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NEW AFRICA

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NEW AFRICA

AN ESSAY

ON

GOVERNMENT CIVILIZATION IN NEW COUNTRIES

AND ON

the Foundation, Organization and Administration

OF

THE CONGO FREE STATE

BY

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INTRODUCTION

In writing this book, our aim and object are to survey one of the most interesting forms of political organization, i. e. Government civilization of new countries, also to explain how H. M. King Leopold II., solved this problem in the centre of barbarian Africa.

History with its events, International Law with its construction of treaties, colonial policy with its studies on the formation and condition of new communities in new colonies, have all contributed to make up this book. We shall give expression to each of those elements in their turn.

We shall also endeavour to explain, documents in hand, the origin of the actual movement towards civilization in Africa, the rise of the Congo State amongst other nations, as well as the different facts which constituted its existence, making up its own life.

With the aid of International Law, we shall try

to explain the contents and meanings of the Berlin and Brussels Acts, which are conspicuous in the civilization of Central Africa.

And with the help of comparative colonial policy, we shall examine how, amongst savages of Equatorial Africa, the Founder of the Congo Free State built up a new instrument of civilization.

When the dust of time will have blown over the present conflicts, and when impartial justice will have determined the real greatness of men and events, few incidents will stand out as conspicuously, during the last quarter of the nineteenth century, as the opening of Central Africa to civilization. Without anticipating the judgment of future generations, we gather documents and testimony to prove the above statement.

Although it often may be said that contemporary history is least known, yet it may be also that it is easily forgotten or misconstrued. The great work of exploring and civilizing Central Africa, which began twenty five years ago and is still continued, should not be exposed to such oblivion or misconstruction. It may confidently await the verdict of the future; however it is of considerable importance that it should be appreciated at the present day.

Without expecting to appease all passions and to conciliate all interests arising out of this, as out of every other human enterprise, we hope that a little more light thrown on its fundamental aspects may contribute to dissipate

many prejudices and certain oppositions, to bring facts into proper focus : which is, after all, the main form of justice.

In our opinion, it is possible to arrive at such a result, without offending any body. By nature we are peaceful, but we are also open to reason. Generally we find it beneficial to deal with questions pacifically, avoiding irritable controversies. In many conflicts, there is to be found a misunderstanding and some apparent contradictions. At one step of the ladder, stands irreductible opposition; at the second, agreement and conciliation. Unfortunately certain minds stop at the first rung of the ladder.

According to the statement recently made by the Prime Minister of Great-Britain, international weakness springs out of international animosity.

Having followed, from its origin, the African movement, we have studied the Congo State at all its stages, and we put down in this volume the result of our observations on this enterprise, which is the development of a New Africa.

And so we complete the long—desired—for diptych, of which one side is dedicated to neutral and independent Belgium, and the other, to neutral and independent Congo.

April 9, 1903.

PART FIRST

HISTORY

CHAPTER FIRST.

Genesis of the African civilization movement.

Contemporaries are seldom qualified to judge of the importance of events which occur under their own eyes. The « aerial perspective, » as M. de Staal put it at The Hague Conference, is wanting in their case. But some developments are so clearly and so distinctly outlined that the panorama becomes easily intelligible to the ordinary observer. This is the case with the great historical event which we are about to study.

1. — GENERAL VIEW OF THE AFRICAN CIVILIZATION MOVEMENT.

The African civilization movement has brought a new Continent, with its unknown races and its unexplored wealth, within the sphere of universal civilization. It has heralded the pacific distribution of the world which is now being accomplished. It has, to some extent, inaugurated — except for England, who had for a long time been working in this direction — the *politique mondiale*

which connects new countries, old nations and all forms of civilization by the most various bonds of public law, unifies the general conditions of human existence, and makes the sea a real highway of the world. And it would, perhaps, not be difficult to recognise in what is known as « the siege of China » a sort of continuation—in very different and often mistaken conditions, it is true—of what has been called « the storming of the Black Countries ». At any rate, it is certain that the combination of public and private efforts put forth in the settlement of Africa has eclipsed the previous conquests of new lands and offers, in many respects, a spectacle unique in history.

The aspect of contemporary States, with their stately procession of colonies, protectorates and spheres of influence, has become as complex as it is imposing.

The essential characteristic of the African movement at the close of the nineteenth century is the keen and continued competition among the chief factors of European civilization in their effort to conquer economically, morally and politically, by peaceful methods, the Dark Continent, not only on its borders but even to its very heart.

Undoubtedly, the Egyptian expedition of 1798, when Bonaparte first won his fame, the final occupation of the Cape by England in 1815, the conquest of Algeria begun in 1830, and, nearer to our own age, the digging of the Suez Canal, started in 1859 and completed ten years later, —all mark brilliant eras in the history of this land of Africa whose destinies have been so strange, and where it seems that human genius, after exhausting which no longer knows lost lands and disinherited races,

the cycle of its migrations over the world, returns decisively and actively to resume the long neglected work of the most ancient civilizations.

But the mighty centres of effort of which we have spoken, and even more so the secondary coast establishments which have fringed with greater or less attempts at civilisation the enormous Black Continent spread over a quarter of the surface of the globe, have after all had but a limited influence. The Foreign Office was still far from being able to find a means of connecting Cairo with the Cape through the interior of Africa; the Quai d'Orsay authorities were equally unable to work out plans for an overland route from the Mediterranean to the Congo. The heart of Africa was considered incapable of becoming a seat of government; one would as soon have thought of attempting to carry on political work at the poles. Impassable deserts and impenetrable forests, inaccessible mountains, towering cataracts, a climate of fire, Stygian swamps,—such were the obstacles to be surmounted before the unknown land could be explored. It was always admitted that the interior must contain inexhaustible reserves of human forces. But could those herds of blacks, which greedy and sanguinary bands led towards the coasts, ever serve for anything else but to recruit the Oriental slave-markets, or to replace their fellows across the Atlantic? And if humanity revolted at the infamous slave-trade, if governments were anxious to purge the Ocean of slave-dhows, did it not seem as if this man-trading and man-hunting could never be suppressed in their very home?

It cannot be forgotten that intrepid explorers had made voyages of discovery into the heart of the Dark

Continent. The foundation of the Geographical Society of London in 1788 marked the commencement of multifarious researches which thinkers connected with equally memorable enterprises in bygone ages. But the furrows cut by these pioneers of isolated exploration seemed to be filled up as soon as they were made, like footprints in quicksand. Although science gained something from the work of these brave explorers, the heart of Africa remained a mystery. And if the veil was drawn aside from time to time, it was but to expose horrors such as those which made Livingstone cry : « In the case of most disagreeable recollections I can succeed, in time, in consigning them to oblivion, but the slaving scenes come back unbidden, and make me start up at dead of night horrified by their vividness (1). » Cannibalism, human sacrifices, man-hunting and slave-trading, with their accompanying nameless cruelties and endless suffering, were the features of the ferocious tribal anarchy which alternated with the incursions of men of prey, in search of plunder and of captives for far-off slave-markets—men resolved to conquer by fire and sword, at the cost of any amount of devastation and carnage.

The accounts given by the explorers aroused, from time to time, a feeling of curiosity and pity among civilised nations—a pity intimately bound up with the very fibres of our nature and which, for that reason, we call sentiments of humanity. But they did not seriously stir public opinion, neither did they secure any permanent attention from the Governments. These things happened

(1) *The last Journals of David Livingstone,* Paris, vol. II, p. 212.

so far away, in such an inhospitable land,—and it had ever been thus, with the fatality of a natural law! Besides, there was so much to do at home : Governments had to be induced to make the conditions of life easier, public and even private differences had to be settled, and so on!

2. — THE GREAT INITIATIVE. — ITS CHARACTER AND EXTENT.

Let the plain truth be acknowledged : it is King Leopold II. who has faced and clearly defined the African problem. It is he who has marked out the destinies of New Africa. The elements of a convergent, complete, methodic policy were determined and arranged by him, surrounded by all that light which the presence in Brussels of numerous explorers and others could throw upon this great desideratum. The most illustrious explorers, the presidents of the leading geographical societies of Europe, learned men and statesmen, all combined to heighten the effect of the memorable International Geographical Conference of September 12, 1876.

September 12, 1876 : that date must remain engraved in the heart of every friend of human progress. As time goes on, the day will become ever more memorable. Belgium, where jubilees are so carefully celebrated, might have remembered this great day in 1901. If the Africa of the future with its millions of negroes redeemed from barbarity, with its railways and telegraphs, with all its increasing material and moral progress,—if Central Africa, in its wealth and brilliance, some day

celebrates on its lakes and rivers, in its valleys and on its mountains, its great Thanksgiving's Day, the date of the Brussels Conference and the name of Leopold II. will be greeted on that day with the acclamations of peoples echoing the verdict of history. This honor is but simple justice, this glory should remain inviolable.

The character and extent of the initiative taken by Leopold II. in 1876 can be clearly ascertained by means of official documents.

« So far, » said the King in his letter of invitation, after pointing out that several expeditions, fed by private funds, had already been sent to Africa and had testified to the general desire to arrive at a satisfactory result, « so far, the efforts which have been made were put forth without a common policy. »

« I learned in England recently, » he continued, « that the leading members of the Geographical Society of London were quite willing to meet at Brussels, together with the presidents of the chief geographical societies of the continent and those persons who, by their travels, studies and philanthropic aims, are most closely identified with the efforts to spread civilization in Africa. Such a meeting would justify a sort of Conference the object of which would be to discuss together the present situation in Africa, to ascertain the results already attained, and to decide upon future action. »

In opening the Conference, His Majesty indicated the object to be aimed at in these words :

« To open up the only portion of the globe where civilization has not yet penetrated, to disperse the darkness which shrouds entire peoples. To discuss and decide

upon the means to be adopted and the steps to be taken in order to plant definitively the standard of civilization on the soil of Central Africa. (1) »

The following are the terms adopted by the meeting over which the King presided, in which the steps to be taken were decided upon. The resolution of the Conference with regard to civilising stations is thus drawn up :

« In order to attain the object of the International Conference of Brussels, namely : *to explore scientifically the unknown portions of Africa,—to facilitate the opening up of means of civilization in the interior of the african continent,—to seek means for the suppression of the slave-trade in Africa*,—it is necessary :

» 1. — To organise on a common international plan the exploration of the unknown portions of Africa, limiting the territory to be explored on the east and west by the two seas, in the south by the basin of the Zambezi, in the north by the frontiers of the new Egyptian territory and the independent Soudan. The most practicable method of exploration will be the employment of a sufficient number of isolated explorers, setting out from various bases of operation.

» 2. — To establish as bases for these operations a certain number of scientific and hospital stations, both on the coast and in the interior of Africa.

» Some of these stations will have to be established on the eastern and western coasts, at points where european civilization is already represented, for instance, at Bagamojo and Loanda. The stations will stock and distribute means of existence and of exploration to the travellers. They can be established at slight cost, being managed by Europeans already residing at the respective points.

» The other stations would be established at places in the interior where they would be of the greatest service to the

(1) *Conférence géographique de Bruxelles.* Rapport de la séance inaugurale du 12 septembre 1876.

immediate needs of the explorers. The establishment of these latter stations would be commenced in the most appropriate places for the object in view. For instance, Ujiji, Nyangwe, the residence of the king, or some point situated in the domains of Muata-Yamvo might be selected. The explorers could later on suggest sites for new stations of the same character.

» Leaving the question of reliable communication between the stations to a future date, the Conference expresses the wish that a line of communication, as far as possible continuous, be established from Ocean to Ocean, following approximately the route of Commander Cameron. The Conference also expresses the hope that similar lines of communication from north to south will be established later.

» The Conference appeals for the goodwill and cooperation of all travellers who undertake scientific explorations in Africa, whether they travel under the auspices of its International Committee, or not. »

Systematic exploration, with the establishment of hospital and scientific stations as a starting point,—civilization with the suppression of the slave trade as an object : such was the task which rendered necessary the creation of a new body.

The Conference considered that the formation of an International Central African Committee of exploration and civilization, seconded by National Committees, would be a practical means of attaining the desired end. The active part of the work was confided to an Executive Committee composed of the King of the Belgians as President, Dr. Nachtigal, Sir Bartle Frere—who soon resigned, on accepting an official position from his Government, and was succeeded by Mr. Sandford,—M. de Quatrefages, and Baron Greindl as secretary.

Speaking wisely of the situation of his own country,

the King had remarked, in his inaugural address, that Belgium was « happy and contented with her lot, » adding, however, that he would be « glad to see Brussels become the headquarters of this civilizing movement. »

In reading the report of the Brussels Conference, one is struck with the practical wisdom and appreciative foresight of the King of the Belgians.

While proposing the establishment of a system of permanent stations, he at the same time defined their scope. They would be hospital posts and places of refuge for the explorers; they would be scientific observatories, centres of geographical, geological, climatic and ethnographic research. Science would profit by them first, then commerce, industry, missions and every branch of human activity. They would also be centres of civilization helping to pacify the barbarian tribes around them, offering a refuge against the slave dealer, placing some technical education within the reach of all, as a step up to a more civilized life and a higher degree of human culture.

This task was doubtless the work of a distant future, but it aroused attention, while the Conference considered the economic and moral factors necessary to cooperate with the work of the permanent stations, always keeping in view the importance of efforts towards civilization.

The various plans discussed at the Brussels International Geographical Conference in order to realize the ideas of the King of the Belgians are too often forgotten. Who remembers the magnificent plan which, after tracing a line of communication between the eastern and western coasts of Africa, from Bagamoyo to St. Paul of Loanda, grafted

perpendicularly on to that line three branches, towards the Congo, towards the Nile and towards the Zambezi, and connected the land sections of the two last-named waterways by means of steamboats on the Nyassa, the Tanganika and the Victoria-Nyanza (1)? England, at any rate, has not lost sight of the economic and political importance of that conception. The Conference decided, after consideration, on an easier attained object consisting of the exploration of unknown equatorial Africa, the establishment of exploring headquarters on the coasts of the Indian and Atlantic Oceans, and of interior posts at Ujiji, Nyangwe, and a third station in the dominions of Muata-Yamvo. The Conference expressed the hope, as we have already seen, that these posts would be connected by means of a line of communication « as far as possible continuous, » and that other lines would be opened from north to south. The enterprise thus had a precise point of convergence without excluding any further steps which future events might justify.

3. — THE PROBLEMS OF THE FUTURE. — THE IDEA OF SUPPRESSING THE SLAVE-TRADE IN ITS HOME.

A start had been made, the preliminary plan had been drafted. People recognised that the African question had entered on a new phase. Of course many points relating to « future contingencies » remained to be settled. There was no doubt that science and humanity were interested

(1) *Conférence géographique de Bruxelles. Rapport présenté par Sir Henry Rawlinson.* Comple rendu, p. 19.

in the success of the scheme. Who would have dared to say that the development of the work had no significance for the economical and political future of Africa? But these prospects were still very far off, and the Conference could only relegate to the future those problems which belonged to the future. One immense task lay before the Conference : that task had to be pushed forward; but, as Vice-Admiral de la Roncière-le Noury pointed out, the Conference would not « prevent any action besides its own, » nor would it impede what M. de Semenow called « the natural march of events (1). »

The new enterprise was helping forward, in a precise and important manner, a series of measures which had been contemplated for some time past by civilized States. Suppression of the slave-trade had been aimed at in various diplomatic instruments since the Vienna Congress. But those efforts had been almost exclusively directed against slave-traffic at sea. The Brussels Conference, on the King's initiative, took up the problem of how to deal with this scourge in its very home and on the roads traversed by slave-caravans.

It is not without interest to recall how the King of the Belgians, as far back as November 6, 1876, described a state of things which, some twelve years later, greatly excited public opinion.

« Slavery, still existing in a large portion of the African Continent, » said Leopold II., in the inaugural meeting of the Belgian Committee, « is a plague that every friend of civilization must desire to see destroyed.

(1) *Conférence géographique de Bruxelles.* Compte rendu, pp. 14 to 16.

» The horror of this state of things, the misery of the victims who are yearly massacred by the slave-trade, the even larger number of perfectly innocent beings who, brutally reduced to captivity, are condemned wholesale to penal servitude for life, have deeply moved those who have studied the deplorable situation, and they decided to meet, to come to an understanding, in a word, to found an international association to stop this horrible traffic which put the present age to shame, and to tear aside the veil which still hangs over Central Africa (1). »

« The International Association, » added the King, « in no way claims the monopoly of the good which could and ought to be done in Africa. It should, at first, guard against a too exhaustive programme. Sustained by public sympathy, we are convinced that if we succeed in opening up routes, in establishing stations to help travellers, we shall be helping to civilize the blacks and to foster trade and industry among them.

» We boldly affirm that all who are interested in the emancipation of the black races are interested in our success. »

It was, then, not without reason that a great apostle of African regeneration, recalling these words, the first that were deliberately and solemnly uttered for the abolition of the African slave-trade in its very home, wrote to His Majesty Leopold II. on November 8, 1889 :—

« Posterity will place among us the name of Leopold II.

---

(1) *Association internationale pour réprimer la traite et ouvrir l'Afrique centrale.* Compte rendu de la séance du Comité national belge du 6 novembre 1876.

at the head of human benefactors for the princely enterprise, perseverance and sacrifices contributed by him in such a cause.

» It is to Your Majesty that the interior of our Continent will owe its resurrection. It was in Brussels that Your Majesty gathered together, twelve years ago, those most capable by their knowledge and influence in their respective countries, as well as by their loftiness of aim of usefully cooperating with Your Majesty (1). »

Irresponsible pamphleteers sometimes speak, with a strange disregard of facts, of the opportunity which this or that Power might have, according to them, of growing richer by some spoliation of the young African State. They obviously forget the degrading nature of such an imputation, when considered in relation to the special claim to international inviolability which the Sovereign of this State derives from his useful initiative in Africa. Perhaps they think that people are wont to tolerate a great deal, and to condone even more, in politics. But the conscience of the civilized peoples still enforces certain duties which nobody can escape. And the wisdom of nations tells us that « it is wicked to seethe the kid in its mother's milk. »

4. — INTERNATIONAL WORK AND NATIONAL TENDENCIES.

Neither individuals nor nations are in reality the brutal monsters that certain pessimistic detractors of human

(1) Letter from His Eminence Cardinal Lavigerie to H. M. Leopold II. *Documents sur la fondation de l'œuvre antiesclavagiste.* Paris, 1889.

nature would have us believe. And (is it necessary to add?) they are not either the angels of perfection or the paragons of altruism imagined by deceptive optimists. Weak human nature, divided into national fragments, must not be expected to bear the weight of too much international feeling, especially when questions of policy are concerned. The Conference found it necessary, in drawing up regulations to meet difficulties and contingencies which were foreseen, to declare that the National Committees should be to a certain extent autonomous, « according to the mode which shall seem preferable to them. » While the duties of these Committees, and their relations with the central institution, were defined with a due regard to susceptibilities, the English branch, formed among the Geographical Society of London, with the especial denomination of « African Exploration Fund, » although holding similar views to those of the Executive Committee and sending the latter £ 250, preferred to give to its action a purely national character.

With regard to material resources, the Belgian Committee, taking advantage of a wave of generosity, had collected half a million francs. Abroad, hardly a hundred thousand francs were subscribed. In fact, but for the zeal of isolated individuals and the valiant collaboration of the African pioneers whom the King had gathered around him, Leopold II. soon found himself, to use a not inapt local expression, « almost alone with his elephant on his hands. » Sir Edward Malet, in expressive language, reminded the Berlin Conference of this situation « Throughout a long cours of years, » said he, « the King, ruled by a purely philanthropic idea, has spared

neither personal effort nor pecuniary sacrifices in anything which could contribute to the attainment of his object. Still the world generally viewed these efforts with an eye almost of indifference. Here and there His Majesty aroused sympathy, but it was in some degree rather a sympathy of condolence than of encouragement (1). » As often happens in enterprises on a collective basis, the work was personified in its initiator, who could neither assure it an effective international character, nor make it a purely Belgian enterprise, Belgium preserving, with respectful admiration, a somewhat expectant attitude. We need not refer to the Army, that great school of fidelity and devotion, where the King's efforts, from the first, found so many followers always prompt to make the most heroic sacrifices.

While rendering all justice to individual cooperation, it must be actually realized that the whole responsibility rested on Leopold II.; all the outgoings and deficits to be made good—which were at that time the most prominent feature—fell upon him, and people witnessed the spectacle, in many respects unique in history, of a man's will wrestling alone with the civilization of a world.

That man, it is true, was no ordinary individual : he was a reigning prince whose prestige was an important element of success, but whose country certainly took as yet not much stock of his enterprise.

The start was not exactly encouraging. The Belgian Committee, the first to be formed, was entrusted with the work of establishing a station at Lake Tanganika, arriving

(1) *Protocoles et Acte général de la Conférence de Berlin* (1884-1885), p. 266.

there from Zanzibar. That was done, but at what cost of efforts and heroic sacrifices ! The Committee, or rather the King, sent successively six expeditions. They were nearly all decimated by death. Cambier and Storms, the founders of Karema and M'pala, are, if we mistake not, the sole survivors of those initial exploring parties ; and it has been said verily that the story of the first five years' efforts of the Belgians in the Congo resembles a chronicle of martyrdom. In Belgium, across the mists of the Ocean, what was called « the African Minotaur » assumed fantastic forms.

The German Committee had organised the Böhm and Reichardt expedition which preluded German settlement in East Africa. The French Committee organised two parties, including that of Brazza which finally settled in Gabon and the French Congo. National exclusiveness and political enterprises came to the front. While the Committees of several countries had, owing to lack of funds, given up participation in an international programme, the Committees of other countries, in order to avoid a similar disaster, solicited and obtained from their respective Parliaments funds to carry on their work, and the political nature of this assistance necessarily drove them into separate political action. It became evident that each of the countries interested in Africa meant to work on its own account. It would be unjust to attribute this to the Belgians or to their King, whose idea and work were disinterested and truly international. The fact is, a different bent was given to King Leopold's action, under pain of renouncing all future work in Africa. And the King was induced to adopt this line in order to avoid

dangerous international complications. We think we are right, moreover, in stating that the British Government, in view of the then passing events, assured our Sovereign that a new plan, inspired by new circumstances, would meet with no opposition from England. It is true, however, that statesmen, in England as elsewhere, were inclined to consider the attempts at colonization in Central Africa almost as an idle dream.

It is in the light of these observations that one must consider the reproach, sometimes addressed to King Leopold, of having departed from the initial character of his work.

5. — NEW ASPECT OF THE AFRICAN PROBLEM

The International African Association chose for the pattern of its flag a blue ground with the golden star : a magnificent moral symbol of a mighty moral power. It was an admirable emblem, no doubt, but how very insufficient against native aggressions and European rivalries which were looming up. The clearsighted promoter of the African movement was the first to acknowledge this insufficiency and to scrutinize the African problem in some of those parts, the solution of which the Brussels Conference had wisely left to the future. He was not slow in discovering practically that no permanent results could be reached, under the circumstances, by means of isolated stations, surmounted by a moral emblem, but without any control over adjacent territory. Several years' experience had made this clear. The establishment of a protective and wisely progressive Government in Central Africa had

become for Leopold II. a *sine qua non* in the realization of his plans of civilization. And he was the first to perceive that a bond existed between those plans and the wonderful discovery of Sir Henry Stanley, which had transformed the problem before the Brussels Geographical Conference. We have seen that the King was the first to declare that « the International Association in no way claimed the monopoly of the good which could and ought to be done in Africa. » And we have shown how future events and subsequent contingencies had to be foreseen.

It has been sought to reproach King Leopold in a rather singular fashion : namely, he is accused of not having published aloud the results of his convictions strengthened by experience. But this would apparently have nipped his plan in the bud, and it should be remembered that if it is good to be prudent when one is strong, it is even better to be so when one is weak. When one has opened up a new route, one ought to be allowed to walk in it oneself, and to peace fully remove the intervening obstacles. Do Governments act openly, when a question of priority of possession is at stake?

Such disparaging terms as « diorama and dissolving views » have been far too freely used in describing the various and consecutive phases of the King's plan for solving the difficulties in his way. To be sure, his penetration and wisdom are none the less admirable. But forms of speech and equivocations do not destroy facts. Nobody doubted that the King was the head, the heart, and the arm of the African enterprise. The most sagacious diplomats, including such Englishmen as Sir Edward Malet, considered, as we have already pointed out, the idea

of creating a State and installing a proper Government in the centre of Africa as almost utopian. The reproaches, then, are tantamount to chiding King Leopold because he succeeded where others expected that he would fail. This indeed must be recognised, as it was admitted in the following loyal terms by Sir Edward Malet at the Berlin Conference :—

« It was thought that the undertaking was beyond his power, that it was too great for success. One sees now that the King was right, and that the idea which he was following up was not an utopian one. He has carried it to a good result not without difficulties; but these very difficulties have made success all the more brilliant (1). »

Such will be the judgment of posterity. History will say that Leopold II. was not only the real initiator of the African movement in the second half of the nineteenth century, but that he instituted in Equatorial Africa a type of government as novel as it was admirable, heretofore considered by the most enlightened of his contemporaries as a beautiful, impracticable dream. We will endeavour to bring out this point in the next chapter. We will close the present one by recalling a circumstance, the memory of which lies buried in the official documents of this great royal undertaking. When the question of the choice of a flag for the International African Association was being discussed, one of the King's illustrious guests proposed to place a sphinx on the centre of the standard, the sphinx being an emblem of the formidable and mysterious African

(1) *Protocoles et Acte général de la Conférence de Berlin* (1884-1885), p. 266.

riddle to be solved. But the King preferred the more confident symbol of a star, the sign of enlightened guidance and of radiant hope. This showed that *he* doubted no more, that *he* firmly intended to pursue his plan without faltering. And this lesson is not without its moral. In front of a great human progress to be achieved, even though it looks a good deal like a leap in the dark, *Go ahead!* must be the motto. Real wisdom is farsighted without being pusillanimous. To advance is to dare. Let us remember the words of the Divine Master to the Galilean fisherman : *Duc in altum!* And let us, likewise, push out to sea!

CHAPTER II.

Civilizing Government in New Countries. Accession of the Congo State among the Nations.

While cosmopolitan politicians, ignoring the historical law of social development and the most indestructible elements of our nature, combat the patriotic sentiment in the name of humanity, proscribe the title of nation as narrow, selfish, opposed to human fraternity, and fancy that people can only be united by losing their individuality in some sort of « one State without frontiers, » our epoch has seen a Monarch, the benefactor of his people and of universal civilization, convert this same humanitarian sentiment into the creative principle of a new State.

Men are so accustomed to see violence play a preponderating part in the rise and fall of empires, that they are astonished when a political constitution is founded without either national convulsion or international shock, and they contest the legitimacy of new States where the serene majesty of the law breaks forth in unexpected beauty. The national individuality of the Congo Free State is no longer a matter of doubt. The existence of that State is universally recognised as of right. But neither the manner in which this new comer took its place among the nations, nor the fact of its acknowledgment by the other

Powers, seem to have been justly appreciated. It is not without interest, in this connexion, to take up the thread of the past, firstly for the sake of the remarkable origin of the Free State, and secondly to contradict the superficial judgment expressed by consequential publicists, and even by certain statesmen.

1. — CIVILIZING GOVERNMENT IN THE INDEPENDENT COLONY.

In the first place it must be confessed that jurists were rather nonplussed when they attempted to apply their old methods of classification to the foundation of the Congo State. Not a few of them found no place in their systems for such an unprecedented case, as it seemed to them, and thereupon they felt justified in pronouncing a sort of ostracism. They forgot that the living wealth of the various forms of social and political life is not limited by the vocabularies of learned men. They ignored the fact that institutions must be adapted to men and to situations, and not forced into artificial categories. They did not bear in mind the common-sense maxim formulated by the old Hermogenian : *Hominum causâ omne jus constitutum est* (1). The law-maker who believes in progress and who desires to adapt his laws to circumstances, and not to distort the circumstances by means of his laws, instead of seeking to proscribe an institution because it does not fit into conventional limits, only recognises the need for a revision of his hastily-established classification.

In the present case, moreover, such a revision was not

(1) L. 2. *De statu hominum*, 1. 5.

indispensable. The existence of an autonomous colonizing State, working side by side with States whose colonial activity is a secondary consideration to their national and principal object, had nothing unusual about it. The mere object of civilization on the part of a State is quite justifiable. One can easily conceive—and facts have proved the conception to be wellgrounded : facts which silence those who deny them—a sovereign Power, constituted in order to propagate civilization, and, by means of its own resources and of voluntary contributions, establishing a practical Government on a territory and for the benefit of a people in whom it is interested. Whatsoever has been imagined about the barbarous and unnatural character of a colony without a metropolis has in reality no foundation.

Pascal has said that the way to overthrow a State is to sound its depths in order to demonstrate the weak points in its system of authority and justice (1). If certain investigations into the past may actually ruin Governments, other researches must undoubtedly strengthen them. To the latter class belong those inquiries which reveal in the history of a people like that of Belgium the elements of a traditionally autonomous life blossoming into a higher destiny. Such are also those researches which link the origin of a State, like that of the Congo, with the progressive and pacific evolution of humanity.

The civilizing or colonizing State founded by His Majesty the King of the Belgians may be considered in its principle, that is to say, in that which gives it its

(1) *Pensées.*

fundamental legitimacy : from this point of view, its paramountly just and moral value is best seen. It may also be considered in the means employed in its formation : under this aspect, it possesses the highest legal standard. Considered, finally, in the elements which compose it, and leaving aside its acknowledgment by other Powers, it possesses in itself all the factors necessary to constitute a perfect sovereign political community. Let us briefly consider these points.

2. — CIVILIZATION OF SAVAGE TRIBES.

The thought of carrying the blessings of civilization to unenlightened races all over the world is one of the noblest designs which can be born of the human mind. The employment of private and national enterprise in this connexion is fundamentally justified by the right of helping beings created, like ourselves, for progress and by the fulfilment of the holy law of brotherhood. That law is the more binding upon us from the fact that the unenlightened races are severely handicapped in their struggle to emerge from barbarism. And, moreover, modern progress helps us to accomplish that law. To established nations who have enjoyed prosperity under a regime formulated in accordance with their own wishes, the fulfilment of that law appears as one of the most elevated forms of gratitude to Divine Providence.

The privilege of helping to civilize barbaric tribes includes the right of placing them on the high road to the superior degree of social organization from which a State is born to international life. To help them in this way is

to endow them with the blessings of an institution which is the common right of humanity; it is to assure them that peace and order without which there can be no civilizing education; it is to throw open to them the living treasures of the civilized world.

The action of superior races, in this respect, does not imply—as some would have us believe—the destruction of the inferior races. Old-time blunders which have, in some cases, brought about such a result are not inevitable. Modern colonization, in spite of reproaches hurled against it, does its best to avoid such blunders and, as history shows, in not a few colonial establishments successfully. In the tropics, interest plays as important a part as duty in bringing about this result, for the harmonious co-existence of the European and the native, and the combination of necessarily diverse forms of their activity are in such climates the *sine qua non* of all colonization.

Of course, all and every means are not legitimate in bringing barbaric tribes within the pale of civilization. But among those which are unquestionably justifiable may be mentioned the establishment of pioneer outposts or stations whence civilization can operate on barbarism, the peaceful congregation of tribes around a central authority, and the cession by tribe-Chiefs of their sovereign rights. And let it not be objected, with regard to this last-named means, that, because of the ignorance of the Chiefs, such cessions are null and void; for, if the native Chiefs are uninitiated in the refinements of political systems, they may at least be not unenlightened as to the natural elements of a contract. They are in no wise incapable of transferring their sovereign rights to, and of recognising the superior

power of, the leader who comes before them with a promise to help in their defence and in their progress; the Chiefs are in no wise slow to welcome, in this respect, the flag of civilization.

Civilizing enterprise applied to savage tribes, and without ignoring the essential rights of humanity, may and should take due account of the social condition of such tribes : avoiding the extremes of treating them as brutes or of dealing with them as with highly-civilized citizens; keeping count of their difficulties in commencing the upward march of progress; protecting them against their enemies and against themselves; stimulating and guiding them in to healthy effort; inspiring them, in short, with an ambition for a better and higher life, and teaching them to appreciate its blessings.

Thus understood, the work of civilization can well proceed side by side with the search for the advantages resulting from the entrance of new members of the human family into the life of civilized peoples. Those advantages include the extension of economic relations and the development of newly-discovered natural wealth. The stimulating power of interest joined to the incentive of duty gives to efforts of this nature their maximum of intensity.

3. — THE LEGAL FOUNDATION OF THE CONGO STATE.

Let us examine, by the light of the observations just made, the facts which we must discuss.

For centuries there had lived in Central Africa millions of men in a rudimentary social condition, in an almost incessant state of anarchy, incapable of extricating them-

selves from the swamp of barbarism, only connected with the great human family by the odious and blood-stained chain of slavery.

The condition of these races, living « in the valley of the shadow of death, » alone constituted a powerful and continual appeal to the enlightened nations to accomplish the law of human solidarity. That appeal was, nevertheless, made in vain for centuries.

Human solidarity is not, as some seem to think, an empty name. It is a law which becomes more and more evident as human relations extend. The secret of the terrible crisis, which so many nations are at present undergoing, and which threatens their welfare, may well be sought in the disregard or forgetfulness of the duty inherent to human solidarity, either with respect to the lower classes within the dominions of those nations, or with regard to the unfortunate races without.

Countries where energy, products and capital accumulate, invariably feel more or less the want of permanently safe and inexhaustible markets in which to distribute their wealth. Such countries would find excellent outlets if, instead of relying only upon themselves, they had set about inducing new peoples to help in the general work of civilization. Under these circumstances, it may be contended that the disregard of the duties of human solidarity is at the root of much of our material suffering, and that economic salvation is to be found to-day in the fulfilment of humanitarian obligations.

It was from this noble and elevated point of view that His Majesty Leopold II. considered the situation in those hours of royal solicitude when his attention was concen-

traded first on the economic needs of his people, and secondly on those distant lands where life and wealth abound – although but rudimentary life and unproductive wealth. We already find signs of a clear insight into the demands of the modern industrial and commercial world in the first speeches delivered in the Senate by the Duke of Brabant (1). It is not surprising to find that the same energetic will which declared : « I will pierce the darkness of barbarism, » announced a little later, guided and inspired by subsequent events : « I will secure to Central Africa the blessings of a civilized Government. And I will, if necessary, undertake this giant task alone. »

4. — GENERATING PRINCIPLE OF THE NEW POLITICAL ORGANISM. — FALSE POINTS OF VIEW.

The initiative of His Majesty Leopold II. bore, from the very start, a clearly-defined personal character. His whole work has preserved it permanently. In this magnificent enterprise—where the labour, as well as the honour, was immense—it seemed as if the King was to rely on his own wisdom and on the judgment of posterity alone. It was not as King of the Belgians that he meant to act. Still less did he intend to depend on any State other than Belgium.

His work was a humanitarian one, in the highest and best sense of the term. The future Sovereign of the Congo, as soon as his plan was conceived, carried it out taking advantage of any cooperation afforded him, reckoning

(1) See the author's *Le Duc de Brabant au Sénat de Belgique*. Paper read at the Académie Royale, May 6, 1903.

with all the circumstances, providing for everything, until the time when the Congo State appeared before the world, with its maker and Sovereign at its head.

People imagine sometimes that the Congo State only exists as a sort of creation of the Berlin Conference. This idea is, of course, entirely wrong. The State has certainly not forgotten the sympathy and help accorded it in its upward march. But, so far from being the emanation of the assembled Powers, the Congo State has the character of an eminently personal creation. It does not seem possible, from a legal point of view, to transform the generous support accorded from political interest into checks to sovereignty. It is necessary to point out that the questions of sovereignty and of territory, questions which are most essential in the constitution of States, were expressly eliminated from the programme of the Conference, which was only called upon to elaborate a local economic regime, leaving aside the question of the sovereign rights over the countries concerned. It is also necessary to remember that, even before the signing of the Berlin diplomatic instrument, the new State existed in such a degree as to be able itself to notify to the Conference the fact that it had been recognised by all the Powers—except one, which soon after followed suit. The fact that Prince Bismarck introduced the youthful State to the assemby of civilized nations at Berlin was certainly an honour for that State. That circumstance was, so to speak, its lucky star; but if it has seemed to throw ealier events into the shade, it has not suppressed them, and could not legally destroy them.

The fact of the recognition of a State must not, moerover, be confounded with the fact of its existence. The

determining elements of the one and of the other are not identical. It is, as a rule, to themselves, that States owe their existence. That existence does not always date from a plain fact. It may be manifested by a series of events which, at a given moment, bring about the introduction of a new State into legal life.

It has been argued that a State could not accrue out of a private association. But King Leopold has confounded that argument by his own action, just as the philosopher of old demonstrated the principle of movement by walking. The argument had been, moreover, shown to be false and legally untenable. It is idle to assert that barbaric races, living in virgin territory in a state of isolation or of anarchy, cannot be brought to the knowledge of orderly government by the instruments of civilization which give them a political education, at the same time raising the elements of their primeval state to the higher organic level of a political community. It is equally idle to assert that such races can only advance by being swallowed up in existing States, who deny the savage tribes the very means of progress by which, perhaps, they themselves elaborated their own civilization.

Again, with regard to independent tribes having some semblance of sovereign government, why should not their rudimentary political elements be developed in such a manner that their local administrations converge into a higher and central authority?

What is obviously true, as a principle, is that the State, in common with every other institution, has certain essential and constitutive elements of its own, and without which it cannot be conceived. Those elements are a territory,

an established commonwealth, and an effective Government at the head thereof.

The fact is, these elements of a State existed in the neighbourhood of Stanley Pool long before the Berlin Conference, and they existed in a sufficient degree to form a duly-constituted Central African State. And the action of this State was destined to be all the more efficient on account of the immense rivers which served as the highways of the country.

5. — ACTUAL FORMATION OF THE STATE. — ITS CHARACTERISTIC MOMENTS.

The fact, which we have just stated, is incontrovertible. The why and wherefore are of a more complex nature, although not difficult to discern.

We have seen at the cost of what sacrifices the Belgian Committee of the International Association, prompted by the King, despatched, one after the other, six expeditions from the coast of East Africa in the direction of Tanganika. The results were as uncertain as the work had been laborious. The arrival of Stanley at Boma, on April 9, 1877, after a three years' exploring expedition, in the course of which he had described a gigantic curve in the heart of Central Africa, created a sensation. To the King it came as a revelation. The sketch of Stanley's journey, published in the *Daily Telegraph* of November 12, was most suggestive. Central Africa had in her vast and wonderful system of waterways a ready made means of material and even moral and political progress; and the steamer appeared to be the *conquistador* of this new world. A

powerful instrument of civilization from every point of view had been discovered. A new factor had given a new aspect to the problem proposed by the King to the Brussels Conference. What the Conference had but suggested as desirable—« a line of communication as far as possible continuous » joining the posts of civilisation—Nature had provided, but for the initial obstacle, to an unexpected extent. The thoughts of the King forthwith turned from the East, until then so deceptive, to the promising West of the Dark-Continent. Without losing a moment, His Majesty thought out a plan in accordance with the latest discovery, and, when Stanley landed in Europe, in January 1878, he met the Commissioners from H. M. the King of the Belgians, who informed him of His Majesty's plans, and asked for his co-operation (1). The grandeur, the boldness, and the novelty of the scheme were far from discouraging the intrepid explorer. He accepted. The bases of a stable economic and even political system had to be established on virgin territory, destined to be connected with Europe, and that end was to be achieved, either by federating the more powerful native Chiefs, or by some other organization better suited to conditions as yet imperfectly known in this respect.

Under the title of *Comité d'études du Haut-Congo*, with the King as Honorary President and Colonel Strauch as President, a company was formed in Brussels, with a capital of one million. The work of investigation carried on by this company was destined to speedily eclipse the relatively feeble efforts of the International African Association.

(1) STANLEY, *The Congo*, vol. I, p. 21.

The date of the foundation of the Committee was November 25, 1878. On August 14, 1879, Stanley and the staff of the expedition, composed of thirteen agents besides porters engaged at Zanzibar, were at the mouth of the Congo where a number of steamers awaited them. The journey up stream was begun on the 21st, on board the ships named the *En Avant*, *Espérance*, *Jeune Africaine*, *La Belgique* and *Le Royal*.

The post of Vivi, beyond Nokki, which was then the limit of European occupation, was reached in a short time. The journey across the region of the Cataracts, where the steamers were taken to pieces, followed, and was only accomplished with much suffering and hardship. On February 21, 1880, Isanghila was established and on May 1st, 1881, Manyanga was occupied. In December 1881, the expedition arrived at Stanley Pool, and shortly afterwards the *En Avant* cut the waters of the virgin river.

Reconnoitring parties were then sent out in every direction, stations were established, and steamers started running between them. A number of treaties were concluded with the Chiefs of independent native tribes, so as to protect the territory acquired in this way against subsequent competition. Administrative and police services were organised, as the first essentials of a regular Government. All this was carried out without violence or bloodshed.

Having thus laid the foundations of a territorial Government, the Upper-Congo Committee appropriately changed its name to the International Congo Association. Its activity in the work so brilliantly inaugurated redoubled. Minor expeditions were sent out to right and left of the great river,

to the basin of the Niadi Kwilu, to the Upper-Kassai, to the Lunda country, and even farther afield. As M. Wauters justly said: « Five years sufficed to make the most brilliant discoveries, even in the very centre of the Continent, to peacefully visit hundreds of new tribes, to obtain from native Chiefs more than five hundred treaties of suzerainty, to establish forty stations, to place five steamers on the waters of the upper river beyond the Cataracts, to occupy the whole of the country between the Coast and Stanley Falls, between Bangala and Luluaburg (1). »

It was an anxious time in Brussels, where hope and fear alternated as the King's pioneers in Africa proceeded with the systematic and peaceful conquest of a world.

One can now understand how all the essential elements of a State were present in the Stanley Pool region previous to 1884, and how the influence of those elements was brought to bear upon an ever-growing radius. As stations of the youthful State were established on newly-explored territory, and as concessions of native sovereignty were made, so did the sphere of operations extend. The form of Government—federated negro tribes, single State, or what not—does not affect the question. The point to be noted is that the claim to the occupation of vacant territories and to the acquirement, by cession, of sovereign rights was not inferior to the titles relied upon by the European Powers in the course of their colonial expansion. It was under these circumstances, that the question of the recognition of the new State by the Powers came up for solution.

(1) *L'État indépendant du Congo*, p. 27.

6. — RECOGNITION OF THE STATE. — CONVERGENT INTERESTS OF THE POWERS.

« The recognition of a State by other sovereign States, » says Bluntschli, « while having the form of an act of free will on the part of the latter is, nevertheless, not an absolutely arbitrary act; for international law unites, even against their will, the various existing States, and combines them into a sort of political association. » « And just as an existing State, » he goes on to say, « cannot arbitrarily shake off the bonds which attach it to other States, so those other States cannot arbitrarily exclude an existing State from the concert of nations (1). » We must note that it was not a question of the arbitrary exclusion of the new State. It came into the world surrounded by the general sympathy of Governments and of peoples, and it has been truthfully observed that a good fairy was present at its birth (2).

The interests of the Powers, together with reasons of justice and humanitarian considerations, helped to bring about this result.

Certainly, France, when entering upon the formation of her colonies, would have asked for nothing better than to mark them out in virgin territory. But, in the then state of her colonial development, she far preferred to have to deal with a new State than with powerful nations who might menace her welfare. The initial want of con-

(1) *Droit international codifié*, L. II, §§ 35, note, and 36.

(2) WILMOTTE, *La Belgique et l'État indépendant du Congo*, REVUE DE PARIS, May, 1, 1902.

fidence in the stability of the work undertaken in the vicinity of her influence led, in truth, the French Government to seek for certain advantages in the shape of a right of preference, in view of a possible alienation of the possessions controlled by the African sceptre of King Leopold. But this search, far from exhibiting any signs of hostility towards an undesirable neighbour, manifested, on the contrary, as M. Etienne has pointed out, « the intention to provide, at an early date, against the intervention of some great Power which should suddenly take the place of the African Association (1). » As regards the founder of the new State, he had all the less reasons for declining any concessions in this respect, since the realization of the hypothesis put forward by his neighbour was absolutely removed from his own design. In his opinion, it was only a question of calming groundless fears, at a time when the good graces of a powerful neighbour were eminently valuable.

Such are the real origin and the true meaning of this right of preference, sometimes transformed into a sort of stalking-horse, and which, both in its letter and in its spirit, excluded all extensive interpretation and all application by analogy to Belgium.

England could not but be favourably disposed towards the new State. In both the business and the political world, the eminently practical mind of our neighbours across the Channel at once understood the bright and prosperous outlook opened up by the development of this new neutral State of Central Africa, a State which could in no wise

(1) *Dépêche coloniale*, July 13-14, 1901.

endanger the political or commercial equilibrium to the benefit of any one of the great Powers. For a moment, at the request of Portugal who had tardily realised the profit she might have derived from the neglected situation, the British Government—until then a supporter of the absolute independence of the Congo—seemed inclined to help to extend Portuguese influence over the estuary of the Congo, conditionally and provided that a mixed commission were appointed. But English public opinion, better guided, and warned as it was of the opposition with which such an arrangement would meet abroad, was not long in declaring in favour of a solution which should cause to harmonize, on broader lines, British with the other interests.

Those interests were numerous, and the practical sympathy speedily accorded to the International Congo Association by the greatest Power of the New-World, the United States of America, full of life and vigour and ever inclined to progress, proved that King Leopold's enterprise had secured public support and official suffrage far beyond the limits of Europe. On April 10th, 1884, the American Senate, on Mr. Morgan's remarkable report (1), passed a resolution asking the President of the United States to recognise the Association « as the governing Power of the Congo. » A few days later, on April 22nd, 1884, that recognition was an accomplished fact. In officially recalling, at the opening of the Berlin Conference, the

(1) See *Compilation of reports of Committee on foreign relations.* United States Senate. *Recognition of Congo Free State.* March 26th, 1884, Washington, Government Printing Office, 1902. Vol. VI. p. 221. The appendices include, among other documents, the notes of Sir Travers Twiss and Mr. Arntz.

nature and cause of this great act, Mr. Kasson, Chief Plenipotentiary of the United States, pointed out that, following upon Stanley's explorations, the newly-discovered regions « would be exposed to the dangerous rivalries of conflicting nationalities. » « It was the earnest desire of the Government of the United States that these discoveries should be utilized for the civilization of the native races, and for the abolition of the slave-trade; and that early action should be taken to avoid international conflicts likely to arise from national rivalry in the acquisition of special privileges in the vast region so suddenly exposed to commercial enterprises. » Referring to the work so effectively performed by the International Congo Association « under high and philanthropic European patronage, » he said that those gallant pioneers of civilization had « obtained concessions and juridiction throughout the basin of the Congo, from the native sovereignties which were the sole authorities existing there and exercising dominion over the soil or the people. » « They immediatly proceeded » added he « to establish a Government *de facto*. » Declaring next that the legality of the acts of that Government should be recognised, under penalty of recognising « neither law, order nor justice in all that region, » he concluded as follows : « The President of the United States, on being duly informed of this organization, and of their peacefully acquired rights, of their means of protecting persons and property, and of their just purposes towards all foreign nations, recognised the actual government established, and the flag adopted by this association. Their rights were grounded on the consent of the native inhabitants, in a country actually occupied by them, and whose routes of

commerce and travel were under their actual control and administration. He believed that in thus recognising the only dominant flag found in that country he acted in the common interest of civilized nations. »

« In so far, » said in concluding the American Plenipotentiary, « as this neutral and peaceful zone shall be expanded, so far he foresees the strengthening of the guarantees of peace, of African civilization, and of profitable commerce with the whole family of nations (1). »

Such was the remarkable position taken up by the United States of America in regard to the recognition of the newly-installed government in Equatorial Africa. Germany was the first European Power to consider this subject of recognition, and to accord to the new enterprise marks of its sympathy and the support of its authority. In acknowledging, by the Convention of November 8, 1884, concluded before the Berlin Conference opened, the flag of the International Congo Association « as that of a friendly State, » the German Government clearly indicated that, as far as it was concerned, the new State ought to take its place from the first among the Powers called to the Conference.

In duly introducing the « new Congo State » to that assembly, Prince Bismarck paid an exceptionally brilliant tribute to the foundation of an enterprise, the help of which appeared to be bound up with the fulfilment of the noblest designs of the Areopagus of Berlin.

Certainly the hardships inseparable from such a vast and complex undertaking were ever present during the

(1) *Protocoles et Acte général de la Conférence de Berlin* (1884-1885), p. 23 ss.

establishment of the first outposts of civilization in the heart of African barbary. All great undertakings are started amid difficulties. We do not possess the necessary documents to trace the course of the territorial negotiations pursued with Portugal, and, moreover, those negotiations are to-day of purely historical interest. The result of those negotiations and of the arrangements made with France may be summarized as follows. The Congo Free State lost a province containing its most flourishing establishments. It also lost what is to day the Kabinda enclave in its territory. In consideration of these sacrifices, and thanks to powerful mediations, the State obtained acceptable territorial arrangements, and became definitely established on both banks of the Congo, controlling the north bank as far as Manyanga, retaining both of the estuary ports, Banana and Boma, with the option of establishing a third one on the southern bank at Matadi, and to construct thence in the direction of Stanley Pool a railway situated wholly within its territory.

The initial obstacles surmounted, the political horizon grew brighter, until, at the historic meeting of February 23, 1885, the work of King Leopold was seen by the full light of day in all its sovereign beauty. That moment was a moment of triumph for the King when, with the diadem of civilization on his brow, with the folds of his royal mantle floating, so to speak, over the whole of Central Africa from the Atlantic Ocean to Tanganika, buoyed up with the brightest hopes, stimulated by the success of past efforts, worthy, in a word, of the admiration of peoples and the gratitude of humanity,—his name was saluted at that meeting by the acclamations of the united nations.

7. — THE PERSONAL UNION. — OFFICIAL TITLE OF THE STATE. — NOTIFICATIONS.

In affirming the community of its sentiments with those of the European Powers, and in duly honouring the royal work both from the point of view of its grandeur and from that of the future of Belgium, the Belgian Parliament, by its votes of April 26 and 30, 1885, authorized His Majesty King Leopold II. to become Chief of the newly-formed State and thus to wear two crowns, which were destined to remain distinct under the regime of a personal union.

On May 2, 1885, the King sent to the Resident Governor of the Congo the decree proclaiming his accession to the throne of the new State.

On July 1st, Sir Francis de Winton, who had succeeded Sir Henry Stanley as Governor, officially communicated to the heads of the missions and commercial establishments in the Congo the text of the decree.

On August 1st and on ulterior dates, the Sovereign notified to the Powers that « the possessions of the International Congo Association would henceforth form the Congo Free State, » and that, in accordance with the wishes of the Association, he had assumed the title of « Sovereign of the Congo Free State. » At the same time he informed them of the personal nature of the union between Belgium and the new African State.

On the same dates, the Sovereign notified the Powers of the exact extent of the Congo territory which he proposed to place under regime of perpetual neutrality. Submitted, before its notification, to Prince Bismarck,

to whom the State owed this mark of grateful deference, the declaration of neutrality gave rise to no objection on the part of the Powers.

Such were the circumstances surrounding the reception of the Congo Free State among the society of nations.

8. — CHARACTER OF THE HONOURS RENDERED TO THE STATE. — INFLUENCE OF ITS ESTABLISHMENT ON THE DEVELOPMENT OF AFRICAN POSSESSIONS.

We can now direct our attention to the international regime adapted by the Berlin Conference, especially from an economic point of view, to the vast territory included in the basin of the Congo. To complete the survey we have just taken, it will be well to recall the testimony borne by the plenipotentiaries of the Powers represented at the Berlin Conference on February 23, 1885, to the work accomplished by the King.

GERMANY, through Herr Busch, expressed herself as follows :—

« We all do justice to the high aim of the undertaking to which His Majesty the King of the Belgians has affixed his name ; we are all aware of the efforts and sacrifices by means of which he has brought it up to the point where it now stands ; we all pray that the most complete success may crown an enterprise which may so practically assist the views which directed the Conference. »

GREAT BRITAIN, as we have already had occasion to recall, expressed herself as follows through Sir Edward Malet :—

« Throughout a long course of years the King, ruled by a purely philanthropic idea, has spared neither personal efforts nor pecuniary sacrifices in anything which could contribute

to the attainment of his object. Still the world generally viewed these efforts with an eye almost of indifference. Here and there His Majesty aroused sympathy, but it was in some degree rather a sympathy of condolence than of encouragement. It was thought that the undertaking was beyond his power, that it was too great for success. One sees now that the King was right, and that the idea which he was following up was not an utopian one. He has carried it to a good result not without difficulties, but these very difficulties have made success all the more brillant. Whilst rendering homage to His Majesty in recognition of all the obstacles which he has had to overcome, we greet the newly-constituted State with the greatest cordiality, and we desire to express the sincere hope that we may see it prospering and increasing under his protection. »

France, through Baron de Courcel, after pointing out that « the neighbours of the Congo Free State will be the first to profit by the development of its prosperity and of all the guarantees for order, security, and good administration with which it undertakes to endow the centre of Africa, » added :—

« The new State owes its birth to the generous aspirations and to the enlightened initiative of a Prince who is surrounded by the respect of Europe. It has been dedicated from its cradle to the exercise of every kind of freedom. Being assured of the unanimous good-will of the Powers which are represented here, let us hope that it will fulfil the destinies promised to it under the wise guidance of its august originator, whose moderating influence will be the most precious guarantee for its future. »

Italy, through Count de Launay, associated herself with the above sentiments in the following terms :—

« The whole world cannot fail to exhibit its sympathy and encouragement on behalf of this civilizing and humane work which does honour to the nineteenth century, from which the

general interests of humanity profit, and will always continue to derive further advantage. »

The remaining Governments—Austria-Hungary, Russia, Spain, Portugal, Sweden and Norway, Denmark, the United States—through their Plenipotentiaries, successively paid their tribute to the work of civilization and humanity performed by the King of the Belgians (1).

The concluding words at the Berlin Conference, pronounced by Prince Bismarck, constituted a homage rendered to the new State, and expressed a wish for its prosperous development and the accomplishment of the noble aspirations of its illustrious founder.

Such a galaxy of testimonials must endow the enterprise with an unconquerable strength. The celebrated explorer who was the King's first collaborator called this great manifestation the coronation of the Congo Free State by civilization. He said also : « All men who sympathize with good and noble works—and this has been one of unparalleled munificence and grandeur of ideas—will unite with the author in hoping that King Leopold II., the Royal Founder of this unique humanitarian and political enterprise, whose wisdom rightly guided it, and whose moral courage bravely sustained it amid varying vicissitudes to a happy and a successful issue, will long live to behold his Free State expand and flourish to be a fruitful blessing to a region that was until lately as dark as its own deep sunless forest shades (2). » Who would refrain from re-echoing such a wish?

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(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 264.
(2) *The Congo*, pp. 407 and 408.

In the preceding chapter, we showed how the Brussels Geographical Conference gave the initial impetus to the African movement. The influence of the definitive foundation of a central civilizing State has not, perhaps, been sufficiently insisted upon. If this vast African domain, after such long and universal neglect, became the object of keen competition, if the Powers suddenly and deliberately proceeded to a partition of the territory—a partition, the importance of which was not at first realised—it is permitted to suppose that the work done by King Leopold in Central Africa was not altogether unconnected with that achievement. Failure in that work would have discouraged further attempts; its success, on the contrary, was conclusive evidence, an efficient stimulus, a permanent and living exhortation, far more convincing than all the theories and calculations. In the hurry of taking possession, certain Powers only saw in the Free State a neighbour who was very enterprising for so young a nation. A consideration of their own history might have shown them that if the State had not advanced, they would never have made such headway, and that if their young neighbour had not succeeded, their own undertakings would, perhaps, have been more restricted. Opposition on one point,—advantage in general,— and final harmony.

PART SECOND

THE GREAT TREATIES

CHAPTER VIII

The Berlin Conference and the Congolese Regime of the Congo

I

CHAPTER FIRST.

The Berlin Conference and the economic Regime of the Congo.

I.

The starting point of the African Conference.

To bring good out of evil is a task which is often imposed in international relations. To profit by the false steps of others is one of the choicest pleasures of diplomacy. The attempted diplomatic appropriation of the estuary of the Congo by Portugal was not successful; but that attempt became, in the hands of Bismarck, the starting-point of a memorable International Conference.

France, like Germany, was disturbed by the Anglo-Portuguese arrangement respecting the estuary of the Congo. The same feelings were startled at the Quai d'Orsay and at the Wilhelmstrasse. The German Government, aroused by events and called upon to act from various quarters, approached France, and an understanding was soon arrived at respecting the advisability of holding a Conference of the Powers—which Portugal herself had suggested. This, if we mistake not, was the first time the two

great nations took common action since the Franco-German war.

The moment seemed to have arrived when certain delicate questions in the African situation must be settled in a general meeting of the Powers concerned. For some time these problems had occupied the attention of those who follow the evolution of the law of nations and the course of international life. It will be remembered that Gustave Moynier in 1878, and, a little later, Emile de Laveleye and Sir Travers Twiss had raised several points at the « Institut de Droit International, » relative to practical jurisdiction in the Congo basin, and that the Institute, at its Munich meeting, on September 7, 1883, at the instance of M. Arntz, adopted various resolutions on the matter (1). Thus science prepared to some extent the way for diplomatic transactions, and science was destined, in the discussion of the Institute on the Act of the Conference, and especially by the Lausanne Declaration concerning the question of occupation, to help in throwing light on the official work of the Governments (2).

The African Conference of Berlin, summoned « in the name of Germany who had met with a perfect agreement of views on the part of France, » assembled on November 15, 1884. Fourteen Powers of the New and Old Worlds took part, and their proceedings lasted till February 26, 1885.

The initial proposals of the German Government were

(1) *Annales de l'Institut de droit international*, vol. III., p. 155; vol. VII., pp. 250 and 278. *Revue de droit international et de législation comparée*, vol. XV., pp. 254, 437 and 547.

(2) *Annales de l'Institut de droit international*, vol. VIII., p. 346; vol. IX., p. 244; vol. X., pp. 176 and 201.

magnificent : liberty of navigation on all African rivers, and exemption from transit dues along the whole of the African Coast, as well as an era of peace and free trade to be inaugurated in Central Africa, with conditions to be laid down for actual occupation. In fact, Germany seemed, in many respects, to be playing a very safe game. The desire of the Powers whose possessions were even more closely concerned was somewhat different. This helped to limit the preliminary scheme, from which, as we have already remarked, territorial questions as affected by sovereignty, were purposely excluded. As set forth in the notice summoning the Powers to the Conference, and as it was afterwards carried out, not without magnitude, the programme of the Berlin Areopagus remains remarkable.

