

The *Martin Behrman* Incident

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One of the most serious international incidents in Indonesia prior to the so-called First Police Action was the *Martin Behrman* case. This episode stirred considerable emotion in the Netherlands and in the United States and could have had serious repercussions affecting the status of Indonesia. Yet, as this article will try to demonstrate, the *Martin Behrman* case did not change American policy vis-à-vis the Indonesian question. On the contrary, the American government reaffirmed its previous position of recognizing Dutch sovereignty and, although decrying the stringency of the new trade regulations of January 1947, strongly supported the Netherlands government.

The Netherlands was confronted with a very difficult and complex situation when the Republic of Indonesia was proclaimed on August 17, 1945. It did not have the military and other resources to reestablish its control quickly and was totally dependent on the British and, to some extent, the Australians to reestablish Netherlands control in a few enclaves in Java and Sumatra and on many of the other islands. Even in late 1946 and early 1947 Netherlands control over Java and Sumatra was still very limited. These two rich islands had been the most important of the Dutch colony whose products, when and if sold on the world market, which sorely needed them, could replenish in part the empty coffers of the Netherlands Indies government. On the other hand the Republic was tempted to sell these commodities to bolster its own economy. In 1945-1946 much was smuggled out of Sumatra and some from Java and transported to Singapore in Chinese and British-owned vessels. Thus, it was estimated that, in July 1946 alone, some 67 million in Straits dollars had been imported into Singapore¹. The American consul general in Batavia, Walter A. Foote, reported

1. S. L. van der Wal, ed., *Officiële bescheiden betreffende de Nederlands-Indonesische betrekkingen, 1945-1950* (7 vols. to date; The Hague, 1971-1978) VII, 471. See also 54n.

in April 1947 that smuggling had resulted in a loss of \$ 200 million in foreign exchange².

This illegal trade represented a serious drain on the badly needed and limited dollar reserve of the Netherlands Indies government. Therefore, stringent measures seemed in order to stop the outflow of commodities from Republican controlled areas. However, as long as the British were still present in the Indies, the government found it difficult to issue such regulations. A draft was presented to Lieutenant Governor-General Van Mook in October 1946 but was considered unsatisfactory³. Regulations were finally completed and were to be announced on January 16; however, they were not issued until January 28 to become effective the next day at about the same time that the *Martin Behrman* was to leave for Indonesia. The regulations required export permits to be issued by the Netherlands Indies Department of Economic Affairs and forbade the import of war material into Indonesian territory. Only so-called native and non-estate products such as rubber, coffee, and tobacco could be freely exported⁴.

These regulations, if rigorously enforced, could hamper the illegal trade and would make it more difficult for those who sought legal trade relations with the Republic. International merchant and shipping interests had been anxiously awaiting the moment that Indonesian products could be easily obtained and sold at considerable profit on the world market. American shipping companies and businesses were no exception. The Netherlands Ambassador in Washington, A. Loudon, reported in late January 1947 that, as long as Americans could not trade with Indonesia, the illegal but lucrative trade with Singapore remained a 'thorn in their side' and felt that somehow they had 'missed the bus'⁵. The American shipping firm, Isbrandtsen, would test the waters, however, and its success or failure might have considerable consequences for the future.

According to Hans Isbrandtsen, the founder and one of the directors of the New York City based Isbrandtsen and Company, Inc., the idea of establishing commercial ties with the Republic of Indonesia was first suggested to him by a Swedish national and pearl fisher, Victor Berge. The latter proposed the sending of small boats into ports of Java from which they would transport commodities to Singapore where they would be shipped to the United States⁶. Isbrandtsen's contact with Republican authorities resulted in the reaching of an agreement by

2. Foote to Secretary of State George Marshall, April 10, 1947. Washington, D. C, National Archives, Record Group 59, 656D.006/4-1047. National Archives, Record Group 59, hereafter cited as NA, RG 59.

3. Van der Wal, *Bescheiden*, VII, 742-743.

4. *Ibidem*, 79, 92, 689. Already on Feb. 2 the British ship *Empire Mayrover* was seized. *Ibidem*, 569.

5. *Ibidem*, 279.

6. Memo conversation H. Isbrandtsen and ?, June 15, 1948. NA, RG 59, 656D. 006/?

which the former would serve as a regular commission merchant or factor and carrier from Cheribon or Probolinggo for the so-called Perseroan Bank, which was 60% publicly owned, to sell at best obtainable prices, cargoes of rubber, sugar, etc. The Perseroan Bank also charged Isbrandtsen to act as its agent or commission merchant to purchase American commodities with the proceeds of the sale of the cargoes. For its services the company would receive a commission of five percent⁷.

The vessel the shipping firm intended to dispatch to Indonesia was the *Martin Behrman*, a 7, 176 ton so-called Liberty cargo ship owned by the United States government but under charter to the Isbrandtsen Company. The ship was in Philippine waters early in 1947 awaiting company approval to proceed to the East Indies. At this time company officials were trying to obtain permission from Dutch and American authorities to allow the ship to sail into Indonesian waters and to purchase the commodities. Most of the contacts with Dutch and American officials were made by one of the company's directors and its legal adviser, James Ryan, who would play a very important role in months following in settling the conflict between Isbrandtsen and the Netherlands. Ryan was a former assistant to the United States Attorney General on admiralty cases and international law. As events would prove, he was untactful as negotiator for the company and often tried to browbeat Dutch and American officials alike. Few men taxed the State Department's patience more during this episode than this company representative who would finally lose almost every battle with American and Dutch officialdom.

Late in January 1947 Ryan wired the Secretary of State that, unless the Secretary approved of the transaction, all of the business and trade would probably go to the Soviet Union whose trade delegation was prepared to effect an immediate agreement with the Indonesian Republic. He assured the State Department that the Dutch had very limited control over Indonesia and occupied only a few enclaves. However, no political question was involved in the transaction since it did not require recognition of the Indonesian Republic. Nor was there any possible conflict with international law. Even if the Republic did have only insurgent status, its desire to export commodities to the United States in order to obtain sorely needed American manufactured goods was a legal one. 'No government', Ryan argued,

7. Memo William Vallance, Assistant to the Legal Adviser, June 4, 1947. NA, RG, 656D.006/5-2747; Isbrandtsen to William Thorp, Assistant Secretary for Economic Affairs, May 27, 1947. NA, RG 59, 656D.006/5-2747. The contract was drafted as early as January but not signed until March 22, 1947.

not having actual control in (a) territory involved has (the) right (to) shut off United States merchants and American vessels from lawful trade with peaceful residents (of) that territory for (the) public purpose (of) relieving distress in that territory...

