

SMUTS, SOUTH WEST AFRICA AND THE LEAGUE OF NATIONS, 1919 - 1924.

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INTRODUCTION

The first European to set foot in South West Africa was the Portuguese navigator Diego Cam, who erected a pillar at Cape Cross during his voyage of 1485-1486. Throughout the seventeenth century, ships of various nationalities were involved in sealing and whaling activities off the coast, although the interior of the territory remained unknown to the white man. The eighteenth and nineteenth centuries saw a fairly steady stream of hunters and explorers, one of the most famous being the Swede, C.J. Andersson, who in 1853 crossed from Walvis Bay to Lake Ngami in Bechuanaland. The London and Rhenish missionary societies were also active in the territory in the nineteenth century. (1)

In 1868, tribal wars prompted the missionaries to appeal for British protection. In this they were actually supported by the German government. However, the British government turned the proposal down. In 1874 the Cape Colony sent a special Commissioner, W.C. Palgrave, to the territory to try and make treaties with those chiefs anxious to gain British protection. However, the British Government only accepted responsibility for Walvis Bay and some adjacent territory in 1878. In 1883, Heinrich Vogelsang, an agent of A.Lüderitz, a member of Bremen, obtained a treaty from a Khoikhoi chief, who ceded some of his land at Angra Pequena, later known as Lüderitz. Although Britain was aware of Lüderitz's actions, Lord Derby, the Colonial Secretary, failed to pre-empt the Germans in annexing the territory. Britain's lack of concern prompted Bismarck to alter his anti-colonial policy and in 1884 he declared a German protectorate over the whole area between 26 degrees South and the Portuguese border, except for Walvis Bay, now a British possession. The Cape Colony attempted to persuade the British government to retrieve the situation, but Lord Derby was forced to accept the German

(1) For the early history of South West Africa, see A. F. Calvert, South West Africa during the German Occupation, 1884-1914, (London, 1915); H. Bley, South West Africa under German Rule, 1894-1914, (London, 1971); W. Eveleigh, South West Africa, (London, 1915); and I. Goldblatt, History of South West Africa from the beginning of the Nineteenth Century, (Cape Town, 1971).

"fait accompli." In July 1890, by an Anglo-German agreement, the inland boundaries of the German territory were defined and free access to the Zambezi River was conceded to Germany by means of a corridor 20 miles wide known as the Caprivi Strip. Although the eighteenth and nineteenth centuries had seen a succession of South African and British hunters, explorers and missionaries entering the territory, by 1914, only 2000 of the European population of 15 000 were not of German extraction.

Official South African interest in the territory began in August 1914, when the Union Government accepted the proposal that her military forces should seize Swakopmund and Lüderitzbucht because of the wireless stations there, which were interfering with British stations, and, moreover, were in direct communication with Berlin. Following the rapid conquest of German South West Africa by the Union forces, the territory was placed under military rule in July 1915. The future of South West Africa was decided by the European powers at the Versailles Conference in 1919, the Mandate for the territory being granted to South Africa in May of that year.

The main body of this essay is divided into two chapters, the first of which deals with the acquisition of the South West African Mandate. There will be no detailed examination of the diplomatic negotiations involved in ironing out the thorny question of the mandate principle,⁽²⁾ nor the legal and interpretative problems that it raised.⁽³⁾ Instead, this essay will focus mainly on General Smuts' role in the acquisition of the Mandate; and his motives will be considered in the light of his imperialist designs for a greater South Africa.⁽⁴⁾ It will also be necessary to examine the attitudes of European statesmen involved in the decision-making process,

(2) See G.L. Beer, African questions at the Peace Conference, (New York, 1923); and D. Lloyd George, The Truth about the Peace Treaties, vol. I, (London, 1938).

(3) See O. Wright, Mandates under the League of Nations, (Chicago, 1930).

(4) This is one of the themes of R. Hyam's book, The Failure of South African Expansion, 1908-1948, (Cape Town, 1972).

as well as the scholars who helped formulate the concept of an International Mandate; and try and reach some conclusion as to what they considered the political and constitutional status of South West Africa to be. This will also involve an examination of the attitudes and opinions of South African politicians on the Mandate question. This then, will make possible some attempt to answer the difficult question whether the South West African Mandate amounted to annexation in form, if not in name. More important, it will be possible to decide whether the Mandate envisaged the ultimate incorporation of the territory into the Union of South Africa; or the eventual self-determination of the indigenous inhabitants of the region, thus making the League of Nations the ultimate reversionary. This, of course, was a crucial point in the "South West Africa" cases of 1962 and 1966 at the International Court.

The second chapter of this essay deals with the administration of South West Africa by the Smuts government from 1919 to 1924, when the South African Party was defeated by Hertzog's Nationalist-Labour Pact. Many histories of South West Africa seem to neglect the period after the grant of the Mandate because "nothing happened," (with the exception of the Bondelzwarts rebellion). Instead, most historians tend to concentrate on the dispute between South Africa and the United Nations after the Second World War.(5) However, the period immediately following the granting of the Mandate was vital for the future history of the territory and many of the legal and administrative structures created during this period, were only dismantled during the 1970's in preparation for the territory's independence.

In this second chapter, we will first look at the civil administration in the territory and examine to what extent the Union administered the Mandate as "an integral part of the Union," and whether these administrative innovations

(5) For example, S. Slonim, South West Africa and the United Nations - An International Mandate in dispute, (Baltimore, 1973); and, J.H.P. Serfontein, Namibia, (Cape Town, 1976).

foreshadowed the eventual incorporation of the territory into the Union; or were designed to enable the territory to achieve independence outside of the Union. And second, the Union's native administration in the territory will be examined, in the light of the Mandate's provision to "promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory."⁽⁶⁾ The third part of this chapter is devoted to two specific examples of local opposition to South Africa's native policy in the territory, (Bondelzwarts and Baster Rebellions). This will entail an examination of general public response to these rebellions, as well as an examination of the League of Nation's reaction. This will enable one to reach some conclusion as to whether the Smuts government, and the International community, were really concerned with the spirit of Article 2 of the Mandate. The final part of this chapter takes a look at Union-German relations in the territory and the Railways dispute. These two problems are useful in explaining the Smuts government's strategy for the ultimate future of the territory. As 1919-1924 is not really a self-contained period in the history of South West Africa, occasional references will be made to events occurring after 1924 where they substantiate my general argument. (for example; the 1925 South West Africa Constitution Act and the 1926 Portuguese Agreement).

Finally, this essay should enable some conclusion to be reached on the Smuts government's view of the destiny of the territory of South West Africa after the First World War, and whether or not this view coincided with that of the International Community as represented by the League of Nations.

(6) Article 2.

CHAPTER I - ACQUISITION OF THE MANDATE 1919-1920.

In 1917, the British Imperial War Cabinet decided that, in the event of an allied victory, some of her Dominions should be allowed to annex certain enemy territories adjacent to their own.⁽¹⁾ The War Cabinet, which included General Smuts, also decided that "the restoration to Germany of South West Africa is incompatible with the security and peaceful development of the Union of South Africa."⁽²⁾ As J. Dugard points out,⁽³⁾ the logic of this view implied annexation. Indeed, most white South Africans hoped for, and probably expected the annexation of the territory by the Union.⁽⁴⁾ South West Africa, they felt, was South Africa's by right of conquest and by 1919 it had been peacefully administered by the Union for four years. South Africa could point out that civilised rule of law had once more been instituted among the peoples of South West Africa, in stark contrast to the turbulent period of German rule, which saw the Herero and Nama wars - the former having reduced the Herero from a tribe of 80 000 people to 15 000 starving refugees.

A significant development which seemed to presage eventual annexation of the territory by the Union, was the abolition of the posts of Military Governor and of Chief Civil Secretary in October 1915. The duties and responsibilities previously vested in these two officers were transferred to an Administrator, and these duties were made subject to the overriding authority of the South African government. J. Van Bruwer points out that this development had its roots in secret agreements of the War Cabinet.⁽⁵⁾ It would seem, therefore, that the War Cabinet had already come to a decision on

(1) "Committee of the War Cabinet on Territorial Desiderata" Secret, 17 April 1917, CAB 21/77, Public Record Office, London. Quoted in J. Dugard (Ed.), The South West Africa/Namibia Dispute: Documents and Scholarly writings on the Controversy between South Africa and the United Nations (Berkeley, 1973), p. 33.

(2) IBID, 28 April 1917.

(3) Dugard, The South West Africa/Namibia Dispute. p. 34.

(4) See R. W. Imishue, South West Africa - An International Problem, (London, 1965), pp. Iff.

(5) J. P. S. Van Bruwer, South West Africa - The Disputed Land, (Cape Town, 1966), p. 84.

the future of South West Africa.

There were other plausible reasons for annexation of the territory by South Africa. There were both personal and economic ties with the Union; even under German rule there had been, in 1914, some 2000 South African settlers and large amounts of South African capital in the territory, (although by 1922 the territory had become a burden financially to the Union).⁽⁶⁾ The territory's remoteness from the centres of civilisation, and its geographical contiguity to the Union, made the case for annexation all the more formidable.

There was also the question of security. General Botha had invaded South West Africa in 1914 because of the minor German military installations that had been found there, and also to seize the Swakopmund and Lüderitzbucht wireless stations which were in direct communication with Berlin, thus constituting a security risk to the British Empire. Even after the conquest of the territory, South Africans could argue, as Smuts was to argue at the Versailles Peace Conference, that South West Africa may still provide a potential base for hostile activities against the Union. Security reasons, together with the geographical connection between the two territories, were the most common arguments advanced for incorporation. There was little apparent economic potential in the huge semi-desert territory and, as already noted, South West Africa proved to be an economic burden to the Union. South West Africa's only port of commercial importance, Walvis Bay, was part of the Cape Province. Strangely enough, Smuts made little use of Walvis Bay as an argument in favour of annexing the territory. It would seem that control of South West Africa followed logically upon control of its only port and economic lifeline.

