that regulations and control would never be sufficient. Since 1900 the system of farming out has gradually been changed into a system of government pawnshops (Stbl. 1903, 402; 1928, 81 and 82). There are now over four hundred

[1]) J. H. Boeke, "*Kol. Stud.*" April 1917.

government pawnshops which received in the course of 1927 no less than 50,000,000 pawns, upon which nearly 175,000,000 guilders were advanced; while in 1928, 181,000,000 were advanced against 49,000,000 pawns and in 1929, 207,000,000 guilders against 56,000,000 pawns. About 48,000,000 pawns, to the amount of 178,000,000 guilders, were redeemed in 1929; 4,500,000 pawns were sold by auction, and 6,000,000 renewals of loans were made. The great mass of pawns concern sums of from one-tenth to 1 guilder. Only half a million pledges were worth more than 25 guilders.

The pawnshop régime therefore seems to provide for an enormous need, and this notwithstanding the fact that as a result of the high costs of administration, which are, of course, disproportionately high in the case of small pledges, the interest charged is by no means low. The prosperity of the pawnshops is usually explained as a proof of a general poverty. This is a mistake, because to no small extent the pawnshop must in the East be considered as a form of saving and as a purveyor of normal small credit for commercial and other purposes. Furthermore, and perhaps not unjustly, criticisms have been made of the fact that the profits of this institution, which in the course of the last few years have increased to more than 16,000,000 are really an indirect tax on the indigenous population [1]). Against this other people have observed that a decrease of interest of one or two Dutch cents a pawn a month can scarcely be and in fact is not considered an alleviation by the population [2]), while an important profit would be lost entirely by the Treasury and would probably have to be compensated by a much more oppressive increase of direct taxation. The pawnshop system is perhaps not an unmixed blessing, but in the present conditions it is in any case a strong competitor of usury, congenial and therefore very useful to the population, which everywhere prefers extension of the time-limit of loans to lowering of interest. This credit system does not directly exercise any great educative influence. Nevertheless, it is not without economic influence, and perhaps something will be done in the near future to give it a social-pedagogical tendency [3]).

[1]) Huender *op. cit.*, p. 190 and Statistical Annual Abstract for 1929, p. 442.

[2]) Boeke, "*Kol. Stud.*" Feb. 1919, p. 53, 54. An investigation made by Mr. J. Keers in the dessa shows that the population generally prefers the prolongation of the loan to the lowering of the rate of interest ("*Kol. Stud.*" Dec. 1928, p. 393).

[3]) Boeke, "*Kol. Stud.*" Feb. 1919, p. 59; J. C. van Hartingsveldt, "*Kol. Stud.*" Feb.

The fight against opium and the system of a government-monopoly

In continuation of the previous paragraphs dealing with monopolies we may now take up the question of the opium monopoly which provides the Government with about 30,000,000 guilders annually and which from an exclusively fiscal point of view might almost be characterised as a form of indirect taxation of the indigenous and the Chinese populations, because it is exclusively among them that addicts of opium-smoking are found. We shall mention this monopoly and that of salt as a fiscal instrument in the course of the eighth chapter, and will therefore only say a word about the opium monopoly in its capacity as an organ for fighting the opium evil, because the suppression of this evil belongs as definitely to the measures which promote social reconstruction as the struggle against usury, immorality, and child marriage.

In the nineteenth century, the authorities found this vice to be already widely spread. After opium had been farmed out for a long time, the monopoly system was adopted in 1904 for Java and Madura, and in the course of the following years for all other regions in the Indies [1]). This was necessary, to deprive the sale of opium of any private interest. The real aim of such a system is gradually to license and to ration all smokers, and to diminish the consumption by raising prices; if immigration does not increase the number of addicts to any great extent all registered smokers will disappear by gradually dying out. Three stages can therefore be distinguished. The first is prohibition with the exception of sales by the Government to those who want the drug, and the establishment of control and rationing. The second is the restriction of sales by the Government to carefully rationed licence holders. The third stage consists in declaring a region that has become free from opium smokers to be a prohibited area. Notwithstanding all criticism, this has proved to be the best system to keep both licit and illicit use at the lowest possible level. The best that international conferences have been able to lay down in con-

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1918, p. 11 *sqq.*; J. Keers, "*„Kol. Stud.*" Dec. 1928. See Annual Report of the Goverment Pawnshops Service for 1928, p. 7.

[1]) For the opium legislation in the D.E.I., see *Stbl.* 1927, 278, 279, 280, 514, 518, 519. *Cf.* also the Annual Reports of the service. An appreciative judgement on Dutch East Indian opium policy was published in 1927 by an impartial American investigator, Mr. Herbert L. May, in his report to the Foreign Policy Association of New York.

ventions has already been done in the Indies. The Indies are still in many respects in advance of the conventions.

The Philippines have gone further. There opium has been prohibited, but with results that so far do not appear to have been encouraging [1]). It would seem that a popular vice cannot possibly be abolished by legislation and control, unless social consciousness is wide awake and enthusiastically supports the authorities. Apart from a few manifestations which aimed at political gain rather than at genuine social advance, no substantial and lasting co-operation has been given by Eastern peoples to any colonial Government. If, tired of national and international misrepresentation, the authorities were nowadays to introduce prohibition, the opposite of what is hoped would result from this measure. The smuggling trade would be given an enormous impetus and illicit traffic would certainly not divide its market into licensed and prohibited areas, nor would it ration its customers: on the contrary! A big industry with a wide-spread organisation would then become worth while, corruption on a grand scale would become prevalent, and this product, which can be hidden only too easily, would be introduced in growing quantities, or be replaced by far more dangerous drugs such as cocaine, morphia and heroin. Finally, the coastline of the Dutch East Indies could not possibly be protected against this creeping and ubiquitous enemy, once illicit traffic were given the monopoly of meeting the demands of addicts living in the Archipelago.

The 1925 conference of Geneva rightly declared, therefore, that it is the primary duty of countries where opium is produced to limit the planting of poppies, because the method of fighting against opium consumption is to no small extent dependent on output. As long as this control of production is not exercised, the establishment of a government monopoly is the only means of keeping contraband directed toward consuming countries within limits, while keeping legal consumption as low as possible. It also

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[1]) Report of the fifth session of the Advisory Opium Commission of the League of Nations, 1923, p. 50, French text, and *Actes de la IIme Conférence de l'Opium*, 1924/5, I, p. 160; *Traffic in Opium etc., with respect to the Philippine Islands, for the year ending June 30, 1928* (U.S.A. Treasury Department, 1929); Minutes of the 13th Session of the Advisory Opium Commission of the League of Nations, 29th and 33rd meeting 1930.

greatly decreases the danger of corruption. As soon as all the producing countries fulfil their duty, Holland is ready to make in the course of fifteen years the necessary preparations for the total prohibition of opium. It is only then that prohibition can be maintained. At present it would be nothing more than the substitution of an illegal, uncontrolled, and growing consumption for a legal and controlled one. The activities of many people, numerous also in Holland, against this evil are welcomed by the authorities. But the Government of the Netherlands, as well as that of other countries which are in the van of social improvement, might perhaps request suspicious critics to refrain from connecting the continuation of the evil with the receipts made from the government monopoly. It would seem that the most unfounded reproaches may be glibly addressed to a government, reproaches of a nature which even after a serious investigation one would scarcely like to address to the most unimportant private person. A Government which spends 50,000,000 guilders on education and 20,000,000 on popular health, not to mention the innumerable other social items on the budget, might request those whose aspirations are similar to its own ambitions to display a greater seriousness, a wider spirit of investigation, more knowledge, and more real cooperation. The campaign is not helped by high-sounding battle-cries which only repeat principles that have for long inspired the Government's well-considered policy. Some people may deem it a pleasant sensation to feel morally above the policy now practised, but they do not serve the good cause by so doing. Happily, there is no lack of earnest men and women who are zealously endeavouring to detect the real flaw and who try to mobilise in society itself the forces necessary for fighting this canker which once threatened to become a danger to popular prosperity and popular energy in large parts of the Far East.

Constructive welfare policy: The popular credit system

If the government monopoly of pawnshops and of opium is to be considered in principle as a defensive social organisation, as an instrument in the fight against the evils of usury and of drug taking, the popular credit system and the encouragement of cooperation, which date from about 1900, belong to an entirely dif-

ferent order of ideas [1]). Both, it is true, are real opponents of usury but they owe a still greater significance to the fact that from them an educative force radiates, while they stimulate self-exertion [2]). Popular credit is taken care of in the Dutch East Indies mainly by about 90 popular or divisional banks which lent about 75,000,000 guilders, in the course of 1929, to about 960,000 borrowers, who were almost exclusively Indonesian. This credit, therefore, concerns relatively large sums, at least from the indigenous point of view, as the average loan is 80 guilders [3]). In Java the average is 70 guilders: outside Java it is much higher — 227 guilders. Dr. Cramer (p. 202) points out that the small village banks outside Java also show a much higher average per loan than in Java, the respective figures being 21 and 12 for the year 1926, while these loans moreover usually have a longer run than in Java. In Java the capital every year circulates six times against only 1½ to 3 times in the other islands.

Small credits are advanced in the Dutch East Indies by over 6000 small village banks, and in Java, moreover, by an equal number of dessa-lumbungs or rice banks, which give the opportunity for saving, borrowing, and paying interest in kind. An early death has been predicted for these small rice banks in view of the increasing currency circulation, but they appear still to provide a need and are also utilised by the retail rice trade. During the time of scarcity paddy is borrowed, sold against a good price, and the borrowed quantity is repaid with cheap paddy in the period of abundance after the harvest. In 1929, over a million persons were assisted and the total of loans amounted to 1,728,000 piculs (more than 100,000,000 K.G.). The arrears are small.

The profits of these lumbungs, which initially asked an interest of 25 to 50 per cent, often created such a large surplus that a part of it could be sold and that the money could be invested by the village at interest in a divisional bank. These money reserves later provided the funds for establishing village banks which allowed small credits in money. Lumbungs and small banks are both com-

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[1]) J. C. W. Cramer: *Het Volkscredietwezen in N. I.*, 1929, and A. J. C. Krafft; *Coöperatie in Indië*, 1929.

[2]) *Bijbl.* 6462 (see also 6649) entrusts the interests of the popular credit system to the administrative officials as a prominent part of their duties (1906).

[3]) According to calculations by Dr. Cramer based upon the index number this amount is approximately the equivalent of 40 guilders before the war.

munal institutions, and not private credit co-operations, although efforts have been made to make both resemble as far as possible small popular enterprises which adapt themselves to the Adat spirit. In 1929, these small banks assisted more than 1,200,000 borrowers, to the extent of 50,000,000 guilders. The arrears were only 0.4 per cent of the total amount of the debts outstanding in Java at the end of the year. It may be said therefore that the population has proved to be worthy of the confidence shown by the various credit institutions. A share of this success must of course be attributed to organisation, control and sometimes to strong pressure [1]). But without a fairly general sense of duty regarding obligations that have been contracted, such a favourable figure would be impossible. Dr. Cramer, considering the high figure of the fines imposed by the divisional banks, remarked that this seems to point to unreliability, but in reality it should rather be attributed to the fact that the credit conditions of these central banks are not yet sufficiently adapted to the individual circumstances of the debtors. Ill will among them is quite rare (p. 73). The broad basis of twelve thousand small village banks is supported by the ninety popular or divisional banks which in their turn are concentrated into a central institution (Centrale Kas) established in 1912 (Stbl. 393), which takes deposits from these banks and is able thereby to assist banks that need credit [2]). The available amount of money is therefore given a maximum of usefulness. This central organ controls all divisional credit banks, lumbungs, and dessa banks, it advises them as to improvements of organisation, internal control, and methods, and supervises them on behalf of the Government. Recently it has also become responsible to the amount of its capital (5 million) for eventual deficits of the divisional credit institutions which are under its immediate supervision and which have been scheduled by the Government as philanthropic institutions. It has taken a long time to build up this

[1]) As borrowing is often done for the purpose of consumption the banks are careful and make strict stipulations as to repayment. "It is not pleasant to be behind hand in one's payment to the banks. One receives personal visits from the staff of the bank, and if this does not help, warnings from the dessa headmen, while sometimes one is brought before the Assistant Wedono or before the judge; the result is that in regions where the banks have already worked intensively for a considerable time, there is usually no request for a loan if one does not expect to be able to repay it in the way required by the bank" (Report on the popular credit organisation for 1928, p. 1).

[2]) Cramer, *op. cit.*, p. 52 *sqq.*

satisfactory and systematic organisation of the whole system of popular credit. The divisional banks are organised as private incorporated societies, they are run commercially, although their aim is philanthropic, i.e. they aim not at profit but at the increase of popular prosperity. The financial and other support which they have received since their establishment in 1900 from the Government is allied to a certain right of supervision. In the local commissions of supervision there have always been members of the Dutch and indigenous administrative corps as well as officials of particular services and local notables. The need for business security was satisfied as far as possible by a special form of warranty, created in 1908 (Stbl. 542; see also Stbl. 1909, 584, 585), similar to ordinary mortgage [1]). In the case of the bank's having to sell under execution indigenous landed property thus mortgaged, it finds itself dependent on a limited circle of potential buyers, because the sale of landed property owned by Indonesians to non-Indonesians is forbidden in the Dutch East Indies. As a rule the neighbouring villages will abstain also and the buyer will more often than not be a man of the village of the mortgager who went bankrupt.

It is clear that such an organisation must be animated by one spirit right from its central organ down to the village banks, and that it must utilise the experience acquired in common for devising a collective policy for the whole credit system. Initially, however, these institutions had not sufficiently fused into one. There was too much room for personal arbitrariness and it became clear that a larger measure of integration of the various parts of the credit system was desirable. Unity had to be given to it, but otherwise it would continue to function according to the requirements of a wise division of labour [2]), which means to say that only such central control and guidance were to be introduced as would be compatible with the sound principle of allowing as much decentralisation as possible. The central organ, which since 1927 (Stbl. 77) has been placed under the same direction as the popular credit system, has proved to be the lever, the means, by which the popular banks (which placed themselves only in 1924 under the supervision of the central organ) will be enabled to

[1]) Cramer, *ibid.*, p. 94 points to the increase of cases of pledging one's landed property as security for loans by the popular banks from 5,000 in 1912 to over 60,000 in 1926. For 1928 however the figure dropped.

[2]) *Ibid*, p. 216 sqq.

adapt themselves to the principles of unity that must animate the whole system of popular credit. The administrative corps, although it forms an important link between the institutions for village credit and the divisional banks, was not able to do this, owing to its lesser expert knowledge compared to that of the administrators of the divisional banks. When all these banks had made a credit agreement with the central organ, they had at the same time to submit themselves to its control of their bookkeeping and general management. This was one of the reasons why they preferred at first to seek their capital elsewhere and also to invest their superfluous money elsewhere. The central organ, however, after 1924, still had insufficient influence upon the welfare policy entrusted to the divisional banks. Much attention was given to this problem and much has been written about it during the last ten years. At last, by government decree of August 13, 1926, No. 36, a commission was established to study plans of re-organisation. The Commission reported in 1928 and presented its plans. The unified organisation has at last been assured, thanks mainly to the indefatigable efforts of Prof. Boeke.

The annual report on popular credit for 1928 says:

> "An important fact of the previous year has been the completion of the re-organisation of divisional credit banks. In the last quarter of 1928 the Government adopted the proposals of the Commission for re-organisation, and invited the chiefs of the administrations in the provincial governments to give their full co-operation in order to persuade the banks within their administrative territory to act upon the wishes of the Government and adopt the recently drafted statutes and regulations. The adoption of the new model regulations by the banks took place, generally speaking, very easily [1]). This was due, to a not inconsiderable degree, to the emphasis of the Government in making it known that officials, who are members and administrators of these institutions, are expected to adopt principles of conduct indicated by the Government. This pronouncement is of great importance to the further development of popular banking. The relation between divisional banks and the Government is thereby regulated in such a way that the basic principles according to which the banks must be administered are indicated by the Government in the form of model statutes and regulations and by instructions. Further detail and application, however, is left to the banks. This has led to a good combination

[1]) Cf. Cramer *op. cit.*, 230 *sqq.* Also G. Gonggrijp in "*Kol. Tijdschr.*" Jan. 1929, p. 7—91.

of centralisation in regard to principles with decentralisation in regard to execution".

The task of the superintendents (Governors) and of the acting superintendents (chiefs of Residencies) is clearly indicated. This task is not that of imposing their own views on the divisional credit banks nor of interfering with the management of these institutions, except in so far as the banks themselves have entrusted these officials with certain functions indicated in their statutes or regulations. It consists rather in preventing the banks from deviating from the aims and principles which they have set themselves, and also in ensuring that the officials who have a hand in the direction of the divisional credit banks realise their duty of furthering the principles indicated by the Government and use their local knowledge in order to advise the Government whenever it is desirable that measures should be taken regarding banks of popular credit.

Popular credit and the village banks

At present, then, the Dutch East Indies have a good organisation of popular credit which will increase in importance as the divisional banks are allowed to grow into central banks for village credit institutions and as the interest, after the formation of the necessary capital, can be lowered to the amount strictly required to cover expenses [1]). Almost one-third of the divisional banks already charge no higher interest than 12 per cent and a few have been already able to lower this to 9 per cent per annum. The high expenditure has so far prevented the development of the popular credit system to its full capacity. Lumbungs and village banks suffer from the same inconvenience. The latter are, therefore, not yet sufficiently organised to grant agricultural credit. Dr. Krafft points this out when giving details about lumbungs and village banks (p. 130):

"The dessa lumbungs acquire an initial capital because the sawah proprietors give a contribution in paddy, which differs according to the size of the sawah property. Usually they give twice as many piculs of paddy as they possess bouws of sawah. When

[1]) See *Bijbl.* 7522. Also Cramer, p. 66—69. For dessa banks *ibid.*, p. 181 *sqq.* and for the need of increasingly intimate co-operation between divisional banks and small dessa banks, *ibid.*, p. 220 *sqq.*

later on the receipt of interest has doubled the provision of paddy in the lumbung, these original contributions are returned. The lumbungs are village institutions which belong to the community. The authorities, therefore, have the duty of looking after their affairs. They are administered by a committee under the chairmanship of the village headman; it includes, apart from the dessa administrators, a few tanis or peasants who are not members of this administration. This Committee receives as a fee a certain percentage of the paddy repaid by the customers. Independent accountants have been apointed for a group of dessas and receive satisfactory payment. The control of the lumbungs belongs to independent officials (mantris) who are salaried by the Government."

The costs of this control however, are repaid to the Government by the divisional and village credit institutions (Bijbl. 10172).

The author points to corresponding institutions on a co-operative basis in British India where the general assembly of members has the highest authority and chooses its committee, which is not salaried, in accordance with the co-operative rule. The interest, therefore, can be much lower — at the most 25 per cent — whereas in Java the lumbungs charged sometimes as much as 50 per cent [1]). Moreover, in India, the members of the committee become used to the disinterested sacrifice of their time and their labour to the community, while the ordinary members take a more active part. He proceeds:

"Like the lumbungs, the dessa banks are also established by the village assembly. Soon after the first lumbungs were established in the Residency of Cheribon, experiments were made in this region of advancing from the surpluses of these lumbungs small money credits to the people of the dessa. In this way a number of small money banks came into existence. These small banks were first given their trade capital by the dessa or by the lumbung; later it generally came from the divisional banks. At the present day, they work mainly with their own capital.

The dessa banks originated in order to give small credits to the small man. At first, these credits did not amount to more than 5 or 10 guilders. At the end of 1927 the average annual loan was 13 guilders. These credits are granted especially to retail trade and to small industry, which have acquired a great significance in many regions of Java and Madura. If 2½ guilders are borrowed from priv-

[1]) Cramer, *ibid.*, p. 150 points to the very considerable difference in the price of paddy which when borrowing is often 4 guilders per picul, and when repaying 1½ picul, which is a rate of interest of 50%; sometimes it is only 3 guilders which means that no more than 12½% is paid. Paddy credit is therefore more advantageous than money credit.

ate moneylenders, they are usually paid back by thirty daily payments of 10 cents, but an interest of 10 cents per day per guilder is not unusual. The dessa banks, therefore, can do extremely useful work by advancing very small credits. The interest which the dessa banks ask is high, but we must admit that it is much less than the interest asked by private moneylenders. Usually loans are made to be repaid in ten or eleven terms of 5, 7 or 10 days. In that case a fixed interest of 6 to 8 per cent is charged. This would amount in annual interest to about 35 per cent [1]). This interest is usually greatly influenced by the fact that the committees receive about 2 per cent of the amount advanced as payment for their work.

Nevertheless, the average interest on money advanced has gone down considerably in the course of the last years. For 1923 and earlier, it amounted to 9.3 per cent of the amount advanced. For 1925, it was 7.6 per cent and, for 1927, 6.9 per cent.... These dessa banks with their numerous loans and repayments spread over many terms require a very extensive and expensive administration.

The expenses of the dessa banks were in 1927 1,417,000 guilders, or approximately 4 per cent of the amount advanced during that year. This is much higher than the expenses of the primary credit co-operative societies in British India. The principal cause of this difference is the payment of members of the committees of the dessa banks, which has already been mentioned. In 1927 they received a sum of 757,000 guilders, or 53 per cent of the total expenditure.... These dessa banks are administered by the village headmen, assisted by a few fellow commissioners, among whom there are usually one or two ordinary peasants. In practice the administration is in the hands of the dessa chief. He decides whether credit is to be granted or not. These little banks, therefore, have a semi-official character. The borrowers, who have been admitted and ought to be interested in the running of the bank, are called up for an annual general meeting where they may discuss their interests and those of the bank. There is, however, practically no interest shown in these meetings, because the population considers these banks a government concern.... These banks undoubtedly perform a useful function. The rural population — especially smaller traders and small industrialists owe much to these banks.... Many a usurer has been compelled by these banks to lower his rate of interest, although for Java, considered as a whole, the significance of these banks is perhaps not yet very considerable.... All this does not prevent the fact that, from the point of view of social education, these banks are open to serious criticism, espec-

[1]) Cramer (p. 182) advocates a rate of interest of 6½% of the amount lent which would amount to an annual percentage of 39% per average loan, seeing that the amount lent is about six times as large as that outstanding as a result of the quick circulation of the working capital of the small dessa banks.

> ially if they are compared with the primary credit co-operative societies of British India. The first problem for Java with its almost exclusively agricultural population is that of credit for agriculture and it must be admitted that agriculture is affected very little by the dessa banks.... Loans that have to be repaid in ten or eleven weekly instalments, as is usually the case with these little banks, and which are borrowed at an annual interest of 35 per cent are by nature not very useful for productive agricultural purposes. It is true that a few dessa banks have now started to lend for terms of six or even twelve months, which in many cases is still too brief a period for the purposes of agriculture, but even then the annual interest is something like 20 per cent, which is still far too high. But even if all these objections could be met, the small amount of these credits, which in 1927 averaged 13 guilders, makes them unsuited for agriculture".

Criticism of the popular credit system

The author, therefore, prefers the co-operative credit societies of British India to the system of dessa credit banks. The former would seem to have a far greater educational power. They lend at less than 10 per cent and admit repayment by instalments spread over five years and even more, and this for sums usually greater than 200 guilders. This form of co-operative credit is of the greatest assistance to agriculture, while in the Dutch East Indies agriculture is still little assisted by these banks. Dr. Cramer reckons that the period of circulation of loaned capital in 1926 was in the case of the divisional banks 9½ months, in the case of the dessa banks 64 days, while the credits of lumbungs stand out during a definite season of the agricultural year (p. 146). They also do not yet perform a very important function as savings banks although an attempt has been made to popularise them in this function by compulsory deposits. Dr. Cramer further says of the divisional banks which work on a large scale (p. 95) that, with the increase of the average number of borrowers in a fairly large area [1]) to more than 10,000 persons, the control of the application of borrowed monies, and the economic selection of borrowers have become much more difficult. Co-operation between officials of the popular credit system, of agricultural information, and of the administrative corps is, in the view of this author, one

[1]) Occupying in Java usually a complete division or Regency and, in the other isles, as large as a whole Residency.

of the best means for making the credit system correspond better to social needs [1]).

Dr. Cramer (p. 147) points to the great significance of village credit institutions in so far as

> "they provide for the ever-recurring need for credit of a great mass of the less well-to-do, while the divisional banks become more and more accessible only to people who have at least some property that can serve as a security for the loan. In the village credit institution, the consideration remains whether a person deserves credit rather than whether he requires it for economic purposes, a system which of course corresponds better with a purely popular conception of credit.... Village credit institutions give small loans for a brief term, often in order to tide over the three or four difficult months between the time of planting and harvesting and in this way to restore the equilibrium of the domestic budget, which is disturbed annually in many indigenous households. The divisional banks, on the other hand, advance credits which are larger in size and run over longer periods for definitely specified purposes. The credit of village institutions undoubtedly has a mainly static character and would seem to do more for the preservation of prosperity than for its increase. An important percentage of productive loans may quite conceivably go together with this system, such as for instance loans to indigenous saleswomen (bazaar loans). The credit of the divisional banks has also to a large extent a static character. But here at any rate the direction of the bank has the desire to give it a more dynamic aspect. Hence the investigation of the intentions of the loan, hence also the question which always reappears in studies of popular banking: Does divisional bank credit increase the prosperity of regular borrowers? The committees of village credit institutions, composed of people from the dessa, do not break their heads over such problems. They only ask whether the borrower is reliable and they leave it to him to make the best use of the money he has borrowed."

The divisional banks more and more leave petty credit to the village banks, a healthy division of labour which, as Dr. Cramer remarks (p. 169 sqq), increases the average amount of loans in both cases and decreases the percentage of expenses:

> "for the costs of small and large loans do not vary so considerably. Therefore, relatively speaking, small loans are more expensive. Moreover it has often appeared that it is precisely a small loan that leads to arrears with the divisional banks, while the same borrowers faithfully observe their obligation towards the village banks".

[1]) *Op. cit.*, p. 99. See also our first volume.

Nevertheless this author considers that in the course of this development an efficient control of the running of these dessa banks will become still more necessary. The best way to protect village credit institutions against corruption, to make them flourish and to keep them flourishing is, according to him, a thorough control exercised by the central organ in co-operation with the Dutch and Indonesian administrative corps.

The dessa banks already enjoy a certain popularity with the population, which has repeatedly asked for the establishment of such institutions. This is a beginning of interest which presages later self-exertion whereby the provision of credit on a purely co-operative basis will eventually be organised [1]). The observations made about the popular credit system may be true on the whole if they are translated into desiderata for the future, but for the time being they too frequently embody postulates that cannot be fulfilled and can only eventually be fulfilled by the population itself. To place the whole work of making the population conscious, a task of which the calling forth of economic self-exertion can only be one aspect, upon the shoulders of this organisation and then to declare that it has been found wanting if it has not led after a few decades to results that can only be brought about by complete self-renewal, is to take a very one-sided view of the whole situation.

Debates as to whether the credit system ought to be an organ of central and communal government or a co-operative institution also too often become unreal; while in making comparisons with British India nothing as a rule is said about the great cleavage in that country, which has, moreover, once been the teacher of the peoples of the Archipelago, between the co-operative system and real self-exertion, which expresses itself in the interest shown and the control exercised by the members of the co-operative socie-

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[1]) As a symptom of self-exertion upon a nationalistic basis we must mention the establishment of the Bank Nasional Indonesia, which wants i.a. to provide trade capital for Indonesian agricultural, industrial and commercial enterprises. In his appreciative writing concerning this institution in "*Kol. Stud.*" 1929 p. 429—451, Professor Boeke points to the necessity of making such self-exertion spring from a natural local patriotism which is an opinion also advanced in the first volume of our work, and is also supported by Professor Gonggrijp in "*Kol. Tijdschr.*" Nov. 1929, p. 619—624. The Government has adopted a friendly attitude to these efforts (see *Stbl.* 1908, 542; 1909, 584, 585; 1929, 437).

ty [1]). One must row with the oars which one finds in the boat. This is what the Government of the Dutch East Indies has done when it refused to base its activity upon forms of organisation that still transcend the capacities of the population. It has covered the country with thousands of credit establishments which are for the main part consolidated by the strength of the people themselves and administered by Indonesians. The critics who deny that these institutions have a co-operative character are justified, but it is going too far to characterise the village credit institutions as government enterprises, a thing which they are not even in theory and still less in practice. For practice shows us a much more confidential relationship between the population of the village and its headman and his assistants. Apart from this, there is the fact that these institutions have rarely been established without the approval and the co-operation of the the local population. By its initiative the Government has repressed to a not inconsiderable extent the degenerating influences of usury and of onerous loans. Thereby it has advanced freedom of buying and selling and has secured better prices for indigenous products; it has safeguarded the level of prosperity from dropping, more probably even caused it to rise; and, above everything, it has communicated to popular economy educative forces and ideas to the full extent to which these could be absorbed. We may attribute to no small extent the beginning of genuine co-operation and its promise of steady development to these forces which have been fostered by the central authorities.

The development of the co-operative movement

More can be said about indigenous co-operation in the form of desiderata than in that of concrete figures, as can be learned from a rapid glance over Dr. Krafft's monograph on "Co-operation in the Indies", 1929, for this extensive study consecrates the main part of its considerations to the co-operative system in British India, to the absence of a co-operative character in the popular credit institutions of the Dutch East Indies, and to the more or

[1]) The indispensibleness and the utility of Government action in this respect appears from the contents of the Rules for the Administration of Indonesian Communal Credit Institutions in the provinces of Java and Madura, issued in *Stbl.* 1929, 357. In our first volume one finds complaints of an identical nature coming from India.

less primitive forms of co-operation among Indonesians and Melanesians, whereupon (p. 207 sqq.) it proceeds to point out the advantages, economic and moral, which may be expected from a co-operative system in the Dutch East Indies, and especially from co-operative selling societies. But the material adduced proves that co-operation in the Indies will have to wait for future authors to sketch its full-size picture, of which the present indicates but a bare outline (Stbl. 1927, 91) and a few rare dots representing existing co-operative associations [1]).

In 1915 a regulation for co-operative societies in the Dutch East Indies was drawn up (Stbl. 431) which took as an example the Dutch law on the matter and was therefore less suitable for assuring a good basis for indigenous co-operation. The commission for co-operative societies (1921) pointed out in its report the special needs, from the point of view of organisation and control, felt by indigenous co-operative societies. In 1922 its chairman, Prof. Boeke, was invited to draw up a project for a new co-operative regulation of indigenous societies.

> "The existing legislation", says the report on the popular credit system for 1925 (p. 13), "stands in the way of the development of co-operation, and nothing can be done except wait until the draft ordinance for co-operative associations of Indonesians will have become law.... The prolonged discussions [2]) of this matter have had the advantage that meanwhile ideas about the desirability of unification of civil law have begun to change considerably. It is more and more being realised that economic and social differences between various racial and ethnical units also necessitate distinctions in law and that in connection with this a separate co-operative legislation for Indonesians must be recommended. The Indonesians, however, will remain free, under the draft regulation, to organise themselves in the Western way in accordance with existing co-operative regulations".

In other words, there must be differentiation according to needs, and it is in this spirit that in 1927 separate regulations were promulgated governing the status of all co-operative associations of Indonesians unless they were based upon the footing indicated by the royal decree of Stbl. 1915, 431. In his "system and contents of the regulation of indigenous co-operative associations",

[1]) See the list of the Co-operative Societies in the Report of the Co-Operation Commission for 1921, p. 118—123, 142—145, and also Krafft *op. cit.*, p. 299—309.

[2]) L. A. de Waal, "*Ind. Gen.*" Feb. 1926.

Prof. Boeke explained the spirit of this regulation, and the points where it differed from the Western basis of 1915. The Indonesian co-operative societies which have since been established are indigenous incorporated societies, with the same capacity of performing civil actions as are permissible to indigenous persons (Art. 3). They enjoy financial privileges (Art. 7 section 5 and others). The way in which they are established is kept as simple as possible, but they are mothered by rules as to the organisation of their bookkeeping, the investment of superfluous monies, the establishment of a reserve, the payment of dividends, and compulsory control. The responsibility of members is not limited. The authorities can refuse recognition or order dissolution. Indonesians are free to organise themselves upon other bases. In this case, however, they do not enjoy the privileges of indigenous co-operation and the safeguards which have been established in their own interests. Dr. Krafft does not consider the form of control, which is kept as supple as possible, to be quite satisfactory. The co-operative association indeed is perhaps too independent as it is free to choose its controller, even though it requires the consent of the adviser of the popular credit system. But on the whole this arrangement seems to give a very useful basis, and practice will show whether and in what directions improvement may be required.

It is now the task of the Indonesians, and especially of the educated and the well-to-do among them, to build up upon this basis a healthy co-operative system which can count beforehand upon the assistance of the administration, of agricultural and other informational services, and upon the financial support of the popular credit system. The latter may be considered as an excellent piece of workmanship which has done immeasurable good by its wholesale activities, has undoubtedly had an educating effect, and has above all awakened the feeling among the population that it is able to do something for itself. The co-operative system is therefore finding the soil from which its seed can draw nourishment so that a differentiated welfare policy has become possible. It is already realised that this soil has still to be irradiated by many other influences before a flourishing co-operative life such as exists in the West becomes possible. Mr. Smits [1]) recently said

[1]) M. B. Smits: *Over den Landbouw in Ned.-Indië*, 1930, p. 246.

that indigenous commerce and agriculture are probably scarcely influenced by institutions of popular credit, but that this constitutes by no means an argument against these institutions:

> "Credit", he says, "cannot create productive energy. It can only help popular energy to reach its full development wherever it already exists. The initiative and the spirit of enterprise of the population which are needed to increase popular prosperity cannot be called into existence by credit alone. In other words, agricultural credit can acquire no significance as long as the population is not able and inclined to increase the productivity of agriculture by the application of capital".

The urge towards progress remains therefore the essential element.

There is room for thousands of co-operative societies which would immediately act as a lever of the first importance by giving agricultural credit and arranging for the sale of produce. The various administrative branches concerned with this subject, and especially the administrative corps and finally the village teacher must each of them in separate ways, by propaganda and assistance, contribute to the strength and direction of the young movement. But after all that has already been said on this matter in the first volume, we may once more remark with the greatest possible emphasis that no goal will be reached unless the indigenous élite revises its attitude. This is the sphere of action in which it can prove before the tribunal of the world its energy, its civic sense, its spirit of sacrifice, and its lasting capacity.

An organisation which under the circumstances could not easily be surpassed, the popular credit system, stands ready, and a number of specialised officials, endowed with much experience and devotion, are there to facilitate the process of the germination of self-exertion in so far as it is possible. Little or no criticism can be ventured with regard to the basis which has now been given to the co-operative movement in conformity with available world experience. The decisive moment has therefore arrived. Everything that could be done has been done by the authorities. The construction of indigenous co-operation, on which the future entirely depends, the significance of which leaves everything else behind it, will become child's play when tens of thousands of better educated people realise their duty. Let us hope that the solemn

appeal of this moment which, after so many centuries, is about to open the era of self-exertion will be heeded and understood. Then, in ten years' time, an intense co-operative life will cover the Archipelago, prosperity and self-confidence will increase every day, and the spirit of co-operation and real civic sense will lead tens of millions of people away from the narrow spheres of oppression and darkness to heights which they have never before in the whole course of their history been allowed to climb.

Public health

Very much indeed has been done by the authorities to save Indonesians from the mazes of fatalism, inertia, superstition, ignorance, and particularism, which are the worst enemies of the spirit that must animate indigenous society if it wishes one day to bring forth a modern state as one of the manifestations of its creative force. And always, whatever may be the government activity that is under consideration, the same difficulties appear at a first glance that have already been met with so often. All these difficulties, in hundreds of different spheres, will simultaneously decrease and even partly disappear as soon as inertia and particularism have been attacked in their very entrenchments. Let us look at the work of the public health service, at that of agricultural information, of the veterinary service; in the last instance the crux of the difficulties always lies in the complex of sentiments to which we have devoted our whole first volume. There is no need to explain the importance of popular health in the construction of society. People, after all, are themselves the builders, and little can be achieved with diseased, weak builders and with such as have no inclination to work. Activity in favour of public health is probably one of the most useful that can be imagined. Let us therefore mention with gratitude the assistance which is given from private sources, especially by the Protestant and Catholic missions, and by Western industry, which are all co-operating to bring the greatest blessings of Western science, technique, and organisation to the East [1]). In this respect also, indigenous initiative,

[1]) We may point to the activity of the League of Nations and especially to the Eastern Bureau, Health Section of the League of Nations, established in Feb. 1925 at Singapore, which collects epidemiological, demographic, and hygienic data in the Far East and by means of its intelligence service is very useful in cases of plague, cholera and smallpox in the harbours of the Far East. The East Indies assist this work in

which happily is beginning to make itself noticed here and there, has still much to do, for it is self-evident that no Government can bear the burden of public health work for the whole population. Apart from statistics, legislation, measures of quarantine, government intervention in case of epidemics, and large works of sanitation, such labour must be performed by society itself. In the colonial world, however, modern society does not yet exist and therefore the authorities must to a far larger extent than is the case in the West be active, through government doctors, dentists, chemists, nurses, hospitals, asylums, homes for lepers, etc., as well as by the improvement of housing conditions, the provision of drinking water, inoculation against smallpox, typhus, cholera, and rabies, by injections against framboesia, by the analysis of foodstuffs, and investigations into popular dietary, by medical propaganda and other means.

The Government has for this purpose a large service consisting of 600 doctors, 1100 nurses, 400 vaccinators, 100 midwives, etc., whose number far exceeds that of private medical practitioners. The Government has also established over 400 policlinics and some 200 nursing homes of which 80 are military, while over 100 local establishments should be added to this number. There are also 100 subsidised private nursing homes and about 300 non-subsidised ones, three-quarters of which have been established by Western agricultural and industrial enterprise. Although in proportion to the population these figures cannot be called large, they give an idea of the measure in which the authorities have still to act in the capacity of doctor instead of merely in that of a co-ordinator, regulator or leader. Moreover, by merely thinking of the figures of nursing homes, etc., one would form a very incomplete image of these medical and hygienic activities, for, as will appear below, society as a whole is the hospital of the authorities where by means of their movable staff, they can develop a greatly increased activity. What, for instance, does the figure of 140,000 patients treated annually in the government nursing homes convey, if one does not take into account the labour done as it were in the open air which in the course of the same year has probably

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sending news through the wireless station at Malabar. The Dutch East Indian Government showed its appreciation of this work by inviting the Bureau to meet at Bandung in Feb. 1930.

preserved millions of people from hookworm, malaria, framboesia, etc., or if no account is taken of preventive measures and the distribution of medicines?

All this work has not been in vain. In the first place, strong resistance has been shown against epidemics like the plague, cholera, smallpox, typhus, which in the days before Western intervention frequently decimated the population, and sometimes may have reduced it by half. In the second place the provision of good drinking water and of sanitation has made it possible to do much preventive work on a large scale, especially against typhoid and malaria. In the third place, millions of people have been delivered from hookworm and framboesia; while good nursing has been provided for lepers and lunatics. Finally, there is the advantage that the population has acquired more confidence in Western methods, and that it is beginning to turn away from its primitive medicine, impregnated with superstition. The death rate has as a result fallen to about 20 per 1000 which is probably the lowest yet attained in the whole of the Far East.

Hookworm infection was very general and in some regions had reached 100 per cent, so that mass-cures were necessary against this parasite on the energy of the people. The population nowadays gives its willing co-operation, even by paying for the expenditure, as is also the case in the fight against the horrible framboesia, against which mass-injections are employed (from 1925 to 1927 not less than three-quarters of a million per annum). The success which is immediately achieved is, of course, excellent propaganda for other aspects of modern medicine which the population likes less. Vaccination is in the same position. Every year there are about 1½ million vaccinations and 4½ million re-vaccinations; usually 96.5 per cent of them are successful. The fight against the plague is more difficult, owing to religious objections to puncturing the spleen of persons who are believed to have died of the plague and to the fact that there is no co-operation on the part of the population in maintaining the improved housing conditions brought about by the authorities. Although in the first instance the people contribute labour and money to this end when an inspector insists that precautionary measures should be taken, the old negligence in the matter of upkeep of houses and stables soon re-appears, with the result that the rats gradually find access

once more. If it is remembered that in the zones of Java where the danger of plague exists, over one million houses were improved up to the end of 1929, varying from 20,600 to 230,000, per annum, one can picture the amount of labour which has been expended in this one direction alone [1]).

It does not seem necessary to give extensive details concerning this large section of Government activity. Details can be found in the annual reports of the health service. The authorities also arrange for the training of doctors, nurses, etc., organise courses for vaccinators, and arrange for lessons in first-aid, tropical hygiene, and nursing to be given to the future members of the indigenous administrative corps, and to the pupils of training schools and training colleges. Some elementary knowledge, which in many cases may prove a real blessing, and which should therefore not be treated with scorn, has in this way been spread in wide circles, whence by the example and the spoken word it may radiate still further. Medical propaganda which is entrusted to the popular health service is of primary importance in this connection, for it leads us once again into the sphere which must interest us most of all, because it is there that the future is being prepared: the sphere of self-exertion:

> "The popular health service will try to spread elementary notions of hygiene among the population by means of medical propaganda, so that the necessity of living hygienically will be realised. Once the population has acquired this understanding, many hygienic measures can be introduced with its co-operation" [2]).

The significance of this conclusion can only be realised by noticing the difficulties experienced in work for the improvement of housing, drainage, market hygiene, the prevention of infectious diseases, water pollution, and the neglect of the courtyard and of the roadside. It is so easy to irritate and annoy the population if it does not understand the use of these measures. It is very easy, of course, to advise the authorities to leave the people alone. One can also ridicule the official busybody. Nevertheless, if this advice were followed, it would sooner or later have to be

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[1]) 899, 313 dwellings. *Cf.* the figures mentioned in the annual report (1927) of the Health Service and the statistical annual reviews under the heading Popular Health.

[2]) John Lee Hydrick in the *Mededeelingen van den Dienst der Volksgezondheid in N. I.*, 1927, p. 610 *sqq.*

paid for by many human lives. And in any case, if a new epidemic of plague were to break out, these wise advisers would probably be the first to blame most vigorously the policy of abstention which they themselves counsel. As it is, the authorities refrain from interference that penetrates too deeply into private life. They do not impose regulations for the care of infants, although, notwithstanding mother love, the people frequently neglect the most elementary requirements. It is only where the neglect of one individual causes danger to the community that it becomes necessary to intervene, if necessary even with force. How much more could be achieved if the population realised its own interests better, if it were willing to co-operate, if the indigenous élite and the two hundred newspapers were willing to start a ceaseless propaganda for what is really a popular cause. But here again practically everything remains to be done as political propaganda prevails. In so far as the population has been won over to better methods of hygiene, this is exclusively due to the Dutch authorities and their private collaborators, such as Catholic and Protestant missionaries. And it is very difficult, unless thousands of Indonesians are prepared to support them, to advance in this work with the requisite rapidity, because, as Mr. Hydrick remarks,

> "to want to teach the population the creation of healthy habits of life means in many cases to ask it to change its manner of living completely.
>
> "Because a change", he continues, "is so difficult in the habits of life, hygienic propaganda must use methods that have been studied and tried most carefully. At first sight it would seem that this propaganda work should start with more general hygienic measures, but experience shows that among the uneducated and the little educated, this causes confusion because it means that many subjects have to be treated at the same time. Measures of general hygiene, therefore, are less suitable as a beginning of medical propaganda."

The struggle against hookworm, one of the worst and most general infections, was in 1925 chosen as the starting point of a special big campaign of propaganda because the fact that human beings are infected with these worms can be demonstrated much more easily than infection from bacteria. It was hoped that, once the people had become aware of this danger, so clearly pointed out, they would be prepared to apply the simple precautions,

such as using clean latrines, by which they could protect themselves and their children against this parasite of popular energy (anaemia). The fight against infectious abdominal diseases (typhus, dysentery, and cholera) which are so frequent and which can be fought to a large extent by an adequate removal of faecal matter, would at the same time be greatly advanced in this way. In 1925 a great expedition against these plagues of indigenous society was started, with the help of the Dutch and the Indonesian administrative corps. Pressure and orders were to be avoided.

The best survey as far as is known of the fight against popular diseases [1]) in the Dutch East Indies is given in a contribution to "communications of the Government about some matters of general importance" (May 1928, cols. 41—98). One only of these communications will be quoted here in order to help the reader to realise the extent of the interference of the authorities merely in this one matter of the fight against hookworm:

> "An idea of the work of this service can be formed by realising that the doctors and the mantris in charge of propaganda and of the activities of the demonstration motor-cars gave between the start of the campaign in 1925 and December 1927 over 255,000 demonstrations in the homes of the people, 9,000 public lectures, 800 school lectures, 1,000 microscopic demonstrations, 400 special lectures, and 200 hookworm demonstrations, in nine different Residencies. These doctors and other officials have furthermore issued 2,600 publications, 37,000 persons have been examined, according to the Stoll method, by them for hookworm disease, the haemoglobin content of the blood of 65,000 persons has been tested and 545,000 persons have been treated against hookworm and ascaris diseases, while 264,000 houses have been registered. 128,000 of these houses have been provided with clean latrines, while the reports show that their use slowly increases. As concerns the manufacture, issuing, and distribution of propaganda material, we may add that 36 small and large films are in circulation, while 782 lantern slides, 4606 demonstration pictures, and 320 wall charts have been issued".

These figures concerning what is only a very small part of the work are eloquent and prove sufficiently that actual society rather

[1]) Malaria, hookworm disease, plague, smallpox, abdominal diseases, framboesia, tuberculosis, venereal diseases, leprosy, beri-beri, goitre, contagious opthalmia. This contribution is richly illustrated and attractively written. Cf. also a small work published by the N. I. Medical and Sanitary service (*Landsdrukkerij* 1929): Control of Endemic Diseases in the Neth. Indies.

than the 700 policlinics and nursing homes indicate the extent of governmental care in favour of popular health. It was instructive to find that the campaign which, in one region began too rapidly, could, it is true, point to the treatment of 150,000 sufferers and to the construction of 40,000 latrines; but it was proved later on that none of these was used. In another district the government doctor expressly advised against any form of pressure. The population was to act for itself because otherwise it would not appreciate the measures taken. Here the apparent result was much less considerable. Few people were treated and few latrines constructed, but as activity had been patiently limited to a few dessas, confidence was entirely gained and the latrines that were built were all used because their necessity was realised. It was even proved that the population itself propagated what it had learned. In neighbouring dessas, where the health service had not yet penetrated, people followed the good example on their own initiative.

This proves that propaganda, provided the right method is utilised, succeeds in the end, and also that the government advances far too slowly if it is not assisted by social energy in the struggle with the task against which even the most powerful governments in the world would be powerless. The forces which are already present in large measure in society must put themselves in motion and take over the lion's share of this work. In this way, a natural relation will eventually be created between the State and society, and the State will be able to reduce to normal proportions its abnormal functions as doctor, dentist, midwife, veterinary surgeon, banker, engineer, and practitioner in other professional fields. The indigenous élite may be assured beforehand that the so-called governmental busybody would like nothing so much as to leave these social and private functions, which it has monopolised against its own preference, to the social forces to whose sphere of action they properly belong.

In view of the fact that this assistance as yet scarcely counts, the Government must continue to bear the heavy burden and to try to lead the population to more enlightened ideas by means of its propaganda service. In such circumstances, there would be all the greater temptation to apply mass treatment with striking results in the hope of succeeding more quickly, but experience

has shown that such methods do not assure lasting results. After a successful campaign against endemic or other diseases, the old unhygienic mode of living is continued, so that year after year the treatment of millions has to be started afresh, while under the circumstances the trouble and expense would seem to become less justified. Medical propaganda has not lost sight of this educative principle. It goes out from the view that a direct fight against popular diseases may be utilised as a valuable auxiliary, but that it can never be looked upon as the aim of hygienic education. It prefers therefore to continue the difficult task of propaganda, of which the small but lasting results cannot easily be expressed in figures [1]). The schools are also used for this propaganda, and health brigades of pupils are everywhere being used in the promotion of this social work.

The fight against social evils

Allied to the care for physical health is that for the moral health of society, such as the fight against drink, opium, prostitution, the traffic in women and children, gambling, lotteries, and betting (for instance, on cockfights), or repetition of offences through re-classing provisionally convicted people and liberated convicts (Stbl. 1917, 749; 1926, 487, 488) [2]). Restrictive regulations regarding the import and sale of alcoholic beverages and liquids, and on the preparation of spirits are contained in a number of ordinances [3]). The abuse of drink is happily almost unknown in the Dutch East Indies. Against the abuse of opium the government monopoly has been found to be the most effective measure of defence. So far no better instrument has been found, and it is remarkable that the most recent and most radical international opinions concerning the abuse of morphia and cocaine in Europe and elsewhere recommend the introduction of limitation and rationing which sooner or later may lead to the national monopoly system.

A special governmental bureau has been established at Batavia to fight against the traffic in women and children and immoral

[1]) Hydrick, p. 614.

[2]) The organisation of the probation system for ex-prisoners is making good progress and the authorities are assisted by private initiative. See "*Reclasseering*" in Communications of General Importance, May 1928, Col. 35 *sqq.*

[3]) See *Stbl.* 1913, 260; 1914, 248, 647; 1915, 133, 223, 290, 298; 1916, 187, 188; 1917, 646; 1918, 137, 617 etc.

publications (Stbl. 1915, 152; 1916, 199; 1926, 154). This bureau is the authority mentioned by Art. 1 of the international regulation for fighting the traffic in women and girls signed in Paris on May 18, 1904 (Stbl. 1907, 279). It collects information in regard to the recruiting of women and young girls for immoral purposes. It also has to satisfy the obligation contained in Art. 2 of the treaty against the traffic in women and children, also approved by the law of July 17, 1923 (Stbl. 1924, 70) [1]). The inspector of this bureau investigates independently facts relating to the traffic in women and children, to the exploitation of women and children for immoral purposes even outside the sphere of international traffic in women and children properly speaking, and to the trade in immoral publications. On November 18, 1921, Holland acceded on behalf of its colonies to the regulation signed in Paris on May 4th, 1910, for repressing the distribution of immoral publications (Stbl. 1922, 413); while in Stbl. 1928, 61, it published the treaty for the repression of the distribution and of the trade in such publications signed on September 12, 1923, at Geneva [2]). The immigration service furthermore exercises a severe supervision upon entering passengers; while the authorities (members of the administrative corps, commissions for immigration, harbour masters), try to prevent the rash emigration of ignorant women and young girls. In the so-called film regulation (Stbl. 1925, 477) measures are given for fighting the social and moral dangers of film production. They contain in particular regulations to obviate the danger of such films for children.

Furthermore, the task of supervising reformatory education, ragged schools, and the execution of the poor law is entrusted to the Director of Justice. Instructions to the head of the service are contained in Bijbl. 11178. A number of government reformatories have been established which, apart from young persons placed under the control of the Government by the penal judge in virtue of Art. 46 of the penal code, can also open their gates to minors and persons in whose interests, as well as in that of society;

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[1]) See also the treaty signed in Paris on May 4, 1910 published in *Stbl.* 1913, 257 258.

[2]) In this and in other directions the D.E.I. are strenuously collaborating with the international action organised under the auspices of the League of Nations. A general review is given in the communications of general interest already montioned May 1929, col. 16—62, entitled *Ned.-Indië en de Volkenbond.*

segregation may be desirable. Stbl. 1917, 741, contains the regulation for the compulsory education of minors placed under the control of the Government. The assistance of private associations is gratefully accepted in this matter as well. We may mention the "Pro Juventute" societies in a number of large centres which study this field of social activity, give legal assistance and advice to young delinquents, exercise supervision, and place them in educational establishments or in private families. As regards charitable institutions like orphanages or homes for fallen women, it has been accepted as a principle that these should be organised in the first place by private charity (Bijbl. 2853). Nevertheless, many subsidies for the support of charitable institutions are given by the Government. Finally the Governors and Residents are charged with the duty of preventing begging and encouraging the Indonesian tradition which makes it a moral obligation for the indigenous population to look after its poor and cripples.

Child marriage

Care in the moral sphere is very delicate. This work, although inspired by the best intentions, must not wound the moral sense or the religious convictions of the population. The case of child marriage is a good example. The League of Nations recently sent round a questionnaire to the different Governments concerning the marriageable age. It is obvious that child marriages are regarded with disfavour by the authorities, but all Western colonial powers have to be most careful in interfering with marriage institutions and customs, and this applies also to national Eastern governments. International conferences sometimes discuss these questions in a Western frame of mind which does not take into account, or does so in an insufficient degree, the entirely different social conditions in many Eastern countries. It is often a disagreeable task for the representatives of states who know by their own experience how mistaken rash intervention is to have to oppose well-intentioned but badly framed plans and to refuse their co-operation in coming to decisions which their governments would be unable to execute.

The meaning of their arguments will often be misunderstood, because many hearers unacquainted with Eastern conditions can scarcely understand from the few remarks that can be made to

what degree the social atmosphere differs in these distant countries. The result is sometimes over-hasty decisions, the neglect of important truths, mistakes and even distrust of the goodwill of governments which, for all their idealism, have to take reality into account. Able judges have reluctantly pointed to the danger which the craving for international uniformity may sometimes cause by inducing colonial policy to sacrifice differentiation according to needs to assimilation according to Western standards. The recent debates at the international colonial institute of Brussels also insisted on the necessity of avoiding the danger as much as possible [1]). As regards the colonial policy of Holland, it is now characterised by a healthy distinction between customs and morality, and there need therefore be no fear that fundamental criteria will be sacrificed to the craving for assimilation, whether born upon national or international soil.

Child marriages are, happily, by no means universal in the Archipelago. They are relatively rare, which is a great advantage to the vitality of the people. Nevertheless this point has not been neglected by the Government. In a very moderate circular letter (Bijbl. 10945), it drew the attention of the administrative corps to the importance of fighting excesses in this matter. Soon, however, it was found that this was not the best method and a new circular letter (Bijbl. 11424) was sent out in which indigenous administrative officials were still requested to use their personal influence, but above all else to appeal to the leaders and the principal men among the population. Here is an example representing the spirit by which the authorities are wholly animated in their task of social construction. May those who are impatient at last learn to realise that it is this attitude that reveals not only true colonial wisdom, but also a true idealism that is by no means inferior to their own.

Religion and marriage

It is to the same conception that the attitude of the Government towards religion must be attributed. It consists in absolute impartiality, in the granting of complete religious liberty as long as the freedom of other people or public morality is not thereby

[1]) *Le Régime et l'Organisation du Travail des Indigénes dans les Colonies Tropicales*, Brussels Session of 1929, Inst. Col. Intern., p. VII *sqq.*

affected (Art. 173, sqq. I.S.). The authorities have in this field no duties apart from a certain supervision so as to make sure that the population suffers no harm. With this aim in view they see to it that it is not compelled to deliver materials and money for the building of mosques, while a certain amount of control of the finances of the mosques is also exercised. The collection of religious contributions (djakat and pitrah) takes place without any administrative intervention, but care is taken that no pressure should be exercised. It is furthermore the wish of the Government that official account should be taken of the celebration of Moslim festal days in so far as the interests of the service will allow this. The dates are fixed. The pilgrimage to Mecca is also neither hampered nor encouraged by the Government. But nothing is neglected in assuring the interests of the tens of thousands of pilgrims to whom the so-called Mecca passports are granted (Pilgrims' regulation, 1922, 698; Bijbl. 7130; 11719) [1].

The celebration and the dissolution of marriages is a particularly tender point. In our first volume we have often pointed to the significance of a solid family life [2]) as the basis of future indigenous society, and nothing more need be added here. Here, if anywhere, the Indonesian élite must contribute by word and example to the consolidation of the indigenous household. Respect for women and for the sanctity of marriage is, more than economic or technical capacity, the support of every healthy society. For Java and Madura (except the Javanese States) a regulation was made in 1895 (Stbl. 198, most recently modified in 1927, Stbl. 57) regarding marriages between Mohammedans, and the registration of repudiations and cancellations of repudiations (see for its application Bijbl. 5279 and 6057). For the islands outside Java this matter was regulated in Stbl. 1910, No 659 (Bijbl. 7375). Upon this ordinance detailed regional regulations have been based (Bijbl. 11474). It is a happy symptom that Indonesian society is beginning to feel an understanding and an appreciation for this careful exercise of the influence of the authorities. By its general

[1]) In normal years 25 thousand pilgrims. In 1925 owing to disturbances around Mecca, there were only 400. In 1927 however there were about 47,000 (number of passports). The actual figure of pilgrims is even higher since family passports have been granted. See also in the communications of general interest made by the Government, May 1922, p. 117 *sqq.*

[2]) Cf. also H. Schaapveld: *De Beteekenis van het Christelijk Gezinsleven voor de toekomst van Ned.-Indië*, 1929.

attitude, shown among other things in the matter of child marriages, and by the tactful application of the stipulations for the supervision of Mohammedan religious education (Stbl. 1925, 219; 1926, 499), a living realisation has come into existence that a non-Mohammedan authority is able to take into account both the religious needs of its Mohammedan subjects and the necessity of their social development.

On the 12th September, 1929 (Stbl. 348) a new marriage regulation was therefore published, with the general approval of the Indonesian members of the Council of the People, by which the marriage regulation of 1895 was abrogated. Art. 1 declares

> "parties who wish to contract a marriage according to the doctrine of Islam must, upon a penalty of fines indicated in this regulation, present themselves to the official appointed by the authorities for registering the celebration of such marriages, and they must inform these officials of repudiations of women married in this way and also of the cancellation of repudiation. The only people qualified to exercise an official supervision upon the contracting of marriages according to the doctrine of Islam and to receive information about repudiation (talak) and cancellations (rudjus) of repudiation of women married in this way, are those appointed by the Regent, taking into account local usage and customs, etc." [1])

The marriage official may require a fee from the parties, but the amount may not exceed that fixed by the Regent or by the Regency Council. They must keep note of the marriages made under their supervision, of repudiations announced to them, and of cancellations of repudiation, in separate registers kept for this purpose, of which the models are fixed by the Regent. They are compelled to give, free of charge, extracts from these registers, and to show on them the payments made. In the exercise of this task, they are public officials. Those who marry or give in marriage a woman according to the doctrine of Islam otherwise than

[1]) As a result of a request of the Indonesian Women's Congress held in 1928 at Djokjakarta, the Government has instructed the officials of the Marriage Register to explain if necessary the significance of the conditional repudiation and to ask whether the bride or her *wali* desires the bridegroom to pronounce it. The bridegroom, by pronouncing the conditional repudiation, ties himself to certain obligations, the neglect of which automatically restores the freedom of the wife if she wishes it. This curious institution therefore aims at improving the position of the woman. Nevertheless this radical method must be deemed wrong in principle and it would certainly be desirable to aim at a regulation by which both the position of the wife and the matrimonial tie would be benefited.

under the supervision of the marriage official or his representative are penalised by a fine up to 50 guilders. Those who assume the functions mentioned in Art. 1 without being authorised are punished with a maximum imprisonment of three months, or a fine of not more than 100 guilders. When the man who has pronounced a repudiation as mentioned in Art. 1 or has cancelled this repudiation does not inform the authorities within a week, he is punished with a fine of not more than 5 guilders. If by a judicial pronouncement the fact is established that the requisite supervision was not exercised when concluding the marriage, the fiscal-recorder of the Land Tribunal sends a copy of the sentence to the marriage official concerned, and the register is completed with the entry of the marriage, repudiation, or cancellation in question.

The object of this regulation consists in the fact that it maintains the full freedom of people to give in marriage a female member of their family according to Mohammedan law, by a chosen person (the wali), and therefore distinguishes between the legal action of the wali and the supervision of the public marriage official, which cannot be omitted on penalty of a fine. Every wali is qualified to authorise the marriage official to take his place as a party in drawing up the marriage contract. If the formalities prescribed are not fulfilled, there is merely a question of an infringement of the law, while the marriage is valid in private law and the children born of it are legitimate. This is an extremely wise act of legislation which gradually educates the population into self-discipline, ennobling family life, and creating the realisation that the family is the basis of society and the State. We may rejoice with all our hearts at the excellent sentiments pronounced in treating this project in the Council of the People by the Indonesian members of this body. The understanding of the meaning of a strong family-life manifested in these words is the most hopeful sign of our time, for it concerns a principle the acceptance of which is for the future of indigenous society of the greatest importance.

Popular reading.

Separate mention must be made, among the educative organs of the authorities, of the Office for Popular Literature. The Government realised that by bringing the art of reading to the people through its education it was also obliged to provide it with good

and cheap reading matter. Again the authorities had to take upon themselves a task which should be fulfilled by Indonesian society. At the time this task was far beyond its capacity and still remains so, as a result of the lack of foresight of the Indonesian élite. In 1908 a Commission was therefore established to study this subject and to provide the necessary remedy. It introduced recreative reading, calculated to awaken and encourage the desire to read, by collecting popular stories and legends, which were, however, expurgated and made suitable for educative purposes. After this, arrangements were made for reading that would further develop the mind and would increase knowledge as well as understanding and enable better methods to become known to the population. Reading matter for more educated people was also provided. As a result of propaganda, numerous manuscripts came into the hands of the Commission, for which the authors were paid a fairly considerable remuneration. In this way a number of good and appropriate books were published.

The popular libraries established since 1911 were used for their dissemination. They were provided with reading for children and with recreative and educative reading for adults in the various local languages as well as in Malay. The libraries were housed in the second-class and Dutch-Indigenous schools, whose headmaster was charged with their administration. The books were not lent out free of charge because experience had proved this to be a mistake. One cent per month and $2\frac{1}{2}$ cents for larger books was charged, while reading matter for children was lent free. Originally, there was no great desire to read. In 1912 the average loans per library were only 60 for the whole year. In 1917, notwithstanding the formidable extension of these institutions, it had already risen to about 600 per year. In 1919 there were about 1200 popular libraries, and at present there are almost 3,000, of which 2,600 are under the direct administration of the Office for Popular Reading and 400 are provided by this institution with books (the latter are in barracks, in police stations, nursing homes, Western enterprises, etc.). The number of loans from the libraries for popular reading (in 1929) were 2,600,000 or just about 1000 per library, which is not a bad number if one remembers that in 1920 (the results of the census 1930 are not yet available) only 8 per cent. of the adult men and 1 per cent. of the women could read. As literacy, especially

since 1920, has been spreading by leaps and bounds, the number of readers will certainly increase considerably.

The Office does much more. It is by no means exclusively dependent on its own or other libraries. It has a good sales organisation, an advertising service and catalogues, is represented at every exhibition, and is therefore more closely in touch with the indigenous book market than any bookseller. Many works have already been reprinted, and translations of all kinds of European and American books have sometimes been as popular in the Indies as in the West. The present Office was established only in 1917 and placed under a Controller of Popular Reading and similar matters (see his instructions in Bijbl. 10, 190). Different capacities of the Commission established in 1908 passed to him. The Commission itself has now become the adviser of the Controller. The task of the Office consists in the publication and distribution of periodicals, monthly papers, weeklies, and popular almanacs, the preparation of translations of ordinances, decrees, etc., other translations of anything that is of use to the Government, the various boards and the authorities in general, the care for the popular libraries, the compilation of weekly and monthly reviews from the indigenous press and from certain other papers. It performs therefore important administrative work and guarantees good and cheap popular reading, of which the cost is almost completely covered by income. Its papers, such as the Almanacs, give currency to the educative measures of the authorities, and call forth interest in educative methods, hygiene, infant care, economy etc.

As elsewhere, recreative reading is most in demand. Works on natural history, pedagogy, Indonesian history excite but a moderate interest, although a few of them have more than one thousand readers. There is more interest in works on agriculture, handbooks on trade and industry, also in medical books, among which a work called *Pendjaga Diri* (medical hints) and another *The Care of Young Babies* were most in demand. Moral works, like educational stories, are not read with much enthusiasm. There has been much demand for a work on cattle-raising, and the interest shown in treatises on fruit and vegetable growing, guides for craftsmen, works on the art of Batik, needlework, medicine and hygiene, was satisfactory [1]). There is no reason for dissatisfaction,

[1]) See the French book published by the Institute for Popular Reading: *Le Bureau*

therefore, and it is certain that these results will improve from year to year. It is undoubtedly to be regretted that even in this matter, where more than one hundred indigenous press organs are available, such a striking void continues to exist that it must once more be filled by the Government, which has to take up the task of printer, compositor, translator, publisher, traveller, merchant, bookseller, novelist, moralist and so on. This task is one which indigenous society should fulfil for itself, because it is in possession of all the organs it requires for this purpose.

Art and industrial art

Popular reading has also brought the old Indonesian literature to all layers of the people, and among other things its wajang stories which form the most popular and most read works in Java, and it has thereby provided many people with much enjoyment at very little expense. There is another field in which the Government has tried to ensure that the cultural inheritance from past centuries shall be preserved as intact as possible for the coming adult Indonesian society. Private associations such as "East and West", "Boeatan", local artistic societies, and the Java Institute, have done much to preserve and increase love for Indonesian art and the vitality of applied art [1]). The Government welcomes this work, but finds it very difficult to display much initiative in this connection; for instance, by creating schools of applied art, because of the danger of creating an unnatural situation and causing the lives of a number of people who rely upon the guidance of the authorities to be a failure. It must in the last resort be the taste of the population that decides on the development of art as an industry, and moreover the financial and practical considerations of the Indonesian public at large play a leading part in this matter.

Cheaper machine-made products which can more easily satisfy changing taste often push handwork out of the market because, although less beautiful, they are also less expensive. It would be an impossible task to fight this transformation which is everywhere

pour la Littérature Populaire, ce qu'il est et ce qu'il fait. In 1928 2, 384, 346 books were lent. The Malay Almanac for 1929 was sold in 40,000 copies, the Javanese in 35,000, the Sundanese in 12,500, the Peasant Almanac in Malay and Javanese was sold in 10,000 copies. So far a thousand books in various editions of 5,000 each have been sold, which means a total of over 5,000,000.

[1]) The Javanese cultural congresses show a welcome interest by Indonesians to which the Rulers of the Javanese States are contributing much.

perceivable. Equally vain would it be to identify future developments with existing things. Does not the goat path give place to the metal road, the prahu to the steamer, and the handloom to the machine? There is nothing against this. Nobody has the right to use existing forms for ever as the bushel under which to hide the new energy, the new consciousness, the unknown aspirations, and the urge towards new forms which are everywhere unfolding. Let these populations be allowed to prove their seamanship with ocean steamers of their own, to facilitate their agriculture with machines, to draw their daily requirements from the whole world. For at the same time a new art of dancing, a new stage, a new literature, a new industrial art, will develop from the present.

When Orientals express themselves to well-meaning Occidentals concerning the need of their artistic soul for new forms of expression, especially for more personal ones, they should not be answered with reproaches for despising their old traditions. To do so, even with the best intentions, would really be to repress young life which is perhaps on the road towards the creation of nobler and greater forms than have been produced by an art hallowed by tradition. And even if it were not so, it would be useless to attempt to bind the best members of a society which is changing in its deepest essence to motion, motives, sounds, rhythms, colours and forms which have ceased to harmonise with their deepest selves, and which are shaped according to the needs of an entirely different earlier order of life and disposition of soul.

Let us recall the saying of Ino Dan [1]):

> "Adherence to the ideology of the past would mean moulding work in the grooves of convention, to sap the work of its life-power".

It is remarkable to find in the June number, 1927, of Oedaya an almost literal confirmation of these striking words of the Japanese artist by a Javanese artist, R. M. Jodjana. Under the surface of an exchange of views, in itself highly interesting, and in which the East and the West seem to change places, one meets with a fundamental principle that dominates the whole future. It seems to us that the Javanese artist formulates it flawlessly:

"By holding frantically to tradition alone", he says, "no art,

[1]) Vol. I, Ch. 1.

> whatever it may be, can continue to live. Fine tradition can give a great support, but the creative power with which construction upon the existing basis can be continued must be sought in the artist himself".

To these words one might add that the soul of the artist will be a part of the world of ideas, desires, aspirations, and dreams of his time, so that invisible relations will appear to exist between the development of indigenous society and of Indonesian art.

It is upon such considerations that the Government based its attitude which had to remain more expectant than some critics would have liked. The Government has itself explicitly recognised that to assist art and science is part of its task. It adopts the same attitude towards Indonesian art. It is being realised more and more that the Government is not indifferent to this matter [1]). But first the Government must be sure that it is dealing with healthy life, that it is not taking a blind alley or sending others up one. It is for this reason that the school for training teachers of industrial art in the popular schools and in the workshops, for which the congress of East Indian artistic societies made a request in 1929, has not yet been founded. It is quite possible, nevertheless, that at some future time steps will be taken in this direction, whether through a school or otherwise.

Investigations, however, have frequently been made and have resulted in the publication of a great number of interesting studies on Indonesian arts and crafts, for instance the well-known work of Messrs. J. A. Jasper and M. Pirngadie on indigenous industrial art, and in the organisation of regular fairs and exhibitions [2]). But the question as to how popular art can be advanced practically has not yet been convincingly elucidated, even though much advice has been tendered to the Government. It is true that means have been found for protecting the technical development of indigenous industry, for instance by assisting the construction of ovens for the making of bricks, and by providing better weaving looms, dyes, information, and experimental stations. But it would be a mistake to act in too deliberate a way because, if anywhere, it is in

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[1]) Cf. J. A. Loebèr in the "*Indische Gids*", June 1929, p. 713, and P. A. J. Moojen in "*Oedaya*", Dec. 1928, p. 178 *sqq.*

[2]) Cf. also J. A. Loebèr: *Techniek en Sierkunst in den Indischen Archipel*, 1916; and Dr. Rouffaer's contribution in Van Deventer's survey of the economic condition of the population, 1904.

a matter like this that society itself must pronounce its wishes, if not in the plainest way, at least articulately.

In this matter also the indigenous élite has a special part. The Javanese Rulers are already performing it by practising the arts as well as by encouraging organisations which assist the development thereof, and by giving work and maintenance to branches of industrial art [1]). As in India, the Rulers' courts in the Dutch East Indies have a cultural mission and must not neglect to seek new ways. People interested in these matters have recently advised the Government to establish a central institution for industrial art which may serve a practical purpose by making investigations, by the encouragement of sales, and perhaps by providing some form of training in the matter of decorative art.

The protection of monuments

By its care for monuments — for instance, by assisting reconstruction on the island of Bali after the earthquake of 1917 — the Government has given sufficient proof of its desire to preserve the inspiration of antiquity and of living popular art whenever a practical way offers. To Raffles belongs the honour of having done pioneer work in this direction; since his day much exploration and construction have been accomplished. In order to assure as far as possible the systematic care of these important cultural and scientific interests, an archaeological service was established in 1913 (Stbl. 407). Its task consists in tracing, excavating, surveying, cataloguing, and describing the antiquities of the Dutch East Indies, in supervising them, and in preserving and reconstructing them, as well as in carrying out archaeological research, including epigraphy in the widest sense of the word (Stbl. 1927, 442). The Controller of the service is assisted by an archaeological commission, which regularly publishes important data in its quarterly report.

All antiquities in government territory are public property. Antiquities in private possession may not be exported without permits. Various other regulations have been issued which all aim at protecting places, buildings, and objects of archaeological or practical value and at preserving them unspoilt for future gener-

[1]) Let us remember for instance the hospitality given to the fifth congress of the Java Institute at the end of December 1929 in the Kapatihan Mangkoenagaran at Surakarta.

ations, either in situ or in museums. The Dutch East Indies are therefore in a position to decide what may be kept for the future and what may, without objection, be exported to foreign museums. As existing arrangements were still in some respects incomplete, more efficient monument legislation has been prepared, which not only aims at the protection of antiquities belonging to definite periods but is also of importance for living popular art. For, as the Controller of this service explained in his address before the Congress for Popular Art at Prague in October, 1928[1]), the word monuments will be deemed to include: — all immovable or movable objects of historical or cultural interest made, composed or placed by the hand of man which are more than fifty years old or belong to a style-period which is at least fifty years old, and which are inscribed in the central register of monuments:

"This will make it possible for all products of art, and industrial art in which the good old traditions survive, to receive the protection intended by this ordinance even if they are of recent date. Among the stipulations, provision is therefore made, for instance, for architectural monuments of every period, provided the construction, the choice of material, and the ornamentation have followed a tradition which dates from at least fifty years ago; movable objects of particular value such as wood carvings, embroidery, cloth, metal objects, pottery, can be classified, provided again a tradition of at least fifty years' standing has directed their manufacture and their ornamentation.... If, for instance, a group of temples belonging to a style-period of at least fifty years ago has been declared to be a monument, its owners will not be able to make any change in it without the consent of the archaeological service. This does not mean that it will remain unchanged and will become a kind of museum object that no longer belongs to the living art of the people, for naturally the necessary repairs will be made, parts will be reconstructed, and conceivably the destination of the building will be modified. But, when this happens, care can be taken under the supervision of the archaeological service that use is made of sound indigenous materials, that the old motifs of ornamental art shall be applied; in brief, that good traditions are continued. The inconvenience which may result from this to the owner will be compensated in accordance with the provision included in the ordinance that losses resulting from the registration of a monument are to be compensated by the Govern-

[1]) F. D. K. Bosch in "*Oedaya*", December 1928, p. 172. At that moment the ordinance was shortly expected, and at the time of writing it has in fact been passed by the Volksraad.

ment.... To a smaller extent than in the case of immovable objects movable objects will also share in this protection. Compulsory registration of sale and of purchase will make it possible to keep an eye on the movements of important objects of art and perhaps one day to buy them for a museum".

Such legislation goes very far, too far even, according to the opinion of some people, because it implies Government interference to a degree which may penetrate deep into private life, especially as, according to Dr. Bosch, the intentions of the legislator will not in the least be appreciated by the population. Only much later will the significance of these measures for the protection of its cultural possessions be appreciated, and new inspiration be drawn from the buildings, statues, motifs, forms, and objects of art preserved in this way:

> "The Government which protects popular art", concluded the speaker, "is therefore playing the part of a treasurer. Not at present, but certainly in the distant future, the population will show its gratitude for this work".

It is sufficiently clear, therefore, that the Government shows its appreciation of spiritual possessions by its attitude towards the spiritual and moral forces embodied in the religion, customs, and culture of Indonesian society, and that, on the other hand, it shows to what extent its plans for the construction of an indigenous society take into account the use which later phases of development may have for the inspiring influences of earlier beauty and feeling. Many other proofs could be adduced in support of this point, but what has been said may suffice as a reply to the question, which has certainly arisen in many minds, as to whether the authorities are penetrated with the fact that a real indigenous society with its own culture has to be constructed.

Agricultural information and improvement

Many parts of social construction have already been examined in this chapter. Dozens of other subjects could be mentioned, but data can be found by every interested reader in the Government Chronicle and Directory of the Dutch East Indies which is published every year and which forgets nothing, and an extensive treatment of these matters could contribute but little to an un der-

standing of the essence of this social activity. The time has therefore come to end this chapter. In conclusion we may pause for one moment at the economic information service and in particular at the agricultural information service.

The Department of Agriculture, Industry, and Trade is a very important part of the central organism. In the course of the coming years, its significance in the construction of developing society will increase. It was established in 1905 and it is still primarily concerned with the devising of measures by which more satisfactory results can be lastingly achieved by indigenous agriculture [1]). Owing to its able leaders, the Department was in a brief period in a position to provide an excellent organisation upon a solid basis, which satisfies the high technical, scientific, and practical demands made on it. In 1920 a separate agricultural section was established, under the direct control of its own head (Stbl. 1920, 449). This head was assisted by agricultural inspectors, and by an assistant inspector and an adviser for horticultural affairs. The service also has at its disposal agricultural advisers who direct the regional service. Assistant agricultural advisers (indigenous officials) are appointed to give local information, while they have under them a number of agricultural inspectors. For special technical activities, there are agricultural experts. This new organisation has greatly alleviated the task of the administrative corps.

In 1924 the service of agricultural information was re-organised, and larger agricultural areas, covering two or more Residencies, have been instituted. The agricultural advisers are directly subordinate for purely agricultural matters to the head of the agricultural section, but in all other respects to the heads of the administrative units belonging to the agricultural area (Bijbl. 10542). This is a wise division of competency, the necessity of which after what has been said in the first chapter does not require further explanation. The transfer of the service of agricultural information to the provinces is regulated by Stbl. 1926, 568; 1928, 544; 1929, 254. Agricultural advisers have a seat on the

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[1]) For agriculture in the D. E. I., see, apart from the recent work of M. B. Smits and that of Dr. H. T. Hirsch: *De Inlandsche Landbouwproductie in Verband met het Welvaartsprobleem*, 1929, and a short study of Professor H. Blink, *De Inlandsche landbouw in N. I.*, 1926, also J. E. Jasper, *De Bestaansmiddelen der Inlandsche bevolking*, in *"Neerlands Indië"* 1929, I, p. 139—156, and G. H. van der Kolff, *Bevolkingsrietcultuur in N. I.*, 1925.

local irrigation commissions (Bijbl. 9372) which deal with local irrigation.

In Java, they are also concerned with the investigation of requests for permits to establish or extend sugar plantations. In the "instructions for the application of the ordinance relating to factories", published in 1924 (Bijbl. 10664), it is set down that Residents must, as soon as possible, cause a commission to investigate requests for a licence mentioned in Art. 1 of the factory ordinance [1]). In this Commission there must if possible be an administrative official, an official of the irrigation service, and an agricultural adviser. The adviser has in particular the task of examining what results such an establishment or extension is likely to have upon the economic position of the population. In this way agriculture can be protected against undue influence on the part of big enterprise.

Horticultural information properly speaking is only given in the principal centres of fruit growing. The activities of the service consist especially in the management of nursery gardens of superior fruit trees, and in making experiments for the provision of first class plants of the principal kinds of fruit, and good seeds for different kinds of vegetable wherever the private seed trade is not yet able to do so. Horticultural activities are supervised by the agricultural advisers who have to spread horticultural information in their section with the assistance of horticultural officials and inspectors. Interior fisheries also come under the agricultural section, which is assisted by an expert as scientific technical adviser. Agricultural advisers are assisted by officials and inspectors for interior fisheries who perform the task of providing more direct information. The subjects studied consist mainly in data concerning the reproduction of divers kinds of fish, of the factors which influence this, of their feeding, and of the setting of suitable species in ponds. The head of the agricultural section is also head of the section for sea fisheries established in 1929. The section for agricultural economy has been transferred for practical reasons to the agricultural information service. It investigates the economics of indigenous agriculture, it appraises arable land on behalf of

[1]) *Stbl.* 1899, 263, since repeatedly modified. The text now applicable is published in the Government Chronicle and Directory (*Regeeringsalmanak*) 1931, p. 539,* Suppl. I. I.II.

the Government, and advises the Government concerning the export of rubber grown by the population, rubber duties, and so on.