The African Conference of 1884 has been in turn highly praised and condemned without measure. « Inauguration of a truly new era in colonial affairs, » say some. « A work of theorizers without any experimental basis, » others declare. There is, perhaps, some exaggeration in each of these opposite opinions.

The Conference will always deserve the credit of having guided colonial and commercial rivalries towards a peaceful solution at a time when colonial feeling was at its highest. Nobody has more accurately described the mission assigned to the meeting of the Powers and duly undertaken by them, than the American Plenipotentiary in the memorandum which he read in the course of the deliberations.

« The first colonies founded in America, » said Mr. Kasson, « have been the work of different nationalities. Even there,

where at first emigration was of a free and peaceful nature, foreign Governments were soon installed, with military forces to support them. Wars immediately broke out in Europe. The belligerents had colonies, and soon the field of battle spread to America. In the heat of the struggle, each of the belligerents sought allies amongst the native tribes where they thus excited their natural inclination for violence and plunder. Horrible acts of cruelty ensued, and massacres where neither age nor sex were spared. The knife, the lance and the torch transformed peaceful and happy colonies into deserts.

» The present condition of Central Africa reminds one much of that of America when that continent was first opened up to the European world. How are we to avoid a repetition of the unfortunate events, to which I have just alluded, amongst the numerous African tribes? How are we to guard against exposing our merchants, our colonies and their goods to these dangers? How shall we defend the lives of our missionaries and religion itself against the outburst of savage customs and barbarous passions?

» Finding ourselves in the presence of those whom we are urging to undertake the work of civilization in Africa, it is our duty to save them from such regrettable experiences as marked the corresponding phase in America (1). »

The Berlin Conference, moreover, claims credit for having placed the preservation and the civilizing education of primitive peoples in the front rank of all colonial enterprise worthy of the name.

The Conference, as we have already remarked, did not deal specifically with any question of territorial sovereignty, but it helped considerably towards the solution of some of the most difficult among those questions.

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(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 185. Report read by Mr. Kasson at the meeting of the Committee on December 10. 1884.

At the same time the Conference formulated wise, although incomplete, regulations concerning the future occupation of African territory, and so it provided for many cases of dispute which might arise in the territory thus circumscribed, and even in districts beyond it.

It adapted in advance to vast regions of Africa, independently of other guarantees of peace, a new and remarkable form of neutrality.

With regard to individuals, it considered the position not only of the native races but of foreigners of all nationalities, « pioneers of commerce or pioneers of civilization in general, » to use the words of Baron Lambermont.

Finally it applied to those same regions the principle of free trade and free navigation, extended moreover to other means of communication. Let us now examine the situation created in this respect by the General Act of the Conference.

II.

The Berlin General Act and Commerce.

1. — THE PLACE OF COMMERCIAL CONVENTIONS IN THE LAW OF NATIONS. — THE EFFECT OF THE BERLIN ACT IN THIS RESPECT.

The law of nations combines sovereign Powers. Its cardinal principle is the recognition and respect of the sovereignty of States. If it places limits to this principle, they are limits not of subordination, but of co-ordination between the equal sovereignties in presence of each other.

Those limits are, in the first place, connected with the

fundamental law of nations, which co-ordinates States in an international community according to an universally-accepted rule of justice and good will.

The limits may also result from agreements freely made between the Powers, beyond the general law of nations, and constituting for them a particular conventional law. One of the objects often aimed at in these agreements is to secure for foreign residents privileges which are not recognised by the law of nations, notably in commercial matters. Such concessions, granted between the various States, form part of the international law, but the subject matter with which they deal remains the same. The personal rights of foreigners appear merely as the object of an international understanding.

The Berlin Conference, in establishing, in certain regions, the principle of free trade, acted in the sense we have just indicated. Commenting upon the work of the Conference in his inaugural speech, Prince Bismarck thus described its scope :

« The labours which we are about to undertake to regulate and develop the commercial relations of our countrymen with that Continent, and to render a service alike to the cause of peace and humanity. »

In principle, a sovereign State may adopt that commercial policy which pleases it best. And this principle holds good in its colonial territory, whether it be an actual extension of the home territory, as some writers contend, or a mere dependency.

Colonial policy was for a long time merely a series of restrictions. The regime of unequal or exclusive relations, by which a home Government controls its colonies, is

known to history as the « *pacte colonial.* » The Berlin Act changed matters considerably.

It established complete and universal free trade in the district under notice; and, with regard to such freedom, subjects and foreigners were placed in the same legal standing.

This programme was a decided advance on the old « *pacte colonial* » which excluded all but the mother country as markets for colonial produce, which imposed on the colony the duty of affording supplies for home, which built round the colony, as it were, a wall of purely artificial commercial relations, which finally gave rise to wars between European nations to secure colonial prizes, and to conflicts between colonies and their home Governments.

While not being altogether unprecedented in colonial administration — for Great Britain had for sometime pursued this policy, and a few other countries had attempted to follow her example—the broad-minded measures of the Berlin Conference did away with many of the existing anomalies. Doubtless, the general application of those measures to all colonies would have been a step in the right direction; but while their general adoption could have been justified on the same grounds as their special application to the Congo, the Conference would not have been able to accomplish such a gigantic reform of distributive equity. The Conference, however, did what it could in this direction. It felt that the impracticability of the complete scheme did not prevent its partial application; that it was not easy to reform the whole world at once, especially the colonial world; that the field of

experience on which it could operate was large enough; and that, last but not least, the nature of the country, where the Government was as yet more or less insecure, was calculated to induce those concerned to make exceptional sacrifices.

The Conference therefore made the following regulations for the Congo basin :

« ART. 1. — The trade of all nations shall enjoy complete freedom.

» ART. 2. — All flags, without distinction of nationality, shall have free access...

» ART. 3, § 2. — All differential dues on vessels as well as on merchandise are forbidden.

» ART. 5. — No Power which exercises or shall exercise sovereign rights in the above-mentioned regions shall be allowed to grant therein a monopoly or favour of any kind in matters of trade. »

Let us, for the moment, confine our attention to these points. We shall, later on, consider the remaining resolutions of the Conference.

2. — COMMERCE AND COMMERCIAL MATTERS ACCORDING TO THE BERLIN ACT.

What is here meant by the terms *commerce* and *commercial matters?*

An elementary knowledge of economic and legal science is sufficient to make their sense clear. The sense generally attached to these terms in diplomatic instruments is equally precise. But in the present case all doubt can be removed by consulting a special and authoritative declaration on the subject.

Baron Lambermont's report, included in the fourth protocol of the Conference, settles the meaning of these terms according to the Berlin Act. That report says :—

« No doubt whatever exists as to the *strict and literal* sense which should be assigned to the term *in commercial matters*. It refers *exclusively to traffic*, to the unlimited power of every one to sell and to buy, to import and to export products and manufactured articles. No privileged situation can be created *under this head*, the way remains open without any restrictions to free competition *in the domain of commerce*, but *the obligations of local Governments do not go beyond that point*. »

Thus, as the report points out, there can be no doubt about the meaning of the terms : the Berlin Act deals with commerce in its strict, technical sense, with direct or monetary exchange of economic produce, with trade, in short, and with *trade exclusively*. Free trade means free trade for subjects and foreigners alike, free trade as a private right. Every one may sell his own goods; every one may buy goods put on the market for sale; every one may enjoy the profit accruing to him through such transactions. And it was to secure this free selling and buying, it was to safeguard personal liberty, irrespective of nationality, that the Conference decided that neither monopolies (viz. exclusive licences), nor privileges (viz. unequal treatement), should be granted.

It should be borne in mind that monopolies and privileges may be applied to many spheres of human activity : to industry properly so called, to public contracts, and to other public services. All these spheres of activity remain without the province of the Berlin Act.

The Act makes separate and distinct provisions in

favour of each separate branch of trade and industry; and it carefully enumerates them whenever a provision is made in the interest of both of them. Article 10, which regards neutrality, begins thus : « In order to give a new guarantee of security to commerce *and* industry, etc. »

The carrying on of commerce, and the exercise of other professions are separately defined. While, by virtue of an international arrangement, commerce is free, the exercise of other professions is not dealt with in the same manner. In this connexion, as well as for the general protection of life and property, the acquisition and transfer of land and other property, article 5, § 2, leaves, except in matters of trade, to each State the duty of taking suitable precautions and making due regulations. But a guarantee is always provided to the effect that foreigners shall enjoy the same rights and receive the same treatment as are accorded to the State's own subjects. Ulterior restrictions must, therefore, be applicable to subjects and foreigners alike. In other words, the motto is equality, rather than complete freedom.

3. — EXEMPTION FROM CUSTOMS DUES. — AUTHORIZED TAXES.

The placing of foreigners and subjects on the same footing, provided for in article 5, § 2, of the Berlin Act, was a bold but liberal idea. The decision to accord equality, of treatment as well as the privilege of complete freedom to foreign traders, was an equally bold step. But the Conference did not stop there. Naturally, it did not admit that

commercial freedom should have as a corollary the exemption of traders from all taxation. On what grounds, having made a clean sweep of so many privileges, could it have permitted such a one? Participating, as they do, in the blessings of security, order and administration dispensed by the Government, being specially benefited through certain services organized by that Government, it is only right that traders, in common with other members of society, should bear their part of the expenses of administration. The Conference could not and did not ignore such an elementary truth. The fact is only that, on the one hand, the Conference proscribed, temporarily at least, certain taxes on goods, and that, on the other hand, it moderated the duties on certain goods. Let us further examine these points which are so often and so persistently misrepresented.

Dealing rather severely, it must be admitted, with the financial and administrative organisation of the States having interests in the Congo, the Conference thought fit to forbid, temporarily but absolutely, customs dues both on imported goods and goods in transit.

« Merchandise imported into those regions, » says article 4 of the Berlin Act, « shall remain free from import and transit dues. »

The absolute prohibition of import dues, by whatever precedent it may be supported, remains in itself somewhat strange.

That prohibition could not fail to create, from the first, financial difficulties, from which the Free State has emerged with honour, thanks to the exercise of rigid economy, thanks also, let us add, to private muni-

ficence which cannot be allowed to affect political estimates.

Nothing really justified such a rigorous measure. It was not a corollary of the principle of liberty and equality of exchange even in a wide sense; for certain dues on foreign produce may constitute a source of revenue for the public treasury, without having any unequal or prohibitive characteristics.

If any abuse of import dues could be imagined as should have ended in complete prohibition, that abuse would not have been without remedies. In the first place, it was to the interest of the country to foster its own trade, and to prevent its neighbours' diverting it to themselves. Again, commercial privileges, differential tariffs and the consequently equal trade footing of foreigners and subjects, all combined to minimize such an abuse. And supposing that these safeguards were considered insufficient, abuses could certainly be prevented by moderating the amount of import dues, without going as far as a radical prohibition of those dues.

Considered from the point of view of the universal practice of Governments, the measure adopted by the Conference seemed condemned by every nation in Europe and America depending for its revenue on the very dues proscribed by the Conference.

Compared with a sound system of imposts, this measure was defective and lame. It forced the interested States to burden a relatively small portion of the dutiable produce with charges susceptible of a fairer and better distribution.

Applied to the rising colonies, the measure ignored the

fact that similar colonies had practically no other sources of revenue but those which it forbade.

Adapted to countries whose economic regime was in course of formation and might undergo material changes, the measure did not seem to have been the subject of wise foresight.

Imposed on a State gallantly rescued from barbarism by an august personal initiative, and which should have been allowed considerable latitude in working out its own development, the measure was as little in harmony with the merits of the past as with the needs of the present or the contingencies of the future.

It must be acknowledged that, in establishing this scheme of exemption from dues, unconnected as it was with the other franchises, the Conference did not sufficiently realize the necessity for a new State, whose economic and political machinery had still to be manufactured, to be free in the choice of its sources of income, and to create means of revenue in proportion to its needs. If a like measure might, at a certain time, be called for on account of a prevailing tendency to trade under an organized Government like in regions with neither frontier nor Government, it was very doubtful, however, whether it could ever be really profitable to business, since it was not calculated to strengthen either the fiscal regime or the general prosperity of a well ordered State. No wonder, then, that this part of the work of the Conference did not long resist the test of time, and that it was at last abandoned in favour of a less faulty regime.

The Powers, it is true, never intended to make this measure as permanent as the other regulations for the

government of the Congo basin. They considered it rather as an experiment. Article 4 of the General Act stipulates :—

« The Powers reserve to themselves to determine, after the lapse of twenty years, whether this freedom of import shall be retained or not. »

« It would never do, » had justly remarked Baron de Courcel, « to renew the colonial experience gained in the sixteenth century, when Colonies were brought to ruin by those who pretended to fix in Europe, from a purely metropolitan point of view, their financial and administrative existence (1). »

« It is experience, » said on his side Baron Lambermont, « which will then inspire the interested Powers with the most favourable resolutions for the development of commercial progress in their possessions (2). »

It is none the less true that the experimental system inaugurated by the Conference necessarily had a prejudicial effect—the most prejudicial during the early and more difficult years—on the economic life of the new State. In this connexion those who complain of what they style the fiscal ingenuity displayed by the Congo Free State in providing itself with the wherewithal to continue its existence, must acknowledge that stern necessity alone rendered the State ingenious. The Congo State was ever the first to recognise that, imperious as were the demands it had to meet, they did not free it from contracted obligations. But the Powers might have seen fit to prove their goodwill towards

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 41.
(2) *Protocoles et Acte général de la Conférence de Berlin*, p. 238.

the new State, to gracefully bring their rights into line with the needs of a civilizing Government, to profer the hand of friendship to that Government, and to make a point, not only of placing no obstacles in its way, but, in some measure, of supporting its action.

At any rate, by prohibiting import duties, by way of temporary experiment, the Conference did not intend to suppress all taxes on goods taken into the interior of the country. On the contrary, it expressly provided for the equitable taxation of such goods, in compensation for money usefully laid out in the interests of commerce. At the same time, the amount of such taxation was limited to such compensation, and provision was once more made here for the equal treatment of foreigners and subjects. Article 3 of the General Act runs to the following effect :

« Wares of whatever origin, imported into these regions, under whatsoever flag, by sea or river, or overland, shall be subject to no other taxes than such as may be levied as fair compensation for expenditure in the interest of trade, and which for this reason must be equally borne by the subjects themselves and by foreigners of all nationalities. All differential dues on vessels, as well as on merchandise, are forbidden. »

The motive for this regulation, and the reason why the hands of the authorities were not tied by fixing a settled rate of compensatory taxation, are set forth as follows in the report annexed to the fourth protocol of the Conference :—

« The rate of the taxes of compensation is not fixed in any definite manner. The support of foreign capital ought to be placed, with commercial freedom, amongst the most useful aids to the spirit of enterprise, whether it has reference to the execution of works of public interest or whether it has in view the development of the cultivation of the natural products of the

African soil. But capital only goes, in general, to places where the risks are sufficiently covered by the chances of profit. The Commission has therefore thought that there would result more disadvantages than advantages from binding too strictly, by restrictions arranged in advance, the liberty of action of public powers or of concessions. If abuses should arise, if the taxes threatened to attain an excessive rate, the cure would be found in the interest of the authorities or of the contractors, seeing that commerce, as experience has more than once proved, would turn away from establishments the access to, or use of, which had been rendered too burdensome (1). »

Excepting, then, the prohibition of one form of indirect taxation, viz. the import and transit duties, and the restriction of the duties payable on goods imported under the compensatory taxes to which we have just alluded, the establishment of all forms of taxation, either indirect, such as export dues, or direct, such as mere license taxes, remains a legitimate way of making commerce and traders contribute to the public treasury.

The question of river and railway tolls will be examined later. Suffice it here to state that the organized contribution of traders, as of other constituents of economic activity, could never, except in the cases we have indicated, be considered as incompatible with commercial freedom. This is especially the case in regard to the dues thus described to the Conference by Count de Launay : « taxes which, even in the most civilized countries, it is customary to collect without being thought thereby to detract from the principle of commercial liberty (2). » This is so universally true with regard, for example, to

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 85.
(2) *Protocoles et Acte général de la Conférence de Berlin*, p. 21.

mere patent acts, that the French law of March 2-17, 1791—which, we imagine, gave the most emphatic assent of modern times to the principle of commercial freedom —maintained the license dues in the very clause that proclaimed such freedom. Article 7 of the law says :

« Everybody shall be free to carry on any business he chooses; but he must first obtain, and pay for, a license, and submit to any regulations of police that may be made. »

This article brings out the justice of, and the necessity for, the coordination of a broad-minded commercial freedom with the exigencies of the public treasury and of public order. And it leads us to a closer consideration of the extent of that freedom, as recognised by the Berlin Act.

4. — EXTENT AND LIMITATIONS OF COMMERCIAL FREEDOM UNDER THE BERLIN GENERAL ACT.

Remarkable as the commercial freedom inaugurated in the Congo by the Berlin Act may be, perfect as it may appear, it is by no means absolute, indefinite in extent, or lacking in due co-ordination with older or superior rights. Unlimited freedom does not exist in social life. The provisions of the Berlin Act, moreover, inasmuch as they restrict commercial autonomy on the part of the contracting States and limit their sovereignty, are of an exceptional character, and must be strictly interpreted.

I. — The commercial freedom inaugurated by the Berlin Act involves first of all certain international limits, with respect to traffics rendered illegal by the common law of nations, or to transactions forbidden by special agreement between the Powers. The slave-trade falls under

the former; the trade in arms and spirits, under the latter. We will return to these briefly-indicated points later.

II. — The second category of limitations on commercial freedom are derived from national public order, essential to all organized forms of government. We have already seen that the Acts which declared most firmly the principle of commercial freedom, and especially clause 7 of the French law of March 2-17, 1791, set forth the « necessity of submitting to any regulations of police that may be made. » As Sir Edward Malet, the English Plenipotentiary, clearly pointed out at the Conference, freedom of commerce unchecked by reasonable control would degenerate into licence (1).

The power of the State in this connexion is incontestable. That power is derived directly from the primary right and duty to maintain public order everywhere and under all circumstances. Nobody can deny the State the right of taking steps, for example, for the preservation of public safety. Government cannot be carried on without a judicial and administrative police system, and a State could not renounce that prerogative without laying itself open to a charge of incapacity in its primary and essential functions. Hence, such a renunciation could not be argued from mere presumptions or inductions.

In the present case, moreover, the bases of any presumption or induction are wanting. The fact that the Conference established freedom of private right in dealings between all individuals, whether subjects or foreigners, does not imply that it desired to interfere with public order

(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 8.

in the relations between the Government and those over whom it rules.

The exercise of the administrative power may, in certain cases, it is true, prejudice trade. The *modus vivendi* of commercial freedom and of the administrative police should, in this case, be loyally sought. But the State remains ultimately judge of the arrangement. All that can be reasonably claimed is that the State shall not transform its powers, which safeguard the general interest, into a vexatious or oppressive instrument.

III. — A third limit to commercial freedom — an appreciable modification of, although it does not directly affect, that freedom — may result from the sovereign right of a State to levy taxes with a view of causing trade to contribute its share towards public expenditure, like every other branch of private activity.

We have indicated on what plan the right of collecting taxes was limited at Berlin. Import and transit dues were abolished, and interior taxation on merchandise was allowed in moderation, without, however, any figures being specified. Apart from these reserves and from a proper commercial freedom, this economic regime by no means involved any loss of financial independence on the part of the States interested in the conventional basin of the Congo.

IV. — Commercial freedom, moreover, in no way abrogates the acknowledged rights of a State over any property it may have legitimately acquired. This point has given rise to warm controversy on account of conflicting interests, but the contention is rather irrelevant. However, we shall discuss it presently, in every particular, in order to dispose of it by a final and conclusive opinion.

5. — PUBLIC AND PATRIMONIAL DOMAIN OF THE STATE. — THEIR CONSTITUTION.

The institution of the public domain of States, composed of possessions duly and permanently devoted to the public service, either because of their very nature or by a special law, is as universal as it is necessary.

The institution of a patrimonial domain, including namely, but not exclusively, real estate, owned and managed by the State, just as private property is owned and managed by individuals, is not less universal. The institution is altogether legitimate; and it is always necessary to some extent. It affords the State a means of revenue which must otherwise be exacted from workers and capitalists in the form of taxation. How is it that the States interested in the Congo have renounced their rights of ownership—rights established on a regular and recognised basis of acquisition? Such renunciations can certainly not be based on presumptions or on far-fetched, ingenious and exaggerated inductions.

A modern Sovereign does not necessarily become the immediate possessor of all property situated in his domains. The *imperium* and the *dominium* are distinct, although they often have been and are sometimes still confounded. But that which constitutes an essential attribute of all sovereignty, that which is necessary to the welfare of the body politic, is the right of the Government to regulate the legal status of all property within its jurisdiction, to determine the titles of ownership, the modes and the forms of conveyance of the same, and the limits to be fixed thereon

in the public interest. The Sovereign is the supreme legislator from this point of view. In the regulation which he is called upon to make of the rights of property, he has the power to issue such rules as he may deem wise for the legal acquisition of property. And, in the case of ownerless property, he can incontestably decide upon its ownership. Whether he leave such property to the hapha-zard of individual occupation, whether he retain discre-tionary control over it, or whether he vest it in himself, he is acting altogether within his sovereign jurisdiction. Applied to countries without a recognised authority, such legislation might be disputed. But in the case of an established State, it could not be questioned, either by another State or by individuals, when, moreover, that legislation only affected ownerless land extant at the time of its promulgation.

The occupation of a territory without Sovereign, and that of ownerless land in a country subjected to a recognised sovereignty, must not be confounded. The first may raise a question of international law; the second is a question of the law of the land in each State. This is equally true of strictly national and also of colonial terri-tory. For if, in a given case, it is possible to deny that the necessary conditions exist for the acquisition of sovereignty over a territory, it is impossible, as soon as the sovereignty has been admitted, to deny the logical consequences of that admission.

The action of a Sovereign in declaring that all ownerless property belongs to the State cannot, then, be questioned. The advisability of such a decree, which may be dictated by the best of motives, must be decided by the Sovereign.

It is evident that it would be wrong for a government, even at the risk of trespassing on social interests, to leave waste land at the mercy of precarious individual occupations, with the consequent disputes for whatever the land might produce. Such a position would be untenable, for everybody agrees that the prosperity of a country depends largely on its land system and the proper use of the soil.

This principle is general in its application and Bluntschli has well said that the system which attributes waste and ownerless land to the State conforms to German ideas, and is admitted in the modern world (1). The principle still holds good to-day, he added, in England and in the United States, that waste land in the new colonies belongs to the State and that colonists must purchase it from the State (2).

The attribution of vacant property to the State has not the same importance at home as in the colonies. At home, it is looked upon as an authorized appropriation of escheats. But in the colonies, where the risk of dispute is greater, where the proper settlement of land is of vital importance, where the public resources are smaller and the public needs larger, the attribution of unclaimed property to the State is justified by the most cogent reasons.

That attribution, again, no longer wears the unjust aspect it formerly wore under the old right of conquest. It implies the respect of existing private rights and of native claims, both in their purport and quality. And so we find this principle applied in colonies organized under the most

(1) *Droit international codifié*, liv. IV, n° 277, note.
(2) Bluntschli, *Théorie de l'État*, p. 222.

varied commercial systems. Not only is it practically applied under the various Governments unconcerned in Africa, but also, remarkably, by the great Powers in their possessions and dependencies in the Congo basin.

The first clause of the German Imperial Order of November 26, 1895, runs thus :—

« Save for rights of ownership or other real rights claimed by individuals, corporations, native chiefs or communities, as well as rights of occupation by third parties resulting from contracts made with the Imperial Government, all land in German East Africa is vacant crown land. *The proprietorship of it belongs to the Empire.* »

Here, furthermore, are the terms of article 19 of the Order issued by the Commissioner for the French Congo, under date of September 26, 1891 :—

« Uncultivated soil and vacant land, which nobody legally claims, shall be considered as belonging to the State and shall form part of the colonial domain. »

Since then, the decrees of March 28, 1899, relating to concessions, have clearly affirmed the right of the State over vacant land.

A British subject is, by virtue of a legal presumption, the representative of his Government in any uninhabited land. « In such a case, » says Creasy, « the whole country becomes vested in the Crown; and the Crown will assign the particular persons portions of the land reserving, as Crown land, all that which is not so granted out, and reserving also jurisdiction over the whole territory(1). »

(1) Creasy, *The Imperial and Colonial Constitutions of the Britannic Empire*, p. 66.

The Royal Charter granted on September 3, 1888, to the British East Africa Company indicated concessions of powers implying the ultimate exercise of the Crown's prerogative over vacant property. Thus clause 23 authorizes the Company :

« To carry on mining and other industries, to make concessions of mining, forestal, and other rights; to improve, develop, clear, plant and cultivate any territories and lands acquired under this Charter, to settle any such territories and lands, and to aid and promote immigration into the same, to grant any lands therein for terms or in perpetuity, absolutely or by way of mortgage, or otherwise. »

Without discussing the interpretation of this clause, let us notice here that the right of His Britannic Majesty to declare vacant land in his colonies to be Crown property is not contested, and that that right has been frequently exercised. For instance clause 4 of the Act annexing the Fiji Islands as a British possession runs thus :

« That the absolute proprietorship of all lands, not shown to be alienated, so as to have become bona fide the property of Europeans or other Foreigners, or not now in the actual use or occupation of some Chief or tribe, or not actually required for the probable future support of some Chief or tribe, shall be and is hereby declared to be vested in Her Majesty, Her Heirs and Successors. »

The International Colonial Institute has published five volumes of official documents on *Le Régime foncier aux colonies*. These documents and the accompanying notes throw much light on the point under discussion. The notes relative to German colonies were compiled by Mr. Herzog; those relative to French colonies, by Mr. Arthur Girault; for the Italian colony of Erythrea,

by Baron de Franchetti; for the Dutch Indies, by Mr. Van der Lith; and for British India, by Mr. B. H. Baden-Powell, of Oxford. For the British colonies, which are reported in the fifth volume, the documents were kindly supplied by Mr. Chamberlain, the Colonial Secretary of State, who sent to M. Janssen, Secretary General of the Institute and author of the article on the Congo, the replies made by the Governors and High Commissioners to his enquiries (1).

This combined testimony seems conclusive.

6. — SETTLEMENT OF THE STATE'S PATRIMONIAL DOMAIN.

Having been duly included as State property, waste and ownerless land may be regarded as disposable.

The State may devote a portion thereof to the public service, when it becomes public property. The State may convey a portion to an individual or a corporation, either freely or for payment, with or without conditions, more or less rapidly, according to the advantages recognized by the State in these various courses of action. It may grant a greater or less degree of use of the property, on its own terms. It may work the property itself and manage it as it sees fit, in order to apply the income to its needs.

All these proceedings, and other similar ones, are included in that free disposal and free use which are the

(1) Bibliothèque coloniale internationale, 3e série. *Le Régime foncier aux colonies*. Documents officiels précédés de notices. 5 vol. Brussels, 1898-1902.

essence of the State's right. They are so many variations of the State's position as owner, and there is no difference, as to the general character and fundamental rights of such ownership, between the rights of private property and the right of the State over its patrimonial domain.

With regard to mines and forests—two very important classes of property in a colony—it is hardly necessary to point out that, mining rights being distinct from surface rights, the State can reserve the former and regulate the concessions thereof in the public interest. Again, the exploitation of forests by the State and the granting of forest concessions are legitimate acts of user by the State as owner; just as forestal police regulations, affecting alike private and public domains, are quite within the province of the Government.

The question of the disposal and use of the State's patrimonial domain is one of internal arrangement and administration, which may be discussed as a question of colonial political economy, but legally depends on the sovereign judgment of the State.

This is so palpably necessary, that it is hard to see how any one claiming to understand colonial policy can contest the point. The circumstances, of course, are of endless variety, not only in different colonies, but in different districts and at different times. It stands to reason that each case must be treated on its own merits. In one case, the cession of land for payment is easy; in another, even free grants of land are impracticable. Sometimes individual or limited collective action may produce favourable results; sometimes only the most powerful companies can

hope for success. Under certain circumstances, the State is forced to undertake the cultivation and development of its property; under other circumstances, such action is inadvisable. Arrangements must depend on circumstances and on the objects in view. Thus do the factors of the colonial problem vary, and call for varying solutions, according to the position of the State and the results it desires to obtain. The « en bloc » theory, as it is called by Chailley-Bert (1), and a rigid adherence to a preconcerted system are nowhere more absurd than in colonial matters. Nowhere is it so unwise to dogmatise or to generalise from particular cases.

7. — LAND LEGISLATION AND COMMERCIAL FREEDOM.

Attempts have been made to raise the principle of commercial freedom set forth by the Berlin Act, as an obstacle to the organisation of land regime and of such colonial property rights, for the State or its concessionaires, as include the essential elements of ownership. It has been urged that the whole of the Congo basin should, from an economic point of view, remain in the condition of waste land, abandoned to the use of whosoever should care to collect, even temporarily, the produce of the soil, and that the State, as such, should not settle and manage the land for the benefit of the country. Such a colonial policy, neglecting the proper working and development of the land, would fail in its elementary and most beneficient task.

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(1) *Dix années de politique coloniale,* Paris, 1902, p. 1.

The strange theory, which distorts commercial freedom in order to combat the development of colonial property, fails in one striking particular. It confuses two distinct economic factors, operating in absolutely different spheres, with a view of making one destroy the other. The right of ownership and the right of commerce cannot be mixed, and the affirmation of the latter cannot imply the negation of the former. The arrangement of the land regime and the system of commercial exchange cannot be confounded.

The theory we impugn here has still another fault from the point of view of the Berlin Act and from that of international law. That theory diverts the very meaning of commerce, as set forth by the Conference, especially in the quotation of the Report which we mentioned. How can the right of commerce, in its technical and literal sense,—a commerce consisting, as the Report declares, *exclusively* of trade in produce,—conflict with universally-admitted rights of working and of managing the land conformably to colonial needs? If one reflects on the probable consequences of such an interpretation of the Berlin Act, it will be readily admitted that such could never have been the intention of the Signatories. A general rush, on the *raffle-system*, into « no man's land » would mean permanent anarchy. It would cause devastation, not colonization. It is useless to urge that such a system of unregulated land tenure would attract capitalists and pioneers, and thus help to develop the colony. If everybody could indulge himself in a management at once free from restriction and devoid of security, where is the prudent capitalist who would care to lay out money on the

development of resources of which the next man who comes that way might rob him?

The ownership of any given property, by its very nature, implies an exclusive right of disposal and use. But the Berlin Act considers this consequence as quite of a piece with commercial freedom; for it recognises the establishment and regulation of ownership, as in clause 5, § 2, with express reference to the mode of acquisition and transfer.

If by monopoly be meant any private right of disposal and use, ownership may, under certain circumstances, be classed as a monopoly. But it must be remembered that the Berlin Act does not proscribe every class of monopoly; it only forbids the granting of commercial monopolies. The ownership of land, of course, does not fall under this category.

If it were desired to distinguish between the property of individuals and the patrimonial property of the State, the distinction would be strange, for it would recognise ownership in the case of the grantee, and deny it in the case of the grantor. If it be objected that, on account of the enormous size of its patrimonial property, the State cannot be allowed to work it, we submit that the same objection strikes at the large Companies owning and working whole regions. And how could any distinction be made, under the Berlin Act, between large and small property?

Neither can it be reasonably supposed that if the State held aloof from the management of the land, the trade in natural produce would be more prosperous. Had the State recognised the right of the first comer, the latter could

have secured without trouble produce which he now has to buy. But the very appropriation of the produce would have been an act foreign to commerce, which exists only when an exchange of produce follows. And it would still have to be shown that the Berlin Act had decided against the universally-admitted right of the State to all ownerless property, and had aimed, not at free and equal trade between individuals, but wholly and solely, and regardless of consequences, at affording the maximum chances of profit to anyone.

It is true that the attribution of unclaimed property to the State—including concessions of lands which involve rights of disposal and of use—may possibly not remain without influence on the sphere of commerce. But that does not justify a denial of the legitimacy of such sovereign acts. Here again, a certain *modus ordinandi* in the domain of ownership and commercial freedom may be sought, but without confounding the respective rights, and without allowing individuals to dictate to the State in matters affecting the land regime of its colonies.

8. — STATE COMMERCE AND PRIVATE TRADE.

Can the carrying on by the State of any business open to private initiative be considered incompatible with commercial freedom? And can the State reserve to itself the exclusive right to any branch of commerce?

Let us first consider whether the State can carry on any business open to private enterprise. Whether the State has the rights of a landowner in its own domains, may be discussed. But the moment that question is settled in the

affirmative—which is the only practical solution—the right of the State to carry on any form of business cannot be challenged. It can gather and sell the produce of which it has become the legitimate owner. Naturally, it cannot be forced to consume or to store up the whole of its own produce. As regards the buying and selling of produce belonging to others, to natives for example, it may be asked whether the State can, under the Berlin Act, carry on such trade.

To elucidate this question, let us define the position of the Sovereign with regard to his territory. The situation under notice is very different from that of Foreign States. These have no sovereign rights over the territory and they only appear in the Berlin Act as protectors of the interests of their respective subjects, and to secure to the latter certain advantages outside the common rule of foreign commerce. The Powers are not in the habit of claiming any right of trading, on their own especial behalf, in States other than their own. And if they did advance such a claim, they would only be entitled to the same treatment as ordinary individuals.

The legal position of a Government in its own territory, is an altogether different matter. It is neither a foreigner nor an individual; it has certain duties to fulfil, according to its views of the public needs, and, for it, sovereignty means freedom. Legally, there is nothing to prevent a State from doing whatever it may deem beneficial to the general interest. It may be either producer or manufacturer, it may sell its produce or manufactures, and may even buy and sell certain articles which it neither produces nor manufactures.

The fact that a State acts in this business capacity in no way destroys the liberty of individuals to carry on similar business, nor does it affect the respective equality of subjects of different nations. The Berlin Act does not and could not forbid such operations, without injuring the colonial interests, which it was its very object to promote.

Material transactions, in fact, are very often the only means, in uncivilized countries, of establishing relations with the natives, and sometimes of opening a necessary market or of keeping up a legitimate traffic. In many cases a refusal to enter into commercial relations might lead to bad feeling. To distribute the desired goods gratuitously would be to ruin all future transactions. State trade, then, may be not only permissible, but inevitable, and even profitable to subsequent commercial relations between individuals. Those who look upon trade as the most powerful and effective weapon a State can employ in the civilization of a new territory, will readily admit that, in trading to a certain extent, the Government is not trespassing beyond its fundamental mission of civilization.

In any case the State must retain a free hand in the regulation of such trade. The only thing which might be criticised would be, not the carrying on of trade, but any positively unfair competition. It is idle to say that the State, because of its practical immunity from taxation, must always compete unfairly. The State has to meet demands from which the private trader is exempt. Certain duties have to be performed by the State, while the individual generally rids himself of any responsibility he may have in connexion with those duties

by the payment of a relatively modest contribution. But it is against the weight of evidence to contend that the State cannot carry on a colonial trade, and at the same time leave a large field and a free opportunity for a plentiful harvest of profits to private activity, without favouring anyone of the competitors.

Unfair competition is quite possible in private enterprise, but with that question we need not deal here. We know, however, of no case in which such a charge can be made against a State.

As for the Congo State, it has never gone in for speculative trade as its main object of business; it has merely sought a market for its own produce.

A more delicate question is that affecting the monopoly of certain branches of trade by the State. As a matter of fact, the State monopoly of matches, cigars, playing cards, and so forth, was never held as a breach of the principle of commercial freedom. And the Berlin Act supports this view. The only thing really forbidden in the Act is the concession of trade monopolies, which is prohibited in article 5. But the working of certain monopolies by the State is an entirely different matter; it may be practically but a form of taxation. Arguing from this point of view, and from the very wording of the Act, one might submit that it is rather a question of discretion and moderation for the State, than one of absolute prohibition.

We refrain, however, from passing an opinion on that point.

9. — RIGHTS OF THE NATIVES.

In order to combat the rights which we recognise as belonging to the State, the acquired rights of the natives have been brought into line. The confusion of ideas and of things has been so great that it may not be unnecessary for us to examine the matter.

The Conference dealt with acquired rights in two very different circumstances. In the first instance, it examined the line of conduct to be observed in relations with independent native sovereignties. The question then was one of acquired rights as between rulers and their subjects. Such rights had to be recognised, as far as evidence supported them, especially in the case of the Sultan of Zanzibar. With regard to other sovereignties, about which the Conference had no precise data, the French Chief Plenipotentiary thought that the Conference needed not consider them, except in order to warn traders against the delusion that commercial liberty was safe in countries as yet untouched by the influences of civilization. At the suggestion of several members of the Conference, and especially of Mr. Kasson, the United States Chief Plenipotentiary, declarations were made in view of respecting native sovereign rights. But when Mr. Kasson formally proposed to sanction the respect of such rights by making the consent of the native rulers concerned a condition of the occupation of their territory with rights of sovereignty, the President of the Conference was one of the first to declare that such a proposal « always touched on delicate questions upon which the Conference hesitated

to express an opinion. » « Modern international law, » Mr. Kasson had stated in the sitting of January 31, 1885, « follows closely a line which leads to the recognition of the right of native tribes to dispose freely of themselves and of their hereditary territory. In conformity with this principle, my Government would gladly adhere to a more extended rule, to be based on a principle which should aim at the voluntary consent of the natives whose country is taken possession of, in all cases where they had not provoked the aggression. » This proposition, involving the consent of the natives for the annexation of their territory, fell through.

Which ever opinion may be entertained of this principle, and in whatever light the Conference may have regarded it, it only offers, from our point of view, an historic interest. Time, frontier arrangements between the Powers, the cession and recognition of sovereignty by native Chiefs, have definitively settled the question.

The question of acquired rights was also considered by the Conference when it examined the conditions of future effective occupations on the African Coast. In that case, the Conference required the establishment of a force sufficient to maintain those rights. It is a question here for the Governments, not of recognising without more ado the sovereignty of States looked upon as independent so far—which would practically hinder any occupation whatsoever—but, on the contrary, of making their paramount authority felt in the occupied territories, by protecting such acquired rights as are generally looked after by the Government, *e. g.* private business rights.

This new provision has been tentatively interpreted

as a special protection for native rights in the Congo basin. But it seems evident that the clause in the Berlin Act dealing with this subject in a positive manner is not article 34, which only refers to future occupations of the African Coast, but the articles 6 and 9, concerning the protection of the natives. These articles—exclusive, moreover, of any reciprocal interference of the Powers in their respective dominions—provide for the preservation of the native races, the improvement of their moral and material conditions of existence, the suppression of slavery and especially of the slave-trade as defined in article 9. On comparison of these provisions with those concerning non-natives, the line of demarcation between them is seen to be clear and well-defined.

Even if such were not the case, it would still be easy to show that the rights which we have claimed for the State can quite harmonize with the respect of all native acquired rights.

The inherent prerogatives of the public authority in no way clash with the rights *sui generis* of the natives, which may be quite different from the rights of property in civilized countries. The same remark applies to local rights of use, and to the trade carried on by the natives in produce belonging to them. Thus, the legislation of the Congo Free State meets all the legal and reasonable demands of such cases.

With respect to trade in goods irregularly taken away from the State or from individuals, it is easy to understand that it is no more legal for natives than for non-natives. The property laws of the Congo are the same as those of other countries. Nobody may gather harvests on State or

private lands without the consent of the landlord. Any such attempts may give rise, in the Congo as anywhere else, to a double action at law: one on public grounds for breach of the public peace, another on civil grounds for the payment of any damage sustained.

We have just pointed out that trade in irregularly-acquired goods is rightly forbidden both to natives and non-natives. The Powers possessing in the Congo are sometimes reproached with being too severe towards subjects and foreigners who set the laws of the country at defiance. Any other line of action would mean anarchy, and therefore the action of the Powers is justifiable.

As for the contributions towards the public Exchequer, which the State levies on the natives, in the form of taxes in kind, it would be unreasonable to complain thereof. Such action is justified both in itself and by the lack of any prohibition on that score in the Berlin Act. The importance attached to this latter point by certain controversialists induces us to give a somewhat lengthy consideration to the subject.

10. — TAXES IN KIND.

In the Congo, like in other countries, the people have to help pay the expenses of government. The form of this contribution necessarily varies according to social conditions. Just now, the contribution which it is possible to collect from the natives of the Congo takes the form of produce having a market value in Europe.

That form of taxation is by no means exceptional. An equivalent contribution, in the form of productive labour,

is not less justifiable. The legitimacy of this double form of taxation is still to day emphatically claimed as an integral part of a comprehensive system of imposts. For example, in the *Traité des impôts*, M. de Parieu gives us this definition : « A tax levied by the State on the wealth or labour of the subjects, to meet public expenses (1). » If the taxpayer is called upon primarily to make this voluntary and remunerated sacrifice, if this taxation in kind, in default of being freely given, is enforced, but not without payment, under conditions especially suitable to the social organization of the country, there is surely no element of injustice or unreasonableness in such a transaction.

At first sight, the idea of simultaneous taxation and remuneration may seem somewhat odd to those who are only conversant with the ordinary methods of civilized government at home. Our own taxpayers never receive any *quid pro quo* in kind for the sacrifices demanded of them, their benefit being confined to a proper enjoyment of the various public services. But if the question be looked at from a practical point of view, and with a due regard to the circumstances of the case, it will readily be admitted that the principle of remuneration, adapted to certain forms of impost, may be both useful and productive.

This proceeding, applied to native labour, may in certain cases be not only the most practical means of obtaining a revenue, but it may, under a wise and far-sighted Government, become a powerful factor in training the natives to regular work and in helping their moral and material regeneration.

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(1) *Traité des impôts*, I, p. 4.

Experience shows that the native is not naturally inclined to work. The smallness of his needs, the ease with which he can satisfy them, the contempt in which he usually holds work, and the natural tendency to shirk the least painful effort, all combine to keep the black in a state of idleness. To drag him out of this Slough of Despond, it is certainly wise to apply both of the generating principles of movement : impulsion and attraction. It is to these factors that one has recourse, when the native is made to work, and paid for his work.

Therefore, the right of calling upon the people to share the burden of the State as guardian of public order, and the duty of initiating the natives into the universal law of labour incumbent on every human being, constitute grounds for the justification of compulsory native labour under the control of the Government.

The system of compulsory labour has been criticised in the case of several newly-developed countries, but it must be remembered that the system remains in force in modern States, even in an advanced stage of civilization.

With regard to the distribution of the burden of this form of taxation, it is held by some that taxation should be strictly personal, and should not be exacted from a whole tribe by a mere call upon its Chiefs. This argument would, if logically pursued, lead to a deadlock. Examples of collective taxation abound, especially in British colonies. There are countries where the inhabitants use but few dutiable articles, drink no spirits, require no licenses, and never use stamps. And yet, when the natives form ninety-nine hundredths of the population, and when they occasion a large part of the expenses of government,

law and police, it is only right that they should contribute, and even in no small measure, to defray the expenses incurred, as those expenses certainly are, up to a certain point, for their protection and preservation. Thus Sir A. H. Gordon, Governor of the Fiji Islands, expressed himself in a letter on February 16, 1876, to the Earl of Carnarvon, then Colonial Secretary. He added that, after a serious consideration of the subject, and having taken the opinion of men as conversant with colonial affairs as Sir Hercules Robinson and Earl Grey, he had come to the conclusion that, under such circumstances, it was necessary to levy a tax on the village or district, rather than on individuals, and that a tax of produce could be easily levied, with the best pecuniary results, and with the greater advantage of stimulating native industry and greatly increasing the commercial importance of the community (1).

It has been further sought to discountenance the partial « payment by results » of State tax-collectors. But it not infrequently happens in civilized countries that premiums are given according to the satisfactory nature of the work performed. Steps can, of course, be taken to prevent any exactions; but the radical suppression of the « payment by results » system does not appear to be justified. However, the system has its faults and the Congo State, which had only temporary recourse to it, has, we venture to think, done well to suppress it, as it did several years ago.

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(1) See the remarkable *Rapport de M. le baron von Eetvelde au Roi-Souverain*, dated January 25, 1897. BULLETIN OFFICIEL DE L'ÉTAT INDÉPENDANT DU CONGO, 1897, p. 48.

It is urged that all compulsory labour is oppressive and outrageous to natives. But we must not forget that, in our own countries, the use of constraint is considered not only as an occasionally necessary means of education, but as an indispensable means of assuring the compliance with a number of duties imposed by the Government.

Every humanitarian enterprise has its shortcomings, and they are perhaps more striking in Africa than elsewhere. Unfortunately, individual abuses are not confined to any special colony. Such abuses must be repressed. As for the Congo Free State, the official legal statistics show that the Government did not fail in this respect.

In default of high humanitarian motives calculated to influence both authorities and individuals in this connexion, their material and moral interests act as a powerful incentive. The duty of a moderate and humane treatment of the natives cannot be neglected with impunity. The oppressed or ill-treated black will not hesitate to run away, and work may thus be brought to a standstill.

Not only does it appear impossible to deny the right of the authorities to introduce compulsory labour, but it must be recognised that the State, in governing economic life in new countries, has altogether different duties from those exercised in older societies. The State has, in fact, to some extent, to substitute for economic apathy—only varied by homicidal strife—a social order founded on regular and beneficent labour.

The organization of labour in those countries is widely different from that in force at home. The researches and the published documents of the International Colonial Insti-

tute (1) on the question of colonial labour throw much light on this point. Everybody knows that, in tropical countries, the dislike of the natives to work is not only the greatest obstacle to their civilization, but also a formidable enemy of colonization. While the European may have the brains that conceive and direct, he cannot, in those countries, also have the hand which executes. There are grounds for hoping that malaria, the great natural fiend of Europeans settlers, will not for ever resist the efforts of science to find its antidote. But the climate alone still remains sufficiently depressive to limit the European sphere of action in tropical countries. The native labour problem, then, brings into better relief the necessity for harmonizing the industrial efforts of Europeans with the efforts for preserving and improving the races apt to aid European enterprise. The employment of outside labour more or less capable of doing the required work—and such a course is occasionally necessary (2)—is but a precarious resource, bristling with dangers and difficulties. Native labour is generally preferable. It was in view of these facts that the International Colonial Congress, held in Paris in 1900, passed the following resolution :

« Everything calculated to foster the recruiting of native labour in the colonies should be encouraged. The employment of native labour should be preferred, unless

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(1) Bibliothèque coloniale internationale, 1re série. *La main-d'œuvre aux colonies*. Documents officiels. 3 vol. Brussels. 1895-1898.

(2) See our *Projet de règlement en vue de l'utilisation de la main-d'œuvre exotique dans les colonies*, presented to, discussed, and adopted by the Institute of International Law. Bibliothèque coloniale internationale. *Compte rendu de la session tenue à Bruxelles*, 1899.

absolutely unobtainable, rather than the introduction of foreign elements, even when such employment necessitates certain measures which, in view of the social condition of the natives, would appear in Europe as an interference with individual liberty (1). »

With respect to the Congo country, and especially the French Congo, men of undeniable experience, like Mgr. Augouard, who have lived a quarter of a century in Africa, and have devoted their lives to the welfare of the natives, do not hesitate to point to compulsory labour as the only present means of solving the problem of colonial industry (2). In various countries, including Germany, for example, men of no less experience, like major Wissmann, while combatting the principle of forced labour, consider that the best means of making the natives work are, on the one hand, the tax of labour, and, on the other, military service. As for the tax of labour, the celebrated African explorer says :— « The authorities should, as often as possible, induce the natives to pay the impost by means of work rather than in money. I think it would not be a bad idea if the colonial Government were to refuse produce offered in payment of taxes, and exacted payment in labour (3). »

We thus see that authorities on colonial matters differ of opinion. Without taking part in their controversy, let us merely note that the point in question is simply one of internal colonial policy, which may perhaps not be suscep-

(1) *Congrès international colonial.* Rapports, mémoires et procès-verbaux des séances. Paris, 1901, p. 842.

(2) See *Belgique coloniale,* March 30, 1902.

(3) *Deutsche Kolonialzeitung,* January 16, 1902.

tible of a simple and universal solution. Each State must solve the problem according to its own special circumstances. In any case, some sort of regulation of labour by the authorities seems necessary, if abuses are to be avoided.

11. — PRESTATION OF LABOUR AND THE SLAVERY QUESTION.

Prestations of labour, even as a form of taxation, are sometimes confused with slavery, both questions being more or less distorted. A brief examination will show the fallacy of these views.

In the first place, it is impossible to confound slavery and certain obligatory services rendered to the State. Slavery is the very negation of individuality, of the essential attribute of humanity, of the freedom to acquire and possess rights. It makes of a man the chattel of his master. The enforcement of a certain amount of labour, limited in quantity and in duration, remunerated, exacted as a contribution to public expenditure, submitted to the guardianship of Government, and without the rights of the individual in his essential elements being called into question, is radically different from slavery. Far from destroying individuality, it may be looked upon as a first attempt at the redemption of the native from the vicissitudes of his miserable existence.

If all compulsory personal prestations were considered as characteristic of slavery, then we should have to admit that slavery exists in our civilized communities. Compulsory military service, and other forms of obligatory prestations would then become mere forms of slavery. It is a case of « he who proves too much proves nothing. »

Again, it would be an insult to common sense, and contrary to all experience, to attempt to apply to the industrial education of the natives the same perfected rules which have only come into force in civilized communities after centuries of slow development. Armchair politicians fancy they can clear up all these difficulties in half an hour, and that savages can be transformed, without any intermediate stages, into highly civilized races. The danger here lies in flying to extremes : either by considering natives as brutes, and denying them the rights of humanity, or by treating them as fully developed adults. As seen in certain colonies, to give the natives full political liberties, out of joint with their social condition, is to nullify much of the good effects of civilization. What is wanted, if the natives are to be helped, is a paternal and educating administration, which, while it asks them nothing that their social condition prevents them from affording, still demands what is morally possible, adapting the laws to their needs, in order to gradually develop the work of their regeneration. That is the only rational method; and it has stood the test of experience. Was the system of complete civil liberty, as now enjoyed by European communities, built up in an hour? Was it not rather the work of centuries?

We certainly never felt any sympathy for slavery. We believe, with the secretary of the Berlin Conference, that « this mischievous institution ought to disappear. » But it is impossible to consider every form of taxation in kind as slavery. And, frankly speaking, it must be admitted that there are far greater dangers for the natives than the habit of regular, remunerated labour—dangers to which those

who desire to see the natives uplifted should never expose them. We allude to the drink-evil and the liquor-trade.

Governments have never confounded slavery with the slave-trade in newly opened countries, and it is not without interest here to recall the exact legal aspect of this question.

Referring to the undertaking, given by the Powers in the Berlin Act, to assist in the suppression of slavery, the secretary of the Conference says : « Every one knows—and the evidence of Mr. Stanley has only confirmed, as regard this question, an obtained opinion—what deep root slavery has taken in the constitution of African bodies. Assuredly this pernicious institution must disappear; it is an essential condition of any economic and political progress; but tact and gradual transitions will be indispensable. It is sufficient to note the end in view; the local Governments must search for the means and adapt them to the circumstances of the times and surroundings (1). »

Domestic slavery in newly discovered countries is too deeply ingrained to be pulled up, root and branch, all at once. To attempt to punish every slave-holder would only lead to useless bloodshed, and would only retard the hitherto successful work of the civilization of Africa. We must bear in mind the old but true adage, that the best laws for a country are not the most perfect, but those best suited to it, and best calculated to advance its interests. « Even when laws tend to change customs, » as Matter truly observes, « they must be in some way related to those customs, if they are not to be rejected (2). »

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(1) *Protocoles et Acte général de la Conférence de Berlin*, p. 90.

(2) *De l'influence des mœurs sur les lois et des lois sur les mœurs*, p. 122.

While Government may be unable to suppress certain forms of slavery, it must at the same time give no official sanction to it. There are cases which the Government cannot punish, and yet which it need not officially recognise : such is slavery. This lack of recognition, without going to the extreme in its consequences, may have important practical results.

When a slave-holder applies to the State on the strength of his man-ownership, the State may decline to take any action in the matter, and again, when the State is called upon to give its support either to the slave-holder or to the slave, it may choose to protect the liberty of the latter.

The undertakings given by the Powers in respect of domestic slavery—independently of the general dispositions for the suppression of slavery, to be carried out as each State may think fit—do not go beyond the latter point. Clause 7 of the Brussels General Act, referring to the protection to be afforded to fugitive slaves, says : « Any fugitive slave claiming on the Continent the protection of a Signatory Power shall obtain it, and shall be received in the camps and stations officially established by such Power, or on board the vessels of such Power plying on the lakes and rivers. » It should be noted that, on grounds of public order, the right of asylum is not claimed *de plano* by the Conference for private stations and boats : they can only exercise it subject to the previous sanction of the Government. The Conference, moreover, never intended to forbid nor to order the local authorities to indemnify owners of fugitive slaves : the officials have full discretion in such matters.

Similar regulations were made in respect of the right of

maritime asylum. It is true that, according to the terms of clause 28 of the Brussels General Act, « any slave who may have taken refuge on board a ship of war bearing the flag of one of the Signatory Powers shall be immediately and definitely liberated; such liberation however, cannot operate to withdraw him from the competent jurisdiction if he have been guilty of any crime or offence at common law. » It is true also that, according to clause 29, « every slave-detained against his wish on board a native vessel shall have the right to claim his liberty ». But the question of the right of asylum on European or American merchant vessels was formally reserved by the Conference, and still remains an open one.

The duties of the Powers in respect to the slave-trade are more far-reaching.

Slave-trading constitutes a crime. Not only does each Power agree to suppress the traffic in its own territory, but general regulations have been drawn up in order to secure the universal and effectual suppression of the traffic. At the same time, the general and concerted arrangements do not allow one Government to interfere with the independence of another State, in order to punish some real or supposed act of slavery-dealing (1).

The Powers refrained from declaring slave-trading to be « an act of piracy. » At sundry times and in various ways, the British Government has endeavoured to treat slave traffic as an act of piracy. For instance, just before the meeting of the Brussels Conference, England

(1) For particulars of the agreement arrived at, see the Report to the Conference on articles 1 and 3.

signed a treaty with Italy, by virtue of which both of the Signatory Powers had to treat slave-trading as an act of piracy. The object of such declaration was to justify indisputably the concession to each of the parties of broad reciprocal rights in the prosecution and punishment of the slave-trade.

However praiseworthy the object may be, it will be seen that the proposal to make slave-trading an act of piracy is open to just criticism.

The two things cannot be treated on common ground. The essential differences between them are so great that their elements cannot be assimilated. « Such an assimilation is not in the nature of things, » says Bluntschli, « and the meaning of piracy cannot be arbitrarily extended in that way (1). » Thus, a generally-applied solution of the slave-trade difficulty will have to be sought elsewhere than in the direction indicated by England. The suggestion of Great Britain, moreover, seems to apply too exclusively to the maritime phase of the question.

We in no way pretend that international action in regard to the slave-trade is inadmissible. But we consider that, if a satisfactory solution is to be arrived at, slave-trading should not be termed « an act of piracy. » The point is, is the slave-trade — apart from any comparison with piracy — in any way *a crime against the law of nations?* The proposition being thus corrected, the solution will not be difficult to find, especially if care be taken to avoid any exaggeration, and only to bear in mind the actual consequences of that declaration.

(1) *Droit international codifié*, 351, note.

From this new point of view, the slave-trade is distinguished by the following characteristics : as was pointed out in the report of the Committee to the Berlin Conference, slave-trading is an « atrocious crime of human felony » and at the same time « the negation of all law and social order. » The slave-trader is rightly looked upon as an enemy of mankind, *hostis generis humani*, and deserves the hatred in which he is held. The extent and evil of his operations would justify the use of the strongest language to characterize his crime.

The obstacle to a technical definition of punishable slave-trading — besides the false point of view from which the slave-trade was regarded in international law—has been the fear that it might involve consequences trepassing upon the independence of States. As a matter of fact, if slave-trading be made an offence against the law of nations, it is not thereby assimilated to piracy, for the simple reason that piracy is not the typical neither the only form of offence against the law of nations, and that different crimes, although equally « offences against the law of nations, » call for different treatment, if they are to be suppressed. To call slave-trading a crime against the law of nations would not involve an admission of the right of a State *to infringe on the independence of another State* in order to punish real or supposed slave-trade offences.

Outside of the International Acts of Berlin and of Brussels, certain States have come to reciprocal arrangements involving various obligations. The treaty, already alluded to, between England and Italy is one of these. The public international law of the Congo Free State, in this relation, exclusively consists of clauses 6 and 9

of the Berlin Conference, and of the General Act of the Brussels Conference. As for the legislation of the State, laws relative to the uniform suppression of the slave-trade were adopted by the decree of July 1, 1891. And it is worthy of note that cases arising out of slave-trading in the Congo are tried by the State Courts, and never by native tribunals.

The law recognises no other obligations between native masters and servants than those arising out of a contract freely entered into, and in conformity with modern civil law. The State, for some time past, has put into force special regulations affecting contracts of service between natives and non-natives : these regulations are set forth in the decree of November 8, 1888. And any arbitrary interference with individual liberty, properly so-called, is energetically repressed by the Penal Code. Under these circumstances, we venture to think that the present legislation of the Congo Free State, regarding the essential guarantees of individual liberty, is on a par with the best and latest colonial codes.

The consideration of this subject, so often misunderstood and made a cause of reproach against States who are loyally doing their duty, may well be terminated by a few quotations. The first is from that « Apostle of the blacks, » Cardinal Lavigerie, the very last man to be suspected of favouring slavery. He says : —

« To attempt to abolish slavery in Africa at one blow, by force—since force is the only means to that end—is to attempt the impossible. All the armies, all the wealth of Europe would not suffice to attain such an object. Moreover, the social condition of the African native being founded on slavery, which

has existed for centuries, everything would be thrown into a state of chaos, if we were to abolish all at once an institution, doubtless lamentable, but still preferable to chaos (1). »

The second quotation is taken from the Report of Sir Frederick Lugard, Governor General of Northern Nigeria, dated March 18, 1902. We reproduce it, not for the sake of criticism, but to show that, even in the question of the suppression of the slave-trade, Governments animated by the best intentions—even the Government who has the incontestable honour of having performed the greatest services for the abolition of slavery and of slave-trading—may sometimes find themselves at a loss. Here is the passage :—

« There is, probably, no part of the « Dark Continent » in which the worst forms of slave-raiding still exist to so terrible an extent, and are prosecuted on so large and systematic a scale as in the British Protectorate of Northern Nigeria. Each year, as the grass dries up, armies take the field to collect slaves. Nor are they even provident of their hunting-grounds, for those who are useless as slaves are killed in large numbers, the villages burnt, and the fugitives left to starve in the bush. »

We may be sure that, if she has not already done so, England will soon put a stop to these infamous practices in her African Protectorate.

