

QUESTIONS · OF · THE · DAY
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The
Congo

A Report of the Commission of Inquiry



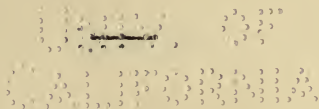
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THE CONGO

Belgium Commission

A REPORT OF
THE COMMISSION OF ENQUIRY
APPOINTED BY
THE CONGO FREE STATE GOVERNMENT

A TRANSLATION



G. P. PUTNAM'S SONS
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SIRE,

We have the honour to lay before Your Majesty the Report which the Commission appointed to investigate the State territories, submitted to the Government on the 30th of October, 1905.

This Report is also referred to the Governor General for examination.

We have, in addition, the honour to suggest that Your Majesty name a Commission to study the various suggestions made by the Commission of Enquiry. If Your Majesty accepts our proposition, we beg that you will affix your signature to the accompanying Decree naming the members of the Commission.

We are, with the most profound respect;

Sire,

Your Majesty's

Most humble, obedient and faithful

Servants and Subjects

CHEVALIER DE CUVELIER,

H. DROOGMANS,

LIEBRECHTS.

BRUSSELS, October the 31st, 1905.

REPORT OF THE ENQUIRY COMMISSION

INTRODUCTORY

TO THE SECRETARY OF STATE
OF THE CONGO FREE STATE.

Mr. Secretary of State:

In obedience to the instructions contained in Article 5 of the Decree of July 23, 1904, we have the honour to submit to you a Report upon the results of the enquiry that we conducted in the Congo.

We had for our mission to "See if, in certain parts of the territory, the natives were subjected to ill treatment either by private individuals or by State Agents, to point out practical means of betterment and to formulate, in case the enquiry reveals such abuses, suggestions as to the best means of putting an end to the same, having in view the welfare of the inhabitants and the good government of the territories."

To aid in accomplishing this, the powers bestowed upon the State Attorney were conferred upon us. In accordance with the first Article of

the Decree referred to above, we were to conduct this enquiry in conformity with the instructions of the Secretary of State. In your dispatch of Sept. 5, 1904, you informed us that "The Government had no other instructions to give the Commission than to devote all its efforts to the complete and entire discovery of the truth. It intends to leave the Commission, with this in view, its complete liberty, its individuality, and its initiative. The Government will depart from this principle of non-intervention in one respect only, that is, to give to its officials and agents of all rank formal and explicit orders to give to the Commission assistance and co-operation without reserve in order to help it in the accomplishment of its task." You added: "The Decree of July 23, 1904, in conferring upon the members of the Commission the powers attributed by law to the State Attorney, gave to it without limit the authority to receive testimony of all sorts; the Government ascribes to the Commission no limit at all, neither as to the fields of its investigation, nor as to the duration of its appointment, and the legislative provisions have been made to ensure sincerity and security to all witnesses who may appear before the Commission."

You made allusion to the Decree of July 15, 1904, which allowed the State Attorney to compel unwilling witnesses to appear before the Commission and made applicable the penalties prescribed by Articles 50 and 51 of the Code to any case where

the witnesses might be persecuted because of their testimony.

The Commission left Antwerp the 15th day of September, 1904, and arrived at Boma on October 5th, 1904.

On the following morning the Governor General addressed to all the chiefs of service, territorial governors, commandants and other officials as well as State Agents a copy of your dispatch of September 5th, adding a circular from which we make the following extracts:

“Obedient to the assurances which have been given to this Commission, I command our officials and agents, to whatever service they may belong and whatever may be their rank, to give to the Commission without reserve all possible assistance, not only in regard to material things, but also to afford it their most efficient co-operation in everything connected with the task which has been confided to it.

“The Government, in its great desire to see the Commission test the accuracy of the charges which have been made in regard to acts of ill-treatment to which the natives have been subjected, has given to the Commission the widest authority for investigation and research. Not only will all the officials and all the State Agents whom the Commission may judge necessary to hear be expected to appear and testify before it, but they must respond to all requisitions which it may make in the matter of the submission of all administrative and judicial documents concerning the object of its mission and which it may think useful

for its information. They have the authority which the law grants, in general, to the State Attorney: right of visiting, of search, of seizure, of demands for interpreters, translators, physicians and experts, of calls upon the constabulary, of arrest and detention, without being molested or hindered, and all of our officials and agents shall accord to it the most energetic and efficient assistance."

Again, the Prosecuting Attorney, upon the request of the Governor General, addressed to his deputies a circular in which he gave them instructions to see to it that all acts of subornation or attempts at suborning of witnesses be immediately suppressed, also that no damage be permitted to their person or their property.

We hasten to say that these instructions were literally followed.

During our entire stay in the Congo, we received at the hands of all officials and State Agents, as well as from commercial agents and missionaries of all creeds, the fullest co-operation. All the documents which the Commission deemed necessary to consult in order to arrive at the discovery of truth, such as reports of a political character, administrative or judicial reports, copies of letters, and private correspondence, were upon our request immediately furnished and in many instances volunteered without it being necessary in a single instance to resort to the use of the authority conferred upon us.

The Commission remained in Boma from the 5th

until the 23rd of October. While there it heard many witnesses, judges, officials, missionaries, residing in Boma or during their passage through that locality.

It made many demands upon the local government for information; it addressed to all the deputies of the Prosecuting Attorney a series of questions in regard to such ill treatment of the natives as had come to their knowledge, and the results of such persecutions, the tax in kind, the amount of enforced labour demanded of each native and the means employed for enforcing the demand, the application of the decree of November the 18th, 1903, in regard to levies, the remuneration paid to the natives, military expeditions, the system of forest guards, the obedience to the law in the matter of firearms, the employment of soldiers and labourers. We also asked, in a general way, that the deputies point out to us any facts that could be of service to us in the accomplishment of our mission.

We visited the school colony, the prison, the hospital for the blacks, the soldier camps and the village of workmen.

The Commission went at once to Matadi where sessions were held on October 24th; on the 26th it visited the mission of Kisantu and from the afternoon of the 26th to October the 31st it remained in Leopoldville where it sat daily.

On the first of November the members embarked, and ascending the river, stopped at Tshumbiri, at

Nopolenge-Bolobo, where they remained from the 7th to the 12th of November to hear the natives who had come from Lake Leopold II, at Lukolela Mission, Lukolela plantation, and at Irebu. The Commission then visited Bikoro, sitting November 20th, and Ikoko where it remained in session on the 18th, 19th, 21st and 22nd of November.

After that the Commission went to Coquilhatville, remaining six days, from the 25th to the 30th of November. During the sojourn at Coquilhatville, the members visited the missions of Bamania and of Bolengi. On December 1st, it left for Lulonga and Abir, sailed up the Lulonga river and its tributaries the Lopor and the Mirangi. In this vicinity sessions were held at Lulonga, Baringa, Bongandanga, Basankusu, Ikau, Bonginda, and Mampoko.

Likewise an investigation was made in the village of Wala near Lulonga and in the towns of Boieka and Bokotola in the Bonginda region. Upon leaving Lulonga, January the 5th, the Commission visited in succession Monsembe, New Antwerp, Upoto, Lisala, Basaka, La Romée, Yakusu and Stanleyville.

Leaving the last named place on January 26th, Boma was reached on February 13th where various matters occupied the attention of the Commission up to the 21st of February, the date of departure for Europe.

The Commission received while in Congo the

statements of judges, officials, directors and agents of companies, of missionaries, both Protestant and Catholic, and especially of natives.

In general, it held two sessions a day, in the morning from eight o'clock until noon, and in the afternoon from three o'clock until seven o'clock. In this way during the course of its stay it was able to hear and record the testimony of several hundred witnesses. It heard all who presented themselves to make complaints or to furnish information; it likewise summoned all people who were thought able to furnish light. In all the posts and in all the villages where the necessities of the journey, the need of food or wood compelled them to stop, the salaried workmen, and the natives of the villages were questioned and a record was made of all statements of interest.

Whenever it was possible, the adjoining villages were visited, where audiences were held and at each of these visits, made without escort, the population were permitted to freely speak to the members of the Commission, who were always accompanied by their interpreters.

The Commission visited the hospitals, the prisons, the schools, colonies, the missions and their schools, the dormitories, plantations, etc.

The Commission desires to state that from the 1st of November, the date of its departure for the Upper Congo, all of the sessions were public. This decision was reached after having carefully balanced

the advantages and inconveniences of public sittings. If, on the one hand, this publicity could have the effect of hindering, in certain cases, the investigation or the revealment of truth, on the other hand there is no doubt but that it gave credence to the statements of the Commission.

The testimony of the natives was translated by black interpreters who knew, in addition to their own dialect, the principal commercial language of the country.¹ During our long enquiry in the Equatorial district we had the good fortune, somewhat rare it seems, to have at our disposal a young black who spoke French and the peculiar language of the country, the Mongo. The accuracy of the translation made by these interpreters could be controlled by the missionaries and the agents of the companies or of the State who happened to be present.

The statements of the Protestant missionaries, with three exceptions, were made in English. They were dictated by the President, after the translation made of them by the Secretary. This made it possible for each witness to read in written form his own testimony. In addition, the minutes were given, as far as possible, to those immediately interested to make sure that their thoughts were accurately stated.

In every instance the witness before signing his testimony saw the corrections made which he desired should be introduced. Whenever it was

¹ Fiotte, Bangala and Kiswaheli.

deemed desirable the testimony given in French was translated into English to enable those present to make such observations as they might desire.

The visitors were invited to address to the President of the Commission such questions as they wished asked, or to make of their own accord any remarks regarding the subject under investigation.

Only in exceptional cases, when the questions or observations seemed irrelevant, were they omitted from the record. The enquiry, therefore offers every possible guarantee since it was not only public but, as far as possible, permitted cross-examination.

Although we had as our mission the investigation of the ill-treatment by the agents of which the natives might complain, and to verify the evils, still we did not think we would be prohibited from pointing out, in passing, the good which attracted our attention. Let us say at once, while on the voyage to the Congo, the comparison between the former conditions, known by the reports of explorers, and the present conditions created an impression of surprise and admiration.

In these regions which twenty years ago were still plunged in the most frightful barbarism and which had been crossed by only a few whites at the cost of superhuman efforts, met at every moment by the arrows of hostile people; in these districts where the tribes decimated by the raids of Arabian slave dealers fought each other without cessation and without mercy, where one encountered at every

step the markets of human flesh where the buyers designated on the body of the victim the part which they coveted; where the funerals of the village chiefs were celebrated by the hecatomb of slaves whom they strangled and the wives and women who were buried alive — in this dark and mysterious continent the State has been constituted and organised with marvellous rapidity, introducing into the heart of Africa the benefits of civilisation.

Today security reigns in this territory. Most everywhere the white who has not intimated hostile intentions can journey without escort and without arms. The slave trade has disappeared, cannibalism has been practically suppressed, pushed back, or is in hiding and sacrifices of human beings are rare. The villages, which call to mind our attractive sea-side towns, are numerous along the banks of the great river, and the two terminals of the Lower Congo Railway, Matadi, where the ocean steamers arrive, and Leopoldville, the great river-port with its activity and its warehouses, remind one of the industrial cities of Europe. The rural lines of Mayumbe, the railway of the Cataracts built in the most hilly regions, that of the Great Lakes, carried to the heart of the equatorial belt, the 24 steamers which float upon the Congo and its tributaries, the regular service of the postal communication, the telegraph lines that amount to 1200 kilometres, the hospitals established in the principal places, all of these things born of yesterday, give

travellers the impression that they are in a country which has long enjoyed the blessings of European civilisation, and not in one which but a quarter of a century ago was totally unknown and savage. It makes one wonder what magic power or firm will, aided by heroic efforts, was able to so change a country in such a short time.

This impression became still more marked when one saw the operations of the government of the young State. With a limited number of officials, the State has solved the difficult problem of occupying and administering in an effective manner its vast territory. Thanks to the judicious distribution of its posts, it has been able to come into contact with practically the entire native population, and rare indeed are the villages which fail to recognise today the authority of "Boula Matari." With all of these posts, distant as well as near, the Government at Boma is in constant and regular communication. It is the centre to which information comes from all parts of the country and from which they emanate. The periodic reports thus received enable it to profit at once from the experience of its two thousand agents. On its part, it lets its directing force be felt. Through the instructions which it continually sends out to territorial governors, it, profiting by the ensemble of ideas received, announces a programme to be followed by all officials of all ranks. This unity of direction one sees everywhere. The central machinery of Congolese

organisation moves with rapidity and precision, without cessation and without shock.

The administration of justice is deserving of praise. Its finest title to glory is the popularity which the magistracy enjoys amongst the coloured people.

Neither should one forget the considerable work accomplished at the same time by the missionaries of all creeds. With their comfortable quarters, their chapels, schools, cultivated fields, and shops they have made in many localities an important step towards civilisation.

But this striking impression did not cause the Commission to lose sight of the special purpose of its mission.

As we have said, it received all complaints, it even invited them and most carefully investigated all the evils of which the natives could suffer. Witnesses were not lacking. The rumour of the arrival of the Commission was spread amongst the blacks with surprising rapidity. They had complete confidence in the "Great Judges come from Europe" to hear their troubles. Entire villages came to us to make known their complaints or their hopes and some witnesses made long journeys to appear before us.

We saw, it is true, only a part of the immense territory of the State. But one must not imagine that our field of enquiry was limited to the regions through which we passed. The information re-

ceived by the Commission regarding the districts not visited was sufficient to enable it to form a definite opinion as to conditions in all parts of the State, even if it could not investigate all the details. For, however widely extended might be the sources of testimony, it could not, in the estimation of the Commission, be either the most important or the most reliable sort of information. In fact, the legal briefs of cases, the political reports, official correspondence, reports of judges, copies of letters of the commercial companies and administrative reports furnished the Commission material of greater value in reaching a conclusion than the testimony of many witnesses.

One entire class of witnesses, the blacks, in spite of our efforts to convince them to the contrary, was positive that the suppression of certain taxes, especially the rubber tax, rested upon the results of our enquiry and, consequently, upon their testimony. We should add that the black of the Congo has not the same notion of truth that we have — we do not mean to say that he is a liar, that would be a gratuitous insult to him. Truth in the eyes of a native is not what is or has been, but what ought to be, what he wishes, what he thinks one wishes or what is expected of him. More than that, he has only a very vague notion of time and is totally incapable of localising the events of the past. He has no exact conception of number and commits the most astonishing errors each time that one asks of him

a precise figure. After a certain time, in the best of faith, he confounds the deeds of which he was a witness with those of which he has heard others speak. Great caution and unceasing patience are necessary in extracting from his testimony the exact truth.

We cannot think of transcribing in this report the hundreds of depositions that we have collected, or even make an abstract of them. Without speaking of the development which our work would assume, considerations of the greatest importance prevented the adoption of that mode of procedure. In fact the most painstaking investigation did not enable the Commission to throw light upon some facts to which our attention was called. Many of these were of ancient origin so that it was impossible to verify them. In other cases the persons said to be responsible were dead or had left the country for Europe.

The publicity which might some day be given to our Report might be the cause of an irreparable prejudice in the case of some persons specifically accused, for they could not present themselves to explain the charges or defend themselves.

Moreover, the commission did not consider that the purpose of its enquiry was to fix personal responsibility, but it thought it was its duty to examine the condition of the natives rather than individual facts, and therefore it restricted its examination to those abuses which were general in their

character. In such instances it investigated the causes and, when possible, the remedies.

Consequently when, in the course of its enquiry, it discovered facts which constituted infraction of the law and might lead to judicial condemnation, it investigated them chiefly for the purpose of forming a general opinion. Certain facts of this sort which demanded prompt repression were reported to the local authorities, who with the assistance thus given will fix the personal responsibility and bring to trial those who were culpable.

It is easily seen that we could not enter into details that concern the department of justice which alone is competent to pronounce a final judgment.

Furthermore the Commission states that in conformity with the decree that called it into existence, it has limited its enquiry to the interests of the natives and that it disregarded and will disregard everything that concerns the Europeans residing in the State.

Under these conditions we think we have followed in the outline of the results of our investigation the only method that was possible. Without stopping too long with individual facts, we have grouped the abuses discovered or pointed out to us under as many headings, attaching in this way to each effect the cause, real or supposed. We can say that we have included all of the important elements that our enquiry furnished.

This logical classification of the topics to be dis-

cussed will permit us to study in succession the different criticisms which have been formulated and, in the case of abuses which we have confirmed, to indicate the remedy.

The criticisms relate principally to:

1. Legislation in regard to land and the freedom of trade.
2. The system of imposed labour and the abuse which results from the exercise of compulsion.
3. Military expeditions, holding of hostages, ill treatment, mutilation, etc.
4. The system of concessions.
5. Depopulation, its causes.
6. Guardianship assumed by the State or by Catholic missions over abandoned children.
7. The recruiting of soldiers and labourers.
8. The administration of justice.

CHAPTER I

THE LAND RÉGIME AND THE FREEDOM OF TRADE

AT the time of the formation of the Free State, with the exception of a few acres belonging to commercial houses at the mouths of the river or at Boma, there existed in the Congo no private property in the sense in which the term is used in European jurisprudence and the present Civil Code of the State. The many communities, under the authority of their chiefs, lived upon a vast territory belonging to the State without having cultivated more than a very small part of the same, but they made use of, in a certain measure, the surrounding lands.

One of the first cares of the State, a most natural care, was to fix at least in its essential lines, the question of land tenure. It validated, with due regard to certain formalities, the rights of private property acquired by some commercial houses and declared by statute that the vacant lands belonged to the State, while the land occupied by the natives should continue to be subject to local customs and usages.

Article 2 of the Ordinance of July 1, 1885, was in fact: "No one has the right to occupy without title

the vacant lands, nor dispossess the natives of the land which they occupy; the vacant lands are to be regarded as belonging to the State."

And Article 2 of the Decree of September 17, 1886, says: "The lands occupied by the native population, under the authority of their chiefs, shall continue to be governed by the local customs and usages. Contracts made with the natives for the acquisition or leasing of land will not be recognised by the State nor admitted to record until after having been approved by the General Administrator of the Congo."

The Commission does not intend to dispute the legality of the appropriation of vacant lands by the State. The principle according to which vacant lands belong to a State is, in fact, admitted by all codes and, in the region recognised as the Congo basin, it is observed by other governments than the Free State. But the effect of the application of the land laws upon the native population depends altogether on the meaning that should be attached to the words *occupied lands*, and *vacant lands*, and if the State wishes that the principle of state appropriation of vacant lands be not abused, it ought to warn its officials and agents against a too strict interpretation of the definition as well as an excessively rigorous application of the principle.

The law of the Free State has never defined what should be understood as "land occupied by the natives" and the courts of the State have never had

occasion to pass upon this question. In the absence of a legal definition, it seems to have been generally admitted in the Congo that one should consider as occupied by the natives only those parts of the territory that are included within their villages or under their cultivation.

It has also been asserted that on the lands thus occupied, the natives must make the same use of the ground that they made of it before the organisation of the State.

This interpretation rests upon the Decrees of December 5, 1892, and August 9, 1893, and also upon the discussion of the system of landholding which appeared in *Bulletin Officiel* of 1893, page 208.¹

As the greater part of the land in the Congo has never been under cultivation, this interpretation gives to the State a proprietary right absolute and exclusive, to almost all of the lands, and as a consequence, it can grant to itself all the products of the soil and prosecute as robbers those who gather the

¹ The Decree of December 5, 1892, provided for an enquiry for the purpose of determining the rights of the natives in the matter of exploiting rubber and other forest products in the Upper Congo, rights that were acquired *prior to the promulgation of the ordinance of July 1, 1885*.

The Decree of August 9, 1893, provides that when native villages are found established upon territory transferred or leased by the State, the inhabitants may extend their cultivation so long as the official survey has not been made.

The statement in the *Bulletin* of 1893 speaks of the right of occupation which exists to the profit of the native population of lands *actually* occupied or exploited by them.

smallest fruit, and as accomplices those who buy the same. It could prohibit any one from locating upon any portion of the greater part of the State; restrict the activities of the natives to a limited space; and hamper their economic condition. This principle applied abusively would oppose all evolution in the life of the native.

It thus happens, sometimes, that not only have the natives been prohibited from moving their villages, but they have been refused permission to go, even for a time, to a neighboring village without a special permit. The native, moving to another village without being provided with the requisite authority, makes himself liable to arrest, and occasionally is subjected to punishment.

Certain agents have thought they found justification for this prohibition in the property rights: can not ownership of lands, whenever it pleases, give the right to forbid a third party to cross them or settle upon them?

We hasten to add that in reality no one has shown himself so rigid. Practically everywhere the enjoyment of the public domain has been given to the natives for the gathering of certain products, notably the palm nut, one of the most important articles of export in the Lower Congo.¹

But this is only a simple sufferance, revocable at

¹ In certain regions fixed by the Decree of October 30, 1892, the State granted to private individuals the exclusive right to exploit rubber, but in the majority of cases, this disposition has not been utilised by the natives, as we shall show later.

any time, so that the natives, so to speak, are at the mercy of the local authorities or the companies holding the concessions who can, whenever they wish, by a strict application of the incontrovertible law, create a crying abuse.