Among the staff of this Department we find the mention in 1929 of some fifty agricultural advisers, a dozen agricultural officials, about a hundred assistant agricultural advisers, and a number of horticultural officials. These local officials form a not inconsiderable body, although in the coming years the growing significance of agriculture and horticulture will undoubtedly entail their increase. It should also be remembered that both administrative bodies give their attention in no small measure to this task of government activity and in particular to rice cultivation.

The agricultural advisers perform an excellent work. Their realisation of the delicate nature of their duties appears from quotations from the studies of Mr. Koens and, thanks to the way in which they understand their task, tens of thousands of better agricultural implements, such as *patjols*, ploughs, hoes, iron sugar mills, and incredible quantities of seeds, bulbs, slips, and manures have been provided for the population. Figures can be found in the year-books of the Department. The experience acquired in the world-famous Government Botanical Gardens at Buitenzorg and in the agricultural experimental stations are used without stint in order to advance indigenous agriculture and horticulture, a task in which the intelligent fight against insect pests and diseases plays no mean part.

The creation by the agricultural advisers of tani-commissions (of indigenous agriculturists) which consist of peasants' deputies, chosen by the village population, is an interesting side of this work. They have monthly meetings amongst themselves or with the agricultural adviser for the discussion of the agricultural interests of a specified area and formulating their special wishes, for instance, as regards irrigation. The intensification and better outfitting of agriculture makes visible progress under the stimulating influence of government activity. But lack of capital is a powerful brake, and so is lack of a spirit of honest co-operation. Agricultural co-operation [1]) will prove indispensable to a healthy develop-

[1]) L. J. Vroon: *De Bevolkingstheecultuur in de Residentie West-Priangan*, 1928; Krafft: *Coöperatie in Indië*, p. 260 *sqq*. W. E. K. Baron van Lijnden, "*Ind. Gen.*" Nov. 1925, p. 92, 93.

ment of more rational agricultural methods, to the cultivation of commercial crops, the provision of better implements and of manure, to the re-organisation of buying and selling, and to defeating the lack of capital. The Government is doing much, but, as was shown by the well-known British co-operator Wolff, it cannot do everything. A Government can, after all, only perform a fraction of what could be done by an intelligent and willing population.

We may mention some data taken from the annual reports of the Department in order to give an idea of what has been achieved by the authorities. By its *tani* calendar, its exhibitions, its demonstrations, its illustrated agricultural papers, its lectures, its education, its courses, and its experimental gardens, it spreads knowledge in growing circles. It does propaganda for the utilisation of artificial manure, for green manuring, and if necessary for the covering of the soil, for the use of superior reproductive materials, for the utilisation of new or improved implements, and it distributes manures, seedlings, and agricultural implements. As a result the population of the islands outside Java has already shown a great interest in the cultivation of various perennial commercial plants such as coffee, rubber, kapok, pepper, coconuts, and fruit trees, so that much useful work has been accomplished by the information corps. Other methods are advised, such as deeper ploughing, the use of specialised manures, importation of insects that live on other dangerous insects, and assure to the agriculturist a higher measure of fruits for his labour.

The information service begins by selling large quantities of stuffs like ammonium sulphate until the habit of using them has taken root and private trade voluntarily takes over the task. The application of green manure increases in many regions to large dimensions and the population is already beginning to create seed-gardens of its own for green manure [1]). Indigenous agricultural commissions are regularly increasing and are reaching a higher level of capacity. There is a growing demand for better implements. The divisional banks try to help as much as possible in the buying of implements and manure, by providing credits. Requests for bibit and paddy seed continually increase. The Madiun district was provided in 1928 with 20,000 kilograms of seedlings of a special kind of sugar cane, and 1,200 kilograms of paddy seed of different

[1]) Hirsch, *op. cit.* p. 69 *sqq.*

varieties. In the Kediri, Tulungagung, Blitar and Ngandjuk regencies, the population was provided with 175,250 kilograms of ammonium sulphate, 74 iron ploughs [1]), 21 iron sugar mills, 685 piculs of P. O. J. 2878 sugar cane seedlings, and 89 mango grafts. The ammonium sulphate was provided partly on credit and partly for cash. There was an increase in the use of this manure in 1927 from 49.15 to 134 per cent. Similar figures could be mentioned for almost every district. They prove that the authorities have been successful in stirring up minds, and that they are getting past the point of inertia.

Elsewhere seeds of good varieties of tobacco are distributed on a large scale, and the utility of practical, cheap sheds for drying is demonstrated, with the result that the population is beginning to apply these good methods of its own free will. In the islands outside Java, full speed progress is also being made. On the East Coast of Sumatra, for instance, the importation and distribution of new varieties of agricultural plants opened up an extensive field for work and necessitated special measures to assure in the near future a flexible and cheap diffusion of materials for sowing and planting. The only satisfying solution has proved to consist in the establishment of seed gardens for appropriate plants, such as arabica and robusta coffees, rubber, tea, monkey nuts, potatoes, kapok, green manures, and fruit trees, in the various centres of popular agriculture.

In 1928 alone, the population on the East Coast was provided with 60,000 one-year old arabica-coffee stumps, 16,000 one-year robusta stumps, 16 kilograms of robusta seed and 7 kilograms of other seed. The revival of robusta coffee cultivation in the Simelungun sub-division and the great demand on the part of the population for good stumps in that sub-division, made the local agricultural adviser decide to start a large number of beds which, at the end of 1928, contained about 100,000 young robusta plants of a distinct variety. Moreover, in the same place the population was provided with 324 kilograms of seed of Crotalaria usaramoensis and anogyroides, 16 kilograms of Lamtoro-seed, 40,000 one-year rubber stumps, 8300 one-year kapok stumps, 275 kilograms

[1]) In Bondowoso and Djember not less than 1400 patjuls were provided mainly to the population, and also 738 iron ploughs. In other districts very satisfactory figures have also been reached.

of Tjina paddy seed, and 900 kilograms of Tuban monkey nut seed, while the authorities intervened to procure 22 Japanese paddy threshers, 53 seedling syringes, 8 kilograms of lead arsenate, and a large quantity of a standard solution of petroleum emulsion for fighting insect pests.

In the Karo-lands the information service has been compelled to undertake provisionally, in the interests of the population, the buying of wheat and its milling. On the West Coast the service provided 400,000 selected rubber seeds and robusta coffee seeds in 1928; in Palembang 42,000 kilograms of double super phosphates, 24 piculs of green manure seed, 500,000 kapok seeds, 50,000 clove seeds, 17,000 cocoa seeds, 500 pepper slips, 112 banana cuttings, 100 coconut cuttings, 974 packets of vegetable seeds, and many other things.

Propaganda by means of lectures and excursions with heads and peasants has the result that the population realises the utility of planting higher trees in order to provide shade for coffee plantations, so that in newly established coffee gardens dadap trees were planted. In Celebes, a million kapok pips were provided. All the nurseries of Adat communities where this seed has been planted are kept as much as possible under the supervision of officials of the information service.

One might go in this way through scores of other figures and reports which, like the equally promising work in cattle breeding, fisheries, and industry, must be left untouched in this book. For those who know what is aimed at, these figures, which can be found in the annual reports and communications of the Government, represent a sublime music, the music of progress. Holland, too, has perhaps some reason for satisfaction, because in comparison with other colonial Powers it will not now be found to be lagging behind, nor will the true spirit of the West be found to be lacking in the East Indian authorities which have had the courage to undertake by themselves this great task by which already the coming Indonesian and East Indian society is weaving with innumerable threads its connection with international society and organised world co-operation; those authorities are gradually and patiently leading a mass of 60,000,000 souls forward towards victory over superstition, fatalism, inertia, and particularism in order to guide them further towards progress and autonomy.

CHAPTER V

POLITICAL CONSTRUCTION

The idea of unity and self-renovation

From the contents of the previous chapter, the relation between East Indian society and East Indian state organisation in the Dutch East Indies must be sufficiently clear. This relation is a consequence of the social and economic structure of indigenous society and of the organisation and functioning in groups of the various racial sections of the population which will one day form East Indian society. As long as in Indonesian life real social co-operation is weak even in the villages, and only very small burdens can be entrusted to a local patriotism that covers a somewhat larger territory, as long also as inside East Indian society the great indigenous, Western and other non-indigenous groups of the population, though loosely linked, are not yet far enough advanced to welcome a more intimate contact, so long a powerful and commanding state organisation will be indispensable. Otherwise, these various elements, out of touch with each other and fragmentary, which could so easily fall back into conflict and hostile exclusiveness, will never be swayed by the idea and the will to unity.

The innumerable activities and achievements of the authorities in the direction of social construction may be called a process of broadening out, but the proper content of political construction cannot possibly be anything else than the fostering of the idea of unity. Definite systems and forms of organisation nowadays receive too much attention. They may be worthy of a great deal of meditation. But too often they entice people into speculations which do but scant justice to the fundamental idea. A wise organisation facilitates and hastens success, while unwise execution leads to slowing-down and to failure. Nevertheless, the best state

organisation cannot achieve anything unless the forces and the consciousness which must animate it and carry it forward are already alive among a large number of the members of its corresponding society.

In earlier considerations and descriptions, this point has perhaps become a monotonous repetition. This monotony is the answer to the no less monotonously repeated mistakes which are reported by a not inconsiderable number of those who write on colonial and Far Eastern problems. These mistakes can usually be reduced to the same basic error, the neglect of the imponderable elements, of the spiritual and moral forces that live in the peoples themselves. One hears pleas in favour of or against the parliamentary system, franchise, education, welfare policy, popular credit, the organisation of the co-operative movement, in which the reader is often given to understand that with a little modification of organisation everything could be achieved or might have already been achieved. This is why in our time, it cannot be repeated sufficiently often that the one thing required is nothing less than a complete self-renewal of the traditional popular spirit. It does not matter which part or section of government activity is taken into consideration. For, without this self-renewal, the Western authorities in the colonial world must remain for ever burdened with the duty of the almost exclusive satisfaction of needs which in the future should be provided by society or by the individual himself, while the State should retain only general regulation and supreme supervision.

This self-renewal does not grow in one night, it is a long and many-sided process. It requires first a lengthy course of influence indirect as well as direct. When definite symptoms reveal the development of new forms of consciousness, it is the task of the authorities to make a clear way for them, in particular by helping to give a good form of organisation and a good shape to the novel attitude which begins by being rather indeterminate. Some of the attempts in this direction may fail, but it is unfair to conclude that they have failed merely because one notices that changes of mentality, self-renewal, broadening-out, consciousness of unity are progressing but slowly. Constructive criticism of the social and political activity of the authorities can be expected only from those who are so deeply penetrated with this truth that they never

lose sight of it. They alone can see that every form of organisation is only a means to an end, and they will therefore make no demands which do not agree with the present capacity and the present interest revealed by the people.

By their social activity the influence of the authorities penetrates into the formerly exclusive circles of the Indonesian family, greater family, tribe, village, union of villages, federation, small state, and comparatively large state. As long as their only attribute was that of preserving peace and order, contacts and influences remained very limited, but when the main aim became to lift up the whole of Indonesian society with its tens of thousands of small circles, a hundred points of contact had to be acquired where formerly a single one would have sufficed. During this period, one first witnessed an impossible over-burdening of both the Dutch and the Indonesian administrative corps, who were the only organs of unity that could immediately and everywhere be utilised. But soon thin threads of connection came down from above, enveloping like tendrils the beams of the administrative structure, yet forming an extensive and very differentiated web of means of contact between the authorities and the population.

The local administrative official could not contain within his person the many-sided capacities which the task of the central Government that enveloped so much would at present require from him if he still had to be the local reflection of the Government which he represents in his administrative unit. If, apart from the task of maintaining law and order, the Government had another task added to its duties in the course of the years, comprising everything that can be found in a modern society in the way of professions and trades, its local representative could not multiply himself by creating an ever-growing number of departments, branches of various services, official functions, and offices. He cannot be the dentist and the midwife, the agriculturist and the hydraulic engineer, the teacher and the novelist. For all these functions distinct branches or complete services with administrative, supervisory, and advisory staffs, usually specially trained to their work, have been created. Furthermore, the administrator saw his task of local judge and legislator passing more and more to other organs. And yet the task of the administrative corps did not become lighter nor did it become superfluous.

The administrative corps in the frame of unity

The administrative corps has remained above all the cable establishing contact between the central authorities and the population. The regional and local administrative officials, Dutch as well as indigenous, are still the connecting points where innumerable threads from above and from below come together. They possess general knowledge, authority and influence, to which the special branches of the administration have continually to appeal. The Government itself possesses in both these bodies a system of communications by which at any given point it can establish immediate contact and maintain general supervision. However many functions may gradually cease to belong to the administrative official because they require special technical or scientific treatment, he remains indispensable to the general orientation of Government and the general guidance of the population in his district. Other services may possess staffs which are more considerable than the administrative bodies. But the latter are the divining rod in the hands of the central authorities, by means of which they can search along the vertical, which is the shortest way, to any given point and observe the hidden situation. Thanks to this divining rod which, provided it is well handled, can give the same certainty that the needle of the compass gives to a ship's captain, the authorities are able to give to their numerous staff instructions which the latter's special abilities have to transform into action.

In an examination of the existing state organisation of the Dutch East Indies which penetrates the surface, we see that from the top of the structure of Government an innumerable number of wires reach down to the population, but that nevertheless this top rests mainly upon the vertical steel structure of the administrative corps. Without the latter, the Government would be unable to govern, the population could not express itself, the special branches of the administration would be unable to specialise government activity, thereby making it useful to the great plan of unity and to the actual needs of the population. Hide-bound anarchy would take the place of the beautiful regularity that now characterises this great clockwork.

The question has too often been put — what is the administra-

tive corps really doing? Or — why not put an end to it? But it has now been answered. This is the fact that must be first of all emphasised, because otherwise the deepest essence of political construction cannot be understood. Indeed, there is scarcely a single treatise on the subject which does not speedily place the reader before the curious position and the function of the two administrative bodies, of which one feels that they are most intimately connected with the solution of the problem of the future organic, political organisation. One often sees enthusiastic pleaders for the organic State of the future pointing with scarcely suppressed annoyance at the administrative bodies as if they were the real obstacles to the progress of autonomous life. Such ideas can be understood, but in their intemperate haste their holders are jumping more than one phase of growth, and their view must therefore be considered as fatal in its consequences.

As a matter of fact, the developing autonomous life will slowly overgrow the administrative corps and make it superfluous. This is a result which one would not expect from the establishment of hundreds of central and regional branches of the administration. If the latter unburden the administrative corps of its technical functions, its proper task is thereby not affected. On the contrary, the more special branches of various services there are, the more indispensable becomes the unique organ that effects the general orientation and that embodies more than anything else the will of the Dutch central authorities to preserve and achieve unity, against all these innumerable centrifugal forces.

With the modern autonomous organs in village, town, regency, province, and other territorial or functional units, the case is entirely different. For they must develop into the translators and executors of the wishes which the people, once they have become conscious, will entrust to their care, while, on the other hand, the central authorities are already to no small extent leaving the translation and execution of their wishes to these same local organs. By the side of such organic connections, which are growing in the present period of transition and which recall a nervous system, blood vessels, and bundles of muscle, no mechanical contact cable remains necessary, or only in so far as the will towards unity in the autonomous organs falls short. Even in modern Western states the need may for this reason be felt of an administra-

tive body either fully developed or rudimentary; at least there may be a need for certain functions, which in fact recall the position of such a body, if these states feel, rightly or wrongly, a certain fear as regards a traditional provincialism which might develop separatist tendencies.

In the Dutch East Indies, there may for a long time still remain a danger of such separatism, a term that expresses the real situation rather imperfectly. Complete fragmentation can be observed, and in the midst of all these unconnected grains of sand, only the Dutch authorities act as a centre of the will towards unity and the action for unity. Through its administrative bodies, rather than through its justice, its education, its social services, its unity of coinage, of weights and measures, etc., etc. the Government radiates an influence that is decisive for the whole future. Those who would remove those administrative bodies are tearing down the column upon which the whole building rests. Only when organic life fed by popular energy touches the highest point of the dome can the administrative corps be said to have become superfluous. When this cohesion of mechanical structure and organic life is fully realised, when the process of transition which will take place in the coming years, and which will lead from mechanical towards organic state organisation, has been visualised clearly, then indeed practically all difficulties which now result from continual confusion will have been removed. The problem of political construction which now seems so complicated will then have become simple, even though the actual working out of the solution may still require a number of years of hard effort by first-rate scholars and experimental workers.

It is clear then above all else that the administrative corps cannot be the first to be either abolished or placed completely at the disposal of local autonomy. It must be the last of all. If necessary, tens of central subjects could be transferred to the organs of provincial, local or municipal autonomy. Transport, the water organisation, public health, popular credit, popular education, the veterinary service, agricultural information, forestry, mining, the public pawnshops, the salt tax could be entirely transferred to autonomous organs, or be entrusted to them under the direction and control of the central government (self-government). But this could on no account be done with the administrative corps.

Even as regards various other branches of the administration, very serious objections could be made to an over-hasty transfer to the autonomous local management, which would do little good. But all these difficulties are as nothing compared with the serious nature of the questions that arise when the administrative corps is considered. If it lost this, the Government would lose its compass, its general sense of orientation, while the population would lose its best friend and mouthpiece. In truth, it would lose its very organ of speech. The autonomy in the long run will have to perform both these functions, and it will be able to do so, but not before the whole process of self-renewal has been fulfilled.

Administration and self-exertion

If one considers now, in the light of the comprehensive activities of the authorities, outlined in the previous chapter, what are the requirements of the development of an autonomous life, i.e., of an organised self-exertion, that have to be satisfied in the course of a gradual transfer of the task of the autocratic central authorities and their local representatives to the democratic local authorities and their public servants, one is bound to declare with equal emphasis that organic life cannot grow up without space. In our period the well-being and the development of every society requires that a large number of interests should be fostered, although formerly they fell altogether outside the scope of the authorities and of the population. In the present era they can no longer be neglected. Only two centres of energy from which motive power can be obtained are thinkable. One is living society, acting directly or through its organ, the State; the other is a state organisation imposed from outside and acting directly or by means of organisms generated inside society.

In the Dutch East Indies, as well as in all modernising Eastern states and throughout the colonial world, the smaller popular organisms contain more than enough power of self-exertion upon a medieval basis, but as regards the demands made by our period on the self-exertion of a nation, they fall altogether short. A new auto-activity had therefore to be called forth, and for this it was necessary that the Government should abandon the seclusion of the sphere of authority. It had to multiply its activity and its responsibility, and to extend its sphere to the social and economic

field, and this over the whole domain of popular interests. What we see, therefore, is a net that has been let down from above and that descends in ever tightening folds to the popular soil, to which it communicates an uninterrupted current of vivifying energy. Now, however, that this work is being rewarded by the appearance of new life germs from the old soil, now the web of authority must be slowly drawn up again, not too slowly lest the stimulation change into a deadening pressure, but also not too fast lest the upward moving energy lose its contact with that energy which society cannot yet draw from the natural soil and must therefore receive from above.

The process of furnishing space for self-unfolding consists in leaving traditional activities or in transferring modern functions to old or new local organs that proceed from the people. Some of these functions concern the local household, self-mastership, autonomy. The organ of local government is free in principle to look after the interests that concern it, for these are its own affair. Other matters belong to the sphere of self-government. The central government organism declares that it wants to see certain interests looked after in a certain way, but it transfers their local regulation, execution, supervision, or maintenance to local organs which are responsible to the central instructor. In view of the fact that in a colonial society and the state organisation that goes with it, autonomy cannot at the outset be guaranteed as completely as is the case in our country, it is not yet possible to distinguish very convincingly and fundamentally between the practice of autonomy, which is self-mastership in affairs of one's own domestic field of action, and self-government, which is obligatory participation in the task of a higher organ of government [1]). There is little sense, therefore, in examining in detail the way in which the division of the task between central and local authorities takes place, for in a colonial society where the local autonomous household has had to be shaped from above and to be filled from above, it is more a matter of graded difference in the freedom which the higher authorities can grant to the lower community, according as the interests concerned are deemed to be more or less impor-

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[1]) Van Vollenhoven ("*Kol. Tijdschr.*" March 1929, p. 118) would prefer, on this and on other grounds, to break with the old classification.

tant [1]). What mainly matters is that the division of the task, however it may take place, must give room for self-legislation, self-administration, self-policing, or even justice belonging to the smaller autonomy; there must be self-exertion and self-development, even if care must be taken in some way or other that the local government respects the common interest and common standards.

In the colonial world where millions have still to learn that even the smallest community is part of the greater whole, according to the standards of which it will be necessary to live, the leading and controlling influence of unity is doubly indispensable. This is assured by a gradual transfer of central functions, so that provisionally a number of activities still continue to be left to the administrative corps and special central branches of the administration, or else this administrative corps is made to function at the same time as an organ of the autonomous communities. The administrative corps in this way fulfils in part the double task of a central and a local organ. These conditions, however, must be distinguished with perfect clearness from a metamorphosis of the administrative bodies into exclusively provincial or local servants of the lower governments, for as soon as these communities absorb the central administrative corps, the influence towards unity of the latter will be at an end. When the consciousness of unity is sufficiently present in the population of the autonomous regions, a complete attribution of the administrative corps to these autonomies may take place. But at present there can be absolutely no question of this.

It will be realised, therefore, that for many years, even before the establishment of autonomous Regencies and Provinces, the Government of the Dutch East Indies was considering which branches of the administration could be placed under provincial or other direction, in order to give more room to the self-development of the population. There was, however, no thought whatever of abolishing or of transferring its administrative corps. The latter had to be preserved in order to fufil with its own official organisation, amidst autonomous life, functions similar to those which

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[1]) Cf. H. Westra: *Ned. Indisch Provinciaal Recht*, 1929, p. 57 *sqq.* Also Kleintjes, II, p. 135; Van Vollenhoven in the "*Verslagen en mededeelingen der Koninklijke Academie van Wetenschappen, afdeeling letterkunde*", 4th series, XI, p. 221.

they had so far fulfilled between the special central branches of the administration. Nevertheless, the administrative task was fundamentally changed by this arrangement. In its capacity of central organ, the administrative corps limits itself to general supervision of the interests entrusted to lower authorities, whereas formerly it acted itself indirectly or directly. In so far as members of the administrative corps are placed at the disposal of the autonomy as local organs, they simultaneously become responsible for part of their work to the population. The more interests are entrusted to the local autonomies, the more the administrative corps becomes automatically decentralised, until at last it will become atrophied as a central organ of unity. This is a thoroughly healthy process in which not a single piece of mechanical structure is demolished before organic support can take the place of its carrying-power.

The administrative corps and autonomous development

Meanwhile, and precisely as a consequence of this intimate connection between administrative organisation and autonomous development, another administrative arrangement must take the place of the system outlined in the first chapter, for administration ought to be organised and regulated in such a way as to leave room for democratic self-exertion while at the same time giving guidance and supervision. If in dividing a territory into official administrative districts one can take various liberties and may freely pay attention to all kinds of secondary factors, there is one factor only that dominates the preparation of a future political organisation, the possibility of making an organic life of their own grow as completely as possible in small and large autonomous territories. Numerous enclaves, such as the former Regencies in Java or such as the German states in Europe owned outside their frontiers, are unfavourable to the growth of local organisms. If everybody can probably agree with this conclusion as regards territorial unity, it applies no less to religious, ethnical, racial, linguistic, economic and all other kinds of elements that make for unity which together form the basis of a natural cohesion and a strong local patriotism. From these points of view also, enclaves, although perhaps invisible to the eye, are a great hindrance

to healthy development of autonomy and self-government.

Political organisation had therefore to answer to these primary demands. It was necessary as much as possible to round off portions of the territory which might become, even if not immediately, then slowly, natural units of social, economic, and political life. In connection with the traditional significance of the Regencies in Java, it was soon established that, particularly for the benefit of a higher political life in indigenous society in that island, the Regencies which so far were administrative units had henceforth to be organised as autonomous territories. But East Indian society (i.e., including Europeans, Chinese and other non-indigenous groups) needed greater units, Provinces which might at the same time form the democratic frame that would enclose the inexperienced Regency Councils so as to exercise guidance and supervision over them. Otherwise, the administrative corps would have had to fulfil this task; it was however not deemed advisable to make this framework exclusively official. It was feared that there would be a lack of room and a too rigid limitation. Therefore, an endeavour was made to establish an increasingly organic relation between the Provinces and the Regencies. The administrative corps could then exercise control by the side of this hierarchy of autonomous organs and give its assistance to the inexperienced communities.

In the case of the Provinces the problem was different. Although the extent of their territory could not be fixed so easily, it was felt that future units were concerned, which belonged by their nature to East Indian and not to specifically indigenous society. The task of the Province would have to bear a more modern character if it were to be given sufficient content. The Regency also, for which from different corners a purely indigenous sphere and organisation were advocated, had to be given in certain respects an East Indian aspect, for instance by including some non-indigenous members in its council [1]). For it did not appear possible to entrust a satisfactory autonomous task to the Regency unless a number of interests which concerned non-indigenous persons could also be entrusted to it. This fact underlines the irresistible consolidation of the interests of Eastern and Western inhabitants

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[1]) S. Ritsema van Eck: *Koloniaal-Staatkundige Studies, 1912—1918*; (1919).

which has taken place in the Dutch East Indies and is growing every day. It has become well-nigh impossible to map out a satisfactory sphere for any indigenous community above the village, unless mixed interests are entrusted to it and unless therefore it is given a mixed council.

The Province was to a still higher degree a real organism of mixed blood. Here, as is obvious, took place the creation of autonomous organs on a large scale. Some people suggested that large islands should become the territory of a Province: for instance, Java as one Province, Sumatra also, Borneo, Celebes, and the smaller groups of islands in the Eastern Archipelago to be similarly joined together into one or more Provinces. It was pointed out that the natural separation of these islands was in itself the cause of a special development and of economic conditions of their own, while inland communications and other interests had for a long time developed upon this basis. The large islands seemed therefore, together with a few groups of smaller islands, to be the natural unit. As Province an island provided at the same time a broad frame which could embrace the lower autonomous units (by which at the beginning the Regencies of Java were mainly meant), but it nevertheless remained far enough from the lower units not to make higher supervision mere rigid tutelage. Other people considered that such Provinces would be much too large, especially as the Provincial organs had still to learn everything and that a Province, Java, would scarcely be able to exercise satisfactory control upon the actions of seventy Regencies. Upon this basis, the division of Java, apart from the Javanese States, into three Provinces with about 12,000,000 inhabitants each was deemed to be more rational. And it is this basis that has been used. The States General adopted it in 1922, since when Java and Madura have been divided into five administrative regions called Governments, of which successively, three, West Java, East Java, and Central Java, have been raised to the status of autonomous Provinces. The plans for the re-organisation of regional administration, which had for long been considered, had developed in a parallel direction.

Administrative re-organisation

Plans to re-organise regional administration had already been

put forward in the 'sixties of last century. As early as just after the condemnation of the compulsory cultivation system, the Archipelago was opened to that Western spirit of enterprise which was to acquire such extraordinary influence, and as soon as the conviction began to spread that the welfare and development of the indigenous population formed the main part of the activities of the authorities, the task of administration was found to acquire an entirely different content. In the beginning, the administrative corps had especially to embody this change of aim in its own actions, because at that period there was still but little governmental organisation apart from the administrative corps. The latter, accordingly, was soon overburdened with business. The regional heads of administration, the Residents, had so many cares that little time remained for giving general guidance and for keeping the great directing lines in view. Since 1859, until the most recent years, the question has been put continually at shorter or longer intervals, how regional administration could be organised in such a way that a good delimitation of general administrative guidance and of daily administration in the division of the Residencies could be effected.

Governor-General P. Mijer (1866—1872) proposed to this end to divide Java into three Governments (1867). Otherwise, the existing division into Residencies and divisions could be maintained. The Governors were to owe their existence exclusively to their function of giving general guidance. The Residencies of Surakarta and Djokjakarta would remain outside this re-organisation because of the Javanese states they contained. This proposal was not adopted. The Minister of Colonies felt the desirability of a delimitation of functions, but he considered that this could also be achieved upon the existing basis by investing the Residents with general administrative guidance and by making the chief of the division, the Assistant Resident, directly responsible for the administration of his area. The Resident would no longer have to exercise daily administration over the division in which the capital of the Residency was situated, and would exclusively exercise general guidance and supervision.

In 1892, these ideas were taken up once more. The then Minister for Colonies put forward a few other considerations. In his opinion real guidance could only be given by very able Residents who were

fully prepared for their important task. But, as a result of the less satisfactory financial position of the Assistant Resident, it was with the greatest reluctance that even those who were less fit were ever passed over in appointing new Residents. It seemed desirable therefore, to improve the position of the Assistant Resident to such an extent that it would itself offer satisfactory prospects as the final point of an administrative career. Severe selection could then be applied in the appointment of Residents, and the choice would be all the easier if the number of Residencies were decreased by about half. An investigation was entrusted to Mr. Mullemeister (1894—96), in order to find out in how far these plans could be executed. We shall not go further into the course of events, for which we once more refer the reader to Dr. Pronk's thesis, already mentioned. The re-organisation was shipwrecked by the need for economy due to the financial situation of the Indies. There was an improvement in the payment of Dutch and indigenous administrative officials (Stbl. 1900, 3). The number of Residencies in Java and Madura was reduced from twenty-two to seventeen (Stbl. 1900, 334). Modifications were established in the positions of Assistant Residents, Controllers, and Probationer Controllers (Stbl. 1900, 183, 335; 1903, 134), and a few divisions, regencies, districts, and sub-districts were abolished. Superabundant officials were pensioned, and by combining various functions, such as that of Patih and Wedono, some economies were effected (Stbl. 1900, 220). Although these measures were not without significance, and although, for instance, the fact that Controllers were made responsible for police justice deserves attention, very little, really nothing at all, was established from the point of view of administrative re-organisation. The problem was soon to knock at the door more insistently.

In 1905 the plan of reform put forward by Mr. S. de Graaff once more put into the foreground the real principle that must form the basis of such a re-organisation. In 1909 his proposals for the reform of the administrative system throughout the Dutch East Indies were presented to the Government. In 1912, the States General approved of the appointment of a Government Commissioner who was to prepare the carrying out of these plans. As a consequence, after personal interviews with Dutch and indigenous administrative officials, there appeared in 1914 an extensive re-

port concerning the further preparation for reform of the administrative system in the Dutch East Indies. It was written by the Government Commissioner, Mr. de Graaff. It tried to provide for the necessary administrative re-organisation, and contained also proposals concerning the establishment of Regencies and Councils in larger territories to which, however, in the opinion of many critics, an insufficiently extensive sphere of action was to be attributed. For a better understanding of the later course of events, we must, however, first pick up a few loose threads.

The decentralisation of 1903.

It should indeed be noted that, apart from considerations of earlier years concerning the improvement of the position of administrative officials and the desirability of a better division of the task of general guidance and execution of day by day administration, another and still more important factor, the necessity of decentralisation, had begun to be felt, especially since 1900. This also was a need that had already been realised for a considerable time [1]). But it was only in 1903 that decentralisation legislation (Stbl. 1903, 329) opened up the opportunity for Residencies or parts of Residencies "to reach self-administration", an incorrect term which meant autonomy and self-government (See Arts. 68, (*a*), (*b*), (*c*), R. R. or 123, 124, 125, I. S.).

For such areas of the territory, financial means would be separated from central revenue in order to make them available for the needs of the particular territory. The administration of these means and the allocation of revenue to various items of their expenditure would be left as much as possible to a council to be established for every Residency and every portion of a Residency by a special ordinance. These councils were empowered to advocate the interests of the region for which they had been established before the Governor-General. Their further capacities, their task, their organisation, the appointment or election of their members, the relation between the regional council and the councils for portions of the same region [2]) were to be dealt with by general

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[1]) Kleintjes: *Staatsinstellingen van Ned.-Indië*, II, p. 2; Encyclopaedia, Art. "*Decentralisatie*", p. 574.

[2]) *Stbl.* 1905, 181, Art. 51, see however Van Vollenhoven "*Kol. Tijdschr.*" 1928, No. 3, p. 264 *sqq.*

regulation, which means a law, a royal decree or an ordinance (since 1925 only by ordinance of the East Indies legislature).

It was further decided that the Councils could, under the supervision of the Governor-General, be given the power to pass legislation for the levying of taxes [1]) within their territory to increase their own revenue, and also concerning subjects, such as personal services, local regulations and police rules, etc., which, according to law, so far had been the concern of the Government or of the chiefs of regional administrations. The main lines of decentralisation were indicated in a royal decree, the decentralisation decree (Stbl. 1905, 137). Detailed rules regarding its application were given by ordinance, the Local Council Ordinance (Stbl. 1905, 181) and the Electoral Ordinance for Municipal Councils (Stbl. 1908, 53). Of importance also are the various ordinances, followed by the fixation of the first budgets, the electoral regulations etc. [2]) which established local councils in Residencies, in portions of Residencies, and in a number of modern communes (towns on a Western pattern like Batavia, Samarang, Surabaya, Bandung, and many others). Their competence could be settled in varying ways according to varying needs [3]).

Mr. Woesthoff [4]) considers that this incidental manner of legislating is an advantage because it facilitates adaptation to local circumstances. He quotes from the explanatory memorandum in reply to a question on this subject put in the States General "that local situations may require differentiation in the delimitation of the activities of the Councils and that more subjects may be left to some of these bodies than to others." He approves of this view and adds the remark:

"This is therefore very different from the situation in the mother country, where it would be in opposition to the Constitution to

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[1]) The revenue of the local councils consists mainly of an amount put apart out of the general revenue, the proceeds of local taxation, special levies, and profits from enterprises of their own, while loans can also be contracted.

[2]) *Stbl.* 1905, 204; 1906, 120—126; 148—151; 1907, 133—138; 1908, 171—178; 1909, 180, 181; 1914, 297, 310; 1918, 308, 350—355; 1919, 64, 65; 1920, 57, 458; 1921, 158, 368, 758; 1922, 430, 454; 1923, 158; 1925, 674.

[3]) See the work composed by Kleintjes *Wetten en Verordeningen betreffende de Staatsinrichting van N. I.*, 1927, where the legislation in question has been collected in a way which facilitates consultation. See also the official publication *Decentralisatiewetgeving* of 1915, the Government Chronicle and Directory for 1931 (p. 100* *sqq.*) and the annual reports of the office for Decentralisation.

[4]) P. F. Woesthoff: *De Indische Decentralisatie-Wetgeving*, 1915, p. 10.

decree such a thing for provinces or communes. In the Indies, however, the whole field of activity had already been occupied by the Government before 1905, so that it was necessary each time to open up a special field of its own for local activity.

"A complete decentralisation is the ambition which we must realise in the Indies, although there are but few people who can seriously consider this aspiration to be realisable in the near future. The historical past explains the economic and mental backwardness of to-day in wide sections of the population, which have still to catch up before decentralised Government, for which a high level of civilisation in the whole population is required, can begin to dominate fully the political life of this country. And the law, as it is at present, would present an insurmountable difficulty if decentralisation were attempted in the Indies in the same way as in the provinces or communes of the mother country. Indeed, a stipulation like that of article 134 section 1 and 144 section 1 of the Dutch Constitution ('the internal legislation and administration of the province or commune is left to its council') has no place here. Such a stipulation, which seems to give to each portion of Holland the greatest possible autonomy, would not agree with what the Minister said in his explanatory memorandum (Bijl. Hand. 1902—1903, no. 30 page 13) regarding the need to proceed gradually with decentralisation, while furthermore it would in my opinion be an article made only for show in view of the fact that, as I have just mentioned, the whole field was occupied in 1903 and even in 1905 by the central authorities" [1]).

All these facts have until to-day kept their validity. With the later decentralisation started in 1922 (Stbl. 216)it was not considered advisable to proceed otherwise than gradually in the creation of a satisfactory sphere of activity for provincial and lower units. Decentralisation on the basis of the legislation of 1903 has had

[1]) Kleintjes, *op. cit.*, II, p. 8 says in approximately the same sense that this regulation can be explained by the wish to limit decentralisation at the outset to a few matters in order gradually to expand it. "It is not possible to make the law so general that the Councils are given the regulation and the administration of internal matters of the territory for which they are established as long as local matters can be only partially entrusted to them. The difference in point of view adopted by the Dutch constitution towards provinces and communes in Holland and the East Indian Government Act concerning local Councils in the Indies is striking. The Dutch constitution was concerned with historical organisms that had already existed for many years and had their own sphere of life. The East Indian Government Act on the other hand with local communities that had still to be called into existence, the principal objects of whose local activity had already been settled by the central authorities." The latter remark touches the kernel of the difficulties of the whole political question throughout the colonial world. If a little more attention had been given to this matter after the recent establishment of Provinces and Regencies, it would have been better, and much criticism on the part of the protagonists of complete and immediate autonomy would have been withheld.

many good results. They have familiarised the authorities with the organic idea, they have awakened a section of the inhabitants from their apathy towards public affairs, and they have in particular contributed and overcome hostility and prejudice. Until 1903 the Indies were strongly centralised. Apart from the indigenous communities which revolved round their own axis and the Indonesian states, there were no other autonomous communities [1]), though the central authorities were beginning to feel the need of passing some of their excessive responsibility to local authorities. The decentralisation of 1903 established a fair number (about sixty) of such authorities in the directly administered territory. Moreover, it gave to the different groups of the population the habit of co-operating for the common interest. In the territory of the Indonesian states on the East Coast of Sumatra a few such local administrative areas have also been established.

Among its shortcomings, Mr. Woesthoff mentions the lack of regulation of the relation between the more modern organs it has produced and the ancient indigenous communities for which since 1906 (Stbl. 1906, 83), simple "indigenous communal government ordinances" have been made. Furthermore the large number of councillors who were appointed as members of the boards in virtue of their function (they used to be mostly administrative officials) in regional and local, though not in communal, councils was apparently not in agreement with the real aim of decentralisation, which is to shift the activities of the State upon the citizens. The Government, moreover, appointed a number of other councillors, taking care to gather as much knowledge and experience as possible into the council. The majority of the appointed members were recruited among private people. Official as well as non-official appointed members have contributed so much to the success of these councils that the institution of appointment has become highly appreciated and is still strongly advocated by many who believe in autonomous life. In a society like the East Indian, appointment seemed in some respects preferable to election. But objections were soon made to the fact that the right to elect its representatives was granted only to the European group, and this only for municipal councils.

This decentralisation was therefore scarcely democratic. The

[1]) See Encyclopaedia, art. "*Decentralisatie*", p. 574.

local council, as Mr. Woesthoff remarks (p. 45), was, in contradistinction to the provincial and communal councils in the mother country, much more "a means of facilitating the task of the central government than an autonomous organ constituted in virtue of the expressed will of the population." The Government at any rate reserved to itself every opportunity of control and interference, for which purpose it maintained a special decentralisation office [1]). These precautions may be considered somewhat exaggerated, but there was every reason for prudence because, apart from interference by parliament in Holland, this was the beginning of a democratic experiment in a country that for two thousand years had been exclusively accustomed to autocratic government.

Notwithstanding regulations that may sometimes have been too stringent, autonomous life has developed satisfactorily, and the councils could have been still more useful to the Government if the decentralised territories had been less uniformly treated, rural regions having been placed on the same level as urban communes, and if moreover all councils could have been given more financial means and their co-operation in a higher task could have been more freely required [2]). Many people regretted that this should happen so seldom, and that the central authorities and the administrative corps obtained but little relief in their task. Initially the councils were insufficiently appreciated. The existing authorities deemed themselves more fitted to execute higher instructions than the councils, which had therefore to prove their right to exist by taking great care of their own internal interests. The establishment of the Council of the People (1918), which will be examined later on, gave a very special significance to these councils, because their members formed the electoral body for the election of the Council of the People. This especially induced them to take a more political orientation.

A new direction of administrative reorganisation

From what has been said it appears that the steps taken since

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[1]) See the instruction for the Adviser for Decentralisation (*Bijbl.* 10751, 11481).

[2]) Cf. Encyclopaedia "*Decentralisatie*" and Schrieke, *Ontstaan en Groei der Stads- en Landgemeenten in N. I..*, 1918.

1903, although more democratic than might appear, were essentially meant to further the administrative principle underlying the policy of decentralisation rather than its democratic principle. It is especially in the modern municipalities that an interesting autonomous life has grown up and has proved able to take better care than the central authorities of matters like health, lighting, marketing, the provision of water, drainage, roads, etc. This made for more efficiency but did not yet much alleviate the task of the Government, although gradually the authorities began to use the councils to assist in the local execution of their own activities, especially those of education and of public health.

Hence in the foreground of the plans of 1914 for a complete administrative re-organisation we find notwithstanding the legislation of 1903 the necessity of the realisation of a strong decentralisation towards a regional official organisation. Since 1905 therefore a threefold aim has been kept in view: official decentralisation, administrative reform and the improvement of the position of the administrative staff. The emancipation of the indigenous administration already mentioned was, properly speaking, an important part of the administrative re-organisation. The Dutch administrative corps was to be unburdened of a number of functions that took up much of its time, while the indigenous staff would come more into its own and see the re-establishment if not of the form at least of the spirit of the Protectorate.

This reform aimed in particular at the creation of great administrative units to which the Government would be able to entrust important functions. They had to be equipped as well as possible in order to be able to perform their task as satisfactorily as it had hitherto been performed by the central Government. The cost of this regional equipment and the high demands made upon the new chiefs of regional administration at once led to a decision in favour of the institution of a small number of large areas called "governments". In this respect administrative reform pointed in the same direction as the democratic or political decentralisation of a few years later. The latter would give a fourth aim to the reorganisation.

The time was now deemed to have arrived for giving the citizens a larger share in the decisions than could be hoped from the decentralisation legislation and the resulting practice. Moreover, the

obvious new consciousness of the indigenous population made it necessary to look out for a frame in which it could develop a higher degree of self-exertion than was possible in its modest little communities. Mr. Ritsema van Eck in particular pleaded for the establishment of autonomous Regencies [1]). His plea fell into good earth, although the execution of these ideas has deviated in several respects from his plans, in particular as regards the delimitation of indigenous national spheres and of an East Indian sphere. Among the advocates for a more liberal political decentralisation Mr. van Deventer deserves particular mention.

Administrative reform did not stand in the way of putting these views into execution. It was the Government's duty to remember the aims which administrative necessity indicated as primary, but there was nothing in the basis of this long planned reform that was hostile to an unexpectedly revealed development of political consciousness. On the contrary, the formation of autonomous Regencies and Provinces would in the long run better satisfy the ever more urgent need to shift a part of its task from the central Government than would official decentralisation. The Second Chamber in 1914 pronounced itself in favour of such a solution, and in 1918 Mr. Pleyte the Minister of Colonies introduced a bill in this spirit, but only for Java and Madura. De Graaff, Minister of Colonies in 1919, withdrew it and replaced it by a new bill which, after discussion in the Council of the People in 1920, was presented to the States General in 1921 and passed into law in 1922 (Stbl. 216; articles 67 *a*, *b*, *c*, and 68 R. R. or 119, 120, 121, 122 I. S.). It was the basis upon which, in the course of the following years, the partial change of the administrative system of Java into an autonomous organisation of three Provinces and seventy-five Regencies was to take place.

In connection with our review of the history of the reforms of 1922, it is interesting to meet, in the explanatory memorandum of the Minister [2]), the view that the main aim of this measure was the wish to give the citizens "the guarantee of a large measure of autonomy and of participation in the execution of the task of the Government, in the same way as these rights were given to the

[1]) S. Ritsema van Eck: *Koloniaal-Staatkundige Studies 1912—1918* (1919), and a summary in the Report of the Commission for the Revision of the Political Organisation of the D.E.I., 1920, p. 429—458.

[2]) Debates of the Second Chamber (The Hague) 1921—22, p. 51.

Dutch people by the Constitution of 1848." This was to happen by entrusting to these autonomies as wide a sphere of action of their own as possible and also by giving their members an influence on the composition of their provincial and lower organs of government. We see, therefore, that in the plans of administrative re-organisation considered since 1860 there has been in the course of the last decades a continual tendency to place the newer democratic idea first, without however pushing into the background the earlier reform, that of decentralisation in the administration. The plans simply grew with East Indian and indigenous society and the symptoms of consciousness they displayed.

It is in this spirit that De Graaff declared in 1919 [1]:

> "Between that period (1914) and the present, five years have elapsed during which social and political life in the Indies has made big strides towards greater autonomy and greater maturity. It would indeed testify a narrow over-estimation of my own work if I did not try to utilise the experiences acquired during that period."

The decentralisation of 1903 and the political construction of 1922

Since 1914 much indeed had happened. There was the emancipation of indigenous administration, the preparation for the establishment of Regency Councils, the establishment of the Council of the People, the formation of indigenous political and economic associations and parties (the Sarekat-Islam), the elections, originally only of European members (Stbl. 1908, 53), later also of Indonesian members (Stbl. 1917, 587; 1920, 783) of most of the municipal councils, while the official majority (Stbl. 1908, 459; 1918, 605) [2]) had already been given up, and the European majority in the town councils had almost melted away (Stbl.1917, 587). There had also grown up a number of towns with their own burgomaster (no longer an administrative official), the spontaneous establishment by the citizens of an association for local interests with a periodical of its own, the organisation of congresses for

[1]) Debates of the Second Chamber (The Hague) 1919, p. 1164.

[2]) Art. 6, *sub* B., *Stbl.* 1905, 137 declared "that in every council the number of members who are also servants of the State and who sit owing to a nomination or to their function must exceed the number of other members, but if possible by not more than 1." Art. 1, sub III, *Stbl.* 1908, 459 withdrew this requirement for municipal councils while the above mentioned Art. 6 was entirely suppressed by Stbl. 1918, 605.

decentralisation, and all this, to mention but a few facts, had introduced the democratic era.

The decentralisation legislation of 1903 and its consequences have played a very large part in this development. Some people consider that its basis might have been used for the more far reaching plans of 1919. Since 1908 it had given to the indigenous population outside Java a number of councils consisting entirely or for the main part of indigenous members who also dealt with matters that concerned non-indigenous people [1]).

> "These Indonesian councils", says Dr. Haga in his thesis (page 215), "have all been established in the islands outside Java. The re-organisation proposed in 1918 by Pleyte, which advocated the formation of such autonomous bodies, only related to Java, so that at that period the East Indian Government had full liberty to introduce sub-divisional councils in the other islands upon the basis of the decentralisation legislation of 1903. Later, Idenburg gave the East Indian Government the liberty of establishing similar Indonesian councils for Java; they had to take the shape of Regency Councils which would not be connected with the scheme of administrative re-organisation. This result however has not been achieved."

Here therefore one sees a clear instance of the mutual inter-action of the democratic idea in the practice of decentralisation and of the later administrative reform, an inter-action which is still further underlined by the Government memorandum.

According to the latter the Indonesian councils were established in the first place not for the benefit of administrative decentralisation, in other words for achieving greater efficiency, but for the benefit of political organisation, "in order to guarantee that government action will not be alien to the population." This would appear to be so from the small amount of money put at the disposal of these Indonesian organs of a modern character, and from small deviations in the text of the ordinance establishing these bodies from that of the usual model. In practice, however, it was found that these councils worked in the same way as other

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[1]) Decentralisation decree, art. 1, requiring that the councils should be composed of Europeans, Indonesians, and eventually foreign Orientals, was in conflict with this. Such a composition has been legally possible only since Stbl. 1918, 592. Cf. Kleintjes, Vol. II, p. 11, note 2, but Dr. Haga (p. 215) does not call such a composition justifiable in case these councils are also entrusted with matters which concern European and Chinese interests.

local councils, and it was only in Ambon and the Minahassa that they proved to have political importance.

The author then points out that as regards the Council of Ambon attention was mainly given to its political organisation, and not to a greater furthering of local interests or to the exploitation of public works. This appeared, in his opinion, especially from the small amount of money allocated in the first budget, according to which this amount formed the only income, while the expenditure consisted only of the costs of administration. This would be a proof that the decentralisation legislation possessed sufficient flexibility to give to the citizens of any region throughout the Indies that had reached sufficient development political rights and the capacity of participating in the task of the authorities. The intended administrative reform, or properly speaking its political part, could therefore, in 1922, according to this author (p. 224) have been established just as well on the basis of the decentralisation legislation of 1903. Professor van Vollenhoven too gives an honourable mention to the legislation of 1903 when he remarks that

> "to the decentralisation law of 1903 belongs the glory of having brought into prominence the problem of a richer organisation of East Indian political life, and of having endeavoured to achieve a decentralisation which could really mean the achievement of autonomy [1])."

It is a fact that, as will have been seen from the preceding paragraphs, this legislation had a considerable amount of flexibility and adaptability. One may consider, for instance, the negative point of view of the Government concerning the granting of functions of self-government which it expressed in the first draft of the decentralisation law [2]), based mainly upon an under-estimate of the democratic idea, whereas in 1918 the latter idea clearly dominated all other aspects of the reforms. The quickened pace of evolution also affected this decentralising practice, and to such an extent that apparently even without the reforms of 1922 much more far reaching steps could have been taken on the merits of the principles and practice of decentralisation since 1903 in the direction in which the so-called administrative reform was

[1]) Van Vollenhoven: *De Lagere Rechtsgemeenschappen*, etc. p. 257.
[2]) Woesthoff, p. 248.

going to develop political life. Various authors, indeed, regret that after 1921 a larger number of regional indigenous councils were not established upon a basis of the policy of decentralisation of 1903 [1]).

Notwithstanding this flexibility of the practice of decentralisation, which is contrasted with good reason with the rigidity and uniformity of the political part of the administrative reform, there are others who doubt whether its flexibility would indeed have been equal to dealing with the much more extensive demands made by political life such as has been rapidly and generally developing since 1920. The Government considered that the existing basis was for the present sufficient in the larger municipalities and other local councils [2]), but that by its side other and more systematic relations, and also a greater opportunity to further the growth of self-government and of decentralisation generally, could not be dispensed with.

The Government decree of December 17, 1918, No. 1, established a Commission for revising the political organisation of the Dutch East Indies (see its report p. 30 sqq.), and this Commission took a similar point of view. It considered that the administrative principle had put a lasting mark upon the decentralisation legislation of 1903; and that in the municipal councils the inhabitants had, it is true, found a real representation of their local interests, but that in the regional councils, composed mainly of government officials and European inhabitants appointed by the Government, contact between the authorities and the inhabitants had not been established. Moreover, the Residency, which was perhaps a suitable area to form an administrative unit, had no right of existence as a community of interests. The interests of the popu-

[1]) Van Vollenhoven would for instance have preferred for Java, and for Java only, where the development of the population and the personality of the Regent would have offered a chance of success, an experiment with mixed Regency councils upon a basis of the decentralisation legislation of 1903.

[2]) The decentralisation legislation had called into being some sixty autonomous communities with local councils. More than half were municipal councils, about 15 regional councils in Java and about 12 councils for sub-divisions or parts of them in the other isles. After the administrative re-organisation in Java the regional councils were abolished, while the large communes in the provinces became autonomous communities upon the basis of art. 121 I.S., *i.e.*, they were absorbed in the provincial connection. Being town-communes they fall under the regulations of the town-communal ordinance (*Stbl.* 1926, 365) for which at present considerable modifications are being prepared. See also in Schrieke, *De Indische Politiek*, 1929, the chapter on "*De Stadsgemeente.*"

lation, in so far as they were not limited to smaller portions of territory, were not restricted by the frontiers of the Residency. The centralising tendency of the administrative organisation had proved too strong for the friends of decentralisation. The transfer of the central task had limited itself to a portion of public civil works the care of which was deemed possible without a legal restriction of the freedom of the local authorities. On the other hand, the transfer of a portion of the general task of the authorities to organs of local self-government upon the basis of existing legislation or under the supervision of the central authorities, had remained highly exceptional.

"If on the one hand the autonomy of the local councils is less restricted by law than may be considered useful for a homogeneous performance of the task of the general authorities, on the other hand the share given to the local organs in the fulfilment of this task has remained very small. It is not only in the East Indian practice of the last 17 years that the fault must be sought. Although, by the way in which it could have been put into execution, the law of 1903 could have given more satisfaction than was the case until to-day, the law as it exists contains clauses which have prevented it from fully satisfying existing needs, both from the point of view of decentralisation and as a basis for political organisation. First of all, only Residencies or Governments and parts thereof can be indicated as territories to which finances of their own can be attributed, which excludes decentralisation on the basis of territories larger than the Residency or on the basis of territories which contain parts of more than one Residency. Furthermore the law, as basis of the political organisation of the country, has the drawback that the criterion of the granting of political rights and of participation in the task of the authorities has been made dependent upon the possibility of separation of a share of the general finances. Particularly outside Java and Madura, territories can be indicated where political organisation could have taken place, while the finances locally available for the execution of the task by local authorities have not until now belonged to the government revenue, so that such finances on the basis of the law cannot be reserved or can only be reserved in part [1]).

"Even more serious than these objections against the things which the law does give are those against what is lacking in it. It

[1]) Haga, pointing to the example of the council of Ambon, mentioned above, remarks that in practice this difficulty need not have counted. The decision to put on one side a very small sum for administrative expenses for some part of territory would everywhere have been perfectly feasible, and would have been sufficient to make it possible to entrust the inhabitants with certain political rights and with a share in local government.

leaves a choice only between complete autonomy or the continuation of complete centralisation. There is no transition, no transfer of executive functions to local bodies with a limited participation of the inhabitants in the legislation concerning these functions. The arrangements regarding day-by-day administration are also unsatisfactory [1]). The opportunity to establish a general board of day-by-day administration has still not been granted notwithstanding much insistence in this direction. There is also no provision for regulating relations between autonomous bodies inside directly administered territories, and the neighbouring Indonesian States. The decentralisation legislation, finally, neglects to make a gradual transition possible from primitively organised popular communities into communities of a more advanced character. These considerations lead to the conclusion that the two principles which found expression in the law of 1903 demand a duality of bases in future legislation. In the law on which the political institutions of the Indies are to be based must appear the political principle that wherever the inhabitants are able to take an active part in the performance of the task of the authorities, by means of elected or appointed representatives, adequate organs must be established. Besides this basis of political organisation, the rules governing the functioning of the State will have to provide an opportunity of increasing administrative decentralisation. Of the decentralised territories that have come into existence in virtue of article 68 a, b, c of the East Indian Government Act, according to the system of the Commission only the towns and the autonomous areas of other local councils will be preserved; these however must be modernised to a greater extent than heretofore; they must no longer be established according to the criterion of a possible separation of finances, but according as the population is deemed able to undertake the responsibilities of self-regulation. The regional councils of 1903 will be suppressed, and where possible the councils described above will take their place".

The Commission visualised the formation of great autonomous governments endowed with a large measure of self-government, charged with the various functions devolving from their autonomous status and entrusted with the supervision of the lower autonomous communities inside their area. Their domestic interests

[1]) The ordinary administration was given to the chairman and for certain special local duties to one of the members of the Council or to commissions which had always to be presided over by a member of the Council (Woesthoff, p. 131—161). In other words there was not a fixed body of burgomaster and aldermen, or of deputies as in the Dutch provinces. At present, however, the communities created by the Administrative Reform have such colleges while a number of town-communes have had their own burgomasters for many years, after which aldermen may also be appointed (*Stbl.* 1922, 327).

would have to be managed by a representative body, if possible elected, under the guidance of a Governor appointed by the central Government and an executive board, in which a few deputies from the representative body would share the day-by day administration with the Governor. The formation of such governments was to take place slowly, so that for the time being the existing form of administration would not have to undergo an abrupt change.

Use could meanwhile be made of the existing regional organisation by transferring a further share of the task of the central Government to the heads of regional administrations, provided they were assisted by a council. The members of these regional councils would not initially be as a rule elected but entirely or for the major part appointed, while their character would be mainly advisory. Gradually they would acquire a share in authority, take care of certain interests transferred to them, and in this way prepare the regional organisation for the change over to autonomous government. In the new governments, in the Residencies and in the lower communities no distinction was to be made between the different groups of the population. The basis of the new legislation would no longer be decentralisation but autonomy, i.e. the possibility and the capacity of taking care of local interests within local circles based on the principle of the participation of the inhabitants in local legislation. This autonomy would be conceived as broadly as possible, in so far as the regulation of the internal administration of autonomous portions of the East Indian territory would be left to their own organs. Inside the Commission there was an important current in favour of the speedy formation of such autonomous governments in Java and later in all the Indies.

In the territory not yet included in the autonomous governments, the administrative corps would continue provisionally; but in principle the separation between the Dutch and the indigenous administrative body ought to disappear, and direct interference of this administration (apart from some supervision), would not be allowed in the case of lower autonomies situated within its administrative areas. In the autonomous regions, on the other hand, the administrative bodies were to be abolished altogether. The Commission considered that there was no room for them once the full management of domestic interests was transferred

to the organs of democratic authority of the autonomous territory itself. For this reason an end was to be made immediately to the amphibious situation in the towns where, besides the burgomaster, there also existed an official who was head of the local administration and police.

A number of more or less technical services ought however to continue to be administered by the central Government for the sake of the general interest. The Commission thought in particular of defence, justice, prisons, government finances, general traffic and means of transport, harbours for general communication, government buildings, pilotage and buoyage, mining, higher and preparatory higher education, forestry, post, telegraphs, and telephones, immigration and emigration, labour legislation, prevention of juvenile crime, houses of correction and reformatories, for which a number of separate government officials would have permanently to reside in the governments, the towns and the communes. The administrative corps, however, would be abolished, but for a long period it would still preserve an important task outside the autonomous areas (see p. 26—30, 104—107 of the Commission's report).

The tendency of the government proposals of 1922

The Commission of Revision thus produced a group of proposals which the Government has willingly utilised, although it has not been able to follow them throughout. Their basis did not sufficiently answer to the urgent need for official decentralisation. As regards the development of democratic autonomy, on the other hand, the report, notwithstanding various reservations, suggested too fast a pace. If, in accordance with its views, the administrative corps in the autonomous areas of Java and Madura had been suspended serious disorganisation that might have been beyond repair would have resulted, quite apart from the proposal to put an end to the dual organisation of the administrative corps, which consists of a Dutch and an indigenous body. The administrative bodies must be the very last to be abolished, even though the government services whose technical or general character makes them depend exclusively upon the central authorities will naturally survive them.

The truth is that the Commission was right when it identified complete autonomy with the termination of the necessity of a general administrative body. In 1920, however, there could be no question as yet of such complete autonomy, notwithstanding the fact that an important current of opinion deemed that in Java the time had arrived for it. This view pre-supposes not only full consciousness of unity in indigenous society, which in fact is still internally divided into minute fragments, but moreover it requires the co-operation of the great racial groups of population — indigenous, Western and other non-indigenous groups — as integral parts of one indivisible East Indian society.

It would be a mistake to exalt as perfect models the administrative reform law and the other regulations (for the Province, the Regency, for electoral procedure etc.) which have resulted from it, and which have taken the place of those and of other schemes. Many people regret in particular the disappearance of the old Residencies and of some other administrative units hallowed by tradition. It nevertheless seems impossible to make plans and to execute them in this thorny territory without exposing oneself in turn to violent criticism, probably not without deserving it, because nothing fits altogether in the period of transition. In other colonies and in the Eastern states, the same situation prevails, as can be shown with little difficulty from the literature on the subject [1]). In this way sentiment and distrust have played a part in Holland, as elsewhere, side by side with justifiable criticism. They have sometimes made difficult a fair appreciation of the possibilities of the future contained in the organisation of Regencies and Provinces as well as of the possibility of making a gradual transition from the mechanically administered State into an organically ordered State with autonomous members.

The political content of the administrative reform

In 1922 (Stbl. 216) the administrative reform law was at last passed. From the preceding pages it will be clear that the administrative label on this law only partly answers to its mainly political content. The first article (now 119 I.S.) declares that "the divi-

[1]) Vincent A. Smith, *Indian Constitutional Reform viewed in the Light of History*, 1919.

sion of the territory of the Dutch East Indies into Provinces and other regions is effected by ordinance" and that "a Provincial Council is established by ordinance in the Province in order to regulate and administer provincial concerns". The Governor-General was to appoint a Governor in every Province to supervise the activities of the Provincial Council and of its executive, the Board of Deputies. In his official capacity the Governor was to be chairman of the Provincial Council and of the Board of Deputies, in the latter of which he would have a vote. Where, in the view of the Provincial Council, there was no opportunity for appointing a Board of Deputies the Governor would himself carry out the day-by-day direction and execution of business. When the general ordinances required it, the Provincial administration would give co-operation in executing them through their deputies or else through the Governor, unless the co-operation of the Council itself had been requested. Other details were to be regulated by ordinance.

The second article of the law (now article 120 I. S.) declares that for the activities which are not part of provincial concerns, the administration is performed by the Governor in the name of the Governor-General, and in regions which are not Provinces by senior officials who would bear such titles as were to be determined. In those regions, the head of the regional administration can be assisted by an advisory council to be established by ordinance, the competence and composition of which shall be determined by the same ordinance. The Governor-General lays down instructions for Governors of Provinces and for other regional heads of administration [1]).

Art. 121 I.S. says that where local circumstances allow, parts of Provinces would be indicated as autonomous communities by ordinance (hitherto, as the political section of the administrative reforms applies only to Java, this means exclusively Regencies and urban communes). In such communities a Council is established by ordinance for legislation on and administration of the concerns of the community. When general or provincial ordinances require it, the governments of these communities co-operate in their execution. In case a community refuses its co-operation,

[1]) Instructions for West Java *Stbl.* 1925, 508; Middle and East Java 1928, 192; Surakarta and Djokjakarta 1928, 223; The Moluccas 1925, 594.

the authority which must take the place of the administration of the community is also indicated by ordinance [1]). The regulations governing the day-by-day direction and execution of affairs, as well as the chairmanship of the council, the organisation, competence, and obligations of the administrations of these communities are laid down by ordinance. Furthermore a regulation can be made for Provinces as well as for parts of them, in case their organs have to be suspended or suppressed, as well as in case of direct government interference necessitated by gross neglect of the regulation and the administration of their domestic affairs. Art. 122 finally lays down that the stipulations of the decentralisation law of 1903 (arts. 123, 124, 125 I.S.) may also apply to Provinces and communities indicated as autonomous parts of Provinces in so far as articles 119 and 121 have not established different rules.

An immense task had therefore to be fulfilled in the Indies. The regulations that resulted from this law filled volumes. The East Indian Government was given a Government Commissioner for Administrative Reform who had specially to devote himself to this task. All attention (apart from the establishment of a government for the Moluccas by Stbl. 1925, 579) had to be concentrated upon Java, while the other islands were to be dealt with later on. The old administrative division of Java was entirely changed, the old regional areas being joined into big administrative territories which were afterwards, once a beginning had been made in the new order, to be raised into autonomous Provinces. At the same time the old regional councils were to be abolished while autonomous Regencies were to be established. The administrative organisation was therefore to be supported by some five regional Governors, three of whom were provincial Governors, and upon about thirty-five new functionaries with the old title of Residents, whose districts, however, would only be one division of the larger governments and would usually contain two, but sometimes one or three, Regencies. A number of Assistant Residents were to assist them while the Controllers disappeared. Other modifications of frontiers, and the transfer of administrative functions to the indigenous administration, which was being put through with ener-

[1]) For the provincial council this has been arranged in such a way that in case of refusal the Deputies act and if they also refuse the Governor (I. S. art. 119, par 6).

gy, added to an already excessive labour. Nevertheless, in the course of some six years. the necessary changes have been, to all intents and purposes, effected for the whole of Java.

On September 1, 1925, the Government of West Java was established (Stbl. 1925, 285). The old Residencies of Bantam, Batavia, the Preanger-Regencies, and Cheribon were abolished by absorption into the new Government. On July 1, 1928, there followed the establishment of the new Governments of Central Java, East Java, Surakarta, and Djokjakarta (Stbl. 1927, 558—561). These new governments were divided up into divisions (Residencies) which were made smaller than the old Residencies, in order to enable their administrators to give sufficient guidance to the autonomous communities within their jurisdiction. As the latter learned better to perform their functions, the division could again be increased, perhaps to the dimensions of the old Residency (as will probably happen in 1932), in order finally to give way to the political organisation of autonomous communities.

The Government of West Java (Stbl. 1925, 404) was divided into nine divisions (Residencies); Central Java (1928, 146) into eleven, and East Java (1928, 145) into fifteen. The existing division into administrative Regencies was preserved on the whole, as well as that into districts and sub-districts [1]). The Assistant Residents, no longer officials with executive authority in their own administrative divisions, became simply helpers of the Residents. Their position is, unhappily, without good grounds, compared to that of the former Controllers, who were given the title of Assistant Resident. This position has been described sufficiently in the first chapter to explain that under the new and greatly changed dispensation only a part of it could continue to exist in the form of the functions of the Assistant Resident. The administrative organisation has suffered thereby and the abolition of the traditional Residencies and divisions is regretted by many people. The Government is busy filling the big gaps which have resulted in consequence.

The execution of the administrative reform

Meanwhile further steps had been taken in order to put into

[1]) Pronk, *op. cit.* p. 100 *sqq.*, 115 *sqq.*

execution the political part of the administrative reform by the creation of Provincial and Regency autonomies, with everything that went with it, such as the regulation of the vote, the change of the local autonomous areas that were to be preserved into parts of Provinces, etc. As regards the Provinces, this was done by the Provincial Ordinance (Stbl. 1924, 78), while some further points were regulated by a royal decree (Stbl. 1926, 28). In West Java the first autonomous Province was instituted (ordinance of Stbl. 1925, 378) on January 1, 1926. East Java followed on January 1, 1928 (Stbl. 1928, 295); while in 1930 it became the turn of Central Java (Stbl. 1929, 227). Furthermore, an electoral ordinance was made for the Provinces in Java and Madura (Stbl. 1927, 528) in which the franchise and the mode of election were regulated.

A Regency Ordinance (Stbl. 1924, 79) was promulgated at the same time, followed by eighteen ordinances for the establishment of eighteen autonomous Regencies within the Province of West Java (Stbl. 1925, 379—396). East Java followed with thirty-two ordinances establishing its autonomous Regencies (Stbl. 1928, 296—327) and Central Java came in for its turn in 1930 (Stbl. 1929, 228—253). Stbl. 1927, 529 gave the electoral ordinance for the Regencies for the whole of Java and Madura except the Javanese states, which, as has been stated before, remained outside these reforms. Stbl. 1926, 365 regulated the organisation and competence of the big municipal areas which had been annexed into the Provinces as urban communes. In West Java six of these urban communes were instituted (Stbl. 1926, 366—371), in East Java eight (Stbl. 1928, 497—504), and five (Stbl. 1929, 390—394) in Central Java. The election of the members of these municipal councils was regulated in Stbl. 1925, 673, and modified by Stbl. 1926, 95; 1929, 396, and the old electoral ordinance (Stbl. 1908, 53) was thereby abolished. A large number of modern autonomous communities which call the citizen to self-exertion and have taken over part of the task of the central government have, therefore, come into existence by the side of the local boards established since 1903 [1]).

We must make a special mention of the water administrations

[1]) Kleintjes II, p. 15—26; 82—126 (for the local circumscription); 127—151 (for the Province); 153—167 (for the autonomous Regency); 168—185 (for the town-commune).

which stand by themselves. The law of 1918 (Stbl. 1919, 49) added a new article 145 to the East Indian Government Act (it is now art. 186 I.S.) saying "as circumstances require, care of the water system is entrusted to incorporated water boards". The establishment, composition etc. of these boards are regulated by ordinance. The administrations can be given competence to make ordinances under higher supervision, in the domestic interests of the water areas, governing, for instance, the levying of contributions; while penal clauses can be embodied in their legislative measures.

We are dealing here simply with communities of interested parties invested with public authority, which are concerned with the distribution and drainage of water, especially in agricultural areas used by Europeans and Indonesians in co-operation. In these areas of cultivation, there is sometimes a certain opposition of interest between the great agricultural enterprises and the population. This opposition, it is hoped, will be solved as satisfactorily as possible by this regulation.

> "This article was put into execution (cf. Dr. Haga, page 230 sqq) in the Water Boards Ordinance for the Javanese States (Stbl. 1920, 722; 1922, 704), by which water boards can be formed by the Residents in agreement with the Javanese Ruler after approval by the Governor-General, to be administered by a council consisting of European and indigenous officials, chiefs of indigenous communes, and if possible also of interested indigenous agriculturists as well as of the administrators of the enterprises concerned. This council chooses from among its own members a water board administration. In this way water boards have been established for Opak and Dengkeng. The regulation governing this first board has established an administrative board of twenty-three official members, two non-official indigenous members, and the administrators of twenty-five enterprises or groups of enterprises".

Water boards have also been established by decision of the local board of the East Coast of Sumatra. Apart from distributing water over the fields of those who are interested, these bodies also perform all the usual offices of the Dutch Ministry of Waterways, such as the drainage of water, defense against floods and sand, administration of rivers, springs, conduits, waterworks, etc.

The Regency

It is of course not possible, nor is it necessary, to give a detailed description of the organisation, functions, and regulations govern-

ing the suffrage in the autonomous communities which have been evolved under the administrative reform. We shall only note a few facts: the reader can refer further to the literature indicated in this chapter. In the first place it deserves to be mentioned that in the distribution of seats in the councils (local, urban, regency, and provincial councils and the Council of the People) as well as at the elections a distinction is made between three national groups, which strongly reminds one of the old division into racial groups, of article 109 R.R. (163 I.S.) into Europeans, Indonesians, and foreign Orientals or, as they are now termed, Dutch subjects of Dutch extraction, Dutch subjects of Indonesian origin, and Dutch subjects of foreign descent. The difference consists in substituting the nationality criterion for the racial criterion. In practice this differentiation may seem of no importance, but in reality and from the point of view of principle it has a great significance because it introduces the grouping together of all subjects of foreign origin, whether European, Asiatic, African, Australian, or American, and therefore abandons the racial criterion which in this connection had become painful [1]).

The Regency Councils are composed in a way which can be made clearer by reference to the ordinance for the Regency of Batavia. This Council was established with the Regent as chairman and twenty-seven members, of whom only two were subjects of Dutch origin, whereas twenty were indigenous subjects, and five foreign subjects. Fourteen of the indigenous members were to be elected, six for the district of Tangerang, four for the district of Blaradja, and four for the district of Mauk. The non-indigenous members and the non-elected indigenous members are appointed by the Governor of the Province of West Java from two persons recommended by the Regent for each place that has to be filled. The indigenous members form the majority in the Regency Council, according to art. 5 of the Regency Ordinance. Elected and appointed members sit for a period of four years (Art. 9 ibid).

According to the Regency electoral ordinance, election of indigenous members takes place as follows. The administrative districts in the Regencies form constituencies of about 140,000 inhabitants. During May of the year when an election is to take place, electors are indicated in each dessa, to the number of one elector to

[1]) Volksraad, 1st Extraordinary Session 1923, subject 2, document 3.

five hundred inhabitants or less, two for 1,000 inhabitants, three for 1,500 inhabitants, and so on. The appointment of electors is done as far as possible in accordance with the local custom governing the election of the dessa-headman, in the presence of an electoral commission with the sub-district chief as member and chairman. The vote is secret; every indigenous inhabitant of the Regency who is deemed to have reached the age of 21 and who has been assessed in the course of the previous year in respect of any government, provincial, or regency tax or who has the right by law to take part in the election of dessa chiefs (therefore also women) and those who in the judgement of the Regency Councils are entitled to take part in the election of dessa-headmen (Stbl. 1907, 212), have the right to vote. The secondary electors must satisfy the same requirements, but be aged 25 at least, belong to the male sex, and be inhabitants of the dessa in which they are elected or inhabitants of the constituency by which they are chosen. Moreover they must be able to read and write [1]). A report concerning the appointment of the electors is made by the electoral commission, and a copy is sent to the official of the electoral district concerned. From these data this official draws up the list of the secondary voters.

The electors can thereupon deliver at the office of this official on a day indicated beforehand the list of candidates, which must be signed by at least three electors. If the collective lists of candidates for a district contain more names than the number of members who have to be returned for the district, the official makes up a list in alphabetical order; every secondary elector receives a copy and the list is also published. A day for the vote is then fixed and announced, and every secondary elector receives a card summoning him to the election. Voting takes place in the capital of the district, in the presence of a board consisting of three members. The voter fills in the ballot paper with the names of his candidates in the order in which he prefers them. Every paper counts as a vote for the first candidate mentioned on it. When the neces-

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[1]) The Commission of Revision (p. 121—139) gave extensive consideration to electoral problems. It wanted direct elections in principle and deemed elections at two or three removes desirable only for illiterates. The idea was to allow 100 illiterate electors to elect one principal elector who would, as such, be the equal of the direct elector. *Cf.* also the Report of the Electoral Commission of 1922, p. 96—108, and J. W. Meijer Ranneft "*Kol. Stud.*" Feb. 1923.

sary proportion of votes for the first candidate is reached, the ballot paper counts as a vote for the following candidate mentioned on it. This is the well known process of proportional representation about which nothing further need be said.

The system seems rather complicated for an ordinary dessa man. The district as a constituency surpasses his range of custom. It might have been desirable to have a more organic electoral system but it would not be easy to find a satisfactory alternative. What was needed was to create contact between the Regency Council and the population, and to do this there must be a positive interest and activity on the part of people who still feel the village as the horizon of their lives. An organic connection can perhaps be developed, but it could not now possibly exist. There is no single system that could have secured this straight away. The vote should therefore be considered as one of the many artificial means inspired from above in order to widen the horizon, and there is no need to trouble about criticism, which, as usual, takes as a starting point the very end of development. This election at two removes is at least a beginning, which may be condemned upon more than one ground, but which is already exercising a good influence and, with many other influences, will finally create the living, positive contact that is still lacking in this as in other matters in narrow, indigenous societies.

It is sometimes argued that because this election brings a large number of indigenous officials into the Council it does not really give expression to the will of the people. We need not point out that the electoral system cannot express a popular will that does not yet exist, but we may remark without any reservations that the election of these officials ought to be, in the eyes of anybody who understands indigenous society at all, a proof of the efficacy of the method. In any case, it is a phenomenon that is entirely natural in a period of transition and does not prove anything against the system. Happily saner views are beginning to prevail also as to the desirability of contact between the Regency Council and the Dutch administrative corps, especially the Assistant Residents. The Council and the whole future of this autonomous life, which is especially designed for the Indonesian, will benefit by it.

As concerns the requirements which have to be fulfilled by the elected members of the Regency Council, they are enumerated in

art. 6 of the Regency Ordinance. They must be male Dutch subjects resident in the Dutch East Indies, domiciled within the Regency, aged 25 at least, able to write in Latin characters, they must not be in a state of bankruptcy, etc. The requirements have been kept as modest as possible, and experience and common sense can therefore be admitted to the Council even when not allied to book learning. The Regent must convince himself that the elected candidates fulfil the requirements. The members of the Council receive indemnification for travel and maintenance.

The work of the Council consists in dealing with interests that have been included within its own domestic sphere and in co-operating in the participation in the task of higher authorities as may be required. Legislation on and administration of the internal affairs of the Regency belong to the Council, which can also advocate the interests of the Regency and of its inhabitants before the Governor-General, the Council of the People, the Provincial Council, the Board of Deputies, the Governor, and the Resident. It issues ordinances which it deems necessary in the interest of the Regency, or which are required for the execution of general or provincial ordinances whenever its co-operation is demanded. But these ordinances must not infringe upon what has been settled by higher authorities and they must also not interfere with the regulation of internal interests of dessas and other autonomous communities (the urban communes) situated within the Regency. Decisions of the Regency Council on certain subjects specified by ordinance may not be acted upon without the approval either of the Governor-General or of the Board of Deputies.

The Regency Council may levy taxes. Ordinances on this matter must be presented within eight days to the provincial Board of Deputies, which reports upon them to the Governor-General within six weeks. The latter takes the advice of the Council of the Indies and decides. Penalties for the infringement of ordinances of the Regency Council may not exceed eight days in prison or twenty-five guilders fine. The Council appoints, suspends, and dismisses officials in the service of the Regency in so far as this right has not been reserved to other authorities and has not been entrusted to others by the Council. Subject to confirmation by the Board of Deputies it determines the payment of officials of the Regency. Government and Provincial civil servants placed at

the disposal of a Regency must be paid entirely from the treasury of the Regency. The Council has the right to fix an annual budget for the Regency; it must be approved by the Board of Deputies.

The Resident (Art. 124 Regency Ordinance) has the supervision of the Regency Council and can make to the Board of Deputies the proposals which he deems necessary. All decisions of the Council and of its executive Board of Delegates (i.e. its day-by-day administration) which are in conflict with general interests or with a general or provincial ordinance may be submitted to the Governor-General by the Board of Deputies for suspension or annulment. The decision to suspend or to annul is announced in the Provincial paper, with full statement of reasons. The Council can co-operate with other autonomous communities in the regulation of common affairs, interests or works. These arrangements require the approval of the Board of Deputies.

The meetings of the Council are public (art. 35 Regency Ordinance); the Regent convenes and presides over the meeting. Debates may take place in the local language, in Dutch, or in Malay.

When circumstances permit the Board of Deputies, having heard the Regency Council, may establish a Board of Delegates for the daily direction and execution of the affairs of the Regency (art. 18 R. O.). This body consists of the Regent as member and chairman and as many members as may be determined for each Regency by the Deputies after they have received the advice of the Council; there must, however, be at least two such members. The latter are chosen by the Council from their own number together with one or more substitute members. They and the members of the Council sit for the same course of years. Their travel and maintenance expenses are paid. The Board of Delegates includes among its duties the task of carrying out the decisions of the Council and general or provincial ordinances in so far as they require such co-operation. If these duties are not executed with reasonable efficiency the Resident can obtain powers from the Governor to carry them out himself, at the expense of the Regency.

The Board of Delegates also carefully prepares and studies the agenda for the meetings of the Council, except such items as have to be left to special committees appointed by the Council. It represents the Regency in court and out of court. The Board in its

entirety, as well as its chairman and members individually, is responsible to the Regency Council for the daily direction and execution of affairs. They must therefore provide all the information required by the Council from them, whether personally or collectively. If such information is refused the Council can suspend or dismiss one or more of the members of the Board, although this does not apply to the Regent-chairman. For actions of self-government executed upon the instructions of higher authorities, the Board is responsible not to the Council but to these authorities.

