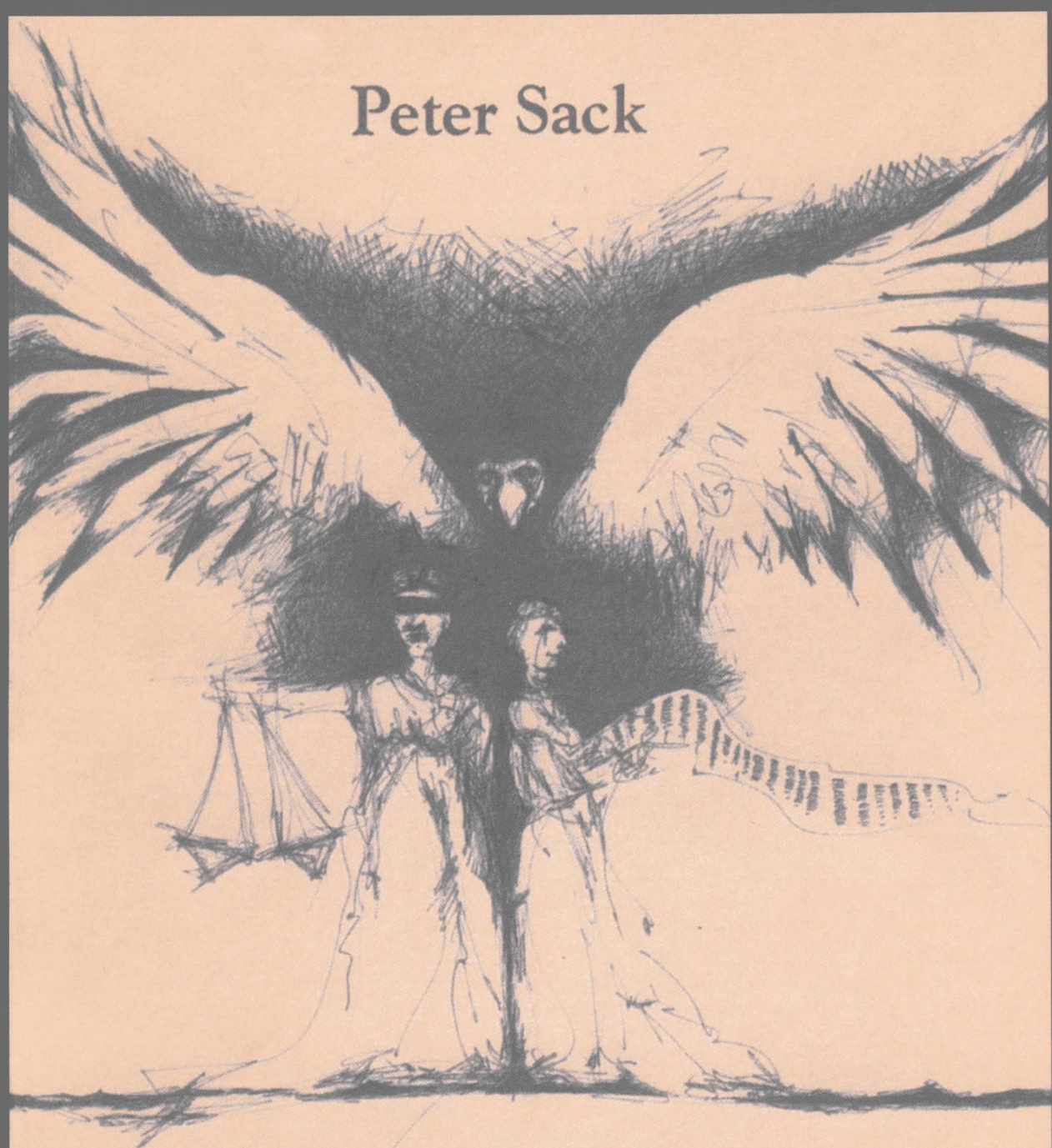


Peter Sack



PHANTOM HISTORY
THE RULE OF LAW
AND THE COLONIAL STATE

The Case of German New Guinea

PHANTOM HISTORY, THE RULE
OF LAW AND THE COLONIAL STATE:

The Case of German New Guinea

PETER SACK

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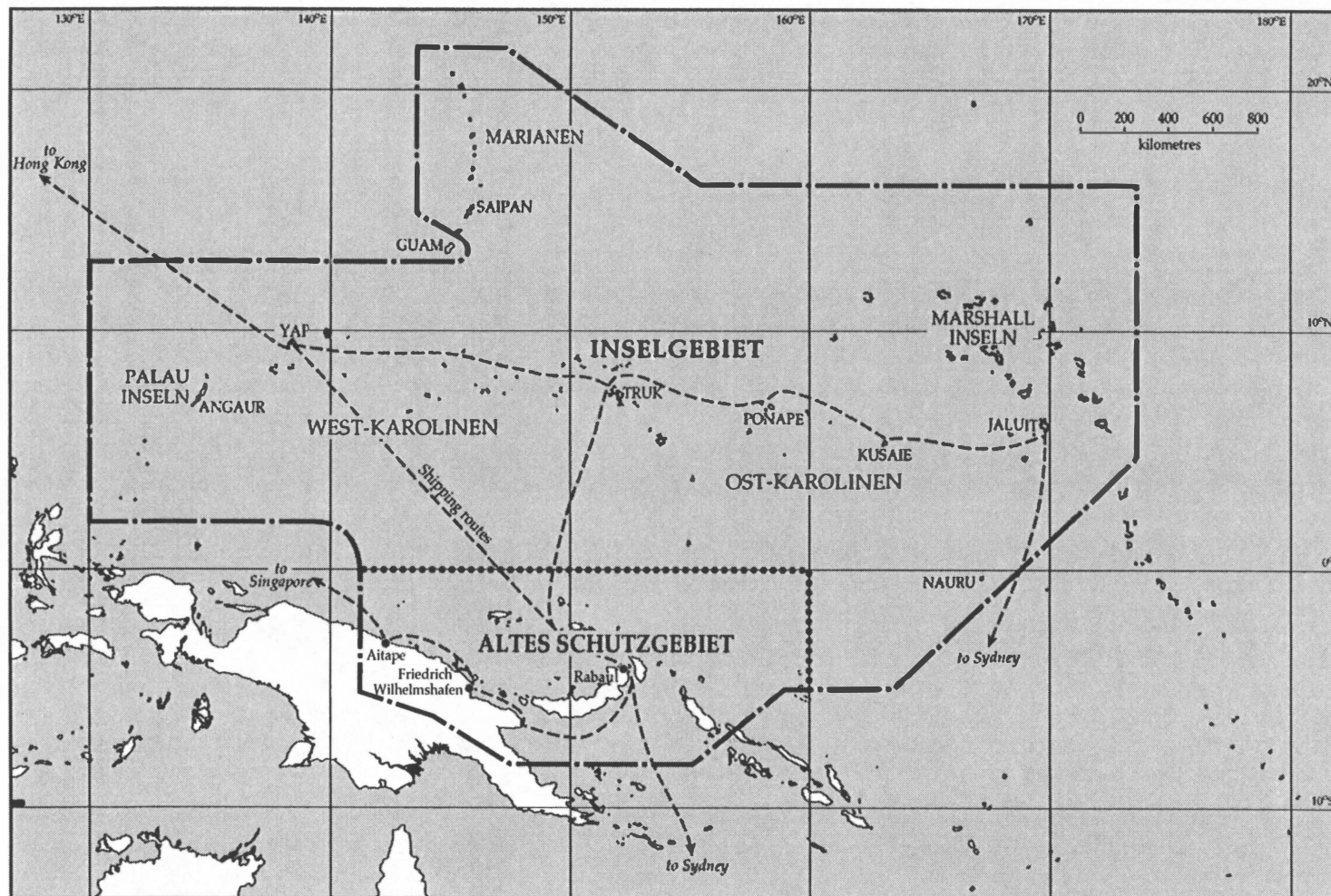
AA	Australian Archives, Canberra
AB	<i>Amtsblatt des Schutzgebiets Deutsch Neuguinea</i> (government gazette of German New Guinea)
AWM	Australian War Memorial, Canberra
BAP	Bundesarchiv Potsdam
BA	Bundesarchiv
Berichte	Berichte der Rheinischen Mission
DKB	<i>Deutsches Kolonialblatt</i> (gazette of the central colonial administration in Berlin)
DKG	Deutsche Kolonialgesetzgebung (collection of German colonial legislation)
DKZ	<i>Deutsche Kolonialzeitung</i> (journal of the Deutscher Kolonialverein)
NDM	Neuendettelsauer Mission (refers to archival materials held in Neuendettelsau)
NKWL	<i>Nachrichten für und über Kaiser Wilhelmsland und den Bismarck Archipel</i> (journal of the Neu Guinea Kompagnie)
RKA	Reichskolonialamt (refers to the files of the central colonial administration held by the Bundesarchiv in Berlin)
RM	Reichsmarine (refers to the files of the navy of the Reich held by the Militärarchiv in Freiburg)

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It hardly needs saying that parts of this text covers ground already explored in previous publications. However, in one instance the text is sufficiently close to warrant an express acknowledgement: an earlier version of Chapter 4 in Volume I appeared some years ago in the *Journal de la Société des Océanistes*.

Finally I would like to thank the Pacific and Asian History Division of the Research School of Pacific and Asian Studies of the Australian National University for accepting this commercially problematic text for publication, Jenny Terrell for preparing the manuscript for this purpose, Kay Dancey for drawing the maps, and Michelle Keene and Jude Shanahan for designing the title page.



MAP I: German New Guinea

General Introduction

I

This is a book about the history of colonial law in German New Guinea. When I started work I thought that I had chosen an unexciting but straightforward task which could be completed within a few months and would produce a neat monograph that filled a minor gap in the literature of the history of the Pacific Islands. I was wrong because it turned out that neither the conventional, normative approach to law nor the conventional, narrative approach to history were suitable for dealing with colonial law as a historical phenomenon. I therefore had to choose between abandoning the project and expanding it to include a critical examination of these general approaches, in the hope that this would enable me to develop more suitable alternatives which I could then apply to my particular topic. Since it was by then also clear that this topic raised more interesting issues than I had expected I opted for the second choice.

My persistence produced a necessarily awkward book. This awkwardness is already reflected in the shape of this introduction. Instead of setting the scene with a lively thumbnail sketch of the history of German New Guinea, it firstly tries to demonstrate that it is impossible to draw such a sketch which meets the normal academic standards of critical rationality. Secondly, it tries to demonstrate that the history of colonial law in German New Guinea should be seen as a manifestation of two interrelated global processes, namely the narrative phantomisation of the history of modern governments and the transformation of the legal ideal of "the Rule of Law" into a bureaucratic governmental technology.

Thirdly, this introduction tries to demonstrate that this transformation produces historical records of the structures and exercises of governmental powers which can be utilised for a more realistic but also more cumbersome approach to the history of colonial law in German New Guinea which historians refuse to adopt because they regard it as detrimental to their professional self-interest, just as lawyers refuse, for the same reason, to adopt a more realistic approach to law as a historical phenomenon.

In short, this is a book for people who are prepared to consider that "the Past" is no more mysterious but also no less complex than "the Present" and that it is no more justified to sacrifice normal academic standards for the sake of greater readability in the study of history than in the study of any other subject.

II

German New Guinea was the least prominent among the German colonies and the German colonial empire was born later and died earlier than any of its modern western counterparts. Why then rescue the colonial law which applied in this remote corner of the globe for three decades or so from the proverbial scrap-heap of history? Why indeed, as there appears to be a general consensus that all forms of colonial law are historically irrelevant because none of them accomplished its task of protecting the indigenous inhabitants of colonies from being oppressed and exploited? All a history of colonial law in German New Guinea can do under these circumstances, so it appears, is to illustrate this failure in detail by examining the relevant historical records, in particular the decisions of the colonial courts in cases involving "natives"¹ as plaintiffs or victims, and there are many other colonies which offer a more attractive target for such an exercise than German New Guinea with its comparatively short and undramatic life.

¹ Since the term "native" was an official term of central importance in the exercise of German colonial rule, replacing it with less offensive alternatives would distort history.

This blanket dismissal of colonial law, however, is due to a misunderstanding of its historical role or, rather, to an acceptance of an idealised perception of law promoted by lawyers which portrays law as an instrument for the protection of the rights of individuals from arbitrary and unjust actions, especially by the executive arm of government.

Compared with this image, the performance of colonial law in German New Guinea left a great deal to be desired, but to dismiss it for this reason as historically irrelevant misses the point because a protection of individual rights was not its primary historical function. Like all forms of modern western law, colonial and metropolitan, the colonial law of German New Guinea was, first and foremost, an instrument of government. It was used to organise and operate a system of government in which law served as an administrative technology concerned with efficiency rather than justice and with the exercise of the powers of government rather than with the protection of the rights of citizens.

As soon as this historical, as opposed to jurisprudential, perception of law is accepted, colonial law moves into the centre of the stage of colonial history, since the creation of colonial states was the most important historical result of modern western colonialism and since colonial law, seen as constitutional and administrative rather than as civil and criminal law, played a crucial part in their creation.

Moreover, the same factors which seem to make German New Guinea historically unattractive turn it into a promising case study of the role of law in the exercise of colonial rule. Firstly, German colonial law came into existence at the height of modern western colonialism and ceased to operate before it went into decline, so that it represents the type of modern western colonial law in a purer and more concentrated form than the law of other colonial powers. Secondly, German New Guinea had a large economic potential, whereas its indigenous population was politically too fragmented to constitute a serious military threat, so that modern western colonial rule was in a better position to show its true, administrative and economic, colours than in other German colonies which either lacked this economic potential, like German Samoa, or whose history was dominated by military events, like that of German Southwest Africa.

But this is not all; the historical dismissal of colonial law has helped to distort the perspective from which colonial rule is viewed by focusing attention on highly visible but secondary features. By identifying colonial rule with white rule over territories with coloured indigenous populations, it suggests that foreign, racist domination was its essential characteristic. Yet the history of colonial law, and its fate after the colonies gained political independence, indicate that colonial rule is not the rule of a master race but of a master state which colonises whatever populations happen to occupy its territory and which treats the economic development of this territory as its central task as well as its legitimisation. That this colonial state, in the typical historical setting, was a foreign imposition and that the bulk of the population under its rule consisted of members of allegedly inferior races is, seen in retrospect, no more than an added bonus, since the treatment of coloured people as colonial subjects was regarded as natural by those who would have had the power to stop it, whereas a sudden transformation of white, metropolitan citizens into colonial subjects would have met with fierce opposition. It can only be brought about gradually, and it is happening all around us. Instead of living in an age of decolonisation we are all being colonised by developmentalist, territorial states which use people, irrespective of their race, as an economic resource and law as their central administrative technology. Far from being historically irrelevant, colonial law, the Rule of Law as a bureaucratic form of government, is on its way to achieving a global triumph.

III

When I had reached this point I too was triumphant. Instead of writing a history of the colonial law of German New Guinea, which was of direct interest only to a handful of academic

specialists, I could write a history of the global colonisation of humankind which would be read by millions upon millions of its victims who had hitherto been kept in the dark about what was going on. But my triumph evaporated when I began to consider how the historians fitted into this great conspiracy.

While it made sense for lawyers to dismiss colonial law as an aberration and to assure everybody that the Rule of Law stood for the taming of a tyrannical executive by an independent judiciary, firmly committed to the protection of the rights of individuals, it was odd that the historians should have fallen for this professional propaganda instead of gleefully unmasking it. What did historians gain by adopting the lawyers' ahistorical, jurisprudential perception of law? It happened to serve their professional self-interest as well, albeit in an indirect and negative manner. It suits historians to treat law as a normative order which stands outside history and is therefore none of their business, because law as a historical phenomenon does not fit into the perception of history they have adopted: the image of history as narrative or, to be more precise, as a particular form of factual rather than fictional narrative.

Seen from a professional historical perspective the problem with colonial law is not that it failed to protect the rights of indigenous people but that its history is not narratable, because it is concerned with structures rather than events, with the shape of the stage on which historical actors perform rather than with their actions. The alleged failure of colonial law merely provides historians with an alibi for declaring colonial law to be historically irrelevant, instead of having to admit that their approach to history disables them from dealing with law as a historical phenomenon.

As is to be expected, law as a historical phenomenon causes similar problems for lawyers, since it does not fit either into their professional perception of law as a particular, namely judicially enforceable, normative order. Law as an instrument for the organisation of government is no more normative than it is narratable. It creates institutional and procedural structures instead of prescribing them; they henceforth actually exist, although as sociopolitical rather than physical facts (see Sack, 1990). Lawyers deal with the problem of non-normative forms of law not by dismissing them as legally irrelevant but by treating them as if they were normative law, by translating them into a normative language, by creating a phantom world of quasi-normativity where the distinction between norms and facts does not apply (see Sack, 1994). This allows them to maintain the illusion of the unity of law as a normative order but blinds them to the fact that these non-normative forms of law can replace normative law and that a fully organised body politic has neither the need nor the room for law as a judicially enforceable normative order.

Historians pursue the same strategy in relation to non-narratable history: they treat it as if it was narratable and have developed a form of quasi-narrative which allows them to deal with it. But their task is more awkward because they have to present their narrative history as being descriptive rather than prescriptive. Historians have an inescapable professional commitment to factuality. They have to insist that their accounts are factual, rather than fictional, because it is this claim which legitimates the writing of history as a professional enterprise, just as the lawyers have to insist that they deal with norms, rather than facts, in order to legitimate the administration of justice as a distinct professional enterprise—and a professional commitment to justice is indeed the legal counterpart to the historians' professional commitment to factuality.

But the world of the ought in which lawyers have established their professional home is different from the world of the is—or, rather, the has been—in which historians operate. Lawyers cannot only openly construct law as a normative order, they also can, and do, formulate rules of evidence and standards of proof which determine what does and what does not count legally as a fact, although these rules and standards too are the product of normative decisions claimed to promote justice. By contrast, historians have to purport that they are merely reconstructing history. Yet it is plain that the history which is taking place in the Here and Now does not take the form

of a narrative, so that narrative history always translates history into something which it is not. Narrative history is always phantom history, even if it is factually accurate. Such factually accurate stories, however, are also only stories *about* history. To maintain that history *is* narrative and that factually accurate narratives are history is therefore—in fact—a normative act.

Historians go still further by maintaining that only narrative history is history, just as lawyers claim that only normative law is law. This is where the problems really start, because there is much in the field of history which is not narratable, just as there is much in the field of law which is not normative. Since historians are not satisfied to tell factually accurate stories about the past which represent isolated fragments of history, but claim that the entire history of humankind can be told as a master narrative, they have to translate the non-narratable parts of history into a narrative language, just as lawyers have to translate the non-normative parts of law into a normative language, as long as they insist that law in its entirety is a normative system. But whereas lawyers can shrug off this counter-factual normativisation of law, the counter-factual narrativisation of history clashes directly with the historians' professional commitment to factuality.

Historians deal with this dilemma by turning the field of history into a mysterious phantom world where the distinction between fact and fiction, and indeed any other normal standards of critical rationality, do not apply. But instead of openly denying the validity of these standards for the field of history and of adopting different standards of their own, historians turn them too into phantoms which are applied in a phantom fashion, although all these phantoms are treated as real. However, this narrative phantomisation of history does not protect narrative history any better from the effects of the global colonisation of humankind than the normative phantomisation of law protects normative law. A fully bureaucratised body politic also has no need or room for narrative history. Its entire history has been reduced to sets of statistical data which speak to us in impersonal numerical patterns. But until this happens, and perhaps beyond, historians can continue to market their familiar narrative products, and they become narratively even more attractive, precisely because they have less and less in common with the actual history they purport to describe.

IV

So much for the great conspiracy. It does not exist, although its story can be told in the form of a phantom narrative, featuring a few evil men plotting behind the scene and, of course, some knights in shining armour who are fighting them with superhuman courage and who will ultimately vanquish the villains so that we can all live happily ever after. In the real world the global colonisation of humankind takes the form of a myriad of small structural changes. They usually follow the path of least resistance and will eventually crush those who have helped them along as much as those who opposed them. This does not mean that these structural changes are inevitable or that they are not the result of human actions, but it does mean that a narrative approach to history is no more able to describe them accurately than a normative approach to law is able to prevent them from actually occurring.

Unfortunately these considerations did not just take me back to square one. They also suggested that I would get into deep trouble if I persisted with my modest case study of the colonial law of German New Guinea, because law as a historical phenomenon is meant to fall through the gap between normative law and narrative history. Neither the normative approach to law nor the narrative approach to history were invented during a recent weekend of brain-storming as being professionally desirable; rather, both approaches have deep cultural roots and serve general ideological as well as specific professional needs.

If I was going to persist, I therefore not only had to develop an alternative approach to history, but this approach was unlikely to meet the western cultural expectations of what history is supposed to look like. Moreover, it had to compete with the narrative phantom histories of colonial rule in German New Guinea which did—and phantoms are real as phantoms, even if they are not what they claim to be. My first task was therefore to show that these narrative phantom histories, although they looked like proper history, were in fact seriously distorted oversimplifications.

When I considered what I perceived as phantom history, and why I found it unacceptable as an academic enterprise, things started to fall into place: it all had to do with the historical record understood as the sum total of information about the past available in the Here and Now. Just as the normative approach to law grew out of the age-old technique of guiding human behaviour by means of commands, the narrative approach to history grew out of the age-old technique of transmitting information about the past in the form of stories. History became to be perceived as a body of stories which were treated as true, in the sense of being in accordance with the facts and which, apart from physical remains, were themselves initially the only historical record of what had happened. But this changed when the recording of written information became an increasingly important part of the conduct of human affairs and when governments, in particular, began to engage in a systematic recording of information relating to their activities.

How did the essentially pre-modern, narrative approach to history cope with the rising flood of recorded information, much of which no longer consisted of stories but of naked facts and figures, relating to repetitive actions which, taken individually, lacked any narrative potential? And this was not the only challenge, the scope of history also expanded. History was no longer concerned with the history of particular groups of people but with that of the universe which was beginning to be explored by a growing number of increasingly specialised academic professions whose findings all affected the view of what was historically admissible.

Narrative historians responded to these challenges by turning history also into a distinct academic discipline. But while they insisted that the growing historical record could no longer be mastered without specialised expertise, they also pretended that otherwise nothing had changed and that academic history could still be told in the form of a traditional creation myth which was both factual and ideologically meaningful. To claim that islands were the backbones of culture heroes became historically unacceptable, but the idea remained that history consisted of stories about the unique deeds of somewhat smaller heroes and villains, so that historians were still capable of delivering their familiar and satisfying narrative fare.

In order to be able to do so, historians had to make more and more general statements supported by a smaller and smaller selection of facts, based on a less and less thorough examination of the relevant historical record. As a result history, although now seen as an academic discipline, became increasingly less capable of applying the normal standards of critical rationality which are, of course, different from the artistic standards by which the quality of a narrative as narrative is judged. Yet, narrative historians could not openly abandon their commitment to factuality because any form of history is pointless as history if it is treated as fiction.

In this regard indeed nothing has changed. What has changed is that for history as an academic enterprise factuality is no longer a matter of belief. A statement purporting to be a statement of fact is academically acceptable only if it is logically possible, if it can be proved, or at least not be disproved, and if it is also not inconsistent with other purported statements of facts which meet these requirements.

To be sure, this definition of academic factuality raises difficult questions which can be turned into an argument that these standards are, in principle, inappropriate in the field of history, since it is concerned with a mysterious past rather than an observable present. But this argument

becomes largely irrelevant once we accept that academic historiography can only deal with the historical record as it exists in the present. It is the historical record that determines what historiographers can and cannot be expected to do. If there is no historical record relating to a piece of history narrative historians can do with it what they like, provided they can convince their audience that the figments of their imagination are factual, whereas academic historiographers can do nothing because they have no material to work with. Conversely, a person brave enough to attempt writing a factual history of the universe—or of the global colonisation of humankind—has to consider the entire historical record available for this topic at the time of writing. Although it is a physical impossibility to do so, these limitations have no effect on the factuality of the account produced. Nor can such a person hide behind the authority of the sources used. On the contrary, the adoption of existing phantoms is a more serious defect than their creation, because it demonstrates that the process of continuing quality control, which is essential for every academic enterprise, has broken down.

On the other hand, while the eminence of its creator does not make a historical phantom academically acceptable, no historiographer can be expected to offer more than what emerges from a critical analysis of the available historical record. A commitment to factuality requires historiographers not to be objectively factual but to get as close to factuality as the historical record allows them to go. Factuality is a historiographical ideal rather than an actual state of affairs, just as justice is a jurisprudential ideal. While this takes the mystery out of academic historiography, it makes the task of the historiographer more onerous because it turns factuality into an insoluble problem. Factuality is no longer something which can be taken for granted but a goal historiographers have to strive for continuously, although it will forever remain beyond their reach.

The commitment to factuality forces historiographers to take the historical record seriously. Instead of serving as a quarry from which narratively attractive information can be mined selectively, it has to be studied systematically as a whole the structure of which can tell us more about history than its component parts. This is the price that has to be paid for turning historiography into a genuine academic enterprise: instead of being the master of history the historiographer becomes the servant of the historical record. No wonder that narrative historians, as well as their readers, are reluctant to pay this price, and that they come up with all kinds of excuses which appear to justify the continuation of the accustomed narrative freedom—and narrative freedom is worth fighting for: it enables historians to write the history of virtually anything as if it were written for the first time, apparently independently of all the accounts other historians have already devoted to the same topic.

This does not mean that these narratives are independent of each other, it merely means that a critical analysis of previous efforts is not a visible part of narrative history. The critical analysis of the sources becomes a hidden academic prelude to which references are made in footnotes which indicate that this laborious task has been carried out but that there is no reason to expose the reader to its boring performance.

As far as the finished product is concerned all sources become part of a quarry of information, and narrative historians have to mine it only as deeply and broadly as their narrative requires. They can rely exclusively on one or two secondary sources for part of their narrative. Indeed, they have no choice, apart from remaining silent, if the primary sources are, for one reason or other, inaccessible to them, or if their topic is so big that they cannot possibly cope with all the relevant sources themselves. The beauty of narrative history is that those writing it do not have to tell their readers whether and how they have checked the reliability of their sources, so that phantom history can spread undetected through the historical record, lingering on indefinitely.

Taking the historical record seriously puts historians in a different position. But it takes a little case study to demonstrate that it is so, and that means starting to face up to facts and more facts

instead of continuing the line of general assertions presented so far. But this also takes us to the crux of the matter: history as an academic enterprise is about facts and more facts and not about the selection of small samples of facts—or the production of phantoms—in support of politically more correct, or ideologically more pleasing, or intellectually more exciting interpretations of history.

V

Let us compare the position of a historian writing a history of colonial rule in German New Guinea with that of a historian who wants to write a history of the Melanesians and Micronesians who lived in this colony while it was under German rule.²

German New Guinea is a reasonably well defined historical stage in terms of geographical space as well as astronomical time. It came into existence officially on 17 May 1885 when the German emperor granted the Neu Guinea Kompagnie a charter to govern the northeastern quarter of New Guinea, called “Kaiser Wilhelmsland”, the New Britain Archipelago, renamed the “Bismarck Archipelago”, and all other islands within the geographical area defined in this document.

German New Guinea grew and shrank in a series of steps. In 1886 the northern section of the Solomon Islands was added. In 1899 the “Island Territory” in Micronesia, comprising the Carolines, including Palau, and the Marianas, excluding Guam, which had been acquired from Spain, was placed under the governor of German New Guinea. On the other hand, Germany ceded during the same year the southern part of the northern Solomons to Britain as part of an agreement which was primarily concerned with Samoa. In 1906 the Marshall Islands, also in Micronesia, which had been a separate German colony since 1885, and included Nauru as from 1888, were incorporated into the Island Territory. As from 1910, it formed part of a single budgetary entity together with the “Old Protectorate” in Melanesia. German colonial rule in this combined territory came officially to an end on 17 September 1914, when the acting German governor signed the terms of the capitulation to the Australian Naval and Military Expeditionary Force.

Not only the beginning and the end of German colonial rule, and its territorial fluctuations, were marked by legal documents, its exercise during the approximately 30 years in between produced a voluminous legal or quasi-legal record in the form of legislation and administrative instructions, judicial and administrative decisions, budgets and accounts, registers and licences, which form a solid basis for writing a factual history of German colonial rule.

By contrast the Melanesians and Micronesians living in German New Guinea did not form a single historical entity, neither at the beginning nor at the end of German colonial rule. Instead of being able to write one history, our historian would therefore have to write a large number of histories, one for each of the largest traditional entities to which these Melanesians and Micronesians belonged. Almost no information relating to the events making up these histories was recorded in writing by Melanesians or Micronesians at the time they occurred, because writing was not part of traditional Melanesian or Micronesian cultures. Nor does much information relating to events during the period of German colonial rule still exist in the form of the memories of Melanesian or Micronesian participants or observers, because these eye-witnesses are by now almost all dead. What has been preserved of their memories now exists mainly in the form of oral traditions which, naturally, have been influenced by what has happened since. As most of these oral traditions remain unrecorded, our historian thus would have to begin his task

2 What follows is a hypothetical exercise, not a review of the efforts of any historian who actually followed this path. As we shall see, such historians do exist but they do not appear to be concerned about the preliminary questions which in my view need to be addressed before examining the historical record.

by going into the field to record at least a representative sample of these oral traditions, whatever this may mean.

He can, of course, also utilise the written historical records of German colonial rule. They do contain a great deal of information about events in which Melanesians and Micronesians participated, but this information relates mainly to their involvement in the colonisation process, be it as policemen or criminals, as plantation labourers, or patients in colonial hospitals. True, it is possible and legitimate to read this information against its grain, as it were, and write a history of German colonial rule, which shows Melanesians and Micronesians as historical actors rather than as objects of the colonisation process, but this still identifies their history with this process. It does not, and cannot, show how Melanesians and Micronesians conducted their own affairs during the period of German colonial rule which often had little or no impact on what was happening at the local level. Hence, a historian who seriously wants to write a history of the Melanesians and Micronesians under German colonial rule has no choice but to rely primarily on their oral traditions.

Let us examine the case of "the Tolai" in the northeastern part of the Gazelle Peninsula of New Britain, which became the main centre of German colonial rule, to find out what kind of information their oral traditions have to offer.

Even the name "Tolai" is a product of colonial history which had not yet come into use at the end of German colonial rule. This lack of a traditional tribal name is not surprising because the people in question had no traditional tribal organisation. They therefore also had no traditional tribal history. The *vunatarai* (clans), the central units of traditional Tolai sociopolitical organisation, functioned and are still functioning as changing networks of interpersonal relationships rather than as corporate bodies. The impressive Tolai genealogies, compiled some 30 years ago in connection with an attempt by the Australian colonial government to demarcate and register customary land, are as much a creation of colonial history as the name "Tolai". Tolai traditionally did not have "family trees" which allocated individuals a place in a grid of biological descent. Consequently Tolai also have no clan histories tracing the descent of all current members of a *vunatarai* back to a founding ancestor or, rather, an ancestress, since Tolai social organisation is matrilineal. Instead each Tolai has a smaller or larger fund of stories about the past which relate to particular, unconnected events. Like modern western narrative history, these stories are treated as factual. However, Tolai regard it as natural that different people have different stories relating to the same subject matter, and that even stories told by the same person can contradict each other. All these stories stand side by side as self-contained bodies of information in a field of history where nothing is impossible.

There are different kinds of stories; for example those which tell how certain features of traditional Tolai culture came into being. A good illustration is the story of how the two culture heroes established the two blood-lines that form the backbone of traditional Tolai social organisation by turning two differently coloured coconuts into two women whose children must continue cooperating with each other to "mother" and "father" human beings rather than animals (for details, see Sack, 1989). But there are no stories dealing with the subsequent history of these two bloodlines. Instead there is another layer of stories. They tell how different waves of Tolai arrived in the Gazelle Peninsula (for details see Sack, 1987). Whereas "culture" stories do not relate to particular groups of people, "migration" stories do. They not only relate specifically to one of the waves of migrants but narrow down the history of this wave. They are told from the perspective of the *vunatarai* to which the narrator belongs and show how his line of people (*tarai*) came into being by establishing its *madapai* (heartland) in a particular area as its base (*vuna*).

While culture and migration stories are public in the sense that they are readily told to outsiders, the history of the various *vunatarai* is not. Nor is it taught to all its living members. The reason is not that the Tolai regard their history as unimportant but, on the contrary, that they treat

historical knowledge as a source of sociopolitical power. This applies most strongly to *vunatarai* history which has the primary function of establishing and maintaining claims to land. *Vunatarai* history is not concerned with heroic deeds or tragedies but with ordinary activities, linking people directly with land or indirectly by linking them with other people who established such direct links by making gardens, building houses, planting trees or collecting vines.

Vunatarai history is part of competitive politics. Disputes over land are argued in terms of competing stories about the use of the land in the past and the relationships between past users and current claimants. It is essential under these circumstances to treat all these stories as factual—since it is pointless to argue about fiction—but also essential to accept none of them as being permanently true, so as to allow for future adjustments as the political power of different sets of stories grows or shrinks.

Put differently, Tolai do not have their kind of oral traditions because they were traditionally incapable of producing written records but because their society cannot operate in the traditional mode if it has to deal with written records of its operation. Instead of increasing the efficiency of its operation the production of written records would be dysfunctional.

By contrast, the culture stories have a stabilising ideological role. They describe how central features of Tolai culture and society came into being, instead of explaining why they came into being, let alone justifying their existence by presenting them as good or, at least, as being better than alternatives. The culture heroes are neither creators nor law-givers. On the contrary, the two bloodlines come into being by accident, not by design. Yet they are the only permanent feature of traditional Tolai society and the very basis of human existence. They are not something ordinary human beings can change or could have brought about.

This is different as far as the existence of *vunatarai* is concerned. It is not attributed to the culture heroes or to other superhuman forces. *Vunatarai* came into being as a consequence of people turning nature into human living space. Seen from the Tolai perspective, *vunatarai* are not subdivisions of the two bloodlines but clusters of people which formed because the existence of these two bloodlines ruled out the nuclear family as a basis for a permanent social body, since not the children of an original male settler but their spouses and, in the next generation, the children of his “daughters-in-law” belong to his bloodline.

A strange world, seen from a modern western perspective, but one which makes sense in its own terms. Much of traditional Tolai sociopolitical organisation follows from the existence of the two bloodlines and a few simple facts of life. Thus it was natural for wives to move to their husbands’ place, rather than *vice versa*, since it was males who cleared the bush for gardens and who built houses, just as it was natural for boys to move to their mothers’ brothers as adults because they and not their fathers were using land identified with the boys’ bloodline. It was also natural for their mothers’ brothers to help young men to obtain wives because it was these women who made the gardens to feed them when they were old. But it was equally natural for fathers to help their sons to obtain wives if they continued to live with them, because their daughters-in-law could then look after them when they were old and because their children belonged to the same bloodline as their paternal grandfathers. Hence it was in practice primarily a matter not of descent but of the availability of land and other natural resources which determined whether Tolai lived as adults with their fathers’ or their mothers’ bloodline. *Vunatarai* are resource management units rather than descent groups. And they each have a territorial core: the *madapai*. There are no *vunatarai* without a *madapai*, and no *madapai* without a *vunatarai*. Nor are there *vunatarai* without a *lualua* (leader), who is primarily responsible for managing the resources controlled by his line, and also no *lualua* without followers who share in the use of these resources.

In this manner changing networks of actual and potential interpersonal relations developed between and within the two bloodlines. In principle the structure was simple. A Tolai knew that every other Tolai belonged either to the bloodline of his or her mother, and therefore his or her

own, or to that of his or her father. This meant that he or she had been fathered by that entire bloodline and that his or her own bloodline had, in turn, fathered the children of the other bloodline, whereas both bloodlines mothered their own children. Superimposed on this bloodline grid were two equally simple generational and sex grids. Every Tolai had a parent-child relationship with every other Tolai in the generation above and below and a sibling relationship with members of the same generation in his or her own bloodline and a cousin relationship with those in the other bloodline. All three relationships differed with the sex of the people involved. In the case of the parent/child relationship the sex of the child was of secondary importance: each Tolai had male and female "mothers" as well as male and female "fathers", but the social roles of these four categories of people varied depending on the sex of the child. In the case of the intragenerational sibling and cousin relationships the Tolai distinguished primarily between inter-sex and intra-sex relationships: between brother/brother and sister/sister relationships, on the one hand, and brother/sister relationships, on the other, and between the relationships among cousins belonging to the same and the opposite sex.

What complicated matters was the superimposition of an additional grid of "affinal" relationships because marriages, in contrast to the mothering and fathering of children, were a personal affair: it was not the bloodlines which married each other but particular individuals. In order to appreciate the situation we must remember that not only had all spouses already a "cousin-of-the-opposite-sex" relationship with each other but that they also already had defined kin-relationships with all their in-laws: Tolai married the children of their female fathers and became the children-in-law of their male mothers; their brothers and sisters-in-law were already their cousins and they themselves were the male fathers of their wives' sisters' children and the female mothers of their husbands' brothers' children and so on.

In practice this system could only work if a distinction was made between nominal and actual relationships, between the different social roles a person was capable of playing and those which a person actually performed. Although it was more than just talk if a Tolai said that he or she had fathered a person belonging to the other bloodline or mothered a person of their own bloodline, it was of little consequence. It was of more consequence if a Tolai could say that his or her *vunatarai* had fathered a member of another *vunatarai* because no member of any other *vunatarai* could say this. On the other hand it was unlikely that one *vunatarai* could say that it had fathered all the children of another *vunatarai* because this was only possible if all the female members of the latter who had offspring had married male members of the former, whereas *vunatarai* usually intermarried with more than one other *vunatarai*. Different members of the same *vunatarai* were therefore "patrilineally" linked with different other *vunatarai*. It also meant, in the ordinary course of events, that this link was not so much established by the marriage of the member's parents but by the fact that this person had grown up on land belonging to this *vunatarai* and had eaten its fruits.

Conversely, a man who paid the brideprice for a wife for his son who belonged to a distant *vunatarai* so that she would look after him, would hardly be seen as a male mother of this woman, as well as her "father-in-law", although this was what he was in bloodline terms. He had never performed the role of a male mother in relation to that woman, and, rather than receiving a brideprice for her, which was usually part of the role of a male mother, he had paid for her, which was usually part of the role of the male mother of the groom. The situation was different if the young woman was a member of his own *vunatarai*, in particular if her father-in-law had grown up with the woman's mother as brother and sister in the same locality.

Depending on the particular circumstances of a case the scenarios could differ greatly, but the social texture produced by these overlapping grids of social relationships was so finely grained that the course of action was nonetheless largely predictable. It was usually clear how a Tolai would behave in certain situations. There were many different types of situations because there

were many variables, but there was rarely a question of what a typical response of Tolai performing various social roles was going to be once the facts were known. It was generally well understood what the performance of different social roles involved and what consequences certain acts or omissions were going to have.

This mixture of a tightly grained social organisation and its flexible operation had a strong impact on Tolai oral traditions. Instead of describing this organisation and its operation systematically they stereotype and fragment history. History is seen from the perspective of the narrator as an individual and ideally condensed into the three generation span of the society the narrator experienced as a child. While his or her own life represents the present, the generation of his or her parents represents the immediate past, whereas what was the present for the generation of the narrator's grandparents takes human history for the narrator back to its very beginning, and what happened before that is a timeless, primordial state of affairs.

Within this framework history consists of a pool of stories describing particular remarkable events. Looking more closely, however, it becomes apparent that these events are remarkable not because they are unique but because they are typical. They are not concerned with what particular individuals did in the past but with what a particular type of person can typically do and how he or she typically does it to make it work. They are stories about what sorts of things culture heroes do, about what Tolai sorcerers are capable of, about how Tolai ideally establish claims to land, about what happens if Tolai brothers do not behave towards each other as brothers and so on.

Tolai oral traditions show by way of example how the system operates and thereby reinforce its structure. In doing so they gradually translate what actually happened into what is ideally supposed to have happened. The founding ancestors of all Tolai *vunatarai* turn into the original settlers of the land their *vunatarai* currently claims. All Tolai have originated in New Ireland and have *matanoi* somewhere along the beach in the Gazelle Peninsula where their ancestors first landed. All Tolai heroes actually died the way Tolai heroes are supposed to die, no matter whether that happened in pre-colonial days or whether they were shot dead by colonial police: they all first demonstrate the superiority of their protective magic and then announce that now, as the sun is setting, their time to die has come.

Tolai have no difficulty in incorporating new ideals into their repertoire and in adjusting their timeframe accordingly. It has become an accepted part of Tolai oral tradition that the Tolai chased the Baining out of the northeastern Gazelle Peninsula because that is what they were told again and again by Europeans. It also has become desirable for many Tolai to link their oral traditions with the Bible and to claim, for example, that their ancestors fled Sodom before settling in New Ireland. The advent of the first Christian missionaries is now not only often identified with the end of the primordial darkness, but missionaries and other leading colonial figures are cast in the role of modern culture heroes: it was the long-serving German governor Hahl who introduced coconut palms into the Gazelle Peninsula, or a particular Catholic missionary who invented the Tolai language and gave it to the people who had previously grunted like pigs and fornicated with their mothers and sisters.

Conversely, it is said that it was only after the arrival of the Europeans that Tolai began to use killing magic: "before" they only fought openly with spears and slings and clubs like true men. It is also said, however, that colonial influences undermined the strength and purity of Tolai magic. Instead of using the power of their magic, sorcerers now have to use physical means: razor blades, pulverised glass or rat poison. Generally, it is concrete details such as these that give Tolai oral traditions their weight. That the two differently coloured kinds of nuts still exist and can be pointed out to the audience adds strength to the story of how the culture heroes "created" the two bloodlines. The story becomes stronger still if the place where this transformation took place is identified and is known to the audience—namely on a conspicuous group of small islands in Blanche Bay—whereas it does not matter that the culture stories are set in the Gazelle Peninsula

whereas the migration stories tell us that the Tolai came from New Ireland. It is also irrelevant if it is pointed out that the transformation of coconuts into women is scientifically impossible, since it is precisely these kinds of things culture heroes were supposed to do. Instead, seen from the traditional Tolai perspective, it is absurd to believe, as modern western scientists do, that the ancestors of monkeys gradually turned themselves into human beings. By contrast, it is plain that human beings will again turn into animals if brothers no longer behave like brothers in relation to each other and if Tolai magic can no longer do what Tolai magic is supposed to do.

To be sure, much of Tolai oral tradition is phantom history, but it is honest phantom history because it does not purport to be an academic enterprise. It is not concerned with a critical analysis of the historical record but is a way of recording history which has to work in the Here and Now, ideologically and politically. And it still does work, by reaffirming the general structures of traditional Tolai society and culture, and by giving them at the same time the flexibility necessary to operate, under changing circumstances.

It is essential for anyone who is seriously interested in the colonial, as well as the pre- and post-colonial history of the Tolai, or in the history of any of the other traditional groups making up the indigenous population of German New Guinea, to understand these structures and that requires a detailed study of the kind indicated in the preceding pages. Since it is likely that there are significant variations between these structures, an attempt to write a general history of the Melanesians and Micronesians under German colonial rule must produce phantom history containing generalisations that will be contradicted by the vast ethnographic literature which no historiographer can hope to absorb, let alone critically analyse. On the other hand, it is unlikely that the oral traditions of any of these groups will differ so fundamentally from those of the Tolai that they would form an adequate basis for reconstructing a factual history of this particular group. In short, our imaginary historian either has to abandon his project or seek refuge in the Wonderland of narrative history. He has chosen a task which simply cannot be accomplished in an academically acceptable manner.

Yet the time spent on this case study has not been wasted because the manner in which the Tolai traditionally deal with their history is most instructive when considering approaches to writing a factual history of German colonial rule.

VI

While Tolai oral traditions can often not be accepted as factual, they do show how traditional Tolai society actually operates. Indeed, they themselves are an important part of this operation. In the traditional Tolai context its phantomisation enhances the political and ideological power of history. By contrast the professional phantomisation of history in the modern western context is part of a process purporting to neutralise history politically and ideologically. It presents the study of history as a form of a serious entertainment which makes illuminating sense of the past but has no practical consequences because it also maintains that history is unpredictable. It treats the study of history as a precious luxury which broadens the mind but has no direct impact on how modern western societies and governments actually work. It can get away with this stance because modern western governments also can afford to treat history as a luxury, and indeed profit from doing so. They no longer have to rely on oral traditions in order to be able to operate, because the Rule of Law, and the written records it produces, have taken their place. But these records also create new opportunities for writing factual history because many of them contain frozen history: statutes, administrative instructions, budgets and registers are, as long as they exist as written documents, as real as they were on the day they were written. The question is whether these mountains of information can be defrosted without phantomising them in the process—and Tolai oral traditions show a way in which this may be achieved.

They too had to deal with a situation where the bulk of history consisted of the performance of repetitive actions by a multitude of human actors, although the actors were not government officials and although the performance of their actions was not recorded in writing. Yet the Tolai a hundred years ago had the same basic needs and emotions as subjects of modern western states. They needed food and shelter, they loved and hated, nurtured, protected and maltreated each other. And while they had little government, they too had to manage the natural resources available to them and to control the use of the various powers possessed by human beings.

Instead of trying to record the vast multitude of human actions the operation of society produced, Tolai oral traditions focus on the social and cultural framework within which they take place. But rather than describing these structures systematically, they illustrate them narratively by presenting phantom accounts of how particular features of this structure came into being as a result of what individual human or superhuman actors did in the past. Yet even these origin stories are typical in the sense that they show how results of this kind come about in the traditional Tolai context—and typification is generally a central feature of Tolai oral traditions. The stories of which they consist are essentially not stories about what particular individuals did in particular instances but stories about how various sociopolitical roles are performed effectively. It therefore does not matter whether or not they describe what actually happened. They are not concerned with unique actions but with types of behaviour, and they typify actors rather than actions.

But we must also take into account that Tolai do not perceive the traditional structure of their society and culture as a normative order. The two bloodlines do not exist because the culture heroes decided it was a good thing to have them but because they came about in the way described, and the story is certainly factual to the extent that these two bloodlines exist as social facts rather than as normative commands. Tolai do not have the right or the duty to belong to one of these bloodlines, they actually do belong to one of them as a matter of fact: they have no choice.

Tolai traditional culture is generally non-normative. There are no rules determining to which *vunatarai* a person ought to belong; where a person ought to live; how a mother ought to behave in relation to her children, or how a *lualua* ought to behave in relation to the members of his *vunatarai*. All these are questions to which history rather than norms provide the answer. A person is a member of a *vunatarai* as long as he or she behaves as a member of this *vunatarai* and as long as its other members treat this person as a member—and there are stories which tell how members of the same *vunatarai* behave in relation to each other, and other stories which tell what has happened when people behaved differently.

The telling of such stories plays a crucial role in the treatment of many kinds of disputes, for example marital disputes. There are no customary rules defining the rights and duties of spouses, instead a marital dispute which has become public is dealt with by the telling of stories not only about how these particular spouses behaved towards each other in the past but, just as importantly, about the behaviour of other spouses. It is the public airing of these stories for the benefit of everybody present that is the main purpose of the exercise. As far as the disputing spouses are concerned, the issue is whether they will again behave like husband and wife towards each other or whether their spousal relationship will come to an end. This does not and cannot depend on how the behaviour which led to the dispute is judged but on a number of factors that have nothing to do with the dispute and involve many other people, for example all those who have received a share of the bride price. The behaviour of all of them, however, has been and continues to be shaped by stories they have heard about role behaviour, and their own behaviour too will consist of the performance or non-performance of specific social roles.

Although the tasks of academic historiography and Tolai oral traditions are different, and although they are located in a different cultural context, a historian grappling with the history of colonial rule in German New Guinea may be well advised to adopt the two key features of Tolai oral traditions, instead of trying to condense what a multitude of colonial officials did in different

parts of German New Guinea over a period of 30 years or so into a single narrative, since such an attempt is bound to produce phantom history. At least an approach which first describes the structure of the government of this colony and then illustrates its operation with a series of typical examples of the exercise of governmental powers would seem to be a more realistic way of dealing with the historical record.

On the other hand, the historical records which German colonial rule produced are very different from Tolai oral traditions, reflecting the different ways in which traditional Tolai society and the German colonial government were structured and operated: the former as a socially organised network of people without a governmental structure and the latter as a territorial government without an organised social base; the former in the absence of any written records and the latter as a chain of usually written commands, the execution of which required the production of further written records which formed the basis of further commands. Yet these differences may allow historians of German colonial rule to pursue the path followed by Tolai oral traditions further than the Tolai were able to go. While their oral traditions have no choice but to take the form of a collection of anecdotes, the historical record of German rule may permit a systematic approach.

Such an approach is possible, and indeed necessary, if a government operates in accordance with the Rule of Law, because it then functions as a system of normative and quasi-normative law. Its organisation as well as the exercise of governmental powers will be regulated by legislation, and there will also be legislation which prescribes how the exercise of these powers is to be controlled and what action is to be taken if they are not exercised in accordance with these rules. That is to say, under the Rule of Law the exercise of governmental powers becomes fully routinised. All governmental actions are repetitive acts so that it no longer matters historically how they are performed in particular instances. This means, in turn, that a narrative approach to the history of such a government as an operation becomes inappropriate. Instead a systematic, quantitative approach is called for. Seen as an operation, the Rule of Law becomes a question of numbers: how much, how many and how often—and its history consists of the changes in these sets of figures. It therefore can, and can only, be adequately represented by a series of statistical tables.

Nonetheless it is useful to look at the history of the Tolai during the period of German colonial rule because this shows that such tables would also contain the meat of this history which Tolai oral traditions are unable to record. If such records had been produced, they would tell us, for example, how many *vunatarai* there were in 1884 and how this figure changed until 1914; how many *vunatarai* split, merged or died out during this period; how the number of members of each *vunatarai* fluctuated; whom each of its members married and where each of its members resided in the course of his or her life; how its landholdings increased or decreased and how and by whom they were utilised at various times; how many *lualua* it had and how many of them died in office, retired or were deposed.

It is plain that no factual history of the Tolai during the period of German colonial rule can be written without this kind of information. But it is also plain that Tolai society would have been unable to function in the traditional mode if this information had been recorded and if this written record had shaped the actual behaviour of Tolai in relation to each other. By contrast, this kind of information is the lifeblood of modern territorial governments. While quantitative information about the day to day operation of traditional Tolai society was not essential for the operation of the German colonial government, it was helpful rather than harmful, and it could hardly operate effectively if it did not have the same kind of information about the involvement of the Tolai, and its other native subjects, in the colonial sphere. This applies not only to actions which Tolai performed as instruments of the colonial government, for example as policemen, or in fulfilment of their public duties as colonial subjects, for example as taxpayers, but also to the private sector.

The colonial government needed information about the Tolai as producers of cash crops and consumers of imported goods in order to function effectively. It was concerned with the interactions between the missions and the Tolai as much as with their interactions with the traders, planters and other employers.

The more information they have, the more efficient territorial governments can become, until the entire life of all their subjects has been translated into a regulated complex of repetitive actions which can all be quantified and managed as quantities whose unique features become historically and administratively immaterial because they are part of a single entity that can only be described systematically as a structured operation.

So far so good, but this systematic, structural and quantitative approach to history can only work after the Rule of Law has become fully established. Until then governments do not function as routine operations producing a full written record of quantified or quantifiable information of what they are doing. As far as German New Guinea is concerned the situation was, at least at the beginning of colonial rule, quite different. The German authorities were in a position similar to that of the culture heroes of Tolai oral tradition: they had to start from scratch, because there was neither a traditional structure of territorial government which they could have taken over nor had a system of colonial government been worked out in Germany and tested in other colonies which could have been exported ready-made to German New Guinea. But the German authorities did not approach their task like Tolai culture heroes. They did not create the foundations of a social organisation which could evolve organically but put a legislative framework for the exercise of governmental powers into place which had to be implemented and developed by enacting more legislation. It was natural for the German authorities to follow a road which would eventually lead to a total Rule of Law because there was no acceptable, alternative modern western ideal. Yet there were also strong practical reasons for hastening slowly along this path.

Consequently the Rule of Law was, even at the end of German colonial rule, not fully established, in territorial as well as in substantive terms. In large parts of the colony German colonial rule did not operate at all and even close to the main colonial centres the continued operation of the traditional sociopolitical organisation, side by side with the colonial government, was generally tolerated, if not encouraged. Moreover, where German colonial rule asserted itself it often did so as an exercise of administrative discretion rather than in the form of legislation and subsequent law enforcement.

Historians of colonial rule in German New Guinea can therefore not begin their task by describing it systematically as a single operative legal system. They can only give an account of the gradual and incomplete establishment of the Rule of Law as a historical process. And their task is further complicated by additional factors.

Firstly, while essentially territorial, the colonial government was designed as a dual system which distinguished between "natives" and "non-natives" as two different legal classes of colonial subjects, although it was neither possible nor intended to keep these two classes physically apart, so that the two systems overlapped in practice and a third system, dealing with cases falling into this mixed category, had to be put into place.

Secondly, as regards non-natives, the colonial authorities were not given discretion to develop a form of colonial law which reflected local conditions. Instead, their legislative discretion was, from the start, limited to the field of administrative law and the entire German/Prussian civil, criminal and procedural law was introduced, although a growing number of modifications were made or permitted.

Thirdly, the colonial legislation itself was not uniform and was subject to frequent changes. Some colonial laws applied to all German colonies, others only to some German colonies, others only to German New Guinea, and still others only to a smaller or larger part of the colony. Hence

the same subject matter could be regulated at different times and in different ways in different parts of German New Guinea, or in some never be dealt with legislatively at all.

Fourthly, the exercise of administrative discretion was not only limited by legislation but also in other ways: administratively, by issuing instructions to government officials, and financially, by providing the government with annual budgets within which they had to operate.

Finally, the Rule of Law was also not fully implemented organisationally. There was, primarily for financial reasons, no formal separation of the legislative, executive and judicial arms of government, and for the same reason there was a general shortage of manpower which continued to hamper a regular administration until the end of German colonial rule.

It hardly needs saying that a quantitative approach to the history of the *exercise* of colonial rule, as opposed to its *organisation*, faces even greater difficulties under these circumstances. The written records produced are incomplete, not always reliable, and the kind of information recorded often differed over the years, or from one administrative district to another, quite apart from a disappointingly low and uneven survival rate.

Besides, there is again an additional problem: a quantitative approach to history can only come into its own if it deals with big numbers. Only then can peculiarities cancel each other out and meaningful statistical patterns and trends emerge, whereas German New Guinea remained throughout its history such a small historical stage that even comparatively minor events could cause a storm in the statistical tea-cup.

By the same token the volume of governmental activity was far too large for each official action to be treated as a unique historical event. More importantly, it is pointless to describe repetitive actions as unique events, since this adds nothing of significance to the definition of the type of action in question. Irrespective of the number of repetitions, the performance of repetitive actions is essentially a quantitative phenomenon. Where the exercise of governmental powers has become routinised, a particular instance is historically interesting only if it does not conform to the type of action it is meant to represent. But even these exceptional cases are no longer unique events. They represent a negative type of behaviour: the irregular behaviour which has typical, structured consequences of its own. It may be illegal or invalid or constitute a breach of discipline, but it becomes, as such, again a quantitative phenomenon.

What about the non-routinised exercises of governmental powers? Seen as an exercise of a governmental power they too are not unique events, for even discretionary powers are exercised within a general structural framework, which may provide for powers which are never exercised but which, when they are exercised for the first time, already represent a type of action rather than a unique event. On the other hand, even the most routinised exercises of governmental powers are parts of unique historical episodes, seen as a cluster of interlinked human actions and reactions, so that it is worth considering where such a perspective will take us.

Let us take a dramatic example: a "punitive expedition", the use of military force against the indigenous inhabitants of German New Guinea. Seen as an exercise of governmental powers it is a typical act because the German authorities treated the use of military force against their colonial subjects as a legitimate form of exercising their powers which was employed on numerous occasions. Although the exercise of this power was not defined by legislation it did not take place in a legal vacuum. A punitive expedition could only be legitimately carried out by a competent official in accordance with his orders. Moreover, the existence of a native penal ordinance which provided for the judicial punishment of native crimes ruled out a punitive expedition as a discretionary alternative for their punishment, although this did not mean that the use of direct force was illegal if criminal acts had created a continuing danger to public order. However, the principle of proportionality in the use of coercive administrative powers applied, so that punitive expeditions could legitimately only be carried out in serious cases. In addition, and quite apart from any disciplinary action against them, officials were liable to be prosecuted under

the German criminal code for killing or wounding people during a punitive expedition, unless their behaviour was legally justified.

All these legal considerations are relevant if historians want to give a satisfactory account of punitive expeditions as unique historical episodes. They must establish what orders were given before a particular expedition, whether members of the government forces subsequently received disciplinary or criminal punishments, what happened to native prisoners, if any were taken, and, in particular, what impact the expedition had on the subsequent relations between the colonial government and the natives involved. Was it followed by peaceful visits, by the establishment of a police post, by the appointment of "government chiefs"? Did the natives in question subsequently refuse to trade or let themselves be recruited?

Furthermore, a punitive expedition is not only an episode in the history of German colonial rule but also in the histories of the groups of natives involved, as well as in the life histories of all individual participants. Seen from each of these different perspectives, different facts are and are not significant. Thus it makes no difference to the life history of a native woman killed during such an expedition if her killing was regarded as illegal and if the policeman who killed her was subsequently punished, whereas this is crucial for the life history of the policeman in question. Conversely, it makes little difference to the history of German colonial rule, and none to the life history of the policeman in question, if the woman killed was the last female member of her matrilineal group capable of bearing children, so that the shot may have also killed her entire group. In other words, there are no historical episodes as such, they only exist as episodes in the histories of something else and they exist as episodes in a number of different histories which take a different form in each case.

To be sure, historians can isolate a cluster of human actions and describe what happened in a defined physical space during a defined segment of astronomical time. But even if all the relevant information were available, such an exercise would be futile, because it would still be too voluminous to be manageable, unless the section of the time-space continuum identified was absurdly small.

This does not only mean that historians have to be selective, it also means that they are not free in the selection of the information presented. Historians have to write the history of something and the something they select determines the type of history they have to write because all these somethings belong to one type or another. A historian who wants to write a life history is not free to decide what is and what is not relevant for the life history of a human being, although a historian is free to decide not to write a life history but, say, the history of X as a governor or as a father. But whatever topic a historian chooses, it has an inherent typical structure, which has to be discovered and the implications of which in this particular case have to be pursued.

This applies to all possible topics, provided the writing of history is treated as a rational enterprise, and determines first of all whether a topic is suitable. Thus it is clear, for example, that events are part of a number of histories, but have no history of their own. The same applies to a chronological sequence of events: to describe a sequence of events does not amount to the history of anything. Nor can historians escape from these inherent structures by choosing not to write the history of any concrete something, such as a history of the life of an individual human being or the history of a group of people or an institution, but by selecting instead something abstract, like a category of human actions, as their topic.

VII

Let us take the case of another imaginary historian who decides that he neither wants to write a history of colonial rule in German New Guinea, nor a history of the Melanesians and

Micronesians during the period of this rule, but a history of Melanesian and Micronesian responses to this rule.

If such a historian approached his topic as a genuine academic task, he would have to begin by developing a typology of the possible responses of indigenous populations to the imposition of every possible form of colonial rule. He would then have to identify the range of responses which occurred in German New Guinea, before examining the factors which determined why one rather than another of these responses was adopted in different parts of the colony at different times. All of this would still be part of a preliminary typological exercise because he would now have to investigate the actual chronological sequence of these responses in all parts of German New Guinea.

Moreover, such a history could hardly be written without also taking account of the history of the responses of the colonial authorities to the responses of Melanesians and Micronesians. In short, our historian would be jumping from the frying pan into the fire. Even if he managed to pass through the flames unscathed, the result had to remain inconclusive because the number of variables would be too large and the information he could extract from the historical record would be insufficient for the systematic treatment the topic required.³

This example demonstrates again that some kind of typification is necessary in order to deal with the multitude of human actions. A normative approach tries to achieve this by a typification of these actions. It defines what constitutes a theft or a breach of contract and prescribes the legal consequences for every human action which falls into this category. By contrast, Tolai oral traditions have opted for a typification of sociopolitical roles. The question therefore arises as to whether this approach can help us to come to grips with the discretionary exercise of governmental powers in German New Guinea for which precise normative structures did not exist.

Did German colonial officials also perform typified roles and did they regularly act in accordance with their role? For if they did our problem would be solved, because an account of how a particular governor, district officer, police sergeant, government doctor or surveyor acted in a particular situation would then be representative of how all other German officials of this type acted in all situations of this kind. We would only have to look at one punitive expedition, for example, and we would have seen them all. Moreover, we would also be free to construct a composite picture by combining the incomplete information the historical record offered us for various punitive expeditions. Indeed, we would become independent of the historical record. We would know in advance how a German colonial official would have acted in any possible situation because his actions would be predictable, at least to the same extent as a Tolai can know how a Tolai playing a particular social role will typically behave in a given situation. We could even disregard the entire normative or quasi-normative framework of government because it would then either merely confirm that a German colonial official had actually acted in a typical fashion or because it would be historically irrelevant because German colonial officials typically disregarded this framework.

Alas, what works in the traditional Tolai context does not work for a history of German colonial rule, and it does not work because such a typified role approach could not have worked as a technique for operating the colonial government of German New Guinea. A territorial state government and the political management of a kinship society are different enterprises, just as academic historiography and oral traditions are different enterprises.

One important consequence of the former differences is that the various sociopolitical roles in the traditional Tolai context do not have to be defined normatively. There are no detailed duty statements which define what actors performing these roles are supposed to do in all imaginable situations. Nor could such duty statements be devised because the number of relevant variables is too large. Yet the net of reciprocal sociopolitical relationships is sufficiently tight to make

3 It hardly needs saying that this imaginary historian too has historical counterparts.

traditional Tolai behaviour nonetheless predictable, because the environmental constraints are also tight and the traditional means of power Tolai can employ are limited.

Compared with a Tolai *lualua* the means of power available to a governor of German New Guinea, although small compared with that of, say, the German metropolitan government, were enormous. Accordingly his range of options was much larger, and so was his range of tasks, which reached far beyond the management of natural and human resources for subsistence purposes. Moreover, instead of being tied into a complex horizontal network of reciprocal interpersonal relationships, the governor was, in his official capacity, part of an administrative hierarchy, a link in a chain of commands, subject to orders by his superiors and entitled to give orders to his subordinates.

A normative or quasi-normative framework was the natural way of operating such an arrangement. But it was necessary or, at least, desirable to retain some flexibility and to give the governor discretionary powers in the exercise of which he could not be guided by specific rules. All that could be done was to formulate a general political program and to charge the governor with its implementation "to the best of his abilities as a conscientious official", of course within the general legislative and budgetary framework and in accordance with any specific instructions from his superiors.

Since the same applied, *mutatis mutandis*, to all other German officials, the history of colonial rule in German New Guinea was far less predictable than the history of the operation of traditional Tolai society. Despite the normative and quasi-normative restrictions to which they were subjected, German officials were freer in the exercise of their residual discretion than even the most powerful Tolai in the traditional context. Whereas the latter was able to kill a few people with impunity, the range of actions he could himself perform was quite limited. Beyond that he had to rely on the cooperation of his followers, instead of being able to set an institutionalised machinery of government in motion which issued and enforced orders rather than working through the personal manipulation of reciprocal obligations.

Although traditional Tolai society operated in a more personal manner than German colonial rule, the personality of an individual performing a traditional role therefore mattered historically less than that of particular German officials. While it is possible and useful to establish what, for example, a typical Tolai *lualua* would do in a particular situation, it is pointless to speculate what a typical German governor would do. There were no typical German governors or, for that matter, district officers or police sergeants, because such a role typification was not part of how the system worked. This does not mean that German colonial officials were more differentiated as individuals than Tolai *lualua* or that they had no shared characteristics which distinguished them as a group from, say, British colonial officials. But where their official actions were not governed by the Rule of Law, their freedom of action was less limited because the various social restraints which operated in the traditional Tolai context did not operate for them.

German colonial officials also had to perform a much wider range of tasks, often in rapidly changing circumstances. The role of a Tolai *lualua* hardly changed during 20 years of pre-colonial history, whereas a German colonial official found himself in a significantly different position in the northeastern Gazelle Peninsula in 1914 as compared with 1894 or even 1904. German colonial officials were also transferred from one part of German New Guinea to another, or from one German colony to another, and the system had to cope with such transfers while their traditional Tolai counterparts could and did only operate in the traditional Tolai context.⁴ It is for this reason that a typification of roles approach makes sense as far as Tolai oral traditions are concerned. Still, even in this context, this approach produces phantom history. If applied to the history of German colonial rule it would lead to even greater distortions.

4 It would have been absurd to post a Tolai *lualua* in this capacity to the Island Territory or a Marshallese chief to the Gazelle Peninsula.

VIII

Looking back it appears that while the position of a historian of the German colonial rule may differ fundamentally, in terms of the historical record available to him, from that of a historian of the Melanesians and Micronesians during the period of this rule, his chances of performing his task successfully are hardly better. All he can offer, if he takes the historical record seriously, is an account of the gradual creation of an incomplete normative and quasi-normative framework of government, supplemented by a sample of illustrations which show the colonial government in action but which cannot claim that any of the actions described were typical or even that they actually took place as described, because the description can do no more than reflect a critical reading of a few potentially relevant and still available sources.

This is such meagre fare that it becomes palatable only after it has been shown that the rich cuisine offered by narrative historians indeed presents mere phantom history. While it is not the task of this introduction to prove that this is so, it is necessary to indicate at least by way of example that there are good reasons for settling for less attractive but more realistic approaches to history—and what better illustration is there than the narrative introduction to a history of *New Guinea under the Germans* which does what I have claimed to be impossible by offering a thumbnail sketch of this history and foreshadowing the main results of its subsequent detailed treatment.⁵

This book is about the German past of the independent state of Papua New Guinea, the thirty years before World War I when the Germans ruled the north-east of the great island of New Guinea, the island chain to its north known as the Bismarck Archipelago and some of the Solomon Islands. For good reasons it is not a history of all of 'German New Guinea', a territory which has no modern equivalent and which changed its borders on a number of occasions.

As first acquired in 1884, Germany's Melanesian territory or, to give it its official title, 'The Protectorate of the New Guinea Company', consisted of north-east mainland New Guinea and the Bismarck Archipelago. The Protectorate included New Britain, New Ireland, New Hanover and Manus but not Bougainville, Buka and atoll groups in the Solomons such as the Mortlocks and Tasmans. Between 1886 and 1889 this original territory expanded to embrace the Shortland Islands, Bougainville, Buka, Choiseul, Santa Isabel and the northern Solomons atolls as far east as Ontong Java. It now incorporated more of the Solomons than the future territory of Australian New Guinea was to do. Then in 1899 and 1900 a further reshuffle occurred as Germany, Britain, Spain and the United States jostled for the islands of the Western Pacific. First, the German possession, now officially the Imperial Colony of German New Guinea, gained a huge new area of the Pacific north of the equator by Germany's purchase of the Mariana and Caroline Islands from Spain. All these Micronesian islands, with the exception of Guam which went to the United States, were incorporated into German New Guinea as its 'Island Territory'. Second, German New Guinea lost the Solomon Islands of Choiseul, Santa Isabel, the Shortlands and Ontong Java to Britain as a consequence of the deal struck in the 1899 Anglo-German Treaty over Samoa. South of the equator the borders of German New Guinea were now identical with those of the future Australian territory and were the ones inherited by Papua New Guinea at independence in 1975. A final change occurred in 1906, when the German Protectorate of the Marshall Islands, a possession which included Nauru, was also added to German New Guinea. When war came in 1914 German New Guinea was divided along the equator, Japan taking the islands to the north and Australia those to the south.

The Germans distinguished between their Island Territory, all north of the equator except for Nauru, and the 'Old Protectorate', that is, the German possessions in Melanesia. Putting the two together was administratively convenient. Police from New Guinea helped the Germans to suppress the rebellious

5 A reproduction of the full text of this introduction is necessary to enable readers to appreciate the strength—or weakness—of the critique which follows. The same applies to most other extended quotations in this work. They are not included because I want to adopt the statements of their authors as part of my text but, on the contrary, because I believe that they need to be challenged. (My reasons for quoting extensively from the annual reports are different, see below p.69 Fn.6.)

Ponapeans and phosphate royalties from the Island Territory contributed towards the cost of extending control over Melanesians. But Kapingamarangi was the only island north of the equator directly administered from Rabaul and in most ways the two parts of the colony functioned as separate colonial territories, each with its own system of labour migration and subject to different administrative policies. Albert Hahl, Governor of German New Guinea from 1902 to 1914, thought the aim of German policy in the Island Territory was to develop the islanders' ability to buy western goods, whereas in the Old Protectorate it was to teach people to work on plantations. The bifurcation of the colony under German rule and its subsequent partition between the Japanese and the Australians provide some justification for writing about 'New Guinea under the Germans' rather than attempting a comprehensive account of that evanescent colonial territory called *Deutsch-Neuguinea*.

The Australians who occupied the Old Protectorate of German New Guinea in 1914 found a territory in which Europeans dominated only on the coasts. About 650 Melanesian men wore the khaki peaked caps, sailor shirts and red-bordered shorts of the 'police-soldier', as the Germans called him, and in controlled districts the Australians encountered village chiefs with caps and 'a kind of walking stick with a fancy knob'. These chiefs, according to the Australian military administrator Colonel S.A. Pethebridge, were referred to as 'Loo Loo Eyes' or 'Cooker Eyes'. (He meant the *luluais* and *kukurais*, village headmen appointed by the Germans.) On the copra plantations of the possession there were thousands of New Guinean labourers, 'a great number' of whom 'deserted from their German employers and cleared off into the bush' when they heard about the Australian soldiers, 'thinking that as the German Government no longer had any authority here they could with impunity break their contracts...'. The new colonial masters went to considerable trouble explaining to the runaways that, although the Germans were no longer in control of the administration, 'the situation was just the same as before'. It was the old colonial order under new management.

The Australians also found roads. The best one ran for 160 kilometres from Kavieng along the north-east coast of New Ireland, another followed the coast south of Namatanai and a network linked plantations, villages and mission stations with the capital of Rabaul in the Gazelle Peninsula of New Britain. A road with unreliable bridges connected Bogadjim with Madang and Alexishafen and in Bougainville a road ran along the coast from Kieta. Nowhere did the roads lead far inland. The highways of the German territory had been the sea and the rivers, its administrative centres had been placed close to waterways and most of its plantations were within sight of a beach, a lagoon or a bay. It was a maritime colony.

The Germans stuck to the coast for two reasons. First, the inland terrain of the island of New Guinea, Bougainville and the large islands of the Bismarck Archipelago is forbidding in the extreme. The high mountain ranges of New Britain, Manus, Bougainville and southern New Ireland are dissected by precipitous ridges and densely wooded ravines, soaked by rain and obscured by mist. Jungle impedes the traveller everywhere, in places becoming impenetrable, and leeches abound. Along much of the north-east New Guinea range upon range of mountains rise parallel to the coast, sometimes steeply as on the Rai coast and near Finschhafen, sometimes leaving a narrow coastal plain of the kind near Madang, often cut by ravines carrying fast-flowing streams and always densely forested. The typical view from the coast is of endless mountain ridges rising to summits hidden by cloud. Only the river valleys break the mountain barrier. The Sepik and Ramu rivers empty into the Bismarck Sea within twenty-five kilometres of each other in a mosquito-ridden delta of lagoons, floating islands and swamp. The Markham has formed a flat, steep-sided valley which opens into the Huon Gulf but the river is too shallow near the mouth to be navigable. In New Guinea the Germans confronted geographical obstacles far greater than those in Africa, from malarial swamps and flood plains to tropical rainforests, rugged mountains and long stretches of harbourless coastline.

In the second place the Germans were in New Guinea first and foremost to make money, and only secondarily to impose a system of ordered administration on the inhabitants. It was an order of priorities institutionalized in the government of the colony from 1885 to 1899 by a private business firm, the New Guinea Company of Berlin, and perpetuated by the imperial administration of 1899 to 1914, which aimed to create a plantation economy by encouraging private investment. No German governor in New Guinea compares with Sir William MacGregor, Lieutenant-Governor of British New Guinea from 1888 to 1898, for sheer energy in exploring his colonial territory and establishing contact with remote bush communities. MacGregor believed in a rudimentary form of administration for its own sake. The Germans, by contrast, saw administration as a means to an end, which was the rapid economic

development of the possession by Europeans, and therefore hardly bothered with foot patrols in mountain country.

The land itself, then, and the Germans' desire to make New Guinea pay determined where they would go as planters, traders, recruiters, officials and to a lesser extent as missionaries. (Lutheran missionaries in the Huon Gulf proved to be the most adventurous of all in penetrating the interior.) The map of German influence became one which was drawn according to the preferences of traders and planters, not according to the presence of population. The Germans did not reach the Highlands, home to hundreds of thousands of people, nor did they more than lightly touch further concentrations of villagers in the hills north of the Sepik River. The overwhelming majority of New Guinea's people, perhaps five in every six, never saw a single German in the thirty years of German rule, even though some of these no doubt came into possession of a material artefact of German origin such as a piece of hoop iron or a nail. To speak of 'New Guinea under the Germans' is to refer to islands and coastlands: the Gazelle Peninsula of New Britain, its shores free of mangrove swamp, its undulating plateau ideal for copra plantations; north-east and central New Ireland, a coastal strip of fertile soil; east Bougainville near the safe harbour of Kieta; the mainland coast where there are anchorages and level land as at Madang or Alexishafen or where fertile offshore islands dot the roadstead as at Aitape; and numerous island groups and atolls which were far more important to the Germans' economy than they are to Papua New Guinea today: the Duke of Yorks, New Hanover, Tabar, Lihir and Tanga, Nissan, Pinipel, the Carterets, Tasmans and Mortlocks, Nuguria and to the west the Anchorite, Hermit and Ninigo groups.

The questions which this book seeks to answer are familiar in the history of European colonial rule over tropical dependencies. Why did Germany annex the territory? Why did the chartered government of the Neu Guinea Compagnie fail? When the imperial administration took over in 1899, what were its policies on land, labour, shipping, colonial finances and controlling the population? How influential were planters? In what ways did the colonial experience change villagers' lives?

To an extent the answers have a familiar ring. The Germans exploited traditional rivalries in order to achieve political supremacy, obtained land by fraud, theft and purchase, recruited villagers on three-year indentures, imposed labour discipline based on corporal punishment, imposed a headtax and succeeded in constructing a low-wage plantation economy serving markets in Europe. In the tradition of German colonial capitalism, the German government subsidized the two largest firms active in the territory, the Neu Guinea Compagnie of Berlin and Norddeutscher Lloyd of Bremen, and listened sympathetically to the complaints of all firms that the administration mollicoddled the villagers. The fundamentals of colonization were the same as in a dozen other tropical colonies of the period.

Yet colonial rule in New Guinea assumed a special form, the unique product of interaction between Germans and Melanesians. Where indigenous states did not exist, languages were legion and few people were obvious candidates to become collaborators with the colonial regime, the Germans could extend control over the population only slowly and imperfectly. The impact of the Germans on village life differed widely from place to place, often depending as much on the attitude of villagers as on decisions taken by government officials or missionaries. Much of this book is concerned with events on the colonial frontier, where the Germans and their New Guinean police became an extra factor in local politics, potential allies who could be drawn into backing one community against another. This emphasis is as it should be. German officials had no alternative but to spend much of their time extending control over the villagers of the New Guinea littoral, not purely for the sake of the *pax Germanica* but because control alone brought safety to the plantation homestead, labourers for the plantation lines and teams of villagers to build roads.

The most striking characteristic of German colonial control is its unevenness, dictatorial and destructive in some communities, paternalistic in others and little more than a show of strength in still others. Generally speaking, the Tolai of New Britain came to welcome the Germans as guarantors of a new order of prosperity based on copra trading; the Madangs hated the Germans for being land-robbers; the Manus, Matankor and Usiai peoples of the Admiralty Islands treated the Germans as foreigners who should be killed, ignored or imitated but certainly not obeyed; the Bukas admired the Germans and were eager to serve as police; the northern New Irelanders, at first renowned for their hostility to traders, decided to make peace and obey orders. Generalizations even of this order, however, fail to do justice to the wide variety of responses to the Germans in the villages and hamlets of the territory.

No judgement of German rule in New Guinea is complete without a recognition that many New Guinea villagers were pleased to have the Germans there, whether as allies, providers of iron, healers of

the sick, arbitrators of disputes or bearers of a Christian message which promised some protection from sorcery. Equally, no judgement can avoid the fact that the Germans killed more people than the British or Australians in neighbouring colonies in Melanesia, that they tolerated many more labourers' deaths on the plantations, flogged people more frequently and recruited labourers on a scale which threatened to depopulate parts of the country. The Germans were in a hurry to develop New Guinea. They laid down plantations which were to underwrite the export economy of the territory for another half century. But it was development bought at a considerable price in human suffering (Firth 1982: 1-6).

At a superficial reading this introduction sets the scene nicely, with its rapid fire of bold generalisation, supported by colourful details and strategic comparisons. Unfortunately, the picture disintegrates as soon as it is critically examined. This already applies to the seemingly straightforward sketch of the territorial fluctuations of German New Guinea. Take, for example, the attempt to encapsulate the change of the legal and political status of German New Guinea by contrasting what is claimed to be its two different "official titles". In fact German New Guinea was neither first officially called a "protectorate" nor later a "colony", rather it was throughout its history "officially" classified as a "*Schutzgebiet*", a term created to indicate that Germany's overseas territories were neither "protectorates" (*Protektorate*) nor "colonies" (*Kolonien*). Now, it is perfectly legitimate for a historian to want to avoid having to explain this situation, especially in an introduction, but we enter Wonderland if he makes instead a point of contrasting two inaccurate translations of the same German term and presents them as two different "official titles".⁶

This may seem to be a pedantic start, but such legal niceties do have far-reaching historical consequences, and if a historian chooses to get involved with them he must explain their legal significance instead of transforming them into narratively convenient phantoms.

Since it is not my task at this point to provide such an explanation, I can turn to Stewart Firth's justification of the exclusion of the Island Territory from the scope of his study. We are first told that the Island Territory was put together with the Old Protectorate because this was administratively convenient. However, the two illustrations given—that Melanesian policemen helped to suppress rebellious Micronesians and that Micronesian phosphate royalties helped to finance the extension of administrative control in Melanesia—are not meant to be instances of administrative convenience but prepare the ground for the subsequent claim that, regardless of administrative convenience, the Old Protectorate and the Island Territory continued to function in most ways as separate colonial territories. It is only fitting therefore that both illustrations are also phantoms, and that the facts behind them point in the opposite direction.

Melanesian policemen were not just sent to the Island Territory to help to suppress rebellious Micronesians, but during the last years of German colonial rule the native police force in the eastern Island Territory consisted permanently of Melanesians and the recruitment, training and command of German New Guinea's entire native police force was increasingly centralised. Similarly, while it is true that the phosphate concessions in the Island Territory were estimated to earn the government almost 190,000 Marks during the 1914 budget year and that this would have been ample to cover the estimated cost of maintaining the entire native police force in Melanesia in that year, this calculation only makes sense because the Island Territory and the Old Protectorate formed since 1910 a single budgetary entity—which is not what one expects to find in the case of two largely separate colonial territories. However, by 1914, we are talking of a budget of almost 4,000,000 Marks, to which the head tax expected to be paid by Melanesians made a much larger contribution than the phosphate royalties, so that it would be equally

6 Similarly, German New Guinea was, with good reason, never called an "imperial" colony because the emperor merely exercised the *Schutzgewalt* (protecting power) which was vested in the Reich. Hence German New Guinea was, from the start, a German *Schutzgebiet* although the emperor first delegated the exercise of part of the *Schutzgewalt* to the Neu Guinea Kompagnie under a charter, whereas he subsequently established his own *imperial* government.

correct—and pointless—to say that the head tax paid by Melanesians paid for the medical services provided for Micronesians.

What about the remote atoll with the sonorous name “Kapingamarangi” and its direct administration from “Rabaul”?—which in Firth’s terminology appears to stand for the governor, regardless of the seat of his office, just as “Berlin” stands for the colonial office, as well as its predecessors. The atoll was indeed in 1902 excluded from the administrative jurisdiction of the district office for the Eastern Carolines but it was placed instead under that of the district office for the Bismarck Archipelago rather than under the governor. More importantly, the atoll was never visited by an official from either district office, and when *Assessor* Köhler visited it as the first German official as late as April 1914 on his way to taking up his appointment as acting district commissioner in the Island Territory, he recommended that it be again transferred to “Ponape” (AA 1963/83/1, Item 65).

This leaves us with the claim that the Island Territory and the Old Protectorate had been subject to different administrative policies, which is supported by a reference to the thoughts of governor Hahl. Now it is quite possible that Hahl contrasted at some occasion the Micronesians as consumers of western goods with the Melanesians as plantation labourers, but if this formula was sufficient to characterise the administrative policies pursued, it would hardly be worth studying the history of German colonial rule in either territory. Naturally it is not, as Firth himself accepts later when he writes that the Tolai came to welcome the Germans “as guarantors of a new order of prosperity based on copra trading”(!). There is ample evidence to show that the planting of cash crops by Melanesians was promoted throughout the Old Protectorate and, conversely, that Hahl in particular strongly supported the establishment of plantations in the Island Territory. Indeed the historical record generally leaves no doubt that the relations between the two territories were characterised by “confluence” rather than “bifurcation”. This does not mean, of course, that Firth had to include the Island Territory in his study, but to justify its exclusion with a bunch of phantoms is a different matter.

Firth introduces the Old Protectorate as seen through the eyes of the Australians who occupied it in 1914. They are said to have first met about 650 Melanesian policemen, before encountering an unspecified number of “village chiefs”, and thousands of New Guinean labourers—but apparently no Germans. In each case some colourful details are added. While it is significant that the Melanesian policemen were called “police soldiers” by the Germans, it contributes nothing to an understanding of German colonial rule if we are told that the village chiefs were referred to as “Loo Loo Eyes” (*luluai*) or “Cooker Eyes” (*kukurai*) by the Australian military administrator, since the joke only makes sense in English. By contrast, the statement that a great number of plantation labourers deserted from their German employers when the Australians arrived is important, since it implies that only the authority of the colonial government had kept them on the plantations during the period of German colonial rule. It is therefore remarkable that Firth does not quote from a report by the Australian administrator on the general effects of the military occupation but from the diary of a junior officer, relating to an expedition to one particular district. It is even more remarkable that he uses this source as a basis for his bold claim that the Australians continued the old colonial order under new management—which is probably no better justified than his claim that the old colonial order in the Old Protectorate differed fundamentally from that in the Island Territory.

Did the Australians meet about 650 Melanesian policemen wearing “khaki peaked caps, sailor shirts and red-bordered shorts”? It is unlikely because sailor shirts and red-bordered shorts were part of their dress uniform,⁷ whereas their working uniform consisted of a red loincloth, and because the figure of about 650 apparently refers to the budgetary strength of the native police force in the Old Protectorate on 1 April 1914, whereas the Germans had recruited a substantial

7 In the actual dress uniform the shirts also had red borders and the trousers consisted of breeches rather than shorts.

number of new men after World War I had broken out. On the other hand, perhaps as many as 30 Melanesian policemen were shot by the Australians during the hostilities on the Gazelle Peninsula and many more ran away, probably abandoning whatever uniform they were wearing (see the report of the German commander in AWM 33, 32, 2), so that the position is far from clear.

To be sure, it makes little difference to a history of German colonial rule whether the Australians first encountered about 500 or 800 Melanesian policemen, or what uniform these men were wearing at the time, but such details are an essential part of the recipe used by Firth, so that the legitimacy of his approach stands or falls with their accuracy.

The urge to enrich his narrative with colourful details, and to give it a reassuring feeling of firmness with the help of categorical statements, continuously gets Firth into trouble. Thus he supports his uncontentious assessment that the Old Protectorate was a maritime colony with the bold claim that "the Australians nowhere found a road which led far inland". This is meant to demonstrate the depth of his expertise but, in fact, only shows that he was unaware of the road-building activities during the last years of German rule, in particular in the Morobe hinterland (see Sack & Clark, 1980: 106); and Firth got so carried away by his loving description of the forbidding inland terrain, as one of the reasons why the Germans "stuck to the coast", that he invented an entire high mountain range on Manus.

However, it is the second reason for "sticking to the coast" with which the introduction reaches its climax; for: "In the second place the Germans were in New Guinea first and foremost to make money, and only secondarily to impose a system of ordered administration on its inhabitants". This statement is not as radical or novel as it may sound, since official statements along these lines were made repeatedly at the time. But it is too bland to be narratively attractive. Hence Firth elaborates, claiming that this order of priorities had been institutionalised by putting a private business firm in charge of the government of the colony. Whereas it is plausible that a private business firm takes on the government of a colony because it wants to make money—provided, that is, that it treats its involvement first and foremost as a business venture—the fact that the imperial administration encouraged private investment in plantations hardly demonstrates that it perpetuated this order of priorities.

Yet before we have time to reflect on who "the Germans" were, and what "to make money" means, Firth switches to a comparison between the exploratory energies of MacGregor and his German counterparts. This produces another impressive formula: whereas MacGregor believed in a rudimentary administration for its own sake, the Germans saw administration as a means to an end, namely the rapid economic development of the colony. But what does this formula mean? Does it mean, on the one hand, that MacGregor created a rudimentary form of administration in the areas he explored and that he was not interested in the economic development of British New Guinea by Europeans? And does it mean, on the other hand, that there were no Germans for whom the economic development of German New Guinea was a means to an end, namely an ordered and more than rudimentary administration of its inhabitants?

These are pertinent questions but Firth is not interested in raising them. Having performed his brief strategic role, MacGregor is dropped, together with the administration of German New Guinea, and Firth returns to the money-making aspect. But now "the Germans" no longer refers to the Germans as a nation, or as the rulers of German New Guinea, but to a motley collection of individuals, primarily planters, traders and recruiters, but also officials and even missionaries. Yet understood in this sense, the term becomes even more problematic. Does it include British planters, Chinese traders, Japanese recruiters, French priests, Polynesian mission teachers, Australian prospectors and Malay bird-of-paradise hunters? It certainly simplifies matters to pretend that all foreigners in German New Guinea were Germans. We can then speak of "the Germans' economy", or of the overwhelming majority of New Guinea's people never having seen a single German. We can even speak of the German origin of the material artefacts which had

nevertheless come into their possession, but we are once more transported to Wonderland, where all hoop iron or nails reaching German New Guinea are, so to speak by definition, imported from Germany.

We are not in Wonderland when we are told that: "To speak of New Guinea under the Germans is to refer to islands and coastlands", but we return to it with the description of this littoral. Are the shores of the Gazelle Peninsula free of mangrove swamps and do they rise to an undulating plateau in its centre? Were the plantations on Bougainville in 1914 limited to its eastern coast, near the safe harbour of Kieta? Is there any rational justification for the litany of island names which omits islands which were of far greater importance to "the Germans' economy" than any of those named (i.e. the Vitu Group), but includes several groups over which "Queen Emma" and her American/Samoan clan claimed exclusive ownership?

After this tranquil naming exercise we are in for another change of direction. Instead of focusing on "the Germans' economy", we are presented with a new set of questions "this study seeks to answer". Although these questions were familiar in the history of European colonial rule and the answers, in the case of the Old Protectorate, also had a familiar ring, because the "fundamentals of colonialism were the same as in a dozen other tropical colonies of the period", Firth identifies a specifically German tradition of colonial capitalism, in accordance with which the metropolitan government subsidised the largest firms and listened sympathetically to all complaints about an insufficiently employer-friendly native administration. In this context the naming device comes once more into its own—and it is certainly easier to name the "Neu Guinea Compagnie of Berlin" and the "Norddeutscher Lloyd of Bremen" than to explain what was *traditional* about the compensation paid by the German government to a chartered company for its governmental efforts or *German* about the subsidisation of a private shipping line carrying mail.

On the other hand, it was not only this peculiar tradition which distinguished German colonialism from that of other powers, German colonial rule in the Old Protectorate was altogether "the unique product of interaction between Germans and Melanesians". Why?—because "indigenous states did not exist, languages were legion and few people were obvious candidates to become collaborators with the colonial regime". Before we have time to reflect whether the same conditions did not also exist in a dozen other tropical colonies, whether the taking over of linguistically homogeneous states makes the extension of control not only quicker but also more "perfect", or whether members of a single ruling élite are more obvious collaborators than members of a multitude of non-hierarchical societies, we move from the conditions under which German colonial rule operated to its effects. "The impact of the Germans on village life differed widely from place to place, often depending as much on the attitude [!] of villagers as on the decisions [!] taken by government officials and missionaries [!]" . Hence much of the study had to be concerned with neither "the Germans' economy" nor with the questions it was seeking to answer but "with events on the colonial frontier, where the Germans and their New Guinea police became an extra factor in local politics".

This does not mean that Firth intended to move towards a history of the Melanesians under the Germans, rather, the focus on what happened at the colonial frontier was "as it should be" because "German colonial officials had no alternative but to spend much of their time extending control over the villagers of the New Guinea littoral".

Again this sounds plausible, but how many of the German colonial officials who served in the Old Protectorate actually spent much of their time on extending the colonial frontier? Even their native policemen spent far more time being drilled, supervising road works, retrieving runaway labourers, carrying messages, guarding prisoners etc. than on doing so. The point is that Firth does not focus on the colonial frontier for any of the reasons given but because this is where the exercise of German colonial rule is narratively most manageable. Firth was no more inclined to

deal with the routine tasks of German colonial officials than with the day to day operations of Melanesian local politics.

But then it was not the preoccupation of German colonial officials with the extension of control, but rather the "unevenness" of the process which was the most striking characteristic of German colonial rule. Nonetheless Firth felt obliged to generalise, for example, by contrasting the "hate" of the Madangs with the "admiration" of the Bukas, even though generalisations "of this [apparently modest] order failed to do justice to the variety of responses". Still this difficulty could not be allowed to prevent Firth from carrying out the ultimate responsibility of a narrative historian, namely to pass judgement over the entire slice of history studied.

Few people would take issue with his final assessment, that the economic development of German New Guinea was bought "at a considerable price in human suffering". But it is again so bland that it has to be fleshed out even in an introduction. This time Firth resorts again to a strategic comparison. Instead of quantifying the price of human suffering paid in German New Guinea he tells us that the Germans killed more people and so on than the British or Australians in their Melanesian colonies. There is nothing wrong with such a comparative approach. On the contrary, if colonial rule in German New Guinea is to be judged at all, it cannot be judged in isolation. The problem is rather that the comparison made is purely rhetorical unless it is backed by a detailed comparative study of the costs of human suffering in colonial Melanesia. Taken by itself, Firth's final assessment is no more than a strategic phantom.

Such strategic comparisons are by no means the only rhetorical device used in this introduction. Another such device is a kind of phantom analysis. It is, for example, applied to the "unevenness" of German colonial control. Is it analytically productive to contrast "dictatorial and destructive" with "paternalistic" forms of control? Is paternalistic control a constructive form of dictatorial control? Is the contrast not so much concerned with different forms of control but with the extent of physical force used in establishing it? Does it view the position from the perspective of the German officials or from that of the Melanesians they tried to control? Does it mean to say that some German officials were dictatorial and others paternalistic or that "the Germans" generally responded with paternalism to peaceful submission, with destructive dictatorial measures if they met with armed resistance, and with a mere show of strength if there was insufficient economic reason to make the military effort required to crush their Melanesian opponents? Or are we not supposed to take anything Firth writes literally but rather to listen only to the implied messages he is sending?

Yet behind his rhetoric stands a solid triangular constellation: *the* German colonial officials who conquer *the* Melanesian villagers and tolerate their exploitation by *the* planters for the sake of rapid economic development. In this scheme of things any attempt by German colonial officials to control the planters was ultimately as futile as the attempts of Melanesian villagers to resist the imposition of colonial control. But this scenario is too wooden to offer a satisfying narrative, hence it has to be decorated with atmospheric details which indicate that it nonetheless matters historically what actions individual human actors performed in particular situations. Narrative history only works if history is presented as being at the same time amazingly simple and amazingly complex, so that it requires the hand of an expert to guide the pendulum forwards and backwards between the specific and the general in order to produce an account of history which is both reliable and readable because it presents the unique as being simultaneously typical and the typical as always manifesting itself in a unique form.

Seen in this light a systematic approach to history is counterproductive, and analytical precision harmful, because they prevent a historian from capturing the typical in the unique and the unique in the typical. Firth says what he means and means what he says when he writes that "the Germans were in New Guinea first and foremost to make money", but the language he is

using is not meant to further a rational discourse; rather, it is a special narrative language, designed to send pointed messages in a conveniently fluid verbal form.

To say that “the Bukas admired the Germans” does not mean that all or most, or indeed any Buka, admired “the Germans”. Nor does it mean that “the Bukas” refers to the inhabitants of the island of Buka. Nor is the use of the word “admire” a mistake. Firth does not want to say either that the Bukas “respected” the Germans, or that they regarded them as powerful leaders to follow whom was politically advantageous. He wants to convey a message for which the word “admire” is an admirable vehicle. Instead of spelling it out he indicates the direction in which it points by adding that the Buka were eager to serve as police, thus suggesting the presence of a strong military component in their admiration, although this, of course, does not mean that all young Buka males during the period of German colonial rule were eager to join the police, or that the Germans were always eager to recruit them, or that the police force consisted predominantly of “Bukas”, or that they accounted at least for a disproportionately high number of policemen.

This narrative language is the key ingredient of this introduction. It binds the colourful details and the bold generalisations together at a manageable middle level of generality and gives them a symbolic yet tangible quality. It provides an apparently solid surface over which we can glide effortlessly during the guided tour we are offered, as long as we do not stop to test it; for if we do, we sink into a morass of phantoms which covers a bed of uncomfortably bony or spongy bits of information which refuse to fit together like the pieces of one enormous narrative puzzle.

Perhaps such a narrative phantomisation of history is the only way of producing a coherent and meaningful account of any substantial slice of the past. But perhaps this introduction is quite untypical of what a narrative approach to history has to offer. Perhaps Firth himself changed his approach in the body of this study.

Alas the first chapter of *New Guinea under the Germans* offers more of the same, even though it criticises Lenin for oversimplifying a complex process by arguing that colonial territories “were acquired simply as investments for surplus capital or sources of raw materials” (ibid.: 7). Now this may seem to be a more sophisticated version of the claim that “the Germans were in New Guinea first and foremost to make money”, but the narrative language of Wonderland is capable of making subtle distinctions when the need arises. Firstly, it can be pointed out that while the clause “first and foremost” emphasises the importance of the money-making motive, it qualifies it at the same time by allowing for the possibility that all Germans also had other motives, and even for the possibility that for some of them the desire to make money was altogether immaterial. Secondly, it can be pointed out that the reasons for acquiring colonial territories, and the reasons for staying in the territories acquired, can be quite different. Thirdly, it can be pointed out that “the Germans” who stayed in this territory and “the Germans” who acquired it were not the same persons—and this is the line taken by Firth, for he tells us that the “New Guinea Protectorate” was created by one man, Otto von Bismarck.

According to Firth, Bismarck’s creation was the product of a two-stage process: his “decision in principle that Germany was to become a colonial power...[was] dictated primarily by the metropolitan advantages Bismarck expected would follow” whereas he acquired territory in Melanesia in order to solve “peripheral, as distinct from metropolitan, problems”. Yet matters were more complex because an understanding of these problems “must begin in Samoa, the centre of German commerce in the Pacific Islands for more than a quarter-century before 1884 and the focus of Germany’s Pacific ambitions in the 1880s” (ibid.: 8)—and this is where the narrative proper commences.

The Hamburg merchants Johann Cesar Godeffroy and Son had opened for business in Samoa in 1857, at the port town of Apia, described by one visiting American as ‘composed of a heterogeneous mass of the most immoral and dissolute Foreigners that ever disgraced humanity’. Under the management of August Unshelm Godeffroys quickly grew to become Apia’s leading traders, their resident trading agents

on the Samoan islands, Uvea, Futuna and the Lau Islands of Fiji, trading manufactures for coconut oil, pearl shell and bêche-de-mer (ibid.).

Is there any need to confuse matters by adding that the mass of foreigners was “principally composed of Americans and Englishmen, several of whom had been Sidney [*sic*] convicts”, or by questioning whether the visitor quoted was in a position to judge if it was the worst in human history or, at least, worse than in other ports in the Pacific Islands at the time? In the world of narrative history the historian is the master of the historical record. A flick of the whip and the most ferocious beasts jump obediently through the hoops placed before them. Why should we abandon this miraculous place for the inhospitable world of critical historiography, unless we have to accept that the accounts of history it offers are typically serious distortions of the historical record which prevent us from gaining a better understanding of the past instead of illuminating it? Can we not continue indefinitely to insist that, however many phantoms are brought to our attention, they are all the result of unfortunate accidents and not an unavoidable consequence of the narrative approach to history?

To be sure, the verdict of the American visitor Firth quotes about the foreigners in Apia is a particularly juicy phantom, but it is also quite harmless because it is unlikely that anyone will treat it as a statement of fact. Nor does quoting it only in part seriously distort this verdict. But does the picture change if we see this instance as the employment of two techniques? Is it generally acceptable to construct a historical narrative with the help of statements attributed to others which a historian cannot justify as a statement of fact? Is it generally acceptable to use only that information from a source which is narratively useful and disregard the rest? What if the American visitor had gone on to comment on the salutary role, or the economic influence, of “the Germans” in other Pacific Islands, for example Hawaii, before Johann Cesar Godeffroy and Son opened for business in Samoa in 1857?

But looking at another concrete example may be more instructive than such speculations. What then about the following anecdote which lends substance to the claim that Germany first acquired territory in Melanesia in 1884?

In November 1884, the people of Matupit Island...thought they were about to be attacked when 200 German marines came ashore with bayonets to celebrate the declaration of German sovereignty in New Britain (ibid.: 7).

The source referred to is a report by the imperial commissioner Oertzen of 4 December 1884, to be found in volume 2797 of the records of the German colonial office. It confirms that 200 men had come ashore, although they fixed their bayonets later, in the course of a military parade. It also confirms that “the great military pomp”, which Oertzen had apparently found inappropriate, had caused unrest among the people, although rather than thinking they were about to be attacked they had feared, according to the report, that their chiefs would be arrested or that their land would be taken away from them. Moreover, the report continues to say that Oertzen had called all influential men to his house. In order to calm them down he had, *inter alia*, explained to them the meaning of the ceremony “as far as possible”. His explanations had fully satisfied those present, and their joy and approval had encouraged Oertzen to enter into negotiations about the purchase of Matupit Harbour for the Reich—a move which would have been unnecessary if the whole of New Britain had already been declared to be under German sovereignty.

While this particular report says nothing concrete about the meaning of the flag-hoisting ceremony, Oertzen appended the text of the proclamation read by the naval commander to an earlier report which is to be found on the same file. Instead of declaring “German sovereignty [!] in New Britain” this proclamation had only been concerned with the protection of private land holdings of two particular German firms within an undefined geographical area.

In short, Firth's version of this episode continues the pattern set in the introduction, but it demonstrates more concretely that a narrative phantomisation of history apparently goes hand in hand with a methodical casualness in the treatment of the historical record. Judging by the following disarmingly frank confession, Firth is not alone in taking this attitude. It was made by a senior historian and relates to the sources on which he had based "the story of Germany's adventure as a colonial power" in a two-volume history of the Southwest Pacific (Grattan, 1963: 343).

It is my understanding that there is a rich literature on New Guinea in German, but because of the language barrier it has remained closed to me and I have had to piece my historical notes together from such English language sources I could find (*ibid.*: 740).

It is certainly no crime to be unable to read German, or any other of the relevant languages, including English, and this disability does not even disqualify a historian from dealing with the history of German colonial rule in the Pacific, at least not as part of a general history of this area. What makes the treatment of the language barrier baffling in this case is rather the list of English language sources which Grattan used, since it does not include a single history of German colonial rule in the Pacific. This was not due to a lack of diligence on Grattan's part, as no such history had been published at the time of writing. Nor was Grattan's assessment of the comparative usefulness of the available sources for his task unreasonable. But were these sources adequate for performing it? Is it academically acceptable to base a history of German colonial rule in the Southwest Pacific primarily on an official handbook of the Australian Territory of New Guinea, a volume of the official history of Australia in World War I, a history of the Australian military administration of German New Guinea and a study of "The Making of Modern New Guinea with Special Reference to Culture Contact in the Mandated Territory" (see *ibid.*)? Or does a historian have to admit defeat under these circumstances and explain instead to his readers why he was unable to provide an adequate account of German colonial rule in the Southwest Pacific? Yet the patent inadequacy of his sources clearly did not worry Grattan. As long as the sources permit a historian to take enough notes to piece together a coherent narrative, so it appears, there is no reason for concern. Anything in the field of narrative history is better than nothing, and the only thing which is unacceptable is a historical vacuum.

As is to be expected Grattan's account of German colonial rule contains numerous phantoms. What is remarkable is that his account is less intensely phantomised than that of Firth, although the latter could read the rich German literature and also had access to the German archival materials. On the other hand, this may be part of the explanation of this apparent paradox: the paucity of the information available gave Grattan less opportunity to phantomise history and made it easier for him to piece his narrative together. Narrative history works best if it is based on a modicum of preferably already narrativised information. The richer the information narrative historians draw on, the more phantoms they are likely to create when piecing together their notes.

Unfortunately, they cannot solve this problem by artificially limiting the amount of information they utilise. As long as they maintain that their narratives represent history, they have to accept that their narratives are tested against the entire historical record. This also applies to Grattan's account, however much we may sympathise with his predicament. He can no more excuse the phantoms in his account with his inability to read German than Firth could justify his phantom account of the flag-hoisting on Matupit Island by stating that he only made notes on one paragraph of Oertzen's report and none concerning the text of the proclamation read by the naval commander. But then no historian can hope to master even the comparatively small body of information relating to the history of colonial rule in German New Guinea with the help of notes, much less to be able to piece these notes together into a single narrative which is in accordance with a critical reading of all the available information. There is no other choice than either

admitting that a narrative approach to history always produces phantom history which is incapable of meeting normal academic standards or looking for alternative ways of dealing with the historical record which can apply them. What makes the position awkward is that the unacceptability of the first option can only be demonstrated in the form of case studies which compare particular historical narratives in concrete detail with the historical record relating to the slice of history described. An attempt to write a general history of the phantomisation of history would be just as futile as an attempt to write a general history of the global colonisation of humankind.

At first glance the historiographical treatment of the history of colonial rule in German New Guinea seems to be a bad choice for such a case study. But it may prove to be especially instructive because the treatment of such a peripheral and exotic field of history by narrative historians is likely to display the general characteristics of their approach more clearly than the treatment of a more familiar field which has been studied by a large number of narrative historians over a long period of time, which will weed out a number of phantoms and turn others into generally accepted 'historical' facts.

There is no question that Grattan would not have dreamed of writing a history of, say, the Third Reich as part of a history of Central Europe since 1900 based on the same kind of sources he relied on for his history of German colonial rule in the Southwest Pacific, for example a study of the British military administration of northwestern Germany between 1945 and 1949. Yet this seemingly absurd comparison only goes to show what narrative historians are capable of, if they are given the opportunity—and there is no reason to believe that Grattan fundamentally altered his approach because he dealt with the history of German colonial rule in the Pacific rather than some other topic. On the contrary, he regarded what he was doing as perfectly normal and beyond reproach, because he was doing what narrative historians are expected to do, namely to look at the sources available to them and to piece together a coherent narrative from the notes they have taken.

Unfortunately this naïve but professionally endorsed innocence gives a critical examination of narrative histories the appearance of an arrogant personal attack on people who are merely doing their job. But it is impossible to separate narrative historians from their narratives. They do not put forward arguments which could be criticised as arguments. Instead they present a selection of facts arranged in the form of a narrative which is meant to be assessed in terms of its artistic merits. In doing so, however, they put their personal credibility on the line. A narrative takes the factuality of what is being told for granted and expects the audience to trust the narrator on that score. Thus any questioning of the factuality of a narrative appears to target the personal integrity of the narrator. Yet it is the narrative form of their histories rather than the intention of a critic which is responsible for this state of affairs. It is the naïvety of a narrative approach to history, its lack of any visible kind of intellectual sophistication, that makes it so attractive and places the critic in such an invidious position.

Worse still, the claim that the counterfactual phantomisation of history by narrative historians is not the result of individual failings but of defects of the narrative approach can only be sustained by repeating these seemingly personal attacks until the evidence becomes overwhelming; for narrative historians have also not developed a method which spells out how they are supposed to carry out their task and which could be critically examined as a general method. A critic therefore has to face the second task of demonstrating, again by way of numerous examples, that the results of a careful reading of the historical record are nearly always too complex and inconclusive to be captured in a single narrative without serious distortions.

IX

Just as it requires case studies to show what narrative phantom history looks like, alternative approaches to history can only be worked out by reference to the historical record relating to a particular slice of history, because it is the unique combination of its features that determines what historians can and cannot do with the information it contains. The historical record relating to the history of colonial rule in German New Guinea available today is not only vastly different from that relating to the history of, say, the colonial rule of the Vandals in Africa over a thousand years earlier, it also differs significantly from that relating to the contemporary colonial rule in British New Guinea or German East Africa. Different governments produce different records which reflect different histories. The subsequent histories of these records can also vary dramatically. A single natural catastrophe can wipe out archives housing the records of hundreds of years of government, while other governments may engage in the systematic, periodic destruction of the records of their activities. Even the historical record of colonial rule in German New Guinea is by no means uniform. The records kept differed widely across time and space and between subject matters, and their survival rate is remarkably uneven. While it may still be possible to write a detailed history of the exercise of German colonial rule in the northeastern Gazelle Peninsula, this may be impossible in the case of the northern Solomons or the Palau Group; and while it may still be possible to write a fully quantified history of the postal services in German New Guinea, the historical record may only offer a few bits of anecdotal information relating to the activities of government chiefs in any part of the colony.

The task is therefore not to work out the ideal recipe for writing academically acceptable history but to test a range of approaches against particular sets of historical records in order to establish how far each of them permits us to go. The aim is not to replace the narrative approach with a single alternative but to utilise a plurality of approaches so as to achieve a maximal utilisation of the information available. However, the choice of the optimal combination of approaches is only a secondary task, concerned with the best ways of processing and communicating information, whereas the primary task of academic historiography is to establish as many historical facts as possible as reliably as possible. Ideally historians would therefore begin by analysing the entire historical record relevant for their chosen topic and by compiling a list of all those statements of fact which have passed the academic factuality test (see above: 5). Unfortunately the amount of information available is too large in most cases to be treated in this comprehensive manner. But there are at least two acceptable alternatives.

The first is to start with a critical examination of previous historiographical treatments of the topic chosen. Although this also involves an inspection of the sources, we can initially limit ourselves to the sources referred to in these accounts in order to test whether they support the statements made. But this critical approach leaves us stranded if an account of history passes this first test, because we then have to examine whether it is also in accordance with a critical reading of other relevant sources. Moreover, if a piece of historiography passes this second test, it shows that another account of the same topic cannot make a significant contribution to our knowledge of the past. However, it is only then that we can accept an account of history as a solid base for the treatment of a broader or related topic. This is how the academic study of any field normally advances: by a continuing process of quality control, the results of which are made public and thus prevent a duplication of effort. The point is that a narrative approach to history is incapable of performing this critical role. Narrative history does not progress, it spreads out sideways in an essentially uncritical fashion.

Narrative history does not popularise the results of a critical analysis of the historical record, which were previously published in a fully documented non-narrative form in learned journals. It tries to kill two birds with one stone by engaging in an immediate popularisation of history. The

problem is not just the narrative form of the finished product, the taking of notes for the purpose of piecing together a narrative is already an academically unacceptable procedure which facilitates a phantomisation of history instead of minimising it.

But a critical inspection of this narrative approach to the historical record, as opposed to the narrative treatment of the information it contains, suggests an alternative approach to the utilisation of this information. While a narrative approach views the historical record as a random accumulation of information, this is, in fact, not the case. The historical record of colonial rule in German New Guinea contains its own structures which narrative historians ignore at their peril, but which can also be used constructively.

Taking the structure of the historical record into account makes the task of a historian adopting a holistic approach less daunting than it appears to be. It can tell us, before we embark on a detailed examination, what the most appropriate starting point is—and, whether we like it or not, the most appropriate starting point for a history of colonial rule in German New Guinea is its legislative framework, because it is the only part of the historical record that can be dealt with independently.

It is possible to give an account of this framework as a normative or quasi-normative order without considering any information beyond the text of the legislative documents which constitute it. No additional information can alter the picture of this order these documents present, whereas no other part of the historical record can be treated in this manner. On the contrary, no aspect of the exercise of colonial rule can be adequately dealt with without taking the legislative framework into account.

This does not mean that the shape of the legislative framework was unaffected by economic or ideological factors, or that these factors did not form alternative frameworks of human action, but these other frameworks were rarely spelled out whereas most of the fields in which they operated were also subject to legislative regulation which is. There are no ideological manifestos which could serve as alternative starting points for an examination of the history of German New Guinea, and while the economic development of the colony was primarily the result of private efforts, an account of its economic history still depends primarily on the relevant governmental records, whereas historians would find it impossible to reconstruct the history of German colonial rule from the records produced by the private sector. However powerful commercial and other private interests were in German New Guinea, it was the colonial government that governed the colony and produced the records which show how German colonial rule was exercised.

These records are not just a source of information about the history of colonial rule, they are an essential part of this history: they served practical purposes; they were shaped by these purposes. Their own shape reflects how the government operated. This is not to say that an account of the changing shapes of these governmental records could replace a history of governmental action, but without understanding their structure historians will stumble around in the dark and have to rely on what their sense of touch tells them about the particular bits of information they are fingering.

A good illustration of the structural interdependence of different parts of the historical record is the exercise of their jurisdiction by the colonial courts. While it may be possible to write a satisfactory history of, say, the activities of the Christian missions in German New Guinea without a reference to the legislative framework within which they operated, this is impossible for a history of the exercise of judicial powers. Courts are meant to apply the substantive law in accordance with legally prescribed procedures. This is their task. For the courts the Rule of Law is not a means to an administrative end but an end in itself, and indeed the legitimisation of their very existence.

As a consequence of their dependence on the legislative framework the exercise of judicial powers becomes a model of repetitive actions. Although each case which comes before the courts

is unique, they are required to treat like cases alike. Courts put particular cases into pigeon holes predefined by law which prescribes their legal treatment. There is no need for historians of the exercise of judicial powers in German New Guinea to go beyond the published court statistics, provided they are sufficiently detailed and reliable. They will then tell them all they need to know about outcomes in simple quantitative terms. Not only the legal reasons for a particular judicial decision but also the facts of the cases decided are immaterial for the history of the exercise of judicial powers, although the former are relevant for a doctrinal history of the colonial law and the latter may offer valuable information for other histories, for example the history of the Christian missions. In contrast to the court statistics in relation to the history of the exercise of judicial powers, this information, however, is anecdotal rather than systematic. It does not provide a body of information sufficient for writing a history of, say, the Christian missions, even though such a history, if written without considering this information, may present a seriously distorted picture.

Yet even this anecdotal information has its own quantitative potential. For example, it may show that a substantial number of missionaries belonging to a particular mission society were consistently judicially punished for assaulting natives whereas no such punishments were recorded against members of another mission society—and it is worth stressing that negative results can be historically just as significant as positive results. Thus it may be historically more significant if the historical record shows that not a single non-native was executed in German New Guinea than if it shows that, say, 321 non-natives were judicially fined. The historical significance of the negative first result will increase if the historical record also shows that, say, 28 natives were executed. It will increase further if it was typical of all German colonies that no non-natives but substantial numbers of natives were executed; and it will increase still further if it shows that this result differed markedly from the position in non-German colonies in the Pacific and elsewhere during the same period.

There is another negative phenomenon to be considered in this context, namely the absence of information from the historical record and, in particular, the absence of certain types of information as the result of design rather than chance. This is a phenomenon which can show up only if and in so far as a historical record has a structure. But such structures do exist, at least where the historical record relevant for a particular topic consists essentially of a body of documents produced by a single source for a single practical purpose—as is the case with the records produced by the government of German New Guinea for the purpose of governing that colony.

If that government had been fully bureaucratised these records would form a single system which would enable historians to predict what kind of information should have been recorded and where it could be found, provided, of course, that all these records have survived. This system would be shaped first of all by the legislation prescribing what records had to be kept, but it would also reflect the organisation of this government and the response to practical administrative requirements, for example the need for some kind of filing system which allowed the retrieval of information not only by the official who recorded it but also by other officials who replaced him.

Although the government of German New Guinea was, even at the end of German colonial rule, far from being fully bureaucratised, there existed structures which must be understood in order to appreciate the historical record, as well as the history, of this colony. For example, the changing organisation of its government shows that the information about what went on in German New Guinea in the files of the colonial office in Berlin has to differ widely, because the administrators of the Neu Guinea Kompagnie reported to its board of directors rather than to the German government, as the imperial governors did after 1899, or the imperial commissioners for the Old Protectorate had done between 1889 and 1892. But there remained important differences after 1899. The local administrations in the Island Territory reported directly to the German

government, whereas those in the Old Protectorate reported to the governor, and often did so orally rather than in writing. Hence we can learn a great deal more from the colonial office files about the administration of, say, the northern Marianas than northern New Ireland, or about the administration of the Old Protectorate by imperial commissioner Rose than that by the company administrator Schmiele.

What we do learn shows that it is impossible to form an adequate picture of what went on at the local level anywhere and at any time in German New Guinea on the basis of the information contained in the files of the colonial office. Those responsible for reporting to the German government had wide discretion as to what they did and did not report. Thus we find a great deal of information about matters which had caused trouble, or were likely to do so, about matters the handling of which promised to earn particular officials special praise, or matters which supported local plans, the realisation of which required headquarters support, usually in the form of additional finance, but very little about other matters which are potentially of far greater historical significance.

As we have already seen, the question of administrative discretion is closely linked with the question of the quantifiability of information and with the distinction between the typical and the unique aspects of human actions. Now I want to go a step further and also link this question with a distinction between what was regarded as administratively normal and abnormal.

From the start of colonial rule in German New Guinea the administration of justice and the protection of its indigenous inhabitants were singled out for special treatment. This led to a dual system of justice: one for natives and one for non-natives, the latter in principle governed by German metropolitan law, the former in principle subject to administrative discretion. What concerns me here are the consequences of this dual system of justice for the recording of information about the exercise of judicial powers in relation to these two classes of colonial subjects.

The exercise of judicial powers in relation to non-natives was perhaps the most bureaucratised aspect of German colonial rule: it involved the least administrative discretion and required the most systematic recording of information, which culminated in the publication of annual court statistics. By contrast no such statistics were published for the exercise of their criminal jurisdiction by the courts dealing with natives. Instead only penal statistics were published. They differed from the court statistics, in particular, in that they did not show how many of the accused were acquitted, so that the information they contain, for this reason alone, does not permit a quantitative treatment of the exercise of this jurisdiction. This, I am now suggesting, reflects the view that these courts were abnormal and temporary institutions.

However, they were viewed as being sufficiently normal and permanent to be provided with their own legislative framework in the form of a native penal ordinance which placed the exercise of the criminal jurisdiction over natives under the Rule of Law and is sufficiently detailed to permit a structural approach to its history. The records kept by these courts were, in principle, adequate for a systematic quantitative approach, although this has become impractical because only a small fraction of their decisions has survived.

As regards the exercise of the civil jurisdiction by the German colonial authorities in relation to natives, no quantitative information of any kind was published. This does not mean that no administrative practices developed or that no administrative instructions were issued, but as it stands the historical record rules out a structural, let alone systematic quantitative approach.

The same applies to the exercise of judicial powers by the government chiefs. No quantitative information about their decisions was published and no systematic records were kept. Indeed, no such records were prescribed or kept of their appointment or removal from office. Although public notices were issued which defined the powers and duties attached to this office in some local languages, and although other legislative acts or administrative instructions referred to the role of

government chiefs, the institution remained a creature of administrative discretion. Nor was the existence of government chiefs acknowledged in the colony's budgets. They do not show up under the vote for "auxiliary coloured personnel" because they did not receive a regular salary, and the budgets also do not indicate how the fines they imposed, or the cut of the head tax they were allowed to keep, were handled in accounting terms—all of which, I suggest, is again a reflection of the fact that government chiefs, or the practice of giving individuals a cut of taxes, were not regarded as a normal part of the colonial government.

This was also the case with the disciplinary punishments of native labourers. The disciplinary powers were defined by legislation but no quantitative information concerning their exercise was published, although the keeping of records for internal administrative use was prescribed. By contrast no such records were kept for the exercise of coercive administrative powers over natives. They remained discretionary throughout the history of German New Guinea, although their exercise included measures that were at least as abnormal as the use of corporal punishments for the maintenance of discipline among native labourers, for example the banishment of natives from their home areas. Similarly no quantitative information concerning *corvée* labour was published, and no systematic records were kept, because *corvée* labour too was not regarded as a normal administrative practice. It was also not regulated by legislation although a general administrative instruction laid down some principles which were meant to guide the local authorities, but it stopped far short of forming a suitable basis for a structural approach to this field.

The imposition of a head tax on natives, on the other hand, was seen as a normal exercise of governmental powers. It was introduced and regulated by legislation, systematic records were kept and the revenue produced was accounted for in the normal way, apart from the abnormal cuts for government chiefs about which no systematic information was published.⁸

The most extreme case of an abnormal exercise of governmental powers was punitive expeditions. Although they were carried out routinely throughout the period of German colonial rule and although narrative accounts of many of them were officially published, no information was systematically recorded, and certainly no statistics were published.

Nonetheless a history of punitive expeditions calls for a systematic quantitative approach, and the anecdotal information available is just as quantifiable as the information relating to the exercise of their judicial powers by the colonial courts. Nor is the absence of a legislative regulation of the use of military force an insurmountable obstacle. It could even be a blessing in disguise because it permits historians to proceed directly to a comparative analysis of the quantitative data in order to establish the historical patterns in the use of military force, without having to deal first with a normative or quasi-normative framework. The problem is rather that the information is, and always has been, too incomplete for a systematic quantitative treatment: it does not enable historians to construct anything like the counterpart of the contemporary court statistics.

On the other hand, while punitive expeditions are the most extreme case of an abnormal administrative practice, they are not the worst as far as the inadequacy of recorded information is concerned. It is much easier to get at least a feeling for what went on in this field than it is to get a feeling for what went on in other fields of native administration, for example, the activities of government chiefs and their treatment by the German authorities.

Generally speaking it is clear by now that the historical record produced of the exercise of colonial rule in German New Guinea always has been inadequate for giving a systematic account of many important aspects of this rule, although such a systematic approach would be the only way of achieving a satisfactory result.

One way of responding to this dilemma is greater modesty. For example, instead of trying to write a general history of punitive expeditions in German New Guinea, we could settle for a history of punitive expeditions in a particular part of this colony during a particular space of time

8 The picture sketched here relates to the Old Protectorate. The position in the Island Territory was more complex.

for which the historical record is unusually favourable, and we would be able to make some headway in this manner, especially if we were looking for negative results. Thus the historical record allows us to state with confidence that the Ponape Rebellion in 1910-11 was the only occasion during the history of German colonial rule in the Island Territory when the authorities responded with what could be classified as a punitive expedition. In other words, the history of such expeditions in the Island Territory boils down to this single instance for which a narrative approach seems to be perfectly appropriate and adequate. But is it?

For a narrative approach to history the starting point is not the historical record but the unique events of which history is composed. The problem here is that these events are artificial constructs, the uniqueness of which is the product of a multitude of factors, each of which is the product of a multitude of other factors. To come to grips with a cluster of human actions as a unique event means to lift up the entire web of history at a particular point and to observe how its many strands spread out sideways and backwards.

If we were to adopt a unique events approach to the history of colonial rule in German New Guinea, we would therefore have to start at its end rather than at its beginning, for if we take the granting of an imperial charter to the Neu Guinea Kompagnie in May 1885 as the official start of German colonial rule, its examination can only lead us back in time and away from the Pacific. But an examination of the capitulation of German New Guinea in September 1914 as the official end of German colonial rule is just as unhelpful. Instead of lifting the lid off the history of German New Guinea, lifting the web of history at this point passes it by, since the strands emanating from this event extend around the globe instead of reaching down into the history of this colony.

This is not surprising because it is historically immaterial that German colonial rule ended with the capitulation of the acting governor. The capitulation was not the culmination of German colonial rule, it merely marked its end, which could just as well have come about at a different time and in a different way. By contrast the capitulation is a significant event in the history of the Australian military occupation of German New Guinea. But its significance in this context is due to its structural implications and not to the combination of particular features constituting its uniqueness. We can appreciate this significance without knowing anything about the acting German governor or the Australian commander as persons, about the events preceding the capitulation, about the formalities accompanying it or about the physical environment in which it took place; we only have to look at the text of the terms of capitulation, just as we only have to look at the text of the 1885 imperial charter to appreciate the significance of the event of its granting for the exercise of German colonial rule.

What about cases where the historical significance of an event is not so conveniently encapsulated in a legal document? What about, for example, the assassination of the archduke of Austria which is said to have caused the outbreak of World War I, and thereby also the end of German colonial rule in the Pacific? Was this assassination a significant event in the history of World War I? Which of the particular features constituting it as a unique event do we have to know in order to answer this question? Does historical significance have to do with causation, at least in the negative sense that an event is historically insignificant if it did not cause the sequence of events a historian wants to describe?

It is plain that any event is simultaneously part of a multitude of causal chains and that it is never the only cause of any other event. On the other hand, it is doubtful whether an event, seen as a cluster of human actions and reactions, can as such cause anything. While it may be unproblematic to establish a causal link between a particular action of the assassin and the death of the archduke, it was not this action but the news of the assassination of the archduke which caused the response in distant places which led to the outbreak of World War I. Is it historically helpful to speculate what would have happened if the assassination had not taken place, or if the archduke had only been wounded, or if he had instead been assassinated during a visit to Paris or

shot dead by the husband of a mistress? Is it historically constructive to distinguish between immediate and deep causes or between causes, triggers and contributing factors? Is the historically important issue a question of responsibility rather than causality? Was the assassin responsible for the outbreak of World War I, or does this responsibility lie with the Austrian, or the German, Russian, French or British governments? Is it the task of historians to apportion this responsibility retrospectively as objectively as possible?

Conversely, are the causes of World War I immaterial for a history of that war, unless they can be shown to affect what happened during or after that war? Is it historically productive to consider what would have happened if Germany and her allies had been victorious? Should we begin an examination of the history of colonial rule in German New Guinea by asking what would have happened if Germany had never become a colonial power in the Pacific? Should we continue to apply this speculative significance test right down to the level of particular events? Do particular human actions become historically irrelevant if they did not alter the course of history? Do we waste our time studying the history of colonial rule in German New Guinea if we come to the conclusion that the position in the geographical area in question today would look basically the same if we should think it away? Is a study of German colonial law superfluous if it did not leave a lasting and unmistakable mark on the legal systems currently operating in this area? Can we forget about the hoisting of the German flag on Matupit Island in November 1884 if we can think it away without altering the course of history?

But what would be left of history after we had finished applying this test? And how do we apply it, since we know nothing about alternative courses of history which did not take place and produced no historical record against which we can test our imagination? On the other hand, how do we deal with the actual historical record unless we can apply some kind of relevance test to the vast amount of information it contains? How does a narrative approach to history handle this question?

It is time for another case study, this time E.H. Carr's "acclaimed reflections on the theory of history and the role of the historian". Carr approaches the question: "What is history?" with the help of a straw man called "the commonsense view of history". According to this view, Carr says, history "consists of a corpus of ascertained facts" which "are available to the historian ... like fish on a fishmonger's slab. The historian collects them, takes them home, and cooks and serves them in whatever style appeals to him" (1990: 9). But, according to Carr, this view "clearly will not do", because it fails to distinguish "the facts of history from other facts about the past" (ibid.: 10). However, Carr first prepares the ground by making a preliminary distinction, namely between "facts about the past" and what may be called facts about the present.

I shall not embark on a philosophical discussion of the nature of our knowledge of the past. Let us assume for present purposes that the fact that Caesar crossed the Rubicon and the fact there is a table in the middle of the room are facts of the same or of a comparable order, that both these facts enter our consciousness in the same or in a comparable manner, and that both have the same objective character in relation to the person who knows them. But, even on this bold and not very plausible assumption, our argument at once runs into the difficulty that not all facts about the past are historical facts, or are treated as such by the historian. What is the criterion which distinguishes the facts of history from other facts about the past (1990: 10)?

To be sure, there are differences between our knowledge of the two facts contrasted, but there is no need for a philosophical discussion to see that Carr's absurdly oversimplified comparison does not address the questions raised.⁹

9 Did a person who observed Caesar crossing the Rubicon also have a different kind of knowledge of this fact compared with the knowledge of a person observing a table standing in front of him? In what respects does their respective knowledge differ between a person who is told by another person on the telephone that this person is observing a table

But what Carr implies about the differences between our knowledge of the past and the present is merely meant to deflect attention from his highly questionable distinction between "historical facts" and other "facts about the past"; for had Carr not dazzled us with his absurd comparison we might have seen that the difficulty he sets out to overcome is his own creation: unnecessary but strategically useful.¹⁰ In other words, all this shilly-shallying is meant to create an atmosphere of mysterious ambiguity in which Carr can pose his crucial phantom question: what is a historical fact?

As is to be expected, Carr avoids a straightforward answer. Instead he gives a multitude of partial answers before he merges this question with the question: what is history? But his "first answer" to this second question also obliquely answers the first question because history, according to Carr, "is a continuous process of interaction between the historian and his facts, an unending dialogue between the present and the past" (*ibid.*: 30). While this answer sounds reasonable as a definition of what historians ought to be doing, it contains, at the same time, the proposition that history is identical with what historians actually do. But we have already been transported to Wonderland where the meaning of words is deliciously flexible. Here "history" can indeed almost, but not quite, mean "historiography", just as facts are, "strictly speaking", not at all facts because in Wonderland non-historical facts do not exist as such but are "about" something else. Hence they can be simultaneously dead and capable of interacting with the historian, who, as a spokesman of the present, conducts an unending dialogue with the past.

Let us see what form this unending dialogue takes; how Carr, by distinguishing between the many unhistorical "facts about the past" and the few "historical facts", creates a realm of history that is distinct from the past as well as the present, because it is constituted by these historical facts that are no longer about something else once the professional consensus among historians has given them a timeless narrative factuality.¹¹

What is a historical fact? This is a crucial question into which we must look a little more closely. According to the commonsense view, there are certain basic facts which are the same for all historians and which form, so to speak, the backbone of history—the fact, for example, that the Battle of Hastings was fought in 1066. But this view calls for two observations. In the first place, it is not with facts like these that the historian is primarily concerned. It is no doubt important to know that the great battle was fought in 1066 and not in 1065 or 1067, and that it was fought at Hastings and not at Eastbourne or Brighton. The historian must not get these things wrong. But when points of this kind are raised, I am reminded of Housman's remark that 'accuracy is a duty, not a virtue'. To praise a historian for his accuracy is like praising an architect for using well-seasoned timber or properly mixed concrete in his building. It is a necessary condition of his work, but not his essential function. It is precisely for matters

in the room from which he is speaking and a person who is reading today an ancient letter in which Caesar described how he crossed the Rubicon? Does the knowledge of a person observing the table become more secure, because he can continue to touch the table whereas a person who observed Caesar crossing the Rubicon could hardly have asked Caesar to repeat this action because he was no longer certain that his eyes had not tricked him the first time? Is it possible for a person to know that he is observing a table in the middle of the room, or can he only know that he observed it a split second before, when his eyes received the optical signals his brain subsequently translated into the knowledge of this fact? Can we, if we can know facts at all, only know facts about the past? Is it the present, rather than the past, that is, in principle, unknowable?

10 Carr gains a big advantage by asserting that not all "facts about the past" are "historical facts", rather than making the more plausible assertion that not all "facts about the past" are historically significant. He strengthens his position further by suggesting that being a historical fact and being treated as such by historians is pretty much the same but that being "historical" is nonetheless a property of some "facts about the past", so that it is the absence of this property that makes all other "facts about the past" "unhistorical", rather than their treatment as such by historians.

11 If factuality could be achieved so easily Carr's reflections would hardly have been necessary. But it is not, and the purpose of the reflections is again a strategic muddying of the waters rather than a critical examination of the problem. Does Carr's distinction between "basic facts" as the raw material of the historian which is produced by the "auxiliary sciences" of history and "history itself" itself stand up to scrutiny? Does Carr seriously believe, for example, that the precise date of the Battle of Hastings has been, or could be, established by elaborate astronomical calculations?

of this kind that the historian is entitled to rely on what have been called the 'auxiliary sciences' of history—archaeology, epigraphy, numismatics, chronology, and so forth. The historian is not required to have the special skills which enable the expert to determine the origin and period of a fragment of pottery or marble, to decipher an obscure inscription, or to make the elaborate astronomical calculations necessary to establish a precise date. These so-called basic facts, which are the same for all historians, commonly belong to the category of the raw materials of the historian rather than of history itself. The second observation is that the necessity to establish these basic facts rests not on any quality in the facts themselves, but on an *a priori* decision of the historian. In spite of C.P. Scott's motto, every journalist knows today that the most effective way to influence opinion is by the selection and arrangement of the appropriate facts. It used to be said that facts speak for themselves. This is, of course, untrue. The facts speak only when the historian calls on them: it is he who decides to which facts to give the floor, and in what order or context. It was, I think, one of Pirandello's characters who said that a fact is like a sack—it won't stand up till you've put something in it. The only reason why we are interested to know that the battle was fought at Hastings in 1066 is that historians regard it as a major historical event. It is the historian who has decided for his own reasons that Caesar's crossing of that petty stream, the Rubicon, is a fact of history, whereas the crossing of the Rubicon by millions of other people before or since interests nobody at all. The fact that you arrived in this building half an hour ago on foot, or on a bicycle, or in a car, is just as much a fact about the past as the fact that Caesar crossed the Rubicon. But it will probably be ignored by historians. Professor Talcott Parsons once called science 'a selective system of cognitive orientations to reality'. It might perhaps have been put more simply. But history is, among other things, that. The historian is necessarily selective. The belief in a hard core of historical facts existing objectively and independently of the interpretation of the historian is a preposterous fallacy, but one which it is very hard to eradicate.

Let us take a look at the process by which a mere fact about the past is transformed into a fact of history. At Stalybridge Wakes in 1850, a vendor of gingerbread, as the result of some petty dispute, was deliberately kicked to death by an angry mob. Is this a fact of history? A year ago I should unhesitatingly have said 'no'. It was recorded by an eye-witness in some little-known memoirs; but I had never seen it judged worthy of mention by any historian. A year ago Dr Kitson Clark cited it in his Ford lectures in Oxford. Does this make it into a historical fact? Not, I think, yet. Its present status, I suggest, is that it has been proposed for membership of the select club of historical facts. It now awaits a seconder and sponsors. It may be that in the course of the next few years we shall see this fact appearing first in footnotes, then in the text, of articles and books about nineteenth-century England, and that in twenty or thirty years' time it may be a well-established historical fact. Alternatively, nobody may take it up, in which case it will relapse into the limbo of unhistorical facts about the past from which Dr Kitson Clark has gallantly attempted to rescue it. What will decide which of these two things will happen? It will depend, I think, on whether the thesis or interpretation in support of which Dr Kitson Clark cited this incident is accepted by other historians as valid and significant. Its status as a historical fact will turn on a question of interpretation. This element of interpretation enters into every fact of history (*ibid.*: 10-13).

How does the "element of interpretation" enter into "every fact of history"?¹² How did, for example, "the historian" interpret "Caesar's crossing of that petty stream, the Rubicon" before he decided, "for his own reasons", to treat it as a fact of history? What reasons did "the historian" have, and did these reasons have anything to do with an interpretation of the fact of Caesar's crossing? Is it an interpretation of this fact that Caesar did not cross the Rubicon by himself, as a private individual, but as the commander of the 13th legion of the Roman army, and together with all his men, or an interpretation that the Rubicon was not any old petty stream but formed the border between Italy and Cisalpine Gaul, so that the crossing amounted to a declaration of war? Did "the historian" have much choice under these circumstances but to accept it as a "historical fact", especially since Caesar apparently made sure that his immortal line "*alea jacta est*" (the dice

12 "Interpretation" as used here is, of course, a narrative rather than analytical term. It contains not only elements of evaluation, as well as explanation, but also justifies the exercise of narrative freedom in the selection of facts to be included in an account of history. On the other hand, it is clear that "interpretation" does not refer to a critical examination of the historical record with the aim of testing the factuality of the information it contains. After all, the facts about the past are not even part of history, as history is a matter of architectural design, not of properly mixed concrete.

has been cast) was widely reported? Can a historian today do more than to add in a footnote that according to Plutarch, Caesar—for reasons of his own—had uttered this line in Greek rather than in Latin, or that, contrary to Carr's view, people would now find it difficult to cross the Rubicon because it is uncertain whether the river which Caesar crossed is today's Fumicino, or the Rugone or even the Lusa, as decreed by the Vatican in 1756?¹³

Do historians have their own reasons for regarding the battle of Hastings as a major historical event? Does this status owe anything to their interpretation of this event? Is the fact that historians treat the battle as a major historical event the reason that "we" want to know that it was fought at a particular time in a particular place? Would it diminish "our" understanding of its historical significance if we only knew that a great battle had taken place somewhere in southern England during the second half of the 11th century which ended with a decisive victory for the Normans? Do historians report these details rather because they give substance to their narratives? Does Carr also skip from one mildly relevant quotation to the next, because that appears to give his treatment of the question "What is a historical fact?" a quasi-narrative substance which saves him from having to develop a rational argument?

At any rate, it is another quotation which lends substance to his observation that historians are also a dangerous bunch because "The dead hand of vanished generations of historians, scribes, and chroniclers has determined beyond the possibility of appeal the pattern of the past" (*ibid.*: 14) by discarding as unhistorical the "mass of other facts, in which we might have possibly found evidence to the contrary". Hence, according to the quote from Professor Barraclough, "The history we read, though based on facts, is, strictly speaking, not factual at all, but a series of accepted judgements" (*ibid.*)—which is, of course, strictly speaking, at best metaphorically true.

Yet, the "vast winnowing process" which this series of judgements has brought about has a great advantage for subsequent historians, because it leaves only "a manageable corpus of historical facts" at their disposal. But Carr takes shelter behind yet another quotation so that he can reach the climax of his observations in an atmosphere of light-hearted irony.

As Lytton Strachey said, in his mischievous way, 'ignorance is the first requisite of the historian, ignorance which simplifies and clarifies, which selects and omits.' When I am tempted, as I sometimes am, to envy the extreme competence of colleagues engaged in writing ancient or medieval history, I find consolation in the reflexion that they are so competent mainly because they are so ignorant of their subject. The modern historian enjoys none of the advantages of this built-in ignorance. He must cultivate this necessary ignorance for himself—the more so the nearer he comes to his own times. He has the dual task of discovering the few significant facts and turning them into facts of history, and of discarding the many insignificant facts as unhistorical. But this is the very converse of the nineteenth-century heresy that history consists of the compilation of a maximum number of irrefutable and objective facts. Anyone who succumbs to this heresy will either have to give up history as a bad job, and take to stamp-collecting or some other form of antiquarianism, or end in a madhouse (*ibid.*: 14-15).

Why is it a heresy? Because this "nineteenth-century fetishism of facts was completed and justified by a fetishism of documents".

The documents were the Ark of the Covenant in the temple of facts. The reverent historian approached them with bowed head and spoke of them in awed tones. If you find it in the documents, it is so. But what, when we get down to it, do these documents—the decrees, the treaties, the rent-rolls, the blue books, the official correspondence, the private letters and diaries—tell us? No document can tell us more than what the author of the document thought—what he thought had happened, what he thought ought to happen or would happen, or perhaps only what he wanted others to think he thought, or even only what he himself thought he thought. None of this means anything until the historian has got to work on it and deciphered it. The facts, whether found in documents or not, have still to be processed by the

13 See the Rubicon entry in the 1886 edition of the Brockhaus encyclopaedia.

historian before he can make any use of them: the use he makes of them is, if I may put it that way, the processing process (ibid.: 16).

Moreover, this “processing process” not only has to establish the meaning of a particular document but also the meaning of history in general, at least if the historian in question has discarded the self-confident ideological baggage which included the naïve fact fetishism of the 19th century.

Let everyone get on with his particular job [thus goes its obsolete message], and the hidden hand would take care of the universal harmony. The facts of history were themselves a demonstration of the supreme fact of a beneficent and apparently infinite progress towards higher things. This was the age of innocence, and historians walked in the Garden of Eden, without a scrap of philosophy to cover them, naked and unashamed before the god of history. Since then, we have known Sin and experienced a Fall; and those historians who today pretend to dispense with a philosophy of history are merely trying, vainly and self-consciously, like members of a nudist colony, to recreate the Garden of Eden in their garden suburb (ibid.: 20).

By contrast modern historians no longer walk naked before the god of history but are decently dressed in their tailor-made phantom clothes, designed for pleasant little fishing trips; for the “facts about the past” are “really not at all like fish on the fishmonger’s slab”, rather,

They are like fish swimming about in a vast and sometimes inaccessible ocean; and what the historian catches will depend, partly on chance, but mainly on what part of the ocean he chooses to fish in and what tackle he chooses to use—these two factors being, of course, determined by the kind of fish he wants to catch. By and large, the historian will get the kind of facts he wants. History means interpretation. Indeed, if, standing Sir George Clark on his head, I were to call history ‘a hard core of interpretation surrounded by a pulp of disputable facts’, my statement would, no doubt, be one-sided and misleading, but no more so, I venture to think, than the original dictum (ibid.: 23-24).

This is how simple and confused things are in the Wonderland of modern history, where visitors are no longer served a variety of seafood dishes but always the same old narrative omelette, although flavoured with a liberal dose of different pre-liberal, liberal, post-liberal or neo-liberal phantom spices. Instead of facing the challenges a modern historical record offers, Carr refuses to leave the pre-modern paradise of narrative history, because peeping over its walls the outside world looks indeed like a madhouse inhabited by frustrated stamp-collectors, whereas in Wonderland historians are still entitled to ride on the back of “the ‘auxiliary sciences’ of history” when performing their essential function of interpreting a manageable corpus of historical facts, which historians are creating by passing judgements on the basis of cultivated ignorance. How unfair to expect a historian, as an aspiring man of letters, to make “the elaborate astronomical calculations necessary to establish a precise date” for the beginning of German colonial rule in the Pacific. Let them get on with what they have been trained to do: stuffing the empty sacks of facts about the past with enough phantom details to make them stand up and proudly display the messages the historian has written on them. Or are historical facts in Wonderland really not at all like empty sacks? Are they, in fact, like the skins of colourful balloons which lie around, gathering dust, until they are filled with hot air so that they can rise up into the sky to the delight of everybody?

The problem was that all these beautiful balloons burst when they drift across the borders of Wonderland and are critically examined—for example by asking what kind of reasons of their own historians do, can, may or ought to have for turning a few facts about the past into potential facts of history, or on what basis their colleagues do or do not accept such an interpretation as valid or significant.

X

It was a sad spectacle to see Carr's elegant phantom justification of narrative phantom history disintegrate but also frightening to realise that such an intellectual Pavlova—no joke but plenty of wit, as an aspiring man of letters might say—is still dished up to students of history as a model of what they should aspire to. On the other hand, Carr's performance gave me the courage to also run the risk of making a fool of myself in the eyes of critical readers by sharing a personal reminiscence of my own.

Like Carr's, my personal reminiscence had to do with the shock of discovering what historians were doing to history. But since I was not an enthusiastically budding historian when I had this experience, the effects on me were more traumatic. Instead of learning to enjoy the power of creating phantom history like a true professional, I started to sleep badly and was haunted by my dreams even when I was awake.

Three of these dreams kept recurring. The first was easy to "interpret". I was fighting my way through a world of brambles, not towards a sleeping beauty but towards a black hole through which I was sucked into Alice's Wonderland where I ran into the Queen of Hearts wherever I went, her scream, "Off with their heads!" constantly reverberating in my mind.

In the second dream I was facing an animated but silent copperplate engraving of the Tower of Babel: tiny figures milling around the huge, unfinished structure, making mud-bricks and carrying them up a spiralling ramp which already reached so high that I could no longer discern what was happening at the top. I just watched and watched, endlessly it seemed, until the screen was switched off.

The third dream also featured an illustration I remembered from my childhood: a scene from Andersen's "The Emperor's New Clothes" when the little boy shouted, "Look, he is naked!" But as I heard him crow triumphantly, I knew he was wrong, not because the emperor was decently dressed in a long-sleeved and long-legged set of heavy unbleached cotton underwear, but because the shadowy tailors behind him continued to smile their foxy smiles under their sharp noses with the greatest assurance. Since I somehow knew that the little boy was "the historian" and that the tailors were "the lawyers", the meaning of the dream could easily be worked out. Although he had jolly red cheeks and a merry twinkle in his eyes instead of shooting steely glances over the upturned tips of his waxed moustache, the emperor was Wilhelm II parading through his empire. But in the background the tailors were busily weaving their legal spider's net. They had thrown it over the emperor and its outer strands were already reaching for the little boy's head. Yet, he did not seem to suspect for a moment that he was just providing a welcome distraction—or had he seen one of the tailors slinking away to buy him the ice cream he had been promised as a reward for his performance?

The second dream was a harder nut to crack. I vividly remembered how the biblical story had outraged me as a teenager, because I had interpreted it as yet another jealous interference of this horrible God who wanted to prevent humankind from building a structure so high that it would, once and for all, prove that the heavens were empty. Now it seemed to me that God had acted out of kindness. He did not employ his divine powers to beat his rebelling creatures into submission but to save them from wasting their energies on following an impossible and suicidal vision. Instead of commanding the ground to open, to swallow the tower and all engaged in its construction, he achieved his altruistic goal by creating a multitude of languages. He shut down the construction site simply by breaking the chain of commands which had kept it going.

Then I had a disturbing afterthought: while the divine intervention had stopped the construction of the Tower of Babel, it had left the historians of this event untouched. Their narrative could not only be told in any of the multitude of languages which resulted from this intervention, but their narrative approach had cornered the global history market; for who, after

listening to their catchy little number, would want to learn how the Tower of Babel, or any other manifestation of human hubris, was actually constructed? Nor was there any need to perform this laborious task since their narrative version of history implied that there would always be a *deus ex machina* who was going to prevent the ultimate triumph of the tailors. As far as narrative history is concerned, the emperor is indeed naked, and his new clothes are a conspiratorial phantom which the little boy is called upon to expose, without fear or favour.

This afterthought, however, could still not be the message my dream was trying to convey because it was not at all concerned with the divine intervention which is supposed to have taken place. In my dream history was not a narrative but a construction site. Yet it had as little in common with physical space as it had in common with astronomical time. It formed a fifth dimension. History was not the account of events which had once taken place in physical space. It was itself a timeless, non-physical space which was real only in the Here and Now, where it was represented by the surviving historical record. History *was* the historical record; and it represented a map, instead of serving as a quarry from which smaller or larger quantities of building blocks for the construction of historical narratives could be mined.

Once I had grasped that my kind of history had to do with historical space, I also began to see how the historians' Tower of Babel was constructed. It mystified history by treating it as something which took place in the astronomical time-dimension. The term "taking place", which offered itself in this context, already indicated the problems this created. The mechanical "spacing" of time, by the ticking of an imaginary, astronomical clock, is itself meaningless. The "passage" of time must be turned into a "journey" in order to become history. It must have a beginning and an end, a destination, a purpose. The changes in scenery one encounters in the course of a journey through physical space have to be replicated for a journey through astronomical time. History constructed as a passage through astronomical time becomes identified with change and, more specifically, with change represented by deeds of human actors. These actions are, in turn, linked with the purpose of the journey through time. The mechanical ticking of the imaginary, astronomical clock is replaced by the mysteriously meaningful, but equally imaginary, heartbeat of history. History becomes its own actor. In Hegelian fashion it acts itself out, and, in so doing, writes the play it is performing, watched by historians who merely recount in their narratives what they see being performed.

These underlying assumptions of narrative history are, of course, not meant to be spelt out. Instead, the transformation of history into meaningfully structured astronomical time begins with a strategic division of the time dimension into periods: the Present, the Past and the Future. This periodisation not only gives the time dimension a direction—it passes from the Past, through the Present, into the Future—but makes it change its quality in the process. Time is somehow real in the Present, whereas it has, as the Future, only the potential of becoming real. By contrast, time passed no longer has a potential. The Past is dead. But, having once been alive, it is more substantial than the Future. The Past continues to lead, as history, a retrievable, ghost-like existence.

To be sure, this periodisation of time was not invented by historians, but it suits their professional needs admirably. It marks out the Past as their exclusive domain and endows it with all the professionally desirable attributes. It constitutes the Past as something which is neither fish nor fowl, and the task of the historian as something which is unique and mysterious. Since the Past is no longer real, it is also no longer accessible to scientific methods, so that history cannot be a science. On the other hand, having once been real, history cannot be an art either because it must be factual. History is neither true nor false, neither real nor imaginary. It is unpredictable but meaningful. It is subjective but not arbitrary. By the same token, historians cannot be held accountable for what they are doing because they perform an impossible task. Nor is there a need

for accountability because their activity is devoid of practical consequences. After all, what they are offering is only history.

A perfect smoke-screen—but no more than that, because the periodisation of astronomical time, on which it rests, is itself a phantom. As soon as we examine what is taken for granted, it becomes clear that the Present does not exist. Seen as located within the dimension of astronomical time, it can be no more than the logical second during which the future turns into the past, no more than a door through which the not-yet passes to become the no-more. It acquires a semblance of reality if we perceive it as the point where astronomical time and physical space intersect, where the former takes place inside the latter. But this still does not give us the space of time for which we are grasping. Instead of helping us to understand what we are facing, the historical periodisation of astronomical time replaces it with an ideological structure which presents the historical time-space as a combination of motion and meaning. History, it tells us, consists of the deeds of historical actors who are marching through time, through a present which once was, the past behind their backs and their eyes firmly fixed on the future.

The message conveyed by my dream was that history is no more a journey through astronomical time than a journey through physical space. History is not concerned with historical actors and their actions but with the historical stages on which they perform. Events become historical not because they took place in the Past, but because they took place on a historical stage which is different from the one on which we ourselves are living and which we assume to be familiar. Events become historical if they require a historical explanation, because they took place on a different historical stage and they are historically significant if they help to illuminate the historical stage on which they took place.

But my dream also confirmed that history is mysterious. It merely denied that it was mysterious because it was the Past and that it was non-mysterious when it had been the Present. Historians are right in claiming that it is impossible to establish what the past was really like—but no more impossible than to establish what the present is really like.

What is the difference between a historian dealing with the assassination of Caesar and a court dealing with the murder of John Doe. Not that the former deals with the past and the latter with the present. To be sure, there are significant practical differences between trying to establish what happened two minutes or two thousand years ago. But they are not decisive. What makes the difference is that the tasks of courts and historians are different. Nothing stops us from dealing with the assassination of Julius Caesar as a court, or with the murder of John Doe as historians. The question is what we are supposed to do, as historians, if we deal with either of these events, whereas the tasks of a court are reasonably well defined.

The first step appears to be the same: the facts of the matter need to be established. But then the task of the court enters into a crucial, second phase. It applies the law to these facts and arrives at an enforceable legal decision. If we ask historians if their task is also a two stage process, they will deny that it is their task to use the facts of history to demonstrate the existence or non-existence of historical laws but also refuse to accept that their task is completed when they have established the facts of history as fully, and as reliably, as possible. They will even deny that the historical facts themselves can ever be known, so as to gain for themselves a vague historical discretion—which is, of course, claimed to have nothing in common with the artistic licence of a historical novelist.

As far as their own professional activity is concerned, historians refuse to place themselves under the Rule of Law. They want to be free to judge historical actors, without binding themselves by rules of evidence, and without having to identify the norms of behaviour they are applying. It suits them to present history as a troubled water under a twilight sky which permits them to do some gentlemanly fly-fishing, without having to bother to distinguish whether they are catching pink salmon or red herrings. Naturally, they will assure us that they have instead been tirelessly

mining the historical record, under a blazing sun, driven by the stockwhip of their own professional conscience, sifting through mountains of historical evidence before cautiously constructing their narratives, and that they have removed the scaffolding and the rubble only afterwards, in the interests of their readers who deserve the best: elegance, as well as reliability. Yet, the historiographical treatment of colonial rule in German New Guinea by narrative historians shows that this image is no more realistic than the claim that lawyers are engaged in a continual, selfless struggle for justice.

Seen as a normative order law shares some of the mysterious qualities of history, although it is concerned with the future rather than the past, because its primary task is to shape human actions which have not yet been performed. Nonetheless normative orders exist as normative orders in the Here and Now, and they are applied to judge human actions which have been performed in the past. But law as a historical phenomenon is a great deal more than a normative order, especially under the Rule of Law, when it becomes the dominant instrument for the organisation and operation of government and produces all manner of records which typically consist of frozen history and represent, as far as they go, how the past has really been.

"Stop it, stop it!", I heard the boy from Andersen's tale shouting at this point, "We all know that all this legal and quasi-legal nonsense is not real. Real is only what people actually do. All this normative crap is simply not history." Since I could predict what his reaction would be I took up the challenge. "Fair enough", I told him, "let us compare what people actually did in German New Guinea with what they were supposed to do according to the law, to find out how effective or ineffective law was as a normative order". The boy, suddenly looking old, tired and angry, threw up his hands in horror. "I am a historian", he screamed, "not a bloody sociologist. Have I not told you a thousand times that the past is mysterious and not accessible to scientific methods. History has nothing to do with the social sciences or anything else. History is history; and history, dammit, is what I, as a historian, declare it to be, and I declare it, following the excellent example of the American Legal Realists, to be no more and no less than what I am actually doing, and since I am doing narrative, history is henceforth narrative. Whatever is non-narratable is non-history and has nothing to do with me or history. Let me tell you for the last time that law is historically irrelevant, just as the Never-Never Land of statistical probabilities is not history. Quantification, my foot! Reducing history to a set of statistical tables—and this is what all your romantic babble about historical space amounts to, isn't it?"

Was it? Did my dream tell me that I had to count the bricks and weigh the mortar which had gone into the construction of the Tower of Babel instead of telling stories about divine interventions? I liked the image of the Never-Never Land of statistical probabilities—and was beginning to wonder whether this was the Wonderland into which I had been sucked in my first dream.

Since a quantification of history was as likely to produce phantom histories as its narrativisation, albeit of a different brand, a combination of these two approaches was perhaps the way to go. Quantification as a control-mechanism, as a means of making narrative history more objective, as a means of sorting out the narrative sheep from the goats by establishing statistically what was typical and what was not? But typical of what? Quantification can substantiate or invalidate hypotheses. It can test intuition; it can keep us on track; but it cannot tell us where we ought to be going. It cannot tell us which of the myriad of possible quantifications are historically rewarding. It cannot provide us with a typology or identify of what an action is supposed to be representative.

A quantification of history can help us, for example, to establish how effective the colonial law of German New Guinea was, as a normative order, but it can tell us nothing about it as a normative order. Yet it can do something else, namely demonstrate that testing of hypotheses is an odd way of doing history. This does not mean that it would be historically inappropriate to raise the

question of the effectiveness of the colonial law in German New Guinea, but it is a supplementary question which can only be meaningfully addressed after we have established what it was, as a normative order. It is, historically speaking, absurd to say "let us first suppose that law is a normative order, and then test its effectiveness"; and it is doubly absurd to use a narrative token demonstration of its alleged ineffectiveness as an excuse for dismissing it as historically irrelevant as a normative order. Even if the test could be carried through, it can only achieve what it set out to do, namely to prove empirically the extent of the effectiveness of this normative order; and this amounts, historically, to very little.

Taken by itself quantification is historically meaningless. There is no point in counting the bricks and weighing the mortar used in the construction of the Tower of Babel. What matters is the structure of the building. But quantification can become an end in itself and this is the ultimate goal of the great bureaucratic conspiracy in which the Rule of Law is only a passing phase, a concession to the fact that it has not yet been possible to eliminate the human factor from the operation of government altogether. The ultimate goal is not a government of people by people but the computer management of resource statistics, including human resources, programmed to maximise economic growth, not because this is regarded as desirable but because the system offers no choice.

This is what the Tower of Babel may eventually look like and historians only help in its construction as long as they erect high fences around the building site and paint them with colourful narrative facades which are supposed to depict what is going on behind them but, in fact, merely prevent everybody from seeing what this is.

This was what my Andersen dream was telling me: it was high time to stop shouting "Look, he is naked!" and to start inspecting the loom on which the emperor's new clothes are woven and the yarn which is used to weave the cloth from which they are fashioned. It is high time to recognise that historians are simply not doing their job if they are rowing their boats across the ever expanding ocean of "facts about the past", casting their lines until they have caught enough fish of the kind they want to catch. The historical record is not an ocean of indifferent facts which contains a few special drops which narrative historians can transform with the elixir of their interpretations into history, it is itself a product of a historical process which neither begins nor ends when the events recorded took place.

"The dead hand of vanished generations of historians, scribes, and chroniclers" can indeed determine the patterns of the past "beyond the possibility of appeal" but this is, for better or for worse, not yet the case with the history of colonial rule in German New Guinea. Here many of the patterns of the past are still preserved as frozen history in the primary sources to which appeal can be made when examining how past and present historians, scribes and chroniclers have performed their task. We can still go behind the fences they have erected around the construction site of history, compare what we see with the narrative facades they have painted on them and observe, at the same time, how history becomes gradually less unique and more typical and hence not only less narratable but also less meaningful in human terms—and not just for those who read or write it but also for those who make and experience it when it is happening.

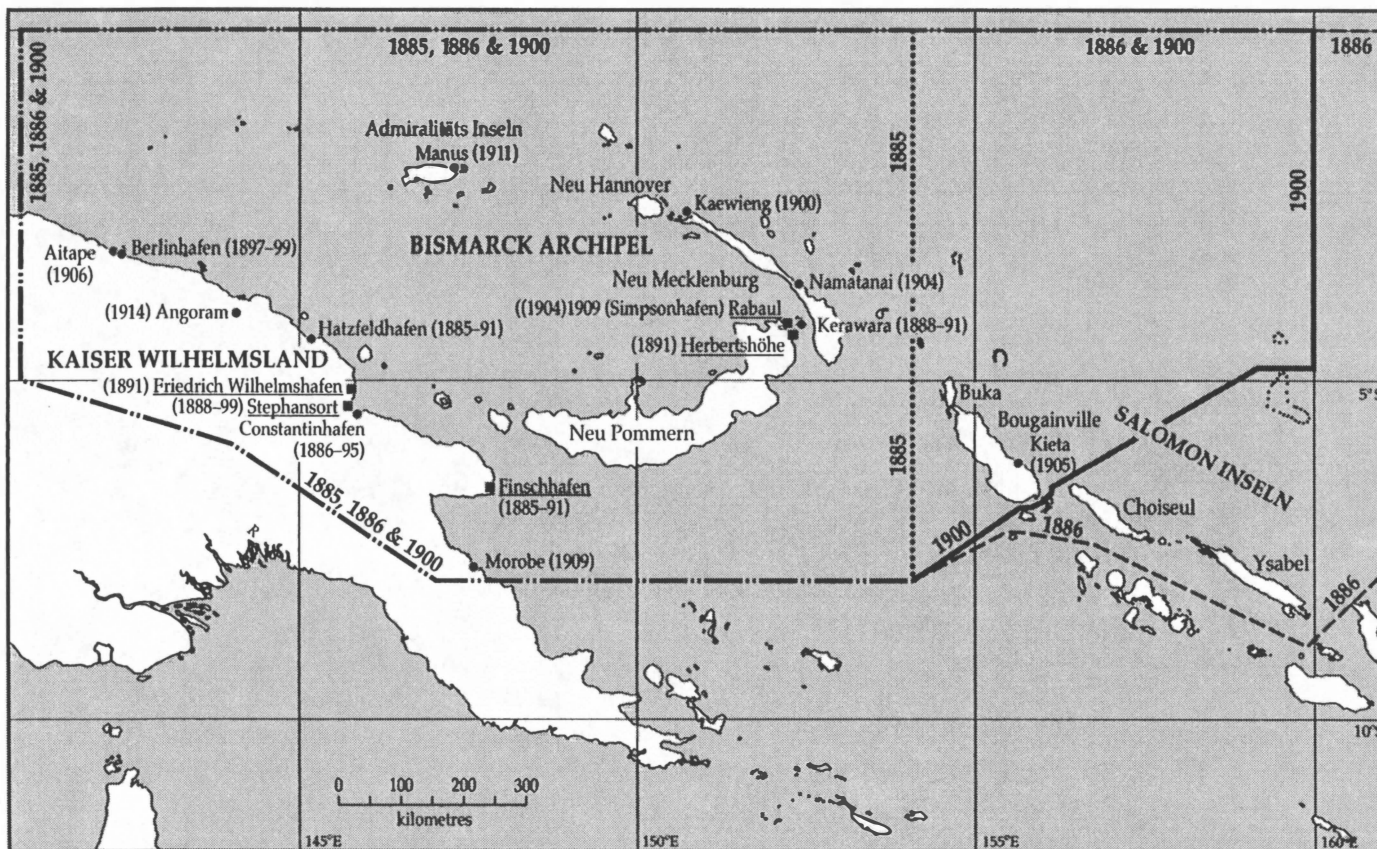
Let me show you what I found when I examined one of the details in one of these facades, instead of relishing it as a juicy narrative ingredient as I was meant to do.

VOLUME I

The Tower of Babel

PART I

Travels in Wonderland



MAP II: The Old Protectorate: boundaries and government stations (successive capitals underlined)

Chapter I: Morphine, Routine and First Encounters

I

A casual reference to a morphine addiction of the district commissioner in Friedrich Wilhelmshafen, Ernst Berghausen (Firth, 1982: 96), caught my attention. It did so, not because I was shocked by the claim that a senior member of the German colonial service had been drug-dependent, but because the reference suggested that it was not only natural that this should have been so, but equally natural that Berghausen's superiors did nothing about it, although his addiction had apparently made him for much of the time incapable of carrying out his duties. In other words, what troubled me was not the possibility of Berghausen's morphine addiction but the possibility that German New Guinea had been governed by a bunch of people who were either corrupt or incompetent, or both, so that all the governmental records they had produced were bound to be unreliable.

To put my mind to rest, I therefore had not just to establish whether Berghausen had been a morphine addict but also, if this had been so, whether his case, including the implied lack of remedial action on the part of his superiors, had been typical. When I began to appreciate the magnitude of the task, it dawned on me that it was the undramatic reverse side of the coin I was looking at which presented the primary challenge. The first question to be answered was not whether and to what extent Berghausen had been affected by a morphine addiction in the performance of his duties, but what these duties were, and what he had actually done, in his official capacity, week after week, from 9 a.m. to 5 p.m., Monday to Friday, or whatever his working hours were. The central issue was routine rather than morphine. Although legitimate and potentially illuminating an examination of the role of individual human weaknesses in the exercise of German colonial rule was a second order task. It could only be tackled after the shape of this rule, for example in the Friedrich Wilhelmshafen district under Berghausen, had been established.

It seemed sensible to tackle the primary task by ascertaining when Berghausen had served as district commissioner in Friedrich Wilhelmshafen. This, I thought, could easily be accomplished by consulting an authoritative administrative history of Germany which included lists of the leading officials in the various administrative divisions of the German colonial empire (the "Hubatsch Lists"). In the list for the Friedrich Wilhelmshafen district (Hubatsch, 1984: 517), Erich (not Ernst!) Berghausen was shown as having served as district commissioner in 1913-1914, succeeding Dr Benno Scholz (Madang), who was listed as having served from 1909 through to 1913. But the list also referred to an article by Berghausen, entitled "A Fight with the Mountain Tribes in the Finisterre Ranges", in the Friedrich Wilhelmshafen district, published in 1911, so that one would assume that Berghausen had already been active there during or before that year. Yet, how could this be since he was also shown (ibid.: 542) as having served as district commissioner in the Marshall Islands, between 1909 and 1911? I was experiencing my first encounter with phantom history, for which being in two places at once is but a minor feat. But the Hubatsch Lists offered a consolation prize, in the form of a reference to the official obituary for Berghausen which, I hoped, would quickly sort out matters.

Signed by the secretary of the colonial office, the obituary (DKB, 1917: 129) stated that Ernst (not Erich) Berghausen had died on 13 April 1917 of wounds received while commanding an artillery unit in Romania, earning the Iron Cross of the second as well as the first class. About Berghausen's time in German New Guinea it had this to say: He arrived in August 1908. After serving in different branches of the administration, he was placed in charge of the district office

and the district court in Friedrich Wilhelmshafen. No date was given but the period of his stay was said to have been 16 months, of which he spent as many as 231 days on "expeditions". In recognition of his outstanding service, Berghausen was decorated in 1912 with the Royal Crown Order, 4th class with swords.

This did not read like the biography of a man racked by a morphine addiction, but then this obituary also presented phantom history. It suggested that his job in Friedrich Wilhelmshafen had been Berghausen's last posting in German New Guinea—which he was said to have left in March 1915; that his period of service in this capacity lasted for 16 months—which only took me back to early 1913, even if I disregarded the six months after the capitulation of German New Guinea in September 1914; that he was decorated for his outstanding service in that capacity, but that he had already been decorated in 1912. Perhaps the sources from which the Hubatsch Lists were compiled would help me further.

Most promising were the public notices concerning administrative postings which, in the case of German New Guinea, were published since 1909 in its government gazette, the *Amtsblatt*. There were two such notices relating to Berghausen, but no notices announcing the *end* of any such postings. The first stated that Berghausen took charge of the district office and the district court in the Marshall Islands on 21 December 1909 (AB, 1910: 9), the second that he took charge of their counterparts in Friedrich Wilhelmshafen on 25 January 1913 (AB, 1913: 26). Both tied in with the Hubatsch Lists. But there were two other notices which contradicted them. One related to Berghausen's predecessor, Scholz, who was said to have taken charge of the district office and the district court in Friedrich Wilhelmshafen on 18 October 1911 (AB, 1911: 238) so that he did at least not serve *continuously* as district commissioner there from 1909 to 1913. The other related to Assessor Dr Gebhard, who was said to have taken charge of the district office and the district court in Friedrich Wilhelmshafen on 1 January 1914 (AB, 1914: 94).¹ This suggested that Berghausen's posting had ended no later than 31 December 1913, after less than a year. But there was also a second notice relating to Gebhard (AB, 1914: 150). It stated that on 26 March 1914 he had been appointed as the "general deputy" (*Allgemeiner Vertreter*) of the district judge in Friedrich Wilhelmshafen, although he had by then already himself been in charge of the district court for almost three months. Yet, there was some method in this apparent madness: it simply reflected an administrative organisation which was more complex than the Hubatsch Lists assumed.

Fortunately again there existed an obvious source of information: a PhD thesis by Jake Wilton Spidle Jr, entitled "The German Colonial Service: Organization, Selection and Training". Despite its title the thesis told me little about the *organisation* of the German colonial service.² What it did say suggested that its author cared even less, since he did not even bother to distinguish between the organisation of the colonial *service* and the organisation of the colonial *government*, which was to a large extent run by the colonial service but by no means identical with it.³ Besides, the narrative that I was offered, instead of the promised account of the organisation of the German colonial service, was again phantom history—which I discovered when I was attracted by a reference to the former imperial commissioner in German New Guinea, Fritz Rose. According to Spidle, Rose was sacked in 1906 by the new director of the colonial department, Bernhard Dernburg, a former banker, because his "name had been specifically mentioned in connection with several...scandal stories" (Spidle, 1972: 200).

1 Gebhard does not figure in the Hubatsch Lists.

2 Little attention is paid by Spidle to the voluminous colonial and metropolitan civil service law, with the result that he has, for example, most peculiar ideas of the role of the *Assessor*—as the representative of "*Assessorismus*"—within the system (see *ibid.*: 18, Fn. 41).

3 For example the office of "governor" was a government post and not a colonial service rank.

Had these scandals occurred when Rose had been in charge of the administration of German New Guinea, more than a dozen years earlier? Were they part of the pattern suggested by Firth? Since Spidle provided no information I turned to his source, Heinrich Schnee, the last governor of German East Africa but also an old German New Guinea hand. Schnee's account did not answer my questions either, but I noticed that one of the metaphors Spidle quoted had been used by Schnee to make a different point.

According to Spidle, Schnee had written that the new director hit the Wilhelmsstrasse headquarters of the colonial administration "like a bolt of lightning (*wie ein Blitz*)", whereas Schnee had written that the unexpected *news* of Dernburg's appointment had hit the officials in the Colonial Department "like a bolt of lightning flashing down from a blue sky [*wie ein Blitz aus heiterem Himmel*]" (Schnee, 1964: 79). At first I assumed that Spidle had merely been unfamiliar with this German expression, but when I compared Schnee's account with Spidle's narrative I realised that I was observing the alchemy of phantomising history at work.

First Spidle:

From the start Dernburg made no secret of his mistrust of the colonial officials as a group. He obviously shared the popular view that they were a shabby lot. After running through his series of interviews, he called in Seitz and Schnee, who had apparently impressed him as capable men, and with them ran down the full roster of the senior personnel within the office. The new Director bluntly and without explanations made curt judgements about who was to go and who to stay. When he reached the name of Fritz Rose, a man with 14 years of seniority in the office and who was at the time on vacation, Dernburg paused for a moment. Rose was one of the senior officials whose name had been specifically mentioned in connection with several of the scandal stories. Finally, Schnee wrote, "Dernburg smiled menacingly and said cryptically, 'He won't be back. (*Der Mann kommt nicht wieder ins Amt zurück.*)'". Through such action, noted approvingly by a large portion of the press, the new *Direktor* succeeded in giving the impression that a long overdue purge of incompetent, corrupt officials within the *Zentralverwaltung* was in progress. It was a valuable step toward drawing the teeth of some of the criticism of the colonial administration (ibid.: 200).

Now a summary of the Schnee version. The day after Dernburg had taken up his duties Schnee arrived at the office at his usual time, at 9.30 a.m., only to learn that Dernburg was already at work. As acting head of the personnel section, Schnee went to Dernburg to report. He was immediately received and Dernburg began to discuss personnel questions with him, soon calling in Theodore Seitz, who was in charge of the administrative section. Dernburg asked to be given the names of all the higher officials, according to their "seniority" (*Dienstalter*). When Schnee reached the name of Rose, Dernburg declared "with an ominous smile" that *he* would not be returning to the office ("*Der kommt nicht wieder ins Amt zurück!*"). He also said König, and another senior official, would have to go—adding that the chancellor of the Reich had given him absolute powers in personnel matters; a statement which caused Schnee to add the following comment:

Dernburg apparently really imagined at the time that he could—as in a bank—sack officials as he saw fit. In fact only higher officials, holding a political office, could be temporarily laid off [*zur Disposition stellen*]. Otherwise the general civil service rules regarding appointment for life applied. (A dismissal was only possible as the result of disciplinary proceedings.) (ibid.: 80).⁴

While it puzzled me that a historian who was writing a thesis on the organisation of the German colonial service should disregard the only part of Schnee's account which was of direct relevance to his topic, I was amazed to see that he had used its other parts in constructing a narrative which was plainly irreconcilable with them. Now, it was quite possible that Schnee's account was also

4 This and all following translations are mine unless otherwise indicated.

phantom history; that Dernburg, in fact, did not have his meeting with Schnee and Seitz on his first full day in office but a week or so later, after having interviewed all senior members of staff, including Rose, who had been recalled from his "vacation" for the purpose;⁵ and that he met with Schnee and Seitz because they had impressed him as capable men, instead of responding to a routine report by Schnee, as the person immediately responsible for personnel, and of calling in Seitz, as the most senior official present, when the meeting turned into an exercise of fundamental importance. But if this was so, why did Spidle not let his readers into his secret? Why did he not tell them that he had found more reliable information to that effect in other sources and that he was referring them to Schnee's account only so that they could see with their own eyes how he had distorted the facts? Or had Spidle felt free to 'interpret' Schnee's account the way he did because this produced a narratively superior version of history? Perhaps it was better to abandon the attempt to solve the riddle of Berghausen's postings in German New Guinea and to return to his alleged morphine addiction, in order to regain at least a small piece of firm ground.

II

German recruiters worked the lower reaches of the Sepik in the years before the war and on one of the few rises on the banks of that part of the river the Government built the Angoram police post in September 1913. Sepik labour recruiting in German times can have been little influenced by government regulations because even the Madang District officer, Ernst Berghausen, took villagers by force. In December 1913, beginning a stay of two years in the Sepik, the anthropologist Richard Thurnwald described in his diary the violent progress of Berghausen up the Sepik as far as Malu near Ambunti. Heavily addicted to morphine, Berghausen was said to have recruited wherever he was not sick with fever or stupefied. He was unknown to the river people and none volunteered to go with him, so he used police to fetch recruits 'whether they resisted or not':

He locked the recruited people in the dark, cramped store room of the steamer 'Kolonialgesellschaft'. Like an old slave trader, he had 17 people cooped up there... Forced recruiting is suitable after fighting. But when conditions are peaceful the people become irritated and many of the murders of the last few years which have taken place in the region of this district office are in part no doubt attributable to this ill-considered and blunt procedure.

Travelling upstream Thurnwald encountered villagers planning to avenge the loss of kinsmen by eating the 'two white pigs' who had abducted them (Firth, 1982: 96).

Since this account of Berghausen's violent progress up the Sepik did not claim to be more than the summary of a single source, namely the "diary" of Richard Thurnwald,⁶ I moved straight to the horse's mouth, only to find that Thurnwald did not accompany Berghausen on his trip as I had expected, but that he was eagerly waiting in Karadjundo,⁷ well down from Angoram, for Berghausen's return, probably because he was to take over part of his police detachment as an armed escort. Furthermore, the "diary" turned out to be a series of letters written by Thurnwald to his wife-to-be in Germany. It described Thurnwald's progress up the Sepik, including a bloody engagement of his police escort, more than a dozen strong, that had left three Sepiks dead, a considerable distance upstream of Malu. It was this clash that had caused Thurnwald to mention Berghausen's recruiting activities.

This was now the third place, he explained in a letter written during the evening of this clash on 20 December 1913, at which he would have to exercise special care during his return journey. The second was near Maiui, between Malu and Angoram, where he had some trouble in October.⁸

5 Had Rose already been laid off by Dernburg's predecessor, instead of having taken his normal recreation leave?

6 A photocopy of this document is held in the New Guinea Collection of the University of Papua New Guinea in Port Moresby.

7 I shall generally reproduce lesser known geographical names as they appear in the sources.

8 The—less violent—details do not concern us. But the date shows that Thurnwald did *not* begin his stay in the Sepik

The third was still further downstream, where two villages, Moim and Kamblinto, had declared war on him. This had nothing to do with him but was Berghausen's fault. When Berghausen inherited the *Kolonialgesellschaft*, after the Sepik Expedition had been disbanded, he had nothing better to do than to steam immediately up the river. He had recruited, as recounted in the passage quoted above, "wherever he had not just happened to have fever or to be sick with morphine (for he is a heavy morphinist)".⁹ These two particular villages had taken up arms and showered the *Kolonialgesellschaft* with spears—and those on board must have responded in kind although Berghausen was not prepared to admit this.

When Thurnwald and his engineer, Fiebig, had camped with their flotilla¹⁰ near the villages on their upstream journey, they received a message that their inhabitants would avenge themselves on the two well-nourished and tasty white pigs (Thurnwald and Fiebig) for the taking away of their people (by Berghausen). They were already saving up taro and coconuts for the occasion. Instead of taking up the challenge, Thurnwald intended to slip by quietly and let Berghausen deal with his own mess. This would be a great disappointment to his native policemen who were always eager to fight, since this provided them with the opportunity to "interfere" with the women of the enemy—a practice which was impossible to stop. One of the men had directly asked him what he was doing here if he did not want to fight: did he only want to eat and fuck?

That the last word in this paraphrase was indicated by three dots in the original, gave a good indication of the witty, and somewhat condescending, style adopted by Thurnwald throughout his letters to his distant beloved. Like scores of other details (for example, the Sepik penis gourds featured in his previous letter), the reference to Berghausen's morphine addiction was included for no other reason than its entertainment value. This did not alter the fact of Berghausen's morphine addiction, if it was indeed a fact, but it warned against taking any part of Thurnwald's account at its face value. Since his letters were not intended for public consumption, Thurnwald used whatever effect he could think of to amuse his fiancée and to impress her by contrasting his own heroics with the failings of others. While this was fair enough, to quote his account as if it was history, and indeed a particularly reliable form of history, coming, as it did, from the unpublished papers of an eminent anthropologist, was a different matter, especially as the official report on Berghausen's trip (AB, 1914: 51–55, 62–67) painted quite a different picture.

When I read the Firth version of this trip, it had conjured up a long and lonely voyage: extended periods of fever or morphine stupefaction, interrupted by bursts of brutal recruiting: Berghausen dashing at the head of his police troop down the gangway into peaceful villages, tearing man after struggling man from the arms of his crying wife or mother until the hold of his ship was finally stuffed to the brim with his victims. The official report was less colourful. The expedition did last several weeks (15 November to 12 December 1913), but the trip up the Sepik from Angoram to Malu, and back, only took five days, from 29 November to 3 December.¹¹ The rest of the time was spent on administrative routine tasks along the coast: taking a census, checking up on the coconut palms the natives had been previously instructed to plant and inspecting the labourers on non-native plantations.¹² Nor was Berghausen the only German official

area in December 1913 as Firth claims.

9 Firth translates the expression "*morphinkrank*" as "stupefied". I do not know whether this is an appropriate description of the effects of morphine but it certainly underlines that Berghausen was supposed to be unfit for duty when he had taken morphine, which Thurnwald's own version also, but less aggressively, asserts.

10 It consisted of three motorboats, two sampans and six canoes—a far cry from the style of modern anthropological fieldwork.

11 This expedition was by no means the first trip of the *Kolonialgesellschaft* in the services of the district office in Friedrich Wilhelmshafen, as Thurnwald's letter implies.

12 Berghausen also returned a group of "prisoners of war" who had been captured when earlier unrest in Hansa Bay had been quelled.

on board the *Kolonialgesellschaft*, he was accompanied by Dr Gebhard, police sergeant Knuth, as well as 24 native police soldiers.¹³

The trip upriver from Angoram to Malu lasted three days and was uneventful. In Wolem, the village next to the new government station, Bakan, a rarity because he had already worked on a plantation, was taken on board as a guide, and a second nameless guide, an elderly man, was added in Magam. Attempts by Gebhard to enlist further guides in Kambringi, where the *Kolonialgesellschaft* anchored the first night, proved unsuccessful. The inhabitants of Kaubagu, the stop for the second night, all ran away when a boat was landed. The third night was spent in Malu, the former base camp of the Sepik Expedition.

In Malu it was decided to make a move in order to make some progress towards opening the area to labour recruiting which had "hitherto been negligible". During the return trip "language students" (*Sprachschüler*) were to be taken back from different villages to the coast to familiarise themselves with European ways for eight months. If suitable, they were to be used after their return as *luluai* or *tultul* (government chiefs and their assistants) in their home villages, a procedure which had been successfully tested along the coast.

A start was made in Timbunket, over 100 nautical miles downstream from Malu, during the afternoon of 2 December 1913. Four young people were "taken on board". Three were added in Kambringi, six in Kanduonum, one in Klingan and three in Magam. This accounted for the 17 people referred to by Thurnwald. But there were more. Before arriving in Angoram on 3 December at 1 p.m., the *Kolonialgesellschaft* met several canoes from Magam and two members of their crews were also prepared to come, so that the total yield of the recruiting effort so far, which had lasted for less than 24 hours, was 19. Ten further *Sprachschüler* were added during the trip downstream from Angoram to the mouth of the Sepik, including four supplied by Thurnwald when the *Kolonialgesellschaft* stopped at his base camp—a fact which Thurnwald understandably omitted from his story, although he did claim that Berghausen had refused to admit that he had violent clashes with the people upstream.

Now the official version:

At some of the places the people took up arms. But they quickly calmed down after the interpreter explained to them that their fellow countrymen would return after eight months when they had learned to communicate with the whites. They then came alongside the ship in their canoes to present those departing with food and tobacco for their journey.

Although this version was also not "the truth, the whole truth and nothing but the truth", it clearly reflected the course of events more closely than Thurnwald's story. Why did Firth adopt the latter, distorting it further in the process? Partly, it seems, because he treated Thurnwald as a "goody" whose testimony against the "baddy" Berghausen could be blindly relied upon, but mainly because it lent weight to his own argument that labour recruiting in the Sepik area during German times could have been little influenced by government regulations because even Berghausen took villagers by force. It was therefore ironic that Thurnwald had turned the same argument on its head; for in that section of the passage quoted by Firth—which is there indicated by three dots—Thurnwald assured his fiancée that everything was basically well in German New Guinea because any private individual doing what Berghausen had done would have been sentenced to several years of "imprisonment with hard labour" (*Zuchthaus*).

On the other hand, a comparison between these two arguments proved to be most instructive. That of Firth implied that it was the main function of these government regulations to control the use of force, and other abuses, in the recruitment of labourers and that they were therefore historically irrelevant if they did not perform this task. The beauty of using an *a fortiori* argument

¹³ The *Kolonialgesellschaft* also returned a police sergeant and a medical assistant to the new station in Angoram, after the latter had carried out routine inoculations on the way along the coast.

to make this case was that it took care of everything. It saved Firth not only from having to establish what these government regulations were, but also from having to demonstrate that they were flouted by recruiters and that this flouting was tolerated by the authorities. But the full implications of his argument became visible only after I had also taken into account that it rested on the further premise that law was, in principle, capable of performing its control function. It was only colonial law which did not fulfil this function, and it was not colonial law as such which was at fault but the colonial administrators who, by disregarding the law themselves, caused others to do the same. The argument made Berghausen personally responsible for all the abuses of private labour recruiters, which could remain untold because his violent progress up the Sepik represented the essence of all that was bad about German colonial rule. Seen from this angle Berghausen's morphine addiction only made him fit the bill especially well by turning him into a picture book representative of the type of man who ruled the German colonies.

Thurnwald travelled the same road, but in the opposite direction. For him Berghausen was not the rule but the exception because Thurnwald took it for granted that German colonial rule in New Guinea was essentially a good thing. In his account Berghausen's morphine addiction accentuated his status as a deviant. The severe prison sentences which would have been imposed on anyone else doing what Berghausen did were for Thurnwald just as automatic a consequence of his preconceptions as the irrelevance of colonial law was for Firth.¹⁴ To tell his bride amusing anecdotes was one thing, to give her the impression that German New Guinea was a lawless place quite another. The Rule of Law was a vital part in Thurnwald's as well as Firth's scenario. It was essential for both that Berghausen appeared as a criminal. The difference was that Thurnwald presented him as an individual deviant whereas Firth used him to judge German colonial rule, *pars pro toto*, as a system.

The attraction of this judgemental approach was that it enabled those who took it not to deal with what was indirectly judged. In other words, the reason for writing this kind of phantom history was not ideological commitment but technical convenience. Firth did not write phantom history because he was anti-German, or Thurnwald because he was pro-German, they both adopted this style because it made the tedious presentation of evidence magically superfluous. Indeed, it was a labour saving device which did the trick even if the primary judgement was hypothetical. Firth did not have to claim that violent recruiting was the order of the day in German New Guinea, it was sufficient to suggest that government regulations *could* have had little influence on the conduct of recruiters, just as Thurnwald did not have to assert that the prisons of German New Guinea were actually filled with violent recruiters. On the contrary, in Thurnwald's case the argument *had* to be hypothetical, because he wanted to assure his fiancée that the fear of stiff penalties made all recruiters in German New Guinea, with the deplorable exception of Berghausen, behave like model citizens.

Yet the underlying assumption was the same: a regularity of human behaviour linked to the regulatory effectiveness of law. The link was straightforward in the case of Thurnwald. Because it could be taken for granted that the law was, generally speaking, strictly enforced in German New Guinea, it could also be taken for granted that it was, generally speaking, complied with. Ergo: Berghausen's behaviour was a regrettable exception. By contrast Firth assumed a curiously twisted regularity of lawlessness which came about when the law was flouted by the officials supposed to enforce it. Whereas it would not have been justified to generalise from the lawless behaviour of an ordinary recruiter, it was justified, so ran the gist of the argument, to generalise from the behaviour of Berghausen. It followed, it was asserted, that if *even* Berghausen used force

14 It probably did not occur to Thurnwald that it would have been Berghausen, in his capacity as district judge, who would have had to pronounce them. Nor would he have been disconcerted had he been told that not a single labour recruiter during the history of German colonial rule had actually been sentenced for recruiting offences to imprisonment with hard labour.

when recruiting, private recruiters must have broken the law still more blatantly and frequently, whereas they would have, as a rule, complied with the law if Berghausen had behaved properly. By breaking the law himself, Berghausen had suspended its general deterrent force, so that his behaviour could be taken as symptomatic of a general state of lawlessness.

It was remarkable that Berghausen's alleged morphine addiction could be utilised in these two diametrically opposed arguments—as an indicator of exceptionality by Thurnwald and as an indicator of typicalness by Firth. But whereas the former employed it as a touch of local colour, it became for the latter the ultimate trump; for who would dream of questioning the account of a historian who knew even the secret vices of his historical actors?

Why did Firth raise the question of the influence of government regulations if he only intended to put forward a bizarre argument in order to reseal the spirit he had released into a tiny bottle? It was hard to believe that he did it because it gave him the opportunity to introduce a juicy story which permitted him to display his professional omniscience. Yet its casual dismissal made it equally hard to believe that he regarded it as a serious issue—and the casualness extended far beyond the rhetorical use of a formal argument, since the argument, even if sound, could not possibly settle the question raised. It only made sense on the assumption that the regulation of labour recruiting in German New Guinea was essentially concerned with the prevention of violence—which was not the case. The law governing labour recruiting, naturally, organised it as a legitimate and economically desirable enterprise. To be sure, it included penal provisions which gave teeth to its organisational provisions relating to recruiting licences and so on, but they did not deal with the kind of *criminal* abuses Firth had in mind. However, recruiters, like everybody else, including Berghausen, could be charged under the general criminal law, for instance with assault, provided their behaviour was illegal. But this was not at all clear in the case of Berghausen, who may well have been legally entitled to enlist *Sprachschüler*, in contrast to labourers, without their consent, so that any resistance offered became legally a criminal obstruction of authority.

How was it possible that Firth did not understand the role of labour regulations after having devoted his PhD thesis to the study of "German Recruitment and Employment of Labourers in the Western Pacific before the First World War"? The answer was that he was no more interested in the *recruitment* and *employment* of labourers in Germany's Pacific colonies than Spidle was interested in the *organisation* of the German colonial service. Instead Firth wanted to write "a history of German imperialism in the Pacific Islands" which centred on "the Germans' use of labour" (Firth, 1973: *Abstract* (emphasis added)).

In his thesis Firth had reached the conclusion—echoed in the introduction to *New Guinea under the Germans*—that "the conditions of employment under the Germans were inhumane by contemporary British standards" and that German labour policy was "dictated by private companies to an extent which was rare in the British Pacific" (ibid.).¹⁵ Now, if this was so, was it not a waste of time to consider the government regulations into which this policy was translated since they did not, in practice, prevent inhumane treatment? The problem was that this convenient shortcut led straight into the Wonderland of narrative history. Where else could a young scholar have made the following statement without raising an eyebrow among his supervisors or examiners?

[T]he principal sources for any study of German influence, annexation and colonial administration remain intact. These are the records of the *Auswärtiges Amt* concerning colonial matters before 1890, of the *Kolonialabteilung* of the *Auswärtiges Amt* from 1890 to 1907, and of the *Reichskolonialamt* from 1907 onwards... (ibid.).

15 Firth's thesis does not support these conclusions with comparative studies of the British Pacific.

The most disturbing aspect of this statement was that it sounded so harmless, because this showed just how far the phantomisation of history had progressed. We automatically suspend our critical faculties when it comes to history. We have been conditioned not to say "wait a minute!"—we just read on. The absurdity of the claim that the records of the German colonial office, rather than of the colonial governments on the spot, should be the principal sources for a study of German colonial *administration* no longer jumps at us.¹⁶ We do not expect a historian who maintains that government regulations could have had little influence on labour recruiting along the lower reaches of the Sepik River during the years before World War I to tell us what these regulations were, or how energetically they were enforced. We do not want to know how many labour recruiting licences were issued for the lower Sepik during this period, or how many labour recruiters were taken to court on criminal charges relating to their recruiting activities. We do not want facts, we want phantom history. We want historians to cast themselves in the role of the little boy in Andersen's fairy tale. We are delighted to hear that the emperor's elaborate legal wardrobe was a sham and that he ruled, at least in German New Guinea, stark naked; and we are ready to offer a standing ovation to a virtuoso who can detect the tell-tale puncture marks of a drug addiction under the carefully starched tropical uniform of one of his servants.

Again I was offered a consolation prize for my efforts; for if the colonial office records had survived intact, it should have been child's play to establish whether Berghausen's alleged morphine addiction, which had started me on this journey, was a historical fact. I simply had to consult his personal file, which was bound to include a reference to such a serious disability, as well as references to the official responses to it. Yet, it was the intactness of these records which turned out to be the phantom. Berghausen's personal file, along with an estimated 30 per cent of the then extant records, apparently did not survive World War II and its aftermath.¹⁷

On the other hand, it seemed unlikely that Berghausen's morphine addiction was a Thurnwald invention, and there was indeed some circumstantial evidence which supported the core of his assertion. On 30 December 1909, the commander of SMS *Condor* reported that he had taken Berghausen from Herbertshöhe to Ponape as a replacement for district commissioner Wilhelm Stuckhardt in the Marshall Islands (RM5/6006). During the entire ten day trip Berghausen had been ill—due to "old intestinal troubles" (*ein altes Darmleiden*). Was this the explanation: Berghausen had suffered painful attacks of a chronic illness which he treated with morphine, perhaps having become addicted in the process?

The really juicy bit in this naval report, however, related to Stuckhardt, who had to be replaced in a hurry because he had to be sent back to Germany for medical treatment after he had jumped into the sea in a fit of depression during a previous trip of SMS *Condor*.

It was unlikely that the historical record would readily offer more information on Stuckhardt's apparent madness than on Berghausen's alleged morphine addiction. But what about their predecessor in the Marshall Islands, Eugen Brandeis? Together with the former imperial commissioner Rose, he had figured prominently in the great "Colonial Scandal Debate" in Germany, so that his sins and their treatment by his superiors were a matter of public record.

I did not even have to consult the public record myself because the work had already been done by Klaus Epstein. *Erzberger and the German Colonial Scandals, 1905-1910* summarised the Brandeis Case as one item in the "unedifying collection of individual scandals" the Centre Party deputy, Matthias Erzberger, had assembled after "far reaching research" (1959: 641) to unmask in the Reichstag the "criminal types" in the German colonial service, in particular the "evil men" who had attained high positions and whom "the Central Office was greatly reluctant to bring to punishment" (ibid.: 642). What more could I have asked for, especially as Epstein stated that

16 The diplomatic prehistory of colonial administration is a different matter.

17 See the relevant *Fundbuch* of what was until recently the Zentralarchiv of the German Democratic Republic and is now part of the Bundesarchiv.

most of Erzberger's accusations were based upon solid evidence "the substance of which even his opponents could not question" (ibid.: 652)?

This is how Epstein summarised the Brandeis Case:

Then there was the governor of the Marshall Islands, Eugen Brandeis, who loved to administer beatings (which he was not authorized to do) and who held back some of the gifts which the German government sent regularly to the chiefs under his jurisdiction. His excuse was that the natives' money sense extended only to round numbers, and that he retained the residue in order to finance a grand party on the emperor's birthday. His royalist sentiments were allowed to cover a multitude of sins. Fritz Rose, one of the leading figures of the colonial department, when speaking about his case in the Reichstag, managed to joke about the beatings and even to defend the interception of part of the payments (ibid.: 641-42).

Now this was a truly scandalous scenario: the head of a German colonial government who took a sadistic pleasure in beating his native subjects and a superior who made jokes about this outrageous behaviour when defending the man in parliament. It was surely a waste of time under these circumstances to look at any of the governmental records produced during the reign of Brandeis in the Marshall Islands which, according to the Hubatsch Lists, had lasted from 1898 to 1906 (1984: 541). It now seemed clear that not only the labour regulations but colonial law in general could not possibly have had any historically significant impact on the exercise of German colonial rule in this colony during that period. But as I had learned that it was better to be safe than sorry I decided to see for myself what the stenographical reports of the Reichstag proceedings had to say about this case.

III

I began my examination of the Brandeis Case with the reports for 13 March 1906, when Erzberger addressed it in a plenary session of the Reichstag. It had been raised by another deputy a few months earlier as one of several examples demonstrating the "horrificing brutalities" which were occurring in the German colonies. The head of the personnel section of the colonial department, König, had responded to these accusations on 15 December 1905. Erzberger now claimed that this response had been incorrect, *inter alia* in the Brandeis Case. This was all the more disturbing because Brandeis, after his recent return from the Marshall Islands, had been decorated with a medal in recognition of his services, although the corporal punishments of which he had been accused could have easily started a native rebellion, as in German Southwest and East Africa. Erzberger referred in this context to an official report by "one of our most experienced colonial experts", the consul-general in Shanghai, Wilhelm Knappe, who had seen corporal punishment being carried out in the Marshall Islands—a revolting spectacle, which had excited the Marshallese so intensely that only the chance presence of a naval squadron had prevented them from openly rebelling. Brandeis therefore did not merely stand accused of a minor criminal or disciplinary offence but of behaviour which could have had very expensive consequences for the German taxpayer.

How had König responded?—that no reason had been found to take action against Brandeis and that it could not be supposed that he had in any way exceeded his legal powers. Now, Erzberger went on, this latter claim was demonstrably wrong because König's colleague, Rose, had openly admitted in the budget commission that Brandeis had done precisely that. To point out this glaring contradiction, Erzberger concluded, had been his aim at this stage. He would return to the substance of the allegations against Brandeis during the debate of the colonial budgets (Reichstag, 11. *Legislaturperiode*, 2. *Session*, *Verhandlungen*: 1977).¹⁸

¹⁸ Colonial matters of general interest were conventionally debated with the budget of the central colonial administration, that is to say in connection with the budget of the Reich rather than those of its colonies.

In his reply the acting director of the colonial department, prince Ernst zu Hohenlohe-Langenburg, relied largely on the “factual material” presented to the budget commission by Rose. Brandeis had been accused of imposing corporal punishments on natives in a few cases several years previously. The punishments had consisted of a few strokes, carried out in the presence of the government doctor. Brutality was not an issue. There had been no objections to Brandeis’s course of action at the time. The allegations now made could all be traced to a disgruntled former subordinate. As had been explained in the budget commission, the 1890 Marshall Islands Native Penal Ordinance, which did not provide for corporal punishments, only permitted the punishment of natives for actions punishable under German law. This had repeatedly caused difficulties for officials in cases where the maintenance of public order required the punishment of natives for actions which did not fit into the German Criminal Code. Thus Brandeis had had to deal with a native who had committed adultery with the wife of a chief, a capital offence under customary law. Since an application of the mild punishment for adultery under German law would have been unacceptable to the natives, and since the Marshallese could not tolerate long-term imprisonment, Brandeis had felt entitled to use his administrative discretion to fix an appropriate punishment, consisting of imprisonment of one year combined with corporal punishment. The colonial department had no doubt that Brandeis had believed he had acted within his powers. It was therefore still of the opinion that it had been proper to explain the limits of these powers to Brandeis but to take no disciplinary action against him. The prince merely added to this recapitulation that while he recognised that Brandeis had failed to observe the strict letter of the law, he should not be blamed too harshly for his mistake (*ibid.*: 1988).

On 15 March 1906 Rose tried to explain the apparent contradiction between his explanation in the budget commission and König’s earlier statement in the plenum. It disappeared when the subjective and the objective aspects of the case were distinguished. König had merely meant to say that Brandeis’s character ruled out the possibility that he had been *aware* of acting illegally. He, Rose, on the other hand, had stressed that Brandeis’s actions had been *objectively* illegal. But he had gone on to explain that the colonial law of the Marshall Islands was so complex that a non-lawyer like Brandeis could easily make mistakes for which he could not personally be held responsible. He, and the rest of the colonial department, fully agreed with König’s assessment of Brandeis’s excellent character (*ibid.*: 2019).

On 26 March 1906 Erzberger opened the debate of the budgets for the Old Protectorate and the Island Territory of German New Guinea¹⁹ with an attack on the costly manner in which this colony was administered, but he quickly moved to the Marshall Islands, where the last bastion of Bismarck’s plan to let German commercial enterprises carry the financial risk of maintaining colonies had just fallen,²⁰ and to what he called the “Kiem/Brandeis Affair”.

Kiem had been sent to the Marshall Islands to serve as secretary under Brandeis. After he had got into conflict with Brandeis, he was recalled to Berlin, where he was still working in the colonial department. In 1901 he had submitted a detailed complaint to his superiors on which Erzberger based his attack.

The first had nothing to do with Brandeis and little with Kiem, who had reported boasts by employees of the Jaluit Gesellschaft that their bosses had no difficulty in bribing the colonial department to do whatever was in the company’s interests. A second hearsay allegation did concern Brandeis who, the police sergeant had told Kiem, had refused to listen to his complaints about improper interferences of the Jaluit Gesellschaft in administrative matters, but Erzberger did not pursue it. This also applied to a third allegation by Kiem, according to which Brandeis had

19 Until 1910 these two parts of German New Guinea were treated as separate budgetary entities.

20 This is a reference to the cancellation of an 1888 agreement between the Reich and the Jaluit Gesellschaft, according to which the latter, although *not* a chartered company, had carried the financial responsibility for the administration of the Marshall Islands by the Reich.

repeatedly kept persons in prison without a hearing for over a week. This left two allegations Erzberger wanted to push. One, an accusation of financial misconduct, remained vague at this stage, because Erzberger was primarily interested in the other, Brandeis's corporal punishments.

According to Kiem, Brandeis had repeatedly sentenced natives *judicially* to corporal punishments, although this was not permitted by the Native Penal Ordinance. Since none of these punishments had been entered into the relevant lists, Brandeis, Kiem asserted, had been aware that he had imposed an *illegal* punishment, thus committing a serious offence in public office, punishable under Section 345 of the German Criminal Code. In addition, Brandeis had used his police powers to punish natives *administratively* with imprisonment of up to one year. This had itself been a dubious practice, which had become plainly illegal when the imprisonment had been combined with a corporal punishment, as had happened in some of these cases.

Although Erzberger claimed that he did not know what investigations the colonial department had carried out after Kiem's complaint, he had a copy of a decree in his possession which it had sent to Brandeis in 1903 and which, judging by Erzberger's quotations, had been its reaction to a report Brandeis had been ordered to submit in answer to Kiem's allegations. Erzberger's first quote showed that the warning of Knappe against corporal punishments in the Marshall Islands was almost 20 years old, when it had been raised in connection with the 1888 Native Penal Ordinance for German New Guinea, on which the 1890 Marshall Islands ordinance was modelled. Erzberger had chosen the second quote, which included a censure of Brandeis, because it implied that the colonial department took it for granted that corporal punishments could be legitimately employed as disciplinary punishments in prisons. But this was still part of the build up. "The crux" (*der springende Punkt*) was contained in the third quote. It instructed Brandeis to impose punishments on natives—in particular corporal punishments—outside judicial or specifically regulated administrative proceedings henceforth only if this was necessary to preserve public peace, order and safety.

A decree of the colonial department, Erzberger cried, had, contrary to all publicly proclaimed laws, authorised Brandeis to use discretionary corporal punishments whenever he felt that something as rubbery as "public peace, order and safety" was endangered. Considering the peculiar way in which the public peace protection clause in Section 130 of the German Criminal Code had recently been used by the authorities in Germany, one needed little imagination to predict how freely such a discretionary power would be wielded in a remote colonial outpost.²¹ Erzberger could do even better. Had the Reichstag not been told recently that corporal punishments had now been officially introduced as legal punishments in the whole of German New Guinea?²² To be sure, this was an improvement, because in the past such a move would have been "hidden behind a veil of silence" (*vertuschen*). Under the new acting director this had changed, as he, Erzberger, was glad to admit. Just how much things had changed was well illustrated by the Brandeis Case. In late 1905, Rose, representing the prosecution in the disciplinary proceedings (!) against Brandeis, had still argued that investigations had proved Brandeis's innocence. Three months later, after a new acting director had been appointed, Rose had suddenly conceded that Brandeis had acted illegally. This had been confirmed by the acting director on 13 March 1906. But even at that time he had apparently not been fully informed by his "advisers" (*Räte*), otherwise he would have pointed out that corporal punishments were used as a regular disciplinary measure, instead of giving the impression that they were only imposed as a humane alternative to excessive customary punishments. Two days later Rose had even confessed that a thorough legal examination had convinced him that Brandeis should not have imposed the corporal punishments he had ordered, although he had regarded such an investigation

21 Erzberger did not identify the incident in question, presumably because everybody knew what he was talking about at the time. (It probably involved some energetic police action against dissidents.)

22 Erzberger provided no details and I do not know what move he referred to.

as superfluous when he had prosecuted Brandeis under the old regime. More importantly, Rose had also admitted that it had previously not made sense to him, as a practical administrator, that Brandeis should not have been entitled to give the Marshallese an occasional hiding—a medicine Brandeis had only administered on rare occasions to some particularly bad customers, according to Rose.²³

At this point Erzberger changed tack again. One had to know what effects a dose of this medicine had on Pacific Islanders, who were a particularly sensitive lot. As he had been told by an outstanding Pacific expert, whose views had been confirmed by several missionaries, a single punishment of 25 strokes would in most cases ruin the nervous system of the victim, and few came through a second punishment without being permanently broken, mentally as well as physically. An immediate and unconditional withdrawal of the ordinance legalising corporal punishments was therefore required in the interests of humanity, culture and civilisation. It was also necessary to protect the interests of the German taxpayer, Erzberger concluded, for who had to foot the bill if these inhuman but legal corporal punishments caused a general rebellion? Not the gentlemen who issued such a decree, but the German people. "I therefore urge the director of the colonial department to take action and to withdraw this ordinance without any reservations" (ibid.: 2291–93).

Although it was by then clear that Erzberger had never been particularly interested in the allegations made against Brandeis, but that his aim was the removal of Rose and other members of the old guard from the colonial department, the Brandeis Case was still on the table. It was left to Rose to deal with it. He focused on the corporal punishments but also added some flesh to the financial mismanagement allegation. The Marshallese paid a copra tax which was collected by their chiefs who received a share of the proceeds. Since the smallest coin accepted by the Marshallese was worth 50 Pfennige, Brandeis had rounded all amounts paid to the chiefs down to that figure, using the accumulated surplus, around 150 Marks, without specifically accounting for it, to make the official celebrations of the emperor's birthday more enjoyable for the natives. Erzberger and some of his parliamentary colleagues tried their best to present this procedure as a serious crime, even after Rose had assured them that the chiefs had approved the practice, but the debate lacked genuine fire.²⁴ As regards the corporal punishment allegation, no-one, apart from Rose, was any longer concerned with what Brandeis had actually done.

Rose began his defence of Brandeis by citing Kiem as a witness. Kiem had brought up the issue of corporal punishments with Brandeis shortly after his arrival in the Marshall Islands because he had regarded them, in contrast to Brandeis, as illegal. Although he had been unable to convince Brandeis, Brandeis had stopped using this form of punishment. Rose then tried to show that Brandeis had had good reasons for believing that corporal punishments in the Marshall Islands were, despite the 1890 Native Penal Ordinance, not altogether illegal. After pointing out that corporal punishments could even be used as disciplinary punishments in German metropolitan prisons, he turned to a report one of Brandeis's predecessors had submitted when a reform of the native penal law in Germany's colonies had been discussed during the 1890s. This widely circulated report too had taken for granted that corporal punishments were legitimate in the Marshall Islands. Instead it had stressed that, in the view of its author, they should only be administered to minors and brutal criminals, and never in public, but that they were essential as a disciplinary measure against unruly prisoners. It was understandable that Brandeis, as a non-lawyer, had believed himself to be entitled to use corporal punishments because they had been

23 The rhetoric used in these debates is difficult to translate. Erzberger purported to quote Rose, who is said to have spoken of "*einzelne sehr schlechte Individuen...[die] einmal ein Bisschen in dieser Weise vorgenommen worden sind*". In this summary I have modified the rhetoric in order to clarify the substance of the arguments as I understand them.

24 I have no idea how Epstein transformed this procedure into the holding back of "some of the gifts which the German Government sent regularly to the chiefs under his jurisdiction".

formally legalised in neighbouring German New Guinea, as early as 1888, as a punishment for disciplinary offences by coloured labourers, because a moderate physical punishment had been regarded as more humane than imprisonment, which Pacific Islanders regarded as particularly barbaric. This ordinance had not been kept secret but had been published in the *Deutsche Kolonialgesetzgebung*, in volume 6, on page 248.²⁵ He, Rose, had only quite recently convinced himself, after lengthy discussions with the lawyers in the colonial department, that the administrator in the Marshall Islands had indeed no legal authority to order the corporal punishment of natives, but he rejected categorically any suggestions that these discussions had been the result of outside influences. Rose's final point was directed against Erzberger's claim that corporal punishments would mentally and physically destroy Pacific Islanders. This was sheer fantasy. If Germany's colonies in the Pacific were peopled by creatures who were so miserable that they could be broken by rare and moderate corporal punishment, there would indeed be little one could do with them (*ibid.*: 2294–95).²⁶

The Brandeis Case resurfaced in the Reichstag after the upgrading of the colonial department to a separate colonial office, with Dernburg as its first secretary and after Rose and König had been temporarily retired.

In response to the colonial scandals debates in parliament a judicial commission had been appointed. By April 1907 it had largely completed its investigations and the chancellor of the Reich could present its findings to the newly elected Reichstag in which "the government parties" now had the absolute majority.

The Brandeis Case had been one of 26 matters investigated—and the only one relating to the colonies in the Pacific.²⁷ The commission had found no reason to start criminal or disciplinary proceedings against Brandeis, whose application to be retired on medical grounds had been approved on 25 January 1907. On 9 March 1907 the colonial department had sent a decree to the district office in the Marshall Islands which cancelled its 1903 decree in so far as it had authorised Brandeis to impose corporal punishments under "exceptional circumstances". The report also stated that a review of the laws relating to corporal punishment in all the German colonies had begun (Reichstag, 12. *Legislaturperiode*, 1. Session, *Drucksache* No. 288).

On 6 May 1907 Dernburg went a step further. He used a parliamentary push for a separation of the judicial and executive functions in the government of the German colonies as an excuse for making an *amende honorable* to Brandeis. Such a separation of powers was also in the interest of the individual officials charged with carrying out judicial duties. This was well demonstrated by the case of the former administrator Brandeis who had recently retired after 30 years of blameless service. Brandeis, an officer by training, had been asked to carry out judicial functions in the Marshall Islands²⁸ under circumstances which would have taxed even a professional judge. There was no doubt that he did not know precisely how far his legal powers in relation to corporal punishments extended, and an officer could not be expected to have specialised legal knowledge of this kind. He, Dernburg, did not want to defend Brandeis against the accusations which had

25 This reference related, in fact, to a second ordinance which replaced the 1888 ordinance in 1900—but the earlier ordinance had also been published in the same collection, in vol. 1: 552–53.

26 This was presumably the "joke" referred to by Epstein. The Socialist deputy Ledebour turned this argument—with the help of the first glowing description of the Marshallese by the German writer Chamisso—on its head: if 20 years of German colonial rule had transformed a formerly proud and virtuous people into a bunch of degraded slaves who no longer objected to being beaten, it was high time for Germany to abandon this colony and to invite some true Marshallese, if they could still be found, to come as missionaries to Germany to strengthen the pitifully weakened moral fibre of her inhabitants (*ibid.*: 2299).

27 The investigation of Rose—as a member of the colonial department—also dealt with allegations that he had misused his powers to order corporal punishments during his tenure as imperial commissioner in German New Guinea. Rose too was cleared by the commission, although this did not save his career in the colonial service.

28 Dernburg's knowledge of the geography of the Pacific was still hazy. He first confused the Marshall Islands with the Marianas and then the latter with the Carolines.

been made against him, but it was his duty to stress the difficulties which an official without legal training, and without anyone with whom he could consult in matters of law, had to face in a remote archipelago when he was entrusted with the administration of justice. The attacks on Brandeis had largely been justified.²⁹ But he could give no assurances that the need for new accusations of this kind would not arise in future, unless the Reichstag was prepared to provide him with the funds to carry through a separation of powers in the colonies. This would be an expensive exercise, but until it had been completed the strict principles which were applied to the exercise of judicial and police powers in metropolitan Germany could not be applied in the colonies.

Dernburg returned specifically to the corporal punishments ordered by Brandeis. The head of the Catholic mission in the Marshall Islands had assured him that Brandeis had treated the Marshallese too softly rather than too harshly, that the execution of the punishments had been free of brutality, and pedagogically sound. He, Dernburg, had felt obliged to make these remarks in the interests of a man who had been asked to carry out functions for which he had not been adequately trained but who had otherwise served the Reich for 30 years in these remote islands as a remarkably efficient and decent officer and administrator (*ibid.*: *Verhandlungen*: 1443–44).

IV

So much for the debate of the Brandeis Case in the Reichstag. Where was the scandal? The reports certainly did not show that Brandeis or his superiors had behaved in a manner which could be described as scandalous. By contrast, they demonstrated that Epstein's historiographical treatment of this case was far more brutal than anything Brandeis had been accused of. But then Epstein operated in the Wonderland of narrative history where behaviour of this kind was apparently perfectly normal.

Judging by these reports, the "scandalisation" of Germany's colonial administration had been largely a political ploy on the part of Erzberger which had hardly been a complete success. Thus, Erzberger watched without a murmur when Dernburg, instead of repealing the ordinance legalising the corporal punishment of coloured labourers in the Old Protectorate, approved its introduction in the Marshall Islands in June 1907, although a public notice to this effect was published in volume 11 of the *Deutsche Kolonialgesetzgebung* on p. 276. However, Erzberger was not so politically naïve as to claim during his campaign that Brandeis or Rose were "evil men" or "criminal types". This was Epstein's interpretation, and his treatment of the Brandeis Case suggested that it had been based on no more "far-reaching research" and that it had produced no more "solid evidence" than Erzberger's.

What I found surprising was that Epstein's treatment had made the Brandeis Case also narratively less interesting than it had really been—and the stenographical reports of the proceedings in the Reichstag could with confidence be accepted as an accurate account of what had happened during these proceedings, although they did, of course, not prove the veracity of anything that had been said. Nonetheless these reports indicated that the primary sources were far richer and more reliable than I had hoped. They also showed that colonial law had played an important role in the exercise of German colonial rule in the Pacific, which was made historically all the more interesting because senior German colonial officials, including Brandeis and Rose, had only a limited understanding of the legal framework within which they were operating. Yet

29 Dernburg acknowledged that Brandeis had ordered illegal corporal punishments in about 11 cases. He identified three of them: firstly, the case of the man who had committed adultery with the wife of a chief; secondly, a minor who had sexually interfered with the children of a white trader; and, thirdly, a man who had disobeyed repeated orders to stay away from the leprosy isolation ward because he was engaged in an affair with one of the female patients. (I doubt that Brandeis only ordered corporal punishments in about 11 cases, but this is hardly the same as saying that he loved beating his native subjects.)

they were forced to improve their understanding of this framework, and it was itself progressively elaborated and tightened.

According to the debates the Brandeis Case had begun with an official complaint by Kiem. This had led to formal disciplinary proceedings against Brandeis. Although they had cleared him, an instruction clarifying the legal limits of his powers had been issued. Moreover, although the judicial commission subsequently appointed had again cleared Brandeis, the instruction which had empowered him to impose administrative corporal punishments to protect public order had nonetheless been withdrawn. Instead the Native Disciplinary Ordinance of the Old Protectorate had been introduced in the Island Territory. But since it only covered coloured labourers it remained, for example, unclear whether corporal punishments were not also legal in the Island Territory as an instrument for the maintenance of prison discipline.

It also remained open on what grounds Brandeis had been cleared of any disciplinary wrongdoing. Still, the debates left no doubt that the actions of which he had been accused were, taken by themselves, historically insignificant. There was thus little point in examining whether these particular accusations were supported by information contained in the other historical records. The question was rather whether the official sources painted by themselves an adequate overall picture of German colonial rule.

What I had in mind was not a composite picture, which I had to piece together from a variety of sources, but one which was painted by a single source. It was still too early to accept that this meant that I had to focus on the legislative framework for the exercise of governmental powers and work my way through the 13 volumes of the *Deutsche Kolonialgesetzgebung*. Perhaps it was possible, all encounters with narrative phantom history notwithstanding, to avoid this laborious exercise and to deal directly, but still factually, with the exercise of colonial rule in German New Guinea, and the use of military force against their native subjects by the German colonial authorities, as the very opposite of the Rule of Law, offered itself as an apposite test case.

Chapter 2: The Official History of a Necessary Evil

I

In 1912 a public notice in the government gazette of German New Guinea invited applications for the award of a colonial medal the emperor had created (AB, 1912: 237). This “Colonial Memorial Medal” (*Kolonialdenkmünze*) was not designed to honour outstanding military valour but to recognise the mere participation in certain military events. It was primarily intended for the “colonial army” (*Schutztruppe*) but also covered engagements of the colonial police forces, and of the landing forces of the imperial navy. This was of special significance for German New Guinea which had no *Schutztruppe* and relied heavily on naval assistance.

Attached to the deed creating this medal were three separate lists—for the *Schutztruppe*, the navy and the police—of the events participation in which qualified for the award. In the case of German New Guinea the Police List (Table I) included 27 such events.¹ They were divided into “punitive expeditions” (*Strafexpeditionen* or *Bestrafungen*) and “the putting down of rebellions” (*Niederwerfung von Aufständen*). Of the 27 events listed 19 fell into the former category and eight into the latter.²

Not one of these events occurred in the Island Territory, but they were widely distributed within the Old Protectorate, although the Bismarck Archipelago figured more prominently until 1904, whereas Kaiser Wilhelmsland dominated the later years. The frequency of these events did not decrease as time went by. On the contrary, only three took place during the time German New Guinea was governed by the Neu Guinea Kompagnie under an imperial charter, while the other 24 were spread fairly evenly over the dozen years of imperial administration covered by the list.

This pattern differed substantially from that indicated for Togo, which resembled German New Guinea most closely, in particular in that it was the only African colony which had no *Schutztruppe*. Its Police List included 36 events, but the last of them had taken place in 1903. On the other hand, the Togo entries had a distinctly more martial flavour. While two referred to “rebellions” and there were 11 “punitive expeditions” (called *Strafzüge* in Togo), 23 entries spoke of “campaigns”, “battles” and even of “the taking of towns by storm”. This suggested that the use of military force varied greatly within the German colonial empire: that Togo was conquered by military might with the result that peace reigned afterwards; that German colonial rule in the Island Territory was entirely peaceful; and that the expansion and maintenance of government control in the Old Protectorate had been neither fish nor fowl.

These were certainly important questions, but they are only worth pursuing if these lists covered all occasions on which a significant amount of military force was used in German New Guinea—or Togo—and the Naval List already contained a first correction, because it included the putting down of a rebellion by marines on Ponape, in the Island Territory, in 1910/11. In other words, German colonial rule in Micronesia had not been entirely peaceful either. Conversely, I was now left with the impression that the navy had, at least until 1912, never used military force in the Old Protectorate on a scale comparable to that used by it in Ponape or by the police in any of the 27 other events listed.

The annual reports on German New Guinea were the most obvious official source of information against which this list could be checked.³

1 This list was published in DKB, 1913: 353–55.

2 The second figure includes two events which are, respectively, described as “the dampening of unrests” and “the punishment of rebellious tribes”.

3 Annual reports describing the “development” (*Entwicklung*) of German New Guinea were presented to the Reichstag and during the reign of the Neu Guinea Kompagnie to the shareholders of that company. An English translation of these

TABLE I

Military Operations of the Police Troop qualifying for a Colonial Memorial Medal

1	Putting down of a rebellion in the hinterland of Herbertshöhe	June	1893
2	Punishment of the mountain tribes near Friedrich Wilhelmshafen	August	1897
3	Punishment of the pirate villages of Madine and Selapiu	October	1897
4	Punishment of the villages of Tinputz and Datoel	April	1899
5	Punishment of the Kabin natives	January	1900
6	Punishment of the Manus natives	January	1900
7	Punishment of the St Matthias natives	July	1901
8	Putting down of the rebellion near Varzin	April/July	1902
9	Putting down of a rebellion in the Witu Group	Nov./Dec.	1903
10	Punishment of the village Messi	September	1904
11	Putting down of the Baining rebellion	Aug./Oct.	1904
12	Punishment of the Awar natives	September	1905
13	Punishment of the mountain tribe Kananitu	May	1906
14	Punishment of the village Taguervi	May	1906
15	Punishment of the village Tsiwo	September	1906
16	Punishment of the Buin tribes	June/July	1907
17	Putting down of a rebellion in Arop, Maloll, Ser and Karsan	July/Aug.	1907
18	Putting down of a rebellion of the Orokoza tribes	Nov./Dec.	1907
19	Punitive expedition in the Admiralty Islands	April	1908
20	Punitive expedition against the Ndrano natives	April	1909
21	Punishment of the Wakaia	April/May	1909
22	Punitive expedition against the Asmata natives	September	1909
23	Dampening of the unrest among the mountain tribes inland of Potsdamhafen	Feb/March	1910
24	Punishment of the rebellious Rai Coast villages	November	1910
25	Punitive expedition against the Womba	Jan./Feb.	1911
26	Punitive expedition to Kagam	June/Nov.	1912
27	Punitive expedition against the Zedu, Bemari and Koipassin	June/July	1912

annual reports, in so far as they deal with the Old Protectorate, is available (Sack & Clark, 1979). It is supplemented by an English translation of the sections of the draft annual report for 1913 which deal with the Old Protectorate (Sack & Clark, 1980).

This exercise confirmed the peaceful nature of German colonial rule in the Island Territory, apart from the “putting down” of the “Ponape Rebellion”.⁴ But the reports also showed that military force was used on many more occasions in the Old Protectorate than the 27 events listed. Although they were not sufficiently detailed to permit me to arrive at a precise figure, they indicated that it was at least 100—and two punitive expeditions in 1897, shown in the Police List, were not even mentioned. On the other hand, this list appeared to cover all other major military operations referred to in the annual reports until the end of 1912—with one other early exception: the first large punitive expedition by the police force (after the “Malala Massacre”) near Hatzfeldhafen in 1891, participation in which did not qualify for the Colonial Memorial Medal!⁵

Just as important, the annual reports demonstrated that the Ponape Rebellion had not been the first time that the navy had become militarily active in German New Guinea. Yet, military action had not been an automatic response even to native rebellions. Both an uprising in Friedrich Wilhelmshafen in 1904 and another planned uprising there in 1912 (the “Madang Conspiracies”) were dealt with without the use of military force, although the annual reports left no doubt that these two events were regarded as more serious than most of the events to which the listed punitive expeditions responded. Indeed, only the putting down of the Ponape Rebellion, and of two earlier rebellions in the Gazelle Peninsula—the “Blanche Bay Uprising” in 1893 and the “Varzin Murders” in 1902—were presented as having been of matching importance.

There was also quite a different discrepancy between the Police List and the annual reports: whereas the former classified the operations carried out at Kagam in 1912 (the “Kagam Expedition”) as a punitive expedition, according to the annual reports the “expeditionary troop” had been stationed there for five months, during which the “extensive terrain was recorded and mapped by route surveys and the local tribes, who were victims of savage head-hunting practices, were pacified” (Sack & Clark, 1979: 354). This was a timely warning that labels like “punitive expedition”, “unrest”, “rebellion” or “pacification” were probably also “narrative” terms without a precise meaning.

The crucial difference between the Police List, and the annual reports, however, was that the latter did not treat these military encounters as a chronological sequence of episodes but incorporated them into a suspiciously coherent overall picture of German colonial rule.⁶

II

The Neu Guinea Kompagnie presented itself in its first annual report as anything but an enthusiastic advocate of the employment of military force. Rather, it saw it as one of its central tasks to “take the measures indispensable for the establishment of the rule of law” (ibid.: 3). However, since under its charter the organisation of the administration of justice was reserved to the German government, the company had to wait until the government had created a system of colonial courts. This happened reasonably promptly, but their jurisdiction extended, for the time being, only to

4 The annual reports did suggest, however, that only the arrival of SMS *Cormoran* with 100 Melanesian policemen had prevented unrest on Ponape in 1908 from turning into an open rebellion

5 The draft annual report for 1913 referred to a punitive expedition by the police force in southern New Ireland and a combined expedition by the police force and SMS *Cormoran* in southern Bougainville.

6 I should stress that what follows is not my story but an attempt to present the information provided in the annual reports in a condensed form. I have therefore followed the annual instalment format of the reports and quoted extensively, so as to let, if not the facts, at least this source, speak to a large extent for itself. I appreciate that a more determined streamlining would have made this chapter easier to read but it would have been also much less realistic and thus prevented it from achieving its purpose.

subjects of civilised nations...and not to the natives or to members of other coloured tribes with equivalent status. But neither category may remain completely outside the law... This is particularly true in the case of those who enter employment and become dependent... Accordingly regulations have been drafted...[which prescribe] the penalties for punishable actions and the procedure to be followed in these cases... In the meantime there is need for some material instruments of power, both vis-à-vis those natives who have not yet actually been brought under the new State authority, and for the enforcement of police or judicial measures, in particular for the forcible execution of judicial decisions. It is true that the Board of Directors has equipped the stations and ships with arms for their protection. But the small number of officials and employees...is not adequate to repel an attack or to avenge one, particularly as the stations cannot be left for a longer period... The protection which the German Government has promised the Company would also have to be called on to repel attacks by the natives... [However,] the only naval ships which have been present in the Protectorate—and then only occasionally and for short periods—are not suitable for this purpose in any but exceptional cases (ibid.: 11).

The company therefore found itself obliged to establish a small, armed native police force, although it expected that the German government would continue to provide additional protection. But it did not see a great need for calling on it.

[I]nsofar as they are already known...[the natives] are not particularly numerous. Larger communities under the centralised leadership of chiefs do not appear to exist... Nor are there larger groups bound together by any common language... This fragmentation is an obstacle to winning over the people peacefully... On the other hand it reduces the danger which might arise if a group of larger tribes were to join forces to attack or resist the sparsely occupied settlements...

As far as is known, in the Bismarck Archipelago the establishments themselves have never been attacked, but in recent times scattered traders living in isolation have been murdered. It is difficult to discover the reasons for such acts or the culprits, but it is not improbable that in some cases they were provoked by actions on the part of the victims. In this connection there have been grave abuses in the manner in which the so-called 'labour trade' has been conducted up to the present, that is, recruitment for work on the plantations in the Australian colonies. In form, this is carried out by contract, but in actual fact frequently force and cruelty are employed and the chiefs are bribed with arms. On the one hand this has led among the natives to an embittered attitude towards all whites, so that they respond with hostility or distrust even to peaceful approaches. And on the other hand the power of the natives, who are already in the majority numerically, has been dangerously reinforced by the possession of firearms...

In Kaiser Wilhelmsland before its annexation by Germany the natives came into contact with whites only fleetingly and at a few points along the coast. They have no firearms but are skilled in the use of spears and bows and arrows. The stations are unanimous in complaints about their tendencies to thieving. There were serious conflicts in December of last year on the Huon Gulf and in July of this year at the Hatzfeldhafen Station. The former arose when a boat of the [company steamer] *Samoa* which was about to land was attacked with spears, which occasioned the burning down of several huts. At Hatzfeldhafen, without apparent cause, a large number of natives attacked the experimental tobacco plantation near the station and wounded five of the Malays working there, one fatally and the others seriously. Here again, as the culprits could not be discovered, the punishment consisted in the destruction of houses and canoes in the villages to which the attackers belonged.

These incidents point to the need for caution and for reinforcing the personnel of the stations. But they are only isolated cases and will perhaps not be repeated after effective punishment.. (ibid.: 19–20).

The company had been too optimistic. Not only did the unfriendly attitude of the natives force it to increase the size of its personnel in Hatzfeldhafen far beyond that required for its normal operation, but in the Bismarck Archipelago both its station manager and the imperial judge were attacked, the former during an attempt to cross central New Ireland, the latter while on a visit to Weberhafen on the Gazelle Peninsula. On the other hand, full jurisdiction over natives was transferred by the emperor to the company, which promptly enacted a native penal ordinance.

This Ordinance will be of importance particularly for natives of the Protectorate and members of other coloured tribes who are in regular employment. Natives of the Protectorate who are not so employed have up to the present come under the authority of the State only to a limited extent. However it appeared necessary to make legal provisions to cover these natives as well; firstly for the purpose of bringing the punishment of crimes and offences against whites under the rule of law and thus preventing their occurrence as far as possible; and secondly to protect those who prosecute and punish offenders from the provisions of the German Criminal Code according to which such prosecution and punishment, if without legal foundation, would be punishable. Although applicable in principle to punishable actions committed by natives against each other, the Penal Ordinance is not for the present aimed at these. It can be extended only gradually to cover these, as the range of influence of the stations expands and the natives enter into friendly relations with them. By the provisions of the Penal Ordinance which leaves it to the discretion of the presiding judge to decide whether the circumstances make it desirable to press or drop a criminal charge, the way is effectively prepared for extending its application in this direction (*ibid.*: 28).

Whereas the annual reports had nothing to say about the exercise of the company's judicial jurisdiction, they continued to refer to non-judicial punitive measures in relation to natives who had not yet "come under the authority of the State".

In 1888 SMS *Alexandrine* sailed at the request of the administrator

to the Anachorite and Hermit Islands and thence to Neu Mecklenburg. On the former there was no longer any occasion for intervention, as the traders stationed there pronounced themselves satisfied. In Neu Mecklenburg punitive measures were taken in those places where the inhabitants were suspected of crimes (*ibid.*: 43).

During the following year

the warships of the Imperial Navy have had occasion for punitive intervention.. in some cases... However these were isolated incidents. In the light of their temperament, their relatively small numbers and the absence of any form of closer association for common purposes..., there appears to be absolutely no possibility of a serious interruption or delay in the progress of colonisation due to resistance or attacks by the natives (*ibid.*: 53).

While these military operations were carried out by the navy, the killing of three Europeans and 14 native labourers near Hatzfeldhafen in 1891 led to several punitive expeditions mounted by the imperial commissioner "with additional assistance of a warship" (*ibid.*: 60). The Blanche Bay Uprising in the Gazelle Peninsula in 1893—the first event in the history of German New Guinea which earned participants a colonial memorial medal—was also primarily the responsibility of the local police force.

Repeated attacks...[on the company's station in Herbertshöhe] were repulsed and considerable losses inflicted on the hostile tribes by expeditions led by the station manager. Nevertheless, although the main instigator of the revolt had fallen, peaceful conditions were not restored. The Administrator proceeded to Herbertshöhe in November... But notwithstanding the respect in which he was held by the natives who remembered him from his earlier period of duty in the Archipelago, and in spite of all appropriate measures, even the Administrator did not at first succeed in concluding a peace which would guarantee the settlements against further attack. After the arrival of S.M. Cruiser *Sperber* at the beginning of December, and in consultation with her commander..., he therefore decided on an expedition against the hostile tribes, to be led by himself. The police troop was divided into two parties in order to outflank the enemy. The warship rendered assistance by disembarking part of its crew and firing a number of shells at the enemy position. The advance of the police troop inflicted some losses on the enemy, but there was no decisive engagement.

However, the shells, fired from a distance of 5–7 km had the effect of killing one native and paralysing another with fear.

As a result of this campaign, all the inland tribes have now declared their readiness to pay in *diwarra* [shell money] the indemnity demanded from them during the first visitation by the Administrator, and have in fact paid it in whole or in part. Where this has not been done, it is nevertheless regarded as certain that the remainder will be paid in and peace thereby restored. The collapse of the resistance is attributed not least to the impression made on the natives by the firing of the shells. They now believe that no distance would be great enough to guarantee their safety from the white man's missiles.

Apart from the necessity for keeping constant watch, the hostilities caused no serious interruption to the work of the cotton plantation. On the other hand the food markets, normally attended by the friendly natives in large numbers, were deserted, and normal communications with the villages were also disrupted. It is anticipated that the peace settlement will have a good effect in both respects (*ibid.*: 75).

The company was therefore doubly annoyed when its acting station manager, instead of limiting himself to the defence of the colonial settlements, had found it necessary to carry out a punitive expedition in the north of the Gazelle Peninsula for "the purpose of punishing a chief...who was alleged to have committed acts of violence [against other natives]" (*ibid.*: 94). Even as far as crimes against colonists were concerned it was happy to rely largely on the presence of the naval survey vessel SMS *Möwe* which had been stationed in German New Guinea waters.

[W]ith its assistance a number of punitive expeditions have been carried out against natives in connection with punishable offences which had to be left unpunished for years because no warship could be sent... It is anticipated that the punitive measures..., however much their necessity is to be regretted, will help to prevent excesses by natives even in the remote parts of the...Protectorate (*ibid.*: 111).

The fatal shooting of its acting administrator by an escaped native prisoner in 1897 only rated a mention under the "Personnel" heading in the annual report, which noted that this "deplorable event need give no rise to anxiety on the score of the security of the establishments in general" (*ibid.*: 128). Neither the punishment of the mountain tribes near Friedrich Wilhelmshafen in August 1897 nor the destruction of the pirate villages Madine and Selapiu in New Ireland in October of that year were reported, although they were sufficiently significant to earn them a place in the Police List of medal-worthy military operations.

The first annual report of the new imperial government for 1898⁷ indicated a fundamental change in policy. Progress in the Bismarck Archipelago had so far been seriously hampered

by the fact that, while it was under the rule of the Neu Guinea Kompagnie, the Administration did not have at its disposal adequate resources to police the sea and the coastline, or for any intervention outside the Gazelle Peninsula. The continuous fighting among the natives, particularly in Neu Mecklenburg, adversely affected trade and the recruitment of labour...

On the Gazelle Peninsula the peaceful relations with the natives have continued to develop. The jurisdiction of the judge over the natives covers a large district, from which all the more important cases are submitted to him for judgment... (*ibid.*: 171).

[But, even in] the Gazelle Peninsula it has on a number of occasions been necessary to proceed with armed force against the natives. In July of last year there was unrest among the tribes around Mt Varzin. Peace was restored by armed intervention. In order to reinforce the respect in which the Administration is held, in August of last year a peaceful expedition and demonstration to Varzin was carried out in company with the landing force of SMS *Falke* (*ibid.*: 172).

7 I no longer agree with the explanation given for the existence of this report in 1899 (Sack & Clark, 1979: xi). I was wrong in claiming that the *budget* year ran from 1 July to 30 June, although the acting governor believed that this was the time span usually covered by the *annual reports* submitted by imperial colonial governments (see RKA 6513, fol. 183). However, the colonial department was anxious to submit information provided by imperial officials to the Reichstag instead of waiting for the 1899 annual report, although the time before 1 April 1899 was, strictly speaking, none of its business.

The imperial government still did not have its own sea-going vessel at the end of the period covered by the following report, but the governor had used any available vessel to travel the length and the breadth of the Old Protectorate—as well as the Island Territory which had also been placed under him—instead of using this delay as an excuse for limiting his governmental activities to the area around his administrative headquarters in the Gazelle Peninsula.

Unfortunately it was also necessary to conduct frequent punitive expeditions. Three of these were directed against the Admiralty Group, where three Europeans and about two dozen of their coloured employees were attacked and murdered in the course of the year covered by the Report; the schooner *Nukamanu* was also taken and there was an attack on the schooner *Nugared*, one European being wounded. The other punitive expeditions were directed against Neu Mecklenburg and the hinterland of Friedrich Wilhelmshafen..., the island of Bili-Bili and Berlinhafen. In two other cases punitive measures had to be taken: in the vicinity of Varzin and also in Kabanga on the Gazelle Peninsula. These expeditions were carried out by the police troop with consistent success. On the last expedition a landing party from SMS *Möwe* came ashore, and the command over the combined force was therefore given to an officer of this ship. SMS *Möwe* and SMS *Seeadler* rendered most effective assistance to all major military expeditions. The police troop...met with significant resistance on only one occasion, on the big punitive expedition in the Admiralty Group at the beginning of the year 1900. No Europeans were wounded on any of these expeditions; however a number of police troopers were more or less seriously wounded, none fatally. As there are no large united tribes to contend with in the Old Protectorate of German New Guinea, and as, apart from treachery and cruelty, Melanesians are characterised by a high degree of cowardice, any necessary military expeditions can be carried out by a police troop gradually increasing in size to match the number of stations and supported from the sea in emergencies by the Imperial Navy. In the selection of members of the police troop care is taken to see that as many tribes as possible are represented and that no single tribe predominates, and in this way the risk of mutiny, a possible danger in every mercenary force, is eliminated. However it would be still better if the major part of the troop were made up of East African Negroes, as the local police troopers cannot be retained in the service permanently, and when they return to their home districts trained in the use of arms, they can do a great deal of mischief with a rifle and ammunition should they manage to get hold of them. At the present time there are few rifles and little ammunition in the hands of the natives and these will probably gradually be confiscated. Little or nothing has ever been heard of arms-smuggling in the old New Guinea Protectorate. The rifles now in the possession of the natives were usually obtained by murdering and robbing Europeans, or date from the time when there was no prohibition against trading in weapons, and Europeans conducted an irresponsible trade in rifles (ibid.: 194–95).

The alternative to these regrettable punitive expeditions was an extension of the administration of justice. This had been facilitated by the appointment of government chiefs. This had happened

in a considerable number of localities in the Gazelle Peninsula and in the Neu Lauenburg [Duke of York] Group, the only areas which, in the absence of a Government ship, have hitherto been easily accessible... These chiefs have been given authority to decide minor legal disputes involving property up to the value of 25 marks or ten strings of...shell money... Limited authority in police and administrative matters has also been conferred on the chiefs, in particular the supervision of the maintenance and improvement of roads in their districts. Every native has the right to appeal to the final decision of the judge in Herbertshöhe against the directives and decisions of the chiefs... The cases are decided in accordance with native law, in so far as this is not incompatible with German law.

As there is no hereditary chieftainship, in fact no distinct chieftainship at all in the Gazelle Peninsula or in the Neu Lauenburg Group, in a number of cases considerable difficulty was experienced in finding suitable persons whose standing with their fellow-tribesmen was sufficiently high to guarantee their authority in the exercise of their magisterial powers. In a few cases it also became necessary to proceed against appointed chiefs for exceeding their authority and misuse of their official authority in their own interest. In addition to creating peaceful conditions among the *kanakas*, which is an essential prerequisite for the success of European enterprises, this whole policy towards the natives has made it possible to

requisition the natives to assist in works for the common good and this has in fact been done on a considerable scale in the construction of roads...

Outside the areas discussed above, the administration of justice in cases involving natives was confined to the prosecution of punishable actions where they affected Europeans and when travel facilities permitted, and to settling disputes between natives, where these were brought before the judge by the natives during his occasional visits to the various settlements (ibid.: 195–97).

In 1900 the newly established government station in northern New Ireland succeeded in confiscating considerable quantities of firearms and ammunition from natives, mostly without bloodshed, and prohibited the carrying of arms. But several punitive expeditions had also again been necessary.

Regrettably, because there is practically no communication between the individual groups of islands and tribes on account of the distances and the language differences, a successfully completed punitive expedition does not have a far-reaching effect, as in the case of geographically compact colonies. Particularly in the Archipelago practically every individual tribe has to be made to feel the power of the Administration before it can be induced to desist from robbery, murder and cannibalism. In addition it is extraordinarily difficult to make a real impression on the natives in the bush. Only a coloured force experienced in jungle warfare, under the command of individual Europeans well acquainted with the bush and the ways of the natives can undertake expeditions in the Pacific with prospects of success (ibid.: 211).

On the other hand, the natives showed

a great appreciation of the administration of justice by the German Administration. The collection of the money fines imposed does not meet with difficulties. Unfortunately the chiefs appointed by the Government do not always appear equal to the task of administering justice to the full extent to which it has been entrusted to them. They are occasionally guilty of injustices and extortion. Nevertheless native magistrates of this type must be regarded as a necessity for the administration of the pacified sections of the colony. Government chiefs therefore continue to be appointed, and strenuous attempts are being made to remove shortcomings in the discharge of their functions by these village magistrates (ibid.: 212).

This set the scene. As the annual report for 1901 put it:

It...will for a long time remain the chief task of the Administration to pay regular visits to the coasts of the individual islands in order to foster an acquaintance with the institutions of the Government along the coastal tribes and thus to promote peaceful conditions, to establish trade relations and to prepare the way for orderly recruiting of labour. Only regular appearances can guarantee that these functions will be fulfilled. On land, the construction of a network of roads from the Government stations to win over the inland and mountain tribes corresponds to the program of activity at sea just outlined (ibid.: 223–24).

This had worked well in the case of the new government station in northern New Ireland, where there had been

no occasion whatever to proceed against the natives during the year covered by the Report. No Europeans were menaced, and even the feuding among the natives themselves has completely ceased in the vicinity of the seat of Administration and on the north and east coasts, formerly so prone to hostilities. The most important tribes who were still conducting bloody wars against each other in 1898–99 elected chiefs at a meeting called by the Administration. There is no doubt that this has put an end to open hostilities, while the antipathy between the individual tribes remains, as is manifested by the many reciprocal complaints which are submitted to the station for settlement (ibid.: 228).

By contrast the extension of government control in southern New Ireland by the station in Namatanai, established in 1904, was "in some cases associated with fighting and blood-shed" (ibid.: 251). The Kieta station in the northern Solomons, established in 1905, also had to use armed intervention repeatedly when it extended its "sphere of influence" where natives were not allowed to take "the law into their own hand by pursuing arbitrary blood feuds" (ibid.: 265).

When a station for western Kaiser Wilhelmsland was opened in 1906 such clashes were accepted as natural. Yet, the successful punishment of several refractory tribes by the station was seen as having brought about "a complete reversal of the native situation", because it had now been able "to requisition natives in gratifying numbers for public works connected with the construction of the station, of bridges and of roads" (ibid.: 266).

These initial clashes were generally regarded as a passing phase. The annual report for 1906 noted with satisfaction that instead of the seven punitive expeditions in the previous year only two such expeditions had to be carried out in remoter areas of the Kieta district. However, there was "an urgent and pressing need to provide the station with a sizeable seagoing pinnace with which regular visits can be undertaken" (ibid.: 275). The call for such a vessel for each of the local administrations became part of the standard repertoire, because regular visits were necessary to further reduce the need for punitive expeditions, the usefulness of which had already been reassessed in the annual report for 1902.

Experience has shown that temporary punitive measures against excesses committed by the natives are worthless, in fact harmful, in that the latter always tend to avenge the losses inflicted on the next comers. The application of military force is useful only when the advantage gained by intimidating the natives is followed up by a permanent Government station which suppresses the feuds of the natives, gradually reconciles the warring factions, and guarantees the security of both person and property simply by its presence (ibid.: 236).

The new weapon was a mobile police unit. It was first stationed in the Gazelle Peninsula near the scene of the Varzin Murders, but was soon sent to punish the natives in the Vitu Group for "the attack on the [trading] station in Peterhafen and the seizure of the steamboat *Meto*". There too a small "occupation force" was left behind in order to maintain "the security of the station until the situation has been fully clarified" (ibid.: 244). That such temporary occupation forces were still not the answer was demonstrated by the experience in the Admiralty Islands where its "efforts to subdue the volatile and belligerent islanders...has so far not been completely successful". The only way of opening up this group was the establishment of a permanent government station equipped with a sea-going vessel (ibid.).

The annual report for 1902 had also reviewed the success of the administrative organisation of the natives.

Where peaceful conditions have been established and regular contact with the natives has been initiated, the developments to date can be described as satisfactory. It must be remembered that...[the natives] have no conception of subjection to a territorial power. It has nevertheless been possible to define small areas, to place chiefs in charge of these communities and to induce the people to perform services in the public interest, namely the construction and maintenance of roads. The use of these chiefs to assist in the administration of justice appears to give rise to the greatest difficulty. Self-interest, excessive zeal and lack of understanding repeatedly interfere with the course of justice (ibid.: 236-37).

By 1903 the number of villages which had been "organised" had increased to 107 in the Gazelle Peninsula, 27 in the Duke of York Group and 93 in New Ireland.

The assistance required of the chiefs in administrative and judicial matters has been rendered with commendable zeal throughout. Only in isolated cases have orders been disregarded in the most recently

incorporated areas, whose population is still far from comprehending even the ideas underlying the administration of justice or subordination to state authority (ibid.: 245).

Generally the 1903 report was optimistic because "the completion of the most important surveys and the consequent final definition of the plantation areas greatly improved relations with the natives and their readiness to perform the services required of them" (ibid.: 244). In 1904

the first organised administrative units were also created near Friedrich Wilhelmshafen. It still remains to be seen to what extent this form [of native administrative organisation], chosen to establish public order among the coastal tribes of the Bismarck Archipelago, will serve the same purpose for the coastal tribes of Kaiser Wilhelmsland...[since] [t]he cultural differences are considerable (ibid.: 252).

The experiment was not as successful as it had been hoped because the government chiefs did not achieve the desired influence in the course of the next year. "But it is anticipated that this situation will gradually change when the people become more familiar with the new system" (ibid.: 257).

The annual report for 1906 suggests that this prediction had not been too far off the mark.

Further progress has been made with the appointment of new chiefs in the remoter areas around Friedrich Wilhelmshafen. Although the sparseness of the population, their residual fear of Europeans and the inaccessibility of the terrain make it extremely difficult to unite the natives into small village units, nevertheless there has been a change in their attitudes. That is to say, no further resistance to the appointment of village chiefs has been observed, and they are beginning to show some appreciation of the institution (ibid.: 266).

