The Government Council comprises, aside from the governor general who presides over it, 65 members : among these, there are 11 high officials, 18 representatives of rural or advanced rural centers, and 9 representatives of each of the other 4 socio-economic groups.

How are the members of this council chosen ?

There has been a typical evolution here. At first all the members were chosen by the authorities. Today two-thirds of the private members are elected by the provincial councils, the remaining third are chosen by the governor general ; as for the high officials — who are definitely in a minority — they are members ex-officio.

There has been just as great an evolution in the Government Council's functions. It used to express opinions only on questions that the authorities saw fit to submit to it. Now it must be consulted in the last resort — except in urgent cases — before the Colonial Council on all proposed decrees constituting general and pemanent legislation. Furthermore, whereas formerly it examined only budgetary propositions, it now considers ways and means and, in addition, it estimates proposed expenditures.

The Permanent Delegation

The Permanent Delegation is a small body chosen by the Government Council from among its members (either elected or appointed), each member voting within his group.

Its aim is to associate the population more closely with the government of the country ; in this spirit, the permanent delegates have been invited by the governor general to communicate to him at any time of the year their views on important questions arising out of the evolution of the Colony and involving either theoretical or practical points. Furthermore, the Permanent Delegation deliberates on all the questions submitted to it by the governor general : it has the right not to proceed with a question submitted to it, referring it to the Government Council.

Provincial Councils

Within every Congolese province there is an advisory body — the provincial council — whose function it is to communicate its views to the governor for his guidance.

The provincial councils have followed an evolution analogous to that of the Government Council. As in the case of the latter, the composition of the provincial council has changed, and its private members, along with the officials who are ex-officio members, henceforth represent integrated socio-economic groups. The members are appointed by the governor on the advice of associations representing the various interests of the province.

The jurisdiction of the provincial councils has also expanded : beginning with a mere inspection of budgetary proposals, it now considers ways and means and estimates the proposed expenditures of the province ; this is an important step toward a more extensive provincial autonomy.

Territorial Councils

Until very recently, the territory was merely an administrative subdivision, established to facilitate the exercise of authority in a vast country ; the territorial administrators were simply agents who executed orders.

But now the first step has been taken on a new path that will lead to the transformation of this administrative subdivision into a political entity. This political entity would attempt to bring about on the lowest possible level the integration of the interests of native and non-native elements in the population, and thus pave the way for a partnership of all the inhabitants, black and white, in the local management of public affairs.

A royal decree of January 22, 1957 marked this first step by setting up territorial councils. At the present stage, as stipulated in the decree, these councils have merely an advisory jurisdiction in regard to questions of local interest submitted to them ; the

members are appointed by the administrative authority without consulting the population.

But this is only a transitory stage. The report to the King which accompanies the decree provides for two later stages, one of experimentation and the other of organization, in the course of which the jurisdiction of these councils and their composition will be clearly defined.

The creation of these territorial councils is an important act in the political evolution of the Congo. Indeed, it constitutes a first attempt to broaden the views of the rural population, an attempt to make the concerns of the villagers cross the limits of their villages or their tribal communities and extend as far as the boundaries of the territory. Consequently, this is an endeavor to create a new collective feeling. The importance of this experiment can be understood if it is pointed out that the average area or a territory is about two-thirds that of Belgium. What is being done there is an attempt to bring forth a new collective spirit.

B.

Communal Institutions.

Native Districts

As early as 1891, a decree recognized the existence of the tribal communities, thus integrating them officially into the Congo's system of government. In fact, these tribal communities were the usual form of organized society that the Europeans found on the spot when they first arrived in the Congo ; whenever possible, it was through them, their institutions, and their chiefs that the Europeans associated the natives with the new administration.

The protection and evolution of these native districts have been a subject for constant thought on the part of legislators : 1910, 1931, 1933, 1934, and 1945 are so many dates when important legislative measures in this domain were passed. A

new decree — dated May 10, 1957 — marks the crowning of this long and exacting task. Overhauling all the older texts concerning the political and administrative organization of the native populations, this decree — together with the decree of March 26, 1957 on the organization of cities — may be considered the equivalent for the Congo of the communal law for Belgium.

