

UNION OF SOUTH AFRICA.

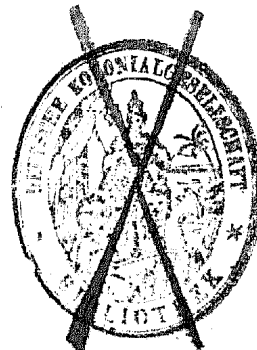
REPORT

OF THE

REHOBOTH COMMISSION.

*Presented to both Houses of Parliament by Command of his Excellency
the Governor-General.*

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UNION OF SOUTH AFRICA.

COMMISSION.

BY MAJOR-GENERAL HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF ATHLONE, KNIGHT GRAND CROSS OF THE MOST HONOURABLE ORDER OF THE BATH, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF ST. MICHAEL AND ST. GEORGE, KNIGHT GRAND CROSS OF THE ROYAL VICTORIAN ORDER, COMPANION OF THE DISTINGUISHED SERVICE ORDER, PERSONAL AIDE-DE-CAMP TO HIS MAJESTY THE KING, HIGH COMMISSIONER FOR SOUTH AFRICA AND GOVERNOR-GENERAL AND COMMANDER-IN-CHIEF IN AND OVER THE UNION OF SOUTH AFRICA.

To the Honourable JACOB DE VILLIERS,
Judge of Appeal of the Supreme Court of South Africa.

GREETING:

Whereas it is expedient to appoint a Commission to enquire into certain matters concerning the community, commonly known as the Rehoboth Bastards, in the Mandated Territory of South-West Africa, and the area, commonly known as the *Gebiet*, occupied by them.

Know you that I, the Governor-General aforesaid, reposing great trust and confidence in your knowledge, discretion and ability, have authorised and appointed, and do by these presents authorise and appoint you, the said

JACOB DE VILLIERS,

to be my Commissioner, to enquire into and report upon the following matters:—

- (1) What were the boundaries and the extent of the *Gebiet* as determined and recognised by or under the German Administration, and how far such boundaries and extent were fixed in consultation with the inhabitants of the *Gebiet* and received their approval or acquiescence.
- (2) Whether since the termination of the German regime any alteration has been effected in the boundaries and extent of the *Gebiet* as determined and recognised under that regime. If so, what is the extent of such alteration, and what were the reasons therefor and the circumstances connected therewith?
- (3) In how far it is in the interests of the Bastard community of the *Gebiet* and of the Mandated Territory generally:
 - (a) that the alienation of land within the *Gebiet* to Europeans and natives should be permitted; and
 - (b) that Europeans and natives should be permitted to trade or reside within the *Gebiet*?
- (4) What, under the German regime, was the political position of the *Gebiet* and its inhabitants and the measure of self-government allowed (a) by the German law and constitution, and (b) in actual practice; and to what extent, if any, were the self-government enactments of the *Gebiet* subject to the approval and veto of the German Administration?
- (5) What measures of taxation or measures imposing obligation in any other direction were under the German law binding upon the *Gebiet* and its inhabitants, and to what extent, if any, the *Gebiet* and its inhabitants were, under the German regime, subject to, or exempt from, general laws passed for the whole territory?
- (6) Whether any encroachment upon the rights of the community took place after the termination of German rule, and before the issue of Proclamation No. 28 of 1923.

- (7) Whether the issue of Proclamation No. 28 of 1923 was within the powers of the Union Government, and whether that Proclamation encroached upon the existing rights of the community.

And I do hereby desire and request that you do, as soon as the same can conveniently be done, using all diligence, report to me in writing your proceedings by virtue of this Commission. And I further will and direct and by these presents ordain that this Commission shall continue in force until you shall have finally reported upon the matters aforesaid, or otherwise until this Commission shall be by me revoked, and that you, the said Commissioner, shall sit from time to time at such place or places as you shall find necessary for the purposes aforesaid, and so proceed, although the proceedings may not be continued, from time to time by adjournment:

And, lastly, I do hereby desire and direct that all Public Officers in the Mandated Territory of South-West Africa, as well as all His Majesty's subjects, be assistant to you in the execution of these presents, by giving you all such information as it may be in their power to impart.

In witness whereof I have caused this Commission to be issued this 14th day of May, in the Year of Our Lord One Thousand Nine Hundred and Twenty-five.

(Sgd.) ATHLONE,

Governor-General.

By Command of His Excellency
the Governor-General-in-Council.

(Sgd.) J. B. M. HERTZOG,

Prime Minister.

UNION OF SOUTH AFRICA.

REPORT.

Enquiry into certain matters concerning the community commonly known as the Rehoboth *Basters*, in the Mandated Territory of South-West Africa and the area, commonly known as the *Gebiet*, occupied by them.

TO MAJOR-GENERAL HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF ATHLONE, KNIGHT GRAND CROSS OF THE MOST HONOURABLE ORDER OF THE BATH, KNIGHT GRAND CROSS OF THE MOST DISTINGUISHED ORDER OF ST. MICHAEL AND ST. GEORGE, KNIGHT GRAND CROSS OF THE ROYAL VICTORIAN ORDER, COMPANION OF THE DISTINGUISHED SERVICE ORDER, PERSONAL AIDE-DE-CAMP TO HIS MAJESTY THE KING, HIGH COMMISSIONER FOR SOUTH AFRICA AND GOVERNOR-GENERAL AND COMMANDER-IN-CHIEF IN AND OVER THE UNION OF SOUTH AFRICA.

May it Please Your Excellency,

1. By a Commission bearing date the 14th day of May, 1925, under the hand and seal of Your Excellency, I was directed to enquire into certain matters concerning the community known as the Rehoboth *Basters*, in the Mandated Territory of South-West Africa, and the area, commonly known as the *Gebiet*, occupied by them.

2. I have the honour to report that on the 1st of June I left Cape Town for Windhoek, arriving on the 4th. On the 5th June, a circular telegram was despatched to all magistrates in the Territory informing them of the dates on which evidence would be heard at Rehoboth and Windhoek, and requesting them to give the widest publicity to this information and to the terms of reference, copies of which had been sent to them some time previously by the Administration of South-West Africa. The same information was supplied to the South-West African Press.

3. On the 5th of June I took a statement from Mr. H. G. Scott, then Magistrate of Gibeon, now of Omaruru, in South-West Africa, and formerly Assistant Magistrate at Kokstad, in the Union of South Africa.

4. On the 7th of June I proceeded to Rehoboth, where the sitting of the Commission was opened on the 8th. The evidence of the following witnesses was taken by me during the session of the Commission at Rehoboth from the 8th to the 11th of June:—

Europeans—

H. P. Smit, Esq., Secretary for South-West Africa.

Mr. J. H. Lahmeyer, sergeant of police and public prosecutor at Rehoboth under the German regime.

Mr. Jan de Wet, M.L.A., a European resident of the *Gebiet*.

Rehoboth burghers—

Carolus Swart.

Frans Wilhelm Maasdorp.

Pieter Mouton.

Cornelius Classen.

Albert Mouton.

Niklaas Dragoener.

Samuel Beukes.

Piet Diergaard.

Johannes Beukes.

Samuel Koopman.

Jacobus Beukes.

Hermanus Classen.

5. The Secretary for South-West Africa, on behalf of the Administration of the Territory, and the Rehoboth burghers present, of whom between 40 and 50 attended the sittings of the Commission at Rehoboth, were given every opportunity of examining the witnesses after they had given their evidence.

6. The evidence was duly taken down, and is in the record.

7. The burghers were found to be divided into two opposing factions, the supporters of the so-called "Old Raad," and those of the "New Raad." The New Raad at first was

most reluctant to appear before the Commission. They were, however, afforded an opportunity to reconsider their attitude, and on the second-last day decided to give evidence.

8. The Rev. H. Schroer, Rhenish missionary at Rehoboth, who was confined to his bed through indisposition, was afforded an opportunity of giving evidence before the Commission, but elected to send in his observations on term 3.

9. On the 11th of June, the Commission adjourned at Rehoboth, and recommenced its sittings at Windhoek on the 18th of June, on which date the following witnesses were heard:—

- A. G. Landsberg, Esq., Surveyor-General.
- Major C. N. Manning, Magistrate of Rehoboth.
- Colonel M. J. de Jager, Chairman of the Land Board.
- H. W. Drew, Esq., Inspecting Magistrate and Native Commissioner.
- H. P. Smit, Esq., Secretary for South-West Africa.

10. As no more witnesses were forthcoming, the Commission adjourned on the 19th June. On both days delegates from the Rehoboth community who had been provided with facilities to attend availed themselves of the opportunity of examining the witnesses.

11. Between the 12th and the 18th June I took advantage of the offer made to me by His Honour the Administrator of South-West Africa to accompany him by rail and motor-car on one of his periodical tours of the country, and in this way obtained first-hand information of all the districts lying north and east of Windhoek. The district of Gobabis was visited by me by motor-car in the company of His Honour the Administrator, between the 19th June and the date of my departure.

12. On the 23rd June, 1925, I left Windhoek and proceeded to my headquarters at Bloemfontein, there to continue my investigations. On the 1st July, and at Bloemfontein, a statement was taken from Mr. D. W. Drew, of Pretoria, late member of the Union Parliament. Mr. Drew handed the Commission a memorandum prepared by him on the Rehoboth question. As the memorandum was incomplete he was given the opportunity of putting it in order. This memorandum he elaborated in the course of the next two or three months into the form in which it was finally handed to the Commission.

13. With the exception of the periods devoted by me to the sittings of the Appellate Division and as Chairman of the South-West Africa-Angola Boundary Dispute, I was engaged on the business of the Commission at Bloemfontein and at Cape Town, where I had the advantage of consulting the documents and books bearing on the subject in the Archives Department, the Parliamentary Library, and the South African Public Library.

14. From time to time further information was obtained from the magistrates of Kokstad and Springbok, as well as from the Secretary for South-West Africa. The Komaggas Institute placed its "Gemeente Ordenings" at the Commission's disposal, and books and publications were received from the librarians of the Governor-General's library at Pretoria, the Fichardt Library, Bloemfontein, and from the public libraries of Windhoek and Swakopmund.

15. In order to understand the problems raised by the questions submitted to me for report, and in view of the fact that South-West Africa is under mandate, it is important by way of preliminary to review the movements of the various tribes inhabiting the southern portion of the continent of Africa in a general survey.

CHAPTER I.

HISTORICAL INTRODUCTION.

16. The various native races inhabiting South Africa are the Bushmen, the Hottentots, the Berg Damaras, who are perhaps the only representatives of the Negro in South Africa, and, finally, the various Bantu tribes, which fall into three main divisions:

- (a) The Zulus, Swazis, Shangaans, Xosas and Pondos;
- (b) the Bechuanas, and
- (c) the Hereros and Ovambos.

THE BUSHMEN.

17. Neither the Hottentots nor the Bantu races were among the earliest inhabitants of Southern Africa. Like the Europeans, they are invaders. When, in 1509, the Portuguese contemplated a settlement at the Cape of Good Hope, they found the vanguard of the Hottentot invaders, who had come down the west coast from Central Africa and were preparing to continue their migration eastwards along the southern shores of Africa. This migration was stopped by the Dutch settlement in 1652. As the white colony expanded, the main stream of the Hottentots was pushed back northwards.

18. Moving eastwards from the Cape about the middle of the eighteenth century, the colonists came into collision with other invaders advancing in the opposite direction from

the north. These were some of the Bantu tribes, whose meeting with the white man took place in the country between the Great Fish and the Sunday Rivers. Thus the vanguards of three invading races, one coming down the west coast, another down the east coast, and the third expanding from Table Bay northwards and eastwards, met in the central portion of what is now the Cape Province.

19. The Rev. H. Vedder inclines to the view that probably the Berg-Damaras were the original inhabitants of Southern Africa, but the common opinion is that the true aborigines of the sub-continent are the Bushmen. They are believed to have occupied the whole of the sub-continent, until a century or two before the discovery of the Cape of Good Hope by Europeans, when they were ousted from portions of it first by the Hottentots, and later on by the Bantu. With the advance of the Hottentot along the west coast, the Bushman retired to the mountain fastnesses. The Xosas, Pondos and Zulus, too, coming down the east coast, met with fierce resistance from the little people, upon whose ancient hunting grounds they trespassed. Later Bantu tribes, the Bechuanas, traversing the centre of the sub-continent, found the Bushman in the arid interior plains north and south of the Orange and the Vaal and in the rugged mountains to the east. The white man, in his turn pushing north and eastwards, and seeking fresh pastures for his growing herds, waged an equally relentless war against him. Before each successive invader, the Bushman had eventually to fly to more inaccessible parts. To-day, the last remnants live in the Kalahari, the Namib Desert, that strip of sand in South-West Africa which extends from the coast for 50 or 60 miles inland, and in the waterless and uninhabited country between Grootfontein (S.W. Africa) and the Okavango river.

20. For centuries, therefore, prior to the various invasions of South Africa, the Bushman had lived in sole possession of the whole of the country, with the exception, perhaps, of parts of South-West Africa, where he shared the country with the Berg-Damara. He has no traditions to tell us so, but he has left indisputable evidence of his presence throughout the whole of southern Africa. His paintings are to be found in the Erongo Mountains on the west coast of the Mandated Territory, and his engravings on the banks of the Marico and the Malopo, in Bechuanaland. In the caves and on the rocks of Griqualand West, along the banks of the Vaal, throughout the Orange Free State, in the Malutis, the Witte and the Stormbergen, his art is preserved. The Division of Beaufort West and the Sneeuwbergen are rich in Bushman art; even in the Transkei and near Grahamstown his paintings have been found, as well as in the George Mountains, and as near Cape Town as the hills in the neighbourhood of Worcester, Ceres and Stellenbosch.

21. The Bushmen are a people of small stature, very few attain a height of five feet. Their colour is a dark chocolate, though a lighter colour is fairly frequent amongst the present remnants of the race, whose racial purity for the most part is, however, very problematic. The hair on the head grows in tufts, at distances from each other, the tufts (known colloquially as "*peperkorrels*"—pepper-corns) consisting of twisted woolly hairs. For the rest, their bodies are without hair. The head is comparatively large, and supported by a very slender neck, the forehead is low, the nose broad and flat, the cheekbones are very prominent, the eyes deep and slanting, and eyelashes and eyebrows practically lacking. The limbs are thin, the hands and feet extremely small, the hands and fingers especially being very delicately formed. They show the same statopygous tendencies as the Hottentots, especially in the female sex, and their stomachs, when empty, reveal fold upon fold of loose skin, the need for which becomes apparent when seen in the extended state after feasting.

22. In their natural state, unlike the other tribes, they have no huts. A cave, with its opening protected by a few branches of trees, or a semi-circle of bushes or other natural objects, over which mats or skins of wild animals are stretched, is the best shelter they aspire to possess. Failing either of these, they scoop a hole in the ground, place a few stones round it, or bend a few sticks over it, and spread a mat or skin above to serve as a roof. Often their bed is the bare earth, which, from the impress of their bodies bent into a curve in the sand around a blazing fire, reveals the number of sleepers, big and small, the night before. The Bushmen rely almost entirely upon their fires for warmth in the night. So close do they lie to the fire, that the front side of their bodies testifies to the fact in blisters and numbers of scars. Wikar first mentions a form of Bushman bed in mode to this day amongst the remnants of the race in South-West Africa. A small round hole is dug in the sand, barely large enough to accommodate the Bushman huddled up, and a fire made in it. When the fire has burned out the cinders are removed, grass is laid in the hole, and the Bushman then retires to bed. Without domestic animals of any kind except the dog, a mongrel, which assists them in the chase, their ordinary food consists of roots, *wintjies*, berries, wild plants, grass seed, locusts, larvæ of ants—hence commonly called Bushmen—rice, honey, gum, fish, snakes and other reptiles, birds and mammalia of all kinds. The conditions under which they live render them capable of remaining without food for a long time, after which they devour immense quantities of meat without

any ill-effects. They knew the use of fire when first they come into contact with the white races. Their water supply they carry with them in ostrich egg shells, slung in nets or skins of animals. From birth to death they never wash.

23. The Bushmen are now mainly found where there is game and water in the Kalahari and on its fringe, and in the dry season near the *tsama* fields of the Kalahari, or the *nara* fields of the Namib. These are the melons, which in the dry season are the Bushman's substitutes for meat and water. The men and women are innocent of all clothing, excepting some *riempies* round the loins. Slung over the shoulder they carry a skin, which at night serves as a blanket and, in the case of the woman, to carry the child on the back. On the fringe of the European settlements in S.W. Africa they congregate in small groups under the head of the family. Nowadays, in South-West Africa, Bushmen occasionally enter the services of the whites as herds. That is only for short periods, for, with the advent of the first rains, the call of the wild proves too strong. The cattle are abandoned where they are, and the wild man is off to the freedom of the veld. In their statements they are truthful and honest, and the testimony of those who have had an opportunity of observing them in courts of law is that they do not invent.