That General Smuts fervently desired the annexation of South West Africa cannot be doubted. This was part and parcel

(6) South West Africa estimates:-

	<u>1920/21</u>	<u>1921/22</u>
Revenue.....	£ 1 025 000	£ 891 000
Expenditure....	£ 899 678	£ 1 286 529

The deficit for 1921/22 was paid by the Union government.
House of Assembly Debates as reported in the Cape Times,
21 April 1921.

of the policy of "security through expansion" that he had inherited from Kruger and Rhodes. This idea has been developed to its full by Hyam.⁽⁷⁾ Smuts constantly harked on this theme in his letters and speeches. He gave a full exposition of this ideal of "a great White Africa" during his Rhodes Memorial speeches at Oxford in November 1929. The same sentiment was expressed in his Ermelo Speech in January 1929, which his Nationalist opponents utilized to denounce him as "the apostle of a black Kaffir State." In 1918 however, Smuts' immediate objective was:

"sovereignty over German South West Africa.... and over Delagoa Bay, which (he) hoped to gain from the Portuguese in exchange for some of the territory conquered.... in East Africa. In the event (he) had to be content with a 'C' Mandate over South West Africa. Smuts hoped for bigger things later on."⁽⁸⁾

This desire for expansion has been seen as a major factor in persuading Smuts and Botha to take part in the First World War.⁽⁹⁾ There seems to have been little opposition among South Africans at home to Smuts' efforts to secure South West Africa at the Versailles Peace Conference. It is true that the decision to wage war in South West Africa resulted in the 1914 Afrikaner Rebellion. However this rebellion was not a result of anti-expansionist feelings among the Afrikaners, but rather anti-British and pro-German feelings. Indeed, after 1919 it was mainly Afrikaner farmers that participated in the rush for land in this area. In 1937, General Hertzog himself firmly refused to surrender South West Africa in order to appease Germany.

An examination of the parliamentary debates on South West Africa during 1919 reveals the same sentiments. Sir D. Harris, (M.P. for Beaconsfield) in discussing the diamond industry in South West Africa, "assumed that the Union would soon assume permanent control of the South West African Protectorate."⁽¹⁰⁾

(7) See Hyam, South African Expansion, Ch.I.

(8) W.K. Hancock, Smuts, Vol.2, The Fields of Force, 1919-1950, (London, 1968), p.4.

(9) See T.R.H. Davenport, South Africa - A Modern History, (Johannesburg, 1977), p.188. Also Hyam, South African Expansion, Ch.I.

(10) House of Assembly Debates as reported in the Cape Times, 4 March 1919.

P. Duncan, (M.P. for Fordsburg) said " if it was decided that they would have to administer the territory he sincerely trusted they would not shrink from it."⁽¹¹⁾ The grand old man of South African politics, J.X. Merriman, ridiculed the notion of a League of Nations; "that 'nebulous body' issuing mandates to us as to how we should govern South West Africa."⁽¹²⁾ A few weeks later he stated that "we were here managing our own affairs and we intend to manage them without the assistance of Czechoslovaks or Jugo-Slavs or people of that kind."⁽¹³⁾

.....

It was not only South African politicians that favoured annexation. It has been noted above that the British War Cabinet favoured the idea as well. The first contribution to the debate surrounding the disposition of enemy colonies was that of G.L. Beer, one of President Wilson's advisors at the Peace Conference.⁽¹⁴⁾ He recommended that the "administration of the derelict territories and peoples freed from German and Turkish rule must, in general, be entrusted to different states acting as mandatories of the League of Nations."⁽¹⁵⁾ However, according to Beer, neither South West Africa nor New Guinea would be put under a mandate regime; they would be annexed by South Africa and Australia respectively.⁽¹⁶⁾ Beer's outline went a long way in persuading Wilson to accept the idea of the mandate system.

The other statesman destined to have a profound influence on the formulation of the mandate system, was General Smuts himself. In December 1918 he published a small pamphlet entitled "The League of Nations - A Practical Suggestion."⁽¹⁷⁾ Almost a third of this tract was devoted to the mandate concept. Smuts argued that the "League must be clothed with the right of ultimate disposal in accordance with certain fundamental principles, (which are) no annexations and the self-

(11) Ibid, 13 March 1919.

(12) Ibid, 18 March 1919.

(13) Ibid, 26 March 1919.

(14) Beer, African Questions, pp.424 ff.

(15) Ibid, pp. 424-425.

(16) Ibid, pp. 457-458.

(17) J.C. Smuts, "The League of Nations - A Practical Suggestion" (London, 1918).

determination of nations."⁽¹⁸⁾ However, Smuts clearly did not envisage South West Africa becoming part of the mandatory system as he expressly excluded Africa and the Pacific islands from the mandate principle by declaring that:

"the German colonies in the Pacific and Africa 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." (19)

Despite accusations from Smuts' Nationalist opponents in South Africa that he found his own country too small for him, and preferred solving the problems of the European world to those of South Africa; it is the contention of this essay that the major part of Smuts' work at the Peace Conference was concerned with South West Africa and South Africa's case for the annexation of that territory.

Even before the Peace Conference opened in January 1919, Smuts was actively campaigning for British and American support on the South West African issue. In a lengthy memorandum to the War Cabinet in July 1918, he discussed the future of the German colonies and argued that:

"certain Dominions can justly claim that German colonies lying contiguous or adjacent to their territory and conquered by them should at the peace remain under their control. This probably covers the case of South West Africa as far as the Union of South Africa is concerned."⁽²⁰⁾

Smuts was thus detailing explicitly his own position on South West Africa and made it clear to the British Leaders that what he wanted was annexation. He argued that the incorporation of South West Africa into the Union would protect South Africa from aggression; and he advocated British control over German East Africa to give the Empire not only continuous land but

(18) Ibid, p. 12.

(19) Ibid.

(20) Quoted in Dugard, The South West Africa / Namibia Dispute. p. 35.

also air communication from the Cape to Cairo.⁽²¹⁾ This concept of an expanding South African Dominion as the key to British security on the African continent is consistent with Smuts' view of "a great White Africa." The War Cabinet seems to have been impressed with Smuts' memorandum and when the subject of mandates was discussed in November 1918, the mandate principle was unanimously accepted by the Cabinet in respect of all enemy territories except South West Africa and the Pacific islands.⁽²²⁾

Smuts' expectations however, were frustrated by the attitude of the United States. President Wilson had already urged the conclusion of a peace without territorial aggrandizement in his "Peace Note" of December 1916. Nevertheless, it is interesting to note that Wilson was initially not too concerned with the prospect of South African annexation of South West Africa. In December 1918, when Wilson met Lloyd George in London, Lloyd George presented the case for the South African annexation of South West Africa and the Australian annexation of the Pacific islands. Wilson was prepared to recognize some merit, based upon contiguity of territory, in South Africa's case.⁽²³⁾ However he objected to annexation of the Pacific islands by Australia on the grounds of security. If Australian claims were to be conceded, then it would be impossible to deny to Japan certain islands she desired in the Northern Pacific.⁽²⁴⁾ Wilson feared that these islands "could be fortified and made naval bases by Japan; that indeed they were of little use for anything else and that we had no naval base except at Guam."⁽²⁵⁾ However, when President Wilson drew up his Draft Covenant, which incorporated much of the thought and language of General Smuts, he extended the mandates system to all the German colonies - including those in Africa and the

(21) Ibid, p. 36.

(22) Lloyd George, The Peace Treaties, Vol.I, p. 114.

(23) Ibid, p.190.

(24) Ibid, p.191.

(25) Quoted in Slonim, South West Africa, p. 19.

Pacific. More than one historian has remarked on how Smuts was "hoist with his own petard" on the mandate system. (26)

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The Peace Conference opened in Paris on January 18th, 1919, and the disposition of colonial territories was the first major issue dealt with. On January 24th, Lloyd George raised the question of the German colonies before the Supreme body of the Peace Conference, the Council of Ten. He put forward the case for South African annexation of South West Africa stating that the territory was contiguous to the Union and that there was no real natural boundary between the two regions. In the absence of colonization by the Dutch and British population of South Africa, the area would remain a wilderness. (27) He argued further that:

"if the Union were given charge of South West Africa in the capacity of a mandatory, there would be, in a territory geographically one, two forms of administration. It was questionable whether any advantage would be derived from this division capable of outweighing its practical difficulties." (28)

Each of the Dominion ministers then stated his case. Smuts put forward all the common arguments in favour of South African annexation of South West Africa. (29) The country was a desert that geographically belonged to the Union; that the territory was good only for pastoral use and thus could only be developed as a part of the Union. He argued that this differentiated it from the other German possessions in Africa which he said might be mandated. He pointed out how the Union "had established a

(26) See P.B. Potter, "The Origin of the System of Mandates", American Political Science Review, Vol. 16 (1922), at p. 563. and G. Curry, "Woodrow Wilson, Jan Smuts and the Versailles Settlement", American Historical Review, Vol. 66 (1960-1961), at p. 968. In this article Curry shows that Wilson himself acknowledged Smuts' influence on his thoughts. See p. 977.

(27) Dugard, The South West Africa/Namibia Dispute. p. 41.

(28) Ibid, p. 40.