The Regent is chairman of the Regency Council and in case of absence his place is taken by the Patih. In the absence of a Board, its task is performed by the Regent. He has to execute the decisions of the Regency Council when required to do so, and also those of the Board of Delegates. All the officials of the Regency act under his orders. He may also order, in so far as the interest of the country allows it, all government officials subordinate to him in his capacity of Regent to discharge various duties in the interest of the Regency. A decision which he judges to be contrary to a general or provincial ordinance or against the public interest need not be executed by him. In such a case he informs the Regency Council or its Board of Delegates, while he also announces his objections to the Board of Deputies of the Province. If no suspension or annulment by the Governor-General follows within three months, he is compelled to execute the Council's or Board's decision.

The Regent therefore supervises the activities of the Council and of its Board, which is a somewhat remarkable position, because the Regent on the other hand can be called before the Council to give account of himself while the Council can make complaints against him. This is due to the fact that, like the Governor of a Province, the Regent has two functions: he is both a government official and an organ of the Regency. Both functions overburden him with activities, of which we have just mentioned that part which he has to perform in his capacity as organ of the Regency. His work as government official and traditional Chief of the people has been indicated in the first chapter.

This combination has often been criticised, and perhaps not without some foundation, but on the other hand one must do justice to the threefold function which is and must be embodied

by the Regent [1]). It is by no means certain that this combination has done harm to the prestige of the Regents, and they themselves do not believe it has. It is not difficult to discover all kinds of contradictions in their position. These should however not always be attributed to the regulations that have been made, because they are almost always the result of the great opposition between dynamic and static, an opposition which the dignity of the Regent, with all it combines within itself, tends rather to weaken than to intensify, and will gradually cause to disappear.

The previous pages give an idea of the organisation, the functions, etc. of the Regency Council. The concrete subjects entrusted to their care are in each specific case enumerated in the ordinances establishing them, while other interests can be entrusted to them later. The ordinance establishing the Regency of Batavia (Stbl. 1925, 382) mentions the following subjects as having been transferred to the Regency of Batavia: the administration of public roads with all that belongs to it — street lighting, fire stations, bazaars and bazaar buildings, artesian wells, general burial places, and ferries situated within the Regency and formerly belonging to the administration of the Residency of Batavia. These immovable properties passed to the Regency of Batavia, as well as inventorial articles. The Regency, on the other hand, must contribute in part to the redemption of and interest payable on debts previously incurred by that community.

The Regency also has the supervision of indigenous communes. The Board of Delegates has the right, formerly held by the Regent, to annul village decisions [2]). For some legal actions of the village administration, written powers have previously to be obtained from this Board. This concerns matters like loans and certain contracts as well as the initiation and cessation of litigation. The Regency Council has a certain right of legislation in various other important matters which concern the dessa. The activities of the Regency organs are already very interesting, while the future is to bring a gradual extension of their labours. One may expect that within a fairly brief period indigenous elementary education will come within its competence. Although, after such a short period

[1]) F. H. Visman. "*Kol. Stud.*" Oct. 1929, p. 144.

[2]) For the application of this power up to 1920, Gondokoesoemo: *Vernietiging van Dorpsbesluiten in Indië*, 1922. For the present situation see *Stbl.* 1925, 378, art. 6, sub IV.

of experience, one cannot yet form a definite opinion regarding the Regency Councils, it would seem to be established that they have worked satisfactorily so far, and that they give promise for the future as the heralds of real autonomy in Indonesian society[1]).

The province

With the Provinces, one definitely enters into the sphere of East Indian society which is slowly beginning to develop. The Regency community is still intentionally mainly indigenous, although even there non-indigenous elements are bound to intrude, and the Regency, therefore, might perhaps be better described as one of the levers by means of which indigenous society is being lifted up into the sphere of an expanding East Indian society. We might point, by way of example, to a few data concerning the Province of West Java (instituted by ordinance in Stbl. 1925, 378). The Provincial Council was composed of 45 members, of whom 20 were Dutch, 20 Indonesian, and 5 foreign [we might point out in passing that the term *Uitheemschen* (foreign subjects) which indicates Dutch subjects of foreign extraction, and is used in Dutch East Indian legal terminology, is not a very happy one and should be given up as soon as possible]. All of them were Dutch subjects [2]). Of this total, eleven Dutch, thirteen indigenous, and three non-indigenous members were elected, while the others were appointed by the Governor-General. For the election of Dutch and non-indigenous members, the Province formed the electoral district; for indigenous members the division or Residency was made the electoral unit. The members of the Councils of Regencies and urban communes within the Province were voters. For further details we may refer the reader to the electoral ordinance for the Provinces in Java and Madura (Stbl. 1927, 528). The separation [3]) into groups of the population,

[1]) See *Overzicht van overgedragen bevoegdheden in hervormd gebied* (*Landsdrukkerij*, Weltevreden, 1928). The last three pages concern the matters transferred to the Regencies. This review page 1—21 enumerates the powers of the Governors which used to be exercised by the Government, the heads of departments, and the regional administrative heads. A third list concerns the powers and activities transferred to the Province.

[2]) See the Law of Feb. 10, 1910, concerning the regulation of Dutch citizenship of the population of the D. E. I. (*Stbl.* 1910, 296; 1927, 418; 1929, 294) and Kleintjes I, p. 82 *sqq.*

[3]) I. S. art. 55 par. 2 *sqq.* (Council of the People), *Stbl.* 1925, 397 and 1927, 528 (Provincial councils); *Stbl.* 1925, 662 (local councils); *Stbl.* 1924, 79 and 1927, 529 (Regency councils); and *Stbl.* 1925, 673 and 1926, 365 (town commune councils).

which formerly composed one electoral body for the purpose of electing the Council of the People (Stbl. 1917, 442 in which, however, seats were still distributed upon the basis of the former racial distinction) has been regretted by some people. One of the reasons put forward was that formerly candidates had to be more or less acceptable to all groups. This is indeed an important consideration. Nevertheless, the Government deemed the change indispensable in order to obtain the greatest possible certainty that the elected at any rate enjoyed the confidence of their own group, and were not too much mere partisans of other groups whose votes had secured their return [1]).

The Province has organs similar to those of the Regency. Apart from the Council, to which belongs legislation on and administration of the internal affairs of the Province (art. 60 Provincial Ordinance), there is a Board of Deputies for which an instruction is drawn up by the Council. Its members are salaried, and it has to execute the decisions of the Council and to settle differences which arise from their execution. The whole Board, as well as its chairman and individual members, is responsible to the Council. The Board has also to give its co-operation in the execution of general ordinances. All the regulations applying to these Councils and Boards are similar to those for the Regency, and need not therefore be detailed.

Here again we find the double sphere of central Government and Province. The Governor again has a threefold function, that of government official, of Chairman of the Board of Deputies, and of Chairman of the Council. As Chairman of the Board of Deputies he is responsible to the Council only in so far as the execution of decisions of the Council is concerned but not for the work which results from the participation in the task of the central Government (self-government), such as the supervision of lower autonomous communities. In his capacity of government official he supervises the administration of the whole Province, and he is also chief of the government officials, Dutch as well as Indonesian, in the divisions and in the Regencies. As the special domestic sphere of the Province and the Regency becomes higher and wider, the functions of both Governor and Regent will gradually move away from the present mechanical structure of autocracy towards the

[1]) Volksraad, 1st Extraordinary Session 1923, II, 3.

growing organic order of democracy. This process must be as gradual as possible in order not to produce symptoms of disintegration. It is certainly not easy to invent a system which conjures this danger and at the same time encourages a healthy transition. In this matter, again, a twofold criticism is conceivable, and we must again observe that normal western conditions cannot exist until a normal East Indian and Indonesian society has developed. In any case, the main point, the possibility of a gradual transformation of structural building into organic life, seems to have been satisfactorily secured in this arrangement. All other points are in comparison of less importance.

Administration of and legislation on its own concerns has not been left unrestrictedly to the Province, as is the case in Holland itself [1]).

> "All these Western wordings", says Dr. Westra (op. cit. p. 63), "cannot be used for the Indies, an opinion which appears to be all the more natural when one considers that they are in fact too wide even for the mother country. They apply all the less to the Indies where there never was any question of functions inherent in the Province. It was not possible, therefore, to act otherwise than confer powers on the Province. As Idenburg remarked in the First Chamber, there is at present no provincial field of activity, and nothing that can be left to it: this field of domestic action has still to be created [2]) .... We may note in passing that the ordinance instituting a Province need not exhaustively regulate its competence, because there is yet another field open to a Province where it is free to take care of all interests not otherwise looked after which the central authorities do not touch or no longer wish to touch, as the Minister explicitly declared in the Second Chamber" [3]).

The activities of the Provinces are growing, even if according to some critics still somewhat slowly, just as are those of the Regencies. Their annual reports [4]) show what significance these autonomous territories have already acquired for their inhabitants and for the State. As soon as education and popular health have been in part transferred to them (and preliminary steps have already been taken in this direction), the prestige of the Province will grow still

[1]) J. Oppenheim, *Proeve van Een Staatsregeling voor N. I.*, art. 127.
[2]) Debates of the States General, 1st Chamber, 1921—2, p. 367.
[3]) Debates of the 2nd Chamber, 1920—1, p. 52.
[4]) See for instance the voluminous annual reports for 1928 and 1929 of the province of West Java presented by the deputies in 1929 and 1930.

further. In the report of the Province of West Java for 1928, regret is expressed that, though the first term of four years is nearing an end, this long planned transfer has not yet been effected; and that the long expected regulation of its financial relation with the Government has not yet taken place [1]). The second point is very difficult to arrange, as long as the delimitation of government and provincial functions remains at a fluctuating stage. When this shifting movement can be visualised better, the settlement of financial relations can be effected without much trouble, and in this respect the greatest possible financial autonomy of the Province will be the aim. Meanwhile, as the report shows, the Province has already a well organised and very active service of waterways (irrigation, roads, bridges, sluice-gates, harbour works, and water distribution), a salt monopoly, an agricultural information service, a veterinary service, and a number of provincial hospitals.

The revenue of the province is as follows: taxes (additional percentages on government taxes and independent levies), other levies (retributions, income from provincial enterprise, legal fees), payment by the Government of the difference between the total of the ordinary expenditure and that of the ordinary receipts (the so-called final balance), special grants in aid from the Government and loans. Many people make objections to the final balance because this is a source of dependence as well as of uncertainty. In any case, it was adopted as a temporary remedy. In the report of the Province of West Java for 1927 (p. 105), there were already complaints on this score, which applied also to Regency budgets. In their report for 1928, the Deputies for West Java twice returned to the old grievances, in the interests both of the Regencies placed under their financial supervision and of their own Province (p. 49 and 128):

> "As the adverse effect on the growth of communities exercised by the existence of this final balance has been pointed out for two years", says the report, "and as it forms a serious obstacle to the development of autonomy, the Deputies do not deem it necessary once more to express their fundamental objections. It is true that at the end of the year under review a transformation of this balance into a fixed payment and a supplementary percentage to be set off against the annual increase of various items of expenditure,

[1]) For the financial dispositions see Provincial Ordinance, Art. 80 *sqq.*, and a discussion on the matter in Westra *op. cit.* p. 107 *sqq.*

a system which already exists in the Province of East Java, will also be arranged for West Java and its Regencies; but meanwhile new difficulties could not be avoided in 1928. After the first budgets (those for 1926) had been prepared by the central legislature for the Regencies, regulations came into force whereby the budgets of the Regencies, and their modifications for the following budget years, had to be submitted to the approval of the Deputies. In practice, this meant that the Board of Deputies acquired the capacity of disposing of government monies, and it is precisely for this reason that prudence has been exercised in fixing the final balances for the Regency budgets. This will appear sufficiently from the circumstance that for 1928 these items, with few exceptions, do not exceed those for 1926. In 1926 the total of the balances for all Regencies was 1,534,000, in 1928, 1,559,000 guilders.

"Considering that in the budgets approved by the Deputies, a payment by the Government of the difference between ordinary expenditure and ordinary receipts serves as a basis for the whole administration of the Regencies, while in general the final balance is the largest item in these budgets, the Deputies deemed it necessary that the Regencies should be able to count absolutely upon such payments taking place integrally. The Director of Interior Administration, however, has expressed the view, in replying to a few Regencies in Western Java requesting the payment of the whole amount mentioned in the approved Regency budget for 1928 which showed an increase over the final balance of previous years, that for 1928 he could pay no more than the amount of the balance estimated in the first budget fixed by ordinance in 1925 ...."

In order to prevent difficulties for the Regencies concerned in the balancing of their budgets,the Deputies requested the Government to authorise the Director of Interior Administration to pay towards the budget for 1928 the increased balances already approved of by the Deputies. This happened, indeed, but the Government considered that what had taken place was a reason for inviting the Deputies to take into consideration henceforth, when they fixed the balance, the monies placed for the same purpose in the Government budget. In this way, if a larger amount has to be allotted to a particular Regency than is ear-marked for the purpose in the Government budget, the consent of the Government must first be obtained. Thereupon, the Deputies requested that, in view of the slowing down that would result, and of the limitation of their legal competence, they should be given the liberty of

approving an increase of the balance, provided reasons were given and that the increase did not exceed a percentage to be determined by the Government.

Apart from these balances, special financial grants in aid could be obtained from the Government for the execution of expensive works or for covering special expenditure. In a circular letter to the Regency Councils, the Government has, however, announced that the execution of large works for which Government support is asked may not begin before a favourable reply has been obtained. Although the attitude of the Government rested upon solid ground, it was clear that a more satisfactory financial arrangement would greatly contribute to the security, the independence, and the initiative of autonomous organs.

As regards the Province, the report declared (p. 128) that the provisional arrangement (with its final balance) of the financial relation between Government and Province continued in force, so that the budget for 1929 had again to be based upon a final balance. The Government has, however, promised the abolition of the balance for 1929 and following years. Instead, another provisional arrangement was made, that of a fixed compensation for services and works taken over from the Government, plus a fixed percentage of the annual estimate of the increase of costs and special grants for important works. This change is in anticipation of the definite arrangement now being submitted to the "Commission for Financial Relations between the Government and the Provinces, the Regencies, communes and other communities." In the budget for the year 1928 approved by decree of May 11, 1928, No. 25, a balance was ear-marked for West Java of 5,226,884. For 1927 it was 5,552,177 guilders. If in the near future a satisfactory relation on money affairs is achieved, it will go far towards consolidating the autonomies [1]).

There remains the general question whether the East Indies, as regards the organisation of the authorities of these young and actually republican territories, have really struck upon the best method. In British India, as is generally known, the system of dyarchy has introduced into the provinces forms of organisation

[1]) A detailed discussion of the finances of local circumscriptions, autonomous Regencies, Urban communes, and Provinces, by Kleintjes, *op. cit.*, II, p. 347—366, 405—410.

and direct election which postulate responsible popular government and methods that are up to a point parliamentary. One is made to doubt whether even British India was wholly prepared for a fully parliamentary system by reading the work of Kerala Putra, which is frequently mentioned in our first volume, while Sir Stanley Reed remarked quite rightly that direct elections must still be regarded as a leap in the dark. The transformation from a representative to a responsible body, or one that shares responsibility, can be effected in other ways. The Regency Councils and the Provincial Councils in the Dutch East Indies are genuine responsible governments in the real sense of the word. The electoral body of the Provincial Councils has received an excellent civic schooling in the lower Councils [1]), and the elections at two removes for the Regency Councils, completed by appointments, are for the time being much preferable to individual direct suffrage. That lies in the future — in the Indies we are not yet so far.

The combination of Governors with Deputies and the Council, and of Regents with Delegates and the Council is perhaps one of the best solutions that can be imagined. It brings experience and discipline into relation with spontaneous initiative and enthusiasm for the public good. It makes people used to the idea that autonomous life can only exist within the sphere of organic unity permeating every local section of the greater community. Moreover, the selection of an executive by all the members of the Council has a much more business-like aspect than the representation by a few ministers of the strongest party in the Council or of a combination of parties, when one considers that local development is still very far from the most fundamental premises for a healthy party system, and for the parliamentarism that goes with it. The latter system could in the Indies only promote unsteadiness, infinite intrigue, and a weak executive, probably incapable of managing practical affairs. As regards responsibility, it is even more real under the existing system than under premature and therefore artificial parliamentarism, as long as one is willing to consider the actual situation rather than theory.

In his lecture before the Royal Colonial Institute, Jhr. van

[1]) Regency Councils and Urban Communal Councils. Members of the latter must all be appointed by election.

Karnebeek [1]) rightly drew attention to the progressive element in Dutch East Indian forms of political organisation, which in Holland is often too little appreciated and to which other systems are unjustly preferred:

> "If the question is asked whether responsible Government exists in the Dutch East Indies, the answer depends entirely on what is implied by the question. If it is deemed to mean, in accordance with the definition in the Montagu-Chelmsford report, 'that members of the Executive Government should be responsible to, because capable of being changed by, their constituents, and that these constituents should exercise that power through the agency of their representatives in the Council, the reply is in the negative [2]). But I venture to ask if our system does not, perhaps, give more than this by giving something else? Indeed, in the new autonomous districts the elected themselves — the Council itself — are called to govern, and called to exercise this government to the exclusion of all other powers, although under some restrictions."

The indigenous commune

We can now leave the administrative reform of Java, which with some modifications will eventually be applied in the other islands, especially Sumatra [3]), and we need give no further atten-

[1]) H. A. van Karnebeek, *Recent Modifications in the Constitution of Netherlands India* in "*United Empire*", Dec. 1927, p. 667—679.

[2]) The Provincial Council and the Regency Council can, however, declare one or more members of their Board of Deputies or of Delegates to have lost their appointment.

[3]) Other methods have to be applied. Plans are still being discussed by the central authorities at the Hague and the Government of the Indies and cannot yet be discussed in this work. It is probable that an administrative Government of Sumatra, which later on will become the province of Sumatra, and in which provisionally Atjeh will occupy an exceptional position, will be created. The Governor will probably be given an Advisory Council,the present Residencies will be preserved as administrative divisions which will continue to be styled Residencies, but owing to the size of these divisions the Resident will probably not be head of the local administration as he is in Java. Smaller sub-divisions will be required which may again be divided into smaller parts. This system agrees with the actual administrative organisation which it is in general intended to modify as little as possible although it is calculated to adapt itself to the things that are still shaping. The divisions or residencies could at the same time form the sphere for autonomous activity to be exercised by mixed councils. In the sub-divisions Indonesian councils could also be established upon the decentralisation basis of 1903 and perhaps intended to form a perspective in the political construction that is starting from below. There are plans to form a better organisation as a link between the European administration and the Indonesian Adat communities whose character and functions have to remain intact, and for this purpose recourse may be had to the organisation of an Indonesian administration for districts and sub-districts which will eventually give place to an autonomous life in which even the lower European administrative officials will eventually become superfluous. The autonomy of the Indonesian States and their internal administration are left intact, but there will be an endeavour to establish local federations and to increase their powers by giving them

tion to the urban communal councils [1]) (which in the Provinces are of equal rank with the Regencies) nor to other local councils and to changes in the administrative organisation which have already been explained in the first part of this work and in the first chapter of the second part. Before concluding with a description of the Council of the People, the representative body which shares with the central Government the legislative power for the whole of the Dutch East Indies, we must say a word about the most modest autonomous organism of the Indies, the indigenous commune. In view of the fact that almost our whole first volume described the spiritual, moral, social, economic, and other aspects of the popular sphere and the significance of popular organisation in villages and other larger and higher indigenous connections, we may restrict ourselves to a few data concerning their external structure and the instructions given by the authorities in this connection.

If the indigenous commune had still to be "discovered" after 1800, the East Indian Government Act of 1854 (art. 71, now art. 128 I.S.) laid down that "the regulation and the administration of its internal affairs are left to the indigenous commune". This was a formula which, as we have seen before, was advocated without success in the case of local autonomies, urban communes, Regencies, and Provinces. But what since 1903 has been refused to these larger organisations, and must still be refused in 1931, had in 1854 already been granted to these lilliputians, upon the equally good ground that from ancient times and long even before any superior princely or foreign authority existed above them, they had a domestic field of activity of their own and a very complete one, a real government sphere of their own which included even justice and diplomacy. Art. 128 section 1 guarantees to these communes the right of "electing" their own heads and administrators, the right which Raffles already considered to be the most essential characteristic of village privileges. In reality, there was no election and this was a western mistake, but now elections seem to have become quite popular with the villagers.

Absolute autonomy, which one meets only in theories on con-

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a wider scope for co-operation. See also leading articles in *Nieuwe Rotterdamsche Courant* of April 8, 16, and 23, 1930.

[1]) Kleintjes, II, p. 169 *sqq.*, and Schrieke, *De Indische Politiek*, 1929, p. 74 *sqq.*

stitutional law, is as impossible in this case as it is anywhere else in the world. The commune must observe the ordinances issued by the Governor-General, by the regional authorities or by the Governments of higher autonomous communities indicated by ordinance. It seems according to the Adat to have had the right of levying incidental contributions in kind, labour or money and imposing penalties for infringing its regulations, but in 1925 it was deemed desirable to give a legal basis to this practice and to hold out a prospect that by ordinance the right of levying regular communal taxes might be granted to indigenous communes to take the place of incidental traditional contributions (Art. 128 I.S., Sec. 5; cf. also Stbl. 1929, 100 and Art. 26 draft ordinance in the final report of the enquiry into dessa autonomy) [1]). According to the letter of the law, the commune therefore enjoys a very complete autonomy, in which, however, practice makes many an exception [2]). In affairs of police and of taxation it has also a share in the task of the central Government. It has adhered to the point of view, considered by some to be in agreement, and by others to be at variance with the law, that village justice also belongs to its task, even if in a more modest form than used to be the case. Art. 128 section 6, I.S., finally, declares that communes situated within the limits of a town may be abolished. This process which should be guided with circumspection cannot always be postponed, in the interests of town development.

In 1906 the Government decided further to regulate the legal position of the indigenous commune, provisionally in Java and Madura only. There was some doubt upon this score. Prof. Kleintjes (II, page 188) says:

> "Was the dessa a corporate body or not, and could one see in it a legal body with property of its own? And was the so-called communal ground.... a possession of the autonomous commune or rather the common property of the villagers? The indigenous communal government ordinance has put an end to this doubt. When the Government considered that infringements of property of the Commune by its own members were taking place, for example by the sale of shares in communal land to Indonesians living elsewhere, sometimes even by forced sale, the Government considered that legal provision had to be made for the protection of the interests of the commune, against rampant individualism, especially

[1]) F. A. E. Laceulle, *op. cit.*

[2]) See the repeatedly quoted theses of Adam, Haga, and Gondokoesoemo.

from the point of view of the protection of its property. There was need also to limit the freedom of the dessa headman and the dessa administration by legislative measures. After a series of investigations into the organisation of the internal concerns of the dessa, the ordinance of 1906, Stbl. 83, called the Indonesian communal government ordinance (with explanations in Bijbl. 6576 and 7525), was issued with rules covering the administration and the public care of other internal interests of Indonesian communes in the government territories of Java and Madura" [1]).

The abstraction "an incorporation" does not adapt itself to Adat conceptions, nor is the Adat any more than the individual owner of land given full satisfaction as to the disposal of communal landed property by the delimitation of the sphere attributed by this ordinance to the communes. We have repeatedly argued this. Apart from possible mistakes on this score in the ordinance of 1906, there may be some reason in safeguarding, in certain circumstances, a part of the common land as the property of modernised Indonesian communes. The community and the soil are connected by sacred links in the real Adat sphere. All property in land is in itself a social function which implies many other social duties. If this connection is threatened with atrophy, as happens everywhere under the influence of modified economic conditions and of modern ideas, there is every chance that the communal interest, which is rooted in mystical feeling, will be entirely repressed by the individual needs of the moment. It may therefore be considered useful in principle to admit of the gradual wearing out of communal rights to the soil in favour of a free individual right of property to habitations and arable land, and even to encourage it. On the other hand, a piece of common meadow land, of uncultivated soil, may be saved from this general break-up, or part of its own domain may be transferred to the commune by the Government and may be decreed the property of the new growing connection, the modern indigenous commune.

The Indonesian communal government ordinance for Java and Madura declares (art. 1) that the government of indigenous communes is exercised by the headman of the dessa or commune, as-

[1]) In the self-governing states of Java an extensive task has been started and energetically continued with the intention of bringing the Indonesian commune once more into existence within these states. In 1912 an agrarian re-organisation began which also aimed at restoring the destroyed dessa connection. Since 1917 various ordinances have been issued by the Javanese Rulers for these communes.

sisted by a few persons indicated for this purpose who, together with the headman, form the dessa administration. The election of dessa headmen is made the subject of rules that are laid down in Stbl. 1907, 212. The further composition of the dessa administration is determined by the Regency Council [1]), which has to be approved by the Board of Deputies. The regulation of the method of dismissal of members of the dessa administration, apart from the dessa headman, is left to the Regency Council which has to take into account local custom (art. 6, Stbl. 1925, 378). Usually the dessa headman himself appoints and dismisses these members, who have not much influence in practice. Prof. Kleintjes (II, p. 191) mentions as an example of the ordinary composition of a dessa administration in central Java the Kamituwa or deputy of the dessa headman, the Kebajan or village messenger who transmits the orders of the headman to the villagers and informs the headman of their wishes or grievances, the Tjarik or village clerk who keeps the registers, the Modin or village religious official, and also the Kapetengan or village bailiff, and the Djagabaja, whose task it is to discover thieves.

The incomes which the commune attaches to the function of dessa headman and to the other offices of the dessa administration, such as remunerations in the form of fields belonging to the communal land, or in kind, money or personal services (pantjèn), are fixed as far as possible by the Regent in agreement with the population, taking into account the regulations laid down by the Regency Council. The dessa headman is generally responsible for good order and for the administration of the internal interests of the commune, unless these duties have been entrusted to others. He supervises the finances, the lands, the establishments and other possessions of the commune in accordance with rules made by the Regency Council, and he has to indemnify the commune for damages resulting from his bad faith or his neglect. For communal credit institutions, special rules have been laid down by

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[1]) In this and in other cases the administrative reform has given to the Regency Council and to the Board of Delegates an important power of interference with the dessa. The intimate relation between the Controllers and the population has as a result been to a large extent lost and the Dutch administration especially has become estranged from village life. The Government is considering methods for restoring this contact, which is indeed very necessary

ordinance (Stbl. 1925, 650 for the Province of West Java [1]). In the exercise of his function the dessa headman consults as far as possible the other members of the dessa administration. He represents the commune in and out of court.

In the case of matters of moment he does not decide before consulting the village assembly to which, apart from the members of the dessa administration, the inhabitants who have the right to vote in the election of the dessa headman and other inhabitants who may be interested in the matter in hand are called together in accordance with local custom. The decisions of the village assembly can be annulled by the Board of Delegates of the Regency if they are in opposition to the law or to the general interest. An appeal can then be made to the Board of Deputies of the Province. The dessa administration has charge of public communal works such as roads and ways, bridges, lock-gates, buildings, open places, market places, water-conduits and reservoirs, always in accordance with existing instructions. The dessa headman has the power of calling up the inhabitants of the dessa to render communal services (village corvée), though he must observe local custom and the rules made by the Regency Council in order to keep the services within fair limits. Special regulation in this matter can only be applied after the majority of the voting inhabitants have expressed their approval. Such approval is also required in matters relating to the cession or the renting of land, of buildings, etc. It is also usual when making village regulations.

The communal electoral ordinance for Java and Madura (Stbl. 1907, 212) contains extensive instructions for the election of dessa headmen. Inhabitants who can be called up to render personal services are entitled to vote, as well as members of the dessa administration, former headmen who have honourably left their function, and religious teachers, mosque-officials, and the keepers of sacred graves who have been recognised by the chief of the division. It should be noted that the suffrage in this case is inherent in the social significance of the inhabitants of the commune, which is in conformity with Adat tradition (see our chapter VIII). Social rights such as the possession of land used to go together with duties towards the community and its public servants, as

[1]) *Stbl.* 1929, 357, replaced it by rules for all the provinces of Java and Madura, with the exception of the territory of the urban communes.

well as with services imposed by higher authorities all of which are the honourable duties of full citizens. The electoral meeting takes place in the commune in the presence of a commission appointed for every sub-district by the chief of the division. A commission consists of at least two members, whose work is further regulated by the above-mentioned ordinance [1]).

Much trouble has been taken to consolidate the Indonesian village communities, to prevent possible abuses, and to develop them into strong communities adapted to modern needs [2]). Numerous threads link up these archaic autonomies with their younger but taller modern sisters, from whose influence a quickening of self-renovation is expected. During the last few years there has also been talk of a revision and modernisation of the dessa government in order to entrust the care of internal interests to a dessa council, which is considered by some people as an inseparable accessory to the exercise of modern financial administration and the right of taxation. Already in 1919 a draft ordinance in this sense was examined by the Council of the People [3]). The village headmen were to lose their autocratic powers and merely become the executors of the decisions of the council. So much, however, is implied in this bill that no regulation has yet been established upon this basis [4]). A lengthy investigation regarding the regulation of dessa autonomy has recently been concluded, and is now being studied by the Government. We cannot expect definite steps before 1932.

In the islands outside Java efforts have been made also to leave freedom to the indigenous communes, among which somewhat larger and even higher indigenous connections (village unions and federations of unions) are included [5]). Nevertheless these plans will have to satisfy more modern needs, a very ticklish problem which has already given rise to an extensive literature. As we have already indicated, in different Residencies Indonesian com-

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[1]) See also the explanation in *Bijbl.* 6810 and 7798; for models of the records of evidence see *Bijbl.* 6804.

[2]) See also *Bijbl.* 5558 (for the regulation of official lands); *Bijbl.* 5083, 6252, 7507, 8496 and 9308 (for the division and the amalgamation of Dessas in Java and Madura apart from the Javanese States).

[3]) Appendices to the debates of the Volksraad, Second Ordinary Session, 1919, IV.

[4]) J. W. Meijer Ranneft, "*Kol. Stud.*" Feb. 1919.

[5]) Van Vollenhoven: *Miskenningen van het Adatrecht*, 1920, p. 1—19; Haga, "*Kol. Stud.*" June 1928, p. 348 sqq.

munal government ordinances have been successively issued. Various authors consider that these regulations, notwithstanding the number of differences intended to cover varying conditions, are still too uniform. It is impossible to summarise the contents of these regulations, and we shall do no more than give a few data from that made for the West Coast of Sumatra (Stbl. 1918, 677; see also 1929, 100; Bijbl. 7793, 9118, 10931).

Art. 1 of this ordinance says that the administration of every Indonesian commune is entrusted to a communal council and a communal headman. The council is composed of popular chiefs or elders of the commune, who are the most appropriate men for this position according to local custom, or of as many of them as is determined by common consent in accordance with local custom; the council may also contain inhabitants of the commune appointed from a list of candidates by the head of the regional administration or in his name in those communes that wish to delegate to their council a few persons who are neither headmen nor elders. This stipulation makes it possible to open an opportunity to more modern currents, and also to enable the more educated to sit together with the traditional chiefs and to take part as councillors in public affairs. The people, under the supervision of the head of the local administration, taking into account local custom or rules drawn up by common consent, indicate whom they desire to be their chiefs and elders, whereas the appointment of non-traditional councillors takes place from a list containing three candidates for every place that has to be filled. These candidates, who represent the modern element in the communes, must be able to read and write. The council elects from its midst a communal chief who becomes leader of the council. Here, the council and not, as in Java, the headman is at the head of the commune; its decisions must be preceded by the consultation prescribed by local custom. The headman of the commune must execute the decisions of the council. Decisions which in his view are in opposition to the law or to the general interest and which can in consequence be abrogated by the chief of regional administration are not executed by him. Moreover, he is at the head of day-by-day administration in the commune (Art. 12), and he may call upon the inhabitants to render communal services (corvée).

Although, by their wording, these regulations have obviously

been devised to respect the Adat sphere, in practice it is found that they do not always do so, and criticisms have often been heard on this score. In certain points a better adaptation between the old and the new could perhaps be effected, and modifications in these ordinances will probably take place [1]; but care will have to be taken not to introduce a backward movement by aiming at a too faithful copy of old institutions that are already in some respects passing away. Since 1900 knowledge of old Adat has greatly increased. Happily, this knowledge need be no barrier to necessary change and improvement. Colonial statesmanship requires the support and advice of scholars and of thinkers who can, during this time of transition, give to their knowledge of constitutional and of Adat law a fourth dimension, that of the movement of life and of understanding of organic growth in our own period. Otherwise the future of the Indies will be in jeopardy. Government regulations may sometimes aim too much at the future, but they rightly show signs of an earnest endeavour to put an end to ancient isolation and to make the Indonesian communes, in their internal affairs and otherwise, act in accordance with the requirements of the present and as members of greater units.

The Council of the People

The last portion of this work of political construction is that of the establishment of the central legislative assembly (Volksraad or Council of the People). The most important aspects of the problem of the Volksraad have already been explained in the first volume. We need therefore only describe it from the point of view of organisation. Long ago, for instance when Van Heutsz was Governor-General, the need of such a body was felt. In 1916 a law (Stbl. 1917, 114) added a new chapter to the East Indian Government Act which gave a basis to the establishment of the Volksraad. This Council was only an advisory body [1], but it acquired a status and attributes resembling those of a parliament. Its control and criticism acquired more strength than many people might

[1] See report of the Commission for the West Coast of Sumatra, 1928, I, p. 219 and III, p. 29 *sqq.* Also Adam and Haga, *op. cit.*

[2] The Governor-General was free to consult the Volksraad about anything on which he wished to receive its advice. In a certain number of cases indicated by law, such as the budget, he was obliged to ask for this advice.

have expected. Its resolutions, 'amendments', considerations upon the budget, and requests for information proved in fact to have as much weight as would have been the case if it had possessed real political power. The whole policy of the Government, especially as a result of the discussions on the budget, came under the criticism of the Volksraad. The Government, however, was at that time still free to follow or to reject its opinion, and it was the States General at The Hague that passed the budget.

Initially a minimum number of 39 members had been prescribed. The President, who was also a member, was appointed by the Crown. One quarter at least of the appointed members were to belong to the Indonesian group; the others were to belong to the groups of Europeans and non-Indonesian Orientals. The Governor-General was to appoint not more than half the members (19). The other members were to be elected by the members of local councils united into one electoral body (Stbl. 1917, 441,442). At least one-half were to belong to the Indonesian group. The Volksraad itself was to appoint its secretary. Members were elected or appointed for three years (now for four years). There would be two ordinary sessions a year, as well as extraordinary sessions whenever necessary. In 1920 (Stbl. 776) the number of members was expanded to 49, of whom 24 were to be appointed by the Governor-General (8 Indonesians and 16 Europeans or non-Indonesian Orientals). The members of the local councils elected the other 24 members, 12 of whom had to belong to the Indonesian group. By this arrangement no room was left for official members. There was no official block. This is a point that deserves to be mentioned with some emphasis, because it proves the confidence with which the Dutch legislature was meeting its young sister institution overseas.

The extensive right of appointment also was not intended as a means of bringing into the Volksraad partisans of the Government. It was intended to be used as a corrective of the election results. Certain currents of interest, knowledge, or experience which were needed in the Volksraad were admitted to it by this method. The impartiality with which the right of appointment has been exercised has been recognised unreservedly by all parties. Moreover the Volksraad acquired in this way an organic composition more truly reflecting actual society than many a parlia-

ment composed too completely according to party considerations [1]). The Volksraad could therefore be called, with good reason, a representative body, albeit a passively representative one, and although only one half of its members were elected. Indeed, the electors of all the Indies, who were members of local councils, numbered only twelve hundred, and of them only four hundred had been elected whereas eight hundred had been appointed. The electoral body for the Council was therefore at that time not even a percentage of a percentage of the whole population with its sixty million souls. But this passive representation is the only one possible until civic sense and public interest have grown among the millions whom this institution itself will assist by its deep though indirect influence.

The law upon the state organisation (I.S.) of the Dutch East Indies (Stbl. 1925, 415, 447), which was satisfied with a partial revision of the East Indian Government Act of 1854, mainly in regard to central administration and legislation, also modified the composition of the Volksraad, whose status was exalted by this law into that of a body which shared with the central Government legislative power for the Dutch East Indies. In the consideration which served as an introduction of the law, the necessity was pointed out of making the stipulations of the East Indian Government Act agree with articles 60 and 61 of the Dutch Constitution, which had been greatly modified in 1922 (Stbl. 1923, 259) in favour of greater independence of the East Indian Government and of a greater share by the population in the task of Government. The report of the previously mentioned Commission of Revision has exercised a great influence in this matter. Like this Commission, the Oppenheim Committee also imagined a complete constitutional re-organisation. For practical reasons, however, a partial revision was provisionally all that could be undertaken.

The most important part of this revision concerned the acquisition of a higher status by the Volksraad (Art. 82 I.S.). It was made into a body that shared the legislative power for internal matters in the Dutch East Indies, while as a result of this the Council of the Indies, which had existed as an independent organ

[1]) J. Biemond: *De Grondslag der Volksvertegenwoordiging, individualistisch of organisch?*, 1922, p. 246 *sqq.*

since 1854 and had become in certain respects a body that shared the task of Government, and especially of legislation, with the Governor-General, was now limited to functions of a mainly advisory nature. These changes necessitated a different composition of the Volksraad, which meanwhile, as a result of the political part of the administrative reform of 1922, had come to rest upon a much broader democratic basis. The Volksraad was given 61 members who have all to be Dutch subjects as well as inhabitants of the Dutch East Indies. One member, who was also the chairman, was appointed by the Crown; 38 members were elected (20 Indonesian, 15 Dutch, 3 Orientals); while 22 members were appointed by the Governor-General after consultation with the Council of the Indies, which must recommend two persons for every seat. Of these 22, five must be Indonesians, at least 15 Dutch, and at most 2 Orientals. Originally the number of Indonesians had been fixed at 30 members, a number which the Second Chamber at The Hague changed to 25. After many debates the original number was restored (Stbl. 1929, 285) in favour of the Indonesians, with the result that the Volksraad in its new form (May 1931) has 30 Indonesian members, 25 Dutch, and 5 Orientals (1 Arab and 4 Chinese) [1]). At the same time the number of members of the Council of the Indies was expanded by two, with the obvious and now realised intention of appointing two Indonesians to this, the highest, body in the organisation of the central Government.

The mode of election of members of the Volksraad was regulated anew by Stbl. 1926, 216, in the electoral ordinance for the Volksraad. The electoral body was divided upon the basis of the considerations mentioned above. This need not prevent co-operation between the elected members of groups, but some people consider that it might cause a too one-sided group point of view. The Dutch members of local councils, Regency councils, and

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[1]) A curious consequence of the amendment was that the relation between the number of elected and appointed Indonesian members was changed to the proportion of 20 to 5,so that little room was left for correcting the elections by appointment. This fact contrasted remarkably with the proportions in the Dutch group where 15 members were elected and 15 appointed. Apparently therefore the Indonesian electors were better suited for their task. The new Volksraad (May 1931) has 20 elected and 10 appointed Indonesian members, 15 elected and 10 appointed Dutch members, and 3 elected and 2 appointed members of foreign Asiatic origin (4 Chinese and one Arab).

urban communal councils were to form one distinct electoral unit for the whole of the Dutch East Indies; so do the local councillors of the non-Indonesian Oriental group (art. 55 I. S. Sections 5 and 6), and these electoral bodies were to return their own members of the Volksraad, 15 Dutch and 3 Oriental, according to the system of proportional representation. The members of the Provincial Councils on the other hand are not electors for the Volksraad, so as to establish more direct relations between the centre and the lower layers of autonomy. For the Indonesian election, it was rightly considered that the Dutch East Indies as a whole formed as yet too large an electoral district. It was therefore divided as much as possible on an ethnical basis into twelve electoral circles (Art. 55 I. S. Section 4 and Stbl. 1926, 216, artt. 16*sqq.*). They were West Java, Central Java, East Java, the Javanese States, South Sumatra, Minangkabau, North Sumatra, East Sumatra, Borneo, Celebes, the Moluccas and the Small Sunda Islands. The first two were to send three delegates each, East Java four, Celebes two, and each of the others one. In the four States of Java the senior Governor and the four Javanese Rulers were to be the sole electors. Although the way by election at three removes is still long, we are so far at any rate that even the plainest dessa electors are connected through their secondary electors and the members of the Regency Councils with the Volksraad. In the measure in which their interest increases, the two intermediary steps will be allowed to wear down. Among the Indonesian town population (Stbl. 1925, 673, art. 2) possessing the small amount of education involved in the reading and writing of the regional language and the modest prosperity of an income of 300 guilders per year, one of these steps has already been judged superfluous, as the system of secondary electors has not been applied to town elections. Moreover recently Art. 55 section 4 I. S. has been completed in the sense that the suffrage can also be connected with certain traditional dignities which are not inferior in the eyes of the people to membership of local councils. This may apply, for instance, to Indonesian Rulers and to popular or Adat headmen, and amounts as regards this élite to direct elections.

The Volksraad meets at Batavia. Its meetings are public, unless for some special reason the public has to be excluded. It makes its own standing orders. The members receive attendance allowances

and additional grants and indemnification for loss of income [1]). The debates take place in Dutch or in Malay. Members are not liable to be prosecuted for anything said during a meeting of the Volksraad. For the sake of ensuring without undue interruptions the regular working off of the legislative programme, a small legislative council of 20 members and a chairman, who is also a member, has been formed within the Volksraad. It is called the Board of Delegates and is composed from among its members by the Volksraad on the basis of proportional representation (Art. 72 I. S. sqq. and Stbl. 1927, 126). The great distances in the Indies and the social situation made it difficult for many members to accept a seat unless their share in the task of the Volksraad can be diminished in this way. This arrangement does not mean that the complete Volksraad only busies itself with the discussion of the budget and leaves the whole legislative task to the Delegates. The Volksraad is free to limit the work of the Delegates as it deems fit and to keep to itself the debate on and preparation of draft ordinances (Art. 80 I. S.), and does this frequently — as some people think, too often. In any case, objections formulated on different sides against this division in the performance of the task attributed to the Volksraad as a whole are really invalidated by this manner of procedure. In the present circumstances it would be impossible to meet these objections in any other way without giving rise to other and still more serious ones.

Work on the budget is at present the most important task of the Volksraad. In so far as the Governor-General agrees with the views expressed by the Volksraad, he fixes the general budget and the supplementary budget. This is done in the form of decrees, each one covering not more than one section. These decrees cannot be enforced until they have been approved by law. The bills for approval or rejection of these decrees are presented as soon as possible, and not later than October 16, to the States General. If no agreement is possible as regards a whole section of the general budget between the Governor-General and the Volksraad, the particular section must be fixed by the States General in Holland. The same happens also, if necessary, for parts of sections (Art. 108 I. S.).

A large part of its legislative powers may be entrusted by the

[1]) *Stbl.* 1926, 453, and *Stbl.* 1926, 277 for regulations concerning the Volksraad.

Volksraad to its Board of Delegates (they are the powers mentioned in artt. 82, 84, 85, 86, 92 and 93 I. S.). In agreement with the Volksraad the Governor-General enacts draft-ordinances concerning all internal matters of the Dutch East Indies, in so far as the Constitution, the law relating to the state organisation of the Dutch East Indies (I. S.) or any other laws do not dictate otherwise; and also concerning other subjects on which provisions must be enacted by ordinance in consequence of a law or a royal decree. There has been much discussion as to the term internal affairs even in the States General because many apparently internal affairs may, as a matter of fact, concern the interests of the whole Kingdom. Some people would therefore like to have complete certainty in this matter, and to indicate a number of subjects which cannot possibly be considered as internal affairs and which therefore do not fall within the competence of the legislature by ordinance, i.e. the Governor-General after consultation with the Council of the Indies according to Art. 22, *f*, *g*, and *h*. I. S., and the Volksraad.

Internal affairs

This matter is of supreme importance and is connected with the interpretation of Art. 1 section 1 and 2 I. S. which says

> "the exercise in the name of the King of the general administration of the Dutch East Indies which has been entrusted according to the second section of Art. 60 of the Constitution [1]) to the Governor-General, takes place in accordance with rules laid

[1]) Art. 60 of the Dutch Fundamental Law says "The King has the power of supreme administration of the D. E. I., Surinam, and Curaçao. In so far as definite powers have not been reserved to the King by the Fundamental Law or by law, the general administration is exercised in the name of the King in the D. E. I. by the Governor-General and in Surinam and in Curaçao by the Governors, in a way to be settled by law. The King annually directs an extensive report to be made to the States General on the administration and the general condition of the D. E. I., Surinam and Curaçao."

Art. 61 says "The political organisation of the D. E. I., Surinam and Curaçao is settled by law; other subjects also are settled by law as soon as there is a need for such regulation. Apart from exceptions to be determined by law the advice of the representative body of the territories concerned will be asked in a way to be settled by law. Without affecting what is laid down in the first part of this article the regulation of internal matters of the D. E. I., Surinam and Curaçao is left to the organs that are established there in a way to be determined by law unless the power to regulate special subjects or in special circumstances has been reserved for the King by law."

Art. 62 says "The ordinances made by the organs referred to in the second section of the previous article may be annulled by law on the ground that they are in conflict with the fundamental law, with law or with the general interest. Such ordinances may be suspended by the King in a way to be determined by law."

down in this law and in conformity with the King's directions. The Governor-General is responsible to the King for the exercise of his function. He provides the Minister of Colonies with all the information that may be desired".

According to some people this would mean that the Governor-General in his legislative capacity would have to expect no further royal instructions, in view of the fact that artt. 60 and 61 of the Constitution have as regards the Indies completed the separation between administration and legislation while the royal legislator has, in consequence of the revision of the Constitution in 1922, almost entirely withdrawn from East Indian internal legislation. This would be all the more probable as Art. 20 of the old East Indian Government Act (R. R.), which instructed the Governor-General to observe the orders of the King in making ordinances, was not maintained in the I. S. of 1925. This regulation, however, could not be preserved once the Governor-General was given as an equal co-legislator an independent Volksraad which enacts all East Indian ordinances with him; this fact, however, proves nothing against the obligation of the Governor-General to follow the orders of the King in matters concerning his own share of East Indian legislation just as much as in matters of administration [1].

Furthermore, the term administration (supreme administration, i. e. Her Majesty's Government, general administration, and self-administration, the Dutch term being Bestuur) is continually used in the wider sense of government as well as in the narrower sense of the administrative part of the four functions of government (administration, police, justice, legislation). In the light of history and of the constitutional practice continued even after 1925, there can be no doubt that the Governor-General exercises his authority for the whole function of government in the name of the King and according to the instructions of the King [2]. The character of the task of the Governor-General has not been modified by the I. S., and this is why ministerial responsibility has re-

[1] I. A. Nederburgh. *De Nieuwe Staatsinrichting van N. I.*, 1927, a fascinating work written with exceptional clearness.

[2] Van Vollenhoven "*Kol. Tijdschr.*" 1929, No. I, p. 15: "In all probability it is intended to say that the Governor-General exercises his authority for all his governmental work including his share in jurisdiction and in legislation in the name of the King and in accordance with the instructions of the King, but this intention has as a result of the faulty wording of the law been expressed only in regard to that important part of his function which is called administration."

mained unlimited in principle. Nevertheless in practice, the situation has entirely altered. There is a living development before which constitutional theory has to retreat; there is a period of transition full of inconsequences which may cause many difficulties to aposterioristic and systematic descriptions of constitutional law. But these inconsequences are understood and accepted all the more readily by those who do not wish to limit a living growth to rigid measurements. The development of the British Dominions gives a picture of a similar evolution [1]), in which great powers of the mother country, seldom or never used, were gradually allowed to fade away. It is the task of the overseas organs to take care in such a way of the interests that have been entrusted to them that instructions, suspension, annulment (Art. 99 I. S.) or the need to regulate by law any East Indian matter on which in that case the Volksraad is only allowed to give its advice, and thus to withdraw it from the East Indian legislature (Art. 61 Constitution), will become increasingly rare.

It would appear that the system laid down in the I. S. of 1925 has succeeded in settling this extremely difficult and delicate matter in a generally satisfactory and flexible way. The unity of the imperial connection, with opportunities for imperial guidance and control, is thus guaranteed. A more careful definition of the terms internal and non-internal affairs has not been deemed necessary or desirable, nothwithstanding repeated insistence from inside and outside the States General. (See proceedings First Chamber, April 18, 1929, p. 648, sqq.) In an interesting review of the origin and development of legislative proposals, and of literature on this matter, Mr. Neytzell de Wilde [2]), a former president of the Volksraad, reached the conclusion that an aprioristic delimitation could not be made in a completely satisfactory way, and that it would be better to base the position

> "upon a clear understanding by the Dutch legislature of that which ought to be deemed to belong to the internal interests of the East Indies, and having recourse to the power of the Dutch legislature to interfere where it judges that the limits have been passed.

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[1]) A. Berriedale Keith: *The Sovereignty of the British Dominions* 1929, especially Chapters IX, X, and XI; A. Gordon Dewey: *The Dominions and Diplomacy*, 1929.

[2]) A. Neytzell de Wilde, "*Kol. Tijdschr.*" Nov. 1929, p. 514. Cf. also F. J. A. Huart: *Grondwetsherziening 1917 en 1922*; Carpentier Alting: *Grondslagen der Rechtsbedeeling in N. I.*; W. H. van Helsdingen: *De Volksraad en de Indische staatsregeling*, 1926.

It is improbable that anyone else will adduce a more practical settlement''.

The Dutch legislature in fact is able to act preventively as well as repressively by taking East Indian legislation into its own hands. Attention can therefore be directed less to the more or less internal character of a particular matter, and more to the national responsibility for general development which results from Dutch leadership, so that altogether unforeseen circumstances might cause intervention, whether or not the subject in question is an East Indian internal matter. Numerous other arrangements can be imagined and all may be made more or less acceptable, but they all lag behind in comparison with those that exist, which give to the Indies a hundred per cent right to manage their own affairs and to Holland a hundred per cent preventive and repressive guidance and control. Those who are fearful of clashes, and are therefore afraid of exercising the hundred per cent rights Holland has preserved in principle, seek in vain in other systems that strength which can only be found in consciousness of the duties of leadership. An express reservation to the States General of a series of East Indian interests which might be classified as imperial would not have the slightest utility in preventing friction, in view of the fact that the Volksraad in an advisory capacity must nevertheless be heard on these matters before the introduction of bills (Art. 71 I. S.). If this takes place in favour of the Crown, the same argument applies while moreover the East Indian legislature will be excluded merely for the sake of duplicating the capacity which as a matter of fact the Crown can already fully exercise by its instructions to the Governor-General, in full co-operation with the East Indian legislature (the Governor-General and the Volksraad). There is not yet in this constitutional relation room for a sharp separation between autonomous spheres, as was established in the Netherlands in the case of provinces and communes; there is a complete leadership which wants voluntarily to limit the extent of its powers as a tutor in accordance with the progress of the pupil towards freedom and capacity to govern. Hence, the Crown and the States General must retain in principle their full right to lead and to supervise, and must use it without fear, notwithstanding the fact that on the other hand full opportunity has been given to the Indies to take their fate into their own hands.

The imperial connection

This being the situation, the idea that the Kingdom of the Netherlands ought to be looked upon now already as a supreme political organisation above the four equal or unequal portions of the State — Holland, The East Indies, Surinam, and Curaçao — does not yet answer to reality. Equally impossible to accept is the idea that the States General exercise, apart from their legislation for Holland, a similar but entirely separate function as organ of the whole Kingdom, this four-membered State. The States General, as representative of the Dutch people which still retains its leadership, acts in that very capacity as legislator for the overseas territories. The measure in which they act as such is slowly decreasing. Decentralisation legislation (1903), financial separation (1912, Stbl. 459), administrative reform (1922), constitutional revision (1922), and East Indian constitution (1925) are all influences which are driving the former conquered East Indian possessions, their population, or portions and groups of this population, towards an ever higher level upon which possibly one day four equal members of the Netherlands Commonwealth will stand. Only then can there come a separation of interests as between Holland and the Commonwealth, and the possibility of a new organisation in which the State of the Netherlands would be an entirely separate and supreme cover for the whole Commonwealth including Holland itself would then come within the realms of reality [1]). It is probable that this problem will not, as a matter of fact, come suddenly into prominence because there will be a gradual transition from a mechanical into an organic Commonwealth, a process which advances as East Indian society is constructed; it will be felt that this organic or rather this dynamic vision can no more be reconciled with attacks upon the Commonwealth connection than with the idea that the overseas territory is no more than an appendage of Holland.

By throwing this glance into the future we have run far ahead of what exists, although the germ of this future organic Commonwealth connection is already present. Returning to the existing organisation of the East Indian legislature, we would only add

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[1]) J. A. Eigeman, "*Kol. Tijdschr.*" Nov. 1929; *Indië en het Koninkrijk*, 1928. J. H. A. Logemann, "*Kol. Stud.*" Feb. 1929; B. C. de Savornin Lohman in "*Themis*", 1930, no. 1.

that legislation can take place by royal decree, i.e. by the Crown, if no agreement has been reached between the Governor-General and the Volksraad. If there is no agreement in the first instance, the matter is taken up again within six months (art. 89 and 90, section 3 I. S.). Everything concerning treaties made with foreign powers and other agreements, the rights and obligations which in general result from international law, and the defence of the Dutch East Indies, as well as cases provided for in the I. S. or any other law are all settled by royal decree. The Volksraad has the right of initiative, amendment, petition, and interpellation as well as that of putting questions, but not the right of instituting investigations, which the Government considers a purely parliamentary right.

The freedom of the press

However important the Volksraad may be from the point of view of its actual political function, its moral significance is much more considerable, as we have pointed out in our first volume. In the same way, we have to consider the fundamental rights granted to the population in so far as they belong essentially to the sphere in which the political life that has now been called forth and encouraged is developing. We do not mean fundamental rights such as the protection of the person, of property, or the secrecy of letters, freedom of religion, of profession, and of the choice of habitation (Stbl. 1902, 100; 1916, 47; 1918, 794; 1919, 150; 1926, 239); nor freedom of travelling (Stbl. 1914, 760; 1915, 212; 1918, 694); nor the right of every Dutch subject to be appointed to any function or dignity, apart from that of Governor-General and Lieutenant Governor-General according to artt. 2 and 4 I. S. We do not mean the right of being punished only in accordance with penal law, or the right to complain and to petition; or the right to have one's property protected against expropriation unless it be for the general good and under adequate guarantee. All these rights have been granted in the Dutch East Indies as is the case in all civilised countries. But we are thinking of fundamental political rights, such as the right to express one's opinion in the Press (art. 164 I. S.) and the right of meeting and associating (art. 165 I. S.). These rights, related to the right of suffrage, which has already been discussed, must still be briefly examined.

Art. 164 I. S. says "that the supervision by the Government of the Press must be regulated by ordinance in agreement with the principle that the publication of ideas and sentiments by the Press and the admission of printed matter from outside the Netherlands must not be submitted to any restriction except such as is needed to ensure public order." Matter printed in Holland can also be admitted without reservation, without prejudice to the responsibility of all concerned, to be regulated by ordinance. Thorbecke wished to introduce freedom of the Press in 1854, or at any rate wanted to have recourse to exclusively repressive measures. By its very broad wording, the East Indian Government Act (art. 110) left complete freedom to regulate this matter. Stbl. 1856, 74 gave the required regulation for the domestic Press. This Press regulation, however, contained a number of preventive clauses, and was rejected in the mother country as a "work of darkness". Stbl. 1858, 73 gave a milder interpretation to some of the rules, while in practice their application gave little reason for complaint. In 1906 (Stbl. 270) all restrictive clauses were removed from the regulation.

> "Now", says Kleintjes (I, p. 147), "at the risk of being fined, the printer or publisher of all matter printed in the Indies, and also all matter printed outside the Indies but not in Holland, and published in the Indies, must within twenty-hour fours of the publication send a copy signed by himself to the chief of the local administration within whose territory the printed matter is published (Art. 13). This royal decree of 1906 introduced the freedom of the Press into the Indies."

The importation and distribution of dangerous foreign prints, other than those printed in Holland, can be prohibited by the Governor-General in virtue of a regulation published in Stbl. 1900, 317. This interdiction must be published in the Gazette (Javasche Courant).

Mr. Lievegoed, a journalist with a long experience of the Indies, who has published some interesting views on the development of the Press in the Indies [1]), points out that in practice the Press

[1]) A. J. Lievegoed: *Indische Journalistiek*, a speech made at the meeting of the Dutch circle of journalists on Oct. 17, 1926, p. 7. As far as we know this and another article by the same author in the Jubilee number of Jan. 1929, of the "*Ind. Gids*", is the only available survey giving a more or less complete history of the press in the D. E. I. See also a pamphlet of M. Tabrani, *Ons Wapen, de Nationaal Indonesische Pers en hare Organisatie*, 1929, containing some useful hints about Indonesian journalism, but not very careful about historical proof.

regulation gave little trouble, and that it was rather the penal code, which was not replaced by a new one until 1918, which could create difficulty; for there, he said, "every accusation is declared to be false legal proof of which is not produced at the same time as the accusation by pointing to a judicial pronouncement or to another authentic instrument. The new penal code, on the other hand, allows the author of an insulting article for which he is being prosecuted to prove that he has acted in the general interest." The freedom of the Press therefore really exists in the Indies; it is a greater freedom than exists in any of the independent Eastern states and in many European countries. This does not mean that all expressions of opinion in the Press or otherwise are privileged, as some people would like. On the contrary, abuse of political freedom in the Dutch East Indies has made it necessary to introduce new clauses into the penal legislation, and to consider the introduction of further clauses, against the disturbance of public order, the sowing of hate, terrorism, the disruption of economic life, revolutionary action, etc. (penal code artt. 153, bis and ter, 161 bis, 163 bis). Justice and the application of the Vice-regal rights of internment, partial or complete exile (in accordance with art. 35—38 I. S.) can, for a shorter or longer time, prevent all those who prove that they do not understand that true freedom obeys the law from continuing their dangerous activities. The Indonesian Press can be consulted by anybody in order to verify the fact that these repressive measures, which do not in themselves touch the principle of the freedom of the Press, are applied with the greatest reserve. The Government highly appreciates the wholesome influence of this freedom, and does not wish therefore to interfere without great necessity. The most useful advice which an Indonesian journalist could give to his colleagues is not of a technical or scientific nature, but would consist in explaining the responsibility imposed upon every well meaning person by the freedom which is left to him and by expatiating upon the great spiritual, moral, social, economic, and intellectual task which a hundred Press organs have above all else to fulfil if they wish really to serve their nation.

The right to associate and to meet

As regards the other fundamental political right, art. 165 I. S.

says: "the right of the inhabitants[1]) to associate and to meet is recognised. The exercise of this right is regulated and limited by ordinance in the interest of public order." Art. 111 R. R. explicitly prohibited, in 1854, associations and meetings of a political nature, and those which threatened public order (see also Stbl. 1909, 250).

In 1915 (Stbl. 542) this article was altered into the text of art. 165 I. S. mentioned above, as had become necessary since 1903 as a result of the share which the citizens were acquiring in the government of the country. In 1919 this article came into operation after the settlement in 1918 (Stbl. 1919, 27) of regulations governing the exercise of this right. Permission from the authorities is no longer required to establish an association. Secret societies and those which the High Court has declared to be contrary to public order are still prohibited (Stbl. 1919, 331). Only Dutch subjects, i. e., all inhabitants with the exclusion only of foreigners, may be members of political societies. Public meetings of a non-political nature are permitted. For political public meetings other than those held in the open air, it is only necessary to inform the authorities concerned. Meetings in the open air must receive previous permission. As a result of the troubles in 1919, temporary restriction of the right of meeting (Stbl. 1919, 562) in territories where there was a serious danger of disturbance of the public order was authorised. Communist and other extremist propaganda has made it necessary from time to time to restrict the right of meeting in some parts of the Indies. Stbl. 1926, 228 gives royal approbation to the ordinance published in Stbl. 1925, 582 which authorises the provisional limitation of the right of meeting of one or more associations to be specified by decree, either in a specified territory or in the whole of the Indies, whenever it is deemed necessary in the interests of public order. The Council of the Indies must be consulted in such a case[2]) (art. 8, *b*).

In order to acquire incorporation, associations established after

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[1]) Art. 160 (par. 1 and 2) says "The rules about admission and establishment in the D. E. I., are being laid down in so far as necessary bij royal decree and otherwise by ordinance (see *Stbl.* 1916, 47; 1917, 693, 694). Denizens of the D. E. I. are those who in accordance with the provisions of this ordinance are established in the D. E. I. (see also Kleintjes, I, p. 73 and 82, for the rules regarding Dutch nationality).

[2]) *Stbl.* 1923, 452; 1925, 67.

the coming into force of the rules published in Stbl. 1870, 62 must receive approval of their articles. This rule concerns all associations which do not aim at acquiring material profit, in other words at societies for sport, burial, charity, education etc. For other associations (companies) the rules of the civil and commercial codes apply [1]).

Conclusion

The attitude of the authorities towards the right of association and meeting may be said to prove a great liberality. Some people no doubt are still dissatisfied; but most of the malcontents can be classified among those who compel the authorities, from time to time, to take reluctantly restrictive measures in order to prevent aberrations which would only make victims of the innocent.

Every person of good will who has followed the events of the last ten years [2]) must recognise that the population has been granted all the rights the exercise of which can be useful to the political construction and development of greater consciousness, and that the authorities have in this direction reached the extreme limit of impartiality and tolerance. Intervention has taken place for no other purpose than to safeguard consciousness of unity and a quiet construction of society mainly to the advantage of the Indonesian population and its future.

This whole chapter shows that these authorities, notwithstanding the obstinate particularism and exclusivism in Indonesian society which we have described in the previous chapter, have already projected voluntarily the whole frame of unity of political construction, and that they have executed much of it. They have run perhaps too far ahead of the development of social self-exertion and civic sense of the people. It is, then, all the more the duty of the Indonesian élite to justify the confidence of the authorities by devotion to and enthusiastic co-operation in the development of Indonesian society.

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[1]) Kleintjes, I, p. 150—155.

[2]) A good survey can be found in the articles on this subject in "*Mededeelingen der Regeering over enkele onderwerpen van algemeen belang* (May 1928 and 1929). See also J. T. Petrus Blumberger: *De Communistische beweging in N. I.*, which has been translated into French: *Le Communisme aux Indes Néerlandaises*, 1929.

CHAPTER VI

THE AGRARIAN POLICY

World economy and Indonesian production

Agrarian policy has a dominating significance throughout the colonial world, even if it only takes into account indigenous society itself, because in this society social structure and agrarian conditions form one indivisible whole. It becomes highly interesting, when, as is the case in many colonies and especially in the Dutch East Indies, it must on the one hand take into account and help to develop this social structure, and on the other hand, and precisely for the sake of this development, must also deal with non-Indonesian interests which, like those of the indigenous population, are dependent upon the land.

World economy could no longer do without the produce of tropical territories; and so long as indigenous intellect, capital, technique, organisation and enterprise are unable to cultivate this produce to a sufficient extent, organisations upon a modern and scientific base, which naturally perform this task mainly in their own interest, must do so. These organisations, however, usually identified with Western capital, by no means function only for their own advantage or for that of world economy. They also exercise a vigorous influence upon indigenous society, which owes to their presence a system of communications, budgetary possibilities, and innumerable other opportunities which favour its development and which would otherwise still have been lacking in the Far East for a considerable period. Even those who consider private ownership of capital a sin cannot close their eyes to the automatic result of the activity of the modern spirit of private enterprise in the colonial world, unless their vision is regrettably one-sided.

The Dutch East Indian Government, at any rate, could not

possibly do without the forces and the means placed at its disposal by these modern private activities. The whole policy of preparing indigenous society to fend for itself stands or falls thereby for the time being, and the basis of its operations would have to be limited to a most dangerous extent without this support. It therefore welcomes these forces of evolution, and is prepared to favour them and to give them security of justice, of enterprise, and of labour, in so far as the co-operation of the authorities can be of use to them. On the other hand, the Government has continually to remember that little good can result from its plans for making the indigenous population able to defend itself unless it can, during the period of transition, bridle modern economic forces, and protect the weak indigenous society against them wherever necessary.

It is owing to this complicated constellation that the duties of protection and of preparation for self-defence, which can never completely harmonise even inside the purely indigenous sphere, are, in the opinion of some people, in transient conflict with each other. This may cause reproaches to be addressed either by interested parties or by an uninformed public opinion to the Government, which is accused of partiality. Agrarian policy and labour legislation, by which the Government tries as much as it can to preserve a reasonable equilibrium between the different spheres, and to guarantee security of justice and of enterprise to both sides by acting as a leader and an arbiter, have become a hotly contested field in which it is difficult to penetrate more than a few steps without incurring reproaches of partiality. This applies in a way to the whole field of colonial policy, to political emancipation as well as to education, to social measures as well as to fiscal policy. Nowhere, however, do tempers rise so easily as in the sphere of agrarian and labour legislation, because there a struggle always appears to be going on between strength and weakness, and because public opinion, be it said to its honour, always sympathises with the party which it believes to be the underdog.

The fact that in this case the strong party is identified with the West lends all the more colour to this imaginary antagonism, although in principle no distinction can be admitted between Western and non-Western economic influences which would justify intervention and call for the protection of the leader. On the

contrary, there is everywhere in Africa and in the East ample proof that the modernisation of Eastern society calls into being within itself grimmer oppositions which recall the "palaeolithic stage" of our own industrial development, now happily giving place practically everywhere to what aptly has been called the modern neolithic period. There is, however, no need to insist upon this point. It was sufficient to mention it in order to reveal the naivety of the frequently expressed opinion which represents the whole process as a struggle between Western capital and Eastern landed property, between Western employers and Eastern labour. As a matter of fact there is the difference of tension between dynamic and static, between rational production and primitive production, between scientific technique and magical technique, between the intellect and magical mysticism, between world-wide organisation and communalistic forms of traditional co-operation. This has nothing whatever to do with racial or national differences, and those who base their views upon such an assumption are making the mistake of tying themselves to transitory and incidental symptoms.

As soon as one begins to see agrarian policy and labour legislation in this neutral light, intentional oppositions disappear and the unintentional ones are settled as well as is humanly possible in a case where the fulfilment of the task of protection and of training towards self-defence makes it necessary to look at the same time to the present and towards the future, so that indigenous and Greater East Indian interests must both be protected. Moreover, the strong are by no means as strong as many people believe. With only a little unreasonableness on the part of the authorities, the sugar industry, to take the example of the most powerful of all East Indian enterprises, could be totally ruined without profit to anyone, least of all to Indigenous society. In these circumstances it is the duty of the authorities to pay due respect to the energy which makes their work possible and favours it. They can do this very well without renouncing their duty of protecting and developing indigenous society.

The doctrine of state ownership of the land

Such a policy lends itself easily to reproaches. Apparent or real

oppositions of interest do not always make it easy for the critics to rise to a higher point of view from which they can see at a glance both sides of the question. In fact, agrarian policy and labour legislation show to the impartial spectator a strong tendency to induce unequal forces to respect each other's reasonable interests. Soon it will be possible to leave to a larger extent each of the parties concerned to regulate their relations, because they are already beginning to display a more natural aspect.

Moreover, it is not easy, as we shall soon see, for a superficial observer to discover the excellent intentions and results of agrarian legislation in the Dutch East Indies. To begin with, it is not logically constructed, at least according to modern conceptions; in some respects it looks like a house that is divided against itself, and it does not appear to rest entirely upon the foundation of the basic legislation that was passed between 1854 and 1874. Its theory of state ownership is old-fashioned in its conception: it is, as during our middle ages or in the Eastern absolute fashion, that, apart from land held under a Western title which is found almost exclusively in the towns, all land is simply the private property of the Government, although it is true that the formula used recalls in one breath the clauses of the agrarian law (I.S. art. 51 sections 5 and 6) by which indigenous rights to the soil are adequately protected. Nevertheless, in this way the formula and the policy based on it are by some critics reproached with being inconsistent with the law, and the Government even has the appearance of presumptuous assumption of power because it tries to justify its intervention, which in itself in agrarian matters is just as necessary as in any other field of government action, upon a basis which half rests upon private law; this is a conception which it has become difficult for a growing section of twentieth century thought to accept. Prof. Struycken and Prof. van Vollenhoven have pointed out that the Government does not require a subjective right to the land as a justification of intervention in agrarian matters for the common good, but that it has merely to apply its general authority over persons, in which case the exercise of power would perhaps be less likely to run the risk of being misunderstood. On the other hand the remark may be made that the idea of state ownership of the land is found by no means only in the Dutch East Indies. There are Western and Eastern states

as well as numerous colonies where the theory applies. It fitted entirely into the conceptions of the nineteenth and of earlier centuries, and as a theory, provided it is not rigorously applied, it is perfectly acceptable to any Oriental population. We may recall that Liefrinck wrote not so long ago concerning Bali "the Ruler is superior to all others.... if he wants the possessions of one of his subjects, somebody's wife or daughter or somebody's life, they are offered voluntarily to him because they belong to the Ruler". This conception probably existed, latent or active, throughout the East, and the doctrine of state ownership of the land had nothing strange about it to the population. It would be a different matter to make practice and theory entirely agree.

To a Western mind, however, this doctrine is not so easily acceptable. It will wonder how all these homesteads and all these fields can be the property of the State. Soon it will appear that it is a doctrine with a bark worse than its bite, and that, indeed, one seldom or never notices any practical effect of this theory as regards arable land, homesteads etc., because the strong safeguards of the agrarian law have left nothing standing of the doctrine, apart from a certain formalism in definite cases. As regards arable land, the doctrine of state ownership has really had no sense whatever since the end of the system of government cultivation, and especially since the introduction of agrarian legislation in 1870.

In the case of unreclaimed land, the situation is different. Although the population exercised traditional rights there, such as reclamation, wood cutting, etc., the Government did not admit the existence of proprietary rights of small Indonesian communities to immeasurable expanses of unused land, apart from certain rights of reclamation and of gathering forest produce [1]). It made a distinction, therefore, between free state property or unreclaimed ground, of which it could dispose freely as a private owner (for instance, by granting portions of it in freehold, on long lease, or by rent), and an unfree state property (fields, homesteads, grassland etc.), of which it could not dispose as though it were its private property because individual or collective rights of use and of

[1]) See Agrarian decree (*Stbl.* 1870, 118, art. 7), and the special Domain stipulation of art. 1. in the old Sumatra Long Lease Ordinance of *Stbl.* 1874, 94*f* and the Domain Note 1912, Conclusions sub 1°, printed after the Agrarian Regulations for the West Coast of Sumatra, 1916.

possession held by the indigenous population were declared as secure as if they were rights of property (Art. 62 section 6 R.R., Art. 51 section 6 I.S.).

When government protection, for instance in the case of the supervision of the renting of fields by Indonesians to non-Indonesians, is of such a far-reaching character, although in fact the authorities silently leave their doctrine of state ownership of the land unapplied, some people are moved to ask whether a similar attitude deduced from its sovereign authority would not be also possible in the matter of unreclaimed land. For in this case also former rights are regarded by the authorities. But it must be remarked that they are considered only as *interests* concerning which the Government, acting as land owner, is readily prepared to consult Adat law, without, however, being willing to hand over the slightest particle of its own proprietary right to the soil. In other words, the question is asked whether, in view of the fact that in this connection land transactions of a long duration also, and perhaps even more, require intervention on the part of the authorities, this intervention could not likewise be based upon the right and the duty of every sovereign authority [1]).

If it is asked whether it might not be better to abandon the existing basis of agrarian legislation, one is bound to examine the question whether Adat law and Adat authority can be left to regulate complicated modern relations for which they were not originally meant. At present land transactions between Indonesians and non-Indonesians are simply forbidden or severely controlled by the authorities on account of the lack of foresight on the part of the population, and this mentality would have serious consequences if the chiefs of small villages were given the right to dispose of enormous tracts of waste land, the surface of which is equal to that of the territory of a number of large European states. The right of the village communities to the land is, moreover, of a mystical-magical nature. It has isolating tendencies and belongs therefore to the sociological phase already passed by the actual needs of indigenous society. The question is justified, whether the recognition of such rights does not imply the adoption of two highly conflicting elements: a retrogressive element that sug-

[1]) *Cf.* J. G. W. Lekkerkerker: *Concessies en Erfpachten voor Landbouwondernemingen in de Buitengewesten*, 1928, p. 105 *sqq.*

gests a return to village republics instead of leading to the village autonomies needed by our own period, and an ultra-modern element that would introduce the germ of social degeneration into these miniature societies by blending two different notions of ownership, the first mystical and inactive, the second rational and dynamic, all that without possibility of creating transitional forms.

These questions present a certain analogy with those examined in our first volume, when it was asked whether Adat penalties should be given a legal sanction. The Commission for the West Coast of Sumatra gave a negative reply to this question, and gave reasons which prove its great earnestness and its deep understanding. In the present case, attention must especially be concentrated upon a similar position of the problem which has perhaps more chance of leading to a right decision that will ensure a sound development of indigenous societies and of the Indies, than any other starting point. The allotment of special smaller agrarian circles to indigenous communities seems to be a wise experiment because it represents a transitional form between inactive and almost latent proprietary rights and the adaptation of active and vigorous ownership to the modest capacities of medieval societies. This experiment points at any rate to the search for a possible middle way. In this chapter we shall examine only a few of the problems that arise in this respect, because the Government is still considering their solution.

Authority and the ownership of the soil in the East

It is of great importance for the indigenous population of the Dutch East Indies that Dutch leadership has organised agrarian legislation mainly with a view to the preservation of Indonesian land capital, which was practically the only thing it possessed. If this capital had not been protected, little would probably have survived of indigenous landed property, notwithstanding the fact that almost all the land, which originally was exclusively at the disposal of indigenous communities, was inalienable in principle even towards an Indonesian who was not a member of the Adat community, and *a fortiori*, to a foreigner. This principle of Adat did not prove strong enough after the meeting with the West.

In Africa and elsewhere it has been unable to resist modern temptations. For this reason the Government took important steps when it imposed its supervision upon all land transactions between Indonesians and non-Indonesians, when it declared illegal the alienation of the right of possession of agricultural land to non-Indonesians (Stbl. 1875, 179), and when by proclaiming the doctrine of state ownership of the land, it also prevented the bartering away of immense tracts of virgin land.

The agrarian policy of the East Indian Government has by these measures won the admiration of various foreign observers. Clive Day, whose book nowhere spares the East Indian Government his criticism when he considers it justified, in his summary (p. 404) warmly welcomes the restoration of Dutch authority in 1816, because in his opinion Dutch agrarian policy has succeeded even better than British in preventing the population from being deprived of its land inheritance.

In the days of the Company little trouble was taken to analyse the rights of the population, of feudal persons, of Rulers, and of the Company to land. The Company seems to have adapted itself in the main to the doctrine recognised throughout the East and throughout Africa, that everything under Heaven belongs to the Ruler. But upon this essentially religious principle it did not base a political system any more than did an Eastern Ruler unless he allowed his despotic inclinations to get the better of him. In China, Japan, India, and Indonesia, and elsewhere too, the peasant could settle on his own field with the same deep joy felt by the French peasant so masterfully sketched by Zola in *La Terre*.

Dr. Gueyffier says the same thing about the Annamites: [1])

> "It is usually admitted as an undeniable truth that the right of individuals to the soil of Annam is altogether precarious and that the Emperor has supreme dominion over the land, while his subjects are simply allowed to cultivate it, and that the right of individuals is therefore in a way a tenure, a kind of usufruct always revocable, because the Sovereign may lawfully take back the land at any moment and for any purpose.... but (p. 43) as a matter of fact the Annamites exercised their right in an almost complete security".

This has been the rule everywhere, even in the village republics

[1]) R. Gueyffier: *Essai sur le Régime de la Terre en Indochine* 1928, p. 37 *sqq.*

which did not stand under the authority of a higher ruler and could therefore freely exercise their rights of supreme dominion over all village land. People who tilled their field and performed their social duties kept their land as good village citizens, and their children held it after them. Nevertheless, there are enough instances of the application of a conception that all land belongs to the Ruler, whereby the peasants were left nothing but a kind of right of cultivation which could be taken away from them without further ado. In Java, this happened especially in the centre of the Empire of Mataram, as well as in Bali and in a few Batak states, but in the Archipelago too it is probable that for centuries the peasant had been able to consider his field as his own and has kept it undisturbed. He could not, however, freely dispose of it, for his community kept certain rights of supreme dominion, which would formerly have tied persons themselves by social and religious links, for instance in cases of removal to another village or of marriage.

Raffles (1811—1816) made a religious idea into a political or to be more precise a fiscal principle when he introduced a land rent to the extent of two-fifths of the harvest. According to him, the Government was the owner of all land [1]). The peasants, therefore, could never be anything else than government farmers, who had to deliver up almost one half of their harvest in produce or in cash. From the Government's point of view, this was really a very high land or income-tax, of which the amount seemed acceptable by giving it the character of farm rent. It is known that Eastern Rulers often did the same thing; but Eastern despotism was rarely efficient and systematic. Eastern despotism, like old Western despotism, took from its subjects their valuables, their houses, their cattle, and even their wives and daughters, but this oppression was usually limited to a few districts, and the really heavy blows fell upon but a few persons. A land rent, however, administered in the Western manner, but at the same time based upon Eastern religious conceptions, is indeed unduly systematic and would for this reason represent more oppression, even if it were collected without a single abuse, than the unreasonable despotism of which it has mistakenly taken over the point of view.

[1]) The sale of large lands with seigneurial rights over Indonesian occupants (*i.e.* the private estates which are now being bought back at great expense) is entirely understandable in this order of ideas and in that of the Company.

The influence of the land tax and of the cultivation system

The cultivation system of Van den Bosch (1830) started from the same principle, and although it only demanded one-fifth of the harvest, society was not able to bear the system, which was organised upon an indigenous basis meant for entirely different situations and methods. The heavy systematic organisation soon sagged right through the basis of magical mysticism, partially disorganising village society and its agrarian system. Land property lost much of its attraction in certain districts, because all the burdens imposed from above through the channel of the village administration pressed exclusively upon the landowners according to the ancient Adat rule that social rights and social duties form one inseparable whole.

The cultivation system, it is true, occupied but a small percentage of the arable land of Java (3 to 5 per cent a year), but its influence spread over a much larger territory owing to the annual change of cultivated fields. Needing large areas of land, it paid no regard to the limits of the small fields nor even to those of the villages. In order to obtain in agreement with Adat conceptions of equity the disposition of more people for its cultivation and other services, the population seems to have parcelled out here and there the available village land into as many small portions as possible, and to have decided to have periodical re-distributions in order to allocate collective rights and collective burdens as equitably as possible [1]). Those who received these presents of doubtful value had according to Adat also the moral obligation to fulfil the corresponding social duties, which were cultivation and compulsory services.

