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The Early Dutch Sinologists : a study of their training in Holland and China, and their functions in the Netherlands Indies (1854-1900)

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CHAPTER THIRTEEN

THE INTERPRETERS' ADVISORY FUNCTIONS

In addition to their interpreting and translation services, or in combination with these, the sinologists often had advisory functions. Their main advisory function was in the Orphans and Estate Chambers of which they were extraordinary members. But since the interpreters did not (and could not) hold any position within the administrative hierarchy, they were rarely asked for advice by the Residents. They also had no formal authority over the Chinese, who were to a certain extent ruled by their own officers. While in 1860 it had been expected that ten interpreters were needed, in 1878 the number of prescribed positions was reduced to four, since there was not enough work to do. Only the judicial authorities occasionally consulted the interpreters about Chinese law, but it was not easy to give advice on account of the lack of written sources on Chinese civil law and Indies Chinese law. Moreover, it could lead to friction with the Chinese officers and might also result in different opinions among the interpreters themselves. As an example, the debate about the form of the Chinese oath will be analysed at the end of this chapter.

Extraordinary members of the Orphans and Estate Chambers (1866)

The Orphans Chamber (*Weeskamer*) was an age-old institution in the Netherlands dating from the Middle Ages. It was not an Orphans Home but a legal and financial institution protecting the interests of orphans (minors) and managing unresolved inheritances. The Orphans Chamber in Batavia was established in 1625. It took care of the estates of European orphans, at the same time acting as guardian for them, and it was custodian of testaments. Later it also took on other functions, such as acting as curator of bankrupt estates of Europeans. In 1640, the Estate Chamber (*Boedelkamer*) was established in Batavia; it was a similar institution taking care of Chinese and other non-Christian minors and estates.¹ In 1808, the two institutions merged in most places into one Orphans and Estate Chamber (*Wees- en Boedelkamer*). In Batavia, however, they remained two distinct institutions until 1885, when both Chambers' memberships were combined. In the nineteenth century Orphans and Estate Chambers existed in all towns having a *Raad van Justitie* (Court of Justice for Europeans) and were in the highest instance supervised by them. On Java they were present in Batavia, Semarang and Surabaya, and in the Outer Possessions

in Makassar, Padang, and sometimes also in other places. Elsewhere there were 'agents' of nearby Chambers. In 1872 a new *Directive for the Orphans Chambers in the Netherlands Indies* was promulgated.² Their staff consisted of a President, two to four European members, one or two Chinese and one or two native members, one extraordinary member (the interpreter), a secretary, an accountant and assisting personnel.³ The Chamber would convene in weekly meetings on a fixed day. In some respects the Orphans and Estate Chamber functioned like a bank: it invested the money entrusted to it, provided interest on it, lent out money on mortgage, and in the early nineteenth century sometimes even issued banknotes. In the Indies, Orphans Chambers continued to exist until the end of colonial rule, but in the Netherlands they were already abolished in 1852.

In 1865, when the Council of the Indies received reports on the need of a teacher/clerk for the European interpreters for Chinese, it also obtained information about the interpreters' work, showing that most of them had little to do. The Council, therefore, in its advice expressed doubt as to whether enough use was being made of the interpreters. Their training had cost large sums of money and the interpreters could be expected to be of use not only in the courts of law as translators, but also for the Chinese Council (!), the Estate Chambers, the Orphans Chambers, in Chinese cases of bankruptcy and for the investigation of tax-farming cases. If Chinese officers were always used for these functions, the Government would remain dependent upon them, and that was just what one had wished to avoid by appointing European interpreters in the first place. Therefore the Council advised appointing the interpreters as extraordinary members of the Estate Chamber in Batavia and the Orphans and Estate Chambers in Semarang and Surabaya, and outside Java as agents of these institutions.⁴

Almost a year later, on 23 September 1866, Governor-General Sloet decided that the European interpreters of Chinese in Batavia, Semarang, and Surabaya *ex-officio* were extraordinary members (*buitengewoon lid*) of the local Orphans and Estate Chambers. In Batavia, Von Faber was appointed in the Estate Chamber and Schlegel in the Orphans Chamber.⁵ De Grijs became extraordinary member in Semarang, Albrecht in Surabaya.

In the beginning their function was not defined. Von Faber soon asked the President of the Estate Chamber what kind of work he would have to do, but he did not receive a definite answer. On 9 October 1866 he therefore put the same question to the Government Secretary. After consulting the Council of the Indies, Governor-General Mijer decided on 6 December that the extraordinary members should "take part in all work of those Chambers, in particular the work concerning Chinese estates," and the next day the Government Secretary made known that they should swear the same oath as full members.⁶

At first there was no financial compensation for the work done by the

extraordinary members. On 12 December the Orphans Chamber in Batavia proposed to the Governor-General—no doubt after a request from Schlegel—to assign a monthly allowance of *f*250 to the extraordinary member Schlegel, funded by the Orphans Chamber. After consulting the Council of the Indies, Governor-General Mijer refused. His consideration was

that the interpreters act by virtue of their office as extraordinary members of the Orphans Chambers, whenever the Chambers need information from them based on their knowledge of the Chinese language, laws, customs and traditions; and that they therefore remain within the natural boundaries of their office's mission.⁷

Half a year later, on 5 July 1867, the Orphans Chamber in Batavia repeated its proposal with the following arguments. It happened that Schlegel had submitted an invoice for investigating Chinese account books, which had been paid from the benefits of the estate under investigation; the Orphans Chamber was not authorised to pay that invoice from its own funds; the extraordinary member Schlegel was however entitled to a reasonable reward for his important work. Therefore the Chamber again requested authorisation to pay him a monthly allowance of *f*250. Now Mijer considered that for the sake of the bankrupt estates, from which the invoice of the Chinese interpreters would have to be paid, it would be desirable to grant them an allowance from the funds of the Orphans Chamber to which they belonged, on condition that they would not require a fee for services at the request of, or for the benefit of the Orphans and Estate Chamber. In his decision, however, Mijer considerably lowered the allowance: they were to receive a fixed monthly salary of *f*100 for this function; at the same time, they could not claim any fees for services rendered to the Orphans and Estate Chamber of which they were extraordinary members.⁸ This would remain their allowance for the Orphans and Estate Chamber until 1916; but in Padang, where there was little work to do, in 1870 it was lowered to *f*75,⁹ and in 1894 the allowances in Padang and Makassar were abolished for the same reason.¹⁰

In 1867 the function of extraordinary member was further defined, but also further restricted. In May 1867, after a request from the Resident of Surabaya (where Albrecht was stationed), Mijer decided that extraordinary members should “take care of Chinese estates *only*, but all of them without distinction.”¹¹

Three years later, after a letter from the Orphans Chamber of Semarang, their functions were restricted even more. On the one hand, Governor-General Mijer first decided on 9 August 1870 that they were not just “advising members” in Chinese affairs but also “voting members” having the same 5% commission rights as the full members of the Chamber.¹² This deci-

sion seemed to strengthen the extraordinary members' position, but three months later, on 22 November 1870, the Government Secretary specified in a letter that the extraordinary member was not a regular member of the Chamber and could not be entrusted with the care of estates; he could not act as commissioner of the month, taking care of all devoluted estates according to normal internal regulations. The only reason for the assignment of extraordinary members was so that, when the Chamber managed Chinese estates, it would have within its ranks an expert in Chinese language, institutions and customs, who could inform his colleagues and take part in the decision-making in such affairs. If the Government had wished to give him other tasks, it could have made him a full member.¹³ This was the last official notice regarding the extraordinary members' functions. Two years later, in 1872, in the new *Directive for the Orphans Chambers*, the position of 'extraordinary member' was not even mentioned, let alone defined.¹⁴

Despite his weak formal position as extraordinary member, Albrecht managed by informal means to play an active and important role in the Orphans and Estate Chamber in Surabaya when he was working there in 1866–76. In his *nota* of 1878, he also noticed the contradictions between the various decisions, and described his functioning as follows:

If one holds to the latter decision [of 22 November 1870], then the extraordinary member, except in the few cases wherein questions are raised about Chinese customs and institutions, is nothing more than a puppet (*stroopop*) attending meetings only to keep his mouth shut.

During his stay in Surabaya, the undersigned did not adhere to that opinion. Since his other work afforded him plenty of time, from the start he took part in all operations of the Orphans and Estate Chamber, mainly in respect to Chinese estates. He was guided by his desire to obtain knowledge of both laws and affairs, for which there is certainly no better school than those Chambers, no matter how badly staffed they are in general, although knowledgeable officials would be highly welcome there.¹⁵

In the twelve years during which he was stationed in Surabaya, he experienced the period in which so many, and such important, cases of bankruptcy occurred among the Chinese. As an extraordinary member of the Orphans and Estate Chamber there, on his own initiative he took part in the daily operations of that Chamber; he dealt with most of those bankrupt estates himself, and in so doing prevented delays in the procedure, which without extraordinary support would have been the unavoidable consequence of the enormous increase of work caused by those bankruptcy cases. While before his arrival in the Chamber there had frequently been complaints about the slow treatment of bankruptcy cases, he observed with pleasure that during his extraordinary membership not a single complaint was received by the Government.¹⁶

Although on the one hand he [Albrecht] alleviated the work of his fellow members, which they appreciated, on the other hand he sometimes wondered if he was doing the right thing, since he did not bear any responsibility, and the consequences of his doings had to be borne by his accountable fellow members.

Therefore one cannot blame an interpreter, if he adheres to the Government's statement, and as extraordinary member confines himself to giving rarely asked advice, the more so since he cannot like other administrative officials enjoy the satisfaction of his extraordinary services being rewarded with a promotion.¹⁷

Ironically, Albrecht would prove to be an exception to the latter rule. Little more than one year after he had written his *nota*, in August 1879 he was rewarded for his zeal after all, when he was appointed President of the Orphans Chamber in Batavia, leaving the interpreter corps. He was the second interpreter who would pursue another career in the Indies, after Groeneveldt.¹⁸

Meeter succeeded Albrecht in Surabaya in 1876, and he also stayed there for twelve years. He equally showed great initiative in his work for the Orphans and Estate Chamber, but he did not have the same compliant character or the ambition for a career as a government official. After his pension he wrote a series of articles on reminiscences of the Orphans and Estate Chamber that were published in the *Java-bode* in 1894–5.¹⁹

In these, Meeter gave a characterisation of the other members of the Chambers at the time he was serving in the Indies, "long ago," implying that the situation had changed. He did this in a lively way, thereby illustrating Albrecht's *nota*, showing how it must have been for the interpreters to work as extraordinary members.

According to Meeter, the interpreters had been appointed to the Chambers against their will; they had been quite surprised that they, after mainly receiving a linguistic and literary training, were appointed to an institution managing estates; moreover, their salary of *f*100 was just a means to prevent them from submitting invoices according to the official fee schedule.

These Chambers were at the time considered an appropriate station for all kinds of protégés of high officials, who were then made President. The ordinary members were mainly recruited from the clerks of regional and local government and the *Landraad*, many of whom were Eurasians. Meeter in particular appreciated the competence of those who had been working in the Chambers from the start of their careers:

I found among the ordinary members many good, hard-working and honest officials, and in daily contact with them I could soon put aside the suspicion and disdain with which almost any European on his arrival in the Indies seems to be cursed.²⁰

Although the Chinese and native members of the Chambers only received a salary of *f*40 per month, it still was a very sought-after position, also for wealthy Chinese. For Chinese members it was even more attractive, since they could get the title of *luitenant-* or *kapitein-boedelmeester*. But according to Meeter, they could earn much more out of this position than their

salary by simply *not* doing their duties. Besides attending the meetings and assisting in making inventories, they also had periodically to submit records of deaths among their people. There being no Civil Registration (*burgerlijke stand*), this information could not be provided by Europeans. But by leaving out the names of descendants who were minors (doubtless for a certain reward), the Chinese members could dodge the much-hated interference by the Estate Chamber in Chinese family affairs, although this may not have been in the interest of those minors.

Meeter gave one example of a Chinese member's dereliction of duty. Once, waiting for the meeting to begin, as a pastime and out of curiosity he was leafing through a stack of account books lying on the table. Knowing the deceased from another case, he asked for the inventory, and discovered that the value of the outstanding debts (*debetsaldi*) was estimated at f3,000. During the following meeting he made known that in his casual investigation he had already found outstanding debts worth more than f60,000 in total, twenty times as much as the amount mentioned in the inventory. When asked, the Chinese member sheepishly answered that he had not checked the account books himself, blaming his assistant, but all present drew their own conclusion.

A few days later, when large sums of cash arrived at the Orphans and Estate Chamber, the President remarked that the minor should be grateful for Meeter's interference. He asked Meeter if he were willing to check the outstanding debts of all Chinese inheritances. In Meeter's opinion, this was not a regular duty of the extraordinary member, but it was part of the interpreter's private work which should be remunerated. His colleagues would not appreciate it if he would do this work for free. Besides, Meeter found that the President did not have the authority to give any orders to the extraordinary member, who was not a full member and whose duties were not defined in the *Directive* of 1872.²¹

Indeed, the lack of clear instructions for the extraordinary members—there were no rules except the little-known rules of 1866–70 mentioned above and vaguely referred to in article 2 of the *Directive*—led to confusion about what their duties were, both for the extraordinary members themselves (including Meeter), and for some Presidents. According to Meeter, this caused a great divergence in the actual functions of the extraordinary members in different Orphans and Estate Chambers. In one Chamber the extraordinary member simply posed as a full member and acted as 'member-commissioner', not only in Chinese estates, but also in those of Arabs and even Europeans. This must refer to Albrecht and also to Meeter, who stated in 1879 that he had acted as full member and commissioner for estates for two years.²² In another Chamber, the extraordinary member only attended the meetings, claiming that he was doing this out of kindness (*welwillendheid*), since he was not obliged to do so on account of any

regulation. Some Chambers appreciated their services, others did not, and nobody knew what he could or could not do. One President asserted that the extraordinary member could only give advice, while another said he could vote just like a full member, but only in Chinese cases. According to Meeter, asking the Director of Justice in Batavia for further instructions would be considered 'bothering' him, so nobody did this and the situation remained the same.²³

The Orphans and Estate Chambers also had a legal advisor (*praktizijn*), usually a solicitor, whose opinion counted heavily, often too heavily for the inexperienced Presidents. The applicability of European law to the Chinese afforded ample sources of income to the legal advisors. Debtors of estates managed by the Chambers would be reminded only once by the Chamber, and if they did not comply and pay their debts within a certain period, the legal advisors were charged to collect the debts at a collection fee of 5%. In some cases, all debts were immediately handled by the legal advisor. Once, when Meeter protested against this during the meeting and wished to have his protest registered in the minutes, this was refused because he was not a full member. In another similar case, an inheritance of f400,000 in outstanding debts had already been received, while the legal advisor still collected the 5% fee, but Meeter's protest was again denied. When Meeter by chance met the President of the Court of Audit (*Rekenkamer*), the financial supervisor of the Orphans Chamber, he told him about this, whereupon the Chamber was ordered to remit the collection fee of f20,000 to the minor heirs.²⁴

But the Chambers were not so generous to the extraordinary members, Meeter said. He recounted in fine detail the experience of a colleague, Van der Spek, as an example of the ambiguity of the regulations. In Makassar, Van der Spek was once asked by European creditors to investigate the account books of a bankrupt Chinese. For this he proposed a fee of f1,000, which would not be much for a European expert such as a lawyer, doctor or notary. The creditors found this much too high, and requested the Orphans and Estate Chamber to check the books on grounds of suspicion of fraud. Now Van der Spek was required to do the same work for free, and he of course refused, asking to be shown the relevant regulation giving them the authority to give him orders. The Chamber then lodged a complaint of wilful disobedience with the Director of Justice, who gave Van der Spek a reprimand, and finally transferred him to the other end of the Indies, Banka.²⁵

In another case, a lawyer asked the Chamber to have the extraordinary member translate a document from one of the estates managed by the Chamber. The (anonymous) interpreter refused, but after being forced to do so by a written resolution from the Chamber, he provided a translation and submitted an invoice of f12. This fee was then received by the

Chamber and booked as administrative charges (*leges*), although it was not in accordance with the normally prescribed fee. When the interpreter complained to the Director of Justice, he was rebuked, and after an appeal to the Governor-General, the latter upheld the decision, at the same time ordering the Orphans Chamber in future not to assign such private jobs to the interpreter.²⁶

In order to further protect the interpreters' rightful emoluments, Meeter suggested it should be forbidden for the judiciary and the civil administration to allow any private person, in particular the legal advisors (*praktizijns*) of Orphans and Estate Chambers, to copy or consult the translations of account books made on the government's orders.²⁷

He also mentioned the example of one interpreter who, after several stationings in the Outer Possessions, was for the first time appointed in an Orphans and Estate Chamber. Passing through Batavia on the way to his new station, he asked both interpreters in Batavia, who were respectively assigned to the Orphans and to the Estate Chamber, about the work in those institutions. Both told him he only had to attend the weekly meetings, though even this was not always necessary, and that they were rarely asked for advice. They only stayed at the meetings until the minutes concerning Chinese estates had been read aloud, since they had nothing to do with estates of Europeans, Arabs, and other non-Christians.