It follows from the statement which precedes that the State could perform a wise and useful service in developing the system of landholding by giving to the laws of July 1, 1885, and of September 17, 1886, which insure to the natives the enjoyment of the lands held under the authority of their chiefs, a broad and liberal interpretation, conformable, undoubtedly, with the spirit which dictated them.

The Commission takes note of the considerable work made necessary by the delimitation, throughout the entire country, of the vast tracts occupied, under this system, by the natives.

While waiting for the completion of this work, the Commission feels itself able to suggest a provisional solution which will be, in its opinion, just and practicable.

It would be sufficient to abandon to the natives the enjoyment of the land surrounding their huts and of their fields and to allow them to freely dispose of the products of their lands, selling such as could be marketed.

It is, in a word, the system adopted by the French Government, which reserves to the natives "besides the villages occupied by them, the fields,

pasture lands or forests, the boundaries of which have been established by the Governor.”¹

The Commission does not think that the concessions granted by the State or the leases made by it which, in any case, could be made only with a reservation of the rights of the natives, could constitute an obstacle to a just delimitation of the lands belonging to them, for we only ask, in a word, for the interpretation and equitable application of the laws which confirmed to the natives the enjoyment of the lands occupied by them under the authority

¹ Article 10 of the general charter to all concessions in the French colonies states: “The company holding a concession can exercise the right to enjoy and exploit as granted under Article 1 only the territory outside of the villages occupied by the natives and the land under cultivation by them, their pastures or forests which are reserved for them. The boundary of these lands, in case of natives with fixed habitations, or the movable boundaries in case of the migratory tribes, will be determined by the Governor of the colony, who will likewise fix the limits of the land which will be reserved to the natives as hunting and fishing grounds. Land thus reserved for the natives cannot be ceded by them, either to a concession or a third party, without the authorisation of the Governor of the colony.

“In the case where, during the term of a concession, any changes in the boundaries are deemed necessary by the Governor, either because of the collective interests of the natives or the public interest of the colony, modifications can be made under the provisions of Article 8.

“The customs, habits, religion and tribal organisation of the natives should be rigorously respected. The agents of the concessions will report to the administration all acts contrary to humanity of which they may be witnesses.”

of their chiefs, laws which were anterior to all concessions and all leases.

The provisional solution which we propose will work no appreciable hardship upon the concessions and, on the other hand, the State is sufficiently strong to make them accept the rule which it will establish in its domain, for, as we shall see later, these companies can exist only under the favours granted by the State, independently of the rights bestowed in the act of concession itself.

FREEDOM OF TRADE

We will not examine the question of the freedom of trade in its relation to the Act of Berlin. Such a study would cause us to go beyond the boundaries which were established for us, and besides it is the subject of treatise and memorandum, the work of distinguished jurists, well known to all who are interested in this question.

Before the constitution of the State, the commercial activity of the natives of the Congo was restricted to the traffic in ivory and in slaves. These two trades no longer exist. The interdiction of the slave trade on the one part, the exhaustion of the supply of ivory and the law against the hunting of the elephant on the other hand, gave them their mortal blow.

Let us add that there is no native industry capable of supporting a trade of any importance. One finds

in most of the villages forgers, potters, and basket-makers. But the artisans work only to order and never make of the products an object of genuine traffic. There remains the product of the soil. Now we have just seen that the lands reserved to the natives have not been surveyed; besides the crude methods of cultivation barely meet the needs of the natives and the supplies of the stations, and all of the natural products of the land are considered as being the property of the State or of the companies holding the concessions.

Thus, although by law, freedom of trade is formally recognised, the merchantable products in many districts are lacking to the natives.

The multiplication of land laws which we have mentioned before, the further regulations which we shall formulate in the following are of a nature to change this state of affairs.

Trade would be considerably facilitated by the introduction throughout the State of money which is at present brought only partly into use in the Lower Congo. This is demanded by the State Agents, the merchants, the missionaries, and even by the blacks who have become acquainted with money. At present in the Upper Congo all payments made to the natives consist of merchandise whose value is fixed by the commercial companies. These objects (brass rods called *Mitakos*, goods, pearls, etc.) represent values widely different in different regions. More than that, they are greatly depre-

ciated in most of the native markets so that the black, compelled to accept this sort of money at its nominal value in exchange for all of the products which he brings to the State or the companies, is often injured.

On the other hand, the traders have no interest in giving their European goods in return for articles of a value which is variable and altogether fictitious, and which likewise could not be exported without great loss.

We are not ignorant of the difficulty which could result from a change in the methods to which we have referred, but we can not refrain from advising the Government to extend gradually the payment in cash.

CHAPTER II

TAXATION

THE greater part of the criticisms directed against the State is connected more or less directly with the question of taxation, and especially a tax payable in labour, the only one which affects the native.

This is without doubt the most important and the most complex question and upon the solution of this problem depends the solution of the most of the others.

It is necessary, therefore, to examine first of all the principle of labour taxation and afterward its application.

JUSTIFICATION OF LABOUR TAXATION

All production, all commerce, all life in the Congo is only possible and will only endure by the aid of native labour. The white man, if he can become acclimated, can only with difficulty become able to endure the hard labour of the farmer and of the workman, and that too in a few favourable localities. On the other hand, the native by atavism and because of the conditions of the country has, in

general, no predilection for work. He does only what is absolutely necessary for his subsistence. The fertility of the soil, the breadth of territory, the small amount of labour which cultivation demands, the clemency of the climate, all reduce to a minimum the sum total of necessary efforts; a few branches and some leaves suffice to shelter him; he wears no clothing, or practically none; fishing, hunting, and some crude farming give him easily the little nourishment which he needs; his energy is only stimulated by the desire to procure weapons, ornaments, or a wife; but, the desire once satisfied, there is nothing to be done but to exist. He is happy in his idleness. One finds exceptions amongst the most advanced races, like those of Kasai who have more extensive wants to satisfy, and amongst peoples formerly under Arab rule. These have been during many generations obliged to work and have acquired that habit; but as a general rule the natives desire nothing more than to be left with their ancient existence; no desire can attract them to a labour of any consequence, or of a fixed duration.

From the beginning the Europeans who were installed in the Congo found themselves faced by the necessity to call upon the help of the natives and by the impossibility of obtaining it, at least in a constant or permanent way, through the regular course of supply and demand. It was only with the assistance of the crew of the Zanzibarites, continually re-

newed, that Stanley was able to trace the first path between Vivi and the pool and launch the first boat on the Upper Congo. All his efforts to obtain assistance of the natives were vain. It is only through the labour of the natives of Senegal and of Sierra Leone, paid in gold, that it was possible to build the railway around the Cataracts. But it is found that this system of relying upon foreign labour can only be exceptional; it is the country itself which ought to furnish manual labour necessary for its life and development. It is only, therefore, in making of labour a duty that one can educate the native to furnish regular service and obtain the aid necessary to give value to the country, exploit its natural wealth, to profit, in a word, from its resources. It is at this price only that one can cause the Congo to enter upon the movement towards modern civilisation, and snatch its population from the condition of bondage and barbarism in which they have rested until the present. This condition is, without doubt, the ideal of the present native, but it must be conceded that it can not be that of civilised people nor can it produce a hopeful future for the human race.

Now the only means at the disposal of the State by which the native can be made to work is the imposition of a tax in labour; and it is precisely in view of the necessity of assuring to the State the indispensable labour of native hands that a tax in labour is justifiable in the Congo. This tax, be-

sides, takes the place with the population of those restraining influences which, in civilised countries, are imposed by the conditions of life.

The principle by virtue of which the State demands of its citizens, in the public interests, not only a contribution in the shape of money or products, but also personal service — individual labour, is admitted by European codes. The obligation of military service weighs heavily upon almost the entire male population of Continental Europe, and the laws clearly recognise in certain cases that the State and even the communes have the right to call upon their citizens for personal labour on works of public interest. For still greater reasons, this tax should be regarded as legitimate in a young state where everything is to be created, in a new country without other resources than those which can be drawn from the native population.

Moreover, the labour tax is the only tax that is possible at the present time in the Congo, for the native, as a rule, has nothing beyond his hut, his weapons and the few plantations absolutely necessary for his subsistence. A tax implying a capital from which to pay it is impossible here. If therefore one grants to the Congo the same right to demand of its subjects such resources as are needed for its maintenance and development — a right enjoyed by all other countries — one must recognise its right to claim the one thing which its people can give, namely, a certain amount of labour.

It is true that a labour tax, as in the case of all taxes, should absorb only a small portion of the activities of the individual; it ought to supply simply the needs of the government, be in relation to the benefits which the contributors receive therefrom; it ought finally, as we propose, be in harmony as far as possible with the principle of individual liberty, and we believe that within these limits it cannot be criticised.

On the other hand, the obligation to work, if not excessive, and if it is imposed in an equitable and paternal manner, avoiding as far as possible, as we shall explain later, the use of force, will have the great merit of being the most efficient agency for civilisation and for the transformation of the native population.

In fact, the native left to himself, in spite of all the efforts to instruct him and improve his condition, will continue to live in the primitive state in which he existed for many centuries and from which he has no desire to part. One has an evident proof of this, even within the radius of influence of the missions both Catholic and Protestant; how many efforts, how many acts of devotion have been expended in vain!¹

¹ We ought to make an exception in the case of the regions in the Cataract District where the Reverend Mr. Bentley has been located for the past twenty-five years. It was pointed out to us that here the natives have made real progress; they have learned trades and built of their own initiative and at their own expense houses of brick and even a church.

Precept and example do not suffice. It is in spite of himself that the native in the beginning must be induced to throw off his natural indolence and improve his condition. A law, therefore, which imposes upon the native light and regular work is the only means of giving him the incentive to work; while it is an economic law, it is at the same time a humanitarian law. It does not lose the last named character because it imposes some compulsion upon the native. To civilise a race means to modify its economic and social condition, its intellectual and moral status; it is to extirpate its ideas, customs and habits and substitute in the place of those of which we disapprove the ideas, habits and customs which are akin to ours; it is, in a word, to assume the education of a people. All education which concerns a child or an inferior race necessarily inflicts a curtailment of liberty.

We do not deny that it will be very easy to abuse the principle in an intention purely economic and that the application of restraint in order to obtain the labour may result in excess. But this must be the task of wise laws that will avoid abuse by fixing clearly and definitely the limits of the tax and the means to be employed in obtaining it and in seeing to it rigidly and loyally that these limits are not exceeded.

THE SYSTEM PRIOR TO THE LAW OF
NOVEMBER 18, 1903

It must be conceded that legislation in regard to taxes was a difficult matter, one which called for a profound study of the conditions of the country. It was impossible that the State, in the first attempt, could solve the problem, and we do not think that it should be blamed for having at the beginning of its occupation and in regions as yet unexplored, allowed its agents, often isolated and surrounded by savages, to draw at their discretion from the surrounding country the supplies necessary for their maintenance and for the development of the first stations.

The Decree of October 6, 1891, clearly provided the prestation to be furnished by the chiefs who were commissioned by the State; a Decree of November 28, 1893, authorised the commandant of the forces in the Manyema to levy, by means of prestation, a part of the supplies necessary to cover the expenses occasioned by the suppression of the revolt of the Arabs, and to determine the character and value of the prestations to be furnished by each locality or native chief. The Decree of October 30, 1892 (Art. 7), obliged the natives or workmen gathering rubber in the territories above Stanley Pool where the gathering is authorised, to supply the State, as rent or tax, a quantity of products to be determined by the Governor General, but which

should not in any case exceed the fifth of the harvest. But these provisions are found in only special cases.

A Decree of the King-Sovereign under date of December 5, 1892 (not published in the *Bulletin Officiel*), instructs the Secretary of State "to take whatever steps he may deem necessary or practical to assure the exploitation of the private domain."

For a long time the administration thought it could draw upon its right to make prestations and also to delegate this right to companies, without in any way specifying the nature of the tax or the amount of the prestation nor even the means that could be employed to procure them; but from the day when the Court of Appeals at Boma incidentally, in pronouncing a decision in regard to repressive measures, expressed the opinion that, in the state of legislation, nothing could compel the natives to labour, the Government realised the necessity to adjust the matter. The Decree of November 18, 1903, was promulgated.¹

In a general way, it should be said, all that concerned the prescriptions and prestation in relation to the natives, was until recent years left to the discretion of the agents.

¹Decisions of the Court of Appeals of Boma, August 29, 1899: The State against Kasesa, and September 8, 1903: The State against Moketo and Olembo. The officials of the local government also called attention to this gap in the code.

Each chief of a post or factory demanded of the natives, without asking himself by what right, prestations of various sorts in the shape of labour and the products whether to meet his own needs or those of the post or aid in adding to the wealth of the State.

In recent times the amount of prestation was fixed by the District Commissioners to whom the greatest latitude was given in such a way that the amount of tax varied greatly according to circumstances and localities. Thus the quantity of rubber for each gatherer varied, being 9 kilos in Mongalla, 6 kilos in Abir, 2 to 4 kilos in different sections, while in the Lower Congo no tax was demanded. More than this, no control was exercised over the way in which agents conformed their demands to the official requirements.

This system had the advantage of adapting itself easily to the local conditions. But its value depended upon the character of the man who applied it, and when the agent was reasonable and thoughtful he endeavoured to harmonise the interest of the State or of the company with those of the natives and sometimes he could obtain a great deal without violent means, but a large number of the agents thought only of obtaining the most possible in the shortest time and their demands were often excessive. This was not astonishing, for in the case of the products of the domain the agents who fixed the taxes and collected them had a direct interest in

increasing the amount, since they received premiums¹ in proportion to the importance of the products gathered.

The work furnished by the natives was paid for. But the amount of this payment was, as the fixing of the taxes, left to the judgment of the agents. To tell the truth, for the exploitation of the domain, the instructions of the Government which appeared in the *Bulletin Officiel*, 1896, prescribed that the remunerations to the natives should never be below the price of the manual labour necessary for the gathering of the products; that it ought to be fixed by a schedule prepared by the Commissioner of the District and approved by the Governor General. These instructions required a state inspector to verify the justice of these schedules and to see to their execution. But they have been only imperfectly carried out. The only schedule approved by the

¹ These premiums were suppressed about ten years ago. The bounties given in the name of "expenses of collecting," which followed the premiums, could be considered as not differing materially from the method abolished. These bounties have been suppressed in their turn by the articles of December 31, 1896, which constitute "the retiring fund." Some have thought they saw in this institution a remnant of the past errors. It appears from the information gathered and the examination of the records of "the retiring fund" that for some years, with the exception of certain classes of agents who enjoy other advantages (such as physicians and the steamer captains), all meritorious agents, even those whose positions have no relation with the gathering of the products of the domain, such as judges, have the right to this "retiring fund."

Governor General fixes the maximum amount which the commissioners of districts were authorised to pay, but did not indicate a minimum; moreover, no report of the state inspectors exists on this subject.

It happened, consequently, that very often the remuneration given to the natives was insufficient; sometimes even, they were paid in goods which had no value in that locality. The same uncertainty existed in regard to the means of compulsion when there was a necessity to use it in cases of non-payment of taxes. Agents on this point as on many others followed no rule. We shall point out in the course of this Report acts of violence more or less severe committed either towards individuals or against a people, where the use of force was the cause.

The agents, it should be said, were never sufficiently warned against these excesses. The local government did not fail from time to time to send instructions and circulars to remind the district commissioners and their agents of their duty to treat the blacks with justice and humanity. But only in rare cases were more efficient means employed.

The offences committed on the occasion of the use of the exercise of force have rarely been referred to the courts. All courts, and especially the inferior court and the Court of Appeals of Boma, when they have been invoked punished every act not in ac-

cordance with law, every ill-treatment, every abuse, of which the blacks were victims. Even if they took into account the extenuating circumstances as the necessities of the country and the influence of their surroundings they did not see any excuse for arbitrary acts in the absence of legislation.

THE LAW OF NOVEMBER 18, 1903

As we have said, a Decree of the King-Sovereign under date of November 18, 1903, fixed a uniform law concerning taxes for the entire State.

The substance of this law, so far as concerns the natives, is the following: Every adult native in good health is subject to prestation which consists in labour for the State. This work is to be remunerated; the total amount cannot exceed during any one month forty hours of actual labour. The compensation must not be less than the wages paid in the neighbourhood (Art. 2). A census of all the natives shall be made under the direction of the Commissioners of Districts, said census to serve as the basis in making the levies and shall indicate by name those who are subject to the tax in each village. These lists shall be approved by the Governor General.

The District Commissioners shall indicate on the lists prepared by them the quantities of products of various sorts which correspond to the number of hours imposed, keeping in mind as far as possible

the circumstances which surround the natives, such as the richness of the forests, their distance from the villages, the kind of produce demanded, the method of securing it, etc.; they will have the power to require in lieu of compulsory labour, the corresponding quantity of produce either for each individual or for a group of natives or an entire village (Art. 31).

The agents charged with the procuring of the prestations can, upon the demand of a native chief and with the approval of the Governor, unite the natives into groups or villages, under authority of their chiefs, for the payment of the prestation. In such a case they are warned to see to it that the amounts specified in the lists are forthcoming and to prosecute according to Article 55, which follows, the chiefs who do not observe the lists made out for the levying of the prestations (Art. 33).

The natives may be permitted to acquit themselves of the prestations by furnishing to the State a fixed quantity of produce of their cultivation or fabrication. For this purpose, the District Commissioners each year establish a schedule indicating the value of the various products of the natives in terms of hours of work for the different regions of their districts. This schedule is to be approved by the Governor General at the same time with the lists of prestations (Art. 34).

The Governor General may appoint in such localities as he elects delegates to collect the prestation

produce under such conditions as he may fix (Art. 35).

In case of the refusal to pay the prestation in kind, the natives, in the absence of real or personal property, may be compelled to pay the tax by the authority whose duty it is to collect the same. To this end, forced labour can be imposed (Art. 54).

Up to the time of the visit of the Commission, this law had been put in force in only some of the districts.

The Decree fixes at forty hours a month the labour that each native owes the State. The time, considered as the maximum, cannot surely be regarded as too much, especially if one keeps in mind the fact that the labour is to be paid for; however, as in the great majority of cases, by the application of Articles 31 and 34, it is not the labour that is demanded of the native, but a quantity of produce equivalent to forty hours of work, the standard of time disappears and is replaced by an equivalent fixed by the Commissioners of Districts according to different methods. Sometimes an attempt has been made to calculate the amount of time necessary to gather certain products, as a kilogram of rubber or chikwangue, for example; sometimes one is compelled to estimate the value of an hour's work from the scale of wages in the neighbourhood, this multiplied by forty, and the native is called upon to pay a quantity of produce worth the amount thus obtained.

The first of these calculations rests upon arbitrary estimates; the second gives results which may vary greatly according to the valuation placed upon the produce or upon the manual labour.

A circular of the Governor General of the date of February 29, 1904, informs the District Commissioners that the enforcement of the new law regarding prestations should have as its effect, not merely the maintenance of results achieved during the previous years, but to show also a constant increase in the contributions to the treasury.

Does the Government mean by that that the agents ought to add to the lists of contributors by the inscription, as the territory becomes more and more accessible under pacific occupancy, of natives, who until now had avoided taxation?

This is probable for according to the same circular it is intended to extend the prestations to as large a number of natives as possible in order to obtain the maximum of resources with the minimum of burden to each individual. It is, however, none the less true that, presented in the general terms which we have given, these instructions would in the majority of cases prevent the District Commissioners, in making up their new rolls, from lessening excessive burdens.

And in fact, many of them are satisfied to continue the former schedule of prestations.¹

¹In most of the regions in the Cataract district the tax levy was reduced to less than one quarter of what it was formerly.

As to the compensation for the labour which the native furnishes under the name of tax, the law prescribes that it shall not be less than the local wages.

The principle of remuneration, while not harmonising with the idea of taxation, can have in the Congo the great advantage of causing the native to comprehend the value of labour.

On the other hand, it is just that the compensation be limited to the value of the actual labour furnished by the native and that he should not be paid the value of the produce created by his labour; for, in general, the produce does not belong to him — he merely supplies the work of collecting it.¹

The law fixes the local scale of wages as the minimum, but the instructions of the circular dated February 29, 1904, seem to regard that as the maximum and they recommend to the District Commissioners not to give a remuneration above what was accepted before.

Finally, the law of November 18, 1903, does not solve satisfactorily the question of compulsion. We shall mention merely in passing the Articles 46, 47, 48 and 49, authorising the seizure of the property

¹ Even in the case of the produce that actually belongs to the native (chickens, goats, etc.) the Commission thinks that another system of remuneration should be followed. While waiting for the introduction of the radical measure proposed by the Commission, the market value of the articles should be considered.

of the delinquent, a means of compulsion which, for good reasons, is not applicable in the Congo. Article 54 says that in default of available property, forced labour can be imposed. But how shall it be imposed? Can one arrest a native, put him in chains, submit him to corporal punishment? How long shall he be detained? At what labour shall he be compelled to work? It is true there are circulars fixing the maximum of compulsion at one month, but it is seen that the matter has not been removed from the decision of the individual agent.

