

THE UNION GOVERNMENT'S TREATMENT
OF THE
SOUTH-WEST AFRICAN MANDATE.

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(1915-1944)

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at the University of Cape Town, 1944.

By

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P R E F A C E.

Very little has been written on South-west Africa. There are books of travel in the Territory, but my thesis is not concerned with this aspect of the country. Some articles on the mandate system as a whole, contain a few pages on the general outlines of the Territory's administration, but these usually treat the subject very broadly.

I keenly felt the lack of detailed and accurate secondary authorities on the development of the Territory since it has been a mandate. The only two books of this nature which I found of real value were those of Dr. Wessels "Die Mandaat vir Suidwes Afrika", and G.L. Steer "Judgment on German ~~West~~ Africa." Dr. Wessels, however, concentrates more on the constitutional aspect of the mandate, with which only part of my thesis is concerned.

I was forced to fall back on primary sources, of which there are many. In this respect the annual reports of the Union Government on the administration of the mandate, and the Minutes of the Permanent Mandates Commission, are very valuable as they contain much detail.

The Reports are to be found printed and bound with the Annexures to the Votes and Proceedings of the House of Assembly; and the Minutes of the Mandates Commission are in separate volumes for each session. The Librarian of the Parliamentary Library kindly allowed me to use the copies of both the Reports and minutes in that library, and also the official Hansard of the debates in Parliament and the Official Gazettes for South-West Africa.

I was, however, handicapped by the fact that, due to the war, the last Report on South-West Africa was that for 1939. Thus for the years (1939) to 1944 I had to depend mainly on the Official Gazettes for South-West Africa, and the Official Year Books for the Union of South Africa.

In writing this thesis I have assumed that the reader has some slight knowledge of the actual working of the mandates system, its aims and achievements.

Furthermore, this thesis is concerned^{only} with those aspects of Union mandatory rule in South-West Africa in which the Permanent Mandates Commission showed interest.

I am greatly indebted to, and take this opportunity of thanking, Mr. D. Mullany of the Parliamentary Library for his great helpfulness in making easier my task of searching for material; and Miss Constance Cooper for typing the proofs.

I have made use of certain abbreviations, of which an explanatory list is given below.

<u>Abbreviation.</u>	<u>Explanation.</u>
A.1-'32	Resolutions adopted by the Legislative Assembly of South-West Africa 27/4/32.
Debates	Debates in the house of Assembly.
O.G. of S.W.A.No.844	Official Gazette of South-west Africa.No.844.
O.J.	Official Journal of the Council of the League of Nations.
O.Y.B.No.4.	Official Year Book of the Union of South Africa.No.4.
P.M.C.XXXI	Minutes of the Permanent Mandates Commission 31st Session.
S.W.A. 1-'41	Accounts of the Administration for South-West Africa for the Financial Year 1930-40, with the Report of the Controller and Auditor-General Thereon.
U.G. 22-'27	Report of the Administrator for South-West Africa for 1926.
Keith	A.B.Keith: The Dominions as Sovereign States.
Mandates.J.E.A.B.	Mandates: issued by the Joint East African Board.November,1936.
Steer	G.L.Steer: Judgement on German Africa.
Walker	E.A.Walker: A History of S.Africa.
Wessels	Dr.L.H.Wessels: Die Mandaat vir Suidwes Afrika.

Abbreviation.Explanation.

International Conciliation

International Conciliation:
Documents for the Year 1925:
Information Regarding the
Mandates System.

N.R. Vol. CVII

National Review. Volume CVII.

R.T. Vol. 18

The Round Table. Volume 18.

U.E. Vol. XXVII

United Empire. Volume XXVII.

CHAPTER 1.

THE ORIGIN OF THE MANDATE OF SOUTH-WEST AFRICA.

After the last war, one of the many big problems that the Allied statesmen had to solve was what should be the fate of the former German colonies.

There were three alternatives (1) they could be returned to Germany (2) they could be annexed outright by those nations most instrumental in conquering them, or (3) they could be administered in the interests of their native inhabitants and of the world in general by some kind of international organization.

Since this work is concerned only with South-West Africa, the three alternatives will be considered in relation to it alone, and to its conquerer of 1915, the Union of South Africa. The people of the Union were against any return of her former colonies to Germany as were the other British Dominions. The most important reason for this emphatic attitude was security. During the war there had been a rebellion in the Union, fomented by the Germans in South-West Africa, and General Smuts, South Africa's representative at the Peace Conference, stated the views of his countrymen in no uncertain manner when he declared that the Union needed South-West Africa to protect herself against any possible future German or other foreign aggression from that quarter.

The second alternative, that of outright annexation, was strongly advocated by General Smuts and the Australian and New Zealand premiers, Hughes and Massey. If, however, this course had been followed it would have meant blatant negation of the right of self-determination for all peoples, declared by President Wilson to be a premier war aim of the Allied and Associated Powers. The colonial aspect of this aim is seen in the fifth of the celebrated Fourteen Points which on the 8th of January, 1918⁽¹⁾ Wilson announced to the American Congress:

"A free open-minded and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty, the interests of the populations concerned must have equal weight with the equitable claims of the government whose title is to be determined."

¹⁾Wessels.p.2.

The third alternative, that of administration by an international organization, was held to be impracticable because it had failed when tried before, and because of the great difficulties of co-ordinating the rule of many countries over any one country.

(2)

On the 16th of December, 1919, General Smuts brought forward his idea of a mandate system in the well-known pamphlet "A Practical Suggestion". This was a compromise between outright annexation and international administration. From this scheme, however, he excluded the former German colonies on the grounds that they "are inhabited by barbarians who not only cannot possibly govern themselves but to whom it would be impracticable to apply any idea of political self-determination in the European sense." He advocated that these colonies should be disposed of on the principles of President Wilson's fifth point.

General Smuts' idea was obviously to annex South-West Africa to the Union, but at the peace conference he was overborne by President Wilson. A compromise was reached whereby South-West Africa, although a mandate, would be administered as an integral part of South Africa, subject only to such restrictions as were necessary to safeguard the interests of the native inhabitants of the territory. This was combined in a resolution of the Supreme Council of Ten on January 30th, 1919, which afterwards became Article 22 of the Covenant of the League of Nations.

Since Germany, by Articles 118 and 119 of the Treaty of Versailles, had renounced all claims to her colonies in favour of the Allied and Associated Powers, it fell to the Supreme Council to allocate the newly mandated territories to their future guardians. This was done from May to August, 1919, ⁽³⁾ and South Africa got as her ward the territory of South-West Africa. By December the 17th, 1920, the Supreme Council had defined the terms of the C-mandates to which class South-West Africa belongs, and on that day the mandates were ratified by the Council of the League of Nations.

(3) International Conciliation. p. 289

(2) Wessels. p. 3

The year before, the Union Parliament passed the Treaty of Peace & South-West Africa Mandate Act (Act No.43 of 1919) by which the execution of the administration of the mandate was given to the Governor-General of the Union. He can, by Article 2 of the Act, delegate his authority to an official acting under his orders. This was done by Proclamation No.1 of 1921, and to the Administrator of South-West Africa were delegated the law-making powers. ⁽⁴⁾

CHAPTER II.

THE STATUS OF THE MANDATED TERRITORY OF SOUTH-WEST AFRICA & OF ITS INHABITANTS.

The mandates set up by the Supreme Council after the last war are new to international law, and for this reason it had been found difficult to determine their precise status.

One of the obligations of every mandatory power is that of making annual reports on its mandate to a body set by the the League of Nations to make criticisms and suggestions about the conduct of mandatory Powers towards their mandates. This body is the Permanent Mandates Commission and one of the questions concerning South-West Africa which has most interested the Commission is that of where sovereignty over the territory resides.

The main theories advanced are that it resides in (a) the Principal Allied & Associated Powers, (b) the League of Nations, (c) the mandatory South Africa, (d) in the territory itself.

When Germany renounced all rights and titles to her overseas possessions by Articles 118 and 119 of the Treaty of Versailles, sovereignty over them did not pass to the Principal Powers. They were merely trustees of those colonies until the latter could be disposed of. Thus when the Supreme Council of the Powers gave over to the League of Nations the right to supervise the colonies (now mandates) no sovereignty was handed over as the Powers did not have it to give.

The Union as mandatory, does not possess sovereignty over South-West Africa as by Article 22 it is regarded simply as a tutor exercising its tutelage as a mandatory on behalf of the

(4) Jessels.p.19.

League. It seems therefore fairly obvious that the sovereignty lies in South-West Africa itself but is exercised on the Territory's behalf by South-Africa as tutor until such time as the Territory comes of age and is able to stand by itself "under the strenuous conditions of the modern world." (1)

In 1922 the Union Parliament passed the South-west African Railways & Harbours Act (Act No.20 of 1922). By this Act the railways and harbours of the mandated territory were to be

"managed and worked by the railway administration of the Union. . . as part of the system of the railways and harbours in the Union. . . in so far as immovable property is transferred it is transferred in full dominium."(2)

The wording of this Act greatly troubled the Permanent Mandates Commission, especially the phrase "in full dominium." This was first commented on during the Commission's third session in 1923 (3) and questions about it were asked for many years until 1930 when the Union Parliament passed an amending Act.

The gist of the Commission's objections was that it regarded the railways and harbours of South-West Africa as the property of the Mandate and therefore Act No.20 of 1922 was a contradiction of Article 257 of the Treaty of Versailles which stated

"All property and possessions belonging to the German Empire or to the German States situated in such territories shall be transferred with the territories to the mandatory power in its capacity as such."

The replies given by the Union Government and its representatives to this criticism were many and varied. Sir Edgar Walton before the Commission in 1923 stated that the railways of the Mandate by the Act actually formed part of the railways of the Union, which belong to the Union Government by an Act of Parliament. (4)

Mr. Smit's view in 1925 was that the Union Government could not claim full ownership and in the case of the transfer of the mandate the railways would of course revert to the mandated Territory. (5)

(1) Article 22. (3) P.M.C. III. p.106-7, 113, 325 (4) ditto
 (2) Section 1 (1) (5) P.M.C. VI, p.63.

In a letter dated the 27th of May, 1925, to the Secretary General of the League of Nations, General Hertzog, then Prime Minister of the Union, gave his Government's explanation of the Act. He said

"Full ownership can, from the terms of the Treaty of Versailles and the terms of the mandate of South-West Africa, only last while the railways and harbours of the Mandate are being worked as part of the combined system. If at any time the combined system should be abolished or the mandate revoked Act No. 20 of 1922 would cease to operate." (6)

This letter was received by the Mandates Commission during its sixth session and the Commission stated that General Hertzog's interpretation, in accordance as it was with Articles 120 and 257, paragraph 2 of the Treaty of Versailles was satisfactory. The Commission asked tactfully, however, "would it not now be advisable to avoid future misunderstanding, to amend the law of 1922 so as to bring the text into conformity with the interpretation of the Mandatory Power?" (7)

This question started another long trail of reminders to the Union Government about the wording of the Act. It lasted until 1930. In June of that year the Commission met for its eighteenth session (8) and heard from M. van Kees that the Union Government in a communication to the League, dated the 13th of March, 1930, stated that the amending Act had been passed. This was Act No. 9 of 1930 which read:-

"Notwithstanding anything contained in the South-West Africa Railways & Harbours Act (Act No. 20 of 1922) the railways and harbours in the territory of South-West Africa and any rights thereto which were transferred to and vested in the Governor-General of the Union in terms of Section One of that Act shall be held by him subject to the mandate issued by the Council of the League of Nations in pursuance of Article 22 of the Treaty of Versailles."

Another question which greatly troubled the Permanent Mandates Commission concerning the relationship between the Union and South-West Africa arose out of the Bondelswarts rebellion of 1922. The charge preferred against the leaders of this rebellion was that of treason, and at the trial Rex vs. Christian in 1924 (9) the question arose as to whether the Union possessed

(6) Document C. 367(a). M. 117(a). 1925

(8) P. M. C. XVIII. p. 12

(7) P. M. C. C. VI. p. 178

(9) Appeal Court. p. 101.

sovereignty over its mandate or not and thus whether the charge of treason could be upheld or not.

The judges of the Appeal Court took the view that

"the 'majestas' or sovereignty over South-West Africa resides neither in principal Allied and Associated Powers nor in the League of Nations, nor in the British Empire but in the Union of South Africa which has full powers of administration and legislation (only limited in certain definite respects by the Mandate) and does not recognise the sovereignty of any other person or body in the Territory."

The Union Government, according to a declaration made by the Prime Minister, Gen. Hertzog, in the Union Parliament on March the 11th 1927, adheres wholeheartedly to this decision of the Appeal Court. (10) Kennedy & Schlosberg, in their book, "The Law and Custom of the South African Constitution" declare that

"The Union has sovereign power over the territory with power to make laws and enforce them over the whole sphere of government. This is the official view taken by the Government of the Union although it recognises that it must administer the territory in the spirit in which the mandate was granted and endeavour by its administration to retain the confidence of the Council of the League of Nations." (11)

During its tenth and eleventh sessions in 1926 and 1927 the Mandates^s Commission discussed the question of the Union's claim to the possession of sovereignty over South-West Africa in relation to the Agreement of June, 1926, between the Union Government and Portugal concerning the frontier between South-West Africa and Angola, and also in relation to the Prime Minister's statement in Parliament on March the 11th, 1927. (12)

In this Agreement the second paragraph stated that

"the Government of South Africa, subject to the terms of the said mandate, possesses sovereignty over the territory of South-West Africa lately under the sovereignty of Germany."

The Commission decided that the term "possesses sovereignty over" was not a correct definition of the relationship existing between a mandatory and its mandate and if it meant that the Union thought she had full sovereign rights over the Territory itself, she was violating Article 22 of the Covenant and the terms of the mandate itself.

The Mandates Commission referred the matter to the Council

(10) Debates; vol. 8, 1927. (12) P.M.C.X, p. 22, 83f

(11) P. 516 P.M.C.XI, p. 6.

which on the 8th of September, 1927, adopted a resolution stating

"This (legal relationship between the Mandatory and the Territory under the mandate) is clearly a new one in international law and for that reason the use of some of the time-honoured terminology in the same way as previously is perhaps sometimes inappropriate to the new conditions." (13)

This was forwarded to all the Mandatory Governments. The reply of the Union Government was vague and unsatisfactory. In a letter to the Secretary-General of the League, dated 10th of February, 1928, it said that the Resolution of 8th September, 1927, had been noted but the Union Government had no comment to make.

Then in his opening speech at the eighteenth session (14) of the Mandates Commission in 1930 the Chairman, M. van Rees, told his fellow members that in a letter dated 16th May, 1930, the Union Government accepted the definition of the powers of a mandatory power contained in the resolution of 8th September, 1927, and confirmed 13th January, 1930.

In spite of seizing on everything which in any way seemed to deny the separate status of the Mandate in international law neither the Council of the League nor the Permanent Mandates Commission have ever laid down exactly where the sovereignty over a mandated territory resides. On the other hand, however, one may argue from their insistence on the separation of a Mandate from its tutor in everything but administration and legislation and also from the ultimate goal of independence for all mandates envisaged in Article 22 of the Covenant, that the sovereignty of a Mandate reverted to itself when Germany renounced her sovereignty over her colonies and is exercised on behalf of the Mandate by the Mandatory Power until the former comes of age.

Opinions in the Union and South-West Africa on the status of the latter and its future are varied, but with the exception of the Germans in South-West Africa and their out and out supporters in the Union, the general desire seems to be to keep the mandate. The degree of "keeping" varies from maintaining the existing position to incorporating South-West Africa in the Union as a

(13) O.J. 1927. p. 1120

(14) P.M.C. XVIII, p. 12.

fifth Province.

Right from 1915 one may see in the debates in the House of Assembly and the Senate, especially the former, that any attempt to remove South-West Africa from the Union's control or sphere of influence would be fiercely resisted by all sections of the Union's community.

As an example I quote the following: On the 12th of September, 1919, when the House of Assembly was in Committee over the Treaty of Peace and South-West Africa mandate Bill, Mr. de Wet (a member of the Government) said that he did not agree that German West would have the right in a certain time to become a free and independent country and he held that for all time it was to be an integral part of the Union. (15)

There seemed to be some confusion of thought among the members of the Opposition Party, the Nationalists, before this war in 1937 and 1938. They wished to appease Germany, but on the other hand they did not wish to alienate their followers by handing over to Germany a country which their followers regarded as belonging to South Africa and which had a large percentage of Union Nationals within its borders. Thus, Advocate Strydom stated:

"The policy of the Nationalist Party is not to give back South-West Africa to Germany but we say that we will not lift a finger to prevent Germany taking it back if she insists on it." (16)

Thus also, Dr. Malan, Leader of the Opposition, ~~stated~~:

"In view of the fact that the majority of people in South-West Africa come from the Union it would create a new a serious racial problem in South-West Africa if we should return that territory to Germany. . . we must try to obtain the co-operation of Germany with a view to a friendly solution under which the future of South-West Africa will be vested in the Union. We must, through the League of Nations, and by other means, give our moral support to a scheme that will satisfy Germany's colonial needs." (16)

On the 11th of December, 1936, ¹⁷⁾ the Union Government made the following statement to allay the fear of Union Nationals and the natives in South-West Africa, that the mandate would be returned

(15) Debates: vol. 2, 1919.

(16) R.T. vol. 28, p. 184-190.

(17) U.G. 31-'37, p. 4.

to Germany as the German section alleged:

"The mandate has been conferred on the Union irrevocably under a solemn treaty and the Union cannot legitimately be deprived of the territory against its wish. The Union Government is not prepared to consider the possibility of the transfer of the mandate to another power and wishes to assure the people of South-West Africa that it has as little thought of abandoning the mandate as of abandoning its own territory."

It seems thus clear then that any attempt by the post-war League of Nations, or whatever the new international organization is to be called, to remove South-West Africa from the control of the Union will be opposed by all the forces in the Union as strongly as the return of the territory to Germany was opposed before September, 1939.

This feeling against the return of South-West Africa to Germany is shared by the majority of the European population in the mandated Territory itself and as far as could be ascertained most of the natives do not wish it either and, generally speaking, desire to remain under the Union Government.

The Germans in South-West Africa, especially since 1933 when the N.S.D.A.P. came into power in Germany, have been working for the return of the mandate to Germany.

In the London Agreement of October, 1922, between Gen. Smuts and the representatives of the German Government in London, Germany advised her former nationals in South-West Africa to become naturalized British subjects as she recognised "that the future of South-West Africa is now bound up with the Union of South Africa." (18)

As a result of this in 1924 the Union Parliament passed Act No. 30 providing for the automatic naturalization of the Germans in South-West Africa unless they specifically rejected it within the next six months. Out of the total German population of 3,489 only 261 decided to retain their German nationality. (19)

It now seemed ^{as} if everything was settled. The German-born in South-West Africa, according to the London Agreement, were accepted as part of the people, with the same privileges and the same responsibilities as the other citizens, and in return were expected to co-operate to the full with their British-born co-inhabitants of the Mandated Territory.

They still had grievances, however, such as the fact that German was not an official language, so they opened a campaign of no confidence in the administration. "In February, 1933, the Nazis burnt the Reichstag and Hitler won his first election as Chancellor." (20) In the same year Nazism with all its trappings came to South-West Africa (21) and by December had regimented every German (naturalized British subject or not) into the party ranks. As the years went on the German Foreign Office in Berlin took more and more interest in this tentacle of its octopus-like organization and soon all actions of the Germans in the Mandate were controlled directly from Berlin.

All non-naturalized office bearers of the party had to take an oath of allegiance to Hitler "Ich schwöre Adolf Hitler unverbrüchliche treue, ^{ilom} ~~ihm~~ und den mir von ihm bestimmten Führern unbedington~~ge~~hör~~sa~~m." (22) All British subjects who were office bearers had to affirm their loyalty to the same persons.

This was all a part of the Nazi attempt to get back Germany's former colonies. Hitler and his lieutenants were demanding on every possible occasion that Germany be given her rightful place in the sun and her stolen colonies be restored to her. This cry was naturally taken up by the N.S.D.A.P. in South-West Africa and roused the resentment of the Union-born nationals in the Territory. In an attempt to improve the situation the Legislative Assembly passed the Criminal Law Amendment Ordinance, which became law on the 12th of February, 1934. This empowered the Administration to deal with persons or organizations whose activities were calculated to disturb the peace of the Territory.

Under this Ordinance the South-West Africa Police raided the offices of the Nazi organization and the Hitler Jugend on the 12th of July, 1934. They seized a number of letters and documents which proved conclusively that the German Government was interfering in the affairs of South-West Africa and ordering the lives of British subjects. Weigel the Territorial Leader of the Nazi Party and Lossnitzer the leader of the local Hitlerjugend were expelled and the Nazi Party prohibited in the Territory.

(20) Steer, p. 110. (21) For reports on Nazi activities in S.W.A. see Steer, p. 111-132 & U.G. 30-'40., U.G. 26-'26. (22) N.R. vol. CVII, 1936. p. 347

This, however, has little effect on Nazi activities in South-West Africa. They went to ground with speed and thoroughness. In public the H.J. & B.D.M. wore Pathfinder uniforms but away from the police all the usual Nazi paraphernalia was worn.

Then in 1936 the South-West Africa Commission, in spite of the difficulty of getting Germans to give evidence of Nazi pressure on naturalized Germans, drew a revealing picture of their methods and designs. As a result of this and other observations Proclamation No. 51 was issued by the Governor-General. By this no aliens, i.e. no non-British subjects were to become members of any political organization. The Administrator of South-West Africa declared the new "Deutscher Sudwest Bund", the German and N.S.D.A.P. organization, to be a political organization from 15th December, 1937.

In 1938 from tentative beginnings Nazi propaganda, agitating for revolt in favour of Germany, began to spread amongst the natives in several reserves. In June, however, the Chief Native Commissioner visited most of the reserves and assured the residents that the Union had no intention whatsoever of returning the country to Germany.

In 1939 the Deutscher Südwest Bund held a congress and in an address Dr. Hirsekorn, the leader, declared that the Germans had only accepted automatic naturalization in 1924 so that they could take part in the government of the country and not with any idea of permanent allegiance towards the Union. On the contrary, a German's first duty was and remained always to his own nation. The congress later passed resolutions unanimously adopting these and similar sentiments.

When war broke out in September, 1939, the grip of the Nazi party on the entire German population was practically complete. Since that time, however, there have been no outward signs of Nazi activities in the Territory as the most important Nazi leaders are either in Germany or interned.

Enough has been said I think, to show which way German

thought in South-West Africa was tending before the war, regimented as it was by the Nazi party directly from Berlin. They interpret the wording in the exchange of letters between Gen. Smuts and the German representative Mr. De Haas that covered the London Agreement of 1923 in a different fashion from the way the Union Government interprets it. In his letter to Gen. Smuts Mr. De Haas said:

"Recognising that the future of South-West Africa is now bound up with the Union of South Africa... The Union Governments take "now" to mean "for all time" but the Germans say translated into German it is 'gegenwaertig' meaning "for the time being". (23)

Round this the Germans have built up their case for their statement that South-West Africa is only temporarily entrusted to the Union and must be given back to Germany.