24. In the veld the Bushman is without a rival. His senses are very much keener than those of any other native race of South Africa; indeed, they are developed to a degree approaching those of animals in the wild state; his cunning in the chase and his powers of endurance are without equal. So for instance among certain tribes of the Kalahari the running down on foot of game of all descriptions is a common practice. Barefooted and at a jogtrot the Bushman will pursue a healthy buck allowing it no time either to graze or to drink during the hot part of the day and then putting on his running-sandals with turned-down toes, he makes the final spurt and despatches his quarry either with the *knopkierie* or the assegai. His arms are the bow and poisoned arrow tipped with bone or iron; some Bushmen use an assegai as well, and nowadays most of them possess knives. Of old they had nothing but their bows and arrows tipped with bone, and some stone implements. They are the only native race with any considerable artistic development. Throughout South Africa, rocks and caves exist which have been decorated by the Bushman artists with the likenesses of men and beasts. Their paintings consist of coloured silhouettes, but give a wonderful impression of movement and poise. There is an unmistakable similarity between the Bushman art and the rock paintings found in the Pyrenees, the work of artists some thirty thousand years ago. Experts also see a likeness to Egyptian art. At times they use the walls and roofs of their caves for the composition of their pictures. For instance, the wall of the cave will be used as the canvas for the trunk of the tree and a giraffe feeding from the crown of the tree, which is painted along the roof of the cave. Their musical instruments are primitive, and consist in the main of a calabash with two strings strung over the opening. They believe in powerful spirits, whose assistance they invoke to help them in the chase. For this and other purposes they practise symbolic acts, mainly in the form of dances, where they imitate the actions of animals and enact scenes from the chase. They are an extremely shy and reticent people, and very little is known of their beliefs.

25. Wherever there was game, the yellow, black and white invaders of South Africa found the Bushman. Each family or clan had some area as its hunting ground and over this region its members roamed from water to water. Trespass by a member of one clan on the preserves of another was avenged by death. When its hunting ground became too dry or when the game left it for other parts where rain had fallen the family or clan moved distances of a hundred miles or more to other areas recognised by other Bushmen as its hunting ground. The Bushmen had no herds and did not engage in trade. With the advent of the invaders his hunting grounds were encroached upon and his game killed by the strangers. He was not able to resist in open battle, being at a disadvantage against the stronger and better-armed newcomers. But lying quietly behind a bush or rock, the Bushmen without any warning would speed his poisoned arrow into the body of the lonely traveller or hunter, while he was regarded and spoken of by the Hottentots and even by some of the colonists as a wild animal of a noxious kind that should be exterminated.

26. It was for the most part impossible to treat with the Bushmen. Unfortunately the frontiersmen of all colours sometimes found their only safety in the destruction of the Bushmen. As a consequence they were greatly reduced in numbers and were gradually driven northward before the advancing Hottentots, *Basters* and colonial farmers, finally finding refuge in the Kalahari.

27. Some maintain that the Bushman is incapable of European civilisation. In how far that view is correct, I do not stop to enquire. There is evidence which points in that direction. During the first half of the nineteenth century agents of the various missionary societies made strenuous efforts for his improvement but without success. Apart from missionary activity many people tried during long years to induce families of Bushmen to abandon their wild habits. In some cases they were even provided with domestic cattle, in order to encourage them in a pastoral life and stop their propensity to thieving, but without success. About 1860 the Cape Government sent an officer into the country south

of the Orange River, to reclaim the Bushmen to some sort of orderly life. According to the official report some time after of Mr. J. H. Scott, a border Magistrate "a very large sum of money was spent by him, great (and I believe intelligent) efforts were made to induce the Bushmen to adopt a way of life that would render it unnecessary for them to prey on the farmer's stock, milk-goats were purchased and given to them, rations of food were issued and they were provided with seed and shown how to cultivate the soil, but all in vain." Similar attempts had been made before, even in the days of the Dutch East India Company.

28. Such, in the struggle for existence, is the tragic history of the Bushman, who at one time roamed freely over the whole of the sub-continent which was invaded from different directions by three races of varying degrees of civilisation. In due course came the struggle for supremacy amongst the invaders themselves. The Hottentots gave way and retired along the line of their previous advance until almost imperceptibly they were absorbed in the European colonies; the Bantu attempted to continue his advance, but was checked and finally conquered. It is satisfactory to know that in South West Africa where some of the last remnants of this most interesting race still exist, the Bushman is protected. It is difficult to confine him to reserves but the Administration of South West Africa has proclaimed an extensive tract of land in the north as a game reserve where he once more enjoys his pristine liberty.

THE HOTTENTOTS.

29. According to Theal, the Hottentots and Bushmen were originally of the same stock, but where the remote ancestors of the former resided is quite uncertain. We have no knowledge of the cradle of a race differing greatly from the Caucasian and the negro, more nearly resembling the Mongolian than any other, but differing even from him in having the head clothed with short tufts of woolly hair instead of coarse long straight hair. Dr. Vedder finds words of Arabian origin in the Hottentot language and thinks it probable that at one period the Hottentots must have lived in what is at present called Somaliland and that they probably obtained their fat-tailed sheep from the Phoenicians. While the Bushman is still in the hunter stage when first we meet the Hottentot in South Africa he has already advanced to the pastoral stage, and has gained a knowledge of the art of smelting copper and iron, and thus making more effective weapons than those of stone, but he was not nearly possessed of the same energy and alertness which distinguished the Bushman. The Hottentots are a people of medium stature, and have a peculiar facial contour which may best be described as an inverted equilateral triangle. Their colour is a brownish yellow resembling the colour of a dry tobacco leaf. They speak of themselves as the red people (*rooi nasies*). In the course of time they have absorbed a considerable amount of Bushman blood, for young Bushman girls when captured were incorporated in the tribes as the concubines of their captors.

30. Some writers aver that the Hottentots term themselves *Khoikhoi*, men of men, as they pride themselves upon their superiority. Vedder disputes this holding that the Hottentot only refers to himself in that way to denote that he is of pure Hottentot blood. It is said by some that the Koranas got their name from a chief *Kora* but Vedder holds that *Korana* means the grasping ones, the robbers. Sometimes, however, the Hottentots called themselves after some animal, as the Springbucks or the Scorpions, or from some incidental circumstances as the *Veldskoendraers* (Sandalwearers). The tribes were almost constantly at war with each other, the object being to obtain possession of the cattle and girls of the opponent, and often the weaker ones were reduced to great poverty and distress.

31. In each tribe there was a ruling family, from which the chief, whose authority was very limited, was elected by the people. The basis of their government was democratic. The people were impatient of control and the chiefs undertook little without the consent of their councils or the approval of a meeting of the whole tribe. The principal property of the Hottentots consisted of cattle, goats and sheep. They trained oxen as pack and riding animals. Milk was their chief article of diet. Formerly they did not kill cattle for food except on occasions of feasting, but ate all that died a natural death. The vessels used for their food were commonly in a filthy state, as indeed was everything else in and about the huts. Nor did they wash themselves. They smeared their bodies with a mixture of fat, red ocre and *boegoe*—an aromatic herb. Agriculture, even in its simplest forms, was not practised by them. Like the Bushmen, they made an intoxicating drink of honey which they used to excess while it lasted. They were acquainted with that powerful drug *dagga*, a species of hemp, *cannabis indica*, which they smoked in a pipe made of the horn or the marrow bone of an antelope. In spite of its pernicious effects they were not able to refrain from using it. Their women were clothed in a *karos* of skins, but the men were satisfied with very little covering and thought nothing of appearing altogether naked. Their dwellings were constructed by planting long pieces of supple undressed wood in the ground, and bending the upper ends inwards, where they were attached by thongs to short pieces laid horizontally. Upon this framework rush mats were placed. The huts were so low that a man could hardly stand upright inside and they had but one small opening through which the inmates crawled. The huts which were

different in design and construction from those of the Bantu tribes, were arranged in a circle, the space enclosed being used as a fold for cattle. The weapons used by the Hottentots in war and the chase were bows and arrows, sticks with clubbed heads (*knopkieries*) and assegais. The superstitions of the Hottentots centred around good and evil omens and it is said they had no conception of a supreme deity.

MIGRATIONS OF HOTTENTOTS UNTIL THEIR MEETING WITH THE EUROPEANS AT THE CAPE.

32. At a comparatively recent period in history, the Hottentots were forced out of the more central portions of the Continent of Africa by races stronger than themselves. They retreated in a south-westerly direction until arrested by the Atlantic, it is said, about the middle of the fourteenth century, when they turned towards the south. The Bechuana tribes, members of the great Bantu race, who were pressing the Hottentots southwards, were themselves diverted to the centre of Southern Africa by yet stronger tribes of Bantus, now known to us under the names Xosas, Pondos, Tembus, Zulus, Swazis and Shangaans, who themselves kept to the eastern seaboard. The Hottentots struck the Atlantic somewhere north of the Cunene River and then migrated along the coast turning eastward from Table Bay until their outposts reached the Umtamvuna river on the south coast of Natal. At different stages on their route south of the Cunene to Table Bay sections of the invaders remained behind, each of which took a tribal name. As band after band was thrown off along the coast and Bushman girls were continually incorporated, the most advanced parties at length probably contained a large admixture of Bushman blood, while the parties behind were purer in blood in relation to their distance from the van. At the beginning of the sixteenth century the Hottentots thus extended in a thin line or rather a series of dots at varying distances, from Walvis Bay on the western coast round to the mouth of the Umtamvuna rivers, though between the Great Fish and the Umtamvuna rivers their numbers were small. Nowhere had they penetrated far inland: About 1700 the following was the sequence of the tribes from the Great Fish River on the east coast to north of the Orange River; the *Damaquas* at the Great Fish River; the *Gonaquas* up to the Gamtoos river; between that river and the Breede River lived the *Outeniquas*, *Attaquas* and *Gouriquas*; next followed the *Hessequas* and *Chainouquas* up to the vicinity of the Cape settlement where the Hottentots were known as *Kaapmans* (Cape men). Northward at Saldanha Bay lived the *Gochoqua* tribe. At St. Helena Bay were the *Grigriquas*; about the mouth of the Olifants River the *Little Namaquas* and north of them the *Great Namaquas*.

33. When the Dutch first settled at the Cape in 1652, they therefore found various tribes of Hottentots in possession. From the beginning the Hottentots readily entered into commercial relations with the newcomers bartering their cattle for the iron and copper of the settlers and in time even selling to them extensive tracts of land. History, however, repeated with regard to these two races what had before occurred between Hottentot and Bushman, and, in fact, was still going on between them. In the same manner as the Bushman had been ousted from many of his best hunting grounds by the invading Hottentots, the latter found themselves compelled to retreat further inland before the white men. And it was not only the expansion of the Cape settlement which led to friction, but the Hottentot's predatory instincts, stimulated by the herds of the colonists. Cattle-lifting has at all times been regarded by pastoral peoples as a serious crime meriting heavy punishment and here it resulted in commandos being sent to recapture the stolen stock and punish the thieves.

THE RETREAT OF THE HOTTENTOTS TO THE ORANGE RIVER. HOTTENTOT SETTLEMENTS IN SOUTH WEST AFRICA.

34. On the migration of the Hottentots southwards, the Namaquas followed immediately behind those tribes and clans which were settled about the Cape in 1700. At that time they were in the vicinity of the Olifants river and the present town of Clanwilliam. Dutch explorers from the Cape as early as 1661 found them inhabiting the country north of Clanwilliam to the *Khamiesbergen*. The Namaqua tribes were described as giants in comparison with the smaller Hottentots of the Cape. They were wealthy in cattle, but by 1797, the majority of their stock consisted of goats and sheep. They had been reckless in the barter of their cattle and also probably found that small stock was more suited to the country they then inhabited.

35. It has already been shown how the Hottentots were exposed to the hostility of the Bushmen both on their southward and their northward route. The migration northward commenced shortly after the arrival of the Dutch and continued until the tribes had crossed the Orange river and spread over the country to-day known as *Great Namaqualand*. In 1813 when the Rev. Campbell first visited *Little Namaqualand* few of the first Namaqua tribes were left there. At *Pella* on the south bank of the Orange river there were two tribes under their captains *Owib* and his son *Bondelswart*. Another leader was a man called *Vlêrmuis*. These people as well as those on the northern bank of the river suffered greatly from the depredations of the great marauder, *Afrikaner*, and on account of this they gradually followed the other tribes into *Great Namaqualand*. There

they inhabited the coast line and its hinterland from the Orange river to the boundaries of the Herero country about 24° S. latitude. About 1820 only one of the Namaqua tribes still remained south of the Orange river, the Obseses (The Bees).

36. A third migration northward from the Cape took a course avoiding the Namaquas: this was the Korana migration and about the beginning of last century these tribes were settled in the country to-day occupied by the Hopetown, Richmond and Victoria West districts. Like other Hottentots the Koranas were an indolent race, living mainly on their cattle, the products of the chase and the booty from their many forays. As time went on and other clans pressed northward, the vanguard crossed the Orange River near its junction with the Vaal and then moved northwards along the latter river for some distance until they clashed with the Bantu tribes moving southward, somewhere in the vicinity of Kuruman* and Lithako. This country was in their occupation at the time of the Rev. Campbell's first visit in 1813.

37. In 1713 Kolbe found the descendants of a Hottentot tribe, called the Grigriquas, living near St. Helena Bay. These people were not even at that time of pure Hottentot blood, having absorbed slaves and others, some of mixed blood, before starting on their trek northwards. I shall refer to this tribe later on.

THE SOUTH-WEST AFRICAN TRIBES AT THE TIME OF THE INVASION OF THE ORLAMs TRIBES.
DISTRIBUTION OF THE HOTTENTOTS BETWEEN 1800 AND 1870.

38. The earliest information which we have of European travellers in South West Africa is a report made to Governor Rijk Tulbagh by an elephant hunter Jacobus Coetsé, who visited the country in 1760. He reports that he heard tales of a wealthy black race—the Damroquas or Tamacquas, with whom he tried to get into touch. He was also told by the natives on his travels that copper was obtained in considerable quantities in the country beyond the Orange river. The extreme difficulty of travelling, however, turned him back before he had been able to ascertain the truth of the reports. As a consequence of Coetsé's report a large expedition was fitted out, under the command of Captain Hendrik Hop (Hoppe), of the Burgher Cavalry at Stellenbosch, by Governor Tulbagh, to explore Great Namaqualand. Captain Hop, who left Capetown in 1761, was accompanied by a numerous staff, amongst them the German botanist Auge, a surveyor, the hunter Jacobus Coetsé and a man called Pierre Marais, who knew the Hottentot language. This expedition was forced to return when about as far as the present Berseba. The report which Hop's party made on their return is said by historians to be most reliable and conscientious.

39. In 1775 a soldier in the service of the Dutch East India Company, Wikar by name, deserted from the Cape and made his way to the Orange River, which he first saw at the Compagnies Wagedrift (Ramansdrift). There he joined a band of Hottentots and trekked with them eastwards along the southern bank of the river to the Auhgrabies Falls. He crossed the river later and continued trekking along the northern bank to and fro. While in this region he frequently sent appeals for pardon to the Company at Cape Town and finally obtained one, and on his return made a report of his experiences among the natives. His report makes interesting reading. He mentions that one of the half-breed Hottentots with whom he roamed had been a member of Coetsé's expedition, and he too heard much from the Hottentots about the wealthy black race of the Damroquas. An interesting fact is that, according to Wikar, Coetsé was the first man to name the Camelthorn Tree "*dewyle de Kameelepeerde meestendeels in de toppe van deeze boomen vreeten.*" On his return from the Orange River he met Col. Gordon, of the Dutch East India Company's troops, and Lieut. Paterson, who were travelling to the mouth of the Orange River, where, according to Paterson, on the 17th August, 1779, "we launched Col. Gordon's boat and hoisted Dutch colours. Col. Gordon proposed first to drink the States' health, and then that of the Prince of Orange and the Company; after which he gave the river the name of Orange River in honour of that prince." Paterson crossed the Orange River, and penetrated a short distance into the country beyond.