We shall have occasion to point out later other matters regarding which the law needs amplification. But before all, if it is desired that this law be productive of good results such as one would wish, it is necessary that care be taken that it is observed in the letter and the spirit.

It ought to be possible for the native, in the forty hours of labour a month, to completely discharge all of his obligations to the State and that he be free for the rest of the time; it is important that the compensation be what the law requires so as to effectually serve as an incentive to labour.

The rolls ought, consequently, to be revised so as to be in accord with the legal prescriptions and the checks provided by the decree of 1903 should secure a strict compliance with the prescriptions demanded.

EXAMINATION OF THE DIFFERENT IMPOSTS

The imposts may be arranged in several groups:

A. Ground Nuts.

B. Food Supplies: chikwangué, fish, game, domestic animals.

C. Obligatory Labour: for cutting wood, work around the posts, rowing, carrying.

D. Harvesting the Products of the Domain: copal and rubber.

A. Ground Nuts

We have made a separate category of the ground nut because this product is an article of cultivation and can not consequently be regarded as a fruit of the domain like copal and rubber; more than that, as it is intended for export we could not include it under the list of prestations of food supplies. The natives of the Cataract district are the only ones who are required to furnish ground nuts.

Prior to the enforcement of the decree of 1903 the contributors from the Cataract District, especially those of the less fertile region, complained of being too heavily taxed; but this decree having reduced this impost to one-fourth, the complaints ceased. However, from information furnished, it seems that if one adds to the cost of the labour the expense of transportation this prestation yields nothing to the State, estimating the price which the ground nut would bring in the Antwerp market. One could

give satisfaction to the natives and at the same time increase the resources by changing this tax in kind into another tax as light as possible. The ground nuts might thus become an article of commerce, quite important, without prejudice.

B. The Imposts of Food Stuffs

The chikwangué (kwanga) is nothing else than the manioc bread, which forms the principal article of food for the natives of the Congo State. The preparation of this article requires a variety of operations: clearing of the forests, planting of the manioc, digging the roots and transforming them into chikwangué, which includes the operations of retting, barking, grinding, washing, making into loaves and baking. All of these operations, with the exception of clearing the forests, fall upon the women. The chikwangués thus prepared are carried to the neighbouring villages by the natives and serve as rations for the personnel of the State, soldiers and labourers. This prestation is, like all others, paid for. The impost of chikwangué is, in a general way, the kind that the natives can discharge with the greatest ease. It requires, in fact, labour to which the negro is accustomed. Moreover, as we have seen, this labour falls principally upon the women, a condition which is in harmony with the customs of the natives. Therefore, when the personnel of the post to be supplied is not great, and when, on the other hand, the impost is distrib-

uted equably through a population of sufficient density, the additional labour imposed upon industrious wives of blacks does not call forth any complaint.

It is quite otherwise in the neighbourhood of the important stations where the natives are obliged to furnish the subsistence to a large number of workmen and soldiers. Around the important places of the district and the military camps the furnishing of chikwangue becomes a relatively burdensome impost. The villages situated in the immediate neighbourhood of the posts are not sufficient to furnish the rations, so that there is added the burden of compulsory transportation.

By way of example we give the condition which exists at Leopoldville. This post, whose importance is increasing daily, has about 3,000 workmen and soldiers. The region upon which rests the task of supporting this personnel is far from being very populous. The villages there are scattered and by an examination of the census taken in the last few years it appears that their population shows a tendency to decrease.

One has therefore been obliged to extend to an unusual range the region from which the inhabitants are called upon to furnish chikwangue to the personnel of Leopoldville. The village, situated 75 kilometres to the south of this station, is obliged to supply 350 chikwangues.

In order to equalise as far as possible the burden

of this impost, the region has been divided into three zones, practically concentric. The most distant villages of the first zone are 30 kilometres distant, of the second 43 kilometres and of the third 79 kilometres.

The people in the zone nearest bring in their chikwanges every four days; those in the next, every eight days; those from the outside zone, every twelve days. As the preparation of the chikwange falls upon the women, the amount of this impost is reckoned for each village according to the number of women it contains. This, we are told, is so calculated that each woman must prepare as a maximum, ten chikwanges for the period—four, eight or twelve days. In fact, the quantity to be furnished often falls below this figure; but it may happen that it is exceeded and it may happen that the amount assessed does not vary with the fluctuations in the population.

Such is the system. The difficulties are easily seen. All of the witnesses who were heard by the Commission on this subject were unanimous in criticising the large amount that was imposed upon the women of certain villages, the continuity of the imposition and the long journeys that had to be made.

According to the calculations made by the officials of the State, the total amount of time required, taking into consideration all the various operations, to make one kilogram of chikwange is about one

hour, of which four-fifths is contributed by the women. Admitting that a ration of chikwangué weighs one and two-thirds kilograms, on the average, one sees that the women of the first zone who make ten chikwangués in the four-day period, give to the State during the month about one hundred hours of labour, those in the second, fifty hours, those in the third, thirty-three. The amount of work devolving upon the women in the first zone ought to be considerably reduced.

The worst feature of this imposition is its continuity. As the chikwangué can be preserved only a few days, the native, even by doubling his activities, cannot at one time discharge his obligations extending over a long period. The imposition, even if it does not demand his entire time, loses a part of its real character as a tax and becomes a sort of obligatory labour since there is ever before the native the thought of delivery that must soon be made.

The gravest defect of the system lies in the obligation that the native, in bringing in his prestations from the three zones referred to above, must make long journeys. It is true that the adage "Time is money" cannot be applied to the native of the Congo who, outside of the time spent in working for the State, passes the greater part of it in idleness; still it is inadmissible that he should be obliged to travel 150 kilometres to bring to the place of delivery a tax which represents a value of

about one franc and a half. This remark is equally just even if it is granted that the compensation given to the native represents the exact value of the article furnished.

It is quite true that each contributor, as a rule, does not bring to the post the prestation which falls upon him. Following the rule that we have observed in vogue, the labour is thrown upon the weaker members of the family, so that it is the women, children and domestic slaves who are forced to be the agencies of transport. This peculiarity instead of attenuating the bad features of the system, rather increases them. For it is these who form the industrious element of the village, and if a great part of their time is taken up by the exigencies of the impost and procuring the means for their own subsistence, they have not, however great may be their desire, a chance to perform other labour; hence, the abandonment of native industries and the impoverishment of the villages. The missionaries, Catholic and Protestant, whom we heard at Leopoldville were unanimous in reporting the general misery which exists in that region. One of them thought he could say: "If this system, which obliges the natives to support the 3,000 labourers at Leopoldville, continues for five years, that will be the condition of the population of the district."

Without sharing these pessimistic views, one must admit that they contain some truth. In any

event, it should be borne in mind that it is dangerous for the State to rely upon the natives to supply such an important post as this. Any circumstance that could arrest for a time the prestations of food supplies would threaten a famine.

This remark is general. It applies to all large posts of which we have taken Leopoldville as a type.

This was the case at Coquilhatville where the Commission can attest the quantity of chikwanges furnished is often insufficient, because of certain delinquencies, to supply the large personnel. It happens that part of the workmen, soldiers or prisoners are deprived of rations for twenty-four hours. A high State official states that it is often difficult to provision at Coquilhatville the black crew of the steamers which pass this post.

The remedy for these troubles seems apparent. There should be established at once, in the neighbourhood of the large centres of population, plantations for the production of food stuffs, the size of which should be proportional to the necessities of the people to be supplied. The wives of the soldiers, could be, in a measure, as the law permits, employed for this work for which they have a special aptitude. For, as a Protestant missionary and a high official remarked, it is not right that by their excessive labour "the native women furnish the food to others who do nothing and spend their time in gossip and disputes."

In the meantime, it would be well if the State

should provision partially the workmen at certain posts with rice and dried fish, as the railroad company is now doing with its employees in the Lower Congo.

In any case, if the impossibility of reforming the system at a single stroke should oblige the State to rely, for a time, upon the natives for food, it ought to lighten the burden of transportation in the case of those who live at a great distance. This ought to be, to as great an extent as possible, supplanted by other forms of transportation, either by animals or motors. Thus it seems desirable that in the neighbourhood of Leopoldville, traversed by the railroad, the State could make such an arrangement with the road as would secure rates that would not be excessive on the chikwangués coming from the extreme southern portions of the district. If the experiment made during the past year at Leopoldville with camels proves successful, this means of transportation ought to be made general.

In addition to chikwangué, dried fish plays an important rôle in supplying the wants of the negro. Besides the few kilograms of fresh fish, obtained without difficulty by the whites, practically the entire catch is dried for the black employees of the State.

The prestation of this sort of food supplies causes instances such as we have pointed out in the cases of the chikwangués. In many places the quantity required has caused complaints, especially from the

chiefs of villages whose population has diminished and who are taxed to an extent out of proportion to the present number of inhabitants.

We have observed that certain places on the river not very populous, like that of New Antwerp, have for example, found themselves compelled to lay tribute upon fishermen at a distance. The natives living near Lulonga were compelled to go in canoes to New Antwerp, a distance of from 70 to 80 kilometres, every 15 days to carry their fish and the contributors have been subjected to arrest for delays for which perhaps they were not to blame if one considers the distance to be travelled periodically in order to satisfy the demands of the impost.

These great journeys are, as can be seen, analogous to the onerous transportation of chikwangués. Another criticism, especially in regard to this impost, was made by several witnesses who pointed out to us the difficulty which the natives experienced in furnishing regularly their quota of fish at times when the floods make fishing unsafe and unprofitable.

The remark is just, but the work of fishing in high water might be considerably lightened if the native could use the best appliances. And this leads us to make a general observation which appears to us to be of the greatest importance in the solution of the problem of provisioning of posts.

We have been surprised to notice how little the contact with the whites has changed the ways of

the natives. The Europeans have until now limited themselves to teaching blacks certain industries of their own, such as printing, ropemaking, etc.; but they have not attempted to improve the native industries which are of vital importance to the negro. Thus the chikwangue is prepared today in exactly the same way as it was 25 years ago, with methods incredibly crude and defective. It is impossible not to notice and be astonished at the disproportion which exists between the amount of labour expended and the results obtained. It is evident that modern industries would easily furnish the means of realising in the fabrication of chikwangue, progress equal to that which has been achieved in Europe in the grinding of wheat and the preparation of bread.

We also think that in a short time one could cause the native fishermen to make use of the improved appliances, which would, without doubt, be for them a real revelation. In that way the fishermen would achieve far better results than at the present time, and could not only meet their obligations in a shorter time, but derive a personal profit from their catch, for dried fish, of which the negro is very fond, always finds buyers amongst the employees of the State.

We, therefore, express the wish to see the State and the Missions which have assumed the task of teaching the blacks, diligently apply themselves in this direction, that is, the practical education of

the natives in which, so far as we know, nothing has as yet been done.

There now remains for us to examine in order to exhaust the list of food assessments the furnishing of fresh food, intended exclusively for the white officials. The native is called upon for game, small animals, and poultry. The requirements of game have not occasioned any criticism worthy of mention. Still, we may remark that complaints have been made against the law which declares the closed season during 7 months of the year. This long interdiction, we have been told, can deprive the native of the food to which he is accustomed and which brings him certain profits. The law against hunting elephants has also been criticised, since it prevents the black from protecting his plantation against the damages caused by the animals.

Upon this last point it should be remarked that the terms of Article 12 of the Decree of October 5, 1889, state: "Any person may, in order to protect his property threatened by one or more elephants, make use of weapons to drive them away. If this necessitates the capture or death of an elephant, the elephant should be turned over to the District Commissioners."

As to sheep, goats, chickens and ducks the Commission is able to confirm by its own observation their growing scarcity and their consequent high price.

What is the cause of this impoverishment? It is

caused by the fact that these animals, instead of being articles of commerce, are demanded under the name of imposts, sometimes without reason and in an arbitrary fashion. The native who receives a compensation which is insufficient in his eyes and in every case quite inferior to the real value, does not feel encouraged to raise domestic animals and fowls.

On the other hand, it is a unanimous opinion that the health of the white man in Africa requires that he subsist, at least partly, upon fresh food. As it is quite probable that for a long time the State post will have to depend for supply of farm products upon the natives, raising of these ought to be encouraged by every possible means, and the State, if need be, should make sacrifices in order to achieve this result. As a general rule, the small animals and the fowls ought, according to our opinion, to be articles of personal transactions between the white man and the negro.

C. Imposed Labour

Besides the levy of food supplies, the natives are called upon to furnish to the State contributions of labour: for cutting wood, work around the posts, rowers and porters.

a. Cutting wood. The impost relative to wood cutting has given rise to many criticisms. Everyone knows that the steamers which navigate the Congo and its tributaries use nothing but wood.

The great proportions which the navigation has assumed (80 steamers), and the necessity of re-wooding every day, have called into existence along these rivers wood stations. Sometimes the furnishing of wood imposes a heavy tax upon the natives; sometimes the work is done by men who receive wages. There also exists a composite system which consists in part of men who have been requisitioned and men who are paid.

We have been told that this impost is excessive in certain cases. It is also claimed that it is occasionally irregularly distributed amongst the villages. Thus, the groups near Lulonga where there are respectively 7, 8, 17, 20, 19, 39, and 99 men are subject to the same tax — 25 armloads per village. The presence at the post of paid cutters who have to assist the contributory cutters in preparing the wood, instead of being a help is a new source of trouble. Those under pay endeavour to throw their tasks upon the others. Thus, the choppers at Lulonga are a plague in that region and the bosses, or black superintendents, very often become real despots and cause serious difficulties.

Our attention was also called to an annoying feature which results from unexpected requisitions. But this criticism has but little foundation because the natives, having the privilege to work ahead (which we are sure is not often done on the Congo), can easily have a reserve so that they can work at such times as they may choose.

Nevertheless, the inconveniences of the system are sufficiently serious to cause us to conclude that it would be well to suppress all imposts of wood for steaming purposes and to replace it with the plan of having all wood supplied by paid choppers.

In paying the choppers a fixed amount not above the remuneration allowed the natives at the present time for wood furnished upon the river bank, excellent results, it seems, have been obtained. The experiment was tried at Bolombo, near New Antwerp. The wooding of steamers would in this way be assured more completely than by following the system now in vogue.

b. Labour. When the black personnel at a post is not sufficient for certain work of construction, clearing, or farming, it frequently happens that demands are made upon the natives under the form of imposed labour with remuneration. They are also called upon to repair the roads, keep in order the telegraph lines, etc. Sometimes they must supply construction material, such as logs, leaves, and bamboos. This imposed labour is generally looked upon by the natives with disfavour. It obliges, in certain cases, the natives near a post to be continually at work. On the other hand, the demands are for work of an emergency character, depending solely upon the necessities of the post. If a storm destroys the roof of one of the post buildings, the chief immediately requisitions a certain number of natives of the nearest village to repair the damage.

In case there is lacking the necessary men for the clearing of a forest for the enlargement of the plantation, the chief of that department calls upon the natives to lend a hand. One can understand the perturbation which such demands can provoke in the minds of people as indolent as these blacks.

In the region of Lake Tumba, the Commission of enquiry heard the echoes of the complaint awakened by the requisition at Bikoro of women from the villages of Ikoko who had to work for fifteen days on the plantations. This line of action seems to have greatly displeased the natives who look upon the deprivation of their wives for this length of time as a serious grievance.

Similiar requisitions appear to have caused the removal of an entire village (Bokatola, near Mampoko on the Lulonga). We add, however, to be just, that in most of the cases, if the women are requisitioned for work, it is because when the chiefs of the post call for labour, the men seek to free themselves from the burden and send their wives.

c. Rowers. The matter of impressed labour for rowing did not call forth any criticisms beyond those which resulted from the unexpected calling for men and sometimes the excessive duration of the service. Under present conditions it cannot be suppressed. Whenever possible, it is better to establish a regular service of paid rowers.

d. Porters. Without doubt the form of impressed labour that weighs most heavily upon the

natives is the service as porters. Thanks to the marvellous net of streams with which central Africa is blessed, the greatest part of the transportation can be made by water. But in those regions which are not intersected by streams and owing to all efforts to acclimatise animals to the country having thus far failed, the only agency of transportation that remains is man. The traveller in crossing the country; the merchant in introducing his wares; the State in supplying its officials with food, transporting material or bringing out the products of its domain, have no other means available than a corps of porters.

The most celebrated of these routes of caravan travel in Africa belongs to history. For a dozen years it was necessary to rely upon this system in order to insure regular communication between the Upper and the Lower Congo. In the regions known as the Cataracts, between Matadi and Leopoldville, where the great river, intersected by cataracts, is not navigable, caravans of native porters could be seen in a constant stream carrying upon their heads innumerable articles that were impatiently awaited by the whites on the upper reaches of the Congo.

Truly the labour of these Cataract people was of a rude sort but it was necessary for carrying on the civilisation of the country. There was the necessity to place upon its banks, piece by piece, the steamboats to sail the upper river at the earliest possible moment. Any delay in the carry-

ing of these parts and in launching the steamer endangered the existence of the posts beyond. Finally the railroad was finished and at what price! and the locomotive reached the Pool.

The caravan route where black and white, united in the same effort, had paid such a heavy tribute to fatigue and fever, the dark pathway holding in its keeping so many lifeless bodies, has been invaded by the plants and the trees of the forest. In two days the trains now go from Matadi to Leopoldville and from the Pool to the lower river; the natives are born again to a new life; those who had fled from the destructive enforced labour now approach the iron road where they regard with admiration the elegant and powerful engines created by the "magic of the white man" (*mayele ma mondele*) doing without effort the labour that had decimated their ancestors.

But for every route which has disappeared, many others have been called into existence as the new regions have been opened up by the State. The complete occupation of frontier districts, notably the Lado country, the zones of Kivu and of Tanganika, the territories of Katanga and of Southern Kasai (Lake Dilolo), has necessitated the sending to these distant regions a large amount of material.

The Commission was not able to study on the spot the portage problem. But it received on two of these routes, that of Kasongo-Kabambare-Kivu and that of Lusambo-Kabinda-Kisenga, considerable

light. In the two regions of the Eastern Province and Kasai-Katanga the quantity of loads to be carried is enormous and on the contrary the population is relatively sparse. Moreover, the occupation is not sufficiently complete to permit the drafting from new tribes so that it happens that it is practically the same people who are repeatedly drafted. Let us add that the food supplies are hardly sufficient to always furnish the carriers with rations.

Some judges called our attention to the fact that the system of drafted labour exhausts the natives and threatens them with partial destruction.

There is a way to remedy, without delay, this state of affairs. The building of railroads in these regions can be foreseen only for the distant future. However, there is reason to hope for good results from the experiments already tried in the direction of trained elephants, zebras and camels. But, in the meantime, it is important to diminish as far as one can the hurtful character of the drafted carrier service by utilising the waterways whenever possible, even if the distance be greater and the cost of transportation more.

If roads suitable for automobiles could be built in this part of the territory, the State should hasten to begin the work and omit nothing in this direction. Intensive portage can be justified only under the twofold condition of being essential and temporary.

In so far as concerns the transportation for the eastern frontier (Kivu), it seems that the route from the eastern coast of Africa could be used more cheaply.

To obviate the scarcity of food supplies along the routes, there should be created at intervals fixed by the State, villages whose inhabitants should be wholly occupied with farming.

The Government has already issued orders looking towards this.

It is likewise desirable that the tasks be distributed so widely that the draft for labour may not fall too frequently upon the same village or upon the same persons. To bring this about, the chief of the post should himself supervise the recruiting and it should not be left to the foremen who are too easily bribed.

The sick, infirm and the children ought to be exempt as prescribed by law. ()

Above all things, before undertaking in distant regions a work of any consequence, a careful study should be made of the routes and the means of transportation, and every effort should be made to ascertain if the object in view can be attained without imposing too heavy burdens upon the natives.

D. Products of the Domain

a. Copal. The gathering of copal presents no difficulty; even the children can take part in this whether one collects the "fossil" copal which the

rivers and lakes cast upon their shores or the resin from the trees themselves or that which falls from the trees and is found on the ground around the foot of the tree. The copal gum is abundant in certain forests.

The Commission did not hear any complaints regarding this impost.

The compensation paid per kilogram is, as a rule, sufficient to enable a native who desires to exert himself a little to make good wages. Those who have criticised the small pay allowed have had in mind the intrinsic value of the copal in the European market. This criticism contains the germ of false reasoning. In considering the products gathered from public domain attention should be paid to the amount of labour required to gather them and not to the value of the articles. It is surely true in Europe as well as elsewhere, that the wages paid the miners of the precious metals, for example, are far below the actual value of the minerals produced.

b. Rubber. Every one knows that the usual way of obtaining rubber is by making incisions in the bark of certain trees (especially in certain vines), and gathering the milk, or sap, that comes therefrom. After a few hours the receptacle is emptied, the milk is coagulated and the rubber is carried to the post under forms that vary in the different regions. Of all the milky plants, the vines which furnish the greater part of the rubber coming

from the Congo are the *Landolphia* and the *Cliandra*.