(29) For Smuts' arguments in favour of incorporation, see G.M. Cockram, South West African Mandate, (Cape Town, 1970) Ch. 2; Slonim, South West Africa, p. 23; Dugard, The South West Africa/Namibia Dispute, p. 40; and Curry, "the Versailles Settlement", Amer. Hist. review, Vol. 66 (1960-61), p. 980.

white civilisation in a savage continent and had become a great cultural agency all over South Africa." He hoped that the Conference would "give" the colony to the Union; and he was sure that his country's record in South West Africa "would be good." He argued furthermore that a separate administrative system for South West Africa was undesirable on account of the expense involved. He also pointed out that South West Africa would have been annexed to the Cape Colony in 1880 but for the "dilatoriness of the Imperial Government," and Bismarck's sudden annexation of the territory. General Botha said⁽³⁰⁾ that the Germans had used the territory "merely as a military station" from which rebellion was fomented in the Union in 1914. Unless the territory was incorporated in South Africa, "the small German population would continue to foment trouble in order to get back to Germany and these troubles might extend to the Union."⁽³¹⁾

It is possible that Smuts feared to return home from Paris empty-handed. He was no doubt aware of criticism in South Africa that he found his own country too small for him and that he was not interested in its problems. The acquisition of South West Africa would thus be useful in stifling these criticisms. Indeed many people in the Union thought that Smuts would return home with South West Africa. For example, an editorial in the Rand Daily Mail declared that;

"both General Botha and General Smuts are firmly convinced that the retention of German South West Africa is necessary for the future security of the Union.....there is some prospect that General Botha and General Smuts will be able to secure the incorporation of the South West in the Union." (32)

An indication of Smuts' own thoughts of his performance on January 24th, 1919 can be gleaned from the following private letter written on that day;

"We discussed the Dominion claims to the German colonies. I hope I made a good case to South

(30) Cockram, South West African Mandate, p.41.

(31) Ibid, p.42.

(32) Rand Daily Mail, 25 November 1918.

West Africa, but I don't know. My argument was principally that it was a desert, a part of the Kalahari no good to anybody, least of all to so magnificent a body as the League of Nations. It was like the poor sinning girl's plea that her baby was only a very little one. Not that I consider our claim to South West Africa sinful or wrong."(33)

President' Wilson's objections to Dominion annexation of German territories were to thwart Smuts' sanguine expectations of acquiring South West Africa. However the compromise eventually hammered out resulted in a scheme that amounted to virtual annexation. Wilson apparently had no objections to this view of the South West African Mandate.⁽³⁴⁾ He was clearly sympathetic towards Smuts' case and he recognized that South West Africa formed a natural union with South Africa. However he believed that there would be no administrative differences between his scheme and annexation. It seems as though Lloyd George expected eventual incorporation of South West Africa into the Union,⁽³⁵⁾ and Wilson too, argued that later developments would " perhaps lead them (the indigenious inhabitants) to desire their Union with the Mandatory." He added that:

"It was up to the Union of South Africa to make it so attractive that South West Africa would come into the Union of its own free will.....if successful administration by a Mandatory should lead to union with the Mandatory, he would be the last to object."(36)

This attitude was in stark contrast to the view that prevailed later in the 1960's; that the Mandate was inherently revocable and that the League of Nations was the ultimate reversionary.

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By January 29th, 1919, the Draft Resolution, embodying the mandates system, had been drawn up by Smuts and Lord Robert Cecil.⁽³⁷⁾ This resolution, which, with minor modifications,

(33) W.K. Hancock & J. van der Poel(Eds.), Selections from the Smuts papers, Vol. IV. (Cambridge,1966) pp. 55-56.

(34) Dugard, The South West Africa/Namibia Dispute, p.41.

(35) See Imishue, South West Africa, p. 5.

(36) Quoted in Slonim, South West Africa, p. 23.

(37) For the text of this resolution see Dugard, The South West Africa/Namibia Dispute, pp. 39-40.

was ultimately adopted as Article 22 of the Covenant of the League of Nations, (See Appendix I). This article divided the occupied territories into three categories. The third category, the 'C' group of territories, was composed of such regions as South West Africa and the islands of the South Pacific which were, "owing to the sparseness of their populations, or their small size, or their remoteness from the centres of civilization" to be "administered under the laws of the Mandatory state as integral portions of its territory, subject to the safeguards above mentioned (in Clause I) in the interests of the indigenous population."⁽³⁸⁾ Even though these gradations within the mandate system were designed primarily to meet the different stages of development attained by the respective territories,

"it is obvious that they reflected, more significantly, different degrees of national interest in annexing the territories concerned..... in the case of the Class C mandates, the Dominion's interest in annexation would result in a minimal measure of obligation to the international community and maximal concession to national authority."⁽³⁹⁾

It was clear that most statesmen considered the Class C mandate as nothing less than a restricted form of annexation. For example, the Australian Premier, Hughes, was still dissatisfied with his mandate over the South Pacific islands; and Lloyd George had to devote considerable efforts to convince him that a Class C mandate for New Guinea was tantamount to Australian ownership of the island, subject only to certain conditions on behalf of the indigenous population.⁽⁴⁰⁾ Slonim concludes that relations between the South West Protectorate and the Union now amounted "to annexation in all but name."⁽⁴¹⁾

Press response took a similar line.⁽⁴²⁾ Left wing writers

(38) Article 22, clause 6.

(39) Slonim, South West Africa, p.29.

(40) See P. Birdsall, Versailles - 20 Years After, (London, 1941), p. 69.

(41) Slonim, South West Africa, p. 37.

(42) For a summary of press response in Britain and South Africa to the mandates system, see Dugard, The South West Africa/Namibia Dispute, pp. 43 - 46.

such as J.A.Hobson denounced it as "a thin veil for the annexation of enemy countries and the division of the spoil..."⁽⁴³⁾ On the right, the Conservative newspapers such as The Globe attacked the business of "giving away the empire."⁽⁴⁴⁾ The statesmen at the Peace Conference, excluding Smuts, were not concerned with the legal niceties that might arise out of the creation of the mandates system; while all of them clearly did not envisage that the indigenous inhabitants of such territories as South West Africa could evolve towards self-government. Taking into account the mood of "Social Darwinism" still prevalent in the first quarter of the twentieth century; and the absence of nationalist movements for independence among the indigenous inhabitants on the African continent, the fact that most European statesmen felt incorporation of South West Africa into the Union inevitable should not cause much surprise. Most Europeans would perhaps echo the view expressed by Smuts to Lloyd George at the Peace Conference. "In this great business, South West Africa is as dust in the balance compared to the burden now hanging over the civilized world."⁽⁴⁵⁾

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The Mandate for South West Africa was allocated to South Africa by the Allied and Associated Powers on May 5th 1919, and was confirmed by the League of Nations on December 17th 1919, (see Appendix II for the text of the Mandate). The Mandate gave South Africa:

"full power of administration and legislation over the territory subject to the present Mandate as an integral portion of the Union of South Africa, and may apply the laws of the Union of South Africa to the territory, subject to such local modifications as circumstances may require." (46)

The phrase "integral portion of the Union" indicates that South West Africa was now considered to be part of South Africa in form if not in name. The restrictions imposed by the Mandate on South

(43) Ibid, p. 44.

(44) Ibid,

(45) Hancock & van der Poel, The Smuts Papers, Vol.IV, p.88.

(46) Article 2 of the Mandate.

Africa were limited. The slave trade was prohibited,⁽⁴⁷⁾ freedom of conscience and worship was to be allowed⁽⁴⁸⁾ and the military training of the local peoples, otherwise than for purposes of internal police and local defence, was prohibited.⁽⁴⁹⁾ There was also the vague condition that "the mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory."⁽⁵⁰⁾ This was part and parcel of the paternalist spirit of the age - of the "white man's burden." The cornerstone of the mandates principle is that there are peoples in the world "not yet able to stand by themselves under the strenuous conditions of the modern world...(and)the well-being and development of such peoples form(s) a sacred trust of civilization."⁽⁵¹⁾ It was also laid down that "the supply of intoxicating spirits and beverages to the natives shall be prohibited."⁽⁵²⁾ The European statesmen at Versailles were here applying a custom in South West Africa that had long been considered paramount in the Union, i.e; the white man was considered capable of consuming alcoholic beverages without causing harm to himself or anybody else, but not the black man. One condition which South Africa later blatantly disregarded was that "no military or naval bases shall be established or fortifications erected in the territory."⁽⁵³⁾ The Mandatory power was also required to submit an annual report to the Council of the League of Nations giving full information on the territory and indicating the measures taken to carry out the obligations assumed.⁽⁵⁴⁾ The Council was to be assisted by an advisory body, the Permanent Mandates Commission, which was to issue annual reports of its findings and recommendations. The implications and history of this aspect of the Mandate will be examined in the next chapter. As W.E. Rappard, the Director of the Mandates section of the League Secretariat commented;

"the mandate system formed a kind of compromise between the propositions advanced by the advocates of annexation and the proposition put forward by those who wanted to entrust the colonial territories to international administration." (55)

(47) Article 3

(48) Article 5

(49) Article 4

(50) Article 2

(51) Article 22 of the Covenant (52) Article 3

(53) Article 4

(54) Article 6

(55) Quoted in Cockram, South West African Mandate, pp36-37.

The compromise was that the territories would be administered by states and not directly by an international organization.

The South African government accepted the Mandate with the passing of the Treaty of Peace and South West Africa Mandate Act at a special session of Parliament in September 1919, (see Appendix III for the text of the Act). There was very little opposition among South African politicians to the Mandate Bill which was rapidly enacted, being introduced on September 8th in the House of Assembly and passing the Third Reading on September 16th. Indeed, most politicians would have favoured outright annexation and most criticisms were directed at the vague restrictions imposed by the League of Nations. We have already noted that politicians such as Merriman and Duncan were sceptical of the notion of a League of Nations and were resentful of that body telling South Africa how to govern South West Africa. Dr. Malan, voicing the opinion of some Nationalists, did protest against the action of the Peace Conference in disposing of parts of Germany without in any way considering the views and desires of the local peoples.⁽⁵⁶⁾ However, he was here referring mainly to the Saar Basin and German Austria and not South West Africa.