In strong opposition to this German view of the status of South-West Africa is the view held by the United South-West African Party. Its members are mainly Union nationals and other British subjects. Their main aim as stated by Mr. Niehaus, a prominent member, is the incorporation of South-West Africa in the Union as a fifth province. This was put forward at a public meeting in September, 1932, (24) and at once aroused the Germans to violent protest and "no-confidence" agitation against the Administration. The friction was aggravated by the arrival of virulent National Socialist propaganda in the following year and open quarrels developed. (25)

On the 29th of November, 1934, the Legislative Assembly, by 12 votes to 6, adopted a resolution in favour of the administration of the Territory as a fifth province or otherwise as an integral portion of the Union subject to the provisions of the mandate. (26)

In the report of the 1936 South-West Africa Commission set up to examine the existing form of government in the Territory and to make recommendations as to the future form of government, the members of the Commission stated that they could see no legal obstacle to governing the Territory as a province of the Union subject to the terms of the mandate. (27)

(23) U.G. 21-'24, p. 3. (24) Wessels, p. 120. (25) Wessels, p. 120. (26) U.G. 26-'35, p. 7. (27) U.G. 26-'26, p. 77.

The Union Government, on receipt of this report, issued a statement on the 11th December, 1936:- (28)

"Although the Union Government is of the opinion that to administer the mandated territory as a fifth province of the Union, subject to the terms of the mandate, would not be in conflict with the terms of the mandate itself, it feels sufficient grounds have not been adduced for taking such a step. It is not convinced that the existing form of administration does not answer to its purpose or that the administration of the territory as a fifth province of the Union would contribute materially to that greater measure of security the Union section desires."

As regards the feelings of the natives in South-West Africa towards the future of their country, the majority seem to be indifferent as to what form the government takes as long as the country remains under the Union Government or in the British Empire under some other government. It is to be feared that unfortunately the Union Government has not educated them sufficiently for them to realise exactly what position their country holds in regard to the Union.

The treatment of the natives by Germany, especially in the case of the Hereros, was undoubtedly cruel and barbarous. In the 1915 campaign many of the tribes rose against their German masters and joined with the advancing South Africans. Since the Union took over the administration of the Territory the natives have become increasingly drawn to it as they find that they are to a certain extent protected by the law against cruelty from the white man.

When the South-West African Commission toured the mandated territory all the native chiefs to whom the members spoke agreed that under the Union administration they had been much more prosperous and asked for assurances that the Territory would not be returned to Germany. (29)

It seems thus fairly obvious that in the Union and South-West Africa the general tendency, which is a strong one, is towards the retention of the mandate either in its present form or as a fifth Province of the Union. Due to the war the demand both by the

(28) U.G.31-'37. p.4.

(29) U.G.26-'36.p.17-30.

Germans inside the territory and by Hitler and his associates for the return of the territory to Germany, has given way in the Mandate itself to complaints about internment camps and in Germany to propaganda aimed at hindering the Allies' war effort.

The Permanent Mandates Commission has naturally shown a keen interest in the attempt of the Germans to rule the country and in the attempts of the Unionists to induce the Union Government to make South-West Africa a fifth province.

Many questions were asked by members of the Commission during its 26th ⁽³⁰⁾ and following sessions, as to whether the Administration's methods such as the Criminal Law Amendment Ordinance had been successful in stopping Nazi activities in the Territory. They realized that the situation was very dangerous to the integrity of the Mandate and its separate status in international law.

When a foreign country attempts to influence the inhabitants of a mandated territory away from their duty, which is to have the interest of the mandate at heart, it is almost inevitable that the mandatory power and its supporters in the mandated territory will seek to counteract this influence. This is bound to be disastrous for the mandated territory concerned, as the divided loyalty of its inhabitants leads to internal strife and forgetfulness of the real aims which should be carried out in a mandate.

The fifth province movement in South-West Africa has also caused the Mandates Commission oft expressed anxiety. To them it seem treasonable to the ideals of the mandate and its eventual destiny of sovereign independence that South Africa should see nothing wrong in administering South-West Africa as a fifth province even if it was "subject to the terms of the mandate."⁽³¹⁾

The Union Government agreed that when the people of the Territory wished for independence South Africa would not stand in their way.⁽³¹⁾

(It seems to me in the light of its declarations about the future of South-West Africa that the Union Government only said this because it knows that the majority of white South-West

Africans will ask for incorporation of the Territory in the Union
⁽³⁰⁾P.M.C.XXVI.p.46.ff.,P.M.C.XXVII,p.154.ff. ⁽³¹⁾P.M.C.XXII.p.24

once independence is attained.) But as far as can be gathered from what it did not say outright the Union Government differs from the Commission in the latter's correct view that the consent of the League of Nations is also necessary for the termination of the mandate.

The Union Government also declared that when it was stated that South-West Africa could be independent when her people wanted it the natives were not included in the term "people". As Mr. te Water said in 1932:

"The natives in South-West Africa are generally regarded as being in tutelage and 'people' means only the thinking part of the population, i.e. the white population." (32)

This of course runs contrary to the very essence of the mandate system which regards the original inhabitants of a mandated territory as just as important as the white inhabitants. As a consequence South Africa came in for much warrantable criticism on this score from the members of the Mandates Commission. In the words of M. van Rees, a very impartial member, in 1932:

"The Mandates Commission has often received the impression that the population of the mandated territory is considered to consist of Europeans and the natives do not come into the picture."

This criticism is unfortunately true especially as far as present and future rule of the country is concerned. The Union Governments in power since 1915 have either been of the old Voortrekker persuasion that "there shall be no equality between white and black in either church or state," (33) or if they were more liberal minded were too afraid to lose the platteland and many other Afrikaans votes by admitting that the natives in South-West Africa were as important as the whites.

There is thus no indication that the Union Government has taken to heart the Commission's criticisms and intends to give up its opinion that it would not be contrary to the terms of the mandate to rule South-West Africa as a fifth province, or to recognise the League of Nations' undoubted right to decide on the

(32) P.M.C.XVII.p.24

(33) Walker.p.276

termination of a mandate or the equally undoubted right of South-West African natives to say what they want done with their country.

What is to happen to South-West Africa and the other former German colonies now under mandate is a question which will probably need much discussion. If a new international organization is set up to replace the old League of Nations it may decide to carry the mandate system on until the end envisaged in Article 22 of the Covenant or, on the other hand, Gen. Smuts may get his wish and the territory may become part of the Union to form as the Unionists in South-West Africa desire, a fifth province.

"The basis of Nazi activity in South-West Africa is the exploitation of dual nationality. The position is difficult as the exact nationality and status of the inhabitants of a mandated state is by no means clear." (34)

The above quotation brings us to another problem, that of the status of the European inhabitants of a mandated territory.

There was also some difficulty about the status of the aboriginal population of a mandated territory, but as this question was fairly quickly settled it will be dealt with first.

As regards B and C mandates, neither the covenant of the League, the Treaty of Versailles, nor the Mandate have any statement about the nationality of the aborigines.

During its second session in August, 1922, the Permanent Mandates Commission adopted the following resolutions:- (35)

- " I. It is desirable out of respect for the principles defined in Article 22 of the Covenant that the native inhabitants of the territories of the mandate B and C should receive a national status clearly distinguished from that of the nationals or subjects of a mandatory power.
- II. These inhabitants should be "administered or protected persons under the mandate" of the mandatory power."

On the 23rd of April, 1923, the Council of the League adopted the suggestions of the Mandates Commission and copies were forwarded to the mandatories concerned. Its resolution read:- (36)

(34) Bullock, p. 133.

(35) P.M.C. II, p. 19f

(36) O.J. Jan.-June, 1923, p. 658

- "1. The status of the native inhabitants of a mandated territory is distinct from that of nationals of the mandatory power and cannot be identified therewith by any process having a general application.
2. The native inhabitants of a mandated territory are not invested with the nationality of a mandatory power by reason of the protection extended to them.
3. It is not inconsistent with 1. and 2. above that the individual inhabitants of a mandated territory should voluntarily obtain naturalization from the mandatory power in accordance with arrangements which it is open to such a power to make with this object, under its own law.
4. It is desirable that the native inhabitants who receive the protection of a mandatory power should in each case be designated by some form of descriptive title which will specify their status under the mandate."

(37)

During its 12th and 14th sessions, in 1927 and 1928, the Commission asked the mandatories whether any action had yet been taken by them on this resolution of the Council.

In 1929 the Union finally replied to this question in the following terms:

"No legislative measure conferring automatic (legislation) upon the native inhabitants nor giving them some form of descriptive title has been passed. They are regarded as stateless subjects under the protection of the mandatory power and in a passport such a person would be described as a native inhabitant of South-West Africa under the protection of the Union of South Africa in its capacity as mandatory of South-West Africa. There is, however, nothing to prevent the native inhabitants from applying for naturalization under Act No. 18 of 1926 ~~and~~ in this respect they stand in precisely the same position as Europeans who are aliens." (38)

It is thus clear what the status of the native inhabitants of South-West Africa is. They are nationals of South-West Africa and can only become Union nationals which is a status distinct from South-West African nationality, on personal application. Both the Council's resolution of 23rd April, 1923 and the Union's reply in 1929 emphasise the fact that in international law the territory of South-West Africa is a separate and distinct entity. This fact is very important to an understanding of the complex position of South-West Africa to-day.

In its resolutions on the status of the native inhabitants of South-West Africa the Union did not contravene the terms of Article XXII of the Mandate for South-West Africa in any way. Whether it did so in its Acts and resolutions on the status of the German inhabitants of South-West Africa is a question on which many and varied opinions have been voiced. This leads us to the next question - the status of the German inhabitants of South-West Africa. This very vexing problem follows closely on the discussions earlier in this chapter on the status of the mandated territory of South-West Africa and Germany's claims for its return to Germany.

In 1920 a Commission was appointed by the Union Government to enquire into the question of the future form of government in the South-West African Protectorate. (39)

In its final report in March 1921 the Commission recommended the adoption of a form of government similar to that of the Union Provinces with full representation for the population in a Provincial Council and the Union Parliament.

As regards the Germans in the Territory it declared:

"There is no other way in which Aliens residing in the Mandated Territory can acquire the right to take part in the administration of the country in which they have made their home than by becoming citizens of the state which under mandate is charged with the administration of that country as an integral part of the state's own Territory." (40)

To effect this adoption of Union Status the Commission recommended special legislation enabling Germans to acquire the necessary citizenship.

The Union Government decided to act on this plan. General Smuts, Prime Minister of the Union, addressed a letter to the Mandates Commission, dated July 4th, 1922. (41) In this he explained the reasons for the desire of the Union Government to naturalize the Germans en bloc. They remained aloof both in outlook and sympathy and tended to expect the return of the Territory to Germany. The only solution seemed to be automatic naturalization as suggested by the Commission of 1920.

(39) U.G.26-'21.p 4.

(40) U.G.24-'21.p 4.

(41) P.S.C.II.

Notwithstanding its resolution of August, 1922 during its Second Session that :

"It is for the Mandatory Powers, to whom territories are entrusted under C Mandate, to regulate, in conformity with their legislation, the acquisition individually, of their own free will, of the nationality of the Mandatory by foreigners settled in these territories on or before January 10th, 1920. " (42)

The Commission was doubtful whether in naturalising Germans en bloc the Union Government would be within its rights as a mandatory. (43)

In April, 1923, however, after Sir Edgar Walton the Union's representative, had put the facts of the case before the Council Of The League Of Nations, the Council passed a resolution:

"The Council Of The League Of Nations, taking into consideration the special case presented to it, and the fact that only inhabitants of South-West Africa alluded to in Article 122 of the Treaty of Versailles are concerned, takes note of the declaration made by the representative of South Africa and sees no objection to the proposed action." (44)

In the year before, 1922, the Advisory Council of South-West Africa had passed a resolution asking the Union Government to make an early and definite pronouncement as regards its policy for the future form of government in the Territory. The Council was in favour of representative Government and an "early opportunity for all the European population to acquire the qualification of citizenship necessary for participation." The third point read: "The Council believes that if the Union Government legislates for the Germans to become Union Nationals most of them will acquiesce." (45)

In the next year, 1923, this resolution was submitted to the German people in South-West Africa and accepted by an overwhelming majority except at Windhoek, where it was rejected. (46) This caused some anxiety; it seemed that many of the Germans were against the idea of naturalization and it might not be a success. Thus, in October, 1923, Gen. Smuts voyaged to London to meet Mr. De Haas and Dr. Ruppel, Germany's representatives and with them concluded the London Agreement.

(42) P.M.C. II.p.20

(43) P.M.C. II.p.20

(44) O.J., Jan.-June, 1923. p.569 & 659

(45) U.G. 21 - '23. p.5

(46) U.G. 21 - '24. p.394

In the exchange of letters which covered the Agreement Mr. De Haas wrote:

"Recognising that the future of South-West Africa is now bound up with the Union of South Africa, and that it would be a wise policy for the German Nationals in that territory to throw in their lot with South Africans, the German Government are prepared to use their influence with these Nationals to induce them to accept Union Citizenship under a General naturalization law of the Union and to advise them not to exercise their right of declaring themselves outside that citizenship." (47)

The actual Agreement gave the Germans many privileges but the whole policy of the Union Government is summed up in the first paragraph: "The policy of the Union Government is to accept the Germans of South-West Africa as part of the people with the same privileges and the same responsibilities as other citizens", and in Paragraph 11 "The Germans in South-West Africa and their children will not be liable in any circumstances for military service against the German Reich for a period of 30 years from this date." (48)

This Agreement was welcomed by a substantial majority of South-West African Germans. The Union Government now felt free to carry out its plan with regard to the Germans in South-West Africa, and in 1924 passed the Relevant Act, the South-West Africa Naturalization of Aliens Act (No. 30 of 1924). By this Act, every adult male of former enemy countries in South-West Africa after January 1st, 1924, then resident in the Territory, was to become after 6 months, a British subject, unless he signed a declaration within six months before a Magistrate that he did not wish to be naturalized. All such naturalized persons were to have the same rights and obligations as British subjects in South Africa and South-West Africa. The Act was to operate from the 15th September 1924. The six months ended on the 14th March, 1925, and by that time out of 3,489 persons eligible, 3,228 had been naturalized under the Act. (49)

(47) U.G. 21 - '24 p.5

(48) U.G. 21 - '24 p.495

(49) U.G. 26 - '26 p.4

This, however, did not apply to the German children under 21 in the Territory, who became British nationals by Act No. 27 of 1929. 1428

As a result of these Acts the white population of South-West Africa to-day consists of:-

(a) Union Citizens:

They are -

1. Children of Union citizens born in the Union or South-West Africa.
2. British subjects by birth who were born in South-West Africa.
3. British subjects by naturalization (also automatic) who have been domiciled in the Territory for a period of three years.
4. Children of automatically naturalized Germans who became British subjects under Act No. 27 of 1928 and who have^{been} domiciled in the Territory for a period of three years.

(b) Other British Subjects:

They are -

1. British subjects born outside the Union and the Territory or British subjects by naturalization (also automatic) who are domiciled in the Territory but not for a period of three years.
2. British subjects under the Act of 1928 who have not yet been domiciled in the Territory for three years.

(c) Germans:

Not affected by any of the Union Acts.

(d) Other aliens. (50)

These people included in (a) 3 and 4 are those Germans with which the following part of this chapter is concerned. It is argued that when they accepted British nationality in 1924 and 1928 they did not at the same time lose their former German nationality. Thus, claim to dual nationality put forward by the Germans to facilitate their working for Germany in South-West Africa has caused the Union Government much trouble.

Under German law laid down in the Deutsche Reichs- und Staatsangehörigkeitsgesetz of 22nd July, 1913:

"Ein Deutscher der im Inland weder seinen Wohnsitz noch seinen dauernden Aufenthalt hat, verliert seine Staatsangehörigkeit mit dem Erwerb einer ausländischen Staatsangehörigkeit, wenn dieser Erwerb auf seinen Antrag oder auf den Antrag des Ehemanns oder des gesetzlichen Vertreters erfolgt...."

This means that a German only loses his German nationality if he assumes a foreign nationality at his own request. Thus, those Germans automatically naturalized did not lose their former nationality.

On the other hand, it can be argued that by the London Agreement of October, 1923, Germany renounced her claims to her nationals in South-West Africa when Mr. De Haas bade them accept Union citizenship.

Dr. Wessels in his masterly book "Die Mandaat Vir Suidwes-Afrika" says:

"Although Article 1 of the London Agreement states that the policy of the Union is to accept the Germans as part of the South African nation, with the same privileges and responsibilities as its own citizens, it cannot be held to imply that Germany thereby consented to waive her right of regarding those Germans as her own nationals." (52)

But in the exchange of letters covering the Agreement General Smuts wrote:

"Ever since the conclusion of peace the Administration of South-West Africa and these German nationals have worked together for the common good, but the natural feelings of the other have prevented them from doing anything which might be construed as disloyal to their Fatherland. The German Government have now removed this difficulty and I have no doubt that they will act on your advice and accept the new citizenship in a good and loyal spirit." (53)

Surely this means that General Smuts thought that Germany had renounced her claims to her former citizens while they were in South-West Africa? That Smuts and Hertzog both recognized that there was a question of dual nationality is seen by their words in a debate in the Union Parliament on the 27th August, 1924, on the South-West Africa Naturalization of Aliens Bill. General Hertzog said:

"In German law a subject does not lose his nationality by becoming naturalized in any other country."

(52) Wessels, p. 138

(53) U.G. 21-'24. p5

Gen.Smuts' words were even clearer:

"In South-West Africa or the Union these people who are naturalized under this Act will be Union Citizens. There is no dual citizenship in South-West Africa or the Union. They are Union citizens here and it is only when they go back to Germany that their original citizenship is revived and they would be German citizens again." (54)

This shows even more clearly that in the minds of the Leaders of the Union Governments, Germans naturalized in South-West Africa could not claim dual nationality while they were in the Territory but only if and when they returned to Germany. While in the Mandated Territory, the only Government to which they owe allegiance is that of the Union of South Africa.

Another statement also pointing towards the same conclusion was made by Mr. Eric Louw, South Africa's representative before the Mandates Commission at its 26th Session in 1934. (55) He said:

"The Principle seemed to have been conceded that Germans who went outside the Territory of the Union could still be regarded as German subjects provided that when they were outside the boundaries of the Territory they made no claim to Union citizenship. It was expressly agreed, however, that within the Territory there would be no question of dual nationality."

Another observation which supports the view that by the London Agreement Germany gave up all claim to her former subjects in South-West Africa was that of the South-West Africa Commission of 1936. The Commission pointed to Article 278 of the Treaty of Versailles by which Germany undertook :

"to recognise any new nationality which has been or may be acquired by her nationals under the laws of the Allied and Associated Powers and in accordance with the decision of the Competent authorities of these powers pursuant to naturalization laws or under treaty stipulations and to regard such persons as having in consequence of the acquisition of such new nationality in all respects severed their allegiance to their Country of origin."

This they claimed is a withdrawal by Germany from the law laid down in the Duitse Reich- und Staatsangehörigkeitgesetz of 1913. (56)

Dr. Wessels argues:

"Waarom egter het die Unie eers Duitsland se toestemming verkry om die Kollektiewe Naturalisasie deur te voer? Indien die Unie Artikel 278 as aanwendbaar beskou het, kon op gesag van die Raadsbesluit van 23 April 1923, met die Naturalisasie voortgegaan geword het sonder enige raadpleging van Duitsland." (57)

(54) Debates: Vol 2. 1924

(56) U.G.26 - '36 p.51

(55) J.M.S. 26th Ses.P.49

(57) Wessels p.72

He gets his answer, however, in the report on South-West Africa for 1923, on page 4, where the 1922 resolution of the Advisory Council was submitted to the Germans in the Territory and rejected at Windhoek (See page 19) and on page 53 of his own book where, talking about the 1923 negotiations with the German Government, he said:

"hierdie stap was nodig omdat 'n groot deel van die Duitse bevolking van die gebied teen enige vorm van naturalisasie gekant was, en 'n georganiseerde propaganda om Britse nasionaliteit te verwerp sou miskien groot sukses gehad het."

After consideration of the report of the South-West Africa Commission the Union Government made the following declaration on the 11th December, 1936: (58)

"To its regret the Union Government is bound to place on record that it has been brought under the impression that a considerable part of the German section of the population whether Union Nationals or not, is, either by conviction or through moral pressure, intimidation or infringement upon the liberty of the individual, grouped in a separate political organisation in which those, who wish to use it as a means of creating and maintaining a state of affairs favourable to the return of the Territory to Germany, hold sway. The doctrine is generally preached that Germans who are Union Nationals under automatic naturalization are entitled to full German nationality within the Territory. This attitude is devoid of any legal justification and is directly in conflict with the spirit and letter of the London Agreement of 1923 and the provisions of the Naturalization Act of 1924. The Union Government does not recognise the validity of any claim to double nationality within the Territory. The Union Government demands that full and undivided loyalty of its Nationals and will be bound to take all available measures against acts incompatible with such loyalty."

It seems thus pretty obvious that Germany has no claim over automatically naturalized Germans while they are in South-West Africa even though once they return to Germany they reassume their full German Nationality. It also seems obvious that this was what Gen. Smuts and the German representatives thought in 1923.

In spite of the fact that these men are Union Nationals in South-West Africa, Germany before this war claimed that their allegiance to Germany was stronger than their allegiance to the Union. Thus, she interfered in every aspect of their life,

and as the South West Africa Commission of 1936 said " the smooth functioning of the mandate system is practically impossible if such interference in the affairs of the mandated Territory continues" (59)

On the other hand, in 1943 the Union Government seemed to abandon any views it might have had about the union Nationality of the Germans automatically Naturalized in 1924 and 1928. In Proclamation 127 (Union) an enemy subject was defined as:

"A national of any state with which the Union may be at war, and includes any person who, under the provisions of Section Two of the South-West Africa Naturalization of Aliens Act, No.30 of 1924 or Section one of the Naturalization of Aliens (S.W.A.) Act, No. 27 of 1928, became a British Subject and any child of any such person." (60)

Why was this done? Was it because the Union Government finally recognised that the German claim to her former nationals in South-West Africa was stronger than that of the Union to the same people even in the Territory, or was it a mere safety measure as so many of the Germans naturalized in 1924 and 1928 subscribed wholeheartedly to the Nazi tenets. Most of the non-naturalized Germans who became enemy subjects as a result of this Proclamation were interned and the rest put on parole. It would have been just as easy for the Union Government to do the same thing with the automatically Naturalized Germans without declaring them to be enemy subjects and so admitting that their German nationality held good even in the Territory.

It seems then that the Union Government has now given up her valiant attempts to make the Germans in the Territory into an integral part of the latter's population by making them good Union Citizens. Perhaps after this war she intends to do what she should have done in 1919, that is to repatriate all Germans, naturalized and unnaturalized from South-west Africa to Germany. If she does this, the mandated Territory will be given a new lease of life and the sacred duty of educating the Native peoples of the Territory, which South Africa assumed when she took the mandate 25 years ago, will be better able to be carried out.

(59) U.G.26 -'36 p.64

(60) O.G., S.W.A., No.1066.9/8/43.

The Permanent Mandates Commission has, of course, followed this very complicated question of dual nationality with its usual keen interest, but has on the whole left the question for the Union to solve.

We see, then, that the Union has had intricate and difficult situations to face and problems to solve as regards the status of the Mandate and of its German inhabitants. She has, however, made very definite pronouncements on both subjects and although one of them is directly contrary to my interpretation of the ideals of the Mandate system and the other did not much affect Nazi activities in the territory, if she continues to take a firm stand there can be little doubt but that she will succeed in her ultimate aim of annexing South-West Africa to the Union and making of it a Unified Fifth Province.