This seems to have been a truly customary way of making individual burdens tolerable, but at the same time the village organisation, its traditional division into classes according to the prop-

[1]) F. D. E. van Ossenbruggen: *De Regeling van het Desabeheer*, 1908, p. 3, considers that communal ground possession with periodical re-distribution was not the result of mixing together individual rights or of the pressure of cultivation and other compulsory services during the cultivation system. Such communal possession has existed everywhere in the world as a precursor of later individual rights. Although the author is probably not wrong in this view, this does not prove that the primitive stage of communal possession had not since long given place in the archipelago to individual possession even if the latter was still limited by the right of supreme dominion of the community.

erty of the inhabitants — into owners of houses and land, owners of houses without land, and people of little account who did not yet own houses or fields — was affected by this. In former times the acquisition of a field of his own by inheritance, transfer, reclamation, or allotment of land by decision of the village assembly to fill places that had become vacant, must have been for those who were not yet owners the greatest event in their existence. It was only then that a man acquired the status of a complete citizen and could think of his social duties as a distinction, When, however, these duties became too heavy, the desire to possess a field of his own weakened. The possession of the field in districts with heavy cultivation services became a burden from which people in the villages concerned tried to escape as much as possible, preferably by dividing the available village land in smaller parcels and distributing them to all able-bodied men whatever may have been their other capacities as villagers.

The system of land rent would, according to some people, similarly have contributed to make village citizenship dependent on the one-sided fiscal standard of values. The village headman had, indeed, to pay a fixed sum of land rent for the whole village, but he was always allowed to re-distribute the communal land in such a manner that he could rely upon the payment of its share by each household that had received a field. A man who had a large number of small children may perhaps in those days have run the risk of being deprived of his field in favour of a young household without children that had more labour power and fewer mouths to feed, and that therefore presented to the village headman a smaller risk from the fiscal point of view. One can imagine numerous similar reasons for preference which possibly followed an entirely mistaken criterion from the point of view of village citizenship [1]).

The village headmanship and membership of the village administration gradually became considered, in regions where the cultivation system was applied, as a burden which brought with it numerous responsibilities and even penalties. In these circumstances people in some regions were little inclined to accept these

[1]) The Commissioners-General, however, did not want to sacrifice existing rights to one-sided fiscal considerations, as appears from art. 14 of their Land Tax regulation (*Stbl.* 1819, 5).

posts of honour. Villagers then applied their old principles of village solidarity and imposed the formerly highly coveted burden of office upon the one whose turn had arrived, and who inevitably passed on the charge as rapidly as he could to the next in order.

It is difficult to say to what extent these disorganising influences were at work between about 1830 and 1860, or in how far they had lasting results in certain territories which militated against the restoration of former conditions when the different burdens were lifted one by one. It is uncertain, for instance, whether, as Prof. van Vollenhoven thinks, the so-called communal property with a periodical re-distribution of land was indeed born in this period of stress, or whether, as others think, it embodied an ancient and primitive relationship of which the very general communal right of supreme dominion is considered to be a milder form. In the present connection it is of more importance to remember that this fiscal experiment, based upon the magical mysticism of the system that prevailed in the village republics and under the independent Eastern Rulers, has taught a lesson to later generations. Notwithstanding many dubious points, one finds sufficient evidence of the intimate co-relation between the social order and the old agrarian system, and one may with a fairly reasonable amount of certainty recognise the blessing which a wise agrarian legislation may mean for the population.

Ground rent and contracts for delivery

In 1854, when leadership began to give utterance to its sense of duty, the opportunity arose for laying down on general lines the lessons learned from the last decades. In the East Indian Government Act the population and its Adat law was immediately placed under protection (Artt. 55, 56 section 2, and 75); the most significant point as regards agrarian policy was Art. 62 (R. R.), now Art. 51 (I. S.), which runs as follows:—

> "The Governor-General may sell no land. This prohibition does not include small plots of land destined for the expansion of towns and villages and for the establishment of industrial enterprises. The Governor-General can let land according to rules which are to be established by general ordinance. Among these lands are not included those that have been reclaimed by Indonesians or communal meadows and other lands that for one reason or another belong to villages or dessas".

The Government, which so far had always considered that it could dispose of the fields of the population as freely as possible in the interest of the State, had continually adopted an entirely different point of view towards the relation between Western private agricultural enterprises and the population, which seems to have been perpetuated in the rules laid down in Art. 62. The sale of large tracts of land on which the population continued to exercise its agricultural occupations in return for certain obligations like deliveries in kind and services, to the landlord, had ended years ago. Little had resulted in practice from the proposals of Du Bus (1827) that large expanses of virgin soil, either in freehold, leasehold, or for rent, should be ceded to European agricultural enterprises so that big industry could be encouraged without in any way interfering with the agrarian right of Indonesians. A royal authorisation to this effect had been published in 1831, but the powers it gave had been used with reluctance, probably because the East Indian Government, which was about to start its own compulsory cultivation system, could not look with much good will upon free private competition.

Moreover, there had been all kinds of difficulties in letting virgin lands because the population asserted that it possessed rights upon them (reclamation, pasture, wood-cutting, and produce-gathering), and the Governor-General, Baud, even formed the opinion that all uncultivated land, apart from a few uninhabited regions, was really considered by one village or another as belonging to its agrarian circle of supreme dominion. In 1835, therefore, unwilling to make the royal authorisation a dead letter, he ordered that every grant of uncultivated land should be preceded by an investigation into such rights as the population might claim in order to prevent injustice and difficulties. From 1839 to 1853, however, absolutely no virgin soil was distributed for these agricultural purposes. Existing enterprises, moreover, were not treated encouragingly. Leases ran only twenty years; the lessee's right was too uncertain to enable him to secure credit, and Western agricultural enterprise, which was the pet child of nineteenth century liberalism, remained the step-child of the actual policy that was followed.

In 1854, when this liberalism once more became prominent and when, moreover, the roots of the compulsory cultivation system

were being attacked, the alternative, which consisted in admitting Western capital and the Western spirit of enterprise, was bound once more to attract attention. The demolition of the cultivation system, which was the basis of the finances of the State, implied the construction of Western enterprise, because agriculture by the population could not develop with sufficient rapidity to compensate for the disappearance of government cultivation. Liberalism, which wanted to restrict the functions of the State as soon as possible and to assure freedom of production and of trade to the population, had therefore to advocate a more reasonable attitude towards Western agricultural enterprise.

Another way opened to private agricultural enterprise in 1819 by the Commissioners General had also become narrowed into an almost impassable footpath, owing to the quiet thwarting by the authorities of all initiative which had not placed itself at the disposal of the Government (cultivation enterprises contractually tied to the Government). In Stbl. 1819, 10 the possibility was opened up of making labour and delivery contracts with individual indigenous agriculturists under the strong control of the administration, with stringent conditions and the obligation to register. Stbl. 1838, 50 did the same thing, but allowed the making of contracts for delivery of produce (not the same thing as ground rent, see Bijbl. 148), for the inception and the continuation of useful enterprises and of industrial works as well as the cultivation of land, the delivery of special produce, of building material, of means for unloading and transporting, and also for personal services, not with individual agriculturists but with the headmen or elders and other notables of the dessas[1]). Even this basis was too uncertain to encourage investment for enterprises that were not allied with the compulsory cultivation system. The sale of indigenous arable land to non-Indonesians was already at that time altogether forbidden.

The cultivation system or big agricultural industries

In 1854 there was therefore every reason for helping Western agricultural enterprise to reach a more solid basis, and accordingly

[1]) *Stbl.* 1863, 152, again returns to individual contracts and *Stbl.* 1903, 108 withdrew the whole regulation, at the same time, however, explicitly maintaining the prohibition of collective contracts through the elders and notables of the dessa.

in Art. 62 R. R. provisions were laid down to facilitate the renting of virgin soil in virtue of a general ordinance. Art. 62, however, did not yet permit the cession of uncultivated soil either in freehold or on long lease, while it seems also to have been intended to exclude from cession all uncultivated land upon which Indonesian communities could make any kind of valid claim. In view of the fact that in the thirties already an impression had been gained that practically all uncultivated soil belonged by Adat law to some community, one was confronted here with an apparent contradiction, and there seems to be reason for surprise that the Dutch legislature limited the cession of land by this restriction.

There remained in actual fact much less room for large agricultural enterprise than had been supposed at the time the law was passed. The idea seems to have prevailed that the wild lands in uninhabited regions and the pieces of no man's land outside the village circles left enough space for agricultural enterprise on a large scale. But those who had to execute the law soon realised that an interpretation observing the right of supreme dominion of the villages over wild land as precisely as their right to dispose of arable land could not possibly achieve a cession of land for the benefit of big private agricultural industry. The wording of the law and the debate in the States General are open to different interpretations; while moreover rather vague notions prevailed at that time as to the nature of the village right of supreme dominion. In view of this situation and of the outspoken aim of all concerned to provide a suitable basis for reclamation on a large scale, it is no wonder that the right of supreme dominion of the villages had to yield to the supreme dominion of the State.

It is in this sense that, among others, Prof. Nolst Trenité has defended the point of view that the only land legally excluded from the state domain is a circle actually and regularly used by the dessas. This point of view is rejected by others, such as Prof. van Vollenhoven, Prof. Logemann, and Prof. Ter Haar. According to them it really was the intention of the legislature to exclude all wild land, if necessary up to the summit of the mountains, from being let by the Government if the population had actual or sleeping rights in it.

They are however compelled to add to this that an unnecessary exclusiveness was implied by the intention attributed by them to

the legislature to respect all Adat rights whatsoever of the population. It went far beyond the aim, which in itself was noble, and it made the second aim of the law, the furthering of big agriculture, practically unrealisable.

Further details concerning the letting of land, prescribed by Art. 62, were laid down in Stbl. 1856, 64. This gave the rules according to which unreclaimed land might be let out for agriculture. Further injunctions for the execution of these rules are contained in Stbl. 1862, 56. The royal decree of 1856 preserved the term of twenty years as the duration of leases, and demanded that all necessary precautions should be taken against the disregarding of indigenous rights to the soil: the surveying and mapping of lands to be given out; investigations to make sure that lands reclaimed by Indonesians or belonging to any village and utilised for some purpose to the exclusion of other villages were not included among them; and provisions against the granting of land in conflict with the interests of the neighbouring Indonesian population or with those of the Government. And, finally, it was stipulated that no letting could take place except under such conditions as would obviate all infringement of the indigenous village administration and the rights of indigenous chiefs. The law and the royal decree therefore explicitly looked after indigenous rights to the ground, although the demand that wild land if it were to be excluded from the area of the free state domain must be utilised by the villages seems already to point to an interpretation of the law which is at variance with the one that various Adat scholars have for some decades been advocating.

The seeming contradiction between the two aims formulated in this law, which nowadays is continually being commented upon, does not appear to have exercised to any great extent the minds of those who in the 'fifties had to execute the law in the Indies, for in anticipation of the application of agrarian legislation some directives were given so as to avoid misunderstandings that otherwise might have arisen from the contrast above mentioned. In Bijbl. 377, of 1856 one accordingly meets with a double reservation as to legal objections to the granting of wild land, a position which, notwithstanding its broadmindedness, Stbl. 1856, 64, also would seem [1]) to have already accepted:

[1]) The whole of this agrarian legislation between 1854 and 1874 is utterly controversial.

"To prevent the letting of wild land, it is not enough to assert or prove that these lands have been at one time or other put to some use by the population, whether as meadowland or for the cutting of firewood, bamboo or rattan, or in any other way. Use by the inhabitants of one or more specified dessas to the exclusion of the inhabitants of other dessas should be provable. Art. 62 of the East Indian Government Act does not forbid the renting of land of which the population makes any use whatsoever, but only of land which *belongs* to the villages or dessas. The idea of belonging includes the notion of right, and the notion of right includes the idea of exclusion of others.

"For", the supplement continues, "if it were admitted that lands which are occasionally put to some use by the indigenous population for this reason only belong to the dessas (and to which dessas?), then the principle admitted in Art. 62 of the East Indian Government Act, that lands can be given out on hire, would be to all intents and purposes cancelled by the final words of this article, at any rate for Java, since in this island it would be difficult to find uncultivated land that has not at some time or other been utilised by this or that Javanese for some purpose or other".

The twofold aim of agrarian legislation

This first reservation, that seems to distinguish between real no man's land and land falling within the range of the right of supreme dominion of villages, the latter of which may be wild and perhaps may be unused, but which all the same is considered to belong to the Indonesian villages or to other communities which have a right to dispose of it, is reasonable. It would seem that no single right to the soil is affected by this reservation. The territory of the United States of America, and that of Canada also, was probably, apart from a few unimportant exceptions, entirely divided into hunting territories belonging to different Indian tribes. Similarly, the immense surface of Africa would seem to have been divided entirely between states, tribes, and villages. In the same way, probably, the Indonesian archipelago was also almost entirely occupied by rights to the soil, even though the potential owners of these rights left something like 90% of the land in wild or half wild conditions. The rights to these very considerable lands were only exercised by occasionally cutting a little wood or hunting or fishing or gathering wood products in them, as well as by planting for a time small plots of soil here and there, or by definitely reclaiming a piece of land adjoining the villages. Another way of affirming these rights was to levy a contribution

from all persons not belonging to the community who were allowed any kind of profit from this soil. Nevertheless, the communal rights to such wild land were felt as clearly and preserved as strongly by the population as its rights upon the land round its habitation or in the ploughed fields, although the personal tie with the latter is much stronger than that with wild land.

It is this situation which contrasts singularly with modern needs and conceptions, and which in our days might confront the City of New York with the rights of supreme dominion of some Red Indian tribe if such rights had been respected, that gave rise to the second and much more important reservation of Bijbl. 377. Having first demanded that use should be based upon rights to the ground, this supplement continues with a further demand that these rights where they exist must also be exercised in order to be regarded by the Government. It is here, at least if this explanation of the supplement is accepted, that the real dilemma begins. Should the Government consider sleeping rights deriving from the supreme dominion of villages or tribes as equivalent to incidental interest in the produce of no man's land when it starts to let plots of immense tracts of unreclaimed land? This is the kernel of the question which is still answered in different ways today. The second reservation in this supplement is, moreover, variously explained, according as debaters are more or less in favour of strict observance of Adat institutions [1]). We give it here *in extenso*:

> "It is not sufficient to stop the letting of wild lands when the population of one or another dessa declares that these lands belong to its territory and this assertion is not deemed rejectable. But together with the fact of such land being proved to appertain to the village territory, there must also be utilisation of the land. It is not enough to prevent the giving out of land on lease if it belongs to the territory of the dessas; the dessas must make some kind of use, whether as communal meadows or for another purpose, of these lands".

This settles as a criterion that use must be based upon the village right of supreme dominion, and that the latter in its turn must be allied to actual use. Here, it would appear, we can already see the outline of the decision in the dispute as to village dominion or

[1]) See "*Ind. Tijdschr. van het Recht*", Vol. 125, fasc. 5/6 and Vol. 128, 1927.

state dominion; it is decided in favour of the Government and of the future freedom of the leasing of unreclaimed land to large agricultural enterprise.

We can see from Bijbl. 2001 (1867), which adopts as a criterion of actual utilisation the right to levy a certain payment in homage from people who use the land without belonging to the dessa, that there was no intention to disqualify these rights of use. This supplement would lead one to suppose that in 1867, the second reservation in Bijbl. 377 had again been withdrawn, because such levies were usually claimed by a village or tribe for all wild land that fell under its supreme dominion. It was probably not intended to go as far as this. The village territory was divided into the village proper (habitations, arable land, and meadows), a wider agrarian circle consisting of waste land to be reserved for future expansion, and finally an administrative outer circle, in which the population was to have no agrarian rights [1]). From these considerations one may conclude that the gate through which big agriculture was to enter had only been put slightly ajar.

The defenders in Holland of Adat rights on land and water, even of those that were dormant, do not plead in favour of a rigid maintenance of these rights in the sense which in their opinion the old and later completed article 62 R. R. conferred upon them. The legislator could have safely encouraged big agriculture upon the wild lands belonging to these villages, provided existing rights were recognised and that permission was obtained after consultation with the communities who had rights of supreme dominion, and that these rights were recognised in a lasting manner, for instance by an Adat fee to be paid by the renter to the indigenous community. In case of unreasonable obstinacy on the part of the village to admit the renting of plots situated within the area of its unreclaimed territory, the Government should in the opinion of these scholars of Adat law have the right to intervene in the general interest by means of expropriation in accordance with the ordinary rules of procedure applicable in cases of that nature.

[1]) In the model form prescribed in this *Bijbl.* for establishing whether lands that are asked in rent are or are not wild, point 4 of the necessary official declaration must mention whether the population of the dessas situated in the neighbourhood and in whose territories these lands are situated, are using them in one way or another. The situation of wild land within the village territory need therefore only imply an administrative connection but not a priori an agrarian connection between the dessa and this land.

Opponents have no objection in principle against an understanding with the population or against these interests being taken into account or even against the payment of compensation for rights of produce-gathering which might be lost for the time being upon these lands. But they consider that the Government must have absolute right in such a matter, where the understanding of the village population cannot possibly suffice. In their view, moreover, no interests of private law are concerned. It is merely one of the rights of sovereignty which have passed from the former small village state to the central State. This interpretation of the village right of supreme dominion [1]) as if it were a right of a political nature is precisely the thing which Adat scholars do not recognise, with the consequence that they deny the equity of the demand to transfer all functions deriving from the sovereignty of village states to the established sovereign state authority of to-day.

The indigenous right to the soil and its mystico-magical basis

It would appear that both points of view contain a part of the truth; while whatever may be the value to be attached to the considerations based upon constitutional law, the decision as to the way in which the rights of the populations and the future of the Indies can be reconciled as far as possible with one another can be taken only by harmonising equity as it is felt in the mind of the population and due appreciation of the general interest as pursued by a modern responsible Government. It does not seem unjustified to regard these often very extensive agrarian village territories as attributes of the former village states and of the republican genealogical communities. Whether this territory was

[1]) This village right of supreme dominion which was not understood for a long period is described as follows by Van Vollenhoven (*De Indonesiër en zijn Grond*, p. 9) "For the whole archipelago it is the highest right to the soil. It belongs to a tribe, a league of villages, or more usually to a village but never to an individual and it expresses itself by six phenomena: 1. the community itself and its members may freely use the wild lands situated within the circle of its right of supreme dominion, reclaim them, found a hamlet, collect produce, hunt and graze; 2. strangers may do this only with the consent of the community; 3. members must sometimes and strangers always pay something in recognition of any use they make of this land; 4. the community is responsible for certain definite misdemeanours committed within this circle the perpetrator of which cannot be detected; 5. the community cannot permanently alienate its right of supreme dominion; 6. it preserves the right to interfere to a certain extent even with reclaimed soil within this circle of supreme dominion." See this whole passage.

used or not, a certain responsibility for what happened there was adopted, and there is no doubt that it was looked upon in earlier times as a state would still be to-day.

The genealogical units from which the later territorial communities have sprung were above all religious by nature, preserving a direct contact with the order of nature, with the macrocosm, of which the tribe with its territory was considered to be a small image. The land and the tribe belonged together; therefore the tribe, and later the village were unable to leave the individual members free property in or even free use of the soil. Especially against the non-naturalised foreigner was this right on land, originally religious and political, maintained most jealously. It is risky to apply Western ideas of private and public law to this world; indeed both are completely mixed and intertwined. And yet it is precisely the conciousness of being a unit upon the basis of magical mysticism within the frame of the world order, implying consciousness of political independence and responsibility, which calls up before our mind the idea of village state. This idea materialised in a complete village government, including village justice, village diplomacy, village alliances, village wars, village responsibility for misdemeanours or crimes committed within the village territory, all attributes which necessarily must wear away in part and become subordinate to the influence of a higher authority eventually extending its power over the popular sphere.

In the Pandects of Adat law one already finds in the first page of the first volume this religious element, which forms the real connection between the land and the community:

> "We see therefore that, the tribe as a whole being in contact with the divinity of the soil, and with its territory, it is only as a member of the tribe, either by birth or by admission, that one can acquire an intimate connection with the soil. The foreigner is admitted as an economic collaborator, in the interests of the dessa, to the cultivation of the soil, but he can never enter into an intimate religious relationship with the soil [1]).
>
> "Both these elements of the primitive conception of property become more and more separated and start to develop separately.

[1]) It is this magical mysticism of the village sphere which forms the main obstacle to division and to amalgamation of dessas by the authorities. It would really amount to the same thing as a decree in our countries joining up Jewish, Catholic, and Protestant communities in order to form one religious community with one single religious edifice. Federation would have provided a better solution.

In the end the religious conception leads to the political concept of national territory on the one hand and on the other to the development of a private right of property vested in the family" (Vol. I p. 4 sqq.).

Further on we read (p. 6) —

"The land belongs originally to the tribe. The whole tribe is the owner of its whole territory, the limits of which are known precisely. By this unity of territory and by the family connection (for the tribe has originated from a *gens*, and the latter from a family) the tribe is kept together. This territory is considered to be an inheritance from the ancestors. The latter indeed for ever preserve their rights to the soil. The relationship and therefore also the tribal connection is not broken by death. The dead remain members of the family and of the tribe. When the soil therefore has to be cultivated, this cannot be done without the consent of the ancestors".

The more one studies these and other data concerning the relation between the community and its territory, the more one reaches the conviction that one is confronted with a real miniature nation, an organic unit, which deserves the title of a state although in our eyes it is exceedingly modest and finds its right to exist in other values.

Conditions are concerned here which one also finds elsewhere. Writing about these agrarian problems in the Congo, Jadot [1]) says very similar things. Here also, as in so many other territories, the dilemma is that between the duty of the Government and the ancient rights or functions of the small tribal or village units. Legislation in the Congo, like that of the Dutch East Indies and many other colonies, declares that all unoccupied land (terres vacantes) belongs to the state domain, but it opens the possibility of giving to the communities empty lands which may, in view of their development, exceed even treble the surface of the lands already being cultivated [2]). But the author remarks that apart from a few neutral strips of no man's land, "there are no vacant lands in native land-law" (p. 58):

"As it is his duty to hold the land for his ancestors and as he is not allowed to alienate it, the native intends to remain the master

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[1]) J. M. Jadot: *Blancs et Noirs au Congo Belge*, 1929, p. 53 *sqq.*

[2]) A stipulation which corresponds to art. 5, Agrarian Decree, *Stbl.* 1870, 118, which speaks of adding uncultivated land to the Indonesian communes with a view to their need for further expansion.

> of his land. And when I say the native, it is understood that I mean the collectivity, the family, the clan, or the tribe. The collectivity, whatever has been said, possesses absolute mastership of its land. It is the proprietor, for that is the only word; a lazy proprietor perhaps, but still the proprietor who is free to get from his land what he pleases as soon as he wishes to replace his lazy methods by intensive cultivation.... Among the Bantus there is no vacant land, and colonising nations which claim to respect native property can therefore make no land concessions on this pretext. The only legal title of concessions lies in the right of guidance by the civilising State towards the small black states it has to civilise".

It seems to us that the author by his last conclusion indicates the best and justest motive for allowing colonial authorities to dispose of wild land, notwithstanding the religious rights of supreme dominion of native villages, states, and tribes. In many colonial territories development would have been impossible if the intellect, the energy, and the spirit of enterprise of the twentieth century had not been given the opportunity of cultivating such unproductive lands with a fair amount of security of tenure, which enabled them to create flourishing enterprises.

Indigenous society as a whole has undoubtedly greatly profited from these contacts, far more than it could have done by continuing its unmitigated enjoyment of the old Adat rights. The question is however asked whether both interests could not have been conciliated in the whole colonial world by adopting the principles of Adat law and abandoning the policy of taking only incidentally into account the concrete interests of the population. This might be all the more preferable because the right of supreme dominion of indigenous communities would, according to Adat scholars, wear out in the course of the process of modernisation, leaving to the indigenous peasants individual rights of possession in their homesteads and fields, and freeing at the same time the wild land, which would automatically become no man's land and could be freely disposed of by the authorities. Whether, however, foreign demand for land together with other influences which tend to increase the value of land would not run counter to this movement and even arrest this wearing out process altogether is by no means certain. In that case Adat law would give rise to a growing uncertainty and would tend to encourage degeneration, as the new economic values accruing to the rights on land would change the

religious relationship from which these rights derived originally, while, moreover, it would be for outside energy to activate dormant ownership, whereas sound development requires that the population should accomplish this metamorphosis of inactive rights into active ones by its own self-exertion.

First steps of agrarian legislation

About the middle of last century the difficulties we have mentioned were apparently already felt; but the question of ground rent had by no means become urgent. In 1870 only 40,000 bouw of land had been rented out.

In the 'sixties, especially between 1865 and 1870, the search for a satisfactory solution of the agrarian dual problem exceeded in urgency all other preoccupations. We have only to point, in this troubled decade, to the cultivation bill of Fransen van de Putte (the Minister of Colonies) in 1865. This bill aimed at bringing more order and more settled relations into government cultivation, indigenous land rights, and the free private agricultural industry conducted by Western capital and intellect. The bill wanted to declare all wild village land state property. The Minister appeared to be willing to take into account customary rights of usufruct which would have to be respected or compensated when the land was given out on long lease. The bill, however, was rejected not on that score but merely owing to the objection to the conversion of indigenous individual rights upon arable land into Western rights of property. In 1867 the Mijer plan also contained a clause concerning eventual indemnification for indigenous customary rights which might be prejudiced when land was leased, in which case it would be necessary to get the consent of those to whom these rights belonged. The change of arable soil from Indonesian into free property as proposed in the bill of 1865 –'66 could not indeed have been a blessing for Indonesian society. Village and other connections were at that period probably without exception still rooted in the ancient relationship which revealed itself above all other things in the conception of life which considered the use of the soil and individual right to the soil limited by the right of supreme dominion of the community as a social function governed by Adat rules. Western rights of property, which could have been alienated to non-villagers, while

Indonesian rights of property were inalienable, would have severed the ancient connection, and the obligations that resulted from all its age-old roots, and this bill, inspired by progressive and liberal ideas, would no doubt have caused far greater harm to Indonesian society than the cultivation system and land rent taken together, and would in fact probably have utterly disorganised it. The terminology then used of "hereditary individual right of use or possession" would have been applied not infrequently to so-called individually owned lands which in reality were still more or less limited by the communal rights upon them. It was therefore a slow development that was needed to bring the population without dangerous shocks to a state of social consciousness which would impose upon the individual new social relationships in place of each old thread as it broke. In 1865 the time for this had not yet arrived, and this one proposal already proves that at that period people were still entirely ignorant of the important subject of Adat. Thorbecke and Baud, however, repeatedly displayed an understanding which was not to acquire a scientific basis until studies of much more recent date were able to throw more light on these questions. One is all the more amazed when one reads Thorbecke's striking and true remarks upon some subject of Adat. One involuntarily thinks of intuition, although this intuition may perhaps have been acquired in the course of Thorbecke's earlier studies of the customs and social condition of ancient Germanic society. Meanwhile, the Government was afraid that the refusal of Parliament to convert Indonesian individual rights of possession into Western rights of property, combined with refusal of the Minister to guarantee existing Adat rights in their indefinite form, would be interpreted by the population as a refusal to recognise its rights to the soil in any form and to guarantee them. Therefore a proclamation was issued announcing that Indonesian rights of use would be recognised and respected and that an investigation would establish whether Indonesian rights to the land could be extended or better confirmed (Stbl. 1866, 80). The well-known agrarian investigation, to which we have already referred in previous chapters, was started as a result in 1867. The results of the investigation have been published in three volumes for Java and Madura, in 1876, 1880, and 1896, and for the other islands in a number of separate summaries. The reader who is interested in

the matter would find in these reports enough material to keep him busy for years.

In 1869 Minister de Waal resumed the previous efforts made by, among others, Van de Putte, and presented a short bill which entrusted the lower legislature with the further details of agrarian legislation. This bill, which reached the statute book in 1870 (Stbl. 55), completed the three sections of Art. 62 R.R. with five new sections. This agrarian law aimed at the solution of the agrarian problem, which was growing in urgency every day. On the one side it had to pay due regard to the continual protection of Indonesian rights to the land, while on the other it was to provide a more solid basis for private agriculture, which was about to replace government agriculture.

With a view to the latter aim, the law opened the possibility of acquiring wild land on lease for not more than 75 years (Art. 62 Section 4 R.R., now Art. 51 I.S.). The letting or handing over for temporary use of land by Indonesians to non-Indonesians was now also permitted, according to rules to be decided at a later stage (Section 8). Section 5 required that the rights of the Indonesian population should not be affected by any cession of land. Section 6 prohibited disposal by the Government otherwise than for purposes of general utility and against adequate compensation of lands reclaimed by Indonesians for their own use, or belonging to the villages as common grassland or for any other purpose. Section 7 opened the possibility of voluntary conversion of Indonesian individual rights on land into Western rights of property. Indonesian individual right of possession was called in this law "the land possessed in hereditary individual use." Instead of a compulsory conversion of this right of possession, as in 1865, an eventual change was now to be made voluntarily. Indonesian right of possession was divided into hereditary individual possession and communal land possession, the latter, as has been said, being considered in scientific circles as a distorted form of the right of supreme dominion of Indonesian communities.

The agrarian law of 1870 gave rise to differences of opinion similar to those briefly explained in our discussion of Art. 62. R.R. and of the cultivation bill. On the one side it is argued that this law was intended to maintain the rights of the population to agricultural and wild land as strictly as had been the case according

to these critics, in 1854, 1866, and 1867, judging by the debates in the Second Chamber. From this point of view, the basis of long leases for private agriculture would not have been very profitable. Indeed, the leasing would not have been legal, just as, in case this interpretation were to be accepted, all acts, before 1870, of letting wild lands that belonged to the territory at the disposal of Indonesian communities would stand condemned as illegal acts.

For the people who had this opinion the explanation mentioned above in Bijbl. 377, to which various Ministers have referred, would be illegal, too, at any rate if it is explained as above. In 1867 conservatives, who were not in favour of admittance of big enterprise into the Indies, argued that all wild land already belonged to Indonesian communities and could therefore not be leased. Even expropriation against compensation was condemned by these people as an infringement of the land rights of Indonesian communities, especially as expropriation would only indirectly be for the common good, while directly it was mainly to the advantage of private agricultural enterprise.

The renting of wild land which nobody in particular coveted was entirely eclipsed by the long leases introduced in 1870. Prof. van Vollenhoven, who believes that the strict Adat point of view was victorious in 1870, considers that a mistake was again made in excluding too rigidly the right of disposal by the Government of unreclaimed land in the interests of big enterprise (p. 78):

> "Here, however, the royal agrarian decree of 1870 repeated the mistake of 1854 and 1867 from the most honest motives. For it not only excluded the leasing to planters of pieces of land in villages, of homesteads and fields, but even of the waste land within the range of the right of supreme dominion of the village. But why? Art. 62, section 5, which in this respect differed from Art. 62, section 3, made this unnecessary" [1]).

Prof. Logemann seems to consider that in the decision of the majority in the Chamber of 1870, and in the agrarian law of that year, the same negative attitude towards the granting of land inside the village circle can be detected, as according to him, had been noticeable in 1854 and 1867. After the question, touched upon earlier, of the agricultural land, the year 1867 placed the

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[1]) De Indonesiër en zijn Grond, p. 78.

question of the wild land in the forefront of parliamentary interests. The final result of these debates of 1867 is summarised as follows by the Professor:

> "The idea of making the issue of land belonging to an Indonesian community possible either with the agreement of those entitled to it or after expropriation was rejected",

and he adds,

> "it will be found that this absolute prohibition, in addition to the idea of recognising agrarian village territory (i.e. the right of supreme dominion of the village) to the limit of the Adat frontiers, and the idea of Thorbecke, that the right of reclamation by Indonesians within this circle should be left absolutely free, were fatal to the good intentions of the legislature by their excessive severity" [1]).

Speaking of the spirit in which the agrarian law of 1870 (the bill of 1867 having been meanwhile withdrawn) must be explained he says (p. 445), "the Chamber and the Minister are agreed that the decisions taken in 1867 are to be maintained". Prof. Nolst Trenité contests the justice of this interpretation of the law, one of his arguments being an appeal to the consequence which, he considers, results from the other point of view, and which imputes absurdities to the legislature of that time as the law would have left no room for the execution of the real intentions of the legislature, which clearly aimed at assisting private agriculture to acquire land on a secure and satisfactory basis.

No Solomon's judgement as to this dispute need be expected here. Even his proverbial wisdom would be put to a much harder test by this problem than in the biblical examples. It is undoubtedly an open question whether the study of the material published on the subject would lead all unprejudiced people to the same conclusion. Whatever opinion one allows to guide one for part of the time, some point is reached when unanswered questions urge themselves on one's attention, whether based on one's sense of justice or on practical considerations. One's sense of justice leads one to accept the point of view which advocates the complete recognition of all existing rights of the population, whether the

[1]) J. H. A. Logemann and B. ter Haar: "*Ind. Tijdschr. van het Recht*," Vol. 125, fasc. 5/6, 1927, p. 434, 442; see also G. J. Nolst Trenité, *ibid.*, Vol. 128 with a rejoinder in the same volume.

analysis of debates in the Chamber and recent findings as to the private or political character of some of the expressions of the right of supreme dominion of Indonesian communities support one or not.

Even if one had to conclude, and there would be good reasons for doing so, in favour of a characterisation of the Indonesian right of supreme dominion over expanses of village territory as one of the remaining attributes of a sovereign or quasi-sovereign village state which practised also the naturalisation of the foreigner (i.e. of the inhabitants of the neighbouring village), even then one might be in favour of leaving free rein to these rights. This would probably not have done any more harm to Dutch sovereignty than the method of leaving village justice free, which, in the light of history, is similarly considered more and more as a remainder of former sovereignty rather than as an expression of Eastern decentralisation. We may break our heads over problems of a political, juridical, and agrarian nature, but subtle theories of this nature do not exist for the population. Therefore, whatever may be one's conclusion as to the nature of the Adat right of supreme dominion, it would be a conclusion upon a purely Western series of reasonings which mean nothing whatever to the population.

One would therefore favour a point of view claiming complete freedom from almost forgotten debates in Parliament, from all definitions of the right of supreme dominion, from the actual motives of East Indian agrarian policy, and troubling oneself only with the question of what the population itself thinks. There seems little doubt that it feels in all simplicity that it owns definite rights within the so-called circle of supreme dominion, even if it be so large that the village as it were disappears in it and even if the expanse of these wild lands far exceeds the needs of the community, once it has given up its nomad existence and acquired a permanent agrarian aspect. There is, however, a second and practical question: can and must the Government respect this right of supreme dominion as carefully as, for instance, Indonesian rights to arable land? Some people answer most definitely, but others would call it ridiculous to place these two rights in line. And they point out that the population itself does not appreciate these rights so highly. As will appear from the following pages, the

answer to these questions is by no means easy, especially as the "Conflict of the Times" compels all of us, whether we like Adat or not, to agree to many restrictions upon the free exercise of the Indonesian right of supreme dominion.

In any case, a theory of state sovereignty by itself would merely leave us in the lurch when dealing with the sense of justice of the population unless our own practice mitigated the severity of that principle. And when Salkin [1]), in a similar series of profound considerations, remarks that the miniature communities in Africa definitely declare that they possess rights over immeasurable wild tracts, even if they are not used, and adds, "it is probable that the blacks do not make a distinction between actual and supreme dominion", one agrees with the brusque reply of Jadot, who says,

> "Come now, dear colleague, let us make an end to this sophisticated play on words. Let us put rights *sui generis* into the ashtray of extinguished moons, and let us recognise that in all truth the property of the lazy man is as much property as that of the active cultivator or of the speculator in plots of building land. Then, suddenly, the whole problem is lit up and simplified".

One is bound to remark that Jadot deals only with one side of the question and that in identifying dormant ownership with an active one the risk is taken of pseudo-morphic moulding, and of blending mutually hostile elements which cannot dissolve into a harmonious composition, unless the element of self-exertion is added to the combination. This consideration leads us back once more to the only road that offers a chance of discovering the way out of this and other labyrinths.

One would therefore like to see these controversies standing out against a wider background, against the picture, full of impressive mobility, which shows us indigenous society re-shaping itself into a new world. Debates about Adat right, although they usually recognise the reasonableness of modern enterprise when it demands a place in the sun, nevertheless, by emphasising some definite points in the course of the debate, create the impression of special pleadings in favour of antiquated norms, although they are by no means always so in reality. The theory of state domain and its full application, on the other hand, sometimes makes

[1]) P. Salkin: *Etudes Africaines*, 1920, p. 237 sqq.

the impression that it considers the rights of the population to waste land a negligible quantity, while here also practice continues to respect these abstract rights as concrete interests. In their reply, the previously mentioned Adat specialists even say,

> "The arrangement which we advocate will in many cases differ practically very little from the existing situation, because the actual course of affairs, outside the law, even now guarantees rightt of the population which have been disregarded on paper but muss in reality be taken care of...." [1]).

One must not limit this question to an apparent conflict of interests between the rights of the population and the interests of modern enterprise. Nor should one entirely enclose it within the frame of contrasting indigenous and Greater East Indian spheres, because the development of Indonesian society itself implies the end of the isolating tendency which is inherent in the village right of supreme dominion. This isolating tendency used to draw sharply defined frontiers from village to village between the small communities, their members, and their lands, which therefore had also to limit every individual member as well as his rights to the soil in accordance with the demands of the community. In our age, one no longer subjects an inhabitant from another village or town to a cross examination at the gate before he is admitted, nor can the question of his settling and buying a house or land form the subject of a general debate. In the Archipelago also traffic is breaking down these separations that are becoming abnormal, and it would be a mistake to confirm or preserve institutions which are due mainly to isolation. Village responsibility for misdeeds, which we consider unjust, would now also be felt to be unjust by the population of large tracts of the Archipelago. Many Indonesians are already feeling it as an injustice that Adat law allows the community to take away from a stranger who has settled within its gates, married a village woman and reclaimed land, the land he has held, as well as his children, after the death of his wife [2]). If there is one reason to rejoice, if there is one indication of the favourable influence of the spirit of the West, it is in symptoms like these. The declaration of state property in unreclaimed land has preceded this process by some half century. Its theoret-

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[1]) "*Ind. Tijdschr. van het Recht*," Vol. 128, p. 337.
[2]) I. A. Nederburgh, "*Kol. Tijdschr.*" May 1929, p. 275.

ical explanation has therefore not always harmonised with the sense of justice inspired by Adat law. On the other hand, it has brought a constant factor into agrarian relations, although it has disturbed as little as possible the enjoyment of Adat rights by the inhabitants of the land. And the imperceptible entrance of the element of uncertainty, which otherwise might have been expected as a result of the wearing away of the right of supreme dominion, has been prevented. Because the phases of this process cannot always be clearly detected while they are at work, it might have proved difficult to provide for the vacuum created. But apart from the theory of the declaration of state ownership of the land, which now strikes us as somewhat archaic, in its application continual attempts have been made to satisfy to the full the sense of justice of the people by giving a fair amount of care to the concrete interests involved. We shall return later to this question.

Declarations of state ownership

The principles laid down in the Agrarian Law of 1870 were worked out for Java and Madura in a royal decree (Stbl. 1870, 118), the so-called Agrarian Decree. For various parts of the other isles, ordinances were made in agreement with the same principle (Art. 20 Agrarian Decree), while regional regulations were made for settling Indonesian rights to the land (see i.a. Stbl. 1915, 98 for the West Coast of Sumatra; 1918, 80 for Manado, etc.). The Agrarian Decree begins by maintaining in article 1 the principle that all land to which no title can be proved is the property of the State. It explicitly, however, maintains Indonesian land rights upon that property. Interpreted literally, this clause would proclaim all land, even the fields and gardens of the Indonesian population, to be state property. For however one wishes to circumscribe the various ground rights of the population, they can in no case be made equivalent to Western property rights.

Essentially, this declaration of state property had no such intention. In the case of cultivated land and homesteads, it is no more than a phrase. It aimed rather at providing more unmistakable and active ownership of the wild land of which no single portion would remain no man's land any longer and could be conciliated with the widest as well as with the narrowest interpretation of the rights of the population, including the right of supreme

dominion. One might distinguish between the so-called free domain, which could be freely disposed of by the Government to anybody, Indonesian or non-Indonesian, and the tied domain, where Indonesian land rights which had to be respected in virtue of the law were exercised. It depended what rights one was prepared to recognise. The Agrarian Decree does not seem to give a clear answer. As we have shown before, its articles 6 and 9 could be used as the basis for two different points of view. Those who recognised the Adat right of supreme dominion to its fullest extent would therefore exclude the whole length and breadth of all village circles, i.e., practically the whole of the Indies, from leasing by the Government. Those who denied entirely or in part the rights of the population to the wild land, either from the conviction that these rights should be curtailed in accordance with the criterion of utilisation contained in Bijbl. 377, or upon the ground of state sovereignty, setting out from the consideration that rights of supreme dominion of village states were inadmissible in principle, and, interpreting them therefore merely as interests, wanted to include this wild land altogether or in the main within the domain at the free disposal of the authorities, without, however, attempting to disregard the concrete interests of the population. It was not until 1874 that the interpretation to be given to the declaration of state ownership of 1870 was clearly formulated.

There have been other declarations of state ownership. In Stbl. 1875, 199a, this declaration was made applicable to government lands in the other isles. Stbl. 1874, 94 f., 1877, 55 and 1888, 58, repeated the proclamation of state ownership for, respectively, the government lands of Sumatra, the Residency of Manado, and the Residency of Southern and Eastern Borneo [1]). But these three declarations of state ownership only referred to wild land, of which the destruction (especially of forests) through reckless reclamation or the bartering away to non-Indonesians after various experiences made in this respect was quite rightly feared. The declarations of these three ordinances [2]) concerning cession of land

[1]) G. J. Nolst Trenité: *Inleiding tot de agrarische Wetgeving van het rechtstreeks bestuurd Gebied van N. I.*, 1920.

[2]) The separate ordinances for long leases for the other isles were replaced in 1914 by a General Ordinance for Long Lease in the other isles, *Stbl.* 367, and modified by *Stbl.* 1918, 472; 1923, 358, and 1927, 131. The domain stipulation was preserved.

on long lease differ from the general declaration of state ownership, because they leave out reservations touched on in the case of Java by the Agrarian Decree and declare all wild land to be state domain without exception, unless members of the Indonesian population exercise upon it rights derived from the right of reclamation. They recognise for the future also a right of reclamation, rules for which are given separately as regards Java and various districts in the other islands. But in theory they brush aside all rights that can be deduced from the village right of supreme dominion as obstacles to the exercise of the supreme government right of domain. They exclude from right of disposal by the Government only those parts of wild land which have already been reclaimed. All the restrictions made in the Agrarian Decree, or in Stbl. 1888, 58 or in Art. 7 of the Sumatra ordinance in favour of the population, could from that time have no other meaning than that of permitting free disposal of these wild domain lands, provided concrete interests of the population were respected. It was not, according to these various regulations, permissible to give on long lease lands upon which Indonesians exercised rights, or which were in constant use, or which, according to popular institutions, were considered sacred or were put apart for use as meadows. It was also not permissible to lease rivers upon which the population had fishing rights, or trees and plantations upon which the population had rights of use. In the Agrarian Decree (but not in legislation after 1874), one still finds material which might allow one to draw the conclusion that there was perhaps an intention to recognise the Adat right of supreme dominion as being more important than the government right of domain. Prof. van Vollenhoven interprets the Agrarian Decree of 1870 in this sense. This can to a certain extent be made acceptable, although Art. 6, which is decisive for the delimitation of the range to be given to cession on long lease (Art. 9), stipulates that the territory of the Javanese commune consists of rice fields and of other communal lands, which are in constant use by the members of the commune to the exclusion of members of other Indonesian communes, and of lands which the Governor-General adds to them with a view to their need of expansion. It all depends once more upon what one understands by continual use. If there appear to be various grounds for taking this terminology in a more limited

sense, the limitation was soon fixed without any possibility of misunderstanding in the ordinance for reclamation in Java.

The village territory and the right of reclamation

In 1874 (Stbl. 78), Artt. 2 and 6 of the Agrarian Decree [1]) were cancelled and Art. 7, which required rules for reclamation outside the circle belonging to the commune, was replaced by the provision which laid down that rules would be made concerning the right of Indonesians to reclaim lands which did not belong to the villages either as communal grassland or for other reasons. A definite interpretation of what was the village territory was given by ordinance [2]) for Java and Madura. Communal grassland was henceforth to mean the land which had been put aside for that purpose for the exclusive use of one or more villages. Land belonging to the village for other reasons was taken to mean land which had been reclaimed by Indonesians for their own use and which they had not left derelict, as well as homesteads, roads that were maintained by the village, sacred grounds, burial grounds, the lands of mosques and all open places and public buildings inside the inhabited part of the village. For the reclamation of any land outside that which has been enumerated, and therefore considered to be free state property, the population would require a licence from the administration. Other articles of this ordinance (or, for the other islands, the regional agrarian regulations) give rules to be adopted when granting these licences; they stipulate what authorities, what formalities have to be observed in registration, the withdrawal of the licence in case real reclamation does not take place within two years, what boundaries have to be placed as well as the prohibition of transfer to non-Indonesians, etc. Once these conditions had been satisfied, the reclaimer was considered to be the hereditary individual owner of the land. Not infrequently, however, the Adat sphere continued calmly to maintain its right of supreme dominion upon such freely held

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[1]) Containing the obligation to investigate and write down Adat rights to land and water and to delimit the village territory, a requirement which was not yet considered capable of execution.

[2]) *Stbl.* 1874, 79, later replaced by *Stbl.* 1896, 44. Cf. also *Stbl.* 1925, 649; 1928, 340, and *Bijbl.* 5086, 6745.

land, and this was sometimes mistakenly considered to be a usurpation on the part of the community.

Whatever one may think of the phases of agrarian legislation since 1854 and whether one considers this reclamation ordinance of 1874 for Java and those of 1874 and 1877 (cession of land on long lease and declarations of state property) for the other islands as the decisive steps upon the road which perhaps had been trodden with some hesitation in 1856, or whether, as other people prefer, one still considers that the principle to maintain Adat rights ascribed to the legislation of 1854 continued to work till we reach the Agrarian Decree of 1870, or whether finally the theoretic incorporation of wild land within the range of the right of supreme dominion of villages within the free state domain can be justified legally or not, from the point of view of Adat law the decision taken in 1874 in the reclamation ordinance, and confirmed later, was going too far and it seems impossible to conciliate it satisfactorily with the preceding legislation. This legislation, indeed, would seem to have so far preserved a more conciliatory attitude toward Adat institutions and to have recognised Indonesian rights upon wild land [1]). In 1874, therefore, it seemed, the pendulum of the agrarian timepiece was swinging too much in one direction.

It should not be thought, however, from the wide acceptance of the principle of state property since 1874 that the Java reclamation ordinance, and the long lease ordinances for some parts of the other islands, were meant as a means by which the interests of the population in unreclaimed land could be disregarded altogether. Dutch agrarian policy can boast that its practice does not essentially differ from that of a policy without declaration of state ownership of the land and without reclamation ordinances. It has respected existing rights in the shape of concrete interests. Prof.

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[1]) Meanwhile the Government of the Indies has declared in the so-called Domain Note (included in the explanations of the Agrarian Regulations for the West Coast of Sumatra, 1916) that the legality of the domain declarations is above all doubt, that the State is the owner of uncultivated lands, and that the population has no rights other than those of reclamation and collecting although there may always be a question of taking into account its interest. The so-called rights of the population are state rights which have no private-law character, with the consequence that the exercise of these rights eventually can be left to local communities but these rights nevertheless rest with the highest authority, the Government, which can at any time once more fully exercise them. Cf. also P. M. Letterie and W. de Keizer: *Agrarische en daarmede verband houdende Regelingen voor het rechtstreeks bestuurd Gebied der Gewesten buiten Java en Madoera*, 1924, p. 5.

van Vollenhoven, who, more than any other Adat scholar, has sharply criticised the theory adopted since 1874 and whose work[1]) was on that score even provided with the sub-title "a century of injustice" and "half a century of injustice", declares in his preface,

> "These grievances are not levelled against the will and intentions of the East Indian Government. Its intentions in its agrarian legislation are disinterested and can fully bear the light of day. The tendency of its agrarian policy is above board and above suspicion".

His objections are levelled at the form in which the Government realised its good intentions. He adds (p. 53),

> "In the course of the last fifty years all parties concerned have been averse from any attempt to cloak earlier injustices. If the domain principle is still valued in relation to Indonesian agricultural land, this is quite apart from all historical considerations, for the sake of security, of justice, and of order. It is never done for interested ends. Experience has shown, we are told, that agrarian legislation has contributed to the establishment of regularity".

The Professor, naturally, does not see his way to make his personal views agree with this conclusion. Finally he says (p. 121),

> "It can still be said that the direction and the aim of our agrarian policy is free from all blemish".

Agrarian policy and social development

The objections made in our case by an illustrious scholar like Prof. van Vollenhoven, and in the case of other colonial Powers by authors dealing with other colonial territories, against the application of the idea of domain, based upon considerations of private law, in order to enable the Government to fulfil its sovereign function, rest upon views which deserve serious attention and are being duly studied by the Government of the Indies.

It is said by the critics of the theory of state ownership of land that every colonial government can justify all intervention, regulation, and control, so far mistakenly based entirely or partly upon a basis of semi-private law, by its responsibility for the prosperity and for the future of the indigenous population entrusted to its care. Moreover, the way of fighting unsatisfactory agrarian conditions upon a basis of private law cannot always be sufficient-

[1]) *De Indonesiër en zijn Grond.*

ly successful. The authorities, therefore, have from time to time to climb upon their official chair in order to regulate the course of affairs by ordinary prohibitive legislation (see for instance Stbl. 1912, 177 together with 1917, 497, Art. 6 No. 196). Even without a declaration of state ownership, the critics continue, the authorities would be able to prevent the Indonesian from recklessly dispossessing himself of the land in favour of more sophisticated outsiders, or to collect land rent, or to demand for themselves the right to share in the decision as to granting reclamation to Indonesians coming from outside the village circle. They could prevent also predatory cultivation and thoughtless deforestation and even, it would appear, they would have the fullest right to make rules concerning the reclamation of land by members of the community itself within the village circle of supreme dominion, in which regulations the authorities could as far as possible act in agreement with the interested parties.

All this and even more would perhaps be possible. But it is fair to recognise that in 1870 the East Indian and many other governments were still in an era when the idea of state property in land seemed the most natural thing in the world. Also, it is not possible at present to predict with any degree of certainty the consequences of such a change, and therefore we can understand the hesitation of the responsible authorities when dealing with proposals amounting to a sudden abandonment of methods which have been practised for many decades and whose corners have been considerably worn down by use. It would, moreover, be expecting too much if one believed that any other method, even if it answered according to Western Adat scholars to the Adat conceptions of rights on land and water, would more completely satisfy the Indonesian sense of justice. With or without declaration of state ownership, with or without the grant of long leases, it always remains fundamentally the same old problem, the re-shaping of small, isolated, self-contained, and independent communities into members or cells of the greater organism. The sovereign or semi-sovereign character of these attributes of ancient village states does not matter much in this connection; they are not what concerns us in the first place, even though these questions of sovereignty may sometimes have mattered in the eyes of the Government when it took its decisions.

What is really important is that a unified society and an organic unified State should be formed. This is a process which must develop inevitably as a result of the spirit of the time, and which the colonial authorities must favour whether they will or not. Old functions and organs, indispensable to small isolated village states, are visibly disappearing. Others are modifying themselves into functions and organs that fit the connected cell which no longer gravitates around its own axis as a freely moving miniature organism. Even if one wishes to leave to the village all functions of government, including justice, nevertheless one cannot allow it complete freedom in these matters. If the village has to be developed by education, care of public health, of cattle, agriculture, and popular credit, again and again threads must be drawn tighter and connections consolidated, by which these reluctant social organisms are deprived of the liberty of the good old days of isolation.

The same thing applies to agrarian situations. The special character of the right of supreme dominion may cause us to hesitate before we declare that the considerations of the previous paragraph must also apply in this connection. According to some people, after all, this matter belongs exclusively to private law. But we cannot admit such a limitation. Private law or not, there can be no question of imposing the duty of abstention upon the authorities, because the interests and the problems which present themselves go far above the restricted sphere of Adat law, and cannot be made to depend exclusively upon the rules of Adat and of local lights. Such an abstention in any case is not recommended by anybody.

All parties want the authorities to decide or to share in the decision on agrarian matters. All parties demand that all measures taken in order to prevent the formation of landless proletarian millions shall be maintained. They all want to prevent reckless deforestation or predatory agriculture. Nobody wants to perpetuate sterile emptiness of an almost immeasurable area of fertile wild land, and there is nobody who does not want to change the immense surfaces of unoccupied territory into flourishing agricultural landscapes. But it should be remembered that even if for the realisation of these aims one method might have been preferable to the other, the intervention of the authorities would not have

been received with approbation by the population upon any basis whatsoever, while the idea of public domain, which to us seems somewhat medieval, would seem to be the most acceptable in any truly Eastern environment. We do not intend to recommend the method of the domain above all others, or to condemn it more than any other. It is entirely possible that the Government will eventually give it up and once more recognise as rights what it now recognises as only interests of the population. In that case it will relinquish its present position of leadership without, it would seem, being able to recover it by any other method. To do so will require the placing of full confidence in the understanding of the village population.

Meanwhile, these small circles in which only very gradually co-operation with the authorities in the interest of public health, credit, education, agriculture, and cattle improvement is beginning to show itself are still not very sensitive to the necessities of their own development, and still less so to those of the wider sphere outside. Whatever basis is adopted, interference with the right of reclamation is bound to create irritation, and expropriation, although always against indemnification and for the common good, after negotiations have failed, will make the intervention of the authorities less popular than the present system of long leases after a common deliberation and investigation into the interests of the population.

At present, notwithstanding this theoretic fulness of powers in granting rights upon the so-called free domain, the lord of the domain (the Government) tolerates no neglect of the interests of the population. This conduct assures reasonableness and co-operation on the side of the population, which has on the whole more reason to entrust the defence of its interests to administrative officials than to its own heads. But when these interests are recognised as rights, the point of gravity is changed. The consultation which now takes place (Stbl. 1911, 265) would have to take place under entirely different conditions. In case of unwillingness or unreasonableness, expropriation would be a way out, which, however, would not be chosen willingly because the Government would have to accept the consequences of its recognition of the Adat law of land ownership as the basis of its agrarian policy for the future. The Government would become a passive umpire

rather than an active leader. At bottom, the question is one of confidence in the reasonableness and the honest intention of the Government and the administration on the one hand, and on the other the understanding of the population and its heads of the real interest of their small communities and of the East Indies as a whole. The tutelage so far exercised seems rather to be a consequence of a justified doubt as to this understanding than to be inspired by any other motive. It is a question difficult to answer whether interference on the part of the authorities can be made more acceptable to the population by giving up the actual interpretation of the domain doctrine.

It may appear right and fair to us to recognise the village right of supreme dominion and to ally it to supervision and interference on the part of the Government. In the case of expropriation for the general good in order to grant lands on long lease, even this is a doubtful question. But the population will think differently about it, just as it still thinks differently about our schools and our methods of fighting the plague. Meanwhile, it appears in this, as in other cases, that the solution which can give the largest amount of common satisfaction to all parties is the acceptance of the practice which entrusts matters to a paternal local government rather than the dogmatic and literal observance of the law [1]). As regards the Dutch East Indies, all parties now-a-days do homage to the beneficial influence of the administrative official, who is able as a rule to protect the rights of the population and will continue to protect them, while the Government is ready, quite apart from considerations as to the desirability of preserving the existing basis, to continue to meet the sense of justice of the population in every concrete instance [2]). In practice, the domain declaration tends to cover, even so far as wild lands are concerned, only that which remains after all concrete and therefore duly established interests of the population have been satisfied [3]).

[1]) Cf.P.de Roo de la Faille: *Het Sumatra's Westkust Rapport en de Adat*, 1928, p. 34 *sqq.*

[2]) In this way for instance the practice has been adopted of reserving a circle of uncultivated land round the Indonesian communities for their future development, while these communities can themselves regulate the right of reclamation for these circles that have been taken out of the free state domain. This reminds one of article 6 of the Agrarian Decree.

[3]) For a description of the solution of the agrarian problem in Nigeria where the idea of domain has been replaced by that of nationalisation, cf. Temple's previously quoted work, p. 143 *sqq.* Needless to say in this case too many a reader may feel objections against the solution adopted.

Security of rights on land and the prohibition of alienation

In the 'sixties already, attempts were being made to introduce more order and security into agrarian conditions in favour of the population. The intention of elevating indigenous individual rights of possession into Western rights of property points in this direction. It was a well-meant effort, but, as we have seen, it was before its time. It had been arrived at without envisaging the fact that the individual right of possession was in various respects subordinated to the collective right of supreme dominion held by a social group. The good idea, however, of providing a better guarantee for Indonesian land rights and of securing the development of free disposal by the individual possessor of rights to the soil continued to draw sympathetic attention.

The Agrarian Decree contained a few useful articles upon this matter. Art. 2 required the codification of the customary rules governing Adat rights on land. It ran as follows:

> "The rights of the Indonesian population to the land, according to its religious laws, institutions, and customs, are circumscribed as far as necessary by general ordinance",

etc., while the investigation of the land rights of the population would take place according to rules to be fixed by the Governor-General, as long as this definition had not been made.

Art. 6 required the delimitation for each Indonesian commune of the lands that belonged to it. Both articles were withdrawn in Stbl. 1874, 78, and in Stbl. 1874, 79, an enumeration of communal land was given in connection with the regulation concerning the right of reclamation, which really ran ahead of future investigation. Art. 3 of the Agrarian Decree furthermore offered an opportunity to Indonesians who wanted a written title for their hereditary individual claim to the land to acquire such a written proof. This stipulation was, at any rate in the case of more progressive agricultural districts, useful, and it had still greater claims to wisdom, because it apparently aimed at securing land rights as they existed. Art. 4 further required a more detailed regulation of the voluntary conversion of the hereditary individual possession into property. This injunction therefore ran parallel with a development under the influence of which communal right of supreme dominion or of interference with individual rights is wearing off;

it places the individual who holds a title to the land in a position which does not differ in principle from that of a Western proprietor. The institution of special titles to landed property for Indonesians, which was established some years later, had the advantage of preserving various ties between the individual owner of land and his community, and saving in this way from complete Westernisation rights in property that had become free. In other respects, however, this endeavour, excellent in itself, had too much red tape about it. The difference between Indonesian property and Indonesian individual right of possession consisted mainly in the acquisition of a written proof and in registration of rights to land. The old social connection, however, still continued to exist in the case of such land and its owner. It was only the village right of supreme dominion upon such land with all the drawbacks resulting therefrom that was definitely abolished, at the same time as the government right of domain.

In Stbl. 1872, 116, further regulations were made for the grant of long leases and at the same time Art. 3 was withdrawn. Stbl. 1872, 117, attached the written title that had been promised not to the hereditary individual right of possession, but to that right after it had been converted into Indonesian property [1]). This change does not seem to be an improvement, because it made the useful institution of registered titles, the need of which was already felt, though not yet extensively, dependent on conversion of existing rights into a legal form of Indonesian property that was not yet understood, and for which, in all probability, there existed at that time no need whatever.

Art. 18 perpetuated for the Indonesian owner his obligations towards the State and the Indonesian community, such as taxation and the rendering of services, which rested upon the land. Art. 19 of this regulation prohibited, in regard to this Indonesian right of property, the alienating of land to non-Indonesians. This was a restriction which was once more explicitly laid down in Stbl. 1875, 179, with regard to hereditary individual right of possession in government territory in the whole of the Dutch East Indies. Mortgages may be arranged upon registered Indone-

[1]) For the regulation of the registration and transfer of property and the registration of mortgages on lands acquired by Indonesians in accordance with the stipulations of *Stbl.* 1872, 117, see *Stbl.* 1873, 38.

sian landed property, but in case of execution only Indonesian buyers can be admitted. The same thing applies to a form of credit created at a much later date (Stbl. 1908, 542) in the interest of specifically indicated philanthropic credit institutions.

One of the basic supports of East Indian agrarian policy is concerned here. These stipulations preclude even Dutchmen and Chinese born in the Dutch East Indies from the acquisition of land owned, possessed or used by Indonesians. Thanks to them, the Government has preserved the Indonesian inheritance, while, moreover, it has secured its considerable expansion in favour of the indigenous peasant by liberally granting the exercise of the right of reclamation. This one fact by itself, which means that in the Indies the Indonesian is practically the lord of almost all arable land, sufficiently vindicates the policy that has been adopted, even if in other respects judges who are able to pronounce a fair opinion may not always agree with certain of the theories that have been proclaimed, about which the Government itself by no means adopts an attitude of infallible authority [1]).

Communal land and the future

In the 'sixties already, attention was drawn to the disadvantages inherent in so-called communal possession. In Java a periodical re-distribution of the village land was, or had once more become, customary. This did not make it natural for the peasant to give special care to his land. After all, at the next re-distribution, another villager might profit by improvements and manuring which one had made to one's liking. A distinction was made between communal possession with periodical re-distribution and with fixed shares. In the latter case, the situation, apart from inheritance, differed little from the individual right of possession, which was also more or less limited by communal rights. The authorities wanted to encourage the conversion of communal possession into individual hereditary possession; while the latter could then in its turn be transformed into Indonesian property secured by a registered title deed. In the East Indies any kind of compul-

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[1]) We have already mentioned in passing the fact that the Government is investigating the possibility and desirability of an eventual recognition of the Indonesian right of supreme dominion. In 1928 a Commission was appointed to find out whether it was desirable to give up the domain principle as a basis of agrarian legislation.

sion and even of regulation was disliked, and it was considered that this conversion ought to be left as far as possible to the initiative of the population. The States General, however, insisted upon the regulation of this matter, which they considered indispensable to the development of the population.

In 1885 (Stbl. 102) a regulation for the conversion of communal possession was brought in under this pressure. Whenever at least three-quarters of those entitled to village land expressed the desire for it and approved of the projected definitive division, the conversion could take place. In practice this artificial transformation proved insufficiently adaptable to the Adat sphere. The periodical re-distribution practically everywhere fell naturally into desuetude, and in that case the gradual emancipation of individuals and their rights to land usually allowed a few valuable expressions of the more modest village right of supreme dominion to persist. The villagers were not yet sufficiently individualistic to become enamoured of a free individual right of possession, ready to be converted into registered property, as long as the old communal connection and its expression still meant something to them. Meanwhile, since 1900, communal possession everywhere has been well on the way towards disappearing [1]). Similarly its later form, the collective right of supreme dominion, which one used to meet throughout the Archipelago, is wearing off under the influence of the greater need of freedom and independence, which is in its turn the result of traffic, money economy, education etc. It may be noted that this conversion regulation apparently has for starting point the view that communal land possession was rather a common possession of the villagers who were going to divide their common goods. Some doubt later on arose upon this point. The communal government ordinance for Java and Madura (Stbl. 1906, 83) decided that it was a matter of municipal possession of lands belonging to the Indonesian legal community, which according to the rules of Adat had to divide them among the agriculturists entitled to a share at periods varying usually from one to five years, in so far as the attribution of a definite piece of land

[1]) J. van Gelderen: *Voorlezingen over Tropisch-koloniale Staathuishoudkunde*, 1927, p. 32, notes that in Java seventy-five percent of the arable land is in free hereditary individual possession, fourteen percent is communal possession with fixed shares and only five percent is subject to periodical re-distribution. In a few years' time therefore the natural conversion will have been achieved.

for the duration of their life had not become customary among the villagers [1]). In the latter case, the village could only recover the disposal of a piece of land in case of death or removal from the dessa, or of the retirement in some other manner of the member from the community.

The conception accepted since 1906, according to which communal land is the property of the commune (Bijbl. 6576), cannot easily be argued into agreement with Adat law. The term communal possession, which previously had been recognised as common use, dates from the time of the previous conception and does not agree with the new one. Nevertheless the old conversion regulation of 1885, which really related to common and not to communal land, has been perpetuated. It is, however, no longer a division of an undivided community of landed property, but rather an alienation of communal land to the agriculturists of the commune who are entitled to a share. Meanwhile, Adat law goes its own way outside the constructions of common and communal possession, and the Government, wisely preferring the tactics of administration to dogmatic legislation, does not interfere. At a given moment Adat, without having recourse to the rule of 1885, puts an end in its own unsophisticated way to the periodical re-distribution, usually in order to prevent the fragmentation of the soil as would result from the distribution of shares to all members of the ever increasing village population, and it silently approves of the transfer of a definite piece of land to the eldest son of a deceased villager [2]). In this way hereditary individual possession has come in the course of the last decades to be established among Indonesians. And it is further encouraged by the grant of Indonesian right of possession on the part of the Government (Stbl. 1916, 369) and by reclamation of wild land.

This Adat conversion of communal land into hereditary individual possession, which is sometimes characterised as Eastern property, in practice affects only agricultural land. Homesteads and gardens have usually remained outside the communal sphere.

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[1]) In view of the fact that at re-distributions, the village headmen not infrequently favoured their friends and abused their power, this was all the more reason to encourage the transition to hereditary individual possession.

[2]) See the final report of the investigation into dessa autonomy in Java and Madura, 1929, p. 24—28 and article 33 par. 2 (p. 76, 78) of the draft ordinance which it contains.

In normal circumstances and under the ordinary village right of supreme dominion, they have been the first to withdraw from its influence, although it would sometimes re-assert itself, especially in the case of abandoned habitations inside the village. The communal government ordinance for Java and Madura of 1906 apparently adopts a point of view which more or less favours collective possession in the form of communal land capital. This is by no means a retrogressive attitude as it is based upon the wish to consolidate village autonomies which are developing in a modern direction, and to make them economically and financially stronger by giving them property of their own. In so far as this wish finds expression in the cession of free domain land to the commune (see for instance Bijbl. 6535, 6536) with the intention, not of re-distributing this land among the villagers, but of making it pay, for the benefit of the village exchequer, this is no doubt a useful move, which will facilitate the transition of the old mystical connection into a modern rational municipal organisation.

The same results apparently may be expected from the attribution of adequate agrarian circles [1]) where the Indonesian community itself regulates the exercise of the right of reclamation. This method fits in with Adat law, but seems rather less adaptable to the needs of future development because the progress of reclamation by individual members of the community eventually would deprive the community of its land capital. The great question is whether the wearing off of the right of supreme dominion and of the old mystical connection which disintegrates into individuals who freely dispose of their land should not be compensated by a separation of goods between the community and individual members. Such a separation would run ahead of the existing communal sense and would in the interest of the village exchequer reserve some land in the non-cultivated areas as a basis for cementing the urgently needed forces of the future. It is of special significance that the Government has apparently been thinking of these needs of the future, and we must certainly appreciate it even if arable lands had better be kept outside this modern communal sphere.

[1]) See Agrarian regulations, i.a. art. 2, par. 1 *sub* B and par. 2 of *Stbl.* 1925, 353, for South Sumatra. See also Logemann and Ter Haar in "*Ind. Tijdschr. van het Recht*", vol. 125, fasc. 5/6, p. 456, 457. Also Nolst Trenité, *Inleiding tot de Agrarische Wetgeving*, 1920, p. 66, 67. See also the Recommendations of the Commission of the West Coast of Sumatra, in Vol. III of its report, p. 60 sqq., 71.

The Government naturally cannot always fit itself perfectly into Adat law when taking such steps, because Adat law would always, apart from some formalities, give to the members of the community the free disposal of the land by granting them rights of reclamation.

Private estates: Rent of arable land in Javanese states

It may be mentioned in passing that apart from the Indonesian land rights which have already been described, mention is also made of the so-called cultivation right. This right exists in private estates, the owners of which have some seigneurial rights. The regulation for such estates to the west of the small river Tjimanuk (Stbl. 1912, 422 modified 1922, 546; for those to the east of this river see Stbl. 1880, 150, modified 1913, 486) calls this right a hereditary lease right. It is a less solid right than the Indonesian right of possession. It can, for instance, become void if the land is grossly neglected. A judicial sentence is necessary for this (Art. 13). In view of the fact that these private estates which are only found in Java are gradually being bought back, the agrarian relations which are inherent in these out-of-date seigniorial manors will have become normalised within a brief period [1]). The total area of these estates, in 1929, was 348,379 Hectare.

The same thing applies to the right of cultivation in the Indonesian states of Java, where there seems to be an Indonesian right of possession weakened by the power of the Rulers. In the East all land belonged in principle to the Ruler, but in these states the theory had become a reality. The population held its right of cultivating its fields only so long as the Ruler left it this right. It had to render counter services by taxation in kind and by forced labour, either to the Ruler or to members of his family, his favourites, or officials whom he had presented with appanages. These appanages were often again sub-let, since 1870 mainly to European sugar enterprises. Only Europeans formerly were admitted to this renting of arable land. A regulation for the renting of land in the Javanese states was published in Stbl. 1906, 93, and had

[1]) See data and figures in annual Colonial Reports presented to Parliament. See also Communications of the Government, Jan. 1920 and May 1928, which show how far progress has already been made in this direction.

For the procedure of expropriation, see *i.a. Stbl.* 1912, 480 and 481, and 1913, 702.

been preceded by a whole series of older regulations (i.a. Stbl. 1857, 116; 1884, 9). Care was taken in particular to secure the interests of the population by administrative supervision and interference.

In these Javanese states the leader of the European enterprise acquired some seigneurial attributes in virtue of his rent contract. He became entitled, for instance, to services by the occupants of his lands, which was an exceptional situation looked upon by the Government with as little sympathy as it felt for the seigneurial rights of landlords in the private estates dating from the days of the Company and Raffles. Here again, it was an extremely difficult task to modify situations that agreed so entirely with the ancient feudal relations in the states of Java. Since 1912, however, this work has been started which is now well-nigh accomplished. It is a really magnificent reform [1]) which has given a new existence to thousands of Indonesian communities and adequate agrarian rights; while the appanages and so on have disappeared. The European sugar and tobacco enterprises, as a rule after having voluntarily given up their rent contracts or, when they refused to do so, after the expiration thereof, were thenceforth established upon different bases as laid down in the regulation for the renting of arable land in the Javanese states (Stbl. 1918, 20; 1925, 264; 1928, 242; see also Bijbl. 9029 and 9244) [2]).

Compulsory labour, after a brief period of transition, was replaced by free labour. The enterprises, which, under the new regulation (Stbl. 1928, 21) are given a longer lease than the former system of renting of arable land acknowledged, now pay compensation to the villagers for the use of the land. Every ten years this amount must be revised. Measures have been taken so that great interests shall not suddenly find the soil mined under their feet. Therefore, in exchange for their renunciation of old seigneurial rights, they have now been given rights for a duration of not more than fifty years, which means that they can count upon a long enjoyment of the land they have rented. Afterwards, however, this certainty can no longer be guaranteed. The villagers who have now acquired solid rights of their own will be entirely free to dis-

[1]) See Communications of the Government March 1921 and April 1924, for data about Reforms of Social and Agrarian conditions in the autonomous States of Java.

[2]) See *Toelichting der nieuwe Regeling omtrent de Verkrijging van Gronden voor Landbouwdoeleinden in de Residentiën Soerakarta en Djokjakarta* (Landsdrukkerij, 1925).

pose of their lands as they wish. The special duration which has been mentioned must therefore be considered as an exceptional compensation for relinquishing rights formerly acquired which are not in tune with our time. All other enterprises which did not enjoy such rights are already working upon the same basis of a free lease from the population as exists outside the Javanese states. After the complete execution of the reforms, members of all groups of the population will be admitted as holders in return for rent. The area of the lands hired in 1929 from the Princes was 71,450 hectares.

Disposal of domain lands

There is no need to give detailed data concerning the disposal by the Government of so-called free domain land, which is the land upon which no recognised Indonesian rights are exercised. This land is given to members of all groups of the population under diverse titles borrowed from Western civil law (freehold, long lease, building lease, rent, etc.). Small plots of not more than ten bouws only are sold or ceded in freehold, provided there is no infringement of the rights of the Indonesian population, for instance upon reclaimed enclaves in such a piece of land (Bijbl. 3020). The right of building upon plots of not more than ten bouws and for not more than 30 years may also not be allotted in regard to land upon which such Indonesian rights of possession are exercised, unless these rights are voluntarily relinquished (Stbl. 1872, 124; 1875, 180) [1]).

The same applies to cession on long lease, which must always be preceded by a careful investigation of the rights and interests of the population (Agrarian Decree; see also Stbl. 1913, 699 for Java and 1912, 362; 1914, 367; 1918, 472; 1923, 358; 1927, 341 for the other islands). The area of plots to be allotted upon request or to be offered publicly has been limited, apart from exceptional cases, in Java to not more than 500, and in the other isles to not more than 5,000 bouws. For these after the first six years, an annual quit-rent of 1 guilder or more per bouw is collected in Java and in the other islands a quit-rent of not more than 1 guilder [2]).

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[1]) See also art. 7 *Stbl.* 1905, 515; 1912, 178; 1914, 604; 1918, 649; *Bijbl.* 9120.

[2]) The Government is considering what action to adopt after the expiration of long leases. See Lekkerkerker *op. cit.* 1928, p. 40 *sqq.*

For mining enterprises, we need only refer to the East Indian mining law (Stbl. 1899, 214) and to the mining ordinance (Stbl. 1906, 434). In 1879 (Bijbl. 3438) a mining fee was accorded for the West Coast in favour of the Indonesian community, which had a right of supreme dominion in virtue of Adat law, and whose rights the Government wanted to acknowledge in this way. In 1905 (Bijbl. 6260) the decision of 1879, which in fact implied a recognition of the right of supreme dominion as a legal right, and which was, therefore, in conflict with the established doctrine, was withdrawn. This is an interesting instance of the dilemma: supreme dominion of villages or of the State.

For small agriculture and for gardening it is possible throughout the Indies to apply for the cession of small pieces of domain land to an extent of 25 bouws on 25 years' lease (Stbl. 1904, 325, 326). This is a facility very useful to Indo-Europeans who usually have little capital at their disposal. It must be said that these people who, no less than the Indonesians, are natives of the country, in agrarian matters have really been treated in a niggardly way in comparison with the Indonesians. This fact alone is sufficient to show to what degree Indonesians have become the pet children of the Government in its agrarian policy.

In the Indonesian states of the other islands, where the greatest possible care is taken to respect the rights of the population, the Rulers are, among other things, entitled to grant agricultural concessions provided they are approved by the regional administrative chiefs (c. f. the various contracts with these Rulers and the Indonesian States Rules). Forms for such grants have been drawn up by the Government (Bijbl. 4770) [1].

Some twelve hundred enterprises have found a decent security for their investments in the other islands upon the basis provided by these arrangements (long lease or concessions). They occupy a surface of almost 1,608,000 hectares, which, being less than one per cent of the area covered by the islands outside Java (1,766,181 sq. K.m.), is but an insignificant part of the waste land available (see table 196, Statistical abstract 1929). It has sometimes been pointed out that the Rulers of Indonesian states are able to place

[1]) See *ibid.*, p. 175 *sqq.* for the model act of concession of 1892 among the appendices. See also for data about Indonesian States the Government Chronicle and Directory 1931, p. 327 and *Agrarische Regelingen voor de Zelfbesturende Landschappen in de Gewesten buiten Java en Madoera* (*Landsdrukkerij*, 1919).

at the disposal of agricultural enterprises plots of unreclaimed land without having recourse to a declaration of state ownership of waste land. This is taken to prove that in the territories directly administered by the East Indian Government the doctrine of domain could also be dispensed with. It is a point which deserves attention, but which cannot be accepted without further proof. Rather one should say that the Ruler of an Indonesian state implicitly bases himself upon the right of domain, as was in practice the case, even in government territory, before 1870. Vigilance over the rights of the population has therefore been deemed as indispensable in these small states as in government territory. Indeed, the absence of a formulated doctrine of domain by no means implies the inviolability of Adat institutions in the eyes of the Rulers.

Long leases in the Indonesian states of the other islands have been separately regulated in Stbl. 1919, 61 (see also Stbl. 1921, 453; 1927, 191). It is intended to replace concessions by long leases. With these general data, which can be completed with the assistance of the summary given in the previously quoted work by Prof. Kleintjes (Vol. II, p. 437—504) and of the literature that has been indicated, we shall have to be satisfied for the present. Indeed, the extensive regulations with which we are concerned here, however important they are in themselves, would carry us too far away from the Indonesian society to which this book is exclusively devoted. For this reason we shall only give our attention to the letting of arable land by Indonesians to non-Indonesians in government territory, a possibility which results from the Agrarian Law of 1870.

The renting of arable land to non-Indonesians

This law prescribed a further regulation of this matter by general ordinance. In 1871 the ground hire ordinance was published for government territory in Java and Madura [1]) (Stbl. 163, replaced by the regulations of Stbl. 1895, 247 and later of Stbl. 1900, 240), which became the basis of the sugar industry outside the four states of Java [2]). The renting of land in heredi-

[1]) For the other isles see *i.a.* the various agrarian regulations in *Stbl.* 1915, 98; 1925, 353 etc.

[2]) See in this connection the report of the *Suikerenquête-Commissie*, 1921.

tary individual possession was initially allowed for not more than five years, and later twelve years (Bijbl. 5520); that of a share in communal land for the duration of the allocation of this share, and initially at the most for five (later six and a half) years. The introduction into the contract of a stipulation as to renewal of the rent after expiration of the current contract was forbidden. The agreement had to be made in writing and in two copies, according to a prescribed model, and had to be signed by the renter and by the official in whose presence the act was drawn up, as well as by two members of the administration of the dessa, who were present in the capacity of witnesses. The agreement was not valid in law before its existence had been proved by deeds drawn up in the presence of a Controller or of other officials appointed for this purpose (Stbl. 1900, 240, and the rules contained in Bijbl. 5520). All this proves that stern supervision was exercised by the authorities for the benefit of the population even when only a temporary let was in question.