The Speaker of the House of Assembly provided an illuminating interpretation of the Mandate.⁽⁵⁷⁾ He compared South Africa's power to legislate for, and administer South West Africa, to that exercised by the late Cape Parliament in respect of the adjoining territories acquired by it from time to time; such as British Kaffraria, Basutoland and Walvis Bay. According to this view, South West Africa would be nothing more than a fifth province of the Union. The Speaker then echoed General Smuts' fears that South Africa would run a risk by refusing to assume the Mandate over the territory as some other foreign country was bound to step in. There was also a strong belief that South West Africa would eventually become part of the Union in any case. For example, Colonel Creswell, (M.P. for Troye-

(56) House of Assembly debates as reported in the Cape Times, 10 September 1919.

(57) Ibid, 11 September 1919.

ville) remarked that "South West Africa had fallen into our laps and we had to administer it". He added that "we should have in contemplation its ultimate incorporation in the Union as a province."⁽⁵⁸⁾ To Creswell, the mandatory system was perhaps a shade removed from annexation but the difference was very thin.⁽⁵⁹⁾

Some politicians were concerned about the native situation in the territory and M. Alexander (M.P. for Cape Town Castle) hoped that Roman-Dutch Law would be extended to South West Africa but not a colour bar policy.⁽⁶⁰⁾ R. Drew, (M.P. for Germiston) hoped that "one effect of the Mandate would be to intensify our sense of responsibility to the Natives."⁽⁶¹⁾ Smuts, however, was deliberately vague on the native question and he replied that it would be for Parliament in the future to arrive at any settlement in connection with the matter.⁽⁶²⁾ This seems to substantiate O. Pirow's claim that "at no time did General Smuts ever voice any expression on Native Affairs which was more than a temporary expedient."⁽⁶³⁾

Smuts clearly never took the trusteeship concept of the Mandate very seriously. South West Africa was merely an important step towards furthering his imperialist designs in the sub-continent; and the League of Nations' restrictions on the territory were to him nothing more than an irritation. One politician who let his views be known in no uncertain terms was Merriman. He "wanted to see the country annexed and made part of the Union so that we might get ourselves free from the shackles of the League of Nations."⁽⁶⁴⁾

An indication of Smuts' own thoughts on the outcome of the Mandate dispute at Versailles can be gleaned from the

(58) Ibid, 12 September 1919.

(59) Ibid,

(60) Ibid.

(61) Ibid, 16 September 1919.

(62) Ibid.

(63) O. Pirow, General Hertzog. (Cape Town, 1957). p.193.

(64) Parliamentary Debates, Cape Times, 17 June 1920.

following speech given in the House of Assembly in 1949:

"General Botha and I naturally pressed very strongly for the incorporation of the territory at that time, and it was only the programme of President Wilson in which he declared against all annexation or incorporation of territory at the end of the war, that prevented us from getting annexation of that territory into the Union. But we came as near incorporation as possible. The declaration of this territory as an integral part of the Union brought us as near actual incorporation as we could possibly get." (65)

CHAPTER 2 - ADMINISTRATION OF THE MANDATE: 1919 - 1924

Although the Mandate for South West Africa was only confirmed by the League of Nations in December 1920, and published in the South African Government Gazette in June 1921, the administrative structure of the territory had already been established by 1920.⁽¹⁾ Martial Law was officially withdrawn as from January 1st 1921, although it had always been administered with discretion and normalcy had been restored to the territory by October 1915 when the post of Military Governor gave way to that of Administrator, whose duties were made subject to the over-riding authority of the South African government. The first Administrator was Sir Howard Georges who was replaced by C.G. Hofmeyr in July 1920.

General Smuts indicated in June 1920 that he would go ahead with the administration of the territory before the Mandate was passed by the League of Nations when he decided that a Parliamentary Commission (known as the de Wet Commission) would be set up⁽²⁾ to inquire into the future government of the territory and would report back not later than the end of that year. Smuts was thus determined to administer South West Africa without international supervision or approval. Indeed, Dr. Malan criticized Smuts for not taking any notice of the League of Nations.⁽³⁾ It also seems as though Smuts assumed that sovereignty over the Mandate resided in the Mandatory power.⁽⁴⁾ Smuts brought the territory closer to the idea of a "fifth province" in June 1920 when he decided to apply South Africa's Immigration laws to South West Africa. Passports would now be no longer necessary when travelling between

(1) For details of the administration of the territory see Sir C. Dundas, "South West Africa - The Factual Background", South African Institute of International Affairs pamphlet (1946);

L.H. Wessels, Die Mandaat vir Suidwes-Afrika, (Cape Town, 1938); Goldblatt, History of South West Africa; and Cockram, South West African Mandate.

(2) House of Assembly Debates, Cape Times, 19 June 1920.

(3) Ibid.

(4) Wright in Mandates under the League of Nations gives four theories of the location of sovereignty over the Mandate, (pp. 319-339); (a) in the Principle Allied and Associated Powers; (b) in the League of Nations; (c) in the Mandatory Power; and (d) in the inhabitants of the Mandated territories. It will be seen that South Africa persistently maintained that sovereignty over South West Africa was vested in the Union government.

South Africa and South West Africa.⁽⁵⁾ Supporting his claim that sovereignty over the territory resided in the Union Government, Smuts revealed that £2 934 100 had been spent by South Africa on administering the territory since 1915, the League of Nations having refunded nothing.⁽⁶⁾ He argued that; as South West Africa was to be administered as an integral part of the Union, and as the Union had to bear the financial burden of administration, sovereignty ought to reside in South Africa.

The problem was that neither the mandate agreement nor Article 22 of the Covenant defined the exact legal nature of the Mandatory's powers or dealt with the location of sovereignty in respect of mandated territories.⁽⁷⁾ This naturally introduced an element of uncertainty from the start, especially as the question of sovereignty was carefully evaded at Versailles. However both Wright and Imishue⁽⁸⁾ point out that the Mandates Commission and the League of Nations eventually agreed that sovereignty definitely did not reside in the Mandatory power. This principle was outlined in a Council Resolution of 1930,⁽⁹⁾ which stated that the Mandatory power could exercise the rights of sovereignty without actually possessing them. However, in practice this meant that sovereignty did in fact reside with the Mandatory Power. This question of sovereignty was to recur throughout the period under discussion.

The South African government thus established an administrative structure in South West Africa before the Mandate had been confirmed by the League of Nations. Even before the recommendations of the de Wet Commission were published, administrative changes were made in the territory. English and Dutch became the official languages of the territory; and in January 1920, Roman-Dutch Law "as existing and applied in the Cape Province of the Union" was made the "common law" of the country, German Law ceasing to exist in so

(5) House of Assembly Debates, Cape Times, 25 June 1920. This was not the first time the concept of South West Africa as a "fifth province" had been mooted. Creswell envisaged its ultimate incorporation into the Union as a Province in 1919. (see p.18)

(6) Ibid, 7 July 1920.

(7) For the sovereignty dispute see, Dugard, The South West Africa/Namibia Dispute, ch.4; Imishue, South West Africa, pp.12-14; Wright, Mandates, pp.319-339; Cockram, South West African Mandate, ch. 3.

(8) For example see Imishue, South West Africa, p.12.

(9) For the text of the resolution, Ibid, p.13.

far as it was in conflict with the common law.⁽¹⁰⁾ The normal South African civil and criminal courts were instituted, consisting of Magistrates' courts with inferior jurisdiction and a High Court with unlimited jurisdiction. The practice and procedures of the High Court followed that of the Cape Provincial Division of the Supreme Court, except where the rules of the High Court otherwise provided. South Africa therefore indicated that it meant to comply in full with the proviso that South West Africa be administered as an "integral portion" of the Mandatory Power. The application of South Africa's legal structure to South West Africa was necessary as separate legal structures would have been expensive to maintain. The highest court for South West Africa in practice would thus be the Appellate Division in Bloemfontein, (although, appeals to the Privy Council were theoretically not abolished until 1950). From January 31st 1923, any inhabitant of South West Africa who felt aggrieved could petition the Mandates Commission for redress of grievances.⁽¹¹⁾ However petitions could only be considered if they were transmitted by the mandatory power itself. It follows that few petitions reached the Commission from South West Africa.

The German district divisions of the Landesrat and the Bezirksverbände were abolished. However, for the purposes of African Administration, the South African government utilized the arrangement adopted by the German Administration. The area South of Ovamboland and Kaokoveld became known as the Police Zone. European laws were enforced in this Zone which included nearly three-quarters of the territory. The northern areas were known simply as the Tribal Areas (or Reserve Zone) and were not settled by Europeans. These included Ovamboland, Okavongo, the Caprivi Zipfel and Kaokoveld. (See Map on p.42).

Military rule in South West Africa was officially lifted on January 1st 1921, when the interim recommendations of the de Wet Commission were made known. The Commission proposed that an ad-

(10) Administration of Justice Proclamation, 1919. For details of the legal system in South West Africa during our period see The Official Year Book of the Union of South Africa, 1910-1925, No. 8, pp.988-990.

(11) On the petitions see Slonim, South West Africa, pp.47-48.

visory council of six nominated members be appointed to advise the Administrator.^(I2) One member was to be qualified in African Administration. The Council was to advise the Administrator on matters pertaining to the raising of revenue, the appropriation of monies for public service, the allocation of expenditure and the general administration of the territory. The sole authority was the Administrator but he could be over-ridden by the South African government. These proposals were implemented in January 1921.^(I3) The Commission's final report in May 1921 makes interesting reading as its recommendations coincided with the spirit and meaning of the phrase "an integral portion of the Union of South Africa" in the defined terms of the Mandate. It was framed so as to give effect to the merging of South West Africa and South Africa as an integrated whole.^(I4) The final report in this connection stated:

"....that the form of government for the Protectorate outlined in the Interim Report, should be succeeded without any intermediate phases, by the form of government at present prevailing in the four Provinces of the Union, giving the population full representation in a Provincial Council and in the Union Parliament. When the stage has been reached, the Protectorate will be administered as a fifth Province of the Union, with a system of government similar in principle to that of the other parts of the Union."^(I5)

This proposal was eventually adopted in 1925 when a Legislative Assembly and an Executive Council were instituted.^(I6) This could not be done in 1921 owing to difficulties created by the large numbers of German Nationals living in the territory. There was no desire on the part of the Union to exclude German subjects from full participation as is evident from the terms of a unanimous resolution passed in December 1922 urging that the German inhabitants should be given a share in the government of

(I2) See Goldblatt, History of South West Africa, p. 214.