In 1907

eleven new chiefs were appointed in addition to eleven already officiating [in the Friedrich Wilhelmshafen district]. Most of them were assigned two policemen each (*total* = messengers) to strengthen their influence over the village people. The requisitioning of natives for road-construction work was systematically proceeded with... It cannot be maintained that the natives actually show great willingness to perform this labour. In the year covered by the Report there were repeated cases of large groups escaping from the work-sites into the bush. On a number of occasions protracted expeditions had to be undertaken to recapture the escapees. Because of their extreme shyness of Europeans, dealings with the natives required great patience. Any moves to strengthen the power of the chiefs must in future be carried out and enforced only with great caution. In the area round Potsdamhafen (Monumbo) there is a traditional system of chieftainship. In the vicinity of Friedrich Wilhelmshafen a peculiar system of local law is in force as both public and family law. The oldest men, in consort, as local chiefs, are the main arbiters in the village. They also decide on marriages, property matters and the ceremonial funeral rites, and determine which children are members of the village community. The appointment of a [government] chief and the measures taken by the Government interfere with their influence; they are no longer the mighty sorcerers they formerly were. Naturally they are the bitterest enemies of the [government] chiefs and the Europeans. Their influence will continue to be felt in secret for a long time to come (ibid.: 278-79).

The next report shows that the government did not always proceed with "great caution". In the hinterland of Friedrich Wilhelmshafen

the existing native paths have been opened up over considerable distances and resthouses have been set up, so that these districts can be visited more frequently. This has strengthened the influence of the Government. Nevertheless the authorities have repeatedly had to take punitive action in these parts. With one exception all these cases involved breaking down the passive but stubborn resistance shown by one section of the population to the call to band together in administrative units (ibid.: 292).

The situation changed when in 1909 the

preliminaries to the introduction of the head-tax were completed with the establishment of sixteen tax districts for Kaiser Wilhelmsland...

The taxes were paid willingly. In fact the natives make active efforts to have their villages assessed for payment of taxes in money instead of the previous compulsory labour.

The number of chiefs appointed by the Government has risen from twenty-nine to sixty-two (*ibid.*: 308).

In the following year it rose by another 67 (*ibid.*: 322) and in 1911 the head-tax was "successfully extended to twenty-three additional communities" (*ibid.*: 338).

The head-tax was generally a success. During 1907 it was collected from 104 villages in southern New Ireland and amounted to 15,272 Marks (*ibid.*: 278). Its introduction was closely linked with the administrative organisation of the natives—and with the construction and maintenance of roads. In the Gazelle Peninsula, where it had been first collected in 1907 in some communities, it was introduced in all organised communities in 1908. Its introduction was also associated "with efforts by the administration to incorporate in the administrative organisation those villages...which had not been subject to systematic control". It was anticipated that in the course of the next year the entire northwest Baining area would be organised by appointing chiefs in all localities whose inhabitants were counted by name. This "will be of importance not only for the collection of taxes but for the completion and maintenance of the road at present being constructed from Tobaule to Massava" (*ibid.*: 289).

The connections reached even further. When the natives in Bougainville were offered the choice between paying a head-tax in cash and working for two weeks in lieu of tax at the station in 1908, it had been assumed that only the coastal villages would choose the cash option.

However, the villages situated in the interior also endeavoured to discharge their tax obligations in cash... In view of the poverty of the natives and the low level of local production of marketable goods, an increase in tax payments can be expected only after the establishment of large-scale plantations offering the natives work opportunities and provided their labour is paid for in cash (*ibid.*: 291).

In 1910 the head-tax was increased from 5 Marks "for a number of more prosperous villages and localities" to 7 Marks and in some cases to 10 Marks. Still, "[t]he increased tax was paid promptly and willingly everywhere" (*ibid.*: 320).

While the annual reports provided a good deal of information on the expansion of the administrative organisation of the natives, on the introduction of *corvée* labour and its gradual replacement by a head tax, they had little to say about the exercise of their criminal jurisdiction over natives by the colonial courts—after the stress placed on their importance and their ready acceptance in the first reports by the imperial government. This was largely due to the fact that as from 1900 penal statistics for natives were appended to the annual reports. The reports themselves could therefore limit themselves to occasional comments.

The most substantial statement was included in the annual report for 1907.

Sentences were passed against 174...natives. There were seventy-six...cases of crimes against persons, mostly offences against morality and bodily harm. There were fifty-four...cases of theft, misappropriation and robbery. Disciplinary powers are exercised by employers and police authorities over 8,275 plantation labourers, about 600 [police] troopers and Government employees and 400 employees in the shipping service and commercial enterprises. The natives subject to [actual Government] jurisdiction endeavour as far as possible to take advantage of the power vested in the chiefs in order to dispose of punishable offences by payment of compensation amongst themselves. Whenever substantial public interests are not adversely affected by offences, these efforts towards developing their own criminal law and system of

justice are given all possible support. This explains the small number of criminal cases in a native population of about 80,000 subject to a regular system of law.

The next annual report attributed a large increase in the criminal convictions recorded—from 174 to 246—not to an increase in the number of crimes but to “the extension of the systematic administration of criminal justice over a wider area”. Still it stressed again that as “far as possible, proceedings were only instituted in grave cases” whereas minor offences “were left to be settled by fines imposed by the officially appointed chiefs” (ibid.: 295).⁸

Apart from these general comments—and earlier expression of concern about the partiality of the government chiefs already mentioned—the annual reports provided no information about the exercise of their jurisdiction. The same applied to the exercise of the disciplinary powers by employers and police authorities referred to in the 1907 report. The number of persons subject to these powers was given, but without identifying the number and nature of the disciplinary punishments imposed. In 1908 the number of plantation labourers etc. was still indicated, but this time even without an explanation why it appeared under the heading “Administration of Justice”, and no reference at all was made from then on.

On the other hand the annual reports showed that at least in some cases the employment of military force could also increase the activity of the colonial courts. In 1910 the annual reports of the three districts in the Island Territory contained, like the earlier annual reports, no “Administration of Justice” section. But that for the Eastern Carolines, which was exclusively devoted to the Ponape Rebellion, stated that 17 of the rebels had been sentenced to death and executed. This compared with only one execution in the Old Protectorate in the course of that year, that of a Chinese who had robbed and murdered another Chinese.

The annual report for 1911 attributed the drop in the number of criminal convictions in the Eastern Carolines from 241 to 137 to the fact that the number in the previous year had been unusually high on account of the Ponape Rebellion. By contrast, the annual report for 1912 explained a dramatic increase from 629 to 886 in the total number of criminal convictions for the whole of German New Guinea by the non-compliance with police orders in the Eastern Carolines, where it had been necessary to protect the new native settlers on the land of the banished Dschokadsch rebels from trespass by other natives. According to the draft annual report for 1913 (Sack & Clark 1980: 14–15) the “abnormally high...number of fines imposed by the Ponape District Office...for offences by natives against the new settlements on the island of Dschokadsch” had no longer been necessary—and the total number of criminal convictions in German New Guinea dropped by 14 to 872. They included two death sentences which had been carried out, whereas three of the six death sentences imposed during 1912 had been commuted to long-term prison sentences.

Alongside the increased activities of the colonial courts the exercise of military force continued—and not only in the case of the Ponape Rebellion which was put down, according to the annual report for 1910, by a combined force of four warships and 222 Melanesian policemen. The military capacity of the native police force was considerably strengthened by the appointment in 1911 of an active army officer as the commander of the mobile police unit (Sack & Clark, 1979: 337). This appointment also signalled yet another change in the general approach.

⁸ When I checked the German original because I was puzzled by the contrast between “the payment of compensation among themselves” in 1907 and the “fines imposed by...chiefs” in 1908, I discovered that I had participated in the creation of a nice little phantom. Firstly, the reports had used the awkward term “*Busszahlung*”, which stands for something which is neither quite a “fine” (*Strafe*) nor quite a “compensation” (*Schadenersatz*), in both cases. Secondly, the 1908 report did not speak of the “imposition” of a “*Busszahlung*” by the chiefs but of their participation in arranging it. My excuse is that the German text is far from clear, as we pointed out in a footnote in 1979 (ibid.: 295, Fn. 1).

After adequate training under his direction, the troop, when not required for military purposes, is to engage as far as possible in practical exploration, gradually advancing into unknown tracts of country, reconnoitring tracks and making contact with natives. Due to the shortage of training personnel and the absence of adequate reserves for the troop itself, it was not able to make an advance into the bush until the first few months of the 1912 financial year (*ibid.*).

III

The annual report for 1912 provided a convenient résumé of German colonial rule—not because it anticipated its end but because it was related to an ambitious development plan.

It may be pertinent to set down the following conclusions based on developments up to the present and as guidelines for future policy.

European settlement has followed the coastline, leading to great dispersion and requiring heavy expenditure on communications and public administration, certainly more than would have been necessary if activities had been confined to a limited area. However this pattern of expansion of European influence has brought greater advantages for the country than concentration in one more restricted area. It made it necessary to establish public peace among the coastal tribes quickly. This in turn made available the large numbers of labourers for the plantations which were being established. Development has therefore been more rapid than would have been possible if progress had been along different lines.

The principles for the transfer of land have become accepted practice and seem to correspond to the needs of the particular type of agriculture in the colony. The great expansion of European plantations is based mainly on the accessibility of the natives as a result of their pacification and on the conditions on which land is made available. It may be said that today the only limitation on the expansion of European economy (hitherto predominantly German ventures) is the availability of labour. Capital has become available on an increasing scale, in fact more quickly than the unpacified regions could be opened up.

In 1897 the first Government chief was appointed on Blanche Bay. This was an attempt to induce the primitive natives to unite within a particular locality, to undertake certain obligations and to cooperate for the good of their fellow-tribesmen. From these experiments a permanent institution has evolved which has proved its value for attaining the objectives—naturally still very modest at the present time—of a native administration dealing with primitive tribes.

The successes achieved up to the present are based on mobility by sea. The further development of European colonisation, the process of civilising and raising the level of the natives, must also in the future rest on the assumption that this vast spread of islands and the long coastline of Kaiser Wilhelmsland will enjoy a regular system of communications from a central point (*ibid.*: 353).

Seen in this light the government would probably have preferred its relations with the natives to have been more peaceful than they were. This applied in particular to a “conspiracy” among the villages around Friedrich Wilhelmshafen caused by

dissatisfaction on the part of the natives at the purchase of part of their land... This purchase could not be avoided without giving up all plans for the future development of...[the] town. Adequate reservations had been set aside for the natives in the forthcoming subdivision. The conspiracy was betrayed by natives; the main ringleaders were taken prisoner and banished to the Bismarck Archipelago. The villages taking part—Siar, Ragetta, Panutibun, Beliao and Jabob—were resettled on the Rai Coast and in Megiar near Cape Croisilles and their land near Friedrich Wilhelmshafen was confiscated (*ibid.*: 354).

The annual report was pleased to state that:

There were no other disturbances in areas controlled by the Administration. But just outside their boundaries there were a number of major attacks on Europeans and by natives on each other, which made intervention necessary...

The natives inland from Hansa Bay, particularly the so-called Kagam tribes, had made repeated attacks on native bird-hunters. The establishment of lasting peaceful conditions appeared indicated if only

to ensure the security of the plantations and mission settlements in that area. The expeditionary troop...was therefore stationed for five months in the [Ramu] plain...inland from Hansa Bay. This extensive terrain was recorded and mapped...and the local tribes, who were the victims of savage head-hunting practices, were pacified...

In the middle of June a hunter named Peterson was murdered in the hinterland of Friedrich Wilhelmshafen. This was followed in August by the murder of the planter Miculicz by natives on the right bank of the upper Ramu. As far as can be ascertained, it appears that these acts of violence were due to the natives' desire to gain possession of firearms for use in head-hunting and in indiscriminate fighting in the wilderness. In October the Weber brothers were murdered on the island of Umboi, where they had intended to establish themselves as planters. The south-eastern part of the island may be regarded as pacified, whereas the north-western section is not yet under the control of the Administration. Disregarding all warnings, the Weber brothers chose that area for their venture. Although they believed they knew the character of the natives well, they fell victims to the rapacity of the mountain tribes. The guilty parties were killed in a fight against the police troop of the district office. One of the murderers was captured and shot in accordance with martial law. In November 1912 a village of the Wir people attacked a village of the Aichumki in the Baining Mountains near the boundary of the organised district. About thirty-two persons are said to have been killed and partly consumed. There was some danger of the resultant blood feud spreading to the recently pacified areas. Intervention by the expeditionary troop not only succeeded in punishing the aggressors but in occupying the country as far as the central massif of the Sinewit and preparing it for administrative control. In Bougainville and Manus serious outrages by feuding tribes...repeatedly required intervention in order to put an end to the murders and to maintain the prestige of the Administration. The Administration intends to employ the expeditionary troop to pacify South Bougainville, as this is absolutely essential for the successful development of the numerous newly established ventures on that island. There are similar plans for the Ramu region and the Markham Valley, in order to open up the approaches to the populous interior.

The extension and effective functioning of the peaceful administration of the natives encountered in some districts an unprecedented degree of resistance, which indicates that some tribes were in a state of profound ferment.

In the interior of Neu Hannover armed intervention on the part of the Kaewieng district office became necessary against recalcitrant natives, mostly absconders and former labourers.

In the Eitape District, in Maurik, a chief's assistant [*tutul*], that is a functionary of the natives' own administration, was murdered. The investigating official was resisted with an open show of force. In April 1912 natives of Orat killed some natives of Damon. The former offered violent resistance to the police with spears and arrows. In July 1912, a Malay living on the coast of Leitere was threatened by the bush natives. When the police troop appeared however, the natives fled into the rugged, broken country inland. In September 1912, when pursuing absconding labourers, the police sergeant was hard pressed in the villages of Pes, Wohun etc. near the station, and a coloured policeman who was carrying a message was murdered.

In spite of these cases of resistance in different parts of the country, the peaceful extension of the area under orderly administration has made progress. In Baining some of the natives living in the Wir Mountains between the Kewat and Vundal Rivers were successfully brought into closer contact with the Administration, as was shown clearly when they moved their homes towards Taulil. The recruitment of labour was also extended immediately to the newly organised areas, and the recruiters were very successful. The administrative organisation made further advances in the north-west Baining region. This was manifested by the fact that a large number of Baining men were constantly employed on neighbouring white plantations. In addition, about two hundred Baining men were employed for several months on preparatory work for the construction of the radio station which was to have been built in north Baining. Plans for this station were later abandoned. The administration also succeeded in making contact with the Baining living in the mountains in the south-western section of the Gazelle Peninsula inland from St George's Channel. These Baining are very warlike and have hitherto remained inaccessible to white contact. It is extremely difficult to bring the Baining natives under administrative control. The greatest obstacles are the wild and rugged mountains which they inhabit, their nomadic way of life and their difficult language, which is totally different from that spoken by the coastal people, together with their low level of cultural development. Only these factors can explain the fact that the

process of opening up this part of Neu Pommern, situated immediately to the rear of the seat of the Administration, had made less progress than in the remotest coastal areas of the island.

The creation of peaceful conditions, the growth of social intercourse among the natives themselves, an improvement in labour recruitment figures and the appointment of village officials (sixty-one chiefs and forty *tultuls*) may be regarded as the fruits of the extensive official voyages made to the coastal areas of Neu Pommern over the past two years... In the course of the administrative organisation of the coastal areas it was found that the population here is not nearly as dense as had been previously assumed. Alongside thickly populated localities are vast uninhabited stretches of country. Accurate population counts were undertaken at all points, but the data for some places still need to be completed before comprehensive statistics of the coastal population can be compiled.

In Kaiser Wilhelmsland the administrative organisation has been completed without a break along the coast from the British border as far as the mouth of the Kaiserin Augusta River. In the Eitape District the process has come to a halt, as indicated by the unrest among the natives referred to above. It is not improbable that this is to be attributed largely to the frequent personnel changes among the senior officials in Eitape, which in turn were due to serious illness. In the Morobe District on the other hand, the sphere of control of the Administration has been extended by peaceful means as far as the upper Uaria and its tributaries. It has been possible to extend the form of organisation which has proved successful with the coastal tribes (Melanesians) to the mountain tribes (Papuan) as well. In Kaiser Wilhelmsland the population count has made good progress in all districts. The laborious task of recording particulars of population in the coastal tribes alone will still require several years to complete. It would seem that the figures will in most cases be lower than previous estimates (*ibid.*: 354–56).

In the Island Territory public order was nowhere disturbed. Native administration had focused on reforming the traditional sociopolitical organisation. The distribution of the land on Ponape to individual tenants had been completed “with the intelligent co-operation of the people” and all feudal tributes to the chiefs had been abolished in conjunction with the introduction of the head tax. The chiefs only retained a few ceremonial privileges. The “obsolete” matrilineal inheritance had also to a large extent been terminated by stipulating that land, in contrast to other forms of property, was inherited patrilineally. In the Marshall Islands chiefs had been appointed for the various atolls in preparation for reforms of the government and the land tenure in these islands. In Palau and on Yap the traditional political organisation was to be left intact for the time being. Only its worst drawbacks would be tackled. In particular the social position of women had to be improved by removing them from the control of their sibs and larger social bodies. However these social reforms which, at any rate, could only be gradually implemented, were not as important as improvements in the fields of health and education, in order to put an end to half baked ideas which the uneven influences of a foreign culture produced among the natives.

For many years the circumstances described above will determine our policies towards the natives: in the Old Protectorate we must aim at pacification, in the Island Territory at a social transformation of the tribal system and in general at the highest possible degree of medical care and education, in order to achieve as the ultimate goal an appropriate rise in cultural and economic standards (*ibid.*: 356).

By contrast, the draft report for 1913 opened with the bold statement: “The year just past may be said to have run a course favourable to the Protectorate in every respect” (Sack & Clark, 1980: 2). Nonetheless, two major military operations were carried out: by the expeditionary troop in southern New Ireland (the “Southern New Ireland Rebellion”) and by a combined force of the local native police unit and the landing detachment of SMS *Cormoran* in southern Bougainville (see *ibid.*: 5–6, 56–57 and 71–72). While this combined expedition (the “Buin Expedition”) was of considerable general importance because it suggested that a more active involvement of the navy was again on the cards, my attention was especially attracted by the report of the district office in Friedrich Wilhelmshafen, since it took me back to district commissioner Berghausen and his trip up the Sepik, as it mentioned that a number of pupils who had been “brought in from the

central Sepik for language tuition...[had] made good progress and will soon be repatriated" (ibid.: 81).

When I looked more closely at this district report I noticed a number of additional, relevant details. One of them suggested that there were other reasons why the relations between Thurnwald and Berghausen might have been somewhat strained: the new government station at Angoram had been "virtually paralysed for months for want of a serviceable vessel" because the pinnacle *Papua*, which it was to inherit from the Sepik Expedition, was "at present still at the disposal of Dr. Thurnwald" (ibid.: 83). Another such detail was the conviction of one non-native because he had uttered "menaces...in the course of recruitment". Whereas this person was only fined an unspecified amount—and the place at which he committed his offence was also not identified—another recruiting incident was regarded as more serious:

In November, a recruiter for the Neu Guinea Kompagnie was threatened with violence by a large number of natives on the island of Umboi. He ordered his men to fire at them, and two of the natives are reported to have fallen. He then withdrew. Presumably the incident was preceded by misunderstandings arising out of the recruitment, and it has also been alleged that coloured recruiters from another recruiting ship had previously committed improprieties against the natives on Umboi. The matter is still being investigated (ibid.: 82).

Yet even clashes such as this were regarded as being only of "minor significance", at least "in comparison with the outrages committed by them [the natives!] in the previous year" (ibid.).⁹

The Old Protectorate was still a violent place, and traditional violence continued side by side with colonial violence, but the German authorities could respond with considerable restraint to the former.

In a head-hunting incident, six people from Mgiri, a village in the hinterland of Awar, were killed by natives of the village of Bodsknun, 17 miles upstream in the Ramu River lagoons. Without using force of any kind, the guilty village was successfully induced to surrender. The villagers were solemnly warned not to commit similar murders in future and six young men were taken to work for the District Office for two years (ibid.: 82–83).

IV

There I had it: punitive expeditions were a necessary evil, an abnormal instrument of government which had to be resorted to during the initial phase of the colonisation process in order to defend the first small colonial enclaves. They became superfluous as these colonial enclaves grew and eventually merged into a single colonial territory whose government was supplied with sufficient means of power to operate in a normal fashion and to assure its economic development by peaceful means.

Punitive expeditions were described as parts of an overlapping series of natural progressions: from the punishment of attacks by unpacified natives on Europeans and their employees to the protection of pacified natives from their unpacified neighbours, to the suppression of opposition against colonial rule within pacified areas and to the reform of the traditional way of life where it was irreconcilable with civilised practices or hampered economic development; from individual punitive strikes to temporary police posts and permanent government stations, equipped with sea-going vessels and engaged in the construction of an expanding network of roads; from military to administrative and disciplinary and then to judicial punishments; from the punishment of crimes committed by natives to the imposition of *corvée* labour on them and then to their transformation into taxpayers whose taxes were used to fund schools and hospitals and other normal

9 This is a reference to the murder of the "Weber brothers" mentioned in the annual report for 1912.

governmental services which would also gradually do away with the need to appoint government chiefs, or to recognise traditional chiefs as agents of the colonial government exercising various governmental functions.

It was tempting to elaborate this official version of the history of German colonial rule but was it worth the effort? Was the account presented in the annual reports mere propaganda, a strategically manipulated mixture of facts, lies and omissions? Although a thorough test of this possibility required a detailed examination of the historical record, the role of these annual reports permitted some provisional observations.

Since they were, at least from 1899 onwards, directly linked with the approval of the funds available to the colonial government, their compilers must have been tempted to improve on the facts so as to present its performance in a more favourable light. But they had to weigh this temptation against the danger of being found out, and the risk of exposure was especially great in relation to dramatic events, like punitive expeditions, which attracted considerable attention in the metropolitan press. Moreover, there were reasons for suspecting that the German government—in contrast to the Neu Guinea Kompagnie—exaggerated the role of military force instead of playing it down, not as an exercise in masochism but in an attempt to secure funds for allegedly superior but also more expensive control mechanisms: permanent government stations, each supplied with a substantial armed police unit and a sea-going vessel, backed by a large, well-trained mobile unit, a government steamer capable of transporting it to trouble spots or to areas which had been earmarked for systematic pacification exercises—and, of course, an expanding network of roads.

On the other hand, while it was politically expedient to portray the use of military force as a temporarily necessary evil, it remained tempting to improve other features of the portrait by showing the government as more in control than it actually was. In addition, by placing a few large punitive expeditions into the limelight, scrutiny could be directed away from a myriad of small brutalities which had been committed, or at least tolerated, by government officials.

Taken together these considerations made it more likely that the annual reports overdramatised the picture rather than prettying it. This was a mixed blessing; for if the annual reports were a whitewash exercise, my task would have been simple: I only had to identify a few hidden skeletons in order to demonstrate that punitive expeditions were not only less necessary and more evil than the annual reports would have me believe, but that they had been merely the most visible and therefore least deniable manifestation of an all-embracing morass of brutality, incompetence and corruption. By contrast, if the annual reports were reasonably honest as far as they went, I had to turn my attention in a different direction. Instead of challenging me to investigate a manageable number of military encounters between the colonial government and its native subjects, the annual reports compelled me, in this case, to come to grips with the entire field of native administration, as well as with the attempts by the government to control the use of violence against natives by non-natives, including its own officials.

Furthermore, scanty as it was, the information provided by the annual reports on the use of military force was far richer than that on other types of governmental activity. This took me back to an issue raised in the introduction: the difficulty of dealing with repetitive human actions which were historically significant not because they were unique but because they were performed routinely. The problem was that such routine actions had no story to tell or, more precisely, that the story they told, if they were treated as unique episodes, was historically insignificant.

The most obvious way of compensating for the non-narratability of routine, apart from hiding behind bland generalisations—for example, that the head-tax had been paid willingly everywhere—was quantification. The annual reports adopted this method occasionally even in relation to punitive expeditions—for example by expressing satisfaction that only two such expeditions had been carried out in an area whereas it had still been necessary to intervene seven

times in this manner in the course of the previous year—but they were careful not to push this quantification alternative too far. Punitive expeditions could not be officially acknowledged as a regular administrative tool. However common they were in practice, they had to be presented as exceptional events which could not be reduced to annual statistics, showing how many such expeditions had been undertaken and how many casualties had been inflicted.

This was different in the case of the judicial punishments of natives which were shown in the statistical appendices attached to the annual reports. But this was as far as the government was prepared to go. There were no statistics for their administrative banishment, or for the punitive expropriation of native land, although instances of both measures were reported. Nor was an attempt made to quantify the exercise of their judicial powers by the government chiefs, or the imposition of disciplinary punishments on native labourers or, for that matter, native policemen and their non-native superiors. While the annual reports proudly, although not regularly, referred to the amounts of the head-tax collected, they were less forthcoming with a quantification of the *corvée* labour performed. It was as if all these activities were perceived as necessary evils which had to be replaced as soon as possible by proper administrative arrangements in the metropolitan German mould.

By the same token, the annual reports did not suggest that the colonial authorities were embarrassed about using these abnormal measures. The creation of the colonial memorial medal showed that at least the emperor regarded it as perfectly normal under the extraordinary conditions existing in Germany's tropical colonies to use military force against his native subjects as long as they refused to behave in a civilised manner. But this did not help me with my problem: the absence of a systematic record of the relevant information. I had no choice but to go out and hunt for it myself, piecing bits together wherever I could find them, in the knowledge that even the greatest diligence was unlikely to yield satisfactory results.

Despite my first round of encounters with phantom history I therefore could hardly afford to ignore a study which promised to have already covered the entire field, namely Peter Hempenstall's *Pacific Islanders under German Rule: a Study in the Meaning of Colonial Resistance* (1978).

Although Hempenstall modestly denied that he was offering an "exhaustive analysis of German administration in the Pacific", he assured his readers that "there is much in the book that relates to German colonial attitudes and policy, to their methods of administration and control" (ibid.: viii). He also maintained that "research on the Pacific...[had] reached a stage" which called for a "comparative approach" and that such an approach was feasible because historical events, their "so-called uniqueness" notwithstanding, "contain common elements which make them amenable to generalisations" (ibid.: ix). Hence Hempenstall was able to offer "a framework for interpreting and explaining 'resistance' in all its forms in the German Pacific" (ibid.) which, I was told subsequently, covered "varying degrees of accommodation...[as well as] opposition" (ibid.: 201). In short, I was promised an account of the entire interface between German colonial rule and its native subjects, seen from a counterhegemonial perspective, a discussion of the natives' responses to punitive expeditions as well as to the imposition of *corvée* labour and taxes, a discussion of their role as policemen, as government chiefs, as interpreters, carriers, labourers and domestic servants, as sexual partners and spouses, as mission teachers, students and perhaps even friends. What more could I have asked for?

Chapter 3: A Charge of the Light Brigade

I

As I had enjoyed reading *Pacific Islanders under German Rule* when it was published over 20 years ago, I was not prepared to believe my eyes when I began to re-read it critically. No longer able to let myself be carried along by Hempenstall's contagious optimism, I now saw signals flashing all over the preface, warning me that behind its attractive facade analytical ambition was rearing to trample narrative caution, and narrative commitment was poised to strangle analytical rigour. There would have been no point in reading on had the preface not also promised that this study would show that narrative historians phantomise history "methodically" rather than accidentally, but that they nonetheless expect to be praised when they turn what they happen to see, or believe they have seen, into yet another phantom map that can be added to the vast collection making up the atlas of Wonderland. This was the map Hempenstall was offering me:

II

The book is divided into two parts. The first consists of 'case studies' of Germany's three colonial areas in the Pacific, Samoa (now Western Samoa), New Guinea, and Ponape in Micronesia. If the treatment of Ponape, an island only some 334 square kilometres in area, seems to exaggerate its importance within the Pacific empire, that is because its people became the most serious threat to imperial domination within Micronesia, perhaps within the whole Pacific. For this reason it is also a convenient basis for comparison with Samoa: both were the scenes of large-scale, open opposition to German policy which required a massive response from the Reich in order to overcome. There are other reasons for comparison: both presented similar problems of scale to the German administrations, with relatively small, homogeneous populations enjoying comparable economic standards; both had superficially similar cultures; both could boast of well-developed political systems which had a long history of familiarity with European civilisation. The small size and isolation of Ponape and Samoa from metropolitan centres meant also that the character of German rule on both islands bore very much the imprint of their individual chief administrators.

German New Guinea provides a special case study. In its geographic size, in its diversity of population groups, of cultures and languages, New Guinea represented a different sort of colony from the comparatively small islands of Samoa and Ponape, indeed from any other colony in Africa or the Far East. The history of contact here is of a unique quality, for the German period was one largely of discovery and exploration, and much of the contact with local inhabitants was desultory and fleeting. The records on German New Guinea are impressionistic, of whole populations rather than of individual people, except in the areas of dense white settlement. To avoid too uneven a treatment, therefore, I have concentrated on three areas within the protectorate for which there was an abundance of evidence about the changing pattern of colonial rule. These are the Gazelle Peninsula in New Britain, Madang and the Astrolabe coast on the mainland, and the Huon Peninsula, also on the mainland, south of Madang. As an area of subsidiary interest the Admiralty Islands, Manus especially, have been touched upon because they afford a special insight into changes of traditional leadership structures brought about by German rule (1978: viii-ix).

While this map had looked perfectly reasonable when I had read it as a narrative, it started to look bizarre when I took it seriously as the "framework for interpreting and explaining 'resistance' in all its forms in the German Pacific" it purported to be.

To start at the end, the body of his book showed that Hempenstall did not choose the Admiralty Islands as an area of subsidiary interest because they "afforded a special insight into changes of traditional leadership structures", but because they had been the target of an unusually

large number of punitive expeditions over unusually many years. Similarly, it showed that he did not choose the Huon Peninsula because it offered an “abundance of evidence about the changing pattern of colonial rule”, but because it formed an attractive counterpoint to his other two main areas, the plantation centres around Blanche Bay and Astrolabe Bay, since it was largely left to the Neuendettelsau Mission, after the abandoning of Finschhafen, German New Guinea’s first capital, in 1891. Moreover, it showed that he had chosen these two main areas because the intense colonial demand for land gave rise to dramatic events he wanted to narrate and not because “the records” for areas of dense white settlement were somehow less “impressionistic”. Nor had he singled out Ponape because he had convinced himself that it was more significant “for a serious comparison of the experience of Pacific Islanders under German rule” than other parts of the Island Territory, but because its history too had been more dramatic and therefore offered a more congenial target for a narrative approach. In short, Hempenstall had no intention of capturing the full range of Pacific Islanders’ responses to German colonial rule. He wanted to retain his narrative freedom and use “comparative analysis” merely as an additional spice.

Once the cards were on the table, it was easy to see that Hempenstall was going to focus on the same five dramatic events highlighted in the annual reports: the 1893 Blanche Bay Uprising and the 1902 Varzin Murders in the Gazelle Peninsula, the two Madang Conspiracies in the Astrolabe Bay in 1904 and 1912 and the Ponape Rebellion in 1910/11. But he was also searching for Micronesian and Melanesian counterparts of his Samoan stars, especially Lauaki and his struggle with the “Solf System”.¹ In this regard the Ponapean Henry Nanpei was the obvious Micronesian choice, although he was, unfortunately for Hempenstall, not the leader of the Ponape Rebellion. However, Ponape oral traditions offered Hempenstall the opportunity to present its leader, Soumadau en Sokehs, as a tragic hero of classical proportions. The Old Protectorate was more problematic. There only the “‘cannibal’ catechist” Pominis (ibid.: 221–22) in the Admiralty Islands stood out as a promising candidate, until Tolai oral traditions produced To Bobo, not just as a star behind the scenes of the Blanche Bay Uprising, but as the spokesman of the Tolai in their subsequent dealings with the German authorities. The Astrolabe Bay remained a disappointment on this score. But this was a blessing in disguise because the two conspiracies could instead be linked with an impersonal cargo cultism which provided a convenient stepping stone to the “strong millennial expectations which accompanied the mass conversion strategy of the Neuendettelsau Mission in the Huon Peninsula” (ibid.: 190).

I would have found this approach unobjectionable if Hempenstall had simply tried to dish up a tasty narrative omelette. But his analytical ambitions got the better of him and caused him to produce a series of subsidiary phantoms: for example the claim that the people of Ponape had been “the most serious threat to imperial domination within Micronesia, perhaps within the whole Pacific...which required a massive response from the Reich to overcome”.

Had the Ponape Rebellion been a *serious* threat to imperial domination? Had there been *other* serious threats in other parts of Micronesia, or, for that matter, in Melanesia? Was the massive response made *required* to overcome this threat, or could district commissioner Kersting and the native police force have put down the rebellion without naval assistance? To be sure, the Ponape Rebellion was taken seriously and the response to it was massive. But this was not the point. The question was whether it had, in fact, posed a serious threat to imperial domination and whether it had, in fact, been necessary to deploy four warships to put it down. Put differently, the point was whether Hempenstall, like Firth, used a special narrative language in which words no longer mean what they say.

Was Ponape especially “comparable” to Samoa? Had the position of Solf in Samoa not more in common with that of administrator Brandeis in the Marshall Islands than with that of district

1 German Samoa was Hempenstall’s main centre of attention—but it is outside my field of interest so that I did not examine the treatment of its history.

commissioner Boeder in Ponape, who not only had to administer the rest of the Eastern Carolines district but was also placed under the governor of German New Guinea as well as the colonial office? Did the character of German rule on Ponape bear a stronger imprint of its individual “chief administrators” than, say, German colonial rule in northern New Ireland bore the imprint of the legendary Franz Boluminski?

Was there a mysterious link between the density of white settlement and the richness of the historical records? Where the contact with the natives in a certain area consisted of a single, exploratory expedition the records of German colonial rule, if any, were certainly bound to be impressionistic. But did more contacts translate into more detailed records? Did denser white settlement bring about closer contacts between natives and non-natives? Were the records kept by the district office in Rabaul more detailed than those kept by the government station on Manus? Was a lonely missionary on a remote station not more likely to keep a detailed diary of interactions with his Melanesian flock than his confrère working in the mission’s headquarters with plenty of other Europeans to talk to?

This brought me to the crux of the matter: what did the “records on German New Guinea” consist of? Instead of addressing this question, Hempenstall assured his readers that he had consulted “as wide a range as possible” (ibid.: ix). But this was merely another phantom, and a particularly troubling one, because it implied that we were living in the best of all possible worlds where historians had the commitment, as well as the funds, to study all available sources before composing their narratives. Yet Hempenstall did not consult the potentially most important source of information on the history of Ponape under German rule, namely the records of the local district office. Did they still exist? Had Hempenstall been unable to locate them? Had it not occurred to him that they could be worth consulting? Did “as wide a range as possible” mean no more than: “I have looked at a bit of this and a bit of that until I had made enough notes to piece together a satisfactory narrative”? Or did such strategic phantom statements become immaterial as soon as they had fulfilled their purpose—in this case the assurance that Hempenstall had done more than could be expected of him in order to give his case studies a broad and solid basis?

Hempenstall did not hesitate to transcend the geographical limitations he had set himself, or to treat events within his areas of interest with sovereign unevenness, when this suited his narrative purposes. Thus resistance to the expansion of the plantations around Blanche Bay—which, *inter alia*, took the form of the 1893 uprising—was covered, while Hempenstall said nothing about the resistance to the expansion of the plantations around Astrolabe Bay before 1904, although he quoted imperial commissioner Rose as having warned, as early as 1891, that the people there “feel themselves cramped; and ignorant of the existence of a regime which will also protect their interests, they will be moved easily to arbitrary acts of violence in their distress” (ibid.: 171). Were they so moved? How did their response compare with that of the Tolai around Blanche Bay during the 1890s, or, for that matter, with that of the Tolai when plantations began to expand along the northern coast of the Gazelle Peninsula, which Hempenstall also ignored?

How did the response of the Marshallese to the imposition of German colonial rule differ from that of the Ponapeans? How did the Nauruans respond to the large scale mining operation on their small island as compared with the Palauans on Angaur? What factors did a serious comparative analysis of all forms of responses of Pacific Islanders to their colonisation have to take into account? Hempenstall’s preface certainly did not indicate that he gave serious consideration to this question.²

III

Perhaps the most ambitious section in Hempenstall’s case studies was an attempt to cover the administrative innovations in the Old Protectorate after 1900 in just three short paragraphs.

2 I have indicated in the introduction what such a consideration might involve (see above, pp. 17-18).

Administrative innovations after 1900 included organised public works and a poll tax. The former was an integral element of the direct control idea: in particular, the construction of roads was intended to improve [*sic*] access to villagers so that they could be taxed. In November 1903, a Government Instruction (*Anweisung*) authorised officials to co-opt all able-bodied men in the areas of control for up to four weeks a year to assist in the construction and maintenance of roads, or to work on government plantations. By 1914, using this ordinance [*sic*], the Germans had built a network of roads in the vicinity of all their main settlements, though outside the Gazelle Peninsula none of the roads stretched very far into the interior. In the Gazelle there were 209 kilometres of road between the Warangoi River and the Baining Mountains by 1911: a series running north and west of the Kokopo coast linked most of the inland districts and reached beyond the Varzin to Taulil, while a proper shoreline road was constructed between Herbertshöhe and Rabaul. There was also a road from Rabaul over the Ratauvul pass to Talili Bay on the north coast, and from Weberhafen to Massawa on the north-west coast, and into the Bainings.

Not all these roads, whether in the Gazelle Peninsula or outside, were constructed with willing co-operation. More-or-less stern resistance occurred in areas where villagers saw no immediate advantage accruing (for example, in Bougainville), or where it was part of a wider and deeper protest against white presence flowing from the loss of land resources (as was to be the case at Madang, on the mainland). The coastal Tolai helped build the first roads willingly enough, because they were paid for it, and because roads gave them better access to markets. After 1900, however, their attitude changed, particularly under the *corvée* regulations, when it became clear that they were being used to extend the road network mainly for the regime's purposes. Their growing distaste for roadwork made the Tolai particularly amenable to Hahl's second new measure, the head tax levy.

When Hahl introduced the head tax to New Guinea in 1906, it was designed to act as an alternative to forced road maintenance and to push more villagers onto European plantations. For this reason Hahl delayed its introduction in the Gazelle Peninsula at least six months, so that he could exploit free Tolai labour in order to finish his road-building program. Such was the Tolai dislike for the roadworks that Hahl knew they would gladly grasp any opportunity that delivered them from it. With their comparatively large cash reserves from trading, the Tolai would have no trouble paying a tax the moment it was imposed, leaving Hahl with insufficient labour to carry out his projects. His fears were well-founded. When the tax was finally introduced into the Gazelle in 1907, the Tolai offered no resistance; even when in 1910 it was doubled in many areas from five marks a year for every adult male to ten marks, people continued to pay it willingly in preference to working on the roads (*ibid.*: 141–3).

At a superficial reading this summary looked impressive, with its mixture of concrete details and deft generalisations. But, like the introduction to *New Guinea under the Germans*, it disintegrated under closer scrutiny. Thus what was “to be found in the Parliamentary Papers of the Commonwealth of Australia, *Report to the League of Nations on the Administration of the Territory of New Guinea*, September 1914 to 30 June 1921, Appendix B, p.40”, to which Hempenstall referred, was not the “only extant copy” of the 1903 instruction, but part of an English “Summary of the Legislation of the German Government” prepared by the Australian authorities. Moreover, according to this summary the instruction also dealt with compulsory “war services” and “emergency services”, in addition to the road and plantation work discussed by Hempenstall. Besides, it referred to the authority of officials to require labour of “the natives”, instead of limiting this authority to “all able-bodied men in the areas of control”.

Attention to these details would have helped Hempenstall greatly to put his account on a firmer basis. For example, he might then have looked for the head tax counterpart of the 1903 instruction, instead of claiming that Hahl introduced “the head tax to New Guinea in 1906...[but] delayed its introduction in the Gazelle Peninsula at least six months, so that he could exploit free Tolai labour in order to finish his road-building program”. Now, it was quite possible that Hahl wrote about such a delay in the report to the colonial department, dated 30 May 1906, to which Hempenstall referred, but this was, at best, part of the story, since the official introduction of a head tax in the Old Protectorate took the form of an ordinance proclaimed on 18 March 1907.³

3 It was, *inter alia*, published in the *DKG*, vol. 11: 145–46.

It provided that every able-bodied adult male native had to pay a head tax of five Marks per annum, but that natives employed for ten months during a tax year by a non-native, or a native paying commercial tax (!), were exempted.⁴ However, the duty to pay tax arose only after a community had been declared to be taxable by the local administrative authority. Although the Head Tax Ordinance did exempt natives paying the head tax from the performance of "corvée labour" (*Frohnarbeit*), it therefore still permitted the government to continue the regime of corvée labour indefinitely, simply by not declaring a particular community to be taxable.

What effects the Head Tax Ordinance had on the construction and the maintenance of roads by unpaid native labour further depended on whether it counted as *Frohnarbeit*—a term the ordinance did not define. Perhaps the 1903 instruction could help me further. While it was not published in any of the standard metropolitan sources, it was included in a collection of laws, published by the government of German New Guinea in 1912, a copy of which was held by the National Library of Australia. It showed that the instruction did not use the term "*Frohnarbeit*" either. Instead it distinguished three categories of "public services" (*öffentliche Dienstleistungen*) which corresponded to those identified in the League of Nations summary.

Since "emergency services" and "war services" plainly did not qualify as *Frohnarbeit*, I was left with the third category, called "continuing services" (*dauernde Leistungen*). It was divided into two sub-categories: the construction and the maintenance of roads and the work on government plantations. But the summary got it wrong when it said that all these services were restricted to no more than four weeks per year, and Hempenstall, apart from adopting this error, added an error of his own by claiming these services were restricted to able-bodied men in "areas of control".⁵ In general, the scheme under the 1903 instruction was designed quite differently from that under the Head Tax Ordinance. The duty to construct and maintain roads was to be met by the whole community, including women and children, whose land bordered on the road in question. Similarly, work on government plantations had to be performed by entire communities. In contrast to the construction and the maintenance of roads, work on government plantations was treated as having the character of a tax. Communities could even be requested to leave their home area to perform this tax labour. But they had to be housed, fed and clothed by the government, like paid labourers, and had to be given free medical assistance, as well as two sticks of tobacco and a clay pipe per week. Most importantly, it was only this tax labour that was not permitted to exceed four weeks per year. There was no time limitation on other public services.⁶

Taken together, the 1907 Head Tax Ordinance and the 1903 instruction suggested that the former intended to exempt those paying the head tax only from having to work, in lieu of tax, on government plantations, but not also from having to construct and maintain roads in their own areas without payment. On the other hand, the 1903 instruction was indeed only an administrative instruction—and not the "ordinance" Hempenstall claimed it to be—so that it was quite possible that by 1907 a different administrative practice had developed, with the knowledge and even the encouragement of the governor.⁷ Then again it was significant that the 1903 instruction was still

4 A consideration of the fact that natives too were required to pay commercial tax could have had a major impact on Hempenstall's study, because it suggested that the financial records generally were a potentially crucial source of information for the history of the responses of Pacific Islanders to German colonial rule.

5 It hardly needs saying that it would usually have been impractical to compel natives outside "areas of control" to perform "continuing services", but this did not apply to "emergency services" and "war services". Moreover, the Head Tax Ordinance, which did refer to the "*friedliche Machtbereich*"—the area in which the local authorities could exercise their powers peacefully—did not also exempt other areas from the duty to pay this tax, but made its imposition instead subject to a discretionary decision by the local authority.

6 Such a limit would again have been inappropriate in the case of "emergency services" and "war services". What government would dream of sending people performing compulsory services home after four weeks if the "emergency" lasted for a longer period?

7 Subsequent legislation invalidated such administrative instructions, in so far as they were inconsistent with them.

included in the 1912 collection of laws, instead of being omitted because it had become obsolete, although the annual reports suggested that it was by then interpreted rather liberally.

Another legal document, however, was even more relevant: a 1911 Roads Ordinance (DKB 1912: 3). It provided, *inter alia*, that natives had to maintain public roads traversing their land free of charge, and that this obligation, in line with the 1903 instruction, had to be met by entire communities. In other words, irrespective of whether or not able-bodied Tolai males paid their head tax, willingly or otherwise, they, along with the rest of their communities, did at least not escape the obligation of *maintaining* certain sections of existing public roads without pay.

Did the Tolai pay the head tax willingly? Instead of supplementing the scant information in the annual reports, Hempenstall accepted the ritual claim that they did. And instead of elaborating what the annual reports had to say about the resistance the natives offered to *corvée* labour, he was satisfied with pronouncing that the resistance offered was “more-or-less stern”—presumably in proportion to the degree of the immediacy of the advantages they saw accruing for themselves from the labour required from them. But if the Tolai were such staunch economic rationalists that they began to resist roadwork only when they felt that they were being used by the government for its own purposes, why did this sensitivity not also extend to the payment of taxes? Did Hempenstall mean to imply that the government spent the head tax in ways that served the immediate interests of those paying them rather than its own? Similarly, what did Hempenstall have in mind when claiming that villagers were forced to build roads so that they would become accessible to the tax man if the government knew that they would pay taxes willingly to avoid having to build these roads? Is “the direct control idea” to which German officials subscribed as absurd as the Tolai’s version of economic rationalism?

As far as “administrative innovations” in the Old Protectorate after 1900 are concerned, Hempenstall’s study is no improvement on the annual reports.⁸ On the other hand, Hempenstall provided a great deal more information than the annual reports about his chosen dramatic highlights. However, the central difference between the reports and his accounts was that Hempenstall did not present the imposition of German colonial rule as an encounter between “the government” and “the natives” but as a process dominated by a handful of individual German and indigenous actors. This produced, for example, a gallery of portraits of the “chief administrators” on Ponape.

8 This even applied to such a straightforward and specific topic as the extent of the road network in the Gazelle Peninsula in 1911. According to the annual report for 1910:

The Barawon road connecting Rabaul and Herbertshöhe was completed after more than three years of work and opened for traffic in June 1910. In Baining the road along the coast was continued as far as Neinduk. The completion of the Barawon road and the extension of the Baining road have created a single continuous road of about 200 km running from the mouth of the Warangoi (St George’s Channel) far into the Baining region, mainly following the coastline. Of the total length of the road about 150 km are suitable for vehicular traffic. Work was also continued on improvements to the existing roads. The bridge over Kabakaul Creek was replaced. A new iron bridge was built over Kabaira Creek. The timber cladding of the Ratavul tunnel, which collapsed last year, was completely replaced. The access roads to the tunnel, which were very badly affected by the heavy rain on account of their steep gradient, required constant repairs (Sack & Clark, 1979: 334).

Where did Hempenstall learn that the length of *all* roads in the Gazelle Peninsula in 1911 was precisely 209 kilometres? Or was that another phantom, just as his claim that none of the roads outside the Gazelle Peninsula stretched very far into the interior? Or had Hempenstall also found information which showed that the “main inland road” in the Morobe district which, according to the annual reports, had already reached the Wayaka villages in the central range during 1911 (Sack & Clark, 1979: 351) did in fact not exist, or that it at least did not qualify as a road? While, according to the 1912 report, many of the “roads” in German New Guinea consisted of tracks rather than vehicular roads (Sack & Clark, 1978: 370), the Morobe/Yakuna road, the first 40 km of which had been completed in 1913 (Sack & Clark, 1980: 106), was six metres wide, and 22 “major river and water crossings” had been constructed during that year in this district alone. Yet, as we have seen, Hempenstall is not alone in claiming that none of the roads in German New Guinea “stretched very far into the interior”. Indeed, he is less categorical than Firth (see above: 24) because he was prepared to make an exception in the case of the Gazelle Peninsula. But then, what does “very far into the interior” mean, especially if the term is used in a narrative history?

IV

The first sketch showed the back of Albert Hahl who, according to Hempenstall, left at the end of 1901, after only two years,⁹ “a disappointed man, after doing all in his power to win...[the Ponapeans’] trust and make them loyal subjects without apparent success” (ibid.: 82). Yet Hahl’s memoirs gave a different impression.

Before my departure I had to make my farewells. Since hate and discord had been laid aside, the people’s love of festivities, of singing and dancing, feasting and ceremonial libations had revived, I prefer to spare the reader details of all the feasting I was obliged to submit to on my farewell tour of the island (Hahl, 1980: 80).

Now it could be argued that it did not matter historically whether or not Hahl was a disappointed man when he left Ponape, but for Hempenstall’s approach to history these personal details were crucial, so that it was also crucial that they were accurate in the sense that they were in accord with the evidence. In this case Hempenstall himself presented evidence, albeit in a footnote, which supported Hahl’s version. “Paradoxically present day memories of Hahl on Ponape”, it read, “make Hahl the best-liked administrator during the German period...[who lived] with a Ponapean woman, drank the native beverage, *sakau*, and on ceremonial occasions wore the Ponapean grass skirt and allowed himself to be rubbed down with coconut oil” (Hempenstall, 1978: 82, Fn. 18). Did that sound like a disappointed man, or one who had a distaste for Ponapeans, because he had described them in an early report as “distrustful, treacherous and apathetic” (quoted ibid.)?

Hahl’s successor, Victor Berg, was introduced as “a forty year old civil servant with some experience in German East Africa” (ibid.). This was correct but misleading, because Berg, before being posted to East Africa, had served in the Cameroons since 1891, a time when Hahl was still a law undergraduate.¹⁰ The manner of Berg’s death in 1907, one of “the three outstanding events in his five-year [*sic*] tenure of office”, gave Hempenstall another opportunity for introducing oral tradition.

Officially he died of sunstroke while out surveying—an unusual death for a man who spent some nine years [!] in the tropics. The Ponapeans themselves believe differently. Their oral traditions tell of Berg’s digging in the ruins of Nan Madol and disturbing the tombs of the ancestral kings. He died a few days later, without any prior signs of illness, pursued to the end by the sound of ghostly shell trumpets echoing through the mountains. It is a tale of retribution entirely in keeping with the brooding atmosphere of Ponape and its people (ibid.: 84).

This added a welcome local dimension, the significance of which would be in no way diminished if the official cause of Berg’s death was medically more plausible than Hempenstall suggested. But this local dimension was itself considerably more complex because the Ponapeans had nonetheless been saddened by Berg’s sudden death and had attended his funeral in large numbers, although he had been specifically warned by his mistress and her family, which controlled Nan Madol, not to interfere with the ruins (see Ehrlich, 1978: 118).¹¹

Who came next? According to Hempenstall no-one for about a year (1978: 87), although he later mentioned “an acting administrator, Stückhardt [*sic*]” (ibid.: 97), whom he also counted when

9 According to his memoirs Hahl had already left Ponape in May 1901, making his tour of duty even briefer than Hempenstall reported.

10 Thus Berg’s official obituary (DKB 1907: 724). It may, of course, also not be free of phantoms, if the official obituary of Berghausen is any guide (see above: 54).

11 According to Hempenstall, Berg had initially shared Hahl’s “distaste” for Ponapeans.

stressing that, in 1909, Ponape “received its fifth administrator in ten years” (ibid.: 98). In any case, the new district administrator who arrived “manymonthslater, in April 1908” (ibid.: 87) was Georg Fritz, “a young, ambitious man, sensitive about professional status and esteem who had just completed a successful tour of duty as administrator of the Mariana Islands” (ibid.: 87–88).

It was hard to believe that Fritz, who had found his work “among the peaceful and passive race of Chamorros and Micronesians” so congenial that “he came to Ponape unwillingly at first” (ibid.: 88), was an “ambitious man”. He was certainly not young. Born in 1865, he was 42 at the time and three years older than governor Hahl. Besides, it appeared that Fritz had been transferred to Ponape because his previous job had disappeared when the Marianas were administratively merged with the Western Carolines. This information also shed some light on Fritz’s “sudden transfer” from Ponape to the Western Carolines in October 1909, the reasons for which, according to Hempenstall, were “not known” (ibid.: 98), although he speculated that it was the result of “pressure [put] on Berlin for his removal” by the Capuchin Order through the Centre Party (ibid.). Perhaps this pressure had been applied, although the Catholic missions usually lobbied the colonial office more directly, but there was another relevant factor: the death of Arno Senfft, the oldest member of the trio sent out from Germany to administer the Island Territory in 1899, who served as district commissioner for the Western Carolines and Marianas, had given Fritz the chance to apply for a transfer back to his old stamping ground.¹²

His replacement in Ponape was “Carl Boeder, and he came directly from Dar-es-Salaam in East Africa where he had been involved in Germany’s struggle against the Maji Maji uprising of 1905–06” (ibid.: 98). This fanfare prepared the ground for an account of the Ponape Rebellion that put the blame for this event squarely on Boeder, who had also been its first victim.

His personality was ill-suited to the monotonous life of a small, close-knit island community isolated from the rest of the world; his experience in Africa was certainly no guarantee of success in dealing with Pacific Islanders. A correct and rather distant man, Boeder tended to assume that his personality and authority would ensure peaceful solutions to any problems which might arise between the two cultural communities. To the job of dealing with other races he brought goodwill, but he was authoritarian and demanding, and he carried with him from Africa the conviction that the rod was a legitimate and effective method of instilling ‘colonial discipline’ into fundamentally primitive peoples; in fact, rumours later circulated in Ponape that he had been in trouble in Africa because of his severity. With these attitudes, and despite the warnings of his predecessor, Boeder set out to re-invigorate the German presence on Ponape (1978: 99).

That was a fitting portrait of a man cast in the role that Hempenstall had given him, but was it realistic? To begin with Boeder’s first name was “Gustav” rather than “Carl”. To be sure, a minor point, but a mistake which did not augur well for the reliability of the other features of the portrait. Were the rumours which later (when?) circulated in Ponape (among which group of people?), that Boeder had been in trouble in Africa because of his severity in fact true?¹³ Had

12 This explanation is supported by a letter by Hahl to the district office in Ponape, dated 18 August 1909 (RKA 2599). It foreshadowed that Fritz would take over the district office in Yap after returning from his mid-term leave, and that Boeder would replace him in Ponape. However, a recent history of the northern Marianas under German rule (Hardach, 1990) suggests that the decisive step was not the removal of Fritz from Ponape but his subsequent removal from Yap. According to Hardach the return of Fritz to Yap at “the end of 1909” was no triumphant new start. “Fritz drew personal conclusions from the conflict... [which had arisen with his superiors over his administration of Ponape] and decided to quit the colonial service. On his own wish he was retired on health grounds and travelled back to Germany in October 1910” (ibid.: 82). Fritz’s own version—at least the one he voiced in the course of his defamation case against Pater Venantius (see RKA 2594 and 2595)—moves closer to Hempenstall’s version, but with an intriguing twist: according to Fritz, it was Hahl, rather than the Capuchin order, who had engineered his premature departure from the colonial service.

13 Was it legitimate to incorporate such an unconfirmed rumour into a portrait of Boeder but not to report that his successor Kersting—whose first name was, incidentally, “Hermann” rather than “Heinrich”—had been investigated as a result of Erzberger’s scandal campaign for misdeeds, including manslaughter, he was alleged to have committed in

Boeder's personality been ill-suited to the monotonous life of a small, close-knit island community isolated from the rest of the world? Perhaps it was, but would I have been inclined to accept this assessment if Hempenstall had also told me that Boeder had applied for a transfer from bustling Dar-es-Salaam to remote Ponape because he was seeking a more relaxed environment for his young family, as was claimed in his official obituary in the *Amtsblatt* of German New Guinea (1910: 134)? How did a wife and small children, the youngest born after Boeder's arrival on Ponape, fit into the picture? Was it likely that Boeder had travelled directly from Dar-es-Salaam to Ponape instead of spending a period of leave in Germany where he would have been briefed by the colonial office and governor Hahl who was on home-leave at the time. Was it likely that Boeder, as the district commissioner responsible for the capital Dar-es-Salaam, had taken an active part in the struggle against the Maji Maji uprising some four years earlier?

But Hempenstall's highest trump in his account of the Ponape Rebellion was another traditional factor. About a month before the beating ordered by Boeder, which had triggered off the rebellion,

a corner of Pan Kadara, the most sacred location in the stone city of Nan Madol, had crumbled. The corners of Pan Kadara were revered in Ponape as symbols of the various districts, and if any were to crumble it signified the impending destruction of that area. In this case it had been the Sokehs corner. Thus the Sokehs people knew and accepted that Sokehs must die but, if so, they desired to die fighting, as men (*ibid.*: 104).

This was potentially a crucial piece of evidence, but one which had to be handled with caution since it was part of an alternative, Ponapean form of history, which could be so different in its purposes and methods from the modern western approach that a transplant of selected bits of information was untenable. Yet, Hempenstall treated this story not just as another piece of his narrative mosaic but made it a keystone of his subsequent comparative analysis. Far from having been "a crusade for Ponape's liberation", the Ponape Rebellion had been "an angry reaction against Carl [*sic*] Boeder's mounting prosecution" during which all Ponapeans were moved by "only one vision": "the negative belief that Sokehs was to be destroyed, an idea which applied to Sokehs alone and which made the rest of Ponape hang back in fear when Germany brought in her military might" (*ibid.*: 215). An awesome vision, but largely a figment of Hempenstall's imagination.

V

The history of German colonial rule in Melanesia was a less personal affair for Hempenstall. Although Albert Hahl, first as imperial judge and then as governor, was his star, Hempenstall shied away from portraying his reign as a "Hahl System", paralleling the "Solf System" in Samoa. But he did use another of his little character sketches to introduce the first governor, Rudolf von Bennigsen.

Von Bennigsen was an old-style Prussian army officer, whose scarred face betrayed the number of duels fought in his youth. His formula for control of the protectorate was brutally direct and simple: expansion by pacification; and his short tenure of office is notable for several bloody campaigns against recalcitrant New Guineans. A man whose sense of honour was absolute and unyielding, von Bennigsen is said to have resigned in a fit of pique, after Bishop Couppé persuaded Berlin to reverse a decision by the Governor not to sell land to the Catholics in the Duke of Yorks group, a Methodist preserve (*ibid.*: 140).

Africa, although he had been cleared, together with Brandeis, Rose and others?

Did a Hanoverian who studied law and became a professional administrator, first in Germany and then in East Africa, before taking up his governorship, qualify as an old-style Prussian army officer? Of course not, I was tempted to answer, but then Bennigsen probably did perform his compulsory military service in the Prussian Army, leaving it as a lieutenant of the reserve, because the kingdom of Hanover had been annexed by Prussia when he was a boy, so that he had no choice. Did Hempenstall claim that scarred faces were typical of Prussian army officers and that Bennigsen acquired his facial scars by fighting a number of duels as a young officer? He would have been wrong on both counts—but then he did not quite say that. Besides, Bennigsen's face was indeed scarred, although most likely on account of the ritual duels he fought as a member of the student fraternity Suevia.¹⁴ Did Bennigsen at least resign in a fit of pique because a particular decision of his had been reversed in Berlin? Although he probably retired from the colonial service some time after his return to Germany, there was abundant evidence that relations between him and the colonial department had been strained for a variety of reasons.¹⁵ But instead of looking for this evidence, Hempenstall relied on another bit of local gossip.¹⁶ On the other hand, had he looked further he might have noticed a report by Bennigsen dated 19 May 1901 (RKA 2755), according to which the Sacred Heart Mission had bought a large area of land in the Duke of Yorks from the Deutsche Handels- und Plantagen-Gesellschaft, "concerning which a settlement will have to be reached"—which would rather have spoiled the story.¹⁷

What had possessed Hempenstall to create such a monstrous phantom? It appeared that he had wanted to dismiss Bennigsen as quickly as possible to clear the deck for a more sympathetic account of German colonial rule under governor Hahl—the star impatiently waiting in the wings—and that turning Bennigsen into a negative stereotype had been the most effective, narratively acceptable way of achieving this.¹⁸

The aftermath of the Varzin Murders—of the wife of the planter Rudolph Wolff and their small son—on the Gazelle Peninsula in 1900 called for a different approach.¹⁹ Hence Hempenstall painted "a young magistrate, also by the name of Wolff"²⁰ as a counterpart of district commissioner Boeder in Ponape. But while Wolff was made personally responsible for what had happened, he was not presented as a "chief administrator" who, over time, left a personal imprint on the history of German colonial rule but as another stereotype: the brash young official who found himself wearing boots which were too big for him and who could be unfavourably contrasted with Hahl, the real "chief administrator", who unfortunately "lay stricken delirious with an attack of blackwater fever" (ibid.: 145) at the crucial time, so that Wolff had to take charge, only to make a total mess of things.

Like most of the colonial Powers, Germany lacked experienced administrative personnel. Wolff was a good example of the authority bestowed on officers who showed initiative in the field; an example, too, of the effect which a single individual could have on the pattern of racial relations in his area of German

14 Bennigsen fought at least one serious duel, as the treasurer of German East Africa, when he was challenged by its chief justice (see Reichstag, *Stenographische Berichte* of 22 May 1895). But this duel was almost certainly fought with pistols and unlikely to have added to Bennigsen's facial scars.

15 While these tensions are, understandably, not mentioned in Bennigsen's official obituary (DKB 1912: 432), they are referred to in that of the *Kölnische Zeitung* (4 May 1912) for which Bennigsen had subsequently worked.

16 Hempenstall's source is a privately held manuscript by W.C. Groves which I did not consult.

17 As far as the transfer of land from one non-native owner to another was concerned, German New Guinea was a free market and no government controls applied.

18 After all, Hempenstall could not simply tell his readers that he did not care a damn about Bennigsen.

19 It is worth noting that there had also been additional, native victims who are rarely mentioned even by counter-hegemonial historians.

20 In contrast to Hempenstall's other leading actors, Wolff is not given a first name. I should perhaps add here, for the record, that it was "Emil".

New Guinea. Wolff interpreted the murders as proof of wide-ranging, acute resentment against white rule, and he suspected that some 1200 people in the districts of Paparatawa, Tomanariki and Viviren were involved, at least tacitly. Instead of mounting a quick police raid to seek out the ringleaders, as was the normal practice, Wolff responded by arming and releasing onto the Varzin districts 2000 labourers offered by white planters.

It was a decision which the Colonial Department later described, with masterly understatement, as 'injudicious'. In fact Wolff with this one decision turned what had been a local incident into a racial campaign, a total war in which leaders of the Tolai finally rejected any idea of co-existence. Old inter-group hostilities, dormant since pre-contact days, were rekindled as coastal people fought inland tribes and New Irelanders and Solomon Islanders invaded the territory of the Tolai. A war of indiscriminate slaughter followed, in which innocent men and women were shot and missionaries threatened, the hostilities penetrating far inland to the newly-contacted Taulil people and reaching back to pacified districts where the lives of whites and New Guineans alike were in fresh danger; even pacified Tolai in reserves between Herbertshöhe and the Varzin showed solidarity with the offenders by signalling troop movements to them with drums. For their part, Europeans aided and abetted the reprisals because, in their eyes, the slaughter of a white woman and her child represented the ultimate desecration of the white race. Even the Catholic Mission allowed itself to be drawn into the fighting when the war threatened to envelop its stations in the more settled districts (*ibid.*: 145–46).

Hempenstall was still on firm ground when stating that Germany lacked experienced administrative personnel for her colonies, but he began to sink into a bog of phantom history when he claimed that Wolff had been a good example of the authority bestowed on officers who showed initiative in the field. What authority had been bestowed on Wolff, as a result of what initiative and by whom? Had it been bestowed on Wolff by Hahl when he had lain stricken and delirious with blackwater fever? If so, as a result of what initiative, since Wolff had as yet not responded to the murders? Did Wolff need additional authority as he had already been in charge of the local administration in Herbertshöhe before Hahl fell ill? Was Wolff off the mark when interpreting the murders as a manifestation of a wide-ranging unrest, if the house of his planter namesake had been surrounded by "some two to three hundred warriors from two districts" before the murders, as Hempenstall stated in the preceding paragraph? Besides, if it had been an ordinary murder, there would have been no ringleaders Wolff could have arrested, quite apart from the fact that it had never been a practice in German New Guinea to make quick police raids to peacefully arrest the leaders of some two to three hundred warriors who had just captured, according to Hempenstall, "thirteen rifles and 1000 rounds of ammunition".

On the other hand, while this was quite an arsenal for a one-man plantation, the pool of weapons Wolff could have drawn from would have made it impossible for him to arm the vast majority of 2,000 labourers with more than their agricultural tools.

Could Hempenstall's scenario be reconciled with Hahl's staunch defence of Wolff who, according to Hahl's memoirs, had "performed his functions admirably in these difficult times" (1980: 94)? Had at least the colonial department later censured Wolff, albeit with "masterly understatement"?

Alas, its "Denkschrift [*sic*] of 27 February 1904, RKA 2990", to which Hempenstall referred, did not contain an all too lenient censure of Wolff; rather, the document was an internal response to a request by Wolff to be given public support by the colonial department against attacks on his handling of the matter which had been published in the German press. Fritz Rose, the former imperial commissioner who first dealt with the matter, had been willing to assure Wolff that his superiors approved of his actions, but only 'privately', because public servants had no right to expect a public defence of their official actions. He had even been prepared to certify that Wolff had acted "judiciously" (*umsichtig*). His colleague, Heinrich Schnee, Wolff's predecessor once removed, had thought that this went too far. He had therefore added in the margin that "*Umsicht*" was hardly the right word to describe Wolff's actions and that it would be more appropriate to call

them “intrepid” (*unerschrocken*), when expressing the colonial department’s approval to Wolff. So much for the story behind another phantom.

VI

Hempenstall also offered a Melanesian counterpart of the crumbling of the Sokehs corner of Pan Kadera: the role of “the bullet-proof ointment” in the 1893 Blanche Bay Uprising. He distinguished three versions of its end: an official European version, according to which the Tolai were shelled into submission by SMS *Sperber*; an unofficial European version, according to which the uprising collapsed when the inventor of the bullet-proof ointment was killed during the fighting; and a Tolai version which gave an additional reason for the change of heart among the Tolai.

[A]n *alualua* [*sic*] called To Bobo, from Vunabalbal, managed to obtain some magic ointment and took it to the Germans who smeared their forces with it before going into battle. Not only did it strengthen the resolve of the Melanesian troops, but in the eye of the enemy also made them invulnerable; thus the Tolai sued for peace (*ibid.*: 130).

This third version was especially attractive to Hempenstall because it went on to present To Bobo as the leading spokesman of the Tolai in their relations with the colonial government—thus turning him into the counterpart of Henry Nanpei on Ponape. But Hempenstall was not prepared to stick to this version because the second version, according to which the “enterprising young sorcerer...Tavalai of Ulagunan” (*ibid.*: 128) died as “a victim of his own delusions” (*ibid.*: 130), offered him Tavalai as a Melanesian counterpart to the leader of the Ponape Rebellion, Soumadau en Sokehs. He therefore combined the two versions, using the third to gloss over the problematic relationship between them by stating that “[w]ithout doubt, Tavalai’s death and the use of his ointment against them were greater shocks to the Tolai than the whistle of a few artillery shells” (*ibid.*).

Now it was logically possible for the three versions to co-exist as factual history. I only had to imagine that the Germans smeared their Melanesian troops with the ointment procured by To Bobo before the very same battle during which Tavalai was killed, while the shells fired by SMS *Sperber* were whistling over his head, but I had to keep my narrative visor tightly closed to prevent me from seeing that the second and third version, in particular, pulled—ideologically—in opposite directions.

The attribution of the collapse of the uprising to the killing of Tavalai was a frontal attack on Tolai culture. It marked a victory of modern western technology over primitive magical superstition. The “To Bobo Version”, on the other hand, reinforced the power of Tolai magic by demonstrating its superiority over colonial guns. More importantly, there were no losers: To Bobo created a stalemate which resulted in peace rather than in a victory of the colonial forces. To Bobo was not a traitor who wanted to bring about a defeat of his fellow Tolai—which he could have done by supplying the Germans with a superior form of an aggressive Tolai war magic which would have given their weapons the power to penetrate the protective shield of Tavalai’s magic.²¹ Instead this version celebrated To Bobo as the ultimate Tolai hero who achieved a political victory by successfully manipulating everybody. He used Tolai magic to silence the colonial guns by making his brothers submit, their cultural self-esteem intact, to that magic. But he thereby also brought the age of military opposition to colonial rule to an end. To Bobo was the prophet of

21 This was the aspect which puzzled me when I first heard the To Bobo Version in 1975. My Tolai informants agreed that the use of an aggressive form of magic would have made greater technological sense—if it had been the aim to assure a victory of the colonial forces. It was only when I considered the ideological aspect of the To Bobo Version that I realised that precisely this had *not* been the aim.

peaceful accommodation on the best possible terms—as Hempenstall well appreciated. But if it was to fulfil its ideological purpose the To Bobo Version could not be reconciled with the “Tavalai Version”. Its own logic demanded that Tavalai did not die, certainly not as a victim of his delusions, but quietly disappeared from the scene.

On the other hand, while ideologically satisfying from a modern western perspective, the Tavalai Version made no sense historically, if it presented the *invention* of a bullet-proof ointment as the decisive event, because this form of war magic was a regular part of the traditional Tolai armoury.²² Hempenstall sensed that it was not magic as such which made the 1893 bullet-proof ointment “special” and Tavalai “enterprising”. He therefore stressed that it “proved to be a perfect integrating mechanism”, “something to fuse the different groups together” (ibid.: 128). But he did not pursue this angle, because he apparently shared the belief of the contemporary European observers, that the decisive integrative force had to be the superstitious, but for this reason psychologically even more powerful, belief of the heathen Tolai in their own invulnerability.

Since it was not my task to elaborate the Tavalai Version in a direction which made historical sense but also took the structure of traditional Tolai culture into account,²³ I moved on, as eagerly as Hempenstall, to To Bobo as the spokesman of the Tolai in their relations with the colonial government.

As Hempenstall amply acknowledged, much of the information presented by him on this score was derived from a study by the anthropologist Richard Salisbury (ibid.: 130, Fn. 20 and 133, Fn. 25), who primarily reported and interpreted what members of To Bobo’s Vunabalbal clan had told him. The main ingredient of Hempenstall’s account was therefore doubly distilled clan history. For example: Salisbury’s informants apparently told him that it had been To Bobo who had persuaded Hahl to set aside the first native reserve located within Queen Emma’s Ralum plantation. In the main body of his study Salisbury was still cautious:

The leader of Vunabalbal village, a man named Abram To Bobo, went to the newly arrived judge at Kokopo [Herbertshöhe], Dr Albert Hahl, and pleaded with him to allow the natives to remain (cf. Kleintitschen 1906: 126). Dr Hahl was sympathetic with native claims that they had not enough land to live on... (Salisbury, 1970: 81).

In Salisbury’s biographical sketch of To Bobo this became:

It was undoubtedly his arguments that persuaded Dr Hahl to make the initial decision to set up Ralum Reserve... (ibid.: 316)

which Hempenstall translated into:

To Bobo, in particular, was able to persuade Hahl that Vunamami hamlets should be allowed to hold on to their extensive coconut stands as well as subsistence land (1978: 133).

22 It could be argued that the innovation was not the invention of a protective magical ointment as such but the invention of an ointment which worked, for the first time, against European bullets. However, this too would run against the grain of traditional Tolai culture, which endows its magical technology with the power to adjust automatically to the advances of western scientific technology. This is taken for granted in the To Bobo Version and was confirmed by my Tolai informants, who stressed repeatedly that their protective magic had had no difficulty in turning even aerial bombs aside during World War II—without the need for changing the traditional recipe.

23 Salisbury’s To Bobo Version offers food for constructive speculation. It suggests that Tavalai was enterprising because, instead of secretly offering a conventional ointment at a conventional price to a particular clan leader, he let it be known that he had invented an ointment which was capable of being mass-produced, and that he would make it available to all those who combined to pay the vast amount of shell money he was asking.

If Hempenstall had instead followed up Salisbury's reference he would have found that Kleintitschen was, in fact, a decidedly hostile witness. He wrote:

Some *kanaka* [no names are given] approached the Imperial Judge [no name or date is given], asking him to enlarge [!] the size of their reserve. He listened sympathetically and promised to do what he could to fulfil their wishes. The next morning a rumour spread that the Judge had returned to the natives all land they had previously sold. They came together in their hundreds and wanted to take...[it] again into possession, which almost led to a bloody clash (Kleintitschen, 1906: 126–27).

Having thus been alerted, Hempenstall might have also consulted Hahl's memoirs before outdoing even Salisbury's Vunabalbal informants by presenting To Bobo as having also "led the way in planting coconuts regularly and processing them into copra" (1978: 133)²⁴—and again with good reason since To Bobo did not rate a single mention in them. Instead Hahl wrote that he introduced systematic cash-cropping to the Tolai as a kind of occupational therapy for unemployed warriors.

I started with chief Tokinkin in Raluana, who had at his disposal a large number of people and good land, and persuaded him to establish a coconut plantation in the European style. There were no technical difficulties because the young men had the necessary experience, gained in the course of their employment on the plantations. But it was difficult to persuade these good folk of the advantages of a large-scale plantation which could not be expected to yield a harvest for years. But this venture too succeeded and was copied by others. A certain degree of pressure was always essential, but in the Gazelle Peninsula no actual compulsion or threat of punishment was ever used. All these efforts were assisted by the favourable market for the sale of garden produce and copra (1980: 43).

Yet Hempenstall was not prepared to accept everything Salisbury had to say about To Bobo's status under the German colonial government, perhaps because Salisbury himself was uncertain as to how far he could trust the accuracy of his informants on that score.

To Bobo, as the most active protagonist of peace, was later selected by Dr Hahl as his direct agent for contacts with the villages surrounding Vunamami. The exact status of this position is not clear, but informants say that the Germans used for it the pidgin title *nambawan*, which the Tolai translated as *lualua*. Informants also say that at first four *nambawan* were appointed, for Raluana, Davaon, Birara, and Vunamami, and subsequently two more for Toma and Paparatava. To Bobo's jurisdiction is also unclear; it definitely covered Vunamami, Vunabalbal, and Bitarebarebe but his efforts to extend it to other villages may well have been illegal, as when he was fined in 1896 for dictating what mission Takabur village would adhere to (1970: 316).

Rather than clarifying To Bobo's position with the help of the archival sources available to him²⁵ Hempenstall wove this vague information into a personalised version of some of the general

24 Hempenstall also presents To Bobo as the leader of a "Vunamami confederacy" and claims that he decided "to lower bride prices by fiat in order to encourage marriage and increase the population" (ibid.)—presumably throughout the territory of this (phantom) confederacy.

25 For example, RKA 2992 contains a 1907 list of government chiefs who held office in the Tolai area. It includes the name of To Bobo and gives a fairly clear idea of his status at the time. At least by then To Bobo was no longer the spokesman for the mysterious Vunamami confederacy. Vunamami had another *luluai*, To Materia, and Bitarebarebe had its own *luluai*, To Vurgilo. As far as the early days are concerned, Hahl's memoirs suggest that the key figure in the construction of the road to Takabur had been Turandawai of Bitarebarebe rather than To Bobo (1980: 13). If we read Hahl's memoirs together with the annual report for 1912, it appears likely that To Kinkin was the first *luluai* appointed in 1897, so that the fining of To Bobo in 1896, mentioned by Salisbury, if it took place in that year, would have preceded his appointment as *luluai*. On the other hand, Hahl also wrote in his memoirs that the first *luluai* was chosen by the Tolai themselves in the district adjoining Herbertshöhe in August 1896—which would fit To Bobo—and that he introduced this new system in the Duke of York Group in September 1896 (1980: 18). Perhaps Hahl distinguished between this preliminary effort and a more permanent version of the system involving the official appointment of *luluai* who were given "cap and staff, the insignia of a chief holding office in association with the Government" (see ibid.: 49).

information provided in the annual reports, relying primarily on a section of the report for 1899–1900 (see above: 75).

In August 1896...Hahl nominated the first individual New Guineans to convey his wishes to groups of hamlets: among them was To Bobo. These new officials whom the Germans called originally *lualuas*²⁶ but later *luluais* after the Tolai name for a district war leader, were given limited administrative and police powers to supervise road construction in their localities and to adjudicate small, local disputes. Fines of up to twenty-five marks or ten fathoms of *tambu* could be imposed, but villagers had the right to appeal against decisions to the Imperial Judge at Herbertshöhe.²⁷

The system of *luluais* was designed basically to encourage the peaceful solution of difficulties, and to act as a lever through which the government could 'draw' New Guineans to work within the colonial economy as roadbuilders, plantation labourers and, later, taxpayers. To delegate a more autonomous 'chiefly' power to these agents was impossible, for the social and political authority of the traditional *alualua* [sic], on which the appointments were based, was generally well circumscribed, and the Germans soon found themselves dealing with numerous complaints against *luluais* for exceeding their authority. Moreover, as the system expanded and single villages were given government *luluais*, the new appointees were not always the natural clan elders or 'big men' of their districts, so that some experienced difficulty in exerting their newly-ascribed authority. By 1900 Hahl had appointed forty-four of the new officials in the Gazelle and twenty-three on the Duke of York Islands, the only areas which his administration could reach effectively (1978: 134–35).

Even if this account had been phantom-free it would hardly have been an improvement on the information provided in the annual report on the institution of government chiefs, but it too was thoroughly phantomised. With the last of these phantoms Hempenstall even reached new heights, because he created a phantom Hahl who continued to appoint *luluai* in the Bismarck Archipelago after the real Hahl had left it at the end of 1898. Nor was the attribution of the post-1898 appointments to Hahl an accident. Rather, it was part of a methodical phantom obliteration of governor Bennigsen.

According to Hempenstall: "In 1901, after the virtual bankruptcy of Company rule, Hahl had to start from scratch" (ibid.: 141)—as if Bennigsen had never existed. Indeed, when stating later specifically that "Finally, in 1901, after appeals by To Bobo, Hahl had the area [of the Vunamami reserve] properly surveyed and concrete markers erected..." (ibid.: 144), Hahl even appeared as the author of a report to the colonial department of 23 January 1901 in RKA 2575 to which Hempenstall referred as his primary source (ibid.: 233, Fn. 9), although the real Hahl was serving in Ponape at the time. I did not check this report since it was plain that its author was not Hahl and that it did not refer to a survey of the Ralum reserves which Hahl had carried out in late 1900 or early 1901, but I did look at Hempenstall's secondary source, which was again Salisbury's *Vunamami*.

As Salisbury had written that the surveys had been carried out "shortly after 1901, when Hahl was made Governor..." (1970: 81) it was not difficult to imagine how Hempenstall's phantom version had arisen. At the same time, taken together with the incident referred to by Kleintitschen a more realistic, alternative scenario suggested itself: the Ralum reserves had indeed been enlarged and surveyed not long before 23 January 1901 but this had not been done by Hahl but by Wilhelm Stuckhardt who had replaced Heinrich Schnee as imperial judge when the latter had left German New Guinea at the end of September 1900.

26 Neither Hahl (1897) nor Parkinson (1907) use the term "*lualua*" in their description of Tolai sociopolitical organisation. According to Salisbury's informants, "the Germans" had used instead "the pidgin term *Nambawan*" which the Tolai had translated as "*lualua*". It is unlikely that "the Germans" ever used this Pidgin term, at least officially, or that the term "*lualua*" was ever officially used.

27 The annual report for 1899 indicates that the figure of 25 Marks, or ten fathoms of shell money, did not relate to the fines the government chiefs could impose but to the value of the property involved in *civil* disputes they were empowered to decide—which does not mean that they referred all disputes above this limit to German officials.

There was no point in speculating further about what had actually happened. What mattered was that there was also no point in continuing a critical examination of Hempenstall's account, since it was more than likely that his treatment of the history of German colonial rule in the Astrolabe Bay, the Huon Peninsula and the Admiralty Islands would display the same typical phantom characteristics.

But there was something about *Pacific Islanders under German Rule* which still puzzled me: while its examination had revealed a vast army of phantoms, it had not identified a single skeleton, not one instance where Hempenstall's study showed that the official version of the use of military force in German New Guinea in the annual reports was seriously flawed.

Since this was too good to be true, I started to look specifically for such an instance. It did not take too long to find one: an early military confrontation which had been "so bloody that Bismarck had suppressed its publication for fear of political repercussions" (ibid.: 170).

VII

According to Hempenstall this confrontation had consisted of "a series of punitive raids in 1886 by SMS *Albatross*", during which "[t]wenty-six New Irelanders were killed and several marines wounded" (ibid.: 234, Fn. 15). These raids were indeed neither mentioned in the annual reports nor included in the Naval List of military encounters qualifying for a colonial memorial medal. Yet they had been written up in detail in the German press at the time (see, for example, DKZ, 1886: 365–66). Although this showed that at least the implied effectiveness of Bismarck's suppression order was another phantom, my curiosity had been roused. Despite my misgivings I therefore followed up Hempenstall's reference to "Admiralty to Bismarck 11 April 1886, RKA 2976" (ibid.) in order to clarify the situation.

The file did contain a letter by the admiralty addressed to "Bismarck", dated 11 April 1886, even though its addressee was count von Bismarck, who was serving as under-secretary in the foreign office at the time, rather than his father, prince Bismarck, the chancellor of the Reich. However, the question the letter raised was sufficiently important to be referred to the latter: did the foreign office have objections to the publication of a cable the admiralty had received from SMS *Albatross*? Fully quoted in the letter, it reported on military actions which had taken place in New Ireland and New Britain. The former had caused two naval casualties, the latter six, including three serious ones. All told 26 enemies had been killed (the number of New Irelanders among them was not identified). In New Ireland order had been restored, but in New Britain the enemy had not been completely "subjugated" (*unterjocht*), so that it was necessary to send a larger force to achieve this. In the chancellor's view it was better to delay the publication of this cable until it was known "how the matter had arisen", since it might otherwise create "too much of an impression" (*zu viel Eindruck machen*).

But this was not the end of the story. The following day the foreign office wrote to the admiralty in line with the chancellor's comments. The admiralty responded on 16 April by reference to another *Albatross* cable, received in answer to a telegraphic request by the admiralty to provide the information sought by the chancellor. According to it the cruiser had been requisitioned because murder and theft had seriously endangered public peace and its landing force had taken military action after it had been attacked while trying to make arrests.

The admiralty was moving so fast because, in its view, it should publish the news of these military encounters as soon as the relatives of crew members had reason to be concerned, as was the case here because private circles already knew that they had taken place. The foreign office checked with its commercial contacts which denied such knowledge, as it wrote to the admiralty the next day, repeating the chancellor's request to refrain from publishing the information for the

time being and suggesting it respond to inquiries from concerned relatives by assuring them that all those who had been wounded were out of danger.

The admiralty waited until 25 May, after the mail dealing with these military encounters had been received. It proposed to the foreign office the publication of a detailed casualty list, together with a statement that the ability of those wounded to continue their naval service was unimpaired. The chancellor was not convinced: was it not preferable to inform the relatives of those wounded through personal letters, instead of publishing such a list? But this time he went further. He issued written instructions to the foreign office, listing the points he wanted it to discuss with the chief of the admiralty. Why was it desirable to publish such casualty lists? Did the navy simply follow army traditions, or was it moved by the wish to gain glory? Yet, it was the detailed accounts of such naval engagements, rather than the casualty lists, which concerned him, because these accounts always created an unpleasant impression, leading to undesirable consequences in "our parliamentary system", and suggesting to other naval powers that Germany was an "irritable thrower of cannon-balls". The instruction closed with an "official" (*dienstlicher*) request that reports by naval commanders about such engagements be kept strictly secret so as to avoid as far as possible exaggerated versions of them finding their way into the press.

On 27 May the foreign office relayed the outcome of these discussions back to the chancellor. The chief of the admiralty did not like the reporting of the military encounters of the navy in the colonies in the German press either, because they rarely covered the imperial flag with glory. He therefore did all he could to prevent their discussion in private letters by navy personnel. But this was of little use because the agents of the German commercial firms regularly reported them home, so that the metropolitan press was already informed about every detail of the military operations of SMS *Albatross*.²⁸

As for the publication of casualty lists, the admiralty had no choice because this was required by a general imperial instruction. In this particular case it had sought and obtained special imperial approval for a delay, but, apart from again requiring imperial approval, a decision not to publish them at all would create difficulties because the purpose of publishing this list was not so much to inform the relatives of the eight casualties but to put at rest the minds of the relatives of the 120 men who had escaped unscathed. Under these circumstances the chief of the admiralty hoped that the chancellor would drop his objections to its publication.

Bismarck was not so inclined. He not only insisted that this particular casualty list should not be published, but expressed confidence that the emperor would grant him his wish that henceforth no such lists would be published because any general instruction which proved to be "impractical" (*unpraktisch*) should be withdrawn.

In short, what concerned Bismarck was not that the "punitive raids" of SMS *Albatross* had been too bloody, but rather that they had not been sufficiently bloody to justify taking them seriously as military events. What Bismarck had feared was that turning these military molehills publicly into mountains would expose Germany to ridicule abroad and use up valuable "emotional capital" within Germany on which the government had to draw when it came to mobilising public opinion in support of a major military involvement, rather than public outrage about the excessive use of military force against the natives in Germany's colonies. Instead of presenting Bismarck as a frightened tyrant, the documents showed him as a cynical pragmatist, but they did so in a manner which could not possibly be condensed into a narrative one-liner without replacing Hempenstall's phantom version with another, but equally counterfactual, alternative.

It was the by now familiar story: the information a critical reading of the historical record revealed was not only significantly different from the phantom version presented by narrative historians, but also far more complex and far less conclusive. Hempenstall simply could not have

28 How did these agents learn about the details of the military operations of the navy? Unless they themselves participated, talkative crew members would appear to be the most likely source.

integrated the “real” story of Bismarck’s “suppression order” into his narrative treatment of “the inadequacy of the navy as a police force” (ibid.: 171). By the same token such concrete details were an essential ingredient of a narrative approach: Hempenstall could not have done without them. The problem was that the historical record offered too many rather than too few of them, and that these details interlocked, forming smaller and larger clusters which were all part of a continuous web. Hempenstall did not phantomise history in order to close gaps in the historical record, rather his phantoms were the product of an embarrassment of riches. They were the price he paid for oversimplifying history to a point where it became narratable.

The question was whether Hempenstall had merely gone too far, whether he had phantomised history because he had kept on crossing the line between legitimate simplification and unacceptable oversimplification, or whether a phantomisation of history was a necessary consequence of a narrative approach. Was *Pacific Islanders under German Rule* merely another unfortunate exception, or did it demonstrate that a narrative approach to history was generally incapable of giving an account of the history of colonial rule in German New Guinea which reflected a critical reading of the historical record instead of seriously distorting it?

Although I was satisfied that the proliferation of phantoms I had encountered in all the histories I had so far examined did reflect defects of the narrative method, another case study was probably required to convince others that there was indeed no choice but to explore alternative approaches.

The best way of testing whether these phantoms were symptomatic was to examine how one of the key events in the history of German colonial rule had been treated historiographically since it had occurred. An obvious choice was the Ponape Rebellion, since recent academic discussion claimed that so much had already been written about it that it was superfluous to go into details and sufficient to point out some of its special features (Hiery, 1995: 283).

Chapter 4: A Layer-cake of Phantom Histories

I

According to the annual reports the peaceful development of the Eastern Carolines district of German New Guinea was suddenly interrupted by an uprising of the Jokoj tribe on Ponape.¹ Its deeper reasons were identified as a general discontent among the native population of the island with the tax and road work required from it and a dissatisfaction among its chiefs with the recent abolishment of the traditional feudal system. Whereas the other four tribes on the island had accepted these measures, the Jokoj had been unwilling to do so. The ferment had exploded when a refractory native had been punished by the district office. On 18 October 1910 district commissioner Boeder, the secretary of the district office, Brauckmann, the officials Haefner and Hollborn and five natives were killed by the rebels. Since only 50 Melanesian police-soldiers were stationed on Ponape it had been impossible to take immediate action against the rebellious tribe. The government doctor, who had taken charge after the murders, had called upon the four other tribes to assist in the defence of "die Kolonie", the seat of the administration. This successful measure had also prevented the spreading of the rebellion to other parts of the island.

After seven weeks, a reinforcement of 172 police-soldiers arrived from Rabaul, so that the Ponapeans could be sent home. By 10 January 1911 a large naval force, consisting of the station cruiser *Cormoran*, the survey vessel *Planet* and the cruisers *Nürnberg* and *Emden* from the East-Asian squadron had been assembled. A force of this size had been required to dislodge the rebels—about 200 men, armed with rifles—with the help of the ships' artillery from their mountain fortifications on the offshore island of Dschokadsch. By 22 February 1911 the military operations had been successfully completed. On 23 February 17 rebels, who had participated in the murders of 18 October 1910, were sentenced to death and executed the following day. The rest of the Jokoj tribe, 426 persons, was banished to Palau and its land was confiscated (see: *Die deutschen Schutzgebiete in Afrika und der Südsee, Amtlicher Jahresbericht 1910/11, Ost-Karolinen*: 170–72).

Although this official version was more factual than any of the subsequent accounts I examined, it contained at least one phantom, since a critical reading of the historical records strongly suggested that only 15 of the 17 Ponapeans sentenced to death were executed. But while this inaccuracy was regrettable, it was not a historically significant distortion, because it did not alter the actual order of magnitude of the measures taken. On the other hand this phantom also illustrated how much easier and more satisfying it was to give precise details rather than to talk in terms of approximations. For example, it would have looked decidedly odd if the annual report had said that between ten and 20 rebels had been executed soon after the rebellion had been put down.²

Seen in this light the number of details included in the full text of the official version was not surprising. What was more interesting was that their selection reflected certain conventions. Thus the names and ranks of all the whites killed—but not their first names—were identified but none of the names of any of the blacks killed or of the whites wounded. Nor were the names of the government doctor or of the naval commanders, or the leaders of the rebels, given. Indeed, the annual report attributed all happenings to *the* district office, *the* rebels or *the* combined forces. The annual report presented a pointedly impersonal picture of history which described factually specified events rather than individually motivated actions or reactions.

1 The spelling of Micronesian proper names did and still does vary widely in the literature.

2 It would have suggested that the authorities did not know what they were talking about and were therefore incompetent. Do narrative historians fear the same reaction?

II

In his discussion of the Ponape Rebellion 80 years later, Hiery basically agreed with this official interpretation, although he used a more fashionable language, calling it a “social-reactionary, traditionalist revolt” which had, at the same time, been an “ethnic-national war against foreign domination” (1995: 284). But Hiery offered numerous details not included in the annual report. For example he informed his readers that the punishment of the refractory native had consisted of a corporal punishment and that this form of punishment had been introduced by district commissioner Boeder, because he had believed, contrary to his clear instructions, that he could subdue a stubborn Pacific colony by using the methods employed in German East-Africa, where he had previously served. Nonetheless, Hiery insisted that “the corporal punishment, which had been ordered by the supervisor of the road-works, Holborn [*sic*], was only the trigger and not the primary cause of the revolt” (1995: 282).

An even more colourful example was Hiery’s account of the proceedings before the “colonial court martial” which had tried the “Dschokadsch leaders”.

Their enemies during the war had become their judges during the trial. The soldiers and officers from the German warships and the rest of the European settlement Kolonia were the jury; judge was the new German District Commissioner Kersting, a government medical officer [*sic*] with administrative experience in Togo and Yap.³ The Dschokadsch had been permitted to conduct their own defence. As courageous as they had shown themselves during their defensive war, they now fought before the colonial court. When the paramount chief [*sic*] Jomatau Niue was asked what caused him to commit the deed, he put the finger on the open wound of any regime of colonial rule: “My ancestors have ruled this land for a thousand years. What are you Germans doing here? We did not call for you!” According to the evidence of a German eyewitness the German judges were “impressed” and became “thoughtful”. But the judgement itself was never in doubt because it [the death sentence] was “required by the prestige of the German name and the German flag” (1995: 284-85).

Hiery not only enriched the picture presented by the annual report, his version also contradicted it at several points. Thus he stated that 24 rather than 50 Melanesian police-soldiers had been serving in Ponape at the beginning of the Ponape Rebellion, that 18 rather than 17 Ponapeans were sentenced to death—although only 15 of them were executed—and that their execution took place on 25 rather than 24 February 1911 (see 1995: 283-84).

Where did Hiery get his information from? Instead of relying on the accounts of other professional historians, he chose two exotic sources: the memoirs of a German naval officer (Spiegel, 1934), presumably because he claimed to have been an “eyewitness”, and the “only indigenous source”, *The Book of Luelen* (1977). Hiery took the date of the execution—which was not given by Luelen—from Spiegel, whereas he took the number of death sentences and executions—which were not given by Spiegel—from Luelen, who provided a list of 18 names, including the titles and clan affiliations of the persons named, and added that three of the men, who were to be killed in Yap, were not killed because “it was said that they had no guilt” (1977: 145).

Hiery also combined information from both sources. This was how Spiegel’s “paramount chief Jomatau” acquired the name “Niue”, given to him by Luelen, although the latter gave Niue’s title as “Jaumatonjokaj” and did not indicate that this title made him the “paramount chief” (*Oberhäuptling*), which it did not.

When his two sources contradicted each other, Hiery tended to favour Spiegel, to the extent that he bluntly declared Luelen’s statement that 50 Melanesian police-soldiers had been serving on Ponape—which was supported by Luelen’s editors—by reference to Spiegel to be “false”

3 Dr Kersting held the post of “*Bezirksamtman*” (district commissioner) and had a medical degree, but he was not a medical officer (*Regierungsarzt*) although he had earned the civil service title of “*Regierungsrat*”.

(“*falsch*”, see 1995: 283, Fn. 107). On the other hand, Hiery did not accept everything Spiegel had to offer. For example, Spiegel’s claim that the few Europeans and Melanesian police-soldiers on Ponape had faced 3,000 to 4,000 Ponapean men able to carry arms became “about 4000 Ponapeans, the men among whom were not armed with bows and arrows but with modern rifles” (1995: 283).

Hiery also did not follow Spiegel’s version of the enlisting of the four other Ponapean tribes for the defence of the Kolonie by the government doctor. According to Spiegel, Dr Girschner had been an honorary chief of Kiti and Metalanim whose 30 years [*sic*] of loyalty to them the Ponapeans now repaid by sending their warriors in hundreds of war canoes, which arrived just as the sun was rising over Langar Island on the morning after the murders—that is on 19 October 1910 (1934: 177).⁴ Although this was, narratively speaking, good stuff, Hiery preferred to state instead—with a reference to Luelen—that Net, U, Metalanim and Kiti decided, “after lengthy deliberations”, not to take part in the rebellion of the Dschokadsch but to send troops to defend the Germans (1995: 283), even though Luelen had merely written that “on 20 [*sic*] October the States of Ponape came together at Kolonia to guard it” (1977: 144).

But whatever the attractions of Luelen he could not compete with the immortal lines attributed by Spiegel to Jomatau. In Spiegel’s own words:

All of us who were sitting at the judges’ bench were impressed by the proud demeanour of the vanquished enemy. There were even moments during the trial which lasted for two days when every one of us became thoughtful, for example when Jomatau in answer to the question as to what had caused him to commit the deed, declared with the pride of a king: “My ancestors ruled this land...[and so on]” (1934: 196).

III

The oldest academic history of the Ponape Rebellion I consulted was that of the anthropologist Paul Hambruch who conducted fieldwork on Ponape between March and September 1910 (1932: V). In it Hambruch attributed a different statement to Jomatau, although he claimed that it had been made in response to a similar question during his trial. When asked who had spoken in favour of war, Jomatau, according to Hambruch, had answered that he “had believed he could beat the whites and then become himself the ruler of Ponape” (*ibid.*: 301).

According to Hambruch the Ponape Rebellion had been the culmination of ten years of effort by a secret society, lead by Jomatau, to prepare the overthrow of German colonial rule.⁵

It consisted of conservative elements who wanted Ponape for the Ponapeans, and Ponapean law and custom rather than a foreign order. The society was therefore a patriotic association which wanted to terminate foreign domination (*ibid.*: 300).

While this supported Hiery’s interpretation, Hambruch also claimed that the rebellion had been planned for 2 June 1910, when Boeder would have left Ponape with the government steamer and no other vessel was expected for some weeks. But the plan was dropped after it had been betrayed, and Boeder did not pursue the matter after his return. On the contrary, he brushed aside the warnings of Hambruch, who had discovered this secret society in the course of his fieldwork. Nor did he believe Jomatau when the latter had told him pointedly some time before the rebellion:

4 This 30 year span would take us back to 1880, that is to say to a time before the beginning of Spanish colonial rule.

5 This means that plotting had started as soon as Germany had taken over from Spain.

The Spaniards were brave and in the end a bit frightened because we Ponapeans have always beaten them. But you Germans are cowards. You only talk about your soldiers, your ships and your Emperor, but you do nothing (ibid.: Fn. 1).

After a visit from the East-Asian cruiser squadron, Boeder decided that the time was ripe to introduce tough reforms which consisted of corporal punishments for persistent lying and insubordination and a strict regime for prison inmates, which included the shaving of their heads. In Hambruch's view these measures acted as a provocation rather than as a deterrent, since touching the head of a Ponapean was a serious customary offence and a beating obliged the victim and his relatives to kill the person responsible in revenge. Yet it was not the first beating, administered to a man from Kiti, but rather that of the Tsokes man, Nan ponpei Maluk, which caused the unplanned explosion. When he had "offered resistance" to the road-works supervisor Hollborn on 17 October 1910, he was taken to the district office and given by the Melanesian police-soldiers the corporal punishment announced for this offence, namely six strokes. He was then sent back to the road-gang with the message that other cases of insubordination would be dealt with in the same manner. As a result a decision "to make war against the whites" was arrived at, Jomatau was elected as the leader and the killings took place the following day (1932: 301).

Hambruch had a great deal to say about these killings and the military operations following them, but showed little interest in the trial or the executions. Instead he emphasised that "the great ones from Jokes", as the executed men were henceforth called, were laid to rest at the old cult and burial ground Kumunlai. Many songs which did not exactly flatter European ears subsequently glorified their actions. "Their horrible and insidious deed may make them criminals and rebels in our eyes, for the Ponapeans they died for the liberation and the *lamlam* of Ponape" (1932: 309).

Whereas this nicely supplemented Hiery's version, what little Hambruch had to say about the trial painted a different picture.

On 23 February the court convened. The accounts of eyewitnesses and the admissions of the prisoners had produced so much material that the guilt of individuals was often already firmly established. Nonetheless every man was given the opportunity during the exhaustive hearing to defend himself. Then the judges cast their votes and passed the judgement... Seventeen men were sentenced to death. The others were sentenced to forced labour and banished for life to the Palau Islands. On the morning of 24 February the sentence "death by shooting" was made known to the murderers in a solemn assembly and the presence of all chiefs (1932: 308–09).

Hambruch said nothing about the execution and even the statement attributed to Jomatau was quoted in another context. Yet the only direct contradiction between Hambruch's and Hiery's version was the number of death sentences: 17 as against 18. But there were other, more significant, discrepancies. This applied, in particular, to the Ponapean response to Girschner's call for support. While Not, U, Matolemin and Kiti had acted in unison according to Hiery, although after "lengthy deliberations", the first three tribes had responded immediately, according to Hambruch, whereas Kiti had delayed by three days because Nanpei had initially advised against supporting the Kolonie during a council meeting (1932: 303).⁶ As we have seen, Hiery based his version on Luelen, who indeed implied that the support had been unanimous although he said nothing about "lengthy deliberations". Had Hiery selectively combined information from Luelen and Hambruch, thereby creating a second-hand phantom of his own?

Given the gist of his narrative, Hambruch had good reasons for playing down the personal role of Boeder in bringing about the Ponape Rebellion. After all, if events had unfolded according to plan, the rebellion would have taken place before Boeder introduced his reforms, and during his

⁶ The role of Henry Nanpei in the rebellion is outside the scope of my examination.

absence. By contrast the anthropologist William R. Bascom, who carried out fieldwork on Ponape in 1946, presented in 1950 a fully personalised version of the reasons for the Ponape Rebellion.

By reference *inter alia* to Hambruch, he maintained that this event had hitherto been generally interpreted as

a native rebellion in protest against German modifications of land tenure or the regulations affecting district labour and taxation. Both these changes, on the contrary, are widely approved today, and Ponapeans explain the outbreak as the result of the cruelty and the wickedness of two men: the German overseer, whose acts were immediately responsible and the Governor [*sic*] Boeder, who was shot with his secretary when they appeared in Sokas (1950: 61).⁷

According to Bascom's Ponapean informants:

the German overseer...had ordered a member of Kawath clan to be beaten with a wire-lined rubber hose for laziness or insolence, or perhaps both. When the road gang, in protest, did not return to work the next day the overseer and the chief surveyor set out to round them up. When they appeared in Sokas district at the home of the man who had been beaten, it was assumed that they had come to inflict further punishment. His clan members came to the rescue and fighting broke out (*ibid.*).

Their evidence concerning Boeder's "wickedness" was equally graphic, for he

used to question Ponapeans at trials with a drawn revolver pointed at them, which he shot off in their faces to frighten them. When he travelled about the island he flew into fits of rage if he stumbled on a stone or a coconut, threatening to beat his guides and carriers for not having properly cleared the path (*ibid.*).

They even had an explanation for Boeder's behaviour: Dr Girschner had told them "that Boeder was mentally unstable and that he had killed many natives in Africa where he had spent twenty-five years [*sic*] before coming to Ponape" (*ibid.*).

Perhaps because neither Jomatau nor his main lieutenant, Samuel, were members of the Kawath clan, Bascom's clan revenge theory did not find any followers,⁸ but his emphasis on Boeder's "wickedness" was eagerly taken up—in particular by Hempenstall, to whose 1978 version of the Ponape Rebellion I now want to return.

IV

Hempenstall's account included only one direct reference to Bascom, in connection with a "Ponapean tradition" that

Boeder would use a drawn revolver to interrogate Islanders during a trial, occasionally shooting it off in their faces to frighten them; and that if he stumbled on a stone or a coconut while on an expedition he would fly into a rage and threaten to beat his guides and bearers (1978: 102–03).⁹

7 While this is the interpretation advocated in the annual report, it has little to do with the views expressed by Hambruch.

8 It is also difficult to reconcile a revenge theory with what Bascom's informants had told him. How can a fight which broke out because the clan wanted to rescue one of its members from a second beating which had not yet taken place be interpreted as a revenge for a previous beating to which it had responded by a refusal to work?

9 Hempenstall, in fact, refers to a 1965 publication of Bascom, which I did not consult. He also refers to a report written by "Ignatius" on 27 December 1910 in the archives of the Kapuziner Mission in Münster, which apparently already contained similar information. But if this is so, why did Hempenstall choose to paraphrase Bascom as a "Ponapean tradition" instead of relying on information recorded during the Ponape Rebellion?

Yet the “wire-lined rubber hose” was also featured by Hempenstall, although it was identified with Boeder rather than with Hollborn. According to Hempenstall, Hollborn merely sent one of the Sokehs labourers, Lahdeleng

to the administrator [*sic*] with a piece of paper alleging insubordination; Boeder had no hesitation in ordering ten strokes with a wire-lined rubber hose. The beating was administered by a Melanesian and Lahdeleng was helped back to Sokehs barely able to walk (1978: 103).¹⁰

Whether the “rumours [which] later circulated in Ponape that he [Boeder] had been in trouble in Africa because of his severity” (1978: 99) was an understated version of the information attributed by Bascom’s informants to Dr Girschner was anyone’s guess, since no source for this rumour was given by Hempenstall. There was no question, however, that he was attracted to presenting Boeder’s “wickedness” as the decisive reason for the Ponape Rebellion.

But, as we already know, Hempenstall had come across an even more tempting Ponapean tradition, which had apparently been referred to in a conference paper by the historian Paul Mark Ehrlich in 1975.¹¹

About a month before Lahdeleng’s beating, a corner of Pan Kadara, the most sacred location in the stone city of Nan Madol, had crumbled. The corners of Pan Kadara were revered on Ponape as symbols of the various districts, and if any were to crumble it signified the impending destruction of the area. In this case it had been the Sokehs corner. Thus the Sokehs people knew and accepted that Sokehs must die, but, if so, they desired to die fighting as men. Their decision was probably strengthened by the belief that they could expect assistance from other districts because of cross-district clan relationships; Soumadau’s own clan Dipwenpahnmei, was the ruling clan of Madolenihmw and Net was ruled by Soun Kawad (1978: 104).

In Hempenstall’s “final analysis” a combination of these two strands of Ponapean evidence dominated the entire picture because the ‘Ponape Rebellion’ had not been

a crusade for Ponape’s liberation, but an angry reaction against Carl [*sic*] Boeder’s mounting persecution, and most of the district’s people followed Soumadau in loyalty to clan and district. Only one vision moved them all: that was the negative belief that Sokehs was to be destroyed, an idea which applied to Sokehs alone, and which made the rest of Ponape hang back in fear when Germany brought in her military might (1978: 215).

Although the first part of Hempenstall’s personalised interpretation stood in sharp contrast to the structural interpretation of the Ponape Rebellion by the annual report, as well as by Hambruch and Hiery, I found the role he attributed to the collapse of the Sokehs corner more interesting, because it looked so suspiciously like a phantom. The difficulty was that Hempenstall merely asserted that the Sokehs people were solely moved by “the negative belief that Sokehs was to be destroyed”, although he produced some evidence for Boeder’s “mounting persecution”.¹² I therefore turned to Ehrlich and discovered that the collapse of the Sokehs corner had already been known to Hambruch, although, as Ehrlich noted “with interest”, he did not refer to it in his history of the Ponape Rebellion but rather in a description of the ruins of Nan Madol published four years

10 A “wire-lined rubber hose” was certainly not a regulation instrument for the administration of corporal punishments in German New Guinea or, for that matter, in German East Africa. I do not know what “wire-lined rubber hoses”—which are presumably reinforced with a wire spiral to cope with high pressures—were normally used for on Ponape in 1910, or if they were even manufactured at the time.

11 I did not try to obtain a copy of this unpublished paper since I had access to Ehrlich’s PhD thesis, submitted in 1978.

12 Even taken at face value Hempenstall’s interpretation is unconvincing. Why should the rest of Ponape hang back in fear if only Sokehs was to be destroyed? Was the legend not rather an invitation to the rest of Ponape to join in the rebellion and to bring it to a successful conclusion, although sacrificing Sokehs in the process?

later. It was clear therefore that this legend was not a recent invention. This did not mean, however, that it had also played the part in the Ponape Rebellion which Hempenstall, following Ehrlich, ascribed to it.

Ehrlich had learned about this "legend" not from Hambruch but from one of his Ponapean informants, although this had only happened eight months after he had started his fieldwork on Ponape in 1973. Yet when he had questioned a number of his informants "obliquely about events which might have predicated the rebellion...[a]ll mentioned the Sokehs corner in Pan Kedara along with the legend" (1978: 193, Fn. 16). This was sufficient for Ehrlich to conclude that "given the dire portents displayed at Pan Kedara, it no longer mattered what Soumadau did, Sokehs was going to die" (1978: 167). Was that also the conclusion which the Sokehs people had reached—even before Lahdeleng's beating?¹³

The evidence presented by Ehrlich provided good reasons for doubting this. According to his main informant, the Wasai of Sokehs (its 'real' *Oberhäuptling*) had pronounced that "Sokehs was going to be destroyed", when Soumadau had called for war, but the same informant had also quoted Soumadau's lieutenant, the divination expert Samuel, as having pleaded with Soumadau to postpone fighting with the Germans for three years, when they would have a chance to win after a long struggle: "If you chose to fight now, we will join you, but we will weep" (1978: 168).

Sokehs fought and wept. Yet it took little more than three years before German colonial rule ended, whereas Sokehs did not "die"—the legend notwithstanding—since the survivors of the Ponape Rebellion were permitted by their next colonial masters, the Japanese, to return to Sokehs.

There was little point in further examining this legend and its impact on the Ponape Rebellion,¹⁴ since it was no longer mentioned in a 1991 account of this episode co-authored by Hempenstall, which replaced the personalised interpretation adopted by him in 1978 with an elaborate, structural interpretation. By contrast, Hempenstall's 1978 version of the trial and the executions which followed the collapse of the Ponape Rebellion was worth a closer look.

V

The denouement was swift. A court-martial was convened on 23 February, the day after military operations were declared at an end. Representatives from the two missions and the trading company joined with Kersting, Girschner and a naval officer to try summarily those accused of the murder of Boeder and his companions. Though each of the leading Sokehs figures was given a full opportunity to

13 When did the Sokehs corner crumble? Or, rather, when was the collapse noticed? When did the news, that all was now lost, reach Sokehs? Why does this apparently traumatic event not figure prominently in Ponapean oral tradition?

14 The legend itself is more ambiguous than Hempenstall's treatment suggests. To begin with, the corners of Pan Kedara did not represent the five "districts" on Ponape in 1910. According to Ehrlich there were only four corners known as "the corners of Sokehs, Kiti, Madolenihmw and Katau" (1978: 163). Moreover, the corner of Katau represented Kusai Island, about 300 miles away, whereas the remaining three corners were only later equated with Madolenihmw, Kiti and Sokehs but had originally represented the ancient kingdoms of Malenkopualele, Kopualeng and Puapualik (1978: 21). In other words the new kingdoms of Net and U were either not represented at all or they were, for the purposes of the legend, still treated as part of old kingdoms from which they had separated. What did "Sokehs must die" mean under these circumstances, when the Sokehs corner collapsed in September 1910? Did its fate include the new kingdom of Net which had formerly been part of Sokehs—and which helped to defend the Germans against Sokehs? Did it exclude the semi-autonomous district of Palakir which, we are told, remained neutral during the Ponape Rebellion? In addition it is far from clear what "dying" signifies in this context? Had Sokehs already died when the Soun Kauwad had conquered it around 1700 AD (1978: 157)? Was it a self-fulfilling prophecy, so that Sokehs was effectively dead as soon as the corner had collapsed? Was Soumadau—a member of a clan which had no rank in Sokehs—therefore free to lead a rebellion for the liberation of the whole of Ponape from German colonial rule, like the legendary Isokelkel, who had ended the tyranny of the Sau Deleur (1978: 24)? Did the Germans know about the collapse of the Sokehs corner and its significance? Hambruch's account suggests that at least he did, since he wrote: "In September 1910 the corner collapsed. The Ponapeans took it henceforth for granted that Tsokes would perish" (1936: 27). Did he warn Boeder? Did Girschner use the legend to persuade the other four tribes to support the Germans instead of being drawn into the inevitable destruction of Sokehs—in addition to blaming the treatment the Ponapeans had recently received on Boeder's mental imbalance?

defend himself, the tribunal was interested less in the justice of the result, which was already a foregone conclusion as far as the judges were concerned, than in the necessity to make an example which would deter malcontents in the future. The bulk of evidence revealed that resentment of Boeder's actions had run deep and wide, and there were no regrets that he was dead. It also became clear that there had been a lingering, almost desperate belief that the Germans might be driven out as had been the Spaniards. After all, until Boeder's arrival, none of the districts had really experienced the strong hand of Germany. Deputy Governor Oswald had concluded when he first heard of the uprising:

In the final analysis they did not fear us and did not believe we were earnest in our threats... We suffered from the mistakes of the Spanish. Perhaps if we had begun energetically this would have been avoided.

But the court-martial tribunal was not interested in why the revolt occurred, only that it had and therefore that it must be punished. The trial lasted only a day and the court agreed that seventeen Sokehs should be executed, several others sent to prison with hard labour at the Angaur phosphate works, and the rest of the district banished *en masse* to the Palau group. Ironically, the only call for clemency towards those to be executed came from the navy's representative. Though Kersting himself acknowledged that Sokehs had suffered under Boeder, his concern for 'consistency' of punishment, together with the 'deterrence' arguments of the missionaries and traders easily won the day.

The very next day, 24 February, fifteen of the condemned prisoners, handcuffed together and escorted by Melanesian police, were marched down to Kumunlai, an old cemetery and cult place outside the colony. There they were lined up against a makeshift fence strung between coconut trees and tied with their arms outstretched, 'as Christ crucified'.¹⁵ The Melanesian soldiers (for the tribunal had decided that German soldiers should not be subjected to this undignified ritual) ranged themselves in two lines, one standing, one kneeling. Soumadau was refused permission to speak to the expectant crowd, but in a quiet voice he greeted the people and urged them not to follow the Sokehs example. Before he could finish, the first volley of shots rang out; the soldiers kept firing until all were dead. Then the bodies were thrown into a common grave and the crowd, now hushed, was told to return to their districts (1978: 112–13).

Apart from two minor factual discrepancies (the number of death sentences and the date of the execution, where Hempenstall agreed with the annual report), this account could easily be reconciled with Hiery's 1995 version,¹⁶ if I assumed that Spiegel was the naval officer mentioned by Hempenstall and that the statement attributed by Spiegel to Soumadau was part of the evidence which, according to Hempenstall, showed that, despite the legend, there had been "a lingering, almost desperate belief that the Germans might be driven out". However, the 1991 version of the Ponape Rebellion, just referred to, suggested that all three versions were off the mark.

A summary court of justice met in Kolonia on 23 February 1911. The members were Dr Kersting as judge, Dr Girschner, the Commander of SMS *Planet*, a representative of the Jaluit Gesellschaft and three representatives of the missions. Kersting made it clear that he sat as Chairperson and District Officer, that they were dealing with 'natives', and that the other members were only advisers, not a jury. There was no defence counsel for the accused. According to the protocol of the hearing the death sentence was decided for all the accused from the beginning. The only point for discussion was the question of hanging or shooting. Strikingly, Father Gebhardt contributed particularly vigorously to the discussion. Finally Kersting pronounced sentence: 17 of the accused were to be summarily executed, several others were sentenced to hard labour in the phosphate mines of Angaur (Belau), all other members of the Sokehs district were exiled to the island Yap (426 people). All landed property was confiscated and declared property of the Reich; some was given to the local islanders who had helped the Germans in Kolonia (Christmann, Hempenstall and Ballendorf, 1991: 271–72).

15 Hempenstall added in a footnote: "This is the way present-day Ponapeans remember the execution and may or not be significant" (1978: 230, Fn. 49).

16 Hempenstall agrees with Hiery rather than the annual report as far as the number of executions carried out on Ponape is concerned, but he agrees with the annual report, rather than Hiery, that the total number of executions had been 17 rather than 15. According to Hempenstall, two of the condemned rebels had already been transported to Yap where they were executed later (1978: 20, Fn. 49). According to Hiery's version—based on Luellen—the three (!) condemned rebels who had been sent to Yap were later pardoned.

While there were no straightforward contradictions between the 1978 Hempenstall version and the 1991 Christmann, Hempenstall and Ballendorf version, the different emphases were remarkable. In 1978 readers were told that "each of the leading Sokehs figures was given a full opportunity to defend himself", whereas they were told in 1991 that the accused had "no defence counsel". Similarly, the 1978 version stressed that the only case for clemency came "ironically" from the navy's representative, whereas the 1991 version singled out Father Gebhardt's "strikingly" vigorous contribution to the hanging versus shooting discussion. More importantly, both versions indicated that their authors did not understand what the trial was about and how it proceeded. Was it a "summary court of justice" or a "court-martial"? Was its task "to try summarily those accused of the murder of Boeder and his companions" or the punishment of those who participated in the revolt? How could "the protocol of the hearing" show that the death sentence "was decided for all accused from the beginning" when several of them "were sentenced to hard labour in the phosphate mines of Angaur", not to mention *en masse* banishment of "the remainder of the district"? Had all these 426 people (or was it 426 plus 17, plus "several"?) been accused? Was their banishment, the confiscation of their land, as well as the gift of some of it to "those local islanders who had helped the Germans", part of the sentence announced by Kersting?

As far as the Hiery version was concerned, Christmann, Hempenstall and Ballendorf confirmed what was plain to any critical reader of Spiegel's memoirs: that their author had no qualms about letting himself be carried away by his imagination; for Spiegel was not the commander of SMS *Planet* but had served as first lieutenant on SMS *Cormoran*, so that it is highly unlikely that he ever sat at "the judge's table" during the trial. Nonetheless, Christmann, Hempenstall and Ballendorf did not hesitate to quote such a dubious "eyewitness" in their very next paragraph.

The next day 15 of the condemned men were shot. Soumadau tried to speak to those Ponapean spectators who stood some distance away. He was refused permission; perhaps it was feared he would repeat his outburst in the courtroom where he proudly proclaimed: 'My forefathers have ruled this land for a thousand years..' (1991: 272).

Why did they not tell their readers instead that Soumadau, according to Hempenstall's 1978 version, had disregarded the refusal of permission to speak and had urged the expectant crowd not to follow the Sokehs example? Why did they not inform them about the statement which Hambruch attributed to Soumadau, although Hambruch's account is identified as one of the main sources for the 1991 version of the Ponape Rebellion (1991: 318, Fn. 17)? Or why did they not simply disclose what Soumadau was reported as having said in the "protocol of the hearing"?

The reason, it appeared, was that narrative historians behave as if they were free to pick and choose whatever information they did or did not want to present in a particular account. Nor did it seem to matter whether the Ponape Rebellion was a "social-reactionary revolt", or an "ethnic-national war", or both (Hiery 1995: 284), or whether it was "an angry reaction against Carl [*sic*] Boeder's mounting persecution" (Hempenstall, 1978: 215). In "the final analysis" the causes, the course and the consequences of the Ponape Rebellion were no more important for narrative history than whether Boeder's first name was "Gustav" instead of "Carl". Indeed they counted for less, since such minor details were the lifeblood of narrative history. Precise names, dates and figures had to be given because they demonstrated that the author knew what he was talking about. By themselves general statements about historical events, however ideologically satisfying, did not qualify as narrative history. They had to be supported by enough details to establish the author's credentials. The art of writing narrative history was not to worry about their factuality.

It made no difference whether Lahdeleng (or was it Nan ponpei Maluk, or both or neither?) was given six or ten strokes, no difference who ordered this punishment or which instrument was used to carry it out. A huge stick, or the tail of a stingray, was just as good as a wire-lined rubber

hose (see Ehrlich, 1978: 165). It did not matter whether the trial was conducted by a “summary court of justice” or by a “court martial”, whether 15, 17 or 18 people were sentenced to death and how many of them were executed or pardoned. It did not matter how long the trial lasted, who was accused or what the accused were accused of. Yet all these phantoms had to be treated as facts by the authors as well as their audience. This applied to Bascom’s and Ehrlich’s Ponapean informants, and to Luelen and Spiegel, as much as to professional historians like Hempenstall, Christmann and Hiery. Although phantom history looked like an exercise in make-believe, if it was seen from the outside, viewed from an internal perspective it was history, and indeed the only proper form of history. To write phantom history professionally was not a clandestine operation but a respectable academic enterprise. Phantom historians did not look guiltily over their shoulders, trying to cover their tracks, they performed their academic phantom rituals for everyone to see and with total innocence.

VI

A quote from a report by Girschner of 22 November 1910, appended to a report by “the Imperial Governor of German New Guinea of 18 December 1910” in Christmann, Hempenstall and Ballendorf’s account of the introduction of the corporal punishment by Boeder attracted my attention because it bore an uncanny resemblance to the Hambruch version. “Punishment by beating [Girschner was quoted as having reported] has neither an improving nor a deterring effect here, only an inflaming effect” (1991: 263; for Hambruch’s version see above: 108). But instead of addressing this unlikely coincidence, the relevant footnote in Christmann, Hempenstall and Ballendorf posed another puzzle:

Whether Hambruch was correct that islanders who made a bad impression were given a ‘punishment mark’ which had on it how many strokes they had received and which had to be surrendered at the end of work could not be ascertained from the records (1991: 318, Fn. 13).

What had been the purpose of these mysterious “punishment marks”? Were Ponapeans beaten as soon as they made “a bad impression” but issued with a certificate of their punishment which they had to surrender subsequently for statistical purposes? If this was so, why were the persons responsible for carrying out corporal punishments not simply asked to keep lists of the punishments which had been administered? How was I going to solve this puzzle, since Christmann, Hempenstall and Ballendorf did not identify the source in which Hambruch was supposed to have made this claim?

It was hardly encouraging to discover that the reference to “Hambruch, 1932, S. 198” (1991: 318, Fn. 14) in the following footnote gave a wrong page number (it should have been 298), or that the text to which it related mistranslated a quote from Hambruch, who had said that Boeder had been reluctant to accept well-intentioned and sensible advice rather than he had been “very well meaning” and “amenable to intelligent advice”—as the English version claimed (1991: 264). Moreover, when I checked the authors’ German version, it turned out that it had quoted Hambruch correctly. When I therefore looked at the German version of the footnote quoted above, I found that it too differed in several respects from the English version: for example, it did not boldly refer to “the records” but only to the files which the authors had “used” (*die benützten Akten*). However, these files were also not identified. This was doubly disappointing because I had begun to wonder whether Hambruch had described the mysterious procedure in a document contained in one of these files, since I could not remember having read anything like it in his 1932 account, although it was the only “Hambruch” referred to in this chapter. Perhaps the other “Hambruch” was included in the same colonial office file as the report of Girschner to which this footnote primarily referred? Since a microfilm of this file—RKA 3009—was held by the Australian

National Library it was easy to test this possibility, and for a moment I believed that I had struck gold, because another appendix to the report in question consisted of several handwritten manuscripts by Hambruch, but they were illegible. Since I did not want to return empty-handed, I started to read the legible main report.

After a while it too struck a familiar chord. Had these lines not been quoted by Hempenstall in his 1978 version of the trial? This time my memory had served me well, but only to reveal another bunch of phantoms. According to Hempenstall "Deputy Governor Oswald [*sic*] had concluded when he first heard of the uprising".¹⁷

In the final analysis they did not fear us and didn't believe we were earnest in our threats... We suffered from the mistakes of the Spanish. Perhaps if we had begun energetically this would have been avoided (1978: 112).

While Hempenstall got the date of the report right (it was written on 29 rather than 18 December, as stated by Christmann, Hempenstall and Ballendorf (1991: 317, Fn. 10)), acting governor Osswald had not arrived at this conclusion when he first heard about what he described as "an unrest"—which, according to the document, had happened during the night from 29 to 30 November—but a month later, after he himself had inspected the situation in Ponape. Besides, after the first sentence quoted by Hempenstall, Osswald had continued:

They [the Ponapeans] had already killed a governor and massacred 30 police-soldiers during the Spanish period. They received—it is fair to say—virtually no punishment. It is not surprising they got the idea that they could get away with the same kind of behaviour in relation to us as under the mistaken Spanish policy. If more energetic measures had been taken, we would perhaps be spared the sad experience we are making now.

While the meaning of the last sentence was not a model of clarity, the context left little doubt that Osswald referred to a lack of energetic punitive action on the part of the Spanish administration rather than expressing regret that the German administration had not begun more energetically.

But the world of narrative history is a weird place. Christmann, Hempenstall and Ballendorf gave the same document here referred to as a "*Bericht des Kaiserl. Gouverneurs ... v. 18.12.1910*" (1991: 317, Fn. 10) a few pages later its correct date of 29.12.1910, although now describing it as a "*Schreiben Osswalds an RKA*" (ibid.: 320, Fn. 54). This did not mean, however, that they had consulted the document on that occasion. It rather looked as if they adopted the reference from Fn. 40 on p. 230 of Hempenstall's 1978 version. Nor did they re-read their own footnotes, otherwise they would have noticed that the next specimen was not referred to in the text and did not fit together with the paragraph where it would have had to be located. Instead it was linked with the text above footnote 25—but with a nice phantom twist, because the Wasai of Sokehs was there reported as having stated that the Sokehs would die before they let themselves be treated like pigs, whereas footnote 55 claimed:

The expression of the High Chief of Sokehs that they "did not want to be treated like pigs" reflects this vague feeling [of rebelliousness?] better than any concrete example like compulsory labour or beatings.

While this made sense in Wonderland it became absurd as soon as it was treated as a text which was supposed to have a definite meaning. Who outside the realm of phantom history would dream of suggesting that the performance of compulsory labour, let alone being beaten, could be

17 While there is some uncertainty about the spelling of Osswald's name (Oswald, Ohswald, Oßwald, Osswald), there is no question that he wrote this report as acting governor so that Christmann, Hempenstall and Ballendorf were correct in describing it as a report of the governor.

described as concrete examples of a vague feeling of anything? By the same token there was no better way of experiencing phantom history than concrete examples such as this bizarre, free-floating footnote.

In order to restore my sanity I decided to take a look at the "protocol of the hearing" which, according to Christmann, Hempenstall and Ballendorf, had taken the form of a report by the district office in Ponape, dated 24 February 1911, on the same file (see 1991: 319, Fn. 46). But matters did not improve, since I could neither find this report nor a "protocol of the hearing" in "RKA 3009". I was more successful when I followed Hempenstall's 1978 reference to the "full account of the trial" in RKA 3010 (1978: 230, Fn. 48), although its description as a "*Gerichtsprotokoll des summarischen Verfahrens gegen die Morder [sic] von Boeder und seine [sic] Kameraden, 23 Februar 1911*" suggested that it was another phantom. The two minor linguistic inaccuracies aside, it was unlikely that this document would have named the victims of the crime rather than the persons accused of having committed it and unthinkable that it would have described three junior German officials killed, let alone their native boat crews, as "the comrades" of *Regierungsrat* Boeder.

But there it was, although without this phantom heading, running to over 70 typewritten pages. However, the picture it painted of the trial differed so markedly from the 1978 Hempenstall and the 1991 Christmann, Hempenstall and Ballendorf versions that it was plain that none of these authors had read this document. Indeed neither Hempenstall nor Christmann, Hempenstall and Ballendorf even got its date right, which was given as "*Ponape, den 22/23. Februar 1911*" rather than as the 23rd or 24th of February. Moreover, as if this was not clear enough, its first substantive sentence spelled out that the trial had started on 22 February and its last sentence confirmed that it had lasted for two days. Nonetheless, Christmann, Hempenstall and Ballendorf did not hesitate to tell their readers that the court had convened on 23 February and Hempenstall even stressed that "the trial had lasted only a day".

To be sure, this document too did not necessarily report what actually happened during the trial. Indeed, it did not even purport to record the evidence given by the Ponapean accused or witnesses *verbatim*.¹⁸ Still, the summaries provided made it, for example, highly improbable that Jomatau ever made the statement attributed to him by Spiegel and quoted by Christmann, Hempenstall and Ballendorf as well as Hiery. Instead they showed that Hambruch had been a more careful reader since they stated:

Asked whether he had believed that the Jokoits-people would beat the whites in the war following the murder, he states, that he had supposed that and that he had believed that he would become the ruler once the whites had been got rid off.

Naturally, Hambruch was also not perfect since he too claimed, for example, that the court had convened on 23 February, but the difference between the degree of phantomisation in his account, as compared with those of the professional historians who followed him, was remarkable.¹⁹ But then the "protocol" offered a likely solution of the puzzle of the mysterious "punishment marks" which suggested that anything was possible in the Wonderland of narrative history.

When I returned to Hambruch's 1932 account after reading parts of this "protocol", things suddenly fell into place. Hambruch had not just extracted the statement he attributed to Jomatau from this document, he had also read what Jomatau had to say about the events during the evening

18 The evidence was given in Ponapean and translated into German by a Ponapean interpreter, but he was closely watched by four of Kersting's eight (!) "assessors" (*Beisitzer*!)—rather than six "advisors"—who were fluent in that language and who confirmed with their signatures that the document was "in accordance with the conduct of the proceedings".

19 As far as the date of the trial was concerned, Hempenstall and Christmann, Hempenstall and Ballendorf probably had relied on Hambruch rather than on this document whereas Hambruch had probably relied on the date given in the annual report, without appreciating that it specified the date of the death sentences rather than that of the beginning of the trial.

before the killings, when he and the 80 members of the road-gang had inspected the "*Prügelmarken*"—the marks of the beating—on "Latelung (Nanpanpei Maluk)". Hambruch had adopted the unusual term "*Prügelmarken*" without clarifying that he meant *Marken* in the sense of "traces" rather than "tokens". Christmann, Hempenstall and Ballendorf had misunderstood this term, translating it as "punishment marks" in their English version²⁰—and their imagination had done the rest.

Although this left me holding yet another bunch of phantoms, their pointlessness provided a key to understanding the whole process of phantomisation: taken individually, phantoms did not have to have any rhyme or reason, because the phantomisation of history was an instinctive rather than a purposive process. Narrative historians did not set out to phantomise history, they merely could not help it. But nor did they try to eliminate phantoms, because they had constructed a self-contained Wonderland in which phantoms were real, because the historical record was also treated as a phantom: as a garden of exotic flowers from which each historian could pick his own narrative bouquet, without having to pay attention to the lay-out of the garden or to the composition of previously assembled bunches. Although a commitment to factuality still played a crucial role, in the sense that concrete details had to be given, this commitment too had become a phantom.

Since this was so, it would also have been unfair to criticise Hempenstall for telling his readers that "the tribunal" had decided that the Ponapeans whom it had sentenced to death were to be executed by Melanesian police-soldiers, because "German soldiers should not be subjected to this undignified ritual". True, the "protocol of the hearing" did not indicate that this matter had been considered, and it was improbable that the possibility of requisitioning the imperial navy to provide a firing-squad to carry out the sentence of a civilian court had ever been raised, but did this statement not make narrative sense, and should Hempenstall not rather be praised for boldly capturing the spirit of German colonial rule in this aside, even if it was another figment of his imagination?

Yet, while the rituals of phantom history were more dignified than executing real people, their effects were just as deadly. Instead of gradually advancing our knowledge and understanding of the Ponape Rebellion, sixty years of historiography had effectively killed this episode as a historical event by burying it under a heap of contradictory phantom narratives. Worse still, there was no point in trying to resurrect it. The self-assurance with which Hempenstall, Christmann, Ballendorf and Hiery presented their phantom histories clearly showed that they all believed they had done a professional job. In "the final analysis" the explanation of the phantomisation of history was therefore quite simple: phantom history had generally come to be regarded as "the real thing"; professional historiographers were expected to write phantom histories consisting of bold, exchangeable conclusions supported by a collection of concrete but variable, quasi-factual phantoms. Historians had achieved the ultimate professional triumph; they had developed a product which was one hundred per cent consumer as well as producer-friendly: history as a form of serious but harmless entertainment which made no strenuous demands on anybody.

VII

Still, it was "ironic" that Spiegel's memoirs turned out to be the only version of the Ponape Rebellion that got at least the length of the trial right in the sense that it was in accord with the best available evidence, and doubly ironic that Hiery missed this rare opportunity of being right with Spiegel by not identifying the length of the trial, although happily adopting Spiegel's wrong execution date. It was also "striking" that Hiery managed to back the wrong horse at almost every

20 My guess is that the term "*Prügelmarken*" had reminded Christmann of the "*Lebensmittelmarken*" (rationing cards) of his youth.

opportunity and without hesitation—for example by falling for one of Spiegel's more daring phantoms: the killing of a Catholic brother by the rebels after 18 October 1910 (1995: 284), for which there is, as far as I can see, not a single shred of supporting evidence.

Moreover, this phantom played a strategic role: together with the mixed phantom that the four other tribes on Ponape had after "lengthy deliberations" unanimously decided to "protect the remaining Germans...against the Dschokadsch" it gave substance to Hiery's conclusion that the Ponape Rebellion had been an "ethnic national war", in which the Dschokadsch, after this killing, concentrated exclusively on defending "their own 'state'" (ibid.). Similarly, Jomatau's immortal phantom lines helped to prepare the ground for Hiery's conclusion that the German response to the Ponape Rebellion formed just one link in a long chain of colonial injustices that neither started nor ended in Ponape (ibid.: 285); for in Wonderland such general statements, however ideologically pleasing, remained empty words unless they were substantiated in some way.

Hempenstall's interpretation of the Ponape Rebellion as "an angry reaction against Carl [sic] Boeder's mounting persecution", provided a good illustration for this need. Apart from the "negative belief that [only] Sokehs was to be destroyed", Hempenstall did not just rely on graphic instances of Boeder's personal "wickedness" but also asserted that Boeder "had been able to act for nine months virtually in contravention of guidelines laid down by Berlin, [governor] Hahl and [Boeder's predecessor] Fritz" (1978: 105–6).

While Hiery did not discuss this personalised interpretation, although it was inconsistent with his own, he did adopt these phantom "guidelines", even turning them into "clear instructions", although Hempenstall himself had long abandoned them, proclaiming instead: "Of course Boeder was not only personally responsible, he was also the leading instrument of the new Berlin policy guidelines" (Christmann, Hempenstall and Ballendorf, 1991: 266). Yet Christmann, Hempenstall and Ballendorf still relied on Hambruch's personalised version of the introduction of corporal punishments by Boeder in July 1910, although they mentioned in another context (1991: 203) that an ordinance by the governor of German New Guinea, which provided for the corporal punishment of coloured labourers, had already come into effect in the Eastern Carolines on 28 June 1907, that is to say, three years earlier.

This was how phantom history worked: by first selecting narratively attractive bits of information which were then mixed together, instead of being critically examined, to form a new narrative which was again not meant to be critically examined. Even the occasional critical outbursts of narrative historians were phantoms rather than manifestations of a sustained critical attitude—for example that of Hiery concerning the number of police-soldiers stationed on Ponape: it was not the result of a critical examination of Luelen but of an uncritical reliance on Spiegel. Phantom historians did not critically analyse and compare what others or they themselves had previously written. They prepared their narrative omelettes with whatever tasty ingredients came to hand.

This could involve astonishing metamorphoses. For example, the old (1978) "guidelines" for Boeder, which had supposedly been laid down by "Berlin, Hahl and Fritz", apparently grew out of a "censure" one of Fritz's predecessors had been given in 1902 (!) when he had, according to Hempenstall, reported to the colonial department that he intended "to assert imperial authority 'forcefully' and to meet local resistance with 'relentless' reprisals" (see 1978: 82–83 and 105). Now it was reasonable to conclude from the historical record that Boeder too was expected to move cautiously and not to let things get out of control. But this was too vague for narrative history. Hence the multiple phantom guidelines which were sufficiently tangible to be at least "virtually" contravened, without having to be specified, let alone critically examined—and how could they have been examined since they were mere phantoms?

The new (1991) guidelines had an even more tenuous link with the historical record. Christmann, Hempenstall and Ballendorf deduced their existence from the "sudden transfer" of

Fritz from Ponape to Yap. "One could conclude that in Berlin Fritz's course was considered to be still too unenergetic. The Colonial Office wanted to change the situation on Pohnpei...and at the same time strengthen Dernburg's new policies" (1991: 263).

Had Boeder's "reforms" in July 1910 been a belated implementation of Dernburg's "new [!] policies"?—belated because Dernburg had left the colonial office during the previous month, after heading it for almost four years. But then Christmann, Hempenstall and Ballendorf not only had a low opinion of these "brutal new methods" but also criticised Hambruch for describing them as "reforms", though they missed the opportunity of criticising him for describing these reforms as "necessary" (see 1991: 318, Fn. 22 and Hambruch, 1932: 300).

But this was Wonderland where all inconsistencies between phantoms could ultimately be "virtually" reconciled.

In the end, the uprising shows that, despite the dictates of official policy, the initiative for handling the colonised Ponapeans lay squarely with the individual officer in Ponape... Boeder incorporated all the functions of colonial rule: legislative, executive and judicial... Most importantly, Boeder had been able to act for nine months virtually in contravention of guidelines laid down by Berlin, Hahl and Fritz.... That he could do so without censure from Berlin demonstrates that, in the final analysis, Ponape was too far from German New Guinea, let alone Europe, for the actions of its executives to be supervised in detail (Hempenstall, 1978: 105–06).

But when Boeder came and...introduced his brutal new methods and made one psychological mistake after the other, then an explosion was inevitable. Of course Boeder was not only personally responsible, he was also the leading instrument of the new Berlin policy guidelines. As the highest official he combined in himself all the forms of colonial authority in Pohnpei: legislative, executive and judicial—the dominant instruments of structural power. The distances from his superiors in New Guinea and in Berlin also enabled these personal blunders to occur. Thus it was inevitable that the anger of the people should first be directed against him (Christmann, Hempenstall and Ballendorf, 1991: 266).

Better still, there was no need to reconcile anything because nothing in narrative history had a fixed and precise meaning.

When Hiery stated that so much had been written about the Ponape Rebellion that it was superfluous to go into "details" (*Einzelheiten*), he did not mean to say that the details he was going to present were superfluous, any more than he meant to say that the "special features" (*Eigentümlichkeiten*) he was going to point out distinguished the Ponape Rebellion from other rebellions against German colonial rule in the Pacific. On the contrary—if there is such a thing in Wonderland—he could happily state two pages later that: "The rebellion of the Dschokadsch was the only military uprising of a group of the indigenous population against the German administration in the Pacific" (1995: 285). But then the term "military uprising" (*militärische Erhebung*) was, of course, merely another phantom. Similarly, Hiery was free to turn whatever detail he chose into a "special feature". Thus it was a special feature of the Ponape Rebellion that four German officials, including the district commissioner, and six Truk people were killed; that there were only 17 Europeans on Ponape and only six Germans (four men and two women) in the Kolonie, together with 24 Melanesian police soldiers; and that Hahl had razed two thirds of the walls of the Spanish fortifications. (1995: 283).

Moreover, these special features only existed as part of this particular narrative, so that another narrative historian could choose to present a different set of special features without either of them having to feel embarrassed. There was no reason to get worried when I read that, according to Hempenstall, there were "less than fifty" Europeans on Ponape, who were protected by "another fifty police-soldiers" in a settlement with a two kilometre perimeter and no walls (1978: 106), or that the six Truk people killed came, in fact, from the Mortlock Islands, not to mention that they were only five of whom only four were killed (1978: 105).

Put bluntly, it was neither superfluous to go into the details of the history of the Ponape Rebellion nor sufficient to point out a few of its special features, but it was a waste of time to do either as long as this kind of phantom history was treated as an academically acceptable form of historiography.

But why should historians abandon the mixture of big words and little phantoms, which was phantom history, if it allowed them to write the history of almost everything although they knew almost nothing about it? Who was going to force them to change? Was it not preferable to be told that Boeder “combined in himself all the forms of colonial authority in Pohnpei: legislative, executive and judicial” and that these were “the dominant instruments of structural power” rather than having to face a discussion of the possible structures of power, or a description of the actual structures of German colonial authority in the Eastern Carolines in 1910? Was it not more satisfying if a historian reinforced the illusion of professional omniscience by telling us that the 426 persons making up the entire banished Dschokasch tribe had included “Yelirt, the widow of Kubary” (Hiery, 1995: 285, Fn. 117)—the renowned Polish naturalist and ethnographer—instead of complicating matters by also referring to a footnote by Hambruch (1932: 343, Fn. 1) where he bitterly complained about the misuse of the name Kubary?²¹

Generally Hambruch’s account showed a much more complex and inconclusive scenario than that depicted by Hempenstall or Christmann, Hempenstall and Ballendorf, let alone Hiery. Hambruch still had a lot to learn about writing proper narrative history. But then he not only suffered from the lack of a professional historical training, he was also handicapped by his personal acquaintance with the leading historical actors as three-dimensional human beings and with the contemporary, physical features of the historical stage on which they were performing.

More recent amateur historians did considerably better than Hambruch, and none more so than Wolfgang Eckart in a paper on ‘Medicine and German colonial expansion in the Pacific’ (1988). I read with awe that Eckart was able to state that: “Between 1884 and 1914, exactly 510 German physicians were sent out to Germany’s *Schutzgebiete* in Africa and the Pacific, and to her Chinese *Pachtgebiet*, Kiautschou” (ibid.: 81); and with even greater awe that: “Between 1884 and 1914, a total of 32 of the 130 [civil] *Regierungsärzte* [in contrast to the 380—military—*Stabsärzte*] were sent to the Pacific, most of them to Kaiser-Wilhelmsland” (ibid.: 84). Although I had my doubts about the accuracy of these figures, since the 1914 budget of German New Guinea provided for as many as 16 current positions for medical doctors, and since it was unlikely that during the preceding 30 years of German colonial rule only about another 16 doctors should have been sent out to the Old Protectorate, the Island Territory, the Marshall Islands and Samoa, I was prepared to bow to Eckart’s expertise in this particular field. But when I read that the post of district commissioner in the Marianas had never been filled and that the group had been administered by the district commissioners in the Eastern Carolines until 1906 and by those in the Western Carolines afterwards (ibid.: 89) I realised that I had stumbled over an intuitive master phantomiser—or was Hubatsch to blame, since Eckart referred to his lists as the source of the information reported?

Despite my bad experiences with these lists I was not prepared to believe that they were so far out, and they indeed duly listed Georg Fritz as having served as district commissioner of the Marianas between 1899 and 1907 (1984: 536). But Eckart had not only missed what Hubatsch had to say about the administration of the Marianas, he had also added to the phantoms these lists included, for example by inventing a doctorate for the secretary of the district office, Baumert, who was wrongly shown by Hubatsch as having served as district commissioner of the Western

21 According to Hambruch, Yelirt was not banished as the widow of Kubary but as the widow of the Jokasch man, Keroun en Tol e tik, who had been one of the rebels executed for the killings of 18 October 1910. It had been the ultimate in bad taste, so Hambruch, that the name of Kubary had been transferred to this man and that it had even been used in court. “It would have been the duty of Herr Girschner to inform the court, which did not know the name and importance of Kubary, in time so as to avoid that the deceased would be burdened with the shame of his successor....”

Carolines between 1911 and 1914 (*ibid.*). Moreover, while Eckart, in line with Hubatsch, showed Arno Senfft in this context as having served as district commissioner between 1899 and 1909, he had earlier stated in a biographical sketch that Senfft had become district commissioner in 1901—and this sketch generally and effortlessly outphantomised even Hempenstall's biographical sketch of governor Bennigsen.

According to Eckart, Senfft was not “an old-style Prussian army officer” but “a typical Imperial German government official” who was, of course, not a Prussian but

was born in Weimar, on 28 March 1864. After making his way up in the Saxon (Großherzogtum Sachsen-Weimar) and Württemberg (*Königreich Württemberg*) civil service, he, highly bemedalled, entered the German colonial service in 1899, and was ordered to hoist the *Kaiserreich's* flag on the Caroline Islands. Together with the governor of German New Guinea he took possession of Sonsorol (6 March 1901), Merir, Pulo Ana (7 March 1901), Tobi, and Helen Reef (12 April 1901). Senfft became *Bezirksamtmann* of Yap in 1901. In 1907 he was entitled *Vizegouverneur* (Vice-Governor), and made himself a name as a political expert on Pacific affairs in the *Kolonialabteilung des Auswärtigen Amtes*. His most important articles on ‘Germany and the Pacific’ were published between 1903 and 1905. In 1909, Senfft travelled to Hong Kong, in an unknown capacity, and died there, of unknown causes, on 16 March 1909 (*ibid.*: 86).

So impressed had Eckart been by the array of medals of his phantom hero that he added in a footnote:

Senfft must have been very successful in his posts before entering Germany's colonial service because he was highly bemedalled: among other things, he was bearer of the Großherzogtum Sächsischer [*sic*] Hausorden der Wachsamkeit, the Württembergischer Friedrichsorden, the Preussischer roter Adlerorden, 4 Klasse, and, interestingly enough, also bearer of the [Spanish] Amerikanischer Orden Isabellas der Katholischen (*ibid.*: 99, Fn. 15).

Instead of checking any of the obituaries which Eckart identified as his sources, in particular that in the *Deutsches Kolonialblatt* which was claimed to have been published five years after Senfft's death, I was happy to settle for the information provided in a single obituary published shortly after that event in the *Amisblatt* of German New Guinea. It told me that Senfft had died on 14 February (rather than 16 March) 1909 on his way back to Germany because of a serious illness; that he had entered the Prussian legal (rather than the Saxon civil) service in 1882 and the employ of the Neu Guinea Kompagnie in 1891; that he had worked for four years in the administration of the Marshall Islands before being promoted and sent as district commissioner to the Western Carolines in 1899; and that his greatest honour had been the granting of the title “*Regierungsrat*” in 1906 (1914: 46). All this was probably factual, but what a mundane existence compared with a vice-governor who died mysteriously during what might have been a secret political mission to China, proudly wearing the medal with which the grand duke of Saxe-Weimar-Eisenach had honoured him for his “vigilance”, no doubt in matters of utmost delicacy and vital importance.

Whereas I was beginning to enjoy fanciful displays of phantoms such as this, I was getting worried about a more serious aspect of the phantomisation process. I could dismiss the entire secondary literature as unreliable, but what was I going to do about the phantomisation of history in the primary sources, the phantomisation of history in which the historical actors themselves had engaged?

Were, for example, the reports which Spiegel had submitted to his superiors during his naval career factual, or had he already used the same kind of poetic licence his memoirs displayed? Or, to give a concrete example, was the following character sketch of governor Bennigsen on which lieutenant commander Seiferling of SMS *Moewe* drew in a personal report to the chief of the

naval staff of 2 December 1902 (RM3/3115) any more reliable than the portrait Hempenstall had painted some 75 years later?

Gouverneur von Bennigsen was obviously in no way equal to his task. Here he has gained recognition—if at all—only by the large firms because he moved the seat of government to their centre in Herbertshöhe and because he granted them land with great abandon. Judging by all I have heard and seen, he was a jolly bonvivant who had no interest in, or understanding for, the development of the country.

It was time to delve in the historical record to find out for myself what it had to offer and this report by Seiferling was part of a cluster of documents which turned out to be unexpectedly illuminating because they suggested that imperial German officials and officers in the colonies hardly needed natives or colonists to keep themselves busy.

Chapter 5: Of Wolves in China Shops

I

On April Fool's Day 1903 admiral von Tirpitz, secretary of the naval office, wrote a top secret letter to the chief of the naval staff, Büchsel, caused by another top secret letter, written by Stuebel, the head of the colonial department, which, in turn, had been prompted by a complaint by the Jaluit Gesellschaft. It concerned the behaviour of captain von Burski, commander of the station cruiser SMS *Cormoran*, during a visit to the Marshall Islands in 1902.¹

There had been long-standing tensions between visiting naval commanders and the company, because the commanders believed the company provided inferior service at exorbitant prices to the navy and, having successfully conned the colonial department, felt perfectly safe in doing so. These tensions had reached a new peak during the Burski visit. This pleased the company because Burski had also attacked the colonial department. His alleged outburst was connected with the discovery of phosphate on Nauru, from which the company was expected to make a vast profit, since its exploitation was seen as falling under a guano monopoly it had been granted in 1888. According to the company, Burski had told its local representatives that he knew of an expert opinion which concluded that phosphate was technically not guano. Since it therefore did not fall under the existing monopoly he could not understand why the company had also been given the right to exploit this resource. He was said to have continued, thereby casting a "scandalous suspicion on the colonial administration": "any impartial observer, like myself, must get the impression that this agreement involved corrupt dealings [*dass bei dem Abkommen Durchstechereien vorgekommen sind*]."

Tirpitz consulted the report Burski had submitted on his visit to the Marshall Islands. Although it mentioned no such comment, it gave him the impression that Burski had not been as careful as he should have been in what he had said about "the internal politics of the Marshall Islands". He therefore asked Büchsel to order Burski to submit a supplementary report, so that it could be determined how far he had spoken in a private or official capacity.

As the marginal notes on the Tirpitz letter showed, the naval staff was annoyed by it. Why was it necessary to distinguish what Burski had said in a private or an official capacity? For what purpose? And, most importantly, by whom? Besides, it was not prepared to accept that Burski had failed to observe the necessary caution in either capacity. Still, Burski was asked for a supplementary report.

Not surprisingly, he denied having used the words attributed to him. But his own version showed that he had at least come very close. A meeting with the representatives of the company, during which he had intended to discuss an improvement in the supply of coal to the navy, had turned to its general business practices and, in particular, to the exploitation of the phosphate deposits on Nauru. As he had implied in his previous report, Burski had personally taken the view that the arrangements with the company could only have been made because the authorities at home did not sufficiently appreciate the conditions in the Marshall Islands, and that administrator Brandeis was the wrong man to look after the interests of the Reich on the spot. Naturally, Burski had not withheld these personal views when explaining to the representatives of the company that in all these arrangements the company had always been the receiving and never the giving part. He had then used words to the effect that a foreigner, who was not familiar with German conditions, but who saw how little the company was prepared to make sacrifices, had to get the idea that "among us" corrupt dealings were also possible (*dass auch bei uns Durchstechereien möglich wären*). He was at a loss to see how anyone could conclude from these remarks—which

1 Unless otherwise indicated the information in this section comes from a single naval file: RM5/6011.

he had also made to the acting administrator, von Bunsen—that he doubted the honesty of any colonial official. Surely the director of the colonial department would not think that a commander of one of the S.M. ships was capable of casting such an outrageous suspicion. On the other hand, he certainly had not presented himself as an impartial observer but had openly admitted his partiality. Nor had he claimed that an expert opinion had concluded that phosphate was not the same as guano. Instead he had said verbatim: “I was told in the office of the administrator that the question has been raised as to whether phosphate actually is guano. I also learned there that expert opinions have been sought in this matter. It is therefore highly questionable that it was, contrary to the company’s view, a foregone conclusion that it should have been granted this concession.”

Burski also denied that previous naval reports had caused him to avoid social intercourse with the representatives of the company on Jaluit, as Stuebel apparently believed. He had done his duty, and one could not blame him for being reserved, if one knew that one of the company’s former representatives had exchanged blows with the then administrator and that the German consulate in Sydney had stopped all contact with the company’s agent there because it had been unable to confirm that the prices this man had charged the district office in Yap had been fair. As a result the colonial department had instructed the local administrations in the Pacific no longer to obtain their supplies from that source, whereas the company had happily continued its own links with this dubious man.

True, he had not visited the house of its representative in Ponape, but only because he had a half-caste wife, whereas its Truk representative had spent Christmas Eve with his—presumably eligible—wife on board SMS *Cormoran*. On the other hand, Burski stood by all of the negative comments he had made about the company’s performance in his first report. They were partly based on his own observations and partly on information provided by the acting administrator. He had fully agreed with his views—and, Burski added “in confidence”, had given him access to the government files, which had told him not only many interesting things about the company, but had also enabled him to form the negative opinion about administrator Brandeis he had expressed in his main report.

On 25 July 1903 the naval office wrote again to the naval staff, enclosing lengthy comments the colonial department had made at its invitation on this earlier report. Tirpitz was worried by their “aggressive tone”. He therefore sought information about discussions between the naval staff and the colonial department in 1901 about an incident involving governor Solf and the navy in Samoa which demonstrated that colonial officials too could make serious mistakes and which could thus perhaps be used to counter the colonial department in the Burski case.²

On 19 October 1903 Tirpitz responded to Stuebel’s comments. They had climaxed in a request to censure Burski for his repeated interference “in the sphere of power” reserved for the colonial administration and to take the measures necessary to prevent such occurrences in the future. As far as the corruption allegation was concerned, Stuebel had asked for an appropriate disciplinary punishment unless, as he assumed, Burski denied having made it.

Although Tirpitz did not approve of Burski’s behaviour, he tried to protect him. He suggested that Burski’s supplementary report—which he discussed in his response, without sending a copy to Stuebel—had taken care of the corruption allegation, even though, according to Burski’s own version, his remarks had been out of place. He also admitted that at least one of the measures taken by Burski, about which Stuebel had complained, had been rash. But he did not believe that Burski had intended to trespass on the preserve of the colonial administration. On the contrary, he was convinced that Burski, like all naval commanders, had acted with the best of intentions, trying to strengthen the authority of the colonial government, and that he had merely permitted himself to be carried away by his enthusiasm. He, Tirpitz, had taken action to have his views communicated

2 Solf had done the unforgivable by suggesting that the navy, like the colonial department, was subject to instructions from the chancellor of the Reich, instead of acknowledging that it was under the direct command of the emperor.

to Burski and trusted that such unfortunate incidents, no doubt due to regrettable but fortuitous personality clashes, would not happen again.

The naval staff saw this response as another interference by Tirpitz in its responsibilities. It instructed the commander of the North Sea station, where Burski was now serving, to show him the correspondence between the naval office and the colonial department, but it also attached a copy of a letter to the naval office in which it had criticised “the incorrect handling” of the matter by Tirpitz, informing him that it had no intention of censuring Burski.

Tirpitz responded three weeks later, defending the stand he had taken. Contrary to the view of the naval staff, the “Burski Case” had not started with Burski’s report of 30 November 1902 but with a complaint by the colonial department to the naval office. He had asked the colonial department for its comments on Burski’s report because he had wanted to clarify the business practices of the company, with which the naval office had ongoing contractual relations. It was not his fault that Stuebel had dragged in matters covered by Burski in his subsequent reports. In general, the case had been such that it was impossible to separate its economic from its “military/political” (*militärpolitische*) and personal aspects (which were both the responsibility of the naval staff). Under these circumstances there could be no question that he had been competent to deal with the matter and, in doing so, to express his views on all its aspects. As far as the personal aspect was concerned, he had handed the matter over to Burski’s military superiors for internal treatment. In his response to the colonial department he had defended Burski as strongly as one could possibly justify. He had expressed the view—shared by the chief of the naval staff—that some of Burski’s remarks had been incorrect. This had not been intended as a formal censure, which, if appropriate, could only be issued by Burski’s military superior.

Tirpitz clearly felt that disciplinary measures were called for. But the naval staff, as well as the commander of Burski’s current North Sea station, did not take them, partly because they resented Tirpitz’s treatment of the case but also because they were in sympathy with Burski’s behaviour, although he had perhaps been a fraction too forthright in the expression of his views. It is likely, therefore, that Burski felt that he had emerged victorious and that he and his comrades would receive the full support of their military superiors if they behaved in future in the same way as he had behaved during the round trip of SMS *Cormoran* in the Marshall Islands and German New Guinea between November 1902 and March 1903.³

II

The main event during SMS *Cormoran*’s stay in the Marshall Islands was a ten day trip to the Ratak Chain, including Mejit Island.

Mejit was densely populated and rich in coconuts, but it had no harbour so that it was difficult to ship its copra to Jaluit. As a result the Mejit people had received twice the usual wage of 2 Marks per day to load the company’s vessels. In mid-1901 administrator Brandeis had suddenly reduced wages to the standard rate in order, so Burski said, to further the company’s commercial interests—and Mejit had gone on strike. During a visit of SMS *Cormoran* in December 1901 Brandeis had ordered the corporal punishment of seven men who had refused to follow his order to work for 2 Marks per day, but he had changed his mind when the crowd had adopted a threatening attitude. Instead he had fined Mejit collectively 50,000 kilograms of copra—worth 4,000 Marks—for disobedience and ordered that its inhabitants should only be paid 6 rather than 8 Pfennigs per kilogram until they were willing to load at the reduced rate. In addition he had instructed the high chief in Maloelab not to respond to requests from Mejit to send his vessel to

³ Burski submitted several reports on this trip. I have used the following copies: 30 November 1902 (RKA 2651), 3 January 1903 (RM3/3015), 10 February 1903 (RKA 2651) and 4 April 1903 (RM3/3015)

supply Mejit with goods in exchange for copra which only the trader for the company was entitled to purchase.

Burski found the entire affair disgraceful and used it as an excuse for a general review of the relations between the colonial government and the company. In his view, the administration of the Marshall Islands could be turned into a highly profitable enterprise as soon as the company's commercial privileges were removed, and it was asked, instead of underwriting the budget, to pay the same kind of taxes and duties which had been introduced in other German colonies. It was intolerable that the natives regarded the imperial administrator as an instrument of the all-powerful company which not only refused to do anything for the economic development of the colony, but also insisted on charging the navy almost three times the cost price for fresh meat, although it had been paid 26,000 Marks for other supplies during the latest visit of SMS *Cormoran* alone, which too had primarily served the commercial interests of the company.

SMS *Cormoran* reached its next stop, Ponape, on 1 December 1902. Vice-governor Berg immediately paid it a visit which was promptly returned. The two weeks stay in Ponape was uneventful, apart from the familiar supply problems caused by the indifference and greed of the company. Burski had convinced himself that there was no need to fear unrest among the natives, whose more important chiefs did not fail to pay him their respects. Otherwise he singled out the Catholic mission for comment because he believed it was gradually dying. Its current head lacked both energy and intelligence, and the brother assisting him was even less capable of showing any kind of initiative.

On 16 December 1902 SMS *Cormoran* travelled to the Truk group, reaching Uola Island two days later. The most influential chiefs of the island immediately appeared on board. The natives made a good impression. They were neither shy nor fearful. A lively barter trade developed. Chief Gurrit returned in the evening with about 40 people to entertain the crew with dances. Presents of food were exchanged. The natives were most impressed when the floodlights were turned on after dark and a few signal rockets were fired. The next day SMS *Cormoran* moved to Toloas Island. The chiefs of that island, as well as those of Umam and Tefan, promptly paid their respects.

In addition to the company representative Petersen—a young man who had only arrived two weeks previously—the trader Ahlers and a half-caste trader by the name of Hartmann appeared on board. Ahlers, an honest and reliable man of more than 60 years of age, told Burski that the native missionaries of the Boston mission had preached against the emperor, the Reich, and the governor, telling their congregations that the Germans had come to Truk to kill them and to take their land. The governor had no say on Truk, its boss was chief Nanpei of Ponape. All land on Truk belonged to the mission society in San Francisco. They should bring all their copra to the mission and not to the German traders who would only cheat them and who, as a result of these falsehoods, had indeed obtained some 25 tonnes less than during the previous year.

Burski regarded the matter as sufficiently important to order his "judicial officer" (*Gerichtsoffizier*) to take evidence from five native witnesses. They confirmed that they had heard the native missionaries making such statements. Burski had therefore decided to arrest the missionaries, and to take them to Ponape for punishment. He had sent an officer to the mission station to order its head, the American missionary Stimson, to appear on board with the four native missionaries in question. Burski had informed Stimson about the accusations, asking him whether the native missionaries had acted in accordance with his instructions. Stimson had denied this "with a sneering smile", adding that he had always strongly supported the German government in its endeavours. When Stimson had wanted to continue along these lines, Burski had told him to stop since he had no proof whatsoever of Stimson's loyalty. On the contrary, on the basis of the assessment of his predecessor, captain Grapow—according to whom Stimson was no more Christian than choosey in his methods—he was inclined to suspect the opposite. He then informed

Stimson that he would take the four native missionaries to Ponape and only regretted that he did not have sufficient reason to arrest him as well. Stimson had become excited and begun to make "improper speeches", stressing that he was an American citizen, that Burski had no right to take the actions he had taken and that he protested against the removal of his "pupils"—throwing in some derogatory comments about the trader Ahlers for good measure—whereupon Burski had asked Stimson to take his leave. When Burski had subsequently left his cabin to make arrangements for the accommodation of the four arrested native missionaries, he had observed Stimson giving them instructions. When he had ordered him to leave the ship, Stimson had refused and continued his protests. In order to bring this unpleasant scene to an end, Burski had ordered his guards to escort Stimson to his boat.

As Burski was convinced that Stimson would use every means at his disposal to create the impression that he had been violated by the warship, he had ordered his judicial officer to draw up a formal record of the events. Moreover, to balance the scale he had ordered Snelling, a renegade missionary, to cease his missionary activities until the vice-governor had made a final decision—although he believed that Snelling was being unfairly persecuted by Stimson. On the other hand, Burski believed that Snelling was mentally deranged, as evidenced by the fact that he frequently ordered his native followers to climb the highest mountain to pray there from sunrise to sunset.

After investigating a murder case, taking the confessed killer with him to Ponape for punishment, and after admonishing the assembled chiefs to obey the laws and orders which his majesty the emperor issued to them through his governor, Burski left Truk with such a favourable impression that he recommended moving the seat of the district office for the Eastern Carolines from Ponape to this group.

Burski had mixed feeling about Yap, in the Western Carolines, where he anchored on 31 December 1902. The harbour was good, but all the buildings, including those belonging to the government, were neglected. Moreover, the native hospital, full of patients with the most horrible afflictions, was situated next to the road from the harbour to the district office so that they were in full view of every arriving foreigner. Still, the place had the major advantage that the company played as yet an insignificant role. This was about to change, since it was set to take over the O'Keefe firm which had provided the navy with excellent service. Typically the company was already using its connections with the colonial department to have the tax payable by this firm reduced in preparation for its takeover. Now was the time to buy a small island in the harbour for a government coaling depot, to avoid having to put up with the exorbitant prices the company would demand, once it had firmly established itself.

The natives were peaceful and the major chiefs had visited him on board soon after his arrival to assure him of their loyalty and satisfaction with the measures taken by the German government. But Burski was concerned about the manner in which it was currently represented. The popular district commissioner Senfft was on leave and the young government doctor was deputising for him. This was in any case undesirable, because the natives could not appreciate that a medical man, whose duty it was to look after their physical well-being, could at the same time be their judge. In addition, Dr Born had no idea how to treat natives socially. Instead of drawing a strict line, he played blind man's buff and other childish games with them, thus quickly undermining the respect in which the highest government official should be held.

In Palau Burski was greeted by an ancient mulatto, Gibbon, whom Senfft had placed in charge of the local administration—an appointment of which Burski did not approve, although he acknowledged that Gibbon handled the natives firmly and with dignity. In this regard he was certainly better than Dr Born, who had recently ordered Gibbon to treat adultery among the natives of Palau no longer as a criminal offence, whereas Senfft, before going on leave, had specifically instructed Gibbon not only to punish adulterers but to send men who had committed adultery with

the wives of chiefs to Yap, because of the seriousness of the offence. When Gibbon told Burski about his dilemma, Burski instructed him not to proclaim or apply Born's new ordinance. "I informed Dr Born of the above when I arrived in Yap and hope that I convinced him that his hasty measure was untenable."

By contrast, the visit to Saipan was a full success. Burski assured the emperor that district commissioner Fritz was the right man for this post and fully equal to his task. Fritz had arranged a big feast to celebrate the emperor's birthday on 27 January. It had started with native dances, ox-cart races and cock fights and continued as a proper ball, in which the crew of SMS *Cormoran* and the Chamorro girls had taken an equally active part.

A second stop in Ponape confirmed Burski's view that this was the least promising of all the large islands in German Micronesia. It was comparatively infertile and inhabited by an indolent and suspicious population. To introduce taxes was unthinkable. Even a peaceful disarmament could only be considered after the large store of ammunition in the hands of the natives had dwindled and their confidence in the government had increased. Still, some progress was being made, as the two leading chiefs had, for the first time, celebrated his majesty, the emperor, in long speeches during an official dinner in honour of his recent birthday.

Upon the arrival of SMS *Cormoran* in Herbertshöhe, on 22 February 1903, acting governor Knake had made his obligatory visit on board, and had received Burski's obligatory return visit, but this had been the sum total of social contact, since Knake had not even maintained the limited social contacts with one of S.M. ships which the general code of politeness would have required. After coaling in Matupi, HERNSEIM & Co providing its usual excellent service, Burski therefore went for a round trip to New Ireland and, after coaling again, for a second round trip to the northern Solomons to show the flag, since Knake also had made not a single requisition for naval assistance.

In Petat Harbour, on Buka, SMS *Cormoran* was approached by a large number of canoes, carrying about 300 warriors in immaculate formation—which the chiefs explained as a gesture of welcome and appreciation. The next stop was Queen Carola Harbour, also on Buka. Burski had heard in Petat that the natives there were fighting. The armed cutter sent to summon the chiefs had met them already on their way to assure Burski that peace had been concluded. They promised him, after his earnest admonishments, that they would keep the peace in future, so that SMS *Cormoran* was ready to sail to Nissan Island where the resident trader had asked urgently for a visit from a warship.

The disputes between him and the natives turned out to be trivial and were settled quickly to the satisfaction of all concerned. Nonetheless, Burski was satisfied that the visit to Nissan had been important because its inhabitants had, following a punitive expedition by administrator Schmieles some years earlier, quite wrong ideas about the military might of the Reich.

Schmieles had limited himself to taking three children to Herbertshöhe, about whose fate the Nissan people had since heard nothing. As the acting governor had incomprehensibly failed to brief Burski on this matter, although he knew that a visit to Nissan had been intended, Burski had been unable to respond to the inquiries. After his return to Herbertshöhe he had ascertained that one of the children had died, that another was working as a houseboy and that the third had supposedly been returned to Nissan, although no-one there knew anything about it. If the government intended to treat the women and children whom SMS *Cormoran* under his predecessor had brought back from St Matthias in a similar fashion—which seemed likely, since three of the women had already been married off to policemen and one of the boys had been allocated to a government official as a domestic servant, it would take a long time before the St Matthias Islanders would learn to trust the government.⁴

4 Burski had learned from the reports of his predecessor that it had been intended to have the women and children educated by the Catholic mission before returning them home so that they could enlighten their fellow islanders about the

In northern Bougainville Burski sent an armed boat ashore in Tinupuz because its inhabitants had killed a schooner captain in the past so that he wanted to see the chiefs on board. Although they were frightened, the landing party succeeded in bringing in the two most important chiefs, to whom he could give the appropriate warnings. His visit to the station of the Marist mission in Kieta convinced him that father Meyer had virtually abandoned his pastoral duties to get on with the development of plantations around the station. This commercial approach was even more marked at the head station of the mission, on Poporang Island, in the British Solomons, where the mission was said to own 500 acres. From Poporang the *Cormoran* had sailed northward, along the west coast of Bougainville, in the hope that the display of the large number of cannons and rifles would have a strong and lasting effect on the natives, most of whom had never seen a warship.

Burski concluded this final report with some general comments. In Samoa, as well as in the Marshall Islands and the Carolines, he had only met the deputies of the respective governors and administrators, who had known little about local conditions. This also applied to the largest and most promising of Germany's Pacific colonies, the Bismarck Archipelago.⁵ Here the government had, for a year, been headed by an inexperienced *Assessor* who was plainly unable to cope with his important and difficult office. This view had already been expressed in a report by the commander of SMS *Moewe* with which he, Burski, fully agreed. But he wanted to mention another instance, since it illustrated what was bound to happen if the administration of a German colony was not in the hands of mature officials who were familiar with local conditions. He enclosed for this purpose an excerpt from the Singapore *Straits Times* which his enquiries had regretfully shown to be correct (see below).

Stuebel probably responded with special vigour to Burski's reports, because he had just had to deal with a formal complaint by Tirpitz about acting governor Knake. He did not dispute the facts reported by Burski, although he pointed out that Knake's report had shown the behaviour of Burski in the Bismarck Archipelago in a different light—and there was no need to do so because the facts spoke loudly and clearly for themselves. In particular the arrest of the four mission teachers in Truk by Burski, and his order to Gibbon in Palau to disregard an instruction issued by his superior, provided Stuebel with welcome ammunition. Yet, it was Burski's arrogance in his relations with all colonial officials that was Stuebel's main concern. He therefore stressed "with the greatest satisfaction" that it was only due to their exemplary restraint that open clashes with Burski had been avoided. But it worried Stuebel even more that Burski might represent typical naval attitudes, especially as regards the Jaluit Gesellschaft and its role in the government of the Marshall Islands.

The fact that Burski had expressed his feelings so indiscriminately was therefore manna for Stuebel, since it gave him an opportunity to get even with the navy. Tirpitz rightly saw Stuebel's complaint in this light—and so did the naval staff, which represented the navy as a military establishment, whose members only owed obedience to the emperor and loyalty to each other, and which resented the interference of the bureaucrat Tirpitz who, it believed, should stick to securing more ships for the navy and, in particular, a more efficient supply of coal by the company. It was therefore unlikely that Stuebel's justification of the arrangements between the foreign office and the Jaluit Gesellschaft—described in a supporting memorandum as the only appropriate form of government under the circumstances obtaining in the Marshall Islands, which had fully proved its worth in practice—was given serious consideration by Burski, or by his military superiors. It smelled of the same "grocer's mentality" (*Krämergeist*) the navy detested in the company, and Stuebel did not improve his case by stressing that the 1888 agreement with the company had received imperial approval. To hide behind the emperor when defending the greed of the company

ways of the world.

5 Burski had not visited Kaiser Wilhelm Island and (therefore?) did not consider how it fitted into the picture.

and the colonial department's own lack of high-minded national principles was sacrilege. How could such people expect a censure of Burski who had only acted as his honour and the best interests of the Reich had demanded?⁶

III

Some weeks before Stuebel's complaint to Tirpitz about Burski, Tirpitz had sent a complaint about acting governor Knake to Stuebel, attaching an exchange of letters between Knake and lieutenant-commander Seiferling of the naval survey vessel SMS *Moewe*.⁷

Tirpitz found it incomprehensible that an acting governor could have written such an offensive letter and formally asked Stuebel to call Knake to account.

I believe that Your Excellency shares my view that the co-operation between the Colonial Authorities and the Navy is an important precondition for a strengthening of German power and prestige in our overseas possessions... Incidents such as this are unlikely to bring about such a co-operation; rather they must give rise to a serious ill feeling among naval officers. This will make the service in our Pacific colonies less than attractive and that would certainly not be in their interests.

Although Stuebel, like Tirpitz in the "Burski Case", made excuses for Knake, he agreed that Knake's behaviour had been unacceptable and announced that he would be censured. Co-operation between the navy and the colonial authorities was highly desirable. He, Stuebel, was using every opportunity to remind his subordinates that it was their duty to maintain good relations with the commanders of S.M. ships. "I therefore feel justified in expecting that differences, such as these, belong to the rare exceptions."

On 9 October 1902 Seiferling had informed the government in Herbertshöhe that he had ordered an inspection of the Japanese schooner *Zabra*, to ascertain whether it was in possession of the legally required papers. Since her master had plausibly asserted that she had been chartered by the government, and since he, Seiferling, had therefore assumed that the absence of the required papers had merely been an "oversight" (*Versehen*), he had taken no further measures, although he had felt obliged to report the matter.

The inspection report of lieutenant Wieting showed that he searched the vessel in the company of Herr Thiel of Hershheim & Co. Her Japanese master told Wieting that he was recruiting for the government in Herbertshöhe and that he was destined for Friedrich Wilhelmshafen.⁸ When Wieting wanted to see the vessel's papers, he was only shown a document which certified that the *Zabra* was entitled to transport so and so many labourers. Asked for additional papers, the master had claimed to have neither a written charter agreement with the government nor sailing or recruiting orders. Since this claim was credible, and sufficient to establish that the vessel did not have the required papers, Wieting did not regard it necessary to open a sealed letter addressed to the harbour master in Friedrich Wilhelmshafen. On the other hand, further questioning of the master revealed that there were also no papers recording the recruitment of the two labourers already on board, although Wieting believed that they were also legally required. However, the master asserted that these documents were always drawn up after the arrival of the labourers in

6 It hardly needs saying that much in this paragraph is my "interpretation" rather than a restrained summary of statements contained in the historical record. But rather than "entering into" the facts it reported (see above: 42), it led me to invent additional statements of fact, although I am reasonably confident that they are in accord with the views held by many naval officers at the time

7 Unless otherwise indicated the account of this episode given here is based on RM5/6011.

8 The name of the Japanese master—Isokide Komine—is not given in the naval reports. By contrast, governor Hahl described Komine's arrival in Herbertshöhe in January 1902 as "an answer to my prayers" (1980: 91–92). Komine became an influential businessman in German New Guinea and had, according to local rumours, been an officer in the Japanese navy.

Herbertshöhe. On the other hand, the two recruited labourers appeared to be on board voluntarily and the cargo included no prohibited items.

Before writing his response, on 16 October, Knake had heard the version of the *Zabra*'s master. He had feared that the vessel was about to be seized by the navy for the benefit of Thiel, representing a group of Australians who claimed that the vessel had been illegally removed from Australian waters and had taken court action in Herbertshöhe to secure its return. As Knake had no idea on what legal basis Seiferling had ordered the inspection, he recapitulated with obvious puzzlement the various steps taken before focusing on two points.

The first was concerned with the involvement of Thiel, because the master of the *Zabra* had believed that Thiel was about to enforce the private claims he represented with the military might of the navy. One could therefore hardly blame him if he was prepared to risk the use of extreme measures by the navy rather than to produce his precious papers in the presence of his legal opponent, who was likely to have them confiscated.

The second point followed from the fact that the military operations after the Varzin Murders had not been completed at the time. In Knake's view the search of the *Zabra* had therefore damaged vital government interests, because she was the only vessel available for the recruitment of additional policemen who were essential to assure public order in the colony, and because potential recruits could easily be put off by a naval search of a vessel recruiting for the government. Under these circumstances, of which Seiferling was surely aware, Knake respectfully requested him to inform the government if he intended to continue such inspections, because it would then be Knake's duty to take the steps necessary to avoid the dangers which this would create for the well-being of the colony.

Seiferling refused to enter into any discussion, assuring Knake that he would continue to act in accordance with his instructions in a manner he hoped to be able to justify to his superiors, to whom alone he was accountable. As regards the views expressed by Knake—which he had reported to his superiors—it was obvious that, as a commander of one of S.M. ships, he could not possibly comment.

After this blast Knake tried to backtrack. He had no doubt that Seiferling had acted in accordance with his instructions, and had had no intention of asking Seiferling to justify his actions. But since he did not know what Seiferling's instructions were, he had wanted to point out the serious consequence conforming with them had had for the government. He had merely sought an exchange of views as the quickest way of establishing how such consequences could be prevented from occurring again in the future.

Seiferling knew that he held the stronger hand. The government could avoid similar investigations, he responded, by informing S.M. ships about the charter of private vessels or by requesting them not to investigate certain vessels. Like all naval commanders, he was only too happy to exchange views with the government, provided they were expressed in a form other than that chosen by Knake in his letter of 16 October.

In his report to the naval staff Seiferling justified his inspection of the *Zabra* by reference to an 1894 naval instruction. It obliged S.M. ships to search any vessel met outside the usual shipping routes in German New Guinea waters. According to his version, he had gone out of his way to make life easy for the government by not also following an even older naval instruction, according to which he had to put any foreign vessel met without the required permits under arrest and hand it over to the local authorities for punishment.

Not surprisingly, Seiferling denied that he or any of his officers had known that Thiel had personal reasons for wanting to have a look at the *Zabra*'s papers. He had asked Thiel to accompany Wieting as an interpreter because none of his officers had been sufficiently fluent in "*Pigeon Englisch*", the language which would probably have had to be used. True, he had heard rumours that the *Zabra* had been illegally removed from Australian waters, but he had assumed

that the matter had long been cleared up, since governor Hahl himself had chartered the vessel for a tour of inspection. He had not specified the legal basis for his actions when informing Knake because he had taken it for granted that the government was aware of the relevant naval instructions, since they had been issued in response to requests from the local authorities.⁹ He could not understand how the search of the *Zabra* could be seen as damaging vital government interests. Natives observing the search could only have been favourably impressed by the fact that it had not revealed any breaches of the law. The real problem was that natives only trusted European recruiters—and there had been no European on board—not even to act as a witness able to certify that the native recruits had signed up voluntarily—another legal requirement the *Zabra* had not complied with.

Instead of taking the view that its master could not be blamed for taking extreme risks out of fear of being violated by the navy, it would have been better for the prestige of the Reich if Knake had assured him that he could rely on always being treated justly by S.M. ships. Besides, Seiferling could not believe that even a Japanese could for a moment suspect that a German naval commander could lend the authority of the war ensign of the Reich to a private individual pursuing commercial interests. More importantly, he found it incomprehensible that Knake had feared that a colonial official could ever find himself in a position where it became necessary to protect the safety of a German colony against a naval vessel acting in accordance with her instructions.

Seiferling had good reasons for adopting this self-righteous attitude since the search of the *Zabra* had, in fact, been most unusual. As Stuebel pointed out in Knake's defence, no other vessel known to the navy had ever been searched in German New Guinea. Besides, Seiferling should have been especially careful not to get involved in activities outside his survey task because one of his predecessors had recently been in trouble with Tirpitz, who had criticised the amount of survey work accomplished by SMS *Moewe* under his command. The commander's excuse, of having been slowed down by numerous requisitions by the colonial government for military assistance, had led to an instruction by the naval staff, dated 25 April 1900, to the effect that SMS *Moewe* was to refuse military assistance to the local authorities, unless immediate action was absolutely necessary to prevent damage to the prestige of the flag (see RM3/3114). Although this instruction dealt expressly only with the *Moewe*'s military activities, it should have left her commanders in no doubt that they were expected to stick to survey work and leave all other matters to the station cruisers—unless the circumstances were quite exceptional, which did not apply in this case.

While Knake's reports of his encounter with Seiferling, together with Stuebel's reprimand, were put on Knake's personal file—which, along with all the other personal files kept in Berlin, did not survive World War II—the personal consequences of the flogging of ten Chinese *Assessor* Wolff had ordered on 2 November 1902 were handled differently, since the matter first attracted attention from the colonial department because Knake had responded to the flogging with his legislative pen.

IV

On 16 January 1903 Knake sent an amendment of a 1900 "Ordinance concerning the Maintenance of Discipline among Coloured Labourers" to the colonial department. It outlawed the corporal punishment of Chinese labourers so as to prevent the repetition of undesirable incidents like the mass flogging ordered by Wolff. The legal section had no difficulties with the amendment, but Rose was reluctant to recommend its approval because he believed that Knake had overreacted. Although Wolff had acted imprudently, it was, in Rose's view, advisable to retain the possibility

9 It is obvious that Knake was not aware of these naval instructions and likely, since one would assume that he tried to inform himself, that they were not on the files kept in the governor's office in Herbertshöhe.

of corporal punishment of Chinese as a legitimate disciplinary measure in case coolies were again employed in large numbers, as had been the position ten years earlier, during Rose's reign as imperial commissioner, when this measure had been found to be indispensable. He therefore suggested that the views of governor Hahl be sought—who was already on his way back to German New Guinea when Knake's report arrived in Berlin¹⁰—and that the amendment should for the time being not be published in Germany.¹¹

A month later the matter took on a different complexion. This was the result of a report by the German consul-general in Singapore, Eschke, on enquiries by the British colonial authorities to whom the Chinese had complained about their flogging and subsequent sacking after their return to Singapore. Wolff's "imprudence" had become an "in all respects most inconvenient business"—so went the leading marginal comment, presumably by Stuebel, on Eschke's report.

Rose responded by calling for Wolff's head. His ill-considered action had interfered with Hahl's plans to encourage the immigration of Chinese to German New Guinea and embarrassed the consulate-general in Singapore which had been instrumental in securing the approval of the British authorities for the exportation of this particular group of Chinese. Hence, it was suddenly clear that Wolff was unable to muster the foresight and restraint the colonial service demanded, so that he should be recalled forthwith.

Rose's colleagues agreed. But the recall instructions, issued in early May, could not be expected to reach Herbertshöhe for eight weeks or so. By then a great deal had happened on the other side of the globe, about which the colonial department learned with the same kind of delay, so that the matter turned into a game of ping-pong played with an increasing number of balls whose trajectories crossed somewhere between Berlin, Singapore and Herbertshöhe.

Hahl had learned about the flogging in Berlin, from a private letter by Wolff, dated 16 December 1902. Hahl passed it on to his superiors in the colonial department, and the letter was temporarily added to Wolff's personal file before being returned to Hahl. Together with information received about other problems, it gave rise to instructions, dated 28 February, to Knake to report officially on the matters in question.¹² When Hahl reached Singapore about that time, Eschke informed him about the reaction of the British authorities to the flogging and encouraged him to minimise the damage through personal discussions with them. Although Hahl created a favourable impression, the British authorities now wanted to know from Eschke, as he reported to Berlin on 9 April, whether disciplinary action would be taken against Wolff.

Long before Hahl's arrival in Herbertshöhe in April, Knake had off his own bat sent an official report by Wolff on the flogging to Berlin. It arrived there in early May. It was passed on by Rose to the personnel section as "further material for the manner in which Wolff carries out his duties". This did not spare Hahl from responding to the instructions of 28 February, which had barely arrived when he sent his first report in the matter, dated 18 April, announcing that he had set the requested official investigations in train.

Hahl's substantive report followed a month later. It enclosed a second report by Wolff which indicated that the colonial department had been primarily interested in establishing whether Wolff had been legally entitled to order the flogging of the ten Chinese. According to Wolff, his powers as district commissioner were a matter of administrative practice since they had never been legally defined. Section 6 of the Disciplinary Ordinance provided that disciplinary punishments were imposed by the official authorised to exercise the criminal jurisdiction over natives—an authority which Wolff also had never been formally given. On the other hand, he and his predecessors, in

10 Hahl had gone on sick leave to Germany to recover from the blackwater fever attacks which had put him out of action at the time of the Varzin Murders. Knake had been sent out as a temporary replacement.

11 Unless otherwise indicated, the correspondence referred to in this section is included in RKA 2308.

12 This report by Knake—together with the recall instructions for Wolff—were presumably put on Wolff's personal file and are therefore no longer available.

Herbertshöhe as well as Friedrich Wilhelmshafen, had always, as a matter of course, exercised the disciplinary jurisdiction with the governor's approval.

As regards the particular case, Wolff stressed that the Chinese had twice refused—in a provocative manner and in front of numerous Melanesian labourers and policemen—to carry out orders to complete an urgent road building job. Corporal punishment, permissible under the Disciplinary Ordinance, had been necessary to force them to do their duty forthwith, since earlier fines had been to no avail. It had been effective because the job was completed before the imminent rain could cause thousands of Marks worth of damage. Since it was plain for every reasonable person that the punishment was well deserved, he could not have foreseen that it might have a negative impact on the future recruitment of Chinese. However, in order to prevent malicious attacks of the kind the British press had launched against him, he submitted that corporal punishment of *all* coloured labourers be abolished, since it was far easier to do without it in relation to Melanesians, who were unlikely to refuse openly to carry out orders, than in relation to Chinese.

Hahl agreed that Wolff had been legally entitled to order the flogging. But he believed that Wolff could have found other ways of assuring that his orders were followed, although the Chinese's public refusal to do so largely excused his reaction. However, Wolff should have known that a public flogging would have a negative impact on the policy of encouraging the immigration of Chinese. Thus far Wolff had therefore failed in his duties. Nevertheless Hahl requested that the colonial department—for reasons he had explained in a separate report—should put the matter to rest with an official expression of its disapproval.

The report Hahl referred to (see RKA 2576) showed that there had also been serious tensions between Wolff, as well as Knake, and the Sacred Heart mission. They had reached a climax when Bishop Couppé had been fined by the district court for defaming Wolff. However, peace had now been restored and Hahl did not want the Catholic mission to get the impression that its campaign against Wolff had been successful.

Although hampered by the fact that Knake had sent the relevant files to Berlin, Hahl was confident that there was no reason to take disciplinary action against Knake. He was not so sure in the case of Wolff—but there the “extraordinary merits” (*ausserordentliche Verdienste*) had to be taken into account which Wolff had earned by the manner in which he had conducted the military operations after the Varzin Murders. Hence, Hahl pleaded, the colonial department should on no account go further than to reprimand Wolff for having acted imprudently in the various matters raised by the Catholic mission.

The colonial department agreed that disciplinary measures against Knake were unwarranted, although it was unhappy about his handling of the tensions.¹³ It was also of the opinion that, after his recall, disciplinary proceedings against Wolff were inappropriate.¹⁴ Whereas it could afford to drag its feet in this internal matter—it took until 9 February 1904 before it responded to Hahl's report of 15 May 1903—the external aftermath of the flogging could not be dismissed so easily.

On 27 May Hahl reported again because Eschke, when reporting to Berlin in April, had also written to Hahl, informing him that the British authorities were not satisfied with Wolff's first report, which Knake had sent to Singapore, and wanted to know whether disciplinary action would be taken against him. As Hahl now reported to Berlin, he had refused to provide additional information because the British authorities had no standing in the matter, as the Chinese in

13 Its legal section noted, for example, that Knake had failed to include the judgement fining Couppé for defaming Wolff in the court statistics he had sent to Berlin. More importantly, it pointed out that Knake's political solution, of killing the case retrospectively, by withdrawing his application, as Wolff's superior, to have the defamation prosecuted, had been illegal because, under section 64 of the German Criminal Code, this was no longer permitted, once a judgement had been pronounced.

14 The recall of Wolff had been an administrative not a disciplinary measure. Wolff was recalled because he was no longer regarded as suitable for the office he was holding, not as a punishment for performing badly in the past.

question were not British subjects, although he had told Eschke that he had submitted the case to Berlin for a final decision.

Hahl's next report followed a few days later because he had in the meantime received Rose's March instructions concerning the fate of Knake's January amendment to the Disciplinary Ordinance. Hahl had gathered from the stand taken in Berlin that the amendment would only come into force after it had been published in Germany and agreed with the decision not to go ahead with the publication. He was happy to continue the practice of not treating the Chinese artisans, cooks and traders employed in the Bismarck Archipelago as "coloured labourers" within the meaning of the Disciplinary Ordinance, from which Wolff had unfortunately departed, and would reissue instructions to make sure that it would now be rigorously followed.

The legal section of the colonial department was puzzled by this response and enquired in early August whether the amendment had merely been a draft sent to Berlin for approval or whether it had been proclaimed in German New Guinea and was therefore in force. Only if the former was the case was it possible to proceed as Hahl had proposed, whereas it was otherwise necessary to repeal the amendment, at least for Kaiser Wilhelmsland, should Hahl want to regain a legal basis for the corporal punishment of Chinese, although it assured Hahl that if this was the case the colonial department would be happy not to publish either the amendment or its subsequent repeal in the colonial gazette.

In July Hahl had to respond to new instructions from Berlin. They had criticised Knake for sending Wolff's first report on the flogging incident without comments and asked for additional information. They also informed Hahl that it was intended to instruct Eschke to respond to the enquiry by the British authorities by telling them that Hahl had been asked to carry out a thorough investigation. As an afterthought, Rose, who once more drafted these instructions, added that Hahl should inform Berlin about his response to Eschke, and decided to await this information before instructing the latter.

When Hahl's response arrived in Berlin in October, Rose believed that the matter was under control. It was 6 November before instructions were sent to Eschke. They were as curt as Hahl's response had been. Since Wolff had not acted illegally, the German Civil Service Act ruled out disciplinary action against him. Solely for Eschke's personal information, Rose mentioned that Wolff's behaviour in this matter had nevertheless contributed substantially to the decision to recall him from his posting.

A week later a second report from Eschke, dated 17 October, shattered Rose's tranquillity. Eschke had not transmitted Hahl's response to the British authorities, because he regarded it as undiplomatic and was hoping for more helpful instructions from Berlin. Since the British authorities were pressing him for an answer, he had sent them an edited version of Hahl's response, which had omitted Hahl's claim that they lacked standing in the matter. As the immigration of Chinese from Singapore to German New Guinea depended on the approval of the British authorities it was essential to avoid anything that might offend them. The good personal impression Hahl had made during his visit had resulted in the approval of the exportation of another group of 30 labourers. To assure further supplies, it was crucial to authorise him, Eschke, to answer as quickly, and as soothingly, as possible.

Rose rushed off a cable, requesting Eschke to await supplementary instructions. They were sent off, marked "most urgent", the same day, 21 November. They authorised Eschke to express official regret about the incident, to inform the British authorities that Wolff had been reprimanded, and to assure them that Chinese working in German New Guinea would have no reason to complain. Eschke was given full discretion to phrase the note as he saw fit.

Eschke used this discretion to stress the enactment of Knake's January amendment, which had generally outlawed the corporal punishment of Chinese—a reference to which Rose had carefully avoided—and continued, in ceremonial English:

I have...been instructed by the Imperial Chancellor to express to the Government of this Colony the regret of my Government at this incident and to add that their disapproval has been notified to the Magistrate.

By that time Wolff's personal fate had long been sealed. He had returned to Germany, left the colonial service and was serving at a court in provincial Posen, near the Polish border. But his colonial past had followed him, so that he urged the colonial department to defend him at least against the malicious attacks on his handling of the aftermath of the Varzin Murders which had appeared in the German press—as we have seen, with limited success (see above: 97).

Wolff was gone, but Knake's amendment of the Disciplinary Ordinance was still on the table—as an October report by Hahl confirmed. It had been notified to the public in German New Guinea as soon as it had been issued, so that it was indubitably in force. Hahl was now under the impression that the colonial department wanted him to repeal it, at least for Kaiser Wilhelmsland. This he was reluctant to do because a repeal, in order to be effective, would also have to be notified to the public and because he was sure that the British press would seize this opportunity to deter Chinese from coming to German New Guinea. It was better to do nothing until the memory of the incident which had given rise to this amendment had paled. This presented no practical problems since the Neu Guinea Kompagnie only employed a few handpicked Chinese in Kaiser Wilhelmsland who could easily be kept in order without having to resort to corporal punishment.

Under these circumstances Rose gladly recommended postponement of further instructions to Hahl until the latter had had the opportunity to comment on the supplementary instructions to Eschke, a copy of which had been sent to him. He gave Hahl plenty of time, ordering his clerk, on 31 December 1903, not to bother him with the matter for another five months, probably in the hope that Hahl would be sensible enough to let it quietly fade away.

V

I had enjoyed this little narrative journey as it had allowed me to drift with the natural flow of information emanating from the historical record instead of trying to trace the steps of other historiographers. But where had it taken me? Not far and yet, so it appeared, to the end of the narrative road. The same details which made the narrative illuminating also warned against any attempt to generalise from it. While I had no reason to believe the cluster of episodes examined was untypical, the behaviour of the historical actors could clearly not be seen as representative, for example, of the relations between the colonial authorities and the navy during the period of German colonial rule. On the other hand, the problem was not that the rich texture of details which had brought these episodes to life made them atypical, it was rather that they could not possibly tell me for what which details were, or were not, typical. This did not mean that typicalness could not be used as a selection criteria in the narrative streamlining of information, but looking back a distinction between their typical and unique elements appeared to be a distinctly unhelpful guide. These episodes had been illuminating because they had given me a vague but palpable feeling for the stage on which the historical actors had performed. They had illustrated how German colonial rule had actually operated. They were historically significant not because they described what particular actions particular historical actors had performed in particular situations but because they showed that these actions had been part of broader processes and reflected broader attitudes.

Whether the treatment of Stimson and his Micronesian pupils by Burski had been typical in the sense that other German naval commanders would have acted as he did, or whether German naval commanders treated European and native missionaries in German New Guinea always in that manner, was not the issue. Just as Knake's response to the search of the *Zabra* by Seiferling, the "Stimson Incident" was unique. German naval commanders did not routinely arrest native

missionaries and German colonial officials did not complain regularly that the actions of the navy were threatening the safety of German colonies. Nonetheless, it was not their uniqueness that made these episodes historically significant but that they illustrated something beyond themselves, even though it remained too imprecise to make them representative of anything.

This interpretation was in accord with the content of the documents in question. They were not concerned with the performance of actions but with the reactions to actions already performed. The mass flogging ordered by Wolff was especially instructive in this regard. It was treated as if it had been a stone Wolff had thrown into a pond. Whereas the stone had quickly disappeared from sight, the ripples it had caused were spreading in all directions and demanded attention.

What was surprising and, for me, reassuring was that law played a central role in all these episodes. Acting governor Knake had responded to the flogging with an amendment of the Disciplinary Ordinance, and the initial concern of the colonial department had been the legality of Wolff's action. When the British authorities had called for disciplinary proceedings against Wolff, Hahl had rejected their call because the Chinese had not been British subjects, and Stimson had used his American citizenship as his highest trump card. To be sure, the episodes also revealed that Wolff had never been formally authorised to exercise judicial powers over the natives in his district and that the general administrative powers of district commissioners in German New Guinea had not been legally defined. On the other hand, the colonial department was sufficiently concerned about the Rule of Law to even take note of the fact that the politically expedient termination of Wolff's defamation case against the Catholic bishop by Knake had been illegal, so that it had therefore also been improper to exclude this case from the court statistics (see above: Fn. 13).

Yet these episodes were merely illustrative. They offered reflections of how German colonial rule had operated; they did not describe the structure of this operation. Still, it was these reflections which made these episodes historically significant. This was just as well, because the information on which I had based my narrative was patently insufficient for a satisfactory account of, say, the Stimson Incident as a unique episode. In order to give such an account it would have at least been necessary to compare Burski's version with that of Stimson, which the latter was bound to have reported to his American headquarters. Even Burski's claim that Stimson's Micronesian pupils had consistently taken an anti-German stance rested on shaky ground since it had probably been the trader Ahlers, by whom Burski had first been alerted, who had also acted as interpreter for Burski's judicial officer when he had taken the confirmatory evidence from the Trukese.

On the other hand, however many phantoms Burski's reports contained, they remained a genuine part of history. They showed what Burski had in fact reported to his superiors. Irrespective of their veracity, these reports were themselves an exercise of German colonial rule. They were part of the information to which the naval and colonial authorities actually responded. And they had no choice but to respond to such reports as they stood. Although Stuebel, for example, had made it clear that he was not going to believe Burski's expected denial of the aspersions he was said to have cast on the colonial administration, he could not ignore this denial, once it had been expressed; all he could do was to foreshadow that he would not bother to take the matter further after this had happened.

It was unlikely that I would be able to locate enough clusters of such narratively pre-programmed information to cover the history of colonial rule in German New Guinea. Besides, they could only provide an internal perspective which showed how the machinery of government operated but not what effects it produced on the environment in which it operated. But even such a limited patchwork quilt would have taken up too much space. To be sure, I could have omitted more details from my account; yet my narrative instincts urged me to move in the opposite direction. They wanted to hear more, not less, for example, about Wolff's mass flogging. They wanted me to link this episode with Wolff's handling of the Varzin Murders and with the tensions

between him and the Catholic mission. They wanted me to present a sequence of anecdotes featuring Emil Wolff which was sufficiently detailed for him to emerge as a three-dimensional human being, instead of showing him as a young 'cardboard' *Assessor* who happened to be a minor cog in the machinery of colonial government at the time. For the same reasons my narrative instincts had also been dissatisfied with what his reports had told me about Burski as a person, since they had made him look like his own caricature: totally arrogant, totally narrow-minded and totally insensitive. I was therefore delighted when I came across another case involving Burski, although it had taken place in Germany rather than the Pacific.¹⁵

About a year before taking over the command of SMS *Cormoran* Burski had made a formal complaint about the insulting behaviour of a railway conductor in Cuxhaven to the Prussian minister for public works. Instead of disciplining his lowly subordinate the minister had lodged a counter-complaint about Burski with the naval office. By the time it had reached Burski's military superiors it had been too late to have the matter dealt with by the courts, because insults could only be prosecuted if the victim had made an application to this effect within three months after the behaviour in question had taken place. Burski's military superiors also decided against starting formal disciplinary proceedings against Burski, although they censured him informally for the offensive language he had used, and for not referring the matter to his superiors before lodging his complaint. But they rejected the accusation that Burski always entered the train in Cuxhaven drunk when he came back from one of his hunting trips and insisted that the conductor's refusal to address Burski with his naval rank had been a grave insult. The minister in turn instructed the official in charge of the railway station in Cuxhaven to make sure that naval officers would in future always be treated with proper respect so that unfortunate incidents such as this would not occur again. He also requested, however, that the conductor be informed confidentially, and in a form which spared Burski's honour, that his military superiors had taken the appropriate steps in this matter.

While this additional information made Burski more solid as an individual human being, although hardly more endearing, the glimpses this case offered of the manner in which the authorities had operated in Wilhelmine Germany made my task only more difficult. Although I did not doubt that there was also ample anecdotal evidence to show that naval officers were treated as demigods by German civilians and that unquestioning submission to any form of military authority was regarded as the natural order of things, a case like this—which was clearly also not untypical—illustrated that the actual state of affairs displayed a far wider range of colours than literary works, like Carl Zuckmayer's *Der Hauptmann von Köpenick*, had led me to believe.

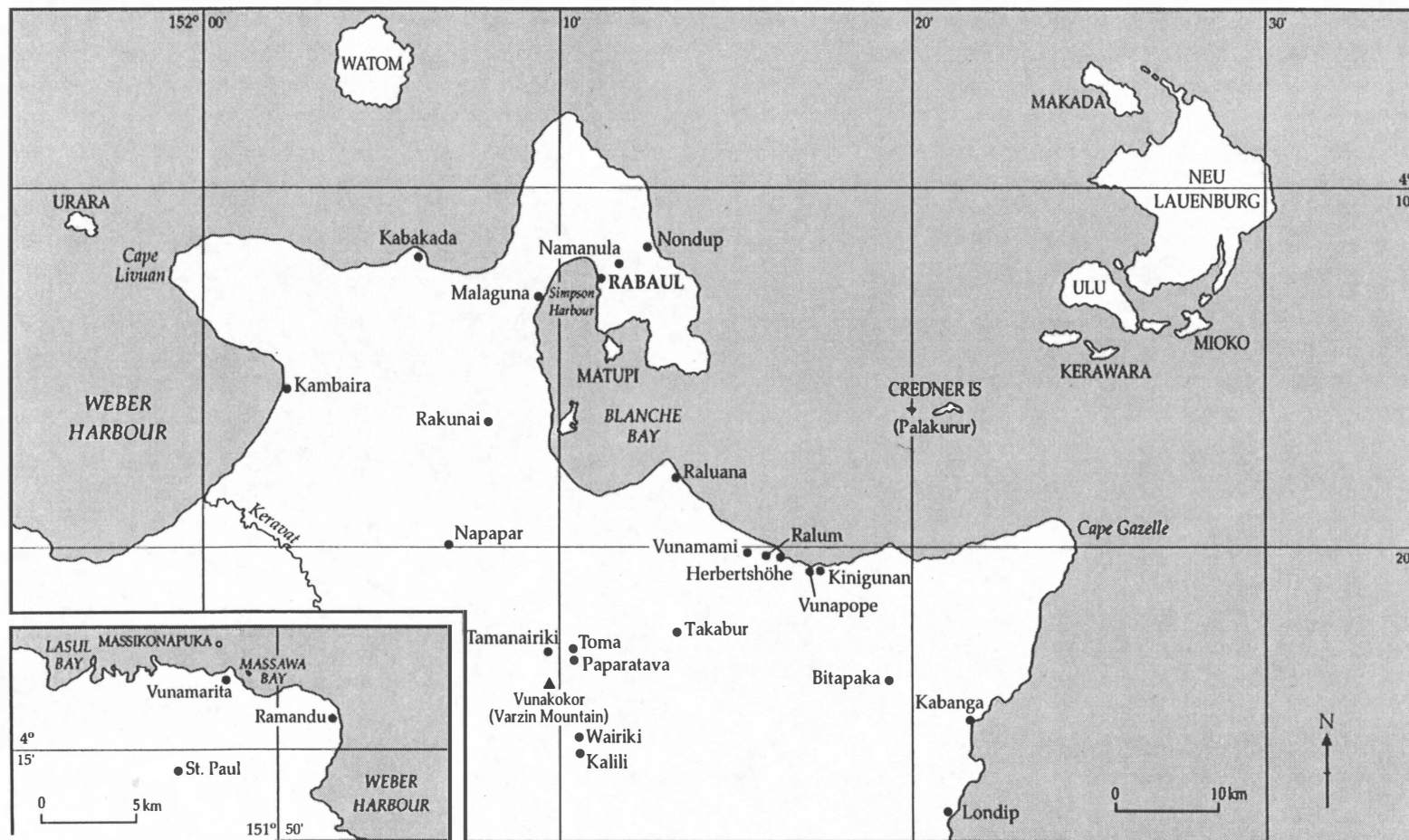
Since there was no reason to assume that official behaviour and civilian responses to it in the German colonies had been more uniform than in metropolitan Germany, it was futile to try to piece together a representative picture of colonial rule in German New Guinea as a narrative mosaic composed of such anecdotes. I had no choice but to sacrifice richness of detail for a greater breadth of coverage. I also had to focus attention on the external aspect of colonial rule, instead of the internal operation of the machinery of government. I had no choice but to start defrosting the historical record of the routine exercises of governmental powers in relation to Germany's colonial subjects.

As I did not know where, and how far, this would take me, it seemed appropriate to start this exercise by examining a slim financial register which had lost its cover, as well as its first page, so that I was even left in the dark as to which "authority" had kept it and what purpose it had served.

15 The information about this case is to be found in RM3/2460.

PART II

Exploring the Historical Record



MAP III: The Northeastern Gazelle Peninsula

Chapter 6: A Trail of Random Registers

I

The register (AA G254/146) consisted of printed forms divided into five columns. The first called for a consecutive number, the second for the name and place of residence of the person obliged to pay, the third for a description of the “fee” (*Gebühr*) in question, the fourth for its amount, and the fifth for the date of its payment. The entries were handwritten and sometimes impossible to read.

The first available entry, No. 9, told me that To Lambarone of Rakunai paid, on 7 April—the year was not given—a fine of 6 Marks for stealing food. According to the next entry Hershheim & Co. paid on 21 May a fee of 0.50 Marks for the copy of a contract identified as “Freiw. Ger. 10/04”—which stood for the tenth file in a “voluntary jurisdiction” (*Freiwillige Gerichtsbarkeit*) series for 1904. The two following entries related to licences of the Deutsche Handels- und Plantagen-Gesellschaft obtained for two Chinese: Jau Lung was issued with a “full” licence, at the cost of 30 Marks, and Li Sui with an “explosives” licence, worth 20 Marks. The next entry related again to a payment made by a native: Nematik from Makada, in the Duke of Yorks, paid a fine of 5 Marks for creating a public nuisance. Then came a payment made by a native woman, Ja Konontabu of Gunanba, who had been fined 4 Marks by chief To Voai for making false accusations. Both entries referred to entries in a general business journal: “J. No. 154/04” and “J. No. 157/04” respectively. The last entry on this first surviving page showed that “E.E. Forsayth of Ralum”, the firm of “Queen Emma” Forsayth/Kolbe, paid a fee of 2 Marks, resulting from an unsuccessful “procedural appeal” (*Beschwerde*) against a decision to impound “business records” (*Bücher*) in a court case only identified as “1/04”, so that it was unclear whether it involved criminal or civil proceedings.

None of these seven entries was by itself particularly informative; the question was rather whether the over 300 entries contained in the register would add up to an overall picture at least some aspects of which were historically illuminating. The first step in finding out was a systematic sorting of the information. The most obvious way of doing this was to rearrange it in accordance with the types of payments made, or with the types of persons making the payment. This exercise was only worth carrying through, however, if the information was reasonably reliable and complete. The first step in establishing that was to ascertain what kind of register this was: who was registering what, and what geographical area and period of time did it cover?

As regards the time span the register left no doubt that its entries related to the 1904 budget year, which ran from 1 April 1904 to 31 March 1905, but it gave no clear answer to any of the other questions. The first puzzling aspect was that the form used the term “*Gebühr*” (fee) whereas entry No. 195 described it as a “*Kostenregister*” (a register of costs) in contrast to an “*Einnahmejournal*”, a register of moneys received. While the differences between “fees” and “costs” mattered little, neither of these terms covered the “fines” the register also listed, not to mention the refund of an overpayment which was shown as well. It also seemed odd that a register of fees—or costs—should show the date the payment was made but not the date the fee had been imposed, especially since it was not the date of the payment which determined the sequence of the entries. In addition the register recorded some payments made to another office, some fees not imposed by the office keeping it, as well as some payments made during the 1905 budget year.

The geographical coverage of the register too was puzzling. In most cases the place of residence of the person obliged to pay was within the Bismarck Archipelago, usually within the

Gazelle Peninsula, but in some cases that person resided in Kaiser Wilhelmsland, the Island Territory and even Germany.

The greatest surprise was the range of subject matter covered. Administrative matters were listed side by side with station court matters, district court matters and even one supreme court matter. Payments for the issuing of some types of licences were listed but not others; payments for the registration of land were covered but not those for its sale, lease or survey by the government; and payments of taxes and customs duties were excluded altogether.

In short, the register should not have existed at all. There was not a single government office competent to impose the range of fees covered whereas the register did not include the full range any one government office was entitled to impose. Yet the register did exist, and it did contain potentially valuable information worth processing.

II

The register closed with entry No. 334. It included the 326 effective entries to be expected after deducting the missing first eight entries. But this was the result of chance rather than design, because the crossing out of two entries before a payment was received (Nos 291 and 305) was compensated for by the squeezing in of two additional entries (Nos 53a and 66a).

The payments shown amounted to around 9,800 Marks.¹ This meant an average payment of about 30 Marks, whereas the actual payment per entry ranged from less than 1 Marks to 600 Marks. However, the largest payment covered not one but 15 sub-trader licences issued to the Forsayth firm.

Such multiple entries were not uncommon; and they obviously had to be split before a serious quantification exercise could be attempted. The same applied to the mixed entries combining payments belonging in different categories. The largest single payment, a fine of 300 Marks, made by Queen Emma's husband, Paul Kolbe, was a case in point. It also covered a payment of 57.50 Marks for court costs. On the other hand, some payments were made in instalments so that the entries in question had to be combined, and in some multiple entries neither the number nor the amounts of the individual fees imposed could be distinguished. Moreover, a serious quantification exercise had to address the question of the missing first eight entries. Although they represented less than three per cent of all entries, leaving the possibility of additional or cancelled entries on this page out of account, they could still have had a significant impact on the overall picture if all or most of them belonged in the same category, especially if one or more of them were multiple. But it was premature to worry about these finer points before the examination had progressed further. For the time being, the number of effective entries could serve as a rough guide for the quantitative weight of the information provided.

The entries could be divided into ten groups according to their subject matter. The largest group, with over 60 entries, dealt with licences.² Next came shipping matters with 50 entries, land matters with 40 entries and a mixed bag of voluntary jurisdiction matters with 35 entries. Administrative punishments also accounted for 35 entries, and payments relating to the civil jurisdiction of the district court for 30. Thirty entries were concerned with fines imposed or handed in by government chiefs. The exercise of its criminal jurisdiction by the station court accounted for 20 as did the district court. A single entry related to a supreme court matter: a payment of 5.50 Marks made to the "cash office" (*Kasse*) in Ponape by the "renegade missionary" Snelling (see above: 127).

¹ This was the equivalent of almost ten per cent of the revenue the Old Protectorate was expected to raise during the 1904 budget year.

² All the following figures are approximate.

As the entries relating to natives, which accounted for almost half of the total, looked especially tempting, I proceeded to consider the four most relevant categories more closely, beginning with station court matters.

The 21 entries in this category related to the 14 different cases listed in the following table.

TABLE II

Fines imposed by the Station Court, Herbertshöhe 1904

1.	No. 51	Chief Tamlik from Reinau was fined 50 Marks for exceeding his official powers (<i>Amtsbefugnisse</i>) (St. Ger. 45/04).
2.	No. 63	Tschang Tiang from Rabaul was fined 30 Marks for defamation (St. Ger. 48/04).
3.	Nos 82, 87	William To Putur from Rakunai paid a fine of 50 Marks under Section 132 of the German Criminal Code (unlawful assumption of public office) in two instalments (St. Ger. 54/04).
4.	No. 117	Monikin from New Ireland was fined 10 Marks for assault (St. Ger. 57/04).
5.	No. 148	Tahija (a Malay?) from Herbertshöhe paid costs of 5 Marks (St. Ger. 59/04). (He was not fined but probably received a prison sentence.)
6.	No. 136	To Guarar from Gunamba was fined 20 Marks for defamation (St. Ger. 66/04).
7.	Nos 141, 142	To Momong and Ja Vaga from Takabur were each fined 20 Marks for adultery (St. Ger. 72/04).
8.	Nos 149, 178	Ah Hang from Herbertshöhe paid a fine of 100 Marks and 60 Marks costs (St. Ger. 74/04). The offence is not identified.
9.	Nos 186-188	Timan, Ja Rigalaga and Daniel from Matupi were each fined 10 Marks for an unidentified offence (St. Ger. 85/04).
10.	No. 199	The Neu Guinea Kompagnie paid a fine of 40 Marks in "Lapule and others" (St. Ger. 89/04). The offence is not identified.
11.	No. 214	To Kanunur from Napapar paid a fine of 20 Marks for an unidentified offence (St. Ger. 96/04).
12.	Nos 242-43	To Ke and Ja Marnakeke from Unanuleiting were each fined 10 Marks for adultery (St. Ger. 104/04).
13.	Nos 245-46	To Wardo and Ja Dongon from Kunakunai were each fined 10 Marks for an unidentified offence (St. Ger. 108/04).
14.	No. 309	Tui Weng was fined 60 Marks for an unidentified offence (St. Ger. 12/05).

Taken together this information suggested that only one in five of the cases decided by the station court in 1904 had consequences in terms of fines or costs.³ This also reminded me that these were the only cases about which the register could tell me anything. It neither covered non-pecuniary punishments nor acquittals, which between them accounted for the other 80 per cent of cases decided. Secondly, while local natives never paid court costs, Chinese and other foreign natives sometimes did. Thirdly, in as many as eight of the 14 cases the accused were Tolai from the Gazelle Peninsula.⁴ Fourthly, although the offence was expressly identified as adultery in only three cases, it was probably also the offence in case 13; and case 9 too had a distinctively marital flavour. Adultery therefore accounted for perhaps more than one third of all cases in which the station court imposed fines in 1904.

Next the administrative fines. There were 35 relevant entries. Three related to Chinese. Two were fined for a breach of a police ordinance and the third 60 Marks for employing an unlicensed

3 This estimate is based on the assumption that cases Nos 1 to 44 were completed before the register started and that case No. 108 was the last case which became pending in 1904. This left 65 cases of which 13 were covered.

4 Tolai names are prefixed by "To" for males and "Ja" for females—apart from cases where the name of a male starts with a "T" (hence "Tamlik" rather than "To Tamlik"). Legally the jurisdiction of the station court in Herbertshöhe at the time still covered most of the Bismarck Archipelago. In practice it operated as a court of the northeastern Gazelle Peninsula.

native sub-trader. The remaining 32 entries related to 19 cases. With one exception they involved Tolai.⁵ Several of these cases were unique: at the traditional end of the scale the imposition of a fine of 10 Marks each on six men from Birara for continuously staging the *tubuan*,⁶ and at its modern end the fining of To Watambe for illegal copra trade. But there were repetitions. In three cases fines of between 3 and 6 Marks were paid for the theft of food. In two cases Tolai were fined 20 and 10 Marks for not following a "summons of the authorities" (*Nichterscheinen am Termin*). Even heavier were the fines levied in three cases for "disobedience" (*Ungehorsam*), namely 40, 40 and 10 Marks. In one of the more serious cases it was stated expressly that the disobedience had been shown to a government chief rather than a German official. Similarly, in one of the four defamation cases, with fines ranging from 4 to 40 Marks, the victim was identified as "chief Alik of Bai". On the other hand, in one case two chiefs were administratively fined 20 Marks each for misusing their official powers.

In short, it looked as if administrative fines in 1904 were predominantly used to control government chiefs or to protect them from their subjects. It was likely that as many as 11 of the 18 cases listed fell into this category⁷ and probable that other, more serious cases of this kind were dealt with by the station court.⁸

The next category of entries showed these chiefs doing their job by handing in fines they had collected from their subjects. The register identified 21 chiefs by name. One of them came four times, one three times and three appeared twice. The amounts handed in ranged from 4 to 80 Marks. The reason for imposing the fines was described in different ways.

The 10 Marks delivered by Susten—the only chief who came from New Ireland—was a punishment he had imposed for defamation—probably of himself. To Poipoi of Takubar handed in 20 Marks which he had collected as fines for disobedience. The payments of Tombola from Navia and Tolamar from Urara were simply classified as fines. In the remaining 25 cases two formulations were used. Twelve payments were classified as fines chiefs had imposed in the "exercise of their official duties" (*in Ausführung ihres Amtes*) and 13 payments as fines imposed for the "non-performance of roadworks" (*Nichtarbeiten am Wege*).

Whether, and to what extent, these sub-categories overlapped was not clear. The most frequent visitor, To Ramit from Tavui Cape, made two payments in the non-performance sub-category and two in the official duties sub-category.⁹ Timan from Tavui Liu made one payment in each of these sub-categories. While two of the three payments of To Poipoi fell into the non-performance sub-category, the third fell into the disobedience sub-category. On the other hand, Hempenstall's hero To Bobo came from Vunabalbal twice to make payments in the non-performance category. The same applied to To Materia from Vunamami, and to three chiefs from Ulagunan, further up the road to Takabur, who also only made payments in that sub-category.¹⁰

But why did the register only record payments by 21 government chiefs although, according to the annual reports, 107 chiefs had been appointed by 1904 in the Gazelle Peninsula, not to mention the 27 in the Duke of Yorks, none of whom made an appearance? Were payments by other chiefs recorded in another register? Did the other chiefs keep the fines they collected? Did

5 The exceptional case, featuring two Tolai and two non-Tolai, who were all fined 10 Marks, looks like a brawl between government labourers.

6 This included the appearance of masked dancers who collect sometimes rather arbitrary fines.

7 My guess is that the victims in all three disobedience cases, and all four defamation cases, were government chiefs but that it was also in both cases such a chief who was fined for not following a summons of the authorities.

8 I see cases 1, 3 and 6 as falling into this category, and the target of Tschang Tiang's defamation may well also have been a chief, quite apart from cases in which the accused were imprisoned or acquitted.

9 To Ramit appears to have been an unusually powerful individual. He is still remembered as having toured his district in a horse-drawn carriage. I know of no other Tolai government chief who is said to have done so, but I have no idea how many horses or carriages Tolai had acquired by 1914.

10 In other words by 1904 To Bobo's official authority was limited to Vunabalbal, the base of his own *vunatarai*.

they not impose any fines? How complete was the register in the coverage of any of the fields with which it was concerned?

The entries in this particular category contained no information which answered these questions. However, the entries relating to licences looked more promising. The 63 licence entries could be divided into three sub-categories: firstly, licences issued to foreign natives, giving them privileged access to liquor, explosives and firearms, which accounted for 26 entries; secondly, licences to employ local natives as sub-traders, which accounted for 23 entries; and, thirdly, licences to employ local natives as hunting boys, which accounted for 14 entries, although multiple entries in all three categories made the number of licences issued considerably higher.

Chinese accounted for the bulk of the 45 licences in the first sub-category, namely for 23 drinking licences, 11 full licences and four explosives licences. In the majority of cases where the licence holders were not identified, they were probably also Chinese. There were only two certain exceptions: Sago, a veteran trader from the Solomons, who obtained a full licence, and one William—whom I imagined as a former Methodist teacher from Polynesia—who was issued with a drinking licence.

The 67 local natives licensed as sub-traders worked for 13 employers. Most of them had between one and three sub-traders. Some whom one would have expected to have more, for example the Deutsche Handels- und Plantagen-Gesellschaft, had none. By contrast the Forsayth firm obtained 22 such licences, closely followed, with 20 licences, by Captain Rondahl, who had married into Queen Emma's clan. Three Chinese employed local natives as sub-traders. Kong Pau in Makurapau employed five of them—as many as the Neu Guinea Kompagnie. They cost him 200 Marks. He also paid 30 Marks for a full licence. In addition he was the only Chinese who paid 10 Marks for a licence for a hunting boy.

All told, 23 hunting boy licences were issued according to the register. Heinrich Fellmann, the head of the Methodist mission, was the first to pay for his on 2 February 1905. The Catholic mission obtained them in bulk, and at a concessional rate: ten for a fee of 50 rather than 100 Marks. But none of German New Guinea's leading secular citizens, official or private, appeared to have obtained a licence—which seemed to be even more unlikely than the number of government chiefs shown in the register as having imposed fines.

This time one of the cancelled entries—No. 291, relating to a drinking licence issued to Ah Sin—suggested a way to solve the puzzle. It had been made by a rather clumsy hand, which was responsible for entries Nos 272 to 299. Then a clerkish hand took over. It entered the issue of another drinking licence in No. 305 but crossed it out before the next entry was made, adding that the licence had instead been recorded in the "Licence Register" (*Lizenzregister*). The new keeper of the register then went back and crossed out entry No. 291, presumably because at the time no payment had been recorded. He also added next to entries Nos 294 and 261 that the licences covered, which had already been paid for, had also been entered in the Licence Register under Nos 36 and 25. In other words, a special licence register had been kept alongside the general Fees Register until its new keeper decided to discontinue this confusing overlap—but as this Licence Register still existed (AA G255/51), I could see for myself.

It included 64 entries for the 1904 budget year. Of these 16—rather than 12 in the Fees Register—related to drinking licences, ten—rather than five—to explosive licences, and 12—rather than nine—to full licences. On the other hand, the Licence Register only included six—rather than 23—entries relating to sub-traders, and only ten—rather than 14—entries for hunting boy licences. Furthermore, it covered types of licences which did not figure at all in the Fees Register, in particular five trepang licences and two pearl shell licences.

The first effective entry in the Licence Register for a hunting boy licence was No. 39, according to which such a licence had been issued to governor Hahl. However, there had been an earlier entry No. 39. It had shown that such a licence had been issued, for the usual fee of 10

Marks, to the Catholic mission. This entry had then been amended by a note to say that the licence had been issued free of charge, before being crossed out altogether.

Could all this be coincidence, or did the information reflect something like the following scenario? The new keeper of the Licence Register was not sure how to handle the application of the Catholic mission for a hunting boy licence. When he had gone to the governor for instructions, Hahl decided not only this particular matter—and applied himself for a hunting boy licence (“what a good idea!”)—but also instructed him to sort out the messy overlap between the two registers.

Hahl’s decision, it appeared, was that ten hunting boys were enough for the Catholic mission, so that it should not be granted an additional licence free of charge but that it should pay for the first ten at a discounted rate. Consequently entry No. 39 in the Licence Register was crossed out—Hahl’s application being recorded instead—and entry No. 270 in the Fees Register was amended by altering the amount payable from 100 to 50 Marks and by specifying that this was a special “flat rate” (*Pauschgebühr*).¹¹

At first glance Hahl’s instructions for the sorting out of the general mess were less successful since two further sub-trader licences were entered in the Fees Register under Nos 300 and 302. However, it was the crossed out entry No. 305—the counterpart of the crossed out entry No. 39 in the Licence Register—that marked the beginning of the cleaning up operation, and no further licence was listed in the Fees Register after that number, whereas 25 entries were made in the Licence Register after the new entry No. 39. As far as the past was concerned, the Licence Register showed that I had seen nothing yet.

III

In contrast to the 1904/05 Fees Register, it still had its original cover, but that gave little away. It bore the handwritten identification “*Lizenz-Register*”, to which someone later added “1899/1900”. Its first page consisted of a hand-ruled sheet, divided into seven columns, intended to show a consecutive number, the name and place of residence of the licence holder—or the payee—the type of licence, the due amount, the date of issue but, instead of the date of the payment, a reference to the corresponding entry in the “*Einnahmejournal*”, the general register of moneys received.

The first entry referred to a full licence issued on 1 April 1899, the first day in the life of the imperial government of German New Guinea, to Ah Yeng, paid for by the Deutsche Handels- und Plantagen-Gesellschaft. In the course of April 1899 seven full licences, one trepang licence for the Neu Guinea Kompagnie and Mouton & Co. and one pearl shell and trading licence for captain Hamilton were issued. This was followed by the issue of three pearl shell licences in September, an explosives licence in October, and in November Wahnes from Bogadjim in Kaiser Wilhelmsland paid 50 Marks for a licence to hunt birds-of-paradise. Early in 1900 a similar bunch of licences was issued, plus a permit for the Deutsche Handels- und Plantagen-Gesellschaft to maintain a “labour depot”.¹² No entries were recorded for the next two years, but in 1902 a new start was made in the same volume. In the course of the 1902 budget year 22 entries were recorded, including six trepang licences, five pearl shell licences and what looks like two general commercial concessions, for which captain Hamilton, now trading as Hamilton & Wolff, and Queen Emma paid, respectively, 1,000 and 500 Marks.

For 1903 there were 30 entries, including seven trepang licences. The largest payment was made by German New Guinea’s star Chinese, Ah Tam. He paid 140 Marks for seven drinking

11 As it turned out, this was not the only instance where a consideration of the changing legislative framework would have simplified matters. But the purpose of this exercise was to test how far an examination of these registers would take me.

12 It was used to house new recruits until they were shipped to its plantations in Samoa.

licences for unnamed Chinese, but he did not renew the trepang licence he had obtained the previous year. There were also no large concession payments. Instead Hamilton & Wolff settled for drinking licences for “Willie, Joe Fernandez, Ah Back and Jack”. The keeping of the register was still erratic, so much so that the entries for the second quarter had to be added after those for the third had been completed.

This brought me back to 1904 but to a different register, namely the “*Einnahmejournal*” (AA G255/61)—henceforth Payments Register—which shed some light on this unhappy state of affairs. According to this register a total of 81.40 Marks were received during April 1904. The accounts were checked and certified as being arithmetically correct by district judge Kornmayer. The money was transferred to the “central cash office” (*Hauptkasse*). Its receipt was signed by Warnecke.

The accounts for May were treated in the same manner. The June receipt was signed on behalf of the *Hauptkasse* by Ludwig. The July receipt bore the same signature. In August Warnecke was back in the *Hauptkasse*. In September Ludwig signed again for the *Hauptkasse*. He was replaced by Vahlkampf in October when Warnecke acted as district judge. Warnecke again acted as district judge in November, but Ludwig was back in the *Hauptkasse*. He was still there in December, when Kornmayer returned to the district court. In January 1905 the keeping of the Payments Register was formally handed over by “secretary” Sigwanz to the “office assistant” Adelman—the man with the clumsy handwriting—who soon handed over to Worbs—the new broom. In February 1905 Warnecke was back in the *Hauptkasse*, but not for long, since he took over the keeping of the Payments Register from Worbs in March, who certified the correctness of the accounts acting for the district judge. Nonetheless Warnecke, although the official keeper of the Payments Register, also signed the receipt for a record amount of 1,319.30 Marks for the *Hauptkasse*.

Perhaps because things were going so well, the receipts for April 1905 were still entered in the same register, instead of that for the 1905 budget year. This did not bother the new acting district judge, Wuchert, who certified their correctness. The receipt was signed by Warnecke for the *Hauptkasse*, although he was officially still the keeper of the district court’s Payments Register which had, in fact, been kept by Worbs since February. The formal handing over from Worbs to Warnecke in March, it appears, had been little more than a charade enabling Worbs to certify the correctness of his own accounts.

This merry-go-round—which changed the person in charge of the *Hauptkasse* at least six times in the course of a single budget year—was not a temporary disturbance. The administrative mess to which it contributed was even worse in earlier years. This was illustrated by an earlier Payments Register (AA G255/62). It started with entry No. 1 in August 1901, that is to say in the middle of the second quarter of the 1901 budget year. On 3 September 1901 district judge Stuckhardt certified the correctness of its first 30 entries, and a simple note, rather than a formal receipt, showed that all payments had been transferred to the *Hauptkasse*.

The next certificate was signed by Warnecke as acting district judge—and Schulz signed a receipt on behalf of the *Hauptkasse*, although he was also the keeper of the Payments Register. Warnecke continued to act as district judge until Hempenstall’s anti-hero, Assessor Wolff, appeared as a permanent replacement for Stuckhardt in February 1902. Wolff made sure that the *Hauptkasse*, still represented by Schulz, signed at least a proper receipt the next time round. Schulz did so again in April, but he also certified the correctness of his own accounts—and he did so in his own capacity, rather than as acting district judge.

On 9 May, 1902—rather than on 1 April—someone made a fresh start. This new round lasted until the end of the 1902 calendar year—rather than until 31 March, 1903. Wolff certified on 13 January 1903 that it had reached 77 entries—compared with 182 entries between August 1901 and early May 1902. The transfer of moneys to the *Hauptkasse* continued at irregular intervals. Wolff not only certified the correctness of the accounts, but also took over their keeping in October, when Schulz in the *Hauptkasse* was replaced by Voigt.

By now it looked as if, imperfect as these registers were, they were at least all still available. But this was not so. There was a gap between the 1902 Payments Register and that for 1904, which I had inspected earlier, and the predecessors of the Fees Register for 1904, my starting point, also did not survive. By contrast the Payments Register following that for 1904 still existed, although it had a different format and although it too had lost its cover and its first page (AA G254/73).

The accounts for May 1905 were certified by Wuchert as district judge and by Warnecke for the *Hauptkasse*. In June 1905 Worbs formally handed over the keeping of the Payments Register to a person with an illegible signature. In August 1905 Wuchert was replaced as district judge by Karlowa. Warnecke stayed on, signing for the *Hauptkasse* until March 1906 when he was replaced by Merz. Karlowa, on the other hand, was kept on the move. He signed in September and October. There was no signature for November, and Worbs certified the December accounts in an acting capacity. There was again no signature for January 1906, when the keeper of the register also changed—without a formal transfer. The February accounts were formally certified. The certificates for March and April were signed by Karlowa. There was no signature of the person in charge for May. Instead an entry by Gentner, presumably from the *Hauptkasse*, showed that the accounts had been audited and that those for January 1906 had been found to have produced a surplus of 20.10 Marks—presumably because one or more payments had been added to the cash box without having been recorded in the Payments Register, or some other register in which it should have been shown.

However, this episode can also be seen in a positive light: the discrepancy was discovered and recorded, instead of being swept under the carpet. Accounting was taken seriously. The seeds of an orderly bureaucratic government had been sown, although the environment, after 20 years of colonial rule, was still distinctly unfavourable.

On the other hand, a somewhat erratic accounting practice was not the only irregularity my examination revealed. The most serious defect was the treatment of Chinese. They were legally natives and therefore not subject to the jurisdiction of the district court. Nonetheless, the district court had, according to the Fees Register, imposed three fines of 50 Marks on Chinese. It had also issued two “summary civil judgements” (*Zahlungsbefehle*) against Chinese and even a formal civil judgement against See Song. He had to pay 20.70 Marks in court costs which would not have been payable if the district court had refused to hear the matter and referred the plaintiff, Mouton & Co., to the district office for an informal administrative treatment of the claim—but then the district judge and the district commissioner were still the same person, and there were considerable practical advantages in following the district court procedures in these cases.

Yet all these irregularities showed how German colonial rule actually operated, and while it had been tedious to observe this operation in detail, it had given me a more tangible feeling for what had happened at the grassroots level than the general statements, for example about serious staff shortages, which I had previously read and which had gone in one ear and straight out the other.¹³ I was therefore ready to continue my experiment, although now rather more selectively.

IV

When I had looked at the unusually erratic early Payments Register my attention was caught by the name “To Bobo”. He paid a fine of 3 Marks for neglecting his road building duties on 12 June 1902, that is to say only a few weeks after the military operations following the Varzin Murders had come to an end. It turned out to be the first payment of its kind recorded in this register—which had been started under Stuckhardt in August 1901. It was mild, compared with

¹³ To be sure, the information raises more questions than it answers. It was clearly not just a problem of staff shortages. There are also indications of a rapid turn-over. But this still does not explain the frequent movements of the available personnel from one position to another.

a fine of 15 Marks for the same offence which a chief whose name was illegible had paid the following month.

Six of the 11 entries for September 1902 related to fines imposed on Tolai. In three cases fines of 10 Marks were imposed for thefts, whereas the fines of 14, 30 and 20 Marks paid by Noah, To Maidang and Meli probably consisted of fines they had collected in their capacity as government chiefs rather than fines imposed on them personally.

In October 1902 Wolff fined the entire district of Tomananambu 20 Marks for disobedience. In November and December six Tolai were fined for theft or attempted theft: 5 Marks each in cases where the stolen objects, bananas or coconuts, were identified and 10 Marks each—the September rate—in the other cases, which probably did not involve food. The two largest payments, of 30 Marks each, were simply identified as “punishments” (*Strafe*) and probably again consisted of fines collected by To Kaliwurwur and Tinduk as government chiefs.

The lack of detail made this cluster of cases—which was followed by a gap until April 1904!—unusually inconclusive. Still, it suggested that such administrative fines were an innovation by Wolff, and that administrative intervention in native matters increased generally and permanently after the Varzin Murders.

My next stop was a Fees Register covering the last quarter of the 1905 budget year and the whole of the 1906 budget year (AA G255/66). The accounting procedures were still not under control.¹⁴ They also continued to change. As a consequence this register included only eight entries for the last quarter of 1905/06, whereas its predecessor showed over 80 entries for the last quarter of 1904/05. This was mainly due to the fact that licences and district court business were no longer included. On the other hand, 1907 brought a rush of entries concerning personal status matters.

It began once more with an entry relating to governor Hahl. He paid a fee of 6 Marks for a birth certificate for his daughter, Bertha, who was recorded as No. 1 in the Births' Register for 1904. Within a few weeks a dozen birth certificates for 1904, 1905, 1906 and 1907 followed. Apparently no births had been registered for more than three years.

More importantly, the register suggested that the number of cases heard by the station court in 1906 had been much smaller than in 1904. The highest file number referred to was 69 compared with 108 two years earlier.

Five of the relevant 13 entries related to foreign natives: four Chinese and the Solomon Island trader, Sago, who was fined 30 Marks for an unidentified offence. Judging by the names, all local natives fined were Tolai. The most prominent name was that of To Poipoi of Takubar. He was fined 40 Marks for an unidentified offence.¹⁵ Only one charge was identified: To Birao of Gunanur was fined 20 Marks for misusing his official powers. The only female referred to was Ja Poka of Bitarebarebe. One Marks was confiscated from her because it had been obtained by committing an offence for which she had been punished in 1905. The dearth of female names indicated that the station court no longer imposed fines in cases of adultery in 1906.¹⁶

The administrative punishments confirmed the impression that the scene had changed remarkably since 1904. Four Chinese were fined administratively, three of them receiving fines of 3 to 5 Marks for non-registration—which had been treated as a district court matter two years earlier and had attracted fines of 50 Marks. Moreover, in 1906 five Malays were fined—one for negligently damaging property—whereas not a single Malay had been fined in 1904. The local natives fined included three non-Tolai—one of them a police corporal who was fined 5 Marks for disobedience. The same fine was imposed on a Tolai labourer for desertion whereas no fines for

14 For example, this volume included a few entries for 1907 which were crossed out with the explanation that a new volume had been started.

15 To Poipoi was also fined administratively 20 Marks, again for an unidentified offence.

16 This could, of course, mean two different things: that cases of adultery were now punished with imprisonment or that they were no longer prosecuted. An improbable third explanation would be a dramatic drop in the number of adulteries.

desertion had been imposed in 1904. Another Tolai was fined 10 Marks for property damage, seven were fined 10 Marks each for a mass brawl, and one 20 Marks because he had disregarded "the orders concerning the *tubuan*", which had apparently been issued in the meantime. It was, of course, possible that the majority of the eight unidentified charges, including one against a woman, were concerned with the theft of food, or with the defamation of government chiefs, or with the misuse of their official powers, or with adultery, as in 1904, but I suspected that things had changed in this respect as well.

They certainly had changed as regards the fines collected by government chiefs. Only Tombola from remote Navia was identified as having handed in fines—and he brought a mere 38 Marks, compared with 80 Marks in 1904. The register made no reference to To Bobo or To Materia, or to To Ramit, the most frequent visitor in 1904—which implied that the role of government chiefs had also changed.

An incomplete Payments Register covering the time from May 1905 to May 1906 (AA G254/73) helped to link the scene in 1906 with that in 1904. Although it provided even fewer details, the register did suggest that 1905 had prepared the ground for 1906. In May 1905 To Kukawi was fined 30 Marks for "non-appearance", in June To Ramit handed in 16 Marks he had collected as fines, and in December Sago paid yet another fine of 30 Marks. But To Ramit did not return and only about a dozen government chiefs, rather than 20, were identified as having handed in fines. Some of the 1904 names were listed but most were new, and no places of residence were given. There was no reference to To Bobo, To Materia or To Poipoi, and apparently not a single Tolai woman was administratively fined in the course of the 1905 budget year.

The continuation of the 1906 Fees Register (AA G255/543) covered the 1907 and 1908 budget years. It contained 106 entries for 1907 but only 58 for 1908—although the last two entries for 1907, in fact, belonged to 1908. As in the 1906 Fees Register, licences and district court business were excluded and native matters and personal status matters of non-natives figured prominently. In addition new types of entries appeared, such as building permits and licences for private individuals to carry out disciplinary punishments of their native employees. Other innovations were the employment of licensed "field guards" (*Feldwächter*) and permits allowing non-natives to take their native servants abroad.

The references to station court files indicated a continuing drop in the number of judicial decisions although the highest number referred to in 1908 (57) was higher than in 1907 (37). All told, the station court imposed fines in 25 cases. Five of them involved Chinese, but not a single Malay was fined in 1907. The highest fine, 400 Marks, was imposed on Ah Tui, a regular customer. In one case a 60 Marks fine was reduced to 20 Marks by way of a pardon. The highest fine paid by a Tolai—who accounted for all but two cases involving local natives—was 92 Marks. It was paid by Ja Tameana in place of a shell money fine imposed on her. Such conversions, including conversions of prison sentences into fines, were recorded several times. In one case, Ja Welo, who could only pay 40 Marks of the 50 Marks fine imposed on her, had the outstanding 10 Marks even converted into compulsory labour. Among the Tolai charged were eight women. Although adultery was identified as the charge in only one case it was likely that it was also the charge in at least three others.

Administrative fines accounted for 45 entries. Although a few labourers, three Chinese and a policeman from the Carolines were represented, the bulk of the entries related to Tolai. Where the charges were identified, the flavour resembled 1904 rather than 1906. Three Tolai were fined for creating a public nuisance, two for non-appearance, two for adultery, one for defaming a chief, and one chief for misusing his official powers. The fines imposed on Tolai ranged from 3 to 130 Marks—which was paid by To Wurgilo and others from Bitarebarebe for an unidentified offence. A few days later To Wurgilo handed in 30 Marks he had collected as fines from his people for non-performance of roadwork. In this case it was not certain whether road maintenance was the

issue, but the 20 Marks paid in by Tukul of Malaguna were expressly identified in this manner. Two other government chiefs came from remote areas to hand in fines—from Anapapar and from what looks like “Makadau”, in the Duke of Yorks—but none of the 1904 names resurfaced. Not a single fine for non-payment of the head tax was recorded.

While the next Fees Registers were no longer available, the surviving record included a differently designed register which covered the 1913 budget year, although it had lost the first 904—out of 1,850—entries (AA G255/576). Its printed forms distinguished between quarantine fees, fees for hunting boys, labour recruiting fees, fees for permission to carry out commercial activities, fees in shipping matters, fines and other small payments. They also included two blank columns, one of which was used for drinking and explosives licences.

The large majority of the surviving entries related to labour recruiting matters—which I ignored, together with the fees paid in shipping and quarantine matters. Around 50 hunting boy licences were issued to non-natives by what I took to be the district office, now in Rabaul, during the period covered and about ten foreign natives bought the same privilege. Most of them were Chinese, but Sago was still active. Chinese also employed a substantial portion of the about 80 licensed native sub-traders.

While there had been a manifold increase in the number of hunting boy and sub-trader licences since 1904, the number of drinking licences had only risen by about 50 per cent. Most of them were held by Chinese residents in Rabaul—plus, of course, Sago in Tomalili. The building boom in Rabaul had come to an end. Only three building permits were issued, two of them to Chinese. Chinese also ran several of the dozen or so licensed premises, and Ah Tam paid a fee of 100 Marks for what looks like a “casino licence” (*Spielsaalgebühr*).

The register referred to only ten station court files for 1913 and to three for 1914—but the highest file number for 1913 was No. 133. This indicated a large increase in the activity of the station court since 1908 but a substantial drop in the proportion of cases in which fines were imposed. In seven of the 13 cases the accused were Chinese. Those in the other six were Tolai, all of whom were males. No charges were identified. The fines ranged from 5 to 60 Marks. The decrease in the range of fines was as remarkable as the increase in the proportion of the Chinese fined.

By contrast all 28 administrative fines were imposed on local natives, mostly Tolai and mostly male.¹⁷ The charges were not identified. The fines ranged from 3 to 7 Marks. No fines handed in by government chiefs were shown. There was no indication that any fines had been imposed by the district office for the non-performance of roadwork, or for non-payment of the head tax.¹⁸

A list of fines received by the *Hauptkasse* allowed me to follow developments in this particular field right through to the end of German colonial rule; for while the list (AA G255/76) was only supposed to include entries for the first quarter of the 1914 budget year, it was, in fact, continued into the second quarter, and even into World War I, although it was then kept by the district cash office because the *Hauptkasse* had been evacuated from Rabaul after the outbreak of hostilities. Seven of the 32 fines listed were paid by non-natives. All but one, of 20 Marks, amounted to 10 Marks. The offences were not identified, but it was clear that none of the fines had been imposed by the district court.

Of the 25 entries dealing with fines imposed on natives nine referred to files of the station court. The numbers ranged from 25 to 63, so that it was likely that the total number of cases heard by the station court in 1914 would again have reached the one hundred Marks, if war had not intervened.

17 Three women were fined 5 Marks each in the same matter.

18 It was possible, but unlikely, that all 14 payments were made during the first six months for which the entries were lost. It was also possible, and more likely, that the “*Polizei-Register*”—if this was what it was—also included warnings, and other non-punitive police measures.

The station court imposed 11 fines on foreign natives, ten of them Chinese, although five of them were fined in the same matter. Four received a fine of 20 Marks and the ringleader, Ah Tip, 240 Marks. On 25 August 1914 one of the other four, Ah Kui, was even fined 500 Marks, the last fine shown in the list. However, the size of this fine, just as that of the only fine imposed on a local native by the station court—200 Marks on To Urakawil of Malagunan—probably reflected the war climate.

The non-judicial punishments imposed on natives were divided into three categories: “disciplinary punishments” (*Disziplinarstrafen*), “monetary punishments” (*Geldstrafen*) and “*Ordnungsstrafen*”—punishments for disorderly rather than criminal behaviour. The payment of a single *Ordnungsstrafe* (of 20 Marks) was recorded, but four disciplinary fines, between 3 and 20 Marks, were listed—which was much higher than I had expected in the light of earlier information. The rest were administrative fines. The highest was a low 30 Marks, the lowest, 3 Marks, was paid by Ja Pangatan—the only woman shown in the list. No charges were identified.

While this trail of registers suggested significant changes in the role of government chiefs and the station courts, in the position of Chinese and so on, the information was not sufficiently complete to draw conclusions with a satisfying degree of confidence. Nor was it sufficiently detailed to give a feeling for what had been happening. On the other hand, there was no question that the information was of considerable importance and reasonably reliable. Hence it was worthwhile to continue the experiment with an examination of one of the general business journals, since they had a much wider scope than the financial registers I had inspected so far. It appeared sensible to return for this purpose to 1904, and the relevant *Eingangsjournal* of the district office in Herbertshöhe had survived (AA G255/57).

V

Its first entry, headed “1904 continuation”, was numbered 110, and the volume continued into the 1905 calendar year. The last entry for 1904 carried the number 416, so that I had to deal with a total of 306 entries.¹⁹

Entry No. 110 concerned instructions sent out on 12 March 1904 to the government station in Kaewieng in connection with five land titles. On the same day Miss Macco requested a certificate which officially proved that she was alive and Ah Mock applied for an unspecified licence. Not an exciting day, and nothing at all, according to the journal, happened in the course of the next. On 14 March Buddeus, a minor official, complained about the noise in the police barracks, and Isokide Komine reported that a large number of people had been killed in Muriama [*sic*], in New Ireland. The following day To Bulukua complained about “the Tamanairiki people” having passed “illegal judgements” (*unrechtmäßig Richten*). On 16 March Wendt applied for certified copies of his power of attorney and some personal status certificates were sent *ex officio* to the governor. Later that day several labourers of Mouton & Co. demanded to be sent home. On 17 March Gango accused Mrs Höpfel of not paying him his wages and Mouton & Co. reported Kilan for poisoning

19 In fact there were 307 effective entries, because one additional entry (No.239a) was added. No entries were crossed out, but there were again many multiple and mixed entries. The journal consisted of printed forms, divided into seven columns. Their headings showed that the forms had been designed for a more advanced bureaucratic system in which administration consisted primarily of written communications. The first column called for a consecutive number, the second for the date the communication had been received, the third—which was never used—for the identification of the file to which it had been added; the fourth for an identification of the communication received, the fifth for the date of the instruction, the sixth for a short description of its content, and the seventh for the date on which the matter had been finalised. It was generally used to show where the matter had been filed away, although the date when that happened was never given. On the other hand, often two or more instructions and their dates were shown in the fifth and sixth columns, although some of the matters reappeared in later entries, without a strictly applied system of cross references. For example, entry No. 142 showed that Gango’s complaint listed in entry No. 119 (see below in the text) was rejected on 12 April 1904, although this outcome was not shown in entry No. 119 and no cross references were made.

the overseer Sioni. Nothing happened on 18 March. The only business recorded during the next three days was a report that To Buibui had deserted his employer Rondahl.