In spite of the regulations made for the preservation of the vines the natives, instead of simply making incisions, will cut them completely off so that the milk will flow more freely.

Of course, the Commission could not form any estimate of the wealth in rubber vines of the forests it saw. Here, as elsewhere, the question of quantity in a matter of such importance receives widely divergent answers. Optimism and pessimism give the estimate and reflect the desires entertained or the purpose in view in the minds of those expressing the opinion. Still it appears to be undoubtedly true that an exploitation which has continued a certain number of years will lead to a complete exhaustion in those regions contiguous to the native villages.

This explains the dislike on the part of the negroes for rubber gathering, which in itself is not at all severe. In the majority of cases, he must make a journey every fortnight which takes two or three days, sometimes more, in order to reach that part of the forest where he can find in sufficient quantity the rubber vines. There for a certain number of days he leads an uncomfortable existence. He must construct for himself a temporary shelter, which certainly can not take the place of his hut; he does not have the food to which he is accustomed, he is deprived of his wife, exposed to the inclemency of the weather and to the attacks of wild beasts. He

X

X must carry what he has gathered to the State post or to the company and not until then does he return to his village where he can tarry only two or three days before the time for the next delivery is close at hand. It therefore appears that, whatever be his activity in the rubber forests, the native, because of the number of moves which he must make, sees the greater part of his time taken up in the gathering of rubber.

It is hardly necessary to remark that this state of affairs is a flagrant violation of the law of "forty hours." According to our opinion, the only way to harmonise the text and the spirit of this law will be to make the times of delivery further apart. In this way the time of the native taken up by the necessary trips to go to the forests and return would be lessened in proportion and the decree which fixes at forty hours a month the labour demanded of the contributor could receive a just application if the quantity of rubber demanded is wisely fixed. It would cease to be as now, a maximum rarely reached and which may be thought too great.¹

¹ The quantity of rubber which the native is compelled to procure, under the name of an impost, varies, usually, according to the locality. It would be impossible for the Commission to point out, even approximately, the quantity which the native, after reaching the forests in which he gathers, can collect in forty hours of labour. The most widely different opinions have been expressed on this subject. Everything depends upon the richness of the forest and sometimes upon chance. But the fact verified in Abir and also pointed out

Attention has been called to the improvidence which is at the bottom of the character of the native and which will always tempt him to put off the moment when he should discharge his obligations. However, we think that without great inconvenience, the contributor could discharge his duties every three months, for example, and that whenever necessary the white should remind him of the neglect of his duty. The stay in the forest would become longer but less frequent, the gatherer would then think it best, without doubt, to build for himself a better shelter and would have with him his wife who could prepare for him his customary food.

More than that, in the opinion of the Commission, the impost ought to be collective because of the difficulty in making the proper lists; the inconveniences resulting from placing the times of collection further apart will be diminished; and consideration should be given, to a greater degree, to the personal convenience of the contributors.

It follows that if, in certain cases, the collective imposts having as corollary the placing of collections further apart is not wise, it would be desirable in calculating the hours of labour to have regard for the time which the native would con-

everywhere that the native after a long stay in the forest often brings a quantity of rubber far below the amount of the impost, causes us to think that the amount is, in general, too great.

sume for the necessary journeys in gathering the rubber.

COERCION

X The dislike of the negro for all kinds of work; his especial aversion to the rubber gathering, because of the circumstances indicated, and differing from the labour discussed in the preceding chapters because the native has not been prepared for it by the customs of previous generations; finally the contact with the white, which, having existed for only a short time, has not created in him new wants which make him almost indifferent to the proffered remuneration; all of these circumstances have made compulsion necessary to induce the native to gather rubber.

Until recent years this coercion has been exercised in different ways, such as, the taking of hostages, the detention of chiefs and the institution of sentinels or bosses and the sending of armed expeditions.

I. Coercion, Properly so Called, Exercised by the Whites

In the absence of a specific law and precise instruction upon the subject, the agents charged with the exercise of coercion, applying the principle of solidarity which exists amongst those who are the subjects of the same chief, often trouble themselves

but little to seek out the real culprit. The prestations were due from the village as a whole; when they were not forthcoming the chiefs were arrested and some of the inhabitants taken at random, often the women were held as hostages. This system had for its purpose the moral compulsion upon the delinquents to stimulate their efforts in order to liberate their chief or their wives. This proved efficacious and, perhaps, as we were often told, did not appear in the eyes of the natives, imbued with the idea of solidarity, so reprehensible as it would to us. But whatever one may think of the ideas of the natives, any procedure, such as the detention of the women as hostages, outrages our notion of justice too violently to be tolerated. The State has, for a long time, forbidden this practice, but has been unable to suppress it. Likewise the arrest of the chiefs, who are not always personally to blame, has the effect of diminishing their authority or even completely destroying it; especially when they are seen forced to servile labour.

The same may be said of the system by which the agents fix the length of the detention. From the statements of witnesses and the official documents that we saw, we found that this detention may have been continued, in certain cases, for several months.

Some have told us, it is true, that those under detention at the post are not badly treated nor compelled to perform excessive labour. They have also asserted that the lot of the women is less oppressive

here than under the animal-like existence to which they are subjected in their own villages. Nevertheless, it is beyond question that the detention is often aggravated by conditions which attend it. We have been told that the places in which the prisoners were kept were sometimes in a bad condition, that they often lacked the necessities and that the mortality amongst them was very great.

Some chiefs of posts, assuming a right that never belonged to them administer the lash to those who fail to furnish the complete imposts. Some have carried this to excess, as is shown by the record of their punishment by the courts.¹

These abuses are certainly not unknown in the private domain. From a study of the documents placed at the disposal of the Commission or demanded by it, we became acquainted with the majority of the facts testified to by the Reverends Whitehead (Lukolela), Weeks (Monsembe), and Gilchrist (Lulonga).

Acts of violence have been committed in the region of Lake Leopold II, Bangala, Lake Tumba, in Uele and Aruwini. But all witnesses confess that great improvements have taken place in recent times. Two Evangelical missionaries from the district of Lake Leopold II (the Crown Domain exploited by State agents), where the rule had been the object of very severe criticism by one of them, said to us:

¹ The blacks who are assigned to guard the prisoners occasionally overstep their authority and become brutal.

“ according to what we have been told, everything is now going well in this region ”; and the other said, that he had observed during a recent visit to this district, that the situation was good in comparison with what it had been before.

Unfortunately, the same does not seem to be true in those regions exploited by private companies. From an examination of documents regarding Mongala,¹ and a careful enquiry made by the Commission in regard to the Abir concession it appears that acts of the sort of which we are speaking, were very frequent in the territory controlled by these companies. At the different posts in the Abir which we visited, it was never denied that the imprisonment of women as hostages, the imposition of servile work on chiefs, the administration of the lash to delinquents and the abuse of authority by the black overseers were, as a rule, habitual.

Similar conditions have been reported to the Commission from Lulonga.

Most of these facts were unknown to the officials until a recent enquiry of a deputy revealed them, so that it is likely that the freedom from punishment was accountable for their continuance.

In case of the non-payment of prestations and also under the name of punishment for a revolt, it has happened that the civil officials or military officer imposed upon the villages fines, sometimes

¹ Our information regarding Mongala covers the period during which this region was exploited by the S. C. A.

very heavy. This has been suppressed. A circular from the Governor General forbids the "administrative fines."

2. *The Sentries*

One means by sentries (*sentili*, native word, taken from the English) the black overseers, armed with a muzzle-loading gun, who have the official duty of directing the work of the natives in the forest and of preventing the devastation of the same by the cutting of the rubber vines, but whose labours for the greater part of their time, are limited to calling to the minds of the natives their obligations, seeing to it that they go to the forest and accompany the gatherers when they come to the post.

Two kinds of sentries can be distinguished.

Amongst the overseers, some, who belong to the personnel of the post and who are nearly always strangers to the region, patrol the villages at the time when the natives should be at work, and report to the whites those who instead of being at work are staying at home. Very often, in order to exercise a more complete control, they are detailed to a special village where they permanently establish themselves. These are the *sentilis*, strictly speaking. They are by far the worst sort. In their quality as strangers, they are not interested in the blacks with whom they deal.

Other intermediaries — called *capitas* — are chosen by the whites from the village they have to

oversee. Over against the chief designated by native customs, they represent in the eyes of the negro the State or the company.

This institution of having black overseers has given rise to much criticism, even from State officials. The Protestant missionaries heard at Bolobo, Ikoko (Lake Tumba), Lulonga, Bonginda, Ikau, Baringa, Bongandanga, made very sweeping charges against the conduct of these overseers. They brought before the Commission a number of witnesses who disclosed many crimes or excesses committed by the sentries. According to these witnesses, these auxiliaries, especially those who are detailed to the villages, abuse the authority committed to them, transform themselves into despots, demanding wives, food not only for themselves but also for a retinue of parasites and vagrants who, drawn by a love for rapine, become their associates and form a sort of body-guard; they kill without pity those who make the least show of resistance to complying with their demands or caprice.

The Commission could not, of course, verify in every case the correctness of these charges, many of which date back several years. However, the essential features of the accusations made against the sentries seem to be established from the combined testimony and the official reports. The Commission has transmitted to the appropriate authorities the minutes of its enquiry in Abir, Lulonga, and Bolobo in so far as they refer to punishable of-

fences and crimes not barred by the statute of limitation.

It is not possible for us to say, even approximately, how many abuses these sentries have committed. Several chiefs in the Baringa region brought to us a bunch of sticks, each one of which was said to represent a subject killed by the *capitas*. One of them declared that in his village one hundred and twenty had been killed during the past years. Whatever one may think of the amount of confidence that should be placed in a record of this sort, a document placed in the hands of the Commission by the Director of the Abir in Africa does not permit of any doubt as to the baneful character of this institution. It consists of a table showing that from the first of January, 1905, to the first of August of the same year, that is, a period of seven months, one hundred and forty-two sentries of the company had been killed or wounded by the natives. Now, it can be supposed that in many cases these attacks were in the nature of reprisals. This enables a judgment to be formed of the number of sanguinary conflicts occasioned by the presence of the sentries. None of the agents who testified before the Commission, or were present at the sessions, made any attempt to refute the charges made against the sentries.

The least unfavourable opinion expressed in regard to the sentries was made by the Director of the Abir who said: "The sentry system is an evil,

but it is a necessary evil." We do not share this view. According to our opinion, the institution of *capitas* and sentries, as we have seen it operate in Abir and Lulonga, ought to be suppressed.

The State, whose high officials have, in their reports, pointed out the abuses which this system calls forth, has taken a step in this direction by absolutely prohibiting the detachment in the villages of the members of the constabulary and the sending, in general, of black soldiers unless accompanied by a white man. The auxiliaries have been dispensed with in the Eastern Province. But, let us repeat, it is absolutely necessary to go still further and put an end once and for all to the sentry system as we have seen it work. The intermediary between the white man and the natives ought to be, as far as possible, the village chief. The authority of the legal chiefs, which has been eclipsed because of the sentry system, would be restored by its disappearance.

In order to effectually apply the propositions which we have just made, the State should withdraw the permission granted to the *capitas* to carry arms and should require the companies to return all the guns with the exception of the flint-lock guns, the albinis rifles issued regularly for the protection of the factories and the whites, and also the personal arms of the latter.

GENERAL OBSERVATIONS ON IMPOSTS

We have, in studying the different imposts, pointed out especial difficulties in the way of the collection of each and indicated some practical remedies intended to eliminate certain abuses that were reported. It now remains for us to enunciate the general principle which, according to us, ought to guide the State in this delicate matter of native imposts.

First of all, we ought to give an answer to the important question: Should imposts be collective or individual?

Article II of the law of November 18, 1893, declares that the imposts are fixed according to lists made out by the District Commissioners indicating by name all of the contributors.

It is true, as a practical proposition, that a personal tax is more logical and more just than a contribution made as a collectivity. This principle ought to rest in the law as an ideal towards which there should be a tendency and which should be attained wherever circumstances could permit. But at the present, in many cases, insurmountable obstacles exist which prevent its application.

It is hardly necessary to remark that, very often, the preparation of the lists provided by the law is, if not impossible, at least very difficult.

The natives, in fact, are not, with rare exceptions,

registered. Many of them are Nomads or change their residences with great facility. Their names are not fixed and could serve only incompletely for the identification of the contributors. They are repeated and changed very frequently. With the Mongo, for example, the native who has a son is known only as the father of his son.¹

Even though this list might be made with great care and absolutely exact today, it would be of no value in a few months.

The making of these lists, to be of any value at all, would require amongst other things a larger amount of work than could be assigned to the agents now on duty, for they, already overburdened with duties, are scarcely sufficient to meet the demands of the service.

Finally the collection of the prestation due from each native would impose upon the agents a complicated system of accounts.

The collective imposts, on the contrary, being fixed by the villages would simplify very much the labour of preparing the lists and making the collection.

This system besides, even if it does appear contrary to our ideas, is in perfect accordance with the habits of the natives. We have shown to what extent in the Congo the individual is lost in the

¹ For example, the native named Lisambo became the father of a boy Kaisu. From that time he took the name Isekaisu, father of Kaisu.

collectivity. Not only the ownership of land and plantations but also, in the majority of cases, the responsibilities are, according to custom, collective.

We think it best to return to the method of collective imposts, though we are far from ignoring its imperfections, especially in as much as regards the just division of labour.

Each year the amount of impost should be fixed for a village according to the approximate number of the inhabitants. The chiefs would see, under the control of the authorities, to the distribution and to the collection of the impost. They would be in return for this exempted from the present services and would receive the support and protection of the State. They would report the delinquents to a white man. He would require the chief to turn such over to him, and in case of necessity would arrest those who, because of their repeated refusal to pay their impost, should make themselves liable to the coercive measures.

In this system which we propose it can be seen that the chiefs will be called upon to play an important rôle. In order that they may be equipped for the successful discharge of their duties, the State ought to begin by confirming and exalting their authority over their tribes.

Their rights and their powers over their subjects should, in so far as they are compatible with the general laws of the State, be recognised and endorsed.

The local government has, especially in this latter day, given instructions of this sort; but, as we have said above, there is no doubt but that many of the officials, especially the chiefs of posts and sub-agents, have often followed the opposite principle.

Up to the present time the chiefs have been used for obtaining work and prestations from the natives, making them personally responsible for all of the delinquencies and all sorts of faults of their people without recognising any authority or any rights on their part. Therefore many of them have deserted or hidden themselves; others steadfastly refused to come into contact with the white men. These chiefs ought to realise that they would find assistance and protection with the State agents.¹ And so supported by the State, the chiefs would form in the entire Congo an extremely useful class, interested in the maintenance of order to which they would devote their prestige and their authority. This institution would become an important feature in the administration and also the basis for the organisation of the State.

Everywhere the greatest prudence should be exercised in the choice of the chiefs to be thus recognised. If it is desired that their authority be

¹ However, except in unusual cases, armed men should not be placed at their disposal, for that would renew the abuses of the sentry system, and they should be punished only when they were personally at fault. In every case the punishment should be slightly humiliating as possible.

real and at the same time that they should not abuse it, it would be necessary so far as possible to grant the official investiture only to the natural chiefs designated by custom or tradition. These, in fact, govern frequently in a paternal manner; in every case their authority is accepted by the people; the natives show for them great respect and affection and it is very rare that they find fault with them.¹

It has been seen, on the contrary, that the complaints against the black strangers in the village who were clothed with some authority, were continual and in great number. It would, therefore, be necessary to be careful not to choose chiefs outside of the village. If for any good reason, the State should think it necessary to depose a natural chief it would be well to appoint a successor from his family, or at least from amongst the important men. It is impossible to repeat too often that a foreign chief would only utilise the authority of the State to the profit of his people: there is no tyrant more terrible than a black placed over other blacks unless he is restricted by the ties of race, of family or of tradition.

It must be remembered that through the assistance of the chiefs the excessive demands can not be

¹ We mean here only the chiefs of villages or of small groups of villages and not the great chiefs whose authority extends over these, for they are, in general, real tyrants who think only of enriching themselves and who depend upon one part of the population to exploit the other.

entirely eliminated. Chiefs themselves should be kept within traditional limits; if they attempt too much they will lose their authority and their people will leave them.

The duties with which we propose to invest the chief could never be, according to our opinion, conferred upon the whites, for, without mentioning the great expenses which such a system would entail, there is no doubt but that subordinate agents — whose services would be difficult to obtain — would find themselves exposed to continual dangers and would be obliged to protect themselves by being accompanied by armed negroes.

In addition, let us say in passing, it is desirable whenever possible that the State make use of the service of the blacks in giving them employment in proportion to their aptitude, without confiding to them weapons except in special cases. It should exercise care to enlist useful auxiliaries who would be, let us repeat, zealous in maintaining the authority which they will have shared. To do otherwise in a country where the European can not establish a permanent footing would be to proclaim the sure destruction of the negro race by creating a class of pariahs, contrary to the purpose which the State proposes for its emancipation and civilisation.

The obligation to pay the impost in labour means necessarily the restriction of the individual liberty of the native. The strict and rigorous application of the system because of the continuity of the im-

post would have in a certain degree the effect of restricting the contributor to his village or to the post to which he is to furnish his prestation. It could also, in many cases, impose upon him a work having no relation to his special aptitude.

It would be just if the law should permit every native to discharge his obligation of work by the payment annually or quarterly of a sum of money or a definite quantity of produce. This tax could be calculated by taking as a basis the value of the manual labour which the native had to furnish as an impost. It could even be superior to this so that the payer might not too easily exempt himself from the law of work.

This privilege would be of great value to those negroes who have acquired a certain degree of instruction or who have a practical education and do not enjoy the exemption granted by law to those who are in the State service or who are working for private individuals.

In all such cases the native would be obliged to register in the locality where he intended to reside.

We have acknowledged the necessity, in the Congo, of an impost of work. The amount, fixed at forty hours a month, seems to us equitable. Likewise we do not intend to question the justice of the principle of coercion included in the law.

Still we think that in the application of this law, the agents ought to show the greatest toleration.

One should never lose sight of the nature of the

Congo native. Without doubt, he ought to yield to the inflexible law of labour which civilisation imposes upon him. The more he advances on the highway of progress the more he will be obliged to work and, if some day his condition should approach our social status, he will have, like the Europeans, to work not only to pay his taxes but also to live.

With us, the great majority of the entire population must gain their livelihood by labour, and those who refuse to submit to this law have no other refuge than starvation, the prison or the poorhouse.

In a future, still quite remote, it may be the same with the black in the Congo. But, let us repeat, the nature of a race cannot be changed between to-day and to-morrow. It is only by steps, and slowly at that, that one teaches the negro to become accustomed to labour.

Some demands which seem to us moderate could, under certain given conditions, appear to them annoying and excessive. On the other hand, if each negligence, each delinquency, however slight, called forth coercion by a strict application of the law, no regulations could prevent a recurrence of the acts which have been regrettable.

It should not be forgotten, in fact, that in the present condition of the Congo population, the employment of force, even to insure respect for the law, often has results out of proportion with the objects sought. In the case of an individual delinquency, it is true, the intervention of the chief, especially if

his authority is re-enforced as we have proposed, will sensibly diminish the difficulties inherent in the application of coercive measures. But when it should arise that there is a refusal to pay a collective impost — the case which up to the present time has occurred with the greatest frequency — the chiefs, however great might be their desire, would find themselves impotent. The intervention of the army would then be necessary and frequently this might provoke conflicts.

In fact, the natives in default would not respond to a simple requisition. If they sought to escape, it would be necessary to follow them into the forest; if they resisted, there would be some wounded and probably killed; sometimes, even, one might see a recurrence of the acts of savagery and barbarism which unfortunately attend the combat between blacks. These events would not have in the eyes of the Congo peoples, accustomed to the horrors of inter-tribal conflicts, the same importance they have in ours, but it is easy to understand that they would arouse public opinion amongst people who do not know the condition of the country.

There would be produced, let us repeat, in spite of the instructions and orders, however wise, in spite even of the prudence and watchfulness which the agents would employ, the recurrence of the savage instincts when one group of blacks should be sent against a recalcitrant group, for in pursuit or in con-

flict their barbarous natures quickly come to the surface.

It would undoubtedly be wrong to deduce from these considerations the idea that all coercion should be abolished. The native can understand and respect nothing but might and with this he confounds right. The State ought to assure the triumph of law and, consequently, compel the black to work. But if it wishes to avoid the regrettable consequences which we have pointed out, it should, according to our ideas, make use of this authority only in the last extremity—that is, to be specific, we would suggest, only in the case of grave and repeated delinquencies showing evil intentions.