(I3) Proclamation No. I. of 1921, The Laws of South West Africa, Vol. I. 1915-1922, p. 493.

(I4) For this report see, Van Bruwer, South West Africa, p. 86.

(I5) Ibid, p. 87.

(I6) The South West Africa Constitution Act, 1925.

the country. It was expressly recognized in this resolution that it would be undesirable "to exclude any considerable section of the European population" and it was recommended that the Union Parliament enact legislation for automatic naturalisation of Germans excepting in the case of those who might object.⁽¹⁷⁾ When the South West Africa Naturalisation of Aliens Act was passed in 1924 the Union government was able to implement the proposals of the Final Report of the de Wet Commission.

The problem of South West Africa's political and constitutional status continued to cause dispute. During the debate on the Report of the de Wet Commission, General Hertzog let it be known that he felt "the Mandate really meant nothing more or less than annexation."⁽¹⁸⁾ The Report of the Commission itself admitted that there was not much practical difference between the Union's powers (over South West Africa) and full annexation.⁽¹⁹⁾ The Report concluded that the future of South West Africa was indissolubly bound up with the future of the Union and it would be committing a crime to South Africa by holding out hopes to the indigenous inhabitants that they were going to have self-determination.⁽²⁰⁾ General Hertzog then advanced another solution to the future of South West Africa when he declared that; if in ten years time there should be a fairly large number of Europeans in the territory able to govern themselves, the Union government should recommend to the League of Nations that self-government be handed to the white section. Then if the European inhabitants so desired, they should become part of the Union.⁽²¹⁾

Other comments during the debate included J. Keyter's (M.P. for Ficksburg) argument that because South Africa had paid over £2 million towards the administration of the territory, "it was clear that there could be no future for South West Africa apart from the Union."⁽²²⁾ General Smuts himself continued to claim that South

(17) For this resolution, see Dundas, South West Africa, p.14.

(18) House of Assembly Debates, Cape Times, 18 June 1921.

(19) Ibid.

(20) Ibid.

(21) Ibid.

(22) Ibid., 21 June 1921.

West Africa was virtually part of South Africa. For example, in a speech at Windhoek in 1920 he said in reply to a German deputation that "the Mandate over South West Africa was nothing else but annexation and in this view he persisted."⁽²³⁾ In a speech to the Union Parliament in 1925 he put this idea in another form without changing its substance when he said;

"I do not think it is necessary for us to annex South West Africa to the Union. The Mandate for me was enough, and it should be enough for the Union. It gives the Union such complete sovereignty, not only administrative, but legislative, that we need not ask for anything more." (24)

W. Beyers (M.P. for Edenburg) felt that incorporation was inevitable as it was known that "the idea of the Mandate was not eternal."⁽²⁵⁾

An example of South African attempts to treat the Mandate as disguised annexation is contained in an agreement in 1926 between South Africa and Portugal establishing the boundary between South West Africa and Angola. This agreement contains a preamble which states that South Africa "possesses sovereignty" in the mandated area.⁽²⁶⁾

Finally, The South West Africa Affairs Act of 1922 conferred administration of the Walvis Bay area on the administration of South West Africa.⁽²⁷⁾ Politically, the territory remained an

(23) Windhoek Advertiser, 27 September 1920. Quoted in Goldblatt, History of South West Africa, p.209.

(24) Ibid, p.210.

(25) House of Assembly Debates, Cape Times, 21 June 1921.

(26) The Preamble states;

"Whereas under a mandate issued by the Council of the League of Nations in pursuance of Article 22 of the Treaty of Versailles, the government of the Union 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." Quoted in Dugard, The South West Africa/Namibia Dispute, p. 78.

(27) House of Assembly Debates, Cape Times, 9 June 1922.

integral part of South Africa.

.....

For the purposes of African Administration, the territory was divided into a Police Zone and the Reserve Zone.⁽²⁸⁾ Despite the provisions of the Mandate to "promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory,"⁽²⁹⁾ "native policy" in South West Africa was no different to that of the Union. The Smuts government clearly placed the interests of the white minority above those of the indigenous peoples. White immigration was vigorously encouraged and openings for farmers were provided by the application to South West Africa of the Union Land Settlement Act of 1912 with subsequent amendments.⁽³⁰⁾ This Act facilitated possession of Crown Land by immigrants with modest means. The German government had, by confiscating land from the Africans, provided itself with a large portion of territory as Crown Land, which, in terms of the Versailles Treaty, became Crown Lands of South West Africa under the Mandate. White immigrants soon flocked into the territory. By 1939 practically all available Crown Land for settlement had been disposed of while "the natives.....all looked on with dismay at the disposal of land which they thought would be restored to them after the defeat of the Germans."⁽³¹⁾

All the Europeans in South West Africa live in the Police Zone, where all the familiar Union segregationist policies were applied. Provision for Africans in the Police Zone was made by the establishment of eighteen Reserves. The Commission of 1920 appointed to in-

(28) For African Administration in South West Africa see I.L.Evans, Native Policy in Southern Africa - an outline, part 4, (London, 1934); J.D. Rheinallt Jones, "The Administration of South West Africa-welfare of the indigenous population," South Africa Institute of Race Relations pamphlet, (1952); M.J.Olivier, "Inboorlingbelied en administrasie in die Mandaatgebied van Suid Wes Afrika," (unpublished Ph.D. thesis, Univ. of S.A. 1965); Goldblatt, History of South West Africa; O. Levinson, South West Africa, (Cape Town, 1976); Dundas, South West Africa; and The Official Year Book of the Union of South Africa, 1910-1925, No. 8, pp. 991-992.

(29) Article 2.

(30) Proclamation No. 14 of 1920, The Laws of South West Africa, Vol. 1915-1922, p. 219.

(31) Goldblatt, History of South West Africa, p. 226.

quire into the establishment of the African Reserves initially allocated only 2 100 000 hectares to the Africans, (the total area of the Police Zone was 57 200 000ha.) despite the fact that the Africans constituted 85% of the population of the Police Zone.⁽³²⁾ African land allocation proceeded very slowly until the 1930's when about 16 million hectares had been given to the African Reserves. Africans in the urban areas were required to live in locations separated from the white residencies by 500-yard buffer strips. Residence by natives in these locations, (about twenty-five in all) was by permit only. Only adult males could reside in the locations. Pass Laws were instituted⁽³³⁾ controlling movement from the Reserves to the urban areas as well as between the Police Zone and the Reserve Zone.⁽³⁴⁾ Permits from the District Magistrate were required for employment and residence in the urban areas. Magistrates exercised jurisdiction over Europeans and Africans alike in the Police Zone.⁽³⁵⁾ Chiefs and Headmen in the Reserves were recognized by the central administration although their powers as rulers were in practice very limited. The system of African administration in the Police Zone was thus more akin to direct rule and this facilitated the breakdown of the traditional "tribal systems". A Native Commissioner was appointed to supervise African Affairs generally in the territory. He was also a member of the Administrator's Advisory Council. He was aided by a Superintendent who resided in the Reserves.

Less than a quarter of the African population of the Police Zone lived in the Reserves which suggests that they were essentially reserves of African labour. This would seem to be in accordance with official policy. In the Native Commissioner's annual report of 1928 it was stated that:

"men are not encouraged to remain idling in the Reserves. Only men who are physically unfit, or such as are necessarily required

(32) Figures taken from The Official Year Book of the Union of South Africa, 1910-1925, No.8. ch. 27.

(33) Proclamation No. 2 of 1922, The Laws of South West Africa, Vol. 1915-1922. The Pass Laws were consolidated when the general provisions of the Union's Natives (Urban Areas) Act of 1923 were applied to South West Africa, with such omissions as were necessary, in 1924.

(34) Do not confuse the Reserve Zone (area outside the Police Zone) with the Reserve areas inside the Police Zone.

(35) See Evans, Native Policy, p.144.

to look after the people in the Reserves and their stock and the stock of others who have gone out to seek work, are encouraged to remain there." (36)

This still did not solve the labour problem as many Africans were unwilling to leave their farms and work for the whites, especially after their experiences at the hands of the Germans. Overt forced labour was obviously out of the question but in 1920 a Proclamation was issued making it a criminal offence to be wandering about as an "idle or a vagrant person or a person without visible means of support." It was provided that in lieu of a sentence of imprisonment, the magistrate was required to allot the offenders to employment by public bodies or by a private person. (37)

Africans were liable to the same direct taxes as the Europeans as well as a Dog Tax (one of the causes of the Bondelzwarts rebellion). They also had to pay grazing fees for the use of the land in the Reserves and on Crown Land outside the Reserves. The money from the Dog Tax and the grazing fees went into a Native Tribal Trust Fund to be administered by the Chiefs and Headmen in the Reserves. This money was to be expended on education; agricultural improvements; on improving live-stock; on water supplies; or on general utilities such as roads and hospitals. As the funds amounted to only some £7000 a year, such utilities were very poor. (38) African education in particular, was in a poor state, and remained largely in the hands of the mission stations. This was in stark contrast to white education, which was controlled according to the provisions of the Education Proclamation of 1921. This was an adaptation of the Consolidated Education Ordinance of the Cape Province and provided for the compulsory school attendance of all European children between the ages of seven and fifteen inclusive. (39)

(36) Ibid, p. 145.

