

The receipts of the special budget are supplied especially by loans floated on the home and the foreign market as well as by the surpluses produced by the ordinary budget.

### The Special Budgetary Equalization Fund.

The favorable condition of the Colony's budget has made it possible to take steps which, in case of an economic depression, would place large financial reserves at the government's disposal.

For this purpose, a Special Budgetary Equalization Fund was created in 1950. This Fund is fed on the one hand by the annual surpluses of the ordinary budget, and on the other by certain receipts that are fixed by law. Nothing can be taken from the reserves of the Fund except by virtue of a law, and only for the purpose of preventing a lack of balance in the ordinary budget in case of an economic depression; therefore there can be no question of utilizing the Fund to feed the special budget.

At the end of 1956, the accumulated reserves amounted to more than 8,000,000,000 francs; they represented approximately the sum necessary for the ordinary expenses of one year. As of now, the existence of this Fund already permits the government to apply an anticyclical policy in a potential period of depression.

### B.

## The Fiscal and Customs Systems.

### Taxes.

The Congolese fiscal system is relatively simple; it is also much more flexible than the Belgian, especially in regard to the principles that govern the finding of new sources of public income and the granting of exemptions.

care. It should be noted that an increase in the number of employees and the gradual increase in the salaries of the native agents tend to add to the total amount of these expenses.

As for the burden imposed by the public debt — some 15% — it continues to rise as investments in the Ten Year Plan increase. Likewise, the burden represented by the payment of pensions — which is about 3% — is also becoming heavier from year to year.

Among the other budgetary expenses, 3% is allocated to the Special Budgetary Equalization Fund, 12% to purchases of matériel, and 7% to various administrative expenses. Finally, various subsidies traditionally represent an important element in the Congolese budget: they go as high as 20% of the expenses.

## Nature of the Special Budgets.

While the ordinary budget covers one year, the execution of the special budgets can be spread over three years.

The special budgets include essentially expenses that are not intended for the current administration of the country: these are investment expenses that make possible the creation of an economic and social substructure. Thus the special budget takes care chiefly of the expenses involved in the construction of roads and airports, schools, hospitals, and dispensaries, and also in the utilization of sources of energy, and the development of agriculture; it even provides for the defensive equipment of the country. In the course of the past few years, the greater part of the special sums allocated has been devoted to the implementation of the Ten Year Plan. (1)

(1) See the chapter devoted to the Ten Year Plan in Part 4.

The **income tax** is levied on occupational incomes (earned incomes), incomes from rents collected in the Congo, incomes from capital invested in the Colony and constituting personal property. In certain cases the tax may amount to 25%.

It should be mentioned that the companies and other taxpayers residing in Belgium but deriving their income from the Congo are taxed according to the Belgian fiscal regime, as established by the law of 1927. A special bureau divides the proceeds of these taxes between Belgium and the Congo, the latter receiving about 80% of the amounts collected. The companies concerned pay a complementary tax to the Colony.

#### Indirect Taxes.

The fiscal system of the Congo also includes indirect taxes in the form of various taxes and fees: the consumption tax, the statistical tax, the selection tax, the transfer tax, and the registration fee.

The **consumption tax** is levied on alcoholic beverages, manufactured tobaccos, and mineral oil; the **statistical tax**, a kind of compensatory tax, is intended to provide for the needs of commercial statistics; the **selection tax** is also a kind of compensatory tax whose aim is to make the planters share in the expenses of the Institut National pour l'Etude Agronomique du Congo Belge (National Institute for the Agronomical Study of the Belgian Congo).

The **transfer tax**, which varies from 1.5 to 6% is levied on transactions concerning registered real estate — transactions between living persons (inter vivos) or transactions resulting from death; the **registration fee** of 1.2% is levied on the capital of joint stock companies on the occasion of the establishment or increase of their capital, or the extension of a company's life.

Thus it happens that only decisions concerning taxes and import and export duties require the intervention of the legislative power; other taxes, such as compensatory taxes, can be fixed by the executive power. Besides, the governor general, whose duty it is to see to it that the living conditions of the Congolese are improved, may grant the natives temporary personal tax exemptions — aside from the cases legally provided for. These interventions of the executive in the establishment of new taxes and exemption from paying them are however submitted to the control of Parliament at the time the budget is voted on.