In many regions, some force would have to be added to the bait of remuneration. The native who is convinced that the white is stronger and can, if he wishes, force him, readily yields if too much is not demanded.

This method of procedure is also the only one which can lead to permanent benefits, for the repeated employment of force, even if it has the immediate advantage, ends by creating a void about the post. The people leave, disappear or revolt. The physical resistance of the natives is astonishingly feeble. They support with difficulty a sort of life that causes them to depart from their customary habits.

It is hardly necessary to remark that any system of injurious violence to the blacks would weaken the

State or the company in its material interests, for it would have the fatal consequence of diminishing or destroying the production.

It can be seen, then, that it is a wise and prudent policy to demand only what can be accepted by the native easily and secured without too much coercion. In maintaining the principle of forty hours of labour a month, it should never be forgotten that the law states implicitly that this is a maximum which should only be attained by degrees.

This line of action ought to be followed, above all things, in the case of tribes recently subjugated and who, consequently, are not used to labour.

The impost then would be adjusted to the varying conditions of the peoples, the State bearing in mind their aptitude for work and resting content with but little when it is realised that more could not be obtained except by the use of force.

This system, based on toleration and gentleness, would have the double effect of making the conflicts less frequent and of inspiring the natives little by little to acquire a taste for labour.

These ideas, however, are those which have already been expressed by the Secretaries General in the report addressed to the King-Sovereign under the date of July 15, 1900: "The plan which the Government follows," we read there, "is to exploit the Private Domain exclusively by voluntary contributions on the part of the natives, inducing them to work by the offer of a just and adequate remuneration."

Besides, the application of this principle would not be prejudicial to the Treasury as one might have reason to fear, for the State could extend it to a greater number of contributors who would become better able to pay as the demands decreased. It is not overbold to assert that at the present time the great majority of the natives escape all imposts, either because of the imperfect occupation of the territory or the migration of the population who became frightened at the first demands made upon them or by the actions of some of the agents.

The agents of all ranks should grasp this idea. They should realise that their first duty is to safeguard the well-being of the people whose affairs they are to administer, and that there is no merit to be acquired in the use of force — a means convenient enough for obtaining an immediate result, but which the lowest savage knows how to employ much better than the civilised man. The State, on its part, ought to reserve its favours for the agents who by their tact, their patience and their moderation have succeeded in winning the love and confidence of their charges and who know how to obtain in this way results which others secure by violent methods.

As to commercial companies, from which, as will be seen later, we propose to withdraw the right to exercise coercion, they should know that if it is expected that the State will come to their aid by stimulating the apathy of the natives by the impost

of labour, they, on their part, ought to endeavour to know better the needs of the natives, and, in their interest as well as to the profit of the natives, should follow those principles which prevail in all commercial operations.

CHAPTER III

MILITARY EXPEDITIONS

I. State Expeditions

WE shall not speak of the expeditions which had for their purpose the subjugation of the natives or the suppression of their revolutions. These operations were, in reality, acts of war with which we have nothing to do, the rights of the State here coalescing with its duties.

Outside of this category there are military expeditions which are right and necessary to insure the maintenance of order or the respect for law, but such expeditions should not assume the character of war in which martial law takes the place of civil law; they are police operations in which the members, in doing everything that is requisite for the restoration of order, must act within legal bounds and respect the rights of the people.

It is the abusive military operations having a warlike nature, which we feel ought to be mentioned. They are frequently occasioned by the collection of imposts and the repression of offences.

The instructions of the Government fix the rules to be followed in all police operations and con-

sequently those that should serve as a guide in those expeditions which have for their purpose the compelling of natives to acquit themselves of the imposts.¹

Often expeditions of this sort consist simply of a reconnoissance, a peaceful trip, during which the white officer, obedient to the instructions quoted, does nothing more than lead his troop into the refractory or delinquent village. He places himself in touch with the chiefs, showing the blacks, who respect nothing but force, the power of the State and thus proving to them the folly of an obstinate attitude that would bring them into conflict with the State. This method of procedure has often had excellent results.

It is perfectly right that in the course of this expedition the troops should arrest the delinquents in order to coerce them in accordance with the law.

Unfortunately the expedition did not at all times have this specific character and its good effect. Sometimes it has been deemed necessary to act more energetically.

In these cases the order issued by the superior officer to the commanding officer of the expedition usually instructed him to "remind the natives of their duties."

The vague generalities of such orders, and in

¹ If these instructions, which appear in the *Recueil Administratif*, had been literally followed, many of the excesses would have been avoided.

certain cases, the thoughtlessness of the one to whom is charged their execution have frequently had as a consequence unjustifiable loss of life.

However, it should be understood that the task of the officers to whom such missions are confided is the most delicate and most difficult.

It most frequently happens that the natives flee at the approach of the troops without offering any resistance. The tactics generally followed consisted then in the occupation of the abandoned village or the plantations which are near by. Driven by hunger the natives return either singly or in small groups. They are arrested and compelled to surrender the chiefs or the important men who, nearly always, submit, promising never again to fail in their obligations, and sometimes in addition are required to pay a fine. But it sometimes happens that the natives return slowly. One of the plans usually followed in such cases is to send out search parties and beat the bush, with instructions to bring such natives as they may find. The dangers of this system are easily seen. The armed black left to himself feels the recurrence of the sanguinary instinct which the strictest discipline is scarcely able to restrain. It is during this service that most of the murders are committed which are ascribed to the State. This has been pointed out in the case of the expedition in the neighbourhood of Monsembe which was the subject of a complaint made by the Rev. M. Weeks.

The Government recognises the abuses inherent in this plan and has positively forbidden the search parties not commanded by a white man, but these orders have often been violated in spite of the punishment upon the guilty agent.

The form of operation which presents still greater difficulties is the expedition sent out to capture the fugitives.

It often happens that the natives in order to avoid the payment of the imposts, especially the rubber tax, migrate either singly or as a mass and establish themselves in another region or even in another district. The detachment of troops is then sent to bring back the fugitives either by persuasion or after a combat.

The laws of the State guarantee in a most complete manner personal liberty to the natives, who enjoy the same right as the white to go and come throughout the entire territory. Such at least the courts have decided, but in the recent circulars the local government seems to have contested this right, in so far as regards the permanent migration of the natives. These circulars, starting from the principle that land actually occupied belongs to the State, conclude as a consequence that the native can not locate elsewhere than in the village of his birth without obtaining beforehand the authorisation of the State.

After what we have said regarding the land

system, it is easily seen that we can not accept this form of reasoning.

Since it is almost always for the purpose of avoiding the imposts that the natives move about, the State can be expected to bring them back to their homes and villages and to impose upon them work, using only its right of coercion, and after having brought the contributors back to their homes it could subject them to imprisonment and enforced labour. But this reasoning is not sufficient to justify the use of arms against a population whose rebellion, if this term may be employed here, has been purely passive.

The military expedition sometimes takes on a character still more repressive. We shall now speak of those operations which have been called "punitive expeditions," whose purpose is to inflict an exemplary punishment upon a village or a group of natives who have been guilty of some crime or serious resistance against the authority of the State. X

The order given to the commanding officer of a detachment was generally expressed in the following way: "N—— is instructed to punish or chastise such and such a village." The Commission knows of several expeditions of this type the results of which were frequently murderous. One can not be astonished at it. For in the course of delicate operations which have for their purpose the taking of hostages and the intimidating of natives a supervision is not always possible to hold in check the sanguinary instinct of the black, for when the order

of punishment comes from a superior authority it is very hard to keep the expedition from assuming the character of a massacre accompanied by pillage and the destruction of property.

Military action of this character always exceeds its purpose, the punishment being out of proportion to the fault. It involves in the same repression the guilty and the innocent.

The ties of solidarity which, we do not hesitate to recognise it, unite, in general, the inhabitants of the same village or all the natives who depend upon a single chief; the necessity for the white man, often isolated in regions where the regular operations of justice are not assured, to protect himself or his auxiliaries against the aggressions of the savage population which is only held in check by the show of a superior force: this can explain the expeditions of this sort, in general, in the African colonies; but, according to our opinion, it can only justify them in exceptional cases and to the extent that they do coincide with the sacred right which we call personal safety.

Although we were compelled to classify by categories the different kinds of military expeditions it is easily understood that the character of these operations can not always be distinguished with such precision as our statement may cause one to think. Personal dispositions, greater or less coolness of the officers, the greater or less familiarity with the African affairs, and the important factors

which influence in a great degree the issue of the expedition they command. A military march which at the beginning was intended to be peaceful may, during its course, take on a form both violent and regrettable.

The responsibility for these abuses should not always fall wholly upon the officer in command; one must keep in mind the deplorable confusion which still exists in the Upper Congo between the state of war and the state of peace, between administration and repression, and between those whom one should regard as enemies and those who ought to be regarded as citizens of the State and treated accordingly.

The Commission was struck by the general tone of the reports relative to the operations we have just been describing. Often the leaders of these expeditions, although stating that the expedition had been occasioned by the delinquency on the part of the natives in making the prestation, and without even referring to an attack or the resistance on the part of the natives which alone should justify the use of arms, speak in their reports of "surprise of villages," of "desperate pursuits," of "number of enemies killed or wounded," of "booty," of "prisoners of war," of "conditions of peace." Evidently these soldiers were thinking of war; they acted as if at war. This is certainly not otherwise than what their chiefs intended. In transmitting these reports to the superior authority what, in general, did the

District Commissioners mean by the caption "information and consideration"? — Observations of military tactics, of praise in regard to the order followed in the march or the disposition which preceded the attack. Very rarely did they see if the use of arms was justifiable. Under these conditions we are tempted to excuse the subordinates who did not take too literally the pacific character of their commission.

This condition can not be prolonged. In the interest of the population and in that of the agents of the State it is important that the natives should not find themselves treated all at once as enemies beyond the law, and on the other hand such measures ought to be taken that will prevent officers who conduct in good faith operations of war from being compelled to answer for these operations to the courts as a violation of the common law.

The Decree of Dec. 18, 1888, provided that a region could be subjected to especial military rule, but the results of this measure are simply to extend the competency of the court-martial to include certain crimes as punishable by death and to withdraw the right of appeal from the natives and from the soldiers; but no other change is made by the Decree as to the rights of the people. This Decree can not have as its object the substitution of military procedure for judicial action.

A law ought to specify clearly what authorities can declare the "operations of war," also determine

the conditions under which they are to be undertaken and what form they should assume. Then it would be definitely known when one is under martial law and when under the civil law of the State. Then too, an officer in leading a simple expedition with police functions for the purpose of compelling the natives to pay their imposts would realise that he was not marching in a "hostile" country; that his mission was to remind the natives of their obligation to the State in accordance with the law; that only in cases of serious attack are arms to be used; and that, if in the course of the operations there should be any wounded or killed, a court of enquiry should be convened to consider the legality of the defence, establish the responsibility and prosecute, in case of necessity, the guilty whoever they may be.

Orders relative to such operations should be so explicit that neither the superior nor the subaltern, in case abuses resulted, could claim vagueness or interpret the order in such a way as to permit of escape from responsibility.

In any event it ought to be well understood that the mere act of delay or negligence in the payment of imposts, in case it should call for the application of coercive measures, does not justify the characterisation of such operations as warlike.

We hasten to say, however, that military expeditions of this kind have become, in most of the districts, rare.

II. Expeditions Sent out by the Companies

The companies can never send out armed expeditions. They are permitted to have at each of their factories twenty-five Albinis rifles, of which twenty are for the exclusive purpose of repelling attacks to which they may be subjected by the natives. The other five can be assigned, under special permission, to men detailed to escort the whites in the trips which they must make throughout the territory included within the concession. In addition to these improved weapons, muzzle-loading (flint-lock) guns can be entrusted to the black *capitas* at isolated stations, who must be supplied with a permit to have arms. "These guns," says a circular of the Governor General, "can be taken out from the factories only singly. They cannot pass out of the hands of the commercial companies into the hands of groups more or less important nor be used by an offensive force." In spite of this formal interdiction, it has happened on several occasions that the commercial agents have made visits escorted by a number of men armed with Albinis rifles in excess of the number permitted by the instructions. It has also happened that these visits have assumed the character of real military expeditions. In some cases armed bands have been sent into villages of natives without being accompanied by any whites. During these irregular operations the greatest abuses have been committed; men have been killed as well as

women and children, often even when they were fleeing; others have been made prisoners and the wives taken as hostages. From the documents and judicial reports that have been examined by the Commission it appears that acts of this sort have taken place, notably in Mongala. In the Abir concession visited by the Commission, similar abuses were denounced by the missionaries of the Congo Balolo Mission as well as by the deputies and many native witnesses appeared to confirm these declarations. The deputies likewise reported armed expeditions undertaken by agents of the Lomami and the Kassai companies. More than that, the reports of the commercial agents as well as the many sentences passed by the courts prove beyond a doubt the existence of these reprehensible acts. The greater part of the whites now in prison in Boma are under punishment for crimes of this sort.

Many times the agents of the companies, who take part in these expeditions or who order them, thought they had the right to claim the "police authority" which is conferred upon them. But this error of interpretation is no longer admissible since the circular of the Governor General dated October 20, 1900, reminding the companies that the police authority is "never the right to carry on offensive military operations, to make war against the natives, but simply gives the authority to requisition, for the purpose of maintaining order

or establishing it, the armed force that is in the concession or outside actually under the command of State officers."

The Government has, in fact, placed upon certain concessions a police force charged with the protection and supervision of the territory which is directly under the authority of the District Commissioner. The directors of the companies may summons them directly in case of extreme need. From what we could see it seems that these troops are devoted to the directors and agents, who call upon them every time the pecuniary interests of the company are involved.

The Mutilations

It is chiefly in the course of the armed expeditions that the acts of mutilation took place to which several witnesses, and especially the Protestant missionaries, called the attention of the Commission.

At Lake Tumba, at Ikoko, the missionaries and several blacks told us that they saw, about 1895, in a canoe occupied by soldiers, a basket containing a dozen or twenty hands. Reverend Mr. Clark declared that at about the same time he saw in a canoe some hands fastened to a stick; they seemed to have been smoked. Both canoes were turned towards Bikoro. A native stated that these hands were shown to the chief of the Bikoro post and Mr Clark reports that this same agent, now deceased, point-

ing to his dog said of him: "There is a cannibal dog, he eats hands that have been cut off."

The same missionary, Mrs. Clark and Mrs. Whitman told us that on several occasions they saw natives killed in the course of expeditions made by the State, from whom the right hand had been cut off. Mr. and Mrs. Clark, also a black witness, testified to having seen a little girl whose right hand had been cut off during an expedition and who died at the end of six months, notwithstanding the best medical care, and also a woman whose hand had been similarly amputated. These missionaries finally told us of a native named Mola who had lost both hands as the results of the brutalities inflicted by a soldier. This was confirmed by an investigation.¹

Some black witnesses, coming from the district of Lake Leopold II., presented by Mr. Scrivener at Bolobo, declared that five or six years ago, their village being occupied by State troops after a battle, they saw seven genital organs taken from natives killed during the fight, and hung from a vine fastened to two sticks in front of the cabin occupied by the white.

The Commission also saw several mutilated persons.

At Coquilhatville we questioned the persons

¹ Mola had been captured by the soldiers. The cord with which he had been bound was too tight, causing gangrene to set in; he lost both hands.

named Epondo and Ikabo. Epondo had his left hand cut off and Ikabo his right.

Mr. Clark at Ikobo brought before us Mputila from Yembe (Lake Tumba) who had lost his right hand.

Reverend Mr. Lower at Ikau brought before us Imponge from N'Songo, a boy apparently about fifteen years old, who had lost his right hand and left foot.

Reverend Mr. Harris at Baringa showed to us a person named Isekosu and the woman Boali, the former without his right hand and the latter without her right foot.

Epondo, repeating the story which he had told before, declared that he had lost his left hand as the result of a bite from a wild boar one day when he was hunting with his master.¹

Imponge declares that, in his infancy, some sentries having attacked his village, his father fled carrying him in his arms. After a time his father dropped him in the brush so that he could run faster. A sentry saw him and cut off his right hand and

¹ Without attaching any importance to the statements of Epondo, which have greatly varied during the course of the past two years, the Commission, relying upon its own verifications and upon the medical examination carefully made at Coquilhatville by Dr. Vedy, is convinced that Epondo actually lost his hand as the result of the bite of a wild animal. More than that, Reverend Mr. Weeks informed us that this was well known at Malele, where Epondo was born, as he had verified during a visit recently to that village.

left foot so as to take off the copper rings which he wore. This was confirmed by the father.

The woman Boali said that a *capita*, whose advances she had repulsed, shot her and thinking her dead, cut off her foot so as to be able to remove her anklet.

The three other mutilated persons said about as follows: "The soldiers (or sentries) came to make war in our village. I had been wounded and had fallen unconscious upon the ground. A soldier (or sentry) thinking me dead, cut off my hand." Mr. Monney, chief of the post at Bikoro, said that he saw besides Mola, three other natives with their right hands cut off; all had made the same statements.

From all of the cases verified by the Commission, it seems that the mutilation of the dead body is an ancient custom which does not have, in the eyes of the natives, the horrible character which it does in ours. The cutting off of certain parts of the body fills the native's desire for procuring either a trophy or simply a piece of evidence. Mutilation of enemies who were killed in the wars between natives of certain regions, is frequent. Even at the present time the black who wishes to show tangible proof of the death of another and can not show the dead body usually shows the hands and the feet of the same. Thus quite recently, a native of Wala (near Baringa) brought to the Baringa Mission a foot and a hand of a child which he had cut off. He

came to complain that the child had been murdered by a sentry. Some time after the natives of N'Songo brought to Mrs. Harris two hands which they had cut off, saying that they were those of two men killed by the sentries. In 1902 a native came to the judge of Coquilhatville to denounce the killing of a relative in a quarrel. As a proof of what he said he produced the hand of the dead man which he had cut off and smoked.

One ought not to be astonished if the blacks enlisted in the constabulary have not been able to give up at once this ancient custom and if in order to furnish to their chiefs a proof of their bravery in war have occasionally carried home the trophy taken from the bodies of their enemies. It is more than likely that at the beginning of the occupation certain white agents have tolerated this barbarous custom or at least did not do all that was in their power to eradicate it. There result from this the regrettable acts pointed out to us and which we have confirmed: the mutilation of living persons whom the soldiers of the sentry had thought dead. As to the mutilation of Imponge and the woman Boali, work of avaricious sentries, they had theft as a motive. Beyond these cases it then seems that the mutilations have never had the character of torture inflicted voluntarily and knowingly. However that may be, one point is beyond doubt, the white man has never inflicted or intended to inflict as a punishment for failure to make the prestation or for other

causes, such mutilations upon living natives. Acts of this sort have not been reported by a single witness, nor have we discovered any, notwithstanding all our investigations.

CHAPTER IV

THE CONCESSIONS

AS we have just seen, it is upon portions of the territory exploited by the companies holding concessions that the greatest abuses are committed.

A concession means the right granted in return for a money consideration to commercial companies that permits them to gather for their sole profit certain products of the State Domain. The principal companies of this sort are: *Société Anversoise du Commerce au Congo* (S. C. A., Mongala basin); the *Abir* (Lopori and Maringa basins, formerly the *Anglo-Belge*); *Isangi*, recently leased by the *Abir*; *Comptoir Commercial Congolais* (C. C. C., established in the Kwango basin).

Other companies, such as the *Lomami*, *Société anonyme belge, pour le Commerce du Haut-Congo* (S. A. B., in the Busira) and the *Comité spécial du Katanga*, exploit territory of which they are owners. In exchange for the right of exploitation which it concedes, the State receives a considerable part (often the half) of the stock of the company.

The thought is far from us to contest the right of the State to concede the exploitation privilege of certain parts of its domains. It can even be said

that at present this plan is imposed by conditions, for the State did not have at its disposal either the necessary men or money to develop such a vast area; it found itself compelled to rely upon the initiative of private parties and it accepted with gratitude the assistance that was offered by the bold financiers who were willing to risk their capital in enterprises that at first seemed hazardous.

But, considering the dislike of the native for work and his few wants, the exploitation of the forests of the domain under the operations of the law of supply and demand could not have continued very long. After having exhausted the immediate neighbourhood of the villages, the work of the gatherers became more difficult and the use of coercion was necessary to arouse the blacks from their apathy. In order to permit the companies to make use of this, the State, claiming the right to a certain amount of work as a prestation, delegated a portion of its powers to the concessions; in other words, it authorised these companies to require of the blacks work in the rubber forests as well as other forms of prestation and to exercise the power of coercion to obtain them. This authorisation, at first tacit, was formulated in the Decree of November 18, 1903, which imposed upon the natives of all territories the impost of forty hours' work each month and allowed the Governor General to empower the commercial agents to collect this impost. Even before this administrative act, these companies compelled the

native to gather for their benefit the fruits of the domain, observing always the principle of remuneration.