(37) Proclamation No. 25 of 1920, The Laws of South West Africa, Vol. 1915-1922, p.280.

(38) Evans, Native Policy, p. 146.

(39) The Official Year Book of the Union of South Africa, No. 8, 1910-1925, p.987.

African Administration in the Reserve Zone was more lenient and took on the form of indirect rule.⁽⁴⁰⁾ Northern tribes, such as the Ovambo, were virtually left to their own devices. They were nominally subject to the control of a Resident Commissioner (Major Hahn) and two assistants. There were no Europeans in the Reserve Zone and this explains the lack of a direct "native policy" in this region. South Africa thus did not comply with the spirit of Article 2 of the Mandate in its "native policy" in the North; but whether this policy was more praiseworthy than the rigorous "native policy" in the Police Zone is open to debate. Occasionally the Administration did have problems in the North. For example, Mandume, the Chief of an Ovambo tribe, was killed when military forces were sent against him to prevent him raiding into Angola (1922). It proved impossible to find a successor Chief, so the tribe had to be governed directly by the Resident Commissioner.⁽⁴¹⁾ Nevertheless, African affairs in this region appear to have been generally harmonious. There were certainly no major uprisings as occurred in the South.

However, African Administration in the Police Zone had severe repercussions. As occurred elsewhere in settler Africa, the best land went to the Europeans. As the indigenous tribes in this region were usually pastoralists, the land being unsuitable for agriculture, it followed that the allocation of small, fixed reserves would severely disrupt the indigenous economy. Problems of soil erosion, lack of water, continuous overgrazing and overcrowding of the reserves caused a mass movement to the towns or onto the white farms. Rheinallt Jones examined the effects of the African administration in the Police Zone and how it helped break up the indigenous tribal structures.⁽⁴²⁾ He cited in particular the example of the Hereros, who were scattered over eight reserves resulting in a division of their loyalty to various headmen.⁽⁴³⁾ The Permanent Mandates Commissioner's general dissatisfaction with South Africa's handling of the indigenous inhabitants in the territory emerges clearly in

(40) See Dundas, South West Africa, pp.20-21.

(41) For this incident, see Goldblatt, History of South West Africa, p. 214.

(42) See Rheinallt Jones, The Administration of South West Africa, pp.1 ff.

(43) Ibid, p. 4.

in a speech by Commissioner Rappard in 1936;

"After watching developments for the last 14 years, he could not find any evidence that progress had been made.....of all the native populations with which the Commission had to deal, that of South West Africa seemed the most backward; its position was static and static on a deplorably low level."(44)

In one area South Africa remained true to the spirit and letter of the Mandate. The Liquor Prohibition Proclamation of 1921 forbade the sale of intoxicating spirits to the indigenous inhabitants "in order to secure the advancement of the native."(45)

.....

The Bondelzwarts and Baster Rebellions were the most serious instances of opposition to the Union's African Administration in the territory. The causes and the course of the Bondelzwarts rebellion have been detailed in R. Freislich's book, The Last Tribal War(46) and need not be discussed in full here. What is important however, is the general reaction to the rebellion as it signified that, despite the ideal inherent in the Mandate of "the sacred trust of civilization", the interests of the local inhabitants were not a top priority.

The Bondelzwarts were a Khoikhoi tribe with some European admixture who spoke Afrikaans. They had been dispossessed of much of their land under German rule and many of them, including their leaders Jacobus Christian and Abraham Morris, had gone into exile in Bechuanaland. The Bondelzwarts soon discovered that South African rule was not much different to German rule. They resented the fact that the Administration refused to return to them their traditional lands. Other grievances included the high dog tax and the imposition of a headman called Timothy Beukes, who had no connection with the tribe, over Christian. Matters came to a head in May 1922 when Morris returned from exile without leave, bringing with him livestock and fire-arms. Hofmeyr sent a police officer to Christian to negotiate the return of Morris. Christian refused to give up

(44) Quoted in M. Wilson & L. Thompson (Eds), The Oxford History of South Africa, Vol II, 1870-1966, (London, 1971), p.106.

(45) The Official Year Book of the Union of South Africa, No.8, 1910-1925, p.992.

(46) For the Bondelzwarts rebellion see, R. Freislich, The Last Tribal War, (Cape Town, 1964); A.M. Davey, "The Bondelzwarts Affair-A study of the repercussions" Communications of the University of South Africa pamphlet, Pretoria, 1961; E. Walker, A History of South Africa, (London, 1957) pp. 587-8; and Hancock, Smuts, vol. II, pp. 100-110.

Morris and this led to an uprising of some 600 members of the tribe. In reply Hofmeyr, who took personal command of the military forces, used tanks and aeroplanes to bombard the Bondelzwarts into submission. 115 members of the tribe were killed, including women and children. There were two losses on the Administration's side.

Smuts in fact defended Hofmeyr's course of action.⁽⁴⁷⁾ Very little was said about the rebellion in Parliament in 1922 but when the Report of the Native Affairs Commission was tabled in 1923,⁽⁴⁸⁾ there was some opposition to the government's course of action - mainly from Labour politicians. A. Barlow attacked the tactlessness of the police and said that "no effort had been made to carry out the trust committed to the Union government."⁽⁴⁹⁾ W. Madely also seized the occasion to attack Colonel Hofmeyr in disparaging terms.⁽⁵⁰⁾ However in reply to this attack, Smuts commented that "it leaves me cold."⁽⁵¹⁾ A notable feature of the debates was the almost total silence of the Nationalists. Die Burger, commenting on this, stated that: "on the Bondelzwarts issue there was a silence that did not escape notice."⁽⁵²⁾ Indeed, most of them absented themselves from the House, thus avoiding the stigma of being branded as champions of the Khoi-khoi. Concluding the debate on this issue, Smuts said that Hofmeyr's swift action had forestalled "a very terrible catastrophe in South West Africa," and that Major J.F. Herbst (the Secretary for South West Africa) would be sent to Geneva to assist in putting South Africa's case to the Permanent Mandates Commission and "to do everything possible to set ourselves right in the eyes of the world."⁽⁵³⁾

In analyzing South African Press response to the rebellion, Davey notes⁽⁵⁴⁾ that only the Star was highly critical while De Volkstem lauded Hofmeyr's decisive action unreservedly. However Die Burger did argue that the affair might harm South Africa's reputation in the world.

(47) Davey, The Bondelzwarts Affair, p.9.

(48) 10 April 1923, U.G. 10/23.

(49) Davey, The Bondelzwarts Affair, p.10.

(50) Ibid.

(51) Hancock, Smuts Vol.II. p.109.

(52) Die Burger, 4 May 1923, quoted in Davey, The Bondelzwarts Affair, p. 12.

(53) Ibid, p.10.

(54) Ibid, pp. 12-15.

British press reaction was also subdued.⁽⁵⁵⁾ The years 1922-1923 had no lack of colourful incidents elsewhere to absorb public interest. The New Statesman, however, did assert that the "sacred trust of the Mandate had been betrayed." A revealing article by The Times stated that the "native problem of South West Africa is an integral part.....of the native problem in South Africa."⁽⁵⁶⁾ This shows that, in the eyes of the outside world, the two countries had become inseparably linked.

The League of Nations itself, did not seem too concerned about the incident. The uprising occurred in May 1922, yet it was not brought to the notice of the League until September 1922, and then by South Africa itself. Still more surprising, it was not until the better part of another year had passed that the Mandates Commission discussed the Bondelzwarts affair in real earnest. As it turned out, the final Report of the Commission (1 August 1923) was only a moderate censure.⁽⁵⁷⁾ It found no fault with the measures that the Administration took once the revolt had commenced although it criticized the failure to send high ranking officials instead of policemen to negotiate with the Bondelzwarts. The Report was unanimously approved by the League Assembly. The Assembly went no further than expressing "its regret" and hoped that future reports of the Mandatory Power would allay all misgivings. The Report of the Permanent Mandates Commission was tabled in the South African House of Assembly in January 1924 but there was no further parliamentary reaction. Later on, in the 1940's, black Nationalist leaders such as Dr. Nkrumah were to criticize the dilatoriness of the League of Nations on the Bondelzwarts affair. As for the Bondelzwarts themselves, Morris was killed and they were reduced to a leaderless and miserably poor community. Most of their stock stampeded during the rebellion and subsequently died of thirst.

The same attitudes were evident with regard to the Baster rebellion.⁽⁵⁸⁾ The Rehoboth Basters had secured a large measure of

(55) Ibid, pp 15-17.

(56) The Times, 25 August 1922, Ibid, p. 16.

(57) For the Commission's Report on the Rebellion, Ibid, p.19.

(58) For the Baster Rebellion see Goldblatt, History of South West Africa, pp. 222-223; Van Bruwer, South West Africa, p.92.

autonomy under German rule although their freedom had been continually eroded. In 1916 General Botha had promised the Basters that their independence would be restored. Therefore, in 1923, an agreement was reached between the Basters and the Administration giving them a limited measure of self-government.⁽⁵⁹⁾ An opposition group among the Basters rejected this measure as a breach of General Botha's promise and there was soon a complete breakdown in the government of the Basters - each group forming its own Raad with its own Kaptein. The Administration was unable to reconcile the Raads and there was an outbreak of violence in 1925. However the Basters, mindful of the fate of the Bondelzwarts, surrendered when aeroplanes were dispatched by the military command. The Permanent Mandates Commission resolved that:

"the Basters really possessed no independence... their grievances had been fully investigated, and have now lost their relevance....there is no need for further action on the part of the Permanent Mandates Commission." (60)

Smuts voiced the same opinion in Parliament in 1923 when he said that the treaty between the Germans and the Basters was considered "dead" after the war. He argued that it would be contrary to the spirit of the Mandate to recognize the independence of the Basters.⁽⁶¹⁾

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The Union's attitude towards the Germans in South West Africa was one of the most laudable aspects of South African Administration in that territory.⁽⁶²⁾ As will be seen, there was no desire on the part of the Union to alienate the large German population as they were to play an important role in the development of the territory.