He assured the State Department that his relations with the Netherlands government were 'most friendly' and he did not believe that they would deny permission⁸.

The Isbrandtsen Company was assured in late January 1947 by the Netherlands trade commissioner in Washington, D. C., Emile Zimmerman, that the proposed commercial transaction was not in conflict with his government's policies but would be subject to the payment of an export duty and required evidence that the goods to be exported were the property of the Indonesian vendor⁹. On January 27 the State Department contacted the Netherlands Embassy in Washington in order to assure that Zimmerman had indeed given his permission and that the trade commissioner had the authority to approve of the proposed commercial transaction. Since the reply was in the affirmative, the State Department informed Ryan on January 28 that it would 'interpose no objection' to the company's transaction although the company would do so at its 'own risk and responsibility'¹⁰.

Later the Isbrandtsen Company would charge that Zimmerman had deliberately misled Ryan because Dutch officials wanted to seize a vessel laden with a rich cargo. This charge cannot be substantiated, however, since Zimmerman and other Dutch officials warned the Isbrandtsen company of the new regulations of January 28. Isbrandtsen would also charge that it had an 'agreement' with the State Department allowing it to trade with the Indonesian Republic and therefore deserved diplomatic and other support¹¹. No such agreement was ever concluded; the State Department granted permission but warned the company of possible consequences.

On the same day the State Department granted approval, the new trade regulations were issued. Three days later an alarmed American Consul General in

8. Ryan to Secretary of State, Jan. 22, 1947. NA, RG 59, 656D.006/J-2247 and Ryan to Secretary of State, Jan. 25, 1947. NA, RG 59, 656D.006/1-2547.

9. Samuel Klaus, Special Assistant, to Benedict English, Assistant to Legal Adviser, Oct. 22, 1947. NA, RG 59, 856E.01/10-2247; Van der Wal, *Bescheiden*, VII, 375n.

10. Klaus to English, Oct. 22, 1947. NA, RG 59, 856E.01/10-2247. William Clayton, Under Secretary for Economic Affairs, to Ryan, Jan. 28, 1947. NA, RG 59, 656D.006/1-2547.

11. Memo meeting Zimmerman, Frederick Nolting, Division, North European Affairs, and William S. B. Lacy, Southeast Asian Affairs, Feb. 4, 1947. NA, RG 59, 656D.006/2-447. Company officials charged later that the seizure was the result of an 'entrapment' and that the ship had been a 'bait'. See Isbrandtsen's Claim Against the Netherlands Government, August 18, 1948. NA, RG 59, 656D.006/8-1748. On the company's allegation that there had been an 'agreement' with the State Department see Isbrandtsen to Secretary of State, Jan. 7, 1948. NA, RG 59, 656D.006/1-748.

Batavia, Walter A. Foote, informed the State Department that he had learned of the intended voyage of the *Martin Behrman* to Cheribon and Probolinggo to load 5,000 tons of rubber, 13,000 tons of sugar, and other commodities. If the State Department had granted its approval, Foote warned, Isbrandtsen should know that the ship would be subject to naval inspection prior to reaching Republican ports. Furthermore, he informed the State Department that export licenses would be required which could not be given for estate products from the Republican area since most of them had been stolen. Hence, the risk was great that the cargo would be confiscated¹². On February 4, Zimmerman informed the State Department of the new trade regulations and asked for assurances that the proposed transaction did not have the official American sanction. Zimmerman was reassured, incorrectly, that it did not and that the United States continued to recognize the Netherlands as the sole sovereign power in Indonesia¹³. Most likely, the State Department found itself now in a somewhat embarrassing position because it had given its assent to a questionable commercial transaction; thus it failed to tell Zimmerman that Isbrandtsen had sought and obtained State Department approval. Furthermore, Ryan was informed on February 5 of the new regulations and told that any statement by the company expressing official State Department approval of the commercial venture would be misleading¹⁴. There can be little doubt, however, that the State Department's decision not 'to interpose objection' had been tantamount to approval.

Ryan did not misunderstand the State Department and informed the latter that the company would observe all regulations and instructions of the Netherlands East Indies government so that there may be no 'misunderstanding with anyone'¹⁵.

Meanwhile the *Martin Behrman*, which had left on January 26, before State Department approval had been secured, arrived in Cheribon on February 6. Two days before, Foote warned the master, Rudy Gray, of the new trade regulations and that the commodities he was to lade were estate products that could not be legally exported without a permit. He was also warned that the ship might be subject to naval inspection, seizure, and transfer to a Dutch port where the cargo would be unloaded and confiscated¹⁶. However, Gray was encouraged by

12. Foote to Secretary of State, Jan. 31, 1947. NA, RG 59, 656D.006/1-3147.

13. Memo meeting Nolting, Lacy, and Zimmerman, Feb. 4, 1947. NA, RG 59, 656D.006/2-447.

14. Secretary of State to Foote, Feb. 5, 1947. NA, RG 59, 656D.006/2-547. Clayton to Ryan, Feb. 5, 1947. NA, RG 59, 656D.006/2-547 and 656D.006/1-3147; Klaus to English, Oct. 22, 1947. NA, RG 59, 856E.01/10-2247. See also Clayton to Isbrandtsen, Feb. 14, 1947. NA, RG 59, 656D.006/2-847.

15. Memo telephone conversation Nolting and Ryan, Feb. 5, 1947. NA, RG 59, 656D.006/2-1247.

16. Foote to Secretary of State, Feb. 15, 1947. NA, RG 59, 656D.006/2-1547.

company officials to proceed. On the day of his arrival he received a telegram from Hans Isbrandtsen which boasted that Gray's ship was the 'first American steamer entering Indonesian territory'. He was also instructed to 'uphold flag and company honor in all vessel's affairs irrespective what conditions' he might meet. Finally, he was informed that the company had secured all the necessary permits¹⁷. Apparently, the company had decided to ignore all warnings and informed the State Department that it had no inclination to be 'pushed around' as a result of 'local jurisdictional disputes'¹⁸.