It is the way in which the companies make use of the right to coerce that is the source of the greater part of the complaints coming from their regions.

x The concessions, being commercial, have in view profits and not civilisation or humanitarian ends. The inconveniences that result from their double functions can be easily seen. They are, at one and the same time, commercial agents stimulated by the hope of great gain and, in a certain measure, officials, since they are entrusted with the collection of imposts. It should also not be forgotten that for many years the amount of impost was not fixed by law, the agents themselves determining this. The vagueness in the matter of imposts in kind exists even under the Decree of November 18, 1903. In fact, as we have said, a maximum is demanded of each native, which is never reached, leaving a considerable margin within which the agent can exercise his demands at his discretion. Since the higher officials and directors derive a greater profit from the rubber than do the subalterns, it can be seen that they carefully watch the actions of the latter. Finally, the field from which the companies can select their agents is limited and those who present themselves do not always possess a guarantee of intelligence, morality and needful tact.

We should add that the State supervision over

these territories ought to be made more effective. Let us take for example, the Abir company, whose territory comprises the Lopori basin and the Maringa and now extends as far as the Congo River (Isangi).

There is in this immense concession only one State agent, the commandant of the police force stationed at Basankusu. Although he has judicial functions, he has never reported to the superior authorities any illegalities that have been committed in his district. His tasks have been limited to suppressing the revolts of the natives, or calling the refractory villages to their work, and we are forced to think that he has no other duty to perform since his instructions, which we have seen, were always in relation to these matters.

Some of the Commissioners in the Equator District have made visits in their regions, but they have usually gone for the purpose of fixing the imposts, as appears from their reports.

Only three times have the magistrates gone into the concession to investigate matters that have been reported to them; they were compelled to make the trip in the boats belonging to the company — the State not having any service in this region — and thus found themselves forced to accept the hospitality of the agents upon whom they were to report.

It is easily seen that the company on which the State has imposed no guardianship, thinks itself absolute mistress in its own domain and one must

not be surprised if the general laws of the State are openly disregarded.

What are the remedies that could put an end to such a condition?

The ideal plan would be that the State, confining itself to the proper rôle, should not relinquish, in any part of its territory, the slightest particle of its sovereign rights; that it discharge everywhere the duty incumbent upon it to civilise the land and to see to its moral and material development; to limit the imposition of taxes to articles harvested or exported, leaving to traders the exploitation of the natural resources of the country. But the difficulties of exploiting under the operations of the law of supply and demand, especially when it is necessary to rely upon the manual labour of the native, are so great that, as said before, we do not think the plan feasible at the present time.

The ideal which we have pointed out can not be achieved immediately. We do not think that there is any occasion for the State to extend the concessions now existing nor to grant new ones. The present companies will continue to exploit the territory which has been granted to them; their agents can in certain cases be delegated to receive from the natives the products of the forty hours' labour which the State imposes upon them; but it is well understood that the Government can not confer upon them the right of coercion which has caused much abuse and which in the hands of the commercial

agents would continue to do so. For it is evident that the conferring of this power implies the authority to make use of armed force and prisons, the privilege of sending out expeditions to arrest the delinquents and to make use of arms in case of resistance. This authority could only perpetuate the unfortunate occurrences which we have pointed out.

No one but State officials, absolutely independent of the companies and entirely indifferent to their interests, should be authorised to impose coercion. It should be their duty to examine in every case the reason and occasion for the imposition of enforced labour.

The State should, moreover, maintain the most rigid supervision over the companies, establish, in the concession, courts composed of trained judges, and organise public service, postal routes, means of transportation, medical assistance and hospitals. It ought also to remind the different companies that in receiving the right to collect the impost for their profit, they assumed towards the State and towards the natives, its subjects, obligations which seem to have been ignored. If after the withdrawal of coercion the abuses referred to recur, the line of action of the State would clearly be: in virtue of their charter the companies should continue the right of exploiting certain products of the domain for a definite period; it is a right which can not be taken from them without indemnity; but the concession holders can, at the option of the State, be or not be commissioned

to receive the prestations of the natives. The commission granted by the Government is essentially temporary and revocable. Now, as we have seen, the withdrawal of the commission could as an immediate consequence make the concession void. It is well to say it and to repeat it. We have reason to suppose that the fear of such action would be sufficient to stimulate the vigilance of the companies and remind them of a strict discharge of their duties. If they should do otherwise, we are convinced that the State would know its duty.

At the present time the total amount of impost from the territory under the concession is for the benefit of the company, and the State derives only the benefit that comes from the dividend on the stock it holds.

These companies have done nothing in the interests of the natives nor improved the conditions in the regions occupied. It would be right and proper for the State, when it grants the privilege of collecting the prestations for their profit, to impose in proportion to the favours bestowed, the obligation to contribute from their profits funds for the organisation of public improvements.

In certain regions that have not been under a concession, the native gathers the products of the domain in the interests of the companies and under the operations of an indirect coercion.

These regions are those in which the State, by the

Decree of October 30, 1892, turned over to private companies the exploitation of rubber.

In the greater part of the Kassai basin, under this plan, there are several companies which form a trust so as to eliminate competition, constituting the Kassai company (C. K.). This trust was organised under the laws of the Congo, but it did not receive a concession, properly so called, like the Abir or the S. C. A. Its representatives do not enjoy the privilege of levying an impost. It cannot collect the rubber and other forest products except by treating directly with the native.

But if, in principle, the native is completely free to gather or not gather, to sell or not sell, he finds himself in fact, at least in the Sankuru basin, indirectly forced to devote himself to the work. In reality he is subjected to a State tax. Now this tax must be paid in a local currency called *croisette*, and this can be obtained only from the traders who demand rubber in exchange for it.

In addition to this coercion other abuses resulting from this system have been pointed out to us.

The quantity of rubber which the company requires in exchange for the *croisette* is left more or less arbitrary. More than that, the person who is in charge of the factory and knows a native will not work after he has secured the number of *croisettes* necessary to pay his impost, is careful most of the time to pay the native in some sort of merchandise other than *croisette*.

From information collected by the Commission it seems certain that the payment made the native in return for his rubber is less than the remuneration allowed by the State under similar conditions and on the other hand the quantity demanded is greater.

In other Districts, especially Lulonga, the district lying between the mouth of Lomami and the station of Stanleyville which we visited, the factories buy directly from the native the rubber collected by him. The native is not compelled to pay any impost, Article VIII, of the Decree of October 30, 1892, being observed there. All the same, he considers himself obliged to gather rubber for the factories. The following fact shows that the relations between factories and the natives are not considered by the latter as having a commercial character: in the region of the station of Stanleyville the blacks offered to an agent of a Dutch firm to surrender completely the remuneration which had been allowed them on condition that the company would reduce to one-half the quantity of rubber demanded.

It is easily understood that the evils of the system are less in the territories where competition between companies keeps the remuneration at a reasonable figure than in those regions where there is but one company. Thus the Commission received no complaint from the zone of the Falls where four companies established their officers and where the Rev. Messrs. Stapleton and Millman, missionaries of the B. M. S. at Yakasu, express their complete satis-

faction relative to the material and moral condition of the country.

These people, said Mr. Stapleton, afford a means of comparison between the present condition and that of the time of Arab domination and the result of the comparison is altogether in favor of the present.

In the Lulonga, on the contrary, abuses were pointed out to us for which the concessions were held responsible; methods of illegal coercion were employed and the sentry system was in force. The lash was in common use, as the Commission of enquiry found and as the agents in charge of factories themselves confessed.

From what precedes one can conclude, we think, that everywhere in the Congo, and notwithstanding appearances to the contrary, the native gathers rubber only under coercion, either direct or indirect.

We do not think that at the present time, except perhaps in Kasai and certain parts of the Eastern Province, it would be possible under the operations of the law of supply and demand, to collect rubber by means of the native, if left to himself, at least in such a way as to constitute a regular business. However, as the contrary is asserted and as a trial alone can show what there is of truth in our fears or in the hopes of the merchants, we think it would be well for the State, as an experiment, to renounce in one or more of the rubber districts its claim upon the products of the domain. The traders who should

come there would treat directly with the natives; they would be relieved from all imposts and would be induced to work by the desire for the remuneration offered. It would be, in effect, to try the experiment which could have been made by the application of the Decree of October 30, 1892. The result of this attempt, if tried, could furnish some information that would be useful in the future. In order that this experience might not be false in its essentials, the State, it is hardly necessary to say, should carefully see to it that no coercion, even moral, is imposed upon the native. It should, in addition, facilitate as far as possible the installation in the region of a large number of traders by selling to them at a low figure the ground necessary for the installation of the factories.

CHAPTER V

DEPOPULATION

SEVERAL missionaries heard by the Commission reported the depopulation which they had verified in certain regions with which they were particularly familiar. It is evident that the Commission was not able itself to form a definite opinion regarding this statement. However, if the word of Stanley is accepted, it is certain that a large part of the population has disappeared, for going from Stanley Pool to New Antwerp and even further up, the banks of the river are almost deserted. It is easily realised that it was the river population which, being first reached by the requirements of the whites, had sought to avoid these prestations and fled to the French bank or to those parts of the territory where they thought the impost could not reach them. Sometimes the population was drained by the frequent enrollment of soldiers or of workmen; such has been the fate of the villages immediately below New Antwerp. Their inhabitants have been scattered rather than destroyed. It is known how the Bangalas, who at the time of occupation formed a large part of the native portion of the constabulary and made up the entire crew of the marine, were

scattered along the entire river and throughout a large part of the Congo territory as is shown by the fact that the commercial vernacular comes from their language.

The missionaries also express the opinion that in certain regions where the military expeditions had been numerous and where the imposts, badly distributed, weighed too heavily on certain villages, the anxiety and the depression resulting from this state of affairs had caused the depopulation; the natives lacking confidence constructed only temporary shelters which protected them poorly from the inclemencies of the weather; at the slightest alarm they fled into the forests and the islands in the river; hence the considerable mortality. Messrs. Weeks and Gilchrist see in this condition the explanation of the great diminution which has come to the population of the banks of the river and the mouth of the Lulonga. Mr. Clark also explained that the numerous wars with the State had caused the depopulation reported in the region of Lake Tumba. We ourselves have noticed the disastrous effects of portage and showed that the excessive labour imposed upon the natives in the neighbourhood of certain large posts had the effect of depopulating the country.

But another feature of the question must not be neglected, perhaps the most important, at least so far as concerns the river population. We wish to speak of the suppression of the slave trade which

was flourishing along the entire river and whose most active centre was at the junction of the Lulonga and the Congo. The State, in putting an end to this traffic, gave a mortal blow to the prosperity of the slave dealers, the greater part of whom have disappeared from the river banks together with the commerce which they had fostered.

All of these causes of depopulation are secondary in importance. The effect of all these factors united fades away in comparison with the ravages committed during the past few years by smallpox and the sleeping sickness. Great smallpox epidemics have decimated the population of certain districts, especially the eastern part of Lake Leopold. These epidemics have been made still more fatal by the habit which the natives have of abandoning in the forest those who are attacked by the disease. The patient left, most of the time, without care and nourishment, soon dies.

The sleeping sickness, this terrible scourge, for which science has as yet found no remedy, has followed in its devastating march the banks of the great river and is now penetrating the interior.

The Congo State is forced to battle against this double scourge. It has urged its physicians to vaccinate everywhere the personnel of the stations and to render immune even the inhabitants of the native villages. It has built in the principal places of the district hospitals for the black patients. The Commission visited several. That at Boma, a superb

edifice built of brick, surrounded by subsidiary buildings, reserved for blacks with contagious diseases, deserves all possible praise.¹

The old hospital at Leopoldville, which gave occasion to well-founded criticisms, has disappeared and been replaced by an installation which, without having the importance and comfort of that of Boma, completely meets the actual needs.

The State supports the Bacteriological Institute at Leopoldville where the scientists are investigating the causes of the mysterious sleeping sickness. Certain Catholic and Protestant missions are endeavouring to diminish, as far as possible, the ravages of this disease by isolating the blacks, who are attacked, in sanatoria constructed for this purpose on the river islands or in out-of-the-way places. Dr. Royal Dye of the Bolengi Mission is making interesting experiments which promise good results.

Finally, the entire world has followed with interest the expedition organised by the Liverpool School of Tropical Medicine. One of the members, Dr. Dutton, has just succumbed in this task.

We shall have mentioned all of the causes of depopulation when we have referred to the frequency

¹ It would be desirable that the black nurses of this hospital, who do not give perfect satisfaction (the black has no sentiment of charity), be replaced by Sisters. It goes without saying that a contemplative order would not be suitable for this service. The Sisters of Saint-Vincent-de-Paul might be chosen.

with which the native women resort to abortive practices.

Some of the Protestant missionaries have told us that the women avoid having children so that they may always be in better condition to flee in case of the coming of a military expedition. Abortion exists, that is certain, but it is attributable to a superstitious idea, encouraged by the sorcerers, against which the missionaries of all denominations are compelled to struggle; according to this both the husband and the wife are condemned to death in case continence is not observed during the suckling of an infant. Now as this period sometimes lasts two or three years, this firmly rooted belief explains at once the relatively small number of infants one sees in certain sections and at the same time, the persistence of polygamy.

From what has gone before, it must not be believed that the population is everywhere on the decrease or that the union is always sterile. We have observed that in the Lopori and the Maringa basins, as well as upon the banks of the Congo River from Mobeka to the Falls, there are numerous villages and a considerable number of infants.

CHAPTER VI

THE ABANDONED INFANTS

THE Decree of July 12, 1890, has conferred upon the State the guardianship "of the infants obtained as the result of the arrest or the dispersion of a slave convoy, of those of fugitive slaves who claim its protection, of infants forsaken, abandoned or who are orphans, and of others towards whom the parents do not discharge their duty in the way of support and education."

1. *Colonies of the State*

Article II of the Decree says that there shall be created for this purpose "agricultural and training colonies where there shall be admitted other children belonging to the category named in Article I and as far as may be possible those who should request admission."

Some colonies, called educational colonies, have been founded at Boma and at New Antwerp. Here the first important step has been taken by the State for the establishment in the Congo of public instruction and the beneficial effect of these measures can not be questioned. Moreover, it will be

at once seen how useful to the State it will be to have these black pupils relatively instructed from which to draw excellent servants, good soldiers, and workmen of all sorts. The children remain under the guardianship of the State until the age of 25 years.

The program of study outlined in general by the order of April 23, 1898, is well planned. The day is divided between study, military exercise under the instruction of a non-commissioned officer, and manual labour.

The young natives can be admitted to the colony up to the age of 12. They pursue three courses, or three years of study. Those who show especial aptitude are, at the end of the first or second year, relieved from military exercises. At the end of the third year a separation is made. One part of the pupils is turned into the public constabulary and the other part enters the State administration.

The Commission, while recognising the great interest aroused by this educational initiative taken by the State, examined with especial care the questions raised by the Decree of July 12, 1890. Though fully approving, as a whole, the principle of the institution, the Commission does not ignore the fact that certain serious criticisms can be urged against some features of the system as it is now conducted.

As a consequence of the forceful abolition of slavery, the only class of infants that can now supply the colonies is that of abandoned infants, or

orphans; but how are the expressions contained in the decree to be interpreted? It has been said that the infants of this class, according to the native classification, are rare. Although orphaned by the loss of both father and mother, the young black is hardly ever forsaken by his relatives. It is not infrequent to hear a black speak of his fathers and his mothers. By that he means his uncles and his aunts, and in case of a lack of those to whom he owes his life, those towards whom he must discharge filial duties have a claim upon him. These parents, in the native meaning of the term, feel themselves injured when a child which they had nourished and reared up to the present time, is taken from them, and even torn from its village, in order to become a pupil of the State, separated from its natural protectors whom it could not distinguish from its real father and mother. There is, then, a certain injustice when one interprets literally the provisions of the first article of the decree.

Now it appears that this is the interpretation that has prevailed up to the present time. The State has been forced to endure the reproach of "recruiting," under the guise of assistance, but against the wishes of those interested, the young people destined to fill the ranks of its constabulary.

The second criticism that we shall formulate is not of a general character and applies to the special condition that existed in the Boma school colony at the time of the Commission's visit. Enjoying

only a limited grant, this establishment, though founded ten years ago, has not been able to properly develop its installation. The dormitories are built of bamboo. The cold wind of the night penetrates and the children thus exposed contract pulmonary diseases which the natives only feebly resist; for this reason there is a large death-rate amongst the pupils of the State.

The present Director of the colony realising that such a condition was intolerable, undertook to replace these dormitories by solid brick buildings. But lacking necessary funds he was obliged to employ the young pupils themselves to do the work. Children of from six to twelve years of age had to dry and carry bricks. To do this their studies were completely interrupted and the children, without benefit to their intellectual development or even practical development, were changed into workmen and kept at labour beyond their endurance.

Undoubtedly it will suffice to call attention to this state of affairs so prejudicial to the pupils of the State to insure a prompt remedy.

There remains for us to call attention to a defect more serious, since it affects the system itself and will be of a nature to violate the spirit of the law by making it detract from its humanitarian purpose. As we have said under Article III of the Decree the children remain under the guardianship of the State until their 25th year. This period is excessive. The Decree does not recognise the conditions of the life

of the native. The length of life of the black seldom exceeds 30 or 35 years; the age of the adult is his sixteenth year and the result of the provisions of the Decree as stated is to keep the pupils of the State in a semi-perpetual minority.

It is true, as we have said, that according to Article XII of the Order of the Governor General dated April 23, 1898, the children having followed the course for three years can, if they are 14 years of age, be detailed to the constabulary or leave the colony to carry on the trade or profession which they have learned there. But the guardianship of the State continues to weigh upon them, and in fact, neither the one nor the other derives any great advantage from the education and the instruction which they have received.

The lot of the former colonists, who have become labourers for the State, or been given some special employment, is still more unsatisfactory.

In spite of the labour (incomparably harder than that of the soldiers) which they must perform and notwithstanding the special aptitude they may show, these young men are treated as in the ranks of the constabulary and receive the same pay, which in all cases is much less than is received by a person having equal education or training working independently.

According to the opinion of the Director of the Colony this is fatal. The inferior condition of the pupils of the State is known to their comrades and

is the cause of derision to which they are subject when they leave. The designation *Koloni* is an epithet of opprobrium. Instead of furnishing the elements of a conservative class, one enlightened and helpful to the State as a civilising agency from which those competent to judge would wish to draw, they become revolutionists, dissatisfied and a greater source of danger to the State in proportion as their course of instruction was more complete.

2. *The Children Gathered in the Missions*

We have spoken until now of the children collected and educated by the State itself. It now remains for us to occupy ourselves with a larger category, those who are confided to the care of the missions.

According to the terms of the Decree of March 4, 1892, the State authorised "the legal representatives of philanthropic associations and religious Orders to receive in the agricultural schools and training colonies which they direct, native children who, according to law, come under the guardianship of the State."

The Catholic missions have been about the only ones to profit by the Decree of 1892. The Protestants are, as a rule, hostile to the system of school colonies. The Foreign Christian Missionary Society, which shelters in its establishment at Bologni a small number of abandoned children, forms

in this respect an exception amongst the evangelical missions.

With the exception of the military drill these children are under the same routine as those who are under immediate control of the State. And the greater part of the criticisms of which we have spoken are justified here. However, in point of view of lodgings and the work to which the children are assigned, the Commission can not repeat, as a result of the different missions visited, the observations that it had to make regarding the present situation at the Boma colony. On the contrary, the Commission can testify to the excellent condition of the buildings at Kisantu, at Bamanya and at New Antwerp. It was present at the class exercises, it visited the workshops and is pleased to recognise the zeal with which the missionaries look after the instruction and the training of their pupils. The latter, let us say, had, as a rule, a look of content.

Notwithstanding, it seems certain that the missions do not always show the necessary care in the selection of the pupils to whom the State conferred its guardianship. Thus in certain establishments situated in the south of Stanley Pool District the committee in charge of the enrollment of children recently admitted reported the following facts:

First: Many children had plainly passed the maximum age of twelve beyond which they can not be taken to the mission against their will. Certain

were married, according to the native custom, and the Fathers, in placing them in the mission, had forbidden them from that time to see their wives.

Second: Many were not abandoned nor even orphans; many were reclaimed by their parents. From information received it appears that the Fathers protecting themselves under the authority of the State followed the plan which was in reality a recruiting of children. Thus applied, the Decree of 1890 would become, in the hands of the missionaries, the means of acquiring easily abundant manual labour and the philanthropic purpose intended by the law would be seriously compromised.

In the course of a judicial enquiry made in this same region a number of natives declared that they had been retained at a mission against their wishes in order to work; several complained that they had brought upon themselves, by an attempt to run away, punishment, such as being placed in irons and flogged. The Commissioner of the Cataract District has often received from escaped children from the Kisantu mission complaints of the treatment they had had.