When after arrival in his new station, this interpreter asked the President of the Orphans Chamber on which day the meetings were held, he was told he did not have to attend any; when needed, he would be called, but this would not happen often. His argument that he had to plan his weekly schedule, having to work for the court, the administration and the Orphans Chamber, and that he did not know what to do in case all three called him on the same day, was to no avail. The President answered that the meetings were none of his business, since the extraordinary member had no right to vote. The interpreter then wrote to the Director of Justice, who replied that the President's opinion was "not entirely correct" and that the extraordinary member "*could* attend the meetings." Even then the President refused to allow him to take part, since the Director had not written that his opinion was "wrong" and that the extraordinary member "*should* attend the meetings."²⁸

Meeter also did other work for the Orphans and Estate Chambers, to which he did not refer in his reminiscences. Some traces of this can be found in the archives of the Amoy Consulate, which contain a few letters from Meeter in Padang and Surabaya to Consul Pasedag, asking for documents for Chinese in the Indies.²⁹

Meeter also did not mention the written advices given by the interpreters to the Orphans and Estate Chambers on Chinese customs and law.³⁰

Despite the vaguely defined and formally weak position of the inter-

preters in the Orphans and Estate Chambers, Groeneveldt still considered their work in those Chambers as one of the few serious activities.³¹

The weak position of the interpreters as advisors

In his plea for a Chinese course and professorship for himself in Leiden in 1873, Schlegel stressed the indispensability of the interpreters. To illustrate this, he gave a general description of the economic and social importance of the Chinese in the Indies. He suggested that in districts with a large Chinese population, only government officials who knew Chinese should be appointed, complaining about the lack of understanding of Chinese affairs by the government:

And of this element which is so important for the Indies, the East Indies officials know *nothing*. The wildest ideas are in circulation about them. They understand nothing of their religion, their peculiar customs and traditions, their economy, or most of all their language. And therefore glaring mistakes have been made vis-à-vis them, and the administration of the Chinese causes problems in many places, while the Chinese are actually a people most easy to rule.³²

Despite the government's lack of understanding of the Chinese, the interpreters were not consulted. Schlegel therefore complained about the interpreters' weak advisory position. He had heard that in 1870, when the Governor-General asked the Residents of regions with a large Chinese population about the need of European interpreters for Chinese, most of them had answered that they did not need them.³³ Schlegel commented on this:

This is not the place to hold forth on all the reasons leading to the refusal by these local authorities of such a necessary intermediary as a Chinese interpreter, but in my and many other colleagues' experience, it became clear that most administrative authorities preferred *not to have* us, keeping us as much as possible out of Chinese affairs, and considering us, to use a Japanese term, as troublesome *snoopers* (*dwarstijkers*), who through their knowledge of the Chinese language, and the confidence given them *accordingly* by the Chinese population, became acquainted with many circumstances that they preferred to leave unknown.³⁴

When an interpreter was appointed for the first time, he would be about 23 years old and have as yet little knowledge about the Indies, so it is not surprising that the government would not consider him ready to act as an advisor. Schlegel soon realised that he was not appreciated. A few months after his appointment in Batavia, he strongly advised De Grijns in a letter against going to Java, since "our function is merely that of a Chinese boy with the Batavian mandarins."³⁵ For many interpreters, the situation seems not to have improved much even after years of experience.

Similar opinions were vented by others. Around 1880, De Groot, being an ambitious man, complained in Cirebon about the low status of the interpreter, which was aggravated by his association with the Chinese.

... I notice that the position of interpreter already counts for very little with the Dutch public. All those in my environment are "officials" and can as such climb up to the highest ranks, but the interpreter is doomed to stay all his life what he is; he is someone without any significance, and can never have any significance. He is even more in discredit, because due to the confidence he soon enjoys from the Chinese population, he has a better understanding of the malversations and bad practices towards them than anyone else, and one cannot expect from him that he will always cover up what he hears.³⁶

Even in 1913, Borel complained that the Officials for Chinese Affairs were not consulted by the regional government, for the same reasons that Schlegel had already mentioned in 1873.³⁷

In his "Indische Chinoiserieën," Meeter gave several lively examples illustrating how this worked in practice. In one case from the Outer Possessions, a wealthy but unpopular Chinese, who was also known to be an opium smuggler, was nominated by the Resident and appointed as Chinese officer. A few months later, Meeter was visited by two very reliable Chinese, who told him in secret that the new officer had again managed to smuggle about 5 *pikol* of opium and conceal it in his house.³⁸ The informants gave him all details, including the exact place of concealment, convincing Meeter of their trustworthiness. At first, Meeter was reluctant to inform the Resident about his protégé, but in the end he considered it his duty to do so. When Meeter reported the matter to the Resident, without disclosing the names of the informants, the Resident's first question was: "Are you now employed by the opium tax-farmer?"³⁹ Meeter answered that he hardly knew the opium tax-farmer and considered it his duty to inform the Resident. Meeter refused to give him the names of the informants, even when the Resident offered to pay them a reward. The Resident then angrily promised to have the matter investigated, but warned Meeter that he should not come again with such stories if the results should be negative, as he expected.

Meeter was at the time too naïve to realise that the Resident's investigation would certainly produce no results. When he went to the club and told his friend, the doctor, about this, the latter laughed at him and told him he had been wrong to involve himself in that matter: a good listener would understand that the Resident did not *wish* to find opium in the house of the Chinese headman.

About half an hour after Meeter had left the Resident's offices, a clerk (*commies*) bearing an official briefcase, followed by a police officer (*schout*) and two policemen (*oppassers*), slowly walked to the house of the Chinese officer, attracting a lot of attention. Upon arrival, they were invited in by

the Chinese, but the clerk realised that he had forgotten his pocket inkwell (*inktkoker*) and sent one of the policemen back to fetch it. When they finally entered the house, no opium was found.

The next morning, Meeter was summoned by the Resident and told about the fruitless search. Meeter explained how his informants had come again the night before, reporting that the Chinese had had ample time to remove the opium via the canal at the back of his house. Even more than before, Meeter refused to give their names, whereupon the Resident accused Meeter of spreading unfounded rumours, which could be entered in his personal dossier. When Meeter said that in that case he would report to his chief, the Director of Justice, how important information was being used by the government, the Resident considered this a personal attack and warned him. This incident worsened the already poor relations between Meeter and the Resident, who would thenceforth neglect no opportunity to deal him a blow (*een deuk*).⁴⁰

In another case, Meeter showed how a Dutch official in the Outer Possessions extorted enormous bribes from a Chinese contractor, believing (as many Europeans would) that a Chinese would keep things secret. A *sinkheh* mason, who was a well respected neighbourhood chief (*wijkmeester*), came to Meeter's house and told him that he had contracted for the construction of a government building. He had already been working on it for some time, under the supervision of the Bureau of Public Works, the chief of which he called "Mr. Waterstaat" (Mr. Public Works).⁴¹ He told Meeter that after he had finished laying the foundations, the result was not approved by Mr. Waterstaat and he was ordered to tear them down. That evening, the *sinkheh* sent Mr. Waterstaat two boxes of wine and two boxes of cigars, after which the latter became friendly and was willing to leave the building as it was. This happened several times, not only with the foundation but also the walls, the roof, the beams, the floor, etc. Each time, Mr. Waterstaat had only orally explained the specifications of the building, of which the Chinese took notes. According to Mr. Waterstaat it was not necessary to ask the Chinese interpreter to translate the specifications. After each disapproval, the *sinkheh* won the favours of Mr. Waterstaat by presenting gifts or money. Now the building was almost finished, but Mr. Waterstaat disapproved of the stairs, which should have had eleven steps instead of nine; this was too much for the Chinese to take. Meeter computed from the Chinese man's notebook that he had already spent 3,000 guilders on presents, and suggested that he could lodge a complaint with the Resident, submitting the notebook as evidence. The clever *sinkheh* replied that he would not dare to do so, since Mr. Waterstaat could then order him to tear down the whole building and his losses would be even greater. And if the complaint were forwarded to Batavia, Mr. Waterstaat would certainly be dismissed. Since he had a large family, the *sinkheh*

did not wish to harm him that much, even though he had been treated unjustly. He suggested that Meeter ask Mr. Waterstaat in private to approve of the stairs, telling him that if he would do so, the matter would be closed.

Meeter thereupon invited the chief of the Bureau of Public Works to pay him a casual visit, and then told him all he had heard from the Chinese contractor, also mentioning the notebook with the expenses for presents. Not only did Mr. Waterstaat promise immediately to accept the stairs, but he fell to his knees in front of Meeter, imploring him not to pursue the matter officially.

In hindsight, Meeter regretted not having done so, since Mr. Waterstaat, although friendly to his face, behind his back spoke ill of him to his friend the Resident, even accusing Meeter of dishonesty, collaborating with the Resident to make Meeter's life as unpleasant as possible.⁴²

Many aspects of the weak position of the interpreter as advisor are illustrated in Meeter's long story about his membership in the Business Tax Commission in Surabaya, published in eight episodes of the "Indische Chinoiserieën." This story is about unfair taxation and the difficulties in fighting this injustice (most important was the financial damage for the government), which the interpreter could only overcome with support from the Governor-General in Batavia.

The Business Tax (*bedrijfsbelasting*) was created in 1878 and was imposed on native and Chinese businessmen.⁴³ The next year a similar tax was created for European businessmen, called the Patent Tax (*patentbelasting*). New taxes are of course never popular, but this was not the issue. Meeter first expounded on the problems resulting from the direct application of this law from Europe to the Chinese without considering their very different ways of doing business, giving examples of some informal but highly profitable kinds of business that would not be taxed. Some time after this business tax had been introduced, a friend with whom he often played at cards at the club, and who happened to be a Tax Inspector, visited Meeter to ask his advice. He had been charged to investigate and report on the effectiveness of the tax levied the previous year, and had no idea how to assess the true volume of business of Chinese companies. Meeter immediately explained that since the Commission was presided over by the Chinese *majoor*, a *peranakan*, he expected that the *sinkheh* shopkeepers would in general be overtaxed, while the large *peranakan* companies would be undertaxed. He suggested visiting some Chinese shops and companies together, where he would introduce the Tax Inspector as his student wishing to practice his Chinese in conversation with the shopkeeper. The first shopkeeper they visited was a *sinkheh*, without family ties to the Chinese officers, and with a rare surname (Soe 史), so he would not be supported by any of the Chinese surname associations. After gaining information about his business, which this shopkeeper was willing to give, Meeter and

the Tax Inspector assessed the tax he owed at *f*20, while according to the tax register he had paid *f*96. The divergence was much larger than Meeter had expected. But when they visited a large *peranakan* company, the result was the opposite: that company had paid *f*130, but actually owed more than three times that amount. While the Tax Inspector assumed this was the result of the previous commission's ignorance, Meeter thought it was intentional. The Inspector was shocked in particular by the financial damage to the government. He now asked Meeter to check all the registers of the previous year and write the report. He also suggested that Meeter should become a member of the Business Tax Commission to avoid future damages. Meeter was willing to do so, but made it clear that a request for this should not be submitted to the Resident, but only to the Department of Finance.

Some days later, suddenly the Resident F. Beyerinck and his wife paid a rare courtesy visit to Meeter's home, which normally speaking should be considered a great honour. The Resident told Meeter that the Director of Finance had requested to appoint Meeter as a member of the Business Tax Commission; he asked him to write a letter of protest against this, since this work "had nothing to do with translation." Meeter maintained a neutral standpoint and refused to send such a letter on what he considered false grounds. Some time later, Meeter was notified of his appointment, but not in the usual manner by a formal government decision, but in a letter in broken Dutch written by the *controleur* 2nd class (the lowest official rank in the interior administration) who had been appointed as President of this Commission. Meeter's protest with the Director of Justice against this arrangement, in which he would be placed under a low-ranking official, was to no avail.

In order to change the unworkable composition of the Commission, the Tax Inspector suggested that Meeter should write a letter to an acquaintance in Batavia who was close to the Governor-General. Meeter then secretly wrote a long letter to Groeneveldt explaining the matter extensively and protesting against this arrangement and, on the Tax Inspector's advice, adding that the results of the business tax should be much better. Immediately afterwards, Meeter received the decision of two months earlier, and Groeneveldt asked him by telegraph for permission to forward his secret letter to the Governor-General; this he gave immediately. When the meeting of the Commission was finally about to take place, suddenly the Assistant Resident arrived and announced that the meeting would be postponed. According to the new arrangement, he would be President of the Commission, and the *majoor* was no longer a member, but only an advisor. The next meeting, however, still took place in the *majoor*'s house, giving him an opportunity to entertain the members. Meeter refused to accept any cigars or drinks from the *majoor*, bringing along his own cigars,

thereby keeping his neutrality (in Chinese fashion) and not “sponging on the Chinese” as many Europeans were doing in his opinion. Despite continuing sabotage by the *controleur* (in Meeter’s opinion at the instigation of the Resident) and similar attempts by the *majoor*, the tax results were now fair and in accord with the actual amounts of business. The Chinese member even remarked: “Finally justice is done.” For the government, the results were also “fantastic.” But Meeter was not rewarded for his work. And when the Governor-General visited Surabaya soon afterwards, Meeter was not invited by the Resident. This to him was no cause for regret; in any case he disliked this kind of activity, and he was glad not to be invited.⁴⁴

One of Meeter’s (many) grudges against his function was that he was sometimes charged to perform a purely formal role (*figurantenrol*). True to his epithet of ‘opponent,’ he usually refused to perform these. For instance, he refused to lead by the hand the newly appointed, unpopular Chinese officer up the stairs of the Resident’s office; in this case he could disobey his superior’s orders without consequences, since his friend, the doctor, wrote a false certificate of illness for him.⁴⁵ He also refused to read aloud in Chinese the tax-farming regulations at auctions, since he considered this a superfluous formality: all Chinese present had a better knowledge of Malay than Chinese, and had beforehand carefully studied the farming regulations. The Resident’s argument that Meeter’s predecessors had always performed this duty, could not convince him. Even when the Resident finally said “Yes... but... you know..., please do it for my sake..., because ... I so much enjoy hearing a Dutchman speak Chinese,” the stubborn Meeter still refused⁴⁶—perhaps he was ashamed of his admittedly imperfect pronunciation of Hokkien.

Despite these minor irritations, the examples above show that because of their knowledge of the Chinese language (in the case of *sinkheh*) and Chinese customs and traditions, the interpreters could play an important role as troubleshooters, but because of their weak position they could only do so in an informal way, or with help from outside.

