1973/1974 HET KONINKRIJK DER NEDERLANDEN EL REINO DE LOS PAÍSES BAJOS THE KINGDOM OF THE NETHERLANDS DAS KÖNIGREICH DER NIEDERLANDE LE ROYAUME DES PAYS-BAS HET KONINKRIJK DER NEDER

THE KINGDOM OF THE NETHERLANDS

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General

The Netherlands and its former South American and Caribbean colonies of Surinam and the Netherlands Antilles together form the Kingdom of the Netherlands, a constitutionally unique structure established under the Charter for the Kingdom of the Netherlands. This Charter, enacted in December 1954, embodies the agreement of partnership voluntarily entered into by the three countries and is at the same time the Constitution of the Kingdom. It takes precedence over the Constitution of the Netherlands in Europe. The latter, enacted in 1814, has of course been amended over the years, the most recent amendment dating from 1972.
It is intended to revise the Constitution completely. A commission was appointed in 1967 to submit recommendations on the desired revision of the Constitution and the Franchise Act. The commission's findings are contained in three reports, one concerning the Franchise Act and the other two containing proposals relating to the Constitution. On the basis of the commission's proposals a few changes were incorporated into the Constitution in 1972, including provisions concerning the legal voting age, payment to and tax exemption for the Monarch and other members of the Royal House, funds for members and former members of the States-General and their dependents, the financial relationship between the State and the churches, membership of the Royal House and the freedom of education. The Constitution is 'rigid', that is to say the procedure for altering it is complicated. A Bill stating that there are grounds for considering proposed changes in the Constitution has to be passed by both Chambers of Parliament, known in the Netherlands as the States-General. During the reading of the Bill, the Second Chamber retains its ordinary right of amendment. When the Bill has become law and has been given the Royal Assent, both Chambers of Parliament are dissolved and a general election[1] is called to return a new Second Chamber[2]. The Act must in turn be passed by the two new Chambers, a two-thirds majority being required in each; this time the Second Chamber cannot bring in amendments. The members of the First Chamber are elected not by direct franchise but by the Provincial Councils. It must then again receive the Royal Assent. Whilst the Constitution is safeguarded by this procedure from undue modification, no court, not even the Supreme Court, can suspend a law as being contrary to the Constitution, as is the case for instance in the United States and the Federal Republic of Germany. It is for the Crown, i.e. the Queen and her Ministers, and the States-General (Parliament) to decide whether any proposed legislation would be contrary to the Constitution. Their interpretation of the Constitution is binding on all the organs of government including the judiciary. Nor can the Courts declare an international agreement inoperative on the ground of its being in conflict with the Constitution. The Courts can, however, abrogate a law that is contrary to an international agreement.

The monarchy is hereditary in both the male and the female line, the latter however succeeding only in default of male heirs. The Constitution lays down that the person of the sovereign shall be inviolable and that the Ministers shall be responsible. The chief function of Parliament is the exercise of legislative authority together with the Government. The States-General also controls the Government by requiring it to account for its policy and by exercising the right to amend Government Estimates.
The States-General consists of a First Chamber of seventy-five members elected by the Provincial Councils and a Second Chamber with one hundred and fifty members elected directly.
The supreme advisory body to the Crown, and also the oldest, is the Council of State. The Council's opinion must be sought on all Bills prior to their introduction into Parliament, on international agreements requiring the approval of the States-General, and on all general administrative measures. Furthermore, the Council of State discharges an extremely important function in cases of administrative appeals, where it acts as an advisory body to the Crown, the ultimate instance in such cases. There is a First Bill before the Chamber at the moment empowering the Council to make independent judgements in administrative cases.

The Monarch

The ties between the House of Orange and the Netherlands were established in the sixteenth century

[1] For the electoral system see page 22
[2] The members of the Second Chamber are chosen direct by the electorate

when William the Silent led the rebellion against Philip II, Sovereign of Spain and of the Low Countries – the present Kingdoms of the Netherlands and Belgium.
The revolt resulted in the establishment of the Republic of the United Netherlands comprising 7 provinces. The descendants of William the Silent became Stadholders invested with various offices. The French Revolution brought about the end of the Republic and the Stadholdership, the Netherlands became a French vassal state.
In November 1813 the country regained its independence. Under the 1814 Constitution the son of the last Stadholder William Frederick, became Sovereign Prince of the United Netherlands.
On 16 March 1815 William Frederick assumed the title of William I and the Netherlands, which continued to include present-day Belgium until 1830, became a kingdom. The male line died out with King William III in 1890, and his daughter Wilhelmina, ascended the throne. During her minority, which ended in 1898, her mother, Queen Emma, was Regent. Queen Wilhelmina reigned for fifty years, abdicating in favour of her daughter Juliana in 1948. She died in 1962. The heir presumptive to the throne is Queen Juliana's eldest daughter, Her Royal Highness Princess Beatrix.

The Ministers and the State Secretaries

The Constitution lays down that the Sovereign shall be inviolable and that the Ministers shall be responsible. All Acts and Royal Decrees are signed by the Sovereign and countersigned by the Minister responsible for their formulation and implementation. As in other Western European countries, the ministers hand in their resignation on the eve of the general elections, which are held every four years in the Netherlands. To enable her to appoint a new Cabinet, the Sovereign seeks advice as to the current political situation and the desiderata and possibilities with regard to the formation of the Cabinet. The Sovereign's advisers are usually the Vice-President of the Council of State, the Presidents of both Chambers of Parliament and the leaders of all political groups represented therein.
After their informative talks with the Sovereign, the advisers submit reports on the discussions in writing. The Sovereign consults the reports before appointing a Cabinet 'formateur'.
After the 1971 elections an open debate was held for the first time in the Second Chamber to discover whether a proposal for a 'formateur' could be made to the Sovereign. No recommendation could be made, however.
Several times in recent years, when the formation of a new Cabinet has presented serious difficulties, the Queen has first appointed an 'informateur', to examine ways and means of solving the difficulties. An 'informateur' may also try to act as a mediator, withdrawing to make way for a 'formateur' as soon as his mission is fulfilled.
Once a Cabinet has been formed, the 'formateur' advises the Sovereign, who then formally appoints the ministers. In accepting their appointments the ministers, headed by the Prime Minister, also accept responsibility to Parliament. In the Netherlands it is considered preferable that the 'formateur' should serve as Prime Minister, though it has happened that he has had no function in the Cabinet he himself formed. Neither the new Cabinet nor the Government programme is formally approved by Parliament, nor is such approval required by law. The Cabinet as a whole or an individual minister may resign when it or he no longer wishes to bear responsibility, as for instance when Parliament rejects a Bill, passes an amendment that is contrary to government policy, or adopts a motion of no-confidence or censure.
The office of Prime Minister has come to be fully recognized in the Netherlands over the years and is, moreover, incorporated in the codified constitutional law. The Prime Minister is primarily responsible for co-ordinating the work of the various Departments.
The Minister of Finance occupies a special position in the Cabinet in that he can veto proposals to vote funds asked for by other ministers in the annual estimates for their Departments should he consider such proposals undesirable in view of the country's current financial situation. He also supervises the spending of moneys already voted to the various Departments, as the latter have to regulate their expenditure through the Ministry of Finance by opening a credit with the Ministry. Under certain circumstances the Minister of Finance may refuse to open a credit, in which case, if the Minister concerned insists on the planned expenditure, an appeal will be made to the Cabinet to mediate or to take a decision in the matter.
The Constitution makes provision for Departmental and non-Departmental ministers, the latter also being known as ministers without portfolio. Non-Departmental ministers are not invariably appointed in each Cabinet.
The Constitution has provided for the appointment

of State Secretaries since 1948. The Sovereign may appoint one or more State Secretaries in any Department, who may represent the Departmental Minister in such cases as the latter deems necessary.
A State Secretary acts as minister for that part of the Departmental activities assigned to him by his minister. At the same time, he must follow the directives of his minister. A State Secretary is not therefore a minister, nor is he a member of the Cabinet, although he may be invited to attend Cabinet meetings in an advisory capacity.
A State Secretary is responsible to Parliament for his actions when representing his minister. One may ask how he can be held responsible if he is to act in accordance with instructions from his minister. The fact of the matter is that, should he receive instructions for which he cannot accept responsibility, he must resign, just as a minister who cannot agree with a Cabinet decision must resign. A State Secretaryship is, then, a political and not an administrative function. The Constitution lays down that the State Secretary's responsibility for his actions does not prejudice the responsibility of the minister. The minister thus remains answerable to Parliament for what he has delegated to his State Secretary and for his State Secretary's actions. However, should Parliament decide to call the minister to account, it would in fact be encroaching on the preserve of ministers to delegate responsibility, which it would not do lightly.
When a minister resigns, his State Secretary automatically does likewise. On the other hand, when a State Secretary resigns, it does not automatically follow that the Minister under whom he served gives up his seat in the Cabinet. The Cabinet, or Council of Ministers, is composed of all the ministers, including those without portfolio, and is presided over by the Prime Minister, who is appointed by the Sovereign. The Council of Ministers of the Kingdom is composed of the Cabinet and the Ministers Plenipotentiary of both Surinam and the Netherlands Antilles.
The Cabinet's most important function is to co-ordinate government policy, it also has to approve all Bills. The Cabinet meets whenever necessary, it being customary for a meeting to be held at least once a week.
The agenda and minutes of the meetings of the Cabinet and of the various Cabinet Committees are secret, but may be made public by the Cabinet or the Committees themselves.
The Council of Ministers of the Kingdom discusses such affairs of State as also concern Surinam and the Netherlands Antilles. The Ministers Plenipotentiary of those countries then attend the meetings of the Cabinet and the relevant permanent and ad hoc Cabinet Committees. In special cases the Governments of Surinam and the Netherlands Antilles are also authorized to delegate ministers to take part in the discussions along with their Ministers Plenipotentiary in an advisory capacity.

Ministers of State

Ministers of State are appointed by the Sovereign on the recommendation of the Cabinet. It has only occured ten times in the last thirty years; the title is an honorary one given to deserving Dutch citizens, generally politicians or members of government who have retired from political life. Ministers of State fulfil no public office.
The Sovereign sometimes consults Ministers of State, for example when there are difficulties in forming a government. When faced with constitutional problems (e.g. ministerial responsibility in matters connected with the Royal House), the Government has also on occasion asked advice from Ministers of State with special expertise in politics and constitutional law.

Parliament

The parliament, known as the States-General, comprises a First and Second Chamber, the Second Chamber being the more important of the two.
The name States-General was originally used to denote a body composed of representatives of numerous regional units, all owing allegiance to one lord but otherwise independent of each other. The clergy, the nobles and the towns were represented in the States-General. During the Republic of the United Netherlands (which lasted from the end of the sixteenth century to the end of the eighteenth) the States-General was a more or less permanent body comprising representatives of seven provinces. When the Monarchy was established in 1814, the Provincial States (or Councils) continued to elect the members of the States-General, but the delegates were no longer meant to represent the provinces but the entire Dutch nation.
In 1815 the bicameral system was introduced under pressure from the representatives of Belgium, which was then part of the Netherlands. The First Chamber was to be a chamber of notables, appointed for life by the Sovereign. The Second Chamber

was elected by the Provincial Councils, which were in turn elected by the three estates (French: 'états') of the time: the nobles, the towns and the country. The political significance of the First Chamber during this initial period was very limited, and it was generally regarded as an instrument the Sovereign could wield whenever the Second Chamber made decisions which were not to his liking. When Belgium seceded from the Kingdom in 1839, the bicameral system was retained.

The great changes after 1848

The revision of the Constitution in 1848, which took place under the influence of the revolutionary movements outside the Netherlands, brought about great changes. Government 'by estates' was abolished. The members of the Second Chamber were chosen directly by an electorate whose qualification for the franchise was the payment of a certain minimum amount in national taxation as laid down by the Constitution. Direct suffrage was introduced in respect of the organs of local government, i.e. the provincial and municipal councils. The First Chamber was retained though its character was changed. It was now elected by the members of the Provincial Councils. Today it is very much a review chamber.
In the 1917 revision of the Constitution, the principle of proportional representation for the election of the Second Chamber was introduced, as was that of universal suffrage and the eligibility of women. The requirements for membership of the First Chamber were brought into line with those for the Second Chamber.
It was not until 1919, however, that universal suffrage for both men and women on the system of proportional representation was actually introduced. Only one exception to the rule of proportional representation was retained; i.e. the First Chamber continued to be elected by the Provincial Councils. Citizens of 18 years and older are entitled to vote. There have been 75 seats in the First Chamber and 150 in the Second Chamber since 1956.

Members of the First Chamber

The members of the First Chamber are elected for a period of six years; every three years half of them retire, but they are immediately re-eligible. The minimum age for a member of the First Chamber is 25. The member's expenses are reimbursed in accordance with a system laid down by the law. In addition the President receives an annual allowance. The President of the First Chamber is appointed by the Sovereign from among the members for a single session, the customary duration of which is one year.

Members of the Second Chamber

The members of the Second Chamber are elected for a period of four years. When the Chamber is dissolved the members are immediately re-eligible. The minimum age is 25 years. The President of the Second Chamber is appointed for each session, which usually lasts one year, by the Sovereign from a list of three nominees drawn up by the Chamber. It is customary for the man whose name heads the list to be appointed. The members of the Second Chamber receive a compensation and travelling expenses. The President and the Party chairmen are granted an additional allowance. Retiring members receive a pension.

Regulations relating to both Chambers

Nobody can sit in both Chambers at once. Ministers and State Secretaries cannot be members of either Chamber. They have the right to appear in both Chambers and to speak whenever they wish to, but they have no vote. Should they be elected to Parliament at a general election, they may hold their seat and continue in their function of Minister or State Secretary for a period of not longer than three months, during which time they must decide which function they prefer.
There are a number of other offices which a Member of Parliament cannot hold; he may not be a member of the Council of State, of the Supreme Court, of the General Auditing Court, nor may he be a Queen's Commissioner in the Provinces. Members of Parliament, Ministers and State Secretaries and their advisers cannot be prosecuted for what they have said in Parliament or for anything they have submitted to Parliament in writing. Parliamentary debates are open to the public though the public can be denied access if one-tenth of the members present should so desire, or if the President considers it necessary. The Chamber then decides whether the sitting shall be continued in secret. This may occasionally happen.
The Chamber may take decisions during a secret sitting. Parliamentary debates are sometimes broadcast on radio or television.
The ordinary session of the States-General is

opened on the third Tuesday in September by the Queen or by a proxy appointed by her. As a rule the Queen opens the ordinary session of the States-General personally by delivering the Speech from the Throne, in which she outlines the Government's programme for the coming year.

The Minister for Home Affairs usually prorogues Parliament by command of the Queen. The ordinary session of Parliament normally ends on the Saturday of the week directly preceding the opening. The Parliamentary session therefore lasts almost a year, but that does not mean that debates are held throughout the year. On the dissolution of one or both of the Chambers, Parliament is prorogued by the Sovereign.
The Constitution provides that certain matters like the opening and prorogation of Parliament shall be dealt with by both Chambers in joint sitting. The States-General then acts as a single body. The President of the First Chamber presides over the sitting.

The Legislature

The legislative power is exercised by the Crown and the States-General. The Sovereign transmits Bills submitted by the responsible minister(s) to the Second Chamber after they have been discussed in the Council of Ministers and the Council of State has made its recommendations. When Bills have been passed by the Second Chamber they go to the First Chamber. The Government is entitled to recall Bills which have not yet been debated in the First Chamber. While a Bill is before the Second Chamber, both the Government and the Second Chamber may amend it.
When a law applicable equally to Surinam or the Netherlands Antilles or both, and to the Netherlands in Europe is to be passed by the legislature, a Kingdom Bill is submitted to the States-General, which then acts as the Parliament of the Kingdom. After the Bill has been signed by the Queen and countersigned by the Minister or Ministers responsible, it becomes a Kingdom Act. The Queen sends the Bill simultaneously to the States-General and to the Representative Body of Surinam or the Netherlands Antilles or both. The latter have the right to examine the Bill and, if necessary, report their findings within a specified period of time, before it is publicly debated in the States-General. The Ministers Plenipotentiary of the countries to which the law will apply are given the opportunity to attend the debates on the Bill in the States-General and to participate in them as they consider necessary.
The Representative Bodies of the countries concerned have the right to send special delegates to the sittings of the States-General at which the Bill is to be debated, so that they too may furnish the Chambers with such information on the subject as they think fit.
The Ministers Plenipotentiary and the special representatives are entitled to amend the Bill during the debates in the Second Chamber of the States-General. Before the Bill is voted in the States-General, the Ministers Plenipotentiary of the countries to which the law will apply are afforded the opportunity of expressing their opinion on the proposals contained in the Bill. Should a Minister Plenipotentiary oppose the Bill, he may request the Chamber to postpone voting on it to a subsequent sitting. If the Chamber passes the Bill despite the Minister Plenipotentiary's opposition, but with a majority of less than three-fifths of the votes cast, the debate in the Chamber will be suspended, and further consultations will be held by the Council of Ministers of the Kingdom. When a special representative is present during the debates in the Second Chamber, the Minister Plenipotentiary's right to oppose a Bill passes to him.

The approval of international agreements

International agreements concluded by the Kingdom of the Netherlands must be approved by the States-General before they can enter into force, with the exception of certain categories listed in the Constitution.
Treaties and agreements are approved either tacitly or by the passing of an Act applying to the Netherlands or by a Kingdom Act, as the case may be. If the Government does not expect Parliament to call for a debate on the agreement, it submits it, with an explanatory statement, to the States-General and to the Representative Bodies of Surinam or the Netherlands Antilles or both, in cases where either or both of these countries are affected. If neither the Second or the First Chamber, nor thirty members of the Second or fifteen members of the First Chamber, nor, in the relevant cases, the Ministers Plenipotentiary of Surinam or the Netherlands Antilles or both, have expressed the wish to have the agreement approved by an Act of Parliament within thirty days of its being submitted to the

Government Buildings on the Hofvijver;
extreme right: the First Chamber.

States-General, it is assumed to have been approved by the States-General.
If, within the thirty days and on the said conditions, the wish to debate the agreement is expressed, the Government submits the appropriate Bill to the States-General.

The Government and the States-General

Whereas in legislative matters collaboration is required between Government and the States-General, in executive matters their relationship is marked by a certain dualism. The States-General controls the actions of the Government and the Civil Service.

Individual ministers are required to account for the actions for which they are responsible.
The instruments of control the States-General can use are:
1 the right to amend – or even reject – the budget,
2 the right to put questions to the Government,
3 the right of investigation,
4 the right of interpellation,

Right to amend or reject the budget

The annual budget is presented in the form of separate Bills for each Government Department. On being introduced into Parliament, these Bills are scrutinised by the Standing Committees of the Second Chamber – there being one for each Department – prior to being debated and voted upon by the plenary Chamber.

The Second Chamber can exert considerable pressure on Government policy by using its right of amendment, the right to make changes in the Bills, during parliamentary debates. It can delete and/or add Budget items. This does not often happen, however. The main object of debates on budget Bills is to enable the Ministers to account for the policy they have conducted and are still to conduct.

Right to put questions to the Government

The Standing Orders entitle members of the First and Second Chambers to put questions to the Ministers in order to obtain necessary information. The fact that they are allowed to do so is very important since members usually wish to ask questions on all manner of issues and events.
The questions are put and the answers given at public sittings. Many of the questions are submitted and answered in writing.

Right of investigation

The two Chambers, both separately and in joint sitting, have the right of investigation, as laid down in an Act of Parliament. The significance of this right is that the Chambers can, independently of the Government, inquire into matters relating to Government policy and certain conditions in the country. This right was granted the Second Chamber in 1848 and the First Chamber in 1887. The procedure to be followed is laid down in the relevant Act. This right of investigation has, however, seldom been used. Parliament has other and simpler means of obtaining information, viz. by inviting the Government to institute an inquiry in the absence of the desired information. It is usually to be expected that the Government will attend to such matters itself, since it is the organ of state that is best equipped to deal with the preparation of measures of all kinds.

Right of interpellation

Another major right of both Chambers is that of interpellation. This right is closely bound up with the constitutional obligation of ministers to furnish either orally or in writing, such information as may be desired by one or both of the Chambers unless it is in the interests of the nation that such information should be withheld. This right is therefore not exercised by each Member of Parliament individually; it is exercised by each of the two Chambers as a whole, although of course the actual interpellation is initiated by an individual member.
An interpellation concludes with a vote of thanks to the Minister for the information given, or, when considered necessary, with a motion embodying specific wishes or with a motion of no-confidence. The Ministers need not act in accordance with what is called for in a motion; they can ignore it. In practice this sometimes happens, although the Government will naturally try to put into effect the explicit wishes of the Chamber. Motions of confidence are never proposed. It is assumed that the Chamber has full confidence in the Government, until the opposite is proved by the voting in one of the two Chambers.
Motions can be introduced in any parliamentary debate, not only in the course of an interpellation.