The accounts of the horrible and persistent ravages of the slave-bands in the region of the Tanganika are well known. To-day things are different on the banks of the great lake, thanks to the determined war made on the slave-traders. A short time ago, in a lecture given before

(1) Letter to H. M. King Leopold II, dated November 8, 1889. *Documents sur la fondation de l'œuvre antiesclavagiste.* Paris, 1889.

the London Geographical Society, and reproduced in the *Geographical Journal*, Sir H. H. Johnston, British High Commissioner for Uganda, paid a signal tribute to the Belgians at present established in that country. He said :—

« I might mention that I was accorded the kindest hospitality by the Belgian officials, and given every possible facility for visiting this portion of the Congo Free State. I found the natives every where on friendly terms with the Belgian authorities, and the excellent roads and well-built stations, together with abundant supplies of the comforts and necessaries of existence from Antwerp merchants, introduced a strange element of civilization into these otherwise trackless wilds. Sir Henry Stanley would indeed be amazed at the change which has taken place in parts of the forest which some twelve years ago were to him and his expedition more remote from civilization than the North Pole (1).»

And thus, as Government establishments are developed in Central Africa, and as other regenerating influences take root under their aegis, so the slave-trade is for ever extirpated in the newly-civilized regions.

III.

The Berlin Act and Navigation.

In the Berlin Act we find two classes of regulations affecting trade. One class, affirming the principle of commercial freedom, remains in force. The other, which includes the suppression of import dues, has not survived a comparatively brief period of trial. We also find in the

(1) *Geographical Journal*, 1902, January, p. 23-24. See also *The Uganda Protectorate*, I, p. 197 and *seq.*

Conference transactions relating to the great African rivers two classes of regulations. One of these has stood the test of time; the other, of an optional character, has remained sterile because at first it was impracticable, and later had no more *raison d'être*.

1. — GREAT WATER-COURSES. — INTERNATIONAL RIVERS.

Man pitches his tent preferably on the banks of rivers— those « walking roads » which carry burdens so lightly. It is by following them that he has the most often discovered unknown lands. For centuries these natural aids to human activity have been the only practical ways open to any considerable trade. And even to-day they successfully hold their own against various means of communication by land, on account of their unrivalled cheapness.

Some of these great water-courses are confined to a single country. Others have an international importance, traversing or limiting the domains of two or more different Governments. The first-named constitute the fluvial territory of the State through which they flow. The second also belong to the public domain of the countries which they water. But their use may give rise to certain difficulties, and call for certain arrangements between the nations interested.

The problem with which international river regulations have to deal consists in guaranteeing to all flags the use of the navigable water-ways which flow through, or border on, several States, due respect, however, being paid to the sovereign rights of those States.

This form of utilization of rivers seemed, in the beginning, a mere reaction against the hitherto prevailing custom of apportioning international rivers and against the absolete river-tolls, relics of the middle-ages. As regards its developments, we shall notice that two important steps have been taken. In the first place, all the river States have a right to use the water-course as far as it is navigable. This of itself is a mutual guarantee of the liberty of the respective navigations. In the second place, the whole community, whether they belong to the riverside States or not, are permitted to enjoy the benefits of the river trade.

It is sometimes sought to justify this position by the argument that the liberty of navigation on the rivers is only an extension of the liberty of navigation on the high seas. But, while the high seas belong to nobody, the rivers form an integral part of the territory of State, sand belong to their public domain. Rather is it that increasing common interests and a wider view of commercial relations have exercised their influence in this, as in many other matters. These factors have induced the Powers to conciliate their sovereignty with a certain measure of the common enjoyment of the advantages resulting from the great water-courses, and to make comprehensive and settled regulations in matters of fluvial navigation. Without stopping to consider the events which led up to this result, it is well to note that an important departure was made by clause 5 of the Paris Treaty of March 30, 1814, which runs thus :

« Navigation on the Rhine, from the point where it becomes navigable to the sea, and vice-versa, shall be free, in such a

manner that it shall be forbidden to nobody. The next Congress shall consider the question of dues to be levied by States bordering on the river, in a manner calculated to encourage commerce and equal for every State. The next Congress shall also consider and decide in what manner, with a view of facilitating communication between the nations, the foregoing provision may be extended to other rivers which, in their navigable portion, separate, or flow through, different States. »

The Vienna Congress of 1815 continued the work of the Paris Congress. It organized a system of free river navigation on the Rhine and its tributaries as well as on the Scheldt.

Various measures were devised for the protection and regulation of the general freedom of navigation on these important waterways, the idea being to equalize the dues payable by all users, and to afford equal protection to the commerce of all nations (art. 109 and 110). At the same time, the rights of the various riparian States were safeguarded. These States were to draw up, on preordained lines, regulations for the proper carrying on of the various services of navigation, and each Government was free to collect its own customs dues, applicable to all vessels discharging cargoes in its territory, as distinct from navigation dues (art. 115). They also had to maintain the towing-paths and to keep the river in a navigable condition (art. 113).

If we turn from Europe to the New World, we find that the principles of the Vienna Congress have also been applied in Parana and Uruguay, by virtue of similar agreements concluded in 1853 between France, Great Britain and the United States on the one hand, and the Argentine Republic on the other. A new departure, however, was made in

these latter cases, in that the regulations affecting navigation were made applicable in time of war as well as in time of peace.

In 1856, the Powers assembled at Paris decided that the principles of the Vienna Treaty should be equally applied to the Danube and its delta. At the same time, the Congress, finding that the States bordering on the Danube were not able to dredge the mouths of the river, appointed a Committee, known as the European Commission, to go into the question of clearing the delta, and to draw up a tariff of dues treating vessels of all flags on the same footing. A Committee from the riverside States was instructed to draw up regulations of navigation, and to generally apply the dispositions of the Vienna Treaty to the Danube.

We need not dwell upon the subsequent modifications made in these Commissions. Suffice it to remark that the appointment of an European Commission constituted not an application of the Vienna Treaty, but rather a derogation thereof, inasmuch as independent third parties, who controlled no land on the river banks, were called upon to assist in managing its navigation. And thus the new regime was looked upon not as a normal, but rather as an exceptional development, due to special circumstances—namely the absolute necessity of dredging the Danube delta on the one hand, and on the other, the material impossibility of obtaining from the riparian States the necessary sacrifices for that purpose. Under these circumstances, it seems difficult to agree with the secretary of the Berlin Conference in considering the measures adopted for the Danube as a « return to the

clauses of the Vienna Treaty, in their original and broad sense. »

Such, then, was the state of the law respecting international water-courses, when the Niger and Congo Navigation Acts were drawn up.

2. — FREEDOM OF NAVIGATION ACCORDING TO THE BERLIN ACT.

The Congo Navigation Act lays down the following principles : —

General and full liberty, that is to say, freedom on the part of every nation and of every merchant vessel, loaded or in ballast, carrying either passengers or cargo, between the sea and the interior river-ports of the Congo, and vice-versa, as well as for large and small lighters, barges and small craft on this river. Equal liberty, allowing of no difference of treatment between subjects and foreigners, or between subjects of the river States and those of States not bordering on the river, neither of any exclusive privilege or monopoly of navigation, either to companies or corporations or to individuals.

These principles are recognised by the Powers as a part of international law.

The freedom of navigation on the Congo is unencumbered with any fetters or dues not expressly stipulated in the Navigation Act. It is a freedom which knows nothing of antiquated dues and vexatious regulations; it is unburdened by transit dues, regardless of the origin or destination of the cargoes. No sea or river-port tolls are

levied on account of navigation, and no tax is collected in respect of the cargoes on board.

The Navigation Act admits but three kinds of taxes or dues which all tend to compensate services rendered to navigation. They are :

1. Harbour dues, on certain local establishments, such as wharves, warehouses, etc., if actually used.

The tariff of such dues shall be framed according to the cost of constructing and maintaining the said local establishments; and it will be applied without regard to whence vessels come or what they are loaded with;

2. Pilot dues for those stretches of the river where it may be necessary to establish properly-qualified pilots.

The tariff of these dues shall be fixed and calculated in proportion to the service rendered;

3. Charges raised to cover technical and administrative expenses incurred in the general interest of navigation, including light-house, beacon, and buoy duties.

The last mentioned dues shall be based on the tonnage of vessels as shown by the ship's papers, and in accordance with the rules adopted on the Lower Danube.

The tariffs by which the various dues and taxes enumerated in the three preceding paragraphs shall be lieved, shall not insolve any differential treatment, and shall be officially published at each port :

1° The affluents of the Congo are in all respects subject to the same rules as the river of which they are tributaries;

2° The same rules apply to the streams and rivers as well as the lakes and canals in the territories comprised in the eastern and western zones of extension of the Congo basin; always provided that, for the eastern zone, the

consent of the States controlling those districts be obtained, and subject to the stipulation, made in respect to the western zone by the French Government, that the regulations applicable to the rivers emptying between Sette-Cama and Logé shall only affect free navigation by merchant vessels, unless a different arrangement be arrived at later.

An understanding, as we know, was arrived at, but it only applied to water-courses which were accessible from outside, and which seriously affected international navigation.

By clause 25 of the General Act, the provisions of the Navigation Act are destined to remain in force in time of war.

When we later come to look into the question of railway transport, we will explain the special situation of these ways of communication.

3. — THE PROSPECT OF AN INTERNATIONAL NAVIGATION COMMISSION.

Portugal's attempt at establishing a Joint Commission, representing two Powers, to regulate navigation on the Congo, although unsuccessful, led to the consideration of an International Commission. Great Britain, while not approving of the appointment of a similar Commission for the Niger, looked favourably on a like proposal when it related to the Congo. Germany and France considered the latter as a decided improvement on the Anglo-Portuguese Commission. And thus was the question of an International Commission brought before the Berlin Conference.

The precedent created by the Danube Commission was

approved by several Plenipotentiaries, although there was some difference of opinion as to the analogy of the two cases. The uncertainties surrounding the questions in regard to the territories of the Congo estuary called for very special consideration. As a matter of fact the appointment of this special body, in many respects unique, was provided for in the original Navigation Act, as a contingency, and, in the words of the proposition, « subject to any subsequent arrangements between the Governments who have signed this Declaration and such Powers as shall exercise rights of sovereignty in the territories in question. » The discussion at the Conference bore especially on the organization and duties of the new body.

At the same time, its unusual character was not lost sight of. The appointment of the Commission could not be justified as a mere application of the Vienna regulations; on the contrary, it was seen that the Commission rather derogated from those rules. The preamble of the Navigation Act was therefore amended with a view of preventing any misapprehension; for it seemed very clear that the principles of international river rights were being transgressed rather than obeyed.

Events served to show the precarious and impracticable nature of such a body as the International Navigation Commission, which, moreover, was only optional for the Powers interested in the Berlin Act.

Even before the close of the Conference, the Commission was stultified in respect of one of its duties. The Conference, as we saw, had formally declined to grant the International Commission any power to supervise the exercise of commercial freedom in districts under the authority

of any one of the Powers; and this point is worth bearing in mind. But, on the other hand, the Conference had recognised the right of the Commission to act in the matter in regions uncontrolled by any of the Powers. Now, the various treaties recognising the new State and the territorial arrangements arrived at during the Conference, changed the aspect of the situation to the extent of completely relieving the Commission of any duties in the direction alluded to.

Apart from this, the principal duty of the Commission was to decide upon and carry out the necessary work to render the Congo navigable. The execution of the work on those portions of the river uncontrolled by any of the Powers was to be provided by the Commission; and, in places governed by a sovereign Power, the Commission was instructed to settle with that Power for the execution of the necessary work. Thus, not only were the powers of the Commission in this respect limited outside the river tracts submitted to a Sovereignty, but the latter alone decided on and carried out the necessary works before any navigation commission could be appointed. That is to say, the most essential and important duty of the Commission was fulfilled by the riverside authority.

The same thing occurred in drawing up the regulations and tariffs, which were primarily intended to be immediately prepared by the Commission under the advice of the Powers, and which were to be revised at the expiration of a five years' trial. The Powers foresaw that the time might arrive when, in the natural course of events, the International Navigation Commission would lose its very raison d'être.

It is unnecessary to point out at any length the diffi-

culties which were bound to interfere with the work of a Commission which, being of an optional character, would not have proved altogether satisfactory to the local authorities. This the Powers clearly foresaw, and consequently made the local sovereignties responsible for carrying out the necessary work for rendering the Congo navigable, according to the exigencies of international commerce. It is for the discharge of this duty that the Commission was originally planned, and obviously the States could not take it to themselves without compensation for the past and a heavy burden for the future. And they apparently have better uses for their money.

The reasons for distinguishing between the Niger and the Congo—reasons which existed at the time of the Berlin Conference—no longer exist. Referring to the Niger, Sir Edward Malet, British plenipotentiary, pointed out that : « The exploration of theriver has been the work of the British Government, which has paid for it on different occasions. » He stated that « the commerce owes its development almost exclusively to British enterprise. » At last he added that « the most important tribes, who have for years been accustomed to look on the agents of this country as their protectors and counsellors have now, in consequence of their urgent and repeated appeals, been placed formally under the protectorate of Great Britain. » « Therefore, » he concluded, « a different application of the principle of the Congress of Vienna is imperative; the coast-line and lower course of the river are sufficiently under control for Her Majesty's Government to be able to regulate the navigation, while binding themselves to the principle of free navigation by a formal declaration. »

All these remarks are even more applicable to-day to the riverside peoples of the Congo as well as to those of the Niger. The difference in the « individual conditions of each of those rivers, » cited with more or less reason in order to apply a differential treatment, has now ceased to exist.

IV.

The Berlin Act and Railways.

Freedom of railway traffic must not be mixed up with freedom of navigation. One difference lies in this : the former admits of a concession of the monopoly of transport, while the latter excludes any such concession. Railway monopolies have nothing in common with commercial monopolies under the Berlin Act.

The idea of considering railways as continuations of water-courses or as junctions between water-courses was quite a new one, as was pointed out at the Berlin Conference. The Conference realized the necessity of providing for the logical consequences of such an idea, and therefore it drew up special regulations which are worthy of careful examination.

1. — LEGAL STATUS OF RAILWAYS, ACCORDING TO THE BERLIN ACT, AND ESPECIALLY OF RAILWAYS CONSTRUCTED TO SUPPLEMENT CONGO NAVIGATION.

The general legal standing of railways in the Congo, the essential rights of the authorities as to their construction, their concession, their running powers, their charges,

their position as public highways, their administrative and judicial policy, are the same as those of railways in other countries.

The Berlin Act, as regards railways destined to provide transport where the Congo and the Niger become unnavigable, made special provision in clauses 16 and 23 on the one hand, and 29 and 33 on the other—the only clauses which are concerned with railways—for certain details of these communications. After declaring that these railways, as means of communication, are considered as auxiliaries of the rivers, the Act dwells on the legal consequences attaching to the introduction of this new idea, this conventional innovation in international relations. The consequences are as follows :

1. The obligation of opening the railways to the traffic of all nations (art. 16, § 1.), and the inviolability at all times of the lines thus opened to the trade of all nations (art. 25, § 1.).

2. The obligation to refrain from any excessive railway rates, that is tho say, « not calculated on the cost of construction, maintenance and management, and on the profits due to the promoters. » The Berlin Act states but these general principles, its object being to give the bases of calculation rather than a detailed solution of the problem, since it does not draw up a schedule of rates with respect to the nature of goods or the scale of the charges.

3. The obligation to observe, in fixing a tariff within these broad limits, « equality of treatment for the strangers and the subjects of the respective territories. »

Thus, equality is sure to be observed as regards the tariff, both in the case of subjects and foreigners, and

especially so in business which may be called the sphere of private activity, *i. e.* commerce. Thus also, the power of the State to allow exclusive access to the railways, to impose extra or unfair charges, is minimized. The Berlin Act goes so far, but does not pass these limits. Beyond this, it does not affect the sovereign prerogatives of the State as regards its territory.

2. — THE RIGHTS OF THE STATE AS TO THE TARIFF. — SYSTEMS OF REDUCTION. — SPECIAL RATES.

According to the usual right of the Powers in all that regards railways, the State can order the establishment of the same, can have them constructed, run them itself and fix their tariff. It can also, if deemed preferable, authorize a concessionaire to collect the charges on the contemplated line, on condition that he shall undertake the construction and maintain the established tariff.

The Berlin Act respects these fundamental rights. It offers no opposition against whatever arrangements the State makes with its concessionaire as regards a schedule of rates with respect to the nature of goods or the scale of the charges. It does not intrude upon the internal organization of the rates, except so far as it circumscribes them within the following limitations : 1) all are free to use the railways, — 2) no distinction can be based on the nationality of individuals, — 3) and no excessive rates are to be imposed.

Circumstances may render changes in the tariff advisable, and the State may modify the rates periodically. It may also exercise the right of ordering its concessionaire to make certain modifications and reductions.

This was the course adopted by the Free State in relation to the Congo Railway in its initial estimates. It also reserved the right of repurchase. This latter reservation, however, it abandoned for a time by Act dated November 12, 1901, which also stipulated in what manner its optional power of reducing rates was to be exercised. That power it exercised by imposing a comprehensive system of reduction, and without at the time committing itself to any declaration as to the specific classes of goods on which the rates were to be cut down. It does not concern strangers whether it be exercised in one act or in two, and whether the concessionaire act by special agreement with the State or under general powers. The main consideration, from a legal point of view, is whether the procedure followed for the attainment of the reductions aimed at is in accordance with the Berlin Act. In the present case, the procedure certainly was in accordance with the Act.

Since the scheme is merely a one of reductions, the talk about excessive rates is altogether out of place. On the other hand, the opening of the line to the general traffic, and the equal treatment of foreigners and subjects have nothing to do in the case.

The latitude which the State allows itself is quite as comprehensible from a practical point of view as from a legal one.

It is impossible to lay down a hard and fast rule, for experience may show where certain tariffs are defective, and special circumstances may necessitate special arrangements.

From a legal point of view, nothing can be said against the State's reducing railway rates, inasmuch as it was invested with the right of primarily drawing up those rates.

By the same Act of November 12, 1901, the State enjoys certain special conditions of transport for carrying out works of public utility. That right is quite legitimate for the Government, and does not entitle private citizens to demand its application for their own purposes. The State could have enjoyed these advantages if it had itself built and worked the line. The mere fact of a concession by no means robs the State of all its rights in this respect. These advantages are justified, for the State has made real sacrifices in ceding of a part of its territory and in abandoning the repurchase clauses. The advantages accruing to the State do not in any way interfere with the equal treatment of individuals stipulated for in article 16, which says : « As regards the rate of these tolls, foreigners and subjects of the respective territories shall be treated on a footing of perfect equality. »

No distinction is made on account of nationalities; the only difference made rests on a service of public utility, regardless of nationality. Neither subjects nor foreigners can say that their civil or commercial liberties are endangered.

There are certain authoritative interpretations of the Berlin Act which confirm our view of the question. The German Government, for example, considers no breach of equality the exemption of all dues granted to a German railway concessionaire. Below are two clauses of the Imperial German decree, dated December 1, 1891, and relating to the railway in German East Africa (Usambara line).

« Clause first. — The Imperial Government shall grant to no other contractor, either individual or corporation, the right of constructing or working a railway line joining the said localities

or liable to compete with the line ceded by the present decree or any parts of same.

» Clause 9. — The Imperial Government guarantees to the German East African Railway Company, subject to compliance with the prescribed formalities, an exemption from all taxes on materials, engines, working tools and all other implements and articles which may be imported into German East Africa for the construction, repair, renewal and running of the railway. »

Although the use by foreign Governments of the railway is not provided for, it may be assumed that for reasons with which the Act is not concerned, a reciprocal spirit of good will and harmony will suffice to induce one Government to offer facilities of transport to another for the various State services. And if these advantages, inasmuch as they only regard relations between Governments, may, from a certain point of view, not appear as a breach of equality between citizens, it must, however, be conceded that, as a principle, States cannot be looked upon in a foreign territory as public authorities—diplomatic and similar privileges always excepted. Every foreign State in this respect is legally on the same footing, the frontier of another country being the limit of its sovereignty. Within its own territory, the Government exercises quite another set of functions—since it is there neither a foreigner nor an individual, has special duties of public utility to fulfil, and has sovereign rights recognised by the general law of nations. It is idle to affirm that foreign States may, in view of their own enterprises, be treated on the same footing as the home Government. Such a course would involve a confusion of foreign with national public utility, since every Government is as little competent to appreciate the former as it is competent to judge of the

latter. The rights of foreign Powers and those of the home Government are not in this respect comparable, inasmuch as they have altogether different objects.

In drawing up special tariffs with its concessionaire, it may be asked whether the State can base these rates on the actual working expenses, that is to say, with neither profit nor loss for the concessionnaire. From an economic point of view, such a tariff is perfectly justifiable. Transporting operations, *per se*, cannot be separated from the transactions to which they are related. These transactions must be considered in view of all the surrounding circumstances. In negotiating transport operations, which of themselves entail neither profit nor loss, a contractor is quite justified in calculating on present or probable advantages which may result from the whole of the operation ; as for instance, the opening of new markets and the renunciation to the right of immediate repurchase of the concern. To forbid him to do this would be to spoil his chances and deprive him in many cases of a part of the profit to which he is justly entitled.

Neither can it be argued, in the case of a railway like that of the Congo, that the contractor should require rates superior to his actual expenses, in order to realize an immediate profit. Clause 16 states « that there shall be collected only tolls calculated on the cost of construction, maintenance and management, and on the profits due to the promoters. » To argue in the sense indicated would be against the purport of the clause which aims at forbidding *excessive* rates, but which in no way interferes with a gradual realization of average profits by the contractors. To arbitrarily forbid the contractor to make such profits would

be to fly in the face of clause 16, inasmuch as it refers to the profits *due* to the contractor. It is equally fallacious to imagine that because certain merchandise is carried for a time without profit, the rates for certain other merchandise must needs be increased. Any way, it would still have to be shown that the Berlin Act forbids a proper and reasonable equalization of contractors' charges. But the Berlin Act does not meddle with such arrangements; it does not establish a detailed and proportional schedule of rates. It only says that such charges must not be excessive, that is to say, they must not exceed the comprehensive amount of the necessary expenses and due profits. The Act, moreover, fixes no maximum for such profits, neither does it fix any maximum rates on produce. Its intentions in this respect are shown by its refusal to define, even by means of a maximum scale, the extent of compensatory rates.

V.

General aspect of the economic Regime of the Berlin Conference. — Basis of the arrangement.

The work of the Berlin Conference in regard to the economic regime of the Congo basin has often been misunderstood. The States having possessions in that country are primarily interested in correcting such misapprehension, but the result is not indifferent for other States. We have briefly indicated where the misunderstanding exists. The economic portion of the work of the Conference deals principally with trade. States

having no possessions in the Congo stipulate without any appreciable reciprocity in favour of their subjects for certain advantages independent of common rights. The Berlin Act, apart from a clause concerning the freedom of import and transit dues, furnishes a triple guarantee which, without any intended allusion to a celebrated motto, may be formulated in these words : « Liberty, equality, and moderate taxation. »

The freedom of trade, clearly defined with regard to the persons interested, must always be subject to the limits of national and international public order. Commercial freedom tempers the colonial policy of States where it is in force, in so far as it affects private rights in their relations to trade. It in no way abrogates the rights of the colonial Power as regards the land regime, the State domain and its management; neither does it interfere with the commercial transactions of individuals.

Equality excludes all differential treatment of individuals based on their nationality. It does not go beyond that. It does not exclude differences unconnected with that nationality. It does not interfere with the relations between Governments and subjects, nor does it aim at putting public authorities and private individuals on the same level. The variations in taxation which the State has the power to establish by way of compensatory rates are exceptions which must be strictly interpreted.

The Berlin Act, in the second place, deals with the question of navigation as closely related to that of trade. And in this connection, we notice another triple guarantee : freedom for all flags, an equality which excludes all differential treatment between subjects and forei-

gners, and moderate taxes according to certain conditions.

Further on, the Act considers various means of communication destined to supplement the unnavigability of the Congo. These means of communication include the railways. Here again, there is a triple and proper guarantee : freedom of transport operations, equality between subjects and foreigners, and limitation of rates.

The exercise of the various branches of economic activity, other than trade, navigation and transport by certain auxiliary means of communication, remains under the common authority of each Power, the equality of treatment of both subjects and foreigners being always guaranteed.

In the Berlin Act the Powers stipulated that the advantages already referred to should be available for their respective subjects. As a principle, in matters of transport industries and commerce in general, foreign Powers have no inherent right to be treated otherwise than individuals.

The territorial authority in its own country is neither a foreigner nor an individual; as soon as it has fulfilled its duty in respect to the maintenance of liberty, equality and moderate taxation, it has accomplished the special obligations of its political economy; for the remainder, one may apply the maxim « sovereignty means liberty. »

If we probe to the bottom the arguments put forward by certain commercial men in relation to the economic regime of the Congo, we find that their desire is to secure all the advantages, profits, guarantees and protection that may be afforded them by the Government, but they refuse to recognise any of the elementary prerogatives of that Government, or to support any consequences, arising from those prerogatives, which they may consider undesirable. In other

words, they wish to act as if they were in a State governed solely by commercial speculation, instead of by a sound economic administration.

The Berlin Act declared that commerce, in its strict and literal sense, should be free. From this, certain theorists conclude that the soil can never be appropriated, but should always remain open to haphazard enterprise, that economic operations must of necessity be limited to the gathering and exchange of produce, that the State cannot organize a regular system of land tenure, that it cannot carry on any trade or sell any portion of the land, that its right to levy taxes is not only restricted, but in a large measure suppressed, that the State cannot exact labour prestations. If this were true, conditions of life in the Congo would degenerate in to a sort of anarchy tempered only by mercantile humanity. And we are asked to believe that the prosperity of the colony and the natives would follow the wiping-out of Government!

We do not for a moment deny the influence of trade in helping civilization in barbarian countries. Trade transactions on an extensive scale do a great deal towards strengthening the common interests of civilized and barbarous peoples. They stimulate the natives and incite them to self-improvement. Material influences are sometimes even necessary as adjuncts of religion itself in order to help the latter to reach the natives. But private trade, without let or hindrance, should never be allowed to remain the sole bond between civilized and uncivilized, for, unfortunately, it is not always, under these circumstances, a reliable means of civilization.

It is therefore gratifying to find that the Berlin Act

did not leave Central Africa to the mercy of uncontrolled commercial speculation. Neither the principle of commercial freedom, as universally understood, nor its the application by the Berlin Conference, allow us to accept such arguments which arise from an evident misapprehension of facts. The error is twofold.

In the first place, there is a disregard of the limits of individual freedom and of the relation of that freedom to the colonial policy of a properly governed State.

In the second place, there is a disregard of the principle that all limitations of the sovereignty of States in this respect are exceptions, and must be strictly interpreted. In the case under notice, such an interpretation is necessary because the abandonment of certain prerogatives by States possessing the Congo basin is not counterbalanced by reciprocal sacrifices.

Perhaps the Berlin Conference may not have clearly foreseen how rapidly administrations would develop in the Congo basin. This assumption would explain the vagueness of certain parts of the Act. As regards the import duties for instance, the Conference, in view of the fact that certain Governments considered order in the Congo basin as more or less insecure, thought fit to establish a margin of freedom which exceeded the reasonable limits of commercial liberty. The premature decay of this part of its work has been repeatedly emphasized Freedom of transit now alone remains. The principle of commercial freedom has thus resumed its normal proportions. As to transforming that principle into an obstacle destined to prejudicially affect the fundamental institutions of the State, the Berlin Act never did anything

of the kind; the mere fact that the Conference did not foresee all the consequences of these institutions working side by side with commercial interests is no justification for rejecting them. The elementary rules of legal discussion forbid a similar interpretation.

We must be careful not to misconstrue the remarkable work of the Berlin Conference so as to make it both unintelligible and impracticable. That work was bold, and, perhaps, in some respects, even daring, but it was neither absurd nor impossible. And those are the true supporters of the Berlin Act who will bear in mind its proper aspect, and give due weight to its role in the economic world.

Leaving the legal, and coming to the practical aspect of the question, the opponents of the most incontestable rights of the State have pointed out how the recognition and development of the State's vast domains may restrict the sphere of commercial freedom. The same argument, however, applies to the property ceded to companies and individuals. In this latter respect the legitimate exercise of the essential rights of property and of use may lead to the same results as in the former case. But that does not prove that the measures adopted are, in either case, unjustifiable. It merely shows that a given *modus ordinandi* adopted by the State, may be quite in keeping and even praiseworthy. On legal grounds, the legitimate exercise of the sovereign prerogatives cannot be contested. And, as a matter of fact, arrangements can be adapted to circumstances. Of course, one can imagine situations where the unlimited exercise of sovereign prerogatives may impair commercial freedom. But these extreme possibilities do not justify one in refusing to recognise a proper exercise

of legitimate prerogatives, in conformity with the economic situation and the real public needs.

As we have already pointed out, the harmony of private rights with the essential rights of the authorities must be properly organized in such cases, the said authorities being the proper regulators and judges of such harmony.

Besides, it must not be forgotten that any income arising out of the development of State property goes to lessen the burden of public taxation. And, it is but right that this income should be finally devoted to the relief of the taxpayers, as in the case of certain well known local administrations in Europe. There can be no harm in a government creating, as it were, a sinking fund which shall, little by little, diminish the taxation of the people. As a matter of fact, such action is a *sine qua non* of any endeavour to reduce taxation, or even of any attempt to keep it stationary. And an examination of certain colonial budgets will convince us that the setting aside of profits arising out of the development of a country can only tend to lighten the taxation, not only of traders but of the whole body of subjects.

CHAPTER II.

The Brussels Conference and the Fight against Arab slave-dealers.

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1. — THE WESTERN AND COLONIAL SLAVE-TRADE.

The slave-trade, as carried on by Christian nations, dates from the sixteenth century. Statistics relating to the known elements of the Western slave-trade—which went on until the nineteenth century—give the number of African slaves imported into America as sixteen million. This is exclusive of twenty million who died on board the slave-dhows which have been rightly said to offer « the greatest amount of crimes in the smallest space. » As for the number of blacks killed by slave-raiders, and judging by the proceedings of man hunters in general, they must be numbered by hundreds of millions. Such are roughly the proportions of the dark tombs of the colonial slave-trade.

And the negro question is still a difficult problem in the United States. This difficulty shows that the regeneration of inferior races must above all be gradually attempted and on their native soil.

It is hardly necessary here to recall the horrible nature

of the contracts sanctioned for centuries by European Governments in this respect. Even the official documents referred to these human cargoes as so many « tons of niggers » as callously as we now refer to tons of coal. It is in the light of such facts that one should read the celebrated passage in Montesquieu's *Esprit des lois* where European monarchs are urged to form a « society for the advancement of mercy and pity (1). »

At the instance of Great Britain, where the cause of humanity, so brilliantly championed by men like Granville Sharp, Clarkson, Wilberforce and William Pitt, had, in 1807 finally triumphed after twenty years' labour and seven defeats, the Vienna Congress of 1815 and the Verona Congress of 1822 forbade any civilized nation to carry on the slave-trade. Since then, guided by the same persevering action of the British Government, the liberation movement spread in two directions. On the one hand, it aimed at the gradual abolition of the legal status of slavery, and on the other, it tended to immediately suppress slave-markets and slave-dhows.

The results were in many respects remarkable. In 1888, the abolition of slavery in Brazil marked the last epoch in the emancipation movement in the Christian world, leaving out of the question newly-civilized countries and Oriental States where various forms of servitude, principally the domestic one, still exist.

Again, the careful watching for slave-dhows, by virtue of the treaties of December 20, 1841, resulted in the Ocean being practically cleared of them.

(1) Livre XX, chap. v.

2. — THE ORIENTAL SLAVE-TRADE.

It was believed that the closing of the American slave markets and the action of the cruisers would prove a decisive check to the infamous traffic. But the scourge continued to the largest extent. Driven out of the west, it took refuge in the east where vast markets still remained open. The northern and eastern coasts of Africa continued to furnish a huge business, while the interior of the Continent was still an enormous man-hunting ground, a big store for human merchandise.

Three vast regions bordering on each other and forming more than a third of Africa, and equal to a greater surface than the whole of Europe—the Soudan, the Upper-Nile and the basins of the Congo and the Great Lakes—were the favourite scene of action of the slave hunters. The chiefs or sultans of the independent states in the Soudan, in order to supply the market in men, pushed their bloodthirsty enterprises further and further. The Khartoum slavers raided the Bahr-el-Gazal country. The Arabs and the Metis of Zanzibar devastated the Manyema and Tanganika districts. And from various points on the western coast itself expeditions set out to ravage the regions of the Upper Kassai. In fact, enormous tracts of the Continent still remained open to the horrible traffic. « All over Africa, » wrote Schweinfurth, « dried human skeletons show that the slave-trader has passed (1). » « Africa is losing its blood at every pore, (2)» said Cameron a few years later. »

(1) *Im Herzen von Afrika* (French Translation by Lorcan I., pp. 62 ss.).
(2) *Across Africa*, pp. 145 ss.

3. — THE STRUGGLE AGAINST THE SLAVE-TRADE IN CENTRAL AFRICA. — THE BERLIN ACT.

In 1876, ten years before the Berlin Conference, and in the year in which the British Government published its celebrated *Report of the Royal Commission on Fugitive Slaves*, the King of the Belgians, as we have seen, called upon all right-minded men to help stop the horrible traffic, which, he said, « put the present age to shame. »

Evidence of the extent and severity of the scourge accumulated with as much force as unanimity. And what terribly true tales were told by Livingstone and Stanley, John Kirk and Bartle Frere, Nachtigal and Wissmann, Serpa Pinto, Massaia, Lavigerie and a score of others. Nobody was surprised when Prince Bismarck, in his inaugural speech at the Berlin Conference of 1885, reminded the Powers of their sacred and already acknowledged duty, and proclaimed the necessity of taking another step in the direction of the « suppression of slavery, and especially of the black trade. »

Clauses 6 and 9 of the Berlin General Act confirmed these words and gave an ampler and more precise official sanction to the declarations of Vienna and Verona.

By clause 6, the Powers agreed « to watch over the preservation of the native tribes, and to care for the improvement of the conditions of their moral and material well-being, and to help in suppressing slavery and especially the slave-trade. »

Clause 9, after associating with the slave-trade any action on land or sea tending to supply slaves for the market, went on to declare that the territories mentioned

in the Berlin Act could not be used either as markets or ways of communication for the slave-trade; and added that the Signatory Powers undertook to employ all the means at their disposal « for putting an end to this trade and for punishing those who engage in it. »

The distinction between slavery and the slave-trade was clearly stated in the course of the transactions of the Conference. After referring to slavery in the terms which we have mentioned, Baron Lambermont added : « The slave-trade has another character; it is the very denial of every law, of all social order. Man-hunting constitutes a crime of high treason against humanity. It ought to be repressed wherever it can be reached, on land as well as by sea. »

The British Government would have liked to go further than was stipulated by clauses 6 and 9 of the Berlin Act. « The Conference, » said the British Plenipotentiary, « should draw up a separate convention, applicable throughout the world, and destined to form a complement of the international law on this subject. » But this suggestion evidently appeared to exceed the already wide limits of the original programme. The Conference, through its secretary, even recognised that the sphere of action of the local authorities must of necessity be limited for a certain time. This led it to make an appeal « to generous and civilizing enterprise. »

4. — THE PROBLEM OF THE SUPPRESSION OF SLAVE-TRADE AFTER THE BERLIN CONFERENCE.

Two things were absolutely necessary if the resolutions of the Powers were to have any practical value : the development of the new occupations on the east coast and in the interior of Africa, and the drawing up of regulations calculated in proportion to that development.

The remarkable political distribution of Africa, made in the spirit of peace and good feeling shown by the Conference, quickly supplied the first factor; the second was naturally dependent on the action of the local authorities.

The Free State was one of the first countries to feel the effect of the resolutions of the Conference. Its Sovereign had taken the initiative in making the suppression of the slave-traffic an essential element of the civilization of Africa. The State itself touched closely upon numbers of slave dealing countries. A significant example of its activity in this respect is to be found in the issue of the *Bulletin officiel de l'Etat indépendant du Congo*, for November, 1888, which alone contains three important decrees aiming at the suppression of slave-trade and protection of the natives.

The first decree forbids trade in fire-arms, gunpowder and other explosives. This reminds us of the suggestive remark (quoted in our *Les Grandes Initiatives dans la lutte contre l'esclavage*) of a slave-Chief, who when asked how he penetrated to the heart of Africa, replied : « With powder. »

The second decree is of considerable importance in

regard to the protection and improvement of the native races. It deals with contracts of service between natives and non-natives. It affords the former special and altogether humane protection, and lays down the practical lines on which such protection is to be guaranteed.

The third decree, regarding the exercise of a directly coercive effect on the slave-trade, concerns the formation of volunteer corps, which, according to clause 5 of the decree, are empowered to suppress crimes and offences against public order or individual liberty. For any aggressive action, however, the consent of the Sovereign's delegate is necessary. And, let it be remarked, these regulations did not remain a dead letter. About the same time the Belgian Anti-Slavery Society organised a special volunteer corps for work in the Tanganika country. Three successive expeditions were organized by the Society, aided by the Government who evidently bore in mind the recommendation of the Berlin Act to encourage and support « every generous and civilizing enterprise. »

It must, moreover, be admitted that European Governments in general, while being unable to complete their work of civilization immediately they annex a territory, nevertheless keep in view the highest humanitarian interests and, step by step, do their utmost to improve the general condition of the people. And here we have a contrast. In the eighteenth century, the nations of Europe partitioned out the coast of Africa in order to carry on commercial transactions. The French were to operate between Senegal and Gambia, the British on the Gold and Ivory Coasts, the Portuguese in the Angola and Benguela countries. And what was the object of this distribution?

To facilitate the slave-trade and render it more profitable. In the nineteenth century, the European Governments again partitioned out, it but this time on different lines. The abolition of the slave-trade now became one of their chief concerns, and they showed that they meant to accomplish it. It is gratifying to note this important step in the march onward of humanity.

5. — THE ANTI-SLAVERY MOVEMENT. — ITS ORIGIN AND CHARACTER.

It would, however, be idle to affirm that the great anti-slavery movement was a ready-made piece of diplomacy. The resolute attitude of the Governments in regard to the trade was rather the outcome of a remarkable manifestation of public opinion. A great wave of pity and humanity passed over the old world and found an echo in most minds and hears. And the Governments did well to recognise and take advantage of the opportunities offered by this current of public opinion.

Religion, establishing the universal brotherhood of man an the fatherhood of God, played its part in the revival. Every religious sect, every Christian influence joined issue with every form of humane sentiment, thus showing that at times all the elements of civilization unite in defending the rights and common interests of the human race.

The Head of the Catholic Church, in his famous encyclical to the bishops of Brazil, dated May 5, 1888, after making a joyful reference to the fact that a whole Empire of the New World had been cleared of slavery, pointed out

the lamentable condition of Africa in this respect. Leo XIII. re-echoed the cry of alarm raised by Leopold II. in 1876. His Holiness condemned the « base trade in human beings carried on in the most barbarous fashion ; » he pictured the sufferings of the numerous victims, and called upon all « those who wield power, those who sway empires, those who desire that the rights of nature and humanity be respected, and those who desire the progress of religion, to unite everywhere towards the abolition of this most shameful and most criminal traffic. »

A few days after the publication of the document referred to, a memorable scene was witnessed in Rome. For the first time in the course of ages, the Christian negroes of Central Africa, were introduced to the Pope by Cardinal Lavigerie. The account which Leo XIII. had just given to the world was their history. They had been dragged, with the yoke on their neck and along roads strewn with the bones of their dead brethren, to the markets of human flesh. And now they stood side by side with their deliverers, the missionaries of Africa, their ebony skins standing out in sharp relief against the white clothes of the latter. And the « Apostle of the blacks, » remembering the great events of Christianity, recalled St. Paul's epistle to Philemon recommending the latter to receive the slave Onesimus, not as a slave but as the dearest of brethren. Leo XIII., looking pale in his priestly vestments and his eyes flashing with a kind but energetic light, said in his turn : « You have truly spoken, Cardinal : since We have been Pope, Our regards have turned towards that disinherited land. Our heart has been touched at the thought of the enormous amount of physical and moral misery

that exists there. We have repeatedly urged all those who have power in their hands to put a stop to the hideous traffic called the slave-trade, and to use all and every means to secure that end. And, inasmuch as the African Continent is the principal scene of this traffic and, as it were, the home of slavery, We recommend all missionaries who there preach the Holy Gospel to devote their whole efforts, their whole life, to this sublime work of redemption. But it is upon you, Cardinal, that We count especially for success. »

Cardinal Lavigerie did not fail to fulfil the mission thus entrusted to him. He had promised to report what he knew of the nameless crimes which desolated the interior of Africa and to utter a cry, a powerful cry which should stir to the soul every one worthy of the name of man and of Christian. He kept his promise. The first response to his appeal came from Belgium where an Anti-Slavery Society was rapidly constituted. This was followed by the formation of similar societies in France, Germany, Austria, Switzerland, Italy, Spain, Portugal and elsewhere. Another response, of no little encouragement, came from the British and Foreign Anti-Slavery Society, which had been at work for a long time already, and which was destined to take new and remarkable departures in the near future.

Leo XIII. had called upon the nations to defend the dignity of human nature on behalf of their numerous black brethren. Such a task was naturally open to every man of good will. The action of the Church of Rome in the matter no more affected a sectarian character than did Livingstone's, when he uttered the celebrated words which Britain wrote on his grave : « All I can say in my solitude

is, may Heaven's rich blessing come down on every one—American, English, Turk—who will help to heal this open sore of the world. » (*Personal Life of Livingstone.* W. S. Blackie, London, 1880.)

6. — THE AGREEMENT BETWEEN GERMANY AND GREAT BRITAIN. — GREAT MEETINGS IN GERMANY AND IN ENGLAND.

On the broad basis of the anti-slavery question, all right-minded men, all nations, every Government, could and did join issue.

The Arab insurrection on the east coast accentuated the need for energetic action, not only on humanitarian but also on political grounds. There is no doubt that the slave-traders had purposely brought about the insurrection. Realizing that they were too weak to resist alone the efforts of Europe, whom they knew to be resolutely determined on putting down the slave-trade, they fancied they could compensate for their own want of strength by inciting certain tribes in the German protectorate to revolt. The signal for the rising was given from the banks of Lake Nyassa at the instance of Zanzibar. The momentary check suffered by the Germans on the east coast determined Germay on taking more energetic action against the slave-traders.

The first great German anti-slavery convention, held at Cologne on October 27, 1888, was a memorable meeting. The enormous Gürzenich Hall was filled with a representative crowd. The presence of numerous ladies showed that the question was a burning one and that it found

a ready echo in family life. On the platform were the leading State officials of the Rhenish Provinces, members of the German Legislatures, and the highest dignitaries of various religious sects. Commerce and industry were represented by their respective notabilities. Was it a patriotic sentiment which caused so many people of such varied opinions to meet with one common accord? Not patriotism alone. That sentiment was joined to another which elevated and purified, without lessening it, the sentiment of humanity. These men were all aiming at one object, which, in spite of the shadows and difficulties of the present, appeared to them as a bright vision dominating the future : the rescue of the African races, the civilization of a Continent.

When the president of the meeting rose there was complete silence. The rights of Germany, said Generalstaatsanwalt Hamm, have grown with her power; her duties have increased in the same proportion. If the German flag flies in Africa, if African coasts have become an extension of the Fatherland, it should be for the growth and honour of civilization. That is the primary moral and legal justification for the occupation of a new Continent by European nations. The time of generous initiatives has come. The German nation must answer the call of duty and of its interests. It must answer that call with the determination born of a unity, publicly proclaimed and solemnly confirmed, which inspires every citizen with the same desire. It must answer that call in unison with every other civilized nation.

These sturdy, patriotic words were enthusiastically applauded. A similar reception awaited Wissmann, the

brave explorer, and the other speakers who followed him. The meeting, after kindly welcoming the present writer, who profited in no small measure by the excitement of the hour, unanimously adopted the following resolutions which were at once sent to the Chancellor of the Empire and to the Reichstag :

« 1. — The suppression of slave-hunting with its attendant horrors, devolves upon Christian States and constitutes the primary condition of the abolition of the slave-trade.

» 2. — While the Congo Conference obliges all the Signatory Powers to help in the suppression of slavery and the improvement of the lot of the natives, at the same time the Congo State, Portugal, Great Britain and Germany, as being directly threatened by Arab slave-traders, are expected to take the initiative in, and to bring to a successful issue, the struggle against the slave-trade.

» 3. — The meeting expresses the conviction that the honour of the German flag and German interests, which have been violated by Arab slave-traders in East Africa, will be avenged by the Imperial Government.

» 4. — It also expresses the hope that the Reichstag will support these resolutions, as a proof of the perfect agreement of the German nation without distinction of party or creed. »

In replying to Generalstaatsanwalt Hamm on November 6, Prince Bismarck stated that the German Government would do its utmost to bring about an understanding between the Powers interested for the passing of measures against the slave-trade, and that he was negotiating in this direction with the British Government.

On November 13, the *Deutsches Reichs Anzeiger* published an announcement to the effect that in view of the growing hostility of Arab slave-traders, an understanding had been arrived at between the Cabinets of Berlin,

London and Lisbon, especially in regard to coercive measures on the east coast of Africa.

In opening the Reichstag in November, 1888, the Kaiser spoke strongly on the subject; and on December 14, 1888, the Reichstag adhered by a vote of sympathy.

In England, at the meeting held in London on July 31, 1888, under the presidency of Lord Granville, formerly Foreign Secretary, the following resolution was passed, on the motion of Cardinal Manning : —

« The time has now fully arrived when the several nations of Europe who, at the Congress of Vienna, in 1815, and again at the Conference of Verona, in 1822, issued a series of resolutions strongly denouncing the slave-trade, should take the needful steps for giving them a full and practical effect. *And, inasmuch as the Arab marauders (whose murderous devastations are now depopulating Africa) are subject to no law, and under no responsible rule, it devolves on the Powers of Europe to secure their suppression throughout all territories over which they have any control.* This meeting would, therefore, urge upon Her Majesty's Government, in concert with those Powers who now claim either territorial possession or territorial influence in Africa, to adopt such measures as shall secure the extinction of the devastating slave-trade which is now carried on by those enemies of the human race (1). »

7. — GREAT BRITAIN'S APPEAL TO BELGIUM. — THE BRUSSELS CONFERENCE.

On September 17, 1888, the British Government, resolved on bringing about a Conference of the Powers, appealed to Belgium and, paying a tribute to the initia-

(1) *Times*, August 1, 1888.

tive taken by King Leopold II. in the matter, invited the Belgian Government to take the preliminary steps.

« The change which has occurred in the political condition of the African Coast, » said the British Minister to the Belgian Court, « to-day calls for common action on the part of the Powers responsible for the control of that Coast. That action should tend to close all foreign slave-markets and should also result in putting down slave hunting in the interior.

» The great work undertaken by the King of the Belgians, in the constitution of the Congo State, and the lively interest taken by His Majesty in all questions affecting the welfare of the African races, lead Her Majesty's Government to hope that Belgium will be disposed to take the initiative in inviting the Powers to meet in Conference at Brussels, in order to consider the best means of attaining the gradual suppression of the slave-trade on the Continent of Africa and the immediate closing of all the outside markets which the slave-trade daily continues to supply. »

It was under these circumstances that Belgium was induced to call a Conference of the Powers, on November 18, 1889, to decide on a course of action calculated to

« put an end to the crimes and devastation wrought by the African slave-trade and effectively to protect the native populations of Africa. »

We are not at present concerned with an analysis of the international work as set forth in a hundred clauses drawn up by the Conference. We need only note that the Brussels General Act attacks the slave-trade in the stronghold of the man-hunters, follows it on the caravan routes, on the coast, by sea, where the action of the cruisers is called in, and finally to the countries of destination, the great Oriental slave-markets. At each of these stages, the Act prescribes repressive, protective and liberating measures, in accor-

dance whith the end in view. The various Governments are appealed to with a view of effective and uniform penal laws being passed. The regulation or restriction of the trade in spirits and fire arms are also provided for, permanent institutions are appointed in Europe and Africa to help carrying out the provisions of the Act, and financial measures were agreed upon to facilitate the new task.

With regard to the extent of the undertakings given by the Powers, we must consult the report on clauses 1 and 3 of the General Act of the Conference. A comparison should also be made between the original and the amended text of clause 3, inasmuch as this comparison will show how the Powers, chiefly by the initiative of France and England, provided against any conflict of interest and how they safeguarded their independence.

In the course of the debate preceding the confirmation of the Brussels Act by the French Parliament, somewhat annoyed by the clauses concerning the right of visit, one of the speakers made a paradoxical remark which has since been readily appropriated by certain people for their own ends. He said : « The Conference was only held to arrive at this practical result : the suppression of commercial freedom in the Congo. » This observation showed an absolute disregard of the origin and purport of the work accomplished by the Brussels Conference, and history gives the lie to the speaker. What is true, and what may be admitted without altering the character of the work performed by the Conference, is that, following on the loyal declaration of the Congo Free State concerning the necessary relation between the fresh obligations to be incurred by it and the resources indispensable to meet those obligations, the

Conference modified, before the mutually stipulated time, a regulation to which the Berlin Act had given an experimental and temporary character : the absolute prohibition of import dues.

In place of this absolute prohibition was substituted—with the immediate consent of all the Powers except one, which finally also gave its assent—the permission to levy moderate import duties, exclusive of any differential regime. These duties were to be uniform throughout the Congo and could not exceed a maximum of ten per cent of the value of the imported goods. These duties could not interfere with commercial development in the Congo, any more than similar duties do elsewhere. Moreover, they provided the Government with a source of revenue which it could not fairly expect to derive from direct taxation or interior dues on articles of consumption, nor from any other source than that of the customs, which are, after all, the principal means of revenue in most colonies during the primary phases of their evolution.

8. — A NEW HOMMAGE BY THE POWERS TO THE CONGO STATE.

It is not without interest here to recall some of the authoritative opinions expressed at meeting of the Conference on May 10, 1890.

Lord Vivian, the British Minister, was the first to support the proposition which had just been made by the President. His Lordship said :—

« As to the question whether this modification is opportune, the fact must not be lost sight of that the Berlin Conference

never intended to fix unalterably the economic system of the Free State, which, as was already then foreseen, would undergo radical modifications under the influence of progress, nor of establishing for an indefinite period regulations which may hinder, check, and even arrest its development. Provision was wisely made for the probability of future changes, which would require a certain latitude in economic matters in order to secure their easy realization...

» The moment has now come when the marvellous progress made by the infant State is creating fresh needs, when it would be only in accordance with wisdom and foresight to revise an economic system primarily adapted to a creative and transitional period.

» Can we blame the infant State for a progress which, in its rapidity, has surpassed the most optimistic forecasts? Can we hinder and arrest this progress in refusing her the means necessary for her development? Can we condemn the Sovereign who has already made such great sacrifices to support for an indefinite period a burden which daily becomes heavier, and at the same time impose upon him new and heavy expenses necessitated by the suppression of the slave-trade?

» We are convinced that there will be but one answer to these questions. »

Immediately after Lord Vivian, Count von Alvensleben, the German Minister, expressed himself as follows :—

« The Imperial Government will be glad to have such an opportunity of showing its sentiments of sympathy for the Congo Free State, which, under the wise direction of its August Sovereign, has given such striking proofs of vitality.

» The German Government will willingly lend its help to placing the Congo Free State in a position to dispose of the means which may seem necessary to assist its development and to enable it to continue its valuable services to the cause of civilization and humanity.»

The official representatives of Italy, Portugal, Austria-

Hungary, France, Russia, Denmark, Spain, Sweden and Norway spoke in similar terms; and the Dutch Government, although its point of view was a different one, was good enough to recall through Baron Gericke d'Herwijnen « the well merited homage it had rendered to the work of the King of Belgians from its very commencement. »

The manifestation of opinion was so striking that the President of the Conference, in thanking the Powers, said :

« The King will find in the homage now rendered him the highest reward of his toil and sacrifices, which will at once be a great encouragement and a source of legitimate pride (1). »

The questions of procedure and means of execution, which were discussed later, and which were all satisfactorily settled after some objections had been disposed of, received a solution which confirmed the foregoing remarks. They condenm, we think, the purely retrospective criticisms which still occasionally appear.

It is not only in the case of the Congo Free State that the need has been felt of special resources in order to carry out the necessary improvement of the country. In the *Documents inédits ou complémentaires communiqués par des plénipotentiaires à la Conférence de Bruxelles*, we find the following declaration from the Imperial German Government :— « The Arabs, who may be regarded as the man-hunting gang, are already weakened by the measures adopted. Recent events in the German possessions on the east coast, will both destroy the Arab prestige

(1) *Actes de la Conférence de Bruxelles*, 1889-1890, p. 246 and *seq.*

and increase our influence in the interior... The abolition of the abominable trade in human flesh will be accomplished, provided the necessary means are forthcoming (1). »

9. — PUTTING THE BRUSSELS CONVENTION IN FORCE. — THE NECESSARY FIGHT AGAINST SLAVE-TRADERS.

The Congo Free State has been blamed not only because it asked for the means of carrying out the wishes of the Powers, but also because it duly employed those means for the attainment of the recognised object. The Congo State was not itself in a position to find all the necessary resources, and it was, at the same time, in the best position for performing the required work.

The carrying out of the provisions of the Brussels Act was bound to bring the Congo State into conflict with the Arab slave-traders. The position taken up by the latter in regard to Germany on the East Coast sufficiently showed that they would not submit without a sharp struggle.

We know how the armed bands under Arab slave-traders or Zanzibar-Metis conducted their operations in the interior. Their proceedings have been described by numerous explorers. The whole of the evidence on this subject — of incontestable reliability and including the reports of travellers, missionaries, diplomatic and consular agents, naval officers, all dealing with the history of the half-century prior to the Brussels Conference, — was

(1) *La Traite des esclaves en Afrique. Renseignements et documents recueillis pour la Conférence de Bruxelles. Supplément.* Report of Major Wissmann, p. 264.

collected by the Belgian Government and placed before the Conference under the title of: *La traite des esclaves en Afrique. Renseignements et documents recueillis pour la Conférence de Bruxelles* (1840-1890). The revelations therein contained are of the most fearful nature. Memories are short nowadays, but the impression produced on the minds of contemporaries by the perusal of these terrible accounts of the horrors brought about by the slave-trade will never be effaced. There are no extenuating circumstances; no excuse or defence of such barbarians should be attempted.

To include the Arabs as a whole in a general reprobation is out of the question. Neither shall we condemn a race as such, nor bring the Khoran into the case. There are millions of Arabs with whom European Governments can and do maintain business and political relations, provided the former keep the peace, and the latter respect religions freedom.

Religious fanaticism has produced enough evils in Africa and elsewhere, without charging it with every crime. But it was not responsible for the fury of the slave-traders in the Congo. The desire to procure, by all and every means, a fortune in slaves and ivory, together with the elements of enjoyment and power involved in such a fortune, and the bait of enormous gain realized by means of unbridled licence, were the chief, if not the only, motives of so many devastating and blood thirsty expeditions. The Arab and other slave-traders who had too long raided the African Continent were, as Livingstone remarked, freebooters and outlaws of society. They were, in the words of Wissmann, the scourge of Africa. Serpa Pinto said of them : « Such beings cannot dishonour

their country, for they no longer have one (1). » Their extermination was necessary and the wiping-out of the slave-trader from the records of African history is an event of which humanity may well be proud.

10. — THE CAMPAIGN AGAINST THE ARAB MAN-HUNTERS AND SLAVE-DEALERS. — THE DOWNFALL OF ARAB POWER IN THE CONGO.

Accustomed to the widest licence in their depredations and carnage, the Arab slave-traders looked with apprehension on the formation and progress of the new State, which had risen up in the very heart of their hunting-ground. When they saw that Europe and the Congo State firmly meant to suppress the infamous traffic with all its accompanying horrors, they became defiant rather than submissive, and barbarism seemed to challenge civilization. At the same time their Chiefs united, united to brave all law, and to establish an *imperium in imperio*, or, rather *contra imperium*. Under these circumstances, it was not only the duty of humanity towards the African races, but the duty of self-preservation which dictated the action of the State. The collision was inevitable. The aggressiveness of the slave-traders in the State helped to hasten it.

Surprised at first by the violence and daring of the insurrectionists who captured the Falls station at a single blow, the State was led to adopt a policy of necessary caution and careful providence. Therefore, the allegiance of the wealthiest and richest of the Arab Chiefs, Tippoo-

(1) *Comment j'ai traversé l'Afrique*, French translation, p. 80.

Tip, who had not participated in this latest raid, was enlisted to help in the suppression of the Arab rising, and thus to afford the unfortunate natives some respite and to gain time to prepare for the decisive struggle.

The struggle was not delayed. It was severe and obstinate on the part of the slave-traders. It was brave and admirable on the part of the men chosen by the State to carry it on. It resulted in the annihilation of the power of the slave-traders. This happened towards the end of August, 1893. The crucial test had been successfully passed. The State had, of course, still to deal with risings of a more or less serious character, but the final result was no longer doubtful. One is afraid to think what would have been the consequences for the future of Africa, if a new Mohammedan Power, with its disdain of the native races and its hatred of European authority, had triumphed in that critical struggle. That is why the definite fall of Arab sway in the Congo may be classed among the salient events of the nineteenth century.

The slave-traders crushed, the State reaped the fruits of its victory in the pacification of large tracts of country formerly infested by those hordes and in the development of a legitimate trade based on the natural resources of the country. And, as a matter of fact, it was astonishing to see how, in spite of difficulties, the people began to prosper, and how the emancipated region took the useful and honourable place due to it as part of the State.

11. — RESULTS OF THE VICTORY.