The administrative corps has indeed performed a very helpful function. It took care to prevent onerous conditions, as well as the renting of too large shares of the village agricultural land (more than one-third), which would not be in the interest of popular agricultural occupations. The rented area occupied by 307 non-Indonesian enterprises in Java (275,018 hectares) amounts to less than 4 per cent of the arable land (7,704,954 hectares), whereas 550,035 hectares have been acquired in long lease by 842 enterprises by reclamation of waste land. All that is possible is being done in order to make the Indonesian peasant an equivalent party in his dealings with Western enterprises by advice, investigation, control, explanation, and information. If the contracts do not answer to the official requirements, confirmation is refused. Moreover, since 1895, a penal sanction has been imposed upon the making of illegal agreements, apart from the fact that they are automatically annulled. This assists the authorities to an appreciable degree in their enforcement of protective regulations.

The ground hire contracts that are now used may be for various terms of duration. Art. 4 of the new ground hire ordinance of 1918 (Stbl. 88), which is now in force for Java and Madura [1]), mentions

[1]) See also *Stbl.* 1918, 214, 215; 1919, 124; 1925, 433; *Bijbl.* 8994, 9030, 9089, 9090, and an official publication *Toelichting op de nieuwe grondhuurbepalingen in de Gouvernementslanden op Java en Madoera*, 1918.

one year, or one harvest year, for official fields (held by headmen during their term of office), three and a half years for *sawahs* (which are not official fields), twelve years for dry land (not official fields), twenty-five years for lands required for the construction of fixed railway lines, roads, or water mains, and finally not more than twenty-one and a half years in the case of so-called intermittent contracts. Art. 8 stipulates, in the case of the last mentioned form of ground hire with long term, that after the first six years and thereafter after every two years the land must be placed at the disposal of the Indonesian landlord during at least one West monsoon (i.e. a wet agricultural season), and that the rent in such cases may not be lower than a minimum fixed by the Government every five years (Bijbl. 9030), and that prepayment of the rent or settlement against previous payments is forbidden.

In all these regulations, the details of which we cannot give in this work, one must distinguish the two principles which have already been repeatedly outlined — the protection of the Indonesian population, i.a. by securing their connection with the soil, and a reasonable security of investment and of enterprise for industrial agriculture [1]). It is not easy to make these two basic principles harmonise in practice, but the impartial reader must recognise that, humanly speaking, practically everything has been done to give to industrial agriculture, which is so indispensable for the future of Greater East Indian society, the security to which this monument of Western creative power and daring which has invested a capital of several hundreds of millions of guilders without being allowed to acquire a title to the land is entitled, while at the same time the noble principles upon which the whole agrarian policy may be said to rest are kept in honour in the interests of the Indonesian population [2]).

Security of rights on land and registration

Finally, we must say a word about creating more order in Indonesian agrarian conditions. This was already the purpose of the Agrarian Decree of 1870, when, in its third article, among others, it gave an opportunity to Indonesian holders of landed rights of

[1]) See also the preamble of the Factory ordinance (*Stbl.* 1899, 263), in the Government Chronicle and Directory 1931, p. 549*.

[2]) Meijer Ranneft, "*Kol. Stud*" Dec. 1919, p. 305—370.

acquiring a written title to the individual right of use which they already held hereditarily. In view of the fact that at that period the main part of the arable land must have been considered as communal land by the authorities, and that, on the other hand, the so-called hereditary individual right of possession was still fairly generally felt by Indonesians as a right of possession more or less limited by the right of supreme dominion, we are confronted with conditions that were still but little in harmony with the supposed need of legal title deeds. It is easy to understand that such an opportunity could only have acquired practical significance some decades later. The development of the Indonesian peasant, or in other words the wearing off of the limitation of Indonesian individual right of possession by the village right of supreme dominion, is what was first needed. Soon, as we have already mentioned, a new regulation took the place of the first, which made the delivery of written title deeds and registration dependent on the pronouncement by the judge of his recognition of a real free individual right of possession, followed by the elevation of this right into Indonesian property, a rather Western and circumstantial proceeding for which the population does not appear to have felt much enthusiasm.

It may perhaps be thought that it would have been better to establish a general Indonesian cadaster or land registration, instead of this very modest and voluntary legal security, which was soon limited to Indonesian property. This would have been a way of mapping out all subjective and objective titles to the land. The wish to establish such a cadaster and to keep it up to date is soon enough formulated, and its advantages are as easy to enumerate as those of a regular registration of the population.But such pillars of general legal security do not find a solid sub-soil in indigenous society. Co-operation on the part of the population, realisation of the interests which are involved so that private interests will take to heart this public duty, this is what is first of all necessary. And as long as these sentiments are lacking, there is in such measures a danger of increasing instead of decreasing lack of legal security, and of gross injustice, which would merely be given a legal basis. Moreover, a herculean labour and extravagant expenditure would be involved if this undertaking were really to answer the high demands of security of right. After all, even to-

day, more than one European country is still without an accurate registry of lands.

If one considers the situation about 1870 as regards the surveying, mapping, and registration of lands belonging to the Government and to some private European or Chinese owners, one will see at once that there could have been no question at the time of an indigenous cadaster or of individual registration of all the landed possessions of the Indonesian population. No more could be done than to give to the few who might desire it the opportunity of assuring to themselves a certain amount of security for their subjective rights. Even for the principal places, there existed no maps or very imperfect ones. Surveyors' offices had no trained staff, and, as the Government bore no share of their expenses, they had to subsist on the meagre receipts of surveyors' reports, certificates, etc.

In 1839 the first step in the right direction was taken by making the private surveyor's office of Batavia into a bureau of the cadaster, which was to be an official organisation. But little progress was made. The Government, which at that time was little inclined to the starting of such expensive enterprises, simply allowed the matter to rest, until at last, in 1872, an investigation of the system of taxation and the financial situation threw a sharp light upon the insecure bases of Indonesian land rent and European property tax [1]), which were after all considered to form at that time the main sources of government income.

Register of property

In 1873 therefore it was decided to introduce a cadaster or register of property in order to achieve more security for titles to land governed by the Civil Code. For this purpose surveying was started at Batavia. Outside the cadastral divisions (the capitals and the smaller settlements), this institution had little value for land owned by Indonesians. It was more particularly of importance for Occidentals and other non-Indonesians dwelling in the cities and towns. In so far, however, did it have an importance that the experience acquired with the gradual introduction of the

[1]) Real estate tax was levied on land upon which Western rights of property or other real rights were established; the land tax (rent) was levied in Java on Indonesian land possessors.

cadaster of property almost throughout the whole Dutch East Indies gave a better idea of the methods through which security and proof of possession could gradually be brought within the reach of all Indonesians who had rights to the land. It was perfectly clear that the cadaster of a few properties would by itself be mere child's play in comparison with the introduction of a satisfactory Indonesian cadaster.

Already in 1814 a start had been made by Raffles with the surveying and mapping of Indonesian land with a view to individual assessment for the land rent. As we have already mentioned, Raffles wanted to go even further than could the authorities in 1900 with much better means at their disposal. It is natural that the Commissioners General after 1816 found no orderly division, mapping, and classification of the lands, but a chaotic situation which nobody could understand. They wanted to continue the survey of Indonesian lands, but high costs prevented the execution of such a gigantic enterprise. About the '50's, surveys were again started and continually extended with apparently satisfactory results. In 1864 it was decided to start a statistical survey of the whole of Java, and about ten years later nearly half the task had been carried out.

Then the cadastral service made a scientific investigation into the reliability of the survey and mapping of these Indonesian lands. The bottom was knocked out of all the high expectations that had been held. Technically there were grave flaws in the survey, and the methods, the staff, and the supervision left much to be desired. In the absence of anything better, it was considered advisable to keep the village and district maps that had already been prepared because they would at any rate give some basis upon which to acquire an idea of the lands for which taxation was due and of the situation of the village lands from dessa to dessa. The statistical survey upon the existing basis was, however, as was to be expected, interrupted about 1880 and the staff which was working at it was transferred to the cadaster. Henceforth they supervised completion of the maps as well as registration. Further surveys were to be made by the cadastral service. All this showed how far away people still were in 1880 from rigorous order in the agrarian situation.

The cadastral service was able to do good technical work. Its

surveys had sound bases and were done as meticulously as possible, and the result was put into maps on a scale of 1 : 2000. But lack of co-operation between this service and the administrative corps caused this work to have little utility for land tax assessment. One of the reasons of this was that the cadastral service and the administrative officials followed a different system of classifying the surveyed lands. It was only in 1889 that it was decided to utilise for the land tax assessment the results of the better survey and mapping of the cadaster. The starting point, therefore, it is true, was still not the right one, which should have been the acquisition of greater security of Indonesian land tenure, but in any case through this fiscal round-about way the right path was struck.

It was Mr. Liefrinck who indicated the new direction and gave a practical demonstration of its adequacy, first in one division and later in the whole Residency of the Preanger Regencies. In a few years the Residency was surveyed and a new land tax regulation could be established upon the basis thus acquired for this Residency. In 1907 (Stbl. 277) these principles were adopted for the whole of Java. Surveys of arable lands, experimental cuts before the harvest, and economic taxation have since placed the land tax assessment upon a sound basis. Meanwhile, in 1905, the land tax cadaster was transferred to the Topographical Service [1]).

Land tax cadaster and registration of land

The cadaster for the land tax was and is made up by districts. Land is divided into two sections, wet and dry land. Village and district boundaries, roads, rivers etc., are surveyed, while, moreover, detailed surveys of the so-called land tax plots are taking place. The land tax plot is not a piece of land that belongs to one definite taxable person but a group of lands that can be classified in the same class of productive value. District maps and dessa maps with registers note all the acquired results. The land tax maps are made to a scale of 1 : 5000. When a land tax plot begins to be differentiated from the point of view of value or of production, it can be sub-divided into eight sub-classes. The various parts of the plot belonging to each class are then surveyed and these secondary boundaries are marked on the dessa map.

[1]). See the annual reports of this Service concerning land tax survey.

With the assistance of experimental cuts etc., the land tax can be fixed with considerable certainty for each plot, and this sum is divided over the individual peasants who can settle its individual incidence by agreement among themselves. This, indeed, is one of the most excellent aspects of the East Indian system of land taxation. The land tax cadaster has also enabled the authorities to advance very considerably towards legal security for Indonesian land possession, but subjective rights to arable lands as well as their boundaries are by no means yet completely secured. It is true that a successful attempt in this direction has become possible upon the basis of what has gradually been established.

It was decided in 1913 to start, in principle, with the establishment of an individual Indonesian cadaster, which it was hoped to establish by a further extension of the existing basis of the land tax cadaster. This was a decision that linked up with the intention of fifty years ealier (1870) of achieving legal security for the subjective land rights of Indonesians. The need of such security had become more real in the course of this half century than it had been in 1870. Mr. Polderman, to whose studies of the cadaster in the Dutch East Indies we may refer the reader [1]), explains the objections to some of the clauses of the draft ordinance of 1914. Among other things, they made compulsory the drawing up of acts for all agreements of buying and selling and pledging of lands in the hereditary individual possession of Indonesians. Henceforth offices of the Indonesian cadaster were to be established practically everywhere. These offices were to be entrusted with the keeping and registration of such deeds, with drawing maps and copies, with registering all modifications of land possession and of taxation, and with issuing notices of assessments for the land tax.

In 1925 Mr. Polderman still considered that there was no more than a partial justification for the view that Indonesians urgently required greater legal security:

> "The experience gained from the cadaster of property and the cadaster of the land tax in the Dutch East Indies has given me the conviction that the need of greater legal security for possession of land may probably be felt by Indonesians who possess sawahs, gardens, and compounds in towns and settlements or in

[1]) Speech before the "*Ind. Genootschap*", Jan. 1925.

their immediate surroundings, because there lands acquire a greater value. The same applies to the neighbourhood of sugar factories, where the rentable value of the sawahs is bound to rise. Most of the possessors of small portions of agricultural land, utilised as sawahs, gardens or compounds, by no means feel this need, especially when the land is situated in dessas that are far from the capitals of Residencies and divisions where offices of the Indonesian cadaster are to be established. If one takes into account the nature of the dessa man and the customs which are already in existence in the dessa when land is sold or pledged, one realises that it will be generally impossible to make the possessors of these lands notify and register their transactions, even if they know that otherwise their agreements are void. In their simplicity they would not even see the use of all these formalities; while the costs and especially the trouble involved by the application of the rules would deter them. Moreover, legal security of possession would be advanced to but a small degree by the registration of only those agreements that concern the sale or the pledging of land. It seems to me sufficiently well known that transfers which result from the division of an estate are often the principal cause of legal insecurity".

On the one hand the project attempted too much, because it was possible to count upon the co-operation of the population only to a very limited extent. On the other, it gave too little, because it by no means covered the whole field of land transfer. The first objection however is fundamental. It recalls the matter of fact utterance *quid leges sine moribus*, which has proved only too true by the experience of Afghanistan and other Eastern countries. In China only a few years ago, when attempts were made to achieve a satisfactory registration of the land, surveyors were everywhere attacked by a distrustful and infuriated populace. A presidential proclamation had hurriedly to rescind these beneficial measures. At any rate, the Dutch East Indies have for some time left this stage behind. It is, however, not possible to run too far ahead of the understanding of the population, and if attempts are made to compel it into a greater degree of order, security, and certainty of law, it is usually found that one pulls at the shorter end of the rope and creates nothing but a larger amount of legal uncertainty.

According to Mr. Polderman, the bookkeeping of the land tax, however satisfactory for its proper purpose, did not form the correct basis for a future individual Indonesian cadaster which would provide individual legal security. The maps for the land tax are

upon a scale of 1 : 5000, and show the boundaries of usually very large plots of arable land containing a great number of individually owned fields. In Holland, however, cadastral maps had to be upon a scale of 1 : 1000 and even of 1 : 500 in order to establish a cadaster capable of ensuring adequate security for his rights to the individual owner. In view of the fragmentary nature of Indonesian land possession, it had been decided as early as 1889 that a scale smaller than 1 : 1000 or 1 : 2000 would be impracticable because it would not allow the boundaries and the extent of separate plots to be clearly marked. Moreover, it then appeared that even in a very short time considerable transfers and modifications of boundaries had taken place, with the result that it would be too expensive to keep an individual land tax cadaster up to date. This is why Mr. Liefrinck based his regulation for the land tax upon the classification in large land groups described above. The same difficulty was met when the introduction of an individual Indonesian cadaster was considered.

Mr. Polderman deemed that the time for introducing the latter had not yet arrived, and he pleaded therefore for a voluntary cadastral security by merely giving Indonesian possessors of the land the opportunity of registering their rights in authentic title deeds if they wished to do it of their own free will, and of enabling them in the same way publicly to notify all transfers and leases. In order to give legal security for the land itself, one could in such individual cases draw up a certificate of survey after having carefully surveyed the land and ensured the stability of the boundary by placing boundary stones. As soon as the need of legal security had proved sufficiently general by a sufficient number of voluntary applications for registration, land rights offices and surveying offices could be established in every Regency. In the agrarian regulations of the other isles (see i.a. Stbl. 1915, 98, artt. 14 and 15) a stipulation has been introduced to enhance the legal security of Indonesian possession, by which transactions in land between Indonesians *may* be put down in deeds drawn up in the presence of the headman or of other persons indicated for this purpose who must, if requested, give to the interested parties a copy of the deed.

Apart from this voluntary cadastral arrangement in the special case of individual need which would give full security of rights,

there ought according to this author to be also an additional endeavour to ensure a higher degree of security to all Indonesian lands without exception by registration and by regularly registering all their transfers. Such a registration it is true, could not ensure to the main body of possessors of land the legal security of the cadaster for which in any case their own abstention would have proved implicitly the absence of a very urgent need; but it would be a first step towards

> "making the Indonesian in his capacity of possessor of the land used to order and regularity, and giving him a gradual realisation of the utility of increasing the security of this possession".

This registration could take place on the occasion of the distribution of the incidence of the land tax assessment of a large land tax plot over the individual possessors of land within the boundaries of this plot.

During this beginning, one would be satisfied with the making of a register of Indonesian landed possessions in which every field could be registered upon a separate folio under a registration number of its own with the mention of the situation, the number of the land tax plot upon the map of the dessa where it is situated, the adjacencies of the field, the area as accepted by the village population itself at the distribution of the tax, and the name of the possessor. In the case of transfers, the name of the acquirer would be mentioned upon this folio. At the end of the month the transfers would be copied out upon simple lists of transfer by the dessa headmen, who would deliver them to the sub-district chief, and the latter would, after verification, send them to the land tax office.

This is a much greater scheme than would appear from the modest comment of its originator. The Government, which was already aware of this scheme in 1918, agreed that for the time being there could indeed be no question of an individual Indonesian cadaster. It wished, however, that the pace of the endeavour to improve the land tax book-keeping should be quickened and that registration of Indonesian land possession upon the model planned by Mr. Polderman should be seriously studied. In 1920 orders were given for the establishment of local land tax offices in all the Regencies of Java (Stbl. 587). There the book-

keeping of the land tax would have to be done, and eventually the whole Indonesian land possession could perhaps also be individually registered by them.

Since 1913 the keeping of the so-called land tax C registers [1]) had improved to such an extent that it became possible to expand these offices merely for this particular purpose. The Government furthermore wished to take steps in order to be able to utilise in the absence of an Indonesian cadaster this improved land tax bookkeeping for the non-cadastral registration of Indonesian individual land possession. Another method, however, was adopted, at least at the beginning, which appears to have aimed once more at the realisation of the pet idea of establishing an Indonesian cadaster. This time experiments were made by the Topographical Service upon a large scale from 1922 to 1924 for the surveying and mapping of individual fields, and once more the Government fell into the pitfall of undue optimism, which a century ago had encouraged Raffles to stretch his hand further than his sleeve could reach [2]). Mr. Polderman mentions that since 1922 more than 56,000 such fields had been measured and mapped and that the population applied in not less than sixty-five per cent of the cases of surveying for copies, which were delivered upon payment of $1\frac{1}{2}$ guilders for stamps. In 1924 more than 100,000 such fields were surveyed. The receipts were considered sufficient to cover the expenditure involved in this individual cadaster:

> "On the outside of these little cards the situation, the number of the land tax plot of which it is part, the scale, and the number of the section of the map, the numbers of the fields, and the name of the possessor are mentioned. At the back is given a list of the numbers of the fields, the kind of agriculture and the area, as well as the names of the possessors of the neighbouring fields. Furthermore, mention is made of the fact that the local survey for establishing the situation and the size of these fields has been made, upon the indication of the boundary by the possessor or his representative, and has been executed by the Indonesian topographer, whose name is mentioned, in the presence of the headman of the dessa and the clerk of the dessa, as well as of the possessors of the neighbouring fields."

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[1]) Every tax payer is marked down in the folio reserved for him for every piece of land which he possesses and all mutations owing to buying or selling, death or grants etc., are booked by the dessa administration (Polderman, p. 21).

[2]) Annual report 1922, p. 42 *sqq.*; 1923, p. 44 *sqq.* of the Topographical Service.

Mr. Polderman was not slow to show that this method was not yet the realisation of an individual Indonesian cadaster for arable lands upon a technically perfect basis [1]). The Government which wanted to give a fair chance to any device aiming at the increase of security of their rights to land for Indonesian possessors, after two years reluctantly had to discontinue the experiment, which had given rise to various difficulties, and the results of which had to be carefully investigated by a commission of experts. It was decided therefore to await the Commission's Report and to discontinue at least temporarily these individual measurements made, since 1923, in all divisions of Java where the Residents deemed it desirable, and for the time being to abandon the endeavour to introduce a land registration that would fit in with individual measurements and eventually with the administration of the land tax. It was also decided to stop individual survey to be followed eventually by registration of the land in the other islands. In 1927 the Government decided definitely to renounce an individual survey upon the basis of the method recommended by the Topographical Service in the years 1922 to 1924, and again fell back upon its older and more sound intention to construct the registration upon the basis of the data of the land tax service, an idea which has already been discussed.

Results and prospects

The basis of all this has been the new land tax regulation of 1896, the main principles of which, embodied in the land tax ordinance (Stbl. 1907, 277), have been gradually applied to the whole of Java. These land tax data have also been the foundation for reliable statistics of agriculture and popular prosperity. The Central Office of Statistics found in this a fixed point of reference, and so did the enquiry into the prosperity of the country.

We may quote again from the contribution dealing with the activities of the central Office of Statistics, which highly appreciates

> "the minute labour of the land tax service which, in the performance of its task of revising the land tax assessment, every decade goes the round of the whole of Java with its brigades of sur-

[1]) See also F. D. Holleman: Het Adatrecht van de afdeeling Toeloengagoeng 1927, p. 97 *sqq.*

> veyors.... The so-called district-monograph in which the results of this labour, as well as numerous interesting complementary economic data, are put down, has only to be completed with data that can already be provided to a large extent by other services closely connected with dessa economy. Then its systematic arrangement and its meticulous execution will provide a monumental description of Indonesian economic life and of the modifications which are taking place inside it.... At the same time, the Central Office of Statistics will draw up statistics of the division of Indonesian land possession from the details contained in the land tax registers. For this purpose, hundreds of thousands of fields registered in the so-called C registers will have to be transferred immediately after the new registers have been drawn up upon counters or other forms.... It will be possible then, in about ten years time, to have a detailed idea of all the agricultural land for which land tax is due in Java and Madura, and also as to questions of possession that are so important for the economy of the dessa".

From all this one can see the many-sided utility of this solid basis, which has also indicated the right method to be adopted for the other islands. We have now individual registration, although we are only in the initial stage of the individual cadastral registration of Indonesian land possession. It is entirely just that the activity of the authorities should be tempered as much as possible in accordance with the mentality and the needs of the population, but leadership in the Dutch East Indies may look back with satisfaction upon what has already been achieved as a preparation for setting out to give the finishing touch to its agrarian policy. We have not failed to point out in this chapter that the theory of state domain from which this policy starts has not found the approval of Adat scholars in Holland, and has sometimes been seriously criticised by them. The Government will certainly have to continue to take into account, to the best of its ability, all constructive criticism upon its agrarian foundation and methods.

All the more reason, therefore, why more value should be attached to the general appreciation of all critics without any exception of the content of this policy. In difficult circumstances, the Government has proved able to reconcile Greater East Indies interests and Adat rights, and it has thereby served both the present and the future, while it has faithfully preserved for sixty million Indonesians the inheritance of their fathers which has meanwhile trebled in size and immensely appreciated in value.

CHAPTER VII

LABOUR LEGISLATION

First beginnings

Labour legislation [1]) introduces us into a sphere even more controversial than that of agrarian policy. For this time it is not rights upon the land and its fruits that are concerned, but human beings themselves, their freedom to dispose of their time and of their own labour, and the recognition of the dignity of every fellow human being. Even in the West it was long before modern labour legislation started first to protect the weak — the women and the children — and then to define the mutual rights and obligations of employers and workers because it was realised at last that the general interest was strongly involved in the health and the material and moral welfare of the labourers. For generations this was considered to be forbidden ground to the authorities in Europe. When at last it was seen that this idea was a misapprehension, it was still some time before it was realised that regulations must necessarily be assisted by special supervision on the part of the authority making them: in other words, by inspection of labour.

Holland was by no means one of the last countries in Europe to create modern labour legislation. In 1874 came the first not very significant beginnings, limited to the protection of children. Inspection started only in 1890 and was not satisfactorily organised till somewhat later. These measures were certainly not due to thirst for intervention on the part of the State. Social thought in the West always ran ahead of the State, and forced it to interfere and to exercise control. Furthermore, Western labourers themselves, owing to increasing popular education, to their power of

[1]) We must refer the reader with special emphasis to two monographs in this connection which are both fulfilling an urgent need: K. J. Boeyinga: *Arbeidswetgeving in N. I.*, 1926, and H. G. Heijting: *De Koelie-wetgeving voor de Buitengewesten van N. I.* 1925.

organisation and their richer association life and trade unionism, which acquired a considerable political influence, caused the emancipation of labour to keep step with the evolution of society.

In the colonial world, there were entirely different situations and needs. There was no question of the kind of urban industrial development introduced into the West of the 19th century. Instead, there was agriculture on a large scale, which usually formed the vanguard of the Western impetus, though it was only in the last quarter of the 19th century that it became an important factor, especially in the Dutch East Indies. Nevertheless, as the result of the obvious dependence of the Indonesian population, it was the task rather of the colonial authorities than of the mother country to give early attention to labour agreements, especially when these agreements created obligations between Indonesian labourers and non-Indonesian employers.

There was, indeed, good reason for interference on the part of the Government because in Indonesian society slavery and servitude were still considered entirely rational as security for debt. Even to-day people who know various Eastern communities declare that servitude due to poverty or debt resulting from usury is much more general than one would think, considering that the law does not allow it. As long as the mental inertia of the population continues, such subtle evasions of the spirit of the law cannot always be prevented. After all, only the slowly advancing consciousness of the people can cause these abuses that have long been forbidden to disappear altogether. Legislation, however, is a factor of importance in so far as it indicates the direction and forces the way by its penalties and its compulsions.

Slavery

When in 1816 Dutch rule was re-established in the Archipelago, it became immediately necessary to fight slavery and servitude. It was not possible to abolish slavery at once, but steps were taken to prepare this measure by the registration of the slaves and their children, especially in Java, to prevent any increase in their numbers. The importation of slaves was forbidden, and it was also forbidden to accept service in payment of debts. At the same time, special regulations were made in the endeavour to soften the existence of those who were not free as long as freedom could not

yet be completely restored to them (see i.a. Stbl. 1825, 44). In 1715 already, the Company had forbidden the taking of debtors as serfs, but in all probability this prohibition was not taken very literally. The King's Government, however, felt more secure in making this prohibition for Java, although in the other isles, where Indonesian social institutions still remained practically intact, nothing more could be done at the beginning than to make the registration of debt-serfs compulsory, and to forbid the charging of interest on debts that were being repaid in this manner (Stbl. 1822, 10).

The East Indian Government Act of 1854 envisaged more than the gradual limitation and softening of slavery. Art. 115 boldly declared that slavery "is abolished", as from January 1st, 1860, throughout the Dutch East Indies (i.e. except in the Indonesian states); while Art. 118 R. R. prohibited debt-serfdom in Java and ordered the Governor-General to apply this prohibition wherever possible to the other isles also. Meanwhile efforts were made to hasten the disappearance of this institution (Stbl. 1859, 43).

Stbl. 1859, 46, 47 regulated the abolition of slavery. In Java the owners of registered slaves were indemnified, and use was made of the measures taken in the previous period. In the other isles the decree had no very general effect.

In 1872 (Stbl. 114) the taking of debt-serfs was forbidden throughout the Indies, but this prohibition also became a living force only after a strenuous campaign. The Indonesian states have been won one after the other for these ideas. One may suppose that there are still various secret contraventions, that usury and the system of advances still too often create situations of unfreedom, of which however one hears very little. But one has no proofs that this is the actual situation. If infringements are discovered, they are punished, and the advance of education is the best guarantee that the bad exception will disappear even in the most isolated parts of the country. Apart from a few possible contraventions of this kind, it is pleasant to declare that slavery and servitude for debt have belonged for many years to the past throughout the Dutch East Indies. By adhering to the anti-slavery treaty of September 25th, 1926 at Geneva (Stbl. 1928, 108), the Dutch East Indies accepted no new obligations [1]). Half a century earlier and

[1]) Art. 5 is of some importance because it prevents compulsory labour from taking

on their own initiative they had started the struggle which they eventually brought to a victorious conclusion. It need not be argued that this victory had the highest moral significance for Indonesian society.

Labour contracts

If one considers that it was necessary to fight institutions which the West had as a rule rejected centuries ago, it will be understood that the authorities had to give their attention at an early stage to the making of agreements as to delivery between Indonesians and their chiefs or between Indonesians and non-Indonesian employers. The authorities, sufficiently acquainted with social conditions to guess the dangers of dependence, practically speaking of servitude, that could lurk in such contracts between Indonesians and people who knew so much more about the world, made rules governing them as early as 1819 (Stbl. 10). Registration of and government supervision over all such agreements were made compulsory. In Stbl. 1838, 50 a further step was taken. Agreements between Javanese and non-Javanese had to be registered and had to mention specifically not merely wages but also feeding or housing, the number of workdays, the place and the time of the work to be performed, the nature of the overseeing etc; all this was to be severely supervised by the authorities.

This is an early and not undeserving attempt at government regulation of labour agreements between Indonesians and non-Indonesians; but the permission, granted in 1838, to make collective labour agreements with chiefs and important persons in the dessas (whereas in 1819 individual agreements had been imposed) was not a step in the direction of progress. Once the village administration had been convinced by the employers, they could

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aspects similar to slavery. Many years ago compulsory services have been minutely regulated in the D. E. I. and no evils are any longer connected with this taxation in labour. Art. 5 allows such services for public aims only. For other ends it must be temporary and it must be fairly paid, a demand which is sometimes considered to conflict with the requirements of private estates in Java with seigniorial rights where such services are exacted and paid for in the form of food. This conception does no justice to the position of the landlord, seeing that the occupants are tenants who have only farming rights, wood-gathering and grazing rights, and the right of fishing and shooting on the estate, if they render a counter service in the form of labour and make a payment in money or in kind. It is clear then, that people who perform these services on the estates receive not only food from the landlord, but practically everything they have: fields, water, forest produce, etc.

get labourers on easy terms, and thereupon the whole apparatus of Adat was at the disposal of the employers for exacting the observance of the compact from their workmen. There was supervision, it is true, on the part of the administration, but in view of the fact that the population in those days resigned itself very easily to anything its chiefs demanded no certainty that it was exercising its own free will could be obtained. It appeared, moreover, at a later date, that a considerable number of contracts were simply not registered, in the same way as happened in later years with rent contracts. Even though the law declared such contracts void and made entry into them punishable, uncertainty of their fulfilment disappeared once Adat was on the side of the contract.

By its regulation of 1838 allowing collective contracts the Government apparently aimed at encouraging private industry. But the dependence of the population upon big agricultural industry, which had almost no significance in those days, was certainly not the aim of the Government. This aversion to dependence resulting from private agreements seems strange, because it was the period of compulsory cultivation with far reaching demands for compulsory labour which left little freedom in many a region. However, appreciation of the dependence of the subject on the authorities and of his dependence on private and especially non-Indonesian employers was very different in those days. This is by no means strange: one sees how in a certain country at the present day the Government has introduced a medieval tyranny in the system of national production, whereas its social ideology does not allow any kind of normal service relation in private enterprise. During the compulsory cultivation period, the idea of authority, though not inspired by idealism, dominated the situation to a considerable extent. It was able to justify a far reaching system of compulsory labour for government cultivation which was deemed to be a form of taxation; while at the same time action was taken against slavery, debt-servitude, and contractual dependence in the bosom of society. The Government, it is true, utilised private manufacturers for finishing the produce delivered by those who had to perform compulsory labour. The regulation of 1838, however, was apparently meant for independent agricultural industry, which in fact at that time was the competitor of the authorities. As early as 1840 indeed, regret was felt at the encouragement that

had thus been given it. In consequence, the Government prohibited the making of contracts for delivery and for labour on the basis of Stbl. 1838, 50, if these contracts were to be detrimental to government cultivation [1]). In 1863 (Stbl. 152) individual agreements as in 1819 were again introduced in order to put an end to abuses that had been discovered and to assure the making of really free contracts. If registration could have been universally enforced, this product of labour legislation, cleansed from the error of 1838, would have been excellent work for the time. The fact that registration was often eluded cannot diminish our appreciation of the praiseworthy efforts of the Government of the day.

We may recall in passing the system of ground hire in the self-governing states of Java, where feudal conditions allowed of the simultaneous renting of land and of a part of the labour of those who lived on it. The subsequent regulations for ground hire had a good influence upon this situation, which was finally ended by the reforms started in 1912. At that period such a situation was considered no longer allowable. In private estates, where the landowners were in possession of seigniorial rights including personal service in return for various rights granted to the population, regulations have been made to prevent excesses and abuses, but even so this exceptional situation could no longer be perpetuated in our time. It was necessary therefore to resort to the radical and expensive remedy of buying up or expropriating all these estates. More than half of them have been acquired at an expense of 100,000,000 guilders and the Indonesian occupants have been given, much to their satisfaction, the same position and rights as independent farmers elsewhere. We need not enter further into these conditions, which were exceptional and belong to a past that is rapidly disappearing. They had to be mentioned, however, in passing to prove that the 19th century was active in this direction and has prepared the reforms of our days.

General labour legislation and the penal sanction

The prohibition of collective agreements in 1863 in the government lands in Java was a very important step. Employers thereby lost the support of the Adat apparatus, sanctioned to some extent

[1]) Cf. Van Deventer, *Het Landelijk Stelsel*, 1865, I, p. 410.

by law, in the observance of the labour agreement. This loss may not have been a practical fact in every single case, but nevertheless it was a measure of a character that can be borne lightly by no industry. Wilful breach of individual agreements, which moreover were far more troublesome to establish, was to be expected to a much larger extent than before 1863. Soon the results became generally observable by complaints about uncertainty of enterprise. It is true that a penalty, which originally existed only for Surabaya and its suburbs, upon the non-observance of labour agreements was made applicable after 1851 to almost the whole of Java as well as to some parts of the other isles, but it was uncertain whether this applied only to domestic servants or to agricultural and industrial labourers as well. After the whole area of agricultural industry was opened to Western capital in 1870, and especially since the government sugar cultivation had been transformed into a private sugar industry, the number of Western enterprises increased by leaps and bounds, and the labour question acquired urgency.

The general penal police regulation for Indonesians (Stbl. 1872, 111) took into account the need for security of labour (Art. 2, No. 27). This article exacted penalties for the non-observance of a labour agreement by Indonesian servants and workmen throughout the East Indies. Those who went into service and left it or refused to work without plausible reason during the time agreed upon and without the permission of their employer could be punished with a fine of 16 to 25 guilders or with 7 to 12 days' labour on the public works. It was this regulation that brought the existence of a penal sanction to labour agreements to the notice of the Dutch parliament, though, in fact, it had existed since 1829 (Stbl. 8), although not so explicitly and not throughout the Indies. Members of various parties declared that the cultivation system had not been overthrown merely for the sake of replacing it by dependency on private employers. The principle, especially in its one-sidedness, which threatened with prosecution a breach of contract by the worker and not by the employer, was adversely criticised. There was talk of the re-introduction of slavery, and immediate measures for withdrawing the penal sanction were requested.

After an enquiry the Government of the Indies pleaded for the

preservation of the sanction, which it considered indispensable to the security of enterprise throughout the Indies. The Dutch Chamber, however, insisted upon its attitude. A motion adopted in 1877 proved that the Chamber was willing to accept a separate regulation of the relations between employers and labour supplied from elsewhere, but otherwise it continued to insist upon the withdrawal of the general penal sanction in the police regulation for Indonesians. Stbl. 1879, 203, satisfied this desire. At the same time, in order to preserve at least some kind of weapon against dishonesty, the penal code for Indonesians was completed with Art. 328a, which threatened with a penalty anyone who

> "in order illegally to benefit himself at the expense of the master or the employer, has caused money or objects with a monetary value to be delivered to him as an advance upon activities which he has failed to perform".

This incomplete regulation (abolished in 1918) has had little effect, as Mr. Slingenberg remarks [1]):

> "The proof was difficult to provide and moreover the aim of benefitting himself usually only arose in the mind of the culprit after he had received money".

This penalty, compared with that of the police penalty, had little utility. The Government tried further to complete the empty space that had arisen by declaring (Stbl. 1879, 256) that Artt. 1601-1603 of the European civil code regulating the hire of European servants and labourers was applicable to Indonesians. This regulation was very primitive and vague, but until 1907 had served in Holland itself. Art. 1603 says, among other things, that employees may not leave their work without legitimate reasons and also that they cannot be dismissed before the agreed time of service has elapsed. If an employee leaves nevertheless, he loses his claim to the money he has earned. Oriental foreigners had since 1855 (Stbl. 79) come under this regulation. After 1879 it was applied to all groups of the population, and formed a modest beginning of East Indian labour law. The special labour legislation contained in the commercial

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[1]) J. Slingenberg: *De Staatsinrichting van N. I.*, 1924, p. 243 (which contains an extensive contribution on labour legislation, p. 241—319). In the same sense Nederburgh, article on labour conditions in "*Neerlands Indië*", 1929, II, p. 175.

code and applying i.a. to sailors remains outside our scope.

In practice, civil action in case of a breach of the labour agreement is usually not taken, even although the advance usually asked for disappears with one's servant. An employer loses his servant or his workman as well as his money, and starts looking for another one; while as long as he gets the required assistance, such happenings are not given particular attention. For big enterprises, this point naturally presents greater difficulties, because when the labourers continually leave in large numbers, it is impossible to form a body of really trained workmen. In Java, even big enterprises however can generally help themselves, because the size of the population makes such a large labour market available that usually successors can readily be found for those who have stayed away. The future of Java itself, however, suffers, since there is a slowing down in the pace at which the disciplined and trained body of labourers, on whom industrial development depends, is formed.

The general labour legislation of the 19th century has established nothing further. It has remained more or less at the stage of the regulations of 1838 and 1863 (withdrawn in 1903), declaring articles 1601-1603 of the civil code applicable, and introducing the useless article 328a of the penal code. In Java legislation, apart from these not very useful provisions, has left the more detailed regulations required by practice to local use and to agreement between the parties. No inclination was felt to countenance official interference in the sphere of free labour, a reluctance which is not difficult to understand and to which, in 1903, the regulation of 1838, was sacrificed, with the exception of the prohibition of collective labour agreements made by village administrations in the name of the villagers.

The authorities themselves were not really well informed as to the situation under this system of free labour. After 1908, it is true, labour inspection became better organised, but its activities were limited to the supervision of the recruiting of labourers in Java for foreign countries and for the other islands and to supervising the good treatment of those labourers during their stay outside Java. Apart from the administrative body and from special services, such as security inspection, there was no central organ to inform the authorities precisely regarding the labour

situation, and, in view of the fact that no serious complaints were received and that labourers were always free to leave service which they disliked, no great need of such legislation was felt.

By the establishment of a Labour Office in 1921, the situation was changed. The development of industry during the last years has created a need that did not formerly exist and such a central organ is already able to perform useful work by directing affairs in the sense which experience in industrial countries has revealed to be the best. As industrial life is developing within Indonesian society itself, the vigilant eye of the Labour Office will prove to be more useful. During recent years a number of enquiries into labour conditions have been held, not only in big urban and agricultural Western industries but also in small enterprises for wood-cutting, agriculture, trade, and industry (in particular the Indonesian Batik industry), which in a few cases are directed by Europeans, but more generally by Chinese, British Indians, and Indonesians. [1])

Interesting material has been collected in this way, and when necessary it will in due course be translated into general or particular labour legislation. Conditions in small purely Eastern enterprises have created serious disappointment, because simplicity and friendliness had been counted on in the relations between the Eastern employer and his workmen, and it had been expected that conditions there would be highly satisfactory. It was found, however, that in this apparently complete freedom, the ignorance and the sense of dependence of labourers often give rise to many abuses that may easily remain undetected. All this leads one to expect that regulation and supervision by the authorities will have to be increased in this purely Eastern sphere, in the same measure as modern methods of production are being applied inside Indonesian society.

Special labour legislation in the other isles

Apart from general labour legislation and the official orga-

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[1]) Earlier investigations into the labour conditions in Java have also been made but usually in connection with special objects. There were for instance a Commission for the sugar enquiry (1918), and the Labour Commission (1919) which have both published reports. There was also a Sugar Commission (1906) and a Commission for Agriculture in Java and Madura, 1913.

nisation connected with it, about which we shall have more to say at the end of this chapter, a very important special labour legislation has come into existence for the benefit of labourers who leave Java for enterprises in the other isles and who have to be protected in the alien surroundings in which they arrive. Some twelve hundred agricultural, mining, and transport enterprises employ four to five hundred thousand labourers drawn from elsewhere, among whom there are some eighty thousand Chinese while the rest are Javanese, men as well as women. These people do not arrive unassisted. They would not, usually, have the means. They have therefore to be recruited in some way or another either in Southern China, the Straits Settlements, or Java, where labour is available.

In view of the fact that in the course of the recruiting there is often a large amount of misleading if not actual mis-statement, part of labour legislation has been directed to recruiting. There are professional recruiters. There are heads of enterprises who recruit by means of a staff of their own. There are old hands (Laokehs) who recruit contract labour or free labour for the enterprises which they know by personal experience, and finally a number of free emigrants are assisted by the authorities to find employment in the other islands, by which means Java's over-population problem may be met, at least in a few districts. The recruiting of labourers abroad naturally does not come within the sphere of the East Indian Government, while recruiting in the other sparsely populated isles is out of the question or at any rate so unimportant as to require no regulation. Recruiting in Java, however, stands under strong supervision so far as it concerns labourers with whom agreements for a long period, usually from two to three years, are made. For artisans and free labourers (free recruiting) for large or small enterprises and also for the Indonesian rubber, pepper, and other gardens in the other isles, no such formalities have been required since 1927 (Stbl. 142). If they are not pleased, they are any day free to return, apart from a claim against them in civil law, which is really of no practical value. The great Western enterprises outside Java, which used to work exclusively with labour agreements for a long period upon another basis which we shall describe later, are nowadays engaging more and more labourers upon this free basis. Some 20 % of

their workmen are now engaged with or without contract upon this basis [1]).

We shall later have to give more attention to the question of recruiting. In the first place, however, it is this special labour legislation in its protection during the period of the contract which deserves attention. It owes its origin to the vote of the Dutch Second Chamber in 1877 which we have discussed above. This vote declared that the generally applicable penal sanction of the police regulation for Indonesians on the wilful breach of labour agreements was to disappear, whereas it would be permissible to regulate separately the legal relation between employers and labourers supplied from elsewhere. The obvious intention of this was that the special circumstances of this particular case would indeed justify a penal sanction.

It deserves to be noted that a regulation for the protection of labourers coming from elsewhere had already been issued in 1825 (Stbl. 44). This was the ordinance which also contained the important provisions for the limitation and softening of slavery. This proximity of two entirely different regulations (cf. artt. 18, 26—31) was probably not due to mere chance. A hundred years ago the character of both forms of personal dependence may perhaps have presented a certain similarity in the eye of the Government. At any rate there may have been good reason for thinking that contracts of long duration might lead to far reaching loss of freedom. This ordinance permitted the making of labour agreements with such labourers for a maximum of eight years, while notification to the local administrative officials was obligatory; registration would take place and there would be administrative supervision. The immigration of labour in those days cannot have been very important.

In a few regions special provisions had been made concerning registration of the names, the contractual obligations, etc., of labourers from elsewhere [2]). The administration had to enquire whether the labourers really did wish to make a labour agreement of their own free will, and it had to make sure that they were well

[1]) The twelfth report of the Labour Inspection for the other isles (1927) mentions 74, 625 free labourers who had come from elsewhere. The local recruits must be added to this number. The fourteenth report (1929) mentions 126, 736 free labourers.

[2]) H. G. Heijting: *De Koelie-Wetgeving voor de Buitengewesten van N. I.* 1925, p. 1 and 2.

treated during the period of the contract. Among these labourers there were at that time scarcely any Javanese; in 1870 there were only 150 on the East Coast of Sumatra, the majority of this little crowd, which in 1870 numbered only 4,000, being Chinese. In 1825 it can scarcely have been foreseen that this incidental regulation about labourers from elsewhere would develop to such a degree in the course of the following century that it would take the dominant place in East Indian labour legislation.

The protecting regulation of 1825 was maintained for a long time. Improved versions were introduced in 1868 (Stbl. 8) and again in 1875 (Stbl. 59). In 1880 (Stbl. 133), as a consequence of the vote of the Second Chamber, the first ordinance appeared regulating the mutual rights and obligations of employers and workmen who arrived on the East Coast of Sumatra from elsewhere. It was soon followed by almost identical ordinances for most Residencies in the other isles. In view of the fact that in the parlance of the whole East such labourers are called coolies, one also speaks of coolie ordinances when special labour regulations for contractual labour in the Dutch East Indies are meant [1]).

It is easy to understand why the first of these ordinances applied to the East Coast. It is only in this region that important enterprises — tobacco plantations — had at that period developed. Even to-day the East Coast, with its nearly three hundred thousand labourers, is of more importance than all the other Residencies together, with almost 200,000. The ordinance for the East Coast is therefore always the first to be affected when changes are introduced, and other ordinances in the same sense follow, at shorter or longer intervals. In order to avoid needless complications, we may therefore give our attention more particularly to the regulations of the East Coast, because its biography covers that of all other regulations, while it is by far the most important.

The coolie ordinances

The coolie ordinance has been explained usually as a form of legislation which aimed exclusively at giving security of labour to

[1]) Especially in connection with a very general misunderstanding in international discussions we must warn the reader here against a confusion between contract labour in the Indies and the obligation to work as a result of debts incurred. There is no question of this in the Indies. Advances may be given to workmen but debts bear no relation to the contract. The whole subject of advances is, moreover, strictly regulated.

leaders of Western enterprise in the islands outside Java. But when this reasoning is adopted, one single historic thread is followed: the security of labour granted by Stbl. 1829, 8, which became applicable in 1851 to the whole of Java apart from Batavia, and to a few regions in the other isles; then Stbl. 1863, 50, which has been discussed above, followed by the penal sanction in the police regulation for Indonesians of 1872, the struggle preceding the vote of the Dutch Chamber in 1877, and finally the coolie ordinances of 1880 and later years. But a second guiding thread is evident to the spectator: in 1825, Stbl. 44 and a great number of previous and following ordinances, which were exclusively directed towards the protection of all those who had lost the free disposal of their own labour either for life, or temporarily owing to debt or to a contract, and furthermore the eloquent Java regulations of 1819, 1838, and 1863, the revisions of 1868, 8, and 1875, 59; and finally, the coolie ordinances of 1880 and later years in which the protection of the labourer by labour legislation that is in many respects ultra modern is not lacking [1]).

The opening clause of the ordinance of 1880 (Stbl. 133) peremptorily prescribes that the model contracts drawn up by the Government shall henceforth be used regularly "in the case of workmen arriving from elsewhere and only taken on in virtue of a written agreement". For such agreements all rules deemed necessary were given and both parties were ordered to respect them under penalty of a fine or of detention. This is the "Penal Sanction" which has been so often attacked that this clause threatens to hide the agreement based upon mutual rights and obligations behind a smoke screen. If this prescribed model [2]) and the legal provisions which apply to it were exclusively favourable to the employer, it is difficult to understand why, in 1880, it had to be made compulsory. There is indeed an analogy with the development that has replaced in Holland the right to vote by the obligation to vote, which is also enforced by a penal sanction.

Employers, certainly, welcomed security of labour, but the Government, while meeting their wish, at the same time placed in the foreground the duty of protection, which, in being fulfilled, created the right to security of labour. Those who might have

[1]) See our Appendix I and the note on p. 606 and p. 607.
[2]) See our Appendix II.

wished to reject the obligations imposed by the Government and to import free labour would simply not have been allowed to make labour agreements with labourers imported from elsewhere. In this the Government was not acting wrongly at that time. It apparently disliked labour agreements made in complete freedom, with which it could, according to the prevailing views of the day, not interfere by means of stringent rules in a general way; but on the other hand it had good reason to fear that this apparent freedom might easily in the uninhabited regions outside Java degenerate into the exploitation of the weak. All this is lost out of sight when one pays attention only to the penal sanction as though it were the one thing contained in these ordinances. Moreover, the penal sanction applied to both parties, which is something very different from the one-sided sanctions of 1829 and 1872.

This penal sanction has come into the limelight to such an extent in discussions on labour legislation [1]) for a reason which is only too easy to understand, as we shall presently see. Yet it is all the more necessary to keep the agreement itself in view, and not to expose oneself to the danger of being partial to one or the other side. Stbl. 1880, 193, gave a model agreement and a model register for these contracts. According to this model, which has been repeatedly improved and enlarged [2]), the agreement had to mention the names etc., of the parties, the nature of the labour to be performed, the number of working hours per working day, which were not to exceed ten, the amount of the wages and the way in which they were to be calculated and paid, the amount of the advance given and the way in which it was to be repaid, the number of holidays, the obligation of the employer to provide at his expense satisfactory housing and medical attendance, the duration of the agreement, which was to be not more than three years, the place of registration, the date of the signature of the act, the signature or finger print of the parties, the position of the registering head of the local administration, the date stamp of registration, and the signature of the registering official.

The East Coast ordinance for the regulation of this special la-

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[1]) There is an extensive periodical and daily literature on this subject (see *Repertoria* D. E. I. literature).

[2]) See Stbl. 1925, 312, and 1927, 572, reproduced in our Appendix II.

bour relationship between agricultural and industrial enterprises and workmen arriving from elsewhere started by making a written agreement compulsory. Art. 2 enumerated the contents of this agreement; the time during which the labourer had not worked owing to desertion, imprisonment, leave, or illness lasting more than one month, did not count as time of service. Art. 3 made registration of the agreement and of any modifications compulsory. Without this registration the contract was not valid. Registration was preceded by an official investigation as to the voluntary character of the previous agreement of the workman. If this enquiry gave rise to doubt, or if the agreement did not correspond with the prescribed model, registration was refused. In such a case the workman was sent back to his place of origin at the expense of the employer. Art. 4 said that the workman could not leave the enterprise without written permission from his employer, and it mentioned the duty of the labourer to perform his work regularly, to observe faithfully the orders he had received, and generally to act in accordance with his contract.

Art. 5 mentioned the duty of the employer to treat his labourers well, to pay the agreed wages regularly, to provide for their housing and for medical attendance, to provide them with good bathing and drinking water, and to enable them if they so desired to present complaints to the administration by providing them with a written permission. He was not compelled, however, to give such permission to more than three labourers at the same time. Every labourer had to be provided with an identity card.

Art. 6 stipulated that disagreements as to the meaning of a contract should be settled as far as possible without legal procedure, by amicable arrangement through the head of the local administration. If this proved impossible, he must if necessary send the parties before the civil or the penal judge. Art. 7 dealt with the obligation of the employer to give the workman at the end of his contract a discharge certificate and within eight days after the date of the end of the contract to inform the head of the local administration in writing in order that the fact might be entered upon the register.

Art. 8 contained the much debated penal sanction. In 1880 it ran as follows:

"Every wilful infringement of the labour contract is punished,

on the side of the employer with a fine of not more than one hundred guilders, on the side of the labourer with compulsory labour on public works in return only for his keep and without wages for the duration of not more than three months. In case of duly authenticated continual incapacity to perform the work which a labourer undertook by contract, the employer can consider the contract as terminated after having informed the head of the local administration. The facts by which the labourer is deemed to have wilfully broken his contract are (*a*) desertion, *b*) a continued refusal to work".

The article then continued to make the employer responsible for the cost of maintenance of the workman who had finished his work until his departure, and for the costs of his repatriation. As reasons for the cessation of the contract were given the expiration of the contract, incapacity of the labourer, and wilful breach of his obligations on the part of the employer. This is a much sharper sanction than a fine of 100 guilders. For the employer in such a case risks losing not only the workman, but the price of his journey and the money spent on his recruitment, altogether something like 100 guilders per workman and 150 guilders for a household, while, moreover, a fine and the cost of repatriation have to be paid, and a new workman has to be found.

Art. 9 also contained a threat of penalties, but these were of another kind, and most of them do not fall under what is understood by the penal sanction [1]). It threatened with penalties breaches of the public order which should really have been dealt with in other laws, such as resistance, insulting behaviour, threats, breaches of the peace, for which acts, unless dealt with as misdemeanours, there was a penalty of a fine of not more than 25 guilders or of compulsory labour for not more than 12 days. Art. 10 threatened with a penalty those who encouraged labourers to shirk their contracts or assisted the breach of them by knowingly housing deserting labourers. The last was afterwards removed from among punishable offences.

Art. 11 characterised the wilful breach of the contract by the workman as an offence that was punishable only in the case of a complaint by the employer, while the employer could be prosecut-

[1]) One should also count as belonging to this the penalty threatened for "the refusal to perform obligatory labour" (see art. 20 of the East Coast ordinance), which could only be considered as a breach of contract if the refusal to serve was continued (art. 19 par. 3 sub C.). Stbl. 1931, 94 (see p. 606) has deleted this penal provision.

ed either upon the complaint of the labourer or upon that of the administration (or later of the Labour Inspection). In the case of a first desertion followed by a voluntary return, the penalty was not applied. Art. 12 increased the penal sanction in case of a second offence by the workman to a threat of penal servitude for from three months to one year. This was an injustice, because the employer was not punished more stringently in case of a second offence. Later this penalty was greatly decreased, and finally both parties were in this respect also treated alike (see art. 19 sec. 2 in our appendix 1).

Art. 13 made punishable the transgression of those provisions in the ordinance for non-observance of which no special penalties were laid down, in the case of the employer by a fine of not more than 100 guilders and of the labourer by a fine of not more than 25 guilders or by imprisonment for not more than twelve days. For the employer this referred to the non-observance of regulations as regards registration, announcements, termination of contract, permission to make complaints, etc. For the labourer this applied to leaving the plantation without written permission and the other obligations contained in art. 4. Art. 14 contained a transitional stipulation for contracts that were already in existence. The whole ordinance was therefore relatively short. It still left many questions unanswered, but as a first attempt to legislate in this particular sphere it is not without merit. It tried from the beginning to place both parties in a satisfactorily regulated relation, and aimed, by the penalties of art. 8 and art. 13, to compel the parties to behave as a good master and a good workman [1]).

The basis of the long labour agreement

Before we can proceed with the description of the development

[1]) On the East Coast there was already a penalty before 1880 upon the non-observance of the contract by the labourer (Heijting, *op. cit.* p. 3). Before 1872 Chinese and Indonesian labourers at enterprises in Deli were considered to be subjects of the Sultan of Deli, who exercised jurisdiction in major affairs, while the planters acted as his delegates for minor cases. This was a very wrong and illegal situation. Since 1872 these labourers are considered to be direct Dutch subjects, with the result that only government jurisdiction is competent. The sanction of the penal police regulation for Indonesians of 1872 was inadequate for the needs of the enterprises. It was impossible to take action satisfactorily against various transgressors and after having purged the penalty the labourer was freed from the contract. The planters tried to safeguard themselves against the unfavourable results of this situation, but in Bijbl. 3104 the Government demanded the strict observance of the letter and the spirit of its ordinances. In 1879 the sanction of 1872 also disappeared to be followed by the legal sanction of 1880.

of this special labour legislation, it seems desirable to examine in more detail the basis of the long labour agreement and in particular the essence of the penal sanction which tended to compel both parties to observe the agreement. From the point of view of the authorities, there was much importance, in the days when this legislation applied mainly to distant and wild regions, in guaranteeing to both parties their living, their housing, care in the case of illness as regards the labourers and security of enterprise for the employer. One simply cannot pretend that there is a one-sided favouritism towards the employer. There remains, if one feels inclined to criticise, sufficient reason, as we shall see, for criticism on various shortcomings without having recourse to such biased interpretations.

The authorities originally saw only a few thousand and later tens of thousands of Javanese going to these inhospitable regions to live the life of rough pioneers. They were compelled to protect these people against the chance that an employer might while they were far away from their home and their friends, put an unlucky labourer into the street, or more properly speaking the virgin forest, if he were unable to perform his labour or if he were weak and ailing. He would in that case have perished, as many a free Chinese labourer has perished in the wilds in Chinese deforestation work because, as has been detected some years ago, his Chinese boss often enough did not shrink back from delivering his sick compatriots over to the mercies of the virgin forest.

It was right, therefore, that a model contract should be imposed, and that the employer should also be threatened with penalties if, under such abnormal circumstances, he did not fulfil his obligations or wilfully terminated the contract; and it was right that in any case he should be compelled to pay the expense of sending his men back home. On the other hand, there was the very special circumstance of the employer before whose gate in the wilderness there was no chance of a throng of people seeking work, and who had therefore to go to much expense to obtain his labourers, on whose performance of duty he was entirely dependent. The costs of the journey [1]) and of the return

[1]) Everything included, these costs now vary between 110 guilders for a labourer and 150 guilders for a household. For 450,000 labourers in the other islands these immediately represent an expenditure of 60 million guilders incurred by the enterprises.

were at his expense, as well as those for preparing adequate facilities for housing, medical attendance etc., which could only be borne by the business if they could be distributed over a reasonable time (not more than three years) and if there could be certainty of enterprise. This is the basis of these long period agreements. If normal consequences in civil law could have exerted sufficient preventive influence upon both parties to withhold them from committing a breach of contract, and if abnormal consequences could have been considered as an affair concerning parties alone, the penal sanction could have been left out of the law.

In the case of the employer it would of course have been sufficient to take civil proceedings against him in case of breach of contract and to declare that a contract that had been wilfully broken was terminated *ipso facto*, to be followed by ordering the return of the duped labourer to his place of origin. However, in view of the fact that the consequences for this workman would be much more serious than would be the case if there were a breach of contract in normal circumstances it was judged necessary to threaten the employer with a penalty as well. In the case of the workman it would also have been possible to punish the labourer who broke his contract or neglected his work by simply leaving him to his fate, which, however, would in many cases have had fatal results for himself and might moreover have been dangerous to the safety of the region. For more than one reason, therefore, the course of affairs could not be left to the free play of social forces. The choice was between the following possibilities: the observance of the contract by both parties, repatriation of the workman, or his settlement in the new territory in certain cases provided by the ordinance, if he could earn his own living.

These being the circumstances, there were several reasons, and by no means only the interest of the employer, which made it advisable to impose a penalty in order to secure the observance of the agreement by the workman, against whom there was no redress in civil law, and who, at the same time, was, in this way guaranteed against the grave dangers implied by a sudden loss of his means of existence in a strange and inhospitable country. It was, of course, no more than fair that against the employer, who could indeed have been hit sufficiently by being made to bear the

civil consequences of his act, there should also be a threat of penal sanction.

Such is the basis of the penal clause in this special labour legislation, which consequently is made to apply exclusively to enterprises outside Java and, moreover, only in so far as they employ workmen coming from elsewhere. In the spirit of the law, the parties were standing not above one another but side by side. At the same time, however, there was one real departure from this intention on the part of the authorities consisting in the difference in the treatment of second offenders, and for this reason the difference was later abolished. Otherwise the inequality mainly resulted from the economic inequality of the parties, one of whom was punished by a fine and the other by loss of liberty. The legislature at a further stage testified to its impartiality by threatening both parties with exactly the same punishments and in either case with the alternative of a fine or imprisonment. It must be said, however, that in practice this makes no difference to economic inequality, and that therefore, as is the case in Europe, there is still some reason for our sense of justice to feel dissatisfied.

If we continue the investigation of this special labour legislation carrying a penal sanction, we are struck, from the sociological point of view, by the mechanical aspect of this structure, which is part of the entirely artificial system of organisation that has made possible the co-operation of modern times with former centuries in the colonial world and elsewhere in the East. Here is a workman accustomed to the gentleness and the slow pace of Indonesian agricultural society engaged by contract to perform for several years regular and systematic labour which requires an amount of self-discipline he has nowhere been able to acquire. Moreover, even to-day, though less so than formerly, the average Javanese in any case considers life outside his village to be a sad fate only to be accepted in case of necessity owing to extreme poverty or for other reasons which make it advisable in the interest of his personal safety to leave the familiar place. Therefore, many bad, rough, and criminal elements found their way to the agricultural enterprises, whereas the quiet farming people preferred to stay at home, and the education in regular work which these rough elements acquired there has sometimes quite appropriately been characterised as a kind of reformatory work. But in any case

there is no doubt that the first period of industrial work even under the most gentle master is always a harsh school for the Oriental labourer, especially from the psychological point of view.

In the modern enterprises in Java, this factor also plays a part, but the labourer there returns to his village as soon as method and order become too much for him, and many others are ready to take his place at once. In the other islands, there are no "others" and one is altogether dependent on the labour that is actually there, and it is therefore absolutely essential that it can be relied upon for a definite time. As a consequence, the labourer has to pass through a crisis of the will. It is particularly during this period, when the Conflict of the Times is struggling through his soul, that the penal sanction has a chance of being actually applied. When this time is past, the sanction only exercises a preventive influence, and is very rarely applied in the case of labourers who renew their contracts — about fifty-five to sixty per cent of the total staff.

As a consequence of this situation, the number of condemnations for breach of contract amounts to about five per cent of the total of labourers working under contract. The actual percentage is somewhat smaller, because one has to take into account the bad characters who according to statistics are sometimes punished eight and more times [1]). After they have purged their offence and also in the case of workmen not returning to their work the labourers can, by order of the police, be led back to the place of their work by the staff of the enterprise in order to serve out their contract. In the case of bad elements, the employer nowadays usually prefers to repatriate them. The provision regarding enforcement of the contract after completion of the term of imprisonment or in case of desertion, which probably sanctioned a practice that existed already, was first included in art. 14 of the ordinance for Billiton (Stbl. 1896, 233), whence it found its way into the ordinances of other territories.

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[1]) Report of the Labour Inspection for 1927, appendix H, which mentions for the East Coast in a total of 240,000 contract-labourers, 9206 punished once, 1328 twice, 384 three times, 137 four times, 43 five times, 12 six times, 7 seven times, 1 eight times, and 1 even more frequently. The punished persons were therefore altogether 11,000 or 4½% of the total. Of these penalties about 8,000 were incurred by newcomers although they are a minority of the total number. The penalties are usually slight.

Prof. Nederburgh, writing on the compulsion to observe the contract after punishment and apart from it, says:

> "By itself, the penalty would not mean much to the coolie who runs away from his work. A fine cannot be got out of him, and temporary detention means less to a man who has in any case tied himself for one or more years, and who has to remain at a definite place and labour at definite work while he is being detained much in the same way as he had to do at the enterprise. The question is what will await him after he has finished his punishment. If he is free to go where he wants and not to do what he dislikes, he will willingly accept the loss of freedom and the compulsory labour during his punishment in order to free himself from longer bondage and obligation to work. After this, in all probability he will find the chance of signing on at another plantation to benefit by a new advance or recruiting premium. If he is successful, and if many people imitate his example, which they are bound to do, bands of tramps come into existence in the interior of the region, against whom the ordinary police would be simply powerless".

It is not surprising that, since the other islands nowadays begin to present an aspect altogether different from that of half a century ago, security has by Prof. Nederburgh been placed in the foreground. At the same time, the consideration we mentioned before, that a Javanese roving in a foreign land without means of existence may be reduced to pitiful conditions which his lack of foresight is apt to discount, may in various regions be still applicable. Two reasons, therefore, apart from that of providing security of enterprise, still influence the authorities in the sense of compelling observance of the contract even after punishment, unless the employer prefers repatriation at his own expense. Considered in itself, such disciplinary co-operation of the authorities for ensuring the observance of the contract appears more justified than the penalty itself in the eyes of opponents of the penal sanction [1]).

Objections to the principle of penal sanction

Various jurists of repute, such as Van Hamel and Simons [2]), have declared that there are no objections from the legal point of view to the principle of a penal sanction in support of an

[1]) J. Kalma, *De Poenale Sanctie. Kan zij afgeschaft worden?* 1928.
[2]) *Ibid*; F. Cowan, *De Poenale sanctie* in "*Haagsch Maandblad*", Dec. 1928, p. 573.

agreement which is made voluntarily and requires fair counter-services, provided the general interest requires such a punishment of all wilful breaches of contract for which there could be no redress in civil law. It is a fact that one's own conscience tells one that after having broken one's word if one cannot pay an indemnity, one must be punished. On the other hand, it should not be forgotten that many a recruited workman may not have realised the extent of the contract put before him and may have given his decision without a full knowledge of the position, even though great pains are taken to explain his rights and duties fully and clearly to him. The Javanese villager, as a rule, will have in any case rather vague notions about the systematical methods of modern enterprise which are awaiting him and of which he has no personal experience.

Public opinion in a modern society frequently ensures that dishonest or disloyal actions which cannot be punished by the judge shall not escape social sanction. And in normal conditions society in most cases can actually do without penal law, with the result that in the West, but not in the East, an ever larger expansion has been given to restitutional law. This reasonable way of allowing more freedom for reasons of expediency does not, however, prove that the punishment of wrong action is unjustifiable, if civil law falls short and if as a result public morality is liable to suffer.

A primary interest of society is here concerned. If freely-made agreements on a large scale can be broken the basis of public morality would be affected. The community has an idealogical interest in imposing respect for agreements: its future depends on it. How to secure respect for agreements is a question which claims attention only in the second instance, and may well be a matter of opinion. It is conceivable, for instance, that there should be other and better methods [1]) of enforcing labour agreements in the islands outside Java than those adopted in 1880. The authorities are indeed trying to do away with this system altogether, but the progress which may be expected in this respect in the course of the next five years does not yet prove that the sanctions imposed fifty years ago were wrong.

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[1]) Kalma, *op. cit.* p. 49.

Prof. Gonggrijp [1]) considers that the duration of the contract forms the real objection of a psychological nature to the labour agreement with its penal sanction. From the juridical point of view, this scholar also considers that only exceptional cases justify an appeal to penal law in support of relations in civil law:

> "If private law can achieve its sanction by way of private law, all the better. But to create private law in the knowledge that it can be infringed without penalty is hypocrisy".

The author then examines various objections to this institution and he comes to the conclusion that the time element plays a large part in it. Such a contract for one day, he says, will appear entirely reasonable to most of us; for one week there would also be no objection; one month already causes some hesitation; six months would create a large group of dissidents; a year will probably turn this group into a majority; and a period of ten to twenty years will make everybody join the opposition.

It is a fact that if one thinks of one's own feelings as regards each of these terms, one realises the great part played by the time element in this question. This already gives an indication of the psychological basis of the antagonism which the spirit of our time cannot help feeling instinctively against the contract over a long duration with its penal sanction. But we can go even a few steps further. In the islands outside Java the contract for forty-five per cent of the labourers who come from elsewhere lasts from two to three years. The proportion of three year contracts to those of two years will soon be about seven to three [2]). In the case of fifty-five per cent it is twelve months or one harvest year, so that at present, of some 380,000 contract labourers, about 210,000 will have contracted for about one year, 40,000 for two years and 130,000 for three years. The proportion of the two last figures will probably rapidly change in favour of the first. Only two-fifths of the last mentioned group of workmen have still three years in front of them; while the others have already served one or two years. In the case of the majority of the workmen we may say therefore that the duration of the contract is becoming reasonable, and that

[1]) G. Gonggrijp, *Het Arbeidsvraagstuk in N. I.*, 1925.

[2]) An estimate based upon the rapid rise of the number of labourers introduced by free emigration, who make contracts for two years and some of whom become at once free labourers. In 1929 their number was 20,000 against 40,000 others for the East Coast.

conditions not too repellent are thus nearly established. Nevertheless, there are no signs that the antagonism is diminishing.

A better illustration is provided by the Straits Settlements, where about 1920 the duration of contracts with sanctions was reduced to one month. India, however, threatened to stop immigration unless the sanctions were abolished. The leaders of enterprises could congratulate themselves upon being able to face this change with equanimity in view of the fact that they could count in any case on a wide labour market from the "emigration ripe" districts of India, the enormous influx from southern China and a government subsidy on emigration from India. But this fact showed that under the time element, although it exercises an influence which can bring resistance to a climax, nevertheless another and more deep-seated factor must lie hidden.

Which is the more fundamental? We can discover it by considering Prof. Gonggrijp's pointer, but we must first quickly search a number of other avenues. Opponents have been little convinced by appeals to the interest of the State in securing the protection of both parties alike, to the general interest, to economic development, to the opening up of huge islands in preparation for the great Java emigration which must take place at some time. As a last effort to make clear the objection which is hidden at the bottom of the mind, we may mention Mr. Kalma's interesting little work, according to which these objections would be nonexistent if one could speak of an ideal and generally social interest, of which in his view there can be no question here.

This declaration, although supported by striking arguments, is not satisfactory. For it is not difficult to show that the greatest ideal interests are concerned in educating people to respect contractual obligations, and as long as it cannot be proved that some other method will be as efficacious in securing this observance as that now in existence, there is no justification for recognising the ideal interest on the one hand while destroying on the other the instrument for its achievement. The loyal attitude of nearly all the old contract men proves that the system worked and continues to work educatively upon entirely undisciplined elements, among whom there were and are still many rough and difficult characters. Until, therefore, the possibility of another method can be not only advocated, but convincingly demonstrated, one would

on that line of reasoning be perfectly justified in preserving the present system. This does not mean that there might not be another method [1]). Mr. Kalma, for instance, points out that the compulsory stipulation mentioned above might be used as a disciplinary measure by the authorities; but we would suggest that this way might perhaps fail to lead us to bedrock, because we should lose ourselves upon the side tracks of means while it is the principle itself that is concerned in this investigation.

Now, it can be said without any reservation that modern society would crumble as soon as respect for agreements disappeared or even weakened. Western society stands and falls by this respect. Its weakening would be a sign of inner putrescence, of the loss of spiritual and moral values without which modern society could not exist for one day. Eastern society in its evolution, full of morality in its small genealogical and territorial communities, but by no means yet equal to the claims made by the impersonal abstract morality of modern society, will equally be able to develop to the extent of its reverence in this respect, but not a step beyond.

The secret of the West resides precisely in this abstract morality detached from personal relations, the family, the village, etc. It is there that the strength of the Western Samson resides, and all references to technique, guns, capital etc., are legends with which only the Philistines are put off. From the idealogical point of view especially, therefore, it is most essential to generate in Eastern society a consciousness, as general as possible, that agreements must be respected. It is for this reason that impartial authors, who have a whole life to show their high-mindedness, have been heard to advocate such or similar educative methods in the interest of the social and economic future of Indonesian society as a whole, and by no means only in the case of contract labourers brought from one island to another.

Even if this idealogical reasoning could be proved to be absolutely correct, it would probably not alter Mr. Kalma's views a bit, and he was really somewhat rash in proclaiming his readiness to accept the sanction if only the ideal or social necessity or desirability thereof could be shown, nor would public opinion give up the battle. In the first place, many people contest that punishment

[1]) L. Lips, "*Kol. Stud.*" Oct. 1918, p. 278.

has an educative value. We cannot expect that any set of arguments would cause one to grow enthusiastic about the penal sanction. One can at the most adopt the Government's stern attitude which is that this system is tolerated only under pressure of exceptional circumstances and provisionally. It is idle therefore to continue the analysis of the objections against the principle of the sanction. The real objection, which will always be a little unreasonable in its reasonableness and a little reasonable in its unreasonableness, is to be found simply in the instinctive objection of the spirit of our time to all infringements of personal freedom. The Occidental never accepts such infringements with equanimity, not even from servants of public order. For this reason, the police will not be popular especially in Holland until its social function becomes more obvious; but from the modern point of view this infringement becomes most intolerable when ordinary members of society are instrumental in the application of compulsion. That is why the wearing of a uniform, which gives an impersonal character to the infringement of liberty, has a psychological significance which makes that infringement somewhat less intolerable. The penal sanction fails precisely to satisfy this requirement in the eyes both of the average Occidental and the modernised Oriental who has been converted to the idea of personal liberty. It is among them that resistance occurs, and not among the workmen who are directly concerned in the dispute.

Here the Conflict of the Times shows us its ethical reality. The average Occidental thinks, and must think, in ideal and ethical values which have been left to him by his fathers as his most precious inheritance. He is compelled to strive for the development of a free personality, for the realisation of these ideals in the overseas territory where he is called upon to undertake the task of leadership. That is why one sees him taking trouble, and carrying everything faithfully to the East, from the emancipation of the slave to his democratic institutions and the results of his own enlightened experience; everything, in fact, that can liberate man and elevate him above material, moral, and psychological pressure. Freedom is the most stupendous word of our day. Even though it is often mis-used, never will it lose its inspiring force, as long as the West remains the West. Freedom is the banner behind which the best thoughts and the best forces of the West are gathered.

What chance of survival has the penal sanction upon short and even more upon long labour contracts, even if it furthers the interests of the future, which are still difficult to conceive, in comparison with the tangible and ideal good of immediate freedom? Who can be enthusiastic for it? Nobody! Not even the employers who are directly interested. No considerations, whether juridical, psychological, financial, economic, or ideal, make the slightest change in this. No wonder that, apart from some people who are either biased in favour of the penal sanction or irreconcilably attack it without being willing to admit various quite obvious advantages of the system, most authors and members of parliament and of the People's Council have in the end accepted the Government's point of view which has always been that this institution is a provisional if unavoidable evil that must disappear as soon as possible.

It has been said already that the West attacks subjection and lack of freedom wherever it meets them. It cannot rest until the peasant is liberated from his ignorance and his superstition, from usury and other oppression, till woman is freed from her inferiority, the subject from mechanical authority, the workman from mechanical compulsion to observe his obligations.

In this endeavour we continually transport ourselves into social conditions which do not yet exist and which will develop only slowly. It is the same struggle which causes internal division in the spectator when looking at the activity of the authorities in every sphere of social work and wherever the fight between compulsion and self-exertion has not yet been decided. The labour contract of long duration with penal sanction and compulsion is attuned to the already disappearing claims of the past and of today; the fight against it is in reality attuned to a better future which it is the duty of colonial policy to make into a reality.

This is why the task of colonial policy implies more than the mere abolition by decree of the penal sanction, as some people recommend in their simplicity. The sanction is a consequence and not a cause. It is only one of those hundreds of symptoms of an almost universal social complex, still more sharply defined in our case against the background of abnormal conditions in the uninhabited regions outside Java, and this social complex must be dynamised in its entirety by the spirit of the West. The necessity

of the sanction is not permanent. We may observe in passing that recourse might as well be had to less controversial alternatives such as disciplinary interference on the part of the authorities, or constraint as a means of ensuring the execution of civil sentences, but the necessity of special guarantees to ensure the observance of agreements would still have remained and it is this necessity which is really a much more serious and more general matter than the sanction itself. The sudden abolition of the sanction would not by itself bring about the satisfactory labour situation which exists in most Western countries. As we shall eventually see, the Government was wisely advised when it decided after many years of preparatory labour to enter from 1930 upon the policy of gradual restriction of this sanction, a policy which is connected with social development along the whole line and which may be welcomed as the result of much effort, and of much idealism allied to realism.

The sanction in practice

The problem would have remained simpler if it were only a question of unfaithful labourers who neglect their duty as against good and precise employers who always act in accordance with the agreement, and who always do what befits a good master, who always live in accordance with the maxim that the labourer is worthy of his hire, who never impose tasks that can be called unreasonable, and who above all else never fail to see their fellow human-beings in their weak assistants. It should be remembered that, especially before 1910, the majority of the labourers were anything but angels, and that those were days of pioneering in the wilderness. But this reasonable reservation only covers a part of the abuses that were introduced between 1880 and 1900.

These facts lead us to consider the contract of long duration and with penal sanction in its practical effects. There we shall find the ground on which resistance against the principle of limiting freedom was bound to become sharper. It appeared that the existing labour legislation gave more power to the employer than to the workman, especially in isolated enterprises. Often the care taken in those early days of the workman was not what it should have been. There was a spirit of roughness which can only partly be excused by the pioneering conditions that existed. Personal ag-

gression and blows were in various plantations the order of the day and in a number of enterprises there were even cases of gross ill-treatment. For some time these facts remained within a small circle, until in 1902 Mr. Van den Brand began to publish his revelations [1]) which caused a great sensation in the East Indies as well as in Holland.

The fact that conditions had been gradually deteriorating to such an extent showed again the risks incurred when giving any human being power over any other one, and it brought home the necessity that in cases when this proves indispensable there should be adequate supervision. As in Holland, the administration in the Indies thought that its purpose could be effected without a special inspecting staff. Since the 'sixties the administrative corps had continually taken upon itself the major portion of the task of governing, which was growing at a tremendous speed. It was compelled to take upon itself this new task as well. No wonder that its control was much too superficial; while in one or two cases there also seems to have been dereliction of duty. Since those days the penal sanction has been almost continuously in men's thought and has been continually attacked, while its abolition has been demanded. The reason of this was, as we have said, that in practice the deprivation of freedom had taken a harsher form, at least in a large number of enterprises, than had been expected at the beginning.

It is important, therefore, to examine the question whether the penal sanction and the enforcement of the contract in accordance with labour legislation in this special domain are the real causes of the abuses, which seem to have been fairly numerous between 1880 and 1900 but which now are no more than rare exceptions that are very severely punished when they occur. The latter fact indeed helps us to realise that these sanctions were important but not exclusive causes of the abuses. Otherwise the sanction, as the Government of the Indies rightly remarked in 1927, would have condemned itself and would have had to be abolished everywhere without hesitation, whatever might have been the economic results of this decision. The origin of abuses has always and everywhere, in the West as well as in the East, resided in the dependence

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[1]) J. van den Brand: *De millioenen uit Deli*, 1902—3.

of the labourer, and one has to investigate in how far penalty and enforcement of the contract contain elements which either create this dependence or increase it.

It should be remembered that during the first periods of the rise of industry in the West there was also a great dependence on the part of the labourers, accompanied by similar abuses which allow one to speak of the palaeolithic era of modern industry. Yet in this case there were no sanctions at all and there was no question of East and West. In the Chinese panglongs, or wood-cuttings, in the distant territories of Bengkalis, and in the Riouw Archipelago, situations have been discovered in 1918 such as the East Coast of Sumatra has not known at its worst period. Yet in this case also there was no contract, no sanction and the Chinese workmen were in the service of Chinese employers. In the "idyllic" batik works of Java, situations have been discovered to the astonishment of everybody which happily have disappeared years ago in all Western enterprises in the Indies. There is, again, no question here of contracts, of sanctions or of Western employers as against Eastern workmen but only of dependence, whether real or imagined.

One thinks with some concern of the free emigration of Javanese workmen to all kind of Indonesian and Chinese small enterprises in the other islands, where there is no supervision such as that to which all big Western enterprises without exception are subjected. What is going to happen when the separation between employer and workman has become more marked in the Eastern world itself? The enquiry into the results of the sanctions is in this way immediately placing us before far more serious questions which concern the whole Eastern labour problem of the future, which so far has scarcely had any actual importance and which places it against the wide background of Indonesian society itself. The Office of Labour must then become a Department of Labour with a staff several times as large as the present, and the rising Eastern industry must be induced to jump the palaeolithic stage.

Dependence then is the origin of all abuse of power. What now are the elements that have been added by this labour legislation to the feeling of dependence on the part of the workman? It is not right to make the stipulations of this legislation exclusively respon-

sible for this dependence, but it is true that in an Eastern environment they had certain primary consequences which might encourage abuse.

In Java, where sanction or enforcement of contracts does not exist, a rough supervisor once took over from a friendly predecessor the task of directing the Indonesian staff of a tea factory. Two days later all the workmen and women stayed away. At first, it was impossible to get at their reason. But after repeated insistance, the reply was given that this supervisor acted *kasar*, i.e. roughly or impolitely and that they did not intend to tolerate this any longer. This is a natural reaction which automatically assures a situation of equilibrium. Labour legislation in the other isles does not altogether exclude such a remedy, but it greatly limits its natural functioning. The result is that a character that may naturally be inclined towards roughness or abuse of power will lack the necessary counterpoise, if his superiors do not severely repress any such tendency and if, moreover, control by a specially trained inspection of labour is not adequate.