Right of amendment

The Second Chamber has the right of amendment, which is not possessed by the First Chamber. This right, which is exercised a great deal, allows the Second Chamber to exert considerable direct influence on the content of the law. Should a Minister advise against the adoption of an amendment and it is made a question of confidence involving his portfolio, the Minister must resign if the amendment is adopted notwithstanding. If the Cabinet insists that the Minister retains his portfolio and threatens to follow suit if the Minister is forced to resign, the result is a Cabinet crisis. On the other hand, it may also happen that, if an amendment is nevertheless adopted, the Minister requests the Sovereign for permission to withdraw the Bill. If permission is granted the matter rests there, unless, of course, either Chamber objects to the Bill's being withdrawn and expresses that objection in a vote of no-confidence.

Right to initiate legislation

Another of the Second Chamber's rights is the right to initiate legislation. One or two members of the Chamber may introduce the Bills. When a Bill has been passed by the Second Chamber, it must first be approved by the First Chamber – where it is explained and defended by one or more members of the Chamber who have been specially delegated by that Chamber – before being submitted to the Sovereign for the Royal Assent and Signature. If the Bill is adopted, the relevant Act is countersigned by the Minister responsible for its implementation.

The procedure of each of the Chambers and of the joint sittings is laid down in the Standing Orders.

The two Chambers send delegates to international and supra-national parliamentary or semi-parliamentary bodies, such as the European Parliamant, the Council of Europe, the Assembly of the Western European Union, the Benelux Inter-Parliamentary Consultative Council and to the North Atlantic Assembly.

In the event of a conflict between one of the Chambers and the Government one of two courses of action may be taken: either the Ministers resign and the Queen appoints a new Cabinet, or the Chamber is dissolved and a new one is elected. If the Chamber is dissolved, elections for the new Chamber must be held within forty days and the first meeting must take place within three months of the decision to dissolve it.

The Council of State

The highest and oldest advisory body to the Crown is the Council of State.
The Council of State, together with the States-General and the General Auditing Court, comprise what are known in the Netherlands as the High Councils of State.
The history of the Council of State goes back to the sixteenth century, when an advisory body was set up under the name of 'Conseil d'Etat' by the reigning monarch.
A number of articles in the Constitution are devoted to the Council of State, and the Charter for the Kingdom provides for a Council of State of the Kingdom. The Council's composition and procedure are regulated by the Council of State Act of 9 March 1962 (Bulletin of Acts, Orders and Decrees 88).

Composition

H.M. the Queen presides over the Council of State. Other members of the Royal Family who have a seat in the Council are H.R.H. Prince Bernhard, H.R.H. Princess Beatrix and H.R.H. Prince Claus. The Council of State further comprises a Vice-President, and not more than twenty other members. Not more than ten additional members may be appointed to participate in special Council activities, in which case they have the same powers as the ordinary members. The Council is divided into Sections, each of which is concerned with one or more Government Departments. Each Section is composed of three members and is responsible for preparing matters to be discussed in the Council. There is a separate Section dealing with administrative disputes (see below).
The Council of State of the Kingdom may also include Surinam or Antillean members; at present there are no such members.

Function

The Sovereign lays before the Council of State all proposals to be submitted by her to the States-General or by the States-General to her, all draft General Administrative Orders and such agreements with other powers and international organisations as require the approval of the States-General.

The Council of State also considers drafts of annulment decisions to be taken by the Crown in pursuance of an Act of Parliamant.
Bylaws, for instance, thus may be annuled if they are contrary to the law or against public policy.
Finally, the Council is consulted as and when prescribed by law or a General Administrative Order. For example, the Expropriation Act lays down that the Council must first be consulted before certain decisions concerning expropriation are taken by the Crown.
The Council of State is authorised to recommend to the Crown subjects in respect of which it feels that draft legislation should be introduced into Parliament or that General Administrative Orders should be promulgated. The Council may also express its views on matters it considers to be of particular importance.
Section 46 of the Constitution lays down that in certain very exceptional circumstances – such as on the death of the Sovereign and until such time as a successor or regent is appointed, the Council shall be entrusted with the exercise of royal authority.

The Administrative Disputes Section

The Administrative Disputes Section is responsible for advising the Sovereign on appeals requiring a decision by the Crown. On the one hand there are special provisions governing appeals, which are laid down in numerous statutory regulations; on the other hand there is the more general appellate procedure as provided for in the Administrative Orders (Appeals) Act. With a few exceptions, this Act provides for appeals to the Crown against orders or decisions emanating from the central Government authorities. Under the special regulations the right of appeal is unrestricted, but under the Act it is made subject to four conditions (the order or decisions must be contrary to a generally binding statutory regulation, for instance, or contrary to equity as regards public administration).
The members of the Section are appointed by the Crown, the Vice-President of the Council acting as Chairman. The Chairman divides the Section into Chambers if necessary. At present there are eleven Chambers, to each of which the Chairman assigns a certain proportion of the overall activities of the Section. Each Chamber is composed of at least three and at most five members, including the Chairman. The interested parties are summoned to appear at a public meeting of the Section to set out their points of view either personally or through their attorneys.
The Section's recommendations are submitted to the Crown together with a motivated draft for the relevant Royal Decree. If the decision of the Crown deviates from the Section's recommendations (which, in practice, happens only in very exceptional cases), it is published, with a statement of the motives that have prompted the decision, in the Bulletin of Acts, Orders and Decrees, together with the report of the Minister who has countersigned it.
This report must contain the draft decree submitted by the Section.

The General Auditing Court

The origins of the General Auditing Court go back into the distant past. Early forms of auditing courts are known to have existed in the Middle Ages, when the Dukes of Burgundy ruled the Netherlands. They gradually evolved under the successive political systems into the body that in 1814 – when French rule was brought to an end and the Netherlands became a sovereign state – was given the name of General Auditing Court.
The Constitution of the Kingdom of the Netherlands lays down that there shall be a General Auditing Court whose composition and function shall be regulated by law. The Constitution also stipulates that when a vacancy occurs in the Auditing Court, the Second Chamber of the States-General shall submit a list of three persons to the Sovereign, who will appoint one of them to fill the vacancy.
The composition and function of the General Auditing Court are further largely regulated in the Government Accounting Act of 1927. In accordance with this Act, the Auditing Court is composed of three Members; in addition, two substitute Members are appointed.
When a vacancy among the ordinary or substitute Members occurs, the Auditing Court recommends six candidates to the Second Chamber of the States-General; in compiling the short list for submission to the Sovereign, the States-General takes the recommendations of the Court into account as it thinks fit.
Acting on the advice of the Council of Ministers, the Sovereign appoints the President of the Court from among its members. The Secretary of the Court is likewise appointed by the Sovereign direct from among the three persons proposed by the Court. The staff of the Auditing Court are

also appointed, promoted and discharged by the Sovereign on the recommendation of the Court, where the Court itself is not authorised to do so. The Members and substitute Members are, like the members of the Judiciary, appointed for life, though the law prescribes that they be retired on attaining the age of seventy. This is to prevent arbitrary dismissal. Only in certain cases laid down by law can they be suspended, removed from their function or dismissed by order of the Supreme Court. Their salaries are also fixed by law.
This system of appointing and discharging the Members, the Secretary and the staff constitutes a guarantee for the independence of the Auditing Court and its officials.
The work of the Court is carried out by six divisions, each with a number of sections. With a few exceptions, the sections work on the premises of the various Ministries. In many cases, auditing is also done on the spot by the various officers falling under the jurisdiction of the Ministries.
The Court's system of scrutinising State revenue and expenditure is essentially a post-audit system, i.e. the check takes place after the revenue has been recieved and the expenditure incurred. This system has proved to have at the same time a markedly preventive effect, especially with regard to expenditure. The Government Accounting Act further provides that all expenditure against the national Budget shall be subject to the approval of the General Auditing Court, which must confirm that the expenditure in question is included in the Exchequer Accounts, the final figures for which have been statutorily established. Furthermore, as regards Government securities and State undertakings, the law requires the Executive to account for its administration to the Legislature by submitting its annual accounts after they have been certified by the General Auditing Court.
The Court must approve the expenditure so long as there are no objections under the conditions of the Government Accounting Act, which relate exclusively to the legality of the expenditure. Should the Court withhold its approval on these grounds, it informs the Minister concerned, who – if he does not succeed in disposing of the Court's objections – will propose legislation to the effect that the expenditure nevertheless be included in the Exchequer Accounts by the Auditing Court.
The Minister concerned is thus obliged to account to the States-General for any expenditure not passed by the Auditing Court.
Not only is the General Auditing Court competent to examine the legality of the revenue and expenditure, in the light of budgetary enactments, statutory regulations and the formal requirements of financial administration, but it is also authorised to check on the efficiency of Government services as to structure and administration. The Court may not, however, withhold approval of expenditure on the grounds of its findings on the question of efficiency. It must, though, inform the Minister concerned of its comments and criticisms, and may report to the Minister of Finance and the States-General.
Given the size and diversity of the machinery of Government, it is obvious that the Court, with its staff of barely two hundred, cannot carry out the whole audit itself. To avoid duplication of work, therefore, it makes use, wherever possible, of the reports of the internal audit departments of the Ministries, duly making spot-checks to see whether the internal control is effected properly.
The Court reports its findings to the Sovereign each year. After the Ministers have been given the opportunity to add their comments, the Court's report is submitted to the States-General and published by the Second Chamber, thus exposing it to the scrutiny of the press and the public.
It will be clear from the foregoing that the way in which the position and function of the General Auditing Court are regulated enables Parliament and the nation to judge the Government's financial administration objectively, thus making an important contribution to democracy in the Netherlands.

Local authorities

Provinces

Introduction

With the exception of part of the newly reclaimed land in the former Zuyder Zee, the Netherlands is divided into eleven provinces, which differ greatly from one another in size and population density. Each Province is governed by a Provincial Council, a Provincial Executive and a Queen's Commissioner. They also have a Provincial Clerk [1].

Provincial Councils

The Provincial Councils represent the inhabitants of the provinces. Their members are elected by

[1] The first section of the 4th Chapter of the Constitution is devoted to the composition of the Provincial Councils, the second part to their powers. These are elaborated in the Provinces Act.

direct universal suffrage. The seats are divided between the participating political parties according to the proportional representation system. Members of the Provincial Councils are not eligible for certain functions such as those of Minister or Queen's Commissioner, nor can they be employed in the Provincial Executive. The members are elected for a four-year term. They all retire simultaneously and are immediately eligible for re-election. They must be 25 years of age. The number of members in each Council depends on the number of inhabitants in the province: the Provincial Council of South Holland, the most densely populated province, has 83 members; those of Zeeland and Drenthe have 47 members each. The meetings of the Provincial Councils are open to the public. Council members have their travelling expenses and board and lodging costs reimbursed and they also receive an emolument for attending the meetings of the Councils, the amount of which is fixed by provincial ordinance.

Provincial Executive

The Provincial Councils shall appoint from among their members a Provincial Executive charged with the day-to-day administration, this to be carried out in accordance with the statutory prescriptions. It is the Provincial Executive that is responsible for preparing and implementing provincial ordinances. The Provincial Executive in each of the provinces consists of six members, who are appointed for four years but are immediately eligible for re-election. They receive a salary and enjoy pension rights. The Provinces Act gives the Executive considerable supervisory power in respect of the municipalities and the District Water Control Boards. Decisions by municipal authorities concerning various legal transactions mentioned in the Municipalities Act must receive approval from the Executive. The Executive can request the Crown to annul or suspend bylaws if it believes them to be contrary to the law or against public policy. Furthermore, the Provincial Executive is designated as the coordinating and supervisory body in numerous statutory enactments in which certain functions are delegated to municipal bodies.

The Queen's Commissioner

In each province there is a Queen's Commissioner who is appointed by the Crown. He is the chairman of the Provincial Council and the Provincial Executive; he has a consultative voice in the former and in the latter an ordinary vote, or the casting vote in the event of an equality of votes.
The Queen's Commissioner is the representative of the central Government on the one hand and the supreme authority in the province on the other.
The instructions of the Crown relating to the duties of the Queen's Commissioners include, for example, the provision that the Commissioner must pay an official visit at reasonable intervals to all municipalities in his province. He must report any special findings to the Minister for Home Affairs within four months, and also to the Provincial Executive on matters specially concerning it.
As regards the appointment of Burgomasters, it is the duty of the Commissioner to put forward at least two nominees to the Minister for Home Affairs. The Commissioner also has executive duties; it is he who is responsible for maintaining law and order should riots or a rebellion break out.

The Provincial Clerk

The Provincial Clerk is appointed by the Council from a list submitted by the Provincial Executive. The Clerk is in charge of the Provincial Offices; he lends his services to the Queen's Commissioner in the Province and the Provincial Executive in all matters connected with the administrative duties entrusted to him. All documents emanating from the Provincial Council and the Provincial Executive are countersigned by him.

Legislation and administration

The Provincial Councils are responsible for administering the provinces. They enact such ordinances as they consider necessary in the interests of the province. Whenever an Act or a regulation of the Crown so requires, the provincial authority cooperates in the implementation thereof. The Constitution provides for two forms of legislation and administration in respect of both the provincial and the municipal authorities, namely: autonomous (the organisation and administration of their own territories) and joint (prescriptive cooperation in the implementation of measures enacted by higher authorities).
The law provides that autonomy shall be exercised by the Provincial Council except where it is vested in the Provincial Executive or the Queen's Commissioner by virtue of other statutory enactments. Whereas the Provincial Council is the

appropriate body to exercise the autonomous form of administration, it is laid down in the Provinces Act that the joint form shall in general be exercised by the Provincial Executive.
The Chairman and the members of the Provincial Executive are jointly and severally responsible to the Provincial Council for the Executive's administration and must give the Council any information called for, provided such cannot be deemed contrary to the public interest. They are not required to account for decisions in respect of disputes or for their supervision of the municipal authorities, except in so for as the broad outlines are concerned. There are plans to abolish this instruction.
Any decisions taken by the Provincial Council or Provincial Executive that are contrary to the law or to the public interest can be quashed or suspended by the Crown. The Queen's Commissioner has special powers in this respect, for the Provinces Act requires him to deal with and settle matters expeditiously. An ordinance is not enacted, however, if in his opinion it should be annulled because it is contrary to the law or to the public interest. He advises the Council or the Provincial Executive and the Minister for Home Affairs accordingly within twenty-four hours. If the Crown has not suspended or annulled the ordinance within a month, it must be implemented.

Finance

The estimates of provincial revenue and expenditure are drawn up annually by the Provincial Executive in the legally prescribed manner. It is divided into an ordinary and a capital section. Current expenses are listed in the ordinary section and investments and other capital expenditure which can be financed with loans are entered under the capital estimates. After the budget has been fixed by the Provincial Council it must be approved by the Crown to become effective. The Council is required to include in the budget such expenditure as the province is legally bound to incur. If it refuses to do so, the Crown intervenes.
The Provincial Executive submits an annual account of provincial revenue and expenditure to the Provincial Council.
The members of the Provincial Executive are personally liable, as is the Chairman thereof, for such expenditure as exceeds the provincial budget or for moneys which have been deliberately used for purposes other than those for which they had been intended in the budget.

Provincial and Municipal Funds for covering ordinary expenditure.

By virtue of their autonomous position, the provinces and the municipalities have their own sources of revenue, which enable them to carry out the work assigned to them within the framework of the distribution of functions between the various organs of Government. Round about the nineteen twenties, revenue was derived mainly from provincial and municipal taxation. Since World War I, however, the same problem has arisen in the Netherlands as has arisen in so many other countries, namely that the revenue from this source is no longer sufficient in view of greatly increased provincial and municipal commitments and because of disparities in local taxation capacity. As a consequence of this development municipal and provincial authorities have become more and more dependent on revenue from taxes levied by the State and divided up among the various local authorities according to criteria differing from those they themselves can apply for taxation purposes.

At the present moment the situation is such that the general revenue of the provinces and the municipalities consists for a large part of payments from national funds, namely the Provincial Fund and the Municipal Fund. These Funds are fed by the State's setting aside a fixed percentage of the revenue obtained through almost every form of national taxation. Local authorities also receive substantial grants-in-aid direct from the Exchequer to cover the cost of the special responsibilities assigned to them, such as education and police.
The revenue from municipal and provincial taxes is of minor importance, even though the municipal taxation areas were extended in 1970.
Legal provision has been made for the way in which the revenue provided by the Municipal and Provincial Funds is fixed and paid. As a rule these provisions also apply to the direct Exchequer grants.
In fixing the amount of payments from the two Funds, great care is taken to ensure that the independent position of the local authorities is not impaired and that they do not become too dependent on financial support from the Government.
The sphere of activities of the municipalities is much wider than that of the provinces. The total annual estimates in respect of municipal services and amenities amount at present to 9,000 million guilders, as against 760 million guilders for the provinces.

About 45% of municipal expenditure is covered by the revenue from the Municipal Fund, and 10% by municipal taxes. The remaining 45% of expenditure is largely covered by direct grants from the Exchequer. About a third of the provinces' total revenue is derived from the Provincial Fund; about 8% consists of provincial taxes. For the rest the provinces' expenditure is mainly covered by grants from the Exchequer.

Provincial and Municipal capital expenditure

Provincial and municipal expenditure is mainly financed through loans. The appropriate statutory regulations are based on the principle of 'fixed financing', which means that there must, generally speaking, be fixed forms of financing for a particular investment. If the economy is or threatens to be in a poor state the Government can fix a loan ceiling, that is a maximum amount that the provinces and municipalities may borrow.
If the situation on the capital market becomes so stringent that public bodies may not be able to receive their forms of fixed financing or that these may remain below the fixed loan ceiling, then the Government can prescribe 'central financing' by one or more institutions supervised by the State. These measures must be presented to the legislator for approval as quickly as possible.
In view of the tight capital market the central financing system is the one in force at the moment. Applications from municipalities for loans issued by the Bank for Netherlands Municipalities have to be submitted to the Minister for Foreign Affairs through the Provincial Executive. The Foreign Minister decides together with the Finance Minister which applications can be granted.

Municipality investments total around Dfl. 4,700 million a year, of which approximately Dfl. 3,200 million is financed from loans and about Dfl. 1,500 million out of the municipalities' own capital income.
Provincial investments amount to about Dfl. 460 million a year, approximately Dfl. 320 million coming from loans and around Dfl. 140 million from their own capital income.
In a number of cases the State contributes towards capital expenditure. Important examples are the contributions of the Ministry of Housing and Physical Planning for slum clearance and those of the Ministry of Transport and Public Works for improving traffic facilities. Within the framework of regional industralisation State contributions are also made to municipalities in development areas for projects to improve the infrastructure (building or improving roads, canals, bridges, etc.) and for social and cultural projects (community centres, indoor sports centres, swimming pools, etc.).

Municipalities

Under the Constitution there is only one administrative unit at local level. Every town, village or hamlet is incorporated in one of the 850 municipalities.
In the revised Constitution of 1848 the function of municipal governments was integrated into the overall administrative system. At the same time it was laid down that their composition and powers were to be regulated by law. From the administrative point of view, all municipal authorities are equal. However, since the municipalities differ greatly in size and population, this often gives rise to practical difficulties.

The composition of the Municipal Authority

Every municipality is administered by a Municipal Council, a Municipal Executive and a Burgomaster. Every municipality has also a Clerk.

The Municipal Council

The Council represents the population of the municipality. It is elected for four years by the municipal electorate in a manner similar to that in which the members of the Second Chamber and the Provincial Councils are elected. The number of Councillors depends on the population of the municipality. The smallest Municipal Council has seven members, the largest forty-five. The members must be at least 23 years of age.
Ministers, Queen's Commissioners in the Provinces, members of the Provincial Executive, Clerks to the Provincial Council and municipal officials are not eligible for election to the Municipal Council. The meetings of the Municipal Council are open to the public, but they may also be held in secret session should the Council so decide. The Council can take decisions on matters discussed in secret session. The Municipalities Act, however, excepts a number of important subjects which may not be discussed and on which decisions may not be taken in secret session; these generally have a bearing on financial matters. Councillors, like Members of

Parliament and Provincial Councillors, cannot be prosecuted for what they have said during meetings or what they have submitted in writing to the Council. The Council can appoint Standing Committees from among its members to undertake preparatory work on matters requiring the Council's decision. Standing Committees may also assist the Municipal Executive on certain questions relating to the administration of the municipality. The Council is authorised to delegate to the Committees certain powers held by it or by the Municipal Executive. Councillors may receive a fee for attending meetings, should the Council so decide.

The Burgomaster

The Burgomaster is appointed by the Crown for a period of six years. He can at any time be dismissed by the Crown. He need not necessarily reside in the municipality in which he is appointed; in fact he very rarely does. The Burgomaster is the Chairman of the Municipal Council, in which he has an advisory voice He is also Chairman of the Municipal Executive, in which he has an ordinary vote or a casting vote in the event of an equality of votes.

The Burgomaster signs all documents issued by the Council or the Municipal Executive, and is responsible for the implementation of their decisions. He receives a salary fixed by the Crown on the advice of the Provincial Executive. He is also accorded an expense allowance.

The Aldermen

The Aldermen are chosen by the Municipal Council from among their members. There are two Aldermen in municipalities with a population of 20,000 and less, three or four in those with a population or from 20,000–100,000 and four to six in such cases as the Council deems necessary.