Certain critics, who will admit of no excuse for the least act of insubordination or excess committed by any servant of the Congo Free State, are prone to pity the unfortunate Arabs exterminated by the Congolese soldiery. Laying stress upon certain tranformations effected amid their purely barbaric surroundings by certain Potentates of Central Africa, a milder treatment is claimed for them for the sake of economic progress. But the fact that powerful Arab Chiefs have treated certain African races races with relative leniency in order to ensure their cooperation in their criminal raids, and the fact that they have even opened up new commercial markets, do not affect the main characteristics of their domination which, outside a very small area, have consisted in man-hunting, carnage, village-burning, and pillage carried out with a refinement of horror before which native barbarity dwindles into insignificance. And, from a more general point of view, it seems certain that if civilized Powers, such as Great Britain, Germany, France and the Congo State, had not overpowered some of the native races, such as the Mahdists, the Zanzibaris, the Niger and other tribes, the area of devastation must have increased and the infamous trade in human flesh must have continued to flourish.

With regard to the « commercial currents » which are sometimes used as an argument in favour of the slave-traders, it can never, in common justice, be contended that a system which tolerates merciless pillage, slave-caravans, and the selling of booty together with its native carrier

on the coast, helps to solve the commercial problem or to cheapen the cost of transport. The question is rather whether this kind of business could ever have agreed with the duties of the Powers who had resolved to suppress the trade. Again, it should not be forgotten that the slave-trade, both from its character and from the profits *sui generis* which it brings, is the born enemy of honest trade as applied to the development of the natural resources of a country. The pernicious influence of the slave-trade from this point of view has been pointed out by numerous explorers.

« Every proposition having for its object the establishment of trade in Africa and the improvement of the black race, » said Sir Samuel Baker, « will remain utopian as long as the slave-trade exists (1). »

And here are the opinions of Pogge and Wissmann on the question of « commercial currents » set going by slave-traders :

« In the west much has been done of late years to bring about a more rational and humane state of things; but in the east the Arab advances continually followed by a procession of misery and desolation and growing stronger from day to-day to the detriment of the natives. How long will Europe permit this shame, how long will she be fooled by these scoundrels?

» The first step towards the regeneration of the black man is the destruction of the destroyer of the African race, of the adventurer whose power daily increases, in a word, of the Arab.

» As long as Europe is not strong enough to follow up the results already obtained by her voyages of discovery, the explorer can never be satisfied with his work; it will have injured rather than benefited the native races. People hesitate before

(1) *Ismaïla*, p. 409.

resorting to extreme measures, but they lose sight of the fact that, if their efforts were concentrated on a single object, more would be done in a day for the real welfare of Africa than has been accomplished in past decades, nay even in past centuries (1). »

The Free State did not flinch before its perilous task, and it has reaped the fruits of its energy.

Important traders of the East Coast, who have nothing whatever in common with the direct or indirect apologists of the slave-traders, seem to have reproached the Congo Government because legitimate trade has left the formerly frequented tracks and been diverted rather towards the West Coast, thus using the splendid means of communication afforded through the territory of the Free State. This circumstance cannot he made a cause of reproach ; and it was surely not a sufficient reason for the State to shrink from accomplishing the duty it owed to civilization and to itself. On the contrary, it was but a just compensation for the heavy sacrifices made by the State to clear its domains from infamous rascals and to purge the country of the sole element which hindered the normal development of the native races and the progress of colonization.

The exercise of certain rights by neighbouring countries may occasionally affect the interests of other States. While this may be regretted, it is not sufficient to destroy those rights. Otherwise the right of building a railway line might be disputed on the pretence that it diverts an existing trade in a new direction. Nobody can blame the German colonization on the East Coast of Africa for encouraging, by the improvement of the Kilua route, the flow of

(1) *Unter deutscher Flagge querdurch Afrika*, p. 297ss.

the commercial current to the Zambesi through German territory. Neither can British colonization be blamed for attracting trade by means of the Mombassa railway. Healthy competition and fair rivalry are the best regulators of such conditions. Colonial enterprise must ever be subject to vicissitudes; but the future may reward perseverance with unexpected compensations.

Belgium, in common with alls friends of civilization, followed with profound interest the course of its children's struggle against the Arab slave-traders. She hailed the victories of Dhanis and his companions in arms in Central Africa with the same pleasure which was shown by whole nations at the victories of Wissmann on the East Coast, of Lord Kitchener at Khartoum and of General Dodds in Dahomey. She has commemorated the bravery of some of her sons by lasting monuments such as that of the heroic sergeant De Bruyne. She has received with joy each new element of prosperity counected with achievements which history will record with admiration and which every friend of humanity will bless. She sees that the King-Sovereign braved the risks of a war on the Arabs, not only as one of his duties under the Berlin Act, not only as a duty of political preservation, but as an act of supreme wisdom from the point of view of the progress of colonization, of the moral and material development of the black races, and of the general welfare of Central Africa.

Central Africa explored, the Congo State founded, the Arab potentates vanquished :—such are the three jewels that Belgium rejoices to see shining in the double crown of her King.

CHAPTER III.

Revisionary Tendencies.

Such great Acts as those of Berlin and of Brussels cannot escape criticism. They cannot satisfy the views of all; they cannot fulfil, all at once, the hopes formed of them. Hence, complaints, often with very little grounds, and recriminations, often without measure.

Criticism of the purport and application of the Berlin and Brussels Act has not been wanting. In certain cases that criticism has been of a revisionary character; it has dealt in turn with the humanitarian and the economic aspects of the Act.

With regard to the humanitarian aspect, and while admitting that all human work is capable of improvement, we consider that it would have been difficult to do better than what has been done. Can colonizing nations be expected to wipe out slavery at one blow? Can native morals and customs be reformed in a day? Can colonial Governments be given reciprocal rights which interfere with the independence of any of their fellow-Powers? Can those Governments be held responsible for the individual misdeeds which their police, however vigilant it may be, is unable to prevent, while their justice is sincerely desirous of

repressing them? Is it possible to proceed *ne varietur* in all and every matters relating to the treatment of the natives by the colonizing nations? Those who know how difficult it is to succeed in international negotiations look upon certain attained results as unhoped for : let us be careful not to joepardize them.

With respect to the economic portion of the important Treaties in question, the difficulties of a revision are even greater. Can it be imagined that an assembly of the Powers should entertain such preposterous claims as have been advanced by some merchants in relation with the Congo basin, and which a prominent French statesman, M. Etienne, has summarized as follows : « La maison est à moi, c'est à vous d'en sortir (1). »

Considering the past, can it be believed for a moment that Governments, who have conceded their whole domain in the Congo basin, shall willingly concil such cessions with their consequent rights?

And, looking to the future, can it be supposed that no account should be taken of the complete change of circumstances and of all the progress that has been made in the Congo basin since 1885? Can one fail to see that the questions raised, must have a bearing, in accordance with an undeniable distributive equity, not only in the conventional basin of the Congo, but in all similar districts in Africa and elsewhere where the same conditions reign? Such questions are not settled without considerable discussion and trouble. It is easy to speak of the renunciation and revision of treaties, when the advantages conceded are

(1) *La Belgique coloniale*, 26 janvier 1903.

mutual; but is revision advisable for the party who has obtained everything without positive compensation?

In one respect, perhaps, an important improvement might be made, if it were agreed upon by all parties, in the Berlin Act. We refer to the extension to be given to the arbitration clauses. The primary proposal of the German Government was based on broad grounds which were only abandoned because of French opposition. The pledges since given by the latter Power and by several others, especially at The Hague Conference when arbitration was established, warrant a hope for Agreements in international questions in Africa. However, this result could also be arrived at by means of The Hague Convention alone, without revising to the Berlin and Brussels Acts.

We know with what prudent care the Berlin and Brussels Conferences kept their discussions clear of questions of territory and sovereignty. Irresponsible pamphleteers, who cannot be ignorant of this circumstance, pervert the revision of the Berlin and Brussels Acts into a support of their own views on territorial questions. Such a course can only be described as an attempt at sterile agitation.

Colonial questions are the most difficult of all and the least susceptible of radical solution. The International Colonial Institute understood this so well that, as soon as it was established, it declared that it did not intend to follow the theory of any particular school.

It would be to credit Governments with small misdom and little foresight, to admit that they would venture upon an authoritative enquiry into their respective colonial

administration, or upon issuing a uniform codex of colonization.

The Berlin and Brussels Acts have realized pretty well all that it was possible to attain in this respect by way of international agreement. The wisest course is to leave them untouched, and, above all, not to introduce into them, as some people suggested, either good things which are not new, or new things which are not good.

PART THIRD

THE INSTITUTIONS

The Institutions.

Among the great colonial establishments recently founded in the Congo is one which, in glancing over the continent as a whole, must infallibly attract attention and excite black sympathy.

Its position is one of extreme boldness : it corresponds to the great blank patch on the map of Africa which we scarcely noticed in our youth in the midst of those countries wich remained for every one *terra ignota*.

Its mode of formation has been most remarkable, and, so to speak, unique in the history of international law, to such an extent that it seemed impossible to place it in any of the usual categories relative to the birth of states.

Its vocation as a means of civilization is not less worthy of attention : after being in the vanguard of the struggle against the Arab slave-traders, and after undertaking to purge Central Africa of those ravagers, it set about the peaceful settlement of the native populations under a paternal Government and their development in a higher and better life, with a view to their ultimate cooperation in thee great work of universal civilization.

For the Belgians, this land offered a field of predilection, where their activity could be well employed and where they would be alle to displan all the energy of their race.

We have already shown how His Majesty Leopold II., after taking the initiative in the movement for the integral civilization of Africa, founded the Congo Free State in a territory where no authority then existed, and how the main provisions of the Berlin and Brussels Conventions indicated, from a humanitarian and commercial point of view, certain bases of the policy to be adopted by the various Governments interested in the conventional basin of the Congo.

On the foundation thus laid, the enacting power of the Sovereign built up a complete political organization in which the problem of civilizing the barbaric races is solved in a manner both successful and wise. This organization, of which little is known abroad and even in Belgium, is of an interesting character. Without pretending to make an exhaustive study of it, we will indicate its salient features.

New and important questions concerning Congolese neutrality were considered in our recent work entitled *Etude sur la neutralité de la Belgique* (1), in which the relation of Congolese to Belgian neutrality was referred to.

In several papers, principally of a parliamentary character, we have further dealt with the relations between the Congo Free State and Belgium (2). Our present aim is mainly to study the State in itself, and we shall begin by throwing some light on the principle of sovereignty as it presides over its existence.

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(1) *La Neutralité de la Belgique* au point de vue historique, diplomatique, juridique et politique. Brussels, 1902.

(2) *La Part de la Belgique dans le mouvement africain*, 1889. — Rapport au Sénat sur le *Régime des colonies*. (Revision de la Constitution, 25 juillet 1893.)

CHAPTER FIRST.

The Sovereignty.

Sovereignty is the supreme power to direct a political community, with a view to its preservation, its improvement, and common welfare of its members. A human population, a region of the globe, are the two elements, one personal and the other real, which form the basis for the application of sovereignty. It is by developping these elementary principles, by applying them for the due constitution of public life, that sovereignty makes a country of the region and a nation of the multitude.

Sovereignty has a double sphere of influence, namely, in the direction of the national or internal political life, and in that of external foreign policy, where the State has to live with other States in the community of nations.

The form under which sovereignty is instituted does not affect its essential character : internal autonomy and external independence remain the two fundamental sovereign attributes of a State as recognised by the law of nations. Autonomy means the right of a State to regulate itself its national life. Independence is freedom from any outside control not specifically accepted, in its relations with other States.

Sovereignties which meet and have to coordinate in

international life are not, in fact, characterised by any absolute and immanent freedom from all bonds between them, but rather by a freedom from engagements imposed by an authority foreign to their own will, implicitly or explicitly manifested.

Like all other sovereign States, the Congo Free State, as its name implies, possesses, in the double sphere of its internal and external life, all the recognised prerogatives of Sovereign States. And its position is all the more clearly defined in this connexion that it is untrammelled by the numerous bonds which generally complicate the legal existence of older States.

Like other States, too, the Congo is duly subject to two classes of international obligations :

Obligations comprised in the common law of civilized nations, which the latter undertake in their sole capacity of members of the society of nations : These make up the universal law of nations.

Obligations arising from special agreements forming a special international law between the various States.

As a matter of fact all States are subject to these obligations which are in no way incompatible with sovereignty. The formation of these bonds, as such, rather appears to us to be the exercise of a sovereignty capable of binding itself to the fulfilment of its mission; it is a normal form of the activity of a State, the legitimate and often necessary manifestation of that which we have characterized elsewhere as the « *fonction obligationnelle* » of sovereignty (1).

(1) *La Neutralité de la Belgique*, p. 342.

The special international obligations contracted by the Congo Free State, beyond common and general law, do not differ either in nature or in aim from similar obligations contracted by other States. Like them, they indicate the growing solidarity of international relations and the progress of international life.

It is not difficult to show that these engagements, in their actual tenour, constitute an enlightened use rather than, as certain people have argued, a sort of abandonment of sovereignty. This enlightened use is in harmony with the best tendencies of the times and the noblest aims of the society of nations.

They concern, in the first place, the choice of a regime of permanent neutrality by virtue of which the Free State assures to other States, in the event of a conflict between them, the security of an invariably peaceful attitude, while obtaining from them, in return, the advantage of not being involved in their disputes. This choice may be as wise in fact as it is justified at law. Beneficial in the present, it is in harmony with the highest hopes of the future.

They relate to the eventual application, in remarkable conditions, of mediation and arbitrage, by virtue of provisions anterior to The Hague Conference. To that Conference belonged the task of justifying and generalizing the purpose of these precursory arrangements.

These engagements pursue, moreover, the purpose of assuring particular protection to all civilizing institutions, either scientific or religious without any distinction of creed, and to all undertakings of pioneers of civilization in all directions. Such tendencies can only be worthy of praise.

They achieve, as regards the respective civil rights of foreigners and subjects in the various States, one of the greatest desiderata of modern law, a degree of assimilation only equalled in a few contemporaneous cases. It would be difficult indeed to discover in such provisions a cause of inferiority from the point of view of comparative law.

They establish in colonial politics a liberal policy which completely supersedes all the errors of the old *pacte colonial*, and leaves far behind in generosity all the practices heretofore introduced and maintained by many civilized Governments in their possessions. This example does not appear in any way to constitute an error from a comparative stand point.

They reflect also most vividly, in all that concerns the preservation of native races and their education and particularly in order to present man-hunting, slave-trading and such pernicious scourges as the drink-evil, the most powerful and best humanitarian tendencies of our time. Undoubtedly, that is no matter for criticism.

All the above provisions relate to the general Acts of the Berlin and Brussels African Conferences. The limitations of sovereignty, which they imply, result from the State's voluntary adherence to these diplomatic Acts. They are not different from those which may limit the sovereignty of other Powers established in the Congo's conventional basin. They do not reveal, in any case, any injury to the principle of the equality of the States in its essential elements. They only constitute, as we have already remarked, an enlightened exercise of the paramount function normally inherent to the sovereignty of nations. Let

us add that for all, they derive from their character of limitations of sovereignty at common law, a strictly limited meaning.

If, on the other hand, we go further into the economy of several more special treaties, already formed by the Congo Free State with other Powers, not only do we not meet in these diplomatic conventions—agreed upon on a footing of perfect equality between States—with any trace of inferiority regarding the exercise of sovereign attributes, but we can frequently point out provisions testifying to the young State's will to remain a faithful adherent to the law of pacific progress identified in some way with its origin. It is so that we see it, on December 16, 1889, signing the first Treaty of general and permanent arbitration which was ever concluded between European Governments.

Thus we can truly contend that there is a material difference between the real position of the sovereignty of the Congo Free State in international law, and the situation which some have imagined when representing it as an emanation subordinated to a collectivity of Powers. We have already proved in a most undeniable way, we think, that contrary to arguments adduced without any legal foundation, the Congo Free State is not a creation of the Berlin General Act. We believe that we have also proved with equal clearness that its legal international status, far from showing a case of limited sovereignty, gives a conspicuous proof of the honourable and independent position it occupies amongst the great family of nations.

Let us not forget to mention that for the Free State like for any other State, due reserve being made of positively

assumed engagements, sovereignty remains entire in its double sphere of internal and external action.

It is in the light of this last remark that we must study and decide the questions that have so frequently been raised regarding the State's rights to acquire new possessions, to assume protectorates and to exercise other prerogatives which derive from sovereignty at common law. For Sovereignty means Liberty.

CHAPTER II.

The Form of Government.

The question of the form of Governments is not capable of an universal solution. Nations have, since long known tyrannical republics and untyrannical monarchies. The best form of Government for established nations, is generally that which is the most suitable to their traditions and character. For new nations, the best form is the one suitable to their social development.

The Congo Government, considered from the stand point of its form, is a monarchy pure in a double sense.

On the one hand, it is from himself, with a title easily proved without seeking any supernatural foundation, by right of creation, that the Sovereign holds his power. It is he who raised up a population living on a virgin soil in secular anarchy and powerless to unfetter itself from the straps of barbarism to a State of international law. All the sovereignty's constitutive powers emanate thus from the State's author, and if it be noticed that the author's right in all directions, appears as the most sacred right, it is easily understood that this title of legitimity is worth as much as any other.

On the other hand the author of the State exercices all the sovereign powers, undivided and unlimited.

The Congolese monarchy it thus not a monarchy constituted after the pattern of constitutional monarchies and there are, we think, many plausible reasons why it should not be so. The existence of native representative institutions is not even possible, and the adjunction of outside representative institutions appears so unadvisable that, even where the existence of a metropolis seems to allow such system, the general experience of the colonizing States tends to discard it.

Does this mean that the Congolese monarchy is in every way a despotic monarchy? The meaning of this expression must first be made thorougly clear. Not only the Congolese monarchy has nothing in common with ancient despotism, which claimed an arbitrary power over all persons like over all things, but it cannot even be mistaken for certain forms of a more modern absolutism.

Let us first remark that the Chief of the Congolese State is bound in a way most permanent and independent of his own free will, by principles of liberty of conscience and of creeds, which give him no right of interference in the spiritual life of his subjects.

As regards civil life, the Chief of the Congolese State is equally bound in a way permanent and exclusive of arbitrariness, by a liberal system of rules to be observed respecting natives and non natives.

As to the latter, a wide range of civil and commercial liberty is ensured to them. We know of no other State where the right which a Sovereign owns of treating foreigners differently to subjects is more tempered than in the Congo.

In matters of public life, political liberty, regarding the share which citizens have in the general Government of the State, is not established in the Congo, and if by despotical Government be meant any Government where no such right is recognised to citizens, then the Congo Government is a despotic Government. But then it must be confessed that this feature is common to it like to all Governments organised in the most primitive colonies by nations enjoying the greatest freedom. And it must also be remarked that underneath the Government's machinery, where concentration of power is necessary, there exists of necessity, in the Congo, a decentralization owing to which nearly all the State's subjects are ruled by local customs under the local Chiefs' authority.

Thus, it is not indispensable, in order to justify the form of Government existing in the Congo, to enter a plea of extenuating circumstances, and to speak of « enlightened despotism. » This Government, although being exactly what it must be to suit the social conditions, is tempered not only by the personal guarantees which the Sovereign offers to such a high degree, but equally by a system of positive rules which do not allow of its being declared merely despotical. This Government is in fact « the right Government in the right place. »

Undoubtedly, when comparing the Congolese monarchy with the Belgian one, the differences are conspicuous. This monarchy is evidently tempered not only by its rule of action but equally by its institutions. The differences, however, are only the consequence of the diversity of origins, of missions and of the elements organised into a State.

Monarchy pure in the Congo is as justified as constitutional monarchy in Belgium. The simple union of both in the person of His Majesty Leopold II. leaves to each of them its own character even in the various relations which they may establish. The transmission of the Congolese Crown in the person of the King of the Belgians, is only subject to the rule by which the King cannot be Chief of a foreign State without the consent of the two Chambers, to be given according to the conditions laid down in article 62 of the Belgian Constitution.

As embodying a monarchy pure, and as invested with all the attributes of sovereignty which the public life of nations involves, the Chief of the Congolese State virtually concentrates in his person, with the exception of such delegations as he chooses to make, the external and internal activity of the Government. It is he who enacts the organic rules of private rights and who creates the institutions of public law suitable to the exercise of his power. He appoints the auxiliary officials and primarily sways their action in accordance with his Governments' policy. He rules the exterior relations of the State. He is the living spirit who gives effect to the various manifestations of governmental life, which he controls it entirely.

CHAPTER III.

The Territory.

The State's territory, which geodesical estimates value at over 2,000,000 square kilometres, extends all over the marvellous and gigantic Congo basin. It covers the whole basin, except the dependencies acquired by France on the North, by Portugal on the South and by England on the South-East, which are in some way counter balanced by two provinces of the State, one on the Atlantic Coast and the other around Lake Albert-Edward. Round this central block are situated the German and English possessions on the coast of the Indian Ocean, the French and Portuguese, on the Atlantic coast, the Free State spreading on the banks of the great river's estuary.

1. — THE STATE'S BOUNDARIES.

It is well known that, originally, a series of separate Acts—there were fourteen of them— were concluded for the State's recognition between the International Congo Association and the Powers, beginning with the United States and Germany. They do not generally contain any description of boundaries. The neighbouring Powers of

certain of the State's possessions have alone added to the Act of recognition provisions respecting the boundaries which respectively concerned them. Belgium, called upon to pronounce on the question of personal union, did the same.

The first description of boundary lines is found in a map annexed to the agreement between the German Empire and the Congo International Association. The German Empire stated that it was quite ready, on its side, to acknowledge the limits of the Association's territory as indicated on the map. The same Act, providing especially for the present *or future* cession of the Association's territory or part of it, adopted the common-law principle of the transferee's subrogation to the transferor's rights and obligations.

The Acts between France and Portugal contain a description of respective limits : for France to up 17° E. Long. for Portugal, up to the Kwango. The agreement with Portugal likewise reproduces the provision concerning the transferee's subrogation to the transferor in the event of a complete or partial cession of the present or future territory of the Association. This last provision is common to the fourteen separate Acts of that period with the exception of the Act passed with France.

In the sitting of the Berlin Conference on February 23, the President of the International Association notified the existence, among the clauses of the treaties recently concluded by the Association « of a provision recognising its flag as the flag of a friendly State or Government. » At the request of some of the Plenipotentiaries—of several, according to the protocol—copies of the various treaties by which the International Association had been recognised

by these Governments, were annexed to the protocol of the sitting. These treaties were accordingly added to the protocol n° 9, schedule I, under the heading : *Copies of various Treaties by which the International Congo Association has obtained the recognition by the Governments.*

It is scarcely necessary to remark that this addition did not in any way modify the legal character of the said treaties, and above all that it did not—contrary to their very provisions—impose invariable territorial limits on the Congo State.

In order to understand the impossibility of even attempting such a construction, it would be sufficient, moreover, to recall that the *sine qua non*, proposed by France and accepted by Germany, of the Powers meeting in Berlin was that « the Conference should have nothing to do with the settling of territorial questions in the Congo basin (1). »

Shortly after the breaking up of the Berlin Conference, the Free State promulgated a General Declaration of Neutrality dated August 1, 1885, indicating the State's territory to which, at that time, the regime provided by Art. 10 of the General Act of the Conference applied. This Declaration, after being submitted to Prince Bismarck, as we already mentioned, and after obtaining an approbatory letter from him, was notified to all the Powers who acknowledged it without any objection or reserve whatsoever.

Mutual preferences, subsequent explorations, reasons of a geographical or ethnographical order, have determined

(1) Letter of the German Chargé d'affaires to Prince Bismarck, dated May 29, and Prince Bismarck's reply, dated June 5.

certain modifications of the primitive territorial jurisdiction. The State made, on December 28, 1894, a further Declaration intended to bring under the regime of neutrality the whole territory as modified by fresh agreements with France—(April 29, 1887, and August 14, 1894), Portugal (May 25, 1891) and Great Britain (May 12, 1894). Similarly to the Declaration of 1885, the one of 1894 was notified to the Powers, who made no observations on it.

The delimitation of the State so established seems to completely discard any further question of a territorial order with neighbours. With France, Great Britain, Germany and Portugal further disputes hardly seem possible. The recent Kiwu incident between the Congo State and Germany does not appear in itself to constitute a frontier difficulty : the boundary in these parts being apparently determined. Germany would wish to obtain the rectification of this frontier by substituting for it a natural limit. Whatever reasons Germany may adduce to prove such a claim, it is quite comprehensible that the Congo State should hesitate in following her on that road, as it might thus compromise the principle of its territorial integrity.

The upholding of their integrity is the first duty of States, but exchanges and arrangements giving satisfaction to both parties are conceivable.

2. — TERRITORIES TAKEN ON LEASE.

Let us here recall that besides the State territories of which Leopold II. is Sovereign, he took on lease from Great Britain the Bahr-el-Gazal territory up to 10° N., to be occupied and governed by him. Article 2 of the

Treaty of May 12, 1894, decides the extent of this jurisdiction and the length of the lease, which is different according to the part of territory to which it applies.

Great Britain, on her side, by Art. 3 of this Treaty took on lease from the Congo Free State a strip of territory between Lakes Tanganika and Albert-Edward.

The agitation stirred in Germany and France by the stipulations of the Treaty of May 12, 1894, can still be remembered. Germany raised objections to the lease of territory granted to Great-Britain and it is a well known fact that by a declaration of June 22, 1894, the British and Congo Governments concurred in the withdrawal of Art. 3 of the Treaty. As to France, she would not recognise the Congo State's rights of lessee, and by article 4 of the Agreement of August 14, 1894, she decided to restrict, for herself, and without stipulating for others, the political action of the State in the Nile basin to that portion commonly called : *Enclave de Lado*. But since by her Agreement with Great Britain of March 21, 1899, France has abandoned all idea of penetrating in the Nile basin, Article 4 of the Agreement of August 14, 1894 merely has an historical interest, and the respective rights of Great Britain and the Congo Free State in the Bahr-el-Gazal—sovereignty rights of the former, lessee's rights of the latter—remain established in the mutual relations of the two States and ratified by the Treaty of May 12, 1894, which in point of law cannot be forthwith considered as having lost its value between the contracting parties.

3. — THE INCREASE OF TERRITORY.

At the time when the question of leased territories stirred some excitement in France, an effort was made in the French Parliament to pretend that the Congo State was enclosed in unchangeable limits, either by virtue of the Berlin Act or by reason of its declaration of neutrality. We know of no contention having a slighter foundation in international law. We have clearly shown that the Berlin Conference was unable to settle territorial questions purposely detached from its program and that it is impossible, moreover, to attach to the formality we have mentioned, any signification modifying the real legal character and the true meaning of the treaties. Moreover, it is evident that the limits mentioned in the treaties between interested parties are separative limits directly, specially and locally connected with pending disputes or issues in view at the time, and not prohibitive of further acquisitions foreign to these delimitations.

On the other hand, to contend that a voluntary declaration of neutrality, even permanent, applied to certain territories on the principle of Art. 10 of the Berlin Act, implies absolute renunciation to subsequent acquisition of territory, would be obviously giving article 10 a meaning it cannot and was never intended to have, and it would amount at the same time to a perversion of the notion of neutrality. We believe that we fully established in our « *La Neutralité de la Belgique* » that permanent neutrality even obligatorily guaranteed, does not exclude, in principle, acquisitions of new territories by the neutral

party, subject to a limitation of the guarantee to the original territory (1). But in the case of permanent neutralities, which are not even in the same position, and of a State which has merely exercised the faculty of declaring itself neutral, the question of prohibiting the acquisition of new territories seems hardly raisable. The State may perfectly undertake to fulfill all the obligations resulting from this special international status without abdicating the right to spread by regular acquisitions. And it might even, according to Art. 10 of the Berlin Act, relinquish this *status*, subject to giving up the benefit of it.

The acts show that the neutralized territories of the Congo Free State have undergone most important modifications since the beginning without any international objections being raised.

(1) *La Neutralité de la Belgique*, pp. 508 and *seq.*

CHAPTER IV.

Neutrality.

In a previous work on « *La Neutralité de la Belgique* », we have already examined all the questions relating to the permanent Congolese neutrality and to its eventual combination with the Belgian one. We thus restrict ourselves to giving a mere summary of the conclusions of that study.

The German project, drawn up subsequent to Mr. Kasson's motion at the Berlin Conference, relates to the following points : Obligation for all the Powers, even those engaged in foreign conflicts, not to implicate the territories of the conventional basin in any war; obligation for all the Powers holding possessions in the basin, in case of differences relating to their possessions, to proceed to the settlement of these differences by way of mediation or of compulsory arbitration.

The opposition of two Powers holding possessions did not allow of the carrying out of this project; but towards the end of the Conference, Baron de Courcel, the French Ambassador, reopened the way to the fulfilment of pacific intentions perseveringly manifested.

Not that the Powers have neutralized any territory. They simply foresaw the issue of either occasional or perpetual

declarations of neutrality concerning the territories of the Congo basin, and they took the engagement of respecting the consequences of these declarations as long as the declaring Powers would perform the duties of neutrality.

And this undertaking was assumed not only towards the declaring Powers, but also towards the other Signatory Powers. Consequently the claim in warranty can, if necessary, be made upon each and all of the Signatory Powers by the guaranted State, and the action of these Powers, without being compulsory, is henceforth provided for and authorized.

Regarding the meaning of the term *neutrality*, Baron de Courcel declared that, according to his view, « neutrality ought to be taken in its proper and technical sense, that is, regarding the position of a third party who refuses to take part in a struggle between several belligerents. »

The permanent neutrality of the Congo results from declarations made by the State, dated August 1, 1885, and December 28, 1894, referred to in the preceding chapter. It belongs to the category of permanent neutralities pure, that is to say, which are not modelled upon any other limitation of sovereignty than the one resulting from the undertaking to observe a neutrality in principle as regards conflicts between other States.

At the same time it is a neutrality of free election, to the renunciation of which Article 10 alludes by determining the consequences which might ensue.

It does not, moreover, constitute the only guarantee of peace given by the Berlin Act to the territories of the conventional basin. In fact, concerning the serious differences which may arise within the limits of, or relative to, these

territories, the Powers have taken the engagement by Article 12 to have recourse at all times to mediation, and have even provided for arbitration, insisting most particularly on the « serious value » of these proceedings « for the rising Congo State, which all the powers wish to surround with pacific guarantees. » And concerning conflicts foreign by their nature to African possessions, the Powers have moreover given the undertaking, in Article 11, to afford their good offices in view of preventing these possessions from beconing a seat of warfare.

The following is the text of Articles 10, 11 and 12, forming Chapter III. of the General Act of Berlin.

Declaration relative to the neutrality of territories included in the conventional basin of the Congo.

« ART. 10. — In order to give a new guarantee of security te trade and industry, and to encourage by the maintenance of peace, the development of civilization in the countries mentioned in Article 1, and placed under the free-trade system, the High Signatory Parties to the present Act, and those who shall hereafter adopt it, bind themselves to respect the neutrality of the territories, or portions of territories, belonging to the said countries, comprising therein the territorial waters, so long as the Powers which exercise or shall exercice the rights of Sovereignty or Protectorate over those territories, using their option of proclaiming themselves neutral shall fulfil the duties which neutrality requires.

» ART. 11. — In case a Power exercising rights of Sovereignty or Protectorate in the countries mentioned in Article 1, and placed under the free-trade system, shall be involved in a war, then the High Signatory Parties to the present Act, and those who shall hereafter adopt it, bind themselves to lend

their good offices in order that the territories belonging to this Power and comprised in the conventional free-trade zone shall by the common consent of this Power and of the other belligerent or belligerents, be placed during the war under the rule of neutrality, and considered as belonging to a non-belligerent State, the belligerents thenceforth abstaining from extending hostilities to the territories thus neutralized, and from using them as a basis for warlike operations.

» ART. 12. — In case a serious desagreement originating on the subject of, or in the limits of, the territories mentioned in Article 1 and placed under the free-trade system, shall arise between any Signatory Powers of the present Act, or the Powers which may become Parties to it, these Powers bind themselves before appealing to arms, to have recourse to the mediation of one or more of the friendly Powers.

» In a similar case the same Powers reserve to themselves the option of having recourse to arbitration. »

CHAPTER V.

Subjects of jurisdiction.

We may here take a broad view of the term « subjects of jurisdiction » not only including subjects proper but equally casual subjects of jurisdiction, such as foreigners who may depend, in a certain sense only, on the territorial sovereignty. The extensive assimilation in the Congo of foreigners to subjects warrants us in so doing.

Subjects of jurisdiction must be classed, according to the rights they enjoy and the government rule applicable to them, in two large categories : Non-natives and natives. All non-natives, either foreigners or of Congolese nationality, enjoy all civil rights.

Regarding the natives, the Congolese Civil Code admits of a distinction which shows the first fruit of civilizing evolution by dividing the Congolese into two very distinct classes : Citizens and natives. Natives who prove themselves worthy, by their primary initiation into the life of European people, by general submission to Congolese laws, by an aptitude for co-operation in the working of certain public services, to be raised above the masses by the Government, become *Citizens of the Realm*. They enjoy to a much larger extent all the legal advantages, and form with

naturalized foreigners the elite of the Congolese population proper.

Article 6 of the Civil Code (1) refers in the following terms to the persons enjoying full civil rights :

« Shall enjoy all civil rights : 1. Individuals who have obtained naturalization ; 2. Natives, whose birth or acknowledgment has been duly registered in the *état civil* books ; those who have had recourse to *état civil* officers to have their marriage registered ; those who have obtained their immatriculation on the civilized population's registers by public authority. »

Article 7 contains furthermore the following rule concerning foreigners of European or assimilated civilization.

« The foreigner residing in the Congo Free State enjoys full civil rights.

» He is protected in his person and in his property in the same manner as natives. »

As regards natives—Congolese who are not *citizens*—they remain, subject to the laws of public security and order, governed by their local custom.

Concerning the Civil Jurisdiction, if one of the two parties in a suit is a non-native, the State or a Public Department, the Court organized by the State is alone competent. On the other hand, even in the case of both parties being natives, if one of them appeals to the Court organized by the State, such Court may entertain the suit. (Decree of January 11, 1898.)

In matters of Criminal Jurisdiction, the principle is that the offence committed on the State's territory, whoever be the accused, is punished according to the penal law enacted by the State. However when the offence is com-

(1) Lycops, *Codes congolais et lois usuelles*, p. 162.

mitted by a native against another native, the Public Prosecutor is at liberty to abandon the prisoner to the native common law and to the jurisdiction of the local Chief. (Decree of April 27, 1889.)

Reserve is made concerning offences against the slave-trade laws which always come within the jurisdiction the State Courts. (Decree of July 1, 1891, Art. 14.)

Let us remark that Congolese law recognises not only physical persons but also corporate bodies, whose existence and rights are ruled according to the remarkable provisions of civil and commercial laws on this matter. Let us mention the Decree of December 28, 1888, on the incorporation of religious, scientific and philanthropic associations.

The native population of the Congo Free State belongs to a large extent to the Bantu race. Estimates of the numbers of this population, unevenly spread over the territory, vary beteewn fourteen and thirty millions.

Residents of European or American nationality in the Congo are divided as follows :—Germans 63, Americans 30, British 98, Austrians 7, Belgians 1,465, Danish 29, Spanish 10, French 55, Greeks 5, Dutch 126, Italians 156, Luxemburgers 25, Norwegians 22, Portuguese 108, Russians 13, Swedish 105, Swiss 21, other nationalities 7, total 2,345.

CHAPTER VI.

The policy of the State.

Government, in its simplest form, is sovereignty in action. Policy is the science and art of Government.

The policy of the various States offers certain points of resemblance resulting from the conditions, in some respects common, imposed in the Government of men. Policy is differentiated according to the varying ideas of the Government of the special conditions in which is placed the society it has to control. Governments are distinguished and politically classified by this fundamental conception and by the action they adopt to realize it.

The Government of the Congo Free State has to work under special conditions. Its field of action, its aims and objects, ways and means to be employed in respect of the former and the latter, all contribute to give this Government a special character, and all was at the outset calculated to surround its task with exceptional difficulties Unaided by the fruits of experience in this unexplored and barbarous land, the government had to solve the difficult problem of the installation and maintenance of an organized State. The problem had to be solved under conditions which at first sight appeared to run counter to

colonial traditions, and which rendered the self-supporting principle not a matter of convenience or prudent colonial policy, but a rule of vital necessity. The problem again, had to be solved without bringing into conflict certain elements which are difficult to assimilate, namely : the exigencies of commercial freedom as recognized by the conventions, the exigencies of the civilization of the natives and their material and moral improvement, the exigencies of the life and progress of the State itself considered as the organic principle of the new political society, and finally the exigencies or rather conditions relating to the personal union of the Free State with Belgium.

In the accomplishment of this complex task, the State was first inspired with the principle of a scrupulous respect for international engagements. This principle was never lost sight of, even at the critical periods of its life following on the Berlin Conference when a regime of complete exemption from import duties weighed heavily upon its economic existence.

The State was also filled with the determination to faithfully respect the declaration of permanent neutrality which it made a short time after the Berlin Conference. As we have remarked elsewhere, this was an honorable action towards the Powers who were thus reassured concerning the policy and pacific autonomy of the new State. It was also an act of prudence which protected the Congo State from the solicitations of other States interested in influencing its political life (1).

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(1) *Rapport au Sénat sur le régime des colonies et sur la revision de l'article 1er de la Constitution*, 25 juillet 1893.

Neutrality is certainly not considered nowadays as a negative position, which formerly implied a state of passive ness in the frequently precarious hope of escaping the fury of the belligerents. Neutrality no longer means immobility.

The principle of common peace and equal sovereignty to-day determines the basis, and regulates the limits, of the regime which exists between a State carrying on a war and States at peace with the world. Fruitful activity in the sphere of peaceful evolution is all the more legitimate for a permanently neutral state that war is not its function. This legitimate activity is in perfect harmony with the security to be loyally afforded to the other Powers by the neutral State in consequence of its special status.

While remaining faithful to the obligations of the conventions and those of permanent neutrality, the policy of the State has ever been to aid in civilization. This was clearly defined by its sovereign in aiming at the uplifting and gradual civilization and development of the natives. This object is being attained by the preservation of the native races by defending them against such scourges as man hunting, slave-trading, the abuses resulting from the introduction of fire-arms and spirits; by the abolition of most barbarous customs such as cannibalism and human sacrifices, by the suppression of inter-tribal wars; by the gradual improvement of the material and moral conditions of existence of the black race, by teaching the natives to work, by making them appreciate its rewards, by protecting and helping them, and by seconding all efforts tending to their regeneration.

The State has learnt by experience how necessary the

extension and development of sound government institutions are in the carrying out of its task. Its policy in this direction has had admirable and plenteous results. To properly accomplish such a duty both energy and material resources—men and money in fact—are indispensable.

Men are supplied in abundance from Belgium and especially from the Belgian army, while other countries also supply a quota of workers.

As for material resources, the financial policy of the State, which was at first seriously threatened in its most productive sources of income in consequence of a draconian regime of import duties, passed through various vicissitudes which were overcome by the munificence of the Sovereign and the help of the Belgian Government. To-day the situation is modified and Baron van Eetvelde, Minister of State for the Congo, in a letter to Count de Smet de Naeyer, dated March 28, 1901, expressed himself thus :—

« The convention concluded in 1890 between Belgium and the Congo Free State expired on the 18th February last. It has rendered the Free State the greatest services gratefully acknowledged by the latter, for the progress made, thanks to the financial help of Belgium, are such that the renewal of the convention has no longer any « raison d'être ». The Congo Government can give no better testimony of the successful results obtained than by declaring that it ceases to appeal for any pecuniary aid from Belgium. »

The limited nature of the resources of which the authorities dispose, as against the great needs, compels them to

be careful of the public money. But the policy of the State, while being economic, is not parsimonious.

When the advantages of a given undertaking in the Congo are once demonstrated, money is always forthcoming to carry it out successfully. Sometimes private initiative, encouraged by the State, accepts the task : such was the case with the Congo railway. In other instances the State again takes the initiative, as in the case of the Great Lakes railway; in every case public interests— and that is the great point,—receives satisfaction.

We have just seen how the policy of the State tends to improve means of communication and especially railways so important for the development of Africa's natural wealth and the general advance of civilization.

The turning to account of the natural wealth of the country is also one of the first solicitudes of the State and inspires a number of characteristic measures of its policy. The State realizes that if trade in men is to be stopped, trade in goods must be encouraged.

Measures tending to utilize the endless resources of equatorial Africa are a precious auxiliary from this point of view. They answer to the full object of colonization which, far from excluding the legitimate interest of colonizing agencies or setting it up against the interest of the colonized regions harmonises them in a superior synthesis, where the one and the other receive satisfaction.

Just because the work of civilization is immense, the policy of the State is to welcome to help of all private enterprises, on due compliance with the laws, calculated to help in its mighty task. Commerce as representing material influences and missions as representing moral

effort, thus work side by side under te œgis of the State.

The growth of the import and export trade is evidence of economic and commercial prosperity. The increase in the number of mission stations of various sects demonstrates the happy results which the protection of religious and christian influences by the State have brought about.

The State, ever mindful of its early days, never misses an opportunity of aiding or undertaking scientific enterprises tending to a wider knowledge of the African continent.

The policy of the State, while loyally keeping its obligations towards foreigners, never loses sight of the special ties which connect the Congo with Belgium nor of the participation by the latter in the benefits accruing from the colonization of a country to which it has so vastly contributed.

In its efforts to solve the various problems of its mission, the State does not claim to be infallible or faultless. Let him who can claim to be so in colonial matters cast the first stone! Aiming, as far as possible, at the repression of crime in a country where crime cannot be wiped out once and for all, the State cannot be held responsible for individual offences.

To avoid errors and misunderstandings the State endeavours, as far as the special conditions of its task will allow, to profit by the experience of other colonisers. British and Dutch colonisation are often its chosen models. It imitates these experienced colonisers without, however, expecting to obtain all at once such results as theirs or intending to follow them blindly. Neither does it persist

in methods which have been recognized as erroneous, but amends them where possible. Being unable to reform at one stroke, it is frequently led to seek *partial and progressive improvements*. Its policy is essentially a work of *methodical experiment and practical adaptation*. Even when colonial science is more advanced than it is to-day, that policy will retain its *raison d'être* and will still-keep its merits.

CHAPTER VII.

Legislation.

Law is the sovereign act par excellence, the regulating act of common life in view of common welfare.

In colonizing countries, it has long been recognized that the laws of a colony must be adapted to its special circumstances and that the legislation of the mother country is not always practicable, however good it may be in itself. Great Britain, the leading country in the art of civilization, without relinquishing the rights of its Parliament to pass compulsory laws for all its colonies, has for a long time practised in the crown colonies the system of attribution of regulating functions to the King and to his subordinates, the Governors or High Commissionners. England has succeeded in submitting to this same regime the colonies of occupation whose social conditions do not allow of local representative institutions (1).

In the Congo Free State, reasons inherent to the very nature of power, combined with universally accepted

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(1) See for the *Straits Settlements* (1886), 20 and 30 Vict. C CXV, and for the other colonies of occupation without representative institutions *British Settlements Act* (1887), 50 and 51 Vict. C. LIV.

reasons of opportunity, make of this practice a necessary rule.

If we seek the main characteristics of the Congolese legislative system, we find that the system is distinguished by the following qualities : unity, celerity and adaptability.

Unity is ensured by the fact that the Sovereign combines in himself both the initiative and the final decision in all matters of legislation.

Celerity results from the very absence of any division of the legislative Sovereignty in various branches. The law is the instrument always at the hand of the Sovereign with a view of enabling him to act as circumstances demand and when necessary without the slightest delay.

Adaptability results not only from the perfect comprehension of the needs of the State on the part of its founder and Sovereign but also from the facility with which the local authorities are in a position to deal with the various conditions which present themselves and the various changes which may occur.

The due administration of the law with regard to the details connected with technical matters is moreover assured by regulating measures of a secondary nature. As shall be explained hereafter, the Secretary of State in Brussels and the Governor General in the Congo can take those measures under the form of bye-laws or regulations.

Finally it is to be remarked that consulting bodies of advisers to the Sovereign in Europe and to the Governor General in the Congo have been formed and invested with functions likely to facilitate the exercise of the legislative Power, without being able to hamper it;—in about the same way as those auxiliary legislative and administrative

councils which are assisting the Governors or high Commissioners of some English colonies. These consulting, bodies are as follow :—for the Sovereign, the *Conseil supérieur de l'État indépendant du Congo* whose functions are defined by the decree of April 16, 1889 ; for the Governor in the Congo, the *Comité consultatif* whose advice the chief of the local Government, according to a decree of April 16, 1887, takes on all measures of general interest which it may be expedient to adopt or to propose to the central Government. The regulating Acts which emanate from the King-Sovereign bear the name of Decrees. They are countersigned by the Secretary of State, in virtue of the decree of September 1st, 1894 (1).

The publication of official Acts is regulated by the decree of January 16, 1886, whose scope has been precisely defined and developed by a second decree dated January 5, 1899.

The Power of issuing orders entrusted to the Governor is regulated as follows by the decree of April 16, 1887, paragraph 6 :

« The Governor-General may issue orders having the force of law. He may also, in urgent cases, suspend by en order the execution of a decree of the Sovereign.

» These orders shall not remain in force after the expiration

(1) They are issued in the following form :—

Leopold II, King of the Belgians :
Sovereign of the Congo Free State
To all present and to come : greeting
We have decreed and do decreet...
Given at , the
LEOPOLD.

By the Sovereign-King :
The Secretary of State,

of six months, if they have not been approved by Us during that interval.

» He cannot however without Our express authorization, negotiate any loan in the State's name, nor assume any obligations towards foreign countries. »

From this it results that, apart from the restrictions specified in clause 3 of this article, the Governor General may legislate on all matters, even on those not dealt with by a decree, but that a case of urgency alone empowers him to suspend the execution of an existing necree.

Article 6 decides nothing as to the right of the Governor General to introduce, by order, modifications to a decree; but it has been interpreted, conformably to its spirit, in the sense that the Governor General has an equal right both to modify and to suspend a decree.

A rapid glance at the whole of the Congo laws is sufficient to show that the legislative power is exercised in a remarkable manner in all parts of the law (1).

I. *Civil legislation.* — The Civil law comprizes a modification of the laws on persons (Decree of May 4, 1895) which include the rules concerning the nationality, the enjoyment of civil rights, the certificates of « état civil », the absence, the marriage, the divorce and separation, the filiation, the adoption, the paternal authority, the emancipation, the majority, the guardianship and the privation of civil rights. These provisions are generally borrowed from the Code Napoleon, which is in force in Belgium, with the exception of certain modifications

(1) See LYCOPS, *Codes congolais et lois usuelles en vigueur au Congo*, collationnés d'après les textes officiels et annotés. Bruxelles, 1900. — CATTIER, *Droit et administration de l'État indépendant du Congo*. Bruxelles, 1898. — PIERANTONI (Ricardo), *Le Traité de Berlin et l'État indépendant du Congo*, trad. française. Paris, 1901.

deemed necessary because of the special circumstances to be taken in account.

The modifications concern especially the nationality, the enjoyment of civil rights, marriage and guardianship. We have pointed out, while dealing with dependents the rules of the Code, concerning the enjoyment of civil rights. The capacity to contract marriage exists from the age of 12 and 14 years (art. 96). The principle of monogamy is safeguarded (art. 101). As for guardianship it assumes a marked character as an institution of public law and the position of the magistrate is strengthened.

The Congo civil law, contains besides a complete codification of the Legislation on *obligations and contracts* (Decree of July 30, 1888). The article 409 of that decree provides that hiring or contract of service between black people and non-natives is regulated by a special law. This legislation is laid down in the decree of November 8, 1888. The idea which has guided the legislator in drawing up this remarkable document, the text of which is given here after is the idea of protecting the weak.

The matter of succession has not been generally dealt with. For the natives this matter is regulated by custom. For non-natives the question of inheritance is practically regulated by the national law of the deceased person. With respect to the process of liquidation, a decree of December 28, 1888. concerning the successions of foreigners dying in the Congo State without heirs or executors, provides certain conservatory measures. Moreover a series of organic orders regulates the liquidation of the estate of non-natives, be they agents of the State or not (orders of July 31, 1891, November 15, 1895, March 26, 1896, July 13, 1897).

There are no orders organizing the matter of mortgage. The decree of January 27, 1896, establishes fixed and proportional fees on mortgage debts. The Government is anxious to deal with the matter which will undoubtedly be settled before long. In the meantime recourse is to be made to the general rules of land tenure. Mortgage debts must be registered; they are mentioned on the back of the title deed and on the registration Certificate. To enforce his rights, the creditor may have

recourse to the Order of November 12, 1886, on the attachment of real estate. The matter of liens is to be settled as well as that of mortgage. Only one decree regulates it : the decree of April 15, 1896, dealing with the rank of preference creditors.

II. *Legislation on land, forests and mines.* — We will examine in a special chapter that legislation which is closely connected with colonial law.

III. *Commercial and industrial legislation.* — In commercial law, we must quote the Order of December 21, 1886, on bankruptcy, approved by the Decree of March 18, 1897.

The Decree of February 27, 1887, on commercial Companies, one of the first issued, contains various gaps. A scheme was drawn up to modify and complete it.

We may further mention the Decree of October 16, 1896, on commercial caravans travelling in the interior. The purpose of this decree has been above all te prevent any attempt on the natives, individual liberty.

In the matter of industrial law, legislative Acts were passed concerning patents (Decree of October 29 and order of October 30, 1886) and concerning trade marks (Decree of April 26 and orders of April 27 and May 19, 1886).

IV. *Notarial legislation.* — The order of July 12, 1886, regulates the forms in which authentic deeds are to be made up by the notaries in the Congo. Such deeds « are to be enforced in the whole territory of the Congo Free State and are to be held as conclusive evidence before the courts unless there exists written proofs to the contrary. » There are 26 notarial offices in the Congo.

V. *Legislation, on the incorporation of Societies.* — Religious, scientific and philanthropic Societies may be incorporated under the conditions laid down by the Decree of December 28, 1888.

VI. *Legislation on private international law.* — This matter is thoroughly regulated in a remarkable manner by the decree of February 20, 1891, which was entered in the Civil Code (art. 7 and following).

VII. *Criminal legislation.* — The Order of the Secretary of

State of December 19, 1896, issued in compliance with the Decree of December 2, of the same year, has coordinated the various provisions of criminal law existing at that time.

The Penal Code, so coordinated, is divided in two books.

Book I is headed : *Infractions and Repression in general.* The Congo Penal Code has left aside the tripartite division of « crimes, offences and contraventions » in order to preserve only the general denomination of « Infraction, » which includes every infringement of the criminal law.

According to article 87 the punishments provided for infractions are : Death, penal servitude, fine and special confiscation.

All convicts, says article 89, who have been sentenced to penal servitude, shall undergo such punishment in the prisons of the State; imprisonment in common, shall be reserved to natives, imprisonment in separate cells to non-natives. They shall be employed, either in the interior of these prisons or out of doors, to one of the works authorized by the regulations of the prison or determined by the Governor-General, unless when dispensed by the Governor-General in exceptional cases. »

Constantly actuated by a spirit of protection of the natives, the legislator has taken special steps in order to insure redress and compensation to natives. The article 95 of book I of the Penal Code says : « The court shall fix the amount of the damages. When the injured party is a native, the Court can order ex officio such restitution and damages as may be due according to local customs. »

The Decree of December 2, 1896, which has been incorporated in the Penal Code (art. 112 to 119 of book I) has introduced in the Congo legislation the principle of « the conditional release of convicts. »

The book II, *On infractions and their repression in particular*, contains a considerable amount of matters but gathered without unity. The legislator can not be criticized here, for, in a new State like the Congo, it is not possible to frame at once a complete Code of criminal laws. It is almost inevitable that such a Code should be built up gradually according to the requirements

shown by circumstances. The provisions co-ordinated in virtue of the Order of December 19, 1896, and forming the book II of the Code, are far from containing all the provisions of criminal law in force at the present time.

Among those that are wanting, some have been promulgated since that date, while others are contained in Decrees orders, or special instructions.

Let us point out as worthy of notice in the codified part of the penal legislation, the article 6, n° 4. the purpose of which is to check the barbarous custom consisting in a highly dangerous judicial ordeals, called N' Kassa; also the article 6, n° 6, which punishes cannibalism; and articles 11 to 13 which punish attempts against individual freedom.

In the non codified part of the penal legislation, let us notice the Decree of July 1, 1891, concerning the repression of the slave-trade and the numerous provisions concerning offences against the law on the importation of arms and spirits. These three points have been dealt with in conformity with the measures agreed upon by the Conferences of Brussels and Berlin.

The Decrees of December 22, 1888, November 24, 1890 and December 1, 1897, are likewise noticeable; they form the 29 articles of the military Penal Code.

VII. *Legislation relating to procedure.* — A series of Decrees and orders holds the place of a Code of civil and commercial procedure and of a Code of criminal procedure. We shall make them known when dealing with the judicial organization.

VIII. *Legislation respecting public law, administrative law and judicial law.* — We have just pointed out the foundations of the Congo private law and penal law. In the following chapters we shall deal with the principal organic rules of the administrative and judicial public law.

The legislation which we have hereabove outlined presents some gaps. Former legislations, being the result of the work of legal organisms during centuries

were not free from them. After all we must not expect from youth the experience of old age.

It is interesting to note how in the Congo these inevitable gaps in legislation can and ought to be filled up by judges who have to apply the law to all the cases which the judicial life may involve.

An order of May 14, 1896, forming to-day a sort of preliminary title of the Civil Code, contains the following provisions :—

« ARTICLE FIRST. — When the matter in dispute has not been dealt with by a Decree or an order already promulgated, the cases which are within the cognizance of the Congo Courts shall be decided according to local customs and general principles of law and justice.

» ART. 2. — When the settlement of a dispute involves the application of a local custom, the judge may take the opinion of one or more natives or non-natives, chosen among the most capable people of the place. »

Thus the legislator obliges the judge to fill up the gaps in the written law by ordering him to apply in such cases the local customs and the general principles of law, viz the legal rules generally recognised in the legislations of civilized nations and also the equity, viz the natural light of the reason which dictates the rules of justice independently of all written law.

The application of the leading principles formulated by the order of May 14, 1886, has given rise to a series of decisions (1). The tendency of the Congolese Courts is to apply the Belgian law in cases which are not met by the

(1) See particularly : *Jurisprudence de l'État indépendant du Congo*, par LYCOPS et TOUCHARD, pp. 50 and 68.

Congo law, because then the judge considers the Belgian law as the expression of the general principles of law and as the most general foundation of the Congolese law (1). This opinion has been concurred into by the Government on several occasions. In its reports to the King-Sovereign, in 1891, the Secretary of State (then Administrator General) was saying : « In matters not yet dealt with by regulations, the judges are to follow the general principles of the Belgian law and the local customs, as far as these customs do not conflict with the main principles of order and civilization. »

These views have been shared by foreign decisions. An English Court had to decide whether a probate was necessary in England for a will made in the Congo according to Belgian forms (an holograph will). And the Court was of opinion that the a probate was necessary, because, « no Congolese law having dealt with the matter, the general principles of law and justice are to be applied and because the Congolese judges should, in such case, follow the principles of the Belgian law as general principles of law and justice. »

(1) *Id.*, IBID., pp. 14 and 92. Judgment of the « Conseil d'appel de Boma » of May 1, 1897, and judgment of the « Tribunal d'appel de Boma » of September 11, 1900.

CHAPTER VIII.

Administration.

To provide for the execution of the laws and for regulations of general interest, is the office of the administration.

The auxiliary officials of the Sovereign in his Governmental mission are divided into two groups; the first constitutes the Central Government, residing in Brussels, and the other constitutes the Local Government, established in Africa. The head of the first is the Secretary of State; the head of the second is the Governor-General.

I.

The Central Government.

The Central Government includes one Secretary of State, three Secretaries General, at the head of the three administrative Departments, a Treasurer General, a Chief of the Office of the Secretary of State, and sundry officials.

A *Conseil supérieur* of the Congo Free State is established at the seat of the Central Government.

There are, moreover, in Brussels, several institutions and auxiliary services of which we will speak later.

1. — THE SECRETARY OF STATE.

A Decree of September 1, 1894, regarding the Central Government has replaced a Decree of October 13, 1885. It reads as follows :—

« ARTICLE FIRST. — The Central Government is placed under the direction of a Secretary of State, appointed by Us (1). He countersigns and carries out the Orders of the King-Sovereign.

» ART. 2. — The Secretary of State is assisted, besides the Chief of his Office, by a Treasurer General, and three Secretaries General, appointed by Us. The duties of these officials, forasmuch as they shall not have been defined by Us, shall be regulated by the Secretary of State. He may, to the extent he thinks fit, delegate to these officials part of his administrative duties.

» ART. 3. — The Secretary of State regulates the organization and the duties of the various Departments of the Central Government. He appoints the officials up to the rank of Head-Clerk. He fixes their salaries, within the limits of the Budget provided by Us. »

2. — THE THREE DEPARTMENTS (2). — THE TREASURY.

The organic Decree of the Central Government, issued by the Secretary of State on October 10, 1894, includes the following provisions.

« ARTICLE FIRST. —The Central Government includes, beside the

(1) By Order of the King-Sovereign, Baron van Eetvelde has taken charge, at the date of the Decree, of the superior direction of all the Departments of the Central Government. (*Bulletin officiel*, October, 1894.)

(2) The Secretaries General of the three Departments are : M. le Chevalier de Cuvelier (Foreign Affairs and Justice), M. Droogmans (Finance) and M. Liebrechts (Interior). The Treasurer General is M. Pochez. The Comptroller General is M. Arnold. The Chief of the Office of the Secretary General is M. Baerts.

Office of the Secretary of State, the Treasury General, the Department of Foreign Affairs, Finances and Interior, respectively administered under the high direction and control of the Secretary of State by a Treasurer General and three Secretaries General, appointed by the King-Sovereign.

» ART. 2. — The duties of these officials are defined as follows :—

» *Treasurer general.*

» General Audit of income and expenditure of the State; Public Debt, service of the Treasury. »

» *Secretary General for Foreign Affairs.*

» International relations, Diplomatic and Consular service; extradition, « état civil, » successions, etc. of foreigners, harbours and roadsteads, trading companies, emigration, posts and telegraphs, judicial organization, civil, commercial and penal legislation, charity, public worship and education.

» *Secretary General for Finances.*

» General budget of the State, establishment and collection of taxes or duties of all kinds, commercial and monetary questions and statistics, home and foreign trade, land system, surveys, mortgages, State, concessions of domain, the Congo railway, mines.

» *Secretary General for Home Affairs.*

» Administration and police of the provinces and districts, public military force, ammunition and arms, State navy, transport service, scientific collections, public health, medical service, roads and communications, intendancy, public works, building, maintaining and furniture of the State buildings, agriculture, industry and plantations, private domain of the State.