CHAPTER III.

THE CONVENTIONS AGREED TO UNDER THE MANDATE.

The Conventions to which the Mandatory Powers had to agree were decided on in July, 1919, by the Special Committee on Mandates appointed by the Council of the Principal Allied & Associated Governments on June 26th, 1919. (1)

They are embodied in the words occurring in Article XXII of the Covenant of the League of Nations that "the well-being and development" of backward peoples "form a sacred trust of civilization."

They were first communicated to the Governor-General of South Africa in a telegram from Lord Milner, Chairman of the Special Committee on 18-19 July, 1919 and were later embodied in the terms of the Mandate defined by the Council of the League of Nations on December 17th, 1920 and sent to the Government of the Union on February 11th, 1921. (1)

By the terms of the Mandate the Union agreed to promote the material and moral well-being and social progress of the natives in the Territory, to prohibit the slave trade and forced labour and,

(1) U.G. 32 - '22 p.1.

and to control the traffic in arms and ammunition " in accordance with the principles analagous to those laid down in the Convention signed on September 10th, 1919 or in any Convention amending the same." She also agreed to prohibit the supply of intoxicating spirits and beverages to natives; to prohibit the military training of natives except for Police and local defence duties; and not to fortify the Territory in any way. She promised to ensure freedom on conscience and of all forms of worship in the Territory and to allow any missionaries, members of a state in the League, free access to and travel in the Territory. She is bound to report annually to the Council of the League and to bring disputes about the Provisions of the mandate to the Permanent Court of International Justice at the Hague.

The Permanent mandates Commission in the name of the Council of the League has watched closely for any infringement of these terms but the Union, as Mandatory, has followed closely both the letter and the spirit of nearly all these agreements.

The most important convention is that the Union is to promote to the utmost the material and moral well-being and social progress of the Natives in the territory. This is a subject in itself and will be dealt with in a later chapter.

Fortunately for the Union, there was no general organised form of slavery in the Territory and the little that did occur was quickly stamped out.

In the 1922 Report on the Territory ⁽²⁾ it was stated that during the year slavery had been discovered among the tribes on the Okavango river. It was not a very harsh form of slavery and had only recently been discovered by the Administration when a subordinate Native Commissioner had been posted among the tribes. The children of slaves became, ipso facto, slaves on birth and remained as such unless they paid back to their owner the number of cattle for which their original slave ancestor had been bought. The Master fed his slave but had no other obligation except that he had to give the slave the opportunity to work his own field. A slave could have his own fields, grain and cattle, but he could neither transmit

nor inherit property. On his death his estate ~~is~~ reverted to his Master.

In the 1923 Report further information is given about this slavery. (3) The Administration had come to the conclusion that this state of affairs represented to the minds of the raw Ukavango Native the relationship of a servant to a Master or a Debtor to a Creditor. There was nothing in the nature of real slavery, the practice being more akin to the old system of villeinage formerly common in Europe. As the area concerned is far from civilization and the practice was ancient accepted law and custom, it was thought best to make interference very gradual. Also as it was an extremely mild form of slavery it was not thought necessary to take drastic action. The Chiefs were warned by the Native Affairs Officer at Kuringkuru that the practice must stop and they almost immediately set free their slaves and promised to obey the law.

By 1928 this system of voluntary Serfdom had practically disappeared. (4)

Questions were asked in the Mandates Commission about this practice but as it was soon under control nothing more was said. No other cases of slavery have since come to light.

There is no forced labour though able bodied native men are not encouraged to remain idle and the laws against vagrancy are strictly enforced. If a native has no visible means of support a suitable employer is indicated and if the native still refuses to work he is prosecuted for vagrancy and habitual idleness. (5)

Another thing is that instead of being imprisoned, petty offenders are often hired out to Europeans for a fixed term of service. This might be considered a form of forced labour and the Commission did ask a few questions about it, but the reply of the Union's representatives seemed to satisfy it.

(3) U.G.21 - '24 p.18

(4) U.G.22 - '29 p.57

(5) U.G.21 - '23 p.16

The position with regard to the consumption of alcohol and drugs by the natives is a bit more difficult to control.

In the Territory, including the Caprivi Zipfel, the sale or giving of liquor to or the possession of it by any person except a European are criminal offences. (6) Contrary to what might be expected, at first there was no considerable liquor traffic in the Territory. (7)

The Mandates Commission in 1924 enquired as to the safeguards against this should it occur. (8) In reply to this, in the 1925 report on South-west Africa, it was stated that people selling liquor had to be licensed and heavy licence fees were charged. (9)

In spite of this, however, from 1928 the illicit Kaffir beer traffic began to worry both the mandates Commission and the Administration of the Territory. The possession of Kaffir beer by non-Europeans is an offence against the law and from 1928 the statistics for offences are as follows:

	<u>1928</u>	<u>1929</u>	<u>1930</u>	<u>1931</u>	<u>1932</u>	<u>1933</u>	<u>1934</u>	<u>1935</u>
Native Males	807	1010	748	585	514	460	452	592
Native Femals	250	363	211	124	176	180	169	231
Coloured males	200	155	168	116	67	66	54	95
Coloured Females	21	42	63	56	7	13	15	8

(10)

At the 15th Session of the Mandates Commission in 1929 the Count de Penha Garcia commented on the number of offences under this heading which had increased so much. He asked that the prohibition of the manufacture of this beer by natives be more rigorously enforced. (11)

Lord Lugard, however, took the opposite and more sensible view. He referred to paragraph 133 of the Report for 1928 where it was written that the natives regarded Kaffir Beer as food. If this were so, he said, surely it was a big hardship that they were absolutely prohibited from the consumption or the brewing of such beer. That this law weighed heavily on the natives was shown by the fact that in 1928 there were 1,278 convictions for the crime of possessing Kaffir Beer. (11)

(6)U.G.21 -'23p.9(7)U.G.21 -'24p.9 (8) P.M.C. IV p.119(9)U.G.26-'26p89
(10)Statistics from 1928-35 reports on S.W.A.(11)P.M.C.XV p.73

As a result of this criticism and of the rise in statistics, in 1935 it was decided to try a new plan to reduce the consumption of illicitly brewed liquor by natives in Urban areas.⁽¹²⁾ The Windhoek Municipality with the consent of the Administration, erected a Model Beer and Eating House where Kaffir beer of a strength not exceeding 4% of alcohol was sold to the natives. The profits were devoted to improving the locations. It was hoped that this would lead to a reduction in the number of crimes of violence caused by the consumption of poisonous liquors illicitly brewed and sold by native women, traffic in which, police measures had so far failed to control.

This did not, however, seem to have much effect on the figures, except for the coloureds, which for 1936 and 1937 were as follows:

	<u>1936</u>	<u>1937</u>
Native Males.....	699	798
Native Females.....	407	457
Coloured Males.....	185	18
Coloured Females.....	36	7

The decrease among the coloureds was attributed to the fact that from 1936 they could obtain full or partial exemption from a Magistrate and thus a permit enabling them to purchase a limited amount of liquor for personal consumption.⁽¹³⁾

In 1938 and 1939 the figures were:

	<u>1938</u>	<u>1939</u>
Native Males.....	1,007	1,263
Native Females.....	389	595
Coloured males.....	5	163
Coloured females.....	-	81

Here the increase was explained by the increased vigilance of the police and location authorities.⁽¹⁴⁾

(12) U.G. 25 - '26 p.42

(13) U.G. 25 - '38 p.8

(14) U.G. 20 - '39 p.7

As yet no effective solution of this problem has been found and in this respect the Union has not done so well. It must be admitted, however, that it is very difficult to control this traffic.

By Proclamations 208 of 1940 ⁽¹⁵⁾ and 137 of 1941 ⁽¹⁶⁾ (Union) it was made lawful to sell Kaffir Beer and malt liquor to any native, coloured, and Asiatic members of the Union Defence Forces at Canteens at their Barracks. Consumption at such barracks was also made legal. One can only suppose that this is another plan on the same lines and for the same reasons as the plan of 1935.

During the 9th Session of the Mandates Commission, Mr. Smit, the Union's representative was asked why the missions were allowed to make wines and spirits for sale. Mr. Smit replied that it was necessary for the missions to teach the natives something. He asked to what other use their grapes and other wine-producing products could be put and said that one safe-guard was that such missions could only sell wholesale and not retail. ⁽¹⁷⁾

It must be remembered that this was in the comparatively early days when the system of practical instruction in missionary settlements was still very undeveloped. As will be shown in the chapter on education, other outlets were later found for the natives practical energy.

In connection with the control of the liquor traffic in regard to natives in South-West Africa it is seen that the Mandates Commission has met the Union Government half-way and amicable agreements have resulted.

The Medical, Dental and Pharmacy Act of the Union of 1916 applies to South-West Africa. A part of it relates to the importation, sale and use of drugs. ⁽¹⁸⁾ In 1930 there were 28 contraventions of these provisions as strengthened by Act 13 of 1928 but the Report stated that there was no organised traffic in habit-forming drugs. In 1929 there were no convictions so the numbers in 1930 were merely due to the more rigid enforcement of the Act and the narrower provisions of the new law.

(15) O.G. of S.W.A. No. 909. 15th/7/41 (17) P.M.C. IX p.38-9

(16) O.G. of S.W.A. No. 913 15/8/41

(18) U.G. 21 of '31 P. 12

All the accused were natives, and the drug in all cases was dagga.

This is the drug usually grown or smoked and the accused are nearly always natives or coloured persons. The average number convicted has been about 10 per year, excluding 1939 when there were 39 cases.

This increase in 1939 was due in some cases to the fact that several accused were charged jointly for cultivating dagga on their werfs. It is believed that most of the dagga finds its way into the Territory through recruits from Ovamboland but there is no organised drug traffic and this makes the task of the police much easier.

When the Union Government took over the control of South-West Africa there were many rifles in the Territory, owned by both Natives and Europeans. Now most of the natives have voluntarily handed in their arms and every non-European and European who has a rifle must have a permit for it and for ammunition. There is some gun-running across the Ovamboland border but very little and it is impossible to check it completely.

In 1924 (20) it was decided that the laws relating to arms and ammunition were not very satisfactory and that they needed consolidation and amendment. So by Proclamation No. 8 of 1924, Proclamations 10 of 1915, 4 of 1920, 77 of 1920 and Ordinance of the German Government of 25th March, 1897 were repealed and replaced by the following provisions:-

- A. No cannon, arm, or ammunition may be imported or exported without a permit.
- B. All private possessors of arms must have a permit for ammunition and a licence from a Magistrate.
- C. No licence to possess or permit to purchase any arms or ammunition may be issued to any native or coloured person without the sanction of the Administration.

In the Caprivi Zipfel, when it was administered by the high Commissioner the sale and importation of arms into the area were controlled by Proclamation of 10th June, 1891 and contravention of the law was subject to severe punishment. (21)

(19) U.G. 21 - '31 p.12

(20) U.G. 33 - '25 p.3

(21) U.G. 26 - '26 p.114

In July 1923 at the time of the examination of the Report on South-West Africa for 1922 Major Herbst, the South African Representative, was asked about the distribution of arms in the Territory. He replied that nearly every farmer had a gun. The natives in the Okavango and Ovambo-land districts and the Bastards had been allowed to retain their arms, the latter because they had their own laws and government and during 1914-1918, had sided with the South African government.

These conditions did not seem to the Mandates Commission to be in complete accord with the Convention of September 10th 1919. (22)

It was partly as a result of this statement that the South-West African administration seized its chance in 1932 to disarm as many natives as possible.

In that year the Administration was compelled to depose the erratic and truculent Chief Ipumbu of the Ukuambi Tribe in Ovambo-land. This tribe was then disarmed, 690 rifles and 20 barrels being taken from them and the Native Commissioner persuaded the Ondonga tribe of 45,000 people to disarm as well. 100 good rifles were, however, handed back to them. (23)

By 1933 the Ondonga had voluntarily surrendered 2,018 rifles and 231 barrels. Of the other tribes in Ovamboland the Okolonkatni and the Bānda had voluntarily surrendered 144 rifles, the collection was in progress amongst the Ongandjera and the Ukuoluthi, negotiations were taking place with the Ombalantu and the Ukuanyama had already been dealt with. (24)

Proclamation 28 of 1938 amended and consolidated the law relating to the possession, import and export of and the dealing in arms and ammunition, and provided for the registration of all arms and ammunition in the Territory. (25) Under this proclamation it was found that the total number of arms registered in the territory on 31/12/39 were: (26)

(22) P.M.C. III p.109 (23) U.G.16 - '33 p.52-57

(24) U.G.27 - '34 p.43 (25) U.G.20 - '39 p.22

(26) U.G.30 - '40 p.

Union Nationals and British Subjects.	5,589
Automatically Naturalized Union Nationals and British subjects.	2,780
Reich Germans.	1,948
Other Aliens.	123
Non-Europeans.	125
Roman Catholic Missions.	32
S.W.A. Co. Ltd.	11
Northern Labour Organisation.	8
Banks.	3

TOTAL: 10,619

The number registered under the 1931 Census was 14,773. (27)

It seems then that the Union Government has fulfilled its pledges in the Mandate with regard to arms and ammunition and controls ~~the~~ the trade very strictly.

As far as military recruiting among the Natives is concerned the Union has kept rigorously within the terms of the mandate. Her whole policy is summed up in her reply to questions of the Mandates Commission during its 6th and 7th Sessions. The reply was dated February 19th, 1926:

"No military force is maintained in South-West Africa, nor is there any intention of establishing one. Natives are, however, recruited for the South-West African police force which may also be employed for the defence of the Territory. (Section 6 of Proclamation 56 of 1921). There are 224 natives in this force."

Then comes an important declaration of policy:

"It is not the policy of any government in South Africa to employ natives as combatants in a conflict between Europeans but the Union Government cannot renounce the ordinary right it possesses to recruit any person who voluntarily presents himself for service in an emergency."
(28)

In the 1925 report it was stated that there are no fortresses, military or naval bases, nor any forms of native military organisation and instruction in the Territory. (29) This still held good in 1939.

Before the war there was no permanent military organisation. Apart from the police force the Territory relied for its defence upon the Burgher force under which every male resident of the Territory between 18 and 25 years was liable to be called out in defence of the Territory if necessary.

The condition in the mandate that there is to be freedom of conscience and free exercise of all forms of worship in South-West Africa is regarded as one of the most important conditions, and only once has the Union infringed this right.

This occurred in 1924 when the Damara-land (Church of England) and Roman Catholic Missions were admitted to, and the Finnish Missions permitted to continue in, Ovamboland under certain conditions only, e.g. that the bulk of the education they imparted to the natives was of a practical nature. (30)

The members of the mandates Commission commented on this statement and asked what these conditions were. (31)

The reply came in the 1925 report: (32)

*Each ^{en} Domination had to furnish the Administration with a written undertaking:-

- (1) To assist and support the policy of the Administration.
- (2) To encourage all natives under their influence to seek employment in South West Africa proper i.e. within the Police Zone. (It will be remembered that Ovamboland is ~~in~~ the main source of labour for the mines and railways, and nothing must be done which may be calculated to interfere with the free flow of labour)."

The other four conditions are not relevant to this chapter.

(33)
In June 1926 when the annual report for 1925 was being

examined M. Orts (Belgium) drew attention to these conditions, especially No. 2. In his opinion it was surely difficult to reconcile this condition with Article 5 of the Mandate which gave all Missionaries permission to enter and work freely in the Territory. He was supported by M. Rappard and other members of the Commission.

In reply to their criticism, Mr. Smit, South Africa's representative before the Commission, declared firstly that the best way of civilizing the native was to place him in a European environment and then, that it was necessary for the Administration to enlist the help of the Missionaries in teaching the natives, as the latter had no idea of even the rudiments of government.

(30) U.G.33 - '25 p.27

(31) P.M.C. VI Page. 71

(32) U.G.26 - '26 p.107

(33) P.M.C. IX Page 39.

His first argument cannot be taken, however, as it is one usually found to be a fallacy. The best way of civilizing the native is to educate him gradually up to European standards in his own environment.

His second argument does not seem to bear on the subject at all, as what was under discussion was whether it was right or not to make missionaries send natives to the Police Zone as labour.

M. Orts' final statement was that no consideration of a political or moral kind justified the stipulation that missionaries should use their influence to recruit labour for the mines and railways.

These criticisms had their effect, however, in spite of Mr. Smit's defence of the condition under discussion.

In the following year the Union declared that it was not contemplated that the missions should become labour agencies, but merely that they should inculcate into the natives the principle of the dignity of labour. (34)

The Commission finally had its way and thus justified its existence once again. In 1928 Mr. Terth assured it that the condition requiring missionaries to encourage natives to seek work in the Police Zone had been waived. The mines were recruiting their own labour and thus had their own arrangements with the missions. The Head of the Finnish Mission had said that while he would not actively assist in recruiting labour for the mines, he would certainly not discourage the natives from going to them. (35)

Those cynics who maintain that the Mandates Commission is a useless body can be proved wrong by many examples of how it has brought to light some action of a mandatory not calculated to better the native population of a mandate. Some of these examples have been given in this chapter and show that by their suggestions and criticisms the members of the Mandates Commission are rendering a signal service to the politically inarticulate native tribes over

(34) U.G.22-'27.p.99

(35) P.M.C.XV,p.108

whose welfare they watch so carefully.

It seems fitting to bring in here the question of whether South-West Africa forms part of the Union for the purpose of any general treaty between the Union and a foreign country.

This matter was brought up in the very early days at the 3rd Session of the Mandates Commission in July, 1923. (36) Sir Edgar Walton, South Africa's representative, enquired about the position of the mandatory as regards its mandate in relation to another country to whom it is bound by treaty. Could it extend its privileges under the treaty to its mandate? The third Power involved objected to this as in international law a mandate is not regarded as part of its Mandatory's Territory.

The Commission found that this attitude was correct but stated that it was ~~their~~ desire that all the advantages enjoyed by a Mandatory power should be extended to its Mandate. The matter was referred to the Council which in a memorandum on 15/9/1925 decided that all states, members and non-members of the League of Nations, should be asked to extend general and special conventions concluded with Mandatory powers to Mandated Territories. In general most countries agreed to do this and in every report on South-West Africa since 1928 lists have been given of these extended conventions.

Thus international conventions and treaties are not applied to a Mandated Territory even if its Mandatory says they shall be, unless the third Power involved also agrees.

It is seen then that on the whole the Union has adhered strictly to the terms of the Mandate. She has not only attempted to control such evils as illicit liquor trade, by ordinary police measures, but has also seen the route of ^{the} evil and essayed to counteract it. Any lapses from the terms of the Mandate have been quickly commented on by the Mandates Commission and then soon remedied by the Union. This has proved of great benefit to the Natives in the Territory.

(36) ~~M.P.~~^{M.}C.III Page 110.

CHAPTER IV.

THE GENERAL ADMINISTRATION OF THE MANDATED TERRITORY.

On July 9th, 1915, the main German force of 3,400 men in South-West Africa surrendered at Tsumeb to General Botha at the head of a column of South Africans. (1) Botha imposed no drastic peace on the conquered Germans. The officers were allowed to keep their arms and settle in Union towns on parole; Civil Officials and Reservists remained in their homes on parole; the rank and file were interned but kept their arms without ammunition. (1)

In 1919 the Union Parliament passed the Treaty Of Peace & South West Africa Mandate Act which confirmed the Government's acceptance of the mandate over the former German Colonys. This Act gives the Governor-General power to make laws and issue proclamations for the government of the Territory which by Proclamation I of 1921 he delegated to the Administrator of South-West Africa.

From July 1915 until January 1st, 1921 the Territory was under Martial law. The nominated municipal and district Councils with their restricted powers were abolished although the Germans retained their full civil rights. (2)

The first Administrator of the Territory was Sir Howard Gorges who carried out his trying duties with ability and patience. He was succeeded by Mr. Gys Hofmeyr who became wellknown for his share in suppressing the Bondelzwarts Rebellion in 1923². On the 31st March, 1926 he was succeeded by Mr. Werth. Dr. Conradie took over on April 1st, 1938² and gave way to Col. Hoogenhout five 2 years later.

From the beginning the Union Government took some of its duties as Mandatory seriously and attempted to do the best it could for the white population of the Territory. It is not always possible to say the same about its attitude towards the Natives.

(1) Walker Page 560

(2) Walker Page 587

In October, 1920 a Commission was set up to enquire into a future form of government for the Territory. This Commission advocated the immediate setting up of an Advisory Board to advise the Administrator. It should consist of six members chosen by the Governor-General of the Union, five of them to be private people representing farming, commerce, mining and wage-earning interests, and the sixth to "be specially qualified to advise on all matters concerning the native races in the Protectorate."⁽³⁾

In its final report the Commission recommended that South-west Africa be given a form of government similar to that of a Province of the Union, subject to the conditions of the mandate. This would mean that the South-West African population would get full representation in a Provincial Council and in the Union Parliament. This latter suggestion of the Commission was, however, directly contrary to the mandate system. The Territory of South-West Africa was to be administered as an integral portion of the Union but always subject to the terms of the Mandate.

It has been shown that in international law mandated territories are regarded as distinct entities which cannot be incorporated in the Mandatory unless the consent of the League of Nations is first obtained and the people of the Mandated Territory wish it. Even though a white majority in South-West Africa may wish for incorporation as a fifth Province, the mandate was not set up for their benefit but for that of the Native races in the Territory and it is not until these natives wish it and are in a position to govern the mandate that it can legally be made a fifth Province of the Union of South Africa.

As a result of the 1920 Commission's recommendations, Proclamation I of 1921 set up an Advisory Council of six, later nine, members.⁽⁴⁾

In December, 1923 this Council suggested that a Legislative Council of elected and nominated members should be set up. The vote should be adult male suffrage and the Council should be able to pass ordinances on local matters such as health, posts and telegraphs etc. An Executive of five members should advise the Council and prepare draft ordinances. The Advisory Council urged that these resolutions

(3) U.G. 24 - '21 p.2

(4) U.G. 26 @ '21 p.3

be given effect to in the next Session of Parliament. (5)

This decision aroused some anxiety in the mandates Commission, during its sixth Session (6) while it was examining the Report on South-West Africa for 1924 it heard from Mr. Smit that the South African Government had decided to establish Representative Government in South-West Africa and that the Bill would probably become law before the end of that Session in July 1925.

M. Rappard asked if this would result in the Territory becoming autonomous, as if so a difficulty of principle would arise since the mandatory power would no longer be responsible for the administration for which it was accountable to the League of Nations.

Mr. Smit replied that only the local government of South-west Africa would be vested in the legislative and executive bodies. The government was carried out by the Administrator assisted by the Advisory Council on whom the executive of the local government would be represented. This so far was only of white inhabitants but the Administration hoped to develop a system giving the natives some representative government in their own villages and tribes. This seemed to satisfy the Commission as no more was said about it for the time being.

The developments leading up to the Act of 1924 by which the Germans in the Territory were automatically naturalized have already been discussed. When once this Act was passed the Union Government felt free to give South-West Africa a more representative constitution.

Thus in 1925 the Union Parliament passed the South-West Africa Constitution Act (Act No.42 of 1925). (7) This Act, amended in 1927 and 1931, is still in force in spite of many vicissitudes. The Constitution is modelled on the Provincial system but whereas the Provincial Councils have specific and positive powers, the Legislative Assembly in South-West Africa has been granted power to make all laws for the Territory subject only to the restrictions of Sections 26 and 27 of the Act.