40. In 1791 a colonist, Willem van Reenen, a member of a family frequently mentioned in the records of that time, left Cape Town on another expedition of discovery to South-West. He went as far north as Rehoboth, and one of his companions, Pieter Brand, continued the journey for some days, meeting with Berg-Damaras in the Auas Mountains, and Cattle-Damaras (Hereros) in the Swakop Valley. South of the Berg-Damaras lived various Hottentot tribes. Sebastian van Reenen, Willem's brother, sailed from Cape Town for the South-West African coast in the "Meermin" on the 3rd January, 1793, erected a beacon at Angra Pequena which he named Beschermerbaai, and reached Walvis Bay on 23rd January, where he also erected a beacon. One of his companions, Pieter Pienaar, penetrated into the interior, following the course of the Swakop river for about twelve days, and meeting with large numbers of elephant, rhinoceros, and antelopes of various kinds. In 1836-37 an Englishman, Captain Alexander, travelled through the country from Cape Town across the Orange, to about Gibeon. From there his course lay over Bullspoort and Abbabis to Walvis Bay. Returning eastwards to the Auas Mountains, he came back,

travelling almost due south. From the narratives of these travellers, and the later investigations of missionaries and others, we are in a position to determine which tribes lived in South-West at the time of the first invasion of the Hottentots styled *Orlams*.

41. The *Orlams* tribes were Hottentots, who had been in more recent contact with the white people, and possessed horses and guns. The Hottentot, or Nama tribes living in the country before the arrival of the *Orlams* were still in a primitive state, and knew not the use of firearms. Professor Mansvelt, in his "*Proeve van een Kaapsch-Hollandsch Idioticon*," gives the following definition of the word *Orlams*: s.v. 'Baar': "'*Baar*,' untrained (of people or draught animals), a word used in the days of the Dutch East India Company, when the old servants were known as *oorlammien* (*orang lami*, old people), and the recruits as *baren* (*orang baru*, newcomers)."

42. About the beginning of the eighteenth century, when the Griquas were living in the neighbourhood of St. Helena Bay, a clan, calling itself the Afrikaners, was living near them. In 1795, at the time of the British occupation of the Cape, they were living in the Tulbagh district, and their chief was the father of the notorious Jager Afrikaner. This clan had on several occasions assisted the Cape Government against the Bushmen, and their captain had received a staff of office from the Company. A field cornet, Pieter Pienaar, who lived near the present town of Calvinia, was instructed by the authorities to provide the Afrikaners with ammunition for their expeditions against the Bushmen. After the British occupation, Jager Afrikaner became the chief of the band, and he and his clansmen were frequently in the service of Pienaar. Jager, however, did not confine his expeditions to the Bushmen, but rapidly drifted into a state of warfare with all his neighbours who had property that could be plundered. The first white man murdered by his band was Pienaar. After the murder of Pienaar, Afrikaner added a number of vagabonds to his original clan. In a short time he became the terror of the country far and wide. His stronghold was an island in the Orange River. At that time there was a party of Hottentots and half-breeds, under a captain called Cornelis Kok, sometimes roaming along the southern bank of the Orange River, at other times living on a reserve in the Kamiesbergen, where Adam Kok, the father of Cornelis, had collected them. This clan was particularly exposed to Afrikaner's attacks. In 1798 and 1799 they were attacked by the Afrikaners, and lost large numbers of cattle. On the last occasion the Afrikaners murdered a half-breed named Engelbrecht, a Hottentot and two slaves, and the Cape Government set a price on the head of Jager Afrikaner, and ordered out a commando against him. The commando could not reach the marauder's retreat, but it had sufficiently terrified him, for, after this, he confined his attention to the country beyond the colonial frontier, which at that time was still the Buffels River.

43. When in 1805 Albrechts, the first missionary of the London Mission, arrived at Warmbad, in Great Namaqualand, Jager Afrikaner took up his residence near him at Afrikaner's Kraal, the present farm Jerusalem, north of the Orange River. At first he kept the peace, but after a quarrel with some Namaquas who lived with the missionaries, he threatened to attack the station. So terrible was his reputation, that the missionary fled with his community to safety south of the river, the mission being abandoned. In 1811 Afrikaner plundered and destroyed the station, and levied war on the Hottentot tribes to the north, as well as on the tribes and settlers along the frontier of the colony. His horde gained in numbers, being joined by lawless members of other tribes, and by a Greek adventurer named Stephanos. His brothers, Titus and Klaas, were his energetic lieutenants, and carried on the lawless work against the Koranas, who lived on the east. The fear of Afrikaner was the cause of the eastward route chosen by the Griquas under the Koks and the main body of the emigrant *Basters* when they came to the vicinity of the Orange River. About 1813 Jager agreed to allow a missionary, the Rev. Ebner, to reside at his place, Afrikaner's Kraal. The missionary succeeded in converting the fierce chief, who henceforth took the name of Christian Afrikaner. In 1819 he accompanied the Rev. Mr. Moffatt to Cape Town, and had apparently mended his ways to such an extent that he was granted an interview with the Governor, Lord Charles Somerset, and dismissed with presents. He died in 1823.

44. His death was the signal for fresh strife. Jonker, one of his sons, usurped the chieftainship, with the result that the tribe divided. Some remained at Afrikaner's Kraal, and others later on settled among the Bondelswarts at Warmbad, where a mission station was once more established in 1834 by the Wesleyans under the name of Nisbet's Bath, after the gentleman who had endowed the station. Jonker went northwards with the main tribe to the borders of Damaraland.

45. The Afrikaners were one of the first of the *Orlams* tribes to move into the country known as Great Namaqualand. At that time various tribes of the original Namaquas inhabited the country. Around Warmbad lived Abram, chief of the Bondelswarts or the Gaminus. About 100 miles NNE. of him lived the tribe of the Habobes or Veldskoen-draers, owing some measure of allegiance to him. Before 1814, when the Rev. Schmelen founded Bethanie, they had occupied the country to the west as far as this region. To

the south and west of the Veldskoendraers and north of the Bondelswarts lived Tseib's tribe of the *Kharo-oas* about the present town of Keetmanshoop. North of the Veldskoendraers around Gochas was the country of the *Karagei-Khois*, more usually known as the Fransman or Simon Cooper Hottentots. The strongest of the original Namaqua tribes in the first decades of the 19th century was the Red Nation or *Geikous* under their chief *Oasib*. Their main village was at Hoachanas and their country extended between the 25th and 23rd parallels of southern latitude, lying west of Gobabis and east of Rehoboth and Windhoek. The country from Rehoboth westwards and south of the Kuisib was occupied by the *Khau-goas* or Young Red Nation, commonly known as the Swartbooi Hottentots after their chief Willem Swartbooi, who moved to Rehoboth from the Blomvis River in 1844. In the barren country surrounding Walvis Bay lived the Topnaars or the *Aunin-Gomen*, while the Grootdoden (Great Deaths) or *Khogein* held the mountains north of Grootfontein South and south of Hornkrantz under their Captain Hendrik Winstaan Kol, also known as *Dabimab*. [When in 1836-7 Alexander travelled through the country he found several *Orlams* tribes settled among the original Namaquas of Great Namaqualand. At Afrikaner's Kraal was one of the sons of Christian Afrikaner. At Bethanie lived the *Orlams* tribe of the Amas under their chief Boois. A few years later a portion of this tribe removed to Grootfontein South. The main portion remained at Bethanie under David Christian. Between the Red Nation and Tseib's tribe lived Paul Goliath's *Geikhauas* people. Before 1814 the *Khauas* Hottentots had lived at Bethanie, but by 1836 they were settled in the country east of the Great Fish river, near the present village of Gibeon. A few years later they removed to the country between Naosanabis (Wesley Vale) and Gobabis and are usually referred to as the Gobabis people or Amraal's tribe, their chief at that time being Amraal Lamberts. The last *Orlams* tribe met with by Alexander were the Afrikaners or *Eicha-ais* under Jonker Afrikaner, whom Alexander mentions by his Namaqua name Aramap. At that time he lived at a place called Niais; in what is now known as the *Rehoboth Gebiet*, south of and adjacent to the farm Krumnek. At some time after 1813 the *Orlams* tribe of the *Kowesis* or Witboois arrived at Pella, but by 1836 they had trekked away. In 1853 missionaries communicated with their chief Kido (Cupido) Witbooi, while he and his tribe were wandering about in the vicinity of Berseba, and in 1862 the Witboois established themselves at Gibeon, where a mission station was founded the next year. This chief's successor was his son Klein Kido or Moses Witbooi, the father of the famous Hendrik Witbooi.

46. The following is a list of the Hottentot tribes in South-West Africa in 1876, taken from Palgrave's Report. The names in brackets are the native names and the figures show the estimated strength of the tribes. Palgrave received his information from the Rev. C. H. Hahn, a missionary who had lived for many years in South-West Africa.

<i>Original Namaqua Tribes.</i>	<i>Orlams Tribes.</i>
Bondelswarts (Gaminus) 2,000	Boois people and the Bethanie
Veldskoendraers (Habobes) 1,800	tribe (Amas) 2,500
Tseib's tribe (Kharo-oas) 300	Berseba tribe (Geikhauas) 700
Fransman tribe (Karagei-Khois) 800	Amraal's tribe (Khauas) 600
Red Nation (Geikous) 2,500	Afrikaners (southern) (Eicha-ais)
Swartboois (Khau-goas) 1,000	and Afrikaners (northern) ... 800
Topnaars (Aunin-Gomen) 750	Witboois (Kowesis) 2,500
Groot Doden (Khogein) 800	
Total: Approx. 10,000	Approx. 7,000

The sketch maps indicate the location of the various tribes in 1852 and in 1870. The boundaries shown are not to be regarded as definite and are only intended to show the location of the different tribes. The Hottentots of South-West Africa are now commonly referred to as the Nama.

THE HEREROS.

47. According to the traditions of the Hereros, their ancestors lived in the "land of fountains," to the west of lake Tanganjika. According to Missionary C. Hugo Hahn, who lived in South-West Africa from 1841 to 1873, it may have been in the 16th or the 17th century when they left these regions and wandered southwards reaching the Upper Zambesi about the year 1762. This opinion he based upon a tradition which was still fresh in the memory of the people at Lake Ngami. These people belonged to the tribe of the Mbanderu or Ovambandjeru, an eastern branch of the Hereros proper who themselves know very little of their past history. About the middle of the 18th century the main body of the Mbanderu already lived east of Okahandja and north of Gobabis. It was only in 1792 that the Hereros proper reached Okahandja. Missionary Irle, who has written the standard work on the Hereros, is of opinion that this migration must have lasted 300 years and thus commenced

about the beginning of the 16th century. The few traditions of the Hereros point to the fact that they must have trekked from the Upper Zambesi in a westerly direction, passing about the beginning of the 16th century. The few traditions of the Hereros point to the fact that they must have trekked from the Upper Zambesi in a westerly direction, passing between the Cuiene (in the Herero language, *onqondu iri moku-uoko okunene* means the river on the right side—*okunene*, the right) and the Okavango, swerving westwards of the present Ovamboland and then following more or less the coast line of the Kaokoveld until they reached the 20th parallel of south latitude where they left the Kaokoveld and spread themselves eastwards and south-eastwards over the excellent pastures of Damaraland. Irle was told by old Hereros, amongst them the Chief Kamaharero (b. 1820, died 1890), that their parents and grandparents had been born in the Kaokoveld and had died there. The Hereros and Mbanderus are separate tribes of one great people the Ovahimba; a curious fact is that the form 'Ovashimba' is nowadays applied only to the impoverished remnants of the people of the Kaokoveld, probably stragglers left behind by the main migration. The word is used as a term of contempt similar to the Nama appellation for the Klipkaffir and means 'Dung people.'

48. Coming southward the Hereros met with another black tribe, the Berg-Damaras, in the Erongo and Omatjo Mountains. As we have seen, to the east of the Hereros lived the Mbanderu from Gobabis towards Lake Ngami. Most writers regard this tribe as an off-shoot of the Hereros, which separated from the main body after its arrival in the neighbourhood of Omaruru. Irle, however, basing his view upon certain similarities of language regards them as being related to the Bechuana rather than to the Hereros, and states that they must have come into contact with the eastward trekking Hereros in the Omaheke or Sandveld on the borders of the Kalahari. It is true their language contains many Bechuana words, but this is easily explained by their proximity to the Bechuana tribes after their separation from the main body. The Mbanderu have more knowledge of the history of the Hereros than the West Hereros themselves, so that there seems little doubt that they are of the same race. The Hereros belong to what is now known as the Bantu race. Their appearance is very pleasing. Men six feet tall are of frequent occurrence. They are of chocolate-brown hue, have almost European features, high foreheads, oval faces with very slightly depressed noses and rarely very prominent cheek-bones. On the other hand thin lips and narrow noses are rare. Their build is slight, although corpulency is regarded as a type of beauty. On the whole they are not robust nor capable of great exertion except in feats of travelling. Opinion regarding their character is divided, but on the whole they are regarded as a proud, often arrogant and insolent people. Old travellers found them as prone to begging as the Hottentots and like the latter they often helped themselves to the wares of traders if these resisted their begging. On the other hand travellers and missionaries found them to be an hospitable people. According to Irle they were cruel and overbearing towards their weaker enemies, though not as cruel as the Hottentots, who had a veneer of the white man's civilization. While they believed in a deity, they did not believe in punishment hereafter.

49. They are great cattle owners, milk being their staple food for the greater part of the year. In former years cattle was slaughtered only on solemn occasions such as the decease of the owner, the accumulation of their herds providing them with greater pleasure than the enjoyment of the meat. Hence too their great wealth, which was such a temptation to the Hottentots from the first day that the two races came into contact. According to the Herero law, the land was common property of the whole nation. There were no boundaries demarcating the limits of each individual's grazing. Every man grazed and watered his stock where he pleased and built his hut where it suited him. He took his materials wherever they could be found. Gardens were laid out where the soil was favourable and not already in use by some other person. In the main each tribe selected a particular region as its headquarters. Here the tribal capital grew around the sacred graves of their ancestors; but the members of the various tribes intermingled freely. But as regards private ownership in movable property, every head of cattle had its owner, every man, woman and child his or her own utensils and personal effects. Community of property as between man and wife was unknown. The herds of the Hereros, however, were so large that in many cases the owners had to send them out in smaller herds to neighbours and friends. These had the use of the cattle and the pride and pleasure of the sight of large herds. Through their office they also obtained considerable influence with the owners in the matter of their disposal. This was the only limitation of the property rights of the wealthy cattle owner.