But the interpreter could also do ‘harm.’ One case is known in which an interpreter indeed acted as a “troublesome snooper” and even as a whistle-blower. Not all details about this extremely complicated case have been found, so the conclusions are tentative, but the general picture is clear enough.

Almost a year and a half after A.E. Moll’s appointment at his first post in Cirebon on 26 April 1880, a new Resident, J. Faes, came into office on 19 September 1881. Faes had had an impressive career as a chief of police, although he had been transferred in 1870 after beating a suspect with a whip.⁴⁷ The new Resident was very friendly to the 24-year old Moll, inviting him often to his home for lunch or dinner. But his authoritarian attitude did not endear him to the general public. Within two weeks some

incidents happened that would lead to an enormous row, in the end cutting short both Moll's and Faes', and many others' careers in Cirebon.

On 29 September 1881, the native Regent, *Raden Adipati Aria Soeria di Redja*, in office since 1 March 1861, was charged by Faes to check the opium tax-farmer and *luitenant* The Tjao Tjay's (Tjauw Tjaij) stocks and account books for smuggled opium.⁴⁸ He was accompanied by Moll and *kapitein* Khoe The Djin (a personal enemy of the tax-farmer), who made up the investigating committee. On three successive days, this search was so rigorously performed that the tax-farmer lodged protests with the Resident and his representative, Secretary J.C.W. Coert. In the newspapers, reports appeared about the excessively rude behaviour of the police during the search,⁴⁹ and this incident marked the beginning of the conflict between the Resident and the Regent. But on 12 December there appeared in *Het Indisch Vaderland* an anonymous, very detailed, new version of what had happened, exonerating the Regent and accusing the Resident and Secretary of conniving with the tax-farmer and obstructing legal procedures. Many details on the background and procedures were given, including the Chinese interpreter's role in weighing the opium and studying the account books, which also mentioned the exact bribes paid to various officials.⁵⁰ Later some other anonymous articles appeared in the same newspaper.⁵¹ After a few months, Faes managed by unconventional methods, including bribery, to obtain proof that Moll—suspected least of all—was the author of the articles. Upon questioning, Moll confirmed this and said he had written them at the request of the Regent. The inexperienced Moll may have been used by the Regent. The matter was reported to Governor-General F. s'Jacob; the case was investigated, and as a result the accusations of the Resident were declared libellous. But the local situation remained extremely tense.⁵²

On 1 November 1882, s'Jacob expressed "the government's serious dissatisfaction with him [Moll] because of his behaviour, highly inappropriate for a government official, in writing newspaper articles detrimental to the regional government of Cirebon," and at the same time ordered Moll's transfer to Western Borneo for stationing in Montrado or Singkawang.⁵³ These were some of the least popular places in the Outer Possessions. This measure did not relieve the tension in Cirebon.

One of Faes' good friends in the local Club, 'Sociëteit Phoenix,' a certain B., was accused of indecent behaviour towards a 13-year old Chinese girl, and prosecution was initiated. When the suspect was being shunned by other members of the Club, Faes tried as Resident to bolster his standing, but the suspect continued to be treated as a non-person. For Faes, this was infuriating, since Moll had always been treated with respect in the Club. Thereupon, Faes left the Club with about twelve other members and established a new Club; a few days later the old Club's mortgage was suddenly cancelled, etc.

Meanwhile Faes' conflicts with the Regent and many others intensified, leading to debates in the newspapers.⁵⁴ In 1883 Faes managed to have the old Regent and his three sons—the native government was a family affair, as in many places—dishonorably removed from office. But the local situation became unbearable, and a request was sent to Governor-General s'Jacob, asking for Faes' dismissal.⁵⁵ Subsequently, in May 1883, s'Jacob gave Faes three weeks' time to take honorable leave (or pension). The reasons were that he had offered not to report on the Regent on condition that the latter would stop obstructing him; he had involved himself too much in the local row and attached value to matters not worthy of his attention. Under protest, Faes retired as from 1 August 1883. Later he published a long report in defense of himself for the eyes of the new Governor-General, O. van Rees, but referring only to happenings of 1883, and not to Moll's articles.⁵⁶

In the whole affair, Moll had been the whistle-blower, and he caused the breakup of the Club. When Faes left Cirebon, the sale of his furniture brought a remarkably good price of f31,000.⁵⁷ According to Meeter, this could in general be a reason for suspicion of corruption. These incidents may illustrate Schlegel's and Meeter's opinion that some Residents connived with the rich *peranakan* Chinese officers who were also opium tax-farmers. Resident Faes should indeed have been more cautious with the European interpreter of Chinese. Afterwards, in Cirebon no such interpreter was ever appointed.

Apart from oral advice, as described by Meeter, the interpreters were sometimes asked to write, or wrote on their own initiative, *notas* (policy documents) for the regional government (Resident) or the central government (Director of Justice). These were about subjects concerning the Chinese or about their own position. For instance, in 1877 Schaalje wrote a *nota* on the working of the secret societies in Riau, and in 1887 about a possible new by-law repressing secret societies, both for the Resident of Riau (see Chapter Fourteen, section on secret societies). In 1880, both Von Faber and Hoetink wrote at the Resident's request *notas* about a new costume for the Chinese officers (see next section). Albrecht wrote a *nota* about the work of the interpreters in 1878 for the Director of Justice, and one about the legal position of the Chinese up to 1883 (published in 1890). In 1882–3, six interpreters wrote *notas* on the revision of laws for the Chinese (see the section on advice to the courts). After 1900, several Officials for Chinese Affairs wrote *notas* about a reorganisation of their work. And of course Schlegel, De Groot, and Hoetink wrote *notas* in support of their requests for a professorship and missions to China. Writing a *nota* was the only substantial way of reporting or giving advice to the government. But it seems that sinologists were only rarely (and in some cases never) asked to write a *nota*.

The sinologists' double function of interpreter and advisor is well illustrated in their work for Foreign Affairs. Two Indies interpreters, De Grijs and Groeneveldt, also served for some time with double functions in diplomatic affairs, but when assessing their functioning, their superiors seem to have had opposite opinions about them.

In 1863, even before being appointed in the Indies, De Grijs was made 'Chinese secretary and interpreter' to the Dutch plenipotentiary Van der Hoeven for the negotiations leading to the Sino-Dutch Treaty of Tientsin. An account of his important role in this process can be found in Chapter Five. As was common at the time, De Grijs was much more than just an interpreter. For instance, he also took care of practical matters such as renting lodgings in Tientsin, and he did most of the negotiations with minor Chinese Mandarins himself. Afterwards Van der Hoeven expressed his great appreciation for De Grijs' service, stating that a large part of the success was due to De Grijs' knowledge of Chinese customs and tact.

When the first Dutch diplomat J.H. Ferguson was sent to China in 1872, the Dutch government realised that a Chinese interpreter would be an indispensable assistant. When asked, Schlegel advised engaging De Grijs, who knew some Mandarin, or Groeneveldt. But De Grijs, now with a family of five, had so many extra financial requirements, while Groeneveldt, still a bachelor, had none, that the choice fell on the latter. He was made 'Secretary-Interpreter' for one year, which was later extended for another year, and he stayed in Shanghai and Peking in 1872-4.

Ferguson only indirectly vented his opinion about Groeneveldt in a letter to the Minister of Foreign Affairs about the best manner to train interpreters for the Indies. This was just before Schlegel was appointed as titular professor, and an extract was sent to Minister of Colonies Van Goltstein, since he might be interested in Ferguson's views. Van Goltstein ignored the letter; he obviously was not interested. It should be noted that after Groeneveldt left China, Ferguson was assisted by the student-interpreter Jan Rhein, a 19-year old primary school teacher.⁵⁸ In his letter, Ferguson first gave his views on the qualifications for appointment as an interpreter. He disagreed with the opinion that only extremely intelligent persons, perhaps geniuses, could study Chinese. For an interpreter there was no need for special scholarly training in Ethnology, Philology and Chemistry etc. at Leiden University. He only needed to have an accurate pronunciation in Mandarin and know the official style of correspondence of the Chinese government. Another requisite for an interpreter was modesty:

Moreover, the interpreter's characteristic feature—for example in his relation with his chief—should be modesty. Many learned young men feel that natural urge to outshine the modest, almost instrumental function of the interpreter, and they therefore fail to appreciate the practical, commonplace aspects of

their profession; nowhere is conceitedness a greater hindrance to service than in an interpreter from whom one expects practical skill, not scholarship.⁵⁹

Ferguson's requirements for a good interpreter are obviously correct, but he forgot that the Indies interpreters, in particular someone like Groeneveldt who had rarely acted as interpreter before and had fulfilled other more responsible functions in Pontianak,⁶⁰ were not just interpreters, but always considered themselves rather as advisors. Groeneveldt was a modest but extremely intelligent man with higher aspirations, and he may inadvertently have eclipsed Ferguson, who in 1872, according to Schlegel, did not know anything about China.⁶¹ One may assume that a similar thing happened in the Indies, when Residents considered the sinologists as mere interpreters and translators, and refused to see them as advisors.

Reduction of the number of interpreters (1879)

When Schlegel's first group of students finished their studies in China in 1878, Groeneveldt, who had left the interpreter corps the previous year, and was now Honorary Advisor for Chinese Affairs, was asked to suggest places of appointment for them. He replied that he was not in favour of the enlargement of the interpreter corps, since they had in most places little to do.⁶² In his opinion:

It is our experience that the Residents are ... so jealous about their authority, that they cannot bring themselves to recognise that the Chinese interpreter knows some circumstances better than themselves.⁶³

As a remedy he suggested:

It could be different if it were decided to regard the interpreters more as Officials for Chinese Affairs assigned to the heads of regional government—but this is not prescribed in the present *Directive*—and, as I said earlier, the heads of regional government seem little inclined to take such action on their own initiative.⁶⁴

At the time, Groeneveldt did not delve into the matter more deeply.⁶⁵

Two weeks later, Albrecht submitted his *nota* on the work of the interpreters. Born and raised in the Indies, where his father had worked in the military administration in Batavia, and with five brothers who became military officers, he was well informed about both legal and administrative affairs. Working as an interpreter for almost eighteen years in both the Outer Possessions and on Java, he had always been interested in fulfilling other functions. In his free time, he had even compiled a comprehensive index to the Government ordinances in the *Staatsblad van Ned.-Indië*.⁶⁶ For these reasons, he seems to have been more ready than Schlegel and some others to accept the facts of government.

Albrecht began his *nota* with his astonishing conclusion:

The position of interpreter for Chinese in the Netherlands Indies as defined in *Staatsblad* 1863 no. 39 is in most places a sinecure.⁶⁷

If their functions as interpreter and translator, which have been described in the previous chapter, were limited, their advisory functions were even more restricted. According to article 2 in the *Directive* of 1863, their functions as advisor were:

They provide information to the head of regional government—if need be after a previous investigation by them on orders of this head—as well as commentary and advice about affairs concerning the Chinese.

But the actual situation was quite the opposite. Albrecht wrote:

Advice is almost never asked for by the heads of regional government, and very rarely by the [Central] Government.⁶⁸

He gave the following explanation, which was based on a clear understanding of the workings of government:

Many will contend that an official knowing Chinese and Chinese affairs should deliver useful services to the government. He would be able to do so with success, if he were not placed entirely outside the administrative machinery, therefore remaining unacquainted with the handling of administrative matters. In the present situation, the interpreter is in an isolated position; it depends upon the fancy of the head of regional government whether to consult him or not. ...

To be honest, one should keep in mind that the relationship between the interpreter and the other officials is not defined, so that if they are charged with tasks that are not related to interpreting, this may easily give rise to conflicts with the administrative officials and the Chinese headmen. ...

Most heads of regional government seem to realise this and keep the interpreters outside of any involvement with the administration over the Chinese.
...⁶⁹

Albrecht acknowledged the need of some officials knowing Chinese, but if their position were not to be strengthened, he proposed a radical reduction of their number as a remedy:

It is a wise policy for the Government to have at its disposal officials knowing the language and writing of such an important element of the population as the Chinese. They are indispensable for the translation of ordinances, and they can fruitfully investigate important matters and give advice on Chinese customs and institutions. But for this work only two interpreters would be needed, both stationed in Batavia, one of whom could be available for missions elsewhere in the Netherlands Indies. All the work outside Batavia that is preferably done by a European interpreter, that is to say, only concerning important matters, could also be done by them. At most, one other interpreter could be stationed in Semarang and one in Surabaya, but that should be all.⁷⁰

For the Outer Possessions, Albrecht proposed another remedy to ameliorate the interpreters' position. He suggested charging them there with the function of *controleur* or *adspirant-controleur*, and if necessary later incorporate them in the Interior Administration. This could be done in the Western part of Borneo, Riau, Banka, and the East Coast of Sumatra. He wrote in his *nota*:

Having daily contact with Chinese, they will be better able than in their present isolated position to keep up and apply what they have learned, and knowing the language of the people, they will acquire a knowledge and experience in the administration of that nation of which the other officials of the Interior Administration will be envious.⁷¹

This was followed by several rounds of correspondence about Groeneveldt's letter and Albrecht's *nota*, between Director of Justice Buijn, Director of Interior Administration G.Th.H. Henny, the Council of the Indies, and Governor-General J.W. van Lansberge. Their conclusion was that incorporation in the Interior Administration was impossible because of administrative obstacles: the interpreters had not passed the Higher Officials Examination, a necessary qualification, and they could not be forced to follow a second training after their difficult (and expensive) Chinese studies.

Ironically, a few years later Albrecht's advice was realised in one case in the Outer Possessions, but the other way around. The *controleur* Schaank received a Chinese training course in Leiden and not only became a rare example of an official knowing Chinese, but also a remarkable scholar in Chinese linguistics.⁷²

In 1878, all officials who were consulted agreed on the need of a reduction of the number of interpreters. Both Buijn and Henny proposed keeping the prescribed number of seven interpreters—six new interpreters had just been trained in Leiden—while the Council of the Indies was in favour of a reduction to four (two in Batavia and two in the Outer Possessions, namely on Riau and on the East Coast of Sumatra). In their opinion, there would be less objection against giving the present interpreters and the three students other jobs, since they had shown themselves to be well educated men who could also be useful in other functions.

The Council of the Indies also remarked in its first advice that it regretted Groeneveldt's depreciation of the heads of regional government. His remark about their jealousy could not be true; such narrow-mindedness seemed unbelievable in the case of head officials (*hoofdlambtenaren*) who had been selected with care. Pertinent objection should be raised against this.

In an advice a few months later, the Council of the Indies concluded:

that the European interpreters for Chinese, with the exception of a small number, could be missed without the least objection, even if more use is being made of them than in the past.⁷³

Governor-General Van Lansberge then proposed to the Minister of Colonies to reduce the number of interpreters to five (two in Batavia and one each on Riau, the East Coast of Sumatra and Borneo). The present interpreters would remain in function until they passed away or changed to different employment. Minister O. van Rees agreed with the Council of the Indies' advice, and decided that four interpreters would suffice; no interpreter was needed on Borneo.

As a result, Schlegel's teaching would go into its first moratorium, which lasted almost ten years. While in 1860 the Governor-General and Minister had still needed ten interpreters, and two years later they had needed eight; the prescribed number was now lowered to four. Since Schlegel had just trained six students, in practice it would take another ten years before this reduction was realised.⁷⁴

Now Governor-General Van Lansberge issued a summons urging the heads of regional and local government to make more use of the interpreters as advisors,⁷⁵ but Buijn did not expect much to come of it.