(5) U.G.33 - '25 pages 6-8.

(6) P.M.C. VI Page 58-9

(7) U.G. 26 - '26 Page 1.

By these the Assembly cannot legislate on Native Affairs, mines and minerals, Railways and harbours, Public servants, courts of Justice, Posts and Telegraphs, Defence Force, immigration, customs and excise, or currency and banking .

On the vote of a two-thirds majority of the Legislative Assembly after three years from 1925 the assembly could gain control over the police force, civil aviation, education, a land bank and disposal of government lands.

Section 44(1) of the Act is very important:

"Nothing in this Act contained shall be construed as in any manner abolishing, diminishing or derogating from those full powers of administration and legislation over the Territory as an integral portion of the Union which are conferred by the Mandate..... and have been confirmed by the Treaty of Peace and South-West Africa Mandate Act 1919 (Act No. 49 of 1919) or as modifying any provision of that Act. Those full powers of Administration and Legislation are hereby expressly reserved to the Governor-General."

This means that there is no possible lessening of the control of the Union in law, so that the Union still has the full power to make effective her obligations under the Mandate, the full responsibility for which she is not empowered by the Mandate to delegate. (8)

In its 9th Session the Mandates Commission was told by Mr. Smit that the Union Government had delegated certain administrative powers to the people of South-West Africa but this in no way affected the position of the Union Government towards the Mandates Commission. The powers conferred on it by the League of Nations remained intact. Sir Frederic Lugard (Britain) asked if any representations had been given to natives but naturally the answer was negative. (9)

On the 27th April 1932 the Legislative Assembly unanimously asked that:

" the Government of the Union of South Africa should delegate to the Assembly of the Territory of South-West Africa power to make ordinances in respect of subjects reserved under section 27 of the South-West Africa Constitution Act (No. 42 of 1925).....(and) subjects reserved under Section 26:

(8) Keith Page 543

(9) P.M.C. X Page 35

(a)....postal, telegraph and telephone services;

(b) All powers at present exercised by the
Administrator in regard to.....
The Public Service." (10)

This was because they wanted to work out for themselves the development and destiny of the Territory and to do that needed as much self-government as possible.

Before this became law however the Assembly wanted German to be a third official language and wanted the automatic naturalization of all Europeans domiciled in the Territory on 31st December, 1931 and the application of the Naturalization of Aliens Act 1910 (No. 4 of 1910) to all European persons other than Union or British subjects who may in future become domiciled in the Territory,

This Resolution was submitted to the Union Government but before the latter could act on it the Legislative Assembly passed another unanimous motion on the 27th May, 1933. By this the Assembly requested the Union Government not to carry out the resolution of 27th April, 1932 until the Assembly was satisfied that there was no cause for distrust of the German-speaking Union subjects and their associations. (11)

It became clear, however, that there was no possibility of reconciling the conflicting views of the Germans and the Union Section and the proposed amendments to the constitution were not proceeded with. As a result of this political unrest in the Territory, under Government Notice No. 584 of the 26th April, 1935, (12) the Union Government appointed a Commission to conduct a thorough examination into the government of the mandated Territory to see why it was reputed to be a failure and to consider in what way it could be altered,

"to secure more efficient administration and more content amongst the inhabitants, due regard being had to the character of the Territory as a mandated Territory and to the rules of international law governing mandates."

The Permanent Mandates Commission during its 27th Session in June, 1935 noted that a Commission had been appointed and was very satisfied at Dr. Conradie's (The South African representative)

(10) A.I - '32. U.G.27 of '34 Page 3f

(11) U.G.27 of '34 p.3

(12) O.Y.B. No. 16

statement that the Union would not take any action on the findings of the Commission until it had first communicated its intentions to the League of Nations. The Mandates Commission also stated "As guardian of the integrity of the Institution of Mandates the Commission expects to be informed of the Mandatory Power's views on the question." (13)

The South-West Africa Commission reported in June 1936. (14) It found that both the Union and German sections in the Territory wished for an even more responsible form of government. The Germans hoped for rapid autonomy for the Territory irrespective of the state of development of the Natives, so that it could revert back to Germany. This desire was linked up with their racial aspirations. The Union section seemed to be impatient with the autocratic powers of the Administrator and desired more democratic government institutions.

Under Article XXII and the terms of the Mandate, the Union accepted special obligations in regard to the natives in the Territory and these cannot be shared even with a controlled legislature and executive. Thus there can be no extension of the powers of the South-West African administration in this direction.

It was also out of the question that full financial autonomy be granted to the Territory without the grant of full responsibility at the same time. It was the wrong time for both these requests as the Territory could not and did not seem likely to be able to balance its budget. Also while the Union Government exercises the Mandate it cannot divest itself of financial control of the Territory, "as it would be a strain on the rectitude of any oligarchy to make it arbiter and partisan in the allocation of the Country's revenue to services for the benefit of Europeans and Natives respectively." (15) Besides this it was impossible to grant full responsible Government to South-West Africa while the Natives were still politically unable to stand alone as this was in conflict with the main idea of the mandate system.

(13) P.M.C. XVII.p.229

(14) U.G.26-'36.

(15) U.G.26-'36.

The Commission concluded that the existing form of government for the whites was a failure as it did not fit the character or the circumstances of the governed. They recommended that the form of government should be abolished and stated that there was no legal obstacle to governing South-West Africa as a province of the Union subject to the terms of the mandate.

The Commission was also dissatisfied with the existing native administration and advised a thorough revision of this sphere. (16)

On the 11th of December, 1936, the Union Government made a statement on this Report:

"The Union Government concludes that the dissatisfaction with the existing form of government is due to the fact that it has been judged not so much on its merits as a form of administration for the country, but rather as a means of promoting divergent ideals harboured by different sections of the population about the future of the Territory..... it is not convinced that the existing form of administration does not answer its purpose or that administration of the Territory as a province of the Union would contribute materially to that greater measure of security which the Union section desires." (17)

It seemed, therefore, that no change whatever was to be made in the existing form of government. This caused much dissatisfaction and annoyance and had repercussions as far afield as Geneva, where the mandated Commission met for its 31st Session in June, 1937. (18) The Chairman, H. Orts, spoke for the whole Commission when he voiced their surprise that the Union Government had done practically nothing to give effect to the recommendations of the 1935-36 South-West Africa Commission, especially those on native administration.

Mr. Courtney Clarke, Secretary for South-West Africa at the time, said his Government took the view that in its report the Commission dealt with an abnormal position. Since 1936 there had been a marked improvement in the relations between the two sections

(16) U.G.26-'36

(17) U.G.31-'37.p4.

(18) P.M.C.XXXI, p.111

of the white population, and the remarkable rains had increased its prosperity. Also the Commission was not unanimous in its conclusions and the Union Government did not wish to abandon its existing policy of co-operating with the European inhabitants of the Territory in the latter's development. The Government had, however, strengthened the hands of the central administration by Proclamation 51 of March 27th, 1937. M. Van Asbeck (Netherlands) said that the Commission's argument that the present form of government was a failure was based not on temporary circumstances but on fundamental conditions in the Territory.

In spite of this criticism, however, nothing fundamental in the South-West African constitution was altered until 1939.

To my mind this non-activity of the Union Government shows an extraordinary lack of interest in the situation in the Mandated Territory. What was the use of appointing a Commission if when it had reported many abuses, nothing was done to rectify them. The Union Government held that the situation in 1935 was abnormal. This might have been so, as far as the European population was concerned, but native administration was as it had been for many years, with much room for improvement.

In September, 1939, the war broke out and the Union Government at once took steps to safeguard the Territory from possible enemy aggression, both internally and externally.⁽¹⁹⁾ The Aliens Registration Act (No. 26 of 1939) was passed. This applies to the Union and the Territory. In it an "alien" is defined as a person who is not a natural-born British subject or a Union national. Thus all those Germans naturalized automatically in 1924 and 1928 were regarded as aliens and had to apply for a registration certificate.

The Governor-General's Proclamation (No. 293 of 1939) prohibited enemy aliens from being members of any public body or from voting at an election of members of a public body.

From the 18th of September, 1939, nearly all German males of 18 and over, including those automatically naturalized, were given the option of parole or internment. By the 18th of December, 1939, an

(19) U.G. 30-'40)

internment camp had been established near Windhoek, and by the end of the year there were 77 inmates. This camp is controlled by the Secretary for South-West Africa, but all expenditure except that of hospitalization of internees is met by the Union taxpayer.

As an additional safeguard for the Territory the Nasionale Party van Suidwes-Afrika (Herenigde Nasionale of Volksparty) was declared by Government Notice No. 66 of May, 1940, to be a political organization to which no non-British subject may belong. (20)

Thus at the present moment the only Europeans who have any right to take part in elections in the Territory or exercise any other civic rights are those who are natural-born British subjects or Union nationals.

It seems that the Union Government has realized that its attempts to form a smooth-functioning administration by combining the Union and German sections of the population into one South-West African people, have failed. After the war some new scheme will no doubt have to be devised. Either all the Germans will have to be repatriated to Germany so that the present form of administration, which seems to suit the remainder of the white population, can be carried on peacefully, or if the Germans remain and it is decided to restore their civic rights, they will have to be renaturalized. If this latter policy is followed there is no guarantee that the same trouble will not arise again.

To me it seems that the best policy will be to repatriate all Germans and then any that wish to return will do so under the Union's ordinary immigration and naturalization laws. When they have been domiciled in the Territory for five years they can apply for naturalization. If they are then naturalized they will lose their German nationality completely as, according to German law, loss of previous nationality follows on individual application for a new nationality. A German so naturalized should be treated in the Territory as any other naturalized aliens are treated. Those Germans who do not apply for naturalization should be treated as aliens and Proclamation 51 of 1937 should still apply to them and be much more strictly enforced.

A good law would be that no such German alien should be allowed to reside in South-West Africa for more than two years unless it is vitally necessary for him to remain longer.

English and Afrikaans should be the only official languages in the Mandate and German should not even be regarded as an unofficial third language.

As well as this, a low quota should be fixed for Germans entering the Territory with the intention of settling and applying for naturalization after five years, and an even lower quota for those Germans entering with no intention of settling. These regulations would, I think, reduce the chances of outside German interference in the affairs of the Mandate to a minimum.

The consent of the League of Nations or of the Permanent Mandates Commission or whatever bodies replace them should of course be obtained to these measures.

It may be argued that these measures would be contrary to the spirit of the mandates system which is that the mandates should be administered in the interests of the native inhabitants and of the world at large. But surely it is to the advantage of both these groups that the state of affairs which existed in South-West Africa before this war should not be repeated.

In Article XXII it is written that "the well-being and development of such peoples (not yet able to stand by themselves under the strenuous conditions of the modern world) form a sacred trust of civilization." In the terms of the mandate for South-west Africa it is written: "The Mandatory Power shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present mandate."

The Union Government has unfortunately, in its own territory as well as in that of the Mandate, regarded the interests of the white inhabitants as superior to those of the natives. Its attempts to settle the quarrels between the white inhabitants in South-West Africa have often drawn its attention from the two passages quoted above. This state of affairs should not be allowed to continue; but that it will do so if strict measures are not adopted against the

the size, inadequacy and competence of this staff has been quite often commented on by the Permanent Mandates Commission. The Union Government in reply has detailed the difficulties of finding competent men willing to bury themselves out in the bush, of finding men with some knowledge of the many native languages, and a feeling of sympathy towards the natives.

Another reason was given in Mr. de Water's (South African Representative) reply to M. Van Asbeck's question during the 34th Session of the Mandates Commission in 1938. (24) Mr. Van Asbeck drew attention to the fact that the number of European officers in Ovamboland was very small and asked whether the administration intended to increase the number considering that more than half the population lived in the north.

Mr. de Water's reply was that if the financial situation permitted it more officers would be appointed.

Lord Hailey then spoke of the Commission's desire that officials intending to join the South-West African Administration should be given special training in native affairs, and asked whether the Union Government was opposed to this suggestion. (25) In reply Mr. de Water said that on the contrary his Government was far from desiring to discourage the acquisition by their officials of special knowledge of the natives. These men could avail themselves of the courses at the universities and even after they had been appointed they sometimes began or continued with these studies to obtain promotion. He thought that the probable reason for the Union Government's non-compulsion of such studies for officials was that most South African ~~officials~~ had some knowledge of native affairs, languages and customs. This, however, is very rudimentary and only a very small percentage of those people who join the Civil Service in South Africa have been to universities. No man, unless he is very ambitious, starts or continues studying fairly difficult subjects like anthropology or Bantu languages after he obtains a post. Thus there is great need for improvement in the competence and size of the South-West African administration along the lines

(24) P.M.C. XXXIV, p. 80.

(25) P.M.C. XXXIV, p. 77.

(26) P.M.C. III, p. 104.

indicated by the Permanent Mandates Commission.

The Union Government has carried on and expanded the German system of native reserves. Its reasons for this were given by Sir Edgar Walton, South Africa's Representative to the Mandates Commission in 1923. He stated that, as in its homeland, the Union Government followed a policy of segregation. The natives needed to be safeguarded from bad white influence and to consolidate themselves after the disastrous wars against the Germans. This, in the Union Government's opinion, would best be done by placing the natives in reserves. (26)

These two aims are being achieved but on the other hand the time is fast approaching when the Union will have to make provision not only for "the material and moral well-being" (27) of the natives but also for their "social progress" (28) and their "development" (29) which will enable them "to stand by themselves under the strenuous conditions of the modern world."

The system of allotting reserves to the broken and disorganized tribes left in South-West Africa after the German defeat, began in a small way. In 1921 a Native Reserves Commission was set up to draw up a plan of areas to be reserved for natives. (30) Their programme began in 1922 when five new reserves were set up in the Police Zone totalling 813,984 hectares, and three more in the Kaokoveld. (31) It was completed in 1926 by the Proclamation of the Reserve at Utjimbingwe in the Karibib District. (32).

Since then, however, more has been added to existing reserves and more reserves proclaimed. In July, 1940, by Union Government Notice 1210 the Eastern Caprivi Zipfel was set aside as a Native Reserve

"exclusive of any area lawfully leased or otherwise lawfully granted to persons other than natives for so long as said areas shall remain so leased or otherwise lawfully granted." (33)

Thus by the end of 1942 the areas reserved for natives and the Rehoboth Basters and other Coloureds in the Territory exclusive

(26) P.M.C. III, p.104; (27) Terms of the Mandate, Art.2; (28) Terms of the Mandate, Art.2; (29) Article 22; (30) U.G.32-'22, p.13; (31) U.G. 21-'23, p.13; (32) U.G.22-'27, p.29; (33) U.G. of S.W.A. No 858, 26/7/40.

of the Caprivi Zipfel totalled over 18,917,165 hectares.

The Union Government has in this sphere accepted its duty as Mandatory seriously. Considering that the traditional Afrikaner policy has been to take more than three-quarters of the land in a new area for the whites and compress its former native owners into a space far too small for them in South-West Africa the Union has been liberal to the natives. They occupy over a third of the land set aside for European and native cultivation and many hectares of it are in the best areas of the territory. The proportion between white and native ownership, actual and prospective, is 3:1. Compare this figure with ownership and proportion in the Union itself. There natives own or occupy 58,000 square miles and whites over 415,000; the proportion is 7:1. (34) This shows that the Union has done better for the South-West African natives than for those in the Union. This one of the many justifications for the mandates system.

By the Treaty of Peace & South-West Africa Mandate Act, 1919, it is provided that:

"No land within the said Territory (South-West Africa) now or hereafter set apart as a reserve for natives or coloured persons shall be alienated save under the authority of Parliament. Provided that nothing in this section contained shall be deemed to prohibit the Governor-General in respect of land contained in any such reserve to grant an individual title to any person lawfully occupying and entitled to such land."

This is a very important provision as it safeguards the land guaranteed to the natives, from casual alienation. The Union Government would have to produce very strong arguments to pass a Bill to alienate part of a reserve without strong criticism from those who have the interests of the natives at heart.

(35) At the head of all native affairs is the Administrator. The Chief Executive Officer is the Chief Native Commissioner who is generally the Secretary for South-West Africa. Below him are magistrates and superintendents. Where a reserve lies near or in a magistracy, that magistrate is in charge of the reserve. In the larger native reserves superintendents responsible to the nearest magistrate are in charge. In each reserve there are Headmen elected by the people and appointed by the Government from which they get a small salary. They are responsible for

(34) Steer, p. 70. (35) U.G. 25-'38, p. 45ff.

the good behaviour of their people, settlement of their civil disputes and representation of their grievances. Generally, they are assisted by Councils composed of the leading natives in the reserve. The police are kept out of the reserves except when following up serious crime. No other Europeans may enter the reserves except traders at certain times, if permitted by the Administrator. (36)

Under this system the only whites with whom the natives remaining in the reserves come into contact are the superintendent and the missionaries. This does not make for any but a very slow development of the natives and was held by M. Beau, the French member of the Mandates Commission, when he criticised the reserve system in 1924, to be insufficient to fulfil the terms of the mandate within a reasonable period of time. He also wished to know why the mandatory did nothing to instil the idea of property owning into the natives.

Mr. Hofmeyr, the Administrator of South-West Africa, and South Africa's representative at this Session, in his reply, upheld his Government's point of view that it was best for both races to maintain segregation. He denied that the natives were left entirely to themselves as the men usually left the reserves to go to work. This, however, does not civilize the natives as the terms of the mandate require them to be civilized. The only way to civilize natives is to educate them and to be really effective education must start when the natives are children. It is grown men and women who leave the reserves to work on mines and farms and in the towns, and the only "education" they acquire there is not of the kind meant by the League of Nations and the Mandates Commission. (37)

This reply, however, did not answer M. Beau's observation that the mandatory power was doing nothing to instil the idea of owning property into the minds of the natives in the reserves. This idea of owning property seems to be considered one of the most civilizing notions and if it is the Union is seriously failing in its duty of civilizing the natives in its mandate. It may be, of course, that the Union Government wishes to consolidate the natives,

(36) U.G. 21-'23, p. 9-10. (37) P.M.C. IV, p. 62.

broken as they were from 1898 onwards by German wars, into their old tribal framework, so that they may become more healthy in body and mind before the civilizing process is really started in earnest. If, however, this is so, surely ten to fifteen years of consolidation is enough and by now the natives should be being educated to Western standards.

In his Report for 1923, the Administrator stated that it was proposed from April 1st, 1924, to utilize the direct revenue derived from each native reserve for the development of the reserve. For this purpose a native tribal fund would be established for each reserve. The money so raised would be spent on schools and education for the natives in the reserves, fencing, dipping tanks, improvement of stock, etc. The fund would be administered by a Board on which the magistrate or superintendent would act as chairman, assisted by the headmen of the reserve and not more than six adult males residing in or having substantial interests in the reserve. These last would be elected by the other adult male residents. From 1st of April, 1939, all reserve board members were paid 10s per annum from the reserve trust fund.

At first the only direct tax levied would be grazing fees but the Board would have power in certain circumstances to recommend the imposition of a levy for any objects of the fund. (38)

By Proclamation 9 of 1924 these administration funds were established in each native reserve inside the police zone. In the same year about £3,358 were collected in grazing fees for these funds. (39) The idea was welcomed by the natives and by 1926 six of the reserves had established boards. (40)

These reserve boards are also used to teach the natives how to become leaders of their own people. This was Dr. Conradie's (Administrator of South-west Africa) answer to Lord Lugard's question in 1935 as to whether the Administration as well as stabilizing native tribal customs was doing anything to educate the natives in the reserves in ideas of corporate and individual

(38) U.G.21-'24, p.13.

(39) U.G.33-'25, p.21 & 26

(40) U.G.22-'27, p.32.

responsibility.⁽⁴¹⁾

The Administration is always willing to receive deputations from the reserves and remedy their grievances if possible. This was evidenced by the results of the Herero deputation of June, 1933. The Hereros got practically everything they asked for, including an extension of 74,300 hectares to the Epukiro Reserve. (42)

No reserve is proclaimed until a sufficient water supply has been provided within its boundaries. This is generally a very lengthy and expensive process, as boring must be undertaken on a large scale. By 1930 the stage had been reached where boring in the reserves could be discontinued almost entirely. Funds thus released have since been devoted to the next important item, the improvement of native stock. In this, one of the main difficulties has proved to be the conservation of the natives. (43)

In 1932 the attention of the Administration was drawn to the indiscriminate setting up in reserves of churches and missions and their schools. This threatened to have undesirable and complicated results, so Proclamation 31 of 1932 was issued. This made^{Provision} for the prior sanction of the Administrator when church and mission stations are erected on land in reserves. (44) This Proclamation is another evidence of the zealotry of the Union Government in guarding the rights of the natives to the unalienated possession of their land. This also obviated any danger of quarrels between native members of different denominations who coveted the same piece of land for a "school".

One of the German laws which the new Government in South-west Africa has carried on is that every male native over 16 years must carry a pass when he leaves his reserve.

This system was criticised in 1923 during the 3rd Session of the Mandated Commission by Sir Frederick Lugard. He regarded the pass system as a restriction on individual liberty of the native but Major Herbst, South Africa's Representative, said the pass laws were intended to prevent vagrancy. They also acted as a protection since the natives could not be arrested for vagrancy if they had passes. (45)

(42) U.G. 27-'34, p. 32-7.

(44) U.G. 16-'33, p. 52.

(43) U.G. 21-'31, p. 76.

(45) P.M.C. III, p. 105.

(41) P.M.C. XXVII, p. 16a.

In its report on South-West Africa for 1937 the Union Government noted the recommendation of the South-West Africa Commission of 1935-6, that more active steps should be taken by the mandatory for the development of the non-European races from their backward condition and that financial appropriation should be made for this purpose. (46)

Instead, however, of adopting and taking to heart this wise recommendation, the Union Government went in exactly the opposite direction. It laid down in the same Report that "the Administration is opposed to making grants for accelerating the development of reserves as much in the interests of the natives as of the Europeans." It adduced as a fundamental reason for this categorical denial of its obligations under mandate, one which is also contrary to the spirit of the mandates system. This was that it would be unfair to tax the Europeans to further native development when practically the whole of the native contribution to the revenue of the Territory is handed out to the trust funds for expenditure on natives.

This statement was immediately commented on in the 34th Session of the Mandates Commission. (47) The general opinion was that as it was the sacred duty of the Union as mandatory to see that the South-West African natives were helped to develop as quickly as was compatible with thoroughness and as they still greatly needed money and guidance, it was not yet time for the Administration to stop grants to the reserves.

As a result of this discussion the Commission, in its observations on the 1937 report, stated:

"The Mandates Commission is aware that the Administration has stated that its present policy (of not spending on native reserves) merely aims at avoiding undue acceleration of the development of reserves as it considers it essential to convey to the natives the lesson that their improvements must depend on their own exertions. The Commission does not feel that this consideration can justly apply to the grant of assistance to the natives in the matter of water supply or the provision of medical facilities since the natives are too indigent to provide these for themselves. The Commission hopes thus that this consideration will not lead the Administration to withhold any assistance required in this respect." (48)

(46) U.G.25-'38, p.151.

(47) P.M.C.XXXIV, p.78.

(48) P.M.C.XXXIV, p.231.

By 1939, when the Reports ceased due to the war, the Union Government had not offered any further information on this subject but it is to be hoped that it adopted the Commission's recommendations.