50. The Hereros had no centralised government until the year 1863. The various tribes were bound by nothing but racial affinity. It frequently happened that one tribe would be at war with another or even that one tribe would ally itself with the Hottentots against its own race. After Kamaharero's rising against Jonker Afrikaner in December, 1862, he became the most powerful of the Herero chiefs and styled himself (or was thus styled by Europeans) Paramount Chief of the Hereros. Subsequent to the Peace of

NATIVE TRIBES

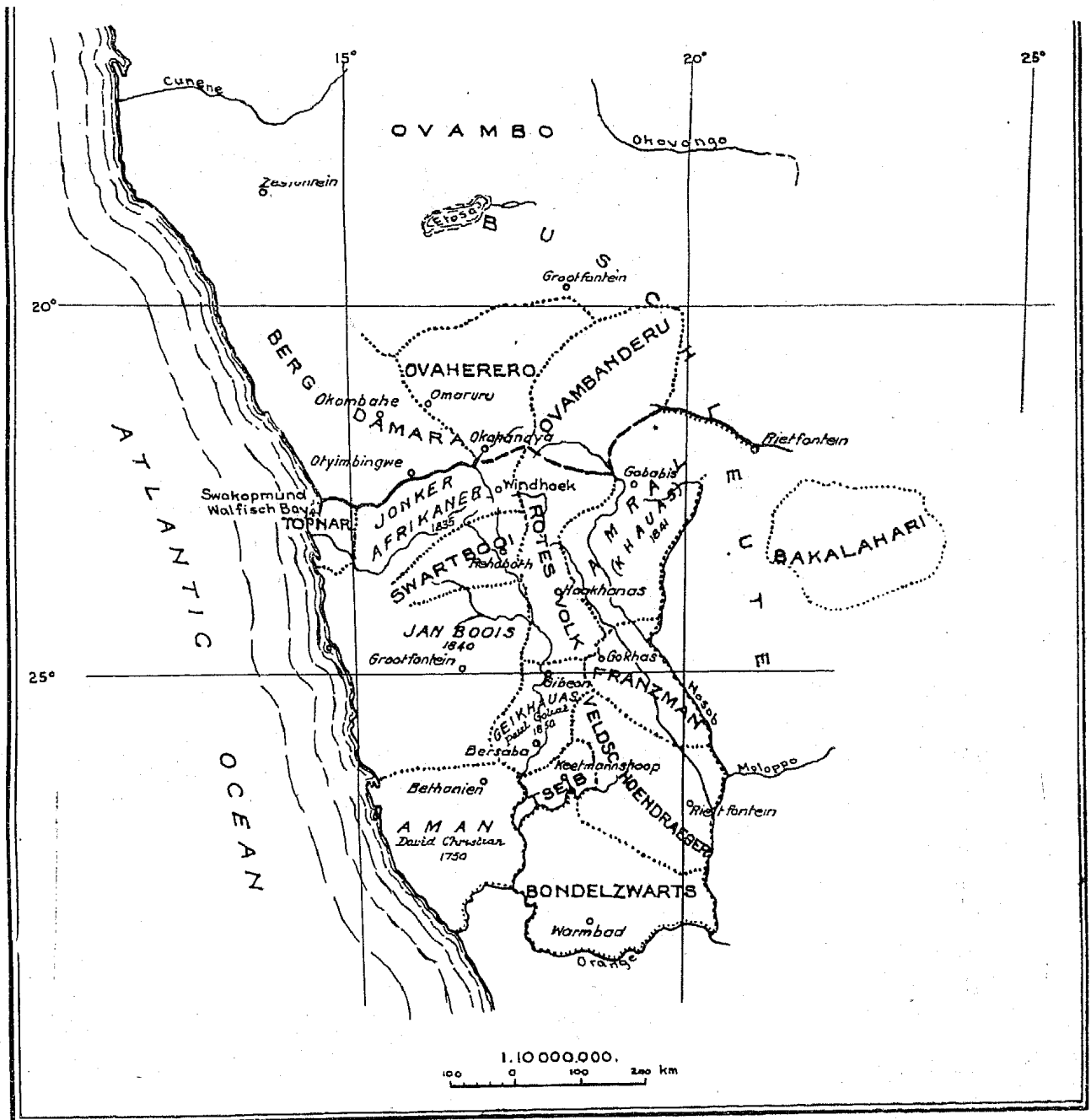
NATURELLE STAMME

1852.

1852.

Aboriginal tribes = TSEIB.
Orlams " = AMAN.

Inboorling stamme = TSEIB.
Orlams " = AMAN.



—NATIVE TRIBES—

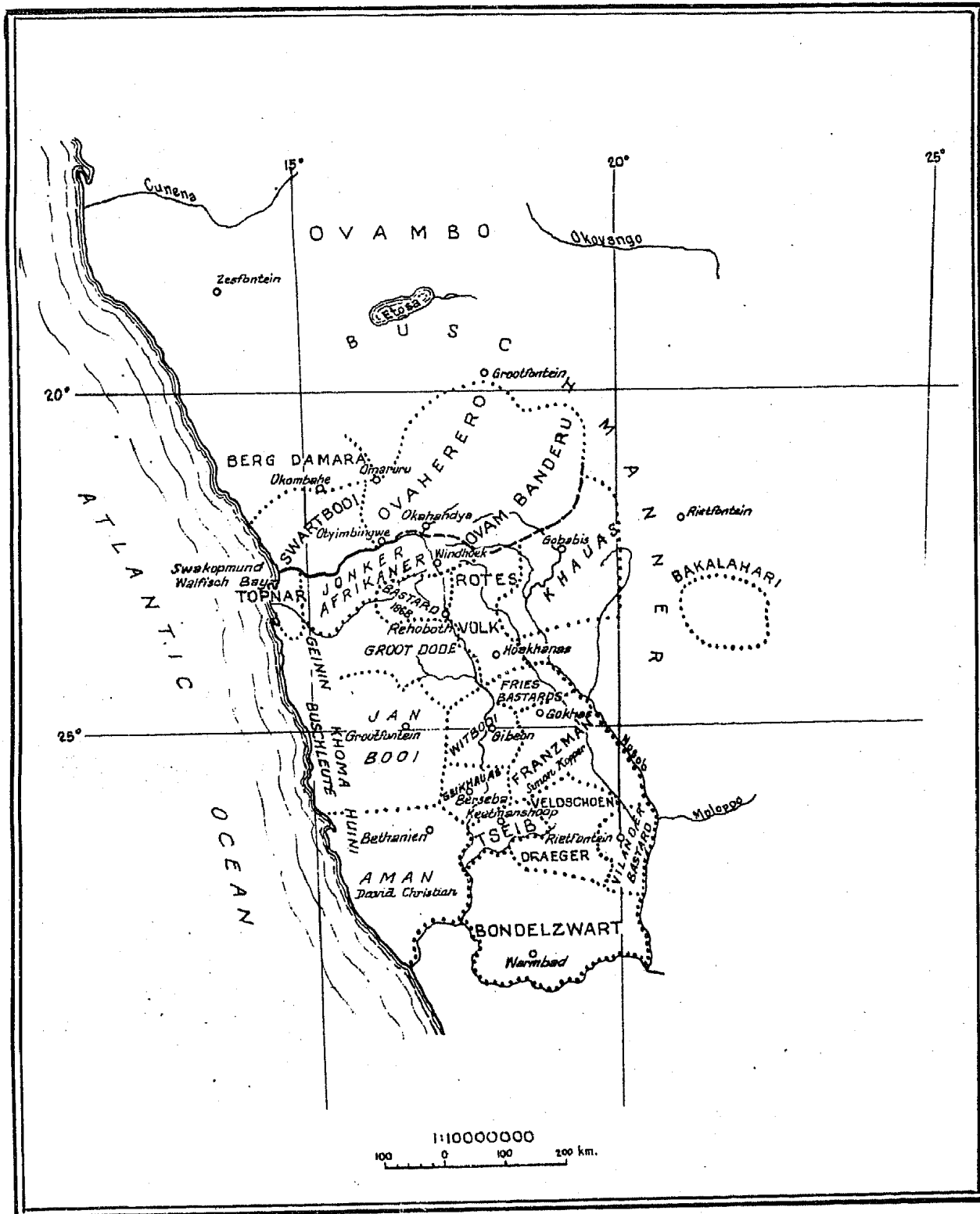
1870

Aboriginal tribes = TSEIB
 Orlams „ = AMAN

NATURELLE STAMME

1870

Inboorling stamme = TSEIB
 Orlams „ = AMAN



Okahandja, 1870, he did to some extent hold sway over the other chiefs, though many of them like Manasse of Omaruru never acknowledged him as their overlord. When Kamaharero died in 1890, according to Irle von Francois the German Imperial Commissioner had Samuel Maharero, Kamaharero's eldest son, declared Paramount Chief of the Hereros by a meeting of chiefs assembled at Okahandja on 3rd August, 1891. Francois' brother explains that in ignorance of the customs of the Hereros, the German officials addressed a letter to Samuel Maharero using the formula "to the Paramount Chief of the Hereros, Samuel Maharero." Samuel accepted this letter as a sign of recognition of his paramountcy on the part of the German government. The other chiefs were too hard pressed by Witbooi's Hottentots at the time and paid little attention to this new development.

THE BERG-DAMARAS.

51. The Berg-Damaras or Klipkaffirs at present number about 25,000. Nothing is known of their origin, their remoter history or their ancestral language. They may be the aboriginal inhabitants of South-West Africa and Vedder, the leading authority on this people, thinks that probably they even inhabited the whole of South Africa before the Bushmen. Irle mentions a startling theory that the Nama people are the descendants of ancient Phoenicians and Berg-Damaras and that the Hottentots inherited from the latter their language and from the former their colour. They certainly inhabited South-West Africa before the coming of the Hottentots and the Hereros. When the latter came into contact with them about the middle of the 18th century, they were living in fairly numerous *werfs* throughout Hereroland. Pieter Brand found them in the Auas Mountains, north of Rehoboth, in 1791. They were then living in the most reduced circumstances and even at that time they must have been bondsmen of the Hottentots. Their own language they had forgotten and to this day they speak a Nama dialect. Subsequently they were also enslaved by the Hereros. They are a black race, different from both Hottentots and Hereros, as well as from Bushmen. According to Passarge, their black colour and "exaggerated" negro type indicate that they may be the remnant of the original negroes (*Urnegers*) who penetrated as far as South-West Africa. The Hereros call them *ovatua*—strangers, the Hottentots *Xou-daman*—Dung Damaras, as distinguished from the *Gomawa-daman*—Cattle-Damaras or Hereros. Their own general appellation for themselves is *Nu-Khoin*—Black men. They are divided into two classes; the upper class whose members live in the mountain valleys (*'homi*) and have acquired goats and established permanent kraals or *werfs*, call themselves the *'Hom-daman*—which means Hill Damaras. They are taller in build and more robust in constitution than the lower class, which is known as the *Ou-khoin*. These people (*khoin*) live on the mountain tops (*ous*). They possess no goats and their livelihood is most precarious. As a consequence their stature is stunted, they are even filthier than the upper-class; they have no permanent *werfs*, game is not as plentiful as in the valleys, and even the *veldkos*—roots, berries, herbs, and wild onions—is scarce. A variety of names distinguishes the inhabitants of particular localities, *e.g.*, those living in the sand-dunes are also known as the Sandkaffirs. They are all known throughout South-West Africa under the name of Berg-Damaras or Klipkaffirs, which they received before the establishment of German rule, when they were found in the mountains of the central and northern portions of the mandated territory. It was on account of their low standard of living that the Hottentots called them Dung-Damaras. They never wash and eat everything without exception that is at all eatable. A carcase that has been buried for days or a placenta found in the kraal of the white man are eaten with the same relish as caterpillars, larvae, baboons or mice. Their chief haunts lay in the mountains between Rehoboth and Otjimbingue and in the hills northward to the Brongo and Omatjo Mountains, as well as in the Waterberg. About 1842 the missionaries found them scattered over the country as serfs of the Hottentots and Hereros. At that time they numbered 20,000, and their increase compared unfavourably with that of the Hereros. They were without any tribal organisation and had no chiefs of their own. Through the influence of the missionaries at the Peace of 1870, five to six thousand of them were collected at Okombahe and Otjimbingue under petty chiefs and became free men, although still paying tribute to the neighbouring Herero chiefs. The Rev. Hugo Hahn sent them a Bastard teacher, named Daniel Cloete, and later they received a missionary. In 1895 Governor Leutwein visited Chief Manasse of Omaruru, to investigate complaints received by the German Government against him. This Chief claimed the Berg-Damaras of Okombahe as his subjects. It happened that his conscience was not untroubled regarding the complaints the Government had received and the Governor found him the more willing to cede Okombahe to the Germans, who there established a Berg-Damara reserve which exists to this day. Although the Berg-Damaras are divided into at least eleven tribes, the various families belonging to the same tribe have no common chief. The family is their only organisation and to be the head of a family the highest rank a Berg-Damara can rise to. Under the guidance of the missionaries they commenced the culture of tobacco, laid out gardens where the soil was favourable and kept

some stock. Under missionary influence too they have become industrious and capable servants. It must be borne in mind that they became accustomed to hard work and obedience during the long period of their serfdom with the Hereros and Hottentots and this has tended to make them better servants on the whole than their former masters. On the other hand they are also more dishonest and unreliable. Vedder does not agree with the opinion held by the majority of writers that they have no religious views. They believe in a deity who is known amongst them as the Great-Chief of the other world and in immortality. Superstition plays a great part in their lives and consequently magicians and witch doctors enjoy much influence over them.

WARS BETWEEN HOTTENTOTS AND HEREROS.

52. Before the establishment of the white man's rule in South-West Africa, the country was in a state of perpetual war. Uncertainty and insecurity reigned even after the arrival of missionaries and traders, whose persons and property were only too often treated with violence. Our knowledge of the history of the tribes in South-West Africa before the arrival of the *Orlams* tribes is scanty. From the reports of travellers it appears that from 1800 to 1820 there were Hereros in the valleys of the Swakop and the Kuisib near the mouth of these rivers, at Ururas, Otjimbinda (Frederiksdam) and Scheppmannsdorf. Here they came into contact with Hottentots with whom they lived in peace for a time. The Herero cattle, however, soon tempted the Hottentots to open hostilities and after some fighting the Hereros withdrew to Otjimbingue putting the Namib desert between themselves and those tribes of Hottentots. In 1791 they were living north of the Auas Mountains in the valley of the Swakop River. In the east of the territory, they seem to have met the Hottentot tribe of the Red Nation about the same time. It must be noted that the country was inhabited in patches and at that time few tribes had common frontiers. As their herds increased the Hereros sought fresh pastures and old Mbanderu chiefs told Irle that their people had penetrated over Gobabis and Hoachanas as far south as Gibeon. About this period they also lived at Rehoboth, where the Red Nation frequently raided their cattle driving away thousands of them. The Hereros retaliated and pressed hard upon the Namaquas, whose chief, Cornelius Oasib, implored the tribe of the Afrikaners for help. Jonker Afrikaner with his *Orlams* tribe of the Afrikaners, according to Captain Alexander, "came with some guns and stout fellows from near the Orange River, defeated the Damaras in three bloody fights in 1835, took their cattle from them, conciliated the hill Damaras, and became the great chief of this part of the country." According to the missionary reports Jonker Afrikaner was visited by Schmelen at Rehoboth in 1825, after he had subjugated the Berg-Damaras and driven the Hereros back to Okahandja. Afrikaner then took possession of the country between Rehoboth and the Auas Mountains. Between 1825 and 1835, the year of the battles mentioned by Alexander, he was followed by other *Orlams* tribes. About 1842 Afrikaner made Eikhams, now known as Windhoek, his capital. A house in which Afrikaner is said to have lived and which was originally the mission house is still to be seen in the garden of the Roman Catholic Mission at Klein-Windhoek where the Afrikaners also had a *werf*. This year is usually taken as the beginning of the subjection of the Hereros to the Hottentots. The large numbers of loot stock attracted traders to Afrikaner's village, while in the same year Kleinschmidt established a mission station at Windhoek. In 1843 Amraal, the chief of the Khauas Hottentots, another *Orlams* tribe received a Wesleyan Missionary, the Rev. Tindall, at Naosanabis which was renamed Wesley Vale by him. Through the influence of the missionaries, Jonker Afrikaner was prevailed upon to make an offer of peace to the Hereros in January, 1843, which was concluded in May of that year. In the next year some of the Afrikaners, who had remained at the Orange River, joined Jonker and brought with them their Wesleyan Missionary, the Rev. Haddy, from Warmbad. The Rhenish Missionary consequently abandoned his station at Windhoek in 1845 and established a new one at Rehoboth, which was then occupied by the Swartbooi Hottentots, one of the original Namaqua tribes of the country.

53. The peace which Jonker Afrikaner had concluded with the Herero chiefs of Okahandja was not extended to the Hereros of the east and the north-east, whom both he and Oasib of the Red Nation continued to harass. The year 1846 especially was a sad year for the Hereros and Mbanderus. The Hereros were disunited and lacked all central organisation or government. Therein lay the chief reason of their impotence. The Hottentots too were continually at strife with one another. Oasib, who considered himself to be the principal chief in Great Namaqualand, on frequent occasions called upon Willem Swartbooi of Rehoboth to join in his expeditions. Amraal, the chief of the Khauas, was pressed with similar invitations. The Rehoboth and Khauas chiefs did their best to bring about peace, but Oasib attempted to involve the latter with the Mbanderus. Had it not been for the pressure which Jonker brought to bear on the Swartboois, the latter would have joined Amraal in a war against the Red Nation. In time, however, it became more

and more apparent to Amraal, Swartbooi and Oasib. that their real danger lay in the ascendancy of Jonker, who was becoming the most powerful chief in the country. For a time they bound themselves in a Triple Alliance directed against the Afrikaner chief, but their unanimity did not last long. By 1846 the Wesleyan Missionary had also left Windhoek and about the same time his colleagues departed from Wesley Vale. Jonker's successes against the Herero induced Oasib to resume his raids, in which some of Amraal's people participated from time to time. About this time Jonker entered into an alliance with Katjamuaha, the father of Kamaharero; Katjamuaha's strongest rival amongst the Hereros was Kahitjine, the Chief of Okahandja, a wealthy and brave man. Katjamuaha and Jonker Afrikaner sacked Okahandja in August, 1850, destroyed the mission station which had been established by the Rhenish Society in 1844, and slaughtered every man, woman and child on the place. Kahitjine himself escaped from Okahandja and established himself at Kotjiamkombe to the north from where he carried on war against a rival chief Omugunde, at whose hands his people had suffered considerable loss, he himself having lost all his sons except one. His tribe, according to Andersson, "had, at one time, been the richest, the most numerous and the most powerful in the country; but what with their own civil broils and the exterminating wars with the Namaquas, they had gradually dwindled to about twenty-five villages, with, perhaps, ten or fifteen thousand head of horned cattle. Previously to my leaving Africa, I learnt that the entire tribe had been broken up." By the missionaries Kahitjine had always been regarded as the most promising instrument for the future civilization of Damaraland. Andersson pays him the compliment of having been truthful and courageous—"rare virtues amongst his countrymen." He was killed in an attack on his enemy Omugunde about the middle of 1851. Although as a rule encounters between Hottentots and Hereros were not accompanied by great loss of life, the missionary reports of this period are filled with accounts of the horrors perpetrated against Kahitjine's people and several other Herero tribes by Jonker and his Herero ally, Katjamuaha. Towards the end of 1850 the great English scientist Galton, who wished to travel through the Herero country, presented himself at Windhoek and impressed Jonker considerably by sending him an imposing looking letter urging him to keep the peace. Galton had been asked by the Cape Government to use any influence he might gain over the natives to this end. He exhorted Jonker to cease his wars, but the moment his back was turned the captain who had become suspicious of Galton's authority resumed his evil work. He made Okahandja his headquarters and sacked the mission station at Barmen. In 1853 he destroyed Otjimbingue. On his raids Jonker penetrated Hereroland as far north as Omanbonde, south of Grootfontein.