The decree of May 10, 1957 sets forth a new and broader conception of the native district. Indeed, this decree defines it as an administrative entity made up of natives united not only by traditional relations, but also, in case of need, by local relations or common interests. The utility and flexibility of such a definition are evident : on the one hand, the existing tribal organization continues to be respected and is assured of its evolution within a framework that has become normalized ; on the other hand, this definition allows for the recognition of new groups based, not on tradition, but on actual conditions — economic, social, or others.

After setting forth this new and broader idea of the native district, the decree defines its status, a status which, while organizing a sort of administrative guardianship, makes civil servants of the native authorities. Today the functions of the native chiefs are fairly similar to those of the burgomasters (mayors) of Belgium ; organizations have even been created that suggest both the municipal councils and the administrative bodies of burgomasters and deputy-burgomasters of Belgian communes.

The new-type native district council is composed of ex-officio members and of members appointed with due consideration for the preferences of the inhabitants whatever their social class. It deliberates on all questions of local interest and on any other subject submitted to it by the authorities. This truly constitutes a sovereign power, but with the reservation that the tutelary authority may always intervene.

Among the functions of this council, the following should be mentioned : approval of the budget and of the annual accounting of receipts and expenditures, the drawing up of rules relating to local taxes, operations concerning the real estate traditionally

owned by the native district, planning of the local road system, deliberating on candidacies for certain posts such as those of secretary, tax collectors, etc.

Furthermore, a permanent administrative body composed of members appointed on the recommendation of the Council assists the native chief in his daily work. Under his chairmanship, the administrative body publishes and executes the resolutions of the Council and administers the district as the burgomasters and their deputies in Belgium would do.

These administrative bodies are therefore communal institutions in their first phases. It must however not be inferred that there has been a mere servile copying of Belgian communal institutions. If the legislator was inspired by factors he knew well through personal experience, it was only because they were particularly adapted to the social and political structure of the immense Congolese territory with its numerous divisions into tribal cells. But the varying degrees of evolution of the populations in question, and the very extent of the country, will always require administrative differences. Moreover, the aim pursued is not to import European institutions bodily, but to make the entire population — starting from the basic political cells — progress in the direction of a capacity for self-government.

Cities

More typical still of the evolution of the country toward a democratic formula based on a Belgo-Congolese community is the statute of the cities.

The city, in the Congo, is a phenomenon imported by Europeans. Because of certain factors — industrial progress, administrative and commercial equipment — many Europeans had gathered together in centers that were, so to speak, created out of nothing ; such was the case of Leopoldville, Elisabethville, Jadotville. Little by little, a feeling for the community had developed, based both on living in the same place and sharing the same interests. From that moment on, these Europeans,

remembering the municipal institutions they had known, expressed the desire to participate in the administration of the city. That was a natural sentiment ; it inspired the texts which created the Congolese cities as early as 1923. At that time, the latter were exclusively European ; even if they spread out beyond their limits, they did not absorb the African communities of the vicinity.

But, at the same time as this urban phenomenon was taking concrete form, the natives were clustering in ever increasing numbers around the European centers, attracted both by the possibilities of finding work and the lure of a new way of city life It was no longer a question of native communities but of a constantly growing mass of people flocking from every direction, ruled by different tribal customs and confronted with a civilization that was new in every way. This state of affairs called for appropriate measures ; the legislators took them by creating — as early as 1931 — the « centres extra-coutumiers » (1) that were to be governed for a long time by a royal decree of 1934 co-ordinating previous decrees.

This sociological phenomenon — illustrating from the very beginning two different situations and two different conceptions of the collectivity — was to give rise to the creation of the cities of today where both Africans and Europeans mingle.

Soon, indeed, a symbiosis occurred between white and black agglomerations, between cities and the native communities surrounding them. This symbiosis was taking place, not only because of working relations but also through commercial exchanges and social contacts. Moreover, it represented the spirit of Belgian policies in Africa, a spirit that rejects all racial discrimination ; and it was accelerated by the rapid evolution of the Congolese living in the cities. So much so that in the course of a few years the two original sociological phenomena merged into one marked by a strong tendency toward unification : the urban phenomenon. The legislative measures of 1923 and 1931 were then seen to be out of date ; besides, they had come to take on an unintentional segregative character that aroused a great deal of criticism.