The second form of native administration practised in South-West Africa is in the so-called Free Reserves outside the Police Zone - Ovamboland (10,500,000 acres), the Okavango (8,000,000 acres) the Kaokoveld areas (1,026,540 acres) and the Caprivi Zipfel. In these areas the influence of the white man in its unadulterated form is almost negligible. The natives come into contact with Western civilization only through missionaries, the few Government officials, and through going out to work on the mines, etc in the Police Zone. These areas are strictly guarded from Europeans who, unless they are missionaries or Government officials stationed in these areas, have to get special permits from Windhoek to enter them.

The system of indirect rule, as the Union Native Affairs Department calls it, ~~and~~ followed in these Reserves, is entirely new to the Union's native policy. By it the tribes are left almost completely isolated, with most of their old tribal customs still in force.

Proclamation 15 of 1928 clarified the position in regard to (the Ovamboland, Kaokoveld and Okavango areas.)⁽⁴⁹⁾ It is based on similar legislation in the Union and gives the Administration certain essential powers to deal with a native population living under tribal conditions.

It also protects the tribes against foolish actions of their Chiefs as it lays down under what circumstances a tribe is bound by contracts or obligations entered into by a Chief. No judicial proceedings in respect of tribal land by a member of a tribe against his Chief or tribe may continue unless the Administrator so authorizes by permit.

The third chapter provided for the setting up of courts of Native Commissioners. They have jurisdiction similar to that of magistrates in criminal cases but in civil cases their jurisdiction is practically unlimited. A radical departure from the usual

(49)U.G. 22- '29.p.54.

Union practice was giving these courts the right to adjudicate in matrimonial affairs when the parties are married according to European marriage laws. The reason for this is that the High Court of South-West Africa is too far away and the costs too expensive for the natives to go to it. This led to many evils and was much deplored by the missionaries.

These courts were constituted by Government Notice No. 59 of 4th March, 1930.⁽⁵⁰⁾ They settle disputes between natives quickly, inexpensively and in accordance with their own laws and customs in so far as these are not contrary to the principles of public policy and of natural justice.

The seven tribes in Ovamboland are ruled according to most of their own laws and customs by Chiefs or Councils of headmen. The people generally prefer rule by headmen as they are less tyrannical than Chiefs. This form is also preferred by the Administration as Chiefs are liable to consider themselves too all-powerful as of old. An instance of this was Chief Impumbu of the Ukuambi tribe. It was found necessary to depose him as he threatened the missionaries near his kraal and sent out armed bands which he said would defeat the Government and make him the Big Chief. He was deposed with hardly any fuss in 1932 and his tribe is now ruled peacefully and well by a Council of Headmen.⁽⁵¹⁾ It is also found that tribes ruled by Councils progress more rapidly than those ruled by one man.

The Native Affairs Officer in Ovamboland who with two white clerks and fourteen native messenger boys represents the Union Government,⁽⁵²⁾ is always in close touch with the Chiefs and Headmen and visits them frequently. In every tribe he has his own native agents who keep him informed as to what is happening. He acts as advisor to the Chiefs who frequently consult him even with regard to suitable punishments for particular misdemeanours.⁽⁵³⁾

This system of ultra-indirect rule has often been criticised by the Mandates Commission as not being enough to fulfil the terms of the mandate. M. Orts, during the 31st Session in June, 1937, expressed the opinion that the Union was placing too much reliance on time and natural circumstances in the development of the natives,

⁽⁵⁰⁾ U.G. 21-'31, p. 68. ⁽⁵¹⁾ U.G. 16-'33, p. 75. ⁽⁵²⁾ Steer, p. 85.

⁽⁵³⁾ P.M.C. XVI, p. 63

especially in Ovamboland and the other areas of indirect rule. (54)

Unfortunately the Union Government has not taken much notice of these comments and criticisms, probably mainly because south-west African revenue does not allow, in the Administration's eyes, of more expenditure on the natives.

The Kaokoveld was demarcated as a Native Reserve in 1937. From 1938 a Native Commissioner was stationed there permanently. (55) In the same year one of the Herero Chiefs, Uorlog, died and the Administration took the opportunity of trying out the first tribal Council in the Kaokoveld, the system having proved so successful in other Reserves. Uorlog's former followers chose a Tribal Council to meet once a month. This has proved of great value to the Herero people concerned. (56)

An innovation which promises to prove an important factor in the development and progress of the Herero people is the setting up of an Herero Council. The Hereros are one of the proudest, most independent and progressive peoples in the Territory now that they are recovering from the cruel treatment meted out to them by the Germans in 1904 and 1905. Their numbers were reduced by systematic destruction during those years from 90,000 to 15,000. They were not allowed to own cattle nor land. Today they occupy over three million acres in the Territory. They run 59,000 large and 137,000 small stock and their own numbers are nearing the 30,000 mark. (57)

In its second last Session in June, 1939, the Commission heard with satisfaction from Mr. Andrews of the plan to set up the Herero Council on the same but necessarily less ambitious lines as the General Transkeian Territories Tribal Council. A fund would also be set up to which every Herero over 18 years of age would give five shillings annually. The proceeds of this fund would be used

(54) P.M.C. XXXI, p. 124.

(55) U.G. 25-'38, p. 66

(56) U.G. 20-'39, p. 55f

(57) Steer, p. 76 and 63.

for education, training of Herero nurses and hospital work. This plan had previously been enthusiastically approved by the Hereros. (58)

The rest of the natives of South-West Africa live in towns or on farms. Those natives in urban areas are controlled by the Urban Areas Proclamation which adopts all the main provisions of the Union Natives (Urban Areas) Act of 1923 and omits only those not applicable to conditions in the Territory. Under Proclamation 3 of 1917 the Officer in Charge of Native Affairs for the district is required to supervise and investigate the conditions under which natives are employed and to enquire into and redress their grievances. Idleness is not encouraged and the laws against trespass and vagrancy are strictly enforced.

In practically every town the natives live in locations specially built for them. Each location has a European Location Superintendent who consults with the leading natives in the location in the administration of the location. Since 1941 some attempt has been made to control the steadily increasing number of natives entering urban areas. By Government Notice No. 140 of 1941 native women were forbidden to enter the Usakos Urban Area without a permit, (59) and by Government Notice No. 136 of 1944 the same was applied to native ~~women~~ in the Windhoek Urban Area. (60) Unfortunately, however, I could find no indication as to whether these measures had the desired effect or not.

• As most of the natives in urban areas work for Europeans their administration will be dealt with more fully under the chapter on labour.

Because the mandate system is designed primarily to benefit the native populations in the Territories under mandate and to accelerate their development towards modern civilization and government, the Permanent Mandates Commission wished that the natives in South-West Africa could be given some share in the administration of the country as a whole. The Commission first broached this idea in discussing the Report on South-West Africa for 1923 in June, 1924. Lord Lugard asked that the Commission be informed as to what steps were contemplated in the future to secure adequate representation of native interests on the Advisory Council of the Administrator. (61)

(58) P.M.C. XXXVI, p. 33. (59) O.G. of S.W.A. No. 918-1/10/41. (60) O.G. of S.W.A. No. 1125 of 15/6/41. (61) P.M.C. IV p. 79

No answer was forthcoming from the Union Government, but in the Report for 1924 there were a couple of paragraphs by the Administrator on the outlook of the natives. (62)

He said that signs indicated that the natives were no longer content to accept placidly the treatment and conditions to which they were accustomed in the past. They were more conversant with the European methods of voicing grievances, probably due to closer intercourse with the Coloureds and natives from the Union. This statement can perhaps be interpreted to mean that the natives at the time were not quite fit for representation on the Advisory Council but as soon as they became even more "conversant with European methods of voicing grievances" they might be allowed representation. This method of shying off direct answers to questions about equal representation for black and white is, unfortunately, typical of the whole history of Union native policy, both in the Union itself and in the Mandate. Lending colour to the theory that when the natives acquire European methods of voicing grievances they will be given representation, is the list of non-European political institutions in the 1925 Report. (63) It is through political institutions that Europeans usually voice their grievances. The non-European political institutions are listed as three: The Universal Negro Improvement Society of America (which is practically non-existent), the African Peoples Organization (supporting the South African Party), and the Afrikaanse Nasionale Bond (supporting the Nationalist Party of the Union). These last two are fairly well supported in Windhoek but nowhere else in the Territory.

In 1932, at the Commissions 22nd Session, the question was brought up in regard to the Legislative Assembly. Mr. de Water said that although there was no actual native representative of native interests on the Assembly, he would refer Lord Lugard to Section Seven of the South-West Africa Constitution Act of 1925 by which one member of the Assembly must have special knowledge of the non-Europeans in the Territory. (64)

(62) U.G.33-'25.p.19.

(63) U.G.26-'26.p.30.

(64) P.V.C. XXII,p.22.

once again, in 1933, Lord Lugard asked the same questions. The occasion was the discussion of the Resolution of 27th April, 1932, of the Legislative Assembly asking for an extension of powers. (65) In this resolution the words "to ensure a more equitable participation in the government. . . by all sections of the population" were used. Lord Lugard asked whether the natives in Ovamboland and the Police Zone would have any representation otherwise he did not see how the proposals in the Resolution would secure what the above quotation stated was desired.

Mr. de Water stated that this phrase meant all sections of the white electorate only, as under the South-West Africa constitution only the whites were represented directly, but he said that what was implied under the constitution concerning the moral and material welfare of the natives was that there would be a first consideration in the minds of the Government. This was a very vague answer. (66)

At intervals throughout the years that followed, the Commission again referred to the question of native representation on the Legislative Assembly of South-West Africa, or to the desirability of increasing white representation of native interests on it, but to no avail. It is unfortunately almost unavoidable at present that the natives should not be represented by a native on the Legislative Assembly or Advisory Council of the Territory. This is due to the fact that, as in the Union, a large section of the population of South-West Africa have a very strong colour prejudice and would categorically refuse to sit on the same Assembly as a non-european. Until this colour prejudice is overcome, which it must be if the Union is to give full and true effect to the provisions of Article XXII of the Covenant and to the terms of the mandate, the only course open to the Union Government is to increase the white men representing the native interests on the Assembly and Councils as much as possible and to make certain that they are well known to and trusted by the natives and represent as many sections and tribes of the native population as possible.

(65) P.M.C.XXIII, p.82.

(66) P.M.C.XXIII, p.83.

The continuation and expansion of the scheme of setting up Tribal Councils is also very necessary. In these Councils the natives should be given more administrative and legislative responsibilities and more executive authority. This will enable them, when the time comes, to take their place in the government of the Territory as a whole, with ~~more~~^{some} experience of administrative, legislative and executive responsibility.

The administration of the Caprivi Zipfel caused some questions from the Mandates Commission. This is a tiny strip of land, part of the Mandated Territory of South-West Africa but running out between northern Rhodesia, Angola and Bechuanaland. It is almost inaccessible from the rest of South-West Africa, except after a long journey by canoe up the river Washi, while during the rainy season this route ^{is} impassable. Because of these difficulties, in 1922 by Governor-General's Proclamation 12, the administration of and the power to legislate over the strip were transferred to the High Commissioner in South Africa. He therefore legislated by Proclamation 23 of 1922, that the Caprivi Zipfel was to be administered as if it were a portion of the Bechuanaland Protectorate, and the laws of the said Protectorate were to apply to it. (67)

This arrangement caused repercussions in the Mandates Commission. It was condemned during the 6th Session as directly contrary to the terms of the mandate that a part of the Territory should be administered under other laws not based on the conventions under mandate. (68)

Then in October, 1925, the Commission asked for a clear and concise statement from South Africa explaining from a legal standpoint the administrative relations between the Caprivi Zipfel and the Mandatory Power. (69) This statement was communicated to the Commission on November 20th. (70) It was drawn up by E.L. Matthews, Law Advisor to the Union Department of Justice, and had the full concurrence of the Prime Minister. It declared that the

(67) U.G. 21-'23, p. 2.

(68) P.M.C. VI, p. 61.

(69) P.M.C. VII, p. 217.

(70) P.M.C. VII annexure.

Governor-General-in-Council having full powers of legislation over the Territory of South-West Africa and by Act No.49 of 1919 being able

"to delegate his authority on that behalf (power to alter laws in the Territory) to such officer in the Territory as he may designate to act under his instructions"

could in full right delegate this authority to the high Commissioner and declare him to be Administrator of the Caprivi Zipfel until further provision was made. Thus it was not a final or permanent "putting off" by the Mandatory of its authority in the Zipfel but merely an action for the more convenient and effective exercise of the Mandatory's powers. The ultimate authority rested with the Mandatory Power and the delegated Administrator acted under its instructions.

This valid and correct interpretation of the case seemed to satisfy the Commission until a further change was made in 1929. In that year by Governor-General's Proclamation No.196, Proclamation 12 of 1922 was repealed and the Caprivi Zipfel was in future to be administered as an integral part of the Mandated Territory of South-West Africa. By the Administrator's Proclamation (No.26 of 1929) all laws in force then and in future in the Territory were to apply to the Caprivi Zipfel and all laws in force in the latter place at the time of taking over were repealed. (71)

The reason for this retransfer was stated by Mr.Courtney Clarke during the 18th Session of the Mandates Commission in June,1930,i.e., the transfer had been carried out in deference to the wishes of the Commission. The latter had,however,never insisted on the transfer but naturally when it was carried out the plan met with approval. (72)

This plan was in force for 10 years and then in August,1939, the control of that part of the Caprivi Zipfel east of a line running due South from beacon No.22 situated west of the Kwande(Mashi) River on the Angola-South-West Africa border was given to the Union Department of Native Affairs. This was done because of the difficulty experienced by the South-West African administration in controlling this inaccessible area. (73)

(71) U.G.23-'30.p.1.

(72) P.M.C.XVIII.p.132

(73) U.G.30-'40.

Since then considerable sums of money have been spent by the Department on improving official buildings and placing the administration on a more suitable footing. The Medical Officer of the Union Department of Public Health and the Veterinary Officer of the Department of Agriculture have visited the area.

As was told to the Mandates Commission when M. Van Asbeck commented on this third change in the Caprivi Zipfel administration, the closest co-operation exists between the South-west African Administration and the Union Department of Native Affairs concerning the area. The Union Government acted^s for the South-West African Administration in the area and the Officer Administering the Zipfel works under the control and instructions of the Administrator of South-west Africa. (74)

Another act which shows very clearly that the South-West African Administration is determined to keep a firm hand on the administration of the Caprivi Zipfel is Proclamation 147 of 1939. By this Proclamation the Union Minister of Native Affairs or another Minister of State acting on his behalf can, in the Caprivi Zipfel, exercise all the powers of the Administrator of South-West Africa except the legislating power of "repealing, altering, amending, or modifying any laws in force within that area and making new laws." This authority is exercised only by the Governor-General. The High Court of South-West Africa still has jurisdiction in the Eastern Caprivi Zipfel. (75)

The Union Department of Native Affairs, by Proclamation, created the magisterial district of Eastern Caprivi Zipfel, set up a Native Commissioner's Court and opened a local goal at Katima Mulilo. Finally, by Government Notice No. 1210 (Union) in July, 1940, the Eastern Caprivi Zipfel was set aside as a Native Reserve. (76) This plan as regards the administration of the Caprivi Zipfel seems as if it will work the best of all the schemes tried. The Union Government has more resources at its disposal than the South-West African Administration and if the

(74) P.M.C. XXXVI, p. 17.

(75) O.G. of S.W.A. No. 803 - 28/7/39

(76) O.G. of S.W.A. No. 858 - 26/7/40

area is administered according to the terms of the mandate there can be no objection to the Union Department of Native Affairs being responsible to the South-West African Administration for it.

The administration of the little port and settlement of Walvis Bay also came in for some criticism from the Mandates Commission. This little area of 430 square miles, with a population of 1,180, is part of the Cape Province and so of the Union, but is administered by the South-West African Administration for the sake of convenience. This came about by the Union Parliament's Act No.24 of 1922⁽⁷⁷⁾ by which Walvis Bay, for judicial and administrative purposes, was to be regarded as if it were a part of the Mandated Territory and as if its inhabitants were inhabitants of the Mandated Territory. Power was conferred on the Administrator to legislate for Walvis Bay.

During its 14th Session in 1928 the Mandates Commission became very interested in the administration of Walvis Bay.⁽⁷⁸⁾ The members heard from Mr. Werth that the people of Walvis Bay had the right to send members to the Parliament of South-West Africa at Windhoek, but on the other hand though they were citizens of the Union it was not clear whether they could also elect members to the Union Parliament. Mr. Werth upheld this arrangement whereby the inhabitants of Walvis Bay are represented in the South-West African Legislative Council, on the grounds that it was only right that if the people of Walvis Bay were to be administered by the South-West African Administration they should have a voice in its proceedings. He said that if they did not have the right to vote in South-West Africa they might refuse to be governed by the Territory's Administration and this would be disastrous for the Territory as Walvis Bay was her best port and was essential to the economic development of the country.

This arrangement did not meet with the Commission's approval as it meant that people who were not nationals of the Mandated Territory and thus not responsible for its administration, had a say in this administration. M. Rappard (Swiss) insisted that an

(77) U.G.21-'23.p.2.

(78) P.M.C.XIV,p.68

important point of principle was involved and feared that the responsibility for the government of the Territory, vague as it already was due to the excessive degree of self-government allowed, would become even vaguer if non-nationals were allowed to vote.

After more discussion M. Rappard stated in conclusion that the Commission did not wish the arrangement with regard to Walvis Bay to be rescinded as long as some satisfactory position could be arrived at regarding the right of the inhabitants of the Bay to vote in the South-West African elections.

In the next year, 1929, the question was again brought up and after more discussion (79) Mr. Smit referred the members of the Commission to the South-West African constitution where it was definitely laid down that for the purpose of the constitution Walvis Bay is regarded as part of South-West Africa, with the same obligations and rights.

The Commission however, remained dissatisfied and in its observations on that session asked the Union for a clear explanation with regard to Walvis Bay, its administration as an integral part of the Mandated Territory and the right of the inhabitants to participate in the elections to the Union Parliament and in those to the Legislative Council of South-West Africa. (80)

In the 1929 Report on South-West Africa this was forthcoming. (81) By Section one of the South-West Africa Affairs Act of 1922 Walvis Bay was completely disassociated, judicially, administratively and electorally from the Cape Province. Then by Proclamation 45 of 1922 the port and settlement were to be administered as if part of the Mandated Territory and as if the inhabitants were inhabitants of the Territory.

The electoral laws of the Union and the Colony of the Cape of Good Hope have never been applied, by Act or Proclamation, to Walvis Bay and no Delimitation Committee has at any time assigned Walvis Bay to any electoral division in the Union. Thus the British residents at the Bay cannot, in the absence of the necessary machinery, be enrolled as voters in the Union.

(79) P.M.C.XV, p.75

(80) P.M.C.XV, p.294

(81) U.G.23-'30. p121.

On the other hand, by Section 34 (a) of the South-West Africa Constitution Act (No.42 of 1925) the inhabitants of Walvis Bay are entitled to participate in the elections to the Legislative Assembly of the Mandated Territory.

The two examples given above - the administration of Walvis Bay by South-West Africa, and the administration of the Eastern Caprivi Zipfel by the Union Department of Native Affairs, are evidence of how literally the Union Government has taken its right to administer South-West Africa as an integral portion of the Union's home territory: A portion of the mandated Territory is administered by a Union Department, and a portion of the Union by the Mandated Territory.

In Walvis Bay itself the situation is even more complex as the railway and harbour and that portion of the town abutting on the harbour are administered by the Union Railways & Harbours Board, and the rest of the town by the South-West African Administration. The Administrator does, however, sit on the Union Railways & Harbours Board and can protest, usually successfully, if the Board takes any steps which he considers detrimental to the interests of that part of Walvis Bay controlled by the Board. (82)

This incorporation of the Union territory of Walvis Bay in the Mandated Territory of South-West Africa may also be looked upon as another example of the Union's view that South-West Africa belongs by right and for all time to South Africa. In making these arrangements the Union statesmen no doubt regarded the incorporation of the Territory as a fifth province of the Union as merely a matter of time. When that happened Walvis Bay would automatically become part of the fifth province and the incorporation in 1922 was merely a slightly premature action. This is shown by the fact that the voters in Walvis Bay do not vote for the Cape Provincial Council but for the Legislative Council of South-West Africa which, on incorporation, would automatically become the fifth provincial council.

As regards the question of principle which M. Rappard insisted

(82) P.M.C.XIV, p.70.

was involved, the Union regards all voters in the Mandated Territory as Union nationals or other British subjects, and so W. Rappard's argument that the voters of Walvis Bay are not nationals of the Mandated Territory falls away as the voters of both areas are Union nationals.

As Mr. Werth held, it seems only right that if the inhabitants of Walvis Bay are to incur all the liabilities in the same manner as the other inhabitants of the Territory, they should have all rights as well, including the right of self-expression.

It can be seen then, that while the Union Government's efforts in the general administration of the white inhabitants of South-West Africa have not, on the whole, been crowned with success, its native policy, though rather slow to develop the natives, is succeeding much better than the one followed in the Union itself.

The Union Government should not have given the white inhabitants so much self-government so early. It should have waited to see how the Germans fitted into the general life of the Territory before passing the South-West Africa Constitution Act of 1925, and it should have been much stricter with them when they refused to be assimilated and instead turned to Nazism.

As regards native administration, comparing the lot of the South-west African natives with that of their Union brethren, it appears that the Union Government has not only improved her system of native rule in South-West Africa but has humanized it, and in Ovamboland and the other free Reserves has undertaken a system absolutely foreign to her usual native policy. It is always difficult to attribute cause and effect, but it is interesting to see that reform has been coincident with comment by the Permanent Mandates Commission.

CHAPTER V.

FINANCE, RAILWAYS & HARBOURS & LAND TENURE.

The revenue of South-West Africa since 1915 has fluctuated considerably. In the beginning the main source of revenue was the tax from the diamond mines and as this grew less and less, due to world depression and the glut in the diamond market, the Territory suffered accordingly. It was, however, realized that the true wealth of the country lies in agriculture, sheep and cattle, and trade. Accordingly these were developed and since 1936 the Territory has depended for by far the greatest part of her revenue on these three industries.

When the Union took over the Territory in July, 1915, its administration was financed by grants from the Union war loan Vote. This continued until March, 1920. Since then it has been financed from revenue raised in the Territory, or by loans from the Union Government.

In 1919, for the first time since the occupation, revenue exceeded expenditure (£619,691 to £612,400) and the Administrator, Sir Howard Gorges, stated that there should be little or no financial difficulty during the next few years, provided that the diamond industry continued in its then favourable condition.⁽¹⁾ Here is the first sign of what has been of such value and yet such a hindrance to the development of South-West Africa and of her other industries such as agriculture, etc. At first South-West Africa depended largely for its revenue on the mines, taxation of which usually brings in a great deal of the revenue every year. Thus it will easily be seen what consternation was caused when in 1920 there was a reduction in the diamond mining activities in the Luderitz areas, due to the drop in the demand for diamonds all over the world. Not only did it mean the dismissal of much native and white labour, but also a substantial drop in the revenue.⁽²⁾

(1) Printed Annexures to Votes & Proceedings, Union House of Assembly, 1st Session, 3rd Parliament, 1920. Vol. V.

Report of Administrator of S.W.A. Protectorate for 1919.

(2) U.G. 26-'21. p. 7.