54. In the same year Jonker attacked the Topnaars of Walvis Bay and when they called upon Oasib for help, he anticipated the latter's hostility by attacking him first. Jonker did not do much damage, but his prestige grew and in consequence his tribe increased in numbers. In 1854 the Afrikaners attacked the Swartboois of Rehoboth on the plea that they had given asylum to Herero fugitives. The country was in such a state of uncertainty that after the peace of 1843 certain Herero tribes elected to put themselves under the protection of Jonker, preferring bondage to the risk of being murdered and robbed. When Katjamuaha joined Jonker in 1850 against his own race he subjected himself and his tribe to Jonker. He and his people were given a place near the *werf* of the Afrikaner captain. In war time they were subject to military service on his behalf. In time of peace they tended his cattle. In 1858 he led an expedition against the Ovambos in the north near the Cunene.

55. In the same year the Hottentot Chiefs met at Haani (Hoachanas?) and concluded what has been well described as the covenant of a Hottentot League of Nations. The document is signed by eleven chiefs, amongst them Cornelius Oasib, Willem Swartbooi, Piet Cooper, Cupido Witbooi, Amraal Lambert, Jonker Afrikaner, David Christiaan and Paul Goliath. It provides for the mutual defence of the treaty chiefs, for arbitration in case of disputes between them, forbids the levying of war against the Hereros without just cause, and provides for the exclusion of any white man who may enter the country to seek farms or copper. A copy of the treaty, the original of which is in the possession of Mr. Pieter le Riche, of Stinkdoorn, district Warmbad, Annexure I, is attached to the report. The present owner of the document received it from the Secretary of the Conference of Chiefs, a Hottentot halfbreed, in 1900. This man Timotheus Snebe (Snewe) was born at Warmbad in 1801 and died in 1902. His father was a black man who came to Warmbad in 1793 and married into the tribe of the Bondelswarts. The son, Timotheus Snebe, was sent to school at the Cape and was fairly well educated. He was for many years Under Captain of the Bondelswarts.

56. On August 18th, 1861, the restless spirit, Jonker Afrikaner, was laid in his grave. Between the mission house and the Church at Okahandja is a large mound of stones which marks the site of his grave. With his death the supremacy of the Afrikaners commenced

to decline. He was succeeded by his son Christian Afrikaner, a weak man. Katjamuaha, whom the Hottentots called *Kopervoet* on account of the heavy copper ornaments he and his wives wore on their legs, had predeceased Jonker by a few years, his son Kamaharero following him in the chieftainship of his subject tribe. In company with the Afrikaners, Kamaharero raided both his own race and the Hottentot enemies of his masters. He seems to have been more ambitious than his father and bondage held no charms for him. He was even more cunning than the Hottentots and secretly armed his people, who had learnt the use and advantage of firearms from their masters. In 1862 a quarrel broke out between the Hereros and the Hottentots. Kamaharero entrenched himself on the "Rock," now known as the Kaiser Wilhelm Berg and defied the Hottentots. Phillipus, the Herero captain of Otjimbingue, another vassal of the Afrikaners, joined in the rising and fetched Kamaharero and the Hottentot stock which he had been herding to Otjimbingue. Here the Hereros were organised and fitted out by the famous hunter and traveller Andersson, whilst on the other hand, Christian Afrikaner summoned the other Hottentot tribes to his aid. On 15th June, 1863, a strong Namaqua commando under Christian appeared before Otjimbingue and was defeated with heavy loss the following day. Christian and 200 of his men lost their lives. On the other side Philip was amongst the slain. Jan Jonker Afrikaner, who resembled his father Jonker more than his late brother, succeeded the latter and swore that his bondsmen, the "black baboons" should not have such an easy escape. He evacuated Okahandja and reoccupied the former chief residence of the tribe, Windhoek, from which base he carried on minor engagements against the Hereros. The Europeans of Otjimbingue, under Andersson and Green, joined the Hereros on an expedition to surprise Windhoek. They did not succeed in the objective, but engaged the enemy at his camp and defeated him, capturing much booty.

57. Jan Jonker and Oasib next threatened Rehoboth because the Swartboois had not assisted them in the war against the Hereros. Andersson organised a second expedition against the Hottentots in March, 1864. His commando of about 2,000 Hereros was joined by a strong force of Swartboois, and the combined commandos defeated the allied Hottentots on July 22nd in the mountains between Windhoek and Rehoboth. Andersson was severely wounded and was abandoned by the tribesmen, who seemed to feel no gratitude for the great assistance he had rendered them. But for the loyalty of his friend Green he would have perished on the field of battle. The Hottentots turned in their fury on the Swartboois. They marched on Rehoboth but found that the tribe had deserted the place on 25th July and was in full flight for Otjimbingue. The Hereros set off in pursuit and came up with the main body of the flying tribe in the bed of the Kuisib river. There the Swartboois were almost annihilated. The remnants scattered over the country north of Otjimbingue and were collected by missionary Boehm at Ameib in the Bokberg in 1867. Their missionary, the Rev. Kleinschmidt, who had refused to leave them on their escape from Rehoboth, had died at Otjimbingue in September, 1864, as the result of hardships undergone by him on the retreat.

58. Meantime other Herero tribes had arisen against their masters. In April, 1865, the Mbanderu under Aponda and Kahimemua defeated Amraal's Hottentots at Gobabis. This tribe had been subjugated even earlier than the Hereros proper and some of them had been taken into bondage as far away south as Warmbad. Most of them spoke Nama better than Herero. In September of the same year, the Hottentots once more attacked Otjimbingue and were driven off with great loss. About the same time Zes, a chief of the Red Nation, plundered Otjikango (Neu-Barmen). Kamaharero collected 3,000 warriors and marched against the Hottentots, who had established themselves in the Auas Mountains, where he routed them. They re-assembled under the energetic Jan Jonker and on 13th December, 1867, attacked Otjimbingue. After a fight of two days, in which they inflicted heavy casualties on the Hereros, their ammunition was spent and they had to retire. Kamaharero, on the other hand, had received fresh supplies from the traders and went in pursuit. The Hottentots retired to Walvis Bay where they plundered the warehouse, robbed Eggert, the Rhenish Mission's agent at Scheppmannsdorf, and murdered the English trader Iverson, finally returning to Rehoboth along the Kuisib River. In November, 1868, they ventured a last attack on Okahandja. They were surrounded by the enemy and the tribe of the Afrikaners was almost destroyed. Two hundred of their dead remained on the field of battle. Jan Jonker escaped with his life. Fired by their success, the Hereros determined on a decisive attack on the Hottentots. They were joined by the Mbanderus and in 1869 they occupied Otjikango. In July they set out for Namaqualand with eight days' rations, hoping to take much booty from the Hottentots. They advanced as far as the neighbourhood of Gibeon, but found the whole country deserted; the Hottentots had fled before their approach. The Witboois of Gibeon were not molested as they had maintained a strict neutrality throughout the war. The Hereros had no choice but to return and they arrived at Okahandja in an exhausted state. This year is still known amongst them as the "lean year."

59. In 1862 the Witboois had settled at Gibeon under their chief Kido Witbooi. During all these wars they had pursued a pacific policy in concert with the Berseba and Bethanie tribes. All three were *Orlams* tribes. Oasib, who from time to time liked to emphasize his paramountcy over the whole country, found in their inclination for peace sufficient *casus belli* for an attack on Gibeon in 1864. The tribe defended itself to the best of its ability, but it had recently been considerably weakened by an epidemic of small-pox and was not able to prevent Oasib from driving away all its stock. In September, 1866, the Red Nation made a dual attack on Gibeon and Goamus. At the latter place Kido Witbooi was able to repulse the enemy, but Gibeon fell before them and was destroyed. Kido set off in pursuit of the retiring enemy and recaptured most of his stock and all the women who were being carried into captivity. Hostilities continued until 1867 when Oasib died. His son and successor Barnabas made peace with the Gibeon tribe.

60. By 1870 the Hottentots realised that their hopes of subjugating "their dogs" the Hereros, were in vain. Jan Jonker requested the missionaries to mediate for peace. Kido Witbooi and the Swartboois also sent missions of peace to the Hereros. In May, 1870, the Rhenish Missionaries of Namaqualand and Damaraland held their general conference at Otjimbingue and in the same month the Revds. Irle and Diehl arrived at Okahandja where they found the Hereros in a state of excitement on account of the news that the Hottentot chiefs were expected at a peace conference. The Hereros did not trust the Hottentots and the witch-doctors were inciting their people to continue the war. Jan Jonker had arrived at Neu Barmen where he was met by Kamaharero and his headmen. On 27th May, the two chiefs concluded a separate peace under which "both chiefs were to be as brothers paramount over yellow and black." Jonker's conditions were that the missionaries were to be expelled and that the prices of the traders' wares should be fixed by the chiefs. Kamaharero shared these sentiments. Shortly after, on 10th September, 1870, the Herero and Hottentot chiefs and the missionaries, at their head the Rev. Hugo Hahn, arrived at Okahandja. But for the intervention of the missionaries the Hereros would have "torn Jan Jonker to pieces." After six days of discussion, however, a peace treaty was signed on 23rd September, 1870, which was on the whole more advantageous to the Hereros than the Hottentots. It confirmed the conclusion of peace at Neu Barmen but superseded its terms. Had it not been for the influence and persistence of the missionaries it would never have been concluded, at any rate, not in the form which it took. Its terms were certainly most unfavourable to Jan Jonker, whatever one may think of his later complaint that fear compelled him to sign. The consequence of the great peace of Okahandja of 1870 will be discussed hereafter.

THE BASTERS.

61. In the first years of the European settlement at the Cape, the white servants of the Dutch East India Company provided all the manual labour required, a few Hottentots serving as herds and interpreters. As the Company's undertaking grew and men selected from the fort and the Company's gardens were placed on their own holdings a need for cheaper labour arose. The Hottentots were neither suitable labourers nor were they anxious to enter the service of the colonists. A wandering life devoted to the chase and to the care of their own herds was more congenial to them than service with the white people.

62. Slavery was an almost universal institution amongst the civilised nations of the day and it was to that that the Dutch now turned. Their ships brought Malays from Batavia and elsewhere in the East and black slaves from Mozambique and the island of Madagascar. Every slave-owning nation has suffered to some extent from the results of racial miscegenation and South Africa was no exception, although intercourse between the white and coloured races was never as extensive as in most other European colonies. At the Cape, according to Menzel, the sailors touching port in the Company's ships, visited the lodges of the female slaves, with the result that a considerable number of coloured children were born of this intercourse. These, together with the off-spring of the male slaves and Hottentot women, whom they were allowed by their masters to marry, form the origin of the coloured population of the Cape. Nor had the early European settler any objection to intercourse with native women. The instance of the marriage between Eva, a Hottentot woman who had been brought up in van Riebeeck's house, and the explorer Pieter van Meerhof, shortly after the arrival of Zacharias Wagenaar, the second Governor, shows how the matter was regarded. The Commander and Council believed that this union would tend to promote goodwill between the two races, and the bridal feast was arranged at the Company's expense. The bride received a wedding present of ten pounds, and the bridegroom was promoted to the rank of surgeon, at a salary of three pounds per month. After her husband's death she led a dissolute life. No doubt some illicit intercourse also took place with the women of the neighbouring Hottentot tribes, but most of the free half-castes

seem to have been absorbed by the native races to which their maternal parents belonged, which accounts for the admixture of European blood in the Grigriquas.

63. The word *Baster* as commonly used in South Africa is not a term of opprobrium; it does not imply illegitimacy, but merely refers to the fact that the person is the offspring of European and non-European. For that reason it is better to avoid the term *Bastard* as a synonym. We first hear of communities of *Basters* in the latter half of the eighteenth century. It has been alleged that the *trekboeren* on the confines of the Colony, owing to the scarcity of females of their own race, often contracted marriage with Hottentot women, and in this way became mainly responsible for the existence of the *Baster* communities. No doubt Boer farmers sometimes had illicit intercourse with Hottentot women, but if one may judge from the well-known continence of the Boer farmer where the native races are concerned, that must have happened only in isolated cases, and by way of exception. But very few, if any, marriages took place in the way alleged, if for no other reason than that up to the beginning of the nineteenth century all marriages had to be celebrated in Cape Town, where the presence of both parties was required.

64. Along the whole line of the Orange River the *Basters* were the pioneers of the Europeans. They advanced before the pressure of the white farmers, their communities being constantly reinforced by the addition of half-breeds who had grown up within the frontiers. As time went on communities of *Basters* congregated, *inter alia*, at the Kamiesberg, Zak River, Amandelboom, Kommaggas, Steinkopf, de Tuin and Pella; the communities of Olievenhoutsdrift only came into existence late last century. Later on missionary influence played an important part in the growth of these communities, as well as of the Griqua communities in what is now Griqualand West and the Orange Free State. They welcomed any new infusion of white blood, while discouraging, at any rate in later times, the addition of further native blood. The expressive words *Vooruitbaster* and *Achteruitbaster* (forward and backward miscenegation) remain to testify to this fact. In Rehoboth and Rietfontein, according to *Baster* law and custom, a white man marrying a *Baster* woman obtained a farm with his bride.

65. About the middle of the eighteenth century the population of the Colony consisted of about 4,000 Europeans, of whom about 1,500 were in the employ of the Dutch East India Company. The majority were settled in the immediate vicinity of Cape Town, Swellendam and Stellenbosch; further inland the country was but sparsely populated. These three districts formed the Colony, which was bounded on the north by the Olifants River, continuing in a line south-east past Tulbagh and Mostertshoek to Swellendam, and then eastwards to the Indian Ocean at a point between Mossel Bay and Knysna. In 1795 the Buffels River, the Kamiesberg, Spioenbergen and Hangbergen, and a line from the latter past the present Victoria West to Plettenberg's beacon (near the present Colesberg) formed the frontiers of the Colony in the north. The Buffels River, also called the Kowsie River, remained the boundary of the Colony until 1865, when the Orange River was proclaimed the northern boundary.

THE GRIQUAS.

66. The name Griquas is derived from a tribe of Hottentots called the Grigriquas, which, as stated above, was found by Kolbe near St. Helena Bay in the year 1713. Owing to their proximity to the whites, and to the smallness of their numbers, it seems that in course of time there was a considerable admixture of white blood in the tribe, although the Hottentot blood continued to predominate. They were distinct from the so-called *Basters*, but in course of time they also lost their ancestral language and spoke Dutch. Many half-breeds, on the maternal side the descendants of a variety of Hottentot tribes, had intermingled with the miserable remnant of the original Grigriquas, who in the first half of the eighteenth century were wandering about from the neighbourhood of Piketberg along the borders of the present division of Clanwilliam. Many of the Hottentot element bore names typical of the "*Orlams*"—Jager, Stuurman, Plaatje, April, Cupido (Kido or Kiewiet), etc.—while among the half-breed section were found many colonial surnames. After the end of the eighteenth century they were joined from time to time by scattered groups of *Basters*. Cornelius Kok subdued and absorbed into his own tribe many of the wandering Koranas with whom he came into contact on the Vaal.