» ART. 3. — The Treasurer General and the Secretaries General ensure the progress of the various services placed under their direction, according to the general instructions given to them by the Secretary of State.

» They refer to the Secretary of State by a written report, whenever business arises involving new principles or on which the orders of the King-Sovereign must be taken. They refer to him in every case involving the modification or construction,

orders, regulations or written instructions of the Central Government or the Governor General.

» ART. 9. — The Treasurer General has the supervision over the services of the general accountancy and treasury, under the direct authority of the Secretary of State and according the Decree of October 6, 1885.

» ART. 14. — At the head of the office of the Secretary of State is placed an official bearing the title of « Chief of the Office. » He depends directly on the Secretary of State. »

An order issued by the Secretary of State under date of April 16, 1896, creates a special service for controlling the receipts and expenditure of the Central Administration.

An order of February 14, 1901, concerning this service, contains the following provisions :—

« ARTICLE FIRST. — The service of the controle of the receipts and expenditure of the State budget, established by the order of April 16, 1896, is placed under the supervision of a Director appointed by the King-Sovereign.

» ART. 3. — No payment being incumbent on the budget shall be made by the Treasury except on the production of an order issued by the competent service and bearing the signature of the Control.

» ART. 5. — The Control shall take special care that all sums either due to or intended for the State be paid without delay to the Treasury. It shall apply for all necessary information to that effect. It shall determine to which headings of receipts the payments made refer. »

The staff of the various offices completes the list of the officials composing the Central Goverment. The subdivisions of the departments and the work in the various offices are regulated by articles 18 and *seq.* of the Order of October 10, 1894.

3. — THE HIGH COUNCIL OF THE CONGO FREE STATE.

There is a High Council of the Congo Free State connected with the Central Government in Belgium; it was established by the Decree of April 16, 1889, the provisions of which are as follows :—

« ART. 1. — A supreme Court, the seat of which is in Brussels, is instituted under the name of « The High Council. »

» ART. 2. — The High Council, as Cour de Cassation, shall take cognizance of appeals lodged against all final decisions in civil and commercial matters.

» Such appeal must be based upon infringements of private law or of international law, or upon inobservance of formal rules, either substantial or prescribed under penalty of the proceedings being null and void.

» In the case of the former decision being reversed, the Council shall decide the case upon its merits.

» ART. 3. — In civil and commercial matters, when the amount in dispute is above 25,000 francs, the High Council shall take cognizance of the appeals lodged against decisions delivered by the Court of Appeal at Boma.

[In criminal matters the High Council shall take cognizance of any offences committed by the judges and officers of the public prosecution according to articles 57 and 58 of the Decree of April 27, 1889. Decree of October 8, 1890.]

» ART. 4. — The High Council is composed of a President, Councillors, Auditors and a Secretary, all appointed by Us.

» The Secretary and the Auditors have no deliberative vote.

» The duties of the Auditors shall be to report on the matters brought before the Council.

» ART. 5. — Except in special cases where a larger number of Councillors might be required by Us, the decisions shall be delivered by five Councillors in case of article 2, and by three Councillors in case of article 3.

» No Councillor may be called upon to decide upon an appeal lodged against a decision in a case in which he formerly sat.

» ART. 6. — The members of the High Council shall give their opinion upon all questions about which We may deem fit to consult them.

» ART. 7. — Subsequent Decrees shall regulate the procedure before the High Council and the manner in which its attributions shall be exercised. »

The regulations foreseen by article 7 have been laid down in the Decree of October 8, 1890, to which is to be added a Decree of March 24, 1893, creating a Permanent Committee within the Council and the order of July 2, 1898, creating a Registrar's Office for the High Council.

4. — THE AUXILIARY INSTITUTIONS LOCATED IN BELGIUM.

As institutions distinct from the Government, but being auxiliaries of the Government Departments, the « Saving Bank » (*Caisse d'épargne*) established by Decree of December 9, 1891, must be mentioned; also the *Congo Museum* at Tervueren, which, according to a Decree of December 3, 1902, is to be reconstructed and enlarged; the *Red-Cross Society for the Congo and Africa*, established by Decree of December 31, 1888, and recognized in 1889 by the Central Committee of Geneva.

II.

The Local Government.

The seat of the Local Government is at Boma. It is placed under the superintendance of a Governor-General.

The Local Government was organized by Decree of April 16, 1887, modified by the Decrees of June 22, 1889, and February 28, 1890.

1. — THE GOVERNOR-GENERAL.

The Governor-General is appointed by the Sovereign as his personal representative to administer the territory. He exercises his functions under the supervision of the Central Government, but with the freedom of action rendered necessary by his residence in the heart of the country he governs. Article I of the fundamental Decree defines the character and the principal mission of the Governor-General :—

« The Governor-General represents the sovereign authority in the territory of the State. He has the duty to administer the country, and to carry out the measures decided upon by the Central Government.

» The Governor-General has the supreme control over all the administrative departments and military services established in the State. »

According to article 6 of the fundamental Decree, the Governor has the power of issuing Decrees or ordinances under the conditions already mentioned.

According to article 7 he is invested with the power of making regulations in administrative matters and in matters of police, which power is defined as follows :—

« The Governor-General is empowered besides to make all regulations to be observed in matters of police and of public administration.

The aforesaid regulations may enact penalties not exceeding seven days of penal servitude and 200 francs fine.

In the following chapter we will examine the functions of the Governor in police matters. The powers conferred on him by article 7 are exercised in form of decisions. Unlike the orders, the decisions are enforceable without approbation by the Sovereign being necessary.

The principal assistants to the Governor in the Local Government are appointed by the Sovereign, but, according to article 4 the Governor has the right, in case of necessity, to fill provisionally the vacancies occurring on his staff.

According to article 5 of the organic Decree, the Governor-General is also authorized, if he deems fit for the good administration of the country, to commission for a maximum of one year, a functionary intrusted with the inspection or the administration of a part of the State territory. A commission-letter states the extent and duration of the powers so deputed to the said functionary by the Governor-General. The Governor's right to confide special missions connected with his functions and the requirements of the Local Government is, in all respects, of a general character.

In regard to the case of absence or incapacity of the Governor, the article 8 of the organic Decree provides for a system of casual interims,—so as to always secure for the administration the presence of a head.

The Sovereign may appoint a Vice-Governor, either to assist the head of the Local Government or act as Governor-General.

2. — STATE INSPECTOR.— THE SECRETARY GENERAL'S OFFICE. DIRECTOR'S DEPARTMENTS.

In addition to the Vice-Governor, the Governor-General is by virtue of article 2 of the organic Decree, assisted by a State Inspector, a Secretary-General and one or more Directors, all of whom are appointed and dismissed by Decree. So far as the duties of said functionaries are not determined by a Decree, they are dictated by the Governor-General.

The title of State Inspector and that of Commissioner-General are sometimes bestowed upon various functionaries, as ranks in the administrative hierarchy, without modification or specification of their attributions.

There are seven directors' departments viz. :—

Director of the Department of Justice;
» of Conveyances, Marine and Public-Works;
» of Intendancy;
» of Agriculture and Industry;
» of the Defensive works;
» of the Public Force;
» of Finance.

The State officials in the Congo, are 1,272 in number.

3. — THE ADVISORY COMMITTEE.

The organisation of an Advisory Committee, appointed by the Governor and operating under his presidency, has been regulated by articles 9 and 10 of the organic Decree in the following manner, viz. :—

« Art. 9. — An « Advisory Committee » under the presi-

dency of the Governor-General is instituted and is composed as follows, viz. :—

» The Vice-Governor-General, the State Inspector, the Judge of Appeal, the Secretary-General, the Directors, the Curator of land titles and a certain number of members, not to exceed five, to be appointed for one year by the Governor-General. The Governor-General being absent or prevented, the Presidency over the Committee is devolved on his representative whom failing, to the President of the « Executive Committee. »

» ART. 10. — The Governor-General is to take the opinion of the Committee in all matters of general interest requiring to be dealt with, or to be referred to the Central Government.

« He is not bound to observe this advice. »

4. — THE DISTRICT COMMISSIONERS.

The general division of the territory from an administrative point of view, is based on the districts. At the head of this administrative division is a District commissioner. Article 3 of the organic Decree relates thereto as follows, viz. :—

« District-commissioners represent the general administration of the State in the circumscriptions allotted to them.

» Their duties, as far as they are not fixed by decrees or orders of the Central Government, are laid down by the Governor-General.

» The District-commissioners and other officials of the State, when they have not received their appointment from the Central Government, are nominated by the Governor-General.

» The residence of said functionaries is designated by the Governor-General.

» — The Decree of July 17, 1895 divided the territory into fifteen districts, viz. : The districts of : 1. Banana ; 2. Boma ; 3. Matadi ; 4. the Falls ; 5. East Kwango ; 6. Kassaï ; 7. Lualaba ; 8. Stanley-Pool ; 9. Lake Leopold II. ; 10. the Equator ; 11. the

Bangalas; 12. the Aruwimi; 13. the Ubanghi; 14. Stanley Falls; 15. Uele.

» Since then,various changes have been made in this original division.

» The Lualaba-Kassaï forms a single district.

» The District of the Stanley-Falls has been named Eastern-Province (July 15, 1898). This province has been divided into five administrative zones by the circular of December 23, 1900. Said zones are: the zones of Stanley-Falls; Upper-Ituri; Ponthierville; Manyema and Tanganika. Lastly, a part of these zones is divided into sectors for the purpose of economic administration.

» The District of Uele has equally been divided into five zones: Rubi-Uele, Uele-Bomu, Makua, Makraka, Lado.

» Then finally there is also a circumscription merely designated under the name of Ruzizi-Kivu territory. »

The District commissioner centralizes the administration in the territory appointed to him. He attends to the execution of the decrees, orders, instructions and ordinances of both the central and local Governments. His general duty consists in improving the effective occupation of his district, consolidating the authority of the State and instructing the population in the civilizing mission aimed at by the Government. He is required to regularly address reports to the Governor.

The administration of the country, the protection of the non-natives, the civilization of the natives, are also in his duties. We will hereinafter lay stress upon the execution of his mission as regards good order, when speaking of the police. Amongst matters to which his careful attention should be specially directed, the instructions point out the personnel of the stations and intercourse with the commanders of posts, the recruiting for the public-force,

the economical system, the protection of missions, the help to be afforded to private persons or to companies, and the watch upon their mode of behaving; the tutelar measures concerning the negroes and the suppression of barbarian practices; the colonies of native children; the execution of the decrees and orders concerning slave-trading, arms, spirits, etc.

5. — THE ZONE CHIEFS. THE POST COMMANDERS. COMMANDERS OF SPECIAL MISSIONS.

If the district comprises zone-chiefs, they must exercise their powers in accordance with the instructions of the Government, under the control and authority of the District-commissioner.

The Post-commanders are obliged to observe the general rules in force in the State and are not to undertake anything beyond the programme fixed for them by the District commissioner on whom they are dependent, without a formal authority from said latter.

The intercourse between the commanders of special missions and the District-commissioner may change according to the character of said mission. Generally speaking they are forbidden to be concerned in politics.

At the present time, there are in the Congo, 251 posts and stations and 70 posts for culture and cattle breeding.

« It is necessary, » state the Instructions, « that the efforts of all the officials in one district be consolidated to arrive at the realization of the programme, the execution of which the District-commissioner superintends. »

6. — SPECIAL ADMINISTRATIVE SERVICES.

Besides the general administration proper, there are as many special services as experience proved to be neeted in order to meet the various administrative requirements, chiefly those of a technical kind. Such are : the sanitary service, the service of land titles, the postal service, etc.

The sanitary service comprises, more particularly, 27 medical doctors, 20 sanitary commissions and 6 cow-pox offices.

7. — THE NATIVE CHIEFTAINCIES. THE RESIDENTS.

The institution of native chieftaincies tends to tighten the relations between the State and the natives, to consolidate the authority of the Government on the populations, to prepare their moral and physical transformation and to facilitate their regular contribution to the public work. The decentralization of power that it produces in certain respects, is balanced either by the connections between the chiefs and the District-commissioners or by the appointment, to said chiefs, of residents, such as those exemplified in the Dutch colonial organization.

The Decree of October 6, 1891, regulates as follows the broad lines of the native chiefdoms :—

« ARTICLE FIRST. — In certain given regions, determined by the Governor-General the native chiefdoms will be acknowledged as such, provided the chiefs have, by the Governor-General or in his name, been confirmed in the authority attributed to them by custom.

» ART. 2. — The governmental appointment will appear in an official Memorandum, in duplicate originals, one of which will be handed to the acknowledged chief, and the other kept in the records of the local government.

» ART. 3. — The District-commissioners will draw up a synopsis of the yearly prestations to be purveyed by the native chiefs.

» ART. 4. — The native chiefs will exercise their authority according to usage and custom, provided same be not contrary to public order, and in accordance with the laws of the State. They will be under the authority and superintendance of the Districts-commissioners or their delegates. »

The acknowledged native chiefdoms amount, up to date, to 258 in number.

The institution of residents dates from the Decree of January 29, 1892, as follows :—

« ARTICLE FIRST. — These functionaries represent the authority of the State with the native chiefs; they perform the duties of their charge in accordance with a commission-letter handed to them by the Governor-General or his delegate and within the limits of the territory submitted to the authority of the native chief.

» ART. 2. — The residents are appointed by the Sovereign.

» ART. 3. — They perform within the territorial limits mentioned in article 1, the duties of judge of the Court-martial, and of police officer. »

We will add that the appointment of residents is very unfrequent and that generally all matters in connection with native chiefs devolve upon the District-commissioner.

CHAPTER IX.

The Police.

The mission of the police is to maintain social order.

When it effects this by wise measures calculated to prevent or instantly check disturbances of social life, it is the helpmate of Government. It provides for the maintenance of order in the same way as the Government seeks to further the interests of the community in general. It is then styled the administrative police.

When it endeavours to re-establish order by tracking those who have been guilty of a breach of the law and handing them over to the Courts it is the auxiliary of justice, and is for this reason styled the judicial police.

1. — THE ADMINISTRATIVE POLICE.

The rights of the police in their duty of maintaining order throughout the country and in respect of every element, persons or things, which might compromise it, is delegated by the Sovereign to the Governor General, subject of course to the obligation to conform to the decrees, orders and instructions emanating from the sovereign authority.

The duties of police, entrusted to the vigilance of the Governor, are as important as they are various; such for instance are the security of the State, the public peace, the sanitary supervision, the protection of persons and things, the peaceable use of advantages common to all, the security in business transactions, the respect of public order in every branch of social activity.

The action of the Governor in these various circumstances at one time takes the form of general regulations, at other times the form of special measures or directions.

Independently of his power to issue edicts under all circumstances, article 6 of the Decree organizing Local Government, as also article 7 of the same, expressly authorizes the Governor General to make police regulations in the same way as administrative regulations and to enforce them under penalties not exceeding 7 days of penal servitude and 200 frs. fine.

As a matter of fact we can show quite a number of rules and regulations laid down by the Governor relating, for instance, to the police entrusted with the supervision of the roads, markets, caravans, railways, navigation, fires, interments, wine shops, sports, etc.

In order to carry out his mission and be able to maintain the public peace, the Governor General has at his disposal the public force. In the Decree of November 26, 1900, article 1 contains the following clause :—

« The Governor exercises the supreme command over the public force in the Congo. »

And the Decree organizing the Local Government adds :—

« He has complete control of all the military services established in the State. »

It is he who divides up and apportions the various Companies to the different districts, zones and territories, in accordance with a plan approved of by the Sovereign. It is he again who organizes and establishes, in case of need and in the interest of public peace and order, the local police bodies.

« These bodies exist at the present time at Banana (Order of October 5, 1891), at Matadi (Order of November 5 and December 7, 1897), at Leopoldville (Order of September 8, 1898), at Stanley Falls (Order of January 31, 1898), and at various points of the railway lines of the Congo and of Mayumbe. A decree of September 2, 1900, organizes a police corps in Katanga. A decree of October 13, 1902, organizes an auxiliary police force for the railway of the Upper-Congo. »

Should the public peace be disturbed in any district, the Governor has the right to place that region under special military jurisdiction in accordance with the Decree of December 22, 1888.

The principal subordinate officers or deputies to the Governor General in the interior of the country are entitled likewise to exercise the fullest Powers for the maintenance of order and for upholding the authority of the State.

Referring to the District Commissioners, article 7 of the Order of November 14, 1893 reads as follows :—

« The District Superintendent holds the troops at his disposal, outside of the drill hours established by the daily service order, and, in case of emergency for a military operation, they are at his absolute disposal at any time. »

This observation applies to the troops within his jurisdiction, for out of their own districts the Commissioners can appeal for aid, but cannot requisition troops. As to the camps of instruction, they cannot requisition men from

the camps in their jurisdiction, except in case of grave danger for the security of the district and after having reported to the Governor on the subject.

Let it be noted also that, by the terms of article 19 of the Decree of November 26, 1900, when the public safety requires it, all State employés, whether officials or labourers (Judges excepted) can be ordered to take up arms by the District Commissioner, the Officer of the Zone, or the Territorial Commander.

2. — THE JUDICIAL POLICE.

As regards the Judicial Police, the Decree of April 30, 1887, forming title VI of the classified rules on the Judicial Organization, reads as follows :

« Our Governor-General is authorized to appoint judicial police officers invested with authority to report upon breaches of the law and to issue summonses in the territorial districts assigned to them. He specifies the offenses which it is their duty to detect.

» He decides upon their mode of procedure and the extent of their powers in cases of seizure, searchings, preventive detention and the requisition of the public force. »

The order of the Governor-General, dated April 22, 1899, and several subsequent orders have provided measures foreseen by the regulations, and drawn up a list of judicial police officers, specifying their jurisdiction both as regards the breaches of law that they should point out and the territorial districts which concern them. This list is made up with a view to its adaptation to the special situation of the territory and of the Government, as well as to the State and to the need of a serious repression.

CHAPTER X.

Justice.

The organization of justice corresponds with the double mission to be fulfilled by the Government, to solve the essentially judicial litigation which can arise in social life, and to punish in conformity with the law the violation of social order.

The judicial system in the Congo, perforce of a somewhat elementary character at the beginning has developed in a remarkable manner. It comprises a system of civil and military Courts, of which we are going to explain the organization and jurisdiction.

I.

Organization and jurisdiction of the courts.

1. — THE TRIBUNAL OF FIRST INSTANCE AT BOMA.

There is a tribunal of First Instance whose jurisdiction extends over the whole of the State. It sits in Boma, but it can also sit in the various localities. According to the Decree of April 21, 1896, the tribunal of First Instance

is composed of a Judge, a Public Prosecutor and a Registrar (art. 1).

The Judges are appointed for a term of five years dating from the Decree of nomination. The holders of office are appointed by Decree; substitutes can be attached by the Governor to the different jurisdictions. The necessary qualifications are formulated by article 6 of the organic Decree; for eligibility there is no condition required as regards nationality.

The Tribunal of First Instance at Boma has a general jurisdiction in all civil, commercial and criminal cases.

With regard to the litigants, we have already in a previous chapter, pointed out the cases in which the tribunal can in questions of private litigation hear the disputes between two natives and the cases in which, in penal questions, the natives can be send back to the effective jurisdiction of the local Chief in view of the application of native customs.

2. — TERRITORIAL TRIBUNALS.

Besides the Tribunal of First Instance, there are territorial tribunals established successively by the Governor-General in the following localities in pursuance of the powers conferred upon him by article 21 of the organic Decree :

1. Matadi; 2. Leopoldville; 3. Coquilhatville; 4. Nouvelle-Anvers; 5. Basoko; 6. Stanleyville; 7. Albertville (Tod); 8. Lusambo; 9. Popokabaka; 10. Chief-Station of the High-Luapula section; 11. Chief-Station of the Lomami section.

These tribunals are constituted on the same general

lines as the Tribunal of First Instance at Boma except for the derogation that the Governor-General can bring to bear in case of absolute necessity resulting from insufficiency of staff. The jurisdiction of the territorial tribunals in matters of repression is the same as the Tribunal of First Instance at Boma. According to the Decree of April 27, 1889, articles 5 and 60, §§ 1 and 2, the territorial tribunals take cognizance of all offenses committed either within their jurisdiction or even outside of it if the prisoner resides in the circuit or is found there.

The territorial tribunals, whose jurisdiction is not yet extended to civil and commercial cases, are to receive this additional extension.

3. — THE COURT OF APPEAL AT BOMA.

A Court of Appeal is established at Boma. By the terms of the Decree of April 21, 1896, it is composed of a president, two judges, a public prosecutor and a registrar. The president and the judges are appointed by Decree for a term of five years dating from the Decree of nomination.

Article 5 of the organizing Decree decides the qualifications for eligibility; as regard to nationality no condition whatever is required.

The Court of Appeal of Boma hears appeals against judgments given by the Tribunal of First Instance and by the Territorial Courts.

4. — THE PUBLIC PROSECUTOR'S OFFICE IN THE CONGO.

By the Decree of April 21, 1896, the office of public prosecutor is exercised by a State Attorney assisted by Deputy-Attorneys. The State Attorney is appointed by Decree. The Deputy-Attorneys are attached to the staff of such and such a Court by the Governor. The definitive appointment is subject to the same conditions as the nomination of judges at the Tribunal of First Instance.

The State Attorney exercises his office under the supreme authority of the Governor. Deputy-Attorneys act under the supervision and direction of the State Attorney.

5. — THE COURT OF APPEAL AND THE COURT OF CASSATION ESTABLISHED IN BRUSSELS.

In the preceding chapter we explained the institution of the *Conseil supérieur de l'État* constitutes a which Court of Appeal and a Court of Cassation.

We indicated at the same time the jurisdiction of these Supreme Courts.

6. — COURTS-MARTIAL. — MILITARY COURT OF APPEAL AT BOMA.

By the Decree of October 22, 1888, Courts Martial have been instituted for taking cognizance of offenses committed by officers, non commissioned officers, corporals and private in the State army.

In the early history of the Congo Free State, when civil

jurisdiction had not yet been organized in the Upper-Congo, the Courts-martial, composed entirely of military elements, were by the force of circumstances established as the only judicial authority to judge all offenders.

But this state of things, permissible during the period of opening up a new country must evidently disappear with the progress of organization. Therefore the jurisdiction of Courts-Martial is at the present time limited to the trial of military delinquents; it is only in exceptional cases when the circumstances require that a certain territory should be put under military discipline, that civilians may be prosecuted before the Court-Martial. And even in these cases it is only the ordinary Penal Code which is applied and the right of appeal is expressly open to them before the Civil Appeal Court at Boma.

Let it be noticed also that in pursuance of the Decree of October 30, 1895, article 1.

« The Tribunal of First Instance of the Lower-Congo alone is competent to the exclusion of Courts-Martial, to take cognizance, in the first instance, of offenses committed by persons of European extraction that the Penal Code punishes by the sentence of death. »

A succession of orders have instituted Courts-Martial in the following localities and camps : —

« Boma, Matadi, Tumba, Leopoldville, Coquilhatville, Kutu, Nouvelle-Anvers, Libenge, Basoko, Banzyville, Djabbir, Ueré, Nyangara, Van Kerckhovenville, Avakubi, Stanleyville, Ponthierville, Nyangwe, Uvira, Lake Kivu, the chief-stations of the Lomami and Tanganika sections, Albertville, chief-stations of the Moero and the Luapula sections, Popokabaka, Lusambo, Umangi (camp), Lisala (camp), Redjaf-Lado, Headquarters of the flying column of the *Province-Orientale*. »

The Decrees of October 22, 1888, and December 24, 1896, have instituted at Boma a Military Court of Appeal, composed of the president of the Court of Appeal and of two other members appointed by the Governor-General, who should have the rank of officer. The State Attorney fulfils the office of Public Prosecutor to this Court.

In the organization of judicial authority in the Congo of which the expenses appear in the State budget for a sum of 900,000 frs., the tendency of the Government is to succed by progressive steps in establishing in the Upper-Congo Civil Courts simular to those which exist in Lower-Congo, and composed of professional judges. They intend also to create a Court of Appeal which will sit either at Stanleyville or at Nyangwe.

II.

Judicial procedure.

« The civil and commercial proceedings before the Tribunals of First Instance and the Court of Appeal in the Congo are governed by the ordinance of May 14, 1886 to which must be added the ordinance of November 12, 1887 approved by the Decree of May 3, 1887 on the seizure of property, by the Decree of February 4, 1887 on the expropriation for cause of public utility, by the ordinance of September 21, 1886, approved of by the Decree of March 18, 1887 on bankruptcies.

» The civil and commercial proceedings before the *Conseil supérieur* are regulated by the Decree of May 4, 1891, modified by the Decree of April 6, 1893 and the order of the same date.

» Criminal proceedings are regulated before the Tribunal of First Instance by the combined Decrees of April 27, 1889 and

April 21, 1896. The Decree of November 18, 1897 adds a few provisions for the Court of Appeal proceedings.

» The order of June 21, 1889 decides that the proceedings before the territorial Courts will be the same as those for the Tribunal of First Instance in repressive matters.

» The proceedings before the Courts-Martial are governed by the Decree of December 22, 1888, articles 10 to 18, 25 to 27. »

III.

The operations of the Courts.

Neither Congolese justice nor any other human justice can claim to be infallible. It shared, especially in its origin, the imperfections due to the installation of a judicial service in a new country.

It is only fair to recognize, however, that in no colony where principles of civilization are only being introduced, has such a powerful and positive effort been made with a view to organizing a regular and impartial system of justice. It is not by exaggerating or distorting one or two facts and transposing them into complaints that one can alter this conclusion.

We have shown the really remarkable progress in that which concerns judicial organization. A word on the application of the laws by the judge.

I. The Government closely watches this application. All the instructions given and the events bear witness to this.

« The Government wants justice to be rendered impartially : as it is necessary that offences committed by natives should not

remain unpunished, so penal law must also be applied to the whites who might be guilty of illegal doings (1). »

II. The Government has given exceptional pledges of the impartial firmness of its will in this respect.

« The mere fact of having constituted a Superior Appeal Court with judges of different nationalities and of appointing foreign lawyers and magistrates (especially Italians) as judges and officials of the lower courts in the interior of the country is a proof and a more than evident guarantee of the impartiality and seriousness of the judicial administration of the State (2). »

III. The inquiries ordered by the State each time that wrong doings have been reported duly and in a specific manner, and the prosecutions undertaken when necessary, are evidence of the vigilance and impartiality of the Public Prosecutor.

« Such a repressive system furnishes to those who now accuse our agents of the most heinous offences, an easy way to show whether their accusations have any ground. If they have really in view the welfare of the natives, and desire their intervention to be of practical value, let them apply to the regular Courts and bring before them all necessary particulars so as to allow a prosecution. It is easy enough indeed to lodge with the Public Prosecutor a complaint with sufficient particulars after having witnessed an offence (3). »

The Rev. Mr. Grenfell, of the Baptist Missionary Society, a man who knows the situation better than anybody, does not hesitate to bear the following testimony to the State.

« I can certify that the superior authorities of the Congo State

(1) *Rapport au Roi-Souverain* du 21 mai 1897.

(2) Letter from Bon G. Nisco, Judge of the Appeal Court at Boma, to the *Don Marzio* of Naples, of the 21 and 22 March 1903.

(3) *Report to the King-Sovereign*, dated January 25, 1897.

have never taken amiss just criticism or the reporting of reprehensible conduct on the part of certain agents (1). »

Furthermore, with a view to render easier the lodging of any *bona fide* complaint, the King-Sovereign has appointed a Committee for the protection of the natives. This Committee is composed of prominent members of philanthropic and religious societies in the Congo, belonging half to the Protestant and half to the Catholic religion. We deal further with that Committee later on.

IV. It appears from the statements concerning justice which are regularly published by the Government, that the Courts fulfill in an efficient manner their duty, without guilty complacency, especially with regard to acts of ill-treatment of the natives by white men.

« High State officials have been tried and sentenced for mere blows. Only a few months ago, an officer of the Public Prosecution was dismissed and tried for having by mistake carried out a sentence against a native before the expiration of the time for appealing. One of the latest appeal sentences signed by me last January, before my return on leave, was the final sentence for life, of a Belgian agent of the State charged with cruelties committed against natives.

» And the sentences passed by the Courts are rigorously undergone. A notice issued long since by the Governor declares that persons sentenced for assault on natives have nothing to hope from the Royal clemency. And, as a matter of fact, I do not remember the King having exercised his clemency in such cases for several years past, in spite of pressing and repeated demands (2). »

Concerning barbarous customs, repression is only

(1) *Le Congo belge*, August 15, 1896, p. 100.
(2) Letter of Baron Nisco, quoted above.

limited by the real impossibilities which, in many instances, hamper its action and which are recognized by all sensible men.

V. The administration of justice in the Congo is of such an impartial and protecting character and is so highly appreciated by the natives themselves that they come in ever-increasing numbers and from great distances to submit to the jurisdiction of the whites.

VI. The working of the Courts is seriously overlooked so as to enable the Government to see that the procedure be regularly applied.

This is far different from the state of affairs depicted by grievance-mongers, who exaggerate facts, generalize isolated cases, and, while expecting impossibilities, seem indeed to have for their only purpose, to create difficulties for the State in Africa and Europe.

CHAPTER XI.

The Domain.

Territory is that part of the globe over which a State exercices its sovereign rights; it is the material basis of sovereign influence.

The mere fact of the acquisition of a political sovereignty over a certain territory does not in itself confer on the Sovereign—at least according to modern law—the ownership of all property over which private individuals have acquired rights. But the recognition of these same rights, the fixing of just titles of acquisition, the regulation of the legal system relating to property and especially of the condition of vacant land, all that constitutes an essential attribute of sovereignty, in conformity with the necessities of public order and the general welfare of society.

As a sovereign and independent State, the Congo State has been, and continues to be, invested with that prerogative.

In appropriating vacant and ownerless land, the State has made a lawful use of an indisputable and perfectly legal right, sanctioned by international custom and acknowledged by the law of nations.

When regularly in possession of vacant land, is it expedient for the State to appropriate certain portions for public uses,—to transfer other portions gratuitously or for a consideration, with full rights of ownership or with the right of using them only, to private individuals,—to preserve other parts for revenue purposes, by means either of direct administration or of tenure, with a view to employ the revenue according to the needs or convenience of the State? That is a question of internal administration which may be discussed theoretically, as we have already observed, but which must be left, in practice, to the sovereign decision of the State.

We shall now examine with official documents the organization of the land system in the Congo Free State. We must first remember that, before the State was founded, the few European business-men and missionaries, who were established in the Lower Congo, were occupying the soil under precarious conditions, by virtue of agreements passed with native chiefs. These agreements generally collapsed as soon as the occupation ceased to be actual, so that it may be said that land ownership really did not exist. As to the land cultivated by the aborigines, the right of its occupation by the natives was settled by local custom, or by the authority of the chiefs. Hunting and fishing contributed with agriculture, which existed only in the neighbourhood of the villages, to provide the natives with food.

1. — STARTING POINT AND DEVELOPMENT OF THE LAND SYSTEM OF THE STATE. — RESPECT FOR THE VESTED RIGHTS OF THE NATIVES AND FOREIGNERS.

The starting point of the land system of the Congo Free State is to be found in the Order of the Governor-General Sir Francis de Winton, dated July 1, 1885. It runs thus :

« A Decree of the Sovereign will presently request all non-natives who now possess, by any right whatever, land situated within the territory of the Congo Free State, to make an official declaration, describing the land in question, and submitting their titles to be examined and approved by the Government. The object of the said Decree will be to secure, in the prescribed form, the acknowledgement of acquired rights, and to make the regular organization of land property in the said State, possible in the near future.

» In the meantime, with a view to avoiding disputes and abuses, the Governor-General, duly authorized by the Sovereign, orders as follows : —

» ARTICLE FIRST. — Dating from the publication of the present proclamation, no contract or agreement with the natives for the occupation of portions of the land will be acknowledged or protected by the Government, unless the said contract of agreement has been made in the presence of a public official, commissioned by the Governor-General, and according to the rules laid down by him each particular case.

» ART. 2. — No one has right to occupy without title any vacant land, nor to dispossess the natives from their land; all vacant land must be considered as belonging to the State.

» Vivi, July 1, 1885,

» F. DE WINTON. »

This Order practically divides all land into three cate-

gories: land appropriated by non-natives, before July 1, 1885, which must be officially registered and submitted to a regular measurement; land occupied up to the same date by natives, whose rights are respected, and whose subsequent contracts involving a transfer of property are given public guarantee and protection; finally, land which has neither been appropriated by non-natives, nor occupied by natives : such land, whether used by the State or not, is considered State property.

Respect for the rights of ownership acquired, under the precarious conditions of which we have spoken, by non-natives before the date of the ordinance of July 1, 1885, has been practically secured and organized by the Decree of August 22, 1885, in which we remark the following provisions :—

Considering that it is necessary to take steps to recognize the rights of non-natives who acquired property situated in the Congo Free State before the publication of the present Decree.

« On proposal of Our Council of General Administrators,

» We have decreed and do decree as follows :—

» ARTICLE FIRST. — Non-natives who have rights to substantiate on land situated in the Congo Free State, may have them registered by presenting a request for registration in the form prescribed by the following regulations :—

» This request must be presented in duplicate, before April 1, 1886, to the public officer who will have to record the deeds of land.

» Our Governor-General has the power to authorize the admission, after this date, of demands for registration, which for some exceptional reason, could not be presented within the prescribed time.

. . . . . .

» ART. 8. — The manner in which requests for registration, will be controlled, shall be settled by Our Governor-General.

» When a non-native shall have duly proved his rights over a portion of land, the Recorder of Deeds shall give him a registration certificate which shall constitute a legal title of occupation until such time as the land system has been definitely settled in the Congo Free State.

» Given at Ostend, August 22, 1885.

» LEOPOLD. »

In fact, the authorities did not show themselves over severe in the application of formalities to the acknowledgement of acquired rights, and they admitted almost every claim, however slight its foundation.

The special object of the Decree of August 22, 1885, was the registration of land already appropriated by non-natives when the State was formed, and the operations which their registration was to involve.

The Decree of September 14, 1886, has formulated in a general and definite manner, for the present and the future, the fundamental principle of the land system :—

« ARTICLE FIRST. — All existing rights or any which may be acquired in the future over lands situated in the Congo Free State, in order to be legally recognized, shall be registered by the Keeper of the land deeds, in accordance with the provisions which shall be prescribed by Our Administrator-General in the Congo.

» Any act such as to alter the position of real estate in regard of the law shall also be registered by the Keeper of the land deeds. »

All unfenced estates must be marked out according to the rules prescribed by the law.

The measurement of lands is compulsory, and is carried out by official land surveyors, at the expense of the parties concerned on the basis of a tariff fixed by the Governor-General.

In order to simplify as much as possible the formalities of the acquisition or transfer of real estate, whilst maintaining all necessary guarantees for such acts, the Government has introduced from the beginning (1885) a system of survey and registration known under the name of the *Torrens Act*. The choice as regards the form of the deed of sale is left to the parties who may have it drawn up under private form or under the authenticated form. When a sale is made by the State, a deed is drawn up and the portion of land is measured by the Government land-surveyors, who hand the plan over to the Keeper of the land deeds; when real estate already well-known and registered is to be transferred, the parties present themselves personally or by agent before the Keeper of the land deeds to have the sale ascertained or they hand over to him the deed of sale, the signatures of which must be attested and at the same time they return the registration certificate formerly delivered. In both cases the Keeper of the land deeds gives the purchaser either an original certificate of registration, or a new one when he has cancelled the former certificate, which must be given back to him. The transfer may also be inscribed on the former certificate, which is in that case handed over to the new owner.

It is that official certificate, the duplicate of which is kept in the « Registration Book » under the care of the Keeper of the land deeds, which constitutes the title of ownership. On that certificate are mentioned the conditions of the sale as well as the incumbrances (conditions of payment of price, easements, obligations concerning cultivation, mortgages, etc.). No right to the land can be claimed if it has not been registered.

Hence results that in order to obtain information about the legal condition of real estate, it is sufficient to send for the copy of an extract from the folio of the registration book (duplicate of certificate).

It is to be remarked that in regard to the law no encumbrance exists if not inscribed in the Registration book.

The formalities of registration are most simple and the certificate of registration only costs 25 francs. The transmission of real estate, as pointed out by M. Janssen (1), is thus as easy as the transfer of stocks.

In the beginning, when it was often impossible to proceed with measurements, and consequently to deliver regular registration certificates, the Government granted licenses of provisional occupation with a preferential right for definitive acquisition as soon as the formalities for measurement and registration could be properly complied with.

The Government also allowed to make direct arrangements about land with the natives. Such arrangements however could not be registered except after being approved by the Governor.

For that temporary system was substituted later the rule in virtue of which the State's authorities must always be applied to, in case of anyone wishing to obtain the disposal or use of some unregistered land, be it occupied or not, more or less by natives.

The Decree of April 9, 1893 sets forth the rule as follows :—

« Whoever wishes to purchase land other than that over

(1) Bibliothèque coloniale internationale : *Le Régime foncier aux colonies*, t. II, p. 11.

which exist rights duly registered in the name of a third party must apply to the Secretary of State, etc., etc. »

It seems impossible not to recognize the absolute legitimacy and correctness of the provisions made by the Congolese authority on its territory in respect of private property of non-natives.

The same correctness is conspicuous in the provisions issued as regards lands occupied by the natives and sanctioning the respect and protection of their rights on the same lands.

We have already noticed how the Order of July 1, 1885, prohibited, from the beginning, the dispossession of the natives of lands occupied by them, and how it made the purchase and lease of such lands subject to the sanction of the public authorities.

The Decree of September 14, 1886, on that point, reads as follows :—

« ART. 2. — Lands occupied by native populations under the authority of their Chiefs shall continue to be governed by local customs and uses. »

It is by refering to local customs and uses that the law has sanctioned in their true purport and extent the rights of occupation by the natives.

The same Decree of September 14, 1886, further stipulates :—

« All acts or agreements which might tend to expel the natives from the territories occupied by them or to deprive them directly or indirectly of their freedom or means of subsistence, are forbidden. »

We have observed, that it is invariably to the State

authorities that application must be made to acquire rights of disposal or enjoyment over non-registered lands whether they be more or lees occupied by natives, or not.

Consequently, direct land contracts, between natives and non-natives have been abandoned.

Aiming specially at cases in which claims are mode to obtain from the State, the sale or hire of lands occupied partly by natives, clauses 5 and 6 of the Decree of April 9, 1893 State that :—

« ART. 5. — In cases in which the land forming the object of the claim is occupied natives, the Governor-General or his delegate shall intervene to make arrangements with them if possible, so as to assure to the claimants the cession or lease of the land occupied, without the State having, however, to support any financial charges on this account.

» ART. 6. — When native villages are enclosed in the land acquired or let, the natives may, as long as the official measurements have not been made, carry on agricultural pursuits without the consent of landlord or tenant, on the vacant lands surrounding their villages.

» All disputes which may arise in the matter between the natives and the grantee or tenant, shall be finally settled by the Governor-General or his delegate. »

Let us also notice that the Decree of February 2, 1898, appointing a land commission contains the following provision under article 2 :—

« The members of this commission shall specially examine :—

» 3rdly. Whether the lands claimed should not be reserved either on grounds of public utility or with a view of promoting the development of cultivation by the natives. »

This is not all : The State was careful to respect not only the bonitary occupations of natives but also the culti-

vation of certain produce carried on by them for commercial purposes. Difficulties having arisen as to the rights acquired by the natives for the cultivation of india-rubber, the Decree of December 5, 1892, ordered an enquiry with a view to clearly defining the rights of the natives in the cultivation of india-rubber and other forest produce in the Upper-Congo territories prior to the promulgation o the order dated July 1, 1885 : these rights requiring to be recorded in a special register kept by the curator of land titles and this entry having to be legal evidence within the limits of the registration. The result of this enquiry was, in effect, reported by the chief magistrate under date of July 28, 1894.

But this is not all. The working of mining products by natives, under the Decree of July 1, 1885, is protected by article 5 of the Decree of the June 8, 1888. By the terms of this article :—

« The prohibition exacted by article 2. (Working a mine without a special concession from the public authorities) does not apply to the working of mines which the natives may continue to work on their account on lands occupied by them. »

There are, moreover, two other provisions of some importance to the natives : these are articles 9 and 10 of the order of the Governor-General of November 8, 1886 :—

« ART. 9. — The issue of registration certificates does not dispense the interested parties from observing, in their dealings with the natives, existing local customs especially those relative to royalties known as « coutumes de rations, » although these royalties may not be mentioned in the certificates, among the encumbrances affecting the property.

» ART. 10. — If, in consequence of the non-payment of the

« rations » or « coutumes » usual in such cases, disputes occur between the landed proprietor and the natives, the certificate of registration may be cancelled by the Courts on the application of the curator of land titles. »

2. — THE GENERAL ASPECT OF LAND TENURE OF THE STATE.

Let us consider for a moment the status of the State's land in the variety of the elements composing it.

I. We notice in this connection the landed property acquired by the State previous to the decree of July 1, 1885, either as public property, by reason of its utilisation for the permanent public service, such as rivers, roads, and public edifices, or patrimonial property, by reason of the mere taking of possession by the State with a view to the disposal and enjoyment of the property in the same manner as if it were a private individual.

II. We also notice landed property acquired by non-natives previous to the same decree and for which they have obtained a proper, stable and transferable title.

III. We find again landed property with regard to which natives possess rights of bonitary occupation and customary cultivation, which rights are respected and protected in their mode and tenor by the State.

IV. Finally we notice the patrimonial property which the order of 1885 has transferred from the footing of ownerless property to that of property disposable by the Sovereign.

If we now observe in what manner the State exercised its Sovereign rights as touching the primarily disposable

elements of its property, we are led to notice the following categories of landed property :

1. Property which has gradually become public property, indefeasible and which cannot be transferred from the State, territory whose extension is due principally to the development of public works and government installations. The ground on which railways have been constructed is an example op this category.

2. Property no longer belonging to the State, having been conceded with full rights and tenure to private individuals and having therefore become their private property. In this category may be classed land sold to colonists or allotted to religious missions or grants made to contractors of public works.

3. Patrimonial property belonging to the State of which certain rights are open to all in return for the payment op a royalty or fixed tax. Such is the property included in the districts specified by the Decree of October 30, 1892.

4. Patrimonial property belonging to the State leased under various conditions and for longer or shorter terms according to the nature of the enterprise.

5. Land coming under the head of private property strictly so called. Its holding is determined by the Decree of October 30, 1892, and is generally worked by the Government.

6. Crown Lands. These are determined by the Decrees of March 8, 1896 and December 23, 1901.

7. Land submitted to a secondary form of fructification distinct from property worked by the Government or leased.

We will recapitulate these several categories of pro-

perty drawing attention to the principal features concerning them. We will also add some remarks relative to three points of special importance : the administration of forests, thea dministration of mines, and the administration of ivory.

3. — PUBLIC PROPERTY AND ITS EXTENSION.

To the State belongs the right to determine, among the several elements forming its dominions, what part, by reason of its nature or in virtue of a definite specification, shall he considered public property, and for this reason excluded from commercial enterprise.

The legislative enactments of the Congo Free State on this point are at the present time somewhat rudimentary and refer only to navigable rivers and streams and to those parts of the riverside which serve as roads (1).

Art. 7 of the Decree of August 9, 1893, reads as follows :—

« Tidal rivers, navigable rivers and streams constitute public property and are not capable of being converted into private property. The same remark applies to the river-banks which for a depth of 10 metres calculated from the high-water line during the season of floods, are reserved as public roadways ; no one on these riverside roads can plant, excavate or execute work of any kind whatsoever without the express permission of the Government. »

It may here be noted that the deeds of concession for the railways are formulated in such a may that the ground itself maintains its character as public property.

(1) Compare the Decree more fully developped of January 9, 1899, on the public property of the French Congo.

4. — LAND CONCESSIONS IN FREEHOLD.

There is no question, after that of a good administrative organization, of greater consequence for the development and prosperity of a young colony than the question of a sound land system. Without laying down absolute principles in a matter which does not allow of them, and the consideration of exceptional cases being reserved, it is generally recognised nowadays that the gratuitous allotment of land and the granting of immense concessions are not to be recommended as a main practice. We do not intend to enter into the various systems discussed by political economists concerning the distribution and apportioning of land. These systems are generally well known and we only intend to give here the necessary explanations on the practice in the Congo Free State. With this object in view let us distinguish between the sale of land in accordance with an official tariff and the transfer of lands granted as a subsidy.

All questions relative to the sale of land are examined by a Lands Committee, appointed in accordance with the following Decree : —

« ART. 1. — A Committee composed of at least five members is hereby appointed to examine the applications forwarded to the Chief Office, either for the purchase or renting of land belonging to the State, or for getting the grant of working the products of the domains or the mines. These members shall be nominated by Our Secretary of State.

» ART. 2. — The members of this Committee shall examine more particularly :

» 1. Whether the information given by the applicant is sufficient to enable a decision to be taken;

» 2. Whether the applicant has complied with all the legal formalities;

» 3. Whether the land applied for is free—if there does not exist on the said land any privileges or other rights for the benefit of a third party,—if they should not be reserved, either in the interest of public utility or in view of developing native husbandry;

» 4. To what conditions the grant of the application ought to be submitted and what guarantees it will be necessary to require in order to insure the proper working of the land applied for;

» 5. If the limited Companies already existing or to be formed with a view of working the land applied for fulfill every condition required by the Government.

» The applications, accompanied by a report from the members of the Committee shall be submitted to the Secretary of State, and shall, if accepted, remain a schedule to the Decree authorising the sale or grant of any part of the State's domain.

» ART. 3. — Our Secretary of State is entrusted with the execution of the present Decree.

» Given at Brussels, February 2, 1898.

» (*s.*) LEOPOLD. »

Let us now point out the most important land concessions granted in pursuance of special arrangements and as subsidies :

» The *Compagnie du Congo pour le commerce et l'industrie* is entitled, in pursuance of article 3 of an Agreement concluded with the Congo Free State on March 26, 1887, to the free possession of about 150,000 hectares.

» The *Compagnie du chemin de fer du Congo*, in pursuance of article 2 of the agreement entered into with the Congo Free State on November 9, 1889, has a right to the use of all the ground necessary for the permanent way and its dependences, to the entire ownership (the reserves specified in article 3 of the agreement excepted) of all the land which it may claim so as

as the construction of the line progresses, within a zone of 200 meters on both sides of the permanent way,—and also the entire ownership of 1,500 hectares of land for every kilometer of the railway built and open to traffic.

» By an Agreement entered into in October 1901, the « Congo Company for the development of Commerce and Industry » and the « Congo Railway Company » renounced their claims to the several plots of ground that they had already chosen in the districts of the Busira and Mombyo. By the same agreement, the *Compagnie belge pour le commerce du Haut Congo*, authorised to work the lands of the two above-named Companies on joint account, also gave up their claim to a few small plots of ground that it possessed in that region. In exchange for these renunciations a single block of ground situated between the Busira and its affluent, the Salonga, was transferred by the State to these Companies. This block of land, includes in addition to territories on which they already had a claim in pursuance of a preceding arrangement, 500,000 hectares granted by the State in order to facilitate the working of this part of the country. The total amount of the lands possessed by these Companies in the basin of the Busira thus includes a superficial area of about 1,200,000 hectares.

In pursuance of an Agreement of March 12, 1891, the *Compagnie du Katanga* had a claim to the full possession of a plot of lands also very extensive. By the Agreement of March 9, 1896, this Company handed back to the State the possession of all the land situated north the 5th parallel South of the Equator, which had been granted in pursuance of article 9 of the Agreement of March 12, 1891, the State giving in exchange the superficial equivalent in land chosen by the Company among the unoccupied grounds along each bank of the Lomami river below Beni Kamba.

— The *religious missions* established in the Congo likewise possess several thousand hectares of freeholds.

Assigning the limits of these territories would be a long and especially an onerous operation. So the State and the *Compagnie du Katanga* agreed of June 19, 1900, to amalgamate their

properties comprised within the limits indicated above, and to entrust the working of them to a mixed Committee, the *Katanga Special Committee* (Comité spécial du Katanga), consisting of six members of which four represent the State and two the Katanga Company.

— The *Société des chemins de fer vicinaux du Mayumbe* has received from the State about 100,000 hectares of land situated in the Mayumbe.

The land acquired by the *Compagnie du Katanga* in pursuance of this arrangement is worked by the *Compagnie du Lomami*. The land remaining the property of the Katanga Company constitutes a third of the territories comprised between the southern and eastern frontiers of the State, the 6th parallel South of the Equator, and the meridian 23° 54′ east of Greenwich, and are divided into blocks each of six geographical minutes side.

5. — THE GRANTS OF USE.

Besides the system of absolute grants of lands, we have to point out the system of grants of use which has been established by the Congo Free State, as far as the working of india-rubber is concerned, in certain zones of its territory. We see in that case the State granting to all, with regard to certain products, the use of vast tracts of territory, especially in the neighbourhood of the principal commercial road where the trade is likely to reach the greatest development.

While consenting such grants of use, the State determined the zones of territory where this system should not be applied. The Decree of October 30, 1892, and the Order of December 6 of the same year, organized this system. The zones of territory not subject to grants of

use were defined as follows by articles 2 and 3 of that Decree :—

« ART. 2. — The working of india-rubber by private individuals shall not be allowed in the portions of the domain situated in the following regions : —

» *a*) In the basins of the rivers M'Bomou and Ouelle above the point where by joining each other they form the N'Dua, and, below that point, in the zone which is to be found at more than 20 kilometres from the bank as well as in that situated within a radius of 20 kilometres round three points to be fixed by the Government on the bank of that river, the first below Zongo, the second between Zongo and Banzyville, and the third above Banzyville ;

» *b*) In the basins of the rivers Mongalla, Itimbiri and Aruwimi;

» *c*) In the basins of the rivers Lopori and Maringa above the point where by their junction they form the Lulonga ;

» *d*) In the zone situated within a radius of 20 kilometres around a point to be determined by the Government near the junction of the Bussera and the Tchuapa.

» ART. 3. — When circumstances permit the working of india-rubber shall be regulated in that portion of the domain of the State lying in the basin of the Congo-Lualaba, above the Stanley Falls, and in that of the Lomami, above 2° 3′ South latitude. »

6. — THE LEASES.

Number of properties have been given on lease in the urban districts or in the territories the use of which has been granted to the public.—The State usually gives these lands on lease for a period of three, six or nine years when for commercial purposes, and for a period of 20 to 50 years when the land is to be used for agricultural purposes or for the establishment of religious missions.

7. — THE PRIVATE DOMAIN AND ITS ORGANIZATION.

A Royal Decree dated December 5, 1892, decided that the lands mentioned in the article 2 of the Decree of October 30, 1892, form the private domain of the State. The net income derived from this domain is affected to the payment of public expenditure.

The administration of this private domain has been placed in the Department of the Secretary of State.

The Secretary of State takes such measures as he thinks expedient or necessary to exploit the lands of this private domain. This exploitation takes place directly by the Government or otherwise; in the former case it is effectuated by the agents in the service of the Intendance Department.

The provisions for the alienation of part of the domain or regarding servitudes incumbent on the estate, are issued by the Treasury Department.

The right of the State to the use of its domain is an immediate consequence of the proprietary right over the property constituting this domain.

The necessity to exploit the latter, in view of procuring for the State sufficient resources to balance the budget, may be indispensable.

The advantages of such fructification in point of view of lightening the charges demanded of the tax-payer under the form of imposts are manifest.

The exploitation may also be used as a means of accustoming the blacks to regular work and thus to improve the moral and material condition of the natives.

The State does nothing which is not perfectly lawful and nothing besides what is universally allowable, in exploiting itself its domain, in its immediately exploitable elements, such as the domanial forests.

It does nothing, moreover, but what is lawful and in accordance with the normal and universal practice in endeavouring to introduce and to spread in its domain the cultivation best suited to the soil, and by trying to develop its agricultural industry under its various forms, together with the auxiliary or complemental methods of this fundamental industry.

8. — INDIA-RUBBER COLLECTING.

The india-rubber collecting in the domanial forests, not only constitutes the exercise of the right of property legally acquired by the State over ownerless goods, but it can support its claim, moreover, on a double title strongly warranted. It is the State which found out the india-rubber crops in its forests; previous to its help the natives hardly anywhere knew the rubber-creeper, or paid no attention to it.

It is the State again which has organized afforestation by making replantion compulsory (as we will shortly see) and by inflicting penalties on those who overlook this obligation.

The india-rubber collected in the domanial forests by the State, is sold by anction in Antwerp (1).

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(1) The importance of domanial forests in many countries is well

Let us briefly examine the principles applied and the most recent efforts made by the State in the exploitation of its domain.

The State has been guided by two principles in this exploitation organized with the co operation of the native populations, the only available labour :

On the one hand, to ask the co-operation of the blacks in a way adapted, to a certain extent, to their social and political organization ;

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known. Here are, for example, a few particulars concerning Japan.

According to official statistics of the Ministry of Agriculture at Tokio, there were in 1900, in Japan :

DOMAINS OF THE STATE :	Forests. Chô.	Uncultivated lands. Chô.	Total. Chô.
Of the Forests Department . .	7,580,208	663,126	8,243,334
Of the Hokkaido Government (Yézo Island)	5,492,489	771,540	6,264,029
Seven Islands of Izu, Tokio Prefecture.	3,882	2,112	5,994
Total.	13,076,579	1,436,778	14,513,357
Crown Forests	2,091,786	157,174	2,248,960
Private forests (temples, public institutions and private property)	7,430,129	1,053,482	8,483,611
Total.	22,598,494	2,647,434	25,245,928

This total is equal to 30 million hectares, viz. ten times the area of Belgium. Below are some particulars regarding the exploitation.

In 1900, timber was cut down to the value of :—

	Wood. Yen.	Bamboo. Yen.	Total. Yen.
In State Forests	1,694,148	12,830	1,709,061
In Forests of the Hokkaido Government	186,893	2,083	186,893
In Crown Forests	437,035	1,518	438,553
In Private Forests	61,010,947	2,430,062	63,442,069
Total.	63,329,023	2,446,493	65,776,516

that is to say, the forest products were worth 170 millions of francs.

See *Le Mouvement géographique*, March 8, 1903.

On the other hand, to exact from them, in the form of prestation of voluntary and remunerated labour, regulating the scale of wages, even when the labour is exacted as a form of impost.

The organization of native Chieftaincies was a natural outcome of the first of these principles. The Report to the King-Sovereign, dated July 15, 1900, throws light on the working of this institution from many points of view. It is as follows :—

« Faithful to its principle of dealing progressively with tribes, without shocking their habits and customs, the Government has striven to make use of their own political and social organization in order to accustom them to the yoke of authority.

» It was necessary to find, for this purpose, some popular means of connecting the natives with the State, so as to induce them to obey the Government, and which might at the same time, be clothed with sufficient official authority to discipline the population.

» This intermediary was found in the institution of recognized « Chieftaincies ». The Government has thoroughly realized how detrimental the political parcelling-out of populations of the same race amongst numerous natives independent from one another, is to the natives' welfare and to their moral improvement, on account of the multiplied efforts which the division of the population requires on the part of the State officers.

« It is gradually to modify this situation », the instructions state, « that the district officers must strive, without neglecting » any opportunity to group under a small number of recognised » Chiefs the populations of the same race, whose habits, way of » living and interests are identical. » Thus, by an official investiture, conferred with due solemnity before the leading men of the country, on a local Chief—who, being under the orders of the District Commissioner can be easily called to account for the offences of those under his authority—justice obtains a powerful auxiliary, and enforces with far greater facility, laws and rules

which the native accepts without demur. « The native Chiefs » have great influence with the populations, and if they feel » supported, will—thanks to our help—succeed in getting our » ideas firmly implanted and in eventually imposing them. »

« The results of the institution of native Chieftaincies are most important.

» The populations, heretofore divided amongst kinds of little States, were dominated by Chiefs, whose rivalries were one of the cause of relentless warfare from village to village with its long train of murders, mutilations and slavery. On the other hand, the orders of authorities could not reach the inhabitants, and their orders could not be carried out.

« Since the Chieftaincies have been organized, it is an established fact that native practices are more humane; civil wars disappear by slow degrees; the barbarous customs of cannibalism, ordeal by poison, and human sacrifices are more easily extirpated by the power of the Government over a Chief held responsible for the crimes and misdemeanours of his subjects. »

As regards the realization of the second directive principle we have spoken of, the same report goes on as follows :—

» The object the Government aims at, is to succeed in turning the private domain of the State to profit, exclusively by means of voluntary contributions from the natives, and inducing them to work through the allurement of an earned and adequate payment. The rate must be sufficiently remunerative to stimulate in the natives the desire of obtaining it and, as a consequence, to induce them to gather in the products of the domain. This class of voluntary contributions is actually in force in several districts.

» Where the attraction of commercial benefit is not sufficient to assure the working of the private domain, it is necessary to resort to the tax in kind ; but, even in this case, the work is remunerated in the same manner as the voluntary contributions. The Government's orders in this respect are positive. Properly

speaking, the tax in kind, such as established, is not a real tax, since the local value of the products brought in by the natives, is given to them in exchange.

» The Government has never neglected an opportunity to remind its agents intrusted with the collection of taxes in kind, that their part is that of an educator :—their mission is to impress on the mind of the natives the taste for work ; and the means available would fail their aim, if compulsion was changed into violence. »

In its various instructions to its agents, the Government has specially kept in view the following points :—

1. The suitable amount of remuneration to be granted. The Government believes—as its circulars say,—that this retribution should be sufficient to stimulate in the natives' mind the taste for work, and to induce them to gather in the products.

2. The moderation in the sum of work laid upon the natives. In order to give a rule of direction, so as to prevent abuses in this respect, the circulars say the Government considers that the quantity of products to be delivered up, ought not to exceed that which may be produced by one-third of the male adult population ; and even then, this result must be arrived at progressively.

We have examined previously the criticism directed against the system of taxes in kind. We beg only to repeat here that the system of bounties or premiums, temporarily established, is actually suppressed in the Congo State.

Individual failings are inherent in every institution of human nature. The non-execution of the formal instructions issued by the State is liable to disciplinary and, in some cases, to penal punishment.

As a matter of fact, the Government has declared on many occasions that « in its task of educating the native populations, it has been fully supported by the greatest number of its agents who have, in this regard, a perfect feeling of the high duty incumbent upon them. Very few of them have failed in this respect and small is the number of those against whom prosecution had to be directed. Besides, the Administration exercises the most scrupulous care in the choice of its agents and, on the other hand, tries, to improve as much as possible their situation, in the usual manner. »

The measures resorted to by the State, concerning the turning to profit of its proprieties are of a blameless nature and the State is unquestionably entitled to apply them to the immediately workable elements, of its domain property, such as the india-rubber of the domanial forests.