In Cheribon, the *Martin Behrman* was stopped and searched by the Dutch destroyer *Kortenaer* but not prevented from lading the cargo. It seems that relations between officers of the two vessels were most cordial and amenable in the next few weeks while the loading took place¹⁹. One is puzzled somewhat why the Dutch authorities did not prevent the ship from being loaded. Perhaps they feared a serious dispute with the Republic while delicate and tortuous negotiations were in progress to finalize the Linggadjadi accords. However, by not turning back the *Martin Behrman*, the Dutch did expose themselves to the charge that they allowed the loading of the ship in order to secure themselves of a valuable prize.

The loading, which began on February 8, was completed on February 27. The cargo was brought aboard the ship with small native vessels which ferreted the commodities some seven to eight miles out to sea since the *Martin Behrman* was unable to enter Cheribon because of the narrow entrance. Therefore, the ship remained offshore in an area called the 'The Roads' over which the Dutch claimed sovereignty and full jurisdiction. De facto control by the Republic ended at the low waterline²⁰.

On February 13 the commander of the *Kortenaer* informed Captain Gray that Dutch guards would be placed aboard the *Martin Behrman*. Two weeks later a complete boarding party took over the ship, and on the day following the vessel was ordered to proceed to Batavia where it arrived on March 2. Here Dutch civilian and military officials and armed soldiers boarded the ship on March 7 and informed Gray that the cargo would be seized. Although company officials would attempt to dramatize this incident by alleging that scuffles had taken place

17. Foote to Secretary of State, March 3, 1947. NA, RG, 59, 656D.006/3-547.

18. Isbrandtsen to State Department, Feb. 8, 1947. NA, RG, 59, 656D.006/2-847.

19. Foote to Secretary of State, April 10, 1947. NA, RG 59, 656D.006/4-1047; Marine Protest Before the American Vice Consul in Batavia and Affidavits, March 14, 1947. NA, RG 59, 656D.006/4-1047 or 656D.006/4-247; Affidavit by Rudy Gray, March 18, 1947. NA, RG 59, 656D.006/4-1047.

20. Marine Protest. NA, RG 59, 656D.006/4-1047. Memo conversation Edward V. Saher, representative of De Nederlandsche Advocatenvereniging and Vallance. June 18, 1947. NA, RG 59, 656D.006/6-1847; Foote to Secretary of State, September 8, 1947, NA, RG 59, 656D.006/9-847.

between the Dutch soldiers and the crew, no such incidents did occur. Captain Gray and his crew left the ship, and the cargo was unloaded without incident by March 17. The cargo was handed over to the Nederlands-Indisch Beheers Instituut and consisted of 408,999 kilo sugar, 500,055 kilo cinchona bark, 4,715,846 kilo sheet rubber, 248,102 kilo crepe rubber, and 200,000 kilo sisal fiber²¹. Undoubtedly, most of these commodities were so-called estate products although many of the marks had been removed by none other than Victor Berge who had tampered with the cargo²². Isbrandtsen would claim that the total value of the cargo was about \$ 3,000,000. This estimate was too high although it is very difficult to arrive at a very precise figure. A substantial portion was later sold by Dutch authorities for some two million guilders and some of it was burned in one of the warehouses in Batavia²³.

The decision to seize the ship and cargo entailed many serious risks, and one sometimes wondered if the Dutch authorities fully realized the possible consequences of such an undertaking. The minutes of the Netherlands cabinet do not seem to reveal any serious concern over the seizure even after considerable criticism had been voiced in the United States²⁴. Apparently, it was felt that American friendship would not be seriously jeopardized.

Even if Dutch authorities had been more sensitive to American concerns, no different action might have been taken. Officials in Batavia and The Hague had been alarmed over the agreement between the Isbrandtsen Company and the

21. Foote to Secretary of State, April 10, 1947. NA, RG 59, 656D.006/4-1047; Foote to Secretary of State, September 24, 1947. NA, RG 59, 656D.006/9-2447; Marine Protest. NA RG 59, 656D.006/4-1047; Gray Affidavits, March 10 and March 18, 1947. NA, RG 59, 656D.006/3-947 and 656D.006/4-1047; Decision by the Director of Economic Affairs, J. E. van Hoogstraten, March 4, 1947. NA, RG 59, 656D.006/3-2547. On the company charges of scuffles between Dutch troops and sailors see Isbrandtsen to Clayton, March 8, 1947. NA, RG 59, 656D.006/3-847. Foote dismissed these charges as 'perfect nonsense'. Foote to Secretary of State, April 1, 1947. NA, RG 59, 656D.006/4-147.

22. Foote to Secretary of State, April 10, 1947. NA, RG 59, 656D.006/4-1047.

23. On the proceeds of the sale of the seized *Martin Behrman* cargo see Foote to Secretary of State, Sept. 24, 1947. NA, RG 59, 656D.006/9-2447; Consul General Charles Livengood to Secretary of State, May 31, 1948. NA, RG 59, 656D.006/5-3148. The total insured value of the rubber destroyed in the fire was one million guilders. See Livengood to Secretary of State May 31, 1948. NA, RG 59, 656D.006/5-3148. Various sailors of the *Martin Behrman* and Captain Gray charged that part of the *Martin Behrman* cargo had been transferred to other ships by Dutch officials. See Marine Protests, March 14 and 17, 1947. NA, RG 59, 656D.006/3-2547; Isbrandtsen to Thorp, April 3, 1947. NA, RG 59, 656D.006/4-347; Gray to Isbrandtsen May 6, 1947. NA, RG 59, 656D.006/5-1347. Foote denied these allegations. See Thorp to Isbrandtsen, March 31, 1947. NA, RG 59, 656D.006/3-2747. Dutch officials gave Foote their 'solemn word of honor that not one ounce of (the) *Martin Behrman*'s cargo' had been loaded on any other ship. Foote to Secretary of State, March 20, 1947. NA, RG 59, 656D.006/3-7047. Ambassador Jonkheer O. Reuchlin told State Department officials in January 1948 that the Isbrandtsen Company had been able to hide a substantial portion of the quinine powder in the ship. Memo Conversation Reuchlin and?, Jan. 13, 1948. 656D.006/1-848.

24. See Van der Wal, *Bescheiden*, VII, *passim*.

Republic which would virtually have given the company a monopoly on the carrying trade. Furthermore, allowing the *Martin Behrman* to sail with the cargo would have been, according to Foote, 'unwise and politically and economically detrimental to the Netherlands East Indies and to Indonesia'. Thus, if the vessel had been permitted to leave, the door would have been opened to some 150 Chinese-owned ships hovering near Singapore and other vessels. Dutch officials felt the result would have been disastrous for the Indonesian economy²⁵.