The are elected for four years, but the Council is authorised to discharge them during this period should they no longer enjoy the confidence of the Council. This seldom happens, however. An Alderman receives a salary fixed by the Provincial Executive on the advice of the Municipal Council and subject to the approval of the Crown. He is eligible for a pension.

The Clerk

The Municipal Clerk is to the municipality as the Provincial Clerk is to the province. He is appointed and discharged by the Council. The Clerk assists the Council, the Municipal Executive, the Burgomaster and all the Council Committees in all matters. He countersigns all documents issued by the Council and the Municipal Executive. He receives a salary fixed by the Provincial Executive on the advice of the Council and subject to the approval of the Crown.

The Treasurer

The appointment and discharge of the Treasurer is regulated in the same way as that of the Clerk. In pursuance of the Municipalities Act, the Treasurer is responsible for collecting all municipal revenue and receipts and for making all payments from the municipal treasury. The Municipal Council, however, may decide to regulate this in some other way, but permission from the Provincial Executive is required before it may do so.

Legislation and administration

In municipal as in provincial government, there is both autonomous and joint government. Autonomous government includes the independent establishment of ordinances required in the interests of law and order, public health and municipal economy where no provision has been made therefor in superior enactments such as an Act of Parliament, a General Administrative Order or a Provincial Ordinance. In addition, the Council is invested with all such powers as are not specifically delegated to the Burgomaster or to the Municipal Executive.

The Council is thus the highest legislative and executive authority in the municipality. The Council may authorise the Municipal Executive in ordinances relating to the government of the municipality to make regulations on certain matters specified in those ordinances. The Municipalities Act also lists a number of items that fall within the Council's competence. These comprise the purchase, exchange, alienation, etc., of municipal property, the hire or lease thereof, fire safety regulations, the construction and maintenance by the municipality of a water supply system, streets, squares, canals and buildings, the putting out of tenders for public works, and discretion to institute legal proceedings.

The Council may draft penal provisions in respect of non-compliance with bylaws, subject to a maximum penalty of two months' imprisonment or a fine of Dfl. 300.

The Executive

The Burgomaster and Aldermen together form the Municipal Executive, whose activities include the preparation and implementation of the decisions of the Council and the control of revenue and expenditure in so far as these functions are not delegated by law to another body. With the permission of the Council, the Municipal Executive may delegate the implementation of a bylaw to municipal officials.
The Council may decide that the Municipal Executive shall exercise the powers of the Council, according to rules laid down by it, in respect of a large number of matters which properly come within its competency.
The members of the Municipal Executive are jointly and severally responsible to the Council for their part in the autonomous government of the Municipality, and they furnish such information in this regard as is required by the Council.

Joint administration

With regard to joint administration, the Municipalities Act lays down that whenever Acts, General Administrative Orders or Provincial Ordinances call for the cooperation of the municipal authorities, this cooperation shall be given by the Municipal Executive except in cases where the cooperation of the Council or of the Burgomaster is explicitly required. There are numerous similar Acts. The degree of independence they leave to the municipal authorities differs greatly according to the subject.

Supervision by higher authorities

The system of the unitary state means that municipal authorities are subject to supervision by
a the provincial authorities, and
b the central government.
This supervision is not arbitrary, but effected according to fixed rules. In practice it is only very rarely that the higher organs of government intervene in municipal affairs. In pursuance of the Municipalities Act, the decisions of the Council and the Municipal Executive are laid before the Provincial Executive whenever so required; the Provincial Executive can consequently acquaint itself with everything that happens in the municipalities. If the decisions of the Municipal Council or the Municipal Executive are contrary to the law or to the public interest, they can be suspended or revoked by the Crown by Royal Decree, which also states why the step has been taken and which must be published in the Bulletin of Acts, Orders and Decrees. Before proceeding to a decree of nullification, the Crown must consult the Council of State. The Municipalities Act also makes mention of a number of decisions relating to municipal property, the most important of which generally have financial consequences and require the approval of the Provincial Executive. In such cases approval can only be withheld on the ground of their being at variance with the law or public interest or with the financial interests of the municipality. Decisions in respect of estimates of revenue and expenditure must likewise be approved by the Provincial Executive.

Furthermore, the Council must request the approval of the Crown with regard to the introduction, alteration or abolition of municipal taxation.
Bylaws containing penal provisions must also be submitted to the Provincial Executive. Like the Queen's Commissioner in the Provinces, the Burgomaster has special supervisory duties. He will not implement a decision which in his opinion should be revoked by the Crown as being contrary to the law or to the public interest. If the Crown has not decided to suspend or revoke the decision within thirty days, however, he is bound to proceed to its implementation.

Public Order

Certain executive duties are assigned to the Burgomaster in various Acts, such as those concerning civil defence, the police, the fire services and the extraordinary powers of the civil authorities. The maintenance of law and order in the municipality is the Burgomaster's special responsibility, and the police serving in the municipality are under his command. He supervises all theatres, hotels and catering establishments and all public buildings and meetings as well as places of public entertainment.
He sees that no performances are given which would prejudice public order or morals. Accordingly, the Burgomaster can for example ban a theatre performance or meeting which he has reason to believe might lead to a disturbance of the peace.

The Budget

The Municipal Executive is charged with drafting the annual budget of revenue and expenditure. This is done in accordance with directives given by the Crown after consultation with the Provincial Executive. The budget is divided into an ordinary and a capital section. The former comprises current expenditure and the latter investments and other capital expenditure which may be financed from loans. The Council actually fixes the budget but it is subject to the approval of the Provincial Executive. If the Provincial Executive withholds its approval, the Council may appeal to the Crown. Should the Council refuse to include a legally prescribed item of expenditure in the budget it will be incorporated by the Provincial Executive. Each year the Municipal Executive renders an account of municipal revenue and expenditure, submitting the accounts it has received from the Municipal Treasurer or another official appointed by the Council with the consent of the Provincial Executive.
The Council fixes the amount of revenue and expenditure provisionally, the account being finally closed by the Provincial Executive. Should malafide items of expenditure occur in the accounts, the Burgomaster and the Aldermen are personally answerable to the municipality. The finances are subject to control by chartered accountants in accordance with regulations drawn up by the Council. Council decisions relating to the introduction, alteration or abolition of local taxes must be approved by the Crown.

Municipal Funds

This subject is dealt with in the chapter on the provinces ('Provincial and Municipal Funds for covering ordinary expenditure' and 'Provincial and Municipal capital expenditure').

Cooperation between municipalities

Municipalities are public bodies called upon to serve a great many interests in a small area. In a very densely populated country, where the built-up area of one municipality lies close to that of the next, certain interests can clearly be served more efficiently by two municipalities together than by each municipality separately.
The Joint Organisation Act, 1950, provides the legal basis for cooperation between municipalities. Some powers, for instance, can be delegated by the cooperating municipalities to a body set up in pursuance of this Act; this may entail the constitution of a corporate body, in which case it is even authorised to enact bylaws. Once a municipality has transferred such powers, it cannot continue to exercise them itself. The Act also provides for cooperation between corporate bodies and municipalities. In that case, however, the corporate body must obtain a statement from the Crown to the effect that it may cooperate in the promotion of interests which the municipality and the private institution are planning to serve.
Municipalities may also cooperate under private law, the procedure then being to establish limited liability companies, associations, etc. However, the Act gives preference to cooperation under public law so that supervision can be exercised by higher authorities. Municipalities can be compelled to cooperate but only in forms under public law.
According to the Act referred to above, Provincial Councils may in principle enforce such cooperation. The procedure for this is attended by a large number of guarantees, since the legislator prefers not to interfere with the powers of the local authorities. In practice compulsory cooperation in accordance with this Act is seldom enforced. What has been said here about the municipalities applies mutatis mutandis to the provinces, which may cooperate both with each other and with the municipalities, although the Joint Organisation Act makes no provision for imposed cooperation between the provinces. The law has for some time also provided for cooperation between the municipalities and the water control boards. A separate Act is required for cooperation with the central government.

The Joint Organisation Act, in its present form, provides insufficient scope for such a course; it makes no provision for the promotion of a more or less indeterminate complex of interests nor does it empower such a regional authority to make its decisions binding on the participant municipalities. Moreover, the Act makes no provision for the direct election of the executive members of such bodies, nor does it contain adequate financial regulations. An amendment to the Act is now in course of preparation.

Adjustment of municipal boundaries

It is stipulated in the Constitution that the sub-

division and amalgamation of municipalities, the creation of new municipalities and the adjustment of municipal boundaries must be regulated by law. The Municipalities Act specifies the exact procedure to be followed for the enactment of such a law, the main principle of which being that the municipal and provincial authorities shall be closely concerned with the preparation of the relevant Bill, and that, since the adjustment of municipal boundaries is regulated by law, every proposal to that end is subject to the approval of the States-General. Proposals to adjust municipal boundaries can be made by the Municipal Council in question, the Province or the Crown (the Ministry of Home Affairs). It was usual for the municipal authorities to take the initiative, since it is they who feel most keenly the need to change the existing situation. In recent years it has, however, been an increasingly common occurrence for all municipal boundaries in a specific region to be adjusted. In such cases the initiative is usually taken by the Provincial Executive. Many amalgamations have been carried out since 1960, often for the reasons that the historical boundaries no longer correspond with modern needs. Moreover, the expansion and development which are a feature of present-day society make it necessary to form larger municipalities.
The administrative structure plan which is currently being worked out in cooperation with the provincial and municipal authorities can prove useful in reorganising municipalities in the future. New municipalities are generally only created in areas reclaimed from the sea.

Regions

The area over which a citizen generally conducts his affairs nowadays covers more than one municipality. The discrepancy which has thus come to exist between the borders of a citizen's activities and the municipal boundaries will necessitate a systematic scaling up of local administrative activity to prevent more and more deficiencies from manifesting themselves.
Consequently an attempt is being made to reorganise local government in two ways: by combining municipalities, and by regionalisation. Since the necessary formal legal framework for regionalisation is lacking, a Regions Bill is in course of preparation. The idea on which the Bill is based is that the region will have to form an addition to the existing local authority organisation. It will have to place the varied activities of the community under a common administrative denominator, while maintaining the municipalities in their present form, even if their responsibilities are enlarged.
The region will have to bring about an agglomeration of powers to perform local authority tasks which relate to community life as a whole and go beyond the competence of the individual municipalities.

Briefly, the Regions Bill comprises the following provisions:
1 The Crown shall have the power to form regions.
2 A region shall be administered by a Regional Council, an Executive and a Chairman.
3 The Regional Council shall comprise directly elected representatives.
4 Meetings of the Regional Council shall in principle be public.
5 The Regional Council shall decide on a development programme which presents the broad outlines the development is to take and states how and at what rate the objectives set out in the programme should be realised. The programme must cover all the aspects of government administration which are relevant to the development. It should be the focal point around which the region's policy is formed. Direct implementation and coordination by the region must be adjusted to the programme and be based on it.
6 All regions shall be given the same set of direct responsibilities. Individual regions may be assigned additional responsibilities. It shall be possible to accord the regions municipal authority to help them perform their duties.
7 A region shall have a coordinating function and shall to this end possess the power to give the municipal executives guidelines and binding instructions.
8 A region shall be granted the authority to enlist the cooperation of the municipal executives in carrying out its bylaws.
9 A region shall be financed from a contribution from the central government in addition to income from its own taxes. At the same time there may be a reduction in the contributions made to the municipalities.

Water Control Boards

What is a Water Control Board?

Some of the water control boards, like the municipalities, have their origins in the distant past.

A few date from the twelfth century. Although in the past the task of the water control boards was much broader, the present water control boards can be described as public bodies that are responsible for carrying out duties with respect to water control. Although the water control boards have specific areas of jurisdiction their terms of reference are based on function rather than geographical limits. This is why water control boards are referred to as a kind of functional decentralisation, while the provinces and the municipalities are territorially decentralised.
Water control boards are set up by the Provincial Councils. The latter also lay down regulations governing the task, powers and composition of the boards. However, the task of the water control boards is not always fully defined in the regulations. When this is the case their task is considered to lie along traditionally followed lines. State legislation incorporates few regulations concerning water control boards. This means that there may be quite large differences in the task, power and composition of the water control boards in the various provinces. The scope of the water control boards may vary considerably. Since the thirties there has been a tendency towards combining boards. In 1950 there were still approximately 2,600 water control boards; this number has currently decreased to around 850.

Composition

In most cases the boards are formed from two organs, a general council and an executive committee. Various names are used for both organs. The general council has always been chosen by the owners of the land which is affected by the water control boards. In the case of very small water control boards it is made up by the owners of the land themselves. Later on owners of buildings which lay within the water control boards' area of jurisdiction were also gradually given a voice in the council. In the case of water control boards whose job it is to fight water pollution, representatives from persons who pollute the water and therefore pay a levy to the board also sit in the council. As a rule, the executive committee, a small body, is elected by and from the general council.
The members of executive committees of water control boards which have an important function regarding water defences and of a few other large water control boards are however appointed by the Crown on the recommendation of the general council.

Function and powers

Responsibility for water defences, water level and the drainage and supply of water mainly to prevent silting have long been the tasks of the water control boards. Sometimes highways and in a few cases the upkeep of waterways have been included. Recently the quality of water has become another of the boards' concerns. These tasks are not always carried out by a single water control board in the same area. Responsibility for water defence and the quality of the water are sometimes given to separate – often larger water – control boards.

To help them carry out their tasks the boards have been granted a number of powers. Besides implementing provincial bylaws, most of the water control boards have been given the authority to frame, with the approval of the Provincial Executive, their own bylaws, for which penalties are fixed if they are infringed. They also have the necessary power to ensure that the bylaws are observed. The boards can fine persons who infringe the regulations or if necessary resort to the law. Resorting to the law means that the water control board can take steps to remedy infringements of the regulations at the expense of the offender.

Supervision by higher authority

The Constitution of the Netherlands makes the Crown responsible for the general supervision of everything connected with water control. The provincial authorities supervise the water control boards.
So far as the water control boards are concerned, general supervision with regard to water control manifests itself first and foremost in the requirement of approval from the Crown for provincial regulations concerning water control boards and the right of appeal to the Crown, a right which in many cases is given to interested parties in respect of decisions of the provincial authorities relating to the water control boards.

The supervision of the provincial authorities is especially apparent in the approval of the Provincial Executive which is necessary for the most important decisions, the power to annul decisions which have not been submitted for approval, if they conflict with regulations of higher authority or with the public interest, and the right of appeal which is in some cases granted to the Provincial Executive.

Financial Resources

A tax is levied on the owners of property in the water control territory concerned.
The tax is based on the interest the property owners have in water control activities, e.g. on the area of land. In addition, water control boards which have tasks within the framework of the Pollution of Surface Waters Act impose, on the basis of the Act, a tax on those persons who are responsible for polluting surface waters.
The financial resources of the boards are mainly supplied by the income from these taxes.
The water control boards are also subsidised by the provincial and central government, especially when the work undertaken by them is not or not only in the interests of those liable to a levy or when their financial responsibilities become too great.

The Union of Netherlands Municipalities

The Union of Netherlands Municipalities was founded in 1912. It was an embodiment of the desire for organised cooperation that has manifested itself in so many spheres since the turn of the century. Since 1950 every municipality in the country has been a member of the Union, which was set up as a private body.

Activities

The work of the Union of Netherlands Municipalities can be divided into activities on behalf of all its members jointly and each member separately, and the specialised services it operates to which the municipalities can have recourse on payment of a fee.
The activities of all members relate to the maintenance of the principle of municipal autonomy, even though the need for increased coordination on a national scale arising from swift developments in many fields at home and abroad is also acknowledged in municipal circles. The Union guards against legislative and administrative measures emanating from the central and provincial authorities which fail to make due allowance for municipal interests and it is especially solicitous to maintain local administrative powers, which it does by fostering a satisfactory financial relationship between the State and the municipalities. The collective standpoint to be taken in this connection in representations to the Government and/or one or both of the Chambers of the States-General, is determined in the Standing Committees of Representatives of the members of the Union, sometimes also in hearings, and, in exceptionnally weighty municipal affairs, at conferences convened specially for that purpose.

It has become more and more customary, particularly since the war, for the central Government to consult the Union on all matters affecting the municipalities, for representatives of its members to be included in national and provincial commissions, and for the Union to be consulted to a greater extent on Bills, General Administrative Orders, etc. It is noteworthy that relations between the Union and Parliament and its members are most amicable in all those cases in which municipal interests are involved.
The Union's activities on behalf of its individual members include the giving of advice on all aspects of public administration, both on pure administrative matters – legislative and executive – and on more specialised questions relating to building regulations, etc. The Union also furnishes legal advice in administrative or other disputes heard in ordinary courts, administrative courts or the Council of State, and in tax cases. The Union also arranges for the lending of documentary material, such as copies of proposals made in municipal councils, ordinances and books.
In addition, it carries out for a fee, socio-geographic and administrative research for municipalities in these municipalities.
On payment of a fee municipalities can also make use of the services of three specialised Union offices, which each operate under their own management.

1 The Central Auditing and Financial Advisory Office: At the request of affiliated municipalities this Office undertakes the statutory auditing of municipal accounts and of the annual accounts of companies and institutions run by the municipality. It also carries out the statutory control of funds administered by municipal accountants and of their books. The Office furthermore advises municipalities in matters of finance and business administration.

2 The Central Organisation, Documentation, Registration and Personnel Management Office: In the field of personnel management, the services of this office include advice on the setting up of a personnel department, personnel selection and rating, job classification and remuneration, psychological testing and training, and, in the organisation and efficiency sector, advice on the structure of municipal government, staffing, working aids and methods, housing and municipal rates.

This Office deals also with the classification and keeping of municipal records according to modern methods based on the Universal Decimal System (number 35 of the U.D.C.), and carries out the necessary checks. Not only municipalities avail themselves of the services of this Office, but also provincial authorities. Ministries and other government bodies as well as some of the agencies of the European Economic Community.

3 Central Purchasing Office:
The purpose of this Office is to supply good-quality articles at low cost and to help cut down municipal expenditure by combining orders and by standardisation. It supplies office and archive requisites, stationery and teaching aids from its own stores and arranges for ex-factory deliveries of office furniture, house numbers, street and traffic signs.

Publications

The Union publishes a number of periodicals for its members: the weekly, 'De Nederlandse Gemeente' (The Dutch Municipality), the monthly, 'Gemeente-financiën' (Municipal Finances), the bi-monthly, 'Bestuurswetenschappen' (Administrative Science), various publications on specific aspects of public administration, and a loose-leaf publication entitled 'Officiële Bekendmakingen' (Official Notices) in which all Acts, General Administrative Orders, ministerial circulars, provincial ordinances and the judgments of ordinary and other courts of concern to the municipalities are published.

Other bodies

The Union is in close contact with the following bodies, some of which were set up on the initiative of the Union of Netherlands Municipalities:
- The Municipal Finance Council;
- The Central Council for the Joint Handling of Municipal Personnel Affairs;
- The Secretariat of the International Union of Local Authorities, (IULA);
- The Institute of Administrative Science;
- The Municipal Mutual Fraud Risk Insurance Society;
- The Association for the Testing of Building Structures and Building Materials;
- The Technical Advisory Bureau of the Union of Netherlands Municipalities;
- The Netherlands Municipalities Bank;
- Institute for the Promotion of Automation by Municipalities Authorities.

In addition, the Union is represented in about one hundred and fifty bodies and commissions wholly or partly concerned with public administration.

The electoral system

Introduction

In the Netherlands the members of the Second Chamber of the States-General, the Provincial Councils and the Municipal Councils are elected by universal suffrage. The members of the First Chamber are elected by the members of the Provincial Councils of the eleven provinces. Universal male suffrage was introduced in 1917, universal female suffrage coming in two years later. All Dutch subjects are entitled to vote in parliamentary elections, provided they are 18 years old or over and are resident in the Netherlands on voting day. The Provincial Councils and Municipal Councils are elected by those eligible to vote in the province or municipality concerned. Voting is not now compulsory. Every municipality has its own electoral roll compiled from the civil register of residents.

Proportional representation

People vote according to the system of proportional representation, an electoral system in which the distribution of seats is related as closely as possible to the number of votes per representative body throughout the country, province or municipality. The main features of this system are:
a candidate lists;
b the whole country forming one constituency; and
c a single preferential vote.
Candidate lists signed by at least twenty-five electors may be submitted to the Electoral Council on nomination day. An elector may not sign more than one list. In the Netherlands the political parties themselves do not propose candidates, though they are of course closely concerned with the preparations for their nomination.
For the purposes of the election of the Second Chamber the country is divided into eighteen electoral districts. Candidate lists may be combined, provided a joint written declaration to that effect is submitted

to the Electoral Council. The country is regarded as a single constituency; a party bent on winning the maximum number of seats will submit a list in each of the electoral districts. When a list of candidates is handed in, it must, if it belongs to a party not represented in the Second Chamber, be accompanied by a declaration confirming that a deposit has been paid into the Treasury. This deposit is refunded after the election if the number of votes for that list is more than 75% of the quota; it is otherwise forfeited to the State. Thus a party which has been conspicuously unsuccessful in the elections could forfeit its deposit eighteen times. This measure is intended to preclude the formation of small parties. The whole country being one constituency, the seats are divided among the parties which have attained the quota. The quota is arrived at by dividing the total number of votes in the whole country by 150 (the number of seats in the Second Chamber). In 1972 the total number of votes was 7,394,045. The quota was therefore $7{,}394{,}045 \div 150 = 49{,}293\ {}^{19}/_{30}$. The number of seats that can be alloted direct to each candidate list is then fixed. The rest of the seats are, according to a special system, allocated to the parties that have obtained the most votes per seat.