The last days of March were more eventful, after an unpromising start: two Catholic missionaries wanted their employment by the mission officially certified and the Methodist mission applied for the registration of three land titles. Then Pieper, the official in charge of the police post in Toma, was instructed to investigate reports of a planned attack on the establishment of the Catholic mission in Mandres. Pieper reported the government chief To Imire for “rebellious behaviour” (*Auflehnung*)—and two natives complained that they had been attacked by the native machinist of the *Nugeria*, whose name is illegible.

On 4 April the shooting of a chief named Han in the Solomon Islands was reported; Augustin was reported for having sent his labourers to work the previous Sunday; SMS *Condor* requested the punishment of Kabariab, another land registration matter was dealt with, and “To Pakupak alias Taeng” complained about a school father Hisgen was building on native land in Vunavar. The next day father Abel reported two Methodist mission teachers in New Ireland for falsely accusing the catechist Magis and “misusing the name of the governor”. The Catholic mission sent a list of the “Baining slaves” kept on Watom Island; the Methodist mission refused to agree to the setting aside of a native reserve on Ulu Island in the Duke of Yorks; and the Catholic mission complained about arrangements for the religious education of Ja Tade.²⁰

These first 30 entries showed that the journal indeed covered a wide range of matters. Unfortunately the coverage was far from complete. Only about one fifth of the cases which came before the station court were covered. Only about a third of the criminal matters before the district court were referred to, and not a single civil matter the court had dealt with.

Yet, when I compared the entries relating to the fines handed in by government chiefs with those in the Fees Register, the coverage was virtually identical, although there were a few apparent discrepancies. However, they disappeared under closer scrutiny, and it was reassuring to find that the register included the appropriate cross-reference to the business journal in all cases.

In the first instance the chief was merely given different names in the two registers, presumably another case of a confusing alias. In the second case it appears that a chief who had fined one of his subjects 40 Marks for extramarital intercourse was allowed to keep 5 Marks because only 35 Marks appear in the Fees Register as having been handed in. Although the suggestion that government chiefs were permitted to keep part of the fines they imposed is historically significant, the two other problematic cases were more intriguing.

According to the Fees Register, Timan of Tavui Liu handed in 11 Marks he had collected from his people for the non-performance of roadwork, whereas the corresponding entry in the journal showed that father Winthuis had made an application concerning the road between Tavui Liu and Keravia. The plot began to thicken when I included the fourth discrepancy. According to the Fees Register, about two weeks earlier Noah of Malmaluan had handed in fines of 22 Marks he had collected for the non-performance of roadwork. Instead the journal recorded a complaint by Noah that father Winthuis had taken his people away from their work on the road. The plot thickened further when I learned from the journal that this was followed, four days later, by a second complaint by Noah about father Winthuis.²¹

Since I found this narrative embryo tempting, I decided to test what the entries in the journal would tell me about the “Baining Massacre”—the killing of ten Catholic missionaries and by far the most dramatic event in the Bismarck Archipelago in 1904.²²

When examining the Fees Register I had not appreciated that a fine of 10 Marks To Lauva of Vunavar paid on 9 January 1905 was an early indication that something was brewing. The

20 For a detailed discussion of this particular case see Sack, 1973.

21 The complaint was eventually filed under “Discontinued Criminal Matters”.

22 For a phantom history of this event see Hempenstall, 1978: pp. 149-52.

corresponding entry in the business journal left no doubt that this was so—"the teacher" in Vunavar had claimed several weeks before the event that the Catholic missionaries in Baining had been killed. In other words, To Lauva was the teacher in question and he had been fined for failing to follow a summons to give evidence. Yet the journal did not refer to actions the district office had taken in response to the actual massacre. But a cluster of entries suggested an explanation. On 20 September 1904 the office received three relevant reports. According to the first To Viringe and To Pal, two traditional Tolai big men, were partly responsible for the killings; according to the second the Tolai living inland of the coastal station of the Catholic mission at Mandres had incited the Baining to commit the murders at the hill station, St Paul, and according to the third "the Livuan", a name for the Tolai living around Weberhafen, had been actively involved in the killings.

What action did the district office take in response to these reports? It referred them to the governor, although it put copies on a file, presumably on the Baining Massacre, which was kept for the colonial department. It therefore looked as if this event had, from the start, been treated as a matter for which the governor was directly responsible—and I had no intention of extending my examination to the journals and registers kept by his office. Instead I wanted to test whether the filing instructions in the business journal of the district office could help me in processing the information it contained.

As it turned out the first entry was untypical in this regard because it was the district commissioner, albeit in his capacity as district judge, who took the initiative, whereas the journal usually showed him as reactive. But this reflected the nature of this journal, rather than the nature of his role. It also explained, at least in part, its incompleteness. For example, it appeared that criminal investigations in response to a formal complaint by a member of the public were listed whereas those the district commissioner initiated *ex officio*, say after a report by his police sergeant, were not.

Still it was worth looking at what happened after the instructions concerning the five land titles in New Ireland had been sent to the government station in Kaewieng. The matter was temporarily added to the "Land Files" and entered into a list "*Lange Fristen*", as not requiring action in the short term. The next two matters were dealt with immediately. Miss Macco was issued with her certificate and Ah Mook with his licence on the spot so that the matters could be filed away—under "District Office, General" in the first case, and under "Licences" in the second. The complaint about the noisy police barracks was referred to the police sergeant for action and, presumably after his report, filed away under "Police Troop". Komine's report about the killings in New Ireland was first put in a folder "Neu Mecklenburg" (New Ireland), in which business relating to that island, in so far as it was not the responsibility of the government station in Kaewieng, was collected until it could be dealt with during a visit. In this case it proved unnecessary because a government station for southern New Ireland had just been established in Namatanai so that the matter could be passed on to the local district officer.

Tobulukua's complaint about the Tamanairiki people was put in the "Toma" folder on 15 March. It was apparently dealt with during a visit by the district commissioner to Toma late in May and afterwards filed away under "Native Matters", together with about a quarter of all matters listed in the journal.

These few entries cover between them most of the ways in which incoming business was handled. The two basic possibilities were immediate action or deferral. Immediate action, in turn, could consist either of a referral to somebody else or of dealing with the substance of the matter. Referrals were not uncommon and could be horizontal or vertical. The district commissioner /district judge could refer a matter to another local administration, for example, the government station in Namatanai, or to a specialist, for example the government doctor. He could delegate business downwards to one of his subordinates, for example, his police sergeant, or refer it upwards to the governor.

The most common reason for deferring action was “geographical”. The matter could not be dealt with in the office in Herbertshöhe but required the district commissioner, or one of his subordinates, to travel. Hence the various travel folders: “Salomonen”, “Toma” and so forth. The deferral could be “long-term” (*lange Fristen*) or “short-term” (*kurze Fristen*). The period involved was usually specified. At its end the matter was presented for another decision. In most cases substantive action was eventually taken and the matter was filed.

The filing of matters requiring judicial or quasi-judicial treatment was straightforward, especially as regards the exercise of the regular jurisdiction over non-natives because case files had to be kept. The same applied to criminal prosecutions of natives before the station court. By contrast the filing system for administrative matters, especially those involving natives, was still in flux. Apart from a general file “Native Matters” there was an increasing number of specialised files. Some, like a file on the “Police Troop” or “Disciplinary Punishments”, were well established, but, for example, a new file “Marital Disputes” was created when the first case of divorce in a marriage between Tolai came before the district commissioner in November 1904. Similarly a special file on “Chiefs” was created when, presumably for the first time, the borders of two chiefly districts were formally altered by taking the place Vunagalgalut from chief Timan and allocating it instead to chief Paula, whereas no reference was made to this file when chief Topui in Birara was removed from office a month earlier.

While it was not surprising that such specialised files were rarely used, it was puzzling that others that one would have expected to be used routinely were not used more often. Only two matters were filed under “Disciplinary Punishments”, although it was, for example, unlikely that the policeman Patinot, who was “never there” (presumably in the barracks) in the evening, received a disciplinary punishment, whereas the “soldiers” Turan and To Marmai, who wandered around Herbertshöhe for three days after being discharged from hospital, did not. Yet their case was filed under “Native Matters”—rather than under “Disciplinary Punishments” or at least under “Police Troop”. The action taken, if any, was not identified. Even more surprisingly, to give just one other example, the secondment of 15 police soldiers to SMS *Möwe* was also filed under “Native Matters” rather than under “Police Troop”. I therefore tested the filing practices more systematically, using “Discontinued Criminal Matters” as a case study, because this information provided an important supplement to the court statistics for non-natives and the penal statistics for natives, since neither indicated how many of the criminal matters investigated were not even prosecuted.

In an ideal world—ideal, that is, for a quantitative historian—the journal would have told me how many crimes were reported during the period in question, how many of them were investigated, and how many of those investigated were, respectively, discontinued and prosecuted. That would only have been the beginning, because either the journal or other sources would have also told me how many of the accused were acquitted, what kind of punishments those convicted had received, and whether their sentences were actually carried out. In the “historical” Bismarck Archipelago in 1904 the position was different.

As I read the entries, a total of 94 dealt with alleged criminal behaviour by natives and 38 with that of non-natives, so that the relevant entries accounted together for well over a third of the grand total. Of the 38 accusations against non-natives, three were referred: one to the government station in Kaewieng, one, involving a charge of manslaughter against a Catholic missionary, to the district office in Kaiser Wilhelmsland, and one to the district office in Apia because the woman Kudikan, whose illegal recruiting was alleged, had been sent to work in German Samoa. It appeared that only four of the remaining 35 cases were prosecuted, whereas 17 were formally discontinued. In one case—which was more in the nature of a disciplinary offence—the governor decided that no formal punishment of the official in question, who had slaughtered two of the government’s breeding pigs, was required, and in a defamation case the matter apparently did not proceed beyond the

compulsory mediation stage. What was worrying, however, was that the journal did not record the outcome in the other 12 cases, although it was unlikely that any of them led to a prosecution.

This inconclusiveness could have different reasons: for example, it appeared that in the most serious case, involving the killing of a chief in the northern Solomons, the merchant seaman in question had left German New Guinea, at least temporarily. But in five cases the matter was filed under "Native Matters". This suggested that the complaint against the non-native had been unsuccessful. In one additional case the native accuser was instead prosecuted before the station court, presumably for defamation.

The picture in the cases involving natives accused of criminal behaviour was still less conclusive. As many as 17 of the 94 cases were referred including seven to the governor. In only nine cases—or roughly one in ten—was the investigation formally discontinued. Twelve cases were prosecuted before the station court. Administrative and disciplinary punishments were pronounced in another seven cases. One native was fined by a chief for extramarital intercourse and the Methodist teacher Solomon got away with a warning for refusing to recognise the authority of chief Urapil. The most dramatic outcome was a punitive expedition—the only one shown in the journal, and one which was not identified in the annual reports. It was carried out after five natives in Luban in New Ireland had killed three labourers who had deserted from Mouton & Co. in the Gazelle Peninsula. Two cases were added to a special file dealing with illegal corporal punishments in Queen Emma's establishments—the "*Forsaythsche Prügelsammlung*".²³

The main problem, however, was again the cases where the outcome remained uncertain. Since they represented more than 40 per cent, a meaningful quantification of the information was out of the question. This was doubly frustrating because a comparison between the two groups of entries indicated that there were significant quantitative differences in the treatment of accusations of criminal behaviour on the part of natives and non-natives.

Although the information provided in the journal on particular cases was minimal, it did show human beings interacting with each other rather than grains of sand running through the hourglass of history. It would therefore have been a pity to lose this personal flavour by treating these cases merely as instances of types of behaviour—for example, the case of the woman Ja Tatamut who claimed to have invented a dance which made shell money magically rise out of the ground, as a case of fraud. But what could I do, historically, with cases such as this—or with that of chief Titiven who had proclaimed an illegal ordinance prohibiting marriages between Methodists and Catholics in his district, or with that of chief Timoti who asked the district office for instructions as to whether his jurisdiction extended to the fining of hunting boys employed by non-natives and who requested to be supplied with a "statute book" (*Gesetzbuch*) on which he could henceforth base his decisions?

It was plain that this kind of information was vital for any serious attempt to write, for example, a history of the government chiefs in German New Guinea, which was clearly far more colourful and varied than Hempenstall's phantom version (see above: 101). But it was by now also plain that the information in these registers did not permit a systematic, quantitative approach. Yet it represented more than a collection of anecdotes. These cases were all part of a composite picture. Moreover, they were informative precisely because they were not typical. Government chiefs in the Bismarck Archipelago did not routinely proclaim illegal ordinances or ask for statute books. But the actions of Titiven and Timoti illustrated the range of behaviour displayed by government chiefs in the Tolai area in 1904. They were actual instances of something that was generally possible. Other government chiefs could have acted similarly, although these registers suggested that they did not.

23 This file became even more intriguing because it was connected with another special file concerned with perjury accusations against district commissioner Kormmayer.

Put differently, the entries illuminated the stage on which the historical actors were performing, but instead of lighting up the whole stage they moved like a spotlight through a dark room, picking out details for just a moment. However, these registers contained some clusters of information which painted larger and more lasting pictures. The most impressive, shown in Table III, were the entries relating to complaints by natives about Catholic missionaries and to complaints of Catholic missionaries about natives.

TABLE III

Complaints by and about Sacred Heart Missionaries, Herbertshöhe 1904

4 April	To Pakupak complains about a school father Hisgen is building in Vunavar.
5 April	Father Abel charges the teacher Rupeni with misusing the name of the governor, and the teacher Daniela—both in New Ireland—with falsely accusing the catechist Magis.
9 April	The Catholic mission complains about the arrangements for the religious education of Ja Tade.
13 April	Fellmann (the head of the Methodist mission) reports complaints by the Boava people about father Schumm. The Catholic mission comments on the complaints of To Lemba against father van der Aa.
7 May	To Roge deserts from the Catholic mission.
20 May	The religious education of Ja Tade is raised again.
1 June	The teacher in Nonga defames the Catholic mission.
5 June	Investigations against father Schumm concerning the 'keeping back' of Ja Valawalai.
9 June	Father Eberlein reports a number of polygamous marriages.
10 June	Tamlik complains about father Oberreiter.
21 June	Father Winthuis and Timan are reported for extortion. A quarrel between father Riederer and the teacher Joni in Ratavul ensues.
22 June	Noah complains about father Winthuis.
11 July	Noah complains again about father Winthuis.
1 August	The teacher Armel buries the Catholic Turakit and a second Methodist burial of a Catholic in Ratongor is barely stopped in time.
24 August	The teacher in Kabanga is reported for spreading rumours that all <i>Popi</i> were going to be killed.
10 September	The Catholic mission asks for the punishment of To Manuke, Ja Takunia and To Vurgelo.
11 October	The heirs of Lambet refuse to pay father Hisgen 10 Marks compensation.
18 October	Father Baumann threatens to punish To Wewut. To Baining deserts from the Catholic mission.
31 October	To Doke complains that father Oberreiter shot his dog.
1 November	Father Bögershausen reports Timan and Ja Rigalaga for adultery and Daniela for judging in marital matters.
7 November	Father Baumann complains about the poor maintenance of the road by To Wewut. Father Bögershausen threatens a native with imprisonment if he does not pay a fine of 2 Marks to his church. It is reported that a teacher in Vunavar said several weeks before the event that the Catholic missionaries in Baining had been killed.
26 November	To Balai from Watom complains that the Catholic mission takes coconuts from his land.
14 December	The Catholic mission reports thefts in Malaguna and Vunakakambi.
22 December	Father Baumann reports indecent dances.
31 December	Daniela complains that father Bögershausen falsely accuses natives. To Kapindik asks for the return of his second wife, Ja Kambara, whom father Bögershausen has sent away.

Table III represents about ten per cent of all matters recorded in the journal, whereas it did not record a single complaint by a native against a Methodist missionary, or, for that matter, a Catholic catechist. Moreover, while Catholic missionaries complained about eight Methodist mission

teachers, only two other complaints against them were recorded: one an adultery charge against the teacher Tomas and the other concerning the refusal of the teacher Solomon to recognise the authority of the government chief Urapil. Nor did the journal record complaints by Methodist missionaries against polygamous marriages or indecent dances, although one case of adultery was reported. Finally, an interpretation of this list had to take into account that while native labourers also deserted from other employers and while there was one other complaint that non-natives had taken coconuts from native land, the complaint that father Hisgen was building a house on native land, that father Oberreiter had shot a native dog, that father Winthuis had interfered with the *corvée* labour arrangements by a chief, or the refusal of natives to make a compensation payment to father Hisgen, were all unique in the sense that no other cases falling into these categories were recorded.

Taken together this information suggested that the Catholic mission and a large number of its members did not believe that meekness was a virtue when it came to saving souls, and anything that went with it, whereas the Methodist mission had adopted an official attitude of pointed restraint, although its native teachers were engaged in fierce denominational trench warfare. It was even more significant that the Tolai were unwilling to take the assertive approach of the Catholic mission lying down and that they were ready to take their complaints to the colonial government—and the unexpectedly large number of native complaints recorded in the journal was perhaps the most important result of my examination.

However, there was little point in compiling another table, starting with the demand by labourers employed by Mouton & Co. to be sent home and ending with the demand by To Kapindik for the return of his second wife, Ja Kambara, whom father Bögershausen had sent away, or to pick out a few dramatic highlights, for example, the charge of the murder of seven men and seven women which Zaue from Lavangai (New Hanover) brought against Mindi, or the report that Turandawai and others had buried Ja Kokok although she was “not yet dead”.

Nor was it helpful to focus on a particular type of case, such as assault charges against non-natives, because the familiar uncertainty problem arose again. Of the ten cases recorded the victims were only identified in six, in all of them as natives. But whereas four of them were employees, this was only likely in the fifth case and did not apply in the sixth: a fight between Sago and one of Queen Emma's relatives, which led to a prosecution of both before the district court. Two cases of maltreating labourers were prosecuted before the district court while two others were filed away under “Native Matters”. This still left another four cases with unidentified victims. Two of them were discontinued, although the information in one involving a minor government official was added to his “Personal File”. The third case was referred to the government station in Kaewieng. The fourth was filed in the “ship's-folder” (*“Schiffsmappe”*), perhaps because the accused was a seaman.

Could I at least be sure that these cases included all those where non-natives had been reported for assaulting natives during the period in question? What about the cases included in the *“Forsaythsche Prügelsammlung”*. According to the journal entry No. 250 To Marian had deserted after an illegal corporal punishment had been administered, a fact which had apparently come to light in the course of case 54/04 before the station court. Had other such cases come to light? Did the district commissioner or his subordinates deal with accusations of assaults by non-natives against natives on the spot when visiting outlying parts of the district, without recording the matter in the journal? Were the three identified cases the only ones where non-natives were prosecuted before the district court for assaulting natives during the period in question? Had the alleged shooting of chief Han in the Solomons been the only case in which a non-native was investigated for killing a native in the Bismarck Archipelago? Was it a fact that not a single non-native had been reported for having committed a sexual offence against a native?

Then there was the question as to how many or how few of the serious acts of violence by non-natives against natives remained unreported. The general impression given by the journal was not that the natives in the Bismarck Archipelago were too shy or frightened to complain about their treatment by non-natives, but even a substantial number of recorded complaints did not rule out that a much larger number of cases had remained unreported, because there had been no opportunity to make such a report, or because the victims were too afraid of a particular non-native employer. Moreover, all these figures still had to be put into context: how many non-natives lived in the Bismarck Archipelago in 1904; how many natives were employed by them; how many of them were legally beaten every day? How typical were the figures for 1904? Had natives just started to make complaints? Did they give up complaining three years later?

Had business journals like this one been kept since the beginning of German colonial rule? How many of them had survived? How much had the range of subject matter and the geographical area covered by them changed in the course of the years? How was I going to process the many thousands of entries, considering the difficulties I had experienced in dealing with a few hundred?

On the other hand, the business journal for 1904 and the other registers and lists examined—which represented only a small fraction of those local administrations were supposed to keep²⁴—demonstrated that the history of German colonial rule had to be approached in a more systematic manner than a narrative approach permitted. Even narrative historians could not afford to ignore the information they contained, as I discovered when the name of another of Hempenstall's heroes, Pominis, attracted my attention, as entry No. 169 showed that the "cannibal catechist" had been banished from the Admiralty Islands on 4 May 1904.

According to Hempenstall, Hahl had regarded Pominis as "a political delinquent who must be removed". Hence "Hahl wasted no time. Without formal court proceedings, he convicted Pominis as a menace to public order and banished him to Kaewieng for ten years" (1978: 156). This informal treatment got Hahl into trouble when the case was later reopened. "It was not long before an investigation by the colonial department discovered that Pominis' conviction had been secured in an irregular fashion: no defence counsel had been provided, nor had Pominis been informed of the verdict against him. Hahl was rebuked for his haste. Pominis was released" (*ibid.*).

According to the journal Pominis had not been informally banished by Hahl but by the station court which had produced a record of the proceedings in file "Sta. Ger. 36/04". Although this was by itself sufficient to show that Hempenstall's version was another display of phantom history, I felt that after my struggle with these bits of frozen history I deserved some relief, and a comparison between Hempenstall's narrative and his footnotes promised a nest of delicious phantoms; for how was it possible that Pominis had been released after Hahl had been rebuked by a decree of 5 October 1908 if, as Hempenstall claimed in the next paragraph, Pominis had been back in the Admiralty Islands in 1905?

As was to be expected the sources referred to told a far more interesting but less conclusive story than Hempenstall's phantom version. Roughly speaking it went something like this. The Pominis case had resurfaced four years after he had been banished when deputy Erzberger raised it in the budget commission by reference to a recent article in a Catholic mission journal. To be prepared if Erzberger decided to pursue the matter, the colonial office asked Hahl for a report. According to that report Pominis had been banished to Kaewieng for ten years of hard labour by an administrative decision of the district office without formal court proceedings. Hahl had altered this decision by ordering that Pominis be only banished for the time being. Hahl had released Pominis in March 1905 after he had satisfied himself that interventions by the police troop had ensured that no further violent acts by the natives in Pominis's home area would take place. Hahl had been unhappy about the district office's handling of the case, which had not even recorded the

24 According to a circular decree by the governor of 26 March 1909 (see AA 1963/83, B36/1) each district office and government station was supposed to keep at least 35 journals, lists and registers.

evidence given by Pominis. Hahl had therefore questioned Pominis himself and had put a record of his interview on file. Although the colonial office regarded the banishment as fully justified, it also felt that the procedures followed had left much to be desired. Its main problem, however, was that the banishment had been combined with compulsory labour. That had given this administrative measure a punitive character, and the punishment of Pominis could only have been imposed in accordance with the procedures laid down in the Native Penal Ordinance, which had clearly not been observed. Under these circumstances the colonial office was probably relieved that Erzberger did not pursue the case during the next session of parliament. It happily returned all the documents to Herbertshöhe which Hahl had appended to his report. It certainly did not rebuke Hahl, let alone order the release of Pominis, who had been released three years earlier.

There was no point in examining how Hempenstall had concocted this particular phantom cocktail, but the disturbing fact remained that Hahl too had claimed that Pominis had been banished without formal court proceedings. This historical fact did require an "interpretation", although not of the kind proclaimed by Carr as the central task of historians (see above: 42). A critical examination of the historical record surrounding this statement showed that it too was merely a politically convenient phantom. Yet it was precisely the counterfactuality of Hahl's statement which made it historically significant. However, this significance was not a consequence of how Pominis had been banished but had to do with the subsequent treatment of this case by Hahl and the colonial office. The fact that the reference to file 36/04 in the journal shows that the case had been handled judicially by the station court, rather than administratively by the district office, let alone the governor, is therefore merely the starting point for the required interpretation. What made the case problematic was that the station court had disregarded the procedures laid down in the Native Penal Ordinance and exceeded its judicial powers.²⁵ Seen from Hahl's perspective it was much easier to pretend that the matter had been treated administratively, and the colonial office had readily accepted Hahl's strategy when it saw that Erzberger was not going to make a fuss. But this was no reason for a historian to accept Hahl's phantom version as factual. Hahl was no more entitled to determine retrospectively what had actually happened than Hempenstall. What counted historically was what the historical record had to say, and it showed unequivocally that Pominis was banished by a seriously flawed decision of the station court. It was perfectly understandable that Hahl had been unwilling to admit this because he too would then have had to deal with the case in accordance with the Native Penal Ordinance which would not have permitted him to do what he did. So he made life easier for himself by phantomising history—and this particular phantom was probably not the only one in his report.²⁶

The phantomisation of history certainly simplifies matters, but the price of this simplification was, in my view, unacceptably high. There was no choice but to come to grips with the bits of frozen history that made up the bulk of the historical record of colonial rule in German New Guinea. But I could improve my chances by focusing on a more specialised and regulated exercise of this rule than the activities of the district office in Herbertshöhe/Rabaul. Ideally this would be a body which had operated throughout its entire duration and produced a more easily quantifiable record of its activities. The institution most likely to answer this description was the supreme court of German New Guinea.

25 The maximum term of imprisonment with compulsory labour under the ordinance was five rather than ten years.

26 For example, Hempenstall was probably right in claiming that bishop Couppé had more to do with the release of Pominis than Hahl's version acknowledged.

Chapter 7: A Non-event?

I

Colonial courts can play different roles: they can protect the indigenous population from maltreatment or assist in its exploitation and oppression; they can provide a forum where power struggles between the colonists and the colonial executive are acted out or they can perform a very minor part. Which role, or roles, did the “supreme court” (*Obergericht*) of German New Guinea play in the history of that colony during the 25 years of its operation, from the beginning of 1889 to the end of German rule in September 1914?¹

The auspices under which the supreme court started life were not favourable. It was designed as a court of appeal, so that it could become active only when a decision of a court of the first instance was challenged before it; it could only hear appeals against decisions of the regular colonial courts, which, in principle, only had jurisdiction over the colony’s non-native population;² and the office of the “chief justice” (*Oberrichter*), who presided over it, was, for most of the time, held by the head of the colonial executive, although this arrangement was for financial rather than political reasons: throughout the life of the court the volume of judicial business was too small to warrant the appointment of an independent, full-time judicial officer.³

During the 25 years of its existence the supreme court dealt with around 160 appeal cases, an average of only about six cases per year.⁴ Yet, this was an extraordinarily large volume of business compared with that handled by the supreme court of the Marshall Islands. It dealt with just two or three appeal cases between 1889 and 1906, when the Marshall Islands were placed under the supreme court of German New Guinea. Whereas an examination of the history of the supreme court of the Marshall Islands would hardly have been worth the effort under these circumstances, the supreme court of German New Guinea was sufficiently active to offer a potentially rewarding target.⁵ On the other hand, the number of cases was small enough to be manageable, and this was crucial for the purpose of this exercise, since it was aimed at testing systematically how much the surviving historical record could tell me about the judicial activities of this court, rather than at demonstrating that it had played a hitherto overlooked key role in the history of colonial rule in German New Guinea.

1 The supreme court continued to exist during the Australian military occupation, but it was obviously no longer the same institution.

2 To be more precise, the jurisdiction of the regular colonial courts of the first instance was limited to non-native defendants or accused. The supreme court therefore could and did hear appeals by native plaintiffs who had taken court action against non-native defendants.

3 As from 1911, the chief justice was no longer the governor but rather his “deputy” (*Erster Referent*). Earlier the supreme court was also often chaired by an acting chief justice who was usually a senior member of the colonial executive. This imperfect separation of judicial and executive powers also prevailed at the district court level. Even in 1914 there was only one designated judicial officer—for the Bismarck Archipelago—in German New Guinea.

4 The terms “case” and “appeal” are flexible. One criminal “case” could involve several charges, several accused and several events. Different appeals against the same decision could be heard together as one “case”; and what had been different “cases” at the first instance could be combined into one “case” by the supreme court—all of which makes precise quantification difficult.

5 The judicial activity at the district court level in the Marshall Islands was by no means correspondingly lower than in German New Guinea, especially during the early years of colonial rule. The lack of activity at the supreme court level is nonetheless historically significant, if only indirectly, because it suggests major structural differences in the operation of the colonial governments in the two colonies.

II

For most of its life the judicial activities of the supreme court were accounted for in the court statistics, which were published annually in the *Deutsches Kolonialblatt*. The following table combines these figures in a simplified form. It shows the number of appeals lodged in the course of the year, whereas the court statistics also show the number of appeals carried over from previous years, the number of appeals disposed of in the course of the year, and the number of appeals carried over to the next year. Otherwise the table follows the format of the court statistics in that it distinguishes between civil and criminal matters and between substantive and procedural appeals (*Berufungen* and *Beschwerden*).

TABLE IV

Appeals decided by the Supreme Court

	Civil		Criminal	
	substantive	procedural	substantive	procedural
1889	—	—	1	—
1890	1	—	1	—
1891	—	—	—	—
1892	—	—	1	—
1893	—	—	3	—
1894	2	—	1	3
1895	—	—	1	1
1896	—	—	—	—
1897	—	—	2	—
1898	3	—	3	—
1899	2	—	3	—
1900	3	2	1	—
1901	3	—	1	3
1902	2	—	6	3
1903	1	—	4	—
1904	5	—	4	1
1905	3	—	5	1
1906	2	—	5	1
1907	—	—	6	—
1908	6	2	3	2
1909	3	1	8	—
1910	2	—	1	—
1911	2	—	4	1
1912	1	—	6	2
1913	6	1	11	—
1914	2	—	6	2
Total	49	6	87	20
Grand Total	162			

The few appeals in the field of voluntary jurisdiction, and the column devoted to the supreme court's bankruptcy jurisdiction, which consistently showed nil returns, have been omitted.⁶ On the

⁶ The fact that the supreme court did not deal with a single bankruptcy case has again an indirect historical significance. But its actual importance depends on a number of variables which can lead to quite different results. Did the district courts in German New Guinea also never exercise their bankruptcy jurisdiction? Did no businesses in the colony fail? Did the creditors of failed businesses write off their claims instead of pursuing them in court? Did the situation in German New

other hand, I have filled the gaps which came about because the supreme court filed no returns for 1896, 1897 and 1899. To do so for 1897 and 1899 was simple, because the figures shown the following year as having been carried over could be used—on the perhaps naive assumption that they had been lodged the previous year, instead of having been carried over from further back. But because of the two year gap this device did not work for 1896. Here I assumed, on the basis of other information, to be discussed later, that no appeals were lodged. I also completed the table by extracting the relevant information for 1913 and 1914, which are not covered by the published court statistics, from the supreme court's Appeals Register (see below in the text).

The gaps in the court statistics raised the question of their general reliability. I was not unduly concerned when I noticed that the supreme court had filed a nil return for 1891, whereas the return for 1892 showed one substantive criminal appeal had been carried over, because I assumed that this was simply due to a clerical error which had wrongly put a new case in the carried over column.⁷ But when I compared the other carried over columns with those for the following years, it emerged that the position was more serious. While they matched from 1902 onwards, they did not in four of the five previous years for which a comparison was possible. During the logical second separating 1900 from 1901, one substantive civil appeal evaporated, whereas one substantial criminal appeal materialised out of thin air. On the other hand, I found these discrepancies reassuring. At least the court statistics were not transporting me to a competently manipulated phantom world. Although it would have been reckless to take any of the figures shown in the table at face value, taken as a whole, it offered an honest, if imperfect picture which was probably not far out.

It was tempting to read the table as confirming what I could have easily guessed, namely that substantive appeals outnumbered procedural appeals, that criminal appeals were more frequent than civil appeals, and that the number of appeals increased over the years. Yet I would have been equally justified in expressing surprise that civil appeals were so frequent, or that procedural appeals were lodged at all in a colony which did not have a single resident "private legal practitioner" (*Rechtsanwalt*). Put differently, observations of this kind were pointless unless they were placed in a comparative context, for example, by placing this table side by side with a table of the same design, showing the judicial activities of, say, a metropolitan German "supreme court" and that of the supreme court of British New Guinea.

The table had other features, however, which were by themselves instructive. It indicated that the increase in the volume of judicial business was not steady but resembled an elevation from one undulating plateau onto another, which coincided with the end of company rule. But this observation too needed to be placed into context. The change may have had less to do with the end of company rule than with the fact that the seat of the supreme court was moved from Kaiser Wilhelmsland to the Bismarck Archipelago, and that its jurisdiction was extended to include the newly acquired Island Territory.

Much of the additional information required to make sense of these internal aspects was again comparative. The increase in the volume of judicial business between 1900 and 1914, for instance, was much slower than the population increase of around 700 per cent for non-natives during this period, so that the relative significance of the supreme court may have actually declined. Conversely, the reason why the growth in the quantity of judicial activity did not keep pace with the population increase may have been its outstanding quality. The supreme court may have done

Guinea differ in these regards from that in other German colonies?

7 When I rechecked it turned out that this particular error had been mine. I had not appreciated that the court statistics for 1890—in contrast to those for subsequent years—distinguished between appeals from Kaiser Wilhelmsland and the Bismarck Archipelago. As a result I had taken for granted that the nil return for Kaiser Wilhelmsland covered all activities and overlooked the separate return from the Bismarck Archipelago, which was published on the next page of the *DKB* (see 1892: 247 and 248). It indeed showed that one criminal appeal had been lodged and carried over. The other discrepancies I had identified (see above in the text) did survive the second round of examination.

such a sterling job of clarifying the law that fewer and fewer parties bothered to appeal, or to take matters to court at all, because the position the courts were going to take had already been established and was known to everybody.

But all these questions were academic at this stage because the information contained in the court statistics was too general to be by itself of much historical interest. I needed more details, but not too many. The most economic step was to inspect what information got caught in an only slightly finer net: the supreme court's appeals registers.

III

Unfortunately I could find only one such register. It covered appeals lodged between 1 January 1909 and the end of German colonial rule (AA 63/83, B15/1). This did not mean that earlier volumes had been kept but subsequently disappeared. The supreme court apparently only started to keep its own *Eingangsregister*, a register of incoming business, in 1913—at least a note on its cover stated that such a register “had not been kept so far” (AA 63/83, B15/2). On the other hand, this could merely mean that the author of this note was unaware of earlier registers of this kind, because they were not among the records held by the supreme court at the time. How far back did these records go, and how complete were they? I was unable to answer this question, but I did know of the existence of one older journal of the supreme court which had been started, at the latest, in 1891 and left behind in Kaiser Wilhelmsland when its seat was moved to Herbertshöhe.⁸ Moreover, no entries were made in this journal between April 1892 and August 1897 and it was discontinued at the end of 1898, rather than being formally closed at the end of company rule, on 31 March 1899.

It was pointless, under these circumstances, to try to work out what the records of the supreme court should have consisted of in 1914. I had to take the historical record as I found it and learn to be grateful for small blessings—here the fact that the supreme court's surviving appeals register confirmed the information contained in the court statistics for the period of overlap.⁹

It also provided additional details. According to the forms used, the entries were supposed to identify the case in which the appeal was made; the party which made the appeal; the district court, a decision of which was appealed against; the decision of the supreme court and the appropriate dates and file numbers: but the entries often failed to record all the required information. Still, they were more informative than the court statistics.

The first appeal, a substantive criminal appeal, was lodged on 17 March 1909 in a defamation case against one Rundnagel. It had been decided by the district court for the Bismarck Archipelago on 17 February 1909. The district court case file—with the serial number 03/09—arrived at the supreme court on the same day. The supreme court decided the appeal less than two months later. It cancelled the judgement of the district court and sentenced Rundnagel to a fine of 100 Marks. However, the entry did not identify by whom the appeal was lodged. Hence different scenarios were possible. Firstly, Rundnagel had been acquitted, or had been fined less than 100 Marks, and was now fined 100 Marks on an appeal by the public prosecutor. Secondly, Rundnagel had a more severe punishment than a 100 Marks fine reduced as a result of his own appeal. Thirdly, both Rundnagel and the public prosecutor had appealed against a judgement which was either more or less severe than a 100 Marks fine, the former with the aim of having his punishment reduced, or being acquitted, the latter with the aim of having the punishment increased, so that I could not

⁸ I have to remain vague, because I have to rely on notes taken many years ago, when the journal, together with other Kaiser Wilhelmsland material, was located in Box 210 in the 63/83 series of the Australian Archives. When I wanted to inspect it again I was unable to identify its reclassified home.

⁹ This was not surprising since the court statistics were probably compiled from the Appeals Register. Nonetheless, it showed that reasonable care was taken during later years when the data was processed for publication.

even tell, in this scenario, which of the two appeals had been successful. Nonetheless the Appeals Register was helpful.

Three of the 36 appeals in the largest group, the *substantive* criminal appeals, remained pending at the end of German rule, including one lodged back in 1911. This was by far the longest delay. Usually appeals were dealt with relatively quickly, on average within three months. In four cases the appeal was withdrawn. In the remaining 29 cases the decision was clear cut in only nine: there were four acquittals and five rejections. This left 20 cases in which at least one of the appeals, if there was more than one, was at least partly successful. In other words, well over 50 per cent of all district court decisions against which appeals were lodged were overturned.

The Appeals Register showed only in 18 of the 36 cases by whom the appeal was lodged. The accused featured in 13 of them. The public prosecutor added his appeal in three cases and appealed by himself in another three. One appeal was lodged by the plaintiff in a private prosecution. Another private plaintiff, who had joined a public prosecution, appealed as well as the accused. If I assumed that the appeals pattern was similar in the remaining 18 cases, the success rate of the accused was remarkably high, certainly much higher than that of appeals by the public prosecutor, who lost three of the six appeals for which the results were shown. This suggested that the supreme court regarded the judgements of the district courts, generally, as too harsh. Put differently, it looked as if it had been the role of the supreme court to ensure that non-native offenders received a comparatively mild punishment.

The Appeals Register identified 18 punishments. They consisted of 11 fines, ranging from 3 to 1,000 Marks, and seven prison sentences, ranging from one day to one year, six months and 20 days with hard labour—the only *Zuchthaus* sentence, and the only custodial sentence of more than one year, imposed by the supreme court during this period. While this result was in itself valuable, its full significance could only be ascertained if the severity of the sentence could be related to the seriousness of the offence for which it was imposed: did non-native offenders in German New Guinea get away with a fine for murder, or did the supreme court never have to sentence a non-native for a serious crime? At this point the Appeals Register let me down, because the type of offence was—with one exception—only identified in the first three entries.

Usually it also only identified the surnames of the parties, without first names or initials, so that it was impossible to say for certain whether a reappearance of the same name indicated a reappearance of the same person. For example, the name Rundnagel, and a few other names, appeared twice. On the other hand, no name appeared more than twice, so that I could safely conclude that the supreme court was not kept busy by a handful of troublemakers who appealed again and again.¹⁰

By contrast, the message contained in the column identifying the district court, a decision of which was appealed against, was unequivocal: that for the Bismarck Archipelago dominated the scene: it accounted for 26 out of the 36 appeals. Five appeals were directed against decisions of the district court for Kaiser Wilhelmsland. The district courts in the Island Territory shared the remaining five appeals between them. This reflected primarily the general pre-eminence of the Bismarck Archipelago as the most populous and economically most developed part of German New Guinea but also had logistic reasons. The supreme court only sat in the capital in the Bismarck Archipelago, so that an appeal lodged by an accused living in Kaiser Wilhelmsland or the Island Territory required a much greater investment of time and money. Other consequences of this state of affairs were also reflected by the Appeals Register: the ten appeals from the outer districts accounted for three of the four withdrawals, and the punishments pronounced by the supreme court in other cases were higher than average, suggesting that people who lived in the

10 The gender of the accused was only indicated once, in a case in which a husband and his wife were fined. The profession of the accused too was only given once, in the case of a Catholic missionary.

Island Territory or Kaiser Wilhelmsland were less likely to appeal and more likely to withdraw their appeals than residents of the Bismarck Archipelago.¹¹

The first of the five *procedural* appeals in criminal matters was a mystery. It involved the colonial office, but the only other information consisted of a marginal note stating that the supreme court had added an unidentified document to an unidentified file. The four other procedural appeals were all directed against decisions of the district court for the Bismarck Archipelago. Two of them involved arrest warrants—an indication of the seriousness of the charge—the third a decision not to proceed with a prosecution, and the last an unidentified decision against which father Dicks appealed in his capacity as defence counsel.

As regards substantive *civil* appeals, the register showed that the role of the district court for the Bismarck Archipelago was even more dominant than in criminal matters. Its decisions accounted for 13 of the 16 appeals.¹² Only four of the 14 cases disposed of—two remained pending at the end of German rule—were disposed of by judgement. The court settled three cases, and in seven the appeal was withdrawn, presumably in at least some of them as a result of an out-of-court settlement. This suggested that the role of the supreme court was not that of an adjudicator but rather that of a mediator, who assisted the parties in reaching a compromise, and the parties were well advised to accept such a compromise because only a single appeal was at least partly successful; in the three other decided cases the appeal was rejected.

In 11 of the 14 cases where the appellant could be identified the appeal was lodged by the defendant. Two of the three appeals lodged by the plaintiff remained pending. The third appeal by a plaintiff was the only successful appeal, although the Appeals Register did not tell me how successful it was: it only stated that the decision of the district court had been cancelled, without indicating what decision replaced it.

The major weakness of the Appeals Register was again that it did not identify the subject matter of the dispute. I therefore did not know whether the cases involved employer/employee relations, relations between commercial firms, those between them and their customers, or family matters and so on. The names of the parties did not help me much further in this regard. They showed, however, that one of the large firms, Hemsheim & Co., was uncommonly litigious. It was involved in six of the 16 appeals, lodging as many as four of them. Both appeals lodged by its opponents were subsequently withdrawn. The firm itself withdrew none of its appeals and agreed to a settlement in only one case. It lost two appeals but was at least partly successful with one of them—thus accounting for three of the four appeal judgements issued by the supreme court in civil matters between the beginning of 1909 and the end of German colonial rule.

The supreme court had no other regular customers in civil matters. But it is worth mentioning that the Appeals Register listed the names of two Chinese who did rather well.¹³ By contrast the colonial government, or the *Fiskus*, the colonial state in its property-owning capacity, did not appear once as a party in the Appeals Register.

Finally, a word about the two *procedural* civil appeals. Both were directed against decisions of the district court for the Bismarck Archipelago: one became immaterial when the case was settled; the other was rejected.

11 The outcome of the five appeals from the Island Territory was as follows: one withdrawal, one acquittal, one fine of 500 Marks (the second highest on record), a prison sentence of one week each for the two accused and one prison sentence of five months.

12 Two appeals were directed against Island Territory decisions. Only one civil appeal was lodged against a decision of the district court for Kaiser Wilhelmsland.

13 Chinese counted legally as natives. They could not therefore legally be sued before a district court. However, once they sued a non-native before a district court they could appeal against its decision as much as the non-native plaintiff—and they obviously did. Besides cases involving Chinese defendants and accused were in fact also dealt with by the district court for the Bismarck Archipelago. None of these cases was taken to the supreme court between 1909 and 1914, although it is possible that appeals in such matters were dealt with administratively.

IV

Although the Appeals Register provided useful information, it whetted my appetite rather than satisfying it. All my preliminary conclusions still needed to be tested against more detailed sources. This would have been a straightforward task, had these decisions been published. But this was not the case.¹⁴ I was dealing exclusively with unreported judgements which were kept, in the original, in the case files. To make matters worse, these case files were not separate files kept by the supreme court but files kept by the various district courts, which sent them to the supreme court when an appeal was lodged and had them returned after the appeal had been disposed of, together with any decisions the supreme court had made.¹⁵ It therefore looked as if I had to move from the supreme to the district court level, at the cost of having to examine six sets of case files instead of one and thousands of cases rather than 160 or so.

Fortunately the surviving supreme court files included a collection of copies of decisions (AA 63/83, B20)—henceforth the Collection. It neatly supplemented the Appeals Register, although the period covered was even shorter: it only included decisions pronounced as from the beginning of 1910. For this period, however, it included all substantive criminal and civil appeal judgements the supreme court had made according to the Appeals Register. Indeed, it included one additional judgement—on a substantive criminal appeal—not shown in the Appeals Register and, consequently, also not in the court statistics.¹⁶

For procedural appeals the situation was different. The one civil procedural appeal shown in the Appeals Register as having been decided by the supreme court was included, but the two decisions on criminal procedural appeals were not. Instead, the Collection included two additional decisions which did not respond directly to formal appeals.

In one case the chief justice explained to a complainant that a civil judgement against him was not only absolute, so that it was no longer appealable, but that the decision of the district court for the Bismarck Archipelago, as well as the manner of its execution, had also been substantially justified. The judge went out of his way in this manner because the complainant had faced considerable logistic difficulties. He therefore suggested an application for an *ex gratia* quashing of the outstanding costs and expenses, totalling 16 Marks.

The second decision also related to expenses, but of a different magnitude. As a consequence of a partly successful appeal against a conviction for fraud by the district court for the Western Carolines the supreme court decided that the public purse had to refund half of the accused's necessary expenses. When the accused claimed expenses of almost 16,000 Marks—twice the basic annual salary of a senior government official—the supreme court reduced this claim to less than ten per cent, because the rest of the expenses had been unnecessary.

What made this decision historically interesting was the fact that the main expense had consisted of hiring a German legal practitioner based in China. The supreme court therefore had to address the question of the kind of legal representation to which a party before a court in German New Guinea—which had no resident legal practitioners—was entitled. It rejected the

14 The *Amtsblatt* of German New Guinea started to publish edited versions of judicial and administrative decisions of general interest in 1913. Of the 13 decisions so published three were issued by the supreme court—compared with seven decisions by the district court for the Bismarck Archipelago. None of the other district courts was represented, whereas the district office in Rabaul (in a mixed-jurisdiction case) figured once, and the governor (deciding administrative appeals) figured twice. The *Deutsches Kolonialblatt*, and a private journal with a special interest in colonial law, had by then been publishing relevant decisions—more often than not by metropolitan rather than colonial courts—for some time. They include an excerpt from a single decision by the supreme court of German New Guinea, compared with eight decisions by the supreme court of German East Africa and seven by the supreme court of German South West Africa.

15 This arrangement made sense because district courts were responsible for the execution of the supreme court's decisions. Nonetheless, a small handful of "anomalous" supreme court case files (or reference files?) are still in existence.

16 I decided against amending my table accordingly.

view of the public prosecutor that parties had to put up with a second-rate representation by non-lawyers, insisting that even the expense of hiring of a lawyer from abroad was justified in legally more difficult cases—provided that no legally qualified representative could be found locally. This, however, was not so. At the seat of the supreme court several legally qualified government officials were available, who had repeatedly represented private parties in the past. In addition, some of the private residents had at least passed the first legal state examination, including one of the planters, who could also have been easily reached. Although the court appreciated that the accused would suffer greatly by having to foot his entire lawyer's bill, it had to ensure that the public purse had to pay only its judicially determined share of those costs which had been actually necessary.

This was not the kind of decision I had expected to find among the procedural appeals. The same applied to one of the appeal decisions in voluntary jurisdiction matters, which I had intended to exclude from my survey altogether. It did not involve an appeal by a private party in a land registration or guardianship matter but an appeal by the governor against a decision of the district court in the Bismarck Archipelago which had refused to lend him "legal assistance" (*Rechtshilfe*) in a deportation case. The supreme court decided that the district court had wrongly interpreted the relevant imperial ordinance and that it was obliged to examine a witness in this matter under oath, which the governor was not empowered to do. In other words, the supreme court was also beginning to play a part in inter-governmental disputes.¹⁷

A judgement covering two of the four judicially decided substantive civil appeals also was of greater historical significance than I had expected. On the surface it concerned an ordinary dispute between the Hershheim firm and a former employee about the termination of his contract, but underneath there loomed broader issues.

When the employee terminated his contract without notice because of health reasons, the firm, believing that he had walked out because he wanted to make a quick fortune from hunting birds-of-paradise, denied the validity of his termination but sacked him on the spot because of his allegedly deficient performance. Moreover, it sued him for damages for breach of contract and refused to give him a reference describing his duties without evaluating his performance. The employee responded by filing a counterclaim for damages resulting from wrongful dismissal and demanded, in a separate action, the issue of the kind of reference he had requested. He achieved a total victory before the district court. The firm appealed—with limited success. It was ordered to issue the reference and had its claim for damages reduced, although the amount of damages granted to the employee by the district court was also reduced, because he had been compensated for lost earnings for some weeks in excess of the period of three months notice required under the contract.¹⁸

What made these decisions remarkable was first of all that the court stressed in an *obiter dictum* that the firm had thrown away its chances of achieving a different result by insisting that its sacking of the employee had only been based on his deficient performance—of which it had been unable to convince the court—instead of taking up the court's suggestion that it might have been justified in sacking his employee, irrespective of his performance, if he had walked out without sufficient reason for terminating his contract without notice. It was clear that the court agreed with the firm that the employee had been a victim of a birds-of-paradise fever, which had reached its peak in 1913, instead of suffering from any debilitating medical condition, as he had claimed.

17 I should also mention a counterpart of this case where the governor ordered the district office in Herbertshöhe, in response to an appeal by the district court, to carry out certain police measures, because it was its statutory duty under the German Criminal Procedures Code which it had to perform regardless of the manpower at its disposal.

18 This small gain had made this case appear as a victory for the plaintiff in the Appeals Register—another illustration of the risks in drawing general conclusions from its entries.

Nonetheless, it was clear that the Hershheim firm, despite its misguided legal strategy, had pursued this case so vigorously because it was worried that other employees would succumb to the same fever and desert under any pretext, if this employee was allowed to get away with his scheme. As the supreme court saw the case in the same light it was a preliminary argument put forward by the employee which caused it the greatest concern. It was directed against a practice of denying employees the right of terminating their contracts prematurely by giving notice, without undertaking to pay them as a consideration their full return fare at the end of the contract, as the German Commercial Code required under these circumstances.

The argument was that all contracts which were defective in this manner—and they were apparently not uncommon—were therefore void, so that all commercial employees who had entered contracts of this kind could walk out whenever they felt like it. The prospect of destabilising German New Guinea's economy by declaring all these contracts void by implication was too frightening. The court was therefore relieved that the Hershheim firm had undertaken to pay most of the return fare and held that its incomplete compliance with the law was not sufficiently serious to void the contract altogether. Still, the decision sent a clear message to employers that they would have to tidy up their game—and the court could be sure that this message would spread quickly, even without published law reports, since it included two leading members of the small business community as lay assessors.¹⁹

However tempting a closer examination of interesting individual cases was, it was not the purpose of this exercise. The aim was not to assemble a collection of colourful butterflies but the identification of patterns displayed by the judicial activities of the supreme court, no matter how unexciting they were. As far as this aim was concerned the four judgements in substantive civil matters passed between 1910 and 1914 represented a sample which was far too small to tell anything of general significance. Perhaps the more numerous judgements in exercise of the court's substantive criminal jurisdiction were more instructive.

The 24 substantive criminal judgements dealt with 34 appeals. Of these 19 were lodged by the accused, 13 by the public prosecutor and two by private plaintiffs. But the accused were less successful than the Appeals Register had suggested. Their chances were only slightly better than even: ten victories compared with nine defeats. But the public prosecutor did considerably worse: he won only four appeals before losing the other nine.²⁰ In other words, the preliminary conclusions I had drawn from the Appeals Register went too far. It remained true that the accused had a better chance of winning their appeals than the public prosecutor,²¹ but it was not justified to conclude that it was the role of the supreme court to reduce the punishments pronounced against non-native offenders by the district courts. Nonetheless, the punishments the supreme court pronounced were remarkably mild: it acquitted five accused, fined 14, and pronounced only six prison sentences. There was not a single death or long term prison sentence.

While this merely confirmed what the Appeals Register had already told me, the collection also provided information on the type of offences committed.²² Crimes against the person, using physical violence or coercion, dominated the scene: they figured in 13 of the 24 cases. The second most frequent offence was defamation. It accounted for five charges. Next came sexual offences, with three charges. Only two property offences reached the supreme court: a trivial case of embezzlement by a minor official, which took on a serious complexion because he had violated

19 This brief summary of a complex case is, of course, heavily coloured by my interpretation. It emphasises what I saw as the two underlying general issues more strongly than the supreme court actually did in its main decision. It runs to almost ten typewritten pages which I could not possibly hope to summarise adequately in a few sentences.

20 The overall performance of the prosecution was improved by the fact that both private plaintiffs were at least partly successful with their appeals.

21 The district courts fared statistically worst. Two out of three of their judgements were overturned on appeal.

22 The following figures take into account that a number of accused persons were convicted on a multitude of charges, although some minor charges—and the resulting punishments—have been disregarded.

the sanctity of public registers in the process, and an equally trivial series of thefts by a planter who had tried to protect himself by attempting to induce a witness to commit perjury in his favour. The other three cases were even more undramatic. The supreme court did not have to deal with a single crime which was grave in terms of the harm caused to individual victims. Not a single case of murder, rape, arson or robbery came before it during the period in question.

The attempted subornation to commit perjury earned the highest single sentence: one year and six months imprisonment with hard labour.²³ Then followed the embezzlement in public office case. The supreme court clearly would have liked to increase the sentence of six months imprisonment imposed by the district court, had it not been bound by the legal prohibition to increase a sentence in response to an appeal by the accused.²⁴ Next came two prison sentences of five months each. One of them had been imposed by the district court for the Western Carolines in response to a pub brawl among employees of the phosphate mine on Angaur, one of whom had smashed a bottle on the skull of another, without causing permanent damage. It was confirmed by the supreme court.²⁵ In the other case the supreme court increased a one month sentence imposed by the district court for the Bismarck Archipelago on the captain of a trading vessel, not so much because he had assaulted his native crew but because he had committed homosexual acts with them. A few weeks later the district court imposed the same penalty in a defamation case in which the commander of the mobile police unit had been physically insulted by a woman who believed she was defending the honour of her sister—a sentence the supreme court saw fit to confirm. The last prison sentence was symbolic: a planter who had been acquitted of a charge of moving boundary stones on to native land was sentenced to one day imprisonment to set a warning example.

The largest single fine, 960 Marks, was imposed on a planter for repeated maltreatment of his native labourers. Although this was a sentence the supreme court could not exceed because only the accused had appealed, it was significant that it did not take the opportunity to warn the accused, who had been in trouble on this score for almost ten years—and through him the public at large—that it would henceforth resort to prison sentences in similar cases. On the contrary, it almost apologised for the size of the fine, which had been necessary because previous attempts to teach him a lesson through smaller fines had failed. This stance was all the more remarkable since the supreme court not only rejected the appeal of a Catholic missionary against a 100 Marks fine for defaming the district commissioner in the Eastern Carolines, increasing it on the commissioner's appeal to 900 Marks, but told the accused in no uncertain terms that he could count himself lucky to have escaped a prison sentence. The next highest fine, 600 Marks, was also imposed for the defamation of an official, a police sergeant in Kaiser Wilhelmsland. The honour of private individuals was less valuable. A business man, who had told "the natives" that a competitor had stolen their island, although he knew that the latter had leased it from its registered owner, was fined a mere 200 Marks²⁶—and only because the spreading of rumours of this kind was likely to cause serious unrest in the native population.

With one exception all other fines ranged between 3 and 150 Marks. The lowest fine was a warning shot fired at a Catholic missionary who had "illegally compelled" (*nötigen*) a native

23 This was still comparatively mild since the relevant section of the German Criminal Code carried a mandatory minimum punishment of one year with hard labour.

24 It made its point by convicting the accused for a more serious *offence*—legally not an uncontroversial step.

25 The second pub brawl appeal was lodged by the manager of the hotel in Friedrich Wilhelmshafen. The district court had fined him 300 Marks for assaulting one of his drunken guests, who had caused trouble, for which he was fined 10 Marks. The supreme court reduced the manager's fine to 50 Marks but agreed with the district court that the rowdy scenes in his establishment had to stop.

26 The punishment could have been as low as 100 Marks. Both figures were given in the text of the judgement and it is not clear which was the correct one.

woman whose behaviour he disapproved of.²⁷ It was unsuccessful because he was back two years later, when the supreme court confirmed a 100 Marks fine for excessive corporal punishment of one of his pupils—a sentence against which both he and the public prosecutor appealed. The 150 Marks fine imposed on a trader who had beaten his labourers when he found out that they had used his prolonged absence to sleep in the shade, day after day, was comparatively high because he had employed a dangerous weapon—an oar—although without causing serious injuries. Much lower fines, of 30 or even 10 Marks, were common in ordinary cases of maltreating native labourers by first offenders.

The exception mentioned above was the only major labour *recruiting* offence which came before the supreme court between 1910 and 1914. In this case the court increased a 300 Marks fine imposed for illegal compulsion, on an appeal by the public prosecutor, to a 500 Marks fine for deprivation of liberty, stressing, moreover, that the recruiter had only escaped a prison sentence because his recruiting activities had so far caused no complaints. The other recruiting offence led to an acquittal, because the supreme court was not convinced that the accused had instructed a native to recruit regardless of whether he had the required permission from the district office. A second acquittal was pronounced in an equally insignificant case.²⁸

The remaining two acquittals both concerned indecent acts with native girls. In the first case the accused, who had been sentenced to two years' imprisonment with hard labour by the district court for the Western Carolines, was acquitted because the supreme court accepted he had believed the girl to have been over 14 years of age. In the second case the accused, sentenced to six months imprisonment by the district court for the Bismarck Archipelago, was acquitted because the supreme court accepted that the girl had in fact been more than 14 years old—although she, like the girl in the first case, looked sexually immature.²⁹

Taken together this information suggested that the central task of the supreme court in the exercise of its criminal jurisdiction during the last years of German colonial rule was the control of violence used by non-natives against natives, and, more precisely, in relation to natives they employed, or whom they recruited for employment.

To appreciate the approach, it had to be taken into account that disciplining native labourers with corporal punishments was legal, provided the employer had been granted the necessary licence. What was legally wrong was not the use of physical force as such, but the abuse of the power to do so. Seen in this light, it was striking that the cases of abuse which came before the supreme court were all relatively minor. Judging by its decisions, the colonists did not kill, maim or torture their native labourers—let alone other natives—but merely occasionally overstepped the mark. To be sure, it was possible that these cases represented the tip of an iceberg, but it was improbable that people who received a small fine for a minor assault appealed to the supreme court whereas others, who were imprisoned by the district courts for more brutal offences, never did. To be sure also, it was possible that the most serious cases were not judicially decided, because the culprits had fled the colony, or were deported from it, or because the effective exercise of the courts' criminal jurisdiction did not extend to the colonial frontiers where violence

27 Section 240 of the Criminal Code defines "compulsion" (*Nötigung*) as the use of force or threats to cause another person to perform an action, to refrain from performing an action or to suffer the performance of an action—if the use of the means employed for the intended purpose is "reprehensible" (*verwerflich*). For example, the missionary might have threatened a native woman with reporting her for a theft of coconuts if she did not come to church regularly.

28 The district court had fined the joint owners of a plantation and trading enterprise 30 Marks for a breach of a police ordinance which prohibited the granting of credit to natives but made an exception for licensed native sub-traders. The point at issue was whether a particular sub-trader had continued to trade illegally for the accused after his licence had lapsed. The district court accepted this as proven whereas the supreme court gave the accused, who were well-known for their aggressive business practices as well as for their belligerent attitude towards the government, the benefit of the doubt.

29 There was more to both these cases than meets the eye. In the first case, in particular, the sentence would have been otherwise manifestly excessive, since there had been, just as in the second case, no violence or compulsion but, on the contrary, customary arrangements with the girls and their relatives.

against natives was most likely to occur. Nonetheless, as it stood, the evidence suggested that the question of a general brutalisation of colonial society in German New Guinea required careful investigation and that it was hardly justified to take an affirmative answer for granted.

How did the supreme court view the use of physical violence against natives during this period? Perhaps the most important chord was struck in a case where a plantation manager had been fined 30 Marks for intentional assault by the district court for the Bismarck Archipelago because he had administered corporal punishments to two labourers before the legally prescribed interval after a previous corporal punishment had elapsed. He was acquitted from this charge by the supreme court because he had wrongly believed that corporal punishment was legitimate as soon as physical signs of the previous punishment had disappeared. But he was fined for negligent assault because he had failed to inform himself about the limits of the disciplinary powers with which he had been entrusted. Furthermore, these powers were classified as the consequence of assuming a "public office" (*Amt*). The supreme court stressed that employers had no private right to beat their native employees. Rather, the disciplinary powers under the labour legislation were an extraordinary extension of the general punitive powers of the state, the exercise of which could be entrusted to private individuals when it was impractical to have them exercised by public officials. Such an authorisation went hand in hand with special public duties, in particular the duty to inform oneself about the limits of the powers granted.

The legal implications of this decision—not spelled out by the supreme court—went much further: it brought private individuals exercising these disciplinary state powers within the purview of those sections of the German Criminal Code sanctioning offences committed in the course of performing public duties with substantially higher punishments.³⁰ Whereas an ordinary assault could be punished with a nominal fine under section 223, an assault committed while performing a public duty carried a minimum prison sentence of three months under section 340, and the minimum punishment for the illegal use of official penal powers under section 345 was even one year imprisonment with hard labour.³¹

The leading decision concerning the abuse of a licence to recruit labourers was more straightforward because the use of violence or coercion when recruiting native labourers was in principle illegal. The supreme court therefore sounded a different signal: non-natives offending in this manner could henceforth expect to be sent to jail rather than being fined.³² But it was again an *obiter dictum* which deserved special attention. In this particular case the supreme court let the accused off with a substantial fine because he was a first offender whose previous recruiting activities had not given rise to complaints. But it stressed the regrettable laxity of public opinion in German New Guinea as to what was permitted when recruiting natives, although it was gradually being accepted that natives too had "personal" (that is to say, *human*) rights which had to be strictly observed.

While the supreme court was undecided as to whether the time had come to give the personal rights of natives the full protection of the law, it had no doubts about the moral standards applying to non-natives. One of the cases involving indecent acts with a native girl provided the court with

30 The supreme court had no reason to address this question, since sections 340 and 345 only applied to *intentional* but not *negligent* acts.

31 While it was not judicially tested whether the authority to administer disciplinary punishments to labourers made private individuals indeed public officials within the meaning of the German Criminal Code, another consequence of the supreme court's decision was recognised by the executive. It decreed that disciplinary powers could henceforth only be given to individuals who were in full command of the German language—presumably because this was necessary to inform oneself about the precise legal limitations of these powers. It is also worth noting that the supreme court ignored, or was unaware of, the many (inconsistent) judgements of the supreme courts of the German colonies in Africa dealing with the disciplinary powers of employers.

32 There were, in addition, powerful administrative measures which could be taken against such offenders: their recruiting licences could be cancelled and they could, in more serious cases, be deported from the colony.

the opportunity to sound a trumpet call in this direction. Although it acquitted the accused, it took objection to a subsidiary line of defence he had prepared by asserting that, all else apart, he should be acquitted because the natives did not regard sexual acts with children as indecent—a view the supreme court found reprehensible.

Perhaps the natives do not object to such acts. But if this is so, it would be an aberration which calls for our pity because it would form a major obstacle to the moral and cultural advancement of an ignorant people, whom to educate by all possible means—but in particular by way of example—is the first and foremost duty of the colonising master race. No crime committed by a white man can ever be excused by reference to the moral standards of the natives. On the contrary, it is our own moral standards which apply in this colony.

All these signals added up to a single message: the wild pioneering days, when the government had had no choice but to turn a blind eye to irregularities, were over. The Rule of Law had arrived, and it would be enforced more and more strictly. But this normalisation did not mean equality before the law. It was a special colonial form of the Rule of Law, with distinct racist overtones, although they responded ostensibly to a temporary cultural backwardness, rather than to permanent biological features of German New Guinea's indigenous population.

What messages had the supreme court signalled before 1910 and what mix of cases did it have to deal with during the earlier periods of its life?

V

Although the file in which the judgements pronounced between 1910 and 1914 were collected carried a note in English (!) on its cover, according to which it represented "Volume III" of "Court of Appeal" decisions, the other two volumes, if they ever existed, were no longer available.³³ There still existed, however, an older and less incomplete collection of decisions. It covered the years between 1893 and 1895 (AA 63/83 G254/5), but included only six of the 16 decisions made in the course of these three years according to the court statistics.³⁴

The supreme court decided two major substantive criminal appeals in 1893. Both involved ordinary property offences but resulted in remarkably high sentences: nine months imprisonment in one case and three years and six months imprisonment with hard labour in the other. Both accused tried to have their cases reopened which required decisions of a procedural nature. Judging by this second collection of judgements, most of the other decisions during this period were, for one reason or another, also concerned with procedural questions. The supreme court upheld a third criminal appeal because the person in charge of the police in the Bismarck Archipelago had had no authority to fine a trader for the breach of a police ordinance prohibiting the supply of firearms, ammunition and liquor to natives. It cancelled a civil judgement because the district court had had no jurisdiction in the matter and nipped another civil appeal in the bud by rejecting the plaintiff's application for "legal aid" (*Armenrecht*). Both these civil matters, as well as a third one, in which the supreme court issued an interlocutory judgement, concerned disputes between the Neu Guinea Kompagnie and former employees, or their heirs, which the company pursued with great vigour, so that settlements were out of the question.³⁵

33 What survived were the copies of some decisions put loosely into non-original folders. They mainly duplicate the 1910-1914 collection, although there were a few older ones.

34 It included decisions for all three appeals lodged in 1893 but only two out of seven for 1894 and only one out of six for 1895.

35 In this context, I am treating the Neu Guinea Kompagnie and its daughter companies, the Astrolabe Kompagnie and the Kaiser Wilhelmsland Plantagen-Gesellschaft, as a single unit.

Taking into account that the court statistics indicated that there had been a significant change in the activities of the supreme court after the end of company rule, it was now possible to pose two more pointed questions: firstly, was the picture presented by the 1893-1895 collection representative of the entire period of company rule; secondly, was the picture presented by the 1910-1914 collection representative of the entire period of imperial administration?

Since I had discovered a shortcut to a preliminary answer to the second question I tackled it first. The shortcut was a list covering the judicial activities of the supreme court—and those of the district court for the Bismarck Archipelago—compiled in the course of 1910 (AA G255/102). Although this list—the List—consisted almost exclusively of references to file numbers and sections in legislative enactments, it was useful because it thereby identified the subject matter of the case in question. Moreover, one of its shortcomings—its incompleteness—turned into an additional source of information, when I compared the List with the Appeals Register, with which it overlapped in 1909.

According to the Appeals Register, eight substantive criminal appeals became pending in that year, whereas the List included only five of them, namely Nos 1, 2, 5, 6, and 7. But the Appeals Register also showed that one of the missing cases was decided in 1911, that is to say after the List was compiled; that the appeal in another case was withdrawn, which disqualified it, because the List only covered cases where a judicial decision had been pronounced; and that the third case was an appeal against a decision by the district court for the Marshall Islands, for which the case file was not available to the compiler of the List. He had relied solely on the locally available information, which apparently left a great deal to be desired, since the judicial activities of the supreme court between April 1899, when its seat was moved to the Bismarck Archipelago, and the end of 1901 were not covered at all, whereas those of the district court were at least covered as from the beginning of 1900, the first full year of imperial administration.

If I assumed that the same explanation of its incompleteness held true for the other years covered by the List, I could deduce from it that of the 19 substantive civil appeals, which became pending between 1902 and 1908 according to the court statistics, eight were either withdrawn or directed against decisions by a district court outside the Bismarck Archipelago. This meant that the supreme court disposed of a much higher portion of substantive civil appeals by judgement during this period than between 1909 and 1914.³⁶

By contrast, the same exercise for substantive criminal appeals suggested that of the 41 appeals which became pending between 1902 and 1909, 12 were either withdrawn or directed against decisions by other district courts than that for the Bismarck Archipelago—a ratio which was similar to that for the later period.³⁷

As regards the subject matter of the substantive civil appeals, the position for the 1902 to 1908 period was as follows.³⁸ Of the 11 relevant judgements, four involved employer/employee relations; two cases involved contracts of purchase and sale; two cases involved unspecified contracts; there was one tort action; one action was concerned with unjust enrichment; and the last action had to do with the immigration of impecunious persons³⁹—all of which was not particularly illuminating.

36 According to the Appeals Register the ratio between 1909 and 1914 was 4:10. The List showed that at least 11 of the 19 appeals lodged between 1902 and 1908 were disposed of by judgement, not counting the unknown number of judgements concerning appeals against decisions by the district courts for the Island Territory and Kaiser Wilhelmsland.

37 Of the 36 appeals lodged, 11 were withdrawn or directed against decisions of other district courts, or both.

38 The List only accounts for one procedural criminal appeal and shows no procedural civil appeals. This was rather unexpected, because eight procedural criminal appeals had become pending. But an attempt to solve this puzzle was hardly worth the effort.

39 The last was presumably an action by the government trying to recoup from his former employer the costs of sending an impecunious person back to Germany.

According to the List the supreme court issued 28 judgements between 1902 and 1909 which disposed of substantive criminal appeals against decisions of the district court for the Bismarck Archipelago.⁴⁰ Half of them were concerned with assaults or coercion. There were six defamation cases, three breaches of police ordinances, three property offences and one case each of adultery and unfair competition—which closely paralleled the picture for the 1910 to 1914 period. There were again no cases of murder or other serious crimes. Property offences had already lost their earlier prominence, while the relative importance of assault and defamation cases continued to increase.⁴¹

This left the question as to whether these general similarities justified the conclusion that the assault victims during these years were typically native employees, and that coercion cases typically involved illegal recruitings, but it was clear that the supreme court's exercise of its criminal jurisdiction between 1902 and 1909 generally had more in common with that in later years than with that between 1893 and 1895.

This suggested that I should focus my attention on the first years of imperial administration—which coincided with the governorship of Rudolf von Bennigsen. On the other hand, the fact that the List covered the activities of the supreme court only as from 1902 lent added weight to the suspicion already raised by the poor reliability of the 1899 to 1901 court statistics: that governmental practice during this period had been unusually messy. I therefore decided against searching for further shortcuts and to face up to the task of searching the haystack of district court case files for the needles representing the activities of the supreme court.

VI

When I inspected what was left of this stack the task became less frightening, but also less rewarding. The four smallest of the six bundles making up the haystack, representing the district courts in the Island Territory, had apparently disappeared altogether,⁴² and the two larger ones, representing the district courts in the Old Protectorate, had suffered a decidedly mixed fate.

The criminal case files of the district court for the Bismarck Archipelago had been, and still were, the largest series of court files. Yet there were no survivors for 1886 to 1892, for 1894 to 1896 and for 1904 and 1908—a combined blank of 12 years, or about half of the period of German rule. There were also many smaller gaps of varying size, ranging from as little as ten per cent in 1898 to almost 100 per cent in 1914. Even the distribution of gaps within any given year appeared to be random. Thus in 1902—a good year!—the first three case files were missing, as well as Nos 6, 18, 21 and 22 and all files after No. 28—according to the List another nine! All told, well over half the case files in this series had disappeared, and the overall mortality rate of district court case files was much higher. Still, there were needles, and the oldest took me back to the very first day of the supreme court's life.⁴³

On 1 April 1889 the district court for the Bismarck Archipelago sent a civil appeal to the supreme court in Kaiser Wilhelmsland. It did not even reach the court statistics because the appellant did not pay the required security for costs so that no further action was taken. On the other hand, not one of the district court case files relating to the three substantive criminal appeals

40 I am disregarding one judgement, which was issued in 1910 and therefore included in the collection already discussed.

41 The last three of the eight years covered account for half the assault appeals and for two thirds of the defamation appeals.

42 Since we are not living in the best of all possible worlds, I was unable to investigate the possibility that the files of the district courts in the Island Territory were still hidden away in some archives in Japan. The assessment of the situation by Kennedy (1977: 381) is far from satisfactory.

43 No specific references to these cases will be given. Some of the case files had not yet been indexed when I consulted them in the Australian Archives. The signatures under which I had listed most others are now obsolete. It should not be too difficult, however, to identify the files in question in the new index.

and the one substantive civil appeal which were shown in the court statistics as having been lodged between 1889 and 1892 survived.

For the 1893-1895 period the haystack only yielded one needle—in addition to the decisions already discussed—a case of illegal self-help in the form of a bloodless punitive expedition undertaken by a group of traders in New Ireland. They were fined by the district court for the Bismarck Archipelago. Like the other surviving cases during this period, it raised a spate of procedural issues. But they did not have to be resolved because the appeal one of the accused had lodged against a decision rejecting his application to have the case reopened was withdrawn.

That the 1896 and 1897 layers in the haystack yielded no needles only added weight to the impression that the supreme court had been dormant during this period. Nor was there a backlog of cases when it became again active. The first case dealt with in 1898 was the private prosecution of a recent defamation: on 30 April 1898, on an appeal by the private plaintiff, the supreme court increased a 25 Marks fine imposed by the district court for Kaiser Wilhelmsland to 40 Marks. On the same day it reduced a 50 Marks fine of the district court for the Bismarck Archipelago for a breach of a labour ordinance to 30 Marks.

A few weeks before company rule ended on 31 March 1899, the supreme court was given the opportunity for a more impressive swan song. It reduced a three year prison sentence for assault with a dangerous weapon causing death to two months imprisonment for negligent homicide, because the claim of the mate of a trading vessel that a shot fired by him, which had killed a native crew member, had been intended as a warning shot could not be disproved.

For the same reason the district court for the Bismarck Archipelago found a trader who had shot dead a native woman employed in his house only guilty of negligent homicide. However, it sentenced him to one year imprisonment on this lesser charge. Governor von Bennigsen had no chance to review this decision. Both the public prosecutor and the accused withdrew their appeals.

Although about a dozen cases were disposed of during Bennigsen's short reign, only one of the case files survived: it dealt with the captain of a foreign vessel who was fined 150 Marks for trading without a licence. By the time the most important criminal appeal lodged during his time as chief justice was heard, Bennigsen had left German New Guinea and the supreme court was presided over by acting governor Hahl.

The case concerned multiple charges against the manager of the Neu Guinea Kompagnie's outpost in Berlinhafen for maltreating native labourers and shooting a "free" native.⁴⁴ The accused had been sentenced by the district court for Kaiser Wilhelmsland in three separate judgements to two months imprisonment and a 250 Marks fine for assault and some minor offences; to nine months imprisonment for manslaughter under extenuating circumstances; and to a 600 Marks fine for another assault and the breach of a police ordinance regulating the hunting of birds-of-paradise. The public prosecutor as well as the accused appealed against these decisions. The supreme court combined their appeals and dealt with them in a single judgement. It essentially confirmed the assessment of the district court by sentencing the accused to a combined period of ten months imprisonment, not counting the fines it imposed or confirmed.

This case had special significance because it was the first manslaughter conviction of a non-native by the supreme court on record, and because an apparently unusually brutal, but otherwise ordinary, maltreatment of a native labourer was punished with a substantial prison sentence, namely two months. Moreover, the court explicitly rejected the defence of the accused that he had exercised quasi-parental disciplinary powers. The case was treated as an intentional assault with a dangerous weapon, a walking stick, and without extenuating circumstances. The signal Hahl was sending was clear: the maltreatment of native labourers was a serious matter—and there would henceforth be no playing around with finer points of law.⁴⁵

⁴⁴ This was the term officially used to describe natives not employed by non-natives.

⁴⁵ This applied, in particular, to the questions of the legal significance of errors about the existence and limitations of

The survival rate of case files during Hahl's own long governorship, between 1902 and the end of German rule, varied considerably.⁴⁶ According to the court statistics six substantive criminal appeals became pending in 1902.⁴⁷ Three of the case files survived. One concerned the defamation of the district judge for the Bismarck Archipelago by the Catholic bishop. The bishop was fined 60 Marks. He appealed, but the matter came to an abrupt end when the acting governor withdrew the original complaint on which the prosecution had been based. The second appeal concerned a charge of theft. It ended with the acquittal of the accused, who had been sentenced to two weeks imprisonment by the district court for the Bismarck Archipelago. The district court had also fined him 3 Marks for assault and acquitted him of the more serious charge of arson. Moreover, the prosecution of this particular man had only been a side-line. The main culprit, another trader, had fled the colony—not an uncommon end for a criminal prosecution in German New Guinea.

The adultery case, covered by the third file, became historically interesting because the German Criminal Code stipulated a mandatory prison sentence for adultery. The district court, taking a stern view, sentenced the two accused to three weeks prison each. The male accused appealed and the supreme court reduced his punishment to the permissible minimum of one day imprisonment. The accused appealed to the emperor for mercy—as did his female partner in crime, although she had not appealed to the supreme court. The emperor commuted the respective prison sentences to fines of 200 Marks each.

For the four substantive criminal appeals which became pending in 1903, all case files survived. One was the first documented case of illegal recruiting to come before the supreme court. It was therefore especially disappointing that the public prosecutor withdrew his appeal—as well as puzzling, because the district court had acquitted the non-native accused, whereas three of his native helpers were sentenced by the station court to eight days prison each. The second case, in which a Japanese sailor had been fined 100 Marks for resisting a public official, also concerned illegal recruiting. It had the potential of causing considerable embarrassment. The woman in question, whom the sailor had refused to hand over to a local official in Kaiser Wilhelmsland, had been “ceded” by a senior official to his successor who was now serving in the Bismarck Archipelago and had asked to have her brought to him. The official representing the public prosecution before the supreme court withdrew the appeal after the accused had conveniently left the colony.

The third assault case fell into the pub brawl category. It ended with a replacement of the five day prison sentence, against which the public prosecutor as well as the accused had appealed, with a fine of 105 Marks. In the fourth case, a charge of illegal compulsion against a Catholic ex-missionary, the appeal by the public prosecutor against his acquittal was rejected by the supreme court.

For 1904 the haystack produced not a single needle. The yield for 1905 was instructive only because the surviving case files demonstrated that both cases of assault were pub brawls, instead of concerning the beating of native employees. 1906 provided the greatest disappointment. Three assault cases and two cases of deprivation of liberty were shown in the List, but all relevant case files had disappeared.

The result for 1907 was hardly better. The List accounted for four of the six substantive criminal appeals lodged. The first—a negligent homicide, almost certainly with a native victim—would have been of special interest, but there was no corresponding case file. On the other hand, there was another surplus needle. It even concerned an assault case. But it was a private prosecution, to which the accused responded with a defamation action. It earned his

disciplinary powers.

46 I should stress that even before Hahl ceased to be chief justice in 1911 the supreme court was often presided over by an acting chief justice.

47 I only checked the criminal case files for this period.

accuser a fine of 75 Marks, whereas the accused was only fined 50 Marks for assault—a good indication of how the district court for Kaiser Wilhelmsland apportioned the blame. The supreme court did not have to decide because both parties withdrew their appeals. The same plaintiff—a somewhat paranoid employee of the Neu Guinea Kompagnie—had lodged a second appeal in a private defamation prosecution because he regarded the token fine of 5 Marks imposed on the defendant as insufficient. His appeal was rejected. For the three substantive criminal appeals lodged in 1908, according to the List two assaults and one defamation, not a single relevant case file survived.

This left 1909—and eight substantive criminal appeals. Two of them were decided in 1910 and 1911 and therefore included in the collection already discussed. Of the remaining six appeals two were accounted for by case files. The first concerned a defamation of the governor. The supreme court reduced the 300 Marks fine imposed by the district court to 100 Marks. The other case concerned a quarrel between two planters, one of whom the district court had fined 200 Marks for criminal trespass and threatening behaviour whereas the other was fined a mere 20 Marks for assault. Understandably, the first planter, who had taken the matter to court, was dissatisfied with the outcome. He persisted, even when his appeal was rejected, and successfully forced a reopening of his case. It led to a reduction of his fine on the basis of new evidence.

In addition, the haystack for this year yielded yet another surplus needle. The wife of a senior Neu Guinea Kompagnie employee in Kaiser Wilhelmsland had received a summary fine for smuggling birds-of-paradise. She objected and was acquitted by the district court. This annoyed the customs official involved, who was probably more concerned with the lady's arrogant behaviour than with her illegal activities. His direct superior lodged an appeal but it was later withdrawn. The reasons were not apparent from the file, but it was tempting, although perhaps unfair, to imagine that the district judge who, in his capacity as district commissioner, was also the highest local customs official, persuaded his subordinates not to be silly.

Although the 1910-1914 period was, generally speaking, well covered by the collection, I continued the search for case files relating to cases where appeals in criminal matters had been withdrawn, so that they remained outside its coverage.⁴⁸ The first relevant case file had not survived, but the information in the Appeals Register and the List was sufficient to determine what had happened. It concerned a second charge of embezzlement in public office against the same accused whose first appeal had been rejected by the supreme court. When he accepted that he stood no chance, he withdrew the second appeal.

For the only substantive criminal appeal withdrawn in 1911, I could not expect to find a case file because it was directed against a decision by the district court for the Western Carolines. In 1912 there were no withdrawals. Both 1913 withdrawals could be accounted for. They related to appeals against fines imposed by the district court for Kaiser Wilhelmsland in 1911 and 1912 for breaches of the ordinance regulating the hunting of birds-of-paradise. Although the fines were substantial (100, 150 and 200 Marks), the two accused withdrew their appeals in 1913, when the hunting had reached its lucrative peak, presumably because they knew that even a successful appeal involving their absence from the field would cost them a great deal more in lost profits than these fines.

None of the substantive criminal appeals lodged in 1914 was withdrawn. But the haystack produced another needle for 1914. It was connected with one of the procedural criminal appeals lodged during that year. The relevant entry in the Appeals Register was undated and gave no file number. It only stated that the appeal was directed against an arrest warrant issued by the district court for the Bismarck Archipelago. However, since the name of the accused was given, it was not difficult to identify the case, because the case file had survived. The accused almost became

48 I also kept an eye open for other case files, but I only located one which went with any of the 20 supreme court judgements pronounced during this period.

the first non-native convicted of murdering a native in German New Guinea. He had administered a large glass of undiluted painkiller to one of his sick labourers who subsequently died. In the end he was only found guilty of poisoning, a qualified form of assault, because it could neither be proved that he had intended to kill the man, nor that the labourer's death had been caused by the painkiller rather than his sickness. Although the accused was only given the prescribed minimum sentence of one year imprisonment with hard labour,⁴⁹ there was little doubt that the case would have come before the supreme court, had there been time. Since World War I had already started when the district court pronounced its verdict, it was up to the Australian military authorities to deal with the matter.⁵⁰

Finally another oddity of general interest: a case where the file showed that it should not have been listed in the Appeals Register, or the court statistics. It was the mysterious procedural criminal appeal involving the colonial office (see above: 166). Although the proceedings against a man accused of having breached the Bird of Paradise Hunting Ordinance had been squashed, he complained to the colonial office that his summons had stated that he would be brought before the district court by police soldiers, if he did not appear voluntarily. The colonial office referred the complaint to Rabaul, where it was handled by the chief justice, because it was calling for disciplinary action against a judicial officer. The chief justice upheld the complaint and reprimanded the district judge because "police soldiers" could only mean "native policemen", and because it was offensive to tell a white person that he could be forced by natives to make a court appearance. Since such a procedure threatened the standing of the white race, it was justified only in extreme emergencies. Even the physical assistance of native policemen in the arrest of a resisting white offender could only be approved if the white officials available were unable to subdue him.

VII

This was as far as I intended to take my examination. Where had it got me? The court statistics had given me a reasonably reliable overall picture of the judicial activities of the supreme court, but it was not sufficiently detailed to be of much historical interest, unless it was placed in a comparative context. The 1909 to 1914 Appeals Register, and the list of the judicial decisions of the court between 1902 and 1909, added some flesh to these bare bones, but the result was still too incomplete to support any firm conclusions.

Since the decisions of the supreme court were not reported, I had to rely primarily on two archival collections. The first covered, more or less comprehensively, its decisions between the beginning of 1910 and the end of German colonial rule. The second included about a third of the decisions it made between 1893 and 1895. Between them, the two collections accounted for around a quarter of the cases shown in the court statistics, but it was also clear that a number of cases had not been judicially decided.

An inspection of the district court case files revealed an erratic survival rate. It was, on average, probably as low as 25 per cent. Nonetheless the surviving files accounted for a substantial number of additional cases in which appeals had been lodged. All told, an adequate amount of information was available for around 40 per cent of the cases which had come before the supreme court. This sample, however, was still far too small for a systematic quantitative analysis. Indeed, I subsequently learned that I would have been well advised to draw no conclusions at all from the information I had assembled.

This information had strongly suggested that during the period of company rule the supreme court had played no significant part in controlling the use of violence by non-natives against

49 The accused was also convicted of other, lesser offences.

50 What they did does not concern us.

natives, whereas this had become its main role during the later years of German colonial rule. But then I came across a reference to an 1892 decision in which the supreme court had confirmed a prison sentence of six months the imperial court for the Bismarck Archipelago had imposed on a trader in New Ireland for the negligent homicide of a native. On the other hand, imperial commissioner Rose, who had probably chaired the supreme court on that occasion, warmly supported a clemency petition the trader was sending to the emperor, although imperial judge Geissler insisted that the trader should serve his full sentence because he had treated natives with extraordinary brutality in the past and because he had recently been accused of having performed “unnatural” sexual acts with them.

Since the trader had died before a decision about his petition was made, the file (RKA 4948) did not tell me how the authorities in Berlin had viewed the matter. Nor did it contain either of the two judgements by the courts in German New Guinea. Instead the case file, which had been sent to Berlin, together with the petition, was returned to the imperial court in Herbertshöhe and no longer survived.

In other cases copies of the decisions of courts in German New Guinea were kept in a variety of colonial office files. One such decision presented an even greater surprise. It was a judgement the supreme court had pronounced in 1897, when I had believed it to have been comatose. On 7 August of that year, chaired by Hahl—who was then serving as imperial judge in the Bismarck Archipelago—as acting chief justice, the supreme court fined a former employee of the Neu Guinea Kompagnie 1,150 Marks for having physically insulted its then administrator in 1894,⁵¹ whereas the imperial court for the Bismarck Archipelago, under Hahl’s predecessor, Mellien, had acquitted the man on a technicality (see RKA 2412).⁵²

Did this mean that I had created my own phantom when closing the gap in the court statistics for 1896 and 1897 in my table? I had closed it by assuming that no appeals had been lodged in 1896, and by inserting for 1897 the appeals shown in the 1898 return as having been carried over. I had been aware that this was a dubious procedure because it was possible that the appeals which had been carried over to 1898 had been lodged before 1897, but I had not appreciated that I had also assumed that no appeals had been *disposed* of in 1896 or 1897; and this latter assumption now turned out to be false.

I had made these assumptions because a single gap in my table would have rendered it useless as a basis for a systematic quantitative analysis, because this method only worked in a closed universe. But I had not grasped that it did not matter how this closure was achieved. Instead of closing the gaps in the court statistics with the help of risky assumptions, I could have simply omitted the three years for which they were not submitted, pretending that they had not taken place. But this would have meant an open admission that the entire exercise was a game divorced from historical reality—an admission which I had instinctively refused to make.

It therefore also did not matter that this particular case had not affected the factuality of my table because the judgement showed that the appeal had neither been lodged in 1897 nor in 1896 but already in 1895, so that it was accounted for in its 1895 entry. Nor did it matter that I had learned that other entries were wrong in the sense that they included cases which should have been excluded, or excluded cases which should have been included, because the entire exercise had not got me very far in the end.

It did matter, however, that it looked in retrospect as if the entire exercise had been misguided. My narrative instincts had urged me to treat the supreme court as a historical actor whose history consisted of the actions it performed. Moreover, the decisions it pronounced had urged me to blur the distinction between the legal treatment by the supreme court of the cases which had come before it and these cases as social events. Although I had resisted the temptation to exploit their

51 It also confiscated the riding whip which had been used for the attack.

52 By the time the supreme court made its decision the administrator had been dead for about two years.

often considerable narrative potential, I had been unwilling to accept that they had, as historical events, no more to do with the history of the supreme court than the food a person consumes had to do with the history of that person. On the contrary, I had used these cases as a means of gaining access to the general history of German New Guinea. Thus I had been more interested in the use of physical violence by non-natives against natives than in the legal treatment of cases of this kind by the supreme court. And I had been anxious to establish the quantitative weight of this type of case in relation to other types not because I wanted to know what proportion of the judicial business of the supreme court it accounted for, rather I had wanted to establish what role inter-racial violence had played in the history of this colony.

I still found it perfectly understandable that this had been my priority, but I had laboured under an illusion in expecting that the few cases which had happened to come before the supreme court would allow me to draw any conclusions about the social history of German New Guinea. They merely offered a vastly incomplete and decidedly unsystematic collection of anecdotal evidence in this context.

Whether I liked it or not it was generally most improbable that a systematic, quantitative approach to the exercise of any other governmental power would take me further than it had in the case of the exercise of its judicial powers by the supreme court. Yet this did not necessarily mean that I had to abandon a systematic approach altogether. Perhaps I had merely been mistaken in looking at the supreme court as a corporate actor, instead of looking at the persons through whom it had acted, not as a collection of individuals but as a species of government official? Was it possible and practical to write a systematic history of one of these species?

The most promising species were not the judges of the supreme court for whom the exercise of their judicial powers was merely an appendix to their executive functions, but the imperial judges. Besides, the life of this species was conveniently short and unusually well documented because each of its members required a personal authorisation by the chancellor of the Reich and because the two colonial office files dealing with this matter (RKA 5344 and 5345) were still available.

Chapter 8: A Species Doomed

I

In the imperial charter granted to the Neu Guinea Kompagnie, the administration of justice was excluded from its governmental responsibilities and reserved for the emperor and his government. But instead of entrusting the exercise of this jurisdiction to imperial officials, the company's first administrator, Georg von Schleinitz, a retired naval officer without legal training, was empowered by a decree dated 24 June 1886, to do it. However, Schleinitz received his judicial powers as an individual rather than *ex officio*, and the decree foreshadowed that additional, subordinate judicial officers would be appointed.

Within three years "the official empowered to exercise jurisdiction" had grown into a hierarchy of courts. German New Guinea had been divided into two judicial districts: the westerly district comprised Kaiser Wilhelmsland and the easterly district the Bismarck Archipelago and the German share of the Solomons. There was one "imperial court" (*Kaiserliches Gericht*) of the first instance, placed under an "imperial judge" (*Kaiserlicher Richter*), for each of these districts and a supreme court, under a chief justice, as a court of appeal. The jurisdiction of these courts was, in principle, limited to non-natives. The administration of justice in relation to natives was treated as an executive task which was transferred to the company. But it established special criminal station courts for natives and placed them under the imperial judges as a sideline to the exercise of their jurisdiction over non-natives. On the other hand, while the imperial judges derived their regular judicial powers from a personal authorisation by the chancellor of the Reich, they were employees of the company who could also be required to carry out administrative functions—although this was not the intention of the company's first administrator.

II

The first imperial judge was *Assessor* Georg Schmiele, a fully qualified lawyer on leave from the Prussian judicial service. He was empowered by the chancellor of the Reich on 14 July 1886 and installed by Schleinitz in the easterly of the two judicial districts he had created. Whereas Schmiele also acted as a legal adviser to Schleinitz, the administration of the Bismarck Archipelago was to be the function of the company's "station director" (*Stationsdirektor*).

This arrangement changed in 1889 when an agreement between the company and the Reich transferred the powers of the administrator to an imperial commissioner, Fritz Rose. But Schmiele stayed on. He left the employ of the company, joined the colonial service of the Reich and was appointed as a kind of deputy administrator with the title "imperial chancellor" (*Kaiserlicher Kanzler*). Nonetheless he also remained imperial judge for the Bismarck Archipelago, until he went on leave during the second half of 1891. He was relieved by *Assessor* Geissler¹ as acting imperial chancellor, who had also been empowered by the chancellor of the Reich to exercise the jurisdiction of the first instance.

While Schmiele was on leave the 1889 agreement between the company and the Reich was terminated. Schmiele was appointed administrator in June 1892, after rejoining the service of the company. This meant that the post of imperial judge in the Bismarck Archipelago now had to be filled on a permanent basis. The company was anxious that it should be held by an imperial official who would appear to be independent in the eyes of the white residents in this politically sensitive district.

1 Geissler's first name is not identified in the file. I have made no attempt to discover it or those of other minor characters appearing in this chapter.

Since Geissler was not prepared to stay on, arrangements were made in Berlin to send the secretary of the imperial commissioner in the Marshall Islands, Eugen Brandeis, as acting imperial judge to the Bismarck Archipelago. Brandeis was conveyed there by SMS *Sperber* and took over directly from Geissler—to the annoyance of chief justice Schmiele, who had not been informed about this move and could only give it his retrospective blessing by a decree of 5 February 1893.

After this unhappy start relations between Schmiele and Brandeis deteriorated to a point where the company asked the foreign office, in January 1894, for Brandeis's recall. After further incidents Brandeis was instructed to relinquish his post on 29 August 1894. *Assessor* Mellien was sent out to replace him. In the meantime the post was temporarily taken over by the imperial judge for Kaiser Wilhelmsland, Maximilian Krieger.

The company was also unhappy with Schmiele and terminated his contract. Seriously ill with malaria, Schmiele left in February 1895 and died, *en route* to Germany, in Batavia. He was temporarily replaced, in his capacity also as chief justice, by his deputy, Hugo Rüdiger, another retired naval officer, who had previously commanded the *Schutztruppe* in German East Africa. Not long after his arrival in the Bismarck Archipelago in December 1894, Mellien took ill, so that the company's station manager,² the engineer Wasa Mende, had to be empowered to deputise for him.³ This was ironic because the company had just obtained approval from the foreign office to also transfer the administrative functions of its station manager to the imperial judge.

Mende continued to act as imperial judge until he could hand over his judicial, as well as his administrative functions to *Assessor* Dr Albert Hahl, who arrived in January 1896. With Hahl's arrival a period of renewed judicial stability began for the Bismarck Archipelago. He stayed until the end of 1898, when he was, according to plan, replaced by *Assessor* Dr Heinrich Schnee.

When Schleinitz had created the two judicial districts in November 1886, he had reluctantly taken on the exercise of the jurisdiction of the first instance in Kaiser Wilhelmsland himself—until the arrival of a second judicial officer, which he expected in the near future. He could do this because, at the time, the supreme court of German New Guinea did not yet exist.⁴ When it was established the second judicial officer had still not arrived. Instead Schleinitz had continued to serve as imperial judge until he went on leave on 1 March 1888—from which he was not to return.

When his replacement, acting administrator Reinhold Kraetke, a senior official on loan from the German postal service, became *Oberrichter* on 1 January 1889, he authorised Schmiele, for the time being, to exercise also the jurisdiction of the first instance in Kaiser Wilhelmsland. This provisional solution was still in force when imperial commissioner Rose took over from Kraetke. Rose found it unsatisfactory and asked the chancellor of the Reich on 8 December 1889 to empower his secretary, Jordan, although he was not a fully qualified lawyer. He had only passed the first of the two legal state examinations and was therefore merely a *Referendar* rather than an *Assessor*, like Schmiele.

By the time the authority arrived in Finschhafen, Jordan had died of tuberculosis in Sorabaya. In his place his successor as secretary of the imperial commissioner, Arthur Hildebrandt, another *Referendar*, was made imperial judge on 27 July 1890. Hildebrandt did not last long, because he died in January 1891 as one of the first victims of the traumatic "malaria epidemic" in Finschhafen. Nor did his successor, Otto Wenzel, who was sworn in as imperial judge on 5 August 1891. He left German New Guinea on medical advice in January 1892, having suffered from malaria since his arrival six months earlier. His successor, Cordes, was empowered in March

2 The position of the company's most senior administrative official in the Archipelago had long been downgraded from station director to that of station manager.

3 Mende's authorisation was dated 1 July 1895, but Mellien had by then already left so that Mende had to start acting as an "emergency judge" (*Notrichter*).

4 Decisions of the imperial courts could initially be appealed to the *Reichtsgesicht* in criminal matters and to the German consular court in Apia in civil matters.

1892, but Rose found him to be incapable of dealing with complex legal issues, so that he transferred the exercise of the civil jurisdiction of the first instance to *Assessor* Geissler, the imperial judge in the Bismarck Archipelago, in June 1892.

When Schmiele took over from Rose, he installed his secretary, Hasse, another *Referendar*, as imperial judge for Kaiser Wilhelmsland with full powers on 5 February 1893.⁵ Schmiele found Hasse even less satisfactory than Rose had found Cordes and asked the company for his recall. When it was unable to find a replacement, it turned to the foreign office for help. Despite the bad experiences with Cordes and Hasse—which were at least partly due to their limited legal abilities—the foreign office was inclined to settle again for a person who had failed the second legal state examination and was therefore unable to pursue a legal career in metropolitan Germany. In the end, however, it was the company that found what it thought to be a suitable person, although the man in question, Maximilian Krieger, fell into the same category. It asked the chancellor of the Reich on 8 November 1893 to authorise Krieger to exercise the jurisdiction of the first instance, and its request was readily granted.

When Krieger arrived in German New Guinea he immediately got caught up in the tensions between Schmiele and Brandeis. The situation worsened when Schmiele accused the company's station manager, Paul Kolbe, of embezzlement and Kolbe responded by physically insulting Schmiele in public.⁶ Krieger became directly involved in these matters when he was sent to the Bismarck Archipelago to take over from Brandeis. His performance did not satisfy the company at all, so that it informed the foreign office in April 1895 that it intended to recall Krieger—whose main job at the time was that of secretary under the acting administrator Rüdiger, since Schmiele had by then departed. As negotiations between the company and the Reich, aimed at handing over all governmental responsibilities permanently to the Reich, were already well advanced, it thought that it was important to replace Krieger in his capacity as imperial judge for Kaiser Wilhelmsland with a well-qualified person who could continue to serve under an imperial administration.

It was only because the company found it more difficult than expected to unload its governmental responsibilities that Krieger remained on the bench until Rüdiger was informed in April 1896 that Krieger, as well as the company's station manager in Friedrich Wilhelmshafen, had engaged in homosexual acts with Melanesian plantation labourers.

Rüdiger was out of his depth. He started disciplinary proceedings against the two men, who, in turn, charged their accusers with defamation. Thereupon Rüdiger, in his capacity as acting chief justice, instructed Hahl to come to Kaiser Wilhelmsland to carry out judicial investigations. But instead of awaiting their outcome, Rüdiger decided that the accusations could not be sustained and reinstated Krieger in his office as imperial judge, from which he had earlier suspended him. In addition he dismissed two of the accusers in his capacity as acting general manager of the company.

Since the other accusers were about to complete their contracts, without a prospect of having them renewed, and since the two accused also decided to quit the colony, soon none of the parties were left. They were followed by Rüdiger, who departed in August 1896—ostensibly for health

5 Rose had also appointed the clerk of the court, Arno Senfft (see above: 121) as auxiliary judge (*Hilfsrichter*)—an appointment which Schmiele also terminated.

6 Yes, it was Kolbe, by then already married to Queen Emma, who struck Schmiele with his riding whip, trying to provoke Schmiele to challenge him to a duel. It was also Kolbe who was sentenced by the supreme court for committing adultery with one of Queen Emma's nieces. And it was another of these nieces who followed Kolbe's example by striking captain Prey, the commander of the mobile police unit, with her riding whip. And yes, it was *Assessor* Wolff who instructed the Japanese sailor to bring the woman whom he had "inherited" from his predecessor Boether to Herbertshöhe on the *Zabra*—and who was, perhaps, also the author of the sealed letter to the harbour master in Friedrich Wilhelmshafen which, perhaps, confirmed these instructions. And so it goes on. Even Berghausen figures marginally in one of the supreme court cases because the man fined for defaming governor Hahl had claimed that Hahl had perverted the course of justice in Berghausen's favour. But what do such juicy stories, which I covered with a veil of anonymity in the previous chapter, contribute to an understanding of the history of German colonial rule?

reasons—after he had been severely criticised by the company, which described the relations among its employees in Friedrich Wilhelmshafen as “truly hopeless”. While Hahl’s judicial investigations dragged on, conveniently prolonged by the need to obtain evidence from witnesses who had returned to Germany, Kaiser Wilhelmshafen was once more without an imperial judge.

On 25 August 1896 the company renewed its plea to the foreign office for help in finding a replacement for Krieger, although this time without a reference to an imminent assumption of the governmental responsibilities by the Reich. Again it was the company which eventually found a candidate: Hugo Skopnik, a practising lawyer, whom it regarded, despite his “advanced age” of 39, as superbly fit for service in the tropics.

Skopnik was empowered to exercise the jurisdiction of the first instance in June 1897. Less than a month later the company approached the foreign office to empower him instead to exercise the jurisdiction of the second instance, as it had been necessary to appoint Skopnik as acting administrator, because Rüdiger’s successor as acting administrator, Curt von Hagen, had been shot dead while trying to recapture the suspected Melanesian murderers of the explorer Otto Ehlers.⁷

As Skopnik’s promotion left the position of imperial judge in Kaiser Wilhelmshafen vacant, the company suggested filling it with one of its assistant plantation managers, Erich von dem Knesebeck, who happened to be a *Referendar*. But Knesebeck never went into action as a judge, or even learned about his elevation to the bench. The company returned his authorisation to the foreign office in March 1898, informing it that Knesebeck had left its services.⁸

Neither the company nor the foreign office were unduly concerned about this turn of events, although Kaiser Wilhelmshafen had now been without an imperial judge for almost two years. But things were about to change. The foreign office had resumed negotiations with the company about the conditions for a termination of its charter and was therefore prepared to make an effort to see that the position was filled with a person whom it was happy to employ when it took control. On 18 April 1898 the chancellor of the Reich authorised *Assessor* Paul Boether, a junior official in the colonial department. Boether arrived in Kaiser Wilhelmshafen in June 1898, as an employee of the company but confident that his transformation into an imperial official was not far off. The metamorphosis took place on 1 April 1899. Yet it was Schnee, rather than the more senior Boether, who was appointed acting governor—and acting chief justice—because the capital was moved from Kaiser Wilhelmshafen to the Bismarck Archipelago. Boether stayed on as imperial judge, although now with added administrative responsibilities, until he fell victim to a campaign by his former company colleagues who did not like the way he carried out his duties.

On 21 May 1901 a senior employee of the company, who was also serving as public prosecutor, reported to governor Bennigsen, in his capacity as chief justice, that the “sexual perversions” of the imperial judge Boether—who had allegedly been observed performing cunnilingus on a Malay woman—were the talk of the town. Bennigsen was willing to back Boether to the hilt and lent his full support to the defamation charges laid by him against his accusers. However, Bennigsen had left German New Guinea and Boether had gone on his regular home leave before the matter was finalised.

Hahl, who had returned as acting governor to his old stamping ground, and Wilhelm Stuckhardt, who had succeeded Schnee as imperial judge for the Bismarck Archipelago, held a different view. Stuckhardt had investigated the matter which Bennigsen had referred to the imperial court for the Bismarck Archipelago until he was posted to Kaiser Wilhelmshafen. When he was no longer judicially responsible, Stuckhardt wrote to Hahl on 15 November 1901 suggesting a political solution: to ask the company to recall the two employees against whom the

7 Hahl, who stepped into the breach as acting administrator in August 1897, was more urgently needed in the Bismarck Archipelago

8 Skopnik also never officiated as imperial judge. He had been promoted before he arrived in Kaiser Wilhelmshafen in September 1897.

defamation charges had been laid and to drop the charges afterwards. Hahl was all in favour of doing the latter, before an embarrassing public hearing took place, but had little hope that the company could be persuaded to part with the more senior of the two persons charged, who was one of its most valued employees. Instead he emphasised in his report to Berlin that it would be unwise to send Boether back to German New Guinea after the end of his leave.⁹

By the time the files—but not Boether—had returned, Hahl was himself in Germany on sick-leave, and the matter rested until Boether made an application to join the defamation prosecution as a private plaintiff in December 1902. The application went to the court in Friedrich Wilhelmshafen, but was referred by Stuckhardt to Emil Wolff, who had succeeded him as imperial judge for the Bismarck Archipelago, and by Wolff to acting governor Knake, who decided to reserve this delicate matter for Hahl whose return was by then imminent.

Should the defamation proceedings be continued, Wolff had wanted to know. There were good reasons for discontinuing them, Hahl commented on 17 April 1903, in particular as one of the two accused had died in the meantime, but he did not want to interfere in any way with Wolff's judicial independence. So Wolff had to bite the bullet himself. Ten days later he admitted Boether as a private plaintiff but immediately discontinued the defamation proceedings because one of the accused had died and because the other was protected by section 193 of the German Criminal Code, as it had been interpreted by the supreme court of Saxony in a decision in 1889, according to which it was legitimate to bring slanderous rumours about an official to the notice of his superior¹⁰—and this was the end of that matter.

III

The imperial judges did not become suddenly extinct as a species when the Reich took over full governmental responsibilities for German New Guinea. Instead its two resident specimens, Boether and Schnee, began to transform themselves into district commissioners, for whom their judicial powers as district judges, and as chairmen of the station courts, were extensions of their executive powers. This transformation became more clearly visible when additional government stations were opened, because it was taken for granted that station courts would be attached to each of them and that they would be chaired by the local district officer rather than the district judge. On the contrary, it became customary for district judges to delegate more and more of their other judicial powers to these district officers. It took until 1909 before at least the office of district judge in the Bismarck Archipelago was separated from the office of district commissioner. Even then the district judge remained obliged, in the view of governor Hahl, which was shared by the colonial office, to carry out administrative tasks at the instuction of the governor.¹¹

The survival of the species "imperial judge" had, from the start, depended on the peculiar division of governmental powers in the imperial charter granted to the Neu Guinea Kompagnie which had constituted the administration of justice as an imperial enclave in the domain of company government.

The charter itself had weakened its vital force by insisting that the administration of justice, although a responsibility of the emperor, had to be paid for by the company, thus necessarily giving it some influence. The second blow came when it was decided, instead of establishing a separate imperial judicial service the running costs of which were refunded by the company, to

9 In his memoirs Hahl claimed that Boether had left because he—like Bennigsen—had been unable to withstand the long term effects of the climate on his health (1980: 89 and 80).

10 See AA 63/83, B46: *Kaiserliches Bezirksgericht* Herberthshöhe, Str. Pr. 15/1901.

11 The position of the district judge for the Bismarck Archipelago was a "*Hauptamt*", which did not preclude that its occupant could be asked to carry out "subsidiary functions" (*Nebenämter*), as the best, but still misleading, English translation—"full time position"—suggests.

entrust the administration of justice to company employees who were, as such, hired and fired by the company. The third blow was the creation of a dual system of justice which excluded natives from the jurisdiction of the imperial courts, combined with the decision to transfer the administration of justice in relation to natives altogether to the company, instead of establishing imperial courts for natives. It was the company that softened this blow by establishing its own criminal courts for natives and by placing them under the imperial judges rather than its station managers.

On the other hand, the company was not prepared to send out the second full-time judicial officer administrator Schleinitz had expected. Acting administrator Kraetke, upon becoming chief justice, placed the imperial court for Kaiser Wilhelmsland, over which he had until then presided, under the imperial judge for the Bismarck Archipelago and not under one of its local administrative officials. The secretary solution was only adopted by imperial commissioner Rose, when he requested that his secretary be authorised to exercise the jurisdiction of the first instance in Kaiser Wilhelmsland. This solution was not an invention of Rose; it was routinely used in other German colonies, including the Marshall Islands, which never had a full-time imperial judge of the first instance. On the contrary, the German government also transformed the position of imperial judge for the Bismarck Archipelago by attaching the exercise of the jurisdiction of the first instance to Schmiele's new office as imperial chancellor, which was primarily administrative.

The decisive test came when Schmiele was installed as the company's new administrator, with a seat in Kaiser Wilhelmsland, and after acting imperial chancellor Geissler had left the Bismarck Archipelago.

It is indicative of the attitudes prevailing in Berlin at the time that the transfer of Brandeis from the Marshall Islands was carried out without consultation with Schmiele as chief justice, that the transfer was used to downgrade this politically sensitive office from the level of "chancellor" to that of "secretary" and that it was filled, although it required considerable legal ability, with a person who had no legal training at all.¹²

Matters were made worse when this new breed of imperial judge—an imperial official placed under a chief justice who was a company employee—was, after Schmiele's departure, also entrusted with administrative responsibilities. Indeed this new arrangement made sense only as a partial anticipation of the takeover of full administrative responsibilities by the Reich. It left the company's administrator in an impossible situation, with which he could only cope by treating this imperial official as the representative of a foreign government and not as someone who was legally a subordinate in his administrative as well as judicial capacity.

In practice the situation was even more problematic because the company did not bother to find a permanent replacement for Schmiele as administrator and chief justice for what turned out to be another four years. The German government took its responsibility for assuring an adequate administration of justice in Kaiser Wilhelmsland hardly more seriously. By the time Boether arrived as the first fully-fledged imperial judge in 1898, whom Schleinitz had expected more than ten years earlier, the colonial government of German New Guinea had, generally, become little more than a farce.

Seen in this light Boether was the counterpart of Schmiele in the Bismarck Archipelago at the beginning of company rule, so that it is fitting to compare how these two only true specimens of the species "imperial judge" tackled their task.

¹² Despite his unimpressive performance, Brandeis was subsequently promoted to administrator and chief justice of the Marshall Islands—which gives Dernburg's defence of him, on account of his lack of legal training (see above, p. 66), a rather hollow ring.

IV

When Schmiele was installed in the Bismarck Archipelago in November 1886, he found little order, or respect for law, but a motley group of white residents who were quite happy with this state of affairs, although they would call, from time to time, for more energetic naval protection. Schmiele was therefore not received with open arms. Besides, he was, according to imperial commissioner Oertzen, probably “a very good lawyer”, but a person who “completely lacks the gift of adjusting to new conditions and shows his ill humour so openly that after only two months no one likes to see him and the navy refuses to see him at all”—according to his final report of 29 January 1887 (RKA 2977). But then the “new conditions” confronting Schmiele were hardly conducive to improving his humour. Thus the company’s physician in Finschhafen noted in his diary on 7 August 1887 that the settlers had again taken the administration of justice into their own hands. “They had 25 strokes administered to a native, after sending the imperial judge a friendly invitation to attend these judicial proceedings” (Schellong, 1934: 150).

All Schmiele could do in response to such provocations was to keep his temper as best he could, as he had, at the time, no jurisdiction over natives and would have made a fool of himself if he had ordered the white residents responsible to appear before his court because he also had no means of enforcing a summons. Schmiele had learned that persuasion did not do him much good either, because he had already tried this method by sending a carefully worded circular to all the settlers under his jurisdiction on 28 January 1887, the day before Oertzen’s parting shot.¹³

After explaining that all non-natives, irrespective of their nationality, had been subject, since 1 September 1886, to a slightly modified version of the German/Prussian civil, criminal and procedural law, Schmiele singled out some of the consequences of this state of affairs which were of special practical importance.

As regards the civil law he focused on the large areas of land non-natives claimed to have bought from natives before further acquisitions had been declared to be invalid in 1885. The most significant point made by Schmiele in this context was the foreshadowing of the need for setting aside native reserves. Even where natives had sold all their land, they nonetheless retained a claim to their dwelling places and to enough land for gardening in line with customary practices. Schmiele also pointed out that the sea-shore up to the high water mark in these areas was public property and that all traditional public markets and meeting places, as well as regularly used native tracks, had to remain accessible to the public and that their closure constituted a criminal offence. Hence non-natives claiming tracts of land could not legally prevent competitors from buying coconuts from natives at the beaches adjoining that land or at public markets situated on it.

On the other hand, Schmiele stressed that coconut palms growing on privately owned land “doubtlessly” belonged to its owner, so that persons buying nuts which they knew, or had reasons to believe, had been collected by their native sellers on land belonging to others were guilty of receiving stolen property. Schmiele also criticised the practice of paying natives for coconuts they had collected on land the buyer claimed to own. To avoid confusion, the buyer had to make clear that he did not pay the natives for the nuts, which he already owned, but merely for the labour of collecting them—a fact which had to be reflected in a distinctly lower rate of pay.

As regards the criminal law, Schmiele was emphatic that it recognised no distinction between natives and non-natives. The burning down of a native hut was as much arson as the burning down of a planter’s residence, and the killing of a native was legally the same as the killing of a white person. Since the German Criminal Code provided heavy penalties for all such acts, Schmiele implored all settlers to refrain from resorting to self-help, as had been the practice in the past. As long as natives were not placed under the jurisdiction of courts, complaints against them had to be taken to the administrator or an administrative official authorised by him.

13 I spotted a copy of this circular in the archives of the Archdiocese Rabaul (No. 128 NGC 1887).

Schmiele's circular closed with an expression of confidence that the settlers would support the imperial court in its difficult task of making German law and order also a reality in this colony; for those who stood firm in "the fight for law" (*der Kampf ums Recht*) would be richly rewarded, because it was only under the Rule of Law that their enterprises could economically flourish.

The settlers disagreed. As one of the most prominent among them put it: Schmiele had selected "*fiat justitia pereat mundus*" (let justice be done though the world perish) as his motto and would have destroyed the existing trade in the Bismarck Archipelago within a year if he had had the means or power to enforce his orders (Hernsheim, 1983: 106).

It is hard to imagine that Boether, even if he had been a reincarnation of the young crusader Schmiele, could have resorted to the same blue-eyed pathos when he arrived in Kaiser Wilhelmsland in June 1898. His problem was not a wild bunch of competing traders, used to taking the law into their own hands, but a shrinking band of disgruntled company employees who felt that they had been buried under an avalanche of regulations, of which they took as little notice as possible.

Boether was horrified when he inspected the files kept by the imperial court in Stephansort. Files dealing with matters completed ten years ago were still floating around, without any instructions as to what was to happen with them. Since there were also no legal provisions covering this question, Boether appealed to acting administrator Skopnik to approach the company's board of directors to request a decree by the chancellor of the Reich which would declare two time-honoured decrees of the Prussian minister of justice dealing with the storing and the destruction of court files to be correspondingly applicable in German New Guinea. Skopnik sent Boether's proposal with his luke-warm blessings to Berlin, but by the time the proposal had reached the colonial department, the assumption of full administrative responsibilities by the Reich was only a few weeks away and it refused to consider it.

Boether was informed about this decision by Skopnik and, three months later, by the new imperial governor Bennigsen. Boether added the latter notification in October 1899 to the most general of the files of the imperial court in Stephansort he had established shortly after his arrival. It became the last document on that file (AA G254/1). But if Boether's reformist zeal had by then been crushed, he had expressed it all the more vigorously during his first six months in office.

He had showered Skopnik with requests, ranging from one for literature which would assist him in learning a native language to one for information as to whether implementation regulations had been enacted for the 1888 Native Penal Ordinance—which had promptly happened, although no copy of the regulations was held by the station court in Stephansort. Above all Boether struggled to make the commercial arm of the company more law-abiding, since it was not only reluctant to send native labourers as witnesses in court proceedings, or non-native employees who could defend accused natives or interpret for them, but often openly disregarded the laws it was meant to follow. For example, the company store was selling liquor without the required licence. When Boether laid charges, station manager Wandres simply issued a retrospective licence, with the instruction that the licence fee be credited to the administrative accounts of the colony, although Wandres should have known better since he had also been in charge of the station court until shortly before Boether's arrival.¹⁴ But then he had been removed from this office by Skopnik because he himself had been accused of maltreating his labourers (see AA G254/1 and 4).

While the accusations and counter-accusations connected with this move (see RKA 2414) merely illustrated that the relations between the employees of the Neu Guinea Kompagnie in Kaiser Wilhelmsland were as "hopeless" in 1898 as they had been two years earlier, the case of

¹⁴ Wandres had probably been placed in charge of the station court because the position of imperial judge was unfilled. It would seem that the establishment of a second station court for Friedrich Wilhelmshafen happened for the same reason. It is worth mentioning that Wandres later became one of the main agents recruiting coolies for German New Guinea in China.

the Amboinese Leunard Weinand da Costa, who had been charged with murdering a native near the company's westerly outpost in Berlinhafen, proved to be unexpectedly illuminating (see AA 63/83, Item 957).

On 1 November 1898 Paul Luecker, in his capacity as "chief of police" (*Polizeivorsteher*) in the Berlinhafen district, investigated accusations that da Costa had shot dead a native on Tarawai Island. He did so in the presence of Boether who, for reasons which will become apparent, chose to remain officially in the background. The case was cut and dried because the accused made no attempt to deny the accusation.

Da Costa had been sent to Tarawai to buy coconuts and turn them into copra which was then collected by Luecker, who was also in charge of the company's commercial operations in the area. Da Costa's problems started when the natives refused to sell him nuts because they preferred to keep them for Malay traders they expected from Ternate—who supplied them with large quantities of Dutch gin which they were happy to share with da Costa. After a good lunch, to which he had invited another Malay trader who was working for the company on a neighbouring island, and reinforced by half a bottle of gin, da Costa went off with two of his labourers to tell the natives in no uncertain terms that he wanted their nuts—and without delay, because Luecker was due shortly to collect da Costa's copra and da Costa was loath to face him empty-handed. When his attempts at persuasion failed, da Costa calmly shot a chief through the head, and this worked, because about 3,000 coconuts were brought to his station in the course of the same afternoon.

Boether was shocked that da Costa had found it natural to kill a native in order to overcome the reluctance to sell him coconuts. He therefore asked him whether he had shot natives before. Yes, he had, da Costa replied. In 1891 his boss in Stephansort, Herr von Puttkamer, had instructed him to cut a road from Stephansort to Erima. The inhabitants of a native village through which it was routed threatened his labourers with their spears. When da Costa reported that to Puttkamer, he was told to try again. He was given an escort of four armed native policemen, supplied with fuel to burn down the houses, and ordered to shoot one of the natives should they attack, because the rest would then run away. The natives did attack, da Costa did shoot one of them, and the rest of them did run away. When he had reported this to Puttkamer, he had been told he had done a good job.

The case was clear, but what to do with it? Was da Costa legally a non-native who had to be prosecuted before the imperial court, or was he legally a native who had to be prosecuted before the station court? If the latter was the case, it first had to be determined which station court was competent to handle the matter, because the Berlinhafen district did not have its own station court and because Boether was only in charge of the station court in Stephansort, but not of the geographically closer station court in Friedrich Wilhelmshafen.

As da Costa's papers did not answer the first question, Skopnik suggested that Boether write to the Dutch resident in Amboina.¹⁵ Boether decided that it was more proper to write to the German consul in Macassar who then contacted the Dutch resident in Amboina who answered it in the negative: da Costa was not regarded as a European on Amboina but came exclusively under "the indigenous law" (*die einländischen* [!] *Gesetze*). That left the second question, which Skopnik answered on 14 March 1899. Instead of establishing a third station court in Berlinhafen, he officially closed down the station court in Friedrich Wilhelmshafen and extended the jurisdiction of the station court in Stephansort to the whole of Kaiser Wilhelmsland.

The hearing on 19 May 1899 was brief, as da Costa again readily confessed. The court found him guilty of intentional homicide but did not pronounce the death penalty. Instead it sentenced da Costa to six months compulsory labour without imprisonment, because his level of education did not allow him to appreciate that natives had "the same rights" (*die gleiche Rechtsfähigkeit*) as

15 The papers did show, however, that da Costa had been treated as a non-native by the company which had therefore paid him a salary rather than wages.

other people and because it accepted that da Costa, in the light of his 1891 experience, had genuinely believed that what he had done, although wrong in principle, had nevertheless been justified under the circumstances.

What I found most shocking about this case was not the callous behaviour of da Costa, nor the explanation he provided for it, nor even the fact that Boether took it for granted that da Costa's account of the 1891 incident was true, but that the file showed no indication that Boether, or anyone else, pressed charges against Puttkamer over his role in the 1891 shooting. It was unlikely that Boether did not pursue the matter because he regarded Wilhelm von Puttkamer, the brother of the governor of the Cameroons and the grand nephew of Bismarck, as not sufficiently educated to appreciate that natives had the same rights as non-natives. Nor did I believe that Boether had been afraid to target Puttkamer because of his high connections. To be sure, Boether probably thought that there was little point in prosecuting Puttkamer, who had long left German New Guinea, as the chances of proving, after eight years, that he had given da Costa the instructions the latter claimed to have received were slim indeed, but it rather appeared that Boether had accepted that "the conditions" in Kaiser Wilhelmsland in 1891 had been such that Puttkamer too could not be held legally responsible for the manner in which its indigenous population was treated and that "the conditions", at least at the colonial frontier, had still not sufficiently normalised in 1898 to apply civilised legal standards, certainly not to people like da Costa.

After a dozen years of German colonial rule the Rule of Law had not yet become a reality. Another dozen years later the supreme court was still uncertain whether the time had come to enforce equal legal protection for natives. Nonetheless, a comparison between the messages sent by Schmiele in his 1887 circular, by Boether in the da Costa decision in 1899 and by the supreme court in 1912 indicated significant historical changes. It was tempting to fill in the gaps in this progression with a detailed discussion of other cases, for example, the case against Behse, Luecker's successor in Berlinhafen (see above: 176), in which the decision of the district court for Kaiser Wilhelmsland, under the chairmanship of Boether, was essentially confirmed by the supreme court under acting chief justice Hahl in 1901. The decision of the supreme court had focused primarily on Behse's maltreatment of a native employee, whereas it had little to say about the main charge of manslaughter, because it agreed with the decision of the district court, which had sentenced Behse to nine months imprisonment for the killing of a native in the course of a kind of private punitive expedition—a form of behaviour the court had found unacceptable in principle, although it still took the abnormal frontier conditions into account when sentencing Behse.

It was also tempting to investigate to what extent Schmiele, contrary to Oertzen's predictions, had gradually adjusted to the "new conditions", or to what extent Boether's inability or unwillingness to do so sufficiently—at least in the view of Hahl, who took a more pragmatic position than either Boether or governor Bennigsen—had been the main reason for his career in German New Guinea, and indeed the colonial service, coming to a premature end.¹⁶

On the other hand, the history of the imperial judges strongly suggested that it was "the conditions" existing in German New Guinea, and the changes in these conditions during the period of German colonial rule, that mattered historically, rather than particular actions particular historical actors had performed on this historical stage. Who was responsible for "the conditions" around Stephansort in 1891, or Berlinhafen in 1898? Station manager Puttkamer? Imperial commissioner Rose? Acting administrator Skopnik? The Neu Guinea Kompagnie's board of directors? Or the German government, which had certainly not lived up to its obligations under the imperial charter to assure that adequate institutions of government and, in particular, an

¹⁶ Judging by the "Hubatsch Lists", Boether was also not sent out as a "field officer" to another German colony. But then Boether does not figure at all in the Kaiser Wilhelmsland list because no information for the 1900-1901 period is said to have been available (1984: 517)—which is, of course, another convenient phantom.

adequate administration of justice were maintained in German New Guinea? Had it been the Reichstag, because it had refused to approve the 1896 agreement with the company which would have brought its rule to an end long before Boether's arrival? Had the exercise of German colonial rule been predominantly shaped by the physical conditions and especially by their impact on the state of health of the colony's non-native population and that of their native employees? Or had it, by and large, all simply been a matter of money? Had the colonial law indeed been historically irrelevant under these circumstances? Was the best way of painting a general picture of German colonial rule an examination of its financial aspect? Before putting my fate into the cold hands of accountants another narrative excursus was called for.

Chapter 9: No Roses For Winter

I

My tale begins as one of the few success stories in the early history of German New Guinea. Julius Winter arrived in a small sailing vessel from British New Guinea in January 1887, entered the services of the Neu Guinea Kompagnie and quickly rose to the position of manager of its central station in Finschhafen. His rise was largely due to the fact that he was the first company employee who succeeded in recruiting a substantial number of natives as labourers in Kaiser Wilhelmsland. This gave the company hope that local recruitment would soon replace the more expensive importation of Melanesian labourers from the Bismarck Archipelago, and the still more expensive importation of Malay and Chinese coolies from abroad. A separate labour depot was proudly established in Finschhafen in April 1890 and placed under Winter (NKWL, 1890: 81). But the situation soon changed. The next reference to Winter in the company's journal is an entry under "personnel changes", according to which Winter had been dismissed (NKWL, 1891: 4).

Winter's downfall was brought about by imperial commissioner Rose, who had taken charge of the administration of German New Guinea in November 1889 (NKWL, 1890: 7). In September 1890 he reported to the chancellor of the Reich that it was necessary to ensure that all company employees who were entrusted with the exercise of governmental functions had the appropriate "moral quality".¹ As manager of the company's central station Winter was an obvious candidate for such an authorisation, but his past was covered by a veil of darkness.

According to the register of non-natives, Winter had been born in Bezdan, Hungary, in 1856. He was a "reformed Protestant"—an indication that he was of Jewish descent—and his father was a professor in Budapest. His last residence before coming to German New Guinea had been Kimberley, Western Australia.

Rose had become suspicious that all was not well with Winter's past, so he claimed, because Winter had taken no steps to acquire German citizenship, although the company had made the confirmation of his temporary appointment as station manager subject to such a change of status. Were the rumours true that he had left Hungary to escape a conviction for embezzlement, so that he could not satisfy the legal requirements for becoming a German citizen? Since it was in Winter's interest to have the situation clarified—unless he had something to hide—Rose requested that official inquiries be made about Winter's past. But Rose also expressed a different concern: the company appeared to believe that Winter was irreplaceable and was therefore resolved to retain his services at all costs.

By the time the foreign office had instructed the German consulates in Budapest and Sydney to investigate, a second report by Rose was on its way to Berlin. In it Rose complained bitterly about the difficult conditions under which the few imperial officials had to work in Finschhafen. For these he held Winter largely responsible, who resented the curbing of the virtually unlimited powers he had wielded in the district until Rose's arrival. Initially Winter had been kept in check by the company's energetic general manager, Hans Arnold, and the situation had improved further when he, Rose, had also temporarily taken over the company's commercial management after Arnold's death. On the other hand, this had heightened Winter's resentment which he had vented with renewed vigour since the decent but weak Eduard Wissmann had become the company's general manager in July 1890. Thus, Winter had publicly ridiculed the appointment of imperial secretary Jordan as "chief of police" (*Polizeivorsteher*) in his place by claiming that he could still do what he liked in and around Finschhafen because all land was the private property of the company. He had also ridiculed Jordan in public, when the latter had complained that Winter had

1 Unless otherwise indicated the following account is based on RKA 2409 and 2410.

delayed passing on communications addressed to the “chief of police”, although he had known that Jordan was mortally ill at the time. However, Rose was especially offended because Winter had declined a dinner invitation by him, with the excuse of having to rest after a strenuous hunting expedition, although this had not prevented him from spending the evening instead with captain Herbing on SMS *Sophie*, which was visiting Finschhafen at the time.

The main purpose of Rose’s second report was to ask the foreign office to persuade the company’s board of directors to remove Winter as conditions in Finschhafen would otherwise become intolerable. Rose also seized a local opportunity when the captain of the company’s steamer *Ysabel* complained to him that Winter had beaten one of his native crew members. Rose passed the matter on to Jordan’s successor, Hildebrandt, who, in his capacity as imperial judge, immediately interrogated Winter, in addition to taking evidence from his alleged victim and from Dr Carl Weinland as a medical expert witness.

The facts of the case were undisputed. The victim, a Tolai who went under the name of Hannes, together with a friend, had gone to Winter’s house the previous evening with the intention of “sexually misusing” (*geschlechtlich missbrauchen*) a Melanesian woman who worked for him. They were disturbed before they could carry out their plan and ran away, but Hannes was recognised. When Winter heard about the incident the next morning he went to captain Schneider and demanded that Hannes be handed over to him for punishment. Schneider refused but Winter managed to get hold of Hannes when he came ashore and gave him “about ten lashes” with the rope which was used for disciplinary punishments at the station. Although Hannes had suffered some bruising, he was not seriously hurt.

Winter admitted that, strictly speaking, he should have informed the station court about the incident, instead of punishing Hannes himself, but he also insisted that he had nonetheless been justified in what he had done, because he had defended “the honour of his house” and had only administered what had been an appropriate and speedy punishment. The imperial court under the chairmanship of Hildebrandt disagreed and sentenced Winter to two months imprisonment.

In his report Rose claimed that he had been far from happy, because the punishment had been excessive and because Hildebrandt had legally bungled the case by overlooking section 228 of the German Criminal Code. This would have allowed him to consider extenuating circumstances, which would have given him the option to go below the otherwise mandatory minimum penalty of two months imprisonment prescribed by section 223a for an assault with a dangerous weapon. Nonetheless, Rose had been surprised by the intensity of the public antagonism to Winter’s prison sentence. In a third report, dated 25 November 1890, he therefore stressed that the judgement had offended the general sense of justice in the colony and had undermined the confidence in the imperial authorities—perhaps to let the effectiveness of his own damage control shine all the more brightly.

Hildebrandt, according to Rose, had made matters worse for himself by wrongly claiming in the written reasons for the judgement that he had considered but rejected the application of section 228. Unfortunately this “falsification” had only been discovered after a copy of the judgement had been served to Winter so that it was too late to persuade Hildebrandt to remove the offending sentence (*auf eine Streichung hinwirken*). Instead Rose had relieved Hildebrandt of his judicial duties and banished him to the Bismarck Archipelago, pending further instructions from Berlin.

Winter had lodged an appeal on 6 October 1890. It was heard just two days later by the supreme court, chaired by imperial chancellor Schmiele, since Rose had ruled himself out as presiding judge in this case. It was a lucky coincidence that not only Schmiele, but also two Rhinish missionaries from Astrolabe Bay were present in Finschhafen, who could serve as “neutral” lay assessors. Their joint performance fully satisfied Rose. The court stressed that Winter had not been entitled to punish Hannes and that his unjustified belief in his omnipotence had made the offence unusually serious. On the other hand it decided that the rope used for the beating was not a dangerous weapon in the meaning of section 223a, so that the offence came, as

an ordinary assault, under section 223. This gave the court wide penal discretion. It settled for the highest permissible fine, namely 600 Marks, but stopped short of a prison sentence because Rose, who appeared as a character witness on behalf of Winter, attested that Winter was generally known for his humane treatment of native labourers.²

This public gesture, however, did not stop Rose from restricting Winter's disciplinary powers as station manager a few days later by making their exercise in each case subject to written permission by himself—a provocation to which Winter responded with a formal complaint to the chancellor of the Reich. By the time the complaint reached Berlin it had become immaterial, because Rose had put so much pressure on Wissmann that he had terminated Winter's contract on 25 November 1890—at considerable expense to the company, since Winter had made his agreement to this termination without notice subject to the payment of three months salary, a free trip to Australia and the return of the substantial bond which served as security for any subsequent claims on the company resulting from his employment.

But this was not the end of the matter; for when the company's board of directors passed on Winter's complaint about Rose to the chancellor of the Reich in February 1891, pointing out that there was no need to respond to it, since Winter had in the meantime left German New Guinea, it had added a complaint of its own, because it found Rose's campaign against Winter objectionable. Yet its complaint too was overtaken by events on the other side of the globe.

On 4 December 1890 the company's accountant in Finschhafen, Friedrich Jäger, reported to Rose that his key to the safe had disappeared. When Rose informed Wissmann a few days later, Wissmann ordered the safe to be opened with a reserve key. It was empty; about 9,000 Marks had gone. This led to the forced opening of the safe of the Finschhafen station, which had been under Winter's control, for which no reserve key was available, and the disappearance of about another 2,000 Marks in cash was discovered. For Rose the case was clear: Winter had cleared out both safes before his departure and he, Rose, had been right all along in his suspicions. The company was less certain, but it too had lost faith in Winter since an examination of the station's accounts, which he had kept, had revealed discrepancies which amounted to several thousand Marks.

It was time to go after Winter, so that the investigations carried out by the German consulates earlier acquired a new practical importance. While the consulate in Sydney had unearthed no useful information, the response of the Austro-Hungarian authorities revealed that the information "Winter" had provided about himself was fabricated. There were no "Winters" in Bezdan, nor was there a "Professor Winter" in Budapest, and a "Julius Winter" had never come to the notice of the authorities in either Budapest or Vienna.

Although "Julius Winter" was therefore merely an alias, the company could provide the foreign office with a suitably sinister description of the man who used it. He was small and hairy. Despite his Hungarian-Jewish features, his appearance was "interesting if not pretty", although he had remarkably bad teeth, chronically dirty fingernails and a "wave" tattoo, several inches long, on one of his arms, a visible sign that he had become the blood brother of one of the native chiefs. Unfortunately its informants had been unable to confirm whether the man had been circumcised, his alleged Christian faith notwithstanding.

Yet, what was the use of the most lurid description? Even if it helped to locate "Winter" in Australia, where he would most likely be, the Anglo-German extradition treaty, although it covered Australia, did not apply to offences allegedly committed in a German colony. But was "Winter" in Australia? An 1892 report by the German consulate in Sydney suggested that he had indeed spent a brief period in the Kimberley region, but that he had moved on, first to Japan and then to Hawaii, from where he had caught a steamer to San Francisco in March 1891. During this trip he had met a former employee of the Deutsche Handels-und Plantagen-Gesellschaft, whom

2 I came across this case after I had completed my examination of the historical record relating to the judicial activities of the supreme court. The relevant case file of the imperial court in Finschhafen no longer exists.

he had told that he had applied for a job with that company in Samoa but that he first intended to pay a visit to Germany and Hungary.

Yet even if "Winter" was innocent of any criminal wrongdoing, in retrospect he might well have been grateful to Rose for forcing him out of German New Guinea; for not long after the discovery of the empty safes Finschhafen itself was vacated. During January 1891 a "malaria epidemic" killed *inter alia* general manager Wissmann and the accountant Jäger, imperial secretary Hildebrandt and the clerk of the imperial court, Appel, as well as the man who acted as the clerk of the supreme court during Winter's appeal, and even the medical expert witness, Dr Weinland (see NKWL, 1891: 4). Although Rose himself escaped unharmed he probably felt, after this experience, that "Winter" had been a comparatively minor nuisance.

I found this case instructive in several respects, albeit in a frustratingly inconclusive manner. Had "Winter" been "a criminal type" or an innocent victim of a campaign by Rose to destroy a powerful rival? Rose himself certainly did not emerge from the record as a model character, or even as a particularly skilful administrator. Had he, in addition, been motivated by anti-Semitic sentiments? On the other hand, Winter's Jewish background had not disturbed the Neu Guinea Kompagnie,³ nor had it prevented captain Herbing from spending a social evening with Winter on board SMS *Sophie* to which Rose had not been invited.⁴ Had Hildebrandt treated the case against Winter the way he had because he had believed that this was what Rose expected of him? Had Rose only turned against Hildebrandt when the prison sentence had caused a public outcry? Had Winter's treatment of native labourers been generally humane? Did Rose know any more about the treatment of native labourers in Finschhafen than he did about the treatment of the natives living around Stephansort under the management of Puttkamer?

There was no question that stories such as this were an important part of the history of colonial rule in German New Guinea. But they only represented bits of flesh, as it were, whereas I had to try to identify the structure of its skeleton, and an examination of the financial framework of governmental action still appeared to be a promising way of making some progress in this regard, since it was plain that the best laws could do no good, and that the worst policies could do no harm, if there was no money to implement them.

But it seemed sensible, before moving to the big picture, to take another look at the Winter Case because what it had told me about Rose had been miles apart from the assessment of the man I remembered reading about in Firth's *New Guinea under the Germans*.

II

When I refreshed my memory I found that Firth had indeed adopted Rose as one of his heroes.

The Company expected the Imperial Commissioner ... to be a cipher. But Fritz Rose, the Prussian civil servant who took the job, was far from that. Determined to assert the independence of the imperial administration, he was a fearless critic of the NGC and refused to be swayed by its complaints about him (1982: 30).

What I had not remembered, however, was that Firth had used the Winter Case as his main illustration of Rose's fearless assertion of his independence.

3 This was not surprising since some of the company's leading shareholders were Jews.

4 I do not know whether this had been a calculated move on Herbing's part. Perhaps "Winter" was just pleasanter company than Rose? But it is also worth pointing out that the navy's favourite German in German New Guinea, Eduard Hensheim, was also a Jew (see Hensheim, 1983: iv). The historical record generally does not suggest that anti-Semitism was a significant factor in the history of German New Guinea. This does not mean, of course, that there were no anti-Semites among its population—and Rose may well have been one of them. Nor does it alter the fact that "Winter's" Jewishness moved all too readily into the foreground when he came under suspicion.

Rose further offended the NGC by forcing the dismissal of the officer-in-charge of Finschhafen station, Julius Winter, a tough colonial adventurer of Hungarian origin who had reached Kaiser Wilhelmsland in 1887 by sailing in a small vessel from Australia. The Company had given him a job and because of his skill as a recruiter of mainland labourers he had become one of its valued employees. Rose, punctilious, aloof and an upholder of the law who believed that labour recruiting was 'in truth nothing other than the sale of human beings', was appalled that this 'rough, uneducated man' Winter should have the responsibilities and disciplinary authority of an officer-in-charge. The two soon quarrelled and Rose found himself ostracized by the Company men in Finschhafen. Winter kept a house-girl, and when he flogged a Tolai called Hannes for trying to seduce her, he was charged with breaching regulations. In his defence he appealed to the need for the whites to maintain their authority over the blacks, and said he would have flogged every one of his labourers, 'perhaps even more severely', for that reason alone; he had acted with a view to the moral effect on his house-girl; he had used the regulation flogging rope, about three feet long, and if he had gone to the trouble of notifying the court officially of the punishment, as the law required, time would have been lost and no impression made on the black workers. Winter was found guilty and Rose persuaded the pliable general manager of the Company in Finschhafen to dismiss him. The NGC's directors in Berlin had already asked the Colonial Department to restrain Rose's 'bureaucratic tendency' and Rose was ordered to avoid taking measures 'which seem likely to restrict the Company and its enterprises'. The primary task of the imperial administration, he was told, was to further the interests of the Company. The news that Winter had been sacked provoked another blast by the Company against Rose (*ibid.*: 30-31).

There were no major factual discrepancies between this account of the Winter Case and my reading of the files. Yet the overall impression created was very different. This was partly due to the selection and "interpretation" of the information presented by Firth⁵ but mainly attributable to the fact that he used it as a vehicle for sending general messages which had little to do with its particular circumstances. For example, they hardly suggested that Rose had been "punctilious, aloof and an upholder of the law".⁶

I had no intention of returning to the files to ascertain whether the Neu Guinea Kompagnie had, in fact, asked the colonial department "to restrain Rose's 'bureaucratic tendency'", or whether the latter had ordered Rose "to avoid taking measures 'which seem likely to restrict the company and its enterprises'", but I had become curious as to whether Hempenstall too had incorporated the Winter Case into his narrative.

He had, but the reference to Winter in his index which I followed up first took me to the history of the Neuendettelsau mission in which the star, naturally, was its "senior", Johannes Flierl, rather than Winter or Rose.

Sensitive to local mores and the fears the villagers had of being pushed out by the white people, Flierl had early recognised that the Company's station manager in Finschhafen, Julius Winter, was a direct threat to the possibility of coexistence with the Finschhafen people, and he joined in a campaign with Fritz Rose to have Winter removed (1978: 175).

Hempenstall did not say how Flierl had "joined in" Rose's campaign, but he referred to a letter "Flierl to Deinzer, 23 July 1891, NH (Neuendettelsau Hauptarchiv), Flierl letters". Judging by Hempenstall's assessment of Rose, it was probably not worth consulting this letter because this

5 Firth's views as to which details are and are not significant naturally differ from mine, and I have no problems with his selection. His interpretations of the selected facts are a different matter. For example, it may well be that Hannes intended to seduce Winter's house-girl rather than to rape her. Indeed, it is possible that the two already had consensual intercourse on previous occasions. But it is impossible to appreciate what happened afterwards, unless one is told that Winter chose to present the incident as a case of attempted rape, although it may again well be that the beating of Hannes was also meant as a warning to the house-girl to reject the sexual advances of anyone apart from Winter. To simplify all these ambiguities away necessarily leads to additional misunderstandings and misrepresentations.

6 Nor did any of the other of the other cases involving Rose, which I had examined (see the Brandeis Case above: 62 or the Wolff Case above: 132).

assessment suggested that the "mainland" chapter of *Pacific Islanders under German Rule* was phantom history of the same order as the chapters I had already examined.

Just as Boeder "had been able to act for nine months virtually[!] in contradiction of [his] guidelines" in Ponape, according to Hempenstall Rose had "virtually" run the colony during an "interlude of imperial administration from 1889 to 1891" (ibid.: 171). But unlike Hahl who, according to Hempenstall, started from scratch a dozen years later after "the virtual bankruptcy of Company rule", Rose had only "felt acutely the need to start again from scratch" after "surveying the New Guinea Company's record" by establishing shipping connections, locating harbours and landing places, cutting roads and improving relations with the inhabitants (ibid.). Did Rose actually establish shipping connections, and so on? Had his "virtual" running of the colony actually come to an end in 1891? Had it been, as long as it lasted, an "interlude of imperial administration"? Or had the Neu Guinea Kompagnie not only hoped to retain "full control of the colony" (Firth, 1982: 130) but been "virtually" able to do so?

What was the point of writing this kind of "virtual" history? —and it appears that Flierl too had only "virtually" joined in Rose's campaign to dismiss Winter:

W. has also long gone. He beat a black labourer, who, he believed, had chased after his servant girl, so savagely that he was taken to court, sentenced in the first and second instance and afterwards sacked by the general manager at the instigation of the imperial commissioner. It was also good for us that he went. He was friendly to our faces but secretly sought to harm us. He had initially been very much *persona grata*, because he was in many matters practical, skilled and experienced—a German-Hungarian without papers, but he made quite a career without them.

Did Flierl's letter at least support Hempenstall's claim that Winter had been "a direct threat to the possibility of coexistence with the Finschhafen people"? According to Flierl the main threat to friendly relations had been the black plantation labourers who frequently molested the women and girls from the neighbouring villages, plundered their gardens and sometimes even wounded or killed a native who defended his property. Such misdeeds were punished if the plantation managers learned about them, but often they did not, especially about "the little pin-pricks" which could drive the local people to desperation. Some of the officials did not always treat the natives justly either, so that they were inclined to overlook the outrages of their labourers. In addition, most of the officials gave the labourers a bad example as far as the Sixth Commandment was concerned, by living together with native girls from the Bismarck Archipelago. The authorities believed that they had to tolerate this state of affairs as a necessary evil. Flierl and missionary Eich of the Rheinisch mission had repeatedly testified against these immoral practices, but without results. Flierl had even personally spoken to station manager Winter who was himself involved. Winter had listened quietly and then hidden behind the unworthy excuse that "we are all weak human beings", adding that the situation in other tropical colonies was much worse than in Finschhafen where each official kept only one particular house-girl. Imperial commissioner Rose had merely conceded that it would be better if these relations were conducted less openly.

Flierl also made other general statements of this kind, but he felt more comfortable with particular instances, such as the "recruitment" by Winter of a girl for his personal servant from the Bismarck Archipelago in one of the Kai villages in the mountains behind Finschhafen. When the people had refused to hand over the girl, so Flierl had been told, although he was not sure whether to believe this information, Winter had demonstrated the urgency of his demand by burning one of the houses whereupon the villagers had chased him and his party away with a "blind" barrage of spears. When Winter had reported that he had been attacked in the course of an ordinary recruiting attempt, Rose had ordered a punitive expedition, consisting of himself, Winter, a few other whites and the native police force of eight blacks, armed with Mauser rifles. The expedition found that the village had already been burnt down by its neighbours. They had

also killed the girl and some of her relatives, probably at the instigation of the coastal people of Busum, whose chief, Gasai, had accompanied Winter on his "recruiting" trip and who had later told the Kai that Winter would avenge the attack by punishing the Kai who were working as labourers in Finschhafen.

But fate had quickly caught up with Gasai. A few months later he had been sent "with a sealed paper" to the Kai villages to recruit more labourers. In one of them the people, still angry about the previous incident, had torn up the paper and killed Gasai and several other men from Busum. The response had been another punitive expedition. It had found the village deserted but had destroyed its houses and gardens.⁷

Hempenstall had incorporated some of this information into his account of the early history of Finschhafen, as I found when I followed up the other reference to Winter in his index.

At Finschhafen the local residents never provided more than occasional daylabour, at first for the novelty of working with iron implements, and then to acquire iron themselves in order to trade with inland tribes for traditional valuables like dogs' teeth. But within a couple of years of the Europeans' arrival they became reluctant to work for them at all, out of fear, Makiri claimed, that they were contributing to the growth of the whites' power and restricting their own independence. From October 1886 onwards the Company was forced to import labourers from the Bismarck Archipelago. Increasingly harsh treatment from Company officials alienated the Finschhafen people further. The foreign labourers from Asia and the Archipelago repeatedly abducted women and plundered plantations. But particular offence was given by the Austrian station manager, Julius Winter, who in 1890 organised a raid against a mountain village of the Kai people when they resisted his attempts to obtain a concubine for his black personal servant. The resulting destruction helped to poison relations among tribes in the entire Finschhafen area.

By 1890 local distaste for the New Guinea Company had intensified to such a degree that a black recruiter was murdered in nearby Busum village. On another occasion the Germans received quite a scare when all relations were suddenly broken off by villagers, and a fleet of strange war canoes appeared in the harbour. Gradually, the local residents pulled back away from the station, selling their land and houses to the Company. However, they continued to resist attempts by Europeans to penetrate the hinterland, for traditionally they had enjoyed a monopoly over trade with inland tribes and, since the arrival of the Germans, had become prosperous entrepreneurs through the flow of trade goods into the interior (1972: 166-67).

I had to go no further than Flierl's letter to see that many of Hempenstall's "facts" were phantoms; but this was no longer the issue, because it now appeared that Hempenstall was only purporting to describe what had actually happened whereas he was, in fact, giving an account of what could have appropriately happened, if history had actually taken place in the form of a narrative. In this narrative phantom world it did indeed not matter whether the 1890 punitive expedition referred to had been "organised" by Winter or "ordered" by Rose, whether or not it had caused any destruction, whether it had taken place in 1890, rather than in 1891, or whether it had taken place at all. Similarly, it did not matter whether a black recruiter had been killed in Busum village or whether it had been the Busum chief Gasai who had been killed when recruiting in a Kai village. Nor did it matter whether a fleet of war canoes had in fact ever appeared in Finschhafen, after the local people had broken off all relations with the whites. All these episodes figured in Hempenstall's narrative not as actual events but as representations of types of events which had occurred at some time somewhere in German New Guinea and which could therefore also have occurred in and around Finschhafen between 1885 and 1891.

7 I found the reference to a "sealed paper" given to Gasai intriguing. What had been the purpose of a written message which none of the Kai could read—and why seal it? Who was supposed to break the seal? On the other hand, the fact that Flierl reported this information, which he had obviously been given by his Melanesian contacts, without critically reflecting on the significance of the reference to this new form of white magic, makes him, historically speaking, a particularly valuable witness.

On the other hand, narrative considerations required that these representations be given a concrete location in time and space. Quasi-generalisations—such as the claim that the Finschhafen people had been further alienated by increasingly harsh treatment from company officials—were permissible and indeed necessary, but only occasionally. Specific markers had to be incorporated into the narrative at short intervals. To say that the company had been forced to import labourers from the Bismarck Archipelago from “October 1886 onwards” was narratively more effective than to say that the company had started to recruit labourers in the archipelago during the second half of 1886—and to quote a named Finschhafen chief in support of the claim that his people had become reluctant to work for the Europeans at all “within a couple of years” still more effective. Yet it was plain to every critical reader that this quote had to be a phantom since Makiri could not possibly have expressed his views about the likely effects working for the Europeans would have on “the independence of his people” in a verbal form which any of the Europeans would have understood at the time.

This did not mean that Hempenstall had invented this quote. He had merely constructively interpreted a convoluted reference to Makiri in a long report by the botanist Dr Hollrung on his research in Kaiser Wilhelmsland between April and December 1886. According to Hollrung (NKWL, 1888: 234) one of the reasons why the Finschhafen natives were reluctant to work for Europeans had been the “recognition” (*Erkenntnis*), which had probably been primarily brought about by Makiri, that they were expanding the power of the whites by working for them while at the same time “pushing themselves further back” (*sich zurückdrängen*).

Whether or not Makiri and the other Finschhafen people believed that they were contributing to their own displacement by working for the Europeans, they did not bring this process to an end by withholding their labour. Instead, on 27 November 1886, Makiri and his co-villagers sold the entire village of Suam to them, because, according to the company physician Dr Schellong, the presence of the large number of native labourers “whom we now have on the station” had made them feel uneasy.⁸ Although the villagers had shown great satisfaction when they were paid an axe and two pieces of iron for each house and had not been worried about leaving, Schellong had been concerned that the “displacing influence” (*verdrängender Einfluss*) of the presence of Europeans had made itself felt despite all the consideration with which the natives had been treated. Schellong regarded the sale of Suam also as a sign that the attempt to win over the local natives as regular labourers had been a failure. This did not surprise him; for what did the Europeans have to offer them for surrendering their freedom? They did not like the clothes the Europeans wore, or the food they ate, they grew their own tobacco (!) and had already obtained enough axes and iron, the only items they coveted (1934: 103).

What about Hempenstall’s claim that the Finschhafen people wanted to obtain iron “in order to trade with inland tribes for traditional valuables, like dogs’ teeth”, as a modern extension of their old trade monopoly which was turning them into “prosperous entrepreneurs” and made them “resist” attempts by Europeans to penetrate the hinterland? Another stereotyped phantom scenario but again one which Hempenstall did not have to invent. Hollrung’s colleague, the astronomer Dr Schrader, had reported as early as July 1886, just eight months after the founding of Finschhafen, that the coastal people had “always tried to prevent us” from reaching the Kai villages in the mountains, “obviously [*offenbar*] because of the trade monopoly”. However, Dr Schrader’s expedition to the Sattelberg had “broken this spell” and numerous Kai had subsequently visited Finschhafen (NKWL 1886: 121).

8 According to Schellong, Schleinitz had returned in early November with 100 labourers from the Bismarck Archipelago, whom he had leased at a high price from the Deutsche Handels- und Plantagen-Gesellschaft (1934: 102). The first attempt by company officials to recruit labourers in the archipelago had taken place in September—with limited success (*ibid.*: 90). Schellong made no reference to anything having happened in October 1886 on the recruiting front. Nor did the *Nachrichten*, although they confirmed what Schellong had to say about the relevant happenings in September and November (see NKWL, 1886: 116 and 1887: 62).

What had the coastal people actually done to prevent the Europeans from reaching the interior? According to Schrader the defence of their “trade monopoly” had taken the form of telling the whites that the mountain people were fierce cannibals. But then they were told the same kind of stories by the mountain people about the coastal people. Did the mountain people also tell these stories because they wanted to defend their trade monopoly with the coast? Or were all these stories mere talk? Was what Schrader had to say about trade monopolies, about the coastal people having tried to prevent the Europeans from penetrating inland and about his expedition having broken the spell also mere talk?

How, for example, did the visit by Schellong to a market which a Kai village had organised in August 1886 fit into the picture painted by Schrader—and Hempenstall? According to Schellong, people from far and wide had been invited, including the “wig-people” from distant Kamoko, who needed an interpreter to make themselves understood. Pyramids of yam and taro had been laid out, each one for a particular buyer. His name had been called out by the Kai chief and he then stepped forward and offered a price which was usually accepted. Makiri had also been there, but he had bought a pig for which he had paid three pieces of iron, three pieces of cloth and three strings of glass pearls (1934: 88).

On the other hand, how far could this entry in Schellong’s diary be accepted as a factually accurate account? Had Schellong interpreted correctly what he had seen, for example, that the pyramids of yam and taro had been earmarked in advance for particular buyers? Had other Finschhafen people, perhaps even Makiri, also exchanged iron and other European goods for dogs’ teeth? Had they done so, not because they wanted to keep the teeth, but in order to sell them to Europeans at a higher price?⁹

Was what Flierl had to say in his letter about the part played by Gasai of Busum factual history? Flierl was obviously well informed, but he essentially reported his interpretation of local gossip. Why was he reluctant to believe that Winter had burnt down a house when the Kai refused to give him the girl he wanted but readily accepted the rest of the story, instead of Winter’s version, or, rather, what he had been told about Winter’s version, according to which it had been an ordinary recruiting attempt? Was it usual for whites to obtain sexual partners for their personal black servants? Why did Winter go to an inland village for this purpose instead of simply allocating his servant one of “the girls from the Bismarck Archipelago”, or of asking his henchman Gasai to procure a girl from Busum or another coastal village? Did Flierl have reasons of his own to present Gasai in an unfavourable light? Had Gasai, like Winter, been an enemy of the Neuendettelsau mission? More importantly, had the attack on Winter, and the punitive expedition following it, been the first of their kind in the Finschhafen area?

I had not come across an official report on this punitive expedition, or on that following the killing of Gasai, but I had noticed a “registration” (*Registratur*) by imperial commissioner Rose of 30 March 1890 (AA G254/129) which illustrated a different aspect of the relations between the Europeans and the natives in the Finschhafen area—and of those between Rose and Winter before the former had started his “dismissal campaign”.

Some time earlier the people from Bussum (including Gasai?) and Qualla had come to Finschhafen to demand the punishment of a man from Gambini because they were no longer permitted, according to the “registration”, to take the law into their own hands. The Gambini man had seriously wounded a man from Bussum whom he had chased with three others after the Bussum man had tried to abduct a woman from Gambini. Winter had advised Rose against a punitive expedition. Instead he had arranged peace negotiations between the villages involved. They had culminated in a big feast in Quollem which Winter had attended. During the feast the Gambini and Bussum had presented several dogs’ teeth ornaments to “the government”. Since the

9 Hollrung’s report attributed the reluctance of the Finschhafen people to work for the Europeans partly to the fact that they could obtain iron more easily by selling them artifacts at inflated price

authority of the whites had been recognised throughout and since the wounded man was likely to survive, Rose decided that judicial prosecutions were inappropriate. Instead he and a senior company official bought the dogs' teeth ornaments privately for 12 Marks. The money was paid into the accounts of the government, and Rose stressed in his "registration" that it represented a higher price than a public auction had been likely to achieve.

There was no need to add further bits of information to this mosaic of the history of the first years of German colonial rule in the Finschhafen area. The sample already presented amply demonstrated that it was impossible to condense this history into a narrative of a few hundred words of the kind Hempenstall had written without producing phantom history. Why did he do it? Because he clung to the illusion that history was and had to be narrative. Hence he had to force narrative to do something which it was inherently incapable of doing, namely to paint a general picture of what had happened in the past, while at the same time preventing it from doing what it was well suited to achieving, namely to provide illustrations of the inconclusive complexity of human behaviour. Hempenstall had to construct a fictitious narrative middle level of generality by presenting generalisations as statements of particular facts and particular human actions as if they were representative of entire categories of human behaviour.

Thus Hempenstall's claim that "[i]ncreasingly harsh treatment from Company officials alienated the Finschhafen people further" was not, and did not purport to be, the result of a critical analysis of the situation. Hempenstall had neither measured the increasing harshness of the treatment the Finschhafen people were receiving from company officials, or their growing feeling of alienation, nor had he established a causal link between changes in these two variables. Rather, the statement was the reassuringly precise expression of a mysterious kind of narrative intuition.

In the same vein his statement that "[b]y 1890 local distaste for the New Guinea Company had intensified to such a degree that a black recruiter was murdered in nearly Busum village" did not refer to a particular incident but to a type of event—the killing of a black recruiter—which was somehow also typical of what had been going on around Finschhafen at the time. Yet this statement did not suggest that the killing of black recruiters had been a common occurrence. On the contrary, the incident was presented as an extreme but therefore especially appropriate expression of an intense feeling of distaste. It suggested that some such act of desperation had been natural under the circumstances, so that these circumstances, as well as the substance of the feeling of distaste, could be represented by the typification of a particular event. At the same time, this typification gave this event a symbolic factuality of a higher order. It became part of a quasi-general and quasi-factual narrative encirclement of the insoluble mysteries of history.

But Hempenstall's narrative encirclement of the early history of Finschhafen was so highly stylised that it was less instructive than Firth's treatment of the Winter Case. His claim that Rose had been determined "to assert the independence of the imperial administration" was the counterpart of Hempenstall's claim that by 1890 local distaste for the New Guinea Company had been intense. But while Hempenstall would have been hard put to identify the structural framework within which this local distaste had intensified, Firth could have easily described the legal framework within which Rose operated and thereby shown what the independence of the imperial administration had actually looked like. But Firth chose not to. Instead he used the Winter Case as a "representation", just as Hempenstall used the killing of the black recruiter. However, Firth stuck out his neck further because he wanted to use the Winter Case as a representative illustration for a multitude of points—for example, the flogging of Hannes by Winter as an illustration, on the one hand, of the manner in which company employees treated Melanesian labourers and, on the other hand, of the manner in which Rose responded to this treatment.

As I read Firth, although Winter had exercised his disciplinary authority as "officer-in-charge", he had nonetheless acted in breach of regulations, because he had failed to inform "the court" officially of the punishment. He was prosecuted for this breach, found guilty and subsequently sacked. What made this narrative especially instructive was that it did not merely phantomise the

facts of this particular case but invented a general legal phantom framework which went with these specific phantoms. Was it also typical of narrative history that such phantom frameworks did not even make sense in their own terms?

Why should Winter have lost time if he had notified “the court” of the punishment unless this statement actually meant to say that an official-in-charge had to inform “the court” *before* carrying out a disciplinary punishment because such a punishment required judicial approval, so that it could not legally be carried out until such an approval had been obtained? But this interpretation did not help because the duty of an official-in-charge to inform “the court” about disciplinary punishments was a phantom. Instead of giving substance to the general claim that Rose had been determined to assert the independence of the imperial administration, Firth’s treatment of the Winter Case merely demonstrated that he did not understand what had happened.

This was not surprising because the legal aspect of the flogging of Hannes had been unusually complex. Whereas I had been able to circumvent much of this complexity because I had only been interested in this case as a unique illustration of Rose’s personal style of government, Firth’s generalising approach had taken him right into its centre. He had no hope of handling this case realistically without understanding its legal dimension. But if Firth had gained this understanding he would have seen that the case was quite unsuitable for the purpose for which he wanted to use it.

When captain Schneider had reported the beating of Hannes by Winter to Rose, Rose—like Firth—had seen it as an exercise of Winter’s disciplinary powers as officer-in-charge. These powers had been defined in the Disciplinary Ordinance of 22 October 1888 and the implementation regulations thereto of 15 January 1889. They had been further supplemented by a decree by Rose of 4 December 1889, according to which the company’s station managers retained these powers under the imperial administration. This meant that Winter had indeed, in principle, been legally entitled to order an official disciplinary punishment, including a beating, of Hannes.¹⁰ It was by no means clear, however, that Winter had been entitled to order a corporal punishment in this particular case and that he had followed the prescribed procedure—which did not include a duty on the part of the officer-in-charge to inform “the court” of a punishment. On the contrary, the courts played no part whatever in the disciplinary punishment of coloured labourers. Instead station managers had to report monthly to the head of the colonial executive on all disciplinary punishments they had imposed. But Winter’s actions were legally questionable in several other respects. Firstly, it was doubtful whether he had been entitled to impose a disciplinary punishment on Hannes without an application by, let alone against the wishes of, captain Schneider. Secondly, it was doubtful that he had been entitled to impose a corporal punishment without first trying other disciplinary measures. Thirdly, it was doubtful that he was entitled to treat what he saw as an attempted rape as a disciplinary matter—and this is where “the court” did come in, since the punishment of a native for a criminal offence, such as an attempted rape, was the exclusive responsibility of the station court under the 1888 Native Penal Ordinance, and since this process was indeed likely to take some time.

Similarly Rose had to consider if he was entitled to treat the flogging of Hannes by Winter as a disciplinary matter, if he decided that Winter had misused his powers, or if he had to report the matter to the imperial court for a criminal prosecution of Winter. But it was Winter who had taken the initiative; for when Rose had called him in to defend himself against the charge of having misused his official disciplinary powers, Winter had refused to do so because he did not want to have his case dealt with by Rose as his administrative superior. Winter therefore insisted that he had *not* acted in his official capacity but as a private individual. Hence he was not answerable to Rose but only to the imperial court, which, as we have seen, did not prosecute Winter for the

10 The implementation regulations also stipulated that a rope had to be used to carry out such a punishment—although they did not specify its length. Firth may well be right in claiming that the rope used was usually about three feet long, although from my layman’s perspective this would appear to be awkwardly short.

breach of some regulation and, in particular, not for his failure to inform it officially about the punishment, but for an assault with a dangerous weapon under the German Criminal Code. Taking further into account that Rose testified during Winter's trial that the flogging of Hannes had been exceptional and that Winter usually treated coloured labourers humanely, it was clear that Firth could hardly have chosen a worse case in support of any of the points he was trying to make. Indeed, it became useful for his purpose only because he ignored most of what the historical record was telling him.

But while the result had little to do with history, it was at least narrative, whereas an exposition of the respective powers of the imperial commissioner, the German government and the Neu Guinea Kompagnie under the 1889 agreement and of the legislative framework for the exercise of disciplinary powers in relation to natives, was not.

To be sure also, it would have made the reading and writing of the history of German colonial rule under Rose more enjoyable if it had been possible to summarise it by stating: "Determined to assert the independence of the imperial administration, he was a fearless critic of the New Guinea Company and refused to be swayed by its complaints about him". Unfortunately such statements only worked in the wonderland of narrative history. Outside its borders the historical record was always more complex and less conclusive, just as in the Winter Case. For example, how did the fact fit into Firth's picture that the "fearless critic" Rose had also acted as the Neu Guinea Kompagnie's general manager between the death of Arnold and the arrival of Wissmann and that he was paid a handsome premium by the company for his trouble?

By the same token, I had a great deal of sympathy with Firth's reluctance to come to grips with the legislative framework of colonial rule in German New Guinea. The problem was that it is impossible to avoid these general, structural frameworks altogether. This applied in particular, but by no means only, to the legislative framework—and in this context Hempenstall's substantiation of his claim that Rose "virtually" ran the colony during "the interlude of imperial administration" was especially instructive.

Hempenstall did not refer to a particular case but to the "acute need" which Rose had generally felt to start from scratch, although the main reasons for this need—the lack of shipping connections and so on—were identified. While this approach saved Hempenstall from having to worry about the legal framework within which Rose had to operate, what he had to say nonetheless had a strong phantom flavour, because he also ignored the financial limitations of the legal powers Rose could exercise.

Just as Rose knew, contrary to Firth, that the imperial administration in German New Guinea was not independent of the Neu Guinea Kompagnie, there was also no doubt that he appreciated better than Hempenstall that there was no point in making grandiose plans if he could, by and large, only attempt to do what his budget permitted him to do and that this budget required the approval of the Neu Guinea Kompagnie. The task Rose was facing was to fight a multitude of small battles, to make minor tactical gains, to work patiently towards larger goals which, he knew, would not be realised for some time to come. Above all, the task was to survive, physically as well as professionally—and the former task was by itself quite daunting in German New Guinea in the early 1890s.

On the other hand, the financial and legal limitations of his powers were not just obstacles for Rose, they also structured his activities positively; they could even be used as weapons—and seen in retrospect their existence is perhaps the only chance for a historian to gain access to the big picture. Perhaps the financial framework of colonial rule was historically a more palatable alternative to an examination of its legal framework—at least it was worth finding out how far an approach to the history of German New Guinea from a financial perspective would take me.

Chapter 10: Mostly a Matter of Money

I

When the emperor assumed sovereignty over German New Guinea, he also became responsible for the financial aspect of its government. In theory he had a wide range of choices as to how he would carry out this responsibility. He could minimise governmental activities in the colony or maximise its local revenue. He could also seek external funds to pay for whatever governmental activities were regarded as desirable, or use existing institutions under his control—such as the imperial navy or the imperial consular service—for this purpose. More tempting still, he could transfer his governmental responsibilities to somebody else, who would foot the bill. Since the emperor had no interest in administering German New Guinea, provided he retained some measure of political control, the last option was the preferred choice.

It was put into effect by issuing the Neu Guinea Kompagnie, a private commercial enterprise, with an imperial charter obliging it to maintain institutions of government at its expense. The charter did not define these institutions. Instead it distinguished three major governmental tasks: firstly, the administration of justice, the organisation of which remained an imperial responsibility; secondly, the economic development of the territory; and thirdly, the cultural advancement of its native inhabitants. To carry out these tasks the company was given the “corresponding” rights of local sovereignty and, in addition, a monopoly to acquire ownerless and native land. It was left to the company, under the supervision and protection of the Reich, to finance the exercise of these rights, and to fund an adequate administration of justice, by imposing taxes on its subjects, by selling the land it acquired in exercising its monopoly, or by some other means.

Initially, the company had no alternative but to rely on its own resources. It raised capital of 1 million Marks, divided into 800 shares of 1,250 Marks each.¹ But its shareholders committed themselves to contribute up to 5,000 Marks per share, if necessary, so that a total of 4 million Marks was available. Three years later expenditure had already exceeded this amount. By the time the company relinquished its governmental responsibilities in 1899, the contributions made by its shareholders had reached nearly 10 million Marks. When it was subsequently reorganised as a purely commercial enterprise, they were asked for a further contribution. It brought the total to close to 12 million Marks. More than two thirds of it was then written off. The privilege of governing German New Guinea had cost the company’s shareholders some 8 million Marks, equal to an annual subsidy of around 600,000 Marks.²

Because of the double role of the company it was difficult to determine how much of its expenditure was devoted to governing German New Guinea and how much was a commercial investment. The answer depended on how broadly the concept of “government” was perceived. How much of the amount spent on shipping, which accounted for a large portion of the company’s early losses,³ was attributable to its governmental responsibilities?—and we need to take into account that the Reich was heavily subsidising shipping connections between Germany and other German colonies, whereas it cost the company a quarter of a million Marks annually to connect German New Guinea with the subsidised East Asia line of North German Lloyd.⁴

According to its charter its central governmental task was not the maintenance of law and order but the encouragement of the economic development of the colony. It was expected, as the

1 For a detailed account of the financial affairs of the company see Jaeckel, 1909: 112-121.

2 It took until 1912 before the company paid the first dividends of five per cent on its reduced capital.

3 By March 1891 its shipping account was already in the red to the tune of nearly 2 million Marks.

4 It managed to rid itself of this burden in 1893, when the Reich finally subsidised the Lloyd to extend its services to German New Guinea.

governing authority, to explore the country, to investigate its economic resources, to experiment with their exploitation and to create an economic infrastructure for the colony as a whole rather than merely to pursue its own commercial interests. It was not surprising therefore that the agreement terminating the company's rule acknowledged that much of its expenditure had been governmental and that it was entitled to be compensated for at least some of it. The size of the compensation, 4 million Marks, gives an indication of how the position was viewed. On the other hand, this compensation was intended to compensate the company for preparing the ground for a direct imperial government and not to reimburse it for the costs of actually governing German New Guinea—and it was the size, the form and the financing of this operation at the local level that interested me.⁵

II

The hallmark of the company's plan for the organisation of its government was a combination of commercial and administrative functions. This was less problematic than might appear, because it saw itself as a commercial promoter rather than as a commercial producer who was competing with his subjects. It therefore placed its administrator, the head of its local executive, also in charge of its largely experimental and developmental commercial activities. The same applied to the managers of its main stations, four of which were projected as a start. Only its auxiliary stations were to have no governmental functions.⁶

Apart from general clerical and commercial support for the administrator and the station managers, provision was made for specialised staff, including an engineer, a building expert and two surveyors, as well as a "scientific expedition", consisting of an astronomer, a botanist and a geologist. A medical doctor and two medical assistants were appointed, and three experienced plantation managers were hired to conduct agricultural experiments. In addition, three steamers, two steam launches and several boats were maintained.⁷

The company had also reluctantly accepted the need for maintaining an armed police force to deal with hostile natives. To gain "peaceful mastery" over German New Guinea's indigenous population—as its first annual report put it—was to be left to the missions. There were no plans to set up any kind of native administration, and no insistence on the part of the German government that the company carry out this part of its obligation under the charter. The explanation, it appears, was that teaching "the natives" to work and to consume was seen as the main aim of their cultural advancement, so that it became a natural part of the economic development of the colony, which was to proceed by establishing and gradually expanding

5 The company's headquarters management, as well as the involvement of the German government in the administration of German New Guinea, are outside the scope of this chapter.

6 Only one main station, with primarily an administrative function, was envisaged for the Bismarck Archipelago. The company's plans were focused on Kaiser Wilhelmsland which had so far hardly been touched by colonial influences, so that it actually could and had to start from scratch. It would have preferred the same to have been the case in the archipelago where its relations with the existing commercial firms and mission societies were, from the start, uncertain and uneasy.

7 I am limiting myself in this context to summarising information made public by the Neu Guinea Kompagnie at the time, which did not always distinguish clearly between what was planned and what had been achieved. This reflects the ambiguous nature of the language of financial planning for which the allocation of funds in a budget is already an achieved reality rather than a mere listing of goals. I will have more to say about this question later, but it is prudent to keep in mind from the start that the information presented here does not purport to consist of straightforward statements of fact. For instance, the statement that a medical doctor and two medical assistants were appointed does not mean that a medical doctor and two medical assistants were actually serving in German New Guinea at the time the statement was made. It does not even necessarily mean that these posts had already been filled at the time. But it means more than to say that these posts were regarded as desirable and that some consideration had been given to creating them. However, it is linguistically awkward to express this ambiguity consistently in the text. Hence this general warning to treat the factuality of all information in this preliminary survey with caution.

colonial enclaves, the administration of which was the initial task of "the institutions of government".

The company was not free in the design of these institutions. This applied first of all to the administration of justice. Its organisation was prescribed by a metropolitan act which extended the existing system of German consular jurisdiction to the German colonies. Moreover, "the official empowered to exercise the judicial jurisdiction" had important executive and even legislative functions. In particular, he was responsible for the *prosecution* of criminal behaviour and for the *execution* of its judgements, in criminal as well as civil matters. While this removed the need for a separate public prosecutor's office and prison administration, there still had to be court clerks, assessors and counsels, bailiffs and gaolers, although even the judges did not have to be full-time judicial officers.

Legislative measures taken by the company also had administrative implications. If it wanted to collect customs duties, for example, it had to set up a customs service, however rudimentary; and at least a minimal accounting system had to be introduced for the company's governmental as well as its commercial operations. It was not surprising therefore that after a year of operation the non-native staff employed in German New Guinea, in addition to native labourers, carriers, boat crews and policemen, numbered more than 50.

How did the company expect to pay for an establishment of this size? It appreciated that it could not, for the time being, derive a substantial income from imposing taxes, duties or fees on its subjects. It dreamed, of course, of a major mineral strike, but its main hope was to make, if not a fortune, at least the colony pay its own way by selling or leasing land to settlers—and it expected a large influx, especially from Germans living in Australia who, it believed, were eagerly waiting for the opportunity to move to a German colony.

When these hopes were dashed, after the colony was opened to settlers in 1888, the company's enthusiasm evaporated. In 1889 it concluded an agreement with the Reich, under which its governmental responsibilities were to be carried out by imperial officials at its expense, while the company would concentrate on its commercial activities. This meant not only a separation of governmental and commercial functions but also a minimisation of the former, and a full commercialisation of the latter. The government of German New Guinea was no longer understood as a developmental enterprise but as being solely concerned with the maintenance of law and order.

The two engineers, the surveyor, the two medical doctors and the three medical assistants, whom the company employed in 1889, were henceforth counted as part of its commercial establishment. The colonial government as such was not expected to engage in exploration or experimentation, or to provide services which were not legally required but consumed additional funds.

As a result the colonial government consisted of a core of only three imperial officials: an imperial commissioner who took over the governmental functions of the company's administrator and was also in charge of the supreme court, an imperial chancellor in the Bismarck Archipelago who was also in charge of the imperial court there, and an imperial secretary in Kaiser Wilhelmsland with the same judicial powers. The company had to refund the salaries of these three officials. It was also obliged to provide five full-time subordinate officials, who were its employees, as well as 36 native policemen, who could, however, be used as labourers when they were not required for governmental duties. Eight full-time white officials and 36 part-time native policemen were the establishment of the government of German New Guinea, although other company employees were to lend additional administrative assistance.

The company also had to supply and maintain the necessary buildings and equipment—but they remained its property. The government of German New Guinea as such owned nothing, and it could not own anything, because it had no legal personality. Nor could it physically move under

its own steam, since it was not allocated a vessel to be used exclusively, or even primarily, for governmental business.

As from 1889 the company showed the annual costs of this minimal government separately in its accounts—as well as the corresponding governmental revenue. Although it terminated its agreement with the Reich and resumed full governmental responsibility in 1892, because it believed that it could reduce costs by re-combining the political with the commercial administration,⁸ it continued this practice. It was therefore possible to collate the relevant figures in Table V to get a preliminary overview of the financial aspect of the government of German New Guinea for the 1889 to 1898 business years.

According to these figures the salaries paid to white officials accounted for around half of the total costs of government. During the first three years a distinction was made between the salaries paid to officials entrusted with the government of the colony as a whole and those paid to local officials. The first category was identical with the three imperial officials, for whom the 1889 agreement had stipulated the following salaries: the imperial commissioner received 30,000 Marks per annum, the imperial chancellor 15,000 and the imperial secretary 7,500, so that the salary of the three most senior officials represented about one third of the total cost of governing the colony. The support staff, of supposedly five persons, only accounted for around 13,000 Marks per annum.⁹

The arrangements under the 1889 agreement came to an end on 1 September 1892, that is to say in the course of a business year. However, the salary expenses for 1892 were similar to previous years. Nor did the drop in 1893 reflect a reduction of staff but rather the fact that the imperial judge in the Bismarck Archipelago continued to be an imperial official whose salary the company no longer had to refund.

The accounts did not say how much the company paid its employees, in particular its administrators,¹⁰ nor how the figures reflected the renewed combination of political and commercial functions of its station managers as well as its administrator. The figures for office expenses, where the same question arose, suggested that from 1893 onwards only notional figures were entered. Accounting practices changed in 1892 also as far as “travelling expenses” were concerned. They included from then on not only the allowances paid to officials travelling on government business but also the fees the government had to pay the company as a commercial enterprise for the use of its ships.¹¹ The way in which the costs of the police force were debited to the government probably also changed in 1892. The jump from less than 5,000 to more than 12,000 Marks certainly did not reflect a corresponding increase in its actual strength.¹²

The fact that expenditure figures for 1895 and 1896 were, with one exception, identical, indicated that the accounts kept in German New Guinea were still far from perfect.¹³ Yet there was no reason to believe that these notional figures were strategically inflated or deflated in

9 According to Blum (1900: 164) the company ranked its own local employees in three levels. They received, respectively, average annual salaries of 2,000, 4,000 and between 6,000 and 9,000 Marks.

10 It was rumoured that the salary of its first administrator had been even higher than that of the imperial commissioner—at private enterprise rather than public service rates.

11 The 1889 agreement provided for free travel for the imperial officials on government business on company vessels. The company saw no need to continue this hidden subsidy. The costs of travelling to German New Guinea to take up an appointment and similar external travel were also accounted for under this heading.

12 One possible but partial explanation was that the imperial commissioner had only debited the costs of maintaining the part-time policemen on a pro rata basis whereas subsequently the full costs were debited.

13 Judging by the lament of the company's auditors, voiced after examining the accounts for 1891 and 1892 in 1894, book-keeping in German New Guinea was in a complete mess: those responsible apparently just could not understand that proper accounting was a precondition for a profitable conduct of business!

TABLE V

Government Revenue and Expenditure 1889 to 1898 (in 1,000 Marks)

	1889	1890	1891	1892	1893	1894	1895	1896	1897	1898
Local Revenue										
a. Taxes	3	7	7	9	8	8	10	10	9	9
b. Customs duties	14	31	45	49	55	19	22	23	22	34
c. Other	4	16	13	6	17	12	18	18	18	27
d. Total	21	54	65	64	80	39	50	51	49	70
Local Expenditure										
a. Salaries	73	64	61	61	45	43	49	49	44	40
b. Police Force	5	8	5	12	15	14	13	13	9	13
c. Travel	7	4	12	23	31	33	31	23	27	33
d. Office	0.8	1	0.7	2	3	2	3	3	2	3
e. Maintenance	1	2	9	8	8	8	8	8	9	13
f. Total	87	79	87	106	102	100	104	96	91	102
Subsidy	66	25	22	42	22	61	54	45	42	32

Berlin. The overall costs of governing German New Guinea shown in Table I were fairly realistic. That is to say, they were minimal and surprisingly stable. The company had good reason for minimising government expenditure. Local revenue did not even grow sufficiently to match the just over 100,000 Marks to which it amounted in 1898.¹⁴

The most remarkable feature on the revenue side of Table I was negative: it showed no income derived from the sale or leasing of land the company had acquired in the exercise of its monopoly. This monopoly was now treated as a commercial asset which had nothing to do with the government of German New Guinea in its minimalist post-1889 sense.¹⁵

Among the sources of government revenue the customs duties were the most important. They consisted primarily of a variable import duty on different types of alcoholic beverages, for example 0.10 Marks per bottle of beer, and an export duty on copra of 4 Marks per tonne. The problem was that these duties could not explain the jump in receipts under this heading in 1890 and the drop in 1894. Copra exports during the 1890s fluctuated little, before increasing sharply in 1898. They probably accounted for only between 7,000 and 10,000 Marks of the customs receipts per annum—and for close to 15,000 Marks in 1898.

This left a highly improbable pattern of alcohol consumption: a fourfold increase in 1890, and an even larger decrease in 1894/95, representing the equivalent of around 350,000 bottles of beer for a non-native population of around 200.¹⁶ A more likely explanation was that the government derived a substantial additional income during the four years in question—and there was a likely candidate: the company paid an import levy of 40 Marks per kilogram of opium smoked by the Chinese coolies it employed in Kaiser Wilhelmsland. On the other hand, the date of the relevant amendment of the Customs Ordinance did not coincide with the increase in revenue, nor did its drop, four years later, coincide with the departure of most of the Chinese coolies.

The tax receipts were produced by a modest commercial tax (up to 600 Marks) and an equally modest income tax (up to two per cent). In 1898 it did not even cover the costs of maintaining the few buildings and the equipment used for governmental purposes. “Other income”, derived from a variety of fees and fines, was erratic, but there was little sustained increase.¹⁷

In brief, the containment of the growth of government went hand in hand with economic stagnation.¹⁸ The question was whether the latter was a consequence of the former: Did the company, apart from its own commercial losses, strangle the colony’s economic development by minimising governmental activities? There was no better way of finding out than to observe what happened after the Reich assumed full governmental responsibility. Still, it was also useful to compare the developments with those in neighbouring British New Guinea.

14 This amount does not include various hidden subsidies by the Reich. Among them the salary of the imperial judge in the Bismarck Archipelago only represented a minor item, compared with the shipping subsidy paid to North German Lloyd for its New Guinea line, let alone the costs of naval protection.

15 To have included income derived from this source would have made little difference. Genuine receipts only came to a few thousand Marks for the entire period. On the other hand, there were two major book transactions because the Neu Guinea Kompagnie provided the Astrolabe [tobacco] Company and the Kaiser Wilhelmsland [cocoa] Plantation Company with close to 20,000 hectares of land in exchange for shares with a nominal value of around 400,000 Marks. However, both companies failed, so that it gained nothing in the process.

16 The supply of liquor to natives was generally illegal, although special licences could be issued. The crews of visiting ships, naval and commercial, would have made some contribution, but visiting ships would have preferred to stock up in cheaper ports. Moreover, there was no indication of a corresponding dramatic change in the shipping patterns. (I am grateful to Margrit Davies for drawing my attention to this possibility.)

17 The licence fees charged for carrying out certain commercial activities gave the best cause for optimism. Yet even this was something of an illusion, since the income from trepang licences, which figured prominently in 1898, was set to drop because the most rewarding areas had been almost exhausted.

18 There was also the cotton export from the Bismarck Archipelago, which had peaked at about 60 tonnes in 1894, and the tobacco export from Kaiser Wilhelmsland, which had peaked at about 80 tonnes (worth around 400,000 Marks) even earlier, but, generally speaking, the trade figures, including the mainstay copra, were nothing to be proud of.

The similarities between the trade figures shown in a contemporary study (Blum, 1900: 159) were startling. Exports in German New Guinea rose from 440,000 Marks in 1888 to 815,000 in 1897 and in British New Guinea from 407,000 Marks to 997,000. The total trade in the latter year was almost identical with, respectively, 1.96 and 1.94 million Marks. However, in the case of German New Guinea, copra accounted for around 90 per cent of exports in 1897 whereas it contributed only around five per cent in British New Guinea, where gold accounted for more than half of the total exports for that year.

The annual report on British New Guinea for 1897,¹⁹ the last of the ten year rule by lieutenant governor MacGregor—which almost coincided with the ten years of minimal company rule in German New Guinea—contained a series of convenient financial summaries. They suggested that the government of British New Guinea worked to an annual budget of £15,000, or 300,000 Marks. Revenue rose from about £2,800 to over £10,000. Throughout it was dominated by customs duties. They accounted for about £9,700 in 1897. This represented ten per cent of the value of the exports from the colony during that year—more than five times as much as in German New Guinea.

Unfortunately it was impossible to determine the subsidies paid for the government of British New Guinea by subtracting the revenue figures from the expenditure figures in the annual report. Rather, it looked as if British New Guinea received a fixed annual grant of £15,000 and treated its local revenue as a bonus. Additional funds for the maintenance of the government steamer were also made available. They amounted to around £76,000 for the ten year period (see Joyce, 1971: 120-22). Total government expenditure during the first ten years of British colonial rule therefore probably approached 6 million Marks, compared with less than 1 million Marks during the last ten years of company rule in German New Guinea. The total subsidy was probably well over 4 million Marks, that is to say more than the amount paid under the 1898 agreement as compensation to the company for its governmental efforts.

The government of British New Guinea in 1897 consisted of four senior officials: the lieutenant governor, his private secretary, the chief judicial officer and the government secretary. They drew between them an annual salary of over 60,000 Marks—a rate of pay similar to that of the three senior imperial officials under the 1889 agreement. But then there were four resident magistrates, one assistant magistrate and two government agents, suggesting a total of seven local administrations. The central administration in British New Guinea was also larger. In addition to the commander and the first engineer of the government steamer, it comprised the commandant of the police, a government storekeeper, a head gaoler and overseer of works, a government printer, and the treasury as its largest department: a treasurer and collector and three sub-collectors. Only one further official was listed, a temporary clerk in Samarai—but there had to be some additional, non-native support staff. There was also an armed native police force of well over 100 men, 25 of whom were stationed as a mobile force in Port Moresby, and 202 native “village constables” had been appointed. Disregarding the latter—and the unknown number of non-native support staff—the government establishment in British New Guinea in 1897 was made up of around 20 officials and a police force of around 120, compared with an establishment of less than ten officials, most of whom also had commercial responsibilities, and a part-time police force of around 40 in German New Guinea at the end of company rule.

The most striking difference was the flotilla. Whereas the government of German New Guinea, apart from some small boats, had to rely on commercial and naval vessels, the government of British New Guinea not only had its expensive steamer with annual running costs which were about 50 per cent higher than German New Guinea’s total budget in 1898, but also four substantial sailing vessels, one for each district, plus a spare one, as well as a river launch

19 The budget year ran from 1 July to 30 June, rather than from 1 April to 31 March as in the case of German New Guinea.

in Port Moresby—and MacGregor regarded a flotilla of this size as the minimum for “anything approaching an efficient administration”.

III

On 1 April 1899 the imperial government of German New Guinea consisted, on the ground, of five officials. The imperial judge in the Bismarck Archipelago had also been made acting governor. He was supported by a court clerk and a police sergeant who were both retained by the Reich. The imperial judge in Kaiser Wilhelmsland, hitherto a company employee, was also retained—and given administrative responsibilities—as was a police sergeant, but not the court clerk. However, the imperial governor was due to arrive shortly, with some additional staff.

Just as important, but less visible, was another strengthening of the position of the government of German New Guinea. The last stroke of midnight on 31 March 1899 saw the birth of a colonial state. The 1892 Colonial Budgets Act, which had not applied to German New Guinea as long as its government was a financial liability of the Neu Guinea Kompagnie, came into force at this moment and brought to life the *Fiskus* of this colony as a separate legal entity, which was capable of owning property and incurring debts. It was to this new colonial state that the emperor transferred the economic privileges, in particular the land acquisition monopoly, which the company had renounced, rather than reserving them for the *Fiskus* of the Reich, or relinquishing them altogether, thus opening the way for a free market economy.

The colonial state therefore started life with some assets, but it also inherited considerable debts, because it became liable to pay 400,000 Marks annually to the company for the next ten years, the compensation it had been granted in the 1898 agreement. Short of a miracle, it consequently needed substantial subsidies from the Reich for some considerable time, simply to cover its existing commitments. Moreover, it had inherited the company's economic privileges but not its political powers, such as they were. The imperial governor merely slipped into the shoes of the company's administrator, whereas the political powers of the company were exercised by the emperor on behalf of the Reich. Yet, he was less free than the company had been, because it was not the emperor but the Reichstag which held the colonial purse strings and ultimately determined the rate of growth of government in German New Guinea.

It was uncertain how the Reichstag would respond to this challenge. On the one hand, its criticism of company rule promised that it would help the new imperial government to get off to a favourable start. On the other hand, it had criticised the company for having tried to govern too much rather than too little. Perhaps I could get an idea of things to come by considering the position in which the Reichstag had placed the government of the newly acquired “Island Territory” in Micronesia.

While the “Old Protectorate” was liable to pay the 4 million Marks compensation the Reich had granted to the company, the Island Territory was not saddled with the responsibility of refunding the 16 million Marks which it had cost to buy it from Spain. It started with a clean slate and a generous blanket budgetary allocation of 465,000 Marks for the 1899 financial year, although it had already run half its course. Of these 355,000 Marks were earmarked for non-recurrent expenditure, including 140,000 Marks for the purchase of government vessels: 12 boats and a steam-assisted sailing ship—and 100,000 Marks for the chartering of commercial vessels until government vessels had been acquired. The recurrent costs of governing the Island Territory were estimated to be around 220,000 Marks per annum—twice the amount of the budget of German New Guinea during its final year under company rule.

The Island Territory was to be divided into three administrative districts: the Eastern Carolines, the Western Carolines and the Marianas. The first was to be placed under a vice-governor, the other two under district commissioners. The size of government at the district level

was comparable to that in the Old Protectorate under the company, but the emphasis was squarely on the executive government, rather than on the administration of justice, as had happened in the Old Protectorate as a consequence of the arrangements under the company's charter. Rather than appointing imperial judges with subsidiary administrative responsibilities, it was now taken for granted that the heads of the local executive would also exercise judicial functions *ex officio*. Instead health moved into the centre of the stage: provisions were made for a government doctor in the Eastern Carolines and for a medical assistant in each of the other two districts. Otherwise there was to be just one senior official, supported by a police sergeant. Only the vice-governor was given the assistance of a secretary.

But there had been a striking change in the hierarchical salary differential compared with the position under the 1889 agreement with the Neu Guinea Kompagnie: the salary allowed for the vice governor was 12,000 Marks, compared with 30,000 for the imperial commissioner; that of the district commissioners 10,000 Marks, compared with 15,000 Marks for the imperial chancellor, and that of the secretary 6,000 Marks, compared with 7,500 Marks for the imperial secretary. On the other hand, 5,000 Marks were now provided for each of the police sergeants and medical assistants and a total of 22,000 Marks for the officers running the government vessels. The cost of the native police force, including the native crews of the government vessels,²⁰ was estimated to be 65,000 Marks per annum. Its strength was not given, but it was probably calculated to be around 65, at an average annual cost of 1,000 Marks per head—a high figure because it was intended to recruit Malays in the Dutch East Indies for the purpose.

The recurrent non-salary items, some 60,000 Marks, held no surprises. Travel expenses—at 20,000 Marks—were the largest. Five thousand Marks were provided for the equipment of the police force, and 4,000 Marks for medical supplies. The entire expenditure was to be covered by a subsidy from the Reich although the introduction of taxes, duties and fees was planned. The economic development of the Island Territory and the role of the government in this development was of no immediate concern. Like the government in the Old Protectorate since 1889 this was to be a minimal law and order government, expected to do as little, rather than as much, as possible.

Yet, by 1906 the number of officials in the Island Territory had almost doubled, from ten to 19. This was a modest increase compared with the Old Protectorate. On 1 January 1900 there had been eight government officials present: five in the Bismarck Archipelago and three in Kaiser Wilhelmsland. Six years later the number had reached 39.

At the beginning of 1914 the number of government officials actually serving in the Old Protectorate was 105. That in the Island Territory, now including the Marshall Islands, was 30.²¹ The number of officials on the payroll of the government of German New Guinea in 1914 when the Old Protectorate and the Island Territory formed a single budgetary unit was considerably higher. The last budget proposals for German New Guinea provided for a total of 190 officials.²²

The budget was balanced at 3,833,886 Marks. This figure included a subsidy from the Reich of some 1.7 million Marks, although local revenue had increased from 75,000 in 1899 to over 2 million Marks. Customs duties were still the most important source of local revenue. They accounted for about 60 per cent. Chief among them was an import duty on tobacco, expected to yield around 350,000 Marks. Next came a general ten per cent *ad valorem* import duty estimated to earn slightly less. The import duty on alcoholic beverages and an export duty on copra were

20 No explicit provision was made for the employment of native labourers or artisans by the government.

21 These figures are taken from the population statistics attached to the annual reports.

22 I had come across a copy of this particular document, the *Etat für das Schutzgebiet Neuguinea einschliesslich der Inselbezirke der Südsee auf das Rechnungsjahr 1914*, which had been sent to the "Kaiserliche Station Nauru" in the Australian Archives and had been pleasantly surprised by the amount of detail it provided concerning the size and the structure of the colonial state in German New Guinea at the end of its life.

expected to produce similar amounts, but they now accounted together for only around 40 per cent of the revenue under this heading. With one exception receipts were expected to rise: the decision to stop the hunting of birds-of-paradise was going to produce a loss of about 40,000 Marks in export duties and of some 10,000 Marks in licensing fees, reducing the total local revenue by as much as 2.5 per cent.

The bulk of the taxes—around 400,000 Marks, or more than 75 per cent—was to come from a head tax paid by natives. Next came a commercial tax with around 80,000 Marks. The mixed bag of “other income” amounted to over 500,000 Marks. Most important was a phosphate levy, paid by the mining operations in the Island Territory. It was expected to contribute 187,000 Marks,²³ whereas the expected income from the selling or leasing of government land still only amounted to 60,000 Marks.

The basic division on the expenditure side was between recurrent and non-recurrent expenditure. The latter had not been part of the budgets under company rule because a colonial state as a discrete legal entity did not exist. Its share amounted to 700,000 Marks, well above 20 per cent of total expenditure. The recurrent expenditure was subdivided into “personal” and “material” expenditure (*persönliche und sachliche Ausgaben*). The budget also singled out the flotilla—as opposed to the civil administration—for special treatment. It divided the civil administration into the central administration, a local administration and specialised services. In addition the budget distinguished several categories of personnel: the regular establishment and three kinds of auxiliary staff—staff required on a continuing basis, temporary auxiliary and relief staff, and coloured support staff.²⁴

The non-recurrent expenditure—and the running costs of the flotilla—left some 2.7 million Marks for the recurrent costs of the civil administration. Of these around 800,000 Marks were accounted for by “material” expenditure, so that the “personal” costs of the civil administration were about 1.9 million Marks, or 50 per cent of the total budget.

The cost of the regular establishment was 816,000 Marks. The next largest vote was 426,000 Marks for coloured support staff. The regular staff consisted of 96 positions and the continuing auxiliary staff of 49, and an additional 45 positions were kept in reserve for relief purposes. The vote for the coloured support staff allowed for 932 native policemen, 517 native labourers and 45 Chinese or Malay artisans, clerks, overseers—a total of just under 1,500. This did not include the native crew of the flotilla and a substantial number of auxiliary native support staff, in particular for hospitals, which was budgeted for elsewhere, so that probably well over 1,700 natives were on the government’s payroll.

The cost of employing this staff of almost 2,000 people ranged from just over 200 Marks per annum for a native labourer to about 30,000 Marks for the governor, including a colonial loading and his entertainment allowance.²⁵ The standard annual salary for Chinese or Malays was 1,200 Marks—but costs were rising. The 1914 budget proposal provided for 1,400 Marks for Chinese stokers and for a wage rise of ten per cent for the native crews of government vessels. As a result the highest native wage was the same as the lowest basic salary for a non-native government employee, but the latter was effectively trebled by colonial loadings not paid to natives.

The local administration accounted for 52 of the 96 regular positions. Although the geographical distribution of these positions was not shown, their hierarchical classification gave

23 This was only about half of the import duty on tobacco—most of which would have been passed on to native consumers. The natives generally made a larger contribution to the costs of governing German New Guinea than its non-native residents.

24 The budget made no provision for the “native organs of the administration”, primarily the government chiefs. Nor did it acknowledge the existence of the *Gouvernementsrat*, the council advising the governor, or the *Bezirksräte*, which had been established in some districts.

25 This was the same as the salary of the imperial commissioner under the 1889 agreement, although he had been in charge of a total staff of only around 50 people and administered a budget of only around 100,000 Marks.

a good indication. Its core consisted of five district commissioners, nine district officers grade II and one district officer grade III. But provisions were made for one additional district officer grade II and two district officers grade III under the continuing auxiliary staff vote. This added up to 18 local administrations of varying importance—compared with seven, including the then separate Marshall Islands, in 1899. In fact, there were a total of 19, since the government station in Koror, in the Palau Group, was placed under the government doctor, although he himself was not part of the local administration.

Of these 19 local administrations only one—a grade III station at the mouth of the Markham River—was new in 1914. The main concern was the improvement of the agricultural services. Whereas the 1913 budget had only provided for one auxiliary agricultural expert, in 1914 two senior agricultural experts were added, plus four middle-ranking district agronomists.²⁶ The second largest growth area was education: three new teachers were to be appointed, bringing the total number to eight, although only three of them were as yet regulars. The third growth area was the survey of land. There were three regular surveyors, but a fourth, and two draftsmen, were on the auxiliary list. In addition a mobile survey unit, consisting of two surveyors and two draftsmen, was to be financed as non-recurrent expenditure—although probably no one seriously expected that it would bring the survey of land up to date within a single year.

The surveyors were the kings among the middle-ranking officials. It was, for this reason alone, unlikely that they were formally subordinated to the district commissioners. This applied even more strongly to the agricultural experts, whose salaries equalled that of a district commissioner. One of them was in charge of an experimental station in Kaiser Wilhelmsland, for which the 1913 budget had provided 30,000 Marks for capital expenditure. Another was to head a new agricultural laboratory in Rabaul, to be established at a cost of 50,000 Marks, and a third a research station for the cultivation of coconut palms, to be established at the cost of 33,000 Marks.²⁷ Even education was not integrated into the local administration, and the budget made separate provisions for “education and training” under the material expenditure.

Taking the ranking of the positions into account, the likely distribution of technical and office staff could be worked out. As the budget provided for five district commissioners, five secretaries, five technicians grade II and five assistants grade II, it appeared safe to conclude that the typical establishment of a district office now consisted of a district commissioner, supported by a secretary, an assistant grade II for the office and a technician grade II for public works, and at least one police sergeant, who still doubled as harbour master and customs collector. Since one of the district offices—presumably Rabaul—probably also accounted for the single assistant grade I and the single office assistant, it was likely that only two of the larger government stations had any office assistance and that most of them were, as ten years earlier, manned by the official in charge, supported by a police sergeant, and a now more generous standard contingent of 50 native policemen, 20 native labourers and two Chinese artisans.²⁸

The central administration accounted for 19 of the 96 regular positions, although it gained another eight from the auxiliary vote. At the top it consisted of the governor, his “deputy”, the *Erster Referent*, and, as a new addition, a third senior official (*Referent*) for general administrative purposes. The next level comprised three middle-ranking officials who were in charge of the general office, the “central cash office” (*Hauptkasse*) and the new “accounts and auditing section” (*Kalkulatur*). Then came six secretaries, two of them new, one assistant grade I, two technicians

26 The figures for the previous year were also given so as to indicate the size of proposed increases or decreases.

27 A third agricultural project for 1914 was an enlargement of an animal breeding station, at a cost of 20,000 Marks, for which the 1913 budget had allocated 30,000 Marks for breeding stock. However, it was treated as part of the central administration.

28 The government station in Eitape, which was groomed to grow into a district office, acquired an assistant grade II in 1914.

grade I, one assistant grade II, two technicians grade II, one store manager, one office assistant and one veterinary assistant. However, this last group also had to serve the specialised services.

The oldest of the specialised services was public works, headed by a *Referent*. It probably accounted for all four technicians.²⁹ But there were five other specialised senior positions, three of them recent: a mining expert, a forestry expert, an agricultural expert, an animal husbandry expert, in charge of the breeding station, and a veterinary officer, who was in charge of the animal quarantine station. All of these senior positions were likely to grow eventually into specialised services—and one had already done so: the medical service. In 1914 it was headed by a *Medizinalreferent*, who was no longer shown as part of the central administration. His establishment consisted of 13 doctors and 12 medical assistants, plus a new mobile medical unit of two doctors and two medical assistants, funded as non-recurrent expenditure.

The second specialised service, about to be born, was finance. The appointment of a director of finance had been delayed until the 1915 budget. But an accounts and auditing section had already been split off from the central cash office, gaining its own section head and a second secretary, so that the combined financial sections accounted for five of the nine middle-ranking positions within the central administration. This reflected the recognition, already voiced by the Neu Guinea Kompagnie's auditors 20 years earlier that a proper accounting system was the basis of any orderly administration, so that it had to be created, even if this meant a financial service which was by itself larger than the entire government of German New Guinea had been in 1899.

It was unlikely that finance would have developed within the foreseeable future into a fully-fledged specialised service, with representatives at the local level. Agriculture and, at some later date, education were more likely candidates to achieve this status. Similarly, it was improbable that the police or public works would have been centralised in that way for many years to come. The same applied to the administration of justice—although it did have its own personnel vote in the 1914 budget. But it remained an oddity because the district judge for the Bismarck Archipelago was the only designated judicial officer, so that he and one secretary made up the entire judicial service. All other courts were still run by senior administrators as a sideline to their executive functions.³⁰ Despite a metropolitan push for an independent judiciary in the German colonies this was unlikely to change in the short term, because the volume of judicial business in German New Guinea still did not justify the expense of such a separation of powers. Indeed, if the material expenditure was any guide, the importance of the courts was declining. The vote was the only one under this heading which had been reduced—by 5,000 Marks to 30,000 Marks—because the 1913 allocation had been underspent by that amount.

This left the police troop. Its regular establishment was one inspector, whose position had been upgraded from first lieutenant to captain, and a single police sergeant. But the auxiliary list contributed one armourer and as many as 12 police sergeants, of whom five were new. However, only three of these new positions had been earmarked for the mobile police unit stationed in Rabaul. One was to go to the new government station at the Markham River and the occupant of the other was already serving at the recently established Sepik station. Nonetheless, it was primarily the development of the specialised services, rather than a geographical expansion of the local administration, or an elaboration of the bureaucratic core hierarchy, which had produced the staggering growth in the size of the colonial state since 1899.

29 There had earlier been a discrete *Technische Abteilung* but it had been reabsorbed into the central administration.

30 When the government station in Kaewieng became a district office, the district commissioner did not also become a district judge. The same was likely to happen when Eitape became a district office—with the consequence that Kaiser Wilhelmsland too would probably have acquired a “designated” judicial officer. It was also on the cards, however, that the district judge for the Bismarck Archipelago would have been placed as a circuit judge in charge of district court business in the whole of German New Guinea, including the Island Territory, as its total non-native population came to less than 2,000 in 1914.

The flotilla was as important for an orderly administration of German New Guinea as accounting and it was even more expensive, so much so that the running costs of the government steamer *Komet* were, at 357,000 Marks, greater than the entire budget of the expanded medical service. The total running costs of the flotilla were 513,000 Marks. This was 55,000 Marks less than in 1913, due to the decommissioning of a second government steamer, the *Delphin*, with annual running costs of about 90,000 Marks. But there were now seven smaller, motorised government vessels—including the launch ordered for the district office in Rabaul, which was still using a cutter intended for Palau. The oldest of them was the *Buka*, serving the northern Solomons, the largest the *Kolonialgesellschaft*, serving Kaiser Wilhelmsland. The *Kaewiang*, for northern New Ireland, and the *Manus*, for the Admiralty Islands, had been purchased in 1912 and 1913 outside the budget—the decommissioning of the *Delphin* serving as a justification. A third cutter, for Truk, was on order.

At the end of German rule, the government had therefore six substantial vessels operating and two more on order. The estimated running costs of over 0.5 million Marks compared with around 20,000 Marks paid for official sea transport during the last year of company rule, an increase of 2,500 per cent in 16 years.

How did the colonial state achieve this kind of growth? Through an increase in subsidies of over 5,000 per cent. In terms of volume the subsidy had increased from 32,000 Marks in 1898 to over 1.7 million Marks in 1914. Even as a proportion of total expenditure the relation was significantly different. Whereas the Neu Guinea Kompagnie's shareholders paid for about 30 Marks out of every 100 Marks spent by the government of German New Guinea in 1898, 16 years later the German taxpayers paid for almost 45 Marks. German New Guinea was financially less self-sufficient at the end of German rule than it had been 15 years earlier. Yet its government now cost 40 times as much.

IV

Tracing the financial growth of the colonial state between 1899 and 1914 proved to be more difficult than I had expected, because I found myself in another Wonderland, consisting of different sets of figures which were all unreal. I was confronted by five sets of published figures: those in the budget proposals submitted by the colonial office to the Reichstag;³¹ those in the budgets approved by the Reichstag, which were shown in the budget proposals submitted by the colonial office to the Reichstag the following year; those in the preliminary accounts, although these were abolished in 1908; those in the final accounts; and those in the audited accounts. Moreover, these published figures represented only the middle section of a much wider range. It started with budget proposals by the local administrations. They were reviewed by the governor, and then by the colonial office and the ministry of finance, before the official budget proposal was submitted to the Reichstag. Similarly, the budget allocations were subsequently divided among the local administrations in a *Wirtschaftsplan*, and accounting too started at the local level and passed through different stages before it reached the audit office of the Reich.

In other words, the financial system of German New Guinea was at least as complex as its legal system. But it had produced a historical record that contained information which no serious historiographer could afford to ignore; and it could only be appreciated if it was considered as part of an operating system.³²

31 In order to simplify matters, I am using the term "colonial office" to also cover its predecessors. For the same reason, I am ignoring the fact that the budget proposal first had to be approved by the "federal council" (*Bundesrat*) before they were presented to the Reichstag.

32 A critical examination of another phantom statement may illustrate the risks of a less cautious approach. "Since ... land-based security forces were too expensive and inefficient to maintain, the Pacific administrations leaned heavily on the German Navy for support" (Hempenstall, 1978: 23). As usual the "narrative" language used makes it impossible to determine what this statement actually means, but among the messages it signals is the suggestion that it had been cheaper,

The existence of these different sets of figures was only part of my problems. The more immediate difficulty was that the relevant published documents were not available in Australia. Since I did not live in the best of all possible worlds a trip to Germany to test their usefulness was impractical. Instead I had to find out how far the locally available information would take me.

My starting point was a summary of the income and expenditure of German New Guinea between 1901 and 1911 attached to an article by governor Hahl published in 1912. Since it did not cover the first and the last two years of German colonial rule, I continued looking and came across another summary, appended to the annual report for 1912. It covered the ten years between 1904 and 1914. When I compared these two sets of figures, it emerged first of all that they differed for the last three years of the overlap, the years between 1909 and 1911. This did not worry me unduly, because Hahl had probably taken the figures for these years from the budgets, or even the budget proposals, whereas the summary in the annual reports had listed the figures from the final accounts. I did become concerned, however, when I saw that Hahl's "income" figures differed throughout from those shown as "own income" (*eigene Einnahmen*) in the appendix to the annual report.

The explanation was that Hahl had not only included the genuine local revenue raised during a given year but also "savings from previous years" and "funds provided for overspending", which were shown in the final accounts. The first year of the overlap demonstrated what a difference this could make: of the 444,000 Marks shown as "income" for 1904 by Hahl a mere 211,000 Marks had been genuine local revenue, whereas 100,000 Marks had been saved from previous years and 133,000 Marks had been provided in subsequent budgets to cover overspending.

Hahl's figures became even more unreal, when I compared them with a third summary (Kucklantz, 1914: 184-85), because the summary attached to the annual report, in contrast to Hahl, did not distinguish between the Old Protectorate and the Island Territory, whereas the Kucklantz summary did. It also allowed a comparison with Hahl's figures for the years 1901 to 1903, which were not covered in the annual report summary. As regards the Island Territory, the Kucklantz summary indicated that most of the income shown by Hahl for these three years had been the result of accounting magic. Only 38,000 of the 242,000 Marks in 1901, only 44,000 of the 253,000 Marks in 1902 and only 64,000 of the 279,000 Marks in 1903 in the Hahl summary had consisted of local revenue raised during these years.

The income figures given in these two summaries for the Old Protectorate were even more problematic, precisely because they were identical. This appeared to make sense only if I assumed that its government had acted as an administrative model child and had faithfully stuck to its budget allocations as well as always estimating its local revenue correctly, both of which was highly unlikely.

It was tempting under these circumstances to dismiss German New Guinea's financial records altogether. On the other hand, the growth of the colonial state was a quantitative phenomenon. Its history was a history of figures. Even if the figures which showed what had actually happened remained elusive, the attempts to shape this history through budgets were themselves informed

and more efficient, to rely on naval support than to maintain land-based security forces. My point is that this is a message which can only be signalled by someone who does not understand the financial aspect of German colonial rule in the Pacific. A comparison between the costs of maintaining the 932 native policemen in German New Guinea of just over 250,000 Marks and the running costs of the government steamer *Komet* of over 350,000 Marks in the 1914 budget makes clear that the costs of maintaining the two cruisers of the Australian station, which were mainly responsible for German New Guinea and German Samoa, must have been much greater than those of maintaining substantial land-based native forces in both colonies would have been. The expense of a naval presence in the Pacific was probably of the same order as the combined budgets of the governments of German New Guinea and Samoa. To be sure naval expenses were, in principle, not debited to these colonies, so that it was, in this sense, not only cheaper for their governments to rely on naval protection, but they were provided with a free service—but this was clearly *not* the message this phantom statement was sending.

by the figures which appeared in these records, however imperfect they were. Even if all these sets of figures represented phantom history, they were thus nonetheless important historical facts in their own right. Moreover, because of their political importance, the quest for more reliable figures was a vital part of this history, although this naturally included their manipulation by historical actors.

The manipulation of these figures depended for its effectiveness as much on the assumption of their factuality as their honest use. Hahl did not forge the figures in his summary, he simply chose those figures which best supported his case. That they did not mean what they said to an unwary reader was not his problem. Why should he explain that the income shown in his summary did not represent the genuine local revenue and that German New Guinea was, and had been since 1901, fiscally in a much weaker position than his summary suggested? After all, he was campaigning for an increase of the Reich subsidy for his colony, and winning this battle was for him, understandably, more important than historical accuracy.

For the same reason, Hahl drew attention in the body of his article to the fact that the subsidies paid to the Old Protectorate had, until 1908, been inflated by the 400,000 Marks compensation which had to be paid annually to the Neu Guinea Kompagnie under the 1898 agreement, whereas this inflation suited him well when it came to showing how these subsidies had been cut in recent years. Why tell his readers that, instead of dropping by about 100,000 Marks in 1909, as his summary implied, they had effectively increased by 300,000 Marks, or that the 1911 subsidy was, effectively, not lower than it had been in 1901 but twice as large?

I had no choice but to use the figures contained in the available sources, but I did not have to let them dazzle me. I therefore took the summary attached to the 1912 annual report as the most up-to-date official set of figures available, and modified it, in the light of what I had learned, as a basis for examining how the budgets had tried to shape the activities of the government of German New Guinea and how effective these attempts had been.

The subsidy column in Table VI suggested that there had been three major policy changes: a half-hearted financial boost in 1906, a belt-tightening period between 1909 and 1911 and growing support as from 1912. Two of these changes could be linked to increases in the local revenue. German New Guinea was first rewarded with a doubling of its subsidy for a doubling of its local revenue but was then punished when it quadrupled its income from customs duties in three years by a cut of the subsidy to a level which was in 1911 only about two-thirds of what it had been in 1906. By contrast, the subsidy increase in 1912 had little to do with local revenue changes, although it looked as if local revenue responded instantly and positively to that increase. On the other hand, apart from a puzzling drop in expenditure in 1907 and the expected drop in the drought year of 1911, expenditure increased regardless of policy changes.

The position became even less clear when I looked at Hahl's figures, which distinguished between the Old Protectorate and the Island Territory. They indicated that the Island Territory, which had received the lion's share of the 1906 subsidy boost, also bore the brunt of the subsidy cut in 1909, when its subsidy was scrapped, whereas the subsidy paid to the Old Protectorate was further increased.

The mystery deepened when I distinguished between the recurrent and non-recurrent expenditure for the belt-tightening period. Instead of imposing an embargo on new capital works, the government had increased its non-recurrent expenditure to a new peak in 1909, whereas the recurrent expenditure had dropped markedly. By the same token, during the drought year 1911, the non-recurrent expenditure dropped to its lowest level since 1904, while the recurrent expenditure increased markedly.

TABLE VI

Government Revenue and Expenditure 1904 to 1914 (in 1,000 Marks)*

	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914
Local Revenue											
a. Taxes	57	74	122	169	211	203	308	254	303	366	399
b. Customs Duties	49	129	208	212	556	714	849	806	870	955	1,150
c. Other Income	105	126	142	213	183	237	398	319	383	434	547
d. Total	211	329	472	594	950	1,154	1,555	1,379	1,556	1,755	2,096
Subsidy	676	614	1,267	1,094	1,124	916	923	759	1,208	1,327	1,717
Expenditure											
a. Recurrent	887	1,151	1,331	1,280	1,698	1,577	1,720	1,935	2,315	2,624	3,130
b. Non-recurrent	194	249	399	297	503	751	677	248	449	698	704
c. Total	1,082	1,408	1,731	1,577	2,201	2,328	2,397	2,183	2,764	3,322	3,834

* The income figures in this table only show the genuine local revenue. They also exclude some extraordinary income outside the budget which amounted to less than 200,000 Marks for the entire period. The 400,000 Marks paid annually to the Neu Guinea Kompagnie until 1908 have been subtracted from the subsidy received from the Reich, as well as from the recurrent expenditure, where this payment was shown. As from 1911 the figures are budget rather than accounts figures.

When I compared the final accounts figures given in the appendix to the 1912 annual report for the belt-tightening period with the formal—and much less detailed—budget acts which were published in the *Deutsche Kolonialgesetzgebung*, a different explanation suggested itself: a massive budget blow-out in 1908, when the Island Territory and the Old Protectorate had together been allocated 1.45 million for recurrent and 226,000 Marks for non-recurrent expenditure, but had spent 2.1 million and 503,000 Marks respectively. Seen in this light the 1909 budget for the Old Protectorate was generous. In addition to providing funds to cover overspendings to the tune of 317,000 Marks during the 1905 and 1906 budget years, the allocations were increased substantially. But only half of this increase was covered by an increase of the subsidy. The budget allocations for the Island Territory also showed a modest increase in 1909, but it was now forced to stand on its own fiscal feet. This was deemed possible because the introduction of customs duties, which had hitherto been non-existent in the Island Territory, had dramatically lifted local revenue. It had been estimated at 175,000 Marks in the 1908 budget but was shown to have been 412,000 Marks in the final accounts.

If it had been the purpose of the 1909 budget to force the government of German New Guinea to live within its means, it appeared to have been successful because the final accounts for this year were balanced. But then the 1913 budget belatedly had to take care of an overspending of the 1909 budget amounting to 160,000 Marks. In other words, even the final accounts could include a hefty dose of accounting magic.

Nonetheless I could draw one conclusion from the table with confidence: whatever happened in German New Guinea between 1904 and 1914, and whoever tried to control what was happening, for whatever reasons, through its budgetary allocations, it had no lasting impact on the overall growth of the colonial state. The colonial state did shrink momentarily in 1907 and again in 1911, but it more than made up for this shrinkage by an accelerated expansion on both occasions, and it achieved this each time through an increase in its subsidies. Hahl's campaign on the second occasion was particularly successful, leading to a subsidy increase of more than 50 per cent in the 1912 budget.

Had this increase been the result of Hahl's efforts, or had the growth of the colonial state been inevitable? If the latter had been the case, was it worth examining the financial records of German New Guinea in detail? Although the few bits of information I had considered indicated that the budgets since 1899 had hardly determined what the colonial government had actually done in German New Guinea, the situation during the period of company rule had been different. The Neu Guinea Kompagnie's board of directors had been able to cut governmental expenses drastically in 1889 and to freeze them at this minimal level for the next ten years. Why did the freeze end when the Reich took direct control?

V

I thought it would be helpful in addressing this question to take another comparative look at British New Guinea, which had become Papua when it was placed under Australian rule in 1906. In Papua too the colonial government had grown rapidly. Whereas there had been 50 government officials in 1906 (see the annual report for this year), the "List of Officers connected with the Government Services" appended to the annual report for 1913 included almost 140 names, compared with 190 government officials in German New Guinea in 1914.

Papua's last pre-war budget allowed for an expenditure of about £81,000. Local revenue had reached £55,000, and the colony received a subsidy of £30,000 from Australia.³³ This suggested a government of about half the size of that of German New Guinea which had a comparatively

33 In the case of Papua a different kind of accounting magic was used: for example, the budget closed with a notional surplus of around £4,000 instead of balancing the estimates by reducing the apparently fixed subsidy to £26,000.

large number of non-native officials but a much lower non-recurrent and recurrent material expenditure. Moreover, Papua was financially less dependent than German New Guinea. Its subsidy accounted for 37 rather than 45 per cent of the budget. Indeed it was financially less dependent in 1914 than British New Guinea had been in 1897.

It was tempting to link the slower rate of governmental growth in Papua to the differences in the economic development of these two colonies, since the value of the total trade of German New Guinea at the end of German rule was about three times that of Papua. But this did not help me much further, because governmental growth in Papua had still been substantial.³⁴

Perhaps a comparison with the financial history of the Marshall Islands before their incorporation into German New Guinea in 1906 was more useful. When the Marshall Islands came under German sovereignty in 1885, the government of this colony by a chartered company had been the preferred option. But the counterpart of the Neu Guinea Kompagnie, the Jaluit Gesellschaft, was less enthusiastic so that a different arrangement was worked out in 1888. The Marshall Islands were to be administered by an imperial commissioner, supported by a secretary, whose salaries were to be paid by the Jaluit Gesellschaft. The costs were 22,500 Marks: 15,000 Marks for the commissioner and 7,500 Marks for the secretary. A budget was to provide for additional support staff, but it had to be agreed to annually by the German government and the Jaluit Gesellschaft. The financial responsibility rested fully with the latter. It was obliged to cover account deficits, although it was also entitled to retain any surplus. As a reward the Jaluit Gesellschaft was granted certain economic privileges, among which a guano monopoly turned out to be the most important asset.³⁵

The 1898 budget of the Marshall Islands (reproduced in Fabricius, 1992: 291-94)³⁶ offered a comparison with German New Guinea during the last year of company rule. It provided for a total governmental expenditure of 24,000 Marks and a local revenue of 43,000 Marks. This left a nominal surplus of 19,000 Marks. But this was only a shadow play because the budget did not include major government expenses, such as the salary of the imperial commissioner—now “administrator”—and his secretary. The Jaluit Gesellschaft could therefore rightly claim that it paid a substantial subsidy. How large, was another question. In the spirit of the play it went so far as to suggest that the entire commercial tax it contributed should be counted as part of its subsidy.

The 15,000 Marks in question accounted for more than a third of the local revenue. The next largest item was a native head tax of 9,600 Marks.³⁷ Compared with German New Guinea, the main difference was that no customs duties were levied, perhaps because the Gesellschaft would once more have had to pay the lion's share.³⁸

The expenditure side of the budget looked more familiar. Apart from the administrator and his secretary, who were not included, there were two local officials: a police sergeant (cum everything else), at the headquarters on Jaluit, and a lone district officer on Nauru. These two officials cost between them around 10,000 Marks.³⁹ The allocation for the small Marshallese police force was

34 The geographical expansion of German New Guinea after 1899 was immaterial for my purposes.

35 At the time no-one knew about the phosphate deposits on Nauru which was soon afterwards added to the colony, although Nauru was valued as a producer of copra and as a stepping stone towards the Gilbert and Ellice Islands.

36 I was grateful for the inclusion of this particular budget in this collection of documents but also puzzled by it, because I was unable to understand its special significance for the history of Nauru.

37 The tax was paid in the form of copra. The cash yield was 50 per cent higher than shown in the budget because one third of it was credited to the chiefs who collected the copra. This ‘accounting magic’ had the advantage that no payments to chiefs had to be shown as governmental expenditure. (The English translation of the comment to this item (Fabricius, 1992: 292) makes no sense, but then there also appears to be something wrong with the German text (ibid.: 119).)

38 It made no practical difference whether the Jaluit Gesellschaft paid taxes, duties and so on, or whether it covered account deficits, but the first alternative had optical advantages because it suggested that the Gesellschaft was just another taxpayer.

39 The budget also made a contribution towards the costs of maintaining a medical doctor who was a company employee,

high: 3,500 Marks for four to six men. Non-salary items accounted for 9,000 Marks, including 3,000 Marks for travel expenses as the largest amount. As in the case of German New Guinea under company rule, there was no provision for non-recurrent expenditure. All buildings and equipment used by the government of the Marshall Islands were the property of the Jaluit Gesellschaft. Nor was the government provided with a sea-going vessel for official purposes. In short, the Marshall Islands in 1898 had the same kind of minimal government as German New Guinea at the end of company rule, only on an even smaller scale. But in the Marshall Islands this state of affairs continued until 1906, and it came to an end only as a result of external pressures.

Why did it last for almost 20 years? Because the two leading actors, the German government and the Jaluit Gesellschaft, were happy with the *status quo*. The Jaluit Gesellschaft delighted in bemoaning the financial sacrifices the 1888 agreement demanded, but it knew very well that it would be financially worse off if the agreement was terminated and its subsidies were replaced by customs duties and higher taxes. More importantly, in contrast to the Neu Guinea Kompagnie, the Jaluit Gesellschaft was a commercial success. It paid its first dividend of four per cent after only one year of operation. This had increased to 15 per cent by 1905, even before the tapping of the phosphate riches of Nauru.⁴⁰ Nevertheless, the German government was not at all eager to rock the boat, as long as the financial responsibility of the company removed the government of the colony from parliamentary scrutiny, and as long as everything remained quiet and did not attract the attention of the metropolitan press.

This was as far as I needed to go, because I could now put my finger on what appeared to be the key factor in determining the growth of colonial government, at least in German New Guinea. It was wrong to attribute the minimisation of government expenditure to the Neu Guinea Kompagnie's lack of commercial success, because the same happened in the Marshall Islands, despite the profitability of the Jaluit Gesellschaft. To be sure, the Neu Guinea Kompagnie did reduce the size of the government of German New Guinea for financial reasons. But this was not the reason why it succeeded in doing so, since the factor which was responsible for this success was also present in the Marshall Islands.

In other words, the question was what did the Neu Guinea Kompagnie, the Jaluit Gesellschaft and the German government have in common? The answer was simple: a lack of ambition concerning the role of colonial government. The growth of the colonial state, it appeared, depended primarily on a single choice: was the colonial government to be responsible for the economic development of the colony as whole, or was it not? Once the Neu Guinea Kompagnie had accepted that it could not finance its grand political ambitions—and only then—was it in a position to control the growth of government in its colony. This put it in the same boat as the Jaluit Gesellschaft, which had accepted the 1888 agreement precisely because it enabled it to restrict the economic development of the colony in so far as it did not serve its own commercial interests. For the Jaluit Gesellschaft the 1888 agreement was a sound commercial investment, not because it made money out of the government of this colony, or even out of its economic privileges, but because the arrangement enabled it to curb the commercial activities of its competitors.

The position of the Neu Guinea Kompagnie was different. It did not fear commercial competition during the 1880s and 1890s. Yet, it too regarded, as from 1889, the presence of other colonists, whether they had commercial interests or not, as a nuisance, because each new trading or mission station increased its governmental responsibilities and the financial burdens on its shareholders. It was more surprising that the German government should have held similar views. But it too had no ambitions of its own for the government of the German colonial empire, especially if this meant battling with the Reichstag for funds. The 1888 agreement with the Jaluit

but provided free medical services to government officials.

40 A detailed account of the history of the Jaluit Gesellschaft is given by Treue, 1976.

Gesellschaft suited it well, and the termination of the 1889 agreement with the Neu Guinea Kompagnie even better, whereas the 1898 agreement, which terminated the latter's financial responsibility for the government of German New Guinea, was a setback because it moved this colony under the financial control of the Reichstag.

It was the 1898 agreement that opened the door for a renewed growth of colonial government in German New Guinea. It did so by permitting two new actors to enter the stage: the Reichstag and the *Fiskus* of German New Guinea, as a separate, property owning legal entity. It was primarily the embryonic colonial state which pushed the economic development agenda because the growth of colonial government meant a growth of its own body, and because the economic development of its territory ultimately had to produce a growing volume of its lifeblood in the form of local revenue.

That the colonial state should have subscribed to this economic developmentalism made immediate sense, since this was the only effective way of justifying its existence. The maintenance of law and order was by itself incapable of providing a convincing *raison d'être* for a colonial state. It was only by identifying itself with the economic development of the territory under its rule, in the interests of the colonisers as well as of those who were being colonised, that it could present itself to the outside world and to itself in a positive light.

What was curious was that the same should have applied to the Reichstag but not to the German government, or the Neu Guinea Kompagnie and the Jaluit Gesellschaft. Here the question was: what was the difference? In this case the answer was more involved but the factor of public accountability played a key part.

Under the 1871 constitution of the Reich only the Reichstag was directly accountable to the German public as its electorate, whereas the emperor headed its executive *ex officio* as the king of Prussia, who also appointed and dismissed the chancellor of the Reich and all other Reich officials. But the executive was not only retrospectively financially accountable to the Reichstag, because the chancellor of the Reich had to report annually how the income of the Reich had been used, the Reichstag also controlled it prospectively because the annual budgets of the Reich required its approval. In other words, the Reichstag was ultimately responsible for what the executive was financially capable of doing, but it was also accountable for the exercise of this responsibility to the German public.⁴¹

As a federation of states in which the powers of the centre were limited, the core functions of government within the Reich were performed by the various states and therefore outside the financial control of the Reichstag. However, the position in the German colonies was different. On the one hand, the Protectorates Act vested the full executive, legislative and judicial powers of the Reich in principle in the emperor, so that their government was in principle outside the control of the Reichstag. On the other hand, the Colonial Budgets Act extended its financial control powers to the colonies, in so far as they were the financial responsibility of the Reich. This meant that these control powers covered in the colonies the full range of governmental functions, including those which, in Germany, were performed by the states. As a result the financial powers and responsibilities of the Reichstag in relation to the German colonies were much more extensive than they were at home.

In theory the Reichstag could have used its powers to force the executive to get rid of all German colonies by denying it the funds for governing them. But to do so would have indirectly diminished its powers in the metropolitan context, quite apart from the electoral impact this extreme course of action might have had on the German public. It was natural under these circumstances for the Reichstag to embrace the economic development of the German colonies

41 I am again disregarding the "federal council" (*Bundesrat*) representing the states which had federated in the Reich and formed the unelected 'first chamber' of its legislature.

as a positive goal and use it as a yardstick against which the performance of the colonial governments and the allocation of funds to them was to be measured.

By contrast the metropolitan executive had initially no reason for committing itself to the economic development of the German colonies. The focus on economic development in the charter issued to the Neu Guinea Kompagnie was merely a political gesture: cheap, because it was made at the expense of the company but also appropriate because economic development as a goal of government had, even then, a positive ring. To present the economic development of German New Guinea, as well as of the Marshall Islands, as the financial responsibility of private commercial firms was thus doubly advantageous. It allowed the emperor and his government to treat their colonial responsibilities as an extension of the foreign affairs of the Reich and, more particularly, as an extension of the consular services it provided to German citizens abroad. Hence the Neu Guinea Kompagnie and the Jaluit Gesellschaft were seen as sometimes troublesome but useful allies who did the metropolitan executive a favour by assuming the financial responsibility for governing these colonies, no matter what they actually did or did not do, as long as they did not create trouble which required action by the Reich.

This attitude also explained the generosity towards the Neu Guinea Kompagnie when it surrendered its charter in 1899, and the even greater generosity shown to the Jaluit Gesellschaft when the cosy 1888 agreement had to be cancelled because of the international complications it was causing, just when its guano monopoly was finally beginning to translate itself into profits. The conservation of this monopoly and the low payments stipulated for its exercise were a reward for having underwritten the costs of governing the Marshall Islands for almost 20 years—and this reward did not even require additional funds which had to be approved by the Reichstag, although it disadvantaged the colonial state of German New Guinea into which the Marshall Islands were incorporated, because it could have significantly increased its local revenue by insisting on higher payments.

But the attitude of the metropolitan executive was also beginning to change at that time, partly in response to parliamentary pressures. These changes manifested themselves in the establishment of a separate colonial office. It was the corporate interest of this new body that committed the metropolitan executive to making the German colonial empire an economic success.

It was typical that this new approach to colonial administration was to be “scientific”, an early German version of economic rationalism. The colonies were to be managed along sober commercial lines, and under the leadership of a former banker, Bernhard Dernburg. But the goal was fiscal self-sufficiency for the colonies rather than the production of budget surpluses which were transferred to the coffers of the Reich as a reward for the subsidies the colonies had received in the past. It was also typical that this new approach failed, because fiscal self-sufficiency makes no sense as a political goal. Fiscal belt-tightening is marketable only as a means to an end, as an unpleasant phase one had to go through in order to reach a glorious future—which only economic development has to offer.

This, finally, let the cat out of the bag: economic development as a political goal has little to do with rational economic considerations. It is an ideology which can operate independently of actual economic performance. Indeed, it is essential for its continued operation that economic development remains a promise which can never be fully realised. On the other hand, it can only operate independently or, at least, in advance of improved actual economic performance, if it can be presented as a sufficiently realistic promise to secure a continuing stream of external subsidies which allow the colonial government to pursue this goal.

But there had to be another ingredient present for this process of a continuing subsidisation of the pursuit of economic development to work: the subsidies had to be approved by people who did not have to pay for them out of their own pockets. It was precisely the lack of this ingredient that enabled the Neu Guinea Kompagnie, whose chairman of directors personally footed a large

part of the bill for governing German New Guinea, to cut government spending to a minimum. Moreover, while the company's shareholders could and did derive a personal financial benefit from this cut, the members of the German colonial service or the Reichstag could not derive such a profit from a similar cut. What counted for them were not profits or savings but the promise of future economic growth which could be translated into an immediate increase of the funds available—and this meant the ability to finance a larger, better endowed and therefore more powerful government establishment.

The Marshall Islands offered a good illustration of the differences between the promise of economic growth and the actual improvement in economic performance. Although the discovery of large deposits of phosphate on the tiny island of Nauru was economically the most important event during the history of German colonial rule, its political impact was minimal. It was useless for ideological purposes. It was a valuable but finite resource which did not promise by itself indefinite economic growth, not even for Nauru itself. Indeed, not just Nauru and the Marshall Islands, but the whole of the Island Territory held out no such promise. The Old Protectorate and, in particular, Kaiser Wilhelmsland, were different. But there too it was not its potential mineral wealth that mattered, although it played an important prompting part. Minerals were like an internal form of subsidy; they did not represent a promise of continued economic development. Economic development as an ideology is concerned with people, albeit as taxable consumers and not as human beings. It centres on the production of consumables and on increased consumption. It requires large spaces teeming with taxpayers who go on producing and consuming more and more, for ever and ever. In the German Pacific only the Old Protectorate was big enough to provide a realistic basis for such a dream, and it was primarily the agricultural potential of Kaiser Wilhelmsland which had attracted the Neu Guinea Kompagnie and which kept the subsidies coming until the end of German colonial rule.

For as long as economic development remained the ruling ideology among those who governed this territory and for as long as money for subsidies was available somewhere, where the people approving such subsidies shared this ideology and did not have to pay for them out of their own pockets, the growth and the essentially colonial character of government, at least in the Old Protectorate, was assured, irrespective of who were its rulers. To be sure, some temporary setbacks had to be expected, but I was not surprised to find that 50 years after the 1914 budget, the last under German colonial rule, the number of government employees in the Old Protectorate, now a United Nations Trust Territory under Australian administration, had increased to almost 30,000, although the external subsidy, now close to £17,000,000, accounted for more than two thirds, rather than for less than half, of government expenditure (see the 1964/65 annual report).

Was the growth of colonial governments, and perhaps even the globalisation of the colonial state, inevitable, or could it again be halted by privatisation? The history of German New Guinea suggests that it had not been the transfer of government to a private company that had curbed its growth but the eventual rejection of economic development as a governmental goal by the Neu Guinea Kompagnie. Or had it not been the abandonment of this goal but its replacement by the goal of private wealth accumulation which had been decisive? Was it important that the Jaluit Gesellschaft had succeeded in combining this latter goal with a curbing of the growth of government in the Marshall Islands because it did not try to turn government itself into a profitable operation? It had not got rich by appropriating a share of a growing economy in the form of taxes, but by preventing others from accumulating private wealth at the expense of the profitability of its own commercial operations.

Did the failure of the self-sufficiency campaign indicate that it is generally misguided to treat government as a commercial operation, because it is the nature of governmental activities to cost rather than to earn money? Is it merely an ideological trick to claim that their privatisation can,

for example, turn prisons into profitable enterprises because a private entrepreneur can run them more cheaply than the public sector, although his tender includes a healthy profit margin?

Did the self-sufficiency campaign stop short of advocating that the government of the German colonies should make a profit which would benefit the metropolitan German taxpayer because it went against the ideological grain to turn government into a public money-making exercise, while it was ideologically acceptable, and even advantageous, to exploit the colonies for the benefit of private German business interests, provided this cost the German taxpayer nothing?

Did the failure of this campaign, on the contrary, suggest that the German government had not gone far enough? Should it have fully implemented the user-pays principle? Should it have insisted that the Neu Guinea Kompagnie paid an annual fee for the privilege of governing German New Guinea? Should it have established courts run by imperial officials which charged those who chose to use them the full cost of their services? Should it have demanded a naval protection levy from all non-indigenous residents? Should the Neu Guinea Kompagnie have hired a group of mercenaries prepared to carry out punitive expeditions for an appropriate payment? Should the governments in the various German colonies have competed with each other to attract German capital by offering lower taxes than their rivals, or the confiscation of any native land chosen for a plantation, or a guaranteed supply of conscripted native labourers? Should they have globalised this competition by attracting, for example, British capital away from neighbouring British colonies?

The Neu Guinea Kompagnie certainly had misplaced its hopes when it had expected that German settlers would eagerly move across from Australia so as to live again on "German soil". On the other hand, had there been nationalistic or racist factors at work which had prevented the German colonial governments from opening their territories to Japanese capital or to Chinese immigrants for the sake of speeding up their economic development? Had colonial rule in German New Guinea been generally driven by an ideology that made the financial as well as the legal frameworks for governmental action historically irrelevant because they merely implemented that ideology?

At this point one of my dreams resurfaced. I saw myself sitting on a stage, staring at heaps of files, books and microfilms in front of a blank wall. Then I heard steps approaching from behind until a breathless voice, which I knew to be that of the little boy from Andersen's fairy tale, was blasting triumphantly into my ears. "I told you so, I told you so", he shouted, "it has all been a waste of time! The emperor is naked! And he lives off other people's money! Let us go and play with my balloons, they are much more fun than your old registers, court files and budgets." I was still not ready to believe this voice, but it did seem sensible to test where it would take me if I approached the history of colonial rule in German New Guinea from an ideological perspective.

As was to be expected, the ideological aspect of this rule was never spelled out as a coherent political manifesto. Instead it remained a conveniently fluid hotchpotch of often contradictory ideas about everything, from biology to religion, which were all part of the imported European baggage and which were usually reinforced rather than modified by local conditions. But chunks of it were occasionally articulated, and it was fitting that the author of one of the most systematic attempts had been the star of my first chapter.

Chapter 11: Voices From the Past

I

In August 1913 district commissioner Berghausen could bear it no longer. The opinions aired in Germany in connection with the “bird-of-paradise question” (*Paradiesvogelfrage*)¹ about the ways German New Guinea, and Kaiser Wilhelmsland in particular, ought to be governed were, he believed, damaging its vital interests. Since he needed, as a member of the colonial service, the permission of his superiors before he could publicly counter these views, he used a visit by governor Hahl to Friedrich Wilhelmshafen to enlist his support. It was readily given, and on 2 September a draft article for the *Kölnische Zeitung* was sent, with Hahl’s endorsement, to the colonial office. On 31 October it approved publication, provided Berghausen agreed to omit the section where he argued against a total ban on the hunting of birds-of-paradise, which was about to become official policy, at least as a temporary measure. Berghausen reported his agreement, but his report got caught in the cog-wheels of the headquarters bureaucracy. Assuming that the manuscript generally did not have the colonial office’s blessing, Berghausen asked, in June 1914, through acting governor Haber, for permission to withdraw it altogether. By the time this request was presented in Berlin for a decision on 10 August 1914, the world had changed and Berghausen’s effort was quietly filed (see RKA 2713).

II

Because other participants in the debate had referred to their personal expertise to lend weight to their opinions, Berghausen began by identifying his credentials. He had served for four years in the colony, camping more than 300 nights among “the brown sons of Papua”,² penetrating deep into the interior into many hitherto unknown areas. These experiences had convinced him that the view that the natives of Kaiser Wilhelmsland could be controlled entirely peacefully could only be advocated by people who did not understand what went on in the Papuan mind. Even in areas where the government and the missions had been active for a quarter of a century, they had only been partly successful in rooting out superstition and the belief in the justification of revenge. It had to be remembered that most of Kaiser Wilhelmsland was still living in the Stone Age and that the inhabitants of vast areas, which whites were only just beginning to enter, continued to practice head-hunting and cannibalism undisturbed. How could a thinking person fail to see that contacts between these cannibals and a culture a thousand times more advanced than their own had to lead to some bloody clashes and blame them instead on individual whites or on misguided government policies?

The same—unidentified—author who described the natives of Kaiser Wilhelmsland as “the most good-natured people on earth” had to admit that the Lae Womba, in the lower Markham Valley, had not long before murdered at least 130 members of neighbouring tribes, 70 of them in the course of a single night.³ Entire villages along the Maklay Coast had been wiped out by mountain tribes, also hardly a manifestation of a peaceable character. All those who really knew the position agreed that even in pacified areas most natives would be delighted to kill all whites in order to become their own masters again, if the presence of a stronger power did not prevent them from trying. All this was not due to wrong policies, or to a disregard for native law, but

1 For a detailed account of the long history of the exploitation of birds-of-paradise see Swadling, 1996.

2 According to his official obituary, Berghausen had by then already served five years in the colony, although he had, by the end of German rule, only spent 231 days on expeditions.

3 For more information on the Lae Womba see Sack, 1976.

attributable to the natives' warlike character, their superstitious fears, their belief in revenge and their desire to continue practising their traditional vices. That the Neuendettelsau mission had persuaded the coastal tribes on the Huon Peninsula and along the Huon Gulf—who were in any case much less warlike than those living in the northwest and the interior—to break with their heathen past, or the limited successes of the Divine Word and Rhenish missions in more difficult areas, did little to alter this overall picture.

Justice to the memory of the whites who had fallen victim to the natives required the claim to be strongly rejected that they had only themselves to blame because they had treated the natives badly or had been ignorant of their customs. All of them had known when they had entered the wilderness, be it as planters, prospectors or bird-of-paradise hunters, that good relations with the natives were essential for their success. It was certain, therefore, that they had acted accordingly. They had all taken large quantities of tradegoods with them into the bush to gain the natives' friendship and to pay for services and food. All of them—Dammköhler, who had been killed in the Markham Valley in September 1909, Richards, killed in the Herzog Mountains in January 1910, Peterson, killed in the Friedrich Wilhelmshafen hinterland in June 1912, and Miculicz, killed near the Ramu in August of that year—were experienced men. Most of them had been widely known for the kindness with which they treated the natives. Miculicz, in particular, had always relied on his virtuosic violin playing to calm the natives, rather than on his pitiful armory. So firmly had he been convinced of the natives' non-aggressiveness that he had refused to believe the warnings of his native servant that he was about to be attacked until it was too late to defend himself. An official investigation had found no evidence for the allegation that he had already fought with the natives four times before he was killed. Another investigation, in February 1913, had established beyond doubt that the Weber brothers had been killed on Umboi Island solely because the natives had coveted their tradegoods. One should let the dead rest in peace, Berghausen continued, and grant the living the funds necessary to set up a network of government stations which would open up the country, and provide them with sufficient "means of power" (*Machtmittel*) to minimise the need for armed intervention, since it could not possibly be avoided altogether.

This led Berghausen to the "so-called punitive expeditions", which had been attacked as being totally inappropriate because the natives had done nothing wrong in accordance with their customs. Should the whites let themselves be slaughtered passively because the blacks regarded revenge as legitimate, because their superstitions justified the unprovoked killing of strangers, or because they wanted to get rid of the whites so as to be free to satisfy their desires for human heads and human flesh? Those who were lucky enough to have returned from the interior unscathed, thanks to the generous support of experienced missionaries, should be grateful for this support instead of blaming those who, to their misfortune, had had to do without it.

To be sure, the law of the natives should be respected, unless it was itself criminal or immoral. Wherever public peace had been established, and as long as it could be peacefully maintained, this certainly could be done, and was, in fact, already being done. But where this was not the case, force had to be used because tolerance under these circumstances would be weakness and be seen as such by the natives. This did not mean that every murder gave rise to a punitive expedition. Force was used only when a serious breach of the public peace made this necessary or when the natives persistently resisted a peaceful extension of civilisation. Besides, force was used not so much as a punishment but to prevent further murderous deeds which would inevitably follow if no action was taken. It would also be wrong to believe that these punitive expeditions ended with the extermination of the guilty natives. They were followed by attempts to establish amicable relations with the help of friendly tribes so as to bring about public peace.