9. — CULTIVATION.

As we have seen, the working by the State of its private property includes also the implantation of new cultures such as are suitable to the soil and required for the development of the connected industries. To this purpose, it may be interesting to mention the Decree of April 30, 1897, relating to the foundation of coffee and cocoa plantations on the domanial lands and to the treatment of the gathered-in fruits for the purposes of consumption. The said Decree reads as follows :—

« ARTICLE FIRST. — The chiefs acknowledged by the Government shall be bound to create and to keep, on the vacant land

pertaining to the State, in the regions submitted to their authority, coffee and cocoa tree plantations.

» ART. 2. — The area of the plantations to be created will be established by the district-commissioner or his delegate, according to the density of the population under the authority of each chief and calculated on an average of one twentieth part of the work that may be produced each year by said population.

» ART. 3. — The plantations are under the management and control of the scientific agriculturist to the State, who will give to the chiefs the necessary instructions, both as regards the choice and the clearing of the land, and as regards the foundation and the tending of the cultures.

» ART. 4. — The chiefs will receive a bounty of 10 centimes for each coffee or cocoa tree properly transplanted and measuring 75 centimetres in height.

» ART. 5. — The product of said plantations will be handed over to the State in the localities indicated by same, at a price fixed each year by the General-Governor and corresponding to one half of the value of the product in Belgium after deducing the outlays necessitated by transport from the place of origin to its place of destination.

» ART. 6. — The chiefs will have a right of fruition on the plantations created and worked by them according to the present Decree. They may transmit this fruition-right to their successors. In no case can this right be alienated or encumbered with mortgage or charge, without the consent and authority of the State. »

The plantations of coffee-trees, created by the State, comprise, up to date, about two million trees. So far, the profits on these plantations have been employed to develop them.

The number of cocoa-plants is 300,000.

The gutta-percha plants are 4,000 in number.

Let us mention here the latest dispositions concerning the creation of various special institutions in view of the

progress of culture, namely a botanical garden, a trial-garden and a model-farm in the Congo, and further a colonial-garden in Belgium.

The following report, from Baron van Eetvelde, gives information on the objects aimed at by these various above creations.

« In compliance with Your Majesty's wishes, I have the honour of submitting the project of a Decree creating various cultural institutions, namely a botanical-garden, a trial-garden and a model-farm in the Congo and a colonial-garden in Belgium.

» The African institutions will be established at Eala, on the left bank of the Ruki, in the Equator district,—a very favourable country for cultures, owing to its fertility and to the uniformity of its climate. The chosen site comprises large land area and is easily accessible, in any season, by the steamers navigating upon the upper River.

» The botanical garden will contain, besides the native flora plants, all the foreign plants of some utility, as well for alimentation as for trade or industry. The vegetables will be methodically grouped, in natural families, each of which will occupy a distinct space. Every particular circumstance of their growth will be carefully observed and noted. A herbarium will be composed in order to classify and study the specimens and to allow of their representation in drawing.

» The trial-garden, the object of which will be purely practical, will serve to experiment upon plants capable of being produced on a large scale. In this garden, trials will be made to find such process of culture and fertilization as is most suitable to increase the production; researches will be made for each species in order to determine the varieties giving the best results. Nurseries will provide the various districts in the State with the saplings becoming to their local conditions of soil and climate and will even, as far as possible, supply private enterprises with grain, seeds and cuttings. A kitchen-garden

and orchard will acclimatize and produce the vegetables and fruits which, in the tropic more than in other countries, have a very considerable importance as food.

» In this trial-garden, studies and experiments will equally be made concerning the best method of treating the products; native workmen will be taught there and, having become proficient gardeners, they will show to native populations the advantages of an improved culture.

» The institution of a model-farm is indicated as a natural and indispensable complement of the preceding institutions.

» Its object will be to grow and to improve the bovine and ovine species, and the farm-yard birds and to obtain, by resorting to cross-breeding, varieties suitable to the country. Now, these varieties, spread over the entire territory, where they will easily subsist and re-stock, will in every part of the country, provide to the non-natives, fresh meat which is actually to be found only in a few localities.

» Moreover, in this model farm, beasts of burden will be trained so as to permit of using them for transport and for agricultural labour.

» Later on, it will be necessary to complete this organization by joining to it a laboratory wherein to practise the analysis of the earths and products, to study the diseases of both plants and animals, their causes and the means to be used for proventing or curing them.

» As to the colonial-garden, created in Belgium, its object will be receive and nurse the foreign plants which, when arriving from foreign countries, would be unable to immediately endure the journey to the Congo, and, principally, to propagate the species to be implanted in the Congo. »

Up to this day, the colonial garden has already received a great number of useful plants coming from foreign colonies; they have been there nursed and multiplicated. During the summer season in 1900 and 1901, every steamer starting from Antwerp to the Congo, has carried

a great number of those plants and the quantity of plants so conveyed from Belgium to the Eala botanical gardens may be estimated at upwards of 11,000. Those shipments comprised gutta-percha, *Castilloa elastica*, *Hevea brasiliensis*, tea-shrub, cinnamon-trees, vanilla-trees, camphor-trees, pepper-plants, ginger-plants, cinchona-trees, coca-trees, precious timber-wood trees, etc. The colonial-garden contains, at the present time, more than 8,000 plants ready to be shipped for Congo.

10. — THE DOMAIN OF THE CROWN.

Decrees dated March 8, 1896, and December 23, 1901, acknowledge, as the domain of the Crown, all the vacant lands :

a) In the basins of the Lake Leopold II. and of the Lukenie-River;

b) In the basin of the Busira-Momboyo river;

c) Between the following boundaries, viz. :—

Westward : the meridian of the confluence of the Lubefu with the Sankuru rivers, from this confluence up to the western summit-line of the Lukenie basin; South-West and South : the right bank of the Lubefu-river and the 5th south parallel; Eastward : the western summit-line of the Lomami waters between the last named parallel and the 3rd south parallel.

The domain of the Crown contains moreover, according to the above named decrees :

Six mines, unworked at present, but which will be delimited later on, and all property or effects which may

in the future accrue to the Estate, either gratuitously or for a consideration.

The domain of the Crown constitutes a corporate body.

It is administrated by a committee of three persons to be designated by a decree of the Sovereign, determining their remuneration. This committee disposes of the Revenue of the Crown domain, and applies it according to the directions decreed by the founder King-Sovereign.

In case of vacancy of a post of administrator, the remaining members will elect his successor, subject to his undertaking to always observe the rules laid down by the Founder Sovereign, according to his constituting power.

The same applies in case of permanent incapacity or definite absence.

The Royal Founder can designate members as substitutes to replace in case of need deceased administrators or those who resign or are otherwise prevented from holding office.

The Committee possesses the most extensive powers of administration and management.

The domain of the Crown is validly represented in respect of third parties by two members of the Committee. The latter can likewise delegate one of its members or a third party.

11. — SECONDARY FORMS OF FRUCTIFICATION OF THE DOMAIN.

Besides the direct exploitation by the State and simple lettings which resolve themselves into money payable to the lessor, there exist numerous other perfectly legitimate forms of turning property to good account.

The State may be induced under certain circumstances to associate itself in various ways with auxiliaries who could be useful in the economic administration of its property. Such association offers in certain cases a character as productive as it is opportune. As for instance the arrangement entered into between the State and the fourteen Companies established in the region of Kassai for the purpose of creating the *Kassai Company*. Such again is the arrangement concluded with the *Katanga Company* for the foundation of the *Special Katanga Committee* to whom has been entrusted the working of the region of the State situated to the south of the 5th. South parallel and to the east of 23° 54′ meridian east of Greenwich. This last is a typical example and merits some attention.

Since the arrival in the Katanga of agents of the Special Committee (end of March, 1901), some twenty new Stations, directed by Europeans, have been founded in the furthest parts of Katanga; constant communications exist between these stations; roads have been opened up, others are in course of construction, and a special mission is searching a railway track to unite the Southern frontier of Katanga with the navigable Lualaba, mining prospections on a large scale have proved the great value of copper mines, the existence of which has, however, been known for many years, and the native products (india-rubber, ivory, etc.), are beginning to reach the European markets from Katanga.

At the same time the government of the country has been solidly established.

This occupation and this organization assures the tranquility of the country and inspires confidence in these lati-

tudes in the native population, who, more than any have had to suffer from the treatment and abuses of powerful and cruel chiefs, who have exalted themselves into veritable potentates. In a word, in a relatively short space of time, after the association of the State with a company a complete transformation has taken place in a vast region of the Congo Free State.

The State can also concede on its own property and under specified conditions, real working concessions, carrying with them the exclusive right to certain products.

Examples of this are the concessions of l'*Abir* and the *Société anversoise de commerce au Congo*, also the *Comptoir commercial congolais*. Similar concessions, although less extensive, both in rights, and in superficial area were also conceded tot the *Nieuwe Afrikaansche handelsvennootschap* and to the *Société des produits végétaux du Haut-Kassaï*, for a term which has expired.

It has been disputed whether the State had the right to grant these concessions but we fail to understand on what grounds this reasoning can be legitimately based. Such a theory amounts to saying that the State can transfer its land absolutely, as it does when effecting sales and concessions of land, but that it cannot concede a part of what is called the « domaine utile » on this same land. In other words, it could not cede the right to enjoy certain of the products of the soil without conceding also the right to dispose of the ground itself. Now we do not know a single system of law which does not admit that the attributes of the property are divisible. Specially the distinction between the right to dispose of the ownership of a thing and the right

of enjoying it in such and such a way, use, profit, usufruct, is universally recognized. This is a case to apply the maxim : « He who can do the more can do the less. »

If the concession of the use of the property ought to be forbidden because it implies rights of working by private endividuals it would be necessary to draw the conclusion that no absolute concession of land is any the more lawful precisely because it contains one of the elements of that very right to privately enjoy which would be sought to be condemned. The proverb, « He who proves too much proves nothing » certainly applies here.

12. — FORESTS.

The forests are one of the most precious elements of the industrial wealth of the Congo, especially by reason of the india-rubber trees that they contain. Their preservation in good condition is of public interest.

We have set forth the legal questions relative to the ownership and exploitation of the forests. In order to complete these, we must briefly indicate here the measures taken by the State to prevent the impoverishing of the india-rubber trees in the forests which are being worked, on the one hand, and on the other, to permit of a certain amount of timber cutting in the domanial forests, principally in the interests of navigation.

The State has taken rigorous measures in view of the consequences resulting from working the forests without thought of the future.

Article 6 of the Decree of October 30, 1892, reads as follows :—

« India-rubber must only be collected by means of incisions made in the trees or climbers. »

The decree of January 5, 1899, contains the following clause in article 1 :—

« In all the domanial forests there should be planted annualy a number of india-rubber trees or creepers, not inferior to 150 feet per ton of india-rubber collected during the same period.

» The State Agents in the domanial forests where the State has not renounced the working of india-rubber, and private individuals and contractors in all the domanial forests where the State has renounced, either by the Decree of October 30, 1892, or by grant of special concessions, are required to execute and maintain these plantations in the manner and time specified by the orders issued for the execution of the present decree. »

A decree, dated June 7, 1902, has still further accentuated these measures by bringing up the number of india-rubber trees or creepers to be planted annually from 150 feet to 500 feet.

The order of March 22, 1899, provides for the carrying out of this matter. A careful and constant inspection is organized, notably by means of special inspectors, to oversee the re-planting, and severe penalties can be inflicted to support the public authority.

The system of timber cutting in the domanial forests is regulated by the decree of July 7, 1898, and by the orders of November 22, 1898, and March 21, 1902.

Steamers can take in supplies of wood fuel in consideration of an annual tax according to their tonnage and speed.

The Secretary of State, or officials deputed by him, can authorize private individuals to cut down timber for local use.

Other clearings of forests are subject to obtaining a working concession by decree.

13. — MINES.

The fundamental principles of the Mining Laws in the Congo Free State are contained in the Decrees of June 8, 1888, and March 20, 1893.

Articles 1 and 2 of the Decree of June 8, 1888, read as follows :—

« ART. 1. — The transfer by the State of lands belonging to it, and the registration of lands in conformity with the provisions of the land administration, do not confer upon the acquirers or proprietors of such lands any rights in the property or workings of the mineral riches contained beneath the surface.

» These mineral riches remain the property of the State.

» ART. 2. — No one can work a mine except by virtue of a special concession accorded by Us, or in pursuance of the general provisions which shall subsequently be adopted by Us in respect of mining rights. »

The decree of March 20, 1893, develops these principles. It defines and enumerates the substances for the mining of which a concession can be granted. It contains in addition the following organic provisions :—

« ART. 3. — The Government fixes by decree the regions where the mining researches are authorized either in favour of all without distinction, or of the persons specified in the decrees.

» This authorization is subject to the payment of a license-fee, the value of which shall be fixed by the decree.

» The authorization to make mining prospections carries with it the right to make borings, excavations or other works of the same nature, with a view of exploring the subsoil, subject to a payment to the proprietor of the land of an indemnity equal to double the damage caused to his property; this indemnity is fixed by the judge if the parties cannot agree as to the quota. »

« However, without the formal consent of the proprietor, these works cannot be executed in his enclosure, courtyard or garden, nor on the grounds adjoining his dwelling house or enclosure, within a distance of at least 100 metres from the said habitation or grounds. These works are also interdicted on the public roads unless with an express authorization given by order of the Governor-General.

» ART. 4. — Whoever shall discover a mine in the regions where he is authorized to make researches in conformity with article 3 can obtain a right of preference for ten years for the concession of this mine, on condition that he complies with the regulations laid down in the present Decree.

» To this end, he will send in, either to the Government or to an official specially delegated for this purpose, the most complete information possible respecting the geological and mineralogical nature of the mine as well as its situation and the extent of territory for which the concession is asked.

» The application for a concession should be accompanied by a correct plan of the surface drawn to a minimum scale of 1/20,000 and the concession will eventually by Us.

» The decree authorizing the concession will be registered by the Commissioner of lands, who will mark on a plan *ad hoc* the position of the mine conceded, and deliver a certificate of concession.

» As soon as the document has been issued, the person who has obtained the grant can commence work; the delivery of this certificate is liable to the payment of the tax stipulated in Art. 9 below.

» ART. 5. — No mining concession can be granted over an area exceeding 10,000 hectares; the mining territory includes

the subsoil to any depth, within the vertical limits of the surface area.

» The concession is limited to the substances indicated in the act of concession.

» The Government can authorize the fusion of several concessions of different substances as well as in different territories, and that without any limit as to surface area.

» ART. 6. — Subject to the reserve laid down in the last paragraph of article 3 of the present Decree, the concession of a mine confers upon the person to whom the grant is made the right to execute above ground all such work, including buildings, which may be necessary for the proper working of the mine, subject, however, to the indemnity due to the proprietor of the ground as prescribed in Art. 3, and which shall be equal to twice the damage caused to his property.

» The concession of a mine gives to the person to whom the grant is made the gratuitous use of the domanial ground, not cultivated or built upon, which he shall require for the works of the mine on the mining grounds constituting the concession.

» ART. 7. — The mining concession as a whole can be transferred to a third party, but it cannot be transferred in lots without the authority of the Government.

» ART. 8. — The mine concessions are only granted for a term of 99 years. At the expiration of the concession the State is subrogated to the concessionnaire and enters into possession of the mine and its plant.

» ART. 9. — The delivery of the certificate of mining rights is subject to the payment of the following fees.

Fixed fee. For each certificate . . . . . fr. 2,500 »

Proportional fee. For each hectare of mining property of precious metals, diamonds and precious stones . . fr. 10 »

All other mines. . . . . » 5 »

» Unless other conditions and royalties are mentioned in the Decree of authorization referred to in Art. 3, the working of the mine is subject to a royalty of 5 % on the net profit of the enterprise. Whatever the profit may be, the annual product of this royalty will never be less than 5 francs per hectare of mining

land conceded for the precious metals, diamonds and precious stones, and fr. 0.50 for all other mining lands conceded. The royalty on the working of the mine is due from the day that the certificate of concession is issued ; it is payable during the year which follows the expiration of each financialyear. After this delay, the Government has the right to pronounce the forfeiture of the concession.

» The royalties, with the consent of the grantee, can be transformed into an annuity or lump sum; they can also be represented by a certain number of fully-paid-up shares handed over to the Government.

» ART. 10. — The grantee can obtain from the Government the renunciation of a mine subject to an allowance for damage done and security for eventual damages.

» ART. 11. — The Government can at all times authorize an inspector to watch over the working of the mines conceded ; this agent has the right to visit the works and examine all documents, plans and registers relating to the working operations.

» A copy of the plans showing the progress of the works and excavations must be tendered annually to the Government.

» This inspector cannot be interested either directly or indirectly in the mines situated in the territories of the State.

» ART. 12. — The grantees are bound to have in the Congo a representative on whom all legal notices may be served.

» ART. 13. — Any infringement of the present Decree will be punished by a fine not exceeding 5,000 frs. and by a term of penal servitude varying from 8 days to one year, or by one or other of these penalties. »

14. — IVORY.

The legislation of the Congo Free State in this respect aims principally at three points.

The first is the regulation applied to elephant-hunting with a view to preventing the extinction of these animals. The decree of July 25, 1899, relative to the permission

to hunt, has been supplemented by the decree of April 29, 1901, fixing the periods and close-time, and establishing the prohibition to hunt or kill young elephants in all parts of the State territories.

The second point is the recognition of the principle in virtue of which the carcases of savage animals are considered as belonging to the proprietor of the grounds and become part of his capital.

The third part refers to the free rights granted by the State, in pursuance of the decree of July 9, 1890, to individuals for collecting ivory in the lands belonging to the State in different regions, and notably in all the territories situated above Stanley Pool, directly accessible by steamers below the Falls of the Congo and below those of its affluents, and covering a space of 50 kilometres on either side of the river banks.

In order to cover the very heavy expenditure occasioned by the suppression of the revolt of the Arabs, the State, by decree of November 23, 1893, established in the district of the Eastern Province, a tax on the products obtained as a result of elephant hunting by private individuals and natives, and regulated the method of collecting these taxes with a view of avoiding frauds and by admitting various provisions favourable to the exchanging movement.

These regulations come within the ordinary scope of the legislator.

15. — CRITICISM ON THE LAND SYSTEM.

In casting a glance over the Land System and the several ways of dealing with the domains, it is scarcely possible to overlook the perfectly correct methods employed by the State in this direction. They may be criticised from the point of view of Colonial policy but we think they cannot be attacked on the ground of justice.

In such a vast and arduous task it cannot fail to happen that certain feelers have to be thrown out. Misunderstandings, again, are inevitable. These short comings however, do not discourage the State; they simply lead it to profit by the experience obtained and to substitute better methods to those recognized as defective.

Abuses are possible, but they only tend to put the solicitude of the State on guard, the Government is never tired of adopting means to anticipate and repress them, as far as human institutions, always more or less imperfect, can attain this object.

It is an easy matter to point out in an undertaking such as the Congolese enterprise, the inherent imperfections and difficulties of the task and the accidental defects in the instruments which the State is called upon to employ.

It is, however, very unfair to hide under a bushel the good results which have been obtained, and the progress which has been realized, and to expose on a pinnacle a few exceptional and regrettable facts, to draw a conclusion from particular cases to the detriment of the general rule and to condemn wholesale an institution which draws forth the admiration even of its enemies and of which a witness,

certainly to be little suspected has been able to say. « In the whole history of Colonial life, there is no example on record of such a result obtained in such a short lapse of time (1). »

We are far from overlooking the important role which criticism plays in a matter which is as yet so little advanced as the art and science of colonization, but in order to play this role properly, the critic must remain impartial.

After all, if these severe criticisms have been at times formulated, there are ample compensations in many authoritative comments from abroad. For instance, M. de Lanessan, formerly Minister of the Admiralty in France, says :—

« Belgium has shown that, in matters of colonisation, she possesses more practical and rational ideas than ourselves, and a better understanding of the methods of modern colonisation (2). »

As to the condition of the natives, this is the opinion of Sir Harry Johnson, speaking from experience, of that part of the Congo which was formerly the most backward :—

« This portion of the Congo Free State was inhabited by cheerful natives who repeatedly, and without solicitation on my part, compared the good times they were now having, to the misery and terror which preceded them when the Arabs and Manyema had established themselves in the country as chiefs and slave-traders (3). »

His opinion applies to all parts of the State.

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(1) Edmond Picard, *En Congolie*, p. 152.
(2) *Politique coloniale*, 12-13 avril 1898.
(3) *Uganda Protectorate*, I, p. 198.

CHAPTER XII.

The Finances.

Without going at length into the question of finance, we think it expedient to gather here some information as to the financial relations between the State and Belgium, and also to give some details respecting the budget, the national debt, and the monetary system.

1. — THE FINANCIAL RELATIONS BETWEEN THE STATE AND BELGIUM.

The financial situation of the State has been much hampered from the beginning, chiefly on account of the stipulation in the Act of Berlin, enforcing the absolute prohibition of any custom duty on imports, thus depriving the State of the main form of revenue for a new colony. The balance of finances, at this time, was assured by the personal liberality of the Sovereign.

Actuated by the desire not te demand any pecuniary sacrifice from the Belgian Treasury, the Congo State, when private resources were no longer sufficient for its rapid development, determined to negotiate a loan. It only asked to be allowed to raise in Belgium a loan of the same kind as those usually raised by towns in that country. This was granted. Later, having to face the question of a still greater development, the State asked to raise another loan; but the Belgian Government preferred to advance the funds. The treaty of July 3, 1890 regulated the conditions of the financial help from the Belgian Treasury. Five millions of francs were to be advanced at once, and in addition, a sum of 2 millions annually, for a period of ten years, was granted, Belgium having the power, at the expiration of this term, either of annexing the Congo, or of being repaid the advance in regular instalments in case annexation should not be deemed desirable. In consequence of the extra expenses which the war with the Arabs caused to the Congo State, a law of June 22, 1895 (the idea of immediate annexation not having been admitted) added to the former advance of 25 millions a loan of 6,850,000 francs. These are the only sums advanced by the Belgian Government to the Congo State. The part which Belgium took in the construction of Congo railways was practically limited to the subscription, by a private company, of Stock to the amount of 15 millions, producing 3 ½ % interest, and to the guarantee given to certain funds of this company to the amount of 10 millions.

At the expiration of the ten years foreseen by the treaty of July 3, 1890, the question of the annexation of the

Congo by Belgium was not considered ripe, and the Congo State was able to announce that, owing to the satisfactory condition of its finances, it had no further need to apply to Belgium for pecuniary assistance. This new position of affairs, with its consequences for the future, was stated in the law of April 10, 1901, of which the single article is worded as follows :

« Wishing to retain the right, which she holds from the King-Sovereign to annex the Congo Free State, Belgium renounces, for the present, the repayment of the sums lent to the said State in fulfilment of the convention of July 3, 1890, approved by the law of August 4 of the same year, and in pursuance of the law of June 29, 1895. She also renounces the debit of the interest on the said sums. The financial obligations contracted by the Free State on account of the aforequoted Acts will only be held good in case Belgium should renounce the right of annexation. »

The improvement in the financial position of the State chiefly results from the increasing resources produced by the State-domain.

2. — THE BUDGET.

The development of the public services and the extension of territorial occupation explain the large increase in the budget of the State.

The following table compares the ordinary receipts and expenditure from the beginning up to the present time.

YEARS	RECEIPTS	EXPENDITURE
1886	1,523,000.00	1,523,000.00
1887	1,891,190.00	1,891,190.00
1888	2,911,188.00	2,911,188 00
1889	3,205,694.00	3,205,694.00
1890	3,147,156.02	6,824,125.62
1891	4,554,931.87	4,554,931.87
1892	4,731,981.00	4,731,981.00
1893	5,440,681.00	5,440,681.00
1894	7,383,554.00	7,383,554.00
1895	7,370,939.00	7,370,939.00
1896	8,236,300.00	8,236,300.00
1897	9,369,300.00	10,141,871.00
1898	14,765,050.00	17,351,975.00
1899	19,966,500.00	19,672,965.00
1900	26,256,500.00	27,731,254.00
1901	30,751,054.00	31,256,054.00
1902	28,709,000.00	28,549,000 00
1903	28,090,000.00	27,900,556.00

Receipts. — The receipts of the State are of two kinds : Ordinary resources, extraordinary resources.

Among the latter were included the subsidy of the King-Sovereign (one million yearly) granted till the year 1900, and the annual advance of the Belgian Government (two millions yearly), from 1890 to 1900. Since 1900, they consist of a loan intended to meet the extraordinary expenses.

The ordinary resources include the proceeds of direct and indirect taxation, tolls, excise, and other regular receipts.

Below is given the table of the ordinary receipts for

1903, compared with the figures of the budget of 1902 :—

1902 ESTIMATES	NATURE OF RECEIPTS	1903 ESTIMATES
3,000.00	Registration taxes	3,000.00
70,000.00	Sale & letting of domanial land, timber felling, etc.	20,000.00
6,055,000.00	Customs: Duties on exports 4,550,000.00; Duties on imports, including the duties on alcohol 1,600,000.00	6,150,000.00
580,000.00	Direct personal taxation	600,000.00
1,000.00	Road tolls	1,000.00
125,000.00	Taxes on timber felling	140,000.00
155,000.00	Postal receipts	155,000.00
55,000 00	Maritime rates	60,000.00
25,000.00	Judicial receipts	25,000 00
8,000.00	Chancery duties	6,000.00
4,160,000.00	Transport & different services of the State	3,100,000.00
60,000.00	Taxes on portage	60,000.00
15,452,000.00	Proceeds from the private domain of the State, from tributes and taxes paid in kind by the natives	16,440,000 00
1,703,000.00	Interests and dividends	1,100,000.00
122,000.00	Fees for licenses granted to Congolese companies	105,000.00
135,000.00	Extra & casual receipts	125,000.00
28,709,000.00	TOTAL RECEIPTS	28,090,000.00

In this table the most important item is the proceeds from the State lands, and the tribute paid in kind by the natives. These amount to 16,440,000 francs, and are together more than half the total receipts. The custom

duties comenext in importance, amounting to 6,150,000 fr. The export duties which formerly constituted the main resource of the State, appear for 4,550,000 francs. The imports, including the duty on alcohol produce, only the the sum of 1,600,000 francs.

It must be stated that the Import and Export duties of the Western part of the conventional Congo basin are in no way optional; they are fixed in conformity to the arrangement of April 8, 1892, in which the Congo State, France, and Portugal are interested, and which was extended until July 2, 1905, by the protocol of May 10, 1902.

Here below these diplomatic acts :—

« *Protocol of April* 8, 1892. — I. All goods imported into the Western Congo basin shall be taxed at 6 % of their value, excepting arms, ammunition powder and salt, which are to pay a tax of 10 %.

Alcohol to be subjected to a special tariff. »

» Ships and boats, steam engines, mechanical apparatus for commerce or agriculture, and manufacturing and farm tools, are exempt from import duties for a period of four years, dating from the time of the first imposition of import duties, and will afterwards be taxed at 3 %.

» Locomotives, carriages and railway plant will be exempt during the period of the construction of the lines, and until the date on which traffic commences. They will then be taxed at 3 %.

» Scientific instruments and instruments of precision, as well as articles used for religious purposes, clothes and personal luggage of travellers and of those who come to settle in the territory of the Western Congo basin, are exempt.

» II. The products exported from the Western Congo basin shall be taxed at the following rates :

Ivory	10 % of their value.
India-rubber	

Earth nuts	5 % of their value.
Coffee	
Red copal	
White copal (inferior quality).	
Palm oil.	
Palm nuts	
Sesame	

» Export-duties on ivory and india-rubber will be collected on the following basis :—

Pieces and sticks of ivory. . . .	10 frs the kilo.
Tusks, of less weight than 6 kilog. .	16 frs » »
» above 6 kilog. in weight . .	21 frs » »
India-rubber.	4 frs » »

» These bases will be subject to revision from year to year, according to the saleable value of these goods on the African coast, under conditions likely not to hamper in the slightest way the commerce.

» III. The tariffs here above indicated for imports and exports are established for a period of ten years.

» *Protocol of March* 10, 1902. The arrangement of April 5, 1892, is continued until July 2, 1905.

» *Ad valorem* taxation is maintained, but only provisionally, and with the idea of eventually establishing a specific taxation with a maximum limit of 10 %, provided in the declaration of July 2, 1890.

» The tariff on imported goods is raised from 6 % to 10 % *ad valorem* according to the faculty allowed by the above mention ed declaration, all the exemptions and exceptions stipulated by article 1 of the arrangement of April 8, 1902 remaining also in force.

« No alteration is brought to the tariff on exported goods. »

As to direct and personal taxation it figures in the budget for the sum of 600,000 francs only, which represents about the 47th part of the estimates of the budget. They are established on three bases :— 1. The area of inhabited

buildings and enclosures; 2. the number of employés and workmen in service; 3. the ships and boats used by tax payers.

A general reduction was made in 1902. At the same time a reduction of 50 % was granted to religious, charitable, and scientific institutions and undertakings, by a Decree of May 28, 1902. Besides, a Decree of June 25, 1902 declares that direct and personal taxation shall be and remain reduced by a fifth, when, and as long as, the receipts of the private domain of the State, of the tributes and taxes payable in kind by the natives, will allow of their being estimated in the budget to be worth 17 millions.

Expenditure. — The ordinary expenditure for 1903 has risen to 27,900,556 francs; the extraordinary expenditure to 2,364,994 francs.

The ordinary expenses are distributed as follows: —

Salary of the Secretary of State . . . . .Fr.	21,000.00
Salary of the central service staff	45,360.00
Expenses of office and correspondence. . . .	6,000.00
Library, furniture, rent, heating, lighting, insurance, telephone, etc.	20,000.00
Repair of buildings	5,000.00
HOME DEPARTMENT.	
The administrative service of Europe	165,000.00
The administrative service of Africa.	3,180,310.00
The army	7,701,765.00
Naval expenditure	2,023,376.00
Sanitary department.	504,120.00
Public works	1,081,885.00
Missions and educational establishments . . .	121,425.00
Expenses relating to some transports in Africa, not drawn up in the budget	1,600,000.00

FINANCIAL DEPARTMENT.

The administrative service of Europe	99,000.00
The administrative service of Africa	503,065.00
Agriculture	1,373,932.00
Exploitation of the domain	6,041,790.00
Savings-bank, interest of the loans and guaranteed stock	1,656,228.00

FOREIGN OFFICE AND JUSTICE.

Administrative service of Europe	227,100.00
Postal department	66,000.00
Navigation	140,200.00
Justice	910,000.00
Worship	250,000.00

The most important item of the budget is the expense for the army. It amounts to 7,701,765 francs. In this amount the salaries of Europeans figure at 1,800,000 fr.; those of natives at 2,050,000 francs.

In the credit of 6,014,790 francs for the exploitation of the domain, the wages of natives amount to 2,802,190 fr.

Some items are worthy of special notice :

Agriculture (improvement in value of land, replantation of india rubber, etc.)	1,373,932.00
Navy	2,023,376.00
Public works	1,081,885.00
Justice	910,000.00

With regard to the last item, it is to be noticed that the administration of justice, so important and delicate a matter in a new country, has been considerably extended lately.

3. — THE PUBLIC DEBT.

The Decree of July 5, 1887, created a Public Debt (Committee for studying the Upper-Congo) with a nominal

capital of 11,087,000 francs bearing interest at the rate of 2 ½ % from January 1, 1900. In a letter of January 12, 1895, addressed to Count de Smet de Naeyer, Belgian Minister of Finance, Baron van Eetvelde declared in the name of His Majesty the King his renunciation of his claim for the repayment of the shares representing the capital furnished by the King to the Committee of the Upper-Congo, being 10,664,800 francs. This first debt was thus reduced to 422,200 francs.

The Decree of February 7, 1888, created a Public Debt with a nominal capital of 150,000,000 represented by 1,500,000 shares of 100 francs, to be issued at periods determined by the State. It was decreed that the issuing should be made to the amount of 100,000 shares (Decree of February 14, 1888) to the amount of 600,000 more shares (Decree of February 6, 1889) and to the extent of the remaining 800,000 shares (Decree of November 3, 1902).

The loan is repayable in 99 years. The expenses of the loan, including the payment of premiums, the repayment of bonds without premiums, with the annual increase of 5 francs interest per share is specially ensured by a sinking fund, managed by a permanent committee composed of delegates from the State and from financial firms who have taken part in the issuing. The issuing in Belgium was authorized by a law of April 20, 1887, and the entering of the bonds in the official list of the Stock-Exchange in Paris, in accordance with the arrangement connected with the territorial transactions with France of April 29, 1887, was authorized in June 1894.

The Decree of October 17, 1896, created a Public Debt

with a nominal capital of 1,500,000 francs, bearing interest at the rate of 4 % to cover the extraordinary expenses authorized by the Decree of June 25, 1896. The Decree of June 14, 1898, created a Public Debt with a capital of 12,000,000 francs, bearing interest at the rate of 4 % to cover the expenses occasioned by the carrying out of extraordinary works of public utility.

The Decree of October 15, 1900, created a Public Debt with a nominal capital of 50,000,000 francs bearing interest at the rate of 4 %, to aesure the continuation and the development of public works in the Congo.

We may notice again that, by a Decree of December 24, 1901, the State guaranteed to the share holders of the company of the railway from the Upper-Congo to the African Lakes, besides the amortization in 99 years, an annual interest of 4 %, on a capital of 25,000,000 and upon the increase regularly created in consequence.

As to the financial obligations contracted by the State towards Belgium, we have fixed their terms, and have indicated, at the same time, under what circumstances they would operate again : « in the case, and from the time when Belgium should renounce, the right of annexation. »

4. — THE MONETARY SYSTEM. — PAPER CURRENCY.

The basis of the monetary system is the gold standard. The current money is the franc, divided into 100 centimes.

By the decree of July 27, 1887, the King-Sovereign has reserved to himself the right of coining, for the use of the Congo Free State, money in gold of the value of 20 francs, and silver money of the value of 5 francs, of

2 francs, 1 franc, and 50 centimes and, in small copper coins of 10, 5, 2 and 1 centimes.

The silver coinage has been struck, as regards standard, weight, allowance, and diameter, as shown in the following table :

COINS	STANDARD		WEIGHT		DIAMETER
	Exact standard	Allowance	Exact weight	Allowance	
	1000 th.	1000 th.	Grammes	1000 th.	Millimetres
5 francs.....	900	2	25	3	37
2 francs.....	835	3	10	5	27
1 franc.....	835	3	5	5	23
50 centimes ..	835	3	2.5	7	18

Pieces of 10, 5, 2 and 1 centimes have been struck in pure copper.

They are perforated with a round hole in the centre, and are made under the conditions of weight and diameter shown in the following table.

COINS	WEIGHT		DIAMETER	
	Exact weight	Allowance	Of the piece	Of the central hole
	Grammes	1000 th.	Millimetres	Millimetres
10 centimes.....	20	20	35	7
5 »	10	20	30	6
2 »	4	20	23	4.6
1 »	2	20	18	3.6

Paper Currency. By a decree of February 7, 1896, with the object of facilitating business transactions between the different parts of the State, banknotes of the State, payable to the bearer at the General Treasury of the Congo Free State, in Brussels, were issued. This Decree sanctioned a first issue of notes to the value of 400,000 francs.

An order of the Secretary of State of February 8, 1896, limited the value of the issued notes to a sum of 269,850 francs, comprising 2,000 notes of 100 francs each, and 6,985 ten franc notes. Another order was issued February 19, 1896, in fulfilment of the Decree of February 7, 1896.

Formerly, in the Lower-Congo, agents of the State and merchants were accustomed to give the natives, in exchange for their services, a *mokande* or cheque, which enabled them to purchase what they required at the factories.

It is evident that silver, copper and paper currency of the State have a great advantage over the *mokande* or cheque system, these latter often being only payable at a fixed date and by denominated persons. At first the circulation of money was slow and difficult. It was only with a good deal of trouble that foreign money was displaced in Lower-Congo, and in the interior there was the same difficulty in deposing the custom of barter, and the usage of the *mitako*, or brass wire.

Finally, to accelerate the introduction of State currency, the Government decreed :

1. To pay the soldiers and native workmen in cash, and also to pay in the same manner for all goods bought from the natives by the State;

2. To stop all payments in kind at the stations of the Lower-Congo;

3. To substitute for the rations formerly issued by the State to the agents, an equivalent in cash, and so forth.

Immediately after the enforcing of these measures the State currency began to circulate rapidly, and merchants no longer hesitated to open retail stores, where the natives in the employment of the State and commercial companies, and other natives as well, came to exchange their money for European goods.

At the present time, to the South of Stanley Pool, the greater part of the commercial transactions between Europeans and natives is carried on trough the medium of the State currency, and in the native markets it is no longer possible to purchase anything except with the silver or copper Congolese money—the preference being given to silver.

The table below shows the progress made since 1888 :

VALUE OF CONGOLESE MONEY IN CIRCULATION ON DECEMBER 31

YEARS	SILVER AND COPPER	BANKNOTES OF THE STATE	TOTAL
1888	3,634.63	—	3,634.63
1891	117,411.55	—	117,411.55
1895	690,340.85	—	690,340.85
1899	848,362.21	193.660.00	1,042,022.21
1902	980,614.95	255,710.00	1,236,324.95

It must be noticed that large quantities of the silver and

copper coins in circulation do not reappear in the coffers of the State, as the natives make them into necklaces, earrings, bracelets and other ornaments. Many coins also are buried with the bodies of powerful Chiefs.

CHAPTER XIII.

The Public Force

If in civilized countries it is necessary to rely upon an organized force capable of inspiring respect, it is evident that there are still stronger reasons for a like organization in a barbarous country.

In taking more emphatically the character of State colonization, modern colonization has imposed on the public authority a larger task for the preservation of general security.

The nature of modern enterprise in the colonies makes it imperatively necessary to prepare for any new emergency, and to know how to it meet properly. It is not only a question of protecting barter transactions on the coast, or in some places more or less accessible by water; but it is a case of veritable occupations of territory, together with extensive undertakings and a permanent contact with the whole of the native population.

The Congo State understood at once the necessity of organizing a reliable public force in its territory, and it also saw how, by means of such a force, the moral and physical standard of the native population of a new country could be raised.

The question as to how this should be done was as difficult as it was important. It is imperative in all directions in equatorial colonies to work with the natives to a great extent. The obligations of discipline and labour which are inseparable from military service do not, at first sight, seem to be in harmony with the natural habits and customs of the natives. Experience in the Congo has, however, shown that apprehensions on this score were not as serious as was at first thought.

The successive development of military institutions in the Congo Free State offers a remarkable example of the experimental method and of the pratical adaptation of institutions to circumstances, the effect of which — we have already noted in other directions.

1. — ARMY RECRUITING.

At the commencement of the occupation of the country, the authorities recruited abroad — at Zanzibar, Lagos, Sierra Leone, Accra, Elmina and elsewhere. This scheme was costly, and unreliable.

The term of enlistment was ordinarily for three years. The pay was a shilling a day, independently of rations, uniform and equipment, medical attendance, the expenses of the first voyage and repatriation, all duly set out by contract before the European authorities at the place of departure, with the undertaking to pay two thirds of the amount in the Congo, and the remainder on return home, in presence of the same authorities. It is clear that the first soldiers recruited for the Congo State were not exactly slaves.

It did not take long to see that it would be better to replace these foreigners by Congo natives; but before this idea could be carried out it was necessary to overcome the distrust of the natives, and certain prejudices on the part of the Europeans towards them — a work of time and painstaking.

In 1885 Captain Coquilhat came to Bangala to recruit a certain number. Captain Van Dorp did the same at Manyanga. The work was started but much patience had to be exercised. When a small contingent had been enrolled in a district, their comrades would not enlist before seeing that these recruits returned in order to have proof positive that they were safe amongst the Europeans.

The first attempts of any size at the formation of a native militia began in 1887.

Desirous of forming a national army, the State sought at first to utilize for this purpose, even the incidents of the struggle against slave-hunters and dealers, as well as any political or social organizations among the people, which seemed likely te favour the principle of authority.

Slaves, rescued in fights with slave-drivers were pronounced free, and placed under the protection of the State. Those who could not, for certain reasons, be repatriated, either because they did not wish to be, or because they were ignorant as to the whereabouts of their own homes, enlisted willingly into the Public Force. In small proportions, at the beginning, some native Chiefs, working together with the authorities, set apart a certain number of their subjects for the Public Force. A system such as this has a certain resemblance to that which was in force in Europe during the middle-ages. The local rulers, bound

to military service, brought with them some of their dependents, whose numbers varied according to the power of their lord, and the extent of his territory.

All the measures which we have mentioned, belong to what we may term the period of systematical experiment in Congolese military institutions. A period of more practical and definite adaptation, commenced with the decree of July 30, 1891, respecting the recruiting of the Public Force.

This decree designs to raise a regular national army by utilizing the existing forces of the country.

Below is the decree with the indication of the modifications which have been introduced :

« ARTICLE FIRST. — The recruiting of the national army will be by voluntary enlistment, and by annual levies. The contingent to be recruited is determined by Us.

» ART. 2. — The Governor-General shall regulate the annual levies intended to complete the ranks, according to the contingent fixed by Us.

» ART. 3. — The Governor-General shall annually fix the districts where the levies will take place, as well as the proportion to be furnished by each. He shall point out also, in each District, the localities where the levy will take place, as well as the proportion to be furnished by each.

» ART. 4.— The method by which the levy will be made shall be determined by the Commissioner for the District, in agreement with the native Chief. It shall take place, when practicable, by conscription.

» ART. 5. — No one can be enrolled under the age of fourteen, nor after the age of thirty.

» ART. 6 (Decree of April 20, 1900). — The duration of service in the regular army shall be seven years.

» ART. 7. — Every man enrolled in the regular army is registered on the rolls of the Public Force. He has a « livret »

given him of the model approved by the regulations on services and accounts of the Public Force.

» ART. 8. — Every man enrolled by virtue of articles 2, 3 & 4 of the present Decree is kept and equipped at the expense of the State.

» He receives a daily pay of 21 centimes; the payment of a third of this sum may be delayed untill the expiration of his time.

» ART. 9. — The authorities are bound to protect all the men enrolled against any injury which may be hereafter directed against their personal liberty.

» ART. 10. — The authorities are strictly forbidden to keep in the ranks men who are no more placed on the rolls, according to article 7, or whose term of service is expired, except in the case of voluntary re-enlistments.

» Every infringement of this kind shall be punished with a fine of 25 to 500 francs, and of from 8 days to 6 months penal servitude, or to one of these penalties only. »

The militiaman, therefore, is paid 21 centimes daily; there is also given him a monthly allowance of a shilling, which is retained for his future use, and which can only be taken from him for a grave offence and only in the cases stated in the rules for the organization and discipline of the Public Force. This allowance is paid to him at the end of his time.

The period of service of the volunteer depends upon his personal convenience, and his pay is also determined by his contract. He has the right to the same monthly reserved pay as the militiaman, under the same circumstances, and this allowance can be taken from him for the same causes. It is paid to him in proportion to the number of months he spends under arms.

All the native troops are clothed and fed at the expense of the State, and receive gratuitous medical care.

At the expiration of his time the volunteer is discharged unless he elects to re-enlist.

At the end of his time the militiaman is enrolled in the reserve for a term of five years, under the conditions of the decrees of january 18, 1898, and december 19, 1899.

Nevertheless, militiamen, who, having terminated their service with the regular army, enter into a new engagement for three years in the Public Force are dispensed from all future service, and are disbanded at the expiration of the new engagement.

The new regime was gradually introduced, taking all circumstances into account. At first the natives, not understanding this new institution, showed a certain amount of distrust. But when they found how they were treated, the services demanded of them, and the advantages attached to service with the army, a sudden change came about, and they accepted military service without demur.

The number of volunteers increased steadily. In 1889, 111 offered themselves for service; in 1890—478; in 1891—1,623; in 1892—2,955; in 1895—3,271; in 1896—4,539; in 1897—4,727; in 1898—5,319; in 1899—5,015; in 1900—4,892; in 1901—4,304; in 1902—4917. On January 1, 1903—5,278.

If the importance of dividing equally amongst all the tribes the burden of military service no longer existed; if it were not advisable for political and other reasons te have in the ranks of the Public Force men from all parts of the territory, and to continue the system of recruiting by districts, the voluntary engagements would suffice in a great measure te fill the ranks of the army with men having both the desire and vocation for military life.

Whilst the number of native volunteers increased so quickly, the number of foreign soldiers naturally decreased, and outside recruiting has ceased to be a means of augmenting the Public Force since the year 1896.

Since then a certain number of volunteers from abroad have asked to be enlisted or re-enlisted. A large number of these men have come from their own countries, at their own expense, and have presented themselves at the local government offices. A careful selection was made amongst them, but the large number of those who offered themselves shows that Congolese military service has appreciable advantages, and one can hardly conceive that these men, if they had been illtreated, as some have alleged, would come from enormous distances, at their own expense, to place themselves again in the power of their tyrants.

The progress in the occupation of the territory, the daily increasing security of communications, the strict discipline which is maintained among the soldiers, the number, always larger of volunteers and re-enlisted soldiers, allow of the number of men required for the district conscription to be reduced. In consequence, the annual levies of the militia, which in 1896 numbered 6,000 men, have ceased to increase from that date, and have dwindled to 2,200 in 1901. And the population of the territory, following the usual estimates, does not appear to be less than 20 millions.

At the present time the State has no trouble in recruiting for the army. It possesses a nucleus of veterans, for the number of men asking to renew their term of service continually increases. On the other hand, the colonies of native children—composed of deserted children, or of chil-

dren of parents liberated upon the dispersal of slave convoys, or of fugitives who claimed the protection of the State—while they supply part of the workers and artizans to the stations, procure for the army a nursery of young soldiers specially devoted to the Europeans who have raised them, and capable to help in the training of recruits and in the formation of a reliable staff of native non-commissioned officers.

2. — THE ORGANIZATION OF TROOPS.

The organization of the Public Force was necessarily rudimentary at first. The recruits and volunteers from the coast passed through the hands of a Company of instruction established at Boma and were then speedily drafted as need required, into the columns and companies of the districts.

The general organization of the public force dates from the decrees of August 5, and November 18, 1888. It is now chiefly governed by the decree of November 26, 1900, of which the following are the most important provisions :

« ARTICLE FIRST. — The Governor-General exercises supreme command over the troops in the Congo.

» ART. 2. — The Public Force includes : the Staff, the companies on active service, the reserve and the instruction camps.

» ART. 3. — The list of officers comprises the following grade according to rank :

» European Division : The Commander of the troops (who holds the rank of Government Inspector), the Captains-commandant of the 1st class, the Captains-commandant of the 2nd class, the captains, the lieutenants, the 2nd lieutenants, the upper non-commissioned officers, the non-commissioned officers, the military assistants.

» Black Division : The sergeant-majors, upper sergeants, the sergeants and corporals.

» ART. 4. — Failing nomination by Us, the Governor-General divides the European personnel into different sections according to a list drawn up annually and annexed to the budget of the State.

» ART. 5. — The officers are appointed by Us.

» The upper non-commissioned officers, the non-commissioned officers, the military assistants, the sergéant-majors and the first sergeants are nominated by the Governor-General.

» The native sergeants and corporals are appointed by the Commissaires de districts or chefs de zone on the recommandation of the Commandants attached to the locality, and in the case of isolated troops, on those of European agents.

» Those belonging to the Company of the Lower-Congo, are however appointed by the Commander of the Troops, those of the Reserve Corps and of the camps of instruction, according to the special regulations for these sections.

» ART. 6. — The Public Force is under command of a superior official who resides at the seat of government. He has a Staff. The commander of the forces, under the supreme authority of the Governor-General is invested with a special power according to the regulations of the service and the budget.

» ART. 7. — The personnel of the Staff includes further assistant-officers, and non-commissioned officers, Keepers of the Archives.

» ART. 8. — The Companies for active service are divided amongst the different districts, circuits or territories, by the Governor-General according to a table of division approved by Us.

» They are designated by the names of districts, circuits or territories to which they are assigned.

» Their number is determined by Us.

» They have head-quarters established at the seat of the district, of the circuit, or of the territory.

» Their principal object is the maintenance of order and the

effective occupation of each district zone or administrative territory.

» ART. 9. — The number of men in the companies on active service depends on the importance of the region which they have to protect, the number of non-commissioned officers varies according tho the number of soldiers under arms.

» ART. 10. — The effective force of the Companies is fixed annually by the Governor-General within the limit of the estimate credit granted by Us.

» ART. 16. — The Governor-General decides upon the effective force of the camps of instruction within the limit of the estimate credit granted by Us. He appoints the commanding officer of the camp.

» ART. 17. — The Commanding officer of the reserve corps is appointed by Us.

» ART. 18. — A special regulation deals with the camps of instruction and the reserve corps it refers to the administration, composition, subdivision of these sections and the duties of their commander.

» ART. 19. — Independently of these sections and special corps of which the existence, composition, organization and administration are the subject of special Decrees, when public security demands it. The whole of the State staff, whether officials or labourers, with the exception of the magistrates of the law may, when public security requires, be requisitioned to bear arms by the « Commissaire de district », the « chef de zone » or district Commander. This body is then divided into separate sections commanded by the officers and non-commissioned officers of the Public Force specially appointed for the purpose by the Governor-General or the applying authorities. Failing a sufficient number of non-commissioned officers in the Public Force, but in that case only, officials and agents not belonging to the Public Force may be commissioned provisionally by the applying authorities as auxiliary officers or non-commissioned officers. To become final, the commission granted to them must be confirmed by the Governor-General.

» This auxiliary force during the whole period of its activity

is under the control of the same authorities as those upon which the Public Force depend and is subject to the military laws and regulations. »

The first camps of instruction were established at the Equator and at Stanley Pool in 1891-1892. Their origination dates from August 1, 1892. Special regulations fix the conditions to be fulfilled by the men, to enable them to be enlisted.

Camps of instruction number at present four : One in the Lower-Congo, at Luki, and three in the Upper-Congo, at Yumbu, Irebu and Umangi.

The improvements effected in the organization of the camps have brought down the period of instruction from 18 months, to one year.

Outside the daily military drilling, the average length of which is three hours, the men in the camps are employed in cultivating the soil, chiefly to provide food for the troops.

The number of the companies is 24. Each company is divided into platoons of 50 men, and its effective strength is in proportion to the extent and the needs of the territory over which it exercises its authority.

The number of European non-commissioned officers corresponds in each company to its effective strength, and to the duties which it has to perform.

The general effective strength of the army, exclusive of the reserves, is 16, 175; non-commissioned native officers muster 1,938; European Staff 456.

The establishment of a Reserve Corps at the Lisala camp dates back to 1898. It is composed of militia-men recruited for this purpose and of men on unlimited leave, and liable to be called up in case of mobilization.

3. — DUTY OF THE PUBLIC FORCE.

As set forth in the Decree of November 26, 1900, the principal business of the army is to maintain order in, and to effectively occupy each district, zone or administrative territory. The Public Force has fulfilled this mission in the past and is daily striving to continue. Law and order now prevail where anarchy was the rule. North, east and south, the slave-traders have been crushed. After a formidable war of civilization, the State has succeeded in exterminating these men—hunters, and Arab traders—at the sametime, it has powerfully realized the effective occupation of its territories. To quote a significant fact : the number of posts in the State, which was 13 in 1885, was 115 in 1895. It reaches 215 in 1903.

In proportion to the improvement in the method of recruitment for the Public Force, the training of the blacks to regular military service has also improved. The State certainly does not pretend that the natives whom it has been able to bend to the discipline of its army, have become all at once civilized beings. It knows very well that if these men were abandoned to themselves they would relapse into the state of barbarism from which they have been rescued with such difficulty. All the efforts of the authorities tend to prevent the soldiers forgetting their duty, and when a short-coming of this nature has been reported it is severely punished. The collection of the State's instructions contains numerous regulations intended to prevent any kind of abuse and a service of inspection has been organized with the view of securing the control of the soldiers, and of keeping their vigilance aroused.

The militia must be instructed with the greatest humanity. Good care is taken that the men receive sufficient food, be suitably quartered, that the sick be always properly attended to, that the offences of which they are guilty be punished in compliance with the regulations, avoiding any excessivy severity.

The small posts, commanded by blacks, are most closely watched. Their behaviour must be controlled unceasingly. In fact, their number is more and more reduced.

As a me asure of precaution, garrisons are formed of men of four different tribes at least, and the number of volumteers from the region itself never exceeds a quarter of the total force.

In the Congo there have been revolts and military mutinies more or less serious, and more or less difficult to quell owing chiefly to the nature of the country under disturbance, which enabled mutineers to avoid encounter with the loyal troops sent out to fight them. Such eposides are unfortunately not peculiar to the Congo State, all colonies providing like examples. It is unnecessary to recall facts so well known to all. Those incidents were almost bound to inevitably arise when, urged on by circumstances, it was found necessary to employ untrained contingents formed by too many men from the same tribe.

The first revolt broke out at Loulouabourg in July 1895, where the raids of the slave-traders Kiokos and Wabundu had to be faced. It would have been difficult to reduce the garrison to the very feeble contingents which were at that time furnished by the camps of instruction. Recourse was had to recruiting on the spot, in spite of the danger incurred.

The native population separated from the rebels, notwithstanding the terror inspired by the latter. In many instances the population came to the help of the troops of the State, but yet it took nearly two years to repulse the mutineers some isolated groups of whom retired southwards out of direct reach of the State. Aided by the operations of Wabundu, and receiving arms and ammunition from the latter, these groups have, up to the present time, not been completely rendered harmless.

The revolt of the Batetela forms another episode amongst military mutinies. These natives, who had been under the command of Arabs, had contracted the germs of indiscipline and hostility from their masters. Owing to the circumstances it had been impossible to apply the Government regulations, directing the formation of troops from amongst the men of different tribes. These Batetela could not make up their minds to submit to discipline, and to abandon the habits of violence with which their former instructors had so firmly inculcated them. And they deceived the authorities who had believed in their protestations of loyalty. They had come to place themselves at the disposal of the heads of the Congolese Army, relying that by turning over to the side of the State, namely in their estimation, to the strongest side, they could continue their life of plunder, and their monstruous practices. Their mutinies are precisely the result of the energetic war waged by the Congolese authorities on these habits and practices.

The Batetela soldiers who in the Eastern Province had surrendered freely at the time of the Dhanis revolt had their death sentence remitted, some were employed as labourers in different districts, notably at Boma, where they were

employed in the works at the fort. On the April, 17, 1900, without any warning, at the muster at two o'clock, the men of this origin seized the keys of the arms magazine, and broke into open revolt, trying to make use of the guns of the fort to destroy all within their reach. Nevertheless they were not able to do any damage. The third day the rebels abandoned the place during the night. They were overtaken by the troops of the State and some were taken prisoners. 30 of them escaped to a neighbouring territory.

Since these regrettable events no similar incident has occurred, and the experience ot the past having been kept in account in the organization of the troops, such facts are no mare likely to occur.

The other tribes of the State moreover have not given rise to any of these incidents, and the soldiers which they supply to the Public Force, are generally devoted to their leaders and appreciate the manifold advantages which the service assures them.

The State would certainly have been unable to bring its anti-slavery campaign to a successful close with an army of malcontents. The Government encourages the legal marriages of its subordinates, the legitimate wife has the right to a salary, besides which she and her children receive daily rations. Married soldiers are lodged apart, and only the legitimate wives are permitted to follow the military when they change garrisons.

A patch of ground is placed at the disposal of each household to be cultivated by the husband and wife outside the hours of service, and the produce belongs to them. Idleness is a bad counsellor; measures are therefore taken by the

State so that the time of the men, outside the hours devoted to military instruction may not be spent in loafing.

According to the method employed in the ancient Roman colonization, and which constituted effectual means of assimilating the conquered nations, the soldiers are employed in public works and agriculture. A similar plan is followed by Australia in the military confines, and by Russia on the frontiers of Siberia. The greatest care has been applied to the instruction, moral as well as technical, of the young soldiers. This point justly considered as of the utmost importance has been the subject of repeated and special instructions.

The Governement is zealously seconded by its agents, and by a body of picked officers who apply themselves to the study of the numerous regulations, and devote themselves with true self denial to the improvement of the condition of their subordinates. These efforts, after many years of perseverance, have been rewarded by most satisfactory results.

The entire measures taken by the central authorities have had another equally successful result; that of considerably increasing the number of re-enlisting men. The pay of those re-enlisting is raised from fr. 0.21 to fr. 0.25 and even for the re-enlisted men the second time, to fr. 0.50. A premium is granted them on re-enlistment.

Their wives and legitimate children receive rations at the expense of the State. The monthly salary of their wives is doubled. The ever-increasing number of the re-enlisted men shows what value the natives attach to the military service, and the satisfaction they feel at the good treatment received in the ranks of the Public Force. The Congo State,

alive to the importance of this element, strives to encourage re-enlistment in the different companies of troops, where picked men spread the milititary spirit and form an excellent prop to the efforts displayed by the leaders in order to ensure respect for discipline and law. The soldiers who have distinguished themselves by their loyalty and military qualities obtain promotion and receive an extra pay which varies from fr. 0.05 to fr. 0.50 according to rank.

The white officers and non-commissioned officers never lose an opportunity of inculcating into the minds of their subordinates ideas of order, discipline and respect of persons and property, and attachment to duty. The fidelity of the blacks in compliance with the regulations is rewarded by means of promotions and distinctions, which produce emulation amongst comrades. These men thus become valuable instruments in the maintenance of order and justice.

Old re-enlisted soldiers constitute in Africa and elsewhere a first-class military element. The propensity schown by for the old soldiers in respect to re-enlistment is therefore an additional guarantee that discipline and order are to reign more and more in the young Congolese army.

The State continues to take an interest in its soldiers after their time has expired; the discharged, who are sent back to their homes free of expenses, with wives and children, if any, are specially protected, and receiveg rants of land in any station they may choose.

The Public Force in the Congo is not only a valuable instrument in the cause of order and law, but is also a powerful means towards moral improvement.

The old soldiers, trained to discipline, contract, while in

the service, habits of order, regularity, and activity which they retain in private life. Thay have adopted the custom once their time has expired, of establishing themselves near the stations, where they remain under the eye of the whites and run less risk of losing the good habits which they have contracted. Certain important posts have now villages of old soldiers in their neighbourhood who inhabit well-built huts, often made of brick. These villages render invaluable services in the re-victualling of the troops, the men who inhabit them having acquired a taste for comfort and feel the need of working in order to procure the resources necessary to meet their new requirements.