The Electoral Council is the highest authority in all matters relating to the elections. It consists of five members and three deputy members. The decisions of the Council on the outcome of the election of both the First and Second Chambers are binding. For the provincial elections each province is also divided into electoral districts, varying in number from two to ten. For municipal elections the municipality usually forms a single electoral district, but may be divided into two or more wards if the number of inhabitants exceeds 20,000. This division in no way alters the single constituency principle, but it is important in that it does full justice to regional and local factors in the nomination of candidates. In practice the names of the same candidates often appear on all the lists of a particular party, although sometimes in different order. Moreover, the names of certain candidates who are very popular in a certain area are placed at the bottom of the candidate list among the names of those who are almost certain not to be chosen, with the object of attracting votes to the party concerned.

The elector votes by colouring a white dot in a black square red beside the name of the candidate of his choice. A few years ago mechanised voting became possible. The municipal authorities have to decide whether to use this system or ballot papers. The members of the Second Chamber of the States-General, the Provincial Councils and the Municipal Councils are elected for a period of four years. The elections for each of these bodies are not usually held in the same year.

Nomination day for the Second Chamber is the second Tuesday in April, for the Provincial Councils the second Tuesday in February or the first Tuesday in February should polling day otherwise fall in the week before Easter.

Nomination day for the Municipal elections is the third Tuesday in April. The elections are held on the forty-third day after nomination day. Only in the case of the Chambers being dissolved does the Crown fix the date for parliamentary elections.

Polling stations

Before polling day every voter receives a personal invitation to appear at a specified polling station between 8.00 a.m. and 7.00 p.m. The ballot is secret. The electoral laws lay down that every voter shall be given the opportunity to participate in the elections. After the polling stations have closed at 7.00 p.m., the votes are counted and apportioned among the lists. The number of votes for each candidate are also counted. The votes are counted in public. Every voter is entitled to raise objections to any part of the procedure, and these objections must be included in the report drawn up by the polling station. All ballots and other documents are sealed and taken to the main polling station of each electoral district. There all the data are compiled and sent to the Central Polling Station where the election results are worked out. The Central Polling Station – which is the Electoral Council in the case of parliamentary elections – announces the names of the winning candidates. The documentary proof of their election is examined by the body to which they have been elected and to which they are admitted once all the legal requirements have been fulfilled.

The procedure for the election of members of the First Chamber is almost identical to the procedure just described. These members, however, are chosen for a period of six years, half of them retiring every three years. When the First Chamber is dissolved, all seventy-five members retire at once and new elections are held. In that case lots are drawn to decide which of the newly elected members shall retire after three years. Nomination day is the second Tuesday in June; polling day is twenty-two days later. When the whole Chamber retires, the Crown fixes the dates of the new elections. The members of the Provincial Council propose the candidates. Every member of the Provincial Council is entitled to submit a list of candidates which may not contain more than fifteen names. The elections are held during a sitting of the Provincial Council, the votes being counted during the same sitting. The results are sent to the Electoral Council, which works them out and announces the outcome.

Development of the party system since 1848

1848–1887

The revised Constitution of 1848 laid down that the Sovereign should be inviolable and that the Ministers should be responsible. This provision allowed for the gradual expansion of Parliament's influence – primarily by granting the directly elected Second Chamber greater authority and assigning to the thenceforth indirectly elected First Chamber a primarily corrective function instead of a legislative one. Although the Sovereign took account of the prevalent trends in Parliament and was wont to dismiss ministers in whom Parliament had clearly lost confidence, a certain amount of opposition had to be overcome before it became an established rule that the government had to have the full confidence of Parliament and its composition had to be determined by that of the Second Chamber.
The great trial of strength followed in the years between 1866 and 1868. A Conservative administration governed with a hostile majority in the Second Chamber and the Chamber itself was twice dissolved after rejecting the Budget.
During this period the franchise was restricted to a mere 3% of the population. The 1887 revision of the Constitution, which provided for a substantial extension of the electorate, helped to transform the political scene. And so the second period began.

1887–1917

The 'schools issue', that is the problem of improving the position of the denominational schools in relation to the state schools, which have a privileged position, the extension of the franchise and the social question were the most important political issues of the period 1887–1917. The composition of the Second Chamber now determined the composition of the government. In Parliament, political life was dominated by the opposition between right and left. The right was formed by the confessional parties – Protestant and Catholic – which usually managed to present a united front. In the vanguard of the left stood the 'Latitudinarian' parties; i.e. the Liberals who were now split up into other liberal and radical parties. In addition there were the Social Democrats, who grew into a large party during the period. The government was alternately in the hands of the right and the Latitudinarians; towards the end of the period the latter were able to govern only if and when they received support from the Social Democrats in Parliament. A new period was ushered in when the right and the left agreed in Parliament on an amendment to the Constitution introducing universal suffrage (for men in 1917 and for women in 1919) and proportional representation, and making provision for a generous subsidy to denominational schools. Schools founded upon private initiative on the basis of religious convictions and, later, also educational principles.

1917–1940

The third period can be regarded as having started in 1917 (the year of the amendment to the Constitution) or 1918, the year in which the first elections were held according to the new system. During the entire period of 1917–1940 the right had a working majority in the Second Chamber, and governments were thus predominantly right wing, occasionally forming coalitions with liberals and radicals. The Social Democratic Party was now the biggest opposition party. The latitudinarian parties had lost many seats after the changes in the electoral system, and their position continued to deteriorate. The influence of the ideological revolutions outside the Netherlands began to be felt. Communists were now represented in every Parliament, though with only a small number of seats, and the National Socialists began to win a relatively modest number of supporters. This period was characterised by party-political fragmentation. In 1939, Socialist ministers held office for the first time in an extra-parliamentary 'Emergency Government'. The German Occupation interrupted normal political life, but at the same time prepared the ground for the emergence of new currents that were to revitalise it. Thoughts turned to breaking down the numerous barriers between parties and to the formation of parties of a wider and more national character.

The Second Chamber in session.
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1945–1966

Certainly there were differences in the political scene during the first twenty years following the liberation in 1945 compared with the period 1917–1940, but there was no question of a radical change. The confessional parties (Catholic and Protestant) felt themselves threatened by the partially successful efforts of the Socialists to win over their supporters, who were drawn from all classes, but managed to hold their own reasonably well. The Liberals experienced a strong revival. The Communists, having experienced a surge in popularity immediately after the Second World War, rapidly lost support and played only a marginal role.
The number of minor parties was small, particularly in the decade immediately following the war. More and more protest parties gradually began to appear again, however, nourished by dissatisfaction at the caution of the large parties.
Because of the distribution of votes between the large political parties coalitions had to be formed, in which the Socialists took part.
With the presence in Parliament of a powerful Socialist group the direction of Government policy underwent a marked change with the introduction of a policy which had every appearance of being progressive. Expenditure on development cooperation, education and other public and social services was substantially increased, particularly under the Cals administration (Confessional/Socialist). This factor, combined with a decline in economic activity, gave rise to financial difficulties and confidence waned rapidly, particularly in Catholic party circles. Disagreement on budget policy brought about the fall of the Cals administration during the night of 13–14 October 1966.

1966 to the present day

The night in which Mr. Schmelzer, chairman of the parliamentary Catholic People's Party (KVP), brought down the cabinet which relied on his adherents for support, is considered by many to mark a turning point in political relationships. 'Schmelzer's night' shattered the faith of a great many voters in party and power politics and brought to the surface growing tension within the established parties. Reform movements insisted on a drastic revision of the political system and in the confessional parties the dividing line between supporters of progressive policies and those of more conservative policies became more and more clearly defined. Slowly but surely the state of great political stability which had for so long been an outstanding characteristic of the Netherlands came to an end. This stability was largely a result of the ideological fragmentation of society which had in fact already existed in the 19th century but was further developed organisationally in the present century.

In this structure the parties were based on principles and their outlook on life. There was no question of a progressive/conservative division; there were the confessional parties on the one hand and the Socialists and the Liberals on the other. The sharp distinction between the confessional and ideological groups – Catholic, Protestant, Socialist and 'neutral' existed not only in party politics but had also a decisive influence on organisations in other sectors of community life such as trade unions, education, leisure activities (societies and clubs) and broadcasting.
The ideological divisions led to a high degree of automatism; a Catholic for example generally voted for a Catholic party, had a Catholic education, was a member of a Catholic football club, a Catholic broadcasting organisation and a Catholic trade union. As long as this structure functioned efficiently, election swings were obviously relatively small.
The electoral system of proportional representation without constituencies and with, at that stage, compulsory voting, tended to work against fluctuations in the power balance in Parliament.
The fifties represented the pinnacle in the years of stability. In home affairs the pursuit of the welfare state was broadly upheld by all major parties. Ideological differences became more blurred and rapid technical and economic developments overshadowed political controversy. Public interest in politics diminished considerably. In foreign affairs the Democratic parties, partly as a result of the cold war, supported almost unanimously the endeavour to strengthen the Atlantic Alliance and work towards a united Europe.
The sixties saw a radical change in the situation. Revolutionary developments in science and technology affected established values. The spectacular increase in prosperity allowed people to reconsider aims, norms and values which up to that time they had taken for granted. The influence of religion and particularly that of the organised churches diminished perceptibly. Standards which had been accepted quite naturally for generations were called into question. The cold war between the East and the West became less intense. A generation grew up which had no conscious

experience of war. Standards which had fostered unanimity for almost 20 years, lost their force, and there were no binding alternatives to take their place. Though similar developments were taking place all over the modern world the Dutch party structure was particularly affected by the change in outlook because the unity of the parties was so dependent on the principles for which they stood. A wave of dissatisfaction with the existing system broke out. Young people especially, both in politics and outside it, such as at the universities, directed their criticisms at the existing political system and in particular at the way the government was formed.

The necessity of forming coalitions because of the lack of clear majorities often led to processes that were tedious and involved. Once formed such a government had quite a large degree of independence in relation to parliament because of certain factors:
a the final result was a compromise among the parties;
b the tradition of great personal responsibility of a cabinet once formed (ministers may not sit in parliament);
c the tradition of an independent and apolitical civil service.
The electorate scarcely seemed to have any voice in this system. Different groups therefore came up with more and more insistent demands for a radical democratisation of politics. Their slogans demanded more 'clarity' in politics, and more co-determination for the individual. Voters had to have more direct influence in the choice of government and the implementation of government programmes. These groups became increasingly firm in their rejection of negotiations and compromises after elections. They maintaned that parties or groups of parties should present a programme before the elections which, if they gained a majority, they would be able to put into practice without doctoring it.
These desires promoted the formation of concrete programmes which exposed political differences within the existing parties. In nearly all the large parties greater or lesser radical influences came to the fore with demands for clear progressive policies and far-reaching changes in society. These developments left none of the large parties undisturbed. After heated internal discussions, particularly on foreign policy and defence, the Socialists moved more to the left. The differences of opinion within the confessional parties about whether to cooperate with the Liberals or the Socialists became noticeably more serious. All parties lost votes to a new progressive party, Democrats '66 (D'66) which set itself the main task of breaking down the traditional political structure. The Democrats initially looked like becoming a large party, but as the other parties plunged into reform, the Democrats' growth gradually lessened. In 1972 and 1973 they suffered heavy election defeats. For some people however the realignment of the large parties went too far. In 1970 a group of socialists left the Labour Party because in their opinion the party was becoming too left wing. This group, the Democratic Socialist Party (DS'70) took part in the elections for the first time in 1971; it also experienced initial speedy growth, but shortly afterwards it lost support.
The rigid social structure which had provided the Netherlands with stability for so long, quickly disintegrated after 1966. The firm basis of the traditional party structure also weakened rapidly. The system whereby your religion mainly determined whom you voted for, largely disappeared. The effect this had on the Catholic Party, which had for a long time relied on religious discipline for support, was most spectacular: in the period between 1963 and 1972 the KVP lost almost half its supporters.

The radical political developments after 1966 were also noticeable in the formation of the cabinet. After Cals's Confessional-Socialist administration had been brought down, and after an interim government of short duration, the Confessional-Liberal coalition returned to power in 1967. Although this administration led by De Jong of the KVP stayed in power for four years, the tensions within the confessional parties about cooperating in government with the Liberals became stronger and stronger towards the end of this period. Groups from the KVP and the Anti-Revolutionary Party (ARP) advocated reinstating the cooperation with the Socialists and rejected continuation of the coalition with the Liberals. The voter did not approve of maintaining the Liberal-Confessional combination either. In the 1971 election, which was preceded by the lowering of the voting age to 21, the confessional and liberal parties suffered losses and the Socialists and the Democrats had massive gains. The Confessional-Socialist coalition was however not reinstated. The confessional parties refused to state prior to the election that they would have the Liberals as partners in a possible government, and the Socialists were subsequently not willing to negotiate a government coalition after the polls. On the other hand the Democratic Socialists '70, who had broken away from the Labour Party and won 8 seats in 1971, were

prepared to form a cabinet with the KVP, the ARP, the Christian Historical Union (CHU) and the VVD. This still made it possible for the pre-election Confessional-Liberal coalition, which had only managed to get 74 seats, to form a majority government together with DS'70
This coalition did not last long however. In the summer of 1972, Biesheuvel's cabinet collapsed: DS'70 left the government because of a difference of opinion about meeting budgetary obligations and the way in which the government was combating rising inflation. Attempts to mend the breach failed so that the confessional and liberal parties continued with a minority government under Biesheuvel, which called a new election.

The 1972 election, the voting age by now having been lowered to 18, brought about radical swings. Left and right wing factions had gains: the progressive parties, the Labour Party (PVDA), the Radical Political Party (PPR) and D'66 together gained 6 seats, the Liberals (VVD) also gaining 6 more seats. The political centre was torn further apart: the KVP lost 8 seats and the CHU kept 7 of their previous 10. The confused and prickly situation meant that no government was formed for the longest period in parliamentary history.
An ever-increasing majority in the KVP were in favour of cooperation with the progressive parties. After more than 5 months of negotiation, mainly about programmes, the coalition between the Confessional and Socialist parties could be reinstated, if cautiously, and Den Uyl formed a government with no close ties among the parliamentary parties but comprising ministers from the Labour Party, the PPR, D'66, KVP and ARP.

Dissension concerning the desired political line within the confessional parties is still substantial. For instance the CHU refused to support the Den Uyl government and a fair minority of the ARP in principle rejected the government.
It is still difficult to say how the party structure will change and be revised. In spite of the sometimes stormy developments of the past year, there is no question yet of a radical breakthrough in the traditional pattern of the political parties. The balance of power has been altered; the voters' commitments to the old parties determined by ideology, religion or tradition has become less staunch.
Time will tell if the traditional parties have reformed sufficiently to survive the wear and tear.

Bloc-formation

Slowly but surely more and more bloc-formation is taking place in Dutch politics. This development still seems to be moving towards a world-wide tripartite division into the left, the right and the centre.
As regards the left, the Socialists, Democrats '66 and the Radicals who broke away from the confessional parties united in pre-election agreements in the last two elections and even proposed a cabinet before the elections. Initially Democrats '66 deliberately avoided cooperating with other parties, but in 1970 they opted for a coalition with the Labour Party and the PPR. The purpose was to set up a single large progressive people's party. There has up to now been little enthusiasm for this new party from the Labour Party and the PPR, however. Although the 'Progressive Three' work closely together at both regional and national level, no concrete steps have been taken yet towards true amalgamation.
In the political centre, the discussions begun in 1967 on close cooperation among the three large Christian parties (KVP, ARP and CHU) have now led to tangible results.
These parties have on two occasions presented a joint programme of urgent measures to the electorate. After long and difficult talks, the KVP, ARP and CHU amalgamated in the Christian Democratic Appeal, which has to prepare and work out the final unification of the three parties. However, the fact that the CHU was not prepared to take part in Den Uyl's government, which was supported by the KVP and ARP, will probably not facilitate the process.
Developments in the right wing parties have so far been least spectacular. The Liberals (VVD) have remained stable and united, as was proved by their great election victory in 1972 when they gained 6 seats.
Developments in the past few years have in any case had a positive influence on the political awareness of the voter. After the abolition of compulsory voting in 1970, the turnout initially decreased sharply, but later increased again.
In the 1970 provincial government elections only 68.9% of the electorate voted and in the Second Chamber elections in 1971 the proportion was already 78.5%, rising to as much as 82.9% in 1972.

Political Parties

Liberals

The Liberals, who were the real initiators of the

1848 Constitution, did not form a clear-cut party in the years immediately after 1848. A relatively loosely knit group sat in the Second Chamber and there were various Liberal associations in the electoral districts. Ideologically there was a sharp distinction between the more and the less progressive Liberals. Even the great leader J. R. Thorbecke (1798–1872), the architect of the 1848 Constitution and three times Prime Minister, did not succeed in uniting all Liberals under him. After his death, there was even more division, especially between the advocates of a large-scale extension of the franchise and of increased government intervention in economic and social affairs on the one hand and the more conservative-minded Liberals on the other. In spite of these inter-party differences the Liberal message greatly appealed to the voter and the party's seats in the Second Chamber grew considerably in number.
The organisational unity of the party was greatly strengthened when the Liberal assocations combined to form the Liberal Union in 1885. Agreement on a party manifesto could not be reached, however, and the Liberal Union finally disintegrated into several different parties.
In the period between 1887 and 1917 the Liberal parties, which are also sometimes referred to as 'latitudinarians', succeeded as alliances in winning election after election. Their combined opposition to the confessional parties was always greater than their mutual differences were. Since the Liberals were unable to win over the non-confessional workers from the Socialists, the introduction of universal suffrage with proportional representation caused a steep decline in the party's strength. Nevertheless the Liberals did hold office with the confessional parties once or twice.
After the Second World War the radicals from the liberal groups joined the Labour Party. The rest of the Liberals took part in the 1946 election under the name of the Freedom Party. Two years later in 1948 the People's Party for Freedom and Democracy (VVD) was formed by a few radicals who were disenchanted with the Labour Party. Under the leadership of P. J. Oud (1886–1968) the new party gained more and more support in the elections and its self-confidence increased. Except for the periods 1951–1959 and 1965–1967 it has shared office regularly in the last 20 years although it has not been in office since 1973.
In the midst of party political turmoil the VVD exhibits a relatively high degree of unity and stability. So far it has escaped the restlessness which has characterised the other major parties. Since the 1959 elections its support has remained relatively stable at about 11% of the vote.
In the 1972 elections however they polled a spectacular 14.4% vote.
The VVD is in favour of change, but by a gradual process of development. On this point, and also in its economic policies, the party is directly opposed to the Labour Party.

The Protestant parties

The founder of the Anti-Revolutionary Party (ARP) was G. Groen van Prinsterer (1801–1876). In using the term 'Anti-Revolutionary' he was not alluding to any specific measures; he only wanted to make it clear that this party was opposed to the spirit of the French Revolution. Groen van Prinsterer was a strict Calvinist. He believed that the country should be governed on Calvinist principles. The party concentrated particularly on educational policy. It first wanted State schools to be run on strictly Protestant lines, but when this idea met with too much opposition, the party endeavoured to obtain fair and liberal subsidies for schools founded on religious principles.
Under the 1848 Constitution the party had relatively few supporters among the electorate. After the 1887 amendments to the Constitution, which extended suffrage, it gained a strong foothold in parliament. Groen was first and foremost an intellectual and a man of principle; his successor, A. Kuyper (1837–1920), was a great leader and organiser, and built up the ARP into a powerful party. In 1878 it became the first truly organised party in the Netherlands, and even at that stage had a party programme.