Next Berghausen turned to the attacks on the "conscription" (*Aushebung*) of natives as labourers, which had been carried out in the interests of securing public peace in the lower

Markham Valley. To maintain that these conscripts could not be expected to appreciate that they were performing a noble task of acculturation if they cleared land for the whites, planted it with coconut palms, and spent their hard-earned wages on cheap umbrellas and other rubbish, ultimately led to a rejection of any form of practical colonial development. Was the first principle of colonisation no longer valid, according to which "We have our colonies not for their sake, not for the benefit of the natives, but for our own"? On the other hand, this first principle could easily be reconciled with the duty to advance the natives culturally because practical considerations alone demonstrated that the native inhabitants of a tropical colony were its most valuable asset which could only be preserved and increased through their cultural advancement.

The last section of Berghausen's manuscript was devoted to countering the call for a total prohibition of the hunting of birds-of-paradise, which was not only based on a concern for the protection of these birds but also on the law and order problems their pursuit was said to create. Berghausen started his argument with the admission that Richards, Peterson and Miculicz would not have gone into the interior if they had not been tempted by the large profits to be made from hunting these birds. He argued, however, that they would also have been killed if they had gone for quite different reasons—like Dammköhler or the Weber brothers, who had had no interest whatever in these birds. Conversely, a number of bird-of-paradise hunters had not only returned alive but had peacefully opened up areas from which natives had subsequently volunteered to work on plantations.

The environmental arguments were no more convincing. Everybody agreed that these beautiful birds had to be protected, but "the colony" (*die Kolonie*) was convinced that the measures already taken—the setting aside of protected areas, the closure of the hunt for six months, and a limitation of the number of natives who could be employed as shooters—were more than adequate, especially if the issue of hunting licences was, as planned, restricted to persons who had settled in the colony or who contributed in other ways to its economic development. This move would also rule out the undesirable hunting of birds-of-paradise by Chinese and Malays, whose behaviour towards the natives in the interior, as recent experience had shown, was indeed not always acceptable. Moreover, they were lured away from their jobs as artisans and overseers in which they were indispensable by the vision of vast riches—and they sent their profits abroad, instead of investing them in the colony.

There was no danger that birds-of-paradise would become extinct in German New Guinea. They were only hunted in less than one tenth of the area where they naturally occurred, and the various species were more numerous and more widely distributed than had been previously assumed. They had already returned in force to a section of the Rai Coast which had previously been exploited with unusual intensity, since it had been declared a protected area. In short, the survival of all species of birds-of-paradise was secure, and this was all the animal protection lobby could fairly demand. He, Berghausen, at least, was of the opinion that the commercial wealth these birds represented was there to be exploited. The approximately 10,000 skins which would be exported in 1913 were worth about 1 million Marks, most of which would be invested in the colony. Quite a number of smaller coconut plantations in Kaiser Wilhelmsland had already been established in this manner. They would face bankruptcy if the hunting of birds-of-paradise was prohibited before the coconut palms began to bear. These plantations were making a significant contribution to the economic development of Kaiser Wilhelmsland. This was all the more important because German capitalists were still reluctant to invest in this remote colony.

III

Although Berghausen identified several newspaper articles in his manuscript he did not name his main opponent. There was no doubt, however, whom he had in mind: professor Richard

Neuhauss, an anthropologist with a medical background, who had spent well over a year in German New Guinea, mainly in the sphere of the Neuendettelsau mission, and who, after his return to Germany, had become a prolific critic of punitive expeditions and the hunting of birds-of-paradise—in his view two closely related and quite unnecessary evils.

While Berghausen had waited for permission to publish at least the main part of his manuscript—and the colonial office had decided to impose at least a temporary ban on the hunting of birds-of-paradise, but not on punitive expeditions—Neuhauss had been busy condensing the first volume of his *magnum opus* (Neuhauss, 1911) into a small monograph, *Unsere Kolonie Deutsch-Neu-Guinea*, for publication in a series sponsored by the “Association for [the support of] German Culture Abroad” (*Verein für Deutschtum im Ausland*).

In this monograph, which was published in 1914, Neuhauss returned again and again to the “bird-of-paradise question”.⁴ For him birds-of-paradise were the crowns of creation. But they were facing extinction since the wholesalers of plumes had decided in 1909 to make them *the* fashion. As a result prices had skyrocketed and the birds were pursued further and further into the interior. This had brought about a fundamental change in hunting methods. Instead of sending individual hunting boys into the bush for a few days from a base at the coast, large groups of them, under the command of a European licensee, were now marching for months through the interior. The main problem was food, because each hunting boy could carry only enough rice to feed himself for two weeks. As the natives in the interior had themselves barely enough to eat, and as they regarded all food in their territories as their property, clashes were unavoidable and sooner or later some of the European hunters were also killed. A survivor of the party of the hunter Miculicz, for example, had reported that the party had fought with the natives four times before Miculicz was killed.⁵

Then follow punitive expeditions which naturally give the natives a rough time. The shooting dead of blacks on these occasions gives rise to more killings because the next white who passes through a village in which a white has murdered a black must be killed in accordance with the law of blood-revenge which applies throughout the interior (ibid.: 17).

The “terrifying increase” in the number of murders of Europeans had convinced not a few people that the infamous blacks, who had nothing better to do than to slaughter innocent whites, should be completely exterminated.

In fact, the whites are always and exclusively responsible for these unfortunate events because they expose themselves blindly to dangers without knowing the customs of the blacks, thus frequently behaving in a manner which tries them to their limit. There are first of all the bird-of-paradise hunters who shoot down the birds of the bush which the blacks regard as their property and who, due to the force of the circumstances already described, get into conflict with them. But there are also the gold prospectors who, in their hunt for a fortune, disregard all other considerations. Eventually the blacks vent their hatred in attacks on the settlements of the whites...when they see that their land was being taken away from them, that they are forced to perform *corvée* labour and that their old customs are no longer tolerated (ibid.: 92).

Neuhauss used the killing of Dammköhler as his main illustration, claiming that he and his companion Oldörp had been attacked because they continued their search for gold after their native servants had left them, because travelling by themselves they were mistaken for evil spirits.

How wrong would it be to avenge such occurrences with punitive expeditions! The black does not think for a moment that he has done anything wrong. The idea that he deserves punishment is incomprehensible

4 It preoccupied him to the extent that he devoted half of the chapter on the flora and fauna of German New Guinea to this question.

5 Berghausen specifically rejected this claim (see above: 229).

to him, because he merely acts in self-defence if he puts an end to the spirit which tries to destroy him (ibid.: 95).

After the killing of Dammköhler no punitive expedition was carried out, because it had been impossible to locate the “guilty” natives.⁶ The blacks who had subsequently killed bird-of-paradise hunters had fared worse. Thus the official report on the punitive expedition following the killing of Richards stated that about 40 Wamba had been shot dead and that their large village had been burnt down.

True, the government finds itself in a difficult position when such murders take place because it fears to lose face if the deed remains unpunished. One should therefore do whatever is possible to prevent them from happening. This requires first of all a total prohibition of the shameful slaughter of the birds-of-paradise which time and time again gives rise to bloody conflicts with the natives. Should an event nevertheless take place which, from the European perspective calls for a punishment, it must be carefully examined if the blacks did not have the law on their side—which should, of course, be determined, not by applying the rules of Roman law, but the local standards of right and wrong which cannot be replaced overnight by imported norms. The difficulties are naturally considerable, and it goes without saying that the officials have to learn to project themselves into the spirit of Papuan law. But much harm can be avoided in this manner and the blacks can be educated to become friends and helpers—a result which cannot be achieved in any other way. The task is made easier by the good-naturedness of the natives who can be guided like children if they are appropriately treated. The outstanding progress which the missions have already made by adopting this approach leaves no doubt that it will be ultimately successful (ibid.: 95-96).

Neuhauss supported this line of argument with additional illustrations. Thus he maintained that while the Europeans had a duty to put an end to the frequent abortions—the result of the Papuan “*Mutterrecht*”,⁷ which permitted women to dispose freely of their unborn children—the use of force to achieve this end again could be counter-productive.

Within the sphere of influence of the Neuendettelsau mission abortions have virtually disappeared, yet another proof that the natives will do anything if they are treated with kindness. Elsewhere it was thought that strictness was more appropriate. The police were called in. Unable to arrest the guilty [*sic*] mother they burnt down her village. This produced a tremendous hatred against the whites without achieving anything in the matter concerned. Heavier penalties were imposed sometime later, until the natives finally decided to kill all Europeans—a plan, the execution of which could barely be prevented at the last moment. Thus one punishment follows another. More and more blood is shed and the blacks become so deeply embittered that they would rather die than let themselves be advanced and converted by these methods (ibid.: 104).

Other illustrations suggested that the situation was more complex. For example, some coastal groups used the government to fight their feuds for them. They would go to the government station and eloquently describe the precariousness of their situation and the evilness of their neighbours.

The official then arranges, in good faith and with the best of intentions, “a punitive expedition in order to force the recalcitrant blacks into submission”. This, of course, is easily done because a few well aimed shots speak a persuasive language. The result is an intense hatred of those punished for the whites who interfered without reason in the exercise of their rights and merely brought about what the natives saw as a state of lawlessness (ibid.: 104-05).

6 The inverted commas were also used by Neuhauss, although he had no qualms about pronouncing Melanesian women who performed customary abortions “guilty” without inverted commas (see below in the text).

7 The meaning of the term “*Mutterrecht*” is closer to “matrilineality” than “matriarchy”. It indicates that the legal status of a person follows that of his or her mother rather than the father.

Eloquent as the natives could be on such occasions, there were serious communication problems on others, since the officials had to use Pidgin in their judicial investigations—a bastard language which was quite inadequate for the purpose. Thus “the judge” had convinced himself in one particular case that the confused evidence of the native servant of a bird-of-paradise hunter, who in the meantime had died of pneumonia, proved that the natives had treacherously fired arrows at the hunter before he fell sick, forcing him to shoot one of his attackers in self-defence. Because the official had already received several other complaints about the same village he ordered a punitive expedition. What had in fact happened, according to Neuhauss, was this: The hunter’s dog had attacked the village dogs and had bitten a native who had interfered in the fight. When the natives had thereupon speared his dog, the hunter had shot one of them dead and seriously wounded several others. The “treacherous attack” for which the natives had been punished had never taken place. “We do well to remember incidents such as this when we hear about yet another native rebellion” (*ibid.*: 106).

IV

Both Berghausen and Neuhauss were more concerned with arguing a case than with presenting history. But whereas Berghausen spoke for the government, Neuhauss spoke for “the opposition”. This gave him a distinct advantage. He could focus on criticising a few negative features while Berghausen, in addition to countering this criticism, had to paint a fundamentally positive overall picture. On the other hand, his favourable position tempted Neuhauss to present more details than necessary and to paint them in the brightest colours—and Neuhauss was not the man to resist such a temptation. This was shown most clearly by his treatment of the killing of Dammköhler which, he claimed, was based on a personal communication by Dammköhler’s companion, Oldörp, who had subsequently drowned during a second attempt to reach the gold of the Watut.

According to Neuhauss’s full version, Dammköhler and Oldörp had been sitting in their tent when they were suddenly showered with arrows by 30 screaming natives who had lined up in the shallow water of a river in front of them.

Oldörp had the presence of mind to hold a piece of tarpaulin like a shield in front of himself. Both [Oldörp and Dammköhler] fired their rifles incessantly and shot down one [native] after the other. But one arrow after the other also found its mark. Dammköhler was soon pierced by four in his arms, chest and lower abdomen and five in his legs. He started to cough blood, a sign that his lung had been torn. Oldörp received six wounds but none of them was life-threatening because the tarpaulin he held in front of himself had weakened the power of the arrows. When they had used up all their arrows the five surviving blacks—25 were lying as corpses in the bed of the river—retreated with measured steps as if nothing had happened. Two hours later Dammköhler died, due to internal bleeding (*ibid.*: 94).

Neuhauss’s interpretation of the event reads as follows:

What caused the natives to carry out the attack? Anyone familiar with their way of thinking will conclude without hesitating for a moment: the two whites came by themselves, unaccompanied by blacks but in the company of enormous animals. They could therefore only be spirits, and naturally evil ones, because friendly spirits are exceedingly rare in New Guinea. The warning shots Dammköhler had [earlier] fired had strengthened their view that the spirits had come to destroy them with thunder and lightning. During daylight the cowardly Papuans never attack human beings. They wait until night has fallen. Moreover, if they had thought that they were confronting human beings, they would have run away without fail, after one of them had been shot down. Instead 25 let themselves be killed without retreating a single step, and afterwards the five survivors walked home with measured steps. If the natives had only seen one or two of their own kind together with the whites they would have known that they could negotiate with them and deal with them on friendly terms (*ibid.*).

I was back in the Wonderland of narrative history, where whites could fire their rifles incessantly, and with deadly accuracy, while simultaneously holding tarpaulins in front of themselves as shields, and where the blacks, who were such cowards that they attacked human beings only at night, made a habit of fighting evil spirits *en masse* in broad daylight. Yet not even Berghausen appeared to have noticed that Neuhauss was talking colourful nonsense instead of demonstrating his expertise in understanding “the native mind”. But then Berghausen also suspended his critical faculties when he presented his own case.

For example, did it not follow from the argument that the colonists were bound to treat the natives well because it was in their economic interest to do so, that any governmental control of their behaviour in relation to the natives was superfluous in this self-regulating universe of enlightened self-interest? It certainly did not follow for Berghausen. Nor did he apply the argument to Chinese or Malays. In their case economic self-interest could not be relied upon to assure a humane treatment of German New Guinea’s indigenous population if they were left to their own devices. But this was just as well, because their proper place in Berghausen’s scheme of things was to work as artisans and overseers for the white colonists. As for “the natives”, the argument was altogether immaterial because they still behaved in a fundamentally irrational manner. This too was convenient because it would have been difficult to convince them that it was in their economic interest to let white colonists shoot birds-of-paradise on their land, to remove gold from it, or even to sell the land to them, so as to be able to enter their services as plantation labourers. Instead Berghausen stood defiantly by what he proclaimed as the first principle of German colonial rule: “We have our colonies not for their sake, not for the benefit of the natives, but for our own!”

What made Berghausen’s manuscript interesting was that it transformed this “brutally honest” principle into an ideological phantom which obliged the metropolitan German taxpayer to subsidise the activities of the colonial government. How did he do it? By means of semantic shifts which blurred distinctions instead of identifying them, but which were instinctive rather than calculated. Like Neuhauss, Berghausen did not set out to trick his readers, he himself believed that what he was saying made convincing sense.

The formulation of his first principle already prepared the ground for these shifts. It began by contrasting a “we”—which meant “we Germans” as a nation—with a “they”—the colonies as territories—but immediately replaced this “they” with another “they”, namely “the natives” as the indigenous inhabitants of these territories, who were not recognised as nations but treated as an aggregation of colonial subjects who came with the colonies as territories and whose interests were not going to determine how these territories were ruled. Nonetheless, it was “the colonies” which gradually moved into the centre of the stage albeit in the shape of “the colonists” as the colonisers, in contrast to “the natives” as the colonised. Moreover, while “the colonists” were ideally a part of “we Germans”, their “Germanness” was replaced by their shared colonising task as the decisive identifying feature.

To be sure, Berghausen did not believe that “we Germans” had “our colonies” in the interests of Chinese or Malays, who were themselves not colonists but were instruments of colonisation, to be used by the true colonists, namely the whites. But non-German whites could also qualify as colonists in Berghausen’s book. Even more importantly, the crucial argument for excluding Chinese and Malays from the profitable hunting of birds-of-paradise was not that they were not white but that they exported their profits instead of investing them in the colony—now clearly seen as a territory. Indeed, in this case Berghausen applied the same argument to whites, including Germans. He did not propose to restrict the hunting of birds-of-paradise to German nationals but to colonists who invested their profits in the economic development of German New Guinea in contrast to metropolitan German capitalists who failed to appreciate the economic potential of this remote colony.

Although Berghausen used the reluctance of German capitalists to invest in German New Guinea as a reason why “we Germans” as a nation had a special obligation to subsidise the colony with “our” taxes, until it could stand financially on its own feet, his manuscript, taken as a whole, gave the impression that he preferred this public subsidy alternative to large-scale private investment, because he saw economic development as a means to an end, as a means of financing a civilised form of territorial government. Indeed, for him, economic development was a consequence of civilised government rather than a precondition, because it was “the natives” who represented “our most valuable capital” in German New Guinea. To preserve and increase this capital was therefore more important than to attract German, much less foreign investment, and this aim could only be achieved by advancing “the natives” culturally, by turning them into civilised participants in a market economy.

Once the key role of the cultural advancement of “the natives” was appreciated everything fell into place. To say that “we” had “our colonies” for “our sake” merely meant that “the natives” had no right to refuse to be culturally advanced by “us”. On the contrary, they had a duty to let themselves be so advanced, just as “we” had a corresponding duty to bring about this advancement, for “our” sake as well as theirs. There were no contradictions, rather a natural order of priorities and a natural division of labour.

The cultural advancement of “the natives” had to pave the way for the economic development of the colony, and the former was essentially the task of the colonial government, whereas the latter was essentially the task of “the colonists” who, together with the colonial government—and “the natives”, as they became civilised—formed “the colony” as a body of people. The task of “we Germans” as a nation was to provide the colonial government with sufficient “means of power” to carry out its task of bringing the colonisers and the colonised together under a civilised government until the economic development of the colony had progressed far enough to continue under its own steam.

To say that “we have our colonies for our sake” did not mean that German colonies were to become territories from which large German companies transferred big profits to their metropolitan shareholders, or which allowed a small group of individual German businessmen to get rich so that they could retire with their fortunes to Germany or, worse still, to the French Riviera. The aim was to create a *Neu Deutschland* in the tropics, an ordered local community, in which “we Germans” formed a quasi-feudal upper-class—but one into which “the natives” could also be integrated as they advanced culturally, first replacing the Chinese and Malays as artisans and overseers and then becoming small entrepreneurs in their own right, who would be able to see that German colonial rule was also in their best interests, economic and otherwise. This was why “we” had “our colonies”; they gave the Fatherland an opportunity to spawn strong sons in other parts of the globe who would owe it filial love and support if “we” nurtured them generously during their infancy.

But this goal was still a long way off, at least in German New Guinea, where “the colony” continued to live on a volcano which could erupt any minute. This was exclusively due to the warlike character of its natives and to the tenacity with which they clung to their savage customs. It was only by providing the colonial government with sufficient means of power to demonstrate that resistance to German colonial rule was pointless that this situation could be changed and the economic development of the colony could be accelerated. “Give us funds to establish a network of government stations” was Berghausen’s message, “and the rest will follow, because the natives will not fail to appreciate the advantages a civilised government is bringing them, once their primitive superstitions have lost their hold and they begin to think rationally. To impose instead a total ban on the hunting of birds-of-paradise, which is at long last giving a boost to the economic

development of Kaiser Wilhelmsland, is an irrational response which will only make life harder for everybody.”⁸

What little Neuhauss had to say about the prospects of German New Guinea sounded remarkably gloomy. The climate was rotten, the soil was poor, and there was a serious shortage of labourers because the native population was small and the importation of labourers expensive. Besides, “any friend of the natives could only wish that as few natives as possible will work on plantations” (1914: 135-37). But this was going too far—although Neuhauss had gone even further three years earlier when he had expressed the view that one could only hope that as little gold as possible would be discovered, because unscrupulous prospectors would do irreparable harm to the natives (1911: 441).⁹ Neuhauss therefore warned that it would be totally wrong to conclude from his description that it would be best to abandon German New Guinea as quickly as possible. If the colonists played it safe and stuck to the production of copra, something could be achieved, although the colony would never become a second Java. Better still, the prospects could substantially improve, “once we know New Guinea [that is to say Kaiser Wilhelmsland] better”. Perhaps its interior concealed rich and readily exploitable mineral resources. Perhaps its population was also more numerous than had hitherto been assumed (1914: 137-141).¹⁰

How did Neuhauss, as a friend of the natives, see the future of the colony? No punitive expeditions, no hunting of birds-of-paradise and as few plantations as possible. On the other hand, he did not believe that the natives could be left to their own devices because their own culture had been doomed since the first whites had settled in their country to make commercial profits (ibid.: 130). Economic colonisation was bound to undermine the old culture without putting a new one in its place. Under these circumstances it was best to rely as much as possible on the missions. The natives needed a new faith which gave them the strength to let go of their intolerable heathen superstitions and permitted them to become more civilised—which, for Neuhauss too, primarily meant working harder.

Neuhauss was all in favour of teaching the natives to work, but for themselves rather than for the colonists. Once more he presented a specific illustration: the native community which had been created by the Neuendettelsau missionary Christian Keysser on Sattelberg, on the Huon Peninsula. Within 15 years, Neuhauss claimed, Keysser had turned a tribe of savages into an industrious people, living in a well ordered polity. Using gentle force at first, he had persuaded natives who had hitherto lived in scattered hamlets to move together into larger villages, where they could assist, encourage and supervise each other. The people were so impressed by the advantages of this move that Keysser could soon introduce a communal “work scheme” (*Arbeitsordnung*). Under the two overseers whom each village elected, its inhabitants worked together for the first three days of the week, building houses and roads, and making gardens. At the end of each week the overseers came together to report to Keysser and to exchange their experiences among themselves. This too proved so successful that a referendum carried out by Keysser had unanimously endorsed the scheme. No-one wanted to return to the old chaos.

The crowning achievement had been the construction of village prisons and the administration of strict punishments, including corporal punishments, which, Neuhauss claimed, reflected the natives’ own sense of justice.

If the government had imposed the same punishment, the natives would have seen this as an interference in their rights. No-one wants to be patronised, including the blacks. Since the natives have a fine feeling

8 These are, of course, my words, rather than Berghausen’s.

8 This new optimism was probably linked with an extravagant project Neuhauss was advocating: the systematic exploration of the interior of the main island of New Guinea by airships at an estimated cost of 3 million Marks (ibid.: 141-44). This was almost twice the total subsidy of the Reich to German New Guinea’s 1914 budget, although the expenses were to be shared between Germany, Britain and Holland.

9 The discovery of an uncommonly populous tribe by the British/German Border Expedition had made this likely.

for their own customs and laws—and for their own lies and tricks—a guilty native will rarely escape punishment if he is tried by a court the natives hold themselves. Along the coast the government has appointed headmen by giving them a cap and a stick. It was inevitable that they occasionally exceeded their official powers. They also sent their people to do the work while they themselves lazed around. When one of the overseers the natives had elected wanted to follow this example his people gave him quite a surprise (*ibid.*: 133)!

The test came when a bird-of-paradise hunter requested Keysser to get him carriers.

I asked the village overseers at their meeting [Neuhauss quoted Keysser]¹¹ to supply the carriers. They promised to pass on the request of the white man. Because of his unpopularity it was predictable that no-one would volunteer to carry his boxes. I therefore insisted that the overseers immediately nominate 25 carriers and that their names be written down. Each overseer named two and the whole matter was settled. Not one of those named refused to go. For anyone who knows the people here an astonishing result (*ibid.*).

All this could be accomplished, Neuhauss concluded, if a man knew what he could ask from his people and had the courage to get his way.

Neuhauss appreciated that it was unrealistic to expect that German New Guinea would be handed over to the missions. Nor was he against economic development, but he wanted it to progress slowly, steadily and peacefully. He also agreed with Berghausen that a successful colonisation of German New Guinea required greater financial metropolitan support. In contrast to Berghausen, who was handicapped in this regard, Neuhauss put the blame for a lack of support and for a premature push for financial self-sufficiency squarely on the colonial office. This comes through particularly clearly in his 1911 discussion of *corvée* labour, of which he also approved—in principle. Again Neuhauss used a particular case to make his point, this time the establishment of the government station in Morobe, which had required a large labour force.

A few black police soldiers were sent out who had to conscript blacks for a month along the coast, right up to the mouth of the Markham River. This was done as follows: the black soldiers, armed with their rifles, ordered the villagers to line up and selected the required number without the least concern as to whether a man had perhaps to leave behind a mortally ill wife or son, or frail parents. This caused much bad blood, and it was only due to the influence of the resident Neuendetelsau missionaries that serious conflicts were avoided...

When I talked about these problems with the government official, an unusually understanding and humane man, he told me: "What could I do? I know very well that my presence would be necessary when the people were enlisted, to avoid harshness and injustice, but I am more than fully occupied at the station and do not know where to start. I must have labourers, and since I am unable to get someone to relieve me at the station, I have no choice but to send the black police soldiers without any supervision."

This system saves the salary of one white official and when the tempest sweeps across the country four warships have to be mobilised to punish the "guilty" persons (who, in fact sit...in Berlin) and "to put down the rebellion"—which costs, quite apart from the loss of human life, a hundred times more than the salary saved.

The causes of the unfortunate events on Ponape bear a fatal resemblance to the conditions just described. It was reported for Ponape that: "Development accelerated under the new district commissioner. Until then the natives had been treated extraordinarily gently. Now more energetic action was taken. They were required to perform tax labour not only for 1910 but also for the previous year... The road building programme was rapidly pushed ahead... All this caused deep ferment."

The Papuan is a good-natured fellow who is prepared to put up with a great deal. But if his anger piles up because he was continuously put under too much strain, he behaves as any other human being would (Neuhauss, 1911: 453-54).

11 Neuhauss relied exclusively on a paper published by Keysser, rather than on observations he had made during his visit to Sattelberg, when he had apparently shown little interest in issues of this kind.

Three years later Neuhauss used even stronger colours, warning that, if sufficiently provoked, the good-natured black would “unleash the animal within him with unusual abandon” (1914: 127). He also contrasted the soft Polynesians and Micronesians, who had quickly crumbled during the clash of cultures, with the tough Melanesians in the Bismarck Archipelago, and the even tougher Papuans in Kaiser Wilhelmsland. They were likely to put up a much more determined resistance. The whites would find them a harder nut to crack and probably break a few of their own teeth in the process (*ibid.*: 121).

In other words, the situation in Kaiser Wilhelmsland was far more serious than it had been in Ponape and the rebellion there would come to be seen as a minor ripple compared with the tidal waves which were likely to sweep across the former, unless the misguided policy of accelerated economic development was abandoned.¹² This assessment of the situation came in its core close to that of Berghausen who even regarded the coastal tribes along the Huon Gulf—which Neuhauss had had specifically in mind in 1911—as being disappointingly effete compared with those in the western part of Kaiser Wilhelmsland and the interior. But Berghausen drew different conclusions. For him the “Papuans” were not good-natured children who could be gradually persuaded to do anything, but savage grown-ups who would only submit to superior military force. The quicker and more convincingly it was demonstrated to them that resistance to colonial rule was pointless, the better it would be for all concerned, just as it was also in the best interests of the natives to speed up economic development, since this would allow them to participate more quickly in the material advantages of civilisation.

Berghausen did not have the opportunity to respond to Neuhauss’s praise of Keysser’s approach around the Sattelberg, but I could easily imagine what he would have said. What future did these people have, if they did not sell their labour or their cash crops? To be sure, it was foolish to put too much pressure on them and to let things get out of control, but it was ridiculous to permit a few savages to dictate the rate of progress. The natives had to learn their lesson, and to teach it firmly and speedily was more humane than to prolong the agonies of frontier wrangles. The only realistic response to the challenge of German New Guinea was a strong colonial government which could establish and maintain public peace and create conditions under which the whites and the blacks could enjoy the fruits of their labours, until the differences between them—in both senses of the word—would disappear, and they would disappear most rapidly in areas which initially offered the most determined resistance, because its strength was, at the same time, a manifestation of the high quality of the local population as “human material” (*Menschenmaterial*).

Although I was confident that this captured Berghausen’s sentiments I felt uneasy because my desire to be conclusive had tempted me to rely more on my intuition in my interpretation of the views of Berghausen and Neuhauss than I would have liked. I was therefore delighted when I had the opportunity to visit the archives of the Neuendettelsau mission to investigate what its missionaries had written at the time about my two protagonists.

V

Since I had found the account of the recruitment of *corvée* labourers by the government station in Morobe by Neuhauss his most persuasive illustration, I began my search by consulting the 1910 annual report of the mission station in Malalo, its closest neighbour.

Its body (NDM 55/1) offered no relevant information, but it was followed by a brief postscript—not intended for publication by its author, Karl Mailänder—which went straight to the point. The establishment of the government station had caused widespread unrest among the people. This was mainly due to misunderstandings, but they also grumbled about their *corvée*

12 In fact the Madang Conspiracy in 1912 was a flash in the pan compared with the Ponape Rebellion.

labour, mainly because the official in charge, unable to do the recruiting himself, had sent his native policemen whose behaviour had left much to be desired.

The 1911 report, written by Hermann Boettger (ibid.), was more forthcoming. It appeared that the government had started to organise the natives “in the name of the *kiap*”,¹³ although Boettger could only report what his flock chose to tell him about these important developments, since he had not been officially informed about them. According to these reports, district officer Klink had announced that *corvée* labour would soon be replaced by a head tax, whereas district commissioner Dr Stuebel¹⁴ had earlier informed the people that they would be drafted to serve the government in other parts of the colony. This had created “a healthy terror”. Even old women and young children suddenly wanted to earn money for the *kiap*. But the natives were disappointed with the wages Boettger was able to pay; and he was disappointed with their efforts, because they rarely turned up before eight or nine in the morning and often left before noon. Moreover, he had now been told that the *kiap* had instructed the people to go and work on a new plantation north of the Markham River. Objectively speaking, it was to be welcomed that the government applied some pressure, as the people were unwilling to work on their own initiative and consequently walked around in a state which made one feel ashamed for them. But where was the mission going to get its workforce?—in particular as governor Hahl was reported as having told the coastal natives: “You are my people whom I will take as my police boys. You are not to go with the ships [recruiting for the plantations]. They should get their labourers from the Kai and Kaiwa [further inland].” When the *Madang* had come to recruit a few months later, the *tultul* from Laukanu had rushed back to his village to stop anyone from signing on because the time for *corvée* labour was drawing near, for which each village had to produce between 20 and 40 men. It was understandable that the villages wanted to keep their young men back for this purpose. Boettger could only hope that he would be able to obtain enough labourers for the mission from among the married men.

These glimpses of “subaltern” history were intriguing because they suggested that, contrary to conventional wisdom, “the natives” had not experienced German colonial rule as “harsh but just” but as a confusing array of contradictory orders and announcements. Yet this had not been the kind of information I had been looking for. I therefore turned to the letters the mission’s senior, Johannes Flierl, had written to his German headquarters, since he was more likely to have expressed his personal views about local officials and important visitors in this confidential correspondence.

When I flicked through the several hundred letters—or, rather, a collection of typewritten copies (NDM 52/21)—a reference to Neuhauss in a letter of 24 May 1912 caught my attention. According to Flierl, his “*Berliner Schnauze*”, the big mouth for which Berliners are notorious, had made Neuhauss intensely unpopular among all local officials. Unfortunately this had also affected their attitude to the mission because they knew very well “which calf had pulled his plow” (that is to say who had provided him with the information used) when he criticised the authorities. “If we had only been able to put a different face [*frisieren*] on what he said and wrote about our mission.”

This *cri de coeur* led Flierl directly to Berghausen who, he claimed, had been sent by acting governor Osswald, a Catholic, to Kaiser Wilhelmsland with instructions to destroy the “*Neuendettelsauer Kirchenstaat*” (church-state) in a frontal attack while governor Hahl, a

13 Pidgin terms like “*kiap*” were beginning to gain wider currency at the time. Their spelling was still idiosyncratic—just as was the spelling of the term “Pidgin” itself. I am generally using the modern version. The term *kiap* referred to all government officials but in particular to the person in charge of a local administration, the district officer or district commissioner.

14 The government station in Morobe was placed under the governor rather than the district commissioner in Friedrich Wilhelmshafen so that Hahl may well have decided to send Stuebel, the district commissioner in Rabaul, rather than district commissioner Scholz in Friedrich Wilhelmshafen, as his agent to Morobe.

Protestant, was on home leave. Berghausen had finally given up this attack, but perhaps only because “he now wants to cut us down to size with a series of pinpricks”. On the other hand, to be censured, after having been praised for so long, also had a positive side: “it makes us careful”.

Which reminds me: please examine all our reports from the field thoroughly before printing them. I found in the latest issue of the *Missions Blatt* something which should not have been published, and I have written today to brother Keysser in this matter. *Missions Blatt*, No. 2, page 11, second column, last paragraph: ten strokes with the cane, under the supervision of the missionary, administered by a former police soldier as a corporal punishment to enforce church discipline! Such beatings are only permissible here if the person ordering them has been expressly authorised by the government...and each beating has to be reported to government, identifying the reason, the number of strokes and so on. All other beatings will be punished. If they do take place in Keysser’s district, they should at least not be publicised.

While it was too late to do anything about the damage caused by Neuhauss, Keysser and Berghausen were continuing concerns. Flierl had already voiced them in a letter of 11 October 1911. An atheist with a Catholic background, Berghausen was a determined enemy of the Neuendettelsau mission—and a dangerous one, because he was a man of much energy and boundless ambition, anxious to earn himself a medal. He was due to go on home leave but planned to return. This was a prospect not to be relished because he wanted to separate the natives from the mission as well as the planters. Berghausen was especially opposed to the mission’s “boarding schools” (*Kostschulen*) because they helped to strengthen its influence over the natives. He had therefore insisted that the mission register its boarders as labourers and pay the appropriate fees for them. When told of governor Hahl’s decision that boarders did not have to be registered as labourers, he had responded that he would make sure the mission got no new boarders and that he had advised the planters that they were free to recruit the mission’s current boarders as labourers.

Berghausen had gone as far as threatening natives with *kalabus* (prison) if they went to the mission. His motto was parity between Christianity and heathendom. He demonstrated his neutrality by refusing to sleep or eat at any of the mission’s stations. Where heathen customs were still firmly rooted, the natives therefore believed that the *kiap* favoured their continuation. Yet, Berghausen had himself tried to demolish their belief in sorcery in Astrolabe Bay. He had decreed that every death be reported to him, so that the government doctor could examine the corpse and, by publicly pronouncing the official cause of death—in “*Pidgeon Englisch*” rather than in Latin—remove the basis for any sorcery accusations. This scheme had, of course, proved to be impractical, and Berghausen, fortunately, had also failed to secure funds to establish a government school for 400 pupils in Friedrich Wilhelmshafen, although he perhaps now wanted to finance this venture with the fees he was trying to charge the mission for its boarders.¹⁵

The Rhenish mission in Astrolabe Bay, on the other hand, regretted Berghausen’s departure, because he had become more reasonable in the course of the year, and because Scholz, who would replace him, was a practising Catholic who would favour the Catholic mission. The white community in Friedrich Wilhelmshafen had used the wedding of the Neu Guinea Kompagnie’s manager to express its feelings about Berghausen in the form of a poem comparing him to Baron Münchhausen. Each verse had ended with the refrain: “And all this was my work”. Berghausen had put on a smiling face and declared that being forced to look in a mirror which showed how one was seen by others was not a bad thing. Flierl was not sure whether Berghausen had mellowed, or whether Scholz would be worse, but he was convinced that relations between the mission and the government had reached a delicate point where all tensions had to be avoided.

15 One of Berghausen’s objections against the *Kostschulen* was the mission’s policy of using native languages, rather than German, as a medium of instruction, because this isolated the pupils from the outside world and locked them into little mission enclaves.

Although he was concerned about some particular “foolish actions” (*Dummheiten*) of several missionaries, he was more worried about the whole approach Keysser had adopted.

In a letter of 10 September 1912, Flierl returned to this question. There was something basically wrong with the community government Keysser had introduced in the Sattelberg area. Until recently Keysser had also worked through church elders. Now he regarded them as “softies” (*Waschlappen*) and had replaced them by forceful overseers, armed with a cane and backed by a prison. To report these changes to the government had been unnecessary as well as unwise. Governor Hahl would be pleased if the natives were taught to work, no matter how, because he could then tax them, but another official could easily twist this “system of beatings” (*Prügelssystem*) into a rope with which to hang the mission.

Flierl was also sceptical about the comparisons with ancient history which Keysser had apparently made in his report to the governor. These arrangements were not a plant which had grown from traditional roots but something entirely new which had been inspired by Keysser. It was Keysser who was holding all the strings, and the theocratic republic he was creating was bound to degenerate into a secular despot, if it was given enough time. But this was unlikely to happen, since the government would soon organise the natives and replace Keysser’s overseers with its own *luluai* and *tultul*, thus leaving the mission with nothing.

Flierl was in favour of maintaining a healthy church discipline, but it had to be maintained verbally rather than physically. This did not mean that minors did not sometimes deserve a hiding and some really bad ones even a proper beating, but these punishments had to be carried out “privately and quietly” (*in aller Stille*), because one smack in the face could earn a missionary a fine of 20 Marks if a complaint was made to the government.

Another letter by Flierl, written the same day, painted a different picture of colonial law in German New Guinea. It grew out of a plea to spare his son the strain of having to study colonial law as part of an updated form of missionary training. The farmers in his part of Bavaria, Flierl began, had a saying that the law had a waxen nose which could be turned in all directions. In the colonies this proverb had to be modified because the waxen nose of the law was always turned to disadvantage the natives and to favour their colonial masters, naturally behind a facade of legality. Colonial legislation proliferated with tropical fertility. It already filled more than a dozen volumes—the *Deutsche Kolonialgesetzgebung*—which cost over 100 Marks.¹⁶ No doubt students in Germany would be taught an ideal colonial law designed to bring culture and humanity to primitive tribes. All the greater would be their shock when they came to the colonies and discovered that it was, in fact, used as “*Kolonial-Unrecht*” (colonial ‘un-law’ = in-justice) for their brutal oppression. All one had to know about colonial law in colonial practice, as the missionaries had learned with great pain, could be summed up in three short sentences: 1. No native had a lasting claim to land which was suitable for whites. 2. All natives had the duty to cultivate as much land as possible for the whites so as to make them rich quickly. 3. The missionaries had to put up with this and teach the blacks to become obedient subjects and efficient labourers.

This gloomy picture had also been prompted by the news of a conspiracy in Friedrich Wilhelmshafen, said to have been caused by the natives’ loss of their land. Similar reactions could be observed on the Huon Peninsula and in the Huon Gulf, although here—where the Neuendettelsau mission was by far the most expansive landlord—naturally they had nothing to do with the alienation of land. Instead they were produced by the recruiting of natives as labourers which often involved the use of “gentle force” (*sanfte Gewalt*). Already statements like “If the whites did not have their guns...” were reported from all along the coast. Flierl could understand the mood of the people. They could neither decide for themselves whether or not they wanted to

16 Was I unduly cynical when I read this as also implying that this was a great deal more than a poor missionary could afford to spend on a sideline of the education of his son?

sign on, nor were they drafted into service by the government in an orderly manner. Rather they were confronted by a barrage of lies and coercion.

When the natives had asked him to complain to the governor about a particular group of recruiters, an official investigation had confirmed their accusations, but the main culprit had by then already fled the colony. Moreover, the officials who had conducted the investigation had themselves tried to persuade a guide supplied by the mission, and a houseboy serving at one of its stations, to sign on with the government. The government steamer *Komet* had taken 27 men from another station, including two pupils and many married men. When police soldiers had come soon afterwards to recruit for the district office in Madang, this had caused such a panic that even a seriously ill man had asked to be carried to the ship to enlist. Of course he had not been accepted, since the mission was welcome to look after the old and sick. But if such visitations continued the entire coastal population would disappear within a few decades and Germany could only sell her empty colony at a loss to an Asian power!

When a major disturbance in the Sattelberg hinterland came to a head with bloody fights only a month later, it required yet another explanation because neither the alienation of native land nor the recruitment of natives as labourers could be held responsible. In a letter to governor Hahl, dated 2 November 1912—the height of the crisis—Flierl gave his “official” version:

The sudden unrest...is not a local feud among natives, during which the whites and the missionaries are always treated as neutral, but it was caused by a fundamental opposition to Christian morality and culture and a fanatical defence of the evil heathen ways. The ferment could easily bring us misfortune. Yet, it may also mean that Good will soon triumph in the entire area.¹⁷ For the time being we do not fear for the safety of our stations, since the natives here were always braver in their words than in their deeds and rarely dare to attack over long distances.¹⁸

When Berghausen returned as district commissioner to Friedrich Wilhelmshafen in January 1913, “Good” had not yet triumphed, but things had calmed down and Flierl had more urgent matters to consider than the natives’ opposition to Christian morality. District commissioner Scholz had been more cooperative than had been expected—but then he had hardly been in a position to complain about failings on the part of the mission, since one of his subordinates had removed stacks of official correspondence from the district office, because he had been unwilling or unable to deal with it.¹⁹ By contrast, Berghausen, the new broom, wanted to sweep all the more energetically. Flierl found his letters courteous enough but dreaded their first meeting because he had heard that Berghausen often lost his temper during personal encounters. “I shall show the imperial district office all due respect and can only hope that the young man representing it will suspend his medieval [*sic*] behaviour”, he wrote on 17 March 1913.

A week later Flierl was able to report how he had fared. Berghausen had been better than his reputation. He had expressed his general satisfaction with the activities of the mission and had not even pushed the question of the registration of its boarders too hard—probably because he knew that an ordinance dealing with native education, about which Flierl had been told by governor Hahl, was in the pipeline. The other major bone of contention—the role the mission was expected

17 Flierl meant “*das Gute*”—as opposed to “*das Böse*” (evil)—in the sense of a superhuman force, rather than in the sense of “goodness” as an attribute of human beings.

18 Flierl had sent this letter to Neuendettelsau, “for the files”, although he claimed that it had not been posted because of “an oversight” (*aus Versehen*). I rather suspect that Flierl decided not to post this letter—in which he had also asked the governor for 12 rifles as a matter of urgency—when he learned the next day that an expedition sent out to rescue Keysser had returned safely with him.

19 According to another letter by Flierl, dated 22 November 1912, the man had been arrested when trying to depart for Australia. Since he had drawn his revolver, he was tied up and escorted by 15 policemen to “the prison in Rabaul”. Over 130 official letters were found in his suitcase, including several from the Neuendettelsau mission.

to play in the compilation of a tax census—had also disappeared because Berghausen did not intend to introduce the head tax on the Huon Peninsula, which Scholz had announced a few months earlier,²⁰ and because Berghausen himself had counted the coastal population right down to the mouth of the Markham River.

Regrettably Berghausen had cut down the size of a block of land granted to the mission on Umboi Island because coconut palms belonging to natives had been found to grow on much of the area and because missions would henceforth be granted no more than 25 hectares for a station manned with a “priest”.²¹ In Flierl’s view there was little that could be done to alter this new policy, although this did not matter in this particular case, since probably no station for a white missionary would ever be built on the land.²² Berghausen had also mentioned that native labourers had complained about their treatment in one of the mission’s commercial establishments: illegal beatings and underpayments—to which Flierl had responded with the promise that he would do all he could to make sure that everything would be handled correctly in future. Finally, Berghausen had requested further information about various blocks of land the mission had applied for along the Huon Gulf. So as to be able to discuss these matters promptly and properly, Flierl had arranged that all the mission’s land files would be available in Finschhafen before Berghausen’s arrival.

Our entire conversation was quiet and friendly. I have gained the impression that we will be able to get along with district commissioner Berghausen if we all behave as correctly as possible.

This was a far cry from Flierl’s earlier assessment of Berghausen—and of the role of colonial law in German New Guinea. Perhaps Flierl would have requested that the legal training of future missionaries be intensified, had he dealt with that topic on this particular day, instead of dismissing it as a waste of time. But perhaps he had merely been lucky because he had met Berghausen on one of the rare days when he was not “stupefied by morphine” (see above: 54)—or cranky because he was in need of another shot? On the other hand, was it likely that Flierl, who found it worth reporting that Berghausen had only gone to mass once, at his father’s funeral,²³ would not have also mentioned this “problem”, if it had been as serious as Firth made it out to be?—and Flierl was obviously well informed about other gossip circulating locally about Berghausen. But was likelihood an appropriate yardstick when it came to interpreting the views of a man who complained about the waxen nose of the colonial law in German New Guinea but treated its history as if it consisted entirely of putty which he could give whatever shape was most advantageous in a particular context?

Had his conversation with Berghausen convinced Flierl that the Rule of Law had finally arrived in Kaiser Wilhelmsland and that it would henceforth be governed in accordance with “the book”, that is to say the numerous volumes of the *Deutsche Kolonialgesetzgebung*, or had he merely come to the conclusion that it was in the interest of the mission to put on a show of correctness for the time being, to please Berghausen and prevent him from causing trouble? Was Flierl in his own way just as firmly committed to the Rule of Law as Berghausen and Neuhauss? Did they all see colonial rule in German New Guinea as an essentially legal enterprise, aimed at approaching the ideal of justice and equality before the law as closely as possible? Or had all the references to the Rule of Law, from Schmiele’s 1887 circular onwards (see above: 188), been

20 Flierl was rather pleased about this decision because he hoped that a continuation of corvée labour would in time produce a rideable road from Finschhafen to the Markham.

21 It was Flierl who placed this offensive term, which Berghausen had apparently used, in inverted commas.

22 Nonetheless Flierl had applied, just in case, for the previous maximum size of 100 hectares for a station under a white missionary.

23 See Flierl’s letter of 11 October 1911.

empty rhetoric? Did the planters and traders, the prospectors and bird-of-paradise hunters also believe that economic development and the Rule of Law had to go hand in hand, or did they not care about either and see the colonial government as interfering in their attempts to amass a personal fortune as quickly as possible? Did they at least by and large treat the natives humanely because they accepted that this was in their own economic interests, or did they consider them as a disposable resource to be exploited as vigorously as possible? Did they prefer the freedom of using the gun, the cane and the torch to a maximisation of profit? Conversely, was the Rule of Law seen not as a political ideal but as an inevitable product of history which would come about sooner or later, no matter what people did, because it was part of a natural and necessary evolutionary process? Or were the attitudes and actions of "the whites" in German New Guinea, collectively and individually, shaped by a changing mixture of all these and many other ideas, instincts and emotions?

It was plain that this last question had to be answered in the affirmative, but this did not help me. On the contrary, it demonstrated that it was pointless to approach the history of German colonial rule from the ideological perspective. It was clear that racism, nationalism, the self-interest of groups and individuals, personal greed and brutality, sexual and religious preferences and prejudices, the desire to save souls and the pleasure of causing others to suffer and, above all, the ability not to see what one did not want to see but to see what one wanted to see, even if it was not there, all played their part. But to identify the mixture of all these ingredients in particular instances, let alone changing patterns of typicalness, was a different matter.

Did Berghausen, for example, spend so much time on "expeditions", not because he regarded this as administratively essential but because each night spent away from Friedrich Wilhelmshafen on official business earned him a special travel allowance of up to 12 Marks? Did he even need this extra money to pay for a morphine addiction? How could I expect the historical record to provide answers to such questions, if it did not even allow me to establish whether or not Berghausen had in fact been a morphine addict?²⁴

Perhaps quite recent and much grander historical developments had altered the situation in my favour? Perhaps the personal files kept by the colonial office had, in fact, not been lost, as I had been told by the Zentralarchiv of the German Democratic Republic, but had been merely kept under lock and key for political reasons? Perhaps these files had in the meantime been discovered after the reunification of Germany and were now available to me?

Alas the Bundesarchiv of the Federal Republic of Germany informed me that no hidden treasures had been found by the new management. But my hunting instincts had been reawakened. Perhaps I had not cast my net sufficiently widely? Perhaps the colonial office, or some other metropolitan office, had kept other files dealing with personnel matters in the colonial service, in particular their disciplinary aspect? Perhaps Berghausen had been investigated for breaches of discipline and the records of this investigation had survived. And if no such investigations had been carried out in the case of Berghausen, what about the hundreds of other officials who had served in the German Pacific? Indeed, I already knew that at least one of them, administrator Brandeis in the Marshall Islands, had been formally prosecuted for alleged disciplinary offences, although he had been acquitted. Had Brandeis been the only one, or had dozens of local officials at all levels been dismissed, demoted or fined because of their brutality, corruption or other failings? Had there been other files covering resignations from the colonial service or early retirements on health grounds which would, for example, clarify whether Hempenstall had been right after all in claiming that Bennigsen had resigned in a fit of pique (see above: 95)?

24 On the other hand, the historical record permitted me to state with confidence that his "violent progress up the Sepik" had earned Berghausen 300 Marks in travel allowances. They were paid to him on 25 December 1913, presumably a welcome Christmas bonus. The receipt is part of the surviving accounts of Friedrich Wilhelmshafen for the third quarter of the 1913 budget (AA, G254/1, Item 112).

The response of the Bundesarchiv to my inquiries was encouraging: its holdings included large numbers of relevant files which had been kept by the ministry of the interior, the ministry of justice and the chancellery of the Reich. More importantly this time I had an opportunity to visit the archives in Potsdam to see for myself what information these files contained.

Chapter 12: A Never-ending Story

I

During my trip to Potsdam I had a brilliant idea: the Reichsarchiv, from which the Bundesarchiv had inherited, via the Zentralarchiv, its colonial office holdings had also produced records of its own. Did the Bundesarchiv hold the indices the Reichsarchiv had prepared of its colonial office holdings as archival material? It did (BAP 15.06), but when I consulted the “New Guinea and Pacific” index, I found that the first 27 of 29 folios had been torn out.¹ Moreover, another document showed that a decree of 25 February 1925 had ordered the destruction of a large number of colonial office files. However, this had not included the over 5,000 personal files, for which the index was fully preserved. It confirmed that a personal file on Berghausen, comprising two volumes, had indeed existed. But the files were no longer available. Nor was a special file on a 1909 conflict between Berghausen and his colleague, *Assessor* Full, available, although it had been part of a different series. More importantly, the entire series of colonial office files on disciplinary matters had disappeared.

But the surviving records of the ministry of the interior included boxes with some 4,000 index cards relating to the cases the disciplinary court of appeal of the Reich, the Disziplinarhof, had heard between 1874 and 1937 (BAP 15.03). Fortunately less than 400 of the cards represented cases heard between 1884 and 1914, the effective lifespan of the German colonial empire. When I started to inspect these cards, I soon struck gold: case F2/1894 dealt with Germany’s first major colonial scandal, featuring the imperial chancellor in the Cameroons, Heinrich Leist. This was followed by a second scandalous Cameroon case, that of *Assessor* Karl Alwin Wehlan (F4/1896). Then I drew a blank year after year. I therefore did what I should have done in the first place, namely examine the legislative framework. It did not take long to find that an imperial ordinance of 9 August 1896 had established special disciplinary courts for the colonies. I therefore could not expect colonial cases to have come before the Disziplinarhof after that date.

As an atonement for this lack of foresight I persisted. To my surprise I discovered another quasi-colonial case (F3/1906). The accused, Oskar Poeplau—one of Erzberger’s main informants in his colonial scandal campaign—had served in the colonial department in Berlin rather than in the colonies. Although I was not especially interested in this case, the discovery spurred me on, and I was rewarded because case F6/1907 involved disciplinary proceedings against the governor of the Cameroons, Jesko von Puttkamer. The case had been dealt with in the first instance by the Disziplinarkammer in Potsdam. Although I did not understand why this had happened, it seemed sensible to look for more information about the activities of that court as it might also have dealt with other matters of colonial interest which had not come on appeal before the Disziplinarhof.

The Bundesarchiv held a series of ministry of interior files relating to this court (BAP15.01/5651-53). But its first four volumes, covering the years before 1903, were missing. This mattered little, however, since the entire series was only concerned with administrative matters. Still, the files included at least annual summaries of the judicial activities of this court. They showed that it had not been overworked. It did not sit at all in 1908, and the highest number of cases heard between 1903 and 1914 was 10 cases in 1909. Only three colonial cases—Poeplau, Puttkamer and Mettke, the latter another minor headquarters official—had been dealt with. Moreover, they had all gone on appeal to the Disziplinarhof, so that they were already accounted for.

Another series of ministry of interior files was more helpful. It contained a collection of copies of the judgements pronounced by the Disziplinarhof (BAP15.01/5670-72). They included those

1 None of the other indexes I checked had been so vandalised.

in all the five colonial cases—the three just mentioned, plus Leist and Wehlan—I had so far identified.

Because things were going so well I had inflated hopes when I looked at a file of the ministry of the interior on the disciplinary courts in the colonies (BAP15.01/5679). The fact that these courts came under the colonial office rather than the ministry of the interior should have warned me that I could expect little useful information. The confirmation that this was indeed so helped me to control my enthusiasm when I inspected the files of the ministry of justice on particular disciplinary matters (BAP30.01, Nos. 368-78, 380-81 and 383). Although one of these files was exclusively devoted to disciplinary proceedings against a colonial official in Togo—one Wistuba, Erzberger's second main informant—and although other files also featured some colonial cases, the information related, understandably, to technical legal questions on which the ministry had been asked to give its expert opinion.

This left the chancellery of the Reich. Its disciplinary jurisdiction series (BAP7.01/1892-98) was unrewarding. While it had kept special files on most German colonies, there was none on German New Guinea. I would have been delighted with its files on the colonial office and its secretaries (BAP7.01/1662-64), had I been interested in the personnel aspect of headquarters administration at the highest level, but I was not. The German New Guinea content in the files on subordinate headquarters officials (BAP7.01/1665-67) was minimal. The same applied to the files on "defects in the colonial administration" (BAP7.01/941-46).

I therefore had good reason to be disappointed with the fruits of my labour, but I was not. To be sure, I had found no information on a single case where disciplinary action against an official serving in German New Guinea had been taken. However, if I utilised what I had learned about the structure of these historical records, I could conclude with confidence that only very few of such cases would have come before the disciplinary courts. Indeed, it was not unlikely that the case of administrator Brandeis had been the only disciplinary prosecution of a colonial official serving in German New Guinea and the Marshall Islands.

It was certainly regrettable that the records of the Disziplinar-kammer and the Disziplinarhof for the German colonies were no longer available, but the relevant index of the Reichsarchiv provided by itself a reasonably clear overall picture. It identified only six colonial cases as having come before the Disziplinar-kammer between 1897 and 1922. This could, of course, represent the tip of an iceberg—and the Brandeis Case was indeed not listed—but the file numbers suggested a different story. The identified cases bore the following numbers: DK1/97; DK2/97; DK1/05; DK1/07; DK1/08 and DK2/08. Not a single higher file number, say DK7/06, appeared. The five appeal cases also showed the lowest possible file numbers: namely DH1/97; DH1/98; DH1/06; DH1/07; DH1/14. While it was to be expected that a case which had first come to the Disziplinar-kammer in any given year would also be the first in which an appeal was lodged to the Disziplinarhof, what the index had to say about the volume of business dealt with by these courts confirmed that they—like the Disziplinar-kammer Potsdam—had not been overworked. In 1900 and 1911 they had only become active once. Even in 1897—their first and busiest year of operation—they had only become active on 77 occasions. This did not mean, however, that they dealt with 77 different cases. On the contrary, the *total* number of cases dealt with by these courts until 1914 was well below this figure. It was probably not higher than 20, and most of these cases would have related to Germany's African colonies.

Yet, I had also learned that I could not rely blindly on these structural implications. Had I accepted that the Disziplinarhof of the Reich did not deal with colonial cases after special disciplinary courts for the colonies were established I would have missed the Puttkamer Case. I would also have failed to appreciate the key role it had played in the "defects in the colonial administration" files of the chancellery, which probably offered deeper insights into the culture of government in Wilhelmine Germany than any of the disciplinary cases which might have arisen

in German New Guinea and thereby made a significant contribution to an understanding of German rule in that colony that was shaped by the same metropolitan factors.

A comparison between the information in these files about the Puttkamer Case and the phantom version of this case presented by Epstein—alongside his phantom version of the Brandeis Case discussed at the beginning of this volume—also demonstrated just how defective a narrative approach to history could be. It showed that Epstein had not just distorted the facts of this particular case as brutally as that of Brandeis but that, by falling for Erzberger's self-promotion, he had also failed to appreciate that the big picture painted by Erzberger had to be counterfactual because it is only in the Wonderland of narrative history that events unfold as Erzberger described them. But then this was the realm in which Epstein was also at home and where the Puttkamer Case readily took the following shape:

There was the case of the Cameroon governor, Jesco von Puttkammer [*sic*] who had built a special house for his African concubines while also forging a name in the passport application of his white mistress. When some Cameroon chiefs had petitioned Berlin against his maladministration, he used his judicial powers to sentence them to long jail terms for libel. The Berlin colonial department was shockingly slow to punish this kind of conduct (1959: 641).²

How did the case look according to the chancellery files?³

II

The first document on the files of the chancellery dealing with the “defects in the colonial administration” (BAP 7.01/941) is a news service cutting, dated 18 February 1906. It reported that governor von Puttkamer had had misgivings about the severity of “the sentence”—presumably against “the Cameroon chiefs”—and that he had refused its confirmation. “The investigation”—presumably conducted by the colonial department—had produced so little damning evidence against him that his return to the Cameroons as governor was likely. Then came the crunch: the *Tägliche Rundschau*, which was paraphrased in this report, threatened that it would start firing its own shells, should this happen, which would remove Puttkamer for ever from the circle of German colonial officials.

In May 1906 Puttkamer tendered his resignation; but, after discussions with the colonial department, he applied instead for disciplinary proceedings against himself in order to clear his name. The chancellery was pleased because it hoped that this move would take the wind out of the sails of those who were attacking the colonial administration, as Lobell, its administrative head, informed chancellor von Bülow, who was holidaying on a North Sea island at the time.

Two weeks later Bülow was stirred up by a cable from the emperor: Was there no way of protecting “Our Officials and Officers” from this professional gossip, vilifier and defamer Erzberger, it asked, suggesting that it was high time that the government showed its teeth to Erzberger's Centre Party. The chancellor was not so inclined, because he believed that the mismanagement in the colonial department had been shocking and that in all probability things had happened which could not be covered up but had to be dealt with “*ferro et igni*” (with iron

2 In this case Epstein did not only refer to Erzberger's writings—which I did not check—but also to “Townsend, op.cit.: 230”. This reference I did check, only to find that the page reference should have read 250-51, and that Townsend's claim that Puttkamer had been dismissed in 1907 was yet another phantom (see below in the text).

3 I should stress that I am not criticising Epstein for not consulting these files which would probably have been inaccessible to him when we wrote his article. However, a critical examination of the information at his disposal would have clearly indicated that Erzberger was presenting phantom history. The value of the chancellery files is not that they identify some of these phantoms but that they give some idea of what had actually happened.

and fire). The only effective course of action was a ruthless investigation which would punish the guilty officials without mercy.

Lobell did not share this defeatist view. In his opinion the reports in the "*Erzberger Presse*" consisted mainly of libellous accusations which ought to be prosecuted. He therefore suggested that Bülow's draft response to the emperor "be modified in some points". In fact, he proposed a different tune. It started with an assurance that the chancellor shared the emperor's indignation at the unbelievable aspersions cast by the "anti-colonialists" (*Kolonialgegner*). This was to be followed by Lobell's prosecution theme before incorporating Bülow's investigation melody. Furthermore, there was to be an energetic coda.

It is urgently necessary to change the body of officials in the colonial office [*sic*] substantially. Your Majesty will shortly receive an application from me for the appointment of four new, highly recommended senior officials [*vortragende Räte*] so that order in the colonial department [*sic*] can be restored and the Erbprinz [Hohenlohe-Langenburg, its acting director] will be given strong support.

On the same day, 3 July 1906, Lobell sent this revised response to Bülow—who, still on holiday, apparently accepted it—Hohenlohe-Langenburg suggested to the chancellery that the disciplinary investigation of Puttkamer be entrusted to *Kammergerichtsrat* Straehler, a judge of the Prussian supreme court. This appointment failed to have the desired impact on the attacks from the anti-colonialists. By the end of August the colonial department had reached breaking point. It asked the chancellery for the appointment of a commission to carry out a general investigation of the colonial administration so that it could resume its task of administering the colonies instead of having to spend its time on defending itself against personal attacks.

The next move in the Puttkamer Case—one of the last made by the former imperial commissioner Fritz Rose for the colonial department—was a memorandum of 11 August for the chancellery. It summarised the developments so far. Puttkamer had been recalled in December 1905 as a result of complaints by "the Akwa chiefs". He had arrived in Berlin in February 1906. Before the investigations by the colonial department had been completed, Puttkamer had first tendered his resignation and then asked for disciplinary proceedings against himself. Having gathered evidence in Germany, judge Straehler was about to travel to the Cameroons. He would report after his return, which was expected in November. Rose also referred to a petition made to the chancellor in November 1904 by the *Geheime Sekretariatsassistent* Poeplau—a minor clerk with access to confidential files—which had *inter alia* accused Puttkamer of knowingly forging a document in "the case of Frau von Eckardstein". The files of the colonial department showed that Puttkamer, although on leave in Germany at the time, had not been confronted with these accusations, presumably, Rose added, because Poeplau was known as a common informer of the worst kind who had repeatedly made untrue accusations.

In other words, the "so-called Frau von Eckardstein", Puttkamer's so-called "cousin", Maria Ecke, who, in the meantime, had married and divorced a Herr von Germer, had replaced "the Akwa chiefs" as the cornerstone of the case against Puttkamer. This had happened although Puttkamer's short affair with Maria Ecke had by then been over for about ten years, not just because this switch was politically convenient but also because the colonial department was concerned that "Frau von Eckardstein" had appeared in the Cameroons together with Puttkamer during official functions at which officers of the imperial navy had been present and because this affront to naval honour was more serious than any form of colonial maladministration (see RM3/2511).

The next move was made by Dernburg—one of his first as acting secretary of the colonial department—on 14 September 1906. Dernburg asked the chancellor to suspend Puttkamer from his office as governor because he could not return to his post, irrespective of the outcome of the disciplinary proceedings against him, since he had been certified as medically unfit to serve in the

tropics, and because this important post had to be filled as soon as possible on a permanent basis.⁴ The chancellery sought the advice of the ministry of justice. It declared a suspension to be legally permissible but politically undesirable, because it would essentially be a temporary disciplinary measure which might not be justified by the facts but would be seen by the public as a prejudgement of the accusations against Puttkamer. The chancellery agreed and rejected Dernburg's application.

On 10 November Dernburg reported the return of Straehler and asked for the appointment of an alternative prosecutor as the original appointee was now himself under investigation.⁵ Straehler's report focused on two "false" passports Puttkamer had allegedly issued to Maria Ecke (as she then was) a decade earlier. But it also proposed the laying of new charges, because Puttkamer had recently approached Frau von Germer (as she now was) in order to obtain from her a favourable account of the passport affair.

The colonial department requested that all these charges be referred to the "competent disciplinary court". It was the Disziplinar-kammer Potsdam.⁶ It reprimanded Puttkamer on 25 April 1907 and fined him 1,000 Marks (see BAP15.01/5657). Both Puttkamer and the prosecutor appealed, the former seeking his acquittal, the latter Puttkamer's dismissal.

Puttkamer was partly successful because a reprimand was the only punishment imposed by the Disziplinarhof (see BAP15.01/5671). Of the three "crimes" listed by Epstein—the building of a special house for his African concubines; the forging of a name in the passport application of his white mistress; and the misuse of his judicial powers to sentence some Cameroon chiefs—the first and last did not figure at all in the decision. Moreover, Puttkamer was not charged with "forging" a name on Maria Ecke's "passport application" but with issuing her knowingly with two passports under false names. On the other hand, Puttkamer had been charged with attempting to pervert the course of justice by asking Frau von Germer to cover up for him, with interfering in the administration of justice in the Cameroons by instructing a district judge to drop a criminal charge against a planter and, most seriously of all, with ordering his subordinates to give preferential treatment to a particular plantation company.

Puttkamer was cleared of the last charge, and of the second passport charge, because it was doubtful that this second passport had ever existed. As regards the first passport charge, the court accepted Puttkamer's defence that he had believed that "von Eckardstein" had been Maria Ecke's real name, as had several other witnesses. However, it found that while Puttkamer had been entitled to hold this naive belief as a private citizen, he should have checked with Maria Ecke—which he had not done—before issuing her with a passport in that name in his official capacity.

The Disziplinarhof took a dimmer view of a decree Puttkamer had issued in 1904. It had expressed the opinion that a planter, whom natives had accused of threatening to burn down their houses, should not have been prosecuted—apparently because of the "notorious unreliability" of native witnesses—and that he should certainly not be convicted. But the Disziplinarhof accepted that Puttkamer had been rightly concerned with the impact the administration of justice by this newly arrived official was generally having on the state of affairs in the district and found that Puttkamer had only used the wrong method to convince the man of the error of his ways.⁷

4 Seitz had apparently already been earmarked for this post under Hohenlohe-Langenbourg, so that the end of Puttkamer's colonial career had been a foregone conclusion before Dernburg had come on the stage, just as Rose and König had by then already been temporarily retired (see above: 55).

5 He was later cleared of accusations relating to his administration of the German consulate in Cape Town.

6 Puttkamer had probably come under its jurisdiction because he too had been "laid off" and was now on the payroll of the Reich rather than that of the Cameroons. But it would also have been politically awkward if the case had been heard by the special colonial Disziplinar-kammer which came under the administrative responsibility of the colonial office.

7 Perhaps the man learned his lesson too well, for it was he rather than Puttkamer who subsequently pronounced the excessive sentences against "the Akwa Chiefs".

Nonetheless it would have let Puttkamer off with a warning, had he not persuaded Frau von Germer to sign a letter confirming that he had believed that “von Eckardstein” was her real name. The Disziplinarhof accepted that Puttkamer had held this belief and held that it had not been improper of Puttkamer to get in touch with the woman, but saw his offence in giving the letter a form which wrongly implied that he had had nothing to do with its writing. The Disziplinarhof had a great deal of sympathy with Puttkamer, who had been publicly accused of “forgery”, and whose ability to defend himself against this false accusation depended to a large extent on such a thoroughly unreliable person as Maria Ecke, who had subsequently given the press interviews which were teeming with lies, and who could certainly not be believed if she now insisted that Puttkamer had known all along of her real identity.

Barely a week after the decision of the Disziplinarhof was pronounced on 13 January 1908, Puttkamer approached the chancellor, asking for an appropriate post in the service of the Reich, because he had been cleared of all the serious allegations which had been publicly levelled against him.⁸ Dernburg was invited to comment. He was unsympathetic. Discussions between him and Lobell resulted in an agreement to put the matter on ice. Lobell therefore strongly advised a brother of Puttkamer, on 23 February, that Puttkamer would only harm his prospects if he sent a second—presumably more strongly worded—application to the chancellor.⁹

In May Dernburg advised the chancellery that it would be best to retire Puttkamer in “the usual manner”, as the colonial office could not offer him a post commensurate with his age and rank. Since Puttkamer had himself applied for the medical assessment in 1906 which had found him to be permanently unfit to serve in the tropics, his retirement on health grounds could be affected as soon as he made another application to this effect, replacing the one he had withdrawn when he had asked for a disciplinary investigation.

Puttkamer was persuaded to make this application, so that Lobell could ask Dernburg on 31 May 1908 how the “title question” was to be handled: should Puttkamer be treated like governor von Soden—who had presumably been retired with a higher title—or should he be only permitted to retain his current title? Dernburg was not in the mood to make concessions, so that the second option was implemented, and Puttkamer kept his peace until 1911. Then, with the help of Lobell, who had himself retired in the meantime, the colonial office—no longer headed by Dernburg—was convinced to accept that Puttkamer was entitled to call himself “*Gouverneur*” without having to add “*a.D.*” (retired), but it still drew the line at his entitlement to wear the gubernatorial full-dress uniform: only *Wirkliche Geheime Räte*—“truly confidential councillors”—had this privilege.¹⁰

This decision was made by the then acting head of the colonial office, Conze. Four years later his boss, Solf, was more generous. On 28 June 1915 he wrote to Lobell’s successor, Wahnschaffe, that Puttkamer had poured out his heart to him. He had still not got over the fact that he had been retired, unwept and unsung, without being given a brevet rank, or at least a medal, in contrast to governor von Rechenberg for example, who had been made a “*Wirklicher Geheimer Rat*” on his retirement after a much shorter period of service. Solf would personally be delighted if Puttkamer could be honoured in some way, and such an honour would be well deserved, because he had earned considerable merits during the difficult first years of colonial administration. No-one would raise an eyebrow if Puttkamer were now made a “*Wirklicher Geheimer*” because his escapades, which had occupied the public in unseemly detail and with a tendency to unfortunate

8 The following account is based on another series of chancellery files: BAP 7.01/1665-67.

9 Puttkamer’s brother, a senior official of the Reich, who was serving in Alsace-Lorraine at the time, had apparently become involved because he was personally acquainted with Lobell, who signed his letter “in old friendship”. My guess would be that this Puttkamer—who was not identical with the “Wilhelm” who had served as a station manager of the Neu Guinea Kompagnie—had been a member of the same student fraternity as Lobell.

10 This literal translation is, of course, not very helpful. But do we need to know more than that this title was reserved for very senior officials?

exaggerations, had long become part of the history of colonial gossip. Wahnschaffe had more serious worries. The matter was presented and deferred every few months, until it was permanently filed away when Puttkamer died in January 1917.

Was the Puttkamer Case more than a unique historical episode? Did it have a greater historical weight than any of the numerous cases in which the Disziplinarhof punished minor postal officials much more severely, which appear to gain historical stature only through their unproportionately high numerical weight?¹¹

Was it Puttkamer's elevated rank which placed this case in a different category? Probably not, because I also saw the case of his denouncer, Oskar Poeplau, who was dismissed by the Disziplinarhof in 1906, as also being historically important, although he was only a lowly clerk. Why did I view the Poeplau Case in this light? Because I saw Poeplau as representative of a type—the whistleblower—and because I was prepared to accept that Poeplau's treatment was typical of the manner in which persons belonging to this type were treated in Wilhelmine Germany. Did Puttkamer represent another type? Had he behaved the way he did, and been treated the way he was, because he was a Prussian nobleman with excellent connections? While his social status was an important factor, it was not decisive, because Puttkamer had not been in trouble because he was a Prussian nobleman but because he was a colonial governor. Was there a type "colonial governor", or, for that matter, a type "postman"? Had Puttkamer's behaviour been typical of what German colonial governors did and had his treatment been typical of how German colonial governors were treated? Did German postmen typically misappropriate postal articles in their care? Were postmen who received disciplinary punishments typically punished because they had committed this particular offence?¹²

Had I merely tricked myself by seeing Poeplau as a typical whistleblower because whistleblowing was something whistleblowers did by definition? Poeplau could only be described as a whistleblower because he had actually blown the whistle. By contrast he could be described as a "*Geheimer Sekretariatsassistent*" because he held this position, irrespective of what he actually did or did not do. It was his "duty-statement" which defined what he was typically supposed to do—and whistleblowing was certainly not part of his official duties. A *Geheimer Sekretariatsassistent* did not typically blow the whistle, just as postmen did not typically misappropriate postal articles. Postmen typically delivered postal articles. Even if postmen frequently misappropriated postal articles, they displayed a distinctly untypical behaviour each time they did so.

What about governors? Did German colonial governors typically have native mistresses, even if it could be shown that most of them actually had? Did they typically have judicial powers? If they had, was it typical that they misused these powers, even if it could be shown that this was statistically probable? In what sense, if any, could the manner in which Puttkamer governed the Cameroons be said to be typical of the manner in which German colonial governors governed their colonies?

By the same token, in what sense had the treatment of Poeplau been typical of the treatment of whistleblowers? Although Poeplau had denounced Puttkamer in 1904, no disciplinary action had been taken against this "notorious informer" until Erzberger had used the information provided by him in his campaign in the Reichstag. Similarly no disciplinary action was taken against Kiem, the denouncer of Brandeis, although he had been recalled from the Marshall Islands

11 Of the 53 cases decided by the Disziplinarkammer in Potsdam between 1902 and 1914 as many as 30 involved postal officials (see BAP15.01/5657). I did not pursue the questions this raised.

12 While postal officials were punished most frequently by the Disziplinarkammer Potsdam for misappropriation and fraud, others were punished for their sexual behaviour or were formally dismissed from the service simply because their whereabouts were unknown. Still others were disciplined because they owed money, and in one case one of the reasons given for a disciplinary punishment was "public support for the social-democratic party".

when his relations with Brandeis had become unworkable. In other words, the Poeplau Case, too, had been unique rather than typical.

Yet it was historically illuminating in a way in which the disciplinary proceedings against postmen were not. Why?—not because it was narratively more attractive, but because it sent signals of general significance: it said something about the historical stage on which not only Poeplau in this particular instance but all historical actors involved in the exercise of German colonial rule were performing at the time. Although it was not typical, this case was telling beyond itself as a unique event.

The situation was the same with the Puttkamer Case, but it sent a much wider range of signals. However, these signals were pointers rather than pictures. They were hinting at something instead of displaying it. They offered suggestions, not facts. This did not diminish their importance, but made it difficult to handle them historiographically; for while I had greater faith in the capacity of facts to speak for themselves than Carr (see above: 38), I was less confident that facts were also capable of hinting, if they were merely reported, without being interpreted by a reporter who was able to base his interpretation on a much larger collection of facts than he could possibly report, and whose interpretation involved responses to a perceived general atmosphere which were often impossible to substantiate.

How was I supposed to handle the signals the Puttkamer Case was sending to me? To disregard them because they were not historical facts distorted the historical record as I saw it because they were there, albeit as mere suggestions. Yet to spell them out also distorted the historical record because it made them more 'factual' than they were.

The way the Puttkamer Case had been treated suggested to me a scenario in which a reform of Germany's colonial administration had been set in train well before Dernburg appeared on the scene, and in which the administrative head of the chancellery, Lobell, had played a key part; a scenario in which Dernburg had not been the star but a second-class actor who had been hired because he was able to oppose the *Kolonialgegner* more effectively than the *Erbprinz*, precisely because he was the same kind of uncouth upstart as Erzberger; a scenario in which even the occasional thunderbolts hurled by the emperor could be incorporated constructively into the plot, because no-one, including the chancellor, could afford to ignore them. There were pointers to manipulation everywhere, tiny manifestations of "the big game" which involved everybody and in which every player, from Poeplau to the emperor, was also a pawn; a game which required every player to reassess continuously whether any other player was a threat, an asset or a liability, whether he could be dropped or had to be crushed or, at least, taught a lesson.

Puttkamer himself had not been a threat to anybody, but nor had he been much of a liability, let alone an asset, once the game had passed beyond its "colonial scandal" phase. On the contrary, he began to look embarrassingly like Maria Ecke, although there was a world of difference between a *bonvivant*, who was a gentleman, and a *demi-mondaine*, who was anything but a lady. The Puttkamer Case was no longer a festering sore which had to be removed "*ferro et igni*"; it was an unappetising left-over best disposed of by lawyers who knew what to do with such garbage.

As a court case, the Puttkamer Case became painfully trivial. What made it historically significant was not what happened on this judicial stage, or what Puttkamer had or had not done in the Cameroons, or after his recall to Germany, but the glimpses it offered of what had gone on behind the scenes. But these glimpses were like fleeting footsteps across a meadow which bent the blades of grass aside for a moment and not the plastercasts of prints of heavy boots in the mud which I had displayed. To be sure, I could have tried to give more substance to my speculations by investigating the appointment of Dernburg, or the plans which had been developed for the reform of the colonial administration before his appointment, but this would not have solved the problem, because this information too would have contained similar hints. Much of the history of German colonial rule, and some of its most interesting aspects, were bound to remain elusive, not

just because people like Lobell were unlikely ever to put all their cards on the table, but because they themselves did not know all the cards they were playing and why they were playing them.

To leave out the elusive bits was not the answer, but to pursue the Puttkamer Case further was unlikely to help me find one. My examination of the historical record of the exercise of the disciplinary powers over Germany's colonial servants had taken me as far as I could go. It was time to make a fresh start.

Why not switch attention from the disciplinary stick to the carrot of medals the emperor had dangled in front of those who exercised his "*Schutzgewalt*" in Germany's colonies? What about using the *Kolonialdenkmünze* (see above: 69) as a case study?—a medal which the emperor had established for the sole purpose of honouring those who had participated in the killing of his recalcitrant colonial subjects?

III

Although the existence of this *Kolonialdenkmünze* had puzzled me, I had no intention of examining its history until I noticed that the naval office had devoted an entire series of files to it (RM3/3664-66). When I decided to satisfy my curiosity I found to my surprise that the medal had not only been conceived in response to the putting down of the Ponape Rebellion, but that its history had, all along, been intimately linked with that of German New Guinea.

The story began in another naval file, kept by the naval cabinet (RM 2/1310). The naval establishment had expressed its concern to the emperor about the long list of Prussian decorations the commander of the naval forces in Ponape had proposed after the putting down of the rebellion. As it included as many as 37 for his officers and 105 for his men, the emperor had shared the concern. He therefore proposed that the list for Prussian decorations be drastically culled but that all naval participants be given a new Reich medal, as had been done after a rebellion in German Southwest Africa had been put down some years earlier by the *Schutztruppe*. •

Things got underway when the chancellor requested the naval office to begin discussions with the colonial office about such a medal. The colonial office was enthusiastic. Whereas the naval office had proposed that the medal be given to "all officers, officials and enlisted men of the army, the navy and the *Schutztruppe*", the colonial office suggested that it should not only be given to all Germans who had participated in a qualifying event, but also to foreign nationals who had volunteered—and that a smaller version of it be distributed to "coloured participants", that is to say to natives serving in the *Schutztruppe* or the colonial police forces.¹³

In the end the discussions involved also the foreign office, the ministry of finance, the war office, the ministry of the interior and even the office of the postmaster general. They raised a host of questions, but as the circle of potential recipients kept on expanding, the cost of the medal became the main stumbling block. It was generally accepted that the medal would at least be granted to participants in all important military activities in the German colonies, starting with those of the navy in West Africa in December 1884.¹⁴ The compilation of the Naval List was a simple matter because the naval office decided to include only events which had been recognised as campaigns under the pension legislation, but the list for the *Schutztruppe* got longer and longer and the Police List still had to be compiled by the governors of the various colonies, who could

13 It was also in favour of continuing the already existing "Southwest Africa Medal", side by side with a new general colonial medal. It even anticipated the creation of additional special medals for prolonged colonial wars engulfing the entire civil population.

14 The medal could also be granted for military operations aimed at protecting German interests outside the German colonies. This shows that it was essentially also the protection of *German* interests within the colonies that mattered, rather than the protection of law and order in these territories.

afford to be generous because for them the question of increased pension entitlements did not arise.¹⁵

When the euphoria had reached its peak, the colonial office estimated that about 14,000 medals would be needed: 8,000 for the navy and 3,000 each for the white and coloured colonial forces, including the police. Who was going to pay for them, and in a hurry, since the emperor was keen to start distributing the medal at his next birthday, 27 January 1912? As it was a colonial medal the naval office argued that the money should come out of the colonial office's budget, but the colonial office refused, because the navy would receive the lion's share of the medals—and the ministry of finance was reluctant to allocate money from the emperor's discretionary fund.

When the matter dragged on into 1912, the emperor poured cold water on the whole scheme because he felt that the large number of medals now being talked about would deflate their value, so that they should, at least for now, *only* be given to participants in the putting down of the Ponape Rebellion. This greatly worried the colonial office and naval office, because the medal plans had leaked out and had created strong expectations which it would be dangerous to disappoint. On 27 March 1912 a joint approach was therefore made to the chancellor, pleading with him to persuade the emperor to go ahead as planned. To make this easier, the estimate of the number of medals required was revised. The colonial office made the greatest sacrifice, primarily by no longer seeking a retrospective issue of the medal to "coloured participants". But it also halved the estimated number of medals required for the white members of its forces, whereas the navy only reduced its estimate by 25 per cent, so that the total number of medals required still added up to 7,500.

The centre piece of the campaign, however, was an emotional plea on behalf of the "old colonial fighters" (*alte Kolonialkrieger*) who deserved special thanks from the Fatherland. It was successful, the emperor graciously giving a green light on 22 April 1912, although he suggested detailed modifications of the design of the medal which, naturally, carried his own likeness. The official deed was signed on 13 June 1912. It was promptly published in the colonial and naval gazettes, together with implementation regulations. They included lists of the qualifying operations of the navy and the *Schutztruppe*, whereas the Police List had still not been completed.

Now the dance could begin. For the naval office it started with an application, dated 17 July 1912, that the *Kolonialdenkmünze* also be granted to naval personnel who had participated in the military actions of SMSS *Carola* and *Hyäne* in 1882/83 on the Hermit Islands, which later became part of German New Guinea. This particular application was given short shrift, because the deed excluded all engagements before December 1884. But it was the first of many, and the stream gathered momentum when the Police List was published in April 1913, because it included several operations, mostly also in German New Guinea, in which the navy had participated.¹⁶

The first to use this new angle was a former commander of SMS *Planet*, captain Dominik, who was then serving in the nautical section of the naval office, when he sought permission from the director of his section, vice-admiral Grapow, to apply for the *Kolonialdenkmünze* for those of his men who had taken part, side by side with the police, in the punishment of the "rebellious mountain villages" on the Rai Coast of Kaiser Wilhelmsland in November 1910. Grapow not only supported this application but added one of his own, as the commander of SMS *Cormoran*, when it participated, also side by side with the police, in the punishment of the natives of the St Matthias Group, also in German New Guinea, in July 1901.

The administrative section of the naval office was impressed by the equal treatment argument these applications advanced. However, it believed that it would be difficult, if not impossible, to

15 I did not explore the financial implications the granting of a *Kolonialdenkmünze* could have, but I noticed that they were well appreciated by ordinary naval personnel: one group of applicants expressly offered to forgo any additional pension entitlements, if they could only have the medal.

16 For a translation of the German New Guinea section of this list see above: 70.

establish with the help of the existing naval records who had actually participated in military operations which, in some cases, had taken place almost 30 years earlier. At any rate, it was essential to carry through the allocation of the medal in accordance with the existing Naval List first of all, although the position could be reconsidered once it had become clearer how many additional applications from naval personnel could be expected in relation to operations shown in the other lists.

In preparation for this eventuality the naval office asked the colonial office for which of the operations on the Police List its records showed naval involvement, so that equal treatment could be achieved by seeking imperial approval for granting the *Kolonialdenkmünze* to navy personnel in such cases. On the other hand, the letter made it abundantly clear that the naval office did not approve of the Police List, which had been compiled without consulting it. Instead of following the naval example of including only major military campaigns it incorporated "minor police actions", which did not merit the granting of any medals. Since the colonial office had obtained imperial approval for this unfortunate move, the navy had little choice but to follow suit, although this could have regrettable further consequences because "minor police actions" the navy had carried out on its own might now also have to be rewarded with a medal. As far as the future was concerned, the naval office hoped that the colonial office would only apply for the inclusion of major military campaigns in its lists. It certainly expected to be consulted before any operation involving the navy was included.

Instead the acting head of the colonial office, Conze, countered with a supplementary list of his own. It not only covered the participation of the *Schutztruppe* in operations already shown on the Police List but also added some 20 additional operations to the *Schutztruppe* List. The naval office protested and the colonial office, where Solf was again in command, readily gave in: he had no intention of pursuing the matter of a supplementary *Schutztruppe* List. But now the naval office wanted to know whether this meant that members of the *Schutztruppe* who had participated in engagements already on the Police List would not receive a medal either. Perhaps because Conze was again responsible for the answer, the colonial office insisted that where such a participation was proven members of the *Schutztruppe* were "of course" entitled to receive the medal. Thereupon the administrative section of the naval office sought a formal decision by its head, Tirpitz. It argued that the navy should, after all, stick to its guns, and refuse to allocate medals to naval personnel for any operations not already included in the Naval List.¹⁷ Tirpitz accepted this view, and on 3 March 1914 vice-admiral Grapow was informed that his application on behalf of SMS *Cormoran*, and the application of captain Dominik on behalf of SMS *Planet*, had been rejected. Some weeks later the naval staff and the commanders of the North Sea and Baltic stations were also informed of this decision.¹⁸

This was not the end of the matter. On 15 May 1914 the naval staff sent the naval office a report of SMS *Cormoran* on a recent punitive expedition in Bougainville which had pleased the emperor so much that he had written "Bravo! Propose medals!" in the margin. The naval staff interpreted that as a call for *Kolonialdenkmünzen*. The naval office found this problematic because the punitive expedition, which had been carried out together with the local police force, did not qualify as a major military campaign. It therefore drafted a letter to the naval staff, suggesting that it should apply instead for a Prussian medal for the officer in charge of the landing force and some of his men. It had intended to attach a copy of its correspondence with the naval staff to a letter to the colonial office, asking about its views concerning medals for the district officer and his

17 The Naval List was also amended when the putting down of the "Dahome Rebellion" in 1893 was retrospectively recognised as a "campaign".

18 Apart from Grapow only two other applicants received personal rejection notices because their applications had been made with support from high places. Both of them related to another military operation in German New Guinea, in this case the punishment following the attack on a survey party of SMS *Moewe* on Aly Island, off Kaiser Wilhelmsland, in 1897.

native policemen. But it changed its mind when it remembered that it had earlier insisted that a consultation with the colonial office was the appropriate first step in such a case. It therefore sent instead a self-contained letter to the colonial office and informed the naval staff that it had initiated negotiations with the colonial office about an appropriate treatment of the medal question. However, its message to the colonial office was unambiguous: no *Kolonialdenkmünzen*!

The colonial office signalled its agreement above the signature of Solf's new deputy, Gleim: of course the expedition did not qualify as a campaign so that the *Kolonialdenkmünze* was inappropriate. It had no intention of applying for medals for its personnel because such an expedition was child's play for an experienced native police force used to the climate. On the other hand, the efforts of the landing forces of SMS *Cormoran* had to be valued more highly because they were not used to operating on land in the tropics. Medals for some of the naval participants could therefore well be justified.

Although a shower of Prussian medals may have descended on SMS *Cormoran*, she did not sail towards a glorious future when she left Bougainville. Her body was scuttled in September 1914 in Tsingtau where it was being overhauled in the naval dockyard when World War I broke out. Her name and crew were transferred to a Russian freighter brought in by SMS *Emden* as a prize. The new *Cormoran* spent most of its short life in Guam, before it was blown up by its crew in April 1917, when the United States entered the war. Seven men died in the process (see the 'biography' of SMS *Cormoran* in Hildebrandt, Rohr, Steinmetz, 1979-83). This was more than the navy had lost during any of its military operations in German New Guinea, or in putting down the Ponape Rebellion.

How many such operations had there been? Considering the naval office's pessimistic assessment of the state of naval records in 1913, when it had turned to the colonial office for help in ascertaining in which of the military operations on the Police List the navy had been involved, it was unlikely that I would be able to find a precise answer. But perhaps the naval office had been too pessimistic?

The colonial office had responded to its call for help with the confession that its own records did not permit it to answer the naval office's enquiry either. But the latter had also sought information from the naval staff and the navy's North Sea and Baltic stations.

According to the records of the naval staff, the navy had been involved in two engagements included in the Police List for the African colonies and in four listed for German New Guinea: the punishment of Tinputz and Datoel in 1899; the punishment of the natives of St Matthias in 1901; the putting down of the "Baining Rebellion" in 1904; and the punishment of the rebellious mountain villages on the Rai Coast in 1910. But while the naval staff was able to supply the names of the participating officers, it could, in most cases, only give the number of the participating crew members.

The records of the North Sea station showed, in addition, that SMS *Seeadler* had been involved in a punitive expedition in the Admiralty Islands in 1900. While it had a lot to say about the putting down of the Ponape Rebellion, it too was unable to provide the names of the crew members who had participated in any of the earlier military operations. The records of the Baltic station contributed a sixth operation: the participation of SMS *Moewe* in the punishment of the Kabin natives in 1900. However, they did not allow a confirmation of the involvement of SMS *Bussard* in the destruction of the pirate villages of Madine and Salapiu in 1897 or that of SMS *Condor* in the suppression of a rebellion in the Witu Group in 1903. Instead they suggested that three further military operations of SMS *Moewe* in 1899 and 1900, which were not shown in the Police List, were also worthy of qualifying for a *Kolonialdenkmünze*—including one for which its exchanged crew, travelling back to Germany on the mail steamer *Stettin*, had been requisitioned by *Assessor* Boether in Kaiser Wilhelmsland. Yet the Baltic station too had to admit that it had

been impossible to reconstruct the membership of the various landing forces from the available records.

This was not surprising, since some or all of the relevant ship files of SMSS *Bussard*, *Falke* and *Moewe* had been pulped or sold as waste paper. In the case of SMS *Hyäne* her commander had even taken it upon himself to order the destruction of old ship files at sea. Besides, the Baltic station had been unable to find any of the logs of SMSS *Albatross* and *Moewe* after 1895, and the existing logs of SMS *Bussard* for 1897 and SMS *Condor* for 1903 did not contain detailed entries for the two military operations in question.

In view of this historiographically deplorable state of affairs it was doubly impressive how much information high-ranking insiders like vice-admiral Grapow could pull out of their feathered hats when the need arose—and his campaign for “equal” treatment of the military operation of SMS *Cormoran* in the St Matthias Group in 1901 turned out to be particularly rewarding.

IV

Grapow started his campaign on 27 May 1913. He bluntly asked that the punishment of the St Matthias natives in July 1901 be gazetted as qualifying naval personnel for a *Kolonialdenkmünze*. His main argument was that it had been, from beginning to end, a naval operation, in contrast to the usual scenario, where the colonial government sought naval assistance.

Although he must have known that the tide was running against him, Grapow was unwilling to accept this. Instead he demanded, on 22 July 1913, that not only the members of the landing force but the entire crew of SMS *Cormoran* be given the medal—just as had happened in the case of the putting down of the Ponape Rebellion—because the support of the actions by the marines and the police from the sea had been instrumental in securing the success of the operation, which had not been any less dangerous because—in contrast to the Ponape Rebellion—casualties among those under his command had been avoided. By the same token, the heavy casualties suffered by the enemy, 81 killed, were ample proof that this had not been a “minor police action”.

In his final bid, on 31 October 1913, Grapow elaborated the parallels between the operations of SMS *Cormoran* in 1901 and the putting down of the Ponape Rebellion. Grapow began by pointing out the remarkable topographical similarities between the two groups of islands. Whereas the main island in the St Matthias group was somewhat larger than Ponape, Eloane was slightly smaller than its Ponapean counterpart, the island of Dschokadsch. However, both small islands featured a natural “citadel”, although it consisted of a limestone outcrop in the centre of Eloane while Dschokadsch could boast a spectacular cliff fortress. On the other hand, the punishment of the St Matthias natives had been an even purer naval operation than the putting down of the Ponape Rebellion. It had been ordered by the emperor in response to a report by the naval staff, even though the governor had not asked for naval assistance in a punitive expedition. The colonial department too had not called for punitive measures by the navy but only for a strong naval presence in the Bismarck Archipelago. It was doubtful under these circumstances whether the colonial office had been entitled to include this operation in its Police List at all. Its proper place, it was implied, would have been in the Naval List—and with even better justification than the putting down of the Ponape Rebellion when the navy had become active at the request of the colonial administration.

My ears pricked up when I read that governor Bennigsen had *not* called for a punitive expedition. While I did not see him as the enthusiastic wager of “bloody campaigns against recalcitrant New Guineans” portrayed by Hempenstall (see above: 95), I would have nonetheless expected him to have responded with punitive measures to an attack on a “scientific expedition”, during which two Germans were killed. Since Grapow had enclosed the full text of his 1901 report, including all its appendices, in his final bid, I did not have to look far for information.

On 10 April 1901 Bennigsen had sent a cable to the colonial department, informing it that Bruno Mencke and his companion Caro had been killed by natives on St Matthias. "Please inform relatives. Report will follow."

The evidence taken from three survivors of the "Mencke Expedition", including Topitan, a former Tolai policeman who had been in charge of the expedition's military escort, had been essentially the same. The expedition had set up camp on the main island. A vigorous trade in ethnographica had developed with the natives. A minor clash had occurred between them and Topitan and his men when the Germans had gone off on the yacht for a day. But there had been no casualties and trade had resumed the next day. On the evening before the attack, Caro had given instructions for all rifles to be cleaned the next morning. While this was happening the guards had reported that the natives were coming to fight. When Caro was woken up with this news, he had looked out of his tent, decided that the natives had no hostile intentions, ordered that they be given some trade, and gone back to bed. A few minutes later he was dead, Mencke was mortally wounded, two members of the escort had been killed and several others injured. Topitan claimed the 14 kanakas had been killed and that three more were shot dead when the escort had unsuccessfully tried to retrieve the body of Caro.

In his report Bennigsen blamed Mencke and Caro for what had happened. They had neither talked to him about their plans to visit St Matthias nor with the HERNSHEIM firm, which had opened a trading station in the group some months previously. He had predicted disaster as soon as he had learned about the intended visit after his return from the Island Territory, since he knew the character of the St Matthias natives and the recklessness of Mencke and Caro. It was sheer luck that more members of the expedition had not been killed during the attack, which had been a serious blow to the peaceful development he had initiated during his visits to the group in 1899 and 1900. Since no-one knew where the attackers had come from, and since the HERNSHEIM traders did not feel endangered, he did not intend to send a punitive expedition—for which he had, in any case, no vessel at his disposal. He would, however, dispatch district officer BOLUMINSKI with a few policemen to gather reliable information when HERNSHEIM's *Mascotte* made her next voyage to the group.

In the event Bennigsen sent the imperial judge Stuckhardt together with Boluminski. Stuckhardt found everything quiet but learned little because no-one, including the traders and their native employees, could understand the natives' language. Stuckhardt also considered a punitive expedition to be impractical because the natives could easily avoid their pursuers in the pathless interior of the large island.¹⁹ Bennigsen agreed and reiterated in a second report to Berlin that a punitive expedition was undesirable as well as pointless.

The colonial department had received neither of these reports when it approached the naval staff. The naval staff probably requested imperial orders for a punitive expedition on the basis of metropolitan press reports calling for an "exemplary punishment of this horrible deed" (see, for example, *DKZ*, 1901: 226). At any rate, Grapow was instructed by cable on 1 June 1901 to carry it out.

Impatient because he was delayed in Sydney for three weeks for technical reasons, Grapow sent a written requisition to Bennigsen, asking the governor to support this expedition by placing the police troop in Herbertshöhe at his disposal. According to Grapow, Bennigsen did so "very willingly". While this is unlikely, Bennigsen certainly knew better than to try to dissuade Grapow from carrying out a punitive expedition ordered by the emperor. He even chartered HERNSHEIM's

¹⁹ Stuckhardt also referred to an acute shortage of drinking water in the group, which he saw demonstrated by the fact that the natives were at present only interested in exchanging their produce for empty bottles. I found his conclusion, that these valuable bottles were used to store water—instead of being broken and used in the manufacture of tools and weapons—far from convincing.

Mascotte to ferry district officer Boluminski, police sergeant Soelle and 59 native policemen to St Matthias.

When SMS *Cormoran* arrived in the group on 6 July 1901, Grapow was told by the trader Wohlers that his partner Schlehan had fled after a party of their labourers had been attacked while collecting trepang near one of the smaller islands, the attackers taking with them the bodies of the eight men they had killed.²⁰ The *Cormoran* had her own first encounter with the natives before she had cast anchor. Instead of running away at the sight of the warship they had gathered on the beaches making defiant gestures with their spears. When two large canoes left the island where the trading station was situated and headed towards Eloaue, Grapow launched the steam pinnace and a jolly-boat to cut them off, but they reached the shallow water above the reef before the naval vessels caught up with them. There the natives waited, joined by a third canoe, which had first steered straight at the pinnace, threatening to attack it. This was too much for Grapow. He ordered a blast from the revolving cannon. It made the natives jump into the sea. Although the fire was continued they managed to push their canoes to the beach. Grapow now ordered the jolly-boat to follow with the Maxim gun. The natives ran into the bush, but reappeared as soon as the jolly-boat began towing the three captured canoes to the pinnace. Grapow believed that none of the natives had been killed and was not sure whether any had been wounded. The next day the combined forces invaded Eloaue. Boluminski returned with two women and two children as prisoners and reported that his police force had shot dead 26 men. The landing force of SMS *Cormoran* had not seen a single native.

On 8 July the camp site of the Mencke Expedition was inspected. Although Grapow had formed the view that it too had been attacked by people from the off-shore islands, in particular Eloaue, he ordered a reconnaissance of the main island. The native policemen who were sent out to do the job reported that they had seen neither natives nor houses or gardens, even though they claimed to have crossed the island.

After this effort followed a day of rest. Boluminski used it to interrogate the native members of the Mencke Expedition who had stayed behind at the trading station. Since their evidence confirmed that the inhabitants of Eloaue had been responsible for the first attack, and since the latter had the audacity to again stand on the beaches shaking their spears, despite the first punitive expedition, Grapow ordered a repeat.

It was to be prepared by a naval bombardment centring on "the citadel" in the middle of the island, which had not been taken four days earlier. It was planned to comb the island from one end to the other—the marines covering the coastline, the police the interior—but this plan had to be abandoned when the section of the police force under Soelle met resistance before that under Boluminski had reached its intended starting point. When he heard the shots Boluminski ordered his men to advance straight to the citadel. When he arrived some time later, he found that the natives had withdrawn into caves in the limestone outcrop. In order to prevent a bloodbath among "the innocent women and children" he ordered the firing to stop. However, by then 54 natives had already been killed, according to the "usually reliable" reports of the policemen. Five women and seven children had been taken prisoner, but not a single adult male, although Grapow had offered a reward of 20 Marks for each of them, even if they were wounded. Since one of the marines had also had the opportunity to use his rifle—with fatal result—the total official death toll among the St Matthias Islanders had been 81.

When this massive punishment was reported in the German press the reaction was mixed. A strong negative response came from the "Protestant Africa Association" (*Evangelischer Afrika-*

20 According to Grapow, Wohlers had attributed this attack to the natives' resenting the interference with a scarce resource which they themselves regarded as a delicacy. This also surprised me; but then I knew nothing about the traditional cuisine in this group—perhaps steamed sea-cucumbers, washed down with rainwater stored in empty beer bottles, had indeed been its ultimate climax.

Verein). It sent a petition to the colonial department calling for the enactment of an ordinance which provided: (1) that a case be thoroughly investigated before punitive action against natives was taken; (2) that no punitive action be taken against natives who had responded in self-defence to illegal acts by Europeans; and (3) that no punitive action against guilty natives be more severe than absolutely necessary.²¹

The petition was based on the annual report for 1900, which had stated that it had so far been impossible to establish which of the tribes had been responsible for the attack on the Mencke Expedition, and on an article in the *Kölnische Zeitung*, which had highlighted the “unbelievable carelessness” of Mencke and his companions, as well as the ruthless destruction of a number of coconut palms near the camp site.

In its reply the colonial department pointed out that the annual report had been submitted before the government in Herbertshöhe had received the reports on the punitive expedition showing that those responsible for the attack on the Mencke Expedition had in fact been identified before punitive action had been taken.²² It did not admit, of course, that the annual report also reflected the position taken by Bennigsen, who had not favoured a punitive expedition. It played down the importance of the destruction of the palms, and the carelessness of Mencke and his companions. Instead it attributed the attack to the “notorious savagery” of the natives. It even used Bennigsen as a witness, since he had previously stated that his visits to St Matthias in 1899 and 1900 had convinced him that the bloody attacks on two vessels of the Neu Guinea Kompagnie in 1896 and 1898 had been due to the “insatiable avarice” and the “inexpugnable distrust” of the natives— without mentioning, however, that Bennigsen had also stated that his visits had nonetheless initiated a peaceful development which Mencke had rudely interrupted.

The theme of native savagery was coupled with another leitmotif: unless the government was prepared to expose the life and property of white pioneers to the cruelties of the natives, the punishment of outrages such as this had to be accepted as its sombre duty. Regrettably it could not apply the principles of the orderly administration of justice followed in civilised states, because the individuals responsible for such outrages could often not be identified, let alone be peacefully arrested. Since the natives would interpret inaction as a sign of impotence on the part of the whites and hence as an invitation to commit new outrages, there was no alternative but to punish entire tribes. It was impossible to stipulate in advance what such a punishment should consist of and how it was to be effected, so that it had to be left to the official in charge to determine the appropriate measures in each case. A thoroughgoing improvement of this unfortunate situation could only be brought about through a gradual strengthening of the influence of the colonial government. The transformation of northern New Ireland, after a permanent government station had been opened, demonstrated what could be achieved. Where a decade ago violent acts against white traders and the plundering of their stations had been the order of the day, peaceful commerce now reigned supreme.

V

How did the punitive expedition carried out by SMS *Cormoran* fit into this rhetorical construction? There was no point in examining whether the attack on the Mencke Expedition had been caused by the “insatiable avarice” and the “inexpugnable distrust” of the natives, by the “unbelievable carelessness” of Mencke and Caro or, for that matter, by their destruction of scarce economic resources, because the relevant information was not available and also had not been available at the time. Apart from the attackers no-one knew why the attack had taken place. On

21 Together with the reply of the colonial department, and some editorial comments, this petition was published in *Die deutschen Kolonien*, 1902: 145-49.

22 The reply was drafted by Rose.

the other hand, the reasons for the attack had been immaterial for the decision to carry out a punitive expedition. It had been the mere fact that natives had dared to make an armed attack on the expedition during which two whites were killed that had triggered the punitive response, although the fact that the two whites had been Germans, and perhaps also the fact that one of them had been a wealthy industrialist who may well have been a personal acquaintance of senior naval officers and even the emperor, had probably also been contributing factors.

What about the other side of the picture? Had the punitive expedition been necessary? Had the measures been appropriate under the circumstances? Had the official in charge been in control of their execution?

How could this expedition be classified as necessary if governor Bennigsen had decided that punitive measures were undesirable and pointless? What had the punishment consisted of? If it had been the killing of 81 men—not to mention the capture of seven women and 12 children and the destruction of numerous houses and canoes—it had been manifestly excessive, especially taking into account that Grapow had only been ordered to punish the attack on the Mencke Expedition and not the subsequent attack on the Hershheim labourers as well.²³ Nor had Grapow, or Boluminski and Soelle, determined how many natives were to be killed. On the contrary, the casualty figures given in Grapow's report consisted of the "usually reliable" information provided by the native policemen, since they had been out of sight of their German superiors when most of the killings had occurred and no official body count had been carried out afterwards. During the reconnaissance of the main island the native policemen had even been left entirely to their own devices. Did they cross the island, as they reported, or had they spent the day sleeping in the shade after marching inland for a few minutes? Had the number of natives killed on Eloaue, in fact, been only a small fraction of the official figure? Conversely, had a much larger number been killed or wounded, including many women and children?²⁴

On the other hand, once it had been decided that punishment was called for, a military operation had probably been the only practical way of inflicting it. But this decision had not been the only option. The German authorities always had the choice of doing nothing; and there was little evidence to show that inaction encouraged natives to commit new outrages, or that a drastic punishment deterred them from using further violence. On the contrary, the 1902 annual report stated that "temporary punitive measures" were not only worthless but harmful and that the application of military force was helpful only if it was followed by the establishment of permanent government stations.

But all these considerations were beside the point. The punitive expedition had not been an attempt to inflict an appropriate punishment for a particular crime. Rather, the attack on the Mencke Expedition was seen as a declaration of war. The aim was to vanquish "the enemy" militarily. Consequently the acts of defiance on the part of the St Matthias natives, especially after the first campaign against Eloane, had probably been more important in shaping Grapow's military responses than their previous outrages. It was ironic therefore that the main military aim of the second campaign, the storming of the citadel, was not accomplished, albeit for laudable humanitarian reasons.

23 Where had Grapow's authority to "exact retribution for this new act of violence"—as the annual report for 1901 puts it (see Sack & Clark, 1979: 223)—come from?

24 Grapow had hoped at the time that the casualty figures reported by the native policemen had been exaggerated, although he had been assured by Bennigsen, as well as Boluminski and Soelle, that what they said about such matters could be relied upon and although a high casualty figure was likely since the policemen had fired from protected positions at the warriors as they stormed out of their limestone caves to attack. On the other hand, Grapow was disinclined to believe their reports that the interior of the main island was uninhabited, because numerous fire signals had flared up at different points whenever the navy had made a move. Besides, even if the native policemen were all the excellent shots Grapow acknowledged them to be, the accuracy of a casualty list which consisted exclusively of dead adult males seems highly questionable.

What outcome had Grapow envisaged? What was supposed to have happened after the combined forces had driven the natives together in the citadel? Had Grapow expected a formal, unconditional surrender? Had he intended to take the entire adult male population prisoner? What had he planned to do with them? How would he have communicated his plans, whatever they were, to people whose language no-one else could speak?²⁵

Did it matter historically why the Mencke Expedition had been attacked? Did it matter how many casualties the military operations had caused? Would I have gained a better understanding of colonial rule in German New Guinea if I had found enough information to give a blow by blow account of this episode? Conversely, was the entire episode, taken by itself, historically insignificant, no matter what had actually happened? Or did it send signals of general relevance, like the Puttkamer Case? Was it perhaps even typical of the manner in which punitive expeditions were conducted in German New Guinea?

According to Grapow this punitive expedition had been unique in that it had been ordered by the emperor personally, whereas the decision whether or not to carry out such an expedition was usually made by the colonial government, which could or could not ask for naval assistance. Had this punitive expedition nonetheless been typical in the sense that once the navy became involved in a punitive expedition, its commanding officer always took charge and always treated it as an essentially military operation? Had the navy been in command of all the military operations included in the Police List in which naval personnel had been involved? Had all punitive expeditions in which the navy had participated been carried out with the aim of achieving a military victory, or did the navy usually first try to arrest those who were personally responsible for acts of violence? Did punitive expeditions in which the navy participated usually involve naval landing forces or did the navy typically restrict itself to lending logistic support and to assisting the police with its fire power from the sea?

Were punitive expeditions carried out by the police force on its own also typically conducted as military operations? Was it common to send native policemen out by themselves, as happened with the reconnaissance of the main island, although it was likely that they would encounter hostile natives? Was it common for native policemen to be permitted to open fire when none of their white superiors was present? Was it common to offer native policemen a monetary reward for natives whom they took prisoner, instead of killing them? Conversely, did native policemen usually stop firing when their white superiors ordered them to do so? Did native policemen as a rule obey their orders not to shoot at women and children? Did punitive expeditions usually result in casualties of the same order as this one?

Had there been something which could be classified as a typical punitive expedition? Was "punitive expedition" no more than a verbal label which could be applied to very different events? Had Berghausen been right when calling punitive expeditions "so-called" (see above: 226)? Conversely, had Hempenstall been wrong when calling the uniqueness of events "so-called"? To be sure, Hempenstall was right when claiming that different human actions could have "common elements" (see 1978: ix), but did this make them "amenable to generalisation" (see *ibid.*)? It was certainly possible, and could be instructive, to compare different human actions in order to ascertain what elements they had in common and which elements distinguished them from each other, but in what sense could the results of such comparisons be generalised? Could they produce more than a more or less sophisticated typology into which particular actions could be fitted, thus

25 Most likely, he had wanted to take a substantial number of adult males as hostages back to Herbertshöhe, as did happen with the women and children prisoners who were subsequently handed over to the Catholic mission. This measure, according to Grapow in his report, had worked well in the past in New Ireland, New Hanover and the Admiralty Islands, and "prisoners and labourers[!]" from all these islands were currently working in Herbertshöhe and other places. The idea was that these people would, after their return, inform their relatives about their positive experiences with the whites and thereby make them more cooperative. In this particular case Grapow also hoped that it would be possible to learn more about "the murderous deed" once it was possible to understand what the women had to say about them.

making them amenable to quite specific quantitative assessments, showing frequency changes across space and time, which, in turn, could reveal specific patterns of change? Was the writing of history essentially such a retrospective modelling exercise, even though “abstract models” did, according to Hempenstall, “at least in history ... not have a life of their own which will reduce human actions through time and over several societies to a predictive formula” (see *ibid.*)? But if this statement was true, how did the historical “interpretation and explaining” of past events differ from such a modelling exercise, and how could it be combined with a narrative approach to history?

Was it possible to write a history of resistance in all its manifestations in the German Pacific, or, for that matter, a history of punitive expeditions in German New Guinea, in the form of a single, coherent narrative? Conversely, did history consist of an accumulation of unconnected stories about a myriad of unique events. Was the only way of writing a factual history of punitive expeditions in German New Guinea to tell the stories of as many punitive expeditions as possible as accurately as possible? Had some of the many punitive expeditions been more typical than others? Had some of them been historically more significant than others? Conversely, had all of them been historically insignificant? Had at least the Ponape Rebellion, as the most dramatic event in the history of German colonial rule in the Island Territory, changed the general structure of this rule? Did a detailed account of this rebellion, or of any other instance of the use of military force, contribute more to an understanding of German colonial rule than that of any, or some, of the far more numerous peaceful episodes in which its exercise also manifested itself?

VI

In February 1907 Henry Nanpei—Hempenstall’s leading Micronesian actor—wrote a letter, in English, to “Doctor Hahl, Most respected Sir”. After thanking the governor for a postcard which had arrived on the birthday of “Our good Emperor William”, Nanpei described the effects of “that terrific typhoon”. Fortunately no lives had been lost, but the people, “especially the poor and indigent classes”, had suffered most acutely and continued to do so because the typhoon had destroyed all the yams on the island. Nanpei therefore begged Hahl to send him different varieties of yams from “his and surrounding islands” for the planting of new gardens. “If Dr Hahl will kindly aid and assist us in that way, Your humble servant will ever pay. My wife and family joins with me in sending their kindest regards”

Hahl responded by asking his Tolai subjects to bring in yams. He instructed Herr Wiegmann to store them in a dry locked place, after covering the concrete floor with mats or boards, and to give Tolai who delivered yams orders for payment to the cash office. Two weeks later Hahl questioned Wiegmann as to why chief Turlom had not been given an order for payment when he had delivered yams the previous day. He also instructed Wiegmann to collect a basket of yams To Voa and To Baikan had brought to the governor’s residence and enquired how many yams had been collected so far. Three hundred and thirty eight and a half kilograms, Wiegmann replied, promptly and in copperplate, which were sprouting vigorously, so that they had to be sent to Ponape as soon as possible. Since there was no opportunity to ship the yams for another six weeks, Hahl ordered Wiegmann to pack the tubers sprouting too vigorously into *little* boxes (emphasis in the original) and send them to two of the “Baining settlers”, Ebbecke and Backhaus, with the message that they were coming free of charge (see AA, GI, Item 8).²⁶

The historical record did not tell me whether Henry Nanpei ever received planting yams from Hahl, but it gave some indication of what might have happened to the yams sent to Ebbecke and Backhaus. In response to a complaint by Ebbecke to the colonial office that he had been forced

26 The establishment of a colony of small farmers, primarily Germans from Queensland, in the Baining Mountains in the northwest of the Gazelle Peninsula was one of Hahl’s pet projects.

to leave German New Guinea at great financial loss because Hahl had made it impossible for him to hire native labourers, Hahl quoted a comment by Backhaus, whom he had confronted during a tour of inspection, when he had noticed that Backhaus was feeding good taro and sweet potatoes—and perhaps also good yams?—to his pigs but bad pumpkin to his Melanesian labourers. “That’s good [enough] to eat for these scoundrels” (*das ist für die Luters zum Fressen gut*), Backhaus had muttered defiantly (see RKA 3129).

What was I going to do with the many thousands of episodes like these, most of which would have gone unrecorded, which were as much part of the picture of German colonial rule as the Ponape Rebellion?

Did Hahl and Nanpei regularly exchange postcards or letters or had this exchange been unique? Had Nanpei been the only Micronesian or Melanesian with whom Hahl had been in correspondence? Were the yams to be sent to Nanpei personally, bypassing the district office in Ponape, or to the latter for distribution to deserving Ponapeans? Was it typical of the way Hahl governed the colony that he handled the matter personally, instead of referring it to the district commissioner in Herbertshöhe? Why did To Voa and To Baikan deliver the yams to the governor’s residence and not, like most of the other Tolai, to the district office? How did Hahl know that Turlom had not been given an order for payment by Wiegmann? Had Turlom come to the governor to complain? Was Hahl regularly approached personally by his native subjects—or by a small and identifiable group among them? Did Hahl’s German subordinates, in particular the district commissioners in Herbertshöhe, resent his interference in their responsibilities? Would Hahl have responded to a request like that from Nanpei in 1914 as he had in 1907? Did minor episodes such as these provide more instructive illustrations of the exercise of German colonial rule than Grapow’s report about the punitive expedition in the St Matthias Group? Did the historical record include similarly instructive stories which illustrated German colonial rule seen from a native perspective?

The story which came most vividly to my mind in this context was one relating to the punitive measures following the Varzin Murders in 1902 which I had been told by Nason Tigat of Turagunan in 1975.²⁷ Fortunately I had recorded an English version in my field notes since I had in the meantime forgotten most of the details.

I will tell you a story about an old man, called Tatama, who brought the *lotu*²⁸ to Turagunan. In the year 1902 they killed a European woman, Mrs Wolff, near Toma. The *kia*p in Kokopo got all the people from Kinigunan,²⁹ put them into police uniforms and they went to fight the people in Paparatava and Tamanairik. They had a big fight which extended as far as Kunakunai and Tamtavul. There they shot a man and his brother’s wife. Their names were To Manarum and Ia Valuban. Then they met To Vatading and his two sons, To Kulap and To Mamaduk, and shot at them. When the police began to shoot, To Vatading took his sons’ hands and danced around, dodging all bullets. They could not shoot them because he used his *malan* magic and they escaped.

The policemen then walked through a kunai field and reached a place called Tapipi, near the pool Namgir. They went to the water and saw Tatama, who was working in his garden. They shot him and he died. They hid his body in the reeds growing around the pool and left. When they had left Tatama got up again and went along a gully and up a slope to his *pal baining*.³⁰ When he arrived he went to sleep. After a while the policemen came and saw him sitting in front of his house. He called them and said they should sit down and have a rest. He offered them *kulau* [young coconuts for drinking] and betel and bananas to cook. Some of them took the food and ate it, but the others were frightened. They said: “How

27 Nason Tigat was a Tolai gentleman of the Old School to whom I owe many special thanks.

28 “*Lotu*” stands for “Christianity”, especially its Methodist version.

29 The name Kinigunan is used here to denote the area around Kokopo rather than a particular place.

30 A *pal baining* is a house built in the Baining style, round, with a pointed roof. I was told that it had just so happened that Tatama had chosen this style and that it had no special significance.

can we take this food, this is the man we have just killed." The first group said: "No, no, that is not he, that is only his brother." But the others repeated: "No, we will not eat because this is the man we killed."

When the policemen were ready to go, they said these words to Tatama: "We are going to Kunakunai to get *kaur* [bamboo]." ³¹ When Tatama heard these words, he thought the policemen wanted to go to Kunakunai to kill his brother-in-law, To Kaur, who was an important and rich man. So he followed them, but in such a way that they could not see him. This is the end of the story, about the old man Tatama and about what happened to him.

When I looked at my field notes for the text of this story I also found a second Tatama story which nicely supplemented the first.

I am now going to tell another story about Tatama. He was very old and often gave *balabalaguan* feasts, because he was very rich.

One day he stole a dog, whose name was Lolowat. The dog belonged to To Vapuringa and To Ukur. He ate the dog and buried its bones underneath the fire place in his *pal baining*.

They took Tatama to court in Tingenavudu in Turagunan. ³² The *luluai* was called To Lauk. They asked him whether he had killed the dog, but Tatama denied it. But some of the people did not believe him. They went to his *pal baining* and found the dog's bones under the fire place. They gathered the bones and went back to Tingenavudu. They lifted up the bones for everyone to see and said: "We went to his house and dug a hole and we found these bones, but when we asked him in court he said "no"—this thief. Here are the bones which prove that he ate the dog."

Tatama was sitting on a log. When one of his relatives, To Varto, the *lualua* of Vunalavllavia *vunatarai*, heard this, he got angry. He got up and kicked Tatama off the log. Whereupon the owners of the dog grabbed him and pulled him around Tingenavudu. Then they picked him up and threw him into the air, and when he came down, they picked him up and threw him again. Then they got a gun and hit him with the butt—but the butt split. Then they got hold of his head and twisted it around so that he looked backwards. But the old man got up again and blood bubbled out of his mouth. Still, he went to Nangananga and past it and straight to Kuradui to Mrs Pakistan. ³³ To Lauk took the other people and went to Kokopo to see the *kiap*. He sent the police to Turagunan. They got Tatama and he was sent to jail in Kavieng. When he finished his time in jail, he came back to Turagunan. This is the end of the story.

Both stories were told as fact rather than fiction. They were traditional Tolai history, but they were oral history for which written historical records were immaterial. Seen from an academic perspective they were phantom history, even if they were factually accurate in the sense of being in accordance with a critical reading of the historical record. Were these stories factual in that sense and was this question relevant? Leaving the scientifically impossible statements aside, did it add to their value as traditional history if the other statements could be confirmed with the help of the written records? Would it invalidate them if they could be disproved?—if, for example, the registers of the Methodist mission showed that Tatama of Turagunan had died before the Varzin Murders had taken place. Was there any point in examining the factuality of these stories? Were they concerned with particular events and particular people?

The number of details included in them suggested they were. Moreover, unlike the details in the narratives of modern historians, the details in these stories were themselves historically significant. It was they which sent the messages these stories were meant to convey—but only for their "traditional" audience, the people of Turagunan. The geographical details provided allowed this audience to follow the movements of the historical actors through physical space in the Here

31 Here *kaur* probably referred to lengths of bamboo filled with drinking water.

32 Tingenavudu is the name of the residence (*gunan*) of To Lauk which was situated within the Turagunan district (*paparagunan*).

33 This is a modern Tolai version of the name "Parkinson". It probably sounded rather like "Pakitan" earlier because the Blanche Bay dialect does not include an "s", until the name of the country "Pakistan" became known.

and Now. They anchored the past in the present and turned history into a map which consisted of the names of places rather than of lines on a piece of paper. A Turagunan audience could accompany "the policemen from Kinigunan" through the Kunai field to Tapiipi and the pool Namgir, along a gully and up a slope to the Tatama's *pal baining* and then follow Tatama towards Kunakunai and beyond the borders of Turagunan, where the story ended in space as well as in time.

Similarly, by naming Tatama and other local historical actors, including the dog Lolowat, the stories became anchored in historical time. But these details too were not the ones that gave these stories their traditional historical significance. The historical messages of these stories consisted of different signals whose meaning was immediately apparent to a Turagunan audience, but which had fallen on deaf ears in an outsider like me, who could only try to decipher them analytically with the help of the written record I had fortunately prepared at the time.

This analysis revealed that each of these stories painted an incomplete but astonishingly rich picture of traditional Tolai culture. Thus it was no coincidence that To Kaur was, according to the story, the brother-in-law of Tatama. Nor was it a coincidence that Ia Valuban was identified as the wife of To Manarum's brother rather than To Manarum as Ia Valuban's "brother-in-law", because the social relations between a man and his wife's brother and those between a woman and her husband's brother were vastly different. It also made cultural sense that To Vatading used his magic to protect his two sons, although they belonged to the other moiety, rather than his sister's sons, who were members of his own *vunatarai*. It also indicated that the two boys were still children, who properly lived with their father rather than with their mother's brother on the land identified with their *vunatarai*.

But both stories were primarily about Tatama's magical powers. The Varzin Murders, just as the discovery of the bones of the dog Lolowat, merely provided the occasion for a display of these powers. But although these powers were wielded by Tatama as a unique human being, the point of both stories was that such powers generally played a central role in the traditional Tolai universe.

What made these stories especially interesting from a modern perspective was that the historical stage described was no longer purely traditional but included a variety of colonial factors, although no whites were physically present on the stage described. There was the anonymous *kiap* in Kokopo and "Mrs Pakistan" in Kuradui, but people from Turagunan went there to see them. They did not come to Turagunan. Instead they sent their black agents to act for them. For these stories it was "the Kinigunan people", albeit dressed in police uniforms, who fought the people in Paparatava and Tamanairik, not the *kiap*, and it was a group of native policemen, not a German official, who came to Turagunan to arrest Tatama.

Similarly, the second story presented To Lauk as the *luluai* of the Turagunan people and not as an agent of the *kiap* in Kokopo. He was not a foreign imposition but part of the local scene, just as the *lotu* was part of the local scene. But whereas the *lotu* had been brought to Turagunan by Tatama, the stories did not claim that anyone had brought "the government" to Turagunan. In contrast to "the *lotu*", "the government" figured in these stories as an external power of a different order which the Tolai had not made their own. Hence To Lauk was not part of the government but rather the link of the Turagunan people with the government.

Internally To Lauk still operated in a traditional manner. He made no attempt to prevent Tatama's *lualua*, or the owners of the dog Lolowat, from taking the law into their own hands. It was only when the traditional way of dealing with Tatama did not work that the Turagunan people, led by To Lauk, turned to the *kiap* in Kokopo, who promptly obliged by sending Tatama to jail in Kaewieng, where he obediently stayed instead of using his magical powers to escape.

Nor did he use these powers to defend himself against his maltreatment by his *lualua* and Lolowat's owners, or to avenge himself on them. Indeed, Tatama did nothing heroic in either

story. On the contrary, even when he followed the policemen—presumably using his magical powers to make himself invisible—he acted under a comic rather than tragic misapprehension.

Seen from a modern perspective both stories were pointless. Their tone was matter of fact yet the scene they describe was decidedly weird. Instead of presenting the punitive measures after the Varzin Murders as a horrifying experience, they showed small groups of Kinigunan people in police uniforms aimlessly wandering around shooting people when they felt like it, but sitting down to eat and drink with others. Why did these policemen hide the body of Tatama in the reeds after they had shot him? Why did the policemen who believed that the man who was offering them food and drink was the same man they had killed a short while ago refuse to accept his offer? Was it frightening to them that Tatama had come back to life but natural that To Vatading had been able to dodge their bullets? Why did the policemen who believed that Tatama was the brother of the man they had killed before not kill him also? Why did Tatama call them to his house? Had he wanted to frighten them? If he did, why did he not tell those who took him for his brother that they were wrong and that he was indeed the same man they had killed before?

Why had Tatama's *lualua* and the owners of Lolowat not been frightened of Tatama's magical powers when they had attacked him? Why was Tatama presented as being rich and powerful but, at the same time, as too stupid or careless to cover his tracks when stealing a dog, and as so weak that he could be kicked around without making any effort to defend himself? Why did Tatama go to "Mrs Pakistan" after his ordeal? Was he seeking medical help? Were his own powers waning? Were there quite different reasons for bringing "Mrs Pakistan" into the picture? Were Tolai oral traditions simply not interested in explaining, let alone evaluating, the actions they described, not because they regarded human behaviour as erratic but because for them all human actions had a typical, structural meaning, irrespective of motives or purposes of the particular persons performing them? Were these stories not historical narratives but illustrations of historical structures in operation which did not have to make narrative sense? Was the historically significant information not contained in the description of the actions of people but in the narratively irrelevant details mentioned along the way? Did a narrative streamlining of these stories—like the following—destroy their value as oral traditions as effectively as the narrative streamlining of the historical record destroyed modern historiography as an academic enterprise?

Tatama of Turagunan was shot at Palnabaining, turned into a chicken and then back into a man and thereby scared the police away (Neumann, 1992: 29).

Was this not only phantom history but also no longer a genuine form of Tolai traditions? While it made more narrative sense than the detailed version I was told it was historically empty—and no amount of "interpretation" could change that because all the information which mattered traditionally had been omitted. The narrator of "my" version of the Tatama stories knew that the details he included were not decorations but the historical meat of these stories—or, rather, that these stories were merely vehicles which allowed him to reinforce the structures within which he and his traditional audience were leading their lives. He was lending them support by talking about them, but could, at the same time, adjust them. He was shaping the present with his stories, rather than trying to reconstruct what had actually happened in the past.

A traditional Tolai historian had no choice but to phantomise history when performing this task. Indeed a phantomisation of history was the purpose of the exercise. It was through a phantomisation of the past that the traditional structures of Tolai society were operated and maintained. But these structures were quite different from those of modern state governments—and so were the historical records they produced of their operation. Each set called for a different approach to history. Just as it was impossible to write a factual history of traditional Tolai society based on Tolai oral traditions, it was pointless to try to capture the history of German

colonial rule in the Tolai area in the form of stories which were designed like Tolai oral traditions. The Tatama stories could not tell me anything worth knowing about the structure and the operation of German colonial government. By contrast they made valuable statements about the structure and operation of traditional Tolai society. But they were immediately intelligible only to members of that society because these stories were concerned with affirmation rather than information. Moreover, while the general messages were factual, the events in which they were encoded were not, although they purported to be descriptions of unique events. These stories were surrealistic in the sense that they achieved realism at the level of typicalness by sacrificing realism at the level of uniqueness.

To be sure, Tolai oral traditions were phantom history, but they differed greatly from the phantom histories offered by modern narrative historians. They were a sociopolitical technology. They recorded history for the purpose of shaping the present, whereas the latter purported to be the product of the processing of an already existing historical record which was concerned with a better intellectual understanding of the past. True, both sacrificed factuality and both used a narrative form, but Tolai oral traditions used it because telling stories about the past was the only method of recording history traditionally available. Moreover, although these traditional stories did sacrifice factuality, they did not do so in order to make history more narratable than it had actually been. On the contrary, genuine Tolai oral traditions made the stories they told narratively less attractive than they could have been in order to reaffirm and manipulate the sociopolitical structures which actually existed in traditional Tolai society.

By contrast, modern western narrative historians phantomised history because they wanted to give the past retrospectively a narrative meaning which it did not have when the events described took place. Modern narrative historians did not engage in a narrative phantomisation of history because they wanted to come to grips with the sociopolitical structures which had existed in the past but precisely because they refused to do so. Nor did they have the excuse of having no choice. At least when dealing with the history of modern territorial governments they had a written historical record of the structures as well as the activities of these governments at their disposal which they could have processed in accordance with normal academic standards. Nor did they sacrifice factuality because they were, in fact, more concerned with shaping the sociopolitical structures in the present, they sacrificed factuality simply because they were not prepared to sacrifice narrative as the only 'proper' form of history. Modern narrative history was not designed as a sociopolitical technology. But neither did it serve the intellectual purposes it claimed to serve. Yet, it was for this very reason that it was functional in sociopolitical terms in the modern western context. It too was meant to present phantom history. It was its function to provide a smokescreen behind which the modern western sociopolitical structures could operate without undue interference by those who were affected by them.

Put differently, in the case of Tolai oral traditions the phantomisation of history was a means to an end, in the case of modern narrative history it was an end in itself. Modern narrative history did not use information about the past to shape the present, rather it covered the existing historical record with layers of phantom histories which prevented the general public from using the information the historical record contained to shape the present. Whereas Tolai oral traditions empowered individuals by providing them with information they could use as weapons in competitive politics, modern narrative history assisted in the political disempowerment of human beings as individuals. Seen from an external point of view, it was an exercise in the dissemination of strategic misinformation.

Who benefited from the modern phantomisation of the history of the Ponape Rebellion or of the Blanche Bay Uprising? What distinguished what his Ponapean informants told Bascom from what he and subsequent narrative historians did with this information? Had Salisbury's informants been interested in the history of the Blanche Bay Uprising or only in the part To Bobo had played

in these events? Similarly, had they been interested in the history of the government chiefs in the northeastern Gazelle Peninsula or only in telling Salisbury how To Bobo had personally manipulated the modern powers of the colonial government?

Since Tolai oral traditions were incapable of transmitting the same kind of structural information about the organisation of colonial and post-colonial governments as about their traditional sociopolitical organisation, the stories about To Bobo's actions on the colonial stage did not enable their Tolai audience to operate politically more effectively in the post-colonial context. They merely made it feel better about the past and allowed it to cling to the illusion that the traditional way of doing things had continued to be effective and would continue to be for ever and ever.

But the Tolai and other Pacific Islanders fared even worse if they abandoned their traditional approach to history and adopted instead the modern narrative alternative. Even the most counterhegemonial modern phantom histories did nothing to liberate them from their colonial past. Instead they promoted the idea that knowledge about history could provide no more than a psychologically satisfying form of entertainment and that the future, while unpredictable, was, at the same time, in a mysterious way reassuringly inevitable because "Good" would always triumph, at least eventually.

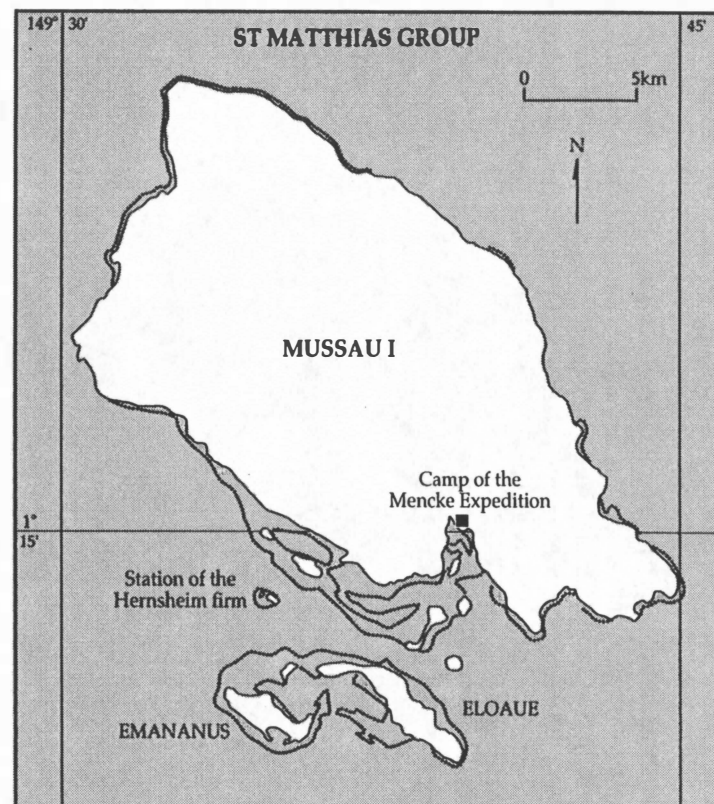
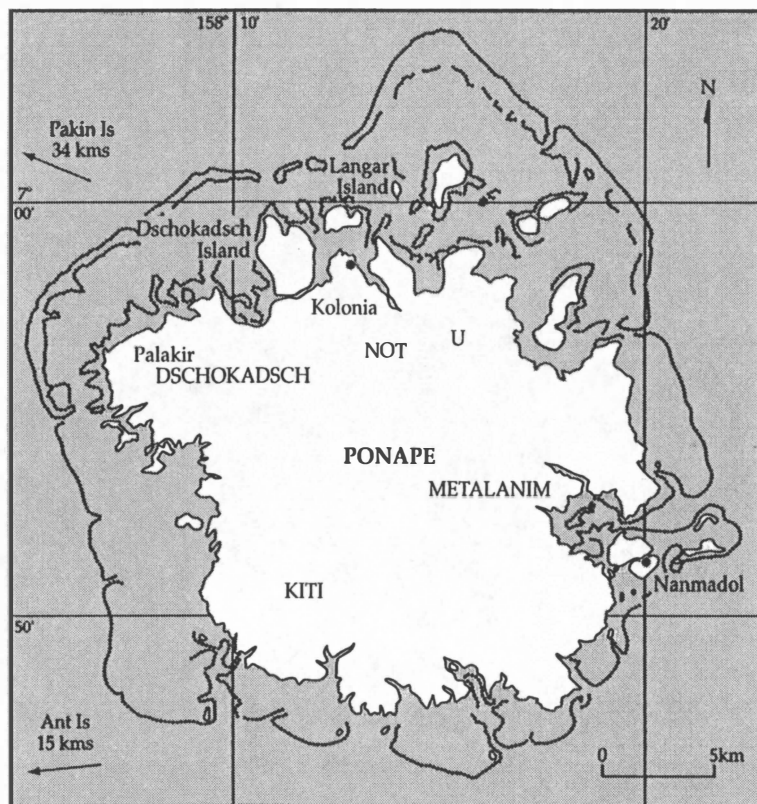
But there was another alternative. It did not make history the kind of sociopolitical technology that oral traditions offered, but it could provide at least some realistic information about the structure and the operations of modern forms of government, because they produced a historical record of their operation which did not exist in the traditional context. However, the adoption of this third alternative called for an acceptance of the fact that the comfortable middle level of generality which the narrative approach to history tried to capture did not exist. Instead it recognised that human history had always consisted of various structural frameworks of human actions, which were as such non-narratable, and of a multitude of repetitive human actions which were historically significant only because they illustrate the operation of these frameworks.

The historiographical advantage of bureaucratic governments was that they produced historical records which made not only their own normative and organisational structures explicit but also recorded the particular instances of the exercise of governmental powers. Historians who were prepared to take these historical records seriously therefore had their task mapped out for them. In the case of German New Guinea the task was less daunting than it might have been because the history of the government of this colony was not the history of the operation of a largely static, established normative and organisational framework but the history of its development. Moreover, this framework was the product of human actions, although their historical significance lay in their structural effects rather than in their actual performance. In addition, even at the end of German colonial rule this framework left considerable room for administrative discretion at all levels, for the exercise of which a systematic structural and quantitative approach was unsuitable, so that some kind of narrative supplement was required.

Finally, there was the question of the completeness and the reliability of the surviving governmental records. No matter which approach historians adopted, if they were committed to factuality they could only go as far as these records permitted them to go. From what I had seen of the government records of German New Guinea, this was probably not very far. Nonetheless an attempt to explore the history of colonial rule in this colony from a structural perspective was worth making. Even if it yielded no more than a collage of fragments, this collage made a more valuable contribution to an understanding of that history than what a conventional, action-centred approach had to offer because the need to create an artificial narrative coherence compelled historians to present ahistorical phantom history.

Put differently, Andersen's fairy tale, of which these phantom narratives had reminded me, also depicted phantom history. In fact, it was the little boy, rather than the emperor, who had

become a victim of his own delusions. The emperor was only naked in Wonderland because the normative and quasi-normative garments he was wearing were made invisible by the tinted glasses of cultivated ignorance the little boy was sporting as part of his historian's uniform. In the realm of factual history they were not only visible but the stuff the history of modern governments was primarily made of. In other words the only way of coming to grips with that history was to start feeling their texture, no matter how foreign this sensation was going to be to anyone brought up in the belief that history consists of tasty and easily digestible narrative omelettes.



MAP IV: Ponape and the St. Matthias Goup

VOLUME II

The Emperor's New Clothes

Introduction

I

When the acquisition of colonial territory by Germany got underway in 1884 there was no tried legal choreography which could be adapted by a troop of experienced dancers to the peculiarities of new stages. Instead a handful of novices were trying to fill a legal vacuum in response to a multitude of pressures which did not allow them to give conceptual clarity a high priority or to consider carefully the systemic implications of what they were doing. While this makes the measures taken all the more interesting historically, it requires patience on the part of the observer who is not faced with the implementation of a master-plan but with a process of piecemeal tinkering, full of ambiguities, inconsistencies and unintended consequences, which was often overtaken by events and, at the end of German colonial rule, was still far from being at least fundamentally completed, although it had by then produced a vast body of legal documents.

At the start even the language of German colonial law had to be invented, in particular the terms "*Schutzgebiet*" (protected territory) and "*Schutzgewalt*" (protecting power). These terms were meant to convey that the territories Germany acquired were neither "colonies" (*Kolonien*) nor "protectorates" (*Protektorate*). This reflected Bismarck's plan not to acquire colonies for the Reich but to limit its involvement to the "protection" (*Schutz*) of German companies which would administer these territories as commercial enterprises. This is what was supposed to distinguish the *Schutzgebiete* from conventional *Protektorate*, where the protecting power protected the local population and its government from external forces, as well as from conventional *Kolonien*, where the colonial power assumed full and direct governmental responsibilities.¹

Although it soon became clear that the involvement of the Reich could not be so limited in all the territories Germany acquired, not only was the now inappropriate terminology retained, but also the substantive legal arrangements which had been shaped by the colonial scheme of things Bismarck had envisaged. This state of affairs offered lawyers ample room for academic discussions but placed German officials on the spot in an awkward position because they were only given vague ideas about what they were expected to do which they could easily misinterpret and thereby get into serious trouble.

Since this study is concerned with the historical development of German colonial law rather than with its doctrinal elaboration, the surprisingly rich contemporary legal literature (see the bibliography in Schack, 1923) will be disregarded, because it views German colonial law from a jurisprudential perspective. It is appropriate, however, to illustrate the differences between such a jurisprudential and a historical approach.

II

In his account of the doctrinal development of German colonial law Schack devoted over a hundred pages to a discussion of the legal nature of the acquisition of the *Schutzgebiete*. He distinguished three types of acquisition: unilateral occupation; cession by a recognised member of the international community of nations; and an acquisition involving treaties with parties not so recognised. According to Schack each of the three main parts of German New Guinea represented a different type of acquisition: Kaiser Wilhelmsland, the Bismarck Archipelago and the northern Solomons—the Old Protectorate—were unilaterally occupied, the Carolines, Palau

¹ This did not mean that protection of "the natives" was immaterial, but it was a secondary consideration. On the other hand, it included the obligation to protect the natives also from illegal governmental activities by the companies which had taken on governmental responsibilities.

and the northern Marianas—the Island Territory—were ceded by Spain and the acquisition of the Marshall Islands belonged in the third category, because their occupation had been preceded by a “protection treaty” (*Schutzvertrag*) with Marshallese chiefs.

Schack's treatment of the Marshall Islands case (1923: 376-78) indicates how sophisticated the legal analysis had become. But it also demonstrates on what a shaky factual basis it was carried out. Schack had not seen the text of the “protection treaty” which had been concluded in the Marshall Islands, as it had never been published. Nor had he seen the text of the documents by which the Neu Guinea Kompagnie purported to have acquired land before the hoisting of the German flag, or of the “treaties” imperial commissioner Oertzen had concluded in their support or, for that matter, the proclamations read by naval commanders when the German flag was hoisted. This did not stop him from asserting that treaties of an international law character had “obviously” not been concluded in Melanesia (*ibid.*: 92), that the land acquisitions of the Neu Guinea Kompagnie had merely been of a private law nature (*ibid.*: 370), or that they even had had no legal significance whatever (*ibid.*: 371).² In other words, we are entering the jurisprudential counterpart of the Wonderland of narrative history, but one where a disdain of historical facts can be expressed openly. Schack simply left open what provisions the protection treaty with the Marshallese chiefs had made, because any restraints they might have placed on the powers of the Reich, so he claimed, had become immaterial when they had been subsequently disregarded by the German authorities without objections by the chiefs (*ibid.*: 378).

Historically such a “be this as it may” (*wie dem auch sei*) approach is unsatisfactory, quite apart from the fact that Schack had no way of knowing whether the chiefs in the Marshall Islands had never objected to interferences with their rights under the treaty by the German authorities.³ But its justification is also legally doubtful since Schack's discussion shows that the legal meaning of concepts like *Schutzgebiet* and *Schutzgewalt* was itself shaped by historical practice rather than legal theory.⁴ There is no question that German New Guinea was historically a *Schutzgebiet*, no matter how lawyers at the time defined the legal meaning of this term. Hence it is historically immaterial if lawyers could show that, according to their normative criteria, much of German New Guinea was technically still a “sphere of interest” (*Interessensphäre*) instead of a *Schutzgebiet* at the end of German colonial rule.

This also puts the question of the translation of German legal terms into context. How does one translate “*Schutzgebiet*” into English? Should one opt for a cautious literal translation, that is to say “protected area”?—or for its closest technical legal English counterpart, namely “colonial protectorate”, although the technical meaning of the two terms is by no means identical? Should one settle for one of the more familiar terms from which the term “*Schutzgebiet*” tried to distinguish itself?—perhaps for “colony” because the *Schutzgebiete* became legally more and more like colonies and because the German authorities often used this term, for example, by calling the counterpart of the British colonial office *Kolonialamt* and not *Schutzgebietsamt*. Or should one reflect the ambiguity of the term *Schutzgebiet* by using both the terms “colony” and “protectorate” interchangeably, depending on which of them sounded better in a particular context?

2 Nonetheless Schack claimed that the ground for the acquisition of the northern Solomons by Germany in 1886 had again been prepared by similar land acquisitions by the Neu Guinea Kompagnie (*ibid.*: 376). By contrast the historical record shows that the company pushed for an annexation of these islands precisely because it was worried by large-scale land acquisitions by non-German interests.

3 Schack probably wasted his time because the treaty was subject to approval by the German government which was apparently not given so that it never became legally binding.

4 This is not to say that legal theory had no historical impact. Moreover, the historical role of jurisprudence changed considerably when German colonial courts entered the stage and German metropolitan courts started to deal with colonial cases, since their decisions had a greater political weight than academic discussions.

What about terms like “*Vertrag*” or “*Mord*” which have a direct counterpart in everyday English—“contract” and “murder”—but a somewhat different technical meaning in German and English law? The crux is that it is impossible to translate technical legal terms accurately into another language because they acquire their meaning as part of a legal system so that it always needs to be explained by reference to that system and also to the legal system which goes with the language into which the term is to be translated. In order to appreciate the technical meaning of the English term “contract” in German law the reader has not only to be told what characterises a “*Vertrag*” in German law but also what distinguishes it from a “contract” as part of the English legal system.

Seen in this light it may be an advantage to write and read a history of German colonial law in English because it has to be written in a language which describes its historical shell rather than its jurisprudential intestines. But, by paying attention to the historical circumstances such a description also presents a picture giving a better understanding of the legal aspect of the acquisition of the *Schutzgebiete* than a discussion of the legal differences between a *Schutzgebiet*, a *Kolonie* and a *Protektorat*, or of the question whether a “*Schutzvertrag*” of the kind which was “presumably” concluded in the Marshall Islands should legally be interpreted as part of international law, constitutional law or private law, in which Schack engaged.

As regards the question of translating legal terms the choice of particular words is of minor importance. Since explanations are required whenever their technical meaning matters, linguistic convenience can generally serve as the guiding star. Thus I have not hesitated to translate “*Schutzgebietsgesetz*” as “Protectorates Act” and to already apply this label to the 1886 version of this act, although its official German title was “*Gesetz betreffend die Rechtsverhältnisse in den deutschen Schutzgebieten*”. A clumsy literal translation, “statute concerning the legal conditions in the German protected areas”, does not indicate its subject more clearly, because the term “*Rechtsverhältnisse*”, literally “legal conditions”, cannot be adequately translated.⁵

III

Germany started the acquisition of colonial territory in the Pacific cautiously. The proclamations read by captain Schering of SMS *Elisabeth* when the German flag was hoisted in the then “New Britain Archipelago” in November 1884 not only restricted imperial protection to land acquired, or in the process of being acquired (!), by German individuals and firms but also stated that it was merely *intended* to grant this protection, subject to duly acquired rights of third parties.

When Germany notified other powers of these moves in December 1884 the imperial protection of the land acquisitions by German nationals, which was said to have been supported by the conclusion of treaties with the chiefs, was presented as having already been granted.⁶ By April 1885, when the inland boundary between the German and British “protectorates”, as in the English version, or “*Besitzungen*” (possessions), as in the German version, were defined by an exchange of notes, it had grown into a fully-fledged territorial claim. This was confirmed when the Neu Guinea Kompagnie was granted an imperial charter a month later. It stated that the emperor had assumed the “ultimate sovereignty” (*Oberhoheit*) over two geographically defined areas and that he was granting the company the rights of “local sovereignty” (*Landeshoheit*) which corresponded to its undertaking to establish and maintain “institutions of government” (*staatliche*

5 It denotes, in this context, the general legal framework within which specific “legal relationships” (which are also *Rechtsverhältnisse*) come about, whether by means of a contract or in some other way. The term therefore also covers, for example, the legal position in which a person accused of a crime finds himself.

6 For a more detailed account of the annexation of the Old Protectorate see Sack 1987. It may, however, be useful to point out in this context that the forms provided to Otto Finsch for his land acquisitions purported to include the acquisition of rights of sovereignty, whereas the treaties concluded by the imperial commissioner stopped well short of purporting to acquire such rights.

Einrichtungen). In other words, the charter was based on the view that the emperor had acquired full territorial sovereignty over the areas in question through its unilateral assumption, regardless of the German land acquisitions and the treaties which had been concluded with Melanesian chiefs.

When the German foreign office asked the admiralty to place the Carolines and the Palau Group in Micronesia under imperial protection in July 1885, it stressed that this protection would extend to the entire groups, so that the naval proclamations should define the areas which were "taken into possession" (!) in terms of their geographical latitude and longitude. But the instructions stated that it would be desirable if at least the chiefs on the larger islands would recognise "German protection" (*das deutsche Schutzverhältnis*) in the form of a brief treaty or "by some other means".

Lieutenant Hofmeier, commander of SMS *Itlis*, hoisted the German flag on Yap on 25 August 1885, although a Spanish expedition on a similar mission had already arrived. He also got four chiefs to sign a document in which they recognised "German protection and ultimate sovereignty" (*das deutsche Protections- und Oberhoheits-Recht*) and denied the existence of older Spanish rights. The two leading chiefs in the Palau Group had been unwilling to commit themselves in this manner. But Hofmeier had hoisted the German flag regardless on 23 August 1885, proclaiming all islands belonging to the group to be a German "*Schutzgebiet*".

A month later the two "kings" signed a more elaborate treaty prepared by captain Plüddemann of SMS *Albatross*. Article 1 stated that the emperor was assuming "the ultimate sovereignty and the powers of protection" (*die Oberhoheit und Schutzherrschaft*) over all lands under the rule of the undersigned king. Article 2 promised the king and his subjects, at home as well as abroad, the same protection by the Reich as German nationals.⁷ Article 3 foreshadowed the sending out by the emperor of officials who would maintain law and order, to whom the king promised his support as well as that of his subjects. In Article 4 the king promised to protect all German nationals and "protected persons" (*Schutzgenossen*) who were granted full commercial freedom. Article 5 declared that the German flag was henceforth the flag of all the lands under the rule of the king, and article 6 that the treaty, although it would come into force immediately, was nonetheless subject to the approval of the German government. To be on the safe side, Plüddemann hoisted the German flag again on 21 September 1885, confirming that the Palau Group had been placed under the ultimate sovereignty and protection of the Reich. Yet all these efforts were in vain. As a result of Papal arbitration, Germany recognised Spanish sovereignty over the Carolines and Palau in an agreement signed in December 1885.

By contrast the acquisition of the Marshall Islands proceeded smoothly. It was set in train by a cable to SMS *Nautilus*, then in Nagasaki, in August 1885. Captain Röttger was instructed to proclaim all islands between 4° and 13° N. Latitude and 164° and 175° E. Longitude—as well as the Brown Group⁸—to be a German *Schutzgebiet*. The recognition of German protection by the chiefs was said to be desirable, but not essential if it was too time-consuming. Still, the expenditure of 500 Marks was approved for presents for this purpose.

Instead of drafting a short treaty recognising German protection, Röttger and the "acting consul" (*Konsulatsverweser*), Hershheim, prepared a solemn document in German and

⁷ This is one of several indications that these treaties were still seen as closely akin to classical treaties of protection which gave the indigenous population of the territories in question the status of "*Schutzgenossen*" who therefore also came under German consular jurisdiction—but the historical development quickly headed in another direction.

⁸ This is the remote Eniwetok atoll which was seen as not being quite part of the group.

Marshallese.⁹ It was signed by “king” Kabua and four other chiefs¹⁰ on 15 October 1885, the day the German flag was hoisted. In article 1 Kabua and the chiefs asked the emperor for his protection and the emperor granted it, but the purpose of the exercise was identified as enabling Kabua and the chiefs to protect the legitimate trade in their islands and to preserve their independence (!). Accordingly Kabua and the chiefs promised in article 2 not to cede any part of their territory to, or to conclude treaties with, other foreign powers without the approval of the emperor. In article 3 they promised to protect German nationals and protected persons in the Marshall Islands and never to grant other nations greater protection or concessions than German nationals. Article 4 limited the legislative powers of Kabua and the chiefs, who promised not to enact laws applicable to German nationals without the emperor’s approval. In article 5 the emperor promised not to burden the free trade in the Marshall Islands in any way. In article 6 the parties reserved the right to make additional agreements concerning subject matter not covered in the treaty. Although it was to come into effect immediately, article 7 stipulated that it was subject to the approval of the German government. Since this was not at all the kind of treaty the German government had had in mind—although it had apparently not spelled out what that was—this approval was never given and the text of this treaty was never published.¹¹

When the foreign office approached the admiralty on 19 June 1886 to make arrangements for the acquisition of the northern Solomons it emphasised that it did not appear necessary to conclude treaties with local natives before proclaiming these islands a German *Schutzgebiet* (see RKA 2642). The instructions to captain Wietersheim, the commander of SMS *Adler*, generally left little to his imagination when drafting the text of the proclamation he read on 28 October 1886 in Bamatani on Choiseul Island.¹² By order and in the name of the emperor he assumed protection over all islands of the Solomon Group north of the line of demarcation of the respective spheres of influence agreed upon between Germany and Britain in April 1886.¹³

When Nauru was acquired the procedures had been further simplified. Sitting in his office in the Marshall Islands, hundreds of kilometres away, imperial commissioner Sonnenschein notified the public on 16 April 1888 that he declared Nauru “herewith” to be a German *Schutzgebiet* placed under the administration of the *Schutzgebiet* of the Marshall Islands. No treaties, no hoisting of the flag.¹⁴ Instead Sonnenschein followed his notification with a police ordinance declaring the importation of firearms, ammunition and explosives to Nauru to be an offence punishable with a fine of up to \$500 or imprisonment of up to three months, although he decreed that this ordinance would only come into force on Nauru after it had been made public on this island.¹⁵

9 It is likely that the man in question was Franz Hensheim. It appears that Franz Hensheim left the Pacific in 1880 and handed in his commission as German consul (see Suchan-Gallow, 1940: 118) but that he returned at some later date and acted as consul in 1885 during the absence of his brother Eduard who had taken over from him as consul in 1880 (see Hensheim, 1983: 96).

10 The treaty was subsequently also signed by more than a dozen other chiefs.

11 I had some difficulty in finding its text. It was not filed with the copy of Röttger’s report sent by the admiralty to the foreign office (see RKA 2954). The text summarised here is included in a naval file dealing with the activities of SMS *Nautilus* (RM 1/2635).

12 Nonetheless Wietersheim was later criticised by the admiralty because he had purported to act in the name of Wilhelm I not only in his capacity as emperor of the Reich but also in his capacity as king of Prussia, which had been inappropriate.

13 The existence of this document simplified the task of the person drafting these instructions considerably but at the same time significantly limited his freedom of action.

14 Sonnenschein was instructed by the foreign office that the hoisting of the German flag could be postponed until the next visit of a naval vessel. It was eventually hoisted by SMS *Eber* on 2 October 1888 as a sign that the island had been (!) placed under the direct protection of the Reich.

15 The German Mark only became the official currency of the Marshall Islands in July 1888.

This leaves the acquisition of the Island Territory some ten years later. According to article 1 of the Hispano-German treaty of 30 June 1899 this was a straightforward case.

Spain cedes to Germany the full local sovereignty [*Landeshoheit*] over the Carolines together with the Palaus, and the Marianas, except Guam, and the ownership [*Eigentum*] of these islands against a monetary compensation which has been fixed at 25 million Pesetas.¹⁶

A decree issued by the emperor on 18 July referred to this treaty but went on to state that he "herewith" took this island territory in the name of the Reich under his imperial protection. The cession by Spain was thus legally left hanging in the air and the emperor purported to establish German sovereignty *ex novo* by this unilateral assumption.

Now it could be argued that the cession by Spain belonged to the sphere of international law whereas the emperor's decree belonged to that of German public law, but this does not solve the puzzles this decree poses since it also stated that imperial protection would only start when the territory had been handed over to imperial officials.

This handing over took place on 13 October 1899 in Ponape. Germany was represented by the governor of German New Guinea, Rudolf von Bennigsen. He opened the ceremony by reciting the decree of 18 July "by which the Island Territory is [!] placed under imperial protection". Then a Spanish warship fired a salute and the Spanish flag was lowered. Now Bennigsen ordered the German flag to be raised as a sign that "the country" (*das Land*) was "taken into possession [!]". The raising of the German flag was accompanied by a combined German and Spanish naval salute.

When and how was German sovereignty over the Island Territory acquired? By the treaty of cession of 30 June 1899, by the imperial decree of 18 July 1899, or when Bennigsen took it "into possession" on 13 October 1899?

The ceremony in Ponape was not designed as a transfer of powers but as an act of relinquishment, symbolised by the lowering of the Spanish flag, followed by an act of assumption, symbolised by the raising of the German flag.¹⁷ Yet the emperor began to exercise German sovereignty well before October 1899. He regulated the "legal conditions" already on 18 July 1899 in the form of two imperial ordinances, which makes legal sense only if the Island Territory had become a German *Schutzgebiet* at the latest by virtue of the imperial decree of the same day.¹⁸ The ceremony in October, and the delay in the assumption of the *Schutzgewalt*, were legally a charade. But it made good political sense: for what was the *Schutzgewalt* worth as long as Spanish officials continued to exercise the powers of government at the local level? Historically it demonstrated that the emperor did not see himself as a successor of the king of Spain. For him the position of the Island Territory was no different from the Old Protectorate or the Marshall Islands. It was not taken over as a going colonial concern but as a territory which was constitutionally *terra nullius*. Hence the imperial ordinances of 18 July 1899 did not repeal the existing Spanish colonial law before introducing German colonial law in its place. The Island Territory was perceived as a legal vacuum in which the emperor could exercise the *Schutzgewalt* as he saw fit or, to be more precise, within the limits set for his discretion by German law. In this regard the position had changed considerably since the first moves towards the acquisition of German colonial territory in the Pacific in 1884, and it is this position we must now examine.

16 The combination of the transfer of "local sovereignty" and "ownership" was by then already a dated formula meant to express that complete sovereignty had been transferred.

17 It is plain that this ceremony did not amount to an actual occupation of the Island Territory.

18 While the imperial decree was not issued under the Protectorates Act, the imperial ordinances were. That is to say the decree was meant to bring the Island Territory under this act whereas the emperor then exercised his powers under this act when issuing the ordinances. But if this is so, it is only all the more absurd for the same decree to state that the territory had not yet come under imperial protection.

IV

At that time German colonial law had not yet come into existence. Nor did the constitution of the Reich provide a firm basis for its development, since the acquisition of colonial territories by the Reich had not been envisaged. But it was not the *acquisition* of such territories for which the legal position was uncertain. According to article 11 the emperor was the international representative of the Reich and therefore entitled to acquire colonial territories on its behalf. The question was whether he was constitutionally empowered to *govern* such territories, whether the constitution vested this power wholly or partly in other organs of the Reich, or whether their government took place outside the constitution, so that it was a question of which of the organs of the Reich would take the political initiative of filling this legal vacuum.

Even in the last case, however, these colonial territories were not situated in a complete legal vacuum. Any expenditure by the Reich in relation to them came under the control of its legislature in accordance with articles 69 and 72 of the constitution. On the other hand only the emperor could appoint German consuls in these territories under article 56, and he was also responsible for providing German nationals in these territories with the protection of the Reich to which they were entitled under article 3, provided they were “external territories” (*Ausland*).

In addition the legal position of these territories was shaped by the international obligations into which the Reich had entered. The most important document in this regard was the general act of the Congo Conference, signed in Berlin in February 1885. Although it did not directly apply to the Pacific, it formulated principles of international law relating to the government of all colonial territories. The signatory powers recognised in article 35 “the obligation to insure the establishment of authority in the regions occupied by them...sufficient to protect existing rights...”. They also bound themselves in article 6 “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....” It was therefore plain that the Reich had to do something about the government of the colonial territories it acquired—and there was a precedent to consider, namely the arrangements made for the government of Alsace-Lorraine after it had been ceded by France in the Frankfurt peace treaty of 10 May 1871.

These arrangements had taken the form of a statute of the Reich, the Unification Act of 9 June 1871. It incorporated Alsace-Lorraine into the Reich and declared that “the powers of the state” (*die Staatsgewalt*) were exercised by the emperor, but that the constitution of the Reich would come into force in Alsace-Lorraine on 1 January 1873. The date was postponed by a year, but from then on the legal position of Alsace-Lorraine was increasingly normalised, although it never became a state in the federation constituting the Reich.¹⁹ Instead it remained a “province” under the direct control of the Reich, in which the emperor acted as the “local sovereign” (*Landesherr*). But Alsace-Lorraine acquired its own “parliament” (*Landtag*) and government, headed by a *Statthalter* who was directly responsible to the emperor rather than to the chancellor of the Reich. The laws of the Reich applied in Alsace-Lorraine, and its inhabitants were German citizens with the same rights and duties as other Germans.

When Bismarck announced his plans for the government of colonial territories the Reich would acquire in the Reichstag in June 1884, he left no doubt that he had no intention of following the Alsace-Lorraine precedent. Germany did not want overseas provinces governed by bureaucrats and soldiers. The German colonial territories were to be administered by private German firms as commercial enterprises at their financial risk. The involvement of the Reich was to be kept to a minimum: military protection short of standing garrisons—which meant visiting warships—and an administration of justice for Europeans to be carried out by a kind of consul

¹⁹ From 1911 on Alsace-Lorraine was represented in the federal council but the relevant amendment to the constitution (article 6a) made clear that it only “counted” (*gilt*) as a “federated state” (*Bundesstaat*) in this particular context.

as the local representative of the Reich. The entire scheme was based on the view that the emperor was free to make any arrangements he chose for the government of colonial territories, as long as they did not involve financial commitment on the part of the Reich.

In the case of German New Guinea, Bismarck's plans were realised with the granting of an imperial charter of protection to the Neu Guinea Kompagnie on 17 May 1885. The charter reflected the principles laid down in the general act of the Congo Conference. It obliged the company to maintain institutions of government which would promote peaceful relations with the natives and their "civilisation" (*Civilisierung*). It foreshadowed that measures would be taken by the German government for the protection of the natives as well as of any duly acquired property rights of foreigners. The arrangements corresponded to those for a conventional protectorate in that the German government was responsible for the foreign affairs of the territory, but they differed from that model because the organisation of the administration of justice also remained a responsibility of the emperor, although its costs had to be borne by the company.

Whereas the Neu Guinea Kompagnie was keen to take on the government of the colonial territories the emperor acquired in Melanesia, the German firms operating in other territories so acquired were less enthusiastic. This applied most strongly to the firms active in West Africa. Already in October 1884 their West-Africa Syndicate proposed that the Reich take on full governmental responsibility; that the local colonial government be placed under a governor; and that he be supported by a legally trained secretary who was to be put in charge of the administration of justice in relation to natives as well as Europeans (see RKA 4738).

It took until June 1885 before the foreign office accepted that at least preparations for an orderly administration of justice in Germany's colonial territories had to be made and that the contentious legal questions this raised had to be faced. They arose because the foreign office took the view that it was neither possible nor desirable to sidestep them altogether by declaring these territories to be "consular judicial districts" (*Konsulargerichtsbezirke*) under the Consular Jurisdiction Act. It therefore sought expert advice from the ministry of justice, setting out the various problems it saw (see *ibid.*). The assessment of the ministry of justice differed in several respects from that of the foreign office, but it agreed that a short act by the legislature of the Reich was necessary to give the administration of justice in Germany's colonial territories an incontestable legal basis, even though it concurred with Bismarck's view that the emperor was entitled to govern these territories on his own authority, as long as this did not involve financial commitments on the part of the Reich.

After some hesitation Bismarck conceded the need for such a move and submitted on 6 November 1885 a minimalist bill to the federal council. It provided that the exercise of the "judicial jurisdiction" (*Gerichtsbarkeit*) in the German *Schutzgebiete*, as well as the participation of German authorities and the civil and criminal law to be applied in its exercise, would be regulated by imperial ordinances, but that these ordinances would be submitted to the federal council and the Reichstag for information.

The federal council did not directly challenge the assumption implicit in this bill that the emperor was entitled to govern Germany's colonial territories on his own, but it insisted that, in line with the initial arrangements for the government of Alsace-Lorraine, the ordinances the emperor enacted by virtue of this bill required its approval.

Before the bill was passed with this amendment by the federal council, Bismarck and the foreign office were starting to have doubts about it. Bismarck thought that it might have gone unnecessarily far by acknowledging that the emperor needed the authorisation of the legislature of the Reich to regulate not only the participation of the German authorities in the administration of justice in Germany's colonial territories, but also the exercise of the judicial jurisdiction within these territories. The foreign office, on the other hand, was less certain that the emperor was

legally entitled to govern these territories on his own, because he had stressed in a speech from the throne that the ultimate sovereignty was vested in the Reich and not in him as the emperor.

Bismarck was not impressed. Of course the ultimate sovereignty was vested in the Reich and not in the emperor personally, but the emperor was *ex officio* the sole representative of the Reich outside its borders. For Bismarck the crucial question was not whether or not the emperor acted as an organ of the Reich when governing these colonial territories, but whether or not they were constitutionally foreign territories. He answered this question emphatically in the affirmative, although he was not particularly concerned about making concessions to the federal council. He therefore did not insist that the bill before it be replaced by a counterproposal prepared by the Prussian ministry of justice. Nor did he have much difficulty with its amendment by the federal council. The fate of the amended bill in the Reichstag, to which Bismarck presented it on 12 January 1886, was a different matter.

As was to be expected the bill was extensively debated and a number of amendments were proposed. The outcome was clear as soon as the majority in the commission to which it was referred accepted that the position it would take would be informed by practical considerations and that they required that the government of Germany's colonial territories by and large be left to the emperor for many years to come, irrespective of their disputed constitutional status. Conditions in them differed so widely and were changing so rapidly that only an essentially dictatorial government with broad discretionary powers was capable of responding with the necessary flexibility.

While much time in the plenary sessions was spent on presenting different interpretations of the constitution, the ultimate version of the bill was worked out by a small sub-commission in cooperation with officials from the foreign office and the ministry of justice. An amendment proposed by a member of the full commission, Dr Meyer-Jena, in February 1886 indicated the two main goals its majority was trying to achieve. Firstly, it wanted an act which dealt not only with the administration of justice but generally with the legal position of and in Germany's colonial territories. Hence it added an opening paragraph to the bill which declared, in line with the arrangements for Alsace-Lorraine, that the "powers of protection" (*Schutzgewalt*) in these territories were exercised by the emperor. Secondly, it was not satisfied with the assurance in the explanations to the bill that the emperor merely intended to adapt the Consular Jurisdiction Act to the conditions in these territories. In particular, it was not prepared to give the emperor legislative discretion in the fields of civil, criminal and procedural law. It therefore proposed that imperial ordinances in these fields required the approval of the Reichstag as well as the federal council, but that this approval was unnecessary if they merely introduced the Consular Jurisdiction Act adapted to the conditions in these territories.

Instead of adopting this cumbersome approach the sub-commission decided that it was preferable if the act introduced the Consular Jurisdiction Act but defined specific areas where the emperor could enact ordinances which departed from it.

When the amendments drafted by the subcommittee along these lines were adopted with a two thirds majority by the full commission, their acceptance by the Reichstag was assured. Nonetheless the basic constitutional questions the bill raised were again debated in the plenum, although it was clear that the legal uncertainties they reflected could only be removed by an amendment of the constitution, which no-one was game to propose. The debate was therefore largely rhetorical since the underlying constitutional questions remained open, whatever form the act was going to take, and they remained controversial until the end of German colonial rule.

Did article 11 of the constitution vest all powers of the Reich outside its borders exclusively in the emperor, as Bismarck claimed? Conversely, did it follow from article 4, which declared "colonisation" (*Kolonisation*), alongside the emigration to non-German countries, to be a responsibility of the Reich, that its powers in Germany's colonial territories were to be exercised

by its legislature, including the Reichstag, as the Centre party argued?²⁰ Did it follow from article 7 that the powers of the Reich were vested in the federal council, unless they were expressly allocated to another organ of the Reich by the constitution, so that it was, in the absence of such a provision, responsible for the government of Germany's colonial territories? Or was the constitution irrelevant in this context because it applied only within the territory of the Reich as defined in article 1?

The amended bill glossed over these questions in a form which was politically acceptable to the emperor and his government as well as to the majority in the Reichstag. The final sticking point was the approval of the federal council, since the Reichstag amendments had removed its power to approve or disapprove imperial ordinances which it would have acquired under its own amendment of the original government bill. In the end the federal council came to the party, although it made some gestures which asserted its underlying constitutional right to be involved in all aspects of their government. Bismarck too was pleased with the outcome and the emperor proclaimed the Protectorates Act on 17 April 1886. It determined the basic structure of German colonial law until the end of German colonial rule.

Section 1 provided that the emperor exercised the *Schutzgewalt* in the *Schutzgebiete* in the name of the Reich, without defining what *Schutzgebiete* were or what the *Schutzgewalt* consisted of. By focusing on its *exercise* it also left open the question in whom this power was vested. It could therefore be interpreted as confirming the view that the emperor was exercising powers he already possessed as well as the view that these powers were, exclusively or partly, vested in other organs of the Reich, but that these organs had delegated their exercise to the emperor. Although the latter interpretation would appear to be more natural in view of the limitations placed on the emperor's discretion in the following sections, they could also be explained as an agreement by the emperor to a limitation of his previously unlimited powers.

The most important limitation was contained in section 2, according to which the provisions made in the Consular Jurisdiction Act concerning the civil, criminal and procedural law also applied in Germany's colonial territories, unless the act provided to the contrary.

Section 2 brought the first modification by replacing the consul with an official authorised to exercise the judicial jurisdiction, and the consular court with the court of the *Schutzgebiet*. This made clear that the administration of justice in the *Schutzgebiete* was not an exercise of consular jurisdiction. The Consular Jurisdiction Act applied neither directly nor "correspondingly" (*entsprechend*), instead certain parts were transplanted into a different environment. Thus it was neither necessary nor possible to declare a *Schutzgebiet* a consular judicial district under that act. Section 3 restored the emperor's discretion in some key areas. Whereas the Consular Jurisdiction Act restricted the jurisdiction to German nationals and protected persons, No. 1 empowered the emperor to place other persons also under it. This reflected the view that the jurisdiction in Germany's colonies, in contrast to the consular jurisdiction, was of a territorial rather than personal nature, but it also showed that it was not intended to place all their inhabitants immediately under the jurisdiction of the colonial courts.

No. 2 took the legislative powers given to consuls by the Consular Jurisdiction Act as its starting point. They were regarded as too small in the colonial context because the highest penalty a consul could stipulate was a fine of 150 Marks. No. 2 therefore gave the emperor discretion to empower colonial officials whom the chancellor had authorised to exercise the judicial jurisdiction to enact police regulations stipulating penalties of up to three months imprisonment. But by following this path it denied the emperor the power to supplement the metropolitan criminal law himself or to authorise an official who did not have judicial powers to do so. Nor

20 It consequently also argued that the financial controls of the legislature under articles 69 and 72 applied to these territories. It even claimed that the emperor's charters of protection were, in accordance with article 11, subsection 3 and article 4, No. 1, legally valid only after they had been approved by the Reichstag.

was it made clear whether these police regulations had a territorial application or whether they applied only to those persons who had been placed under the jurisdiction of the colonial courts.

No. 3 gave the emperor discretion to extend the jurisdiction of these courts in criminal matters. The Consular Jurisdiction Act had excluded the most serious crimes from consular jurisdiction. Under No. 3 the emperor could transfer this jurisdiction to the colonial courts, but only if he increased the procedural guarantees in favour of accused persons in a specified manner.

No. 4 gave the emperor discretion to depart from the appeal procedures laid down in the Consular Jurisdiction Act. Firstly, he could replace the *Reichsgericht* as the court of appeal by the Hanseatic Supreme Court in civil matters. Secondly, he could replace metropolitan courts of appeal in civil and criminal matters by a court in the *Schutzgebiet* in cases in which natives were involved as defendants or accused.

No. 5 permitted the emperor to simplify the provision which applied under the Consular Jurisdiction Act in relation to summonses, costs and the execution of judicial decisions in civil matters.

Finally, section 4 singled out the personal status law for special treatment. This move was based on the view that the metropolitan civil law introduced under section 2 would have included the Personal Status Act of the Reich of 1875, which was regarded as inappropriate for colonial conditions. Section 4 therefore introduced instead the simpler 1870 Personal Status Act for Germans Abroad.

The question is whether this move had been necessary. Was the personal status law, which dealt with the registration of births, deaths and marriages, part of the civil law, so that it fell under section 2, or was it administrative law so that the emperor could have enacted an even simpler and more appropriate imperial ordinance regulating this field under section 1? Where was the line between civil and administrative law, and indeed criminal law, to be drawn? Was all legislation including penal provisions part of the criminal law? Was the law of commerce, in so far as it fell under the "*Handelsgesetzbuch*" (commercial code), civil law and, in so far as it fell under the "*Gewerbeordnung*" (industrial code), administrative law? Was it necessary to go through metropolitan legislation section by section to determine which laws applied in Germany's colonial territories as civil or criminal law under section 2 and which were of an administrative nature and therefore did not apply, so that the emperor was free to regulate the subject matter they covered as he saw fit?

Although this "substantive" dividing line was decidedly awkward, it remained crucial for the development of German colonial law until the end of German colonial rule. The same applied to a second, equally awkward, "personal" dividing line the Protectorates Act had drawn. By referring to the Consular Jurisdiction Act its section 2 introduced the civil, criminal and procedural law which applied under this act in Germany's colonial territories only for German nationals and protected persons. It was up to the emperor under section 3, No. 1 to place other persons under this jurisdiction, but he was legally free not to do so and to regulate instead the civil, criminal and procedural law applying to these persons in a different form.²¹

With the help of these two dividing lines it is possible to visualise the history of German colonial law as a changing map. At the beginning it showed the emperor floating in an ocean of discretion. Then the Protectorates Act created a "Rule of Law" island in the northwestern corner of the map. It removed the civil, criminal and procedural law of German nationals and protected persons from his legislative discretion. The Protectorates Act also gave the emperor discretion to enlarge this island in an easterly direction by moving the personal dividing line to include additional categories of persons. On the other hand, he was given discretion to reduce its size by moving the substantive dividing line at certain points further north and to regulate the civil, criminal and procedural law in departure from the metropolitan law which would have applied

21 Section 4 made a similar provision for the personal status law, which applied directly only to German nationals.

under the Consular Jurisdiction Act. However, these modified shores of the island were "soft" in the sense that they could again be altered by a subsequent imperial ordinance, whereas a change of the "hard" core area required an amendment of the Protectorates Act by the legislature of the Reich.

The emperor could also bind his own administrative discretion by creating soft Rule of Law islands in other parts of the map, either by enacting administrative laws south of the substantive dividing line or by enacting civil, criminal or procedural law for persons not placed under the jurisdiction of the Consular Jurisdiction Act east of the personal dividing line.

Finally, the legislature of the Reich could create new Rule of Law islands in other areas which firmly limited the emperor's discretion, for example by regulating the exercise of his financial powers in Germany's colonial territory—as happened with the Colonial Budgets Act in 1892.

This basic structure made it impossible to develop a *colonial* civil, criminal and procedural law which applied uniformly to all of Germany's colonial subjects, since uniformity could only be achieved by placing the entire population under the metropolitan law introduced in accordance with the Consular Jurisdiction Act. This pushed colonial law to focus on the field of administrative law where it could respond to local conditions. It also encouraged it generally to concern itself with the exercise of governmental powers rather than with the rights and duties of Germany's colonial subjects. It tended to consist of procedural rules telling government officials what they were authorised to do, and how they were supposed to do it. This, in turn, blurred the distinction between *ordinances* which created judicially enforceable rights and duties for colonial subjects and *administrative instructions* which only limited the executive discretion of colonial officials internally.

The adoption of the consular jurisdiction model also discouraged a division of governmental powers, since the consul exercised legislative and executive as well as judicial powers. The official whom the chancellor of the Reich authorised to exercise the judicial jurisdiction therefore became the key figure in all aspects of colonial government—an arrangement which was hardly in line with Bismarck's plan to leave the government of Germany's colonial territories as much as possible to private companies.

Yet the adoption of the consular jurisdiction model had not been forced on the German government by the Reichstag but had come about precisely because Bismarck had tried to minimise its involvement. Indeed, it was the commission of the Reichstag which was concerned to find out how the chartered companies fitted into the picture, since no reference to them was made in the government bill. It was informed by the chancellor that the companies in question required no special consideration, because the German Colonial Company for Southwest Africa had not been given a charter, and the German East Africa Company and the Neu Guinea Kompagnie, which had, had not yet acquired the status of legal persons under German law.

It soon turned out, however, that not just the position of the chartered companies demanded legislative recognition but that the scheme was also flawed in other respects. On 7 July 1887 the Protectorates Act was amended at the initiative of the Neu Guinea Kompagnie because it found the introduced metropolitan land law to be impractical. Hence the emperor was empowered to regulate the law of immoveable property in departure from these provisions.

This was merely a prelude to a general revision a year later. It left the fundamental provisions in sections 1, 2, 3 No. 1, and 4 untouched, but streamlined the authorisation of the emperor to regulate the administration of justice in departure of the Consular Jurisdiction Act. In particular, it permitted him to establish courts of appeal not only for natives but for all persons subject to the jurisdiction under the Consular Jurisdiction Act in the *Schutzgebiete*.

It also provided for the acquisition of German nationality by colonial subjects, including natives (section 6), and even for the right of "the natives of the *Schutzgebiete*" to fly the German flag on their vessels (section 7). It further added three new sections dealing with the internal

organisation of German colonial companies, whether or not they were granted a charter. But the most important changes related to the legal position of the emperor and the chancellor of the Reich.

No. 3 of the revised section 3 gave the emperor the power to enact ordinances providing penalties of up to one year imprisonment in all matters not covered by the German Criminal Code. Section 11, subsection 1 empowered the chancellor to issue all orders necessary to implement the act—an inconspicuous but in practice surprisingly broad power. Instead of only being authorised to empower the official whom he had authorised to exercise judicial jurisdiction also to enact police regulations, he was now himself authorised to enact such regulations, as well as other regulations concerning the administration of Germany's colonial territories (subsection 2). Subsection 3 authorised him to delegate this power to chartered companies and to colonial officials, whether or not they had been authorised to exercise the judicial jurisdiction. Finally, the chancellor was authorised to empower colonial officials to carry out consular functions other than the judicial functions under section 2 and those of a registrar of births, deaths and marriages (*Standesamt*) under section 4. Among them those of the *Seemannsamt*, concerned with the control of German merchant vessels and their crews, were of special importance in the colonial context. In this case, as in the case of the *Standesamt*, the 1888 revision of the Protectorates Act also broke the nexus between these powers and the exercise of judicial jurisdiction. The chancellor could choose which officials he wanted to authorise with the exercise of these various powers. Yet by the time the "official authorised to exercise judicial jurisdiction" had lost his key role, the basic framework of the colonial law in German New Guinea had already taken shape.

Although German New Guinea was governed by a private company as a commercial enterprise it was leading the way in promoting the Rule of Law, rather than lagging behind those colonies which had been placed under a direct imperial administration. On the other hand the Neu Guinea Kompagnie was not prepared to sacrifice the advantages of alternative approaches to colonial government altogether. On the contrary, it increasingly appreciated their advantages, and the position did not change dramatically when the Reich took over in 1899. It may be helpful under these circumstances to carry out another case study to illustrate why, even at the end of German colonial rule, the Rule of Law remained, in form as well as in substance, an enterprise which still had a long way to go.

V

When administrator Schleinitz enacted the first fully-fledged piece of colonial legislation in German New Guinea on 13 January 1887, making it an offence to carry out certain commercial activities without his permission, he probably did not appreciate that he was performing a master-stroke. Although designed as a police regulation, the ordinance was not primarily concerned with protecting the public from the dangers of an imminent commercial anarchy. Rather, it was intended as a fiscal measure because the permission to carry out these commercial activities could be made subject to conditions, such as the payment of a fee, thereby turning the permission into a licence.

The same fiscal aim could have been reached by taxing these activities—and a commercial tax was indeed introduced a year later—but a "licensing approach" had other advantages over a "taxation approach". It put the government in the position of a giver rather than a taker. It transformed the performance of commercial activities into a privilege granted by the government, for which it could not only charge a tax-like fee but which it could also deny, or which it could make subject to whatever other conditions it saw fit.

By offering economic privileges to its subjects, instead of imposing legal duties on them, the government gained for itself first of all an admirable degree of administrative flexibility. It also

secured a valuable economic monopoly because it could, if it wished, exclude all others from engaging in these activities and thus reserve them for itself. Furthermore, if the government chose to share this *de facto* monopoly, or to transfer it to a single applicant, it acted as a private property-owning entity rather than as a public authority. It did not have to rely on its public powers to legislate but could make use of its private freedom to contract, for which due process or natural justice considerations were, in principle, irrelevant.

The licensing approach could also be used to turn genuine prohibitions in the public interest into a fiscal tool by providing for special exemptions, which could then be treated as privileges and sold at a price. Conversely, where prohibitions primarily served the purpose of establishing an economic monopoly, the conditions attached to licences could be employed to protect public interests as well, for example by preventing the over-exploitation of resources. Finally, the licensing approach gave the government a powerful administrative weapon. The withdrawal of licences was an effective alternative to criminal prosecutions for offences committed in the course of a licensed activity. Even the threat to do so could persuade people who depended economically on these licences to do almost anything, including leaving the colony "voluntarily" after selling their assets, thereby saving the government from having to go through formal deportation procedures when their behaviour became unacceptable.

With the advantage of hindsight it is easy to see how this licensing approach could grow into an alternative and distinctly colonial form of government based on the discretionary management of privileges rather than on the legislative imposition of legal duties and their judicial enforcement. Perhaps unwittingly, Schleinitz had opened the door to an administrator's paradise where governments which are able to give are indeed more blessed than those which are limited to receiving.

While metropolitan civil law had been introduced into German New Guinea, at least for German nationals and protected persons, by the Protectorates Act, the metropolitan principle of "freedom of commerce" (*Gewerbefreiheit*), as part of administrative law, had not been introduced, and the Neu Guinea Kompagnie had no intention of limiting itself by its voluntary adoption. The 1887 ordinance leaves no doubt that its administrator regarded himself as entitled to regulate all commercial activities in the colony, but it recognised one restriction: private property, including that of German New Guinea's indigenous population, was to be respected.²² The question is, how broadly was this notion perceived?

The ordinance did not squarely face this question. Instead it stipulated that a number of specified commercial activities henceforth required governmental permission, namely:

1. the fishing of pearls, pearl shell and trepang;
2. the mining of ores, precious stones and combustible materials;
3. the obtaining of guano and other fertilisers;
4. the exploitation of stands of coconut palms for copra—in so far as they were not in the possession of natives or otherwise privately owned;
5. commercial fishing in coastal waters; and
6. the commercial cutting of timber on land which was not privately owned.²³

This list indicates what private property the company was willing to respect: it did not include fishing rights, mineral rights or timber rights, but was effectively restricted to rights to land. As far as the land rights of natives were concerned it was assumed that they were so limited that most of the forests, and even many stands of coconut palms, were legally ownerless. The list also

22 By contrast the public rights of the natives were not recognised or at least seen as having been extinguished by the acquisition of German sovereignty.

23 The ordinance was quickly amended to clarify two points: on the one hand, the purchase of items listed under 1 to 4 from natives who had obtained them for commercial purposes also required permission; on the other hand, no permission was required for the purchase from natives of coconuts which came from their own stands of palms.

implied that the company intended to claim a *de facto* monopoly of all economically significant commercial activities, apart from agriculture and the copra trade with natives.

The crucial part of the ordinance was section 3. It stated that the conditions for permission to carry out the specified commercial activities would be determined in each case by the administrator.²⁴ This meant that he retained unlimited discretion in this regard so that the ordinance did not have to spell out how this power was going to be exercised.

Two years later the administrative power to make certain commercial activities subject to governmental permission was openly treated as an economic asset. It was expressly referred to as such in the 1889 agreement between the company and the Reich whereby the government of German New Guinea was temporarily entrusted to imperial officials. It was also counted among the economic privileges the company ceded to the Reich in the 1898 agreement that terminated its rule.

The 1887 ordinance not only survived the assumption of full administrative responsibility by the Reich; it was also promptly introduced into the Island Territory. It was amended in 1902 for the Old Protectorate by adding the exploitation of rubber-producing plants—not growing on privately owned land—to the list. When it was re-enacted in 1903 the governor even claimed the power to make the conduct of any form of trade, including the copra trade in designated areas, subject to his permission. This opened the way for a grant of geographically restricted but comprehensive trading monopolies. The 1903 ordinance stayed in force until the end of German rule. It still gave the governor full discretion as to which conditions he would attach to the required permission. This did not prevent him from publicising general conditions. But even if he did, he could still vary them in individual cases because such general conditions gave applicants no legal rights.

On the same day Schleinitz enacted his Commerce Ordinance, he re-enacted part of a “public notice” (*Öffentliche Bekanntmachung*) which had been issued by imperial commissioner Oertzen in 1885. It had prohibited the supply of arms, ammunition, explosives and liquor to natives and the exportation of natives as labourers from the colony, but without providing for penalties in cases of breach. To add these penal teeth was the immediate purpose of the re-enactment.

The 1885 public notice had also included a third prohibition which did not require this added strength because it was legally self-executing. Although it did not say so, it was meant to protect a land acquisition monopoly the company had been granted in its charter. This could be achieved by announcing that only previously established *bona fide* claims to land would be legally recognised, whereas new land acquisitions would be legally invalid if they were made without the approval of the German authorities.

Even though the first of these prohibitions did not seem to offer a promising target for a licensing approach, the next shot fired by the administrator was aimed in this direction. In January 1888 he proclaimed a curiously constructed amendment. It stipulated that the penalties for a breach of the prohibition on supplying natives with the prohibited items would not be applied if certain conditions were met. Chief among them was a special permission granted by the official in charge of the district in which the native in question resided. This permission had to be applied for, not by that native, but by the non-native who wanted to supply him, who had to state why the permission was desirable for him, rather than for the native whom he wanted to supply.²⁵

The amendment did not give the official unlimited discretion. To begin with, he could only permit the supply to a “member of a foreign coloured tribe” and not to an indigenous native.²⁶

24 The administrator was authorised to delegate this power to other officials.

25 The amendment did not spell out what acceptable reasons were, but it is easy to think of likely cases, for example: to enable planters to employ natives to fish with dynamite so as to secure a supply of cheap protein for their labourers.

26 The term “native” was legally defined for German New Guinea so as to include “members of foreign coloured tribes” as part of the implementation of the Protectorates Act.

Furthermore, the permission could only be given in writing, had to relate to a particular person and be limited to a single calendar year. On the other hand, the official could refuse permission without having to give reasons, and he could cancel it at any time, if it had been abused. He could also limit the permission to the supply of one, or some, of the prohibited types of items. But he could not vary the fee the applicant had to pay: it was set at 30 Marks for full permission and at 20 Marks for limited permission.

That the amendment stopped short of formally legalising the supply of these items to natives, even with governmental permission, suggests that its draftsman felt uneasy. This is understandable because this was indeed a prohibition in the public interest. To supply natives with such dangerous items was highly undesirable, although practical considerations could require some reluctant exceptions.

The second prohibition belonged in a different category, especially since an amendment in December 1887 had extended it to include the "exportation" of natives as labourers from one part of the colony to another. This was plainly an economically useful activity, although there were good reasons for bringing it under governmental control. The original 1885 prohibition had already been concerned with control rather than prevention. It had also adopted a licensing approach by making an exception from the general prohibition in favour of German enterprises outside the colony. They were permitted to continue to export natives as labourers from German New Guinea, but only from areas where they had previously recruited and only under the control of German officials.

The 1887 amendment technically expanded this exception by treating the transport of natives as labourers from one part of the colony to another as another privileged exemption from the general export prohibition. This gave the ordinance an odd shape because the measure was, in fact, intended to introduce a control of the *internal* labour market. However, this was a small price to pay, since an open introduction of this control would have clashed with another principle enshrined in German metropolitan law: the "freedom of contract" (*Vertragsfreiheit*) which, in contrast to the freedom of commerce, had been introduced into German New Guinea as part of the civil law by the Protectorates Act. While it was up to the company to reject the freedom of commerce for its colony and to establish a *de facto* monopoly which it could utilise by the issuing of commercial licences, it could not exclude the entire field of labour law from the civil law governed by the freedom of contract. It could not generally prohibit the employment of natives as labourers within the colony so that it could then issue employment licences as privileged exemptions which it could make subject to discretionary conditions. Instead it had to approach the control of the internal labour market gingerly, and the existing export prohibition provided a convenient tail by which it could start wagging this dog.

By pretending that the transportation of natives as labourers from one part of the colony to another was a form of export this activity could be formally brought under the prohibition which made it an offence to export natives as labourers unless special permission had been granted, and only in accordance with the controls introduced by the government.

These controls were set out in an "Ordinance concerning the Recruitment and the Exportation of Natives as Labourers" of 15 August 1888. As its title indicates, this ordinance centred no longer on the *exportation* of labourers, or on their internal transportation, but on their *recruitment*, although the ordinance shied away from focusing openly on their *employment*. Moreover, the ordinance still applied only to the recruitment of native labourers who were transported across the sea. The hiring of native labourers for local employment remained outside its scope. This was not just a consequence of the exportation tail wagging the recruitment dog but had practical reasons because the labour depots, to which all recruits had to be shipped before they could be transferred to their places of employment, were the places where the governmental controls of the recruitment process were to be carried out.

The main control instrument was recruiting licences, which only the administrator could grant. The ordinance left him little room for discretion. He had to grant permission when certain conditions were met, which related primarily to the suitability of the vessel used for recruiting purposes. It had to specify the number of labourers who could be recruited and the area or areas in which this could be done. Permission could only be denied for areas where recruitment was likely to lead to conflict with natives, and it could only be withdrawn if its holder, or his helpers, had maltreated natives.

Although the ordinance dealt primarily with the recruiting process, it regulated indirectly the main employment conditions, such as the maximum length of the employment period and the daily working hours, by prescribing the content of the "employment contract" the recruit had to sign.²⁷ But addressees of the ordinance were the recruiters and not the employers of native labourers, let alone the labourers. It was designed as a recruiting ordinance and not as a labour ordinance and made no attempt to establish administrative controls of the relations between an employer and his native labourers, although it foreshadowed that the government would determine the conditions under which the labour depots would allocate native labourers to private employers—another privilege which had to be earned.

As already mentioned, the third of the 1885 prohibitions had the purpose of protecting the Neu Guinea Kompagnie's land acquisition monopoly. This created a different constellation because this monopoly was the equivalent of the licence in the other cases. Here a prohibition was not the crucial first step which enabled the government to take a licensing approach but merely a protective supplement. Nonetheless the treatment of this land acquisition monopoly is instructive, because it demonstrates that the entire scheme of having colonies governed by chartered companies was a utilisation of the licensing approach at a higher level. It put the company again in the position of a giver who could, as far as the monopoly went, administer the central area of land in the form of privilege management.

But a legal difficulty arose which was similar to that in the field of labour law. How could the company's land acquisition monopoly be reconciled with the freedom of contract principle the Protectorates Act had introduced in the colony? Here the question had to be faced squarely. The answer was an amendment of the Protectorates Act, authorising the emperor to regulate the field of land law in departure from the German metropolitan law. This happened promptly in the case of German New Guinea, for which an "Imperial Ordinance concerning the Acquisition and Charging of Land" was enacted in July 1887.

It introduced, in principle, metropolitan German land law, but stipulated that it did not apply to the acquisition of ownerless land, or to native land, and authorised the company to determine the principles in accordance with which its land acquisition monopoly was to be exercised. This too was a kind of licence, namely a licence to regulate by means of an internal administrative instruction a matter which was normally governed by legislation addressed to the general public. While a legislative approach imposed duties on members of the public, it also gave them rights which they could enforce in courts of law. This was not to apply here, since land acquired by the company in the exercise of its monopoly was not to be registered by virtue of the private contracts it had concluded with natives or of the private deeds of occupation by which it had appropriated ownerless land, but on the basis of a final certificate issued by the administrator in his public capacity.

Having thus sorted matters out to its satisfaction, in February 1888 the company issued "General Conditions for the Transfer of Land to Settlers", which were the counterpart of the conditions attached to its commercial licences. Even though the company was the owner of the

²⁷ Although the ordinance did refer to the employment contract, the form attached to it was carefully phrased as a mere declaration of intent on the part of the recruit to enter into an employment contract with an employer at a later date, thus distancing the recruitment process more clearly from the employment relation.

land, the transfer was construed as an administrative process. It began with an application by an interested party. It was considered by the administrator who could reject the application without having to give reasons.²⁸

The conditions attached to the transfer of land demonstrate that the company believed that it was operating in a seller's market. It made the transfer of rights by a lessee to third parties subject to governmental permission; it excluded minerals and other valuable substances from the lessee's or owner's right of disposal; it retained a strip 50 metres wide along the banks of navigable rivers and along the sea-shore; and it reserved for itself the right to resume other land for public purposes against compensation limited to the actual and immediate loss. It even required "settlers" to submit (!) to all regulations it would enact for the employment of natives as labourers.²⁹

Within less than two years the licensing approach had established itself in the key areas of the colony's economic life. It governed much of the access to land, labour and commerce. To be sure, it had not quite taken over, but what remained outside its sway began to look like beleaguered enclaves rather than the norm. A settler who had acquired land before the beginning of company rule, who could rely on locally hired labour, and who was satisfied to stick to agriculture or to buying copra from natives, was still largely immune, but even he needed a licence before he could offer his native mistress a glass of wine without having to fear prosecution.

On 1 April 1899 the company's land acquisition monopoly devolved on the *Fiskus* of German New Guinea, but the general conditions for the transfer of land the company had issued were regarded as having lapsed, so that the governor could now exercise his own discretion.

Things started to move when in 1902 an imperial land ordinance for all German colonies repealed the 1887 Land Ordinance for German New Guinea. This ordinance was ambiguous as to the fate of the land acquisition monopoly of the *Fiskus* of German New Guinea. It authorised the chancellor of the Reich to determine the conditions for the acquisition of ownerless land and to prohibit the acquisition of land rights from natives, or to make their acquisition, as well as the transfer of such rights, subject to government permission, or to special conditions. On the other hand, it provided that the existing, colony-specific laws governing these matters remained in force until they were specifically repealed.

It took until 1904 before the governor of German New Guinea implemented this ordinance for his colony, but it looks as if he then intended to make a fresh start. He proclaimed that the *Fiskus* had the exclusive right to acquire and dispose of ownerless land and to acquire land rights from natives, but without a reference to the monopoly it had inherited from the company in 1899. Yet, if this exclusive right was based on the 1902 ordinance, it was no longer an economic monopoly but an expression of political authority, so that it could be used to restrict the freedom of contract in relation to native land rights only "if and insofar as this appears necessary in the public interest". While this ordinance made the acquisition of land rights from natives subject to permission by the government, it did not authorise the *Fiskus* to acquire land rights for economic

28 Although the General Conditions stated that the application formed together with its confirmation the contract between the Neu Guinea Kompagnie and the applicant, the terminology used stressed the administrative nature of the process. They spoke of an "application" (*Antrag*), instead of an "offer" (*Angebot*), and of a "confirmation" (*Bestätigung*), rather than an "acceptance" (*Annahme*), and added that the "confirmation" included a "permission" (*Erlaubnis*) for the applicant to take the land into possession.

29 This attempt by the company to use its land acquisition monopoly to gain control over the employment of native labourers could only work in relation to those "settlers" (*Ansiedler*) who bought or leased their land from the company. Settlers who had acquired land before its monopoly had come into force or who subsequently acquired land from these old settlers remained immune. While this loophole in the company's land monopoly mattered little in Kaiser Wilhelmsland, it was potentially of great practical importance in the Bismarck Archipelago where large areas of prime land were claimed. It was left to the imperial government to sort out these claims. However none of the old settlers made an attempt to compete with the company, and later the *Fiskus*, as a supplier of agricultural land to new settlers. It is also worth stressing that the company assumed that this control involved an act of *submission* on the part of the settler because this appears to acknowledge that a unilateral imposition of this control was beyond its governmental powers.

reasons. Moreover, the governor departed from a licensing approach in that he stipulated in his implementation regulations that land required to assure the subsistence of natives, in particular dwelling places, garden land and stands of palms, was excluded from any acquisition, thereby giving natives enforceable rights in this regard.³⁰ On the other hand, he gave himself discretion to authorise non-officials to acquire ownerless land and native land rights on behalf of the *Fiskus*. He also reserved the right to regulate the details of the acquisition of such rights, and of their transfer, as he saw fit, either by issuing general conditions or on a case by case basis.

Such general conditions were soon published. By 1912 they had grown into a comprehensive document which was of far greater practical importance for the use of land in German New Guinea than the 1902 Land Ordinance. Yet it did not contain law in the formal sense. On the contrary, the document stressed that the principles it proclaimed were not legally enforceable and that the government was free to alter them at any time, or to vary them by special conditions in individual cases.

A comparison of the 1912 general conditions with those issued by the Neu Guinea Kompagnie in 1888 shows how much the situation had changed. While the 1888 version read like the brochure of a property developer, the 1912 version was not so much concerned with the utilisation of an economic asset as with the politically most desirable use of land in German New Guinea. Who was going to get land and for what purposes was more important than maximising revenue. Improvement conditions were a central feature. The government was not interested in selling or leasing land which would lie idle; it had to be developed economically with reasonable speed. It wanted to spell out these policies, informing interested parties where they stood, but it did not want to tie itself down too tightly—and the balance between certainty and discretion kept changing.

The 1912 version spelled out that companies already owning more than 2,000 hectares of land would usually only be granted more land if at least three quarters of that land had been cultivated, and that they would only under exceptional circumstances be granted more than a total of 5,000 hectares, whereas this condition was dropped in its 1914 update. On the other hand, the 1914 version was more specific with regard to native reserves. It stipulated that, where at all possible, at least one hectare of garden land per head of population had to be allowed for, while the 1912 version had stated that the size depended on the local conditions. Generally speaking, however, the pendulum was swinging in the direction of more discretion at the margins while the core procedures became increasingly strict.

A second general difference is that the later versions left out more and more subject matter. In 1888 the Neu Guinea Kompagnie had found it necessary to spell out what rights it wanted to retain, on the assumption that the private ownership of land in German New Guinea was all-embracing. Hence the specific exclusion of mineral rights. This exclusion clause was still part of the 1904 version of the general conditions, but it was dropped in 1912, although that version still insisted that the sea-shore remained the property of the government, which too was regarded as superfluous in 1914.³¹

This streamlining was possible because the matters in question had in the meantime been regulated by legislation. The mineral rights provide a good illustration. The 1888 conditions assumed that the private ownership of land included mineral rights, although they were regarded as special in the sense that the 1887 Commerce Ordinance assumed that even mining activities of an owner on his own land could be made subject to governmental permission, while this was

30 Land acquired by the *Fiskus* was also no longer registered by virtue of a certificate issued by the governor, so that it would appear that the validity of any acquisition could now have been legally challenged.

31 The 1914 version stopped short of assuming that the sea-shore in German New Guinea was *ipso iure* incapable of being privately owned. But it did exclude the transfer of any land used for public purposes categorically from a transfer into private ownership, whereas in the 1912 version such a transfer had only been excluded in principle.

regarded as inappropriate in the case of commercial timber cutting on privately owned land. A mining ordinance the Neu Guinea Kompagnie had enacted in 1897 had left the question of the ownership of mineral rights open, although it extended the licensing approach to the *prospecting* for precious stones and minerals, whereas the Commerce Ordinance had only been concerned with their mining.

By contrast, the 1906 imperial mining ordinance stated bluntly that a long list of precious and common minerals were excluded from the right of disposal of the owner of the land on or in which they were located. Although it introduced the metropolitan "freedom to mine" (*Bergbaufreiheit*) in the German colonies, its concluding provisions opened a door to a licensing approach. Firstly, they preserved existing mining privileges. Secondly, they authorised the chancellor of the Reich to grant exclusive mining and prospecting privileges which could override the provisions of the ordinance, just as the existing privileges were confirmed irrespective of whether they were in accordance with its provisions. Thirdly, they authorised the chancellor to make the prospecting for minerals subject to a prospecting licence.

What happened in German New Guinea to the freedom to mine after the enactment of this ordinance is instructive. On 7 February 1908 the colonial office cancelled a concession which had been granted in 1901 to a Huon Gulf Syndicate sponsored by the Neu Guinea Kompagnie, only to replace it, on the same day, with an exclusive prospecting and mining right of the *Fiskus* for the same section of Kaiser Wilhelmsland. In 1909 it established a mining monopoly of the *Fiskus* in the Purdy Islands, where the Neu Guinea Kompagnie had previously, although not very successfully, mined guano. In 1910 two decrees established a monopoly to prospect for and mine organic and inorganic phosphates in the whole of Kaiser Wilhelmsland and in the northwesterly islands of the Bismarck Archipelago. In 1912 a monopoly of the *Fiskus* to prospect for and to extract oil in the western section of Kaiser Wilhelmsland was established. It was extended in 1914 to include the whole of Kaiser Wilhelmsland.

In the Island Territory the first move was the establishment of a phosphate monopoly for the *Fiskus* in 11 specified islands west of the Marshall Islands, in February 1907. A month later a coal mining monopoly for the entire Island Territory followed. In 1908 the colonial office decided to stop messing around and declared a complete mining monopoly for the *Fiskus* for the whole of the Island Territory, although this decree, like all its siblings, preserved the duly acquired rights of third parties.

What about labour? The labour law enacted during the period of company rule was soon replaced, but without being dramatically altered in its substance. However, some of the modifications introduced by the 1901 Recruiting Ordinance were significant. For example, the rejection of an application for a recruiting licence now required a formal notification stating reasons. On the other hand, a recruiting vessel henceforth needed to be licensed in the sense that it could only be used for recruiting after the governor had certified its suitability in writing.

The 1901 Recruiting Ordinance also began to regulate the employment of recruited labourers more directly, albeit still cautiously. An employer had the duty to inform the authorities twice a year about changes in his labour force and committed an offence if he did not. In his implementation regulations the governor went further. They enabled the government to impose unspecified conditions on employers, as well as recruiters, the fulfilment of which it supervised. Still, the main limitation of the 1888 Recruitment Ordinance remained: the 1901 ordinance only applied to indigenous natives and only if they were transported across the sea from the place of their recruitment to their place of employment. It took until 1907 before the governor tried to gain some official control over the employment of other natives by amending a disciplinary ordinance which, in 1900, had replaced an 1888 ordinance of the Neu Guinea Kompagnie.

This ordinance provided for official disciplinary punishments, including corporal punishments, which could be imposed on all coloured labourers, including those in private employment. But

whereas the 1888 ordinance had required that these punishments be imposed and executed by officials, the 1900 version gave the governor a licensing option: he could authorise other persons, including private employers, to do so. These disciplinary licences became common, especially on outlying plantations, and were regarded as an important economic asset. The 1907 amendment of the 1900 Disciplinary Ordinance made use of this fact by restricting the disciplinary punishment of coloured labourers to those who had been recruited in accordance with the 1901 Recruitment Ordinance. But it made an exception: the disciplinary punishment of other coloured labourers was permissible if the employer submitted a copy of the employment contract to the authorities. By itself this did not give the authorities the power to control the employer in the fulfilment of his contractual obligations, but the whole measure makes sense only if the employer thereby subjected himself to some governmental supervision. Put bluntly, the amendment offered a deal along the following lines: we will allow you to beat your labourers if you allow us to make sure that they are otherwise properly treated.

In 1909 a revision of the 1901 Recruitment Ordinance put the control of the employment of native labourers on a firm legislative basis. Like its predecessors, it made only the recruitment of labourers across the sea subject to government permission. But its non-recruitment provisions also applied correspondingly to locally recruited labourers, unless the authorities made a discretionary exception. The crucial step was taken in section 13. It placed the entire employment relationship under governmental supervision. Moreover, the 1909 Recruitment Ordinance directly prescribed the main content of the employment contract and permitted modifications only if they did not run counter to the legislative requirements.

Although the employment of natives as labourers as such still did not require a licence, the administrative control of the native labour market was now complete, since a 1908 "Ordinance concerning the Immigration and Importation of Non-indigenous Natives" had achieved the same result for coloured labourers imported from abroad.

No licence was required to import foreign natives as labourers, but the importer had to notify the authorities within three days of their arrival and to submit two copies of the employment contract. The government was responsible for the supervision of the entire employment relationship, but section 4, the counterpart of section 13 of the 1909 Recruitment Ordinance, went still further. It empowered the authorities to carry out inspections at any time, or to have them carried out by suitable experts or commissions, and to order remedial action if conditions were unsatisfactory.

Since it was an offence to employ imported native labourers who did not hold a certificate from the government, a separate licence was unnecessary. The importation certificate constituted a *de facto* employment licence, like the recruitment certificate in the case of internally recruited labourers. The implementation regulations leave no doubt that the government felt entitled to attach special conditions to these importation certificates. Nonetheless, commerce remained the heartland of the licensing approach, so that it is appropriate to round off this case study with another illustration taken from that field.

The 1887 Commerce Ordinance had covered most of the important primary industries except agriculture, namely fishing, mining and forestry. But it said nothing about another potentially lucrative industry, namely hunting, although the presence of valuable birds-of-paradise in Kaiser Wilhelmsland was well known. Indeed, administrator Schleinitz had referred to these birds in a police ordinance, issued in July 1887. It was primarily concerned with regulating the use of firearms in the capital, Finschhafen, but it prohibited, in passing, the hunting of female and moulting male birds-of-paradise for the entire district of this station. This was a purely protective measure since the hunting of the commercially valuable male birds during the time they carried their ornamental plumes remained unimpeded. To hunt them was, at the time, seen as an economically insignificant hobby.

In November 1891, imperial commissioner Rose made hunting these birds also subject to government permission. His ordinance distinguished between hobby hunters and professionals, in particular those who employed natives to hunt for them. Whereas a hobby hunter could obtain a licence to hunt in a specified area for one year for a modest fee of 20 Marks, the conditions attached to a commercial hunting licence could be determined on a case by case basis. This ordinance was repealed a year later, but it was replaced by a similar ordinance which increased the regular licence fee to 100 Marks per annum. A 1907 amendment lifted the regular fee to 160 Marks, but otherwise the 1892 ordinance remained in force until the end of German rule, although the hunting of birds-of-paradise became big business after 1910.

This demonstrates one of the main attractions of a licensing approach: all desirable adjustments could be made without lifting the legislative pen. After an activity has been made subject to discretionary governmental permission, it can be fully controlled administratively and no-one, apart from the individual licensees, has to be told anything. In practice, procedures became largely standardised. This is not surprising, since the three authorised local administrations in Kaiser Wilhelmsland between them issued over a hundred licences per annum after 1910 and the ground covered by them was remarkably wide. The licensing approach had been used to extend the scope of the 1892 ordinance so as to include other "ornamental" birds. It had also been used to limit the hunting season to a period from 16 May to 31 October and to create three large reserves, covering together several thousand square kilometres, in which hunting was prohibited. The legal hunting of birds-of-paradise could even be brought to a complete halt simply by stopping the issuing of hunting licences. It was therefore largely a matter of governmental convenience to announce the decision that no such licences would be issued for 1914 in the form of a public notice inserted in the government gazette.³²

The licensing approach certainly had administrative advantages. But this did not assure its future, because there were forces at work which favoured a greater emphasis on a legislative approach. They made themselves felt in 1907 when the colonial office considered whether it could use the 1903 re-enactment of the 1887 Commerce Ordinance as a basis for granting a company an exclusive pearl and pearl shell fishing licence for a particular part of German New Guinea.

Even though this ordinance had been used routinely by the governor in this manner, the legal experts in Berlin now agreed that this had, strictly speaking, been illegal, because the freedom of commerce could only be restricted in the public interest. The 1903 ordinance could not properly be employed as a fiscal tool, since this would interfere with yet another principle enshrined in German metropolitan law: the "freedom to appropriate ownerless objects" (*Aneignungsfreiheit*) which, as part of the civil law, applied in the colonies by virtue of the Protectorates Act. Consequently, the granting of a pearl fishing monopoly in German New Guinea required an amendment of the Protectorates Act authorising the emperor to depart from that principle, and an imperial ordinance permitting the establishment of exclusive rights for the *Fiskus*, which could then, and only then, be utilised by issuing exclusive licences to interested parties. That is to say, a licensing approach was not ruled out, but the legal procedure for adopting it was far more demanding than had been previously assumed. Moreover, the different purposes for which a licensing approach could be chosen now had to be kept legally apart. The colonial state could not combine its fiscal interests with a protection of public interests—and it was recognised that such a lack of discrimination could be challenged in court.

The critical examination of the 1903 Commerce Ordinance had opened what many regarded as a Pandora's box. There was no choice but to sort out eventually the legal mess the rough and ready application of the licensing approach had created, but there was no point in rocking the boat in public. It was better to go about this business gradually and quietly. This particular matter

32 By contrast, a closed season for the hunting of crown pigeons and cassowaries—which did not require a licence—had to be introduced by a formal ordinance dated 2 December 1913.

therefore dragged on until the end of 1913, when the governor, who had not been a party to these discussions, offered a pearl and pearl shell fishing monopoly for another part of the colony to the highest bidder. The legal section of the colonial office was in favour of instructing him to withdraw this offer forthwith, and of giving him a lecture about the legal position, but it was outvoted by the pragmatists. They argued that the colonial office should not make life difficult for the governor, who had merely followed an established practice which had been accepted without complaint. Until the governor could be offered a legally acceptable way of pursuing his laudable fiscal aims, it was better to "let sleeping dogs lie" (*quieta non movere*) (see RKA 5416).

The dogs were still asleep at the end of German rule, which was by then only months away, but the barking noises they were making in their dreams could not have been disregarded much longer. The days of the licensing approach to colonial government were numbered. Moreover, the entrenchment of administrative discretion, one of the main advantages of the licensing approach, was a two-edged sword, since it also increased the personal responsibility of the officials who used it.

This brings us back to the central difference between a licensing approach, as a management of economic privileges, and a legislative approach, with its focus on the imposition and enforcement of legal rights and duties. The underlying message of the 1887 Commerce Ordinance had been this: the government of this colony is not here because it wants to govern the people who live in this territory but because it owns the place; it therefore has the right and the duty to manage its economic resources in its own interest. Even the recognition of the private property rights of its subjects by the government amounted to the granting of a privilege. The extension of the exclusive mining rights of the colonial state right until the end of German rule is a good indication that nothing changed after the colony came under the full and direct control of the Reich. As far as resource management was concerned, the licensing approach had firmly established itself, although an increasingly bureaucratic form of government was replacing the discretionary vagaries of the early pioneering days.

VI

The history of colonial government in German New Guinea can generally be characterised as a movement towards the Rule of Law, but this movement was primarily concerned with an expansion of the powers of government and the organisation of their exercise, rather than with the protection of the rights of individuals. It gradually transformed the discretionary *Schutzgewalt* of the emperor into a state organisation designed not to govern people but to develop the *Schutzgebiet* economically. It was indeed a territorial form of government which managed the resources within the territory under its rule, including its inhabitants as a human resource. But, in contrast to other resources this human resource could be made part of the state organisation. People could be treated as functionaries of the state as well as subjects. Seen from an organisational perspective, voters in state elections are as much part of the state organisation as warders and their prisoners in a government jail. People become part of the machinery of the state when their birth is registered and they are officially eliminated with the registration of their death. Not only judges and counsels but also the parties in a civil case, and the accused in a criminal trial, are part of the administration of justice. They are not mere recipients but play an essential role. They all participate in activities which have been organised by the state and have to be performed in accordance with the rules it has laid down. The most important of these rules are concerned with powers rather than with rights and duties; and they can create new powers rather than merely regulate the exercise of existing ones. Although these rules are constitutive in that they create facts rather than obligations, they are usually expressed in a normative language. This makes sense

because it is not the words themselves that create these facts. They are expressions of sociopolitical powers which can operate without being verbalised.

Nonetheless, their verbalisation makes an important difference, especially if it takes a written form; it makes the operation of these powers visible and gives them a permanent existence; it provides a historical record of their exercise or, more precisely, their purported exercise, so that this historical record has in so far indeed a quasi-normative character because it cannot tell us by itself whether the sociopolitical facts these words were meant to create actually came into being.

Take for example the statement: "the Island Territory...forms for the time being a part of the *Schutzgebiet* of German New Guinea". Seen in isolation these are mere words which may be historically empty. But the picture changes if we know that this statement is part of a document signed by the German emperor; that this document refers to the Protectorates Act, according to which the emperor was empowered to exercise the *Schutzgewalt* in the *Schutzgebiete*; and that the document had been countersigned by Count Posadowsky, acting on behalf of the chancellor of the Reich, so that it appears to have met the requirement of article 17 of its constitution. While it is, of course, possible that the printed version of the document we are considering is a forgery, that my translation is defective or that Count Posadowsky was not authorised to deputise for the chancellor of the Reich, it appears to be reasonably safe to conclude that this document stated a historical fact and that the Island Territory did become a part of German New Guinea at a certain date. However, the main historical significance of this document is not that it provides a written record of this particular exercise of the emperor's powers, but that it shows how the exercise of these powers was generally structured.

Historiographically speaking, the advantage of the movement towards the Rule of Law is that more and more of these structures and structural changes were verbalised and recorded in writing because organisation was treated as if it was a normative enterprise, as if creating actual regularity was a form of normative regulation. Unfortunately these structures are not always as explicit as in this instance. But even in the marginal areas where the incorporation of people into the organisation of government was only just beginning, signals of the emerging new structures were recorded.

The treatment of native labour provides a good example. It is indicative of the approach adopted by the German authorities that natives who were not employed by Europeans were officially called "free" natives, with the clear implication that native labourers were "unfree". This did not mean that they were seen as slaves, in contrast to non-native employees who were seen as free. On the contrary, a native who lived in a slave-like relationship of dependence on another native was also free in this sense, whereas a non-native employee, including a senior government official, was unfree. What made natives not employed by non-natives free was that they remained outside the colonial sphere. Within this sphere no-one was free and the freedom of everybody was increasingly curtailed as governmental controls became more extensive and effective.

As we have seen governmental controls in the field of native labour were primarily imposed on recruiters and employers of native labourers and not on the labourers themselves. It was the freedom of the former that was limited and it was the power of the government that grew. The recruitment of native labour, like the acquisition of native land, was seen as a governmental task. No-one, apart from the government, was free, let alone legally entitled to engage in these activities, although the government could licence private individuals to carry them out as a privilege.

Already the 1888 Disciplinary Ordinance of the Neu Guinea Kompagnie had treated the disciplining of these labourers as a governmental task, and when the 1900 Disciplinary Ordinance created the possibility of licensing private individuals to exercise these disciplinary powers the

implication was that these persons acted as functionaries of the government when exercising them, although the legal consequences of this position were not fully appreciated at the time.

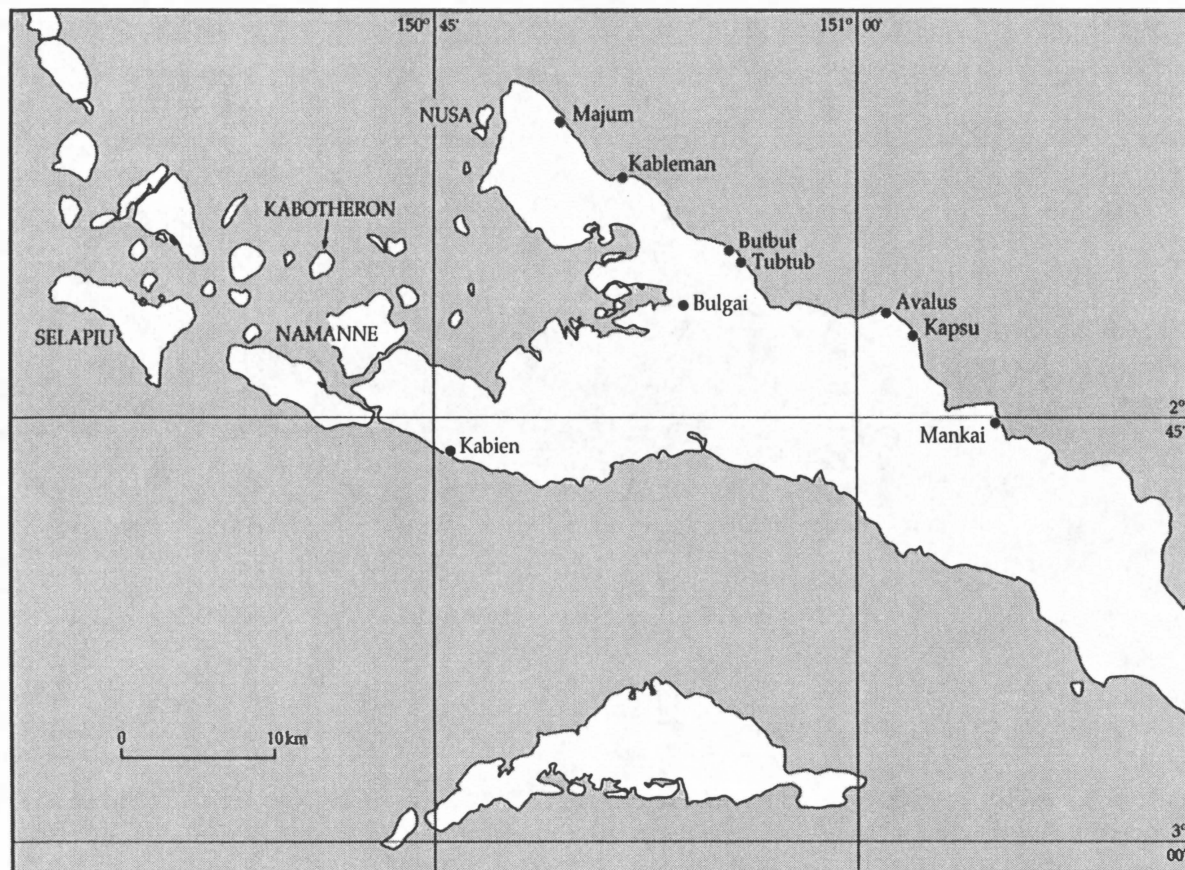
The 1909 revision of the Recruitment Ordinance went further. By placing the entire employment relationship under governmental supervision, it began to transform the contractual relationship between an individual employer and his labourer into a triangular administrative arrangement. Since an employer who did not carry out his duties under the ordinance committed an offence, a labourer could now report him to the authorities instead of having to take him to court for a breach of contract. It was natural to move in the same direction for breaches of contract by labourers and to treat in particular their "desertion" as an offence. The planters in German New Guinea acted well within the spirit of these developments when they called upon the government to introduce a compulsory "labour service" for natives, as a colonial counterpart of the military service in metropolitan Germany. Such a service would have replaced individual and voluntary employment contracts altogether. It would have made labourers as well as their employers servants of the state and turned commercial production into a governmental activity, albeit one which continued to be funded by private capital and the commercial aspects of which continued to be managed privately with the aim of producing private profits.

This development was in line with Bismarck's view that Germany's colonies should be treated as economic enterprises. But Bismarck had been mistaken in his belief that such an approach would prevent bureaucratic forms of government. Instead of running German New Guinea in an informal, patriarchal fashion, like a large feudal estate, as Bismarck had imagined, the Neu Guinea Kompagnie's chairman of directors, Adolph von Hanseemann, tried to manage it like his bank, the Disconto Gesellschaft, and that meant in accordance with detailed instructions, based on a steady flow of detailed information, in particular accounts and other forms of quantified information. The simple fact is that bureaucracy is not a public sector phenomenon which comes about when governments are made accountable to popularly elected parliaments, but that it is a hierarchically controllable form of management which is just as likely to be adopted by private capitalists.

Let us see how the Neu Guinea Kompagnie tackled the task of governing German New Guinea and what shape the legal and organisational framework of government took during the period of company rule, and compare this framework with that of the Marshall Islands before their incorporation into the Island Territory in 1906 which ended the financial responsibility for their government by the Jaluit Gesellschaft.

PART I

Islands of Law in Seas of Discretion



MAP V: Northern New Ireland

Chapter 1: The Shapes of "Company Rule"

I

German New Guinea's first constitution was the imperial charter granted to the Neu Guinea Kompagnie on 17 May 1885. It distinguished between the ultimate sovereignty, which was retained by the emperor, and the local sovereignty, the exercise of which was entrusted to the company. Instead of defining the rights included in the ultimate and local sovereignty the charter made a series of more or less specific provisions. On the one hand the company was granted the rights of local sovereignty "corresponding" to its obligation to maintain institutions of government. On the other hand the emperor reserved for himself not only the right to conduct the relations of the colony with foreign governments but also the right to organise the administration of justice within it. The emperor was entitled to make orders to implement and supplement the charter which foreshadowed the enactment of regulations protecting the natives and the rights to land non-natives had duly acquired before the charter had granted the company a land acquisition monopoly. In addition, all the company's governmental activities were placed under the emperor's "ultimate supervision" (*Oberaufsicht*), while imperial officials and officers were ordered to protect and support it in all its "lawful" (*gesetzlichen*) undertakings.

The entire charter was conditional as the Neu Guinea Kompagnie did not yet legally exist when it was issued. It was given a year to complete its organisation in accordance with German law. It only just made it. Its articles of association were agreed upon in March 1886. They were approved on 12 May 1886, and the company was granted the rights of a legal person on the same day.

The company had already been active in other respects during that period. One of its first moves was the publication of its own journal, the *Nachrichten für und über Kaiser Wilhelmsland und den Bismarck Archipel*, the first issue of which appeared in June 1885. Its second issue announced that an expedition had left Berlin on 29 June 1885 to establish stations in Kaiser Wilhelmsland, and on 10 August 1885 Adolph von Hanseemann signed instructions for the "administrator" (*Landeshauptmann*) who was to be sent out as the company's local representative (see RKA 2408).

Although these instructions stated that they were only laying down general principles and that the administrator was to be given as much freedom as possible in putting them into practice, they added up to over 30 printed pages. They covered all aspects of government and some rather peripheral matters.¹ According to this document the company assumed that an imperial official would be stationed in German New Guinea to supervise its governmental activities. They were, for the time being, to be limited to four fields: (1) the protection of white settlers, their property and their coloured employees; (2) the control of shipping and commerce; (3) the establishment of peaceful relations with the natives and their protection from acts of violence and exploitation; and (4) the imposition of certain levies to cover the costs of the administration.

The instructions defined more precise principles for each of these fields. For example, the administrator was encouraged to initially open only one harbour to foreign vessels and to permit traders not employed by the company to operate only in places where they could be supervised by company officials. But the bulk of the text dealt with the practical tasks of the economic opening

¹ For example, section 33 decreed that all employees had to hand over artefacts they acquired to the company, unless it renounced its claim. This apparently minor matter was sufficiently important for the company's first choice as administrator, another retired naval officer, to decline the offer when the company refused to remove a clause to this effect from his contract.

up of the colony and the civilising of its inhabitants. Since the company was happy to leave the latter primarily to the Christian missions—for the treatment of which separate principles were being drafted—the instructions focused on the former. The ground for the economic opening-up of the country was to be prepared by a scientific expedition. It had the task of compiling, in the first instance, an inventory of Kaiser Wilhelmsland in terms of its geography, geology, biology, climatology and ethnography. It was to operate largely independently of the administrator under its own set of instructions. Its projected routes demonstrate Hansemann's boundless optimism. It was to explore the whole area by following a river up to the border with British New Guinea before travelling some distance along the watershed, which was assumed to coincide largely with this border, and return to the coast on a different route for a period of recreation—after which it would repeat the exercise until the entire terrain had been covered.

The first duty of the administrator was to establish a network of stations along the coast of Kaiser Wilhelmsland, whereas a decision as to where and when stations would be established in the Bismarck Archipelago was to be made in Berlin. While the instructions stressed that the network of stations in Kaiser Wilhelmsland was to be extended gradually, in line with the manpower and financial resources available, Hansemann envisaged initially three of them: one at Finschhafen in the east, one at or near Friedrich Wilhelmshafen in the centre, and one further west. Hansemann also knew what buildings these stations would consist of: one or more dwellings for the company employees and their labourers, stables for animals and stores for provisions and tradegoods, and, later, a church or a chapel and a school for native children in which the missionaries would act as teachers.

The instructions emphasised the fundamental importance of communications. Each auxiliary station in the interior had to be connected to one of the main stations at the coast by all-weather tracks, but it was also desirable to connect inland stations and coastal stations with each other in a similar manner, although communication by sea between the latter would remain the best option for a considerable time.

An even more important task for the administrator was the exercise of the company's land acquisition monopoly. Hansemann was not concerned about existing land claims by non-natives. There were none in Kaiser Wilhelmsland and the only substantial claims in the Bismarck Archipelago were those of the Deutsche Handels- und Plantagen-Gesellschaft in the Duke of Yorks, those of the Hemsheim firm in northern New Ireland and the disputed claims of "a certain Farrell"—the partner of the future "Queen Emma"—in the Blanche Bay area of New Britain. Nor was he concerned about the land rights of natives, since they had, according to the available information, no notion of private ownership of land and only claimed those areas which they were actually using for houses and gardens. But the situation was complicated by the fact that the natives were consequently also unfamiliar with the concept of a sale of land. Under these circumstances the setting aside of native reserves had to be considered when large areas of land were acquired which could be used in case of population increases. Land actually in use by natives at the time of an acquisition was always to be excluded. It also had to be carefully explained to natives transferring land that they lost all rights to it and that they could not transfer it a second time, whereas the company could dispose of it as it saw fit.

Just as setting aside native reserves was on the cards from the start, so was the appointment of "government chiefs". The avoidance of violence was to be the basic principle of native administration. The use of force was only permitted in cases of self-defence or where it was absolutely necessary to set a warning example. The aim was to win the natives over peacefully to "human [!] culture" (*menschliche Kultur*). They were not to be oppressed or robbed, let alone exterminated. This required, apart from a knowledge of their physical conditions and their customs, a large measure of patience and benevolence on the part of the company's employees. It was the duty of the administrator to promote and supervise the observance of this principle,

from which it followed, in particular, that natives could not be forced to work or to part with any of their possessions. The social organisation of the natives was to be preserved and the powers of their chiefs were to be respected, although cruel and barbarous forms of their exercise were to be discouraged. This applied, however, only to friendly chiefs, whose position was to be acknowledged in an appropriate manner, such as by awarding them a staff of office.

Hansemann had a high opinion of the opportunity offered by barter trade as a means of establishing friendly relations. Such occasions were to be used to explain the company's whole political program: that its intentions were entirely peaceful; that it only wished to improve the lot of its native subjects; that the natives should henceforth refrain from taking revenge on whites who had wronged them and from feuding among themselves; and that they should report any trouble to the next station which would punish white offenders and settle their internal disputes peacefully.²

By the time the company's articles of association were agreed upon in March 1886, the Protectorates Act had already taken shape. But just as this act ignored the role of chartered companies, the Neu Guinea Kompagnie's articles of association ignored the consequences the Protectorates Act was going to have. Instead they placed themselves squarely on the imperial charter. Section 1 defined the purpose of the company accordingly. Apart from stipulating that the company's "overseas representatives" had to be German nationals, only the definition of the powers of the company's Berlin-based board of directors showed indirectly what shape the local administration was going to take.

1. The board of directors decided the annual budget of the local administration. It was also responsible for the hiring and firing of the administrator and all employees who received an annual salary of over 5,000 Marks or were employed for more than three years.
2. It was responsible for defining the powers of the administrator, for issuing general instructions for the central administration of the colony, for the running of the company's vessel and for the conduct of scientific expeditions.
3. Even if funds for the purchase of vessels, the establishment of stations, or for expeditions had been provided in the budget, their actual expenditure had to be approved by the board in each case.
4. The board decided the principles in accordance with which the company's rights of local sovereignty and its land acquisition monopoly were to be exercised.
5. It defined the limits within which the company would itself engage in commercial activities.
6. It exercised the legislative powers flowing from the company's rights of local sovereignty, in so far as they required the approval of the German government.

In short, there was little room for discretion on the part of the managing directors, let alone the company's administrator.

When its first administrator, Georg von Schleinitz, arrived in German New Guinea the Protectorates Act had become the keystone for the exercise of governmental powers in all German colonies. It had been implemented for German New Guinea by an imperial ordinance of 5 June 1886. This ordinance provided that the Consular Jurisdiction Act would come into force on 1 September 1886 (section 1). It made the jurisdiction of the colonial courts in principle territorial but made one negative, personal exception. It excluded "natives" from this jurisdiction, unless they were specifically placed under it, and authorised the chancellor of the Reich, after hearing the company, to define who counted as a native under the ordinance and how far natives would be placed under this jurisdiction (section 2).

2 Hansemann also proclaimed that natives with whom peaceful relations had been established were to be treated as "protected persons". It is not clear what this was supposed to mean, since the administration of justice was an imperial prerogative and the German government had not yet committed itself as to how the administration of justice in relation to natives would be handled.

Section 3 authorised the chancellor to give the official whom he had authorised to exercise this jurisdiction the power to enact police regulations. Sections 4 to 9 made procedural provisions. *Inter alia* they established the consular court in Apia as German New Guinea's court of appeal in civil matters, whereas the *Reichsgericht* remained its court of appeal in criminal matters. Section 10 introduced the 1870 Personal Status Act for Germans Abroad also as from 1 September 1886 but exempted "natives" categorically from its application.

Both the exercise of the jurisdiction under the Consular Jurisdiction Act and the application of the 1870 Personal Status Act produced voluminous implementation regulations which I shall disregard. However, I should stress that the arrangements were such that the official authorised to exercise this jurisdiction was also responsible for the investigation and prosecution of criminal offences, and for the execution of judgements in criminal and civil matters.

The legal position of "natives" was regulated in a decree of 1 November 1886. It defined this term as including members of other coloured tribes as well as members of tribes indigenous to German New Guinea, without placing natives in any way under the jurisdiction of the colonial courts.

On 24 June 1886 the chancellor had already authorised Schleinitz to exercise jurisdiction under the Consular Jurisdiction Act with the power to enact police regulations. In addition he had entrusted him with the judicial administration by placing other officials empowered to exercise this jurisdiction under his supervision and by empowering him to allocate judicial business to them on a geographical or substantive basis. All these powers were personal and not attached to the office of administrator. In addition, the decree made clear that Schleinitz was exercising these powers under the supervision of the Reich and that this supervision could be exercised by commissioners posted to German New Guinea as well as by the authorities based in Germany.³

On the same day that Schleinitz received his powers from the chancellor, he was given additional powers by the Neu Guinea Kompagnie as part of the first exercise of its legislative powers. The main purpose of the ordinance of 24 June 1886 was the establishment of an official gazette, the *Verordnungsblatt für das Schutzgebiet der Neu Guinea Kompagnie*, in which the ordinances the company enacted in exercise of its local sovereignty would be published, although they normally only came into force after they had been publicly displayed on a designated board in the office building in the central station in Finschhafen (section 1).⁴

Section 2 empowered the administrator—*ex officio*—to exercise the company's legislative powers in urgent cases, but he had to inform the board of directors immediately if he did. Such ordinances, as well as police regulations the administrator enacted in exercise of his powers under the Protectorates Act, also normally came into force only after they had been publicly displayed in Finschhafen.

Schleinitz had acquired none of these powers when he left Germany in April 1886. Indeed he only obtained them after he arrived in Finschhafen on 10 June 1886. By that time all three main stations projected for Kaiser Wilhelmsland had been founded, and the Scientific Expedition had arrived. Moreover, the company had decided to send a somewhat elevated "*Stationsdirektor*" to the Bismarck Archipelago. Even the personal status matters were taken care of in Berlin. In July 1886 the chancellor appointed the managers of the stations in Finschhafen, Richard Mentzel, and Hatzfeldhafen, Fritz Grabowsky, as registrars of births, deaths and marriages for their respective districts. In November the company's board of directors determined the fees which they were to charge for their efforts.⁵

3 An imperial commissioner had been posted since 1884 in what was to become the Bismarck Archipelago, mainly to supervise German vessels involved in the labour trade.

4 Relevant legislation was also published in its general journal.

5 The company issued detailed instructions to the registrars. They were not published in its gazette since they were not regarded as being of general interest. By contrast they were later published in the *Deutsche Kolonialgesetzgebung* (see

However, in February 1887, Schleinitz made a brave foray into this field in the form of a police regulation which was to ensure that the Personal Status Act would be applied in accordance with local conditions.⁶ The ordinance was drafted by *Assessor* Georg Schmiele, who had arrived in Finschhafen on 20 September 1886 and became the administrator's legal adviser. Schmiele had been authorised by the chancellor on 14 July to exercise the jurisdiction under the Consular Jurisdiction Act under Schleinitz's supervision (*NKWL* 1886: 77–78). Schleinitz first decided to base Schmiele in Finschhafen and to make him responsible for the exercise of the full jurisdiction in the whole of German New Guinea (*NKWL* 1887:3), but he divided the colony shortly afterwards into two judicial districts and sent Schmiele to the Bismarck Archipelago (*NKWL* 1887: 78). This was Schleinitz's only significant contribution to the emerging legal and organisational framework of government in 1886.⁷

The main legislative target during 1887 was land. The process began with an amendment of the Protectorates Act on 7 July. It cleared the way for an imperial ordinance which, in the case of German New Guinea, was enacted less than two weeks later. The various measures taken in implementation of this ordinance culminated in February 1888 in the publication of general conditions the *Neu Guinea Kompagnie* issued for the transfer of land to settlers to whom it now felt ready to open its colony.

The imperial ordinance introduced in principle German or, to be more precise, Prussian land law, but excluded native land and the acquisition of ownerless land from its application. Instead it authorised the *Neu Guinea Kompagnie* to issue instructions for the exercise of its land acquisition monopoly. They were duly issued and expressed the same laudable sentiments as the company's 1885 instructions to its administrator but were hardly practical. Its board of directors and the German authorities were probably not totally unaware that this was so as the ordinance made compliance with these instructions legally largely irrelevant; land acquired by the company was registered by virtue of an official certificate of its administrator which excluded a judicial examination of the legal validity of the acquisition.⁸

The central goal of this ordinance was the introduction of a system of land registration for non-native land, which would henceforth form the basis for the transfer and the charging of such land. It also left room for the enactment of laws which restricted rights to registered land for the purpose of protecting the natives or "some other public [...] interest".

The administrator displayed considerable legislative vigour in 1887. The first manifestations were the Commerce Ordinance and the re-enactment of the provisional prohibitions of imperial commissioner Oertzen already discussed. As we have seen, the prohibition on exporting natives as labourers from German New Guinea became the hook from which the entire regulation of the recruitment and the employment of natives as labourers within the colony was suspended. The first step was taken in July 1887 by an ordinance dealing with labour-depots, in which new recruits were temporarily housed, whereas the treatment of the broader issues was not finalised until after Schleinitz had left the colony. Instead he regulated, also in July 1887, the use of firearms in Finschhafen and enacted a police regulation dealing with the disorderly behaviour of ships' crews on shore.

vol. 1: 494–508). The instructions are pedantic but show no sign that the conditions existing in German New Guinea at the time were seriously taken into account.

6 These conditions required, in particular, that a clergyman who carried out a church wedding without having satisfied himself that a secular wedding had already taken place committed a criminal offence punishable with a fine of up to 1,000 Marks or with imprisonment of up to three months (see *NKWL* 1887: 76–78).

7 The grant of a second imperial charter to the *Neu Guinea Kompagnie* for the northern Solomons on 13 December 1886 caused considerable legislative activity. But it can be disregarded as it was only concerned with the legal incorporation of this new territory into the existing arrangements.

8 This was different in the case of the old land claims, although their treatment also put the company in an unusually strong legal position.

Of more general importance was a registration ordinance of 18 August. It applied to all non-natives who spent more than two weeks in German New Guinea. Such persons had to register their arrival, their departure and any change of residence with the authorities. The register was to be coordinated with the register of births, deaths and marriages so that a complete record of movements among the non-native population would be produced.

The most daring move by Schleinitz during 1887 concerned the administration of justice in relation to natives which, under the Protectorates Act as well as the imperial charter, had remained a responsibility of the emperor. Using his urgency powers under the company's 1886 ordinance Schleinitz enacted on 27 September 1887 an "Ordinance concerning the Settlement of Property Disputes among the Members of Coloured Tribes in the Protectorate of the Neu Guinea Kompagnie". It applied primarily to natives employed by non-natives, as well as to the "members of their families" (*Familienangehörige*), but also to members of indigenous tribes which had placed themselves collectively under the authority of the government or whose members placed particular disputes voluntarily before it. This cumbersome approach reflected the uncertainty about the powers the company could exercise in relation to its native subjects.⁹

The ordinance emphasised that it was taking an administrative rather than judicial approach by calling the institution it established an "arbitration office" (*Schiedsamt*) rather than a court, and by placing these offices under the station managers rather than under officials authorised to exercise the jurisdiction under the Consular Jurisdiction Act. The administrator was given wide discretion concerning the organisation of these offices and the supervision of their activities.

The official in charge first had to try to settle disputes by mediation. If this failed he had to call in one or three coloured assessors, preferably leading members of the same tribes as the parties. Although the decision was made by the official alone, he was expected to decide in accordance with the opinions expressed by his assessors, especially on issues of custom, unless significant legal or equitable considerations required him to depart from them. While this was far from precise, the ordinance was strict about the records which were to be kept of these proceedings, stipulating even the periods of time for which they had to be preserved.

In 1888 this first round of legislative activity reached its climax. Its centrepiece was a revision of the Protectorates Act. It led to substantial amendments of the imperial ordinance regulating the exercise of the jurisdiction under the Consular Jurisdiction Act and the implementation regulations thereto. The result was that German New Guinea acquired a self-contained judicial system in which the administrator functioned, now *ex officio*, as chief justice and chairman of the court of the second instance.

The administrator retained the power to enact police regulations but the Neu Guinea Kompagnie was given the same powers in a decree by the chancellor of 3 August which referred more broadly to "police and other administrative regulations" (emphasis added). This general authorisation had been preceded by a specific authorisation, dated 7 June 1888. It had empowered the company to include penal provisions in a planned customs ordinance. The ordinance was enacted by its board of directors on 30 June 1888. It introduced a substantial import duty on alcoholic beverages, for example 10 Pfennigs for a bottle of beer, and a modest export duty on copra of 4 Marks per tonne. It restricted the import and export of these items to harbours which the administrator had opened for international traffic and prohibited the import of opium, except for medicinal purposes, and of arms, ammunition and explosives, except for personal use by non-natives. On the same day the company enacted an ordinance introducing a modest commercial tax and income taxes of, respectively, up to 600 Marks and up to two per cent per annum.

9 The ordinance built on a curious document attributed to station director Weisser in the Bismarck Archipelago, according to which the inhabitants of Mioko Island in the Duke of York Group, where the company's station was situated, undertook to bring all disputes which they could not settle among themselves before him for his final decision, to abandon their barbaric and criminal customs and to bring those who continued to follow them to the station for punishment (see *NKWL*, 1887: 189).

A second legislative focus in 1888 was the administration of justice in relation to natives. Here the starting point was an imperial ordinance of 7 July. It transferred the judicial jurisdiction over natives for ten years to the Neu Guinea Kompagnie, without affecting the powers of the chancellor to place natives under the Consular Jurisdiction Act.

On 21 October 1888 the company enacted a native penal ordinance. It established "station courts" (*Stationsgerichte*) with an exclusively criminal jurisdiction and limited the prosecution of natives to actions which constituted serious offences (*Verbrechen und Vergehen*) under German metropolitan law, or which were breaches of police regulations enacted "for natives" under section 11 of the Protectorates Act. Moreover, it gave the chairmen of the station courts discretion not to prosecute. The bulk of the ordinance dealt with the procedures these courts had to follow and with the punishments they could impose. They ranged from fines to the death penalty but excluded corporal punishment. Like the courts for non-natives, the station courts were responsible for the investigation and prosecution of suspected criminal offences and for the execution of their decisions.

The following day the company enacted an ordinance concerning the maintenance of discipline among coloured labourers. In contrast to the judicial punishments under the Penal Ordinance the disciplinary punishments did include corporal punishments. But they could only be imposed on healthy males as a last resort, were not allowed to exceed ten strokes and could only be carried out once a week. All punishments could only be imposed by the station managers as public officials and not by any private employer. The administrator was authorised to implement these ordinances and acting administrator Kraetke enacted detailed regulations for the implementation of both of them in January 1889.¹⁰

Kraetke's first ordinance, enacted on 15 May 1888, made it an offence to interfere with the free traffic on public roads and tracks traversing private land and with the free access to public market places situated on it. The closure or relocation of such roads, tracks or market places was only permissible with the approval of the station manager in whose district they were situated, but permission could also be given if the proposed changes only unduly affected private rather than public interests.¹¹

Kraetke's most important legislative contribution was an ordinance concerning the recruitment and exportation of natives as labourers. It was enacted on 15 August 1888 and remained the backbone of labour law in German New Guinea throughout the period of company rule.

This ordinance completed the first system of colonial law. It covered the administration of justice in relation to non-natives and natives, and the personal status law of the former, including their registration. Moreover, as cannot be stressed too often, the Protectorates Act, as implemented in German New Guinea, also introduced, in principle, the entire substantive German civil and criminal law for German New Guinea's non-native population.

The most important exception in the field of civil law was the area of land law where an imperial ordinance made special provisions for the exercise of the Neu Guinea Kompagnie's land acquisition monopoly. By contrast, the labour law was not tackled by a modification of metropolitan civil law but in the form of police regulations. In the field of commerce the German Commercial Code (*Handelsgesetzbuch*) applied, whereas the Industrial Code (*Gewerbeordnung*) was seen as administrative and did not apply. Instead a commerce ordinance brought most commercially promising activities, apart from agriculture and the copra trade, under the control of the government in a major departure from the metropolitan "freedom of commerce" principle.

10 It is fitting that it was during the reign of Kraetke, a high postal official on loan to the Neu Guinea Kompagnie, that German New Guinea became part of the Universal Postal Union, although this was not the result of his personal preoccupation but in line with article 10 of the general act of the Congo Conference which obliged colonial powers to globalise the postal system as soon as possible.

11 The ordinance applied to the whole of German New Guinea but was especially aimed at the northeastern Gazelle Peninsula and designed to give penal teeth to the warnings Schmiele had issued in his circular in 1886 (see above: 188).

Taxes had been introduced and a customs ordinance had been enacted, which also had far-reaching implications for the control of commercial shipping.