This example attracts the attention of the surrounding natives, who also feel the desire of procuring similar comfort by working.

By degrees a better state of things is being established which although not yet actual civilisation, is a great improvement on barbarism, and constitutes in the main a superior state of affairs. To cite a remarkable fact : The tribes who were formerly considered the most irreducible, now constitute agglomerations which are most securely rallied to the help of the authorities, and respectful to the laws. Coquilhat in his book on the High-Congo, which appeared in 1888, relates instances of revolting cannibalism committed in the village of Bangala. At the present time these same natives count amongst the most obedient, and they no longer practise cannibalism.

Another fact no less worthy of note for those who consider from what ethnical source the State has been obliged to draw the elements of its Public Force : around the principal posts occupied by the State, a class of labourers springs up

with great rapidity, to become in the future the basis of the work of social transformation undertaken in Central Africa. A work of this nature breaking with ancient customs, cannot be carried out with an abruptness which would compromise the results. The principle of the Government is to act by degrees on the mind of the population, without running counter to their habits and institutions, and even to make use of the latter, when not reprehensible, for attaining the purpose. And if it mercilessly represses on humanitarian grounds such monstrous abuses as slave-trading and cannibalism, it knows how to devote itself by patience and perseverance to win the confidence of the different tribes, and to make them accept its orders, without ressorting to force, at the same time impressing on them the conviction that strength is united to authority and justice. It is thus that in a comparatively short time surprising results have crowned the wisely planned efforts of the State.

All this has been rendered possible by the admirable self-sacrifice of these who, in the Congo, represent with such devotion Belgian honour and valour, and to whom Baron van Eetvelde, recalling to mind a memorable struggle with Arab slave-dealers, renders the following well-deserved testimony :—

« These results, Belgium can say with legitimate pride, are due to the courage and bravery of her officers, and non-commissioned officers, not one of whom has been unworthy of her during this painful campaign, each has deserved well of his country and has given proof in his sphere of equal devotion and gallautry. It is an honour for the Belgian army to count these brave men in its ranks, and to have proved that in all circumstances the country can rely on them.

» The Congo Government is happy to bear public testimony

to these noble deeds. It renders a touching hommage to those who have sacrificed their lives in helping forward the sacred cause; to Van Kerkhoven, Ponthier, de Heusch, Michiels, De Bruyne, Lippens, de Wouters d'Oplinter, Writhoff. »

This justice which has been done to the Belgian officers in Africa by the Government has also been rendered to them by their foreign comrades in arms, who have considered it their duty to bear the following testimony.

There are numerous witnesses, we only quote two.

« As for us German officers on the shores of the Tanganika, » said Richard Kandt, « we who have had an opportunity of closely observing events in the Congo, we have learnt to esteem our Belgian colleagues and I should be happy if, in expressing our sentiments towards them, I could help to reduce the number of those in Germany who under-estimate the worth of these men (1). »

« I consider it a real duty for me, » said Mr. Lerman, formerly an Austrian officer, « to render hommage to the officers of the Belgiam army who are so unjustly accused, I have lived among them for fourteen years and I have learned to esteem them...

» I declare boldly that if some people assert that your countrymen have misbehaved in Africa, they do not speak the truth (2). »

If we were allowed to extend this testimony, so justly given, we should like to address it to all those brave military co-operators whose abilities have been utilized by the modern colonizing States, notably in the field of explorations, and who have shown in the service of their respective countries and in the great cause of civilization, a spirit of sacrifice and brave devotion, which is an honour to civilized

(1) *Étoile belge*, March 6, 1899.
(2) *Journal de Bruxelles*, October 4, 1896.

humanity by presenting the spectacle of universal expansion.

Let us finish this study of the Public Force by pointing out a remarkable document, namely the instructions relating to the coercive measures and relations with the natives.

« No agent can undertake hostilities against the natives, unless he finds himself in case of legitimate defence or has received orders to this effect. The Government does not conceal the fact that energetic measures are sometimes necessary, but it considers that they must seldom be resorted to and then only when all other means of conciliation have failed.

» In many cases by prolonging the parleys and more cleverly conducting them, hostilities might be avoided.

» By seeking the medium of the chiefs devoted to the State and possessing friendly relations with the tribes in dispute with the appointed authorities, bloodshed can frequently be avoided, though without weakening the prestige of the State.

» In this manner misunderstandings might be avoided with the natives, especially those who have had but little intercourse with Europeans, as to our intentions and feelings towards them and such misunderstandings must inevitably provoke the too-prompt use of extreme measures.

» In any case, when the latter have of necessity become unavoidable, the Government must be accurately and fully informed about the motives which led to them, and the operations must be so carried on that, as far as possible, the real culprits only be reached.

» Further, the troops taking part in military operations must always be commanded by a European. No exception to this rule can be admitted and the agents who infringe it would expose themselves to a severe punishment.

» In case of hostilities the property of natives must be respected and operations conducted and superintended so as to avoid abuse. Nor may the villages be burnt under any consideration whatever. The prisoners of war must be treated with the greatest humadity, and if women and children be amongst the

number, they must be placed under the direct protection of the leader of the operations.

» It is when treating for peace that the natives will have to undergo a punishment in proportion to the offence committed.

» Now is the moment at which the European commands the greatest moral strength assured by material success and they must avail themselves of it on every occasion to act directly on the mind of the native. It is also a means of arriving little by little to a full knowledge of him, understanding his character, and perceiving how to manage him. The Commanders who have acted thus have obtained lasting results and have succeeded in avoiding bloodshed as much as possible.

» Not to conclude a peace with the vanquished would be leaving them for vengeance which would urge them on to new acts of violence on the first favourable opportunity on which they could count with impunity. In fact it would be leaving a region in a so to speak permanent state of disturbance, and therefore interfering with its prosperity.

» Under these circumstances, it would be only retarding the accomplishment of the Mission of civilization and of peaceful occupation that the commanders of the region have to fulfill and, if the thing occurred in many localities, it would have the effect of creating a nucleus of population which would remain hostile to us for a long time.

» In rendering an account either in their monthly reports or in special reports, the « commissaires de districts » or « chefs de zones » must point out in what manner the differences which arose have been settled, or at least give details about the negociations which have been entered upon with a view to the conclusion of peace.

» The agents who might infringe these regulations dealing with the relations with the natives, must be indicted and condemned in compliance with the laws of the State, without prejudice to the disciplinary penalties to be exercised against them.

» The blacks must be treated not only in a kindly manner, but with goodwill. The strictest justice must always and every-

where be our line of conduct towards them, as well for the natives who are not in our service as for those employed by the State for any purpose whatsoever. Our agents are most strictly forbidden to act illegally, *i. e.* to exceed the disciplinary penalties provided, or the punishments stipulated in the Penal Code for violations of discipline or for offences against the law, of which our servants, particularly the soldiers, have been guilty.

» When the penalties have been inflicted, they must be undergone according to the required form.

» Whatever be the circumstances in which the agents are situated, they cannot place themselves above the law and apply in an arbitrary manner penalties that the offences proved do not legally involve.

» The native killed in fighting our troops must also receive burial and his body be respected. Those of our soldiers who depart from these regulations must be indicted before a Court Martial and undergo all the consequences of their conduict.

» All our military men must be informed of the Decree of September 18, 1896. They must know in what horror Europeans hold the barbarous practices to which the natives abandon themselves.

» If it were proved that the commanders of troops have not carried out the above-mentioned duties, they would render themselves responsible for the offences of their soldiers.

» The Government attaches, on the other hand, the greatest importance to the observance of the instructions which formally prescribe, in case of hostilities with natives, respect for the properties and families of the latter and forbidding the capture of native non-combatants.

» If in the course of operations, natives should be captured they are to be returned to their respective villages, as soon as peace has been concluded with the rebels. This is a rule which must be rigorously respected, and on which depends, not only our security, but also the wholesome influence which we have to exercise on the natives.

»The district Commissioners will closely watch the agents under their orders, to prevent their committing any abuse of Power.

» They will also pay attention that the officers who act as Court Martial Judges should observe a strict legality.

» All agents who act in an arbitrary manner towards the natives come within the application of the law, and should be prosecuted; a disciplinary punishment must, if applicable, also be inflicted-upon him. When it is a question of attacks against persons and property, dismissal is applicable *ipso facto*, without prejudice to any legal proceedings exercisable.

» As a rule, every agent, dependent on any authority, must, before undertaking any serious measure, consult with his principal, unless prevented by force of circumstances.

» If acting on his own initiative he must incur all responsibility for his action whatever be the consequence to him. »

The Government has the conviction, says the report to the King-Sovereign of January 25, 1897, that these instructions have been generally observed; in the rare cases in which they have been transgressed against, it has not hesitated, as it will do in the future, to punish all the agents responsible, with disciplinary or judicial penalties.

CHAPTER XIV.

Navigation and river system.

At the time of the foundation of the Congo Free State, communication between Europe and the Congo was rudimentary. A few ships from Liverpool or Lisbon, and, later on, a few steamers from Germany and Holland, maintained occasional communication with the Congo Coast, where there was no settlement further than Fuka-Fuka. No means of transport into the interior existed, except by canoe or by road, and this latter was nothing more than a badly cleared track. Porterage on the backs of men was the only possible means of transport by this track. Two or three facts will suffice to show conclusively the transformation which has taken place up to the present in the economic equipment of the Congo. We will begin by setting forth the present condition of ocean and river navigation.

1. — MARITIME NAVIGATION.

The maritime navigation between Europe and the Congo State has made great strides.

Starting from 1891 the Congo State together with the commercial companies made a contract with a syndicate of English and German lines to establish a monthly service

between Antwerp and Matadi, with a steamer starting on the 6th of every month. A few years later, in 1895, was formed at Antwerp, under the auspices of this syndicate, *La Compagnie belge maritime du Congo*, which provided a monthly service of steamers sailing under the Belgian flag.

The following lines of steamers now run between Europe and the Congo.

1. *La Compagnie belge maritime du Congo;* 2. *L'Empresa Nacional de Navigaçao*, of Lisbon; 3. *Les Chargeurs réunis*, of Bordeaux combined with Fraissinet and C°, of Marseilles; 4. The *Woerman Linie*, of Hamburg; 5. The African Steamship C°, combined with the British and African Steam Navigation C°.

Important port works have been carried out at Banana, Boma, and Matadi. Several light signals have been established at the mouth of the Congo to mark the entrance and channel.

A pilot service has been organized at Banana. The whole of the Lower-Congo, from Banana to Matadi, has been beaconed by means of buoys. A dredger is at work deepening certain channels, notably that of Mateba in view of the low-water season. A regular service of steamers plies on the Lower-Congo, and the boats of the State go regularly to Landana to meet the Portuguese mail.

The *Bulletin officiel de l'Etat Indépendant du Congo* announces every two months the movements in the ports Banana and Boma. This movement which was marked 15 years ago by a tonnage of 166,028 entries, and 163,716 departures annually, amounts at present to nearly 500,000 tons.

2. — RIVER NAVIGATION.

The flotilla on the Upper-Congo is particularly important. The first steamers launched on the upper river were only of 5 tons : the component parts had been carried on men's backs along caravan roads long before the construction of the Railway of the Cataracts. They rendered invaluable service.

The construction of the railway from Matadi to the Pool could not fail to give a considerable development to the river transport.

Before the completion of the line, the State had launched a dozen boats of 5 tons on the upper river (each of these boats allowing of an average of 600 loads weighing together 23,500 kilog.) one of 23 tons and 4 of 40 tons.

With the completion of the line, the necessity ceased for considering the weight of the loads to be conveyed to the Pool, and a new type of craft was chosen, offering the greatest advantages in point of services to be rendered, and having regard to the variable conditions of navigability under which the working would have to proceed. The principal questions to be solved were the minimum speed of the steamers, the water-draft, the propelling system and the shape of the vessel. After numerous experiments, the State decided on *Sternwheels* which offered marked advantages over any other type of craft.

The flotilla on the Upper Congo belonging to the Govern-

ment at present consists of 32 boats of the following tonnage :

10	boats	of	5	tons	burden	each.
1	»	»	10	»	»	»
2	»	»	17-1/2	»	»	»
6	»	»	22	»	»	»
5	»	»	40	»	»	»
1	»	»	60	»	»	»
3	»	»	150	»	»	»
2 tugs and lighters,			350	»	»	»
1	»		50	»	»	»

1 dredger is also at work on the upper river.

Several sternwheels of 500 tons, intended for the transport of materials for the railways to the Great Lakes will shortly be in use.

Amongst these steamers, three distinct types are especially conspicuous, the steamers of 22, of 40 and of 150 tons.

The variety of tonnage and models of the numerous steamers partly arises from the phases through which the transport service has had to pass, before the completion of the Railway of the Cataracts, and also from successive acquisitions made by the State in consequence of different circumstances, which have nothing in common with the most logical system of navigation service. The State has endeavoured to regulate the services of the various boats so as to make them attain a maximum of useful results.

A complete organization of stopping places and ports of registry has been established at various points, where the great vessels land the supplies and embark the products intended for Leopoldville.

It is to and from these depots that the steamers of lesser tonnage bring their cargoes and take their freight, thence going to supply their ports of registry, or sometimes still smaller steamers come in their turn, laying in supplies before penetrating to the confines of the lower navigable tributaries of the river.

All the steamers are supplied with wood, and at regular intervals posts are established where workmen in the service of the State gather fuel in stores for passing steamers. There can be no fear of these reserves being exhausted, for the State sees that the forest is replanted as the trees are cut down.

Let us add that the most intricate parts of the river have been carefully explored and buoyed, and that the State hydrographical survey, having first looked after immediate needs, is now daily improving.

Since 1896 the Government has established a regular service of navigation between Leopoldville and the Falls (twice monthly). So as to ensure service on the navigable stretches beyond the Falls, steamers have been launched on the rivers Lualaba, Itimbiri and Ubangi. A sailing vessel has been launched on the Tanganika, and a steamer on the Nile.

Native rowers have also been organized in certain regions, and their work has proved altogether satisfactory.

It is thus that the hydrographical system of the Congo, which is only inferior in extent to that of the Amazon, is utilized to the best advantages.

The river steamers, belonging to the State or to private persons, at present navigating the Upper-Congo number 102. Referring to the navigation movement on the Upper-

Congo Herr von Puttkamer, Governor of Kamerun, says :

« The Congo State, having undertaken the superintendence of trade, can dispose of a splendid flotilla of more than thirty steamers of different dimensions. Nevertheless the State cannot meet all its freighting and transport demands, and all the firms established here are building private steamers ; the greatest animation reigns in the dockyards. The energy and practical sense displayed here deserve the greatest admiration (1). »

(1) *Deutsches Kolonialblatt*, April 15, 1899, p. 274.

CHAPTER XV.

Railways and means of communication by land.

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1. — RAILWAYS.

The vitality of the Congo Free State is emphasized and grows by public works of which our time may well be proud, and which transform the conditions of life in Central Africa. It is no longer necessary to prove how intimately the question of railways is connected to-day with the introduction of civilization in new countries, and how much it contributes to enhance the value of the rich products of their virgin soil (1).

It is hardly necessary to point out that the creation of a railway intended to connect the vast navigable system, provided by nature in Central Africa, with the sea, was indispensable to the prosperity of the Congo State. The obstacles which stood in the way of such a gigantic enterprise were considerable : money had to be found; the enterprise in

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(1) See « Bibliothèque internationale coloniale ». *Les Chemins de fer aux colonies et dans les pays neufs*, I, p. 511. *Rapport à l'Institut colonial international*, par le lieutenant-colonel Thys, 28 mars 1899.

itself was of the most doubtful success. Men of initiative, competence and energy, with Lieutenant-Colonel Thys at their head, devoted themselves to this undertaking and were powerfully helped by the State. A first convention, having for its primary object the prospection of the line connecting the Lower-Congo with Stanley Pool, was concluded between the State and the *Compagnie du Congo pour le commerce et l'industrie*, on March 26, 1887. The final convention is dated November 9, 1889.

Belgium granted to the Company the help of her money and credit. The law of July 29, 1889, authorized the Belgian Government to invest in this enterprise to the extent of ten millions represented by 20,000 shares of 500 fr. each, bearing 3 ½ % interest, and redeemable at par in ninety-nine years. The first corps of engineers left Antwerp on October 11; the first earth-works were begun in March, 1900.

It is needless to recall the difficulties encountered and surmounted by the builders of the Cataracts Railway.

It was not alone in the Congo that their work met with serious obstacles. Belgium gave valuable help a second time, and on May 29, 1896, a law was passed approving the convention of March 27-April 10, of the same year, by which Belgium increased her subscription from 10 to 15 millions, and gave a Treasury guarantee for an issue of 10 millions of bonds. After eight years of untiring labour the railway was completed. The opening ceremony took place between July 2 and 8, 1898, in presence of the official delegates of ten Governments.

The railway is 400 kilometres long. The track is a narrow-gauged one of 0.75 mètre. The construction cost

about 75 millions francs, instead of the 25 millions originally estimated.

Nobody undervalues to-day the services rendered by this railway to Congolese enterprise, nor the services which it shall render in the future. No one can deny that, while it greatly benefits the white man's interest, it has also greatly improved the condition of the natives by suppressing porterage and allowing the blacks to undertake less painful and more remunerative work. The Congo Railway is the necessary link between the Congolese estuary and the Upper-River, the conveyance of an inexhaustible wealth, and at the same time one of the most powerful instruments of African civilization (1).

The building of the Mayumbe Railway was the second decided upon for the purpose of improving that country. This railway connects Boma with Lukula, eighty kilometres away, and has been run since 1901.

Its building lasted three years. The grant of the concession dates from September 21, 1898. The gauge of the track is 0,60 mètre.

The State then undertook the plans of the railway which the *Compagnie des chemins de fer du Congo supérieur aux Grands Lacs africains* has just begun to build on a one mètre gauge. The agreement between the State and the Company is dated January 4, 1902. The new lines, three

(1) We have previously examined (p. 114) the questions which the convention dated November 1, 1901, may raise about rates. See also our Report in the Senate, on July 26, 1901, § 7 : *La Question du chemin de fer du Congo au point de vue du droit de rachat et de la diminution des tarifs de transport.*

in number, have a total proposed length of about 1,600 kilometres.

The first, from Stanleyville to Mahagi, runs through the whole of the northern part of the Province-Orientale, by way of Bafwaboli, Bafwasende, Avakubi, Mawambi and Iremu. Its main object is to exploit the splendid forests through which it runs. The survey, begun in 1900, is now completed and has a total length of 1,120 kilometres.

The second line also has Stanleyville as terminus; it runs towards the south to Ponthierville, very closely following the course of the Congo.

There are several rapids between Stanleyville and Ponthierville which make navigation by steamers impossible. This stretch of line will render the same service as that between Matadi and Stanleypool. Its principal aim is to connect the navigable courses of Lualaba river by avoiding the falls which form an obstacle to navigation. The extension of the work beyond Ponthierville will depend upon the extent to which the river will be found navigable for large steamers.

The third projected line is destined to connect a portion of the river about Nyangwe-Kasongo to Lake Tanganika. But the survey is not yet completed.

The State has recently sent out a new party of surveyors with the object of prospecting the line between Mahagi and Redjaf, on the Nile, for a length of about 300 kilometres. This line will be an extension of the one connecting Stanleyville with Mahagi, and will thus connect the Congo with the Nile.

It has also been decided, and orders have been issued to

that effect, to prepare plans for a railway connecting Mahagi with the northern part of Lake Tanganika.

Lastly, in the vast territory of the Kantaga, an expedition is at work on the survey of a railway starting from Lake Kasali, on the Lufira, and running towards the southern frontier. Approximately the total length of this line will not be less than 450 kilometres.

The progress made by the State, as regards railways, is most remarkable. It has attracted the attention of all persons interested in colonization. It is superflous fo recall the unanimous commendations which these railways have received. The facts speak for themselves. After ten years, in a country full of difficulties and with limited facilities, nearly 500 kilometres of railways have been built and are in full work; the building of 1,600 kilometres of the Upper-Congo Railways is commenced, and plans for more than 1,200 kilometres have been draughted and are on a fair way to accomplishment.

2. — STATE ROADS.

The impetus given to the construction of railways does not imply that the Government has lost sight of the necessity for providing other means of communication by land. Everywhere the Government has improved the roads used by caravans, and modern roads have been cut in several districts.

So as to quite abolish native porterage, the Government is preparing a service of motor cars, and several of these carts will shortly be sent to Africa. Special roads for the

use of the motor cars are being constructed in Uele and in the region of the Cataracts. Their total length is from 350 to 400 kilometres. When they are completed—and this will not be long delayed—the Matadi Railway to Stanley Pool will be connected with the Kwango, and the Congo river with the most distant parts of the country.

Other roads are being opened along the Lualaba, so as to skirt the falls, from Lusambo towards Pueto (Lake Moere) and from Kasongo to Lake Tanganika.

CHAPTER XVI.

Economical auxiliary Equipment. — Telegraphs and Post-Offices.

1. — TELEGRAPHS.

Several telegraph lines have been established :

1. From Boma to Lukula, 80 kilometres ;
2. From Boma to the Equator, 1,200 kilometres ;
3. From Lirala to Umangi, 22 kilometres ;
4. From Kasongo to Sungula, 230 kilometres.

The Government is having experiments made with Marconi's system between Banana and Ambrizette. If these experiments prove satisfactory, the existing telegraph system will probably be supplemented by wireless telegraphy.

2. — POST-OFFICES.

The postal service in the Congo was one the very first to be established ; its organization dates from 1885.

In compliance with article 7 of the General Act of the Berlin Conference, the State joined the Universal Postal Union. The Government has been officially represented at the various postal Congresses held since the State's establishment.

The organization of the postal service within the territory is already much developed. The mails are forwarded promptly and safely to the most distant localities.

They are conveyed partly by rail and partly by the State's boats or by carriers in places where no other means of conveyance are available.

Thanks to the lines of navigation calling regularly at the Congo ports the international system has been developed on a par with the commercial activity of the Congo.

The following statistics indicate the importance of the home and foreign postal service :—

Correspondences received and forwarded in 1886 numbered 33,140; 74,988 in 1890; 206,976 six years later, in 1896; and 372,007 in 1901 of which 274,114 were letters. The number of exchange offices, collection and branch-offices is 25.

The postal service, which at the outset was but rudimentary and only afforded the reception and forwarding of letters, printed matter, samples, etc., was completed in 1887 in consequence of a Convention drawn up on February 28 of that year, with Belgium. The necessity of organizing a service of postal orders was recognised later on. Agreements in this respect were concluded with Belgium on May 13, 1893, and November 24, 1898. The results obtained from the two newly-established services show that they met a real want. It is noteworthy that the postal-business increases every year in the number of parcels and postal-orders, and it is not improbable that other additions such as postal money-collections, subscriptions to papers, etc. will be required within a comparatively brief period.

CHAPTER XVII.

Trade.

Before the State was founded, the trade of Central Africa was chiefly in human beings. The slave was at once the means of labour, the main capital, the vehicle or means of transport, the common currency in exchange and the usual tribute given to satisfy the covetousness of native chiefs. He was the standard of wealth and the element of power. In order to thoroughly estimate the influence of the slave-trade as an economical factor in barbarous communities as compared with the trade regime of civilization, it would be necessary to imagine dealings in some object representing all these uses with us. It is thus easy to understand that the suppression of the slave-trade is intimately bound up with the problem of substituting for the unlawful traffic some other traffic able to replace it, that is to say, some trade founded upon the natural resources of the country.

Let us remember that the French firm *Regis* (Daumas et C^ie^, succ.) in 1858, and the *Afrikaansche Handelsvereeniging*, of Rotterdam, in 1860, were the first factories established at the months of the Congo. These were followed by some English and Portuguese firms. These esta-

blishments on the Coast represented nearly the whole of the trade relations of the Congo with Europe.

The three Belgians companies : the *Mateba Syndicate*, the *Sandford Exploring Expedition* (capital 300,000 francs) and the *Compagnie du Congo pour le commerce et l'industrie* (capital 1,000,000 of francs) were only formed in 1887. There are now 48 Belgian companies and 14 foreign companies carrying on business in the Congo, their capital being 136 millions of francs.

The import and export trade in the Congo Free State has developed to a wonderful extent. Here are some significant facts about it.

1. — THE EXPORTS.

It is since July 1, 1886 only, when the collecting of exportation duties was established, that the Free State could draw up statistical statements of the native products exported from its territory. These statements are regularly published in the *Bulletin officiel.*

The perusal of the figures mentioned in those statements shows the nearly uninterrupted progression of exports during the last 15 years. In 1887 indeed the figures of the special trade of exports amounted to fr. 1,980,441.45 and in 1901 this same trade amounted to fr. 50,488,394.31,viz: a balance of fr. 48,507,952.86 in favour of the latter year, which shows an increase of 2,449 per cent.

India-rubber is the most important of exported products. In 1887, the quantity of exported indiarubber was 30,050 kilog. valued at fr. 116,768.80 and, in 1901, 6,22,733,000 kilog. valued at 43,965,950.90 francs.

The products mentioned in the last statistical statement of the *Bulletin officiel* are :

Earth-nuts, coffee, india-rubber, copal gum, oils and palm nuts, ivory, cocoa, tobacco, rice, rough skins, etc., etc.

The greatest part of the Congolese products is sent to Antwerp.

This is the statement of exports for the year 1901 compared with the exports of the previous years :

YEARS	SPECIAL TRADE	GENERAL TRADE
1886	886,432.03	3,456,050.41
1887	1,980,441.45	7,667,969.41
1888	2,609,300.35	7,392,348.17
1889	4,297,543.85	8,572,519.19
1890	8,242,199.43	14,109,781.27
1891	5,353,519.37	10,535,619.25
1892	5,487,632.89	7,529,979.68
1893	6,206,134.68	7,514,791.39
1894	8,761,622.15	11,031,704.48
1895	10,943,019.07	12,135,656.16
1896	12,389,599.85	15,091,137.62
1897	15,146,976.32	17,457,090.85
1898	22,163,481.86	25,396,706.40
1899	36,067,959.25	39,138,283.67
1900	47,377,401.33	51,775,978.09
1901	50,488,394.31	54,007,581.07

2. — THE IMPORTS.

Statistical statements of imports have only been drawn up accurately since May 9, 1892, when the collecting of import duties first took place. Previously the drawing up of such statements of goods introduced in the territory of the Free State had not been possible.

In 1893, when the first complete statement was made,

fr. 9,175,103.34 of goods to be used in the Free State had been declared. In 1901, the amount of such goods reached fr. 23,102,064.07, showing thus an increase of fr. 13 millions 926,960.73 or a little above 152 %.

The chief articles imported are : textures, food stuffs, arms, machinery, building material, clothes and linen, ironmongery, glass ware.

The quantity of goods imported from Belgium is far above that imported from any other country. The Belgian manufacturers have patiently studied the needs of the native customers and of the residents, and they have endeavoured to meet them in every respect. Since 1892, Belgium holds the first rank regarding the imports and has continuously developed its connexions with the Congo. The English maxim : « Trade follows flag » is thus found once more to be true. This is the statement of imports for the year 1901 compared to the imports of the preceding years :

YEARS	SPECIAL TRADE	GENERAL TRADE
From May 9 to December 31 1892	4,984,455.15	5,679,195.16
1893	9,175,103.34	10,148,418.26
1894	11,194,722.96	11,854.021.72
1895	10,685,847.99	11,836,033.76
1896	15,227,776.44	16,040,370 80
1897	22,181,462.49	23,427,197.83
1898	23,084,446.65	25,185,138.66
1899	22,325,846.71	27,102,581.18
1900	24,724,108.91	31,803,213.96
1901	23,102,064.07	26,793,079.37

The development of exports and imports will undoubtedly become still greater when the railways contemplated

for the Upper-Congo will bring the whole territory of the Free State in easy and quick communication with the coast.

In their report to the King-Sovereign, dated July 15, 1900, the Secretaries General, while ascertaining increase of imports and exports, expressed themselves asfollows :—

« These results must certainly be ascribed in great part to the more and more wide and regular control over the territory. The State indeed is continuously extending and strengthening its power through all the provinces. Occupation is methodically developed by the establishing of stations and posts connected the one with the other and covering the whole country with a vast system of settlements spreading European influence. »

CHAPTER XVIII.

The missions.

« It is easier to lead than to drive. » The missions in the Congo are called upon to follow this precept and to exercise their influence not by force but by persuasion. What these devoted and disinterested men, who go far from their homes to evangelize primitive peoples, wish to communicate to their black brethren in a degree accessible to the mental condition of the inferior races, is self-abnegation with all their intellectual and moral superiority. Their work therefore wins the respect of all.

The spectacle of the wonderful material means of action of which our century is justly proud should not make us forget but should rather remind us that ideals are forces. And the keenness of the struggles of opinion which go on in civilized States, must not make us lose sight of the force of Christian ideas and institutions as instruments of the civilization of races plunged in barbarism. « History shows that Christianity possesses a special virtue to uplift from barbarism the primitive races and to lead them soon up the first stages of civilization (1). » The capacity for expansion

(1) Banning, *L'Afrique et la Conférence géographique de Bruxelles*, p. 148.

of highly civilized nations is noticeable at the present time in immense proportions and is taking a world-wide development. The question of the influence of this civilization on primitive peoples has to be considered under very different circumstances from those which formerly governed the relations between civilized and uncivilized men in America and in Australia where the contact of civilization was fatal to the native races. The extermination was in the interest of the colonists of America and of Australia in view of the possession of arable land, and the principle of the old law of conquest favored this result. But at the present time, policy and interest combine with the humanitarian feelings to prevent the extermination in the tropical colonies of the natives who are the natural and necessary associates of all European colonization. Now, in order that this combination may produce all its effects, it is advisable that, alongside of the enterprises where pecuniary considerations predominate and to the development of which is bound up, in such an extensive degree, the prosperity of the countries colonized, institutions should exist which bring the purest form of disinterest edness into the service of the regeneration of the natives. It is thus that the Christian institutions have their own and special place in the modern colonial settlement.

Primarily limited in its sphere of action, limited also in its effects because of the mental condition of the natives, the influence of the missions remains none the less considerable from the point of view of the formation of new generations freed from barbarism, from the point of view of improving the customs of the savage tribes, from that of the encouragement of work among the natives and from that of the development of the industrial and agricultural prosperity

of the country wherever that influence is exercised, remarkable results are attained in the present, and precious seed of regeneration in sown for the future. The devotion displayed in this respect, by so many persevering and unselfish men is worthy of general admiration.

The Powers assembled at the Berlin Conference recognized in a special manner the peaceful influence of Christian missions which they honour and protect. The Congo State fully supported these views.

The Free State did not stop at guaranteeing to all those living under its authority, both subjects and foreigners, the benefit of an equal protection granted to their persons and property. Considering the immensity of the civilizing work to be carried out and the necessity of supporting the auxiliary institutions in that work as well as the pioneers of civilization, it adopted the declaration of the Powers given as follows in clause 6 of the Berlin Act :

« They shall without distinction of creed or nation, protect and favour all religions, scientific or charitable institutions and undertakings created and organized for the above ends, or which aim at instructing the natives and bringing home to them the blessings of civilization.

» Christian missionaries, scientists, and explorers with their followers, property, and collections, shall likewise be the object of especial protection. »

Thus protection is granted to all civilizing institutions formed with the object mentioned in the Conference and this without distinction of nationality or creed. Special protection is promised to three main categories of pioneers of African civilization, Christian missionaries, scientists and explorers. The author of this latter suggestion,

Count de Launay, Italian Plenipotentiary, justified his proposal as follows :—

« It is to scientific men and explorers, that we owe the marvellous discoveries made during these latter years in Africa. The missionaries, for their part, lend a valuable assistance in winning these countries over to the civilization which is inseparable from religion. It is our duty to encourage them, to protect them all, in their researches and expeditions, both present and future, and in a work in which their efforts are combined and completed (1). »

In accordance with an observation made by Baron Lambermont « that the principle of the separation of State from Church applied by certain Governments allows them to show their readiness to protect but not to help religious enterprises which depend upon the Church alone », the Conference did not think it necessary to impose as an international duty common to the Powers the obligation of directly helping the work of the missions. Thus, it is an international duty to protect, while to assist remains in the province of national law where the various governments decide as they may deem fit, always providing that all sects enjoy the liberty and protection guaranteed to them in all circumstances.

The Congo Free State has always considered the help of Christian missionaries « as indispensable to the realization of its views (2). » One of its first cares was to consider the Evangelization of the people living within its territory.

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(1) *Protocols and General Act of the West African Conference : Blue Book. Africa* nº 4 (1885) p. 45.

(2) *Report of Baron van Eetvelde to the King-Sovereign*, January 25, 1897.

The first missions established in the territory at present dependent upon the Congo State were Protestant missions. In 1877 the *Baptist Missionary Society* of London was established in the Lower Congo. In 1879 the *Livingstone Inland Mission* was established in the same district. Its object was to penetrate as far into the interior as possible, but it only created a few posts and finished by amalgamating with another Missionary Society. Then came the *London Missionary Society* which had two posts on the Tanganika, but transferred them later to British territory; the *American Baptist Missionary Union* which dates from 1883 and with which the *Livingstone Inland Mission* was embodied; the *American Presbyterian Congo Mission,* the *Foreign Christian Missionary Society;* the *Bishop Taylor Self-Supporting Mission;* the *International Mission Alliance;* the *Congo Balolo Mission;* the *Swedish Missionary Society* and the *Guaranze Mission.*

All these missions possess considerable resources and their members are numerous. The British Baptist Mission, which is the oldest, has remained the strongest with those of the American Baptists, of the Balolo and of the International Mission Alliance.

According to the information contained in the recent book of Dr Harry Guinness, *Our mission on the Congo* (1), there are at present 211 Protestant missionaries in the Congo. There are besides, 283 native evangelists and 327 native catechists. There are 40 principal stations and 192 mission posts; 6,021 communicants and

(1) These Thirty Years, special number, January and February 1903, *Our Mission on the Congo*, by Dr Harry Guinness, missionary, p. 38.

1,470 catechumens. The attendance at Sunday schools numbers 5,641 natives and at the day schools 10,162.

With regard to the Catholic religion, the first missions established in the Congo were those of the *Pères blancs d'Afrique* of Cardinal Lavigerie and those of the *Pères du Saint-Esprit*. The latter have emigrated into French territory. The Belgian branch of the Pères blancs d'Afrique retains the Apostolic control (1) over the Upper Congo in virtue of a Brief of the Holy See dated December 30, 1886.

On the 8th of March 1888, the Apostolic Vicariate of the Belgian Congo was established. It was confided to the *Pères de Scheut* and it originally extended over the whole territory except the portion reserved to the Belgian *Pères blancs*.

Other congregations to-day share with Scheut the evangelization of the territory. They are: the *Compagnie de Jésus* to which, by decree of the Propaganda, dated April 8, 1892, the eastern Kwango was devolved. It was turned into an Apostolic prefecture on January 31, 1903; the *Chanoines prémontrés de l'abbaye de Tongerloo* who have charge of the Apostolic Prefecture of Uele established on May 12, 1898; the *Trappistes;* the *Rédemptoristes;* the *Prêtres du Sacré-Cœur*.

Several congregations of sisters help in the work of evangelization : the *Sœurs of Notre-Dame de Namur*; the *Sœurs franciscaines*, *Missionnaires de Marie;* the *Sœurs de la Charité*, of Ghent; the *Sœurs du Sacré-Cœur de Marie*,

(1). *Vicariat apostolique du Haut-Congo.*

of Berlaer-lez-Lierre; the *Sœurs Trappistines* and the *Sœurs blanches*, of Cardinal Lavigerie.

According to a recent statement published by the *Mouvement des missions catholiques au Congo* (1) and completed in some respects, the staff of the Catholic missions comprises 119 priests, 41 lay brethren and 84 sisters making a total of 244. Altogether the total of the missions is 18,973 Christians, 24,731 catechumens and 5,515 children.

The State helps the missions by giving them the enjoyment of the land necessary for cultivation and by granting subsidies or reduction of taxes. We have already pointed out this fact in the chapter on finance. The instructions given to the agents order them to help by all means in their power the development and the prosperity of the missions, and in the periodical papers issued by the evangelizing missions we find considerable evidence that the missionaries of the various sects are grateful for the practical help accorded them by the government and its agents.

At the beginning of January of this year, the British Baptist Missionary Society sent a deputation to Brussels in order to present to the King-Sovereign an address expressing similar feelings of gratitude. The text of this address is as follows :—

« The Committee of the British Baptist Missionary Society, of London, desire most respectfully to address Your Majesty as Sovereign of the Congo Free State and to express their grateful acknowledgements for Your Majesty's gracious and helpful sympathy with all wisely considered efforts put forth for the enlightenment and uplifting of Your Majesty's native subjects living within the territories of the Congo Free State...

(1) *Le Mouvement des missions catholiques au Congo*, février 1903, p. 62.

» In the prosecution of these labours, the Committee of the Baptist Missionary Society desire gratefully to acknowledge the many signal and helpful proofs they have received of Your Gracious Majesty's approval and support; and very specially at this juncture they are anxious to express to Your Majesty their respectful appreciation of the great boon granted « to all religious, scientific and charitable institutions, » by the reduction of direct and personal taxes by 50 per cent, from, on, and after the first day of July last, as proclaimed by Your Majesty's Command in the May and June issues of the *Bulletin officiel de l'État indépendant du Congo*, which the Committee regard as a further and significant proof of Your Majesty's desire to promote the truest welfare of Your Majesty's Congo subjects, and to help forward all institutions calculated to produce enduring and beneficent results. »

CHAPTER XIX.

The sciences.

A high scientific and humanitarian ideal promoted the Congolese enterprise. The Free State always made it a point of honour to remain faithful to this leading and initial principle. In the next chapter we shall endeavour to summarize the measures adopted from the humanitarian point of view. Here we will give some account of the remarkable movement established by the State or developed under its guidance with a view to the increase of scientific knowledge relating to central Africa.

Under the heading of social science we must first notice that a wide ethnologic and anthropologic enquiry was undertaken by the State in its territory. Enquiry forms drawn up with method were sent to every official and the replies received by the central Government constitute at present a source of information of high sociological interest. Several interesting monographs have already appeared (1).

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(1) *L'organisation politique, civile et pénale de la tribu de Mousseronghes*, par M. BAERTS. — *Le district de l'Aruwimi et Ouellé*, par M. ROGET. — *Léopoldville*, par le commandant CH. LIEBRECHTS. — *Le district d'Upoto et la fondation du camp de l'Aruwimi*, par le lieutenant DHANIS. — *Le district de Stéphanieville et le district minier de M'Boko-Songho*, par E. DESTRAIN. — *Le Mayombe*, par FUSCH.

The *ethnological collections* at the *Tervueren-Museum* (1) comprising 7,796 exhibits, present, especially with respect to industry and art among primitive peoples, valuable and curious elements for appreciation (2).

From a point of view of physical science properly so called, there was hardly any exploration, whatever may have been its special object, which failed to produce interesting results. In order to centralize the valuable information which it was in a position to gather, the State established in the Congo nineteen scientific stations provided with all the necessary materials.

In Belgium, the Museum of Tervueren, besides its commercial division, possesses several thousand zoologic mineralogic and geologic specimens of highest interest.

The herbarium of the Congo Free State in Brussels Botanical Gardens, under the curatorship of Messrs. Durand and De Wildeman includes eight thousand plants. The number of new species catalogued by Messrs. Durand and De Wildeman is about four hundred.

On the other hand, a special committee composed of members belonging to every department of science was

(1) At the royal palace of Tervueren, near Brussels.

(2) Vide especially *l'État Indépendant du Congo à l'Exposition Bruxelles-Tervueren en 1897*, a work published under the direction of Commandant Liebrechts, edited by Lieutenant Masui, with illustrations by Amédée Lynen, and various notices by Professors Stainier and N. Laurent, Dr. Dryepont, Lieutenant de la Kethulle, Koller, A. de Haulleville, Meulemans and Seeldrayers. — An ethnographical study of the whole of the *Collections of Tervueren* is begun and one first volume of 150 pages containing over 500 illustrations has appeared : it deals with musical instruments and will be followed by a dozen others referring to the following subjects : dress, dwellings, hunting and fishing, agriculture, navigation, trade, industry, war, state of society.

formed by the Government (1) and the State publishes with the help and collaboration of other specialists a considerable series of remarkable scientific works under the following title : *Annales du Musée du Congo publiées par ordre du Secrétaire d'État* (2).

All the documents relative to the Congo climate which are especially due to Doctors von Dankelman, Etienne, Mense, Wolff, Briart, Dryepont, Vourloud, Bourguignon, etc., are reproduced, analysed or summarized in the important work published by the *Société royale de médecine publique*

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(1) The Permanent Committee of studies of the Tervueren Museum comprises the following sections : 1. Botany, 2. Zoology, 3. Geology and Mineralogy, 4. Anthropology and Ethnography, and 5. Export Trade.

(2) The following are the titles of some books already published by the Free State :—

BOTANY.

Series I. — *Illustration de la flore du Congo*, par ÉM. DE WILDEMAN et TH. DURAND. Tome Ier, fascicules nos 1 à 8, 1898-1901, 96 pl.

Series II. — *Contribution à la flore du Congo*, par ÉM. DE WILDEMAN et TH. DURAND, 1899-1901.

Series III. — *Reliquiæ Dewevreanæ*, par ÉM. DE WILDEMAN et TH. DURAND, 1901.

Series IV. — *Études sur la flore du Katanga*, par ÉM. DE WILDEMAN. Fascicules nos 1 et 2, pl. I à XXVIII.

Les caféiers, par ÉM. DE WILDEMAN. Fascicule no 1, 1901.

Observations sur les Apocynacées à latex, recueillies par M. L. Gentil dans l'État indépendant du Congo en 1900, par ÉM. DE WILDEMAN.

ZOOLOGY.

Series I. — *Matériaux pour la faune du Congo*. Tome Ier (complet). Poissons nouveaux du Congo, par G.-A. BOULENGER, 1898-1900, 56 pl.

Matériaux pour la faune du Congo. Tome II. Fascicule no 1, 1901, pp. 1 à 18, pl. I à VI. — Batraciens et reptiles nouveaux, par G.-A. BOULENGER. Antilope nou-

following upon the « Congrès d'hygiène et de climatologie » held in Brussels in 1897. The value of these documents has been demonstrated in a very competent manner by Dr. Firket.

The learned works devoted to climatology, by Messrs Lancaster, director of the Royal Observatory, and Meuleman, contain numerous unpublished observations, besides a list of the works relating to the Congo published on the 1st August 1898. In 1887, Mr. Dupont, curator of the Royal Museum of Natural History of Brussels, and Mr. Cornet, Professor at the Mons School of Mines, were engaged on geological studies at two opposite ends of the State.

We are not concerned here with a list of the different explorers who have devoted a portion of their travels to various scientific researches. In the course of those researches numerous astronomical observations were made by Messrs. Cambier, Delporte and Gillis, Francqui, Hackansson, G. and P. Le Marinel, von François Brasseur, Cabra, Lemaire, etc.; the result was the publication of a map of the Congo basin which is not surpassed in any respect by those of the most explored and best known regions of Central Africa.

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velle, par OLDFIELD THOMAS. — Fascicule n° 2. Additions à la faune ichtyologique du bassin du Congo, par G.-A. BOULENGER.

Les poissons du bassin du Congo, par G.-A. BOULENGER. 532 p., in-8°, 1 carte, 21 gr. et 25 pl. hors texte, 1901.

ETHNOGRAPHY AND ANTHROPOLOGY.

Series I. — *L'âge de la pierre au Congo*, par XAVIER STAINIER, 1899, fascicule n° 1, pl. I à VIII.

Series II. — *Les collections ethnographiques du Musée du Congo*, par TH. MASUI. Fascicule n° 1, pl. I à VIII, 1899.

Series III. — *Notes analytiques sur les collections ethnographiques du Musée du Congo*, publiées par la direction du Musée.

M. Droogmans, General Secretary of the financial department of the Congo Free State, in his *Notices sur le Bas-Congo* accompanying his large map on the scale of 100/1000 mentions no fewer than 256 sources of information for this portion of the Congo Free State territory (1). Among the principal missions of a special scientific character organized by the State, may be mentioned the following :—

Dupont (2). — Geology (1887).

Delporte and Gillis (3).— Trigonometrical survey (1890-1892).

Gorin and Grenfell. — Astronomical surveying (Lunda) (1893-1896).

Laurent (4). — Botany (1893-1894).

Wilverth. — Pisciculture (1893-1896).

Dewevre. — Botany (1895-1897).

Michel. — Photography and Natural Sciences (1895).

Luja and Dechesne. — Botany (1898-1899).

Delhez. — Pisciculture (1898-1899).

Weyns. — Zoology (1898-1899).

Cabra. — Trigonometrical survey. Astronomical surveying and Natural Sciences (Maymbe) (1895-1899).

Lemaire (5). — Trigonometrical survey, Zoology, Mineralogy, Botany (Katanga) (1897-1899).

Bastien. — Trigonometrical survey. Astronomical surveying (1901) (Eastern region).

Cabra. — Astronomical surveying and Natural Sciences (Kwango) (1901-1902).

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(1) *Notices sur le Bas-Congo*, Bruxelles, 1891.

(2) *Lettres sur le Congo*, Paris, 1899.

(3) *Observations astronomiques et magnétiques exécutées sur le territoire de l'État indépendant du Congo*, Bruxelles, 1893.

(4) *Rapport sur un voyage agronomique autour du Congo.*

(5) *Quinze mémoires donnant les résultats astronomiques, magnétiques et altmétriques effectués sur le territoire de l'État du Congo*, 1902. — *Journal de route de la mission scientifique du Katanga*, 1902.

Royaux. — Mineralogical studies and Natural Sciences (1902) (Northern region of Uele).

Lemaire. — Astronomical surveying (1902) (Northern region).

We have already mentioned Commandant Lemaire. His memoirs on the Katanga scientific expedition may be considered, with the work of Captain Commandant Cabra of the head quarters, as models of exactitude and care. They are the most complete of any dealing with the same subject. The previous expeditions in Katanga of Messrs. Paul Le Marinel, Bia-Franqui, Delcommune and Brasseur, which had equally contributed their valuable quota of scientific materials, have been alluded to as most important by Messrs. Cornet and Didderrich, civil engineers. We cannot mention all, and need only now refer to the *linguistic works* published by the missionaries of various religious sects whose special reviews contain monographs of real scientific interest (1).

In connexion with all these works a « colonial literature » been established in Belgium; it is already very important and the importance of it may be gleaned from *the Geographical Movement* of Mr. A. J. Wauters in his weekly review the *Belgique coloniale* published with so much ability by

(1) Among the linguistic works may be mentioned those of Messrs. Witterwulghe, the Reverend Holman Bentley, Baptist missionary, (*Dictionary and grammar of the Kongo language*, 1887-1893), the Reverend Whitehead, Baptist missionary (*Dictionary and grammar of the Bohangi language*, 1899); Father Cambier, Scheut (*Eléments de la langue congolaise*, 1895); of the Reverend Jesuit Fathers who publish a monthly review in the Congolese language, *Ntetombo Eto;* the Reverend P. De Beerst (*Essai de grammaire Tabwa*); the Reverend Father Declercq (*Grammaire de la langue des Bena-Lulua*, éléments de la langue kanioka; vocabulaire français-kanioka et kanioka-français). Besides which the State has edited a vocabulary of the French-kiswahili language.

M. René Vauthier in his most interesting monthly publication entitled *Bulletin de la Société d'études coloniales* (1).

The *Bibliographie du Congo* de M. A. J. Wauters with its 3,800 classified indices and its substantial notices gives us also a summary of the movement of ideas, for the most part recent, which has lately developed in Belgium in reference to the Congo. This movement has completed the transformation of public opinion in Belgium on the subject of colonial questions. We will not attempt a description of the different stages of public ideas under this heading, which would carry us too far from our subject; let us simply state that in no circumstance whatever has the Congolese Government forgotten the interests of science and that it continually aids and stimulates those scientific researches which form the basis of the most marvellous human progress.

(1) Among the publications of this Society let us note the second edition in three volumes of the *Manuel du voyageur et du résident au Congo*, edited under the direction of General Donny.

CHAPTER XX.

The Government as a Civilizer.

The Powers, in the Berlin Act, have taken the two-fold engagement of watching over the preservation of the native races and the improvement of their material and moral condition.

The co-operation in the suppression of the slave-trade belongs to the first of these undertakings and it has, according to the terms of the Report made to the Berlin Conference « the character of a rigorous obligation. »

The co-operation in the abolition of slave-trade with « its circumspection and transitions » — recognized as « indispensable » — belongs to the second order of undertakings. « It is sufficient to note the end in view, » says the Report to the Conference in this connection; « the local Governments must search for the means and adapt them to the circumstances of the times and surrounding. »

The Brussels Conference has not fully altered this situation; it has not suppressed the distinction between slavery and the slave-trade, but it has striven to unite a series of topical ways and means relating to the struggle against men hunters and slave traders whilst, at the same time, it has

striven to cancel the pernicious importation of fire-arms and spirits.

Those who were present at the Conference's work can recall how careful the Powers were to maintain their independence regarding measures to be taken in their respective dominions, and to prevent all possibility of foreign claims which might be made in this connection.

It is well known that the 1st and 2nd articles of the Brussels Act, as the Report made to the Conference testifies, have so to say « a purely declaratory character. » They formulate « the indications relating to the mode of spreading European civilization over the African continent. » Article 3 « has the object of giving fresh vigour to these declarations by determining to what extent the Powers are willing to undertake engagements in order to ensure the realization of the programme they have traced out. » In the Belgian project, article 3 is worded as follows :—

« The powers exercising a sovereignty, a protectorate or an influence in Africa, confirm and give precision to their former engagements and undertake to proceed by the means indicated in articles 1 and 2, to the repression of the slave-trade, each State in its respective possessions and under its own direction. And they promise they will lend their good offices to the Powers who may be engaged in Africa upon a similar mission. »

In the definite text, this wording was completely modified and changed into the following :—

« The Powers exercising *a sovereignty or a protectorate* in Africa confirm and give precision to their former *declarations*, and *undertake* to proceed *gradually*, *as circumstances permit*, either by the means above indicated, *or by any other means which they may consider suitable* with the repression of the slave-trade, each State in its respective possessions and under

its own direction. *Whenever they consider it possible*, they will lend their *good offices* to the Powers which, with a purely humanitarian object, may be engaged in Africa upon a similar mission. »

The substitution of the word « engagement » for the term « declaration », in regard to the provisions previously adopted by the Powers, was effected for the purpose of more adequately answering the meaning of the text of article 6 of the Berlin Act. The words « by any other means which they may consider suitable » are due to France who wished that « the obligation should concern the aim more than the means of obtaining it. » The words : « gradually, as circumstances permit » were proposed by England whose representative, after siding with the French suggestion, explained his own motion in these terms : « The British Government considers, indeed, that as vast an undertaking as the one which the Conference intends to realize, can only be fulfilled by a prudent and continuous policy and by an entire freedom of action as to the choice of the moment. » Lastly, the words : « whenever they consider it possible » were proposed by France with the following commentary : « It does not appear possible to concur with an engagement which in certain cases might result in forcing on a Power the co-operation of a neighbouring Power, when the first party had not asked it, and might have reasons for dreading it. » If we add that the German, English, French, Italian and Portuguese Governments had declared that they made reserves as to the expenses the article might occasion, « not being empowered to pledge their governments' finances, » an exact estimate of the conditions under which article 3 was adopted, will be obtained.

These points duly relating to the international side of the question being stated, let us throw a glance on the measures taken by the Independent State of the Congo concerning the preservation and progress of the native populations.

1. — SUPPRESSION OF THE SLAVE-TRADE.

For centuries, the slave-trade has been the great scourge of the African race, and the most serious obstacle to its progress. Circumstances have placed the Congo State in the vanguard of the struggle against slave-traders. It has fulfilled the duty incumbent upon it with perseverance crowned by success.

We have already referred to the steps taken by the State with a view to stopping man hunting expeditions and the slave traffic before the International Conference of the African slave-trade, met at Brussels.

In conformity with article 5 of the Brussels Act, the State was the first to issue a complete Code for the suppression of the slave-trade on land. This was the Decree of the 1st July 1891. This Decree deals successively with the capture of slaves, with slave trade proper, with money-lenders and secreters of stolen slaves, with slave-trading associations, attempts on liberated slaves, mutilation of male children, complicity, and finally with prosecution and judgment in slave-trade cases.

The first years of the occupation were chiefly devoted to suppressing the slave-trade on the Upper-Congo and its tributaries. By fixed military posts and flying columns the State checked the great currents of the interior slave-trade,

especially those flowing from the Eastern and Southern provinces. We may recall the campaign against the Arabs which lasted from 1892 to 1894, and resulted in the interception of the slave caravans which, until then, had carried on the trade in human flesh from the South and the East.

In the eastern provinces, a strong occupation put an end to the infamous traffic, and it was only on exceptional occasions that the troops had afterwards to punish slave dealers.

In the Lualaba-Kassai district, an immense territory where the resources of the State did not allow of the immediate establishment of a close line of posts, when a gang of slave-dealers was reported, a detachment left Lusambo or Luluaburg, and arrived by forced marches in the districts invaded by the slave-traders, there to fight them and clear them off the territory. It was under such conditions that fights took place as late as 1901-1902 between the Public Force of the State and the Kioko, Tungombe and Waboundu slave dealers coming from the Southern neighbouring territories. Posts were established on the principal roads used by the slave-traders and especially at Wissmann Falls on the Kassai, at Kanda Kanda on the Luele, a tributary of the Sankuru Lubilash, and Lufoi on the Lufira, a tributary of the upper Lualaba.

At present the barrier is, so to speak, complete in these parts, for stations have been established along the whole frontier especially at Lake Dilolo and at Tenke on the extreme boundary of Katanga.

In the North, the incursions of the Dervishes and the Madhists had already been stopped. The great expedition sent to this district by the State delivered a terrible blow on the slave-traders. On February 17, 1897, Com-

mandant Chaltin, after traversing the whole of the Uele territory, captured from the Dervishes the stronghold of Redjaf on the Nile. The place was defended by three or four thousand soldiers, two thousand of whom were armed with modern rifles. The fight was very severe and lasted six hours. Shortly after the occupation of Redjaf by the troops of the State the Dervishes made fresh attempts to recapture this position, but without success. Since then no further incursions have been reported in that direction.

It is not likely that any further important raids will take place. The slave-trade, which was formerly carried on on such a large scale, appears to be reduced to clandestine dealings occasionally carried on by southern traders.

« It is only fair to remember, » said Mr. Curzon, in the sitting of the House of Commons of April 2, 1897, « that the Congo State has done a great work and by their administration the cruel raids of Arab slave-dealers have ceased to exist over many thousands of square miles (1). »

The State is in a position to take energetic steps if the slave-traders attempt to renew their depredations. The cause of civilization is thus gaining ground all along the line and the destinies of Central Africa are untrammelled by the yoke of the slave-dealer.

2. — MEASURES AGAINST THE IMPORTATION OF ARMS.

The experience of all nations who have intercourse with Africa has shown the pernicious and preponderating part played by fire-arms in slave-trade operations as well as in internal war between the native tribes; and this same

(1) *The Times*, April 3, 1897.

experience has clearly proved that the preservation of the African peoples whose existence it is the express wish of the Powers to safeguard is a radical impossibility if restrictive measures against the trade in fire-arms and ammunition are not established. » Thus runs article 8 of the Brussels Act, before proceeding to formulate the restrictive clauses on the importation of fire-arms upon which the Powers were agreed. The Congo State had forestalled the other Powers, and as early as 1888 a Decree of the Sovereign had forbidden the introduction of modern arms and ammunition throughout the territory of the State and the importation of even ordinary arms and powder in the Upper Congo.

The regulations passed by the State, in harmony with articles 8 and following of the Brussels Act, are chiefly to be found in the Decree concerning the importation, trade, transport and storage of fire-arms, dated March 10, 1892; in the regulations on the trade in fire-arms of June 16, 1892, and in the Decree of September 15, 1890, relative to the discovery and punishment of offences against the laws on the trade in arms.

The length of the State frontiers makes severe supervision especially difficult. Events have shown that arms and powder are still introduced in large quantities into the territory. The State, by the development of its occupation is more and more in a position to keep an effective watch. The government considers the severe repression of offences of this order, and the discovery of suitable means to be adopted by itself and other powers for the repression of such a pernicious trade for the native populations, as an imperative duty.

3. — MEASURES AGAINST THE IMPORTATION OF SPIRITS

The terrors of alcoholism are not unknown to European nations. The fatally deleterious action of spirits on the native races need not be demonstrated. « There is an incompatibility between civilization and alcohol, » says Cecil Rhodes, who was in a position to notice the ravages of drink in the Rand (1).

Alcohol has been imported into Africa for a considerable time. For the coast populations especially it has proved an abominable scourge, almost as bad as the slave-trade. The enormous development of African colonization made the question of the introduction of strong liquuor into Africa a burning one, as the drink traffic threatened to reach enormous regions hitherto free from it. To introduce alcohol among the natives, incapable as they are of resisting its subtle and exciting effects was to nip in the bud their moral and material progress. It was, at the same time, to cut off the work of equatorial colonization at its base by preventing the natives from becoming reliable workers and by giving them unhealthy tastes.

When local government was being established in the Congo the Free State found that the Lower and the Upper-Congo were under very different circumstances, with regard to the question of spirits.

In the Lower Congo the custom of supplying the natives with drink had taken deep root and the sale of drink was

(1) See : *La Prohibition de l'alcool en Afrique*. BELGIQUE COLONIALE, 1896, pp. 5 and 37.

general. The information we possess on this subject — including, to begin with, that of Stanley—shows that the trader who refused to sell alcoholic drink was obliged to give up all commercial transactions.

In the Upper-Congo the traffic in drinks was hardly known, as yet.

On the seventeenth of December 1887, the King-Sovereign issued a decree applicable to the whole of the territory beyond the river Inkisi, by virtue of which any trader who desired to supply the natives with distilled alcoholic liquor under any circumstances whatever must first supply himself with a license issued by the Governor-General. This license was subject to special conditions with a view to preventing abuses, especially the sale of excessive quantities of drink, or the supplying of the natives with such drink as by reason of its bad quality would be particularly injurious to health.

Three years later, and just after the Brussels Conference, the general Act of which had set forth (in clauses 90 and following) measures restricting the spirit trade, a fresh decree of the Sovereign dated July 16, 1890, absolutely prohibited the importation and sale of distilled alcoholic drinks in that portion of the State territory situated beyond the Inkisi. Article 3 of the decree forbade the establishment of distilleries in the same portion of the territory.