(1) « Centres extra-coutumiers » are officially recognized communities of natives who have left their various tribes to live and work elsewhere.

Faced by this situation, the authorities decided to integrate many Congolese in the administration of the large cities and, starting with 1948, a reform of the outdated municipal statute was decided upon and a thorough study of the question went on for eight years. Meanwhile, the situation continued to develop at an accelerated pace, and the time to work out and perfect the reform was not wasted ; the delay prevented the application of measures that, through the force of events, would soon have become obsolete.

Finally, on March 26, 1957 the new decree organizing the Congolese cities was signed.

This was an important political measure. Indeed, this decree of 1957 introduces two new ideas into the Congo : the existence, now legally recognized, of « communes » (a group of them constituting a city), and the consultation of an electorate made up of Africans and Europeans with a view to constituting communal councils.

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What is the system like ?

Any agglomeration can be raised to the status of a city by the governor general if its importance justifies such a step. This city is composed of communes each having a burgomaster at its head ; at the head of the city itself there is a « chief burgomaster ».

All the burgomasters are appointed by the governor of the province. The communal burgomasters are freely chosen from among the men competent to fill the position, while the chief burgomaster must necessarily be an agent of the African administration ; all of them may have deputies.

The rôle of these burgomasters of the Congo is somewhat similar to the one they would play in Europe. They are at one and the same time chief magistrates of the city and agents of the central government, presidents of the municipal councils and

chiefs of police ; they have the power to make police regulations and enforce them by imposing — when necessary — either fines or penal servitude.

The burgomasters are assisted on the city level by a city council, and on the communal level by a communal council.

The creation of these councils was the first attempt to hold elections on a municipal level in the Congo ; this took place in the course of December 1957 in the cities existing at that time : Leopoldville, Elisabethville, Jadotville.

At the base of the administrative structure are the communal councils. In order to constitute these, the commune is divided into a number of circumscriptions equal to the desired number of communal counselors. The candidates must be sponsored by at least twenty persons and must have accepted the candidacy. The electorate comprises all the Belgians, whether from Belgium or the Congo, who have been residing in the city for at least six months, provided they have reached the age of twenty-five, are of the male sex, and have not been convicted of certain offenses. Each voter designates by name, in an envelope which he deposits in a sealed urn, the candidate of his choice. When the result is known, the chief burgomaster announces the names of the communal counselors (one for each circumscription).

As for the Municipal Council, it comprises three categories of members : ex-officio, appointed, and elected members. The ex-officio members are the communal burgomasters and the chief burgomaster. The appointed members are notables, representatives of certain suburban zones, and representatives of « socio-economic groups » such as business, salaried workers, and independent middle classes. As for the elected members of the Municipal Council, they represent the Communal Council and are chosen by its members ; this is therefore a kind of « second-degree » election.

The governor general fixes the number of representatives of each category, but in any case the number of members elected

cannot be less than the total number of members appointed among the notables and the socio-economic groups. This precaution, while safeguarding the importance of electoral representation, makes it possible to do justice to the social and economic groups which, for many years to come, will go on playing a preponderant rôle in the development of the country.

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City Councils and Communal Councils have very extensive functions that involve the exercise of sovereign powers.

Not only can they deliberate and formulate requests on everything of either urban or communal interest, but they can also vote compensatory taxes and, within the limits set by the governor general, fiscal taxes.

Moreover, they examine budget bills, and they may amend them, but with the following reservations : any amendment involving an increase in expenditures must provide the ways and means necessary for raising the money ; any amendment involving a decrease in receipts that might produce a deficit in the budget must provide a corresponding decrease in expenditures. The purpose of these reservations is obvious : in imposing them, the legislator wanted to instill in the members of these newly fledged institutions a sense of equilibrium and stability in the management of public money.

Congolese cities and communes have a civic personality. Therefore, they may own public and private property ; they may enter into partnerships with each other, or with the Colony, or even with the native communities, in order to manage common interests.

They also benefit by certain financial privileges. Thus they receive the product of renting or selling public lands located on their territory, and they collect taxes on buildings and on vacant land situated within their limits.