67. The preponderance of the European element among the *Basters* was shown by the Dutch language being spoken by the influential majority, and by its superseding the Hottentot language of the original Griquas. Griquas in whom Hottentot blood predominated stood under a Chief, or Captain as he was called, by name Adam Kok, while the *Basters* were under a Chief Berend Berends. These two diverse elements only combined when, from force of circumstances, their leaders entered into a bond for the purpose of mutual protection.

68. The following family tree of the Koks will be found useful:

ADAM KOK, the Founder, 1710-1800.

CORNELIS KOK,
b. 1746, succeeds his father 1795,
retires about 1804-5, dies some
years after 1816.

JAN KOK,
Near Modderfontein,
1803.

ADAM KOK, the elder, succeeds
his father as chief of Griquas,
Chief of Griquatown, ca. 1804-5-
1819, of Philippolis, ca. 1825,
dies 1837.

CORNELIS KOK, the younger,
succeeds his father as head of
family clan of Koks, known as
chief of Campbell.

ABRAHAM KOK, ousted by his
brother.

ADAM KOK, the younger, chief
of Philippolis, 1838-1863, of
Nomansland (Kokstad), 1863,
dies 1875.

According to tradition, Adam Kok was the slave of a farmer in the Western Province. By his good conduct and efficiency, he earned the favour of his master, who, at the yearly earmarking of lambs for his children, as is the custom of some farmers, also earmarked some for his trusty slave. He eventually obtained his freedom, and subsequently he was permitted by the Government to occupy a tract of land at Piketberg, where he accumulated considerable property in cattle and sheep. Here, in 1746, his son Cornelis was born. Some time after this event Adam Kok moved to the Kamiesberg. He was fond of adventure, and particularly of hunting, for which the vast herds of game to the north of the European settlement gave him ample opportunity. Here he collected a number of Griquas who were then living in the neighbourhood of the Kamiesberg, and over these the Government of the day gave him power as a chief, by supplying him with a staff of office. Adam Kok had a large family; indeed, his family connections formed a distinct division of the later tribe. This division is referred to as the "family clan" of the Koks. Kok was a modern Abraham, a patriarch whose large herds and prestige gained him and his kin a large train of followers and servants. From the Kamiesberg, Adam Kok and his Griquas migrated further northward into Klein Namaqualand. He left his son, Cornelis, at the Kamiesberg in charge of his cattle and some of his people, and wandered about as a hunter for many years, residing temporarily at Pella, in Namaqualand, and at various places on the southern bank of the Orange River; on one occasion he went as far as the present village of Griquatown. At Pella he was joined by one Mr. Albertse, a missionary. Adam Kok lived to a great age, and ruled his clan of Hottentots until 1795, when he transferred his staff of office to his son Cornelis. He died some years later at Kamiesberg, whither he had retired.

69. Cornelis, like his father before him, was a great hunter and traveller. He was in the habit of leaving Kamiesberg for months at a time with his wagons and a number of attendants. He had an outstation at Bitter Dacha, on the southern bank of the Orange River, some distance below the great falls, where he resided occasionally and kept some of his cattle. His successes in the chase brought him many followers.

70. With the exception of the Griqua leader and his family and the few *Basters* associated with him, the rest of the community still used the bow and arrow. In a report of the Select Committee of the House of Commons on Aborigines, the condition of the Griquas of this period is thus described: "In 1800, when their first missionary, Mr. Anderson, went among them, they were a horde of wandering naked savages, subsisting by the plunder and the chase. The missionary, Anderson, writes: "When I went among the Griquas, and for some time after, they were without the smallest marks of civilisation."

71. At the end of the eighteenth century, the *Baster* population was spread along the banks of the Orange River on a frontage of about 600 miles. Their numbers were estimated to be 5,000 souls, with at least 700 muskets. While the Griquas gathered round Adam Kok, the *Basters* gravitated towards Berend Berends, who had also received a staff of office similar to that bestowed on Kok. He and his brother Nicolaas served with the burghers against the Afrikaners after the murder of Pienaar. Berends about this time invited

missionaries to join him, and in 1804 the *Basters* finally settled at a place called Klaarwater (later on called Griquatown) to the north of the Orange River, with Messrs. Anderson and Kramer. They were followed thither by the Griquas under Adam Kok the elder.

72. While the main body of the *Basters* remained at Klaarwater, Berends, with some of his following, trekked to Hardcastle, south-west of Klaarwater, where they lived for some time. Thereafter their movements took them past Klaarwater to Danielskuil (halfway between the former and Kuruman) where they were living in 1820 at the time of Campbell's travels in these regions. Campbell refers to Berends as "another Griqua captain, though a man of better principles and morals than others." In 1831 Berends led a commando against Umsiligaas, who was sweeping the southern Transvaal and northern Free State with his Matabeli regiments. The *Basters* were heavily defeated, and deserted their stations in fear of reprisals. In 1834 Berends and his *Basters*, who had been joined by a body of the Koranas, settled near Ladybrand at a place known as Groenkloof, after having wandered about the country between Griqualand and Basutoland for three years.

73. In 1805 Cornelis Kok the younger, a son of old Cornelis and the captain of the family clan of the Koks, took possession of the springs at a place which subsequently became known as Campbell. According to Stow, there was a party at Griquatown in opposition to the missionaries. With regard to the occupation of this place, Stow writes: "One is surprised to learn, from a letter from the Rev. Dr. Philip to Lieutenant-Colonel Wade, that after all the agitation about Griqua claims, the missionaries Anderson and Kramer took possession of the springs, not in the name of any individuals, but in that of the London Missionary Society, thus assuming to themselves the power of ejecting any person from their infant dominion who was not subservient to their rule. This power, we shall find in the subsequent career of the people under them, was not a mere technical fiction, but one upon which they acted. Not only was the land to be in their name, but the chiefs themselves must be men of whom they approved." The leader of the opposition was old Cornelis, but he decided to leave the tribe, and retired to Kamiesberg. His son, Adam the elder, became the chief of the tribe under the mission, but his relations with the missionaries were not of the best. In 1811 a native catechist, Andries Waterboer, who subsequently played a big rôle, joined the mission at Griquatown. In 1813, at the instance of the Rev. John Campbell, who "represented to the principal persons the offensiveness of the word (Bastards) to an English or Dutch ear," the various communities determined to call themselves Griquas instead of Griquas or Bastards, as heretofore. On 7th August, 1813, likewise at the instance of the Rev. Campbell and his missionary colleagues, the chiefs and the people agreed that laws for the protection of life and property of the community should be made, and judges and magistrates chosen to put them in execution. "It was agreed that their two Captains, or Chiefs, should continue to act as commanders in things requiring the public safety against foreign attacks," and the name of the place was changed to Griqua-town, instead of Klaarwater.

74. Campbell drew up fourteen "general laws" which were agreed to by all present on the same date. I give the text, which is taken from *Campbell's Travels in Africa* (1815), from which the preceding quotations have also been obtained:—

- "(1) That wilful murder be in every case punished by the death of the murderer. The execution to be always public, either by hanging or shooting.
- "(2) That housebreaking be punished by public whipping; for the second offence, whipping and hard labour, during a term which the judges may consider proper, or which may be afterwards agreed to.
- "(3) For stealing a bull, ox, cow or horse, sheep or goat, to be punished by restoring double, or more, as shall be decided by the Court; for a second similar offence, whipping and restoring double; for a third similar offence, a term of labour to be added to the former punishment.
- "(4) For stealing from a garden, either whipping or a term of labour for the person in whose garden the robbery was committed.
- "(5) For robbing from a field in autumn, double restoration.
- "(6) For allowing cattle to feed near growing corn, if they go into that field, and eat or destroy the grain, the proprietor of the cattle to pay double the loss that may have been sustained.
- "(7) If a Bushman, Coranna, or any stranger be murdered, the murderer shall receive the same punishment as for murdering a Griqua.
- "(8) Going upon a commando for plunder, to be punished by a term of labour, and the property taken to be restored to its owners.
- "(9) If a Bushman, Coranna, or other stranger commit murder, theft, or any other crime within the limits of the Griqua country, the punishment to be the same as if he had been a Griqua.

- “(10) That no person shall take it upon him to punish another, whatever injury he may have received from him, but must bring his charge against that person, and prove it by witnesses before the Court, which shall determine what is fit to be done.
- “(11) That no person, who is to be a judge in any cause, is to receive a present, directly or indirectly, from any of the parties whose cause is to be tried before him.
- “(12) In order to evade rule eleventh, should a person promise to give at a future time a present to any of the judges who are to try his cause, that person shall be fined, and if unable to pay the fine, shall be adjudged to give a term of labour in proportion to the value of the fine.
- “(13) That all persons flying from justice in the Colony, in consequence of some crime they have committed and coming among them, shall be delivered up to such persons as may be sent in pursuit of them.
- “(14) That every person who shall endeavour to prevent the execution of the laws, shall be punished as the Court shall judge proper.
- “They likewise resolved that nine magistrates should be chosen to act as judges at Griquatown, and one at each of the two principal outposts, who is to judge in smaller cases, but others are to be remitted to the judges at Griquatown.
- “That the two captains, Bern and Kok, with Messrs. Anderson and Janz, be a Court of Appeal.
- “That the limits of their country be marked out in the course of one month, and the magistrates chosen.”

The Rev. Campbell also visited Hardcastle, and there the same laws were adopted. He even proposed to have money specially coined by the society for the state which it had created. Coins were struck, but I have not been able to ascertain whether they were actually in use.

Regarding the composition of the Griquas of Griquatown, he writes:—

“The following is the number of Griquas who reside at Griquatown and the out-posts connected with it.

Men	291
Women	399
Boys	310
Girls	266
	<hr/>
	1,266

“The number of Corannas who consider themselves connected with the Griquas, for the sake of protection, many of whom attend occasionally for instruction, and some stately, are, as nearly as can be ascertained 1341, making the total of Griquas and Corannas 2,607.

The church, or christian society, consists of twenty-six men, and sixteen women. There have been added during the last twelve months, two men and women.”

The population at Hardcastle was as follows:—

Men	110
Women	165
Boys	110
Girls	100
Corannas	400

885

75. Theal has the following comment on the activities of the Rev. Campbell: “Upon his return to England he published a volume which gave its readers the impression that he had left a missionary settlement with a highly organised government at the junction of the Vaal and the Orange. A simple, honest, credulous man, he was himself deceived. Not one of his regulations was ever enforced, nor did his courts exist except in his books.” The names which he gave the people and the station “were the only permanent memorials of his visit to the country.”

76. In 1816 old Cornelis Kok left his farm at Silverfontein in the Kamiesberg and came back to Griquatown. But he had lost his old influence and retired to Campbell, also called Campbelsdorp, where his son Cornelis ruled as captain of the old family clan. In 1819 the missionary party forced Adam Kok the Elder to abdicate and through the influence of the missionaries elected Andries Waterboer captain. Adam Kok abandoned Griquatown with those of his followers who were dissatisfied with the state of affairs and went to Campbell where he remained until 1823. In the meantime he looked about for a suitable place to settle, and at the suggestion of Dr. Philip finally settled at Philippolis in 1825, where he was supplied with a missionary. Here he was joined by members of various

Korana clans, as well as dissatisfied followers of Waterboer, with a good sprinkling of *Busters* and slaves from every part of the Colony. Adam Kok died in 1835 and was succeeded by his son Abram, who, however, was ousted from the captaincy by his younger brother Adam in 1841. In a lecture on the native tribes of the interior at Capetown in 1855 by the Rev. Edward Solomon, he gives the numbers of the Griquas at Philippolis at from 8,000 to 10,000. Some of them possessed flocks of sheep and goats varying from 500 to 1,500 head.

77. As is well known, the Great Trek of the Emigrant Boers from the Cape Colony into the Northern Territories commenced in 1834 although individual farmers had long before crossed the Orange River for grazing their stock and in some cases had even settled in what is now the Orange Free State. I do not propose to follow the vicissitudes of fortune of these heroic men and women into the unknown, one of the most stirring epics in history. My immediate concern is shortly to trace the effect of the meeting of the Emigrants with the Griquas of Adam Kok who were settled about Philippolis. In 1843 Adam Kok complained to the British authorities that the emigrants were acting independently of him in the district of Philippolis. At the time his clan consisted of from 1,500 to 2,000 people. That eminent lawyer, Sir William Porter, Attorney-General of the Cape, on the 25th March, 1849 gave it as his opinion that the regions to which the colonists first resorted for grass and water could scarcely be said to have had any actual possessors. Nevertheless the Griquas claimed a big area of land which was bounded on the north by the Modder River, on the south by the Orange, on the east by the districts occupied by the people of Moroko and Lepui, and on the west by Waterboer's district from Ramah upwards, a territory fully eleven or twelve thousand square miles in extent. Within these boundaries Theal tells us there were at that time more white people than Griquas. Towards the end of 1843 Sir George Napier concluded a treaty with Adam Kok on the model of that entered into by Sir Benjamin D'Urban and Andries Waterboer in 1834. In the treaty, however, only the southern boundary from the neighbourhood of Ramah to that of Bethulie was mentioned. More important from the point of view of the holding of land by the Griquas was the Treaty of Sir Peregrine Maitland and Captain Adam Kok concluded in February, 1846. The following are some of the main provisions:

Article 1. The absolute dominion of Captain Adam Kok over all the lands hitherto received and regarded as belonging to him or his people is unreservedly recognised by the Governor.

Article 2. Adam Kok engages to make a division of his territory into two portions: "one division to consist of land in regard to any part of which it shall not hereafter be competent for Captain Adam Kok, or any of his people, to grant leases, or make sales, or give any right of occupation, to any British subject, or, generally, to any person of European birth or extraction; and the other division to consist of land which may be let on lease to British subjects, and all others indifferently,—all leases to British subjects, however, to be made in the manner and under the conditions hereinafter referred to."

Article 3. Persons, who are by the last preceding Article prohibited from hiring or purchasing lands in the first or reserved division of the Griqua Territory, may, with the express permission of the Colonial Government, but not otherwise, and then only for the purpose of Religious Teaching, or that of Trade or Business, receive Leases of Houses or Building, or of Building Erven, situated in the said division.

Article 29. The British Resident shall be charged with the duty of settling, in conjunction with the parties interested, the conditions and duration (not exceeding forty years) of all intended leases. But no such lease shall be capable of being assigned, nor shall the land leased be capable of being sublet, without the consent of the said Resident.

Article 38. Inasmuch as the alienation of the absolute dominion of Landed Property by Griqua Subjects is in direct opposition to the well-known laws and customs of the Griqua people, the cases where British subjects shall have purchased the absolute dominion of any Landed Property in any part of the Griqua Territory shall be deemed to be cases of hiring of such property for a term of forty years from the commencement of the occupation. Leases for a longer term shall also be construed as for forty years.

It is unnecessary to enter into the disputes between the Government of the Orange Free State and Adam Kok. Suffice it to say that means were found to evade the Griqua laws. The Griqua farms were alienated in many instances for a mere song, with the result that in 1861 they were practically without land in the Orange Free State. Sir George Grey the then Governor of the Cape Colony, one of the most enlightened rulers of all time, advised a general trek of Adams Kok's people to a portion of "Nomansland." A commission of Griquas along with the chief now visited Nomansland. The trek began in 1861-62. It has been estimated that 2,000 souls left Philippolis. The stock, large and small, amounted to over 20,000 head. Of wagons, carts and vehicles there were about 300. In 1863 they were eventually located in that part of Nomansland which is now comprised in

the districts of Kokstad and Umzimkulu. In Annexure II hereto is a memorandum of the conditions of settlement. The terms of the conditions were, however, never observed. Sir George Grey was recalled and his successor, Sir Philip Wodehouse, in effect told Adam Kok that he was independent and declined to protect him. In 1875 Adam Kok resigned his authority to the Cape Government but he was allowed to retain his title of Chief and was given a pension. He died in the same year.