#### Direct Taxes.

Direct taxes include the native tax, the personal tax, and the income tax.

The **native tax** is essentially a poll tax. It is a fixed sum, very moderate, calculated each year according to the region, taking local resources into account. It is paid by the natives who have no appreciable income.

The gradual improvement in the standard of living of the natives tends to eliminate little by little this primitive method of taxation; as soon as they have acquired a certain economic standing, the natives are subject, just as Europeans are, to personal and income taxes.

The **personal tax** is fixed according to some basic points which are considered indications of the wealth of the taxpayer. There are six such points which are as follows: the floor space of the buildings occupied; the area of the land not built on within the urban districts; the number of salaried employees in the service of the party concerned; water craft; vehicles; the area of mining concessions.

The tax is calculated separately on each one of these six points and in each case a different tax rate is applied.



The customs regime of the Belgian Congo is limited by certain international obligations. They were very strict at the time the Congo Free State was established, but gradually became more flexible.

In 1885, the General Act of Berlin authorized the young state to levy export duties, but import duties were forbidden. Leopold II had secured from the Brussels Conference of 1889 a slackening of the original rule, permitting him to collect import duties up to a maximum of 10% ad valorem; in 1919 the Treaty of Saint-Germain-en-Laye removed this last restriction. Today the Congo is free to impose import duties as well as export duties without any restriction as to the rate. The only important trace left of these successive international treaties is the impossibility of establishing a preferential regime in favor of Belgium. The mother country must be placed on the same footing, as far as customs duties are concerned, as all the other countries, whether customers or suppliers.

In the course of time another evolution has also marked the system of customs duties. Their exclusively fiscal character has gradually lessened and they have become an instrument destined to protect the economic development of the country and especially of its new industries. And so the import duties assure relative protection for merchandise manufactured locally, especially by taxing rather heavily the importation of similar goods from abroad. Likewise, with the aim of favoring the industrialization of the Congo, machinery constituting the first equipment for a new industrial or agricultural exploitation is admitted free of duty. Naval construction is also encouraged by special exemptions.

In the cultural field, permanent exemptions favor the introduction of objects having a scientific or educational character, as well as religious objects.

Export duties, on the contrary, have retained a very marked fiscal character, especially as far as coffee is concerned; in fact they constitute income taxes collected on exportation. Export duties are established « ad valorem »; in the case of most of the leading export products, the governor general determines the basic value on which these duties are calculated.

### C.

## Loans, the Public Debt, and the Portfolio Holdings.

### The Public Debt.

The issuance of a public loan by the Belgian Congo or the granting of its guarantee to a loan floated by third parties, such as public organizations, requires the voting of a law by the Belgian Parliament. However, when receipts are not sufficient to offset expenses, the Treasury may be affected by temporary deficits. In such a case, the King has the right to issue Treasury Bonds to the amount of 70,000,000 francs.

The direct debt of the Colony is thus made up of both loans and Treasury Bonds. These Treasury Bonds, which constitute the floating debt, amount to less than one-fifth of the total indebtedness. Long or medium-term loans forming the consolidated debt are generally floated on the Belgian market. But recently they have also been floated abroad, in Switzerland, in the United States, and through international organizations such as the International Bank of Reconstruction and Development.

Side by side with this direct debt, there exists an indirect debt formed by the guarantee that the Colony has given — especially in the sectors of credit and transportation — to loans contracted by certain public utility organizations; this guarantee would become a direct debt in the event that the guaranteed third

party should not be in a position to fulfill its obligations. Down to the present time, the burden represented by this indirect debt has remained negligible.

Since 1937, a Sinking Fund of the Public Debt, with resources of its own and the status of a juristic person, has been created to administer the special resources and endowments intended for the reduction of the debt. It is different from a Fonds de Soutien des Rentés (Fund established for the support of government securities) because it cannot put back into circulation the public money it has received.

### The Portfolio Holdings.

Traditionally, from the time the Congo Free State was created, close collaboration has existed between the government and private enterprise, and this fact has stimulated the economic expansion of the country.