The reduction was a wise decision, since if Schlegel had not been stopped, the number of interpreters would have risen even more. But the summons did not strengthen the interpreters' position. Groeneveldt asserted in 1894 that the situation had not changed: "That summons did not change the matter; the old opinion that these were just interpreters continued to prevail."⁷⁶

Relations with the Chinese

When the interpreters arrived in the Indies, they were confronted with a highly diverse Chinese population. The Chinese were not only divided into different dialect groups, sometimes leading to violent conflicts in the Outer Possessions, but also into different social strata. At the top stood the *peranakan* (or *baba*) who had often been living in the Indies for generations, had in many ways adapted to the local environment, were often of mixed blood, and could speak Malay; they were often very wealthy families. At the bottom stood the *sinkheh* who had newly arrived from China, spoke little or no Malay, and who would start out from scratch. In general these two strata did not mix, and the rich *peranakan* despised the poor and "uncivilised" *sinkheh* ("newcomers"). On the other hand, some clever and hard-working *sinkheh* earned a fortune and thereby could rise quickly in society, although they might still be despised by the *peranakan*.⁷⁷

The *peranakan* had been engaging in business and in governing with the Dutch for two and a half centuries, and though their legal position was lower and less advantageous than that of the Europeans, they were a local elite of high standing, which in other respects was superior to the Dutch.

There were some extremely rich and powerful families, interconnected by marriage ties, who were there to stay, while most Dutch officials were temporarily stationed in the Indies. These *peranakan* were not a subjected nation, as the interpreters may have expected, but a proud, rich and powerful segment of the population.

From the beginning of the seventeenth century, the Dutch practiced a system of indirect rule over the Chinese and other ethnicities, as was common in the harbours of East Asia. The Chinese were governed by their own headmen who were appointed by the Dutch. In 1619, a few months after the establishment of Batavia, the first *kapitein* or headman was appointed; from 1633 on he was assisted by a *luitenant*, and two centuries later, from 1837 on, a *majoor* could be placed above him in some places. From the eighteenth century onwards, the Chinese officers in the main towns of Java were organised as the Chinese Council (*Chineesche Raad*, Kong Koan 公館). Although the officers' functions were unsalaried on Java and Madura, they were highly sought after because of their prestige and financial advantages. Except for various business activities, such as contracting public works and supplies to the government and the military, the Chinese officers from the start also acted as tax-farmers. In the seventeenth century, a system of tax-farms that were auctioned to the highest bidder was common in the Netherlands. It was transplanted to the Indies, and would become a vital source of income for both the Chinese officers and the government. After about three hundred years, in the beginning of the twentieth century, the system of Chinese officers was undermined. This was caused by the gradual abolition of the tax-farming system, by the mass influx of *sinkheh*, and by the Chinese emancipation movement which regarded the officers as collaborators of the colonial government. Another factor was the ongoing Dutch encroachment and involvement in the Indies. After many debates, in the 1930s the system was allowed to fade away. Only in Batavia did it continue until 1942; the Batavian Chinese Council remained active in managing temples and cemeteries until the 1970s.⁷⁸ Besides their administrative and judicial functions, the Chinese officers also acted by law as advisors to the courts, and as translators and interpreters.

On account of the close cooperation and interdependence of the Chinese officers and the Dutch, resulting in a symbiotic relation between these two elites, it is not surprising that in the 1840s and 1850s the authorities in Batavia were at first reluctant and cautious about appointing Europeans as interpreters. During the first discussions of the need for European interpreters, several government officials stated that the Chinese officers' translations and advice were reliable, and that European interpreters were needed only as an extra safeguard in case of serious problems. It was only after several crises (the kongsi war on Borneo, the ban on harmful secret

societies, the Banka case) that the need of training European youngsters was recognised. This need should also be seen in the context of the deepening administrative and judicial involvement in East Indies society by the Dutch.

In addition to their formal powers, the Chinese officers, being wealthy men, also had great informal power. Several interpreters, such as Schlegel, Meeter, and Borel, described their influence over administrative and judicial officials. For instance, Chinese officers often invited colonial officials to great parties where they entertained them; many of the latter accepted, but did not reciprocate. The Dutch felt in general superior to the Chinese and seemed to find it normal to sponge on them (in Meeter's words). The interpreters could see this because it was an offense against the basic Chinese principle of reciprocity. Dutch officials inadvertently became "indebted" to the Chinese, and this could prejudice their neutrality when dealing with Chinese questions and lawsuits.⁷⁹ Moreover, through information gained from their informants and their understanding of Chinese society in general, some interpreters were disgusted by the behaviour of Europeans at these Chinese parties, where they danced and behaved in a way offensive to Chinese eyes, thereby making themselves ridiculous. In 1878, De Groot wrote an anonymous article about this phenomenon that was taken over by all the newspapers; Meeter and Borel also wrote about it.⁸⁰ Besides, there also existed corruption in various subtle ways, as was analysed by Meeter. He sarcastically designated corrupt Dutch officials as "buddies of the Chinese" (*Chineezenvrienden*).⁸¹ In the late 1880s, Meeter and others asserted that the Chinese officers were a "state within the state," and the only way to curb this anomaly was to abolish the whole system of unsalaried officials, replacing them with salaried ones.⁸²

For a young Dutchman in his early twenties, who upon his arrival knew almost nothing about the Indies, it would be impossible to compete with the leaders of the Chinese community. Aside from their belonging to the ruling race, their only advantage was that they were better educated. They had obtained systematic knowledge about China from Western and Chinese books, and had obtained personal experience in China, while most of the Chinese officers were not at all, or hardly, proficient in written Chinese, knew little about the Chinese classics and laws, and had never been in China. Accordingly, the interpreters considered themselves better qualified as advisors than the Chinese officers.⁸³ Meeter considered the officers' advisory capacity also questionable because of their lack of neutrality, for instance in the Business Tax Commission mentioned above.⁸⁴ Even Groeneveldt, who generally had moderate opinions, wrote that when he had to give an expert opinion together with Chinese officers, they did not contribute anything, and the result was always his own opinion.⁸⁵

The interpreters had already taken over from the Chinese officers the functions of translation and interpreting, although in practice the latter was later rarely performed by them. But their greatest ambition was to have a say in Chinese affairs and become advisors to the government. Soon after Francken was appointed in Surabaya, he tried to find ways to strengthen his position vis-à-vis the *peranakan* Chinese, and wrote to De Grijns in Amoy about his work. The latter warned him to be cautious, realising the inherent weakness of the interpreter's position.

It gives me a bit of satisfaction to hear that you take a firm line with those Chinese, but I fear they will try to take revenge on you. Although the nature of the Chinese is not [in English:] *down-right-murder*, the influence of the Javanese environment might tempt them to it, but it is just this possibility which can be an argument for having to function as an independent official. To frighten the Chinese is pre-eminently not the most honourable task, but to make them understand that in you honesty has found an interpreter who does not have to fear rich babas, certainly is an honourable task. And when the Chinese see that the government does not entrust you with an independent position, they will also have no confidence in you. It seems to me the government only expects the interpreters to act in case of emergency, without using them all the time, that is, that they act rather as advisors. But how can one be advisor about things of which one has no experience, and how can one obtain experience if one cannot judge and act independently?⁸⁶

In his *nota* of 1873 to the Ministry of Colonies, Schlegel gave some suggestions for strengthening the interpreters' position vis-à-vis the Chinese officers. He first put forward that the interpreters should be consulted by the heads of regional government (Residents) about nominations for appointment of Chinese officers (which had never been done), since with their knowledge of the language and of the local population, those interpreters would be better qualified than anyone else to point out suitable candidates. Moreover, Schlegel asserted that it was urgently necessary to appoint an "official knowing Chinese" —this could only be a European interpreter—as President of the Chinese Council (in Batavia, Semarang, and Surabaya). Advice sought by the Government from the Chinese Council was in his experience mostly just a sham (*wassen news*), since the Chinese President imposed his will upon all the other members, who out of fear of his power did not dare to express their opinions.⁸⁷

One kind of advice asked a few times from several interpreters concerning the Chinese officers, was about their new costume. In 1880, Von Faber in Batavia wrote four pages of advice on this, taking as his motto an extremely derogatory verse: "Although a monkey wears a golden ring, he still remains an ugly thing."⁸⁸ In the same year Hoetink also wrote a two-page report in which he discussed the problem of how to design a costume that would impress both the Chinese and the Dutch; he advised adopting a purely Chinese costume to impress the *sinkheb*, with a European staff.⁸⁹

This kind of advice only concerned outward appearances, and was therefore of no more than cosmetic importance.

The officers were always appointed by the Governor-General for life. When a position became vacant, the Resident would choose the most suitable candidate and recommend him to the Governor-General for appointment. Meeter recounted a story about what could happen when the interpreter had not been consulted about the appointment of a Chinese officer. In one of the Outer Possessions, where the majority of the local Chinese were *sinkheh*, the Resident nominated an uneducated man who had arrived a few years earlier as a coolie, soon discovered that opium-smuggling was a profitable business, earned a fortune and thereby gained the respect of the Europeans and natives. He understood he could obtain more influence as a *kapitein* or *luitenant*, so he applied for the position. There was a second candidate, also a *sinkheh*, who had been adopted recently by his childless uncle. With his wide knowledge and good manners, he had gained the respect of the Chinese population and was considered the best candidate by the great majority of the Chinese. For both candidates elaborate recommendations were received, with lists of signatures, praising in flowery language their knowledge and capacities. But the Resident did not ask the advice of the Chinese interpreter, who could report that the second candidate could read and write Chinese well, spoke enough Malay, and knew a lot about Chinese customary law (*adat*), so he could be a good advisor to the court, while the former, though speaking better Malay, was only wealthier than the latter. But his advice was not requested. When the opium-smuggler was seen to pay many evening visits to the Resident, Meeter predicted that he would be nominated, and that is indeed what happened.

When a new officer was to be selected, there were always rumours among the Chinese that certain candidates had paid fabulous bribes to be nominated. European officials would of course always keep such matters secret, but a Chinese would proudly note down the expenses in his account books as *beli ikan, makan teh* (to buy fish, to eat tea), and would even take care that it became known, since this was also profitable to him. Chinese and natives would feel awe toward him, and consider him the more powerful and superior, while at the same time the European official, who had let himself be bribed, became the inferior of the Chinese. In this way the Chinese could find associates for their opium-smuggling, and witnesses would think twice before they dared to bear witness in court cases against such a rich and powerful man.⁹⁰

Some Dutch officials, even Residents, accepted bribes, but not all did. Meeter recounted a story he had heard from a reliable source: when a new Resident had just been appointed in a certain town, at a gathering of Chinese officers who were also opium tax-farmers, one of those present said the new incumbent was 'aloof and arrogant' (*tinggi*, "high"). The oldest

officer then said: “Aloof? That’s no problem, it’ll just be a little more expensive, but I think he will also enjoy having tea.”⁹¹ Meeter explained that “having tea” meant the same as French *pots de vin*, “bribes.” But in this case, Meeter was glad to report that his particular Resident steered clear of the Chinese, even leaving town at Chinese New year to avoid Chinese courtesy visits and presents. When he was transferred, and auctioned his furniture (*vendutie*), it was sold for a low price. There were no Chinese bidders driving up the prices, which was ample proof that he had been honest and clean.⁹²

In 1878, Schlegel’s wish that a sinologist should have a say in the appointment of a Chinese officer was realised in Batavia. The nomination of a relative of the present *majoor* was twice rejected on the advice of Groeneveldt, the Honorary Advisor for Chinese Affairs.⁹³

The sinologists were of little significance for the *peranakan* as interpreters and translators, since the *peranakan* usually spoke better Malay than Chinese and could hardly read written Chinese. Some interpreters therefore considered the *peranakan* not as “real” Chinese, sometimes even despised them as degenerate bastard Chinese.⁹⁴

It is no wonder that the interpreters in Batavia were very rarely mentioned in the minutes of the Chinese Council. Only two references could be found: the announcement that Schlegel was appointed to the committee for the compilation of law for the Chinese in 1865,⁹⁵ and the appointment of Tan Kaij Thee as the Council’s secretary in 1883, at which time his previous function as clerk of the Dutch interpreter was mentioned.⁹⁶

However, there are also examples of Chinese officers being highly appreciated and respected by the sinologists. The following two cases are both from the Outer Possessions and both have some connection with Hoetink. The first involves Jo Hoaë Giok, a learned man, who was brought as a teacher to Makassar by Hoetink in 1878 and later became a highly respected *luitenant* in the same place (*see* Chapter Six). The second case is that of the two brothers Tjong Jong Hian and Tjong A Fie, who as *majoor* and *kapitein* greatly contributed to the development of Deli (*see* below). Hoetink indirectly referred to this in his study about So Bing Kong 蘇鳴崗, the first Chinese *kapitein* in Batavia (1619–1636):

Anyone who has witnessed in our colonies the growth and development of a young Chinese settlement, thereby becoming closely acquainted with the heads of the Chinese nation and observing them while taking care of their multifarious official and private affairs, will understand of how great value, both for his compatriots and for the government, a robust and loyal ‘headman of the Chinese’ in the first half of the seventeenth century would have been in Batavia.⁹⁷

Many interpreters sympathised more with the *sinkheh*, who were similar to the Chinese in China. They could speak Chinese with them and un-

derstood them better, and could play an important role for them. Since the *sinkheh* had arrived from China but recently, they had a lower social position than the *peranakan*; they were the underdogs in Chinese society. Meeter, however, considered them morally higher than the 'debased' Javanese *peranakan*.⁹⁸ Meeter gave several examples of how he favoured the *sinkheh* underdog and did not like the rich *peranakan* (e.g., above, the story of Mr. Waterstaat and the Business Tax Commission). Borel had the same predilection. He wrote a touching story about a *sinkheh* in Riau who had been falsely accused by the Chinese *kapitein* of not paying his debt, but when he tried to sue the *kapitein*, he lost his case in the *Landraad*. He immediately appealed to the High Court in Batavia. The gambir plantation he owned had already been confiscated, and after a court clerk's error (?) it was auctioned, whereupon the *kapitein* could cheaply acquire it. With the help of an expensive lawyer, the *sinkheh* won his appeal in Batavia, but legally speaking, his plantation was still lost. At that critical moment, his lawyer left Riau, and Borel arrived in Riau. Borel then played the role of lawyer—in itself a controversial act—helping to sue the *kapitein* and demand compensation. But before the case came to court, the *sinkheh* was murdered on an outer island. The culprit was soon found. He was an old employee having a grudge against him; the Chinese population, however, firmly believed that the *kapitein* had instigated the murder. Borel gave the story the title "A mere Chinese..." showing how a despised *sinkheh* was unfairly treated by the legal system and murdered by a powerful *peranakan*.⁹⁹

Quite a few sinologists, however, at times expressed depreciation for coolies, designating them as 'scum.' In this respect they shared the lack of respect for the uncivilised, rude coolies which was felt by both the *peranakan* Chinese and the Dutch. This attitude was not fully unfounded, considering the low level of education of most of the coolies and their gang-fights, secret societies, etc. Only after 1900 did Hoetink and others plead for more respect for the coolies as fellow humans.