On the other hand, no attempt had been made to legislate directly for German New Guinea's native population. Even the Native Penal Ordinance was not addressed to them but defined the powers of the station courts and regulated their exercise. Similarly the Disciplinary Ordinance was not addressed to coloured labourers but gave the company's station managers public disciplinary powers.¹² Generally, natives figured in the colonial legislation not as carriers of rights and duties but as objects of governmental protection and controls which were concerned with public interests rather than their private rights or duties. Indeed, it is unclear whether the protective legislation applied at all to natives. There is no doubt that only the *supply* of arms, ammunition, explosives and liquor to natives had been prohibited but not the *possession* of these items by natives—but did the prohibition also cover the supply of these items by one native to another or was it exclusively addressed to non-natives? More broadly, did the legislative powers under section 3 of the 1886 Protectorates Act extend only to persons placed under the Consular Jurisdiction Act, so that it excluded natives as long as they had not been placed under this judicial jurisdiction, so that only the emperor had legislative powers in relation to natives under section 1 of the act?

The 1888 revision of the Protectorates Act clarified the position by separating the legislative from the judicial powers and giving them a distinctly territorial character. The revision had generally given the system of colonial government a firmer structure, which, in the case of German New Guinea, was also shaped by the imperial charter and the Neu Guinea Kompagnie's articles of association.

At the top of the governmental hierarchy stood the emperor who could exercise the full legislative, executive and judicial powers, subject to the limitations imposed on him by the Protectorates Act. The powers of the emperor included the power to delegate the exercise of his powers. The most obvious choice for a delegation was the chancellor of the Reich. But the chancellor also held powers he had acquired in different ways. The Protectorates Act gave him several such independent powers, the most important of which was the power to enact police and other administrative regulations and to delegate these powers to colonial officials and chartered companies.

As regards German New Guinea the emperor delegated the exercise of the rights of local sovereignty to the Neu Guinea Kompagnie in its charter with the limitations defined in that document. However the company's articles of association placed it under the direct supervision of the chancellor of the Reich. The scope of the chancellor's supervisory powers were wide indeed. Not only had he to ensure that the company conducted its affairs in accordance with the law and its articles of association, he also had to approve all ordinances the company enacted in exercise of its rights of local sovereignty—in apparent contrast to the legislative powers delegated to it under the Protectorates Act—as well as the principles it formulated for the exercise of its land acquisition monopoly. In addition the appointment of the administrator required his approval and he could demand his dismissal. In other words, it was the chancellor, rather than the emperor or the Neu Guinea Kompagnie, who was effectively in charge of the government of German New Guinea.¹³

The next level of government was the Neu Guinea Kompagnie and, in particular, its board of directors, which derived its powers partly from the emperor, via its charter, and partly from the chancellor, via a delegation of legislative powers under the Protectorates Act. The administrator

12 The ordinance concerning property disputes among natives, which also had a procedural character, was, as far as I can see, never put into practice.

13 The emperor also accepted from the start that his colonial ordinances, like the legislation of the Reich under article 17 of the constitution, required the countersignature of the chancellor who thereby became politically responsible for their substance and implementation.

represented the fourth level of government. He derived his executive powers primarily from the company, his legislative powers partly from the company and partly from the chancellor, and his judicial powers exclusively from the chancellor—and we must remember that the judicial powers under the Protectorates Act included important executive functions.

There was also a much less well defined fifth level of government. As far as its executive functions were concerned it was under the control of the administrator, subject to the limitations of his powers in relation to the Neu Guinea Kompagnie's board of directors, which did not permit him, for example, to open new stations. By contrast, the managers of existing stations were placed under him. They also derived their executive powers from him, partly as a result of an explicit legislative delegation. However, local officials could also derive powers directly from the chancellor of the Reich. This was first of all the case with the judicial powers under the Protectorates Act. But registrars of births, deaths and marriages and officials exercising consular powers also required a personal authorisation by the chancellor. Moreover, all these officials were directly responsible to the chancellor, rather than the administrator or the company's board of directors, for the exercise of these powers.

These unwieldy arrangements were simplified in practice by concentrating a multitude of functions in the hands of the same official. Thus the administrator placed the station courts under the officials authorised by the chancellor to exercise the judicial jurisdiction in relation to non-natives, and the chancellor usually appointed the company's station managers as the registrars of births, deaths and marriages for their districts. Moreover, the chancellor placed additional judicial officers under the administrator and made him, *ex officio*, the chief justice, so that a separate personal authorisation was no longer required.¹⁴

As regards the legislative framework, room for administrative discretion at all levels was rapidly shrinking, with the exception of the field of native administration. On the other hand, the government of German New Guinea was perceived as a government of colonial enclaves, although the Neu Guinea Kompagnie had every intention of rapidly increasing the size and the number of these enclaves, at least in Kaiser Wilhelmsland, with the help of new settlers who, it believed, would rush to its colony as soon as it was opened to them. When the expected flood turned out to be a trickle the Neu Guinea Kompagnie had to devise a new strategic plan. It involved a major change in the organisation of government. On 23 May 1889 it signed an agreement with the Reich by which the government in the colony was placed in the hands of imperial officials.

Since the agreement was modelled on one concluded a year earlier between the Reich and the counterpart of the Neu Guinea Kompagnie in the Marshall Islands, the Jaluit Gesellschaft, it is convenient to consider the legal developments in that colony before returning to German New Guinea.

II

The colonial law of the Marshall Islands was to a large extent based on that of German New Guinea. The Protectorates Act was introduced in almost identical terms, beginning with an imperial ordinance of 13 September 1886, the counterpart of the German New Guinea Ordinance of 5 June 1886.¹⁵ Even the Neu Guinea Kompagnie's 1888 Native Penal Ordinance was re-enacted for the Marshall Islands by the chancellor of the Reich on 10 March 1890. But local differences also asserted themselves from the start.

¹⁴ This did not represent a significant reduction of the chancellor's powers because the appointment of an administrator was itself subject to his approval under the company's articles of association.

¹⁵ That is to say the metropolitan German civil, criminal and procedural law applied in principle also to non-natives in the Marshall Islands.

In German New Guinea the initial focus was on land, in the Marshall Islands it was on trade. The local exercise of legislative powers began with an extension of the consular control over German merchant vessels to non-German vessels by an ordinance proclaimed by vice-consul Knappe on 2 June 1886. A day later Knappe prohibited the supply of arms, ammunition, explosives and liquor to natives. It followed the 1885 prohibitions of imperial commissioner Oertzen for German New Guinea, but with several significant modifications. Firstly, Knappe's prohibition took the form of an ordinance which included a penal clause, namely fines of up to 50 Dollars. Secondly, it distinguished between "the natives of the Marshall Islands" and "other coloured persons". Thirdly, it singled out the *sale* of such items, in contrast to their exchange for local produce and other forms of supply, suggesting the Marshallese had already adopted a cash economy at the time. Fourthly, it exempted beer from the prohibition, an indication that its consumption by Marshallese had become widespread and economically significant. Finally, Knappe supplemented the penal provisions with procedural rules. They were elaborated in an administrative instruction but repealed on 8 January 1887 because they were inconsistent with the Protectorates Act, which had come into force in the Marshall Islands on 1 December 1886, three months after German New Guinea.

On that date Knappe, now as imperial commissioner, reminded his subjects that the acquisition of land from natives, by purchase, exchange, gift or any other form of legal transaction, had been prohibited by the commander of SMS *Nautilus* when the German flag was hoisted in October 1885. He confirmed that this prohibition would remain in place for the time being, so that no non-native could legally acquire land from natives in the Marshall Islands.

The ordinance invited non-natives to register their previously established land claims before 1 July 1888. However, the casual wording of the ordinance, which did not even identify the crucial date (or dates?) of the *Nautilus* prohibition, and the fact that Knappe could extend the registration period in individual cases for an unspecified time, shows that he hardly regarded these claims as a burning issue.

That the opening up of the Marshall Islands to settlers was not on the government agenda was made clear in two ordinances enacted by imperial commissioner Sonnenschein on 28 June 1888. The first implemented the agreement between the Reich and the Jaluit Gesellschaft—to be discussed later—which had granted the company, *inter alia*, a monopoly over the acquisition of ownerless land. Sonnenschein therefore formally outlawed the acquisition of ownerless land by others, making it a criminal offence punishable with imprisonment or a fine of up to 5,000 Marks. He also made it a criminal offence, with the same penalty, to acquire land, or rights to land or to the use of land, from natives.¹⁶

When imperial commissioner Schmidt tried to liberalise the position by permitting the acquisition of land with governmental approval five years later, his ordinance was disallowed by the chancellor. The general prohibition remained in place until 1905, when it was replaced with a land acquisition monopoly of the *Fiskus*, in line with the position in German New Guinea, as part of the measures which led to the end of the Marshall Islands as a separate colony.

It took until 1893 before the labour question was addressed in legislative form, and then only indirectly by prohibiting the exportation of natives from the Marshall Islands for any purpose. The next relevant legislative act on the public record is a 1902 ordinance concerning the recruitment and importation of coloured labourers. It was primarily a public health measure which decreed that only healthy coloured persons could be recruited as labourers in the Marshall Islands, or be brought as labourers to the group from elsewhere. The employment contracts with such labourers were made subject to the approval of the administrator. A contract had to be preceded by a

16 In 1890 this prohibition was extended to include the establishment of trading stations on native land, even if it did not involve the granting of rights to the land in question.

medical examination of the labourer at the administrative headquarters in Jaluit, and this examination had to be repeated at the end of the contract.

The ordinance did not indicate that approval of the employment of a native could be denied on other than health grounds. It did not regulate the employment conditions in any way. Instead it made provisions for cases where a labourer died during his employment. In that event the employer had to make a written report to the authorities, specifying date and cause of death. The report had to be accompanied by the labourer's belongings and his outstanding wages so that his estate could be handed over to his relatives by the government.

The employer had to pay a fee of 5 Marks for the medical examination of each labourer. This fee covered the examination of the employment contract and the entry of the labourer in a special register. This "*Stammrolle*" was the administrative heart of the matter: each labourer was entered into it under a separate number and copies of all employment contracts were attached to it, so that the government could control whether the required medical examination at the end of the contract had been carried out or whether the death of the labourer during his employment had been reported.

In fact administrator Irmer had already enacted another labour ordinance in 1895. It had made it an offence for a native to leave the service of a non-native before his employment contract had run its course, and also an offence for Marshallese chiefs to prevent natives from fulfilling their duties under an employment contract. This ordinance was apparently regarded as legally too adventurous to be suitable for publication in Germany. It is also unlikely that many Marshallese were punished under it. Rather, it looks like a political gesture, warning the chiefs publicly not to interfere with employment contracts with non-natives into which their subjects had entered.

An ordinance concerning the planting of coconut palms which Irmer had enacted the previous year was clearly such a political gesture. It exhorted the Marshallese and their chiefs, soil conditions permitting, to plant more palms than hitherto, making it a specific duty to plant three young palms, or three nuts of the largest variety, if an old palm had to be removed. Land owners and chiefs were obliged to inform the administrator annually, before 1 April, of how many new plantings had been made, but the ordinance did not bother to provide punishments for non-compliance.

The imperial commissioners, and later administrators,¹⁷ also enacted less rhetorical police regulations. In May 1887 Knappe issued a multi-purpose police ordinance for the island of Jabwor, the seat of his headquarters in the Jaluit Atoll. It made the opening of public bars subject to his permission and prohibited gambling in these establishments. It made public drunkenness and fishing with dynamite offences. It obliged the owners of pigs to fence them in and the owners of land to keep the beach and the public path clean, in particular to clean them every Saturday evening, a breach being punishable, in this case, with a fine of between 25 Cents and 10 Dollars.

Imperial commissioner Biermann extended this ordinance in 1890 to Nauru. In 1894 Irmer added a prohibition for Jabwor on igniting sizeable fireworks without special permission. He later strengthened the public cleanliness provisions of Knappe's ordinance. The new provisions stipulated how dead animals, kitchen refuse, empty tins, boxes and bottles, as well as stones, timber and the like had to be disposed of. They also instructed the police sergeant and his men to control compliance with this ordinance strictly and to report all breaches to the administrator.

All these regulations were enacted with scant regard to, or understanding of, the legal framework within which the local authorities were meant to operate. Thus Biermann apparently discovered in 1890 that Knappe had not been entitled to deal with gambling in public bars in the

17 The title "*Kaiserlicher Kommissar*" was changed to "*Landeshauptmann*" in 1893. The change was brought about by a decree which also applied to German Southwest Africa and Togo. It would appear that the title change acknowledged that what had been regarded as a "temporary" (*kommissarische*) form of government had become permanent. It certainly had nothing to do with the beginning or end of "company rule".

form of a police regulation because the matter was already covered by the German Criminal Code. At any rate, he repealed the offending section and replaced it by a new penal clause which referred to section 285 of the code. But this move hardly solved the legal difficulty, since that section dealt with professional gamblers rather than with innkeepers who permitted gambling in their establishments, as Knappe's ordinance did.

Side by side with such fumbling were instances of bush lawyering. For instance a suggestion was made to use the monopoly of the Jaluit Gesellschaft to acquire ownerless land as a means of allowing it to get around the general prohibition to acquire land from natives: the company would pay natives to relinquish their title to a piece of land it wanted to acquire and then take the now ownerless land into possession in exercise of its monopoly.

The colonial department rejected this particular suggestion, but it usually did not bother to put local legislation under the legal microscope. Its attitude is well illustrated by the response to a "public notice" concerning the administration of justice issued by Biermann on 10 July 1890. It presented itself as a kind of local constitution centring on the imperial commissioner as a quasi-monarch, yet it purported to be no more than a summary of the legal position which had been created by two imperial ordinances of 7 and 26 February 1890 and the implementation regulations thereto issued by the chancellor. The administrative section of the colonial department found Biermann's scheme "functional" (*zweckmässig*) whereas the legal section noted that the manner in which he intended to exercise the administration of justice in relation to non-natives breached binding legal provisions at several points. However, it did not examine the idiosyncratic manner in which Biermann intended to exercise the administration of justice in relation to natives.

Biermann's notice stated that the imperial ordinance had authorised him to exercise the criminal and civil jurisdiction over natives in the whole colony and to delegate this power. He used the latter power to establish a civil and criminal court for natives in Nauru which was to be chaired by the district officer, who had to hear criminal cases together with assessors "when this was required by law". An appeal against decisions of this court to the imperial commissioner was permissible in civil cases, and the imperial commissioner could reduce or remit punishments it had imposed in criminal cases. The imperial commissioner could also deal with civil and criminal cases in Nauru himself until the court had made a decision. If he did there was no longer room for an appeal in civil cases or for a reduction or remission of punishments in criminal cases. However, this only brought the position into line with the rest of the colony where the decisions of the imperial commissioner were final and where he apparently also did not require the participation of assessors in criminal cases.

Biermann justified these arrangements in his report to the colonial department (RKA 4787) by pointing out that the Marshallese expected the imperial commissioner to exercise the jurisdiction over them personally. The colonial department raised no objections. Yet these arrangements were irreconcilable with the Native Penal Ordinance the chancellor of the Reich had enacted on 1 March 1890, because it presupposed that the criminal jurisdiction would *not* be exercised by the imperial commissioner, who was to exercise the power of mercy and had to confirm death sentences, and because it made the participation of assessors mandatory in certain cases, irrespective of who was chairing the court.

On the other hand, the colonial department decree of 7 May 1890 had left it to Biermann to decide whether or not to make the Native Penal Ordinance public locally, although without indicating what legal consequences a negative decision would have.¹⁸ But then this decree was generally remarkably vague. All it said about the exercise of the civil jurisdiction was that if Biermann was approached by a native, or a non-native wanting to take action against a native, he

18 Did this mean that the ordinance did not come into force unless it had been made public in the Marshall Islands, although it stated that it would become effective on 1 October 1890, and that it perhaps never became effective because it was never locally proclaimed?

should continue to deal with such matters informally, taking native customs into account—which Biermann took as an authorisation for the arrangements he made in his notice for Nauru.

The final section of this notice shows that the legal position in the Marshall Islands had long been peculiar in other respects. It stated that the arrangements made for the administration of justice did not affect the existing provisions for the punishment of breaches of the administrative ordinances enacted by the imperial commissioner. This referred to an 1886 imperial ordinance giving him the power to impose unspecified *summary* punishments, although such punishments were not permissible for breaches of police ordinances enacted under the 1886 Protectorates Act. Indeed they would appear to be irreconcilable with this act, especially after its 1888 revision had clarified that the legislative powers which could be exercised under it included not only police ordinances but also other ordinances concerning the administration¹⁹

Biermann and his predecessors, Knappe, Sonnenschein and Schmidt, his successors, Irmer and Brandeis, as well as some of their deputies, enacted a large number of such ordinances. The first was a premature effort by Knappe on 2 June 1886, before his appointment as imperial commissioner, which required non-German vessels in the Marshall Islands to report to "the representative of the imperial government" in Jaluit. On 26 January 1887 followed a harbour ordinance for Jaluit. An 1888 ordinance stipulated that all vessels coming to the Marshall Islands had to report to that harbour before proceeding to other parts of the colony. In March 1887 Knappe required all "foreigners", defined as "whites and half-whites", to register with the authorities. In 1889 an ordinance dealing with impecunious foreigners followed. A quarantine ordinance was enacted in 1891. It was repeatedly supplemented to combat the spread of venereal diseases and leprosy before being replaced by a more detailed quarantine ordinance in 1901. An 1888 ordinance regulated the collection of money for mission purposes. In 1893 the installation of mission teachers was made dependent on the permission of the imperial commissioner.

All these ordinances included penal clauses. In the last case the penalty could consist of a prison sentence of six months—which far exceeded the legislative powers of imperial commissioner Schmidt under the Protectorates Act.

Schmidt's main contribution to the colonial law of the Marshall Islands was a prohibition to fly the "so-called Marshall flag" as the national flag on any vessel. A year after this display of the stick, the Marshallese were offered a carrot. This was made possible by the belated implementation of an 1893 imperial ordinance permitting local authorities to grant natives of the *Schutzgebiete* the right to carry the German flag. Administrator Irmer exercised this power in a solemn ordinance dated 1 March 1895. It restricted the right to fly the German flag to vessels belonging to natives who were "protected persons", owned land in the Marshall Islands, were of good character and had never been punished for piracy. The owners of the vessel had to undertake to leave the waters of the colony without governmental permission only in an emergency. Its captain and the majority of its crew had to be Marshallese. If all these requirements were met, after inscribing the name of the vessel and its home port, Jaluit, in coloured Roman letters on its stern, the owners could acquire a flag certificate, for which a fee of 24 Marks was payable. I do not know how many Marshallese vessels availed themselves of this opportunity, but legislation in another field, especially dear to the heart of the local authorities, suggests that several would have been eligible.

On 25 January 1887 Knappe prohibited giving credit of more than 50 Dollars to natives without his permission. He decreed that he had to be informed of existing debts of more than 50 Dollars before 1 July 1887. Claims resulting from old debts not so notified, and new debts of more than 50 Dollars, would not be "protected"; that is to say they were not legally enforceable. There were no penal provisions. They came with a second ordinance of 14 August 1887. It prohibited

19 The 1886 ordinance had also given the imperial commissioner the unusual authority to legislate in customs and taxation matters. It finally attracted attention in 1905 which led to a repeal of this ordinance.

giving *any* credit to natives but made an exception for natives employed as traders. They could be granted credit if this had been permitted by the imperial commissioner. On the other hand, the ordinance clarified that the general prohibition applied not only to local natives but also to members of other coloured tribes, unless exceptions were made for individuals or categories of persons.

An amendment of 7 March 1899 added a second exception: permission to give natives credit could be granted in cases of "emergency" (*Notfälle*). The examples given show that the draftsman did not have ordinary emergencies in mind. He was not thinking of natives obtaining credit to feed starving children after some natural disaster, but of a native shipowner who did not have enough cash to provision his ship for the next voyage or to pay on the spot for major repairs.

Even Marshallese shipowners entitled to fly the German flag were deemed to need special protection. They were not only not permitted to buy a new ship on credit but a 1889 ordinance made all contracts entered into by natives which were worth more than 2,000 Marks subject to prior approval by the imperial commissioner. That is to say permission was required even if a Marshallese wanted to pay in cash for a ship or other items costing more than that amount. Contracts concluded without permission were not just unenforceable, the non-native party could be punished with a fine or up to three months imprisonment.

But it is not only the paternalism of these ordinances that should be noted. It is also important that the Marshallese made purchases of this magnitude sufficiently often to call for an ordinance of this kind. No wonder therefore that they were soon made to pay taxes, in contrast to the natives in German New Guinea who paid no direct taxes during the entire period of company rule.

A tax ordinance was proclaimed on 28 June 1888. It introduced personal taxes for natives and non-natives. Every male non-native over 16 years of age had to pay an annual tax of 20 Marks. Natives had to pay their tax collectively. The colony was divided into tax districts. They had to pay specified amounts ranging between 400 and 2000 Marks, adding up to a total of 12,000 Marks. The tax was collected by a chief selected by the imperial commissioner for each district, who was given a one third share for his trouble. In 1890 the personal tax for natives became a copra tax, with a grand total of 180,000 kilograms. Although this represented the equivalent of 14,400 Marks, this did not mean that the tax was increased, rather Nauru had been added to the colony and contributed an extra 30,000 kilograms as the then largest copra producer.²⁰

The personal tax for non-natives remained unchanged, although members of mission societies were now exempt. Instead the 1898 ordinance introduced a tax for coconut plantations owned by non-natives. There were apparently only two of very different sizes, since one had to pay an annual tax of 1,000 Marks whereas the other only paid 125 Marks.

The main target of taxation in the Marshall Islands, however, was trade. The story began in December 1887, when imperial commissioner Sonnenschein introduced a licensing system for foreign trading vessels, that is to say vessels which did not trade on behalf of individuals or firms resident in the Marshall Islands. The ordinance was designed as a police ordinance aimed at controlling illegal trade. A vessel could be denied a licence if its cargo or other circumstances suggested that trade carried out by it would breach existing laws, for example, by supplying natives with firearms or liquor. But the ordinance also introduced a fee of 250 Dollars for a three months trading permit which clearly served fiscal purposes.

At that time local traders were not subject to a commercial tax. Such a tax was introduced, together with the personal taxes already discussed, in June 1888. Foreign trading vessels were included in this new ordinance, now without any pretence that this measure was concerned with the control of *illegal* trade, and the 1887 ordinance was repealed.

20 The 1898 replacement of this ordinance reflects the different rates of economic development in different parts of the colony. The grand total remained the same but the share of Nauru decreased from 30,000 to 15,000 kilograms whereas that of Ebon, for example, grew from 25,000 to 30,000 kilograms.

The 1888 ordinance taxed resident firms at a rate of 6,000 Marks per annum if they had a turnover of more than 500,000 Marks and at half that rate if the turnover was smaller. Individual traders were taxed 40 Marks annually in the Marshall Islands and five times as much in Nauru. Public bars had to pay a tax of 800 Marks annually and foreign trading vessels were charged 1,000 Marks for each "voyage". Licences were no longer required but tax evasion carried a penalty of up to 6,000 Marks, whereas the maximum penalty under the 1887 ordinance had been 500 Dollars, the equivalent of 2,000 Marks. An 1889 amendment increased the commercial tax for resident firms to 9,000 and 6,000 Marks respectively and that for traders to 100 Marks. The rates for foreign trading vessels remained the same. In 1895 the tax for the large commercial firms was again raised, namely to 15,000 Marks.

In 1900 came the turn for foreign trading vessels. Administrator Brandeis increased the basic rate from 1,000 to 2,250 Marks for each voyage. A voyage was now limited to a maximum of 30 days, each extra day attracting an additional fee of 75 Marks. The rate was doubled in the case of steamships, including vessels with auxiliary motors.²¹ In 1904 the tax for foreign trading vessels was doubled to, respectively, 4,500 and 9,000 Marks per 30 day voyage. But Brandeis also raised the tax for resident firms to 30,000 and 12,000 Marks respectively. A year later his budgetary riches evaporated. An ordinance of 14 September 1905 scrapped the tax for individual traders, reduced the commercial tax for resident firms to a uniform rate of 6,000 Marks per annum, and that for foreign trading vessels to 2,000 Marks per annum, irrespective of the number and duration of their voyages. Only the tax for public bars remained unchanged at 800 Marks.

As could be expected, these dramatic changes did not serve fiscal purposes; rather, they were part of an ultimately unsuccessful attempt to protect the Jaluit Gesellschaft from commercial competition. But in order to appreciate this aspect of the story we have to return to the beginning of German colonial rule in the Marshall Islands.

III

Bismarck had expected that the Jaluit Gesellschaft, which merged the interests of the Deutsche Handels- und Plantagen-Gesellschaft and the Hernalshaus firm in Micronesia, would take on the responsibility of governing the Marshall Islands under an imperial charter. However, the company was reluctant. After the Protectorates Act had become law, the emperor had therefore no choice but to set up an imperial administration. Its legislative basis was an imperial ordinance of 13 September 1886. It implemented that act for the Marshall Islands in line with the arrangements made for German New Guinea, except that an imperial commissioner took the place of the Neu Guinea Kompagnie's administrator.

The legislative powers of the imperial commissioner were broadened by an imperial ordinance of 15 October 1886. It authorised him to enact ordinances concerning the general administration of the Marshall Islands as well as customs and taxation matters, in addition to enacting police regulations under section 3 of the 1886 Protectorates Act. The imperial commissioner was thereby given legislative powers which paralleled those held by the Neu Guinea Kompagnie under its imperial charter. Indeed, in contrast to the company, he did not need the approval of the chancellor of the Reich when exercising these powers, although he had to submit his ordinances to the chancellor, who had the power to repeal them.²²

21 In 1901 the commercial tax for resident traders on Nauru was reorganised. Instead of each trader having to pay 200 Marks a total amount for all trading stations was fixed at 1,800 Marks and the administrator was given discretion as to how he distributed this burden among the traders each year.

22 In contrast to the Neu Guinea Kompagnie the emperor did not establish a gazette for the Marshall Islands. Instead he decreed that these ordinances would be proclaimed "in accordance with local practice" (*in ortsüblicher Weise*). However Knappe made detailed proclamation provisions in an ordinance in August 1887. It stipulated that the German text of all "public notices, in particular all ordinances" would usually be accompanied by an English translation and, where

Although the imperial commissioner was given such extensive powers, the negotiations with the Jaluit Gesellschaft continued. They led to an agreement of 21 January 1888. It obliged the company to cover the costs of the government of the Marshall Islands in exchange for three exclusive "privileges" (*Privilegien*):

1. the right to take ownerless land into possession;
2. the right to fish for pearl shell—although natives were entitled to continue to fish for it in "the traditional manner"; and
3. the right to exploit existing guano deposits—subject to the duly acquired rights of third parties.

The agreement provided that the government of the colony was to be carried out by an imperial commissioner, supported by a secretary, who would appoint additional officials, at the suggestion of the representative of the company and subject to the approval of the chancellor of the Reich.

The basis of the financial management was an annual budget agreed upon between the German government and the company. Section 5 detailed the company's financial obligations. It had to refund negative discrepancies between the actual expenditure and revenue but was entitled to pocket surpluses. However, the aim was to raise sufficient taxes and fees to cover the budgeted expenditure, and to increase taxes if this proved impossible (section 6).

Section 7 provided that the Jaluit Gesellschaft had to be heard before imperial ordinances affecting the government of the Marshall Islands were enacted. Section 8 provided that the imperial commissioner would act "as far as possible" in agreement with the local representative of the company when issuing local administrative regulations and orders.

While this agreement did not give the Jaluit Gesellschaft direct governmental powers, the fact that it became financially responsible for the government of the Marshall Islands was sufficient to remove them from the financial controls of the German metropolitan legislature under the 1892 Colonial Budgets Act. As it had been one of Bismarck's main aims to exclude control of Germany's colonial finances by the Reichstag, the 1888 agreement was a very acceptable solution. The chancellery therefore had no difficulty in granting the company significant economic privileges in exchange and also a significant influence on how the government of the colony was conducted. After all, Germany's colonies were meant to be commercial enterprises whose success was to be measured in terms of the profits made by the German commercial interests. It was therefore a national duty of the imperial commissioner to support the Jaluit Gesellschaft in its commercial activities, just as it was natural for the company to carry the financial responsibility for the colonial government as part of its commercial risks. It was a mutually advantageous relationship. If it left imperial officials on the spot in an awkward position, because they had to balance the commercial interests of the company with other governmental concerns, this too was how it should be. This was what they were paid for, and it was irrelevant in this context that they were paid out of funds provided by the company.²³

This state of affairs is reflected in the termination clause of the agreement. Whereas the Jaluit Gesellschaft was entitled to terminate the agreement after two years by giving a year's notice, the German government, apart from the case of the company not fulfilling its contractual obligations, could only terminate the agreement for—unspecified—political reasons. In other words, while the company could terminate the agreement if it considered this to be economically desirable, the German government bound itself indefinitely. Yet instead of being relieved when British pressures on behalf of the company's main commercial competitor, the Australian firm of Burns, Philp &

appropriate, a translation into the language of the natives.

23 To call this arrangement "company rule" contributes nothing to its historical understanding. Legally speaking this label is clearly unjustified. The Jaluit Gesellschaft was not a chartered company. It never exercised rights of local sovereignty like the Neu Guinea Kompagnie. It was the German government which ruled the Marshall Islands, and it was the chancellor of the Reich who was directly politically responsible for the exercise of this rule.

Co., provided it with an opportunity to terminate the agreement in 1905, it did so most reluctantly.²⁴ Although the Jaluit Gesellschaft lost its exclusive right to fish for pearl shells and to occupy ownerless land, the chancellor of the Reich confirmed its most valuable privilege, the guano monopoly, for another 94 years. And he did so under most generous conditions. The company had to pay an annual fee of 25,000 Marks in advance—less than it had had to pay for the salary of the imperial commissioner and his secretary under the 1888 agreement—plus a fee of half a Mark for each tonne of phosphate over 50,000 tonnes shipped from Nauru in any one year. It was also assured that no other fees, duties or taxes would be levied on the production and export of phosphate. It was exempted from any import duties for materials used in the mining process as well as food imported for its personnel employed in this process.²⁵

So much for the fate of the Jaluit Gesellschaft. That of the Marshall Islands was given less consideration by the German government. A brief imperial ordinance of 18 January 1906 incorporated them from 1 April 1906 into the Island Territory. The chancellor of the Reich could have used his implementation powers to soften this blow, but he apparently did not feel a need to do so, at least not in the form of published implementation regulations. The Marshall Islands were gradually absorbed into German New Guinea and little of their own legislative framework remained by the end of German colonial rule.

Now back to German New Guinea and the 1889 agreement between the Neu Guinea Kompagnie and the Reich.

IV

Although modelled on the 1888 agreement with the Jaluit Gesellschaft, it was a more complex document. The financial arrangements were basically the same, but several factors required modifications. First there was the question of what was to happen to the company's political rights under its charter. The agreement settled for the following answer: from the time the imperial commissioner took over the administration until the termination of the agreement the company's rights of local sovereignty were said to "rest" (*ruhen*). In other words, the imperial commissioner did not exercise the rights of the company as its agent but rather the emperor's *Schutzgewalt*.

Next the company's economic privileges had to be dealt with. As regards its land acquisition monopoly, the agreement provided that it remained unaffected. In addition the company reserved for itself three of the *de facto* monopolies created by the 1887 Commerce Ordinance: (1) the right to fish for pearls and pearl shells, (2) the right to mine for ores, precious stones and combustible materials, and (3) the right to exploit deposits of guano and other fertilisers. The commercial exploitation of other natural resources, in particular timber and trepang, was to be regulated in agreement with the company.

A third focus of the company's concern was labour. It recognised the right of the imperial commissioner to supervise the recruitment and employment of natives as labourers but insisted that any legislative activity in this field required its agreement and that the existing privileges of other German firms concerning the exportation of natives as labourers would not be expanded without its approval.

Finally, the disparity in size between German New Guinea and the Marshall Islands made a difference. German New Guinea was to be governed by three rather than two imperial officials. The two junior ones, a secretary and a chancellor, corresponded in terms of their remuneration to the secretary and the imperial commissioner in the Marshall Islands, but the imperial

24 One of the arguments used was that the fees imposed on foreign trading vessels contravened the 1886 declaration concerning the freedom of trade in the German and British "spheres of influence" in the Western Pacific.

25 A 1907 supplement to the concession stipulated that it would not be adversely affected by the 1906 imperial mining ordinance.

commissioner in German New Guinea was to be a more senior official on twice the salary of his counterpart in the Marshall Islands.

While it was taken for granted that the seat of the administration in the Marshall Islands would be in Jaluit and that only one administrative outpost would be established in Nauru,²⁶ the range of possibilities in German New Guinea was much greater. Although there would have been good reasons to base the imperial commissioner in the Bismarck Archipelago rather than at the company's headquarters in Kaiser Wilhelmsland, the agreement provided that the company had a say in determining the seat of the imperial officials. It also had a say in the appointment of additional local officials; and the agreement provided that in places where a full-time local official was not required, preference would be given to entrusting governmental powers to its employees who then had to exercise these powers in accordance with the instructions of the imperial commissioner.

Neither the powers of the imperial commissioner nor those of his subordinates were defined in the agreement. It also said nothing about the manner in which the company would manage its own affairs in German New Guinea.²⁷ The company was first off the mark in clarifying the situation. The day after the agreement with the Reich had been signed it issued detailed instructions which replaced its 1885 instructions to its administrator.

This document offers a striking illustration of the developments which had taken place during the four intervening years. Whereas the 1885 instructions only had the imperial charter as their guiding star, much of what the 1889 instruction had to say could be said by reference to the legislative framework which had been put into place in the meantime.

The main purpose of the document was to define the remaining functions of the company in German New Guinea which were to be exercised by a general manager. He was to represent the interests of the company vis-à-vis the imperial officials in all matters relating to local sovereignty; to exercise the company's land acquisition monopoly; and to manage its commercial activities in accordance with the instructions of its board of directors.

As neither the imperial charter nor the 1889 agreement spelt out what the rights of local sovereignty consisted of, the instructions came up with their own definition, according to which they included:

1. the administration of justice in relation to natives and non-natives;
2. the collection of local revenue, in particular customs duties and taxes;
3. the control of shipping;
4. the supervision of the missions and any educational institutions; and
5. police matters.

Within this field of "state administration" (*staatliche Verwaltung*) the general manager had to play a double role: on the one hand he had to represent the interests of the company where the 1889 agreement had given it a say in the enactment of local legislation and the appointment of local officials, on the other hand he was responsible for carrying out the company's obligations under this agreement to provide the imperial officials with free accommodation, free transport and so on.

The instructions confirmed that control of the recruitment and employment of natives as labourers was the responsibility of the imperial commissioner and that its station managers required special authorisation if they were to continue to exercise police powers under the relevant legislation.

26 When the 1888 agreement with the Jaluit Gesellschaft was signed the annexation of Nauru had already been decided on but not yet been put into effect.

27 The powers of the imperial commissioner were less than those of his colleague in the Marshall Islands. He was certainly not independent of the Neu Guinea Kompagnie.

By contrast the instructions assumed that the exercise of the land acquisition monopoly was exclusively the responsibility of the general manager, to the extent that he, rather than the imperial commissioner, would issue the certificate on the basis of which land acquired by the company was to be registered.²⁸ The instructions attached special importance to this point because the local administration had so far failed to acquire substantial reserves of land for the company. The general manager was therefore instructed to show greater vigour and to employ the company's surveyor primarily to occupy tracts of ownerless land which were suitable for plantations. At the same time, the general manager was reminded that it was not the company's intention to drive the natives off the land and that consideration should be given to the setting aside of native reserves.²⁹

Although the 1889 instructions stressed that the general manager had wide discretionary powers and that the company relied on his good sense for their exercise, they sketched a precise blueprint of what the board of directors expected to happen. Efforts were to be concentrated on the economic development of the three existing plantation stations in Hatzfeldhafen, Constantinhafen and Stephansort, whereas it was to be the main function of the company's sole station in the Bismarck Archipelago to supply these three stations in Kaiser Wilhelmsland with labourers. The central station in Finschhafen would be retained for the time being, and would become the seat of the imperial commissioner, but unless large areas of suitable plantation land were found in its vicinity, it would be abandoned in due course and the central station moved to, or into the vicinity of, one of the plantation stations. No new stations were planned and also no further scientific expeditions, at least until the plantation stations became profitable.

The instructions concerning the station in the Bismarck Archipelago illustrate the extent of the detail with which the board of directors tried to direct affairs from Berlin. The station was to be moved from the Duke of Yorks to a suitable spot at Blanche Bay. The directors hoped to win the local expert, Herr Parkinson, as station manager or, as a second choice, Herr Vallender. Should both gentlemen be unwilling, the company employee Winter (see above: 193 ff.) would probably be a suitable alternative. In any case, the board had already started negotiations with the firm of Rabone, Feez & Co. in Sydney to acquire a schooner suitable for recruiting purposes, since the matter was urgent and all resources had to be mobilised to meet the recruitment target of 600 labourers set in the 1889/90 budget.

The emperor made his move almost a year later but he was much briefer. The operative part of the ordinance of 6 May 1890 consisted of a single sentence. It transferred all judicial and administrative powers of the former administrator to the imperial commissioner, although Fritz Rose had by then been governing for about six months, albeit in an acting capacity.³⁰

One of Rose's first administrative measures was the creation of local police authorities headed by a "chief of police" (*Polizeivorsteher*). He was to take over the governmental functions of the company's station managers, but some police functions were transferred back to the latter. A decree of Rose, dated 4 December 1890, listed the resulting distribution of powers at the local level by reference to various legislative enactments. The principle was simple: the station managers were given police powers in relation to coloured labourers, including disciplinary powers, whereas the police chiefs were given the rest, including the registration of non-natives and the power to approve the supply of arms, ammunition, explosives and liquor to foreign natives.

As was to be expected, Rose's legislative activity was limited. It was mainly concerned with a fine tuning of the labour law which specifically required the approval of the company under the

28 I doubt whether this interpretation would have stood up in court—although the 1889 agreement stated that the company's land acquisition monopoly remained unaffected—but I did not try to find out how the registration of the company's land acquisitions during the reign of Rose was actually handled, or if any registrations took place.

29 The instructions generally reiterated the principles concerning relations with German New Guinea's native population that had already been expressed in the 1885 instructions to the administrator.

30 It took the chancellor of the Reich another two weeks before he authorised the imperial commissioner, with effect from 1 October 1890, to exercise powers in shipping matters.

1889 agreement. The Labour Ordinance, as well as the Disciplinary Ordinance, were repeatedly amended and an ordinance concerning the medical control of labourers was added in November 1891.

An amendment of the Customs Ordinance in December 1891 was linked to the large-scale importation of Asian labourers. Rose cancelled the blanket prohibition on the importation of opium and replaced it with an import monopoly for the Neu Guinea Kompagnie, which had to pay a fee of 40 Marks for each kilogram of opium imported. It was then distributed by dealers who had to be licensed by the imperial commissioner. He also determined the retail price they could charge. The supply of opium to local natives and non-natives was prohibited and carried a penalty of up to three months imprisonment.

Rose had already enacted a harbour ordinance in December 1889. A quarantine ordinance followed in September 1891. While these were overdue housekeeping measures, an ordinance regulating the hunting of birds-of-paradise of 11 November 1891 broke new ground, although it too was little more than a supplement to the 1887 Commerce Ordinance.

For a variety of reasons the arrangements under the 1889 agreement proved unsatisfactory and it was terminated by the company almost as soon as it could. An imperial ordinance of 15 June 1892 restored the previous state of affairs by transferring the judicial and administrative powers of the imperial commissioner back to the company's administrator. The transfer took effect on 1 September 1892 as announced in a decree by the chancellor of the Reich on 22 September.³¹

During the remaining half a dozen years of company rule only a small and mixed bag of legislation was added to the existing pile. In an optimistic mood the company introduced its own currency into German New Guinea in August 1894. During the same month it felt the need to regulate the trade by foreign vessels. It is doubtful that many licences under this ordinance were issued—or many prospecting licences, let alone mining licences, under a mining ordinance which the company enacted in 1897 as its final legislative endeavour.

At the local level the fine tuning of existing legislation continued under administrator Schmiele. After his departure at the beginning of 1895 only the specialised and localised concerns of the imperial judge in the Bismarck Archipelago, Albert Hahl, set the legislative wheels in motion.

In September 1897 Hahl used his legislative pen as acting administrator to make it an offence to provide boats exclusively manned by natives with firearms or ammunition for their protection. However, this ordinance only applied to northern New Ireland and New Hanover. It used a bizarre fiction by stipulating that recruited labourers who did not come from those areas did not count as natives under the ordinance. Since the supply of firearms and ammunition to all natives anywhere in German New Guinea had already been made an offence at the beginning of German colonial rule, this ordinance suggests that the enforcement of this general prohibition had hardly been taken seriously so far and that this practice would continue outside this particular area.

A year later Hahl left two draft ordinances behind as a parting gift. They had to be issued by acting administrator Skopnik, because the imperial judge had no legislative powers of his own. The first, dated 2 December 1898, prohibited fishing with dynamite in Blanche Bay and the Duke of Yorks. It was itself something of a time bomb, as it was to come into force eight months after it had been displayed on the official noticeboard in Stephansort, that is to say well after the end of company rule.³² The second ordinance, dated 5 December 1898, was to come into force promptly on 1 January 1899. It made it for the time being an offence to collect trepang in the Duke

31 More than a year later it was realised that the imperial commissioner's *consular* powers also had to be transferred to the administrator.

32 Perhaps Skopnik thought that it would take that long before the locals in the Bismarck Archipelago would learn what a nasty surprise had been pinned to a notice board in Kaiser Wilhelmsland. Perhaps he was told before he enacted his second ordinance that it was local practice to display such ordinances on the notice board of the imperial court in Herbertshöhe as well. At any rate he no longer gave specific proclamation instructions in that ordinance.

of Yorks or to trade with trepang collected in this area—not exactly a triumphant finale to the exercise of legislative powers during the period of company rule.

But other, more important developments had occurred since the 1889 agreement had been terminated. To begin with, on 1 September 1892, German New Guinea had not quite returned to the position it had been in before 1 November 1889. The administration of justice in the Bismarck Archipelago remained the responsibility of an imperial official to whom the administrative functions of the company's station manager were also transferred in 1895. At that time the company had already started negotiations about a permanent transfer of all its governmental responsibilities to the Reich, and an agreement to that effect was signed on 13 March 1896.

For the company and the German government, it represented a natural progression from the 1889 agreement. The company would surrender all political rights under its charter and be compensated for its investments in the development of the colony by retaining its economic privileges for 75 years, but only for Kaiser Wilhelmsland and part of New Britain. The Gazelle Peninsula, as well as the rest of the Bismarck Archipelago and the northern Solomons, were excluded. On the other hand, the company was given a 20 year labour recruiting monopoly for the same area, some say in labour matters generally and significant tax concessions. However, the company was not only to hand over certain buildings and equipment currently used for government purposes free of charge but was also obliged to transfer land for public purposes free of charge and to instruct its employees to carry out governmental functions free of charge in places where no imperial officials were stationed. In addition the German government was given another option: it could terminate all rights of the company under this agreement at any time against a payment of 4,000,000 Marks.³³ But the Reichstag refused to approve the agreement and negotiations dragged on for another two years before a revised agreement was reached and subsequently approved by the Reichstag, although it was by no means dramatically different.

Essentially it settled for the cash compensation option included in the 1896 agreement. The company was to receive "capital" (*ein Kapital*) of 4,000,000 Marks, which could be paid in ten annual instalments, each of which had to be spent within four years on economic enterprises in German New Guinea. In view of this monetary compensation the company renounced its land acquisition monopoly and all other economic privileges in favour of the Reich.

However, it was to be given preferential treatment in three areas. Firstly, since the company had still not used its land acquisition monopoly to build up strategic reserves of land, it was given the right to acquire an additional 50,000 hectares without payment to the Reich, but only in Kaiser Wilhelmsland, and only for three years.³⁴ Secondly, it was promised mining privileges in the Ramu basin, which was being explored by an expedition the company had sent out at considerable expense. Thirdly, it was promised measures which would make it easier for it to obtain natives as labourers in Kaiser Wilhelmsland, who were needed for the economic development of its landholdings. Otherwise the 1889 agreement was basically identical with the 1896 version which would have allowed the Reich to buy out the company without any of the special concessions it was now granted. This would have ended the administrative nightmare which had taken shape in German New Guinea two years earlier, but in 1896 the majority in the Reichstag had not been in the mood to support major concessions or payments to the Neu Guinea Kompagnie, which had

33 The clauses summarised here were naturally more complex. The agreement also contained several additional clauses, for example one which obliged the company, at the request of the government, to offer land it was not using itself to the highest bidder and to accept the imposition of improvement conditions on land it acquired.

34 These strict limitations had been the result of the only amendment of the agreement on which the Reichstag had insisted. The original version had given the company ten years and permitted it also to select land in New Britain, without excluding the Gazelle Peninsula as the 1896 agreement had done. This amendment was a blow to the company, since it was engaged in a major expansion in the Gazelle Peninsula and because it knew from experience that the acquisition of large areas of land was a difficult process which could not be rushed.

become the living symbol for the failure of Bismarck's misconceived scheme to let the German colonies be governed by chartered companies, without proper parliamentary controls.

How much or how little was going to change when the 1898 agreement was implemented? The process began with an imperial ordinance of 27 March 1899 which was to come into force on 1 April, together with the agreement. It provided that the Reich would take over the local sovereignty in German New Guinea on that date and that the charters of the Neu Guinea Kompagnie would become ineffective.³⁵ It did not abolish the special rights and privileges the Neu Guinea Kompagnie had acquired but transferred them to the *Fiskus* of the colony. It did so by reference to the 1892 Colonial Budgets Act, thereby acknowledging that the financial affairs of German New Guinea were from now on under the control of the metropolitan German legislature. The chancellor was given special powers in relation to mining law—which were necessary to grant the mining privileges the Neu Guinea Kompagnie had been promised—and generally authorised to implement the ordinance.

The implementation decree of 1 April 1899 shows how broad these implementation powers were, as it created the rudiments of the new framework of government for the colony. Firstly it transferred all judicial and administrative powers of the company's administrator to an imperial governor. Secondly, it authorised the governor to enact police and other administrative regulations, although the chancellor retained the right to amend and repeal them. Thirdly, it provided that where existing legislation required actions on the part of organs of the Neu Guinea Kompagnie, their place would now be taken by "the imperial officials".

The decree did not indicate what imperial officials, apart from the governor, would be posted to German New Guinea, where the seat of the governor was going to be, or how and by whom the rights of local sovereignty, which had previously been exercised by the Neu Guinea Kompagnie, would henceforth be exercised. Nor was there, legally speaking, any need to do so. All these matters fell, in principle, within the discretionary powers of the emperor under the Protectorates Act. From now on, however, these powers were not only limited by existing legislation but also by the financial controls of the legislature of the Reich under the Colonial Budgets Act. In other words, the annual budgets became the central instrument with which the organisation as well as the activities of the imperial government would be shaped.

On the other hand, the budgets were not only formally part of the legislative framework, since they took the form of statutes, they also had to respond to the other parts of the legislative framework within which the imperial government operated. Like the emperor and his government, the Reichstag was not above the law when dealing with the financial affairs of German New Guinea. Hence it would be a mistake to change tack at this point and to focus on an exploration of the financial framework for governmental action in this colony. The budgets and the other financial control mechanisms were certainly important factors in the history of colonial rule in German New Guinea but the part they performed was nonetheless secondary whereas the legal framework played a primary role. Perhaps even more importantly, the information these financial records contain has no historically meaningful structure. That a certain amount of money is to be spent for a certain purpose becomes historically significant only because it reflects other structures which are of a non-financial nature, in particular political priorities. But the financial records do not spell out these structures. They have to be analytically extracted from it in so far as this is possible.

This is what distinguishes financial information from that contained in normative and quasi-normative regulations. Taken by itself it does not add up to anything historically worthwhile. It offers a vast number of fragments of information but no picture, whereas the legal framework does, however incomplete and ineffective as a means of controlling governmental powers it may

35 The ordinance also repealed an ordinance of 15 October 1897 which had confirmed the temporary transfer of the judicial jurisdiction over natives to the company in 1887 "for the time being".

be. So let us stick to the latter and see how far this will take us into the history of German New Guinea after the end of "company rule" when it not only consisted of what now became "the Old Protectorate" (*das Alte Schutzgebiet*) in Melanesia but also incorporated the "Island Territory" (*Inselgebiet*) in Micronesia. Indeed this new German colonial territory is the more appropriate first target, since it gave the emperor another opportunity for making a fresh start, whereas the imperial government in the Old Protectorate inherited the existing legislative framework which, as we have seen, already covered much of the ocean of his discretion with smaller or larger legal islands of varying degrees of firmness.

Chapter 2: Imperial and Parliamentary Control

I

On 18 July 1899 the emperor decreed that the Island Territory would come under his imperial protection when it had been handed over to the German authorities in Micronesia. On the same day he enacted two ordinances. The first introduced the Consular Jurisdiction Act as from 1 January 1901 and the Personal Status Act as from 1 January 1900. The second authorised the chancellor of the Reich to regulate provisionally the fields of law covered by the Consular Jurisdiction Act, declared the Island Territory to be a part of German New Guinea, for the time being, and gave the chancellor the usual implementation powers.¹

The chancellor issued an implementation decree on 24 July but delegated his temporary powers to the governor of German New Guinea. The implementation decree placed the Island Territory administratively under the governor and divided it into three administrative districts: the Eastern Carolines, the Western Carolines, including the Palau Group, and the Marianas, excluding Guam, which had been annexed by the United States. The Eastern Carolines were placed under a vice-governor, the two other districts under district commissioners (*Bezirksamtmänner*) who were all given equal consular powers. The decree authorised the two district commissioners to enact police and other administrative regulations for their districts. The governor, and the vice-governor as his representative, were empowered to enact such regulations for the entire Island Territory. In addition the governor was empowered to repeal or amend regulations enacted by the vice-governor or the district commissioners.

Governor Bennigsen's ordinance of 26 September 1899 combined the two legislative powers he had been given: the continuing power to enact police and other administrative regulations and the temporary power to regulate those fields of law which, as from 1 January 1901, would be covered by the Consular Jurisdiction Act, that is to say, the administration of justice and the civil and criminal law applying to non-natives.

The first five sections of the governor's ordinance elaborated the administrative provisions in the chancellor's implementation decree. The next five sections dealt with the administration of justice. They were unusual in that natives and non-natives were placed under the jurisdiction of the same colonial courts, with the proviso that in "native matters" the courts were not bound by the strict procedures of German law; that they had to take the customary law of the natives into account in criminal cases and that, where appropriate, they were to give the German criminal law only "corresponding application". The ordinance also stipulated that the existing civil law of the Island Territory—that is to say the Spanish colonial law—would continue to apply, although the courts were authorised to base their decisions on the German Civil Code in cases of doubt.

Section 11 introduced the 1887 Commerce Ordinance of the Neu Guinea Kompagnie in the Island Territory, with the result that most important commercial activities—apart from agriculture and the copra trade—required a licence from the local administrative authorities.

Sections 12 to 14 dealt with the acquisition of land by non-natives and with their existing land claims. As regards the acquisition of native and ownerless land the ordinance followed the example of the Old Protectorate rather than that of the Marshall Islands. Instead of issuing a general prohibition Bennigsen established a land acquisition monopoly of the government. He empowered the heads of the local administrations to sell up to 800 hectares of land so acquired

¹ This temporary incorporation was designed to show that the Island Territory was not seen as a separate colony. Yet it made the Island Territory neither legally nor financially part of German New Guinea. It was given its own budget and the existing colonial law of the Old Protectorate did not apply. It is not surprising that this ambiguous status created considerable confusion.

to private individuals and companies and reserved for himself the right to approve the transfer of larger areas.

On 1 October Bennigsen supplemented this ordinance with administrative instructions. They essentially treated the Island Territory as a normal part of German New Guinea. In particular, they assumed that the local administrations would report to the governor and that they would soon come under the same budget as the Old Protectorate.

As regards the native administration, Bennigsen instructed the local authorities to be energetic but cautious and to use their punitive powers only as a last resort. Nonetheless, he envisaged the need for punitive expeditions and insisted that they should be carried out speedily so that "the tribes or villages" were in no doubt as to why they were being punished. He stressed that all means, especially regular instruction of the police soldiers, were to be used to ensure that women and children would be spared during such expeditions.

Bennigsen recommended the appointment of government chiefs to assist the German officials in the administration of justice and other administrative tasks but warned against the appointment of persons with insufficient traditional standing who would be powerless despite the "state authority" given to them and would therefore undermine the power of the colonial government instead of extending it.

The instructions also supplemented the ordinance as regards the exercise of judicial powers in relation to natives by stipulating that family and inheritance disputes were, "if at all possible", to be decided in accordance with custom.

In relation to the introduced Commerce Ordinance the instructions paid special attention to the fishing of pearl shells and trepang. Bennigsen had high hopes for the former but was concerned about an over-exploitation of the latter resource. He therefore recommended modest fees for pearl shell licences but high ones, reaching 100 Marks per tonne, in the case of trepang.

However, the transfer of land to non-natives was the central issue for Bennigsen. Although care was to be taken to leave the natives enough land for their traditional agricultural practices, he saw the Island Territory essentially as a plantation colony based on small and middle-sized land holdings which were subject to strict improvement conditions. Bennigsen was not in favour of monopolistic companies and determined to prevent land speculation in any form. He saw individually operating traders as the backbone of the colony's economy who would gradually turn into planters by cultivating land around their stations. Such people were to be sold land at an especially low price on the condition that they would cultivate all of it as soon as possible.

Finally the instructions dealt with the exercise of their legislative powers by the local authorities. They were to be exercised sparingly, so that the administration could not be criticised for interfering unnecessarily in the activities of private interests. Apart from the need to enact harbour and quarantine ordinances, in Bennigsen's view only two fields of government could possibly require legislative attention in the short term at the local level: firstly, the registration of foreigners and their treatment if they were impecunious; and, secondly, the indebtedness of natives by giving them credit or selling them valuable objects which they could not afford.

Generally, the instructions stressed that while the September ordinance had a provisional character, the local authorities should proceed on the assumption that the development of the Island Territory would in the long run move in the direction it was pointing in, namely towards a full incorporation into German New Guinea.

Bennigsen enacted several special ordinances. On 12 and 14 October 1899 he regulated the trading by foreign vessels, on 17 October he issued the familiar prohibition on supplying natives with arms, ammunition, explosives and liquor, and on 4 November he formally repealed all existing Spanish administrative regulations and instructions.

His most ambitious move was the enactment of a labour recruiting ordinance dated 15 October 1899. It was to apply to the Island Territory as well as to the Old Protectorate, where it was to

replace the earlier company legislation. However, it was repealed for the Island Territory a few months later.² This was not the only instance where his legislative activity got Bennigsen into trouble. On 20 January 1900 the chancellor of the Reich enacted an ordinance which, following the Marshall Islands model, prohibited all acquisitions of land from natives in the Island Territory and repealed all provisions contravening this prohibition, without specifying that this meant section 12 of Bennigsen's September ordinance which had created a land acquisition monopoly for the government.³

Vice-governor Hahl speedily carried through most of the legislative program outlined in Bennigsen's instructions for the Eastern Carolines. In November 1899 he enacted a harbour ordinance for Ponape. In April 1900 he regulated the registration of foreigners, the giving of credit to natives and the sale of valuable objects to them. Whereas this second ordinance was modelled on the relevant Marshall Islands legislation, Hahl followed the example he had been instrumental in setting in the Old Protectorate by prohibiting the fishing of trepang on the reefs surrounding Ponape.

The district commissioner in the Western Carolines, Senfft, used his legislative powers differently. He neither enacted a harbour ordinance nor a foreigners' registration ordinance, nor a credit ordinance for natives. Instead he proclaimed an ordinance dealing with impecunious foreigners in June 1900, after responding in March to a cyclone by prohibiting the sale of coconuts for the production of copra. This prohibition was repealed in 1902 but reintroduced in 1906, when it remained once more in force for two years.⁴

Cyclones were not the only threat to copra production to which Senfft responded legislatively. In June 1900 he enacted an ordinance combating the spread of a plague of scale insects (*Schildläuse*) which affected coconut palms. It was reinforced by another ordinance in July 1908 and supplemented by a separate ordinance for Palau in December of that year. But problems with plant diseases continued. A 1913 ordinance by district commissioner Kersting prohibited the export of all tree and root crops, as well as of baskets made from palm leaves or fibres from Yap and the Palau Group to other parts of German New Guinea. The last legislative act of the district office was a "public notice" of 13 July 1914. It prohibited the export of eggs and fowls from Yap where the chicken population too had been hit by an epidemic. Owners were instructed to fence in their fowls, failing which they had to face the penalties provided in section 328 of the German Criminal Code, which extended to two years imprisonment.

The local legislation in the Western Carolines presents an altogether depressing picture. The only achievement reflected by it was the opening of the Tageren Canal which had been cut through a narrow neck of land on Yap. It was open to vessels with a draught of less than one metre and equipped with barriers at either end. They were operated by special canal police, and only local natives, government officials and members of the Catholic mission had free passage. All others, except children under ten years of age accompanied by adults, required a pass. This was issued by the district office for a fee of 50 Pfennigs per person—according to Senfft's Ordinance of 3 February 1902.

Two days later Senfft made all forms of trading by resident individuals and firms subject to a licence, although the purchase of coconuts for the production of copra, its most important manifestation, was, at the time, still illegal. This was followed on 18 February by a curious

2 Neither the text of Bennigsen's 1899 ordinance nor that of the repealing ordinance of 25 April 1900 was published. Moreover the latter ordinance was ignored when the 1899 ordinance was also replaced for the Old Protectorate by a new ordinance of 31 July 1901. This ordinance was published and purported to repeal the 1899 ordinance also for the Island Territory, although it confirmed the repeal of older legislation by that ordinance.

3 The monopoly extended to the acquisition of ownerless land which was not covered by the chancellor's ordinance.

4 In contrast to the second ordinance, the first did not state expressly that this prohibition was also meant to cover the production of copra by natives.

ordinance dealing with the retail trade in alcoholic beverages and the bar trade.⁵ Both were made subject to licences. But the fact that a publican's licence could be obtained for 120 Marks per annum—whereas publicans in the Marshall Islands paid a commercial tax of 800 Marks per annum—shows that this form of trade was not expected to boom in Yap either. When Senfft enacted a revised version in 1903, he further reduced the fee to 100 Marks.

During Senfft's leave, the government doctor as his deputy introduced a dog tax, but only for "die Kolonie", the main settlement on Yap, the borders of which he subsequently had to define in a separate ordinance. He also enacted an ordinance prohibiting the import of used clothes for sale to natives because of the risk of spreading contagious diseases.

Senfft reached the climax of his career as a legislator in a rambling labour ordinance of 2 July 1903. It stopped short of introducing recruiting licences or medical controls of the recruits, or of stipulating employment conditions, but emphatically prohibited the exportation of natives for the purpose of their public display.

By contrast, district commissioner Fritz engaged in a hectic legislative campaign in the Marianas which produced more than a dozen ordinances in the course of 1900. On 9 January he prohibited the importation of foreign coins, with the exception of minted gold, six months before Bennigsen declared the German Mark to be the official currency of the Island Territory.⁶ On 16 January Fritz supplemented the liquor and firearms prohibitions issued by Bennigsen the previous year by two separate ordinances. His liquor ordinance was primarily concerned with the local palm wine, *tuba*, the production and consumption of which he now also prohibited, although "heads of households" could apply for permission to tap two palms to collect their juice as a sweetener, or for the production of vinegar and yeast. Surprisingly Fritz presented this ordinance as an amendment of existing Spanish regulations although Bennigsen had repealed them in bulk two months earlier. The ordinance shows that Fritz had retained the Spanish administrative organisation as well, since it instructed the "village magistrates and overseers" to supervise compliance with its provisions and to report any breaches. How peaceful and settled the Marianas were is demonstrated by Fritz's firearms ordinance, under which any reliable person, including natives, could obtain an annual licence to carry a hunting rifle. The maximum penalty for a breach of this ordinance was a fine of just 20 Marks.

On 17 January Fritz turned his attention to taxation matters. He decreed that the commercial tax the Spanish authorities had introduced in 1890 was to remain in force for the time being. A second ordinance fine-tuned the existing Spanish provisions for a head tax: 3 Marks annually for males between 15 and 50 and *corvée* labour of, respectively, 12 and 20 days annually for married and unmarried males in the same age group. This ordinance too did not distinguish between "natives" and "non-natives" but between "inhabitants of the Island Territory" and "foreigners". It also applied to all foreigners who stayed in the Island Territory for more than three months, regardless of the colour of their skin.⁷

On 2 March Fritz notified the public that compulsory schooling for children between the ages of 6 and 12, and 15 for those who had not yet learned to read, would resume on 1 April 1900. Parents were liable to pay a fine of ten Pfennigs for each lesson their child failed to attend without a valid excuse.

Next came the environment. An ordinance of 13 June prohibited the lighting of grass fires and the felling of *ifil* trees, the most valuable but already over-exploited forestry resource.

5 It stipulated, for example, that fruit juices and lemonades did not count as "spirituous liquor" (*geistige Getränke*).

6 Fritz combined this prohibition with a warning that the local treasury would no longer accept the worn Spanish silver coins called *moneda borrosa*, and none of the old Spanish copper coins.

7 The ordinance made various exceptions from the duty to pay the head tax and to perform *corvée* labour which could generally be replaced by a payment of 50 Pfennigs per day. A third ordinance of 7 February continued a slaughter tax the Spanish authorities had introduced.

An ordinance of 17 June 1900 dealt with the cost of medical treatment provided by the government. It was to be free for the poor and those unfit to work, including their families. On 5 July Fritz stipulated that every birth, death and marriage had to be reported to the government within three days, again without distinguishing between natives and non-natives. Two days later the registration of cattle was made compulsory. On 3 October he decreed that it was not permitted to let pigs run free during the "corn and potato season", from September to December, and introduced a simplified procedure for claiming compensation for damages caused by any domestic animals throughout the year. On the same day he published a list of public religious holidays, assuring his subjects that they were also entitled to attend church services on other special religious occasions, although they had to return to work afterwards. The final act of this initial legislative burst was a credit ordinance of 25 October 1900 which copied that enacted by Hahl for the Eastern Carolines in April.

From then on Fritz only made occasional forays into the legislative field. In 1901 he declared the hunting of deer and wild cattle to be the exclusive right of the district office. In 1902 he introduced a dog tax. In 1903 he made it compulsory for owners of suitable land to plant at least one quarter of a hectare with food crops annually, and in 1906 he regulated the hunting of turtles and the collecting of turtle eggs.

It took until 1905 before Fritz turned his attention to trade. On 23 April he introduced a system of licences, borrowed from Senfft's earlier ordinance. It replaced the Spanish commercial tax confirmed in 1900. On 25 October he supplemented this ordinance with a second one which categorically prohibited the trade in the Marianas by ships not owned by an individual or firm resident in the district. It also repealed Bennigsen's 1899 ordinance for the Marianas although a district commissioner was not empowered to repeal a gubernatorial enactment. Not surprisingly, Fritz had to repeal this second ordinance on 5 January 1906, before it had come into force, which was to have been on 1 April of that year.

Less than a year later a decree of the chancellor of the Reich placed the Marianas under the district commissioner for the Western Carolines as part of a general reform of the Island Territory's administration.

Whereas the Marianas had been transformed during several hundred years of intense Spanish colonisation, and the 15 years of Spanish colonial administration in the Western Carolines appear to have had little impact, there had recently been fierce military opposition in the Eastern Carolines, or, rather, on Ponape. Moreover, the Eastern Carolines were in some respects more oriented towards the east, in particular the Marshall Islands, than towards the Philippines and Asia as was the case with the western section of the Island Territory. This orientation was also reflected in the mission field. The Protestant Boston mission dominated the east, the Catholic Capuchine mission the west, whereas they vigorously competed with each other on Ponape. Similarly, the Jaluit Gesellschaft saw the Eastern Carolines as a natural extension of its commercial domain, while it was less concerned with the Western Carolines and had no interest in the Marianas. Vice-governor Hahl was therefore facing a task which was rather different from that of either of his colleagues.

In 1900 he began to tackle the first of his special problems: the large arsenal of firearms on Ponape which had been used with great effect against the Spanish colonial government. The supply of the natives with new firearms had already been prohibited by Bennigsen in 1899, and Hahl knew that it would be premature to outlaw their possession by natives. But he felt strong enough to control their importation. He had to do so in the form of a special ordinance because a general customs ordinance prohibiting the importation of arms, ammunition and explosives except for personal use by non-natives, as in the Old Protectorate, had still not been enacted for the Island Territory. An ordinance of 19 November 1900 therefore prohibited the importation of all arms, ammunition and explosives into the Eastern Carolines. However, the ordinance left room

for exemptions for which substantial fees had to be paid, ranging from 3 Pfennigs for an empty cartridge to 25 Marks for a rifle.⁸

Hahl's successor, Berg, made the next move in this field in 1905. Since the local firms had enough muzzle-loading "pigeon guns" in stock to supply the market for many years to come, he announced that further permission to import firearms for sale would not be granted. A year later Berg decreed that stocks of pigeon guns, and of ammunition for them, which exceeded five guns, ten kilograms of powder, 50 kilograms of shot and 1,000 percussion caps per store, had to be deposited in the government warehouse, free of charge but at their owner's risk.

An ordinance of the same day, 27 April 1906, introduced a system of registration for all firearms not belonging to the government or stored by it. Each of them had to be officially stamped and entered in a government register. The owner could apply for a permit for their use, for which a fee of 3 Marks was payable. Persons already in the possession of firearms had to register them within six months, although a user's permit would be issued free of charge in such cases. The subsequent transfer of firearms, by sale, exchange, gift or in any other way, was permissible only with governmental approval. "Whites and natives" breaching the ordinance could be punished with imprisonment of up to three months, or fines of up to 1,000 Marks, or both, and the firearms in question could be confiscated.

As regards trade, Bennigsen had already prepared the ground by introducing the Commerce Ordinance of the Neu Guinea Kompagnie into the Island Territory. He had also enacted an ordinance which made any form of trade by foreign vessels subject to a licence, for which an annual fee of between 150 and 1,000 Marks was payable. But two aspects of this 1899 ordinance were regarded as unsatisfactory, so that it was amended in August 1900. Whereas Bennigsen had defined a "foreign vessel" as one which did not sail in the service of a person or a firm resident in the Island Territory, the Old Protectorate or the Marshall Islands, treating them in this regard as equal parts of his domain, the revised version counted vessels belonging in the second and third category as foreign vessels. In addition it doubled the licence fees. They now stood at 300 to 2,000 Marks per annum, bringing them closer to the commercial tax for foreign trading vessels in the Marshall Islands. Hahl supplemented these two ordinances in March 1901 with a third which dealt specifically with trade in the low coral atolls of the Eastern Carolines. It made the establishment of trading stations subject to his written permission and prohibited any form of itinerant trade, in particular by visiting trading vessels.

This ordinance prepared the ground for an exclusive 30 year concession the chancellor of the Reich granted to the Jaluit Gesellschaft in July 1901. It gave the company the right, subject to duly acquired rights of third parties, to utilise all islands in the Eastern Carolines, with the exception of Kusai, Ponape, including Ants and Pakin, and the Greenwich Islands, by means of trading and plantation enterprises. The concession expressly excluded the right to exploit guano and phosphate deposits and did not grant the company rights to land or rights to acquire land. Instead it was to encourage the natives to plant up unused parts of their islands with coconut palms by supplying them with seeds, tools and food. In return they were obliged to sell nuts from these new plantings at the going price to the company. It had to pay the *Fiskus* an annual fee of 6,000 Marks which was to rise by 500 Marks for each 50 tonnes of copra it exported when its total export of copra from the Eastern Carolines exceeded 600 tonnes per annum. Alternatively the company could be asked to pay a share of the net profits it made from all its operations in the Eastern Carolines. On the other hand, it did not have to pay any taxes and customs duties for its activities under the concession for ten years, and such taxes and duties could later only be imposed after the company had been consulted. The chancellor could cancel the concession after ten years, if he considered that the company had not satisfactorily carried out its obligations.

⁸ The prohibition indeed covered all kinds of arms: a permit for the importation of side-arms attracted a fee of 10 Marks a piece.

In August 1904 Hahl, now as governor of German New Guinea, enacted an ordinance regulating the trade in Ponape, including Ants and Pakin, and Kusai which followed that enacted by Senfft for the Western Carolines in 1902 by introducing the same licensing system and the same fees. On 7 September 1905 acting vice-governor Berg declared Hahl's 1904 ordinance to be applicable to all islands in the Eastern Carolines, that is to say also to the low coral atolls, and repealed Hahl's 1901 ordinance which had made special provisions for them. Berg had made additional provisions in section 2 and section 3b of his ordinance but repealed them with immediate effect in an ordinance of 13 November 1905. The situation became even more mysterious when an ordinance of 27 March 1906 repealed both these earlier ordinances and replaced them with a fourth ordinance which repealed section 1 of the September ordinance but confirmed that the repeal of Hahl's 1901 ordinance remained in force.

The published legislative record does not tell us what the reasons for these manoeuvres were and what the offending sections 2 and 3b of Berg's September ordinances had stipulated. But it requires little imagination to work out the answer to the second question. These provisions had apparently been identical to those made by Fritz in his Saipan ordinance of 21 October 1905, which he too had to repeal. In this case, however, the published record let the cat out of the bag, since a footnote to the repealing ordinance in the *Deutsche Kolonialgesetzgebung* (vol. 10: 2) reproduced the text of the offending ordinance. In other words, Berg too had probably prohibited trade by all foreign ships in the Eastern Carolines and had repealed Bennigsen's 1899 ordinance for his district. On the other hand, it also emerges that Fritz did not have to repeal his ordinances because he had dared to repeal a gubernatorial ordinance, as I had assumed, but because the Island Territory had become embroiled in political developments which led to the termination of the 1888 agreement between the Jaluit Gesellschaft and the German government on which the arrangements for the government of the Marshall Islands were based.

They also led to a premature termination of the concession the company had been granted for the Eastern Carolines in 1901. Formally the chancellor withdrew this concession as late as January 1907, but he did so with retrospective effect as from 1 October 1905. This decree was never published. On the contrary, when the governor in German New Guinea was sent a copy, he was instructed to refrain from informing the public of its contents (see AA, G1, Item 209)—another illustration that this legislative survey can only show us surface changes but not capture the political dynamics producing them.

The most important surface changes affecting the administrative organisation of the Island Territory followed two weeks after Fritz had repealed his politically unacceptable prohibition of trade by foreign vessels in the Marianas. An imperial ordinance of 18 January 1906 united the Marshall Islands as from 1 April 1906 with the Island Territory. This was followed, on 27 February 1907, by a decree of the chancellor of the Reich which placed the Marianas under the district commissioner in the Western Carolines and abolished the position of vice-governor, placing the Eastern Carolines instead also under a district commissioner. On the other hand, it not only confirmed the powers of the governor of German New Guinea but strengthened them by empowering him to create new government stations in the Island Territory and to determine their geographical and substantive competences. These stations, however, had to be placed under one of the district commissioners and could not be made directly responsible to the governor.⁹

The beginning of the 1907 budget year thus marked the start of a new phase in the history of German New Guinea. But before examining it, I have to round off this survey of the position in the Island Territory and catch up with developments in the Old Protectorate. As regards the local legislative activity in the Island Territory, little needs to be added, although a 1906 labour ordinance for the Eastern Carolines should be mentioned. It combined elements of the labour

9 The decree also pointed out that the governor could only exercise his power to establish new stations within his budgetary limitations.

ordinances in the Old Protectorate and the Western Carolines but owed most to that of the Marshall Islands. This is not surprising because acting vice-governor Berg was, at the time, also acting administrator of the Marshall Islands and it was hoped that the Eastern Carolines would supply most of the labour force for the phosphate mine on Nauru. The ordinance therefore dealt primarily with the exportation of natives from the Eastern Carolines as a transportation of labourers across the sea. It was only allowed with the written permission of the vice-governor and only within the Island Territory of which the Marshall Islands had now become part. As in the Marshall Island ordinance,¹⁰ medical control was a special concern but employment conditions also received attention.

On the other hand, the general legislative developments in the field of colonial law which had been set in train when German rule in the Island Territory had just started were of considerable importance.

II

While Bennigsen was planning the future of a unified German New Guinea, including the Marshall Islands as well as the Island Territory, in Germany the Protectorates Act and the Consular Jurisdiction Act were undergoing a major revision, although this was more concerned with clarifying the existing position than with substantive changes. As a result the new version of the Consular Jurisdiction Act, proclaimed on 7 April 1900, grew from 51 to 80 sections. As regards its application in the German colonies the potentially most important provisions were contained in section 20. They demonstrate that the act had generally acquired a more colonial flavour by introducing an "appropriateness" clause. Section 20 stipulated that the civil and criminal metropolitan law, which was supposed to apply according to section 19, did not apply if it presupposed the existence of "institutions and conditions" which did not exist in particular consular districts. Instead the emperor was empowered to make alternative provisions in the field of civil law—but not criminal law—by way of imperial ordinances. Sections 21 and 22 gave the emperor special discretionary powers concerning the law of real and intellectual property.

The Protectorates Act was subjected to so many particular amendments, which were proclaimed on 25 July 1900, that the chancellor of the Reich was authorised to publish a new consolidated text. There were no fundamental changes but the reforms of the Consular Jurisdiction Act were largely carried through, in particular as far as the new legislative powers of the emperor were concerned. Thus sections 20 to 22 were declared to be also correspondingly applicable in the colonies.

The 1900 version of the Protectorates Act retained a dual system of justice—but now in an overt form. Instead of empowering the emperor to place other persons than German nationals and protected persons under the colonial jurisdiction, it stipulated in section 4:

Natives are subject to the jurisdiction under section 2 and to the provisions identified in section 3 only in so far as this is decreed by an imperial ordinance.

Instead the emperor was given a reverse discretion: he could give other parts of the population the legal status of natives and thereby exclude them from the jurisdiction of the regular colonial courts.¹¹

An imperial ordinance of 9 November 1900 implemented the revised Protectorates Act. It stipulated that it would come into force in all German colonies on 1 January 1901. Rather than

¹⁰ Like all other local legislation it had not been affected by this incorporation.

¹¹ Instead of utilising this discretion—for example by giving Turks the legal status of natives—the emperor decreed in his implementation ordinance that Japanese did not count as members of coloured tribes.

implementing the act separately for each colony, as had been done previously, all colony-specific implementation legislation, including that for the Old Protectorate and the Marshall Islands, was repealed. For the Island Territory the ordinance provided that the laws identified in sections 2 to 7 of the Protectorates Act would also come into force on 1 January 1901. In other words, the administration of justice in relation to non-natives, as well as the civil and criminal law applying to them, was uniform for all German colonies, including the Island Territory, as from that date. Other colony-specific imperial legislation, for example the imperial land ordinance for the Old Protectorate, was to remain in force until it was replaced—as it was, in this case, by a general imperial land ordinance in 1902.

There was no need for a formal repeal of Bennigsen's 1899 ordinance in so far as it had regulated matters now covered by the Consular Jurisdiction Act because it had automatically ceased to be effective to this extent on 1 January 1901.¹² According to the excerpts published in the *Deutsche Kolonialgesetzgebung* (vol. 6: 221) this meant that, apart from the organisational provisions in sections 1 and 6, only the introduction of the Neu Guinea Kompagnie's Commerce Ordinance in section 11 and the introduction of a register for land claims by non-natives survived.¹³

The most important consequence of this state of affairs was that the administration of justice in relation to natives had no legislative basis as from 1 January 1901. Furthermore, since the provisional legislative powers had lapsed, which the emperor had given to the chancellor of the Reich, and which the latter had delegated to Bennigsen, no-one, apart from the emperor himself, held such powers. The emperor was, of course, free to re-delegate these powers but he did not do so, so that the administration of justice in relation to natives became purely a matter of administrative practice.¹⁴

As regards the acquisition of land an ordinance by the chancellor of the Reich had repealed the relevant section of Bennigsen's ordinance on 20 January 1900, replacing it with a prohibition on the acquisition of land or land rights from natives. This prohibition was in turn repealed on 2 July 1901.¹⁵ It was replaced by a land acquisition monopoly of the *Fiskus* in line with that existing in the Old Protectorate. This new state of affairs was not affected by the general imperial land ordinance a year later, although it repealed, in principle, the colony-specific land legislation applying to the Old Protectorate and the Marshall Islands.¹⁶

On 14 February 1903 another relevant imperial ordinance was enacted. It concerned the expropriation of land, a field where legislative provisions had not previously existed in the Old Protectorate, the Marshall Islands or the Island Territory. The Mining Ordinance of 27 February 1906 was another general imperial ordinance dealing with civil law. It repealed all previous colony-specific legislation—of which there had been none in the Island Territory—and formed the basis of a series of decrees which created a complete mining monopoly of the *Fiskus* in the Island Territory.

12 However, the emperor did formally repeal his 1899 ordinance concerning "the legal conditions" in the Island Territory. In his implementation ordinance he placed the Island Territory formally under the supreme court in Herbertshöhe.

13 It hardly needs saying that Bennigsen's administrative instructions relating to other matters also lost their force.

14 Under the revised Protectorates Act local natives in the Island Territory were not subject to the jurisdiction of the regular colonial courts. It would have required an imperial ordinance to place them under this jurisdiction. The position of foreign natives was different. While the implementation ordinance generally gave members of foreign coloured tribes the legal status of natives it authorised the governors to make exceptions, but only with the approval of the chancellor.

15 It is no coincidence that this is the same date on which the Jaluit Gesellschaft was granted its concession for the coral atolls in the Eastern Carolines. The prohibition had been stipulated because it was assumed that the concession might involve a land acquisition monopoly by the company. Since this did not eventuate it had become unnecessary.

16 Acting vice-governor Berg exercised the powers given to him in this ordinance by establishing in 1903 the three administrative districts as land registration districts and by recognising the provisional land registers started under Bennigsen's 1899 ordinance as "land registers" in the meaning of the 1902 imperial land ordinance.

A decree by the chancellor of 27 September 1903 dealt with the legislative powers of the authorities in the German colonies, as well as with their powers in consular and shipping matters. It expressly confirmed the legislative powers of the vice-governor and the two district commissioners in the Island Territory under previous legislation.

By contrast a decree of 24 December 1903 which established "advisory councils" (*Gouvernementsräte*) in most German colonies did not apply to the Marshall Islands. It was also at best of indirect relevance for the Island Territory. Since it did not have its own governor, it did not acquire its own advisory council either.¹⁷

The most significant move in the field of administrative law was an imperial ordinance concerning the coercive and penal powers of the colonial authorities. But its administrative procedures, including appeal procedures, applied to natives only in so far as this was specifically decreed by the governor of the colony in question—and the implementation regulations of governor Hahl of 10 September 1908 made no such provision for the Island Territory or the Old Protectorate.

I shall discuss this ordinance further in another context (see below: 414), but I should already draw attention to its final section 36. It began inconspicuously enough by stipulating that the ordinance would come into force on 1 October 1905 and by repealing, *inter alia*, an imperial ordinance for the Marshall Islands which had empowered the imperial commissioner in 1886 to enact legislation concerning the general administration, as well as customs and taxation matters. But the new ordinance went on to state that all regulations concerning administrative procedures, especially in customs and taxation matters, would remain in force until they were repealed by the authority which had issued them. Moreover, it decreed that the chancellor continued to be authorised to regulate administrative procedures in departure from this ordinance.

The wording of the section concealed rather than displayed its significance. Firstly, it authorised the chancellor to legislate in customs and taxation matters—in case this authority was not included in the general legislative powers vested in him by the Protectorates Act.¹⁸ Secondly, it repealed the two early pieces of legislation by which the emperor had transferred these specific powers expressly to local authorities in the Marshall Islands and Southwest Africa. Thirdly, it retrospectively validated the relevant regulations authorities in other colonies had enacted without having been expressly authorised by the emperor to do so.

The same saving device was used in an imperial ordinance of 3 June 1908, so that it may be appropriate to examine this ordinance at this point, although, in terms of its timing, it belongs in the third phase of German New Guinea's history. Section 1 empowered the chancellor of the Reich to regulate, within the limits set for him by Reich statutes and imperial ordinances: (1) the administrative organisation and (2) the law applying to natives and the administration of justice in relation to natives, including cases involving non-natives. Section 2 authorised him to delegate these powers to the governors. Section 3 confirmed retrospectively the validity of all regulations regarding matters falling under section 2 which had been enacted by the chancellor, the governors, administrators, imperial commissioners or their deputies. Section 4 repealed, *inter alia*, the imperial ordinance of 26 February 1890 which had authorised the chancellor to regulate the administration of justice in relation to natives in the Marshall Islands. There was neither a need

17 It is unclear how far the governor was required and entitled to bring matters relating specifically to the Island Territory before the advisory council in Herbertshöhe. On the other hand Hahl had also set up advisory "district councils" (*Bezirksräte*) on his own initiative which operated in a more informal manner. It is unlikely, however, that such (a) council(s) played a significant part in the Island Territory whereas it was beginning to make its mark in the Friedrich Wilhelmshafen district, although little information is available.

18 In an ordinance of 7 November 1902 the emperor authorised the chancellor to enact legislation which made persons or companies liable to pay the fines etc. in customs matters which their employees incurred—a move which would have been unnecessary if it could be taken for granted that the chancellor already held the necessary legislative powers under the Protectorates Act.

for such repeals in the case of the Island Territory because Bennigsen's relevant powers had lapsed on 1 January 1901, nor in the Old Protectorate, because in 1899 the emperor had repealed the ordinance transferring the judicial jurisdiction over natives in the Old Protectorate to the Neu Guinea Kompagnie. Since this was not followed by another imperial delegation of powers any legislative activity in this field by the governor, or any local authority, in the Old Protectorate after 1 April 1899, and in the Island Territory after 1 January 1901, had been legally invalid, until it was retrospectively saved by the 1908 imperial ordinance.¹⁹ However, the saving clause had no practical importance for the Island Territory because no attempt had been made after 1 January 1901 to deal legislatively with the administration of native justice.²⁰

This was only one of several major gaps in its legislative framework. The customs ordinance Bennigsen had foreshadowed in 1899 had still not been enacted in 1906, and only district commissioner Fritz in the Marianas had made forays into the field of taxation.²¹ Similarly, after Bennigsen's 1899 labour ordinance was repealed for the Island Territory, no attempt was made to deal with the labour question comprehensively and by way of legislation which applied to all its districts. Generally, after Bennigsen's initial attempts the field was largely left to the local authorities who responded to the different conditions at the district level, so that by 1906 the legislative framework of the Island Territory presented an extraordinarily colourful picture.²²

III

In the Old Protectorate the extensive legislative framework which had been put into place under "company rule" had remained in force. Bennigsen had a low opinion of this inheritance and wanted to embark on a major reform which would create a new body of laws that would apply to the Island Territory as well as the Old Protectorate.

His first legislative measures were of a public health nature. On 10 August 1899 he responded to an outbreak of sickness among the cattle by prohibiting the importation of cattle from Australia and British New Guinea. A week later he amended the 1891 Quarantine Ordinance by adding dysentery to the list of sicknesses requiring quarantine measures.

He probably enacted his next ordinance with less enthusiasm. It confirmed the validity of the Neu Guinea Kompagnie's 1897 Mining Ordinance but stipulated that the mining privileges the company had acquired under the 1898 agreement remained in force and that the government could also in other special cases depart from that ordinance. Bennigsen's heart was certainly behind the ordinance of 15 October 1899 concerning the recruitment of natives as labourers which was to apply to the Island Territory as well as the Old Protectorate. However, the colonial department opposed these premature unification attempts and Bennigsen's next legislative effort, an ordinance concerning the maintenance of discipline among coloured labourers, which replaced an 1888 company ordinance, took this opposition into account by limiting its application expressly to "Kaiser Wilhelmsland and the Bismarck Archipelago". In subsequent ordinances a different formula was chosen: they were said to apply to "German New Guinea, excluding the Island Territory".

19 It is by no means certain that the emperor had the power to accomplish such a retrospective feat.

20 The legal validity of the 1890 Native Penal Ordinance for the Marshall Islands was beyond doubt.

21 However, the borderline between the fees for commercial licences and commercial taxes was fluid. The transformation of the former into the latter in the Marshall Islands required no more than a cosmetic operation. Similarly, Fritz abolished the old Spanish commercial tax when he introduced commercial licences, thus acknowledging that they served the same purpose.

22 There were four different sets of local legislation, since those for the Marshall Islands and the Marianas remained in force.

The first ordinance adopting this formula prohibited the purchase of whole coconuts from natives so as to encourage them to make their own copra.²³ It was supplemented by a second prohibition which outlawed the export of *diwarra* shell money from the north coast of New Britain to other parts of German New Guinea, from 1 April 1901, and, as from 1 January 1902, the use of *diwarra*, *tambu* and *tapsoka* shell money in all commercial transactions. This prohibition was further supplemented on 26 June 1901. This third ordinance was not only, at least implicitly, addressed to non-natives but expressly also to foreign natives employed by them, as well as to local natives engaged in trade. All three categories of persons were not permitted, as from 1 April 1902, to give or to accept any form of shell money as a payment or to use it as a medium of exchange.²⁴

This was Bennisen's last legislative act. The next ordinance, a recruitment ordinance for the Old Protectorate, was signed by Hahl as acting governor. Yet Bennisen had one minor legislative triumph: his quarantine ordinance of 29 March 1901 also applied to the Island Territory, and it remained in force until 1912.

After watching Bennisen's experience, Hahl was reluctant to make legislative moves as acting governor. It was his deputy, Knake, who amended the 1887 Commerce Ordinance of the Neu Guinea Kompagnie, on 4 August 1902, by adding the collection of rubber from plants which were not privately owned to the list of commercial activities requiring government permission, and replaced it, on 14 March 1903, by a new ordinance which added inn and bar-keeping to this list and stipulated that the governor could proclaim certain geographical areas in which all forms of trade, including the copra trade, required his permission.²⁵

The position began to change when Hahl returned in April 1903, after an absence of almost a year, as the governor of German New Guinea. His first move was modest. On 5 December he enacted an ordinance for German New Guinea, excluding the Island Territory, which prohibited the importation of, and the trade with, used clothes, materials and bedding. Two months later he stuck his neck out further by enacting an ordinance concerning the immigration and importation of Chinese to the Old Protectorate. While the importation of Chinese who had entered a contract of employment required the approval of the authorities, Chinese were free to immigrate on their own, although they had to register with the authorities upon arrival. Hahl's implementation regulations show how much he valued the presence of Chinese in German New Guinea. They instructed the local authorities to treat Chinese residents, who had to register within two months, with kindness. The new law had to be explained to them, and well-known and reliable individuals did not have to appear in person at the office to effect registration.

A few days later Hahl made his only legislative attempt to regulate directly the civil law applying to natives. An ordinance of 5 February 1904 introduced an official form of marriage and divorce for natives. It also made provisions for the punishment of adultery and bigamy, although both were already punishable under the 1888 Native Penal Ordinance as serious offences under the German Criminal Code. However, the application of the ordinance was restricted to members of the tribes indigenous to the northeastern Gazelle Peninsula and the Duke of Yorks, that is to

23 The ordinance was still cast in the old mould in that it made only the purchase of nuts from natives, but not their sale by natives, an offence. Consequently an exception was made for nuts which were to be planted or eaten. In other words, the purpose of the ordinance was to create a united front of traders refusing to buy whole nuts whereas natives were free to try selling such nuts without fear of punishment.

24 It could, of course, be argued that the first ordinance made the purchase of coconuts from natives by natives also an offence—unless the nuts were to be planted and eaten—but this consequence would appear to be unintended.

25 This ordinance repealed not just the 1887 ordinance for the Old Protectorate but also the section of Bennisen's 1899 ordinance which had introduced it into the Island Territory. This would seem to make sense only if it was assumed that this new ordinance applied in that territory as well. On the other hand, it referred expressly to the decree of the chancellor of the Reich which had given the governor legislative powers in relation to the Old Protectorate, so that they did not authorise a repeal of legislation applying in the Island Territory.

say today's Tolai. Members of these tribes could enter into an official marriage by making a declaration before members of their families or a clergyman of their denomination. Such a marriage could only be divorced by a decision of the district commissioner against which an appeal lay to the governor. The ordinance identified seven valid reasons for a divorce, including a surprisingly modern one: a serious breach of marital duties which damaged the marital relations to such an extent that the other spouse could not be expected to continue the marriage.²⁶ This is not the place to examine this intriguing ordinance in detail, but a closer look at its penal provisions is called for because they had to be clarified in an administrative instruction a few months later.²⁷

Under the German Criminal Code bigamy was punishable with up to five years imprisonment with hard labour, if a married person entered into a second marriage before his or her first marriage had been terminated by divorce or annulment. But the offence of bigamy could also be committed by an unmarried person entering into marriage with a partner whom he or she knew to be married. According to the ordinance a Tolai could only be punished for bigamy if she or he had become a Christian before entering a bigamous marriage.²⁸ The maximum punishment was set at six months imprisonment and the authorities were given discretion not to prosecute such an offence. By contrast the maximum punishment for adultery was the same as under the German Criminal Code, namely also six months imprisonment. On the other hand, punishment for adultery under the ordinance was neither dependent on an application by the injured spouse nor did it have to be preceded by a divorce on the grounds of adultery, as was required by the German Criminal Code. According to the text of the ordinance, prosecution of adultery was mandatory.

The instructions of 20 July 1904 suggest that both provisions had created problems. In cases of bigamy they had apparently arisen when punishment had been sought although a Christian native had entered into a second marriage before the ordinance had come into force. The instructions therefore stipulated that "the judge" should admonish the accused in such cases but prosecute them only if they continued both marriages, or if they subsequently entered into another bigamous marriage.

The adultery provision had also created problems in cases of a polygamous nature because men had been accused of adultery on the grounds of having taken a second wife after separating from their first, but without a valid termination of their first marriage. For these cases the instructions again distinguished between those where the separation had taken place before the ordinance had come into force and those where it had taken place subsequently. For the first group of cases "the judge" was instructed to examine whether the separation had been a valid divorce in accordance with custom, so that sexual intercourse with the second wife had not been adulterous. They were further instructed to treat at least those separations as valid divorces where one of the reasons for a divorce under the ordinance had existed.

In addition the instructions declared the 1888 Native Penal Ordinance to be correspondingly applicable in all cases covered by the ordinance. This meant, in particular, that "the judge" was now also given the discretion not to prosecute cases of adultery, if he decided that to do so was inappropriate under the circumstances.²⁹

Hahl's next move also concerned natives but in a less sensitive context. On 18 June 1904 he enacted a native credit ordinance. It was based on that in the Marshall Islands but differed from

26 This reflected the view adopted in the German Civil Code.

27 It was sufficiently unusual to be subjected to an extended legal analysis at the time (see Hoffmann, 1905).

28 A heathen entering into a bigamous marriage with a Christian did not commit an offence. But what about an unmarried Christian who entered into what was a second marriage for his or her heathen spouse? At this, and many other points, the ordinance is a remarkably sloppy piece of draftsmanship.

29 For a phantom history of this ordinance see Hiery, 1997; for its implications in a particular case Sack, 1997; and for some relevant quantitative information, above: 143.

it in that it was primarily concerned with natives as traders rather than customers.³⁰ Granting credit to natives was duly prohibited and existing claims against them had to be registered in order to remain enforceable. The ordinance also made the familiar exception for credit granted to natives who stood in a continuing commercial relationship with a "businessman" (*Kaufmann*), but the rest of the ordinance went considerably further than its Marshall Islands counterpart. Firstly, it obliged businessmen in the Bismarck Archipelago and the Solomon Islands to register local natives whom they employed as "sub-traders" (*Unterhändler*). Secondly, it decreed that all contracts with natives involving the continuing supply of copra had to be concluded in writing and in German. However it made several exceptions: for contracts with natives for whom a credit permission had been granted; for contracts with natives in the Bismarck Archipelago in the Solomon Islands who had been registered as sub-traders; and for contracts with natives who paid commercial tax. In all other cases a contract obliging a native to supply copra on a continuing basis required the approval of the local authorities, for which a fee of one per cent of the value of the contract was payable.

In other words, the ordinance was less concerned with the granting of credit than with the introduction of a system of registered native sub-traders in the Bismarck Archipelago and the Solomon Islands, for whom an annual licence had to be obtained. This provided the authorities with a simple control mechanism. Nonetheless, it was restricted to local natives because the preferred option for foreign natives, in particular Chinese, was apparently an arrangement obliging them to pay commercial tax.

On 2 June 1904 Hahl repealed an 1892 ordinance concerning the importation and distribution of opium in Kaiser Wilhelmsland where Chinese coolies were no longer employed in large numbers. It was replaced by an ordinance which applied to the whole of the Old Protectorate and permitted the governor to make exceptions from the general import prohibition in the 1888 Customs Ordinance under conditions to be determined case by case. The prohibition on supplying local natives with opium was retained. If supply of opium was necessary to attract Chinese immigrants to the Bismarck Archipelago Hahl was now in a position to cater for this demand.

This ordinance was only a prelude to the enactment of a new customs tariff in September. It abolished the modest export duty on copra of 4 Marks per tonne but substantially increased the import duties on liquor. It also introduced an import duty on tobacco which fell most heavily on the shoulders of native consumers, since it amounted to only 2 Marks per thousand cigarettes but to 3 Marks per kilogram of trade tobacco.

In December 1904 Hahl returned to the oldest layer of German colonial law: the prohibition on supplying natives with arms, ammunition, explosives and liquor. He enacted three separate ordinances replacing the 1887 ordinance by Schleinitz.

The first ordinance, of 1 December 1904, was based on the mistaken assumption that the 1884 Explosives Act of the Reich applied in German New Guinea. It therefore included no penal provisions of its own.³¹ It made the *production* and *importation* of explosives by anyone subject to permission by the governor, and their *possession* to permission by the local authorities. It prohibited the *supply* of explosives to natives, although the local authorities could grant permission in special cases. It required an application by the person who wanted to supply, as well as by the native who wanted to be supplied. The applications had to identify the reasons which made the permission desirable. The permission was discretionary and could be combined with special conditions. It had to be given in writing and identify the native who could be supplied as well as the person, firm or company entitled to supply him. The permission was limited to one year. It cost the native applicant a fee of 20 Marks.

30 The ordinance made no attempt to control contracts involving valuable objects entered into with natives in the Old Protectorate, presumably because there was, at the time, no practical need to do so.

31 Its successor, a 1912 explosives ordinance, was designed as an independent police regulation which contained its own penal provision.

The firearms and ammunition ordinance enacted two weeks later retained the general prohibition on *supplying* natives with firearms and ammunition, however the prohibition now also applied to the *possession* of firearms and ammunition by natives. Special permissions were still possible. The procedure to be followed was the same as in the case of an explosives licence, but the system of fees was more complex.

A person, firm or company applying for permission to supply a native, the "*Schiessjunge*", with a gun and ammunition for hunting, had to pay an annual fee of 10 Marks. An "association of persons" (*Personengemeinschaft*) applying for such permissions for their members could be charged a lump sum not exceeding 50 Marks.³² The "hunting boy" paid no fee. By contrast, other natives who applied for special permission had to pay an annual fee of 20 Marks for each gun, as well as a fee of 1 Mark for each ten cartridges, whereas their non-native co-applicant did not have to pay a fee.

The liquor ordinance of the same date limited the supply prohibition to *local* natives. It did not make the possession or consumption of liquor by natives as such an offence, although liquor found in their possession could be confiscated, unless it could be shown to have been acquired in accordance with the ordinance. The supply of liquor to *foreign* natives still required special permission but, in contrast to the supply with firearms and ammunition, it was no longer necessary to demonstrate why permission was desirable for special reasons. The procedures for obtaining permission, however, were the same. Each native applicant had to pay an annual fee of 20 Marks, whereas suppliers only had to pay a fee for the first application to supply a native with liquor which they made in the course of a particular year.³³

In December 1904 Hahl extended the 1898 prohibition on fishing with dynamite in the coastal waters of the northeastern Gazelle Peninsula and the Duke of York Group, which he had initiated as imperial judge, to the entire Old Protectorate. Unlike Bennigsen, when he had prohibited the trade in whole coconuts in 1900, Hahl was realistic enough to allow for special exemptions. In January 1905 ships travelling in the waters of the Old Protectorate were exempted, irrespective of their location. In November 1905 followed an exemption for Astrolabe Bay and for the Witu and Siassi Islands. In December Bougainville and the Western Gazelle Peninsula were exempted. In 1906 two additional parts of Kaiser Wilhelmsland, as well as the Admiralty Islands, the islands north and east of New Ireland and an area in southern New Britain were added to the list. However, the blanket exemption for ships was cancelled in 1908, although ships were still permitted to fish with dynamite in the specifically exempted geographical areas. Yet, a 1911 public notice by the district commissioner in Rabaul shows that even in the core areas of the Bismarck Archipelago the prohibition had not been routinely enforced. It warned that fishing with dynamite in prohibited areas would no longer be tolerated and that all offenders would henceforth be prosecuted.³⁴

On paper it looks as if Hahl ultimately succeeded. A public notice of 17 April 1913 cancelled all previous exemptions from the prohibition, but it is doubtful that this brought the practice to an end, since fish so obtained was regarded as a vital source of cheap protein for native labourers.

32 This mass discount primarily favoured mission societies.

33 Volume I chapter 6 illustrates how these legislative measures were reflected in the administrative activities of the government. My interpretation of the administrative records would certainly have required less narrative imagination if I had taken the legislative framework into account.

34 Bennigsen's prohibition had a similar fate. In 1906 it was suspended for Kaiser Wilhelmsland, the Witu Islands and the islands west of the Admiralty Group. A suspension for the latter group followed in 1907. In 1909 the prohibition was suspended for the Solomons and New Ireland, including surrounding islands. In 1910 the district office in Rabaul had to warn the public that the prohibition was still in force in the Gazelle Peninsula and the Duke of Yorks. It also requested the firms and plantations to inform their Chinese and native sub-traders accordingly, since all breaches would now be punished.

The year 1905 began with a reform of the taxation law. An ordinance of 26 January repealed the Neu Guinea Kompagnie's 1888 Tax Ordinance. It dropped the income tax but retained a modest commercial tax.³⁵ In August an ordinance concerning the immigration of impecunious non-natives was enacted. It established a duty of employers to refund the public purse the expense of maintaining and deporting a former employee unable or unwilling to find a new job.

Even quieter at the legislative front was the year 1906. There were a few minor amendments, in particular of the customs and labour legislation, but the only new initiative was the enactment of a building ordinance for Simpson Harbour, where the new capital, Rabaul, was beginning to take shape. The lack of legislative activity suggests that the reform of the colonial law inherited by the imperial administration had by now been completed as far as practical in the current situation. It also reflects the fact that governor Hahl was again on home leave and engaged in discussions about the future of his colony with the new central colonial administration under Dernburg.³⁶ It was therefore left to his deputy, Krauss, to implement the 1906 imperial mining ordinance for German New Guinea. It is significant that these implementation regulations also applied to the Island Territory without raising objections in Berlin, whereas Hahl's 1904 implementation regulations to the 1902 imperial land ordinance had only applied to the Old Protectorate. Times were certainly changing and the local unification of the colonial law of the Old Protectorate and the Island Territory was one of the most important tasks ahead.

IV

Hahl's first unification moves were modest. On 28 June 1907 he issued a public notice announcing that the Native Disciplinary Ordinance of the Old Protectorate would henceforth also be applied in the Island Territory. By contrast the introduction into the Island Territory of the ordinance concerning the immigration of impecunious non-natives for the Old Protectorate took the form of a formal ordinance, dated 14 October 1907. Whereas the introduction of the first ordinance filled a legislative vacuum in the Island Territory, the second involved the repeal of several pieces of local legislation—in this case an 1889 ordinance for the Marshall Islands and a 1900 ordinance for the Western Carolines.

The breakthrough was a customs ordinance for "German New Guinea, including the Island Territory", of 10 June 1908. It repealed the 1888 customs ordinance for the Old Protectorate and various pieces of supplementary legislation, including the 1904 ordinance concerning the importation of opium. It also repealed a 1906 Marshall Islands Ordinance dealing with the same matter, whereas the importation of opium in the rest of the Islands had hitherto been legally unrestricted.

The new Customs Ordinance followed the example of the 1888 Customs Ordinance by prohibiting the importation of opium, except for medicinal purposes. However it provided for special written exemptions. While they could only be issued by the governor, or an authority especially empowered by him, in the Old Protectorate they could also be granted by the heads of the local administrations in the Island Territory. The Customs Ordinance adopted the same arrangement for the importation of firearms, ammunition and explosives. In line with the existing position in the Old Protectorate, it was prohibited, unless they were for the personal use of non-natives.³⁷

³⁵ It ranged from 40 to 4,000 Marks per annum.

³⁶ Hahl arrived in Germany during the last days of the reign of Hohenlohe-Langenburg.

³⁷ The relevant local legislation was not repealed in this case. The ordinance also did not take the additional step of prohibiting the importation of alcoholic beverages in principle. Instead their supply to natives was treated as a separate issue.

However, the main significance of the new ordinance was the introduction of customs duties into the Island Territory, where they had so far not been levied,³⁸ and the reintroduction of an export duty on copra, which had been dropped in the Old Protectorate in 1904, now at a rate of 10 rather than 4 Marks per tonne. The ordinance also introduced export duties on trepang and other marine products and on ornamental bird skins and feathers. In addition, it introduced a general import duty of ten per cent and increased the special import duties on liquor and tobacco, bringing about a more equitable distribution by doubling the duties on cigarettes while leaving that for trade tobacco untouched.³⁹

In November 1908 uniform ordinances for the registration of non-natives and the immigration and importation of foreign natives were enacted. The first ordinance held no surprises. The second extended the arrangements Hahl had introduced for the immigration and importation of Chinese in the Old Protectorate to all non-indigenous natives in the whole of German New Guinea. This ordinance was followed in March 1909 by a uniform ordinance concerning the recruitment and exportation of natives as labourers. It expanded the application of an elaborated version of the 1901 Old Protectorate ordinance to the Island Territory, but specifically prohibited the recruitment of natives in the Old Protectorate for service in the Island Territory.⁴⁰

In May 1909 a uniform credit ordinance for natives was enacted. It differed from the earlier unification efforts in that it was modelled on the existing Island Territory legislation rather than extending the Old Protectorate legislation to it. But the ordinance went too far in that direction, so that an amendment had to reintroduce the special arrangement for native sub-traders in the Bismarck Archipelago and the Solomon Islands.

The ordinance declared invalid all contracts between non-natives and natives creating obligations for the latter which had to be fulfilled at a future date. It made the conclusion of such contracts by non-natives an offence. It permitted the local authorities to make exceptions from this general prohibition, in particular where natives entered into continuing business relations with non-natives. All such contracts had to be concluded in writing and in German. The same applied to contracts between non-natives and natives involving objects with a value of more than 500 Marks, although the legal consequences of defective contracts of this kind were not spelled out.⁴¹

In October 1909 the law relating to the supply of arms and ammunition to natives was reformed and unified. The new ordinance started with a general prohibition of the *possession* of firearms and ammunition by natives, although it was supplemented by a *supply* prohibition, from which the local authorities could grant exemptions along the lines of the 1904 ordinance for the Old Protectorate.⁴²

By contrast the new liquor ordinance, also dated 1 October 1909, still started with a *supply* prohibition. But it was restricted to members of tribes indigenous to the Bismarck Archipelago, Kaiser Wilhelmsland and the German Solomons. The supply of liquor to foreign natives and to

38 I am disregarding a short-lived and never published Marshall Islands ordinance which had apparently imposed a duty on the export of copra.

39 In 1909 the import duty for cigarettes was increased to 10 Marks per 1,000. On the other hand the import duties on liquor were reduced. The fine-tuning of the customs tariff continued until the end of German rule. The most dramatic changes related to ornamental bird feathers and skins. That on bird-of-paradise skins increased from 2 Marks a piece in 1908 to 20 Marks a piece in 1913. In 1914, when the hunting of these particular birds was stopped altogether, egret feathers attracted an export duty of 1,000 Marks per kilogram.

40 This was primarily a public health measure intended to prevent the spread of malaria in the Island Territory. Since this provision also applied to native policemen it would seem that it also should have excluded the posting of Melanesian policemen to the Island Territory—quite apart from the fact that malaria could also be spread by Micronesians who returned to the Island Territory after being infected with malaria while serving in the Old Protectorate.

41 On a literal interpretation, the ordinance did not apply to contracts entered into by persons who had the legal status of natives, so that Chinese would have been legally free to give local natives credit, a result which was hardly intended.

42 The ordinance clarified that the stipulated fee did not affect the duty to pay import duties for the items in question. It also repealed special import restrictions introduced earlier for the Palau Group and Nauru.

those indigenous to the Island Territory was no longer formally prohibited, although it was still made subject to government permission. In this context too the rules for the Island Territory were further relaxed. The local authorities could grant exceptions for special occasions; and they could do so orally, without a fee, and only on the application of the natives concerned, whereas an application by a non-native wishing to supply was otherwise still required.⁴³

October 1909 was followed by an extended lull until a uniform harbour ordinance was introduced on 23 January 1911. It established a repeals record by replacing as many as 22 pieces of local legislation.⁴⁴

In 1912 the unification efforts intensified. On 18 January a uniform ordinance concerning the immigration of impecunious non-natives was enacted. A uniform explosives ordinance of 1 March 1912 dealt generally with the importation, production and use of explosives and relegated the special provisions in relation to natives, which were still made, to the implementation regulations. Then followed three uniform public health ordinances: a quarantine ordinance (7 March 1912), an ordinance concerning sick domestic animals (12 May 1912) and an ordinance concerning the importation of animals (20 May 1912). While they hold no surprises as regards their substance, the penal provisions contain a procedural innovation. They stipulated that the "normal" penalties did not apply to natives or persons of equal status. Instead they were to be punished in accordance with the penal provisions which had been enacted for them, that is to say the 1888 Native Penal Ordinance.⁴⁵

A curious pseudo-unification exercise was carried out in October 1912. It took the form of a slaughter and dog tax ordinance by the governor. It repealed all existing local legislation, but introduced such taxes only for the two main islands in the Marianas. Whereas this ordinance leaves no doubt that the tax in Saipan and Rota was the only dog and slaughter tax that existed in German New Guinea, the effects of the 1913 "public notice" cancelling all exemptions from the 1904 ordinance prohibiting fishing with dynamite are less clear. Although the ordinance did not apply to the Island Territory, the notice stipulated that, as from 1 January 1914, fishing with dynamite "in the entire colony" (*im ganzen Schutzgebiet*) was prohibited and would be punished.⁴⁶

The last local unification measure to come into effect before the end of German colonial rule was an ordinance concerning native money of 30 May 1913. It repealed the provisions made by Bennigsen for the Old Protectorate in 1900 and 1901. Instead it made it generally an offence for non-natives and non-indigenous natives to give to natives, or to receive from natives, native money or imitations(!) of native money. It extended this prohibition to indigenous natives who traded for non-natives or non-indigenous natives or who carried on their own businesses, but only for their commercial transactions. It even prohibited non-natives and non-indigenous natives transporting objects across the sea within the colony which were used as native money in "inland areas".⁴⁷

43 A 1912 amendment even permitted the local authorities in the Island Territory to make permanent exceptions to the supply prohibition.

44 It is not clear whether the 1911 Roads Ordinance was meant to apply to the Island Territory, since it only repealed an 1888 ordinance for the Old Protectorate but not the relevant local legislation in the Island Territory.

45 The text of the document does not indicate why this new formula was adopted. Two different, but nonetheless supplementary, reasons are possible. The first is that it was now regarded as illegal to apply the penalties designed for non-natives to natives. The second is that it was regarded as administratively more convenient to apply the same range of penalties to natives in all cases. This range differed from that for non-natives. For example, natives could only be imprisoned for up to five years whereas non-natives could be imprisoned for life. Natives could also be punished with compulsory labour without imprisonment, a punishment which was not available for non-natives. It should also be pointed out that this new regime was hanging in the air in the Island Territory where the Native Penal Ordinance did not apply.

46 Did Hahl intend to use the "public notice" as a means of also introducing the ordinance in the Island Territory? Or did "*im ganzen Schutzgebiet*" only mean "in the whole of the Old Protectorate"?

47 The penal provisions of this ordinance adopted and elaborated the new formula for native offenders and persons of equal status. They stated that those penal measures would be applied to them which "had been declared permissible in the general provisions concerning the administration of justice in relation to natives".

It was left to the governor to decree what counted as "native money". He did so in the form of a public notice in November 1913. It distinguished between shell money, shells used as money, glass, porcelain and stone money and the teeth of dogs, flying foxes, pigs and possums used as money in different parts of German New Guinea.⁴⁸

The last unification measure, due to apply as from 1 October 1914, returned to the pattern followed by Hahl in 1907. It introduced the 1888 Native Penal Ordinance of the Neu Guinea Kompagnie as amended into the Island Territory without any attempt to revise it or to adapt it to local conditions. The relevant ordinance of 24 July 1914 also repealed the 1890 Native Penal Ordinance for the Marshall Islands. While this was to be expected, the ordinance was unusual because it was enacted by the chancellor of the Reich and not the governor of German New Guinea. This illustrates that there is another general issue which I have so far disregarded: a process of centralisation and decentralisation which affected all German colonies and took place alongside the local unification process just discussed. But before examining this process a brief look at those fields of law where the unification of the local legislation was regarded as impractical is necessary.

V

By 1914 the colonial law in most of the key areas had been unified for all German colonies.⁴⁹ This applied first of all to the administration of justice in relation to non-natives and to the substantive civil and general criminal law to which they were subjected. Imperial ordinances had unified the colonial land and mining law, for which departures from the introduced metropolitan civil law were permissible. An imperial expropriation ordinance had even entered the field of administrative law in 1903. But the most important imperial legislative measure in this field was the 1905 ordinance regulating the use of coercive and penal powers by the colonial authorities. On the other hand, it was essentially only a procedural code stipulating *how* these powers could be legitimately used, instead of specifying *when* they could be employed. In addition, the ordinance applied, in principle, only to the relations between the colonial governments and their non-native subjects. A 1903 decree by the chancellor unified the exercise of legislative and consular powers in the German colonies, and a 1914 decree empowered all governors to organise the administration in their colonies. It was based on a 1908 imperial ordinance which also authorised the chancellor to regulate the administration of justice in relation to natives and the substantive civil and criminal law applying to them.

The list of metropolitan legislation creating uniform colonial law in specific areas also grew. The 1892 Colonial Budgets Act did so for colonial finance. A series of legislative measures, starting with an 1887 act concerning the employment conditions of imperial officials in the colonies and culminating in the 1910 Colonial Service Act, did the same for that field. The imperial ordinance implementing the 1900 revision of the Protectorates Act introduced the metropolitan intellectual property regime in all German colonies, and so it went on. An ordinance of the chancellor of 1905 unified the currency law and a 1906 imperial ordinance created a monopoly of the Reich in the field of telecommunications. In 1912 a decree by the chancellor introduced uniform laws for the print media. A 1913 act dealt with military service in the colonies, although it was concerned with the performance of their military service by German nationals

48 In addition Hahl used the definition of "native money" as an administratively convenient device for delaying the coming into force of the full ordinance in Kaiser Wilhelmsland and the Admiralty Islands by a year. He decreed that dogs' teeth would "count" as native money in these two areas only as from 1 April 1915.

49 Kiautschou, which was administered by the navy, was often treated as a special case and some other exceptions, especially for Southwest Africa, were also made.

residing in the colonies, rather than introducing a compulsory military service for all of Germany's colonial subjects.⁵⁰

By and large, the metropolitan authorities left the field of substantive administrative law, including customs and taxation matters, to the local authorities. It was here where the governor of German New Guinea concentrated his unification efforts. With the exception of the area of taxation he was largely successful.

The only tax levied in the Old Protectorate in 1906 was a commercial tax, which had to be paid by traders, craftsmen, innkeepers and barkeepers operating as individuals or companies, whereas the income tax introduced by the Neu Guinea Kompagnie had been abolished. Natives paid no tax, unless they operated businesses which attracted the commercial tax, until an ordinance of 18 March 1907 introduced a general head tax of 5 Marks per annum. It was limited to able-bodied males, provided they lived in communities the local authorities had declared to be taxable. Natives who worked for more than ten months in the course of a tax year for a non-native, or for a native paying commercial tax, did not have to pay head tax. Conversely, all natives paying head tax were exempt from having to perform "corvée labour" (*Fronarbeit*).⁵¹

When the Marshall Islands were incorporated into the Island Territory commercial firms had to pay a commercial tax. Individual traders no longer had to pay commercial taxes, whereas the tax for public inns and bars, even if run by individuals, was retained. Visiting trading vessels also had to pay a commercial tax. All male non-natives over 16 years of age had to pay a personal tax and the Marshallese a collective copra tax. In January 1907 the district commissioner reformed the personal tax for "non-Marshallese". The new ordinance distinguished between (1) natives who were to be regarded as Marshallese, (2) "whites and races of equivalent status" and (3) "others". It did not affect the collective copra tax of Marshallese. The personal tax for whites and persons of equal status was doubled to 40 Marks per annum. "Others" only had to pay 20 Marks. Members of mission societies and their pupils and Chinese coolies for whom a recruiting fee had been paid were exempted altogether.⁵²

In the Marianas the old Spanish commercial tax had been replaced by commercial licences. In principle, every male resident, native or non-native, had to pay a personal tax and to perform corvée labour, although this could be replaced by a further cash payment. Disregarding a dog tax in "die Kolonie", no taxes were levied in the Western Carolines, although a system of commercial licences was introduced in 1902. There were also no taxes in the Eastern Carolines but a system of commercial licences based on that in the Western Carolines.

Apart from a short-lived and unpublicised export duty on copra in the Marshall Islands, no export or import duties had been imposed in German Micronesia, whereas import duties were the most important source of local revenue in the Old Protectorate. This changed with the enactment of the unified Customs Ordinance in April 1908. In June Hahl introduced a uniform personal tax of 40 Marks for non-natives, restricted to males over 16 years of age, in the Island Territory. All local tax legislation was repealed, but only in so far as it related to non-natives.

On 7 October 1910 Hahl enacted a comprehensive tax ordinance for natives in the Island Territory. It distinguished between local and foreign natives. The latter had to pay a head tax of 40 Marks per annum, the former an amount corresponding to the average wages for 15 days for native labourers in the district. The personal tax was in principle limited to males over 16 years of age, but the local authorities could levy the tax on adult females who owned property. Members

50 The most extensive legislative activity related to the colonial service. A 1907 circular decree gives an indication of how broad and detailed the concerns were: it prohibited unmarried government employees keeping native girls in any capacity in their houses and instructed governors to ensure that the employment of mature native women as domestic servants did not cause offence, and to impose strict disciplinary punishments if these instructions were not followed.

51 The ordinance did not exempt natives who did not have to pay head tax from performing corvée labour.

52 In 1909 the district commissioner also imposed a dog tax in the Marshall Islands.

of the police force, fathers of more than four non-adult children and foreign natives for whom a recruiting fee had been paid were exempt. The local authorities could also exempt adult males who were unable to work and owned no property. The governor, and with his approval the local authorities, could even exempt entire geographical areas or classes of persons, or reduce their taxes. On the other hand the local authorities could increase taxes for particular areas or classes of persons with the approval of the governor, but only up to the rate of 40 Marks per annum payable by foreign natives.

Further complications arose because local natives could also be required to pay tax in the form of labour or natural produce. It was, in principle, up to the local authority to determine which form the taxation was going to take, but once a payment in cash had been introduced, local authorities could only revert to other forms of taxation in "very special cases", and with the approval of the governor. Moreover, all local natives were entitled to pay their taxes in cash instead of having to perform tax labour. By contrast, taxes in the form of produce were imposed collectively on the native inhabitants of particular areas, but the value of the produce could not exceed the amount the taxable individuals would have had to pay in cash. The local authorities were entitled to delegate the collection of taxes from local natives to recognised chiefs for their districts, who could be paid up to 50 per cent of the value of the tax or the produce collected or the tax labour performed.⁵³

The new level of sophistication is well illustrated by the definition of "local native" in the implementation regulations. It included not only the members of tribes indigenous to the Island Territory but also natives who had permanently settled there and who, in particular through intermarriage, had "adopted the customs and the way of life of these local tribes".

The implementation regulations demonstrate that the Marshall Islands were the main stumbling block on the unification path. They decreed that the taxes on local natives would, for the time being, continue to be levied in accordance with the administrator's 1898 ordinance. But Hahl already took the next step in an amendment in April 1911. It introduced a cash head tax of 15 Marks per annum in Nauru and revised the volume of the tax copra the various parts of the Marshall Islands had to deliver.⁵⁴

This tax copra represented a substantial amount of money, namely 27,600 Marks. But it was disappointingly low in relation to the population figures, compared with the expected yield of the head tax in Nauru, which the 1914 budget estimated to be 6,000 Marks. This was three times more than a continuation of the copra tax would have produced. However, the new cash tax was not only paid by Nauruans but also by imported *local* natives working in the phosphate mine, since the Island Territory ordinance did not exempt natives who were employed by non-natives from the head tax.⁵⁵

This applied to the entire Island Territory, but local conditions differed significantly. The implementation regulations therefore authorised the local authorities to enact further differing regulations for their districts. They reflected, for example, the different average daily wages for native labourers. They varied within the Western Carolines district between 40 Pfennigs in the coral atolls and 1 Mark in the Marianas, with the consequence that the head tax also varied between 6 and 15 Marks.

While it was up to the local authorities in the Old Protectorate to declare certain areas to be taxable, the Island Territory ordinance made the entire adult male native population automatically

53 In the Old Protectorate only up to ten per cent could be paid. The higher rate in the Island Territory was intended to compensate chiefs for traditional tributes they no longer received. It is surprising therefore that the ordinance also permitted the appointment of tax-collectors who were not chiefs but could receive the same share of the taxes they collected.

54 It amounted to an overall increase of almost 40 per cent but substantially altered the local burdens. For example, it halved the contribution Mille had to make but tripled that of Aur, Maloelab, Wotje, Ailuk and Udjerik.

55 By contrast foreign natives working as labourers were specifically exempt, provided a recruiting fee had been paid for them.

taxable, unless special exemptions were made. On the other hand, while the head tax ordinance in the Old Protectorate made no provisions regarding tax labour, the Island Territory ordinance treated tax labour as a permanent alternative to a cash tax. Further, the head tax in the Old Protectorate only targeted local natives, whereas it applied in the Island Territory to foreign natives as well.

In practice the situation in the Island Territory was even more colourful. Local implementation regulations exempted (1) the Dschokadsch people, who had been banished to Palau after the Ponape Rebellion, from any tax; (2) tied the rate of tax payable by native labourers in the phosphate mine on Angaur in the Palau Group to their rates of pay; (3) fixed the tax on some islands in the Truk Group as low as 3 Marks; and (4) exempted some cyclone-affected islands altogether. For the entire Eastern Carolines the district commissioner declared not only mission teachers and students to be tax exempt, but also all labourers employed by non-natives.⁵⁶ On the other hand, the district officer in the Marianas complained that some wealthy Chamorros were tax exempt because they had more than four children, whereas the government doctor on Yap suggested that three rather than four children should be sufficient to earn their father a tax exemption because he hoped that this would help to reverse the population decline.

Under these circumstances uniform legislation was too blunt an instrument. A feeling grew that it would be preferable to replace formal implementation regulations altogether with informal administrative instructions. In this field too the pendulum was still swinging and an ideal solution, which combined a core of uniform certainty with a large degree of discretionary flexibility at the margins, had not yet been found.

VI

Although the Protectorates Act centralised the *Schutzgewalt* in principle in the hands of the emperor, it had already begun to decentralise the exercise of this bundle of powers by allocating some of them directly to the chancellor of the Reich and indirectly to the officials whom the latter authorised to exercise the judicial jurisdiction. In the case of German New Guinea, the emperor dramatically accelerated this decentralisation process by first transferring the powers of local sovereignty, apart from the administration of justice, to the Neu Guinea Kompagnie in its charter and then by also transferring the judicial jurisdiction over natives to the company. By contrast, while the emperor delegated wider legislative powers to the imperial commissioner in the Marshall Islands than even the chancellor possessed at the time, he transferred the power to regulate the judicial jurisdiction in relation to natives to the chancellor of the Reich rather than the imperial commissioner.

In addition, the chancellor delegated consular and other special powers to the heads of the colonial governments in German New Guinea and the Marshall Islands, and the Neu Guinea Kompagnie delegated some of its powers to its administrator. However, although it stressed its intention to give him wide discretion, it reserved, in fact, most important decisions for its board of directors. By contrast the chancellor of the Reich gave the company's first administrator the personal authority to allocate judicial powers among the judicial officers who were subordinated to him as he saw fit.

The heads of the colonial governments also had some discretion to delegate their executive powers to their subordinates, although these delegations were rarely expressed in legislative form during the first phase of German colonial rule which ended, in the case of German New Guinea, with the termination of the company's charters in 1899.

⁵⁶ He almost certainly exceeded his legislative powers in doing so.

The imperial ordinance and the implementation decree of the chancellor establishing the new imperial administration had little to say about the administrative organisation of the colony and the distribution of powers at the local level. The ordinance gave the chancellor unlimited powers to implement it, but he merely transferred the existing judicial and administrative powers of the company's administrator to the governor and stipulated that imperial officials would take the place of the company officials.

The arrangements in the Island Territory differed in two important respects. On the one hand the governor of German New Guinea acquired dictatorial powers to deal for a limited period even with matters which would subsequently come under the Consular Jurisdiction Act. On the other hand, the chancellor created the basic administrative organisation of the Island Territory by dividing it into three administrative districts and by giving the heads of each legislative powers which were normally only given to the governor of a colony.

The incorporation of the Marshall Islands into the Island Territory took the form of an imperial ordinance. It abolished the supreme court in Jaluit and replaced it by the supreme court of German New Guinea. It also gave the chancellor the usual implementation powers, including the authority to delegate them to the governor. None of the relevant measures were published. However, it is clear that whereas the local administration was initially carried out by the acting vice-governor as acting administrator, the Marshall Islands were soon turned into a fourth district, even though the acting vice-governor continued to remain responsible for some time, but now in the capacity of acting district commissioner rather than administrator.

The administrative reorganisation of the Island Territory in 1907 bypassed the governor of German New Guinea. It was the chancellor of the Reich who placed the Marianas under the district commissioner for the Western Carolines and abolished the position of vice-governor. But he confirmed the responsibility of the governor for the overall administration of the Island Territory and empowered him to establish new government stations. The governor, however, was given no choice but to place them under one of the existing district offices and no authority to establish new district offices in the Island Territory or to abolish existing ones.

At that time the powers the governor could exercise in the Old Protectorate in this regard had not been formalised and the administrative powers of governors, as well as their subordinates, generally remained vague. This had begun to change with a decree of the chancellor of 27 September 1903 concerning the exercise of consular powers, powers in shipping matters and the powers to enact police and other administrative regulations in all German colonies. The decree delegated the consular powers and those in shipping matters to the district judges, the legislative powers to the governors and the administrator of the Marshall Islands, but also to the vice-governor and the two district commissioners in the Island Territory. It did not delegate legislative powers to a local administration in any other German colony; on the contrary, it denied the governors of Togo and Samoa, and the administrator in the Marshall Islands, the power to sub-delegate their legislative powers.

The next important step was the 1908 imperial ordinance concerning the organisation of the administration and the administration of native justice already repeatedly referred to. As regards the administrative organisation of the colonies it delegated the emperor's powers to the chancellor with the authority to sub-delegate.

In the case of German New Guinea the chancellor used these powers in a decree of 15 May 1909. It authorised the governor to establish, move and abolish administrative offices within the colony. But neither this decree, nor a general decree of the chancellor of 5 July 1914 replacing it, repealed the more limited authority the governor had been given in relation to the Island Territory in 1907. Yet it was the governor, rather than the chancellor, who on 17 February 1911 downgraded

the district office in Jaluit to a government station which he subordinated, together with the government station in Nauru, to the district office in Ponape.⁵⁷

On the other hand it was the chancellor who closed, on 17 January 1911, the district court in Jaluit and placed its judicial district under the district court in Ponape, just as it had been the chancellor who had closed the district court in Saipan in 1907 and had placed its district under the district court in Yap. It was generally still the chancellor, rather than the chief justice of German New Guinea, who determined the organisation of the administration of justice in relation to non-natives. His fundamental decree in this field was dated 21 December 1909. It authorised the district commissioners "at the time" in Friedrich Wilhelmshafen, Yap, Ponape and Jaluit to exercise the jurisdiction of the first instance in their respective districts. For the Bismarck Archipelago, including the Solomon Islands, a different arrangement was made. It acquired a "designated" (*hauptamtlicher*) judicial official who was personally authorised by the chancellor.

A decree of the chancellor of 10 May 1910 regulated the question of "substitution" (*Stellvertretung*), also by reference to offices held at the time. The district judges in the Island Territory could substitute for each other. The district judge in the Bismarck Archipelago could substitute for the district judge in Kaiser Wilhelmsland but, in addition to the latter, the district commissioner in Herbertshöhe/Rabaul could substitute for the district judge for the Bismarck Archipelago.

This was a neat system, but it could only work smoothly if all the posts in question were filled, and this was rarely the case. However the system was made more flexible because a decree of the chancellor of 25 December 1900 had authorised governors to appoint "extraordinary substitutes" (*ausserordentliche Stellvertreter*) in addition to the regular substitutes whom he appointed. The same decree also empowered district judges to authorise "suitable persons" to act for them, either in particular cases or on a permanent basis. An amendment to this decree of 8 May 1908 widened these powers to include all judicial activities not requiring the participation of "assessors" (*Beisitzer*), apart from the recording of last wills, the appointment of assessors and the admission of persons as legal counsels. Hence much of the administration of justice in relation to non-natives could be carried out by more junior government officials, in particular by the district officers within their administrative districts. In this manner the exercise of judicial powers in relation to non-natives in German New Guinea had to a large extent been decentralised, even in the Bismarck Archipelago and the Solomons, where the designated judicial official also had delegated far-reaching judicial powers to the local administrative authorities.

The historiographical advantage of an increasing formalisation of these governmental processes is that more and more of these moves were made in writing and publicised. While no details about the establishment of the first government station in Kaewieng were published,⁵⁸ when the second government station in the Old Protectorate was opened in Namatanai in 1904, Hahl issued a public notice defining at least the geographical limits of its district which was subsequently published in the *Deutsche Kolonialgesetzgebung* (vol. 8: 103). The public notice relating to the opening of the government station in Eitape in 1907 (*ibid.*, vol. 10: 318–19) also defined the substantive competences of the district officer. He was given full jurisdiction over the natives in his district and general police powers in relation to non-natives. In particular, he had to take measures necessary to protect their life and property and to avert threatening dangers. He also had to carry out the duties of an auxiliary organ of the public prosecutor and to administer the 1887 Foreigners Registration Ordinance.

57 This suggests that it was also the governor, rather than the chancellor, who downgraded the office of "administrator" in the Marshall Islands to that of "district commissioner".

58 It is not clear when "the station" actually started to operate as a station. The historical record also does not show when the imperial courts in the Bismarck Archipelago and Kaiser Wilhelmsland became district offices. Nor were the administrative districts of these offices officially defined, although subsequent transfers of parts of their districts were published.

On 20 August 1909 Hahl proclaimed an ordinance which was published in the *Amtsblatt* as well as in the *Kolonialblatt* and the *Deutsche Kolonialgesetzgebung*. It first closed the government station in Simpson Harbour and added its district to that of the district office in Herbertshöhe. It then moved the district office from Herbertshöhe to Simpson Harbour and gave it the official title "Kaiserliches Bezirksamt Rabaul". Finally, it established a police post in Herbertshöhe which was placed under the district office in Rabaul and authorised the district commissioner to issue instructions for its operation.⁵⁹

The instructions by the district commissioner were also published in the *Amtsblatt* (1909: 118–20). They defined the district of the police post by reference to "judicial districts", which had grown out of the practice of the station court, namely Herbertshöhe, Toma and Nanalar. The police post was to be manned by a police sergeant and 15 native policemen under two corporals. In addition to general police powers, the police sergeant was given disciplinary powers over all coloured labourers in his district. He also functioned as harbour master and customs official. Apart from his disciplinary powers, he was only given general supervisory powers in labour matters. All formalities, including all medical examinations, were to be carried out in Rabaul. He was responsible for the maintenance of the government buildings, boats and harbour facilities in his district and for the proper management of the materials under his control. His powers in native matters were limited. The civil and criminal jurisdiction was reserved for the district commissioner who would exercise it during regular "court days" (*Gerichtstage*). By contrast, the importance of the responsibilities of the police post in relation to the upkeep of public roads and bridges was strongly emphasised. Their good condition had to be regularly checked and special attention paid to ensuring that all those obliged to do so fulfilled their duty of keeping public roads clean. To be sure, none of this is narratively exciting but it shows how the police sergeant and his men were expected to spend their time, and that the maintenance of law and order was supposed to be the least of their worries.

By March 1910 the district office had to respond to pressures by the plantations around Herbertshöhe to give the police post greater powers in labour matters. The district commissioner resisted, although he made some concessions (see *AB* 1910: 54). In a public notice of 7 July 1910 he conceded further ground. The unusual decision announced a year later to authorise the secretary of the district office to carry out the functions of the district commissioner in the district of the police post in Herbertshöhe (see *ibid.*, 1911: 171) also reflected the fact that it simply could not function as a police post. At any rate, it was upgraded to a station in 1913 (see *ibid.*, 1913: 159). But the instructions concerning the changes in its competences were not published this time, perhaps because it had been decided that it was better not to tell the public too much about these internal instructions.

According to the chancellor's 1903 decree the governor of German New Guinea could delegate his legislative powers for certain parts of his colony to other officials. Hahl first tried this by authorising district commissioner Stuckhardt personally on 4 October 1904 to enact police and other administrative regulations for Kaiser Wilhelmsland. Stuckhardt used this power on the same day to prohibit the employment of coloured persons as recruiters, unless they were accompanied by a white person. But no further legislative activity followed, and this personal authority lapsed when Stuckhardt left his post in Friedrich Wilhelmshafen in 1906.

It took until 1911 before Hahl made his next move by delegating limited legislative powers *ex officio* to the district commissioners in Rabaul and Friedrich Wilhelmshafen. The restrictions were that they could only enact regulations for parts of their districts and that they could only impose penalties of up to two weeks imprisonment. On 10 March 1914 Hahl delegated the same legislative

59 In addition it amended the implementation regulations to the 1908 Customs Ordinance in accordance with these changes, *inter alia* authorising the police post in Herbertshöhe to deal with the customs clearance of postal articles arriving in Herbertshöhe. This was, in fact, one of its most important tasks at the time.

powers to the district commissioner in Kaewiang. Apparently only the district commissioner in Rabaul had cause for exercising these powers.

Whereas the 1906 building ordinance for Simpson Harbour/Rabaul still had to be enacted by the governor, it was the district commissioner who regulated the traffic on public roads in the Gazelle Peninsula. His ordinance of 10 October 1913 applied not only to horsemen and animal carts but also to motor cars and bicycles, for both of which an amendment soon after introduced a speed limit of 15 kilometres per hour within settlements and 40 outside them.

While this ordinance was based on the legislative powers delegated to the district commissioner by the governor's decree of 27 July 1911, his decree regulating the responsibilities for the maintenance of public roads in the town of Rabaul was based on a specific authority given to all local authorities in the 1911 Roads Ordinance. In contrast to the traffic ordinance this decree therefore contained no penal provisions, as they were already included in the Roads Ordinance. Similarly a decree of 12 August 1911 regulating where different kinds of vessels should anchor in Rabaul harbour was based on a specific authority for local authorities in the 1911 Harbour Ordinance. It too did not and could not stipulate penalties.

How civilised the Gazelle Peninsula had become is indicated by an ordinance of the district commissioner of 12 February 1914. It made the commercial presentation of lectures and the commercial display of "illuminated pictures" (*Lichtbilder*) subject to permission by the district office, unless they served "higher artistic or scientific purposes". A "public notice" of 11 May 1914 was of greater practical importance. It stipulated that all local natives employed as domestic servants in Rabaul by "whites, coloured persons of equal legal status and Chinese and Malays" had to be brought to the native hospital every month for a medical examination, namely males on every last Tuesday of the month at 2 p.m. and females on every last Thursday of the month at 2 p.m. In order to be able to ensure that the examinations took place employers had to report the names of their domestic servants every year before 1 July to the district office which issued them with a "control book" (*Kontrollbuch*) for each one of them. It had to be presented at every examination. The "public notice" stated that all contraventions and omissions would be punished in accordance with section 23 of the 1909 Labour Ordinance which provided penalties of up to three months imprisonment.

This notice demonstrates the degree of bureaucratisation that had been accomplished in some areas, but its critical examination also reveals that even senior colonial officials had still not mastered the legislative framework within which they were supposed to operate. Section 13 of the 1909 Labour Ordinance, to which it referred, indeed made the local authorities responsible for the supervision of the employment of native labourers, but it did not empower them to create new duties for employers, the non-fulfilment of which attracted the penalties stipulated in the ordinance. The district commissioner could have used his own legislative powers under the governor's 1911 decree to create such a duty, but he could not do so in the form of a "public notice", which could only inform the public about the existing legal position. An alteration of this position, as was clearly intended here, could only be brought about by an amendment of the Labour Ordinance—to which the district commissioner was not entitled—or by a separate police ordinance designed as a public health measure. But such an ordinance had to stipulate its own penalties which had to stay within the limited penal powers given to the district commissioner; that is to say they could not exceed imprisonment of two weeks. In short, the "public notice" was legally defective in every respect.⁶⁰

60 There is no reason to believe that the district commissioner knew, but did not care, that his "public notice" was legally defective. He clearly assumed that it was legally proper to introduce this administratively desirable measure the way he did. More importantly, he was also confident that he had the actual administrative capacity to enforce it. Otherwise the whole exercise would have been pointless since a voluntary compliance rate of, say, 50 per cent would have served little useful purpose.

It is understandable under these circumstances that the central colonial administration in Berlin observed the legislative activity in the colonies throughout with considerable unease. A 1901 circular decree of the colonial department had made local legislation subject to its approval and instructed all local authorities to use their legislative powers as sparingly as possible. A circular decree in 1908 confirmed these instructions. It also gave the local authorities a lecture about the form in which their legislative powers had to be exercised. But a decree of 18 February 1912 gave governors greater legislative independence. The 1901 decree was repealed and they were authorised to enact local legislation on their own responsibility.⁶¹ However, the colonial office stressed that it expected neither the substance nor the form of local legislation would give rise to complaints and reminded the local authorities that all legislative acts still had to be submitted for its information as soon as possible after their enactment.

The last circular decree in this matter of 1 July 1914 shows that these expectations were disappointed. In recent times, it said, local authorities had generally been lax about submitting enacted legislation and several submitted enactments had been seriously defective in form or substance. The performance of Togo had been especially bad so that the colonial office was considering a repeal of its 1912 decree at least temporarily for Togo. But then the drafting of its decree was legally also far from perfect.

Taken at face value it had limited the authority to enact local legislation without the prior approval of the colonial office to ordinances which had been "approved" by the advisory council (*nach vorheriger Zustimmung [!] des Gouvernementsrats*). Yet the 1903 decree which had established these councils only required the governors to submit draft ordinances to them for "discussion" (*zur Beratung*) and stated that they were not bound by the results of these discussions, even if a vote had been taken. Did the 1912 decree nonetheless mean to say that the governors had to submit all draft ordinances which had not found the *approval* of their advisory councils to the colonial office before proclaiming them, or had it meant to say "*nach erfolgter Beratung*" (following discussion) instead of "*nach vorheriger Zustimmung*"?

This particular legal uncertainty made no difference to the history of colonial rule in German New Guinea, just as it made no difference whether or not the "public notice" of the district commissioner in Rabaul of 11 May 1914 was legally valid. On the other hand, taken together the developments in the legislative field and the tensions they reflected between the forces pushing for greater uniformity as well as for greater differentiation, for more centralisation as well as for more decentralisation, for a stricter Rule of Law as well as for more administrative discretion, are of considerable historical interest. A final cluster of legislative measures taken after the start of World War I may illustrate what stage this development had reached.

A public notice of the governor of 6 August 1914 declared German New Guinea to be in a state of war. It established a separate military force which was distinguished from the civil police force by differences in uniform, in particular green rather than white bands around both arms. It also moved the seat of government from Rabaul to Toma. Another public notice laid down the principles in accordance with which the government would requisition goods and services during the state of war. But the government went much further. A decree of the government of 7 August 1914 divided the Rabaul district into two districts: Rabaul Town and Neu Pommern (New Britain), each under a district commissioner. It also divided the legislative powers which had been delegated to the district commissioner in Rabaul between the two new district commissioners.

The district commissioner for Neu Pommern used his powers to enact on 9 August 1914 what was probably the last piece of legislation by a local German authority, namely an ordinance which made the hunting of deer in the hinterland of Herbertshöhe subject to his permission.

61 This time an exception was made for legislation which was of greater political significance or had direct budgetary implications.

The ordinance described in detail the basis of the legislative powers the district commissioner had exercised: sections 5 and 6 of the decree of the chancellor of the Reich of 27 September 1903, in connection with section 1 of the decree of the governor of 27 July 1911 and section 2 of the decree of the governor of 7 August 1914. It also included the places where these decrees had been published, in the last case the same page of the *Amtsblatt* on which the ordinance was printed. Nonetheless, the ordinance was formally defective because the chancellor's decree of the 15 May 1909, the foundation of the governor's decree, had been repealed in Berlin on 15 July 1914, although the ordinance repealing it had again given the governor the same powers.

Legally defective or not, this ordinance is historically an intriguing document. What had moved the district commissioner to deal with this marginal matter at a time when enemy warships could appear over the horizon at any minute? The ordinance does not look like an emergency measure, designed to keep the Herbertshöhe hinterland free of wandering deer hunters in case of hostilities. Rather, it looks like a political gesture designed to demonstrate that it was business as usual in Neu Pommern as far as the district commissioner was concerned, because war would only briefly interrupt orderly administrative routine before ending with a triumphant victory of the German and Austrian forces. However, this is merely my interpretation. Legislative texts rarely tell us why and for what purpose they were enacted. They show the changing structures of German colonial rule and an overall shrinking of the blank spaces where administrative discretion was holding sway. But although the pattern they display is already unmanageably complex, the picture is still vastly incomplete. Just how incomplete it is becomes apparent as soon as one starts looking beneath the legislative surface, as the following case study will demonstrate.

Chapter 3: Natives and the Rule of Law

I

If we rely on the published standard sources for German New Guinea's legal history, the *Deutsche Kolonial-Gesetzgebung*, the *Nachrichten*, the *Kolonialblatt* and the *Amtsblatt*, the story of the regulation of the administration of native justice can be quickly told.

In 1888 the emperor transferred this jurisdiction to the Neu Guinea Kompagnie. The company promptly enacted a Native Penal Ordinance. It remained in force until the end of German colonial rule. It was also to have come into force in the Island Territory in October 1914. There it would have replaced an 1890 native penal ordinance for the Marshall Islands which was almost identical with it whereas the fact that no other enactments were repealed shows that the administration of criminal justice in relation to natives in the other parts of the Island Territory was not regulated by legislation at the time. The company's 1888 Native Penal Ordinance was formally amended twice: in 1899, when shooting was introduced as an alternative to hanging as a legitimate form of execution, and in 1908 when the competent official was given discretion to determine in accordance with the circumstances of each case whether a native could and should be prosecuted. According to these sources no attempt was made to regulate the exercise of the civil jurisdiction over natives, and the 1904 Marriage Ordinance had been the only effort to deal by way of legislation with the substantive civil law applying to natives.

As we have already seen this is only part of the story. In 1887 an ordinance concerning property disputes among natives in the Old Protectorate had been enacted; in 1890 the exercise of the entire civil and criminal jurisdiction over natives in the Marshall Islands and Nauru had been regulated in a public notice; and governor Bennigsen had done the same for a transitional period in the Island Territory as part of an 1899 ordinance.¹

It has also been pointed out that the 1887 ordinance and the 1890 public notice, as well as the 1899 amendment to the Native Penal Ordinance and the 1904 Marriage Ordinance, were probably all legally invalid when they were enacted, although they were saved by a 1908 imperial ordinance. By contrast Bennigsen's temporary powers had been astonishingly wide. They certainly covered the legislative measures he took for the exercise of the judicial jurisdiction in relation to natives in the Island Territory. Yet these general enactments did not stop vice-governor Hahl from going his own way on Ponape. In a report to the colonial department of 8 March 1900 he announced that he had regulated the administration of native justice in "a kind of treaty" with the chiefs. He had refrained from giving the arrangements the form of an ordinance because he first wanted to see whether they would prove themselves in practice (see RKA 3000).²

When Bennigsen read this report he told Hahl in no uncertain terms that he would have had no authority to enact an ordinance of this kind; that such an ordinance was unnecessary in view of his 1899 ordinance; that the matter was unsuitable for regulation for a single district; and that he should in future pay better attention to the legislative framework within which he operated (see AA G1/1, Item 121).

This was not how the colonial department saw the position. It regarded the powers of the governor as far more limited than Bennigsen believed them to be and rather liked Hahl's informal approach of treating, at least in native matters, formal legislative intervention as a last resort. This does not mean that Hahl intended to continue governing his native subjects indefinitely by means of "kinds of treaties with their chiefs". Nor does it mean that he intended to replace a consensual

1 The first two enactments were not published in any of the standard sources and the "transitional" provisions of Bennigsen's ordinance were excluded from the version published in the *Deutsche Kolonialgesetzgebung*.

2 A heavily edited version of this report was published in *DKB* 1900: 544-46.

with a confrontationalist approach as soon as his means of power permitted him to do so. Rather, it means that Hahl viewed the establishment of the Rule of Law as a lengthy process which was best approached administratively and given a legislative form only after appropriate solutions had been found and tested. For Hahl order was a precondition of justice, rather than a consequence, and an orderly administration the key to any ordered polity.

Hahl found himself in a different position when he no longer administered a single district but became responsible for the government of a colony which, in geographical terms, was as large as the Australian continent and was divided into a growing number of local administrations. To use his own administrative discretion was one thing, to rely on the exercise of discretionary powers by his subordinates quite another. For Hahl the task of governing became increasingly a task of governing his officials rather than his subjects.

Seen from this perspective it made little difference whether the exercise of governmental powers was regulated by way of administrative instructions which told officials what to do, or by way of legislative enactments which determined indirectly what they could do by defining the rights and duties of those whom they governed. Administratively speaking rights and duties do not exist for their own sake but as limitations and extensions of governmental powers. Hence it makes no difference either whether the government informs the public about the legal position in the form of a legislative enactment or a public notice. Legislative enactments, administrative instructions and public notices present themselves as alternatives between which governments can choose on the basis of administrative convenience without having to pay much attention to the legal differences between them.

At least this was the position Hahl adopted, although he did so instinctively rather than consciously. He took it for granted that it was, to a large extent, up to him which alternative he chose, depending on how important and permanent he regarded a measure to be and whom he did or did not want to inform about it. Moreover, Hahl usually responded to particular cases rather than trying to create a systematic regulatory framework. Temporary and informal administrative instructions were therefore in most instances the appropriate first response which could be given a more general and lasting legislative form, once they had proved themselves. Regulation was a political, not a jurisprudential process. It was shaped by a variety of competing factors, and Hahl probably watched with mixed feelings legal considerations coming to play an increasingly important part.

II

On 2 November 1903, a few months after he had returned from home leave as governor of German New Guinea, Hahl sent an angry circular decree to the local administrations in the Old Protectorate.³ He complained that officials misunderstood the role of the government chiefs; regarded their participation in administrative and judicial matters as unwanted; treated them with contempt; and relied instead on native policemen to communicate orders to natives—with decidedly harmful effects. Apart from admonishing his subordinates to use existing institutions constructively, he issued specific instructions relating to the summons and arrest of coloured labourers and other natives. Coloured labourers were to be summoned through their employer. They were only to be approached directly in matters of urgency, or after a summons through their employer had been unsuccessful. By contrast, all arrests of labourers were to be made directly, although, if possible, the employer was to be informed at the same time. In the case of other natives the services of government chiefs always had to be used to carry out arrests as well as summonses.

3 Excerpts from this decree were published in *Die Deutsche Kolonialgesetzgebung*, vol. 7: 230–231.

Whereas Hahl left it to the discretion of the official in charge to punish government chiefs for disobedience, he asked for information about uncooperative employers so that he could, if necessary, create the required coercive powers in relation to them by means of an ordinance. But Hahl also added a penal provision to his decree. It declared section 24 of the Native Penal Ordinance, which dealt with the refusal of native witnesses to give evidence, to be applicable to witnesses generally, so that it now also covered the non-appearance and other contemptuous behaviour of witnesses—including, according to the wording of the decree, the contemptuous behaviour of non-native witnesses.

Less than three weeks later Hahl went considerably further.⁴ A circular decree of 20 November 1903 introduced administrative penal procedures as a supplement to the judicial procedures under the Native Penal Ordinance, since the latter were restricted to behaviour constituting a serious offence (*Verbrechen* or *Vergehen*) under German criminal law. Hahl's starting point was that this restriction did not limit the penal powers of the government altogether. On the contrary, the police powers given to the heads of the local administrations obliged them to take action in all cases where punishment appeared to be required, in particular in relation to "misdemeanours" (*Übertretungen*) for which judicial punishment under the Native Penal Ordinance was generally ruled out.

The decree distinguished between misdemeanours affecting the relations between natives and misdemeanours of natives directed against Europeans and their interests. Whereas it was to be left to the government chiefs to deal with the former, the latter were to be punished by the local administrations. The penalties as well as the "factual elements justifying a punishment" (*Straftatbestand*) were to be based on a corresponding application of the German Criminal Code and the "Prussian Penal Police Code", unless special laws applied under section 2 of the Native Penal Ordinance—namely police regulations addressed to natives.

Even new criminal offences could be gradually developed in this manner. This had been recognised in the draft of a native marriage ordinance which stipulated, in accordance with native custom, that adultery be punished regardless of whether the marriage had been divorced as a result of the adultery, as the German Criminal Code required.

According to the decree, imprisonment, forced labour, fines and warnings, but not corporal punishments, were permissible punishments in these administrative procedures. They were to be conducted in line with the procedural provisions of the Native Penal Ordinance. This meant, according to the decree, that a public hearing had to be conducted during which the accused had to be heard and evidence for the accusation had to be taken, although an "oral punishment order" (*mündliche Strafverfügung*) was permissible in minor cases, if the accused admitted guilt. Nonetheless, all these administrative punishments had to be included in the penal statistics for natives (AA63/83, Item B60).

When a copy of this decree was sent to Berlin two years later, in response to a reminder by the colonial department that not only legislative enactments but also all general administrative instructions had to be submitted for information, it raised misgivings because the imposition of such administrative punishments in the Marshall Islands was beginning to create serious trouble for the colonial department. But as the Brandeis Case (see above: 61 ff.) had not yet grown into a public colonial scandal, the reaction to Hahl's decree took a remarkably mild form. The governor was told that the police powers on which he had relied were *coercive* powers to be used for the maintenance of law and order, rather than *penal* powers.⁵ In particular, his attention was drawn to the 1905 imperial ordinance concerning the coercive and penal powers of the administration under

4 On 18 November 1903 Hahl defined the compulsory services German New Guinea's native population had to render to the government—again in the form of an administrative instruction (see above: 90 ff.).

5 Even at the end of German colonial rule officials had difficulty in grasping this distinction—just as the distinction between *criminal* and *disciplinary* punishments remained confused.

which administrative penal orders addressed to non-natives had to be preceded by a warning. Since natives were less aware of the rights and wrongs of their actions, it was necessary that they too be given a warning, whenever possible, before punishments of the kind provided in the decree were imposed. After pointing out that the "Prussian Penal Police Code", to which the (Bavarian) governor had referred, did not exist, it was suggested that Hahl might want to revise his decree and to send a copy of the new draft to Berlin before issuing it.

Hahl was absent when this response arrived and his deputy opted for a minimal approach. He merely instructed local administrations, if at all possible, to warn natives that they would be punished if they repeated certain actions before imposing administrative punishments. After his return, Hahl repealed his entire 1903 decree on 16 January 1908, because he wrongly believed that the 1905 imperial ordinance also covered the use of the coercive and penal powers in relation to natives. Instead he authorised the station courts to take judicial action in all cases where this was necessary to maintain law and order.

A month later Hahl submitted a report by the district commissioner in Friedrich Wilhelmshafen to the colonial office which argued that the abolition of administrative punishments had created considerable practical difficulties in Kaiser Wilhelmsland where the native population had by no means been fully "subjugated" (*unterworfen*). Administrative punishments had been primarily used in response to breaches of the public peace by entire villages, the abduction of women, infanticide, blood feuds, sorcery and the refusal to carry out the legitimate orders of the administration. In most of these cases it was impossible to take judicial action against particular individuals, either because it was impractical to arrest them, or because all inhabitants of a village had been more or less involved in the criminal act. If the judge took his duties seriously, and considered only the evidence for the guilt of particular individuals, formal procedures under the Native Penal Ordinance would in every case result in an acquittal. An administrative punishment of entire villages was the only practical option, and the administration had to be given discretion to impose collective punishments which went beyond those provided in the 1905 imperial ordinance. In relation to all "mountain *tamuls*" this was essential because it was impossible to communicate with them in a form that was adequate for the conduct of formal court proceedings.

Since the district commissioner had also expressed the view that the authority to take judicial action in all cases in which law and order had been disturbed contravened the "not yet repealed" section 2 of the Native Penal Ordinance, Hahl assured him that he was nonetheless covered by the decree of 16 January 1908 if he took discretionary judicial action. But Hahl acknowledged to the colonial office that the abolition of administrative punishments was likely to cause difficulties of the kind described which should be taken into account in the reform of the criminal law for the natives in all the German colonies on which the colonial office was working.⁶

The colonial office was not prepared to wait until this general reform had been completed—and it never was. Instead it took up the reference of the district commissioner to the "not yet repealed" section 2 of the Native Penal Ordinance. It repealed the section, together with its counterpart in the 1890 Native Penal Ordinance for the Marshall Islands, in an ordinance of 28 October 1908. The crucial move, however, was an amendment of section 3. It replaced the normal, negative discretion *not* to prosecute—which also existed in metropolitan Germany—with an extraordinary, positive discretion to prosecute any behaviour the competent official regarded as requiring punishment. This was a direct breach of the "*nulla poena sine lege*" principle enshrined in the German Criminal Code, according to which an act could only be punished if all acts of this kind had been declared to be punishable by law before this particular act had been performed. But then the German Criminal Code did not apply to German New Guinea's native population and section 2 of the 1888 Native Penal Ordinance, which had recognised this principle, had now been repealed. Besides, this move brought the legal position in German New Guinea into line with that

6 The first draft of an imperial ordinance in this field was sent to the governors for comment in 1906.

in Germany's African colonies, where the same positive discretion to prosecute natives had been established by a decree of the chancellor of the Reich in 1896.

As a result the governor withdrew his 1908 decree in a circular decree of 30 January 1909. Attached to this repealing decree were excerpts from the decree of the colonial office explaining the situation. The amendment of the Native Penal Ordinance had made Hahl's 1908 decree superfluous. The decree had also been wrong in stating that the 1905 imperial ordinance applied to natives. This would only have been the case if the governor had specifically placed them under this ordinance, whereas his recently enacted implementation regulations included no such provision. The decree of the colonial office also responded to the report of the district commissioner in Kaiser Wilhelmsland, pointing out that some of the punitive actions he had referred to, in particular the use of force against entire villages for breaches of the public peace, neither had a judicial nor an administrative character but were military in nature so that their legitimacy had to be judged in accordance with political considerations governing the conduct of wars.

These explanations were of little help to local officials who were rarely confronted with war-like rebellions but often had to deal with cases where a normal judicial approach was nonetheless impractical, since the positive discretion to prosecute which they had now been given only solved the first of a series of problems. Still, the response of the colonial office in this case had been considerably more accommodating than the stance it had taken a year earlier in relation to the Marshall Islands, when it had bluntly repealed a decree which the colonial department had issued in 1903. This decree had confirmed the existence of discretionary administrative penal powers in relation to natives, including the imposition of corporal punishments, although they could only be exercised if this was necessary to maintain law and order. The repealing decree had categorically stated:

It follows from section 2 of the Native Penal Ordinance...that punishment of actions is only permissible if they have been declared to be punishable by statute or a legally valid [*rechtsgültige*] ordinance when they were performed. Corporal punishments, in particular, can neither be imposed for serious criminal offences nor for breaches of the police regulations identified in section 2, subsection 2.

While this decree too had been superseded by the 1908 amendment of the two Native Penal Ordinances, this amendment had no effect in the rest of the Island Territory where neither of them applied. The position of the local authorities there was fundamentally different. On the one hand, they were not bound by the procedural and penal provisions of these ordinances when punishing natives, so that there existed, for example, no specific legislative obstacle to the imposition of corporal punishments. On the other hand, it was doubtful, in the absence of a clear authorisation, whether the local authorities were legally entitled to exercise any penal powers in relation to natives.

This state of affairs first created concern when the question arose whether a death sentence imposed on a native in the Island Territory could be executed without a confirmation by the governor, as was required under the Native Penal Ordinance in the Old Protectorate. The governor reported on 11 September 1905 to the colonial department. He suggested introducing the Native Penal Ordinance in the Island Territory, but empowering the local authorities, because of their remoteness, to confirm death sentences, and to exercise the powers of mercy which the ordinance also vested in the governor.

The legal section of the colonial department agreed with the governor that the Native Penal Ordinance of the Old Protectorate did not apply in the Island Territory, where the administration of justice in relation to natives had developed as a "purely administrative activity" (*reine Verwaltungstätigkeit*). But it was not concerned with the confirmation of death sentences, or a delegation of the powers of mercy, but with the question as to whether the governor, or even the

chancellor of the Reich, had legal powers over the life and death of natives in Germany's colonies—apart from emergencies such as rebellions—unless they had been expressly authorised by the emperor.

The outcome of its considerations was less dramatic than this suggests because such powers for the chancellor were derived from the authority he had been given to regulate the administration of the Island Territory in the imperial ordinance of 18 July 1899. By contrast, the authority of the governor under this ordinance to regulate the administration of justice in relation to natives had lapsed on 1 January 1901. The legal section was opposed to giving the governor such far-reaching powers again because this had not been done for any of the other German colonies where these powers had instead been vested by imperial ordinances in the chancellor of the Reich. But it was happy for the Native Penal Ordinance to be introduced instead in the Island Territory by means of an ordinance by the chancellor.

The consequences of the lack of a legislative framework for the administration of justice in the Island Territory are well illustrated by the murder of Rultan in 1906. Rultan hailed from Yap but was at the time of his death a prisoner in the "penal colony" (*Strafkolonie*) on Saipan, as were his murderers, Nirailokus from Palau and Tomedat also from Yap. Both were sentenced to death on 4 February 1907. The judgement in their case has survived because the district commissioner sent a copy to the governor as he had been confronted by the "sad necessity" (*traurige Notwendigkeit*) to carry out the death sentence the day after it had been imposed, having received and rejected a plea for mercy. The case was heard by the district court, although it had no jurisdiction over natives. But station courts, which had been established under the Native Penal Ordinance in the Old Protectorate, did not exist in the Island Territory, and the district commissioner had apparently regarded it as inappropriate to deal with such a serious matter administratively.⁷ The case had occupied most of the local officials: the district commissioner as chairman of the court, his secretary as clerk, the teacher as prosecutor and the medical assistant as defence counsel. In addition, the teacher had previously acted as investigating judge during an absence of the district commissioner,⁸ and the medical assistant had officially certified the death of the executed murderers, after earlier officially certifying the cause of death of their victim.

While the district commissioner had no doubt that he was legally entitled to impose death sentences on natives, he had been most concerned to satisfy the formalities. He had therefore used a visit by the acting governor to Yap in December 1906—where he also acted as district commissioner for the Western Carolines at the time—to obtain in advance the approval for an immediate execution, if it proved necessary to impose a death sentence in this case. As he proudly reported, he had thereby taken care of the problem that the colonial office had so far not approved the governor's request to authorise the local administrations in the Island Territory to grant pardons and confirm death sentences.

When the governor reported to the colonial office on 14 May 1907 that he had given the immediate execution of the death sentence his retrospective blessing, he again pointed out that it was urgent to give the administration of native justice in the Island Territory a firm legislative basis. However, the colonial office preferred to say nothing about the legality of this particular death sentence and its execution and again postponed a decision about the general issue (RKA 5488: 167–68).

This persisting legal uncertainty also had advantages. Whereas administrative punishments were coming under increasing scrutiny in the Marshall Islands and the Old Protectorate, the

7 District commissioner Kersting found himself in the same position after the Ponape Rebellion. But instead of trying the "rebels" in the district court he created a special judicial body for the occasion over which he presided as district commissioner rather than as district judge. It is not surprising that this peculiar scenario encouraged narrative historians to produce a colourful array of phantoms.

8 The teacher, rather than the secretary, had been an obvious choice for this task because he happened to be "legally qualified", in contrast to the latter—or the district commissioner.

colonial office took no notice of the fact that such punishments were also routinely imposed in the Island Territory. For example, one of Rultan's murderers had not only several judicial punishments to his credit, he had also been administratively banished from Yap for two years. Were such administrative banishments legitimate in the Island Territory because the local authorities were not legally limited to the penalties provided in the Native Penal Ordinances in the Old Protectorate and the Marshall Islands? Did the same apply to corporal punishments, which were formally recognised as judicial punishments in Germany's African colonies, although they were outlawed as such in the Old Protectorate and the Marshall Islands?

It appears that the colonial department preferred to ignore this question—at least the corporal punishments listed in the penal statistics for the Western Carolines in 1902 and 1903 did not raise an official eyebrow. The situation had changed when the question of the legality of corporal punishments was again raised in a response by Hahl to a 1907 instruction of the district office in Jaluit. It had ordered the government station in Nauru to punish Chinese coolies employed in the phosphate mine with fines or compulsory labour, if they went on strike again “without any reason” (*ohne jeglichen Grund*). Hahl accepted that the situation on Nauru was serious but found it inappropriate that the issue of the exercise of disciplinary powers over coloured labourers in the Island Territory had been tackled in such a specialised and localised instruction. He therefore issued a “public notice” on 27 June 1907 which declared the Disciplinary Ordinance of the Old Protectorate to be generally applicable in the Island Territory. He also invited the district office in Jaluit to report whether special regulations for the Chinese coolies in Nauru were required, as a 1903 amendment to this ordinance had specifically ruled out corporal punishments of Chinese.

When Hahl reported these measures to the colonial office he was taken to task in a decree of 31 October 1907. It firstly pointed out that the instruction of the district office had been invalid because it had no disciplinary powers over coloured labourers; secondly, that Hahl had not been authorised to introduce the Disciplinary Ordinance into the Island Territory, quite apart from the fact that it had been wrong to call this legislative act a “public notice”; and, thirdly, that the Disciplinary Ordinance was itself invalid because the governor of German New Guinea had never been authorised to regulate the exercise of the jurisdiction in relation to natives in the Old Protectorate. However, in view of the fact that the Disciplinary Ordinance had been applied there for a considerable time without complaints, and because a general revision of the criminal law applying to natives in the German colonies was under consideration, the colonial office would not pursue these issues.

This decision to tolerate the legally invalid introduction of a legally invalid ordinance into the Island Territory for the time being was less reckless than it appeared because at the time the secret weapon of the colonial office was already under construction: an imperial ordinance which would retrospectively validate all local legislative enactments relating to the administration of native justice and native law in the German colonies, including the Disciplinary Ordinance of the Old Protectorate and Hahl's introduction of it in the Island Territory.

The ordinance in question was signed by the emperor on 3 June 1908. Its wording hardly advertises its legal scope. Rather than disclosing that it was giving legally doubtful local legislation a belated imperial blessing, it stated that local legislation would *remain* in force. But this is only one of many understatements. For example, who would have thought that the authority of the chancellor to regulate “the law of the natives and the exercise of the judicial jurisdiction over them, including cases involving non-natives” contained the power to enact laws regulating the relations between non-native employers and their native labourers and even to appoint special officials in place of the regular courts to deal with disputes arising out of them? Yet this is what the colonial office claimed in its explanatory decree. It did acknowledge that the situation was not straightforward because the ministry of justice had insisted that cases in which a native took legal action against a non-native had to be dealt with by the regular courts under the Protectorates Act

but it claimed to have found a way to avoid this result: the district judge could delegate his judicial powers to such a special official under a decree of 8 May 1908 concerning the exercise of the jurisdiction in relation to non-natives!

So far, so good—but while the ordinance authorised the chancellor to regulate the civil law applying to natives, it did not authorise him to regulate the civil law applying to non-natives, so that colonial regulations which departed from the metropolitan civil law governing employer/employee relations introduced by the Protectorates Act were in so far still legally invalid. Nor could they be saved by another imperial ordinance. Any departure from the introduced civil law for non-natives required an amendment of the Protectorates Act to open the way for an imperial ordinance which paralleled the imperial land or mining ordinances.⁹ But in 1908 the colonial office still did not appreciate the legal position as clearly as it did five years later after a critical examination of German New Guinea's 1903 Commerce Ordinance (see above: 296 f.). However, it had always subscribed to the motto "let sleeping dogs lie", and apparently no-one had so far challenged the validity of colonial labour regulations because they had encroached upon a field of law governed by the Protectorates Act.

Still, the colonial office at least drew attention to the fact that the colonial labour regulations were not purely administrative in nature but they also dealt with the civil law applying to natives, although it did not point out that the same applied to a number of other police regulations, for example the various credit ordinances. However, a look at the labour regulations is sufficient to illustrate what that implied.

A general instruction by the governor in implementation of the 1909 Labour Ordinance stipulated that the local authorities should mediate in disputes arising out of the contractual relations between labourers and employers "before formal legal proceedings are instituted" (*ehe die Einleitung des Rechtsweges herbeigeführt wird*). It also stressed that it was the purpose of the official control of employment relations to further the well-being of the labourer as well as to assist the employer in carrying out his "duties" and enforcing his "rights". On the other hand, a "public notice" of the district commissioner in Rabaul of 29 April 1910 denied coloured labourers "the right" to refuse an offer of their employer to transport them back to their place of recruitment after their contract had run its course, even when the labourer intended to enter immediately into an employment contract with another employer, because the former employer had "a right" to insist that the labourer first return home with his wages before committing himself again (AB, 1910: 77).¹⁰

But the effects of labour regulations could reach much further. For example, a "public notice" issued by Hahl on 25 June 1909 pronounced directly on the family law of the natives. It responded to an increase in the number of cases where married women were recruited with their agreement, but without the agreement of, and even after a protest by, their husbands. According to Hahl these recruitments were legally invalid because a woman required the approval of her husband in order to enter into an employment contract. The local authorities would therefore refuse to approve the employment contract in such cases and return the women to their husbands. He also stated that while the women and their relatives then had to return any payments made to them at the time of

9 Both imperial ordinances affected the civil law applying to natives, for example by wiping out—with some interesting exceptions—any mineral rights natives held under custom.

10 Section 21 of the Labour Ordinance did deny the labourer "the right" to refuse a timely offer to be returned free of charge, so that the "public notice" in so far did no more than restate the existing legal position. However, section 21 leaves little doubt that the duty it imposed on employers to transport their labourers home was imposed on them in the interests of labourers, rather than in recognition of the employers' right to insist on such a return before labourers entered a new contract. I would interpret the denial of a right of refusal as a reflection of the fear that permitting labourers to stay behind voluntarily would create an unemployed proletariat near plantation centres which was bound to create all kinds of trouble.

their recruitment, the husbands were not obliged to refund any recruitment costs (AB, 1909: 88).¹¹ What was the basis of Hahl's claim that native women legally needed the approval of their husbands before they could enter an employment contract? It was certainly not the 1909 Labour Ordinance. Did Hahl believe that it was part of the customary law in all parts of German New Guinea? Although he probably did, it is unlikely that he would have been prepared to accept that the recruitment of women without their husbands' consent was legally valid if they came from an area where such a customary requirement could be shown *not* to exist. His "public notice" makes sense only if it is seen as a legislative act. But as such it was defective, not only because it should have been identified as an amendment of the Labour Ordinance but also because Hahl needed the approval of the chancellor of the Reich under the 1908 ordinance for an amendment affecting the civil law of natives in German New Guinea. But then this "public notice" was not part of a general program to reform the family law of German New Guinea's native population. Rather, its aim was to send a specific signal to recruiters and employers that the recruitment and employment of married women was politically unwanted because it was in the public interest that they bore children and looked after their families at home. Ascribing to native husbands a legal right to demand their return, at considerable expense to the employer, was an administratively convenient way of giving teeth to this policy—just as it was politically helpful to warn relatives of such women that they would have to hand back their share of the recruitment money if a woman let herself be recruited without her husband's approval.

Hahl's approach to legislative regulation, at least in native matters, was generally that of an administrator rather than a lawyer. This is well illustrated by his response to a proposal by the district commissioner in Herbertshöhe in 1909 to repeal the implementation regulations to the 1888 Native Penal Ordinance, which he had just discovered, should they still be in force, as they were either impractical or merely stated the obvious. Hahl referred the matter to a subordinate who reported that neither a copy of these 20-year-old regulations nor any indication of their repeal could be found in the governor's files. But he recommended against repealing them now as this would only create "another trivial ordinance". Instead the current practice of ignoring these regulations should be continued.¹² Hahl's approval of these unorthodox views can only partly be explained by his belief that these regulations, as well as the Native Penal Ordinance, would soon be superseded by a general ordinance dealing with the criminal law applying to natives in all German colonies; for he implicitly approved the practice of ignoring any legislation which was regarded as inappropriate. Nor did he take steps to ensure that the files of the Neu Guinea Kompagnie's administrators which were apparently still in Kaiser Wilhelmsland would, after ten years of imperial government, be finally shipped to his office where they could and should have been used as a basis for a variety of governmental decisions.¹³

Had he done so, someone might also have discovered the 1887 ordinance concerning property disputes among natives which had been validated by the 1908 imperial ordinance and thus formally applied as well. On the other hand it is understandable in that case that the ordinance had been forgotten, as the "arbitration offices" for which it provided had apparently never been established, whereas the station courts had operated continuously and should have applied the implementation regulations to the Native Penal Ordinance.

11 Hahl made an exception for cases where it could be proven that the woman was justified in refusing to continue the marriage. This was probably an oblique reference to the reasons for divorce laid down in the 1904 Marriage Ordinance. But the ordinance applied only to Tolai whereas this public notice applied to the whole of German New Guinea.

12 The subordinate in question happened to be Ernst Berghausen.

13 Hahl's deputy Knake, for example, would have been in a much better position in his confrontation with lieutenant commander Seiferling if he had been able to consult the administrator's files relating to the navy's search powers (see above: 130 ff.).

How then had civil disputes among natives and civil actions brought against natives by non-natives been handled?¹⁴ In a report to the colonial office dated 1 January 1914 Hahl described the position as follows: neither the substantive civil law of the natives nor the procedures for the treatment of civil disputes among them had been legally regulated. In principle such disputes were decided by the government stations or district offices in the first instance. In cases brought against Chinese a right of appeal to the governor had been recognised or, rather, appeals had been admitted on a case by case basis. In more important cases, in particular disputes between foreign natives, the procedural rules for the district courts had been "correspondingly" applied. Minor matters—which apparently included all disputes between local natives—were decided "orally" in public hearings, and no written records were kept. But this was merely practice. No general administrative instructions had been issued, although opinions in "the files" explained what this practice involved.

An inspection of these files demonstrates that Hahl was feeding the colonial office conveniently oversimplified phantom history. This applies at least to the practice in the Herbertshöhe/Rabaul district—but it was probably the only part of German New Guinea where such disputes constituted a significant governmental task.¹⁵ Until the appointment of a "full-time" district judge for the Bismarck Archipelago in 1909, civil disputes involving Chinese had been regularly dealt with by the district court, which was chaired by the district commissioner. This practice was abandoned when the district commissioner subsequently put such a case before the governor for a decision as to whether he could refer it formally to the district court. This gave the governor no choice but to pronounce formally that the district court had no jurisdiction over Chinese. The district commissioner, in turn, had no choice but to accept this decision, although he protested bitterly when the acting governor decided a year later that administrative appeals to the governor against decisions of the district office in civil matters involving natives were not permissible either. He justified his application to postpone a final decision until Hahl's return by pointing out that Hahl had not only always acted as a "second instance" (*zweite Instanz*) in civil matters, but that Hahl had also examined decisions of the station court on an application by a convicted native—in the "exercise of his administrative control powers" (*im Dienstaufsichtswege*)—although these decisions were final under the Native Penal Ordinance.

Since Hahl was aware of all this, he obviously had no intention of giving an account of how civil justice in relation to natives in German New Guinea had actually been administered. Instead he wanted to provide a suitable background for the two aims he pursued with his report: firstly, to persuade the colonial office finally to agree to an introduction of the Native Penal Ordinance in the Island Territory and, secondly, to place Chinese legally under the jurisdiction of the district courts.¹⁶

Attached to the report was the draft of an ordinance concerning appeals by natives in criminal as well as civil matters which Hahl had been instructed to prepare by the colonial office.¹⁷ He had done so against his better judgement because he favoured a solution which placed Chinese under the district courts but denied other natives a formal right of appeal. He preferred an *ex officio* review of judicial decisions by the local administrations because he was concerned that non-

14 Civil actions brought by natives against non-natives came under the jurisdiction of the district courts.

15 It is also unlikely that Hahl was well informed about the practices followed by the other local administrations.

16 To do so did not mean that Chinese were generally recognised as non-natives, since the Protectorates Act also permitted the placement of natives, or certain categories of natives, under the jurisdiction of the regular colonial courts for particular purposes. Hence it would have been legally possible to place Chinese under the civil jurisdiction of these courts, yet leaving them under the criminal jurisdiction of the station courts.

17 It *inter alia* proposed the repeal of section 39 of the Native Penal Ordinance which made all decisions of the station courts legally final.

natives would manipulate natives in the exercise of a right of appeal with the intention of undermining the authority of the local administrations.¹⁸

This illustrates again how complex the situation had become and how much simpler it is to give an overview of the exercise of governmental powers when administrative discretion and changing local administrative practices are replaced by a firm and uniform legislative framework. On the other hand, the anecdotal evidence presented here confirms that even in the field of native administration forces were at work which favoured an expansion of the Rule of Law. However, these forces were concerned with making the exercise of governmental powers more controllable rather than with improving the protection of the rights of individuals.

This only becomes visible if we go beneath the legislative surface and inspect the legal underbelly of colonial government instead of engaging in a narrative interpretation of particular measures. Thus it is narratively tempting to conclude that Hahl introduced the Disciplinary Ordinance of the Old Protectorate into the Island Territory because he wanted to give local authorities the power to impose corporal punishments on coloured labourers. Yet we have seen that Hahl's reasons for this move were quite different, and that this introduction even ruled out the corporal punishment of the Chinese coolies whose strike actions on Nauru had started the ball rolling. Hahl had moved because he believed that if the exercise of the disciplinary powers of the government in relation to its native subjects in the Island Territory was to be regulated, it had to be done in a manner which defined what the local authorities were permitted to do and what procedures they had to follow. The introduction of the Disciplinary Ordinance, which was working satisfactorily in the Old Protectorate, was the simplest way of achieving it, although there might have to be a repeal of the 1903 amendment, excluding the corporal punishment of Chinese, if conditions on Nauru required such a punishment.¹⁹

However, the corporal punishment of Chinese, or other coloured labourers, was only a marginal issue. Legally the central point is that the introduction of the Disciplinary Ordinance did not give the local authorities in the Island Territory new powers but limited discretionary powers they already held. To be sure, the lawyers in the colonial office were shocked when they realised that these discretionary powers were used to sentence natives to death and questioned whether such an extreme use was legally permissible. But this does not mean that they believed that the local authorities were not entitled to exercise any penal powers unless they had been expressly authorised to do so. Although it is far from clear how these penal powers had been acquired, there is no doubt that some plausible legal explanation would have been found if their existence had been challenged.²⁰

The story behind the 1908 amendment of the Native Penal Ordinance contains a similar twist. At first glance it looks as if this amendment was concerned with broadening the penal powers of the station courts. However, by giving them the positive discretion to punish any kind of offensive behaviour judicially, the amendment denied the local authorities at the same time any supplementary *administrative* penal powers. Moreover it made clear that natives could be punished for criminal behaviour only in accordance with the procedures laid down in the ordinance and that only the punishments provided in it could be imposed on them.

18 Although the report did not spell this out, Hahl was especially concerned with the manipulation of local natives by missionaries trying to use the appeal process for their own purposes, as had happened earlier in the case of the Marriage Ordinance.

19 Hahl presumably considered that enough time had elapsed since Wolff's mass beatings to make such a move politically acceptable (see above: 132 ff.).

20 The most convenient explanation was the claim that such a power had been developed as a "*Gewohnheitsrecht*" through continuous and generally accepted administrative practice. This explanation was available in the German context because *Gewohnheitsrecht* did not have to exist "since time immemorial" in order to be legally valid. Indeed a few years could be sufficient to bring it into existence.

It is worth pointing out in this context that his administrative corporal punishments had got Brandeis into trouble in the Marshall Islands some years earlier precisely because they had breached the 1890 Native Penal Ordinance. They had not been regarded as illegal because the local authorities lacked a legal power to impose corporal punishments, unless they were expressly authorised to impose them, but because the Native Penal Ordinance had limited the pre-existing discretionary penal powers by excluding corporal punishments from the list of legally permissible *criminal* punishments.

It is also indicative that Rose, when defending Brandeis in the Reichstag, instead of referring to discretionary penal powers outside this ordinance, referred to the Disciplinary Ordinance of the Old Protectorate which expressly authorised officials to impose *disciplinary* corporal punishments on coloured labourers. Similarly, Erzberger did not deny or criticise that Brandeis had discretionary penal powers but rather attacked the decree of the colonial department which had confirmed and indeed limited them, because in his view this internal administrative instruction had tried to override a publicly proclaimed ordinance (see above: 64).

What matters in this context is not whether Erzberger or Rose, or any of the other historical actors, understood, or at least tried to understand, the legal position, but that discretionary governmental powers made everybody feel instinctively uneasy. Administrative discretion had no legitimate place in the operation of a modern government. It was a survival from a primitive, pre-modern past, which had to be exterminated as soon as possible.

Administrative discretion is indeed a mixed blessing, for those who govern as well as for those who are being governed, not so much because it diminishes the rights of the latter or increases the responsibilities of the former, but because it acknowledges that the exercise of some governmental powers is beyond any form of effective control. It was the wish to control governmental powers, in the sense of making their exercise predictable, that was the main driving force behind the movement towards the Rule of Law in German New Guinea. However, the idea of protection of private rights became intertwined with the idea of control of public powers because the control idea by itself does not form an adequate basis for a functioning legal system.

This becomes clearer if we consider the *nulla poena sine lege* principle as a means of controlling the power of governments to punish their subjects. The process of making this principle operational begins by turning it into a prohibition addressed to the government rather than its subjects. Under this principle governments act illegally if they punish subjects for actions which have not been declared to be illegal before they were performed. In other words the principle is a secondary, procedural prohibition. It builds on a multitude of substantive prohibitions addressed to subjects. This makes it in a curiously negative sense conditional. Instead of stating that the government is entitled to punish any behaviour it has declared to be illegal, it declares punishments which do not meet this requirement to be illegal. This negative form is intentional because the principle is perceived as limiting penal powers the government already possesses instead of conferring penal powers on it. While this turns the principle into a control device, it also confirms the secondary character of this control: it presupposes the existence of governmental penal powers but limits them indirectly by requiring governments to issue specific prohibitions—and as many as they like—before exercising them. However, these primary prohibitions are also negative: they too are a power-limiting device. In this scenario subjects can do whatever they like without having to fear that they will be punished by the government, unless an action they want to perform has been specifically prohibited.

The licensing approach (see above: 287 ff.) is an attempt to utilise such prohibitions in a positive manner by permitting exemptions which are treated as privileges the government can manage as it sees fit. The combination of a prohibition with an exemption approach is used to create room for the exercise of a positive administrative discretion. But a prohibition approach can also be used to give subjects special protection, and it was used for this purpose in German New

Guinea. The aim of protecting the native population was pursued by the government by addressing prohibitions to its non-native subjects, by making it an offence for them to supply natives with liquor, to buy land from them or to provide them with credit and so on.

It is important to note that this prohibition approach left the natives in a legal limbo. Although these prohibitions affected their rights—to receive liquor and so on—these rights were ignored, instead of being limited by corresponding prohibitions. It was not an offence for natives to sell land to non-natives, but nor could they take a non-native to court for his failure to perform a contractual duty to give them credit. The entire question of legal rights and duties was side-stepped by declaring private arrangements which breached these prohibitions to be legally invalid.

This demonstrates that a prohibitions approach and a rights approach are two fundamentally different legal technologies. It also shows that while the government took it for granted that its powers pre-dated the colonial law it enacted, the rights it recognised as being held by its subjects were seen as a creation of the legal system it established. The government placed the rights of individuals which the colonial law recognised under its protection but, at the same time, legally invalidated any rights which were not so recognised. There were no legal rights—or duties—outside the system of colonial law. As far as the colonial law was concerned, persons were legal persons only as holders of legally recognised rights and duties. People without such rights or duties did not exist as legal persons, although they were subject to the powers of government as belonging in a legal category of “subjects”. This category could be divided into various subcategories, with or without reference to legal rights or duties all persons with this particular legal status could legally enforce or could be legally forced to perform.

In the case of the crucial legal category of “native” a reference to particular category-specific legal rights or duties was not made. “Natives” neither acquired special legal rights, for example the right to be provided with adequate land for subsistence purposes, nor were special legal duties imposed on them, for example the legal duty to perform *corvée* labour. According to the manner in which the colonial law applying to “natives” was designed, natives could no more be judicially punished for refusing to perform *corvée* labour than they could be judicially punished for selling land to a non-native. Indeed, the essential legal characteristic of “natives” was that they were *not* placed under the jurisdiction of the regular colonial courts.²¹

On the other hand, the place of “natives” within the system of colonial government was seen as abnormal and the exercise of governmental powers in relation to them was increasingly regulated, at least by administrative instructions addressed to government officials. However, while the internal control of the exercise of governmental powers by the imposition of administrative duties on officials is efficient, it does not allow the legal system to function as a self-contained operation. In order to achieve this end vague sociopolitical powers have to be translated into clearly defined legal rights with corresponding legal duties. This calls for a complete transformation of the prohibitions approach. Whereas the latter sees the world as a place where governments, as well as their subjects, can do whatever they like as long as it is not prohibited, a rights approach sees it as a place where governments and their subjects cannot demand from others that they do anything, unless they have a legal right to make this demand.

This transformation of pre-legal powers into legal rights does not merely control their exercise, it first of all requires their creation as legal rights. Sociopolitical powers become part of a legal system only if and in so far as they are recognised by it as legal entitlements. This recognition is also necessary in the case of governmental powers. They too exist legally only if they have been conferred on officials by the legal system. Otherwise they remain alegal. Even if they have not

21 The 1907 Head Tax Ordinance stopped short of declaring the non-payment of this tax to be an offence. But then the 1905 Commercial Tax Ordinance, which applied primarily to non-natives, was similarly constructed, although it permitted the collection of an additional penal tax in cases of non-payment. The 1908 Customs Ordinance, on the other hand, included normal, judicially enforceable penal provisions.

been declared to be illegal their exercise is legally not quite proper. In order to be legally above board the power of the state to take away the property of its subjects, for example, has to be transformed into the right to expropriate them in legally defined circumstances and against a legally defined compensation, which the expropriated person has a legal right to demand.

The implications of a rights approach for the exercise of criminal penal powers are even more marked. While a rights approach does not deny the existence of penal powers it makes their exercise by particular officials problematic: unless he has been given a specific legal authority to exercise these powers an official who puts a person into prison or administers a corporal punishment runs the risk of being punished for an illegal deprivation of liberty or assault. Moreover, it becomes natural to see any governmental action which interferes with the rights of subjects as penal, so that for example the legislative imposition of taxes, rather than only a punishment for failing to pay them, is regarded as an exercise of the penal powers of government.

In short, the *nulla poena sine lege* principle is a manifestation of a much broader principle, according to which governments can only lawfully interfere with the rights of their subjects after they have been legally authorised to do so, so that the exercise of alegal forms of administrative discretion becomes illegal.

On the other hand, seen from a governmental perspective, the primary purpose of these legislative acts remains the allocation of legally defined governmental powers, rather than the creation of legal rights and duties. Yet although this allocation of powers is constitutive, a rights approach makes it natural to express it in normative language, as if the purpose of the exercise was merely a legal limitation of their exercise.

This is not as dishonest as it appears because law as a system is essentially an attempt to make sociopolitical powers controllable by translating them into legal relationships between legal persons. By itself this translation is no more than a play with words, but once it is put into operation it becomes increasingly real. As an operation law becomes a distinct world which evolves in accordance with its own systemic logic. It becomes more effective in its practical operation by becoming theoretically more coherent, that is to say more rational in its own terms. To be sure, the legal system does not operate independently but it has a strong inherent tendency to transform or reject elements which do not fit because they are legally dysfunctional, even though they may reflect powerful political forces. In the history of colonial law in German New Guinea the treatment of the issue of "race" offers an instructive illustration of this process, precisely because it was not directly addressed although it loomed large in the background and grew rather than diminished in political importance.

III

Although the 1886 Protectorates Act permitted the emperor to establish a dual system of justice in the German colonies, it did not do so by reference to racial criteria. Instead it introduced the Consular Jurisdiction Act for "German nationals and protected persons" and gave the emperor discretion to place other persons under this jurisdiction. By contrast, the imperial implementation ordinance for German New Guinea gave the term "native" a negative key role. It stipulated that all persons, except natives, were placed under the regular colonial jurisdiction whereas "natives" only came under it in so far as this had been especially ordered. The chancellor of the Reich was authorised to make this decision and to define the meaning of the term "native". It was his decree which gave the dual system of justice in German New Guinea a racial basis by defining the term "native" so as to include not only the colony's indigenous population—"natives" in contrast to "foreigners"—but also "the members of other coloured tribes".²²

22 The decree presented this definition as a reflection of the conditions currently existing in German New Guinea. These conditions were not identified, but there is little doubt that the decree had the uncivilised state of the local natives in mind

The Protectorates Act and its implementation legislation made similar arrangements concerning the personal status law. The emperor was given discretion to apply the Personal Status Act to persons who were not German nationals. He used this discretion to extend it to all persons who were not "natives" as defined by the chancellor. The difference was that the chancellor was in this context given no discretion to place natives under the act. On the other hand the 1888 revision of the Protectorates Act moved in the opposite direction by permitting the chancellor to grant German nationality to "natives", as well as to "foreigners" (*Ausländer*) living in the colonies.²³

The Neu Guinea Kompagnie acknowledged this new position in the Native Penal Ordinance. The "natives of the protectorate and the members of other coloured tribes who have been given equal status" were placed under the jurisdiction of the station courts, unless they had acquired "German nationality by their naturalisation and are therefore placed under the regular jurisdiction". The legal criterion of "nationality" overrode the racial criterion of "nativeness".

But the legal position was not as straightforward as this suggests. It was clear that all "non-natives"—a term which had not yet become part of the official vocabulary—were governed by the Personal Status Act so that they could only enter into a legally recognised marriage in German New Guinea in the form provided by this act, namely its registration by a registrar of births, deaths and marriages. What was unclear was whether natives were *excluded* from entering into a legally recognised marriage in this form, so that legally recognised mixed marriages were also ruled out. This, in turn, had a direct effect on the legal status of the children of sexual unions between natives and non-natives. Children from a legally recognised marriage acquired the legal status of their father under German law, whereas illegitimate children acquired the legal status of their mother. The legitimate children of a German father and a native woman therefore acquired German nationality by birth, as did the illegitimate children of a German mother and a native father. Conversely, the illegitimate children of a German father and a native woman, as well as the legitimate children of a German mother and a native husband, were legally "natives".

But the question also arose as to whether a mixed marriage which had been concluded outside German New Guinea in a form which was legally recognised at the place of marriage was legally recognised in German New Guinea, and whether "natives" who had acquired a foreign nationality in accordance with the laws of other countries counted legally as "non-natives" in German New Guinea. Was a Negro who held US citizenship nonetheless legally a "native" in German New Guinea? On the other hand, was the illegitimate child of a native woman resident in German New Guinea legally a "non-native", if she had given birth to the child during a visit to a country which applied the principle of *ius soli*, so that the child acquired its citizenship by the mere fact of its birth in that country?

Before exploring this labyrinth a little further, a look at the consequences of the 1900 revision of the Protectorates Act for the legal position of natives is called for. Although the outcome in 1886 and 1900 was basically the same, the change in approach is remarkable. The primary aim in 1886 had been the establishment of a civilised system of justice for German nationals residing in the German colonies which the emperor could extend to other persons. In 1900 the jurisdiction was perceived as being essentially territorial. It covered the entire population, except natives, unless specific exceptions from this rule were made for them.

The term "native" was not defined in the new arrangement, but it was plainly understood in a geographical sense: it encompassed the indigenous population of the German colonies, and no-one else. On the other hand, the emperor was given a negative discretion to exclude "non-natives" in

as well as the fact that "members of other coloured tribes" would only be imported into the colony as lowly labourers. According to a view expressed at the time, the special legal status of natives would automatically come to an end with their conversion to Christianity.

23 This was not as radical as might appear because it had "always" been legally possible to naturalise natives residing in Germany, who counted in the metropolitan context as normal foreigners.

this sense from the regular jurisdiction. The Protectorates Act defined this discretion in non-racial terms—"other sections of the population"—so that any distinguishing characteristic could have been chosen. But the imperial implementation ordinance returned to the previous practice by again singling out "the members of other coloured tribes" which were now identified as "foreign". However, this "section of the population" was no longer classified as a species of "native"; its members were not regarded as being in fact natives, they only had the same legal status as natives. The ordinance was even more cautious in formulating the basis for a preferential treatment of Japanese. It neither committed itself to saying that Japanese were not members of a foreign coloured tribe, nor that they had the legal status of non-natives. They were only said not to *count* as members of foreign coloured tribes, so that they did not have the legal status of natives.

The entire arrangement was ostensibly based on a distinction between the indigenous and the non-indigenous population of the German colonies; although the subsidiary reference to the existence of other coloured tribes²⁴ beyond their borders gave an indication that skin colour played an important role. But terms like "whites", "Europeans" or "Caucasians" were still not used in the text, and German nationals were *not* given a special legal status. They were legally an undistinguished part of the normal population, in contrast to the natives—for it was the latter who were treated as a special case.

The legal recognition that members of foreign coloured tribes were not natives but were merely given the same legal status and, more precisely, the same legal status in relation to the Protectorates Act, had considerable practical importance, since other colonial legislation referring to natives did not automatically apply to persons of equal status. This was clear in cases where the legislation itself distinguished between "natives" and "other coloured persons", as in the imperial land and mining ordinances. But there is also little doubt, for example, that when the imperial expropriation ordinance made special provisions for the expropriation of land in favour of "natives", it only meant indigenous natives and not also "other coloured persons".²⁵ Similarly, the 1907 Native Head Tax Ordinance for the Old Protectorate only covered "natives" and not also persons of equal status. Such persons were also not placed under the authority of government chiefs. Nor did they have to render the compulsory services the government could demand from "natives", according to Hahl's 1903 administrative instruction.

A legal differentiation between indigenous natives and other coloured persons—or local and foreign natives—already began with the special treatment the latter could be give in relation to the liquor and firearms prohibition. In later years even distinctions between different classes of indigenous natives—natives of the Old Protectorate and the Island Territory—were made in that context. By contrast the 1888 ordinance concerning the maintenance of discipline among coloured labourers initially did not distinguish between indigenous and other coloured labourers. But a series of amendments created quite bizarre legal distinctions. In December 1889 imperial commissioner Rose ruled out the corporal punishment of labourers who had been recruited in the Dutch East Indies.²⁶ Three months later he introduced a fine of up to 30 Marks as an alternative disciplinary punishment for these labourers. In February 1893 administrator Schmiele put labourers recruited in the Straits Settlements on the same footing, provided they were of "Malay or Indonesian origin". A year later he introduced disciplinary fines of up to 30 Marks for Chinese coolies, but without exempting them from corporal punishments.

24 By implication even the possibility of the existence of white "tribes" was ruled out. Conversely it was indirectly made clear that it was not his or her place of birth which made a person a native, rather only a person who was a member of a coloured indigenous tribe was a native.

25 For example, the ordinance could not be legally used as a basis for the creation of native reserves for Chinese on expropriated land.

26 He made an exception from this exception by permitting disciplinary corporal punishment of such persons while they were serving prison sentences for serious offences. This shows that Rose then already—as in 1906 (see above: 65)—saw corporal punishment as an instrument of prison discipline in a different light.

In other words, it looks as if after February 1894 indigenous coloured labourers could be beaten but not fined, Malay labourers could be fined but not beaten and Chinese labourers could be beaten as well as fined. But this still does not capture the absurd subtlety of the scheme; for while Chinese labourers recruited in the Straits Settlements could be beaten, Chinese recruited in the Dutch East Indies apparently could not.

Bennigsen's 1900 Disciplinary Ordinance, which permitted corporal punishments for all coloured labourers, quickly had to be amended by reintroducing the exception for coloured labourers from the Dutch East Indies. A 1903 amendment also outlawed the disciplinary corporal punishment of Chinese labourers. A draft labour ordinance (see AA 63/83, Item B 201/3) which would also have replaced this disciplinary ordinance in 1915, no longer made these exceptions because the entire ordinance applied only to indigenous native labourers for whom corporal punishments were still regarded as a natural part of life.

This draft ordinance shows how the legal position of natives in the colonial scheme of things was generally viewed just before the end of German colonial rule. Its full title, "Ordinance of the Governor of German New Guinea concerning the Emigration and Exportation of Natives, the Recruitment and Employment of Natives as Labourers and the Maintenance of Discipline among Native Labourers", gives an idea of the breadth of its scope.²⁷

Its first section states that only natives indigenous to the colony were natives for the purpose of the ordinance. This served the practical need of excluding "members of foreign coloured tribes", but was useless as a definition of "native" as a technical legal term. This was probably intentional because the draft suggests that its authors wanted to avoid such a definition and preferred to maintain some fluid uncertainty.

This is reflected in the changing terminology used for persons or bodies other than native labourers, with whom the draft ordinance was concerned. The central terms in this context were "employer" (*Arbeitgeber*) and "enterprise" (*Betrieb* or *Unternehmen*). In most cases they were used without reference to the legal status of the employer or enterprise. The draft ordinance applied, in principle, to all employers, regardless of whether they were natives or non-natives. But in some instances the legal status of a person or enterprise was regarded as important, and a variety of terms was used to identify this status.

The term "non-native" (*Nicht-Eingeborener*) was used only once. Usually reference was made instead to "European" (*Europäer*). "Europeans" were contrasted with "non-Europeans" and with persons who had the legal status of "Europeans". The term "white" was only used to contrast "white" with "coloured" medical assistants.²⁸ In addition, the draft ordinance singled out "European enterprises", in implied contrast to *non-European* enterprises, and restricted the privilege of taking native servants abroad to Europeans who were *resident* in the colony—in implied contrast to European visitors.

Leaving these peculiarities aside, we therefore find three pairs of contrasting terms with overlapping meanings: (1) natives and non-natives; (2) Europeans and non-Europeans and (3) persons with the legal status of Europeans and persons with the legal status of natives. Put more concretely, the draft ordinance distinguished a hierarchy of four "classes" of colonial subjects. Indigenous natives, that is to say Melanesians and Micronesians, were at the bottom. Next came the non-Europeans with the legal status of natives, that is to say Chinese and members of "other foreign coloured tribes". Then came the non-natives with the legal status of Europeans, that is to say Japanese. The top of the pyramid was occupied by "true" Europeans.

27 It was the keystone of a comprehensive legislative reform program which was to supplement an administrative reform program in support of an economic development program which was to have made German New Guinea financially self-sufficient after another five years of substantially increased Reich subsidies.

28 There is even a reference to "German", but only in relation to vessels sailing under the German flag, in contrast to those sailing under foreign flags.

This was merely the hierarchical differentiation which was of practical importance in the field of labour law. All told the position was considerably more complex, since Micronesians were in some respects given a legally privileged position as compared with Melanesians, and since Hahl favoured reforms which would have given Chinese at least in some respects the legal status of Europeans. In addition, we need to take the criterion of "nationality" into account: did a native who acquired German nationality by naturalisation become legally a European or only a person with the legal status of a European? Conversely, was a "white" American, Asian, African or Australian legally a "European"?

What were the practical consequences of these terminological distinctions in the field of labour law? Everybody, it appears, was entitled to employ "natives" as labourers under the draft ordinance and was then governed by its provisions. However, not every employer was entitled to recruit "natives" as labourers. An employer could only recruit if he held a recruiting licence, and while he could then recruit personally—apparently regardless of his own legal status—he could only employ "Europeans or persons who had the legal status of Europeans" as recruiting agents. That is to say, only Japanese, but not Chinese, could be employed as recruiting agents. On the other hand, the draft ordinance made an exception for the "organised" parts of German New Guinea. There also a "non-European"—that is to say anyone, including an indigenous native—could be authorised to recruit, provided the applicant accepted liability for illegal acts performed by this agent. On the other hand, only a true European could certify the correctness of entries in the "wages book" (*Lohnbuch*), which every labourer had to be given.

Whereas the draft ordinance applied in principle to all employers, it did not apply to all native labourers, although the definition of "recruitment" was extraordinarily wide, namely "any activity aimed at obtaining natives as labourers for the performance of services of any kind", apart from "police and military services", for which a separate ordinance was in the pipeline. In addition, all "casual labourers" and "piece-workers" who lived no more than 40 kilometres from their place of work and were only employed for shorter periods—respectively up to six and three months—were exempted. The employment of domestic servants could also be removed from certain parts of the ordinance on the application of the employer.

The most interesting exception related to natives who were employed in "elevated positions" (*in gehobener Stellung*). They could make an application that the entire ordinance did not apply to them, with the result that they were no longer subject to disciplinary punishments but also no longer given governmental protection. Instead they had to negotiate their own employment conditions and had to enforce any claims against their employers as private individuals the same as "Europeans".²⁹

The draft ordinance prohibited the recruitment of the majority of the native population. Prohibited was the recruitment of children, the elderly and unmarried women. Hahl now also included, and toughened, his administrative restrictions in relation to the recruitment of married women. The approval of their husbands was formally made a requirement under colonial law and married women could only be recruited together with their husbands for employment in the same enterprise and at the same place. The recruitment of all "enrolled" students, including those who were male and no longer children, was prohibited.³⁰ In addition the draft ordinance made it an offence to recruit any native who was already employed, provided the recruiter knew or should have known that this was the case.

Finally, it was prohibited to recruit the "native organs of the administration", namely the "chiefs" and their "*tultuls*" (messengers) as well as the "*Heiltultuls*" who had been trained as

29 It is not clear why this special treatment of natives in "elevated positions" was restricted to those employed in "European enterprises". Did the government not trust non-European employers, or did non-European enterprises not employ natives in "elevated positions" at the time? Or had the draftsman merely followed his instincts which told him that only "Europeans" were "natural" employers of natives?

30 This prohibition had to be read in connection with a draft native education ordinance which had also been prepared.

medical assistants and posted in native communities.³¹ This gives a good indication of the central importance of the labour market in German New Guinea. It is not surprising therefore that the draft ordinance also gave formal legislative recognition to the general structure of the administration which had in the meantime evolved through administrative practice. Apart from the district offices, there were now three classes of government stations. Stations of the first and second class operated largely independently, under the direct control of the governor, whereas government stations of the third class were placed under a district office. However, the district commissioners were authorised to delegate all their supervisory powers in labour matters to these stations. On the other hand, the governor could bypass the district offices by appointing special "labour commissioners" in their districts who were under his direct control.

The supervisory powers in labour matters were extensive. Although the employment was still a contractual one, into which a native entered voluntarily, all its aspects were covered by detailed legislative provisions. Every employment contract had to be approved by the authorities. It was declared to be legally void if it had been entered into by a native who was employed by a "non-native",³² and the valid employment contract of a married native woman came automatically to an end with her divorce.³³

The ordinance did not permit the labourer or his employer to terminate a fixed term contract prematurely by giving notice. But whereas an employer could dismiss a labourer for several, identified reasons, which were similar to those for a divorce, a labourer was not given corresponding rights. Instead it was up to the administrative authorities to order the discharge of a labourer, and it could do so not only if a labourer had been maltreated, or become medically incapable of carrying out his contractual duties, but also if he was required at home as the only provider for his family or relatives.³⁴

How far the employment of a native labourer had been removed from a normal contractual relationship is shown by the fact that the draft ordinance made it formally a criminal offence for a native labourer to escape from his contractual obligations by repeatedly running away. The offence carried a penalty of up to one year imprisonment. But a labourer could only be punished at the request of his employer and a criminal punishment was excluded if the labourer had already received a disciplinary punishment.³⁵ A native labourer could also be sent to prison for a year if he entered into a second employment contract and concealed the fact that he was already employed at that time.

Employers, prospective employers and a wide range of other persons could also be punished under the ordinance. Its penal provisions referred to over 50 sections, a breach of which constituted an offence. According to seriousness, the punishment was either imprisonment of up

31 These recruitment prohibitions apparently did not apply to the hiring of casual labourers and piece-workers. But while it may have been intended to permit the local hiring of casual, female domestic servants, it seems strange, for example, that planters should also have been free to hire a "*Heiltultul*" from a neighbouring village as a casual medical assistant to look after his labourers, thereby depriving the village of his services.

32 This may well have been another drafting flaw, since it could hardly have been intended to treat an employment contract as legally valid if the native labourer was already employed by a Chinese. On the other hand, the draftsman may have used the term "non-native" in a sense which not only included European employers and those who had the legal status of a European but also employers who had the legal status of natives, but were not natives in the meaning of this ordinance. However, even if this was the intended meaning, the provision was discriminatory because an existing employment contract with another indigenous native did not invalidate a second contract.

33 The legal justification was probably that the woman was now unmarried so that her recruitment would have been prohibited. It was also politically desirable that divorced women returned to their villages, remarried and bore children.

34 In this case a certificate by the local authority in his home area was required.

35 This treatment—aimed at preventing double punishment of the same act—would appear to be in breach of the disciplinary punishment provisions of the ordinance, since according to them a disciplinary punishment was not permissible for actions which constituted a criminal offence. But then the wording used there ("*gegen ein Strafgesetz verstößt*") may have been used in a sense which excluded breaches of "police and other administrative regulations".

to two weeks or a fine of up to 150 Marks or both, or a fine of up to 2,000 Marks and imprisonment of up to three months or both. These comparatively mild punishments³⁶ applied only to Europeans and persons with the legal status of Europeans. Natives and persons of equal status were to be punished in accordance with the penal provisions applying to them, that is to say under the Native Penal Ordinance, which far exceeded the one year imprisonment provided for in the labour ordinance for native labourers.

In order to get the full picture we also need to consider the most radical part of this ordinance: the provision relating to the "emigration" and "exportation" of natives. Section 5 categorically prohibited the emigration of natives from German New Guinea. Section 6 made the movement of a native from one district of German New Guinea to another—which was classified as an internal form of emigration—subject to the approval of both the local administrations in the district the native wanted to leave and that to which he wanted to move. Section 7 prohibited the exportation of natives from German New Guinea with two very specific exceptions.³⁷

The first point to be made is that a native who "emigrated" in breach of sections 5 or 6 did not commit an offence, whereas a non-native or native who induced a native to emigrate did commit an offence. Similarly, while a native labourer could only receive a criminal punishment if he deserted repeatedly, anyone—non-native or native—who gave shelter to a native deserter, even after a first desertion, committed an offence, if he knew or should have known that this person was a deserter. Similarly, while a native labourer could only receive a criminal punishment if he had actually entered into a second employment contract and had concealed the fact that he was already employed, the mere attempt to induce a native labourer to breach his employment contract constituted an offence.

In short, the ordinance was even tougher in relation to the rest of German New Guinea's population than it was in relation to native labourers. To be sure, "foreigners" were free to leave German New Guinea if they did not like this strict regime, whereas indigenous natives were not. On the other hand, foreigners, including German nationals, could be deported from German New Guinea whereas indigenous natives could not. In this sense German New Guinea's indigenous natives were legally recognised as the colony's only true inhabitants who had a birthright to be there which even the emperor could not extinguish.³⁸

German New Guinea was legally a weird place. But it was actually weird and not in a narrative phantom fashion. This does not mean that there were no legal phantoms. The colonial law of German New Guinea was full of them: Europeans who were not Europeans, natives who were not natives and so on. But these phantoms are historically real. They are part of the history of German colonial rule, and not the result of a subsequent narrative oversimplification. On the contrary, they can only be shown for what they really were, namely phantoms, if they are closely examined.

For example, the chancellor of the Reich did not try to define in 1886 who was a "native" in German New Guinea but who *legally counted* as such for the purposes of the Protectorates Act. The aim was to give a legally desirable, normative definition rather than a factually accurate description. Seen in this light it made sense to stipulate that this category consisted primarily of the members of the tribes indigenous to the colony and to assume that its indigenous population was actually organised into what could be loosely called "tribes". It also made sense to stick to the purportedly descriptive concept of "tribe" when extending the definition of "native"—for the time being!—to include coloured labourers who were imported to the colony from abroad and to classify them as the "members of other coloured tribes", because they were non-white persons who

36 The governor had no legislative authority to stipulate prison sentences of more than three months for persons who had been placed under the Protectorates Act.

37 The privilege of German firms in Samoa to export Melanesian labourers was no longer recognised.

38 It was legally possible for natives to relinquish this privileged status by acquiring German, or some other nationality because they thereby became legally non-natives and subject to deportation.

were not recruited as citizens of states recognised as such by the international community—for if they were, they did not count legally as “natives”, but were foreign nationals who were, in principle, legally treated like German nationals. In other words, what indigenous and foreign natives had in common was that they were non-white, stateless persons.

But it was more convenient to choose what sounded like a simple positive definition instead of spelling this out. Yet, if its wording was taken seriously this definition created considerable problems. Firstly, the concept of a “coloured tribe” is absurd because colour is not an attribute tribes as sociopolitical bodies can have. But the definition did not want to say “coloured members of foreign tribes”. Instead it reflected the idea that humankind was somehow geographically divided into a white world which was organised in the form of states and a coloured world which was not organised in the form of states but, for want of a better word, in the form of “tribes”.³⁹

The definition could afford to be vague as to the meaning of “foreign coloured tribes”, but could it also ignore the question as to who counted as a member of an *indigenous* tribe? If this question was taken seriously it could only be the “traditional” law of these tribes which provided the answer. The colonial law could, of course, accept that members of indigenous tribes who had become citizens of “white” states did not count legally as natives, even if they were, under traditional law, still regarded as members of an indigenous tribe; and it did so expressly in the case of all natives who had acquired German nationality by their naturalisation. It could also ignore the legal effects of a non-native becoming a member of an indigenous tribe under traditional law. A German trader who was accepted as a member of such a tribe did not thereby become legally a native. But what, for example, about a coloured trader from the southern Solomons or a coloured mission teacher from Polynesia? Did they become “indigenous” natives by being adopted into a local tribe?

Conversely, what about indigenous natives who were expelled from their tribes, and therefore did not fall under the legal definition of a “native”, unless the entire definition, apart from the reference to colour, is treated as meaningless? What about the children of a German trader and a native woman belonging to a patrilineal society with whom he had entered into a customary marriage which was not recognised by colonial law? Did they too fall legally between two stools, because under traditional law they were not members of the tribe of their native mother but of their non-native father, whereas they were not recognised as German nationals under colonial law?

The simple fact is that the dual system of justice the Protectorates Act introduced could legally only work smoothly as long as “non-natives” and “natives” lived side by side as two clearly distinct groups which did not interact with each other, which, in practice, was neither possible nor desirable.

Mixed marriages and “mixed persons” (*Mischlinge*) were not the only sources of legal problems, the entire field of mixed jurisdiction was a legal minefield that was never cleared and which could not be cleared because a race-based duality made no legal sense since it was fundamentally irrational.

Yet there were powerful political forces at work which prevented colonial law from eliminating this jurisprudentially dysfunctional distinction altogether. As a result the colonial authorities muddled along. An imperial draft ordinance concerning “mixed marriages and mixed race persons”, and a second ordinance concerning “the legal status of natives”, which were supposed to solve these problems, were never enacted, although they had been under discussion for several years. Nor did the colonial office approve the draft of an ordinance concerning mixed-race persons which had been prepared by governor Hahl for German New Guinea. Its scope was modest, because it only dealt with the illegitimate mixed-race children of native mothers, since a regulation

39 The term “native states” was later occasionally used in official documents as an alternative. However, legally the term “state” was also a normative concept. It was shaped by the peculiarities of international public law, according to which political entities were only “states” if they were recognised by the international community which happened to be largely identical with the “white” world.

of the legal position of the illegitimate mixed-race children of non-native mothers was beyond his legislative powers⁴⁰ and the colonial office did not want Hahl to draft colony-specific regulations for the treatment of mixed marriages.

It had been Hahl's main concern to establish a legal obligation for non-native fathers of illegitimate mixed-race children to pay for their maintenance because he wanted to ensure that these children would receive an education that gave them an "elevated position", even though they retained the legal status of natives. The draft ordinance therefore provided for the appointment of non-native guardians; made it obligatory to send such children to school when they reached six years of age; and obliged their fathers to pay maintenance for which a security not exceeding 1,500 Marks could be demanded at birth.⁴¹ The governor was given discretion to grant such a child the legal status of a non-native and a non-native family name, although that of the child's father could only be used with his approval.

A simple and sensible piece of legislation, one would think, but its reception in the colonial office was decidedly hostile. Not only were several specific legal flaws eagerly discovered, but some officials openly disagreed with Hahl's aim of giving mixed-race people an "elevated position". According to them it was far better to keep them at the level of their native mothers and to calculate the maintenance accordingly.⁴²

As regards mixed marriages, Hahl was less committed. When the government station in Saipan raised in 1908 the question as to whether the registrar could marry a native with a non-native, Hahl took the legally simplistic view that the 1870 Personal Status Act applied to natives only if this had been stipulated by an imperial ordinance. Since such an ordinance had not been enacted the registrar was not authorised to marry natives with whites, or Japanese who had been given the same legal status. Hahl was obviously relieved that the legal aspect of the matter was apparently so simple, because it saved him from having to say anything about the political controversies surrounding mixed marriages which had caused the colonial office to oppose them in principle (RKA 5430). Yet the fact that the colonial office rejected such marriages only for political reasons should have warned Hahl that the legal position was not as straightforward as he believed. But when he sent it a copy of his decree, the colonial office did not bother to inform him of a 1906 expert opinion by the ministry of justice, according to which an application of the 1870 Personal Status Act to mixed marriages was not only permissible but mandatory. It provided the only form in which a non-native could get legally married in German colonies, and marriages between natives and non-natives, which could, without doubt, be validly concluded in metropolitan Germany, had not been expressly declared to be illegal in the colonies (RKA 5417).⁴³

40 According to Hahl there were several children who fell into this category. At least if their mothers were German nationals, they were German nationals and therefore had the legal status of non-natives. The number of mixed-race persons in German New Guinea was not large. On 1 January 1914 it amounted officially to 102, of whom 83 were under 15 years of age, but the number had increased by about ten per cent since January 1913 (AB, 1914: 159). It is worth noting that this figure included only persons one of whose parents was "European". Mixed-race persons, both of whose parents were "coloured", were not counted. In their case the question as to whether they were legally "non-natives" generally did not arise, although the classification of the child of a naturalised indigenous native with a non-naturalised indigenous native raised interesting questions. Was such a racially pure child nonetheless legally a mixed-race person on account of the nationality of one of its parents? But then the term "*Mischling*" was also not a technical legal term.

41 This was sufficient to pay for the education of the child in one of the boarding schools run by the missions.

42 This led the most sympathetic official, Hahl's former deputy, Krauss, to comment that the entire ordinance was then superfluous, since the child would in any case be given the same kind of native food and native care as other children by its mother and her relatives.

43 Such metropolitan mixed marriages were also legally recognised in German New Guinea. In other words the Protectorates Act meant what it said about the personal status law of natives, but this was not what it appeared to be. It meant no more than that the Personal Status Act did not apply to natives. It did not introduce a civil marriage before the registrar as the only legal form of marriage for natives. It probably also meant that one native could not marry another native in that form because the act did not apply to either party. But it did not mean that a non-native could not marry a native in this form. Nor did it say that a marriage entered into by natives in another form was legally invalid. It was silent

Rose, who had handled the matter in the colonial department in 1906, expressed the view that he had never doubted that colonial registrars could legally marry natives with non-natives, and that a change of the law was required in order to prevent this. But he postponed any action in "this difficult matter". When it was presented to the head of the new colonial office, Dernburg, a year later he was less hesitant. He decided to issue forthwith an administrative instruction that no further mixed marriages were to be registered in German colonies. After further discussions he changed his mind. Instead of rushing off a circular decree to all governors—the legal validity of which his advisers described as "doubtful"—the matter was put on hold until it could be dealt with as part of the planned general revision of the Protectorates Act, which never took place (RKA 5417).⁴⁴

One of the most interesting earlier cases in this category also involved Rose who gave a reassuring expert opinion in his capacity as German consul in Samoa. The case had arisen in the Marshall Islands in 1897 and involved the children of a German trader and a Marshallese woman to whom he had been married by a missionary before the Marshall Islands had come under German rule. This marriage had been recognised as legally valid so that the children had acquired German nationality. What concerned acting administrator Senfft was not the legal status of these children but that of their children, and of the children of all mixed-race persons with the legal status of non-natives. These people usually married Marshallese and followed the way of life of other Marshallese, but their legal status as non-natives could still be inherited by their children who were quite indistinguishable from other Marshallese. Indeed, according to Senfft only one of the first-generation mixed-race persons had the energy and ambition to lift himself to a higher level than other members of "his race".

In Rose's view Senfft was unnecessarily worried because mixed-race persons who married Marshallese would do so in accordance with custom rather than bothering to have their marriages officially registered. Hence these marriages were not legally recognised, so that mixed-race fathers did not pass on their nationality to children from such marriages. On the other hand, such customary marriages could not be said to be without any legal effects. Thus children from those marriages could not be regarded as being altogether illegitimate. In particular they were not illegitimate children in the meaning of section 3 of the 1870 German Citizenship Act, so that mixed-race mothers also did not pass on their German nationality to children born in such a customary marriage.

Rose adopted a similarly flexible approach in relation to a subsidiary concern expressed by Senfft. In Senfft's view mixed-race persons in the Marshall Islands who had the legal status of non-natives were severely disadvantaged because they were legally not permitted to acquire land rights from Marshallese, even by gift or inheritance from their Marshallese relatives. Could this problem not be solved, Rose suggested, by adopting the view that a person who was a "non-native" under the Protectorates Act could nonetheless be a "native" as far as the land acquisition prohibition in the Marshall Islands was concerned? Rose could even point to a Samoan precedent;

on both these questions.

44 To say that the legal effects of an administrative instruction prohibiting the registration of mixed marriages were "doubtful" was a polite understatement. If one accepted the view of the ministry of justice, such an instruction was itself illegal and therefore invalid. Solf issued a similar instruction a few years later, although only in relation to his former bailiwick, Samoa—yet it had been the conditions in Samoa that had enabled his advisers to persuade Dernburg in 1908 not to attempt to prohibit mixed marriages by administrative fiat. In a decree of 17 January 1912 (RKA 5417) Solf laid down general guidelines for the administrative treatment of mixed marriages and mixed-race persons in Samoa. They instructed the local authorities (1) to register no further mixed marriages; (2) to treat the children of existing mixed marriages as "whites", if the marriage had been regarded as legitimate; (3) to treat the illegitimate children of whites as whites provided they had been entered into the official "list of mixed-race persons" (*Mischlingsliste*); and (4) to treat all mixed-race persons born after these guidelines had been made public as natives. In addition the authorities were instructed to revise the *Mischlingsliste* from time to time, to remove the names of "unworthy" persons but to grant natives who spoke fluent German and had received a European education on their application the legal status of whites.

the Supreme Court there had classified the same woman as an "American subject" under article III of the General Act of the Samoa Conference which defined its jurisdiction, but as a "native" under its article IV, section 1, which prohibited the alienation of land by native Samoans to citizens of foreign countries (see RKA 5430).

A different question arose in 1912 when five mixed-race persons in the Eastern Carolines applied to be taxed at the non-native rate of 40 Marks per annum, although it had been explained to them that they would not acquire the legal status of non-natives by doing so. Their application was approved by Hahl as a special tax rate for natives, because they were all employed in "elevated positions by a European enterprise", although his deputy, Osswald, had expressed doubts as to whether this was legally permissible because the native tax ordinance permitted special tax rates only for entire categories of natives and it was unlikely that the payment of a head tax of 40 Marks could be imposed on all mixed-race persons in the Island Territory who had the legal status of natives (see AA, G2, Item H34).

Legal difficulties also arose in the treatment of mixed-race persons who had the legal status of German nationals. In 1912 the commander of SMS *Cormoran* informed Hahl confidentially that he had received several applications by such persons to be permitted to perform their national service on board his ship. He had rejected them because he regarded the presence of coloured servicemen on his ship as undesirable, in particular in view of the racial attitudes prevailing in Australia. As a result mixed-race persons wearing the uniform of the imperial navy would be treated as "inferior" by the public when the *Cormoran* visited Australian harbours, thus creating a quite intolerable situation.⁴⁵

Hahl tried to find a workable compromise. He instructed the government station in Jaluit to tell mixed-race German nationals that they would probably not be required to perform their national service at all because it was likely that they would all be allocated to "the reserve" by the authorities in Germany.⁴⁶

How did the planned imperial ordinances (see RKA 5418) expect to solve these problems? The "mixed marriages and mixed-race persons" ordinance used the term "native" in the geographical sense it had been given in the revised Protectorates Act and settled essentially for a modified licensing approach. Instead of generally prohibiting mixed marriages, it placed them under the Personal Status Act, but required in each case a discretionary permission of the governor, who had to hear his advisory council before granting it. By entering a mixed marriage the native spouse became subject to the civil, criminal and procedural law introduced by the Protectorates Act, and thus acquired in so far the legal status of a non-native.⁴⁷

The ordinance also applied to "members of foreign coloured tribes" who had been given the legal status of natives by the imperial ordinance implementing the Protectorates Act and to descendants of mixed marriages. However, it did not affect international treaties which gave foreign natives the legal status of non-natives, so that a marriage entered into by such a person with another non-native did not count as a mixed marriage under the ordinance.

While entering into a mixed marriage without the governor's permission was not a criminal offence for the persons entering into it, the official who registered such a marriage was subject to a fine of up to 600 Marks.⁴⁸ It was this threat of a criminal punishment hanging over the registrar

45 The commander had gone out of his way to accommodate such applications by white German nationals. He had used the excuse of lack of space to reject those of the "Mischlinge". It is likely that the racial attitudes prevailing in Australia served as a welcome excuse for the commander for not having to disclose his own views or that of his crew.

46 As was to be expected this instruction was criticised by the War Office in Berlin as contradicting the National Service Act, according to which each such case had to be decided on its merits (see RKA 3108).

47 This was an indirect way of saying that a native spouse did not become a German citizen even if the non-native husband was a German national.

48 A person conducting the religious celebration of a mixed marriage which had not been registered by the civil authorities was subject to imprisonment of up to three months.

that gave teeth to the ordinance, because a mixed marriage which was registered without the governor's permission was nonetheless legally valid.⁴⁹

The legally more ambitious second ordinance tried to avoid the difficulties of giving a legal definition of "native" by inventing a colonial counterpart of the legal concept of "nationality" (*Staatsangehörigkeit*), namely a "*Schutzgebietsangehörigkeit*"—a kind of "coloniality".

The "*Schutzgebietsangehörigkeit*" was treated as a privilege which could be gained as well as lost. It could be acquired by birth, marriage or admission. It was acquired by birth by the legitimate children of male "German (!) natives"⁵⁰ and by the illegitimate children of female "German natives".⁵¹ It was acquired by a "native (!) marriage" of a "stateless" (!) woman to a "German native". It could be acquired by admission by a "foreign (!) native" who had become a resident in a German colony if the governor gave his discretionary approval to an application to this effect.⁵² But the admission became legally effective only after the applicant had been issued with an admission certificate.⁵³

The "*Schutzgebietsangehörigkeit*" was lost by the acquisition of the German or a foreign nationality by a female "German native" who entered into a legally valid marriage with a German or a foreign national, or into a "native marriage" with a "member" (*Angehöriger*) of another German or foreign colony, or by dismissal. The ordinance did not define the circumstances under which a *Schutzgebietsangehöriger* could be dismissed, but left it to the chancellor of the Reich to regulate this question and to enact more specific regulations concerning the issue of dismissal and admission certificates.⁵⁴ It is clear, however, that these regulations would have given governors wide discretion and that, in particular, a legal challenge to a dismissal would have been excluded.⁵⁵ In the end it would therefore have been up to the governor to determine who was and who was not a "*Schutzgebietsangehöriger*". On the other hand, a native had a hard time to reject this privilege as any native who had his permanent residence in a German colony counted as a "German native" unless he was able to prove the contrary.

Although the draft ordinance avoided any reference to skin colour,⁵⁶ it did not abandon the distinction between white and coloured persons in substance since only "natives" could become "*Schutzgebietsangehörige*".⁵⁷ But it did implicitly acknowledge that it was impossible to give a legally workable definition of "native" and that the best way of handling the issue was to create

49 An unregistered mixed marriage was legally invalid, and children from such a marriage were legally illegitimate, even if the marriage had been permitted by the governor.

50 The term "German native" is not defined. The context suggests that it meant a native who was a "member" of the German colony in which the child was born—but the drafting is far from clear. It certainly did not mean a native who had acquired German nationality.

51 Although this is not expressly stated, it is clear that the draft ordinance recognised "native marriages" as legally valid in the sense that children from such a marriage were regarded as "legitimate".

52 A "foreign native" who was employed by the government counted automatically as a "*Schutzgebietsangehöriger*", if his employment contract had been signed or approved by the governor.

53 The admission included, unless otherwise stated, the wife and the children of the applicant—but the former only in so far as she was "stateless" and the latter only in so far as the applicant still exercised parental powers over them.

54 It also did not state what the consequences of such a "dismissal" were. Was a native who had lost his or her *Schutzgebietsangehörigkeit* to be deported or did his or her deportation become at least legally permissible?

55 The ordinance did stipulate that the non-issue of a certificate of "*Schutzgebietsangehörigkeit*" by a governor could not be legally challenged.

56 The only possible but hardly intended exception was the case of a stateless non-native woman who on the face of the ordinance automatically acquired the *Schutzgebietsangehörigkeit* by a "native marriage" with a "German native".

57 In contrast to the other imperial ordinances, this one—after a revision of its text—was consistent in this regard. But the removal of the term "coloured" was a mechanical exercise which led to the absurd result that in the unlikely case that a white foundling was discovered in a German colony it counted legally as the child of a German native until the opposite was proven. But even this result was consistent, because it was not physical appearance but the purity of the blood which made a person white or coloured, so that even one drop of coloured blood made a person non-white.

a non-racial legal facade and to give the governors administrative discretion to deal with the question case by case⁵⁸ and "*unter Ausschluss des Rechtsweges*", that is to say without giving the individuals affected a right to challenge a gubernatorial decision concerning their *Schutzgebietsangehörigkeit* in a court of law.

As long as a dual system of justice for natives and non-natives was continued for political reasons, it was legally impossible to implement the Rule of Law in relation to the native population of the German colonies, although the bureaucratic aspect of this rule could and would have been increasingly introduced by way of administrative instructions which permitted the administrative hierarchy to control the actions of officials at a lower level.

This, however, is only one side of the coin. The other side is that this dual system of justice provided the colonial authorities with an excuse for also dealing administratively with non-natives, at least in their relations with "natives", and for treating them as non-citizens, who were not even *Schutzgebietsangehörige*. An abandonment of the dual system would have undermined the entire licensing approach of discretionary privilege management. It was indeed better to let sleeping dogs lie as long as possible, in the hope that by the time they woke up people had come to realise that the idea of citizenship, for non-natives as well as natives, was but a romantic dream, that government had to be understood as resource management in the interest of territorial economic development, and that it was therefore essentially guided by financial considerations. In this scheme of things law in the conventional, jurisprudential sense was merely a concession to human weakness. Hence the crucial importance of the financial controls of governmental actions in the colonial context—and it is to these controls that we must now turn our attention.

58 The draft ordinance was only concerned with the acquisition and the loss of the "*Schutzgebietsangehörigkeit*". Unlike Hahl's draft ordinance, it did not give the governor discretion to grant "*Schutzgebietsangehörige*" the legal status of a non-native.

Chapter 4: Holding the Purse-strings

I

The 1892 Colonial Budgets Act did not apply to those German colonies whose governmental expenditure was underwritten by commercial firms. Hence the 1888 agreement between the German government and the Jaluit Gesellschaft removed the Marshall Islands from the financial controls of the metropolitan legislature under the act, as did the imperial charters issued to the Neu Guinea Kompagnie, as well as its 1889 agreement with the German government. The act therefore never applied to the Marshall Islands as a separate colony. It applied to the Old Protectorate only as from the 1899 budget year, whereas it applied to the Island Territory from the beginning of German colonial rule during the same budget year.

This did not mean that income and expenditure relating to the Marshall Islands and the Old Protectorate before 1899 were never included in budgets which were under parliamentary control. Indeed the most dramatic exercise of these controls occurred when the Reichstag rejected a budget proposal implementing the 1896 agreement between the German government and the Neu Guinea Kompagnie which would have brought the company's financial responsibility for governmental expenditure to an end. The personnel costs of the imperial officials in the Marshall Islands under the 1888 agreement with the Jaluit Gesellschaft, and in the Old Protectorate under the 1889 agreement with the Neu Guinea Kompagnie, as well as those for the imperial judge posted in the Bismarck Archipelago after 1892, were all shown in the budget of the foreign office, as was a refund of this expenditure by the companies. But the budgets of these colonies during these periods were a matter between the German government and these companies in which the Reichstag had no say.

The position was similar to that in the Marshall Islands before the 1888 agreement when the salaries of the imperial officials there were treated as part of the costs of the consular and diplomatic service of the Reich. The same had been the case with the costs of posting imperial commissioner Oertzen to the Bismarck Archipelago in 1884, who, like vice-consul Knappe in the Marshall Islands, was also administratively part of the consulate-general in Samoa.

The much larger expenditure of the Reich on shipping subsidies in the Pacific, and on stationing naval vessels there, also ran through the budgets of the Reich—here through those of the postmaster general and the naval office—and budget proposals relating to shipping subsidies and other public support schemes were key events in Germany's colonial history in the Pacific, beginning with the Samoa Proposal in 1880 prompted by the financial difficulties of the Godeffroy firm.

Even in the case of the Old Protectorate, however, the Colonial Budgets Act did not introduce financial control mechanisms where none had previously existed. On the contrary, they not only existed, but were structurally very similar.¹ Nonetheless the situation changed fundamentally in political terms when the chancellor of the Reich became accountable to the legislature for the financial aspect of the government of German New Guinea—and it is this new situation that this chapter examines.²

1 The company's administrators were supposed to govern in accordance with budgets set by the board of directors which was financially accountable to the company's shareholders to whom it had to present audited accounts in order to obtain a formal release.

2 Only small fragments of the financial records of the Neu Guinea Kompagnie have survived and they are too stylised to disclose concrete information of general historical significance.

II

The Colonial Budgets Act was modelled on the financial control provisions in the constitution of the Reich. What made it unusual was that it did not limit the control of the metropolitan legislature to the expenditure of funds provided by the Reich to the colonies. It also controlled the expenditure of locally derived revenue, even if colonial budgets required no subsidisation by the Reich. Yet the metropolitan legislature had no matching legislative powers. It could neither impose taxes, fees or duties in the colonies, nor could it disallow their imposition by the colonial executive. Nor did the Reich become financially liable for obligations arising out of the government of a colony whose finances the legislature controlled. Instead the act stipulated that each of them formed a distinct financial entity.³

The parliamentary control of the colonial finances consisted of three phases. The first was an annual budget. It took the form of an act of parliament and had to include all income and expenditure of the colonies. The second phase was the presentation of summary accounts to parliament. They had to be presented within two years of the end of the budget year in question and identify any extra-budgetary expenditure, since it required retrospective parliamentary approval. Finally, the chancellor of the Reich had to obtain a formal release from parliament for the manner in which the income of the colonies had been used. To this end he had to present expenditure accounts on an annual basis, although no time-limit for their presentation was set.

The Colonial Budgets Act did not expressly require an auditing of the colonial accounts, but took it for granted that it would take place in line with the provisions in the constitution. After the second control phase had been completed with the retrospective approval of any extra-budgetary expenditure, another act of parliament referred the colonial accounts, together with those of the Reich and the Reich-territory Alsace-Lorraine, to the Prussian audit office. It dealt with them in its capacity as the audit office of the Reich but in accordance with the relevant Prussian rules and regulations which thereby acquired a considerable influence on the financial management of the German colonies.

In order to understand how this financial control mechanism worked, we need to appreciate what it could and could not achieve. Although the budgets were quasi-normative documents, it was neither practical nor desirable to enforce them by punishing officials for non-compliance. The budgets set targets which were supposed to be adhered to if the predictions on which they were based proved to be correct. On the other hand, officials on the spot were expected to respond to unforeseen events, if it was their legal or administrative duty to do so. For example, they had to deal with the aftermath of a cyclone or with a military emergency and could not excuse inaction by pointing out that the budget had not provided them with the necessary funds. A whole host of less dramatic events could make adherence to the budget also impractical. Although officials had to enforce the law when collecting revenue, they could not be blamed if copra exports in the course of a year were lower than had been estimated, with a corresponding decrease in the actual customs receipt. Nor could they be blamed if a jump in the price of imported rice led to an overspending of the vote out of which the food for native labourers and policemen was paid.

The executive arm of government had to be given a considerable degree of discretion in the field of financial management. A full implementation of the Rule of Law would have been dysfunctional. In the end parliament had no choice but to approve extra-budgetary expenditure and to grant the chancellor of the Reich a formal release. The Colonial Budgets Act did not and could not include penal provisions. It had to be left to the executive and the courts to take punitive action under the general criminal or disciplinary law and to weed out corrupt or incompetent officials. All the parliamentary controls of financial management could hope to achieve was a full explanation of what had happened and a gradual improvement of financial practices. The main

3 The act also placed the borrowing of funds from external sources under the control of parliament.

weapon of parliament in this regard was its power to approve or disapprove subsequent budget proposals. But it had to be careful in using this weapon as a penal device, that is to say by cutting budget allocations as punishment for non-compliance with previous budgets, because as a result of its financial control powers parliament shared the political responsibility for the well-being of the colonies.

The effectiveness of the financial controls exercised by parliament depended to a large extent on the itemisation of the budgets. Although the allocation of a lump sum for the annual administrative expenditure set an upper limit, it gave parliament no scope for a prospective or retrospective control of how the funds were to be spent or had been spent. The only question that arose under these circumstances was whether or not this upper limit had been exceeded.

Seen from the perspective of the executive, such lump sum budgets appear to be ideal since they give it maximum freedom. But they also weaken its position in relation to parliament because the latter is more likely to approve additional funds for specified projects than to place its blind trust in the wisdom of the executive. Moreover, the executive has strong reasons for wanting to control the management of public finance internally. The central colonial administration in Berlin was perhaps even less inclined to give heads of the local executives full discretion in financial matters than the Reichstag—and so it went all the way down the administrative hierarchy. But in this context too the advantages of tight financial controls had to be weighed against the desirability of administrative discretion.

In addition, the costs of financial controls were themselves an issue. How much money was to be spent on the unproductive task of controlling how money was spent on other governmental tasks? The preparation of specified budget proposals and the keeping and auditing of specified accounts was an expensive business. Was it justified to devote, say, a quarter of the funds allocated to a colonial government to making sure that the other three quarters were spent properly? Or were these financial controls so central to a modern form of government that these questions became irrelevant?

Another crucial factor in the exercise of financial controls was time. Ideally parliament should have been presented with the audited accounts of the previous budget year before it was asked to approve the budget proposal for the next year. In practice this was impossible and the Colonial Budgets Act allowed for delays of up to two years before the summary accounts had to be submitted and set no time limit for the presentation of the audited accounts. If we take further into consideration that the preparation of the next budget proposal had to begin at local level shortly after the beginning of the current budget year and that a budget had to be approved by parliament before the beginning of the budget year, if it was to serve as the basis of actual government spending from its first day, an extraordinarily complex scenario emerges in which a whole series of budget proposals, budgets, summary accounts and audited accounts—as well as budget supplements and supplementary budgets—affected each other in any given year, so that a hefty dose of accounting magic was needed to manage the consequences. Perhaps it is best to illustrate the parliamentary aspect of this scenario by using the 1901 budget for the Old Protectorate as an example.

III

The budget proposal for the Old Protectorate for 1901 was submitted to the Reichstag on 20 November 1900. In examining it the Reichstag could use the corresponding figures in the 1900 budget which were listed in it as a historical comparison, and the preliminary accounts for the 1899 budget year which were appended to it.⁴ The budget proposal was approved without changes

4 Also available to it were the annual report covering the 1900 budget year and the even more up-to-date information concerning events in the Old Protectorate that had been published in the German press.

and became law on 22 March 1901, just in time for the beginning of the budget year on 1 April 1901.

While the preliminary accounts for 1901 were appended to the 1903 budget proposals, the final accounts were submitted to the Reichstag in December 1903. They were dealt with by its accounts commission together with the final accounts for 1900, although the latter had already been submitted a year earlier. The accounts commission reported to the Reichstag on 30 April 1904.⁵ It recommended that the Reichstag approve the extra-budgetary expenditure shown,⁶ but called for a resolution requesting the chancellor of the Reich to ensure that colonial governments observed their budgetary limitations more strictly, and for a second resolution requesting him to provide specific additional information relating, *inter alia*, to the extra-budgetary expenditure in the Old Protectorate in 1901.

It took the chancellor until 20 January 1905 to respond to the second resolution. He provided an impressive amount of detail concerning other German colonies but asked for more time as regards the Old Protectorate because the expected report by its government had still not arrived. It arrived shortly afterwards and was passed on to the Reichstag on 10 February 1905.

Since the extra-budgetary expenditure had been approved, no action could be taken at this stage. The Reichstag had to wait for another five years before reconsidering the 1901 accounts of the Old Protectorate, together with the comments by the audit office, in order to decide whether to grant the chancellor his formal release. The comments of the audit office were dated 28 January 1910. This meant that the audit office could take the final accounts up to 1907 and the budgets up to 1909 into account when commenting on the 1901 accounts. It also knew that the preliminary accounts had been abolished in 1908 because of their notorious unreliability whereas the responsibility for the preparation of the final accounts, which had so far been put together in Berlin, was about to be transferred to the various colonies. In other words by 1910 colonial accounting practices were finally approaching normal metropolitan standards.

The 1901 preliminary accounts for the Old Protectorate indicate just how abnormal they had earlier been. They calmly admitted that only the expenditure figures for the first quarter of the budget year had been received in Berlin when they were prepared, so that final accounts might look somewhat different.⁷ By the same token, the fact that during the course of 1910 the audited accounts of 1902, 1903 and 1904 could also be submitted to the Reichstag demonstrates that the combined accounting capacity of the colonial office and the local colonial administrations had by now sufficiently improved for the audit office to get on with its job. Yet it never advanced beyond the auditing of the final accounts for 1909,⁸ so that it had no opportunity to comment on the final accounts for the last full four years of colonial rule in German New Guinea.

So much for the time factor. Now a closer look at the content of the 1901 budget and accounts, and at their treatment by the Reichstag and the audit office. The 1901 budget proposal for the Old Protectorate was approved by the Reichstag without changes. It balanced in round figures at 810,000 rather than at 923,000 Marks as in 1900, so that the Reich subsidy could be cut by 139,000 Marks compared with the previous year. Nonetheless the recurrent budgetary allocations were increased by a total of 67,000 Marks. But the non-recurrent vote was cut from 250,000 Marks to 69,000 Marks, that is to say by almost 75 per cent. A cut of this magnitude had been possible because the 1900 budget had included an allocation of 130,000 Marks for the purchase

5 Its report covered not only the Old Protectorate but also the final accounts of other German colonies.

6 In the case of the Old Protectorate it amounted in 1901 to 88,000 Marks, or about 20 per cent of the budget, if we disregard the payment of the 400,000 Marks to the Neu Guinea Kompagnie under the 1898 agreement.

7 This turned out to be an understatement as the overspending of less than 200 Marks shown in the preliminary accounts grew to over 50,000 Marks in the final accounts. But the preliminary accounts could also be overly pessimistic. Those for 1904 showed an overspending of 80,000 Marks whereas according to the final accounts 8,000 Marks had remained unspent—a difference which represented around 10 per cent of the entire budget.

8 Its comments were dated 11 February 1915.

of a government steamer. In other words, it was the fact that funds for a single item were not required again in 1901 that accounted for the reduction in the size of the budget and of the Reich subsidy.

This reduction did not mean, however, that the funds available in 1901 were smaller than in 1900. On the contrary, whereas the final accounts for 1901 accounted for funds totalling 1,028,000 Marks—compared with a budget of 810,000 Marks—those for 1900 accounted for 993,000 Marks, compared with a budget of 923,000 Marks.

This difference came about because the 130,000 Marks allocated for the purchase of a steamer in 1900 were not spent during that year. Instead, together with an unspent allocation of 70,000 Marks made for the same purpose in 1899, they were transferred to the 1901 accounts. However, these “savings”—the equivalent of about 50 per cent of the 1901 budget, if we disregard the payment of 400,000 Marks to the Neu Guinea Kompagnie under the 1898 agreement—were not spent in 1901 either but transferred with additional savings to the accounts for 1902.

The treatment of the “reserve fund” had a similar magical quality. In the 1901 budget 4,925 Marks had been allocated under this heading to cover “unforeseen expenditure”. However, according to the final accounts, the fund grew instead by about 6,000 Marks, because it was also used to process extra-budgetary income. In 1901 it was first boosted by extra-budgetary income to 54,000 Marks, but after the total extra-budgetary expenditure had been debited against it, it was still left in the red to the tune of around 57,000 Marks. The beauty of the arrangements at the time was that this deficit did not have to be covered in subsequent budgets of the Old Protectorate. Instead it burdened the 1904 budget of the foreign office. As a result the reserve fund of the Old Protectorate in 1901 even made a profit of 6,000 Marks, because there had been genuine savings⁹ of 27,000 Marks whereas the necessary extra-budgetary expenditure had only been 21,000 Marks. Notwithstanding this increase in the reserve fund, the Reichstag had considered and approved about 88,000 Marks in extra-budgetary expenditure identified in the final accounts. They related to the overspending of three votes.

The vote for “auxiliary coloured personnel” had been overspent by around 10,000 Marks because the budget had not provided for “permanent” labourers for the two district offices and the government station.¹⁰ In addition, the lack of a government steamer, which was also to have been used for recruiting purposes, had produced unexpectedly high recruiting costs because other vessels had to be hired in its place.

The overspending of the “building” vote by about 23,000 Marks was justified with the construction of houses for these additional coloured labourers and artisans. The explanations for the overspending of the omnibus vote for recurrent “material and mixed expenditure” by almost 55,000 Marks were more involved. They showed that five sub-votes had been overspent by a total of about 80,000 Marks. But this had been partly compensated for by an underspending of other sub-votes to the tune of about 25,000 Marks. The accounts commission was satisfied with the explanation of the overspending of three of the sub-votes, and only sought additional information from the chancellor for the overspending of the other two.

The first sub-vote related to “travel expenses”, for which 18,000 Marks had been allocated but on which about 44,000 Marks had been spent. The final accounts had explained this overspending primarily by reference to frequent staff changes. The chancellor’s first response, of 12 March 1904, elaborated. Sending out six new officials from Germany had by itself cost 1,000 Marks more than the budgetary allocation of 18,000 Marks. Repatriating officials for health reasons had cost another 9,000 Marks. A “change in the person of the governor” had resulted in the payment

9 These were unspent budget allocations which were not transferred to subsequent years because the purpose of an allocation for a specific purpose had already been achieved.

10 A note attached to the 1901 budget proposal indicates that the wages of government labourers were previously paid out of the “material and mixed expenditure” and even the “non-recurrent expenditure” vote.

of 2,000 Marks to Bennigsen for removal costs and also necessitated travel by other officials.¹¹ Only 14,000 Marks had been spent for normal expenditure under this heading. Even this expenditure had been inflated because several "expeditions" had caused unusually high expenses for the transport of "coloured personnel" which, somewhat surprisingly, had been debited against this vote rather than the "expedition vote" (see below: 426 ff.).¹²

These expeditions also served as a justification for a 35,000 Marks overexpenditure of the 20,000 Marks maintenance sub-vote. This was largely an act of desperation because the relevant details were not available in Berlin at the time. The colonial department could only come up with an incomplete list of actual expenditure. It included 15,000 Marks for water-tanks as the largest item but also fell 15,000 Marks short of accounting for the total extra-budgetary expenditure of 55,000 Marks.

No wonder that the Reichstag wanted more information. The report from Herbertshöhe began by stressing that the new imperial government had not been in a position to estimate administrative requirements with any degree of accuracy when the budget proposal for 1901 had been prepared after only a few months in office. In order to cope with the influx of new officials the existing buildings—some of which had also been in need of expensive repairs—had to be enlarged and equipped with additional furniture. Most of the overexpenditure of 55,000 Marks had accumulated in this manner. As regards the water-tanks, the figure of 15,000 Marks had been a clerical error. In fact only 1,500 Marks had been spent for this purpose. The only unusual expenditure calling for an explanation was 12,000 Marks spent on "horses and carriages". The extension of the native administration into the interior of the Gazelle Peninsula and along the east coast of northern New Ireland had involved frequent travelling over long distances. It had therefore been necessary to supply horses to the officials carrying out these duties. In order to become independent of expensive imports, a quality stallion had been purchased who "in the meantime" had sired seven foals.

In the light of these touchingly naive explanations, it is understandable that the audit office treated an audit of these early accounts as a lost cause. Its only criticism of the accounts of the Old Protectorate related to the "material expenditure" during the first quarter of 1901. Items worth around 44,000 Marks had been purchased, but the receipts relating to these purchases could no longer be identified because the records kept at the time had been far from complete. However, measures had now been taken to ensure that proper accounting procedures would be followed in the future, that is to say from 1910 onwards.