An important matter, which was not raised by Isbrandtsen in the spring of 1947 but much later in the year, concerns the question of international law. Did the Dutch authorities have the right, under international law, to seize the *Martin Behrman* in territory where they did not in actuality have de facto sovereignty? Ryan, whose expertise was international law, argued with some justification that they did not have any de facto authority over most of Java and Sumatra in March 1947 but only controlled some small enclaves on those two islands. De facto status, Ryan contended, depended on the fact of actual control and not recognition. There was no substantial difference between recognizing a government as de facto and recognizing it as de jure, he maintained. Therefore, the Republic was the de facto or real government in most of Indonesia. Ryan even went so far as to say that as a result of the Japanese surrender, the Allies, especially the United States, had obtained the legal rights of possession to the former Netherlands East Indies²⁶.

Although much of Ryan's argument concerning de facto status was undoubtedly correct and could be buttressed with a number of actual international law cases, the fact remains that his government had recognized the Netherlands as the sole sovereign power in the East Indies. Even the Isbrandtsen Company had recognized Dutch sovereignty when it sought approval of Netherlands authorities in January 1947 to establish commercial relations with the Republic of Indonesia.

Another and perhaps more important question of international law which was not raised by Ryan concerned the bringing of the *Martin Behrman* to Batavia. Did the Dutch authorities have the right to go through international waters to bring to Batavia a vessel which had been seized in territorial waters? Since the seizure of the ship was not the result of hot pursuit, the Dutch action was open to question. As a matter of fact, the ship had never been instructed to leave

25. Foote to Secretary of State, March 10, 1947. NA, RG 59, 656D.006/3-1047; Foote to Secretary of State March 19, 1947. NA, RG, 59, 656D.006/3-1847. See also Foreign Minister C. G. W. H. Baron van Boetzelaer van Oosterhout to H. N. Boon, Feb. 25, 1947. Van der Wal, *Bescheiden*, VII, 572 and Memo Conversation Foote and ? May 7, 1948. NA, RG 59, 656D.006/5-?

26. Ryan to Secretary of State Sept. 8, 1947. NA, RG 59, 656D.006/9-547; Ryan's letter to the editor of the *New York Times*, July 31, 1947. *New York Times*, Aug. 3, 1947, Section 4, 6.

Cheribon. Perhaps the Dutch would have had a somewhat stronger case if the ship had attempted to sail and to escape²⁷.

In Batavia Ryan represented the Isbrandtsen Company's interest and welfare. He issued threats, blustered, insulted Dutch and American officials, and, in general, seriously damaged his company's case. Dutch officials suggested that he obtained a local lawyer; but Ryan refused and said that all legal procedures were the same the world over, except that in the Netherlands Indies they were 'crazy'. Furthermore, he indicated that he did not trust Dutch lawyers²⁸.

He briefed and coached the *Martin Behrman* crew in his hotel and marched them to the American consulate to file a so-called marine protest on March 14²⁹. Captain Gray, who was generally respected by Dutch authorities, seemed embarrassed by Ryan's behavior, but he was instructed by the latter 'to keep his mouth shut'. Gray did inform Foote privately, however, that the crew had been well treated and he managed to file his own separate affidavit with the American Consul General³⁰.

When Gray was ordered to appear before the Batavian *Landgerecht* on March 24, Ryan instructed him not to go until two hours after the court's adjournment. When on that day Ryan left a document on the judge's desk, he was informed that this was not the proper time for its deposition. Thereupon he exploded in an outburst of anger, pounded with his fist on the desk, and said, 'Don't you tell me what to do. I have been practising law for thirty years'³¹. Ryan argued that the *Landgerecht* did not have jurisdiction in this case because the estate owners had since 1942 failed to maintain, preserve, or protect their leases or estates. Moreover, the Netherlands and the Republic had agreed by the Linggadjati accords to determine the amounts of the respective, proportionate, and fair interests and ownership of the Indonesian people and of the Dutch and other

27. On this matter see esp. *De Nieuwe Rotterdamse Courant*, March 13, 14 and 15, 1947.

28. Foote to Secretary of State, March 19, 1947. NA, RG 59, 656D.006/3-1847; Memo Consul F. van den Arend to Foote, March 29, 1947. NA, RG 59, 656D.006/4-1047. Ryan alleged that he had complied with all the conditions and regulations. This is not true; he applied for an export license on Feb. 28 but his request was rejected by Van Hoogstraten on March 5, 1947. Memo Conversation Ryan and Valance, Aug. 13, 1947. NA, RG 59, 656D.006/8-1347.

29. Memo Conversation Foote and ? , May 7, 1948. NA, RG 59, 656D.006/5-? On the Marine Protest see above note 19.

30. Foote to Secretary of State, March 8, 1947. NA, RG 59, 656D.006/3-847. On the Gray Affidavit see above note 19. Gray was not very complimentary of the Dutch, however, and said some unkind things about their colonial system. See Gray to Isbrandtsen, May 6, 1947. NA, RG 59, 656D.006/5-1347.

31. Statement by Gray to the Court of Justice of Batavia, March 24, 1947. NA, RG 59, 656D.006/4-1047.

estate owners and to establish a joint Dutch-Indonesian Committee on Economic Affairs to study this problem³².

Especially Consul General Foote became the butt of Ryan's wrath. He was called a 'damned fool' and charged Foote was so pro-Dutch that he might as well be called the Dutch consul³³. Yet, it was Foote who intervened twice and used his personal influence to prevent Ryan's deportation and legal action against him and Gray for their failure to obey a court summons³⁴. 'In all my experience in dealing with ships and men', Foote lamented,

I have never been subjected personally to such crude, insulting, and even menacing words and action as I experienced from Mr. Ryan, and I hope that I shall never have to go through another such experience again³⁵.

American businessmen in Batavia shared Foote's feelings and complained that Ryan's actions had been severely damaging to their business interests in Indonesia³⁶.

Ryan also sought direct contact with Republican officials and met them at Malang where he spoke against the Netherlands East Indies government. Apparently, Prime Minister Sjahrir was not impressed with Ryan and told Foote that it was regrettable that Isbrandtsen's lawyer talked so much and so violently³⁷. Also his efforts to approach Van Mook were unsuccessful since the latter showed him the door³⁸. It must have been a relief to many when Ryan finally left on April 3 on the same day the *Martin Behrman* sailed for Singapore.