This is shown by the fact that in that year a deficit of £68,601. 17s. 5d had to be met from Union Loan Votes. (3)

In 1923, however, things brightened up considerably. The Diamond Market recovered and operations were resumed on a large scale. (4) From then on until 1926 the Territory found it possible to balance its budget, but after this the financial position declined steadily. In 1930 the depression hit South-West Africa and this, combined with a prolonged drought, severely tested the Administration of the mandate. The revenue from the diamond mines declined from £352,252 in 1925-'26 (5) to £10,348 in 1932-'33 (6) and the Administration, faced with bankruptcy. In these desperate straits it was forced to borrow from the Union Government annually until 1936.

From 1926 until 1936-'37 the loans were:-

1926-7	£29,500	1931-2	£650,000
1927-8	£160,400	1932-3	£250,000
1928-9	£260,000	1933-4	£225,000
1929-30	£250,000	1934-5	£216,000
1930-31	£536,000	1935-6	£177,000
1936-7 £135,000. (7)			

It was stated, however, that the Administration had lent far more than it had borrowed and in normal times could easily have met its obligations to the Union Government, but the world depression and the difficult position created by the sudden abandonment of the gold standard hit the Territory very hard and made it simply impossible to collect outstandings. Any further taxation would have been useless as the people would not have been able to pay. Many of them were having to receive Government relief. The Administration had been drastically retrenched and no money was advanced for development work. (8)

Additional taxation was, however, imposed in 1931. (9) The taxes on unworked land and liquor licences and on all liquor sold were almost doubled, and from 1st January, 1932, a special customs duty of 5% ad valorem was levied on certain imported goods. (10)

(3) U.G. 26-'21.p.5.

(4) U.G.21-'24.p.47

(5) U.G.22-'27.p.44.

(6) U.G.27-'34.p.10.

(7) Wessels, p.34

(8) U.G.17-'32.p.16

(9) U.G.12-'32.p.19-20

(10) U.G.16-'33.p.18.

This last tax was withdrawn in 1933 when the Union went off the gold standard. By 1933 the Territory was in a very bad state. The mines had closed down the preceding year, thus there was no revenue from them. It was the third year of sustained drought and stock losses were enormous. Then in November, 1934, the drought broke and from December, 1934, to April, 1935, the rains fell in great strength. It was the greatest rainfall ever experienced within living memory. The diamond mines began to re-open and there was an immediate improvement in the diamond market. In 1933 the total value of diamonds sold was £57,860 ⁽¹¹⁾ and in 1934 £449,167. ⁽¹²⁾ There was also a rapid increase in the demand for tungsten, 15.8 tons being exported and fetching £1,272.

The financial situation did not immediately improve and in 1936 the Territory was still borrowing from the Union Government. The position was by this time almost impossible and it may be said to be mainly due to the repeated wishes and questions of the Permanent Mandates Commission and in part due to the findings of the South-West Africa Commission of 1936 that the Union Government decided on a new plan.

Its proposals were transmitted to the Mandates Commission and were received during the latter's 31st Session. ⁽¹³⁾ They were:-

- " (1) The Union Government will place in a suspense account the full amount of loans made by it to the Territory before 31/3/37.
- (2) The Administration of the Territory will be relieved of payments on the loans outstanding as at 31/3/37 until the finances of the Territory improve sufficiently to allow of payments being made.
- (3) The Union Treasury will debit the suspense account from year to year with the interest on the original amount placed in suspense or such lower amount as will result from the operation of section 4 below.
- (4) The Administration will pay the Union Government
 - (a) all net revenue in excess of £100,000 accruing in any financial year from the diamond export duty;
 - (b) half the yield of the profits duty on diamonds in excess of £50,000.
 Such sums when received will be taken in reduction of the capital amount outstanding after the payments have been made as provided for in section 6 below.

(11) U.G.27-'34.p.23

(12) U.G.26-'35.p.34

(13) P.M.C.XXXI,annex.4.

- "(5) The Railways & Harbours Administration will place in suspense any amounts due by the Territory from time to time on account of the guarantees in respect of the Kapp's Farm - Gobabis Railway and Walvis Bay Harbour.
- (6) The Union Government will pay to the railway Administration a pro rata share of the receipts under paragraph 4 (a) and (b).
- (7)
- (8) The proposed arrangements will come into effect as from the beginning of April 1937."

The Union will still, when necessary, give loans "for the development of works of a productive nature."

In a covering letter from the Secretary for Finance in the Union to the Secretary for South-West Africa, also sent to the League, it was written that although the Union Government in assuming the mandate did not undertake to subsidize the Territory, the Union Government realized that the Territory could not carry on without some external financial assistance. Because the Union does not own the Territory it could not write off the debts owed to it by South-West Africa but, as the next best thing, placed them in a suspense account. Another benefit is that the Union does not require interest received by the Administration on money borrowed from the Mandatory Power, to be paid over to the Union's revenue.

It seems to me that in spite of the benefits this is a very vague and slovenly arrangement and one in which the Union allows South-West Africa to go on piling up her debt because the Union feels that ultimately South-West Africa will be annexed to herself and her debts written off. The whole agreement bears the imprint of being hastily thrown together to tide the Territory over for many years, without any attempt to really solve the problem of how South-West Africa's revenue may continue to exceed her expenditure by enough to keep her free from debt.

M. Rappard, of the Mandates Commission, put the whole matter in a nutshell when he said that the position in fact remained the same as before. (14)

(14) P.M.C.XXXI, p.126.

Article 2 says the Territory will not be required to pay loans "until the finances of the Territory improve sufficiently to allow of payments being made." Who is to judge when the time is ripe?

No payments have been made under Article 4 up to this time and under present conditions there seems very little likelihood that any will be made for quite a time to come. Because of this the debt increases every year under the terms of Article 3.

It seems quite probable that when the new Peace Conference is held next year there will be a demand that some of the mandates be annexed outright. The Union may then easily point to the enormous amount of money owed to her by South-West Africa, stating that this can no longer continue and that the only solution is annexation.

This is not to say that when the agreement was made in 1937 Union statesmen foresaw that within the next 7 or 8 years there would be a whole recasting of the mandates system, but I think that they did envisage the day when South-West Africa would be annexed to the Union, and hence did not worry overmuch about the accumulation of debt.

However, in 1937-8, for the first time in 10 years, the Territory was able to balance her budget and since then there has been a substantial surplus every year.

Because there were no payments in terms of the arrangement with the Union Government, the total amount owing on 31/3/39 was : (15)

Balance on Loan	...	...	£2,570,266
Interest at 4.4288% for 1/10/36-31/3/38			166,266
Interest on £2,368,300 at 4.4288% - 1/4/38 - 31/3/39			104,887
Interest on £201,966 at 4% for 1/4/38--31/3/39			8,079
	Total		<u>£2,849,498</u>
Amounts due to S.A.R. & H. 31/3/39			£30,776
			<u>£32,982</u>
			£63,758

In the Report of the South-West Africa Commission in 1936 its members, having regard to the shocking state of the Territory's finances, put on record:

"We are of opinion that it is essential in the interests of good government for the Mandatory to afford the Territory some measure of financial assistance which would not entail annual appropriations from the Territory's revenue for the service of this debt." (16)

They suggested the setting up of a Mandated Territory Development Account the assets of which would be owned by the Union Government. All amounts voted by the Government for the assistance of the Territory would be credited to this account from which ^{issues} should be made under Parliamentary appropriation. The interest and redemption on loans made in South-West Africa out of these sums of money would be credited to the account, as would be any profits of the working of Walvis Bay Harbour.

The debts would be:-

- (a) Portion of the costs of services rendered by the Union Government departments to the Territory not met from South-west African resources.
- (b) The interest on loans granted to the Territory not met out of South-west African revenue.
- (c) Payments under the Walvis Harbour & Gobabis Railway guarantees.
- (d) Such other charges approved by the Union.

To start afresh the Commission recommended that the Union should grant assistance necessary to free South-West Africa from financial embarrassment provided that the system of taxation in the Territory was changed to make it equitable in comparison with that of the Union and its provinces.

This seems to me to be a very wise policy to pursue. It would mean that the Union was accepting even more responsibility with regard to the administration of South-West Africa. It would also be fulfilling the terms of the mandate which says South-West Africa should be administered as an "integral part" of South Africa, even more implicitly.

The Union would be able to keep a much stricter hold on expenditure in the Territory and, with its wider experience, see that the revenue was spent in a wiser manner than has heretofore

been the case.

The Permanent Mandates Commission has always been keenly interested in the financial situation of the Territory. It realized from the beginning the precarious position of finance depending largely on revenue from the diamond mines.

As early as 1928 (17) the Mandates Commission observed that it would follow with interest any steps taken to develop sources of revenue other than that from the diamond mines. It suggested that the import and export trade might be developed to fill the bill and since 1935 the biggest head of revenue comes from customs and excise collections whereas before it came from diamonds. In 1937 its yield helped the Treasury to balance its budget for the first time in seven years. In 1939-40 revenue from customs and excise was £164,590.13s.8d. and from the diamond tax £26,051.10s.4d. (18) For 1941 -2 they were £277,728.13s.10d. and £93,058.12s.8d. respectively. (19) For the year ending 31st March, 1944 they were estimated at £235,000 and £30,000, respectively. (20)

Another source of revenue, one which in time promises to become very important, was pointed out to the South African Representatives by the Count de Penha Garcia (Portugal) at the Mandates Commission's 20th Session in June, 1931. (21) In his opinion the future economic prosperity of the Territory depended mainly on the development of agriculture as the market for diamonds and minerals was uncertain. He asked Mr. de Water whether it was the Union's Policy further to encourage agriculture or if it considered that it should rely on continued prosperity from the mines. Mr. de Water replied that every South African knew that the permanent wealth of the country lay in the land and that the farmer should receive first consideration.

All through the bad years of drought and depression the members of the Mandates Commission were anxious about the serious financial

(17) P.M.C.XIV, p.92.

(18) S.W.A.1-'41.

(19) S.W.A.1-'43.

(20) S.W.A. 3 and 4-'43.

(21) P.M.C.XX, p.56.

situation and often made very helpful suggestions, which were not however usually accepted.

In 1931 when the Commission discussed the 1930 Report, M. Rappard suggested that, taking into consideration the size of the Territory and the number of its inhabitants, there should be a considered fiscal policy and closer co-operation between the Union Government and the South-West African Administration on this head. This he often referred to in later years as a means of preventing the accumulation of the South-West African debt to the Union. (22)

This suggestion should have been adopted as was shown by the financial chaos of the next few years. On the other hand, allowance must be made for the fact that at the time South-West Africa was experiencing a terrible drought as well as the effects of the prevailing world depression.

In 1933 M. Rappard suggested that the Administration consider whether there were any hitherto unexplored means of raising revenue, such as a direct tax on land or on incomes of the white inhabitants. (23)

The Union Representatives either did not reply to these suggestions as their Government did not, or else stated that the Union Government thought the time unsuitable for utilizing these ideas.

Then in 1937 the Mandates Commission received the text of the Union's proposals on the debt, and also the Report of the South-West Africa Commission. It was not very impressed with the proposals, especially with the fact that the debt in the suspense account would be increased from year to year by interest thereon. The Mandates Commission turned with relief to the recommendation of the South-West Africa Commission that financial assistance be afforded by the Union to the Territory without entailing annual appropriations from the Territory's revenue for the service of the debt. The Commission asked whether the Mandatory Power had found it possible to take any action in this direction. (24) There was no reply to this.

(22) P.M.C. XX, p. 63

(23) P.M.C. XXIII, p. 85

(24) P.M.C. XXXI, p. 126

In 1939 M. Rappard noted that though the financial situation was at last becoming more satisfactory there was still no attempt to describe the general financial policy followed in the Territory. (25) Whether this information would have been forthcoming in later Reports is not known as all Reports ceased after 1939 due to the war.

When the Union took over South-West Africa no fundamental changes were made in the taxation laws. There were the usual taxes on mines, customs and excise, liquors and liquor licences and a tax on dogs. Under the German regime there was no general native tax. In some districts of the Police Zone only were sums levied on the native, varying with his monthly pay. (26)

Under Union rule, taxation of the native is more systematised though not as heavy as in the Union itself where every adult male native pays £1 yearly poll tax and if he holds land, 10s per hut. Under Union administration South-West African natives have to pay grazing fees according to the number of stock they keep in the Reserve, a tax on their dogs, a wheel tax of 7s.6d. per annum per wheel and if they belong to certain tribes such as the Ovambo and Herero, a personal tax of 5s. per annum. (27) All these taxes, except the wheel tax, are paid into the reserve fund. In 1926 from 1st April to 31st December £6,983 was collected in native reserves and by 31st December, 1926, the total amount standing to the credit of the reserve fund was £11,719. (28)

In 1928 the natives outside the Police Zone still paid no taxes nor had any reserve fund been established for them. This was altered in 1929 when by Proclamation 27, trust funds were started in Ovamboland. (29) By this Proclamation every male Ovambo over 18 years of age, whether resident in the Territory or not must pay a poll tax of 5s per year. The proceeds of this are paid into the trust fund of the tribe to which the native belongs and are devoted to objects which are considered by the Administrator

(25) P.N. CXXXVI, p.24.

(28) U.G. 22-'27, p.16

(26) Steer, p.72

(29) U.G. 23-'30, p.65

(27) U.G. 22-'27, p.30.

to be in the interests of and calculated to promote the welfare of that tribe. Indigent people and those too old or disabled to work are exempted. The tax is collected on 1st October every year and started in 1929.

Until the South-West African Administration took over the Caprivi Zipfel the natives were not taxed in any way, but in 1930 by Proclamation 27, trust funds similar to those in Ovamboland were started in the Zipfel. (30) In 1930 £1,456 were collected in Ovamboland for the seven tribal funds from 18,252 registered natives. £2,221 were outstanding, but no pressure was exercised to collect this. In the Eastern portion of the Caprivi Zipfel dues were:

Bafuri (Bayeyi)	...	£225. 15. 0.	
Basubia	...	£169. 10. 0.	
		£395. 5. 0.	(31)

Under Union administration Caprivi Zipfel tribes still pay the personal tax but the dog and wheel taxes were repealed in 1940 and 1941 respectively.

Because of the devastating 1929-33 and 1941-2 droughts and depression the 1931-1934 and 1941 Ovamboland taxes and the 1933, 1934 and 1941 and 1941-44 taxes in the Caprivi Zipfel were not collected. In order to help the Ovambos in future droughts a plan was made whereby they could pay their tax in grain instead of in cash. (32) They had been doing this for several years but it was only legalized by Government Notice No.102 of 1941. By Proclamation 15 of 1941 the Administrator was empowered to organize:-

- (1) Sale of millet paid into a fund at any time at a price fixed by him, on condition that the proceeds were paid into the fund;
- (2) Issue in times of drought or famine of such millet either free or upon such conditions as he may deem fit, to persons domiciled in the area where the fund concerned is operative. (33)

To house this grain silos on a European plan were erected (33) and by 31/3/41 19,656 bags of millet was the total amount on hand. The Ovambo is naturally provident and has always stored his grain for the lean years but by enabling him to pay his tax in grain the South-West African Administration has turned a tribal instinct into

(30) U.G. 21-'31, p.8

(32) U.G. 25-'36, p.47

(31) U.G. 21-'31, p.84

(33) S.W.A. 1-'42

a national obligation and further safeguarded Ovamboland against famine.

The reason for the exemptions of the Caprivi Zipfel natives from taxes from 1941 to 1944, for the exemption of Ovamboland for 1941, and for this scheme of collecting grain for taxes is not difficult to find. From July, 1941, to March, 1942, the whole of South-West Africa was declared a drought-stricken area, and from May, 1943, to March, 1944, the district of Warmbad suffered accordingly. (34)

Adding further money to the Ovamboland trust funds is Proclamation 20 of 1941, by which the Administrator may authorize the lease of sites to Europeans for trading, business or residential purposes, on condition that any money so received shall be credited to the trust fund of the tribe in whose area such a site is situated. (35)

This is surely a withdrawal from the plan of strict seclusion in which Ovamboland has always been kept. If it was necessary to make this law there must have been white people entering the area. No data are, however, available.

In 1938 by Proclamation 1 an Urban Areas Pass Fees Fund was set up, into which all native pass fees collected since 1924 and not paid over to local authorities are paid. From this fund grants are made to local authorities for the benefit of the natives. (36)

Proclamation 23 of 1939 provided for the establishment of tribal trust funds for the Herero tribes and for the establishment of Damara, Hottentot and other miscellaneous native tribal trust funds. The Hereros were consulted about this proposal before it became law and adopted it enthusiastically. (37) They are beginning to regain their old national pride in being a healthy, unified and growing race and as such are seizing every opportunity to develop themselves and their resources.

(34) O.G. of S.W.A. No. 907 - 1/7/41: Govt. Notice 103.
 O.G. of S.W.A. No. 948 - 16/3/42; Govt. Notice 67.
 O.G. of S.W.A. No. 1044 - 3/5/43; Govt. Notice 82.
 O.G. of S.W.A. No. 1110 - 1/4/44; Govt. Notice 71.

(35) O.G. of S.W.A. No. 911 - 1/8/41.

(36) U.G. 20-'39. p. 1.

(37) U.G. 30-'40.

M. Rappard's recommendations in 1933, that there should be a direct tax on the incomes of the white inhabitants of the Territory were echoed in 1936 in the Report of the South-west Africa Commission. They suggested that as all the provinces of the Union had some form of personal tax, the white inhabitants in the Territory capable of paying income tax should do so. (38)

It was not, however, until May, 1942, that these recommendations were acted upon. In that month a personal tax and an income tax were imposed on the European inhabitants of the Territory. This was done by the War Taxation Ordinance of 13th May, 1942. (39) The taxes are levied annually on nearly all residents over 21 years of age, according to their income. Money so raised is for the purpose of furthering the war effort of the Territory, but there seems no reason why the taxes should not be continued after the war as they are bringing in much needed revenue.

As well as this an extra land tax on all owners of rural immovable property was levied.

For the year 1942-3 the income tax brought in £120,142.5s.11d. and the personal tax £24,335.19s.0. (40) For the year ending 31/3/45 they were estimated at £225,000 and £25,000 respectively. (41) This makes a very substantial increase in the revenue of the Territory and is much needed.

The dog tax discussed on page 77 caused a revolt in the Territory in 1922 - the Bondelzwarts Rebellion. (42) This was caused by many things, the chief among them being the fact that the Union Government had not restored to the Bondelzwarts tribe all the land the latter had lost under the Germans, and the extreme dog tax imposed in 1921 - £1 for 1 dog; £2 for 2 dogs; £4 for 3 dogs etc. Previously there had been only a tax of 5s. for every dog after the first. The Bondelzwarts were too poor to pay and explained this to the authorities who, however, prosecuted over 140 members between 19th September, 1921, and 23rd January, 1922, when the tax was reduced by half. Their leaders,

(38) U.G. 26-'36

(41) S.W.A. 3 & 4-'44.

(39) U.G. of S.W.A. No. 969, 26/5/42. (42) For accounts of this rebellion

(40) S.W.A. 1-'44. see P.M.C. III p. 13ff; see U.G. 16-'23; U.G. 21-'23.

Christian and Morris were not allowed to return to the tribe. As a result of their grievances the tribe went into laager and after sending the police and other minor officials to negotiate the Administrator collected a strong military force, sent for aeroplanes from the Union, and bombarded the hill where the Bondelzwarts, men, women and children, were in laager. 100 were killed and 468 taken prisoner. 2 whites were killed and 5 wounded. The leaders of the tribe were tried and 3 were convicted.

This severe action came in for much criticism both in the Mandates Commission, and the Commission set up by the Union Government to examine the circumstances. The latter came to the conclusion that some of the local men in control of the Bondelzwarts "did not possess enough of the qualities necessary for successful administration", that the police were distrusted by the Bondelzwarts as being unnecessarily severe and harsh, while the police regarded the Bondelzwarts as insolent and lazy. The collecting of police and volunteers in the district while negotiations were still in progress confirmed the tribe's belief that they were going to be destroyed and this made any hope of successful negotiation very difficult. The commission concluded that the tribe should have been warned and asked to surrender before the aeroplanes were used.

In the Mandates Commission the same train of thought is visible, that not enough was done in the negotiations before force was used and when force was used it was too violent. Major Herbst (South Africa's Representative) said that if the Administrator and Christian (one of the leaders) had met there would have been no blood shed, but the latter refused to come when summoned. Sir Frederick Lugard on hearing this showed wisdom when he asked whether it would have not been possible for the Administrator to have gone to see Christian. This is probably what was necessary and sensible but was no doubt repugnant to the high officials in South-west Africa as truckling to the non-Europeans. In treating the tribe so harshly the Administrator did indeed fail in his position as guardian of "the sacred trust."

A.J. Toynbee looks upon the revolt as a racial conflict due to the Union's native policy of pass laws for all male natives and

practical compulsion on the natives to leave the reserves and work as hired labour. (43)

That the conflict was in part due to racial differences is no doubt true. That is always so in wars between black and white, but that it was also due to an unsympathetic native policy and its unwise administration cannot be denied.

The ownership of the railways and harbours has already been dealt with in Chapter II but there remain a few details on which the Permanent Mandates Commission has asked questions. One thing which troubled the Commission exceedingly was whether money made on the railways in South-West Africa was being used outside the Territory as its railways and harbours were incorporated in the South African Railways and harbours system.

This question was replied to in 1926 by Mr. Smit who explained that the railways were run as a commercial undertaking. There were in reality no profits paid to anyone as they were used either to reduce debts on the South-West African lines or to reduce the railway tariffs. He pointed out that the whole system worked as a single unit definitely to the benefit of the mandate. To illustrate this he explained that if they adopted the principle that profits earned in South-West Africa should be used in the Territory alone, it would necessarily mean that profits earned outside South-West Africa would not be used in the Territory and this would be ruinous to the Territory where railway traffic and thus railway revenue was small. (44)

In 1929 the Mandates Commission, noting that the Union's protective tariff as applied to South-West Africa appeared to be causing many conflicts, enquired whether any cases had arisen in which the Union's general customs policy as applied to South-West Africa had injuriously affected the economic and social development of the mandate. (45)

Replying to this question in the Report on South-West Africa for 1929 (46) the Union Government stated that as the Union and South-West Africa are contiguous and as the latter's ports are first ports of entry from Europe and America it is necessary for the two

(43) Survey of International Affairs, 1929, p. 405. (44) P.M.C. IX, p. 42

(45) P.M.C. XV, p. 294. (46) U.G. 23-'30, p. 122.

areas to have a uniform customs policy. The Union acknowledged that the protective tariff with which it protects its home industries operates "slightly to the prejudice of the inhabitants of the Mandated Territory." But it claimed that this was outweighed by benefits. South-West Africa enjoys all the customs preferences enjoyed by the Union. Tariffs on all articles used in the main industries of the Territory, i.e., mining and farming, also the main industries of the Union, are extraordinarily low. Finally, except for minerals, the Union is practically the sole market for the Territory's products, and South-West Africa has free access to that market.

As regards land tenure, the Union Government has on the whole treated the natives well, as is shown by the table of land settlement in the 1937 Report. The area of the Territory is 82,290,860 hectares, of which the non-Europeans occupied 17,499,557 hectares, European farmers owned 25,614,210 hectares, urban areas occupied 437,100 hectares, and unalienated Crown land 21,100,000 hectares. (47) One would, however, like to have seen the European and native figures reversed, even though the latter had increased to over 18,000,000 hectares since the 1937 Report.