In their advisory functions, having good informants was vital to the interpreters. Their first and foremost informant was of course their Chinese teacher/clerk, who was usually an outsider brought along from China. Meeter often recounted how he had obtained information from his teacher. But he also warned against trusting the teacher too much: he should be kept ignorant of Chinese affairs as much as possible,¹⁰⁰ since the flow of information could also go the other way. Besides, he advised his younger colleagues to become acquainted with a few reliable, educated Chinese as informants.¹⁰¹ He said it would take some time to find them, adding that some of his colleagues had no flair for this, or were opposed by the regional Government.¹⁰² According to Meeter, it was more difficult to find reliable Chinese informants on Java than in the Outer Possessions.¹⁰³ In Surabaya

Meeter's most prominent informant seems to have been Kwee Kee Tsoan, former *kapitein* in Grissee and navy contractor (*leverancier*), just like his father Kwee Kin T'jie. Kwee Kee Tsoan was an honest and educated man who had a large Chinese library of several thousand volumes, and had a special interest in Chinese philosophy and medicine. He also knew Malay and had a reading knowledge of Dutch. Always standing up for righteousness and for the poor, he was the opposite of the corrupt *majoer* The Boen Ke. When Meeter arrived in Surabaya and became acquainted with Kwee, the latter proposed to study together, which they did for ten years. Kwee Kee Tsoan was well liked and respected in Surabaya. His death in 1886 was greatly regretted, and an obituary appeared in the *Soerabaiasch Handelsblad*.¹⁰⁴

Meeter wrote several times that, thanks to his informants, the interpreter was able to "see behind the screens."¹⁰⁵ He was well acquainted with what he called "the Chinese grapevine" (*de Chineesche Kerk*). He was therefore at times suspected of conniving with the Chinese, taking part in Chinese malversations, but this was nothing but vicious slander. Meeter, who had a strong sense of righteousness and high moral standards, was deeply offended when A.C. Wertheim, a member of the Upper House of Parliament (*Eerste Kamer*), openly showed suspicion as to the reliability of the "Chinese interpreter" in Semarang.¹⁰⁶

Although this was not mentioned during the 1853 discussions on the need of interpreters, nor in the *Directive* of 1863, one very important function of the interpreters was to get to know the needs and problems (*behoefsten en nooden*) of the Chinese. Groeneveldt mentioned this in his *nota* of 1894.¹⁰⁷ In this way, the interpreters became something like middlemen, not only through their translations communicating to the Chinese the government's ordinances and proclamations, but also by reporting on the feelings of the Chinese, sometimes even speaking up for them. This happened in particular in cases of emergency. One example is given by Schlegel.

In Batavia recently the whole Chinese population of *Pasar Senen* came *snorting with rage* to this author, and made known to him their intention to *murder* the owner of *Pasar Senen*, *Kegel*, who had introduced a new tax, as well as Assistant Resident *Taets van Amerongen* and Police Chief *Oosterweeghel*, who had supported Mr *Kegel* in levying this tax. The author managed to calm down these hot-heads and by the power of reason induce them to await the decision of the High Government, to which he immediately sent a request.¹⁰⁸

The possibility that the interpreters could play such a role may also have strengthened the unwillingness of the Dutch administrative officials to ask their advice. In any case, the interpreters were sometimes reproached with conniving with the Chinese; they became 'contaminated' with them, and the low status of the Chinese was also 'applied' to them.¹⁰⁹ De Bruin also

wrote that while in the Indies, he was several times reproached with siding with the Chinese.¹¹⁰

Despite their weak position, many Dutch interpreters were appreciated by the Chinese. In general, knowing to read and write Chinese was in itself a great advantage for them, since learning is always respected in China. Albrecht concluded his *nota* of 1878:

great is the prestige among the Chinese of a European understanding their language and in particular their difficult writing system.¹¹¹

In 1885 a Chinese officer in Batavia asked Young to teach his son Chinese—another clear proof of appreciation.¹¹²

In 1900, the Malay translator W. Halkema Sr. stated that the Chinese in Surabaya had a high opinion of several sinologists, such as Professor Schlegel, Professor de Groot, Groeneveldt, A.E. Moll, and Von Faber, some of whom they even praised as *sing dzîn* [聖人], “holy men, sages.”¹¹³

Three other examples of Chinese appreciation of the interpreters are the following. When the 25-year old Francken, after only a year and a half of service in Surabaya, died of a sudden disease, his demise was not only deeply regretted by the Dutch, but also by many Chinese. A journalist, clearly unaware of Francken's position as interpreter, reported in the *Nieuwsbode van Soerabaija* of Monday 22 February 1864:

Yesterday morning, between 8 and 9 o'clock, I witnessed at the Peneleh cemetery an event unique in its kind. I saw about twenty to thirty well-dressed Chinese, praying and placing offerings around a grave; heard that the grave contained the mortal remains of Mr. Francken who recently passed away, where they had come to pay their last respects to the deceased, since the Chinese New Year had prevented them from attending the burial and they now felt an urge to do so. I declare to you that I was surprised to see such friendly attachment from a Nation, in custom and traditions so different from the deceased's. Should this not be proof that the grave unites all?¹¹⁴

On this occasion, Francken's good friend Tshoa-dsien-sing recited a long elegy to him, containing a short biography, an appraisal of his character and behaviour, and a description of his last days of suffering. It was a testimony to the Chinese appreciation of Francken's behaviour as a friend, and of his actions in his official capacity. Tshoa stated that Francken's Chinese friends had brought together a sum for his mother and were planning to pay his young brother a yearly allowance for a few years. Two years later, a translation was published in several Dutch newspapers.¹¹⁵ The editor (K. Sutherland) added a footnote with the following conclusion:

It may contribute to a more favourable judgement on the character of the Chinese than is sometimes the case, testifying that egoism is not the only pivot around which their actions revolve, and they are actually open to unselfish

friendship. The sum referred to has really been paid to Francken's mother, and his brother receives a yearly allowance of 600 to 700 guilders, which is brought together by the defunct's Chinese friends.¹¹⁶

In 1905, Chinese appreciation for Hoetink is evident from a booklet introducing the Chinese Postal Service that was compiled on his initiative in Medan. This service was mainly intended for Chinese coolies working in outlying plantations for whom it was impossible to send letters and money to China. The introduction to the *Regulations of the Chinese Postal Service by the Tong Sian Kiok* praised Hoetink not only for his support for the Chinese Postal Service, but also for his work in Medan as "Official for Chinese Affairs in Medan, Deli, for more than twenty years" (actually he was interpreter for ten years in 1879–89), his founding of a direct shipping line to China, and his function as Labour Inspector (1904–6). The Regulations themselves were compiled by the Chinese *majoor* Tsiong Jong Hian 張榕軒 and his brother the *kapitein* Tsioh Fie 張耀軒 (Tjong A Fie),¹¹⁷ both popular Hakka officers. The text concerning Hoetink is as follows:

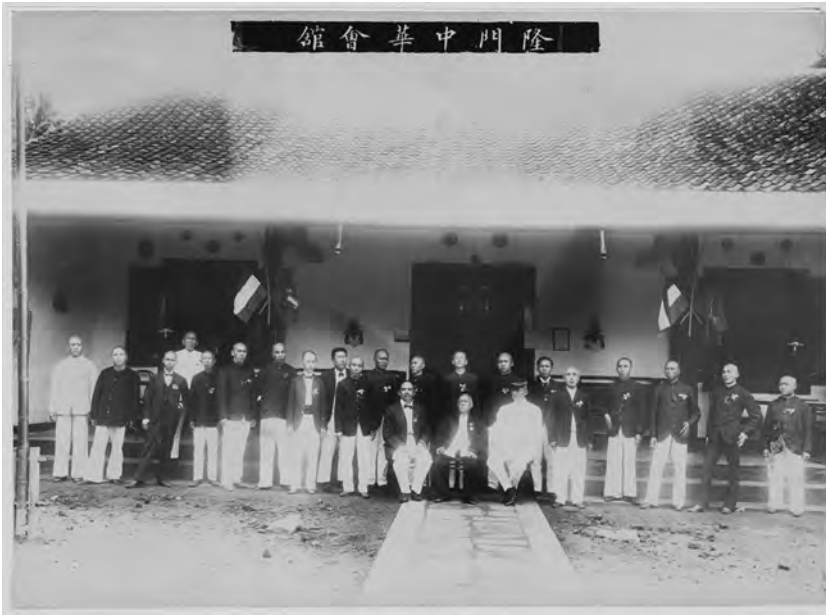
Now it happens that the Great Inspector Mr. Hoetink was formerly appointed by the Dutch Ruler as Official for Chinese Affairs in Medan, Deli, which he administered for more than twenty years, promoting what is beneficial and abolishing what is harmful, and with glorious results. In addition he founded in Swatow, belonging to Chaochow in China, a company establishing a shipping line, which is commended by the Chinese going and coming and praised everywhere in the streets. This was also a great comfort to the Dutch Ruler. Now he is again appointed as Inspector in Deli. When he learned about the above-mentioned reasons [for the need of a postal service], he deeply sympathised with the people and wished to found and facilitate a Chinese Postal Service. ... We Chinese should be aware of the ever increasing spirit of consideration for popular feelings shown by their Excellencies the Inspector, the *majoor* and the *kapitein*¹¹⁸

As will be explained in the section on other coolie matters in Chapter Fourteen, the founding of this Postal Service (and bank) was also in the interest of the planters, since the arrival of remittances in China was expected to promote emigration.

A third well-known example of a sinologist appreciated by the Chinese was Borel. For instance, he was invited in 1906 to become patron (*beschermheer*) of the Tiong Hoa Hwee Koan 中華會館, the modern-style Chinese Association in Semarang.¹¹⁹ At his request he obtained permission from the Director of Justice to accept this honour (*see* illustration 24).¹²⁰

Acting as experts on Chinese law and customs for the courts

When the interpreters were required as experts by the courts, they were taking over one of the functions of the Chinese officers. The latter not only



24. Borel and members of *Tiong Hoa Hwee Koan* in Semarang, 1906. Note Borel is wearing his official cap (B745/IV/19, Letterkundig Museum, The Hague).

had an administrative and advisory function for the civil government, but were also the advisors (*adviseurs*) to the courts. In cases involving Chinese, the courts were obliged to have one or two Chinese advisors, who would sit next to the judge. Article 7 of the *Regulations on the Judiciary System* (1847) stipulated their function as advisors as follows:

When Orientals professing the Islamic religion, or Chinese, in civil or criminal cases of any nature, are in the first instance involved as defendants or accused, and with respect to the matter of the case are not by law or of their own free will subject to the legal provisions for Europeans, where Moslems are concerned a priest of their religion, and where Chinese are concerned one or two headmen, or, if these be unavailable, one or two suitable persons of that ethnicity, to be assigned by the court or in three-judge courts by the president, shall attend those court sessions; and the opinion of such advisors shall be consulted, in particular with respect to the relevant religious and other laws and customs, in order that account be taken of these in the sentence.

The contents of such advice should be entered in the record of the court proceedings.

In the sentences, it should be indicated that the advisors have been consulted.¹²¹

From the 1860s on, after the first European interpreters had been appointed in the Indies, the courts would sometimes consult them instead of or together with the Chinese officers or other European experts. In such cases

a committee of experts (*deskundigen*) was assigned by the court including one or two interpreters.¹²² The interpreters would not sit next to the judge, like the Chinese advisors, but they would give their expert opinion mostly in written form, answering written questions. The judicial authorities were more inclined to consult the interpreters than the civil administration was, just as Schlegel had remarked in 1873, yet the number of requests was limited.

In early indexes to published cases in legal journals,¹²³ the main subjects concerning the Chinese were the following: 1. General; 2. Oaths; 3. Marriage and divorce; 4. Married women; 5. Inheritance law; 6. Guardianship.¹²⁴ These were all controversial subjects, about which the courts might wish to consult advisors and experts. The indexes not only refer to cases involving expert opinions, but also to articles on legal subjects and legal polemics taken over from newspapers. In the beginning, Schlegel and Francken, and later Meeter, Young, Stuart, and Van Wettum, were given the opportunity to publish a few articles on Chinese customs and law in the legal journals. Of course, apart from printed advice, manuscript advice can also be found scattered in the Colonial Archives.¹²⁵ Here only a few examples can be given of the questions concerned and the relevant advice.

In 1866, a committee of experts was formed consisting of the interpreters Schlegel and Von Faber and a member of the Batavian Orphans Chamber, Thung Djisiauw. A Chinese wife had died without testament and without parents or children. The question was whether all her belongings should be inherited by her husband or whether some of them should go to her family. The committee's answer was that her husband should inherit all, except assets with proof that they were given her in usufruct.¹²⁶

In 1870 a committee was formed consisting of the interpreter Von Faber, *majoer* Tan Tjoen Tiat and *kapitein* Ko Sétjoan; the latter two were both members of the Chinese Council. The question was about guardianship by a widow, since the Estate Chamber wished to act as guardian for the children who were minors. Von Faber argued that in such cases the estate was always administered by the Estate Chamber, while the two officers asserted that in China a highly respected male family member would take care of the estate. Therefore the answer was in any case in the negative; a woman could not act as guardian for her own children, since she had no legal position.¹²⁷

In 1877 a committee was formed consisting of the interpreter Groeneveldt, the *luitenant-titulair* Lie Hoetseng, and the interpreter at the *Raad van Justitie*, Lie A-lim. The question was to what extent a daughter should have rights to part of the inheritance of her father. Later Von Faber's advice was also asked; his opinions were in many ways the opposite of Groeneveldt's. The court's conclusion was that daughters did not inherit, but that they were entitled to support until their marriage.¹²⁸

In general, the European interpreters did not have a high opinion of the Chinese members' knowledge of Chinese laws and customs. Groeneveldt stated in 1886 that in cases advised upon by himself together with Chinese advisors, the resulting report was actually only his own opinion. And when only Chinese were consulted, their report was sometimes so vague that the committee was asked to make itself clear in a second version.¹²⁹ Meeter and Borel also had negative opinions about all advice given by Chinese, who knew little about Chinese law and tended to be partial.¹³⁰ However, the example of Schlegel and the oath in the section below shows that the advice of a committee of Chinese advisors could still count heavily, and rightly so.

In their reports, the interpreters also had to indicate the sources of their knowledge. These were in the first place the *Qing Code*. The name is spelled in different ways, for instance *Ta Ts'ing Lut Li* or *Taij Tjhing Loet Li*, etc. (*Da Qing Lüli* 大清律例).¹³¹ For customary law, Schlegel quoted novels and stories such as *Hoa Tsien Ki* 花箋記, *Jingu qiguan* 今古奇觀, and *Sanguo zhi* 三國志; he justified this choice by basing himself on Stanislas Julien's assertion that these stories gave a realistic picture of Chinese social life that was not found in the official histories.¹³² Other sources were the interpreter's own experiences both in China and the Indies, to which Groeneveldt could add his experience when attending sessions of the Chinese court in Shanghai. Other important sources were the opinions of their teachers/clerks and other Chinese informants, and general moral principles derived from books such as the *Shujing* 書經, *Zhouli* 周禮, *Nüxiaojing* 女孝經 (Schlegel, 1866), *Liji* 禮記 (Meeter, 1879), etc. or from the manual for mandarins *Zizhi xinshu* 資治新書 (Von Faber, 1877). Besides translations of Chinese classics, Western sources included S. Wells Williams' *The Middle Kingdom*, and eighteenth-century missionaries' works like De Mailla's *Histoire générale de la Chine* and Amiot's *Mémoires concernant les Chinois* (Von Faber, 1867).

In 1855, part of European civil and commercial law was made applicable to the Chinese, as a consequence of which the *Raad van Justitie* acquired jurisdiction over many cases involving the Chinese.¹³³ For instance, from then on Chinese children were entitled to a statutory portion (*legitieme portie*) of their parents' inheritance, and there was no full freedom of testation. This implied that a Chinese man could not make a favourite concubine's sons his sole inheritors, thereby jeopardising the rights of his legal wife's children, but he also could not fully desinherit a wanton son, even if the latter agreed. Since only a part of European law was applicable, and for the rest Chinese laws and customs had to be taken into account even though they often did not agree, this ordinance caused great uncertainty for both judges and Chinese. At the same time, it created a 'solicitor's paradise,' in which many Chinese heartily participated, assisted

by Dutch lawyers. According to Groeneveldt, the Chinese had a natural talent for casuistry, and Meeter and Borel would later confirm this albeit in a more cynical way; they mainly noticed that Chinese were making misuse of European law.¹³⁴ When leafing through the legal journals mentioned above, the number of cases involving Chinese, mostly suing each other, is surprisingly large. The tragedy caused by the endless legal procedures about inheritances is described in a lively manner by Young in his story “Lim Goan Soe: een benadeelde erfgenaam” (a disadvantaged heir) in *Uit de Indo-Chineesche samenleving* (1895).