The principal center of diplomatic activity was not Batavia but Washington and The Hague. The Isbrandtsen Company attempted to regain the lost cargo through various strenuous appeals to the State Department and by arousing American public and Congressional opinion. Not surprisingly, the Company's tone vis-à-vis the State Department was often arrogant and peremptory. One of Isbrandtsen's main objectives was to demonstrate State Department responsibility for and involvement in the *Martin Behrman* affair because of Washington's approval of the commercial venture. The State Department refused to be drawn deeply into the dispute but did recognize some responsibility in aiding an American shipping firm in a dispute with a foreign power. At the

32. *Ibidem*. Ryan referred to Article 14 of the Linggadjati Agreement.

33. Foote to Secretary of State, April 10, 1947. NA, RG 59, 656D.006/4-1047; Memo Conversation Ryan and Vallance, Aug. 9, 1947. NA, RG 59, 656D.006/8-947.

34. Foote to Secretary of State, April 10, 1947. NA, RG 59, 656D.006/4-1047.

35. *Ibidem*.

36. *Ibidem*.

37. *Ibidem*.

38. Memo conversation Reuchlin and Lacy, March 3, 1947. NA, RG 59, 656D.006/3-2747.

same time it reaffirmed Dutch sovereignty in the East Indies although it urged the Netherlands to ease the trade regulations of January 1947.

As early as February 14, Assistant Secretary for Economic Affairs, William Thorp, explained the American position to Hans Isbrandtsen when he informed him that the United States recognized Dutch sovereignty over the entire East Indies and found no grounds for protecting the goods aboard the *Martin Behrman*³⁹. Isbrandtsen's reply a few days later expressed the desire to avoid 'embarrassing incidents' but contended that the government must expect American business firms to be 'reasonably energetic and progressive' in their policies and alert to the opportunities of establishing trade relations and in pushing trade with every nook and corner of the world⁴⁰. Publicly, Hans Isbrandtsen stated on February 25 that the loading of the *Martin Behrman* was 'an innocent and most worthwhile enterprise' and would supply the world market with badly needed goods⁴¹.

Company officials, furious when the ship and cargo were seized, accused the Dutch of 'piratical hijacking' of the ship, an act that smacked of 'old fashioned imperialistic policies and practices'. They claimed to have obtained Dutch and American approval, and contended, falsely, as has been shown above, to have been in no position 'to give the master instructions as to matters on which the captain was in a much better position to exercise an intelligent judgment'. The company also complained that it had become a victim of a 'jurisdictional squabble' between the Dutch and the Indonesian Republic, and lamented the American policy of recognizing Dutch sovereignty, especially in view of the tremendous price the United States had paid to free Indonesia from Japan⁴². During a meeting at the State Department on March 3, Isbrandtsen used 'vigorous language' to present his company's position and complained that they had been lulled 'into a sense of security' by the representatives of the Netherlands embassy⁴³. When such appeals to the State Department did not produce immediate results, the company addressed itself even to President Truman to take action to protect American seamen in view of their 'manholding and maltreatment'⁴⁴. Furthermore, Isbrandtsen appealed to public and Congressional opinion. Thus a large advertisement appeared in the *New York Times* on March 26, 1947, which pleaded the *Martin Behrman* case by accusing

39. Thorp to Isbrandtsen, Feb. 19, 1947. NA, RG 59, 656D.006/2-1547.

40. Isbrandtsen to Thorp, Feb. 21, 1947. NA, RG 59, 656D.006/2-2147.

41. Statement by Hans Isbrandtsen, Feb. 25, 1947. NA, RG 59, 656D.006/2-2747.

42. Isbrandtsen to Clayton, March 5, 1947. NA, RG 59, 656D.006/3-547; Isbrandtsen to Clayton, March 18, 1947. NA, RG 59, 656D.006/3-1847.

43. Memo conversation Isbrandtsen, Thorp et al. March 11, 1947. NA, RG 59, 656D.006/3-1147.

44. Isbrandtsen to President Truman, March 19, 1947. NA, RG 59, 656D.006/3-1947.

Dutch officials of changing the rules and of 'subtle and legalistic diplomacy'⁴⁵.

Soon a large number of Congressmen inquired of the State Department and expressed their concern. Thus, John Morgan, acting chief of the division of Northern Europe in the State Department, informed the American Embassy in The Hague on March 20 that his telephone rang constantly 'with a new Congressman inquiring about the case'⁴⁶. Moreover, members of a congressional committee were considering of asking for an investigation of the State Department's handling of the matter⁴⁷.

Also various labor unions were alarmed over the incident and demanded reprisals and action to protect American seamen who, they alleged, had been threatened with guns and bayonets. Joseph Curran, president of the National Maritime Union, informed the Secretary of State on March 10 that the *Martin Behrman* incident reminded him of the Tripoli pirates. William Ash, speaking for New York's Local 88 of the National Organization of Masters, Mates, and Pilots of America, demanded immediate steps be taken to secure complete redress for the treatment of the seamen and condemned the State Department for having been 'derelict' in its duty⁴⁸.

Even before the expressions of public concern or anger gained momentum, the State Department had already urged The Hague to consider the possible impact of the seizure of the vessel and the stringency of the new trade regulations. On March 3, Secretary of State, George Marshall, appealed to the Netherlands government to try to understand American public opinion in respect to the *Martin Behrman* incident and suggested an 'amicable settlement'. Furthermore, he urged a review of the trade regulations which, he felt, would paralyze trade with the Netherlands East Indies, prolong and intensify economic disturbances, and prohibit the importation of many articles required for civilian purposes⁴⁹. The Dutch reply of March 6 assured Washington that the *Martin Behrman* cargo would not be withdrawn from the world market and that the new trade regulations were designed not to hamper exports but to divert them into regular

45. *New York Times*, March 26, 1947, 53.

46. See the following documents: NA, RG 59, 656D.006/3-2147; 656D.006/3-1947; 656D.006/3-1747; 656D.006/3-1447; 656D.006/3-1247; 656D.006/3-1147; 656D.006/2-2647; 656D.006/4-747. Memo telephone conversation Benton and Morgan, March 20, 1947. NA, RG 59, 656D.006/3-2047. 47. Memo telephone conversation Benton and Morgan, March 20, 1947. NA, RG 59, 656D.006/3-2047.