Among other things, this collaboration has made possible participation in the capital of companies of all kinds, ranging from mining to the distribution of water, and from public transportation to real estate activities, etc. The sums involved have attained such proportions that they are not far from equaling the amount of the Public Debt, and that the income from the capital possessed by the Colony more than compensates for the interest due on the loans.

The Congolese monetary system is independent of the Belgian system. As a result, the Congolese franc is separate from the Belgian franc and is covered by its own reserve. The Congo possesses a separate payments balance, a separate foreign currency reserve, and it exercises foreign currency control even with regard to Belgium.

### Currency.

#### A.

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## 2. Currency, Credit, and Savings.



However, the Congolese currency has remained since the very beginning the same value as the currency of the mother country; separate in principle but equivalent in fact, these two currencies constitute the Belgian monetary zone.

Based today on the gold standard, the Congolese franc was created in 1887. After having originally issued its currency directly, the Congo Free State in 1911 conferred the issuing privilege on a private bank — the Bank of the Belgian Congo. The latter, between 1911 and 1952, issued bearer banknotes and exercised the functions of cashier of the state. But, in 1952, it was decided to create a special issuing agency: the Central Bank of the Belgian Congo and Ruanda-Urundi.

Placed under government control, this Central Bank is a public establishment commissioned to issue currency and serve as cashier of the state. It also exercises control over foreign exchange and private banks as well as financial institutions and insurance companies. In addition, it supervises the issuance, sale, and purchase of transferable securities.

The monetary circulation has undergone a great and rapid expansion in the Congo. This expansion, which was at its height between 1937 and 1954, reflects the progress of economic activities and a series — uninterrupted in the course of several years — of surpluses in the payments balance. The fiduciary circulation, less than 700,000,000 francs in 1937, exceeded 22,000,000,000 francs in 1956.

This great abundance of currency must not be confused with inflation, for not only has there been no excessive rise in prices, but side by side with the increase in currency, available resources have steadily grown. Moreover, a part of the assets are sterilized in the Special Budgetary Equalization Fund. Down to the present time, the position of the Congolese franc has remained very strong. An eloquent indication is the increase in the gold coverage; the latter, which at one time amounted to a quarter of the value of the bearer obligations in Congolese francs rose to one-third in 1956.

## B. Credit.

Today, the great majority of the credit institutions, public and private, that exist in industrialized countries, can be found in the Congo.

In this domain the Central Bank has had conferred upon it various functions, such as rediscounting and the supervision of banks and financial institutions. However, even if it is the cashier of the state, it rarely has any occasion to play the part of a banker for private banks and to supervise credit, because the abundance of liquid assets in the banks makes any policy in regard to discount rates unnecessary, and the absence of a stock market excludes open market operations. As a matter of fact, there is as yet no financial market in the Congo; but at Leopoldville there is a market for government securities that may some day develop into a stock exchange.

As for the activity of private banks, it is in full swing and highly concentrated; the leading establishment holds 80% of the deposits. The most important banks are the Bank of the Belgian Congo, the dean of Congolese banks, which was founded in 1909, and the Belgian Bank of Africa, founded in 1928. After the last war, the Société Congolaise de Banque (Congolese Banking Company), the Crédit Congolais (Congolese Credit Bank), and the Kredietbank-Congo (Congo Credit Bank) were founded

The Société de Crédit au Colomat et à l'Industrie (Credit Bank for the Colomat and for Industry) plays an important rôle in the functioning of credit. Created in 1947, its aim is to stimulate the establishment and development of small or medium-sized enterprises by extending long-term or medium-term credit. The activities of this company have expanded greatly. Indeed, ten years after its founding, at the end of 1956, its open credits passed the billion-franc mark.



The extension of credit to the natives raises a new problem in the Congo which will assume greater importance as the resources and initiative of the natives increase. Relatively small down to the present time, this credit was formerly extended by the administrative funds of the chieftains, or by a Special Fund for agricultural credit, or by a Loan Fund which encourages home-buying. In view of the numerous difficulties connected with the organization of a system of guarantees, private banks showed little interest in such operations, but already the Société de Crédit et à l'Agriculture as well as the Caisse d'Épargne (Government Saving Bank) have taken up this new activity.