The audit office was relieved that three general questions relating to the budgets and accounts of all colonies which it had raised earlier had also been settled. The first related to the nature of the Reich subsidy: was it an unconditional grant or merely intended to cover the gap between the estimated local revenue and the approved expenditure, so that a reduction of the actual gap in the accounts had to be shown as a saving in subsequent budgets instead of the unspent portion of the subsidy becoming an asset of which the colonial executive could freely dispose? As is to be expected, the latter view had become generally accepted. Secondly, there was the question of the treatment of the reserve funds. It had just been answered in a drastic manner by abolishing them altogether in the 1909 budget. But the audit office felt obliged to identify the amounts which had been hidden in the reserve funds in earlier years, instead of being openly shown as extra-budgetary

11 This referred primarily to the move of vice-governor Hahl from Ponape to Herbertshöhe and sending out of a replacement for him to Ponape.

12 It could, of course, have been pointed out that neither the sending out of officials, or their repatriation, nor the carrying out of expeditions was unusual. But the point is rather that the budgetary allocation was so small that it could only be adhered to under *ideal* circumstances. It is worth mentioning, however, that the explanations did not say what the "normal" expenditure had consisted of. Were the costs of sending out and repatriating one official each and those of staging one expedition treated as "normal"?

income and expenditure.¹³ The third point was directly concerned with the budgetary significance of the "explanations" given in the budget proposals, but it raised the whole question of the itemisation of budgets and the related distinction between two kinds of extra-budgetary expenditure, namely expenditure made without a budgetary allocation covering it and expenditure in excess of such an allocation (*ausseretatsmässig* and *überetatsmässig*).¹⁴

This distinction has important political implications. If a budget is seen as an administrative program reflecting political priorities, measures taken outside it are departures from that program and only legitimate in response to unforeseen and unforeseeable circumstances. Moreover, expenditure in response to such extraordinary occurrences remains expenditure outside the budget, even if it is of a kind which is formally covered by a budgetary allocation: for example, a budgetary allocation for "buildings" is not expected to be spent on rebuilding large numbers of houses destroyed by a cyclone. On the other hand, a government which exceeds a budgetary allocation by expending funds on measures the desirability or inevitability of which it should have foreseen, cannot expect to be provided with additional funds to cover such expenditure. Instead it has to use money saved elsewhere, and, indeed, save money elsewhere, to cover this kind of unauthorised expenditure. Exceeding the budget is therefore politically more problematic than spending outside it. Governments spending outside the budget typically have no choice, those which exceed a budgetary allocation typically do. By the same token, the executive arm of government must be given some discretion to make choices within the budgetary framework because circumstances change in quite ordinary ways and are most effectively, also most cost-effectively, responded to in a reasonably flexible manner. The question is again where to draw the line—and this is where the itemisation of budgets comes in.

On the expenditure side, the budgets for the Old Protectorate for 1899 and 1900 were both formally one-line budgets, providing respectively 732,000 Marks and 923,500 Marks to pay for "administrative expenditure". But the budget proposal provided more detailed explanations justifying, in particular, the increase of almost 200,000 Marks in funds sought in 1900. In the 1901 budget proposal these explanations were, to some extent, incorporated in the budget. Its expenditure side was divided into two "chapters"—recurrent and non-recurrent expenditure—the first of which was subdivided into nine "titles". But there were still additional explanations. For example, the budget proposal sought an allocation of 69,000 Marks for non-recurrent expenditure. This heading covered the construction of buildings and their furnishing, as well as the construction of harbour facilities and roads and the purchase of land for public purposes. The explanations itemised the intended expenditure of some of these funds: 25,000 Marks had been earmarked for an office building and 6,000 Marks for a house for the government doctor.

The question was whether the colonial government was bound by these explanations, and whether it could profit from them. It certainly wanted to do the latter by transferring unspent earmarked funds to the next budget year—in the 1901 budget the 6,000 Marks set aside for but not spent on a house for the government doctor. Could it also have gone the other way, for instance by spending the 6,000 Marks instead on a swimming pool for the governor, without having to tell the Reichstag that this had happened?

The Colonial Budgets Act did not spell out how itemised the accounts had to be, although it required the identification of extra-budgetary expenditure for which retrospective parliamentary approval had to be obtained. But it did not say an overspending at what budgetary level necessitated such an approval. Was approval unnecessary as long as the total expenditure did not exceed the total budgetary allocation? Could underspending the non-recurrent expenditure vote compensate for overspending the recurrent expenditure vote? Did the accounts have to show that

13 In the case of the Old Protectorate they amounted to over 20,000 Marks in 1901.

14 This distinction is immaterial for a budget consisting of a lump sum allocation, because it covers everything so that it can *only* be exceeded, whereas no governmental expenditure outside this allocation is possible.

the office building for which 25,000 Marks had been earmarked in the explanations of the 1901 budget proposal had in fact cost 26,328.06 Marks because the additional 1,328.06 Marks spent constituted an extra-budgetary expenditure under the act which required parliamentary approval? Judging by the final accounts for 1901 the executive assumed at the time that it was accountable only down to the level of the titles into which the budget had been formally subdivided and that only overspending at that level required parliamentary approval. Thus they show an extra-budgetary expenditure of around 23,000 Marks of the non-recurrent expenditure chapter which was not subdivided into titles. But they do not account for the total of around 86,000 Marks spent under this heading. In other words we are not told how much the office building had actually cost, or whether it had been built at all. Indeed the accounts do not even specify how the extra-budgetary expenditure had been used. They only show it as a total with the explanation that it had been spent on houses for coloured artisans and labourers.

The explanations for overspending the vote for "material and mixed expenditure" were more forthcoming. They did respond to the explanations of this title in the budget proposal. The latter had divided the total allocation of around 143,000 Marks sought into nine headings. The explanations in the accounts stated that expenditure under four of these headings had been lower than anticipated and said nothing about how these funds had been spent. They gave the total extra-budgetary expenditure under each of the other five headings, but then deducted the savings under the first group of headings from the total, because only the rest technically required the retrospective approval of parliament.

A weird world but one which at least in this case was not manipulated by using the internal compensation process selectively.¹⁵ The colonial department was prepared to put its cards on the table. The problem was that it did not know all that much about what was going on in the German colonies. Still, the information provided in the accounts was sufficient to indicate to the Reichstag that it was worth questioning the expenditure, and the officials in the colonial department were probably as surprised as members of the Reichstag when they learned in 1904 that the government in the Old Protectorate had spent 60 per cent of the 20,000 Marks allocated in 1901 for a multitude of purposes, including the maintenance of buildings and the repair of equipment, on the purchase of horses.¹⁶

It was only by occasionally demanding detailed information of this kind that the parliamentary control of the public finances of the colonies could be made effective. The chances of doing so could be increased by pushing for more itemised budgets and accounts and, in particular, by insisting, if the executive chose to provide additional explanations of its budget proposals, that it had to stick to them when it came to the expenditure of funds approved on this basis and to prepare its accounts by reference to them.

A comparison between the budget proposals for 1901 and 1914 illustrates how far their itemisation had progressed. In 1901 the budget consisted effectively of ten titles, nine for recurrent and one for non-recurrent expenditure. By 1914 the number of titles had increased to 26, including seven for non-recurrent expenditure. Instead of providing a lump sum under this heading, as in 1901, separate funds were allocated for buildings; for roads, bridges and maritime installations; for the purchase of marine vessels; for installations in support of agriculture; for equipment issued to new native policemen. There were even separate titles for combating epidemics and the promotion of land surveys. Moreover, most of these titles were further subdivided into "numbers"—six in the case of the vote for "other material and mixed expenditure". Nonetheless

15 For example the savings could have been used to cancel out the over-spending under three of the five headings, so that only the overspending of the other two had to be admitted.

16 The surprise would have been even greater for those who had done their homework and remembered that the annual report for 1899—rather than 1901—had stated: "The government has installed two Australian brood mares and a medium-sized Batak stallion on Nusa Island for stud purposes, and recently increased the breeding stock by purchasing a good Australian stallion, which is for the time being to remain in Herbertshöhe" (Sack & Clark, 1979: 189).

additional explanations were still provided in the budget proposals. For example, the 1914 explanations of the "installations in support of agriculture" title specified that 33,000 Marks were intended for an experimental station for coconut palms, 50,000 Marks for an agricultural laboratory and 20,000 Marks for improvement to the livestock breeding station, with further subheadings in each case.

But there were some titles that had resisted the itemisation trend. The most important of them was the vote for the "auxiliary coloured personnel". The 1914 budget still allocated one lump sum for this purpose, although detailed explanations were provided. Yet it remained impossible to control the expenditure under this title effectively because over and underspending for different purposes identified in the explanations could cancel each other out, so that only an overspending of the entire title required parliamentary approval.

How did this increased itemisation affect the accounts? The last budget year for which final accounts were submitted to parliament was 1912. Whereas the recurrent expenditure part of the budget was already as itemised as in 1914, the non-recurrent expenditure was only divided into two titles, namely the "purchase of marine vessels" and "buildings, including their furnishing, and other public works". Although separate figures were given, not only for each title but for each number in the accounts, the position remained that only the overspending of an entire title required parliamentary approval. On the other hand, even though the 1912 accounts closed with an underspending of the budget of over 340,000 Marks they identified a total of 196,000 Marks in overspendings of particular titles requiring approval.

These overspendings were now not only "explained" (*erläutert*) but "justified" (*begründet*). While these justifications look suitably impressive the accounts tell us nothing of historical interest about the manner in which the much larger amount of 2,810,501.42 Marks had been spent within the budget, since the confirmation that this amount had in fact been spent did not confirm that it had been spent in accordance with the budget proposal and the explanations thereto. There was still ample scope for departures which only came to light when an entire title had been overspent, because only in this case more or less informative explanations were required.¹⁷

The colonial office clearly did not relish its position when it had to explain why the allocation for "extra-ordinary white auxiliary personnel and substitutions" in 1912 had been overspent by about 62,000 Marks, or more than 50 per cent. It was glad that the allocation for "ordinary auxiliary personnel" had been underspent by about 21,000 Marks since it formed part of the same title so that technically only an overspending of about 41,000 Marks had to be justified. It also pointed out that this overspending had to be seen in connection with the salary vote for permanent white personnel which had been underspent by about another 26,000 Marks. The combined salary votes had therefore only been overspent by about 16,000 Marks, or less than two per cent, which, in its view, represented an excellent result.

But these moves only prepared the ground for the claim that the overspending of the "auxiliary personnel" vote had been due to the fact that insufficient provisions for "substitutions" had been made—which were used to fill positions whose regular occupants were on leave. The inadequate formula used in the 1912 budget—one sixth of regular salaries—had been increased in the 1913 budget to one fifth and in the 1914 budget even further to the halfway mark between one fifth and one quarter. Had the 1914 formula already been applied in 1912, the allocation for extraordinary auxiliary personnel for that year would have been about 41,000 Marks higher so that the overspending of about 41,000 Marks would not have occurred at all.

17 Seen from a parliamentary perspective the financial control mechanism therefore operated a bit like a lottery—and the executive naturally resisted an itemisation of the most strategic titles most strongly because their increase offered the best opportunity for preparing the ground for a permanent increase in other expenditure. For example, once a new government vessel had been acquired it was clear that it had to be maintained and required a crew on a continuing basis, and each increase in staff automatically caused additional expenditure for housing, equipment, travel and so on.

All of this is, of course, sheer accounting magic. It tells us nothing about what had actually happened. We learn neither how much had actually been spent in 1912 on substitutions, nor which of the positions for which funds had been allocated had remained unfilled and for how long. But the smoke-screen which the colonial office offered in place of factual information apparently did the trick.¹⁸

IV

Now that we have a better idea of how the parliamentary controls worked, we are ready to look at the impact they had. The first question we need to address is to what extent parliament altered the budget proposals. The answer is rather different from what one might have expected as the figures suggest that alterations were rare as well as limited.¹⁹ In the case of the Island Territory the budgets only differ twice, in 1906 and 1907, from the proposals and the figures were on both occasions higher rather than lower. A "supplement" to the budget (*Nachtrag zum Haushalt*) in 1906 approved an extra 25,000 Marks for the repair of cyclone damage. A "supplementary budget" (*Nachtragshaushalt*) in 1907 approved the same amount for the same purpose.²⁰ However, in 1907 the budget proposal was also cut by 10,000 Marks, because the Reichstag disapproved of a project to survey native land in the Marianas.

In the case of the Old Protectorate the first budget cut occurred in 1906. It targeted a pet project of Hahl: a colony of small settlers in the Baining mountains of the Gazelle Peninsula for which a subsidy of 10,000 Marks had been sought.²¹ The next budget cut, by a total of over 80,000 Marks in 1909, was of a different nature. It focused on a cut of the non-recurrent expenditure of 50,000 Marks, but several titles of the recurrent expenditure were also affected. However, the explanations of the 1910 budget proposal show that the cuts had again been aimed at a single target, namely a new government station in Morobe. It was only approved at the level of a "police post", so that fewer buildings, as well as a substantially smaller staff were required. By contrast

18 I am not suggesting that the formulae used did not provide a reasonable guide for the purpose of working out budget estimates, but they had no legitimate place in the accounts. They were employed as a convenient phantom alternative to actual expenditure figures which might have given rise to uncomfortable further questions.

19 In this case the exercise is simple. It merely requires a comparison between the budget proposals and the budget figures included in the budget proposals for the following year.

20 It was comparatively simple to "supplement" a budget before it had been formally enacted into law, whereas a "supplementary budget" was a separate mini-budget which required the same treatment as the main budget. It was therefore especially tempting for the executive to disclose expenditure which had been made outside the budget only in the accounts—which left the Reichstag little choice but to approve it retrospectively. However, it risked irritating the Reichstag each time it did so, especially if the unforeseen event occurred comparatively early in the budget year and was of some magnitude. Moreover, only if a formal budgetary allocation had been made could unspent funds be properly transferred to the next budget year.

21 It is worth pursuing the consequences of this cut, since the project was underway when it was made and funds had already been spent. How were they treated in accounting terms? The most suitable vote was that for agricultural experiments and the survey of land. In 1905 it had been endowed with 10,500 Marks, of which less than 200 Marks had been spent. In the final accounts for 1906 the same allocation is shown as having been overspent by over 1,500 Marks. This required an explanation. It stated that the overspending had been due to the supply of seeds and seedlings to 12 settlers with whom the government had entered into written contracts (so that it was legally obliged to produce the goods). It also attributed an overspending of the "auxiliary coloured personnel" vote partly to the fact that these settlers had been supplied with labourers paid by the government, although they had undertaken to refund their wages at a later stage. In 1907 someone apparently came to Hahl's rescue and made substantial payments on behalf of these settlers which were credited to this vote and resulted in a surplus of over 9,000 Marks. How large these payments had been is not stated. Taking into account that less than 200 Marks of normal expenditure is shown in 1905 and less than 2,000 Marks in 1908 it is likely that they had been considerably higher than 10,000 Marks and that the actual expenditure by the government on the settler scheme in 1906 had probably been more than the special allocation of 10,000 Marks which the Reichstag had rejected. In short, we again do not learn what had actually happened, although it is clear that some private source had paid the bill.

the budget for 1913 was about 110,000 Marks higher than the initial proposal. This was largely due to the fact that an experimental agricultural station in Kaiser Wilhelmsland and a native hospital in Kieta—with building costs of over 50,000 Marks and a substantial consequential increase of recurrent expenditure—had been added.

Seen in this light it can hardly be said that the Reichstag had dictated what the government in German New Guinea was financially capable of doing. By and large it got the funds which had been proposed to parliament. This does not mean, however, that the financial control powers of parliament had no impact, since the budget proposals already took into account what budgetary allocations parliament was likely to approve. There was no point in making unrealistically high budget proposals since it was clear that they would be carefully and critically examined.

But what ultimately mattered was not how much money had been allocated to the colonial government, and for what purposes, but how much money had actually been spent and on what. As from the 1905 budget year the final accounts included summaries showing the extra-budgetary expenditure of all the German colonies. They show that the Old Protectorate, and later German New Guinea, consistently overspent its budget between 1905 and 1912. While the total overspending usually amounted to less than ten per cent of the budget, three years—1905, 1908 and 1911—stand out with overspendings of respectively 18, 25 and 21 per cent.²² On the other hand, much of the extra-budgetary expenditure was compensated for by extra-budgetary income and savings. The summary also took into account extra-budgetary expenditure which had been necessary to comply with legal requirements, or was caused by the automatic incremental increases in the salaries of officials. What was left is described as the “*eigentlichen Verwaltungsausgabeüberschreitungen*”, that is to say extra-budgetary expenditure due to discretionary decisions.

The difference could be substantial: for example, while the actual and the “discretionary” extra-budgetary expenditure in 1905 and 1911 were similar (respectively 216,000 and 213,000 Marks and 460,000 and 448,000 Marks), in 1908 the discretionary extra-budgetary expenditure was “nil” as compared with an actual overspending of 125,000 Marks. But as a closer look at the 1911 budget year may illustrate, all these figures have to be treated with caution.

According to the 1911 budget proposal, German New Guinea expected a total income of 2,183,000 Marks. It was to be made up of 1,379,000 Marks in local revenue and a Reich subsidy of 760,000 Marks. In addition there was a small bonus of 44,000 Marks: savings from the 1908 final accounts.²³

The final accounts showed these figures but added savings of 255,000 Marks from the 1910 budget year, for which they also had to account. Moreover, the local revenue had been over 400,000 Marks higher than the budget estimates. Yet the final accounts reduced the actual income by transferring 240,000 Marks of the 1910 savings to the 1913 budget, so that only 15,000 Marks were treated as additional income in 1911.²⁴

As a result of these manoeuvres the final accounts included three different sets of figures. The total expected income according to the budget of 2,183,000 Marks; a “*Gesamtsoll*”, which added to it the full savings from 1910 and amounted to 2,438,000 Marks; and the actual total income, which used the local revenue raised, rather than the budget estimates, but only included the 15,000 Marks of the 1910 savings spent in 1911, so that the total amount accounted for was 2,595,000 Marks. Of this total 74,000 Marks was left in the kitty but savings of 61,000 Marks were

22 As could be expected non-recurrent expenditure was the main culprit in all three exceptional years. In 1905 the allocation was overspent by 29 per cent, in 1908 by 62 per cent and in 1911 by as much as 70 per cent. However, in all three years the overspending of the recurrent expenditure vote was also unusually high.

23 All savings had been made in the Island Territory since the final accounts for the Old Protectorate for 1908 had not been completed when the 1911 budget proposals were submitted.

24 A further 8,000 Marks were required to rectify various smaller accounting defects.

transferred to the 1912 budget. This left an actual saving of 13,000 Marks which was added as a non-recurrent income to the budget for 1914.²⁵ None of these sets of figures show the amount of money that had actually been available to be spent in German New Guinea in 1911 or the amount of money which had actually been spent. This does not mean that this accounting magic was dishonest or unusual. However, it has to be taken into consideration when using these figures as sources of historical information. To take them as statements of fact is bound to produce phantom history. They all relate to a distinct financial realm and are real only if they are understood in their own terms. Yet they can also be historically illuminating.

It is surely more than coincidence, for example, that each of the three years in which the extra-budgetary expenditure was unusually high was followed by a dramatic increase in the Reich subsidy. In 1906 the subsidy was increased from 452,000 to 759,000 Marks, with the result that the extra-budgetary expenditure dropped from 18 to seven per cent. In 1909 the subsidy was increased from 742,000 to 923,000 Marks and the extra-budgetary expenditure dropped from 25 to again seven per cent. In 1912 an increase in the subsidy from 760,000 to 1,208,000 Marks resulted in a drop of the extra-budgetary expenditure from 21 to once more seven per cent. On the other hand, no-one knew what the actual expenditure figures for 1905, 1908 and 1911 would look like when the budget proposals for the following years were submitted. Rather, the subsidy increases were in each case the result of substantially increased budget proposals. Whereas the 1905 budget was only 160,000 Marks bigger than that for 1904, the 1906 budget was 329,000 Marks bigger than that for 1905, and while the budget only increased by 21,000 and 8,000 Marks in 1907 and 1908, it jumped by 285,000 Marks in 1909. The subsequent changes in German New Guinea's financial fortunes were even more dramatic: the budget proposal for 1910 shrank by 252,000 Marks and that for 1911 by another 118,000 Marks, so that the jump in 1912 by 580,000 Marks effectively lifted the budget only by 210,000 Marks above the 1909 level.

The crucial point, however, is that these changes were included in the budget proposals. They were not the work of the Reichstag. Since it is unlikely that the stagnation after 1906 and the cuts after 1909 were due to an initiative by the government in German New Guinea, it looks as if it was to a large extent the central colonial administration in Berlin that determined the size of the funds available for German New Guinea.

But before turning to these internal controls of the colonial finances we have to consider the third phase of the parliamentary control process. Could the Reichstag rely on the final accounts presented, when it was asked to give extra-budgetary expenditure its retrospective approval, or were they phantom documents which were hiding a morass of incompetence and corruption?

As the budgets for 1899 and 1900 were still lump sum affairs the auditing of the accounts of German New Guinea only seriously started with the first itemised accounts for 1901 already discussed. The report of the audit office on the final accounts for 1902 again only noted generally that expenditure had been hidden in the reserve fund and criticised the public works expenditure still not having been itemised. Nor did it specifically comment on the final accounts for 1903.

The report for 1904 noted discrepancies between the hospital accounts kept by the "central cash office" (*Hauptkasse*) and the hospital administration which had so far not been explained. The report for 1905 showed that an official from the audit office had been sent to German New Guinea, where he had uncovered a large number of defects, especially in relation to the accounts for the purchase of materials which were so inadequate that their auditing was pointless. But new regulations had been issued, so that an auditing of the material expenditure accounts as from the 1909 budget year would be a different matter.

The report for 1906 returned to the specific queries raised in connection with the hospital accounts. Investigations in German New Guinea had revealed that patients had not paid hospital

²⁵ The income shown in the 1914 budget had been 8,000 Marks higher. It had been based on preliminary figures which had proved to be defective—an error which would have had to be corrected in the final accounts for 1914.

bills amounting to about 1,200 Marks in the course of 1904 and 1905. The governor attributed this to the *Hauptkasse* and explained it by a serious shortage of staff, as a result of which the person in charge of its accounts had changed six times in 1904 and twice in 1905 and 1906. To hold these officials personally responsible for their oversights would be unfair under these circumstances and it would serve little practical purpose since several of them had left the colonial service. To pursue claims against the patients would be just as futile. Most of them had in the meantime left German New Guinea, quite apart from the effects of the statute of limitations on these dated claims. The governor had recommended that the matter be dropped to which the colonial office, as well as the audit office, had agreed. The creation of the position of a full-time head of the accounts section in the 1911 budget would ensure that the situation would improve.

The audit office also pointed out that the final accounts for 1906 were defective because they had omitted tax payments totalling 145 Marks which had apparently been received. The next report solved this particular riddle. A payment of 25 Marks had, in fact, not been made, because a court had decided that it was not payable. The remaining 120 Marks had been embezzled by a minor official who had subsequently been sentenced to prison and sacked.

The 1907 final accounts were also found by the audit office to be flawed. The travel expenses of a teacher posted to the Marianas had been debited against the accounts of the Old Protectorate, rather than those of the Island Territory. This mistake had been rectified, but there were still unanswered questions relating to receipts of 45 Marks and expenditure totalling about 1,500 Marks. These outstanding matters had been cleared up by the time the audit office submitted its report for 1908, but more serious problems had arisen in connection with the final accounts for that year because several of the relevant registers and whole bundles of receipts had been lost during the move of the government from Herbertshöhe to Rabaul. Moreover, expenditure had repeatedly been wrongly accounted for under recurrent rather than non-recurrent expenditure or vice versa. In one case correct accounting would probably result in the over-expenditure of one title of the 1908 budget by up to 22,000 Marks which had so far not been approved by the Reichstag.

Although German New Guinea's final accounts were still far from perfect, and although it is impossible to say how much accounting practices did improve after 1909, it is of considerable historical significance that the reports of the audit office covering the earlier years only identified a single and minor instance of a misuse of public funds. It should be pointed out, however, that this does not mean that no other cases of this kind had come to its notice. The reason why this particular case was mentioned is that tax payments of 145 Marks had not been accounted for at all. The audit office had no cause to comment on the misuse of funds, provided it was appropriately dealt with in accounting terms.

On the other hand, it must be remembered that accountability was the most important and perhaps the only legitimate goal of the entire financial control mechanism: it was meant to impel officials to explain and justify their plans and actions. Parliaments misuse their financial control powers if they try to tell officials what to do and punish them for not following their budgetary marching orders by cutting their funds in subsequent years. Parliaments are supposed to use their general legislative powers for this purpose, and to leave it to the courts to enforce these laws. But the position of the German metropolitan legislature in relation to the German colonies was unusual because it did not hold these general legislative powers. Still, although the Reichstag made it clear from time to time that it disapproved of particular pieces of colonial legislation—for example the reintroduction of an export duty on copra by the 1908 Customs Ordinance—by and large it resisted the temptation to use its financial control powers to tell the executive what to do instead of making it more accountable for what it did.²⁶ There is no question that officials in German New

26 It did not punish the executive for imposing the export duty on copra by cutting its 1909 budget. On the contrary, it approved a substantially larger budget requiring a substantially larger subsidy.

Guinea were made more accountable as the years went by with the result that they had to spend more and more time on financial matters. It is not clear, however, how far this development was due to the part played by the Reichstag. It would certainly not have progressed as far as it did if these financial controls had not been at least as important for the colonial executive, especially for the central colonial administration in Berlin, for which budgets and accounts were not just a means of making local officials accountable but a means of telling them what to do and of assessing their performance, with direct consequences for their position within the colonial service.

V

The problem with examining the internal aspect of financial management is that the relevant documents are not part of the public record. Neither the local budget proposals nor the "management plans" (*Wirtschaftspläne*), which distributed the funds provided in the budget, let alone the local accounts, were published, and much of the unpublished material is no longer available. However, due to the special way in which the finances of the Island Territory were handled, records for this part of German New Guinea are unusually rich.

Ideally, the financial management process in the German colonies took the following form. Shortly after the start of a budget year the various local administrations and special services formulated their proposals for the coming budget year by justifying any variations they proposed from the current budget. These proposals were revised and combined by the governor into a single budget proposal which was then submitted to his advisory council for discussion. The governor, however, was no more bound by the views it expressed than by the proposals made by these local bodies. Nor was the colonial office bound by the governor's budget proposals. On the other hand, it too was not solely responsible for the final budget proposal submitted to parliament. It shared this responsibility with the ministry of finance which had to ensure that the proper financial procedures were followed.

Under normal circumstances it was the responsibility of the governor to allocate the funds parliament approved to the various local bodies. The accounting process moved in the opposite direction through these stages, although the accounts were not discussed by the advisory council. In the case of the Island Territory the process was different. Here the district offices, and even some government stations, submitted their proposals directly to the colonial office which also prepared the management plan. However, in later years the governor became increasingly involved in the budget preparation, so that an unusually large amount of written information was produced.²⁷

One surviving example is the 1906 management plan (AA G255/729). It was signed by the heads of the ministry of finance and the colonial department in July 1906, that is to say more than three months after the beginning of the budget year. It divided the funds allocated in the budget among the four districts, with the exception of about 75,000 Marks which were to be spent by the colonial department on behalf of the Island Territory. It also listed the names and salaries of all white officials on its payroll. Otherwise it was no more itemised than the budget proposal and usually did not add to the explanations provided. However, in this case the explanations in the management plan differed in one point from those in the budget proposals. This reflected the changes a budget supplement had brought about in the manner in which the repair of cyclone damage in the Marianas was to be financed.

The explanations to the 1906 budget proposal dealt with two 1905 cyclones: one which had devastated Ponape in April, the other Saipan in August. The colonial department had planned to deal with the financial aftermath of the first cyclone by authorising an expenditure of up to 50,000 Marks outside the budget, instead of submitting a supplementary budget providing for these funds.

²⁷ Unfortunately only some of this information is still available.

The ministry of finance agreed with several provisos to this approach: firstly, the colonial department had to obtain the approval of the chancellor of the Reich; secondly, the extra-budgetary expenditure had to be explained in the 1906 budget proposal; and, thirdly, the pill had to be sweetened for the Reichstag by using savings of almost 20,000 Marks in the 1903 accounts to reduce the extra-budgetary expenditure in the accounts for 1905 instead of showing them as an extra-budgetary income in the 1906 budget proposal, as the colonial department had intended. The colonial department obliged and explained in its 1906 budget proposal that although a total of about 86,000 Marks were required for buildings on Ponape only additional funds of about 37,000 Marks were sought in 1906 because up to 30,000 Marks would be treated as an extra-budgetary expenditure in 1905 and the savings shown in the 1903 accounts would be used to cover the rest (RKA 3003).

The colonial department wanted to deal with the Saipan cyclone in a similar fashion. It authorised the expenditure of up to 30,000 Marks outside the 1905 budget and sought another 12,000 Marks in the 1906 budget. While the Reichstag was prepared to accept the handling of the Ponape cyclone, it apparently believed that the colonial department had gone too far in relation to the Saipan cyclone. It increased the 1906 building vote, but only by 25,000 rather than 42,000 Marks.

This was at least how it looked to me because the explanations to the amended budget proposal no longer referred to the authority of the district commissioner to spend up to 30,000 Marks outside the 1905 budget. But I subsequently discovered that there had been two cyclones in the Marianas in 1905: one in August and an even more destructive one in November. In other words, the Reichstag had not interfered with the authority of the district commissioner to spend 30,000 Marks outside the 1905 budget to deal with the August cyclone and it had approved an additional 25,000, rather than 12,000 Marks, in the 1906 budget to deal with the November cyclone.

While this made sense,²⁸ the treatment of the expenditure of these funds in the accounts was decidedly unorthodox. They show that the district commissioner had spent only 13,000 Marks outside the budget in 1905 to repair cyclone damage. The remaining 17,000 Marks were treated as a saving which was transferred to the 1906 accounts. However, the 1906 building funds of the Marianas were also underspent by 2,000 Marks, so that this amount, together with other savings, was transferred to the 1907 building funds of the Marshall Islands. Although the authority to spend outside the 1905 budget to repair cyclone damage in the Marianas and a boost to the normal building program in the Marshall Islands in 1907 were quite different matters, the audit office did not object.

The 1906 management plan itself contains an illustration of a more ordinary but therefore probably also more common way of manipulating the expenditure of budgetary allocations. According to the 1906 budget, funds for 19 regular auxiliary positions for colonial officials in the Island Territory had been approved.²⁹ They included a district commissioner, a government doctor, a secretary and a police sergeant in Jaluit and a district officer in Nauru. The total funds approved for the Island Territory under this heading amounted to 120,400 Marks. According to the management plan the salaries of the officials identified added up to precisely that amount. But it only listed 18 positions because that of the district commissioner in the Marshall Islands remained unfilled—and it could not have been filled because no budgetary funds for this purpose were available. According to the final accounts the total salary bill for regular auxiliary personnel in 1906 had been 121,363.680 Marks. But as the budget had also provided 21,000 Marks for

28 In retrospect it was obvious that my initial interpretation had been misguided. The structure of the system of financial controls gave the Reichstag no power to force the colonial department to withdraw the authority to spend 30,000 Marks outside the budget which it had given to the district commissioner; it could only refuse to approve the extra-budgetary expenditure made in its exercise when dealing with the 1905 accounts.

29 None of the positions in the Island Territory were treated as permanent at the time.

extraordinary auxiliary personnel and substitutions, the whole title had been underspent by over 20,000 Marks, so that funds for a district commissioner in Jaluit would have been available. The account figures show that the actual expenditure under the latter heading had been minimal—which is only possible if none of the officials listed had gone on leave, or if no substitutes had been employed for those who did.³⁰ But as the accounts do not tell us how the funds were actually spent, it is also possible that several of the officials identified in the management plan had died or resigned in the course of the year, so that the actual staffing position may have been quite different from that shown in the management plan.

A comparison with the budget for 1905 shows that the management plan differed even more pointedly from the budget than has so far emerged. The 1906 budget had sought an increase of 41,000 Marks of the regular auxiliary personnel vote. It was solely justified by the staff required in the Marshall Islands which were to become part of the Island Territory. But instead of allocating funds totalling 41,000 Marks to the Marshall Islands the management plan allocated a mere 26,000 Marks. In other words the Marshall Islands received only about two thirds of the funds due to them, because the rest was needed to cover the salaries of officials already employed in the other districts. But how could this be when the 1905 budget allocation of about 100,000 Marks for these districts had only been overspent by a few hundred Marks? Had there been a massive salary increase in 1906? Or had the Island Territory only managed to stick so close to its budget allocation in 1905 because one or more of the funded positions had in fact remained unfilled? Were the budgets routinely manipulated in this manner? Were there other manipulation devices which could be used at the local level? Were, for example, the funds allocated for non-itemised building projects treated as a piggy bank, the contents of which were used for any number of purposes because it remained outside any meaningful parliamentary controls? In short, were the management plans still part of a financial phantom world?

They certainly were. But they were, at the same time, an important bureaucratic control instrument. They also illustrate how the executive responded to financial control by parliament. Moreover, the two aspects were related: they both had to do with the forces working for more regulation and for more discretion which operated in different ways at different levels as a political process concerned with power rather than money.

Let us now approach this process from the other end by considering what happened to the budget proposals of the local administrations in the Island Territory after its budget had been combined with that of the Old Protectorate in 1910.

VI

This combination did not mean that the governor became responsible for working out a single budget proposal for the whole of German New Guinea. On the contrary, the local administrations in the Island Territory submitted their separate budget proposals for 1910 directly to the colonial office and were instructed to follow the same procedure for the 1911 budget.³¹

The district office in Jaluit jumped the gun by sending preliminary proposals for the 1911 budget to the colonial office more than six months early, in September 1909. As the colonial office read these proposals, they requested funds for the construction of a new hospital because the acting district commissioner, secretary Merz, had moved into the existing hospital building since he regarded the accommodation allocated to him to be inadequate for a married official. The colonial office was furious: funds for a hospital for Europeans had been approved in the 1906 budget. It was out of the question to seek funds for the same purpose again in 1911. Merz was to

30 One of the district commissioners (Senfft) did go on leave in 1906 but his job was shouldered, as an additional load, by one of his colleagues (Fritz).

31 The information relating to the 1911 budget is taken from AA G2, Item 7.

move back to his quarters immediately and to make sure that the European hospital became operational as soon as possible, using the funds which had been approved for its equipment in the 1909 budget. By the time these instructions arrived in Jaluit, Merz had mailed his formal 1911 budget proposals and sent a copy to the governor in Rabaul. He could therefore only hasten to inform the colonial office that he was about to vacate the hospital and ask to make the necessary adjustments to his proposals in Berlin.

Shortly after receiving the Jaluit proposals the governor also received a copy of the 1911 budget proposals of district commissioner Boeder for the Eastern Carolines. By contrast district commissioner Fritz sent the original of his budget proposals for the Western Carolines and the Marianas to the governor so that they had to be transmitted by him to the colonial office.³² This gave acting governor Osswald the opportunity to argue cautiously for a greater involvement in the budget preparations: although this had perhaps initially not been intended, closer contacts had developed between the government and the local administrations in the Island Territory. As a result the government had to share increasingly the responsibility for particular administrative measures, especially if they had significant financial consequences and hence affected the budgets for the various districts. With a continuation of these developments it was becoming more imperative to take a position in relation to the local budget proposals although Osswald would, in this case, restrict himself to a few general comments.

Osswald approved the proposals for the Marianas and had few problems with those for the Western Carolines³³ But, apart from pointing out that Boeder had forgotten to request funds for a government doctor in the Truk Group—the need for whom apparently all parties accepted—he was concerned about Boeder's extravagant non-recurrent expenditure proposals: 80,000 Marks for a steam pinnace and 50,000 Marks for the construction of roads. In Osswald's view, the purchase of such an expensive vessel could not be justified, and with the manpower at his disposal Boeder could not possibly build roads costing 50,000 Marks in a single year. If these proposals had been based on military considerations, a much less expensive increase in the size of the local police force was preferable. But Osswald was careful not to apply directly for a corresponding amendment of the proposal and stressed instead that he had invited the district commissioner to provide additional information.

Since acting district commissioner Merz had not formally requested funds for a slightly cheaper sea-going vessel for the Marshall Islands, but had only suggested in his covering report that it would be desirable if the colonial office would include them in the budget, Osswald said nothing about this issue. He focused instead on Merz's hospital plans. He supported the idea of a new hospital, although he considered the project to be less urgent than the posting of a government doctor to Truk. As regards the size of the proposed expenditure, which he clearly regarded as too high, he could not comment because he did not have the necessary information. Generally, he gave the impression that additional expenditure in the Marshall Islands should wait until it had increased its local revenue significantly—and Merz had foreshadowed that he would be able to double the yield of the copra tax as soon as he was given a suitable vessel.

How were these local budget proposals treated by the colonial office? Acting district commissioner Merz did surprisingly well. The mood in Berlin had changed when it was realised that the new hospital had been intended for natives and not as a replacement for the European hospital Merz had taken over as his residence. The colonial office adopted a cheaper version of a native hospital and even proposed the addition of a verandah to the secretary's quarters because they indeed only offered very cramped accommodation.

32 Although the Marianas had been placed under the district office in Yap separate budget proposals were still prepared for them. The government station in Nauru also submitted its own budget proposals.

33 His comments are nonetheless of general historical interest because they show that a transfer of the district office from Yap to Palau was under discussion at the time.

Osswald was successful in getting funds for a government doctor in Truk, since the colonial office was confident that the Reichstag would be generous in approving funds for an improvement of medical services. The great loser was Boeder: he did not get his steam pinnace, the road building funds he had sought were halved to the 1910 level of 25,000 Marks and the size of his police force was not increased either.³⁴

But Boeder had a minor success in June 1910 when he sought funds for new station buildings on Truk because, in the opinion of the government doctor, inadequate housing had been responsible for both police sergeants and probably also the wife of the district officer contracting typhoid fever. The funds were approved by cable, although as an expenditure outside the 1910 budget, and not as the increase in the building vote for 1911 Boeder had sought. As the colonial office virtuously pronounced, it was impossible to provide funds in the 1911 budget to cover costs already incurred in 1910. However, by the time this decree, dated 5 September 1910, arrived in Ponape, Boeder was probably already dead and the Ponape Rebellion had started.

The Ponape Rebellion had a far-reaching impact on the government of German New Guinea. Although Hahl would probably have in any case undertaken an extended tour of inspection of the Island Territory, after returning from his long home leave, it took on a different flavour. Hahl was now firmly resolved to incorporate the Island Territory fully into his domain instead of being satisfied with a minimal long-distance control, combined with occasional visits. This changed stance is reflected in his report on the 1912 budget proposals for the Island Territory dated 8 July 1911.³⁵

My trip through the Island Territory gave me the opportunity to familiarise myself thoroughly with the budgets of the various local administrations.

As regards the proposals for the Marianas and Western Carolines ... I refer to my separate reports which should arrive with the same mail.

The proposal for the Eastern Carolines was drawn up in my presence and has been approved by me in every detail...

In relation to the proposal for Jaluit the following comments should be made...

While these comments only dealt with minor points, Hahl's conclusions are of considerable interest.

I request that the colonial office, as from 1912, no longer distributes the funds locally ... but only divides them between New Guinea, the Eastern and the Western Carolines, leaving it to the two district offices [in the Island Territory] to distribute the funds to the government stations. This corresponds with the direction the administrative organisation has taken.

A determination in Berlin of the amounts due to the various stations binds the responsible district commissioner, robs him of the necessary flexibility, and is therefore undesirable.

Hahl suggested that the colonial office should allocate the funds for 1912 as in previous years, but only in the form of guidelines, rather than binding instructions. However, budget proposals for 1913 should only be submitted "from here and from Yap and Ponape".

In the longer term, first a combination of the funds for the Eastern and Western Carolines [that is to say for the whole of the Island Territory], and ultimately a transfer to the governor of the full powers to distribute the budgetary allocations internally, will have to be considered.

³⁴ An increase in the size of the local police force in 1911 would have been too late to affect the developments leading up to the Ponape Rebellion. It is also uncertain if an earlier increase would have made much difference. On the other hand, it could be argued that the cut of the road building funds was a signal that Boeder was not supposed to push too hard in this field.

³⁵ The information relating to the 1912 budget is taken from AA G2, Item Z13.

In other words, Hahl was aiming for a single budget proposal for German New Guinea submitted by the governor and a single management plan prepared by him.³⁶

That this was indeed his aim is borne out by the administrative reorganisation he suggested in other reports at the time. All three government stations in the area currently under the responsibility of the district office in Yap, namely Saipan, Korror and Angaur, were to be downgraded, thus also diminishing the importance of the district office. In the eastern district the station in Nauru was also to be downgraded. By contrast the government station in Truk was to be upgraded by giving it administrative responsibility for the entire "central" Carolines. The status of the government station in the Marshall Islands, which had just lost their own district office, was to remain unchanged. This was to prepare the ground for a subsequent downgrading of the district offices in Yap and Ponape to government stations at the same level as Jaluit and Truk. However, Hahl insisted that he was keeping an open mind and that the position would be reviewed in the light of further experiences and in consultation with the officials involved.³⁷

While Hahl had no strong feelings about what he found in the Western Carolines he was shocked by the picture of decline and neglect he saw in the Marianas. He pleaded with the colonial office to approve at least the 16,000 Marks which were urgently required to improve medical services. Another major concern was the state of the uninhabited island of Tinian whose population of wild cattle, deer, pigs and goats had dwindled through the mismanagement of the local company to which it had been let. The lease had been terminated, but since the company had no money it was pointless to sue for compensation. Similarly, the Pagan Company had run down the plantations it had leased. It had also done little to utilise the uninhabited islands at the northern end of the group for which it had been given an exclusive concession. Both agreements with that company had therefore been terminated. Hahl had also threatened the lessees of another plantation with a termination of their lease if they did not improve their performance. The only remaining larger agricultural lease conveniently ran out in 1912 and would not be renewed. While the large areas would be re-let to more efficient enterprises, five miniature government plantations of between two and 20 hectares were to be turned into model farms where the natives could learn how to manage their own holdings more productively. To this end they could no longer be used as places where people worked off their taxes. The government station had been instructed to insist, in line with the 1910 Taxation Ordinance, that all taxes be paid in cash and to employ instead a small number of paid skilled labourers. It had also been told to stop fiddling with the roads and to concentrate on improving the water supply. The four cushy jobs for the unpopular Chamorro supervisors in the Caroline Islander settlements on Saipan were to be abolished, whereas the salaries of the four assistant native teachers were to be increased as a first step towards a gradual upgrading of the government school.

The only direct response to Hahl's various comments was a reprimand by the colonial office.³⁸ It related to Hahl's termination of the Tinian lease. Although the colonial office accepted that it had been substantially justified, it insisted that, apart from emergencies, all measures which diminished the budgetary income of the colony required its prior approval.³⁹ Since German New Guinea still required a large subsidy, any such reductions were at the Reich's expense and therefore interfered with the budget powers of its legislature.

36 Hahl's report does not give the impression that he intended to limit himself to issuing general guidelines to the local administrations after his aim had been reached.

37 As the law stood at the time, Hahl was not authorised to close down district offices in the Island Territory or to remove government stations from their responsibility.

38 The decree merely mentioned in passing that they had arrived too late to be taken into account when formulating the final budget proposal submitted to parliament.

39 It added that the same applied to the repeal of ordinances in the course of a budget year which produced an income that had been included in the budget—a reference to Hahl's planned abolition of a dog tax, the collection of which involved a greater effort than its yields were worth.

On 27 February 1912 the governor's office⁴⁰ informed the local administrations in the Island Territory that the previous procedures still applied to the budget proposals for 1913 because the colonial office had not yet responded to the reform proposals made by Hahl in July 1911. The district offices and stations in Yap, Saipan, Ponape, Jaluit and Nauru each had to prepare separate budget proposals and send them directly to the colonial office with copies to the governor.

By May the governor's office had only received the budget proposals from Yap and Nauru. Those for the Western Carolines and Palau were highly optimistic. They estimated that the phosphate levy paid by the mine on Angaur would yield 125,000 Marks rather than the 75,000 Marks included in the 1912 budget and doubled the estimate for import duties to 60,000 Marks because the district office believed that the newly established Western Carolines Company would have a major impact on the economic development of the district in 1913. All told it expected a local revenue of over 250,000 Marks, almost 100,000 Marks more than the 1912 budget estimates. On the expenditure side the proposal was more than modest, climaxing in a "nil" demand under the non-recurrent expenditure vote. The most daring request was for an administrative assistant for secretary Baumert who effectively ran the district office because district commissioner Kersting was also in charge of the Eastern Carolines, where he was based, as they occupied most of his attentions.⁴¹ The Nauru proposals were more subdued. The phosphate exports were estimated not to exceed 120,000 tonnes, yielding a phosphate levy of just 60,000 Marks. Nonetheless, district officer Warnecke expected a large surplus with a local expenditure of about 33,000 Marks against 121,000 Marks of local revenue.

The office of the governor regarded Warnecke's predictions as too pessimistic and suggested that the phosphate levy in Nauru could be safely set at 70,000 Marks. By contrast, it regarded the hopes Baumert had placed on the Western Carolines Company as unrealistic. It therefore recommended that his estimate of receipts from import duties be halved to 30,000 Marks. Its comments on his expenditure proposals were more significant. In addition to formally abolishing the post of a district commissioner for the Western Carolines⁴² it proposed that the district officer in Korror be replaced by a government doctor who would also take on the administrative responsibilities.

None of these suggestions for the Island Territory were taken up by the colonial office. The district commissioner position for the Western Carolines was retained, the Palau Group did not get a government doctor, and for the phosphate levy the 1912 figures were again used in the 1913 budget proposal. This was largely due to the fact that the proposal was preoccupied with a two-year development program for the Old Protectorate which was explained in a long memorandum.

According to the explanations of the 1914 budget proposal the need for a similar program for the Island Territory had been considered but found to be impractical. But for 1914 some additional funds for that territory were sought. They included the post of a government doctor for Palau and also implemented the plan to put him in charge of the government station in Korror. However, the estimated revenue from the phosphate levy was still only increased by a modest 25,000 Marks. More importantly, the suggestion to abolish the post of district commissioner for the Western Carolines, which was a key element in Hahl's plans for an administrative reorganisation of the Island Territory, was not taken up in the 1914 budget proposals either.

Hahl fared even worse with his plans for the Old Protectorate which he had set out in a memorandum in September 1911 (see RKA 6520) on which he had based his budget proposal for 1913. The memorandum appended to the colonial office proposal for that year was a very different document. Since governors were not given an opportunity to comment on the colonial office's

40 It appears that Hahl had handed over much of the budget preparations for the Island Territory to his deputy.

41 This state of affairs is reflected by the fact that Kersting's entire salary was funded in the budget of the Eastern Carolines.

42 The post was still included in the budget although it was shown as being unfilled.

proposals before they were submitted to the Reichstag, Hahl had to wait until the colonial office raised questions about the 1914 budget in a decree of 8 November 1912 before he could voice his frustration.

While some of his specific proposals had been accepted, his general plan had been fundamentally altered. The central idea of giving priority to the "opening-up" (*Erschliessung*) of the colony by extending the network of government stations had been rejected. Instead the colonial office had chosen to focus on an improvement of agricultural services. Although Hahl appreciated the increase in the funds available for this purpose he still firmly believed that his choice of priorities had been the right one. Despite an instruction not to pursue the matter he therefore regarded it as his duty to put his proposals forward again in the hope that he would eventually be able to convince the authorities in Berlin. He did so with the full support of the unofficial members of the advisory council who, during the discussion of the 1914 budget proposals, had insisted that the measures designed to open up the colony should under no circumstances be deferred again.⁴³

The decree of the colonial office to which Hahl responded had been especially concerned with an improvement of German New Guinea's financial management. In this field, Hahl believed, the colonial office had also chosen the wrong priorities. Instead of asking for a "director of finance" as the colonial office expected, Hahl therefore announced that he would again be asking for a head of the accounts section in his budget proposal. He probably enjoyed pointing out that it would, in any case, be futile to ask for a director of finance at this stage because the ministry of finance had indicated that it would only support the creation of such a post after German New Guinea had assumed full responsibility for its accounts. Yet so far the colonial office had not even granted his request to consolidate the accounts of the Island Territory with those of the Old Protectorate. It was prudent to wait until this step had been successfully taken before transferring even greater financial responsibilities to the colony. This, however, depended on an adequate number of experienced accountants whom the colonial office had so far denied him. To provide posts for such people at the middle level of the colonial service was at present more helpful than funding the post of a director of finance. Once a strengthened accounting section had prepared the ground a senior official would be most welcome because he could then also play a part in the reform of the customs service and the management of government supplies which, Hahl hoped, would get underway during the 1915 budget year.

Hahl was not as unsuccessful in achieving his goals as these grumblings suggest. Funds for a government station on the lower Sepik were approved in the 1913 budget and another station at the mouth of the Markham was funded in 1914, when German New Guinea also acquired a head of its account section. But Hahl's ambitions were far greater. They were spelled out in another long memorandum which was to be appended to the 1915 budget proposal (AA 63/83, Box 138/5). It sketched a second development program covering three budget years and requiring Reich subsidies of over 7,000,000 Marks. It focused with even greater determination than Hahl's earlier memorandum on the "opening-up" of the Old Protectorate. Eight new government stations were planned: four in Kaiser Wilhelmsland—two inland stations on the upper Markham River and the middle Ramu and two coastal stations at Vanimo and Wewak—and four in the Bismarck Archipelago—one each in northern and southern New Britain, one in southern Bougainville and one in New Hanover. No new stations were planned for the Island Territory. Instead Hahl again

43 An examination of this difference of opinion is difficult because the governor's files on the 1913 and 1914 budget proposals are no longer available. The copy of Hahl's report summarised above survived because it was put on a file dealing with native taxes (AA G2, Item 434) because it also dealt with tax issues. I would have liked to search the files of the colonial office for additional information but the costs were prohibitive and Hahl's report gave a sufficient although clearly incomplete idea of what had gone on.

proposed a downgrading of the district office in Yap to a government station which was to be placed directly under the governor rather than the district office in the Eastern Carolines.⁴⁴

Whether Hahl's development program would have been welcomed by the colonial office is another matter. It is unlikely that Hahl expected that it would be implemented as rapidly as he had proposed. On the other hand, there is no question that "the opening up" of the interior of Kaiser Wilhelmsland and the other large islands was going to happen. Moreover, the Reichstag at least would have been in a favourable mood. Copra prices were high, phosphate production was booming, large-scale mining of gold in eastern Kaiser Wilhelmsland was about to get underway and the reported discovery of oil in the west had so delighted the Reichstag that it would have been willing to allocate substantial funds for the exploration of this new resource in the 1914 budget.

But such spectacular confidence boosters would hardly have been necessary, just as setbacks, such as the temporary ban on the hunting of birds-of-paradise, would have made no dramatic difference. Leaving global factors out of account, German New Guinea's economic future on the eve of Hahl's departure in April 1914 looked decidedly rosy. Besides, given the arrangement that had been made for its government the growth of the colonial state in this colony, its external expansion and internal bureaucratisation was indeed inevitable (see above: 221 ff.).

This does not mean that it did not matter what the various historical actors did or did not do: it takes a great deal of effort and some luck to make even the inevitable happen at a particular time; but it is a lot easier to swim with the tide than try to stem it. Although the colonial office played the key role, it too could not dictate developments. On the contrary, it failed each time it tried to slow down government expenditure. Nor was the personality of the individuals representing the institutions of government immaterial. The history of colonial rule in German New Guinea would not have been the same if Hahl had not become governor and had not served in this capacity as long as he did. But Hahl, like everybody else, had to reckon not only with external factors but also with the internal constraints imposed by the system of government he helped create and which was gaining strength the more structured it became. With each year of colonial rule the Emperor's New Clothes became more tangible, gradually hardening into a suit of armour which protected those wearing it but at the same time restricted their freedom of movement.

When colonial secretary Dernburg proclaimed that Germany's governors were free to govern their colonies as they saw fit, albeit within the existing legislation and financial frameworks, he was not joking. He was as genuine as his banker colleague Adolph von Hanseemann had been 20 years earlier when he had pronounced that the Neu Guinea Kompagnie's administrator was to be given the widest possible discretion, naturally within the limits of the law, their budgets and the instructions issued to them. The difference was that the colonial law was then in its infancy and that the administrative capacity for operating a bureaucratic system of government was still lacking. Indeed throughout the period of its rule the company did not even manage to ensure that its land acquisition monopoly was exercised as vigorously as it expected.

The financial records which German colonial rule produced illustrate the slow process of the actual bureaucratisation of government in the colony. But they present a curiously deformed picture presenting prospective and retrospective vistas rather than depicting the actual state of affairs. Moreover, these records are concerned with the financial control of governmental activities and not with these activities themselves. This means that they only record the financial information systematically while the non-financial information they contain remains anecdotal.

44 The 1915 budget proposal did include the position of a director of finance. It also indicates that Hahl had been given approval to combine the 1913 accounts for the Island Territory with those for the Old Protectorate into a single consolidated account.

Nonetheless this information is historically valuable, in particular in relation to the discretionary exercise of governmental powers for which financial controls were of crucial importance; and while the Rule of Law was generally expanding, the process by which the colonial government grew as an operation remained essentially discretionary. It was impractical to prescribe in the form of genuine normative laws which roads or buildings had to be constructed, or how many officials of specified kinds it had to employ in any given year. Such matters were not suitable targets for normative regulation whereas financial controls were appropriate. Yet what happened in this field was a vital part of the exercise of all governmental powers. It is impossible to appreciate the history of German colonial rule without considering the personal and material resources that could be employed and, as might be expected, the financial records in this particular field are richer and more systematic than elsewhere.

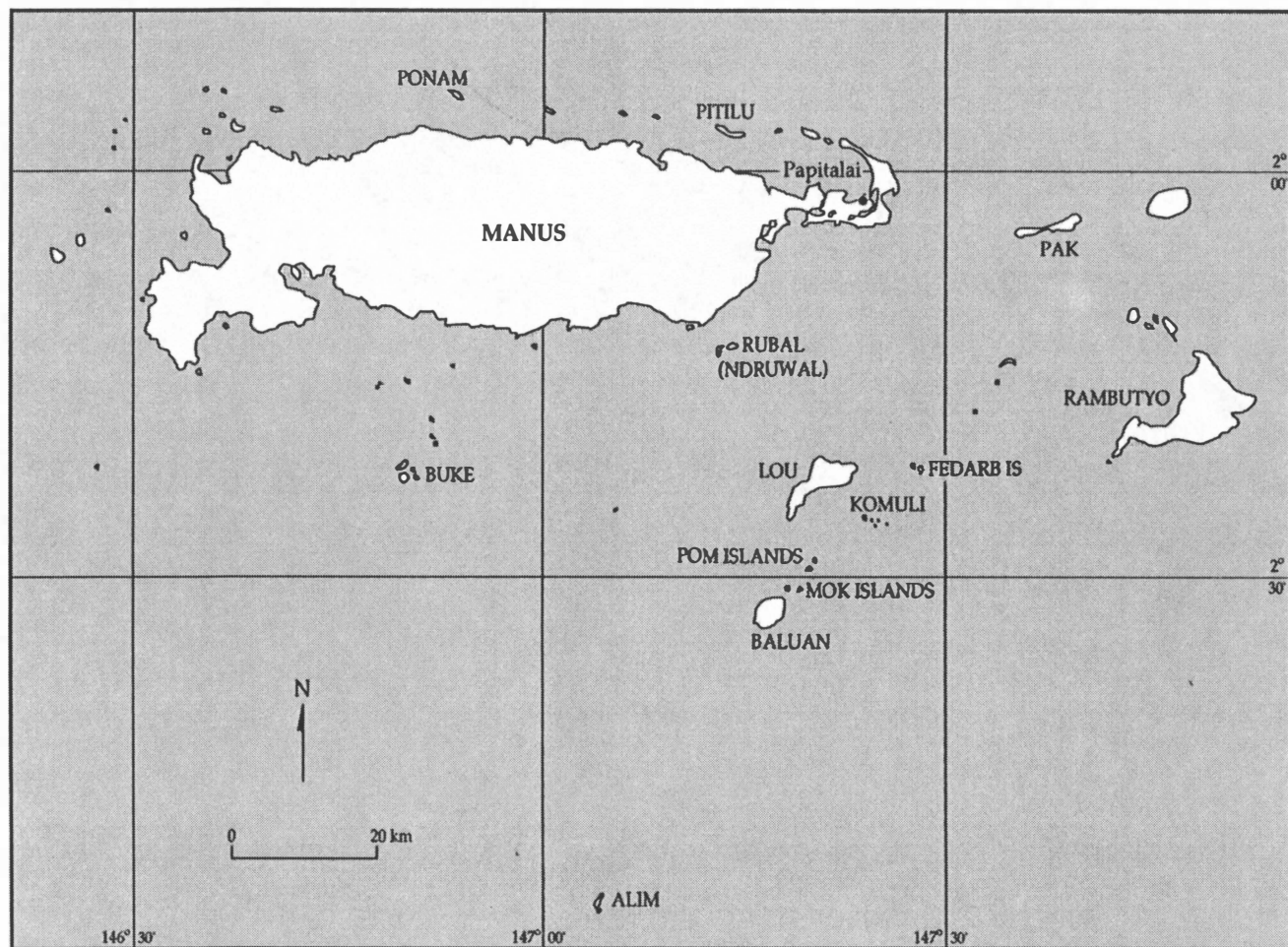
Although a description of the changing administrative capacity of the colonial government still does not tell us what it actually did, it shows what it could do in factual rather than normative terms. It is a form of quantitative history, but one which is not concerned with how often various types of governmental actions were performed at various times in various parts of German New Guinea. Instead it quantifies the capacity to perform these actions.

It is plain that a history of, say, the medical service is seriously defective if it does not inform its readers about the number of doctors the government employed, about the kinds of hospitals available to them, about the opportunity they were given to visit native villages and so on. It is equally clear, however, that it is in the end the actions which the medical personnel carried out that count historically. Without also coming to grips with the external aspect of colonial rule, with the effects of the exercise of governmental powers on those who were being governed, a history of this rule remains unsatisfactory. The question is whether it is possible to supplement an account of the normative and organisational framework of government—and of its changing administrative capacity—with an action-centred narrative depicting the external aspect of German colonial rule without compromising the commitment to factuality that must be the cornerstone of any academic form of historiography.

It is time for another case study, and the history of “the police” as the most tangible instrument of power of the colonial government in relation to its subjects is an obvious target. To set the scene I shall again begin with a preliminary overview extracted from the annual reports.

PART II

Testing the Water



MAP VI: The Admiralty Islands

Chapter 5: A "Systematic" Approach

I

The first annual report of the Neu Guinea Kompagnie refers to "police functions" to be entrusted to its station managers but focused on the need to establish an armed native police force as a "material instrument of power" vis-à-vis those natives "who have not yet actually been brought under the new State authority":

the Board of Directors has equipped the stations and ships with arms for their protection. But the small number of officials and employees at the stations is not adequate to repel an attack or to avenge one.... The protection...the German Government has promised...would also have to be called on to repel attacks by the natives. But so far no measures calculated to meet this contingency have been taken. In fact the only naval ships which have been present in the Protectorate—and then only occasionally and for short periods—are not suitable for this purpose in any but exceptional cases (Sack and Clark, 1979: 11).

Although such an instrument of power was also required "for the enforcement of police and judicial measures", its central role was the protection of the first colonial enclaves, which non-natives occupied together with their native employees, from the natives living outside them and to punish these natives for acts of transgression.

The picture of the natives as outsiders lent strength to the company's argument that it was part of the duties of the Reich to provide this protection through the imperial navy. In this scheme of things the natives were an external rather than an internal threat, so that dealing with it was primarily a responsibility of the Reich. The company could only be expected to make a contribution. Even the contribution it was prepared to make was conditional. It was offered on the assumption that the rank and file of the police force would be recruited from among the local native population, whereas the company was unwilling to maintain an expensive mercenary force hired abroad. Still, it announced the appointment of "an officer and several non-commissioned officers who will proceed to the Protectorate taking with them the equipment for fifty men" (*ibid.*: 12).

The next annual report stated that "Lieutenant (ret.) Steinhäuser" and two former non-commissioned officers were training an unspecified number of natives from the Bismarck Archipelago, who had been supplied with light-weight uniforms, in the use of the "converted Chasseport carbine" with promising but slow results (*ibid.*: 28).

According to the annual reports it took until 1891 before the armed police force went into action during several punitive expeditions near Hatzfeldhafen under imperial commissioner Rose, with the additional assistance of a warship but without "taking or punishing the culprits" (*ibid.*: 60). This indicates that the company hardly regarded its native police force with pride but rather treated it as an unproductive investment which had to be kept as small as possible. It was even prepared to close down its station in Hatzfeldhafen in the face of native opposition rather than crushing it with superior military might.

In the company's 1889 agreement with the German government the native police force lost its military commander and had its strength cut to 36 men who "could be employed as labourers by the company when they are not required by the Protectorate Administration for police duty or boat duty" (*ibid.*: 41). The reference to "boat duty" shows that even the official role of the native police force was not limited to providing military services. Nor did this force—together with the imperial navy—have a monopoly in the field. It is plain, for example, that during the Blanche Bay

Uprising in 1893 administrator Schmiele relied on a large number of more or less armed native plantation labourers.¹

The company saw the part to be played by its native police force as reactive and defensive. It therefore disapproved of an expedition in 1894 which Herr Steusloff, an acting administrative official, had found it necessary to undertake for the purpose of punishing a chief in the north of the Gazelle Peninsula who was alleged to have committed acts of violence against other natives, even though they had not interrupted the peaceful relations between the colonists and the natives which had been "restored after the disturbances of the summer of 1893" (*ibid.*: 94). Acts of violence natives committed against other natives were no reason for punitive measures. In so far as the use of military force was unavoidable, the company continued to rely on the assistance of the imperial navy, and said as little as possible about military activities in its annual reports.

The first reported punitive expedition after the end of company rule still fitted this mould. It was carried out jointly by the imperial judge for the Bismarck Archipelago with a section of the native police force and SMS *Möwe* and directed against natives on Bougainville who had seized the cutter *Sea Ghost*, killing its European captain and a coloured crew member during the previous year. However, the concerns now went further. Where it "adversely affected trade and the recruitment of labour" the administration was called upon to stop natives fighting each other. Moreover, after peaceful relations with and among the natives had been established, these natives were to be "involved in the political administration and the administration of justice by appointing chiefs with limited police powers and judicial authority" (*ibid.*: 171).

While a transfer of police powers to government chiefs reduced the duties of the police force in "pacified" areas, the range of activities it had to perform increased in other ways. Native policemen acted as overseers when natives were requisitioned to build roads. They also supervised natives sentenced to imprisonment with hard labour, who were apparently also mainly employed on roadworks (*ibid.*: 177). Nonetheless, governor von Bennigsen regarded the armed police force primarily as a paramilitary force with a distinctly mercenary character.

In the selection of members of the police troop care is taken to see that as many tribes as possible are represented and that no single tribe predominates, and in this way the risk of mutiny, a possible danger in every mercenary force, is eliminated. However it would be still better if the major part of the troop were made up of East African Negroes, as the local police troopers cannot be retained in the service permanently, and when they return to their home districts trained in the use of arms, they can do a great deal of mischief with a rifle and ammunition should they manage to get hold of them. At the present time there are few rifles and little ammunition in the hands of the natives, and these will probably gradually be confiscated (*ibid.*: 194-195).

Fortunately, in Bennigsen's view, Melanesians were characterised "by a high degree of cowardice", so that in the absence of large united tribes, "any necessary military expeditions can be carried out by a police troop gradually increasing in size to match the number of stations and supported from the sea in emergencies by the Imperial Navy" (*ibid.*: 194).

The increase in the number of stations began in 1900 in northern New Ireland: "considerable quantities of firearms and ammunition, originally stolen from Europeans, were confiscated, in most cases without bloodshed, and a prohibition was issued against carrying arms" (*ibid.*: 210). The success of this station under the legendary Franz Boluminski in pacifying its district, which had been the target of punitive expeditions for almost 20 years, was especially pleasing because the imperial government was generally having second thoughts about the usefulness of such expeditions.

1 He could not possibly have divided his native police force—by now 48 men, of whom 24 were stationed in the Bismarck Archipelago (*ibid.*: 95)—into two parties able to "outflank" what are called "several hostile tribes" (*ibid.*: 75).

Regrettably, because there is practically no communication between the individual groups of islands and tribes on account of the distances and the language differences, a successfully completed punitive expedition does not have a far-reaching effect [P]ractically every ... tribe has to be made to feel the power of the Administration before it can be induced to desist from robbery, murder and cannibalism. In addition it is extraordinarily difficult to make a real impression on the natives in the bush. Only a coloured force experienced in jungle warfare, under the command of ... Europeans well acquainted with the bush and the ways of the natives can undertake expeditions ... with prospects of success (ibid.: 211).

Instead of announcing the arrival of a large number of African askari, the 1900 report stated that only local natives were employed in the police troop; that it was easy to obtain suitable natives for this purpose; and that the "older police boys tend to remain in the service after expiry of their contract or return to Government service after a brief stay in their home district" (ibid.: 211-12). Apart from announcing the completion of the construction of police barracks and a house for a police sergeant in northern New Ireland (ibid.: 225), and from referring to more punitive expeditions, the 1901 report mentioned a temporary "police post" in the Admiralty Islands (ibid.: 223). A more permanent police post was established in Toma after the Varzin Murders. It was expected "to ensure peaceful conditions both for the expanding plantations and also among the belligerent natives themselves" (ibid.: 236).

A reference to the recurrence "of the very bitter feuds between the mountain tribes and the coastal tribes" in southern New Ireland which "immediately had a very adverse effect on the recruitment of labour" (ibid.) foreshadowed the establishment of at least a police post there.

[E]xperience has shown that temporary punitive measures against excesses committed by the natives are worthless, in fact harmful, in that the latter always tend to avenge the losses inflicted on the next comers. The application of military force is useful only when the advantage gained by intimidating the natives is followed up by a permanent Government station which suppresses the feuds of the natives, gradually reconciles the warring factions, and guarantees the security of both person and property simply by its presence (ibid.).

On the other hand, the police post in Toma was to be used as a base for a small "expeditionary troop" (ibid.: 244). This mobile unit was first deployed to punish the natives of the Witu Islands who had attacked a trading station and seized a steamboat. Here too an "occupation force" was left behind. It was to maintain "the security of the station until the situation has been fully clarified" (ibid.: 244). A "temporary occupation force" was also stationed in the Admiralty Islands, although it had so far not been completely successful in subduing these "volatile and belligerent islanders". "This area, if it is to be properly opened up, requires the establishment of a permanent station well equipped with means of transport by sea" (ibid.).

However, the next government station was established in southern New Ireland, where the imposition of government control was "in some cases associated with fighting and bloodshed involving the troop in Namatanai" (ibid.: 251). The Admiralty Islands received only another fleeting visit by the expeditionary troop, which was also active in the Witu Islands, as well as in the northern Solomons. In 1905 a government station for the northern Solomons was opened in Kieta. Its police troop had to intervene "at least twice" with military force, in one case because the natives stubbornly refused to surrender a man accused of attempted murder and inciting rebellion (ibid.: 256).

Although the 1906 report again stressed that for the pacification of the Admiralty Islands and the preservation of its people "the constant presence of police troops is an urgent necessity" (ibid.: 265), the government station opened during that year was situated in western Kaiser Wilhelmsland. It had already brought about "a complete reversal of the native situation". Several refractory tribes were successfully punished and the natives were requisitioned in gratifying numbers for public works (ibid.: 266).

The annual report for 1907 contained a detailed review of the situation, with a special emphasis on Kaiser Wilhelmsland.

In the central section of the Friedrich Wilhelmshafen District the effective sphere of influence of the Administration covers a zone bounded in the west by Cape Croisilles and in the east by Cape Rigny, and extending inland with a radius of about 10-15 km. Apart from this area, the Administration maintains only a coastal police force² to protect the natives living along the coast from attacks from the interior. The Administration has not yet established itself on a firm, permanent footing in the interior itself. There was much unrest among the natives in the year covered by the Report. These disturbances never involved attacks against whites but consisted only of fights among the natives themselves and were in every case of a purely local character. These must be expected to continue in the future so long as the absence of even the most primitive means of communication makes it impossible for the Administration to extend its sphere of influence (ibid.: 276).

The unrest among the natives was not restricted to the hinterland of Friedrich Wilhelmshafen. It also made itself felt in the Bogia-Monumbo area, further west, where all the tribes practised head-hunting:

In point of fact they did not menace the European settlements in the year covered by the Report, but they advanced to the immediate vicinity of these settlements and attacked the coastal natives living close to the mission stations. The guilty tribes were given a severe drubbing. But, judging by previous experience, the effect will last only so long as renewed encroachments appear likely to be visited with a repetition of the punishment. The Catholic Mission regards the prospects of success for their work in those areas as doubtful without the protection of a strong Government station. On the other side of Potsdamhafen [Monumbo] to the north-west as far as the boundary of the district, there is no effective control whatever. In particular the powerful tribes in the two river basins of the Ramu and Kaiserin Augusta Rivers [Sepik] are neither open for recruiting nor under missionary influence or accessible to Government agents (ibid.: 277).

Matters were even worse in the Eitape district, west of the Sepik, where the natives "acknowledge no authority".

In these circumstances it was very difficult for the Station to gain any influence or to achieve recognition of its authority. It was openly challenged to fight and the troop was exposed to ridicule. Armed intervention was necessary: in the hinterland of Eitape against the mountain villages of Siaute, Peest, Marock and Eitjerap; to the west of the station, against Maloll (on three occasions); to the east of the station against Karssau, Muschu, Kerassin and the mountain village of Mangere.

This intervention by the station apparently made a great impression on the natives and prepared the way for peaceful contact between the two sides. Since the appointment of chiefs a certain degree of obedience to the instructions issued by the station has been observed, and the feuds have declined in number (ibid.: 277-78).

The switch from punitive expeditions to a pro-active expansion of government control was general, with a curious exception for the Admiralty Islands, where it took until 1911 before a government station was established. It too was soon forced to take armed action against one "mountain tribe" which not only attacked the coastal people but also harassed the station. Its chief was arrested but escaped from the primitive prison despite his chains; however, an "outbreak of dysentery then put an end to all hostilities for the time being" (ibid.: 337).

² The German term "*Küstenpolizei*" is difficult to translate. It refers to "the policing" of the coast, rather than to a "coastal police force" which performed this task.

The main event in 1911 for the history of the police force was the arrival of an officer—more than 20 years after the departure of lieutenant Steinhäuser—who was to take charge of the expeditionary troop as its full-time military commander.

After adequate training...the troop, when not required for military purposes, is to engage...in practical exploration, gradually advancing into unknown tracts of country, reconnoitring tracks and making contact with natives. Due to the shortage of training personnel and the absence of adequate reserves for the troop itself, it was not able to make an advance into the bush until the first few months of the 1912 financial year (ibid.).

In 1912 the expeditionary troop was stationed for five months near the mouth of the Ramu, the so-called Kagam Expedition. An extensive terrain was mapped and the local tribes were pacified (ibid.: 354). Next the troop was sent to the Baining Mountains in response to an attack by one tribe on another during which "[a]bout thirty-two persons...[were] said to have been killed and partly consumed". It "not only succeeded in punishing the aggressors but in occupying the country as far as the central massif of the Sinewit and preparing it for administrative control" (ibid.: 355).

The Administration intends to employ the expeditionary troop to pacify South Bougainville, as this is absolutely essential for the successful development of the numerous newly established ventures on that island. There are similar plans for the Ramu region and the Markham Valley, in order to open up the approaches to the populous interior (ibid.).

Instead of being sent to southern Bougainville in 1913, the expeditionary troop was dispatched to southern New Ireland to crush a rebellion which had followed an attack on an expedition investigating its forestry resources.³ This massive intervention did not please district officer Brückner. He had already taken punitive action the day after the attack

when three of the nine [captured] rifles ... were retaken as well as a large part of the stolen equipment Eight of the natives fell but the Station troop suffered no casualties.

The expeditionary troop then took over further punitive measures against the rebels. The only results of their intervention reported to the Station have been the shooting of many more natives (Sack & Clark, 1980: 56).

Brückner saw that the intervention of the expeditionary troop was an over-reaction which would seriously set back the peaceful development of his district.

In the organised areas the relations between the Administration and settlers on the one hand and the natives on the other hand have been good, and there were no disturbances of any kind. The organised areas were visited in the course of numerous patrols, the organisation was consolidated and the inhabitants were counted or in some cases re-counted. The collection of the head-tax did not give rise to any difficulties....

The first steps towards the extension of the native organisation to the mountains in the southern part of the district were taken ... by traversing the island on two occasions. Contact was successfully established everywhere with the natives, who also served as carriers without any show of reluctance. The natives were told to expect a second visit, and that chiefs and *tultul* would be appointed. In answer to their inquiry they were also told that there were no plans to levy taxes on them for the present. Further progress in the development of these areas was recently cut short by the attack by the mountain people on *Oberförster* Deininger's expedition (ibid.: 55–56).

3 During the attack the expedition leader was wounded and five members of the police escort and four carriers were killed.

In addition to exploratory, census and tax patrols, the local police troop was also involved in the station's road building activities, which mainly consisted of the completion of the "Namatanai-Matandeduk road as a vehicular road with permanent bridges" (ibid.: 57). Policemen also accompanied the government doctor on his patrols to supervise the native "medical assistants" (*Heiltultul*) who had been appointed in 85 localities (ibid.: 59). In addition, visiting expeditions, like that of Deininger, were supplied with a police escort, as a matter of course, although it was not necessarily provided by the local government station.

In other words, the range of functions of the native police force was as wide as that of the entire administration. But this was beginning to change, because a general process of governmental specialisation had begun. By the same token, a feeling of living in an abnormal environment, where unrest could at any minute turn into open rebellion, persisted. Those exercising colonial rule in German New Guinea perceived their rule as a foreign imposition which continued to rely, not only ultimately but in its daily practice, on the force of arms. There was still a need for a constant display of the police force as a "material instrument of power", even when collecting taxes, carrying out medical surveys or compiling inventories of natural resources. It is unlikely therefore that armed police units attached to the various local administrations would have disappeared in the then foreseeable future and that all military activities would have been left to the expeditionary troop.

Even an involvement of the imperial navy which went far beyond "assistance in emergencies" was again on the cards. Because of the deployment of the expeditionary troop in New Ireland the pacification of southern Bougainville was tackled by a joint six-day expedition of the Kieta police troop and the landing force of SMS *Cormoran*. The naval report on this expedition was so enthusiastically received by the emperor that a closer cooperation between the native police force in German New Guinea and the imperial navy was bound to have developed had not war intervened.

II

The annual reports on the Marshall Islands as a separate colony offer no information about a police force. This suggests that its role during the almost 20 years before their incorporation into the Island Territory was insignificant. Little appears to have changed afterwards because subsequent annual reports only mention that in 1909 barracks for "the coloured police troop" on Nauru were built. By contrast, when the Eastern and Western Carolines and the northern Marianas came under German colonial rule in 1899, all three districts were supplied with a substantial number of armed Malay policemen imported from the Dutch East Indies.

According to the first annual report for the Western Carolines, three of these Malay policemen had proved so unsuitable that they could only be employed as agricultural labourers. Instead eight local natives were recruited. Three of them were close relatives of high chiefs on Yap and another the son of "the Negro Gibbons" in Palau. Apart from military training they were instructed in carpentry, masonry and agriculture. This experiment proved so successful that, with the exception of two particularly able men, all Malays were sent home in 1902. The police troop now consisted of 32 local natives under a Malay corporal and was "completely adequate", an assessment borne out by the silence on that score in subsequent annual reports.

The only information about the police in the Marianas appears in the annual report for 1900 under the heading "schools and missions"(!). Nine of the 12 Malay policemen had been "sent back to Ponape", in accordance with their own wishes which, "due to their inferiority", coincided with the interests of the administration. The thoroughly peaceful character of the population made it unlikely that the police force would ever be needed for its "original", presumably military, purpose. Instead the district commissioner introduced a kind of national service. Men who had

completed their service in the police force—which numbered 43 at the time—were replaced from among those who had turned 18 during the previous year and were medically fit. Particularly suitable individuals were to remain with the troop for a longer period to form a pool from which the officials of the "community administration" would be selected. Although the two hours of daily training the men received were insufficient to turn them into proper soldiers, it taught them to be punctual, to follow orders and to cooperate with each other. Service in the troop also fostered a sense of comradeship between the Chamorros and the Caroline Islanders living on Saipan who had otherwise little to do with each other.

By contrast the annual report for the Eastern Carolines for 1900 stressed the need to maintain a small military force because the easily excitable and well-armed population of Ponape required constant vigilance. Here too the situation improved, so that the next annual report announced that the police force could be safely halved when 35 Malays completed their contracts a few months later. In 1905, when the disarmament of the natives in the Eastern Carolines was thought to have been largely completed, it was decided to renew only the contracts of the very best Malay policemen and to replace the others by natives from the outer islands in the district. Relatives of chiefs were again preferred. The aim was to educate in the police force suitable successors and assistants for the current chiefs who could inform their fellow-countrymen about the goals of the government and the laws applying to them. Once more the experience with these policemen was so encouraging that a police force entirely recruited within the district was foreshadowed a year later.

The situation changed when a reform of the traditional sociopolitical system on Ponape was begun. As the local "means of power" were insufficient to prevent the outbreak of open hostilities, assistance was sought. It arrived in September 1908 in the form of SMS *Cormoran* with 100 Melanesian policemen. The fear of the Ponapeans that their island would be flooded with these "notorious cannibals" quietened the atmosphere and allowed the government to take all measures necessary to assure lasting peace. The "Melanesian Troop" could therefore be employed in the construction of roads, one of which, some 20 kilometres long, ran across the island from "die Kolonie" to the district of Kiti and allowed the police force to reach this restless area within six hours. The large increase in the local police force required the construction of additional buildings and a safer rifle-range. The new police compound consisted of three barracks, houses for two German police sergeants and utility buildings, including an arms and ammunition depot. Nonetheless, it was hoped that it would soon be possible to reduce the local police force to its "peace strength" of about 50 men.

This apparently happened in 1909, although the situation could still not be regarded as satisfactory, so that the reforms had to be pursued cautiously because the "means of power" to impose them by force were no longer available. Instead the Ponape Rebellion broke out the following year. It was crushed by five warships and 222 native policemen, 172 of whom were sent as a reinforcement from the Old Protectorate.

III

After this climax the annual reports tell us no more about the history of the police force in the Island Territory. The information they contain is generally insufficient for presenting even the most general overview of the history of "the police" in German New Guinea. Still it reveals some remarkable features of this history.

Firstly, the annual reports suggest a striking difference between the Old Protectorate and the Island Territory, in particular the Marshall Islands, where, it would seem, the need for a material instrument of power was never acutely felt. While the Neu Guinea Kompagnie also sent out its first administrator without such an instrument, it soon had to provide him with one in the form of

locally recruited native policemen. By contrast the local administrations in the Island Territories a dozen years later were from the start supplied with a substantial number of imported Malays. On the other hand, when the Malay Experiment in the Island Territory failed, the locally recruited units, especially in the Marianas, had a distinctly non-military character. Instead they were used to train a new local élite, whereas native policemen in the Old Protectorate were regarded as a source of danger. Yet, when it came to the crunch on Ponape police reinforcements were sent in from the Old Protectorate rather than from other parts of the Island Territory.⁴

The first milestone in the history of the native police force in the Old Protectorate was the arrival of lieutenant Steinhäuser as its full-time military commander. But the life of the native police as a specialised paramilitary troop was short. It soon became a part-time force whose members also worked as ordinary labourers and served under the command of administrative officials who were expected to keep its military activities to a minimum and to rely as much as possible on support from the navy.

Military activity increased during the first years of direct imperial control and led to the establishment of a mobile police unit. But it took until 1911—that is to say until after the Ponape Rebellion—before it again acquired a full-time military commander. At the same time the imperial administration moved from reactive punitive expeditions to proactive pacification, which eventually became the primary task of the expeditionary troop. However, the move initially reduced the importance of the mobile unit because the establishment and the maintenance of public peace became the responsibility of a growing number of permanent government stations, each of which was supplied with its own armed police unit. The move also decreased the reliance on the navy. It no longer figures as a provider of military assistance in the annual reports, apart from the case of the Ponape Rebellion, until the involvement of a landing party in the pacification of southern Bougainville in 1914.⁵

While pacification continued to be of central importance in most districts, the activities of the native police force widened in areas which had been pacified. Native policemen not only provided military services but were involved in the construction of roads, the collection of taxes and the running of the prisons. They apparently also escorted officials whenever they left their bases, irrespective of what tasks they performed.

Judging by the annual reports the three most important milestones in the history of the native police force in the Old Protectorate in terms of its activities were its first major engagement near Hatzfeldhafen in 1891, a large punitive expedition in the Admiralty Islands in 1900 and, in 1912, the Kagam Expedition of the expeditionary troop under its new military commander.⁶

The annual reports do not provide enough information to paint a picture of any of these events as unique historical episodes. The information also is inadequate as far as an overview is concerned. The annual reports offer bits of information about the strength, the training and the duties of the native police force, but it is impossible to know to what extent even these bits of information are representative. Did the native police force in the Marianas in 1914 look basically the same as described in 1900? Were the native policemen in the Western Carolines still mainly

4 The annual reports suggest that the native police force in Nauru played a significantly different part from that of the rest of the Island Territory. The same presumably applied when the opening of a phosphate mine on Angaur in the Palau Group was followed by the establishment of a government station on that small island.

5 This does not mean that no such assistance was given by the navy; it merely means that it was not regarded as sufficiently important to call for an acknowledgement in the annual reports. On the other hand, it is worth noting how potent the effects of a marginal imperial comment like "bravo, propose medals" could be.

6 By contrast, the annual reports present the putting down of the Ponape Rebellion as a naval operation in which the native police force merely played an auxiliary part. During the preceding unrest it was mainly engaged in the construction of roads and no military force at all was employed. Similarly, neither of the Madang Conspiracies, in 1904 and 1912, caused a major military response by the police force.

sons of high chiefs who were trained in carpentry, masonry and agriculture at the end of German rule?

The annual reports do not even make clear whether the native police force was "the police" in German New Guinea. Was the supervision of public works, the collection of taxes and the running of prisons "police work"? What were the "police functions" of the Neu Guinea Kompagnie's station managers mentioned in its first annual report, or the "police powers" of government chiefs referred to in the first annual report of the imperial government? It is time to examine what the legislative framework has to say about these questions.

IV

"Police powers" were part of the *Schutzgewalt* of the Reich, which the Protectorates Act vested in the emperor. The act did not define these powers. It regulated their exercise expressly only in so far as it authorised the emperor to authorise officials whom the chancellor of the Reich empowered to exercise the judicial jurisdiction also to enact "police regulations". A revision of the act in 1888 changed this arrangement by authorising the chancellor of the Reich to enact such police regulations—as well as "other regulations concerning the administration"—and to delegate this legislative power to any colonial officials, irrespective of their judicial powers, and to chartered companies, like the Neu Guinea Kompagnie. This suggests that police powers were not purely executive, but that they were nonetheless a special form of a general administrative power. The Protectorates Act also had indirect consequences for the exercise of the police powers. It introduced the metropolitan Criminal Procedures Code in the German colonies, whose section 163 provided that "the offices and officials of the police and security service" (*die Behörden und Beamten des Polizei- und Sicherheitsdienstes*) had the right and the duty to investigate all suspected criminal behaviour. However, these offices and officials did not exercise their own powers when investigating such behaviour but acted as "auxiliary organs" (*Hilfsorgane*) of the "public prosecutor's office" (*Staatsanwaltschaft*).

In the colonies the position was different. The Criminal Procedures Code applied in accordance with the Consular Jurisdiction Act which did not provide for the participation of a public prosecutor's office. Instead it vested the power to investigate suspected criminal behaviour in the consul who, in the colonies, was replaced by the Protectorates Act by the official authorised to exercise the judicial jurisdiction.⁷ In other words, the investigation of suspected criminal behaviour was a function of the colonial courts rather than of "the police".

Although the Protectorates Act did not specifically oblige the emperor to establish a police and security service, it was clear that he had to provide the officials authorised to exercise the judicial jurisdiction with some material instrument of power to investigate suspected criminal behaviour, and that this instrument would then act as an auxiliary organ of these officials. However, the subordination of this instrument to the colonial courts only applied to the administration of criminal justice under the Protectorates Act. As far as natives were concerned the emperor's powers were, even for the administration of criminal justice, not limited by that act. He could therefore transfer the entire exercise of the judicial jurisdiction over natives to the Neu Guinea Kompagnie, as he did in 1888. The company's Native Penal Ordinance followed the example of the Consular Jurisdiction Act by making the investigation of suspected criminal behaviour of natives the responsibility of the person in charge of the station courts, but it said nothing about the involvement of auxiliary "police" organs. On the other hand, the company's charter makes sense

7 The Protectorates Act authorised the emperor, in departure from the Consular Jurisdiction Act, to provide for the participation of a public prosecutor's office in the colonies. It took until 1897 before that happened and then in a form which restricted this participation to the actual trials and, in particular, appeals procedures but did not include the investigation of suspected criminal behaviour.

only if the rights of local sovereignty transferred to it included at least some police powers. But the company weakened its position by insisting that the promise of imperial protection extended to dangers posed by natives who had not yet come under the "new State authority", since this acknowledged that the emperor had retained some police powers in relation to natives. By the same token, the company took it for granted that the police powers it had received entitled it to establish an armed police force.

The 1886 version of the Protectorates Act complicated matters further by treating the legislative aspect of the police powers as an extension of the judicial powers which had not been transferred to the Neu Guinea Kompagnie. This changed after its 1888 revision because the chancellor of the Reich used his new powers to authorise the company to enact police regulations and other regulations concerning the administration by a decree of 3 August 1888.⁸

The position in the Marshall Islands was even more confusing. The imperial commissioner had been empowered to enact police regulations on the basis of an imperial ordinance of 13 September 1886.⁹ But an imperial ordinance of 15 October 1886 had also authorised him to enact regulations concerning "the general administration" and "customs and taxation matters". In addition a 1902 decree by the chancellor of the Reich empowered the (now) administrator to enact "police and other administrative regulations". This decree was replaced in 1903 by a decree which dealt with the legislative powers of the authorities in all German colonies. However, the imperial ordinance of October 1886 was not repealed, thus suggesting that it retained a distinct relevance.

Just how confused the situation was is indicated by the fact that the 1903 decree also repealed a decree of the chancellor which had authorised the *imperial commissioner* in German New Guinea in 1890 to exercise consular powers, even though his office had ceased to exist ten years earlier. But the powers of the *governor* of German New Guinea were also uncertain. He was empowered by a decree of the chancellor of 1 April 1899 to enact "police and other administrative regulations" which was based not on the Protectorates Act but on a colony-specific imperial ordinance of 27 March 1899. Nonetheless, he used this authority in 1904 as a basis for replacing the customs tariff which the Neu Guinea Kompagnie had enacted in exercise of its local sovereignty although he had neither inherited these powers nor been authorised by an imperial ordinance, like the imperial commissioner in the Marshall Islands, to legislate in customs and taxation matters—quite apart from the fact that the 1899 decree had been repealed by the chancellor's 1903 decree.

The uncertainty about the legislative powers of governors in financial matters was addressed in the concluding sections of the 1905 imperial ordinance concerning the coercive and penal powers of the administrative authorities. But they confused the relations between the various powers making up the *Schutzgewalt* even further. Were police powers and the power to impose customs duties and taxes different forms of a general administrative power, or were they non-administrative powers? Was an official authorised to enact police and other administrative regulations thereby also empowered to legislate in customs and taxation matters? Was an official authorised to regulate these matters also empowered to include penal provisions or was this an exercise of police powers? Were police powers essentially penal powers?

At first glance the 1905 imperial ordinance suggests that this was so. It only directly referred to "police" in connection with the introduction of summary punishments provided for in the Criminal Procedures Code, which had so far been generally unavailable in the colonies.¹⁰ The

8 Two months earlier, the chancellor had to give the company a specific authority to prescribe criminal penalties in a planned customs ordinance, although this ordinance was based on the taxation powers the company had been granted in its imperial charter.

9 The ordinance made the authority subject to special decree to this effect by the chancellor of the Reich.

10 The Marshall Islands may have been an exception. The 1886 imperial ordinance mentioned above took it for granted that the imperial commissioner could issue summary penal orders to enforce administrative regulations and regulations in customs and taxation matters he enacted, although it said nothing about the penalties he could impose. However, he

ordinance distinguished between "police penal orders" (*polizeiliche Strafverfügungen*) and "administrative penal orders" (*Strafbescheide der Verwaltungsbehörden*), but, in contrast to the Criminal Procedures Code, it did not refer to "police authorities" (*Polizeibehörden*). Instead it provided that any authority empowered by the chancellor of the Reich or, with his approval, by the governor, could issue police penal orders. However, the addressee was entitled to demand a judicial hearing of his case. In other words, it was the purpose of these summary police punishments to ease the workload of the courts. Their *imposition* was no more an exercise of genuine police powers than the *investigation* of suspected criminal behaviour by the police as an auxiliary organ of the courts.

What then were these mysterious police powers? Perhaps what the ordinance has to say about the "coercive powers" of the colonial authorities can help us further. Section 8 of the ordinance stipulated that the competent administrative authorities were entitled—but only entitled—to enforce orders which they had issued in "the lawful exercise of governmental powers" (*in rechtmässiger Ausübung der obrigkeitlichen Gewalt*). The ordinance took it for granted that the governors, as well as the emperor and the chancellor of the Reich, could issue and enforce such orders. It merely empowered the chancellor and, with his approval, the governors, to delegate this power to any "suitable" subordinate authority and laid down the procedures which then applied to its exercise. They included a written request to perform, or to refrain from performing, certain actions and a subsequent written order that this request, if not complied with, would be enforced.¹¹ The means of enforcement were restricted to fines of up to 300 Marks.¹² However, if these elaborate procedures were "impractical" (*undurchführbar*), "immediate coercion" (*unmittelbarer Zwang*) could be used.¹³

The ordinance expressly ruled out the use of these procedures as a means of preventing the commission of a criminal offence. This did not merely acknowledge that it would have been absurd to issue a person suspected of planning a criminal offence with a written request to refrain from carrying it out, but also indicated that crime prevention was not the reason why the administration was endowed with coercive powers. However, the discretion given in the ordinance to the chancellor and the governors at strategic points was so unusually wide that it was plainly intended that it would be supplemented by more specific implementation regulations.

The most important result of the 1908 implementation regulations for German New Guinea was negative: they did not direct that the imperial ordinance applied in any way to any of the natives living in German New Guinea, so that the exercise of coercive powers in relation to them remained a matter of administrative discretion.¹⁴ This did not affect specific legislation in force or subsequently enacted, for example the 1888 Native Penal Ordinance. But neither did it prevent the colonial government from following the procedures laid down in the imperial ordinance as a matter of administrative practice. Nor did it mean that the substantive principles on which the ordinance was based were irrelevant for the relations between the colonial government and its native subjects—and it is against this background that the positive provisions of the implementation regulations must be seen.

could not punish non-natives summarily for offences under the German Criminal Code.

11 Both the initial request and the subsequent enforcement order were subject to an administrative appeal.

12 The authorities also had the option of performing the requested action at the expense of the person from whom it had been requested.

13 The use of immediate coercion was also subject to an administrative appeal.

14 The regulations replaced a 1907 version which was never published. The replacement closely followed a model prepared by the colonial office. It is not improbable that the first set had been flawed because Hahl had misunderstood the scope of the ordinance. But the colonial office was also interested in ensuring that the implementation regulations in this crucial area were largely the same in all German colonies. However, this is merely my interpretation since I did not have the opportunity to trace the 1907 regulations which may well tell a different story, if their text is still available.

They authorised all district offices and government stations to issue and enforce orders of a "police nature", thus making the local administrations, rather than any specialised institution, the "police authorities". The implementation regulations also went close to defining what orders of a "police nature" were because they stipulated that such orders included all orders which fell under section 10, part II, title 17 of the Prussian General Code (*Preussisches Allgemeines Landrecht*).

It was not the purpose of this reference to introduce this definition formally into the colonial law of German New Guinea; rather it indicated that this definition expressed principles which were already part of it. Put differently, the definition in the Prussian General Code was taken to also define what "the police" could or could not do in German New Guinea in relation to natives as well as non-natives.

According to this definition it was the task of the police to take all measures necessary (1) to preserve public peace, safety and order and (2) to avert impending dangers from the public or any of its members. An interpretation of this definition by the colonial department¹⁵ acknowledged that the averting of impending dangers was the central duty of "the police", but it then used the first part of the definition to widen the scope of the police powers by insisting that the term "order" not only referred to an actual state of affairs but also to the entire public legal order, irrespective of whether it was concerned with averting dangers from the public or with the advancement of its welfare.

Although this did not make the advancement of public welfare a function of the police—which it had been regarded as during an earlier period of German history—the underlying distinction between the introduction of welfare measures as a task of the legislature and their implementation as a task of the executive was much less important in the colonies because no corresponding division of powers had been introduced. On the contrary, all governors had been empowered to enact "other administrative" as well as "police" regulations so that they were also responsible for the legislative advancement of public welfare. Nonetheless, the implementation regulations distinguished between governmental orders which were of a "police nature" and those which were not. The fact that only fines of up to 50 Marks could be imposed to enforce the latter, as well as the fact that only district offices were authorised to issue them,¹⁶ suggests that they were concerned with matters which were regarded as neither particularly urgent nor weighty.

While this interpretation acknowledged that the implementation of welfare legislation could be a part of the tasks of the police, it focused on its primary security function—but with another twist. It stressed that the police was called upon to protect the public legal order but not the private rights of individuals. However, since the criminal law was part of the public legal order, the prevention of crimes became indirectly part of the responsibility of the police because crimes were at the same time an attack on the public legal order. The police could also be called upon to protect the rights of individuals from non-criminal dangers, if the individual in question was incapable of averting a threatening danger himself. Special legislation could even make the police directly responsible for the protection of the rights of individuals in particular fields. The example given, the Prussian *Gesindeordnung*—a law dealing with the employment of domestic and agricultural labour—was of far-reaching significance in the colonies since it implied that colonial legislation could place the entire field of native labour under the control of the police.

This did not mean that the police exercised police powers when it carried out tasks conferred on it by such special legislation, just as it did not exercise police powers when it investigated suspected criminal behaviour or imposed summary punishments. On the other hand, the implementation regulations made clear that although its formal procedures could not be used for the purpose of preventing criminal offences, this did not affect the powers of the police to take

15 Excerpts from the relevant circular decree were appended to the implementation regulations.

16 They had to be issued by the governor in districts for which government stations were responsible.

"immediate action" to terminate unlawful states of affairs, or to prevent them from arising or continuing. This neatly captured the notion that the police was concerned with "states of affairs" (*Zustände*), rather than with the behaviour of people, so that any state of affairs which was unlawful called for police action, even if it did not constitute an actual danger. Indeed, it appears to have been a central purpose of the implementation regulations to reassure the local police authorities that they retained ample scope for taking "immediate action", whenever they encountered a danger to the public.

There is also no doubt that "the public" comprised the entire population of their districts, regardless of race, colour or nationality. Nor did it make any difference by whom or what a danger had been caused: fires caused by lightning were as much a public danger as fires lit by a person. It mattered even less whether the person lighting a fire was a native or a non-native. Conversely, once the fire was out, it no longer posed a public danger, regardless of how it had started. Yet seen from another angle, the idea of "the public" was highly problematic in the colonial context. Who was the public the police was supposed to protect from dangers, and what were the dangers which called for its protection? Was the police called upon to protect German New Guinea's indigenous population from dangers caused by its colonisation? Was it called upon to protect the foreign agents of this colonisation process, including Chinese traders, Malay clerks or Polynesian mission teachers, from dangers caused by native opposition to this process? Or both? Or neither?

It made sense under these circumstances to stress that public safety had to be understood as the absence of dangers to "the state", as well as to "civil society". It was natural, in the colonial context, to focus on "the state order" (*die staatliche Ordnung*) rather than on a more or less homogenous civil society, which did not yet exist. But this focus only solved part of the problem, because this state order too still had to be created rather than merely protected. Even at the end of German colonial rule "public peace, security and order" had not been brought about in many parts of the colony. In large areas the pacification of its indigenous population—a precondition for the kind of policing the Prussian General Code had in mind—had not even begun. It is therefore doubtful whether any of the measures taken by the colonial authorities in relation to the indigenous population before its pacification can be regarded as an exercise of police powers.

Historically it matters little whether the police powers in German New Guinea were wider than in Prussia or whether some or even all of the measures taken by the authorities in relation to natives were legally not of a police nature. At least historically a neat division between "peace" and "war" does not exist. The pacification of an area did not mean the establishment of a "state order" which could henceforth be protected in a peaceful manner. Nor was the colonial government in a constant state of war with the inhabitants of unpacified areas. Pacification was a process which took place in a twilight zone between war and peace and continued long after the use of military force had ceased.¹⁷

What is historically important is that the implementation regulations did not separate the police organisationally from the organs of the general administration. On the contrary, when the expeditionary troop acquired a full-time commander, it did not become a police authority. Nor would it have been practical to make a specialised armed police force responsible for the exercise of the full range of police powers. By the same token, not all governmental activities were an exercise of police powers. The district offices and government stations in German New Guinea were police authorities but they were not just police authorities.

Nor were they the only police authorities. Police powers could also be delegated to specialised organs of the administration. Thus the implementation regulations empowered the mining authorities to use coercion to enforce orders concerning the "mining police" (*Bergpolizei*). There

17 This is well illustrated by the fact that it was still regarded as necessary to maintain a substantial armed native police force in Herbertshöhe a dozen years after the military response to the Varzin Murders—and even that response can hardly be described as a war since it did not meet with any organised military resistance.

were almost as many forms of the police as there were fields of governmental activity.¹⁸ There was a "health police" (*Gesundheitspolizei*), a "building police" (*Baupolizei*), a "commercial police" (*Gewerbepolizei*) and so on. The police was at work wherever a governmental activity involved the policing of something. But this policing task was not necessarily carried out by policemen. "The police" was not a body of people but a function of government which came into play wherever dangers to the public arose. German New Guinea was in this sense a police state, but not the kind of "police state" this term suggests today. While building inspections, for example, were an exercise of police powers, the native police force was not part of "the police" in this vague legal sense.¹⁹

Indeed the native police force does not rate a single mention in the imperial ordinance or the implementation regulations. It is remarkable, however, that also no other legislative provisions relating specifically to the native police force were made, although a relevant draft ordinance was in the pipeline in 1914. As the law stood at the end of German rule, the recruitment and employment of native policemen was governed by the general labour law for natives. This also applied to their disciplinary treatment. Native policemen were placed under the general disciplinary legislation for coloured labourers. There were no special, legally defined disciplinary or criminal offences for native policemen.²⁰

This raises the question as to whether native policemen in German New Guinea were nonetheless legally "officials". Were they part of the "police and security service" in the meaning of the German Criminal Procedures Code? Were they authorised to arrest non-natives and to search their premises? Were they officials under the German Criminal Code who could be criminally punished for taking bribes, but to resist whom in the exercise of their official duties constituted a criminal offence? Did a native policeman act lawfully when shooting a native during a punitive expedition? Conversely, did a native act in legitimate self-defence when spearing a native policeman during a punitive expedition?²¹

18 It may come as a surprise, in view of the special authorisation in the 1908 implementation regulations, that the 1906 implementation regulations to the imperial mining ordinance had already made the district offices responsible for the "police supervision" (*polizeiliche Aufsicht*) of prospecting and mining activities. Nonetheless, this special authority was not altogether superfluous. It acquired practical importance if this responsibility was transferred to a separate "mining authority" because it gave this authority the power to enforce its own orders instead of having to ask the general "police authority" for assistance.

19 The fact that the circular decree was issued and that excerpts from it were appended to the implementation regulations shows that the confusing picture of "the police" presented in the text is not the result of a simple translation problem which I could have solved by beginning this account with a discussion of the interpretation by the colonial office of the definition of this term in the Prussian General Code. Although it may well be that this definition had indeed been part of the colonial law of German New Guinea since the Protectorates Act came into force in 1886, historically it was not the basis on which officials exercised governmental powers, not because they decided to ignore it but because they did not understand the legal position. It had to be explained to them more than 20 years later. This is historically the point, not that the definition of "*die Polizei*" in the Prussian General Code is different from the meaning conventionally attached to the English term "police" today. Moreover, the meaning of the German term "*Polizei*" as used at the time was not only ambiguous, it was also changing, and these changes reflected fundamental changes in the form and functions of government, not just in German New Guinea. The history of "the police" in this colony is part of this historical process. It can only be appreciated for what it was, if it is seen in this context. I would have walked straight into the traps of phantom history had I tried to simplify matters by purporting that "the police" was identical with the native police force and that this force was the kind of specialised law-enforcement agency we expect when we hear the term "police".

20 Non-native officials commanding native policemen were legally treated in the same manner. They too were placed under the general colonial service legislation, although the 1910 Colonial Service Act empowered the emperor to make special regulations for "police officials"—which did not happen in the case of German New Guinea. The Colonial Service Act also did not apply to "officials" who were "natives", although it authorised the emperor to bring them under the act—an authority which he again did not exercise for German New Guinea.

21 Did the supply of firearms to native policemen constitute an offence, unless the law prohibiting the supply of firearms to natives made a special exemption? As far as I can see, such an exemption was only made for the Marianas in a public notice of 16 January 1900 by district commissioner Fritz. But it was repealed by a governor's ordinance of 1 October 1909. This ordinance took it for granted that such an exemption was superfluous, although it declared the possession of

There is no point in entering this legal labyrinth. What matters is that there was no colonial legislation which dealt expressly with these questions.²² Yet, the native police force in German New Guinea did not operate in a complete legal vacuum. There is no question, for instance, that the Native Penal Ordinance ruled out punitive expeditions as a punishment for criminal offences committed by natives. Nonetheless, military measures against natives were lawful as a form of immediate coercion, if they were necessary to avert a continuing danger from the public, or to uphold the existing public legal order, quite apart from "a state of war" where, as the colonial office pointed out, "normal" legal considerations no longer applied.

There remained ample room for administrative discretion in the exercise of police powers in German New Guinea, in particular in relation to natives. The colonial authorities did not follow the example of their British and Australian counterparts by enacting a flood of "native regulations" which defined specific legal duties for natives and thereby also limited the legal powers of the government in relation to them. After a brief legalistic phase, during which administrator Schleinitz even proposed a legislative framework for the employment of military force against natives (see Sack, 1977: 266–68), the German authorities settled for a pragmatic approach. The emerging administrative practice was only guided by more or less general instructions which were administratively binding but had no legal effects. Nor indeed was an attempt made to give the exercise of police powers in relation to non-natives a general legislative basis.

In view of the diffuseness of police powers in the German system of government this is not surprising.²³ "The police" in German New Guinea was not the specialised law-enforcement agency one might have expected. On the contrary, the prevention, detection and punishment of criminal behaviour were not genuine police tasks. Instead it was the primary responsibility of the police to maintain and restore public order. Nor was the police a hands-on executive organ. Rather, it performed its tasks normally by issuing administrative orders; and it enforced these orders by imposing administrative fines, although "immediate coercion" remained as a last resort.

"Police work" consisted essentially of ordering members of the public to do, or refrain from doing, something. Even under this bureaucratic system of policing, however, police work ultimately involved some physical action beyond the issuing of orders, if only the delivery of written orders to their addressees, and the native police force was at the end of the line. It was indeed the government's "material instrument of power". But it could be employed to carry out a wide range of tasks which often had nothing to do with the exercise of police powers.

It is therefore impractical to write a history of the native police force in terms of the actions its members performed as soldiers, supervisors of road gangs, boat crews, prison warders and so on. But "the police" in the meaning of the Prussian General Code is an even less suitable subject for a historical study as "policing" was a function of government in fields as diverse as public health and mining. But although the native police force was a maid of all work it was an identifiable body of people who wore uniforms, carried arms, lived in barracks and received military training. There is thus some hope of reconstructing the history of this force as an organisation, even though it was as merely a creature of administrative practice instead of being

firearms by all natives to be illegal.

22 In this case the exception mentioned in the previous footnote indeed confirms the rule. It was a curiosity rather than a normal exercise of legislative powers—just as Hahl's fee for permission to import side arms into the Eastern Carolines looks more like a curiosity than an attempt to deal with an actual problem.

23 The 1905 imperial ordinance did not regulate the exercise of police powers. Instead it dealt with the penal and coercive powers of the administrative authorities. While coercive powers, in contrast to penal powers, could be a part of genuine police powers, they were not identical with them. On the one hand there were non-coercive exercises of police powers; on the other hand not all forms of legitimate coercion by the government were an exercise of police powers. In short, we still do not know exactly what police powers were.

formally constituted by legislation. A consideration of Hahl's planned conscription ordinance may illustrate the practical implications of this seemingly purely theoretical difference.

Hahl's main reason for proposing this ordinance was difficulties in recruiting a sufficient number of native policemen on a voluntary basis. They were partly due to a growing demand for plantation labourers²⁴ and partly to the fact that service in the police force had become a less popular option for natives willing to accept paid employment. Hahl's push for a compulsory service in the police force put him in an awkward position because he was opposed to the introduction of a compulsory general "labour service" (*Arbeitsdienst*), for which the planters' lobby was campaigning. Hence he had to stress the differences between the two proposals. The most obvious way of doing this was to present service in the police force as armed service in the interests of the public good in contrast to "labour service" designed to benefit the private interests of employers. This put him on a strong footing because the colonial office readily accepted that, apart from paying taxes, the provision of armed services was the most important duty of every subject of a modern state. But the colonial office feared that a measure likely to create the impression that German New Guinea was in the process of creating a large colonial army would be attacked in the Reichstag, as well as by the colony's Australian neighbour. It therefore suggested that Hahl should avoid any reference to an "armed" service and use instead the term "police service". This, however, was likely to bring him into conflict with the planters' lobby since it had little choice but to accept that service of a military nature was treated differently but good reason to complain if conscripted policemen were used to supervise labouring tasks or even to carry out such tasks. In other words, the introduction of compulsory "police service" called for a specialised police force which was exclusively concerned with maintaining or restoring public peace.

There were also other reasons for separating the police service from other forms of government employment, if it was made compulsory, whereas Hahl had simply proposed a corresponding application of the general labour law for natives to them. Moreover, at least some of these specific regulations had to apply to voluntary policemen as well—and there is no indication that Hahl intended to rely exclusively on conscription to obtain new recruits. This was particularly relevant for the treatment of policemen who ran away: were conscripts legally "deserters" whereas volunteers only breached their private employment contracts? Conversely, did conscripts legally do nothing wrong by running away because they had no contractual obligations, until "desertion" had been made a criminal offence, as the colonial office believed?²⁵ And this is only the start.

Did the government have to release conscripts who were medically unfit for service as policemen, instead of being able to employ them as labourers, office boys or prison warders? Did officials enlisting conscripts have to be accompanied by a doctor to carry out a thorough medical examination on the spot? Could it be left to the discretion of individual officials to decide how many "natives between the ages of 16 and 30" they conscripted at a particular place at a particular time?²⁶ Was it acceptable to deal with these matters in the form of administrative instructions or did they too require, at least in the long run, legislative regulation?

24 According to Hahl's covering report the number of plantation labourers had almost doubled from just over 8,000 to just under 15,000 between 1910 and 1913 (RKA 3108).

25 There was no compelling legal reason for making the desertion by conscripted policemen or the dodging of their conscription by natives a specific offence since the 1908 amendment of the Native Penal Ordinance had given the station courts the power to prosecute any kind of behaviour they regarded as punishable. But this makes the position taken by the colonial office historically all the more remarkable, because it shows that its officials instinctively continued to apply the "*nulla poena sine lege*" principle this amendment had abandoned. By 1914 it was taken for granted, at least by German colonial officials in Berlin, that this principle also had to apply in the colonies because colonial administration was beginning to be seen as a normal exercise of governmental powers, of which this principle was a natural part.

26 Did this gender-neutral language mean that females could also be conscripted? For example, could the wives of conscripted policemen be conscripted to accompany them?

This is precisely how the Rule of Law expands. It is the inner logic of a legal system which supplies a large part of the energy driving the process forward, irrespective of what legislators want to do. In this case neither Hahl nor the colonial office had thought through these consequences. The colonial office merely acknowledged that the governor was legally empowered under section 15 of the Protectorates Act to enact such an ordinance. But it questioned whether the time for its enactment had come. Since a thorough knowledge of local conditions was required to make this judgement, the decision was left to Hahl. However, enough warning lights were lit up to indicate that he would be well advised to hasten slowly—which he did, by not enacting the ordinance before his departure.

Yet, the conscription of police recruits had begun on a trial basis long before Hahl had sent his draft to the colonial office. While this particular move was probably illegal, the scope of administrative discretion in the field of native administration was generally still so wide that the legislative framework offers little help in writing a history of the native police force. But there is another source of systematic information. Although the organisation and activities of this force were not legally defined, they had always been shaped by the availability of funds, the allocation and expenditure of which had, since 1899, been under the control of the Reichstag. The question is therefore: how much can the budget proposals and the accounts submitted to this body tell us about the history of the native police force during the period of imperial administration?

V

The 1899 budget for the Old Protectorate provided for a native police force of 90 men. They were to cost 30,000 Marks, or about 330 Marks per head. The force was divided into three local units. They were to be placed under the command of the governor, an imperial chancellor and the district officer of a projected government station in northern New Ireland (Kaewieng). The governor and the imperial chancellor were each supported by a police sergeant who, like their superiors, also had to fulfil other administrative functions.

The 1900 budget changed the organisation at the top by replacing the imperial chancellor by two district commissioners, one for Kaiser Wilhelmsland and the other for the Bismarck Archipelago.²⁷ The district officer and the two police sergeants remained. The number of native policemen was increased to 100, but the costs of employing them were reduced to 200 Marks per head, that is to say by almost 40 per cent.

In 1901 the district officer in Kaewieng was also given the assistance of a police sergeant. The total number of native policemen was increased to 126, but now at the cost of 250 Marks per head. Of these 24 were posted in Friedrich Wilhelmshafen, 24 in Kaewieng and 78 in Herbertshöhe.

There was an increase in the native police force in 1902 by another 20 men. Fifty were to form a mobile police unit at the disposal of the governor, and 24 were kept in reserve for temporary police posts. The two district offices and the government station were each allocated a local unit of 24 men. The number of police sergeants was not increased. The budget proposal foreshadowed that any temporary police posts might have to be placed under the command of private individuals.

In 1903 the native police force was increased to 210 men—at a reduced cost of 210 Marks per head—because repeated absences of "the troop" had created unrest in the Gazelle Peninsula. The allocation of the additional 64 men was not specified. It is likely, however, that 24 were earmarked for each of the planned two new government stations in southern New Ireland (Namatanai) and

27 The initial form of organisation was modelled on the 1889 agreement with the Neu Guinea Kompagnie. But that had been a mechanical application of a historical precedent. It soon became obvious that the governor could not also carry the responsibility for the local administration of either Kaiser Wilhelmsland or the Bismarck Archipelago, quite apart from his additional responsibilities for the Island Territory.

the Admiralty Islands and that the rest was to boost the combined forces stationed in Herbertshöhe.²⁸

While the budget allocations remained unchanged in 1904, in 1905 two further government stations were opened: in Simpson Harbour on the Gazelle Peninsula and in Kieta in the northern Solomons. From the start both stations were allocated a police sergeant in addition to a district officer. But in view of the size of the district and the warlike character of its inhabitants, Kieta was allocated 50 native policemen whereas peaceful Simpson Harbour was only allotted 22.

The 1906 budget provided for a government station in western Kaiser Wilhelmsland (Eitape). It too was to be staffed by a district officer, a police sergeant and 50 men. The local units in Kaewieng and Namatanai were increased by 20 men. The mobile unit gained 55 men. The district office in Herbertshöhe was given a second police sergeant who was to be "primarily" responsible for the mobile unit, and for training new recruits.

During the next two years the budget allocations remained unchanged. In 1909 funds for a government station in eastern Kaiser Wilhelmsland (Morobe) were sought. It was to be staffed by the now standard allocation of a district officer, a police sergeant and 50 men; however, only a police sergeant and 30 men were approved by the Reichstag.

In order to ensure the safety of the station and the opening up of its gold-rich hinterland, funds for an additional 20 men and a district officer for Morobe were again applied for in 1910, and this time granted. The 1910 budget also provided for a second police sergeant in Simpson Harbour. He was to be responsible for a special "core unit" (*Stammtruppe*) that was to supply local units and the mobile unit with trained replacements.

Although a government station in the Admiralty Islands (Manus) was to be established in 1911, the budget proposal did not seek an increase in the numerical strength of the native police force over the previous year. The explanation is that the funds had only been sufficient to maintain a police force of 477, rather than the 527 men approved, because the estimated costs of 215 Marks per head had turned out to be 15 Marks too low. For 1911 an extra 11,500 Marks for 50 policemen for Manus were sought, while the strength of the native police force for the rest of the Old Protectorate was to be kept at its actual 1910 level of 477 men.

The most important change for the police force in the 1911 budget was the creation of the post of a full-time commander at the level of first lieutenant. He was to be in charge of training the entire police force of German New Guinea, including the Island Territory, but, in particular, the mobile unit, the "expeditionary troop".

The 1912 budget proposal applied for 70 additional native policemen for Friedrich Wilhelmshafen. It was also to gain a second police sergeant. In addition two police sergeants, to be kept at the disposal of the governor, were applied for—the need to establish temporary police posts serving as a justification for all these increases.

A memorandum attached to the 1913 budget proposal shows the distribution of the 597 native policemen serving in the Old Protectorate in 1912. All district offices and government stations were allocated 50 men. The expeditionary troop consisted of 120 men. Another 70 men earmarked for expeditions and temporary police posts were stationed in Friedrich Wilhelmshafen. However, 50 of these men were to be allocated to a new government station on the lower Sepik (Angoram), so that the district office would be left with only 70 men, of whom 20 to 30 were most of the time away on patrol. As the 1912 Madang Conspiracy had shown that the remaining strength of about 40 was insufficient, at least ten additional policemen were required—who would lift the strength of the local unit to the magical figure of 50. Thirteen additional policemen were needed for the police post in Herbertshöhe.²⁹ Although its district was fully pacified, the allocation of seven

28 As the government station in the Admiralty Islands was not established until much later, the men earmarked for it were probably used to increase the local unit in Friedrich Wilhelmshafen which was not formally strengthened until 1913.

29 The district office had moved to Rabaul.

policemen was too low, especially since some of the men were always out of action for medical reasons. Even in Herbertshöhe it was still necessary to demonstrate constantly the might of the government, so that an allocation of 20 men was the very minimum.

The 1913 budget proposal established firmer ground for the development of a distinct police service. Its core establishment was still modest. It consisted of an inspector of police and one police sergeant. However, the service acquired eight positions under the "permanently required auxiliary personnel" vote. Of these that of an armourer and one police sergeant were new, whereas the other six police sergeant positions had previously been allocated to local administrations.

The 1914 budget proposal sought an upgrading of the post of the inspector of police to the rank of captain and added five police sergeants to the establishment. Only three of the posts were earmarked for the expeditionary troop. The other two were allocated to two new government stations: Burgberg (Lae), at the mouth of the Markham River and Angoram—for which, "due to an oversight", such a post had not been included in the 1913 proposal.

Since Burgberg also required 50 policemen the total budgetary strength of the native police force in the Old Protectorate at the end of German rule was 670, compared with 90 fifteen years earlier. The number of police sergeants had increased from two to almost 30. On the other hand, the 16 posts allocated to local administrations were still classified as "harbour masters, police sergeants and customs collectors". Together with "office assistants" and "medical assistants" this category formed the lowest level of the colonial service hierarchy. The "police service" still did not offer a career structure: a police sergeant seeking promotion had to leave the service and become a "district officer, grade III", an "administrative assistant, grade II" or a "technician".

VI

In 1899 the Island Territory was provided with 39,000 Marks per annum for a native police force, compared with 30,000 Marks for the Old Protectorate. In 1902 the allocation was reduced to 35,160 Marks "in the light of the actual expenditure". In 1903 it was reduced to 30,260 Marks, although the funds were now also used to pay for a coloured district officer in Palau, "the Negro Gibbons". A reduction to 28,460 Marks followed in 1904 because of "the peaceful conditions". In 1905 a further 1,000 Marks were cut, because Gibbons had been replaced by a German official whose salary was paid out of another vote and because the district offices in the Western Carolines and the Marianas had further reduced the strength of their local units.

1906 saw an increase to 33,100 Marks, due to the incorporation of the Marshall Islands. The budget allocation sought for 1907 remained unchanged. When the phosphate mining on Nauru got into full swing in 1908 the local police unit was increased by 12 men and the district officer was given the support of a police sergeant. However the cost of these increases was refunded by the phosphate company.³⁰ On the other hand, due to increasing living costs in the Western Carolines, the wages paid to native policemen had to be increased. Their previous wages of 8 Marks per month no longer allowed them to make savings so that their performance suffered.

The total personnel costs for the native police force in the Island Territory now stood at 48,840 Marks. In 1909 there was a reduction to 44,210 Marks, even though an additional government station was established in the Truk Group. Unlike new government stations in the Old Protectorate, it was apparently allocated neither a police sergeant nor a substantial local police unit—"apparently" because the budget proposals for the Island Territory are generally short on details concerning the police force, in line with its comparatively unimportant role.³¹

30 According to the annual reports barracks for this enlarged local unit were only built during the 1909 budget year.

31 The station in Truk was established without budgetary allocations having been made for the purpose. But as this move did not lead to an overspending of the budget which had to be identified in the accounts for approval by the Reichstag, it does not show up in the financial records.

This changed when its budget was combined in 1910 with that of the Old Protectorate where the police force had always figured prominently. As a result we learn not only that, due to further rises in the living costs, the wages of the policemen in the Western Carolines were again increased, but also that the native police force in the Island Territory now had a total budgetary strength of 143 men. Of these 50 were stationed in the Eastern Carolines, 36 in the Western Carolines, 30 in the Marianas, and 27 in the Marshall Islands.

A substantial increase in the strength of the police force in the Western Carolines followed in 1911. This was due to the beginning of phosphate mining on the island of Angaur in the Palau Group, where for this reason a second government station was established. The local police unit was now 66, 33 of whom were attached to the district office in Yap, 18 to the government station in Korror, and 15 to the new government station on Angaur. The native police force in the Marianas was treated as a separate local unit, although they were no longer a separate administrative district. The policemen there were apparently still locally recruited, although it is not clear whether the unit continued to operate according to the plan presented in the annual report for 1900. At any rate, its strength had shrunk from 43 to 30 men.

In 1912 the budgetary strength of the local police unit for the Eastern Carolines was increased from 50 to 92 in a belated response to the Ponape Rebellion. Five policemen were added to the unit in Angaur. This brought its strength to 20, compared with 21 policemen on Nauru. The most dramatic change took place in the Marshall Islands. The expensive local police unit of six Marshallese was replaced by 18 Melanesians at no added cost. The district officer was also given the support of a police sergeant for whom a duty statement was provided: he was to be responsible for training the local police unit, for prison supervision, for public building projects and for allocating materials from the government store. Orders for materials remained a responsibility of the district officer, who was apparently primarily engaged in travelling through his far-flung district, presumably with a police escort, to collect taxes. The 1912 budget proposal indicated that the local police unit in the Eastern Carolines was not only to be increased in size but that locally recruited policemen would be permanently replaced by Melanesians, as in the Marshall Islands.³²

The 1913 budget proposal increased the strength of the local police unit in the Eastern Carolines to 122, in the light of experiences during the "unrests" on Ponape. These dominated the picture so strongly that the number of policemen stationed in the Truk Group is still not identified.

The 1914 budget proposal sought no additional funds for the native police force of the Island Territory. Its total strength was 262 men, compared with 670 in the Old Protectorate. But it was considerably more expensive, with average costs at over 330, rather than 250, Marks per head per annum. This was due to higher living and recruitment costs. The cost of feeding a native policeman in the Old Protectorate was 130 Marks per annum, whereas it amounted to over 180 Marks in Angaur, the most expensive location. The average monthly wages were uniformly estimated at 10 Marks.

Yet all these estimates only give a rough indication, and some of the figures begin to look distinctly peculiar when they are examined. The budget proposal for 1912 sought an increase in the strength of the local police unit for the Eastern Carolines from 50 to 92 men. The explanations estimated the total cost of these men to be around 37,000 Marks, or about 400 Marks per head. This high figure was partly due to recruitment and transportation costs, which were given as 7,360 Marks per annum. It is not clear how this figure was calculated, but it seems to be more than a coincidence that 7,360 divided by 92 gives a round figure of 80 Marks per head per year. On the other hand this calculation makes no sense in the following year when the total strength had increased to 122 men, although the same estimate for recruitment and transportation costs was used. The figure for wages and food in 1912 was even more precise, namely 29,594 Marks. It

³² The police unit on Nauru, whose main task it was to keep the mine workers in check, also consisted of Melanesians. I do not know whether this applied to the police unit stationed in Angaur as well.

produces a markedly uneven figure when divided by 92, namely a fraction more than 321.67 Marks. Yet if the exercise is repeated with the 1913 figures, namely 39,389 Marks for 122 men, the result is remarkably similar, namely a fraction more than 322.86 Marks.

The mixture of precision and guesswork this suggests is puzzling. The budget proposals by the district office in Ponape for the two years in question—which happen to have survived (AA, G2, Z13 and Z14)—do solve this puzzle. But they also show that the actual situation was far more complex than the budgets indicate. Its 1912 budget proposal corresponds to the final proposal presented to the Reichstag in that it sought funds for a native police force of 92 men, but we now learn that 12 of these men were stationed on Truk, where they also had to perform services as labourers and boat crews, just like the native police force in the Old Protectorate 20 years earlier.³³ As regards the 80 men stationed in Ponape, the proposal shows that quite a hierarchy had developed. There were 70 ordinary "soldiers" (*Soldaten*), who received wages of 12 (!) Marks per month, six "corporals" (*Gefreite*), who received 14 Marks per month, three "sergeants" (*Unteroffiziere*), who received 16 Marks per month, and one "sergeant major" (*Feldwebel*), who received 20 Marks per month. Provisions were also made for 40 "women"—the wives of policemen—who each received 100 Marks per year.

The costs for food were calculated at 50 Pfennigs per day on Ponape—compared with 30 Pfennigs on Truk, where the wages for the 11 policemen and the one sergeant were the same as on Ponape but no provision was made for "women". The recruiting costs were indeed estimated by the district office to be 80 Marks per head, but it allowed, in addition, for 128 Marks for the transport from Rabaul to Ponape and back. Moreover, it based its calculations on an exchange of only 20 men per year. Instead it sought funds for "leave trips" (*Urlaubsreisen*) for policemen who signed up for another three years but first wanted to spend some time at home. The figure of 3,200 Marks for this purpose suggests 25 return trips per year and compares with a saving of 2,000 Marks in recruiting costs. Although this meant a combined annual turnover of almost 50 per cent, the colonial office accepted these figures, since they add up to the 7,360 Marks shown in the final proposal.³⁴

The 1913 budget proposal of the district office is even more revealing. It shows that the actual strength of the police force stationed in Ponape in 1912, and indeed in 1911, had been 110 men rather than the 80 and 50 (including Truk) for whom the relevant budgets had provided. The 1913 budget proposal merely normalised a state of affairs which had existed for two years by officially allocating 122 men to the Eastern Carolines, namely 110 for Ponape and 12 for Truk. This strength was necessary because it was clear in 1912 that the reduction of the size of the police force in Ponape from 110 to 80, which had seemed feasible in 1911, was out of the question even in 1913. The reason given was that, due to a rapid turnover, the police force always consisted of about 50 per cent of raw recruits³⁵ who were useless for military purposes. Moreover, they required additional training which could not be provided because a suitable white "troop-sergeant" (*Truppenunteroffizier*) was lacking and the officials who had taken on this task had many other functions to carry out. Only after a suitable troop-sergeant had been posted to Ponape and the police force had been well trained could it safely be reduced to 80 men.

There is a story behind these comments. Provision for a troop-sergeant had been made in the 1912 budget. However, by May 1912, when the 1913 proposal was prepared, no suitable person had been found. Instead, the second police sergeant, who had been sent to Ponape, had to be

33 The 1912 proposal was signed by the district commissioner on 8 June 1911. This is a timely reminder that the budget preparations took well over a year. It explains why the 1911 budget proposal could not respond to the Ponape Rebellion although it had taken place during the 1910 budget year. The district office had submitted its proposal long before the rebellion started.

34 By contrast it disallowed the 4,000 Marks sought for the 40 "women"—or included the funds elsewhere.

35 Although this figure seems unrealistically high, it was at least consistent.

employed as an administrative assistant because he was incapable of conducting the military training of the local police unit.

While this little story offers a welcome glimpse of "how it has really been", it is disappointing that the local budget proposals do not explain how it was possible that its strength in 1911 and 1912 was so much larger than the budgets permitted. However, we still have to address a much bigger question: how were the immediate financial consequences of the Ponape Rebellion and the earlier unrest handled?—to which the government responded according to the annual reports by sending reinforcements of respectively 172 and 100 men from the Old Protectorate. Were only the costs of transporting these policemen to Ponape—and back to their normal posts—attributed to the events in Ponape or also their wages for the periods in question and perhaps even other subsidiary costs?

This leads to an even broader question: what do the financial records tell us about the actual operations of the native police force, as opposed to its organisation, on which I have so far concentrated by focusing on the personnel costs? What can we learn by looking at other votes? Does the "public works" vote tell us when and where police barracks were built, what materials were used, what the sanitary and cooking facilities looked like, or whether police compounds in German New Guinea were, as a matter of course, surrounded by barbed-wire fences or other defensive installations?

The "police equipment" vote could be equally instructive. How were German New Guinea's policemen clothed and armed? Were they issued with obsolete, second-hand rifles or with modern arms, including hand grenades, machine guns and field-artillery? How much live ammunition did the police force use, say in the northern Solomons in 1908 or on Nauru in 1913? What did the military equipment of the government vessels look like? Did every steam pinnace carry a revolving cannon? Could the government steamer fire torpedoes? Did the governor keep a supply of land mines or tear gas? Did the police force maintain accommodation for horses, mules and dogs, a fleet of carts or cars and river launches and landing craft? There is even a vote which relates directly to the activities of the police force, namely the "expeditions" vote, and it is the history of this vote that I now want to examine.

VII

In the 1900 budget proposal for the Old Protectorate 20,000 Marks were earmarked for "expeditions and stations", with the curt explanation that this corresponded to administrative requirements. In 1901 the same amount was sought. In 1902 it was reduced to 10,000 Marks because funds for the establishment and maintenance of stations were now included in the public works vote and 10,000 Marks per annum were sufficient for expeditions. The expedition vote remained the same until 1910, when the budget of the Old Protectorate was combined with that of the Island Territory.

In the budget proposals for the Island Territory the "expeditions and stations" vote appeared in 1901 with an amount of 10,000 Marks and the explanation that its far flung districts made it especially important to provide officials with funds to travel, to become more thoroughly acquainted with the area for which they were responsible. This suggests that this vote, although modelled on that of the Old Protectorate, had little to do with punitive expeditions. As in the Old Protectorate the vote was split in 1902 and only 5,000 Marks were provided for expeditions. The amount remained the same in 1903. It was reduced to 3,200 Marks in 1904, with the explanation that the generally peaceful conditions indicated that less demands would be made on these funds. They were further cut to 2,500 Marks in 1906, because the requirements of the district office in Yap had decreased. In 1909 the vote was reduced to 1,500 Marks, in view "of the actual expenditure during the previous years".

The first combined budget proposal for 1910 changed nothing. It sought total funds of 11,500 Marks: 10,000 for the Old Protectorate and 1,500 for the Island Territory. In 1911 there was again no change. The same applied to 1912, 1913 and 1914, all without explanation.

What about the actual expenditure? According to the final accounts for the Old Protectorate the expenditure was on target in 1901, although the explanations under another heading referred to "repeated expeditions" which had caused some extra-budgetary expenditure. By contrast, the expedition vote for 1902 was underspent by almost 90 per cent: 1,184.20 rather than 10,000 Marks. In 1903 8,299.05 Marks remained unspent. Although the vote was again underspent in 1904 by 7,486.18 Marks, the overspending of the police equipment vote by more than 100 per cent was justified by reference to "various expeditions". In 1905 only 106.05 Marks of the expedition vote was spent, even though the police equipment vote was again overspent by more than 10,000 Marks. In 1906 the expenditure increased to 1,503.30 Marks, while the police equipment vote showed some savings. The situation was reversed in 1907, when over half of the expedition vote was spent, whereas about four fifths of the "police equipment" vote of more than 20,000 Marks remained untouched. In 1908 expenditure under the expeditions vote increased to just over 7,000 Marks, but dropped to under 4,000 Marks in 1909.

How did the Island Territory perform? The final accounts for 1901 suggest that the expeditions and stations vote was substantially underspent, although the actual expenditure is not given. In 1902 only 1,124.62 Marks of the expeditions vote of 5,000 Marks was spent. The expenditure increased to 1,700.10 Marks the following year and to 2,152.01 Marks in 1904 but dropped to less than 400 Marks in 1905. It doubled in 1906, only to drop to an all time low of 133.99 Marks in 1907. The increase to almost 1,900 Marks in 1908 is not explained. In 1909, when the funds were cut to 1,500 Marks, by reference to "the actual expenditure during previous years", the expenditure was still over 1,100 Marks.

In 1910 less than 5,000 Marks of the combined "expedition" vote for the Old Protectorate and the Island Territory were spent. The actual expenditure increased by about 50 per cent in 1911 but was still below the budgetary allocation. This changed in the final accounts for 1912—the last accounts presented to the Reichstag—when the expedition vote was overspent for the first time—by well over 50 per cent: 18,740.81 Marks compared with the budget allocation of 11,500 Marks.

This overexpenditure required an explanation to the metropolitan legislature. By reference to the annual report for that year, the explanations blamed repeated "punitive expeditions", especially the Kagam Expedition, which had lasted five months. They also clarified that the salaries and wages of the members of these expeditions had been debited against other votes and that only expenditure which did not fall under any other vote had been debited here, in particular equipment, provisions and trade goods, passages and freight and "other expenditure" to the tune of "approximately" 940 Marks and 81 Pfennigs. But we are not told whether this was a new accounting practice—which appears likely—or whether the same guidelines had been used in preparing previous accounts.

Generally speaking, however, we can now say with confidence that, as far as the expeditions vote is concerned, the budget allocations are useless as an indicator of the actual state of affairs. The final accounts also give little away, and what they say is difficult to reconcile with the fluctuating levels of activity suggested by the annual reports. This has partly to do with the uncertainty concerning the kind of expenditure debited against this vote but also with the fact that the vote remained consistently underspent until 1912, so that no explanations were required.

On the other hand, the need for explanations in cases of overexpenditure suggests that it may be worthwhile to look elsewhere in the final accounts for signs of major police activities, such as those connected with the unrest on Ponape in 1908 and the Ponape Rebellion in 1910, as it seems odd that the final accounts for the Island Territory for 1908 show an underexpenditure of the

expeditions vote of about 600 Marks and that the combined expeditions vote in 1910 was underspent by almost 7,000 Marks.

The extra expenditure caused by the unrest in Ponape in 1908 is indeed shown in the final accounts of that year, but it was treated as an ordinary overexpenditure of existing votes. The cost of reinforcing the local native police unit by 100 men is given as the reason for an overexpenditure of the "auxiliary coloured personnel" vote by more than 12,000 Marks, and the cost of employing two additional white police sergeants, about 3,800 Marks, is shown as part of an overexpenditure of the "auxiliary white personnel" vote. Also shown as an overexpenditure of this vote caused by the unrest are the costs of employing a surveyor and a road-builder, at about 2,300 Marks. The major item, however, was the over 21,000 Marks spent on the construction of roads. Only they were shown as expenditure "outside the budget" under the non-recurrent expenditure vote.

In 1909 the unrest on Ponape again caused extra-budgetary expenditure. An additional police sergeant was employed at the cost of 2,400 Marks, and the cost of maintaining a native police unit of 150 men for part of the year led to an overspending of the "auxiliary coloured personnel" vote by around 5,000 Marks. Moreover, we are told that this amount would have been much higher but for savings in the other districts of the Island Territory. The increase in the size of the police force on Ponape also produced an overexpenditure of over 2,000 Marks in the police equipment vote. In addition, a number of Ponapeans were temporarily banished from their island during the unrest and their transport back to Ponape cost about 2,500 Marks in 1909. The surveyor also stayed on at a cost of 7,500 Marks. Finally, extra-budgetary expenditure of about 6,500 Marks, which should have been shown in the final accounts for 1908, turned up in the final accounts for 1910 and 1911, so that the total abnormal cost of the unrest on Ponape before the 1910 rebellion amounted to at least 75,000 Marks.

Putting down the Ponape Rebellion was more expensive. A total of around 125,000 Marks was debited against the accounts of German New Guinea, and this does not include the vastly higher costs incurred by the navy. The entire amount was shown this time as expenditure "outside the budget" under the single heading "caused by the unrests [!] on Ponape", namely about 92,000, 28,000 and 5,000 Marks respectively in 1910, 1911 and 1912.

Various tailor-made subheadings were used. The final accounts for 1910 show that 1,652.28 Marks were spent on telegrams and almost 22,000 Marks on equipment and arms. The second largest amount, over 9,000 Marks, shown for 1911 related to the transportation to Palau of the Ponapeans who were banished after the rebellion but also to the transportation of police reinforcements back to the Old Protectorate. On the other hand, the phosphate company on Angaur paid "compensation" of 6,500 Marks for "Ponapean prisoners" allocated to it as labourers, which is shown as extra-budgetary income. Almost the entire relevant extra-budgetary expenditure of about 5,000 Marks in 1912 was spent on food for the banished Ponapeans, who were also supplied with 170 Marks worth of seeds and seedlings to plant the land they had been given on Palau.

On the other hand, we are told nothing about the actual strength of the police force on Ponape in 1912 because the normal personnel costs of the native police force were treated throughout as part of an undifferentiated "auxiliary coloured personnel" vote. Extra-budgetary expenditure for the police force on Ponape could therefore not only be compensated for by savings for other police units but also by any savings for coloured labourers, artisans and office staff, without having to be identified and explained in the final accounts. This may well have happened in 1912, when the auxiliary coloured personnel vote for German New Guinea was underspent by a small amount: 1,451.32 Marks compared with an allocation of almost 340,000 Marks.

It is only because the Ponape Rebellion, in contrast to the 1908 unrest, was accounted for outside the budget, rather than as having caused an overspending of existing votes, that we are provided with figures. But the categories used are still insufficiently differentiated for our

purposes. Thus the 1910 figures do not distinguish between the wages paid to the police reinforcements and money spent on the Ponapean "auxiliaries", who defended "die Kolonie" until their arrival. Similarly, the 1911 figures do not distinguish between the costs of transporting police reinforcements back to the Old Protectorate and the costs of transporting the banished Ponapeans to Palau. It is therefore impossible to compare the wages paid to the police reinforcements in 1911 with those paid to them in 1910, or to compare the costs of about 13,000 Marks of transporting police reinforcements to Ponape in 1910 with those of transporting them back to their posts in 1911, although it is clear that much less was spent on the return transport since the total spent under the "transport" heading in 1911 was only about 9,300 Marks. This would tie in with the claim that about 60 policemen stayed on in Ponape. On the other hand, the expenditure shown for the wages for the police reinforcement in 1911 would only have been sufficient to pay for the yearly wages of less than 30 rather than 60 policemen, quite apart from the wages which had been paid to returning policemen under this heading.

The auxiliary coloured personnel vote for 1911 does not help us further, although it was overspent by almost 18,000 Marks, because the explanations do not refer to any unplanned increase in the strength of any local police unit. On the other hand, there is no reason to doubt the district commissioner when he stated in his 1913 budget proposal that the local police unit had, in fact, consisted of 110 men throughout 1911 and into 1912.³⁶

There is little point in trying to ascertain details of the actual expenditure under the expeditions vote. By contrast the ritual nature of the allocations under this heading is significant because it suggests that neither the German government nor the Reichstag were concerned about the amounts spent on expeditions of the native police force until the unrest in Ponape in 1908. It is also significant that the financial consequences of this unrest were not treated as expenditure under the expeditions vote. To be sure, it would have made little sense to treat the sending of police reinforcements from the Old Protectorate to Ponape as an expedition of its police force as long as the Island Territory was a separate budgetary entity. But this was different for the Ponape Rebellion—and it must be remembered that the final accounts for 1910 were presented to the Reichstag in 1913, when the creation of a unified police service for the whole of German New Guinea was well under way.

Seen in this light the first overspending of the expeditions vote shown in the final accounts for 1912 was the most important event in the financial history of the native police force, and it was the costs of the Kagam Expedition which focused belated attention on expenditure under this heading. We are not told how much of the total expenditure of almost 19,000 Marks was due to that particular expedition, or how much the salaries and wages of the native policemen and their white superiors during its five months duration had amounted to. If we consider, however, that the budgetary strength of the expeditionary troop was 120 men and that the Kagam Expedition is said to have lasted five months, compared with police reinforcements of 172 men sent to put down the Ponape Rebellion, which only took a few weeks—it is likely that the Kagam Expedition was the most expensive episode in the history of German New Guinea's police force. Even more importantly, this expedition was not staged in response to a singular, catastrophic event. Instead it was the first instance of the manner in which the expeditionary troop was to be routinely deployed in the future, so that a substantial increase in the expenditure under the expeditions vote was to be expected.

36 The most likely explanation is that the wages of the 60 extra-budgetary policemen, who were drawn from the existing police units in the Old Protectorate, were debited against the funds set aside for those units, since they had stayed on with the approval of the governor.

VIII

Although much of the information which can be extracted from the budgets and accounts remains inconclusive, it makes a valuable contribution to a history of the native police force in German New Guinea, provided it is understood in its own terms. Thus it would be naïve to conclude from the budgets that the expeditionary troop actually operated on 1 April 1914 with its budgetary strength of one captain, one armourer, six police sergeants and 120 native policemen. On the other hand, the information concerning the changes in the size of the local police unit on Ponape suggests that the budgets eventually caught up with reality, although the expeditions vote shows that some votes could remain ritual for extended periods of time.

The information can therefore not be incorporated into a historical narrative as if it consisted of statements of fact. It would be misleading to collate, for instance, the information relating to the strength and the distribution of the native police force in the budget proposals in the form of a table, even if it was accompanied by a footnote pointing out that it merely included estimates. An explanation of the nature of this information is an essential part of the exercise so that it must be incorporated in the text, even if this makes it narratively indigestible. Indeed, the main value of this information is that it demonstrates that history is already a multi-dimensional reality when it actually happens. A factual account of history must reflect that it is produced by a complex interaction between these different layers which is characterised by various kinds of uncertainty. It is not only the historian who does not know the actual strength of all the local police units in German New Guinea on 1 April 1914, neither did any of the historical actors on stage on that day. No-one knows how "it has really been", neither at the time nor in retrospect, and nothing is more ahistorical than the attempt to create false certainties.³⁷

Nonetheless the budgets and accounts corroborate in their own ways the main features of the history of the native police force indicated by the annual reports. The 1908 unrest on Ponape, the subsequent rebellion and, in particular, the Kagam Expedition were also financially milestones in this history, whereas, for example, the two Madang Conspiracies were not. Even the punitive measures after the Varzin Murders were not such a milestone. Rather, the importance of this event for the history of the police force lay in the subsequent establishment of a police post which was to serve as a base for a distinct mobile police unit. The budgets and accounts also confirm the peaceful and marginal role of the police force in the Island Territory and the Marshall Islands until the unrest in Ponape. In addition, they demonstrate what a major impact the large-scale mining operations, first on Nauru and then on Angaur, had on the police force—and that the replacement of the six expensive Marshallese policemen in Jaluit by 18 Melanesians indeed prepared the ground for a general shift of policy towards this group, whereas the retention of the Micronesian police units in the Western Carolines, Palau and the Marianas lends weight to the claim in the annual reports that no corresponding changes were as yet planned for these areas.

Perhaps most importantly, the budgetary treatment of the native police force paralleled its legislative treatment. Just as native policemen were governed by the general labour law, their wages were paid out of the general auxiliary coloured personnel vote. Although the police equipment vote had long acknowledged that the native police force was special, it was only the

37 Even the precise strength of the police reinforcements sent to Ponape to put down the rebellion is uncertain. Acting governor Osswald reported that he had taken 90 men with him at the end of November 1910 and that a further 70 men were sent in January 1911. This adds up to 160—rather than the 172 shown in the annual reports. Captain Vollerthun reported that the total strength of the native police force on Ponape had been 223 men, that is to say one man more than the reinforcements of 172 men plus the strength of the local unit of 50 men given in the annual reports. While the precise figure is historically immaterial, it is significant that the eagerness to give precise figures, dates or other facts is rarely matched by the reliability of the information used by those giving them. Why this reluctance to settle for realistic approximations instead of creating precise phantoms? Partly, I suggest, because they are narratively unattractive but mainly because their use is seen as a sign of incompetence of government officials as well as historians; both are supposed to know what they are talking about instead of engaging in guesswork, however educated.

creation of the post of a military commander of the expeditionary troop in the 1911 budget that signalled that a distinct police service was about to come into being which, in time, would also have acquired its own coloured personnel vote, like the one which had already existed for many years for the "flotilla".

Such a distinct vote would have produced a great deal more information about the history of the native police force than the financial records had hitherto provided—just as Hahl's conscription ordinance would have led to the development of a distinct legal structure for the force. As matters stood at the end of German colonial rule the information provided by the financial records remains anecdotal.

For example, it appears that quite a hierarchy had already developed within the force as a matter of administrative practice, at least on Ponape with its unusually large local police unit. But it is unclear whether the arrangements on Ponape represented a generally recognised ranking system or merely a graded wage scale which the district commissioner had adopted for his own purposes and for the time being.

Was the one "sergeant major" responsible for the entire unit and the military superior of the three "sergeants"? Were two of the six "corporals" placed under each of the "sergeants"? Was each of the "corporals" in charge of a platoon of "soldiers"? What would have happened to this hierarchy, and to the men occupying elevated positions within it, when the local police unit was again reduced to its "peace strength" of about 50 men? Would the sergeant major have been demoted? Would he have been transferred, in this capacity, to the expeditionary troop? Or would he have been permitted to serve out his contract as a sergeant major but not offered another contract, at least not at that level?

What about the "police women"? Were they employed as ordinary government labourers, or was it their primary task to clean the police barracks, to cook for the men and to maintain food gardens for them? Was the ratio of about 50 per cent of married policemen typical for the whole of German New Guinea? Could the district commissioner have offered married quarters for 40 families, at least some of them including children? Did he intend to pay the fare for the wives and children of married policemen when they went on home leave before starting a new three year contract? Or was the entire budget proposal an idealised facade behind which the district commissioner muddled along, making *ad hoc* decisions as he went?

It would be unrealistic to expect the financial records to answer these questions. They were not designed to tell their readers how the government was organised and how it operated. Their task was to provide a steady flow of categorised statements about how much it was supposed to spend (or earn) under each category and about how much it had actually spent (or earned). All other information was incidental.

Considering this, it is surprising how informative these financial records can be about non-financial matters. But what does one do with these fragments of information? It is, for example, historically significant that the phosphate company on Angaur paid compensation of 6,500 Marks during the 1911 budget year to the government for work performed by Ponapeans who had been banished after the rebellion. But this fact becomes historically meaningful only if it is seen in context—and it can be placed in different contexts.

It is most tempting to see it as part of the history of the aftermath of the Ponape Rebellion. But what counts in this context is not that this payment was made but that it shows that banished Ponapeans indeed worked in the phosphate mine on Angaur in 1911, but apparently no longer in 1912 when no such payment was recorded. But the information is disappointingly vague. It does not even tell us how many banished Ponapeans worked on Angaur, and for what period, let alone what they did and under what conditions.³⁸

38 Were they employed in the actual mining operations or on other tasks? Were they locked up in a prison during the night and worked under a police guard during the day? Were they fed and clothed by the government or the company?

On the other hand, the mere fact of the payment is a significant instance of how the colonial government actually operated. It not only banished people but hired them out to a private company to raise revenue. In this context the first question to arise is whether this procedure was typical. A satisfactory answer again calls for more information, but of a different kind. On what basis were these Ponapeans sent to Angaur to work? Had each of them been judicially sentenced to a fixed term of prison with hard labour? Had their banishment been a police measure aimed at protecting the public from a continuing danger? Had all fit adult males been sent to Angaur to work for their keep and for that of their women, children and parents?

If the first was the case, the next question is whether it had been common in German New Guinea to hire out prison inmates to private individuals or companies. In the second case the question is rather whether it had been common to banish whole tribes administratively, whether standard procedures for their treatment had evolved and whether the treatment of the Dschokadsch tribe had been in line with these procedures.

Both scenarios—and there are other possibilities—also raise the question of the legality of the measures taken. Was it legally permissible in German New Guinea to hire out prison inmates? Was there a native prison ordinance which dealt with this question? Was the permanent banishment of entire tribes legally permissible as an administrative measure? Was it permissible to compel persons who had been administratively banished to work for the financial benefit of the government? Or was the aftermath of the Ponape Rebellion treated as so extraordinary that normal legal considerations did not apply even after the state of war had ended?

The difficulty here is that legislation in this field was almost totally lacking in the Island Territory at the time. There was no native prison ordinance or, for that matter, a native penal ordinance (apart from the Marshall Islands) and the 1905 imperial ordinance concerning the coercive and penal powers of the administration also did not apply to natives in the Island Territory. Administrative discretion was still king, although various general legal principles had to be taken into account in its exercise. However, a firm legislative framework into which fragments of information like this one could be fitted was absent. We have therefore no choice but to adopt an action-centred approach. But for such an approach the budgets and accounts offer little assistance. They were not interested in what people actually did. Like the police under the Prussian General Code they were concerned not with the behaviour of people but with states of affairs. For them the act of the payment of the 6,500 Marks by the phosphate company was immaterial. What counted was that as a result of such an act the government received an extra-budgetary income of 6,500 Marks which had to be accounted for.

This is why the financial records are more forthcoming as regards the organisation of government: it was a state of affairs with direct and continuing financial consequences. It was important for the budgets and accounts to know how many native policemen there were in German New Guinea if funds for the native police force were applied for by reference to their number, whereas it was irrelevant who they were and what actions they performed.

A hierarchical structure within the native police force became relevant only if it was incorporated as a formal wage scale in the budget proposals like that for the non-native colonial service. But here again the budgets and accounts were interested in posts rather than people, and in the number of posts rather than in the actions those occupying them performed. Yet, the cumulative financial effects of these actions could become relevant, but as quantities of money and not as quantities of actions. This is the crucial difference between the financial records and action-centred quantitative records. The financial records are essentially impersonal and concerned with results not processes. What counts for them is how much money is in a particular kitty at the end of a relevant period, not how many payments are made, and by whom and when.

Had they performed compulsory labour elsewhere before they were sent to Angaur and continued to do so after they left? How many of them died while working on Angaur?

What counted in our example is that the district office on Yap derived an extra-budgetary income of 6,500 Marks during the 1911 budget year. That this income happened to consist of a single payment by a phosphate company for a particular purpose was for accounting purposes irrelevant, just as it was irrelevant who the people (or companies) were who paid customs duties in the course of that year and how many payments they made. What mattered was again only the total amount which had to be accounted for. Individual payments were merely recorded if that was necessary to perform this accounting task.

The scheme was the very opposite of that which produced, for example, the court statistics. Their ostensible purpose was not to account for a total number of court cases but for the activities of the courts in the course of the year. But although the court statistics were quantitative and impersonal as far as the parties of the particular cases were concerned, they focused nonetheless on these cases and accounted for their fate at the hands of the courts. Their purpose was not so much to quantify the volume of work the courts performed but to quantify different categories of cases that came before them. Consequently these categories do not indicate whether the processing of cases falling under them by the courts was typically more or less laborious. In contrast to the financial accounts, however, the court statistics tried to kill two birds with one stone. They were also court-centred—and they had little choice because the courts were the key players in the administration of justice. But they were also meant to provide a picture of the state of civil society. What mattered for them was that no bankruptcy case had come before the courts, rather than that no such cases had occupied their time, or that the number of applications for the registration of land had grown dramatically over the last few years, rather than that these applications now accounted for a much larger proportion of court time than hitherto. Yet the court statistics too were concerned with states of affairs. They were interested in levels of activity rather than in particular actions. Modern governments generally focus on states of affairs and on maintaining or altering them.

This preoccupation also affects the governmental records which deal in a narrative form with particular events. Government officials do not write history when reporting about particular events, rather they want to make history by doing so. Their reports serve administrative purposes. They have their eye on the future and not on the past. They manipulate history by processing information about the past in accordance with the practical purposes they want to achieve.

This does not mean that such reports are always counterfactual or that factuality is irrelevant for them. Nor does it mean that such a purposive processing of information about the past is unusual or illegitimate. Everybody has to do it. But there are different purposes and what is a legitimate purpose for a government official may not be for an academic historian. Thus I would argue that the processing of information about the past for the purpose of producing a convincing narrative is not a legitimate academic purpose, at least not a legitimate primary purpose. For academic historiographers the commitment to factuality has to come first—and that goes considerably further than making sure that the specific statements of fact included in a historical narrative are in accordance with a critical reading of the historical record. Nor is it a legitimate primary goal for academic historians to influence the future by their accounts of the past. For them the commitment to contribute to a better understanding of the past has to come first. Government officials are in a different position. It is their task to shape the future. They do not do their job if they focus on gaining a better understanding of the past, unless it enables them to make administratively more appropriate decisions about the future. It is also not their task to assemble as much information about particular events in the past as possible, and to subject it to a critical analysis, at least not for its own sake. They justify decisions and argue cases and they do so in response to the existing general structures within which they operate. The records which they produce are shaped by these structures, even when they try to reshape them. Modern governments

are primarily concerned with how they operate internally and not with the external effects they are causing by their actions.

This is reflected by the records they produce and should also inform the task of historians of modern government. The history of colonial rule in German New Guinea is the history of the colonial government as an operation, not the history of the exercise of governmental powers in relation to its subjects. It is the history of the various mechanisms which were put in place to control—and this is to say to manage rather than merely to restrict—its operation. The more elaborate and effective these control mechanisms became, the less historically significant the external effects of the operation became. Government gradually turned into a self-contained system preoccupied with running itself and, in particular, with enlarging its operational capacity and with making its utilisation more controllable.

To be sure, the system of government still depended on external inputs and produced external outputs, but they were not the purpose of the exercise. Government became an end in itself, for which its external effects merely served as a legitimisation. Their description can therefore contribute little to an understanding of the history of colonial rule, just as a description of the roads a car has travelled, or of the petrol it has consumed, contributes little to an understanding of the operation of the motor that is driving its wheels.

Of course, it is disappointing that as a result of their structure the financial records offer little systematic information about the activities of the native police force. It is also plain that the life of a historian of this force would be easier if it had been given from the start a firm legislative framework. On the other hand, the fact that it was not a legally and financially distinct institution makes the history of the native police force narratively more rewarding. It does not display an established body of men performing pre-defined, repetitive operations but the taking shape of such a body through the development of administrative practices by means of particular human actions.

The history of the native police is an action-centred history. But it is less concerned with what acts were performed than with what external effects they caused, with how they were performed and with the more lasting internal adjustments they brought about, or tried to bring about—and the historical record reflects this state of affairs.

The history of the native police force unfolds in a piecemeal fashion. It needs to be pieced together from a wide range of sources, which provide different kinds of anecdotal information. The challenge is to bring this anecdotal information together to form a general picture. However, in the performance of this task a narrative approach is unlikely to be more helpful than a systematic approach. The history of the native police force plainly is not a single story. If the multitude of stories of which it consists has any kind of coherence it must be of a non-narrative kind. Let us find out.

Chapter 6: An Anecdotal Approach

I

The most obvious specialised source of information is a series of headquarters files concerning the "police troop" in German New Guinea (RKA 2669-72 and 2674-75). The chronologically oldest file deals with the troop in "the Protectorate of the Neu Guinea Kompagnie" (RKA 2670). It begins encouragingly enough with an 1885 proposal by imperial commissioner Oertzen for the establishment of a "police executive".¹ After a two year gap, this is followed by a letter from the Neu Guinea Kompagnie informing the chancellor of the Reich about the planned establishment of an armed native police force. However, the company also had two specific reasons for approaching the chancellor: it was seeking his assistance in obtaining 50 rifles for the force, and the secondment of lieutenant Steinhäuser, its intended commander, from the Prussian army. After these logistic matters had been sorted out no material was added to the file until imperial commissioner Rose applied for 25 new rifles in 1890. Apart from a discussion of an increase in the size of the force and the stationing of a unit in northern New Ireland in 1891, the documents are exclusively concerned with the supply of equipment, in particular rifles and ammunition, until reports were received in Berlin about the general state of the native police force which was to be taken over by the Reich at the end of company rule in 1899.

File RKA 2669 continues this series until June 1940 (!).² As the supply of military equipment for a police force under full imperial control no longer required special attention, it begins with a report on punitive expeditions in the Gazelle Peninsula in December 1899. But no further reports of this kind were added to this file.³ From then on it deals primarily with events concerning the police force which had unusual budgetary implications,⁴ although several other extraordinary episodes are also covered.⁵

File 2671 is concerned with the police force in the Island Territory between 1899 and 1904. It focuses on the recruitment of Malay policemen in the Dutch East Indies and the financial aspects of their employment. When Malay policemen were phased out, interest waned. The next file—2672—includes nine folios, compared with 174 in the previous file. Although its cover states that it only covers the period until 1910 no new file was started.

1 Its primary function was to be the protection of the lives and the property of the settlers in the Bismarck Archipelago. It was to consist of an élite force of 14 carefully selected German ex-soldiers under an equally carefully selected officer who was to be given judicial powers, in particular in relation to the native population of the archipelago. The officer and seven men, with responsibility for the northeastern Gazelle Peninsula, were to be stationed on Matupi, two men on Mioko, in the Duke of Yorks, and five men in Nusa in northern New Ireland. Oertzen did not consider the possibility of a native police force, although he took it for granted that the German policemen would be supplied with native boat crews. He also took it for granted that they would be given military assistance by the navy which would otherwise focus on survey work. It hardly needs saying that the Neu Guinea Kompagnie rejected this expensive proposal designed to benefit the existing settlers in the archipelago rather than its own plans for the development of Kaiser Wilhelmsland.

2 Some items concerning the "tradition" of German New Guinea's police force were added after the end of German colonial rule.

3 The report was probably filed in this series because a covering letter commented generally on the shooting of native women and children by police. The file also contains notes referring to reports of two other punitive expeditions in 1899 and 1900 which were filed elsewhere. After that even such notes were no longer added.

4 For example, the file includes two 1910 requests for the funding of two police posts in the Huon Gulf. Permission to spend outside the budget for this purpose was granted but not used, *inter alia* because the police force was preoccupied with the Ponape Rebellion.

5 For an example, see below: 437.

There is no headquarters file for the police force in the Marshall Islands as a separate colony.⁶ File 2674, which covers the period between May 1907 and June 1914, is exclusively concerned with Nauru and, in particular, with the financial arrangements for the refund of the costs of the local police unit by the phosphate company. By June 1914 this file had grown to 201 folios and a new file was started. It closes on folio ten with a note, dated 30 March 1915, that a matter concerning the costs of the "police supervision" in 1913 in Nauru had been settled.

A government file in German New Guinea for the native police force in the Island Territory (AA G1/157) is similar to its Berlin counterpart. It too deals almost exclusively with the recruitment and the conditions of Malay policemen. A corresponding file for the police force in the Old Protectorate, if it was kept, has not survived. The only surviving police file of a local administration covers orders concerning the police force received by the government station/district office in Kaewieng between 1908 and 1914. It provides a sequence of glimpses of the broader picture. Generally speaking, however, the historical record again offers only unconnected bits of information. But they are more rounded and cover a wider spectrum than those included in the financial records. As the following sample shows, such anecdotal information can turn up anywhere and illustrates very different aspects of the history of the native police force.

II

The reports of the Rhenish Mission for 1912 published a letter written by police sergeant Jahn under instructions from the commander of the expeditionary troop to missionary Hanke in Bongu. It had enclosed several letters from native policemen to their relatives at home, which Hanke was requested to transmit to their addressees. Hanke published a "free translation" of one of these policemen's letters. This is how it went:

I am Sinade. This is my letter. Oh Kabes and Ken and all you Bongu people listen: to be a policeman is not an easy life. When Toja and Ken visited us, we had plenty of rice to eat and were well nourished, but now we look poorly. One man has died, but a man from Bogadjim and not one of us Bongu people. Oh Kabes and Ken, you men and women from Bongu, may you all be well, we are miserable. The village Rabaul is in a bad country. Perhaps you, *tultul* [chief], or you, Gai Toja, can visit us sometime. Oh come soon and bring taro with you, we are hungry. Oh my brother Kabes and Ken, you eat taro and its broth; you eat coconuts, but I go hungry. Oh Kabes, the two of us made a garden at Tulumdi and now you alone are eating the taro and I am hungry. But this is alright, my brother Kabes, eat it! Kabes and Ken, what is uncle Nobe doing, and mother Goi, and Bonge, Papaïm and Sabaku? Are they all well? Has perhaps one of them died? I am thinking of them the whole time. Kabes and Ken look after my young coconut palms. Keep them clean and do not let my seed yams rot (*Rheinische Missionsberichte*, 1912: 248-49).

This is more than a touching personal document. It shows that natives in German New Guinea were beginning to communicate with each other in writing as Hanke discovered when Bongu people came to him to buy paper, envelopes and pencils for their reply to the first letter they had received from one of the seven young men who had been recruited from Bongu to the police force in Rabaul in 1911. It also tells us that natives were visiting each other over long distances, presumably using the postal steamer as a means of transportation. Sinade was not just pipe-dreaming when he asked for such a visit: Toja and Ken had already visited the Bongu policemen in Rabaul. Nor were the Bongu policemen the only letter writers. Missionary Diehl reported from neighbouring Bogadjim that a lively correspondence had developed between the ten young men whom district commissioner Scholz had sent to Rabaul to be trained as policemen and their relations at home: hardly a steamer arrived without bringing several letters from them (*ibid.*: 191).

6 File RKA 2673 deals with the police force in Samoa.

Is it significant that this new fashion was apparently introduced by policemen serving in the expeditionary troop, rather than by any of the men who had been recruited over many years as labourers from Bongu and Bogadjim? Did only native policemen write letters, or only former pupils of the Rhenish Mission?⁷ Was it unusual that natives asked their white superiors to send their letters for them? Did the commander of the expeditionary troop know that Sinade complained in his letter about going hungry? Was this letter typical of the letters sent by policemen in Rabaul to Bongu and Bogadjim and, perhaps, other places? Were attempts made to censor these letters? Did Sinade and his friends complain to their superiors about a lack of food? Had there been a temporary shortage of food, or were native policemen in German New Guinea typically given inadequate rations? So many questions and so few answers. But what is the point of writing history if such questions are not raised and the information posing them is not presented?

The next illustration comes from a file concerning the powers of native officials in relation to non-natives in the German colonies which the colonial department had started after a complaint by the Colonial Society (RKA 5377). On 13 January 1904 Hahl responded to a circular decree that only native policemen and government chiefs exercised governmental functions in German New Guinea, but that they had not been given powers in relation to non-natives. There was no official interaction of any kind between government chiefs and non-natives because their authority was limited to the exercise of minor police and judicial powers in relation to the native inhabitants of their districts. Native policemen also had no independent powers over non-natives. They merely acted as messengers of German officials who issued them with specific orders in each case. Hahl saw no need to give native officials independent powers in the foreseeable future. If the behaviour of a particular European forced a German official to call on the assistance of coloured auxiliary personnel, it had to be left to his "sense of tact" (*Taktgefühl*) as to how to handle such a situation. The prestige of Europeans depended entirely on their behaviour as individuals and could not be upheld by governmental regulations.

Good stuff, but was it an authoritative interpretation of the legal position or a political statement by Hahl? If it was the former, had the legal position been the same in 1894 and was it still the same in 1914? On the other hand, even if it was the latter, Hahl's statement is still of considerable, albeit anecdotal, historical interest.

In 1905 documents concerning an incident reported by father Dicks to the authorities in Herbertshöhe were sent to the colonial department. It made notes on their content before returning them to German New Guinea. According to these notes⁸ Dicks had complained that the native corporals in Herbertshöhe were giving their men indecent orders when they performed their drills badly by lining them up behind each other and issuing the command "*pusspuss*" (copulate in Pidgin). The district office had taken evidence from five German officials and corporal Gowa. It showed that Gowa had ordered his men to perform knee bends as pack drill and that none of the German witnesses had seen anything indecent in these exercises. It was unclear, however, whether the expression "*pusspuss*" had been used, whether it had been used as a joking reference to this form of exercise by the men under Gowa's command, or whether he had used it as a command—which Gowa had denied, stating emphatically that he gave all his commands in German.

Is this inconclusive anecdote historically significant? Was it typical of German New Guinea, or at least of Herbertshöhe in 1905, that the military drill of the native police force was conducted by native corporals rather than Germans officials, or was Gowa an exception? Was, generally speaking, German or Pidgin or some other language used to give commands to native policemen, for example Malay in the Island Territory? Was the native police force a hotbed of

7 Were literate natives only prepared to enlist in the police force but not as plantation labourers, or were only natives serving in the expeditionary force given the opportunity to write letters home?

8 They were filed in RKA 2669, whereas the returned documents did not survive.

homosexuality? Was it typical of missionaries, or of Catholic missionaries, or of Sacred Heart missionaries, or of father Dicks to complain to the authorities about matters which one might have thought were none of their business? Is this anecdote historically significant not because of what had happened, or is said to have happened, but because such a trifling matter was reported to the colonial department? Had its historical significance to do with the relations between the Sacred Heart mission and the colonial government rather than with the native police force? Or is it significant because it shows in a flash that native policemen in German New Guinea were three-dimensional human beings?

When governor Hahl learned, also in 1905, that district officer Boluminski in Kaewieng was paying his senior police corporal Tomutu monthly wages of 40 Marks—twice the highest permissible rate—he instructed Boluminski to reduce them forthwith and to sack Tomutu if he was not prepared to accept this reduction to prevent similar claims by other long-serving corporals. On the other hand, he pointed out that it was possible to pay Tomutu special rewards for special efforts, provided funds allocated for this purpose were available.

As far as the overpayment of Tomutu is concerned this was clearly an untypical case. Tomutu was probably the only native policeman in German New Guinea who ever received a monthly wage of 40 Marks. Yet it was probably typical of Boluminski that he had paid Tomutu the salary he personally regarded appropriate, just as the manner of handling this case was probably typical of Hahl.

It was probably also typical of Hahl that he took this opportunity to remind Boluminski that it was important for the good name of the government as an employer to ensure that its employees were not charged inflated prices for tradegoods when they were paid out; that he enclosed a copy of the current price list of the Neu Guinea Kompagnie in Herbertshöhe as a guideline for what was to be regarded as reasonable; and that he sent a copy of his order, and its enclosure, to the colonial department and, quite possibly, also to the other district offices and government stations, at least in the Old Protectorate.⁹

This pricelist again provides one of these historically illuminating flashes, in terms of the items it does and does not contain, as well as by illustrating the buying power of the wages of native policemen and their wives. The 4 Marks a "police woman" was supposed to earn per month in 1905 could buy her a cotton dress and a bottle of perfume or four ten-inch bushknives, whereas shoes or sandals were not on offer. Yet this pricelist also remains anecdotal evidence, until it has been established how the range and the price of tradegoods changed during the period of German colonial rule in relation to the wages paid to native policemen and their wives.¹⁰

9 The copy I sighted was sent to Berlin where it was filed in RKA 2669. The same file contains a 1906 list by Hahl of the equipment required by each native policeman. It supported an increase in the police equipment vote in his 1907 budget proposal from 60 to 80 Marks per head per year. The list is interesting because it suggests that financial matters were still treated with a remarkable degree of casualness. Thus Hahl gave a round figure of 85 Marks for the costs of the initial equipment of a policeman in his covering letter—a rifle "M/88" or a carbine at a cost of 43 Marks was the major item—whereas the figures in the list add up to over 86 Marks, although one item is not priced and another, shown among the items which had to be replaced every year, is not listed at all. Moreover, different prices for a third item are given in the initial equipment and the replacement section—which adds up to almost 23 Marks, rather than the round figure of 20 Marks given in Hahl's covering letter. While it is amusing that native policemen apparently went through two caps and three canteens but only one pair of trousers per year, and remarkable that sending a contingent of native policemen to German East Africa was sufficient to deplete the accumulated police equipment reserves, a less entertaining aspect of this list is of greater historical significance: Hahl obviously found it perfectly reasonable to increase the budgetary allowance for equipping a native policeman by as much as one third, although apparently nothing had changed. The most likely explanation is that the costs had never been properly calculated before. Hahl's 1906 effort can also hardly be characterised in these terms. It rather looks as if Hahl responded to the experience that 60 Marks had not been enough in a manner that appeared to satisfy bureaucratic requirements.

10 In 1913 the district office in Nopape budgeted for an annual wage of "police women" of 100 Marks—more than twice the 1905 rate—whereas its most senior native policeman was still on 20 Marks per month.

In May 1906 acting governor Krauss regarded a “decision” (*Entscheidung*) district commissioner Stuckhardt had reported from Friedrich Wilhelmshafen to be sufficiently important to be passed on to the colonial department. It referred it for comments to governor Hahl who was in Berlin on home leave at the time.

The decision concerned a matter which had started three years earlier when six native policemen from Potsdamhafen had deserted. Stuckhardt had ordered the people from Siar and Ragetta to pursue them. They had returned with five of the deserters who claimed that the sixth, Daumugu, had been killed and eaten by the Erempi. About to go on home leave, Stuckhardt instructed his deputy to investigate. Although the Erempi denied the accusation, a punitive expedition was carried out, after the management of the Neu Guinea Kompagnie had complained that the Erempi were also responsible for the disappearance of several of its runaway labourers. According to “the registration” (*Registratur*) about ten Erempi were shot dead during the expedition.

In January 1906 father Vormann reported from Potsdamhafen that Daumugu was alive and well in his village. Vormann requested that Daumugu, who had avoided him during all this time, and the other five ex-policemen who had by then also returned to their villages, be punished for telling such lies. They were duly arrested and Stuckhardt had punished them each administratively with two years of hard labour to be served in Friedrich Wilhelmshafen.

While Stuckhardt had taken into account that the lies of the ex-policemen had not been the only reason for a punitive expedition during which human lives had been lost, Hahl based his comments on the assumption that the Erempi had been innocent. Yet, like Stuckhardt, he was more concerned with the punishment of the six ex-policemen. Hahl defended Stuckhardt’s administrative punishment because he had “obviously” regarded their judicial punishment to be legally impossible; because it was established practice to remove dangerous elements temporarily from their home areas in this manner; and because there was no practical alternative to these banishments.

This worried the immediately concerned official in the colonial department, the former imperial commissioner Rose, not because he found such administrative punishments objectionable, but because he feared more attacks in the Reichstag, like those which had recently been directed against such punishments by administrator Brandeis in the Marshall Islands. He therefore asked Hahl to consider whether the penal practices in relation to natives in German New Guinea had to be generally reviewed.

What about the punitive expedition against the Erempi? Stuckhardt’s deputy apparently had made no attempt to investigate the complaints of the Neu Guinea Kompagnie against them. On the other hand, the punitive expedition had been triggered not so much by these new accusations as by “derisive messages” the Erempi had sent to the district office after the first visit to their village during which they had denied that they had killed and eaten Daumagu. Similarly, Stuckhardt took action when he had learned that Daumagu was still alive not because he or his comrades represented any danger in 1906 but because the latter had successfully led him up the garden path three years earlier.¹¹

It is unlikely that Hahl spent sleepless nights after forming the view that the Erempi had been innocent victims of a punitive expedition. He certainly did not suggest that they should be compensated for their suffering. Does that mean that Hahl, or Stuckhardt, Krauss and Rose, or German colonial officials generally, did not care whether the targets of punitive expeditions had committed the deeds of which they were accused, or that they had become hardened because they frequently found out after the event that a punitive expedition had not been justified? Conversely,

¹¹ It is worth mentioning that Stuckhardt could easily have judicially punished them for falsely accusing the Erempi of having committed a serious crime by reference to section 164 of the German Criminal Code (*Falsche Anschuldigung*) which deals precisely with cases of this kind.

had Krauss reported this case to Berlin because this had been the first instance of a punitive expedition having turned out to be a mistake? Or had he too only been concerned with Stuckhardt's administrative punishment of the ex-policemen? Why had Stuckhardt reported his decision to Herbertshöhe when he, according to Hahl, had followed a well-established practice by punishing the men the way he did, unless the mistaken punitive expedition had been of major concern for him?

In January 1910 the station court in Herbertshöhe sentenced two native policemen, Manulja and Tamali, to two years imprisonment with hard labour for manslaughter and a third, Zipol, to three years because they had shot several native women during an expedition, the reasons for and the location of which are not identified. The three men, all from New Hanover—according to the station court renowned for the brutality of its inhabitants—had disregarded the orders of the German official in charge that policemen who first reached a village were not to enter until the rest of the troop had caught up and that they were to shoot only after he had called the names of the men who were supposed to fire. Instead Zipol had entered the village as soon as he had reached it and had shot one woman. Manulja and Tamali had followed his example and shot down other women. Zipol claimed that he had started firing only after a native man had thrown a spear at him and that he had wounded the man with his first shot, but neither spears nor traces of blood left behind by a wounded man had been found.

The station court decided that the three policemen had not acted in self-defence but had followed their "wild instincts" in killing the defenceless women. Since the principle not to shoot women had to be strictly followed, and since incidents like this one were likely to undermine the natives' confidence in the justice of the government, a severe penalty for such a gross breach of discipline had been called for (AA63/83, B231).

It looks as if we are finally on firm ground with this case, since it makes several points of general significance: firstly, that there existed by 1910 a well-established principle according to which native policemen in German New Guinea were not allowed to shoot women under any circumstances; secondly, that shooting women therefore demanded a severe, criminal punishment; and, thirdly, that such cases were exceptional. But looking closer, this case too raises more questions than it answers. Would the three policemen also have been prosecuted if they had shot dead native men under the same circumstances? Would they have been acquitted if Zipol had been attacked before opening fire? Would any action have been taken against them if they had shot the women during an attack on the village ordered by the German official in charge? Did the case only end the way it did because the official came across three of his men, who had disregarded his specific orders, while they were standing, their rifles smoking, next to the corpses of several women in the centre of the village? In other words, was the principle not to shoot women qualified in various ways, for example, because it stood alongside another principle according to which native policemen were not permitted to shoot anyone, unless they acted in self-defence or had been ordered by the German official in charge to open fire?

It is easy to believe that such extreme cases were rare, but what does it tell us, apart from demonstrating that native policemen were sent to prison in one such case? Is it significant that the court perceived the case primarily as a breach of discipline, rather than an ordinary crime? While two or three years imprisonment was a tough response to such a breach, it was hardly a severe punishment for killing several defenceless women—whose number is not identified in the judgement—especially if we compare this sentence with a sentence of four years imprisonment with hard labour the court imposed a month later on a native civilian, Tawono from Kambaira, for an assault causing death.

We need a great deal more information about the manner in which disciplinary and criminal offences of native policemen were handled by different officials, at different times and in different parts of German New Guinea, before we can assess the historical significance of this case. This,

however, is easier said than done. It is indicative that I learned about this case, the only conviction of native policemen for committing manslaughter on duty of which I am aware, not from the case file of the station court in Herbertshöhe—which no longer exists—but because the three policemen were sent to Friedrich Wilhelmshafen to serve their sentences and excerpts from the judgement were put on the prison administration file there, which happens to be still available. The information about the imprisonment of Tawono comes from the same source, but in that case only the “operative provision” (*Tenor*) of the judgement was sent, so that the circumstances of his case are unknown, since it hardly needs saying that the case file of the station court also no longer exists.

As the state of the surviving historical record generally rules out a systematic approach to the assessment of anecdotal information of the kind reported in this section I want to explore in the next section whether the inspection of a chronological cluster of cases set in the same geographical area can take us a step further.

III

On 8 April 1899 acting governor Schnee reported on a punitive expedition against “Anapapar”, inland of Kabaira on the Gazelle Peninsula, which he had carried out as imperial judge shortly before the end of company rule. The immediate reason had been an attack by the Anapapar on the Kabaira people, during which three of the latter were killed. Schnee also took into account that “in the course of the years” 14 Europeans had been killed in the Kabaira area, some of them apparently by the Anapapar, that a trading station had only recently been reopened, that the Sacred Heart Mission as well as the Neu Guinea Kompagnie were becoming active around Kabaira; and that the prestige of the administration would suffer in the eyes of the natives if such an attack relatively close to its headquarters remained unpunished.

On 15 February 1899 Schnee set out with police sergeant Schuberth and 21 native policemen to Kabaira. Since the Anapapar had sent word that they were expecting him and his men and would kill them all, he saw no point in entering into negotiations and marched straight inland. After five hours the first Anapapar gardens were reached. The sounds of distant signal drums were heard and the movements of invisible bodies in the high kunai grass on both sides of the track noted. Schnee positioned his troop on a small hill which offered better visibility in at least one direction. Surprisingly it was from that direction that the warriors approached, shouting, dancing and shaking their spears. Rifle fire soon turned their attack into headless flight, speeded up by a counter-attack by Schuberth and a few policemen. After burning down some of the scattered houses Schnee marched his men back to Kabaira.

The result was seven dead Anapapar and no casualties among the troop. According to Schnee, the personal courage of the policemen from Buka and New Ireland had been admirable whereas their discipline had left much to be desired. Those from the Gazelle Peninsula, on the other hand, had almost all behaved in a cowardly fashion.¹²

Schnee was pleased with the outcome. The Anapapar had remained quiet and their chief had even visited the trading station in Kabaira to purchase goods. Schnee hoped that peaceful relations with the Anapapar could be re-established soon. Since his predecessor Hahl had stopped the fighting among the natives around Mt Varzin during the previous year, peace in the entire section of the Gazelle Peninsula in which Europeans were interested had been secured (RKA 2987).

12 These judgements, or prejudices, about the respective qualities and shortcomings of different “tribes”—whether it be Africans compared with Pacific Islanders, Melanesians compared with Micronesians or Tolai compared with Buka—are one of the themes which run through colonial history, not only in German New Guinea. Yet they were not necessarily an expression of racism, at least not in a “black and white” sense. Many German officials would have expressed similar preferences when it came to comparing Bavarians and Prussians, let alone Germans with Russians or Italians.

Although fights between the Tolai in Tamanairiki and the Taulil in the Kerawat Valley some months later did not affect European interests, Schnee sent his "experienced" secretary, Steusloff, to restore the peace.¹³ In addition to his colleague Warnecke and 20 policemen, Steusloff was accompanied by chief Tomataria from Vunamami and ten of his men when he left Herbertshöhe on 4 December 1899. In Paparatawa he was joined by chief Tokitang and some of his people. When the expedition reached Tamanairiki in the afternoon, it was deserted. But Tokitang who, in contrast to other Tolai, maintained friendly relations with the Taulil, was well informed about what had happened. After a Tolai from Taolapitok (= Rapiotok?) had surprised and killed a pig-hunting Taulil, people from this district, as well as from Naoma and Tamanamabu, had gone to fight the Taulil. The Taulil had ambushed them, killing—and eating—five and wounding another ten.

Since it had started raining soon after the expedition had reached Tamanairiki, it stayed overnight and left for Taulil the next morning, having sent one of Tokitang's men ahead as a messenger to inform the Taulil that they had nothing to fear from the police. After a march of more than two hours the expedition stopped at a Taulil hut. It was about to continue when the Taulil chief Tideck appeared. He had never seen a European and shook visibly when questioned, Tokitang and Tomataria acting as interpreters. He confirmed Tokitang's story but denied that the Taulil had eaten any of the Tolai they had killed. The Taulil only wanted to live in peace but the Tolai had forced them to abandon their settlements in the fertile valley and to withdraw into the mountains on the other side.

Steusloff admonished Tideck to keep the peace, promised him the protection of the administration, and the expedition started its march back in pouring rain. In Tamanairiki it split up. Steusloff and half the policemen spent the night at the mission station St Josephstal, Warnecke went with the other half to the trading station in Paparatawa.

Steusloff had sent messengers to "the three hostile districts", demanding that each pay a fine of 50 fathoms of shell money for fighting the Taulil, otherwise the police troop would take action against them. As the messengers returned with a flat refusal, Steusloff marched the next morning to Toalapitok and Tamanamabu and sent Warnecke with part of the troop to Naoma, ordering the policemen only to shoot if they were attacked and never to shoot women and children. Whereas Steusloff's party only burnt down a few deserted huts, four of the policemen in Warnecke's party shot a man and a woman on the way to Naoma, claiming that they had not recognised the woman as a woman because of bad light and dense vegetation.

Schnee commented on the regrettable killing of this woman in his covering letter to Steusloff's report. Despite all efforts such incidents continued to happen because the native policemen became so excited during military operations that they shot at everything that moved, just as they would have done during traditional fights amongst each other. Schnee assured the colonial department that the administration took the greatest care to prevent the killing of women and children (RKA 2669).

The report does not suggest that the policemen were punished in this case but the surviving files of the station court in Herbertshöhe show that Schnee punished his native policemen on other occasions. On 21 March 1899, still under company rule, secretary Warnecke noted that the "police-boy" Toreren from Vunamami, who had been accused of raping two native women, had run away. But he had later returned, accompanied by Tokiango, with five fathoms of shell money as compensation. Toreren believed that this would settle the matter, although he was prepared to consider making a larger compensation payment. Instead Warnecke punished him with ten strokes for having run away and remanded him in custody pending trial. Toreren escaped from prison with

13 The reference to Steusloff's "experience" suggests that Schnee felt that he had to justify his not taking personal command. Steusloff had indeed relevant experience as he had conducted the 1894 punitive expedition about which the Neu Guinea Kompagnie complained in the annual reports.

his handcuffs during the same evening. Warnecke instructed the chief in Vunamami to arrest Toreren as soon as he turned up and paid Tokian one of the five fathoms of shell money as a reward for delivering this message.

By 15 April Toreren was back in custody and on trial. He denied having had sexual intercourse with Buko, but readily admitted having "used" Inwiare, together with "the little boy" Tomadip.¹⁴ They had held the girl down and had "used" her, although she did not want to. Buko confirmed that Toreren did not have sex with her; he had suggested that they should "do something together" but had gone away when she had declined. As Inwiare confirmed Toreren's confession, Schnee sentenced him to one year imprisonment with hard labour for rape (AA 653/83, B41).

In August 1899 Schnee sentenced the police soldier Meli to six months imprisonment with hard labour for stealing a lamp from a native hut on Massikonapuka near Weberhafen, a penalty which was unusually high for a minor theft because Meli had stolen the lamp in the course of an expedition during which only peaceful negotiations with the natives were conducted (see *ibid.*). Meli must have behaved well in prison because Schnee ordered his release four months later on 27 December—or was it because there was a desperate shortage of native policemen?¹⁵

Two years later the network of government chiefs had reached Anapapar, now called Napapar.¹⁶ On 22 March 1902 chief Towawana appeared in the office of acting governor Hahl and reported that Topagatie from Tambang in his district had killed Jawakila some eight days ago for unknown reasons. Could 20 policemen please be sent to arrest the murderer? Hahl ordered that 20 men should march the following morning and referred the matter to the imperial district judge Wolff for action.

On 25 March 1902 police sergeant Soelle sent a note to Wolff:

Topagatie has not been brought in; the troop was attacked and had to open fire. Corporal Kamio stated that between six and ten natives were killed. One roll of *tabu* [shell money] was brought back.

No further information on this episode is contained in the brown folder in AA 63/83, Box 29, which includes only this item. Was it typical to send out as many as 20 policemen under the command of a native corporal? Was it usual to send such a large police contingent to arrest a suspected murderer? Was the incident investigated and any action taken? Probably not, since it was quickly overtaken by a bigger event, namely the murder of Mrs Wolff and her child near Mt Varzin on 3 April 1902, which demonstrated forcefully that Paparatawa and Tamanairiki had not yet been successfully pacified.

Much has been written about the Varzin Murders and the subsequent punitive measures—which may have also cost chief Towawana of Napapar his life—but rather than clarifying the events these writings have buried them, like the Ponape Rebellion under multiple layers of phantom history.¹⁷ I have no intention of exploring this luxuriant phantom grove. Nor do I want to follow the chain of events backwards to the attempts by Hahl in 1897 to come to a peaceful arrangement with To Wagira of Tamanairiki, the fiercest opponent of colonial rule among the inland Tolai and one of the "ringleaders" behind the Varzin Murders (see Hahl, 1980: 31). There is no point in doing so, because there is no compelling narrative trail which would link

14 The classification of Toreren as a "police boy" rather than as a "police soldier" suggests that he too was a teenager rather than a mature man.

15 Schnee had good reason to boost the police force as much as possible, since he left on 10 January 1900 to carry out a large punitive expedition to the Admiralty Islands.

16 The "A" is the definite article in Tolai. To treat it as part of the name is just as wrong as treating the "A" as part of the title "*lualua*"—but who cares and who can be expected to know these details which have certainly no historical significance?

17 For a "postmodern" attempt to deal with this episode see Neumann, 1992, chapter 1, where the "accidental" shooting of the *luluai* of Napapar is also mentioned.

these events, even though they took place within five years of each other inside a geographical area extending over less than 20 square kilometres. Yet they are embedded in the same historical matrix. The problem is that history does not fly like an arrow through astronomical time but spreads out like mist through historical space.

It may be more instructive to inspect this horizontal spread instead of trying to dig a deeper chronological shaft. There is a good opportunity for testing this possibility since the report of police sergeant Soelle just discussed is not the only one of its kind which has survived. A bundle of 33 of his reports is still available (AA G254/126). Most of them relate to the six-months period between 1 April and 30 September 1902.

IV

A report of 1 April 1902, two days before the Varzin Murders, features the soldier Tonoko from Takekel in the Napapar area. He had run away out of fear of being punished for having pushed a cleaning rag too far down the barrel of his rifle so that it had become inoperative. Wolff ordered Soelle the same day to get the man back. Soelle reported a week later that Tonoko had not been found. On 29 May Tonoko was brought in and Soelle requested his punishment. An official by the name of Schultz ordered a punishment of ten strokes which was carried out by one Buddeus. When Soelle reported this punishment on 25 June Wolff decreed that the matter could now be filed.

The next report is dated 24 April, when things were returning to normal after the Varzin Murders. The soldier Tokumbarue and the labourer Towakine, both also from Takekel, had been given six days leave on 14 April but had not yet returned.¹⁸ Soelle reported on 25 June that the employment of Towakine had been terminated by Hahl on 5 May¹⁹ and that an attempt to get Tokumbarue back had to be abandoned because he had been too ill to walk. Wolff ordered Soelle to make another attempt. He had to issue a reminder on 11 August before Soelle reported three days later that the man had now been returned so that the matter could be filed. But Soelle had already made a related report on 27 June when another policeman, Towogone, had returned late from leave and reported that Towakine and Tokumbarue were ill and that yet another policeman, Torue, had overstayed his leave at Kerawien. Soelle had requested the punishment of Towogone and Torue. Since Torue was not available, Wolff could deal only with Towogone, who was given ten strokes and demoted to labourer.

The majority of the subsequent reports also related to policemen—or their wives—and the aftermath of the Varzin Murders continued to figure prominently. On 21 June Soelle reported that the policeman Kowak and his wife Maka had turned up in Herbertshöhe because they had been “thrown out” by Herr Costantini, who was in charge of the new police post in Toma. Soelle had sent a replacement for Kowak, and Wolff dealt with Kowak and Maka in a manner which is not identified. On 30 June Soelle reported that the natives Torapile and Tolavakie from Nauma had disappeared. Wolff’s order of 8 July sheds some light on this mysterious matter. Three natives from Nauma had apparently been employed as auxiliary policemen after the Varzin Murders.²⁰ They had absented themselves from Herbertshöhe but had turned up at the police post in Toma where Costantini was happy to employ them as labourers. As Wolff approved, he ordered Soelle to cross them off the list of policemen and add them to the labourers’ list.

18 By mid-April the military operations had been completed, although the two main ringleaders, To Wagira and To Kilang, were still at large.

19 Despite his blackwater fever Hahl was obviously sufficiently well to deal with such routine matters.

20 This was an interesting move because Nauma is probably identical with “Naoma” which adjoined Tamanairiki.

On 4 September Costantini sent the soldier Lesiat because he had been beaten by the soldier Sioni with a piece of wood. Soelle requested the punishment of Sioni. It is not clear whether this happened, but Soelle was ordered by Wolff to arrange for Sioni's transfer to Herbertshöhe.

Now to the "police women". Soelle reported on 20 July that Takasakei and on 22 July that Uagar had been released from prison, without indicating for how long and for what reason they had been imprisoned. In the case of Uagar this is shown in another report of 6 August: she had served five days for adultery—without deterrent effect, because barely two weeks later she had again committed adultery, with an office boy in Buddeus's kitchen. It earned her partner in crime ten strokes and her nine days imprisonment, eight of them on half rations.

Uagar had competition. Tinkomey, the wife of the soldier Zimula, committed adultery with the houseboy of the government doctor on 4 August. This earned her five days imprisonment and him ten strokes.²¹ Tinkomey was again reported for adultery in September—this time with the soldier Aigius. Both were acquitted by Wolff because they denied the accusation and the only witness produced, "the *tamul* Lilé",²² stated that he had nothing to say.²³

Another report shows that native policemen were routinely used as supervisors of native labourers. On 18 August Soelle reported the labourer Batan for not following the orders of corporal Martin. Instead he had abused him "*you kalabus [prison]-man, wat you leik etc.*" and threatened him with a shovel. When Soelle had sent for Batan, he ran away but was found hiding under a stack of building timber two hours later. Soelle put him temporarily in prison and asked for strict punishment. Wolff obliged by ordering three days imprisonment and ten strokes. He was less impressed when the policemen sent out to bring back the labourer Towagaganie, who had run away four weeks earlier, returned with another man from his place as "a hostage". He curtly decreed: "the native is to be released".

Although none of these reports is by itself illuminating, the incidents reported are just as important for the history of the native police force as punitive expeditions—and each of them is just as unique. Was sexual promiscuity nonetheless also typical of the behaviour of "police women" in German New Guinea, or at least for their behaviour in Herbertshöhe between April and September 1902? Was it typical of policemen to bring back hostages if they could not find a deserter—or had this idea occurred to one of them for the first time in this case? Did Wolff want to terminate an established practice of which he personally disapproved, or were there special circumstances which had made him decide that it had been inappropriate to follow it in this case? Was it a common term of abuse in 1902 to call a native policeman a "*kalabus-man*"? Did native labourers frequently refuse to obey orders given to them by native policemen? Was Uagar sent to prison for six months by the station court for yet another case of adultery in October? Were the prisons full of native policemen who had been judicially punished for excesses committed during the punitive measures following the Varzin Murders? Was the mix of cases reported by Soelle for this six months period representative? Does the bundle include all the reports made by Soelle during this period or, to be more precise, all reports relating to disciplinary matters concerning "coloured auxiliary personnel"? Were labourers employed by the government routinely beaten every night for laziness without any individual reports being filed?

21 In this case both punishments were expressly classified as disciplinary, rather than criminal, punishments by Wolff.

22 The term "*tamul*" indicates that Lilé came from Kaiser Wilhelmsland and that a reference to this apparently still unusual fact was more important than to identify whether he was serving as a policeman or as a labourer.

23 Police sergeant Soelle also reported Chinese government employees on two occasions. The locksmith Ah Song and the carpenter Li Ah Fock were each fined 5 Marks because they had left their work to pay a visit to the postal steamer *Stettin* (whose crew probably included several Chinese). The case of the carpenter Ah Lom was more serious. He was not only sacked without pay for the last two weeks because of his "colossal laziness and impertinence", but Wolff also asked the local firms not to employ him as a trader because it was important for disciplinary reasons that he leave the colony—which he did a month later.

The exercise of disciplinary jurisdiction over natives in the Herbertshöhe/Rabaul district between 1899 and 1914 is one of the comparatively best documented aspects of German colonial rule, but who would want to read a systematic study of the relevant records and who would be prepared to carry out such a study in the knowledge that the available information is too voluminous and varied to be handled narratively but also too incomplete to be handled quantitatively? Yet can we afford to disregard this information, and is the incorporation of a colourful but unrepresentative sample into a phantom narrative not worse? Perhaps an organic rather than systematic approach to the history of the native police force will prove to be more satisfactory.

V

On 7 March 1900 governor Bennigsen informed the colonial department that he had enacted an ordinance offering wives of native policemen a premium of 30 Marks for their first child, of 60 Marks for the second child, of 90 Marks for the third child and so on. This measure was prompted by the fact that police women had an unusually small number of children. Only two of the 13 women in Herbertshöhe had a child which, Bennigsen believed, was due to "artificial pregnancy prevention techniques".²⁴ An increase in the number of native children was generally of prime importance in German New Guinea, whose population was either stagnant or decreasing, but it was of special importance in the police force, because policemen with children were likely to remain in the force, where their families were well provided for, whereas single men usually wanted to return home after serving out their first contract. This did not only mean a loss of trained men but, because of their military training, these men represented a permanent danger for Europeans living near their villages. The overall costs of the scheme would be minimal although the amounts were large enough to encourage police women to have more children. The scheme could easily be funded as "gifts to natives" under the "mixed expenditure" vote.²⁵

The colonial department agreed that a population increase was desirable but regarded Bennigsen's legislative intervention as inappropriate and likely to cause problems with the audit office. It stopped short of disallowing Bennigsen's ordinance, and of instructing him to recover premiums already paid, but suggested that he should himself repeal it at the next opportunity.²⁶

A month later, Bennigsen sounded a different note in a report to Berlin. It proposed the recruitment of 50 policemen—and 20 to 30 young women—in German East Africa, preferably Waniamwesi.²⁷ The main reason given was that it was "probably impossible" to form a permanent police troop drawn from local natives because they were so strongly attached to their home areas. Despite the excellent conditions and treatment, they always wanted to go back, at least for some time, after completing their contracts. This applied in particular to men from Buka and New Ireland who were most suitable, whereas the natives of the Gazelle Peninsula made bad soldiers and lacked personal courage. Furthermore, to form a troop consisting exclusively of Buka and New Irelanders was inadvisable because experienced policemen who returned home represented

24 If we assume that the number of "police women" in Herbertshöhe had increased to 20 by 1902, Soelle's reports would indicate that 20 per cent of them received a disciplinary punishment for adultery during a six months period. This is certainly a significant figure but it does not mean that every "police woman" in German New Guinea "statistically" committed adultery 1.2 times during a three year contract.

25 Bennigsen saw no need to extend the scheme to the Island Territory at that stage because it was as yet uncertain how suitable the Malay policemen stationed there would prove to be.

26 Bennigsen was in no hurry so it was left to Hahl to report on 17 March 1902 that this had finally been done (RKA 2988).

27 It is not clear why Bennigsen only wanted to recruit half as many women as men, since this would appear to be a sure way of inviting trouble.

a danger to Europeans living nearby, as well as to their traditional native enemies.²⁸ As the Ehlers-Piering/Hagen case had shown²⁹ even long serving Buka policemen were unreliable. Besides, it was known that Buka, and also New Irelanders, were prone to run amok, as had happened quite recently when the Buka boy Barossa had killed the naval purser Below during a period of temporary insanity (see below).

Bennigsen was not concerned about the situation in Kaiser Wilhelmsland. Some good Malays had just been recruited for the police troop there, who could form the core of an adequate native police force. As regards the Island Territory the outcome of "the Malay experiment" still had to be awaited. For the Bismarck Archipelago a Malay police troop was out of the question because Malays were too expensive as ordinary soldiers and also could not withstand the strain of the repeated expeditions which the police troop had to carry out in this area. The same considerations ruled out the importation of policemen from Samoa. The four Caroline Islanders currently serving in Herbertshöhe were suffering badly from fever, presumably because malaria was not endemic in Micronesia, so that the Island Territory also could not supply the police force with suitable recruits.³⁰

Bennigsen had therefore settled for the East African alternative. It presented no practical problems. The district office in Bagamayo could easily recruit the required men and women from among the thousands of people who came from the interior. Nor would the transport costs be prohibitive, in particular if a special arrangement was negotiated with North German Lloyd. If the experiment succeeded, the importation of East Africans for private employers could make an important contribution to solving the labour shortage in the thinly populated colony. The recruits had to be told that they would move permanently to German New Guinea. It would be best if they could be accompanied by a Swahili-speaking German police sergeant who would stay with them. Otherwise a German-speaking native interpreter had to be sent, since Bennigsen was the only person in German New Guinea who could make himself understood in Swahili. Bennigsen was clearly moved by a sense of urgency, since he requested to be informed by cable if his proposal was acceptable, so that he could plan local recruitment for his police force accordingly.

The colonial department did not like this proposal either but took it up with the governor of German East Africa. Since it characterised Bennigsen's proposal as no more promising than an earlier proposal to recruit Pacific Islanders for the police force in German East Africa, it was probably surprised to receive a cable from Daressalaam stating that 50 well-trained *askari*, some of them with families, were ready to go to Herbertshöhe but could not be kept on hold indefinitely: "Cable wages and conditions and make arrangements with steamer from there".

The colonial department responded by rushing a cable to Daressalaam: "Soldiers' wages in Herbertshöhe unknown here. Stop negotiations." In a decree to Bennigsen this response was justified with financial considerations, but he was also asked to comment on the dangers presented by a police troop in which the Africans were more highly paid than their Melanesian counterparts, since such a wage inequality had been one of the factors that had caused a police mutiny in the Cameroons some years earlier. A decree to Daressalaam made it even clearer that Berlin did not favour the proposal. Here the main point was an expert opinion according to which it was "unthinkable" that Africans were prepared to migrate permanently to the Pacific. The governor

28 Not long afterwards, Schnee sentenced one such man, Gamella from Mandine in New Ireland, to five years imprisonment with hard labour (see AA 63/83, Item B42).

29 The explorer Otto Ehlers and police sergeant Piering, who was in charge of his police escort, were killed by members of their escort during their attempted north-south crossing of New Guinea. Two Buka imprisoned for the crime escaped and one of them shot acting administrator Hagen during an attempt to recapture them in 1897.

30 Nonetheless experimentation with Micronesian policemen serving in the Old Protectorate was continued before the Melanesianisation of the police force in the Island Territory began.

was therefore requested to thoroughly examine again whether the *askari* had fully understood that this was what was in store for them and whether they would accept such a fate in the long run.³¹

The government in Daressalaam took a neutral position: the experiment had a good chance of succeeding but, like all experiments, it was not without risks. Bennigsen responded in December 1900. He still defended his proposal, stressing the general economic benefits of a migration from East Africa, but also stated that, after a better acquaintance with the "local human material", he believed that it would be possible to form a reasonably reliable police force with indigenous natives that would be sufficient for a gradual pacification of the colony and the maintenance of public order in it. Still, it would be desirable to have a small core of 20 to 30 Africans who would fit in well with the local members of the troop. Although at least Rose supported the experiment, the matter quietly petered out and was filed away by the colonial department on 28 February 1901.

The killing of the naval purser Below a few days after the enactment of Bennigsen's child endowment ordinance probably had something to do with the sudden push for the importation of East African policemen. On 12 March 1900, Bennigsen had invited a party from SMS *Moewe*, his deputy Schnee, Dr Fuhrmann and the Kolbes and Parkinsons, for dinner. Afterwards the men sat down to play cards. At 10.40 p.m. a shot was fired through an open verandah door into the back of Below, who was sitting in front of it, killing him almost instantly. Fifteen minutes later another shot was heard and Barossa was found, mortally wounded, in the garden. It was believed that he had been a victim of the same assassin until Bennigsen's Chinese cook handed in a hunting rifle belonging to the governor and reported that Barossa, who worked as a houseboy for Bennigsen, had shot himself after shooting Below—so went the naval report prepared by the investigating officer, first lieutenant Madelung (RM 3/3114).

A subsequent report by the *Moewe*'s commander, captain Dunbar, added another dimension to this incident. Two Catholic missionaries had spread the "totally baseless" rumour that Barossa had killed Below because Below had "seduced" his wife. Investigations by the imperial judge Schnee had confirmed Below's innocence and the slanderous intent of the two missionaries.³² Dunbar intended to take them to court if this was legally possible. In the meantime he had ordered his crew not to attend the Catholic church in Herbertshöhe (ibid.).³³

According to Schnee's evidence, it had been Bennigsen's first reaction that he, rather than Below, had been the intended target. Schnee had rejected this interpretation because it was impossible that such an excellent shot as Barossa could, even in a state of abnormal excitement, have missed his target at a distance of only about three paces. He had concluded instead that Barossa must have been either drunk or mad. Since his corpse had not smelled of liquor and the staff had confirmed that he had not consumed any alcohol during that evening, the rest of Schnee's evidence was geared towards supporting the temporary madness theory.³⁴

Barossa had served in the police troop for three years before he had become Bennigsen's domestic servant. Several of his former comrades had confirmed that he had been "*karanki*" (= cranky) before. Indeed Schnee himself had seen Barossa in such a state, namely during the Anapapar expedition. When the Anapapar had attacked the police troop in a long line and Schnee had ordered it to hold fire until the warriors were in easy shooting range, Barossa had run towards them, shouting that he was going to kill the *kanaka* all by himself. He had stopped only after repeated orders, howling with fury and foaming at the mouth, but had returned to normal soon

31 For good measure the colonial department pointed out that Bennigsen had probably not considered what was going to happen to their widows and children if they were killed during a military operation.

32 The two were father Dicks, whom we have already met, and father Eberlein, who became particularly active in publicising his version of what was happening in German New Guinea in the metropolitan press (see below: 582 ff.).

33 Not surprisingly the wisdom of this order was questioned by the naval authorities.

34 Schnee's evidence does not suggest that the liquor ban for natives was rigorously enforced even in government house. His colourful published account of this incident (1904: 247 ff.) further elaborates his theory.

afterwards. Since several people had told him later of the "fighting frenzy" of the Buka, Schnee had given this incident no further thought, although he had never seen another Buka in a similar state (RKA 2988).

Whether or not the killing of Below was a case of mistaken identity and whether or not Bennigsen had good reason to believe that he had been the intended victim, the incident was a shock to his system which would explain why he was no longer keen to pay premiums to police women for producing a bunch of little Barossas and why he found the idea of surrounding himself with a guard of 50 less excitable *askari* highly attractive.³⁵

Had the shock worn off when Bennigsen gave up pushing for this scheme a few months later? Perhaps, but there are certainly other aspects of Bennigsen's role in the history of the police force—at least one of which should be examined.

In a report of 15 January 1900 to the colonial department Bennigsen recommended taking a wait-and-see attitude to Hahl's request for strengthening the police force in Ponape with additional Malays or Melanesians. Bennigsen had just made an experiment by recruiting a few reliable policemen in Amboina, rather than Makassar, the outcome of which should be considered before making any decisions. If the Samoa Treaty had given the government the right to recruit in the British Solomons, an attempt should also be made to recruit policemen in Malaita, which was said to offer better "human material" than the other islands in the group. Bennigsen had also made arrangements with HERNSHEIM & CO. to recruit 50 Buka to strengthen the local police force. It was possible that a few suitable men for Ponape could be found among them. On the other hand, Bennigsen believed that Melanesians should not be employed in Ponape at all, where they were despised as cannibals. If no suitable men could be recruited on Ponape itself, good people could probably be had in the Truk Islands.

The colonial department found Bennigsen's attitude "not undisturbing" (*nicht unbedenklich*). It instructed him on 25 April to send as many policemen as Hahl regarded necessary to Ponape at the next opportunity. In view of the infrequent shipping connections there should be sufficient time for him to select the most suitable "human material" for this purpose.

A day later Bennigsen replied to a decree of the colonial department of 22 February on the same matter. He noted that he had sent a copy of his January report to Hahl, so that the latter knew that his request for additional men would not be granted without further consideration. He reiterated his concerns about the use of Melanesian policemen in Ponape; indeed he feared that posting them there might even cause unrest, since Ponapeans had told him that most of what the Germans had done was good, but that the black men from New Pomerania had to be sent back.³⁶ His own police force had shrunk to 38 men,³⁷ so that he had to keep the men he might be able to recruit locally for his own purposes. Although he would take action with these few men whenever required he could not guarantee that the results would always turn out as well as up to now. *Assessor* Boether had not yet reported about the performance of the Amboinese in Kaiser Wilhelmsland. Since Hahl had "so far not been fully satisfied" with his Malays, it was probably best to postpone further recruitments for the time being. It was, at any rate, inadvisable to recruit as many as 50 men for Ponape in Amboina or Makassar all at once, as such a large number was bound to include much unsuitable material. Nor had any funds to recruit or pay them been provided in the budget. However, he had requested the German consul in Makassar to select 12 good men for Ponape, preferably "old Dutch soldiers", and to send them with their families to

35 I did indeed read somewhere, without paying much attention to it at the time, of a rumour that it had been Bennigsen rather than Below who had seduced Barossa's wife.

36 According to a marginal note this tied in with a comment by Hahl in a private letter that "his black people" wanted to leave him because they found the behaviour of the Ponapeans offensive, who looked down on them as "niggers". Bennigsen had written to Hahl that he should make these men do some real work before returning them so that they did not get the idea that they could make a long holiday cruise at the expense of the government.

37 The figure is difficult to read. It could also be 30.

Herbertshöhe. In view of the cautious approach Hahl would no doubt pursue, military complications in Ponape were not to be expected, and the promised frequent visits of a German warship to Ponape would make quite sure that everything remained calm.

Bennigsen ended with a plea that the course of action he had adopted after careful consideration of all relevant circumstances should not be taken as a refusal to carry out an order given to him. A marginal note to the effect that it at least looked very much like a refusal shows that Bennigsen had rightly assumed that he was in trouble. Whereas he was merely informed that the order still stood, the decree of the director of the colonial department to Hahl is more telling: "Since I cannot accept the responsibility for the partial refusal of your request, the Governor has been instructed to carry it out fully (RKA 2671)".

Although this organic cluster of anecdotes is more satisfying than the systematic and chronological clusters previously displayed it is by itself not a satisfactory body of information. The fragment of the web of history it represents can be extended in different directions. The most promising move would be to use the fragments as a starting point for a study of Bennigsen's relations with the colonial department, as they tell us more about the internal workings of the German colonial bureaucracy than about the history of German New Guinea's native police force. However, this is not the direction in which I wish to move. I therefore merely want to add a cautionary note relating to Bennigsen's claim that Hahl had "so far not been fully satisfied" with the performance of the Malay policemen on Ponape.³⁸

On 15 August 1900 Hahl reported to Bennigsen that the police unit in Ponape consisted of 18 men. Of the 20 Malays remaining of those originally recruited in Makassar only seven could be used as soldiers. But Hahl had recruited 11 men in Truk whose performance was more or less adequate. Recruiting attempts on Ngatik and Pingelap, near Ponape, had been a failure and Ponapeans could only be hired as casual labourers for short periods. On the other hand, district commissioner Fritz had written from the Marianas that he did not need the Malays allocated to him and he had asked Fritz to send them to Ponape. Hahl insisted that he needed a small well-trained troop of at least 40 men, not to fight the natives but in order to secure the safety of the administrative headquarters and to help with the building of roads. He therefore asked, for the time being, for 12 additional Malays, whom he too strongly preferred over Melanesians in Ponape. Should Fritz be unable to send additional men he would ask for further reinforcements (AA G1/1, Item 157).³⁹

With the same mail on 26 September Bennigsen received a report from Fritz. It informed him that his 12 Malays had from the start been unhappy, unwilling and ineffective workers who had repeatedly asked to be returned to Makassar. When an opportunity had arisen to send them to Ponape, the five worst ones had eagerly volunteered. Some of them still had to work off their debts to the government before being sent back to Makassar (*ibid.*).⁴⁰ It is thus unlikely that Hahl was satisfied with this temporary addition to his manpower. But then he probably had no high expectations—as Bennigsen well knew from a "protocol" of 20 October 1899, which Hahl had sent him (see *ibid.*).

38 These episodes taught me a salutary lesson. When I had read their reflection in the annual reports I had assumed that the push for *askari* represented the Bennigsen position whereas that taken in the following report already represented that of Hahl, rather than a change of heart on the part of the "old African" Bennigsen. I was therefore also no longer surprised when I learned later that, instead of being the driving force behind the Melanesianisation of the native police force in the Island Territory, as I had expected, Hahl had *not* been in favour of replacing the Marshallese police force in Jaluit by Melanesians.

39 Bennigsen did, in fact, wait until the receipt of this report from Hahl in September before making the request to the German consul in Makassar for the recruitment of the "12 good men" for Ponape he had announced in his report to Berlin in April.

40 According to the annual report for 1900 a total of nine of these 12 Malay policemen were sent back to Ponape by Fritz.

Two of the Malays had already started to cause serious trouble on the steamer which brought them to Ponape. They had thrown pieces of coal at the Chinese crew and threatened them with their daggers, which had to be confiscated. They had also stolen and partly consumed a large tin of sugar. In Ponape their behaviour had not improved. One had attempted to rape a native woman, the other had been repeatedly drunk and had threatened to run amok a few days earlier, so that he had to be locked up. In the view of police sergeant Braun, whose evidence Hahl recorded, the man was so dangerous that it was necessary to keep him behind bars when sending him back to Makassar.

Although the behaviour of these two particular Malay policemen was hardly typical of the behaviour of the 50 or so who initially made up the police force of the Island Territory, to state in the face of this evidence that Hahl had "so far not been fully satisfied" with his men at least looks very much like phantom history, rather than a mere understatement. But whereas a historian stating that Hahl had "so far not been fully satisfied" with the performance of his Malay policemen would indeed be merely writing phantom history, Bennigsen's phantom statement to this effect is itself a historical fact, so that a historian reporting it as a statement of Bennigsen is writing factual history, even though one could hardly be satisfied with the performance of a historian who did not attempt to also read the surrounding historical record critically and report the results of this examination.

On the other hand, it is impractical, and often impossible, to check every statement of a historical actor against other sources. Under these circumstances historiographers have little choice but to make it plain that they are only reporting what a critical reading of the historical record reveals—and in this case a critical reading of Bennigsen's reports to the colonial department shows that all his statements of fact have to be treated with caution. Nonetheless it is possible to give a factually accurate account of the history of Bennigsen's child endowment ordinance, or of his proposal to import East African *askari*. The case of the killing of the naval purser Below is more difficult but also more instructive. There is little doubt that the report of first lieutenant Madelung summarised above is factually accurate as far as it goes, whereas Schnee's temporary madness theory is unconvincing: Barossa certainly did not behave like a man running amok.

While it is unlikely that we can ever be sure whom Barossa wanted to kill and why, it is possible to honour the commitment to factuality by indicating the different scenarios suggested by the historical record. Moreover, it makes no difference historically whether Bennigsen or Below, or both or neither, had seduced Barossa's wife, although it is of some historical interest whether Bennigsen led a celibate life during his posting in German New Guinea, whether he had a German "housekeeper", or a native "washerwoman", or whether different native girls were brought to his bed every night—and, more importantly, whether his sexual behaviour, whatever it was, was typical of German officials serving in German New Guinea.

Little can be extracted from this episode for a history of the sexual behaviour of German colonial officials, but in the present context the historical significance of this episode is different and more indirect. It is relevant for the history of the native police force because it probably had some influence on Bennigsen's proposal to import *askaris*. To be sure, in view of the opposition by the colonial department, it was unlikely to get off the ground, even if Bennigsen had continued to push it. But this opposition was also partly a reflection of how the relations between Bennigsen and the colonial department had developed. It might have been received differently had it come from Hahl and had it concerned the police force on Ponape, although it is unlikely that Hahl would have made such a proposal.

But these are just speculations. Historically the main value of this cluster of anecdotes is that it shows history as a three-dimensional process. Yet these anecdotes are merely trickles of information seeping through an enormous ball of cottonwool. They give us some inkling of what

actually went on, but there is no point in adding to the flow until the entire ball is saturated, since this would only turn history from a featureless white fluff into a mat of felted black fibres. We have to find another, selective way of coming to grips with the history of the native police force in German New Guinea. Hence my next experiment: an inspection of the file dealing with the instructions concerning the native police force sent to the local administration in northern New Ireland (AA63/83, Box 215).

VI

It took until 1908 before the government station in Kaewieng opened a separate file for these instructions. The trigger was a circular decree asking for comments as to whether guard duty regulations which had been issued by the district officer in Eitape would also be suitable for other administrative districts in German New Guinea.⁴¹

District officer Rodatz ran a highly militarised establishment.⁴² He had guards under a native corporal posted for 24 hours at the main station building, the store and, if required, the prison.⁴³ Each post consisted of three armed men supplied with five live cartridges each. The guards were changed every four hours. They had to be inspected once during the day and once during the night by the German official on duty. They had to report anything suspicious to the nearest official, especially the approach of ships, boats and larger numbers of natives. Lack of attention, sitting down, let alone falling asleep while on duty attracted severe disciplinary punishments. Without specific orders by a German official, the guards were allowed to shoot only in cases of immediate danger.

Boluminski found this elaborate system inappropriate. Since the establishment of his station eight years earlier he had only posted two men at the prison at night and had rarely found it necessary to post more guards even during expeditions. It is unlikely that Hahl insisted on Boluminski changing his ways.⁴⁴ But it is also unlikely that he received Boluminski's response to a decree concerning the recruitment of policemen four years later with the same equanimity. On 17 July 1912 Hahl urgently requested Boluminski to recruit 40 suitable men for the expeditionary troop. Although the recruitment of married men, together with their wives, was desirable, even boys of about 14 were acceptable, provided they were strongly built and intelligent. All told, 200 new policemen were required. The expeditionary troop consisted of only 32 soldiers, 11 recruits and 12 labourers, who were unfit for military duties. Instead of being able to supply the local administrations with trained policemen as had been intended, the expeditionary troop therefore required large reinforcements.

Boluminski reported after two months that he had only been able to recruit 13 men so far and would try to send others as soon as possible. But he pointed out that his district had itself "absorbed" many young men as labourers. Recruitment for the police in Rabaul had lost much of its appeal as recruits knew that they would probably be posted elsewhere. The requirement of the central government had to be met, but he wanted to make clear that he had always recruited his own soldiers and had no intention of requesting trained men from Rabaul. In his view all district commissioners and district officers had the duty to establish contacts which allowed them to replenish their units locally. This left only recruitment for the expeditionary troop, which would

41 I do not know where Boluminski filed Hahl's 1905 order concerning the wages of Tomutu. Perhaps the 1908 decree was the first of its kind, because it required Boluminski to comment generally and in writing rather than to take a specific action, but it is also possible that he had recently been told to improve his haphazard filing system.

42 Like many of his colleagues Rodatz was an officer of the reserve.

43 This presumably meant that guards were posted at the prison only when it actually housed prisoners and that this was still often not the case in Eitape in 1908.

44 Nor is it likely that any of the other local administrations was eager to follow the example of Rodatz.

also be better off keeping its men instead of training them for local administrations. Officers and men would then come to know each other thoroughly, so that the troop could perform more effectively the difficult tasks it would no doubt soon be facing.⁴⁵ For new government stations Boluminski suggested that the governor follow the example of the Prussian army and establish new units by ordering existing ones to contribute eight to ten men each, or at least enough to give it a solid core.

Boluminski, it was implied, would be happy to oblige, provided the governor would let him otherwise look after his police troop as he always had and encourage other districts to do the same.⁴⁶ But Boluminski was true to his word. In November 1912 he sent not 27 but 34 men, plus two women, for the expeditionary troop, whom he had recruited at the cost of 360 Marks and 25 kilograms of tobacco, and these men were more important to Hahl than Boluminski's grumblings. Indeed they were part of the reason why Hahl could inform Boluminski two months later that further recruitments were still desirable but that quality was now more important than quantity.

By the time Hahl announced in January 1914 that 155 new recruits were required, Boluminski had died on the job.⁴⁷ His successor, Stuebel, took a different approach. In April 1914 he requested that five policemen be sent from Rabaul, preferably from the Solomons or Wariai, in southern New Britain, in order to increase the number of "foreign elements" in the local police unit which consisted predominantly of people from the district.

Attached to Stuebel's report was a list of the native policemen serving on 1 April 1914. It includes 53 names, but the last three were those of replacements for three men about to complete their contracts and unwilling to stay on, so that the actual strength conformed to the budgetary allocation of 50 men. The list shows that only about half the men were locals and that locals were rare among the ten men who were serving at least their second contract. The most senior among them was the Tolai Towairoko who had been serving since 1903.⁴⁸ Seven other members of this old guard were also Tolai and only one came from northern New Ireland.

Stuebel was satisfied with the quality of his troop. He regarded it as "especially desirable" if five, three of them from the old guard, would renew their contracts and was only happy to see six leave: three Tolai and three locals. The rest were "desirable", although five of the men had only just joined the troop.⁴⁹

A decree of 17 April 1914 informed Stuebel that it was at present impossible to send him five policemen and that he would have to send at least the same number of recruits when such an allocation became possible. It was, however, desirable if he could send a much larger number of recruits as soon as possible.

In July 1914 Stuebel reported that he had recruited 29 men, and the wife of one of them, although three of the men required medical treatment before they could be sent on. All recruits were identified by their name and a "recruitment number". Those who would be sent to the district office in Rabaul had been given a woollen blanket and mess kit but as yet no wages or wage book. Since it was not clear if they were acceptable to the expeditionary troop, they had all been

45 Boluminski must have known by then that the Kagam Expedition was already under way.

46 This, of course, also meant giving the officials in charge time to settle down, instead of transferring them constantly from one post to the next as Boluminski implied was happening. In 1912 Boluminski was the longest serving "local administrator", and indeed the only official in the history of German New Guinea who had headed the same district for more than ten years. But the officials in charge of the other local administrations had so far also not changed frequently, with the exception of the district office in Herbertshöhe/Rabaul which, due to its close links with the governor's office, was a special case. But Boluminski had some reason to fear that this was beginning to change.

47 This request was clearly linked with a large punitive expedition of the expeditionary troop to southern New Ireland.

48 Tomutu was no longer on the payroll.

49 It is surprising that not a single "Buka" served in the police troop in Kaewieng in 1914, whereas five came from Kaiser Wilhelmsland and three from the Admiralty Islands. I do not know how many of the native policemen serving in other parts of the colony in 1914 were "Buka", but the days when they dominated the force, if they ever did, were certainly over.

recruited as labourers, at a monthly wage of 5 Marks for the men and 4 Marks for the women. Twenty-four kilograms of tobacco had been handed out during the recruitment drive.⁵⁰

Stuebel also wrote to the district office in Rabaul, advising it that two of the men still required treatment for gonorrhoea and requested that the commander of the expeditionary troop be informed accordingly. Another copy of this letter was given to the captain of the *Sumatra* with the instruction to deliver it to the police sergeant (= harbourmaster?) in Rabaul, presumably as a separate public health requirement. Finally, Stuebel instructed his office staff to prepare passage certificates for each of the recruits sent and to present the file to him again in two weeks, so that he could check the progress of the three sick ones. In short, everything was processed in accordance with a well-established bureaucratic routine.

But some things had not changed. A circular decree of 14 May 1914 concerning a fundamental reorganisation of the native police force still stressed the importance of retaining policemen permanently in the force because of the dangers of large numbers of people trained in the use of arms living "outside" it. However, the main aim was a centralisation of the training of all native policemen in German New Guinea. The target was a situation where the local administrations sent all their recruits to the expeditionary troop which would allocate trained men twice a year in line with local requirements as soon as the shortage of recruits had been overcome by the enactment of Hahl's conscription ordinance. But the plan also addressed other matters concerning the native police force, in particular the use of native policemen for non-military duties. To prepare the ground for this exercise, local administrations were asked to answer a series of questions:

1. Do you have basic reservations concerning the proposed scheme for the training and replacement of native policemen?
2. How is the training of native policemen currently handled?
3. Who is in charge of the training?
4. What non-military duties do policemen have to perform?
5. How much time is spent per day on military training?
6. How are the policemen housed?
7. By how many men can the local police unit be temporarily reduced, without endangering the safety of the district, in order to instruct them thoroughly in the care of their arms?

The district office in Kaewiang answered promptly in a report of 24 May 1914. Stuebel had no problems with the proposed scheme, although he emphasised that it would be necessary "for reasons of native policy" to incorporate some locally recruited men directly into the local police unit and essential that it always included a number of local natives who were familiar with the terrain and its inhabitants.

In response to the specific questions Stuebel reported that recruits formed a separate section of the police unit; that their military training of two hours per day was the responsibility of the district commissioner, but that the police sergeant carried out the immediate supervision; that policemen were primarily used for expeditions and police duties, which included supervision of public works, summoning natives and retrieving deserted labourers. However, due to the lack of other native personnel, policemen also had to guard native prisoners and to carry out labouring tasks, especially the maintenance of government buildings and facilities. Stuebel renewed an apparently common plea for more government labourers, since the performance of labouring tasks by native policemen interfered with their primary duties and even their military training. Stuebel made a special plea for ten native prison warders since the prison in Kaewiang always housed 70 to 80 prisoners, mostly serious criminals from other parts of the colony, who worked in several gangs on the government plantation. The police barracks had been built in 1900. They had a

50 These wages are surprisingly low. It is also remarkable that no cash payments were made to the recruits or their relatives. This suggests that the recruits came from a remote area. Perhaps Stuebel had even "conscripted" them, since he was one of the pioneers of this method of replenishing the native police force.

concrete floor, a corrugated iron roof and walls made of split areca palm. Their southern section consisted of a large room for unmarried policemen, the northern section was divided into seven small rooms for married men.⁵¹

Stuebel was in favour of the expeditionary troop giving native policemen from local units special training which enabled them to take better care of their arms, provided that no more than five men were seconded for this purpose at any one time.

It would have made life much easier for historiographers if the comprehensive decree concerning the organisation of the native police force had been completed before the end of German colonial rule. As far as I can see, this did not happen and we have to take the historical record as we find it. Neither does it include, to my knowledge, the responses of any of the other local administrations to this questionnaire.⁵² Indeed it is generally most unlikely that the surviving historical record will permit even the most persistent researcher to paint a satisfactory overall picture of the history of the native police force. But this is only one side of the problem as it is also doubtful whether the historical record enables historians to give a satisfactory account of any of the events in which the native police force was involved—and this is the question I want to address in the following chapter by taking a closer look at a key event in this history, the Kagam Expedition.

51 According to the annual reports the police barracks in Kaewieng were completed more than a year later. More importantly, the budgetary strength of the local police unit at that time had been 24 rather than 50 as in 1914. Unless the barracks were substantially extended, the standard of accommodation had therefore been halved.

52 In a way this was a blessing in disguise because it is likely that the other responses would have displayed a significant range of variations, both in the views expressed and in the facts reported and because all this information would have had to be dealt with—a much more difficult, if not impossible, task whereas this single report was easily summarised and could be savoured as a lucky discovery.

Chapter 7: Problems With Close Ups

I

On 9 May 1913 captain Prey submitted a belated report on the Kagam Expedition to governor Hahl. It begins with a general report of 26 pages, although about two thirds consists of copies of documents relating to the prehistory of the expedition. Then follow edited copies of Prey's progress reports which, including some more copied documents, account for 49 pages.¹ The penultimate, 18 page section of the report comprises copies of documents concerning a related incident which occurred after the end of the expedition. The finale is a concluding report of four pages—which brings the total to about a hundred typewritten pages of information.²

Is the information sufficient to write an account of this historical episode which is, on the one hand, brief enough to be fitted into an overall history of the native police force but, on the other hand, both narratively satisfying and factual? The first step towards answering these questions is a summary giving an abbreviated but still reasonably comprehensive picture of the content of the report and its appendices.

II

On 4 July 1912 district commissioner Scholz reported to Hahl from Friedrich Wilhelmshafen that he was planning a punitive expedition against the Kagam people who had killed several native bird-of-paradise hunters employed by the planter Gramms and captured their guns.³ A week later he supplied further details. Not only had four of Gramms's hunters been killed but also two of his Chinese traders. Moreover, a native in Siven had in the meantime been shot with one of the captured guns. It was suspected that the coastal villages of Borroi and Burbur and the inland villages around Kagam were responsible. In addition a head-hunting raid of the villages of Borroi, Kajan and Buschun was said to have wiped out the entire population of Geneui, a village a day's journey up the Ramu.⁴ According to Gramms, all villages along and inland of Hansa Bay were involved in the killing of the Chinese traders and the hunting boys.

On 24 July 1912 Scholz reported on his expedition. He had reached Hansa Bay on 17 July with secretary Fabian, police sergeant Beyer, the "ranger" (*Waldläufer*)⁵ Beiersdorf and 25 police-soldiers. According to witnesses questioned in Awar, three Chinese and 11 Melanesians had been killed. Although Scholz was not convinced that all this information was reliable, he was satisfied that the killings had been planned and executed by the villages of Kagam, Ringen and Korak.

The expedition left Awar on 19 July, reinforced by Gramms, the ranger Ulm, about 30 hunting boys and an unspecified number of Awar natives. A day later it was joined by natives from Minun

1 The last progress report was prepared after Prey's return to the Gazelle Peninsula. The others were written at night in his camp so that they had included a number of errors and unclear formulations which Prey corrected. He also omitted some marginal information, in particular concerning supplies. Otherwise, Prey stressed, he reproduced the original text.

2 Appended to the report was a large scale (1:50 000) map of the field of operation and Prey's cartographical notes. Unfortunately they were not filed with the copy of the report sent by Hahl to Berlin (RKA 2995) and are probably lost.

3 Scholz suggested that Hahl should prohibit the hunting of birds-of-paradise further than 16 hours march inland because killings like these were bound to recur and because the killing of the hunter Peterson even deeper in the interior had demonstrated that punitive measures involved a large, and largely wasted, investment of time and effort. This suggestion fell on deaf ears, as far as Hahl was concerned, as did a more radical proposal subsequently made by Prey (see below).

4 The spelling of proper names used in these documents varies considerably. Since the uncertainty this reflects is itself historically significant, I have made no attempt to create an artificial uniformity.

5 Scholz presumably used the term "*Waldläufer*" to designate professional European bird-of-paradise hunters for whom hunting was not a sideline to developing a coconut plantation at the coast but their main occupation.

and Giri. The Kagam fled when this massive force approached. It camped in their deserted village where belongings of one of the Chinese were found. Since it was estimated that the enemy had captured about ten guns and 1,000 cartridges, Scholz posted a strong guard during the night—not in vain as it turned out, because several shots were heard and one of Gramms's hunting boys received a shotgun blast in his chest and face. The next morning the village was burnt.

The force marched on, finding the land well prepared for war. More shots were fired at it. When the rear returned to the Kagam village, after two Minun people had been wounded, it had been reoccupied. A gun was fired over Beyer's head. Another gun was aimed at Gramms but the attacker fled when Gramms raised his rifle. The vanguard under Scholz also fired at the enemy, capturing a large number of spears and one gun. When the enemy was next encountered rapid fire was ordered and traces of blood showed that it had had some effect. Another gun was found in the deserted villages of Korak and Ringen, which were also burnt down. The expedition camped a second night near the Ramu and reached Awar during the following night after a forced march of 17 hours.

According to Scholz, the leader of "the murderers" was the hunting boy Boram, who hailed from Kajan but now lived in Borroi. Scholz was not sure how far the Borroi were involved but believed that they had started the rumour that some of their people had also been killed in order to confuse the situation. Since he was not sure how far the expedition had "intimidated" the natives and since it was possible that the unrest would spread to the coast, he requested Hahl to station the expeditionary troop for a longer period in the area "at the next opportunity". In the meantime he left his own troop under the command of Beyer as a protection in Awar.

Hahl acted promptly. On 30 July he ordered Prey to proceed with the expeditionary troop on the next postal steamer to Friedrich Wilhelmshafen and then as soon as possible to Hansa Bay. Prey was given the task of punishing the murderers of the bird-of-paradise hunters, as well as of incorporating the villages in the hinterland of Hansa Bay, and along the coast up to the mouth of the Ramu, into the administrative organisation. As for the first task, Prey was ordered to set a time by which the murderers and the captured guns and ammunition had to be surrendered. If these demands were met the state of war which Hahl had declared for the duration of hostilities would not come into effect. If, however, the police under Beyer had been involved in continuing fights military action would have to be taken immediately, although this would make the more important second task more difficult. For as long as the expeditionary troop remained, the area between the Tsukula River, on the eastern side of Hansa Bay, and the Ramu was given the status of a separate administrative district and placed under Prey, with the exception of the plantations Awar and Nubia. Hahl authorised Prey to execute death sentences he imposed on natives in exercise of his criminal jurisdiction without the normally required approval of the governor. Otherwise Prey was bound by the provisions of the 1888 Native Penal Ordinance as amended. Police sergeant Beyer and his troop were to return to Friedrich Wilhelmshafen after Prey's arrival, and Prey was to inform Hahl before his departure about the current strength and composition of the expeditionary troop.

Prey reported a strength of one captain, two police sergeants and 114 men. Of these, however, only 32 were sufficiently trained and fit for bush warfare; another 32 were untrained and only suitable for light carrying duties, the rest rated somewhere in between.⁶

The next document presents evidence Scholz had taken from father Vormann on 17 July in Potsdamhafen before setting out on his punitive expedition. Vormann had made inquiries of his own because he doubted that the "so-called Kagam people" had been responsible for the killing

6 His later reports show that Prey had still been too optimistic: only 25 men were capable of carrying out military duties. On the other hand, Hahl had given the strength of the expeditionary troop less than a month earlier as "32 soldiers, 11 new recruits and 12 labourers". This would have meant that Prey had managed to double the total strength of his troop in this short period, unless Hahl had strategically understated the figures.

of the Chinese and the hunting boys. His investigations had been prompted by an invitation from a village Gramms had burned down during a private punitive expedition in June. According to Vormann, the village in question consisted of three adjacent hamlets and was not called Kagam, rather each hamlet had its own name. One was called Bagurraman, the second Dawarran and the third was called something like Sivin by the Nubia people. It was in this third hamlet that he had found the burned corpses of the people who had been killed during Gramms's expedition.

Vormann did not identify the number of the corpses but reported having seen two men with shotgun wounds, a woman with four knife wounds to her head and a spear wound in her thigh. He was also told that a child had been killed during the attack which had surprised the villagers in the middle of building a new house. According to Vormann the Sivin had been falsely accused of being involved in the killings by their old enemies, the Nubia, because they had refused to supply the Nubia with victims for their head-hunting activities although the Nubia had given the Sivin two baskets with bush knives, bracelets and chest ornaments as a bribe. The Nubia had sent similar bribes to the village of Iku. They also had in their village the heads of two Sivin people who had been killed during Gramms's punitive expedition.

Now follow copies of two reports submitted by Beyer after his return to Friedrich Wilhelmshafen. The first begins with evidence taken from a coastal *tutul*, Zanake, who had accompanied Vormann to Iku and "Igoron", which, according to Zanake, was another name for "Siven". But Zanake also stated that Siven/Igoron was "identical" with Kagam. Indeed it had been the main village of the Kagam tribe until it had split up and one section had moved further inland. On the other hand, Zanake confirmed that the Igoron had told Vormann that Gramms had fought them without reason. Moreover, he reported the Igoron had claimed that the allegedly murdered Chinese were still alive and unharmed.

On 30 July Beyer had marched to Igoron, accompanied by Gramms, who had supplied him with carriers because the people in Awar village had been too frightened to go. In Igoron four men appeared to give evidence but ran away as soon as their questioning was over. It was impossible to establish whether Igoron had taken part in the killings, but it was clear that it maintained regular contacts with the Kagam villages further inland and belonged to the same tribe.

The Nubia had provided a different explanation for the baskets with valuables given to Siven. It was customary for childless couples from the coast to buy children from the bush to bring them up as their own children. Two boys bought in that manner were alive in Nubia and Awar, whereas Zassi from Awar, who had died in the meantime, had sent tradegoods to Iku to buy a child several years ago, but neither had a child been brought nor were the tradegoods returned.

Beyer's second report concentrated on his own activities. It explained that the questioning of the Igoron men remained inconclusive because translations between three different languages were necessary. His attempts to make contact with the inland Kagam failed. The village burnt down by Scholz was still deserted. The only native encountered the following day ran away screaming. Beyer's hope of tracking down the Kagam with the help of their neighbours to the east, a different tribe which occupied at least 15 to 20 large villages, was also disappointed, because no Kagam could be found anywhere.

Beyer was unable to contact the head-hunters at the Ramu because everybody maintained that there were no tracks from Kajan to their villages. According to the Kajan the village of Guneni had started the last round of head-hunting raids. Seven villages, including Kajan, had combined and made a counter-attack on Guneni, returning with 21 heads, four of which had been the share of Kajan. The Kajan readily gave the names of 15 of their men who had participated in the raid, since they regarded head-hunting as a perfectly legitimate activity.⁷

7 In addition, the Kajan had reported that four named men from Boroï had killed a deserting labourer and that the head of Abatt, who had run away from the Catholic mission, was also kept in Boroï.

Under these circumstances Beyer decided that punishing such raids would only cause general unrest. It was better to demand the surrender of the head-hunting trophies and a few hostages from each of the villages, to ensure their good behaviour in the future. He therefore ordered the chief of Kajan to produce the heads kept in Kajan, Borroi and Gamai, and handed the matter over to captain Prey with his recommendations.⁸

This was the state of affairs when Prey arrived in Awar on 8 August 1912 on board SMS *Cormoran* with police sergeants Jahn and Lange and over 100 men.

III

Prey's general report had two functions: to explain his approach to the expedition and to give an overview of its field of operations which had hitherto been largely unknown, so that its mapping had been a major part of the exercise.

Prey's starting point was that the killing of the hunting boys and the Chinese, and even more so the head-hunting raids, had been in line with local custom. On the other hand, a continuation of this kind of behaviour could not be tolerated by the government, which also had an obligation to retrieve the captured guns and ammunition. The head-hunters were therefore ordered to hand over all their trophies, and the Kagam people all firearms and ammunition. Both were warned that they would be severely punished if such incidents occurred again. In addition, the villages involved were ordered to supply hostages who were to be sent to Rabaul for some months to familiarise themselves with the ways of their white masters and learn the "language of communication".

Had the natives fulfilled these demands no military action would have been taken against them. But as they persistently ignored them and refused to enter into negotiations, force had to be used. Since it was met with armed resistance, the unqualified superiority of the troop had to be demonstrated until resistance ceased completely. Because it was important to keep the loss of human lives at a minimum, operations were carried out cautiously, especially as it was difficult to determine whether the unwillingness of the natives to cooperate was the result of fear rather than defiance. Prey's solution was to take as many prisoners as possible, treat them well at his camp and release them in small groups with messages, after they had seen the strict discipline of the colonial forces with their own eyes. Prey refused to use friendly natives as auxiliaries, because, he claimed, such auxiliaries always behaved like hordes of murderers and arsonists.

The territory of the Kagam consisted of narrow ridges, 100 to 250 metres high, separated by more or less extensive plains. The latter were dotted with sago swamps which turned into open lagoons closer to the Ramu and the coast. The Kagam lived in chains of hamlets along these ridges. The largest complex visited by Prey was Gareb. It consisted of about 27 hamlets with a total population of probably over 2,000 people. The gardens were correspondingly large, up to 30 to 40 hectares, mainly planted with taro and yam. While these crops did not do particularly well, the stands of coconut palms surrounding the hamlets bore nuts larger than those on the Gazelle Peninsula. There was little primary forest left, but the secondary bush was so dense that it was difficult to gain the overview essential for determining the best routes for the tracks which Prey had started to clear. He therefore invested much time and effort in mapping the area from cleared hilltops. Only the sudden departure of the troop had prevented him from fully utilising the results. Indeed, it did not even permit him to complete his immediate tasks.

⁸ Beyer used his stay to collect the head tax and to improve the census lists of the organised villages. In addition he dealt with the estates of the "murdered" Chinese, who had been based in Borroi and Kajan. No information is provided about the part they played in these events: did they trade for Gramms (what produce were they trying to obtain in the interior?), or had they in fact been put in charge of a group of hunting boys—an arrangement which was best not examined too closely?

Prey's first progress report was written in a camp four kilometres southwest of Siven, on 4 September 1912.⁹ He spent the first few days visiting the coastal villages, trying to persuade them to hand over their head-hunting trophies. Not only was this unsuccessful but it also had the effect that the villages refused to supply him with carriers when he decided to move inland. Although he offered payment, he had to threaten the use of force before he could obtain the carriers required.

As Prey had already formed the view that it would be good if the expeditionary troop could stay longer in the area than the four months allocated for its tasks, these carrier difficulties prompted him to ask Hahl for ten to 12 mules. He also asked for new recruits whom he could train, in exchange for men who were suitable for station duties but unable to withstand the hardship of prolonged military activity. Prey's main problem, however, was interpreters, since everybody denied any knowledge of the languages in question. When repeated attempts to find volunteers failed, he was compelled to use force to secure the services of at least two interpreters. When the messages sent to the Kagam people were left unanswered, he launched an attack in the early morning of 26 August in an attempt to take prisoners whom he could use to start negotiations. One man who fought with two guns was shot dead, two other men escaped with serious injuries, but it had been impossible to capture any adults. When two girls were captured he had therefore terminated the attack to avoid further bloodshed.

He spent a week exploring the area and clearing a track, six kilometres long, from Siven in the direction of Kagam, as a demonstration that he had no intention of leaving, before releasing the girls with presents and further messages. He intended to wait for three more days before making another attempt to take prisoners. In his opinion it had been a mistake to burn the villages, because arrests were more difficult since the people now lived in small huts scattered in the bush. It was better to leave their large houses intact so that they could return; only their weapons and signal drums should be destroyed as a punishment.

The health of the Europeans was good but, in addition to some serious cases of malaria, over 50 per cent of his men suffered from minor wounds and infections due to constant exertions. Their general state of health also suffered, despite the ample rations provided.

Prey's two next reports were exclusively concerned with the insubordination of police sergeant Lange. The cause of the storm in the teacup was the ex-policeman Sua who had returned home with the expeditionary troop on SMS *Cormoran* from Friedrich Wilhelmshafen to Awar. During the trip he had begged Prey to let him take part in the expedition. Because he had the unusual asset of speaking German, Prey signed him up. But when police sergeant Jahn, under whom Sua had served during the Ponape Rebellion, expressed a low opinion of his military qualities, Prey only used him for camp duties. He was therefore surprised to see one morning that police sergeant Lange had placed Sua in charge of the men under his command. When Prey voiced his objections—"without the least harshness and softly so that Sua could not hear them"—Lange retorted: "I don't understand this, he can do the job just as well as someone else". Although Prey continued to act as a model of patience, the situation escalated to a point where Lange insisted that Prey could not order him to do anything because he had only been seconded to the expeditionary troop and not been placed under the captain's military command—whereupon Prey sent Lange back to Rabaul.

The trouble with police sergeant Lange had only been one of Prey's problems. The coastal villages between Hansa Bay and the Ramu openly refused to supply him with carriers, with the exception of Awar and its neighbour, Sissi-Mangu. His attempts to recruit carriers further east were opposed by the manager of the Neu Guinea Kompagnie in Nubia and the Catholic mission

9 The date given in the copy I used reads "4.8.12" rather than "4.9.12". However, the month has to be September as Prey only arrived in Hansa Bay on 8 August. Or was the month right but the day wrong? But even 24 August does not make sense since the report covers events until the end of the month.

in Potsdamhafen. The fitness of police sergeant Feinäugle, who had been sent as a replacement for Lange, left much to be desired, and, to top it all off, the Kagam placed a "declaration of war" on the track leading to his camp.

When Prey set out again to capture some male prisoners—a difficult undertaking because his policemen were physically inferior to the Kagam warriors who would rather die than surrender—he almost succeeded in surprising a still occupied camp. After that he only located and burnt some deserted huts. Prey was confident that he would have done better had the expeditionary troop been equipped with a few good tracker dogs—another item on his wish-list. Without tracker dogs he gave up trying to locate the Kagam and moved against the Ringen people further inland with 14 of his best men. In one of the hamlets they met with fierce resistance. Four males were shot dead but only two children were captured and a rifle and various items belonging to the missing Chinese were found. The price for this small success was high because Prey hurt his knee so badly on the march back to the camp that he was out of action for two weeks.

One of the patrols sent out during this period discovered some newly built houses which were vigorously defended. Three men were wounded, but they escaped and again only a young woman was taken prisoner. A road gang was attacked a few hundred metres from the camp and another Kagam man was shot dead. But the bulk of the Kagam people had vanished. It was clear by now that they maintained closer contacts with other groups than had previously been assumed. Prey believed that the Kagam were convinced that he would give up if they stayed in hiding long enough. Since he had also been informed that the head-hunting villages near the coast had made preparations to vacate them should the expeditionary troop try to punish them, it was crucial, in his view, that he was permitted to stay on until he had accomplished his tasks. Otherwise everything would have to be started all over again under more difficult conditions.