Not satisfied to keep in the missions a considerable number of young people who do not come under the conditions demanded by the decree, the Fathers establish groups of fifteen or twenty in the hamlets surrounded by cultivated fields which are scattered about the district and are known as farm chapels. These farm chapels are actually detached mission

posts. Their occupants are kept by the Fathers under a very rigid guardianship. They do not possess, strictly speaking, anything; their produce and the domestic animals they raise belong, in general, to the mission. They rarely receive the permission to marry or to return to their native villages. The majority of the natives who reside here are neither orphans nor workmen engaged by contract. They are demanded of the chiefs, who dare not refuse, and a coercion, more or less disguised, is necessary to restrain them. The system pushed to the extreme, comes very close to illegal procedure which is not even remotely related to the application of the decree regarding abandoned children.

We do not conceal the fact that the question raised is difficult. The introduction of European civilisation into a country such as we are now occupied with must necessarily call for a curtailment of personal liberty, and consequently places the native under a sort of guardianship. Also one can understand that a State, by virtue of the civilising rôle which it assumes, can regard itself as the guardian of all the children of a certain age and putting aside the parents or natural guardian, undertake the education of these children in accordance with the objects in view and the principles it deems best. But the present law does not go this far. It is applicable really to children who are abandoned, that is to say, those in need or those who do not have in the village any relative able to support them.

The period of State guardianship ought to be considerably diminished. The pupil having reached the age of sixteen, which elsewhere is that of legal majority, ought to be completely released from the bonds of guardianship.

But if we think that the law of 1890 should be reasonably interpreted and wisely applied we think also that there is room to complete it by a decree regarding the compulsory education.

In fact, we have observed that except in rare cases where a native is enrolled as a soldier or engaged as a labourer of the State, he completely escapes, if he is an adult, the civilising influence of the State or of the missions either Catholic or Protestant. On the other hand, if he is the father of a family, unless under some compulsion, he will not send his child to school.

We, therefore, propose that a law should provide that fathers living within a certain distance of the mission, send their children who are within a certain age limit to be determined, and which should not exceed 14 years, to the mission school and that under the pretext of practical instruction they can not be employed in work exceeding their strength.

In every case, upon the express request of the parents, the children will not be obliged to take religious instruction.

CHAPTER VII

RECRUITING OF SOLDIERS AND WORKMEN

I. *Soldiers*

CRITICISM has been directed recently against the way in which the Congo State recruits a constabulary that it is necessary to maintain in the vast territory. It has been alleged that "the means by which it enrolls soldiers differ very little from the procedure formerly employed by those who captured slaves." This criticism is unjust. This can not in any event be applied to the present situation.

The regular recruiting of the army takes place through voluntary enrollments and the annual levy (Article I of the Decree of July 30, 1891). The Governor General determines annually the districts where the levy is to be made as well as the proportion to be furnished by each (Article II). The method by which this takes place is determined by the District Commissioner in consultation with the native chiefs. As far as possible it is done by means of drawing lots (Article IV).

This decree is followed, with the exception, however, that in the absence of a census there can be

no drawing of lots. As a rule, the chief, upon the demand of the District Commissioner, designates the men who are to constitute the contingent.

It is seen that this method cannot be condemned without contesting the right of the State to require military service of its subjects. Thus the Congo State applies only the principle which has the sanction of the majority of the European countries.

However, there have come to the knowledge of the Commission some abuses that are occasioned by these recruitings. Some chiefs of expeditions have thought themselves empowered to impose, under the name of fine or war contribution, the furnishing of a certain number of militia. This irregularity has been formally forbidden by the Government, and we think it has disappeared.

The military life has a great charm for the native; it answers to his nature, to his aptitude and to his tastes; we think we can say that the conscription which has met with so much opposition with western nations of Europe is the form of public service to which the native has become accustomed with the greatest ease.

More than that, the voluntary enlistments are numerous and many of the militia re-enter the service upon the expiration of their term.

It is also true that the soldiers of the constabulary are, in general, well treated and well cared for. They have been the object of solicitude by the State. They receive a daily wage of 21 centimes.

Each soldier has the right to live with his wife and to take her everywhere with him. Moreover, a recent circular of the Governor provides that the new conscripts be encouraged to select, before re-joining their company, a wife from their own country.

The Commission visited many posts and camps of instruction, as well as the cabins occupied by the soldiers' families. It was surprised by the cleanliness and good condition of the same. It can have nothing but praise for the excellent appearance and martial spirit of the troop. The complaints which it has received from the members of the constabulary are few and are upon matters of secondary importance.

On the contrary, many State labourers heard by the Commission, expressed their regrets that they had not been admitted to the constabulary, preferring it to their own engagements. It seems wrong to send a part of the annual recruits to manual labour having no relation with the army, depriving them of the privilege of wearing some sort of uniform and putting them to work on fortifications. These "soldier-labourers" (such is their official title) were dissatisfied with the change made in their destination without their consent.

A recent Order of the Governor General has suppressed this category of soldier-labourers, but the recruits, instead of being turned over to the constabulary or returned to their homes, have been enlisted

as labourers for the remainder of their term. The Commission has called this irregularity to the attention of the competent authorities.

The Commission is convinced that military training is the most efficacious influence towards civilisation that has as yet been tried upon the adult Congolese. The military service, made somewhat long by the difficulty of transforming a savage into a disciplined soldier, is sufficient to improve the native who has been under this restraining influence. This influence remains with the former soldiers. They can be easily recognised by their more dignified manner, their way of presenting themselves, their salutations, the care with which they are dressed and the more comfortable houses that they build. These men seek the contact with the whites and respect authority.

Certainly, we are far from pretending that a time spent under the flag is sufficient to eradicate entirely the instincts of the savage or that discipline will change the nature of all the natives enrolled. On the contrary, we have had occasion to point out the regrettable excesses that have been committed during the military expeditions, especially when the vigilance of the white man was relaxed. But since the missionaries who spend their energies upon the young blacks see their efforts fail to civilise the adults, we think that for them the military state is the only one that can insure good results.

We now touch upon a second criticism: the State

has been reproached with having chosen its soldiers from the savages and cannibals.

It is certain that since the State judged it best to give up the enlistment of volunteers from the coast, who formed the kernel of its army, and to recruit its militia from its own territory, it draws its soldiers chiefly from the vigorous and warlike tribes of the Upper Congo, who are better suited to military service than the people of the Lower Congo, brutalised by alcohol and weakened by the slave trade. Truly, these natives were savage and often cannibals; but this twofold characterisation is applicable to the majority of the peoples living above the Stanley Pool. The State had no choice. Now the recruiting is extended to cover all regions and during the past year a certain number of militia were drawn from the districts of the Lower Congo.

Still, nothing but a firm discipline and an incessant watch can prevent absolutely acts of savagery. Therefore, the Government has forbidden, as we have seen, the sending out of search parties or patrols unless accompanied by a white man, as well as the establishment of camps made up wholly of blacks. With the same purpose in view, a high official has recommended the frequent relief of the small garrisons in the secondary posts often commanded by subalterns. His suggestion has been followed. Soldiers thus detached contract bad habits and it is important that they be not given time to relapse from the strict discipline which is imposed upon

them at company headquarters or camps of instruction.

2. *The Labourers*

The State, like individuals, takes into its service natives whom it employs for different sorts of work.

The class (of these labourers), at present very large, is exceedingly interesting. The sojourn at the post produces the best effect upon the black. It is a first contact with the European civilisation; it works a gradual transformation, quite perceptible, in the habits and tastes of the native. The labourers, like the soldiers, form, though in a less degree, a genuine class of semi-civilised.

The engagements made by the State as well as all that are made between foreigners and natives, are regulated by the Decree of November 8, 1888, regarding the labour contracts. This law is one that was inspired by the most praiseworthy motives. Its purpose is evidently to safeguard in the most efficacious manner the principle of absolute freedom of labour contract.

The law requires that every contract for services be drawn up at the charge of the patron or master and presented in writing for the endorsement of the appropriate authority. (Article 13, Section 1.)

The endorsement cannot be made until it is sure that the workman knows perfectly the conditions of the engagement and that he accepts them of his own free will. (Article 13, Section 2.)

The Order of November 1, 1898, designates as authorities competent to endorse the contracts, the judge of the district, or his deputy (also a jurist), and it is only in the absence of such officers that this function is delegated to the officials of the administrative offices.

The period of contract service cannot exceed seven years, and it cannot be renewed except through the intervention of the authority cited above. The masters or patrons must show at all times that the blacks in their service perform their labours voluntarily or under conditions that are acceptable to them. (Articles 3 and 4.) Severe penalties are imposed upon the masters or employers who violate these provisions, as well as upon the employer or blacks who refuse to carry out the contract to which they gave their approval. These penalties must be pronounced by the courts. (Article 5 of the Decree of November 8, 1902.)

In the Lower Congo, where this law is generally applied, the engagement of labourers by the State, by the companies or by private individuals, has never been the object of criticism in its relations to the blacks. The foreign employers, on the contrary, complain of being helpless against the bad will of their labourers.

The judges charged with the endorsement of the contracts have considered it as a supreme duty, in fact a real point of honor, to assure themselves that the black enters into the contract willingly and that

he is not the victim of misunderstanding or violence.

On the Upper Congo, on the contrary, it can be said that in no respect are the intentions or the letter of the law obeyed, and that for two reasons:

First of all, the number of judges is limited. There are large areas where there is not a single one. In order to submit his contract to the deputy for his endorsement, it would often be necessary for the native to make a journey of several months.

Consequently it often happens that the contract is not drawn up; still more frequently, the contract is approved by an official of the local administration without being endorsed by a judge. Sometimes the contracts show an irregularity; they are signed by the District Commissioner or the chief of the zone as a contracting party, endorsed in the absence of a deputy by another official as a substitute for the deputy.

The Commission saw some contracts bearing two signatures made by the same hand. The territorial chief, in the name of the State, engaged the native and he himself ratified the contract as the substitute for the deputy.

The control which the law intends to exercise becomes in such cases illusory. In most cases it happens that the natives in these regions are engaged, in spite of all precautions, without even having the conditions of their service explained to them. This situation can be relieved only by having

a larger number of judges in the Upper Congo and that they periodically visit the places within their jurisdiction for the purpose of seeing that the laws are observed and endorsing at the same time the labour contracts.

Still, all of the difficulties will not disappear even if the reform here mentioned should be brought about, as we shall explain later. It is unfortunately undeniable that in many regions it is almost impossible to find natives who will willingly engage themselves as labourers. Exception, however, must be made to the domestic, or *boy*, for this place being lucrative is sought after. We should also add that the steamboat captains easily fill up their crews as this employment gives the natives an excellent opportunity to make trips free of expenses and affords them a chance to engage in a small trade. But beyond these two classes, it is seldom that a man offers himself to the State of his own accord. This fact is not surprising when there is borne in mind the remarks already made in this Report in regard to the indolence of the native and the almost complete lack of his wants.

Very often then, in order to procure workmen, it is necessary to have recourse to coercion and impose upon the chiefs the obligation to furnish labourers as they furnish soldiers. Sometimes even, the supply of workmen is demanded as a fine or ransom. The Commission listened to the complaints of several native Batchuas (Lake Tumba region) who

said they had been imprisoned one day when they went with their impost of chikwangue to Bikoro and were compelled to work.

The labourers thus obtained are sent to the different stations furnished with a contract drawn up in the irregular fashion referred to. These articles state that they are engaged for a term of three or seven years for a wage which varies, in the regions we visited, from three to six francs a month and food.

This coercive method of securing workmen has, as a rule, not been in use as long as it was only a question of meeting the ordinary needs of the stations, but when a large task, such as the building of a railroad or fortifications, is under way, this method is resorted to by the State in order to secure the needful number of labourers.

At the time when the Enquiry Commission was at Stanleyville there were at work on the construction of the Stanleyville-Ponthierville section of the Great Lakes railroad three thousand labourers recruited by order from the Eastern Province, only a few of whom were under formal contract. It must not be thought that the black, employed against his will, is restive under these conditions. On the contrary, with his habitual fatalism, he quickly accommodates himself to the new situation.

But this peculiarity should not encourage the violation of the law. The situation is unfortunate; it places the State officials, especially the judges,

in an extremely delicate position. A prompt remedy is required. In view of the urgency of certain great works of public utility, the State ought to proclaim the obligation of the native to lend his assistance. In a new country this duty is as imperative as it is for its citizens to run to the defence of its territory.

If our way of seeing things is adopted, two classes of men will be included in the conscriptions: some will enter the constabulary and the others will be employed upon the large works of public utility from which the natives themselves will derive immediate benefits, such as railroads or wagon roads. It is well understood that these works must be specified by law in a clear and precise manner, and it should be forbidden under the heaviest penalties to give the persons recruited for this purpose any employment other than that which is stipulated, notably to employ them for the exploitation of the domain. The number of labourers should also be fixed by law and should not exceed the limits made absolutely necessary. The term of service for them should be shorter than for the soldiers (three years as a maximum), and the remuneration should be the same that is paid in that region to volunteer workmen.

The manual labour to execute the important works being thus assured by conscription, the greatest care should be exercised in seeing that the law of 1888 is duly observed.

This provision would remove, beyond doubt, the criticisms so easily made by those who hold theoret-

ical principles without regard for practical difficulties.

We have confirmed the impossibility of the State securing by voluntary offers the needful number of workmen for carrying on the construction of the public utilities. Now these works are those on which the future of the country depends and they can not be abandoned; at the same time, it is impossible to expect their completion by the natives as imposed work, for they demand continuous labour and this is incompatible with the principle of forty hours' work a month.

According to our opinion the law ought to face the problem frankly and adapt itself to the exigencies of the situation so that the agents will not be required to go beyond its provisions — a procedure so fraught with danger.

In addition to the method of securing the workmen and the regularity of the contracts, other matters have been criticised, especially by the judges.

We mention first of all those regarding the long-term engagements.

The unfortunate features of long engagements are especially noticeable in the case of children. It happens that the District Commissioners employ, particularly for the fields, children of seven and eight years who are bound for a period of several years by a contract whose provisions they probably did not thoroughly understand. Now according to the instructions of the Director of Justice, the of-

ficials charged with endorsing the contracts cannot object if the children say they accept. There may be reasons for permitting a child to engage himself by contract, which is for him a guarantee, but the judge ought to have the right to refuse his endorsement if he is convinced that the child is acting without a full comprehension of what he is doing. In any event, the contract term of service should never be more than a year or two.

Of course one should remember the precocity of the native and the fact that the intelligence of the black reaches its apogee at the age of thirteen or fourteen.

Nevertheless, even for adults, the maximum term of seven years permitted by the law is excessive. The black, as we have seen, has a very vague notion of time. And on the other hand, the average life of the native is much shorter than that of the white man. So that the term, which, at the time of making the contract, is not fully appreciated, will consume the greater part of his life. Let us add that the wages paid, whether in eatables, merchandise or whatever may take the place of money, change value so easily in the Congo that it often happens that after a very short time the intrinsic value of the wage specified in the contract is not the same.

This leads us to the important question of wages. They are not always sufficient, especially for those who have a family to support. It has been pointed out to us that, particularly in the territory of the

Katanga Committee, the average wage paid the workmen is simply what is necessary for their subsistence. In other important centres, at first sight the payment seems ample, but it is insufficient because of the relative dearness of the living expenses. Thus at Boma, the compensation of six francs a month and food paid to the State workmen can not, according to general opinion, permit them to meet the needs of their families.

The examples which we have just given show, in addition, how the economic conditions can vary from district to district. This is another cause of complaint. It happens, in fact, that the labourers engaged in the Upper Congo at the wage customary in that region find, when sent below, that it is altogether insufficient for their support in their new residence and is less than is received by the workmen from the immediate neighbourhood. When this occurs, the judge, the guardian of the black, ought to demand that the wage of a workman brought from another locality should be made equal to that of his fellow labourers.

As we have seen, the payment of labourers is made, throughout the Upper Congo, in merchandise or in brass rods (*mitakos*). Let us remember that these articles are subject to depreciation, which frequently causes considerable loss to the workmen, so we have advised the State to extend as far as possible the payment in cash, which gives such satisfaction in the Lower Congo.

We shall also point out that the condition of the villages of labourers of the State grouped around the posts, unlike what we observed in the case of the soldiers' villages, is not satisfactory. In the interests of hygiene and the welfare of the men, a reform is necessary at once.

X There remains for us to say a few words regarding disciplinary punishment. The blacks engaged by the State ought to accept, under the conditions named in their contract, the disciplinary regulations which are imposed. They are practically the same as those that apply to the soldiers. The punishment most frequently used is the lash (*chicotte*). The regulations fix fifty strokes as the maximum and the convict can not receive more than twenty-five in any one day. The application must cease in case of fainting or if a wound results.

We do not think any one familiar with colonial affairs can question the necessity for corporal punishment. Without it, it would be impossible to maintain discipline amongst the personnel around the posts. Besides, the negroes accept it without serious objection.

Private parties and notably the agents of the commercial companies, are not permitted to use the lash on their black employees.

X In spite of the restrictions imposed by law upon the use of the *chicotte*, it is often abused, either in resorting too frequently to it for slight offences or in exceeding the limits prescribed.

*The Commission received from the labourers

many complaints upon this subject. Here again, one must make due allowance for the habitual exaggeration of the black. On more than one occasion the Commission found it necessary to distrust the fantastic number of lashes which a witness said he had received in a single day, and very often it was able to prove conclusively that the complainant was lying.

Still, it is undeniable that the chiefs of stations are led to violate the provisions by the desire to inflict a punishment that will serve as an example. It is equally true that these breaches of the law are not always visited with the punishment deserved, because the administrative authority, surrounded by difficulties, fears to weaken his influence with the natives, which in a colony, is a matter of great moment. The Commission knows from its own observation of two instances where the indictments of the court against omissions of this sort, which occurred in the Botanical Garden at Eala, were ignored in accordance with higher orders.

This procedure, whose purpose we perfectly understand, is none the less regrettable. If it is desired that abuses cease, the agents must be convinced that every transgression of the rules shall be pitilessly reprimanded.

The regulations formally prohibit the whipping of women. Some violations of this rule have been reported, but they are isolated cases and exceedingly rare. At all events, the Government has never shown any toleration towards this abuse.

CHAPTER VIII

JUSTICE

AT its very beginning the Free State created its judicial system. At different times the Government extended and strengthened this organisation, having in view the new conditions born of the progressive opening up of the territory.

We shall indicate broadly the present condition.

In civil and commercial causes the court of first instance is the lower court at Boma and in cases of appeal, to the Court of Appeals which also holds sessions at Boma.¹

Criminal offences come before the lower court at Boma, in the first instance, or the territorial courts or courts-martial.

The court at Boma and the territorial courts can try, each within the limits fixed by decrees, all violations of law committed by persons not subject to military law or cases involving civilians and members of the military.

However, the trial for offences committed by persons of a European race, even in the military category, is, in every case where the law punishes

¹ When the amount in litigation exceeds 25,000 francs the Superior Council hears the appeal from the Court of Appeals.

the offence with death, referred to the court of first instance of the Lower Congo.

The courts-martial try the military prisoners. The appeal, in penal matters, is submitted to the Court of Appeals at Boma in all cases coming from court of first instance and from territorial courts. Those that were heard by a court-martial are in case of appeal, sent to a council of war having appellate functions. It consists of the president of the Court of Appeals and two members designated by the Governor General who can not be below the rank of officer.

The decisions rendered in penal matters are not subject to review by the Court of Appeals.

There are at present territorial courts at Matadi, Leopoldville, Coquilhatville, New Antwerp, Basoko, Stanleyville, Lusambo, Popkabaka, Kabinda, Toa, Uvira, Lukafu, Niangara and Lado.

The number of courts-martial is greater than the number of territorial courts and as a rule they have sessions in the same place as the latter. The territorial judges, except in a few cases, are members of the court-martial.

The functions of public prosecutor are discharged in cases before the court of appeals and the appellate council of war by the State's Attorney and before the other courts, civil and military, by the deputies of this official.

The officers of the public prosecutor's department not only investigate the cases and verify the facts in

the case of violations of law but also draw up the indictment (*instruction*).

They combine the functions assigned in Belgium to "magistrats du Ministère public" with those of "juges d'instruction" (approximately, district attorney and grand jury). The public prosecutor and his officers, says the law, exercise their functions "under the high authority of the Governor General" but they cannot prosecute a person of any European race except with the consent of the Governor General. This rule is imposed by formal instructions.

Besides the judges of the bench there are in the Congo a large number of officers of the judicial police placed under the supervision of the State's Attorney. The decrees and statutes fix for each one the limits of his authority and of his territory.

Some are commissioned to investigate and verify all offences within their jurisdiction; these are the District Commissioners, chiefs of zones and chiefs of posts; others are charged with the investigation and report upon a limited class of offences; these are the treasury agents, post agents, etc.

Another peculiar feature of the judicial system should be mentioned: the members of the Court of Appeals, the judge of the inferior court, the prosecuting attorney and his deputies must be trained judges. They have no other functions, must be of a certain age and capacity, are doctors of law and can be appointed only by decree.

There are some territorial judges, members of the

courts-martial and substitutes who do not have to be professional judges and whom the Governor General can select from amongst the officials of the administrative department. At present practically all of the substitutes are doctors of law.