48. Curran to Secretary of State, March 10, 1947. NA, RG 59, 656D.006/3-1047; Ash to Secretary of State, March 13, 1947. NA, RG 59, 656D.006/3-1347; *New York Times*, March 12, 1947, 51.

49. Marshall to United States Embassy in The Hague, March 3, 1947. United States Department of State, *Foreign Relations of the United States, 1947* (Washington, D. C., 1972) VI, 899-900; Also in NA, RG 59, 656D.006/3-147.

channels⁵⁰. The State Department considered this reply 'unsatisfactory in tone and in substance' and reminded The Hague that the United States had and continued to bear a large part of the burden of relieving the world's food shortage. The effect of the new regulations, Acheson argued, would place upon the ordinary course of trade with the Netherlands East Indies 'uncertainties and complex procedures as to make it improbable that the commodities will be forthcoming'. Finally, the Dutch were to be reminded of the harmful effect of the *Martin Behrman* incident on the 'traditionally favorable attitude' of the American public toward the Netherlands⁵¹.

On March 14 the Netherlands foreign minister, E. N. van Kleffens, informed J. Webb Benton, counselor of the American Embassy in The Hague, that there did not exist an absolute prohibition against the export of producers and consumers goods into territory actually under control of the Netherlands. The January regulations were designed to eliminate the 'trafficking in stolen goods' which would cause 'grievous impoverishment of the Netherlands Indies'. Moreover, Benton received the impression that Dutch authorities were using the new regulations to force the Republic to sign the Linggadjati agreement and were anxious to reach an agreement with Djokjakarta on food distribution, import and export trade, and financial reconstruction⁵².

Yet, by mid-March the Dutch government was prepared to offer a compromise by which the Isthmian Line would be permitted to ship a cargo similar to that of the confiscated *Martin Behrman* to the United States. Such a gesture would neutralize the objection that the confiscated cargo had been kept off the world market⁵³. A few days later Dutch officials even agreed to allow the *Martin Behrman* to lade a similar cargo as she had had previously and to give full compensation for costs resulting from the voyage from Cheribon to Batavia. However, the Netherlands East Indies government would only make this offer if the Isbrandtsen Company agreed not to take measures against the cargo. Such a promise meant that the owners of the cargo would be free to sell their products in the United States. If this offer were unacceptable, the Netherlands government was even willing to settle the matter by arbitration⁵⁴.

50. Ambassador Stanley Hornbeck to Secretary of State March 6, 1947. NA, RG 59, 656D.006/3-674.

51. Acting Secretary of State Dean Acheson to United States Embassy in The Hague, March 8, 1947. U.S. Department of State, *Foreign Relations of the United States, 1947*, VII, 900-901. Also NA RG 59, 656D.006/3-847.

52. Benton to Secretary of State, March 14, 1947. NA, RG 59, 656D.006/3-1047; 656D.006/3-1047; 656D.006/3-1447; 656D.006/3-1747. See also 856E. 01/3-1447.

53. Benton to Secretary of State, March 19, 1947. NA, RG 59, 656D.006/3-1947.

54. Memo Conversation Benton and Morgan, March 21, 1947. NA, RG 59, 656D.006/3-2147. See also Benton to Secretary of State, March 22 and 29, 1947. NA, RG 59, 656D.006/3-2247, 656D.006/3-2947.

The State Department considered the offer generous and fair and urged the Isbrandtsen Company to accept. Moreover, it reminded the company that, if it would not accept, the matter would become one for legal and not diplomatic action⁵⁵. Subsequently, on March 21, the State Department issued a press release which expressed the view that the Netherlands government had acted 'within its legal rights with respect to the action taken towards the *Martin Behrman* and its cargo'⁵⁶. Henceforth, the State Department would hardly make any further efforts to persuade the Dutch to make concessions or even to modify the January trade regulations. Also Congressional and public opinion seemed satisfied, and after a few days there were no more outcries for diplomatic or other actions against the Netherlands.

Isbrandtsen refused to accept the offer, however. Hans Isbrandtsen explained later that he could not accept because of his obligations as trustee towards the Perseroan Bank to protect the cargo and to obtain full compensation. Moreover, he contended that the Dutch offer was not made in good faith⁵⁷. Perhaps more important was his fear of complete exclusion from Indonesia in the future, when the entire archipelago was opened to trade, if the company reneged upon its agreement with the Republic.

Isbrandtsen would not readily concede defeat, however, and considered the possibility of making new attempts to establish trade relations with the Republic in 1947⁵⁸. The State Department advised the company not to do so without definite assurance from Dutch authorities. While Ryan argued that the January regulations were no longer valid after the signing of the Linggadjadi agreement on March 25, 1947, the State Department warned that it could not be used as some 'charitable institution' to force other countries to perform their agreements between themselves. Moreover, it expressed concern over the possible opening of all of Java, Sumatra, and Madura to non-discriminatory world trade and commerce. It believed that this could best be accomplished 'through Netherlands-Indonesian cooperation'⁵⁹. Ryan disagreed and argued early in May

55. Memo Conversation Hans and J. Isbrandtsen, Thorp, and Abbott Moffat, Southeast Asian Affairs, March 31, 1947. NA, RG 59, 656D.006/3-3147. See also Acheson to U.S. Embassy in The Hague April 1, 1947. NA, RG 59, 656D.006/3-2247.

56. Department of State Press Release no. 228. NA, RG 59, 656D.006/11-3048. Later Ryan would charge that Thorp had promised him to withdraw the Press Release. No evidence has been found to substantiate that allegation. See NA, RG 59, 656D.006/12-748, 656D.006/12-1348, 656D.006/U-3048.

57. Memo Conversation H. Isbrandtsen and State Department officials, June 15, 1948. NA, RG 59, 656D.006/?

58. The Isbrandtsen Company intended to send such vessels as the *Richard Randte*, the *Flying Enterprise*, and the *Sir John Franklin*.

59. Memo Conversation Vallance and Ryan, May 1, 1947. NA, RG 59, 656D.006/4-2947; Thorp to Isbrandtsen May 6, 1947. NA, RG 59, 656D.006/5-647.

that it was now legal to send another ship because the Dutch no longer had de facto control over the area. The company was willing to force the issue to compel the Dutch to act, but it did want to know if it could count on State Department support. The latter advised Ryan that a 'burnt child should avoid the fire'⁶⁰.