In 1894 a breach appeared in Kuyper's bulwark; A. F. de Savornin Lohman (1827–1924) and his supporters left the party. Other smaller Protestant groups dissociated themselves. These factions united in 1908 to form the Christian-Historical Union (CHU). Since then the Anti-Revolutionary Party and the Christian-Historical Union have been the two major Dutch Protestant parties. It is not easy to pinpoint the difference between these two parties. Generally speaking, the Anti-Revolutionaries belong to the 'Gereformeerde Kerk' (strictly orthodox Calvinist) and the Christian-Historicals to the 'Nederlands Hervormde Kerk' (Dutch Reformed Church). Besides, the Anti-Revolutionaries are more rigid in their ideological outlook, maintain much

stricter party discipline, and have a more fully developed political philosophy.
In the last few years the ARP has undergone a period of radical ferment. In the sixties the party line became more progressive. Among the leaders, and particularly among the young people of academic background, there is an element with more progressive views on social, economic and foreign policy. By a resolution of 8 November 1969 the Party decided on close collaboration with the other large Christian parties (KVP, CHU). This led to a certain amount of tension within the ARP. A few Radicals who favoured collaboration with the Labour Party felt that the combined Christian Parties would veer to much towards the right and left the party. There was dissension after the 1972 election too about who was to cooperate with whom. Part of the ARP in the Second Chamber said that it was not prepared to support den Uyl's government in which Anti-Revolutionists were working together with Socialists and other parties.
There is still a difference of opinion within the ARP about the attempt to set up a large Christian-Democratic People's Party with the KVP and CHU. But the desire to act together as Christian Parties has recently been stronger than any reluctance to do so. A large majority of the party agreed to further cooperation with the other two large Confessional parties on 23 June 1973 by setting up the Christian Democratic Appeal, so that the first step towards an amalgamation of the three large Christian parties has been taken.
Nor did the CHU escape the influence of the spirit of the times. The party has given its programme a modern look and for a long time the situation within this party was less tense than that in the ARP. Although formerly it was against the proposals for unification made by the ARP, it showed itself initially to be a powerful supporter of cooperation between the three Christian parties. Just as in the ARP this attitude led to extreme tension. Opposition became especially apparent at the time of the decision to join the Christian Democratic Appeal. It is true that a majority in the party decided to join and thus become further unified with the ARP and KVP, but a minority are still opposed and even threaten to cut themselves off from the mother party.
The CHU did join the Christian Democratic Alliance but did not follow the same course as the other parties as regards political cooperation in the government.
It was not prepared to take part in the 1973 government with the Socialists, unlike the majority in the ARP and KVP.
As is typical of confessional parties the ARP and CHU draw on all classes of the population for support. After the Second World War the Socialist efforts to win over voters from the confessional parties and thus to break through the barriers of their separatism resulted in some loss of this support, but support remained stable for a long time after 1960. In 1963 the ARP gained 8.7% of the vote, the CHU 8.6%, and in 1967 the ARP gained 9.9% and the CHU 8.1%.
In the 1971 elections a process of deconfessionalising clearly manifested itself; the ARP only got 8.6% of the vote and the CHU's share was reduced to 6.3%. The latter took another heavy beating in the 1972 elections and only succeeded in gaining 4.8% of the vote. The ARP however rallied itself somewhat under the leadership of the then Prime Minister and saw its support rise gently to 8.8%.

There are also smaller Protestant parties in the Netherlands. The Calvinist Political Party (SGP) was founded in 1918 and since then has secured a steady 2% of the vote. It holds dogmatic Protestant views, is fearful of Catholic influence and is ultra-conservative. The Calvinist Political Union (GPV), a group which broke away from the Anti-Revolutionary Party and is entirely founded on a right-wing Calvinist movement, is another small Protestant party. It gained a seat in the Second Chamber for the first time in 1963, and has since had small gains. It now has two seats, getting 1.8% of the vote in 1973.
On a number of occasions there have also been left-wing Protestant alliances but these were shortlived.

The Roman Catholic Parties

In the immediate post-1848 period, the majority of Catholic politicians followed the Liberal lead, for it was the Liberals who had enabled them to regain in practice their full rights in accordance with the Constitution of 1848, in particular that of the re-establishment of the Catholic hierarchy. In 1868, as a sequel to the 'Syllabus Errorum' issued by the Pope in 1864, and directed against the liberal spirit of the nineteenth century, the Dutch bishops issued a charge, in which the education of Catholic children in a non-Catholic atmosphere was declared undesirable. It was their common struggle for the establishment of schools based on religious principles

that led the Catholics more and more to join forces with the Protestant parties. It was a very long time before the Catholics set up their own political organisation. There were, however, local Catholic associations but it was only their religious convictions that kept the Catholics together in any way because the politicians were very divided on many specific issues. H. Schaepman (1844–1903) was responsible for the drafting of what in 1897 became the first political programme to be generally accepted by Catholics.
After World War II the Catholics still wished to retain their party organisation on the basis of their faith and in 1945 the Catholic People's Party (KVP) was established. Quite a few aspects of political cooperation changed however. The basic policy of coalitions with the right was replaced by a long and intensive cooperation with the Socialists.
For many years, the Catholics have been remarkably successful in maintaining their political unity. This was largely because of the strict church discipline and the unifying force of the church hierarchy. This was underlined once again in the Bishops' charge of 1954 forbidding the Catholics to join socialist trade unions.
But the crisis of faith and the liberalising tendencies within the Catholic Church – a large proportion of the Dutch clergy are in the forefront of this movement – did not fail to leave its mark on the KVP. The charge of 1954 was rescinded in 1965 and the right to choose one's own party was specifically recognised. The reduction in voting discipline sparked off a strong process of political deconfessionalising, which had far-reaching consequences for the KVP in particular. The percentage of the vote gained, which had remained virtually unchanged since 1919, has dropped sharply in the last 10 years. In 1963 they still had 31.9% of the vote but in the 1972 elections the percentage had dwindled to 17.7%.

The traditionally strong unity of the KVP did not remain. The party line and party principles were beset by deeply rooted differences of opinion. Radical groups which hammered at reform increasingly rejected cooperation with the Liberals, which had started again after 1959, and advocated working together with the Socialist Labour Party. Many began to wonder whether the formation of political parties on the basis of Christian principles should still be maintained. A number of extreme Radicals left the party at the beginning of 1968 and set up the Radical Political Party (PPR). This splinter party initially received little support, but in the 1972 elections gained a surprising result and increased its number of seats in the Second Chamber from 2 to 7.

The KVP in the meantime also lost votes to the right. In 1972 the Roman Catholic Party of the Netherlands (RKPN), which interpreted the doctrines of the Roman Catholic Church more narrowly, was established, and in the election in the same year the party gained a seat in the Second Chamber.
The KVP's attempt to form a joint party with the other large Christian parties has led meanwhile to the setting up of the Christian Democratic Appeal, whose aim is ultimately to establish one party with the ARP and CHU. Although the KVP put a lot of effort into trying to achieve this end in the sixties, there has also been a gradual increase in the number of voters who see little good in cooperation. Some would prefer it if the KVP changed into a moderate progressive people's party, without an explicitly Christian basis.

Socialists

Socialism evolved later in the Netherlands than in most other Western countries. The Social Democratic Labour Party (SDAP) established in 1894 had for a long time a predominantly Marxist programme and a republican bias. It was from the very beginning more interested in reform than political dogma. After displaying revolutionary tendencies on a number of occasions, it gradually assumed more and more the character of a solidly democratic party. It wanted nothing to do with the Communists. During the long period in opposition between the world wars, the party developed its ideas for planned economic and social policies and under this influence the Marxist programme was gradually superseded. During the occupation these ideas matured into a concept of a more open national socialist people's party. A year after the liberation in 1946 the Labour Party was established as a result of an amalgamation of the SDAP, the Radicals and left-wing Protestant, Liberal and Catholic elements. The party deliberately claims to be a national party and not a class party, despite the fact that it is still called socialist. From the moment of its establishment, one of the main points of its programme has been to break out of the water-tight compartments into which political life had for long been divided by the religious issue.
The new party was initially very successful primarily at the expense of the Communists, but also the

Catholics and Protestants. In 1948 the party increased its number of seats appreciably and in 1956 got as much as 32.7% of the vote.
In this period the Labour Party developed into a stable broadly-based party of national reform. They completely backed the Atlantic Alliance and supported the maintenance of a state of preparedness.
When their popular leader W. Drees (born 1886) was Prime Minister, they played a very important part in government politics in the post war period. In 1958 the broadly-based cooperation between the Socialists and the Catholics was broken. Drees stepped down as Prime Minister and apart from a short gap in 1965–1966 the Labour Party stayed for a long time in opposition. In the second half of the sixties the rapidly increasing influence of young 'New Left' elements brought about a radical change in Labour Party policy, renewed emphasis being placed on nationalisation measures and the furtherance of economic equality. In foreign policy the attitude towards NATO became increasingly more critical. The influence of the New Left movement was also quickly noticed in the executive organs of the party. Since 1970 half of the seats in the party executive have been held by the New Left. Disturbed by these developments and the line the Labour Party was following, a number of more moderate socialists left the party and set up a new one, the Democratic Socialist Party '70. In the First Chamber elections in which they took part DS'70 had enormous gains; in 1971 they won no less than 5.3% of the vote. In the 1972 elections however there was already a clear downward swing and the party got only 4.1%.
The change of direction in the Labour Party initially appeared to find little favour with the electorate. Up to the Provincial Government elections of 1970 the party lost votes. The Chamber elections in 1971 were a turning point. In spite of opposition within the Labour Party, it gained a slight victory and did even better in the 1972 elections. The Socialists increased their share of the votes from 24.6% to 27.4% in this period and again formed the largest party in the Netherlands. After seven years in opposition the Labour Party were again part of the government. Although it continues to claim that it is striving towards a progressive people's party with a few radical groupings there has been little indication up to now of such a new party arising.

To the left of the Labour Party there is the Pacifist-Socialist Party (PSP). It was founded in 1957 by left-wing socialists who were disappointed with the moderate line of the Labour Party, especially regarding the Netherlands membership of NATO. The PSP finds its support particularly among intellectuals and young people. It is strongly in favour of extra-parliamentary campaigns and supports revolutionary movements against authoritarian regimes. In the 1966 Provincial Government elections the party reached its peak by winning 5% of the vote, since when its support has dwindled to 1.5% in the 1972 election.

Communists

In 1909 a few dogmatic Marxists were expelled from the SDAP who soon afterwards set up the Social Democratic Party. Although the party was in principle already communist is was only officially called the Communist Party after the Russian Revolution of 1917. This intransigent dogmatic party occupied a completely isolated position in the years between the wars. Moreover it had to contend with serious internal dissension as regards its attitude to Moscow. Its support in parliament remained small: in 1937 for example it gained 3.4% of the vote.
After the Second World War the party had substantial gains however and in 1946 the Netherlands Communist Party (CPN) gained no less than 10.6% of the vote. Nevertheless the party remained isolated and did not play an influential role in parliament. Partly as a result of the intensification of the cold war its popularity was temporary.

For a long time the party leadership consistently adhered to the Moscow line. This policy however led to renewed and deep-seated opposition. There was a split within the party and a few prominent members who were critical of the Soviet line set up their own group which quickly disintegrated however. Affected by these problems, the party sank to 2.4% of the vote in the 1959 elections.
In the sixties the ideological differences which appeared in the Communist movement throughout the world as a result of the Sino-Soviet split also made themselves felt in the Dutch communist party. One of the consequences was that the party no longer officially followed the Moscow line. The Chinese line likewise has very little support.
The relative easing of tension between East and West caused a certain swing back towards the Communists. In 1967 the party received 3.6% of the vote, in 1971 3.9% and in 1972 elections 4.5%.

Radicals

On 15 September 1966 a new party pleaded in an 'Appeal' to the people of the Netherlands for a radical democratisation of the political system. This party, officially established as the Democrats '66 shortly afterwards, was pre-eminently considered to be the champion of the forces of change on the Dutch political scene. How great these forces were among the electorate was particularly apparent in the initially spectacular growth of the Democrats. In the 1967 Chamber elections, the first after the party's formation, it gained 4.6% of the vote. As other political parties also began working towards the reform of the political system the growth of the Democratic party slowed down. In the 1970 Provincial Government elections D'66 still got 7.6% of the vote but in the Second Chamber elections in the same year this was reduced to 6.8%. This tendency continued strongly: in the 1972 elections the Democrats only gained the support of 4.2% of the electorate.
Democrats '66 is not an ideological party. It advocates a pragmatic policy which attemps to find practical solutions to concrete problems. It wants especially to achieve democratisation in political life by constitutional reform, such as the direct election of the Prime Minister on the basis of a previously established programme and the introduction of constituencies. The Prime Minister chosen in this manner would thus be more independent in parliament, which would make for stronger government. Through direct election of the leader of the cabinet the voter would have more influence on the way he is governed. D'66 generally advocates progressive policies. Initially it was not interested in cooperating with other political parties. In 1970 however it agreed to an election agreement with the Labour Party and the PPR, with whom it attempted to form a progressive people's party. Enthusiasm for this idea from the partners of the alliance however appears up to now to have been rather slight.

On 1 March 1968 the Radicals who left the Catholic People's Party set up a new group, the Radical Political Party (PPR). From the outset it has been represented in the Second Chamber since three ex-KVP members have formed an independent group which back-up the PPR. Although many members come from confessional groups the party is not based on religious principles. In practice there are both many parallels and contrasts between it and D'66. It is definitely a little more left wing and does not share the preference of the Democrats for an elected Prime Minister.
Electorally the PPR had little success initially. In the Second Chamber elections in 1971 it only gained 1.8% of the vote. Since then however it has increasingly taken over the role of D'66 as an exponent of reform and radical policies. Partly as a result of this it has attracted young voters in particular. The 1972 election was a good election for the PPR. In barely eighteen months it had increased its support to 4.8% of the vote.

Other parties

There have been minor opposition parties in the Netherlands since the end of the last century. Their number did not increase however until after the constituency system was replaced by a system of proportional representation in 1917, which gave minor parties a greater chance of winning a seat in the Second Chamber. Although the number of minor parties was quite large only a few succeeded in winning a seat.
The small number of confessional and socialists parties who did succeed have already been dealt with. The National Socialists Movement (NSB) was a case apart which, swept along on the waves of pre-war national socialism in Germany, won about 8% of the vote in the 1935 Provincial Government elections. Two years later the tide had already turned and in the 1937 Second Chamber elections the NSB only got 4% of the vote.
After the war a few small right-wing parties reappeared which had no electoral success, however, except for the Catholic National Party, a dissident right-wing Catholic group.

Between the two world wars and after the second a few small sectional parties appeared but these generally had little success. The post-war Farmers' Party, which was founded in 1959 as a party of protest opposed to an excess of government control and bureaucracy, did however secure a relatively wide measure of support. It entered the Second Chamber in 1963 and in 1966 reached its maximum of 7% of the vote in the Provincial Government elections. Partly owing to regular internal disputes, which led to a few splits, decline soon set in. In 1971 the Farmers' Party's support sunk to 1.1%. However, protests against bureaucracy and other phenomena of modern society continued to have a certain pulling power. In the 1972 election the

Farmers' Party recovered slightly and the percentage rose to 1.9%.

Dissatisfied small tradesmen, who had set up their own party in 1970 to promote the interests of small tradesmen and who had won two seats in 1971, had their party, torn by internal dispute, removed from the Second Chamber in 1972.

Cabinets since 1946

1945–1946 Schermerhorn–Drees administration (Socialists and Catholics);

1946–1948 Beel administration (Catholics and Socialists);

1948–1951 Second Drees administration (Catholics, Socialists, Christian-Historicals and Liberals);

1951–1952 Third Drees administration (Catholics, Socialists, Christian-Historicals and Liberals);

1952–1956 Fourth Drees administration (Socialists, Catholics, Anti-Revolutionairies and Christian-Historicals);

1956–1958 Fifth Drees administration (Socialists, Catholics, Anti-Revolutionairies and Christian-Historicals);

1958–1959 Beel interim administration (Catholics, Anti-Revolutionairies and Christian-Historicals);

1959–1963 De Quay administration (Catholics, Liberals, Anti-Revolutionairies and Christian-Historicals);

1963–1965 Marijnen administration (Catholics, Liberals, Anti-Revolutionairies and Christian-Historicals);

1965–1966 Cals administration (Catholics, Socialists and Anti-Revolutionairies);

1966–1967 Zijlstra interim administration (Catholics and Anti-Revolutionairies);

1967–1971 De Jong administration (Catholics, Liberals, Anti-Revolutionairies and Christian-Historicals);

1971–1972 Biesheuvel administration (Catholics, Liberals, Anti-Revolutionairies, Christian-Historicals and Democratic Socialists '70);

1972–1973 Second Biesheuvel administration (Catholics, Liberals, Anti-Revolutionairies and Christian-Historicals);

1973– Den Uyl administration (Socialists, Catholics, Anti-Revolutionairies, Radicals and Democrats '66).

Distribution of seats in the Second Chamber since 1946

	1946	1948	1952	1956[1]		1959	1963	1967	1971	1972
Catholic People's Party (KVP)	32	32	30	33	49	49	50	42[2]	35	27
Labour Party (PVDA) (Socialists)	29	27	30	34	50	48	43	37	39	43
People's Party for Freedom and democracy (VVD) (Liberals)	6	8	9	9	13	19	16	17	16	22
Anti-Revolutionary Party (ARP)	13	13	12	10	15	14	13	15	13	14
Christian-Historical Union (CHU)	8	9	9	8	13	12	13	12	10	7
Democrats '66	—	—	—	—	—	—	—	7	11	6
Communist Party (CPN)	10	8	7	4	7	3	4	5	6	7
Calvinist Political Party (SGP)	2	2	2	2	3	3	3	3	3	3
Pacifist-Socialist Party (PSP)	—	—	—	—	—	2	4	4	2	2
Farmer's Party [4, 5]	—	—	—	—	—	—	3	7	1	3
Catholic National Party (right-wing Catholic)	—	1	2	—	—	—	—	—	—	—
Calvinist Political Union	—	—	—	—	—	—	1	1	2	2
Radical Political Party [2]	—	—	—	—	—	—	—	(3)[2] in 1968	2	7
Democratic Socialists '70 [3]	—	—	—	—	—	—	—	(2)[3] in 1970	8	6
Right Wing Alliance Party [4]	—	—	—	—	—	—	—	(3)[4] in 1968	—	—
Christian Democratic Union [5]	—	—	—	—	—	—	—	(1)[5] in 1968	—	—
Small Tradesmen's Party	—	—	—	—	—	—	—	—	2	—
Roman Catholic Party	—	—	—	—	—	—	—	—	—	1
	100	100	100	100	150	150	150	150	150	150

[1] In pursuance of the 1956 amendment to the Constitution the number of seats was increased from 100 to 150; the distribution of seats was adjusted proportionately.
[2] In 1968 three members broke away from the KVP and formed the PPR.
[3] In 1970 two members broke away from the Labour Party and formed DS '70.
[4],[5] In 1968 four members broke away from the Farmers' Party, three members forming the Right Wing Alliance and one member the Christian Democratic Union.

Justice

Residents

Holland is one of the most densely populated countries in the world. It has over 13 million inhabitants or 396 persons per square kilometre, over 300,000 of which are aliens.

Netherlands nationality

Netherlands nationality is regulated by an Act of 1892, which since then has undergone repeated amendments to adapt it to changed circumstances and international conventions. The Act also applies to Surinam and the Netherlands Antilles. A complete revision of legislation on nationality is under study.

Dutch nationality by birth

A child is Dutch if its father or, if the child is not acknowledged by the father, its mother, is a Dutch citizen at the time of its birth, regardless of where it is born. A child born in the Kingdom (the Netherlands, Surinam and the Netherlands Antilles) is also Dutch by birth if its father was also born in the Kingdom. A child born in the Kingdom of a Dutch mother who does not acquire its father's nationality is Dutch as is an illegitimate child born in the Kingdom who does not acquire its mother's nationality.

Dutch nationality by naturalisation

Naturalisation takes place through the law. At least five years residence in the Kingdom is usually required. Minor children acquire citizenship with their father, but can renounce it when they attain their majority.

Loss of citizenship

Dutch citizenship is lost on voluntary acquisition of another nationality. Persons who have attained their majority and who enter the service of a foreign state or serve in the armed forces of a foreign state without permission from the Crown, also forfeit their nationality. In addition, persons who were born outside the Kingdom and have lived abroad for more than ten years lose their nationality unless within this period they give notification that they wish to keep it.

Effects of marriage on nationality

A Dutch woman who marries an alien retains her nationality, but may renounce it if she also possesses the nationality of her husband. An alien who marries a Dutchman does not automatically acquire his nationality but she may choose to do so as long as the marriage lasts. Within a year of the dissolution of a marriage a woman can regain her Dutch citizenship, or renounce it, whichever applies.

Legal status

A start was made after the Second World War on replacing the Civil Code dating from the last century. The first book of the new Civil Code which deals with personal and family law came into force on 1st January 1970. A new Divorce Law became effective on 1st October 1971.

Civil registers

Each municipality has registers in which births, notice of intention to marry, permission to marry, marriages, divorces and deaths are recorded.

Names

People must use the Christian names given on the birth certificate. A Christian name may neither be improper or in use as a surname. A legitimate, legitimated, acknowledged or adopted child takes its father's surname. An unacknowledged illegitimate child takes its mother's surname. A surname can be changed by Royal Decree, on request or for certain reasons, e.g. if it is very popular or gives cause for embarrassment. Minor children change their name when their father does.

The age of majority

A Dutch citizen comes of age at 21 or prior to that if he or she marries. The question of lowering the age of majority is under discussion.

Marriage

The registrar performs the civil marriage ceremony which may be followed by a church ceremony.
The minimum age for contracting a marriage is 18 for men and 16 for women.
Generally speaking minors require the consent of their parents or their guardian and second guardian before they may marry. Marriage is dissolved by death, by divorce, by a court ruling following legal separation, or by absence for a certain period of

time on the part of one of the partners followed by remarriage of the other partner with the permission of the Court.