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Taken all in all, this municipal organization — which is only in its infancy — suggests by its structure the communal organization of Belgium ; however, there are rather important differences. For example, both the provincial governor and the chief burgomaster may delegate to the Municipal or Communal Councils respectively such of their powers as they see fit to delegate. This is an original procedure peculiar to the Congo and non-existent in the mother country ; it makes the Congolese councils virtually more powerful than those of Belgium. Similarly, the prerogatives of a chief burgomaster in the Congo are clearly more extensive than those of a Belgian burgomaster, even of a large city ; indeed, the Congolese chief burgomaster adds to his own functions those of the administrative bodies of burgomasters and their deputies in Belgium, and even certain powers which in the mother country are exercised by district commissioners and provincial governors.

In spite of these broad powers, the communal and urban authorities of the Congo remain subjected to a regime of guardianship which involves authorization and approval of their acts by the higher authorities of the country : this tutelage has been judged indispensable at a time when these institutions are still in the stage of apprenticeship.

But such as it is — with the extended powers it provides for and the precautions that surround the exercise of these powers — the decree of March 26, 1957, together with that on the native circumscriptions, supplies a basic frame for the Belgo-Congolese society of tomorrow. In organizing these basic political cells (the Municipal and Communal Councils), the decree paves the way for the democratic evolution of the country.

CHAPTER II

THE JUDICIAL ORGANIZATION

SUMMARY

1.

The System of Traditional Native Customs.

In the native communities that the Europeans found on their first arrival in the Congo, there existed a native law that was not written down but was preserved by tradition and transmitted orally from generation to generation ; this law was applied by local courts that varied in character.

Desirous of respecting the existing African institutions, the Congo Free State legally acknowledged not only the tribal communities but also the traditional native law and the authority connected with it. A decree issued in 1906 definitely recognized. alongside written law, a traditional native law.

The native courts are still functioning. A royal decision of 1938 — co-ordinating various decrees the first of which dates from 1926 — regulates their present status. Their competence extends to all natives except those who, through the registration procedure, have freed themselves from the jurisdiction of the native courts and are now amenable to the provisions of written law. The activity of these courts is impressive ; it is estimated that they deliver some 400.000 judgments every year.

They apply customary law, ancient or modernized, insofar as it does not run counter to public order or to written law. In this domain, they are authorized to judge all native civil cases that do not involve the application of written law ; as far as punishments are concerned, they may impose on the natives penalties not exceeding imprisonment for one month and a fine of 1,000 francs ; this holds true not only in cases provided for by native law but also in certain others fixed by written law.

There exist three categories of native lower courts which are legally recognized : **tribal community courts, native « sector » courts,** and **advanced native center courts.** While the first category functions in the traditional communities that have remained unchanged, the courts of the second are established wherever the agelong setup has been modified — such is the case, for example, of « sectors » made up of groups too weak to continue existing on their own ; as for the third category, its tribunals operate in the advanced native centers formed near European urban agglomerations. In these three types of courts, all the judges are natives : either notables designated for these functions by tradition, or members of the elite chosen by the authorities, as the case may be.

The review of judicial decisions is entrusted to the **territorial tribunals.** These also are made up of native judges, but they are presided over by the territorial administrator who exercises general supervision over the courts of the tribal communities, the native « sectors », and the advanced native centers that lie within his jurisdiction.

This native judicial system is linked up with the judicial organization based on written law through the higher courts. Indeed, the latter are vested with the power to direct and supervise, and are authorized to annul judgments which violate provisions established by custom or law, or involve illegal penalties ; also those based on customs contrary to public order or written law, or rendered by a tribunal that is either incompetent or illegally constituted.

2.

The System of Written Law.

A.

Basic Considerations Underlying the Judicial Reform

As this book was going to press, an important reform of the Belgian Congo's judicial organization was under consideration. (1)

One of the aims of this reform is to bring about a stricter application of constitutional principles, notably where equality before the law and separation of powers are concerned. Indeed, at the time a judicial organization was first set up in the Congo, these principles were not applicable to their fullest extent because of conditions that no longer prevail : populations too different in manners and customs and in levels of civilization, a very extensive country where means of communication were difficult, etc. Today the evolution of the natives, the increase in the European element, the equipment of the country and its progress in all fields have swept away the obstacles of former times. Thus, the moment has obviously come to normalize the judicial regime, first of all by eliminating from the administration

(1) The results of this reform, and the new judicial organization that it will give rise to, will be treated in a reissue of the second volume.

of justice everything leading to racial discrimination. A second objective of the reform is to exclude, wherever the present situation makes it possible, the granting of judicial functions to administrative authorities or to authorities vested with the right to prosecute. A third objective is to bring closer together justice and those amenable to it by extending the jurisdiction of local courts.