From the 1860s up into the twentieth century, the government made several attempts to codify Chinese law by adapting it to European law, or by adapting European law to Chinese customs, in order to alleviate the uncertainty of judges.¹³⁵ In 1865 a commission was installed for the codification of law for the Chinese, consisting of three members, the legal specialists T.H. der Kinderen, F. Alting Mees, and H.A. des Amorie van der Hoeven, to whom the interpreter Schlegel was assigned as China expert, but he was not a full member. In 1867 their draft law was finished, but it was not promulgated. In 1877, Groeneveldt was asked to comment on the draft, to which Schlegel again responded. In 1882, six out of the twelve active interpreters commented again on these drafts, and Groeneveldt summarised their reports, commenting on them, giving interesting remarks on the sources of laws and the reasoning of his colleagues, who were of course no legal experts. Actually, half of his colleagues (Schaalje, Hoetink, Van der Spek) proposed to use European law instead of codifying Chinese law. This discussion finally resulted in a new draft that was promulgated in 1892,¹³⁶ but it never went into effect. In 1894, the lawyer P.H. Fromberg¹³⁷ was charged to compile still another draft, which he finished in 1896. In the supplements to his draft, he often made use of *notas* and articles about Chinese law by Dutch and foreign sinologists.¹³⁸ This draft was again commented upon in publications by several sinologists (De Groot, Groeneveldt, Young, Borel). But in the end, all these efforts, interesting as they may be for their lines of reasoning and combining Western and Chinese law, led to no result. In 1919 European civil law became applicable to the Chinese, with one special provision for Chinese adoption.¹³⁹ This was similar to what happened in China itself, where new laws compiled after the example of European law had been (provisionally) proclaimed in 1910–2.¹⁴⁰

Some of the difficulties in giving expert opinions about Chinese law, which resulted in contradictory advice being given (in itself unavoidable), were analysed by Groeneveldt in 1886. In a letter to Der Kinderen he gave his comments on seven *notas* by Dutch sinologists. According to Groeneveldt, the study of Chinese law was hampered by a lack of unambiguous sources, but also by the Chinese political system giving unrestricted

power to the Emperor as the Son of Heaven. He ruled over his people just as a father and a mother did, and so did the mandarins, representing him, who were at the same time civil and judicial authorities. There was a Penal Code, the *Qing Code* (*Da Qing Lüli*), which defined what was forbidden and gave the mandarins a standard for punishment. Civil law had not been codified, since the judge, due to his paternal power over the people, had only to adjudicate by a standard of fairness, paying attention to all circumstances of the matter and not bound by definite rules.

Fairness was determined by customary law, the main points of which could be found in the *Qing Code*, but not in a systematic manner; they had to be culled out by meticulous study. In commercial law, regional differences were great and the judge was to take account of local customs, but the law regarding persons was in general the same and was highly respected; no judge would dare to oppose it, however corrupt he might be.

As a consequence there existed no legal literature, although the Chinese surely had a talent for casuistry; this was shown by their treatment of philosophical questions.

In addition, a careful study of Chinese religious concepts, which were closely related to the law of persons, was necessary. Personal observation and experience were also important.

The study of Chinese law was even more hampered by the existence of the so-called Chinese Classics, all dating from more than two thousand years ago (namely the *Five Classics* and the *Four Books*). These were of an ethical-philosophical nature and often concerned the relations between members of society and within the family. These were based on ideals; for instance in the field of law of persons, they preached the unrestrained powers of the husband and the father, and unrestrained dependence of the wife and child. These ideas always had a great influence on Chinese society and reflected the prevalent standards of justice in society. But these ideal situations had never existed, and even if they had, in more than two thousand years conditions in Chinese society had undergone many changes. These concepts should be considered similar to the Canonical law that existed in Europe, which was highly respected but not necessarily followed. For a student of Chinese law it was extremely difficult to rid himself of these ideal concepts, since he was confronted with them every day. The most important proponents of these ideal concepts were the Chinese literati, who usually knew little else than the Classics and their commentaries. They were very dogmatic in their ideas, but in practice deviated from them without feeling any shame, even without noticing the inconsistency.

European students of Chinese obtained their teachers from this class, who were indispensable informants yet in other respects unreliable oracles.

Now Groeneveldt first directed his criticism to one of the main publicists on Chinese law, Meeter, who had used one of the classics, the *Liji* 禮記

or *Book of Ceremony*, as a source on law, having complete confidence in it, and quoting extensively from it in his 1879 article about the position of Chinese women.¹⁴¹ In this article, Meeter quoted Williams' *Middle Kingdom* and the French translation of the *Liji* by Callery,¹⁴² but one may assume that Meeter had also been influenced by his friend Kwee Kee Tsoan. Groeneveldt remarked that Meeter had in general rather pessimist opinions about the Chinese, which may have in part been derived from the same person.

Next Groeneveldt refuted Schlegel's use of old Chinese novels as sources of law, mentioning the *Hoa Tsiën Ki*, which Schlegel had made accessible by his translation into Dutch.¹⁴³ For Groeneveldt, it was obvious that this type of work could not be used as a reliable source of Chinese law.

Considering the difficulties of the study of Chinese civil law, to which should be added the difficulties of the Chinese language, it became clear that the European student would have to devote all his time in China and long thereafter to language studies without even thinking of seriously studying Chinese law. It was no wonder that, after coming to the Indies, when the interpreters of Chinese had to give advice on legal matters, they could make mistakes (*mistasten*), and Groeneveldt acknowledged he had made mistakes as well. If appointed together with Chinese advisors in a committee of experts, the sinologists could also obtain little support from them, since their knowledge of Chinese law was in general very meagre. This was not surprising in the light of their background and education; the wonder was rather that their opinions could be taken so seriously by the courts. A European shopkeeper of the second class had access to better sources on law, and knew more about it, than the Chinese advisors; yet no judge who was obliged to follow the latter would think of attaching any value to the former's opinion. Groeneveldt had given advice together with Chinese advisors several times, but he never found them to have sufficient knowledge of the matters concerned, as a result of which their collective advice was actually only his own.

Another reason for contradictory advice by the interpreters resulted from the manner of asking questions by the courts. For instance, the question "Is the Chinese widow by law guardian of her minor children?" cannot be answered unequivocally by anyone not trained in law. She was not a guardian in the sense of European law, so one expert would answer in the negative. But another expert, taking account of the circumstance that this woman still had important powers over her children, might answer in the positive, without pointing out the difference in type of authority. In the actual case concerned, the judge was to blame. He should have asked what a Chinese widow's relation to and power over her minor children was.

According to Groeneveldt, insufficient knowledge of Chinese law and a faulty way of questioning were the main reasons for differences of opinion

among the European experts. He did not wish to discredit the European interpreters' advice altogether, but warned that their advice should be asked for and used with prudence.

Groeneveldt's criticism of his colleagues was mostly directed at Meeter and De Grijns, and at his former colleague Schlegel, while he in many ways agreed with Schaalje, Hoetink, and Van der Spek; the main exception was that the last-named three believed it would be better to adopt European law with some adaptations instead of trying to codify Chinese law.¹⁴⁴ No *notas* by the six other interpreters were found (Young, Von Faber, De Groot, Stuart, A.E. Moll, Roelofs), the former four of whom published articles on Chinese law and whose opinions would certainly have been worth considering.

Groeneveldt's objections to De Grijns' *nota* reflect many of the general problems of Chinese law studies. De Grijns had made a compilation of provisions in the *Qing Code* about inheritance law, no doubt taken from his own full translation of the 1860s.¹⁴⁵ But to Groeneveldt's regret, he discovered quite a few translation errors in the compilation.¹⁴⁶ When reporting on the possible introduction of the Dutch system of Civil Registration (*burgerlijke stand*), De Grijns compared it with the Chinese system of registration of able men for military service, adding a translation of a story by Lan Dingyuan about a case of registration fraud.¹⁴⁷ Groeneveldt argued that this system was basically different from the Dutch system and could not be compared with it. De Grijns' train of thought, however, is typical of Schlegel's and others' search for equivalents (similar or comparable systems) in China when translating Dutch terms, and therefore not as unreasonable as Groeneveldt asserted. Finally, and most seriously, De Grijns rejected all customs of the Chinese on Java that deviated from those in China as aberrations not worth codifying. In this respect, he may have been misled by his Chinese teachers or other traditional informants, in addition to his studies of the Classics in China—which he pursued very intensely, as is known from his letters and many translations from the 1860s. Actually, many sinologists and lawyers shared this opinion.

The contents of the advice given on the codification of Chinese law deserve a more thoroughgoing study, but they are too diverse and complicated to discuss in this context. In the section on the Chinese oath at the end of this chapter, only one debate will be discussed; it concerns one of the main controversies that were not related to the intricacies of the law of persons.

The sinologists could also act as experts on Chinese law in cases before the Chinese Council. Schlegel recounted how in 1869 a Chinese woman, named Ki-bin Nio, once asked for his assistance after the Chinese Council of Surabaya had rejected her request for a divorce. Ki-bin Nio had been married for twenty years since 1848, but her husband Pao Pak-tchoui had

left her after six months of marriage, and she had never heard from him afterwards. The Chinese Council had rejected her request as she did not fulfil the legal requirements for divorce after the disappearance of a husband. According to the *Da Qing Lüli* this could be allowed in case the husband left after committing a crime, in case of “war or anarchy, violence or famine” (Schlegel’s translation), on condition that after three years there was still no news from the husband. Since the husband had not left for one of these reasons, her request had been rejected. Schlegel wrote: “This verdict was a terrible blow for the poor woman, and as no one in Surabaya was able to help her, she turned to me.”

Studying the Chinese text of the law, Schlegel soon discovered that the Chinese Council had left out two important characters. The list of circumstances justifying a divorce ended with *dengshi* 等事, meaning “etcetera” or “and similar circumstances.”¹⁴⁸ One month after the verdict, two witnesses stated before a notary that the husband Pao Pak-tchoui had left after six months of marriage; this had happened shortly after Pao had been summoned by Thé Gi to repay a debt; nothing had been heard from him since. In his memorial to the Chinese Council, Schlegel concluded that the husband had probably left because of financial problems, which should be considered a “similar circumstance.” As a result of Schlegel’s plea, the (newly staffed) Chinese Council in Surabaya gave permission for the divorce.¹⁴⁹

The choice of sources of law was naturally also a matter of concern for Dutch lawyers. Originally most of them supported the opinion of the sinologists, who could quote “reliable” written sources from China. For instance, in 1877, the lawyer J. Sibenius Trip was of the opinion that the laws in force in China should be applied, rather than the customary law of the Chinese in the Indies.¹⁵⁰ Sibenius Trip considered the latter a “fragmentary degeneration of real Chinese law, not deserving our respect.”¹⁵¹ From the 1890s onwards, also following the opinions of the sinologists, Fromberg was a strong proponent of using law from China.¹⁵² In his articles and proposals, he often quoted both Dutch and foreign sinologists’ studies and their translations of the *Qing Code* and *Liji*. To his mind, customary laws were “spineless practices, without legal character,” “a source without water.”¹⁵³

In the 1890s these opinions were opposed by I. A. Nederburgh in several articles.¹⁵⁴ But the greatest proponent of customary law (*adat*) for both natives and Chinese in the Indies was C. van Vollenhoven, professor in Leiden from 1901 until his untimely death in 1933. He published general studies as well as his famous collections of *adat* law. Fromberg, however, who mainly occupied himself with legal questions of the Chinese, even in 1916 continued to express disdain for the “*adat* cult” (*adatgedweep*).¹⁵⁵

Yet there was among jurists a trend towards accepting customary law.

In 1900 Sibenius Trip changed his opinion concerning which Chinese law should be applied in the Indies. His argument was that when one compared the advice given by the legal advisors of the court (Chinese officers) with that of experts (sinologists), one could see that the former knew awfully little about the laws in force in China. Clearly these laws were unknown to them and therefore the Chinese—to the extent they were not subject to European law—should not be judged according to them.¹⁵⁶

Finally, in 1901, the courts also made an about-face, at least according to Van Vollenhoven:

after long hesitation the courts, in the High Court judgements of 8 August and 19 December 1901, turned away for good from the doctrine of pure Southern China law in the Indies, and turned towards a different Indies Chinese law.¹⁵⁷

In the decision of 8 August 1901, the High Court charged a committee of experts, consisting of Hoetink and two Chinese officers, to answer the question “which Indies Chinese law in force in Batavia” should be applied in a case of posthumous adoption. The committee answered that in this respect authentic Chinese customs were still being honoured in the Indies (thereby diminishing the impact of the court’s request for Indies Chinese law); this was followed by an explanation of these customs, but without quoting any Chinese law.¹⁵⁸ In his *Adatrecht*, Van Vollenhoven mentioned a few other published examples of the application of Indies Chinese customary law after 1900.¹⁵⁹

This did not mean that from then on the laws of China no longer played any role. As late as 1918, in published advice by sinologists, both the *Qing Code* and the *Liji* were still quoted. But now judgements from the Chinese High Court giving deviant opinions on the question were also adduced.¹⁶⁰

In his advice of 1918 Ezerman summarised the problems of applying the *Qing Code*—consisting mostly of prohibitions from which rudiments of civil law in a positive sense had to be deduced—and Chinese customary law as follows:

All experts agree that aside from legal prohibitions, there also exists an unwritten customary law. Different opinions may exist about its dimensions and its meaning, but none of those competent to judge deny its existence. This inevitably entails that all advice about Chinese law has something vague about it, which irritates and frustrates those brought up on Western ideas and educated in Western law, but there is no way to change this.¹⁶¹

The application of European law to the Chinese as from 1919 did not entirely solve the question of the sources of law: for the Chinese, European law was of course not based on their own traditions and opinions, and although strengthening their position, it remained law imposed by the foreign rulers.¹⁶²

A mystification

An elucidating clash of competence between a Chinese officer (Tjoa Sien Hie) and a Dutch sinologist (Stuart) occurred in 1900, when a debate was provoked by Tjoa's translation of some passages of the *Qing Code*. Tjoa Sien Hie 蔡新禧, who in Chinese used the name Cai Huiyang 蔡輝陽 (1836–1904), was an extremely wealthy Chinese businessman in Surabaya, trading in tea and Western medicine and operating a sugar factory. He was also a Chinese officer, having been *luitenant* from 1869 until 1884, and afterwards *luitenant titulair*.¹⁶³ Moreover, in 1892 he obtained the Chinese honorary title of *Fengzheng daifu* 奉政大夫, “Grand Master for Governance,” and was therefore a Mandarin of the fifth rank. Such titles could be conferred by the Chinese government for services rendered or for merit, but they were usually granted as a reward for a donation to the Government. Tjoa Sien Hie had acquired this title after a donation of 2,000 silver dollars in 1892, the first year in which accepting such titles was allowed in the Indies.¹⁶⁴

In 1900 Tjoa Sien Hie published a Malay and a Dutch translation of the articles on inheritance and adoption from the *Qing Code*, followed by comments on extravagant funerals ascribed to Confucius. The Dutch translation, a fourteen-page booklet, was entitled *Regeling der erfopvolging bij versterf onder Chineezzen en der adoptie vertaald in het Maleisch en Nederlandsch uit het Chineesche wetboek Taij Tjhing Loet Lie* (Rules for intestate inheritance among the Chinese and of adoption, translated into Malay and Dutch from the Chinese Code of law *Da Qing Lüli*).¹⁶⁵ He explained that he had made this new translation because the translations that had earlier appeared in print were defective and vague, hoping that it would put an end to conflicts over inheritances that caused havoc in many families.