Although under the powers conferred by Article 122 of the Peace Treaty,⁽⁶³⁾ the Union was entitled to repatriate all German Nationals in South West Africa, it scarcely availed itself of this right.

(59) Goldblatt, History of South West Africa, p.222.

(60) Ibid.

(61) House of Assembly Debates, Cape Times, 22 May 1923.

(62) Most historical works on South West Africa deal with the Union-German relations in the territory. For a good factual account see Dundas, South West Africa, pp. 13-19.

(63) Ibid., p.13.

Only German officials, police, regular troops and their families were deported, together with such other Germans as volunteered to return to Germany, or were considered undesirable citizens. By 1921, 6374 Germans had been deported leaving 7855 in South West Africa.⁽⁶⁴⁾ In terms of Article 299 of the Peace Treaty, the Union government was also entitled to retain and liquidate all property rights and interests belonging to German Nationals in the territory. But in fact "no exceptional war measures were applied to landed estates belonging to enemy subjects."⁽⁶⁵⁾ However, the property of the German fiscus was transferred to the mandated territory. Nor were Germans debarred from coming into the country, neither were they subjected to any disabilities, political or otherwise. In fact, three of the Advisory Council's six members were Germans. The Union government allowed the Germans to form their own political association in 1920, the Deutscher Verein, and afterwards (1924) the Deutscher Bund to represent their interests and preserve their culture.⁽⁶⁶⁾

The most important development in Union-German relations was the Naturalization Act. In December 1922 the Advisory Council passed a resolution to the effect that it was advisable to have a form of representative government in the territory in accordance with the proposals of the de Wet Commission. The problem was that the vote was restricted to British subjects and it was undesirable to exclude the large German population. The Council thus recommended that the Union Parliament pass an Act for the automatic naturalization of all adult German subjects who were domiciled in the territory on a certain date - leaving it to those who did not wish to be so naturalized to object within a period of six months.⁽⁶⁷⁾ To ascertain the feelings of the Germans, the Administrator toured the country, where German attitudes were generally favourable. However, the Germans living in Windhoek, who formed the majority of the German population, were opposed to the scheme.

General Smuts then stepped in. On a visit to Europe, he discussed

(64) The South African population in the territory at this time was 10 673.

(65) Goldblatt, History of South West Africa, p.208.

(66) Dundas, South West Africa, p.15.

(67) Ibid., p.13.

the matter with two representatives of the German government, Ruppel and De Haas. The upshot of this meeting was that an agreement was reached in October 1923 on the treatment of German subjects in South West Africa. The German government decided to recommend its subjects to accept automatic naturalization. De Haas declared:

"The German government recognizes that the future of South West Africa is now narrowly linked with that of the Union of South Africa, and that it will be a wise step for the Germans in the territory to join up with the South Africans. It is therefore ready to exercise its influence among the Germans to accept Union nationality in accordance with a general (automatic) naturalization law of the Union and to advise them not to make use of their right to object." (68)

And in an address to a deputation, the German Consul in Cape Town said:

"The German Government is convinced that those Germans who decide to acquire a second nationality will in all loyalty to the Mandate Administration devote their best efforts to the development of what to them has become a second Homeland." (69)

This paved the way for the passage of the South West Africa Naturalization of Aliens Act in 1924,⁽⁷⁰⁾ whereby all German adult males domiciled in South West Africa since January 1st were automatically naturalized unless they lodged specific objection thereto. Of the 3489 Germans eligible, only 261 decided against naturalization. This enabled the Union Parliament to enact the South West Africa Constitution Act (1925) which provided for the creation of a Legislative Assembly of 18 members, 12 being elected and 6 nominated. The Assembly had the power to legislate in all matters save those reserved for the Union Parliament,⁽⁷¹⁾ As Walker points out, the Naturalization Act "pointed to self-government and 'pace' the League, to the ultimate incorporation of the Protectorate in the Union."⁽⁷²⁾

(68) Quoted in Goldblatt, The History Of South West Africa, p.220.

(69) Quoted in Dundas, South West Africa, pp.15-16.

(70) House of Assembly Debates, 1924 vol.I. p.722.

(71) For details of this Act see Dundas, South West Africa, pp.14-15.

(72) Walker, A History of Southern Africa, p.594.

The Union government subsidized all German schools. German was to be the medium in the German Primary schools and afterwards it would be included as a subject in all the secondary schools in the territory. ⁽⁷³⁾

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The Railways dispute is important because it highlights some of the problems in interpreting the Mandate and the political status of South West Africa. ⁽⁷⁴⁾ The South West Protectorate Railways and Harbours Bill was introduced into Parliament in May 1922. ⁽⁷⁵⁾ Its object was to incorporate the railways in South West Africa completely and entirely into the railway system of the Union. The management of the railways in South West Africa had in any case been in the hands of the Union Railway Department since August 1915 and the systems of the two countries had already been converted to a uniform gauge.

During the debates on the bill, Havenga argued that the Mandate did not entitle the Union to appropriate railways in the Protectorate. ⁽⁷⁶⁾ Hertzog also rejected the assumption that the South West African railways were the property of the Union. He felt that the Union had the right to incorporate the railways for administrative purposes but the accounts should be kept separately. He said that this bill was the "start of the total annexation of the Protectorate." ⁽⁷⁷⁾ However the Smuts government argued that, as South Africa had "full power of administration" over the territory under Article 2 of the Mandate, the incorporation of the Protectorate's railway system into the Union Railway Department was the most practical solution to defray the expenses in administering the railways in the territory. ⁽⁷⁸⁾ Nationalist objections were thus overruled and the bill became law.

When this Act came to the notice of the Permanent Mandates

(73) House of Assembly Debates, Cape Times, 21 June 1921.

(74) For details of the railway administration in the territory see The Official Yearbook of the Union of South Africa, 1910 - 1925 No. 8. pp. 1006 - 1008.

(75) House of Assembly Debates, Cape Times, 2 May 1922.

(76) Ibid.

(77) Ibid.

(78) Ibid.

Commission in 1925, the Commission called for an explanation of the phrase which referred to the railways and harbours as being under the Union in "full dominium." The South African government, (now Nationalist) in its reply, advanced the same argument of Smuts. This reply proved satisfactory to the Commission which, nonetheless, suggested ammendment of the Act.⁽⁷⁹⁾ This was ultimately undertaken in 1930.

(79) P.M.C. (Min VI(1925) 63-64, 178).

CONCLUSION

General Smuts clearly desired the incorporation of South West Africa into the Union and it has been seen that his strategy at the Paris Peace Conference was aimed towards this end. His government's administration of the territory in the years after the First World War indicate that he had not abandoned his hopes of annexation and the introduction of a Legislative Assembly, similar to that existing in the four Union provinces, in 1925 was no doubt aimed at fulfilling the words of Woodrow Wilson: "It is up to the Union of South Africa to make it so attractive that South West Africa will come into the Union of its own free will." (1)

The Smuts government administered the territory as though it was part of the Union and they took little notice of the Mandate or the League of Nations. P.C.W. Grobler, speaking in Parliament in 1923, criticized the League as nothing but a farce and suggested the deletion of South Africa's payment of the annual £25 000 to that body. (2) It has already been noted that the Union government claimed sovereignty over the territory and voicing his opinion on the relationship between the territory and the Union, S. Kerr said in the South African Senate in 1930:

"Personally I take up the attitude that we fought and won German South West Africa in a fair way in battle, and that, as a result of that war and that fight, we are owners of South West Africa.....I think the majority of the people in this country are of the opinion that South West Africa is part and parcel of the Union and would do all in their power to hold that territory against all comers." (3)

In later years, Smuts gave another reason for supporting South Africa's claim to South West Africa:

"When I was Prime Minister, we assured our

(1) Quoted in Slonim, South West Africa, p. 23.

(2) House of Assembly Debates, Cape Times, 22 May 1923.

(3) Senate Debates, 3 March 1930, quoted in Cockram, South West African Mandate, p. 78.

position as far as South West Africa was concerned. I made an agreement with Germany and did not leave the matter on a basis of force and victory. There is a formal agreement whereby Germany acknowledges that the future of South West Africa is with the Union, and whereby Germany undertakes to advise her subjects in South West Africa to become Union subjects. They did in fact become Union subjects. Our claim to South West Africa is therefore based not merely on force or victory, but an agreement with Germany."(4)

What this statement ignores, is the fact that it was the League of Nations that granted South West Africa to the Union, and not Germany. This is indicative of how little importance was attached to the trusteeship concept of the Mandate by Smuts. He was determined to maintain the fiction that South Africa's claim to South West Africa was based on an agreement with Germany, and had nothing to do with League of Nations.

It has been seen that the principle statesmen at the Peace Conference also envisaged the ultimate incorporation of South West Africa into the Union. It was only President Wilson's fears that Japan might follow the South African precedent and annex certain Pacific islands vital to the United States' security that prevented the Union from securing South West Africa outright.