The Divorce Law

A marriage is dissolved by divorce. A legal separation removes the obligation to live together, but the marriage is still valid. For either, the only grounds are irretrievable breakdown of the marriage as established by the Court. Divorce or legal separation cannot generally speaking be pronounced until the marriage has lasted at least a year. After a legal separation, the marriage is dissolved by the Court without any grounds needing to be given except in most cases a lapse of three years.

On divorcing, the partners can settle their respective financial matters themselves or have them arranged by the Court. The interests of the child(ren) have priority in determining which of the divorced partners has custody. The Court should if possible give priority to the preferences of children of 14 or older.

Parental authority and guardianship

Parents together exercise parental authority over their minor children. Parental authority rests with one of the parents if the other is not in a position to exercise it. The Cantonal Court appoints a guardian if both of the parents are dead.
Parents can be relieved or deprived of their parental authority. For further information see the chapter on Judicial Child Care and Protection.

Adoption

Adoption is legalised by District Courts at the request of a married couple who wish to adopt a child (see the chapter on Judicial Child Care and Protection). An adopted child acquires all family rights.
A non-Dutch child acquires Dutch nationality if it is adopted in the Netherlands by a Dutch father.

Aliens

There are about 300,000 non-Dutch people living in Holland, more than 100,000 of whom are foreign workers from countries round the Mediterranean. The admission, supervision and legal position of aliens are regulated by the Aliens Act and the implementary regulations based on the Act. The Minister of Justice is responsible for implementing the legislation. Supervision of aliens is in the hands of the municipal police.
The admission of aliens into the Netherlands is of necessity strictly controlled because the country is small and densely populated.

Treaty commitments

Generally speaking, aliens are only admitted for a stay of any length of time on economic, cultural or humanitarian grounds. An additional requirement for an alien's admission and stay is that he poses no threat to the peace and order of the community or to national security. This requirement holds for stays of both long and short duration.
Under the appropriate treaties nationals of EEC countries and in particular those from the other two Benelux countries enjoy certain privileges in common with Dutchmen. There are also obligations with regard to nationals of countries which are parties to the European Convention on Establishments. Lastly, much legislation is devoted to the security of refugees, under the terms of the Refugee Convention.

Legal position

The legal position of an alien who is permitted to stay becomes stronger the longer he stays in the Netherlands and the more he becomes integrated into the community. After five years a temporary resident's permit can be exchanged for a permanent one. He can use his stronger legal position especially in making written appeals against unfavourable decisions about his stay.

Extradition

The Dutch Extradition Act states that a person of Netherlands nationality cannot be extradited. An alien can only be extradited if there is a bilateral or multilateral agreement.
A person can only be extradited if an offence is being investigated which carries a prison sentence of a year or longer both in the investigating state and in the Netherlands, or if he has to serve a prison term of four months or longer for such an offence. These minimum requirements are not applicable within Benelux. If an offence carries the death penalty in an investigating state, the Netherlands will not extradite unless a guarantee is given that the punishment will not be carried out in the event of conviction.
Exceptions listed in the Act include cases where

it is presumed that the person concerned will be prosecuted or punished because of his religious or political convictions or his nationality or race or because he belongs to a particular group in the community. Nor is it common for people to be extradited for offences of a political nature or for military or fiscal offences.
The Minister of Justice decides whether an alien held on request should be extradited after he receives the pronouncement of the court investigating the legality of the extradition; a shortened procedure is possible if the alien in custody agrees to immediate extradition.

The Law

General

In the Netherlands, the ordinary administration of justice, i.e. the adjudication of disputes relating to property and the rights issuing therefrom, to debts and to civil rights, and the application of the rules of criminal law is entrusted exclusively to appointed judges. Except in a very few cases specified by law, they are professional judges who have studied law at a Dutch university. Trial by jury is unknown in the Netherlands. Judges are independent; they are nominally appointed for life, but in fact are retired on reaching the age of 70. Whereas the procedures for the administration of justice are mainly embodied in the Code of Civil Procedure and the Criminal Procedure Code, administrative law is laid down in several Statutes. Ordinary judges partly deal with fiscal matters while other administrative matters are handled by special administrative tribunals, whose members are appointed either for life or for a specific period. Moreover, there is no generally applicable procedure for dealing with administrative disputes, each type of tribunal observing its own statutory rules. Arbitration procedure is dealt with in a separate paragraph below.

Structure of the judiciary

The ordinary administration of justice devolves upon 62 Cantonal Courts, 19 District Courts, 5 Courts of Appeal and the Supreme Court. There are about 600 court judges.
The Cantonal and District Courts are courts of first instance; with certain exceptions, appeals lie to the District Courts or Courts of Appeal respectively. Each Court of Appeal is a superior court to a number of District Courts, each of which, in turn, is superior to a number of Cantonal Courts. The most important function of the Supreme Court is that of a court of last resort in cases involving non-observance of procedural formalities or violation of the law.

The *Cantonal Courts* have jurisdiction in all civil cases where claims do not exceed the sum of 1,500 guilders, tenancy claims and litigation relating to rents, contracts of employment and hire-purchase and credit agreements. Cantonal Courts also have jurisdiction in criminal cases involving misdemeanours which do not lie within the cognizance of District Courts, e.g. fiscal offences and offences against economic legislation (Dutch criminal law recognises two categories of indictable offence only: misdemeanours and felonies).
Cantonal Court judges sit singly, except in the capacity of President of the Tenancy Division, where the Cantonal judge is assisted by two assessors, one a landlord and one a tenant, who are appointed for periods of five years.

The *District Courts* are courts of first instance in all civil cases outside the jurisdiction of the Cantonal Courts, in divorce and bankruptcy cases and in criminal suits pertaining to almost all felonies and to those misdemeanours not dealt with by the Cantonal Courts. They also have an appellate function in respect of appealable judgments given by the Cantonal Courts.
District Court judges are assigned to one or more divisions, in each of which either one or three judges sit. Courts in which the judge sits singly deal with appropriate civil cases, cases involving children (juvenile courts), criminal cases (the police courts) and indictable economic offences (the economic police courts). Juvenile courts deal with both civil and criminal actions. Criminal suits may be tried in the police courts only when the case is factually and juridically simple and the maximum sentence may not exceed six months' imprisonment.
The President of a District Court is also competent to try cases summarily. He can settle urgent civil cases by a simplified procedure and give an immediate judgment; he can, for instance, forbid or order certain actions under penalty of a daily fine to be paid by the defendant.

The *Courts of Appeal* hear appeals from the District Courts. These Courts also have divisions, in each of which three judges sit, although there are single-judge divisions for fiscal cases. There is a Tenancy Division attached to the Court of Appeal at Arnhem with five members, two of them assessors. This court hears appeals against the decisions of the tenancy divisions of Cantonal Courts throughout the country.

The *Supreme Court of the Netherlands* in The Hague has several divisions, each consisting of five justices. It is the ultimate court of appeal against all sentences passed by inferior courts. The Supreme Court accepts the facts as having been established by those courts, its main function being to ensure that the law is applied uniformly. This function is also clearly expressed in the Court's authority to deal with a case 'in the interests of law' when appeal in cassation is not brought. A reversal of judgment in such a case does not alter the judgement already passed by the inferior court, but will of course affect subsequent judgements. By virtue of the Charter for the Kingdom of the Netherlands it is possible to extend the Supreme Court's jurisdiction to cases heard in the courts of Surinam and the Netherlands Antilles. Statutory provisions have been made to this end for the Antilles only. The Supreme Court is also the 'forum privilegatum' in respect of offences committed by members of the States General and Ministers in the exercise of their office.

Department of Public Prosecutions

In civil cases and administrative disputes the aggrieved party submits his case to a court. Criminal proceedings may only be instituted by the Department of Public Prosecutions, which has 180 Public Prosecutors.
The Department of Public Prosecutions is composed of the Attorney General and the Solicitor General at the Supreme Court, the five Attorneys General and the Solicitors General at the Courts of Appeal, the 19 Chief Public Prosecutors, the Public Prosecutors (with the rank of Deputy Public Prosecutor, District Public Prosecutor or District Public Prosecutor First Class) and the traffic officers attached to the District and Cantonal Courts.
The structure of the Department is hierarchical: the Public Prosecutors and the traffic officers work under the supervision of the Chief Public Prosecutor, who in his turn is subject to the Attorney General at the Court of Appeal for that district. They all come under the Minister of Justice. Like other civil servants they retire at the age of 65. The position of the Attorney General at the Supreme Court is different; he is independent and is appointed for life, though he is retired at the age of 70. The Attorney General (or one of his Solicitors General) is consulted by the Supreme Court in all cases brought before it. He thus gives his opinion on disputed legal questions. Only he has the power to institute, if necessary on his own initiative, an appeal to the Supreme Court in the interests of the law. The state is represented by the Attorney General and his Solicitors General at Court of Appeal sessions. The Chief Public Prosecutor and Public Prosecutor fulfil the same function at District and Cantonal Courts; traffic officers deal in particular with the prosecution of traffic offences in Cantonal Courts. The entire Department of Public Prosecutions has a considerable degree of independence. Dutch law recognises the principle of opportuneness, as opposed to the principle of legality recognised in some other countries. This means that the Public Prosecutor is not bound to prosecute should an offence be made known to him except on the express order of a Court of Appeal (following a complaint of failure to prosecute), the Minister or the Attorney General at a Court of Appeal.

Military Law

Members of the armed forces who are suspected of an offence are tried by Courts Martial which also deal with offences listed in the Code of Military Criminal Law.
In peacetime there are two Courts Martial, one for the Army and the Air Force and one for the Navy. A Court Martial is presided over by a President, who must be a lawyer and who is appointed for life, assisted by two officer members.
Appeals lie to the Courts Martial Appeals Court, which is composed of six members: two lawyers and four officers. The President and the other lawyers are members of the Supreme Court of the Netherlands or of the Court of Appeal at The Hague. The law on military criminal procedure does not provide for appeals in cassation.
The Department of Public Prosecutions is represented by the Judge Advocate at Army and Air Force Courts Martial, and by the Judge Advocate of the Fleet at Naval Courts Martial. The Director of Public Prosecutions at the Court of Appeal at The Hague acts as Judge Advocate in the Courts Martial Appeals Court.

Administrative Law

Ordinary judges in the Netherlands take it for granted

that the authorities are bound to observe the same propriety in their dealings as befits dealings between individuals. They are therefore authorised to pass judgment if the authorities are sued for tort, but they cannot interfere in government policy.
Dutch law makes ample provision for the settlement of administrative disputes. Appeals against decisions relating to the enforcement of the fiscal laws, for example, lie to the fiscal divisions of the Courts of Appeal. There are special administrative tribunals which hear appeals against decisions enforcing social insurance legislation, civil service regulations and many regulations in the economic and social spheres. The procedure for dealing with disputes between public bodies is dealt with in the chapter on the Council of State.
For many years the establishment of general rules was advocated in respect of administrative decisions against which no appeal lay by virtue of special provisions. In 1964 the Administrative Orders (Appeals) Act came into force, providing for appeal to the Crown against decisions of the central government. A Bill is in preparation for appeals against decisions of local authorities.

Arbitration

Arbitration, to which parties submit voluntarily, is fairly frequently resorted to in the Netherlands for the settlement of disputes on points of civil law. Many organisations, including the Association of Stockbrokers, the associations of dealers in cereals, sub-tropical fruit and flower bulbs, and the associations of building contractors, architects, printers, etc., make provision for this in their constitutions. The arbitrators can be chosen at will; they are often lawyers who are considered experts in the particular field of commerce involved. Providing the parties have agreed to it, appeals may be made to the Court against the decisions of the arbitrators.

Criminal law and the treatment of offenders

The treatment of offenders is based in the first instance on the following Acts of Parliament and Statutory Instruments:
- the Penal Code and the Criminal Procedure Code,
- the Prisons Act and the Prisons Regulations,
- the Criminal Psychopaths Regulations,
- the After-Care of Discharged Prisoners Regulations,
- various decrees relating to the implementation of legislation.

No child under the age of 12 can be charged with a criminal offence. For young persons between 12 and 17 years old there is a separate system (see the chapter on judicial child care and protection). Persons of 18 and over can be charged with indictable offences.

Penalties

In addition to the principle sentence, the Court may impose an additional sentence on, and/or lay down special conditions in respect of, persons convicted of indictable offences. Penalties for each offence are prescribed in the Penal Code and practically all legislation relating to criminal justice lays down penalties for infringement of the laws with which it deals. This is also the case with respect to bylaws passed by local authorities.
Principal sentences consist of:
- a term of imprisonment, usually imposed for offences committed deliberately;
- detention, usually for offences involving negligence, and for the infringement of regulations, by laws, etc.;
- fines.

Most legal provisions containing punitive sanctions state the maximum term of imprisonment and the maximum fine that may, alternatively, be imposed by Court. The Penal Code also contains a general provision permitting Courts to impose a fine in those cases where a prison sentence would not exceed three months. The minimum sentences laid down are one day's imprisonment or detention and a fine of fifty cents.
Additional sentences include:
- deprivation of certain rights, such as the right to vote or to stand for election, to hold public office or to practise certain professions;
- the confiscation of objects with which the offence was committed or which were obtained through the offence.

A further example of this type of penalty is disqualification from driving.
The Economic Offences Act has its own additional penalties and measures. An example is the confiscation of gains acquired through an economic offence. Measures are dealt with under 'Detention at the Government's Pleasure' in this chapter and in the chapter on Judicial Child Care and Protection.

Some examples from criminal justice legislation

In some cases, persons suspected of having committed an offence may be remanded in custody by order of the magistrate for a period of six days, which period

may be renewed once only. After the preliminary examination of the accused the prosecutor may apply to the Court for a warrant to hold him in custody for a further thirty days. New legislation is in force restricting the use made of remand in custody.
A unrepresented defendant held in custody on a serious charge is assigned an advocate by the President of the Court or by the Legal Aid Council.
The examining magistrate is a member of a District Court designated by the President of that Court to conduct preliminary examinations in the more complex types of criminal cases over a period of two years. The examining magistrate hears the accused, the witnesses and the experts called to give evidence.
It is at this stage of the preliminary investigation that reports on the accused can be requested from probation and after-care organisations and from psychiatrists. A suspect can be placed in the Psychiatric Observation Clinic at Utrecht Prison (the equivalent of a house of detention) for some time to allow these reports to be made. The examining magistrate who conducts the preliminary investigation does not sit on the bench which tries the case. On conclusion of the preliminary hearing the Public Prosecutor decides whether or not to prosecute further.
As stated earlier the law recognises the principle of opportuneness; the Public Prosecutor is not bound to institute criminal proceedings. In 1973, over 110,000 crimes, which were dealt with by the police, were registered with the Public Prosecutor's office. Only half of these were brought before the courts, the rest were settled by the Public Prosecutor himself, in 73% of the cases by conditional or unconditional discharges.

Release on licence

After having served two-thirds of his sentence, and having in any case spent nine months in prison, a prisoner may be released on licence for a period amounting to one year or longer than the remaining part of the sentence. The Minister of Justice is responsible for granting such licences and for the conditions attaching thereto. Prisoners released on licence are usually assisted by one of the probation and after-care organisations, which will have drawn up a rehabilitation plan prior to the date of release.

Administration of Criminal Justice

Capital punishment was abolished in the Netherlands in 1870. The maximum penalties for criminal offences laid down in the Criminal Code introduced in 1886 consist of imprisonment, detention and fines. The progress made in the 20th century is chiefly characterised by the endeavour to take the individual prisoner and his rehabilitation as far a possible into account within the framework of a sound penological policy. The new attitude was reflected in legislation giving the courts wider powers to impose penalties other than prison sentences. Provisions regarding the imposition of suspended sentences were incorporated in the Criminal Code in 1915 and in 1929, while in 1925 the courts were empowered to impose fines on a wider scale in lieu of detention or imprisonment. The Children's Act of 1901, subsequently amended on several occasions, and the Criminal Psychopaths Acts, which became law in 1928, also marked stages in this development.
A system of punishment is being prepared in which there will be even fewer prison sentences.
The percentage of unconditional prison sentences imposed for criminal offences has been less than 20% and the percentage of fines about 40% in the last 20 years. About a third of the criminal offences entailed conditional sentences.
The duration of terms of imprisonment has been considerably reduced. Short prison sentences predominate at the moment; of the prison sentences imposed in 1972, 57.2% were for less than one month, 16.9% were for one to three months, 14.7% for three to six months, 7.9% for six months to a year and 3.2% for more than a year.
Important advances have been made since 1945 as regards methods of penal treatment. They include the Prison Act of 1951 and the Prisons Regulations based on that Act. This meant that as far as the carrying out of prison sentences was concerned concepts such as 'different types of prisons' and the 'classification of prisoners' had to be concretely defined. They relate not only to the actual prisons themselves but also to the composition and the training of staff. In addition, they provide for the reconstruction and, wherever possible, the replacement of the existing prisons, which at that time were unsuited in many respects to modern methods of penal treatment. The operation of the penal system is the responsibility of the State, as is also the implementation of the regulation governing the committal of criminal psychopaths to psychiatric institutions, but it is considered preferable that the medical care of such persons should be in the hands of private institutions. Consequently, the State mental hospitals play no more than a supplementary role in this respect, and the private institutions are financed

by the Government. A similar situation obtains as regards probation and the rehabilitation of prisoners: though the actual work is in the hands of private organisations, it is heavily subsidised by the Government.

The administration of criminal law is the responsibility of the Minister of Justice, under whom come the Prisons Department and the Detention at the Government's Pleasure (TBR = Terbeschikkingstelling van de Regering) and Probation and After-care Department. The tasks of these departments are coordinated by one of the acting Secretaries General. The Central Advisory Council for Prisons, the care of Criminal Psychopaths and Rehabilitation assists the Minister further in the administration of criminal law. It consists of representatives of the community and gives advice on all matters in this sphere.

The organisation of penal institutions

Ultimate responsibility for the maintenance and administration of all penal institutions is vested in the Minister of Justice who is assisted by the Prisons Department of his Ministry. The implementation of prison sentences is regulated by the Director of Public Prosecutions in accordance with directives issued by the Minister of Justice. Each prison is administered by a Director and his assistants. They are supported by mental health officers and council members, doctors (possibly also psychologists and psychiatrists) and social workers. The prisons are staffed by group leaders, and warders and some institutions have guards mainly for external security purposes.

Supervisory Boards control all aspects of prison organisation but have no administrative authority. The members of these boards have entry to the prison at all times and can ask for any information they wish. They are chosen from citizens who are in no way connected with the hierarchical set-up of the prisons. Prisoners may freely address themselves either in person or in writing to the Board. Under a Bill before Parliament dealing with the legal position of prisoners the Supervisory Boards will become officially recognised as professional bodies.

Types of Institution

The various types of institution are:

1 Houses of detention which are mainly for those court has remanded in custody awaiting trial for an offence they are suspected of having committed. They are also for persons serving detention sentences, and prison terms of less than a fortnight. The average number of inmates in these institutions in the last few years has been around 1,700, two thirds of whom were persons remanded in custody.

2 Prisons intended solely for those sentenced to a term of imprisonment. The average number of inmates is above 900. The law requires that there be at least one house of detention per Court District; some districts actually have more than one. There are 20 prisons.

Policy

Considerable attention is given in prison legislation to the personality of the prisoner. The Criminal Code stipulates that anyone sentenced to serve a term in prison should be committed as far as possible to an institution whose regime would best suit his disposition. Section 26 of the Prisons Act states that while the punitive aspect of the penalty or measures should be maintained, the prison sentence should be conducive to preparing the prisoner for his return into society.

On the basis of the above and other statutory provisions concerning the different aspects of the regimes of institutions policy is geared to helping the prisoner during his stay in the institutions in the best possible way. In the case of those remanded in custody this guidance is naturally directed towards reducing the disadvantages of being shut up and isolated from society and at the same time designed to achieve optimal reassimilation into society.

In this context, attempts are being made to get away from the closed aspect of prisons and so to discourage the alienation of the prisoner from life in the community. People are detained in a manner which is therefore more or less socially-orientated. Prisoners are brought into contact with the world outside wherever possible. Within the institution attempts are made to have life styles approximating those outside. Ways and means of giving the offenders some collective and individual responsibility are being sought. Good relations between the offenders and the staff of the institution with the opportunity for them freely to express their opinions is important in this respect. The creation of prisoners' committees to represent the inmates of the institution in discussions with the prison authorities about particular subjects, or about the way the prison is run, is encouraged, as are other freedoms of expression, e.g. the prisoners' producing their own newspaper. Besides these less tangible developments

which are only happening very gradually, more concrete attempts are being made to make things more like normal society. To give an example: offenders in houses of detention are allowed to wear their own clothes and in many institutions they are allowed to keep their personal effects like watches and rings during their detention period.
Endeavours are made to increase the contacts prisoners have with their relatives for instance by abolishing the supervision of letter writing in a number of institutions and granting periodic leave or permission for temporary absence from the institution under certain circumstances (for job interviews, family reasons, etc.).
The changes in the entire living environment at which these measures are aimed demand quite a different attitude on the part of the staff and the inmates. This will only be achieved gradually, by intensifying people's contact with each other and by training and giving guidance to the staff of the institutions.
Other requirements are therefore set with respect to people coming to work in prisons and an attempt is made through training and courses to provide staff with the right mentality and also with sufficient knowledge and insight to be able to cope with the more natural environment of the institution.