78. The Rev. W. Dower, at one time missionary at Kokstad, in writing of Adam Kok's rule, states that the Griquas decided to issue paper money to an amount of £10,000. They had it printed, but never issued it. The notes were issued by the "*Gouvernement van Nieuwgrigqualand*" under the motto "*pro rege lege grege.*" It was issued according to resolution "*van den Hoog Ed. Volksraad van den 5 Nov. 1867.*" "The Griquas waged war, tried and convicted criminals and executed men found guilty of murder. They elected a Volksraad of twelve, two out of each ward, and held half-yearly Parliaments. Adam Kok bore the title of "*Kaptyn.*" The *Uitvoerende Raad* was almost entirely composed of full-blooded Griquas. Charles Brisley, a young Englishman, was Secretary. "They were supposed to have the control of the finances—when there were any. The available assets were four-footed, sheep, goats, cattle, horses. They had a singular knack of straying away, and never in any case straying back again. The cash-box was the pasturage of the Treasurer's farm or the area of the Government kraal. The banker was a kaffir herd boy. The decisions of the Volksraad were sent up to the Privy Council, and were often discussed in a free-and-easy style on the stoep of the Chief's house, while the Councillors were drinking coffee amidst clouds of tobacco smoke. The Volksraad nominally and constitutionally granted farms and even, but, as a matter of fact, farms were often granted without its knowledge or consent, even sometimes contrary to its wishes. The appearance of political power satisfied the ambitions of the Commons, except in the case of a few fiery spirits among them. The Volksraad gave the opportunity for talk; and talk soothed all grievances and healed nearly all wounds, Kok's policy was to retain the real power in his own hands and he manoeuvred so as to give his policy practical effect. To this task he brought all his exceptional tact, ingenuity and resourcefulness. Occasionally there were storms in the tea-pot, a political crisis, but never a change of Ministry. The Volksraad was a wonderful anachronism. Its sittings were held half-yearly, and lasted as long as the Commissariat held out. It was very free-and-easy both as to its composition and conduct of business. Very little real business was done, and very imperfect accounts of its proceedings kept. After a session was over it was no uncommon occurrence for discussion to arise as to what had been decided. Often no one knew, but all knew "*de praat wat was gepraat door de mensehe die het de praat gepraat*" "the talk which was talked by the people who talked the talk," that sufficed. The Deputies were hospitably entertained at Government expense during the session. Its length depended on the size of the animal slaughtered. When the beef gave out the House arose. No beef, no business, was the unwritten, but standing, rule of this Assembly. It was a simpler and more effective extinguisher to Parliamentary oratory than our modern closure. The cooking operations for these "*Achtbare Heeren*" was carried on close to the House of Parliament, and the big pot was so placed that the members while in session could both see the progress of the operations and inhale grateful odours, as an earnest of the coming feast"

79. He continues "The ordinary administration of justice was committed to a Griqua Resident Magistrate, who held his appointment, not because of his knowledge of law, but as a matter of charity. The spheres of influence for Privy Council, Volksraad and Magistrate were clearly enough defined on paper, but the limitations and restrictions were often disregarded, so that there was a constant overlapping of authority. The Magistrate's decisions were more according to his ideas of justice and equity than according to statute law. He paid himself and his officials from fees of Court and fines, and gave account to nobody. The restraint of an officer of control would have been an intolerable nuisance. The Magistrate held office for a year or two, and then gave place to some other needy Griqua who had patiently waited his turn, thus to replenish his depleted exchequer. Griqua law was more prescriptive and traditional than statutory and written. The evidence led as to a particular law or custom was often very contradictory, notably so in reference to the Laws of Inheritance." And referring to the time when Griqua rule was superseded by the Cape Government, Dower continues: "The impartial administration of law and justice was a new thing. Once the Griquas began to see that this impartiality existed, they gained confidence. It greatly reconciled the honest and more respectable men among them to the new regime. But it evoked litigation which, under the old Government, would never have been thought of. Executors who had never administered estates were called on by their heirs, to render account, and to divide the ancient inheritance. If the one side took a stand on equity, or on the law of the Colony, the other might plead English or Colonial law was not in force. If appeal was made to Griqua law, then proof had to be led what Griqua law was, and the confusion became worse confounded. When executors, either under the one law or the other, had to disgorge and pay up, they did not like it, and inveighed against the new magistrates as being hard on them. The heirs, on the other hand, who had now got back their own, were equally loud in praise of the English fair play. These inheritance and estate cases cropped up, and kept

the little town in a state of ferment during the years '75 and '76, and many were the grotesque situations created."

80. As for Griquatown, when Stow visited that place in 1872, he found it in ruins, with the exception of the Chief's residence and two or three other houses. The missionaries had deserted the station, and at the time of Andries Waterboer's cession of his alleged territory to the British Government a few hundred Griquas formed the last remnants of this branch of the nation. All the land had been alienated to white people. Nowhere except at Kokstad do they own any land to-day, and even that is a mere fraction of what they owned fifty years ago. The Magistrate of Kokstad has furnished the Commission with a copy of a memorandum, prepared by him for the Government in January 1925. The following has been compiled therefrom and is of interest as illustrating the danger of abandoning all control over such communities.

"PRESENT CONDITIONS, RESOURCES, STATUS AND PROGRESS:

"Since the settlement in East Griqualand (1863) a not inconsiderable stream of European blood and that of local natives has been added. The conflict of hereditary instincts makes the 'Griqua' a very unsettled person indeed. When the Griquas became a more or less settled people at Klaarwater (Griquatown) in 1813, they were still addicted to drunkenness, licentiousness, murder, plunder and witchcraft. From that time onward their history has been a turbulent one. Originally given to nomadic pastoral pursuits they have never been able to settle down to steady work on the land. The considerable extent confirmed to those by the Maitland Treaty, 1846, soon slipped through their fingers owing to intemperance and thriftless habits. Eventually they became almost entirely dispossessed of their farms and were practically driven out of the Orange Free State. In their migration to 'Nomansland' (East Griqualand) they brought with them their engrained habits of intemperance, improvidence, indolence and carelessness, and a venal form of self government. Their hold on the newly acquired lands quickly began to weaken. Farms were parted with for a mere song, until to-day their holdings are negligible.

"They are now town dwellers, and although more tenacious of their town erven than they were of their farms, I have no doubt that economic pressure will bring about a steady decrease of such holdings. As a class they are poverty stricken. Many suffer from mal-nutrition and often starvation owing to unemployment, drink and generally thriftlessness. The mortality amongst children is high—chest complaints and stomach trouble being responsible. The adults are susceptible to pulmonary diseases. The population, if not on the decrease, remains practically stationary.

"The men are employed on brickmaking, masonry and bricklaying, carpentering, painting, leather working, gardening, transport riding, and as waiters, shop boys, etc. With few exceptions they are unreliable, ever seeking fresh work and new employers. When employed on piece work they come and go as they please. The women obtain employment as seamstresses, in laundry work and domestic service, but generally speaking their independence is such as to cause these avenues of employment to be gradually closed to them.

"Their social life is one of bickering and quarrels, and it is impossible to secure a united front with progress and improvement of their conditions as the object in view. Many attempts have been made in the past to compose their differences, but without success; and to-day they are hopelessly divided amongst themselves. This is seen more especially in church affairs, where they divide themselves into three distinct church bodies. This division extends itself even to the education of the children, numbers of whom attend the Roman Catholic School for coloureds instead of their own school.

"Apart from the status acquired by local ownership, they do not possess, except in their own imagination, any higher status than the ordinary coloured person. Indeed while a coloured person is not a prohibited person under the liquor laws, the Griqua is.

"In conclusion I may say that in my opinion the 'Griqua' as a separate class are doomed to extinction. This will be slow but sure. Melting away of race and dispersion set in many years ago. They will gradually become absorbed in the great coloured class which is ever on the increase in this country."

81. With regard to the extent of land held by the Griquas in 1874, as shown in the Cape House of Assembly's Report of Select Committees, 1876, the memo gives the following information:

"Farms: pages 270-274 gives the following lists of farms, viz:

<i>Farm.</i>	<i>No.</i>	<i>Extent.</i>
"(a) List of farm titles issued by the Griqua Government	343	1,029,000 acres
"(b) List of 'Land Certificate Holders' who are to receive title	33	99,000 "
"(c) List of approved applicants for grants of lands	127	381,000 "
Totals:	503	1,509,000 acres.

"The records in this office show that these farms were situated as follows:—

Mount Currie district	228 farms
Matatiele district	110 ,,
Umzimkulu district	165 ,,

Total 503 farms

"The report of the Commission on Griqualand East Disturbances (1879) shows that nearly 550 farms were given out, and that the grants which were intended to be uniform in size at 3,000 acres were in practice considerably reduced, some farms being not more than 1,500 acres in extent, and later grants not more than 500 acres. About 400 farms were, however, of not less than 2,500 acres.

"Approximately, then, the farms averaged about 2,000 acres. The figures for these districts are 550 farms, and the extent 1,100,000 acres.

"Number of farms or extent of property they now own:

(a) Property owned in municipal area Kokstad, including church property:

<i>Erven</i>	<i>Rateable value.</i>
136	£20,604

(b) Farms owned (now mainly subdivisions of farms):

<i>Farms.</i>	<i>Extent.</i>	<i>Estimated value.</i>
15	4,912 morgen, or 11,000 acres	£24,560

"I estimate the original grants in this district to have been about 260, and the approximate extent 520,000 acres.

"The farms dispossessed of in the Mount Currie District would therefore be about 260 farms—520,000 acres, less 15 farms—11,000 acres. Total: 245 farms—509,000 acres.

"*Town erven.* (See (a) quoted above.)

"Page 54 of the Cape House of Assembly's Report of Select Committee, 1876, gives a list of 500 surveyed erven in the Kokstad Township, of which 100 were vacant at the time. Approximately 264 erven have, therefore, been disposed of.

"The present Griqua population is as follows:

		<i>Adults</i>	<i>Children</i>
Kokstad Municipal Area		568	561 — 1,129
,, Rural ,,		224	119 — 343
	Total	792	680 — 1,472

THE BASTER COMMUNITIES IN LITTLE NAMAQUALAND.

82. The Griqua settlements to the north of the Orange River absorbed the first *Baster* communities to the north of the border, but by the second decade of the last century new communities had sprung up in the country through which the Griquas had passed. These communities grouped themselves around a mission station, or were induced by missionaries to congregate at stations already existing in these parts. After the emancipation of the slaves, a sprinkling of ex-slaves also drifted beyond the frontier and intermingled with the Hottentots and *Basters* who were leading a nomadic life.

The main stations were Komaggas, Leliefontein, Amandelboom, de Tuin, Pella, Olievenhoutsdrift and Rietfontein (Gordonia). With the exception of the two last mentioned, these were all in the territory lying between the Karreebergen, the Zak and Orange Rivers and the coast. Komaggas was established by Schmelen, who came to South Africa in the service of the London Missionary Society in 1808. Both the missionaries Schmelen and Wimmer, with the object of advancing their work amongst the Hottentots, married women of that race. At Komaggas, Schmelen collected a community under the leadership of a *Baster* named Cloete. In 1831 the mission's land was surveyed, and in 1843 the London Society transferred it, along with other stations in Namaqualand, to the Rhenish Missionary Society. The Government granted the latter 69,123 morgen under a ticket of occupation in the same year. The methods of the Rhenish Mission differed considerably from those of the London Society. While the latter had devoted its energy to the preaching of the Gospel and the teaching of reading and writing, the former concentrated on practical and industrial education. The Rhenish missionaries found that religious instruction bore better and more lasting results where it went hand in hand with the inculcating of industrious habits. The Rev. Schmelen died at Komaggas in 1848 at the age of 72. The community then consisted of about 55 families, roughly 300 souls. In 1851 the number had

risen to 500, among whom were 119 communicants. Three years later the station held 600 people (the whole district, 1,500), of whom 173 were baptised. The opening of the copper mines in 1853 induced many members of the institute to seek work in the mines. Not only did the mission lose its influence over some of them, who adopted many vices in the mining camps, but the proximity of the mines exercised a bad influence upon the communities. Things improved when many of the mines closed down in 1856-9.

83. Under the guidance of the missionaries, however, the *Basters* developed a communal organisation, which has been maintained to the present day. They drew up a "*Gemeente Ordening voor het Institut Komaggas*" dated 12th August, 1857, to which some amendments were added later. The text of this Communal Ordinance is included in the Annexure III. According to it, the administration of the Gemeente was in the hands of a *Raad* or Council, of which the missionary was chairman. Without his approval no resolution was valid. The missionary also administered the finances of the Institute, and reported to an annual meeting of the people. He was assisted by a number of councillors, called "*Korporaals*," or corporals, who were elected by the community every second year. These councillors dealt with civil affairs, while two or three elders (*ouderlingen*) were entrusted with the religious and spiritual government of the community. The members of the Institute merely had the use of such portions of the land as were allotted to them by the government of the community. No one was allowed to lay out gardens or fields without the permission of the Raad. Gardens were allotted to members for life. No one was allowed to sell the land, and no one was allowed to let his allotment without the consent of the Council. This system continued until 1909, when an alteration was effected by the Mission Stations and Communal Reserves Act No. 29 of 1909, which provides for the establishment of Boards of Management for Institutions, such as Kommaggas, composed of six members elected by the community, two appointed by the Government, one by the Mission Society, with the Magistrate of the District as Chairman. The administration of such communities is in accordance with regulations drawn up under the Act mentioned and these regulations are based upon the *Gemeente Ordening*. The land of such institutions does not belong to private owners, but is held under the communal system. No such land is alienable or transferable or mortgageable. In effect the only change seems to be that the Magistrate has replaced the Missionary as Chairman of the Institute's Administration. In connection with this change from missionary to magisterial control, it is interesting to note the remarks contained in a report on lands in Namaqualand by Mr. S. Melvill, Surveyor-General of the Cape in 1890. He writes:—

"If, as I venture to hope, a change of tenure such as that proposed by me, should take place, it must, in my opinion, be followed by a change in the mode of administering the secular affairs of the Institution. The present system seems to act well only where the resident missionary, who is always the President of the Raad or Council happens to be a strong and judicious man, capable of exerting a powerful influence for good on the members of the Raad, as well as on the rest of the community. Even such a man cannot always cope successfully with the stubborn prejudices of people inherently indolent, apathetic and non-progressive. And when the missionary is, as is often the case, a weak man, the downward course of the Institution over which he presides for any time is certain. It is difficult at present to suggest a better kind of administration, as so much depends on the manner in which the lands of the Institutions will be cut up and held, but it has occurred to me that Village Management Boards may be found not unsuitable."

Present figures concerning the population and number of livestock of the Institutions are not available.

North-east of Kommaggas is the station of Steinkopf, formerly known as Kookfontein. This station was established by the Rev. Mr. Brecher of the Rhenish Society in 1840. In 1890 this gentleman was still in charge of the station. Its members were mainly *Basters*, with an element of Hottentots. This station, as also those of Spektakel, Concordia and Richtersveld to the north are controlled by the Rhenish Mission Society and like all the stations of this region are now subject to Cape of Good Hope Act 29 of 1909.

84. South-east of Kommaggas in the Kamiesberg, is the station of Leliefontein which was established by the Rev. Barnabas Shaw of the Wesleyan Society in 1816. The Society which in 1821 had acquired two farms in this area, received a ticket of occupation for over 200,000 morgen in 1854 for the use of the tribe of Little Namaquas and the *Basters* then occupying the land. This community was also administered by a *Raad*, of which the Missionary was Chairman, under regulations approved by Government in 1871. In this respect it is interesting to quote the views of the Rev. Henry Tindall, at one time the missionary at Leliefontein, who writes from Stellenbosch in June, 1890: "The present regulations, I believe, unlike those of the German Institutions, allow the occupants to dispose of their lands to one another, which does not appear to me to have worked well, as it has enabled the wealthier men to take advantage of the distress of the poorer in times of drought and scarcity. The result in all cases has not proved a fortunate illustration of the

law of the survival of the fittest. In the event of individual titles being issued the expense of survey, etc., would be considerable. I fear many of the inhabitants would be unable to pay their quote towards it." A neighbouring farmer giving evidence before a Select Committee of the Legislative Council in 1888, testifies that the Hottentot and *Baster* population of the Institution is going backward. "They change the grain they reap for brandy and wine chiefly. They wear clothes to a certain extent, but they give everything away for liquor. They have few cattle. In the winter they live on rice ants (termites) which they take out of the ground. The store where they get the liquor is outside the Leliefontein grounds in the village. If it were removed they would go on further to the next nearest place." In 1890 one-third of the population consisted of *Basters*.