Finally, one of the Isbrandtsen vessels, *The Flying Clipper*, did arrive in Batavia in late December 1947 and applied for an export license. When the captain was unable to persuade the Dutch authorities to grant one, he went to the governor's palace to see Van Mook. The latter told him to leave his office after he learned that the captain represented the Isbrandtsen Company. This treatment prompted another angry company response on January 22, 1948, from Hans Isbrandtsen who dubbed himself a 'red blooded American' on this occasion⁶¹.

Actual settlement of the *Martin Behrman* case did not come until 1949 after rather tortuous negotiations. Repeatedly, the Isbrandtsen Company attempted to persuade the State Department to use diplomatic influence to effect an equitable agreement with Dutch authorities. The State Department refused to play that role and would only offer some mediation; its position was that all possible legal remedies must be exhausted before diplomatic pressure could be exerted.

On April 22, Captain Gray was summoned to appear before the Batavian *Landgerecht*. At the request of the State Department, the hearing was postponed until August 25. Subsequently, several additional postponements were sought and obtained, and the case was never tried and settled in Batavia⁶².

Meanwhile, the Netherlands government indicated in August 1947 that, as a separate juridical body, it did not want to enter into direct negotiations with the Isbrandtsen Company. However, it was willing to reopen the discussions concerning the offer made earlier in the year⁶³. The company rejected this overture and on September 12, 1947, initiated legal action in the U.S. District Court of the Southern District of New York against 'H. J. van Mook as head or leader of a group of armed or militarized persons calling themselves the Netherlands East Indies Government', demanding damages to the amount of \$

60. Memo Conversation Ryan, Thorp, *et al.*, May 6, 1947. NA, RG 59, 656D.006/5-647.

61. Report by Captain K. Carlsen, Dec. 28, 1947. NA, RG 59, 656D.006/1-2348; Isbrandtsen to Van Mook, Jan. 22, 1948. NA, RG 59, 656D.006/6-2346 and to Secretary of State, Jan. 23, 1948. 656D.006/6-2348.

62. Foote to Secretary of State, April 22, 1947 and Aug. 23, 1947; Livengood to Secretary of State, November 26, 1947, June 3, 1948, July 2, 1948, Aug. 24, 1948. NA, RG 59, 656D.006/4-2247; 656D.006/8-2347; 656D.006/11-2647; 656D.006/7-348; 656D.006/7-248; 656D.006/8-2448.

63. Ambassador Herman Baruch in The Hague to Secretary of State, August 25, 1947. NA, RG 59, 656D.006/8-2547.

3,087,241⁶⁴. The State Department was rather embarrassed over this initiative and strongly opposed it. Somewhat alarming was the question of whether Van Mook, who happened to be visiting the United States at the time, could be prevented from leaving. Fortunately, that contingency was avoided⁶⁵.

Foreign Minister Van Kleffens protested the legal action on September 16 by arguing that the Netherlands East Indies was an integral part of the Kingdom of the Netherlands and, therefore, entitled to immunity⁶⁶. On the other hand, Ryan argued that the Netherlands East Indies government was not entitled to immunity since it was a 'trading company enjoying no extra-territorial status'⁶⁷. In his arguments Ryan was supported in part by Professor A. Arthur Schiller of Columbia School of Law, who contended that the Netherlands East Indies was a separate juristic person independent of the Netherlands which had been and could be sued⁶⁸. Although Schiller had considerable knowledge of the Netherlands East Indies' political system⁶⁹, he should have added that the colonial government enjoyed the same degree of immunity as the government in The Hague. Furthermore, Schiller did not cite any cases where the government in Batavia had actually been sued without its consent.

The State Department strongly supported Van Kleffens' views, and Judge Alfred C. Coxe heard the case on September 30 and October 2. Despite Ryan's 'impassionate address' the judge accepted the State Department's demand for immunity status for the respondent, and on November 3 the court denied a motion for a default decree⁷⁰.

A chagrined Ryan accused the State Department of issuing 'executive orders' to prevent the court from exercising its jurisdiction and applying or enforcing the rules of international law⁷¹. The State Department replied by urging the Isbrandtsen company to resume negotiations with the Netherlands government,

64. Ryan to Secretary of State, Sept. 12, 1947. NA, RG 59, 656D.006/9-1247; *New York Times*, Sept. 14, 1947, section 5, 8.

65. Memo conversation, Nolting, Vallance, *et al.*, Sept. 15, 1947. NA, RG 59, 656D.006/9-1247.

66. Lovett to Attorney General Tom Clark, Sept. 19, 1947. NA, RG 59, 656D.006/? and enclosures.

67. Kenneth Landon, Southeast Asian Affairs to Walton Butterworth, Far Eastern Affairs, Oct. 10, 1947. NA, RG 59, 656D.006/10-647; Ryan to Secretary of State, Sept. 22, 1947. NA, RG 59, 656D.006/9-2147.

68. Schiller Affidavit, Oct. 17, 1947. NA, RG 59, 656D.006/10-2447.

69. Schiller's work is entitled: *The Formation of Federal Indonesia, 1945-1949* (The Hague, Bandung, 1955).

70. Peyton Ford, Assistant Attorney General, to Secretary of State, Oct. 7, 1947 and enclosures. NA, RG 59, 656D.006/10-747; Herben Bergson, Acting Assistant Attorney General Nov. 6, 1947. NA, RG 59, 656D.006/11-647.

71. Ryan to Secretary of State, Nov. 26, 1947. NA, RG 59, 656D.006/11-2647.

whose previous offer it deemed reasonable; otherwise it might be 'constrained to consider the matter closed'⁷².

In November the Netherlands government indicated through the American consul general in Batavia that company officials might attempt to approach J. E. van Hoogstraten, Director of Economic Affairs in the Indies, during his trip in the United States in December 1947⁷³. That attempt failed, however, since Van Hoogstraten, to the embarrassment of the State Department which had assisted in arranging the contact, refused to see Ryan. Most likely Van Hoogstraten refused to see Ryan because the latter addressed the Netherlands official as the 'representative of the Dutch seizors of the American steamer *Martin Behrman*'⁷⁴.