## Savings.

### C.

A very large share of the resources of the Congolese economy is put into savings and investment. And so between 1950 and 1955, 26 to 35 % of the available resources of this economy have gone into savings, a fact that has greatly stimulated public and private investments.

During the last few years, the natives have contributed their share to the sum total of the country's savings, a share which will doubtless become greater and greater. It is chiefly with the aim of stimulating the desire of the natives to save money and thus introduce inactive sums into the economic current that the Caisse d'Épargne du Congo Belge et du Kanda-Urundi (Government Savings Bank of the Belgian Congo and Kanda-Urundi) has been founded.

Established in 1950 as a public institution, this Savings Bank has its main office in Leopoldville and its administrative headquarters in Brussels. It has at its head, in Belgium, a board of directors whose members are chosen by the King; this board selects the director who is entrusted with the daily administration at Leopoldville.

Ever since its foundation, this Savings Bank has shown itself to be a dynamic organization which immediately undertook a vast campaign of penetration into the native milieu. Thanks to the perseverance shown, this campaign, a long-range undertaking, seems destined to achieve success. Indeed, at first the natives deposited their savings in the Bank with a view to purchasing — very soon after — consumer goods such as bicycles or sewing-machines; little by little, once confidence in the organization had been built up these deposits were transformed into more stable savings which — especially in the « centres extra-coutumiers » (1) — are being used more and more for the acquisition of real estate.

To be sure, down to the present time, the savings of natives taken individually represent only a small part of the sum total of the deposits. Much more important is the contribution of certain native organizations such as the Caisse de Chefferies (Native Community Funds), and especially the Caisse de Réserve Cotonière (Cotton Reserve Fund) which, with the aim of regularizing cotton prices for Congolese cotton growers, has built up reserves that exceed a billion francs. However, until the present time, two-thirds of the funds administered by the Savings Bank have had their origin in Europe.

The Savings Bank invests the deposits entrusted to it. It buys chiefly Belgian and Congolese public funds and grants mortgage loans; it is following a policy of longer-term investments which will obviously be more remunerative.

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

CHAPTER IV  
THE MILITARY  
ORGANIZATION

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1.  

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**The Congolese Army.**

A.

**Creation and Development of a Congolese Army.**

In 1886, the army of the Congo Free State was created by order of Leopold II. Raised by Captain Rogez, it was named the « Congolese Army ».

This Congolese Army has played a glorious part closely linked with the history of the country. Thanks to it, the Congo Free State was to carry through the tasks imposed upon it as an obligation by the Congress of Berlin. These tasks were the effective occupation of the territory and the suppression of the slave trade. Later, during the two World Wars, it made its fighting qualities felt beyond the frontiers in the victorious



campaigns of Cameroon and Rhodesia, in the conquest of German East Africa and, more recently, at the time of the capture of Saïo in 1941.

The first troops consisted chiefly of volunteers serving as protective escorts for the explorers. They were Hansas, Elinias, Kaffirs, and natives of Zanzibar. However, as soon as possible, these foreigners were replaced by Congolese and, as early as 1897, almost the entire contingent was made up of Congolese.

European officers and non-commissioned officers — most of them Belgians — assured the officering of these troops. Long before the creation of the Congolese Army — from 1877 on, the time when the first expeditions were organized under the aegis of the International African Association — the Belgian army had sent the boldest of its units to the Congo. They paid a heavy tribute to the cause undertaken : in some thirty years, from 1877 to 1908, out of 2,200 Belgian officers and non-commissioned officers who served in the Congo, 662 — almost one third — died, killed in battles or victims either of the climate or tropical diseases. There were also numerous foreign soldiers who came to collaborate in the undertaking of Leopold II. Like the Belgians, they sacrificed their health and often their lives : for example, the Scandinavians, of whom about sixty died during the same period.

At that time, when means of communication were rare, the young army of the Congo Free State was highly decentralized. In each district there was a garrison that consisted of a company varying in strength. It was only now and then, on the occasion of expeditions of great importance, that several companies were united under the command of one leader.

Today, benefiting by a long African past and the experience of the two World Wars in which it participated, the Congolese Army has developed into a modern army, well equipped and numbering 25,000 men ready for action.