Natives do not as a general rule own land, though (in urban areas) there is nothing to prevent them from doing so

From the 1920's the Union pursued a policy of settling white farmers from the Union in South-West Africa as quickly as they can be found and on very easy terms. The Union undertook this policy in order to stock the country agriculturally and it has been well paid for its expenditure. Since 1934 the Territory's recovery has been based mainly on the export of farm products, chiefly Karakul sheep pelts. Now the Territory pays its way out of customs duties which top a new level every year as the farming community becomes richer and richer, and exports and imports more.

(47) U.G.25-'38.p.97.

NATIVE EDUCATION & HEALTH.

These are two of the most important trusts which the Union undertook when it agreed to administer the mandate of South-west. It is through them that backward natives are taught the benefits of civilization and are enabled to stand by themselves.

Because these are such important topics they have time and again been the subject of anxious enquiries and observations by the members of the Permanent Mandates Commission. They have generally come to the unfortunately true conclusion that the Union is not doing its best in these fields, especially in that of education.

By far the vast majority of Coloured and native schools in the Territory are run by the missionaries. While there is no doubt much to be said for their teaching, it is equally true that they tend to concentrate for the greater part on the religious side of the instruction they give to the natives.

The things which worried the Commission were the lack of Government schools and Government training schools for teachers for the natives, and also the large amount spent on the education of Europeans, who are in the minority. As a corollary to this was the comparatively small amount, although it did increase later, which the Administration granted to mission schools.

The Commission first observed the lack of any Government school in 1923. ⁽¹⁾ This subject was pursued with increasing force nearly every year until October, 1935, when the first Government school in the Territory was opened in the Aminijs Reserve. ⁽²⁾

The South African Representative's reply was usually that one would be opened later, but if it were at present the natives would leave the mission schools for the Government schools and thus break down a civilizing influence in the country.

Considering that there are well over 150,000 Coloured and native children in South-West Africa surely this contention does not hold water. As M. Rappard said: "It would seem there is room for both Government and mission schools." ⁽³⁾

(1) P.M.C.III, p.111. (2) U.G.25-'36, p.40. (3) P.M.C.VI, p.72.

Another reason put forward was that financial circumstances did not allow of Government schools being started.⁽⁴⁾ Typical of the Administration's attitude was the Administrator's remark to the Hereros in the Aminius Reserve when they asked for a Government school: " I cannot tax Europeans to provide schools for natives." ⁽⁵⁾

The popularity of this school when it was eventually started was at once shown by the enrolment, which reached the high figure of 115 by the end of the school year. It is sad to relate, however, that this school of three class-rooms and a number of huts to accomodate pupils, and the fees of the two Herero matrons in charge of the pupils, are all paid for out of the reserve trust fund and not by the Administration.⁽⁶⁾

In the 1939 Report it was stated that in 1940 a Government school would be opened for natives in the Waterberg Reserve, with a hostel. This cannot be verified. ⁽⁷⁾

As far as Government schools for training teachers are concerned, up to 1939 none had been opened, in spite of strong recommendations by the Mandates Commission. There were five run by missions and partly subsidized by the Government, but they only yielded between 40 and 50 teachers every three or four years, and many of these new teachers had to replace old and unsuitable ones.

The reason usually given by the Union for this strange lack of foresight was that the natives were not yet ripe for higher education and the few that were ambitious could easily be trained at the mission schools. ⁽⁸⁾ Yet during the 18th Session of the Mandates Commission, and often afterwards, Mr. Courtney Clarke, Secretary for South-West Africa, spoke of the difficulty of getting an adequate supply of native teachers.

Another reason was given in the 1937 report, i.e., parents are unwilling to let their children be trained as teachers as it takes them from home when they should be working for their parents. ⁽⁹⁾ Mlle. Dannevig's reply to this was that if higher grants were paid to native teachers, who could thus help their parents, perhaps the

(4) P.M.C. XXIII, p. 93.

(5) P.M.C. XXVI, p. 59.

(6) U.G. 25-'36, p. 40.

(7) U.G. 30-'40.

(8) P.M.C. IX, p. 41.

(9) U.G. 25-'38, p. 43.

letter would be more agreeable to letting their children train as teachers and it might help to solve the problem. (10)

When pushed by the Mandates Commission to provide more teachers, the Administration often drew attention to the language difficulties in training teachers. There are many native languages in South-West Africa and it is admittedly difficult and expensive to set up training schools in all the languages.

Although in 1936 (11) it was discovered that the standard of instruction in the mission training schools was extremely low, necessitating the withdrawal of the Administration's subsidy to the one at Doebra, the Administration, in spite of the suggestion of the Director of Education, refused to start a native training school. The reason given was that there was no European training school in the Territory. This is a weak reason as teachers for European schools can be trained in the Union because there are no language difficulties.

As far as is known, no training schools for native teachers were established in South-West Africa up to 1944. In July, 1943, Proclamation 18 authorized the Administrator to set up these schools if he thought the educational needs of the Territory called for them. (12) Instruction would be free and each pupil could be granted 1s per week, free accommodation, food, clothing, and medical supplies. If his wife and children were living with him they too would receive these benefits free.

Then in the estimates of revenue & expenditure for the year ending 31/3/45 coloured and native education expenses increased by £6,977 to £31,957. (13) This was due to the establishment of new schools, appointment of new teachers and the establishment of a native teachers training school. It seems thus that something may have come of all the Mandates Commission's requests, although a little late - 24 years after the mandate was first given.

In 1926 there were about 12,000 European and about 110,000 non-European children in South-West Africa. £65,000 was spent

(10) P.M.C. XXXIV.

(11) U.G. 31-'37. p. 39-41.

(12) O.G. of S.W.A., No. 1063, 15/7/43.

(13) S.W.A. 3 & 4-'44.

on education for whites and £6,500 on education for their darker brethren.⁽¹⁴⁾ This kind of thing was always being attacked by the Mandates Commission.

The amount spent on native education for a long time averaged only 1% of the revenue. This was scandalous, considering the terms under which the mandate is administered.

One of the reasons given for this great disproportion was that many of the white pupils lived in hostels which were expensive to run, and also that native teachers were paid less.⁽¹⁵⁾ Another reason given by Mr. Werth in 1928 was that the natives did not want education.⁽¹⁶⁾ This, of course, is pure nonsense. In the Report for 1924 the Administrator explained the low expenditure as being due to the policy of the Education Department to make the natives develop step by step.⁽¹⁷⁾

Underlying all this shilly-shallying, however, is the real reason given by Mr. te Water, that the whites in South-West Africa paid the taxes and thus had a legal claim to education. Does this mean that they must be educated free, as they are at present? Then, said Mr. te Water, there was no demand from the natives for education, although ethically, to fulfil the mandate, they must be given education. Thus in spite of the requirements of the mandate that the natives be given first consideration we see South Africa's traditional and opposite policy coming to the fore again.

In 1935 over £95,000 were spent on the education of 31,600 Europeans and only £11,863 on that of 235,000 natives so that all the efforts made by the Commission do not seem to have done much good.⁽¹⁸⁾

The Union Government holds the view that each section of the population should benefit in proportion to the amount it pays in taxes. This loses sight of the sacred trust imposed by the mandate and the white people should understand that in a territory under mandate they must not expect to be treated as well as they would be in their homeland. One wonders what would be the Union's view if the natives contributed more in taxation than the Europeans.

(14) P.M.C. IX p.41 (16) P.M.C. XIV p.109

(18) U.G.25-'36 P34

(15) P.M.C. IX p.41 (17) U.G.33 -'25 p.46

The Members of the Mandates Commission have always been very insistent on the value of practical education to the natives and the Union Government has taken some steps to comply with their wishes in this direction.

In 1923 there were 8 primary schools, with 9 European teachers, and 120 schools conducted by natives in Ovamboland, all run by the Finnish mission. Pupils numbered 2,500.(19) They were taught religion, reading and writing, with no education of a practical nature. In an attempt to remedy this lack of practical instruction, when the Church of England (Damaraland) and Roman Catholic missions were admitted to Ovamboland in 1923, one of the conditions to which they had to subscribe was that the bulk of their education should be of a practical nature.(20)

In 1923 a conference of officers of the Education Department and of missionaries was held. This decided on an improved syllabus with 7 subjects for subsidized mission schools. The subjects are religion, reading and writing of a home language, the same plus speaking of either English or Afrikaans, elementary arithmetic, manual instruction and singing. It also decided on a syllabus for subsidized training schools for teachers, with the above subjects plus school management, geography, local history, native study and drawing.(21)

In 1933 the school syllabus was revised to include more systematic instruction in the mother tongue, geography and hygiene, and to provide for a 5th year of schooling, standard III. (22)

At first nothing was done by the Administration to help the mission schools but from 1922 those approved by the Administration were given free books and equipment, and the salaries of the teachers were paid.(23)

By 1927 there were 55 state-aided schools, only one or two going beyond standard II. In that same year a Government school was opened in the Rehoboth Gebiet for coloured children. It started with 25 pupils but had to close down again on the 30th June 1929 through lack of pupils.(24)

(19) U.G. 21-'24, p. 35. (20) U.G. 33-'25, p. 27. (21) U.G. 21-'24, p. 34.
(22) U.G. 27-'34, p. 30. (23) U.G. 21-'23, p. 20. (24) U.G. 31-'28, p. 73.

It was only in 1928 that the Administration first commenced to subsidize education in Ovamboland. In that year £100 was granted to the Finniah Mission's industrial school at Onguedwa and in 1929 £100 to the teachers training school at Oniipa. (25)

By 1930 there were still no schools in the Kaokoveld and only 7 in the Caprivi Zipfel and 5 in the Okavango areas. Only some of these were subsidized. (26)

In 1936 the Director of Education inspected mission schools in Ovamboland and the Okavango reserves and found that progress was very slow due to bad teaching. As a result rules were tightened up; no new schools were to be set up for three years and every native teacher was to be approved by the Native Commissioner. (27)

There is no doubt that the Commission's remarks such as that of Madama Bugge-Wicksell in 1923 (28) on the smallness of the grants to mission schools has often made the Administration increase them in size. At practically every Session the Commission has enquired whether more mission schools could not be subsidized. Usually in spite of remarks from the Administration that no more applications for grants had been made by missions, or that amounts assigned to Coloured and native education were enough for the time being, in the next year more would be spent on native education. (29) In 1926 £7,550 were spent and in 1927, after the Commission had spoken at its 11th Session, £8,100. (30)

It can be seen from the above that the Union has not followed a very full plan as regards native education, even though the Permanent Mandates Commission has often prodded it in the back. This is most unfortunate as education of the natives is of major importance in fulfilling the terms of the mandate.

The health of the natives in the mandated Territory has caused the Mandates Commission much anxiety. Their special care

(25) U.G. 22-'29. p. 53.

(26) U.G. 21-'31. p. 58.

(27) U.G. 31-'37. p. 40.

(28) P.M.C. III, p. 111.

(29) P.M.C. XI.

(30) U.G. 22-'27. p. 59.

has been the natives working on the mines and at practically every Session they have asked what measures have been taken to improve their health. The mortality has at times been frightful amongst these natives but here the Union as Mandatory has really done a great deal to improve the situation.

All the natives who come to work on the mines have to be medically examined by their local district surgeon before they reach the mines. They are graded into three categories. At first this examination was very cursory and many men unfit for the hard work on the mines were passed.⁽³¹⁾ The Mandates Commission criticised this as a cause of the high death rate.⁽³²⁾

The main causes of deaths amongst natives on the mines are influenza epidemics and tuberculosis. In 1920 there were 2,000 cases of the former on the Luderitz diamond fields and 20 natives died.⁽³³⁾ In 1923 there were 223 cases of pneumonic influenza and 30 died.⁽³⁴⁾ From this time onwards the Administration began to take steps to reduce the high mortality rate in the mines. As an example of this, in 1924 the housing schemes for natives on the mines were examined and serious defects discovered. Attempts were made to remedy these with a resultant drop in the death rate.⁽³⁵⁾ Total mortality per 1,000 per annum:- 1924 - 74.179; 1925 - 33.690. Total number of deaths: 1924 - 437; 1925 - 223.⁽³⁶⁾

In 1927 there was a serious outbreak of influenza at the Tsumeb copper mines. Out of the 2,534 natives employed there were 202 deaths, 179 being due to influenza.⁽³⁷⁾ This aroused much comment in the Mandates Commission especially the enquiry that as most of the sufferers were tropical natives from Ovamboland and the Angola border whether the Administration would stop their recruitment for work on the mines.⁽³⁸⁾ This was repeated at the 15th Session of the Commission at the examination of the 1928 Report and as a result the South-West African Administration was stirred to action. Numerous examinations of the natives were made by specialists and the suggestions made were wholeheartedly adopted by all mine owners. It was found that there were most deaths

(31) P.M.E. VI, p. 69. (32) P.M.C. XXIX, p. 136. (33) U.G. 26-'21, p. 25.

(34) U.G. 21-'24, p. 58. (35) U.G. 33-'25, p. 77. (36) U.G. 26-'26, p. 81.

(37) U.G. 31-'28, p. 114. (38) P.M.C. XIV, p. 106.

amongst tropical natives newly arrived on the mines, so these must be given light work at first and provided with clothes and extra food to bring up their physical condition. (39)

Due to these and other safeguards in 1930 the deathrate per 1,000 per annum dropped more than 50%. (40) This fact and the one that in 1931 the deathrate was only 29.9 per 1,000 (41) must however also be put down to the fact that during these years the mines were suffering from a severe depression and the number of workers was greatly curtailed. Thus only the better, healthier natives were engaged and these suffered less from exposure to infection.

In 1934, with labour at its lowest level, the deathrate reached its lowest level, 3.25 per 1,000 per annum. The monthly average number of natives employed on all the mines was 1,230. (42) This number jumped to 2,847 the next year and then automatically the deathrate rose to 14.05 per 1,000 per annum. (43) From then on the deathrate rose again to top a new level in 1938, 36.085 per 1,000 per annum. (43) There was a bad outbreak of influenza at Tsumeb and another of measles. Inspection by officers of the Administration disclosed the fact that conditions of living for the natives had deteriorated again. New instructions that all boys must have a hot meal before they went on shift and other orders were issued and the situation improved.

In 1939 out of a monthly average of 4,349 employed on all mines, there were 26 deaths and the deathrate was 5.978 per 1000. (44)

One method which the Commission suggested might reduce the high mortality rate among new comers to the mines from Ovamboland was adopted by the Administration. This was that all natives coming down could travel by motor lorry for 5s per head, from Ovamboland to the Tsumeb railhead. This money, as well as that for clothes and food in transit, is advanced by the natives' prospective employers through the recruiting organization. The employers also pay the full rail fare from the railhead to the place of employment and if the natives serve the full period for

(39) U.G.23-'30.p.81ff.

(40) U.G.21-'31.p.98

(41) U.G.17-'32.p.72

(42) U.G.26-'35.p.60

(43) U.G.20-'39.p.64

(44) U.G.30-'40.

which they contract, the return fare to Tsumeb and for food on the return journey. All this reduces the chances of exhaustion of the native by the time he reaches his place of employment to a minimum and thus reduces his chances of succumbing to infections. From the Tsumeb railhead natives can, if there is space, travel back to Ovamboland by lorry for £1, including his luggage.

Questions were asked by the Commission about the difference in the fares. Dr. Conradie replied that on the return journey there is little room for passengers and this accounts for the more expensive fare.⁽⁴⁶⁾ This seems a weak reason to disguise an attempt at profiteering.

In general the Union Government has spent a lot on improving the health of the natives. In 1931-32 expenditure on public health was £22,917 of which 40% was expended for the direct benefit of the natives.⁽⁴⁷⁾

Whereas in 1920 there were only 2 native hospitals, at Keetmanshoop and Windhoek,⁽⁴⁸⁾ by 1939 there were 7 hospitals run by the Administration, 3 run by the Roman Catholic mission and 5 by the mining companies all of which are in the Police Zone. Outside, in Ovamboland, there were 8 mission hospitals. In the Okavango area there were 6. It is to be regretted that the Administration itself has not set up native hospitals outside the Police Zone, but it does give grants to the mission hospitals for every native patient, and more for those suffering from tuberculosis and venereal disease. In 1931 these grants totalled £765.10s.3d. and in the same year grants to the missions in Ovamboland and the Okavango area for medical work were £475.⁽⁴⁹⁾ Drugs are also supplied free to these missions.

It must, however, be stated that the increase in grants to the missions in Ovamboland has been to a great extent caused by the continual queries of the Mandates Commission such as that by the Count de Penha Garcia in 1934 - "why is medical service for the natives left to the missions? Is it because they are better able to deal with it or because there are not enough district surgeons?"⁽⁵⁰⁾

(45) U.G.26-'35.p.107. (46) P.N.C.XVII,p.172. (47)U.G.16-'33,p.13.
(48) U.G.26-'21.p.25. (49) U.G.17-'32.p.82. (50)P.N.C.XXVI,p.60.

The Commission also continually pressed the Administration to develop medical services among the natives, hitherto left entirely to missions. (51)

Another thing which worried the Mandates Commission was the high incidence of venereal disease among the natives, especially in Ovamboland. Encouraged by their gentle promptings, the Administration set up venereal compounds in many districts, supplied private, mine and mission hospitals with free drugs to combat the disease and as a much needed sensible measure decreed in 1938 the compulsory examination of all municipal native employees, butcher boys and natives employed at schools and hostels in Windhoek. These were examined at the Government native hospital. (52)

In 1938 the Administration also introduced the equally sensible reform of legislation legalizing the compulsory examination of all native females residing in urban areas, by the district surgeons.

To help counteract the disease a new clinic was established in the Windhoek location, with a surgery, nurses' room, bathroom and treatment room. (53)

The Administration spends on an average between £3,000 and £5,000 a year in the Police Zone on venereal disease. It is being rewarded as the natives are gaining confidence in the white man's methods and in 1939 over 2,000 came forward for treatment in the Police Zone alone. (54)

In January, 1932, there was an outbreak of plague in Ovamboland. The Administrator at once sent up a medical officer. By the end of the year there were 235 cases, with 56 deaths. In April a rodent inspector with a lorry and a staff of 3 natives was appointed to disinfect kraals and educate the natives in the prevention of plague. Fortunately the infection was mild. (55)

During 1933 there were 118 cases and 5 deaths, but by 1934 there were very few cases and from then on the epidemic decreased and eventually died out. (56)

(51) P.M.C. XXVI. XXVII.

(52) U.G. 20-'39. p. 69

(53) U.G. 20-'39. p. 59

(54) U.G. 30-'40.

(55) U.G. 16-'33. p. 107ff.

(56) U.G. 26-'35. p. 75.

This outbreak was of course commented on by the Mandates Commission during its 23rd Session and other Sessions, but as it was soon under control it did not cause much comment. (57)

From this chapter it can be seen that, of these two very important necessities to the development of any un-westernized race, one has been badly neglected; and the other, as far as the health of the native on the mines and venereal disease are concerned, tackled with a certain amount of determination. There is, however, vast room for improvement, especially as regards the setting up of the more efficient, secular, Government schools to replace mission schools. The missions should either be given more financial help in their medical work or, preferably, the Administration should appoint its own doctors, and build its own hospitals, and many of them.

(57) P.M.C.XXIII, p.95.

CHAPTER VII.

LABOUR, NATIVE AGRICULTURE AND STOCK FARMING.

It was one of the conditions of the mandate that there should be no forced labour in the Territory. This condition has been firmly adhered to in the letter by the Mandatory Power, but the Mandates Commission has sometimes thought that it was not^{so} strictly observed in the spirit.

The idea of the South-West African Administration can be seen in the report for 1921:

"So far as^{is} compatible with the rights of the natives, the aim of the Administration is to ensure as far as possible that they contribute their reasonable share of work towards the development of the country." (1)

In spite of the great number of able-bodied natives, there has always been a shortage of labour in the Territory, except during the depression of the '30's. This was because most of the natives, living their own life in the reserves, fail to understand why they should come out and work for the white man. To make certain of a fair number of workers for the farms, mines, railways and other industries, the Administration imposed grazing fees, the dog tax, and later the wheel tax on the natives; these were to be paid in cash. Thus the natives were more or less forced to work under the white men to earn money to pay their taxes. It is only in Ovamboland where the majority of men are self-supporting and stay in the reserves that the personal tax can be paid in grain instead of in cash.

As a corollary to this system of taxation is the old German law which the present Administration has retained. This lays down that every native male who has no visible means of support must be in employment. If a native is unemployed and is indicated a suitable employer but refuses to work for him, the native is liable to arrest for vagrancy and habitual idleness. These laws are very strictly enforced. (2) This has also been commented on by the Mandates Commission as undue interference with the natives' mode of life and a modified form of forced labour.

(1) U.G.32-'22. (2) U.G.32-'22.p.12.

In another attempt to get labour the Administration organized a system of recruiting mainly from Ovamboland. This was undertaken by the Government officials in that area and usually proved fairly satisfactory. In 1920 approximately 7,000 natives were recruited from Ovamboland to work on the mines and railways. Some were also recruited from the Okavango district.(3)

Great efforts were made to develop, and stimulate recruiting in Ovamboland as this is the main source of labour for the mines and the railways. The farmers, too, suffered greatly from the lack of labour.

In 1925 out of Ovamboland's total male adult native population of about 35,000, only 3,269 went out to work. This was most unsatisfactory and so in December, 1925, at a conference of the Administration, officials and representatives of the two large groups of mining companies in the Territory, it was decided that the Administration would hand over recruiting to representatives of the employers of labour. Two recruiting organizations were formed, the Northern and Southern, each with defined zones to recruit from and to serve.(4)

This arrangement did not, for a time, much increase the number of natives recruited outside the Police Zone, but by 1939 there was just about enough labour to meet all requirements.

Employed in urban areas	...	7,386
Employed on mines	...	2,578
Employed on railway construction		703
Employed on roads	...	697
Employed on farms		24,097
Total:		35,461.

This was out of an estimated male native population of over 110,000.(5)

Another expedient adopted by the Administration to get the natives to work is used on convicted criminals. Native men sentenced for petty offences are often hired out to farmers instead of being put into prison for the term of their sentence. There are

(3) U.G.26-'21.p.13

(4) U.G.26-'26.p.30.

(5) U.G.30-'40.

usually long queues of employers outside the courts when natives are being tried. (6) This definitely seems to be a form of forced labour as the native cannot choose his employer nor leave until his term is up. It has been commented on by the Mandates Commission.

It must be said, however, that the aim of the Administration in trying to get the natives to work has not been altogether to expand industries and farming. In the 1928 Report it is stated that.

"work is regarded as one of the most wholesome educative factors in the uplifting of uncivilized races. Contact with this aspect (of white civilization) is productive of nothing but good provided that care is taken that the labourer is not exploited, receives proper food, medical treatment, good housing, and that the payment of wages in cash is safeguarded." (7)

This is, of course, to a certain extent true, provided that as well as manual work the labourer has received or is receiving education to fit him for new responsibilities or raise him to a standard other than that of a native educated to work as a labourer for white men. South-West African natives working as labourers unfortunately have not and do not receive such education.

All natives who go to work are bound to make a contract with their masters which both must observe. Breaches of contract are punishable by fines and imprisonment. No flogging of natives by their masters or by the police is allowed and the native may report any cruelty on the part of his master to the police, although this is not encouraged.