In September 1900, the Dutch booklet was enthusiastically received by the Dutch-language press. The *Soerabaiasch Handelsblad* published a review with a long quotation from the last part, but the best informed review, clearly written by a lawyer, appeared in the *Soerabaia Courant* and was taken over by *De Locomotief* under the title “Much Light” (*Veel licht*). The latter reviewer first remarked that intestate inheritance (*erfopvolging door versterf*) was a burning question that had to be solved in almost any Chinese inheritance. The main difference of opinion between Tjoa Sien Hie and the sinologists was that the former assumed that if there was a testament, then the principle of statutory share (*legitieme portie*) was overruled, while the sinologists assumed that there were mandatory rules of law (*dwingend recht*) for inheritances from which could not be deviated if there was a testament. If Tjoa Sien Hie's opinion were accepted, it would put an end to the many disputes caused by this supposed statutory share.¹⁶⁶

Another positive review was published by Schlegel in *T'oung Pao*.¹⁶⁷ Schlegel praised the clarity of language and quality of Tjoa's translation, comparing it favourably with P. Hoang's translation of Chinese law.¹⁶⁸ He gave the example of Tjoa's correct translation of *fumu* 父母 as "father or mother" and not "parents." It seems that Schlegel, who had already lost the sight of one eye, did not carefully scrutinise this translation as he was used to doing; otherwise he might have reached a different conclusion. Later, Schlegel's review was added as an appendix to the Dutch translation, in the form of an "extract" by W. Halkema Sr. in which the Chinese characters were replaced by a Hokkien transcription. Halkema had been active as a journalist, a translator of Javanese and Malay and legal advisor in cases for the *Landraad*.¹⁶⁹ He probably was a Eurasian.

At about the same time, Stuart, who was the senior Official for Chinese Affairs, stationed in Batavia, published a long and thorough review of the translation in the legal journal *Het recht in Nederlandsch-Indië*.¹⁷⁰ In parallel columns, Stuart gave the translation by Tjoa Sien Hie, the Chinese text, and his own version for easy comparison.¹⁷¹ He first remarked that Tjoa Sien Hie had not indicated whose "printed" translations were defective; in fact, only Young's partial Dutch translation had appeared in print.¹⁷² For lawsuits, the Dutch sinologists had always prepared manuscript translations of relevant paragraphs. Now there also existed the printed English translations by Staunton (1810) and G. Jamieson (1879), and the French translation by P.L. Philastre,¹⁷³ so Stuart assumed these must have been the object of Tjoa Sien Hie's criticism. It seems more plausible, however, that Tjoa meant Young's Dutch translation and its two Malay versions—in total three publications—the more so as his translation's title is almost the same as Young's.¹⁷⁴ Analysing Tjoa Sien Hie's new translation, Stuart noted that its meaning was certainly clear enough, though it was often more a paraphrase than a translation, but that it was misleading on account of its mistakes and free interpretations that were adapted to the situation in the Indies. The main problem was Tjoa's addition of a footnote to the text, which was presented by him as a translation of a *tiaoli* [條例] (*li* 例) or sub-law. In the main text the Chinese expression *yiming* 遺命 (Hokkien: *wiebing*) had been translated as "decisions ... taken ... and ... extant" of the deceased; in the footnote it was incorrectly translated as "testament."¹⁷⁵ These "decisions" which should be better translated as "last instructions," referred to a specific circumstance, namely that the estate could not be divided during the long Chinese mourning period unless there were last instructions by the deceased. In Tjoa's footnote this was presented as a general rule, namely that in all cases the "testament" should be followed. The following are English versions of Tjoa Sien Hie's and Stuart's Dutch translations, and the Chinese text.

Tjoa Sien Hie

If the *father* or *mother* has passed away and the children are still in mourning, they are not allowed to live elsewhere or to divide the inheritance or put it to a new use. In case of violation or infringement of this provision, the guilty person will be corporally punished with 80 blows, if elder family members—uncles or brothers—lodge or have lodged a complaint. But if decisions regarding this matter have been *taken* by the deceased and are *extant*, then *this article does not apply*. [*]

(*) TIAULIE or *explanation*. The Chinese original text *Huo feng yiming bu zai ci lü* means ‘if there is a testament, then the law cannot interfere with the case,’ which is to say that one need only follow and observe the testament.¹⁷⁶

Chinese

若居父母
喪而兄弟
別立戶籍
分異財產
者杖八十
。
須期親之
上尊長親
告乃坐。
或奉遺命
不在此
律。

Stuart

If during the mourning period for father or mother the brothers (elder or younger) establish a separate family registration and divide the family goods, they will be punished with 80 blows of the heavy bamboo. (Only those among the revered and older family members for whom one is in mourning for one year or longer, can personally lodge a complaint in order that the law be applied, unless last instructions for this have been received, in which case this law does not apply.)

Stuart now stated that this note (the ‘tiaulie or explanation’) had been misleadingly added by the translator, and that it was “a desperate attempt by him to get a desired concept adopted through distorted representation of the matter.” By his translation of *yiming* 遺命 (Hokkien: *wiebing*) in the main text as “decision *taken* and *extant*,” Tjoa Sien Hie had given the impression that something tangible had survived to substantiate the decision, some kind of written will, in other words a testament. This meaning could not be derived from the original text.

Other defects were that Chinese customs and legal concepts were freely translated and adapted to the situation in the Indies: that was the reason why the text was so clear and easy to understand. For instance, in China there were four categories of women with whom a man could have sexual relations and who could bear him sons. The first three were the main wife, concubines, and slave girls, all living in his household, whose sons would receive an equal share of the inheritance. The fourth category was that of women outside the household, such as prostitutes, whose sons would receive half a share. In the Indies Chinese society, a man would only have one (main) wife actually living in his household, whereas concubines would live outside. In Tjoa Sien Hie’s translation these concubines were now relegated to the fourth category as *bini di luar* (outside wife), whose sons would only have a right to half a share.

After pointing out the defects of Tjoa’s translation, Stuart concluded

with the hope that it would not be consulted by anyone dealing with relevant lawsuits, and that it would be forgotten as soon as possible.

Stuart's article provoked two diametrically opposed reactions. In December 1900 a short article, clearly written by a lawyer, appeared in *De Locomotief* under the title "A mystification." It began: "A shrewd character, that's what Tjoa Sien Hie is, ... and a magnanimous gentleman as well." (*Een leep heer is Tjoa Sien Hie, ... en een menschlievend heer tevens.*) The reviewer continued his article in the same jocular tone. He argued that since many conflicts within families were allegedly the result of wrong translations of the Chinese Code, Tjoa Sien Hie had made a new one that read: "If there is a testament, the estate is divided according to the testament." Thereby all questions were resolved and a new era had begun. The *Landraad* in Surabaya had already twice decided that since there was a testament, the case was closed (*habis perkara*). But now Stuart had appeared, and what had seemed so impressive, was shown to be *humbug*, and Tjoa Sien Hie's cleverness was now shown to be fraud (*boerenbedrog*). It was rumoured that Tjoa's booklet was written for a certain case, but this had not been confirmed. But after the advice from Stuart, whose competence was generally recognised, no judge would attach any value to it, and it would be of no help for the case for which it allegedly had been composed.¹⁷⁷

In 1901 a second reaction appeared in the form of a nine-page booklet distributed free of charge by W. Halkema Sr., the person who had earlier added Schlegel's review to Tjoa Sien Hie's translation.¹⁷⁸ Halkema began by stating that according to competent critics Stuart's objections to Tjoa Sien Hie's translation were "outright nonsense" (*klinkklare nonsens*). Halkema said he had reached this conclusion after orally translating about one-fourth of Stuart's article for his Chinese informants, comparing it with Tjoa Sien Hie's translation. He agreed with Stuart that the crux was that *yiming* was translated as "testament" in the sentence "If there is a testament, one has to follow that." This new translation had caused a turnabout in lawsuits that were being tried or had already been concluded in the first instance.

Halkema said that after comparing both Dutch versions in his oral Malay translation, all his Chinese informants had found them in complete accord, equivalent in meaning. Therefore one should not engage in hair-splitting (*lettervitterij*) and not grumble about details (*kniesoorig*).

But Halkema acknowledged that Stuart's remark about the footnote was correct: it should be part of the main text. According to him, the translator from Malay into Dutch had misunderstood the text—now it became clear that the translation into Dutch had not been made by Tjoa Sien Hie himself; actually the translator had just moved an addition in the Malay main text to a footnote, without much changing its contents.

Halkema went to great lengths to try to prove *yiming* meant "testa-

ment,” quoting dictionaries and Jamieson’s English translation of the *Qing Code*. To him it also seemed obvious that the primacy of the “testament” was not confined to the mourning period, but was a general rule.

In the same booklet, Halkema lost no opportunity to relate his own and his Chinese informants’ derogatory remarks about Stuart—for instance, that Stuart’s prolonged studies had been of no significance and without success, that he was only talking empty words, and that he had been misled by his teacher. Halkema even added his informants’ Chinese invectives for Stuart, whom they reviled as *gōng* [蠢], “stupid,” or *besay* [不會使]¹⁷⁹, “an impossible person.” Other sinologists, Halkema continued, were highly respected by the Chinese, for instance Professor Schlegel, Professor de Groot, Groeneveldt, A.E. Moll, and M. von Faber, some of whom were even praised as *sìng dzîn* [聖人], “holy men, sages”, but not Stuart. In the future, Halkema said, he would carefully take note of any reaction by Stuart and wait for a decisive verdict by Groeneveldt, Schlegel or De Groot.

Perhaps Halkema himself was involved in the controversy, since he may have been responsible for the translation from Malay into Dutch, and perhaps the translation was even made on his initiative. The Chinese invectives show his informants’ anger, which may have been understandable on account of the problems caused by the statutory share, but was also a result of ignorance and incomprehension of the need of accuracy in translation. Many legal niceties must also have been lost in Halkema’s oral Malay translation. Whereas Halkema railed at Stuart, the latter had very cautiously composed his review, without using any impolite word.

No other comments by sinologists have been found, but Fromberg discussed the matter two years later in his “Rapport over de Chineezenwetgeving” (Report on legislation for the Chinese). In this report—without mentioning Tjoa Sien Hie’s name—he refuted “a Mandarin’s” translation in which a specific rule governing the division of an estate during the mourning period was interpreted as a general rule, in an attempt to plead for complete freedom of testament (*onbeperkte testeevrijheid*).¹⁸⁰ Afterwards, Tjoa Sien Hie’s translation seems indeed to have been forgotten.

The Chinese oath

Debates on legal questions could drag on for many years; for example, the debate about the correct ceremony for the Chinese oath continued from the 1860s until the early 1900s. In China, oaths could be sworn between individuals in private and might be used to resolve conflicts between people, but they were never used in courts of law. In the Netherlands Indies, however, the earliest oaths are attested in the Chinese Council in Batavia, which also functioned as a court of law, in the 1780s. By the 1850s, the

European courts also began using the Chinese oath in relevant cases. This led to discussions about the correct ceremony and the reliability of different oath ceremonies. Many Dutch sinologists gave their opinions on these questions.

In his pioneering study of religion and law in China entitled *Divine Justice*, Paul R. Katz distinguishes three types of traditional Chinese oaths: (1) the oath of allegiance or loyalty, (2) the oath of commitment, and (3) the oath of innocence. In the legal context of the Netherlands Indies, the first type was applicable to Chinese officers and experts who were sworn in by the courts from the 1850s on,¹⁸¹ but the third type became the most important and controversial. In China, this oath usually took place on the initiative of a person suspected of some crime or misdemeanor, in order to prove his innocence. It often took the form of a chicken-beheading ritual, in which the jurant would express a malediction that would apply to himself in case of perjury: he would be willing to undergo what was about to happen to the chicken. This ritual could also take place in a temple in front of a god having a judicial function in the Chinese Hell, such as the City God; the text of the oath would then be written on yellow paper and after reading aloud be burnt to communicate its contents to the god. All these ceremonies were expected to warrant supernatural retribution in case of perjury. Katz describes some nineteenth-century examples performed in the City God temple of Amoy. The Dutch student-interpreters must have observed or heard about similar ceremonies during their studies.

In China, oath-swearing never became a part of court procedure. This remained true of the new twentieth-century Chinese judicial system although it was heavily indebted to Western law.¹⁸² Twentieth-century Chinese law has no oath for witnesses and no 'decisive oath' (see below). In Republic of China law a witness only has to sign a written statement (*jujie* 具結) that he is speaking the truth and is apprised of the consequences of perjury.¹⁸³ In Mainland China criminal law a witness is simply told that he should speak the truth and warned of the consequences of perjury.¹⁸⁴ But private oaths and other judicial rituals are still very much alive, Paul Katz describes many examples from Taiwan.¹⁸⁵

In the Netherlands Indies, already in 1620 a kind of mixed court was established in Batavia, having in addition to the Dutch judges/administrators (*College van Schepenen*) two Chinese advisors.¹⁸⁶ And in 1642 the Batavian Statutes promulgated that "Chinese usances and customs" would be respected by the Dutch government. There is evidence that at the end of the eighteenth century the chicken oath was used for Chinese witnesses in these courts. Wang Dahai wrote in his *Haidao Yizhi* (preface dated 1791):

When it comes to large crimes ... these are all reported to the Dutch. When they wish to determine a murder case, they do not question the people in the neighbourhood, but give more weight to eyewitnesses. The eyewitnesses must

be interrogated, behead a chicken and swear an oath, only then they [the judges] dare to sign their name and decide the case.¹⁸⁷

However, no evidence could be found about a Chinese oath in Dutch sources.¹⁸⁸ It should be noted that until 1824 Chinese were tried in these (mixed) courts. This situation was partially restored after 1855.

The Chinese judicial oath is attested first in the oldest extant minutes of the Chinese Council (Kong Koan) in Batavia, which date from the 1780s.¹⁸⁹ The Kong Koan was an organ of self-government created by the Dutch earlier that century, consisting of Chinese officers and assisting personnel. Characteristic is the mixture of Chinese and European customs and institutions: its members were Chinese officers with Dutch titles such as *kapitein* and *luitenant*, assisted by a *secretaris* (secretary). The Council convened at regular times, and minutes were kept of each meeting that were signed by all present in Dutch manner. During the meetings the Council also adjudicated minor civil and criminal cases among the Chinese. It also had other administrative functions such as marriage registration. In all its activities it was subservient to the Dutch Resident of Batavia. During the court hearings, often Chinese traditional oaths were administered. For instance, in the minutes of 1787 to 1791, in total 588 cases were tried, in 44 of which an oath was required. Almost all of them concerned civil cases involving lending or business conflicts.¹⁹⁰ In the period 1843–57 the same pattern appears in about 120 ‘economic cases.’¹⁹¹

In the Indies civil and criminal procedure laws for Europeans of 1819, there was no prescription that Chinese or natives would have to swear their own kind of oath,¹⁹² but in 1847, the *General provisions of law* of 1847 stipulated that in court the oath should in relevant cases be performed in the native or Chinese manner.¹⁹³ And after European Commercial Law and parts of Civil Law were made applicable to the Chinese pursuant to the ordinance of 1855 no. 79, it became necessary that the Chinese could also swear an oath in court. Chinese and Dutch were from now on for certain cases tried by the same court (*Raad van Justitie*), on an equal footing, hence the need to have the Chinese comply with the requirement of an oath.

Besides the normal oaths for witnesses in civil and criminal cases, to be performed before their statements in order to ensure their reliability and the possibility of prosecution in case of perjury, there existed another kind of oath, defined in a special section about the court oath (*Van den geregtelijken eed*) in the chapter on Evidence (*Bewijs*) of the Civil Code. This was the so-called ‘decisive oath’ (*decisoire of beslissende eed*), an age-old kind of oath going back to Roman law. If in civil cases one party did not have sufficient proof to support its deposition, which was decisive by nature, the other party or the judge could require that party to swear this oath to af-

firm it; if that party was willing to swear the oath, its deposition would be accepted as proof by the court, and that party would thereby win the case. But if he refused to swear the oath, he lost his case. In other words, the case was decided by the willingness to perform the oath.¹⁹⁴ In the European courts the Christian oath was performed, which had an extremely simple ceremony: the jurant only had to stick up two fingers of his right hand and say "So help me God" (*zo waarlijk helpe mij God almachtig*). If necessary, at least in Dutch law, for those who had religious objections—for instance, Baptists, for whom swearing an oath was blasphemy—an affirmation (*be-lofte*) would suffice.