## B. Organization and Recruitment.

The Congolese Army has a twofold mission : it must at one and the same time assure the defense and occupation of the Congo and maintain public order and peace.

Its organization equips it for this double mission. It includes — besides general headquarters — three groups to which are added an independent brigade, a defense unit for the region of the Lower Congo, a company of Congolese commandos, air units and various other units such as the Base of Leopoldville, the Central School of Lulubourg, transport and supply units as well as training camps (1). Each of the three groups is detailed to serve two provinces and is divided into « encamped troops » and « troops assigned to territorial duty ». The latter are placed permanently at the disposal of the civil authorities, while the encamped troops take orders only from the military authorities although they can be requisitioned by the civil authorities to restore order in case of public disturbances.

The equipment of the troops has been planned in accordance with the nature of the terrain on which they may be called to operate. Arms, transportation, and communication matériel are at one and the same time modern, light, and strong ; they serve the troops for expeditions into the bush as well as for training and transport by road or by air. The command and the training are assured by volunteers who have come from the Belgian army. The internal organization of the Congolese Army is left to a great extent to the initiative of the governor general. However, the size of the native contingent to be recruited each year is decided by the legislature.

(1) The Congolese Army also disposes of a battalion assigned to territorial duty in Kuanda-Urundi.



ites in a training school founded by the Congolese Army, and those with the most aptitude will be sent to the Royal Military School of Brussels. The first Congolese officers will take up their duties as early as 1962 or 1963.

But the possibilities offered to the natives by their service in the units of the Congolese Army are even greater and go far beyond mere military training. Indeed, because of the mechanization of the units, the constantly increasing utilization of the radio and the most modern means of communication, the setting up of camps and the repair of the materiel on the spot, the command has been led to create technical schools, workshops for apprentices, trade guilds where the vocational and technical training of the personnel is assured. Schools for chauffeurs, mechanics, wireless-telegraphists and bookkeepers, as well as workshops for carpenters, masons, shoemakers, tailors, etc. all send back highly qualified men to civilian life every year. One single fact will give an idea of the influence of this training on the native population: in 1956, the Congolese Army gave artisans's certificates to about 1,500 specialists in about thirty different trades.

Supporting this military, technical and vocational training, a broad plan is in operation to guarantee every soldier at least an adequate elementary education. Besides adult courses which enable soldiers to learn how to read and write while they serve, there exist also advanced courses that are at their disposal.

This educational policy is extended even to the families of military men. Indeed, in the Congolese camps, from the beginning of the training period soldiers are authorized to do so, and accompanied by their families. They are even encouraged to do so, and social centers undertake especially to instruct their wives and help them adapt themselves to modern life. For the benefit of the children, schools have been created in the camps: kindergarten, elementary schools (five of them on the European level) and finally a training school. It should be noted that the children of soldiers are free, if their parents so desire, to attend any school outside the camp.

How are the Congolese soldiers recruited ?

Some are enlisted men, others are militiamen chosen by lot or designated by the native chiefs; in both cases, their period of service is fixed at seven years. Still other recruits are militiamen who re-enlist at the end of their service. There are also militiamen who serve for a period limited to two years; these are young men who have completed at least a part of their intermediate studies and have been chosen by lot right in their school. The great majority of the effectives consists of volunteers and re-enlisted men. Thus in 1956, out of a recruitment contingent fixed that year at 3,819 men, 1,544 were volunteers, 1,426 had re-enlisted, and only 849 were militiamen; about a hundred of the latter came under the special ruling of two years of service.

### C.

## Social Function of the Congolese Army.

The Congolese Army does not confine its activities to the defense of the territory and the maintenance of public order. It exercises an important social function (education, instruction, vocational and social training) which identifies it — beyond the military field — with the civil life of the country and gives it a decidedly original character.

First of all, it offers to the Congolese — within its own ranks — an interesting career. Until very recently this career ended at the subaltern rank of sergeant-major. Soon, thanks to new schools, an elite of Congolese officers — commissioned and non-commissioned — will have access to ranks formerly reserved for Europeans. Beginning in 1961, Congolese will serve as adjutants. What is more, right now the first Congolese candidates for officers' commissions are taking courses in the modern human-



Finally, to crown all this activity, a special educational service has been created since 1946. In addition to its general role of co-ordination, it assumes special tasks : it produces educational or propaganda films, furnishes weekly radio broadcasts, and prints on its own press a newspaper intended for soldiers and veterans. A sure sign of the success of this newspaper is the fact that more than 20,000 Congolese pay their subscription to it every year.