In the second place, penalty and compulsion, the latter of which seems to enable the hand of the master to reach into the extreme corners of the region, and far beyond his own enterprise, give to the master in the eyes of his workmen an air of power which labour legislation did not in the least intend him to acquire. It is a fact, after all, that the feeling of dependence plays a large part in Indonesian social life, and throughout the whole East. Everywhere there exists the right of free complaint, but very frequently it is simply not used owing to this feeling of dependence. This unhappy circumstance makes the administrative task much more difficult throughout the East. In the enterprises this same right of complaint exists, and can, since 1889, be used freely without the permission of the employer. The fear-complex was too powerful even for many of these rough customers; the experience that penal sanctions could make the orders of the master compulsory and that his hand, by means of his right to demand the observance of the contract, reached out to the end of the district and was able to bring back the deserter, must, moreover, in the years before 1900 when supervisors left a free hand to their staff, and when the authorities exercised no more than a very general supervision, have appeared to the workman much more real then the knowledge that a com-

plaint could perhaps make this same master acquainted in his turn with the same penal law.

There were also masters who threatened their labourers with the direst results if they had the audacity to complain. If the man thereupon submitted to ill treatment, out of fear that worse might happen, as he might well have expected in those days of lack of supervision, it was a fact that all the side of the labour legislation which was meant to protect him was put out of action, while the stipulations in favour of the employer were all maintained. Even now, with or without penal sanction, such things may happen in exceptional cases, and only in so far as definite stipulations can increase the feeling of power while they can on the other hand increase the feeling of dependence, one is justified in attributing a part of the abuse of power to these stipulations. In view of the fact that in any Eastern environment dependence and fear can also be suggested in many other ways, such as those successfully practised by some chiefs, by village rascals or by political terrorism, one must draw the line differently from the way in which it is usually done. The mentality of the labourers as well as that of the employer, the isolation of an enterprise, if it makes regular supervision difficult, or lack of supervision, are all in themselves factors of great and possibly of greater weight.

Improvement of labour law.

These stipulations, however, became the real cause of the establishment of a sharp supervision by a special Labour Inspection and of a continual improvement of special labour law. In 1889 (Stbl. 138) an improved draft of the East Coast Ordinance had already been promulgated [1]). It not only applied to agricultural and industrial enterprises, but also to mining and later to railways and tramways, deforestation and so on. A new model contract was published in Stbl. 1889, 139. This new regulation still prescribed, in the case of labourers from abroad, the making of written contracts on the basis laid down in the coolie ordinance.

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[1]) For the sake of completeness we may mention that such ordinances were also issued for other regions after 1880, *e.g.* for the Banda islands (*Stbl.* 1884, 28*a*); West Coast of Sumatra (1886, 223); Palembang (1887, 201); Ternate (1888, 74, 151); Ambon (1888, 76, 151); Western division of Borneo (1889, 208), while the revised ordinance for the East Coast of 1889 was declared applicable to about six other Residencies in the course of the following years.

appeal of this moment which, after so many centuries, is about to open the era of self-exertion will be heeded and understood. Then, in ten years' time, an intense co-operative life will cover the Archipelago, prosperity and self-confidence will increase every day, and the spirit of co-operation and real civic sense will lead tens of millions of people away from the narrow spheres of oppression and darkness to heights which they have never before in the whole course of their history been allowed to climb.

Public health

Very much indeed has been done by the authorities to save Indonesians from the mazes of fatalism, inertia, superstition, ignorance, and particularism, which are the worst enemies of the spirit that must animate indigenous society if it wishes one day to bring forth a modern state as one of the manifestations of its creative force. And always, whatever may be the government activity that is under consideration, the same difficulties appear at a first glance that have already been met with so often. All these difficulties, in hundreds of different spheres, will simultaneously decrease and even partly disappear as soon as inertia and particularism have been attacked in their very entrenchments. Let us look at the work of the public health service, at that of agricultural information, of the veterinary service; in the last instance the crux of the difficulties always lies in the complex of sentiments to which we have devoted our whole first volume. There is no need to explain the importance of popular health in the construction of society. People, after all, are themselves the builders, and little can be achieved with diseased, weak builders and with such as have no inclination to work. Activity in favour of public health is probably one of the most useful that can be imagined. Let us therefore mention with gratitude the assistance which is given from private sources, especially by the Protestant and Catholic missions, and by Western industry, which are all co-operating to bring the greatest blessings of Western science, technique, and organisation to the East [1]). In this respect also, indigenous initiative,

[1]) We may point to the activity of the League of Nations and especially to the Eastern Bureau, Health Section of the League of Nations, established in Feb. 1925 at Singapore, which collects epidemiological, demographic, and hygienic data in the Far East and by means of its intelligence service is very useful in cases of plague, cholera and smallpox in the harbours of the Far East. The East Indies assist this work in

life that has since happily increased, At present one can point to 86,000 children of contract labourers on the East Coast of Sumatra who are in a good state of health. Family life has been much assisted by a number of other measures, taken since 1910, which we shall eventually mention. The employers have more and more co-operated in this sense, whereas formerly they often opposed the whole idea. For instance, some of them prohibited marriage, which was an entirely illegal measure. We may also state as regards the ordinance of 1889 that excessive laziness and refusal to work were henceforth included among offences against order. We may leave out further details, and refer to the frequently quoted work of Dr. Heijting, where the first coolie ordinances and those that now apply are carefully analysed in their relative connection and in their practical effects.

For some years after 1889 this labour legislation was not much modified, but it has been extended over almost all the other isles. The Government did not know what was happening in practice, and did not realise that part of these regulations which were meant to protect the labourer had in some districts gradually become obsolete owing to abuse of power and to the absence of special supervision. The revelations of 1902 regarding conditions on the East Coast shook it up. At first, they were not believed; there was talk of exaggeration, of the inflation of a few individual cases; but an enquiry proved that serious abuses had crept in. Necessary measures were immediately taken or prepared. An inspector of labour was appointed for the East Coast of Sumatra and a Superior Court of Law was established at Medan, in order to ensure justice with more rapidity and more knowledge of local affairs than could happen at Batavia, under which the East Coast had remained notwithstanding its great distance. The improvement of the police organisation on the East Coast, which in view of the rapidly increasing number of enterprises and labourers had not answered to the demands that could reasonably be made of it, was taken in hand, because many of the leaders of the enterprises had been compelled by the pressure of circumstances to take upon themselves the task of police officers. Of fundamental importance were the creation of a special Inspection of Labour and the introduction of order into the system of recruiting; while it was further realised that labour legislation had to be improved. The inspection

preserved millions of people from hookworm, malaria, framboesia, etc., or if no account is taken of preventive measures and the distribution of medicines?

All this work has not been in vain. In the first place, strong resistance has been shown against epidemics like the plague, cholera, smallpox, typhus, which in the days before Western intervention frequently decimated the population, and sometimes may have reduced it by half. In the second place the provision of good drinking water and of sanitation has made it possible to do much preventive work on a large scale, especially against typhoid and malaria. In the third place, millions of people have been delivered from hookworm and framboesia; while good nursing has been provided for lepers and lunatics. Finally, there is the advantage that the population has acquired more confidence in Western methods, and that it is beginning to turn away from its primitive medicine, impregnated with superstition. The death rate has as a result fallen to about 20 per 1000 which is probably the lowest yet attained in the whole of the Far East.

Hookworm infection was very general and in some regions had reached 100 per cent, so that mass-cures were necessary against this parasite on the energy of the people. The population nowadays gives its willing co-operation, even by paying for the expenditure, as is also the case in the fight against the horrible framboesia, against which mass-injections are employed (from 1925 to 1927 not less than three-quarters of a million per annum). The success which is immediately achieved is, of course, excellent propaganda for other aspects of modern medicine which the population likes less. Vaccination is in the same position. Every year there are about $1\frac{1}{2}$ million vaccinations and $4\frac{1}{2}$ million re-vaccinations; usually 96.5 per cent of them are successful. The fight against the plague is more difficult, owing to religious objections to puncturing the spleen of persons who are believed to have died of the plague and to the fact that there is no co-operation on the part of the population in maintaining the improved housing conditions brought about by the authorities. Although in the first instance the people contribute labour and money to this end when an inspector insists that precautionary measures should be taken, the old negligence in the matter of upkeep of houses and stables soon re-appears, with the result that the rats gradually find access

Having once decided that it should extend its special protection to the labour agreements in the other isles, and being aware that this very protection contained some harmful elements for the labourer, the Government was bound to be conscious of a special responsibility in this direction. At the same time, it could leave to the play of social forces labour relations in the free sphere, so long as there were no suspicions of social abuses in this sphere. One must attribute to this consideration the growth in the other isles of this special labour legislation that may seem to be antiquated as far as the sanction is concerned but otherwise may be called in many respects ultra-modern. General labour legislation on the other hand is only beginning to take shape at the present time. This useful side of the special labour legislation, however, was somewhat pushed into the background when abolition plans, or agricultural colonisation as a means towards abolition, distracted attention towards the future perspective, which could only be approached gradually and after some further decades.

Once it had been decided to take the direct road, however, the Van Blommestein draft was not without merit. It maintained the penalty upon breach of contract only for labourers who had made so-called immigration contracts. They were the new arrivals who had, for the first time, made an agreement upon the basis of the coolie ordinance and who had to pass through a period of apprenticeship. But for the so-called contracts of "re-engagement" of labourers who took service again after their first contract had elapsed, penal and compulsory stipulations were to be abolished. This distinction was well-founded, and in the coming years when the penal sanction will be gradually restricted it will according to the draft ordinance which has already been passed by the People's Council be generally adopted (Art. 41, Stbl. 1931, 94).

In this way the educative force of the agreement with sanction can be better demonstrated than when this "education" is continued in the case of labourers who may perhaps have already served for ten years. Of course, the problem is not stated here in its completeness, because there is an inequality which can scarcely be called educative in the fact that when two labourers working side by side on one day are both guilty of a similar breach of contract, the man with an immigration contract is hauled before the judge and the other one is not. Nevertheless, the habit of making with

old servants contracts, though for much shorter periods, under the protection of the penal clause has given opponents the opportunity of querying the educative value of this institution to which this practice has, up to a point, seemed to give a certain justification.

The differentiation between apprentices and old hands in Van Blommestein's draft deserves therefore to be regarded as a virtue. On the other hand, a greater degree of gradualness, such as a proportional decrease based upon the age and character of the enterprise concerned, would probably have been preferable. The project, no doubt, allowed penal contracts of re-engagement as an exception in the case of field workers for tobacco cultivation where care of the tobacco plants is most essential unless the efforts of a whole harvest year are to be destroyed in a few days. There are few enterprises where a strike can be as ruinous as this. If a factory has to close, it loses some of its markets, or its raw material may be damaged, but the loss would scarcely be comparable with that of agricultural enterprises, especially at harvest time. Differentiation between enterprises was therefore a second virtue of the draft, but this principle also should have been given more scope.

Offences against order were in the draft removed from this special labour legislation because, in the opinion of the author of the draft, it was not their place. Provisions on that score either existed already in ordinary legislation applicable to everybody or could, if necessary, be left to special regional police regulations. The exterior aspect of East Indian labour legislation would thereby have become more agreeable, but it is perhaps one of its virtues that it never aimed at making an effect of being better than in fact it is.

The draft went even further. The duration of the first contract or apprenticeship was shortened to thirty months, and for those who signed on for another year to twelve months, but in their case no penal sanction would be applicable. By way of exception, in the case of tobacco cultivation, penal re-engagement contracts were allowed. Furthermore, as is required by modern labour law, the contract could be terminated for urgent reasons by either side and could even be terminated without urgent reasons, in which case the employer who terminated it had to pay one month's wages while the workman who terminated it had to pay damages

at the rate of 2½ guilders per month for the remaining contract time. It was a good idea to introduce the possibility of dissolving the contract for urgent reasons. And it has at a later period been introduced into labour law. A few other stipulations, such as those which limited the granting of advances, also aimed at securing the greatest possible freedom of movement for the workman. After having heard numerous advisers and interested parties, the Government finally hesitated to take the direct road at an over-hasty pace. It decided to suppress all abuses by supervising recruiting, by extending labour inspection, and by improving labour legislation. For it considered that abuses were the result mainly of the fact that an insufficient sense of duty on the part of some directors and their staffs so far had not found an adequate counterpoise in strict regulation and supervision; while the present arrangement could as yet not be dispensed with.

Moreover, at that time, much was expected from agricultural colonisation and from transplanting agriculturists from the overpopulated districts of Java to other isles. Not only was this method expected to alleviate the burden of Java, but it would provide the opportunity of reclaiming the wild expanses outside Java, while the enterprises in the other isles would by this means eventually be supplied by a local labour market and would be able to get on without labour agreements of long duration. At the same time, the Government, noticing that there was already a beginning of emigration of labourers without contract, began to consider the promulgation of a regulation which would sufficiently protect the free labourer while it would give some security of enterprise to the employer.

Agricultural colonisation and labour legislation

This period deserves to be examined more carefully.

The labour contract, which had already been revised but still lacked a legal basis, was improved by Stbl. 1910, 196 and 383. More freedom in regulating their mutual rights and obligations was given to both parties. Individual deviations might take into account the incidental needs and wishes of the labourer, while penal clauses in the ordinance would not be applicable to such special agreements. A part of the stipulations of the labour agree-

ments could in this way be withdrawn from the effects of the sanction. In practice, this well-intentioned change could not mean very much, seeing that one can expect little initiative in the formulation of special conditions from an uneducated labourer.

We shall come back later to agricultural emigration as a means of creating a labour market in the other isles. Occasionally too high expectations have been nursed in this respect. The wish is father of the thought; three interests of primary importance, which have already been mentioned, make this wish only too easy to understand. But a modern Government cannot transplant hundreds of thousands of households as was possible in ancient China and ancient Rome, and also, in all probability, in the Javanese Madjapahit. Even if this were possible, it would not be desirable. The Government must limit itself to facilitating emigration and to assisting young settlements. In this sense, the Government has done what it can, and not without some success; but until the Javanese themselves want to emigrate not much can be done. This time is now slowly approaching.

We cannot at present say whether at that moment the Government imagined it was seeing symptoms of an urge towards emigration. In any case, there was no such urge, and this idea was thirty or forty years ahead of its time. It can be imagined how large the agricultural population on the East Coast would have had to be before it could supply the two hundred thousand Indonesian labourers required by the big enterprises. Add to this that a free labourer without contract tries to draw away as soon as regularity and method in his apprenticeship become too much for him. The schooling with which regular labour has proved to provide any Eastern workman would in that way disappear altogether. And even such schooling as has been given is not to be compared with the discipline of Western labour. The trained European workman still achieves much more than the trained Eastern labourer. If the opportunity of accustoming the Eastern workman to regular work is withdrawn, he may prove to be as yet too shortsighted to discipline himself, and as a result such a labourer never acquires pleasure in his work, which can enrich the life of the able workman in the West to the same degree as it can that of the savant and the statesman. Nevertheless, this is the direction in which we must move. Otherwise the Indonesian la-

bourer will remain half-grown, not a full but a socially undersized human being, with all the results this must have. And the real joy taken by workmen in some of the old Indonesian crafts, in their creative work as silversmiths and ivory workers, allows one to envisage a future in which hundreds of thousands of Indonesian workmen will look with pleasure and pride upon their work and their ability to perform it. [1])

But apart even from this consideration, which makes us look towards the future, it must be remembered that the casual labourer produces a much lower daily average, while he is much sooner inclined to give up his task as soon as he has earned a few guilders. When he is in extreme need or when his field urgently requires it, he can work as well as the best; but labour, without which the average Occidental could not exist, has not become his daily friend. In our countries, moreover, a number of social and economic sanctions surround, when necessary, not only the labourer but every member of society. We require no penal sanction, for an iron necessity of an entirely different kind awaits those who do not know the joy of labour.

In Java there is the similar influence, although a purely mechanical one, which is exercised by the growth of population. This is why the sanction is not necessary and has not been applied there. This influence, which can be compared with, even though it is by no means equal to, that of the social forces of the West, has caused the idea of special sanction to disappear as far as Java is concerned. Meanwhile, it is evident that in the other isles all kinds of arbitrary pauses would cause the average of annual production to fall even below the already mediocre daily average. In the view of some people, the present output would require a free labour corps twice as large as the present corps, as it would work irregularly and would be composed of untrained people.

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[1]) It is to be regretted that in our days voices are heard in the West too which draw attention to an increasing separation of joy in labour and in life, the oneness of which has so far formed one of the most typical characteristics of the spirit of the West. For too many people labour seems to have become a necessary evil for which all kinds of superficial amusement must provide a compensation which it will never give. It would appear that some people unduly stress this phenomenon, and also that the origin of various symptoms must be sought elsewhere. Nevertheless these warnings aptly demonstrate how important the joy of labour is for Indonesian society and how much it will have to train itself to self-control and regularity, which beyond any doubt will be necessary for all labour in the East, once the East starts to establish modern enterprises of its own.

Mr. Vreede [1]) observed such consequences of the free relation that existed in the Straits Settlements. He was astonished at the aimless idleness of a great number of healthy men. His figures, though better than might be expected, are anything but favourable. In the rubber cultivation, things still seem to be best, but in the case of tobacco cultivation such achievements on the part of the labourers would soon cause things to go wrong. In any case, this author (on p. 4) in the event of the sanction being abolished advocated a better system of labour for East Indian enterprises. One should moreover realise that he had been observing regular labourers and not casual workmen supplied by centres of agricultural colonists. Colonists, indeed, would probably be still more irregular at their work. From time to time they would agree to do some work at the enterprises in order to get a little ready money, but there would be no question of their becoming trained labourers.

In Southern Sumatra colonisation has acquired some importance in relation to the enterprises situated there. But this means, again, that agricultural colonisation, which ought to remain the basis of the movement, is endangered. The two desiderata are not so easy to reconcile. They can go together, and the Government considered that the happiest form of colonisation was that in which they did go together. But one must avoid apriori identification of agricultural colonisation and labour colonisation [2]). In short, it looks as though millions of households would have to be transplanted before the aim can ever be reached along this road.

The free labour ordinance

Finally the immigration of free labourers claims our attention. It has been possible since 1889, but was little appreciated in practice until after 1900, when some attention began to be given to it. In 1911 (Stbl. 540) the Government issued a regulation for labourers in big enterprises who came from elsewhere and wished to make a contract upon another basis than that of the coolie ordinances. It must be remembered that the people who left their dessa up to that time did not belong to the best elements. In the

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[1]) A. G. Vreede: *Rapport omtrent de Arbeidstoestanden in de Straits Settlements, Federated Malay States en Ceylon*, 1928, p. 31-34.

[2]) E. J. Burger: *Landverhuizing in N. I., als Koloniaal-economisch Verschijnsel*, 1928, p. 133-137. See also the explanatory memorandum (*Memorie van Antwoord*), debates of the Second Chamber, 1925-26, 4, No. 12, par. 8.

eyes of the respectable dessa man, the contract labourer was rather what "a colonial" has for a long time been in the eyes of his Dutch fellow countrymen. "*Indischgangers* (i.e. people who go to the Indies) are no good", it used to be said in Holland. Contract labourers are no good, the dessa man used to say. It was therefore a happy idea to encourage the emigration of people who, though they wanted work, were not disposed to become contract labourers. The Government this time was on the right track because it was trying to include the good and respectable elements among the labourer emigrants. This was the best way of stimulating colonisation directly by means of labourers and their households (quite a different thing from agricultural colonisation) and also of encouraging indirectly agricultural colonisation.

In all coolie ordinances, therefore, the making of labour contracts with labourers from outside the division upon the basis of the coolie ordinance was made voluntary. If the parties preferred to base themselves upon another model than that of the coolie ordinances, they could do so by using the rules published in the new ordinance. The Government maintained in any case its supervision of recruiting. Bijbl. 7829 contained a model for these new contracts (see also Bijbl. 8112 model C and 11316) made in accordance with art. 9 of the recruiting ordinance, i.e. laid down in acts drawn up in the presence of officials appointed to supervise professional recruiting (Bijbl. 6962), but made upon another basis than that provided by the coolie ordinances.

According to this "free coolie ordinance", the employer was compelled to register the names, the beginning and the end of the engagement, the wages and the debt of his workmen in a register. The agreed wages had to be paid regularly. No other restrictions upon wages were allowed than those stipulated in the agreement. After the expiration of the contract or its ending owing to *force majeure*, the labourer had to be taken back free of charge to his place of recruitment. Care had to be taken to provide satisfactory housing, medical attendance, good bathing and drinking water. In case of neglect to fulfil these obligations the employer was punished by a fine of not more than 100 guilders. The penal sanction was therefore maintained in the case of the employer, but not for the workman. In case of breach of contract by the latter, art. 1603 of the civil code could be applied, but this

article, as we have already explained, is of no practical value. He could only be punished in the case of offences against order (resistance, insulting behaviour, threats, breach of order, fighting etc.), which were punishable by a fine of not more than 25 guilders or 12 days' imprisonment. Incitement to break labour agreements was also made punishable by a fine of not more than 100 guilders or the loss of freedom for not more than one month. If the workman was thus cared for, the employer was not left entirely to his own fate. The labourer was free, there was inspection, and selection was assisted.

The opening lines of this ordinance show that the Government expected much from it. It pointed to the probability of a general revision of labour legislation for the islands outside Java and declared that meanwhile "more freedom was to be granted for taking workmen into service upon another basis". Stbl. 1924, 250 left no doubt that this regulation would apply to all free labourers without regard to the duration of their contracts [1]), while Stbl. 1928, 341, opened the possibility of applying these useful stipulations to enterprises working with labourers who came from the district itself.

This was done especially in order to assure the proper care of free labourers in isolated enterprises or wherever other circumstances made this desirable. The chief of the regional administration may indicate the enterprises to which these rules shall apply, but he is not allowed to extend them to enterprises which can be classified under small agriculture and market gardening, and which remain small enterprises. A regulation, either similar or different, to apply to small enterprises is still being studied. It is a very difficult thing for the authorities to interfere too much with small enterprises which must not be harassed with needless difficulties. Nevertheless, sooner or later some kind of regulation may appear to be necessary, even for small Eastern enterprises.

Initially the regulation had little success. The employers were burdened with many obligations and they were threatened with a

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[1]) The result of this Stbl. was that a great number of free labourers who used to be subjects of the Indonesian states became subjects of the central Government, with the result that some states suddenly lost an important source of income from taxation and from the buying off of taxation in labour. In 1929 it was decided therefore once more to make these free labourers subjects of the Indonesian states and to limit the number of exterritorial persons to the indispensable minimum.

penal sanction whereas the workmen were not, but they did not achieve the security of enterprise which the contract based upon the coolie ordinance had given them. As, however, many of the available workers were willing to take service on these terms while they rejected the coolie contract with sanction, this new way was more and more adopted and some enterprises were able to go in this direction much further than others, according to the nature of the work. This applied in particular to oil companies. In the tobacco cultivation, which has at its disposal a large number of well-trained labourers and which has established a good reputation in Java, more than 20% of the workers are engaged upon this basis, and at the end of 1927 all the enterprises of the East Coast together had 29,579 so-called free labourers [1]) as against 239,270 contract labourers. Already the first figure is much higher because organised free emigration and the so-called administrative emigration is continually increasing these numbers. The report of the labour inspection for 1927 mentions that the total of free labourers under this regulation is 74,625 for all the other isles, not counting the labourers who originate from the region itself. This amounts to 20% of the number of contract labourers, a percentage which will have increased in 1935 to 50% (see Stbl. 1931, 94). There can be no doubt therefore as to the success of this regulation.

Further improvement of special labour legislation

Once more the East Coast Ordinance was chosen for further improvement. Labour legislation was greatly extended in the interests of the labourer. The sanction was maintained and the following cases of breach of contract were mentioned: the non-observance of the obligation to report himself at the time agreed upon for entering service to the employer, desertion, and continued refusal to work. The penalty was the same as before, as well as the short list of offences against order, from which however "excessive laziness" was removed because this term gave little hold and offered opportunities for calling in the penal judge for purposes that had not been foreseen by the legislature. What is of

[1]) The free labourers without contract, and the artisans from the region itself are not included. H. Cohen de Boer in "*Pol. Econ. Weekblad*", Jan. 29 and Feb. 5, 1930 mentions a total of 44,000 free labourers on the East Coast of Sumatra in 1927 as against 239,000 contract labourers.

special importance is the extension of modern labour legislation. This ordinance (Stbl. 1915, 421) contains, apart from various provisions which have already been mentioned, the wording of which was in some cases made more extensive than before, other regulations concerning the household, the maximum number of hours of labour in the day time (10) and at night (8), the manner of calculating the duration of labour, including the way to and from work, intervals during the work, wages for overtime, to be worked only with the agreement of the workmen, the method of calculating piece work, days of rest and religious festivals, rest for women during their monthly periods, and before or after childbirth, decent burial in case of death, termination of the contract in case of the request of one of the parties, to be judged by the head of the local administration, freedom to make special conditions, the criterion of the validity of immigration contracts, freedom to leave the enterprise on days of rest, and to make complaints, the power to bring recalcitrant workmen who leave the infirmary without permission of the doctor back to the hospital for further nursing, good treatment, regular payment of wages, satisfactory housing and medical care of the labourers, open bookkeeping in order to enable the labourer regularly to acquaint himself with the position of his account and with the number of days he has not worked, the specification of a few items which may be deducted from wages (e.g. taxes prepaid by the employer on behalf of the workman), the free admission of inspectors, the obligation to send the workman with his household back free of charge at the end of the contract or the household alone after the death of the workman unless settlement in the district is possible, and other provisions, most of which are included as binding conditions in the labour agreement [1]). Special attention is claimed by Art. 24, which enables the Governor-General to shorten the duration either of labour agreements of a special kind (of which the maximum was three years for immigration contracts and one and a half years for re-engagement contracts), or for all enterprises without exception in a whole region or for those in a special part of it, and which also establishes his capacity to annul the penal sanction in case of breach of contract or in case of a refusal to perform the

[1]) It should also be mentioned that a modest beginning of labourers' statistics was made in the same year (*Stbl.* 1915, 422).

contractual task (an offence against order according to art. 20), as well as the right to enforce the observance of the contract in case of desertion either in the whole region or in a part thereof and either in the case of all agreements or only for some of them, as soon as circumstances, in the opinion of the Governor-General, warrant it.

This article held the sword of Damocles suspended over the labour security enjoyed for a period of thirty-five years by big enterprise. But the thread by which it was suspended did not prove to be made of horse-hair. The fact that the Government took up this article in its ordinance makes it clear that offensive action as direct as possible was once more contemplated. This, indeed, is a proof that resistance is and always will be more deeply rooted than the conviction as to the provisional indispensability of this special labour legislation with a penal sanction.

The struggle over the penal sanction 1915-1924

The year 1915 inaugurated the most interesting era in the struggle over the penal sanction. This struggle lasted till 1924 and was provisionally ended by an armistice, the conditions of which were more favourable to the sanction than to its numerous opponents. The latter had certainly thrown respectable antagonists into the arena. At the head of the phalanx the Government of the Indies soon placed itself, and behind it were ranged strong sections of Parliament and, after 1918, of the Volksraad, numerous Dutch authors, a few Indonesian associations (Sarekat Islam and Boedi Oetomo), the New East Indies committee: in short, a group consisting of some of the best social and political forces.

The sympathies of the Dutch Second Chamber were made clear in 1915 when the Van Blommestein project was once more brought forward. The Dutch Government persisted in its objections to it. It pointed to the improvements in the coolie ordinance of 1915, among others to the fact that the workman at present could at all times obtain, in case of unfair treatment or on other reasonable grounds, the termination of his contract, if an impartial authority deemed this justified. Furthermore, the Government pointed to the promising method of selective emigration through the intervention of old servants of the enterprises, a method which is pre-

paring the way for free labour; it pointed to the plans for encouraging labour colonisation and to the intention of improving and completing this special labour legislation at every opportunity that presented itself. On such a difficult question, the Chamber did not wish to decide immediately. A commission from among its own members was therefore appointed by the Chamber to investigate the available data, and to report on the stipulations regarding penal sanction and enforcement of contracts.

The Commission took its task very seriously; in 1919 it had finished its labours [1]). It recommended the immediate replacement of the existing penal sanction by a regulation in public law, which would prohibit the cessation of labour without permission of the Inspector of Labour. A penal prosecution could only take place as a result of a complaint by this Inspector and labourers who had deserted or been punished could be taken back to the enterprise only through the intervention of the police. This new public law regulation was in its turn to disappear as soon as colonisation should have become a success. The contract would be terminable at any time for urgent or important reasons, and even without such reasons, provided the workman paid an indemnity. The latter proposal was also contained in the Van Blommestein project.

One member of the Commission, Mr. Schaper, in a minority note, objected to this new threat of a penalty, which in his view differed very little in principle from the existing penalty, an opinion which from the point of view of pure principle is not without justification. In so far as disguised sanctions — among which one might even count regulations against vagabondage — have sometimes been utilised elsewhere, it is somewhat difficult to see why such countries are held up by numerous Dutch critics as examples to the East Indian authorities merely because they honestly give the child its name and straightforwardly mention together the penalty and the compulsion in the same ordinances which contain their labour legislation.

In this connection one should not neglect to protest as explicitly as possible against the idea, which in Holland itself is gaining ground more and more, that the Dutch East Indies are the only country in the world where this institution has been preserv-

[1]) Report of the Commission of the Second Chamber (*Debates* 1919, appendix 397).

ed and forms a blot upon the Dutch escutcheon. Far from this being so, the Government of the Indies is in the van of colonial labour legislation. The penal sanction in one form or another upon the labour agreement is still the general rule throughout the colonial world [1]), while the extensive labour law of the Dutch East Indies and their highly organised Labour Inspection, for which a special training is now being started, are by no means general.

The fact that such clauses are so general at the same time helps us to realise that the Conflict of the Times is here expressing its reality and is resisting the one-sidedness that seeks to sharpen this involved question into a supposed conflict between Western capital and non-Western labour. The coming years will show the falsity of this idea. The conflict is one between the 20th century and the spirit of former times, between methodical production and production according to extremely limited needs. Such limited needs, indeed, correspond with incapacity to establish strong forms of law, politics, and economics. If the one-sided critics were only right, the labour problem would be so simple. Unhappily, in the bosom of Eastern societies it is only at its beginning.

This thought leads us back to the point of view of Mr. Schaper, a member of the Commission, who really put matters in the most dogmatical form, especially when, like Mr. Stokvis, a member of the Volksraad, he demanded general abolition from the point of view of principle, indifferent as to what the results would be for hundreds of enterprises, and therefore for the State and for the general interest. An unadulterated principle has a great value and deserves therefore to be respected, even if in order to put an end to any form of limitation of the freedom of labourers it denies the right of the enterprises based upon such limitation to exist, and this even if the limitation of freedom is freely accepted by both parties.

One may respect such an opinion even if one does not share it, because the evolutionary labour of the authorities which aim at general emancipation, including the workman, in a many sided and organic way, could be seriously threatened and even arrested by this drastic method. For the eventual ruin of these enterprises, such as those who stand for the strict principle of freedom would

[1]) H. Cohen de Boer gives a long list which is not even complete and which contains some mandated territories in "*Econ. Statist. Berichten*" Feb. 13 and 20, 1929.

be prepared to accept, would have the most serious economic and fiscal results for the Indies. This would be all the more regrettable, as budgetary reductions in the Indies can probably no longer take place at the expense of defence, administration, police, which cannot be reduced any further without danger. Therefore severe economy would first of all, unhappily, be to the disadvantage of the work of social construction. No settled social work plans could effect changes in this situation if financial circumstances were difficult. For, in case of necessity, the authorities would not dare to keep them going. The responsible authorities have to defend many interests, they have still to consider much that applies to a more distant future. Their decision far transcends the interests of any special group, and tries to work exclusively for the general interest both at present and in the future.

Considered from this point of view, the proposal made by the majority of the Parliamentary Commission, apart from the question of whether it was practicable, seemed more justified than that of the minority. Its significance seems to reside in the way in which the regulation in public law was to be handled. This regulation would have shown that the penal sanction, which was already administered by impartial judges, could henceforth not be used in the first place as an instrument for his own advantage by the employer, but exclusively as an instrument at the disposal of impartial authorities for the general good. In 1919 an interesting proposal in the same sense was made by Mr. P. H. Schneider, the legal adviser of the A.V.R.O.S. (General Association of Rubber Planters of the East Coast of Sumatra) [1], about which Dr. Heyting (p. 130 sqq.) says:

> "Apart from a civil sanction a penal sanction is still deemed necessary; it is to be deprived of its compulsory character and only intended to be used in the second instance. For this purpose an organisation, consisting of employers and labourers and based upon mutual agreement in which the rights and the duties of the parties are laid down would have to be created. If questions arise, a local board of appeal in which both parties and the Labour Inspection are represented would intervene. These boards would be under the control of a central organisation at Medan, which would ensure a uniform line of conduct in all labour disputes. A labourer would therefore first have to be declared in the wrong in civil law,

[1] *N. I. Rubbertijdschrift*, 4th year, 1st half-year, 1919.

> before, in the case of a continued refusal to fulfil his duties, he could be brought before the penal judge. The penal sanction would therefore lose its character of an instrument of compulsion, and of being the primary and only means for assuring security of labour. It would change into a subsidiary means, to be applied only after the umpire had spoken."

This ingenious proposal has not been accepted, it is true, and in practice it would perhaps not have worked as smoothly as might appear at first sight. Nevertheless, it deserves attention as one of the efforts taken into consideration by the planters under pressure from above, in order to meet the Government, in case of a disappearance of the penal sanction, in a way which would not endanger the security of labour altogether. The views of Mr. Kalma (op. cit. p. 58, sqq) moved in a similar direction. He wants to abolish the penal sanction and only to admit compulsion to return to the enterprise in case of desertion, to be exercised by the police in order to ensure that the contract would be observed, making it therefore a disciplinary measure handled by the authorities. In case of a breach of the labour agreement through desertion there could then no longer be a penal prosecution, but merely an application to the local administrative official to apply his disciplinary powers. The latter would then have to decide whether the termination or the observance of the agreement was to be applied. His decision, after an investigation of the reasons for the bad observance of the contract, would therefore have to consist either in the dismissal of the labourer or in ordering him to be taken back to the enterprise by force.

One wonders, however, what will happen if the labourer refuses to work after he has been taken back, or if he does not desert but merely refuses to work. For such cases the author appears inclined to introduce a system of fines which would be difficult to apply seeing that the employer has to look after housing, medical care, etc., and that one cannot allow the man to go hungry. Similar questions arise in the case of all the different proposals. They will require further study, especially when the coming era of restriction of the sanction begins to affect the immigration contracts. For it is not only the certainty of enterprise or the common weal that is interested in the observance of labour agreements. But, as a fundamental objector, Mr. Kalma, rightly remarks (p. 71), "it is also in the interest of the labourer".

In the years that followed 1915, the Government of the Indies was anxious to make use as soon as possible of the powers that had been given it to shorten the duration of the contract and to abolish penal and compulsory clauses entirely or partly. Labour colonisation was the real point of departure of these considerations, and agricultural colonisation was at that time less thought of as a means of transition. The first caused great expectations of important and speedy results, provided the employers would collaborate vigorously in the establishment of labourers' families in the villages situated upon or between the enterprises. At the same time, various other reasons caused a provisional under-estimation of the economic sensitiveness of these enterprises. There were temporarily high prices of tropical products as a result of the demand by the belligerents and as a result of post-war abnormal conditions, and the consequences of the new measures in less favourable times were overlooked.

All this, apart from the ethical considerations of the Government, may well have influenced the declaration of 1918 that the abolition of the sanction was settled, and that no further debate on it could be admitted.

The real intention of the Government declaration was to impress the employers by its definiteness and to bring it home that they had no alternative but to follow suit. The only way held open to them was to be labour colonisation. There had been exchanges of views on this subject ever since 1916, and at the beginning of 1918 a colonisation commission under the chairmanship of the former Resident Lulofs was established which succeeded in extracting from the employers a promise that in the course of the first five years they would annually change five per cent of the tobacco labourers and three per cent of the rubber labourers into colonists, and that after this period the annual percentage would rise by one per cent every year, with the result that after fourteen years 95% and 75% respectively of the labourers would have become colonists. During these 14 years, however, there was to be no interference with the penal sanction, and it was furthermore expected by the planters that the Government would make its definite course depend on the degree of success of the colonisation. There was not much sympathy with or faith in these plans on the part of the employers, but in existing conditions the solution

seemed to them the only means of saving what could still be saved [1]).

It is regrettable, perhaps, and there are certainly people who do regret it, that these plans were not adopted. The Government wanted still more speed, and had decided that the sanction was to be entirely abolished before 1925, while re-engagement contracts were to be without the sanction by 1922. Seven years only therefore were available for colonisation, a time which was very short indeed seeing that tens of thousands of dwellings would have to be constructed. Moreover, the Government wanted to have its way in everything and even refused to make the abolition of the sanction dependent upon the success of colonisation. This uncompromising attitude seemed unreasonable to the planters, who considered it was bound to push them into the abyss. They refused to budge. They continued slowly to help colonisation, but there was no question of their adopting the swift pace upon which they had agreed in case the Government were willing to meet some of their wishes. The attitude of the Government had changed all this, because in the view of the planters they would be ruined in any case. There was a general tendency to wait and see. In 1920 financial depression was already looming in the distance. Economic consequences which, until recently, could have been taken lightly were beginning to assume a threatening character. Even if the full colonisation plans had been followed in 1918 and 1919, the coming years would have made it impossible to proceed at the intended pace.

The East Indian Government, which had itself rushed ahead, was compelled to declare in 1921, that it intended to abolish the penal sanction in re-engagement contracts before 1926, while a few years earlier it had said that by that time the sanction would have been abolished altogether. By 1923 the results of the economic depression were growing steadily more obvious. The Indies were under the pressure of economisation, as everybody still remembers, the more so as the present time refreshes our memory. The difficulties of colonisation had meanwhile become patent as a result of experience and the opinion that forced colonisation was not the right method gained ground. It was considered reckless to continue the attack which had been started under entirely differ-

[1]) Cf. Heijting, *op. cit.* p. 108 *sqq.*

ent auspices. The Government began to retreat. An armistice was concluded the conditions of which were to be approved by Parliament which had still to pronounce on the proposals of the Parliamentary Commission of 1919.

The conditions of the armistice are embodied in the modification of the ordinance for the East Coast of Sumatra introduced into the Volksraad by the Government in 1923 (First ordinary session, subject 7). The Volksraad first accepted the main part of them, and later the Second Chamber approved them altogether (Stbl. 1924, 513). The duration of re-engagement contracts was reduced from 18 to 13 months, or alternatively one harvest year if the harvest had not yet been taken in. Further, the Governor-General was given the power, after having heard the Council of the Indies, to prohibit enterprises in which bad conditions had been revealed from taking workmen into their service. In this case, all current contracts were to be legally dissolved. This is an administrative sanction which implies the ruin of guilty enterprises unless complete satisfaction be immediately given. Speaking of penal sanction, one might declare with reason that the existing threat of a penalty of which the administrative, civil or penal nature does not really make any difference in practice, does not weigh more heavily upon the workman than upon the employer, quite the contrary. The measure has since been applied with success in a few cases, not to mention the preventive influence it must necessarily have exercised.

The ordinance of 1924 contains a consideration modified in accordance with decisions of the Second Chamber, which is of more importance than the ordinance itself. The Government of the Indies recognised

> "that the system which forms the basis of the labour agreements in the coolie ordinance for the East Coast of Sumatra (Stbl. 1915, 421) cannot be done away with in the interest of the State, as long as local circumstances do not make superfluous a sanction stronger than a merely civil one" [1]).

The Volksraad, after animated debates, adopted the view of the Government. The majority of Indonesian members were inclined to agree with the provisional continuation of the institution,

[1]) The original preamble spoke of "the proved necessity to preserve the system" of the penal sanction. The Chamber however emphasises the abnormal and temporary aspect of this institution.

which, however, it described as no better than a necessary evil. The Second Chamber, which had afterwards to decide, also agreed with the course of events. The Parliamentary Commission produced a postscript [1]) to its report. The Chamber agreed with the proposals of the majority of the Commission, which advised among other things that the above-mentioned modification of the East Coast ordinance should be accepted.

The Commission at the same time formulated a few important desiderata: information about colonisation policy [2]), revision of the coolie ordinances, inter alia as regards the enforcement of contracts, the end of penal prosecution upon the initiative of the employer, the facilitation of interim termination of the contract for serious reasons or after indemnification, the obligation to exchange views when coolie affairs were concerned between the judge and the Labour Inspection, and, as a most important measure, the revision every five years, starting with 1930, of the coolie ordinance, with the object of arriving at a gradual abolition of the sanction. The Chamber, it is clear, wanted to convey that it had bowed to necessity, but that, like the Parliamentary Commission, it had no wish to admit in principle the continuation of the sanction. The Minister of Colonies was unable to agree with all the recommendations, but he declared himself prepared to present the conclusions of the Chamber with much emphasis to the Governor-General, in order that the latter should, in the course of the pending revision, execute them as far as possible [3]).

This then was the result of nine years' intense struggle [4]). It is not a struggle which we should regret, although less direct action might perhaps have utilised this time better for the gradual completion of this special labour legislation. Even the change of front with which the East Indian Government is sometimes reproached

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[1]) *Debates, Second Chamber*, 1924, appendix 97.

[2]) Provided in 1926 in the explanatory memorandum to the Second Chamber about the East Indian Budget, 1926, *Debates Second Chamber*, 1925-6, 4, No. 12, par. 8.

[3]) Heijting, *op. cit.* p. 125—169.

[4]) See P. Endt, "*Kol. Stud.*" Oct. 1918 and also *Wanderarbeiterverhältnisse in den farbigen Kolonien*, 1919; J. Tideman: *De Koelieordonnantie en hare toepassing*, "*Kol. Stud.*" Aug. 1918; Report of the congress about the Labour question in Nos. 10, 11, 12 of the publications of the *Vereeniging voor Studie van Kol. Maatsch. Vraagstukken*, 1921; W. Middendorp: *De Poenale Sanctie*, 1924; "*Comité Nieuw-Indië*", March-April 1924, J. E. Stokvis, "*Kol. Stud.*" April 1927; W. Middendorp: Twee achterlijke arbeidssystemen voor Inboorlingen in N. O. I., 1928; Kalma, *op. cit.*

(did it not decide in 1918 that no further debate would be admitted on abolition, and in 1924 that the continuation of the sanction was necessary in the interests of the State?) is not to be regretted. It was good, perhaps, that the Government once more had allowed itself to go ahead and had even been seduced into attempting a frontal attack on the first favourable opportunity, so that during a few years it stood shoulder to shoulder with the most radical opponents of the penal sanction of labour agreements rooted in civil law.

The Government, like many other people, gave during this period very obvious proofs of their readiness to make the sanction a thing of the past as soon as possible. It is precisely because this endeavour has been so obvious that the compulsory character of the retreat is equally undeniable. The authorities may from that time be considered invulnerable to inconsiderate reproaches of indifference or lack of idealism, seeing that there can be only a question of possibilities and of necessities, before which any Government may temporarily have to give way. This is why, when one comes to consider it, it was a very useful period, during which the Government, backed by the two Houses of Parliament, the Volksraad, and numerous social forces, pronounced most emphatically against the penal sanction. No reasonable judge can henceforth have any doubt that there is no ill will, no lack of idealism, but a passing necessity born of the Conflict of the Times.

If one wishes to draw the obvious conclusion from this period, then the struggle has not been in vain, and it will be realised on both sides that nobody feels any sympathy for the sanction, not even the employers, and that there need be no dispute as to the principle, but that attention must be devoted wholly to questions of method. Nor is it fair, as is so often done, to consider the whole group of those employers immediately interested as immovable and selfish retrogrades who are holding back human progress. Probably not a single employer could be found who would not prefer the immediate abolition of the penal sanction, if there were another way to achieve security of enterprise, such as is possessed by every employer in the West because social conditions there guarantee it.

Employers and labourers in sparsely populated regions outside Java live in abnormal conditions and form as a matter of fact the

points of contact of two utterly different worlds. It is not the fault or the wish of the employers that world standards of methodical production and efficiency dominate modern enterprise. Nor is it the fault of the labourers that the weak and familiar social and economic sphere of the small Indonesian communities has not yet evolved the disciplined regularity and self-control which the West imposes imperceptibly upon everyone's actions and habits. The East has a rigorous discipline in its own territory and we, in our turn, would require entirely different penal sanctions if the roles were reversed and we found ourselves compelled to order our lives in accordance with the demands which Eastern communities not infrequently make upon their members. We are therefore not concerned with questions of guilt, with a lasting incapacity of the East or with an inborn excellence of the West. What confronts us is the fact that standards, which are less Western than modern, are beginning to become universally valid.

Developments since 1924.

Let us, finally, glance at the further development of labour legislation since 1924. The principle of eventual abolition of the penal sanction had been generally adopted, and provisional continuation was to last no longer than proved absolutely indispensable. Meanwhile every effort was to be tried to perfect this labour law in itself, as well as the supervision of the Labour Inspection. It is in the light of these intentions that we must look upon the measures of the years since 1925, and of those still to come. Since 1925 (Stbl. 201) the East Indian Government has adopted certain recommendations of the Second Chamber and passed them into law. The five yearly revision of the sanction contained in the coolie ordinance, starting from 1930, has become a fact. A permanent commission has been established to study labour conditions on the East Coast of Sumatra. Its task is not only that of advising as to the possibility of improving general labour conditions but, since 1930, has been that of advising as to the possibility of applying the above-mentioned limitation of the sanction according to art. 24 of the ordinance.

Another proposal of the Chamber, aiming at the dissolution of the contract upon the request of one of the parties based upon urgent or serious reasons, has also been adopted by the Govern-

ment of the Indies and by the Volksraad (Stbl. 1927, 413) [1]). This stipulation, referring to art. 1603 civil code (sub *o*, *p* and *v*) has been copied from modern Dutch labour law. Apart from a few other additions and improvements, the prohibition of absence from the enterprise without permission has been in the main abolished. When his day's task is finished, the labourer is free to go wherever he wishes, while formerly this was allowed only on free days and if he wanted to lodge a complaint. This stipulation limits the loss of freedom to the actual working time, and now imposes an obligation which practically speaking is not more considerable than that of any shopkeeper, workman, office employee, teacher, or official. It must be said, however, that for the Eastern labourer who is not yet used to method and regularity this obligation, so readily accepted in the West, has by no means yet become second nature. Complete freedom after the completion of the daily task, which is moreover in many cases being shortened by piece work, is therefore all the more important to the psychology of the Eastern labourer. It is a fundamental improvement, and one may regret that it was not introduced at an earlier stage. There is no doubt that as a result a happy social mobility has already developed from one enterprise to the other.

Another regulation has been adopted by which, after five years' service, a married labourer has the right to have a detached or at least a semi-detached home for his family. A number of enterprises used already of their own accord to reward the older members of their personnel with a house and garden of their own, and they still often do it even in the case of new arrivals if they bring a family with them. This again is a development of great importance. Family life in the enterprises is becoming an important factor, which furthers morality, improves the sense of decency of the labourers, and gives to the whole life on the big enterprises a healthy normal aspect. This ordinance has further made the penal sanction of the contract equal for both parties: imprisonment for not more than one month or a fine of not more than 100 guilders; for second offences within two years, three months or three hundred guilders. Some other improvements, in particular those in

[1]) The improvements contained in this *Stbl.* were applied to the Coolie Ordinances of fourteen other Residencies by *Stbl.* 1927, 571. At the same time the new model agreement issued in *Stbl.* 1925, 312 was completed in accordance with the new regulations (*Stbl.* 1927, 572). *Cf.* also *Stbl.* 1928, 535.

the interest of women and expectant mothers, giving for instance thirty day's rest before and forty after childbirth, may be omitted here, because the whole of the ordinance is published as an appendix (i).

As the most recent development of this particular legislation, we may mention the regulation on gradual restriction of this sanction, which was studied during 1930 and will pass this year (1931) into law. Restriction is to start with old servants [1]). Since January 1st, 1929, the Government had begun to set an example in its own enterprises, where contract labourers are also employed, a point that is always overlooked. Yet it provides a proof of the unfairness of throwing all the blame upon private enterprises, whereas the Government has always been one of the greatest employers of contract labourers, in particular for the tin mines of Bangka, and has been compelled to make use to no lesser degree than private enterprises of punishment and compulsion. For labourers who have already worked for five years, the sanction has been deleted from new contracts, and for labourers with an uninterrupted service of from three to five years it has been limited to cases of continual refusal to work and of desertion.

If we review the course of affairs since 1918, we may be inclined to consider that it would have been good policy to have set such an example at an earlier stage by way of experiment. If it was a fact that the penal sanction was not strictly necessary, as the Government of the day appeared to believe, and was asked for purely out of conservatism on the part of the leaders of private enterprise, why could not the Government prove the soundness of its own views in its own enterprises? This question continually puzzles the mind of the impartial student who nowhere finds an answer, while the voluminous literature on the question scarcely mentions it.

If one had any doubts as to the possibility of abolition and had

[1]) Debates Volksraad, Second Ordinary Session, 1926, p. 667—669 and 716—740. Volksraad documents 1927—8, subject 21, doc. 7; Debates 1927—28, p. 1481—1526; 1929—30, *subj.* 1, section 2, doc. 10, p. 14. *Cf.* also *Debates* (Aug. 10, 1929) p. 769 *sqq.* According to the latest information from the Indies a draft ordinance has already been passed by the Volksraad, by which the number of free labourers, which is now 20%, will have increased in 1935 to 50%. In future there will be only one Coolie Ordinance for all regions outside Java. Various improvements, i.a. reduction of number of working hours (9), in the interest of the labourers, will be introduced. All days of illness will henceforth with regard to the period of contract count as working days (see the note on page 606).

possibly even some ground for the fear that the tin production would suffer, why could one not make the attempt upon a limited scale in order at last to lift the never ending academic debate from a fruitless comparison between pros and cons, to transfer it to the solid ground of experience and figures? Even if the attempt had involved serious losses to the Government and had brought about considerable labour troubles, it would have been fair to distribute the loss by an increased taxation spread over the whole of society or by a general reduction of the budget.

As it is, the community has tended too much to place the burden upon a group of pioneers whose labour has benefitted the East Indies and Indonesian society enormously and whose protests were received with dissatisfaction and who were pointed at during the retreat as the bad element in an idealistic community. This group, therefore, was made to play the part of a shock absorber between the principle and its execution. Moreover, the Government will not stand or fall by success or failure, even less with the decrease in receipts of one or two enterprises, whereas in similar circumstances a private enterprise may be doomed. It would therefore have been twice as fair to submit to the risk of a preliminary experiment in government enterprises and then only to apply the experience gained throughout the Indies by introducing it into labour legislation. A serious inconsequence was therefore corrected in 1929, when the Government started to set a good example in its own enterprises. It will undoubtedly be useful to the cause of a satisfactory and practical restriction of the whole sanction institution if in the coming years the Government each time takes the first step in its own enterprises [1]).

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[1]) At the invitation of the Permanent Labour Commission at Medan the organisation of planters on the East Coast gave its advice as to the possibility of restricting the penal sanction and the method to be applied. It was proposed to abolish the sanction in the case of about 25% of the labourers by way of experiment. A Central Bureau for Labour Affairs (C.B.A.) to which all enterprises would have to be affiliated was to be established. All the members of this organisation who employ immigrated labour would engage themselves not to accept labourers whose agreements have not been terminated in a regular fashion. The Bureau would organise registration by finger prints. The registration of labourers of employers not affiliated to the C.B.A., including the Chinese and Indonesians, would have to be compulsory in order to prevent sponging on organised enterprise. Such was also the purpose of the "Indian Immigration Committee" in the Straits. Neutral commissions of investigation (C. v. O.) would have to be established for the solution by arbitration of difficulties arising from the interpretation of labour agreements. There would be a labour inspector, an administrator of an enterprise, and a Javanese notable. The C. v. O. would be competent

Present day practice

Before we leave this special labour legislation we may usefully give some further information about present day practice in order to give an idea of the mode of living of the labourers. The fact that by far the majority of labourers, some 80%, make a new contract after the termination of the first is usually explained by defenders of this system as an absolute proof that, after a more or less uncongenial apprenticeship, this kind of life pleases the labourers. Taken by itself, however, this would not be sufficient proof. In any case it should not be interpreted in a one-sided and partial fashion because the habit of giving monetary presents as well as the interest which the mandurs (indigenous overseers) have in encouraging re-engagement [1]) may exercise a certain influence upon the labourer who looks so exclusively to the here and the now. One even hears of some cases in which mandurs have tried to exercise pressure, a method which cannot be sufficiently condemned. For any employer who imagines that pressure or inducements form the right way of dealing with labourers is guiltier morally of intentional breach of contract than the labourer who deserts before

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to transfer the labourer if he did not think he could return to his previous enterprise. In the case of desertion the commission would call the labourer before it and would be competent to call in the police to assist it. This was expected to prevent rash breaches of contract. The confidence inspired by the impartiality of the Commissions would induce the labourer to apply to them with grievances and desires instead of deserting. If he deserted nevertheless the Commission would have no sanction, but could point out to the man his obligation as a decent person and it was hoped bring him back to better sentiments. The directors of enterprises did not consider these proposals satisfactory from the point of view of security of labour if the sanction were entirely abolished. This is why they suggested that the restriction of the sanction should provisionally apply only to 25% of the labourers, and that to these the arrangement based upon C.B.A. and C.v.O. should be applied. It would be possible then to learn from this experiment how the gradual and complete abolition of the penal sanction could be achieved. In case of success the number of contract labourers would gradually be restricted. Furthermore, as a result of the new method of recruiting and of organised co-operation the amount of expenditure for recruiting would decrease which would make it possible to shorten the time of contract. There would also be a greater influx of labourers and labour colonisation would be assisted. The Government has not followed this plan. It has decided to start a restriction of contract labour which will reduce it by 1935 with 50% and to consider the problem again in 1936 with a view to further restriction, so as to accomplish the final abolition of this system as soon as possible. A Chamber of Immigration working on the basis adopted by the Indian Immigration Committee for the Straits Settlements will, however, be established at Medan. It will be charged with the registration of all labourers arriving from elsewhere, and with the administration of an Immigration fund, into which employers have to pay contributions according as they are supplied with labourers. (Stbl. 1931, 94, 95).

[1]) M. van Blankenstein: *De poenale Sanctie in de Practijk*, 1929, p. 57.

the end of the contract [1]). The general incidence of re-engagements and the very small number of punishments of re-engaged men, which would obviously be very large if they were induced to re-engage themselves by deceit or by pressure, points, however, to fairly general satisfaction among the labourers. This is made even more obvious by the fact that 75 % of those who have returned to Java come back of their own free will to the East Coast, where life apparently has come to please them better than in the dessa, from which they have frequently become estranged.

The experience of the Labour Inspection, as appears from their annual reports, also proves that as a rule the treatment of the labourers is good, and that suggestions made by them in the interests of the labourers are usually willingly put into practice. Wherever they detect neglect in housing and other matters, they do not merely make suggestions but they present demands, and set a term after which sanctions are applied in comparison with which the penal aspect of the ordinance is no more than child's play. The health of the workmen is, indeed, generally very good. The level of hygiene in the enterprises on the East Coast of Sumatra is almost unique and is rewarded with mortality figures which belong to the best in the world. In 1929 the death rate for all enterprises was 7.93 and on the East Coast it was 7.28 per 1000. The death rate of children (6.5 %), inclusive of newly born babies (contract labourers alone had 86,000 children), is of course much higher, probably mainly because parents often prefer all kind of unhygienic methods. The labourers themselves certainly have no reason to complain about medical treatment [2]), housing, feeding, the provision of drinking and bathing water, of medicine, the care for women in childbirth etc. Were it otherwise, there would be no justification whatever in permitting long contracts.

The low figures of convictions of labourers for offences against the coolie ordinances (5.5 %) provides an important indication in this sense, especially as this still not unimportant percentage falls mainly upon the new arrivals. Here again we may therefore con-

[1]) In case of detection official registration of the contract of re-engagement is refused. See our appendix i, art. 7, par. 4.

[2]) The agricultural enterprises on the East Coast of Sumatra possess no less than 40 model hospitals with 14, 250 beds and 46 doctors. We must also point to the extensive precautions taken against skin and other contagious diseases, diseases of the eyes, hookworm, etc., vaccination against smallpox and typhus, inspection of food and drinking water, gratis tea distributions, good latrines, removal of refuse, etc.

sider that we are looking at a consequence of the application of modern methods to medieval mentality and customs, and not at a matter of personal arbitrariness. Not less important is the figure of condemnations as a result of brawls or attacks by coolies upon the staff, which are usually a form of elementary justice, and sometimes of criminal disposition, or, recently, of communist propaganda. The staff has to abstain absolutely from violence, and boxing a man's ears is punishable, but such blows, like the use of offensive expressions, nowadays not seldom endanger the life of their perpetrator.

Even in his own village, the Indonesian all too readily uses the knife, even without previous hand-to-hand fighting. A mocking word is often enough to make him plan vengeance. Increased consciousness without equally increased self-control, which in the course of 1929 began to be further excited by communist propaganda, makes this sensitiveness express itself in the same way against the Western staff since their former halo is beginning to pale as a result of modern influences. Reasonable criticism of a man's work may have fatal results which bear no relation to what has happened, even in regions where there is no question of labour agreements with a penal sanction. The position of the supervisory staff is for this reason far from enviable and is indeed much more delicate than in our home-factories.

The report of the Inspection for 1927 (appendix J) mentioned a total of a hundred convictions against Europeans accused of striking a blow; the report for 1929 mentions 72. Considering that there are about 400,000 contract labourers and that relations are anything but easy, this is not high, although one would prefer to see no such convictions at all. It is obvious, meanwhile, that more than a hundred men may have had their ears boxed one time or another and that not every labourer runs to the judge for every blow he receives. The Indonesian mandurs (overseers), usually recruited from among the labourers, who are much more numerous and exercise constant supervision, were convicted in the course of the same year in 846 cases (704 cases in 1929) of striking a blow. This means altogether about one conviction per 400 contract labourers. The number of complaints amounted to 1205 (1055 in 1929), some of which had not yet come before the judge by the end of the year under report. In 80 % of these cases, there-

fore, the labourer saw his complaint followed by a conviction. Moreover, an employee or mandur may nowadays be dismissed without further ado in case he strikes a blow, because the enterprises intend severely to suppress all kind of roughness. The Labour Inspection has left nothing undone to acquaint the labourers by personal contact with their rights; but encouragement to use their rights to the full, if not suggested tactfully, may again result in the labourers becoming unruly. The task of the Inspection itself is therefore very delicate. The figures prove clearly that, as the Inspection regularly points out to the labourer, he can get impartial justice without consideration of persons. And one may be sure that the whole labour staff of an enterprise soon knows of the success of a complaint by one of them against an overseer, an employee, or an administrator, and will probably gradually have learned to make use without fear of all their rights, a thing which in the East and especially as amongst Orientals of different classes themselves is extremely rare and practically non-existent.

Attacks by labourers against the staff amounted to 97 (204 in 1929) in the year 1927 (report, page 161); 36 of these were against European and 61 against Indonesian employees. In 10 cases they were the result of harsh words, insults or lack of tact; in 16 cases they were the result of rough behaviour such as striking a blow, giving a kick, or pushing; in 53 cases they resulted from criticisms of work, in three cases they were due to jealousy; in 9 to differences about wages; while in 6 the reason was unknown, or was due to the refusal to grant a request. In 19 cases, more than one labourer was concerned. In 1926, moreover, apart from a number of cases of striking a blow there were cases of serious ill-treatment of labourers by members of the staff of two enterprises [1]: a proof that inspection cannot be too severe if it is to give the labourer the consciousness that this special labour legislation is mainly meant for his protection and that he can use it without fear.

Such cases are shameful, and the Government at once applied the penalty of ostracism mentioned above, quite apart from the punishment meted out by the judge. Nevertheless, it rightly rejected the accusation of one critic in the Volksraad that these exceptions could be considered typical, or were entirely due to the

[1]) J. E. Stokvis, "*Kol. Stud.*" April 1927, with appendices mentioning these cases of ill-treatment.

continuation of the penal sanction. If it were otherwise, the sanction, as the Government observed on this occasion, would have judged itself and would have to be abolished without further ado.

Wages

However favourable opinions as to the care of the labourers may be, there is a great diversity of view about their wages. Some people speak of hunger wages and others of ample payment [1]). It is difficult to give a general judgement, especially as so much depends upon the personal appreciation of all kind of elements in the wages such as housing, medical care, hygienic measures, medicines, bathing and drinking water, the rice subsidy, free tea; while a number of enterprises have non-contributory pension schemes for old servants or people invalided as a result of accidents, freedom of taxation, education for the labourers' children, recreation in the form of cinematographs, wayang-plays, football, etc., the building of prayer houses, the establishment of small libraries, and so on.

The legally fixed minimum daily wage (which of course need not be the actual wage) assured by contract to the Javanese labourer in Sumatra and elsewhere in the other isles is 42 Dutch cents for a man (1 cent is one-fifth of a penny) and 37 cents for a woman. In the case of re-engagement, this is increased by five cents or more, while in many cases regular labourers receive an extra monthly premium of one or two guilders. According to Western standards these wages are low; but by Indonesian standards, as minute calculations of the national income by, among others, Mr. Meijer Ranneft have shown, they are above the normal level, while the material care for the labourers undoubtedly favourably compares with that of the wage labourer or independent farmer in Java. Nevertheless these wages, as Dr. Van Blankenstein found out, compare unfavourably with those paid in the other islands to locally engaged craftsmen and other free workmen. The author considers that in such cases the penal sanction seems to include an element of protection, which, however, in reality is foreign to the intentions of this legislation.

Against this it must be said that the employer has also to pay the costs of transport and of repatriation and many other expenses;

[1]) Cf. van Blankenstein, *op. cit.*, p. 61 *sqq.*

tive corps really doing? Or — why not put an end to it? But it has now been answered. This is the fact that must be first of all emphasised, because otherwise the deepest essence of political construction cannot be understood. Indeed, there is scarcely a single treatise on the subject which does not speedily place the reader before the curious position and the function of the two administrative bodies, of which one feels that they are most intimately connected with the solution of the problem of the future organic, political organisation. One often sees enthusiastic pleaders for the organic State of the future pointing with scarcely suppressed annoyance at the administrative bodies as if they were the real obstacles to the progress of autonomous life. Such ideas can be understood, but in their intemperate haste their holders are jumping more than one phase of growth, and their view must therefore be considered as fatal in its consequences.

As a matter of fact, the developing autonomous life will slowly overgrow the administrative corps and make it superfluous. This is a result which one would not expect from the establishment of hundreds of central and regional branches of the administration. If the latter unburden the administrative corps of its technical functions, its proper task is thereby not affected. On the contrary, the more special branches of various services there are, the more indispensable becomes the unique organ that effects the general orientation and that embodies more than anything else the will of the Dutch central authorities to preserve and achieve unity, against all these innumerable centrifugal forces.

With the modern autonomous organs in village, town, regency, province, and other territorial or functional units, the case is entirely different. For they must develop into the translators and executors of the wishes which the people, once they have become conscious, will entrust to their care, while, on the other hand, the central authorities are already to no small extent leaving the translation and execution of their wishes to these same local organs. By the side of such organic connections, which are growing in the present period of transition and which recall a nervous system, blood vessels, and bundles of muscle, no mechanical contact cable remains necessary, or only in so far as the will towards unity in the autonomous organs falls short. Even in modern Western states the need may for this reason be felt of an administra-

schools, libraries etc. founded by the employer, as silent compensation. But even though this item should perhaps not be booked like many others with the wages of the labourer, it should be put down in all reasonableness to the credit of the employers, who have decreased mortality by over 50% (compared with the free labourers in the Straits and elsewhere who yet enjoy normal medical attendance), and are therefore saving by their super-hygiene every year the lives of something like 2000 labourers with their wives and children, otherwise even acording to Western standards of hygiene doomed to die. This does not take into account the increased enjoyment of a healthy life [1]). It is the duty of the student to enumerate all disadvantages and to claim the heaviest condemnation in respect of bad exceptions. But if the good cause is to be well served in the right way, there should be no silence about the many good things, all the less so since one need not relinquish one's fundamental objections to the institution of a contract with penal sanction.

The labourer, furthermore, must have wages out of which he can save. It is only natural that his life should be easier than that of the labourer who remains in the dessa. Why, otherwise, should he give up his village and often his family also, his freedom and his familiar surroundings? The desire to save is still very little developed among the Indonesian population generally. Efforts on the part of employers to stimulate this sense are therefore of the greatest value, but it is obvious that saving is only possible when enough is earned.

It is a pleasure, therefore, to be able to quote a few figures from a very recent contribution by Mr. de Boer [2]), which prove that the labourers on the East Coast of Sumatra which employs 240,000 out of the 380,000 working in the islands outside Java are able to save and are actually beginning to do so as proved by the report of the Association of Deli planters for 1928. This Association taken alone assisted the Javanese employed by it in that year to send home 48,400 guilders; while Chinese workmen remitted 176,000,

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[1]) The Government desires that the excellent standard of hygiene should be maintained under all circumstances. It should be remembered however that the costs entailed by reaching this standard have only been possible owing to the security of enterprise guaranteed by contract labour (cf. also art. 11 *Stbl.* 1910, 469, which will in future apply also to labourers without contract).

[2]) H. Cohen de Boer, "*Pol. Econ. Weekblad*", Jan. 29, Feb. 5, 1930.

Even as regards various other branches of the administration, very serious objections could be made to an over-hasty transfer to the autonomous local management, which would do little good. But all these difficulties are as nothing compared with the serious nature of the questions that arise when the administrative corps is considered. If it lost this, the Government would lose its compass, its general sense of orientation, while the population would lose its best friend and mouthpiece. In truth, it would lose its very organ of speech. The autonomy in the long run will have to perform both these functions, and it will be able to do so, but not before the whole process of self-renewal has been fulfilled.

Administration and self-exertion

If one considers now, in the light of the comprehensive activities of the authorities, outlined in the previous chapter, what are the requirements of the development of an autonomous life, i.e., of an organised self-exertion, that have to be satisfied in the course of a gradual transfer of the task of the autocratic central authorities and their local representatives to the democratic local authorities and their public servants, one is bound to declare with equal emphasis that organic life cannot grow up without space. In our period the well-being and the development of every society requires that a large number of interests should be fostered, although formerly they fell altogether outside the scope of the authorities and of the population. In the present era they can no longer be neglected. Only two centres of energy from which motive power can be obtained are thinkable. One is living society, acting directly or through its organ, the State; the other is a state organisation imposed from outside and acting directly or by means of organisms generated inside society.

In the Dutch East Indies, as well as in all modernising Eastern states and throughout the colonial world, the smaller popular organisms contain more than enough power of self-exertion upon a medieval basis, but as regards the demands made by our period on the self-exertion of a nation, they fall altogether short. A new auto-activity had therefore to be called forth, and for this it was necessary that the Government should abandon the seclusion of the sphere of authority. It had to multiply its activity and its responsibility, and to extend its sphere to the social and economic

penal sanction can be suppressed only gradually, while the further opening up of the other isles [1]) might be altogether arrested if the sanction, or some such disciplinary measure or punishment after arbitration, were suddenly withdrawn altogether, even in the case of unschooled new arrivals [2]). As a result of such rashness the evolutionary pace of the nation building departments of government activity would have to remain stationary for a long time, or would have to be slowed down. The essential significance of both sides of this problem should therefore be generally realised, and in expectation of the final abolition of the sanction a number of happy symptoms, in particular the development of adequate labour legislation, may be expected to a certain degree to reconcile liberal minded people to the decision of the Government to accomplish that abolition not by sudden and dangerous decrees, but by a well-considered scheme of gradual restriction, which by 1936 will have reduced the number of contract-labourers to 50% and will then speedily progress further according as circumstances permit.

As Dr. Van Blankenstein remarked, there is now no longer any reason to sound the alarm about the situation, notwithstanding various objections that can still be made. One might add that there is no reason continually to make unfounded attacks against the Government when it can point to such progress. The Government has the fullest right to demand confidence in view of its actions, and it is able to direct the course of affairs in such a way that this concrete ideal, and the many other equally important ideal values which might be jeopardised, shall in due course be reconciled to the fullest degree.

Wherever abuses have crept in, they have been punished, prevented, and, practically speaking, made impossible for the future. Has any other colonising nation done better or could it do better? One can point to the partial or complete abolition of the penal

[1]) N. R. Pekelharing: *De groote Cultures in N. I. en eenige naburige Koloniën*, 1924, p. 71.

[2]) It should be noticed that the most recent investigator of labour conditions under this institution, Dr. van Blankenstein, whom nobody would think of accusing of partiality in favour of the penal sanction, remarks (p. 71, 76) "as regards the employer, he will continue to demand some guarantee, which will induce the coolie to observe his obligations, and he is indeed entitled to something of the kind", and "this is why I cannot feel the weight of the objection against the application of the penal sanction during a certain reasonable period of service as equally valid as that against the unlimited penal sanction which will probably disappear within a few years' time."

sanction in some parts of the British Empire like India and the Straits Settlements [1]), but why does our colonial literature, which seems always ready to praise the merits of others and be silent on those of its own nation, never point to its abolition in the whole of Java and, for the whole local population, in the other isles? Is not the fact that the sanction applies only to labourers who have come from elsewhere the most patent proof that it is exceptional and aimed mainly at the protection of the labourer in a strange country and only in the second place of the pioneer employer in abnormal circumstances?

In this connection we may quote two foreigners, Mr. Albert Thomas, the Director of the International Labour Bureau at Geneva, who visited the Dutch East Indies in 1929 and was assisted by the much regretted Mr. Harold Grimshaw, who personally and very minutely studied labour conditions. We may also quote Mr. Yves Henri, Inspector General of Agriculture, Cattle Raising, and Forestry in Indo-China. In his official report on his journey, Mr. Thomas remarked that

> "a few visits to tea and quinine bark plantations in Java and an abundant documentation have enabled us to feel the enormous efforts that have been expended on hygiene, health, education, the utilisation of leisure by the workers in all the large plantations or enterprises of the Dutch East Indies".

If one compares this development with the state of Europe sixty or seventy years ago, one realises how much has already been achieved in the Indies, notwithstanding the fact that abnormal circumstances made this achievement many times more difficult than in Europe.

After a minute investigation, Mr. Henri [2]) came to the conclusion that the sudden abolition of the penal sanction would mean the ruin of most agricultural enterprises [3]), apart perhaps from rubber. This remark, by the way, makes it easier to understand why the Straits, where there is little but rubber cultivation, cannot be compared with the isles of the Dutch East Indies, quite apart from various other even more important factors that have

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[1]) In the Straits it still exists for labour imported from Java.

[2]) *"Bulletin Economique de l'Indochine"*, III, 1927, no. 185, p. 206.

[3]) More than 500 million guilders has been invested in them for the East Coast of Sumatra alone.

been mentioned at an earlier stage. About labour conditions themselves he said:

> "The workmen enjoy a régime which has no equal in the whole Far East, and which guarantees them conditions of housing, feeding, and health that they could find nowhere in Java, even in the best situations".

This opinion of a foreigner justifies our assertion that an excessive degree of national self-denunciation among the Dutch is altogether uncalled for. Indeed, Mr. Henri continued (p. 208),

> "This double result deserves to be considered. It especially deserves to be mentioned by those who have visited the Far East, and have observed the lamentable conditions of the agricultural and urban proletariat, and who have nowhere found anything on a level with the Dutch orgnisation" [1]).

Let us not take undue pride in this praise, but let us continue to deserve it.

Before we pass to the subject of recruiting, of labour colonisation, the Inspection and the Office of Labour, supervision for the prevention of accidents and diseases in factories and workshops, and the development of general modern labour law, we may give a summary of the special labour legislation applicable to the great enterprises of the islands outside Java that has been discussed above. This special legislation guarantees, in case the labourer does not thwart the efforts of the authorities, that no one may enter into a labour agreement otherwise than of his own free will and with complete knowledge of his future rights and duties. The abolition of professional recruiting and the organisation in its stead of recruiting by individual enterprises, of free emigration and administrative emigration, an achievement which is in itself worthy of respect, are bound to exclude or at the worst to reduce to a minimum cases of misleading and misrepresentation. And even in such exceptional cases, complaints after arrival about misrepresentation by the recruiter result in free and immediate repatriation of the victim at the expense of the employer, not to mention the severe punishment to be meted out to the guilty recruiter.

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[1]) *Cf.* also the richly illustrated booklet of T. Volker: *Van Oerbosch tot Cultuurgebied*, 1928, publication of the Association of Deli-Planters; the photographs it contains give a very favourable impression of hospitals, dwellings, interiors and also of the schools for the children of labourers.

During his time of contract the labourer receives under this law a very satisfactory protection which is guaranteed by a long series of compulsive injunctions. The law shortens the duration of the obligation of about fifty per cent of the labourers to twelve months, and it limits the application of the sanction from day to day exclusively to the work hours of the working days. It allows the dissolution of individual agreements in case of their non-observance by the employer, apart from the punishment that will be inflicted upon him; it declares all current contracts to be legally dissolved and forbids any further recruitment in case of an unsatisfactory situation in the enterprise. It grants dissolution at any time for urgent or important reasons, on the request of the labourer and after judgement by an impartial authority. It makes transfer to an enterprise where the labourer feels more at home very easy; it sees to the health and good care of labourers better than the labour legislation of many Western countries.

This special labour law advances family life, assures respect of religious customs, gives full opportunity for free complaints before an impartial judge or authority (a right which, as the figures show, is used with confidence and success), and enjoins the explanation of their rights to the labourers and personal investigation upon a Labour Inspection that has extensive powers. It guarantees free repatriation of the labourer and his family, and takes into account the cost of living in fixing minimum wages. Guilty enterprises it visits with ruin, a guilty member of the administrative staff with the breaking of his career by withdrawing his licence to act as administrator or assistant (art. 17 bis). It shows respect for motherhood and alleviates the task of women.

This law has come to possess all these virtues, and many others, since it started to grow in half a century in regions wrenched by pioneers from the primitive wilderness. In Java nothing of this kind exists, for the Government and many right-minded employers felt that temporary linitation of freedom of labourers emigrating to uninhabited regions outside Java imposed the necessity of special protection, care, and rights as compensation. Outside Java a modern labour law has therefore grown out of the penal sanction, and an ever improving Labour Inspection now surrounds it, ready to give the assistance of its great experience in this special field to the solution of the general labour problem which may

soon be insistently knocking at the door. It is now becoming possible to discern reality through the smoke-screen of the penal sanction which in Holland has gradually damaged in wide circles the good reputation of the East Indian authorities, and has created the erroneous impression that the whole of this labour law is nothing but one vast penal regulation.

Labour recruiting

A regulation was made in 1909 governing recruiting of labourers in the populous isle of Java for work in the great enterprises of the other islands (Stbl. 123; Bijblad 6962, 7231), after it became apparent that general supervision by the administrative corps was insufficient to prevent abuses detected in the operations of professional recruiters. Recruitment for foreign countries had been regulated at an earlier date. It had been forbidden in 1887 (Stbl. 8) except where, in special circumstances and for weighty reasons, the Governor-General gave a special dispensation (see also Stbl. 1894, 278; 1899, 235; 1914, 615). The Government apparently deemed that it had to take severe action in this matter because, while eventual misleading of the workers could easily be redressed in their own territory, there was no such security of redress once they had arrived abroad. In cases where dispensation is given for work in foreign countries, the Government reserves the right to send its own Inspectors to the enterprises that benefit from the dispensation. It takes care, moreover, to perpetuate the link of their Dutch nationality among Indonesian labourers during their sojourn abroad (Bijbl. 8793). In practice, dispensation is freely given in favour of countries whither emigration has already taken place in a more or less regular fashion, where guarantees of good treatment exist, where the climate is satisfactory and where consular or Dutch East Indian Government officials have the opportunity to observe the situation; while no complaints have been received from those quarters.

Recruitment for Dutch Surinam [1]) was naturally looked upon in a kinder light because it is a Dutch territory. Nevertheless, it was most minutely regulated (Stbl. 1896, 72, 73). A licence had to be obtained by those who wished to act as emigration or re-

[1]) Free emigration of Javanese colonists to Surinam is now encouraged and a first experiment is being made.

cruiting agents. Medical examination was made compulsory. The depots for emigrants, the food during the journey, the mode of shipping etc. had to satisfy definite regulations. Recruiting contracts had to be provided with the signature of the Commissioners for Emigration, who had to register them (see also Stbl. 1916, 17; Bijblad 9703).

In the following observations we shall only take into account recruitment in Java for work in enterprises in the other islands. There is no need to enter into the recruitment very occasionally done by the Government itself for its own enterprises, because it is of no importance. In 1909, as we said, labour recruitment for the other isles was for the first time placed under regulation and supervision. It was more than time, and a beginning should have been made much sooner instead of transferring every responsibility to an already over-burdened administrative body.

It should be remembered that the finances of the Indies were still very restricted in 1900, and that, for instance, plans of administrative reform dating from 1860 were still not worked out simply because there was no money, while popular education on a large scale remained unthinkable since a most urgent need was the definite consolidation of Dutch authority in Atjeh and in extensive regions of the other isles. This task kept the authorities busy until 1910. All this ought to be remembered whenever the inclination is felt to reproach the men who with small means had to perform this herculean task. It should also be remembered that it is owing to the big enterprises themselves that the point of stagnation in the struggle for financial prosperity in the Dutch East Indies was overcome. It would have been impossible, therefore, for the authorities to fulfil their task of evolution without the assistance of private enterprise, as can be seen from the situation in Surinam.

Our Dutch compatriots should moderate their tendency to criticism, therefore, and should gratefully observe that scarcely had the heavy task of establishing dominion over the whole territory been performed, when full attention was given to this subject. It was entrusted to the care of the Labour Inspection organised from 1904 to 1908. Professional recruitment was subjected to severe regulations. The managers of the depots for emigrants, the recruiting agents in their service and the assistants of the latter

had first to take out a licence. Satisfactory depots for provisional housing of recruited labourers were established inland and at the ports of embarkation. Care had to be taken to provide good food, medical attendance, and satisfactory means of transport. All the necessary information required by the officials had to be provided immediately. No persons could be admitted to the depot at the port of embarkation who had not, in the presence of an official appointed for this purpose, shown that they agreed with the main lines of the labour agreement into which they were about to enter. Their spouses and children under age were, of course, also admitted, a written declaration of this assent having to be delivered by the official.