However, the various measures now under consideration take into account conditions that still exist in the Congolese world : economic, social, and political conditions which dictate, for example, the maintenance in the lower courts of some magistrates who simultaneously hold administrative posts in the government. In the same spirit, care has been taken not to modify the jurisdiction of the native courts ; indeed, on the one hand they constitute a framework which until now has given satisfaction, and on the other it would be inexpedient to alter their regime as long as the law they enforce cannot be accurately determined. This law is now in the process of evolution ; consequently, the reform must limit itself to promoting the integration of the native courts into the general judicial organization of the Congo.

B.

The Present Judicial Organization and its Reform.

The Lower Courts.

Civil Code.

In civil law matters, the lower courts are the **courts of the first instance** whose judges are career magistrates. The court of the first instance has, in civil law, full jurisdiction over all civil and commercial matters, whether they concern non-natives or natives ; at the request of the latter, it may even decide questions that lie normally within the province of native law.

There are six courts of the first instance in the Congo, one in the capital of each province. At first sight, their number seems inadequate, considering the vast extent of the country. However, this shortcoming is compensated by the fact that these courts are circuit courts : they may sit, if necessary, in any locality within their jurisdiction, and they even have regular sessions in some of the localities. Furthermore, for certain matters of lesser importance, some of the higher courts are vested with civil authority.

Congolese civil justice is relatively swift, as well as easy of access, because of the simplicity of its organization and procedure. It is patterned on the Belgian system, but is much simpler. Its procedure, which is rather informal, has always followed the guiding principle of not invalidating proceedings because of legal flaws, provided the interests of the opposing party are not injured thereby. As for the organization itself, it has no « law officers » such as court ushers, attorneys, or notaries ; their functions are filled by government employees. The system is a very flexible one well adapted to the immense and sparsely populated areas that characterize the country ; thus, civil justice under the guarantee of the government is available even in the smallest localities. However, the development of the Congo during recent years has brought about such a great increase in the amount of litigation that the personnel in charge is proving to be inadequate; a reform is contemplated to remedy this situation.

With the aim of effecting judicial decentralization and bringing justice nearer to those amenable to it, the reform also plans to grant civil authority to district courts ; the latter will thus be empowered to try cases where the amount concerned does not exceed 50,000 francs.

Penal Code.

Down to the present time, the Congolese penal code has treated natives and non-natives differently.

The natives are brought before **police courts** for unimportant cases involving penal servitude for two months at most and a fine not exceeding 2,000 francs. In the present system, the territorial administrator is by law the judge of this police court. All other matters, even those involving the death penalty, fall within the jurisdiction of the **district court ;** the latter is presided over by the district commissioner, but generally includes a career magistrate who is a member of the « Ministère Public » (body of prosecuting magistrates).

As for non-natives, registered natives, and natives in possession of a card of civic merit, they are answerable to the **court of the first instance** in criminal cases.

This discrimination in the administration of justice is due, not to a spirit contrary to Belgium's principles in such matters, but to conditions prevailing in the past. Indeed, when the European system was first introduced, the native population and the European element were so different in their ways of life that a uniform penal code would have had unjust and disastrous consequences. It should also be noted that it was with the intention of bringing justice nearer to those amenable to it at a time when roads were scarce, that district and police courts were established within the administrative subdivisions ; however, as the number of officials available were limited, it was necesary to place the courts under the authority of judges who held administrative posts in the government. Today these early conditions are out of date because of the peoples' evolution and the improvement of communication lines. The reforms also stipulate that, firstly, except for cases coming under the tribal laws, all persons brought to court, whether they be European or African, are subject to the same jurisdiction. Only the gravity of their infringement determines whether they are to be handed over to the police court or to the district court. Moreover, according to plans now in the making, the judges holding administrative posts will be replaced by career magistrates in all district courts and possibly even in the police courts.