It is remarkable that the Chinese oath was used in the Chinese Council for the same kinds of cases and in the same manner as was the decisive oath in the European courts. This raises the question whether the Chinese judicial oath in the Indies should be considered an adaptation of the original Chinese oath to European court practices. Although the Chinese Council was a purely Chinese institution, it had also adopted other European customs and traditions, perhaps including the use of a judicial oath. If the Chinese judicial oath is such an adaptation, it would be in effect an 'invented tradition,' not an authentic tradition.¹⁹⁵

The British were confronted in their colonies with the Chinese oath, but they seem never to have developed such serious discussions as were held in the Netherlands Indies. In Hong Kong, Chinese oaths were soon considered unreliable and they were banned from the courtrooms in 1860. In the Straits Settlements they continued to be used until the 1880s, but there are also later vestiges of these oaths.¹⁹⁶

In the nineteenth century, there existed for the Chinese in the Indies courts two different oath ceremonies, a 'small' oath and a 'large' one. In the small oath, which was used both on Java and in the Outer Possessions, the jurant would simply leave the courtroom for a short while, swear his oath, and slaughter a chicken, saying that the same should be done to him if he did not speak the truth. However, according to all Dutch sinologists (and many others), the chicken oath was not at all effective, since it often merely provoked laughter among the Chinese present.

The 'large' oath was common in the large towns of Java (and Sumatra) only. It took place in the Chinese temple, on orders of the court, on another day than the court session.¹⁹⁷ The text of the oath, including the name of the jurant, the date, the contents of the oath, and a malediction directed at oneself in case of perjury (Dutch *verwensching*), was written on yellow paper, read aloud by the priest, and repeated in front of the City God or another important deity such as Guanyin; then the oath form was burnt in order to communicate its contents to the gods. This oath ceremony was more serious and solemn, and also more expensive than the chicken oath.

Within a year after arrival in Batavia, Schlegel wrote an article about

the Chinese oath that was published two years later in *Het regt in Nederlandsch-Indië*. This was no doubt at the request of the judiciary, probably T.H. der Kinderen, who had published an item about the oath a few years earlier.¹⁹⁸ Schlegel analysed several Chinese words for 'oath,' ways of swearing oaths in popular Chinese literature, and the two oaths in use in the Indies, both of which he considered unreliable. In his conclusion he proposed to introduce a simpler form, in which the jurant had to kneel down at a table, burn incense and swear the oath to the most respected deities of Heaven and Earth, while the Chinese advisor would explicitly and elaborately warn the jurant of the Heavenly consequences of perjury.¹⁹⁹

It became one of the functions of the European interpreters to attend oath ceremonies. Schlegel attended them in Batavia,²⁰⁰ while De Groot and Borel both assisted at hundreds of oath ceremonies to check the proceedings.²⁰¹ Although the large oath was considered more effective than the chicken oath, legal experts and sinologists alike often doubted its reliability. Some of the latter (Meeter, Borel) had doubts in particular with respect to the Chinese. But there is evidence that the large oath could be effective if properly executed, as is shown in the following case.

At the Court for Civil and Penal Administration of Justice in Palembang (Sumatra), the *Nederlandsche Handel-Maatschappij* (NHM) sued Lim Tjing Piaauw, who was surety (*borg*) for the payment of f 345 by another Chinese for certain merchandise. Since he could not disprove the allegation of default, the claim was to be allowed and Lim would have to pay this amount (and legal costs), unless he would swear an oath in the temple according to the provisions, swearing that he had not contracted to be surety for this amount *vis-à-vis* the NHM. When he was to swear his oath at the Chinese temple, with the assistance of an ethnic Chinese interpreter, the secretary of the Court ordered the latter several times to include the contents and the malediction in the oath. Although the interpreter neglected to do this, the delegated judge (*Rechter-Commissaris*) still considered the oath sworn. Since there was decisive proof, the NHM could no longer claim any compensation from Lim Tjing Piaauw. Moreover, Lim asserted that in his opinion he had sworn the oath according to Hokkien customs. Therefore the NHM sued the interpreter for his negligence, leading to their financial loss. Subsequently, the Court asked Schlegel in Batavia for his expert opinion about the correct ceremony of the Chinese oath. When Schlegel reported that the formal requirements of the large oath should include the contents and the malediction, and the interpreter admitted his negligence, he was sentenced to paying the full amount of financial loss to the NHM (and legal costs).²⁰²

Another case led to an interesting scholarly polemic in the newspapers between the two interpreters in Batavia, Schlegel (who always signed "X") and Von Faber.²⁰³ In a civil lawsuit between two Chinese, assisted by their

Dutch lawyers F. Alting Mees and G.Th.H. Henny, the *kapitein-titulair* Tan Kamlong sued the *luitenant-titulair* Tan Hongie for a certain claim and charged him to swear an oath in the temple.²⁰⁴ Schlegel was attending the ceremony and afterwards wrote an anonymous letter to the editors of the *Indisch weekblad van het regt*, giving a lively description of the proceedings. Being a story of general interest, this item was taken over by several newspapers.

On the day of the oath, a large crowd of about three hundred Chinese had arrived at Batavia's Klenteng Tjina, the Chinese temple, to watch the ceremony. In an annex to the temple, where paper, ink stone and writing brush had been prepared, the delegated judge (*Rechter-Commissaris*) gave the verdict to Schlegel; it contained the text of the oath. Schlegel communicated its contents in Chinese and the defendant was asked if he were willing to swear this oath. After his affirmative answer, the oath was translated into Chinese, written on yellow paper, and signed by Tan Hongie, Schlegel and the secretary of the Chinese Council. Then they went to the main hall of the temple:

Large red candles had been lit; in front of the large statue of Guanyin some twenty fragrant joss sticks were burning, while on the floor, before the statue, a round mat had been placed on which the jurant would have to kneel down to swear the oath.

The priest now put the oath form in the arms of Guanyin, and prepared himself for his task in the administration of the oath.

Upon his arrival at the temple, Schlegel had already told Tan Hongie that he would have to loosen his queue, take off his footwear and wear white clothes when swearing. Tan replied that this might be true for the common people, but not for him, an officer. At the ceremony the priest reaffirmed Schlegel's requirement of loosening the queue, but Tan refused to do so. The judge considered this a refusal to swear the oath. According to Schlegel, the crowd fully agreed with the judge's opinion. As a result, Tan Hongie was obliged to pay the claim. In his letter, Schlegel quoted a Chinese saying about the attire in which persons should enter the temple, but he did not mention that this was a quotation from his *Hung-League*.²⁰⁵

A few days later, Von Faber responded to Schlegel in a short letter to the editors of the *Bataviaasch Handelsblad*, one of the newspapers that had reprinted Schlegel's letter. Von Faber disagreed with Schlegel, since in China and Borneo he had never seen a jurant with loosened queue and in white (mourning) clothes while swearing an oath. In his opinion, loosening the queue could never be required, it could only be done of one's free will; usually people would appear before the gods in their finest outfit, not in mourning clothes.

Schlegel reacted extensively a few days later, quoting examples of oath ceremonies from *Sanguo zhi yanyi*²⁰⁶ (*Romance of the Three Kingdoms*) and

other books as proof that the oath had to be sworn in that manner. According to him, Von Faber's personal experience did not count for much, since he only had *not* seen such an oath.

In reply to this, Von Faber wrote a long letter *contra* Schlegel's opinion, pointing out that the source of the first quotation was Schlegel's *Hung-League*. He asserted that an oath of a secret society could not be used as proof for an oath in normal life. Aside from personal experience, one should of course also study books, but only when they were good and reliable sources. Schlegel's quotation was from the *Romance of the Three Kingdoms* (*Sanguo zhi yanyi*), a novel dating from the fourteenth century about events of the third century, which was in itself a doubtful source. Moreover, the story was not about an oath, but about an incantation to create a heavenly wind, a kind of sorcery often appearing in Chinese novels, and therefore not appropriate as proof. Despite these arguments, in their conclusion the editors of the *Bataviaasch Handelsblad* favoured Schlegel's opinion, since the priest, the true expert, had agreed that the queue should be loosened.²⁰⁷

In his final reply, Schlegel asserted that the rituals of a secret society were "authentically" Chinese, as was stated in the introduction to *The Hung-League*. In support of his use of a novel as evidence, he quoted extensively from Stanislas Julien's works, "one of the most knowledgeable sinologists" (although he had never been in China), who had asserted that many details about Chinese life could be found in novels that were lacking in history books. At this point, the editors of the *Bataviaasch Handelsblad* closed the discussion on the Chinese oath.²⁰⁸

During this polemic, Schlegel showed himself to be an impractical arm-chair scholar. It is an example of how a sinologist could be mistaken by basing himself on the wrong sources, even misinterpreting them, one of the growing pains of Dutch sinology in the Indies. Schlegel may have been too enmeshed in his sinological studies to realise this. On the other hand, since he obtained so much support from the public, there may have been another motive for requiring a heavy oath from *kapitein* Tan Hongie. Possibly the wealthy Tan Hongie was for some reason unpopular among the Chinese in Batavia.

Afterwards, Tan Hongie protested to the *Raad van Justitie*, arguing that the priest denied having said that the queue should be loosened and claimed that he had been misunderstood by the judge. Since other experts, including Von Faber and the Chinese Council, saw no need to loosen the queue, he asked the *Raad van Justitie* to charge the delegated judge with re-administering the oath to him. Now the *Raad van Justitie* considered itself not competent to order the delegated judge to act contrary to his prior decision, since he had represented the *Raad van Justitie*.²⁰⁹ After an appeal to the High Court, the case was referred back to the *Raad van*

Justitie, which decided the ceremony of the oath should be determined by the Chinese Council, not by the delegated judge. A committee of experts was set up, consisting of Thung Djiesaauw, Gouw Lamyang, and Gouw Tianin.²¹⁰ Their first report on the ceremony of the oath, written in Malay, was considered insufficient, but their second report was clear enough, and contradicted Schlegel's requirements. The court pronounced accordingly, and Tan Hongie finally swore his oath in the temple without loosening his queue, in the presence of the *majoor* and the secretary of the Chinese Council.²¹¹

In contrast to this decision, Schlegel's opinion was affirmed in 1881 in a short article signed by "K" (T.H. der Kinderen?).²¹² Perhaps as a result of this, debates about the oath would come up later several times. The crux of the matter for the Dutch authorities was to use an oath ceremony that would be respected and thus prevent perjury.²¹³

In 1881–3, Young in Padang (Sumatra) and his teacher Von Faber in Batavia engaged in a polemic in the newspapers about the oath. Young first asserted in a letter to the editor that swearing an oath in court was not a real Chinese custom; it was a "Westerner in Chinese dress" (*een Westerling ... in een Chineesch pak kleeren*). When a newcomer (*sinkheh*) was required to swear an oath in court, he would be surprised and ask what this meant, whereupon a friend who had been living in the Indies somewhat longer would explain: "Oh, this is just a formality in their court procedure." Since both oath ceremonies in court were insufficiently respected by the Chinese, it would be better to give the Chinese the opportunity of affirmation (*belofte*) that was already allowed by law.²¹⁴

Von Faber, who had been Young's teacher in 1872–5, wrote an open letter in response, containing a long exposé about various words for "oath" in Chinese. He asserted that both forms of oath had been known in China for centuries and were therefore authentically Chinese. The great majority of Chinese would respect them; they were not a "Westerner in Chinese dress."²¹⁵ In later open letters, both Young and Von Faber expanded upon the religious meaning of the oath for the Chinese.²¹⁶ Their difference of opinion was perhaps also caused by the different categories of informants they consulted: *sinkheh*, for whom it was unfamiliar, by Young, and *peranakan*, who were used to it, by Von Faber. But some time later, after Young had read De Groot's article in English about the oaths on Borneo in *The China Review* (1881),²¹⁷ he changed his opinion and proposed using De Groot's suggested form of oath, as was done on Borneo: burning a few sticks of incense on a table and swearing the oath in front of it, in the open air and directed towards Heaven and Earth, ending with a bow in Chinese style.²¹⁸

Subsequently, in 1883 De Groot privately published a brochure about the oath in Dutch as an expanded version of his English article. He first

refuted his colleagues' positions: the use of examples of the oath from popular literature (Schlegel), the explanation of different words for oaths from dictionaries (Von Faber), and the introduction of the European oath (affirmation) for the Chinese (Young). De Groot had great confidence in the simple oath used on Borneo, which he had attended hundreds of times in Pontianak, and proposed to use this oath instead of the chicken oath. The latter was not only not respected, but also feared because it involved killing a living being (forbidden in Buddhism) or the shedding of blood (ominous in itself), and was misused by court ushers who sometimes bought chicks the size of a fist to cut the costs (keeping the difference). De Groot did not mention the 'large' oath on Java, which he probably had never seen.²¹⁹ The ceremony suggested by him (which was similar to Schlegel's proposal in 1863) was according to Borel generally adopted in the Indies by the late 1890s, while the chicken oath went into disuse.²²⁰

The temple oath was still common in Semarang in the 1880s and early 1890s. Among the papers left behind by De Grijs, there are several examples of this oath's texts and also an original oath form to be burnt in the temple, all dating from the 1880s.²²¹ And in 1894, another example of such an oath from Semarang was translated by Young and published in facsimile. In this case, a young Chinese cashier of the Rotterdam Credit Company had to swear an oath stating that he had been cheated by the Chinese cashier of another European company, *Mirandol le Voûte*.²²²

The uncertainty about the ceremony of the oath would continue for a long time, even into the twentieth century. In 1894, when Fromberg was charged to compile a new draft of Chinese law, his assignment included a draft for the Chinese oath. In his letter to Governor-General Van der Wijck in 1896, accompanying his finished draft on Chinese civil law, he wrote that he was still working on the oath. Since this topic was not related to other questions of civil law, it could be treated later.²²³ Unfortunately, nothing seems to have been published by Fromberg on the oath.²²⁴

Borel also wrote two articles about the oath in court, in reaction to De Groot's article of 1883, arguing that he did not have the least confidence in the simple oath from Borneo. He proposed a heavy ceremony to impress the sacredness of the oath on the Chinese. No chickens were to be slaughtered, but as in the large oath, a form was to be read aloud and burned, though not necessarily in the temple; the queue had to be loosened and a white apron had to be worn by the jurant etc.²²⁵

The question of loosening the queue seems to have remained a point for discussion among lawyers. It was brought up again in 1904, leading the following year to a decision of the High Court in Batavia: that the judge was to decide on the ceremony of the oath on the basis of expert opinions, in this case by the secretary of the Chinese Council and De Groot's article from 1883; as a result, an oath could no longer be declared void for

simple reasons such as that the queue had not been loosened.²²⁶ The same question also came up in the *Landraad* of Pontianak in 1905. This time, De Bruin's expert opinion was asked and the judge decided accordingly, ignoring the two lying witnesses brought in by the accused.²²⁷

Unfortunately, in this context no full account can be given of the often very subtle reasoning of both experts and courts. In any case, the conclusion should be that due to their neutral and often well-founded expert opinions, the sinologists could contribute to some extent to the realisation of fair judgements in Netherlands Indies courts.

In the 1910s, the oath ceremony in the Indies had in practice become the burning of a few joss-sticks on a specially arranged small altar table while reading aloud the oath formula and invoking one's deceased ancestors.²²⁸ All serious discussion about the oath had by then abated.