Medical examination, to judge of the physical fitness of the labourers for the task that was awaiting them, was made compulsory, and, since 1914, it has to be performed by a doctor appointed by the Government. Three certificates were delivered by this doctor, provided with the photograph and the fingerprint of the labourer. This aimed at establishing the identity of the labourer, a purpose which has always been furthered by the employers. Labour agreements made in this way were not valid unless they had been embodied in acts, the head of the local administration or an official appointed for this purpose (the recruiting Commissioner) having to be present at their signature. It was forbidden to embark persons whose labour agreement had not been drawn up and verified in accordance with this provision. Transport to any region in the other isles could be temporarily prohibited. Bijbl. 8531 makes it compulsory to draw the attention of new enterprises to this regulation, because otherwise in the course of pioneering work the necessary measures for housing labourers and providing them with water might perhaps be delayed. In order to facilitate the task of supervision, transport was only allowed in steamships and from specified harbours.

It was forbidden for agents or recruiters to ask the labourer to refund any expenses made necessary by these regulations. They were considered to be part of the business expenditure; while the labourers had to be protected against debt. For the same reasons, advances on wages were regulated. Bijbl. 6962 gives the necessary rules and models for the execution of this regulation. The model agreements were similar to these of the coolie ordinances (Stbl.

1913, 523). Bijbl. 7829 gives a model for labour agreements to be made according to the principles of the free coolie ordinance (Stbl. 1911, 540) already discussed above. In 1914 (Stbl. 613), a new recruiting ordinance was established which filled in the gaps that had meanwhile been discovered in the regulation. The recruiting agents, for instance, had to pay a deposit that could be forfeited if they did not observe the regulations. It has since been found necessary to impose further regulations to the same purpose (see Bijbl. 8112, 8174, 11315, 11543, the latest change being added by Stbl. 1927, 569). It should further be mentioned that the recent transfer of official functions gave to the Javanese Regents the task of supervision formerly belonging to the Dutch heads of the local administration.

As professional recruiting has recently disappeared, it has only a historical interest. Regulation and supervision of professional recruiting have in the main been applied to recruiting by the employers themselves, to whom, however, in view of the fact that there was no question of recruiting as a business, but only for their own enterprise, certain facilities, also to the advantage of the workmen, have been granted. The obligation on workmen of making a public declaration of agreement with the contract they were about to make before leaving the dessa was cancelled. The villagers were ashamed to have the fact of their departure broadcast all round the neighbourhood. As against this, supervision at the port of embarkation was made more severe. This recruitment by the employers was regulated in 1915 (Stbl. 693, also Stbl. 1917, 497 and Bijbl. 8409).

Organised free emigration

Professional recruiting has never enjoyed a good reputation. The professional recruiter only thinks of his premium per recruited labourer but remains indifferent as to what and who this labourer may be. Moreover, he is often enough inclined even further to extend his indifference and not to be over-nice as to the means by which he makes the labourer sign his contract. The employer, however, has the greatest interest in honest recruitment, where all misleading statements have been carefully omitted, because otherwise the enterprise acquires a bad reputation and finally only draws the worst elements of society. He wants decent la-

bourers with a real sense of duty, and not those bad elements whose departure is welcomed by their fellow villagers.

In short, the most fundamental interests of the employer and the professional recruiter are often in conflict, and it is remarkable that many enterprises did not realise this until the years 1900–1910. But when they realised it, they re-organised the situation most carefully and to such an extent that they killed professional recruitment in the course of two decades. In Southern China, alone, this good path had been trodden at a much earlier date. The Billiton Company [1]), whose system is generally appreciated on account of its untiring efforts to adapt it to the ways and wishes of its Chinese employees and workmen, started its own recruiting soon after its establishment some seventy-five years ago. The professional recruiter has to cover a large territory in order to collect his candidates, who are not of the best. He is therefore necessarily very expensive and is a redoubtable hindrance in the way of free immigration of labour, which is precisely what the employer desires most.

Very different are the methods of organised free emigration called *Laokeh*-recruitment i.e. recruitment by old hands of an enterprise. This creates a living connection between employers and the district from which emigration comes. For old servants return to their place of birth, where they find members of their family, friends, and neighbours, and try to persuade them to take work in their turn. Misrepresentation is practically impossible under this system, for it draws its labour from a respectable circle the members of which know each other thoroughly; while deceit would make the return of the recruiter to his native territory impossible. It might have even worse results, for the idea of collective responsibility might cause the relatives of the cheated party to revenge themselves on his family. The old employee must therefore be able to talk in full honesty about his enterprise. He must have been sufficiently pleased by his experience to be sure that the members of the little group who undertake the journey under his guidance will also be pleased.

These few remarks are sufficient to make clear the secret of this method of recruiting. The word recruiting itself does not do it

[1]) See its *Gedenkboek* of 1927, 2 vols. and J. C. Mollema: *De Ontwikkeling van het Eiland Billiton en van de Billiton-Maatschappij*, 1922.

justice for as things now stand, candidates are already on the look out for the return of old employees. Thus the free movement, the natural provision of labour, has started in a territory which may be small, but which is becoming linked up with its own special enterprise in a distant country by innumerable and invisible ties. The system of labour must be good, the labourer must be pleased, saving must be possible and must be encouraged. Regular contact between the labourer and his family at home must be ensured by correspondence and by transfers of money, and then this "organised free emigration", as it would henceforth be called, will be a lasting success. The word "organised" is added here in order to avoid confusion with the ordinary free emigration in the Dutch East Indies, which means the emigration of independent peasants and also of people who go to find labour in the indigenous rubber and pepper gardens of the other isles.

It is interesting to observe the growth of this tissue of connecting threads, and to see how there grows up a body of couriers continually on the move between the native villages and the newly organised enterprise. They carry letters and money, domestic articles like tea and tobacco, transmit messages and report the latest news of friends, altogether an excellent system that cannot be praised too highly. The Deli planters tried this method long ago in the south of China, when in the '80's an immigration bureau was established at Medan for this purpose, and about 1910 they got the idea that the same system might be tried in Java. It is not so easy to put such a wish into practice, and the main obstacle is long dependence upon professional recruiting; while the system of work, at least at the beginning, is not sufficiently adapted to the kind of labourer attracted by free immigration. These are great difficulties that can be overcome only very slowly. The Deli planters are only now beginning to gather the fruits of a movement started twenty years ago.

One result of this development is that high premiums for recruiting will disappear, and that therefore the principal reason for contracts of long duration, the necessity of spreading these costs over a long period so as not to put too great a burden upon the annual budget, will lose much of its old significance. It continues to be desirable to have discipline and a sanction during the apprenticeship of new arrivals, but this apprenticeship can be divided into

a number of shorter periods, with the result that the labourer can be delivered much sooner from his contractual obligation in case he does not like it for one reason or another.

The association of Deli planters (D. P. V.) started this system for Java in 1911. The administration of this organisation, which began in a very modest way, was entrusted to the immigration bureau established in 1888 at Medan. Later the United Rubber Planters of the East Coast (A. V. R. O. S.) joined this bureau and the two together established the "Free Emigration of the D. P. V. and A. V. R. O. S." known as V. E. D. A. [1]). This Veda has, apart from its head office in Java, five subordinate offices and a number of local agents in the interior. Its staff is paid fixed salaries and is not allowed to have any interest in the results achieved, which is of course an excellent principle. As for the local agents, apart from administrative and investigation work, they spread knowledge of the opportunities of free emigration and of life in the enterprises; while the labourers who have come back from the East Coast advise their acquaintances to return with them. Correspondence between the labourers and their families is encouraged. They are given free stamps, assistance, and advice when sending money, because it is considered that they cannot write too often. This fact by itself shows how the whole tone of the life in the enterprises changes when free emigration becomes the basis of the labour supply. The enterprise loses its isolated position and becomes organically linked up with Indonesian society in such a way that it may become a great social and educating influence for the evolution of this society.

Similarly the old labourers who recruit candidates receive nothing above their daily pay. In praising life in his enterprise, the old labourer can be perfectly honest. He may persuade two or three of his acquaintances to return with him. It is only then that the representative of the Veda comes upon the stage. He starts investigation, because in this delicate organisation one cannot be too careful especially at the beginning. The ex-labourer may be too zealous, and this may be undesirable because those who go away with him must on no account regret their decision. The representative must therefore look into a few very essential factors, such as whether the candidate is leaving with complete approval

[1]) Cf. The report of the Labour Inspection for 1927, p. 50—54.

of his parents, whether he really is a farmer accustomed to agricultural work, whether he has no debts and has not been fined or imprisoned. The headman of the village gives a certificate to vouch for all this. The Veda attracts respectable country people and works by selection.

Before the labourers are definitely accepted, everything is most attentively checked once more, after which the labourer receives a present of 20 guilders, and three and a half guilders for clothes. The investigation is continued at the port of embarkation. Before he leaves the labourer is medically examined and appears before the Inspector of Labour supervising recruitment. The latter reminds him that he is leaving for the other isles as a free man, that he can look round for about ten days in the enterprise which he has chosen in order to see whether life pleases him there, and that only after this will he be asked to sign a two-years contract upon the basis of the coolie ordinance. If he does not feel like it, he must be returned free of cost, with the whole of his family if he has taken them with him. The money presented to him need not be returned.

As we said, an organisation like this becomes, very slowly, a real connecting tissue. In the first year one may be satisfied if a few hundred labourers can be induced to emigrate. The worst is that meanwhile professional recruiting must continue to be used, although it is really in the way of this development. One may, therefore, well say that the enterprises concerned in this new system had to overcome extraordinary difficulties; but they have succeeded. In 1929 over 20,000 labourers emigrated from Java, taking with them 13,000 members of their families, while apart from this another 40,000 labourers were recruited by the direct recruiting of the enterprises. This is indeed splendid success; especially encouraging is the large number of members of the families who join in the emigration.

One rarely hears in Holland any praise bestowed upon these results; and yet they have a fundamental significance in the solution of the labour problem in the other isles. It is an achievement to make such an organisation grow up, as it were, by itself instead of constructing it in pieces. This great achievement has only been possible with incredible difficulty. The experiment in colonisation made by the authorities showed how little the Javanese is inclined to emigrate even to-day, and even as a free agriculturist. As

the authorities, of course, like the development of organised free emigration, they have liberated it from the regulation laid down in art. 2 (bis) sec. 1, of the coolie ordinances, according to which immigration contracts with Indonesians born in Java must be made with them in Java, while the emigration of free labourers was not submitted to this rule. The labourer arrives therefore as a free man and is able to make his decision after having become personally acquainted with the actual conditions of the enterprise. Accordingly the head of the Office of Labour (section 2) may grant a dispensation of the rule to sign labour agreements before leaving Java upon conditions made by himself in favour of certain recruiting organisations which give sufficient guarantees of their methods of recruiting. The Veda therefore works under the so-called dispensation decree (of January 5, 1928, No. E, 2/1/3) and under the conditions which have been summarised above. Before an enterprise can join the Veda (ultimo 1929 there were 197 of them), permission of the chief of the Labour Inspection for the other isles is first required [1]).

Direct recruiting by the enterprises

The Veda would never have been able to develop if the heads of enterprises had not at the same time been able to make themselves less dependent upon professional recruiting. A new organisation called *Eigen Werving* (self recruiting) began to take a place between professional recruiting and free emigration. It formed a kind of protective wall which allowed emigration to escape from the pressure of professional recruiting. As long as emigration was still modest, the heads of enterprises preferred to handle recruiting themselves. The "self recruiting" therefore fulfilled a double function. It provided a much better system of recruiting, which made professional recruiting continually less indispensable. At the same time, it paved the way for the future and for free emigration, which will finally make "self recruiting" also superfluous. "Self recruiting" was a form of recruiting by special recruiters in the direct service of the employers, but from the beginning it was recognised as being different from professional recruiting. It needed certain facilities, was entitled to them, and did, indeed, receive them by Stbl. 1915, 693.

[1]) See an illustrated little work V.E.D.A. by Mr. A. Hillen (1929).

The introductory note of this ordinance points to the desirability of calling into being, apart from the ordinance regulating professional recruiting (Stbl. 1914, 613; 1915, 181, 423), a special regulation, according to which employers could be granted on special conditions permission to recruit Indonesians in Java and Madura for labour in enterprises of their own situated in the other islands. Art. 1 begins with the prohibition of recruiting upon the basis of this ordinance without permission of the Director of Justice in Java and Madura. No professional recruiters were admitted for this form of recruiting. According to art. 2, special conditions may be made when granting such licences.

Art. 3 mentions sanctions on the infringement of these injunctions. Art. 4 declares that apart from arts. 1, 2, 5 and 19, which are not applicable, the professional recruiting ordinance of 1914 will apply also to this form of recruiting. It introduces a few other modifications in the text of this ordinance. The necessary injunctions and models would be provided so far as necessary by the Governor-General (Bijbl. 8409). Only good employers may receive this licence. The main advantage is that the declaration of agreement by the candidate-labourer in the interior is no longer required. It was a source of discomfort to the average villager and did not encourage direct contact between the employer and the better elements (art. 6 sec. 2, Stbl. 1914, 613, and art. 5, Stbl. 1915, 693). At the port of embarkation, however, a severe supervision is exercised in order to ensure that the labourers are leaving of their own free will and in the full knowledge of their rights and duties. The other injunctions are the same as those of the recruiting ordinance of 1914, which we have already described.

Advances may not be given (Bijbl. 10960). The future labourer receives for his small travel requirements the sum of $2\frac{1}{2}$ guilders upon signing the contract, and another similar sum upon embarkation. Only when he arrives at the enterprise is the advance of 10 guilders necessary for buying household articles paid out to him. There can be no question therefore of the man's being seduced by the promise of an advance. Deceit by the lower recruiting staff may take place if the labourers in their innocence help them by telling untruths to the authorities. But the latter know their people and may be trusted to be able to make the situation clearer to such simplicity.

Professional recruiting having recently entirely disappeared, an improvement of the lower staff of the "self recruiting", which has been hampered by this competition, will soon follow. Deceit will become exceptional, which will be to the advantage of the employer because he is compelled to send labourers who have been misled back to Java immediately and at his own expense. A number of directors of enterprises have since been granted the licence for doing their own recruiting, and again mention should be made in the first instance of the above-mentioned organisations D.P.V. and A. V. R. O. S. which have established for this purpose a special office, the General Deli Emigration Office (A. D. E. K.), and the recruiting organisation of the South Sumatra planters (Z. U. S. U. M. A.). The A. D. E. K. depots are well-known owing to their excellent organisation.

The end of the embarkation prohibition and the arrival of free emigration

We may also mention the so-called free recruiting i.e. the recruiting of free labourers who made no contract with penal sanction upon the basis of Stbl. 1911, 540, and who had therefore less need of protection. Moreover, there has been from ancient times a flow of people looking for temporary employment in the nearest regions of the other isles so that there was no need of special recruiting organisations. The general embarkation prohibition in the recruiting ordinance of 1914 (art. 14 sec. 1) secured to the authorities the supervision of all labourers recruited for the other isles, but employers could be given a licence, if they applied for it, to embark free labourers for the other isles and to be exempted from the embarkation prohibition [1]).

When this prohibition concerning free workmen was withdrawn (Stbl. 1927, 142), these special licences also automatically dropped out, and the free workmen had no longer to appear before the recruiting commissioner before they left. When the recruiting ordinance ceased to be applicable to non-penal contracts, the model contracts of Bijbl. 8112 disappeared, as well as the free recruiting ordinance itself, which had served no particular purpose since 1921 (Stbl. 505). It had been made applicable only to the Lampongs (Stbl. 1921, 508) and to the Samarinda division (1922, 811);

[1]) Cf. Report Labour Inspection 1923, and 1924, p. 4 and 5.

but in 1924 (Stbl. 433, 434) it was replaced by a freer regulation for the Lampongs. In 1927 all these arrangements gave place to another regulation entitled "free emigration", which applies only to free workmen. One must therefore distinguish up to a point between this form of free emigration and the Veda free emigration discussed above, which aims mainly at attracting labourers who are willing to sign a contract for two years with penal sanction; while to the workmen aimed at now the free coolie ordinance of Stbl. 1911, 540 is applicable. Some enterprises in the other isles now use this ordinance exclusively, and others use it in part. Free workmen, and also the Veda contract labourers, are usually induced to emigrate by old hands and by propagandists. In the case of big enterprises, the distinction does not apply so much to the method of recruiting as to the contract of service. Free emigration can in fact be divided into three sections: that of future contract labourers in big enterprises, that of future free labourers in similar enterprises, and finally that of independent peasants or labourers or working partners in small enterprises directed by a few Europeans and Chinese, and more especially by thousands of Indonesians.

The abolition of the prohibition of embarkation of free labourers under the last two sections was also a way of encouraging the flow towards Indonesian rubber and pepper plantations, in particular in Southern Sumatra and in the Southern and Eastern divisions of Borneo. In these districts the old form of co-operation, in which there is little difference between the Indonesian master of the small plantation and his assistants and where both parties are equally interested in the harvest, frequently still exists. As soon as work for wages takes the place of this traditional relationship, a process which is already beginning, many other aspects of this familiar relationship will also disappear and it will then be necessary to keep a watchful eye upon these Indonesian concerns — all the more so since emigration directed towards the latter is no longer controlled. The great enterprises in the Lampongs have retained their own regulations of 1924 in regard to this free emigration. It allows the making of a contract with sanction with emigrants six months after their arrival, but otherwise this arrangement is only authorised for immigration contracts with new arrivals from Java in Java itself.

It was necessary that this regulation should be made (in Stbl. 1927, 142) because after the disappearance of the control of emigration of free labourers to the other isles, there was a risk that these people would first leave as free labourers and that they would presently crop up again, tied by long coolie contracts because they lacked sufficient sense of the future. This is not possible now, because the free labourer would first have to return to Java and there go through all the stages of the recruiting ordinance. In the Lampongs, however, an exception, which in itself is of little importance as only very few labourers are concerned, and which probably will be discontinued very soon, is possible but only after a stay of six months; while Veda immigrants leaving for the East Coast are allowed to look about them in the enterprise for ten days before they sign contracts. In this case, moreover, there is as we have already explained a very strict control before departure from Java.

The Government is greatly interested in the encouragement of the emigration of peasants, craftsmen, and free labourers to the other islands, and as long as these people are free and no wrong practices develop, it is certainly in accordance with general interests not to discourage this emigration by multiplying formalities, which are in any case not to the taste of the Javanese. It will depend upon the further course of affairs whether a tightening of the rules is necessary. As regards free labourers who arrive from elsewhere in the great agricultural, mining, and other enterprises, the regulations under Stbl. 1911, 540 (cf. also 1924, 250), as well as the supervision of the Inspectors, apply to them, as has been mentioned; while all this is also applicable, if desired, to the labourers from the region itself (Stbl. 1928, 341). It is still being considered whether or not small enterprises, including those of Chinese and Indonesians, should come under the regulations. It is probable that the future will give an affirmative answer to this question.

Before mentioning colonisation plans we may again summarise our remarks by saying that enormous progress has been made in recruiting since 1909. In those days there was an unregulated professional system of recruiting the excrescencies of which still shock the reader of to-day. After a brief period of severe control, it has now disappeared and given place to "self recruiting", which in its turn is disappearing before organised free emigration as far as

contract labourers and free labourers in the big enterprises are concerned, and for free movement as far as Indonesian and other small enterprises are concerned. No better preparation could be desired for normal conditions than this change for the better, no better basis for labour colonisation than the encouragement of free emigration.

The so-called administrative emigration works in the same direction. It has recently been started, upon the intiative of Resident Westra. Under this system Javanese administrative officials play the part of mediators by assisting the emigration of those who feel inclined to go elsewhere in search of a better existence. This system applies exclusively to free labourers. As restriction of the sanction is now beginning, the encouragement of the movement of free labourers certainly should agree with the views of the authorities, as is the case in the Straits Settlements. On the other hand, care must be taken that there should be protection and encouragement only of the free movement of labourers, and not any ill-inspired zeal which would, as a result of the conditions existing in Indonesian society, achieve precisely the opposite of what is intended.

Colonisation by labourers

We have already had several opportunities to talk of colonisation as a means towards the abolition of the sanction. Much attention has been given to this matter by the authorities since 1900, but such plans cannot be forced. About 1910 the Governor-General, Idenburg, placed this matter in the forefront of his programme, but in spite of that, speculation as to the methods to be employed did not take shape until 1916. The Government had under consideration a scheme by which the heads of enterprises should cede a house and a garden for a certain period to former contract labourers who would undertake as a counter-service to perform a certain number of days of well paid work for the enterprise. The Government did not wish to make this compulsory, and preferred to settle the matter on a voluntary basis with the employers. The planters, though sceptical, were prepared to give their co-operation.

Several companies had already been working for years upon their own initiative in favour of labour colonisation, and had

achieved results that were sometimes good but sometimes far from encouraging [1]). One enterprise, for instance, had very generously granted paddy-fields to colonists without placing them under any obligation to work for it in return. It was hoped, of course, that they would of their own volition try to earn something apart from the proceeds of their own paddy-fields. But exactly the opposite took place. The labourers simply refused to work upon the paddy-fields for their own necessities. They even refused to work their own paddy-fields for wages; while the offer of premiums had no better effect. This is the kind of lesson which cold practice does not spare those with even the purest intentions. The labourers could not cope with the demands of freedom. They asked continually higher wages for less work and became definitely intractable. Finally it was necessary to send them back. Experiences like this prove that labour colonisation is not a business that can be tackled haphazard, and that the execution of such plans upon the vast scale which used to be considered desirable requires much preparation and study.

We have already mentioned that the Government considered the success of these plans assured, provided the employers gave their co-operation with real conviction. In order to obtain this, the Government took away from them the security of labour which meant so much to them. The Commission for Colonisation had drawn up satisfactory plans, which were not, however, to acquire practical value, as was seen when the term of seven years (1918–1925) was fixed by the Government, and when, moreover, it was announced that the sanction would be abolished whatever the degree of success of the colonisation. The Government also more or less gave up the point of view of voluntary colonisation having to be left to the initiative of the planters on the East Coast of Sumatra. It desired the members of the family of a labour colonist to succeed to his rights in case of his decease without taking over his obligations. In this way an entirely independent labour colony would spring up in the enterprise. The planters were unable to agree with this desire because the land which had been ceded to them on long lease would in this manner be definitely lost by the

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[1]) Heijting, *op. cit.* p. 107 *sqq.* (chapter about colonisation experiments by the planters).

enterprise; while it was by no means certain that the occupants would be willing to work in its service as free labourers.

The planters therefore made it a condition that the occupants should every year work for a fixed number of days for the enterprise, and would otherwise lose the use of the house and garden temporarily ceded to them. It was hoped that in this way security of labour would be preserved and that in the course of 14 years colonisation would increase at such a rate that 95 % of the labourers in tobacco plantations and 75 % of those in rubber plantations would work without sanction as labour colonists. To this again the Government objected, because this condition contained the possibility that a new dependence would develop resembling the modified servitude of occupants of the soil which existed for instance up to a short time ago in the Indonesian states in Java and on certain private estates with seigniorial rights (see our previous chapter). It seems therefore that the Government aimed at agricultural colonisation in or between the enterprises, while the planters gave the preference to labour colonisation which at the same time would allow for agriculture by the colonists on their own account. Both views, of course, can be reconciled, although it is desirable in principle not to lean on two different ideas and to distinguish the two systems of colonisation from one another. It would, indeed, appear that in the course of recent years the Government, without rejecting the possibility of amalgamating the two ideas, is nevertheless taking this view, as may be concluded from the explanatory memorandum of 1926 submitted to Parliament and already quoted before [1]).

The ordinance of 1919 on long lease (Stbl. 61), which applied only to plots of land in the Indonesian states governed under the so-called short declaration, and not to concession lands in the larger states with so-called long contracts, seems to show that the Government at that time was impatient, and that there was less inclination on its part to consider terms in a friendly manner with the planters. This, at any rate, is the impression one gathers when one considers this ordinance in the light of the further addition of 1920 (Stbl. 781). In 1919 the Government was still satisfied with

[1]) Cf. also Burger, *op. cit.* p. 133—137; recently a Central Colonisation committee has been established for the encouragement of agricultural colonisation and labour colonisation, which must make proposals to the Government and must give advice to regional colonisation committees.

the granting of small plots of land from the long lease ground to Indonesians for the establishment and development of colonists' villages which could provide labour for the enterprises. But in 1920 it guaranteed the use of these houses and gardens to colonists as long as they continued to take care of them and to provide satisfactory labour for the enterprise. Whether this was the case was to be judged not by the leader of the enterprise, but by the administration and the labour inspection. The Government went further, for after five years' habitation the right of use was changed into an hereditary right of use of as long a duration as the right of the long leaseholder himself, provided compensation for the value of the house was given to the leaseholder.

The planters disliked this regulation which did not leave them masters even in their own house, and protests also came from the concession areas because it was feared that the regulation might also be applied there. They were shy of encouraging colonisation upon this basis because they had to begin by handing over all power of control and lost all authority over the ceded land after five years; while they did not acquire in exchange the certainty that the colonists would perform useful work for the enterprise during some days each year. The result of this regulation was bound to be that the planters felt unable to further colonisation with conviction, and the necessary results could therefore not be achieved. Moreover, a better insight was gradually acquired into the difficulties of colonisation. This is why this regulation was not made applicable to the concessions and was eventually withdrawn (Stbl. 1927, 339).

A more reasonable basis was introduced by the important Stbl. 1927, 413, already examined. It sanctioned a spreading practice by enjoining that labourers who had served for five years should have the right to a dwelling of their own, either detached or semi-detached. It is true that the barracks formerly in use were becoming much less common and that, especially on the East Coast, houses with separate rooms for the labourers — one or more per household — had become the rule. Only unmarried people had to share one room; but the greater freedom of a detached house for the family is a highly valued privilege which strengthens the tie between the enterprise and the labourer and prepares the way for fully normal conditions in the future. Nevertheless labour colo-

nisation preserves an extraneous character which does not yet give one a complete satisfaction; while the agricultural colonisation on the East Coast (in Asahan, Siantar, Serdang and Tebing Tinggi) is no doubt successful but appears for the time being to be more likely to withdraw labour from the enterprises rather than provide them with more. It will be a good thing not to allow one's attention to be too exclusively absorbed by colonisation either by agriculturists or by labourers, at least in so far as the subject under consideration is concerned. On the other hand both systems can claim much promise and deserve all encouragement for their own sake; but with regard to the solution of the problem of ending the system of contract labour they cannot at present be considered as the only point of departure. Organised "free emigration", facilitation of the flow of labourers from Java, and shortening of the contract period which results from it, the gradual restriction of the sanction, which may perhaps be linked with arbitration in labour disputes, all these things place at the disposal of the reformers means which next to and together with the colonisation scheme should at no moment be lost sight of.

Labour Inspection and the Office of Labour

Labour inspection has been rarely mentioned so far, but it has been present continually in between the lines. Its supervision of recruiting and of the observance of the special labour legislation has performed a useful piece of field-labour, while its experiences have been used in the form of advices, proposals and drafts for the creation of new labour legislation and of supplementary regulations (see the reports of the Labour Inspection). Thanks to this organism, one can be tolerably certain that this legislation, in so far as it tends to the protection of the labourers, is being observed in practice and that any evil exception is soon visited by penal and by much more redoubtable administrative sanctions, which are held in reserve over the heads of employers.

This service was definitely organised in 1908 (Stbl. 400) and was entrusted with the supervision of recruiting in Java and with the task of ensuring that the coolie ordinances were observed in the other isles. The instruction for inspecting officials (Bijbl. 8203, 10404, 10772) adds to these duties the study of the labour problem and of the improvement of labour relations in their re-

spective administrative units. Special training of the staff of the inspection, already decided upon in 1930, guarantees that the standard of these officials will be raised to the highest level. Further extension of the staff of this service will be necessary from time to time [1]). These officials have great powers. They have free access everywhere; they have the right to examine a firm's books and to interrogate people, and they may draw up summonses for all offences against the coolie or recruiting ordinances which they detect (Stbl. 1910, 149). They also supervise the treatment of free labourers of the large enterprises who have made a labour agreement on the basis of Stbl. 1911, 540 (Stbl. 1911, 651). Similarly they supervise the observance of the Panglong regulation (Stbl. 1923, 220) [2]), a task which was entrusted to them in 1924 (Stbl. 175). The observance of the regulation in the interest of European employees of big enterprises (Stbl. 1921, 334) was also entrusted to them by Stbl. 1924, 287.

We shall not discuss the two last mentioned regulations or the immigration of labourers from abroad, because they concern the position of non-Indonesian Oriental labourers and of European assistants. About the latter, we have only to say that by giving to the Assistant a more independent position, the statute in question aims at the improvement of good relations between him and the labourer. Fear of dismissal worked as an irritant and resulted in efforts at super-efficiency and excessive attempt to increase production, a point which continues to deserve special attention. Of no less importance is the obligation to learn Javanese and to become better acquainted with Indonesian customs.

The Labour Inspectors indeed have their hands very full, and their labour will be still greater when the time comes for Eastern small enterprises to require their supervision. Meanwhile, the Government has since 1921 had the assistance of a central Office of Labour (Stbl. 813) under whose control the Labour Inspection of the other islands now lies (Stbl. 1923, 336). To this Office was

[1]) The staff now consists of one chief, three 1st class inspectors, 27 inspectors and assistant inspectors, 3 controllers of recruiting, 6 labour controllers, 54 Indonesian interpreters, 13 Chinese interpreters and 18 administrative officials.

[2]) This regulation concerns Chinese wood-cutting enterprises which are often at great distances from inhabited districts, e.g. in Bengkalis and where some ten years ago very bad conditions were found to prevail. Cf. G. Pastor: *De Panglongs*. According to the latest reports conditions in the panglongs are now everywhere satisfactory.

added a service for the control of steam engines (Stbl. 1925, 119), about which we shall have to say more later on. The Office had also to take action (Bijbl. 10404) in matters of labour relations between employers and workmen and was furthermore meant to be a centre to which the social task of the authorities could be more and more transferred. At the beginning it had three subdivisions: labour legislation with statistics, labour inspection in Java and Madura (which was not really established until 1931), and trade unionism. The Labour Inspection in Java and Madura was soon replaced by control of steam engines and transport (under the name of inspection of security) and Labour Inspection in the other islands.

It is not surprising that the necessity of creating a special organ for supervising the young trade union movement in the Dutch East Indies arose. In so far as legal regulations may appear necessary to lead this movement along the right path, the knowledge and experience which this organism will collect will be of great utility. We may point in passing to the establishment of subsidized municipal labour exchanges and to the creation of a board of conciliation for railways and tramways (Stbl. 1923, 80; 1926, 224), in which the trade union leaders were given seats [1]). In the case of labour conflicts, the board mediates. If the creation of such institutions appears useful and desirable, they can also be extended into other spheres. We may also mention in passing that an article, 161 bis, has been added to the penal code (Stbl. 1923, 222) which makes incitement to strike a punishable offence, if it can be reasonably expected that the result will be a disturbance of public order or a dislocation of economic life. Strikes as a means of improving the conditions of labourers are therefore allowed, provided the interests of the community are not thereby endangered.

The East Indian Government has been working at the completion of the penal law (art. 107—109 penal code) in order to make more adequate provision for countering revolutionary troubles in accordance with the needs that have been discovered.

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[1]) The administrative corps has also intervened more than once in a mediatory spirit in labour conflicts. The Government however endeavours to establish a more natural security for labour peace not dependent on the intervention of the authorities, by encouraging organised contact between employers and labourers (*Mededeelingen* of the Government for May 1922, especially p. 36).

This the Government does not do for its own pleasure, as some people would appear to believe, but under compulsion, in the same way as is happening to all other colonial powers, and not only to colonial powers. It is only too well known that so-called strikes are not infrequently used for political and even for revolutionary purposes. If successful, such strikes are the best means to assure the good result of a revolution before the mask is thrown down. Extremist leaders realise this perfectly, and that is why they continually utter maledictions against this so-called work of darkness, which is really indispensable as a result of their agitation. An honest strike meets with no opposition. But when the strike is used as a disguise for entirely different intentions, people of goodwill will not resent it if the authorities responsible for law and order are not taken in by fine appearances and tear off the mask. The more ruthlessly the chaff is divided from the grain, the more the healthy development of trade unionism and of general labour law will be advanced.

It is a regrettable fact that communistic and other extremist propaganda has from the beginning been active in the young labour organisations. From their own point of view, these sappers of public order see very clearly; but their activity is very detrimental to the growth of a healthy Indonesian trade union movement, and very detrimental also to the spread of a better understanding of governmental intentions regarding this movement, for the more this movement becomes political and revolutionary, the more unavoidable will become the intervention of the authorities in the case of strikes, and this unjustly throws upon the authorities the appearance of condemning every strike in itself. As the general labour law which is only just developing must harmonise its growth with that of society, it would be unfair and even inconsequent to oppose the strike as an expression of greater consciousness and as a means towards reasonable improvement of the conditions of the workers. It should be realised most thoroughly, therefore, that the sole reason certain strike actions have been made punishable is that such strikes are incited by those who want to use the trade union movement for purposes that are fatal to quiet social development. Meanwhile, the Government of the Indies is studying a better wording for art. 161 bis., as well as of the previously mentioned art. 153 bis. and ter. of the penal code.

As regards the supervision of safety [1]), regulations made in the course of the 19th century concerning factories, steam boilers, and transport aimed more at the protection of the public than at that of the labourer. This is a phenomenon that can be observed throughout the world. The supervision of these matters for the railway services (Stbl. 1927, 258) and the observance of the steam regulations (Stbl. 1930, 225 and Stbl. 1930, 339) is entrusted to technical officials who have been organised since 1909 (Stbl. 191) as the "service of steam engines" (See also Stbl. 1924, 370; 1925, 119).

The general safety regulation dates from 1905 (Stbl. 521). In accordance with modern conceptions, it gives the necessary attention to the safety and health of labourers in factory and workshop. All places where labour is done by means of engines or furnaces, or where ten or more persons are usually together, come under this regulation. The employer and the labourer are both compelled to provide the Inspectors with all necessary information. Later on, extensive powers were given to the staff of the Office of Labour (Stbl. 1924, 211), to enable them to obtain the necessary data concerning conditions in these workshops and factories and to obtain thereby a basis for government activity and intervention regarding labour conditions. The supervision of the safety and health of labourers in the mining industry, regulated by the mines ordinance (Stbl. 1906, 434), has also been entrusted to technical officials in the service of the mines ordinance which does not depend on the Office of Labour although it belongs in principle to the service, at any rate as regards its activities from the point of view of labour law.

Further safety legislation for factories and workshops (Stbl. 1910, 406), repeatedly modified in the course of the years (and most recently by Stbl. 1926, 527), followed. A clearer and more comprehensive definition of factories and workshops was given, while the head of the department concerned was given competence to issue further safety regulations. Inspecting officials were, if necessary, empowered to give special instructions to individual factory owners (see also Stbl. 1917, 212). The latter were allowed to appeal against these instructions. Notification of accidents was made compulsory within 24 hours. Safety inspection, entrusted

[1]) *Cf.* Boeyinga, *op. cit.* p. 92 *sqq.*

to the technical and general inspecting officials of the Office of Labour, forms an important part of the task of this organisation.

It has also taken much trouble to increase knowledge concerning labour conditions in various industries in the big towns and in the countryside, particularly in the steel and tobacco industries, as well as in shopping and small enterprises, the so-called Bombay shops and the batik industry, as appears from a number of well documented publications in the course of the last years. And it has thrown much light upon the social aspect of industrial life, of which the roots often go deep into Indonesian society. In this way important data have been acquired which by no means always provide a favourable comment upon hygienic and social conditions in purely Oriental small enterprises. These investigations do not always lead to immediate measures, but they have induced the Government to establish a special service of Labour Inspection for Java, which will have its own head and five inspectors, each with an inspecting division of his own. In giving instructions that seem obvious to the modern man, one cannot be too careful to avoid running ahead of the popular mentality nor should one over-burden the economic capacities of these small Oriental industries. It is once more necessary to keep close contact with the development of Indonesian society as a whole.

An enquiry initiated by the labour commission in 1919 has shown the existence of this difficulty. It had been decided to study the question of fixing minimum wages for all large and small enterprises in Java owing to the considerable rise in the cost of living[1]). In normal times, such far reaching measures can scarcely be recommended, though in abnormal times it may sometimes appear that this interference by the authorities is justifiable. Such, indeed, was the conclusion of the commission.

It is important to notice that one of the members who wanted to go further than his colleagues came to the conclusion that it was necessary to submit to the eventual disappearance of all small enterprises which were unable to satisfy the demands made upon them, even if this were to necessitate a far reaching measure of unemployment insurance by the authorities. The matter at issue

[1]) See the report of the Labour Commission on the legal fixing of minimum wages for labourers in Java and Madura, 1920, and a discussion of this by Meijer Ranneft, "*Kol. Stud.*" Feb. 1921. Cf. also Gonggrijp: *Het Arbeidsvraagstuk in N. I.*, 1925, and the Exchange of views in "*Kol. Stud.*" June 1921 (p. 432—456).

is once more that of the human value of the labourer versus the economic value of the enterprise, a dispute which in the West is already nearly a century old. The East Indian authorities will in their turn be confronted with this same dilemma every time they find it necessary to make hygienic and other regulations and further to develop general labour legislation in the East Indies. They will be well-advised if they abstain from applying Western standards, but must aim at preserving the balance between these values in the frame of Indonesian society itself. If action were taken in this matter without consideration of gradualness, if too much were attempted at once, neither the labourer nor Indonesian enterprise would profit. Idealism as well as a sense of reality is needed in this work.

Accidents and the protection of women and children

The Government wishes to proceed cautiously in its general labour legislation in the Indonesian sphere. It has, it is true, issued a new "regulation for the labour agreement" (Stbl. 1926, 335) in place of the artt. 1601–1603 of the civil code, which were greatly out of date, but this regulation has so far been declared applicable since 1927, and apart from special regulations, only to the European population. It is taken from the Dutch law of 1907 upon the labour contract, and it brings the relationship between the employer and the worker to a large extent within the sphere of labour law. For other groups of the population artt. 1601–1603 of the civil code, as well as custom and the above-mentioned special labour law, are still applicable. Although rather poor in content and rather out of date, these civil code rules cannot be easily replaced so long as it is not definitely known how much can be expected from Indonesian society in coping with modern labour law.

It may be noted that art. 1602 (w) promised a regulation for accidents in the Dutch East Indies. The principle of compulsory indemnification by the employer of the worker who has met with an accident (see also Stbl. 1929, 53) is of relatively recent date even in the West. In the East Indies a regulation has already been drafted which the authorities are going to apply to the same enterprises which come under the safety regulation, and which will therefore include a number of non-Western enterprises. During

the few years which will constitute a period of transition a guarantee fund may be made to meet the purpose, after which there will be compulsory insurance. This will be a very important extension of general labour law, and it certainly provides the right point of departure. Small Indonesian enterprise will therefore not need to be burdened with large financial obligations, but it will at once be brought into contact with the best and most humane ideas and methods of our time, which cannot fail to exercise a progressive influence upon the construction and organisation of the work shops.

The same effect must result from the modern protective measures for women and children which have already become the subject of international regulation. International labour law is growing in strength in the colonial world as elsewhere, mainly owing to the influence exercised by the International Labour Bureau at Geneva and by the Conferences held under its auspices. This Bureau owes its existence to the thirteenth section of the Treaty of Versailles which applies to members of the League of Nations while its members, under art. 23 of the Covenant, undertake to assure and to maintain fair and humane labour conditions in their overseas territory. One of the subjects that are now being studied by this Bureau is that of the penal sanction. It had been hoped that this matter could be placed upon the agenda for the Labour Conference of 1930, but it proved too complicated and will require further preparation.

The great advantages of such international co-operation need not be pointed out here. But there is a serious difficulty in the international discussion of the subject in which only about ten Powers are directly interested: as it happens most of the representatives lack the indispensable knowledge concerning social conditions in the colonial world. The value of justified objections against the application of definite regulations to overseas territories cannot always be appreciated by many of the representatives, with the result that these objections are sometimes attributed to indifference or bad will [1]). In the Dutch East Indies the

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[1]) Report of the Session of 1929 at Brussels of the International Colonial Institute on indigenous labour in the colonial world (p. VIII) which recommends great carefulness in an international regulation of colonial labour affairs because incompetence may have grave consequences. The rapporteur, Dr. Schumann, concludes that "in the present state of affairs there is room for but a limited measure of international agreement."

League of Nations Covenant and Sec. 13 of the Treaty of Versailles were promulgated in Stbl. 1920, 554. After the Labour Conference held at Washington in 1920 under the auspices of the International Labour Bureau, the Treaty concerning night labour by women and children was also promulgated in the Dutch East Indies (Stbl. 1923, 461). Abuses in regard to the labour of women and children, as they have existed in Europe, have remained the exception in the Dutch East Indies, as a result of the limited industrial development of the country. It could therefore not have acquired a special urgency, and the acceptance of international standards by the Dutch East Indies may be regarded mainly as a sound basis for the future.

The Treaty concerning night labour of women left open the introduction of modification required by local circumstances in the colonies. Stbl. 1925, 647 (see also Stbl. 1928, 515) gave the regulation for the limitation of child labour (which had already been forbidden in definite circumstances by art. 301 penal code), and of the night labour of women. The former was forbidden in the case of children below the age of 12 (art. 1 and 2), with the exception of labour in their own homes or gardens. Night labour for women (see also Stbl. 1925, 648) is allowed, with the exception of certain specified enterprises and under specified conditions, only after the permission of the chief of the Labour Office has been obtained.

Finally, the labour of children and young persons on board ships was regulated by Stbl. 1926, 87, in accordance with the Treaty drafted by the International Seamen's Conference of 1920 held at Genoa. This also prohibited labour by children under 12 and did not allow certain specified heavy tasks, such as that of stoker or trimmer, to be performed by young persons under the age of 16. The supervision of the observance of all these injunctions was entrusted to the general judicial police officials, the staff of the Office of Labour, more especially the Labour Inspection and the Safety Inspection, and, as far as work on board ships is concerned, to harbour masters.

The spirit of the West is indeed penetrating into Eastern society even in the sphere of modern and international labour law. Some people may think that it penetrates too slowly, but the pace as a matter of fact is astounding. Labour legislation in

Holland itself is the result of the work of half a century; labour inspection in Holland is not more than about 40 years old and was most unsatisfactory when it started. One should consider these things when one thinks that in Indonesian society itself slavery and debt-servitude would still be very much alive if the authorities had not cut them off at the root, and one will then see in its right proportion the great work that has already been done and that is being prepared. Is it not a fact that the establishment of a central organ of the importance of the Office of Labour which may presently become a separate department, proves the existence of an earnest intention boldly to face all the difficulties which are bound to present themselves in the future?

On the other hand, however, it will be necessary to understand fully that labour legislation can no more bring the true and complete solution of all difficulties by itself, than can political construction, education, popular credit, or any other single line of action. Progress can only be made if this legislation remains organically connected with the whole progress of social and economic development. It may happen that in some particular instance measures have to be taken which run far ahead of this general development. It is permissible to be always a few steps in advance of this process, but as regards progress along the whole line, it will fail unless the line is kept unbroken. The collective movement is in any case very fast already, if one compares its advance with the slow evolution which has taken centuries in the West to lead to the social legislation of our period.

Therefore, as in every other instance, our thoughts return to the construction of society. The many great results held out before those who want to devote themselves to this task can now be made to include yet another aim, the rise to dignity of the Indonesian labourer. This ideal will never be realised by direct labour legislation only, but social development as a whole assures its eventual realisation. All social forces, and all social workers, may therefore feel strengthened in their endeavours by the knowledge that they are all of them builders of the foundations upon which the authorities are already busily constructing and will continue to construct the whole edifice of future labour legislation.

APPENDICES TO CHAPTER VII

APPENDIX I [1])

THE COOLIE ORDINANCE FOR THE EAST COAST OF SUMATRA

(Issued in Stbl. 1915, 421, modified by Stbl. 1917, 497; 1920, 535; 1921, 39; 1924, 513; 1925, 201 and 311; 1926; 62; 1927, 142 and 413; 1928, 535).

Article I. Without affecting what has been established by artt. 11 and 14 of the recruiting ordinance (Stbl. 1914, 613), workmen can be taken into service on behalf of enterprises of commerce, agriculture, or industry — in so far as, in the judgement of the Director of Justice, the enterprise should not be classified under small agriculture or horticulture or be considered as a small industry, — and also on behalf of public works, and for the construction and exploitation of rail and tramways, in virtue of a written labour agreement, made upon the basis of this ordinance and with the consequences enumerated in it.

Article 2. For the purpose of this ordinance the terms are to be defined as follows:

a. *Employer:* The physical or legal person established in the Dutch East Indies who directs such an enterprise as is described in art. 1, or, if this person is not established in the Dutch East Indies, his representative appointed by an authentic act.

Where, in this ordinance, the term "enterprise" is used, it includes "public works" and "the construction and exploitation of rail and tramways" as mentioned in art. 1;

b. *Administrator:* The person who is charged with the direct guidance of the enterprise as a whole or of an independent part thereof;

c. *Labourer* or *Labourers:* The adult male or female coolies or craftsmen belonging to the Indonesian population or subject to the same legislation, who have engaged themselves by a labour agreement to perform labour and who do not belong to the native population of the region in which the enterprise of the employer is situated;

To the native population are also deemed to belong the descen-

[1]) Appendices I and II will, as from July 1st, 1931, and January 1st, 1932, be replaced by the new ordinances in Stbl. 1931, 94 and 95, which, unhappily, at the time of printing are not yet available. However, as the bulk of this legislation has remained unchanged, these appendices continue to have an actual value. The more important modifications have already been mentioned in the notes on pp. 551 and 553 and a detailed description thereof will be found in the note on p. 606.

dants born within the region of Indonesians who have come from outside the region;

d. *Immigration Contract:* The written agreement which has been made outside the region or which is made for the first time within the region with workmen, who have come or have been conveyed from a locality outside the region and who, in so far as they have come from Java, have not already been working upon the basis of existing coolie ordinances in a neighbouring region where similar or approximately similar labour conditions prevail;

Re-engagement Contract: The written labour agreement made in the region in all other circumstances.

e. *Household:* The man and the woman who at the time of the making of the labour agreement have declared themselves to be spouses, with the non-adult children of one of them or of both, as well as the man and the woman who in the course of the labour agreement have married, as well as the non-adult children of one of them or of both.

Article 2*bis* (1) Immigration contracts with Indonesians from Java must be made in Java in the way prescribed by the recruiting ordinance.

(2) The Head of the Labour Office can grant exemption from this obligation upon conditions which he fixes, for the benefit of specified recruiting organisations which give sufficient guarantees of irreproachable recruiting methods.

Article 2*ter*. The making of re-engagement contracts with Indonesians originating from Java who have been working in a contiguous or neighbouring territory, where similar or approximately similar conditions obtain, upon the basis of the coolie ordinance which is in force there, requires the previous approval of the Labour Inspection or, if no official of this service is locally present, that of the head of the local administration.

Article 3 (1). Labour agreements are made for a definite number of successive years or months, counting from the date of the signature of the act, and for a duration of not more than three years in the case of an immigration contract and of not more than 13 months in the case of a re-engagement contract, with this specification, that in the case of agricultural enterprises when the current harvest year is not yet terminated, the existing re-engagement contracts are legally continued until the end of the harvest year, the decision on this point being if necessary referred to the chief of the local administration, provided the duration of 18 months is not exceeded.

(2) The time during which the labourer has not worked owing to

illness, diminished by one-tenth part of the duration of the labour agreement, and the time during which he has been absent owing to leave or desertion, as well as the days during which he has been in prison, are not included in counting the duration of the services rendered or of the agreement. Days on which the workman has absented himself from work without valid reasons are also not taken into account. In counting the time mentioned in this section, the year is deemed to consist of 360 days and the month of 30 days.

(3) Days of illness which have not been spent in an infirmary indicated by the chief of the regional administration are put down as days of leave, with the exception of the cases mentioned in art. 4 sec. 8 sub-section 3.

(4) In no case may the period of prolongation of service exceed one-third part of the agreed duration of the contract.

(5) The administrator keeps an account of the days when no work has been performed and of the reasons why no work has been performed in a manner prescribed by the chief of the regional administration, and he communicates these data every month to an official indicated by this chief of administration.

(6) The chief of the regional administration can grant partial or complete exemption from the obligations mentioned in the previous section in the case of enterprises the administrator of which has previously renounced in writing the right to make labourers work out the number of days mentioned in sec. (2) and (3) of this article.

Article 4. (1) The labour agreements mention:

1. The name, the approximate age, the place of origin, the nationality and if possible the tribe of the labourer or of the labourers, as well as the name of the wife.

2. The name of the employer, the name of the enterprise or enterprises for which the labourer has been hired, as well as the name of the division or divisions where the enterprise or enterprises is or are situated.

3. *a.* The kind of labour for which the labourer is accepted and the number of working hours which

1°. In the case of labour above ground may not be more than ten hours in twenty-four if the labour is performed between 5.30 a.m. and 6 p.m., and 8 hours in 24 if the labour is partly or entirely performed between 6 p.m. and 5.30 a.m.;

2°. If the labour is entirely or partly (i. e. during at least four hours) performed underground, it may not be more than $8\frac{1}{2}$ per twenty-four hours, in which case the underground labour will be deemed to start from the moment of entering until the moment of leaving the entrance to the underground works.

b. For labourers on railway and tramway enterprises for public transport, in so far as they are destined for services upon the railroad, the stations, and the trains, the labour agreement may prescribe a working day of 12 hours per 24.

c. The labour agreement, made on behalf of the enterprises mentioned in the previous paragraph, may contain stipulations for all workmen without distinction which, in particular circumstances, in the case of accidents, or in order to ensure the safety and the regularity of traffic, impose additional hours of service or of labour at an hourly wage which is equal to 15/100 or 15/120 of the ordinary daily wage, according to whether the labour agreement stipulates the period of service of 10 or of 12 hours per 24.

d. Under the number of agreed working hours must also be included the time during which the labourer is used for extra occupations such as transport, watch services, etc. and also the time which is necessary for the roll call and for the distribution of labourers, and in order to cover the distance at the beginning of the work day from the dwelling of the labourer to his place of labour and, after the termination of his labour, to return to his own dwelling. The same thing applies to mining labour, with this provision, that in the case of underground labour the roll call and distribution, provided it takes place above ground, and the covering of the distance from the dwelling to the entrance of the underground works and back, provided they do not amount to more than $1\frac{1}{2}$ hours, shall not be subtracted from the $8\frac{1}{2}$ hours mentioned above sub *a*.

e. The labourer cannot be compelled to work for more than 6 consecutive hours; the time of rest consists of 1 hour at least. In the case of labourers at railway and tramway enterprises for public traffic and also in that of mining enterprises, deviations from this prescription may be allowed by the head of the regional administration.

4. The wages for overtime, being the work performed above the number of agreed hours per 24, which can only be performed at the request of the administrator and with the consent of the workmen. For labourers in enterprises for the exploitation of harbour works and coal stations, as well as for the work performed by shipping agencies, the labour agreement may also contain stipulations which in extraordinary circumstances, when the interests of navigation definitely require it, impose a longer working time of not more than two hours above the number agreed to in the labour agreement for every 24 hours, and at wages per hour of at least 15/100 of the ordinary daily wage.

The days when and the time during which the labourer has worked

overtime are noted by the administrator in the way indicated by the head of the regional administration and are communicated every month to the chief of the local administration.

5. The amount of wages due to the labourer, which is fixed per working day and serves as basis for reckoning either in the case of a daily task or in the case of piece work and in the way of contract work, unless the labour agreement has made other stipulations, and also the way in which the wages are paid, with this understanding, that the labourer is entitled to receive the agreed daily wage for resting and holidays mentioned in the agreement, and also if he is ready and able to work although the administrator or his staff is unable to make use of his labour. This point can be decided by the head of the local administration or by another official indicated by the head of the regional administration.

6. The amount and the way of settlement of advances made.

The maximum amount of advances allowed is to be fixed by the head of the regional administration.

7. The duration of the labour agreement.

8. The days of rest and the usual religious holidays when no work is performed, such days of rest having to amount to at least two per month.

In the agreements on behalf of rail and tramway enterprises for public transport, it is sufficient for the number of days, being at least two per month, when the workmen will have to perform no work to be mentioned.

Women labourers furthermore may not be asked to work for thirty days before childbirth, nor forty days after this event or after a miscarriage, nor during the first two days of the period of menstruation. These days are considered as days of illness, even if they have not been spent in an infirmary.

9. The obligation of the employer to provide at his own expense housing, medical attendance, and nursing for the labourer and his household, and also that of providing free food to the household of a labourer who has been removed from his home for nursing in case of illness.

10. The obligation of the employer to provide at his own expense a decent funeral for the labourer who dies in the course of his labour agreement.

11. The obligation of the employer to return the labourer with his household to the place of his origin, free of cost, unless the labourer wishes to remain in the region, and there are no regulations which prevent this.

12. The stipulation that the labourer shall not be separated from his household against his own wish.

13. The obligation of the labourer to keep the dwelling allotted to him clean and to use it for the purpose for which it has been given.

14. The time at which the labourer must present himself at the enterprise and report himself to the administrator.

15. The stipulation that at the request of one of the parties the labour agreement may be cancelled by an official of the Labour Inspection or by the chief of the local administration in cases in which the urgent reasons referred to in artt. 1603*o* and 1603*p* or the important reasons mentioned in art. 1603*v* of the civil code have arisen, the employer remaining under the obligation to send the labourer and his household back to his place of origin.

(2) In the labour agreement other stipulations may be inserted apart from those mentioned in this ordinance and in the model contract annexed to it, it being however understood that non-observance of such other clauses can have no penal consequences and that in so far as such stipulations are in conflict with the regulations of this ordinance or with this model they will be considered as not having been written, the remaining part of the contract continuing to be valid.

Article 5. In the case of rail and tramway enterprises for public transport, the employer may apply to the labourer who has made the labour agreement upon the basis of this ordinance the service regulations referred to in art. 3 of the general regulation of railway services in the Dutch East Indies (Stbl. 1895, 300) and in art. 4 of the general regulation for the construction and exploitation of tramways with mechanical motor power destined for general traffic in the Dutch East Indies (Stbl. 1905, 516),

Article 6. (1) If the enterprise or enterprises for which the labourer has contracted passes or pass to another employer, the labour agreement remains in force as well as the provisions of this ordinance, in so far as concerns the enterprise where the labourer was working at the moment of transfer. The new employer takes over the rights and obligations which resulted from the labour agreement with the original employer,

(2) The transfer referred to in the previous paragraph must be notified by the new employer within three days of his entering into function to the head of the local administration, with the mention of his name and his address.

If the new employer is not an employer in the meaning of this ordinance, labour agreements will be considered to be cancelled from the moment of the said transfer.

(3) During the period of his labour agreement the labourer can, with the permission of his employer, enter the service of another employer. To this transfer the stipulations of the first and second sections of this article are applicable.

Article 7. (1) With the exception of valid immigration contracts made upon the basis of the recruiting ordinance for Java and Madura, and with the provisos made in the following paragraph, the immigration contracts are not legally valid before their existence has been established by acts drawn up before an official indicated by the head of the regional administration and entitled to sign these acts in his own name and in that of the labourer.

(2) The immigration contracts "made in a place in a foreign country, where according to the explicit and public declaration of the Government a sufficient supervision of emigration is exercised" must be confirmed by an official indicated by the head of the regional administration.

This legalisation can only be refused if the agreement does not conform to the requirements made by art. 4 of this ordinance, or if the labour agreement has not been presented to the official concerned within the period stipulated for this purpose.

(3) A similar legalisation to that mentioned in the first section of the previous paragraph is required for re-engagement contracts.

(4) Assistance in establishing the written acts mentioned in the first paragraph or in legalising the contracts mentioned in the previous paragraph, will be refused by the official in question if the labour agreement does not satisfy the requirements made by this ordinance, or if it has not been presented beforehand within the requisite period, or if he suspects the presence of compulsion, error, or misrepresentation.

(5) In the case of the refusal referred to in the second and fourth paragraphs, the employer or the administrator may appeal to the head of the regional administration within two days.

If within this period this decision has not been appealed against or if the administrative chief has rejected the appeal, art. 16 is applicable.

(6) In case legalisation is refused, the labour agreement loses its legal validity from the day of refusal.

(7) Legalisation of every labour agreement is notified at the foot of every copy of the act by the official in question, and is noted in a register, the model for which is fixed by the Governor-General.

For this registration the employer has to pay $2\frac{1}{2}$ guilders per labourer for immigration contracts and $1\frac{1}{2}$ guilders for re-engagement contracts.

The chief of the regional administration decides in what way these amounts shall be paid into the Treasury.

(8) The head of the regional administration fixes the period within which the acts of the labour agreements mentioned in the second and fourth paragraphs of this article must be presented before the official in question.

The acts of labour agreements are free of stamp duty and are drawn up in duplicate according to a model fixed by the Governor-General, one copy of which is destined to be placed in the archives of the head of the local administration.

Article 8. (1) A labourer who has made a labour agreement as laid down in art. 7 cannot be engaged during the period of the agreement by another employer.

(2) An engagement made in conflict with this regulation is invalid.

Article 9. (1) Apart from the stipulation in the following section, the labourer is free, after his daily task is over, or when he goes to make a complaint against the employer or the administrator or his staff, to leave the enterprise without interference. If the head of the regional administration has decided that in the interests of public order or safety the labourers of one or more enterprises are not to leave the enterprise without written authorisation, to be granted by persons to be mentioned in such a decree, this permission may not be refused if it is required for making complaints.

(2) In the case of rail and tramway enterprises for public transport, the labourer destined for service upon the road, the stations, or the trains may not leave the post allotted to him during his working hours without permission of his chief. If the labourer wishes to complain of unfair treatment by the employer, his administrator, or his staff, he is free to do this even on working days and without authorisation from his chief.

His intention to go away for the purpose of making a complaint must, however, be announced by him at least 24 hours beforehand, after the end of his day's service, to the chief of the nearest station or the nearest halt.

(2*a*). The provisions of the previous section apply also to labourers in mining enterprises; notification must be made to their immediate chief.

(3) The labourer is obliged to perform his task regularly, to execute the orders made by the administrator and the latter's staff faithfully, and to behave in everything in accordance with the stipulations of his contract.

(4) In cases of catastrophe or of threatening danger, the labourer is obliged upon the instruction of the administrator or of his staff to give his assistance even outside the working hours stipulated in the labour agreement and upon days when otherwise no work is done in so far as upon those days he is not absent from the enterprise. No wages are due for such work.

Article 10. (1) Labourers who have appeared before a court outside the enterprise and during the period of the labour agreement, or who have been imprisoned, and also those who after absence with leave, or owing to illness or otherwise have not returned within the granted period or within the time deemed sufficient by the local administration, may be taken back in the name of the police by members of the staff of their employer. In special cases, left to the discretion of the head of the local administration, the police can act for the administrator at the latter's expense.

(2) The employer similarly bears the cost of sending the labourer to the place where he must appear before a court as a result of an infringement of this ordinance.

Article 11. Labourers who leave an infirmary such as is referred to in the ordinance of September 6th, 1910 (Stbl. 469) without the written authorisation of the medical director may be brought back at the request of this doctor, by the police, or, in the latter's name, by members of the staff of the employer and at the expense of the latter.

Article 12. (1) The employer must see that his labourers are well-treated, that they are regularly and personally paid the wages to which they are entitled, that the labourers and their households are given free of charge a satisfactory dwelling place with good bathing and drinking water and free medical treatment and nursing inclusive of the necessary medicine, in a satisfactory infirmary, even in the case of wounds acquired otherwise than in the employer's service.

(1*a*) The married labourer who has worked for five years for his employer is entitled for the remainder of the period he works upon the enterprise to a detached or semi-detached dwelling which must be situated in a manner that will satisfy reasonable requirements.

(2*a*) The head of the regional administration may stipulate for a period, either in the case of each enterprise separately or of several enterprises together, within which the employer must make the provisions necessary to satisfy the obligation imposed upon him in the previous paragraph.

(2) The labourer or the member of his household who is admitted

into an infirmary is entitled while he remains there to free, complete, and cooked food.

(3) The employer must see that the transport of labourers to the enterprises for which they have contracted, and to the infirmaries where they must be admitted owing to illness, takes place according to the manner prescribed by the head of the regional administration.

(4) The employer has the further obligation of giving his labourers the opportunity of acquainting themselves regularly with the state of their account and with the number of lost days in a manner to be fixed by the head of the regional administration.

(5) Cancelled.

(6) From the money to be paid as wages to the labourer, apart from the stipulations of art. 5, only such deduction may be made as has been stipulated in the labour agreement, and also owing to taxation advanced by the employer on behalf of the labourer, or if the labourer has been condemned to payments by a judicial sentence. No deduction may be made from the wages in the form of fines imposed upon the labourer by the employer, the administrator, or his staff.

(7) In no case may the deductions mentioned in the previous paragraph amount to more than one-fifth part of the wages earned since the last payment, it being understood however that in case of the cancelling of the labour agreement the taxation advanced for the labourer but not yet repaid by him may also be deducted in its entirety from the wages due.

Article 13. (1) The employer is compelled to keep, in the manner prescribed by the head of the regional administration, books relating to payment and other purposes, containing the account of the workman and, if requested, to show them and all other documents mentioned in this ordinance to the administration and the officials of the Labour Inspection.

(2) The officials referred to in the previous paragraph and the members of the staff accompanying them always have access to the places where the labourers have been put to work and to the buildings where the labourers reside or are nursed.

Article 14. (1) The employer must give the labourer within three days of the termination of the labour agreement a written declaration of termination of service, unless this termination is the result of the death of the labourer, or if the service relation with the same employer is continued owing to a new labour agreement upon the basis of this ordinance.

(2) In cases where according to the previous paragraph written

confirmation of cessation of service is required, and also in the case of the death of the labourer, the administrator informs in writing, within eight days, the official referred to in art. 7 paragraph 7 who makes a note of the fact in the register mentioned at that place.

(3) The model of the notification of cessation of employment is fixed by the head of the regional administration.

(4) The employer must mention in the note of cessation of employment the name, the nationality or tribe, the actual or estimated age, as well as other data deemed necessary by the head of the regional administration.

Article 15. The labour agreement is terminated by the death of the labourer, but not by the death of the employer.

Article 16. (1) The employer must, in case of every termination of the last labour agreement made with the labourer, transport according to rules fixed if necessary by the head of the regional administration the labourer and his household, and, in case of the death of the labourer, his household, free of charge and at the first available opportunity, back to their place of origin, unless the labourer wishes to remain in the region and satisfies any existing requirements as to admissibility and settlement.

(2) The employer must also send back free of charge the labourer and his household if, after the termination of his last labour agreement, the labourer has not been able, owing either to illness or to causes not due to his own fault, to start the journey by the first available opportunity, and without unnecessary delay as soon as these obstacles have been removed asks to be sent back.

(2*a*) In the cases referred to in sections (1) and (2) the employer is responsible for the maintenance of the labourer and his household until the first opportunity for sending them back after the termination of the last labour agreement or after the ending of the obstacles mentioned in the previous section.

(3) The employer must also send the labourer and his household back free of charge if, after the termination of his labour agreement, the labourer continues to serve his employer as a free labourer and applies for free return within a month after the termination of his free labour.

(3*a*) If the labourer and his household, in cases referred to in sections (1) and (2), do not make use of the first available opportunity to return the employer still remains liable during the first three months after the termination of the last labour agreement or after the cessation of the obstacles mentioned in section (2) to send them back free of charge if the labourer so requests.

(4) If the obligations imposed by this article are not fulfilled the chief of the local administration fulfils them at the expense of the employer.

Article 17. (1) The administrator is generally obliged to do and to refrain from doing everything a good administrator in similar circumstances has to do or to avoid.

(2) The administrator is not only responsible for what has been laid down concerning himself in this ordinance, but also with and beside the employer for the obligations imposed upon the latter by this ordinance.

Article 17*bis*. (1) Only such persons as have received a written and revokable permission from the head of the regional administration can act as administrators, supervisors or assistants upon enterprises.

(2) In cases where such permission is refused, revoked, or not applied for within the period fixed by the head of the regional administration, the administrator, supervisor, or assistant in question may be removed from the enterprise, if necessary by force.

(3) The measure mentioned in the previous section is taken by the head of the regional administration in a decree mentioning his reasons, and the interested person may within three months appeal to the Governor-General against this decision, without, however, this appeal suspending the execution of the measure.

(4) No permission such as is referred to in section (1) is needed by persons who have already received permission from the head of the regional administration to act as administrator, supervisor or assistant in an enterprise:

(*a*) As a result of one of the conditions under which concessions are granted for agricultural and forestry work (Bijbl. 6075 and 7735);

(*b*) In virtue of art. 37 of the long lease ordinance for the self-governing states in the regions outside Java and Madura (Stbl. 1919,61).

(5) In withdrawing permits referred to *sub* (*a*) of the previous section, as far as necessary the stipulations of sections (2) and (3) are applicable.

Article 18. Disputes as to the interpretation of the labour agreement are as far as possible to be settled in friendly agreement without formal procedure by the officials of the Labour Inspection or by the head of the local administration.

When this is not possible the parties are, if necessary, sent before the civil or penal judge.

Article 19. (1) Every wilful infringement of the labour agreement is punished with imprisonment of not more than one month or a fine of not more than 100 guilders.

(2) If, at the time the act is committed, two years have not yet elapsed since a previous conviction for wilful infringement of a labour agreement has become irrevocable, imprisonment for not more than three months or a fine of not more than 300 guilders is imposed.

(3) The facts by which a labourer is deemed to have wilfully infringed his labour agreement are:

a. The non-fulfilment of the obligation of being at the enterprise and reporting himself to the administrator at the time referred to in art. 4 no. 14.

b. Desertion;

c. Persistent refusal to perform the contractual task.

Article 20. (1) In so far as the acts to be hereafter enumerated are not to be considered punishable as a misdemeanour, resistance or threats against employers or their staff are punished with imprisonment of not more than one month or a fine of not more than 50 guilders, and insults against the above-mentioned persons, disturbance of the peace, refusal to perform the labour due, incitement to desertion or to the refusal to perform the labour due, fighting, drunkenness, and similar offences against public order are punished with imprisonment of not more than twelve days or a fine of not more than 25 guilders.

(2) If, at the time of the commission of resistance or threats against employers and their staff, two years have not yet elapsed since a previous conviction of the guilty person for a similar offence has become irrevocable, imprisonment for not more than three months is imposed.

Article 21. The encouragement of the non-observance of labour agreements or the favouring thereof in any manner, is punishable by imprisonment for not more than one month or a fine of not more than 200 guilders.

Article 22. (1) Every infringement of the labour agreement committed by the labourer is prosecuted only as the result of a complaint made by the administrator of the enterprise to which the labourer belongs.

(2) The penalty imposed owing to desertion when committed for the first time is not applied if the labourer returns to the enterprise within the period fixed by the judge.

Article 23. Infringements of the regulations of this ordinance and of stipulations agreed upon in the labour agreement, against which no specific penalties are threatened, are punished by imprisonment for not more than twelve days or a fine of not more than 100 guilders.

Article 24. (1) The Governor-General has the power, either in the

case of all labour agreements, or in the case of labour agreements of a definite kind or tendency to be specified by him, of shortening the maximum duration mentioned in the first paragraph of art. 3 of such agreements, either for the enterprises in the whole region, or in a definite part thereof.

(2) The stipulations of this ordinance containing threats of penalties in respect of infringements of labour agreements by labourers and in respect of refusals to perform the labour due, and also those concerning the conducting back of labourers to the enterprise with the assistance of the public force, will become inapplicable as soon as circumstances, in the judgement of the Governor-General, permit, for the enterprises in the whole region, or in a definite part thereof, either for all labour agreements, or for labour agreements of a definite tendency further to be indicated by the Governor-General.

Article 24*a*. (1) A permanent commission for studying the labour situation on the East Coast of Sumatra is established at Medan, its members being appointed by the Governor-General.

(2) Every five years, and for the first time in 1930, the Governor-General takes the advice of the commission mentioned in the previous section as to the possibility of applying the stipulations of the first and second sections of art. 24 and as to the extent to which they may be applied.

(3) The commission referred to in the first section must, whether requested to do so or not, tender advice to the Government, the Director of Justice, the Governor of the East Coast of Sumatra, and the Head of the Labour Office, concerning all measures which may be taken for the improvement of labour conditions [1]).

Article 24*bis*. (1) The Governor-General has the power of deciding by decree, after having heard the Council of the Indies, that until the withdrawal of this decree no labourers may be recruited by an enterprise to be indicated in the decree on the basis of a labour agreement in virtue of the present ordinance if conditions continually exist in this enterprise which are not in agreement with the stipulations of this ordinance or if abuses of any kind decide him to take this step. This decree must be provided with reasons and published in the *Javasche Courant*.

(2) In such a case the current labour agreements are legally annulled as from the day following that upon which a copy of the decree in question has been delivered to the administrator of the enterprise.

Article 25. Labour agreements registered before this ordinance

[1]) Article 24*a* of the Coolie Ordinance for the East Coast of Sumatra does not apply to Riouw and dependencies or to the Lampong districts.

comes into force, upon the basis of art. 3 of Stbl. 1889 no. 138 *Juncto* Stbl. 1923 no. 523, remain in force for the term therein fixed; the regulations of this ordinance, with the exception of art. 7, are applicable to them.

Article 25*bis*. The acts made punishable by this ordinance are considered as contraventions.

Article 26. This ordinance may be quoted under the title of "Coolie ordinance for the East Coast of Sumatra" [1]).

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[1]) The new ordinance (Stbl. 1931, 94) replaces the various Coolie Ordinances which, between 1880 and 1930, have from time to time been promulgated separately in fifteen regions outside Java. It retains the bulk of the East Coast ordinance reproduced in our appendix (artt.1—18, 21, 22, 24*bis* and 25*bis*), but it introduces, apart from the scheme of restriction of the penal sanction in art. 41*sqq*., some important innovations in the interest of the workmen. The duration of re-engagement contracts (cf. art. 3, appendix) is reduced to one year, and, in one very exceptional case, to fifteen months, while all days of illness will henceforth be included in counting the duration of the agreement. The number of working hours is also reduced (nine or less, cf. art. 4, 3*a* appendix), while additional hours of service or of labour (cf. art. 4, 3*c* and 4) will be more liberally rewarded at wages per hour of at least fifty per cent. more than the ordinary hourly wage. Furthermore, the administration has been given the necessary power to impose a satisfactory minimum wage, and also to increase this amount by a certain percentage in the case of work which, in the judgement of the administration, makes heavier demands on the labourer than is normally the case. Fines imposed upon the labourer by the employer are now strictly forbidden (cf. art. 12, 6, appendix). In case of illness, the obligation to submit to removal to an infirmary will apply only if, in the judgement of the doctor, a danger of contagion exists(cf. art. 11, appendix). As regards the penalties mentioned in the old artt. 19, 20 and 23 (see appendix) the terms "breach of contract" and "desertion" have been deleted. According to the new art. 34, detention for not more than three months or a fine of not more than 300 guilders may be imposed, in the case of the workman, if he stays away longer than twenty-four hours from the enterprise without valid reasons and without having received the permission of his employer or his employer's representative, and also if he persistently refuses to perform the contractual task. The employer is threatened with the same penalty in the case of his not fulfilling the obligations towards his workmen as enumerated in the artt. 13—25 of the new ordinance. In the case of the workman, detention for not more than twelve days or a fine of not more than fifty guilders may be imposed if he does not report himself at the enterprise at the time referred to in his labour agreement, and also if he does not obey the orders given to him in accordance with the ordinance or with his agreement in relation to the contractual task, with the proviso that a refusal to perform the contractual task is only punishable in the specific case referred to in art. 34. Finally (art. 36), in so far as the acts to be hereafter enumerated are not to be considered punishable according to the provisions of the penal code, detention for not more than one month or a fine of not more than 100 guilders may be imposed in the case of resistance, insults, or threats to the employer or his personnel, and also in the case of disturbance of the peace, fighting and drunkenness. The new art. 41, which takes the place of the old art. 24, contains the most important innovation. It imposes, in the case of enterprises established before 1922, the restriction of labour agreements with penal sanction so as to increase, before January 1st, 1936, the number of free labourers to fifty per cent. of the whole staff. Newer enterprises will similarly, in accordance with the scheme laid down in this article, follow suit so as to reach the same percentage a few years later. With a view to further restriction or abolition of the penal sanction the new art. 45, which takes the place of the old art. 24*a*, makes compulsory the revision, every five years, and for the first time in 1936, of the "Coolie Ordinance 1931". The labour commissions to be established, in the interest of the im-

APPENDIX II

A MODEL AGREEMENT applicable to all Regions as laid down by Staatsblad 1925, 312 and 1927, 572.

We, the undersigned (name, age, place of origin, nationality, tribe, name of wife and members of the household, and other particulars), of the one part, and (employers' name) having legal rights in the enterprise of (name) situated in the division (name) of the other part declare we have agreed as follows:

I. The first contracting party will perform the following task (a precise description of the nature of the labour) on behalf of the enterprise....

II. The number of working hours, during which the first contracting party will have to work for the enterprise or enterprises mentioned sub I,

a. Amounts, for labour above ground, during every working day (follows the number of hours, being not more than 10) per 24 hours, if the labour is performed between 5.30 a.m. and 6 p.m., and (follows the number of hours, being not more than eight) per twenty-four hours, if the labour is performed entirely or partly between 6 p.m. and 5.30 a.m.

b. If the labour takes place entirely or partly (i.e. during at least four hours) underground, the number of working hours per twenty-four hours amounts to (the number of hours being not more than $8\frac{1}{2}$).

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provement of labour conditions, at Medan and elsewhere (new art. 44) must, with regard to these revisions, tender advice to the Government. We may finally remark that the Labour Office and the Inspection of Labour have been entrusted with the greater part of the duties of supervision, etc., formerly entrusted to the administration or to other authorities, and that, from the point of view of draftsmanship, the new ordinance represents a considerable improvement compared with the old ordinance as given in the appendix. Moreover, a synoptic view of its contents has been greatly facilitated by the re-grouping of articles and of sections and sub-sections of articles which, furthermore, have been distributed over nine chapters each of which deals with clearly marked separate subjects.

The ordinance in Stbl. 1931, 95 represents a meritorious effort to meet one of the main difficulties inherent in the transformation of contractual labour into free labour, i. e. the risk of dishonest employers' engaging free labourers imported by others with great efforts and at heavy expense, a risk which, in the Straits Settlements, in 1920, was similarly met. This ordinance enjoins the establishment of a Chamber of Registration at Medan which will be charged with the registration of labourers who have arrived from elsewhere, and with the administration of a registration fund to which employers have to pay an annual contribution, and furthermore a contribution in one sum to be followed by regular monthly payments in the case of a workman's being taken into the service of an employer who did not pay the expenses incurred on account of the immigration of that workman, whereas on the other hand contributions may be given from this fund with a view to reduce the expenses of employers under the head of immigration of labourers.

Included in this number of hours will be the time during which the first contracting party will be used for extra occupations such as transports, watches, etc. and also the time which is necessary for the roll call and the distribution of the labourers and in order to cover the distance at the beginning of the working day from the labourer's dwelling to the place where he works, and after the termination of labour, from the place where he works to his dwelling. The same applies for mining labour, it being understood that in the case of underground work the roll call and distribution, provided it takes place above ground, and the covering of the distance from the dwelling to the entrance of the underground works and back will not be, up to a maximum of $1\frac{1}{2}$ hours, subtracted from the number of working hours mentioned above under *b*.

The first contracting party cannot be compelled to work for more than 6 consecutive hours; the rest period amounts to at least one hour.

III. For overtime, being labour outside the agreed number of hours to be worked during a period of twenty-four hours, and which can only be performed at the request of the administrator and with the agreement of the labourer, the second contracting party will pay to the first a wage of (amount to be entered here) for every hour or part of an hour.

IV. The second contracting party shall give to the first a wage of (fill in the amount) per day of labour, which amount in the case of a daily task, and also in the case of piece-work or contract work, unless other wages have been agreed upon in this agreement, will serve as the basis for reckoning what must be earned per day, in the following way:

. . . . . .

Furthermore the first contracting party has also stipulated the following wages:

. . . . . .

Payment is made as follows:

. . . . . .

It being understood, that the labourer is entitled to the agreed wages for the rest days and holidays hereby agreed, and also in case he is willing and able to perform his labour but the administrator or the latter's staff do not make use of him or are unable to make use of him. The latter will be left to the judgement of the head of the local administration or of another official to be appointed by the head of the regional administration.

V. The first contracting party acknowledges the receipt from the

second contracting party of an amount of (figures) which will be settled in the following way .....

VI. The first contracting party cannot be made to work by the second contracting party on the following days: (a clear mention of the usual religious festivals for the labourer, and of the days of rest, which must amount to at least two per month) [1]).

VI*a*. The first contracting party may freely move away from the enterprise after the completion of his daily task, subject to eventual restriction of this freedom by the head of the regional administration in the interests of public order or safety.

VII. The second contracting party provides at his expense suitable housing and medical attendance and nursing of the first contracting party and of the latter's household, with the further stipulation that the married labourer who has worked with the second contracting party during five years is entitled for the further period that he works upon the enterprise to the use of a detached or semi-detached dwelling which must satisfy reasonable demands as to situation and size.

VIII. During medical attendance of the first contracting party outside his dwelling, the second contracting party will provide free nourishment to the household of the first.

IX. The second contracting party must provide at his expense a suitable funeral in case of the death of the first contracting party.

X. The second contracting party must transport at his expense, after the termination of the labour agreement, the first contracting party and his household to his place of origin, unless the latter wishes to remain in the region and satisfies the stipulations as to admission and settlement in so far as they apply to him.

The second contracting party is also bound to send back the first contracting party after the termination of his last labour agreement, if the journey could not be undertaken at the first available opportunity either because of illness or for other reasons not due to the fault of the first contracting party and if after these obstacles have been removed the first contracting party without needless delay requests to be sent back.