As in the case of the civil procedure, the penal procedure is patterned on the Belgian codes, but is much simpler in form and

adapted to the needs of the country and to a population of an entirely different character. Court expenses, all fixed by the record office of the court, are paid in a very simple manner ; in criminal cases, a special rate which is very moderate has been established to favor the natives. A provision peculiar to the Congolese judicial system imposes on the criminal courts the duty of deciding the amount of damages, interest payments, as well as other sums due the native, without his having to start a civil suit.

In the Congo, violations of the law are not — as in Belgium — divided according to their seriousness into the categories of crimes, misdemeanors, and minor offenses. Imprisonment is called « penal servitude » and consists of detention in prisons set up wherever criminal courts are located ; compulsory labor of different kinds is assigned to the prisoners, either within the confines of the prisons or in the vicinity. Prison annexes and detention camps are sometimes established, and in the latter the long-term prisoners may be given work beneficial to the community. In the present system, little has been done in the way of providing houses of correction and reform institutions. However, a first step forward has been made in the domain of juvenile delinquency : a decree issued in 1950 has replaced, for delinquent minors, the penalty of imprisonment by custody measures, re-education, and social readjustment ; the district judges thus actually become judges of children's courts. This decree has already been put into effect in the Lower Congo.

The " Ministère Public " (Body of Prosecuting Magistrates) and the Higher Courts.

The « Ministère Public » includes a « procureur général » (high-ranking public prosecuting attorney) assigned to every court of appeal, and in the capital of each province several « procureurs du Roi » (King's prosecuting attorneys) assisted by substitutes, a certain number of whom are distributed throughout

the districts. This « Ministère Public » takes on a special character in the present judicial organization of the Congo. Indeed, the rôle of the « Ministère Public » is not merely to prosecute delinquents and supervise the administration of the judicial police — a domain in which it is answerable to the executive power (1) — but also to give general protection to the natives of whom it is the legal guardian. In this capacity, it acts in civil cases for the benefit of the natives who have been wronged ; it supervises the police courts and directs the native tribunals. With a view to providing the means of fulfilling these tasks, higher courts have been set up ; in each district there is such a court where the presiding judge is the « procureur du Roi » or his substitute. These courts have criminal jurisdiction which empowers them to review the judgments of police courts, and civil jurisdiction for cases where the amount involved does not exceed 25,000 francs. They also exercise an influence on the native jurisdictions whose decisions they have the power to annul.

The judicial reform contemplated plans to do away with these higher courts and transfer their jurisdiction to the district courts since, in accordance with the new conception, these would be presided over by a career magistrate.

The Courts of Appeal.

The judgments of the district courts can be appealed to the court of the first instance concerned.

Judgments delivered by a court of the first instance when functioning as a lower court can be brought before a court of appeal in all criminal cases, and in civil cases when the sum involved exceeds 7,500 francs or cannot be evaluated. Judgments delivered in civil cases by the higher courts can also be taken to a court of appeal when the sum concerned exceeds 7,500 francs.

(1) In the preceding chapter, see the topic headed « The Judicial Power ».

There are two courts of appeal in the Congo : one of them, at Elisabethville, has jurisdiction over the provinces of Katanga and Kivu ; the other, at Leopoldville, has jurisdiction over the remaining four provinces.

The reform contemplated to add to this system an appeal procedure for judgments delivered by the territorial tribunals ; this will make it possible to appeal these decisions to the district tribunals.

The Supreme Court.

While the lower courts and the courts of appeal function in the Congo itself, the final appeal must be made in Belgium before the Supreme Court. Until the present time, the jurisdiction of this court has been merely civil and commercial, but the present reform contemplates extending its authority to the criminal and disciplinary domain in certain cases.

The Military Courts.

Alongside this general organization, there are military courts : courts-martial and appellate courts-martial ; the latter will eventually, in accordance with the spirit of the reform, be converted into military tribunals.

The jurisdiction of these courts is limited in principle to the military. Indeed, the basic law of the Congo forbids, except in special cases, the substitution of military courts for civil courts. Only the King or, in urgent cases, the governor general — on the advice of the « procureur général » — may authorize this substitution ; it can take place only for reasons that concern the public safety, and it must be limited to a definite territory and a definite period of time. The reform provides that the military courts will henceforth deal only with purely military offenses.

The Congolese Bar.