However, in the years following the grant of the Mandate to the Union, the Permanent Mandates Commission did not seem too concerned about the fact that South Africa was treating the territory as very much part of the Union, ignoring the spirit of Article 2 of the Mandate and the concept of the "sacred trust of civilization." The mild reaction of the League to the Bondelzwarts and Baster rebellions is indicative of this lack of concern. It seems as though the League deemed it wise to intervene as little as possible in the affairs of the mandated territory during these

(4) Reported in the Times, II December 1937, quoted in Cockram, South West African Mandate, p. 78.

early years. "The emphasis therefore was on persuasion rather than coercion, the result generally slow progress in a friendly atmosphere."⁽⁵⁾ In any case, the League's means of supervision over the Mandate were extremely limited. The Mandatory Power had to submit an annual report covering the administration of the territory and the measures taken to fulfill the obligations assumed under the Mandate. However these reports were never extensive as it was not for the Council "to check and examine every detail of administration.....Its duty (was) to see that the administration....(was) conducted generally in accordance with the ideas enunciated in Article 22."⁽⁶⁾ The League could also question accredited representatives of the Mandatory Power to make good any deficiencies in the written report, (e.g. Major Herbst in the Bondelzwarts incident). In time, the practice developed of having the actual administration's Secretary available in Geneva during the examination of the annual report. He would clearly present the South African government in a favourable light and therefore this would work to the Union's advantage..A third method of supervision was the right of petition to the League,of the inhabitants of the territory. We have noted that this was ineffectual as petitions could only be delivered by the Mandatory Power in question. There was no discussion at the Peace Conference of the means of coercion available to the League. This, more than anything else, limited the control of the League over South Africa's administration of South West Africa.

The scope of League supervision of the mandates was outlined in a report of 1920:

"...in what direction will the League's right of control be exercised?...in this matter the Council will obviously have to display extreme prudence so that the exercise of its right of control should not provoke any justifiable complaints, and thus increase the difficulties of the task undertaken by the Mandatory Power."⁽⁷⁾

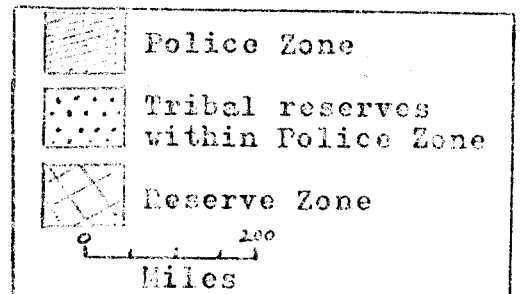
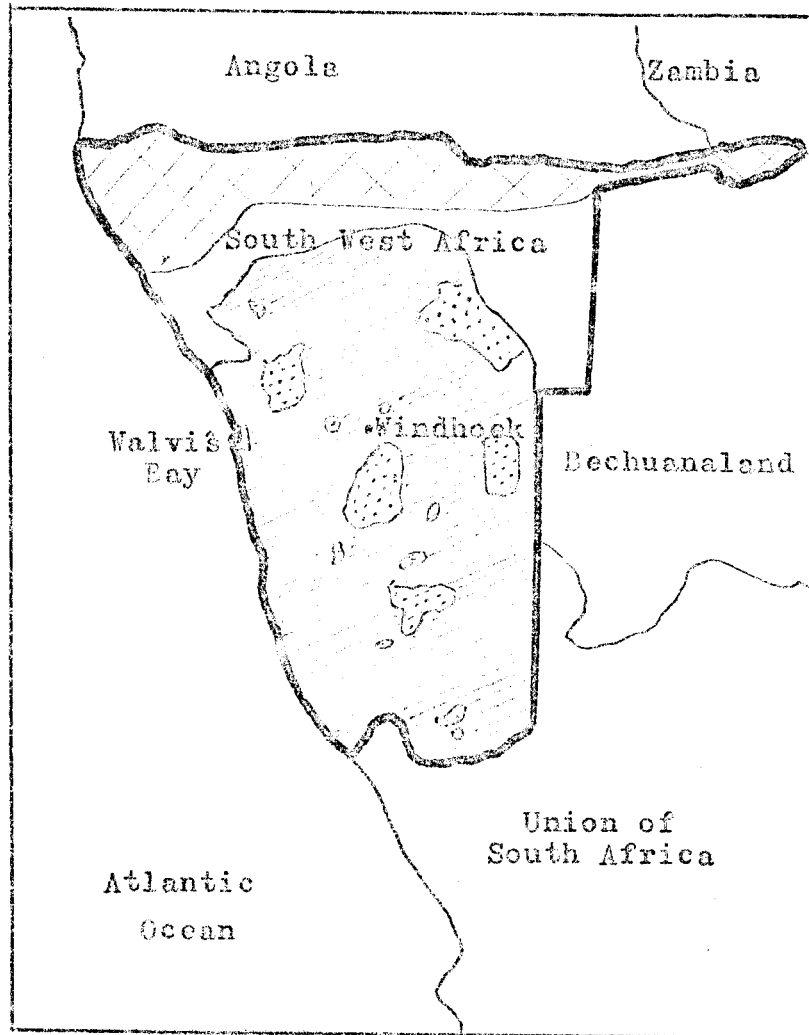
(5) Imishue, South West Africa, p.7.

(6) Slonim, South West Africa, p.46.

(7) Ibid, p.45.

The general policy line followed by the Permanent Mandates Commission in its relationship with the Mandatory Power was further detailed in the 1926 Report as "one of supervision and of co-operation."⁽⁸⁾ This attitude of the League no doubt encouraged the Union government to pursue its policy of bringing the two countries closer together and during the 1930's and 1940's South Africa continually urged the League and later the United Nations to allow the incorporation of the territory into the Union. However the favourable attitude of the international community to this idea had long since undergone a transformation.

(8) P.M.C. (Min.VIII(1926) 200).



APPENDIX I

Mandate Article of the League of Nations Covenant:

Article 22:

- (1) To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in the Covenant.
- (2) The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who, by reason of their resources, their experience and their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.
- (3) The character of the Mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.
- (4) Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.
- (5) Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of such abuses as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of the territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.
- (6) There are territories, such as South-West Africa and certain of the South Pacific islands, which, owing to the sparseness of their population or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.
- (7) In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.
- (8) The degree of authority, control or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the

Council.

- (9) A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories, and to advise the Council on all matters relating to the observance of the mandates.

APPENDIX II

THE MANDATE FOR SOUTH-WEST AFRICA

The Council of the League of Nations,

WHEREAS by Article II9 of the Treaty of Peace with Germany, signed at Versailles on 28th June, 1919, Germany renounced in favour of the Principal Allied and Associated Powers all her rights over her oversea possessions, including German South-West Africa; and

WHEREAS the Principal Allied and Associated Powers agreed that, in accordance with Article 2, Part I (Covenant of the League of Nations) of the said Treaty, a Mandate should be conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa to administer the Territory aforementioned, and have proposed that the Mandate should be formulated in the following terms; and

WHEREAS His Britannic Majesty, for and on behalf of the Government of the Union of South Africa has agreed to accept the Mandate in respect of the said Territory, and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions; and

WHEREAS, by the aforementioned Article 22, paragraph 8, it is provided that the degree of authority, control, or administration to be exercised by the Mandatory, not having been previously agreed upon by the members of the League, shall be explicitly defined by the Council of the League of Nations.

Confirming the said Mandate, defines its terms as follows:-

Article I.

The Territory over which a Mandate is conferred upon His Britannic Majesty for and on behalf of the Government of the Union of South Africa (hereinafter called the Mandatory) comprises the Territory which formerly constituted the German Protectorate of South-West Africa.

Article 2.

The Mandatory shall have full power of administration and legislation over the Territory subject to the present Mandate as an integral portion of the Union of South Africa, and may apply the laws of the Union of South Africa to the Territory, subject to such local modifications as circumstances may require.

The Mandatory 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.

Article 3.

The Mandatory shall see that the slave trade is prohibited, and that no forced labour is permitted except for essential public works and services, and then only for adequate remuneration.

The Mandatory shall also see that the traffic in arms and ammunition is controlled in accordance with principles analogous to those laid down in the Convention relating to the control of the arms traffic, signed on 10th September, 1919, or in any convention amending the same.

The supply of intoxicating spirits and beverages to the Natives shall be prohibited.

Article 4.

The military training of the Natives, otherwise than for purposes of internal police and local defence of the Territory, shall be prohibited. Furthermore, no military or naval bases shall be established or fortifications erected in the Territory.

Article 5.

Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the Territory freedom of conscience and the free exercise of all forms of worship and shall allow all missionaries, nationals of any State Member of the League of Nations, to enter into, travel and reside in the Territory for the purpose of prosecuting their calling.

Article 6.

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information with regard to the Territory, and indicating the measures taken to carry out the obligations assumed under Articles 2, 3, 4, and 5.

Article 7.

The consent of the Council of the League of Nations is required for any modifications of the terms of the present Mandate.

The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation of the application of the provisions of the Mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice, provided for by Article 14 of the Covenant of the League of Nations.

The present Declaration shall be deposited in the archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Powers Signatories of the Treaty of Peace with Germany.

Made at Geneva, the 17th day of December, 1920.

APPENDIX III

Treaty of Peace and South-West Africa Mandate Act. (September 1919).

- (1) The Governor-General may make such appointments, establish such offices, issue such proclamations and regulations and do such things as appear to him to be necessary for giving effect, so far as concerns the Union, to any of the provisions of the said Treaty or to any mandate issued in pursuance of the Treaty to the Union with referance to the territory of South-West Africa, lately under the sovereignty of Germany, and any Act of the Governor-General in that behalf shall be lawful notwithstanding any provision to the contrary in any law contained.
- (2) Subject to any law passed by Parliament, the Governor-General may by Proclamation at any time:-
 - (a) Repeal, alter, ammend or modify any laws in force within the said territory, including such Proclamations as have been or may be promulgated during the military occupation thereof.
 - (b) Make new laws applicable to the said territory.
 - (c) Delegate his authority in this behalf to such officer in the said territory as he may designate to act under his instructions.
- (3) Any Proclamation or regulation under this Act may provide for the imposition of penalties in respect of breaches of the provisions thereof; and shall be laid before Parliament as soon as may be.
- (4) This Act may be cited as the Treaty of Peace and South-West Africa Mandate Act, 1919.

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