As Prey saw it, the main problem was an atmosphere of deep suspicion, which was probably the product of a mixture of a bad conscience and bad experiences. None of the natives believed a word he was saying. Even the friendly relations he now maintained with several villages had been initiated by force. He first had to capture people and tie them up, so that he could give them presents and send them back. There was no other way to obtain the information he urgently required—and the natives responded by trying to bribe him with traditional valuables as well as money. In order to break through this vicious circle Prey advocated that all parts of German New Guinea which had not been fully brought under government control be closed to private individuals. Even the coast along Hansa Bay and Potsdamhafen was "organised" in name only, as his experiences amply demonstrated. It was regrettable that such a closure would make life difficult for new plantation enterprises which depended for the first few years on earnings from hunting birds-of-paradise—although the fact that the expeditionary troop had not seen a single male bird in an area where they had once been plentiful gave cause for concern. But these negative effects were far less serious than the confusion created among the natives by all these private incursions before they had learned to trust the government. It was intolerable if a missionary went to excited villages with which he had had no previous contact to carry out private investigations, as father Vormann had done in this case.¹⁰

On 27 October Prey sent 18 male prisoners to Rabaul—together with Sua and another sacked policeman. He had banished 16 of the prisoners for three years and sentenced two, Iwar and Tepori, to five years imprisonment with hard labour.¹¹ The case of Iwar was straightforward: he had been captured armed with a rifle, after Prey had sent messages three times through released prisoners that there would be peace as soon as all guns, ammunition and Boram, the suspected

10 Prey did not complain about the private punitive expedition of the planter Gramms.

11 Iwar was banished for a further five years after he had served his prison sentence. The legality of this verdict is doubtful as Prey had no means of knowing whether Iwar would still constitute a public danger if he was allowed to return home after five years.

ringleader, had been surrendered, but that dire consequences would follow if these demands were not met. The case of Tepori was more involved. He had come to Prey's camp with one of the released prisoners and two little pigs to assure Prey that he and his people were willing to cooperate, but that they were frightened of the police. Prey had promised Tepori that his people—who were not Kagam—would not be shot if they remained calm when approached, instead of running away, and had sent him back with a large axe as a present. A few days later police had followed the tracks of some Kagam people to Tepori's place. Tepori had stood guard on a hill in the middle of the gardens and had ordered the people to run away.¹² He and another man, who was later identified as Goram from Kagam, were captured. Unfortunately Goram bled to death because the policeman who had overwhelmed him, instead of immediately tying off the limb, had carried him to running water to wash out an arm wound he had received in the struggle. The transport of prisoners comprised the bulk of the 33 captured adult males.¹³ Only four remained in the camp. Ten had been released and Goram had died. But 11 of the 19 captured women, and 27 of the 33 captured children were still in Prey's camp. He intended to take them back to Rabaul, where he planned to marry the women, and later the girls, to his soldiers, and train the boys for his force when they were old enough.

The expeditionary troop had suffered no military casualties, whereas 20 natives had been killed and about ten wounded. Five guns and about 50 cartridges had been captured. Prey had recovered from his knee injury, but Jahn suffered from malaria and general exhaustion and Feinäugle had collapsed during a patrol, probably as a result of a heatstroke, so that he had to be sent back to Rabaul. By contrast the health of the soldiers had improved, although the prisoners were in a poor condition, despite ample food from their own gardens.

Prey used the time when the three Europeans were out of action to interrogate all prisoners with the help of two pairs of interpreters working in shifts. This was a frustrating experience because the witnesses, as well as the interpreters, were outdoing each other in telling lies, until Prey, so he claimed, had become sufficiently familiar with the vernacular to be able to judge whether questions and answers were transmitted correctly. Then he took everybody severely to task and started again. But he did not achieve the desired result until he had demonstrated repeatedly and tangibly to all interpreters the immediate consequences of further disobedience—which presumably meant that he had them beaten.

His interrogations convinced Prey that many more villages had been involved in the killings than had previously been assumed, occupying between them at least an area of about the same size as that affected by the Ponape Rebellion.¹⁴ The punitive expedition of district commissioner Scholz had only burnt two of them, of which Kagam was, in fact, the smallest. Now the people were scattered over the entire area with sentries watching every movement of his men, issuing silent warnings if they came close. Prey was proud of the discipline among his men. There had not been a single case of disobedience. No women or children had been hurt, and not once had an attempt been made to interfere with the women sexually.

When Prey escorted the prisoners and the sick police sergeant Feinäugle to Potsdamhafen, arriving there on 31 October, a decree from Hahl, dated 27 September, was awaiting him. It ordered the return of the expeditionary troop to Rabaul with the mail steamer leaving Potsdamhafen on 1 November. Since it was impossible to move his men, the prisoners and the gear to the coast in a day, Prey asked for further instructions.

12 Prey believed that Tepori was using the Kagam refugees as "slave labourers".

13 The reports do not show how these men, apart from Tepori and Goram, were captured. Nor is it clear how many of them were Kagam. It is likely that many of them were not. Some of them may even have been hostages from the coastal villages about whom the report has nothing further to say.

14 For Prey too the Ponape Rebellion was the military yardstick in the history of German New Guinea against which all other operations were measured.

It would be most regrettable if the aim of the expedition, which is now within reach, would not be fully achieved.

The Borroi people also still have to be punished.

The successes of the troop have made a strong impression on the natives who did not believe that it could succeed. Mbuait has sent 120 people to visit me in the camp.

This was the first of many such visits. During Prey's absence two similar delegations—one from as far away as Manam Island—visited his camp to assure him that they were "very good people". After his return such visits occurred almost every day, and they began to include women and children. Even the Kagam people were sending messengers, telling him of their willingness to surrender all guns and ammunition as soon as they could find where they had been buried. They could no longer surrender Boram as they had killed him because of the misfortune he had brought upon them, but they submitted proof of his death in the form of his thigh and arm bones, his cap and his large dogs' teeth ornament, which Gramms identified as belonging to his former hunting boy.

Prey ordered the Kagam to leave their hiding places in the swamps and to rebuild their villages before the beginning of the rainy season, promising to assist them with axes and knives and in every other way. Gareb and Gurun had already made a start when Prey, on 16 November, received Hahl's new orders to leave Hansa Bay on SMS *Condor*, which was due to depart from Yap on 18 November and would collect the troop and its remaining prisoners en route to Rabaul.

For the troop...this sudden departure was highly regrettable. A completion of all its tasks, including a good organisation [of the natives] was impossible to achieve during such a short period. All preconditions had...largely been created. Only a little more time and the expedition could have been concluded with very different results.

As it was, Prey packed up his camp, sent Jahn with the equipment, the prisoners and the bulk of the troop to Hansa Bay and set out with 20 policemen to punish the Borroi, who had boasted that they would feed him to the crocodiles if he tried to follow them to the islands in the Ramu onto which they would withdraw.

Prey planned to reach Borroi overland rather than by boat, following the lagoons from the coast. Although everybody had insisted that this was impossible, a route was located. However, weakened by stomach problems, Prey had a malaria attack which put him out of action for two hours, so that it was dark before the first hamlets were reached. Two were surrounded, but a fight ensued, during which five Borroi men were killed. Two men, five women and three children were captured. Patrols the next morning established that all other Borroi hamlets had been vacated during the night. According to the prisoners that had been part of a carefully prepared plan. Prey had been expected, but he had been expected to come from the coast. The hamlets closest to the coast had therefore already taken all their valuables across the Ramu and were ready to take off as soon as they received warning signals from their coastal allies. The inland hamlets had felt comparatively safe, so that all their canoes were still present.

Prey used two canoes to send the women and children prisoners with three policemen as a guard to Awar. The other canoes were destroyed as a punishment, apart from a few smaller ones. They were carried through the swamp to the Ramu for which Prey set out in the evening with the remaining policemen and, presumably, the male prisoners. The canoes were reassembled when the river was reached early the next morning and paddled upstream to the village of Bossogun, where some of the Borroi had sought refuge. Bossogun was reached around midday. The appearance of the canoes caused great fear. The people ran off into the bush but sent a delegation with a large pig to assure Prey that they were "very good people", willing to do anything he demanded. Prey was relieved by this turn of events because he had realised that it was doubtful

whether he and his men could have passed the narrow channel between Bossogun and the Ramu alive if they had been attacked from its high banks. Instead of taking action Prey therefore merely made a speech. Now that they had seen that he could reach them anywhere the Borroi should return to their villages and obey the government's orders in future, otherwise he would get even more angry with them than he was feeling at present and would punish them severely.

Prey ended his last progress report by stressing that he had been lucky to conclude the expedition so successfully, since a small mishap could have turned the punishment of the Borroi into a failure which would have made further measures essential. He used the opportunity to emphasise the need to equip the expeditionary troop with at least two motor launches. Had they been available, he argued, he could have operated in a much more efficient manner by taking his men up the Ramu and approaching the Kagam villages from the interior rather than the coast.

IV

On 8 January 1913 the "Vicariatus Apostolicus Novae Pomeraniae" wrote to the "Kaiserliches Gouvernement" that father Dicks had wanted to visit a patient in the native hospital in Herbertshöhe the previous day, unaware that the hospital had been turned into barracks for the expeditionary troop. He had seen "the prisoners from New Guinea", apparently only the women and children. The latter had looked decidedly poorly. It was to be feared that they would deteriorate further and that some of them would die. Indeed, there was talk among the local settlers that several had already died. It was therefore necessary that the children be given better food without delay. Dicks had also found the presence of the female prisoners in the police compound morally "somewhat alarming". The mission was prepared to look after the children who no longer needed their mothers and to take responsibility for their education.

The letter was sent to Prey for comment, who perceived it as a grave attack on his personal honour, as well as that of his white and black subordinates.¹⁵ He saw the first attack in the claim that the prisoners urgently needed better food, since this implied that it had hitherto been insufficient, although no attempt had been made to find out what food the prisoners were given. Prey was especially offended because he had insisted that nothing was too good to cater for their needs, and that he would, if necessary, pay for special requirements out of his own pocket. He had even used his own milk supplies to feed the weaker children until an alternative supply could be arranged, with which they were now fed twice daily by two reliable policemen and his houseboy. Although the prisoners had been under the medical care of the government doctor from the time of their arrival, two babies had died in December—but children, especially babies, occasionally also died in Germany, despite the best care and medical assistance.

Prey regarded Dicks's moral misgivings as even more offensive. From the outset his men had been under strict instructions not to loot, or to hurt women or children, and never to touch any woman sexually. Apart from a young soldier who had picked up a few dogs' teeth and had been punished for this trivial offence, these orders had been followed by all his men. Unfortunately he was now in a position to prove scientifically that none of the women prisoners ever had sexual intercourse with any of them. When he had learned that the male prisoners sent to Rabaul had all been hospitalised with suspected gonorrhoea, he had arranged to have the women medically examined. Their examination had shown 14 out of 16 to be infected, whereas an examination of his men had revealed not a single case of gonorrhoea. *Ergo* the women had already been infected before their capture and could not have had any sexual intercourse with any of his men, even during the several weeks some of them had guarded female prisoners in Awar without European

¹⁵ Prey was also annoyed that Dicks had entered the guarded compound of the prisoners which was, in fact, some 30 paces away from the former native hospital, without asking permission. Dicks apparently walked straight past the guards who did not stop him because they took him for a government official.

supervision, since they would otherwise have also become infected. His men therefore deserved better than to be regarded as "black pigs". They had earned the respect of the white community and had to be energetically defended against any disparagement. Prey therefore requested a judicial investigation of the accusations made.

Instead of acceding to this request, Hahl wrote a diplomatic letter to the mission, informing it that the women and children prisoners would be sent home after it had become possible to "communicate verbally" with them. Until then they had to remain in the care of the administration, since many suffered from contagious diseases and required a special diet and medical supervision. Hahl presented the women and children prisoners generally as a miserable lot who had been captured only because they had been too weak to run away with the rest. But he placed special emphasis on their hookworm infection which was sapping away the strength of the children.

Prey took credit for the discovery of the hookworm infection as well, because he had asked that the digestive tract of a child, who had remained in a poor state despite all care given, be thoroughly examined. Immediately afterwards he reported to Hahl that the presence of hookworm had "just" been established. When subsequently all prisoners, including the males, were examined, hookworm was found in almost all of them, whereas again none of Prey's men had shown signs of an infection.¹⁶

This led Prey to add the request for one medical doctor for each company of the expeditionary troop to his list of wishes in his concluding report.

Money spent for this purpose will earn high interest, just as any money spent on the creation of a first class troop, of which an ample quota of doctors is an organic part... Had the two companies applied for at least been approved in this [budget] year, six months would have been sufficient to make a start with a large-scale opening up [of the interior of Kaiser Wilhelmsland] which could in the main be completed within two to three years with a proper troop under the firm command of a military superior.

V

After this summary we can return to the two questions raised at the beginning of this chapter: firstly, is the information included in the Prey Report and its appendices sufficient for writing a satisfactory account of the Kagam Expedition as a unique historical event; and, secondly, can this information be summarised more succinctly than I have done, without distorting what it has to say, so that such an account can be fitted more comfortably into a history of the native police force? Since the second question is easier to handle and will also help in answering the first, I shall start addressing it by examining a few attempts to capture the Kagam Expedition in a nutshell.

The natives inland from Hansa Bay, particularly the so-called Kagam tribes, had made repeated attacks on native bird-hunters. The establishment of lasting peaceful conditions appeared indicated if only to ensure the security of the plantations and mission settlements in that area. The expeditionary troop under its commander was therefore stationed for five months in the plain at the mouth of the Ramu inland from Hansa Bay. This extensive terrain was recorded and mapped by route surveys and the local tribes, who were the victims of savage head-hunting practices, were pacified (Sack & Clark, 1978: 354).

How did the annual reports manage to present an account of the Kagam Expedition in less than a hundred words? By taking a categorisation approach. After locating this episode in geographical space—the plain at the mouth of the Ramu inland from Hansa Bay—and astronomical time—five months during the 1912 budget year—and identifying the expeditionary troop as its leading corporate actor, this account characterises the Kagam Expedition in terms of its reasons, its

¹⁶ Hookworm was widespread in German New Guinea. For example, according to the 1911 annual report, 95 per cent of the population in Saipan was infected with it.

purposes and its results. It presents an outer shell without revealing its content, apart from mentioning the apparently peripheral mapping exercise. Moreover, by sidestepping the issue of how the result—"pacification"—was achieved the way is cleared for answering the questions which are addressed in a similarly categorical manner.

The main reason given for the expedition is repeated attacks by the "so-called Kagam tribes" on native bird-hunters, although the savage head-hunting practices of the local tribes are thrown in for good measure. The purpose is indicated in the form of a definition of the term "pacification" (*Befriedung*), namely "lasting peaceful conditions", primarily in the interest of the colonial enclaves in the area. While this definition appears to be remarkably vague—and it was certainly too early to say, when the annual report was drafted, that "the peaceful conditions" established were *lasting*—the term had acquired a reasonably precise technical meaning. It was considered to be completed with the "administrative organisation" of the area in question. Hence the same annual report also claimed that Kaiser Wilhelmsland had been administratively organised "without a break along the coast from the British border as far as the mouth of the Kaiserin Augusta River [Sepik]" (*ibid.*: 356), that is to say including Hansa Bay.

While the condensation powers of this categorisation approach are impressive, it cannot help but blot out historical episodes to which it is applied as unique events by fitting them into a more or less sophisticated typology. It is thus ideally suited as a stepping stone towards a comparative and ultimately quantitative analysis but incapable of telling how "it has really been". Moreover, in this instance its application is seriously defective. It is by no means clear that there had been more than one attack by "the so-called Kagam tribes" on native bird-hunters, whereas it is certain that the expeditionary troop had been stationed for less than four months, rather than five months, and that at least "the so-called Kagam tribes" had not been "administratively organised" when the expeditionary troop had left.¹⁷

In the middle of 1912 the inhabitants of the...district of Kagam had killed and eaten ten labourers employed by a planter on Hansa Bay. It was therefore necessary not only to punish the Kagam people but to impose and guarantee lasting peace in the still unoccupied sections of the coast of Kaiser Wilhelmsland. By now the field company was sufficiently advanced in training to be sent into action. It was despatched to Friedrich Wilhelmshafen by the mail steamer at the beginning of August, and transported from there by SMS *Cormoran* commanded by Captain Ebert. First Lieutenant Prey succeeded in fulfilling his assignment after five months of unremitting labour (Hahl, 1980: 141).

This version, given by Hahl in his memoirs, adopts the same categorisation approach, but it is more specific, although it omits some information included in the annual report: for example a reference to the savage head-hunting practices or to the mapping activities of the expeditionary troop. Hahl is more precise as regards the time-frame, although he gives the same—wrong—duration for the Kagam Expedition as the annual report.¹⁸ He is even vaguer about the space dimension, speaking of the "still unoccupied [*unbesetzten*] sections of the coast of Kaiser Wilhelmsland". By contrast, he is most precise in identifying the reasons for the expedition: the Kagam had killed and eaten ten labourers employed by a planter on Hansa Bay. This does not tie in with the information in the Prey Report, but enabled Hahl to avoid any reference to the links between the killings and the hunting of birds-of-paradise.¹⁹ On the other hand, Hahl clearly identifies the dual purpose of the expedition: the punishment of the

17 This does not invalidate the claim that the *coast* of Kaiser Wilhelmsland had been organised without a break between the British border and the mouth of the Sepik by the end of the 1912 budget year.

18 Hahl probably relied blindly on the annual report. Otherwise he would have remembered that the expeditionary troop did not return as late as the beginning of January 1913.

19 The impression created is rather that the "ten labourers" were attacked while working in the plantation.

cannibalistic killers and the imposition of lasting peace in the whole area. But then he is highly categorical about the result. The assignment had been "fulfilled". How? By "unremitting labour".

The main difference between the two accounts is the attention given by Hahl to the expeditionary troop. He even identifies the name of its commander, albeit with an incorrect rank, even though he too says nothing about its strength. This also makes sense as in Hahl's view the Kagam Expedition was significant, not on account of its magnitude, but because it was the first of its kind: the expeditionary troop was only now "sufficiently advanced in training to be sent into action". It is less clear why Hahl also chose to highlight the fact that the troop had been transported from Friedrich Wilhelmshafen to Hansa Bay by SMS *Cormoran* and that the ship was commanded by Captain Ebert.²⁰

In the Hansa Bay interior tribes had repeatedly attacked bird-of-paradise hunters and killed two Chinese and 11 native hunters. The district officer undertook an expedition against these inland people but it was felt that "it appeared expedient to establish permanent settled conditions if only to ensure security for the plantations and the mission establishments". An expeditionary force under Captain Prey was sent to the area with its main base at the mouth of the Ramu River. It was by no means clear which villages had committed the killings, several seemed to be involved, one accusing the other. It seemed that the coastal villages, which had officially been pacified, might have been connected with the murders as well. It was regarded as undesirable to get the whole area up in arms by punishing villages. Instead it was demanded that all heads acquired through head-hunting had to be handed over and every village was asked to supply five to ten people. Prey made it his policy to take prisoners and hostages, let them experience camp life, participate in reconnaissance trips, and attacks on opposing villages, and then to set them loose so that they could tell their fellow villagers what they had experienced. Prey hoped to impress on them that the white man was able to find his way in the bush without guides, that prisoners were treated justly, and that nothing harmful was done to captured wives and children.

However, even villages which had been included in the "organisation" refused to supply carriers for Prey and he noted general defiance and mistrust. He was uncertain whether this was caused by a bad conscience or bad experiences in the past, but he was certain that the defiant villagers were not conscious of having done anything wrong and were proud of their acts.

In an interim report in October, three weeks before the expedition ended abruptly, Prey renumerated [*sic*] the enemy's losses to date: 33 male prisoners, 18 sent to Rabaul, four in camp, 10 sent back to their villages with messages, one died. 19 women prisoners, 11 in camp, eight sent back; 33 captive children, 27 in camp, six sent back. He would have liked to marry the women to the police soldiers and educate the children with the troops as they would be good "soldier material". The enemy, Prey counted, had lost 20 men dead, four seriously injured people had got away and were presumably dead, 406 lightly injured men were noticed while they themselves had no casualties. Prey claimed that the people were starting to gain confidence and come to the camp voluntarily, some with wives and children. Delegates even of villages which had been deserted came, led by discharged prisoners, and promised to return the rifles taken from the bird-of-paradise hunters.

Prey had punished the opposing villages severely and had impressed the people with the power and force of the government. But he realised that the area was not yet pacified, as Hahl had reported in the Annual Report for 1912-13, for it needed more concentration of military power to open up the area (Moses, 1978: 100-102).

Apart from some details, all the information used by Ingrid Moses is contained in the Prey Report.²¹ But it is hardly a satisfactory summary of this information, because the facts presented are apparently selected at random rather than according to any plan. But the most important

20 A plausible explanation is that this arrangement too was "a first", after which the fact that the troop had been transported back to Rabaul by SMS *Condor* no longer warranted a special mention, and that it had been captain Ebert who had been prepared to create this precedent. To be sure, the navy had transported large bodies of native police on previous occasions, for example when SMS *Cormoran* had taken 100 Melanesian policemen to Ponape in 1908, but these had been emergencies during which the navy had played some military role, whereas it had here merely provided transport.

21 The first quotation comes from the annual reports.

difference between this account and the two previously discussed is positive: Moses rightly stressed that Prey, in contrast to the annual report and Hahl's memoirs, pointedly denied that he had completed his "assignment".²²

The most obvious difference between the account of Moses and my summary of the Prey Report is that it has nothing to say about the incident concerning the medical and moral condition of the prisoners to which Prey devotes so much space. I have no difficulty with this omission, since this incident was not a part of the Kagam Expedition. I find it more difficult to accept that Moses disregarded all information concerning the state of health of the members of the expeditionary troop and the clash between Prey and police sergeant Lange. More doubtful still I find her decision to say nothing about Prey's activities in relation to the "head-hunting" tribes near the coast. Yet hard decisions have to be made in the condensation game and to focus exclusively on the actions against the Kagam villages may have been a sensible way to go.

Was it also justified to make no reference to Prey's mapping or road building activities? But then Moses says nothing specific about *any* of Prey's actions. Instead we are given the score of casualties and prisoners as set out in his progress report in October, "three weeks before the expedition ended abruptly", although we are neither told when it began, nor why it ended "abruptly", or, for that matter, what the strength of the expeditionary troop had been.²³ Instead we are told that 18 male prisoners were sent to Rabaul, although not for what reason. To top it all off, we are told that "the enemy" suffered 406 "observed" light casualties.

This whale-sized red herring probably started life as an innocent typing error—Prey had listed "4-6" light casualties, but it survived all subsequent readings of the text, by the author as well as her supervisors and examiners, just as her statement that Prey's base camp was situated "at the mouth of the Ramu"—which makes no more sense in the context. But the accuracy of all these details does not matter since the entire expedition is not treated as an actual event, so that no attempt is made to ascertain the factuality of any of the information used. Let us see what happens if we examine one of these details, namely the statement that "two Chinese and eleven native-hunters" had been killed by the "interior tribes".

Moses refers to a report by district commissioner Scholz of 4 July 1912 and a letter by Gramms to Scholz enclosed in it as her sources (*ibid.*: 100, Fn. 61). Since this report is one of the enclosures in the Prey Report—although minus its enclosure—it was easy to check the information used. The problem was that the report referred to "at least eight" victims. Yet, a later report by Scholz, dated 24 July 1912, also enclosed in the Prey Report, gave the figures as three—rather than two—Chinese and 11 natives killed. But then Scholz pointed out in this report that the information on which it was based was not fully reliable. I therefore tried to track down the letter of Gramms to Scholz, as well as an enclosure to Scholz's report of 24 July which had also not been appended to the copy of the Prey Report Hahl sent to the colonial office. I did not have to look far since the file (RKA 2995) to which this copy was added included an earlier report by Hahl of 1 August 1912 that enclosed both reports by Scholz with their respective enclosures.

Without looking at the enclosures it was clear where Moses had got her figures from, namely from the covering report by Hahl. It confirmed a telegram to Berlin where the figure had indeed been given as two—rather than three—Chinese and 11 natives killed. But the stories emerging from the enclosures were far more interesting than this wrong reference to a document including phantom information.

According to the attachment to the report by Scholz of 24 July 1912, there had been two attacks by "the Kagam": one in Ringen and the other in Korak. During the Korak attack one

22 Prey's report of "25.11.12", to which Moses refers in this context, apparently does not exist, but the information is contained in Prey's concluding report.

23 Moses misses the point by describing *the* expeditionary troop as *an* expeditional force, since this suggests that this and other expeditionary forces were formed for particular purposes out of men drawn from other standing units.

Chinese and four Melanesians were killed and five Melanesians were wounded. During the Ringen attack two Chinese, two named Melanesians—including “Baram from Boroï [sic]”—and five unnamed Melanesians “from Kajan and Boroï [sic]” were said to have been killed. This indeed adds up to three Chinese and 11 natives killed. However, if the attachment is read together with the report, the picture changes. While Scholz was satisfied that the Korak attack had taken place, he thought that the Ringen attack had been invented, or at least exaggerated, by the coastal people whose evidence he had taken in Boroï. He even regarded Baram, one of its supposed victims, as the ringleader behind the killings in Korak—and the Prey Report bears out this conclusion. In other words, the number of victims was quite uncertain when Hahl sent his cable to Berlin and, as far as I know, no attempts were made to investigate the matter further. We therefore simply do not know how many people were killed or how many attacks had taken place, and it is unlikely that any of the figures given in the primary sources are accurate.

What is historically significant is that this uncertainty did not bother the officials in German New Guinea. In order to determine their course of action they found it sufficient to know that “several” natives employed by Europeans had been killed, although Hahl thought it was advantageous to report a precise and probably inflated figure. The historiographical consequence of presenting any of these figures as factual is that an important historical fact is swept under the carpet.

Gramms’s first letter to Scholz confuses the issue further because it stated that not only four of his own hunting boys had been killed by the Kagam, but also a boy of “Herr Blesse” and a native from Awar, who had acted as an interpreter. Moreover, two deserters, one from Herr Hahn and the other from the Catholic mission, had been killed by the Kajan.²⁴ But Gramms’s letter does at least shed some light on his punitive expedition.

As soon as two of his boys who had escaped the massacre alive had arrived at his plantation, he and “Herr Blesse” had set out for “Kagam” to see whether they could still rescue some of the others. They met two wounded boys of “Herr Blesse” on the way but had to camp when it got dark. The next morning they had reached “Kagam”, which was situated on a steep hill. He and Blesse were unable to stop their boys from storming the village, killing three natives and putting it to the torch. Despite this victory the boys were unwilling to accompany Gramms to the five larger Kagam villages said to be situated behind each other further inland.²⁵

Soon afterwards came news that villagers of Kagam, Gorak and Aringer in the lower Ramu River region had killed more bird-of-paradise hunters, three Chinese and 11 New Guineans in all. Boroï and Kaian, places close to the mouth of the Ramu, also seemed implicated and Hahl decided that the Ramu would be a good testing ground for the new and untried expeditionary troop. Formed in 1911 as a mobile force of trained police to open up the country, the troop numbered 114 in August 1912 at the start of its four-month patrol inland from Hansa Bay to punish the murderers and bring the region under government influence. Hahl declared a state of war in the lower Ramu ‘for the duration of military operations’ and authorized the German captain in charge to sentence New Guineans to death without the usual governor’s approval required by the native criminal code. By November 1912 the expeditionary troops had killed at least twenty people. Scores of men, women and children were taken prisoner and kept at the German camp at Kagam until released or transferred to Kokopo. Captain Prey sentenced sixteen people to three years’ exile from their homes, recommending that they be given ‘strict training and work’, and a further two to five years’ hard labour. A man called Isar was to serve an additional five years for ignoring a German order to surrender arms. ‘It is very remarkable how unbelievably suspicious all natives here are’, wrote Prey:

24 This adds up to the figure of “at least eight native victims” initially given by Scholz. According to Gramms’s shooting boys, the Kajan had also killed several other deserters, although Gramms had no other evidence that this had been the case.

25 This story goes some way towards explaining why no government action was taken against Gramms for an unauthorised punitive expedition, but makes it more puzzling why it had apparently been directed at the wrong target. Had “the boys” treated the Siven as part of the Kagam tribe and simply attacked its nearest village?

Not one word from me do they trust. I now have friendly communication with six places. But I have been able to force this situation only by seizing people, handcuffing them, taking them with me and sending them back with gifts. I had to resort to this means because I needed information at all costs. Even on the coast, supposedly under control, the Germans' influence was limited. Villagers between Awar and the mouth of the Ramu, said to be head-hunters, refused to provide carriers and Prey vowed to punish and replace their *luluais* and *tultuls*. A few kilometres inland, in the sago swamps and lagoons on the eastern side of the Ramu, the Boroi people issued a challenge to Prey, warning him that if the police tried to reach the river islands they would be speared and thrown to the crocodiles. Prey and the police, expected to approach Boroi along the coast, took the overland route instead, killed five people and arrested others but were unable to find the rest of the Boroi population, who had fled deep into the swamps beyond the government's reach.

Prey depicted the Ramu expedition as a success which confirmed the reports of bird-of-paradise hunters that the inland of Kaiser Wilhelmsland was densely populated and demonstrated its potential as a source of the plantation labourers 'so urgently needed'. With enough police, he thought, the government could begin to open up the New Guinea mainland within six months and complete the main part of the job within two or three years. Prey spoke from ignorance. He had gone no further than forty kilometres from the coast and knew nothing about the interior. But he expressed the hope of Governor Hahl that the Ramu and Markham River valleys would be the gateways by which the Germans would enter a populous hinterland and replenish the labour supply. Before Hahl left New Guinea in April 1914 plans existed for government stations on the upper Markham and middle Ramu, and a police post was established at Lae shortly before the outbreak of World War I (Firth, 1982: 99-102).

This is a well structured account which neatly integrates the Kagam Expedition into the big picture, yet contains enough detail to make it visible as a unique historical event.²⁶ However, the picture differs significantly from that presented in the sources on which it is based, again primarily the Prey Report. Moreover, it is not merely defective in numerous details but its streamlined coherence is a product of an accumulation of these defects.

Taken individually, many of them would not be worth mentioning. For example, it is defensible to translate "*unbedingt*" in the quote from Prey's report as "at all costs" (*um jeden Preis*) rather than as "urgently" or to translate "*fesseln*" as "handcuffing" rather than as "tying up". By itself it also makes little difference that Prey presented the confirmation of the dense population in the interior as an "*Ergebnis*" (result) rather than as a "success" (*Erfolg*), but taken together with the fact that Firth omitted to tell his readers that Prey's recall had prevented him, in his own view, from completing his tasks these loaded translations help to produce a major distortion.

Omissions can also perform a strategic role if they are linked with perfectly acceptable quotations. Hahl did declare a state of war "for the duration of military operations", as Firth claims, but this declaration takes on a different meaning if we are not also told that this did not apply to the entire duration of the Kagam Expedition but only for as long as the expeditionary troop was engaged in military operations which, Hahl hoped, would not be necessary at all. This is why Hahl had authorised Prey to exercise normal governmental powers within the temporary administrative district he had defined. They included the judicial jurisdiction over natives, which,

26 It also gives the correct information concerning its duration and even does not fall for the misquoted fatality figure in Hahl's initial telegram. This is not necessarily a merit, however, because that figure is just as unlikely to be accurate. But Firth wants to demonstrate that he "knows" instead of admitting that neither he nor anyone else does; for what would he do then? His treatment of the names and locations of the villages involved creates the same illusion of a comforting certainty. To stick to "Kagam", "Gorak" and "Aringer" as responsible for the killings and to "Boroi" and "Kaian" as implicated certainly made life easier for him and his readers, but the uncertainty about the names and locations of the numerous villages involved was an important factor at the time—so that sweeping it too under the carpet also is no improvement. Besides, it is likely that the village "Aringer" shown on modern maps is a different constellation of hamlets in a different location from that called "Ringin" in 1912. On the other hand, the modern maps I inspected no longer show either "Kagam" or "Gorak". This suggests that the descendants of the people living in those places in 1912 now live in places with different names. Perhaps "the Kagam people" were even then indeed only "so-called"?

contrary to Firth, contained the power to sentence natives to death, but not to execute them without the governor's approval.

Is it acceptable to condense the sentence imposed by Prey on "Isar"—or Iwar—into the statement that he had to serve "an additional five years [of what?] for ignoring a German order to surrender arms", when Prey had sentenced the man to five years imprisonment with hard labour because he had been captured, armed with a gun, after Prey had sent three prisoners with the message that the non-surrender of guns would henceforth have dire consequences?²⁷ Is it acceptable to quote Prey as having recommended that the banished men be given "strict training and work" without adding that it had been the purpose of the exercise to enable them to acquire knowledge they could usefully employ later on?

To turn to the bigger picture, is it acceptable to state that the expeditionary troop consisted of 114 men, without adding that, according to Prey, only 25 of these men were fit for military service? Was the expeditionary troop *formed* in 1911? Did *Hahl* decide that the Ramu would be a good first testing ground for it?²⁸ Was Prey's knowledge of the interior of Kaiser Wilhelmsland limited to what he had observed during the Kagam Expedition? Can that expedition be described as "a four months patrol"?²⁹ Does Firth capture the situation described in the sources by telling his readers that the villagers between Awar and the mouth of the Ramu were "said to be headhunters" when they had boasted to police sergeant Beyer that they had recently killed 21 people during a single raid—that is to say about the same number as the expeditionary troop during all its military operations, according to Firth? But the most blatant single distortion is Firth's claim that Prey had been "unable to find the rest of the Boroi population who had fled deep into the swamps beyond the government's reach": what about his dash to Bossogun, which tells a very different story?³⁰

VI

To be sure, all the individual defects identified in the four versions of the Kagam Expedition just discussed can be remedied, but the information necessary to do so cannot possibly be fitted into a brief summary. On the other hand, what is there left to say about this expedition if all the

27 There is no evidence that Prey ordered any executions. It is not even certain that he exercised his judicial powers under the Native Penal Ordinance at all. He probably banished the 16 men shown in his October list administratively, and it is plain that he did not take the women and children prisoners with him because they had committed any criminal offence. Did Prey at least base the prison sentences he imposed on Iwar and Tepori on the Native Penal Ordinance, or did he act as a court martial? Once more these uncertainties are of considerable historical interest.

28 Firth probably relied for this portion of his account on Hahl's memoirs rather than on the Prey Report. A superficial reading of Hahl's memoirs indeed suggests that the expeditionary troop was a new institution Hahl decided to try out in Hansa Bay. But the real story is not so simple. Other sources show that a special mobile unit had existed since at least 1902 and that all native policemen in German New Guinea received some military training since the arrival of lieutenant Steinhäuser in the 1880s. Even in 1912 the expeditionary troop was not an élite unit specially trained in jungle warfare. Similarly, while Hahl gave the order for the expeditionary troop to proceed to Hansa Bay, he did so in response to a request by district commissioner Scholz, who may well have felt that it was Hahl's responsibility to deal with the killings of bird-of-paradise hunters in the interior, if he was not prepared to restrict their activities, rather than that of his understaffed district office.

29 The context suggests that Prey had only the Ramu/Markham basin in mind when he referred to the opening-up of "the interior". Opening up of the area east of the mouth of the Markham was the task of the government station in Morobe and the Sepik basin in the west was being explored by a large scientific expedition. To be sure, neither Prey nor any other European at the time knew anything about the densely populated valleys in the central ranges south of the Ramu and Markham, but this is, historically speaking, neither here nor there.

30 It is, of course, possible that this dash never took place. But it is unlikely that Firth discovered information which showed it to be an invention without bothering to tell his readers that this was so. On the other hand it is worth mentioning that Prey's visit had no lasting effect. According to the draft annual report the village of "Bodsknun" was again visited—and warned—after a head-hunting raid on "Mgiri" (Scholz's "Giri") during which six people were killed (see Sack & Clark, 1980: 82–83).

uncertainties and complexities these defects reflect are avoided? To be safe such a summary would have to read like an earlier attempt of Moses.

Hansa Bay was to be pacified in 1912, and an expeditionary force was stationed there for a few months to punish several murderers and establish contact and eventually peaceful relations with the headhunting and warfaring tribes (1976: 306).

While there is nothing factually wrong with this sentence, it is so non-committal that it says almost nothing. Not surprisingly, Moses did not leave it at this single splash of misty grey, but added dots of colour, primarily by telling her readers that Prey had perceived the Kagam Expedition as a "cultural task":

He said that meaningless demonstrations of superior means of power and the winning of cheap war-laurels were not the purposes and aims of the troops. Rather the advantages of a higher civilization and the benefit of peaceful conditions were to be brought home clearly to the savage tribes (ibid.: 307).

Although this sounds impressive, it is empty rhetoric, for who would want to engage in *meaningless* demonstrations or to win *cheap* war laurels? This is not to say that Prey's intentions were historically irrelevant but their restatement cannot replace an account of his actions, even if it accurately reports what Prey had said—and Moses's source, the memoirs of captain Ebert of SMS *Cormoran*, did not inspire me with confidence when I thought of the fantastic account Ebert's comrade Spiegel had given of the Ponape Rebellion in his memoirs.

In this case, however, checking the source produced a pleasant surprise. Moses had given a fair summary of Ebert's recollection of a conversation with Prey when taking the expeditionary troop from Friedrich Wilhelmshafen to Hansa Bay, and Ebert's memoirs struck me generally as being more factual than those of Spiegel. Indeed Ebert's recollection of a conversation with police sergeant Beyer on the journey back from Hansa Bay to Friedrich Wilhelmshafen rang a bell in my own memory.

According to Ebert, Beyer had had no difficulty in establishing the facts of the matter when he investigated how "three Chinese [!] and ten [!] natives" had been murdered and partly consumed (1924: 187). When he had asked members of "the so-called Kagam tribes" about their acts of cannibalism they had readily admitted everything, adding that it had "at long last been again a truly beautiful feast" (ibid.: 189). Although Beyer's reports to Scholz indicate that he had referred to the head-hunting raid involving Kajan, I could appreciate that Ebert, when writing his memoirs a dozen years later, could still hear how Beyer had said with relish "at long last again a truly beautiful feast", since I could still see how the face of old brother Nyssenius had lit up when he retold me another of Beyer's stories in 1967—which, as I realised when checking my field notes, also related to the Kagam Expedition.³¹

Beyer, so brother Nyssenius said, had told him that he had been ordered by "Madang"—which stands for the district office in Friedrich Wilhelmshafen—to keep an eye on an army captain sent out from Berlin to conduct a large punitive expedition with 200 police boys near the mission station at Potsdamhafen. When the captain and Beyer had been invited by the missionary for a cup of coffee, Beyer had made a point of sitting down at the same table with the captain, placing both elbows on it, as was the custom in "boorish" German New Guinea. This had annoyed the captain and Beyer had provoked him further by warning him not to venture too far into the bush because people who did this often returned without their heads—adding, after a pause: but this would not be tragic in the case of the *Herr Hauptmann* because his head could easily be distinguished from all the others by his "silver tongue" (*goldene Schnauze*).

31 Brother Nyssenius arrived in German New Guinea in 1910. The sun helmet he wore in 1967 looked as if it was part of his original outfit.

I do not know whether Beyer made these cheeky remarks or whether he would merely have liked to have done so, but I am certain he had told brother Nyssenius he had—and in precisely these terms; just as I am certain that Beyer had used the expression “concentrate backwards” (*rückwärts konzentrieren*) when telling Nyssenius how the *Herr Hauptmann* had reacted when he had come face to face with the tough *Buschkanaken*. This term was as firmly and vividly embedded in the memory of Nyssenius as the phrase “at long last a truly beautiful feast” (*endlich mal wieder ein wirklich schönes Fest*) had engraved itself in the memory of captain Ebert, so that I could see it, glittering like a freshly minted coin when Nyssenius had retrieved these old memories in my presence.

Of course it would make the writing and reading of history more enjoyable if the Kagam Expedition could be summed up as a punitive expedition which ended in the hasty retreat of a big-mouthed captain from Berlin and his 200 police boys. But neither this nor any other historical episode can be condensed so neatly without seriously distorting “the facts”. To be sure, the summaries of Firth and Moses, or of Hahl and the annual report, are more realistic, but they are also more misleading because they are meant to be taken seriously as factual history whereas police sergeant Beyer told his stories because he wanted to enhance his reputation as a local wit. What makes the Kagam Expedition instructive is that it poses an exceptionally simple historiographical challenge, because the reports by Prey are, as far as I know, the only eyewitness account still available.³² The main difficulty in dealing with the information does not arise because Prey’s account is incomplete, or unreliable, but because it contains too much information.³³ Prey would have done historians a favour if he had only submitted a polished final report, as it could then have been easily condensed further because it had already made the crucial break with factual history.

On the other hand, it is precisely the loose ends in the report that make it a valuable historical source, since they reflect how the Kagam Expedition actually took place. The problem is that this taking place can neither be described in a coherent narrative nor be adequately translated into sets of categories. The Kagam Expedition is a conglomerate of many different stories which are part of many different histories: the history of Prey and Tepori, the history of “the Kagam people” and the expeditionary troop, the history of colonial rule in German New Guinea and of modern western imperialism in the Pacific. For each of these histories different aspects of the Kagam Expedition are relevant and more or less significant. It does not matter for the history of “the Kagam people” that the expeditionary troop was transported to Hansa Bay by SMS *Cormoran*, or that police sergeant Lange refused to follow Prey’s orders, just as it is immaterial for the history of Lange’s life what happened to the New Guinea prisoners who were sent to Rabaul. Conversely, Ebert’s decision to transport the expeditionary troop to Hansa Bay may well have been a key event in the history of the imperial navy whereas nothing the troop did after it had been landed is of consequence in this context.

Prey’s account is naturally heavily biased in favour of a history of the expeditionary troop. Indeed, his reports were more concerned with the future of this troop than with the course of events during this expedition—and his insistence that it had not fully accomplished its objectives must be seen against this background.³⁴ Hence it is in the context of a history of the expeditionary troop that Prey’s reports are most rewarding and can be most profitably linked with information preserved elsewhere in the historical record—in particular the annual report of the expeditionary

32 I do not know whether, and in what form, this episode figures in the oral traditions of the “Kagam people” and their neighbours.

33 Prey’s reports are probably factually accurate as far as they go. It hardly needs saying that they are vastly incomplete. But this is not a serious problem, since there is no indication that Prey omitted information which would have substantially altered the general picture he painted.

34 Prey wanted to show what a proper expeditionary troop, consisting of two companies supplied with motor launches, mules, tracker dogs and medical staff, could have achieved and would be able to achieve in the future.

troop for 1912, a copy of which Hahl sent to the colonial office on 26 September 1913 (RKA 2669).

VII

According to this report, on 1 April 1912 the troop had consisted of Prey—then still a first lieutenant who was promoted to captain soon after—police sergeants Jahn and Lange and 57 men, because 120 “good people” had been seconded to a large scientific expedition to the Sepik.³⁵ In addition 12 of these 57 men were unsuitable for military service. By 31 March 1913 the number of men with a more or less adequate military training had only grown to 86. Prey attributed this mainly to the fact that police sergeant Lange had insufficient military training to take on the training of native recruits. As we now learn, Lange had served as a purser on SMS *Planet* before joining the colonial service. He had also conducted the ship’s band, a task for which he was well qualified because he had served as an army musician before transferring to the navy. Since Lange’s replacement, Feinäugle, had only lasted a few weeks with the expeditionary troop, Prey said nothing about his background, but the three police sergeants subsequently allocated to the troop were also hardly ideally suited as “troop-sergeants”. One had been trained as a medical assistant, the second as a sailor and the third had served in a telecommunications battalion and then with the artillery, after a spell with the embassy guard in Peking. The military training of the native policemen had therefore fallen on the shoulders of Prey and police sergeant Jahn—an experienced infantry-man, but due to go on home-leave a few months later. Moreover, Prey also had to deal with all other military matters concerning the government and Jahn had been the only person who could help him with the paperwork. By the end of July 1913, when Prey finally got around to writing his overdue annual report, the expeditionary troop was thus still far from being an impressive war machine.

Prey’s annual report also shows that the Kagam Expedition had not been the expeditionary troop’s first operation in the field. In May 1912 it had moved to a training camp near Bitapaka, the site of a planned telecommunications tower. This camp was to be used as a base for opening up the southern part of the Gazelle Peninsula. In June 1912 Hahl had declared the area between the Warangoi River and Wide Bay to be a “military district” placed under the administrative control of Prey.³⁶ His first task, however, was a thorough exploration of the Warangoi/Kerewat basin. He was to map the area, to assess its agricultural potential and to establish friendly relations with its native inhabitants. In so far as his field of operation was outside the declared military district, Prey had no general administrative authority, but, in addition to instructing the district office in Rabaul to support the expeditionary troop in every way, Hahl empowered Prey specifically to call upon the “native organs of the administration, the chiefs and *tultul*” to assist the troop, in particular by supplying it with carriers and messengers. Hahl also made clear that, apart from the military training of the troop in the field, the primary goal was to prepare the ground for an extension of the organisation of the native population. In short, the general *modus operandi* of the expeditionary troop had been worked out before it was ordered to proceed to Hansa Bay in July 1912 in a hybrid role as an agent of retribution as well as law and order.

Since the first operation after its return, contrary to the annual reports (see above: 409), appears to have been no more than an old-style punitive expedition to the northwestern Gazelle

35 This figure—more than the total strength of the expeditionary troop at the beginning of the Kagam Expedition—would seem to be far too large as a police escort but may have included carriers and various other kinds of servants. Even more remarkable than the number of “good men” allocated to the Sepik Expedition is the fact that this expedition was given a higher priority in terms of its manpower requirements than the expeditionary troop—which Prey probably found hard to swallow.

36 A short coastal strip between the Warangoi and Rügenhafen, where the Neu Guinea Kompagnie was commercially active, had been excluded—like the two coastal plantations in the case of the Kagam Expedition.

Peninsula³⁷, a comparison between the Kagam Expedition and the last operation of the expeditionary troop in southern New Ireland becomes crucial.

The first relevant document is a cable Hahl sent to the colonial office on 23 December 1913 (RKA 2996). It used the attack on the Deininger Expedition (see *ibid.*) as a reason for making another urgent request for an increase in the size of the expeditionary troop.³⁸ Hahl sought permission for a doubling of its strength—the second company for which he had once more unsuccessfully applied in his 1914 budget proposal. He also asked for two first lieutenants, four police sergeants and an armourer to be sent out immediately from Germany.

In a report of 26 December Hahl explained the situation. He had sent the expeditionary troop under Prey, with 85 men, two police sergeants and a medical assistant, to southern New Ireland on 18 December and placed the district officer in Namatanai for the duration of its operations under the military command of Prey.³⁹

The operations were expected to last for several months, so that it was essential to form a second mobile police unit without delay in order to be able to guarantee public order in the other parts of the colony. Since Hahl's requests represented an expenditure of over 80,000 Marks outside the budget, the colonial office was unsympathetic. It authorised Hahl by cable to go ahead with the recruitment of the 50 additional policemen which had been included in its 1914 budget proposal,⁴⁰ advising him that first lieutenant von Klewitz was on his way,⁴¹ that two police sergeants would be sent out forthwith, but that his additional requests required a more detailed justification—which Hahl produced on 19 January 1914.

He painted a gloomy picture. Not only was the whole of southern New Ireland on fire, but the north was also beginning to smoulder, so that he had had to send a police sergeant and 12 men as reinforcement. The expeditionary troop had in the meantime "visited" over 20 rebellious villages in the mountains, coming face to face with the enemy several times. Frequent rain and low temperatures were creating appalling conditions, but the troop had to remain until order had been established "once and for all". Not counting the sick, the troop had a strength of around 90 men, but a substantial number were needed to guard the prisoners,⁴² who were part of the baggage train. It was under the command of the medical assistant. One police sergeant was out of action because of a severe attack of malaria so that only the other police sergeant had been active at the front. Despite also suffering from malaria Prey had continued in command. It was only due to his energy and "ruthlessness" (*Rücksichtslosigkeit*), coupled with the excellent training and strict discipline of the men, that such a small fighting force had been able to operate successfully so far. It was intolerable, however, that a single event of this kind, which could also occur in several other parts of German New Guinea at any time, could strip the rest of the colony of all military protection. In addition to an expeditionary troop of 125 men, Hahl was therefore asking for a "training company" of 180 men. But this was not all. Apart from an armourer and a medical assistant for

37 Prey's report was published in *DKB*, 1913: 715-16.

38 It also served as a justification for a delay in the return of Prey to Germany which had apparently been ordered in a cable from Berlin.

39 This was probably a manifestation of the lessons learned from Lange's insubordination during the Kagam Expedition.

40 As Hahl pointed out these 50 men had been earmarked for the new government station at the mouth of the Markham River, so that no lasting increase in the expeditionary troop would result. This was precisely the point: the colonial office was prepared to approve temporary emergency measures whereas Hahl was concerned with a permanent strengthening of the troop.

41 Klewitz had apparently been sent out to replace Prey, or to deputise for him while he went on leave. It had been intended, however, that Klewitz would visit the Dutch East Indies on the way to study its military arrangements, whereas he was now ordered to proceed directly to German New Guinea.

42 The number of prisoners is not identified. Nor are casualty figures given. But Hahl mentioned in passing the "execution" (*Hinrichtung*) of chief Jimi. This suggests that Prey had again been authorised to execute death sentences on the spot and that he had exercised this power at least once on that occasion.

the troop, each of the two companies needed six police sergeants, one lieutenant and one first lieutenant, all under the general command of a captain.

Hahl's extravagant bid was surprisingly successful. On 30 April 1914 the colonial office informed the ministry for finance that two first lieutenants, four police sergeants and an armourer had been sent out from Germany and that it was still too early to predict the total cost of putting down the rebellion in southern New Ireland.⁴³

Since Prey had by that time left German New Guinea, it is quite possible that he never submitted a written report on the operations of the expeditionary troop in New Ireland. If he did, no copy was sent to the colonial office in Berlin, nor did the original survive among the records of the government in Rabaul. It is unlikely therefore that we will ever be as well informed about these operations as about the Kagam Expedition.

Judging by Hahl's comments in his January report they were of a far more aggressive kind. Although Hahl had good reasons for exaggerating the seriousness of the situation and the "ruthlessness" of the response—to support his case for an immediate strengthening of the expeditionary troop—the operations were probably also in fact very different on these two occasions. An attack on a government expedition and its police escort was a much graver matter than attacks on native hunting boys, let alone head-hunting raids on "unpacified" villages.

In these respects the operations of the expeditionary troop in southern New Ireland had more in common with Schnee's 1899 Anapapar Expedition (see above: 441). However, such historical comparisons are always dangerous, even across such a small distance in terms of geographical space and astronomical time, because the historical stage on which these events occurred had altered significantly. Indeed, by December 1913, the expeditionary troop could operate in a manner which would still have been impossible in August 1912.

Does that mean that Prey would have approached the Kagam Expedition as a military rather than a "cultural task", if it had taken place a year later? Did the orders he had received from Hahl in December 1913 differ fundamentally from those he had been given in July 1912? What were the plans for the mountainous interior of southern New Ireland after the rebellion had been crushed? Were the people involved to be banished *en masse*, as after the Ponape Rebellion? Was part of their land to be confiscated, as after the Varzin Murders? Did the expeditionary troop continue to operate after Prey's departure? Or was it withdrawn and replaced by a temporary police post, like the one which had been established after the Varzin Murders? Was it planned to use the rough terrain as a base for the new training company?

VIII

Compared with these uncertainties the dearth of information about the operations of the expeditionary troop in New Ireland is a minor worry. It makes little difference to the history of colonial rule in German New Guinea what particular actions were performed to crush the rebellion "once and for all", unless these actions reflected structural changes, rather than merely responding to a particular set of circumstances. Since the historical record does not indicate such general shifts, it would only be a mild disappointment if the operations of the expeditionary troop in southern New Ireland remained a blank spot on the historical map of German New Guinea.

But such blank spots demonstrate that a purely structural account of history is also unsatisfactory. Historical structures do not exist by and for themselves; they not only shape human actions but are also shaped by them. To describe them in the abstract can only show a more or less elaborate skeleton, just as an account of human actions can only present narratively more or less

43 Hahl's two reports and this letter to the ministry of finance were all filed in RKA 2996. The cost of putting down the rebellion was probably to be financed as expenditure outside the 1913 budget which was at the time close to running its course.

attractive lumps of meat which are by themselves historically meaningless. It is only if we accept that history has no narrative meaning and see it as a three-dimensional tapestry of human actions which derive their historical meaning from their interaction with various kinds of general structures that we can begin to see history for what it was when it took place.

To be sure, such an interactional approach makes the writing and reading of history more complex and ideologically less satisfying, but this is the price we have to pay for historical realism: accounts of history must reflect the complexities of life instead of being permitted or even expected to simplify them away. Besides, such an approach offers historiographers an achievable goal. It does not ask them to perform miracles but only to do what a critical assessment of the available historical record enables them to do.

What is historiographically possible therefore depends on the texture of the historical record relating to the particular slice of history examined. It determines how far historiographers can go and which approaches they can most profitably follow. Different kinds of historical records contain different kinds of information which cannot be measured with the same yardstick. Oral traditions, government reports, private letters, statutes, budgets, price-lists and personal memories send different signals. They can all make a valuable contribution to an account of history, but only if they are each understood in their own terms instead of being artificially homogenised. A realistic account of the history of the native police force in German New Guinea has to look like a rough collage rather than a glazed oil-painting, because this is what the historical record looks like. The question is whether such a collage can nonetheless be presented in a more consumer-friendly form than these three chapters have done.

The historical record shows that it is impossible to write a narrative history of "the police", or even the native police force, because the former was not sufficiently organised to perform as a *distinct* corporate actor whereas the latter was not sufficiently centralised to perform as a *single* corporate actor. Although the expeditionary troop became a distinct corporate actor towards the end of German colonial rule, its history hardly offers a rewarding topic because its life was too short to make more than a marginal contribution to the exercise of this rule. Indeed, it may well be that the Kagam Expedition was the only singular contribution made. Instead of "concentrating backwards", as captain Prey did during this expedition according to police sergeant Beyer, we thus have to spread out forward, if we want to arrive at a realistic picture of the exercise of German colonial rule. We need to take a holistic approach and consider the entire historical record relevant for its exercise—and that means, in principle, taking into account every official action performed by an official in the exercise of governmental powers in relation to the geographical area which became German New Guinea.

Yet the historiographical treatment of each of these episodes is problematic, since any sequence of human actions, taken by itself, is historically meaningless. It can become historically significant only if it is seen as part of the history of something else. Human actions are not historically significant because they are unique but because they are, despite their uniqueness, also representative. On the other hand, human actions also become historically insignificant if they are merely typical, if they merely act out well-established practices in a particular instance. In addition, it appears that as soon as the historical record tells us enough about a sequence of human actions to form a three-dimensional picture that reveals some of its unique as well as its representative features, it can be neither categorised nor narrated because categories have to disregard the unique and narrative can only present the typical as if it was unique. Still, it is precisely a closer inspection of the question of the historical significance of human actions that can help us to sort out the problem of having to deal with the exercise of colonial rule as a myriad of human actions—and the Kagam Expedition is again instructive.

Let us accept that the actions performed by the troop during this expedition are as such historically indifferent and become historically significant only as part of the history of something

else, in particular the history of the expeditionary troop and, more broadly, the history of German colonial rule. What makes the Kagam Expedition significant in this context is that it shows the *modus operandi* of the expeditionary troop in operation. Although not specifically created for this occasion, it was for the first time acted out in a situation where a range of different governmental concerns had to be combined. If the troop had done no more than carry out Hahl's orders to the letter, its actions would be historically immaterial because their description could add nothing to an account of these orders. It would then indeed be sufficient to state, as Hahl did in his memoirs, that Prey had "accomplished his task".

As soon and as long as governmental powers are exercised in accordance with a general normative framework or established administrative practices, the actions of the organs of government exercising them are historically no more significant than the movements of cog-wheels in a well-oiled machine. It is possible and sufficient to give an account of such routinised exercises of governmental powers by describing these routines as structures and by representing their actual performance in the form of categorised and quantified tables. Conversely, a narrative account of any of the many performances of such a routine, even if factually accurate, is historically meaningless because it can neither come to grips with the underlying structures nor with the relative quantitative weight of the performance of this type of action in the scheme of government.

By themselves governmental actions can be historically significant only if they involve some freedom of action or, more precisely, some administrative discretion. On the other hand, totally arbitrary actions can hardly be regarded as historically significant exercises of governmental powers either. But then it is plain that human actions are never totally arbitrary, just as no governments exist whose operations are totally routinised. Theoretically the crucial question is therefore how to handle the non-routinised exercise of German colonial rule historiographically.⁴⁴ A structural approach is of no direct help, because the discretionary exercise of governmental powers does not follow an established practice. Yet governmental activities are also never totally discretionary, much less ideologically arbitrary. Quite apart from the specific legislative limitations imposed on him by the Protectorates Act, even the emperor could not govern the German colonies as he saw fit. But while the reproduction of the text of, say, the Native Disciplinary Ordinance makes it historically superfluous to describe any of the thousands of disciplinary punishments carried out in its application,⁴⁵ an account of the general structures shaping the exercise of discretionary powers cannot replace a description of the particular actions performed in their exercise. It gets us, historically, nowhere to state that Captain Prey conducted the Kagam Expedition in accordance with his duties as the commander of the expeditionary troop. Nor is it historically helpful to try to categorise these duties because this cannot replace a description of their performance by Prey in this particular case.

Once a description of the structures shaping human actions is no longer sufficient to capture their historical significance, it becomes necessary to deal with their unique features. This does not

44 In theory the historiographical treatment of routinised actions is unproblematic. It should consist of a combined structural and quantitative approach. In practice the question is whether the historical record permits an application of this method. If it does not, we are in trouble as there is no choice but to adopt another approach, in the knowledge that it cannot possibly achieve satisfactory results. But that is life or, rather, history.

45 Disciplinary punishments administered in contravention of this ordinance are another matter. But the treatment of such cases was, in principle, also straightforward because they constituted criminal offences of one kind or another which the colonial courts had the duty to investigate, prosecute and punish. Whether that always happened is yet another question. Seen as actions performed by individual human beings, these illegal punishments are also of doubtful historical significance, although they become significant if they are treated in bulk as repetitive acts. How did X generally treat his native labourers? How were plantation labourers or domestic servants generally treated during the period of German colonial rule? How frequent or brutal were these illegal punishments? All these questions call for some kind of quantification whereas a detailed description of a particular instance contributes little, unless it is presented as typical, in which case its unique features become historically irrelevant.

mean, however, that non-routine exercises of governmental powers, like the Kagam Expedition, should be treated as historical episodes in their own right, an account of which can be determined by narrative considerations. Their historical significance still depends on their representativeness.

The Kagam Expedition would historically also be far less significant if Hahl had left it entirely up to Prey how he would deal with the situation. His orders are therefore an essential part of this historical episode. Moreover, Hahl too was not free to decide what orders he gave to Prey, but limited by various structures. He did not place the area between the Ramu and the Tsukula River under Prey's administrative control because he thought this was a good idea but because it was necessary, if he wanted Prey to exercise administrative powers, to determine the respective competences of Prey and the district commissioner in Friedrich Wilhelmshafen. Similarly, Hahl did not exclude the two European plantations from this area because he felt like it but because it was impractical to make Prey responsible for carrying out administrative routine tasks in relation to them, for example, the supervision of the treatment of the native labourers they employed. If he wanted Prey to exercise the criminal jurisdiction over the native inhabitants of this area he had no choice but to give him special authority to do so, whereas this jurisdiction was part of the powers attached to the office of district commissioner. Moreover, once Hahl decided to authorise Prey, he had to do so in accordance with the Native Penal Ordinance. He would have acted illegally had he given Prey discretion in this regard, while he could authorise Prey or, for that matter, a district commissioner, to execute death sentences on the spot without his prior approval.

But even in this regard conventions had already begun to develop which Hahl merely followed in this case because there were no special reasons to depart from them, so that the authorisation of Prey to carry out executions on the spot was itself historically insignificant. Nor was it historically significant that Prey had ordered his men not to shoot women and children because he merely followed a long accepted principle in doing so. By contrast it was Prey's personal decision not to use friendly natives as auxiliaries, as Scholz and Beyer had done during their earlier expeditions. No firm principles had developed in this regard, although Scholz as well as Beyer would probably have also preferred to do without them if they had regarded the police unit under their command as sufficiently strong to deal with the situation. Nor was Prey the first German official to use native prisoners as messengers, to banish natives administratively or to use threats or physical force to obtain carriers or interpreters. Even his plan to marry his female prisoners to his policemen was not without precedent; it had happened before. This is not surprising because most of what people do is not unheard of, unless they find themselves confronted by an unheard of set of circumstances and that was not the situation of Prey in Hansa Bay in August 1912.

Nothing happened in the course of the Kagam Expedition that was radically new or different. Rather, it was a combination of a large number of factors that makes this episode unique and it is the fact that this combination was to a considerable extent planned rather than coincidental that makes it significant for the exercise of German colonial rule. Nor is it coincidence that we are comparatively well informed about it. Prey wrote his report for a purpose. He did not describe the Kagam Expedition as an isolated sequence of human actions. He wanted to present it as an event which had been shaped by experiences in the past and contained lessons for the future. Prey did not enclose copies of the reports of Scholz and Beyer for good measure but because he wanted to contrast their actions with his own, and he dealt with the matters raised in father Dicks's letter as part of his report because they had given previously unreported details retrospectively an unexpected but not unwelcome significance.

To be sure, historians are not obliged to accept the structure Prey gave his version of the Kagam Expedition—and it would, for example, be inappropriate if it was seen as part of a history of "the Kagam people". But they depart from it at their own peril. After all, Prey did not write his report as a historian, or even as a participant in a series of events, but as the commander of the

expeditionary troop who officially reported to his superior about the manner in which he had translated his general orders into specific actions and about the ways in which his experiences were shaping his views about the future organisation, operations and equipment of his troop. The structure of Prey's reports is therefore intertwined with the structure of the exercise of German colonial rule.

This does not only apply to this report but to the historical record in general, in so far as it was produced by officials acting in an official capacity. Governmental records are not just sources of bits of information about what "the government" did in relation to its subjects, they also record the process by which a government shapes itself, by which it modifies and controls its capacity to act. Fortunately, this applies the more so, the less the exercise of governmental action has been routinised. The routinised exercise of governmental powers also produces routinised historical records, whereas a record of an exercise of discretionary powers makes administrative sense only if the actions performed are described in some concrete detail. It would have been pointless if Prey had merely reported to Hahl that the Kagam Expedition had accomplished its mission even if he had believed that it had. By contrast a registrar of births and deaths would waste everybody's time by reporting more than the number of births and deaths recorded during the period in question. On the other hand, such a registrar can report the necessary information quickly and it can be quickly assessed by his superiors, whereas reporting on discretionary activities is a much more demanding task which can only produce much less conclusive results.

There are thus good reasons for aiming for an increasing routinisation of governmental actions and for reporting about the exercise of discretionary powers only on special occasions or for special purposes. The positive side of this is that it produces an unevenly structured historical record which creates its own historical milestones by producing denser records relating to them. To be sure, this is a highly selective structure but it makes sense in its own terms because it reflects where the attention of the government was focused at the time. It is therefore unlikely that events which were of major significance for the exercise of governmental powers manage to avoid being recorded because governments feed on the information they record about their own activities.

This also offers a practical solution for the problem of dealing with a history of the non-routinised aspects of governmental activities. We remain dependent on the historical record but we can utilise its inherent structures to our own advantage. We have to tap it like a physician taps the chest of a patient and listen to the sounds it produces because they echo the changing texture of the history recorded. Even if large chunks of the historical record are missing a holistic approach can at least identify some of the milestones and indicate some of the patterns defined by their configuration.

Although particular facts may be unable to speak for themselves, the historical record of colonial rule in German New Guinea makes its own music. We can hear the *basso continuo* of routine activities getting louder, and we can hear, among the twittering of anecdotal chords, some recurring themes and variations which keep the whole piece moving with different speeds in different directions but overall along a predictable course. It led towards a greater routinisation, specialisation and normalisation of government, making the government capable of, as well as more dependent on, recording more information, which became more categorisable and narratively less attractive. The history of German colonial rule gets increasingly boring as the size of the collage got bigger and its texture tighter. There are fewer milestones and they stand out less from the surrounding terrain. Discretion moved towards the margins and higher up the hierarchy. Fundamentally new situations to which responses still had to be worked out became rare.

Can we describe the course which this process took, instead of merely stating its general direction in a manner which tells us nothing about what made the history of colonial rule in German New Guinea unique? Unfortunately we cannot, any more than we can describe the entire

historical record of the exercise of this rule systematically. But we can illustrate this process with a strategic selection of clusters of information which show it at work at different times during the history of German colonial rule. We can do that because the official historical records were themselves part of this process, whereas they were unconcerned with reflecting other histories, for example that of "the Kagam people".

But the historical record does more than to suggest promising starting points. It indicates the natural shape of a cluster of information. It shows, for example, that the Kagam Expedition can only be appreciated as an exercise of governmental powers if the Prey Report is read together with Prey's annual report and even Hahl's reports concerning the attack on the Deininger Expedition and the measures taken by him in response to it. We miss the significance of the Kagam Expedition for the history of colonial rule in German New Guinea if we ignore parts of the historical record which are organically linked with it. It is only by adopting a holistic approach that we can discover these linkages and, having become aware of their importance, learn to watch out for them and to interpret the signals the shape of the historical records is sending.

It is not by chance that Hahl sent a copy of Prey's report on the Kagam Expedition to the colonial office whereas no copies of reports on the punitive measures by the expeditionary troop following the attack on the Deininger Expedition were transmitted. Nor is it a coincidence that no reports concerning the Kagam Expedition were published in the *Amtsblatt* of German New Guinea, whereas it published in January 1914 an anonymous government report on the "unrest" in southern New Ireland (*ibid.*: 23–24) and in May 1914 what is described as a "report of the expeditionary troop" (*ibid.*: 181–83).

These reports served different purposes, were addressed to different audiences and responded to different factual situations. There are a number of possible reasons why no report about the Kagam Expedition was published in the *Amtsblatt*; and we can only speculate which of them actually played a part. The "unofficial" (*nichtamtlicher*) section of the *Amtsblatt* was addressed to the non-native public in German New Guinea. It provided this audience with information of "general interest" and, more precisely, with information the government found it necessary or desirable to present to this public. In other words, the government was sending signals rather than reporting facts. In the case of the Kagam Expedition the Prey Report did not send signals the government was interested in sharing with the public, quite apart from the fact that it would have had to be completely rewritten to produce an account which was suitable for publication. In the view of the government, the killing of a few hunting boys and perhaps a couple of Chinese in the remote Hansa Bay hinterland was not an event which concerned the general public. There was no need to assure it that the government was in control and that it had nothing to worry about. Moreover, the results of the Kagam Expedition were unlikely to impress the public, although their very inconclusiveness and the reasons for it were useful for Hahl's attempts to convince the colonial office that a major strengthening of the expeditionary troop was needed to enable it to carry out its tasks successfully.

The situation after the attack on the Deininger Expedition was different. The *Amtsblatt* published as soon as possible, namely in its first issue for 1914, two reports on the attack which Deininger and *Forstassessor* Kempf had prepared (*ibid.*: 6–9). This was followed by the two reports on the activities of the expeditionary troop already referred to. The purpose of the first report was clearly stated in its final sentences.

An immediate danger hardly exists any longer. However it will take several months before the resistance of the rebels, who are on the run, has been completely broken and the *kanakas* have again been settled in permanent residences. In the meantime reinforcements have been sent to the rebellious area (*ibid.*: 24).

No reference to the attack on the Deininger Expedition is made and the most likely reason for the rebellion, apart from "sheer wantonness", was seen in the natives' resistance against their incorporation into the administrative organisation (*ibid.*: 23).⁴⁶

The final report, published in May, was presented as a complete success story. It listed a string of military measures during which the expeditionary force suffered five casualties, two of them serious, whereas about 30 of the rebels, probably including the main ringleader, were shot dead and many more were wounded or taken prisoner. Apart from those who had taken part in the attack and who were sentenced to long prison terms, all prisoners were released. The military operations were regarded as completed when the rebels no longer offered resistance and on 24 March, a week after Prey had left for Germany, the troop was transported back to Rabaul by the government steamer *Komet*. No further punitive measures, such as banishments or the expropriation of land, were intended. Although it was not certain that their leader, Kaiphat, had been killed, the rebellious mountain tribes had received a severe punishment which would serve them as a salutary lesson (*ibid.*: 181–83).

While all of this must have sounded pleasing in the ears of German New Guinea's non-native population, the details of this successful but hardly extra-ordinary military operation were of little interest to the colonial office. They certainly would not have helped Hahl's campaign for a massive increase in the size of the native police force, who by then probably felt that it was approaching a victorious conclusion, which additional information would only have put at risk. It is also worth mentioning that the attack on the Deininger Expedition may have been another case of mistaken identity. District officer Brückner claimed in a private letter more than a dozen years later that he, rather than Deininger, had been the intended target of the attack by these "very difficult people" who had made it "as hard as possible" for him "to open up their country" (see Sapper, 1929). This is a very different tune from the one he played in his annual report as a backdrop against which the excessive response of the expeditionary troop was supposed to be seen (see above: 409). But then such discrepancies in the historical record are to be expected, and to display them is historically more illuminating than to gloss over them for the sake of narrative coherence.

It cannot be repeated too often that the manageable middle level of historical generality which narrative history tries to capture does not exist. The historical record consists to a large extent of information which is either too general or too particular for a satisfactory narrative treatment. History is the product of the interaction between the general structures and the particular actions this information represents. The problem is that the history of this interaction cannot be spelt out. We can only learn to appreciate it through a process of osmosis, through a patient absorption of bits of information. An understanding of history is something students of history must gain for themselves. The belief that historiographers could and should accomplish this task for their readers is misplaced. All they can communicate in a predigested narrative form is phantom history which may create the illusion of historical understanding, but in fact prevents readers from beginning to see history through their own eyes. History is not like the panoramic view from a mountain summit on a clear morning which can be captured in a photograph taken by somebody else. Historical understanding is earned by climbing up the slopes and by discovering that the view from the top is blocked by mist and that the glimpses of the view caught on the way up are all one is going to see.

Yet these glimpses add up to a more realistic overview than any phantom narrative, because the historical record identifies the spots where the recorded information is likely to be more illuminating than at other points, and it is the task of academic historiographers to listen to the

46 No reference is made in this published report to the fact that the rebellion was spreading into northern New Ireland, which Hahl stressed in his report to the colonial office.

historical record rather than to select some chords from it which can be strung together into a neat phantom ballad.

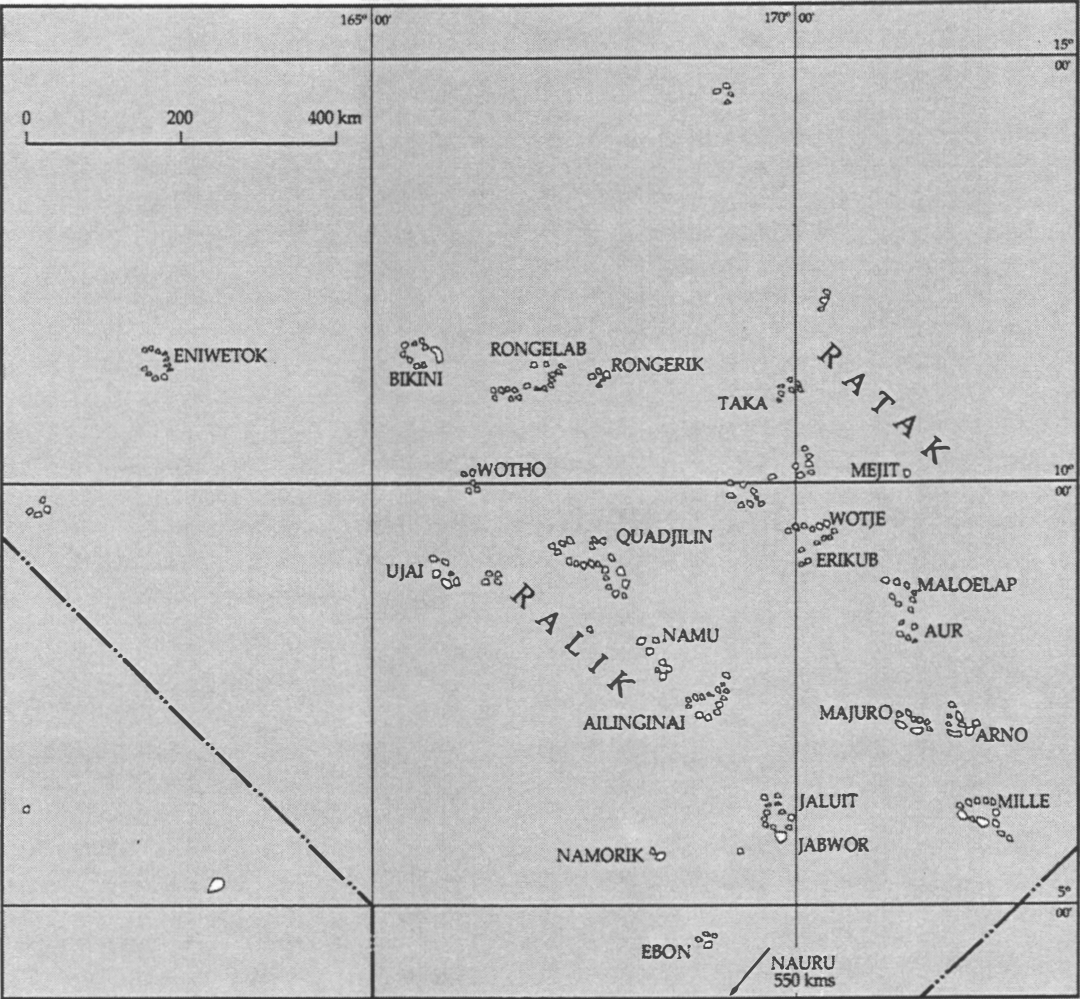
The historical record of colonial rule in German New Guinea identifies a large number of such strategic spots: points where the history of German colonial rule passed some kind of junction; points where this history changed direction, or where an attempt to change direction failed; points at which someone worked the switches, with or without success.

The Kagam Expedition was one of these points. But our examination has also shown that it is not this expedition as a unique event that matters historically. Like a buoy it is bobbing visibly on the surface of history but reveals its historical significance only when it is lifted up and some of the complex web is exposed that is hidden beneath and that links everything with everything else. For example, we can now begin to see how it fits into Hahl's development plans and why Hahl seized the opportunity offered by the attack on the Deininger Expedition to overcome the opposition to these plans by the colonial office. But we see also that this was merely one strand of an ever changing web which is as such beyond description.

To be sure, it is possible to paint a bland factual overview of the history of German New Guinea, consisting of a list of dates, places, names and fundamental changes in the form of government. But if we want to move beyond such a mundane and surprisingly laborious exercise the best we can expect, unless we are prepared to settle for phantom history, is an examination of a handful of these strategic points which tries to capture different aspects of this elusive web of history at different times and in different places—and this is the aim of the final part of this study.

PART III

An Archipelago of Episodes



MAP VII: The Marshall Islands

Chapter 8: Diplomatic and Naval Preludes

I

German military and diplomatic presence in the Pacific pre-dates the founding of the German Reich. A Prussian naval squadron visited East Asia in 1860, installing an ambassador in Japan and concluding a friendship treaty with Siam. Ten years later the navy of the North German Federation maintained a permanent East Asian naval station. In 1872 SMS *Nymphe* paid the first imperial naval visit to Fiji and Samoa. From 1875 to 1876 SMS *Gazelle* under captain von Schleinitz—who later became the Neu Guinea Kompagnie's first administrator—carried out a scientific expedition in the Pacific. In 1878-79 SMS *Ariadne*, with the German consul in Samoa, Theodor Weber,¹ on board, made an extensive diplomatic tour of the islands, concluding *inter alia* a friendship treaty in the Marshall Islands and purchasing two harbours for the Reich in the Duke of York group.

This visit was the beginning of a permanent "Australian" naval station, the responsibilities of which extended at least to the islands in the southwestern Pacific, including New Zealand.² In 1879 Otto Zembsch, a former naval officer, was appointed as a full-time consul-general, based in Samoa, to whom the Hensheim brothers, Eduard and Franz, who between them acted as honorary German consul for Micronesia and Melanesia, were apparently subordinated.³ Between May and October 1881 Zembsch visited the western section of his consular district on SMS *Habicht* under captain Franz Kuhn. During this visit the imperial navy took military action for the first time in the area which later became German New Guinea.⁴

1 Weber was also the manager of the Godeffroy firm, the largest German commercial enterprise in the Pacific Islands at the time. This was not an unusual arrangement but followed standard practice. Section 10 of an 1867 act concerning the consulates of the North German Federation, which was subsequently adopted by the Reich, provided that "merchants" who were citizens of the federation be given preference when "honorary consuls" were appointed. This was a natural move as the promotion and protection of German commercial interests was one of the functions of German consuls. Problems arose only if a German honorary consul promoted his own personal commercial interests over those of other German enterprises. The position changed, of course, when the Reich acquired colonial territories, because the German officials on the spot now had to balance the duty to promote and protect German commercial interests with other government responsibilities. But the former remained. It was thus perfectly normal to instruct an imperial commissioner posted to a German colony to give the commercial interests of German firms a high priority in the exercise of his governmental powers. German colonial officials were *German* officials, they were not supposed to govern German colonies as if they were independent states, although the temptation to do so increased when the capacity to engage in a territorial form of government improved.

2 I did not examine the reasons for the name of this new naval station. It is obvious that Australia was the most important location in its area of responsibility and likely that Sydney, the seat of a German consul-general, was the most convenient point of contact with the naval authorities in Germany which also offered adequate facilities for servicing naval vessels.

3 I have been unable to locate a history of the imperial navy written by a professional historian, so that I had to rely for general background information on an account by a retired vice-admiral (von Mantey, 1926). After this unsuccessful attempt I assumed that no professional historian had been tempted to tackle the task of writing a history of the imperial colonial service. When I looked instead at the sixth edition of König's *Handbuch des Konsularwesens* I realised that it would require a much greater effort than I was prepared to make if I wanted to understand how this service was organised and operated. I therefore decided to leave its mysteries well alone and to gloss over any points I found puzzling—and there were many: for example the arrangements made with the Hensheim brothers and, generally, the relations between consuls-general and ordinary (professional or honorary) consuls.

4 Suchan-Galow refers to "punitive expeditions" by SMS *Ariadne* in 1878 which were directed against Port Hunter(!) and Ratuana(!) and "quickly carried out" (1940: 116)—but this is just another instance of phantom history. The *Ariadne* did take action in Port Weber (Weberhafen) and Ruluana (Raluana) but no military force was used (see the chatty account of captain B. von Werner, 1890: 434ff).

II

Zembsch had been informed by the consulate in Jaluit about two incidents in Melanesia which, in its view, required action. The first was the killing of an agent of the Hemsheim firm in New Ireland.

The agent, Studzinka, a Hungarian, had been killed by one of his Solomon Islands labourers, called Tom. Tom had left the station in Putput after the killing and now lived in Tubtub.⁵ Zembsch was determined "to show the natives that a German warship would not leave the murder of an agent of a German firm unpunished". But instead of trying to punish Tom himself, he demanded that the Tubtub people surrender him to the chief of Putput for punishment. When they refused to surrender Tom, who was a valuable asset on account of the guns and ammunition he had brought with him—and his ability to use them—Zembsch requisitioned captain Kuhn to enforce this demand and, if this proved impossible, to "punish" the Tubtub instead.

Since the Tubtub fled as soon as the marines landed, their village was burnt and later shelled from the sea to show them that a warship, according to Zembsch the first they had seen, could also inflict long distance punishment. Zembsch believed that these actions had greatly frightened the natives. He informed the villages on either side of Tubtub that they had nothing to fear but that they should warn the Tubtub that they would be punished again by the next warship, if Tom was not surrendered to the chief of Putput.

This episode is historically significant not because of the punitive actions SMS *Habicht* performed but because it illustrates the curiously twisted legal framework within which Zembsch saw himself operating. The operation started with a report by the consulate for Micronesia and Melanesia to the consulate-general in Samoa, where Zembsch decided to take action—and he did so not because someone had been killed or because this someone had been a European but because this European, although himself not a German, had been an agent of a German firm. It was this fact which made the killing his business.

Zembsch's response was primarily shaped by the fact that the killing had taken place in an area without an internationally recognised government which the German government could have approached with a request for punishment of the killer. A second factor was that this killer was a native, rather than a subject of a civilised state, so that it was also impossible to approach his government with a request to punish his crime by sending out a warship to have him arrested and brought to trial. Under these circumstances Zembsch's task was not just to bring about the punishment of a particular criminal, but the prestige of the Reich was also at stake. The Reich had a duty to protect German firms and citizens and its standing in the international community was going to suffer if it showed itself incapable of carrying out this duty, quite apart from the fact that inaction exposed German firms and citizens to increased dangers if "the natives" saw that they could harm them with impunity.

This was the basis of Zembsch's view that it was necessary "to show the natives that a German warship would not leave the murder of an agent of a German firm unpunished". However, it was not the commander of the warship but the consul-general who decided what form this "punishment" was going to take. Here the first consideration was that Zembsch had no judicial jurisdiction over Tom. He could not try Tom himself, nor could Tom be tried by a German metropolitan court. The situation was complicated by other factors. Firstly, Tom was not a member of one of the local tribes but hailed from the Solomons; secondly, he was not a villager but had been a labourer employed by his victim (or the latter's firm); and, thirdly, Tom had moved away from the village where he had committed his crime.

⁵ Once again I am reproducing the proper names as they appear in the sources used, instead of trying to create a fictitious contemporary uniformity or to modernise the names given.

Zembsch responded to all these factors by postulating that the chief of Putput, where the killing had taken place, had the authority to punish any crimes which had occurred in his district. On the other hand, he acknowledged that this chief did not have the means of power to secure the surrender of Tom by the chief of the district in which he now lived. As Zembsch saw it, he was therefore called upon to secure the surrender of Tom to the chief of Putput. There was no justification for punishing the Putput for a crime which they had not committed. Nor was there justification for punishing the Tubtub for harbouring a criminal who had committed a crime outside their jurisdiction. But the use of force against them became justified when the Tubtub refused to surrender Tom, because it was reasonable to expect them to extradite a criminal living in their midst for punishment by the proper authority.

Now Zembsch handed over the matter to captain Kuhn, requisitioning him to use the military might of SMS *Habicht* to enforce his request to surrender Tom. The burning of the village and the shelling of the hinterland were part of this enforcement process. It was not aimed at punishing the Tubtub for a wrong they had done but rather a means of forcing them to do something they wrongly refused to do. This is the reason why they were threatened with a repeat of the punishment, if they continued to withhold Tom.

Hence, we miss the historical point of this episode if we see it as a punitive expedition carried out by the navy in response to the killing of Studzinka. It was not. Rather, it was a police action concerned with the termination of an unlawful state of affairs which had been brought about by the refusal of the Tubtub to surrender his killer. It was an exercise of extra-territorial police powers which Zembsch claimed as an agent of the Reich in an extension of his normal consular powers in areas of his consular district where civilised governments did not exist. But these extraordinary powers were, in this instance, surprisingly limited. Firstly, it appears that they could only be exercised in order to protect the interests of German subjects or firms. Secondly, Zembsch claimed no judicial and indeed no penal powers. He only claimed the power to bring about a state of affairs which allowed the appropriate local authority to exercise its penal powers by forcing another local authority to behave in accordance with the normal behaviour between members of the international community. Although acting as a German consul, Zembsch approached this case as someone who was applying global standards of civilisation which, if necessary, had to be enforced by military means.

The second case raised a different set of issues. It concerned the killing in the Duke of Yorks of Theodor Kleinschmidt, who collected for the Godeffroy museum in Hamburg. Kleinschmidt had quarrelled with natives of Utuan Island who had agreed to serve as crew on his boat but had refused to come when they had heard that Kleinschmidt had planned a trip of several weeks. Together with his two armed white assistants Kleinschmidt had smashed canoes and burnt houses at the beach, before pursuing the natives to a village further inland. He had threatened to destroy this village as well unless the Utuan came out of hiding. When he had fired shots into the bush, they had responded with spears and had followed him when he withdrew to his boat. After Kleinschmidt had fired another shot between the trees they had attacked in large numbers, killing him and his assistants.

Encouraged by their success the Utuan had then conspired to attack the station of the Deutsche Handels-und Plantagengesellschaft on neighbouring Mioko. Its manager, Thomas Farrell, had called on all whites and friendly natives for help and had invaded Utuan with a strong force. During several days of fighting, five or six Utuan were shot, including the one who had killed Kleinschmidt. Since the Mioko chief who had been involved in the plan to attack the station there had also died, after blowing off his hand when fishing with a dynamite cartridge stolen from Kleinschmidt's estate, Zembsch decided that no further punishment was necessary, especially as the Utuan had been "not insignificantly provoked" by Kleinschmidt⁶ and had already started to

⁶ Zembsch's report does not address the question of whether Studzinka had also been killed in response to a provocation

trade again peacefully with the whites. Still, he felt that a gesture was called for. The boats of SMS *Habicht* were therefore demonstratively positioned around Utuan to stop any canoes from leaving before Zembsch landed to talk to its inhabitants. He impressed upon them that all whites were protected by the warships, that the warships were capable of punishing anyone who harmed a white person and that Farrell's action had to be regarded as justified under the circumstances.⁷ In his report to the foreign office (RKA 2786) Zembsch stressed that he had told the natives repeatedly and firmly that a chief in whose area a white man lived was responsible for his safety and would be called to account for any harm he suffered. The natives had agreed with him that they should use no violence if they had a dispute with a white man but present their case to another white man, who would then decide the matter impartially, together with a native chief from another area, or raise their complaints with the next visiting warship.

But Zembsch also stressed that it was always most difficult to investigate disputes between whites and natives in Melanesia, because there were no adequate interpreters; because the natives ran away in fear as soon as a warship arrived, even if they had a clear conscience; because there were no chiefs whose authority extended beyond their family, village or tribe; and because neighbouring tribes were constantly feuding with each other so that it was virtually impossible to find neutral intermediaries. In other words, Zembsch knew that the agreement he had reached with the chiefs was a charade and that nothing would change, at least not immediately and fundamentally. But some wholesome Rule of Law rhetoric could do no harm and might help prepare the ground for better things to come.

Historically speaking, it is unfortunate that Zembsch decided against further punishment of those who had killed Kleinschmidt and his assistants, because this meant that he did not have to face the same kind of questions he had considered in the Studzinka Case. There is no doubt, however, that he would have had no choice but to approach this case differently because entire tribes of local natives were involved. There is also no question that Zembsch would have taken direct punitive action if Farrell's punitive expedition had not taken place—and it is highly unlikely that he would have discussed the appropriate punitive measures with chiefs from other districts before making a decision. This does not mean that Zembsch merely played games in his subtle, legalistic approach to the Studzinka Case, as the factual position in these two cases was in most important respects quite different. On the contrary, it is the fact that Zembsch did treat these cases differently that is historically significant: a naval bombardment of an area in which a European had been killed by natives was not an automatic response. Zembsch did distinguish and, judging by these two cases, tried to respond, legally speaking, as normally as possible.

However, conditions in New Ireland and the Duke of Yorks in 1881 were far from normal. This applied to the behaviour and the responses of everybody, including Zembsch. A good example is the importance he attached in his response in the Kleinschmidt Case to the fact that the Utuan had already started to trade again peacefully with the whites. Under normal circumstances this should have been irrelevant for a consideration as to whether they had been adequately punished for the killing of three people. But the whites were in the area primarily to trade and they all knew that some of them would be killed by natives in the process. This expectation was a part of their lives. For them "trade must go on" was a more appropriate motto than "*fiat justitia pereat mundus*". The natives apparently took the same attitude. They tolerated, if not welcomed, the presence of whites for the trading opportunities it offered and resumed trade not long after five or six of them had been shot dead by "the whites". It was therefore also normal for a consular

on his part.

7 As to be expected there are significantly different versions of this episode (see Wichmann, 1910: 293; and for a more recent and fuller discussion based on a different set of sources Schütte, 1989: 132-149). For my purposes these differences are immaterial. It is sufficient to summarise what Zembsch believed had happened or what he wanted the foreign office to believe he believed had happened. I am not concerned with the facts of Kleinschmidt's killing but with Zembsch's version of his response to the resulting situation.

official to avoid taking measures which interfered unduly with the trade between whites and natives. Hence Zembsch did not hesitate to justify his restrained response in both cases by pointing out that tougher action would have intimidated the natives out of all proportion and seriously interfered with their trade with all white men.

Seen from Berlin the situation looked different. Less than a year after receiving Zembsch's report, Bismarck called personally for tougher action in Melanesia, bypassing Zembsch in the process.

III

On 24 July 1882 the foreign office informed the admiralty that Bismarck intended to request the emperor to send one and, if necessary, two warships with a sufficiently large landing force to the Hermit Islands to "speedily and effectively" punish the natives who had attacked the steamer *Freya* of the Hernsheim firm, killing her captain and seriously wounding one of its crew. The natives of this small group of islands had fired shots at the steamer *Pacific*, belonging to the same firm, a few weeks earlier. The trading station maintained by the firm had been burnt down and the agent and his native labourers presumably murdered (RM I/2894).⁸

The admiralty showed little enthusiasm. Since the islands were part of Zembsch's consular district and since the station cruiser *Carola* was strong enough to carry out the punishment, it assumed that matters had already been set in motion locally. To send out warships from Germany would give the matter an exaggerated importance—thus went a marginal note, probably by its chief, admiral von Stosch.

The admiralty responded to the foreign office accordingly,⁹ although it now favoured a postponement of the punishment until SMS *Hyäne* had arrived at the Australian station to which it had been posted as a second vessel. It also instructed captain Karcher of SMS *Carola* to discuss the appropriate arrangements with consul-general Zembsch. Bismarck was satisfied but expressed the wish that the punishment be carried out in "the most forceful manner" (*in schärfster Weise*)—which the admiralty translated into a supplementary order to Karcher.

When SMS *Carola*, and SMS *Hyäne* under lieutenant-commander Wilhelm Geiseler, reached the waters surrounding the Hermit Islands on Christmas Eve 1882, Karcher had not yet worked out precise plans as to how he was going to give "a warning example" to its native inhabitants for the "outrageous cruelties" they had committed.¹⁰ But he had gathered additional information. In particular he had established that the seven native labourers employed by the station had been killed before the sick agent, Southwell, had been buried alive and the station had been looted and burnt.

The two warships peacefully celebrated Christmas outside the lagoon, Karcher checking his information with five natives from the neighbouring Anchorite Islands who had been taken on board there as interpreters and scouts because they had previously lived on the Hermits for some considerable time. However, communication with them was difficult, since no-one spoke their

8 The letter by the foreign office included a copy of a report by consul Hernsheim with its enclosures, in particular a report of the Hernsheim employee Michelsen, who had travelled on the *Freya*. It suggested that captain Homeyer had behaved in a rather foolhardy manner. The consular report did not ask for drastic punitive measures but merely proposed that the matter be investigated during the next visit of a German warship to Matupi which consul-general Zembsch had already foreshadowed.

9 Its response also indicates that the admiralty believed the Hermits to be part of the Marshall Islands.

10 Contrary to Wichmann (1910: 303, Fn. 2) a detailed report on the punitive actions by the two vessels was published at the time—but in the *Marine Verordnungsblatt* (1883: 7–25) and not in the *Annalen der Hydrographie* as he had expected. Judging by Dempwolff (1904—see below in the text), who was given access to the naval files, the published version is reasonably complete (although it omitted at least one significant detail—see below, Fn. 13). As far as I can see, the original reports are not among the naval files kept by the Militärarchiv in Freiburg.

language¹¹ and they spoke only a few words of English. Nonetheless, Karcher found out that the total population of the Hermit Group was only around 100, less than the landing forces of the two warships. Even this small number did not form a single tribe, under one or two chiefs, as he had been told, but was divided into numerous family groups. Since the heads of most of these groups had been involved in the murder of Southwell and the subsequent attacks on visiting vessels, Karcher believed there was little chance that the guilty parties would be surrendered. But he did not expect open resistance either. The most likely outcome was that the natives would run away into the interior, so that punitive measures would have to be limited to the destruction of property—as in the case of the Tubtub expedition by SMS “*Habicht*”—although he hoped that he could at least impose a fine on them in the form of copra which would compensate the Hershheim firm for some of its losses. As surprise was out of the question the first step was a systematic destruction of canoes to prevent the natives from leaving their group. Even that required considerable caution since they had a large number of firearms and plenty of ammunition. When the two warships sailed into the lagoon on 26 December the inhabitants of the main village on the main island, Luf, were sitting unarmed on the beach, showing no sign of fear or hostility. But they disappeared into the bush when they were approached by one of the cutters of SMS *Carola*. It was followed by the steam pinnace and the second cutter. All canoes found on the beach were destroyed and the three boats returned to SMS *Carola*. She had cast anchor near the village, whereas SMS *Hyäne* had sailed to the other side of the island. As it was already too late to land, the rest of the afternoon was spent destroying more canoes: a total of 13.

For the next morning a landing of the marines from both ships was planned. Some natives were visible near the main village but again disappeared when the boats approached. The landing was preceded by a bombardment of the village and the surrounding bush with five 15 cm shells, two 8.7 cm shells and 13 shots from the revolving cannons. The landing detachment of SMS *Carola* had orders to destroy the main village, as well as a second village situated some distance inland, to fire at armed natives, to take unarmed natives prisoner and to spare women and children. Both villages were destroyed and eight further canoes, mostly sea-going ones more than 50 feet long. Fifteen rifles and large quantities of ammunition were found and tradegoods were scattered everywhere.

As SMS *Hyäne* had difficulty landing in the north of Luf, it was ordered to join SMS *Carola* in the little bay near the main village. In the afternoon Karcher sent the five Anchorites to request the chiefs to come to his ship. They were to be told if they appeared before noon the following day nothing would happen to them, otherwise everything on the island would be destroyed. The emissaries returned the next morning, reporting that all natives had withdrawn to the mountains, that the chiefs were too frightened to come, apart from Pissigo—a staunch friend of the whites—who wanted to come but was held back by the others. The Anchorites were again sent out to persuade at least Pissigo to come to the warship, but without success.

On 29 December the campaign of destruction was continued on the northern side of Luf. The landing detachment of SMS *Carola* went ashore at the western point, and that of SMS *Hyäne* at its eastern end. They were expected to catch the natives between them, since the northern slope of the mountains seemed so steep that it was expected to prevent them from escaping inland.¹² The ships were to lend artillery support in case serious resistance were to be offered.

11 This included the Hershheim agent in the Anchorites who had been taken on board because the five men selected by Karcher as interpreters and scouts had refused to come, out of fear that they would not be returned, until the agent had offered to accompany them. As we have already seen such communication problems continued to play an important part throughout the history of German colonial rule in the Pacific. Insufficient attention to its impact has made a major contribution to the phantomisation of this history.

12 Luf is some ten kilometres long and, on average, less than two kilometres wide, with a hilly interior rising to less than 200 metres.

Eleven large canoes and seven houses were destroyed in the course of the day, another five rifles and large amounts of ammunition were picked up, but no natives were seen. Instead it was found that the mountains were criss-crossed by tracks. Karcher therefore decided to send one half of the landing detachments into the interior the next day. The *Carola* contingent under lieutenant Wahrendorff spotted a native observing its movements and, failing to capture him, shot him dead. Over an hour later it came across a group of about 40 natives on a ridge. They were warned by a premature shot so that they could not be surrounded. Instead they scattered in all directions. Fire was opened "successfully" but not returned. Shortly afterwards three women were captured. After an "unsuccessful interrogation" two of them were released. The third was retained as a guide. Subsequently two girls who were hiding with a large amount of food on a densely wooded hilltop were taken prisoner. Further questioning of the three prisoners yielded no useful information. They were unmoved by everything and happy to come on board SMS *Hyäne* to get food and tobacco.

Keen to press the advantage gained, Karcher wanted to send the Anchorites out once more to demand a surrender but they were too tired and frightened to approach the Hermits in the dark. He had to wait until the next morning when three of them set out, accompanied by the Hermit women. They all returned in the evening, together with two additional women. They had only met Pissigo who told them that the others had decided to kill themselves rather than surrender and were considering an escape from the group as an alternative. He, Pissigo, had no fear of the whites and would come in due course.

When Luf, as well as some smaller islands, were searched on 1 January, deserted camp sites were located, with more ammunition and tradegoods, but only one man and a few women were seen from the distance. The marines had been ordered to shoot only in an emergency. While the search went on, Pissigo appeared with yet another woman. But he had nothing new to say, because, as he claimed, he had not been in contact with the other natives for some days.

The 2nd of January was a day of rest for the marines, while the nautical staff carried out some survey work. Karcher decided to conduct another search the following day to establish whether the natives were still around or whether they had fled on canoes which had escaped destruction. In the meantime he interrogated Pissigo again, who had settled down with the women on SMS *Carola* and appeared to feel quite comfortable. It gradually emerged that two particularly large canoes had been carefully hidden. If they were still there the natives were hiding somewhere if they had gone the plan to sail to Uwe, an island about 30 nautical miles away, had been carried out.

When the boats were about to set off in search of the two canoes the next morning with Pissigo as a guide, he unexpectedly pronounced that both they and all the natives were gone. Indeed only an empty boat shed and some tackle were found. A search of the small islands on the outer reef established that they too were deserted and had not been visited for a long time.

On the morning of 5 January Pissigo and the women were returned to the shore with instructions for the future. This time only two men had been killed as a punishment for their attacks on whites. From now on they should be peaceful and cooperative, otherwise everybody would be killed. For good measure Pissigo, who insisted that he had always advised the others to keep the peace but that they had not listened to him, was made personally responsible for the return of the refugees.

SMSS *Carola* and *Hyäne* certainly did not find them on Uwe, where three visiting Ninigo natives assured them that they had not turned up in their group either. Karcher assumed that the stormy weather during the last days had driven them off course. What had happened only time could tell, for the present his mission was completed.

The result of the ten day stay in the Hermit Islands can be briefly summarised as follows: the property of their inhabitants, consisting of about 67 houses, 54 canoes and smaller items, especially arms and ammunition (a total of 24 rifles) were destroyed, together with all gardens; two men were killed and many of the inhabitants were driven off the island.

During a peaceful visit the following year SMS *Carola* made contact with about 30 men and a dozen women. Wherever the Hermits had been, at least some had resurfaced. But their experience had hardly boosted their confidence in the future. When Dr Dempwolff medically examined the population of the Hermit Group in 1902, he counted 74 persons, but among them was not a single child under the age of four and not a single pregnant woman. Although the loss of lives during the punitive expedition had been small,¹³ Dempwolff tended to believe that the native inhabitants of the Hermit Islands had decided to die out as a response and that they were well on their way to achieving their goal.

Whether the population decline continued is not part of our story, but it is unlikely that its onset can be attributed to the actions of the imperial navy here summarised. If the bulk of the population of the group fitted into two large sea-going canoes at the end of 1882, what had the people been doing with the 54 canoes the marines had destroyed, many of which had been of a similar size? Their number would seem to indicate that the population had until recently been much larger, even larger than the 300 to 400 estimated by Hensheim in his 1882 consular report. What had happened to them, since they could not have left the group with their canoes which had now been destroyed? Had a population decline started with punitive measures taken after the killing of a captain Bird by HMS *Alacrity* in 1874 when a population of between 400–500 souls had been counted (see Wichmann, 1910: 194)? Had a natural catastrophe—such as the 1875 flood referred to by Wichmann (see *ibid.*: 227)—decimated the population and broken its spirit? Had the attacks on the Hensheim trading station and its two steamers been manifestations of a death wish? But if this was so, one would have expected the Hermits, instead of refusing to surrender but offering no resistance to the warships, to have challenged them to a battle in which all Hermits would have perished?

On the other hand, the behaviour of Pissigo and the women who were happily smoking on board while the marines were combing the island for their relatives also appears decidedly odd. But was it more remarkable than captain Karcher's interpretation of Bismarck's wish to see the punishment carried out "in the most forceful manner"? Did he believe that he was acting in accordance with his orders when he assured the chiefs that nothing would happen to them if they surrendered peacefully and subsequently ordered the marines only to shoot in an emergency? Or did he consider that the circumstances in the Hermit Islands were so different from how they had appeared in Berlin that his superiors would agree that a more severe punishment would have been inappropriate?

Four years later Bismarck had also changed his tune. He rather echoed the 1882 sentiments of the admiralty that it would be a mistake to give minor punitive actions of the navy in remote parts of the globe an exaggerated importance (see above: 102). However, by then the political and legal situation had also changed fundamentally. Calling for a one-off demonstration of naval power in a political no-man's-land to show the world that the Reich was serious in its commitment to protect German trade was one thing; the employment of the imperial navy as a police force within a German colony, for whose government the chancellor of the Reich was politically responsible, quite another.

13 According to Dempwolff (1904) a woman had also been shot dead, a fact which had been omitted from the published reports.

IV

In February 1884 the foreign office informed the admiralty that it was planned to send an official from the German consulate-general in Samoa as an imperial commissioner to Melanesia for the next "recruiting season" to ensure, with the support of the navy, that German vessels complied with the regulations which had been issued for the recruitment of natives as labourers. The imperial commissioner also had the task of protecting German commercial interests from being violated or disadvantaged. However, in doing so he had to prevent the development of tensions between Germans and members of "other nations" or, at least, to reduce them to a level which precluded diplomatic complications.

Since the British government had already posted a deputy high commissioner to the area, it had been informed about the intended move. The foreign office hoped that the combined efforts of these two officials would strengthen the feeling of all concerned that their rights would be protected.¹⁴ The honorary German consul, Herr Hershheim in Jaluit, had been informed that he had, for the time being, been subordinated to the imperial commissioner in the exercise of his consular powers (RM I/2894).

These were presumably also the instructions issued to consular secretary Gustav von Oertzen when he was given this post. A few months later they were overtaken by events.

14 The term "*Rechtssicherheit*", used by the foreign office, is difficult to translate. It stands for a state where the rights of individuals are safe—hardly a realistic goal in Melanesia in 1884.

Chapter 9: The Dawn of Colonial Rule

I

Soon after Oertzen had arrived in what was then called the New Britain Archipelago in June 1884 he was drawn into the events leading up to the annexation of colonial territory by Germany. The crucial step in this process was the granting of an imperial charter to the embryonic Neu Guinea Kompagnie in May 1885. Although this charter left the government of the colony in principle to the company, it took until June 1886 before its first administrator arrived in the designated capital, Finschhafen, in Kaiser Wilhelmsland and until November of this year before an imperial judge was installed in what was now called the Bismarck Archipelago. The company's first "station director", who was to be in charge of the archipelago's local administration, did not take up office until after Oertzen had left in January 1887 to return to the consulate-general in Samoa. I want to take up the story when the question arose as to what extent the emperor's powers of government were to be exercised by Oertzen as imperial commissioner.¹

The day before the charter was issued, Oertzen was instructed by cable to protect one of its central provisions: the land acquisition monopoly granted to the company (NKWL 1885, I:5). He was therefore ready to notify the public locally on 22 May that new land acquisitions without the approval of the German authorities were invalid. Subsequently Oertzen was instructed to publish an expanded version of this notice in the Australian press. It also dealt with the recruitment of native labour and the supply of arms, ammunition, explosives and liquor to natives (NKWL 1886: 59).

While the "authorities" and "officials" referred to were those of the Reich, rather than representatives of the company, and thus, in practice, primarily Oertzen himself, these public notices gave him no penal powers. Nor did they expressly expand in other ways his consular powers, which were restricted to German nationals and protected persons. They merely confirmed his role as the controller of the German involvement in the labour trade, although they probably authorised him implicitly to call on the navy to prevent foreign vessels from engaging in now illegal forms of labour recruiting. On the other hand, these notices foreshadowed the setting up of some kind of mechanism to deal with land claims of non-natives, presumably also under the control of imperial officials. It was indeed Oertzen who issued a public notice in February 1886 requesting all those who claimed to have acquired land before 22 May 1885 in the Bismarck Archipelago—but not in Kaiser Wilhelmsland—to submit their titles to him before 1 May 1886 for examination and possible registration.²

A month later Oertzen categorically prohibited the recruitment and removal of natives as labourers from northern New Ireland—now renamed Neu Mecklenburg. This prohibition remained in force until it was repealed by the chancellor of the Reich in September 1887 because it clashed with the new legal regime administrator Schleinitz had begun to introduce by means of an ordinance of 13 January 1887, based on an authority given to him by the chancellor of the Reich on 24 June 1886.

On the same day the chancellor informed Oertzen that Schleinitz had been authorised to exercise the judicial jurisdiction under the Protectorates Act and that Oertzen's consular

1 For a detailed discussion of the annexation process see Sack, 1987.

2 The confinement of the preliminary registration process to the Bismarck Archipelago was primarily due to the fact that, apart from the unusual land claims of the Russian Mikloucho-Maïlay—which had, in any case, to be dealt with at a high diplomatic level (see Germer, 1961)—only the Neu Guinea Kompagnie claimed land in Kaiser Wilhelmsland. But it also suggested that while Kaiser Wilhelmsland was generally recognised as a preserve of the Neu Guinea Kompagnie this did not apply to the Bismarck Archipelago with its established cosmopolitan settler population.

jurisdiction would come to an end when Schleinitz began to exercise his jurisdiction (RKA 4780). In addition, Oertzen was instructed to get in touch with Schleinitz immediately about the treatment of the existing land claims.

Oertzen reported on 15 November 1886 that he had contacted Schleinitz at the first opportunity and that Schleinitz had arrived in Matupi two days previously, bringing with him the imperial judge, Georg Schmiele, who had taken up duties on the same day. He, Oertzen, would hand over his provisional land register to Schmiele as soon as the latter had familiarised himself with the local conditions (RKA 5344).

This suggests a smooth transfer of powers. But a letter from the Neu Guinea Kompagnie to the chancellor, dated 5 July 1887, raises doubts that this had in fact been the case because it requested the return of files Oertzen had taken with him to the consulate in Samoa. It is therefore necessary to inspect the relations between Oertzen and Schleinitz more closely.

II

In 1884 Oertzen had been instructed to support the land acquisitions Otto Finsch was supposed to make, in particular in northeastern New Guinea, to give Germany's territorial ambitions a firmer base. After the annexation had been completed, Oertzen was ordered to keep an eye on the stations the Neu Guinea Kompagnie was beginning to establish in Kaiser Wilhelmsland. Its first station, Finschhafen, was opened in November 1885, but Oertzen had no opportunity for a visit until the cruiser squadron under rear-admiral Eduard Knorr arrived from the Marshall Islands on 15 June 1886 with Oertzen's consular colleague, Wilhelm Knappe, as a passenger. Oertzen requested Knorr to assist him in carrying out a tour of inspection (RM I/2626). Knorr accepted and on 25 June 1886 his flagship, SMS *Bismarck*, entered Finschhafen to find that administrator Schleinitz had been in residence for about two weeks.

Since Knorr was a personal friend of Schleinitz, a retired vice-admiral (see Schellong 1934: 75), the visit was cordial and Knorr sent a favourable report about conditions in Kaiser Wilhelmsland to the admiralty (RM I/2732). The report said nothing about any discussions between Schleinitz and Oertzen. Nor is Oertzen's presence during the visit of the cruiser squadron mentioned in the diaries of Otto Schellong, the company's medical doctor in Finschhafen, although he praised Knappe as a welcome addition to its social life, perhaps because Knappe, in contrast to Oertzen, had remained in Kaiser Wilhelmsland for some weeks, waiting for a ship to take him to Australia, in the meanwhile entertaining the locals with stories about the pleasures of living in Samoa (Schellong, *ibid.*).³

When and how did things go wrong? It appears that the situation deteriorated quite suddenly and that a climax was reached during a Christmas visit by SMS *Adler* to Finschhafen, with Oertzen again on board. Finschhafen had been looking forward to this visit. Schellong entered in his diary on 21 December 1886: "The long awaited *Adler* has arrived, just in time for Christmas; we are overjoyed; it is as if the homeland is going to embrace us" (*ibid.*: 104). Schleinitz had issued orders about the protocol to be observed. The boats had been freshly painted. Their black crews had been dressed in white and given special lessons in oarsmanship. The *Adler*'s band had played when her anchor was cast and Finschhafen's station manager, Richard Mentzel, had paid an initial visit to the cruiser and her commander, Friedrich von Wietersheim. Then the speed of events went into slow motion. It took hours before Wietersheim's adjutant arrived with an official letter for the administrator. Wietersheim followed after another long interval, just before sunset. Schleinitz's return visit was delayed until the next afternoon. Moreover, he wore civilian dress, no salute was fired in his honour, and he only stayed for quarter of an hour. Still, contacts at a

3 Knappe's report to the foreign office about his stay in Kaiser Wilhelmsland is much more critical than that of Knorr to the admiralty (see RKA 2977).

lower level could now begin, including visits between Schellong and his medical counterpart on SMS *Adler*. They revealed that the position was so serious that the joint Christmas celebrations had been cancelled.

[T]he question is: is Vice-Admiral von Schleinitz in his current capacity as Administrator for the naval commander an official personage, like a consul, whom the latter has to pay an official visit, or is he, as a person in charge of a private company, albeit one exercising rights of sovereignty, to be treated as a private individual by the Navy? Even though we cannot quite see the importance of this disputed question we must back our Administrator... but we do so with mixed feelings (ibid.: 105).

Although the company's employees, as well as the *Adler*'s crew, regarded a difference of opinion about Schleinitz's status as an adequate explanation for the spoiling of their Christmas celebrations, it will not come as a surprise to learn that local gossip had only identified the tip of an iceberg. To appreciate what had happened, we must go back to Schleinitz's visit to the Bismarck Archipelago in November.

When Schleinitz arrived, SMS *Adler* had been present for more than a week, resting from the effort of placing the northern Solomons under imperial protection. Wietersheim had been received by Oertzen with numerous requisitions, including one for another tour of inspection by him of the stations of the Neu Guinea Kompagnie in Kaiser Wilhelmsland, which could all be knitted together into a single round-trip. Neither Schleinitz's visit, nor Schmiele's installation as imperial judge in the Bismarck Archipelago, had made a difference to these arrangements. Indeed, when Schmiele joined the trip, he did so on the basis of another requisition by Oertzen, and only in order to carry out a particular judicial investigation which Oertzen had meant to undertake but had passed on to Schmiele since it now came under his jurisdiction (RKA 2720).

The investigation concerned the alleged maltreatment of three Chinese in northern New Ireland by their boss, the agent of the Hernsheim firm, Friedrich Schulle. Its results convinced Schmiele that he should ask Wietersheim to take the three Chinese in question immediately on board to separate them from their brutal employer. Wietersheim agreed, but only on the understanding that the costs of their transportation would be refunded by the Neu Guinea Kompagnie to the *Adler*'s home base, the Baltic naval station, because such "court expenses" were the company's responsibility under its charter.⁴

There is no record of Schmiele's report to Schleinitz, which he probably made orally shortly after the arrival of SMS *Adler* in Finschhafen.⁵ But we do know the content of the letter Wietersheim's adjutant took to Schleinitz during the afternoon of 21 December 1886. In it Wietersheim complained bitterly about having been unable to obtain fresh food for his crew during his visit to the company's stations in Hatzfeldhafen and Constantinhafen. Since these settlements would in future be visited regularly by naval vessels there was an urgent need to have such supplies readily available. Moreover, it was in the company's interests that they were "able to stay at any time at a station to carry out those requisitions which are regarded as necessary" (RM I/2427).

Schleinitz's written reply, made the following day, was of ironic politeness. He sincerely regretted Wietersheim's disappointment, all the more so as it would have been a pleasure for him to arrange for provisions, if he had been officially informed about the intended visit. "However, to this hour I have neither been officially notified by the authorities at home nor by Your Honour about the presence and the orders of SM Cruiser *Adler* in the Protectorate which has been placed under me" (ibid.). In other words, it was power, not mere protocol, which was at issue. True, Schleinitz was worried about his status, especially its recognition by his former naval comrades,

4 In the meantime the three Chinese were occupied on board as carpenter, stoker and cook "in accordance with their respective abilities" (RM I/2720).

5 I assume that Schmiele took the first opportunity to disembark and to report to the administrator.

but when he insisted that he was entitled to a 21 gun salute as much as an imperial governor, or that Wietersheim could have only paid him a private visit when he turned up in his tropical uniform rather than his dress uniform, he was concerned about who was ruling German New Guinea—and his rival in this regard was Oertzen, not Wietersheim. Thus it was the former who received, four days later, Schleinitz's carefully worded reproach.

It has come to my knowledge that Your Honour has, through requisitions made to SM Cruiser *Adler* and by other means, performed acts of the internal administration within ... the Protectorate which has been placed under the Neu Guinea Kompagnie after I had actually taken over the administration of this area. Moreover, you have done so without officially notifying me of the measures you have taken so that I am in fact even now not informed about the details of important events which have taken place in territories which have been placed under me.

As Your Honour knows, the rights of local sovereignty have been transferred to the Neu Guinea Kompagnie by His Majesty the Emperor through the Charter of Protection of 17 May 1885.... [T]he Imperial Government has only reserved for itself, the organisation of the administration of justice, the regulation of the relations between the Protectorate and foreign governments and the ultimate supervision.

In the meantime a Decree of the Chancellor of the Reich has also transferred the exercise of the judicial jurisdiction in the Protectorate to me and I have, by virtue of the authority given to me, appointed the Royal Prussian Court Assessor Schmiele, ... to exercise the jurisdiction in the Bismarck Archipelago. It is therefore beyond doubt that the entire field of internal administration falls within the exclusive competence of the Neu Guinea Kompagnie which can only be exercised by me as its highest representative....

As Your Honour knows, the right to carry out the internal administration is inseparable from the territorial sovereignty so that Your Honour would even then not be entitled to interfere with it if You had been specifically authorised to exercise the ultimate supervision which the Reich has reserved for itself—although this is, to my knowledge, not the case.

I therefore most respectfully beg Your Honour kindly to refrain in future from any interference with the Neu Guinea Kompagnie's rights of sovereignty or, respectively, with the internal administration of the Protectorate

I have informed the Commander of SM Cruiser *Adler* of this letter since he has lent a hand in the acts of interference with the sovereign and administrative rights of the Neu Guinea Kompagnie which have occurred.

Oertzen's first written statement in the matter, sent to Schleinitz on the evening of 26 December, responded to oral representations which Schleinitz had apparently made during his visit on board SMS *Adler*. In it Oertzen took cover behind the instructions issued by the navy. He pleaded for cooperation between the imperial officials and officers and the staff of the Neu Guinea Kompagnie, but insisted that any action on the part of the navy presupposed an official requisition which could only be made by him, as representative of the imperial government, although he was happy to consider at any time requests Schleinitz might care to make (RKA 2657).

The reply to Schleinitz's written accusation of illegal interference in his governmental powers, delivered as a parting shot just before the *Adler*'s departure on 27 December, called for greater firmness. "However estimable Your Excellency's views may be, they cannot cause me to neglect my duties to protect the interests of the ... settlers in the Protectorate", Oertzen wrote. This duty required him, in particular, to requisition the help of naval vessels when crimes had been committed by natives against the person or property of whites and to carry, as the imperial representative, the political responsibility for the navy's ensuing military actions. It was out of the question that he would relinquish his post—as Schleinitz must have verbally suggested—without being expressly ordered to do so by the chancellor of the Reich, especially since Schleinitz's judicial authority did not extend to the native population. Besides, the Neu Guinea Kompagnie had so far failed to create any institutions of government which could protect the settlers, or even its

own stations, so that it had, in practice, still to rely on the protection offered by the imperial government. Under these circumstances, Oertzen concluded, it would be unwise to push prematurely for an extension of the company's rights at the expense of the imperial government's supreme sovereignty. At any rate, Schleinitz would have to await further instructions by the chancellor of the Reich in implementation of the company's charter before he could assume responsibility in this area (*ibid.*).

Wietersheim had an easier task because Schleinitz had only accused him of being ignorant of the constitutional position. He could therefore limit himself to refuting this suggestion and to expressing his regret if his behaviour, which had been guided by general naval instructions and his specific sailing orders, had brought him into conflict with the authority given to Schleinitz. But Wietersheim could not resist the temptation to score a point: was not the fact that a copy of his sailing orders had only been sent to Oertzen proof that Oertzen, and Oertzen alone, was still to be regarded as the sole representative of imperial authority? Wietersheim's conclusion was the same as Oertzen's: whether Schleinitz liked it or not, he had no standing in relation to the navy, and this state of affairs could only be altered by unequivocal instructions from Berlin to all concerned.

While the admiralty strongly backed the stand Wietersheim had taken (RM I/2427), Oertzen was embarrassed when he found in the mail waiting for him in the Bismarck Archipelago an order by the foreign office recalling him from his post. Yet he not merely defended himself by claiming that the entire conflict had been Schleinitz's fault, as he and Wietersheim had treated him throughout with exquisite politeness, but also insisted that even if Schleinitz was given the authority to requisition the navy, the settlers in the Bismarck Archipelago, for whose interests the Neu Guinea Kompagnie had so far shown no concern, could not reasonably be expected to send their complaints about native crimes to Finschhafen if they had imperial officials and officers able to protect them in their midst. Now that he had been recalled, there was no alternative but for the commander of the warship stationed in the Bismarck Archipelago to also assume the political responsibility for taking prompt military action (RKA 2657).

Oertzen should have known, and probably did know, that such a total surrender of governmental powers to the navy would be unacceptable, not least to the navy itself. The solution adopted in Berlin amounted to a belated victory for Schleinitz. It took the form of two instructions issued a few months later.⁶ The first was directed by the emperor to his naval commanders and the second by the Neu Guinea Kompagnie to its administrator, who was given a limited right to request naval assistance.

The reports Schleinitz must have submitted to the company in this matter are no longer available. Yet, there is some circumstantial evidence suggesting that even more than honour and power had been at stake. Commenting ten years later on a major colonial scandal in Germany's African colonies, Schleinitz added in a footnote that he would never forget a conversation with a high naval officer who had warmly supported a system of raging against the natives with cane, rope, powder and lead, claiming that it was attributable to his determined rejection of such unbridled principles that this way of thinking had not gained ground in German New Guinea (1896: 67). If this was a veiled reference to his confrontation with Wietersheim and Oertzen on the eve of Christmas 1886 the largest bone of contention may have been an excessively aggressive native policy which Oertzen and Wietersheim had pursued. Before examining this question, however, it may be useful to approach Oertzen's activities from another angle, namely from the perspective of the settlers in the Bismarck Archipelago whose protection was so dear to his heart.

6 These instructions are part of another story.

III

This small group, around 30 persons when Oertzen arrived in 1884, consisted mainly of traders and missionaries living in the northeastern Gazelle Peninsula, the Duke of Yorks and northern New Ireland. As regards the missionaries, the activities of the Catholics had almost ground to a halt, so that the Methodists were the only spiritual force to be reckoned with. Commercially the scene was dominated by three firms: the Deutsche Handels- und Plantagen-Gesellschaft, which concentrated more and more on recruiting Melanesian labourers for its plantations in Samoa; the Hensheim firm, a trading enterprise with a strong interest in northern New Ireland; and Farrell who operated the first plantation in German New Guinea and specialised in large scale land acquisitions.⁷ The three firms employed a fluctuating number of more or less dependent traders, including several survivors of the disastrous colonisation scheme of the Marquis de Rays, chief among them J.M. Mouton and his son Octave, who later became one of the leading businessmen in the colony.⁸

On 18 March 1886 Mouton senior wrote to the family of his former employer in Belgium:

think I told you that I bought a lot of land ... Up till now only German subjects have been allowed to have the titles of their properties registered. A few days ago I was specially informed that I could register mine with the Imperial Commissioner in Mioko ... [but] everything has to be translated into German so that it is still not such an easy business ...

We have signed another contract for two years ... [with the Hensheim firm on more favourable terms]. Before we had only two stations ... now we have five and will have more if necessary. One would already have been put up but Farrell opposed it under the pretext that he had bought all the land in the area ... I already have a bone to pick with him for various matters like that and I will have even more. But when a Commission arrives to investigate these claims they will be reduced by a lot. In the meantime no-one here has the power to deal with these matters ...

In his son's memoirs Oertzen also mainly figures in connection with land matters. When he gave instructions that all "self-made titles" should be presented to him, the Moutons did so, as did their partner, Dupré, another former Marquis de Rays colonist. Whereas the latter had no difficulties, the Mouton claims were not accepted because, as Oertzen told them, the land they claimed had previously been bought by Farrell. "It was now clear to father", Octave wrote, "that Farrell again was behind the scene and with his Samoan girls and champagne he bribed the poor fool Von Oertzen" (Biskup, 1974:83). Mouton senior raised this accusation in letters to Oertzen as well as to Hensheim, who refused to support him. Understandably Oertzen was "quite wild with father"; he even "went so far as to cause trouble with our trading", by instructing a German warship to destroy a hut Mouton had built for his native traders on the land which both he and Farrell were claiming.

In order to protect his land claims, Mouton senior wrote to the Belgian consul in Sydney, paying a merchant sailor handsomely to post the letter abroad.

It is quite clear that if father had not used this stratagem to circumvent Farrell, any ordinary way to send a letter to the Consul and even to other address would never have reached their destination, for the simple reason that Von Oertzen knew that he was doing wrong, and Hensheim would take the part of Von Oertzen, and as there was a kind of a mailbag made for any ship available for postage for the public and the Government, any letter from father would certainly have been censored (*ibid.*: 84).

7 Farrell was the partner of the future "Queen Emma". She does not figure in these early sources although this changed once she had bought Farrell's estate, paying his creditors, according to Eduard Hensheim, a fraction of his debts.

8 See Biskup, 1974. J. M. Mouton's letter, a translation of which from the French original is quoted below, is privately held.

Almost a year later, Octave Mouton recalled, his father received a message from Oertzen to send all his land titles for registration, followed by a reply letter from the Belgian consul in Sydney who had set the diplomatic wheels in Brussels and Berlin in motion. Mouton senior was convinced that Oertzen had withheld the consular letter until then because "he was not too sure of himself". Oertzen, Octave Mouton claimed, even begged his father not to mention anything of what had happened. According to his son, Mouton senior had been a generous victor, assuring the imperial commissioner that he knew that Farrell had been the true culprit and that Oertzen's blame was only that he was a weak man (*ibid.*).

From Eduard Hensheim's perspective the most important event connected with Oertzen was his arrival in June 1884. What effect would this have on his own consular position? A letter from consul-general Stuebel, introducing Oertzen, reassured him. As Hensheim understood the position, Oertzen was to exercise the official powers of a consul general "without however impinging on my rights and duties as Consul".⁹ The situation was rendered even more harmless because "Oertzen was to take up residence in Mioko for the purpose of supervising labour recruitment" (1983: 87). Hensheim had a low opinion of Oertzen's performance in this regard, since he

was at pains to promote the interests of the Samoa Company as far as possible, and to refute the allegations against the captains of the firm's recruiting ships, which were based mainly on statements made by the British missionaries. Nevertheless we maintained good relations and were frequently in very close contact when we were both cabin passengers on the *Hyäne* at the same time (*ibid.*).

There are only two further passing references to Oertzen in Hensheim's memoirs: the first that Oertzen had been instructed at the time of the flag hoistings in November 1884 to encourage the purchase of land by Germans so that he, Hensheim, had to permit his traders and agents, including the Moutons, to join the dance (*ibid.*: 91); the second that he had reported the brutal behaviour of his agent Schulle to "Commissioner von Oertzen who was as yet the only competent authority here" and that a copy of this letter, due to an indiscretion of his clerk, had come into Schulle's possession (*ibid.*: 97).

Hensheim's diaries¹⁰ tell a story which corresponds closely to the Mouton version. It begins in April 1885 when Hensheim learned that Farrell was planning to expand his trading network to New Ireland. Hensheim assumed that Farrell intended to start a trade war in what had been his preserve in order to force him to buy Farrell's entire enterprise, so as to eliminate this competition. But he had not expected that Farrell would pursue his goals, whatever they were, with as much determination as he did. When Hensheim complained to Oertzen that Farrell's new trading stations in New Ireland were situated on land bought by his firm, Farrell not only denied this in a letter to Oertzen, and accused Hensheim of occupying land he, Farrell, had bought in New Britain, but also heaped "abuse on the German Consulates, so that on my advice Oertzen sent the scrawl back with a note to the effect that he could only acknowledge the reply [by Farrell to the charges that he had acted illegally in New Ireland] if these abusive passages were omitted".

By mid-June the position had changed. Hensheim received a letter from Oertzen "with very stupid [that is to say positive] comments on Farrell, who was in Mioko with the whole family and told Oertzen lies and got around him". In November Hensheim decided that he should improve his relations with Oertzen by "making up to him", but he thought that the whole business was beginning to get boring. His move was successful, for by the beginning of 1886 Oertzen was again "flirting" with Hensheim, implying that the German government planned to strengthen the position of the Deutsche Handels- und Plantagen-Gesellschaft and the Hensheim firm in the

9 Whether this interpretation was accurate is another matter.

10 What survives of them is held by the Staatsarchiv in Hamburg. Excerpts are included in Hensheim, 1983.

Bismarck Archipelago at the expense of the Neu Guinea Kompagnie—"possibly New Ireland for us [and] Kinigunan and Birara [that is to say the eastern coast of the Gazelle Peninsula] for [the] Handels- und Plantagen-Gesellschaft... *Veremos* [we shall see]". No wonder that in response to this uplifting news, which would have amounted to an economic monopoly for Hernsheim in New Ireland—under exclusion of Farrell as well as the Deutsche Handels- und Plantagen-Gesellschaft and the Neu Guinea Kompagnie—Hernsheim wrote a very friendly private letter to Oertzen (*ibid.*: 75-79).¹¹

The Methodist missionaries were concerned with yet another aspect of Oertzen's role and showed a shrewd appreciation of his changing legal position. Not long after Oertzen's arrival, on 26 July 1884, Isaac Rooney, who had been approached by the commander of a British naval vessel on behalf of Oertzen, assured the latter that he would be happy to render him any assistance in his power to investigate the death of Sione, a Samoan trader in New Ireland. These investigations revealed that the matter had gone further than had first been believed. Rooney therefore wrote again to Oertzen a few days later.

I wish to lodge with you as the representative of the Imp. German Government in these seas a complaint against the sons of the Kuras Chief for firing on one of our Teachers who is a British Subject.

The Kuras boys having a quarrel with the Matakana people over some trading transaction ran away with the trader's boat leaving Sione ill at Matakana. As Sione grew worse Josaia [the teacher] went in a canoe to Kuras in order to fetch the boat for Sione either to take him to Kuras or bring him over here for medical aid. As soon as the Kuras boys saw the canoe they armed themselves, got in the trader's boat and pursued the canoe, firing at the teacher, who was obliged to return to Matakana without the boat. As he was at the time endeavouring to do a service to the trader employed by the German firm at Mioko and as the offence was committed on board a boat belonging to the said firm I appeal to you for redress in the matter.¹²

Rooney was not convinced, however, that Oertzen would see fit to intervene and thus informed the representative of the Deutsche Handels- und Plantagen-Gesellschaft that he would be obliged to bring his complaint before the next British naval commander if the imperial commissioner could not deal with it.

When Benjamin Danks asked Oertzen in an undated letter, about a year later, to investigate the conduct of another Samoan trader, Faifaiesa, who had seriously injured a native in the Gazelle Peninsula, he sounded a different note.

Since the annexation of these islands by Germany I have endeavoured to make the natives understand that the laws of Germany would protect them as well as the whites. I have in my school explained to the Scholars the nature of the act of annexation and that the Emperor of Germany is now their great chief. This native boy told his assailant that he would appeal to the laws of Germany for redress, and he does so now through me. Should you decide on investigating his case I gladly place my services as interpreter at your disposal and such accommodation as I can afford you are very welcome to.

Another year later Danks had learned to doubt Oertzen's ability to uphold "the laws of Germany". When Totabu had burned down a church in Ratavul, Danks wrote to Oertzen, on 24 May 1886, that he thought it right to lay the matter before him before taking steps to obtain redress himself. "If you think fit to deal with the case please do so, if you prefer to leave the matter with me, please let me know. The bearer of this will await your answer."

11 In retrospect it seems most unlikely that the German government had considered amending the Neu Guinea Kompagnie's charter so drastically. On the other hand, it is clear that the Bismarck Archipelago and Kaiser Wilhelmsland were initially treated quite differently.

12 The letters by Rooney and Danks (see below) are part of the archives of the Methodist Overseas Mission kept in the Mitchell Library in Sydney.

But Danks was more concerned with the unsuccessful attempts by the German navy to arrest "chief Toviringi" in the hinterland of his Kabakada station. He would do his best, he wrote to Oertzen on 28 June 1886, to persuade Toviringi to pay some shell money as a token of his submission, taking care to let the natives know that he was acting on his own and not at Oertzen's request. On the other hand, he urged Oertzen to place the people who had served as guides for the navy under his protection and to announce that any harm done to them by Toviringi and his allies would be severely punished. In conclusion Danks pressed upon Oertzen's notice: "the inutility and positive danger to all the whites here of any further attempts to capture or punish any of the bush people unless the men-of-war can spare sufficient time to accomplish their purpose".

Oertzen shared Danks's concern and was, generally speaking, under no illusion about the weakness of his position. Consequently he tended to play down, in his own reports, the potential of German New Guinea and to stress the difficulties he was facing. This can already be seen in his Trade and Shipping Report for 1885, his first full year in office (RKA 6521).

The high hopes which had existed at the beginning of 1885 had not been fulfilled: copra exports had declined from 1,800 to less than 1,400 tonnes, mainly as a result of a drought, although the prohibition of the sale of firearms to natives could also have been a contributing factor. The major event had been the dramatic rise of Thomas Farrell whose contribution to the copra trade had increased from 120 to over 600 tonnes.

While he was believed to be near bankruptcy, he returned from Sydney at the beginning of the year with a steamer under American flag and numerous personnel ... and embarked on restless and ruthless activities. Wherever there was only the slightest chance of obtaining some copra in the Archipelago, he installed a trader, be it on his own land or, under some pretence, on land belonging to others. Even at the most remote and dangerous spots he simply put them ashore with provisions for a few weeks...The economic success of this approach is undeniable. Of course, half a dozen people have lost their lives in the process ... Of the ten to twelve traders he stationed at the northcoast of New Ireland all but three have been chased away by the natives and most of the stations have been burnt down ... He himself has gone again to Sydney to supply himself with new people and goods—or, if at all possible, to sell all his possessions here because, as he told me, and as his appearance confirmed, his health is completely ruined. If this is the real reason for his desire to sell-out or if he, after all, did not succeed in balancing his income and expenditure, or if his chauvinist creditors [in Australia] have lost the inclination to support and use him further, is difficult to say.¹³

Oertzen hoped that copra exports would again rise to about 2,000 tonnes in 1886. But he did not expect this trend to continue. Even after all available "copra fields" (*Koprahfelder*) had been opened up, the Archipelago could produce no more than around 3,000 tonnes annually. Only plantations promised a substantial economic upswing. This, however, presupposed the actual creation of the institutions of government which the Neu Guinea Kompagnie had to provide under its charter.

The lack of a judiciary and an executive is noticeable even under present circumstances; it will be even more pronounced when plantations are established because of the land disputes and the conflicts with the natives which will then presumably arise.

So far the Neu Guinea Kompagnie had totally neglected the Bismarck Archipelago. While its two steamers sailed continuously between Finschhafen and Cooktown, there had only been a single visit to the Bismarck Archipelago in 1885, although it took just two to three days to steam across. He, Oertzen, was doing his best to calm the growing annoyance of the settlers with promises of speedy improvements.

13 Farrell died not long afterwards of tuberculosis (?) in Australia (see Robson, 1965:143).

In the course of 1886 shipping connections did improve—a company vessel now called at Matupi and Mioko once a month—but this was the only good news contained in Oertzen's report for that year (*ibid.*). Copra exports had slumped to less than 900 tonnes. Oertzen attributed this primarily to the continuing drought but also admitted that in those districts "in which SM ships had had occasion to intervene", trade had temporarily come to a halt and could only gradually be restored.

Oertzen's report adds little to the Farrell story beyond stating that while he, like Hernsheim, had probably earned nothing, he had done considerably better than the Deutsche Handels- und Plantagen-Gesellschaft and a new competitor—an agent for the American firm of Crawford & Co.—both of whom were facing substantial losses. Oertzen's final message, pronounced on the eve of his departure from German New Guinea, was one of total gloom. The prospects for the coming year were dim. The effects of the drought would continue to make themselves felt. Even under ideal conditions the market was too small for four competing firms. Plantations were the only possible hope, provided Farrell's experiment proved successful. Commercial shipping had declined, the regular visits by company steamers notwithstanding. They would have declined even further, but for the visits of several ships from Queensland and Fiji which had returned labourers who had completed their contracts.¹⁴

Taken together, this information suggests that Oertzen's original main task—the supervision of the labour trade—was the least of his worries; that the implementation of the prohibition to supply natives with arms, ammunition, explosives and liquor also gave him little concern. Without the trouble-maker Farrell even the registration of the old land claims would have been plain sailing. Indeed, it would seem that it had in general been the activities of Farrell which had kept Oertzen on his toes and the German navy busy during much of 1885 and 1886—and it is the navy's activities in response to Oertzen's requisitions on which I now want to focus.

IV

When SMS *Hyäne* brought Oertzen to the Bismarck Archipelago in June 1884 it had been under the command of lieutenant-commander Wilhelm Geiseler whose reluctance to get involved in military actions during a visit by consul-general Stuebel in February of that year provided the accompanying Hernsheim with much amusement (1983: 83ff. and 160 ff.).¹⁵ During his first round trip with Oertzen, Geiseler avoided any military action against the people of Metelek, in southern New Ireland, who were accused of having captured the German schooner *Mioko* at the beginning of 1884, killing its entire crew. On 29 July, Oertzen sent Geiseler a formal requisition to repeat attempts to punish the Metelek people.

In view of the seriousness of their deed those involved should – if appropriate – be punished at life and limb. I ask you to bring persons who are captured alive to *Mioko* since I have been instructed to send them to the Imperial Consulate in Apia (RM I/2425).¹⁶

Now Geiseler had to make at least a token effort. Hernsheim offered him his schooner *Montiara* which Geiseler planned to use as a bait, hiding one of his officers with 15 men on board, who were instructed to kill the Metelek natives when they tried to capture it like the *Mioko*.

14 Oertzen said nothing about the export of labourers to Samoa, probably because there had been none since the *Niufoou* had gone missing after leaving Apia in March 1886. However, 170 new recruits had been assembled and inspected by Wietersheim on 29 December in response to what must have been Oertzen's final requisition. Moreover, the *Niufoou*'s replacement, the *Neptune*, was already standing by to take them to Samoa early in the new year (see RM I/2720).

15 This reluctance may well have had its root in Geiseler's earlier experience in the Hermit Islands (see above, chapter 8).

16 This banishment option continued to play an important role in Oertzen's approach.

a few months earlier. The scheme failed, and bad weather, according to Geiseler, prevented the *Hyäne* from putting a landing party ashore. Reporting his lack of success to Oertzen, Geiseler promised to approach Metelek once more on his trip to Sydney, although he refused to guarantee that he would be able to mete out a punishment which fitted the crime, since the Metelek people would without fail withdraw into the mountains (ibid.). In fact, Geiseler did not bother to make the test, sailing straight to Sydney where he completed his tour of duty.

When SMS *Hyäne* returned to the Bismarck Archipelago in October 1884, under lieutenant-commander Anton Langemak, Oertzen had gone on annexation business to New Guinea. But he had left a message for Langemak, indicating that he would approach him with several requisitions after his return, and asking him to deal with the punishment of the Metelek in the meantime.

Your Honour will be informed about the details of the matter and about the hitherto unfortunately unsuccessful attempts to punish the guilty parties. In order to preserve our prestige and the fear which the natives have to have of our might, if the lives and property of German subjects are to be secure in these lands, it would be most highly desirable, to achieve a decisive success (ibid.: fol.68).

Langemak also preferred to approach the task cautiously. He gladly accepted an offer of the Deutsche Handels- und Plantagen-Gesellschaft to send out a scouting party under the Solomon Island trader Sago. Sago returned from New Ireland with a prisoner, but only a few hours before Oertzen returned from New Guinea. As he told Langemak about the land acquisitions Finsch had made in preparation for Germany's annexation moves, Langemak thought that the time had come to go ahead with his more glamorous flag hoisting instructions, but Oertzen saw no need to rush matters. This left Langemak no choice but to steam to New Ireland, after another, more urgent requisition by Oertzen. He was saved by the bell. On the morning of 1 November, when the *Hyäne* was about to reach Wallis Island, where the Metelek were now supposed to live, SMS *Elisabeth* appeared over the horizon. Langemak immediately placed himself under the command of her captain, Rudolph Schering, who had been ordered to start hoisting the German flag immediately. The flag raising ceremonies kept Langemak busy until the *Hyäne* was needed to look after SMS *Marie* which had been badly damaged on a reef off northern New Ireland. Oertzen managed to catch the *Hyäne* briefly in January 1885 when she came to obtain spare parts for the *Marie* in Matupi. The occasion for Oertzen's new requisition was not even murder but theft. But since the affair involved natives in Kinigunan, only a short distance from Matupi, Langemak could hardly refuse.

On 15 January at 4 a.m. SMS *Hyäne* left Matupi with Oertzen, the two complaining traders, Mouton and Brandt, as guides and HERNSEIM's personal servant, Topange, as an interpreter. At dawn the two cutters were put ashore. By 7 o'clock the landing parties had returned with two prisoners, Tomatari and Togulum—no shots having been fired. This had been the intention, since Oertzen had decided that a fine of, respectively, 160 and 40 fathoms of shell money would be an adequate punishment.¹⁷ Langemak had accepted Oertzen's wish to avoid bloodshed and instructed the officers in charge of the landing parties accordingly. Guided by Mouton, sub-lieutenant Krüger had captured Togulum in his sleep. Tomatari had also offered no resistance to lieutenant Meyer. Instead he had tried to buy himself free by offering some shell money. It had been taken but Tomatari was nonetheless marched to the beach. Together with Togulum, he was tied to posts at Mouton's house; a guard with a loaded rifle being placed next to them. After this had been accomplished, Langemak appeared with Oertzen in his gig and took over. With the help of Topange the two prisoners were interrogated. They confessed their crime and were sentenced to the predetermined fines, to be paid within three hours. But little was added to Tomatari's unsuccessful bribe. Since Langemak was not prepared to wait, he marched with some men to

17 These fines represented a considerable cash value, since one fathom was worth about 2.50 Marks at the time.

Tomatari's village to inform its inhabitants, who were hiding in the surrounding bush, that he would start to destroy their canoes and houses. Within minutes the full amount was produced and the prisoners were released with the warning that they would be punished more severely in future. While this brought this particular affair to a satisfactory conclusion, it was too little for Oertzen who wrote a frustrated report to Bismarck on 12 November 1885 (RM I/2896): "I am faced with a large number of disputes with natives, in particular attacks by them on the property of the German firms, which can only be ... punished with the help of a German warship, since a police force is lacking". However, SMS *Albatross*, which bunkered coal in Matupi in early September, was unable to accept any requisitions because she had to continue her journey without delay to annex the Carolines. She had no time to spare again when passing through in October 1885, and during the first half of 1885 all warships had been preoccupied by the mishap of SMS *Marie*. Having seen warships repeatedly without being punished, the natives "now think we are unable to harm them and have become more provocative and dangerous as a result". "It is high time for energetic action", Oertzen concluded, "and I hope that SMS *Albatross* will return as soon as possible".

Help was on its way. As requested by the foreign office the admiralty had cabled SMS *Albatross* in Brisbane to speed up repairs and to sail under its new commander, Friedrich Count von Baudissin, to the Bismarck Archipelago at the earliest opportunity. It was 12 February 1886 before she cast anchor in Mioko, but two days later Baudissin started to work his way through Oertzen's list of requisitions (RM I/2625).

The first requisition related to a comparatively minor affair: some bags of copra had been stolen from a trader of the Deutsche Handels- und Plantagen-Gesellschaft in the Birar district in the southeastern Gazelle Peninsula and subsequently a shed, containing 40 tonnes of copra, had been burnt down, allegedly at the instigation of one of Farrell's traders, a man named Ned Kerakoose. Oertzen's requisition suggested the usual shell money fine of between 100 and 200 fathoms for the native chiefs but was vague about the treatment Ned Kerakoose was to receive. Things again went smoothly. Kerakoose was arrested by lieutenant Sass shortly after SMS *Albatross* had cast anchor in the evening of 14 February. Sago once more proved his worth by tricking the main native suspects into coming to his boat and delivering them to the warship in the course of the night. Since Kerakoose was bailed out by Farrell the next morning for \$500 and since Oertzen was happy to take two hostages with him until a reduced fine of 50 fathoms of shell money had been paid, Baudissin was ready to leave by 1 p.m..

The situation in northern New Ireland, where he arrived on 21 March, was more serious. One of Farrell's traders, Carr, had been killed in December 1885. His stations in Lessoa, Matinsula and Tenisoa had been burnt down or looted. Two of Hernsheim's traders in Kableman and Butbut had also been attacked. While they had escaped, their native labourers had been killed and two of them had been eaten in front of the traders' very eyes. Oertzen insisted on energetic action. The New Irelanders, or Neu Mecklenburgians, had repeatedly escaped punishment and were becoming so aggressive that they constituted a serious danger for all traders—and Lowery, the Hernsheim trader in Kableman, had indeed been killed during a second attack by the time Baudissin had issued his orders to his two landing parties.

Baudissin's orders stressed that the might of the emperor had to be demonstrated with all available means. The immediate goal, however, was the arrest of those personally responsible for the various crimes. Women, children and property were under the protection of the landing parties, whereas all weapons, in particular firearms, were to be confiscated. The plan was to march inland, cutting off the natives' escape route to the interior, to surround the villages and to arrest the culprits, or hostages to secure their subsequent surrender. The landing parties were comparatively small—21 and 32 men—each with a European guide and a few native interpreters.

Although it was to be essentially a police action the marines were issued with 40 cartridges each and special care was taken to guard the boats at all times.

After a strenuous march through mangrove swamp, the larger landing party under lieutenant Sass reached Bulgai and took five prisoners, one of whom was later shot by "the interpreters" when he tried to escape. Lieutenant Randewig's expedition was more eventful. The village of Majum was fortified with strong pallisades on two sides. Approaching the southern one, Randewig's men were received with rifle fire, but from the bush rather than from the village, which proved to be deserted when the pallisade was stormed, after the guns in the bush had been silenced with a salvo.

What made the march on Majum "interesting" (Baudissin's term) was that the person murdered by its inhabitants had not been a European trader but a chief from the neighbouring village of Kableman, whose subjects had followed the landing party, despite orders to the contrary, decked with war paint and howling fiercely. As soon as the marines had entered Majum, the Kableman rushed after them and burnt the village to the ground. In Baudissin's view, Randewig could not have prevented this, but he, Baudissin, would take action against such interference in the future. Nonetheless, he counted the burning of Majum as a success. He was doubly pleased when the escapee shot in Bulgai turned out to be one of those mainly responsible for the murder of Lowery.¹⁸ In addition Sass had confiscated 178 spears—and all that at the cost of only two lightly wounded marines.¹⁹

Next on the list was the island of Kabotheron, whose chief had been behind the murder of Carr. Baudissin's inquiries revealed that Kabotheron had been evacuated. The bulk of the population had moved to the island of Namanne, whereas "the criminals and warriors" had fled to a group of small islands on the outer reef. Baudissin decided to concentrate on the latter, intending to surround the islands during the night with his boats, a trap from which he believed not a mouse could escape. It turned into a fiasco. The steam pinnace broke down and had to be towed by the cutter, since it carried the "indispensable" revolving cannon. The chimney of the cutter's overworked steam-engine had blazed like a signal torch in the dark, so that the islands were deserted when they were finally reached at dawn. The fleeing canoes were still visible, but could not be pursued because the water proved to be unexpectedly shallow. In desperation the revolving cannon was brought into action but without registering a single hit, because the distance of some 3,000 metres was already too large.

During the following rest day 22 less troublesome chiefs were rounded up, among them the "notorious" Metango of Nusa, who, Geiseler had claimed, had been shot dead during an earlier encounter with SMS *Hyäne*. Oertzen and Baudissin explained to the assembled chiefs that they would from now on be held personally liable for any unrest in their districts, whether or not their own tribe was responsible for it. A picture of the emperor was displayed, together with a few large cannon shells—a combination which, Baudissin thought, did not fail to make an impression.

After a day of heavy rain Baudissin went to Kabotheron Island where, he had been told, a few old people remained. He wanted to tell them that he would continue to fight their tribe until it surrendered Carr's murderers. The people, however, had sensibly hidden in the mangrove swamp in the centre of the island where there was no hope of finding them. Thus SMS *Albatross* moved on to Kapsu.

For Kapsu Baudissin had been given a mixed bag of requisitions. Its inhabitants had cut down hundreds of coconut palms Hensheim had planted on part of a large area of land he claimed to have acquired. In addition, Hensheim had complained that Farrell had stationed several traders

18 Two of the four other prisoners were released as not having been directly involved.

19 Both of them were hit by spears rather than bullets. This caused Baudissin to comment on the underestimated dangerousness of this weapon which was capable of penetrating five centimetres into a tree, a target a warrior would rarely miss at 50 paces.

on his land, even taking over some unoccupied buildings. "I have to investigate this matter thoroughly on the spot", Oertzen had written, "to satisfy myself that the claims made by Hernsheim & Co. are in fact correct". Should this prove to be the case, Baudissin was requested to remove the traders by force. Since all of Farrell's traders had in the meantime been chased away and the Kapsu chiefs behaved in a gratifyingly submissive manner, Oertzen determined that a severe reprimand was sufficient so that Baudissin could concentrate on the next lot of misdeeds, including the murder of another Farrell trader, Campbell, which could all be traced back to a cluster of three villages: Mankai, Libidor and Lasua.

Able to muster between them at least 600 warriors, these villages were said to terrorise the entire region, hiring out their services as mercenaries to the highest bidder if they were not fighting on their own account. Baudissin therefore expected tough opposition. Indeed, he wished it, since he saw little point in shelling empty villages. If open resistance was offered, on the other hand, he could crush the prestige of these villages, "once and for all". Nonetheless, the reinforced landing party under lieutenant Randewig was ordered to arrest in the first instance the individual "criminals" who were known to his guides. Only if the arrests were resisted was he to fight, but then as hard as he could. To be more precise, Randewig was to proceed in this manner first in relation to the central village, Libidor, and, on his way back, deal similarly with Mankai which he was to bypass earlier.

Once more the description of the terrain Baudissin had been given bore little resemblance to reality. Randewig barely reached Mankai at sunrise, seeing its last inhabitants flee into the bush. After setting fire to the village, he continued his march towards Libidor where he believed the Mankai people had sought refuge. But he was attacked from both sides and the rear, five of his men receiving minor injuries during the first hail of spears. A pitched battle ensued. The Mankai were finally driven away, leaving nine dead behind. Randewig's men had suffered no further casualties. They were received in Kapsu by its delighted inhabitants with an offering of drinking nuts, dirty and exhausted and many without their boots which had disintegrated during eight hours of marching across coral rocks and swamp.

Despite this victory Baudissin felt that Libidor and Lasua also deserved a lesson. High surf prevented a landing in Libidor and Baudissin found Lasua deserted, after having fired his cannons at some of its inhabitants who were gleefully watching the unsuccessful first attempts of the landing party to make its way through the narrow passage in the reef. After burning down two thirds of Lasua—leaving the rest intact to encourage the inhabitants to return in the hope of better times when they would again produce copra for the traders—SMS *Albatross* continued to Lamerotte where Nanqui, the suspected murderer of Campbell, was said to be hiding.

In this case Baudissin's preparatory work paid off. Campbell's neighbour, Tross, had persuaded some of Nanqui's relatives to come with him to Kapsu. Once on board they soon wailed so loudly that Baudissin put them "under arrest" because it was feared that they would jump into the sea if they were not restrained. However, the unpleasant experience of being "restrained"—presumably chained—for a few hours was worth it. By questioning them Oertzen established that Nanqui had been the black sheep of Lamerotte but that he had spent most of his time elsewhere, especially in Libidor, where he had become involved in the Campbell murder. Since they were innocent, Baudissin put the prisoners ashore in Lamerotte, appropriately frightened, and steamed back to Nusa, after a detachment had conducted a symbolic search for Nanqui, but without waiting for the pig he had been promised by his grateful ex-prisoners.

While Oertzen was using the steam cutter to deal "with some land matters", SMS *Albatross* proceeded to Kabien to carry out the last New Ireland requisition, concerned with yet another attack on a trader. When the landing party found Kabien deserted, lieutenant Sass put the village to the torch and ordered a breakfast break before the return march. The marines had barely settled down when they were attacked. Hand to hand fighting developed costing two Kabien lives. No

marines were wounded. The total number of Kabien casualties remained in the dark. Even the two corpses had vanished when Sass came back from pursuing the enemy—not retrieved by their relatives, but, as Sass discovered, thrown in the flames by his guides who, according to Baudissin, were disgusted “with our perverted tastes” when they were prevented from enjoying their meal.

This cannibal episode provided Baudissin with a welcome excuse for treating Germany's colonial subjects as military enemies, but he believed that he had done all he could for their education for the time being. Leaving a detachment of six men under a sergeant behind, which was to arrest the Kabotheron chiefs, he turned his attention to New Britain, resolved to return to Libidor after things had settled down.

The immediate reasons for Oertzen's requisitions concerning the north coast of the Gazelle Peninsula were again comparatively minor: several thefts from trading stations, a case of arson and the suspected poisoning of a Tolai sub-trader. But behind them stood the towering figure of Tovering,²⁰ the richest chief in the area, who was suspected of being involved in all these affairs. The main aim was therefore the subjugation of Tovering. A landing party set out on 8 March, at 5.00 a.m., under the command of lieutenants Randewig and Sass. Their guide and interpreter was the naturalist Johannes Kubary who, after spending many years in Micronesia, was now employed as an agent by the Henssler firm.²¹

Kubary had advised Baudissin that 30 marines were ample to deal with Tovering. He and his people would most probably flee when the troop approached, which could then confiscate his shell money treasure and thereby force him to surrender. The landing party returned at 3.15 p.m., empty-handed and embarrassed. Tovering had received them in his fortified mountain hamlet, surrounded by about 30 warriors. Signal drums could be heard throughout the district and more warriors had been seen hiding in the densely wooded valley leading up to Tovering's eyrie. Randewig and Sass were not prepared to risk a military confrontation under these circumstances and Kubary had flatly refused to mention such dangerous topics as “arrest” or “shell money fines”. After some polite conversation, the landing party quietly made its way back to the coast.

Baudissin was furious. The following day a second attempt was to be made, this time with the trader Lewerentz as guide. The landing party was almost doubled in strength, comprising not only 48 marines, but also a doctor, a medical assistant and five men to carry the wounded and to perform other auxiliary tasks. Baudissin meant business. It had to be made clear beyond any shadow of doubt that Tovering had to surrender unconditionally. Although his arrest was still the first priority, Baudissin's final message to his landing party was to use “every opportunity...to crush any resistance from Tovering, even at a high price, once and for all”.

Having put the landing party ashore, SMS *Albatross* proceeded to Kabaira. From there lieutenant Schröder was to set out with a small contingent to meet the main party on its way down from Tovering's village. His party came under fire as soon as it landed and suffered two casualties, one of them serious. By the time the wounded were safely back on board and Baudissin had established that the shots had been fired by “Tovering's people” and not, as had been first suspected, the “Kabakada tribe” which had formally surrendered to Schröder in the morning, the main landing party had also returned. Instead of emerging triumphantly from among the trees with Tovering as a prisoner, it approached by boat from the direction of Kabakada. It had run into an ambush from which it escaped, despite heavy fire, at the cost of only two minor casualties. After Lewerentz had led the party in circles for the next hour or so, Randewig had given orders to retreat, since open resistance was no longer offered. Although he was of the opinion that he had crushed the enemy—a view shared by Baudissin, who believed that nine confirmed dead were

20 “Tovering” is, of course, identical with Danks's “Toviring”.

21 Kubary later became the Neu Guinea Kompagnie's station manager in Constantinhafen.

sufficient proof of a decisive victory—the landing party had been harassed by snipers until it had reached the Methodist mission station in Kabakada.²²

SMS *Albatross* spent the next morning shelling the Kabaira coast, causing, according to Baudissin, tremendous panic among the inland villages with her far-reaching cannons. Then the coastline was again raked with the revolving cannon before a landing party was put ashore to destroy the villages and plantations of the people who had fired on lieutenant Schröder's detachment. Now Baudissin decided he had done enough, as it could surely not be his duty "to devastate our own Protectorate". In the hope that he had "instilled respect in the natives" he raised anchor to return to New Ireland to restore his badly shaken confidence.

The detachment left behind in Nusa had been unable to capture the Kabotheron chiefs, but it had harassed their subjects, who were getting desperately short of food. Since Baudissin claimed that he had, from the start, been guided by the wish not only to punish but also to restore peace, he allowed the people to return to their gardens, under the condition that they would offer no shelter to their chiefs. Nanqui too had proved impossible to catch, but Baudissin consoled himself with the pious wish that he had been cast out by his own people, so that public peace had also been assured in that region.

Baudissin's crowning triumph came in Mankai. Its inhabitants had approached the local trader to arrange for a formal peace ceremony, an offer Baudissin hastened to interpret as unconditional surrender. He went ashore with Oertzen and received the spears the warriors presented to him as a symbol of their peaceful intentions. He returned one of them as what he understood to be a reciprocal gesture, distributed tobacco, told the warriors that the emperor would reward obedience with his protection and, as an added bonus, pronounced that the recruiting of labourers in northern New Ireland had been prohibited by Oertzen.

Everybody in this area was now ready to surrender. This was not only his opinion but also that of Herr von Oertzen. Unfortunately, there was no time to reap the fruits of his labour since he had to rush back to New Britain, where his presence was urgently required. Upon his arrival he was informed that here the whole country was filled with fear. Yet no formal peace offerings had been made. He stipulated a collective fine of 900 fathoms of shell money—or 600 fathoms and the surrender of the by now almost forgotten arsonist—to be paid within 48 hours. When no payments were made, Baudissin embarked on a campaign of destruction. With the hired help of 32 natives from Mioko the landing party spent three days criss-crossing the hinterland of Kabakada, burning villages and destroying gardens, causing damage far in excess of the stipulated fine. The Mioko, much afraid at first, quickly became enthusiastic demolition experts. Open resistance was never offered, but snipers occasionally fired shots, causing two minor casualties. While, in contrast to New Ireland, no formal surrender was achieved, Baudissin believed that he had taught the natives a lesson they would not like to see repeated.

SMS *Albatross* left the Gazelle Peninsula on 26 March for Sydney, carrying out a final, anti-climactical requisition by Oertzen *en route*. It consisted of forcefully pulling down a trader's hut between Ralum and Kinigunan which Mouton had refused to vacate, despite repeated instructions by Oertzen.

On his way to Sydney, Baudissin composed a supplementary report to the admiralty, because he had to justify staying on in the Bismarck Archipelago instead of carrying out his orders to go to the Carolines to retrieve the symbols of German sovereignty which remained there after the 1885 German flag hoisting ceremonies had been superseded by a Papal arbitration recognising the older claims by Spain. But the justification for staying in the Gazelle Peninsula soon became a justification for leaving it without achieving a decisive military victory.

To make his case, Baudissin distinguished between the punishment of natives, their formal surrender and their actual subjugation. With the limited means of power at his disposal he had had

22 Baudissin noted with indignation that the stretchers with the wounded were the snipers' favourite target.

to settle for the mere punishment of the natives in the hinterland of Kabakada and Kabaira. Even a much larger force—like that of the now expected cruiser squadron—could not be sure to subjugate the natives within a short time. Hundreds of marines could march across the country for days without sighting a single native, while suffering heavy casualties from snipers. If punishment was the goal, one had to hit as hard and quickly as one could and then leave immediately. Nothing was more harmful than the prolonged but passive presence of a warship. This was why he had left the area as soon as he had carried out his campaign of destruction. To be sure, it would have been highly desirable to arrest, try and execute Tovering, but at present no one was legally entitled to do so. Besides, Tovering's surrender would have achieved little. Despite his wealth, which permitted him to hire more than a thousand warriors, many of them armed with modern rifles, resistance would not have collapsed with his arrest. Nor would his people be prepared to buy his release with the payment of even a hundred fathoms of shell money. To subjugate the area each hamlet had to be dealt with individually. This required a strong, land-based police force of about 20 whites and 50 Solomon Islanders, and it too might take as long as a year to complete the task.

This prepared the ground for Baudissin's offensive: it was unacceptable that the settlers in the Bismarck Archipelago contributed nothing to their own safety but relied on the navy to restore order during its brief visits. It was even more regrettable that the imperial commissioner knew so little about local conditions. A small gunboat could have easily lost face if it had taken action relying on Oertzen's intelligence. Yet, when Baudissin had entreated Oertzen to keep himself up to date about what was happening among the natives for the benefit of subsequent visits of naval vessels, he had met with the curt reply: "How can I do this, I have no communications with these people". Baudissin regretted having to raise this point, despite his excellent personal relationship with Oertzen, since such matters might well be outside the duties of an imperial commissioner. But he had felt obliged to think first and foremost of the interests of the navy, and other naval commanders had to know where they stood.

Oertzen's comments on Baudissin's performance in his report to the foreign office of 25 March 1886 (RKA 2976) were reserved but positive. They focused on the reasons why so many crimes had been committed by the natives within the course of a single year, and Farrell's trade war in northern New Ireland was again given pride of place. Thanks to the energy and circumspection of Baudissin, SMS *Albatross* had executed most of the requisitions successfully, although this had required the shedding of more blood than the punishment of the crimes in question would have called for. It had only rarely been possible, however, to arrest the culprits, or to take hostages. The natives had either run away or had resisted the landing parties as one body, because their custom was based on the collective responsibility of the group for the actions of one of its members. Hence what had been intended to be police actions had developed, frequently and unavoidably, into warfare. Oertzen hoped that the establishment of a permanent executive and regular courts would gradually change the natives' behaviour and conceptions. Whenever he could, he had tried to explain to them that only guilty individuals were to be punished. The rest of the population was to be protected by the German authorities, in particular from wrongs committed by whites. The only collective action required of them was to give up cannibalism which would henceforth be severely punished.

The activities of SMS *Albatross* in New Ireland had been a complete success: order had been restored and could be maintained, provided the area was visited by a warship every three months or so. The same applied to New Britain,²³ with the single exception of the inland districts between Kabaira and Kabakada. Their numerous inhabitants had always been hostile to the whites and

23 In his reports Oertzen took care to employ the new German geographical names, adding in brackets a "germanicised" version of the old, British ones—which were still commonly used, even by the German navy—for example "Neu-Pommern (Neubritain)".

owned hundreds of firearms, including a large number of Snider rifles. More importantly, instead of being delighted when their neighbours were punished, as had been the experience in New Ireland, the districts had stood together and offered determined resistance. The actions of SMS *Albatross* had demonstrated the superior might of Germany, but victory had been by no means decisive, otherwise the mild collective fine of 900 fathoms of shell money would have been quickly paid as a sign of submission. The resistance of these natives still needed to be broken—the sooner the better for public peace and order in the entire area, since no other natives would dare to stand up against German authority once the most powerful and warlike tribes had been subjugated. Unfortunately SMS *Albatross* had lacked the means as well as the time to carry out the necessary measures, which would have had to include a total disarmament of the tribes in question.

Although his report stopped short of criticising Baudissin, the personal relationships between him and Oertzen had cooled considerably when SMS *Albatross* returned in May 1886. By the time Baudissin got around to reporting on this second round of activities, on 12 August 1886 (RM I/2626), he was furious with Oertzen.

When SMS *Albatross* arrived in Matupi on 31 May 1886, Baudissin was informed about the recent developments in the Kabakada/Kabaira area not by Oertzen but by the missionary Danks and the trader Cook. They told him that internal fighting had broken out which had caused Tovering to move across to the Baining side of Weberhafen. The only incident mentioned by Oertzen was the burning down of an almost empty copra shed at the deserted Kabaira station, which warranted no punishment. Indeed, he did not want Baudissin to take any action. Not a single written requisition was presented. Oertzen merely asked Baudissin orally to check upon the few remaining Farrell traders in northern New Ireland on his way to the Carolines. Yes, it was true, Oertzen had admitted, when Baudissin had confronted him, that one native had cut another's throat not far from Matupi, but it would be going too far if the German authorities interfered in such "internal" matters. True also, Danks had asked him to do something about a native who had killed his mother near his station in Kabakada, but since the culprit had in the meantime enlisted to go as a labourer to Samoa it was sufficient to ask the Deutsche Handels- und Plantagen-Gesellschaft to keep him away a bit longer. The last case presented by Baudissin involved the burning down of one of Danks's churches. According to Oertzen it had only been a bush material structure of little monetary value. Besides, the arson had not been directed against the mission but had been performed in accordance with native custom to force Danks to demand compensation from someone who had wronged the arsonist so that a punishment of the arsonist was inappropriate.²⁴ Oertzen's general message to Baudissin was unequivocal: leave the Gazelle Peninsula as quickly as possible and let me wait for the cruiser squadron which will deal with all outstanding matters.

As Baudissin would have liked to see the Kabaira/Kabakada affair settled before that happened, he eagerly accepted the offer of a Nodup chief to capture Tovering in his Baining refuge, provided SMS *Albatross* would leave for a few days so that Tovering could be caught off guard. Baudissin duly absented himself to the southeastern corner of the Gazelle Peninsula to survey a newly discovered harbour, which he named "Rügenhafen" after an island in the Baltic of whose unusually shaped port it reminded him. However, on his return the dreams of presenting Tovering's head to rear-admiral Knorr on a platter were shattered. Tovering was no longer in Baining, and was said to have returned to his home base where neither the Nodup chief nor Baudissin could get him.

Baudissin's only consolation was that he found everything peaceful in northern New Ireland. Schulle assured him that trading had been resumed so that any further punishment of the natives

24 This is a reference to the Tolai custom of *kamara* (see Sack, 1972) whereby an injury is passed on to innocent third parties at the expense of the original wrongdoer who is obliged to foot, eventually, the entire bill.

was undesirable. Since the outstanding complaints against Farrell's traders were also not straightforward, Baudissin decided that it was better not to stir things up and merely warned the traders that the navy would make just as short work of them as of the natives if they did not behave properly. He concluded his report to the admiralty with praise of Schulle whom he saw emerging as a kind of white paramount chief, who should be given free rein, naturally within the law, even though his immediate aim was simply to enrich himself.

When the cruiser squadron arrived on 15 June 1886, Oertzen found admiral Knorr unexpectedly reluctant to get involved in the Tovering affair. It was only when, during his oral representation, Oertzen claimed that the measures taken by Baudissin in March had damaged the prestige of the navy in the eyes of the natives that Knorr was moved to act.

Two landing parties, one setting out from Kabakada, the other from Kabaira, were to perform a pincer movement to cut off Tovering and his main ally, Tolonglong, from the interior, to arrest them, to confiscate their shell money and, at the very least, to destroy Tovering's hamlet. The burning down of the hamlets of Tovering and Tolonglong was all that was achieved. The landing parties saw a few natives from the distance, captured just 25 fathoms of shell money, and impressed, so it was hoped, the natives by their sheer number.

Whereas the details of this operation are of little historical interest, the internal processes set in train by two letters by Knorr—the first to Baudissin, dated 21 June 1886, the second to Oertzen, dated 1 July 1886 (RM I/2732)—are significant. Knorr had formed the view that Baudissin's actions had been "insufficiently thought through" and that his subsequent reports had been "very unclear" (*ibid.*). He singled out three points on which Oertzen's reports differ significantly from those of Baudissin—as Knorr read them.

Firstly, it appeared that, instead of stopping short of ordering Tovering to accompany the landing party to SMS *Albatross* on 8 March when it became apparent that it might be difficult to enforce such an order, such an order had, in fact, been issued and expressly rejected by Tovering. Secondly, it happened that the landing party had only got one third of the way to Tovering's hamlet on 9 March when it had been ambushed, so that its subsequent "victory" had not been achieved against Tovering's forces. Thirdly, it appeared that the demolition mission had also penetrated nowhere near Tovering's hamlet, so that Tovering had, in fact, not been punished at all for his insolent refusal to obey naval orders and, hence, the emperor's commands.

Baudissin responded to this dressing down in a report to the admiralty, dated 5 September 1886 (RM I/2626), in which he asked his superiors to obtain clarification from the imperial commissioner who had obviously misunderstood the situation; for it was Oertzen who was to blame for the difficulties his men had so bravely overcome and who was now adding insult to injury by claiming otherwise. However, the arguments Baudissin put forward in his defence—which centred, predictably, on Oertzen's inability to provide the navy with adequate logistic support—are less rewarding than the bits of additional information he provided along the way.

The first is revealed because Baudissin failed to appreciate that Knorr had read his March report as saying that Tovering had *not* been ordered to accompany the first landing party on 8 March back to SMS *Albatross*, and that this had permitted a strategic withdrawal without a loss of face. Of course, Tovering had refused to come, otherwise none of the subsequent actions would have been necessary. Puzzled, because Knorr's first criticism made little sense on this basis, Baudissin gave a more detailed account of the navy's only face to face encounter with Tovering.²⁵

His two lieutenants had been passive witnesses at an occasion during which the appearance of a friendly meeting had been carefully preserved. All the talking had been done by Kubary, but his command of the local language had been so limited that he had to use his servant as an

²⁵ This criticism was based on the view that Baudissin's report had not just been "very unclear", but that it had, in fact, misrepresented the actual position.

interpreter.²⁶ As far as the lieutenants could tell Kubary had instructed his servant to translate to Tovering: "The white chief [Baudissin] wants to talk to you. Be so kind as to come with us. I would advise you to take a pig with you as a present, then nothing will happen to you." While a pig was instantly produced, Tovering had said, according to Kubary's servant: "I never go on board [of naval ships]. I will not go this time either. I don't like it." Kubary's response to this had been: "Then we will have to tell him [Baudissin]. He will become very angry and will send someone to get you", whereupon Tovering had insisted that he would not come even then. What Tovering had actually said to Kubary's servant, and how the latter had actually translated Kubary's messages to Tovering, no-one would ever know. The man had later mentioned to the missionary Danks that he had not translated everything Kubary had told him, but if he had been dishonest in this manner to his own master there was no reason to believe his subsequent statement to the missionary either.

The second piece of information is part of a comment on Oertzen's request to Knorr to disarm all the natives. When Baudissin had wanted to issue orders to that effect in March, Oertzen had insisted that he could not confiscate the property of innocent people. Baudissin had reminded Oertzen of this statement when the first two marines had been wounded, and urged him to use at least the shell money fines he received to buy back firearms on a voluntary basis.

The two other pieces of information relate to the final demolition mission, which Baudissin had seen as the adoption of a customary strategy. His aim had been to destroy property worth at least as much as the unpaid fine of 900 fathoms of shell money he had imposed on Tovering and his people. The beauty of the scheme had been that it did not matter, according to local custom, if the property destroyed did not belong to Tovering because he would be held responsible for its destruction and had to compensate those who had innocently suffered.²⁷ Baudissin also stressed that great care had been taken in the execution of this ingenious scheme that no coconut palms were damaged so as not to harm the copra trade.

The admiralty did not bother to ask Oertzen, via the foreign office, for a clarification, probably because the question of logistic support for the navy had already been addressed by Knorr in his letter to Oertzen of 1 July 1886. In it Knorr had complained that the navy was facing an impossible task when it was requisitioned to arrest particular chiefs or to punish entire villages or districts in Melanesia. The way things stood, it could either refuse to carry out all such requisitions or continue to accept them, as had been regularly done in the past, with virtually no hope of success. Neither of these alternatives was acceptable. However, the situation could be improved. Since surprise was the only chance to achieve results, all requisitions from now on had to be kept secret. At the same time they had to be more carefully prepared. Both were the responsibility of the representative of the imperial government—that is to say, Oertzen—who had to acquire to this end a precise knowledge of the country and its inhabitants, including their language and their social and political organisation. In particular, he had to arrange that the appropriate number of carriers was available²⁸ and to prepare sketch maps of the areas in question, which showed all the information relevant for military purposes, such as the location of harbours, villages, tracks, rivers and fords.

This was not what Oertzen had bargained for. Hence he changed tack when responding to Knorr's requests in a letter of 15 July 1886. It was addressed to "the Imperial Command of the

26 It is not stated which language Kubary used to communicate with his servant, but the naval officers were obviously able to understand some of it. The phrasing of the German translation given by Baudissin suggests that it was an early form of "Pidgin".

27 This was, of course, a conveniently legalistic interpretation of *kamara*. It is unlikely that the Tovering distributed 900 fathoms of shell money, or indeed any shell money, among those whose houses and gardens were destroyed.

28 Knorr specified that at least one carrier, but preferably two, were required for each ten members of a landing party so that the cruiser squadron would have required up to 100 carriers—a target which Oertzen would have had little chance of meeting.

South Sea Station, here" (RM I/2733) and merely for the record, since Oertzen had not faced up to Knorr before the latter departed from Matupi on 3 July 1886, leaving the navy's files in Oertzen's care. Oertzen could therefore quietly add his letter to these files, where it would await the arrival of the next warship—which happened to be SMS *Adler* under Wietersheim.²⁹

In his response Oertzen acknowledged the rear-admiral's valuable suggestions, which he would certainly take to heart, but stressed that the position was really quite different. As the files would show most of his requisitions, including those made to SMS *Albatross*, had been carried out with admirable success. The Tovering affair had been a unique exception. Furthermore, conflicts with natives occurred in areas where civilisation was penetrating hitherto unexplored districts, so that no-one could be expected to provide reliable intelligence about them. As for carriers, who obviously had to be supplied by friendly neighbouring tribes, arrangements could not be made in advance, because natives were unable to keep secrets so that it would be quite impossible to take the enemy by surprise. A sudden dawn attack by a naval landing party put ashore immediately after the warship's arrival offered by far the best chance of success. If this did not work, the only alternative was for the landing party to stay on, pursuing the natives relentlessly, until they were willing to surrender. The problem had simply been that neither SMS *Albatross* nor the cruiser squadron had had sufficient time to employ this strategy.

By presenting the situation in this manner, Oertzen avoided having to admit that he had no intention of tracking through the bush, preparing sketch maps and learning native languages, much less of playing the policeman himself. To write requisitions and to watch from the safety of a warship how they were carried out was more his style—and was that not all that could be fairly expected from a consular official?³⁰

Oertzen's approach paid off, if only because he found a sympathetic audience in captain von Wietersheim. But it took more than three months before his tactic was tested—and I propose to use this interval to catch up with the developments in the Marshall Islands.³¹

V

When the Marshall Islands were placed under imperial protection by SMS *Nautilus* under captain Röttger in October 1885,³² the German government expected that the two German firms active in the group would form a counterpart to the Neu Guinea Kompagnie which would be issued with a similar charter and assume full administrative responsibility. Indeed, the sailing orders for the *Nautilus* had barely been issued, when the chancellor of the Reich reminded these firms that they could not count on the permanent presence of an imperial commissioner, backed by a warship, because the Reichstag would refuse to approve the necessary funds (RKA 2954). The two firms, the Deutsche Handels-und Plantagen Gesellschaft and the Hernsheim firm, which had ranged themselves more or less reluctantly and sincerely with the Neu Guinea Kompagnie in Melanesia, were not at all keen to accept a charter in Micronesia, especially when it became clear that neither

29 Knorr was even less impressed by Oertzen than Baudissin. He reported to the admiralty that the difficult role of the imperial commissioner required a great deal more attention, effort and initiative than Oertzen was able to muster (RM I/2732).

30 This is, of course, my interpretation. But Baudissin did complain bitterly that while Oertzen had always avoided accompanying the landing forces inland, he had specifically requested that they should camp at Tovering's hamlet—a request which Baudissin had declined because he was not prepared to expose his men to the notorious danger of contracting fever during a night in the open.

31 This is what the historical record tells us about the "series of punitive raids" which, according to Hempenstall, had demonstrated "the inadequacy of the navy as a police force" and had been so bloody that Bismarck had suppressed the publication of reports "for fear of political repercussions" (see above: 102). As facts can speak for themselves, no interpretation is required.

32 The *Nautilus* belonged to the Hong Kong based East Asian station. It had to come to the assistance of its Sydney-based Pacific counterpart, since the latter could not cope with all the flag hoistings which had to be performed at the time.

the Carolines nor the Gilbert Islands, which would have linked the colony, respectively, with China and Samoa, would become German.

By the end of January 1886 it had been agreed that the Hamburg firms should make proposals for the most suitable arrangements for administering the Marshall Islands and that an official from the consulate-general in Apia should visit the area to provide the German government with up to date information. On 5 February consul-general Stuebel was given the option of entrusting the mission to his offsider, Knappe, if he felt he could not leave Samoa for an extended period. Stuebel decided against going himself, but it took until May before Knappe set out from Apia. When he did, however, he did so in style, not on board a tiny gunboat, like Oertzen two years earlier, but with Knorr's cruiser squadron, arriving in Jaluit on 28 May.

Although Knappe had not been given any special powers, as he was not meant to start governing the Marshall Islands but merely to report on how this might best be done, he showed a great deal more initiative than Oertzen. The day after his arrival he held a meeting with representatives of the commercial interests present on Jaluit, including the non-German ones. The meeting quickly reached agreement that the administration had to be placed in the hands of a resident imperial official, but that the costs for the required minimal administration could easily be borne by "the Islands", so that no subsidy from the Reich would be required. The main source of local revenue was to be a tax to be paid by the Marshallese in the form of copra which could be large enough to cover the estimated running costs of government of just over \$5,000 per annum. The various fees and taxes to be paid by Europeans, which were only expected to raise about half as much, could therefore be used to pay off the initial capital outlay, which the two German firms were to provide in the form of a loan on standard commercial terms, and to cover any possible shortfalls.

On the strength of this agreement Knappe not only made far-reaching proposals to the foreign office but also took a series of immediate measures. The central one was to install the Hershheim manager, Grösser, as a temporary "Representative of the Imperial Government". For the future Knappe envisaged a kind of quasi-consular regime, based on the voluntary submission of the non-German foreign residents rather than on an exercise of territorial German sovereignty. It was to be placed under the German consulate-general in Apia which would be represented by a consular secretary, who would also hold a kind of semi-consular court. In fact, such a court started operating forthwith, because Knappe also enacted two ordinances which made it an offence if non-German merchant vessels failed to report their arrivals and departures to the "Representative of the Imperial Government"³³ and pronounced the familiar prohibition to supply natives with firearms, ammunition, explosives and liquor.

Since Knappe proposed that a junior official would be posted to Jaluit, it is unlikely that he had ambitions in this regard. Yet it was he who was selected to return there as imperial commissioner, although the measures he had taken had probably exceeded his authority and although the foreign office accepted none of his proposals. On the other hand, Knappe had at least done something in a situation in which something needed to be done—and he could not possibly have known about the scheme adopted by the Protectorates Act two weeks before his departure from Apia.³⁴

The instructions issued to Knappe on 11 September 1886 for his role as imperial commissioner (RKA 2954) show that the foreign office had every intention of handing over the governmental responsibilities for the Marshall Islands to a chartered company as quickly as possible.

33 German vessels already had to report to the German consul under existing metropolitan legislation.

34 It is also likely that Knappe assumed that the German government had approved the 1885 "treaty of protection" which would indeed have called for a quasi-consular regime restricted to foreigners. Indeed taken by themselves his subsequent instructions as imperial commissioner (see below in the text) could still be interpreted in this sense.

In view of the provisional character of your mission it cannot be your task to take responsibility for the financial requirements of the future administration of the colony. You will therefore refrain from the introduction of new fees and taxes. Only in cases of urgent need, for example for the construction of a prison and the employment of a few policemen, should you secure the necessary funds by levying the resident foreign firms in accordance with arrangements to be made with them and only insofar as the costs cannot be covered by fees which you are paid... for the performance of consular acts.

To introduce a tax for natives on the basis of their copra production was not at all advisable for the time being. In general, Knappe was only to intervene in native affairs if the public order was endangered or if his intervention was specifically sought by those involved. As far as the proposed ordinance concerning the control of non-German vessels was concerned—to the enactment of which Knappe had apparently not confessed—there were no objections, provided the non-German firms were happy with it. In addition, Knappe received a blanket instruction to be careful not to interfere with the rights of citizens of other nations in order to avoid complaints by foreign governments. On the other hand, he was expected to get foreigners, as well as natives, used to the new order by being firm but just, thereby ensuring that “the handing over of the administration to a colonial company under the supervision of the Reich can be effected without difficulty”.

Knappe left Apia in his new role as imperial commissioner on 13 December 1886 on board SMS *Albatross*, whose command captain von Frantzius had taken over from Baudissin (see RM I/2626). He arrived in Jaluit on Christmas Eve. The unexpectedly large European community—as many as four merchant vessels were also riding at anchor—feasted merrily together in stark contrast to the tense segregation in Finschhafen. To be sure, Frantzius was displeased when the coaling of SMS *Albatross* by the Hensheim firm dragged on and one lighter load had to be rejected altogether because it was soaking wet. Nor was he amused when the pilot with whom he had been supplied collapsed next to him on the bridge with an epileptic fit before his ship had started to move. But the pilot was soon replaced, and the rest of the round trip through the Marshall Islands—with Knappe on board—went smoothly.

Knappe made speeches to the assembled chiefs, assuring them of the goodwill of the German government, but also impressing upon them that law and order was to rule from now on, so that they were no longer permitted to disturb the latter by taking the former into their own hands. All of this, Frantzius reported to the admiralty, the chiefs understood perfectly well and approved of wholeheartedly.

SMS *Albatross* left Jaluit on 7 January 1887 and anchored a week later in Matupi, alongside SMS *Adler* which was getting ready to take imperial commissioner von Oertzen back to Apia. Knappe only stayed on until the middle of the year, since his valuable services were more urgently required in Samoa. He was replaced by vice-consul Sonnenschein as acting imperial commissioner.

A critical point during the dawn of German colonial rule in the Marshall Islands was reached when the cruiser squadron visited the group in May/June 1886 because it confronted its commander, rear-admiral Knorr, with a whole range of delicate issues. One of them arose because the chief of the atoll of Namorik, Lebomari, had let it be known that he did not regard his atoll as being under German protection, since he had not been a party to the agreement signed by Kabua and other chiefs in 1885. The German firms suggested that Knorr should now also hoist the German flag on Namorik and persuade Lebomari to join the agreement, since he merely felt slighted because his signature had been regarded as superfluous. Knorr refused to re-open the merry-go-round of flag hoistings, but he was willing to console Lebomari by erecting a sign officially proclaiming that Namorik too was under German protection.

Instead of responding to Knorr's generosity, Lebomari, “an adherent of the Boston Mission”, refused to appear before Knorr, declaring that he would prefer to place himself under American protection. Only after Knorr's adjutant had threatened to get him by force if he did not turn up

within half an hour did he give in. He came with his entourage, including some native missionaries, to be addressed by the adjutant and Knappe about the advantages of German protection. This led to an animated private discussion between Lebomari and the missionaries and to a sudden change of heart. His lack of cooperation, he now proclaimed, had merely been due to the bad influence of the Boston Mission! He was not only eager to have the fact of German protection documented by a sign in front of his house, but also asked to be taken by the flagship to Jaluit where he wanted to confer with Kabua.

Knorr's next stop was Majuro. The incident requiring his intervention went back to 1885, when the paramount chief, Jiberic, had allegedly promised captain Röttger to pay certain fines within a certain period—none of which had been recorded in the naval files. This greatly annoyed Knorr, since he therefore had to rely on the version given to him by the traders, who were not only the original complainants but also had to act as his interpreters in his dealings with the Marshallese, and whom he regarded as not at all trustworthy. This created a situation, Knorr complained, where the exercise of his "naval jurisdiction" could easily be seen as being totally arbitrary or even intentionally unjust.

After Jiberic, who had difficulty walking due to a sickness, had finally arrived at the Hensheim station, Knorr made his appearance ashore. He began proceedings by asking the assembled Marshallese whether they had any complaints against the traders. Only when this was denied did Knorr turn to complaints against Marshallese. The first had been lodged by a Majuro chief whose coconuts had been repeatedly and forcefully removed by Jiberic's main lieutenant. Knorr responded with an earnest warning to all chiefs to maintain peace and order, since troublemakers would from now on be banished from their islands by the German authorities.³⁵

The next case involved the theft of allegedly \$100 from the German trader Schmidt. This was the case already heard by captain Röttger who was said to have decided that Jiberic, who had paid \$30 on behalf of the thief at the time, claiming this to be the amount actually stolen, should pay an extra \$70. Knorr had several reasons to be unhappy about this case. Firstly, he tended to believe Jiberic rather than Schmidt, as far as the stolen amount was concerned, so that he disapproved of Röttger's decision, although he felt he had to uphold it. Secondly, he was told that the case, which had been the reason for his insistence on Jiberic's personal appearance despite his sickness, the painful effects of which were now vividly demonstrated, had in fact collapsed this very morning when Jiberic had paid the outstanding \$70 to another trader, which Schmidt had not bothered to tell Knorr, although he had been informed about it. Since Knorr nevertheless felt that he had to do something, he decided to fine the thief, whom he had brought before him, another \$30 (the figure is significant), only to see it promptly paid by Jiberic.

The next case gave Knorr the opportunity to make amends. It concerned a small "spirit hut" in front of another trader's house, the removal of which Jiberic had promised to Röttger. Knorr established that the hut was not only older than the house but that Jiberic owned the land on which both structures had been erected. He therefore confirmed that Jiberic had to remove the hut, as promised, but that the trader had to pay him the stiff price of \$60 in cash for the small plot of land.³⁶

It was the final case which was the real crux. A Marshallese had recently assaulted the trader Schmidt, whom Knorr found particularly obnoxious. Although he thought that it was Schmidt's fault if a native dared to lay hands on him, Knappe and all but one of the traders, whose advice he had sought, insisted that a fine would not do and that a corporal punishment was needed. Knorr reluctantly agreed, and 25 strokes were administered to the culprit in front of a large crowd of

35 Knorr did not indicate what form these banishments were supposed to take.

36 I do not know whether Knorr considered whether this decision was in accordance with the land acquisition prohibition which Röttger had proclaimed the previous year.

people who were visibly impressed by this novel spectacle.³⁷ Knorr took pains to explain to the chiefs, whom he had also consulted and who had argued in favour of a fine, that the punishment had to fit the crime. However, he was personally far from convinced that this had indeed been the case and washed his hands of the whole matter. Because of the short duration of his stay on Majuro he was unable to say what further, positive or negative, results his judgements had produced. He had tried his best to be fair. If he had, in fact, been unjust, the traders themselves would have to suffer the consequences. He had told them that much and had warned them, in their own interest, to be reasonable in their relations with the natives.

Knorr was more concerned to improve the navy's image in the eyes of the assembled Marshallese. Hence he embarked upon a long speech to counteract the effects of these "unpleasant proceedings". He admonished the chiefs to be peaceful. All these disputes had to come to an end since they could only undermine the prosperity and the enjoyment of life among such a small population. The fines the Marshallese had paid would not be given to the traders, nor would they be kept by the judges, rather they would be paid into a special fund to be used for the Marshallese' exclusive benefit. Then he sang the praise of German rule which had their well-being very much at heart and saw their punishment as a necessary but most painful duty.

After his return to Jaluit Knorr had to face his most unpleasant task, that of dealing with the murder of an English trader, who had been attacked by two Philippino sailors when he had tried to prevent a brawl and had been fatally stabbed by one of them. According to Knappe's requisition to Knorr (RM I/2732), the whites in Jaluit had met after the trader's death, about a month earlier, to decide what to do with his killer. To hand him over to the natives, who would have quietly done away with him, as had been the practice in similar cases in the past, had been regarded as illegal, now that the Marshall Islands had been placed under German protection. Instead the culprit had been locked in a cellar to await his punishment by the cruiser squadron. Because the emergency prison had to be constantly guarded, the matter was urgent. As the civil administration of justice had not yet been regulated by law he, Knappe, could not dispose of the case, so that it was up to the admiral to deal with it by way of court martial, since it would damage the prestige of the German government if the people thought that it was incapable of handling cases of such a serious nature.

Knorr rose to the occasion, although he pointed out that he had been unable to constitute a court martial because neither were the Marshall Islands in a state of war nor was the accused a member of the armed forces. Nevertheless he had felt obliged to deal with the matter in order to preserve the prestige of the imperial government. Since it had been proven that the merchant sailor Birnabe Castillo had murdered the trader Fred Ackland, it had been necessary, taking into account section 211 of the German Criminal Code and the need to strengthen and maintain the German authority in the protectorate, to sentence him to death. As it was impractical to carry out this sentence by decapitation—the official metropolitan German form of execution—Castillo was to be hanged. Moreover, the execution was to be carried out by "natives of the land", although in the presence of a detachment of 40 marines.³⁸

Instead of describing the gory details of the execution I want to turn to the general comments to which this case inspired Knorr. The admiral accepted that under the extraordinary circumstances prevailing in a German colony without laws, courts or government a dictatorial exercise of power was the only way of maintaining some kind of law and order. He did not know if and when a proper administration of justice would be established and this question was certainly no business of his. Yet, he had to draw attention to the enormous responsibility the person had to carry who exercised this dictatorial jurisdiction. While it was not his place to express an opinion as to whether or not naval commanders should be expected to play this role,

37 Knappe apparently later remembered this corporal punishment rather differently (see above: 62).

38 It is interesting to compare this early case with the proceedings after the Ponape Rebellion more than 20 years later.

it was absolutely necessary to create a clear legal position in this regard, since they might otherwise become criminals in the eyes of the law, simply by shouldering this responsibility in the course of their military duties. It had to be urgently determined by law where and when naval commanders had to exercise such a jurisdiction and, more broadly, under what circumstances naval commanders had to accept requisitions by German consuls or other representatives of the imperial government to take any punitive measures.

Knorr's concerns were conveyed by the admiralty to the foreign office. It responded on 9 September 1886 (RM I/2626). Until other arrangements for the administration of the Marshall Islands could be made an imperial commissioner would be stationed there who was also to be empowered to exercise judicial jurisdiction. Knappe had been provisionally appointed to this position. He would be ready as from the middle of November to proceed from Apia to the Marshall Islands. Since regular shipping connections were non-existent and it was, in any case, preferable if he could take up his post with some ceremony, it was desirable for him to be conveyed to Jaluit by a warship which could stay with him for a few weeks, SMS *Albatross* being suggested for the purpose.

We know already that Knappe was indeed taken by SMS *Albatross* to Jaluit, under her new commander, Frantzus, in December 1886. What we do not yet know is that the ship had already paid a brief visit to the Marshall Islands under Baudissin in July, *en route* from the Carolines to Sydney. Baudissin had only planned to bunker coal and to carry out some target practice, but he got involved in other matters, probably not quite as reluctantly as he made out in his report of 12 August 1886 (RM I/2626).

Upon his arrival in Jaluit, SMS *Albatross* was visited by Grösser who was asked by Baudissin why the German flag was flying in front of his house. Grösser explained that he had been installed by Knappe as the "Representative of the Imperial Government" and presented Baudissin in this capacity with a requisition to visit Mille and Arno where some of the chiefs still refused to accept that they stood under German protection. Baudissin was inclined to reject this requisition because he believed that Knorr would have dealt with it, or would have left instructions for the next warship to do so, if he had felt that action in such cases was required, but he changed his mind when a letter arrived from Majuro the next day. In it the Hemsheim trader Müller complained that Jiberrić had placed him under a "tabu" because it had been at his station that Schmidt's assailant had been given the controversial corporal punishment by Knorr. Since then Müller had been unable to buy a single pound of copra, so that he was now asking to be given another station immediately, unless Jiberrić was forced to remove the tabu.

This was Baudissin's chance; for if Knorr's actions had been effective Müller's authority and prestige should have increased—as had happened elsewhere, for example in the case of Schulle in northern New Ireland as a result of Baudissin's punitive expeditions in May. Instead Jiberrić had punished him merely because he had loyally placed his station at Knorr's disposal. If it was already intolerable that a chief thought he could punish someone who was not his subject, to do so as a protest against a sentence pronounced by the navy was outrageous. Something had to be done to put an end to this policy of intimidation. Otherwise there would be no end to naval interventions. Moreover, since Müller had been the victim of an act of revenge directed against a punishment pronounced by Knorr, the navy had a moral obligation to see to it that he was compensated. Hence Baudissin had felt compelled to go to Majuro and, this being the case, had also visited Mille and Arno on the way.³⁹

In Mille Baudissin told the assembled chiefs that it made no difference whether or not they had been present when the German flag had first been hoisted. This was readily accepted but Baudissin was otherwise not favourably impressed by what he saw. True, the houses were well-

39 Naturally, Baudissin was less forthright, but there is no doubt that he was responding, obliquely but with plain satisfaction, to Knorr's criticism of his performance in the Gazelle Peninsula.

built and clean; the people were all decently dressed; the missionary Jeremias, an Ebon native educated by the Boston Mission, conducted a successful school, and everybody only had good things to say about his restraint in non-religious matters. Nonetheless something was seriously wrong: a counterbalance to the influence by the mission was lacking. Because they no longer had to worry about food and had abandoned their former warlike ways, the people had become lazy, soft and effeminate, to the extent that it was now fashionable for men to wander around in ladies' skirts!

Baudissin's stay on Arno proved equally uneventful. He informed the assembled chiefs about Knappe's prohibition to supply natives with firearms and liquor—as he had also done in Mille—and told them that they had no right to place a tabu on foreigners but should take complaints against them to the proper authorities. There were no such complaints but the traders raised several tricky questions: did Knappe's prohibition also apply to natives or halfcastes employed as traders? Would the government buy back the now useless supplies of arms and ammunition from the traders? Could he, Baudissin, issue land titles to them? Baudissin found conditions on Arno much better than on Mille. The people were still more "natural", although they had probably "degenerated" sufficiently so as not to cause serious trouble. Only their impressive sea-going canoes presented a problem for an orderly administration since one could never be sure on which island, or even in which atoll, one would find the people because they were always on the move.

Now to Majuro. Here Baudissin had, so he claimed, intended to banish Jiberric.⁴⁰ But he let himself be persuaded by the local traders, who had to know best what was good for them, that a fine was sufficient. He therefore imposed a "disciplinary" fine of \$150 on Jiberric which was paid on the spot, although Jiberric claimed that the tabu on Müller had been placed by his sub-chiefs without his knowledge—a claim which Baudissin dismissed as being as implausible as it was immaterial. Baudissin had the fine demonstratively carried to his boat, only to hand two thirds of it subsequently over to Müller as compensation because the losses he had suffered were to be regarded as a direct result of a service he had rendered to rear-admiral Knorr.⁴¹ Baudissin also instructed Jiberric that he was free to trade with whomever he liked, but that his behaviour in this instance had been an act of revolt against the "Herr Admiral" and that he could not expect to get off so lightly in another instance of this kind. "After some talk he pledged to remove the tabu and to mend his ways, and we reinforced the pledge with a handshake."

Baudissin was pleased with his improvised round trip. Short as it was, it promised positive results, in particular because of the surprise the appearance of a warship so soon after the visit of the cruiser squadron had caused everywhere. He therefore not only reported to the admiralty but also "informed Herr Grösser by letter of the achievements. I have left a copy of this letter [with Grösser] for the next of SM Ships arriving here, and I intend to direct another copy to the Consulate in Apia"—so that the world would know what a model naval commander he was, no matter what Knorr and Oertzen were saying.

VI

We left Oertzen in the Bismarck Archipelago in mid July 1886, guarding the naval files to which he had added his reply to Knorr's request for improved logistic support for the navy. In October he started to compile a new list of requisitions as if nothing had happened, nothing, that is, which

40 I rather doubt that he had seriously contemplated making this dangerous move.

41 This may well have been a calculated challenge to Knorr's public announcement that fines would not go as compensation to the traders in response to whose complaints they had been pronounced. Knorr himself, however, had approved Knappe's suggestion that the fines collected during the visit of the cruiser squadron were to be used for the erection of a proper prison—as if this was the most natural way of serving the interests of the Marshallese, the purpose to which these fines were devoted.

would have affected his relationship with the navy or, for that matter, with the Neu Guinea Kompagnie; for this October list already included the requisition for his ill-fated Christmas visit to Finschhafen. But in the Bismarck Archipelago too things had been rather quiet, apart from the killing of just one more trader in northern New Ireland.

The arrival of SMS *Adler* in Matupi on 2 November encouraged Oertzen to add another item to his list. A negro trader named Jimmy had threatened to shoot the keeper of Hensheim's inn. Since Jimmy was prone to commit outrages of this kind it was imperative to take him out of circulation until formal court proceedings could be taken against him—a sign that Oertzen already knew about the imminent arrival of a judge in the archipelago, who appeared a fortnight later in the person of Schmiele.

During the first three weeks of her presence SMS *Adler* underwent a thorough cleaning, so that only short-distance jobs could be undertaken. The first concerned an assault on Hensheim's manager on Matupi by two natives who had only paid part of the shell money fine Oertzen had imposed on them. After positioning boats around the island to intercept fleeing canoes, a landing party marched to the hamlet of Tolok, the main culprit, at 4.30 a.m. on 4 November, only to find that Tolok had departed, together with all his shell money, as soon as SMS *Adler* had cast anchor. Tolok's relatives were asked to pay up on his behalf within the hour. When only 20 fathoms and two pigs were produced, the landing party shot another three pigs, said to belong to Tolok, to make up the rest of the fine.

The next day, at a more civilised hour, Jimmy's time had come, when sub-lieutenant Huss went with the cutter across to his trading station. Jimmy allowed himself to be arrested peacefully but was put in chains for the next ten days, as no suitable lock-up was available. Then he was released at Oertzen's instructions because his unidentified employer, presumably Farrell, had bailed him out and because Schmiele had just taken up his judicial office so that it was now up to him to deal with the matter because, as a US citizen, Jimmy was under his jurisdiction, despite the colour of his skin, which had probably not been immaterial in the treatment he was given up to this point.

Schleinitz's visit to the Bismarck Archipelago in November made no difference to Oertzen's arrangements with Wietersheim, apart from a requisition to permit Schmiele to join SMS *Adler*'s round trip so that he could investigate the complaints against Hensheim's agent Schulle in northern New Ireland. Oertzen was happy to surrender this responsibility to Schmiele, as he had learned to appreciate Schulle's assistance during the operations of SMS *Albatross* in May. Indeed, so useful had Schulle become to Oertzen and the navy that even Schmiele's finding that the complaints about his brutality towards his Chinese servants were amply justified was not seen as a reason for dispensing with his services. On the contrary, although Oertzen's investigations revealed that the killing of the Hensheim trader Herrmann and the burning of his station had been an act of revenge by the Kapsu chief Angate, whose hamlet had been burnt down by Schulle after Herrmann had accused Angate of stealing a large quantity of tradegoods, Oertzen not only insisted that those responsible for Herrmann's death be severely punished, but also approved of Wietersheim's plan to put Schulle in charge of an auxiliary force of 93 warriors under the "notorious" Nusa chief, Metango.

In his requisition to Wietersheim Oertzen stressed that courts competent to deal with native crimes did not yet exist, since natives were excluded from the jurisdiction of Schmiele and Schleinitz, but that he had received instructions that guilty individuals captured alive by the navy would probably be banished.⁴² Now it was up to Wietersheim to issue his orders for the military

42 No details are given. My guess is that Oertzen and his superiors had banishment to Samoa in mind where these people would carry out compulsory labour on the plantations of the Deutsche Handels- und Plantagen-Gesellschaft under the supervision of the German consulate.

campaign which lasted, with some interruptions, for over two weeks, from 27 November to 11 December 1886.

Wietersheim's first move was to attack Kapsu from behind, after crossing the narrow northern tip of New Ireland. The attack was to be carried out by a landing party consisting of two officers, the ship's doctor and 56 men, supported by Schulle's auxiliary corps, which was to indicate to the landing party what villages counted as friendly or hostile, and was to be rewarded with the canoes captured in the latter. While the main aim was the arrest of Angate and his accomplices, Wietersheim's orders acknowledged the difficulty of capturing them individually and therefore approved the punishment of their entire tribes. Women and children were to be spared, but resisting or fleeing men were to be shot. Firearms and gardens were to be destroyed—but not the houses so that the people could return to their villages and resume trading as soon as possible.

Although neither Angate nor anybody else was arrested during the three day expedition and only some long distance shots were fired with uncertain results, Wietersheim claimed it as a success. Nonetheless, he decided that some additional shelling from the sea was called for. The bombardment was carried out on 3 December when over a period of 55 minutes a total of 49 grenades were fired into the bush behind Kapsu. Wietersheim had expected that it would convince the hostile tribes that further resistance was fruitless, so that a small landing party could now, with the help of some friendly natives, arrest Angate in his hideout. This proved difficult to arrange because the friendly natives had also left their villages. Finally chief Mosjelechat of Tultub was brought on board and agreed to capture Angate, dead or alive, after he had been promised a substantial monetary reward and the entire land belonging to Kapsu for future use by his people.⁴³ The chief asked for a few days to carry out his part of the bargain, was put ashore, and sensibly kept at a safe distance thereafter.

Meanwhile a small landing detachment managed to arrest the native Wobau from Avelus, who had been found lurking near Butbut and whom three witnesses identified as having taken part in the killing of Herrmann. The prisoner and the three witnesses were sent on board SMS *Adler* where Oertzen carried out further investigations. They confirmed Wobau's involvement in the killing. But there existed no court which could have sentenced him to death for this crime and such a dramatic warning example was highly desirable, because the operations of the landing party during the next few days produced no other tangible results. Wietersheim therefore took it upon himself to exercise his military jurisdiction and send Wobau to the gallows—not as a murderer but as a spy who had been paid by his people to report on the movements of the navy.

Wobau's execution, the first of a native in German New Guinea, took place on 11 December 1886 in Kapsu. It was not exactly a public event because Wietersheim had again shelled the village, so that it was deserted when Dr Eckstein confirmed Wobau's death at 11.50 a.m. Afterwards the landing party had another look around to see whether it could, by some miracle, arrest Angate. Instead it stumbled across a cache containing 150 spears in a swamp, into which it fired the last 14 rifle shots of the campaign because there had been suspicious movements among the foliage.

All in all, Wietersheim was nevertheless content with his efforts. But then his goal had been more modest than that of Baudissin a few months earlier. He had not expected unconditional surrender, followed by everlasting peace, but was satisfied that Schulle believed that he did not have to fear for his life for a while and that trade, even with Kapsu, would resume shortly. Wietersheim did not feel that it was necessary to justify his actions to his superiors or to explain his views to them. He took it for granted that every sensible person knew that there was no choice

43 This extraordinary promise gives a good indication of Wietersheim's megalomania. He did not just feel entitled to confiscate the subsistence base of an entire group, but believed that the Kapsu would accept his decision instead of throwing the Tultubs off their land as soon as he had turned his back.

but to show the natives, as forcefully as possible, who was master, and to repeat this lesson again and again, until they finally accepted the inevitable.

The same applied to his views about the relations between the navy and the Neu Guinea Kompagnie. He did not have to express them because it went without saying that an officer of the imperial navy could never be placed in a position where he had to accept requisitions from a commercial company. Schellong had been right when he thought that the clash between Schleinitz and Wietersheim was primarily concerned with honour—but the honour which was threatened was not the personal honour of Schleinitz but the corporate honour of the imperial navy, and it was threatened not so much by Schleinitz's demands to have his status as company administrator publicly recognised by Wietersheim but by Bismarck's peculiar idea to let colonies of the Reich be governed by commercial companies, an idea which, in turn, was not motivated by a desire to save the German taxpayer money but by Bismarck's reluctance to plead with the Reichstag for colonial funds. Everybody's honour was at stake and everybody's honour was tied up with that of everybody else. Even Schellong, although he felt that the clash between Schleinitz and Wietersheim was pretty ridiculous, nevertheless accepted that he and his fellow company employees had to give loyal support to their chief—because not to do so would have been dishonourable.

Since honour apparently played such an important part in the manner in which "the Germans" conducted their affairs at the time, it is worth considering another strand of events where questions of honour and status arose, seemingly unconnected with issues of power or policy, and in which the Neu Guinea Kompagnie did not figure at all, the leading actors being rear-admiral Knorr and vice-consul Knappe.

VII

Knorr had been worried about protocol from the moment the cruiser squadron approached Jaluit, where the German consulate was being looked after by a junior Hertsheim employee, named Naht, whom Knorr was reluctant to grant the usual consular gun salute should he pay the flagship an official visit. Knorr solved this particular dilemma by reasoning that while Naht, as acting consul, might be entitled to a naval gun salute in other parts of his consular district, it was certainly not due to him in the Marshall Islands after they had been placed under imperial protection so that they were no longer foreign soil. But what was he to do should Naht travel on his flagship in his official capacity, whatever that was? Should he invite him to join his own mess, since consuls, including acting consuls, were treated as equivalents of naval commanders and were as such entitled to this treatment, no matter what rank they held? Knorr was inclined to do so, until he was approached by Knappe who, as a vice-consul, had so far travelled in the officers' mess⁴⁴ but who insisted that the arrangements made for him had to be upgraded in this case, because he represented consul-general Stuebel so that he was, in this capacity, Naht's superior as acting consul. Knorr was annoyed because he regarded Knappe, at barely 30, as far too young for the honour of sharing his table and because he expected that his own junior officers, Knappe's age-mates, would resent the latter's elevation. Knorr was therefore relieved when no official trip by Naht eventuated, so that he did not have to implement his contingency plan of admitting Knappe to his own mess, but as his personal guest and hence at his personal expense, rather than as of right.

Knappe, however, continued to make life difficult for Knorr by installing the Hertsheim manager Grösser as "the Representative of the Imperial Government", a new-fangled creature of dubious legitimacy who did not appear in any naval instructions. These instructions did not even register the species "imperial commissioner" which Knorr encountered shortly afterwards in the

44 Lebomari, on his trip from Namorik to Jaluit, had been allocated to the deck-officers' mess, one level further down.

person of Oertzen in the Bismarck Archipelago. To be consistent Knorr also denied Oertzen a consular gun salute, as the archipelago too was under imperial protection. Moreover, he took care to make confidential inquiries, through his adjutant, about the treatment Oertzen had received when travelling in the past on naval ships as imperial commissioner. Not only had he always joined the commander's mess, Oertzen assured the adjutant, but, more conclusive still, the expense accounts he had submitted on this basis had always been approved by the foreign office. Since Oertzen, at 50, was also in a respectable age group, Knorr invited him to join his mess for the trip to Kaiser Wilhelmsland, although he cautiously pointed out that he only did so on the basis of the precedents in Oertzen's case, since general instructions defining the proper treatment of imperial commissioners had not been issued so far.

But Knorr had not reckoned with Knappe's persistence. As soon as he heard about the treatment Oertzen was to receive, he approached Knorr, demanding again his own upgrading because Oertzen held the same consular service rank as he did, namely that of vice-consul. Knorr, who had not been aware that Oertzen was a mere vice-consul when he was not an imperial commissioner, invited Knappe as a personal guest to his mess for the two day voyage. This was also appropriate on account of the fact that Knappe did not travel in an official capacity but was merely hitching a ride. However, Knorr was by now thoroughly fed up with the entire situation: with Knappe's repeated self-assertions; with Oertzen's criticism of Baudissin and inability to provide the navy with adequate logistic support; with the awkward position in which the navy generally found itself in the new German colonies; and, most of all, with the deplorable lack of clear headquarters instructions.⁴⁵ While he himself had sufficient authority and experience to deal with the resulting uncertainties, it was intolerable to expose young naval commanders to them. They should not be expected to make difficult political decisions but permitted to concentrate on performing their military duties. It was high time for the authorities in Berlin to wield a broad regulatory sword and to protect the navy from pushy young diplomats, like Knappe, who were too big for their boots, as well as from tired, elderly incompetents, like Oertzen, who did not have the energy to fill theirs, and who were both likely to get the navy, sooner or later, into serious trouble.⁴⁶

For Knorr the visit to his friend Schleinitz in Finschhafen was a welcome escape from a madhouse, and he was not going to let it be spoilt by questions of protocol. It was an informal meeting between old comrades who probably held similar views about what the new German colonies needed, which were dominated by notions like order and caution and in which military bravura had no more room than spectacular commercial profits.

Oertzen sensibly stayed in the background during the squadron's visit to Finschhafen. He knew that he had incurred Knorr's displeasure so that this was not the time to assert himself in relation to Schleinitz as company administrator. This could wait until the next opportunity; for he had no reason to believe, in June 1886, that his position as imperial commissioner was threatened. But neither did he know that the foreign office had recently informed the admiralty that it would appreciate Oertzen being given special treatment by the navy. This had happened in response to an inquiry by the admiralty, which had been caused by a report from Baudissin, who had faced the same kind of questions of protocol which so worried Knorr, some months earlier.

45 Knorr had been given extensive general instructions by the admiralty in January 1886 when he was placed in charge of the newly formed cruiser squadron (see RMI/2732). Although they identified regular visits to overseas territories which had been placed under imperial protection as the main purpose of the squadron's creation, and specifically referred to the carrying out of requisitions which exceeded the "means of power" at the disposal of the small warships manning the navy's permanent overseas stations, they showed no appreciation of the consequences Germany's joining of the ranks of colonial powers were bound to have for the navy. Thus, the instructions assumed that all requisitions would continue to be issued by the "diplomatic representatives" of the Reich.

46 It hardly needs saying that these are not Knorr's own words, but what I take to be a fair articulation of his sentiments as they shine through between the lines of his reports.

In January 1886 Baudissin had been ordered to take vice-consul Knappe on SMS *Albatross* on an official mission from Apia to Tonga. How was he supposed to treat him during this trip, he had asked Knappe's superior, consul-general Stuebel? As Knappe was to operate independently during his mission, Stuebel replied, he should, if at all possible, be made a member of the commander's mess. This applied even more strongly to Oertzen, Stuebel had added, since he was as imperial commissioner "the highest civil authority in the new New Guinea Protectorate" (RM I/2625). Baudissin had not been altogether satisfied with this advice, which was, in any case, not binding for him, because Stuebel was not his military superior. He had therefore composed a special report to the admiralty. It showed that Baudissin had been especially concerned with the protocol to be observed if Oertzen, as imperial commissioner, wanted to pay an official visit to a foreign warship while on board one of SM ships. But Baudissin had also inquired about the ranking order between imperial commissioner and vice-consul Oertzen and the honorary consul Hershheim who had let it be known that he outranked Oertzen and that he would like to see this fact acknowledged by the navy (see *ibid.*).

When the admiralty approached the foreign office, it was told that consul Hershheim had been placed under Oertzen as imperial commissioner, but only for the "westernly section" of his consular district—that is to say only in Melanesia but not Micronesia; that Oertzen had so far not been given a definite rank in his capacity as imperial commissioner; but that it would be appreciated if he, as "the Permanent Representative of the Imperial Power of Protection" in the Bismarck Archipelago, were shown "special attention and consideration" while on board one of SM ships (*ibid.*). Although it sounds straightforward, this response raised more questions than it answered. What did "special attention and consideration" amount to in concrete terms? Did Hershheim outrank Oertzen when they met in the "easternly section" of the former's consular district? Was Oertzen's authority as imperial commissioner restricted to the Bismarck Archipelago, so that naval commanders should henceforth reject his requisitions in so far as they related to Kaiser Wilhelmsland? Conversely, had administrator Schleinitz, who was by then on his way to German New Guinea, also been placed under Oertzen? Was Schleinitz's authority restricted to Kaiser Wilhelmsland? Was he at least there to be accepted as a representative of imperial authority by the navy?

The foreign office could have removed some of these uncertainties by accepting Hershheim's offer to relinquish his consular commission, which he claimed to have made during a visit to Berlin in June 1886. Instead, according to Hershheim (1983: 102), Friedrich Krauel, the most senior official dealing with colonial matters, had persuaded him to stay on, because Oertzen would soon be sent from the Bismarck Archipelago to the Marshall Islands to repeat his performance as a provisional governmental authority.⁴⁷ By the time Hershheim met Krauel again in September the foreign office's plans had changed. Knappe had now been designated to go to the Marshall Islands whereas Oertzen was to return to Germany, and no replacement for him would be sent to the Bismarck Archipelago.

Seen from the metropolitan perspective, the main reason for the continued presence of an imperial commissioner in German New Guinea after the Neu Guinea Kompagnie had appointed its administrator had been the pre-annexation land claims, the treatment of which, the foreign office believed at the time, could not be left to the Neu Guinea Kompagnie. It had expressed this view in a letter to the company of 25 May 1886 (RKA 4780). It referred specifically to the Anglo-German Declaration of 10 April 1886, according to which disputed claims of this kind had to be dealt with diplomatically if the claimant was a British subject. But this declaration had marked the end of the phase of international diplomacy surrounding the establishment of Germany's first

47 Krauel later became the first head of the colonial department in the foreign office. He had previously served as consul-general in Sydney and had played an important part in the diplomatic negotiations concerning Germany's colonial interests in the Pacific.

Pacific colonies, rather than the beginning of close international cooperation in their administration. Besides, the foreign office had already learned that the Neu Guinea Kompagnie, the only German colonial company committed to doing the job the government expected them to do, at considerable expense to its shareholders, did not take at all kindly to interference with the running of its colony. It was therefore advisable to withdraw the imperial commissioner from German New Guinea as soon as this could decently be done. Hence, while the foreign office had still indicated in May that the treatment of the pre-annexation land claims would be exempted from the jurisdiction of the company's officials, this exemption was no longer expressly stated when Schleinitz was authorised a few weeks later to exercise the judicial jurisdiction under the Protectorates Act, which included land registration matters. Furthermore, Oertzen was, at the same time, not only informed that his judicial jurisdiction would come to an end when Schleinitz started to exercise his, but also specifically instructed to hand over his preliminary land register and related documents to Schleinitz—unless there were local objections to this course of action of which the foreign office had no knowledge (RKA 4780).⁴⁸

It was probably because of this final reservation that the Neu Guinea Kompagnie was not yet told that there had been a shift in policy. It had to wait until 4 September before it learned that Oertzen would also place the files relating to "the land question" at the disposal of its officials. On the other hand, the foreign office was now ready to go the whole way by also informing the company that Oertzen had been ordered to leave the Bismarck Archipelago as soon as the company's station director had taken up his duties (*ibid.*). In other words, the right to supervise the company's governmental activities, which the emperor had retained under its charter, would now be exercised in Berlin, rather than by an imperial official on the spot.

Naturally the foreign office stopped short of disclosing to the company that this signalled the end of Oertzen's career in the Pacific, although this too had been decided. However, in response to inquiries flowing from Knorr's reports about the visit of the cruiser squadron to the Marshall Islands, it informed the admiralty that Knappe rather than Oertzen had been appointed to go there as imperial commissioner to set up an orderly administration of justice. Because of the provisional nature of his appointment the emperor had not given him a special rank, but for the duration of his posting he was entitled, not just to "special consideration", but to the honours due to a full consul (RM I/2626). As we can see, the foreign office could be precise when it was pushed hard enough and when it had nothing to lose by calling a spade a spade.

In the light of these communications it appears likely that the reversal of Oertzen's and Knappe's fortunes was not unconnected with Knorr's reports.⁴⁹ Oertzen's Christmas clash with Schleinitz had merely confirmed that his lack of political judgement in handling the Tovering affair had been no accident. To let himself be provoked by Knorr's reluctance to act into suggesting that Baudissin had damaged the prestige of the imperial navy had been even more foolish than letting himself be drawn into Wietersheim's pointless confrontation with Schleinitz. By contrast Knappe had shown just the right mixture of initiative and caution. He had handled Knorr beautifully. That he had irritated the ponderous admiral in the process was an added bonus. Instead of being overwhelmed by him, Knappe had successfully stood up for the entire diplomatic service. Knappe had a bright future, while it was obviously time for poor old Oertzen to be sent to pasture as a consul in some remote provincial centre in Europe where nothing of importance was ever going to happen.

When Hershheim returned from Germany to the Bismarck Archipelago, Oertzen had already left. Instead he found Schmiele camped in the billiard annexe of his establishment, barely on

48 My guess is that the foreign office believed, but was not quite sure, that there would be no disputed land claims by British subjects so that no need for diplomatic treatment under the joint declaration would arise.

49 Copies of reports by naval commanders on military and political matters were sent routinely by the admiralty to the foreign office.

speaking terms with captain Frantzius of SMS *Albatross*, who was delighted, according to Hershheim (1983: 105), that he could now conduct his business with Schmiele through Hershheim as the German consul since he refused to recognise Schmiele as anything but an employee of the Neu Guinea Kompagnie.

Frantzius reported a somewhat different version to the admiralty on 1 April 1887 (RMI/2427). Since he had been officially notified by Hershheim of the latter's resumption of his duties as consul, he, according to Frantzius, had had no alternative but to accept Hershheim as the "Imperial Representative" within the meaning of the naval instructions. When Schleinitz had asked him for naval support in the arrest of some native murderers in the Kabaira/Kabakada area,⁵⁰ he had therefore felt obliged first to consult with Hershheim and to inform Schleinitz accordingly.

As was to be expected, Schleinitz took offence and wrote to Hershheim, as well as to Frantzius, reiterating that he alone represented the rightful government in German New Guinea. While the continued tensions between Schleinitz and the navy⁵¹ are not part of our story, it should be mentioned that Frantzius did not simply echo Wietersheim but expressed the view that too many shots had already been fired and that education had to take the place of further bloodshed, even though it would probably take decades before the natives would accept a civilised attitude towards law and order.⁵² However, the exit of Hershheim, as the last representative of pre-colonial, consular powers deserves closer attention.

Rather than reluctantly "gauging Hershheim's feelings" (*sein Sentiment einholen*), as Frantzius put it after he had learned that Hershheim's commission had been terminated by the foreign office, he had formally asked Hershheim in writing, on 9 March 1887, whether he, in his capacity as imperial consul, intended to make a requisition in the matter raised in the attached correspondence. Hershheim had responded equally formally the following day that although he was entitled to exercise all his consular functions as long as he had not been expressly instructed by the foreign office to the contrary, he believed that it would best reflect the spirit of his commission if he declined to mediate between the navy and the administrator in the matter of requisitions until he had received clear orders, or was specifically asked by the Neu Guinea Kompagnie's officials to intervene.⁵³

Hershheim had no intention of becoming the meat in the sandwich and no illusions about the foreign office's willingness to support him against either the Neu Guinea Kompagnie or the navy. Moreover, he suspected that the foreign office would be compelled to back the company against the navy, if it did not want to risk the company handing back its charter. Most painfully from his personal point of view, he also had to accept that the company was in the Bismarck Archipelago to stay and that he had to bury his dreams of running his own little kingdom in New Ireland, which Oertzen had still encouraged hardly a year earlier.

The official termination of his commission as consul merely confirmed his fears. He had lost and the Neu Guinea Kompagnie had achieved a total victory, at least for the time being. All he could do was to keep the lines of communication with the foreign office open and to feed it with information which would strengthen his hand in his struggle for his economic survival in the Bismarck Archipelago. He therefore wrote, on 27 March 1887, a private letter to Krauel (RKA

50 The details of this case no longer concern us, although it should be mentioned that everybody was careful not to mention any possible connection with the Tovering affair.

51 They reached an absurd climax when Schleinitz complained that SMS *Albatross* had carried out target practice in the territorial waters of German New Guinea without informing the civil authorities in advance so that agreement about a suitable location could be reached (see RM I/2427, report of 5 May 1887).

52 Frantzius also accused Schleinitz of trying to involve the navy in pointless military activities; for if the arrest of the native murderers was as easy as Schleinitz made it appear on paper, why did the Neu Guinea Kompagnie not carry it out itself (see the report of 1 April 1887, *ibid.*)?

53 Copies of both letters are appended to Frantzius' report.

2977). It began diplomatically enough. Instead of complaining that he had first been encouraged to stay on as consul, only to be dropped as soon as this became inconvenient, he reminded Krauel, as if all this had not happened, that he had been kind enough to permit Hershheim, during their last meeting in Berlin, to continue to express his views, wishes and hopes relating to the promotion of German interests in the Pacific.⁵⁴ But then his frustration got the better of him. He started by stating calmly that the conflict between Schleinitz and the naval commanders would probably have been settled before Krauel received his letter, although he expected that it would continue to hamper cooperation between the Neu Guinea Kompagnie and the navy long after the legal position had been clarified, but he then expressed the view that this conflict had largely been the product of the uncertainty about the respective roles of the various officials which had persisted "out here" for so long—a state of affairs "which could only be described as deplorable".

It is unlikely that this comment earned Hershheim Brownie points,⁵⁵ precisely because he put his finger on the crux of the matter. Throughout the annexation period the officials on the spot had frequently been left in the dark. True, this had to some extent been unavoidable, and the long delays in communication between the Pacific and Germany had been a major contributing factor. But the main reason for these troublesome uncertainties had been the absence of definite plans in the foreign office, which was trying to keep its options open as long as possible. Even after Germany's colonial acquisitions had been internationally secured, it continued to play a game of, now internalised, diplomatic manoeuvring, changing, or half-changing, its only half-committed mind, quite happy to leave everybody else guessing—and to see them pay the price for guessing wrongly.

To annex colonies was one thing, to govern them quite another. When it proved, for a variety of reasons, to be more difficult than expected to hand them over to chartered companies as foster parents, the foreign office played for time and acted only when this became unavoidable. But this period of colonial dawn could not be prolonged forever. The sun had to rise—and the consular and naval nursemaids on the spot, who had at first quite enjoyed their freedom, began to call in unison for a firm legal framework which would relieve them of their individual responsibility, when they realised that their freedom consisted largely of the opportunity of bumping painfully into each other. It would not take long before their successors complained about the stifling effects of bureaucratic restrictions on their activity and before the central colonial bureaucracy in Berlin began to savour the powers of government by remote control—but by then the nature of the entire game had irrevocably altered. Indeed during this extended dawn period the game was in some respects more complex than it was later on because almost everything still had to be worked out and because the few existing, rudimentary normative and organisational structures were not designed to deal with the circumstances under which they now had to operate. As these structures were adjusted and developed, the history of German colonial rule became more routinised. What individual officials did in particular instances became historically less significant. Even their personality moved into the background at the grass roots level, although it remained crucial in the context of structure-building.

Hence we need less concrete detail for an account of the history of the exercise of German rule after things had settled down than is required to appreciate the initial working-out process. On the other hand an account of this history as a collage of unique human actions rather than general structures has to become more selective and fragmented. It is futile to try to give an action-centred account of the exercise of German colonial rule as an overall picture even during the brief reign of Schleinitz. There were already too many actors, too many actions and too many places of

54 On the other hand, Hershheim's wording suggests that he had already been told during this final meeting that his commission would soon be terminated.

55 As far as I can see his letter was promptly filed away without any kind of response.

continuous activity. Instead of following the movements of a few leading actors, the next chapter will therefore focus on one of these places.⁵⁶

⁵⁶ Some readers may be interested in finding out what happened subsequently to our consular and naval stars, and I am happy to oblige. After a short spell in the foreign office, Oertzen was indeed posted as a consul to a remote provincial centre—namely, of all places, to Sarajevo, although he was long gone and dead before he would have had to deal with the assassination of the archduke of Austria in 1914. Oertzen retired as consul-general from a posting in Le Havre in 1907 and died, aged 70, in 1911.

Knappe returned to the consulate in Apia from the Marshall Islands and was placed in charge in 1888. But he soon stuck his neck out too far and was temporarily banished from the consular service (see Kennedy, 1974: 84-85). He rejoined it after working as a banker in South Africa for three years. He retired as consul-general from his last posting in Shanghai in 1906 and died, a year before Oertzen, when he was only 55.

Wietersheim had an unspectacular naval career. He was pensioned off with the rank of rear-admiral in 1900 and died in 1906 at the age of 57.

Graf Baudissin was by far the most successful, reaching the rank of admiral in 1908, leading the naval staff for two years and retiring as chief of the North Sea naval station, aged 60, four years later. He died in 1921.

Let me add for good measure that Geiseler died in 1891, just 43, but that he had by then reached the most senior captain's rank—a more rapid rise than one might have expected in the light of his performance as lieutenant-commander between 1882 and 1884. But then Knorr's criticism of Baudissin had not augured well for his career either, whereas everything seemed to point to a glorious future for Knappe—all of which only goes to show that history at the individual level is full of surprises, although it usually makes sense, once it is viewed in retrospect in the light of adequate information. (Most of the biographical information concerning Oertzen and Knappe comes from the archives of the *Auswärtiges Amt* in Bonn and for Wietersheim, Baudissin and Geiseler from Hildebrandt and Herriot, 1988-90.)

Chapter 10: A Short And Brutal Life

I

Hatzfeldhafen was the most westerly of the three stations the Neu Guinea Kompagnie had initially projected for Kaiser Wilhelmsland. Although it had a greater economic potential than either Constantinhafen or Finschhafen, it was closed six years later because frequent trouble with its Melanesian neighbours made it unprofitable to maintain. Since this is the only time in the history of German New Guinea that native resistance forced the abandonment of a major colonial establishment, and since their resistance earned the local population a reprieve of more than a dozen years from colonial rule, it is worth examining this episode more closely.

II

The station started on a small uninhabited island in the harbour which gave it its name. Its closest neighbours were two coastal villages on the far sides of the points by which the harbour is formed: Dugumor in the west and Tombenam in the east. When the first party, consisting of the station's manager, Fritz Grabowsky, an assistant, a carpenter, a Malay overseer, nine Malay labourers and five Malay women and children arrived on the company steamer *Samoa* during the afternoon of 19 December 1885, the ship was soon surrounded by about 30 canoes filled with curious natives who wanted to try the cigars the foreigners were smoking, had a decidedly thieving nature, were far from shy and rather smelly. They were happy to trade food of the most inferior quality for flat iron which they could use as blades for their adzes but not at all interested in providing labour.¹

Natives came from far and wide to visit the station to watch demonstrations of mirrors, concertinas and other magical items. The Germans were on edge, fearing that a nightly fishing expedition was about to attack their island or counting with apprehension that a crowd of natives visiting the island to barter, after a second supply visit by the *Samoa*, included as many as 96 armed warriors. The main problem was to keep the visitors under control, a task which was made considerably easier when Carl Hunstein, an old New Guinea hand, arrived as a temporary reinforcement with a ferocious Newfoundland dog which attacked any black person on sight and had to be tied up before native visitors could land in safety.²

Once the necessary buildings had been completed and an experimental vegetable garden planted, Grabowsky began to explore the mainland. He reached a small mountain village, Tambero, in February, after crossing a substantial *kunai* plain with apparently excellent soil. The most encouraging sign was that the villages grew substantial quantities of high quality tobacco which, if planted commercially, promised to supply a valuable product for the European market (NKWL 1886: 63). The Tambero people paid a return visit to the station and by April 1886 visitors had come from as far afield as Bilau in the west and Malala in the east. Only relations with Dugumor had cooled, due to more thefts, warnings and threats.

Now preparations began for an experimental plantation on the mainland. By June the station island had been turned into a veritable park and an exploration of the wider environment by the Scientific Expedition was under way. The agricultural experiments were mostly successful and in June 1887 tobacco was planted on a substantial scale, Grabowsky having returned with 60 additional Malays and four Chinese from a recruiting trip to Java (Schellong 1934:114). But on

1 See Grabowsky 1889/1890 for a detailed account.

2 Large dogs, regarded as being as superior to the indigenous breed as their masters, are another theme which runs through colonial history, not only in German New Guinea, although it is again only illustrated by sporadic, anecdotal information.

23 July 1887 a group of 12 Malay labourers was attacked and half of them were seriously wounded, one fatally, although the attackers fled when a German overseer armed with a rifle appeared on the scene and fired a single shot. Grabowsky believed that both Dugumor and Tombenam, together with a second mountain village, Tschiriar, had been responsible. He decided that the forces at his disposal were too weak to punish the culprits and sent for reinforcements. They arrived on 27 August from Finschhafen with the company steamer *Otilie*.

On 29 August a punitive expedition was undertaken against Dugumor. It was deserted and was burnt to the ground. The only casualties were a Finschhafen native, who was fatally shot by a sailor who mistook him for an enemy, and the sailor himself who was speared by a real enemy, but not fatally, during the march back to the station. The following day Tombenam, also deserted, was destroyed as well, whereas friendly relations with other villages were confirmed (NKWL 1887:192-94).

By September the tobacco plantation had been replanted closer to the station and the relations with the natives had improved. Dugumor had paid three pigs as compensation and accepted the condition of only visiting the station henceforth unarmed. Tombenam, on the other hand, had not yet renewed contact (NKWL 1888: 19). After the resignation of Grabowsky a major effort under the new station manager Schollenbruch was made. It involved the construction of a road from Dugumor via Hatzfeldhafen to Tombenam and further east, the direction in which the most promising plantation land was to be found.

The 1888 tobacco harvest was completed in May and the first cigars were manufactured from it, with satisfying results (NKWL 1888: 150 and 179). Ten hectares were under cultivation and about 600 hectares for new tobacco fields had been bought from the natives. The labour force had increased to 95 and was comparatively healthy. The contacts with Tombenam were lively, whereas Dugumor and Tschiriar were reserved (NKWL 1888: 181-82).

In 1889 relations with Dugumor also improved and those with Tombenam and villages further east became so intimate that they and the Hatzfeldhafen labourers from the Bismarck Archipelago exchanged formal visits during which they performed their respective dances (NKWL 1889: 26). The 1888 tobacco harvest had sold well, achieving a price of 1.51 Marks per half kilogram, compared with two parcels of Sumatra tobacco which sold for as much as 2.26 Marks and as little as 74 Pfennigs on the same occasion (NKWL 1889: 33).

In 1889 the tobacco seedlings were badly affected by pests but 26 hectares were prepared for planting. The labour force under the new manager Wilhelm von Puttkamer—Schollenbruch having also resigned—had grown to 163. But there was another attack, this time by the mountain village Tambero. It was directed against three Malay labourers who were cutting palm fronds as roofing material, and wounded one of them fatally. "A specific reason for the hostility of the natives could not be established", just as in the case of the 1887 attack. Still, relations with the coastal villages remained friendly (NKWL 1890: 14-16). Moreover, Puttkamer's explorations showed that there was enough good tobacco land behind Tombenam to maintain a large plantation which could plant 100 hectares annually in rotation (NKWL 1890: 21-27).

In February 1890 imperial commissioner Fritz Rose requested SMS *Sophie* to visit Hatzfeldhafen to show the flag because he thought this might impress the natives, some of whom were still hostile (NKWL 1890: 65). By that time the station was managed by an ex-Sumatra tobacco planter, Schoevers—Puttkamer being groomed for greater things. The 1890 harvest produced nearly 8,000 kg of tobacco and 60 hectares of land were prepared for the next season. Relations with the coastal villages improved. The station was visited by canoes offering coconuts for sale from as far away as Franklin Bay nearly every day. Schoevers visited Franklin Bay in an attempt to locate a group of 32 runaway labourers from near Cape King William and found the area particularly attractive and fertile with a strong and well-nourished population living in remarkably clean houses (NKWL 1890: 73-74).

The mass desertion of the labourers was understandable. They not only suffered from malaria but had got caught in the tail end of a dysentery epidemic which was followed by an influenza epidemic (NKWL 1890: 88). They got away just in time since a shipment of Chinese coolies brought cholera to Hatzfeldhafen which killed 28 of those remaining.³

The main shock came in May 1891 when the people in Franklin Bay killed two Rhenish missionaries, Wilhelm Scheidt and Christian Boesch, who were in the process of opening a station in their midst, together with an employee of the Neu Guinea Kompagnie and 14 labourers.

When he learned about the murders, the imperial commissioner used the police troop...to carry out a punitive expedition.... However, neither the reasons for the attack nor the culprits could be identified. It appears that rapacity was the motive since items stolen from the missionaries were found in several villages. The settlement of the Rhenish Mission on Dampier Island has not been threatened so far. By contrast a telegraphic report has been received that a white overseer stationed in Hatzfeldhafen was killed in August. Because of its remoteness from the seat of the Central Administration the station could only be given adequate protection by being itself staffed at a level the cost of which would be quite out of proportion with the profits which can be achieved. Since experience so far has shown that the quality of the tobacco grown is inferior to that grown in Astrolabe Bay, the station will be closed (NKWL 1891-93: 14).

How does the Neu Guinea Kompagnie's official version of the history of Hatzfeldhafen summarised above compare with the reports from Rhenish missionaries?

III

Hatzfeldhafen had been their first choice for a station. The Methodist and Sacred Heart Missions were already active in the Bismarck Archipelago, the Neuendettelsau Mission had started in Finschhafen and the native population in Astrolabe Bay was much sparser than around Hatzfeldhafen. Hatzfeldhafen also had the advantage that Grabowsky was a proven friend of the mission, which he had earlier supported in Borneo, whereas his colleague Johann Kubary in Constantinhafen took a very different attitude.

After the favourable results of a first inspection of the Hatzfeldhafen area Wilhelm Thomas and Friedrich Eich had the opportunity to accompany the Scientific Expedition in June 1887 on its journey up the Sepik and were impressed by its potential as a road into the interior. However, after their return they found that tensions between the station and the natives around Hatzfeldhafen, which they had already noticed in May, had increased so much "that it came to hostilities and to the destruction of a few villages...". Under these circumstances any thought of establishing a mission station near Hatzfeldhafen "naturally" had to be abandoned (*Berichte* 1887: 356-60).

Eich visited Hatzfeldhafen again in September 1887 and found "the gentlemen well but in an uncomfortable position", since friendly relations with the natives had not yet been re-established.

The two villages which had been punished had been informed that they had to pay a number of pigs if they wanted to restore peace. But the people did not seem to be anxious to do so. They brought no pigs but quietly rebuilt their villages so that one of them, Tombenom [*sic*], had already been completed. The other village, Dugumor, had apparently one night made a kind of sacrifice near the station (or was it a declaration of war?), consisting of an old spear, an old [net] bag, a few shards and three tiny green coconuts (*Berichte* 1888: 54).

3 The willingness of these deserters to walk home across hundreds of kilometres of hostile country is not only a sign of their desperation but also an indication that European perceptions of traditional Melanesian inter-group relations were not necessarily shared by Melanesians.

In his history of the Rhenish Mission, Kriele (1927) adds further details from letters by Thomas and Eich not published at the time.

Even before their Sepik journey the missionaries had seen evidence of the tensions between the station and its neighbours. Natives from Dugumor had burnt a stack of timber belonging to the station. It had retaliated by taking a Dugumor man hostage during his next visit, demanding three pigs as compensation before he would be released. The pigs were brought, albeit reluctantly, because the hostage was an important man. The latter, who had been bound, was released, given some presents, after his swollen wrists had been treated, and taken triumphantly back to the village. On their return from the Sepik, Eich and Thomas had been assured that everything was now fine and that they could safely visit Dugumor. However, they were suspicious because native men had only rarely visited the station after the incident although women continued to barter. Then came the attack and only afterwards did one of the Neu Guinea Kompagnie employees mention that his life had been threatened during a recent visit to Dugumor from which he had withdrawn, walking slowly backwards, covering the villagers with his rifle (*ibid.*: 31-32).

It took five weeks, until 27 August 1887, for reinforcements and instructions to arrive from Finschhafen. Administrator Schleinitz had given orders to destroy the three villages implicated, to take hostages but to avoid bloodshed. As we already know, the only casualties were suffered by members of the punitive expedition: a sailor fatally shooting a Finschhafen native by mistake only to be speared in the back during the hasty retreat to the station. Nor did the missionaries regard the punitive expeditions as a success.

After that all contact with the villagers naturally ceased. Days of constant worry followed. It was necessary to be on guard for 24 hours. Again and again suspicious native movements could be observed (*ibid.*: 32).

When the mission was getting ready to establish a station in the Hatzfeldhafen area in 1889 another bloody attack—presumably that by Tambero—had occurred (*ibid.*: 56). But the mission remained undeterred. Scheidt made a new tour of inspection in August 1890 which led to the decision to establish a station in Franklin Bay the following year (*ibid.*: 72).

Scheidt visited the villages between Hatzfeldhafen and Malala for about two weeks on foot, finding no sign of hostility, not even in those villages which had been repeatedly punished by the station. The reception was most friendly in the little cluster of villages around Malala (*Berichte* 1891: 39-401) to which Scheidt returned with Boesch in May 1891. They travelled to Hatzfeldhafen and from there, accompanied by Schoevers, to Franklin Bay. A site near Malala was selected. Boesch remained to start clearing the plot for the station with the help of the friendly natives, whereas Scheidt went back to Hatzfeldhafen with Schoevers to get roofing iron and other building materials. When Scheidt returned with Schoevers's assistant, Bodo von Moisy, on 27 May, the boat was met by natives who had waded into the surf, to help to bring it to the beach, as its crew thought. But they attacked and killed everybody, apart from two of the Melanesian labourers who managed to make their way back to Hatzfeldhafen despite their wounds.

A report missionary Peter Arff wrote on 23 July to his superiors in Barmen continues the story.

Immediately an expedition was sent out, but it found nothing which gave a clue as to what had happened to the whites or blacks, with the exception of one grave in which two blacks rested. The subsequent large expedition under the command of the imperial commissioner, consisting of 14 whites and over 100 labourers, armed partly with guns and partly with spears, brought no further news. Here and there items of clothing were found in the houses; otherwise nothing. We assume that Brother Boesch, who had stayed behind with five boys, was murdered together with them between 22 and 26 May, and that the natives immediately attacked the boat when it arrived on the 27th to cover up their first deed. Apart from our two Brethren and Herr von Moisy, 14 blacks were killed (including the boy Amugu from our boarding school whom I had lent the Brethren for this voyage since there was a shortage of oarsmen). It is impossible to

say anything definite about the first murder ... We can only speculate. Brother Bergmann connects it with an eclipse of the moon which took place on 23 May. But I find this unlikely. In my view rapacity was probably the direct motive. The people had seen the trade goods, like iron, knives and axes, and what is more natural than an attempt to bring them into their possession. But something else needs to be considered. Almost as long as Hatzfeldhafen Station has existed, there have been disputes with the natives in this area. As far as I can remember, Brother Eich already experienced them during this first visit, and when I arrived eighteen months ago, another clash had just occurred. The natives do not forget such events easily and they cannot distinguish between the Company's officials and missionaries because they do not yet know the latter (*Berichte* 1891: 325-26).

In this case Kriele has little to add, although he mentions that 18 natives were killed during Rose's punitive expedition which the missionaries had neither initiated nor approved. On the other hand, they believed that they had no right to prevent this exercise of criminal justice as an expression of the power of the state, in particular since not only members of the mission had been killed. Even the natives appreciated the need for punishment. Thus the Karkar people, who had informed missionary Kunze about the killings two weeks before the news reached the imperial commissioner in Astrolabe Bay, had also commented: "The Malala are really bad people. Now the big ship must come and fight them" (quoted *ibid.*: 76).

IV

The next step is a consideration of the unpublished government records. The problem here is that apparently all records the Neu Guinea Kompagnie kept in its headquarters in Berlin were destroyed during World War II and only small fragments of those kept in German New Guinea during the period of "company rule" have survived. We are therefore largely limited to the records of the central colonial administration in Berlin and the navy, which both had a higher survival rate.

Short as the history of Hatzfeldhafen station was it fell into two distinctly different periods in the history of German New Guinea. During the first it was governed by an administrator who reported to the Neu Guinea Kompagnie's board of directors; during the second by an imperial commissioner who reported to the German government. This means that the records kept by the central colonial administration differ significantly between these two periods. They only include reports prepared by the local authorities during the former if the company chose to pass them on as attachments in its correspondence with the German government.

In this particular case we are lucky because attached to a letter by the Neu Guinea Kompagnie to the chancellor of the Reich, dated 18 November 1887, is a copy of the report by Grabowsky to the administrator concerning the first attack on the Malay labourers in July 1887, as well as an excerpt from the report he made on the punitive actions taken in August (see RKA 2978). The details of the attack, given in the first report, are not helpful but its conclusion is worth quoting:

There is no doubt that the natives of Dugumor and Tombenam, and probably also those from Tschiriar, are the culprits and that the station is not in a position to punish them as energetically as they deserve. To stop them from becoming increasingly cheeky, I request Your Excellency to arrange that these villages be strictly disciplined by a warship. We shall try in the meantime to capture some natives as hostages.

The company's letter did not enclose a copy of the administrator's report but indicated that he had felt he had to choose between closing the station and an energetic punishment which would demonstrate to the natives the superior strength of the colonial government, and that he had settled in favour of the second alternative. Since he could not count on the help of a naval vessel, as none had visited the colony for months and the date of the next visit was uncertain, he decided to reinforce the strength of the station for a punitive expedition the course of which is described in the excerpt from Grabowsky's second report.

It recounted that the *Samoa*, on its way to the Sepik, had brought the news on 12 August that no warship but reinforcements could be expected. It also mentioned that people from the friendly mountain village Tambero had in the meantime confirmed that the villages of Tombenam, Dugumor and Tschiriar had indeed been responsible. The account of the two punitive expeditions corresponds largely with the published version, stressing, in addition, that the sailors had in general proved useless for military purposes. So accident-prone, in fact, had they been, that it was out of the question to proceed with the forces available against the mountain village Tschiriar. On the other hand, the news of the punitive action against the coastal village had spread quickly. Only two hours after the destruction of Tombenam people from Tambero had turned up at the station, assuring it not only that they were friends but also that they fully approved of the action because they themselves had repeatedly suffered from the aggression of the stronger coastal villages. They received presents and were promised a large reward for any man from Tombenam and Dugumor whom they managed to capture. The station also visited the villages of Bilau and Dalua to assure them that they had nothing to fear.

The Neu Guinea Kompagnie regarded these measures at best as a partial success, not only because it had been impossible to identify the individuals who had been responsible for the attack and to punish them personally, but also because no action whatever had been taken against Tschiriar.

The danger of renewed attacks has therefore not been removed. On the contrary, they are to be expected, if months pass by without an energetic punishment and the natives begin to believe that the whites are incapable of administering it so that there was no reason to fear them.

Now comes the crunch:

If the protection which the Imperial Charter has promised the Company is to be effective, it will be necessary to station at least one warship permanently in the colony which can be called upon to help in emergencies without loss of time. We therefore respectfully beg your Serene Highness that such an order be issued.

The foreign office was able to assure the company, on 27 November, that it had already been decided that one of the two ships allocated to the Australian station would be posted in German New Guinea and that only the tense situation in Samoa had delayed this measure. On the other hand, it pointedly referred to the company's plans to create its own police force which should prove to be more effective than the action of warships since the pursuit of natives by marines into the interior was impractical.

This was not the end of the matter. On the other side of the globe administrator Schleinitz sent a formal requisition to the navy in September, asking, *inter alia*, for military action against Tschiriar which was to consist primarily of the capturing of hostages to be handed over to the local authorities. It was commodore Heusner of the cruiser squadron who had to deal with this requisition when he arrived with three ships in Matupi on 10 December 1887. His task was made simpler because Schleinitz had in the meantime withdrawn a requisition concerning the murder of a trader in the Gazelle Peninsula. However, Heusner had difficulty with the Hatzfeldhafen request and decided to go to Finschhafen to discuss it with Schleinitz. He was unsuccessful because Schleinitz was absent on an exploratory trip along the coasts of New Britain. What he found out about the situation in Hatzfeldhafen confirmed his view that he should reject the requisition. He formulated his reasons in a report to the admiralty (RM I/2734) but did not disclose them to Schleinitz because he did not want to create the impression that the navy was in any way accountable to the company's administrator.

It appears that the foreign office, which had been sent Heusner's report (see RM I/2448), did not inform the Neu Guinea Kompagnie about its content either. At any rate, the company raised the question of naval punishment of Tschiriar again in August 1888. The foreign office responded on 16 August (RKA 2978) and approached the admiralty nine days later (RM I/2428).