If the first contracting party and his household do not make immediate use of the opportunity to return in the cases mentioned in the two previous sections, the second contracting party continues for a period of three months after the termination of the last labour

[1]) In case the labour agreement concerns female labourers section VI is completed as follows: "and also thirty days before childbirth and within forty days after this event or after a miscarriage and during the first two days of the menstrual periods."

agreement or after the end of the obstacles mentioned in the previous section, to be liable to send them back free of charge to their place of origin if the first contracting party so requests.

The second contracting party also is compelled to return the first free of charge with his household if the first contracting party continues to serve the second as a free labourer after the termination of the labour agreement and requests to be sent back within one month after the cessation of his free labour.

XI. The second contracting party will not separate the first against his will from his household.

XII. The first contracting party is compelled to keep the house allotted to him by the administrator in clean condition and to use it for the purpose for which it has been given.

XIII. The first contracting party will present himself at the enterprise upon the .... day of the month of .... in the year .... and report himself to the administrator.

XIV. This agreement is made for the duration of .... starting from the day after the date of signature of this act.

XV. At the request of one of the parties this labour agreement can be dissolved either for urgent reasons as set out in articles 1603 *o* and 1603*p* or for an important reason as set out in article 1603*v* of the civil code, by an official of the Labour Inspection or by the head of the local administration, the employer continuing to be under the obligation to send back the labourer and his household to their place of origin.

Agreed in this form at, etc.

Signatures
Witnesses
Official Legalisation

After this agreement had been made by the parties in my presence I have read it out to the parties and have clearly explained it to the labourer in his native tongue. Afterwards I have convinced myself that the parties have contracted this engagement of their own free will and that the amount of .... has been paid to the labourer as agreed sub. V. of the agreement.

In witness whereof, and in agreement with the stipulations of art. 7 section I of the coolie ordinance of .... this act has been signed by the second contracting party and by myself.

The second contracting party (signature)

(Official Signature)

CHAPTER VIII

TAXATION

In the previous chapters and in the first part of this work the taxation system has been frequently discussed, either by reference or directly. We have mentioned the significance of direct taxation as an administrative method, the history of the cultivation system, the land-rent, its assessment and its administration, personal services, farming out of tax collection (e.g. pawnshops), customs duties, public services as a form of labour taxation and village services as an expression of mutual assistance, inquiries into the pressure of taxation, etc. etc., so that a summary survey will be sufficient in this chapter. The nineteenth century, it can be said, saw the disappearance of the idea of tribute, contained in the "contingents and deliveries" of the Company or in the land tax system of Raffles conceived as a payment of land-rent, which, at least in theory, represented an untrue element until the year 1866 in the system of taxation. The nineteenth century also saw the disappearance of personal services to Indonesian chiefs and officials, except in the village sphere where these services belong to the system of mutual assistance and must not in any circumstances be attacked prematurely. Furthermore, that century limited the farming out system, which apart from some harmless exceptions now belongs entirely to the past, and prepared the transition into the official collection of taxes or the establishment of government monopolies of the twentieth century. Finally, it regulated labour taxation and limited it, acquiring thorough knowledge for this purpose so that in this matter too the abolition of labour taxation in the whole of Java and in many other regions or its limitation or transformation into monetary taxation has been made possible by the efforts of earlier years.

If one looks back upon that century with its chaos of services,

deliveries, rent, tolls, and other things, one feels surprised at the amazing progress made, especially as it did not start before the 'sixties, and then only hesitatingly.

Much more happened than that antiquated obligations disappeared; a satisfactory system for the payment of officials, who had formerly to provide part of their own payment, was included in this change. Increasing knowledge of agrarian and other situations in the formerly altogether unknown Indonesian society, far reaching enquiries, the construction of minutely working organisations like the salt and opium monopolies and the pawnshop service were other aspects of the work of the century. Without a deep knowledge of and a great interest in the welfare of the population, without the establishment of strong authority and the continual improvement of the administrative service and the special central services, without economic and financial progress attributable to a large extent to the fructifying of Western capital and spirit of enterprise, nothing of all this would have proved possible.

All those old things which, under the influence of Western systematisation, sometimes exercised even stronger pressure upon Indonesian society than it had to undergo before Western influence came into contact with it, were abolished. Another basis for taxation and another method of collecting it had to be devised — a system which would prevent abuse, give security, see that the incidence of taxation was fair and according to capacity to bear it, and make it as little perceptible as possible. In this respect due account had to be taken of the fact that the pressure of taxation on an Eastern people is not to be identified with the extent of the total contribution of the individual to the expenses of the authorities.

Indirect taxes on consumption, even if they are fairly high, which are imperceptibly distributed over the price of specified articles, everywhere raise far less opposition than smaller direct contributions, which are as a thorn in the flesh of the taxpayer. In the still backward economic sphere of Indonesian society, this thorn stings all the more sharply, because people live more from day to day, unprepared for the demands of the Treasury which periodically and suddenly darken the unclouded sky of life. If every day a few small coins had been put on one side, these direct burdens would be much more tolerable. But this precaution is

often neglected. That is why in the colonial world one must be careful in collecting direct taxes which are unpopular but, for various reasons, indispensable. They must in any case be made as simple, as reasonable, and as easy to understand as can possibly be managed.

As long as the claims of the authorities are congenial to the Indonesian sphere, they will not be felt so easily as pressure, even if they become gradually heavier. Adat chiefs and Indonesian Rulers have in the course of time not seldom increased this pressure to a large degree; they have in earlier days demanded all kinds of tribute and services, which increased the burden, but these demands were suffered with resignation for they were regarded much in the way of a sudden strengthening of natural forces that already existed. If a chief began to demand, for the benefit of his own house, garden, or field, six or ten days labour from an able-bodied man in the village instead of only five, it had to be borne. If the Ruler claimed bigger or heavier services for his court, his hunts and his other pleasures, his travels or his wars, or if he demanded a larger share of the harvest, it had to be borne. If a chief claimed a larger share of killed meat, of venison or of fish there was no doubt a feeling that something was not altogether straight, but after all, there was no more than a hastening of the pace in an old and well-known direction. Every member of a tribe and every man in the dessa felt in the depth of his heart a certain goodwill towards the personal desires and needs of those in power, wishes and needs which he himself would also try to satisfy if the opportunity arose.

Since the regulations that have been made during the last three-quarters of a century, this situation belongs legally altogether, and in practice almost entirely, to the past. But the mentality from which this situation arose still influences the little communities which together form Indonesian society. Popular administrative officials repeatedly observe that the money due for taxes comes in more quickly when they are on the point of being transferred or when domestic events, such as an impending marriage, lead the population to believe that they are going to be put to special expenses. In their simplicity, the people apparently think that the money for taxes, in part or in whole, belongs to the officials, and they thus therefore still show an inclination to apply their

traditional habits of mutual assistance on behalf of officials whom they hold in special regard.

Such facts show better than long theoretical explanations the difference in the estimation of burdens imposed by the authorities, according to their character and to the way in which they are imposed. They also explain why deliveries in kind to the Company and the later cultivation system, nothwithstanding the pressure they occasioned, met with less resistance than will fair modern taxes, if their basis is purely Western and their gathering less dependent on Adat and feudal apparatus. The village land-rent, or properly speaking the land-tax, based partly on the land and partly on the harvest, although in theory, and initially also in practice, it made agrarian rights dependent upon the payment of the rent (while in the Adat sphere these relations were felt in the opposite way), yet nevertheless always remained familiar in character to the Indonesians because it appealed in many respects to traditional instincts and thus provided a good basis for improvements.

Personal services in Java in the interests of the State, of the communes and of private landlords

It will be easily understood why taxation in the form of labour, either for the State or for local interests (Indonesian states, communal services), is still so generally used in the colonial world. According to Western conceptions, such a form of taxation deserves to be radically condemned. If in place of it an ultra-modern method of income tax with an additional percentage for the communes were introduced it would probably be regarded as a great improvement. And so it would no doubt be in principle. But here again we should not forget that such reforms must keep pace with the development, and especially with the economic development, of the whole indigenous society which often judges values by an entirely different standard from that of its Western friends. There is indeed a general tendency, in the Dutch East Indies too, to abolish these old payments of taxation in labour, whether or not they are replaced by monetary taxation. Having already discussed this matter in the first part of our work, we shall only give a few data concerning the services demanded on behalf of the

Government, of private estates, and of Indonesian communes [1]).

Taxation in the form of labour for the benefit of the whole East Indies must be distinguished from work done for the benefit of a man's own village and its public servants. The latter is an expression of the autonomy of the Indonesian commune (art. 128 I. S.), which has always looked upon such labour as an act of mutual assistance. The maintenance of the village roads and market places, the preservation of village security, providing for certain needs of the village headmen, all these are interests with which the villagers are familiar and concerned, and as long as they wish to arrange these matters by means of labour, watches, and personal services it is their own affair. The authorities have only to make a few regulations, to exercise a certain control, and to see that the services rendered are utilised as profitably as possible, that they are neither squandered nor extracted to excess, and that personal services for the benefit of headmen remain within reasonable limits; while they have to encourage and assist the transformation of these services into local monetary taxes wherever possible, provided no compulsion is applied [2]). Care must be exercised in this transformation, because premature action will affect the Adat structure which still connects the citizenship of the dessa with the performance of these traditional duties and because monetary payments may meet with less approval than payment by service. At any rate, the habit of buying these services off or of appointing substitutes is becoming more and more usual. This is a symptom of progress and also of social differentiation.

Greater liberties can be taken with taxation in labour for the State, although in this case also the intended aim is being circumspectly approached. This taxation in labour dates from the time of the Indonesian Rulers and was, in principle, only demanded from full citizens who were far from considering the rendering of these services as a humiliation. Later, these services were in-

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[1]) It should be noted that the Indonesian populations exempt from military service which is imposed only upon the European group (*Stbl.* 1923, 408; 1924, 44).

[2]) Cf. the Indonesian communal government ordinances which have repeatedly been mentioned before (Java, *Stbl.* 1906, 83; Sumatra's West Coast, *Stbl.* 1918, 677, etc.). For the extent and the repartition of these services, cf. C. J. Hasselman: *Eindverslag Onderzoek Druk Dessadiensten Java en Madoera*, 1902 (1905); J. W. Meijer Ranneft and W. Huender: *Onderzoek Belastingdruk op de Inlandsche Bevolking* (1926). See also the report on dessa autonomy in Java and Madura 1929, by Laceulle, especially p. 31, p. 40 *sqq.*

creased to excess, while the mentality of the people changed considerably. These services are now no longer popular, and where they still exist freedom to use substitutes is often taken advantage of. The complete abolition of taxation in the form of labour is now only a question of time and so is that of services on private estates; we need not therefore enter into a discussion of the principle involved. Efforts have been started long ago to regulate the performance of these services with a view to prevent or at least diminish the possibility of abuse and oppression. It was laid down in art. 57 of the Government Act of 1854 (now art. 46 I. S.), that the regional regulation of these services by the Governor-General must conform to existing customs, institutions, and requirements. It also made the revision of these regulations in every region every five years compulsory, in order to introduce a gradual decrease, consistent with the general interest. In the Colonial Reports annually presented to Parliament the regulations governing these services had to be reviewed regularly. In 1854, therefore, the gradual restriction of this institution had already been placed permanently upon the programme, much in the same way as was the penal sanction in 1925.

In 1889, an enquiry took place, and the rendering of these services was thereafter carefully regulated, and it was made compulsory to communicate all data concerning their number, duration, and kind to the Government. To demand services that were not legally due was considered to be extortion and was made punishable by imprisonment for not more than seven years (art. 425 penal code), while refusal to perform these services was made punishable in the absence of valid reasons, by imprisonment for not more than three days or a fine of not more than 10 guilders. A second offence within six months was punishable by imprisonment for not more than three months (art. 523 penal code). In Java and Madura, these services were entirely abolished after a period of restriction and of temporary replacement by a capitation tax. It is true that they can still be demanded, though only in return for wages, in the case of troop transport or during catastrophes, and when there is absolute necessity — for instance, when for urgent labour in the common interest no labourers can be found at fair wages. Actually however, such events happen so rarely that there is no need to consider them in detail. In practice,

one may say that in Java the services have been abolished. For exceptional cases, the most detailed regulations have been made [1]). We must finally mention the fact that in 1927 (Stbl. 152) the capitation tax, introduced in Java and Madura instead of taxation in labour, was in its turn also abolished.

These services in Java still exist on private estates (Stbl. 1912, 422; 1919, 152). But they have been regulated and will eventually disappear altogether when these estates have been redeemed or expropriated. They are regulated meanwhile in the same manner as elsewhere. Young persons and old people, women, invalids and weak persons are entirely exempt. Able-bodied men who are not exempt can be requested by the owner of the estate to perform services for one day or one night (watches) a week for the maintenance of roads and bridges, in so far as the owner is responsible for them. They are not paid, but are provided with food. It should, however, not be forgotten that they are given fields, rights of grazing, hunting, fishing, collecting produce etc. by the landlord and that these services are therefore paid for in various ways. This duty is merely an accessory of important rights granted to tenants. Able-bodied tenants have, as long as they are enjoying these corresponding rights, to work similarly in the personal interest of the owner himself, but such labour is rarely demanded. Usually labour is limited to coolie work, on roads and bridges, and it is permissible to appoint substitutes or to buy off the obligation. The use of material such as carts belonging to the taxpayers may not be demanded. In practice, the large majority of occupants of the remaining private estates buy off these services under a fair arrangement (art. 35), and actual services rendered are applied as a rule to purposes that are really for the common good (roads, bridges or irrigation).

Taxation in labour in the other isles

In the other isles, as a result of the scarcity of population, it has not been possible to pass so quickly to the abolition of taxation in

[1]) *Cf. Stbl.* 1914, 101, 316; 1915, 21; 1916, 66; 1918, 334; 1919, 723 j° 1928, 62; 1920, 658, 692; 1924, 72; and article 9 of Stbl. 1925, 378; 1928, 295; 1929, 227. Women and elderly persons are in any case exempt. For the execution see *Bijbl.* 8031, 8211, 8487, 9905. In the autonomous states of Java the local governments have regulated the labour taxation (7 million half-labourdays) that still exist, but may soon be abolished. The *Waterschappen* in those territories may also require this form of labour (Stbl. 1920, 722; 1922, 704).

labour. Nevertheless this purpose has already been achieved in the following regions: Riouw and dependencies (Stbl. 1867, 1), the western division of Borneo (1870, 25), Ternate, Banda, Ambon, Saparua, situated in the Moluccas (Stbl. 1927, 204, sub B.). It is furthermore permissible, as soon as circumstances will allow it, to introduce, in accordance with the "Capitation Ordinance for the Other Isles" (Stbl. 1921, 225), taxation in money instead of taxation in labour. This has already taken place in the regions of Bangka (Stbl. 1921, 805; 1923, 195) and Billiton (1920, 33; 1928, 240).

In the remaining fourteen Residencies, these services have been separately regulated, but as all the regulations are framed upon the same model, they require no special examination [1]). Their general content can be summarised in the stipulation that the able-bodied male Indonesian population is under the obligation to perform if necessary a maximum of thirty-five days' labour per annum on the construction, repair, or maintenance of roads, bridges and sluices, or of dykes, dams, waterworks, and water mains, for the use of Indonesian agriculture, or, if no other help can be found, at a fair rate of payment for the transport of goods and monies of the Government or of its servants, including the transport of troops, and in a few cases of letters, and also the service of ferries that have not been farmed out. This long enumeration is in practice not very significant, and the only thing that really matters is the upkeep of the roads. In practice not more than an average of 18 working days is demanded. The list of these services is not the same in all regions, and the construction of roads is sometimes left out. Stbl. 1918, 710 (Bijbl. 9096, 9591) has entirely abolished services for the construction of main transport roads, which meant a considerable decrease in this form of taxation.

If such services are nevertheless requisitioned for the construction of main through roads or for the execution of civil or military

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[1]) See for the West Coast of Sumatra: *Stbl.* 1914, 731; 1918, 708; *Bijbl.* 8136, 9095, 10970. Tapanuli: *Stbl.* 1926, 408, *Bijbl.* 11167. Bencoolen: *Stbl.* 1920, 779; Bijbl. 9627, 10970. The Lampung districts: *Stbl.* 1919, 407; *Bijbl.* 9258, 10970. Palembang: *Stbl.* 1919, 641; *Bijbl.* 9292, 10970. Djambi: *Stbl.* 1919, 51; *Bijbl.* 9159, 10970. East Coast of Sumatra: *Stbl.* 1927, 202; *Bijbl.* 11325. Atjeh: *Stbl.* 1927, 206; *Bijbl.* 11329. Southern and Eastern divisions of Borneo: *Stbl.* 1927, 203; Bijbl. 11326. Celebes: *Stbl.* 1927, 207; *Bijbl.* 11330. Manado: *Stbl.* 1927, 205; *Bijbl.* 11328. Moluccas: *Stbl.* 1927, 204; *Bijbl.* 11327. Timor: *Stbl.* 1927, 208; *Bijbl.* 11331. Bali and Lombok: *Stbl.* 1922: 168; *Bijbl.* 10013, 10970.

state works, for which either no labour or an insufficient amount only is available, a fair wage must be paid. All kinds of conditions, such as the necessity of obtaining the previous consent of the Governor-General, restrict to the utmost the power of making use of these paid services. In practice they are so exceptional as to be of no significance, and in the other isles as well as in Java they are really put down merely for the sake of completeness. In urgent circumstances, however, the ability to demand such services for payment may be indispensable to the authorities. In this case it is true they can no longer be considered as taxation in the form of labour, seeing that they are paid. Nevertheless in those parts of the other isles where this form of taxation still exists, they are deducted from the number of the days of labour that may be demanded in payment of taxation.

In fourteen regions of the other isles, the old form of taxation in labour for which no payment is made still exists, except in a few cases when monetary compensation is considered fair. In principle, however, the claim for wages would amount to a complete reversal of the character of this institution in virtue of which labour is asked only in payment of taxation. [1]) In our country, after all, no payment is made as a reward for the payment of taxes. In those regions, moreover, taxation in the form of labour is now much less burdensome. In the first place it only affects strong healthy men; in the second place, now that the main roads are no longer affected by it, it serves only the local interests of the population which, in backward regions, is therefore the very element that more than anybody else profits by this taxation; and in the third place the labour is light. It takes place in a pleasant and familiar way. The men usually work on the local roads near home under the supervision of their own headmen so that the "taxpayer" can return home at night, which is something very different from what used to be classed as personal services in other parts of the colonial world. The march to and back from the place of

[1]) This does not seem to have been understood sufficiently at the Labour Conference at Geneva in 1929, where taxation in labour has not been clearly distinguished from compulsory labour such as seems still to be known in Africa, and which should be considered rather as a way of providing for the lack of labour than as labour taxation.

The way in which this labour is exacted, implying sometimes months of absence far from home, makes it all the more inaccurate to treat such conditions as similar to those which exist in the D.E.I. See the replies of the Dutch Government in the Blue Book of 1930 (French text) of the International Labour Office on forced labour, p. 91.

labour and a reasonable half-time rest are counted as belonging to the twelve hours' work day. Other arrangements, by which for instance a number of persons is exempt, have still further reduced the less agreeable aspects of this taxation.

By way of transition towards the complete change of labour taxation into monetary taxation in a Residency or in a part of a Residency a general regulation has been introduced (Stbl. 1918, 772; 1926, 375) which permits the buying off of all services, or of some of them upon a smaller scale, for all or for part of the taxpayers of one or more communities, or else during a certain period for individual taxpayers (Bijbl. 9111, 9246, 10969, 11141). Everything needed has therefore been done to make sure that this institution will not last longer than is strictly necessary. In the government territory of the islands outside Java the body of taxpayers consists of nearly one and a half million men [1]). Of these more than one half pays taxation in money (about 8 guilders per person on an average), and as economic progress continues their number will increase. The Government is considering plans for the replacement of this taxation in the form of labour, after a period of transition during which a capitation tax is to be paid, by a general road tax. This would probably have taken place already had it not been that the continuation of produce economy had prevented it; while the sparseness of the population in various districts of the other isles sometimes confronts the authorities with a labour problem similar to that experienced by big enterprises [2]). The Government requires regular and precise data concerning the rendering of these services and their buying off to be sent in, and it has, as far as feasible, extended the supervision and the gradual alleviation of these services to the Indonesian states [3]). In the latter there are 1,200,000 men liable to labour taxation, a quarter of whom buy off this obligation. This form of taxation still forms an important item in the budget of these states. The manner in which these data have to be provided is laid down in Bijbl. 10970, and the heads of regional administrations are invited to provide similar information concerning the states situated within their region

[1]) See *Colonial Report*, 1929.

[2]) See p. 50 of the Blue Book mentioned on p. 619. For figures and details see Colonial Report 1929 and *Verslag Belastingdruk Inlandsche Bevolking Buitengewesten*, 1929, p. 87—98.

[3]) See par. 18 of *Bijbl.* 10969.

(sub 3°). This detailed check implies the most careful bookkeeping of this form of taxation. Accounts have to be rendered as carefully as possible, whereby the squandering of labour is reduced to a minimum.

In every Residency a working plan, to be revised every five years, is compulsory. Careful account is demanded of the labour which will be necessary for the upkeep of roads etc. and of the way in which the available number of men can perform this labour as economically as possible. In consequence, every village has its allotted task and the distribution of this task among the individual men is left mainly to the village administration and to the preference of the persons concerned. This latter concession is of no small importance to the interested parties, who can moreover appoint substitutes. The population in this manner knows what its duties are, and the compulsory rendering of monthly statistics concerning the labour performed to the heads of the regional administration, who have to send up extracts to the Government, makes it possible to check throughout the Indies from village to village whether the local authorities are observing the labour programme.

If certain definite works for which labour in payment of taxation can be demanded in the other isles are brought under the administration of local boards, they have to follow the regulation laid down in Stbl. 1923, 428. It is also worth mentioning that the Government has expressed its views concerning taxation in the form of labour in the other isles in Bijbl. 11399. It is worth observing, finally, that compulsory labour in the colonial world has already formed the subject of international discussions and was placed upon the agenda of the Labour Conferences of 1929 and 1930 held at Geneva (see the draft convention). In the publications of the International Labour Office (Compulsory Labour), three specially important contributions were included concerning taxation in the form of labour, communal services and personal services on private estates in the Dutch East Indies (p. 112 sqq., 202 sqq., 227 sqq.). The result of these international discussions has little importance for Holland, because in this matter practice, in the Indies, has run well ahead of the more important international desiderata. The discussion of such specific colonial matters by an International Labour Conference where only ten countries are

directly involved and which, as far as the Dutch East Indies are concerned, only deal with taxation in the form of labour imposed by the authorities for public purposes, is somewhat peculiar, but Holland has nevertheless been desirous of adopting an international point of view, and has determined its course in this sense [1]).

Land tax in Java

One may look back with satisfaction to the progress made in the matter of taxation in the form of labour. But the improvement in the land tax system is equally a matter which deserves full attention. In the days of the Dutch East India Company, the main source of income was the compulsory delivery of produce. For this purpose the Company made use of the Indonesian administration (the Rulers and feudal or semi-feudal authorities), but the population itself remained an undifferentiated mass for the Company. After its fall, the discovery was made that this mass was formed by individual Indonesian communities which were perfectly organised from the point of view of the demands made on them. Raffles at once began to utilise this discovery for a new system of taxation whereby the burden of supporting the authorities would no longer be imposed upon the unknown mass of the people through Indonesian officialdom, which had gradually become de-feudalised, but directly upon the separate village organisms.

Unhappily, his analytic ambition went too far; in the recently discovered social cells he still further distinguished their smallest component parts, the individual peasants. He wanted to approach them directly and present them with a tax form assessing them at a certain payment of land tax which was conceived as being a ground rent payable to the landlord (the Government). Those who did not pay lost their field. Those who were unlikely to be able to pay were not given a field. Such at least would have been the consequence of a strict application of this dogmatic Western interpretation of a religious Oriental principle. The Indonesian right of possession would have been entirely disorganised in this way, because the real conditions had been turned upside down.

[1]) The problem of compulsory labour was again discussed at the Labour Conference of 1930. See the Blue Book, 1930, mentioned on p. 619, esp. p. 19, 50 *sqq.*, 91, 110 and Text of the Draft Convention concerning forced or compulsory labour of the 14th Session of the International Labour Conference at Geneva (1930).

This mistake may certainly have had unfavourable results. Nevertheless, it has probably had less serious consequences in practice because village administrations will, no doubt, as a rule have shown themselves wiser than the higher authorities [1]); while the idea of land-tax began to take the place after some time of that of land-rent. In 1866 (Stbl. 80) a solemn proclamation was issued declaring that the Government wished to respect all rights to the soil. This was the official recantation of the theory of Government ownership of arable land. The idea of land-rent, however, lingered on and continued for some time to find expression in the form of a percentage of land and harvest taxation, which seems rather high, at least if one dissociates the rent-principle from this tax on land.

What Raffles attempted to achieve in 1814 would not be possible even to-day, or at any rate it would not be desirable. In those days no reliable data were available in regard to the size of individual fields, not to mention the difference in their productiveness and all the other economic factors which should have been taken into consideration when assessing the tax. There was also a shortage of staff. The Commissioners General adopted Raffles's idea, but had to begin by finding a suitable basis for its execution. They fell back (Stbl. 1819, 5)upon the village and replaced the preconceived invariable percentages, which in any case were no more than guess-work, by a flexible regulation the execution of which was to a great extent made to depend on personal and regular negotiations between the local authorities and the population.

Annual estimates of the standing crops made from village to village were to give an idea of the taxable produce to be expected, about one-fifth of which was due to the Government, preferably to be paid in kind. Market prices, local circumstances, the situation of the village, previous assessments, all manner of economic factors, in short the whole village life had to be taken into account. It thus became a real administrative task on which any amount of administrative tact and ability could be exerted, but the administrative corps had such unsatisfactory local assistance that it was often difficult to check the data supplied and the result re-

[1]) We may recall art. 14 of the Land Tax Regulation of 1819 (*Stbl.* 5) which did not allow the limitation of existing rights of possession in the case of divisions of the fields by the village administration.

mained, although to a smaller extent than was formerly the case, largely guesswork.

In fact, every year saw a new struggle between the administration and the village administration and population, who both strained their wits in a match that was not without its *note gaie*. Both parties lacked precise data. An all round estimate was all that was possible on either side. Serious mistakes were, no doubt, excluded, but minor errors cannot have been prevented, and in any case the satisfying feeling that the precise amount, no more and no less, had been demanded or received was absent on either side. The system followed was in fact that of bargaining in the Eastern fashion still relished throughout the East whereby buyer and seller eventually come to an understanding but are always more or less dissatisfied at heart by the compromise. Both reproach themselves for having given way too soon.

This is what happened every year in the assessment of the land tax. The population would never admit that the previous assessment was too low. On the contrary it invariably expressed the view that every reason existed for a lower assessment, a phenomenon which goes to prove that the so-called unbridgeable gulf between the mentality of East and West in some respects is not so very wide after all. When the authorities replied that a more careful survey would have to be made, the result was a much greater degree of conciliation. Once agreement had been reached as to the village assessment, it was left to the villagers to distribute the total amount among the taxpayers. The village headmen were paid 8% for their work in collecting the taxes, and the monies received were usually handed over to salaried undercollectors who paid them into the country's exchequer.

The advantage of this regulation was that the land tax had the greatest possible degree of flexibility, that it could be adapted to the smaller varieties of prosperity from village to village, and also that through consultation with village administrations and their mediation in its distribution, the whole mechanism of the village organisation was put into motion, while the Dutch administrative body established close contact with the Indonesian organisation. The disadvantage was the insecure basis of this system, and the unfair distinction which gradually began to exist between one region and another, although they were equally poor

or equally rich, according as they were more or less successful in bargaining.

Improvement of the land tax assessment

The East Indian Government Act of 1854 preserved the assessment by villages (art. 59, now art. 48 I.S.), but it required that the bases of this assessment should be settled by general ordinances which were made in 1872 (Stbl. 66, 219a and 219b). A separate regulation for freshwater fisheries established in 1893 (Stbl. 30) has also since 1927 been gradually replaced by the land tax ordinance.

Lands from which land rent was due were classified every five years under the regulation of 1872. Classification was made upon the basis of the actual harvest during the last three years, and fields were divided into ten classes according to whether the produce was from 10 to 20 guilders, from 21 to 30 guilders, etc. per *bouw*, the highest class having an average production of 100 guilders per *bouw*. The land tax would amount to not more than one-fifth, which sum would be distributed among the taxpayers by the common consent of the villagers. In 1864 a start had been made with the statistical survey of the fields, and it was hoped that this work would provide a more solid basis. But later investigations proved that, although useful, the survey had not given certainty.

In practice this arrangement and the unsatisfactory surveys had not advanced the position much beyond what it was before. There still were no reliable data about the average production of the fields so that the real production could still not be ascertained and used as a basis of assessment; but an important element of stability (the 5 years' assessment) had been introduced into the system. An attempt was also made to put down the result of the distribution in village registers, an extract of which was to be handed to every taxpayer. In this way the authorities tried to reach the individual peasant. In case of the failure of the harvest, exemption could be granted. Lands that had been recently reclaimed were exempt for a reasonable period, and poor lands with a produce of not more than 10 guilders per *bouw* were definitely exempt, as well as lands used for religious or other definite purposes, and small pieces of land round dwellings etc.

As has already been told in the sixth chapter, the Liefrinck experiment in the Preanger Regencies pointed the way to greater certainty (1889). In 1896 (Stbl. 126) the Preanger land tax regulation was promulgated. Between 1907 and 1921 its basic principles were successively applied district by district to the whole of Java, apart from private estates and the Javanese states (Stbl. 1907, 277).

In the big centres of population the land rent was not satisfactory. It was replaced there in the case of land under Indonesian right of possession or property by a ground tax, a kind of Indonesian real-estate tax (Stbl. 1923, 425; 1924, 242 and 1925, 427, 449; 1927, 151, 315) [1]). For land with buildings it amounts to 3% of the annual rent and for other lands 7½% of the estimated annual net proceeds. The assessment is made for five years. In Stbl. 1927, 315 the limits of about 14 principal places in Java within which Indonesian real-estate tax is levied were indicated. It brings in (1929) about 200,000 guilders. Otherwise the land tax regulation according to the principles of 1907 is generally applicable.

The system established by Mr. Liefrinck was very simple. Assessment by villages was abandoned, without however giving place to individual assessment. The land on which rent was due was divided into two classes: 1) the sawahs (wet rice fields which cover Java) and 2) dry lands, freshwater fisheries, and nipah woods. A careful technical survey made under strict precautions was necessary and was soon entrusted to the topographical service, but it was not to be a survey applying to every small field. Large portions of land which formed a natural whole owing to dykes, waterways etc., were to be surveyed, and if necessary these land groups were to be sub-divided and to be surveyed in more detail. This survey was judged necessary when the large portions of land contained fields of different productiveness. They would be divided after consultation with headmen and villagers by the ordinary staff of the land tax service into allotments of approximately equal productiveness or value. These surveyed plots were

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[1]) We do not mention the real estate tax levied upon land which as a rule is situated within towns and which is subject to the right of property or other real rights based upon European law. It is of course also applicable to Indonesian owners of such rights but is only significant for the economically more advanced groups, especially the European and Chinese town population.

to be indicated in the maps of the dessa and registered separately in district registers with the mention of their area. The surveyed plots of approximately equal productiveness situated in different dessas of a district were then, in agreement with headmen and villagers, to be joined together into groups to be indicated in a special tabular statement.

Every such district group was given a figure by the head of the regional administration, indicating the productiveness per *bouw* expressed in picols of dry paddy. In fixing this figure returns, taken from normal harvest years upon the basis of results achieved in the fixed experimental fields (some 16,000 in number) and by other means, had to be taken into account. The taxable produce of the sawahs was considered to be the monetary value of the paddy they were deemed to produce in view of their size, and of the figure of productivity for the group to which they belonged after deduction of ten picols of paddy per *bouw*. The monetary value was calculated according to the market price of paddy in local or neighbouring circles of villages or districts. A land-tax of at least 8% and at most 20% would be levied upon the taxable produce, and the percentage would be fixed for every village by the Director of Interior Administration (now the Director of Finance) acting upon the advice of the chiefs of regional administration. The economic situation and, in so far as this was necessary for the sake of gradual transition, the previous levy was taken into account. It was wisely decided not to base the appraisement of the economic situation upon the theoretical average for the whole of Java, but upon district monographs drawn up according to a prescribed model.

The dry fields, the fisheries, and the nipah woods had also to be measured and divided into plots of approximately equal value in order to be joined in each district into classes, in agreement with the population and its headmen. The annual payment for each class had then to be fixed, taking into account the economic situation and the relative value of the lands among themselves. The value of the sawahs in the district and of the proposed figures of taxation for the sawahs were also to be taken into account. The separate regulation of 1893 for fisheries was continued. The assessment of land-tax for dry fields was not expressed in percentages of the taxable produce, as was the case of the sawahs, but was

fixed at from one-quarter to twenty guilders per *bouw*. This maximum was later cancelled.

For every registered plot or part of a plot (sawahs or dry fields), the land-tax due upon the previously described basis, once it had been settled by the chiefs of the regional administration, was marked in district ledgers. This assessment was to be valid for the year after it had been fixed and for each one of the following nine years, provided that no errors in the survey, the calculations or the classifications had been made. The assessment of plots and parts of plots was then to be communicated to the taxpayer in a manner to be settled by the Governor-General. The distribution of the taxation of every registered plot or section of a plot in which more than one person had a share was left as far as possible to the taxpayers themselves, who had to act in accordance with the instructions of the Governor-General and were guided by a commission consisting of officials appointed for this purpose. If the interested parties could not reach an agreement, the commission itself arranged the distribution.

The result of the distribution and of the assessment of every plot or part of a plot belonging to one person only was noted in a ledger for each dessa separately, and the dessa headmen had to give an extract from this book to every taxpayer, stating the amount due from him. Except in the case of changes among the taxpayers themselves, the result of this distribution was also to apply for ten years. Supplementary district ledgers would as far as possible keep this registration of land and land-tax up to date during that period.

In the case of failure of the crop, or of expensive improvements on the lands, exemption could be granted by the head of the regional administration and, in exceptional cases, by the Director of Interior Administration (now the Director of Finance). The collection of the tax continued to be entrusted to the dessa headmen, who were paid 8% for their trouble. During every period of ten years the assessment for the following ten years had to be prepared (i.a. by re-surveying the land). This regulation of the land-tax was to be introduced into Java district by district, after which the regulation of 1872 was to be abolished for such a district.

About 1920 this system held throughout Java and Madura. In 1927 (Stbl. 163) a new land-tax ordinance, to be introduced grad-

ually into all districts of Java and Madura, was promulgated. After the above summary of the method of surveying, calculating, grouping, classification etc., the ordinance of 1927, which is practically identical, requires no further explanation. It should only be mentioned that after the administrative reform had been put through in Java, the activities which previously had been entrusted to the heads of the regional and local administrations have now been entrusted to the Resident-chiefs of divisions, except that the fixing of the figure of productiveness for the district groups has been entrusted to the Governors (cf. also Bijbl. 11321, for the executory provisions; 7846 and 10136 for the paddy proof-cuts, and 7847 for the exemption of dessas). The produce of the Java land-tax is over 30 million guilders per annum. It has gone up since 1920 from about 20 million to the present figure. In the other isles the land-tax brings in about 4 million.

The population and the land tax

Although it is true that it has taken a century, forty years out of which were lost owing to the cultivation system, to evolve the present system, it is also true that every satisfaction may be felt with the almost perfect work that has been achieved, even though it must be granted that even so some reasonable objections can be made against it. With its enormous bookkeeping, its thousands of experimental fields and proof-cuts of paddy, its incessant surveys and its economic observation district by district, it is a respectable achievement in itself. We may express even more pleasure at the spirit of fairness and of sympathy with the small man which this system reveals.

On the other hand, in comparison with the tax paid by non-agricultural occupations the percentage of this taxation may still be called relatively high (about 5% of the total gross produce of the soil), although this is very different from what it used to be in the days of Raffles. The way in which averages have to be used may give rise to objections. In the days of equalised agriculture, it was entirely satisfactory, but now differentiation is appearing (various crops, manuring etc.). In one case the average will be too high and in another decidedly too low. Nor does the land-tax follow, as is the case of the income tax, fluctuations in monetary value.

But apart from these flaws no trouble has been avoided in the endeavour to give everyone his due with the most painstaking precision. One also feels a decided respect at the wisdom hidden in this apparently dull series of articles. The land-tax system judged by the criterion of synthesis has a touch of genius about it. It is levied partly on the basis of land, partly on that of harvest or income. On the one hand it fits in with indigenous traditions and conceptions really excellently; on the other hand it satisfies to a surprising degree the claims of twentieth century method and precision. If one thinks of the adaptation of Adat communities to a wider political sphere, and of Adat law to a wider legal sphere, one can see how many subjects remain where similar efforts to achieve real synthesis through a cautious process of dynamising what is properly Eastern have not yet achieved equally satisfactory results.

It is with joy that one looks at these articles in which the term "in agreement with the headmen and with the population" reveals an excellency of field work, of administrative experience, and of government wisdom. A taxation specialist will perhaps feel more amazement than admiration for such a peculiar and in any case not yet faultless system. But what a mistake! The land tax with all its flexibility is adaptable to the most subtle forms of Indonesian life. It is constructed so rationally that cheating has become almost impossible and is scarcely ever attempted. Its essence fits in most intimately with the mentality and customs of the population, and — the first requirement of all good taxation systems in a simple environment — it is actually understood. It keeps the village organisms in lively movement, and it perpetuates a fertile communal understanding. It is a source of invaluable information as to the relations that exist within the popular sphere.

It contains a small progressive element by exempting the first ten picols per *bouw*, which distributes the pressure of taxation more evenly. Its stability (the 10 years' assessment) gives certitude, and limits to the utmost the number of cases in which the population has to be troubled; while, nevertheless, all unexpected factors, such as failure of harvest, are treated with complete justice. The distribution by the peasants among themselves is a worthy crowning of all these methods. It makes it possible to give justice to the smallest incidental factors of village life by varying

the individual assessment. It is usual that good things have good results. In this case one of the results is that a basis for the registration of land and the preparation of a future Indonesian cadaster has been laid (Stbl. 1920, 587; 1928, 260). And that all kinds of activities on the part of the authorities, such as concern ground hire, official fields, reclamation, as well as statistical labour, and economic observations, are greatly facilitated.

The land tax in the other isles

It is a pity that the same land tax regulation could not be introduced in the other isles. In Java, where the whole countryside forms one vast sawah group, circumstances were particularly favourable and precise data as to the value of the sawah groups formed a good basis for calculating the value of all kinds of other lands. In places where the population does not work large groups with regular agricultural labour, where, for instance, alternate fields are cultivated, such a regulation is naturally impossible. Where similar favourable circumstances allow it, e.g. in Bali (Stbl. 1922, 812, 813) and in the Ulu Sungai division in Borneo (Stbl. 1923, 484, 485), land-tax regulations have also been promulgated, to which has been added a tax upon lands only temporarily used by the Indonesian population for irregular cultivation of crops other than those that cover more than one year and on which no land tax has to be paid (Stbl. 1927, 225).

Further progress will probably be made in the same direction. In Celebes, for instance, since 1914 preparatory measures have been taken for the gradual abolition of tithes upon paddy and other produce, known under the name of rural revenue, and rent of fisheries, and for the introduction of a land-tax regulation. A land-tax ordinance for Celebes was fixed by Stbl. 1927, 179 (cf. also Bijbl. 11324) which is already in force in two sub-divisions. The West Coast of Sumatra will probably also eventually be given such a regulation and it may be possible to extend this process beyond the rice-producing regions.

Dr. Reys [1]), having explained the practical objections to income tax, to which we shall refer later, pleads for the introduction of a land-tax for dry lands also, provided they are re-

[1]) R. J. W. Reys: *De Inkomstenbelasting der Inlanders en met hen gelijkgestelden in N. O.-I.* 1925, p. 128.

gularly cultivated, even where these dry cultivated fields grow other produce than rice and have no rice fields next to them. In such cases, of course, there is a much less solid basis for comparison and for valuation. Even in Java the classification of dry lands for the assessment of land-tax has produced great difficulties because the valuation, which is mainly based upon production, is very difficult. In most cases, however, an approximation that is becoming gradually more precise can be achieved in Java by a process of comparison.

In the other isles, however, such a basis of comparison is usually lacking, so that valuation would have to be based upon a very detailed investigation. It was necessary, therefore, to resort to taxation upon occupation and other income, a system which has been replaced by one general tax, the income tax (Stbl. 1920, 678; 1921, 312, most recently modified by Stbl. 1929, 194). Income from lands that come under the land-tax ordinances has been exempted from this tax (art. 11). [1])

Income tax

Income tax applies to all groups of the population. It is dominated by the idea of unification, which is not a recommendation in itself so long as different groups of the population live in very different conditions. The idea of unification would perhaps have been more wisely applied if it had abandoned only racial but not economic divisions. There is in any case no reason to regret that the land-tax has swallowed a large proportion of the direct burdens on the population, and the more this healthy system could have been extended the better it might have been. But land-tax is beginning to present greater difficulties since Indonesian agricultural enterprise is developing a larger differentiation and, however far it might be extended, the moment income that is not drawn from agriculture is concerned it would leave us entirely in the lurch.

Formerly incomes from profession, trade, craft etc. on which, under one or other denomination, a tax was levied, were exempt if under 60 guilders per annum. By the unified income tax, this limit was to have been raised to 90 guilders, but eventually the

[1]) It may be pointed out that according to art. 47 I. S. all taxes must be based upon general ordinances. Arbitrary tax levying is therefore impossible.

limit was fixed at 120 guilders. Agriculture as an occupation in the other isles, in so far as it was not liable to land-tax, was henceforth charged at 4% because otherwise agriculturists in the other isles would have been unduly privileged above the peasants of Java who have to pay land-tax; while other small incomes were taxed from 1 to 2%. For a taxable income between 120 and 1800 guilders the tax is one and one-fifth for the first 120 guilders, and one-fifth guilders for every sum of 10 guilders above 120 guilders. Peasants who pay land tax and who rarely draw more than 120 guilders from their subsidiary income are thereby exempt from income tax. Rebates for children and other relatives are allowed.

Up to 1800 guilders, the percentage is the same, so that agriculture is more heavily taxed than other occupations. This is less unfair than it might appear because all other sources of income are as yet much less certain. For incomes above 1800 guilders, there is an ascending progression: from 1800 to 3600 the amount is $34^{4}/_{5}$ plus 3 guilders for every further amount of 100 and so on up to 180,000 guilders, on which the tax is 29,000 plus 25 guilders for every 100 guilders above this sum. For incomes of 1200 guilders and more per year, a return in writing is compulsory. Since 1922, an extra 30% (now reduced to 24%) of the main tax above $11^{2}/_{5}$ guilders is levied upon physical persons, and one of 20% upon legal persons and other bodies, while the communes also impose an additional percentage above the general income tax.

In theory this income tax seemed to be an advance on the occupational taxation whose place it took. In Java under the latter (Stbl. 1907, 182) a minimum tax existed of 0.72 guilders on incomes above 50 guilders and below 60 guilders. For the other isles (Stbl. 1914, 130) it was 0.40 guilders for every whole sum of 10 guilders with a minimum duty of 2 guilders. In practice the system in the other isles amounted to a tax on nearly all able bodied men, about 2 million in number, and for the large mass of small incomes it was a kind of poll-tax of 2 guilders, seeing that a careful differentiation between the hundreds of thousands whose small incomes could not be valued with any precision would have been impossible without a considerable official staff.

In Java, where the majority of the population paid land-tax, about a million Indonesians were liable for occupational tax. The

total revenue from this tax for the whole of the Dutch East Indies was relatively small, about 14 million guilders, including the taxation paid by Chinese, Arabs, and other so-called foreign Orientals. The income tax did not aim at increasing these receipts, but was intended to create a better, more modern, and fairer regulation based upon unification. It was even expected that receipts would fall by over 5 million guilders as a result of the raising of the taxable minimum from 60 to 120 guilders. It is doubtful, however, whether this has really been the case (Dr. Reys, p. 80 sqq.). Since this time the revenue from this tax in the other isles has not much increased. For Java (1928) it may be estimated at about 4 million, and in the other isles at about 9 million guilders while the non-Indonesian population groups, excluding the tax upon limited liability companies according to Stbl. 1925, 319, which brings in about 50 million, pay about 28 million (exclusive of 24% additional tax). In the self-governing states of Java it amounts to about 200,000 guilders and in those of the other isles (inclusive of trade income tax) to about 9 million.

In his study Dr. Reys gives a number of objections against this form of taxation which, according to him, does not answer to the economic situation. According to him, it should not be applied by one rigid system to the whole of the Dutch East Indies, and it would furthermore be better if it applied only to Indonesians who earn their living in a fixed and economic manner from clearly described sources. Annual incomes below 600 guilders should fall outside this sphere. For in his view it is impossible to acquire precise information about the smallest incomes in this circle. Those concerned do not know the figures themselves. Nor do they understand the basis of this tax. Too often they live and work merely as light-hearted children without a thought for the morrow, spending at once everything they earn and little used to a regular trade or occupation. Their income therefore consists, apart from what they get from agriculture and regular wage labour, of a number of variable factors which the party concerned forgets almost immediately. This tax now surprises this carelessness in the same way as winter once surprised the cicada. The income has been spent and real astonishment is felt when the authorities come and ask for a share in something that does not exist any more. These people perfectly understand that a headman may be entitled to

the liver of the beast that has been killed, to a haunch of the wild animal that has been shot, or that the authorities have the right to a share of the harvest, provided this share is claimed at once. These matters are seen in a concrete physical form, a portion of them can be given up because there still is something that can be spared. Even in the case of the land-tax, although the taxpayer is sometimes forced to perform a few days of labour in order to get the money to pay his tax in case the part of the harvest due to the Government has been spent beforehand, the concrete influence still continues to work. But the idea of a share in an income, distributed over a whole year, and of which no trace remains, is an abstraction which calls up the notion of expenditure much more easily than that of receipts. This amazement cannot well be understood by the Occidental, although it is perfectly reasonable.

A territory full of uncertainties has therefore been entered, one that is more uncertain even than that of the land-tax, for everyone of these people represents an income the analysis of which reduces the conscientious official to despair. "Imagine", says the Controller Dr. Reys (p. 74), "these 20,000 taxpayers (in one subdivision) mentioned in tidy registers with name and surname with all their varied possessions marked after their names. And then let us consider the instruction adequately to estimate these 20,000 incomes not one of which has to be returned in writing, within a margin of no more than 10 guilders." It is in such circumstances that the assessment commission enters upon its annual pilgrimage through the villages in each sub-division under the presidency of the local Dutch administrative official and with three Indonesian members, among whom a high Indonesian official and a village headman who changes from village to village, and has already prepared the assessment with his village clerk, having perhaps overlooked the names of a few friends and members of his family. This headman, moreover, is not an official, but the man chosen by the population and to a large extent dependent on its goodwill. Not much value can therefore be attached to these registers. Dr. Reys says that he once spent several days in the methodical estimate of the number of rubber trees in his sub-division and he came to the number of 2 million. Yet his tax registers mentioned less than 100,000.

In short, although the population is continually consulted, its

disinclination to pay the tax and its lack of knowledge of its income make an accurate assessment as difficult as possible, and those whose income rise in almost imperceptible gradations of 10 guilders above 120 guilders and the well-to-do profit most from the situation. Dr. Reys recalls in this connection a few figures from the advice returned by the board of owners of enterprises in the Indies [1]), according to which during the years preceding and following 1920 the taxation of Indonesian incomes remained far below reality. Indonesian incomes of 24,000 to 30,000 guilders had been estimated at 800 guilders. The well-to-do could not receive sufficient attention among the thousands of small incomes that had to be estimated. Attention paid to these minimal incomes, which brought in but a guilder or two each to the Treasury, almost monopolised the time of the tax collectors.

It is for this reason that Dr. Reys pleaded for a higher limit of 600 guilders, which, according to the latest available figures, would exempt 93% of the persons in government territory in Java and 93½% of those in the other islands from liability to pay income tax. In view of what has been said before, however, these figures should probably be somewhat lower. At any rate, by adopting this minimum of 600 guilders the loss of several months each year during which a large body of officials has to make assessments for very small incomes would be saved. All the tedious difficulties of collecting this tax bit by bit throughout the year would also disappear. It is for such reasons that Dr. Reys thinks that income tax should apply only to those who are economically above the mass, and for the rest he would like to make use of regional regulations, to be based on carefully made investigations in specified economic circles. The land tax would have to be introduced as far as possible everywhere, while a progressive poll tax of from 2½ to 10 guilders per able bodied man would be levied in regions which have no regular agriculture or export of produce. There would also be a tax upon the wages of regularly employed labourers and lower officials, and real taxes upon retail trade and free professions, wherever possible in the form of trade and professional licences so that

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[1]) Advice returned by the Board of Employers for the D. E. I. to the Ministry of Colonies concerning the first report of the Commission for the Revision of Taxation in the D.E.I.; p. 3 and 4 contain statistics about the amazing amount of tax avoidance i.a. by Indonesian persons.

by these means the other small incomes below 600 guilders would not escape, although they would not be liable to income tax.

The three last mentioned of these taxes upon small incomes would have to be transferred to the domain of taxation of local autonomous bodies which, in the view of the author, would assist the flexibility of these levies and make it easier for the people to understand their working and their purpose. Finally, he considered that, in order to reach sources which escaped income tax, there should be an extension of export duties upon all indigenous produce of the other islands, in so far as it does not pay land tax, while the profits made on these products would be free of income tax.

A perfect system of taxation is in every country a pious wish which cannot be realised as long as the civic sense and the insight of people do not reach higher than their own interests. In the West, much is still lacking in this respect; dishonesty towards customs and taxation officials is considered less reprehensible than dishonesty towards a fellow citizen. To deceive officials who have to poke their noses into private affairs is considered a kind of sport. And yet such officials do their duty, a duty upon which the common interest depends in no small measure, and it is the realisation of this that will usually cause the better feelings of the modern citizen to triumph over his resentment against the interference and the exactions of the Treasury.

In an environment that is still little developed, one could not expect this understanding and loyalty. Hence the difficulties which we have mentioned and which increase as one draws smaller incomes within the sphere of taxation. These and other obstacles are not unknown to the Government. But it is not enough to admit that something is wrong with the system of taxation for a way towards improvement to have been found by this very fact. Moreover, the existing system is not necessarily beyond the possibility of improvement nor is it equally condemned by everyone [1]). It is certainly an excellent notion to replace income tax upon agricultural enterprise by a land tax, but it is enough to consider the labour of preparation that is needed for land tax, even in territories

[1]) See the fourth report of the Commission for the Revision of Taxation, 1926, p. 29 sqq. Also Meijer Ranneft and Huender, *op. cit.* p. 81; Fievez de Malines van Ginkel, *Verslag Belastingdruk Inlandsche Bevolking Buitengewesten*, 1929, p. 22.

such as Java where sawah cultivation facilitates the task, to realise that the abolition of income tax would not mean the disappearance of complications.

The problem of taxation really includes the whole problem of the social and economic development of Indonesian society, and it would be difficult to deny that the intention and the leading principle of income tax ran too far ahead of the conditions and the mentality of the popular sphere. The Government does not consider the existing conditions perfect. The commission for the revision of the system of taxation has already been at work for some years and has published several reports since 1923. It is felt that a fair system of taxation, satisfactory in every respect, can only be developed very gradually when the economic basis of Indonesian society is more thoroughly understood as a result of investigations now being made in the Indies region by region.

We may point in this connection to the earlier prosperity investigations in which the pressure exercised by taxation always occupied a prominent part and among which also enquiries into agrarian problems, compulsory services and communal services must rank. There is also the report of 1926 by Messrs. Meijer Ranneft and Huender into the pressure of taxation in Java, to which we have frequently referred, and that of Dr. Fievez de Malines van Ginkel for the other isles (1929), to which the interested reader may refer.

Personal taxation

Among the direct burdens we may also mention personal taxation (Stbl. 1908, 13), a unified levy made since 1920 (Stbl. 679) among all groups of the population. This also is not very well understood, and still less appreciated, by Indonesians. It is a tax of 5% on the annual rent value of more expensive dwellings, of 2% on the value of their furniture, of 6 guilders or more for every horse, 3 guilders per bicycle, 8 guilders or more per horse carriage, 18 guilders per motor cycle and 48 guilders per motor car. This taxation is of little significance to Indonesians. It only affects a small number of them and in Java and Madura its proceeds from among Indonesians (1929) are less than half a million, in the other isles above 200,000 guilders. Dr. van Ginkel says in his report (p. 103):

"Notwithstanding its relatively small significance, even for the taxpayer, it is far from popular, because it is not understood. The Indonesian does not understand why he should have to pay upon the basis of an estimated rent value of his own house which has, practically speaking, no rent value."

The tax upon horses and carriages, when they are used for profession or trade, is often felt as a burden. In the Indonesian States the local governments wisely have not adopted this tax, while they have adopted income and occupation taxes.

Direct and indirect taxes

What has been said so far shows that the direct taxation of the Indonesian population does not bring in much profit to the Treasury. By abolishing the poll tax in Java in 1927, these direct taxes were further decreased by some twelve million guilders. More important are the indirect contributions of the Indonesians: import and export duties, excise duties on paraffin-oil, petrol, matches, tobacco, indigenous spirits, slaughtering licences, stamp duty, and the proceeds of the monopolies in salt, opium, and pawnshops. In a simple society indirect taxation and profits from monopolies are for many reasons to be preferred to direct taxation. One has to remember the disproportionately higher costs of direct levies and the reluctance of the population, which appears from the disinclination to pay the very low income tax of one or 2 % or the personal tax, which signifies little and from the objection made against the poll tax although its principle is perfectly understood by the population.

Taxes upon consumption are usually divided into very small fractions and distributed right over the year. For this reason, even if they are heavier than direct taxes, they are in this environment felt to a much smaller extent. It would be a capital mistake on the part of the leaders of the colonial world to ignore these feelings. The population would like best a government that would cover its expenses by indirect taxation, government enterprises, and monopolies, and that could abolish all direct taxes, including those in the form of labour.

It is impossible, however, to go as far as this, and it would also be unfair because indirect taxation takes scarcely, if at all, any account of the difference of capacity to pay and of the difference

of the individual appreciation of the amount to be paid between one taxpayer and another. In our fourth chapter we pointed out that the East Indian system of taxation has satisfactorily developed in a direction which taxes Indonesians more indirectly and other groups more directly. On the other hand, the system of a general income tax applying also to Indonesians which seems to run counter to this policy, however difficult it may be to execute, agrees with the demands of fairness made by increasing differentiation of society.

This principle is essentially aimed more at the future than at the present; this explains why it is indispensable and why it presents difficulties. It is extremely interesting to see, in this taxation policy, an image of the development of the whole Indonesian society from uniformity towards differentiation, from group connection to individuality, from local and genealogical communalism to local patriotism and to the realisation of general duties of citizenship. This process has started and can never stop. The land tax has been received and accepted long since and as a consequence fairness has required for many years a completing direct levy on all other professions, trades, and crafts that exist side by side with agriculture. This was bound eventually to become an income tax which, allied with reasonable progress, will more and more adapt itself to the sense of justice of a society that is becoming modernised.

On the other hand, it will be necessary to guard against premature attempts and to realise that our own sense of justice can only be given free rein when the population has become more developed economically and has thereby learned better to value these principles. It is in this connection of ideas that land rent, notwithstanding some objections against it, which are open to redress, appears to be an excellent form of taxation which, it would seem, deserves even to day to be extended.

Indirect taxes and monopolies do not really in other respects call for consideration or discussion from the point of view of this work. Their significance in relation to direct contributions can be gathered from the statistics in the report of Messrs. Meijer Ranneft and Huender, which for Java gives a proportion of 46, 39, and 17 millions for direct, indirect, and monopoly taxes. The abolition of the poll tax (12,000,000) and a certain increase in the

other two groups has since improved this proportion, which was already to be considered favourable in itself.

The Van Ginkel report gives a proportion, for the Indonesian population in the government territory of the other isles, of about 20 million guilders in money for direct taxation and 5 million for labour taxation (12 million days), 45 million for indirect taxation (killed meat, customs and excises, export duties, stamp duties etc.) and over 4 million for monopoly receipts (salt, opium, and pawnshops) [1]).

In the case of the numerous Indonesian states of the other isles, which contribute to various indirect receipts of the central Government such as import duties, the receipts of occupational and income tax amount to more than 8 million, the redemption of taxation in labour to 2 million, while the services in labour by 900,000 able bodied men amount to about 16 million days of work, which at the average rate of redemption can be valued at over 6 million guilders. The other figures (trades, meat killing, land tax, etc.) are in themselves of too little importance to influence the matter we are discussing [2]). The taxes of the water boards, the provincial, regency and other local boards, and the religious duties need not be discussed here [3]), any more than other payments such as school fees that will eventually give place to an education tax. Apart from provincial and regency taxes which show a considerable increase they have still little significance and, after what has already been said, they do not require further discussion on matters of principle. The budget figures of all local units taken together amount to about 110 million guilders.

The final conclusion of Van Ginkel's report (p. 20) is that the total of the taxation expressible in money forms a percentage of

[1]) See the reports of the services concerned. For stamp duties: *Stbl.* 1921, 498, 621, Bijbl. 9945; for the statistical dues: *Stbl.* 1924, 517; 1929, 156; for taxation on slaughtering in Java and Madura: *Stbl.* 1898, 348; 1899, 44; most recently modified by *Stbl.* 1923,1, and for the other islands a number of separate regional regulations *i.a. Stbl.*1908, 95; for the tariffs of import and export: *Stbl.* 1924, 487; 1925, 292; 1927, 310; See also 1910, 628, 630; for excises in indigenous distilled beverages: *Stbl.* 1898, 90, most recently modified by 1924, 351; on tobacco: *Stbl.* 1873, 248; 1882, 296; 1896, 266; on petroleum: *Stbl.* 1886, 249 *sqq.*; on matches; *Stbl.* 1893, 301 *sqq.*, most recently modified by *Stbl.* 1922, 550. See for the latest modifications the Government Chronicle and Directory, 1931.

[2]) See the recently published work *Begrootingen en Overzichten van de Kassen der Zelfbesturende Landschappen in de Buitengewesten*, 1929, 1930.

[3]) See apart from Kleintjes, *op. cit.* p. 406—413, other reports that have been quoted above.

the real popular income which is certainly almost everywhere below 15% and in many regions of the other isles decidedly below 10%. For Java this figure was even lower, being estimated at 9.2%, while the village taxes in the other isles usually have less significance than those in Java. In many regions the latter are indeed insignificant and the report characterises the pressure of taxation in the other isles as being moderate. It is, however, not yet equally distributed, and for this reason the report recommends various modifications.

Summary

If we summarise the data and considerations given in this chapter, we shall begin by remarking that the population is not compelled to pay more than a reasonable contribution for the benefits of public order, security, intensive administration, and justice, traffic and transport, welfare care, popular and Western education, irrigation, public health, popular credit, and all the other benefits of good government. One would perhaps still like to see a diminution of the existing burdens. But, in view of the obvious devotion and goodwill displayed by the authorities, we may feel fully confident that they will do everything in their power to make the necessary burdens as light as possible especially for Indonesians who economically are the weakest group.

It is often asserted that other groups of the population could be more heavily taxed, and this assertion is as often refuted [1]). In any case, there is a general recognition on the part of the Government of the duty of distributing the indispensable burden fairly according to the capacity of each group to bear it. One must look upon the whole system of taxation in the same light: taxes are, as far as possible, indirect, but in order to correct inequalities which may otherwise arise, they are completed by direct taxes, partly linked up with the past (land tax, payment in labour, poll tax and arrangements for buying off taxation in labour) and partly adapted to the claims of the future in accordance with the increasing division of labour and differentiation of prosperity. It should also

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[1]) H. J. van Brink in "*Econ. Statist. Berichten*", 19 and 26 Sept. 1928, who basing himself upon calculations for the years 1913, 1920, and 1924, estimated the amount of the contribution to the Government per head of the population at 2.04 guilders for Indonesians, and 94.57 guilders or 50 times more for non-Indonesians.

be noticed that since 1917 a connection has been made between income tax and the right to vote. As a result of the peculiarity of the present period of transition all kinds of apparent inconsequences and contradictions between ultra-modern theories and a sometimes very primitive practice may be observed [1]). All this need not be immediately criticised unless the pace of the authorities lags behind or runs ahead of evolution. A complete adaptation is as impossible in this respect as in others, as we have discovered in the course of our discussion on political construction, popular credit, education and so on.

The progress of the last three-quarters of a century is really extraordinary. Before that time there were abuses, oppressive cultivation and seigniorial services, there was a land tax without a basis and a legion of personal services claimed by village notables, Indonesian and European administrative officials. At the present day there is everywhere careful regulation and control, payment in the form of labour is rapidly disappearing except in the villages, where however the buying off of obligations increases from year to year; there is a well regulated land tax and a modern system of taxation, which are both acquiring a better foundation as a result of far reaching economic investigations and methodical observations.

A wide field of continued improvement is still open. The authorities are mapping out this field after much economic surveying. They know therefore whither they are going. The Indonesian states, until recently so backward, are following suit with good regulations for land taxation and other modern taxation, and they are advancing at a surprisingly quick pace along this excellent track [2]). In this case also there is a precise accountancy of taxation in money and in labour; there is control and modernisation; while taxation in labour is on its last legs.

We see in this way how in the vast government area, the hundreds of Indonesian states, and the tens of thousands of small Indonesian communities, everywhere the policy of taxation serves most faithfully the spirit of justice and reverence for human dignity. The authorities are adapting themselves both to the de-

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[1]) When for instance income tax is becoming in practice a tax upon occupation or a capitation. See also Reys, *op. cit.* p. 77 and the report of Van Ginkel, p. 47 *sqq.*

[2]) See the communications of the Government (*Mededeelingen*) March 1921.

mands of the past and of the future, and the way in which they do this and the methods they apply are all of them a last and final proof that the overseas leadership of Holland is endeavouring to achieve, in the present and in the future, the fundamental idea of Synthesis, by gradually dynamising Indonesian society with the aid of the spirit of the West.

CHAPTER IX

CONCLUSION

We have now terminated our journey through the various sections of the task of the authorities in the Dutch East Indies, and we have, at the same time, passed in review a large part of the Dutch Colonial literature and East Indian legislation, with the regulations and ordinances concerning their execution. In each of the sections we could have lingered longer; while many territories have remained entirely unexplored. But this work did not set out to be a complete survey of so vast an area as is presented by the East Indies, an ambition that in any case was bound to be defeated. We may once more point to the Government Chronicle and Directory which appears every year, each time in a bigger volume, where the whole task of the authorities is reviewed in a manner that is at the same time comprehensive and easy to peruse [1]). In each chapter of our work we have aimed not so much at the completeness of the specialist as at indicating the main lines of Holland's colonial policy. We have tried to show that these lines are taking the direction of the synthesis whose basis and guiding lines we indicated in our first volume. We should have gladly passed over a number of details and references to official publications, because this would have allowed these lines to stand out with greater clarity. At the same time, however, we had to take into consideration the reader's need to have as much material as possible at his disposal, to enable him to form an opinion for himself.

It was not our intention to plead for one measure or another, although it has more than once been necessary, after mentioning

[1]) For the continuation of this work (terminated in March 1931), we refer to the annual Government Chronicle and Directory, the annual Statistical Abstracts (Dutch and English text), the Handbook of the D. E. I. (English text) and especially to the annual Communications of the Government on Subjects of General Importance which it is also intended in future to translate into English.

criticisms made of the attitude taken by the authorities, to indicate the great practical difficulties which confront statesmanship and which are not always taken sufficiently into account by our Dutch critics. We have been able to show in this way that the authorities can, at any rate, adduce excellent reasons for the measures they are taking, although we do not expect that all critics will in all cases admit the soundness of these reasons. Such an admission is not necessary, and if the critics themselves were called upon to perform the heavy task of government in the Indies they would certainly not meet with more universal approval. We considered it especially important to make our compatriots feel the extraordinary difficulties inherent in the present period of transition by displaying before them both the available data and the criticisms. This was more important than to present our policy as a model of perfection, because we wanted to convert the indifferent and to turn those who feel interested into collaborators. This would not be necessary if the end of all questioning could be reached merely by indicating the guiding lines of policy. Let our Dutch reader himself meditate upon these questions, and may he feel it a duty to bring his own contribution to their solution in accordance with his conviction, his knowledge, and his experience. Every honest opinion is welcome, even if it is not altogether complimentary to what has been achieved and is being planned.

In more than one respect, may be, it will not be possible to approve of the methods of the authorities. The reader may have wondered sometimes whether it was justifiable to outline the whole policy of the authorities in the Dutch East Indies against the background of synthesis. But on the other hand the reader cannot have failed to recognise the high quality of this policy, which is really a policy of synthesis, and he will have learned to discern the difficulties that belong to a period of transition and often make it impossible immediately to achieve aims that can only be pursued gradually. If in any direction the lines followed do not seem to coincide with the guiding lines of synthesis, let it be remembered that perfect synthesis is a thing of the future and has as yet been nowhere achieved. If it were otherwise, there would be no reason for this and hundreds of other works to be written.

Colonial policy is still moving among rocks, shallows, and ra-

pids, and the course it steers has still often to deviate temporarily from the guiding lines of the future. It was all the more necessary to define these lines clearly in the first volume, in order to make it possible to find one's way again and again in the midst of the obstacles of practice. Only in this way was it possible to emphasise the notion that the present, with all its imperfections, is nevertheless preparing a better future, and this image, with the present day government activity in the foreground and the synthesis of the future in the background, gives us suddenly the perspective in which the activating inspiration of the spectator introduces, as a fourth dimension, the movement in which the real motive and appeal of this work is to be found.

That is why the framework of the ideas in which this outline of government activity in the Dutch East Indies is enclosed could not be made too wide nor the perspective piercing into the promising background of the future too deep. It is only when one can see the task of Holland as part of a world task, working together with other nations in the service of the reconciliation of societies and cultures of so different a nature, that one can focus one's vision upon the great events taking place before our eyes. Then only will one find in the inventory of governmental measures given in this volume the starting point indicated by practice.

Those who are penetrated by the titanic nature of our own epoch are seized by a feeling of eternity and infinity. Two worlds are being revealed to one another. And this revelation may be a mutual blessing. Much, if not everything, depends on clear understanding on either side. The twentieth century may turn out to be the century of more destructive clashes than the world has ever seen; it may, on the other hand, introduce an era of world co-operation, such as has never been witnessed before. It is remarkable that the problem of East and West in general, and the key to its solution, which can be found in the colonial world, is still so seldom drawn into the orbit of internationalism and world peace. No doubt all countries and all colonies are now being covered by international care of certain interests and by the struggle against definite evils, but this incidental interference does not cover the problem of East and West as such. We observe with great satisfaction how the idea of the League of Nations and of Peace is gaining ground in Holland, and how the nation is preparing itself

morally for membership of a living community of nations in the future. The greatest interest in this idea can be observed, and a growing band of enthusiastic collaborators is revealing a high organising ability. Nevertheless, within the wide frame of this and of many other endeavours in Holland, one would like to detect an effort more consciously directed towards this special sphere entrusted by world history to Dutch leadership. Holland must bring to the world more than the contribution of its eleven provinces. It must also set the millions overseas upon the good road, and we can now see clearly what is necessary for the performance of this task.

It is necessary in the first place that we should prove the truth and the practical possibility of these great ideas in our own sphere. A truly gigantic task has to be performed within the Commonwealth of the Netherlands; the creation of a living, organic community of nations, the number of people in which has already reached the seventy million figure. It must be remembered that, if the idea of the League of Nations must pass through serious crises in the future, if world peace at any time runs serious risks, the danger spots are to be found mainly along the line of contact of East and West, in the colonial world also.

Those who contribute to creating a better understanding of the problem of East and West, those who are girding up their loins in support of true leadership in the colonial world during its difficult progress, can better serve the noble cause of the League of Nations and of Peace than they could have done, now and for many years to come, by any other kind of work. This truth, which is so self-evident that it could be gainsaid by no one, should sound like a call of special urgency to the good Hollander and to the members of the Indonesian élite. It lies with them to prove, not only by words but also by deeds, that East and West will not let themselves be separated by imaginary unbridgeable chasms, and can already work together in fruitful collaboration.

All the more is it our bounden duty to succeed in this task, because success will provide the whole world with a demonstration of overwhelming significance. As Hollanders, therefore, we scarcely have the right to allow our national attention to be distracted by any other subject, for the practical realisation of the most lofty ideals of humanity can from the present moment be embodied in

our overseas statesmanship. The world will expect this of us and is entitled to expect it. Let us demonstrate our zeal for the good cause in the field allotted to us by a higher ordination. For this field is in greater need of our zeal than any other available to us as individuals or as a nation. If we fail to answer the call, it will not be a question merely of success or otherwise. There will be miserable failure, the destruction of the building put up in the course of centuries, causing immeasurable suffering overseas as well as in the mother country. This would be a wretched, but not an undeserved, fate.

The times are serious. Let us not, in the security of external quiet and prosperity, lull ourselves to sleep. The spirit of synthesis is claiming the whole nation while no burning enthusiasm yet surges forward in this great cause. There is not yet in all layers of the nation a satisfactory amount of interest, although it is true that an enormous improvement in this respect must be acknowledged. The whole nation should now be further educated to realise its heavy responsibility, and its leaders must wrestle in order to serve knowledge, understanding, and, above all, truth.

If only colonial wisdom could be summed up in a few seductive and easily remembered phrases, this struggle for knowledge and understanding would be superfluous. Unhappily, a conception which seems only able to express the task of leadership in the form of proposals, every single one of which amounts to a premature weakening of authority, leads as speedily to the abyss as a conception which has no eye for the reasonableness of Eastern aspirations called into being by ourselves.

Like every other wisdom, colonial wisdom treads the golden middle way. It consists in indulgence as well as in justice, it is easy-going as well as inexorable, patient as well as bustling, confident as well as vigilant. It differentiates according to needs while it aims at unity, it has idealism and a sense of reality. It is only through respect for truth, by eschewing all untruthful partisan cries, that the right choice in these difficult dilemmas will be achieved.

The Dutch nation is eminently equipped for the performance of its share in the world's task. It owes, to its situation between more powerful nations, to its centuries of struggle for its own square foot of ground against the threatening elements of nature

and of world policy, the special blend of characteristics one only learns to distinguish after a long sojourn abroad; qualities which seem to have predestined this nation for a labour that requires, above all things, patience allied to doggedness, cautiousness allied to energy, thoroughness allied to a familiar and easy-going manner, idealism as well as matter-of-factness, and a critical sense joined with tolerance. As long as these qualities, acquired by our ancestors in the course of their struggles, are held in honour, as long as we know how to beware of impulsive sentiment, of neglect of our vigilance, prudence, objectiveness, and sense of responsibility, the Indonesian and East Indian society that is growing up overseas cannot look for a better leader and partner.

This is all the more a matter for rejoicing, as the Indonesian population as well as other groups such as the Europeans and the Chinese, which, notwithstanding the fact that numerically they are only 2% of the whole population, are nevertheless of fundamental importance to East Indian society and are bound to remain so, will still require for many a year the wisdom and statesmanship of the Dutch nation. The Dutch are not only bound in duty to further the spiritual and material prosperity of the Indonesians; they must also give their full attention to the equally reasonable interests of other groups which must together form, within an appreciable period, an organically connected East Indian society.

We have not discussed these groups in the course of this work because it has been devoted to Indonesian society. Let not our silence be explained as a denial of the significance and of the righteous interests of other groups in the frame of East Indian society. Dutch leadership is watchful of their interests. And it is to these groups that leadership addresses itself, grateful for the things which they have made possible, calling upon them to embody the growth of an organic and united East Indian society in unanimous co-operation with other groups and with the leadership.

It is in this manner that we perceive the call made upon the leadership of the Dutch nation in ever widening circles, starting from the smallest dessas, popular institutions, social and economic nuclei of Indonesian society, and above all these by the large groups of population of the East Indian society that is in process

of being born. This call is addressed to the wisdom and devotion of the Dutch nation, to its will to lead this evolution still higher and, more than anything else, to direct its activity towards the overseas field of labour. This concentration of Dutch thought upon the Greater Netherlands is an urgent necessity.

We are preparing to be good members of the community of nations, but we must first of all or at the same time prepare ourselves for membership of an organic Commonwealth connection. What would one say of a preacher who, standing on the porch of his house, entertained the crowd with words concerning the beauty of peace and harmony while noises of discord and quarrelling are issuing from his house? Let this image open our eyes to the interests of the wider circle that envelops the concentric circles from dessa to greater East India and even to the Greater Netherlands Commonwealth.

Too little interest is still displayed in this larger circle, although interest is nowadays rapidly growing. Some people however talk of what they call a policy of liquidation and would already seem to have abolished this circle of an organic Commonwealth connection. It is deeply humiliating to hear eminent Indonesians in our time pleading for this Commonwealth connection, while some Dutchmen feel called upon to undermine it as though it were a bankrupt stock without spiritual and moral value. How infinitely more difficult must it become for members of the Indonesian élite to follow the right path when members of the nation entrusted with leadership use terms which reveal a world of misunderstanding and lack of insight whenever they talk of our great calling.

Why not continue more thoroughly in the spirit of this mechanistic conception of life? Why not also identify the devotion we consecrate to the spiritual and physical well being and growth of our children with the liquidation of the family? Let us ruthlessly persecute the use of this expression; it soils the noblest call that has ever been entrusted to a nation. The best of the Indonesian leaders, who have something more at their disposal than mere battle-cries and programmes, are already experiencing the inspiration of the Greater Netherlands idea, and to hear Dutch people rejecting the idea is, to them, a chilling disappointment.

What is taking place under our eyes is neither liquidation nor consolidation, but the preparation within Indonesian small com-

munities, ethnical units, the Indonesian society and the united East Indian society of an organic Commonwealth connection which may one day, at the end of an extremely difficult period of transition, take the place of the state connection of to-day, which can still be described as mechanical. Under the present system Holland is still holding three overseas territories with wide stretched arms. Such a connection is based upon a situation which, though not perpetuated by arms, is nevertheless imposed by power, and this is why it must be called mechanical. The universal development which this mechanical connection has made possible unfolds greater social, economic, and political possibilities in the overseas population. At the same time, it also calls into being aspirations towards an activity on a larger scale and in ever-widening circles that will one day coincide with the Greater Netherlands and finally with the world community.

Before the Great East Indian unity has been achieved, an immense widening process has still to be completed. The formation of small Indonesian nations is perhaps an excellent phase of transition and should not be hampered under any circumstances. It may be asked, however, whether this development is possible in view of the fact that the culture owned by these potential small nations is perhaps not as deep as the many-sided influences of our period which are everywhere simultaneously penetrating these circles. Circumstances are at present much less favourable to the formation of nations than was the case in Europe about the end of the middle ages. In any case, this process of widening from village to Greater East India, through whatever phases it may have to pass, is offering an incomparable field of activity to the Indonesian élite. Many of them may still refuse the labour thus offered. And once the clamour round the orator's tribune has died away, the spirit of synthesis will come and demand of these squanderers an account of the good gifts with which they have been entrusted, and will make them realise in the course of their remorse over a useless life that he who abjures the idea of synthesis also abjures his own cause.

Holland itself has long passed the stage of struggles between conflicting particularisms. The idea of the Commonwealth which envelops even the overseas territories has become a living possession for many people in the mother country and for all those over-

seas. It must become a living possession for all Dutch people. This is not yet the case, and it is for that reason that there is a certain estrangement between Netherlanders overseas who are attached to the Commonwealth connection and many of those in the mother country who still remain within the spiritual frame of the eleven provinces. The Indonesian traveller also who comes to Holland is still not sufficiently struck by traces of a greater motherland where he will meet with the warm reception to which he is entitled is his own home. He must in future be made to feel to a higher degree that he is among fellow countrymen.

It is thus that the idea of synthesis demands that we should prepare the positive and organic Greater Netherlands citizenship, which implies a widening of the horizon in Holland as well as in the East Indies. Let it be well understood that the organic Kingdom makes not only mechanical demands. It requires sacrifices, a new organisation of our political life, of our parties, of science, of associations; it demands consciousness of the Greater Netherlands idea in larger circles. It requires changes in the curriculum of our schools which instil a knowledge of the cultures of Israel, Greece, and Rome, but usually stop short of the great Oriental cultures which have fertilised Indonesian civilisation; while they also fight shy of the history, culture, and languages of the Dutch East Indies.

We must begin to train for membership of the organic Greater Netherlands. A good basis has already been laid since 1900 by the work of many interested people, of associations, universities, reviews, exhibitions and journals. The wishes we are expressing here should not be interpreted as a lack of appreciation of the devotion that has already been displayed. It deserves to be all the more honoured because it has enabled us, so far, to keep pace fairly well with events. But the pace is now being hastened, and the national concentration of strength must therefore increase. In a few years' time not a single town in Holland should be without its centre for preparing and inspiring this Greater Netherlands idea; no school ought to neglect the teaching of this idea with all it implies. Let it permeate all our education, especially secondary and higher education. And may the leading minds of Holland take these views to heart. The performance of our task, the future of the Indies and of ourselves are most intimately connected with it.

Any compatriot to whom this book has conveyed the call must immediately begin to take part in the unfolding of the Greater Netherlands idea with direct propaganda for the field of labour overseas. In this manner the most varied associations can find an ample task; artists, statesmen, savants, technicians and organisers can experience a great inspiration. We must train ourselves for a more active citizenship of the present and future Greater Netherlands, and in this manner our own national life will be inestimably enriched. As soon as a mighty aim moves the soul of a nation, its fructified womb produces great statesmen, thinkers, savants, poets, painters, musicians, inventors, and organisers in numbers, and with a capacity and an inspiration that have no precedent. This is the power of an idea, which has been manifested often before in the history of nations.

This is how the East Indies call to the bearers of the real Spirit of the West in Holland. By enriching our national energy and culture and in many other ways it will reward Holland in the future for all it offers. In the wide frame of the Kingdom which may soon be equally cherished by both portions, East and West will be inestimably useful to one another in the collective construction of an organic relationship, and, we may hope, they will give to hundreds of millions of Occidentals and Orientals beyond our frontiers a convincing and fruitful example which will be eminently useful to the League of Nations and to Peace. Let the Dutch nation, therefore, by giving its very best to the task overseas and by making its national spirit serve the good cause of co-operation between East and West, prove that it is the worthy successor to an honourable past.

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