Differentiation and selection

Women serve prison sentences in the Women's Prison in Rotterdam, which also incorporates the only house of detention for women.

There are various possibilities for *men over the age of 23*. Convicted persons not in temporary custody are summoned to serve their generally short sentences in Bankenbosch prison in Veenhuizen. As regards persons who at the time of their sentence are in custody, a distinction is made between short term sentences (sentences up to 4 months) and long term sentences (of more than 4 months). Short term sentences are served in Bospoort prison in Breda or in the semi-open Nederheide Penitentiary Training Institute in Doetinchem. Transfer from the one institution to the other during the period of imprisonment is possible. If the offender is taken to Nederheide he is expected to take part in the social education programme. Longer sentences are served in Esserheem and Norgerhaven prisons in Veenhuizen and in the prison in The Hague.
Prisoners can be transferred from The Hague to Veenhuizen and vice versa. After serving time in Esserheem and Norgerhaven prisons, prisoners can serve the last part of their sentence in the semi-open institution De Fleddervoort in Veenhuizen or in any of the other four open prisons.

There are similar facilities with respect to *persons between the age of 18 and 23*. If they have not been remanded in custody they receive a summons to report to the Nieuwe Vosseveld prison in Vught and from there they can possibly be selected for De Corridor Penal Training Camp in the village of Zeeland (North Brabant). Short-term prisoners who have been remanded in custody end up in another department of the prison in Vught. Long-term prisoners are accommodated in the prison at Zutphen. These offenders too can be transferred to an open prison.

Selection is in the hands of penal consultants who are attached to the Penal Selection Centre. This Centre, which is headed by a psychologist, gives advice on the placement and treatment of prisoners. It also has a department for clinical psychological research.

The Noorderschans prison in Winschoten merits separate mention. Offenders who manifest a considerable inability to fit into society and would therefore not be happy in a large communal establishment can be placed here for a period of a few months.
Lastly it is possible for social reasons for sentences of not more than a fortnight to be served in 'instalments', e.g. during at most 7 weekends.

Training of staff

The central recruitment and training institute for prisons and psychopathic care in The Hague deals with the recruitment, selection and training of staff. Job training is given for guards, warders, employment officials, cooks, clerical staff, group leaders and administrative staff. There are also cadre training courses, short courses and discussion days.

Research

Owing to the complexity of problems surrounding prisons, more and more use has to be made of the advice of experts, whether or not they have practical experience of prisons, when important policy decisions are taken and when major developments are evaluated.
The Scientific Advisory Section of the Prisons

Department contributes towards policy development by carrying out research assignments.
A few examples of research projects are:
- research into what motivates people who have attempted to break out of prison, or those who escaped and were recaptured;
- research into the desired measures and provisions for preventing suicide and self-mutilation among prisoners;
- research into the extent and nature of drug dependency in institutions;
- experimental research into the possibilities of integrating into the regimes of various institutions different kinds of group work and social education work;
- experimental research into ways of establishing a system of recorded information about the treatment and conduct of offenders in institutions.

The Advisory Section also carries out occasional tasks in connection with important developments, especially those concerning the treatment of prisoners.
Lastly, grants are provided for certain types of research which are important for penal policy. The research is supervised by the Information and Documentation Centre of the Ministry.
The prisons do not only provide opportunities for research; they also take part in it. They make sure that the research has sufficient practical application so that the results can be used in policy making.

International cooperation

International contacts are becoming more and more important. The international exchange of experiences with new methods of detention and also the evaluation of these experiments helps a great deal in making the punishment fit the crime.
The Benelux Penitentiary Commission, a permanent consultative body of the Benelux countries, has proved to be very valuable.
Discussions arising from the cooperative activities of the Council of Europe, from seminars and joint research projects are very useful, the more so because executive personnel, like prison directors and professional members of the staff, are involved in these activities.

In 1969 the Netherlands organised a seminar under the auspices of the Council of Europe on democratisation of penal establishments.
There is also widespread exchange of ideas and experiences on the subject of imprisonment in discussions within the United Nations and the International Penal and Penitentiary Foundation (IPPF).
The Minimum Rules for the treatment of offenders emerging from these discussions are of great importance for the international development of the prisons system.

Detention at the Government's pleasure

Detention at the Government's pleasure is a sanction which can be imposed by the courts. Section 37.1 of the Criminal Code states: 'no one shall be punished for a crime for which, owing to the defective development or impairment of his mental faculties, he cannot be held responsible'. It follows from this that the offender cannot be prosecuted. The Court will not impose a punishment, because it is established that the offender is psychologically disturbed to such an extent that he cannot be held responsible for the offence. Guilt is completely out of the question. In such cases the Court may order the accused to be committed to a mental hospital for a period not exceeding one year. Under the provisions of the Act, this period can be continually extended without the Court being involved.
It became apparent, quite soon after the introduction of this measure in 1886, that further provisions were necessary for psychologically disturbed offenders. The greatest objection was that offenders were, without further distinction, divided into two categories: those who were held completely responsible for an offence and those who were not responsible at all. The former were punished and the latter were in some cases committed to an institution. The Court frequently found itself in a quandary in judging people who although not insane were to some extent suffering from defective development or impairment of the mental faculties. These people could not altogether be considered to have committed an offence in every case, while on the other hand there were some really quite dangerous and hardened criminals, against whom the community had to be more effectively protected than was possible under the existing system of punishment.
This group of 'diminished responsibility' offenders were (and still are) designated by the unfortunate title of 'psychopaths', and in 1925 a number of new regulations specifically dealing with them were incorporated into the Criminal Code. The most important of these affords the opportunity to detain at the Government's pleasure offenders who at the time the offence was committed were suffering from defective development or impairment of the mental

faculties, so that they can receive appropriate treatment.
Nevertheless the 'interests of public order' must be continually 'specifically safeguarded' by this penal measure. TBR is imposed for a period of two years, but if necessary it can be repeatedly extended by the Court by one or two years. TBR can also be conditionally imposed. The sentence for an offender who totally lacks responsibility may state: 'discharged from prosecution; if necessary placement in a mental hospital and/or detention at the Government's pleasure'.
Offenders with diminished responsibility must be sentenced. The Court may order that the offender be detained at the Government's pleasure should public safety demand it. In each case it has therefore to be determined to what extent a mentally disturbed offender can be held responsible for the offence and what the most appropriate punishment would be.
The sentence imposed depends on the degree of guilt. Under a Bill at present before Parliament, the Court will in future no longer be compelled to impose a prison sentence on top of an order for detention at the Government's pleasure: this solves the problem of offenders who need immediate treatment. Present legislation however already makes provision for this: during his term of imprisonment a prisoner may be placed in an institution at the Government's pleasure.

The nature of the measure

Detention at the Government's pleasure (TBR) meets two distinct needs: the protection of society from the sometimes serious crimes committed by mentally disturbed offenders, and the right of the mentally ill to suitable treatment. The two are brought together in the execution of a committal order. It has become obvious that punitive measures alone are not an effective means of preventing crime committed by mentally disturbed offenders since they ignore the fundamental causes of the offenders' criminal behaviour. Detention at the Government's pleasure is pre-eminently aimed at the 'special prevention' of criminal behaviour since it endeavours by therapeutic means to set processes in motion that will allow the offender eventually to find a place in society without repeatedly reverting to criminal behaviour. These processes relate not only to the offender himself but also to the environment from which he came and to which it is hoped he will eventually return. Obviously, treatment of these offenders generally begins with admission to an institution. This is indicated on both therapeutic and social grounds. It is most important that during the entire treatment contact with the outside world is maintained as much as possible. After all the ultimate purpose of the committal order, as laid down in the Act, is to prepare the offender for his return to society. A prolonged stay in an institution is not conducive to this but, in serious cases, it cannot be avoided.

Some figures

In penal statistics persons held at the Government's pleasure form a small minority. Approximately one out of every hundred unconditional sentences is accompanied by a committal order.
Some 40,000 unconditional criminal sentences are imposed annually, and about 12,000 prison sentences are carried out.
In the last few years, some 150 TBR orders have been imposed; this number includes suspended committal orders subsequently executed. Many more committal orders were imposed between 1947 and 1960 than in any subsequent period. In 1973, 95 committal orders were imposed, the majority of which were combined with a prison sentence.

The execution of a committal order

Three authorities are concerned with the execution of a TBR order: the Court concerned, the Ministry of Justice and the institution giving treatment. The Court has the sole right to 'hand over' an offender. The Court has to decide at least once every two years whether it is necessary to extend the order.
Needless to say the opinion of the institution treating him will carry much weight. The pending legislation referred to above will improve the extension procedure so that as great as possible a guarantee of the basic human right to individual freedom is created. Under the Bill, a lawyer can be appointed should the person involved wish it. It will also be possible for an appeal against the Court's decision to extend the order to be made at the Appeal Court in Arnhem. To handle these matters the Court will be composed of two experts who are not judges besides members of the bench.

The Government is responsible for the execution of the committal order. The Ministry of Justice, specifically the TBR and Probation and After-Care Department, has an administrative role. It supervises and assists in policy making and policy execution, it is responsible for continuity in the work carried out, it takes decisions about the selection, committal and discharge of patients and provides the necessary means for carrying out the decisions The Minister is politically responsible for those who on his instructions have been committed for treatment.

The institutions treating the offender are the real implementers of committal orders. It is their job to give the right sort of treatment, which nearly always begins with institutionalisation. There are about 500 people in institutions of forensic psychiatry. Until recently the majority of patients went into state institutions although the law considers treatment in private institutions preferable. At the moment half of the patients are taken into private institutions. Apart from the Selection Institute in Utrecht, there are two state institutions and five private institutions for the implementation of committal orders.
The buildings, particularly those of the state institutions, are not very suitable for modern methods of treatment. Architecturally, most buildings are reminiscent of outdated prisons, though attempts are being made through extensive reconstruction to achieve the necessary modernisation. Private institutions are usually better.

Once institutional treatment is no longer required, care of the offender usually becomes the responsibility of a *probation and after-care organisation.* As far as the government is concerned the committal order has been conditionally terminated. It is however continued for a time under the supervision of an organisation specially equipped to help mentally disturbed offenders.

The institutions

As soon as a committal order becomes operative, a plan for the treatment of the offender is drawn up, for which full particulars of each patient must be available. A detailed clinical personality investigation is carried out. Such investigations have been carried out at the *Selection Institute* in Urecht since 1952. On the basis of the Institute's report and advice regarding placement, the Minister of Justice decides on the institution in which the offender is to be treated. The choice of institution depends on a number of criteria: the diagnosis of the personality disorders, the background of the social conflicts, the offence(s) committed, any dangerous tendencies and, naturally, the most desirable form of treatment. Patients who may still constitute a serious danger to the community are generally placed in a high security state institution. For a variety of reasons patients are reassessed and transferred at regular intervals. Endeavours are however being made to provide all institutions with a range of facilities wide enough for all patients to receive the type of treatment best suited to their needs and their personality structure. This will be an improvement in the present situation in that it will help to prevent the patient's being far removed from his home and family and will moreover be more consistent with the regional organisation of the mental health services in general.

Treatment in an institution is an extremely difficult and complicated affair and it cannot really be satisfactorily described in a short space. A few general remarks can perhaps be made however. It is assumed that forensic psychiatry provides the general framework within which treatment is to take place. This means that medical insights into behavioural and personality disorders determine the therapy.
The institutions are normally run by a doctor, usually a psychiatrist. Psychiatry is developing and in the institutions for people detained at the Government's pleasure use is made of advanced methods of treatment, including different kinds of psychotherapy, medicinal therapy, socio-therapy, creative therapy and physiotherapy.
The organisation of the institution as a social system and the role ascribed to the patients in it is increasing in importance. Under the influence of important aspects of the behavioural sciences, psychology and sociology, efforts have been made to create an atmosphere in the institutions which could be called 'a therapeutic environment'.

Endeavours are being made to give substance, in the everyday running of the institution, to concepts like independence, responsibility and social awareness. This sort of environment understandably demands a lot from all the people involved, especially from group leaders and socio-therapists whose job it is to give continual guidance to groups of patients. A great amount of attention is given to their training. In conformity with the aims of the committal order, a systematic attempt is made towards social readjustment of the offender so that he can take up again his independent place in the community. Obviously this transition cannot be achieved all at once. Many offenders are removed from the outside world for years and it is very unlikely that if they were suddenly discharged from the institution they

would be able to cope. For this reason the treatment involves a system of gradual release which is adjusted to individual patients' needs. The sort of freedom permitted is gradually extended and checked at the time. There are various possibilities: accompanied leave granted for visits to town or to see relatives, recreational activities, visits to contact families, daytime employment in private firms, longer leave for social purposes of all kinds, transfer to the open department of the institution, etc. If everything runs smoothly, an authorisation can be requested from the Ministry for granting trial leave. In such cases contact with the institution still remains, although the patient is otherwise more or less on his own in the community.
If this trial leave in its turn is successful, the TBR order is conditionally terminated and the after-care stage begins in which the probationary service gives further help and support until the Court officially terminates the order.

Pardons

The granting of a pardon in respect of a penalty imposed by a Court of Law is the prerogative of the Crown. The Minister of Justice is responsible for the policy pursued in this matter, a policy based on the consideration that a pardon may be regarded as a general measure to rectify or to prevent such injustices as may arise, in particular cases, from the implementation of the law. Its various forms consist of remission or reduction of the sentence and any additional penalties imposed, conditionally or otherwise, commutation of the sentence imposed to a lighter sentence of another type, and commutation of a life sentence to a specific term of imprisonment. Commutation of a prison sentence to a fine rarely occurs. The number of conditional pardons, on the other hand, is increasing.
The prescribed procedure is for both the Public Prosecutor who brought the prisoner to trial and the Court which passed sentence on him to draw up recommendations regarding a possible pardon.
A conditional pardon bears some resemblance to a suspended sentence and to release on licence. Greater research and insight into the importance of the rehabilitation aspect has led to wider use being made of this measure.
In 1973 there were more cases of conditional than unconditional pardons being granted. Some of those pardoned were helped by a probationary and after-care organisation. Approximately 60% of all petitions for pardons are submitted by traffic offenders.

Probation and after-care

Developments in the field of probation and after-care of prisoners have been greatly influenced on the one hand by traditional religious and humanitarian views on man's obligation to love his neighbour and his responsibility towards his fellow man and, on the other hand, by the emergence of professional social work based on scientific knowledge. The same current of thought that caused criminal law and its application to become not only more humane but also more effective has also left its imprint on probation and after-care work, which in its turn has contributed to modern thinking. An organisation styled the Society for the Moral Improvement of Prisoners was set up as early as 1823 with the object of aiding offenders both while in prisons and after discharge. The introduction of the release-on-licence system in 1886 and of probation in 1915 gave this and similar organisations a role to play in the implementation of criminal law, and it became henceforward possible for them to be entrusted with the task of helping to supervise the fulfilment of special conditions imposed by the Court (probation) or by the prison administration (release on licence). Much the same policy has been followed since 1945 with regard to the conditional pardon. Another reason for the rapid progress made by the probation and after-care organisations since 1915 has been the criminal courts' growing awareness of the value of personal reports on offenders.

Private initiative

A feature of this type of work is the fact that, like many other social welfare institutions in the Netherlands, it remains in the hands of voluntary organisations. In addition to the Society mentioned above, which later changed its name to the Netherlands Society for the Probation and Care of Discharged Prisoners, there is also a Roman Catholic and a Protestant probation and after-care organisation. These organisations have since 1974 been amalgamated with the Dr. F. S. Meyers Association for the care of mentally disturbed offenders. Other organisations active in this field are the Salvation Army, and a number of medical centres for alcoholics. These organisations are assisted by a large number of voluntary helpers, including prison visitors and probation officers' assistants.
The joint interests of the voluntary organisations, such as probation officers' training courses for social workers, liaison with the government, maintaining

The Ministry of Justice (left) and the Supreme Court;
foreground: the statue of William Prince of Orange (1533-1584).

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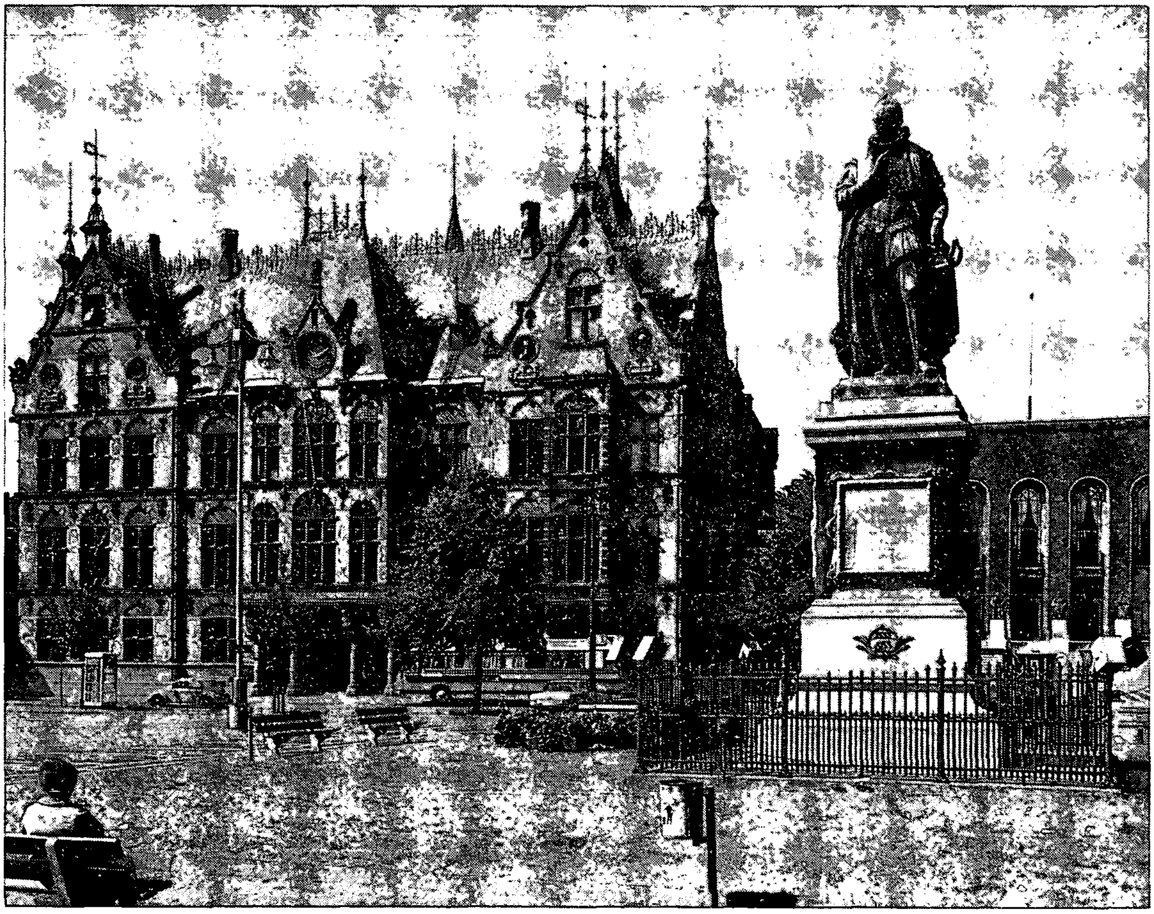

contact with similar organisations abroad and organising the annual fund-raising campaign are promoted by the Association of Probation and After-Care Organisations. These organisations occupy a semi-official position in the community and their relationship to the Government is laid down in the Probation and After-Care Regulations, which stipulate that probation and after-care work shall be carried out only by organisations which have been accorded official recognition by the Minister of Justice. The costs of staff and equipment are borne in full by the government, which also subsidises the actual work of rehabilitating offenders. The activities of the officially-recognised organisations are supervised by the Minister, and his approval is required for the appointment of all probation officers, who must possess the prescribed qualifications.
The actual field work, i.e. the provision of information and assistance, prison visiting, aiding discharged prisoners, etc. is performed by the voluntary organisations. Each of them has at least one office in every Court district, staffed by a director or manager, a number of probation officers and a consultant psychiatrist. Various methods derived from social casework are employed in an effort to provide the client with the type of assistance of which he is most in need. That assistance is often based on the personal report submitted to the Court at the time of the trial, in which the offender's adjustment problems are analysed. Difficult cases are discussed by the teams as a whole, in which discussion other experts may also be invited to participate. A rehabilitation plan is drawn up in consultation with the person concerned, and the services of a psychiatrist may be enlisted when psychotherapeutic treatment is indicated. In cases where it is possible to use a voluntary helper, an effort is made to assign the person best fitted to deal with the specific problems involved.

Developments

In addition to scale enlargement through amalgamation at national and regional levels, there is the recent development of after-care and probation work being repeatedly brought up for discussion. There are two ways of looking at it. According to some after-care should concern itself with all the social problems of the person involved, which automatically includes other areas of social service and the work of welfare institutions. The contact with the law is only a secondary factor as far as these assistance organisations are concerned. The other view is that the task of after-care remains defined by the problems arising out of involvement of the police or the law or the effects of this. The main dealings are therefore with the law, but other assistance organisations may be drawn in.