The territorial judges at Matadi and Leopoldville are trained judges. In all the other courts the functions of judge are confided to other officials, usually to District Commissioners.

The outline which we have just given shows that the Free State has seriously considered the organisation of the judiciary. We do not think that it is perfect or that it meets all of the existing needs, but we are convinced it will bear comparison with the judiciary organisation of many colonies more than twenty-five years old.

The Commission has not received any complaints during its long enquiry and has no criticism to make in regard to the way in which the courts presided over by trained judges discharge the important and delicate duties that are confided to them.

The Commission has been able to confirm from personal examination that the judges are, as a rule, animated by a great zeal and that they fill their mission with an impartiality that merits all possible praise.

However, three criticisms may be directed against the present situation, the first in regard to the composition of the courts; second, that their number is too limited in comparison with the large territory;

third, the dependency of the public prosecutor upon the administrative authority.

We shall discuss these in succession.

We have said that only the territorial judges of the Lower Congo are magistrates by training. In general, the District Commissioner discharges this function.

It is hardly necessary to point out the complications that result from this added duty.

In spite of their desire to do well, administrative agents charged with judicial functions, can not, when absorbed with duties already too numerous, acquire a profound knowledge of the laws of the land. They also lack the fundamental studies, so valuable in a position of this character. It has therefore been found desirable to refer the most important civil and penal cases to the Boma court for trial.

The unsatisfactory features of the judicial centralisation will be seen at once, for it means the extension of the jurisdiction of the Boma court over the entire territory. This compels the Europeans who are cited to appear before this court to make very long journeys at great loss of time and sometimes at considerable expense.

7 | But these long journeys are especially prejudicial to the blacks. It is a sad fact, verified by observation, the judges told us, that a large number of blacks who come down from the Upper Congo as witnesses never see again their native villages, but die during the trip they are forced to make. The

resisting power of the native to changes of habits and foods is, so to speak, practically zero.

Even when they are the objects of every possible care, the ranks of the unhappy creatures can be seen thinned out by homesickness for the forests of Equatorial Africa. Is it therefore astonishing that the mortality is still greater when they, during the long journey to give testimony, are poorly lodged or insufficiently fed? ¹

The number of those who died has created a great impression upon the natives. The simple word "Boma" frightens them. It is also at the present time exceedingly difficult to secure the blacks as witnesses, sometimes it is impossible.

A native of the Upper Congo, summoned as a witness, escapes into the forest. He must be treated as a prisoner, looked for, and sometimes when caught he must be chained, or in all cases some coercive measure must be resorted to to induce him to appear before the court.

It is unnecessary to call attention to the wrong this state of affairs does to the cause of justice and its operations. It often happens that a native who has been wronged prefers to let the matter pass without an attempt to secure justice rather than subject himself to the fatigues and dangers of the trip to

¹ A circular which appears in *Recueil Mensuel* for January, 1905, goes into minute details in regard to the treatment which must be accorded the blacks when called to testify before the courts.

Boma. A great injustice! offences go unpunished, the abuses multiply, dissatisfaction of the population increases and sometimes shows itself in revolt — a condition that justice could have prevented.

Sometimes also, in the neighbourhoods where there are Protestant mission posts, the black, instead of applying to the judge, his natural protector, acquires the habit, whenever he has a fancied grievance against an agent, chief of post or chief of zone, of confiding to the missionary. The latter listens, assists him as far as lies in his power, and becomes the organ of all the complaints of the region.

This explains the surprising authority of the missionaries in certain parts of the country. Their influence is not restricted to the natives who are under their religious teaching, but it extends to all of the villages to whose grievances they have listened.

The missionary becomes in the eyes of the native the sole representative of equity and justice; he adds to the importance acquired by his religious zeal the prestige which, in the best interests of the State, ought to belong to the judge.

Another drawback to the exclusive competency of the Lower Congo court in important affairs, is the inevitable delay necessitated by reason of the long distances which separate Boma from many places in the State.

Before the documents, the witnesses and the accused can be brought to the session of the court, many months and sometimes years, must elapse.

In the meantime the whites have returned to Europe, the blacks can no longer be found, recollection of the events have become dim and many of the facts have passed into legend. It also happens that the judges, unable to reach a decision because of a lack of evidence, discharge the case and, because of the great distance, not finding it possible to make personal investigation, they are unable to draw up a new indictment.

We have spoken until now of penal cases. The same difficulties exist in civil cases.

In the Stanleyville zone, for example, the commercial transactions are numerous. Can one in case of disagreement go from Stanleyville to Boma to submit the case to the judge? What a loss of time and what an expense would this voyage inflict!

The Commission thinks that if the Government of the Free State should eliminate the greater part of the obstacles to prompt and efficacious judicial action, if it should substitute trained judges for the administrative officials who now act as judges in the territorial courts, such a change would afford proper guarantees; there would no longer be a reason for withdrawing from them the trial in civil affairs nor to limit their competency in penal matters. There would remain, it is true, this inconvenience that the cases in which appeal might be made would have to be referred to Boma, but the court and the appellate council of war have, according to law, the right to pass upon the record and this might

become the usual custom when the minutes of the trial by the lower courts are compiled under the direction of a trained judge.

The jurisdiction of the existing territorial courts is too large and it would be desirable to see them increased in number, but this second reform can only be accomplished by degrees. The essential thing is that the natives of the territory may easily lay their complaints before a judge without being obliged to go to the capital of the district. It is of course permissible for them to appeal to the justice of the police whose residence is usually nearer than that of the deputy, but this official is often the administrative agent and performs a variety of duties; he collects the imposts, enforces coercion and makes the levy of labourers. It is to him very often that the black will ascribe, rightly or wrongly, the circumstances of the abuses of which he wishes to complain. Besides, in the large districts, where the State is represented only by the commander of a corps of police, would the native bring to the agents of the company complaints against themselves?

Many judges are of the opinion that great progress would be realised if the officials of the police would be reminded of their judicial functions and if they were placed in possession of instructions sufficiently precise in regard to the way in which they should be discharged. There are, it seems, some officials who never make a report; others draw up reports which are absolutely insufficient, satis-

fyng themselves with indicating the nature of the offence and the suspected offender without giving either the date, the place, the chief circumstances concerning the act or the names of the witnesses.

Without denying that the judicial functions of the police official can be improved we do not think for the reason mentioned above that too much should be expected of these officials.

It is to the deputy, doctor of laws, to whom the natives should be allowed to make their complaint. At the present time the deputies, with a commendable zeal, travel over their territory to hear complaints or to gather information regarding them. But usually there is at each court only one prosecuting official; the preparation of cases often compels this officer to make long trips which sometimes last several months.

Some judges have pointed out to the Commission that it is difficult or even impossible to pass judgment upon cases, sometimes important ones, because of their own travels or of those of the District Commissioners who discharge almost throughout the Upper Congo the duties of judges, so that sessions cannot be held, or if held, only with great difficulty. Because of this, there are inevitable and regrettable delays.

It would be best to designate in the case of each court, or at least with those whose district is the most extensive, two judges of the bench. So that while one could occupy himself with the investiga-

tion, the other could insure regular sessions of the court. The cases would be quickly prepared, more rapidly tried and the frequent contact of the judge with the native would increase the confidence of the latter in justice and consequently in the State.

It would likewise be well, in order to insure a prompt administration of justice, to give to all trained judges the right to try certain cases, even without the assistance of the public prosecutor or clerk of the court.

Would it not be possible to allow every judge while on his circuit to try on the spot, and even without the right of appeal, minor offences and civil cases of small importance? With the procedure somewhat simplified, the indictment could be drawn and the trial take place during the same session: the complainant, the defendant and witnesses are all present and if it should be necessary to ask for further verifications, the judge could easily obtain them.

If the white man, instead of being isolated and beyond all restraint, sometimes even sure of impunity, always had before him the fear of the supervision of the judge, many of the abuses and acts of ill-treatment, now the cause of regret, would no longer exist.

We now arrive at the third criticism mentioned, that which refers to the independence of the magistracy.

Here a distinction must be made.

The courts, and in general, the judges enjoy absolute independence in making their decisions and we desire no better proof of this than the decisions that have been rendered by the Boma court.¹

The same is not the case with the deputies. Several have drawn the attention of the Commission to this.

The deputy when making his circuit is under obligations for transportation, food and escort to

¹The independence and the severity of the courts, especially as regards the cases resting upon the ill-treatment of the blacks, have been supported and sustained by the State.

The report of the Secretaries General to the King Sovereign dated July 15, 1900, contains the following:

"The most important task that belongs to the administration of justice is the protection of the native in his person, property and liberty. We have repeated elsewhere the instructions that the Government continues to give to its judicial officers, and it is just to say that they prosecute without swerving the attempts upon the rights of the natives. They have even been charged with an excess of zeal in exercising in too strict a manner their protective functions towards the black by prosecuting the slightest inroad upon the rights of the native and in this way belittling the authority of the European in the eyes of the native. The Government can only continue to issue instructions that will insure the absolute respect for the law and approve its officers who prosecute all violations.

"It does not even hesitate to say that in suppressing acts of ill-treatment towards the natives an excess of zeal will meet with greater approval than an excess of indulgence. This latter criticism has been applied to Congolese justice. It is not justifiable. One would look in vain for a case of violence committed by a white man upon a native that did not receive its just deserts in case proof was forthcoming."

the District Commissioner, who can grant or refuse the canoe, soldiers, police or food supplies.

Measures should be taken that will make it possible for the public prosecutor's officers to have these necessities or requisition them in cases of urgency.

But it is especially important that a judge in the discharge of his duties be made completely independent of the administrative authority.

From circulars of instruction addressed to the officials of the public prosecutor it appears that the deputies connected with the territorial courts can not institute prosecution against a person not a native without having previously obtained the permission of their chief, the prosecuting attorney. Now the latter cannot grant this approval except with the consent of the Governor General, who has the supreme supervision over the bench.

It is easily realised how, in certain cases, the administrative authority can rightly intervene in judicial affairs. In the majority of the countries of western Europe, the machinery of prosecution is placed under the Minister of Justice who can, in criminal cases, dictate its line of action. In addition to this principle, one might add other considerations suggested by the special conditions that surround the Congolese magistracy, such as, for example, the youth and inexperience of many of the deputies.

But it cannot be admitted that the intervention of

the administrative authority should make itself felt to the extent of arresting the course of justice. On the other hand, it must not be forgotten that in the Congo the officers of the public prosecutor unite with their functions those assigned to the grand jury (*juges d'instruction*) and to committing magistrates.

Still other reasons argue in favor of the independence of the bench.

We have seen that the greater part of the laws of the State are enforced partially in the Upper Congo. It is therefore absolutely necessary that an independent authority see to their execution. In other words, the deputies ought to be able to freely discharge their functions as guardians of the law, even over the affairs of the administrative power.

We do not think that the reform which we propose presents any serious difficulty. Mere proceedings of inquest can not have irreparable consequences.

As to the prosecutions, the deputies certainly should not institute them too easily, and it is well that their action be supervised. We also consider that the authority to prosecute, given by the Public Prosecutor, is a guarantee which should not disappear from Congo laws. But this official, who is always a judge of experience, should have the power to act upon his own initiative; there is no sufficient reason to subordinate his decision to the opinion of the Governor General. He ought

to be, with respect to this high official, in the situation which he would hold in Belgium with respect to the Minister of Justice. In freeing the prosecuting attorney, in this way, there will be avoided the suspicion which always exists when a transaction is abandoned by higher authority.

The Commission has found, in fact, that very often a case begun by a deputy against a white man for having ill-treated the natives remained unfinished by administrative decision. As no reasons were given for these decisions it would be hard to say to what extent they were justified. In any event, it is necessary that hereafter the responsibility for such measures be left to the judicial authority.

The Commission can admit only one exception to this rule.

It is understood that the Government, in the Congo as well as in all other countries, reserves to itself the right to judge when it is necessary to prosecute political offences. The intervention of the Governor General should be retained in all cases where there is an offence committed against the safety of the State.

The Commission noticed the presence in the prisons of a considerable number of prisoners figuring on the lists as "political prisoners" (*détenus politiques*). They were incarcerated under a simple administrative order. The reason of their detention has nothing political about it. They are, in

the majority of cases, natives who have neglected to furnish their prestations — those who, under the application of the new law could be subjected to coercion. There are others who gave asylum to delinquents or those in flight from justice. We also saw labourers under discipline and women who had lived lives of prostitution.

All are submitted to the same regulations as the breakers of the common law, and some have seen their detention extend into months.

The regulations of the prisons mention the category of political prisoners; but these regulations do not rest upon any law; and on the other hand nothing defines the authority which can demand their detention, the cases that are applicable, the formalities to be observed and the duration of imprisonment.

It is strange that while the law throws around the liberty of the individual all possible guarantees, while it protects him against every form of abuse with the provisions borrowed from the Belgian Code of April 20, 1874, in regard to preventive detention, it leaves the operations of administrative authority without control and, one might say, without brakes.

We understand perfectly that in a savage country there must be great latitude, but it is still necessary in all cases where individual liberty is involved, that this authority be distinctly regular and clearly defined.

It has been seen that we have in the course of this Report, understanding in the widest sense the mission with which we were charged, passed through the sieve of criticism the entire administration of the Free State. We have pointed out, without shielding any, all of the abuses which have come under our observation. But we are not lulled by the illusion that we shall see those who read our Report placed in the position to appreciate in a sane and impartial manner the Congolese work. To reach that result, a proper perspective is necessary. African affairs can be correctly appreciated only when they are seen, one might almost say, when they are lived. Examined from a European point of view a large number of facts which we have seen will assume a character which they cannot have in the eyes of those who have been their witnesses.

It is thus that the distinguished judges, from many of whom we have had the most valuable assistance in our search for truth, told us that according to their opinion the retention of women as hostages at the posts was of all the means of coercion, the most gentle, the most humane, the most efficacious and the most in keeping with the native customs; although they did not deny that judged at a distance this measure would have the character of a crying iniquity.

It is evident that the Code, a juridical structure so rapidly built, which aroused a cry of admiration from a critic impartial and even severe, and which

perhaps has only the fault of being theoretically too perfect, this Code, let us say, does not always sufficiently regard the condition of the country and the people which it is called upon to govern. It should be always borne in mind that in spite of the progress achieved, the natives of the Congo are still in a large measure savages. Twenty centuries were necessary to create from Gaul, of the time of Cæsar, the France and Belgium of to-day and if our ancestors were, in the eyes of the conquering Romans, barbarians, one can, we think, say that they were civilised people in comparison with the inhabitants of the immense territory of the Free State at the moment of its constitution.

How should one expect that a code of laws as European as that of the Congo should not frequently meet in its application insurmountable obstacles? Hence arises a contradiction between the law and the fact; hence come those violations which the courts punish while granting to the offenders the benefits of extenuating circumstances.

The Court of Appeals, notably, has during the past years pronounced some decisions of remarkable severity, but it has always borne in mind the difficulties which have surrounded the Europeans. In order to live, to develop itself, the State found itself face to face with the necessity to exploit the natural wealth of the soil and the only available labour at its disposal was the native unused to work; the agents enervated by a terrible climate.

always debilitating and often fatal, are isolated in the midst of a savage population; and the life of each day presents to them nothing but demoralising spectacles. They left Europe filled with respect for human life and they soon see in the barbarous circle into which they are transplanted, that this has no value. They were taught from infancy to love one's neighbour and they note amongst the savages around them an absolute ignorance of the sentiment called charity — the negro, in fact, can not realise that a thing can be done except from fear or hope of personal gain; they are witnesses in the villages of the miserable plight of the weak and the infirm upon whom the chiefs and head men always let fall the heaviest burdens; they see the women degraded to the condition of beasts of burden, labouring without interruption and performing every task. Those who have had this spectacle before their eyes understand, but do not condone, the ill-treatment, even the acts of brutality of the white man towards the native who leaves the post without food or towards the recalcitrant delinquent whom he accuses of indolence or ill-will, though the difficulties of the rubber harvest are seldom appreciated and the black man's aversion to labour is rarely understood.

The Free State could have, if it wished, avoided a large part of the abuses which we have pointed out for almost all had, as their primal cause, the difficulty of securing work from the negro. It would have sufficed — imitating the example of many col-

onising governments — to authorise the free entry of alcohol into its territory. Alcohol — facts abundantly prove it — would soon have become for the native an imperative necessity, and to satisfy it he would have learned how to conquer his natural indolence. If the remuneration granted to the workmen had been, instead of goods or other useful articles, “trade alcohol,” one would soon have seen the chiefs and head men of every village driving to work with all possible energy all those over whom they had authority.

God forbid that we should think of suggesting the measure which would have as a fatal consequence the demoralisation of an entire race in a few years. We think, on the contrary, that the exclusion of alcohol from the Congo is together with the suppression of slavery the greatest title of glory to the Free State. Humanity will always be grateful to it for having refused to use this powerful lever to which others have had recourse, and thus turned from Africa a scourge more terrible and more destructive than the slave trade. The Free State, by the wonderful things it has accomplished in twenty years, gives the public the opportunity, we might almost say the right, to show itself exacting. In all events, it owes it to itself to introduce as soon as possible the reforms which we have cited, many of which are most urgent and can be accomplished without involving new expense. We have in view especially the large and liberal inter-

pretation and application of the laws regarding the holding of real estate, the effective enforcement of the law limiting to forty hours per month the prestation of work, the suppression of the system of sentries, the permission for the *capitas* to carry arms, the revocation from the commercial companies of the right to exercise coercion, the regulation of military expeditions and the freedom of the public prosecutor from administrative control.

Other reforms though important, we can even say essential, are, on the contrary, of a nature to increase the State expenses, the equilibrium of whose budget is retained with difficulty.

This consideration does not cause the Commission to hesitate, although, thinking always of the interests of the natives, it could never neglect to look at the practical side of the suggestion which it found itself called upon to make.

The Free State was created, with the consent of the entire world, twenty years ago, by a single will which, as is well-known, allied to itself the services of Stanley in the object of opening central Africa to civilisation and which alone, without the aid of any one, bore the entire expense of its establishment. Its origin came from the acquiescence of the native chiefs and the personal efforts of its creator.

The Powers have recognised its sovereign existence, but without contributing either to the work in view or to its development, and naturally without any idea of assistance or of guardianship — a

notion incompatible with the title *Independent* or *Free* which was given to the State.

For several years the young State lived solely upon the grants made by its founder. Then Belgium lent a generous aid, and now that its organisation has assumed considerable importance, it can rely upon its own resources.

This is, we think, an exceptional situation which differs essentially from that of the colonies, properly so called, in Africa or elsewhere, and one which should be kept in mind.

The State will be able to carry out progressively the reforms we propose. They will occasion an increase in expenditures; but it would fail in the discharge of its duty if, from the present moment, it did not employ every available means to realise the wishes formulated in this Report and which, we repeat, are inspired by the interests of the native population.

Please accept, Mr. Secretary of State, the assurance of our high consideration.

President of the Commission of Enquiry:

EDMOND JANSSENS.

Commissioners:

GIACOMO NISCO, E. DE SCHUMACHER.

Secretary:

Translator:

V. DENYN.

HENRI GRÉGOIRE.

BRUSSELS, October 30, 1905.

INSTITUTION OF A COMMITTEE

APPOINTMENTS

LEOPOLD II., KING OF THE BELGIANS

Sovereign of the Congo Free State

To whom these presents may come, greeting:

Upon the proposition of Our Secretary of State,
We have decreed and do decree:

ARTICLE FIRST

There is constituted a Committee instructed to study the conclusions of the Report of the Commission of Enquiry, to formulate the suggestions which they necessitate and to investigate the practical means for realising the same.

ARTICLE SECOND

The following shall be members of this Committee:

President: VAN MALDEGHEM, A., Vice-President of the Supreme Court of Belgium.

Members :

ARNOLD, N., Director General in the Department of Finance.

CHENOT, L., District Commissioner.

DAVIGNON, H., Former Senator, Member of the House of Representatives.

DE CUVELIER, Chevalier, A., Secretary General in the Department of Foreign Affairs.

DE HEMPTINNE, J., President of the Board of Directors of the Kasai Company.

DROOGMANS, H., Secretary General in the Department of Finance.

FIVÉ, G., Colonel, Commandant 2d Regiment Horse Guards.

GOHR, A., Director in the Department of Justice of the Congo.

JANSSENS, E., Attorney General of the Supreme Court of Belgium.

LIEBRECHTS, CH., Secretary General Department of the Interior.

MOLS, A., Manufacturer.

NYS, E., Member Court of Appeals, Member of the Hague Court of Arbitration.

TOMBEUR, C., Captain, Commandant General Staff, District Commissioner.

ARTICLE THIRD

Our Secretary of State is charged with the execution of this Decree.

LEOPOLD.

Done at Brussels, October 31, 1905.

By the King Sovereign:

In the name of the Secretary of State:

CHEVALIER DE CUVELIER,

H. DROOGMANS,

LIEBRECHTS,

Secretaries General.

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