The foreign office reminded the admiralty that Heusner's rejection of Schleinitz's requisition had been based on the view that after the reinforcement of Hatzfeldhafen no further trouble was to be expected but

[a]s the Board of Directors of the Neu Guinea Kompagnie reports the natives of Tschiriar have repeated their raids in the meantime. In particular they have made another attack in May of this year, and, according to the latest news the attitude of Tschiriar and other mountain villages has become so hostile that a serious encounter with them appears imminent.

Under these circumstances it supported the company's request to send a warship to Hatzfeldhafen as soon as possible. Even if punishment of the natives proved impossible, the company believed that a prolonged presence of the warship in the waters of Hatzfeldhafen would by itself achieve the desired effect, especially if it carried out some target practice. The admiralty declined the request, primarily because the two ships on the Australian station were for the time being occupied in Samoa and the Marshall Islands, but it also reiterated the doubts as to the military practicality of punishment of Tschiriar by the navy already expressed by Heusner.

Heusner had been reluctant to involve the navy in any punitive activities in German New Guinea. He was therefore pleased to be able to point out that Schleinitz had withdrawn his requisition for an intervention on the Gazelle Peninsula because new evidence had suggested that the natives the navy was supposed to have punished were, in fact, not responsible for the killing. Perfectly innocent people would have suffered and the confidence that naval vessels were delivering only just punishment would have been destroyed. Since it was the naval commanders and not the civil authorities who carried the responsibility for such punitive actions, great caution in accepting any of their requisitions was called for. As regards the Hatzfeldhafen requisition, Heusner had rejected it mainly for military reasons. He thought that it was most unlikely that a naval detachment would be able to capture natives in the mountains, and that a long distance bombardment would be useless. In his view the reinforced station was quite capable of looking after itself and was in no serious danger. But he was more interested in the reasons for the July attack and in stressing the company's own governmental responsibilities.

Heusner suspected that the natives around Hatzfeldhafen had become hostile because they feared that the whites were trying to push them off their land—a fear which was especially understandable as the company had simply occupied the land first used for its station as ownerless. When the experimental plantation had been started the natives had naturally become worried. But they constituted no major threat since they fled from the scene of their attack as soon as it was approached by a lone European with a rifle.

Heusner was particularly annoyed by Schleinitz's request to capture hostages and to hand them over to the local authorities. The imperial navy was not a police force to be used by the Neu Guinea Kompagnie. Although the imperial charter had ordered the officers of His Majesty to protect the company, this protection was obviously limited to cases where it was unable to protect itself. As long as the company failed to establish its own police force which could protect the life and the property of Europeans as part of the institutions of government it had to maintain under its charter, it only had a "very conditional" claim to naval protection.

The foreign office had already dealt with Heusner's main point when returning his report to the admiralty in February by pointing out that the company's annual report had announced the formation of an armed native police force. But it still had to deal with the company's complaint about a lack of support by the navy. It largely limited itself to summarising Heusner's military

reasons for the rejection of the only requisition which, as far as it knew, Schleinitz had made. It also stressed that in the other German colonies, too, military intervention by the navy was avoided as far as possible, although it assured the company that it would do its best to arrange for more frequent naval visits to German New Guinea to show the flag.

The next request for naval intervention in Hatzfeldhafen was made by imperial commissioner Rose in response to the attack by the Tambero people in November 1889, as he informed the chancellor in January 1890 (RKA 2948). Although Puttkamer's punitive expedition had achieved some success, in Rose's view only punishment by the navy would be understood by the natives as "an act of state", demonstrating that the station was indeed under powerful protection. He had therefore, in line with section 2 of the "Instructions for the Administrator" of 7 June 1887, requisitioned the navy to show the imperial flag in Hatzfeldhafen and to intimidate the natives by a bombardment of Tambero, since this was the only way of assuring the peaceful economic development of the station.

Again the situation was complicated by delays in communication. The foreign office responded to Rose's January report in May. It left the question of the appropriateness of Rose's requisition open, since it was impossible to appreciate the local circumstances in Berlin, but instructed Rose to requisition naval assistance as sparingly as possible and only if it involved no more than "a simple landing". Any punitive activities away from the coast had to be carried out by the local police force. If it was not yet sufficiently strong such measures had to be postponed until that strength had been reached. Rose was also reminded that, as an imperial official, his relations with the navy were not governed by the instructions issued by the Neu Guinea Kompagnie to its administrator but rather by the general imperial instructions concerning the relations between consular officials and naval commanders which had been issued in 1872, the main content of which was summarised in section 65 of *König's Manual for Consuls*—a work Rose was obviously expected to keep on his bedside table.

Long before this response was drafted in Berlin, Rose reported, in February 1890, on the arrival of SMS *Sophie* under captain Herbing. He reported again in May about the fate of his requisition. Captain Herbing had rejected military intervention in Hatzfeldhafen—without giving reasons—although he was happy to show the flag. Moreover, there had been serious tensions between Herbing and the imperial chancellor Schmiele in the Bismarck Archipelago which Rose largely attributed to Herbing's unreasonable behaviour. Rose therefore asked for a clear definition of the respective powers and responsibilities of the imperial chancellor and the naval commanders in the archipelago as well as for a prolonged presence of naval vessels in the colony so that extended discussions between the commanders and the local administration could bring about a better cooperation and a more effective use of naval assistance. Rose claimed that he had been aware that his relations with the navy were no longer governed by the 1887 instructions after his acting position had become regular on 1 April 1890.⁴ He therefore asked for several copies of the now relevant 1872 imperial instructions.

The foreign office responded to Rose's May report in September. It supported Rose's complaints about Herbing's behaviour in the Bismarck Archipelago, whose justification had already been recognised "in principle" by the admiralty, but backed Herbing's rejection of the Hatzfeldhafen requisition, since it had been based on military considerations which had been the captain's sole responsibility. It also pointed out that Rose's second request had been taken care of by the extended visit of SMS *Alexandrine* and promised regular visits of this kind in the years to come. Finally it referred Rose, in connection with his last point, to its May letter with its reference to the *König* manual as an adequate source of information.⁵

4 It is not clear whether this was supposed to mean that, in Rose's view, his position before then had been more like that of an acting company administrator than that of an acting imperial commissioner.

5 My guess is that the foreign office did not have a full copy of these voluminous naval instructions either but also relied

The relevant file shows that the foreign office had seen Herbing's March report to the admiralty about the February visit of SMS *Sophie* to Hatzfeldhafen before writing to Rose in May—or, rather, before sending off the letter drafted in April under a revised date but without amendments. The most interesting part of this report is again its conclusion. Herbing, who had read the earlier naval reports, copies of which were kept among the records of the Australian station, essentially repeated the by now familiar argument that punitive expeditions by the navy were ineffective and that the Neu Guinea Kompagnie should establish its own armed police force. But he went further by stressing that the burning down of villages and the destruction of gardens was a dishonourable task the navy should not be asked to perform. On the other hand, he suggested that the company's police force had to be equipped with a steamer so that it could hit the same target again and again, until the natives had been worn down to a point where they would hand over those among them who were personally responsible for past misdeeds and henceforth keep the peace.⁶

In September 1890 Rose informed the chancellor of the Reich that conditions in Hatzfeldhafen had improved greatly and that he had decided to requisition the navy, apart from emergencies, only if he was able to accompany the vessel himself so as to avoid in future the kind of discord which had developed during the visit of SMS *Sophie*. Because of a recent visit by SMS *Alexandrine* there had been no reason to seek assistance from the cruiser squadron during its subsequent visit.

The report by Rose informing the chancellor of the Malala Massacre was written on 27 July 1891 in his new capital Stephansort—Finschhafen having been abandoned after an epidemic had killed half its white population earlier that year (RKA 2980). There had also been serious native unrest in Astrolabe Bay. While this was going on Rose had been informed by Schoevers about the May events. He had immediately assembled as large a force as possible, so that it could be divided into several groups which between them could cover a large area in the course of the few days Rose could afford to be absent from Stephansort. Consisting of 12 whites, the native police force and about 100 labourers, it had left Stephansort on 27 June 1891 in the company steamer *Ysabel*.

The Stephansort contingent, enlarged by Schoevers, overseer Müller and about 30 labourers, had arrived in Malala at 6.30 a.m. on 29 June. Malala had been deserted but the neighbouring villages were still occupied. One of them, Moro, had been attacked but its inhabitants had fled before the police force was in shooting range. Now four parties fanned out to track down natives in their hiding places. For two days anything which moved had been shot on sight. There had been 16 confirmed deaths and several probable additional casualties. Since "countless villages had been destroyed, hundreds of coconut palms have been cut down⁷ and countless canoes have been smashed", Rose believed that the punishment had been sufficient.

As arranged, the *Ysabel* had collected the expedition on 1 July 1891 and taken it back to Hatzfeldhafen. Since then the area had remained quiet. Only one of the labourer's houses had been burnt down by natives who had all withdrawn into the hills. Tambero and another mountain village had been burnt down as a reprisal and five more natives had been shot dead.

Once more Rose's resumé is of particular interest. He did not regard the situation in Astrolabe Bay as serious but the abandonment of Hatzfeldhafen as administratively desirable. The concentration of all efforts within Kaiser Wilhelmsland on the economically most promising Astrolabe Bay would enable him to embark on a more constructive policy by convincing the natives that the administration would not only punish their misdeeds but also protect their interests. Naturally this required time—which he did not have as long as he also had to act as the

on the excerpts in the manual which was standard consular equipment.

6 The allocation of a steamer to the colonial executive in German New Guinea had already been suggested by the navy in 1889, but the foreign office had informed the admiralty that such a move was, for the time being, impractical.

7 In contrast to the Bismarck Archipelago the purchase of coconuts from natives for the production of copra in Kaiser Wilhelmsland was not sufficiently important to call for the preservation of palms during punitive expeditions.

Neu Guinea Kompagnie's commercial manager.⁸ However, he did not doubt that he would be successful once he could concentrate on tackling this task.

About the Malala Massacre Rose had this to say. He too believed Scheidt and Moisy had been killed as a consequence of the preceding killing of Boesch, but he attributed the success of the attack mainly to the fact that Moisy had lost his nerve instead of facing his attackers. Why Boesch had been killed was less clear. The most common cause of trouble was the stealing of food from native gardens by Melanesian labourers, but such thefts would only explain an attack on them and not why Boesch had been killed as the first European in Kaiser Wilhelmsland. Hence Rose opted for the rapacity theory, which was strongly supported by the fact that in almost all villages items from Boesch's stores had been found. This gave Rose the opportunity of blaming Boesch for his own fate, because he should have been more careful in hiding his treasures from the eyes of the natives.

Although Rose felt that the situation around Hatzfeldhafen was now under control, he asked for an extended visit by a warship, stressing that he did not expect it to become active on land, since there only the native police troop could operate successfully. However, the awesome power of the naval vessels still had to be demonstrated to the hostile tribes—and this required more than the casual sailing past which SMSS *Sophie* and *Alexandrine* had performed.

Rose also referred to unrest and misdeeds in northern New Ireland, where yet another trader had been killed. There was little he could do with the means at his disposal to punish such misdeeds, but Schmieles' investigations had established that there too the white traders there were largely themselves to blame so that they hardly deserved government protection.

In a report written in September Rose analysed the position more carefully as a basis for a series of concrete proposals. He expressed no concern about the situation on the Gazelle Peninsula. Since he also had little doubt that Hatzfeldhafen would be abandoned—which had been guarded by most of his police force since mid-August—his assessment and plans focused on Astrolabe Bay and northern New Ireland.

In Astrolabe Bay Rose saw the main problem in the extension of the plantations which were moving from an experimental stage to commercial production. This required large areas of land. Although the native population was small and peaceful, problems were unavoidable because it was so scattered that each plantation of a commercially viable size affected a number of hamlets hidden in dense bush. Not only were the claims of some of them bound to be overlooked, despite the greatest care when the land was acquired, it was also difficult to control the relations between the plantation labourers and this multitude of native neighbours. The theft of root crops from native gardens by the labourers, who could only get used with difficulty to the rice diet offered to them, was a constant source of irritation, so much so that the first question asked by natives approached to sell land was how many black labourers the whites would bring. Although this was regrettable, large scale commercial activity would almost certainly create trouble with the native population.

The situation in northern New Ireland was different. Here the main problem was the white traders, many of whom belonged to the scum of the earth. However, the area not only produced a third of the entire copra exported, but was also by far the most important recruiting district.⁹ Since, unlike Hatzfeldhafen, it could thus not be abandoned, a small administrative station had to be established there to control the behaviour of blacks and whites.

This was the first of Rose's concrete proposals. The second was a regular commercial shipping connection linking northern New Ireland with the Gazelle Peninsula and Astrolabe Bay. It replaced an application for a government vessel, which he had made some months earlier, since

⁸ The company's general manager had been one of the victims of the "malaria epidemic" in Finschhafen.

⁹ Of the 1,273 labourers recruited in the islands in 1890 over 1,000 came from New Ireland and New Hanover compared with under 100 from the northern Solomons (NKWL, 1891-93: 16).

Rose had accepted that this application had no chance of being approved by the Neu Guinea Kompagnie.

His third proposal, an increase in the size of the police troop to 50 men, was also linked with the first, since a portion of this enlarged force was to be stationed in northern New Ireland. Rose estimated the combined costs of his first and third proposal to be around 8,000 Marks per annum and asked for support for a corresponding increase in his budget.

The foreign office sent this report to the company for comments. The response was almost totally negative, as the decision to close down Hatzfeldhafen, while in agreement with Rose's views, could hardly be called a positive measure. To begin with, the company was unhappy with Rose's punitive expeditions. Although it praised Rose's "energy and personal devotion" it doubted that they had been "the only, or the most appropriate means of securing peace". Moreover, while wishing Rose well in his efforts to establish closer, friendly relations with the natives in Astrolabe Bay, and promising to instruct its employees to support them as much as possible, it rejected all his concrete proposals, using them instead as a basis for making much larger counter-claims against the Reich.

Firstly, it had no intention of spending any money on protecting "the scum of the earth" in northern New Ireland, since it could not control which persons were sent there and where they were stationed. Secondly, it could not be expected to spend any more on shipping since it was already paying dearly for connecting German New Guinea with the regular German shipping lines whereas in all other German colonies these connections were heavily subsidised by the Reich. Thirdly, the same applied in relation to native attacks on colonial enterprises: in all other German colonies military measures were financed by the Reich, whereas the company was expected to carry the full burden, although its charter and the negotiations preceding it left no doubt that it was entitled to expect imperial protection not only from foreign aggression but also in cases of internal unrest.

As regards the proposed increase in the size of the police force, the company expressed its surprise that the imperial commissioner and its general manager had apparently worked out a deal which departed from its agreement with the German government by replacing the 36 part-time policemen for which it provided with 24 full-timers. Nonetheless it was not only prepared to sanction this departure but also to approve an expenditure of up to 15,000 Marks for the police force. Indeed, this amount had already been allowed for in the current budget. On the basis of the imperial commissioner's own calculations, according to which a native policeman cost 200 Marks per year, this would permit Rose to increase his force not just to 50 but even to 75 men. But even if one was more realistic and doubled these figures a substantial increase beyond the current strength of 24 men was possible, which was ample, if the establishment of a police post in northern New Ireland, which was neither justified nor practical, was not proceeded with.

The foreign office sent a copy of the Neu Guinea Kompagnie's response to Rose, instructing him to maintain order with the means at his disposal, since the company was unwilling, and the German government unable, to allocate more funds. All that could be promised was more frequent visits by naval vessels as the Australian station was now permanently manned with two ships.

The date of this communication was 29 December 1891. A month earlier Rose had reported that Hatzfeldhafen had been closed down, not sounding too pleased because the police troop had recently achieved substantial successes against the natives, more than a dozen of whom had been killed. In April 1892 Rose visited the area on board SMS *Bussard* to continue the punishment (see DKB 1892: 373). Since the natives promptly fled, it was once more impossible "to capture hostages". However, a rifle belonging to Moisy was found and, to the great relief of Rose, was in a state which showed that the natives around Hatzfeldhafen were still unable to use any firearms they might capture.

The report also mentioned that the gun of "the murdered overseer Müller", Rose's local expert during the June 1891 punitive expeditions, had been found. In other words not everything had remained peaceful and quiet around Hatzfeldhafen after the departure of Rose and his police troop in early July, so that we had better examine more closely what happened there between then and the closure of the station in November. This period is not covered by any of the sources so far discussed. But there is another, unexpected and surprisingly informative, source.

V

Rose had returned to Hatzfeldhafen in August 1891 to investigate the killing of Müller. According to his first witness, Walter Grundmann, Ludwig Müller had left the station early on 14 August with five labourers to search for an ox which had gone missing. When he did not return for lunch, station manager Schoevers took about 25 labourers to look for him, accompanied by Grundmann and the medical assistant Reiter. When crossing a little river close to Tombenam they were attacked by 15 to 20 natives. Schoevers was speared in the right arm, and his rifle became inoperative when he fell in the sand. Reiter's rifle also failed after the first shot—as did most of the guns with which the labourers had been armed. Grundmann fired five or six shots which all found their mark. The last shot brought down an unusually powerful native who was finished off by the labourers when he tried to crawl into the bush—whereupon all other natives fled. The whole fight lasted only a few minutes, leaving at least three natives dead and Schoevers and several labourers wounded. Schoevers and his party then withdrew to the station. Müller's corpse and his gun were found in Tombenam village three days later. He had been killed, presumably together with his labourers, without firing a single shot.

As Grundmann had arrived in Hatzfeldhafen barely two weeks earlier, Rose questioned Phillip Leiby, who had been stationed there since 1888, about the reasons which might explain the recent hostility of the natives. Leiby claimed that relations with the neighbouring natives were not bad until the arrival of Schoevers at the end of 1889, although the Tambero people, who still visited the station when Leiby first arrived, stayed away later. Relations deteriorated dramatically after an incident in March 1891. A Malay disappeared from the station, returning a few days later with a minor spear wound. Schoevers and Müller set out to investigate and came back with a hostage, three canoes and some ethnographic items from Bilau village. The hostage was released when three pigs were paid but Schoevers kept the canoes. When Leiby and the then medical assistant, Boschat, subsequently visited Bilau they were shown the grave of a native who had been shot during Schoevers's earlier visit by his personal servant, Tobotako—"whether on Schoevers' orders, I am unable to tell". The Bilau also complained that Schoevers had not returned their canoes although they had paid the pigs partly for that purpose. Since then no Bilau had visited the station. On the other hand, on the day before Scheidt and Moisy left Malala in May, two influential chiefs, Irobam of Tobenam and Nabok of Muschi, had come to the station and had therefore learned about the impending departure of the boat.

Leiby left it to Rose to draw his conclusions—which he did, sending the recorded evidence to Schmiele in the Bismarck Archipelago with the request to hear Boschat, who was now stationed in Herbertshöhe, about the development of the relations with the natives around Hatzfeldhafen since Schoevers had taken over. Whereas Schoevers claimed in his reports that relations were steadily improving, Rose had gained the impression that Schoevers, as well as Müller, had not been "exactly scrupulous" in their treatment of the natives. After drawing attention to the fact that the official report by Schoevers on the Bilau incident did not mention the firing of any shots, Rose turned to the treatment of the labourers in Hatzfeldhafen which also did not appear to have been the best. This was strongly suggested by the massive desertion rate. To be sure, the unnamed official in Herbertshöhe responsible for the control of the employment of labourers recruited in

the Bismarck Archipelago had never mentioned Hatzfeldhafen, although he had passionately attacked their treatment in Astrolabe Bay, but, for obvious reasons, little weight could be attached to this fact—a veiled reference to the fact that both Schoevers and Richard Parkinson, the official in question, had married into the clan of Queen Emma, by then German New Guinea's leading business woman.

Rose was probably disappointed when he received the evidence of Franz Carl Boschat taken by Schmiele. Boschat had first been sent to Hatzfeldhafen in mid 1888 with the police troop under lieutenant Steinhäuser, which was supposed to protect the station from further attacks by the Tombero people. No punitive expeditions were carried out because it had been the main aim to re-establish friendly relations. But little progress was made on that score, since the police troop failed to make any contacts. When Boschat was posted to Hatzfeldhafen in August 1889 the station had been under the management of Puttkamer. There were contacts with neighbouring villages but they were strictly regimented. Instead of permitting natives to wander around the station, they had to gather in one particular spot where Puttkamer would trade with them. With the arrival of Schoevers relations became more relaxed, especially after Schoevers had been joined by his wife who had visited the coastal villages in her canoe, with the result that, for the first time, native women also came to the station.¹⁰

Boschat admitted that things changed after the Bilau incident but his version showed Schoevers in a more positive light. When he and Leiby questioned the labourers who had accompanied Schoevers, they told them that he had strictly instructed them not to shoot at natives. Schoevers's servant had made sure that he had been on the other side of the village when he shot the Bilau so that Schoevers could, at most, have heard the shot. Besides, relations with Bilau had always been difficult because this village had tried to monopolise trade with the station, repeatedly fighting other villages who had visited it to barter—without being punished for this aggression. As far as the treatment of labourers was concerned, Schoevers never beat them or, rather, only as a formal punishment for thefts. By contrast, Müller, who supervised the labourers in the fields, had been an excitable man. He treated them well during slack periods but beat them frequently during times of pressure, so hard that they carried visible welts. The greatest shortcoming was the quality of the food—but that was also not Schoevers's fault but rather the result of inadequate funds.

Since Boschat also told Schmiele that there had been tensions between Leiby and Schoevers because they had different views about tobacco cultivation, probably no further action would have been taken if new accusations had not been raised against Schoevers. This time Rose took a different attitude. He assumed the rumours that Schoevers had systematically enriched himself at the expense of the company, as well as of his Malay and Chinese employees, would probably dissolve under closer scrutiny, but he asked *Assessor* Geissler, who deputised for Schmiele while the latter was on leave, to investigate because it was in Schoevers's interest to establish officially that these persistent rumours were groundless. It is only because Rose attached the earlier evidence to this request that the information just summarised survived. Whereas most of Rose's files have disappeared, it was incorporated in a file of the imperial court in Herbertshöhe—the *Untersuchungssache* Schoevers—which, though incomplete, is still available (see CA AA63/83, B43).

The additional evidence on this file sheds no new light on the relations between the Hatzfeldhafen station and its native neighbours, but it suggests that its closure had been inevitable because it had already started to fall to bits after the 1891 tobacco harvest. Instead of preparing for the new season, productive work was reduced in June and came to a complete standstill after the killing of Müller in August. Apart from an occasional foray by the police guard under police

10 By contrast the Rhenish missionaries claimed that it was the men who stopped visiting in times of trouble whereas the women continued to come.

sergeant Piering the station had engaged in some occupational therapy and waited for the axe to fall.

VI

Generally speaking the information presented in the preceding sections merely confirms that the closure of the station in Hatzfeldhafen was due to a combination of circumstances. But the details that can be extracted from the historical record enable us to look behind the bland balance sheet presented by the Neu Guinea Kompagnie at the time. For example, while the inferior quality of the Hatzfeldhafen tobacco, compared with that produced in Astrolabe Bay, was a factor in the cost-benefit analysis, a closer examination shows that its significance was inflated at the time, perhaps because it made the closure of the station appear more like an ordinary business decision. It is unlikely that the company would have continued operating the station, even if its tobacco had been superior to the Astrolabe Bay product, just as it is unlikely that it would have been closed simply because its tobacco did not meet expectations. Without "the hostility of the natives" Hatzfeldhafen would have lived on as long as it produced tobacco of a marketable quality in sufficient quantity to make a profit—and it had performed rather well on this score: its 1891 harvest had been larger than that in Stephansort or Erima in Astrolabe Bay (120 as compared with 115 and 75 bales), and although the Erima tobacco was regarded as the most promising, the Hatzfeldhafen product was good enough to be combined with the Astrolabe Bay harvest and offered as a single lot for auction in Bremen (NKWL, 1892: 28).

On the other hand, it was economic factors of a more general nature, rather than the hostility of the natives, that were ultimately decisive for the closure of Hatzfeldhafen. It is improbable that the Neu Guinea Kompagnie would have considered abandoning the stations in Astrolabe Bay if its native inhabitants had shown the same degree of hostility, concentrating its operations in Kaiser Wilhelmsland around Hatzfeldhafen. Even if there had never been trouble with the natives, Hatzfeldhafen could, at best, have maintained a single tobacco plantation of a substantial size. It was not a suitable location for a large plantation centre. It was only a small fish which did not have to struggle too hard to be released from the colonial net. This release was greatly assisted by the fact that it was in any case advantageous to concentrate all colonial efforts in Kaiser Wilhelmsland in Astrolabe Bay, the area with the largest economic potential and the best harbour. It is quite possible that, after the closure of Finschhafen—which was also not merely the result of the "malaria epidemic" in early 1891—Hatzfeldhafen would also have been given up, even without the Malala Massacre, because a strategic withdrawal to Astrolabe Bay made economic as well as administrative sense.

Nonetheless, the hostility of the natives was an important factor in the history of Hatzfeldhafen and the Malala Massacre was a key event. But it is perhaps more significant that the contemporary reports show that their authors did not know what had actually happened, and constructed instead imaginary scenarios, using stereotypes which suited their various ideological purposes. Thus, imperial commissioner Rose took it for granted that the economic colonisation of German New Guinea was bound to create serious tensions with its native population, but he believed that these tensions could be successfully managed if the colonial government established itself as an independent arbiter who was seen by the natives as a higher authority which protected their interests, as well as punishing their misdeeds. This is why he insisted on the continued involvement of the navy: it symbolised for him the difference between the government as a political institution and the Neu Guinea Kompagnie as a representative of commercial interests, quite apart from demonstrating the awesome powers of the Reich which made all opposition on the part of the natives futile. It is also crucial for this scenario that "the natives" were essentially rational beings who would accept their place in the new order as in their best interests, once they

had understood that the government protected these interests. The other side of the coin is Rose's readiness to blame individual Europeans for instances where these tensions exploded. For him resorting to the rapacity of the natives, or their warlike character and so on, was the last resort. Primarily such instances had to be the fault of particular individuals who had failed, one way or the other, to manage the unavoidable tensions successfully. It could be done, and it had to be done in order to establish colonial rule as a reasonable enterprise, against which no natives would thinkingly revolt. General unrest there could be, but no general rebellion. If clashes occurred, they had to have specific reasons which had nothing to do with colonial rule as such.

The problem for Rose, in the case of Hatzfeldhafen at least, was that his attempts to establish individual blame were no more successful, but his attempts performed a valuable historical service because they opened a small window through which we can catch some glimpses of what conditions in Hatzfeldhafen actually looked like.

What we see reflected in Grundmann's, Leiby's and Boschat's evidence is a remarkable scene. Barely two weeks after Rose's two day campaign of destruction around Malala, Müller wandered off with five labourers to search for an ox, apparently entering Tobenam village, whose chief at least Leiby believed to be implicated in the Malala Massacre, in such a careless manner that his party was wiped out without firing a single shot. Although worried by his prolonged absence, Schoevers follows with a larger search party without bothering to check that the rifles were in working order, and without keeping his party together¹¹ because no-one expected that there was danger of an attack so close to the station.

Even after the Malala Massacre neither the Europeans nor their labourers regarded their native neighbours as a serious threat. Although work was stopped on the plantation to avoid attacks on small groups of labourers and a few guards were posted, life otherwise went on as usual. But it had always been characterised by a sporadic use of violence by all sides. The Bilau incident is a good illustration. The Malay who returned with a spear wound was a 12 year old boy, the personal servant of Moisy. He had fled the station in one of Schoevers's private canoes because he was afraid of being beaten for some small thefts, and was speared when caught stealing food from native gardens. Rather than returning the canoe and complaining to the station the Bilau people had done nothing. Instead Schoevers and Müller, accompanied by a number of armed labourers, had set out to investigate. Their return with a hostage, several canoes and other loot clearly did not come as a surprise to Boschat; and the imposition of a fine in the form of pigs was also routine. Nor did it stop Boschat and Leiby from visiting Bilau afterwards. They apparently did not even fear for their lives when they discovered that a native had been shot. Although Boschat was satisfied that Schoevers had nothing to do with the shooting, he found it natural to investigate the matter, together with Leiby, and to do so by questioning the labourers instead of confronting Schoevers, let alone taking steps to have Tobotako punished for his action, which no-one, including Rose, it seems, regarded as particularly outrageous.

The amount of violence used by all concerned is astonishing—and it was expected right from the start. It was natural for Grabowsky to fear that the flotilla of canoes approaching the embryonic station during a nightly fishing expedition was about to attack. It was natural for Hunstein to keep a large dog who attacked blacks on sight. It was natural to take hostages and tie them up. But it was also natural for the Europeans to pay social visits to villages they had recently set fire to, or for the natives to come to trade a few weeks after some of their relatives had been shot by the station.

Violence was a natural part of life. But it was violence between equals and violence which did not escalate. There were no attempts to drive the whites and their labourers into the sea or to drive the natives into the hills. What happened had little to do with either the establishment of colonial

11 According to Grundmann some of the labourers were about 100 metres ahead of the three Europeans.

rule or with resistance to it. It was neither colonial conquest nor anti-colonial rebellion. It was a bloody, proto-colonial mess; a jumble of actions without a script. Was such a script written and, more importantly, was it acted out when company rule came to an end in German New Guinea and the colony came under direct imperial control?

Chapter 11: Tribulations of a New Broom

I

The two years Rudolph von Bennigsen spent as imperial governor in German New Guinea are sandwiched between the period of company rule (1886 to 1899) and the Hahl era (1901 to 1914). Moreover, Albert Hahl had been identified with German New Guinea since 1896, first as imperial judge in the Bismarck Archipelago and then as vice-governor in the Island Territory, before taking over from Bennigsen as acting governor in July 1901. It is therefore tempting to dismiss the brief reign of Bennigsen as a historically insignificant interlude. This temptation grows stronger when one reads contemporary assessments of the man, like that of lieutenant-commander Seiferling, who described him as a "*bon vivant*" who was "obviously in no way up to his task", or that of the historian Peter Hempenstall, according to whom Bennigsen's "formula for the control of the protectorate" was not only "brutally direct and simple"—namely "expansion by pacification", involving "several bloody campaigns against recalcitrant New Guineans"—but also a complete failure (see above: 95 and 122). However, while it can be quickly shown that both these assessments offer phantom history, it takes rather longer to give a more realistic idea of the shapes Bennigsen's reign actually took.

II

On 31 May 1899 Ernst Schmidt-Dargitz, a senior official in the colonial department, wrote in a private letter to Wilhelm Solf, who had recently been appointed president of the "Municipality" in Samoa:¹

today Bennigsen starts his journey from Naples. If I compare him with you, you have in my opinion chosen the better part since the title [governor] is all that makes his office attractive (BA, Nachlass Solf, NL53, No. 130).

Bennigsen probably viewed the situation differently, although he might have got worried had he known how Schmidt-Dargitz perceived the part he was supposed to play in German New Guinea. For Bennigsen his posting was a promotion—he had previously been "treasurer" (*Finanzdirektor*) in German East Africa²—and an attractive challenge. Not only did he have to make a fresh start in Melanesia, where government activities had largely ground to a halt, it was also likely that the Island Territory in Micronesia would soon become part of his domain and possible that the Marshall Islands and even other German colonial acquisitions in the Pacific, including Solf's Municipality in Samoa, would eventually be incorporated.

In Melanesia it was his most important task to pave the way for an expansion of the stagnant colonial economy by promoting new commercial enterprises and encouraging the established ones

1 According to Fabricius (1992: 144) Schmidt-Dargitz knew what he was talking about having himself served as president of the municipality from 1894 to 1897 and before as imperial commissioner in the Marshall Islands from 1893 to 1894. I recently noticed, however, that Fabricius also reported a different version, according to which it had instead been a "Dr. Wilhelm Schmidt" (ibid.: 85) who had served in the Marshall Islands. I shall spare readers an account of the extended foray into Wonderland this surprise brought about.

2 Bennigsen was acting governor of German East Africa when Solf had arrived there in April 1898 on his first colonial posting. To his disappointment Bennigsen put him in charge of the district court. It is unlikely that the two men became better friends when governor Eduard von Liebert returned and chose Solf as his personal assistant, *inter alia* to counteract Bennigsen who, according to Solf, tried to make it as difficult as possible for Liebert to govern (see Vietsch, 1961: 36). That Solf was sent to Samoa only a year later, at a time when it was clear that great things were about to happen, gives a good indication that his talents had also been recognised in Berlin.

to extend their field of activities to new geographical areas—which then had to be “pacified”. The first step in this direction was the establishment of a government station in northern New Ireland, the only significant centre of commercial activity in the Bismarck Archipelago outside the Gazelle Peninsula, for which funds were already set aside in the 1899 budget. The second most promising target was the Admiralty Islands with their potentially rich marine resources. As regards Kaiser Wilhelmsland the speeding up of economic development was to a large extent in the hands of the Neu Guinea Kompagnie on the basis of the 1898 agreement, under which it could acquire an additional 50,000 hectares of land there within three years and would receive ten annual payments of 400,000 Marks by the Reich which it had to invest in its economic activities in the colony. However, these concerns were soon overshadowed by the tasks awaiting Bennigsen in the Island Territory which was indeed placed under him and for the government of which he was given much wider powers than he enjoyed in Melanesia.

In this chapter I want to look at two of the strands of Bennigsen’s reign: his attempts to pacify the Admiralty Islands and the ideas about the future of German New Guinea which he developed as part of his plans for the Island Territory.

III

Shortly after his arrival in Herbertshöhe Bennigsen was informed by the commander of SMS *Moewe*, captain Dunbar, that the survey vessel had to sail to Sydney for repairs but that he was willing to deal with urgent requisitions before her departure. After discussions with his deputy, Heinrich Schnee, Bennigsen decided that, apart from some punitive action in northern New Ireland, at least a visit to the Admiralty Islands was required, since large-scale pearl fishing was about to start in this restless group where several traders had been killed in the past.³

Captain Dunbar accepted the requisition, and on 29 July 1899 SMS *Moewe* left Herbertshöhe with Bennigsen, Schnee and 20 native policemen on board—plus a representative of each of the two most interested German commercial firms, the Hensheim firm and the Deutsche Handels-und Plantagen-Gesellschaft, and two native labourers, who had lived for several years as prisoners of the local natives in the Admiralty Islands, as interpreters.

Since Bennigsen was unable to communicate with the native policemen, it was left to Schnee to instruct them repeatedly during the two day journey to the group that the purpose of the visit was not to fight but to enter into peaceful negotiations; that they were therefore not to shoot without specific orders, unless they had to defend themselves; and that they were on no account to fire at women or children.

As the *Moewe* approached the group it was met by the Hensheim trader Maetzke who was taken on board before the vessel cast anchor off Mok Mandrian (Big Mok), an island engaged in constant feuding with the neighbouring islands of Mok Lin (Little Mok) and Baluan which seriously disturbed trade. When canoes from Mok Mandrian came alongside to find out what was going on, they were assured by the interpreters that the *Moewe* had peaceful intentions. Nonetheless the inhabitants of the first “marine village”⁴ ran away when it was visited by the ship’s boats. But the adult males were persuaded to return and were soon engaged in a lively barter trade with their visitors. After a drill demonstration by the police, Bennigsen, Schulz from the Deutsche Handels-und Plantagen-Gesellschaft, the Hensheim trader Maetzke and a few policemen were escorted by a “trust-inspiring chief” across the island to another marine village, a strenuous march of 30 minutes.

3 According to Dunbar’s report of 12 August 1899 (RM 3/3114), Bennigsen had arrived with the mail steamer on 24 July. If this is accurate he would have had “virtually” no first-hand experience of local conditions when he sailed for the Admiralty Islands and would have had to rely almost totally on Schnee’s advice.

4 A number of the coastal villages in the group were built on piles over the sea (see below in the text).

Since Mok Lin was only a short distance away, Bennigsen sent a message to Schnee to follow with the boats and the rest of the policemen. In the meantime Maetzke, who was known by name and well-respected, explained to the villagers, who were eager to join the expedition to Mok Lin, that they were not allowed to fight. There was indeed no fighting on Mok Lin when the boats landed after a crossing of less than 15 minutes, although the warriors at the beach at first shook their obsidian-tipped spears menacingly. Instead Bennigsen preached peace. But he also promised strong action by the government against anyone who dared to breach it.

There was no time to visit Baluan about a mile away where a large number of warriors had gathered along the shores. The *Moewe* sailed straight to the small island of Komuli on which the trading station of Maetzke and his partner Molde was situated. Trade was going well for them. They had bought about 30,000 Marks worth of produce, mainly copra and trepang, during the 18 months of their presence, and a large portion of the 20,000 Marks worth of tradegoods with which Hershheim & Co. had supplied them was still in store.

Bennigsen too was satisfied with his visit so far.

There is no doubt that this round trip of a German warship, the landings of the police troop and the peaceful contacts made have had a positive effect on the natives which will significantly promote trade with them and prevent further outrages on their part.

However things did not go to plan when an attempt was made during the return voyage to retrieve two rifles which were still in the hands of the natives of Pak island who had killed the traders Möller and Andersen in 1893. Because of the length of time that had elapsed and because Pak had already been shelled by SMS *Bussard* in 1898, Bennigsen intended no punitive action. Rather, he put the two interpreters ashore, who had been held captive on this very island. They made contact with the natives and returned with the welcome news that the Pak were ready to surrender the rifles. Thereupon Bennigsen landed with the entire police troop. One rifle and some ammunition were produced, and the people who had met the troop happily escorted it to a village about ten minutes inland. There a revolver and more ammunition was handed over, but Bennigsen refused to believe that the second rifle had been given as a present to another island, as was claimed, and ordered a search of the houses. As a result the natives ran away. One of the interpreters was sent after them. He failed to return. The next village visited by the troop was deserted and two spears had been pushed in the ground at its entrance. This was interpreted as a declaration of war, but Bennigsen was prepared to give the Pak the benefit of the doubt. He ordered a return to the beach and a lunch break. When the interpreter had still not returned at its end, it was assumed that he had been killed and eaten.

Bennigsen decided that the time for energetic action had come. SMS *Moewe* steamed to the other side of the island to cut off any canoes attempting to escape. Bennigsen ordered the destruction of the seven canoes which lay beached where the police force had landed. Next the two villages already visited were burnt down, after all valuable items had been removed and all pigs had been shot as a welcome supply of fresh meat.

Eventually all five villages on the island had gone up in flames and the *Moewe* had demonstrated the awesome powers of the "*manowar*" by blowing all visible canoes to pieces with its canons. Not a single native had been sighted. Still Bennigsen was well pleased with the result. The destruction of the carefully built houses, some roofed with corrugated iron looted from the trading station, and the removal of all valuable weapons, utensils and food, had hit the natives very hard. Bennigsen reported to the colonial department, teaching them a lasting lesson which would prepare the ground for peaceful relations.

Bennigsen was generally optimistic. As soon as the government had its own steamer, instead of having to rely on the navy, the future of the colony was assured. Outrages by the natives could be speedily punished, and they would gradually learn that they were no longer able to attack the

lives or the property of their fellow men with impunity. To be sure, such control could initially only be exercised along the coast, but the government stations which would be established by and by in the various parts of the colony would be able to extend it also into the interior.

The report just summarised (RKA 2982) was dated 8 August 1899. On 24 September Bennigsen had to report that the trader Maetzke and two of his labourers had been killed by a Mok Mandrian chief and his sons only two weeks after the governor's visit. Although SMS *Jaguar* was in Herbertshöhe when the news arrived, Bennigsen did not requisition her commander to carry out speedy punishment because he was about to leave on higher orders with the warship for Micronesia for the formal handing over of the Island Territory by the Spanish authorities. Instead he supplied Maetzke's partner Molde with a guard of six native policemen and placed a price on the head of the murderers.

In his second report (*ibid.*), Bennigsen again stressed the urgent need for a government steamer. Without it he was powerless. He had also received calls for military interventions in Kaiser Wilhelmsland. If he was unable to respond for lack of a suitable vessel, the imperial government would soon become the target of the same kind of complaints about its inaction as had been previously directed against the Neu Guinea Kompagnie.⁵

Bennigsen returned from the Island Territory on 1 January 1900. He left for a major punitive expedition to the Admiralty Islands after little more than two weeks, spurred on by further "native outrages" on which Schnee had reported to the colonial department in November (*ibid.*). In October the schooner *Nukumanu* of Queen Emma's Forsayth firm had been attacked and taken by the natives of Papitalai and Pitilu in the north of the group. The captain and mate and all but four members of its native crew had been killed. Three of the survivors had been taken captive whereas the last managed to escape despite his wounds. He was found by Molde who towed the looted *Nukumanu* to his station on Komuli. The three prisoners were freed by another Forsayth vessel, the *Nugurea*. She had come to inspect land the firm had recently purchased on Manus. In the course of this inspection her boat discovered one of the *Nukumanu*'s boats on a small river. On it the three prisoners were guarded by a number of native women who fled, after some warning shots had been fired. The two boats were then fired at from the wooded banks, one European receiving a shot through both thighs.

Schnee had taken evidence from a Papitalai prisoner whom Molde had sent to Herbertshöhe. According to him the whole sequence of violence turned around firearms. The Mok Mandrian people had got hold of 20 rifles and five revolvers when they had looted Komuli after the killing of Maetzke and were using them to attack their traditional enemies. They, in turn, had planned to attack a pearl lugger to capture its firearms when the *Nukumanu* unexpectedly turned up. The seizure of that vessel had yielded them six rifles, three revolvers and plenty of ammunition.

Schnee stressed once more the need for a government steamer. The repetition of such murderous deeds could only be prevented if they could be punished *immediately* (emphasis in the report). If it was not possible to send out a government steamer soon, it was necessary to station a warship in the archipelago until that could be done. SMS *Moewe* was expected to return in December, but if she was delayed, Schnee planned to use the *Nugurea* for a punitive expedition. Unless something was done quickly, the Admiralty Group would again be lost to European trade. Since he also had no vessel for the recruitment of additional policemen, he had arranged with the Hensheim and Forsayth firms to put some suitable labourers at his disposal so that they could receive at least some rudimentary military training before the expedition.

On 28 January Bennigsen sent a preliminary report to Berlin on the punitive expedition he had in the meantime carried out to the Admiralty Islands with the help of SMS *Seeadler* (*ibid.*). As Schnee was still busy punishing the natives in northern New Ireland yet again, Bennigsen

⁵ Now, however, the shoe was on the other foot, because it was primarily the Neu Guinea Kompagnie which was calling for a stronger military presence in Kaiser Wilhelmsland.

postponed a detailed report until after Schnee's return. But he indicated that the expedition to the Admiralty Islands had been a success. Not counting the unknown number of wounded, 50 native warriors had been killed. In addition one man, three women and six children had been taken prisoner. The women and children had been handed over to the Catholic mission, whereas the male prisoner was to be tried for his involvement in the murder of Maetzke. The police troop had only suffered one major and two minor casualties.

Bennigsen's full report (*ibid.*) explained that Schnee had temporarily increased the police troop to 70 men with labourers whom the two firms had supplied free of charge. Since SMS *Moewe* was too small to transport a troop of that size he had chartered Hemsheim's *Mascotte* at an all inclusive rate of 140 Marks per day, which the firm had reduced by 40 Marks in consideration of the special interest it had in the expedition. It was to start and finish in northern New Ireland because the chance to operate there with the enlarged police troop was too good to be missed.

Schnee had left with the police troop for New Ireland on 10 January. He was to meet Bennigsen on Alim Island at the southern periphery of the Admiralty Group. Originally the governor was to sail there on SMS *Moewe* but captain Dunbar passed on the requisition to captain Schack, the commander of the station cruiser SMS *Seeadler*, after her arrival in Herbertshöhe. Having left Herbertshöhe on 18 January, SMS *Seeadler* cast anchor next to the *Mascotte* off Alim Island two days later.

Schnee and the *Mascotte* had reached Komuli on 16 January. He was again accompanied by several private persons, including Molde, who was returning to his station in Komuli which he had left in the care of two assistants, Schlehan and Rebstock. Schnee also took both of them on board, as well as the policemen who had protected the station and a number of armed labourers. In addition 12 natives from the Fedarb Islands and Mok Lin were taken as guides, so that his total force now numbered around 100.

After the *Mascotte* anchored off Alim on 17 January, Schnee went pigeon shooting on the uninhabited island with a few of his policemen. To his surprise they discovered two canoes from Mok Mandrian which carried about ten men. The policemen shot one of them. The rest disappeared into the dense bush. Schnee ordered the landing of his entire force. It formed a chain across the narrow island and drove the Mok Mandrian who found themselves north of the line into the mangroves at its end. They defended themselves with occasional rifle shots and swam out to sea when that did not stop the police from pursuing them—and another one was shot. As it was getting dark Schnee ordered the ship's boat and the two captured canoes to circle the island during the night to prevent the Mok Mandrian from escaping by raft.

Schnee's troops spent the next two days until the arrival of SMS *Seeadler* searching the island. Two more Mok Mandrian were shot when they defended themselves with their spears. One, who had hidden in the reef, was taken prisoner, as was a boy who had hidden in the top of a coconut palm. One Mauser rifle and some ammunition were found. According to the prisoners this had been the only firearm the crew of seven had carried, so that two persons were still unaccounted for.

After the arrival of Bennigsen another search was made—without success, although Bennigsen satisfied himself that Schnee's orders to his native "auxiliaries" to refrain from the customary removal of the heads of their dead enemies had been followed.

Now the punishment of the Mok Mandrian could begin in earnest. They had been expecting it and had moved to the larger Baluan island where it was easier to hide in the interior.⁶ At five o'clock in the morning the pinnacle of the warship landed the police troop and its native guides. After a 20-minute march the first village was reached. The approach had been noticed and the war

6 The enmity between Mok Mandrian and Baluan was obviously not as enduring as had been assumed, if it existed at all.

drums were beaten, so that the police troop attacked immediately. It was met with a hail of stones and spears. The temporary policemen were reluctant to expose themselves but gathered courage when the enemy withdrew. Three smaller settlements in this part of the island were captured in rapid succession and the regular force pursued the enemy in small groups. The valuables were removed from the houses, including many items looted from Maetzke's station, the pigs were shot and taken to the ships and the villages burnt. Twenty-one men were killed and a pregnant woman was taken prisoner. A spear wound received by one of the policemen was the only serious casualty suffered by the government forces. It was treated by Bennigsen—who took this opportunity to stress in his report that the government still did not have a single medical assistant, let alone a doctor, in its employ.

A second large marine village was shelled by SMS *Seeadler* to demonstrate the range of her cannons. Then the bush behind it and the beach around it were raked with the revolving cannon before the troop was landed. As was to be expected it found the village and a smaller bush village deserted. Some of the veteran policemen pushed further into the interior and exchanged sporadic rifle fire with the hidden enemy, but time was running out. Hence the two villages were set alight after they had been looted by a crowd of Fedarb Islanders who had appeared in large numbers of canoes to watch the spectacle.

The next step was the punishment of Pitilu and Papitalai for the taking of the *Nukumanu*. The Pitilu did not notice the approaching ships and were still on their offshore island. Under the command of a naval officer the *Mascotte* was sent to patrol its north coast, whereas SMS *Seeadler* shelled its southern coast. Bennigsen covered the east coast with the pinnace, towing a boat with 12 policemen. The revolving cannon was once more employed, and the policemen landed at several points to destroy native villages and canoes. The Pitilu resisted. Three of them were shot dead and one was wounded. The main police contingent under Schnee was landed at the western coast. It killed 18 warriors and took four women and five children prisoner.⁷ It suffered one minor casualty because a policeman stepped into one of the spear traps which had been scattered over the island.

The following morning SMS *Seeadler* crossed a large bay to reach Papitalai. Bennigsen had no great hopes for the effectiveness of the punishment he would be able to inflict, since the Papitalai were aware of the presence of the ships and since their village was situated on what he thought was part of the main island so that they could easily move out of reach. Thus the revolving cannon was once more used as a demonstrative weapon. The bush around the main village was raked, and a few salvos were fired 1,000–2,000 metres inland, before it was burnt. There was some further shooting when the SMS *Seeadler* began to survey the bay. But the hidden warriors were silenced by the revolving cannon from the pinnace. Later six grenades were fired by the large cannons of SMS *Seeadler* from 5,000 metres at Papitalai with a “50 per cent success rate”.

The next target were the Pom Mandrian people who, in contrast to those of Pom Lin, had been involved in the looting of Komuli station. In view of the small size of its population which was extremely vulnerable on its tiny island, Bennigsen planned no military action. Indeed, after he had learned from the Pom Lin that none of the stolen rifles were on Pom Mandrian, he decided against a landing when its inhabitants refused to come out of hiding. Instead he inspected the obsidian quarry on Pom Lin which supplied much of the traditional weaponry for the entire group.

The final step was the return of the Fedarb guides to their island. They were getting worried that they would be attacked by the Mok Mandrian as soon as Bennigsen had left. The governor could do no more than promise a speedy return of a warship. He was eager to leave so as to reach his capital in time for the celebrations of the emperor's birthday on 27 January. He just made it, SMS *Seeadler* casting anchor in Herbertshöhe shortly before midnight, 26 January.

7 Another woman, who was captured with her small baby, was released by Bennigsen “with some friendly words”.

In his full report Bennigsen was still optimistic about the results of his first major punitive expedition: the energetic punishment of the main culprits would have a lasting effect and open the promising group, first for trade and then for plantations. Nor was the punishment meted out too harsh, since the tribes punished consisted essentially of murderers, robbers and cannibals who would soon wipe each other out with their stolen firearms if they were not stopped. It was essential to keep a close watch on the group and to punish outrages promptly, until the natives—who were among the most intelligent in the colony—had learned that only the government was entitled to wage war.⁸

The colonial department was not unduly shocked that Bennigsen's expedition to the group had cost at least 50 lives. Instead attention in Berlin was captured by a marginal measure. Bennigsen had confiscated Alim Island, which was claimed by the Mok Mandrian, and had granted it to Molde so that the copra it could produce would compensate him for the loss he had suffered when his station had been looted after the killing of Maetzke. The question was raised as to whether Molde should be instructed to pay some monetary compensation to the heirs of his partner. Rose, who was directly responsible for this matter, did not favour the suggestion and proposed to await the response of Maetzke's heirs to the published version of Bennigsen's report which had been sent to them for their information. When they did not respond at all, Rose recommended that nothing be done officially. Although the traders in the Bismarck Archipelago were a rough bunch, they had a noble streak in money matters and hated nothing more than government interference in their private affairs. Molde would probably get in touch with his partner's heirs on his own initiative should he make a profit out of the coconut palms on Alim, and it should be left to him to do so. Rose's superiors agreed and the matter was closed on 31 May 1900.

Molde's generosity was not tested. A few months later he disappeared with his crew during a stormy trip to the Gazelle Peninsula.⁹ But Molde was soon replaced on Komuli. One of this new lot of traders, Carlbourm, was attacked during the first half of 1901 on Buke Island. His cutter was taken and he and his crew of seven, including two native policemen, were killed.

It was left to acting governor Hahl to report on this new outrage on 26 July 1901 (see RKA 2988), a few weeks after Bennigsen had left the colony. Hahl did not advocate punitive action because he attributed the attack to Carlbourm's lack of caution—just as Bennigsen had attributed the attack on the Mencke Expedition on St Matthias to the recklessness of Mencke and Caro. But Hahl also pointed out that it would be prudent to assess the success of the pearl luggers, which had just sailed for the Admiralty Islands, before making plans for the group. If it was substantial, the group's economic value justified the expense of its pacification by a permanent government station, manned by two good Europeans and 50 native policemen, who could disarm the natives within three years and establish public peace. If, on the other hand, trepang and copra remained the only products available in commercial quantities, it would be up to the Hertsheim firm to supply its station on Komuli with sufficient means of power to protect itself. Hahl was not in favour of providing "dubious white elements" with a police guard. But he stopped short of requesting the abandonment of the station on Komuli, whereas he had insisted that the firm close its station in the St Matthias Group.

It was a pointedly cautious document. Instead of going into details, Hahl enclosed a long report by Wilhelm Wostrack, the official whom Bennigsen had temporarily stationed with a police

⁸ Bennigsen was proud that no women or children had been killed by the police troop—in contrast to an earlier expedition on SMS *Moewe* to New Ireland when two women had been shot dead, allegedly by mistake. The constant admonishments and the threat of imprisonment, even if women or children were accidentally harmed, had finally succeeded in instilling, at least in that regard, European standards of behaviour in the police troop.

⁹ According to the "land register" (*Grundbuch*) Alim Island was sold by auction in 1908 to Rudolf Wahlen. The proceeds were presumably paid to Molde's heirs. I do not know whether they did share them with Maetzke's heirs, or were officially encouraged to do so.

guard on Komuli¹⁰ after another punitive expedition carried out with the help of SMS *Moewe* in August 1900.¹¹ A note by Rose shows that at least he was ready to draw the conclusions for which Hahl had prepared the ground.

It appears that developments in the Admiralty Islands are taking the same course as those in New Ireland, where the naval expeditions also had no lasting success and a permanent improvement only became possible as a result of a *continuing* influence of the Administration through the establishment of a station (RKA 2989—emphasis in the original).

Rose ordered that a copy of Wostrack's report be made and kept on file because it painted a terrifying picture of the chaotic conditions in the group which would be useful when it came to justifying the expense of establishing a station there. Some funds for this purpose were indeed set aside in the 1903 budget but they did not meet Hahl's expectations, since they were only sufficient to fund a station which would be "as simple as possible", rather than being manned with "the two good Europeans and 50 native policemen" whom Hahl regarded as necessary to tackle the pacification of the group with a realistic chance of success. Besides, the pearl luggers had not been as successful as had been hoped. Nor had the Sacred Heart mission gone ahead with its plans to open a station in the group. It made good administrative sense under these circumstances to employ the government's scarce resources elsewhere and to let the regrettable chaos in the Admiralty Islands continue until the reasons for a determined intervention had become more compelling and adequate resources were available.

Although it was by now clear to everybody that the use of military force during brief visits would have no lasting effects, the policy of periodic punitive responses to native outrages in the group continued for the rest of the decade. It had not been invented by Bennigsen. He had merely followed a well established practice reaching back to the punitive expedition in response to the Malala Massacre by Rose in 1891. The latter had been a far more determined exercise of systematic destruction carried out by an even larger force, although the native casualties had then been lower, probably on account of the lesser efficiency of the inexperienced police force. They had been lower still during the punitive expeditions carried out by the navy before the establishment of a native police force. On the other hand, if one is prepared to accept any of the official casualty figures given as at least approximately correct, they had been considerably higher during the punitive expedition by SMS *Cormoran* together with the native police force in the St Matthias Group shortly afterwards which had been carried out against Bennigsen's wishes.

More importantly, it appears that Schnee played an influential part in shaping Bennigsen's initial attitude towards punitive expeditions. Schnee had been frustrated by the Neu Guinea Kompanie's reluctance to support energetic responses to "native outrages" and believed that the lack of determined action had made the situation considerably worse than it would otherwise have been. In his view it was the duty of the imperial government to intervene with all the means of power available and certain that the natives would change their behaviour if it was demonstrated to them that the imperial government was willing and able to punish breaches of the public peace speedily and severely.

Whereas the killing of Maetzke and the taking of the *Nukumanu* could still be put down to the fact that the powers of the imperial government had not been demonstrated sufficiently clearly

10 Wostrack may have been the medical assistant for whom Bennigsen had been waiting in January. He was subsequently posted as a police sergeant cum medical assistant to the government station in northern New Ireland and later placed in charge of the government station established in southern New Ireland in 1904. He remained in charge of that station until 1912. Wostrack retained a strong interest in medical matters and pioneered the training of native medical assistants—the *Heiltutul*—in his district (see Davies, 1992: 129).

11 In view of the number of punitive expeditions in which SMS *Moewe* participated in 1899 and 1900 it is not surprising that the naval office became concerned with the effects of these distractions on her survey work (see above: 132).

during the visit in August 1899, the killing of Carlbourn after the large punitive expedition in January 1900 showed that this view had been mistaken, especially when information was received that this killing had been instigated by the Fedarb chief Kewenu who had been the leader of Bennigsen's guides during that expedition. But after receiving Wostrack's report in December 1900 Bennigsen hardly needed this demonstration. It is an astonishing document which deserves close attention—but it must be seen in connection with yet another punitive expedition.

On 14 August Bennigsen requisitioned captain Dunbar to punish "the Mock people" who had withdrawn to Green Island, off the south coast of Manus, and were terrorising all natives whom they regarded as friends of the Germans. Quite recently they had attacked Palavan Island, killing almost 100 people and taking over 100 young women and children prisoner in order to abuse them sexually or eat them during their orgies. Immediate action was imperative to prevent even worse massacres (see RKA 2650). Dunbar accepted the requisition, and on 16 August SMS *Moewe* left Herbertshöhe with Bennigsen, police sergeant Soelle, Wostrack and 26 native policemen. After collecting another 15 native policemen in Kaewieng and another 11 policemen, plus eight Fedarb guides, on Komuli, the *Moewe* anchored during the night of 19 August near Green Island.

Although Bennigsen had asked to accompany the expedition, he left all decisions to the navy. Dunbar ordered lieutenant-captain Hering to punish "the Mock people", who were now said to have settled on the main island, with a landing force of 120 men. It was to be divided into two companies of 20 marines and 25 native policemen each and a strong guard for the seven boats transporting it ashore. Hering was to land before daybreak and surround the village, so as to prevent its inhabitants from escaping into the interior, before attacking it. The men were to be arrested and only to be "overwhelmed" (*wehrlos machen*) if they defended themselves. Women and children were to be spared and the houses burnt. Fleeing canoes were to be pursued with the steam pinnace which had been armed with a revolving cannon.

This was the usual strategy and as usual it failed to work. The trip to the village took much longer than expected, since it was situated an hour further east than had been assumed and the boats kept on running into reefs in the dark. It was therefore only approached after sunrise. As it was clear that the flotilla had been seen, Hering ordered an immediate attack from the sea. Fire from the revolving cannon was opened at a distance of 500 metres. It was answered with gunshots from the natives who had climbed high up into trees. Rifle fire from the boats was then added and when the natives had been silenced the landing force went ashore at 6.30 a.m.

The village consisted of 16 "huts" built on piles in the sea next to the mouth of a river fringed with mangroves.¹² Towards the sea it was enclosed by a palisade with three entrances and the land behind it rose steeply, thus affording additional protection. The village was deserted and the natives offered no resistance when they were pursued. The marines did not get far in the difficult terrain, in contrast to the native policemen, whom Hering had allowed to advance on their own, since he knew that he could not have stopped them in any case. As the marines were trying to find their way through the mangroves, the shots fired by the policemen became more and more distant. Since there was no chance of catching up with the enemy, Hering ordered the marines to return to the village, where they had all reassembled by 8.30. When the first policemen returned shortly afterwards, the marines started to board the boats. The boats waited until the last policeman came back at 9.30. The policemen reported that they had killed six natives, and Hering could see from the boats that they had set fire to four bush villages. The marine village was also ablaze, including the canoes. One policeman had been speared through the arm and a marine had suffered a minor accidental injury.

12 It is not clear whether Hering regarded all native dwellings as "huts" (*Hütten*) or whether this term indicated that the structures were not up to the general Manus standard, perhaps implying that the village had been recently built as a temporary shelter for "the Mock people".

By 11 a.m. the landing forces were back on the *Moewe*, having fired the revolving cannon at some empty huts on Green Island which, according to the Fedarb guides, was no longer inhabited. After this operation Bennigsen decided that a further employment of naval landing forces was pointless but that it was worth testing what a prolonged presence of a substantial native police force in the group could achieve. Hence Wostrack and 21 native policemen were left behind on Komuli on a pacification mission.

On Komuli Molde presented Wostrack with his labourer Maggeo, whom he had put in irons a week before. Maggeo had not only refused to carry out a task but had first thrown an oar and then a heavy stone at Molde, before hitting him on the chest with his fist, shouting that Molde should be on guard because he, Maggeo, was "a Kapsu man"—the name of his home village in New Ireland. It emerged that this had not been Maggeo's first act of violence. He had previously attacked Molde's assistants Schlehan and Rebstock as well as his partner Maetzke. More seriously still, he had tried to persuade the other labourers to join him in killing Maetzke while Molde was away. The plan was to load Maetzke's boat with the loot, in particular the firearms, and sail it to Kapsu where Maggeo promised to give his co-conspirators women and many presents. The plan had failed because the labourers from the Solomons had refused to participate. Instead their leader, Roko, a former policeman, had announced that he would guard Maetzke day and night to prevent the murder.

Since Wostrack shared Molde's view that it would make a bad impression on the local natives if they saw that the whites had serious problems with their own labourers, he released Maggeo after a promise that he would be a good boy from now on—and it worked. Maggeo became a model labourer, so much so that Molde selected him, together with Roko, to accompany him on a trip to the Gazelle Peninsula to get provisions.

It was during this trip that Molde's boat disappeared. Those on board also included Oren, another New Irelander, whom Molde was taking as a prisoner to Herbertshöhe. Oren was the interpreter who had been sent to persuade the Pak people to return after they had run away into the bush during Bennigsen's 1899 expedition. Rather than having been killed and eaten by the Pak, as had been assumed at the time, Oren had joined forces with them and, on account of his experience with guns, had played a prominent role in the raids following the looting of Komuli station and of the *Nukumanu*.

Wostrack had seen the capture of Oren as his most urgent task. He tackled it by offering the Pak a wealth of tradegoods if they surrendered Oren. They refused and boasted that they were not afraid of the whites whose warships could only destroy a few old houses and canoes at the beach and that Oren would shoot any white man who was foolish enough to come within his range.

A few weeks later Wostrack set out with Molde and a combined force of over 30 policemen and labourers. The plan to surprise a large coastal village on Pak before daybreak failed because the trip took longer than expected. The village was deserted when the force arrived in full daylight. The policemen and labourers searched the island in small groups, returning in the evening with three female prisoners and the report that three warriors had been killed. The campaign was continued the following day. Eight villages and their canoes were burnt, 11 men were killed and 17 prisoners were taken. One of the dead was said to be part of a group of followers of chief Kamau who had visited Pak to take part in a *singsing*.

Since the prisoners claimed that Oren had fled Pak during the previous night, Wostrack and Molde returned to Komuli to consider their next move. When the prisoners were questioned again, it emerged that Oren had not fled but was still on Pak. Wostrack demanded his immediate surrender because he feared that Oren would join his "good friend" Kamau on Manus, where it would be much more difficult to capture him.

Although the Pak sent what they claimed to be Oren's gun and some ammunition, they still refused to surrender the man. However, some days later people from Mok Lin brought in Oren

and were rewarded with tradegoods worth 200 Marks. The story of an old Pak chief who had come with the Mok Lin explained this change of mind. After the first day of Wostrack's campaign a large number of people had fled Pak by swimming under the cover of darkness to a neighbouring island. About 20 of them had drowned, among them a daughter of Kamau who had recently married a chief on Pak. Kamau had visited Pak soon after Wostrack had left. When he had heard about his daughter's death he had become very angry and had started to fire his rifle among the people, killing one man. The old man was now seeking Wostrack's protection from Kamau's wrath and offered the resumption of trade with Molde. Wostrack was pleased, released seven of the Pak prisoners and promised the release of the other ten as soon as the Pak surrendered the ammunition still in their possession. When 11 cartridges were brought in, as well as copra and other produce for Molde, the remaining ten prisoners were set free.

A few weeks later an alliance of natives under Kamau, including the Rubal from the south and the Papitalai from the north, raided Pak. According to Wostrack Kamau had resolved to drive the whites altogether out of the group by making trade impossible for them. He had first announced this during a raid on Lomau, on the north coast of Manus, in August, when he had promised that all places trading with Molde would suffer the same fate. Kamau had also boasted that he would attack Molde at the next opportunity and that he was not frightened of warships, having shot at them without being punished.

When Ponam, an island off the north coast of Manus, had refused to comply a raiding party under Kamau and Oren had attacked. The Ponam chief Bokohan, whom Molde brought back to Komuli, claimed that 150 of his people, including all his siblings and his father, had been killed, that many women and children had been captured and sold as slaves. If Wostrack did not come and help, he, Bokohan would not cut his hair and beard until Kamau had been killed, even if they reached down to the ground before this happened.

Wostrack promised to do all he could. He began by requesting the release of the Ponam slaves, offering presents for their return. Fedarb obliged but chief Wussolak of Lou, another "great friend" of Kamau, refused. He felt safe in his mountain village in the centre of his comparatively large island and sent a message that Wostrack had to come and take the slaves himself if he wanted them.

Wostrack set out, again with over 30 men, five days later and managed to surprise Wussolak in his village at sunrise. Wostrack had hoped to arrest Wussolak and had ordered his men only to shoot if they were attacked. But Wussolak defended himself with his spears and was shot down by one of the policemen. The other natives then fled and Wostrack withdrew without burning the village, although goods looted in Komuli as well as from the *Nukumanu* were found in the houses. Two days later the Lou brought in three Ponam slaves to Komuli, whom Molde took back to Ponam, together with another nine who had been surrendered earlier. Kamau too paid another visit to Ponam. Instead of fighting the people, he proclaimed that he was their king and that he was stronger than the whites whose guns he had taken. To show the Ponam that he was not a bad man he even paid them for the women he had taken earlier.

It was time to move against Kamau. According to Bokohan he had only 30 warriors under his command. But it would nonetheless be difficult to capture him because he lived on a river, navigable by canoe, which dissected Manus and which "the Rubal etc. people" used to reach the north coast quickly from their places in the south. Kamau maintained 24 hour guards at both ends of the river and had built a special house to store the loot from the *Nukumanu*. The Ponam offered to act as guides but got cold feet because they feared that Kamau would take bloody revenge if Wostrack did not succeed in capturing him.

"But without reliable guides we can do nothing", Wostrack added, and directed his energy from then on against other targets. While this is understandable, it is curious that Kamau no longer

figures at all in the second part of Wostrack's report, although it continues to talk about raids and attempts to secure the surrender of guns and the release of slaves in various parts of the group.

Who was this mysterious Kamau, living next to a bifurcating river in the centre of Manus? Was he one of "the Rubal etc. people" from the south, who were using this river as a shortcut to the north coast?—and who turn out to be identical with "the Mock people" whose marine village at the mouth of a river on the south coast had been the target of the punitive expedition of the *Moewe* in August 1900? Had Kamau obtained the guns he was using in his raids due to his links with the Mok Mandrian after the looting of Komuli station? Or was he a Papitalai—or a Pitilu?—from the north who had been behind the attack on the *Nukumanu* and had managed to control most of the loot, storing it safely in a special house in the interior of Manus? In either case, how had he managed to bring about an alliance which included the Mok Mandrian as well as the Papitalai although the latter were said to have attacked the *Nukumanu* so as to be able to defend themselves against the former after they had obtained guns from the looting of Komuli station?

How do we deal with such a jumble of information? One possibility is to see it as depicting a horrifying chaos, as Rose did, and leave it at that. Another possibility is to replace the chaos by a reassuring phantom order.

What the Germans faced in Manus was not just aimless savagery or conservative resistance to change. It was rather a contact situation common to many parts of New Guinea. Patterns of hostility and alliance which had prevailed in the past among the various groups of Admiralty Islanders were now being influenced by the intervention of inopportune, white newcomers, who claimed the authority to order the lives of all villagers and possessed technological marvels capable of changing forever the old way of life (Hempenstall, 1978: 154–55).

These vague generalisations sound plausible enough, but are they historically illuminating? Do we not rather have to ask what distinguished "the contact situation" in the Admiralty Islands in 1899/1900 from that in other parts of German New Guinea and indeed from the contact situation in the Admiralty Islands, say, six years earlier or six years later? How did the part played by Oren in the Admiralty Islands in 1899/1900 compare with that played by the Solomon Islander Tom in northern New Ireland after the killing of the trader Studzinka in 1881 (see above: 488)? Why did the people around Hatzfeldhafen not get hold of one of the many deserters from that station to teach them how to use the guns they had captured (see above: 542)? Did the killing of the traders Möller and Andersen by the Pak people in 1893 lead to the same kind of chain-reaction of bloody raids and counter-raids as the killing of Maetzke in 1899? Had the subsequent killing of the trader Dow on Rambuto been a counterpart of the attack on the *Nukumanu* in 1899 carried out with the aim of obtaining guns as a defence against raids from Pak?¹³ Why did the part played by Oren in 1899/1900 apparently differ so markedly from that he played in 1893? Why did Oren leave the Pak people after the opening of Komuli station in 1898? Why did he rejoin them in 1899? Why did the Pak people refuse to surrender Oren after they had seen that he was incapable of protecting them?

Neither Oren nor Kamau figure in Hempenstall's account and there is no reference to Wostrack's report, although it appears that Hempenstall made selective use of it. Instead we are offered more phantom history.

In the early days Hahl [!] tried the expedient of stationing troops in the group temporarily, but without success. War-like villagers scattered by the police only became wandering raiders, and the Mouk-Mandrian, Rubal and Pak people, in the east of the islands, simply turned from marauding the centres

13 For a convenient summary of the contact history of the Admiralty Islands see Nevermann, 1934.

of European trade to terrorising friendly islanders in the vicinity; a hundred people were reportedly killed in a single raid on Ponam Island, north of Manus (1978: 154).¹⁴

Hempenstall also offers an elaborated phantom version of the "patterns of hostility and alliance which had prevailed in the past among the various groups of Admiralty Islanders". According to it:

The Germans found three major social groups in the Admiralties. The Usiai were subsistence agriculturalists scattered in small groups in the interior and were considered by the others to be a dependent and inferior lot. On the coasts lived the Matankor, who combined agriculture with fishing. The third group were the Manus, a truly maritime people who lived in lavishly-constructed pile settlements built over the waters of swamps and bays. The Manus were—and still are—great sailors, in the old days taking their giant outriggers into the west and as far south as the Gazelle Peninsula; only for sago, taro, beans and timber were they dependent on land dwellers. The three groups together were estimated by the Germans to number some 13,000 (ibid.: 153).

He subsequently tells us more about the Manus

who relied on canoes for fishing, transport and fighting; who obtained meat from the sea, from hunting, from breeding pigs and dogs, and from cannibalism; and who traded frequently with other Manus communities in coconut oil, dogs' teeth and clay pots (ibid.: 155).

But the Manus did not only trade with each other, they were also engaged "in a series of payback murders" (ibid.: 153). However the main problem was the "continual blood feuds between the Manus and the land dwellers" which "endangered the security of most European passers-by" (ibid.).

Leaving aside the many specific improbabilities this account contains,¹⁵ does it say anything about the traditionally prevailing patterns of hostility and alliance beyond stating that the Manus fought and traded with each other and also fought—and presumably traded—with the Usiai and Matankor?

As far as "the Germans" are concerned Hempenstall also introduces a confusing anachronistic element. Bennigsen and Schnee did not find three major "social groups" but rather believed that they had found a simple, dualistic scenario which consisted of the Manus, who lived in marine villages, and the Usiai who did not, and who could therefore be easily distinguished, although they were in all other respects very similar.¹⁶

14 Hempenstall refers to a report by Bennigsen of 28 August 1900, which I have not consulted. I therefore do not know whether Bennigsen had learned by then that the name of the island, to the raid on which he had referred in his requisition of 14 August, was "Ponam" rather than "Palavan" or whether this is Hempenstall's interpretation and there had, in fact, been two raids. Nor do I know whether Bennigsen in his report no longer referred to the capturing of over 100 young women and children as sex slaves and cannibal roasts during this raid—or one of these raids—or whether Hempenstall, "for reasons of his own", omitted this information. I have also no idea why Hempenstall claimed that the Pak people had terrorised friendly islanders—presumably after they had been scattered by Wostrack's policemen—or why the name of the "Mouk Mandrian" but not that of the "Rubal" (who are probably Nevermann's "Ndruwai") is modernised, or why his map (1978: 151) does not identify the location of "Rubal", omits the "Mouk" Islands and does not cover the geographical area where Pak is situated.

15 I find it hard to believe, for example, that beans or dogs' meat were an important part of Manus traditional diet, or that the Manus traded *amongst each other* in any of the products named.

16 Hempenstall does not consider how the subsequent discovery of the "Matankor" impacted on this scenario. It seems that "the Germans" at the time treated these "coastal dwellers" as part of the Usiai, whereas Hempenstall gives the impression that they were more like the Manus. How does one interpret the German reports in the light of this different scenario? Did the Matankor also live in constant fear of the Manus? Did the Manus raid the scattered small groups of the "true" Usiai in the interior or did they mainly raid the Matankor? How permanent were the divisions between these three "social groups"? Did the Usiai become Matankor if they moved to the coast and the Matankor Manus when they built

According to Schnee (1904: 208) there were less than 20 Manus communities in the group which were concentrated in the southeast: eight along the south coast of the main island, plus the Fedarb Islands, Mok Mandrian and Mok Lin, Baluan, Buke and Rubal. Papitalai was the only Manus outpost in the north, but there was also one marine village, Balamok, on Rambutyo, a large island on the eastern periphery of the group. Most of the Manus villages were small, some of them could only muster about 50 warriors, although the Mok Mandrian were more numerous. The largest Manus settlement was said to be Buke, which Schnee had not visited. None of the marine villages he had seen had consisted of more than 20 to 30 houses, although additional "homesteads" (*Gehöfte*) were scattered on the land behind them. The Usiai—and that means the rest of the population, including for example the Pak people and those on the Pom islands—were more numerous. The population of Pitilu alone was estimated to be about 2,000. Nonetheless the Manus occupied a dominant position in the group. It appeared that the Usiai in many places were under some kind of obligation to pay tribute to them. Where such a "friendly relationship" did not exist, the Usiai lived in constant fear of the Manus who continuously raided the coasts within their reach, killing the men and enslaving the women. On the other hand it had been reported that the Usiai had recently attacked the Manus village Lotja, killing all but five of the adult males.

The liberal use of terms like "apparently", "allegedly" and "reportedly" in his account indicates that Schnee was by no means certain that the information he presented was reliable, and he had good reason to be cautious since any verbal communication with the local people was very limited. Schnee found it most difficult to obtain clear answers from them about the objects they used and almost impossible to ascertain anything about their customs, since only few of them knew a little "*Pidginenglisch*" and "our former interpreters from New Ireland" also could only make themselves very poorly understood in that language (*ibid.*: 211).¹⁷ Schnee hardly fared better when he relied on Molde's knowledge of the vernacular. His attempts to learn something about the techniques used in the manufacture of obsidian blades on Pom Lin had largely consisted of gestures because Molde's vocabulary "had to be called rather poor" (*ibid.*: 204).

How could "the white newcomers" hope, under these circumstances, to gather reliable information on complex matters like the patterns of hostility and alliance? How did Wostrack "piece together" the information he presented in his report which did not consist of his own observations—for example Bokohan's story of the raid by Kamau and Oren on Ponam? Had Bokohan lifted both hands into the air 15 times to indicate the number of the victims while Wostrack was counting, or did Molde know the word for 150 in the local language? Did Bokohan use sign language to indicate that he would no longer cut his hair and beard? Had Wostrack been told that the raid on Pak had been carried out by "the Mook/Rubal/Perri/Pittesee and Papitalai people with Kamau", or had he just written down a string of names? Did he appreciate the significance of the inclusion of the Papitalai? Had he tried to find out how Kamau fitted into the picture? Did he know and just not bother to report that Kamau was, say, a Rubal, or a Papitalai, because that was common knowledge?

Did it matter to Wostrack how many people had been killed during the Ponam raid? Did it matter to Bennigsen? Did it matter to him whether there had been one or two big raids—one on Palavan, the other on Ponam, whether "the Mock people" had been involved, who "the Mock people" were, or whether any of the people who had actually participated in the(se) raid(s), or in the killing of Maetzke, lived in the village which was punished by SMS *Moewe* on 20 August 1900?

themselves a marine village?

17 By this Schnee presumably meant that they only knew a few words of English they could use to communicate with him. Had "*Pidginenglisch*" already become a distinct language with a grammar and a vocabulary of its own the "interpreters" had not mastered? Was Schnee an accomplished speaker of this language, or did he simply string English words together when talking to his policemen, for example, most of which meant nothing to them?

I suggest none of it did. It was sufficient for Bennigsen to know that the situation in the Admiralty Islands was horrifying and chaotic. His job as a governor was to do what he could to bring this chaos to an end, not to establish what patterns of hostility and alliance might be reflected by it. Uncertainties on that score were immaterial for the exercise of German colonial rule. On the other hand, the fact that these uncertainties existed but were ignored is highly significant, so that it would be pointless and even counter-productive for a historian of this rule to establish what the patterns of hostility and alliance among the people in the Admiralty Islands had actually been at the time.¹⁸ But, as we shall now see, there were other kinds of uncertainties which mattered a great deal to Bennigsen.

IV

When the Island Territory was acquired from Spain it was placed under the governor of German New Guinea, instead of being established as a separate colony or combined with the Marshall Islands. A small group of officials was appointed and sent out from Germany to meet with Bennigsen to whom the Island Territory was to be officially handed over by the Spanish authorities.¹⁹

Instructions for Bennigsen were sent to vice-governor Hahl in Genoa from where he was to sail with his colleagues on 25 July 1899. He was given copies of the two relevant imperial ordinances—which had been approved by the ministry of justice but not yet signed by the emperor—together with the chancellor's implementation decree and a more specific decree not intended for publication. These decrees empowered Bennigsen to regulate temporarily those matters which, as from 1 January 1901, were to be governed by the Consular Jurisdiction Act. But Bennigsen was also instructed to work out proposals for the permanent arrangements. It was left to his "circumspection" (*Umsicht*) to come up with temporary solutions which would allow for a smooth transition. Bennigsen was only told to pay special attention to the land question and to consider making all land transactions subject to approval by the local authorities. As regards the temporary regulation of the administration of justice, it was recommended that Bennigsen should model it on the law applying in the Old Protectorate. On the other hand, it was stressed that the decision to make the Island Territory for the time being a part of German New Guinea did not mean that the laws enacted for that colony applied automatically to the Island Territory. In so far as such an application was considered to be expedient, the relevant pieces of legislation had to be formally introduced. By contrast it was necessary to exclude the Island Territory expressly from any legislation Bennigsen enacted from now on for German New Guinea, if it was not also to apply there. In short, it looked as if Bennigsen was given by and large a free hand.

On 21 October 1899 Bennigsen sent a fundamental ordinance of 26 September and his implementation instructions to the colonial department, together with two shipping ordinances he had enacted for the Island Territory and a labour ordinance for the whole of German New Guinea, including the Island Territory, which he intended to proclaim after his return to Herbertshöhe. His covering report was based on the view that he was "entitled to assume" (*wie ich anzunehmen zu dürfen glaube*) that the Island Territory and the Old Protectorate would soon become one large

18 The task of a historian of the Pacific Islanders under German colonial rule is different. For such a historian it is crucial to establish the traditional patterns of hostility and alliance and the influence of the "white newcomers" on these patterns. In this context it is also necessary to sort out how far the contemporary reports—for example that of Wostrack—can be treated as factual. This is probably a task only a narrative historian would be brave enough to tackle; but then narrative historians do not need to engage in demanding exercises of this kind.

19 The following account is based on documents contained in RKA 2998 to 3001, supplemented by information the colonial department filed in RKA 2966 and 4786 and Items 4, 9, 27, 102 and 121 of the G1 series of files of the imperial government in the Australian Archives.

colony under a unified administration. This was the basis of his uniform labour ordinance and of his plan to submit in the near future uniform taxation and customs ordinances.

Bennigsen's report arrived in Berlin on 7 January 1900. The first response was an ordinance of the chancellor of 20 January which prohibited for the time being the acquisition of any land from natives in the Island Territory. It repealed any previous enactments to the contrary. This meant section 12 of Bennigsen's ordinance which had established a land acquisition monopoly of the government. The next step was a decree to the vice-governor in Ponape and the district commissioners in Yap and Saipan, dated 24 January. Firstly, it pointed out that section 5 of Bennigsen's September ordinance was not in accordance with the 1870 Personal Status Act so that matters dealt with under the ordinance had to be re-enacted in compliance with this act to become legally valid. Secondly, it instructed the local authorities not to apply Bennigsen's labour ordinance in the Island Territory. Thirdly, it requested the local authorities to exercise their legislative powers only "in really urgent cases" (*in wirklich dringlichen Fällen*).

According to the decree a repeal of section 12 of Bennigsen's ordinance had been necessary because no decision about the most appropriate economic utilisation of the Island Territory had as yet been made. It was clear, however, that such a decision had to take the neighbouring Marshall Islands and the "distinctive" (*eigenartige*) arrangements for their economic utilisation into account. Before transferring any land in the Island Territory to commercial interests it also had to be ascertained how much land suitable for plantations and other economic enterprises was available and how much of this "hardly particularly large area" could be acquired from the natives or taken into possession as ownerless.²⁰ The need to protect forestry and other resources had to be considered as well, and it still had to be worked out whether the land should be sold outright or only leased to private interests.

The colonial department invited the local authorities to report on all these issues. They were especially instructed to report what land in their districts had already been transferred on the basis of the September ordinance and reminded that from the receipt of this decree they were no longer empowered to initiate or complete the transfer of any land.

A response to Bennigsen was sent more than a month later. It stated first of all that the full incorporation of the Island Territory into German New Guinea Bennigsen envisaged was at present out of the question. The Island Territory was economically linked to the Marshall Islands rather than the Old Protectorate, and it was impossible to unite all three areas administratively as long as the German government was bound by its 1888 agreement with the Jaluit Gesellschaft for the Marshall Islands. Since it was uncertain whether a way could be found to terminate this agreement without harming the legitimate interests of the company, it was also premature to consider the enactment of uniform tax and customs legislation for the Old Protectorate and the Island Territory. As Bennigsen's September ordinance would automatically become ineffective on 1 January 1901, there was no point in critically examining its individual provisions. However, in view of the negotiations with the Jaluit Gesellschaft it had been necessary to repeal section 12, which was also irreconcilable with the telegraphic instruction to Bennigsen that no land acquisitions from natives in the Eastern Carolines were permitted. Because of the urgency of the matter, and the lack of direct shipping connections between the Island Territory and Herbertshöhe, the repealing ordinance had been sent directly to the local administrations. The covering decree, a copy of which was enclosed for Bennigsen's information, set out "the additional reasons" for its enactment. No decision in principle about the transfer of native land could be made until the negotiations with the Jaluit Gesellschaft had been completed and the detailed report requested from the vice-governor had been received. On the other hand, the colonial department was looking forward to Bennigsen's proposals concerning the permanent legal framework for the Island

20 The colonial department doubted that there was any ownerless land in the Island Territory.

Territory. They had to arrive in Berlin at the latest by early October so that the required imperial ordinance could be made public in the Island Territory before 1 January 1901.

The colonial department also had difficulty with Bennigsen's special ordinances. Because the Island Territory, the Marshall Islands and the Old Protectorate were separate administrations, vessels based in the Marshall Islands and the Old Protectorate, contrary to Bennigsen's ordinance, had to be treated as "foreign ships" in the Island Territory. In addition, the fees Bennigsen had set for foreign ships were far too low compared with those in the Marshall Islands. And so it went on. Bennigsen was instructed to repeal his labour ordinance for the Island Territory; his currency regulations were criticised; and fault was even found with the ordinance concerning the supply of arms and liquor to natives because it contained no penal provisions.

On 20 March 1900, well before this depressing decree arrived in Herbertshöhe, Bennigsen had submitted his "permanent" proposals to the colonial department. As was to be expected they were drafted on the assumption that the German colonial territories in the Pacific would form a single administration—with the exception of Samoa which, Bennigsen accepted, on account of its remoteness and its peculiar recent history, required a separate government. Once the planned shipping connections were operating it would soon become apparent how much the interests of these other three territories would profit from a single administration and a uniform law which would first include the Old Protectorate and the Island Territory and into which the Marshall Islands could later be incorporated as another district.

Apart from unified taxation and customs legislation, in Bennigsen's view only two general ordinances, one by the emperor and one by the chancellor, were required. His draft for an imperial ordinance was divided into two parts. The first was concerned with the organisation of the local administration, the second with the administration of justice. Bennigsen planned a division of German New Guinea into five administrative "districts" and an unspecified number of "sub-districts" (*Oberbezirke* and *Unterbezirke*). They were respectively to be placed under "district commissioners" (*Bezirksamtmänner*) and "district officers" (*Stationschefs*). The district commissioner for the Bismarck Archipelago would serve at the same time as the deputy of the governor with the title vice-governor. He, as well as his colleague in Kaiser Wilhelmsland, and the governor as chief justice, had to be fully qualified lawyers, whereas this was not necessary in the case of the district commissioners in the Eastern Carolines, the Western Carolines and Marianas, much less in the case of the district officers, who were apparently to be placed directly under the governor rather than under one of the district commissioners.²¹ The establishment and the abolishment of new districts and the excision of sub-districts from existing districts required the approval of the chancellor whereas the governor was entitled to make minor alterations on his own responsibility.

The draft also covered the native police force. Its strength was to be determined annually in the budget. It was to be placed under the command of the governor. Its main body was to be stationed at the seat of the governor in Herbertshöhe but smaller sections were to be allocated to the district offices and stations. They were to be under the command of the officials in charge, although their training and direct supervision was to be the responsibility of German police sergeants.

For the administration of justice Bennigsen envisaged a continuation of the arrangements made for the Old Protectorate in 1886 and 1888 with minor, technical adjustments. By contrast he proposed major modifications of the existing land and mining law. The 1888 imperial land ordinance was to be supplemented by the 1895 imperial crown-land ordinance for German East Africa and amended accordingly. The 1897 mining ordinance of the Neu Guinea Kompagnie was

²¹ I should point out that it was common at the time for people joining the upper stream of the metropolitan or colonial public service to be fully qualified lawyers.

to be replaced altogether by an amended version of the 1898 imperial mining ordinance for German East Africa.

In addition to minor adjustments in the field of the personal status law, the proposed chancellor ordinance dealt, firstly, with the implementation of the new land and mining law, as modified by the importation of the East African crown land and mining ordinances and, secondly, with the administration of criminal justice in relation to natives. In the latter context Bennigsen once more proposed an African import. The Neu Guinea Kompagnie's 1888 Native Penal Ordinance was to be replaced by the 1896 decree of the chancellor concerning the exercise of the criminal jurisdiction and the disciplinary powers over natives in East Africa, the Cameroons and Togo, with some minor amendments.

The most detailed proposals related to the implementation of the crown land ordinance. They boil down to the following principles:

1. a land acquisition monopoly for the government, with the exception of leases of native land for less than three years;
2. an obligation on the government when acquiring native or ownerless land to ensure that adjacent natives retained enough land for their existence, namely a minimum of five times the area currently in use by them;
3. a discretionary power of the governor: (a) to determine in which forms (lease or full ownership) land acquired by the government was transferred to private interests; and (b) to impose improvement and forestry protection conditions; and
4. an authority for the governor to issue further implementation regulations.

In a covering report Bennigsen provided additional explanations. They demonstrate, in particular, that he did not appreciate the relationship between the Native Penal Ordinance and the Disciplinary Ordinance in the Old Protectorate and was unaware that an introduction of corporal punishments as judicial punishments in the Pacific would meet with strong opposition in Berlin. While Bennigsen commented no further on the native police force, he did justify the posting of the vice-governor to Herbertshöhe, rather than to the peripheral Ponape. His arguments were compelling, if it was to be the role of the vice-governor to also act as deputy for the governor in the Old Protectorate, rather than functioning only as a kind of *primus inter pares* in the Island Territory who was given a direct line to the colonial department, which made him a junior colleague rather than a subordinate of the governor of German New Guinea but gave him no powers to act as his deputy in the Old Protectorate.

A key factor in Bennigsen's considerations was the large distances and the poor communications between the various local administrations. He intended to deal with this difficulty by spending much of his time travelling the length and breadth of his colony on his government steamer, visiting the various local administrations while the vice-governor was holding the fort in Herbertshöhe.²²

What Bennigsen had to say about the relations between the district commissioners and the district officers gives the clearest clue as to what he had in mind. On the one hand it was necessary to allow the latter to operate largely independently; on the other hand, it was unwise to entrust them with the exercise of the judicial jurisdiction over non-natives, or of legislative powers, so that these powers had to remain with the district commissioners to whom the district officers therefore had to be "in a certain way" (*in gewisser Weise*) subordinated. Bennigsen was still undecided as to how this relationship was best sorted out. He therefore asked for permission to come up with a solution when he established the first government station in northern New Ireland "in about July".²³

22 It is likely that Bennigsen thought that Schnee was just the right man for the job.

23 Bennigsen asked politely for special instructions on that score, but he knew very well that they could not arrive before the station had been established, if it was indeed established "in about July". Bennigsen also foreshadowed the

The colonial department again spent no time on a detailed analysis of Bennigsen's proposals, since they did not fit into its plans and were regarded as generally misguided.²⁴ Yet it took until 4 August before it responded to this report by sending the draft of an imperial ordinance concerning the permanent regulation of the "legal conditions" (*Rechtsverhältnisse*) in the Island Territory. Although the covering decree stated that it had "utilised" (*verwerten*) Bennigsen's proposals, it had nothing in common with them. Apart from a few predictable provisions for the administration of justice in relation to non-natives, it only addressed the question of the land and mining law in the Island Territory. But its answer was pointedly non-committal. It stipulated that the laws introduced by the Consular Jurisdiction Act did not apply in this field. Instead it authorised the chancellor, and with his approval the governor, to regulate these matters for the time being in so far as this was required.

By that time the colonial department had already received a second report by Bennigsen, dated 26 April, which responded to its March decree. It indicated that Bennigsen was ready to throw in the towel but only under protest. In his view it was "absolutely necessary" to unite Germany's colonial territories in the Pacific, apart from Samoa, into a single administration with uniform laws. This necessity surely constituted a "political reason" for which the 1888 agreement with the Jaluit Gesellschaft could be terminated under its clause 4. Should this be impractical, the interests of the Pacific colonies demanded that the company be offered monetary compensation for its agreement to a consensual termination. It had shown no interest in the economic development of the Carolines in the past, and the conditions in the Marshall Islands were so deplorable that the commander of SMS *Seeadler* was about to lodge a formal complaint with the naval office.

Bennigsen stuck his neck out even further by declaring that he could take no responsibility for an approach to the government of the Pacific colonies which failed to create a unified administration of the three territories as this would delay their development perhaps by decades. He therefore left it to the colonial department to change his proposals as it saw fit, since he was unable to propose workable alternatives. Finally, he stressed that nothing in his instructions had indicated that the colonial department was against such a unification. It was therefore at least necessary to create clarity in this regard because any measure taken without a certain knowledge of the department's plans for the future could only harm the development of these territories.

Bennigsen was especially offended by the chancellor's ordinance of 20 January 1900. In his view it corresponded to section 12 of his 1899 ordinance with the only exception that it also prevented the government from acquiring land in the Island Territory. The aim of precluding foreigners from acquiring land for the time being could therefore have been achieved by instructing the local administrations "internally and confidentially" not to sell any of the land they acquired. Although he would also have regarded such an instruction, in agreement with the local officials, as a serious setback, it would at least have avoided the unfortunate consequences of the current situation where the government could not even acquire native land for public purposes.

Bennigsen also defended his other legislative measures against the colonial department's criticisms. In particular, he stated that while he had carried out the order to repeal his labour ordinance for the Island Territory he could take no responsibility for the consequences this was going to have.

establishment of three additional government stations in the next budget year. Two of them were to be situated in the Island Territory, in the Palau and Truk Groups, thus considerably reducing the responsibilities of the district offices in Yap and Ponape. The third station was to be located at the mouth of the Ramu, in connection with the plans of the Neu Guinea Kompagnie to use this river to gain access to the interior of Kaiser Wilhelmsland.

24 One of the few marginal comments on Bennigsen's report related to his proposal to reserve major organisational decisions for the chancellor because it could easily come to ill-considered moves if this authority were given to the changing occupants of the governor's position. In the view of the commentator this was a rare manifestation of "*Selbsterkenntnis*" (a realisation of his own limitations) on the part of Bennigsen.

Now our story is heading for an anticlimax. The ordinance "concerning the legal conditions in the Island Territory" Bennigsen had been sent in August was never enacted. It was superseded by a general implementation ordinance of the revised Protectorates Act for all German colonies proclaimed in October. In November Bennigsen and the local administrations in the Island Territory were sent a list of the few sections of Bennigsen's 1899 ordinance that would survive after 1 January 1901. On 24 December 1900 Bennigsen was instructed to repeal the administrative instructions he had issued in its implementation. In addition, he was told that experienced administrators like Hahl, Senfft and Fritz hardly required new instructions of this kind, at least not before the "concession question" had been settled.

But Bennigsen had the last word. When reporting on 11 April 1901 that he had carried out the order to repeal his 1899 implementation instructions, he again stressed that his original instructions concerning the administration of the Island Territory had been far from clear. In this difficult situation, after discussions with Hahl, Senfft and Fritz, he had taken those measures which, to the best of his knowledge and belief, had been required to meet the existing situation. If these measures had not in all points corresponded with the intentions of the colonial department, this had been due to the fact that his instructions had not sufficiently familiarised him with these intentions.

What had these intentions been? A memorandum prepared in the colonial department in January 1900 suggests that it too had regarded a speedy unification of the Island Territory, the Old Protectorate and the Marshall Islands as desirable. The problem had been the 1888 agreement with the Jaluit Gesellschaft which, as long as the company fulfilled its contractual obligations, the German government could only terminate if this was required for "political reasons". The colonial department interpreted this expression to mean reasons of "higher politics" (*hochpolitisch*) at the international level, which did not exist at the time. It also believed that the Island Territory was economically firmly linked with the Marshall Islands, so that it should not be united with the Old Protectorate without the latter. The original plan had therefore been to offer the Jaluit Gesellschaft an exclusive economic concession for the Eastern Carolines in exchange for relinquishing its political rights in the Marshall Islands under the 1888 agreement. Since such a concession would probably have involved some kind of land acquisition monopoly for the company, the colonial department had been anxious to prevent any land acquisition by other parties. But instead of informing Bennigsen of these plans it had merely invited him, in his July instructions, to consider whether he should make all land transfers initially subject to approval by the local authorities. It would perhaps have been better, the memorandum conceded, if the intentions of the government at that time not to permit the transfer of any land had been expressed more clearly. However, this intention had been expressed succinctly in the August cable to Bennigsen which prohibited all alienation of native land to foreigners, apart from emergencies. Unfortunately the governor had not complied with this instruction, or had misinterpreted it by assuming that it was only concerned with acquisition of native land by foreigners without the approval of the local authorities. The memorandum took the view that section 12 of Bennigsen's ordinance had at least objectively been a breach of these instructions and therefore recommended its immediate repeal. It added that it was necessary, in view of Bennigsen's apparent opposition to any form of a "protectionistic system", to inform him that the colonial department intended to adopt such a system.

However, the recommendation to clarify the situation forthwith was not taken up so that Bennigsen and the officials in the Island Territory continued to be left in the dark; and it was the lack of clear directions, rather than differences of opinion about the policies to be pursued, that convinced Bennigsen that it was time to give up. This does not mean that he did not personally feel strongly about the need for a speedy administrative unification of the Island Territory and the Marshall Islands with the Old Protectorate, but as a good public servant he would not have refused to go along with fundamental policy decisions approved by the emperor, had he been

informed about them. What frustrated Bennigsen was that he was given wide discretionary powers only to be told that what he had done in their exercise was unacceptable and had to be undone.²⁵

V

The previous discussion has only followed the central strand of these frustrating exchanges. Another important strand is the "land and concession question". It was brought into the open in a decree to Bennigsen of 21 June 1900 (AA G1, Item 204). It enclosed correspondence with the Jaluit Gesellschaft reaching back a full year. In June 1899 the Jaluit Gesellschaft had offered to tackle the economic development of the Island Territory in cooperation with the Deutsche Bank. It had sought a land acquisition monopoly for ten years, with an upper limit of 30,000 hectares, and a tax exemption for the same period. In exchange it offered a ten per cent share of its entire profits, that is to say including those of its operations in the Marshall Islands which, as it proudly pointed out, had yielded a dividend of ten per cent for the previous year.²⁶

The colonial department expressed interest but indicated that it expected in exchange for such a concession an arrangement obliging the company to cover the entire costs of administering the Island Territory. It also informed the company that it was engaged in similar negotiations for the western section of the Island Territory with a syndicate led by Count von Hutten-Czapski which was about to send out an expedition under Professor Volkens to examine the groups in question and was willing to do so without demanding any provisional undertakings by the colonial department as the Jaluit Gesellschaft had done.

The company's counter-offer suggested postponing a decision about the financial obligation it had to accept in exchange for a land acquisition monopoly. It dealt exclusively with the expedition it would send out as a counterpart of that under Professor Volkens. As the company had learned, he would accompany Bennigsen on his trip to take over the Island Territory from the Spanish authorities so that the costs would be minimal. Its expedition, on the other hand, would be of a very different kind. Whereas it was the aim of the Volkens expedition to acquire some general knowledge of these islands, for which visits of a few days were sufficient, the Jaluit Gesellschaft had been familiar with them for many years. Its aim was to establish whether particular areas of land were suitable for the particular crops it had in mind and whether they could be acquired by it. In order to accomplish this task its expedition had to consist not just of a botanist but had to be led by a businessman already acquainted with the area, who was assisted by various other people and given a sea-going vessel for his own use, since the required detailed examination of each of the larger islands could take weeks if not months.

Before embarking on such an expensive enterprise the company had to know whether a division of the Island Territory along 148° eastern longitude was acceptable; whether Volkens had been informed that he was not permitted to acquire land east of this line; and whether the company would be given exclusive permission to do so with the assured support of the local officials. This exclusive permission could be limited to the duration of its expedition and extend, at any rate, no further than the end of 1900. If the colonial department was prepared to give the officials and

25 Bennigsen probably did not appreciate that the colonial department was dithering rather than being devious. But this mattered little, since it could have at least clarified that it was considering a range of options, and that it was essential not to make any firm commitments for the time being. It is not unlikely that the decision to postpone the introduction of the Protectorates Act until 1 January 1901 was also influenced by these uncertainties. All that was meant to happen until then was to be of a provisional character which allowed the colonial department to keep its options open. Bennigsen was not expected to prepare the ground for a particular permanent solution but for a smooth transition to whatever solution was adopted. In other words, Bennigsen was expected to do essentially nothing new, without being told that this was the case. It is worth remembering that the instructions to Knappe on his appointment as imperial commissioner in the Marshall Islands had been of a similar nature (see above: 518).

26 It also offered to maintain a regular shipping line, although it asked for an annual subsidy of 90,000 Marks for doing so.

Volkens corresponding telegraphic instructions before they left Singapore, the Jaluit Gesellschaft would immediately get its expedition ready.

The colonial department was not impressed by this counter-offer which would have enabled the company to acquire all the land it wanted without committing itself to anything. However it was prepared to permit the company to acquire up to 5,000, rather than 30,000, hectares, so that its expedition—which would certainly not cost more than 50,000 Marks—would add a mere 10 Marks to the cost of each hectare of land it acquired.

The June decree of the colonial department to Bennigsen did not indicate whether the negotiations with the Jaluit Gesellschaft, or the Hutten-Czapski syndicate, had progressed further, but it implied that at least they had not reached a conclusion. Bennigsen was asked to report on the question, in particular for the Eastern Carolines. If his views did not favour the proposals of the Jaluit Gesellschaft, he was to develop plans as to how else the islands could be utilised in a manner which benefited German interests and excluded English, Japanese and other foreign competition as far as possible. The vice-governor in Ponape had been sent a copy of the decree and asked to report as well.

Bennigsen responded in a long report written on board SMS *Moewe* on 20 August 1900—while her marines and Bennigsen's native policemen were punishing "the Mock-people" in the Admiralty Islands. It reiterated the view that the planned land concessions for the Eastern Carolines and the Western Carolines and Marianas would hinder rather than help the economic development of the Island Territory. After expressing again his distinctly unfavourable opinion of the Jaluit Gesellschaft and urging a termination of the 1888 Marshall Islands agreement, he summarised his views in three theses:

1. the state should grant no tax exemptions;
2. the state should grant no large land concessions;
3. the state should control the allocation of all uncultivated land in the colony.²⁷

On 28 September Bennigsen sent a report by Hahl, dated 6 September, to the colonial department without comments, apart from stating that all other officials shared his views about large concessions, namely that they held back the development of the colony and reduced the revenue of the state.

Hahl was indeed against granting the Jaluit Gesellschaft the land concession it had sought. If the company acquired 30,000 hectares not a single hectare of useful land would be left for third parties.²⁸ The company would also acquire a *de facto* trading monopoly, because only traders prepared to become totally dependent on it could hope to survive under these circumstances. In Hahl's view a concession had at least to be cut to 10,000 hectares. But he preferred the granting of only 1,000 to 2,000 hectares to the company, and then only in the form of a 99 year lease, the speedy cultivation of which would make a most welcome contribution to the development of the colony. Since the granting of a large concession would effectively mean that the colony would be governed in the interests of the company, it had to be expected to make a payment which was sufficient to cover the entire costs of its administration, and Hahl thought that a payment of 100,000 Marks a year would be appropriate.²⁹

As an alternative Hahl proposed (1) to open the Island Territory to all trade, since it was impractical to keep out foreign interests and to insist on the import of only German goods; (2) to

27 It is significant that Bennigsen used the term "state" (*Staat*) and not "government" or "administration" in this context because this suggests that he saw his colony as a "state" and not as a territory which he was governing on behalf of the Reich.

28 This gives a good indication of how the agricultural potential of the Island Territory was seen at the time: there were just 300 square kilometres of land available for commercial agriculture, less than two thirds of the grant to the Neu Guinea Kompagnie in Kaiser Wilhelmsland in the 1898 agreement.

29 Hahl was in favour of a subsidised shipping line run by the Jaluit Gesellschaft, but believed that the company would be prepared to do so whether or not it was given a land concession.

encourage one or more middle-sized plantation enterprises in the high islands; and (3) to compel the natives in the low atolls to plant up the suitable unused land so as to produce an increasing volume of cash crops for export. Such a planting programme had to be supervised by government officials during regular visits. While no additional staff was required for this purpose only experience could show whether one government steamer would be capable of carrying out this task in addition to all the other tasks it was expected to perform.

On 20 November the history of the land and concession question entered into a new phase with a cable by the colonial department to Hahl: "Concession Jaluit Gesellschaft for coral atolls Eastern Carolines to 148° similar to Marshall Islands recommended by colonial council. No-one to be admitted to these atolls, including Ant." In addition the governor and all three district offices in the Island Territory were informed by cable that the chancellor ordinance of 20 January had been supplemented by a declaration which made clear that the leasing of land and the occupation of ownerless land was also prohibited: "strict compliance expected" (see RKA 2285). This was followed by an explanatory decree to Hahl of 27 November, a copy of which was sent to Bennigsen, without further comments or instructions (AA G1, Item 204). It stated that due to various misunderstandings, the reasons for which it did not wish to discuss, the land and concession question had not been treated in a manner which corresponded with the colonial department's intentions and instructions. Although a cable in August 1899 had prohibited the transfer of any land by natives to foreigners, apart from emergencies, Bennigsen's September ordinance had permitted the acquisition of land by the government, although the government was clearly a foreigner in the sense of not being a native.³⁰ The chancellor ordinance of 20 January 1900, which prohibited for the time being the acquisition of any land from natives in the Island Territory, had also been misunderstood as, according to reports by the Jaluit Gesellschaft, leases of native land of up to 99 years had been approved. On 24 November the chancellor had therefore issued a decree which expressed the intention to freeze for the time being any dealings concerning land or land rights not already in the possession of non-natives. A certified copy of this decree was enclosed, and Hahl was instructed to proclaim it forthwith in "the customary manner". The colonial department firmly expected that these regulations would from now on be strictly applied in accordance with their spirit as well as their letter. Should doubts about their meaning still arise, Hahl was to report *immediately* to the colonial department and to send a copy of his report to the governor (emphasis in the original text).

In the meantime the land and concession question had been further clarified during the last meeting of the colonial council, in so far as that had been possible in view of the incomplete information available. The colonial department enclosed a revised memorandum from the Jaluit Gesellschaft. It advocated the granting of three separate concessions: for the Eastern Carolines, for the Western Carolines and Palau and for the Marianas. The colonial department also enclosed excerpts from the minutes of the colonial council meeting. They showed that the council had approved the proposal of the Jaluit Gesellschaft *after* an amendment restricting it to the low coral atolls had been withdrawn.³¹ However, the Jaluit Gesellschaft itself had subsequently limited its application for a concession to the low coral atolls in the Eastern Carolines. The colonial department had not yet decided whether to grant such a concession, partly because it wanted to give Hahl the opportunity to express his views, but mainly because it recognised that its granting could only achieve positive results if it was supported by all concerned.

30 There is little doubt that it had not occurred to Bennigsen or any of the local officials that the colonial government could also be seen as a "foreigner" and that this quite reasonable view had led to a genuine misunderstanding. On the other hand, subsequent moves, in particular the decision to continue the *leasing* of land after its *sale* had been prohibited look rather less innocent, although the reports of the Jaluit Gesellschaft on this matter may well have been exaggerated.

31 The minutes show that the approval had been given *after* the chairman had also disclosed Bennigsen's opposition to the granting of any concessions.

Since the colonial department enclosed the draft of a concession, which had already been given a preliminary blessing by the ministry of finance, as well as drafts of the ordinances Hahl would have to enact if it was granted, he was clearly expected to come to the party and to drop any objections to the now proposed arrangements. They were indeed only a shadow of what the Jaluit Gesellschaft, or the colonial department, had hoped for. Apart from the geographical restrictions of the concession to 12 named atolls, it no longer involved the acquisition of any land by the company,³² nor any tax exemptions. Instead the company was given a limited trading monopoly for 30 years for which it had to pay a modest fee of 5,000 Marks per annum for the first ten years, but which was to rise subsequently if its copra exports from the Eastern Carolines exceeded 600 tonnes per annum—the equivalent of a yield of a single mature plantation of 600 hectares.

Hahl responded on 15 February 1901. He supported the now proposed concession as it took into account most of the criticisms he had made of the original proposal. But he gave his support mainly because he believed that such a concession was necessary to enable a German company to survive the competition of foreign interests. He therefore stressed that the Jaluit Gesellschaft had to earn this protection by undertaking to establish permanent stations manned by reliable German-speaking agents; not to employ dubious white elements as traders or planters; and to upgrade its main station on Ponape, in particular by providing proper facilities for the loading and unloading of the mail steamer and coal supply ships.

Hahl also insisted that Ant had to be exempted because Henry Nanpei had been granted title to these islands by the Spanish governor in 1896. He further indicated that it would be desirable to exclude Pakin as well. It already earned the leading chief of the Jokaj, who had conquered the islands in pre-colonial times, an annual income of 3,000 Marks from copra he sold to the Jaluit Gesellschaft, whereas Nanpei, as far as Ant was concerned, refused to deal with the company because he claimed that he had been duped by it in the past.

Bennigsen fully agreed with Hahl in a report dated 18 February 1901, stressing that dire consequences would follow for public peace on Ponape if Ant or Pakin were not excluded from the concession. Even a reduction of the fee payable by the Jaluit Gesellschaft by as much as one third would be acceptable as a price for their exclusion. In the concession approved by the chancellor on 2 July 1901, the Jaluit Gesellschaft was instead compensated for the exclusion of Ant and Pakin by the inclusion of the Truk Group in the concession—a generous alternative as this group was the most populous in the entire Island Territory. But then the Jaluit Gesellschaft had also made additional concessions. They were included in a secret supplement because the arrangements made were not suitable for publication. The first consisted of an amendment of the termination clause in the published document. It authorised the chancellor to cancel the concession at any time without compensation to the company if the relations between the Reich and another state, or the maintenance of public order in the Island Territory, required this.³³ The second prepared the ground for an administrative unification of the Marshall Islands with the Island Territory. The company undertook to raise no objections against such a move, whereas the colonial department implicitly recognised that the privileges the company had been granted in the 1888 agreement would survive it, although alternative arrangements concerning the costs of the administration could be made.

In general Bennigsen could be pleased with this final outcome. In a way he had won the war without achieving any concrete victory. But he had ruined his own career in the colonial service in the process. Indeed, it was already Hahl as acting governor who received the colonial

32 Instead the company was to assist the natives in planting up their hitherto unused suitable land. In return the natives had to sell the copra from such new groves to the company.

33 This made clear that, as in the 1888 agreement, only "*hochpolitische*" reasons of external politics would count. On the other hand, the recognition that a continued operation of the concession might endanger public peace suggests that German rule was also regarded as being by no means internally secure.

department's decree in September 1901. Whether the economic development of the Island Territory profited from this largely negative answer to "the land and concession question", or whether the Jaluit Gesellschaft profited economically from the minimalist concession it obtained, is another matter. But the course of these developments had little to do with either Bennigsen's or the colonial department's intentions. Still, it is clear that a great deal of time and energy could have been used more constructively had the colonial department been more forthcoming and had it not given Bennigsen unrealistic expectations concerning the role he was meant to play.³⁴

But this is enough of the big picture for the time being. It is time to focus again on what was happening at the grass-roots level.

34 The implications of this evidence for Hempenstall's claim (see above: 95)—that Bennigsen resigned in a fit of pique—are plain.

Chapter 12: the Aftermath

I

On 20 May 1902, *Assessor* Wolff reported to the colonial department that a military post of 20 policemen was in the process of being established between Paparatawa and Tamanairiki on the Gazelle Peninsula to secure public peace in the area after the military operations in response to the Varzin Murders had been completed. He assured his superiors that this post would cause no additional expenditure. The cost of running it would be covered by selling the copra produced from the rich stands of coconut palms growing on the land to be confiscated as a punishment from the tribes responsible for the murders. In addition to the 20 policemen, 20 labourers would therefore be allocated to this new post. An ideally suited European had already been appointed to take charge: the former Catholic missionary Costantini, who was well acquainted with and liked by the natives in the area and who had rendered valuable services during the military operations (see RKA 2989).

The post started to operate soon afterwards and was used as the base for the celebrations of the official end of the hostilities. They were arranged to coincide with the birthday of the empress on 22 October. A big *singsing* was staged. About 2,000 (!) natives participated and 25 Europeans, including several ladies, who were guarded by 40 armed native policemen (see RKA 2989).

Costantini did not last long because his appointment was vigorously opposed by the Catholic mission,¹ but the police post in Toma remained in place until 1908, when it was closed down because the natives in the area were now completely peaceful (see RKA 5803).

The annual report for 1902 shows that concern with the maintenance of public peace had not been the only reason for its establishment.

The establishment of a Police Station in Toma (Paparatawa) will ensure peaceful conditions both for the expanding plantations and also among the belligerent natives themselves. The overthrow of the tribes around Varzin and in particular the inclusion of Tamanairiki in the area under orderly administration, has brought the entire northern section of the Gazelle Peninsula, which constitutes a single linguistic area, under the influence of the Government. The Taulil, who live between Varzin and the Baining Mountains, had in the past been subjected to severe attacks from two sides. The establishment of public peace was of particular benefit to these people. Ever since contact was made with them they have in fact proved reliable supporters of the Government; in particular they immediately commenced work on the construction of roads, as they recognised that a rapid and convenient communication route was in their interest (Sack & Clark, 1979: 236).

According to the 1903 annual report the construction of a road between Toma and Taulil and another one between Toma and Kabaira (*ibid.*: 247) indeed became a major task. It continued into 1904 (*ibid.*: 253) but apparently came to an end during that year—at least no reference to it is made in subsequent reports.

The 1903 report also stated that the government plantation which had been started in Toma was not to be extended beyond the 100 hectares already planted with coconut palms.² The rest of the 478 hectares confiscated was “to be given over to pasture”, and the breeding of buffaloes, sheep and goats had already started experimentally (*ibid.*: 248). The following year experiments with rubber and chinchona trees were conducted, but the latter failed completely and the former

1 Assunto Costantini had left his order on account of persistent problems with his vows of celibacy. A number of court cases involving him and the mission followed. For a phantom version of an encounter with Costantini see Jacques, 1922: 32–38.

2 It would appear that this was the area in which the coconut palms of the previous native owners were concentrated.

were only partly successful. Otherwise the commercial performance of the post was not sufficiently memorable to rate a mention. Nor was it a success as a base for the mobile police unit for which it was used in 1903 (*ibid.*: 244), since the base was apparently moved to Herbertshöhe soon afterwards. The next and last reference to Toma in the annual report for 1909 describes it as a "convalescent home" (*ibid.*: 304) which, at a height of around 400 metres, had also become a popular destination for weekend outings from Herbertshöhe (see Wendland, 1939: 160).

However, it is possible to fill in some of the empty spaces in this picture, because a "diary" of the police post in Toma, covering the period from 8 June 1903 to 31 December 1904, has survived (AA63/83, Item B73).

II

The first entry lists the presence of a workforce of 62 natives. Of these 29 are classified as "soldiers", eight as "labourers", six as "women" and 19 as "*Kanakas*". Twenty-five of the soldiers were engaged in building two houses on that day, one of them for "Samoans".³ Two soldiers carried out "continuing tasks", one supervised 11 labourers and *Kanakas* who were collecting coconuts, and the last supervised five women who were planting grass. Three labourers also carried out continuing tasks. Three persons were sick and four were sent to Herbertshöhe. The entry was signed by Klinger.

The entries continued in this format for about four weeks, when Klinger was replaced by Fitsch. During this time the workforce increased from 62 to 72. On 12 June five *Kanakas* were added. A day later the soldier Tompi was sent to Herbertshöhe and the soldier Man and the labourer Sobul arrived from there. On 27 June the number of *Kanakas* increased to 28. One new labourer was added, one woman left, but the number of soldiers still stood at 29.

What did this workforce do during the four weeks or so under the command of Klinger? It gradually emerges that the most important continuing task of the soldiers consisted of guard duties, to which between two and four soldiers were allocated every morning.⁴ None of the continuing tasks of the labourers are identified.

During the 25 working days covered—Sunday was a day of rest and Klinger made no entries—between one and six persons were sent to Herbertshöhe on 15 days. The reason is only identified once: on 24 June two people were sent for medical treatment; they were still listed as absent the following day.

The number of sick people varied between nil and four. Apparently only two cases were sufficiently serious to require professional medical attention. The diary does not indicate whether the same person remained sick for several days or whether different people were out of action for only a day or two. It is worth mentioning, however, that during the last five working days, when Klinger was trying to finish some projects, not a single case of sickness is recorded. I should add that the diary suggests throughout that the native workforce in Toma during the 18 months covered was reasonably healthy, and that not a single death is recorded.

One person is listed as being "on leave" for a week and one person as having "deserted".⁵ This desertion was the most dramatic event recorded during Klinger's command. The deserter was probably the target of the five people he sent out on 22 June "to catch" (*einfangen*) natives. At any rate the two people sent out the following day are shown as having been sent out "to catch a deserted labourer". For three more days one person is listed as having "run away".

3 It was probably intended as accommodation for a group of banished Samoans.

4 There is no indication as to how long these guard duties lasted or whether guards were also posted at night.

5 Desertions were not regarded as a problem. Only one other case is listed. In that instance Hahl noted calmly during a visit that the deserter "should stay away".

Only two other unusual events are referred to. On 19 June Toma was visited by district commissioner Wolff who noted that he had examined the diary, and on 26 June Klinger gave most of his workforce the afternoon off to attend a *singsing* in a neighbouring village. Only a guard of 12 men remained at the station.

The work program was interrupted twice by heavy rain. During the second storm the rooves of the houses for the labourers leaked badly. In the next week over 150 man-days were devoted to fixing the problem—an indication that the houses, which were probably less than a year old, had either been shoddily constructed or that Klinger's workforce was highly inefficient, or both.

The most striking feature of the diary during this period is the lack of military activity. It took until 30 June before the 29 soldiers had their first drill session. This may have been due to the fact that the necessary facilities still did not exist. On 10 June Klinger allocated 13 people to building a rifle-range and targets. Until the end of the month more than 300 man-days were devoted to this project. As from 30 June military training sessions became a regular feature of station life in Toma.

During the last days of Klinger's command efforts were concentrated on building a fence "for the animals". Other agricultural activities took place in bursts. Between 8 and 12 June 650 man-days were spent on collecting coconuts. This should have produced quite a heap if each man had picked up an average of, say, 300 nuts per day.⁶ There is no indication as to what happened to these nuts, or to those subsequently collected. The yield of the first few days covered should have been ample to plant up systematically the entire 100 hectares earmarked for this crop.⁷ Between 23 and 26 June the harvest of maize occupied 60 man-days. The collection of coconuts was resumed on 25 June. A smaller number of people harvested bananas and betel and galip nuts. A hive of activity, but not a single man-day was spent on building roads and the 29 soldiers also apparently never left the station for any kind of patrols.

With the arrival of Fitsch the format of the diary changed. The size of the workforce is no longer shown, nor is the number of persons who were out of action due to sickness or other reasons. The entry for Fitsch's first working day on the job illustrates the new style:

Until 8 am police soldiers drill. From 8 to 9 cleaning rifles. Afterwards maize harvest. Policesoldier Passingatrongar to Herbertshöhe. Labourers maize harvest.

For a brief period Fitsch continued to include precise information about changes in his workforce. On 7 July he hired To Kelio and on 9 July To Komil as casual labourers for three months. On 10 July the soldiers To Matava and Pina were posted to Herbertshöhe. On 16 July the labourer Tapim deserted and the soldier To Nomu and the woman Boden were sent to Herbertshöhe. From then on it becomes impossible to put a figure to the changes. The entry for 20 July recorded that "the relieved police soldiers [were sent] to Herbertshöhe in the afternoon", but it neither indicated their number nor whether all or only some of them were replaced. Similarly the entry for 25 July shows that "people", presumably *Kanakas*, were paid off with pipes and tobacco but does not say how many people were involved. It appears, however, that casual labourers were gradually phased out. It took until 5 September before the arrival of ten new permanent labourers from Herbertshöhe was recorded. On the same day 11 soldiers and five labourers were sent to "the roadworks in Kabaira", although eight of the soldiers returned within three days. On 10 October Fitsch went with another six soldiers and six labourers to Kabaira. He returned the following day, but we are

6 There is nothing magic about this figure. But it seemed not unreasonable to assume that a labourer could pick up a nut every two minutes during a ten hour working day.

7 There is no indication in the diary that copra was produced in Toma. While the newly planted palms would not have started bearing by the time the police post was closed down in 1908, the confiscated stands should have produced a substantial harvest, although Wolff was probably overly optimistic when he predicted that it would make the post financially self-sufficient.

not told whether he brought the soldiers or labourers back with him. Three days later 17 labourers completed their contracts. In November two soldiers and two labourers were sent to Herbertshöhe to be paid off. Only one casual labourer, To Pinie from Vunadidir, is shown as having been hired after July.

Between 31 December and 2 January 1904 a total of 30 police soldiers and three women were sent from Herbertshöhe. This meant a net gain of 26 soldiers, because four soldiers were sent to Herbertshöhe the following day. On 17 January followed a major reduction. Fifteen soldiers were "sent to the French [Witu] Islands"—to carry out punitive measures following the attack on a trading station. On 14 March as many as 50 soldiers were recorded as having been posted to Herbertshöhe.⁸

This would appear to be more than the total number of soldiers present at the time. Yet an innovation by Fitsch demonstrates that this was not the case. Fitsch had started to list the names of the eight soldiers who were given guard duties on Sundays, and the entries for the next few Sundays after the loss of the 50 men include the names of over 30 different soldiers. In other words, probably as many as 100 police soldiers had been stationed in Toma in early January.⁹

From then on the number of soldiers and labourers appears to have continued to shrink. On 23 May district commissioner Kornmayer took five soldiers to Kabaira. The following day another seven soldiers and four labourers were sent to Herbertshöhe and roadworks at Ratavul.¹⁰ At the end of the year yet another five soldiers, one woman and two labourers were sent to Herbertshöhe because they had completed their contracts.

All told, the workforce in Toma at the end of 1904 was considerably smaller than it had been 18 months earlier. This is not surprising as the entries in the diary had been deadly dull for some months. Apart from the early morning drill for the soldiers, the entire labour service for them, the labourers and the women had consisted of maintaining the station and the pasture: cleaning the station, cleaning the fences, mowing grass, pulling grass.

Although life on the station had never been exciting, earlier it had been less repetitive. Fitsch's first main task had been the completion of "the animal fence". But this was apparently not followed by the arrival of large numbers of animals. The first reference to their presence is an entry in August according to which a sick goat was taken to Herbertshöhe. It took until early September before four soldiers (!) were allocated "permanently" to looking after "the buffaloes". From then on, the menagerie, or at least the facilities for housing it, grew impressively. First a pigsty was constructed. This was followed by a cowhouse, for which the women wove mats for many days. Later they also made mats for a sheep-pen.

The diary does not show how many buffaloes, sheep, goats, pigs—or chickens and horses—were kept on the station. Nor does it show what happened to them. There is no reference to any of them being slaughtered for local consumption or to provide fresh meat for Herbertshöhe. This ties in with the information in the annual reports that animal husbandry was still in an experimental stage, so that numbers had to be built up. The diary also confirms that the focus of agriculture moved during the second half of 1904 to the preparation of pasture. By contrast much of the previous 12 months had been devoted to planting, tending and harvesting crops. Initially maize and coconuts figured most prominently, but they were later supplemented by tapioca, sweet potatoes, taro and millet. Even kapok trees were planted and the periodic collection of betel and galip nuts continued. The station produced substantial surpluses of food crops which were sent to Herbertshöhe. On 16 July, 20 labourers were sent with taro and maize. They returned with two

8 This move may well have implemented a decision to transfer the base of the mobile unit to Herbertshöhe.

9 The entry for 29 April shows that on that date their number was still at least 40, because this number is given for those who performed shooting practice on that morning.

10 Ratavul was a critical point in the developing system of roads in the Gazelle Peninsula. It was there where the road crossed the caldera forming Blanche Bay at its narrowest point and led to "the Northcoast".

ox carts which were presumably used to transport more produce. On 8 August 22 soldiers and labourers were sent with taro and betel nuts. On 23 December 1903 a special effort was made: the entire workforce collected galip, betel and coconuts for Herbertshöhe as a Christmas treat.

A climax of productivity was reached a few weeks later. On 26 February 443 kilograms of taro were sent, on 3 March 523 kilograms, and on 5 and 7 March a total of over 2,000 kilograms followed, not to mention the departure of an ox cart on each of 9 and 10 March with an unspecified load. But then there is a gap until the end of May, when 870 kilograms of taro were sent, followed by two ox cart loads in early June. However this is the last transport listed. It appears that even the Christmas present of various nuts for Herbertshöhe was not repeated in 1904.¹¹

The building activities on the station had largely been completed when Fitsch took over in July 1903. The houses for the mysterious Samoans, who never materialised, were demolished in September instead of being put to other uses. Yet Fitsch recorded on 10 July the arrival of a carpenter who brought a load of 60 (cubic?) feet of (milled?) timber with him. In October a "new house" was constructed for which trees were cut in the bush, which also supplied *balbal* (coral trees) for the construction of the various animal fences.

Road building played a significant part in the station's activities for just a few months. The only project for which the station was directly responsible was apparently the road to Tomavatur. It occupied the policemen after their early morning drill session for much of the time between September and December 1903. From then on they too were increasingly allocated to work "in the plantation". Even for the work on the Tomavatur road the policemen were not formed into gangs which camped along the road as the distance from the station increased; at least they were apparently all present at the station for their military training during weekday mornings. This does not mean that no such gangs were formed, but if they operated, they were detached from the station and operated under a different command so that the diary does not account for their activities.

Judging by the diary only a single European had initially been posted to Toma: first Klinger and then Fitsch. But it was not its purpose to account for the movements of non-native personnel. On the contrary, Fitsch crossed out an entry on 31 July 1903 which had recorded that "the police sergeant" had gone to Herbertshöhe. Fitsch apparently went again a week later to seek medical attention, but this only emerges indirectly. The entry for 8 August shows that the shooting practice had been cancelled because Fitsch could not stand "on my sick leg". It also recorded that in the afternoon as many as 22 soldiers and labourers were sent to Herbertshöhe with produce. But it went on to state that only "the guard" and corporal Towarlie, as well as two invalids, had remained on the station. Moreover, this particular entry was signed by Fitsch, a practice which he had generally abandoned, as a further indication that Fitsch too had gone and had left Towarlie in charge.

On 3 September Fitsch was relieved by Pieper. Pieper had come to Toma the previous day with district commissioner Kornmayer who initialled the diary. Pieper only stayed for two weeks, when he was taken back to Herbertshöhe by Kornmayer who again initialled the relevant entry. Pieper was lax as regards the military training of the policemen. No shooting practice took place and infantry drill was only carried out on five days. On three days the construction of the pigsty was given priority and on two days the cleaning of the road to Vunadidir.

After his return Fitsch got stuck into the construction of the road to Tomavatur with his policemen, so much so that he too cancelled the shooting practice for a while and for some days did not carry out any infantry drill either. On 10 October he went with six policemen and six labourers to Kabaira and stayed away overnight. Since it is unlikely that a native corporal was left

¹¹ It is quite possible that at least not all of the taro had been grown by the station but that it was bought from natives who came to the market which was apparently held regularly at the post.

in charge of the station for 24 hours, Fitsch probably had by then acquired a European offsider, although he continued to keep the diary until 23 November when he was again relieved by Pieper.

This time Pieper stayed until 21 December. But he returned six weeks later. Moreover, he was then replaced by Adelmann, who held the fort until 13 March 1904, when Pieper returned. Pieper was again replaced by Adelmann on 22 April, and Adelmann remained in charge until 18 October, when Fitsch returned and settled down to his military training and pasture maintenance routine. However, Adelmann may well have stayed on, since Fitsch recorded on 19 December that Adelmann had gone with ten soldiers to Taulil. On the other hand, while the diary recorded the return of the ten policemen three days later, it did not record the return of Adelmann—but then it was not its task to do so.

The diary displays several puzzling features. Was it a coincidence that most of the recorded transports of taro to Herbertshöhe took place during the periods the diary was kept by Adelmann? Did it so happen that the taro was then ready to be harvested, or did Fitsch and Pieper not bother to record routine transports of produce? Similarly, was it a coincidence that during the four periods when the diary was kept by Pieper only the sending of a single member of his workforce to the hospital in Herbertshöhe was recorded, although the other three keepers of the diary routinely recorded such hospital visits? Did Pieper regard such events as not worth recording? Or was he not prepared to approve such visits? Does the fact that the diary records the punishment of natives with compulsory labour on three occasions mean that the station imposed no other such punishments during the period covered? Can we draw the same kind of conclusion from the fact that the arrest of a native, who was sent to Herbertshöhe, and the sending of three prisoners from Herbertshöhe to the prison in Toma were only recorded once?¹²

Despite these uncertainties a fairly clear overall picture emerges. It appears that the establishment phase was largely completed before Fitsch's arrival, that roadworks in the area became his main responsibility and that his shorter or longer absences from the station between September 1903 and October 1904 were also linked with this task. As regards the commercial aspect, the move from crops to animal husbandry is plainly visible. But although it is obvious that it was going to take time before the coconut plantation became fully productive and stock numbers had increased sufficiently to start selling or slaughtering large quantities, it is striking how little progress was apparently made.

The diary is especially disappointing as a source of information about the part the station played as a base of the mobile police unit. There are indications that it was used in late 1903 and early 1904 as a kind of holding paddock for surplus policemen, but with the departure of the 50 policemen in March this role appears to have come to an end.

The most unexpected result is that the station played no active role in the maintenance of public peace in the area. From the start the atmosphere was remarkably relaxed. The diary shows no concern for the security of the station. Klinger obviously had no fear that there might be trouble when he gave the bulk of his workforce permission to attend a *singsing* in one of the neighbouring villages, although his workforce presumably included at least some policemen who had taken part in the punitive actions following the Varzin Murders just over a year ago. The only occasion when the police performed any kind of demonstrative action was an "exercise march" (*Übungsmarsch*) to Paparatawa on 29 August 1903, a week or so after what appears to have been the highlight in the life of the station in 1903/04: a visit by governor Hahl on 20 August.

By and large the station kept to itself. Apart from the to-and-fro between Toma and Herbertshöhe, and occasional movements of policemen and labourers connected with road building, only a handful of excursions are recorded. On 18 August 1903 Fitsch sent three soldiers to Taulil. On 1 September soldiers were sent to Rapioko and Malakuna to summon natives. On

12 On the other hand it would seem that none of these events should have been recorded in a diary which had the purpose of recording how the workforce was employed at the post.

5 November Fitsch went with five soldiers to Rebar. On 9 September 1904 ten soldiers were sent to Wairiki and on 19 December Adelman went with ten soldiers to Taulil. No details are given, but it is significant that the Taulil and their closest Tolai neighbours were the destination in most cases. This is not unexpected, as the annual reports indicate that the station had a special responsibility in relation to the Taulil. Fortunately there is no need to speculate, as a special task Fitsch was called upon to perform in this context is documented in a separate file of the district office in Herbertshöhe which survived because it was sent to the colonial department. Before examining this file, however, it is worth considering the only surviving file of the station in Toma. According to its cover it deals with the "administration of native justice" in its district between 1903 and 1907 (AA G254, Item Box 4). But this is misleading because the station was given no formal judicial jurisdiction, rather, its administrative district remained within the jurisdiction of the station court in Herbertshöhe, so that the file can only deal with related administrative matters.

III

The first document on this file consists of instructions sent to Fitsch by the district office on 13 August 1903. Fitsch was to send Towarlie—presumably his native corporal—and the *Kanaka* Tomuar to Taulil to arrange for To Babeke and three other named Taulil to come to Toma on 19 August where the governor wanted to meet them. It was important, according to the instruction, that the Tolai in Wairiki, especially To Maidang, did not learn about the meeting because they might try to prevent it. The topic the governor wished to discuss was the repatriation of "Taulil slaves" kept by the Tolai. Two days later Fitsch was instructed to postpone the meeting by one day.

As we know from the diary Fitsch sent three soldiers to Taulil on 18 August and Hahl came to Toma on 20 August to hold "court". The file contains no information as to what happened during the meeting. On the other hand, it does show that the Tolai in the area were well informed about what was going on.

On 18 August To Neia from Paparatawa came to the station, accompanied by father Stehlin as an interpreter, to complain that the government chief To Belagia had ordered To Neia to pay 60 fathoms of shell money to To Kirara. The case revolved around the brothers To Kilang and Talim. To Kilang had been the Paparatawa chief who, together with To Vagira of Tamanairiki, had been behind the Varzin Murders and who had been shot dead during the following punitive measures. Talim was also dead, but he had been killed during a traditional fight with Rebar about ten years earlier. Because To Kirara was held responsible for that fight he had paid To Kilang compensation of 50 fathoms of shell money as compensation for the death of his brother Talim. Now To Kirara demanded their repayment from To Kilang's nephew To Neia, plus ten fathoms as interest. To Kirara had persuaded To Belagia to hold court in this matter. To Neia had not been told about the court and refused to accept the decision. To Neia now asked that the matter be judged by a European because it could not be settled by the chiefs.

Summoned by Fitsch, To Belagia confirmed that To Kirara had demanded 60 fathoms from To Neia. A court had been arranged for 14 August but not held because To Neia had not turned up. Instead the others had a festive meal during which they decided to take the matter to Fitsch on the market day in Toma on 17 August, but this time To Kirara had not come. To Belagia also wanted the matter to be judged by a European.

On 19 August Stehlin wrote to Fitsch about new developments in the matter, which To Neia had told him about. To Kirara had announced that Ja Kumu, a large roll of 300 fathoms of shell money, was to be distributed during the court Hahl was going to hold in Toma as compensation to the relatives of those killed during the punitive measures following the Varzin Murders.¹³ Ja

13 The naming of large rolls of shell money was a common practice.

Kumu had belonged to To Kilang and was now owned by To Neia and To Birao who was much afraid of losing it. To Kirara had also warned To Neia to settle the Talim matter before the court was held. To Neia, Stehlin wrote, was too ill to come to Toma and Stehlin suffered from an attack of fever, so that Fitsch had to come to Paparatawa should he want to pursue the matter.

Again the file does not show whether that happened or whether Ja Kumu was distributed. But Hahl did deal with the Talim matter, because he noted in the file that To Neia had paid 60 fathoms, presumably to To Kirara. No reasons for the decision are given. There is also no indication as to what Hahl thought of the planned distribution of Ja Kumu, which treated the government's punitive measures after the Varzin Murders as if they had been a traditional war among Tolai for which To Kilang was held responsible.¹⁴ It would seem that Hahl took the view that To Kilang had extorted the bloodmoney for his brother Talim from To Kirara, and that his heirs should return this ill-gotten gain to To Kirara who had become an influential supporter of the government. It is, of course, possible that To Kirara had only threatened to demand the distribution of Ja Kumu to make To Neia repay the bloodmoney for Talim, and, in particular, that he had hoped that To Birao would use his powers of persuasion to this end, so that he and To Neia would not also lose the treasured Ja Kumu—but as usual the historical record only offers intriguing glimpses.

Another such glimpse, and another case involving the estate of one of the people killed after the Varzin Murders, came before Fitsch in December 1905. To Kabenge of Tamanairiki had fled after the murders and had been killed by the Taulil. To Kukuai, who was now *tutul* in Gunanur, had come to Tamanairiki afterwards and had taken 140 fathoms of shell money which had belonged to To Kabenge. To Pipili and Taure from Tamanairiki demanded the return of the money. They claimed that they, as well as To Kukuai and To Wongatal of Gunanur, were the *matuana* (matrilineal nephews) of To Kabenge, but that To Kukuai claimed all of To Kabenge's shell money for himself. When "the Gunanur" did not turn up to several meetings Fitsch arranged to mediate the matter; he summoned To Kukuai and chief To Birao. They came, bringing along the *tutul* To Urangut as their "spokesman"—which presumably meant that he translated for the others into *Pidgin*, since Fitsch did not speak Tolai.

To Urangut explained that the Gunanur had not come to the meetings because they had hoped to settle the matter with the Tamanairiki themselves, but that their efforts had first been delayed by a *singsing* which had preoccupied the Tamanairiki and then by a sickness of To Kukuai. To Kukuai insisted that he and his two brothers were the only true *matuana* of To Kabenge, because his wife Ja Tomai had been the sister of their mother Ja Lagorai—an affinal relationship which would appear to have nothing to do with the normal *matuana* blood relationship. But when Fitsch subsequently questioned To Pipili and Taure, their *matuana* relationship with To Kabenge turned out to be just as tenuous. According to them, To Kabenge had come to Tamanairiki from Gunanur as a little boy and had since then lived with them in the same *gunan* (hamlet). He had accumulated all his shell money wealth while living in Tamanairiki. This is why they now claimed his shell money and why they were his true *matuana*.

Fitsch decided that he was unable to sort out the relationships between the parties because he did not speak the vernacular and referred the matter to the district office in Herbertshöhe. The new district commissioner Karlowa noted on file that he had dealt with it during a visit to Toma in April 1906 without indicating what the outcome had been, let alone whether Fitsch had misunderstood the facts in his attempt to take evidence in *Pidgin*.

It is possible, for example, that To Kabenge had moved from Gunanur to Tamanairiki to live with his mother's brother and that To Pipili and Taure lived in the same *gunan* because they were

14 It is worth recalling that the Tatama stories I recorded 70 years later adopted the same approach (see above: 265). What these cases say about the ways in which the Tolai responded to their colonial history at the time would be of central importance for a history of Melanesians under German colonial rule.

the children of the daughter of another sister of this man, or, for that matter, that Ja Tomai was not the wife but the sister of To Kabenge and perhaps even the mother of To Pipile and Taure. It is unlikely that district commissioner Karlowa made a serious attempt to sort out the relationships between the parties or to establish "the customary rules" of Tolai inheritance as a basis for his decision. He probably aimed instead for a political compromise which was acceptable to the parties, as well as being in the interests of the government—and such an approach would have been in line with the traditional Tolai way of handling disputes.

Fitsch also exercised some kind of quasi-judicial powers. On 27 March 1905 he sentenced To Laur from Wairiki to four weeks hard labour, signing his decision as "native warden". In the morning of that day Fitsch had sent four policemen to chief Tulul in Rapui, who was supposed to tell them where the sorcerer Tapalia had taken his shell money treasure, which was to be confiscated.¹⁵ To Laur had been at Tulul's *gunan* when the policemen arrived. He had heard Tulul telling them that Tapalia's shell money was at the *gunan* of To Rakaur in Wairiki. Using a shortcut To Laur had warned To Rakaur who had disappeared with the shell money by the time the policemen arrived. During their return march to Toma the policemen had come across "the traitor" To Laur, who admitted that he had warned To Rakaur. They took him to Fitsch who questioned him with the help of the policeman Willy as interpreter. Fitsch sent To Laur to the district office in Herbertshöhe to serve his sentence because there was no prison in Toma in which he could have been locked up during the night.¹⁶ Instead of being kept in Herbertshöhe To Laur was sent to work on the road at Ratavul, where he died after serving three weeks of his sentence. Fitsch was instructed to inform his relatives through a suitable messenger of what had happened, although he was given no details, for example the cause of To Laur's death.

A frequent visitor to the police post in Toma was the Taulil chief To Babeke. One of these visits occurred in September 1904 while Adelman was in charge. To Babeke brought the Baining Upka with him, because he had received orders from Hahl to hand over all Baining who had been involved in the Baining Massacre, when several members of the Catholic mission had been killed earlier that year. To Babeke insisted that neither Upka nor any other of the Baining who were staying in Taulil had taken part in the killings. He had only brought Upka so that the governor could satisfy himself that this was so. But Adelman was suspicious because Upka had an almost new bush knife in his possession and because he did not believe Upka's explanation that he had received it as a gift from father Rascher when the latter had visited Baining together with the governor a year earlier. He therefore sent Upka on to Hahl. Hahl believed the story and informed Adelman that Upka was free to return to Taulil with To Babeke. Adelman was also told that To Babeke had been ordered to arrest any Baining still on the run after the massacre. To Babeke and the person making the actual arrest were each to be given an axe as a reward.

In March 1905 To Babeke was back with a complaint about his *tutul* Marima. Marima had gone to Hahl and falsely accused the Taulil Tamar of some misdeed because he wanted Tamar to be sent to prison so that he, Marima, could take Tamar's wife, Ja Mori. Fitsch sent To Babeke to Hahl who ordered that Marima pay ten fathoms of shell money each to To Babeke and the station in Toma and hand back his *tutul* cap.¹⁷

These visits by To Babeke were only minor episodes in the relations between the colonial government and the Taulil. The main event was an attempt to return "the Taulil slaves" to their home, which is covered in the district office file already mentioned (RKA 2990).

15 Tapalia was a notorious *iniet* sorcerer who still figures prominently in Tolai oral traditions.

16 It is not clear what had happened to the prison in Toma to which the district office had earlier sent prisoners from Herbertshöhe.

17 The file does not indicate whether Hahl also ordered the release of Tamar from prison and the payment of some compensation to him by Marima.

IV

In June 1903 father Dicks sent a manuscript by father Eberlein, a vociferous critic of the government, to governor Hahl for his information. Intended for publication in the *Kölnische Volkszeitung*, it described the precarious situation of the Taulil, a tribe which lived between the Tolai and Baining and was subject to attacks from both sides. As a result the tribe had dwindled to about 300 members. Its extinction was imminent. Their neighbours, the Butam, had already been wiped out. But there was perhaps a chance to save the Taulil by returning over 100 slaves who had been captured by the Tolai and now lived mainly in Malakuna and Rاپitoko. To achieve this would be a noble task for the government.

Hahl reacted favourably, especially since an adoption of Eberlein's suggestion offered an opportunity to improve the strained relations which had developed with the Catholic mission while Hahl had been away on sick leave in Germany. He decided that a return of those Taulil slaves who could still speak their language and had memories of their home was to be recommended and referred the matter on 1 July to the imperial district judge Wolff for comments. Wolff's response was pointedly cautious. In his view all male slaves had been captured as small children and were fully integrated into the Tolai communities in which they lived, so that it was likely that force would have to be used to "liberate" them. The position of the female slaves was different. In accordance with native custom, women of all ages had been captured. Some of those captured as adults would perhaps gladly volunteer to return, and the return of these women was of special importance because very few women were left in Taulil. During his repeated visits Wolff had only seen a single woman and three children.

Wolff proposed to go with a few influential Taulil to Malakuna, which was under full control of the government, to arrange the return of these women. If this move was successful an attempt could be made in remote Rاپitoko, where armed resistance was certainly to be expected. But Wolff was ready to do what he could, although it was quite possible that the attempt would lead to open hostilities even in Malakuna.

Finally Wolff warned that, despite what he had written, father Eberlein was unlikely to support these measures since they were bound to turn his Tolai flock against him. Hahl therefore opted for ascertaining Eberlein's views first of all, drawing his attention to the risk involved in the project and to the limited means of power the government had at its disposal.

Eberlein was all for energetic action and confident that it would succeed. Indeed, he recommended starting not near his mission station in Malakuna but in Rاپitoko, as well as in Anapapar, Tamanairiki, Wairiki and Viviren. The slaves in Malakuna had all long lost their connections with Taulil. Moreover, they were all Christians and could easily be moved back to Taulil when the mission had established a station there and could look after them. The position in the other places, along the border with Taulil, was different. Here the slaves still spoke Taulil and maintained contacts with their relatives. During Eberlein's last visit to Taulil To Babeke had staged a big feast which had been attended by many of these slaves who would have gladly remained, had they not feared the revenge of their Tolai masters if they had done so. Moreover, as shown by the incomplete list of Taulil slaves Eberlein attached, at least in Rاپitoko they included several married Taulil couples whose return was unproblematic because it did not involve the breaking up of families—which Hahl had declared to be unacceptable.¹⁸

Eberlein saw no point in negotiating with Tolai chiefs like To Maidang in Wairiki about the return of the slaves in their areas. The arrest of one or two of these chiefs, or the seizure of their

18 Eberlein gave an illustration of the "ruthlessness" of the Tolai chiefs in relation to the Taulil. When the Taulil had approached Rاپitoko with the proposal to buy back female slaves as wives with shell money, they had met with a "scornful rebuff".

shell money as a pledge for the release of the slaves, would not fail to have the desired effect.¹⁹ However, Eberlein agreed with Hahl that the first step was to arrange a meeting with To Babeke and other influential Taulil to ascertain their views about the project.

On 31 July Hahl instructed the "native warden" in Herbertshöhe, von Seckendorff, to arrange such a meeting in Toma in cooperation with Eberlein. Hahl himself wanted to be present. He also asked specifically that To Maidang be invited, who would cause no problems.²⁰ The meeting took place in Toma on 20 August. Afterwards Seckendorff prepared a brief record for the file. To Babeke and his people had welcomed the planned return of the slaves. The Tolai chiefs To Peleia, To Neia and To Kirara, who had been present, were therefore instructed to bring the Taulil slaves in their districts to Toma within the next ten days, otherwise the police would come and get them and they would be punished.

Things turned out differently. On 22 August the Taulil woman Ja Lilime from Wairiki appeared in Hahl's office in Herbertshöhe, together with her husband To Maidang, offering the governor 20 Marks for permission to stay with To Maidang. Hahl agreed, gave the woman back her 20 Marks and informed Fitsch and Seckendorff accordingly. On 31 August Fitsch reported from Toma that To Lamue from Anapapar and Ja Wungi from Ratavul had also approached him with the wish not to return to Taulil. They had both been captured as small children, no longer spoke Taulil and Ja Wungi had married the Tolai To Panie with whom she had one child. The wish was granted on 14 September, and Fitsch was instructed accordingly.

On the other hand, the native missionary Tomas complained to Fitsch on 31 August that To Babeke had come with his people to Rapitoko and removed by force two Taulil women, Ja Tauri and Ja Lura, both of whom were married to Tolai men. To Babeke had beaten a Tolai woman, Ja Tatare, with his *luluai* staff when she had tried to free the women. A Tolai man, To Mam, who had come to her aid, had also been beaten and taken away by the Taulil who, Tomas believed, had later killed him.

Fitsch summoned To Babeke. To Babeke admitted that he had taken the two women from the garden of Urapila. But he insisted that he had told Urapila beforehand that Hahl had ordered the return of all Taulil slaves. To Babeke denied having beaten the Tolai woman but admitted that his people had beaten To Mam "a bit", after he had threatened them with an axe, when they had taken his wife Ja Tauri. To Mam was still in Taulil where he now wanted to stay with his wife.

When Fitsch asked To Babeke why he had gone to Rapitoko on his own, instead of asking the station for help, he had stated that the Taulil had understood Hahl to have said at the Toma meeting that they should go themselves to get their people back. But To Babeke had now ordered his people not to act on their own. Fitsch confirmed that such independent moves were indeed unacceptable but gave permission for these two particular women to stay in Taulil until Hahl had made a decision. However he warned To Babeke that Hahl would not protect the Taulil if they tried to get their people back by themselves again.

On 4 September another Taulil woman, Ja Malur, asked Fitsch for permission to stay with her Tolai husband and their children. It was granted by district commissioner Kornmayer, who subsequently gave this permission in several other cases. But Kornmayer also instructed Fitsch to make a concerted effort to promote the return of the other Taulil slaves. On the other hand, Fitsch was admonished to proceed cautiously and to avoid hostilities. Married women with children were not to be returned, although exceptions could be made for polygamous marriages, if the Taulil wife had no dependent children.

¹⁹ Eberlein's list included only about 50 rather than over a hundred names.

²⁰ Seckendorff obviously misunderstood this instruction, as he asked Fitsch instead to make sure that To Maidang did *not* learn about the meeting because he was *likely* to cause trouble (see above: 579). Although he probably did learn about the meeting, To Maidang apparently did not attend. I do not know whether Hahl inquired why he had not turned up.

Fitsch obliged, but got into trouble when he bluntly asked Mrs Parkinson to return forthwith the Taulil woman Ja Vaira who was her domestic servant. A week later he reported that his efforts had resulted in the return of only five Taulil slaves, four from Malakuna and one from Rebar. He therefore asked to be relieved of this thankless task which prevented him from making progress with the road to Tamanairiki and Tomavatur.

Hahl agreed. It was now clear, he noted, that Eberlein's proposal was impractical. There were no recently enslaved Taulil and those who had been taken in the past had long become part of the Tolai tribe.²¹ All that remained to be done was to ensure that they were treated well, and, as far as he knew, no complaints had been lodged on that score. But Hahl left it to Kornmayer to terminate the project formally and to inform Eberlein that this had happened.

Subsequently the reasons for termination became still more compelling. On 28 September chief To Vuvul from Malakuna came to Hahl and asked for the return of his wife, Ja Kavaone, whom Fitsch had taken to Taulil the previous day, because she had been married to him for a long time, bearing him four children, one of whom, a grown man, was still alive. Hahl referred this case to Kornmayer, instead of deciding it himself. Kornmayer checked with Fitsch, who claimed that To Vuvul was telling lies. But Fitsch also reported that the Taulil were no longer interested in the return of any male slaves.²²

Father Eberlein saw the situation differently, as he reported on 10 November to Bishop Couppé, who promptly sent the report on to Hahl. He had not objected, Eberlein wrote, when the return of the Taulil slaves had started in Malakuna rather than in the districts around Mount Varzin as he had suggested. Nor had he complained when the project had been halted after only a few weeks. But it was too much that all but one of the slaves had in the meantime been retrieved by their former masters, and that it had been claimed this had happened in accordance with instructions which governor Hahl and he, Eberlein, had issued. Nothing could be further from the truth. His name had been misused by the Tolai and he was now standing as a liar before the Taulil whom he had always told of his wish to see their tribe reunited.

Eberlein had learned about these recent developments during a visit by To Babeke to his mission station in Takabur. To Babeke had brought To Mativon with him, the only returned slave who remained in Taulil. To Mativon had told Eberlein that chief To Vuvul of Malakuna had sent To Mikele to Taulil to bring back not only To Vuvul's "concubine", Ja Kavaone, but also all other Taulil slaves on the orders of Eberlein and Hahl. Although the slaves had been treated well in Taulil and had felt at home there, they had all returned with To Mikele, with the exception of To Mativon, who had assured Eberlein that he would not for anything return to Malakuna.²³

Hahl instructed Fitsch to investigate whether the returned slaves had indeed been brought back from Taulil by the Tolai. He had given no instructions to this effect and had generally kept out of this matter, apart from permitting To Maidang's Taulil wife to stay in Wairiki. After looking at the file Hahl realised that he had forgotten about the visit to him by To Vuvul. However, he had made no decision but referred the matter to Kornmayer. Although Hahl again stopped short of deciding the case, he instructed Fitsch to investigate what had happened but to take action only in accordance with Kornmayer's orders.

Fitsch questioned To Vuvul who admitted that he had brought his wife back from Taulil because he had believed that Hahl had given him permission to do so. Consequently, he had told To Babeke that he was acting with Hahl's permission. Fitsch also questioned To Babeke who told him that only Ja Kavaone had been collected by the Tolai, but that three male Taulil slaves had

21 Hahl used the term "Livuan".

22 The Taulil had good reasons for changing their attitude. Shortly afterwards To Kowai, one of the three males Fitsch had taken to Taulil, also ran away and was granted permission by Kornmayer to stay in Tingenavudu.

23 Did this also include the two women To Babeke had brought back from Rapitoko?

run away from Taulil. Fitsch had instructed To Babeke to do nothing until the imperial judge had made a decision.

Fitsch's report was dated 21 November. Three days later Ja Kavaone turned up in Hahl's office in Herbertshöhe, telling him that she had been married to To Vuvul for a long time and had borne him one child. She wanted to stay with To Vuvul and his other three wives. Neither she nor To Vuvul were baptised, and they had no intention of becoming Christians, either Catholic or Methodist. She had been taken back to Taulil by Fitsch but she did not want to stay there although she knew her relatives there. When Hahl inquired whether her husband would allow her to visit her relatives in Taulil, she had stated that she had no wish to visit them. Thereupon Hahl gave Ja Kavaone permission to stay with To Vuvul, informed the station in Toma and referred the matter for further action to Kornmayer. Kornmayer added it to the "Travel Folder Toma". Apparently no further action was taken. On the contrary, Kornmayer decided to bring the whole project to an end two months later. He informed Eberlein of this decision and ordered that the file be closed. Instead of gathering dust, or mould, the file was sent to the colonial department which passed it on to a prominent anthropologist, Dr Thilenius, together with a copy of Eberlein's article which had been published in the *Kölnische Volkszeitung* on 10 January 1904, although it was by then clear that the project had been a fiasco and that much of Eberlein's account was questionable. This did not stop Thilenius from parading his expertise in the form of a series of general comments which he sent to the colonial department when he returned the file.

Thilenius pointed out that while the return of about 50 slaves would significantly increase the Taulil population "in the present generation", even the return of 20 women of child-bearing age could not secure its survival. If the survival of the Taulil as a tribe was politically desirable other measures had to be taken. For example, the government could provide Taulil males with shell money to enable them to buy wives, encourage marriages outside the traditional "connubial system", and pay premiums to Taulil families with large numbers of adolescent children.²⁴ Thilenius doubted that "the Mission" was right in attributing the population decline to a recent spate of raids aimed at obtaining women. In his view it was more likely due either to a sudden deterioration in the "hygienic conditions" or to a gradual drop in fertility as a result of intermarriages among relatives, a common occurrence among many "Oceanic peoples".

Thilenius ignored most of the specific information on file. He certainly did not subject it to a critical analysis. Rather he accepted its veracity without taking it seriously. For example, he wrote first of a tribe of between 200 and 300 people, including perhaps as few as three women and three children, but later halved the likely number of adult Taulil males by referring to the return of more than 20 reproductive females to an adult male population of more than four times that size—that is to say around 100, rather than at least 200. Moreover, although Thilenius was concerned about the consequences of this hypothetical 1:4 ratio, he gave no thought to the far more puzzling question as to how the Taulil tribe currently managed to function, if the ratio had for some time been somewhere between 1:50 and 1:100. Had the men taken over the gardening and cooking? Did they guard the three women and three children in a fortified compound to which three lucky males were admitted every night? Or is the entire file filled with phantom information, demonstrating that everybody was moving in the dark, playing games and quite enjoying it?

Why did no one bother to collect reliable information about the "free" Taulil?²⁵ Did To Babeke keep dozens of women and children hidden away from foreign eyes? Had the number of adult Taulil males also shrunk to, say, 20 or 30? Was To Babeke the leading Taulil chief, or was he an

24 Thilenius did not believe in the utility of paying premiums for new-borns, presumably in view of high infant mortality.

25 The official list of Taulil slaves drawn up by Kornmayer was still largely the same as the provisional list compiled by Eberlein. It is clear that it was far from complete but unclear how many Taulil slaves had not been included. Indeed, it appears that no effort was made to ascertain whether Taulil slaves were living in a much larger area than Eberlein believed although there were indications that this was so.

upstart who used his contacts with the whites to increase his influence, whereas the main traditional Taulil leaders remained in the background?

The closer one looks at this information the less plausible it becomes. This applies in particular to the information reported by Eberlein, who stuck his neck out further than anybody else. What had the relations between the Taulil and the Tolai been like, if it was possible for To Babeke to stage a feast which had been attended by a large number of Taulil slaves, and Eberlein, as guests? What had given Eberlein the idea that it was only the fear of the revenge of their Tolai masters which prevented these slaves from remaining with their Taulil relatives—an idea which turned out to be spectacularly mistaken? Had someone told him that this was the situation, or had Eberlein used his imagination to come up with a story which suited his purposes? Had To Babeke told Eberlein that To Vuvul had demanded the return not only of his wife but of all slaves? Did To Mativon assure Eberlein that he would not go back to Malakuna for anything, or had Eberlein heard words to this effect in his head because they fitted into the picture he wanted to see? Was Eberlein generally as conceited as the part he played in this episode suggests? Was what he wrote about the Varzin Murders, or any other event in the history of German New Guinea, just as dubious as what he had to say about the Taulil and the Taulil slaves?

More importantly, was what the information presented here tells us about the situation at the colonial frontier in the northeastern Gazelle Peninsula in 1903/04 typical of what happened at colonial frontiers in other parts of German New Guinea throughout the period of German colonial rule? What did this situation have in common with that, say, in the Admiralty Islands at the time? How similar or different were the relations between the Tolai and the Taulil from those between the Tolai and the Baining or, for that matter, the relations between the Baining and their other neighbours?

Of course it would be historically valuable to learn more about these traditional "patterns of hostility and alliance", but would this enable us to "generalise", or give us a better understanding of the patterns of German colonial rule? Does this file again demonstrate that the more we learn about past events the less representative they become and that historical patterns have to do with underlying structures which shape human actions rather than with common elements shared by a smaller or larger number of such actions?

In my view, we are indeed chasing the end of the rainbow if we search for such common elements in the hope that we can generalise from them and that we can somehow turn these generalisations into an action-centred, narrative account of history. It simply cannot be done without replacing historical facts with quasi-narrative phantoms. What makes this episode historically illuminating as a bundle of human actions is precisely their uniqueness, not any abstractable common elements. It is the particulars that offer glimpses of general historical significance and uncertainties about their factuality no longer matter in this context. It is immaterial that we do not know whether the people in Rapioko would have offered armed resistance if Wolff had tried to liberate their Taulil slaves. Nor does it matter whether the Rapioko let To Babeke take away two Taulil women without attacking him in force because he had announced he was acting in accordance with Hahl's orders, or whether To Babeke had, in fact, misunderstood what Hahl had said. What counts historically is that Hahl's wishes were an important consideration for the Taulil as well as the Tolai, and that it was for them Hahl as a person, rather than "the colonial government", that counted. It is also historically significant that Hahl was beginning to feel uneasy about this personal focus and that he made a not very determined effort to stay in the background and let a sequence of district commissioners handle the matter.

There is no question that these glimpses are crucial because it is their cumulative effect that conveys a feeling of "how it has really been". The problem is that while a historiographer can present the information offering these glimpses and occasionally draw attention to them, they have

to be experienced first-hand to deliver their messages: they lose their nutritional value if they are baked into a narrative omelette. Worse still, a diet of such omelettes gradually reduces the awareness of the importance of these glimpses, instead of increasing the capacity of students of history to read for themselves between the lines of a narrative, where history becomes most telling.

This applies not just to these glimpses but also to the big picture. What can one say directly and generally about the place of the police post in Toma in the history of colonial rule in German New Guinea? An assessment of the "typicalness" of its performance certainly does not help us further. It is once more an accumulation of concrete details that counts, and it is once more essential to expose readers to these mundane details to enable them to form their own picture.

My own experience is that this picture moved further away from what I had expected the more specific information I considered. I had no clear preconceived ideas about the activities of a police post established after the Varzin Murders. But I did have some surprisingly strong expectations, of which I had been unaware. They only manifested themselves in my responses to the details I saw. I do not know what I had expected but it was plainly different from what I saw. I was also surprised at myself when I realised how little I was disturbed by the uncertainty and inconclusiveness of what I saw. I had come to accept that this was what history looked like and that a historiographer who took the historical record seriously could ultimately do no more than show that this is the way it is, and that this was also the way it had been when the historical actors performed their actions. For them the events to which they responded with their actions were already far from certain. They too did not know, and had no means of knowing, how it had really been when what we regard as the past was what they saw as their present.

Since it would be inappropriate to end this journey on such a resigned note, I want to present another cluster of episodes that takes us chronologically to the end of German colonial rule. It is fitting that this journey will transport us geographically to the northwestern periphery of German New Guinea where the last specks of land dissolve in a vast sheet of open water and history as an account of the actions of particular human beings is replaced by patterns of waves and currents.

Chapter 13: Do Times Change?

I

The annual report for 1911 announced the beginning of a new phase in the history of the Island Territory. The Ponape Rebellion made the changes more visible than would otherwise have been the case, but they were primarily due to discussions in Germany during governor Hahl's 1910 home leave, where the new colonial secretary, Lindequist, was more sympathetic to Hahl's plans than his predecessor Dernburg, who had a remarkably low opinion of the economic and political value of Germany's Pacific colonies. Since the commercial potential of the Island Territory, apart from its already tapped phosphate riches, was small, Hahl's plans focused on the Old Protectorate, especially on Kaiser Wilhelmsland, but the less ambitious plans for the Island Territory would have had an even greater immediate impact on its indigenous population.

The annual report used the expropriation of the "tribal territory" of the Dschokadsch after the Ponape Rebellion as a stepping stone for a presentation of these plans, since the land was to be allocated to native settlers from other parts of the Carolines. The administration had tried for many years to concentrate their scattered population on the few high islands. This was for mainly humanitarian reasons because the inhabitants of the low atolls were exposed to cyclones from which they suffered terribly. But their resettlement also had economic advantages because the land which would thus become available could be leased to colonial enterprises with the necessary capital to turn it into intensively cultivated plantations.

In the Marshall Islands, where much of the land was lying idle because the population was too small to utilise it, the surplus land was, if possible, to be used in a similar manner. For the Marianas a German enterprise with a strong capital base was also required to manage effectively the export and import trade which was currently in the hands of small and purely extractive Japanese firms.

These plans translated into negotiations for the establishment of four companies: one for the Marianas, one for the Western Carolines, one for the Eastern Carolines and one for the Marshall Islands. Of these only the West-Karolinen Gesellschaft, formed by merging the interests of the Jaluit Gesellschaft and the local O'Keefe firm, got off the ground. The Jaluit Gesellschaft was expected to play the leading role in the Ost-Karolinen Gesellschaft as well, whereas Hahl was negotiating with Rudolph Wahlen, who had recently bought the Forsayth firm in the Old Protectorate with the help of allied Hanseatic capital, to persuade his allies also to invest in a Neue Marianen Gesellschaft. The main focus of this chapter is the history of the fourth enterprise, the Marshall Islands Plantation Syndicate, which was to include the Jaluit Gesellschaft, Hernsheim & Co. and a Hamburg firm, Scharff & Kayser.¹

II

The local representative of the syndicate was Emil Timm, the manager of Hernsheim & Co. in Rabaul. A letter from the Jaluit Gesellschaft of 6 September 1911 invited Hahl to discuss proposals concerning the leasing of the "disposable" land in the Marshall Islands,² although a need to communicate directly with the syndicate in Hamburg was foreshadowed, since it was unclear

1 It is important to appreciate that it was Hahl, rather than the capitalists, who was advocating the establishment of these companies, since this chase of reluctant investors put the government throughout in a weak bargaining position. It should also be noted that it was Hahl, rather than the colonial office, who took the initiative.

2 Unless otherwise indicated the documents discussed in this chapter are included in AA G2/1, Item Y40.

how much unplanted or vacated planted land would be available and how much its acquisition from the natives, or lease payments to them, were going to cost.

On 24 October 1911 Hahl had his first meeting with Timm, who proposed an agreement which was similar to that already signed with the West Carolines company. However, it was not limited to an area of land of a certain size to be acquired as soon as possible. Rather it was to extend to all land which could be acquired from the natives in the Marshall Islands in the future.

On 15 November Hahl met again with Timm and Herr Janssen of the Jaluit Gesellschaft. Agreement in principle was reached, but everything hinged on how much land would be available. Hahl therefore instructed the government station in Jaluit to buy as quickly as possible planted and unplanted land within its entire district from the natives, or to take it into possession as ownerless. Hahl assumed that it would be possible to buy land for around 20 Marks per hectare, but authorised higher payments for particularly valuable blocks.

Since the government steamer *Komet* was booked until March 1912, Hahl wrote to district commissioner Kersting in Ponape, asking him to place the smaller government vessel *Delphin* at the station's disposal. Hahl's letter to Kersting was diplomatic. He assumed that Kersting would soon travel with the Jaluit Gesellschaft's *Germania* from Ponape to the Western Carolines, where he would have the use of the *Komet*, so that it should be possible to send the *Delphin* to Jaluit. He did not want to interfere, however, with any arrangements Kersting wanted to make for the use of that vessel.

Kersting indeed had other plans and greater visions.³ He used the *Delphin* to visit for the first time the easternmost part of his domain arriving in the Marshall Islands in January 1912, before sending a report to Hahl in which he sketched his views about a reorganisation of the administration of the whole territory and his objections to the establishment of "monopolistic companies" (AA G12/1, Item Z14).

Because of what he had to say about the role of the Jaluit Gesellschaft in this context, Kersting specifically asked that his report be treated confidentially. He knew that the company was unlikely to find his plans appealing. Hence it was best if it heard nothing about them until they were put into action. Kersting assumed that they would be approved by Hahl, with whom he had discussed the future of the Island Territory during the governor's recent tour of inspection and who had asked Kersting to develop detailed proposals.

As regards its administration, Kersting saw himself in agreement with Hahl on two fundamental issues: firstly, the government's main responsibilities lay in the fields of public health and education and, secondly, it was unrealistic to expect that the Reich would subsidise these efforts. Kersting therefore proposed to replace the expensive land-based administration of two district offices and six government stations with a much reduced, mobile administration. It was to consist of two senior officials, the "Chief of the Island Territory" and his deputy, who would tour the islands regularly on a new, modern steamer, together with a small support staff. The savings which would be made in this manner were to be used to fund a substantial expansion of land-based health and education services.

The Jaluit Gesellschaft was the snake in this potential paradise, and the part it wanted to play in its future was likely to ruin everything.

³ Kersting was at the time effectively in charge of the entire local administration of the Island Territory. In 1909 he was appointed district commissioner of the Western Carolines district, which included Palau and the northern Marianas. After the Ponape Rebellion he was in addition appointed district commissioner of the Eastern Carolines district, which now also included the Marshall Islands and Nauru. This state of affairs was probably linked with Hahl's plans to downgrade the district office in Yap; otherwise he would have pushed for the appointment of another district commissioner for the Western Carolines. It is unlikely that Hahl ever intended to turn Kersting into a "Chief of the Island Territory", just as he did not support Berghausen's ambitions to become the "Chief" of Kaiser Wilhelmsland, about which I read somewhere, probably in one of the naval reports.

The monopoly of the Jaluit Gesellschaft which everybody experiences as increasingly oppressive will then be complete. If the people, as I propose, will be educated, they will soon need what little land they have and use it efficiently... With the land in the low islands we hand over resources to the Jaluit Gesellschaft which we will urgently need to carry out our colonising tasks. We embitter the natives against the government by taking land from them against their will, often for a price representing less than one annual harvest... I am unable to believe that the Jaluit Gesellschaft will contribute much to the education and civilisation of the people. With little effort it will pocket valuable assets the government could utilise much better to advance the economic and cultural development of the Micronesians...

Kersting promised that he would try to acquire enough land in the Marshall Islands to ensure the establishment of one large plantation company, although he hoped that it was not too late to stop this also from happening; that Hahl would agree with his views; and that Hahl would at least forgive him for expressing them openly, which he had not been able to do earlier because he had only now acquired the necessary local knowledge.

Kersting developed his grand vision in a long report in May which Hahl sent with detailed comments to the colonial office (AA G2/1, Item Z 14). Although Hahl and Kersting were indeed in agreement about the fundamental aims of German colonial administration in the Island Territory, their ideas about their achievement differed just as fundamentally or, rather, in the light of his experiences since 1899, Hahl regarded Kersting's proposals as naïvely idealistic and hence impractical. This applied, in particular, to two factors: the need for a land-based local administration and the need for at least some enterprises with a large capital base which were necessary to manage the import and export trade even in an economy which consisted otherwise of a large number of small native and European producers. Hahl agreed with Kersting that an effective, single chain of administrative command had to be established and that a reliable sea-going vessel was essential for this purpose. However, instead of taking the politically retrogressive step of turning the Island Territory into an economically non-viable, semi-independent colony under a "Chief of the Island Territory" it was to be administered by a Rabaul-based senior official in close cooperation with the governor with the help of the government steamer *Komet*, which had only to spend a little time in the Old Protectorate, once the district offices and government stations there had all been equipped with smaller sea-going vessels.⁴

Hahl envisaged a speedy implementation of his plans for the Island Territory, beginning with a downgrading of the district office in Yap to the status of a government station in the 1913 budget. Kersting was shocked when he was informed about these plans and considered resigning from the colonial service and setting himself up as a planter in the Island Territory to prove the merit of his views,⁵ but the colonial office was at least not prepared to move as fast as Hahl had hoped, so that the *status quo* continued until the end of German colonial rule.

III

In his May report Kersting also had more to say about his *bête noir*, the Jaluit Gesellschaft:

[It] dictates the natives the lowest possible prices for their copra and other products and sets the prices for imported goods so high...that the disproportionality between their efforts and their rewards is a constant source of discontent This attitude is reinforced by virtually all whites, and especially the missions, since they suffer equally under the pressure of these monopolies...

I do not believe that these monopolies are a necessary evil here and that all smaller enterprises...are doomed to failure. They could well flourish...provided that shipping lines operate which serve the interests of everybody equally. This is what has been lacking so far... The Carolines and Marianas are

4 The similarities between Hahl's views and Bennigsen's proposals ten years earlier are obvious.

5 I have been unable to relocate the document in which Kersting threatened his resignation and inquired about the possibility of acquiring land in the Island Territory, but I am confident that I did not just see it in my dreams.

only served by the steamer *Germania* of the Jaluit Gesellschaft and its schooners. In the Marshall Islands the Burns Philp Line also operates, but it works hand in hand with the Jaluit Gesellschaft. It knows very well that the Jaluit Gesellschaft has the government on its side and that it will fare much better if it shares the loot with the company under its conditions...

I see no reason why we should...be in such a hurry to bind ourselves for generations with contracts which will close off...the many opportunities which may soon offer themselves. We will create a powerful cartel of capitalists as a state within the state...which will make it difficult for the government to protect and foster public interests and, in particular, those of the natives.

As I have reported...[earlier] the representatives of the Jaluit Gesellschaft have applied to me to resettle the same natives as ... labourers on the land [in the Western Carolines] on which they had hitherto lived as ... owners and which, as I can prove, was bought from them against their will and for a fraction of its value. Such arrangements certainly do not fit into our times!...

The economic and cultural level of the natives in the Marshall Islands is backward to an extent which is difficult to find elsewhere in our colonies. Yet the Marshallese are most gifted and capable of development. But the current state of affairs suits the monopoly trade: even though its volume does not grow it offers rich and easy profits... In the interests of the future of the Island Territory I therefore must speak out against these new companies.

Kersting did not use his stay in the Marshall Islands to buy land for the syndicate. Instead he complained about insufficient information. Hahl responded on 21 January 1912 that he had sent all available documents, apart from a recent letter from the Jaluit Gesellschaft, a copy of which he now enclosed. The colonial office had so far not been involved in the negotiations. By choosing Timm as its spokesman the syndicate had moved the centre of the negotiations from the Marshall Islands to Rabaul, although the colonial office would have to approve the final contract. Whether such a contract could be concluded depended on whether or not it was possible to buy enough land at a price that promised a viable enterprise (RKA 2501).

On 11 April Hahl dispatched new instructions to Kersting who had sent another discouraging report in March.⁶ According to Hahl there were about 2,500 hectares of land in the Marshall Islands which, due to the decrease of the indigenous population, had to be regarded as ownerless. In addition to buying as much land from the natives as possible, Hahl now expressly requested that these ownerless areas be ascertained and taken into possession for the *Fiskus*, irrespective of how they would be subsequently utilised. The Marshallese could not possibly make them productive. Since it was unlikely that the government would be given the funds to accomplish this task in cooperation with them, and equally unlikely that small European settlers would stream to the Marshall Islands to take up the vacant land, leasing it to larger enterprises was the only practical alternative. This would also enable the government to make other arrangements for the by then productive land in 60 years time.

Hahl further stressed that while the general rules excluded the acquisition of land used or required by its native owners if the land was to be transferred to private interests, this restriction did not apply if the land was acquired for the *Fiskus*, for example as a native reserve. Hence it was possible to acquire the entire Eniwetok Atoll—to which Kersting had apparently referred in his report—for the *Fiskus* but to lease to the syndicate only those sections which were not required by the natives.

Since Kersting was fully occupied with the land reforms on Ponape, according to Hahl, the land acquisitions in the Marshall Islands had to be carried out by the district officer in Jaluit who was therefore sent a copy of Hahl's instructions to Kersting. Hahl also informed Timm that it was planned to acquire the land required for the syndicate in April and May; that it was hoped that the total area would be about 1,200 hectares; and that the purchase price would be around 20 Marks, and certainly no more than 50 Marks, per hectare. Hahl's main concern was an assurance from the

⁶ I have not seen this report, as it was not included in the files I consulted. But Hahl's response indicates its content in so far as it related to the matter under discussion.

syndicate that it would refund the purchase price of probably around 25,000 Marks immediately since the budget made no provision for an expenditure of this magnitude by the government.

When Hahl wrote to Timm and Kersting he had received a preliminary report from district officer Merz according to which Kersting would send the *Delphin* to Jaluit for three months. "During this period the land acquisitions will be carried out. Following the instructions by Herr Dr Kersting only an area of 1,000 to 1,200 hectares is to be acquired." This was the basis of Hahl's view that at least 1,200 hectares were available and also of his counter-instruction to acquire as much land as possible, at least for the *Fiskus*. On the other hand, Timm now suggested that the agreement be concluded in Jaluit with "Herr Regierungsrat Kersting as the representative of the *Fiskus*". Hahl promptly informed Kersting of this suggestion but also instructed the district officer in Jaluit to enter into direct negotiations with the representatives of the syndicate.

District officer Merz reported in May. He had visited the sparsely populated northern Ratak and Ralik chains, accompanied by their paramount chiefs, Labareo and Leit. After a detailed investigation of ten atolls, he had identified a total of 1,168 hectares as being available for acquisition, for which he had offered a total of 27,150 Marks—without success, since Labareo had demanded 80,000 Marks for 150 hectares in the Wotje Atoll, for which Merz had offered 3,750 Marks, and Leit 40,000 Marks for 292 hectares in the Bikini Atoll, for which Merz had offered 7,300 Marks.

Labareo had justified his demand with a reference to a block of land of less than four hectares on Jaluit which Burns Philp had recently bought from the Catholic mission for 13,000 Marks. Leit had acted under the influence of Labareo, who in turn had been influenced by the Burns Philp representative, Hayes, and perhaps also by an offer which Domnick, who ran the pub on Jaluit, had made him for Bikini.

The [small] population of the northern Rataks...and Raliks is...unable to utilise fully the currently unused areas within the foreseeable future. Since it is also unlikely that Labareo and Leit will reduce their demands significantly, I am requesting Your Excellency's authorisation to take the identified unused areas...into possession. The amounts offered by me would constitute an ample compensation...

The...Jaluit Gesellschaft emphasised that it was important for the Marshall Islands Plantation Syndicate to obtain atolls without native reserves... In my view Rongerik, Rongelab and Bikini would be suitable...since Leit could, with some goodwill, find a place for the...few inhabitants on Wotho, Quadjelin, Ujai and Namu.

In the interests of the development of the Marshall Islands and of the prestige of the Administration, I regard it as imperative that the largely unused lands are taken...into possession. I have already warned the two chiefs that they should expect such a move on the part of the Government, although without any noticeable effects.

Hahl responded in June in a long decree addressed to Mertz. The fact that it had been stencilled shows that it was given a wider circulation. Kersting was merely one of the intended recipients. He had been sidelined to the extent that Hahl had unilaterally allocated the *Delphin* to Merz until the end of August. The decree spelled out Hahl's long-term plans for the Marshall Islands. They envisaged a temporary division of the group into a northern and southern section. The Marshallese were to be temporarily concentrated in the south. This involved in his estimate the removal of some 600 people. Hahl regarded this as basically unproblematic because the two paramount chiefs had moved their subjects up and down the two chains of islands at will since time immemorial; because the chiefs were in principle willing to sell the northern atolls, although they were asking an exorbitant price; and because there was still more land in the southern atolls than the shrinking population could utilise during the next few decades, even if its decline, from about 15,000 at the beginning of German colonial rule to about 9,500, could be reversed.

Such a reversal was the cornerstone of Hahl's plans. The aim was not so much to clear the northern Marshall islands for colonial development as to strengthen the Marshallese by

concentrating the population in the south. The goal was to create a healthy, self-assured and growing population which would be ready in 60 years time, when the leases to the Marshall Islands Plantation Syndicate had run out, to take over the developed land in the north and manage it as affluent and contented taxpayers.

Reaching this goal required a gradual but fundamental reform of the traditional Marshallese sociopolitical organisation, as well as a thorough modern education. The obsolete and unproductive feudal arrangements had to be replaced by a modern system in which the eagerness of individual natives to acquire possessions, and to earn so as to be able to participate in what civilisation had to offer, served as the mainspring. Hahl was hopeful that the tireless efforts of the administration would succeed in convincing at least the more gifted natives that this was where their own best interests lay.

The main problem with the development of the northern atolls was that the pampered Marshallese, who were demanding daily wages of between 2 and 4 Marks, had priced themselves out of the market. While it was possible for the enterprises in the Carolines to develop the land set aside for them with a local workforce at a cost of around 30 Marks per month per head, this approach was impractical in the Marshall Islands. It was therefore necessary to work with imported labourers and that required a reasonably compact plantation area of at least 1,000 hectares.

Unfortunately further considerations had shown that taking the required land into possession as ownerless met with legal difficulties, *inter alia*, because the right of the two paramount chiefs to dispose of unused land had been recognised, most recently by the offer of Merz to buy such land from them. The alternative of using the Expropriation Ordinance to confiscate the land was also problematic if it was to be transferred to private interests for ordinary commercial purposes. For the time being it was thus necessary to continue negotiations with the two chiefs in order to persuade them to sell the required land at a reasonable price.

Since director Müller of the Jaluit Gesellschaft was expected in Rabaul in September, according to a supplementary decree, the decision about the feasibility of the project would be made there, so that all contracts concluded with the two chiefs had to be made subject to the approval of the governor. Hahl stressed that the outlines of the government's plans should be explained to them. They would focus on the economic development of the north of the group whereas its southern part was to be reserved for "the people", whose traditional sociopolitical organisation and land tenure would be reformed, but only gradually. It was to be left open whether some land in the south would eventually also be set aside for educational purposes, or for economic enterprises which would produce an income for the community or "the state". If the issue was raised, it was to be made clear that such moves were likely. Hahl hoped that the chiefs had sufficient insight to appreciate that they could not oppose the publicly proclaimed policies of the government indefinitely and that they would therefore agree to part with the northern islands at a reasonable price.

Merz reported in August. His efforts had again been almost totally unsuccessful. Leit had demanded 160,000 Marks for Bikini, Rongelab, Rongerik, Ailinginai and Wotho. After consulting with the Jaluit Gesellschaft, Merz had made a counter offer of 60,000 Marks. Following discussions with members of his family, Leit had not only rejected this offer but also stated that he would not sell any land to the *Fiskus*.⁷ Labareo had accepted that he could not resist the government but, in the interest of his subjects, he had refused to part voluntarily with any land. Merz had gained the impression that it was mainly the fear of the reactions of their subjects that prevented the paramount chiefs from selling the land at the best possible price—whereas, was the implication, they could not be held responsible if the land was expropriated.

7 According to Merz, this refusal was "indubitably" due to the influence of his wives, who had previously "belonged" to the now deceased *iroj*, Kabua.

The only positive news came from the remote and apparently independent Eniwetok Atoll. Its two chiefs, Piter and Jitiam, had agreed to sell all islands, apart from Eniwetok and Engibi, which they had already planted with coconuts under a contract with the Jaluit Gesellschaft—a total area of about 320 hectares for 3,000 Marks.⁸

Merz recommended that the atolls Bikini, Rongelab, Rongerik, Wotho, Ailinginai, Taka, Erikub, Temo and all “dispensable” islands in Wotje be expropriated and their inhabitants be resettled.

Once the resettlement has taken place, the planned reorganisation can begin. As long as the current *iroj elablab* [paramount chiefs] are alive, the atoll chiefs (*iroj in kien*) will remain their representatives and will, together with them, be the executive organs of the government. The land will be transferred into the ownership of the *kajurs* (commoners). They have to pay a monetary levy to the *iroj elablab* set by the government and collected by the *iroj in kien*. The headtax will continue to be paid in the form of copra, because this is regarded as less painful by the people, as well as being financially advantageous for the government. I shall submit a detailed report on this matter as soon as I have fully assessed the collected data.

Should Your Excellency decide in favour of an expropriation of the suggested islands, I would propose that the 300 [*sic*] hectares in Eniwetok and the atolls Bikini, Rongelab, Rongerik, Wotho and Ailinginai be given to the Marshall Islands Plantation Syndicate whereas Taka, Erikub, Temo and the expropriated islands in Wotje be reserved for other ventures.

After discussions with Timm and representatives of the Jaluit Gesellschaft in Rabaul, Hahl decided against an expropriation. Instead he would personally try to buy the required land, perhaps by February 1913. But this was largely a symbolic gesture. The plans for the Marshall Islands were put into the too hard basket and Hahl turned his attention elsewhere. This is shown by his instructions to Merz concerning Eniwetok, which were clearly written without Hahl having taken the time to re-read Merz's report. As a result Merz was ordered to purchase the entire group for the *Fiskus*, but to set aside native reserves which were to be excluded from a future lease agreement with the Jaluit Gesellschaft. Merz was also instructed to negotiate a replacement of the existing “planting and loans agreement” between the natives and the Jaluit Gesellschaft with what Hahl called a “purchase, supply and repayment contract”, in which the purchase price payable to the natives for their land was to be deducted from their debts to the Jaluit Gesellschaft under the previous agreement.

Merz reported to Hahl in December. Although he had had no opportunity to visit Eniwetok, he had settled everything with the representatives of the Jaluit Gesellschaft in a manner which, he trusted, would find Hahl's approval. He and the representatives of the Jaluit Gesellschaft had agreed that a purchase price for the entire group of 15,000 Marks was appropriate and that the interests of the natives would be sufficiently protected by setting aside Eniwetok and Engibi as native reserves. However, the Jaluit Gesellschaft now felt entitled to be compensated for the purchase price for the islands which were not to be leased to it. This was to be achieved by concluding a 30 year “supply agreement” which could be extended by another 30 years. It obliged the Eniwetok to sell their copra for 4 Pfennigs less per kilogram than the usual price. In addition 2 Pfennigs per kilogram were to be deducted to pay off the debt to the Jaluit Gesellschaft under the previous agreement. The Jaluit Gesellschaft was also to be given the right to send its labourers to Eniwetok and Engibi to collect ripe coconuts which the natives did not require for their sustenance and were unable to turn into copra themselves. According to the company, this was bound to happen when the 175 hectares of coconuts planted on the two islands had fully matured.

⁸ Merz also ascertained the “dispensable” land in the atolls not covered in his previous report. The star performer was Mejit, whose 492 inhabitants were keeping their fully planted 250 hectare island, including themselves, their dwellings and their paths in excellent order.

For the copra so produced the Jaluit Gesellschaft had to pay a special price of 6.5 Pfennigs per kilogram to the natives of which 2 Pfennigs were to be deducted to pay the outstanding debts.

This complicated agreement did not find Hahl's approval.⁹ However, the instructions issued to Merz in January 1913 did not address the crucial question that the Eniwetok had never agreed to selling the two main islands, which Hahl's staff had raised. Perhaps Hahl thought that this new agreement would reduce their debt with the Jaluit Gesellschaft by another 12,000 Marks and that they lost little if the two islands were bought by the *Fiskus* but declared a native reserve. In any case, Hahl's instructions dealt exclusively with changes to the proposed supply agreement. Firstly, the debt to the Jaluit Gesellschaft had to be repaid as quickly as possible; secondly, the company had to pay the Eniwetok the going price for their copra and was not permitted to increase the price of the goods with which it supplied them in lieu of an interest payment on the outstanding loan; thirdly, the duration of the supply agreement was to be limited to five years in the first instance, after which it could be terminated by both parties, as well as the government, by giving notice of one year; and fourthly, the company had to obtain the approval of the inhabitants each time before its labourers came to Eniwetok or Engibi to collect surplus nuts.

The government station in Jaluit was instructed to negotiate an agreement with the Jaluit Gesellschaft which met these requirements. It was also asked to submit a copy of the current planting and loans agreement and to clarify how much the natives owed; whether the agreement continued to operate; whether the debts of the natives were increasing as a result; and how an alternative supply of essentials to them could be ensured if the agreement was terminated.

When four months later a progress report had still not been received, Hahl sent a reminder to Jaluit. Acting district officer Schönleber replied that Hahl's January decree could not be found. District officer Merz had probably taken it with him by mistake when he had gone on leave. Schönleber had already reported the report missing when Kersting had stopped in Jaluit on his way to Rabaul. Schönleber had also given Kersting a written report, together with a copy of "the old Eniwetok contract" and a statement by the Jaluit Gesellschaft that it could not respond to the points raised by Hahl as it did not know what they were.

Since Kersting had only spoken with Hahl about the Eniwetok matter in Rabaul but handed over no documents, Hahl had no choice but to send Schönleber a copy of his January instructions and ask him to take action now. Schönleber reported in August that as soon as the Jaluit Gesellschaft had seen these instructions it had declared that it was unable to conclude an agreement on this basis. Schönleber enclosed a copy of the existing agreement, together with a summary of the Jaluit Gesellschaft's bills and receipts.

The old Eniwetok contract had been concluded in 1898 and approved by the then administrator. The company's letter seeking this approval painted Eniwetok as a wretched place. Apart from some wild arrowroot and pandanus, and a few thriving coconuts the Jaluit Gesellschaft had planted earlier, there was no food on the islands, unless one counted the large number of rats. The people had no tools for working the ground and their canoes were so flimsy that they could not go fishing during the monsoon season. The Jaluit Gesellschaft had therefore discussed with them how they could improve their lot by gradually planting up their islands with coconuts. The Eniwetok were persuaded and concluded an agreement with the company that enabled them to do so. Indeed, the company had already made a start by planting about 1,700 coconuts and 50 breadfruit trees and by giving the natives a small flock of breeding chickens and some cats to get rid of the rats. The Jaluit Gesellschaft supplied planting nuts, tools, food and goods at the usual price plus freight. The Eniwetok committed themselves to selling all their produce exclusively to

9 It would certainly have been advantageous for the company. Saving 4 Pfennigs per kilogram of copra increased its profit by 40 Marks per tonne. With an estimated annual production of 175 tonnes this translated into 7,000 Marks. In other words, the new agreement would have compensated the company in less than two years for the larger purchase price it would have had to pay. For its entire duration the agreement promised an additional profit of over 100,000 Marks. The company certainly knew how to feather its nest.

the company which would pay the same price it paid natives in the other islands. The amounts due would be subtracted from the amounts owing, but even after all debts had been repaid the Eniwetok remained obliged to sell their produce exclusively to the Jaluit Gesellschaft for another 20 years.

During the 15 years until 1913 the Eniwetok had accumulated debts of almost 30,000 Marks. Until 1911, when planting had been completed, their only income had been 150 Marks for shark fins. In 1912 the first copra was produced, but the price the Eniwetok received for their copra in January and June 1913 matched to the last Pfennig the price they had been charged for the goods supplied to them, so that their debts had in fact increased, since they had also been charged the agreed freight of 500 Marks per trip.

As the company paid the Eniwetok 120 Marks per tonne of copra their debts represented the equivalent of about 250 tonnes. They had produced 20 tonnes during the 12 months to June 1913, but production could now be expected to rise rapidly. According to the company the 175 hectares planted on the two main islands promised a yield of about 175 tonnes annually once they had come into full production. This was a sufficiently large quantity to make Eniwetok attractive to its competitors. The Jaluit Gesellschaft therefore had good reason to cling to this contract which bound the Eniwetok to it for another 25 years, assuming that they managed to pay off their debts during the next five years.

Although the company's profit margin accounted for a substantial portion of the accumulated debts, the profit from the sale of imported goods was insignificant compared with the potential profit of exporting 175 tonnes of copra annually from the atoll, especially as long as each tonne fetched about four times as much in Europe as the company paid for it to the Eniwetok. No wonder therefore that the company had generously indicated that it would stop charging freight over and above its usual mark-up for the goods it took to the atoll as soon as the increased copra production made the trips to Eniwetok profitable overall.

This gesture made little impact in Rabaul, at least on Hahl's subordinates who first examined Schönleber's report and its enclosures. One of them wrote in the margin next to the company's refusal to replace the old Eniwetok contract with an agreement which met the demands made by Hahl: "There are ways and means to terminate this contract!" Subsequent comments show that it was regarded as morally so defective that the threat of making this embarrassing document public should persuade the company to agree to its voluntary termination. But Hahl had more important things to do before his departure from German New Guinea than to deal with this matter. It was therefore left to his designated successor, acting governor Haber, to take the next step during his first visit to Jaluit in May 1914.

Eduard Haber's notes on his discussions with the Jaluit Gesellschaft show that not only a compromise for Eniwetok was being worked out but that the plans for a plantation syndicate were also still on the table. In relation to the former, Haber had argued that the 1898 agreement had automatically come to an end when its purpose, the planting up of Eniwetok and Engibi, had been achieved. The company had accepted this but had pointed out that its special relations with the Eniwetok had to continue until they had paid off their debts. However, it had agreed that they would not be bound to it afterwards and that it would treat these debts until then as an interest free loan.

As far as the purchase of land was concerned the negotiations were conducted on the basis of the original proposal by Merz, who had in the meantime returned from leave. That is to say Hahl's plan to purchase the entire atoll for the *Fiskus* had been quietly abandoned. Only about 300 hectares of unused land were to be purchased and the company had agreed to deduct the purchase price—presumably the 3,000 Marks Merz had previously offered—from the debts of the Eniwetok if the land was transferred to the plantation syndicate.

Whether this would have happened, whether the plantation syndicate would have got off the ground and whether Hahl's plans for the development of the Marshall Islands would have been proceeded with is impossible to say, since events at the global level brought all negotiations to an end a few months later. They gave Haber generally no chance to leave his mark on the exercise of colonial rule in German New Guinea. Nonetheless it is instructive to consider the views he was beginning to form, in particular about the government of the Island Territory, to which he made his first extended tour of inspection.

IV

Haber would have preferred to postpone this tour, which Hahl had arranged for him, but he also wanted to meet district commissioner Kersting who was due to go on leave shortly. So he went, and his meeting with Kersting created a highly favourable impression of the man on Haber.

Although his report of 2 June 1914 (RKA 2996) did not comment on the differences of opinion between Hahl and Kersting, his own views were clearly influenced by them. The position Haber was inclined to take was somewhere between those of Hahl and Kersting, but his sympathies were leaning distinctly in Kersting's direction, although he naturally sought to demonstrate that he was his own man.

The political situation in no section of the Island Territory gives currently cause for concern. Yet the question as to whether the natives are satisfied that they are better off under German colonial rule than under another colonial power requires constant attention. If they do not have this feeling political complications between Germany and other colonial powers could lead to undesirable consequences in parts of the Island Territory which is far too large to be kept under close control. The district commissioner in Ponape has misgivings in this regard in connection with the establishment of the various large leasehold companies. As is well known they are only prepared to begin operations if, in addition to undeveloped land, they are given enough land already stocked with coconut palms to cover at least most of their operating costs forthwith. Planted land naturally has to be acquired from the natives by exercising more or less pressure, and the price offered by the leasehold companies is rather low. In addition, the chiefs who dispose of the tribal lands keep most of the proceeds themselves... Nonetheless, I share the misgivings of the district commissioner only to a small extent. The inhabitants of the atolls in the area of the Western Carolines Company which I visited expressed no dissatisfaction. I am also confident that secretary Baumert, who is negotiating the purchase contracts in the area of the Eastern Carolines Company, is sufficiently objective and considerate to protect the interests of the natives adequately...¹⁰ In the Marshall Islands the capable district officer Merz will probably soon be able to settle the preliminary question concerning the availability of land already stocked with coconut palms which the syndicate desires. Once the leasehold companies have become fully operative, they will naturally also be able to monopolise the copra trade. This will create the political duty for the administration to introduce effective controls on the prices they pay to the natives...¹¹

In Haber's view the experiences in Ponape suggested proceeding cautiously with a reform of the traditional sociopolitical organisation because German New Guinea could not afford to replicate the costly military "means of power" currently available in Ponape in other parts of the Island Territory. But his most urgent concern was communication and shipping. His long-term goal was the establishment of a commercial shipping company with its own docking facilities and coal depots—and the government as a major shareholder.

¹⁰ I am disregarding Haber's comments concerning the Marianas which raise different issues.

¹¹ According to Haber the prices paid to natives for copra ranged from less than 100 Marks per tonne in the Western Carolines, to at least 120 Marks in the Eastern Carolines, to 140 to 160 Marks in the Marshall Islands and 200 Marks offered by the Japanese traders in the Marianas.

Haber was especially concerned that the downgrading of the two district offices, proposed by Hahl, would mean that the local administration in the Island Territory would be entirely in the hands of lower and middle ranking officials. As a consequence the two district courts, which university trained senior officials could run as a sideline to their administrative functions, would also have to be closed down. Even more importantly, the Island Territory would be lost as a training ground for inexperienced senior officials who could subsequently utilise the practical lessons they had learned when they were posted to the government in Rabaul or to the colonial office.¹² In view of his "extraordinary personal gifts", Haber would nonetheless be pleased if some temporary arrangement could be found which would allow Kersting to remain in charge of the local administration of the whole Island Territory, provided that such an arrangement did not become a permanent feature of the colony's administrative organisation.

In addition Haber advocated a series of measures which would have given Kersting's base in Ponape a preeminent position for a long time by concentrating all major educational institutions in the Island Territory on that island which Haber saw—for reasons of his own—as its centre of intelligence and commercial drive. He proposed that the existing school for interpreters be moved from Saipan to Ponape; that one trade school be opened in Ponape, rather than one each in Saipan and Truk; that the planned agricultural school also be located on Ponape; and that a "school of navigation" be added, which Kersting had proposed and which was to train Micronesians to replace the expensive Chinese and Malays as machinists, stokers, cooks, stewards, boatswains and quartermasters (see RKA 2752).

In short, Kersting would probably have found a distinctly favourable climate on his return from leave. But it was early days yet and Haber may well have changed his views on a number of subjects after a closer acquaintance with "land and people" (*Land und Leute*). For example, he might have become concerned about the likely impact of the growing tensions between Kersting and the Capuchin mission on his administration of the Island Territory, which had probably already started to worry Hahl, who knew from his experience with Kersting's predecessor Fritz how disruptive they could be. However, all this is speculation. "[I]n view of the outbreak of war and the lack of any postal connections" the colonial office never responded to the views expressed by Haber in his report—and in 1914 as in 1899 and 1884 the major policy decisions concerning the exercise of German colonial rule in the Pacific were made in Berlin.

V

It is tempting to conclude this tour of inspection of a handful of the thousands of episodes which make up the history of German colonial rule by comparing what they have told us about the position at its dawn, at the beginning of direct imperial administration and at the end of the Hahl era. But although there are striking similarities and differences, there are also far too many variables and uncertainties for a systematic and conclusive analysis.

The colonial section of the foreign office when Schleinitz became the Neu Guinea Kompagnie's first administrator was not the same institution as the colonial department during the brief reign of Bennigsen, or the colonial office at the eve of Hahl's departure from German New Guinea. To begin with their respective heads, Krauel, Buchka and Solf, were different people, with different backgrounds, experiences and personalities. The same applies to Schleinitz, Bennigsen and Hahl, as well as to the staff of these leading actors. But the situation had also

¹² The German colonial service, like the metropolitan civil service, consisted of three distinct streams into which applicants entered on the basis of their (primary, secondary and tertiary) educational qualifications. A senior official had not worked his way up through the ranks but entered the upper stream, whereas it was, in principle, impossible for a member of the middle or lower stream to be promoted to the one above. Nonetheless it did happen, for example in the cases of Senfft and Boluminski, but such promotions became increasingly unlikely.

changed in every other respect. By 1914 German New Guinea, as well as metropolitan Germany, had become different places, even physically, although of course not totally so.

We can be intrigued, for example, by the parallels between the situations in which Oertzen and Bennigsen found themselves, or amused by the change of Hahl's views about the role of "monopolistic companies" in German New Guinea between 1899 and 1912 and the similarities between the stance he had taken in 1898 and that taken by Kersting a dozen years later. But there is no point in dissecting these scenarios and juxtaposing their various elements.

How much had Hahl altered as a person during the 18 years he was involved in the administration of German New Guinea? Had he changed his views about the merits of monopolistic companies, or had he merely learned to accept them as necessary evils? Would Kersting in time also have modified his views?¹³ Is it the task of a historian of German colonial rule to identify such changes and perhaps even to evaluate them? Should historians judge the slice of history they study? If this is part of their job, are they entitled to simplify matters for everybody by selecting the information presented so as to support the judgement they have arrived at?

For example, would it be legitimate to transform the final act of the history of the monopolistic companies in the Island Territory into a theatrical play in which Kersting features as the white knight whereas Hahl is cast in the unfamiliar part of the villain, the Jaluit Gesellschaft looming as a totally despicable, greedy and heartless monster in the background?

To be sure, if we take the information provided by Kersting at its face value, it readily lends itself to such a treatment. But can we trust his words any more than those of any other historical actor? Can we, for example, treat his claim that he could prove that land in the Western Carolines had been bought from natives against their will and for a fraction of its value as a statement of fact? Is this claim more trustworthy than Kersting's claim that it was difficult to find people "elsewhere in our colonies" who were economically and culturally as backward as the Marshallese? Did Kersting believe this absurd claim to be true or was it just strategic rhetoric? Would Kersting have been able to prove what he said about the land purchases in the Western Carolines or could he only show, as Haber put it, that more or less pressure had been exercised and that the price paid had been rather low. Moreover, if the case had been as clear cut as Kersting made it out to be, why had he not taken action to have these contracts declared invalid? After all he was as district commissioner in charge of the Western Carolines and presided over their district court and their land register in which the titles based on these dubious purchases had to be recorded.

Is it relevant in this context that Haber stated that the people in the low atolls which he had visited in this district—and which clearly included some where land for the Western Carolines Company had been bought—had expressed no dissatisfaction? Had the people been too frightened to express their dissatisfaction? Is it relevant that Haber had expressed his confidence that secretary Baumert was sufficiently objective and considerate to protect the interests of the natives when buying land in the Eastern Carolines? Did Haber really believe that this was so, or did he only express this view because it was administratively convenient to make this assumption?

And so it goes on and on. Most of the statements presented in this account could be questioned in this manner. To raise these questions is not a nit-picking exercise. Rather, it demonstrates how much of the ground of history consists of shifting sand, and not just a layer of shifting sand covering solid bedrock which we can uncover if we try hard enough. This shifting sand is part of history and it contains the impressions of other parts of history which we would otherwise be unable to see at all. This is what makes an account of these episodes historically illuminating. They reflect what cannot be directly described. But we have to be careful; for if we try to nail down these reflections we destroy them instead of giving them firmer features. It is the unique

13 It is worth noting that Kersting was five years older than Hahl instead of belonging to the next generation of colonial officials as one might have expected.

strength of a narrative approach to history that it is capable of capturing these subtle reflections alive and the ultimate weakness of narrative phantom history that it prevents historical narratives from fulfilling their potential. The irony is that narrative too can only live up to its historiographical potential if we accept that history is concerned with structures rather than actions, because only then can we appreciate that the historical significance of particular human actions lies in what they tell us, directly or indirectly, about the general structures shaping human behaviour. This frees us from the burden of having to give the actions described an ahistorical, narrative meaning. It also places the issue of factuality in a different context. What matters historically is no longer the factuality of the actions described in the historical record but the factuality of the structures about which they inform us. Where this information is indirect and reflective, and this is where narrative plays a crucial role, historiography becomes like a game of squash: the target is the field in which the players move but they have to hit the ball against the wall in order to reach it.

The land purchases in the Western Carolines provide a good illustration of how this works. What matters historically—or, rather, for a history of German colonial rule in the Island Territory—is not so much what actually happened on the ground but how senior government officials responded to these purchases, which everybody knew were legally problematic, not because of the particular circumstances but because all land acquisitions from natives were legally more or less questionable, and not just because they often involved some pressure or deception. Kersting's approach to this dilemma was shaped by his views about the political desirability of these purchases and his antagonism towards the Jaluit Gesellschaft. He used the legal questions raised by them as ammunition in his campaign against the "monopolistic companies". He was not concerned with the legal validity of these acquisitions, which he apparently accepted as a *fait accompli*, he presented them as legally defective because this showed the company in a particularly negative light: first it had used illegal means to acquire the land and then it had the cheek to ask him for permission to resettle the former owners on the land as serfs—as if we were still living in the Dark Ages! By contrast, Haber sought refuge in the belief that Baumert would make sure that the interests, if not the rights, of the natives would be adequately protected during other land acquisitions of this kind.

On the other hand, it may well have been the Jaluit Gesellschaft which persuaded Hahl not to confiscate the northern atolls in the Marshall Islands. But if it did, it did not do so out of concern with the welfare of its inhabitants but because it feared the impact such a bold move would have on its commercial operations. It was better not to use a legal sledge-hammer but to continue the political game of negotiating a "voluntary" sale, in which all players brought all kinds of pressures to bear upon each other. That much is clear. But this does not mean that Merz was right in suggesting that Leit and Labareo were trying to force the government into confiscating the northern atolls, so that they could pocket the compensation without having to justify the loss of the land to their subjects. Nor is it clear that Merz was right in attributing Labareo's reluctance to sell—or to sell cheaply?—to the influence of the Burns Philp agent. What could he hope to gain by making life difficult for the government and the Jaluit Gesellschaft—especially if Kersting was right in claiming that Burns Philp had settled for sharing the profits to be made in the Marshall Islands under the company's conditions? But was Kersting justified in making this claim? Was Kersting—or Merz, or any of the other historical actors—seriously concerned about the factuality of any, let alone all, of the statements they made?

Yet they all operated by asserting the existence of specific facts instead of sending the messages they wanted to convey in clear text. Like subsequent narrative historians, the historical actors exercising German colonial rule in the Pacific were moving in a kind of Wonderland. This applied not only where they exercised discretionary powers, and were thus unable to operate behind a shield of legal rules, the entire machinery of government and its operation, in particular

where it became routinised and bureaucratised, was assuming a phantom quality. Facts were replaced by information about purported facts, government became increasingly concerned with the management of information, and that called for the production of manageable rather than factual information. This is how phantom history and the Rule of Law link up and how they contribute to the global colonisation of humankind. They both replace facts with manageable phantoms which are treated as facts, although their factuality is in fact immaterial.

But the functions of the phantomisation of history and the bureaucratisation of law in the global colonisation process are different. The bureaucratisation of government under the Rule of Law transforms phantoms into facts which, in the realm of government, are more real than the facts they purport to represent. By contrast, it is the political function of narrative phantom history to hide this transformation process. As a result neither narrative historians nor normative lawyers know what they are doing, namely digging the graves for their respective professions. But life will go on and even the colonial state is not immortal. However, it is unlikely to be swept aside like German colonial rule in the Pacific. Instead it will transform itself into something different, something even more powerful and less human. Yet its emergence will still be greeted by the narrative historians with their old battle-cry "look he is naked!"—because this is all they have learned to say about history and all we have learned to hear.

This is where my story of a small chapter behind this supposedly never-ending story must end, although it too could, narratively speaking, go on for ever and ever. What is its message? That a willingness to face "the facts" is not a significant factor in the making or writing of human history and that there are no rewards for intellectual honesty, because it seems to make it more rather than less difficult to manage the world? Or that "manageability"—or is it the "virtual" manageability of actual reality or, more frighteningly still, the actual management of "virtual" reality?—appears to have become the central aim of all human endeavour, including the academic study of law and history?

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Index

Preface

The preparation of an index for a text of this size forces the compiler to confront questions which can usually be ignored. As my answers have shaped this index decisively but invisibly it is necessary to discuss how I arrived at them.

Although I had been involved in compiling a number of indexes in the past, I had no clear recollection of how the task had been handled on these occasions. All I could remember was that it had been a tedious but straightforward exercise. On each occasion, so it looked to me in retrospect, we had adopted the conventional approach of settling primarily for a "proper name" approach, supplementing it, in so far as this was desirable, with a "subject heading" approach. Somehow this must have achieved a result which we regarded as satisfactory.

Since I saw no reason why this conventional approach should not also work with the text now in front of me, I gave it a go, starting with a provisional list of the "proper names" referred to in it. It certainly worked. In fact, it worked too well, as I ended up with a list of hundreds of names which, I felt, had to be drastically culled. But what criteria could I use to determine whether a particular proper name should or should not be included?

My provisional list was also remarkably uneven. The "propername" approach seemed to work reasonably well for the narrative parts of the text but let me down when the text became more analytical or systematic. This was not the result of the text not naming names in these sections. On the contrary, the number of proper names referred to could be particularly excessive.¹ Did I have to abandon a "proper name" approach for the indexing of the non-narrative parts of the text and switch to a "subject heading" approach? But to do so meant jumping from the frying pan into the fire: I did not even have a firm starting point, because a subject heading approach could not limit itself to subjects expressly referred to in the text, whereas an indexer had to consider only proper names which actually occurred in the text. Hence it was impossible to compile mechanically a provisional list of "subject headings" which was perhaps uncomfortably long but at least finite—quite apart from the problem of selecting from such a list the subject headings to be included in the final index. Moreover, the problem of what to do with the "proper names" referred to in the non-narrative parts of the text remained, since I could hardly disregard them altogether. And a parallel problem arose for the narrative parts, as they referred to subject matters, as well as to people and places, which also needed to be taken into account.

How did other indexers handle these difficulties? Since I did not think it would be a good idea to examine one of the indexes in which I had myself been previously involved or one of the indexes in the works of the phantom historians I had criticized in the text, I settled for that in *"Germany in the Pacific and Far East"* (Moses & Kennedy, 1977) to which I and three of them had contributed.²

The Moses & Kennedy index comprises about 250 "first order" headings. The large majority refers to "persons", natural and otherwise, as commercial firms, mission societies and even several newspapers are listed. Some of these "personal" headings include, in addition to a surname, one or more first names of the person in question, others his office and/or title instead and still others the lot³—presumably reflecting the different ways in which this person was identified in the text.⁴ A need to subdivide these "personal" headings with the help of "second (or third) order" headings had apparently only arisen in a few cases, since a large

1 I only had to think of the dozens of names listed in Tables II and III (see above: 143 and 157).

2 I should admit that it did not occur to me at the time to look instead for a "manual" for indexers. However, judging by the following examination of concrete examples, this would have been a bad move, since it demonstrated that such manuals, which probably do exist, either do not provide theoretically sound advice or their advice is ignored in practice.

3 Royalty was treated differently. While the listing of the German emperor under "Wilhelm II" made good sense, I found the heading "Heinrich, Rear-Admiral Prince" distinctly odd—but then a listing under "Prussia, Prince Henry of", as he is also referred to in the text, would hardly have been an improvement.

4 I subsequently discovered that the position was less clear. For example, I had identified the person listed bluntly as "Schmiele, Judge" in the index in the text as "the imperial judge G.[!] Schmiele".

number of them listed only a single page reference and since the mechanical device of indicating a range of pages had been sufficient to keep most of the others "comfortably" short.⁵

The entry under "Bismarck, Otto von" may illustrate how the few remaining "personal" headings are subdivided. After a dozen or so page references follow seven subheadings: "and Caroline Islands", "and Fijian land question" and so on. I found this simple "linking" method attractive but began to wonder how seriously it had been taken, when I noticed that the page reference to the last-mentioned subheading is "69-70", whereas the reference under the corresponding first order heading "Fiji, Land question in" is "68-69",⁶ and that no corresponding first order heading "Caroline Islands" is listed.

But then generally very few place names are included—and most of them are treated as if they too refer to persons rather than localities. This applies in particular to "Britain" and "Germany", where the entries identify these metropolitan countries with their respective governments. "Colonial" territories, like "New Guinea" (not German New Guinea!) or "Samoan Islands", are treated differently, but even they are not seen as places, rather their names serve as convenient geographical focal points for a casual collection of second order subject headings. Thus the heading "New Guinea" is subdivided into: "early settlement in", "German annexation of", "labour recruitment in", "missions in" and "Queensland, intervention in", although it is hard to believe that these subheadings represent the only, or, at least, the most significant references to "New Guinea" in the text.⁷

The treatment of the central heading "Germany" shows the strategic manipulation of these headings. There is, strictly speaking, no first order heading "Germany". Instead three second order headings are given: "Germany and Japan", followed by "and Spain" and "and the USA". Yet there are no headings under "Japan", and "Spain", and under the heading "United States" no corresponding second order heading "and Germany" is given. On the other hand, headings like "Britain" function partly as an extension of the entries under the invisible first order heading "Germany". Thus we find under the heading "Britain" not just a subheading "and Germany" but three more specific headings which distinguish "relations", "negotiations" and "rivalry" between the two countries. This spreading of entries, which would have been more naturally listed under "Germany", gives the index a balanced appearance, but it is unlikely to assist readers of a text which focuses primarily on Germany.

The omission of a heading "Japan" is still more peculiar, considering that an entire chapter is devoted to "German Cultural and Political Influence on Japan, 1870-1914". The entry under "Germany and Japan" is also puzzling. It does not read "156 [the first page of the relevant chapter] *passim*", as one would expect, rather several specific page references are given, suggesting that the subject "Germany and Japan" is *not* discussed on the other pages of that chapter—a suggestion which is not in accord with the text.

The omission of a heading "Japan" is just one of many puzzling omissions. There is also no heading for "Kaiser Wilhelmsland", even though another chapter deals with the extension of colonial rule in this part of German New Guinea.⁸ Does the inclusion of so few place names, compared with the number of personal names, reflect a considered decision on the part of the indexer, or did it just so happen?⁹ Did he also have sound reasons for including such a small—and again distinctly strange—collection of first order subject headings (from "Anti-Comintern Pact" to "Steamship subsidy"), and for excluding headings which one would have thought to be more obvious, such as "Land" or "Labour"? Perhaps he had, but it is certainly not apparent to users of his index what they were.

How did he treat the "personal" names which were clearly much dearer to his heart? Was it an accident that "Malieta" and "Mata'afa" are listed—the only Pacific Islanders featured—whereas the name of Lauaki, who plays an even more important part in Peter Hemenstall's chapter, is not? Why were the names of the

5 The magic "*passim*" formula, which indicates that a proper name (or subject) is referred to "on and off" over a range of pages, is also used, but only rarely—and then in a peculiarly abbreviated form, indicating only the first page of what turns out to be the relevant chapter.

6 While a discussion of Bismarck's involvement in the Fiji land question—according to the index—only starts on p.69, the continuation of that discussion on p. 70 must still be concerned with that question.

7 It will come as no surprise that there are no corresponding first order headings for "labour recruitment", "Queensland" and so on.

8 As we have already seen there is also no subheading "extension of German colonial rule in" under the heading "New Guinea". Nor is there a subheading "German administration in" under this heading, although it is, for example, included under "Ponape".

9 I found the reluctance to use historical *events* as headings also curious. Although, for example, the "Sino-Japanese War" is listed, the "Ponape Rebellion" is only referred to indirectly under "Ponape, punitive action in", and the "Madang Conspiracies", which also figure in the text, are not referred to at all in the index.

Ponapean counterparts of these Samoan stars—those of Nanpei and Jomatau, which are given by Hempenstall—also excluded?

Why does the index include the name “von Kotze” (without first name or initial), although the man had not, by any stretch of the imagination, played a significant part in the history of German New Guinea, but exclude those of Finsch, Neuhauss and Prey, who all did and who are also referred to by Ingrid Moses?¹⁰ Did von Kotze catch the compilers’ attention because he is presented as a nephew of Bismarck or because he had provided Moses with one of these deliciously quotable quotes: “We decided to make a punitive expedition, partly to kill the hostile kanakas, partly to kill time”?

However, this had become a rhetorical question, since it was by now plain that it was futile to search for any rhyme or reason behind this index. There was none. What I had before me looked like the hurried fulfillment of an inescapable duty. Or had the eagerness to adopt a “she’ll do mate!” attitude been brought about by the “nature” of the text, which was not the comprehensive treatment of a single topic by a single author but a collection of papers by a multitude of authors who dealt in different ways with various aspects of Germany’s involvement in the history of the Pacific and the Far East, presenting a few fragments of a large mosaic? Had this put the indexer in a position where no more than a token effort was practical?

Since I remembered how impressed I had been by the elaborate index in Roger Joyce’s biography of Sir William MacGregor (1971) when I had consulted it in search of information on the financial position of British New Guinea, I decided to take another look to see if it provided me with a model I could happily follow. Alas, it did not but it demonstrated that unrealistic ambitions in the field of indexing are just as dangerous as a lack of enthusiasm.

How did the indexer deal with the references to Sir William MacGregor, who presumably featured throughout the book, as he could hardly choose the easy way out by settling for a one-line “*passim*” entry? He had produced a long and variously subdivided entry under “MacGregor, William” which covered, by the looks of it, most pages of the text and many pages more than once.¹¹

However, this entry is only the start, since it refers readers to the entries under “the names of his [MacGregor’s] colonies” which are again variously subdivided.¹² In addition two subject headings, namely “Honours” and “Languages”, are referred to. Unexpectedly the first covers only the honours which MacGregor had personally received, or had been instrumental in having bestowed on others, and the second is devoted, at least primarily, to his admirable linguistic achievements, so that they too serve, in fact, as further extensions of the entries under the “MacGregor, William” heading.

But we still have not reached the end of the road. The “Languages” heading includes a further reference to “Literary references” which, in turn, refer the reader to “Historical references”—and I was no longer surprised to find that these headings related exclusively to such references made by Sir William MacGregor. A reference among the “Literary references” to “Schiller” aroused my curiosity. When I followed it up, I found that MacGregor had a copy of Schiller’s “*Geschichte*” (*sic*) with him on a patrol in British New Guinea, reading it on alternate nights with the *Iliad*. Although I was once more awed by MacGregor’s erudition,¹³ I found it hard to believe that this reference to Schiller, hidden away under “Literary references”, could be of practical assistance to any user of the index.¹⁴ On the other hand, it certainly did no harm, and the entire MacGregor-centric part of the index looked to me more and more like an extravagant but inconsequential overkill.

How did the rest of the index perform? There were first of all a large number of proper name entries—again many with a single page reference. Their treatment was unremarkable, although the “title question” was handled with amusing unevenness¹⁵ and the interest shown in the suburbs of Brisbane and

10 The reference to *imperial commissioner* Rose in this chapter is included but the indexer got himself unnecessarily into trouble because he identified Rose, on the strength of his subsequent appointment to Samoa, referred to in earlier chapters, as “consul”.

11 Pages 1 to 5, for example, are referred to under eight different subheadings.

12 The “colony” headings refer back to “the subject headings MacGregor, William, colonial career”, indicating the relevant range of pages—“pp. 95-218” in the case of British New Guinea—thus introducing a further, geographical subdivision for the entries under these headings. There are other back references of this kind (see, for example, the peculiarly designed heading “Education”).

13 I was disappointed, however, that Joyce’s text did not tell me which of the several works by Schiller including the word “*Geschichte*” in their title had been an “old favourite” of MacGregor.

14 In contrast to Dante, but in company of Homer and other authors, Schiller is not given his own first order heading in the index.

15 For example, the Chancellor of the Reich, Prince Bismarck, is listed as a simple “Otto” whereas William Humble

particular schools in Queensland was more intense than the text warranted. By contrast, I was intrigued by what appeared to be attempts to group specific entries "systematically" together under general subject headings.

The first of these headings to attract my attention was "Churches, Christian" because it contained yet another "*see also*" reference to MacGregor—this time to his "Christian belief"—followed by a string of page numbers.¹⁶ While I was getting used to finding references to MacGregor in unexpected places, I was surprised that most of the subheadings did not refer to Christian *churches* but to the activities of Christian *missionaries*, which, I would have thought, was not the same thing. Moreover, I was again struck by an unevenness of treatment. Whereas the London Missionary Society is listed under its name under the subheading "New Guinea", the other references under that subheading are to "Anglican", "Methodist" and "Roman Catholic" missionaries. In addition, and in contrast to the Anglican and Methodist missionaries (who are called Wesleyan missionaries under the subheading "Fiji"), the London Missionary Society scored its own heading, although not a discrete first order heading but a subheading "Missionary Society" under the "geographical" first order heading "London". The Roman Catholic missionaries received yet another form of treatment. They are also listed under the first order heading "Sacred Heart Society"—which does not exist—with a cumbersome reference to "Churches, Christian, New Guinea, Roman Catholic missionaries", whereas in the case of the London Missionary Society a reference to "Churches, Christian" was regarded as sufficiently specific.

But the box of surprises only began to open fully when I looked at the entries under the heading "Products, agricultural". The first surprise was that the entry listed "timber" as an agricultural product; the second that it nonetheless included not only a heading "Forest"—although not a heading "Products, forestry", as one might have expected—but that this heading referred to a heading "Timber" which, in turn, referred to a heading "Products"—albeit in this context without the qualification "agricultural".

There was also no heading "Products, marine". Instead there was a heading "Fishing" which treated, via a cross-reference, "sealing" as form of fishing. Nor was there a heading "Products, mineral"—or a heading "Mining" as a counterpart of "Fishing". Instead there was a heading "Minerals", which included the dubious subheading "coal". There was also neither a first order heading "Products, industrial" nor a heading "Industry", or, for that matter, a heading "Animal husbandry" or separate entries for the most obvious domesticated animals, like pigs, sheep or cattle. But there was an additional heading "Agriculture", which I had not expected. It included a three page reference to "Agriculture, Queensland". Surprise, surprise, these pages did not deal with agriculture in Queensland but rather used primary industry examples to illustrate that "Impending old age had done nothing to dull MacGregor's inquiring mind". Furthermore, the inquiring mind of MacGregor had operated in a highly selective fashion, focusing *inter alia* on prickly pears, angora goats, ostriches, blowflies, and the scientific backwardness of Queensland.¹⁷

On the other hand, MacGregor may have been indirectly responsible for the broad interpretation of "agriculture" in the index because the Faculty of Agriculture in Queensland, for the establishment of which he was arguing, was, according to MacGregor, supposed to cover "the Pastoral, the Horticultural and the farming [*sic*] industries". But MacGregor can hardly be blamed for the entire intellectual mess which the indexer created. I rather got the feeling that it was the product of a growing sense of frustration on the part of a well-meaning indexer who had realised too late that he had bitten off more than he could chew and wanted to finish his job as quickly as possible by throwing his chosen headings higgledy-piggledy into the next best general subject heading box, without considering whether their mixed content made any sense.

Ward, the 2nd Earl of Dudley, scored two entries under "Ward" and "Dudley". Yet he is only referred to in a footnote, where he is featured neither as "Ward", nor as "the Earl of Dudley" but as "Lord Dudley, Governor-General [of Australia] 1908-11". The text does not refer to "Otto Bismarck" either. Instead the name "Bismarck" occurs in this plain form in two quotes from MacGregor which refer, equally plainly, to "Granville", who is not listed as "Granville, George" in the index but as "Granville" with a reference to "Leveson-Gower, Granville George (9th Earl Granville)".

16 I should mention in passing that the first of these references is to a blank page and the last to an improbable span of well over 100 pages. Whereas these two particular blunders are probably the result of trivial errors which we all make (should the second reference read "305, 433" rather than "305-433"?), their frequency suggests that the indexer generally lacked the patience to keep up with his ambitions.

17 While "Prickly pear", "Goats, Angora" and "Ostriches"—but not blowflies—are listed under these specific headings, MacGregor's views about the scientific backwardness of Queensland are politely submerged under the heading "Queensland economy, agricultural policy".

How else could I account for the fact that references to the Australian Labor Party and “Kanakas in Queensland” both appeared under the heading “Labour”,¹⁸ or that American and Indian Indians were grouped together under the heading “Indians”? How could the indexer justify the combination of references to the Ladies League in Lagos, “adultery” and “Queensland Aborigines” (and a host of various other subheadings) under the heading “Women”—without including the corresponding heading “Men”—or the combination of references to the First World War with references to “military” activities in British New Guinea (without distinguishing between intertribal warfare and punitive actions by the colonial government) under the heading “War”, and to include under that heading even a mysterious subheading “U.S.A Crisis”—which turns out to be a reference to a remote threat of war between Britain and the United States over fishing in the waters of Newfoundland.

He plainly could not, but then it dawned on me that I had been wrong in assuming that the indexer had felt a need for a rational justification for what he was doing. The explanation for all the oddities my examination had identified (and I have mentioned only a few of them) was quite different and simple: I was back in Wonderland. The indexers, whose work I had inspected, had not been engaged in a bungled rational enterprise but in the performance of an academic ritual, consisting of a small repertory of conventional movements, the meaning of which had long been forgotten.

The indexes of historiographical texts, so it appeared, were a continuation of phantom history by other means. Indexers were supposed to treat their texts in the same manner as narrative historians treated the historical record. Indexers had even developed their own version of a narrative language in which words did not mean what they said and for which the logical implications of what was being said were immaterial. Thus “Products, agricultural” did not, or, rather, did not necessarily, refer to a particular species of the genus “product”, it could also be another way of saying “agriculture”—a word which, in turn, could cover other forms of primary industry. Indeed, words could be emptied of any concrete meaning and become mere cyphers. Moreover, all this happened by itself, as it were, and required no purposive action on the part of the indexer. An indexer did not have to transform “London” from the name of a place into a particular combination of letters when listing the London Missionary Society under “London”, nor did he have to convince himself that “adultery” was a specifically female activity, this amazing flexibility was an inherent quality of the phantom language he was using.

Under these circumstances the indexer of MacGregor’s biography had no cause to become frustrated. On the contrary, he could look with pride at his work as an unusually ornate performance of a time-honoured ritual. The possibility that his index could nonetheless be an intellectual shambles did not enter his consciousness—and why should it? Indexes are not meant to be critically analysed. They are practical tools.

With that I agreed, but could it excuse shoddy workmanship in the forging of such a tool which, I thought, was also bound to affect its usefulness? This brought me finally to the simple but crucial question: what is an index? I had so far not addressed it because I had assumed that the answer was obvious: an index is supposed to give people who use it a better (or quicker, or easier?) access to the text to which it relates—but I was now beginning to suspect that the question was not as simple as this glib answer suggested. What then, was an index?

According to the *Shorter Oxford* an index is: “A list of things in (usu. alphabetical) order; esp. a list usu. at the end of a book, giving names, topics etc. mentioned in a book and the places [in the book!] where they occur. Formerly also a table of contents.”

This boiled down definition was surprisingly “liberal” but it gave little away. Still, it contained some helpful clues. The first was the suggestion that an index was a specialised table of contents¹⁹, which I found difficult to reconcile with the statement that an index listed “names, topics etc.” mentioned in a book. To be sure, anything mentioned in a book is contained in it, but to me a table of contents was more narrowly focused. Hence I was pleased that the *Shorter Oxford* confirmed this feeling, since it defined a “table of contents” as a “summary of the subject-matter [!] of a book” and, “content” as “the sum of the constituent[!] elements of something”. Could the distinction between the constituent elements of a text and “names, topics etc.”, which were merely mentioned provide the selection criterion I was looking for? Was an index supposed to index only what a text was about and to disregard what was peripheral? I was confident that I was on to something, but decided to follow a second clue first.

18 The actual entry is constructed as follows: “Labour, Australian, Party”.

19 It reminded me of the tables of content in baroque novels in which each chapter heading gives a short description of what is happening in it.

I had been puzzled by the initial definition of an "index" in the *Shorter Oxford* as a list of "things", especially when I compared it with the subsequent reference to "names, topics etc."—which apparently coincided with the conventional distinction between "proper names" and "subject headings". Were indexes lists of *things*? Were names and topics *things*? A closer look at this conventional distinction was called for, since there was something quite peculiar going on.

Just how peculiar it was, was brought home to me when I compared the conventional English terms with their most common German counterparts, which distinguish between a "*Personenverzeichnis*" and a "*Sachverzeichnis*", that is to say, between an index of "persons", and index of "things". Under this distinction the proper names of places, since they are not persons, are fitted into the "*Sachverzeichnis*", the counterpart of a subject index. However, places are not things either. But then the meaning of the term *Sache* in German is ambiguous. A *Sachgebiet*—a field of study—covers the study of abstractions as much as the study of physical objects—and the same ambiguity exists in English, where the counterpart of *Sachgebiet* is "subject matter", since "matter", like *Sache*, can, according to the *Shorter Oxford*, refer to the stuff of which physical objects consist as well as to that which belongs to a subject of study—whatever that may be. Besides, there is a perfectly acceptable alternative to a "*Personenverzeichnis*" in German, namely a "*Namensverzeichnis*", which can not only include the names of persons but also the names of places and indeed the names of anything (!) else, since a *Sachverzeichnis* also lists the names of things, rather than the things themselves.

This led me to what appeared to be the historical root of the distinction between proper name and subject indexes; the distinction by the grammarians of classical antiquity between a "*nomen proprium*" and a "*nomen commune*", that is to say a name which refers to something unique and a name which refers to something typical. We follow the wrong track, if instead of distinguishing between different kinds of names, we try to make distinctions in accordance with differences in the nature of that which is being named. Proper name indexes, subject indexes, *Personen-* and *Sachverzeichnisse* are, contrary to the *Shorter Oxford*, all not lists of "things" but lists of "names" or words—a state of affairs neatly reflected in the "generic" German term "*Stichwortverzeichnis*" a list of "key words". Certain words are used as headings in indexes not because they name persons, or places, or objects, or subject matters, but because they, in contrast to most other words used in a text, have a special "string" (*Stich*), because they provide a "key" which opens up the text.

Not all key words, however, are of the same kind; they can name whatever they name differently, namely as something which is unique or as something which is typical. A text can, for example, refer to a ship as a "ship", or as "naval vessel", or as "German naval vessel", thereby identifying the genus, species or subspecies of the category of thing to which the ship belongs, or it can identify its proper name, say *Möwe*—which, of course, does not turn the ship into a person. Similarly a text can refer to the same man by his proper proper name, say Otto von Bismarck, or identify him in accordance with his office—the chancellor of the Reich—or some other typical "attribute" and specify this typical designation to such an extent that it becomes as "unique" as a proper name (for example, the first chancellor of the second German Reich).

The conventional distinction between proper names and subject headings is therefore confusing rather than helpful. This does not mean, however, that the compilation of a "proper name index" and that of a "subject index" are not different enterprises—if it is understood that the "real" distinction is between two different kinds of names, that a "subject index" should be treated as an index of common names and that common names have a different relationship with each other than proper names.²⁰

Whereas each proper name stands on its own feet, in splendid isolation, each common name is part of an abstract logical order. This does not preclude the linking of proper names in an index—for example, "Bismarck and the Caroline islands"—but these links must actually exist, they must themselves be unique, while subject headings have a given systematic relationship with other subject headings. An indexer enters a different world when he moves from a proper name to a subject heading approach. A proper name index can be compiled mechanically and it can be comprehensive, whereas a subject index is ideally systematic and has to be selective. Indeed, thanks to the wonders of modern technology, the compilation of a proper name index can be fully mechanised. An indexer does not even have to read the text he is indexing. He only has to know the subject matter it is dealing with and how to find a few existing lists of proper names in this field.

I could have fed the names of all the German colonial officials in the Hubatsch Lists and the place names in the index of a contemporary German colonial atlas into a computer and let it search for these names in the text. I could even have adopted a mechanical solution for the problem of too many proper names or too many references to particular proper names, by instructing the computer to exclude all proper names, which were

20 In order not to complicate matters further, I shall stick to the conventional distinction for the rest of this preface.

only referred to once in the text and to choose randomly no more than ten page references for each proper name.

For a subject index such a mechanical approach could not work. But it would also have been futile to sit down and work out, systematically and in the abstract, an ideal subject index for a text dealing with the history of German New Guinea. The compiler of a subject index is just as firmly tied to his text as the compiler of a proper name index—but in different ways. In contrast to the latter, who is limited to the proper names actually referred to in the text, the former can make up his own subject headings—for example the heading “Products, agricultural”—but he can be no more systematic than his text, and texts about history are rarely consistently systematic. On the other hand, while historiographical texts seldom treat any subject systematically, they often mention a variety of subject matters just in passing, just as they mention a whole host of proper names just in passing.

This took me back to the problem of selecting which proper names and subject headings should be included in an index. Was the *Shorter Oxford* right in suggesting that an index should list all names and topics mentioned in the text, or should it, for example, only include the names of persons who were featured as historical actors in the text and only the names of places which appeared in it as the scenes of historical events? Such an approach appeared to make sense, especially for narrative histories. Yet it was plainly not the approach adopted in the indexes of Moses & Kennedy and Joyce.

What concerned me at this point was not the haphazardness of the selection process but the fact that both indexes included a large number of headings which provided no key to anything discussed in the text. Eventually I hit on a likely answer to that puzzle. It had to do with the audience for which an index is designed. The crucial question was whether an index is exclusively addressed to people who had read, or were going to read, the entire text because they were interested in what it had to say or whether it had to consider the needs of people who were treating the text as a potential source of bits of information on “people, topics etc.” in which they were themselves interested. Put differently, was an index an elaborated table of contents which was trying to make a text more readily accessible as a text or was it a kind of mail order catalogue which potential customers could compare with their personal shopping lists?

There was nothing wrong with the second possibility. The problem was rather that an indexer who is trying to provide an inventory of all the information mentioned in a text faces intellectually a hopeless task, because anything a text says, however peripheral, is of conceivable interest to someone. Nor can he possibly come up with a structure of the index which is helpful to everybody. If he is aware of this predicament, he cannot go beyond a mechanical application of a proper name approach, since anything he does to improve on it is bound to have a random—or idiosyncratic—quality. He can put together an infinite number of longer or shorter and differently ordered indexes, without being able to justify rationally why he has chosen one version in preference to another.

On the other hand, an indexer who is prepared to consider only genuine readers of a text can work out rational criteria for the selection of proper names and subject headings to be included in the index and he can utilise the structure of the text to structure his index, provided he has the courage of his convictions and realistic expectations of what he can achieve.

On the other hand, he is in for a double disappointment, because the fruits of his labour will look superficially like any other conventional index and because the trimming of the excess fat will disappoint those of his audience who were looking for just such tasty morsels. But then the wonders of modern technology make indexes as mechanical information inventories entirely obsolete, since anyone up to date with them can feed a text into his computer, naturally without having to bother to read it, and let it find out which bits of information on items on his personal shopping list it contains.

This, however, was not the kind of Wonderland I had entered. The indexers of Moses & Kennedy and Joyce had not decided to provide a comprehensive inventory of all the information contained in their texts. Nor had they got into trouble because they had tried to kill two birds with one stone. Instead they had done what was expected from them; they had performed a well established ritual. Both indexes were part of the same cultural milieu in which narrative phantom history flourishes. Indeed, it appeared that these indexes were primarily designed to make it easier for other narrative historians to take notes as a basis for constructing their own narratives.

Was the compilation of an index a rational enterprise? Could it be approached as such? Was it an art rather than a science—or, perhaps a trade? Did the alleged mysteriousness of the Past extend beyond historiographical texts to their indexes? Did the irrational practices which I had detected, instead of poisoning the indexes they produced, make them more fertile? Should we not congratulate Paul M. Kennedy, for

example, for including additional bits of information in the index of his *"Samoan Tangle"* (1974), rather than questioning whether they serve a rational purpose? Is it not reassuring to read that "White, Henry" was "secretary at the U.S. Embassy in London" or that "Townsend, Mary" was a "historian", although there are good reasons to doubt that a person looking up these names in the index is given any practical assistance by these additions? Should we not be pleased that the index lists the names of so many newspapers, instead of accusing the indexer of excessive zeal because 20 of them are referred to on two pages? Is it pedantic to point out the inconsistency of identifying "Wilhelm II", as "German kaiser" (without a capital "K" or italics), "Buchka, Dr Gerhard" (without a "von") as "*Kolonialdirektor*" and "Graf [not count] Herbert von Bismarck" as "secretary of state for foreign affairs"? Does it make sense to list a page reference "25-122" (without *passim*) under "Germany, policy towards Samoa" and references to "26-7, 82, 86-7, 109, 120, 122-33" under the peculiar heading of "Germany, internal politics, and relationship to Samoa", not to mention dozens of other references under a multitude of other (non-German) headings?

Do any of these oddities matter? They do if the compilation of an index is seen as an academic activity. But is it? Or is it not treated as a menial task which someone has to do and which authors or editors only perform themselves if they can find no one else to carry it out for them? Conversely, is the compilation of an index a task which is quite distinct from the writing or editing of a text—a task that requires a specialised expertise which few authors possess but which enables indexers to index any text, without having to know anything about its subject matter? Considering that the "authors" of indexes are rarely identified, although everybody knows that by no means all authors of texts could claim that the index of their text was entirely their own work, it would seem that the compilation of an index is not regarded as an intellectual achievement one could be proud of.

There are good reasons for taking this view. Compiling an index is hardly a creative task. But it is nonetheless demanding. There is an awful lot that can go wrong when compiling an index. While an indexer does not need any specialised expertise, he requires a quality which one connects with accountants rather than historians: meticulousness—and this means, first of all, taking a text seriously, including its warts and limitations, since it is the nature of a particular text which determines what is possible and appropriate as far as indexing is concerned.

There are texts which rule out a proper name or a subject heading approach—and perhaps both,²¹ there are texts which require a combination of both approaches and there are texts which give an indexer a range of choices, each of which can have important consequences. Thus an indexer who decides that a proper name approach is suitable and by itself sufficient can choose between a comprehensive and a selective index. By opting for the second alternative he commits himself not only to a search for rational selection criteria, he also limits automatically the informativeness of his index, because the user of a selective index can no longer draw negative conclusions from its content. He cannot assume, for example, that a person not listed is also not referred to in the text, or that a single page reference means that this is the only page on which the person in question is referred to.

Does an indexer have a choice as to the selection criteria he is going to adopt? I suggest he has not. As far as I can see a distinction between "insignificant" and "significant" references provides the only rational basis for deciding on the inclusion and exclusion of proper names as well as subject headings. Yet, as we have already seen, an indexer enters a different world when he switches to a subject heading approach, so that he may be well advised to postpone such a move as long as possible—and the technique of linking two proper names can take him a considerable distance. But even here the question of consistency arises, since an indexer who chooses, for example, to link Bismarck with the Carolines is logically committed to list this link under "Carolines" as well as under "Bismarck", because his index is logically incomplete if he only lists it as a subheading under the second heading.²²

21 An indexer may then have to consider alternatives to an index—and there are many, some of which may also provide useful supplements to an index.

22 Could he justify the omission of a heading "Carolines" on the basis that his text is "about" Bismarck but not "about" the Carolines? This too is doubtful because it already draws the choice of "Carolines" as a subheading under "Bismarck" into question; for, if the Carolines are not significant as the geographical location of the "events" discussed, he should have chosen another key word.

However, the choice of subject headings raises this and other logical issues more clearly.²³ For example, the indexer of Kennedy's *Samoan Tangle* obviously made a mistake when adding "*see also* General Board" to the subheading "Naval Department" under "United States of America" without listing an entry under "General Board". But if this listing had been made, the use of "*see also*" could still be logically questionable, if this term is given a precise meaning. Put differently, is it logically unacceptable to use this device as a trick to give an index a more balanced appearance by splitting off a sub-group of references which could just as well have been listed under that heading? or should "*see also*", strictly speaking, only refer to references which do not fit directly under a heading, although they are related to it?

Is an indexer logically obliged to include cross-references? Are there different types of cross-references which have to be treated differently—for example "parallel" and "hierarchical" cross-references? Does it matter whether an indexer has taken the headings in question from the text or whether he has made them up himself? Is it, for example, necessary to include a cross-reference, if a text refers to the same person in one context as "William Humble Ward" and in another context as "the 2nd Earl of Dudley"? What is an indexer to do if the man is sometimes referred to in the text as "Lord Dudley" and sometimes as "the Governor-General of Australia"? Can he simply list the references to "the Governor-General of Australia" under "Lord Dudley", or does he also have to include a heading "Governor General of Australia" with a cross-reference to "Lord Dudley" (and *vice versa*), or does he have to exclude references to the "Governor-General of Australia" because this designation neither qualifies as a proper name nor as a subject heading?

What about "Products, agricultural"? If the text only refers to particular agricultural products it would seem that an indexer does not have to include such a general heading. He can stick to specific headings for particular products, so that the question of cross-references does not arise²⁴. An indexer provides a "voluntary" service if he introduces such a general heading as a stepping stone which leads users of the index to specific entries. The situation is different if the text includes a significant general discussion of agricultural products. A conscientious indexer has then no choice but to include this general heading. He also has no choice but to include headings for particular products, if the references to them in the text are significant. Nor can he choose not to include any cross-references, or to do so only if he feels like it.

How far does an indexer have to go in following his text? Does he have to reflect a distinction it makes between "agriculture" and "horticulture"? Is he entitled to choose his own heading "Products, agricultural" in preference to the term "crops" used in the text which makes a distinction between "agriculture" and "horticulture" superfluous?

But let me return to "the Governor-General of Australia" and the general questions which references of this "type" raise? What is a conscientious indexer supposed to do, if a text refers to a person only by his office (etc.) and never identifies his name? Is he supposed to look for this name in other sources? But if he does so successfully and lists the relevant page references under that name, he only confuses users of the index as this name does not appear on the pages in question. Is he supposed to go a step further and supplement his index by a list of all the governors-general of Australia. Does he have to consider whether the relevant references in the text can instead be adequately covered by a subject heading? Is he entitled to put such references without further ado in the "too hard" basket, to declare even entire texts to be non-indexable, or to instruct authors to rewrite their texts in accordance with the requirements of a "rational" index?

While this would be going too far, there is ample scope for turning the compilation of indexes into a more rational enterprise. Here like in most other fields the devil lurks among the details. But we should not let ourselves be overwhelmed by the prospect and lose sight of the big picture.

There is only one basic decision to be made, and the rest follows from it, whether we like it or not: is the index to be compiled to be an index of a text or, as a text is it to be an index of all the information contained in it? Only if we opt for the first alternative can the compilation of an index be treated as a rational enterprise. If we choose the first option and want to proceed rationally we need first of all rational criteria for the selection of the proper names and subject matters referred to in the text which we want to include; for without such criteria we do not have to worry about anything else since then everything goes and whatever we do turns into a more or less pretentious charade.

23 Ingenious as the linking of proper names looks, it becomes generally suspect when it is inspected more closely. It would appear, to stay with the previous example, that the text did not link Bismarck with the Carolines but rather with the "Carolines question" as a subject matter which was primarily handled in Europe and which should have been listed under that heading, if it played a significant part in the text.

24 It makes no sense to add, for example, a cross-reference "*see also* potatoes" to entries under a heading "sugar cane".

As far as I can see, the only available rational selection criterion requires the indexer to decide whether the "names, topics etc." mentioned play a significant part in the text. If they do, they are in, if they do not, they are out. Now it is plain that significance is a matter of degree, that significance shades gradually into insignificance. I was surprised, however, how many of the "persons, places, topics etc." referred to in my text clearly either played a significant or, far more often, an insignificant part in it. In fact, so many names started to fall by the wayside, once I applied this test, that I began to worry if there would be anything left, or rather, whether the result would still look academically respectable. I therefore had to remind myself energetically that this was an irrelevant consideration and that it was instead my task to provide an index which reflected "the constituent elements" of the text adequately but as economically as possible.

Seen in this light, my extensive preparatory had been worthwhile. What had started as a daunting task could now be reduced to comfortably manageable proportions. Instead of having to produce an index which was even larger and more complicated than that in Joyce, I ended up with an index which was shorter and simpler than that in Moses & Kennedy—and yet, in my view more rational and more helpful to my intended audience than an imitation of either of them would have been.

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PHANTOM HISTORY THE RULE OF LAW AND THE COLONIAL STATE

The Case of German New Guinea

Peter Sack

This book uses the history of German New Guinea to examine the role of law in colonial government. It argues: that it was crucial; that the 'colonial state', rather than disappearing, has become a global phenomenon; and that the conventional narrative approach to history is incapable of giving a realistic account of the history of colonial rule, offering 'phantom history' instead.

On the other hand this book argues that it is possible to adopt alternative approaches to colonial law, because it is historically an instrument for organising state powers which creates historical records that reveal the structures of this organisation and provide quantitative information about its operation.

What makes the case of German New Guinea particularly interesting is that such a structural and quantitative approach can take us only part of the way since its colonial law had to be developed from scratch, so that it could only gradually grow into a bureaucratic form of government which lawyers like to call 'The Rule of Law'.

While it is comparatively easy to describe the legal framework within which its government operated, it is impossible to deal with its operation adequately in quantitative terms, because much of the relevant information was not systematically recorded and because a large portion of the records made has not survived.

There was thus no choice but to adopt a narrative approach, despite its shortcomings, but to try to avoid the pitfalls of 'phantom history' as far as possible. In short, this book is as much about the challenges of writing a realistic history of colonial rule as it is about the history of colonial law in German New Guinea.