## 2.

### The Belgian Forces of Africa.

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Side by side with the Congolese Army, which is essentially European and that form a part of the Belgian army : these are the Belgian forces of Africa.

The latter — created after World War II — are specialized troops that participate together with the Congolese Army in the defense of the Congo. At the start, they had been thought of as forming a kind of national redoubt that would remain outside the first combats in case of conflict. But gradually their mission has become more definite : today it is directed much less toward the defense of Europe than toward that of the Congo itself. And so these forces from the mother country successfully supplement, through the contribution of their naval, air, and para-commando forces, the defensive objectives of the Congolese Army.

The Belgian Forces of Africa are under the direct command of the Minister of National Defense. However, in case of riots or serious disturbances, the governor general can requisition their aid. They have at their head a high commander who, among other functions, keeps in close touch with the Belgian general staff and constitutes the connecting link between the Ministry of National Defense and the authorities of the Congo.

## CHAPTER V THE LAND POLICY

These forces include a naval base at Banana and two air and land bases located at Kamina and Kitona.

The naval base at Banana assumes responsibility for the provisioning and for the maintenance of the dredging and convoy boats that represent Belgian sovereignty over the mouth of the Congo River and constitute at the same time a link in the allied organization of control over sea routes.

The air and land base at Kitona, established not far from Banana, is used as headquarters of the air and naval defense of the mouth of the river; it is equipped to serve as a transit camp for important land forces and to permit the stationing of long-distance reconnaissance planes armed for combat against submarines.

Finally, the air and land base of Kamina consists of a battalion of para-commandos, an aviation school, a center of instruction for Belgian militiamen who wish to serve in the Congo, and even a technical school — intended for the Congolese — which trains civil aviation mechanics for the needs of the base. This very important base has cost more than three billion francs. The buildings cover at least sixty acres.

It should be noted that these bases employ a large number of native workers. They have been prompt in extending to their African employees ever-widening social benefits, not only in regard to lodging and care for the workers, but also in the organization of their leisure time and the creation of schools and social centers.



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A knowledge of the principles of Congolese native law concerning land becomes therefore indispensable because these principles constitute the very foundation on which the merits of any concessions or cessions of lands to private parties are based.

In the Belgian Congo any application for land which appears vacant gives rise to a preliminary inquiry into the possible existence of native rights to it. The body of rules and regulations governing land is based not only on the desire to exploit and make the most of the vast stretches of a country whose soil seems largely unused, but also on the respect due the prior rights of the natives.

**Priority of the Native's Right to the Land.**

**A.**

**1. The Lands.**

What are the broad outlines of this native law ?

But he is authorized to grant the right to make use of the land : therefore, he may give a stranger the right to occupy it. However, the clan will always retain, according to native law, the ownership of the land thus granted.

Furthermore, such a concession is never looked upon by the natives as perpetual. It may have, in some cases, a duration limited to the completion of certain operations. However, concessions for occupancy are generally for indefinite duration, and they can always be annulled by the party granting them if the beneficiary does not live up to the terms of the agreement.

Nevertheless, other persons than the official custodian of the clan's property may concede certain rights to strangers. Such persons are members of the same clan, who may dispose of individual rights, such as hunting, fishing, harvesting, and wood-cutting rights, all of which are regulated in a precise manner according to custom. Thus, for example, custom generally divides among family groups the lands on which their members may exercise such rights. By respecting similar rules governing the apportionment of lands, these individuals have also the right to occupy, inherit, and cultivate lands belonging to the clan. Every member of the clan may, in his personal capacity, grant such individual user's rights even to strangers.