No oral contract is binding for more than one year. All written contracts must be signed before a magistrate or other authorized officer and cannot be made for longer than five years. (8)

Wherever large numbers of natives are employed, officers in charge of native affairs are appointed. These inspect and hear the natives' grievances and assist them in any way possible. In 1930 there were 3 of these men at the diamond, copper & vanadium, and tin mines, respectively. (9)

(6) U.G.21-'23.p.16.

(7) U.G.22-'29.p.69

(8) U.G.26-'26.p.85.

(9) U.G.21-'31.p.90

On the whole the natives are happy and contented, and strikes are almost unknown.

A further restriction on labour, this time necessitated by the number of natives entering Windhoek, was Government Notice No.136 of 1944. Under this no native can enter the urban area of Windhoek unless he is already employed or has a permit from the Assistant Native Commissioner to seek employment or reside for a limited time in the area. (10)

The native has unfortunately very little idea of a binding contract and breaks it easily. But, as Mr. Smit said in reply to a question by the Marquis Theodoli during the 9th Session of the Mandates Commission, the only safeguard is to treat the native labourers fairly and well. Europeans who follow these methods seldom have difficulties. (11)

Another question which greatly interested the Commission was whether there was a Colour Bar Act in the Territory. When the Administration was asked this question its reply was that the Colour Bar Act did apply in South-West Africa so far as employment under the Administration and in the railways is concerned. There are certain posts in the Public Service open to natives, e.g. police force, prison warders, hospital assistants, and interpreters, but no administrative posts. (12)

The Mandates Commission on receiving this information placed on record that this Act:

"limiting occupations open to natives and Coloured workers and thus placing them at a disadvantage with the white workers in the area under mandate, is based upon considerations not compatible with the principles laid down in the mandate. " (13)

Nothing was done, however, due to that innate colour prejudice present in the majority of white inhabitants of the Union and South-West Africa.

Under the German régime the natives were not allowed to own stock. As this is their wealth and usually their only means of subsistence, this rule hit them very hard. Under Union rule they

(10) O.G. for S.W.A., No. 1125 - 15/6/44.

(11) P.M.C. IX, p.36.

(12) U.G. 22-'29, p.7

(13) P.M.C. XIV, p.275.

are allowed to own almost as much stock as they wish. This has meant a return to prosperity and health for them, as now they can again have their staple foods, i.e. meat and milk. They have, of course, suffered as have the European farmers, from drought and cattle diseases, but on the whole their losses have been much less than those of the Union natives.

In 1926, after a year of drought, the natives owned 294,000 head of large stock and 851,000 of small stock.⁽¹⁴⁾ In 1929, however, the real effects of the drought made themselves apparent⁽¹⁵⁾

1928. Small stock:
Natives 682,610 head.
Europeans 1,965,908 head.

Large stock.
Natives 144,202 head.
Europeans 579,351 head.

1929. Small stock:
Natives 370,767 head.
Europeans 1,979,820 head.

Large stock:
Natives 71,374 head.
Europeans 629,613 head.

From 1929 to 1933 there was again a drought and it was estimated that 469,000 sheep and 98,600 goats died as a result of it.⁽¹⁶⁾

In 1939 the number of native-owned cattle rose by over 7,000.⁽¹⁷⁾

The Mandates Commission has also taken under its all-embracing wing the question of native agriculture. It consistently advocated that the Administration should have a considered programme of native economic policy either by the encouragement of agriculture in the reserves or by some other method. It did not necessarily want quick results as long as the Administration could guarantee that a definite native policy was in process of realization.⁽¹⁸⁾

Whether the Union Government had such a policy is not stated in any of the Reports, beyond the rather vague one of allowing the natives to develop along their own lines and the contradictory one of bringing them to work for the whites as the best means of civilizing them.

(14) U.G.22-'27.p.47

(15) U.G.23-'30.p.32f.

(16) U.G.27-'34.p.19

(17) U.G.30-'40.

(18) P.M.C.XVIII,p.134.

This chapter shows that the Union Government has followed, in South-West Africa, a modified form of its own home policy as regards native labour, i.e., that of looking upon the native merely as a source of labour for the white man. The thoroughness with which it carries out this policy in its own territory has, however, been tempered by the continual surveillance of the Mandates Commission and its pertinent questions and suggestions.

The fact that the Union allows the natives to keep stock has done much for them in their struggle to return to health and prosperity, but it would be of much benefit to the native if the Union attempted to follow, as the Mandates Commission wishes, a policy of developing and teaching them agriculture.

CHAPTER VIII.

SOCIAL, MORAL AND MATERIAL CONDITIONS AMONG THE NATIVES.

In 1913 under the Germans the total native population in the Territory was about 181,000. (1) By 1921 it was 177,462 with 31,154 Coloureds (2) and by 1936 it was about 220,332, with 41,305 Coloureds. (3)

These figures are a striking testimony to the superiority of Union mandatory rule over Germany's colonial rule.

The natives have been allowed to increase in peace and prosperity and in spite of drought and famine their condition of health has greatly improved under mandate.

As far as their moral and social conditions are concerned, one can, unfortunately, not record the same improvement. As the natives come more and more into contact with the Europeans their old tribal systems tend to break ^up, very often to their detriment.

In such cases the missionaries sometimes contribute to the change and sometimes attempt to hinder it. One danger which they have tried to counteract is that of the short duration of many present day native marriages. This evil has a disastrous effect on the social life of the natives. After the last war civil marriages for natives were introduced into South-West Africa in the hope that these would make marriages more permanent. They, however, had exactly the opposite effect. Many natives refused to be legally married as they wish to dissolve their marriages at will. The missions, in a vain attempt to combat this deplorable lack of morals and discipline, even resorted to excommunication but this had no appreciable effect. (4)

In commenting on this report M. Rappard of the Mandates Commission suggested that before applying such drastic measures as excommunication, the missions should take into account the conditions which had caused this demoralization. In his opinion these uneducated people had lost their former purely native beliefs and had not yet acquired new ones admitting of a new conception of life. They were victims of a change without being

(1) J.E.A.B. (2) O.Y.B. No. 4, p. 906. (3) U.G. 20-'39. p. 62. (4) U.G. 31-'28. p. 46.

responsible for it. This seems a very wise recommendation.

In an attempt to lengthen the duration of native marriages the Administrator issued Proclamation 15 of 1928.⁽⁵⁾ This provided for the constitution of Courts of Native Commissioners in which native disputes could be disposed of expeditiously, inexpensively and in accordance with their own laws and customs, if these are not contrary to the principles of public policy and natural justice. To these courts was given the right of adjudicating in native matrimonial cases when the parties are married according to European marriage laws. Formerly these cases had had to be taken to the High Court which was in reality so expensive and so distant from the natives that they were forced to dispense with it.

Finally, by Proclamation 18 of 1930 the procedure relating to marriages according to the Christian custom was simplified for natives. The fee for a special licence was reduced from £5 to 10s and the hours between which marriages may be solemnized were altered from 8 a.m. to 4 p.m. to between 7 a.m. and 9 p.m. as natives are always at work between 8 a.m. and 4 p.m. and frequently dispense with the marriage ceremony.⁽⁶⁾

It is not stated whether this legislation, necessary as it was, had any effect on native marriages.

The Mandates Commission was also very interested in how far the natives in the different sections of the Territory had adopted other European customs. A very full description was given in the 1928 Report in answer to this interest.⁽⁷⁾

The natives living habitually in the urban areas of the Police Zone are of course the most advanced towards European civilization. Their tribal system is completely broken up. In 1928 20% of the native population in the Police Zone lived in urban areas and the figures have risen, but not nearly as rapidly as the figures for those in white rural areas.

(5) U.G.22-'29.p.54

(6) U. G.21-'31.p.8.

(7) U.G.22-'29.p.56ff.

(8) Steer, p.71.

Native Population in the Police Zone. (8)

	Total.	Adult	Males	Total.	Adult males.	
	1932	Total	%	1937.	Total.	%
In Reserves ...	19,464	5,290	27.2	23,291	6,936	29.7
In White urban areas...	19,683	7,036	35.7	21,191	9,258	43.7
In White rural areas...	49,899	17,204	34.5	70,229	29,258	41.8
Total:	89,046	29,530	33.2	114,711	45,452	39.2

The natives in the Police Zone wear European dress and have usually adopted monogamy but not the European form of marriage. Thus concubinage is the usual result. The Report maintains that "improvement in this state of affairs can only come with the gradual progress of missionary effort" which rather seems to leave things to time instead of making a determined effort to stamp out the evil before it has become so common as to be looked upon as a habit. Most of the natives, even those in the reserves, wish to have their children educated. This desire is growing and must be met.

The people approaching next nearest to adoption of white customs are those living in Ovamboland, but they are still in a very unspoiled, primitive state. They live under their tribal system and retain their own customs and beliefs. They are ruled by hereditary Chiefs or Councils of Headmen. They are polygamous and marry according to their own native custom, except where they have been influenced by unwise missionaries. They are, of course, being influenced by those men who return from work in the Police Zone but the process of assimilating European customs is very slow. Theoretically, the laws of South-West Africa, including most of those applied to natives, apply to Ovamboland, but in practice native law and custom administered by Chiefs and Headmen supersedes them..

In the Okavango district the people are in the same position as the Ovambos, but even less civilized.

The Kaokoveld is the most uncivilized of the native areas. It has no missions and no schools and is visited only twice yearly by an Officer of the Administration. The natives, the Ovahimba and Ovatsimba, are absolutely primitive, with splendid physique but low intellect.

No labour is recruited from here and the natives, who are purely pastoralists, live a natural tribal life.

As regards the Caprivi Zipfel, there are about 8 or 9 mission schools and except for a few traders and the Government officials no other white people enter the area, so the natives are still almost completely primitive.

For most of the natives, whether inside or outside the Police Zone, wealth is represented by stock. Even those natives who habitually work and live in urban areas leave cattle and sheep with relations in the reserves and add to them whenever possible. Attempts have been made to induce the natives to improve the quality of their stock by placing pure bred goats and bulls in the reserves to be used by native cattle, but this has met with little success. Buyers, under the supervision of the Superintendent, are allowed to visit the reserves to purchase surplus stock from the natives but the latter are loth to sell.

In Ovamboland, however, the natives are also agriculturists. This fact was commented upon by the Mandates Commission in 1932 and Lord Lugard asked whether it would not be possible to grant to the natives a small subsidy for growing cotton, tobacco, or any other valuable crop. The Commission also asked whether it not be possible for the Administration to encourage the production and transport of agricultural products from Ovamboland. (9)

In reply to this the Union Government stated that there was very little demand in the Territory for the staple products of Ovamboland, i.e. kaffir corn and millet. There is no local market and the cost of transport to other areas would be so high that Ovamboland grain could not compete with grain grown nearer the available markets. Any surplus grain is easily disposed of by the natives, either by barter amongst themselves or to Portuguese traders on the border.

With regard to Lord Lugard's suggestion about cotton growing, this was tried in Ovamboland but the results were not encouraging. It was however stated that the missionaries would again be approached about another attempt. (10)

(9) P.M.C.XXII, p.273.

(10) U.G.16-'33, p.75.

Nothing further has been heard of this.

Amongst the tribes on the Okavango River who are practically the most backward in the Territory, a form of child marriage was discovered by the missionaries and the Native Commissioner in 1931. Girl children in these tribes are sometimes given in lieu of dowry payments before puberty by parents who cannot afford to support them and they are sent to the kraal of their prospective husbands where they are fed and brought up. It is contrary to native custom that sexual intercourse should take place before the girl has reached marriageable age and the child, when grown up, is usually sent back to her parents' kraal so that the wedding ceremonies can take place from there. Cases had come to light where this custom had been ignored.

The Administration at once took up the matter and warned the Chiefs and their people that if any cases came to the notice of the Government after January 1st, 1932, the offenders would be prosecuted for rape. (11)

Several natives were punished under this warning and the salary of the Chieftainess Kanuni was suspended for six months as she knew what was happening and took no active steps to prevent it. These actions had a very salutary effect. (12)

In 1933 a private person, the wife of the Superintendent of the Windhoek Location, appalled by the number of native children running wild in the town and in danger of becoming criminals, organized the Native Children's Welfare Society in the location. This is organized on the lines of the Boy Scout movement. The membership rose at once to 170 and the average attendance at drills was from 30 to 100. The society was unfortunately handicapped by lack of funds. (13)

By 1934 the membership was 314 and the wife of the Superintendent, collaborating with the leading local natives, had fenced in a portion of ground in the centre of the location, erected a hall and equipment such as swings and see-saws, etc. (14)

(11) U.G.17-'32.p.51

(12) U.G.16-'33,p.58

(13) U.G.27-'34,p.37

(14) U.G.26-'35.p.45

This society was greatly welcomed by the Mandates Commission but is it not a scandal that the organization of it was not carried out by the Administration many years ago? Even now no help is given^{it} by the Administration and no similar societies have been started by it in other urban areas.

In 1933 during the 23rd Session of the Mandates Commission Lord Lugard asked for information about the existence of witchcraft in South-West Africa. In reply the Administration stated that in Ovamboland, although the majority of the natives still believed in witchcraft, the influence of the witch doctor was broken and the cruel practices surrounding his activities, such as that of sacrificing twins, had been entirely stamped out.

In the Okavango area it was not so completely eliminated but from 1932 no murders as a result of witchcraft or cases of trial by ordeal had been reported.

It is considered that the best punishments for crimes of this nature are death or imprisonment, these being the most calculated to impress the tribes who have all been warned of the law in regard to murder and told that any "killings" as a result of witchcraft would be treated by the Government as such. (15)

Right from the beginning of the mandate it was noticed that the influence of the missionaries in Ovamboland and, to a lesser extent in the Okavango district, tended to break down the old tribal life and discipline and to weaken the power and influence of the Chiefs or Headmen. (16) It was not, however, until Major Hahn's statement to the Mandates Commission in 1937 that real attempts to find a solution to this problem were made. (17) He stated that in Ovamboland the intense competition between the various religious denominations, their attack on polygamy which disrupts the economic system of the people, and their converts' assumption of ruling powers detracting from the authority of the Chiefs and their headmen, are the dangers threatening the structure of the tribal system and endangering the economic life of the tribes. It is dangerous to replace communal and tribal organizations by

(15) U.G.26-'35.p.178.

(16) U.G.31-'28.p.46.

(17) U.G.25-'38.p.63.

European industrialistic systems. The educational work of the missions, valuable as it is, is naturally subservient to the main objective of spreading the Christian doctrines of the various denominations concerned.

In the rush to make converts, the missions often failed to instil all the Christian doctrines into their eager followers. As a result, many of these who could barely read and write, and knew a few names and stories in the Bible, set up as "teachers". These, feeling their importance, competed with their local headmen and disputes were frequent.

These "teachers" and disputes have not been so frequent since the 1932 Proclamation controlling mission and school sites and subjecting teachers to a certificate of approval from the Native Commissioner.

The missionaries still, however, attack the Ovambo's necessary system of polygamy. (18) His wives work in his fields. If he becomes converted he sends them all away and can only remarry one of them if she is baptized. She can only tend a small part of his fields. In bad seasons he has no grain stored away and so becomes a burden on the Administration.

Major Hohn suggested that on economic grounds the missions should recognize polygamy. This seems the most sensible thing to do, at least until a new economic system is adopted by the Ovambo in which he will not be a burden on the Administration in bad seasons.

This view was also taken by M. Palacios when the Permanent Mandates Commission discussed the question at its 34th Session in 1938. The Commission deplored the fact that the activities of the missions were tending to undermine tribal law and custom which it was the policy of the Administration to maintain; but all it could suggest was closer co-operation between the Administration and the missions and closer supervision of the latter by the former. (19)

It was not only in Ovamboland that the missionaries ran contrary to the policy of the Administration. In its Report

(18) Steer, p. 83 (19) P.M.A. XXXIV, p. 92.

the Rhenish Mission, which has its headquarters in Germany, referring to the difficulty it has to face in its work, stated that two of them are:-(20) (a) Awakened national feeling among the Hereros; (b) the fall in the marriage rate with which is connected the Herero tendency towards polygamy and which explains in part the falling birth-rate.

They stated that the Herero believes he must return to the ideas, beliefs and customs of his forefathers in order to be a real Herero.

Why not? As M. Palacios said, if the Herero felt more at home and behaved better under their old traditions, should not the situation be handled with the greatest tact and no attempt be made to destroy through religious zeal what the Administration so wished for, i.e. the return of the natives to their original tribal lives and customs so long as these did not conflict with the recognized morals of modern civilization. (21)

One big complaint which the Mandates Commission had made is about the way in which South-West Africa's Mandatory Power has spent more on the Territory's 31,000 odd whites than on their near 300,000 black inhabitants.

In commenting on the 1936 arrangement to put Union loans to the Territory in a suspense account M. Rappard said that the reason for the administration being so expensive in comparison with the resources on which it could draw was that they were 30,000 Europeans who wished to be treated as if they were at home while there were 200,000 natives who could hardly be said to be spoilt. (22)

South Africa's reply to criticisms of this kind has always been that the whites paid the taxes and so were entitled to benefits and the age old South African cry that the white population must not be taxed to pay for the natives' rise to civilization.

Le Marquis Theodoli showed up this argument for what it was when he said that it lost sight of the sacred trust which South Africa had self-imposed when she accepted the Mandate. This task called for sacrifices on the part of the white population to fulfil the trust and if they refused the mandatory must step in

(20) U.G. 25-'38, p. 69. (21), P.M.C. XXXIV, p. 92. (22) P.M.C. XXXI, p. 126-7.

and see that the necessary action was taken. (22)

Mlle. Dannevig made a telling and vital contribution to the discussion when she pointed out that although the natives were far behind the Europeans in contributing taxes in money, the white population was dependent on the natives as workers. The low wages paid to the natives enabled the whites to make good profits and this was how the natives contributed to the building up of the Territory. This was their main tax. (22)

The natives in South-West Africa are passing through a very difficult period. They (especially those in the Police Zone) are fast losing their old tribal customs which kept them together. This is mainly through the influence of missionaries and other white men for whom they work. Now they tend to form small detribalized units of a few families, and to pick up many European vices. It is thus time for the Administration to step in and by giving them some common aim, such as education with the promise of more say in the administration of the Territory in the future, plus a feeling of racial pride, to weld the tribes together again.

The Administration seems to be doing this to a certain extent in the reserves, where the Reserve Boards are playing an increasingly important part in the life of the natives, and in Ovamboland where tribal institutions are closely protected. In the urban areas, however, nothing is being done to follow the excellent plan of the Native Childrens' Welfare Society at Windhoek, and it is in these areas that the natives need most guidance.

For all the natives, however, education is the main need and the Union Government would do well to follow the advice given by the Committee appointed by the Secretary of State for the Colonies to advise him on education in Tropical and Colonial Africa in 1925:-

"Education should be adapted to the mentality, aptitudes, occupations and traditions of the various peoples, conserving as far as possible all sound and healthy elements in the fabric of their social life; adapting them, where necessary, to changed circumstances and progressive ideas, as an agent of national growth and evolution. Its aim should be to render

render the individual more efficient in his or her condition of life, whatever it may be, and to promote the advancement of the community as a whole through the improvement of agriculture, the development of native industries, the improvement of health, the training of the people in the management of their own affairs, and the inculcation of the true ideals of citizenship and service. It must include the raising up of capable, trustworthy, public-spirited leaders of the people, belonging to their own race." (23)

CHAPTER IX.

CONCLUSIONS.

In the preceding pages we have traced the development of those subjects, concerning South-West Africa under Union Mandate, in which the Permanent Mandates Commission is interested.

The reason for which the mandate system was created, i.e. to safeguard the welfare of the natives, to educate them and develop their resources in the best possible circumstances, has always been in the eye of the Mandates Commission, but unfortunately, not always in that of the Union Government.

If, however, one compares the condition of the natives under German colonial rule, with their condition to-day under Union Mandate rule, it will be seen how immeasurably the mandate system has benefitted them.

The Union is not the ideal country to administer South-West Africa with its 230,000 odd native and Coloured inhabitants. The great majority of Europeans in the Union have the conviction that the natives, as a people vastly inferior to themselves, require only the bare necessities of life to keep them alive. In fact, probably subconsciously, they fear making things easier for the natives as the ratio to Europeans in the Union is 4:1.

Considering this the Union Government has indeed done much for the natives in South-West Africa, but it is safe to say that even the amount it has done would not have been done had the Territory not been under mandate.

The obligation under the mandate, by which the Union has to report annually to the Permanent Mandates Commission, has led

to the actions of the Union Government receiving much publicity. this has, in turn, compelled it to improve its treatment of the natives to an extent unknown in its own territory.

A start has been made in nearly all the directions indicated by the Mandates Commission, but there is still much to be done ^{before} ~~beyond~~ the ultimate aim envisaged by the mandate system can be attained, namely, that of an independent South-West Africa ruled by her native population under civilized, humanitarian principles.

ANNEXURE A.DIRECT EXPENDITURE ON THE NATIVES OF
SOUTH-WEST AFRICA BY THE ADMINISTRATION.

<u>Period</u>	<u>Amount</u>
1/4/25 - 31/12/25	£22,374
1/4/26 - 31/12/26	£25,393
1/4/27 - 31/12/27	£27,167
1/4/29 - 31/3/30	£53,535
1/4/30 - 31/3/31	£59,498
1/4/31 - 31/3/32	£45,530
1/4/32 - 31/3/33	£35,261
1/4/33 - 31/3/34	£36,344
1/4/34 - 31/3/35	£42,907
1/4/35 - 31/3/36	£55,450
1/4/36 - 31/3/37	£51,515
1/4/37 - 31/3/38	£64,189
1/4/38 - 31/3/39	£61,187
1/4/39 - 31/3/40	£68,872

ANNEXURE B.EXPENDITURE ON NATIVE EDUCATION.

Year	Native Education.	Native & White Education
	£	£
1922	431	
1923	3,500	
1924	5,500	
1925	6,500	
1926	7,550	
1927	8,100	
1928		
1929		
1930	12,103	
1931	12,729	130,474
1932	9,761	97,180
1933	11,393	104,514
1934	11,863	111,642
1935	13,805	127,691
1936	13,480	146,208
1937	14,498	142,829
1938	15,955	155,730
1939	18,263	160,668
1940	19,909	165,032
1941	21,438	179,174
1942	22,622	182,491
1943 (estimated)	24,980	202,300
1944 (Estimated)	31,957	243,210

ANNEXURE C.

NATIVE SCHOOLS IN THE POLICE
ZONE AND OVAMBOLAND.

Year.	Schools.		Pupils.		Teachers.	
	Pz.	Ov.	Pz.	Ov.	Pz.	Ov.
1922	43		2,430		47	
1923	54		2,247		55	
1924	57		2,979		79	
1925	56	131	2,998	4,971	82	246
1926	48	147	2,979	6,279	96	234
1927	56		3,246		103	
1928	62	187	3,837	6,797	116	23 (European)
1929	90	189	5,000	5,272	136	21 (European)
1930	92		5,532		138	
1931	87		4,810		144	
1932	90	179	4,487	9,378	144	282
1933	63		3,925		143	
1934	63		3,611		143	
1935	66		3,805		147	
1936	71		4,116		163	
1937	71		4,036		174	
1938	77		4,225		175	
1939	76		4,605		183	

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