Negotiations were finally begun in the summer of 1948. The \$ 3 million company claim, which the State Department had once considered 'grossly exaggerated and unsupportable', had now been reduced to approximately \$ 2 million⁷⁵. The Netherlands government employed the law firm of Sullivan and Cromwell which was headed by Allen and John Foster Dulles. However, Ryan indicated that he did not want to negotiate with a private firm because that would give the State Department the liberty to divorce itself from prosecuting the case⁷⁶. He would not swallow his pride until late 1948 when he finally approached the Sullivan and Cromwell firm.

One more final desperate effort would be made to involve the United States government when the company charged in April 1949 that the United States Rubber Development Corporation, a World War II agency, had purchased 5,000 tons of rubber of the *Martin Behrman* cargo. However, the State Department was able to demonstrate rather conclusively that the Rubber Development Corporation had never entered into any agreement with the Isbrandtsen Company. The latter had offered to sell 5,000 tons of rubber, but after the *Martin Behrman* incident the offer was considered nugatory⁷⁷.

72. English to Ryan, Dec. 5, 1947. NA, RG 59, 656D.006/12-347.

73. Livengood to Secretary of State, Nov. 11, 1947. NA, RG 59, 656D.006/11-2647.

74. Memo Conversation Reuchlin and ?, Jan. 13, 1948. NA, RG 59, 656D.006/1-848; Marshall to Livengood, Feb. 19, 1948. NA, RG 59, 656D.006/11-2647; Joseph Matre, Assistant to Legal Adviser, to Isbrandtsen, Maren 15, 1948. NA, RG 59, 656D.006/3-148.

75. Isbrandtsen's Claim Against the Government of the Netherlands, Aug. 18, 1948. NA, RG 59, 656D.006/8-1748; English to Ryan, Dec. 5, 1947. NA, RG 59, 656D.006/12-347; Memo Conversation Matre and Emile Schiff, Netherlands Embassy, March 19, 1948. NA, RG 59, 656D.006/9-1648.

76. *Chicago Tribune*, Nov. 1, 1948. Also NA, RG 59, 656D.006/11-648. Company president Hans Isbrandtsen stated that he did not expect the State Department to change its attitude and charged that the 'Dulles people' have had a 'big hand in running the department right along'.

77. Edwin J. Clapp, Chief, Contract Liquidation Branch, Reconstruction Finance Corporation, Office of War Activity Liquidation, to Matre, May 2, 1949 and enclosures. NA, RG 59, 656D.006/5-249.

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An agreement was finally reached on May 19, 1949, more than two years after the *Martin Behrman* incident. By the terms the Netherlands government agreed to pay \$ 250,000 in damages only; no compensation was made for any part of the confiscated cargo. It is somewhat ironic that the Isbrandtsen Company was anxious to keep the amount of the final settlement secret for fear of legal action by its former cliënt, the Indonesian Republic, whose cause it had supposedly so vociferously fought and lost⁷⁸.

78. Ryan to Secretary of State, May 19, 1949. NA, RG 59, 656D.006/5-1949; Matre to Ryan, May 31, 1949. NA, RG 59, 656D.006/5-1949; Isbrandtsen to Secretary of State, May 24, 1949. NA, RG 59, 656D.006/5-2449; Memo, Matre, n.d. NA, RG 59, 656D.006/5-249.

De economische geschiedenis van Nederland

Recensieartikel door Hille de Vries

J. H. van Stuijvenberg, ed., *De economische geschiedenis van Nederland* (Groningen: Wolters-Noordhoff, 1977, xvi + 398 blz., f 39,50, ISBN 9001 82380 7).

De verschijning van dit belangrijke boek toont aan dat ook de produktie van universitaire hand- en leerboeken plaatsvindt in een vrije markteconomie. Wanneer het aantal potentiële afnemers groot genoeg wordt, ontstaat er ruimte voor het lanceren van een nieuw produkt.

Vele jaren heeft P. J. Bouman's *Leerboek voor economische geschiedenis* (Amsterdam, 1939) dienst gedaan op middelbare scholen en universiteiten. In een tijdsbestek van ruim een kwart eeuw beleefde het boek niet minder dan twaalf herdrukken. Menig universitair docent lichtte dit nummer van de literatuurlijst toe met de opmerking dat het boek eigenlijk bedoeld was voor het eindexamen hbs-a, maar dat er nu eenmaal niets beters beschikbaar was om de noodzakelijke basiskennis uit op te doen. De bezwaren tegen het leerboek golden vooral twee punten. Bouman gaf nauwelijks enig extra accent aan de Nederlandse geschiedenis. De stand van het historisch onderzoek op dit zo in de belangstelling staande terrein vond men er onvoldoende in terug. Onderwerpen als de demografische ontwikkeling, landbouw, belastingdruk en overheidsfinanciën, economische conjunctuur, arbeidersbeweging en de geschiedenis na 1914 kregen betrekkelijk weinig aandacht. Resultaten van nieuw onderzoek van bijvoorbeeld I. J. Brugmans en J. G. van Dillen kwamen er onvoldoende in tot uitdrukking. En dit terwijl er in 1957 al een *Algemene Geschiedenis der Nederlanden* was voltooid! Een tweede bezwaar had betrekking op de louter chronologische opzet. Praktisch elke hoofdstuktitel bevatte im- of expliciet een tijdsaanduiding tot op een halve eeuw nauwkeurig. Zo dook het jaar 1850 hierin voor Frankrijk, Duitsland en Nederland op als caesuur, een constructie die rechtstreeks uit de politieke geschiedenis was afgeleid.

Hoewel deze twee bezwaren los van elkaar kunnen worden gedacht, bleek het in de praktijk moeilijk om ze tegelijkertijd te ondervangen. T. J. Kastelein deed in zijn *Groei naar een industriële samenleving* (Groningen, 1969; herdrukt in 1977) een geslaagde poging om het tweede nadeel, de te strakke chronologie, op te heffen. In minder bladzijden dan Bouman nodig had, geeft het, aldus de ondertitel, een *korte inleiding tot 200 jaar sociale en economische geschiedenis*. Met de chronologie wordt korte metten gemaakt. Bijna uitdagerend stelt Kastelein zijn program in de profilering van de opschriften van zijn hoofdstukken. Ik noem er enkele: de Europese wereld voor de industriële revolutie, bevolkingsgroei; een vraagstuk van leven en dood, agrarische hervormingen, de mensen (onder andere emancipatie van arbeiders en vrouwen) en uit de tweede herziene druk van 1977: de econo-