Shortly afterwards, the decree of April 9, 1892, imposed a duty of 15 francs per hectolitre at 50 centisimal degrees on spirits imported into the Lower-Congo regions which were not affected by the prohibitive regime.

The State, in its campaign against alcoholism, did not

stop there. Two decrees, dated March 4, 1896 and April 15, 1898, extended the zone of absolute prohibition by carrying it first to the river Kwilu, then to the M' Pozo, a river which flows into the Congo not far from Matadi. From this it results that in nearly the whole of the State's territory, neither the importation nor the manufacture of alcohol is tolerated.

The extent of the zone of prohibition is 2,337,500 square kilometres. The extent of the zone of toleration is not more than 12,500 square kilometres.

With regard to alcoholic drinks that contain absinthe, the decree of 15th October 1896 purely and simply forbids the importation into the whole State territory, even for consumption by Europeans.

Written permits to obtain alcoholic drinks are granted under exceptional circumstances to whites, but these permits are severely regulated and strictly limited by an order of the Governor, dated March 9, 1897, and a special supervision has been organized, especially with regard to caravans and boats.

In the zone of toleration, the decree of the 12th June 1900, adopted as a result of the convention of the 8th June 1899, fixes the import duties on spirits to the maximum, that is to say, to 17 fr. per hectolitre at 50 centesimal degrees for a period of six years. Imports fell from 1,236,625 litres in 1900, to 194,885 litres, or 6 times less. Such facts show how misguided were those writers who have accused the Free State of using gin as an instrument of conquest and domination.

The truth is that the State has not hesitated, as Baron van Eetvelde, the Secretary of State pointed out, « to sacrifice

on this point all treasury considerations to the superior necessity of protecting the population against the introduction of spirits (1). »

4. — MEASURES AGAINST THE RAVAGES OF EPIDEMICS.

The ravages caused by small pox amongst the natives are enormous and this scourge has been compared to the slave-trade in its effects. Regulations dated December 12, 1894 make vaccination compulsory for all coloured work people. Vaccination is also free of charge. A vaccination institution established at Boma and six other vaccination stations supply the needs of all the posts.

This beneficial initiative has lessened the ravages of small pox and, with the other prophylactic measures wisely adopted by the State to which we will allude later, has a marked influence on the sanitary condition of the natives.

5. — MEASURES AGAINST HORRIBLE BARBAROUS CUSTOMS.

The suppression of savage practices such as human sacrifices, cannibalism, trial by poison, has been energetically undertaken by the State. Respect for human life is penetrating little by little into the minds of the natives as the result of the laws which punish not only the crime of murder, but many other atrocious offences formerly considered as permissible, but to-day severely forbidden.

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(1) *Report to the King-Sovereign.* January 25, 1897 (BULLETIN OFFICIEL, 1897, p. 65).

The instructions given to the State agents in this connection are as follows.

« In order to secure the suppression of barbarous customs among the natives, such as cannibalism, trial by poison, and human sacrifices in general, district commissioners and governors of posts must exercise a careful supervision over the natives in their district.

» They are expected to apply the regulations severely and to send before the Courts all natives who commit offences of this character. The Public Prosecutor shall undertake the prosecution of the offenders and cannot refer them to the jurisdiction of the local chief, as article 84 of the Decree of April 27, 1889 allows him to do in some cases. »

It must not, however, be forgotten that the complete abolition of savage customs can, in the opinion of all those entitled to speak on the subject, only be the work of time. Ideas and manners have to be completely regenerated and this, amongst people whose abominable practices arouse in their own hearts none of the horror which those practices inspire in the civilized world. The strengthening of territorial occupation, the presence of a determined authority in the neighbourhood of stations, the sphere of moral influence which is developed under the guidance of the local authority, and rigorous measures must all contribute to the desired result.

To make the State responsible for every isolated instance of the continuance of savage customs or to ask the Government to do what is really impracticable in this respect, is neither in conformity with justice nor consistent with what is asked of other colonizing States who have to deal with similar difficulties (1).

(1) *Pall Mall Gazette*, July, 1, 1897.

« Now is it reasonable to expect that the Belgians can rout out the inbred customs of generations in a few years? Or can it be affirmed with any claim to common sense that the suppression of such debasing practices can be unattended by occasional repression of a severe kind? The Benin natives had been in close touch with Europeans for fifty years at least, and had come into contact with them for a couple of centuries, yet until the other day human sacrifices were in full swing at Benin city to the knowledge of the British authorities not forty miles distant. The task which the Belgians have taken in hand is a gigantic one, and they are not getting fair play (1). »

Baron van Eetvelde spoke with sound sense and knowledge of the subject when he said :—

« Surely nobody thinks that any Government could get rid of barbarous customs, in a country where they have existed for ages, in a few days' time. Perhaps we ought to declare war against all the chiefs in whose villages a case of cannibalism is found out or a human sacrifice or mutilation of a dead body discovered. That is, perhaps, the manner of acting they want to preach to us, and then afterwards they would accuse us of setting the Congo alight!—My opinion is that the only way in which the State can obtain the gradual abolition of these savage customs is by first acting persuasively with the natives, and afterwards taking severe steps as its authority gets stronger. It will take many years to get entirely free from the evil, but the results already obtained are to be appreciated (2). »

These results are so well worth noting that the British Consul in the Congo has not hesitated to report on them in the following terms :—

« Credit is also due to the Congo Government in respect of the diminution of cannibalism, although the improvement noti-

(1) *Pall Mall Gazette*, July 19, 1897.
(2) *Étoile belge*, May 21, 1897.

ceable in this regard has resulted as much, perhaps, from the presence of resident Europeans as from direct repression. It will take a long time, however, to disinfect the country of this foulness throughout. The banks of the main river, and those of many of its affluents, may be regarded as no longer tainted thereby; but cannibalism will continue to be heard of on the Congo until the natives who are ashamed of it can be brought to see the advantage of assisting in its abolition (1). »

We have already noted this remarkable fact that cannibalism has entirely died out from some whole districts; for example that of the Bangalas who were once the most cruel of all man eaters. The same assurance can be given concerning human sacrifices, ordeal by poison, and similar customs. Their fate will be that of the slave-trade; they will be more and more restricted, and, though for awhile they will be secretly practised, in the end they will vanish.

While speaking of the Public Force, we have already pointed out the wise steps taken to mitigate the hardships consequent upon the use of armed force. Violations of these rules may possibly take place.

But they must not be judged without reference to the circumstances under which they are committed; above all we must not saddle the authorities with responsibilities which are not theirs. Any such behaviour might too easily become general and could only result in endless recriminations between one nation and another. In this connexion we find in the *Bulletin du Comité de l'Afrique française* some general remarks which it may be worth while to copy here.

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(1) PICKERSGILL, H. M.'s. Consul, *Diplomatic and Consular Reports*, nº 459, June, 1898, p. 8.

« Reprehensible acts are committed in the immense, largely barbaric territory of the Congo State. That should not surprise anybody. The black soldiers of the State, suddenly snatched from savagery, do not always act as civilised beings when the eye of the Belgian officer is no longer upon them. Some Europeans even, affected by the climate and isolation, may occasionally abuse their authority. But, in acting thus, they are going against their instructions and rendering themselves liable to punishment. Their conduct can in no wise compromise the general spirit of Congolese administration, inspired by the noble philanthropy of the King of the Belgians. The same faults occur from time to time in every other part of Africa, and if the Congo is specially singled out, it is perhaps because it seems less able than the other African powers to resist such attacks. (1) »

The following remark, made by Baron Wahis, Governor-General, is also very much to the point :

« The atrocities to which our officers and soldiers are submitted when beaten explain reprisals which the authorities are often powerless to prevent. When war is raging, it is not in the Congo only that it sometimes assumes a character which our civilization condemns. (2) »

6. — MEASURES TO PREVENT TRIBAL WARS.

The 215 stations at present scattered through the whole State are everywhere making their influence felt by keeping order, settling disputes and pacifying the natives.

At the same time the institution of native chieftaincies is bringing together under responsible authority those groups of natives which have some tie of blood between them.

These native chieftaincies substitute order for native mis-

(1) *Bulletin du Comité de l'Afrique française*, June 1897, p. 194.
(2) Letter to *The Times*, September 23, 1897.

rule, and put an end to local rivalries which used to bring about all sorts of acts of violence, and cruelty. Of course cases of revolt may occur, in which the State is obliged to show its power, and to show it boldly. The duty of energetic action is all the more binding, as the fate of all European ventures is connected with that of the authorities. But such conditions are common to all colonies. The instructions given to its agents by the government regulate in a wise and moderate way the resort to force.

In case of disobedience to the rules laid down by the higher authorities, the guilty agent is prosecuted and punished with disciplinary or judicial penalties.

By the light of the facts which we have recalled it is easy to understand by what means and to what extent the State has fulfilled its duty in the matter of preserving the native population.

7. — SERVILE « STATUS » NOT LEGALLY RECOGNIZED.

If wholesale butcheries and wasting slave raids have ceased, if the native population is saved from its worst enemies and from all the influences most deadly to it; still it does not follow that the effects of many centuries of barbarism have ceased to handicap the natives. The defeat of the slave-dealers has cut the root of the evil; but, after the end of the war against slavery and the lawless and bloody tyranny of savage chiefs, we have still before us the struggle against the manifold ignorance of the masses, and the raising of the blacks to our own level. We are moving forward in the direction of civilization and the moral

and material improvement of the African race. The Congo State hopes to complete this work; but is must be done progressively, in order that it should not be marred by practical obstacles which might ruin the ultimate result. The measures adopted by the State for this purpose, when we take a general view of them, prove to be one of the most notable and well planned schemes for leading the blacks forward to a better position. The fact that this plan has been strangely misunderstood is a strong reason why we should lay stress on it and define its scope.

We have already shown that the State, though powerless to crush out all slavery at once among the natives, yet refuses to recognize this institution as legal and thus, as regards the future, has dealt it a blow which must eventually put an end to this horrible practice.

The wording of article 428 of the civil Code is as follows :—

« No one may hire himself out save for a limited time and for a definite undertaking. »

And article 11 of the penal Code is drawn up in the following words :—

» Whoever by force, guile or threats has abducted or caused to be abducted, arbitrarily arrested or caused to be arrested, detained or caused to be detained, any person whatsoever, shall be sentenced to a term of from one to five years of penal servitude.

» Whenever the person so abducted, arrested or detained has been subjected to bodily tortures the culprit shall be sentenced to penal servitude for a term of from five to twenty years. If such tortures have caused death the guilty person shall receive sentence of death or penal servitude for life. »

In the case of all persons employed by the State, the Government forbids them to keep in their household ser-

vice either women or children in any such fashion as to lead the blacks to suppose that anything like slavery is being encouraged. We have already treated the question of taxes paid in kind or labor, which is a question quite apart from that of slavery; and at the same time we have clearly marked the character of the undertakings of the Powers concerning this subject (1).

8. — HOW THE WORTHIEST AMONG THE BLACKS MAY ACQUIRE FULL ENJOYMENT OF CIVIL RIGHTS.

Not only does the State refuse to recognize as legal the Status of slavery but it has passed a law which allows the granting of a regular European status to the most qualified members of the black race.

We have seen how the State, by a special provision of its civil Code in article 6, opens the way to the full enjoyment of civil rights for those natives who prove themselves worthy of it by their initiation to the life of civilized peoples, and especially by their fitness to take part in the working of certain public offices (1).

9. — IMPROVED CONDITIONS OF FAMILY LIFE AMONG THE BLACKS.

Without pretending that it can suddenly work a thorough reformation in the family customs of the blacks, the State nevertheless is striving to establish the principle of mono-

(1) See pp. 138 and 150.
(1) See page 185.

gamy by making it the rule for all its own black agents. The privileges granted to the lawful wife of the negro soldier are calculated to bring about this end.

The report sent to the Kings on July 15, 1900 contains the following lines :—

« We have been able to root out polygamy among the levies everywhere but in the Eastern Province where the Arabs' customs have taken deep root, and the introduction of new customs meets with strong opposition. But, even there, the Government is determined to forbid polygamy among the black « personnel » of the State, and to call the civil and military commanders to account for any reprehensible acts of that nature that they may have connived at ».

10. — PENAL MEASURES ENACTED AGAINST ATTACKS UPON THE PERSON OR PROPERTY OF NATIVES.

Besides the general measures for the preservation of the native races to which we have alluded, the State has set itself to put down, by penal enactments, every kind of attack on the person or property of natives, and to make life more and more secure for the blacks, in order that they may improve their condition in a way previously unknown to them. All those Europeans who make a stay in the Congo testify to the great change that has been brought about with reference to this matter.

« The State must be congratulated, » said Mr. Pickersgill, Her Britannic Majesty's Consul in the Congo, « upon the security it has created for all who live within the shelter of its flag, and abide by its laws and regulations. The traveller on the Congo quickly comes to realise that there is a power in the land which

the people have learned to fear, and upon which they are beginning to depend for protection (1). »

« I am, » says Mr. Grenfell, « one of the rare Europeans, actually residing in Congo, who was acquainted with this country before the State was established and who can compare that situation with the present one. For this reason, I wish to state that I most sincerely appreciate the advantages attending the establishment of a civilised Government and I proclaim that I am more and more grateful for the order and liberty actually existing (2). »

11. — MEASURES CONCERNING THE RESPECT DUE TO THE VESTED RIGHTS OF NATIVES.

When we dealt with the land laws, we explained in bulk the measures taken by the State to ensure due respect for the freehold land of the natives and for their lease hold property, and to provide within a practicable distance all the necessary appliances for business, according to the nature of their trade and their degree of capacity.

Some hold that the vested rights of natives should, by a stretching of their original purport, include elements and modes of exploitation that were quite unknown to them, and this to the detriment of those who discovered and introduced them. But this does not seem justifiable. The real fact is that the natives, in so far as they hold paid employments in concerns where new processes are used, gain a benefit from them and find therein a means of improving their pecuniary position.

The sum set apart in the State budget for payment of salaries for working the domain is instructive on this head.

(1) *Report to the Foreign Office*, June, 1898, p. 8.
(2) *Le Congo belge*, August 15, 1896, p. 100.

12. — ADMISSION OF THE BLACKS TO THE ADVANTAGES OF THE JURISDICTION ORGANIZED BY THE STATE

Although, in matters of private law, the natives in theory remain subject to the jurisdiction of their local Chiefs, we have sometimes found that, in case of a dispute between two natives, if either applies to the lawcourts established by the State, the latter may entertain and try the case. It is not unusual for the natives on both sides of a dispute to display their confidence in the official courts.

13. — SPECIAL LAWS REGULATING CONTRACTS OF SERVICE PASSED BETWEEN BLACKS AND NON-NATIVES.

The Decree of November 8, 1888, is noteworthy. It secures special protection to the blacks in contracts of service by limiting the duration of engagements, regulating the text of the contracts, fixing guarantees for wages and salaries, displacing the burden of proof to the advantage of the hired men authorizing the Public Prosecutor to act in the name and on behalf on the oppressed blacks. Here is this Decree :—

« Whereas it is necessary to grant special protection to the blacks;

» In accordance with article 429 of the Civil Code, which provides that special rules shall be applied to contracts of service between blacks and non-natives;

» By advice of Our Council of Administrators General,

» We have decreed and do decree :

» ARTICLE FIRST. — The Director of Justice, in his own person or acting through the officers appointed for that purpose by the

Governor General, exercises special guardianship over the blacks, both native and immigrants, and over labourers and hired men.

» He takes all legal steps to ensure respect for their rights and to uphold their interests.

» The Public Prosecutor may, at the request of the Director of Justice, act in a suit in the name and on behalf of the blacks who have been wronged (Art. 3 of the Order of May 14, 1886).

» ART. 2. — The Director of Justice and the officers appointed by the Governor General shall specially supervise the fulfilment of contracts signed with the blacks; and shall, if need be, see to their return home and provide for their journey.

» ART. 3. — No contract of service between blacks and foreigners may be signed for a period exceeding seven years. Any contract that binds to a longer stay shall by authority be reduced to the aforesaid period.

» At the expiration of the term of service, contracts may be renewed. Nevertheless they may be renewed only with the consent of the authorities named in art. 1, section 1, if the term of the new contract added to that of the old one should involve a continuous engagement of more than seven years.

» ART. 4. — At the request of the abovenamed authorities, the masters or employers must at all times be ready to prove that the blacks in their service are working of their own free will, or in accordance with conditions that they have freely accepted.

» ART. 5. — Any master or employer who shall infringe section 2 of article 3, or who shall fail to furnish the proofs required in article 4, shall be liable to a fine of 100 to 1,000 fr.

» ART. 6. — Wages and salaries shall be defined and payable in cash, or in goods of a class to be fixed in the contract.

» Payment in kind may take the place, in whole or in part, of payment in cash, if the master be, by the terms of the contract, permitted so to pay, or if there be an agreement between the contracting parties as to the nature, value, quality and quantity of the goods to be allowed in lieu of pay. In case of dissent,

the master or employer shall be called upon to prove the contracts.

» ART. 7. — In the absence of any express clause to the contrary, the master or employer shall always be held liable for the expenses of the return journey of the hired men to the place where they were engaged.

» ART. 8. — In the absence of proof to the contrary, masters and employers will always be held to be wrong and therefore liable, if the sending home of one or more hired men should not be carried out at the date and on the terms laid down by contract or usage.

» In case of gross neglect or unfair dealings they will be liable to a fine not exceeding 1,000 frs.

» ART. 9. — All details not mentioned in the contracts shall be settled by local custom, wherever such custom shall not be contrary to public order, to the principles of freedom confirmed by the General Act of the Berlin Conference or to the provisions of this present decree.

» ART. 10. — If the term of service be not fixed, the workman shall be bound to warn the master of his intention to bring the engagement to an end; this warning to be given at such time beforehand as local custom shall decide; yet this interval shall not be more than 3 months.

» The master shall allow the same interval when giving notice to his workman.

» ART. 11. — The master or servant who wilfully or maliciously refuses to carry out the lawful clauses of the contract of service freely passed, or who fails to observe customs legally binding by virtue of this present decree, shall be fined from 25 to 500 frs. and shall undergo penal servitude for a time of 8 days to 6 months, or either of the aforesaid penalties, irrespective of proper compensation; except when the other contracting party has also failed to fulfil his promises.

» Servants may be brought back to their masters or employers by the established authorities. But the masters or employers may not, under the penalties laid down in the Penal Code, imprison or forcibly detain the workmen in their service since

refusal to carry out the contract may be punished solely by the passing of the sentences provided by law.

» ART. 12. — Any black workman, who has been the victim of ill-treatment by the master, may apply to the Courts for the cancelment of his contract, and may be provisionally authorized by the authorities to stop work while awaiting the legal decision; and this irrespective of any criminal action which may eventually be brought against such master or employer.

» ART. 13. — Every hiring contract shall, by care of the master or employer, be set down in writing, and presented for certification to the proper authorities, within one month of the date of signing; or, in the case of workmen hired abroad, within one month of their arrival on the territory of the State.

» The certification shall not be affixed, unless it be first made clear that the workman has fully understood his engagement, and irrespective of the legal force of the clauses of the contract.

» Contracts signed by blacks born in the Congo and hired in the districts selected by the Governor General, and whom it is proposed to convey to such distance from their homes as he shall appoint, shall be certified by a document drawn up by order of the district authority appointed by the Governor General.

» Masters and employers can claim no benefit from contracts not drawn up in accordance with the foregoing clauses; but the absence of any written certificate or *visa* cannot be used in argument against the blacks, whose hiring shall be, at their choice, subject either to the contracts or to local customs; but always within the limits down in article 9.

» ART. 14. — Masters and employers are bound, at the request of the authorities, named in art. 1, section I, during the whole period of a contract, to make known the residence of their workmen. Deaths or desertions shall be notified to the same authorities by masters and employers.

» Subject to the terms of this present Decree, the Governor General may lay down rules to fix the terms on which contracts may be signed, and may designate the agents whose duty it shall

be to superintend them. He shall determine the fee for the *visa* of hiring contracts.

» He may mark the spots or districts where recruiting shall be forbidden.

» ART. 16. — Our Administrator General for the Department of Foreign Affairs, having also the Department of Justice under his control, is made responsible for the carrying out of this present Decree, which shall be enacted from and ofter this day, November 8, 1888. »

14. — THE SPECIAL PROTECTION GRANTED TO BLACKS FOR OBTAINING REDRESS ACCORDING TO LAW.

Following its invariable principle of protecting the weak, the Congolese law insists on aiding them whenever they ask for the legal redress of a wrong they have suffered. With this object article 95 of Book I of the Penal Code is thus drawn up :—

« The Court shall fix the amount of damages. When the offended party is a native, the Court may *ex officio* determine the amount of compensation or damages due according to local customs. »

We have already pointed out that in common law suits between natives, when the State—appointed Court is apprized of the dispute by one party, it may grant to that party the benefit of its jurisdiction.

15. — THE COMMITTEE FOR THE PROTECTION OF NATIVES.

In order to secure more officient protection for natives, by accepting for this purpose the voluntary help of the delegates from the various philanthropic and religious institutions, the State has created a permanent Committee under the conditions laid down in the Decree of September 18, 1896, which is worded as follows :—

« A permanent Committee shall be formed whose duty it shall be to ensure the protection of natives troughout the whole of the State's territory.

» The members of this Committee shall be chosen by the King Sovereign, for a term of two years, from among the delegates of philanthropic and religious Associations,

« Are appointed as members of this Committee : three delegates from Catholic missions and three from Protestant missions (1). »

16. — THE SETTLEMENTS FOR NATIVE CHILDREN.

There is one more measure which testifies to the deep interest taken by the State in the natives, particularly those of their number which run the greatest risk of a miserable fate, a class which, by protection and help, may grow into a most hopeful element for the future. The Decree of July 12, 1890, concerning settlements for native children runs as follows :—

« Whereas measures of protection are necessary in favour of children who have suffered from the slave-trade, and whereas it is in general the duty of the State to provide for the guardianship of abandoned children, or of those whose parents are not fulfilling their natural obligations.

» Therefore, by advice of Our Secretary of State for Foreign affairs, We do hereby decree.

» ARTICLE FIRST. — The State shall have the guardianship of all children set free by the arrest or dispersion of a slave gang; of all fugitive slaves who claim its protection, of all children lost, deserted or orphaned and of those whose parents do not fulfil their duty in maintaining and educating them.

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(1) *President :* Mgr Van Ronslé, bishop of Thymbrium, Vicar Apostolic of the Belgian Congo; *members :* the Rev. F. J. Van Hencxthoven, S. J., — the Rev. F. Cambier of the Scheut Congregation, — Mr. William Holman Bentley, of the Baptist Missionary Corporation,— Doctor A. Sims of the American Baptist Missionary Union, and Mr. George Grenfell, of the Baptist Missionary Society, *secretary*.

» Means of subsistence shall be furnished to them, and care shall be taken to provide them with a practical education in order to enable them to earn their living.

» ART. 2. — Agricultural and technical settlements shall be established to receive firstly the children qualified according to article 1 and secondly, as far as may be, the children who apply for admittance.

» ART. 3. — From the date of their admission, the children shall be exclusively under the guardianship of the State; they shall remain in that position and they shall be bound to do the work set them by the Governor General until the completion of their 25th year, in return for the maintenance, board, lodging and medical attendance, which shall be given to them.

» ART. 4. — Our Governor General shall make bye-laws to determine the conditions of admittance of the children, the choice managers, the programme of manual and intellectual training, the supervision, the punishments, and the nature of the public services in which the children shall be employed. »

In accordance with the Decree on settlements for native children, the Governor-General has issued, on April 23, 1898, a Decree dealing with the matter.

17. — THE GUARDIANSHIP EXERCISED BY PHILANTHROPIC AND RELIGIOUS SOCIETIES.

The following provision is laid down in the Decree of March 4, 1892 :

« Whereas it is expedient to complete the Decree of July 12, 1890, concerning the protection of abandoned children or victims of the slave-trade;

» By advice of Our Secretary of State for the Interior, We do hereby decree :

» ARTICLE FIRST. — The legal representatives of philanthropic and religious Societies may, by submitting an application to the Governor-General, be allowed, in the agricultural and technical settlements under their management to receive those native

children whose guardianship belongs to the State. The application shall contain the programme of the technical instruction to be given to the children.

» ART. 2. — The authority granted by the Governor-General shall determine the conditions under which it is granted. The authorized settlements shall be placed under the supervision of the Governor-General or of his Deputy.

» Our Secretary of State for Home Affairs shall be entrusted with the carrying out of this Decree which takes effect on and from this day. »

18. — THE LOCAL COMMITTEES FOR PUBLIC HEALTH.

Let us here draw attention to the formation of local committees for public health, of which the order of April 24, 1899, confirmed by the Decree of December 7, 1899, speaks as follows :

« ARTICLE FIRST. — In every chief town of a district or of a zone a committee for public health shall be formed.

» ART. 5. — The mission of these committees shall be to supervise all that refers to public health, to study questions of hygiene and to point out to the competent authorities the steps to be taken to improve the health of their neighbourhood and to check epidemics.

» ART. 8. — As often as possible and at least once every three months, the Committee shall, in the chief town of the district or zone, inspect the houses, with their outbuildings, inhabited by people of black or white race. These visits may take place without warning; and after each visit a report is sent in to the District-Commissioner, who forwards it with his opinion to the Governor-General.

» ART. 9. — In case of epidemics or contagions diseases... the doctors being members of the Commission shall personnally ascertain the nature and character of the disease and shall arrange with the authorities for the necessary measures. »

Provisions for carrying out this Decree were haken by an Order of the Governor-General dated April 3, 1892.

There are at present in the Congo 27 medical men and 20 Health Committees.

A Bacteriological Institute is established at Boma.

The report to the King-Sovereign, dated July 15, 1900, after pointing out the creation at Boma of a hospital for natives and the importance of the decree of September 7, 1899, adds the following remarks :—

« As regards the sanitary conditions of the State employés, we have to notice the improvements in the dwelling houses of stations. Light building materials have been replaced by stronger materials. Brickfields and building shops have been opened. The dwellings occupied by both black and white people are reasonably comfortable.

» The natives already follow these examples and their villages begin to look better since they gradually substitute finer and healthier buildings for the old squalid huts. »

19. — GENERAL INFLUENCES : GOVERNMENTAL, ECONOMIC AND MORAL.

The State has taken the liveliest interest in all that regards the preservation of the natives and the improvement of their moral and material condition.

At the same time, the Government has taken special pains to enable all governmental, economic and moral factors to contribute, by the system of the division of labour, their most powerful effects to the regeneration of natives.

The State has taken a firm hold everywhere; and it has carefully developed the important administrative, judicial and military institutions, which the Act of Brussels proposed as the best calculated to permanently ensure to the natives the blessings of a civilizing education.

The State, on the one hand, has realized or favoured the great undertakings of public interest for the development of the economic equipment and for the propagation of industry, trade and all the elements of material civilization.

In the same manner it has protected the development of charitable and religious institutions, and especially of christian missions, irrespective of creeds. Innumerable facts and testimonies show the success of its work in that direction.

Acknowledging the necessity of interesting the natives themselves in the work of their civilization by personal efforts and by the virtue of labour, the State considered as its duty to obtain this cooperation by way of an attractive remuneration.

It has done it with moderation, humanity and firmness, while surrounding its action in this direction with the necessary guarantees and rightly considering that, as well for inferior as for superior races, work is a great moralizing power and the very lever for social progress.

Thus did it apply in this sense the motto it chose immediately after its foundation, and to which it is the first to remain true : « Work and Progress. »

20. — A PAGE OF COMPARATIVE STATISTICS.

Before leaving this chapter of the civilizing Government, we desire to arrange in a short table, the whole of the statistic information given throughout our work, and compare them with data obtained some fifteen years ago (1).

(1) Compare *The Fruth about the civilisation in Congoland* « La Vérité sur la civilisation au Congo » by a Belgian 1903, in fine.

	1885-1886	1901-1902
I. — Local Government.		
State agents	91	1,272
Posts and stations	45	215
Acknowledged Native Chieftaincies	—	258
II. — Budgets.		
Ordinary Receipts	1,523,000	28,709,000
» expenses	1,523,000	28,549,000
Customs duties	730,000 (1891)	6,055,000
III. — Public force.		
Officers	23	223
Non-commissioned officers	—	308
Men	1,487	16,775
IV. — Organisation of justice.		
Courts of justice and Courts-martial	1	44
V. — Civil services.		
Registration offices for births, etc.	4	57
Notarial offices	1	26
Land titles registration office	»	»
VI. — Economic administration.		
Establishments for cultivating and breeding purposes	—	70
« Chefs des cultures »	—	55
Agents to the forest department (replanting of india-rubber)	—	21
Botanical garden	—	created in 1900
Trial garden	—	
Model farm	—	
Colonial garden	—	
PLANTATIONS: Coffee trees		2,000,000
PLANTATIONS: Cocoa trees		300,000
PLANTATIONS: India-rubber plants replanted		5,250,000
PLANTATIONS: Gutta-percha plants		4,000
VII. — Navigation.		
Navigable rivers-explored and plied (kilom.)	3,000	15,000
Number of river-steamers	5	102
PORT MOVEMENTS: Incoming vessels (tons)	166,028	477,814
PORT MOVEMENTS: Outgoing vessels (tons)	163,716	472,395

	1885-1886	1901-1902
VIII. — Railways.		
In operation (kilometres)	—	480
Under construction	—	1,600
Projects under consideration	—	450
IX. — Posts and telegraphs.		
Telegraphic and telephonic lines (kilom.)	—	1,532
Postal trafic: Letters	20,956	274,114
Postal trafic: Printed matter	12,184	97,893
X. — Special trade.		
Exports	1,980,441 (1887)	50,488,394
Imports	9,175,103 (1893)	23,102,064
XI. — Trading companies.		
Belgian	—	48
Other	6	14
Capital	87,500	136,000,000
XII. — Missions.		
Catholiques: Congregations	2	13
Catholiques: Missionaries Men	6	160
Catholiques: Missionaries Women	—	84
Catholiques: Establishments exclusive of « fermes-chapelles »	3	44
Catholiques: Schools	—	25
Catholiques: Christians	—	18,973
Catholiques: Catechumens	—	24,731
Catholiques: Children	—	5,515
Protestants: Congregations	3	8
Protestants: Missionaries	—	221
Protestants: Establishments (excluding secundary posts)	14	40
Protestants: Communicants	—	6,521
Protestants: Catechumens	—	1,470
Protestants: Children (week-school)	—	10,162
Protestants: » (sunday-school)	—	5,641

FOURTH PART.

THE SOVEREIGN.

The Sovereign

1. — THE ADVANCE OF MODERN COLONIZATION.

An intensive movement has nowadays driven the most progressive and best-endowed races towards countries so far closed to civilization. Never has the sea,—this high road of enterprising nations, so termed some years ago by the King of the Belgians, when inaugurating the *Grand Concours des Sciences et de l'Industrie* in Brussels—better demonstrated that its uniting power is much greater than its separating power, that it is a source of most remunerative enterprises and a constantly open road to the manifestations of the human solidarity in every direction. Never before, after being subdued by our powerful navigating crafts, did it so well reveal itself,—with its plane area, notwithstanding the waving of its crystal, with its waves looking like so many guiding rails resting and moving in every direction according to requirements—as a traffic ground susceptible of comparison with the most improved railways and as a natural implement befitted to the unitarian destiny of mankind.

The future will more and more do justice to the sovereigns and statesmen of modern times who, taking the

head of the universal progress movement, have foreseen the inclination of our time and have had in mind the firm purpose of associating their country—while securing to it a more plentiful, but also better deserved part—in the transformation of the conditions of life in the world.

Those intrepid precursors did not obey a vain desire for conquest or considerations of proselytism. Driven without hesitation by the marvellous progress of our times, more particularly as regards the means of communication and the generating process of wealth, excited beyond any doubt by the desire of escaping the danger of relative lessening, by spreading their mind outward and proving their vitality, overtaken perhaps in a certain measure by the contagiousness of example, their attitude has been dominated, in reality, by clearly perceived necessities of an economical nature still more than by requirements of a demographic kind.

This is the primary cause of the movement of which they have been the protagonists. This is the explanation of its generalisation and at the same time the fundamental reason why the progress of colonization is not and cannot be considered as the exclusive appanage of a few powers, or of a group of States.

The necessity of looking throughout the globe, without injuring the rights of others, for an outlet for commerce, and new materials of wealth, may be not less imperious, may even become more indispensable for certain small countries than for some greater ones. The effort displayed to satisfy these needs in all the markets of the world, on the principle of fair competition, is quite legitimate—it is the common right of all States. Then how much more legi-

timate still would appear the tendency to give scope to these needs by the search for fresh outlets in new countries.

For the nations confined within narrow limits in Europe, abounding with energy, capital and products, exposed to all the vicissitudes which the political economy of the other States may engender, colonial expansion may be not only justified but ordered by the double law of preservation and progress, which is also the law of humanity.

And this is true, be it observed, of the permanently neutral States as well as of those which retain the power of mixing in wars between other States. The fact that the sphere of such sanguinary conflicts and violent conquests is closed to them, is a special reason why the sphere of pacific evolution to its fullest extent should remain open to them. Now, colonization, in so far as its operations are limited to territories considered vacant from an international point of view, remains essentially a form of the pacific activity of nations.

To allege that the exercise of this legitimate consequence of their right of independence and preservation may give rise to international difficulties, would surely not suffice to deny it to the permanently neutral States. A great number of international rights and even innocent looking facts may give rise to international difficulties. If the prospect of possible disputes should always be a decisive reason for renouncing the exercise of just rights, the sovereign States would be placed in the position of powers unable to act for their own legitimate well-being or for the maintenance of the most pacific relations.

The history of colonization is far from proving, moreover, that the States with limited territory, having access to the

sea, are more destitute than others of a colonizing capacity. It seems to show, on the contrary, that the great States, possessed of much land, are inclined for a longer time to devote themselves to an internal and continental colonization, whilst the States with limited territory, having a sea-coast, are better able to find for themselves new outlets such as the continent only offers them sparingly, and to provide themselves by this means with the increase of resources necessary for the growth of public prosperity. Venice formerly, the Netherlands formerly as well as at present—to quote two instances only,—are evident and memorable illustrations of this lesson of History.

One must not think that this colonizing rôle of the small States, well understood and applied to a clearly defined task, cannot usefully serve the general cause of humanity and progress, and harmonize with the interests of other nations.

In the immense field of colonization applied to the entire globe, there is room for humble workers. The colonial possessions of a number of great Powers are so vast that it would be almost absurd to say that settlements founded by secondary factors of colonization are prejudicial to the expansion of the former. Let us add that these secondary factors, owing to the very fact that their sphere of action is smaller and less exposed to the consequences of competition or abandonment resulting from foreign entanglements, may, by the concentration of their efforts on a single point, produce the surprising results which are sometimes noticed. Let us remark, moreover, that it may not be a matter of indifference to the general economical equilibrium that in colonial matters, as elsewhere, there should be a counter

weight to prevent collisions which might arise from a too great displacing of the centre of gravity of interests, and to thus guarantee to individual rights a protection accorded to all.

One must not forget, however, that independently of questions of law which seem to keep their importance even in international matters, the permanent arrangement of interests on the basis of actual possessions is a safer means for the settlement of international affairs than the unbridling of appetites, in which irresponsible publicists imagine that they have found a solution of all difficulties.

England incontestably holds the first rank among nations from the point of view of general economy (commerce, manufactures, navigation). As a colonizing power she holds an unrivalled position.

The British Empire consists of :

	Sq. kilom.	Population.
United Kingdom	314,339	41,962,510 (1902)
India Empire	4,860,000	295,215,000 (1901)
Colonies and protectorates .	23,870,000	60,785,000
	29,044,339	397,962,510

The sphere of the British Empire is world-wide in the full meaning of the term. The elements of which this empire is composed fit into one another remarkably well. England has shown herself equally superior in colonial expansion by means of the formation of new societies, shaped on her own model, and born of her own blood, and by means of direct government of communities of a lower civilization in the widely differing countries submitted to her domination. He who has not studied the British Empire, cannot form a complete idea of the varied forms and many possibi-

lities of human government. If English policy, like all human policy, may have its imperfections and faults, it remains none the less the most marvellous combination of human genius applied to the government of man, and the historical development of English influence in the new worlds appears none the less to the impartial observer a great benefit to humanity.

Colonization is the most powerful expression of the national tendency of England; it is identified with the economical life of the country. We may derive inspirations from English colonization, but it is impossible to copy it, for it is inimitable. We can understand the enthusiasm of Englishmen for their « Greater Britain. » The colonial work of England assures to the nation which has accomplished it a perpetuity as glorious as it is fruitful.

France, after a period of expansion, during which it appeared doubtful which would, in the future, be the greatest colonial power, lost her finest colonies, and the remembrance of her traditions and methods of colonization has been almost obliterated. A renewal of colonizing activity is, however, taking place in that country at present and France, not to mention the gems which she possesses in the Mediterranean, is now mistress, in Africa and Asia especially, of magnificent possessions beyond the sea, to which she applies ever firmer and more fruitful methods of development. It is well known that the population of France does not quite amount to 39 millions. The population of her colonies amounts to 46,600,000.

Having entered the arena of outer expansion at a later period, modern Germany, possessed of a special business genius and an almost unequalled technical organization,

under the powerful impetus given her by the Emperor, has thrown her master faculties and the energetic activity of her people into this double external task : commercial and colonial expansion. She has made enormous strides in the first direction, the most difficult in some respects, as she had to struggle with many rivals in markets open to all comers. If the marvellous progress that she has made in this respect seems to eclipse her forward march in the Colonial line, she has at least acquired a series of important colonial settlements, whose population amounts to over 12 million inhabitants, and which she turns to account in a remarkably progressive manner, at the same time unceasingly directing her attention with astounding success, to commercial competition proper.

Holland has preserved splendid possessions in the East Indies, notably Java, one of the models of tropical colonization. She holds her colonial experience as one of the most highly prized elements of her national inheritance, and she applies the practical, enduring and mercantile qualities of the Dutchman to the improvement of her beautiful possessions beyond the seas. She is the most perfect model and preëminently the leader of the small colonizing countries. Exclusive of Java, which alone has a population of 28 millions, the Dutch colonies count about 10 million inhabitants.

Among European nations of the Latin race, several have been less fortunate in our days than France. Spain has been the most sorely tried. The colonizing activity of Portugal, on the contrary, has in some respects been awakened; Portugal has possessions extending over two million one hundred and forty-six thousand square kilometres, with a population of 5,850,000 inhabitants. And if Italy,

who, in the days of old, has given so many proofs of her ability to brand other peoples with the stamp of her civilization, has experienced some reverses at the beginning of her late-born and hurried colonial policy, she has at least been able to guard herself from the extreme measures which are sometimes the outcome of irritation and discouragement, and has finally adopted a line of action which leaves her hands free for the future. Italian emigrants people Tripoli, South America, and will find a place in the Congo. Italians are industrious, sober, enduring, and make first-class colonizers.

Not so closely shut up within their own dominions as the other Powers, the Russian Empire, with its area of 22 ½ million square kilometres, and its 129 million inhabitants, and the Republic of the United States of America, with its 9 ½ million square kilometres, and its 77 ½ million inhabitants have directed a great part of their activity to internal and continental colonization within their own immense territories. At the same time their power of expansion abroad is very much in evidence in these days. It acts in a slow and continuous way as regards Russia, who is at the same time developing her economic resources; in a bolder and more enterprising way in the United States, who have marvellous industrial and commercial forces at their disposal.

In the face of the situation that we have just roughly sketched, such a country as Belgium, having access to the Ocean, and possessing ports, one of which is among the most magnificent in the world, possessing immense economic resources and powerful reserves of energy, would be throwing away obvious natural advantages unless it made

use of the sea as a highroad, and adopted a policy of economic expansion suiting its needs and capacities. If, in the career recently opened to all manufacturing and commercial nations, such a country must inevitably meet more powerful rivals, on what grounds would it meet opponents, when, pursuing a legitimate and necessary object, it takes a modest but courageous part, on a more spacious area, in the common struggle of civilization in that strife which is the common destiny of our time?

2. — LEOPOLD I AND COLONIZATION.

Since the revival of its independence, Belgium has had the providential good fortune of being governed by two Kings who have spent untiring efforts in assuring the country an honorable place among the nations, in developing all the internal branches of activity which tend to increase public wealth, and in procuring new fields of activity for the national energy.

Concerning colonization in particular, one must acknowledge that the obstacles against the acquisition of foreign possessions by Belgium, have not come from abroad. At various times we received encouragement from other countries. But it would seem that in such an important question for the future prosperity of the nation, the national apathy was extraordinary. The history of the attempts made by our first King to overcome this indifference is little known. Most of these attempts were of a personal kind, and the expenses had to be borne entirely by our princes. We have pointed out in our study on « The Neutrality of Belgium » several undertakings, which the State supported in

a weak way and for a short-time. We will here recall some facts which belong to history :

In 1841 there was formed in Belgium, with the consent of the Government, a limited company for the purpose of founding colonial settlements in Central America. A settlement was established at Santo-Toma. The enterprise was neither sufficiently supported nor suitably managed.

After a number of less official attempts, such as the one made in the province of St. Catherine of Brazil in 1844, a new attempt was made in 1847 at Kansas (Missouri) and at Ste Marie (Pennsylvania). This latter led to a convention signed by the Minister of the Interior.

In 1848, in consequence of the law voted on the 18th of April, Belgium acquired possession of a region belonging to native chiefs on the banks of Rio-Nunez (Coast of Guinea). She was thus thirty-five years in advance of the French, English and Germans in taking possession of territory on the same coast. This acquisition gave rise to two agreements. The first, approved by the Government in 1848, was superseded ten years later by a contract regulating the conditions under which the Belgians who established themselves in the country could claim the advantages stipulated by the former arrangement.

By the force of events, the mission of the first head of the Belgian dynasty was to constitute and consolidate the country. Circumstances obliged him above all to be the founder of the nation. It was reserved for the second of our princes to guide the country into the path of national expansion.

3. — THE IDEAS OF THE DUKE OF BRABANT.

No one can reproach the Belgian Sovereign who to day wears two crowns, one European and liberal, the other African and humanitarian, with not having perfectly under-

stood the spirit of his age, or with not having endeavoured to develop the prosperity of his country in harmony with that spirit. And no one will deny him the credit, at a time when not only Belgium, but many other States were more or less paralyzed, of having proclaimed, ceaselessly and everywhere, the necessity of Belgium enlarging her borders. It is fifty years since King Leopold made his profession of faith in this respect, and ever since he was allowed, as heir to the throne, to speak in the national councils, he expressed himself on this point with a frankness, energy and intuition of the future to which it is only right to render homage. At a time when it was certainly creditable to him, the future King of the Belgians, foresaw the economic changes which would result from the enormous progress of scientific knowledge and of their application to the subjection of natural forces, and to the taking possession of the globe, fulfilling his mission royally by keeping a constant look-out on the horizon and foretelling what would be the dawn.

This is how the Duke of Brabant, on December 1858, described the mission of the Belgian Government several years before his accession to the throne.

« *Belgium, having been preoccupied until now by the establishment of her political system, and the perfecting of her laws, has scarcely had time or opportunity to seriously consider the peaceful conquest of those rather distant outlets which, however, are so important that the development of our own industries and of those of our nearest neighbours requires us to search for them eagerly.*

But to-day our internal organization is perfected, the

edifice of our liberties is complete, and it is only necessary to guard its preservation; therefore it is now possible for the Government and the country to bring all their energies to bear on the solution of these problems on which the fortune of our nation depends. »

The need for an economic policy, new and daring, the necessity of aiming at the development of our relations in all the markets of the world, are mentioned in these terms in the speech of April 9, 1853, the first which the Duke of Brabant made in the Senate :

« *The perfection of our products and the cheapness of our prices give us the right to claim an important place in all the markets of the world. A young nation such as ours must be bold, always progressive and confident in itself. I am not afraid to say that our resources are immense; we can turn them into boundless profits.*

» *It is enough to dare in order to succeed. It is one of the secrets of the power and splendour which our Northern neighbours (the United Provinces) enjoyed for more than a century. We possess, beyond a doubt, as many elements of success : why should we aim lower?* »

The idea of opening to Belgium new horizons, in which the energy of our race should acquire new strength and to which the overflow of our productive activity could be diverted, is developed still more fully in the speech of February 17, 1860. This passage has often been quoted :—

« *I feel with deep conviction the extent of our resources and I ardently wish that my beautiful country may have the necessary boldness to turn it to the best possible*

account to which I believe they can be put. I believe that the moment is come for us to extend our territories. I think that we must lose no time, under penalty of seeing the few remaining good positions seized upon by more enterprising nations than our own. »

We ought to quote many other passages from this speech which fills no less than ten columns of our *Annales parlementaires* and which ends with the historical demonstration, applicable to all the great colonizing nations, of this truth : « The colonies have not only always served well the commercial interests of the nations, but it is to these settlements that the greater number of them owe their greatness past or present, » One should have heard the Duke of Brabant's timely reminder to the Belgians that the sea washes their coast.

« *So far, Gentlemen,— excuse this plain language in a colleague who knows no other passions than the public good, and who only sees in our present prosperity the starting point of our future success,— Belgium has not sufficiently remembered that the sea washes one of her boundaries.* »

The possession of coasts, of a magnificent port, perhaps unique in the world, are elements of riches of which we cannot make too much use, and of which nations who have succeeded have largely availed themselves.

« *Are not our 1,600 kilometres of railway lines, the oldest on the Continent, waiting impatiently for the State to complete and prolong them by means of regular lines of navigation to the principal markets of the world?* »

In the sitting of March 21, 1861, we find the same insistance in terms that we should again like to quote.

« *If this country consulted her best friend, from whom it has received the best proofs of affection and devotion, if she asked him : What must we do to raise to its highest degree the material and moral prosperity of the kingdom? the friend would reply : Imitate your neighbours; extend beyond the sea whenever an opportunity is offered; you will find there precious outlets for your products; food for your commerce; an occupation for all the hands which we cannot employ at this moment; a useful way of disposing of the surplus of our population; a new source of revenue for the treasury, which may some day allow the Government, following the example of the Netherlands, to lower the taxes at home; finally, a certain increase of power, and a still better position among the great European family.* »

It was then that the future Sovereign of Belgium advised the nation to practise what he called the policy of observation, in order not to lose the opportune moments.

« *If this policy of intelligent observation and slow preparation for action, which I recommend to the country for the future, had been practised in the past, we should already have fine possessions beyond the sea.* »

4. — THE WORK OF KING LEOPOLD II AND HIS PROGRAMME.

The prince who thus spoke was induced, by the events mentioned at the beginning of this work, to give expression

to his ideas, thus serving at the same time in a conspicuous manner the cause of humanity.

Without neglecting to observe the prudence which the circumstances required, he did this simply, royally, and with the necessary sacrifices. The first results were not brilliant from a material point of view. Those who wished at any price that the enterprise should turn out a hopeless failure, are almost ready to complain now that it is gradually improving. Such people are hard to please indeed.

Anyhow, to-day, its achievement is a fact; and the simple statement of its formation, organization and working is its best claim to the appreciation of all impartial men.

From the Ocean to the dividing line of the Nile basin, the blue flag with the golden star is displayed and faithfully guarded. No other African colony of recent creation has pursued with more energy the entire occupation of her territory to the furthest borders. No other has caused the authority of her power to be more respected.

« Look at the Congo State, » said Lord Salisbury in the House of Lords. « Everything has not gone there as well as could be wished, but still a great domination is maintained. There are two sets of opinions; but what is undoubtedly true is that Belgium—a very much less powerful country than Great Britain—has been able to maintain the dominions of her King over a territory larger than the Sudan (1). »

The Government organization is complete. The Decrees are obeyed. The administrative hierarchy forcibly reveals itself under the double forms of unity and decentralization. Justice more and more strictly encloses in its meshes trans-

(1) *The Times*, February 8, 1899.

gressions of order, whether they are committed by natives or others.

The economic equipment is exceptionally powerful. There is an improvement is the soil. The finances are autonomous, and the budget balances. The taxable forces of the country are equally divided.

The army is numerous, trained and becoming more and more disciplined.

The movement of exports and imports is continually on the increase.

Christan missions are protected and aided; science is encouraged and developed.

And under the unfortunately too scorching sun of the Equator, at the posts where they meet one another, the Governor, the Judge, the engineer, the explorer, the manufacturer, the merchant and the soldier, according to countless witnesses, do excellent work and lead a contented life.

Some discontented individuals, displeased for some reasons of their own, feel in bad temper and cry their complaints to the four winds. They denounce the Goverment of the Congo to other Governments. But the Powers certainly have something else to do than to take up their quarrel, and to thwart the development of a State bravely conquered from barbarism by the initiator of the African movement.

As regards Belgium, she is conscious that the great Congolese work has powerfully served the vital interests of the country and given rise to a spirit of enterprise fraught with the happiest results. And her confidence in the future can no more be destroyed than her gratitude for the past.

As to the keeping of the guiding rules of the Congolese policy, the Sovereign, we may be sure, will manage that, and if it is not possible for him, more than for any other Government, to foresee all the individual breaches of his rules, he will know what to do in order that the wise and progressive programme drawn out by himself shall triumph over these unruly elements. He has formulated this programme again, not many years ago, in two memorable documents. We cannot better close these pages consecrated to the study of civilizing Government in the new countries, than by reproducing its text.

This is the letter of the King-Sovereign to all his agents, retracing for them the general programme of their actions and indicating the spirit in which the government means to have it carried out :

Brussels, 16th *June* 1897.

Sir,

The agents of the Congo Free State have been much tried of late. Their ranks have been thinned by cruel and repeated attacks. Associating myself with the unanimous expressions of regret aroused by these painful losses, I desire to pay my tribute of acknowledgment to all those who have so bravely sacrificed their lives in the accomplishment of duty.

Like every great cause, that which we serve in the Congo has had numerous martyrs.

To those who respect these manly traditions, I desire to address a few words, coming from my heart.

The task which the State agents have to accomplish in

the Congo is noble and elevated. It is incumbent upon them to carry on the work of the civilisation of Equatorial Africa, guided by the principles set forth in the Berlin and Brussels resolutions.

Face to face with primitive barbarity, struggling against dreadful customs, thousands of years old, their duty is to gradually modify those customs. They have to place the population under new laws, the most imperious as well as the most salutary of which is assuredly that of work.

In uncivilized countries, a firm authority is, I know, necessary to accustom the natives to the practices of civilization, which are altogether contrary to their habits. To this end, it is necessary to be at once firm and paternal. And, in the first place, in a country like the Congo, the native population is the basis of its wealth. The first efforts should tend to assure its free development.

Civilised society attach to human life a value unknown among savage peoples. When our guiding will is planted among the latter, it must aim at overcoming all obstacles. The result cannot be obtained by mere speeches, however philanthropic may be their tenour. But if, with a view to the necessary domination of civilization, it be permitted, in case of need, to have recourse to forcible means, the supreme sanction of right, it is none the less true that the ultimate object is one of peace. Unnecessary wars ruin the country where they occur, as our agents know well. Therefore, from the moment their effective superiority is established, they are loth to abuse that authority. The unfortunate blacks who are still subject to their traditions alone, believe that victory is only effective when the fallen

enemy is disabled. The soldiers of the State must be recruited among the natives. They do not easily abandon the sanguinary habits transmitted from generation to generation. The example of the white officers and military discipline will make them hate the human trophies of which they are now proud. In their chiefs they should see the living demonstration of the superior principle that the exercise of authority has nothing in common with cruelty : the latter ruins the former.

I am glad to think that our agents, nearly all of whom are volunters from the ranks of the Belgian army, always bear in mind the rules of the honorable career in which they are engaged. Animated with a pure sentiment of patriotism, recking little of their own blood, they will care all the more for the natives who will find in them the powerful protectors of life and property, the kindly guardians of whom they stand so much in need.

The aim of all of us,—I desire to repeat it here with you—is to regenerate, materially and morally, races whose degradation and misfortune it is hard to realise. The fearful scourges of which, in the eyes of our humanity, these races seemed the victims, are already lessening, little by little, through our intervention. Each step forward made by our people should mark an improvement in the condition of the natives.

In those vast tracts, mostly uncultivated and mainly unproductive, where the natives hardly knew how to get their daily food, European experience, knowledge, resource and enterprise, have brought to light unthought-of wealth. If wants are created they are satisfied even more liberally. Exploration of virgin lands goes on,

communications are established, highways are opened, the soil yelds produce in exchange for our varied manufactured articles. Legitimate trade and industry are established. As the economic State is formed, property assumes an intrinsic character, private and public ownership, the basis of all social development, is founded and respected instead of being left to the law of change and o the strongest.

Upon this material prosperity, in which whites and blacks have evidently a common interest, will follow a desire on the part of the blacks to elevate themselves. Their primitive nature will not always resist the efforts of Christian culture. Their education, once begun, will no more be interrupted. In its success I see the crowning of the task undertaken by our people and so ably seconded by religious missionaries of both sexes. The most urgent part of the programme we wished to realise was to set up direct communication with the natives all over the Congo basin. And this was done in the course of fifteen years, without the help of any State, if it were not that lent by Belgium. The establishment of a whole, compact series of stations gradually substitutes for savage warfare, carried on incessantly between tribes and villages, a regime of peace.

From a geographical entity, physically determined, the Congo State has become a country with distinct frontiers, occupied and guarded at every point,—a result almost without precedent in the history of colonisation, but which is explained by the concentration of our united efforts on a single field of activity.

Our own difficulties will be considerably lessened in

a short time when the railway between the Lower-Congo and Stanley Pool is completed.

I here make a renewed appeal to the devotion, of which our agents have already given such abondant proof, that the establishment of this means of communication may bear fruit as soon as possible. It will closely connect the Congo with the mother country, it will afford all Europe, which is so interested in our work, an opportunity to take an intelligent and kindly interest in our work. It will, finally, give a decided fillip to our progress, and it will speedily introduce into the vast regions of the Congo, all the benefits of our Christian civilization.

I thank our agents for their efforts and I reiterate to them the expression of my royal regard.

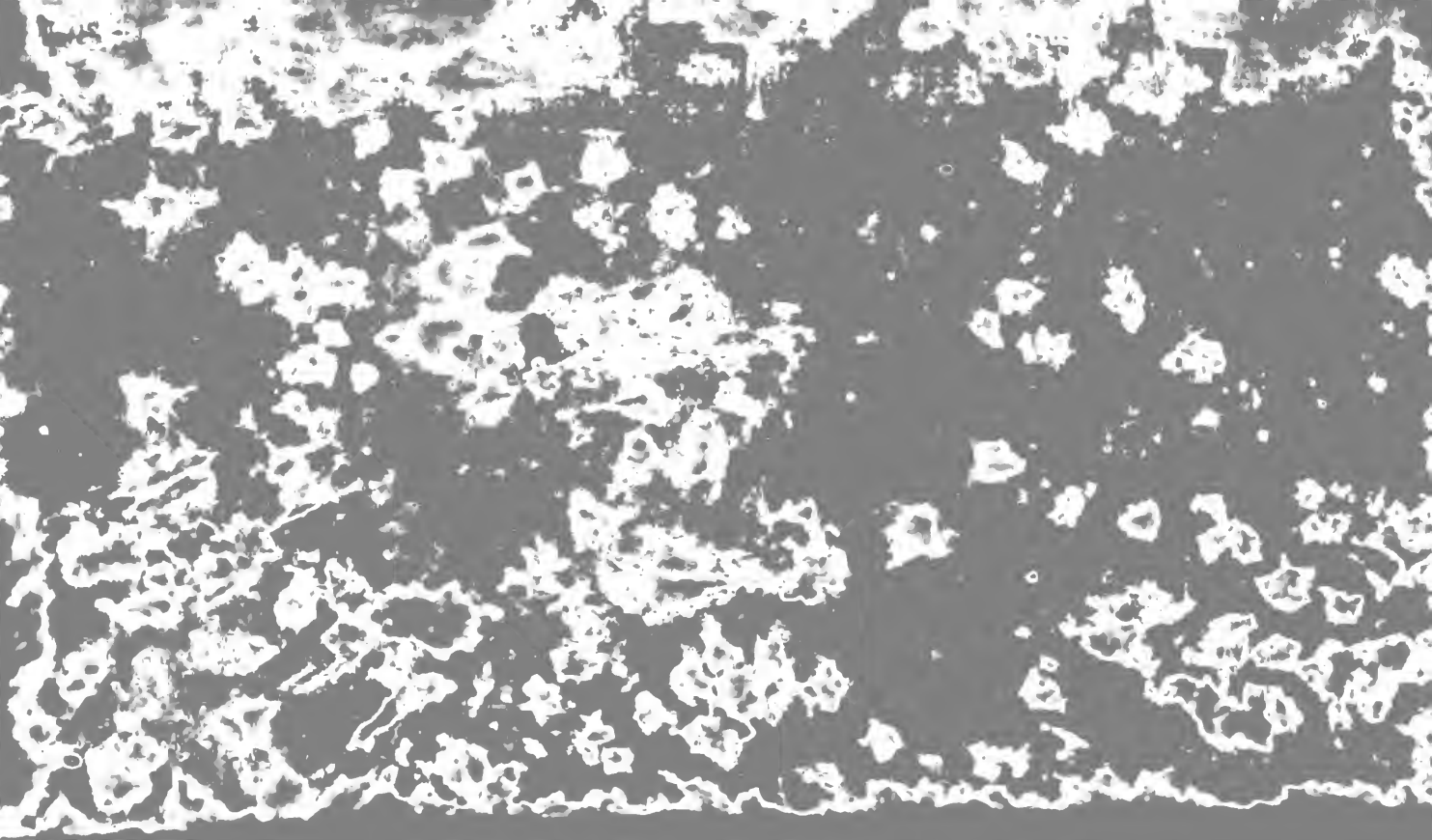
LEOPOLD.

EDM. VAN EETVELDE.

This finally is how, on that memorable day—October 16, 1898—at the time when the whole town of Antwerp, invited by the Chamber of Commerce of the city, celebrated with festive splendour the great Congolese work, the King-Sovereign briefly reminded them of his programme and once more repeated the principles which constitute the corner stone of the policy of the State :—

The Congo State will endeavour to deserve the goodwill of the Powers by punctually fulfilling the duties of neutrality. Accepting all the aid which may be offered it, seeking for them with care, it will never forget its

duties to itself; but will march with a firm step in the path it has planned for itself, and will continue to give proofs of a real and fruitful life; its administration will be pursued in the triple interest, national, international and civilizing, which has guided its first years.



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