Supervision of probation and after-care work

Direct supervision of rehabilitation activities is in the hands of the probation and after-care boards, which come under the Ministry of Justice. Each judicial district, i.e. the area falling under the jurisdiction of a District Court has its own probation and after-care board, whose members include a judge, a public prosecutor, a prison director, a psychiatrist and experts from the various probation and after-care organisations. All instructions relating to the preparation of reports for the Court and of progress reports on persons placed on probation or released on licence, etc., are issued through the boards, which are also charged with the task of ensuring the greatest possible cooperation and integration of the rehabilitation sector with the Courts, the prisons and other institutions. Each board has its own complement of experts, qualified probation officers and clerical staff.

Some figures

The part that after-care and probation plays in court decisions and sentences can best be illustrated by the following information.
In more than half of the criminal cases which came before the full session of the district courts in the past year, a personal report was asked for from the after-care organisation. At the end of 1972 the number of persons committed to the care of after-care and probation institutions was:

Persons given a suspended sentence	9,169
Persons conditionally committed (TBR)	472
Persons released on licence	394
Persons granted a conditional pardon	164
Persons given trial leave or conditional discharge from a TBR order	243
Persons discharged conditionally from further proceedings	964
Total	11,406

By way of comparison, more than 900 offenders were detained in houses of detention and prisons and more than 600 were committed to institutions at the Government's pleasure.

Judicial child care and protection

The term 'judicial child care and protection' covers the care of young persons below the age of 21 who have been neglected or exposed to moral danger. Young people are taken into care on a court order made in virtue of a provision of juvenile law. Dutch juvenile law is notable for its extremely flexible system of protective measures and educative penal treatment.

Legislation

Juvenile legislation has not been consolidated in one separate Young Persons Act, but is incorporated in the existing Civil Code, the Code of Civil Procedure, the Penal Code and the Code of Criminal Procedure. Juvenile legislation is also to be found in various special Acts such as the Judicial Child Care and Protection (Principles) Act, the Foster Children Act and many others.
A distinction is made between *juvenile civil law* and *juvenile criminal law*.

Juvenile Civil Law

Under Dutch civil law children are subject to parental authority or to guardianship as long as they are minors, i.e. generally until the age of 21.
A child is under *parental authority* if his parents are married to each other, unless they have both been released from or deprived of this power.
In the absence of parental authority in the above sense, the child is placed under guardianship. In case of divorce, one of the parents is appointed guardian. An unmarried mother, if she is of age, is usually appointed legal guardian of her child.
If neither parent is able to act as guardian, the guardianship of the child is vested in a third party; this may be a natural person (e.g. a relative) or a society designated as a 'fit person'.
The court may intervene in the control of a minor if there are good reasons for doing so. The legal measures available are the following:

1 Relief of parental authority or guardianship

The court may relieve a parent of his parental authority or his parental guardianship in respect of one or more of his children if he is unfit or unable to perform his duty to care for them and bring them up. Relief can only be ordered on the application of the Child Care and Protection Board or at the instance of the Public Prosecutor. With certain exceptions, such as mental disorder, however, relief of parental authority or guardianship cannot be ordered against the wishes of the parent concerned.

2 Deprivation of parental authority or legal guardianship

This is a more serious measure, which can be taken against the wishes of the parents. In all cases the prime consideration of the court must be the interests of the child. Deprivation of parental authority or guardianship is ordered only in specific cases, for example the abuse of parental authority, gross neglect of the maintenance and upbringing of one of more children, and an unsuitable mode of life. As a rule a deprivation order is made at the instance of a Child Care and Protection Board, but may also be made on the application of the other parent or of certain close relatives or at the instance of the Public Prosecutor.
A guardian who is not the child's parent may likewise be deprived of his authority.

3 Committal to the care of a Child Care and Protection Board

A child is committed to the care of a Child Care and Protection Board if it is an emergency case. Where there are circumstances that give cause for deprivation of authority, the Public Prosecutor may step in and commit the child or children provisionally to the care of a Child Care and Protection Board. He is then required to apply within two weeks to the District Court for confirmation of this committal. Provisional committal by the Public Prosecutor is also possible in a number of other cases of emergency. The *Court* may commit a child temporarily to the care of a Child Care and Protection Board pending the conclusion of proceedings relating to deprivation of parental authority or of guardianship or concerning divorce or legal separation.

4 Placing under supervision

If a child is found to be growing up in conditions in which he is exposed to moral or physical danger, he may be placed under the supervision of what

is known as a family supervisor. The parents or guardian are not deprived of or relieved of their authority over the child and, as a general rule, he continues to live at home, but they are required to follow the instructions given by the family supervisor appointed by the court with regard to the maintenance and upbringing of the child. It is the family supervisor's responsibility to ensure that the child's spiritual, physical and future material welfare are properly taken care of, now and in the future, in an atmosphere of confidence between himself, the child and the family.
A child is placed under supervision by a Juvenile Magistrate, who is a specialized member of the Bench of a District Court and an expert in child welfare. Juvenile Magistrates are directly concerned in other juvenile civil cases, too. If cases concerning guardianship are dealt with in full Court, a Juvenile Magistrate is always a member of the Bench. They also take part in the handling of adoption cases (for which see below).
Adoption and the implementation of the *Foster Children Act* also come under juvenile civil law. An adoption order can only be made by a Court of Jurisdiction on the advice of the Child Care and Protection Board. A married couple who wish to adopt a child submit an application to that effect to the Court. The petition cannot be granted unless the adoption is clearly in the interests of the child, taking into consideration that it serves the ties with the natural parents and confirms those with the adoptive parents. In addition to this, a number of other conditions must be fulfilled, for instance that the child must be a minor at the time of the petition, that both the adoptive parents must be not less than 18 and not more than 50 years older than the child, that on the date of the application the child had been in the care of the adoptive parents for at least one year, and that on that date one of the adoptive parents was the child's legal guardian.
The purpose of the *Foster Children Act* is to provide for a certain amount of supervision over the maintenance and upbringing of children under 18 years of age who are being cared for and brought up by persons who are not their parents, guardians or close relatives. The Act does not apply to minors whose maintenance and upbringing are already being supervised by virtue of other statutory provisions.
Any person who receives a foster child into his home is required to notify in writing the Municipal Executive of his place of residence, which forwards the report to the Child Care and Protection Board. Supervision of the maintenance and upbringing of foster children to whom the provisions of the Foster Children Act apply is exercised by the Child Care and Protection Boards. A child may be removed from a foster home or institution not approved by the Minister of Justice, if the Board decides it is not in his interest to stay there. If there are reasonable grounds for believing that the interests of one or more children are being neglected, the Board may decide that the home or institution concerned must cease to take foster children. The foster father or the head of the institution may appeal against such a decision to the District Court; the parents or guardian also have the right of appeal.

Juvenile Criminal Law

Criminal law does not apply to young children. Under the Criminal Code no person can be prosecuted for an offence committed before he has reached the age of 12.
Young persons between 12 and 18 are not subject to adult criminal law, but to the special provisions of juvenile criminal law. At the age of 18 a person is considered to have attained the age of majority for purposes of criminal law.
Two deviations from this rule are possible: Courts may apply adult criminal law to 16 and 17-year-olds if they see fit to do so, having regard to the gravity of the crime or the character of the offender. On the other hand, Courts are empowered to apply juvenile criminal law to a young person of over 18 but under 21 years of age (to whom adult criminal law would normally apply) if they think fit, having regard to the personality of the offender.
Juvenile criminal law provides for a number of *punitive* and other *methods of treatment.*

Punitive sentences

a Reprimand. This sentence may be imposed for any criminal offence. It consists of an admonitory address, delivered by the Judge to the convicted juvenile on the subject of his offence.

b Fine. A fine may likewise be imposed for any criminal offence. In determining the severity of the fine, a Court will take into account the means of the offender and of his family. Fines range from *f* 0.50 to *f* 150.

c Detention. This consists of a short deprivation of liberty of from four hours to fourteen days, and is intended to serve as a warning. Detention may be imposed for any felony, and also for misdemeanours which come in the first instance under the jurisdiction of a District Court.

d Committal to approved school. This sentence may only be imposed upon those who have committed a felony. The minimum term is one month and the maximum six months. It is a severe method of dealing with young offenders who have not been found to be in real need of educative treatment. For the others, one of the following corrective measures is usally imposed.

Corrective measures

a Supervision. In cases where a Court finds no cause for imposing a punitive sentence or for taking any of the more severe corrective measures mentioned below, it may place the offender under supervision. Under certain conditions this measure may also be combined with any of the juvenile sentences. The exercise of supervision under these circumstances does not differ in any respect from that of supervision of children in need of care and protection. Supervision cannot be ordered unless the offender is considered to be growing up in conditions in which he is exposed to moral or physical danger.

b Committal to an institution to await the government's pleasure. This is a meausure for dealing with young offenders (minors under the law) who are in need of long-term re-education and training. The length of the sentence is unspecified, but it comes to an end automatically when the offender comes of age under civil law. It can be terminated at any time, conditionally or unconditionally, by the Government.
The Court which imposed the measure also institutes enquiries every two years to see if its continuance is still warranted in the interests of the offender.

c Committal to a centre for special treatment. This is a measure for dealing with seriously maladjusted young offenders, for whom an ordinary institution is not suitable. It can only be imposed on:
1 an offender who cannot be held responsible for his actions because of retarded mental development or serious mental illness;
2 an offender who can be held responsible for his actions, but who was suffering from retarded development or serious mental illness at the time the act was committed.
Moreover, in all cases the personality of the offender must be such that he is likely to benefit from committal to one of these centres. The same rules as to termination apply to this measure as to a supervision order. Neither measure can be applied except in the case of a felony.
In Dutch law in general, the more serious offences, or felonies, are dealt with in the first instance by a district court, while less serious offences, or misdemeanours, come as a rule before cantonal courts. In juvenile law, too, more serious offences are brought before district courts. But in a juvenile case a district court has rather more extensive powers regarding misdemeanours. It has jurisdiction over a number of specified misdemeanours which in general can be seen as symptomatic of a young person being beyond control, such as hooliganism and drunkenness in public. In principle, proceedings against young offenders are brought before a *juvenile magistrate.* Certain cases are dealt with by a Tribunal, a bench of three judges, in juvenile cases always including a juvenile magistrate. An example is a case which in the initial opinion of the Public Prosecutor and the juvenile magistrate is so complicated that it merits dealing with by a Tribunal, or, again in their opinion, the offence is of such a serious nature that a more severe sentence than six months' imprisonment is called for.
Although prisoners remanded in custody normally spend their time in a House of Detention, in the case of a young offender the home of his parents or guardian or some other fit place may be designated instead. A juvenile magistrate may also order a young offender accused of a felony to be placed in an observation centre to facilitate enquiries into his personality.
The handling of juvenile cases differs from cases tried under common law in one important respect, namely that they are tried in camera.
The central theme in juvenile law, both civil and criminal, is the *educative* treatment of young people. The interest of the child and the guidance of the young person to maturity come first. This is shown by the nature of the civil measures. But in juvenile criminal law, too, it is clearly the point of departure, as explained above. This is also the reason why the Public Prosecutor frequently exercises his prerogative of waiving proceedings against a young accused, conditionally or unconditionally and in or after consultation with the juvenile magistrate. In this way he often clears the way for a civil

measure in respect of a young person who has committed a punishable offence. And even if it gets as far as prosecution, trial and sentence, a court is not obliged to sentence the offender or to order a corrective measure. If the court considers it advisable in view of the trivial nature of the offence, the personality of the offender and the circumstances, it may order that no sentence be passed. If a sentence is called for, it is up to the court to decide which of the admissible punitive sentences or corrective measures is most suitable for the child in question. As a general rule only one sentence may be imposed for one offence.
Courts also have discretion to pass suspended sentences.
If a court sentences the accused to detention or committal to an approved school, it can release him conditionally at any time.

Child care

A survey that confined itself to summing up the provisions of juvenile law would present a very incomplete picture of judicial child care and protection in the Netherlands. The drafting of suitable legislation and the administration of justice as described in the foregoing are clearly Government responsibilities.
The actual care of the neglected and deprived child is in the hands of voluntary denominational child care organizations, the Government having only a subsidiary function.

The Voluntary Organisations

a Guardianship Societies. These institutions are corporate bodies, designated as 'fit persons' to whom a court may entrust the guardianship of minors, provided these institutions are recognised by the Ministry of Justice, subject to certain conditions being fulfilled. The guardianship societies place the children with foster parents or in institutions, where the interests of the child are the principal concern. The responsibility for these children, however, remains with the societies. The societies employ trained social workers who mantain contact with the children, the foster parents, the institution and other persons concerned with their upbringing.

b Organizations for family supervision. As explained in the foregoing, a supervision order under both civil and criminal law involves the appointment of a 'family supervisor'. This can be a voluntary worker or a social worker from the institution. The main responsibility of the family supervision organizations is to recruit, select and guide voluntary family supervisors. They also act as a liaison between the family supervisors and the juvenile magistrates. In addition, they offer aid and guidance to young offenders with suspended sentences or released on licence. They employ qualified social workers, who in recent years have increasingly been appointed as family supervisors, and a clerical staff.
In principle, a minor who has been placed under supervision is allowed to live with his parents. However, should it be in the interest of the minor's proper care and upbringing, the juvenile magistrate may order him to be placed in an institution or boarded out with foster parents.
The Minister of Justice is responsible for seeing that the 99 guardianship and family supervision organizations maintain the standards set.

c Voluntary institutions. These institutions receive children who have been placed in the care of guardianship societies, provisionally taken into care by the Child Care and Protection Boards, committed to an institution to await the Government's pleasure, or placed under supervision with an order that they must be removed from home.
There are institutions of several different kinds, and they must all be approved by the Minister of Justice and are subject to supervision by the Ministry.
1 Reception Centres. These are intended as temporary homes for children who have to be taken into care without delay, where they can stay until a decision has been made on their placement.
2 Observation Centres. Placement in these centres offers an opportunity for observation of the character and personality of young peoply in cases where this cannot take place outside an institution.
3 Education and Training Institutes. This is a composite group, subdivided into eight categories. These are for normal children, working boys and girls, children awaiting boarding out, mentally handicapped children, mentally handicapped working boys and girls, unmarried mothers (and their children), those receiving treatment and those receiving vocational training.
4 Special Treatment Institutes. These are for the care of very difficult, socially maladjusted, children who cannot be looked after in an Education and Training Institute.

d Group Organizations and the National Federation
The voluntary child care institutions and

organisations referred to above are associated in group organizations according to their religious or philosophical basis. They work together in the National Federation for Child Care and Protection, which acts as spokesman for the voluntary institutions in dealing with the Government.

The government

a Juvenile Magistrates

The responsibilities of Juvenile Magistrates have already been discussed in the foregoing. But in addition to their duty to try juvenile cases, they also bear the ultimate responsibility where children are placed under supervision. They are charged under the law with directing family supervision, and the lay family supervisors are required to report to them regularly. They have recourse to the assistance of the family supervision organizations. They may have a child admitted to an observation centre for the examination of his mental or physical health. Juvenile Magistrates also arrange the removal from home of a child placed under supervision, as described above.

b Child Care and Protection Boards

There is a Child Care and Protection Board in each of the 19 places where a District Court holds session. The idea of the Board is to form a child care centre in each district. The scope of their responsibilities is very wide. The Boards provide the Courts with information and act as a general child care documentation centre for the area. To this end they keep up to date with what is happening in child care in the whole area. They also encourage cooperation between the child care organizations in their areas. In almost all cases concerning parental authority and guardianship the Court is obliged by law to consult the Board. A child care measure under civil law, such as placing under supervision, taking into care or removal from home is usually ordered at the instigation of the Board. The Board also acts in an important advisory capacity in juvenile criminal cases. The Child Care and Protection Boards are government agencies, and the members are appointed and relieved of their positions by the Crown. In making an appointment, consideration is given to the candidate's familiarity with the work of child care and protection, to the variety of religious and philosophical convictions current in the area, and to the social structure of the population. The members of the Boards receive no salary. The Boards have the assistance of a secretary who is a civil servant, in fact the Director of the Board Section, and who is in charge of the day-to-day work, which is performed by trained social workers, financial investigators, jurists and clerical officers.

c State Institutions

There are only 8 State institutions (6 for boys and 2 for girls) compared with the 202 recognized voluntary homes and institutions referred to earlier. Here again, then, the voluntary sector predominates. The State institutions are divided into different types in the same way as the voluntary ones, i.e. State reception centres, State observation centres, State educational institutions for special treatment. There is one difference: there are no approved schools in the voluntary sector. Court committal to an approved school can only be served in a State institution.

The Principles Act lays down furthermore that the State reception centres, educational institutions and institutions for special treatment shall be intended for young offenders who cannot be admitted to voluntary homes and institutions.

d The Child Care and Protection Department of the Ministry of Justice

Judicial child care and protection, as we have already seen, is the responsibility of the Ministry of Justice. The Minister exercises his function of coordination, encouragement, subsidising and supervision in the organizations and private institutions through the Child Care and Protection Department of the Ministry. The latter works in close collaboration with the Child Care and Protection Boards, the National Federation and the group organizations referred to above. State institutions, of course, are the immediate responsibility of the Department.

Financing

Obviously, where judicial child care and protection is the direct responsibility of the Government the whole expenditure is borne by the State. This is also true for example of the expenditure of the Child Care and Protection Boards.

The cost of sentences to detention and committal to approved schools are borne entirely by the

Figures on judicial child care and protection as at the end of 1969, 1970, 1971, 1972

	1969	1970	1971	1972[2]
Number of children placed under supervision[1]	19,049	18,260	15,620	15,514
of which at home	12,080	11,487	9,846	
in an institution	5,556	5,361	4,478	
in a foster family	864	908	853	
elsewhere	549	504	443	
total removed from home	6,969	6,773	5,774	
Number of children under guardianship	18,363	17,820	16,990	16,109
of which at home	982	1,085	1,277	
in institutions	7,575	6,926	6,180	
in foster families	9,051	8,976	8,785	
elsewhere	755	833	748	
total removed from home	17,381	16,735	15,713	
Number of children temporarily committed to the care of Child Care and Protection Boards	1,977	1,611	1,203	922
of which at home	190	194	152	
in institutions	1,235	891	567	
in foster families	508	503	465	
elsewhere	44	23	19	
total removed from home	1,787	1,417	1,051	
Number of minors detained at the Government's pleasure	153	129	96	83
Number of minors committed to an institution for special treatment	26	29	25	25
Number of family supervision organisations	52	49	41	30
Number of guardianship societies	102	79	60	53
Number of combined family supervision organisations and guardianship societies	6	8	11	16
Number of subsidised social workers in family supervision work[3]	211	223	280	286
Number of subsidised social workers in guardianship work[3]	351	373	365	361
Number of approved institutions, including departments	263	249	231	202
– capacity	16,369	15,688	14,277	12,794
– occupants	14,666	13,910	12,947	11,609
– number of group leaders and assistant group leaders	3,805	3,830	3,607	

The 1975 budget for child care and protection (including sums for the Child Care and Protection Boards, state institutions and building subsidies for private institutions) is *f* 427,900,000.–.

[1] Figures provided by the family supervision organisations.
[2] Only some figures available for 1972.
[3] Expressed as full-time positions.

State. The expense involved in the implementation of corrective measures is in principle charged to the parents, but is borne by the State if these persons are of inadequate means. In practice the State bears most of the expense. The Government is the chief financial contributor to voluntary child care and protection work. Guardianship societies and family supervision organisations are subsidised by the Ministry of Justice. The Minister is also empowered to provide building subsidies for voluntary homes and institutions.

Research

A Child Care and Protection Research Commission was set up in 1973 comprising representatives from the Ministry of Justice and from the National Federation for child Care and Protection. The Commission's terms of reference are to set up a research programme on the basis of jointly determined policy priorities, to coordinate and stimulate research and to promote the dissemination of research findings.
The combined structure was chosen to make the research more practical and more applicable to policy making than had been the case previously. The former Research Commission had recommended improvements in this field after evaluating the research carried out under its supervision.

Future prospects

Child care and protection work is constantly in a state of flux. After the amendments to juvenile law in 1965, a Commission report appeared in 1971 in which many amendments to juvenile civil law were proposed. In the last few years there have been discussions in child protection circles everywhere about reorganisation and restructuring of child care work. A departemental discussion note appeared in 1971 which provoked a lot of reactions. As a result the following points came up for study: the problem of cooperation between the judicial child care authorities and the other branches of juvenile welfare, the problem of regionalising activities and the question of organising the system of institutions.
In the last few years there has been a decrease in the number of children dealt with under child care measures as well as a reduction in institutions and homes. The causes are probably the improved facilities in the non-judicial sector and – there may or may not be a connection – the increasing reluctance to impose an order. The reduction in the number of children in institutions could also be attributable to a rethinking of the aims and methods of institutionalised treatment and its alternatives.

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