A decree issued in 1930 created the Congolese bar. In the courts of appeal and the leading courts of the first instance, there is a list of lawyers admitted to the practice of their profession. No one's name is placed on such a list unless he has a law degree and can furnish proofs of good character.

Lawyers are under oath and are subject to the discipline of the courts of appeal ; their rights and duties are on the whole analogous to those prevalent in the bar associations of Belgium.

It should be noted that alongside of this bar there also exists in certain tribal courts, chiefly in those of the centers, a number of natives who assume the role of counsels for the defense : they are, in fact, attorneys of a sort appointed by their clients. The progress of the profession depends on several factors such as the evolution of the tribal laws and customs, the complications arising from the mixture of many tribal customs existing in the native agglomerations and, above all, the part to be played by the native lawyers who will have completed their university studies in a few years from now.

CHAPTER III

THE FINANCIAL ORGANIZATION

SUMMARY

1.
Public Finances.

The Congo and Belgium have distinct personalities and distinct inherited national wealth. This fundamental principle was established by the Colonial Charter of 1908. The budgets, accounts, assets, liabilities, currencies, customs, and taxes of the Congo and of Belgium must therefore be kept separate. However, it should be noted that in spite of this principle of the separation of their national wealth, the mother country, by virtue of the very exercise of its sovereignty, must — in the last analysis — assume responsibility, on the international level, for the debts of the Congo, those that existed at the time the territory was taken over as well as those that have been contracted since then.

A.

Budgets.

Congolese budgets are highly centralized : they include all the territory's public receipts and disbursements. Only the cities of Leopoldville, Elisabethville, and Jadotville have their own budgets. But these cases are merely exceptions that have a very slight influence on the sum total of the financial operations. However, in the actual execution of fiscal policies, a system of delegation of power to the different levels of adminstrative authority makes a certain amount of decentralization possible.

Side by side with the specifically Congolese budgets, there exists a Belgian budget — for the Congo — of minor importance; financed by the Belgian budget of Ways and Means, it is intended to provide for almost all the expenses of the Ministry of the Belgian Congo and Ruanda-Urundi.

As for the Congolese budgetary technique, it is patterned on that of the mother country. Every year the estimates of receipts and disbursements are prepared by the African finance department and then transmitted to the Ministry of the Belgian Congo and Ruanda-Urundi. The latter submits them, in the form of budgetary laws, to Parliament for its approval. The Audit Office in Belgium intervenes in its turn by submitting to Parliament its comments on the working out of the budget.

Nature of the Ordinary Budgets.

Congolese budgets faithfully reflect the economic expansion of the country. Each year, from 1908 to 1952, receipts and disbursements have followed a steady and healthy evolution : while the average increase in receipts during this period amounted to about 18 % a year, the increase in disbursements remained consistently less and was finally stabilized at about 12 %.

However, until the last war, the ordinary budget of the Congo at certain times showed a deficit that Belgium had to make good. The situation was particularly critical at the time of the great depression of the years 1932-1953. But since the war, budgetary equilibrium has been established and up to 1957, a year marked by the world-wide recession, it has regularly presented a great surplus in receipts. These surpluses have made possible the setting up of reserves for the Special Budgetary Equalization Fund intended to be used in case of a depression. Beyond this contribution, the balance of the surpluses is invested, through the Special Budget, in the economic equipment of the country.

Receipts.

In the present state of the Congolese economy which is largely based on foreign trade, the budget is still in great part fed by different kinds of customs duties ; more than 40 % of the receipts come from import, export, excise, and transit duties.

However, income and personal taxes become increasingly important as the local productive activities develop and become diversified. They already furnish some 30 % of the resources. On the other hand, the poll tax — which applies to natives who have no income of any consequence — brings in only 3 % of the receipts ; it should be emphasized that this percentage, already very small, is getting even smaller.

Finally, receipts from the public domain and from various government departments — judicial, economic, etc. — constitute 17 % in the aggregate, and income from the portfolio holdings of the Colony amounts to 10 %.

Disbursements.

A large part of the budgetary expenses — nearly 40 % — is earmarked for the payment of the salaries of the administrative personnel : the greater part of the sums allocated is absorbed by government departments dealing with economic and social matters, such as public works, agriculture, teaching, and medical