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Native law, as it has been set forth here in its broad outlines, is still in force on the lands belonging to the natives. However, under the influence of western economic life, and because the natives are beginning to find themselves, it is clear — especially in the advanced centers — that they are aspiring more and more to the possession of individual property. These aspirations are bound to become more widespread. In order to deal with this situation, a decree issued February 1, 1933 has made it possible under certain conditions for native Congolese to become individual property owners. Thus, within the limits set

According to Congolese native law, individual landowner-ship does not exist ; there is only collective landownership. The land belongs to the clan, a community made up of family groups consisting of all the descendants — living and dead — of a common ancestor and, in theory, all the generations to come.

No one can alienate this collective proprietorship which extends through both space and time. No one can claim to have received a mandate from the dead or from those as yet unborn authorizing him to alienate in a manner detrimental to their interests the land that they have acquired or that they will need for their subsistence. This continuity of the clan throughout the past and the future establishes the inalienability of the native lands.

If no one can, in the name of the clan, alienate this land which belongs at one and the same time to the living, the dead, and the unborn, the right to make use of it can however be granted to strangers. But such concessions can be authorized only by qualified persons and according to conventional forms prescribed by local usage.

As a matter of fact, a custodian is put in charge of lands belonging to the clan, an administrator of property who is supposed to represent the will of both the living and the dead. In certain communities with a more mature political regime, this property custodian will be the ruler of the clan himself, but most frequently he is a « chef de terre » (land chief) who is either a descendant of the common ancestor of the clan or of the first occupants of the soil. This « chef de terre » is not necessarily the political chief of the community : in many cases he coexists with other native authorities and may even have no other public rôle than that of giving a valid title to certain concessions. The character and origin of this property custodian illustrate clearly the unbroken continuity of the physical tie that unites living and dead in the enjoyment of collective property rights.

This recognized custodian — whom it is very important to know if one wants to be sure of the validity of transactions with lands belonging to the clan. — has no authority to alienate or sell any



The laws of the Colony expressly recognize the natives' traditional rights concerning land; these rights may be either the collective ownership of the soil, or others — such as hunting rights — acquired by natives on vacant lands.

All these rights are explicitly protected, notably by the decrees of 1934 and 1935. For example, in order to avoid any possible danger of the native authorities being corrupted or unduly influenced, it is provided that the natives cannot dispose directly of their rights in favor of private parties. They can grant these rights only to the government itself, and such a cession is accompanied by special guarantees: a delegate representing the governor general explains to the natives the exact meaning of the agreement, assures himself of their freely given consent, and ascertains if, according to custom, the representatives of the natives are qualified to cede the rights in question.

Even mere occupancy of native lands is stringently regulated. In every case, the consent of the qualified tribal authorities must be secured and, if this occupancy is lucrative by nature, the consent of the administrative authorities is always required; moreover, in this last case, the area allotted cannot exceed 1  $\frac{1}{4}$  acres.

## Public or Government-owned Lands.

Public lands are vacant lands. The government is the proprietor and therefore can dispose of them either by leasing them or by selling full ownership rights in them to anybody.

But lands cannot be considered vacant, viz., forming a part of the public domain, unless an official inquiry has made it clear that they do not belong to the natives. In the absence of such an inquiry establishing a state of vacancy, land cannot be sold or leased to a private party. Here again appears the legislator's solicitude to respect the priority of the native's rights.

by this decree, any Congolese may acquire, in an individual capacity, not only parcels of land in the advanced native centers or in the areas set aside for the native « colonat » (colonists, collectively), but also in the public lands and the registered lands.

## B.

### Congolese Lands.

According to ownership, Congolese lands are divided into four main categories:

- Native lands
- Vacant or public lands
- Lands leased to private parties
- Lands sold to private parties and registered.

### Native Lands.

The native lands have always been given special protection. As early as 1885, an ordinance forbade disposing the natives of the lands they occupied, and in 1906, a decree still in force determined what was meant by native lands.

According to the terms of this decree, they are the lands that the natives inherit, cultivate, or exploit in any manner, according to the local ways and customs. The concepts of cultivation and exploitation are here interpreted in a very broad sense; thus, whatever may be their extent, fallow lands are treated the same as cultivated lands, and mere fruit gathering is enough to make land count as under exploitation.

Furthermore, in order to allow for future expansion, the authorities may grant every village an additional stretch of land three times the size of what it cultivates and exploits.