85. About the year 1845 there were some 6-700 *Basters* living along the western side of the Karreebergen. They had no fixed place of residence, but trekked from valley to valley and from fountain to fountain with their large herds in search of water and grazing. To the east of the Karreebergen was a small Bantu tribe about 1,000 in number which had settled in this region a few decades previously. While these blacks were heathens, their *Baster* neighbours, the descendants of Christian fathers, had some knowledge of the Christian religion. Some of them had been under the care of the Rev. Kicherer, a missionary of the London Society at the Zak River. They repeatedly sent to Wupperthal, a station of the Rhenish Society in the district of Tulbagh, to ask that a "*leeraar*" might be sent to them. Towards the end of 1845 two missionaries, Lutz and Beinecke, arrived amongst the *Basters* and pitched their tents in the shade of a wild almond tree. From all directions the *Basters* gathered together and many of them settled down at the new station, which was called Amandelboom (now Williston). In 1847 the station numbered about 280 inhabitants besides which number 350 belonging to the institution lived in the neighbourhood and in the Karreebergen. In 1847 Missionary Alheit founded the station of Schietfontein (now Carnarvon) among the Kaffirs on the eastern slopes of the Karreebergen. In the same year the Orange River was declared to be the boundary of the Colony in this direction and the country between the old and the new frontiers was proclaimed free grazing ground over which anyone might freely graze his stock on payment of a small fee. The *Basters* as well as the Kaffirs of Schietfontein had hoped to receive recognition of their title to the lands which they had occupied for such a long time. They petitioned the Cape Government for relief, but all they were able to achieve was the reservation of certain fountains and the adjoining pasturage in return for the payment of a fee. In 1856 the inhabitants of Amandelboom numbered 14 whites, 114 blacks, 292 *Basters* and a score of Hottentots and Bushmen. They possessed 54,200 sheep and goats, 1,000 head of cattle and 500 horses. In the neighbourhood of Amandelboom and in the Karreebergen lived 650 people belonging to the Institution. These people possessed 16,785 sheep and goats, 305 head of cattle and 140 horses. Many of them were men of substance possessing from 1,000 to 2,000 sheep and other livestock in proportion. On the Zak River, about three miles from the village, several members of the community were engaged in agriculture. The conditions of life obtaining in these parts are clearly set forth in a report by Mr. J. B. Auret, who writes in December, 1856: "With the exception of the grounds under cultivation the whole of the Karreebergen has for many years past been used more or less in common by the *Basters* and migrating farmers, indiscriminately, being viewed by them as Government ground, to which all had an equal right. In fine seasons when water was plentiful, the permanent occupants of the fountains suffered very little hindrance, but when the seasons were bad, much of the water that was used for cultivating the ground had to serve for watering the stock of the periodical visitors. The migrating Boers consist of two classes: those who have no farms and lead a purely nomadic life, and again those who have farms of their own, which they occupy during the greater part of the year, migrating periodically and after rains have fallen, with their stock to the Karreebergen. A large number of the Clanwilliam farmers, chiefly from the Onder Roggeveld and Hantam, migrate to the Karreebergen in summer, when rain generally falls there, returning to their farms in winter; and many farmers from the Beaufort Division follow their example, several of the latter also moving thither in winter, in order to benefit, by a milder temperature, their stock." The numbers of white farmers who either squatted in this area or trekked into it with their herds when the grass failed on their own farms, grew year by year. The country gradually became too small for the *Basters* and Kaffirs. They held out for a few years longer and, indeed, the period 1853-60 was the most flourishing the stations of Amandelboom and Schietfontein experienced. Each of the two communities numbered some 7-800 members, of whom almost half were members of the mission community. Mission reports state that 20,000 to 25,000 head of small stock, 600-650 head of cattle and 300-350 horses could be calculated to every 50 *Baster* families. The gardens yielded good harvests, 400-450 mud of wheat was common and much fruit and vegetables.

86. About 1857 changes took place which were to end in the ruin of the communities. The Cape Government decided to survey the pastures between the Karreebergen and the
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Orange River, to divide this area into farms and sell them to the highest bidder. Deputations from the *Basters* interviewed the authorities at Cape Town who promised to look into the matter and ordered a new survey. A syndicate of 60 farmers offered to purchase the entire Schietfontein lands for £17,000. The community determined to seek a new home beyond the limits of the Colony. From 1859 onwards several treks left the stations for the Hartebest and the Orange rivers, but they were unsuccessful in their quest for vacant land. They once more approached the Government who thereupon granted the Kaffirs as the earliest recognised occupants of this region, 98,000 morgen. In 1860 12,000 morgen were surveyed for the village of Schietfontein, which was divided into 200 erven for those who built houses and laid out gardens thereon within three years. Amandelboom was also divided into erven. No provision was made for a reserve for the *Basters*. The year 1860, the date of this proclamation of the villages, marked the beginning of the downward stage of the people who remained in the villages. They could not exist side by side with the whites and gradually sold their erven and drifted away. The villages soon became European settlements and the position of the *Basters* deteriorated. The Korana War of 1868, which raged up to the confines of Amandelboom destroyed the last remnants of their prosperity.

87. At Schietfontein there was still a considerable *Baster* and Kaffir community when Alheit left the station in 1865. By 1868, however, the Mission congregation consisted mainly of white farmers. The *Basters* and Kaffirs were falling more and more into debt and realising their properties to white men. In 1874 Lutz abandoned the station of Amandelboom, leaving the few members of his congregation who remained under the care of the missionary of Schietfontein. As in the case of the Griquas, so at Amandelboom and Schietfontein the *Basters* had become dispossessed of their lands which they had sold to the white man. Many of them had left before 1868 and had trekked to Pella and de Tuin, from where the most resolute of them entered on their final trek to Rehoboth. In reply to a question addressed in 1890 to the Rev. Henry Tindall, for many years a missionary at Leliefontein, "whether it would not be desirable to grant the land either as a whole or in sections to the present male occupants, with the right to each one of disposing of his share, in the whole or in section, after a certain specified time, to others," he writes, "I fear if a right were given to the occupants to dispose of their lands and rights it would not be long before a considerable portion would pass into the hands of outsiders, who would not be willing to be amenable to such control and regulations as are suited to a native community; hence serious complications would arise, and for weal or woe the place would cease to be a Missionary Institution." These remarks have been justified by experience in every instance where the *Basters* have been free to dispose of their land.

88. Thus we find *Basters* congregating at de Tuin and Pella in what is generally called Bushmanland. The history of Pella from 1800 to this period had been a chequered one. Soon after 1800 the Wesleyans had founded a station at Pella, south of the Orange River, and when Jager Afrikaner threatened the Wesleyan station at Warmbad in 1811, the inhabitants fled to this station. For a few years the young station flourished, but was abandoned in 1824. The Warmbad people were succeeded by Kido Witbooi, who passed through the place on his migration to Great Namaqualand. In 1836 the missionaries, Leipoldt and Terlinden, visited the station which had been abandoned 12 years before. By then most of Bushmanland was already occupied by *Basters*. At Pella some 100 destitute people were living. In 1841 missionaries paid another visit to the place and eight years later Mr. Schroeder, a Rhenish Missionary, reoccupied the station which had been abandoned by the London Society. Droughts and attacks by Bushmen necessitated lengthy absences from the station in search of water and grazing or for safety. Schroeder left on a journey to the south and when he returned to Pella in November, 1851, he found the place deserted. He joined the wandering *Basters* and in the next year, the drought having been broken, they settled at Pella once more. The history of the next ten years is a series of visitations in the shape of locusts, droughts, failing harvests and Bushmen. Nevertheless the community grew and in 1861 there were 420 members, many of them scattered over the neighbouring country. In 1868 the old missionary Schroeder died in harness.

89. Meantime a community of *Basters* was gathering in the neighbourhood at de Tuin. Sterrenberg, the Missionary of Amandelboom, who was travelling amongst the scattered *Baster* communities during 1860-1 found a large number of Bushmen, Namaquas, Kaffirs, Griquas and *Basters* assembled at de Tuin and he, therefore, determined to open a station at that place. At this time, too, arrived the *Basters* who had left Amandelboom and Schietfontein and the community grew from year to year. In 1863 Sterrenberg arrived with his wife and wagon and set to work. Within a few months 250 children visited his school. In 1865 he left the community to take over the station of Schietfontein. He was succeeded in 1866 by Missionary Heidmann who from that time onwards with great singleness of purpose devoted his life to the welfare of the people among whom he laboured. By that time it had become doubtful whether the *Basters* would be allowed to continue in occupation

of the pastures surrounding the station. What had happened at Amandelboom and Schietfontein was about to be repeated here. The white farmers sent their herds to the same pastures and the same waters, in consequence of which, faced with the prestige of the white man the *Basters* could not hold their own. They petitioned the Divisional Council, Parliament, and even the Governor and offered to pay £200 for 300,000 morgen of grazing land. In 1867 their deputation returned, having been unsuccessful. To make matters worse in 1867 the restless Koranas once again crossed the Orange River to raid the Colony. De Tuin was the first station to suffer. The *Basters* lost considerable numbers of cattle and protection from the Cape Government was slow in coming. After having exhausted all means without effect in desperation the community decided to despatch a mission to Great Namaqualand to search for a suitable place of settlement. The envoys through the mediation of the missionary at Berseba obtained leave for the emigrants to remain in the Berseba territory for two years. At a meeting at de Tuin in February, 1868, about 90 heads of families decided in favour of emigration. The Rev. Heidmann decided to accompany his community. Owing to the presence of the Koranas they evacuated de Tuin and went to await the rainy season at Pella. The missionary was one of the last to leave—he took farewell of his station on 12th July, 1868. A few days later a horde of Koranas swept down upon the station, fortunately too late. At Pella, Heidmann met the old Rev. Schroeder and his assistant; most of their community, however, had moved to Steinkopf and Concordia to escape attack by the Koranas. Heidmann's community crossed the Orange River on the 16th November, 1868, and those of the community of Pella who did not accompany him scattered. In August, 1869, the remaining Pella Missionary also left the station. In 1881 the Roman Catholic Mission received a ticket of occupation over the Pella lands. It is to-day the seat of the Roman Catholic Bishop of Pella. It took the de Tuin *Basters* a fortnight to cross the river and about Christmas time they reached Warmbad where they rested for a while. Heidmann meantime had travelled to Stellenbosch to fetch his bride and he rejoined the trekking *Basters* at Chamis in the neighbourhood of Bethanie about the middle of 1869.

90. Two of the later *Baster* communities remain to be mentioned—that of Olievenhoutsdrift (now Upington) and that of Rietfontein. According to a report by Mr. J. H. Scott, Special Commissioner at Upington, in 1881, two Hottentot chiefs Klaas Lucas and Pofadder were rewarded for the assistance they had given to the Colony in the Korana War of 1868, by being allowed to occupy the country then known as Koranaland north of the Orange River lying between that river and the Kalahari and from Kluis (Kheis?) to the waterfalls. "In order to increase their revenue Klaas Lucas and Pofadder allowed a considerable number of Colonial *Basters* to reside in Koranaland, they paying a grazing rent for their stock. In course of time the Koranas felt or fancied that they were being pushed to the wall by these *Basters*. (They) talked of attacking the *Basters*, and boasted of what they would do if the Government attempted to prevent them. In fear and dismay the *Basters* fled into the Colony, the Koranas followed and stole their cattle, and thus commenced the late war. At the close of the late war (1879) Koranaland was left derelict. The coloured colonial farmers had long been feeling that they were not able to hold their own against their Dutch neighbours, and were prepared to accede to any reasonable proposal that would give them a country of their own. Many of them had done good service in the war and as a people they asked that they might be allowed to occupy Koranaland. Their request was acceded to, they being distinctly told that they would not have the protection of the Colonial Government, but would themselves be expected to protect the Colonial border to this extent, at any rate, of not allowing undesirable people to reside in the country or the islands. This they professed themselves willing to do, but stated that they feared that if left to themselves they would soon be in a state of anarchy, that they had seen enough of one coloured man trying to govern other coloured men. At a meeting held at Olievendrift, attended by almost all the emigrant *Basters*, one and all declined to take upon themselves the entire responsibility of governing themselves, and begged that an official might be appointed by Government to reside amongst them and to guide and advise them, and to show them how to manage their affairs. These *Basters* have now become a distinct community, intermarrying only amongst themselves. They are a peaceable, well-disposed people, there is hardly any crime amongst them, and they are easily guided in the right way by judicious management. They are rather inclined to be extravagant, and involve themselves in pecuniary difficulty especially when traders push their trade when plying their customers with brandy. They are all professing Christians, and have a missionary residing among them supported by themselves. Many of them are fairly industrious and enterprising. It is proposed that the Koranaland *Basters* should practically govern themselves, should have a voice in the framing of laws and regulations suited to their condition, in the appointment of subordinate officials paid by themselves to administer justice and preserve order, that the Special Commissioner should only exercise such control over the affairs of the country as would be necessary to secure that Koranaland would be so occupied as to be a protection

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to the Colony. He would have to see that no unsuitable people were allowed to reside in Koranaland, and that occupation rights were fairly apportioned, that justice was impartially administered, and that manifestly bad or unsuitable regulations were not passed. The only practical danger I can see arises from the position of Dirk Philander, captain of a band of emigrant *Basters* living at Mier, about 150 miles north of the Orange River. His people went there some years ago on permission granted by Afrikaner's Namaquas. In the course of time they quarrelled with their hosts, were attacked by them and won a victory over them, since which time Dirk has looked upon himself as a Chief, and his people (*Basters*, Kaffirs, nondescript Hottentots) as an independent tribe, living in a country theirs by right of conquest. The Namaquas are very angry with Philander for not coming to their help against the Damaras, and it is just possible that some time or other he may be attacked by them. He would endeavour to get the assistance of the Koranaland *Basters*, and even if he did not succeed would fall back upon them if worsted by his enemies. I do not think that this contingency is likely to occur."

91. Mr. Scott was in due course appointed Special Commissioner and details of the arrangement were left entirely to him. His instructions were contained in a letter from the Colonial Government and read: "If they (the settlers) should so desire, you will administer justice amongst them, but it is desirable that they should as far as possible, provide for the maintenance of law and order, by themselves, appointing some of their number as field-cornets." An Inspecting Commissioner writes in 1887: "Mr. Scott's call was responded to chiefly by a respectable class of *Basters*, many of them possessed of considerable property, and by a few white persons, connected with them by marriage and otherwise. Under the very able guidance of the Special Commissioner the new settlement soon began to take shape. A committee of management was elected by the heads of families, of which Mr. Scott became Chairman, the Laws of the Colony were taken over 'as far as applicable,' the country was divided into three field-cornetries, and three paid field-cornets were elected, and to them was delegated magisterial authority, with right to appeal to the Special Commissioner. They imposed certain taxes upon themselves and recalled their former minister, the Revd. Mr. Schroeder, from Basutoland. In 1880 the country wherein the *Basters* were invited to settle, was regarded as a worthless desert, and no one envied the people to whom it had been allotted. But all this is now changed. The industry and perseverance of the settlers, under the guidance of Mr. Scott and the Rev. Mr. Schroeder, have effected marvellous alterations in the physical conditions of this formerly drought-stricken and despised territory. In 1882 there was granted to one Abraham September, formerly a slave, by the Committee of Management a farm facing the Orange River and lying about twelve miles above Upington. This old man discovered that there was a possibility of leading out the water of a lateral branch of the river on to some alluvial soil situated on the farm. He set to work and succeeded in getting a small stream on to a low-lying portion of his ground and steps were taken to begin irrigation works on a scale of considerable magnitude." In a memorandum dated 1887, Mr. Scott gives further particulars concerning the Philander *Basters* of Rietfontein. He writes: "About the year 1846 one Dirk Philander, a Colonial Bastard trekked from the Colony into this country with a band of companions. He asked and obtained permission from the Afrikaners, to occupy a tract of country to the north of 'Blydeverwacht.' After some years the Afrikaners attacked him; but he succeeded in repulsing the attack, and has since remained in undisturbed possession of the country occupied by him, and has for many years, had his headquarters at 'Mier.' He has succeeded in establishing a practical ownership to the country occupied by his people, and a chieftainship over the latter. His position has been acknowledged, or ignored, by surrounding chiefs, as it suited their purposes. He has always maintained friendly relations with the Colonial Government. In the war of 1868, by Sir Walter Currie, and in that of 1879, by Mr. Commissioner Jackson, he was called on to render assistance in the operations, being conducted by the Colonial forces. To these applications he responded in a friendly spirit, and in consideration of service rendered in 1879, the Colonial Government made him a grant of £25 per annum to purchase ammunition for purposes of defence. His position as a chief exercising a practical government over a tract of country, has been more than once acknowledged by the Colonial Government." His tract of country was found to extend into German territory as well as the district of Gordonia, when the Anglo-German border was fixed in 1890. Both the Upington and Rietfontein *Basters* have disappeared as land-owning communities. These two settlements were not protected by Missionary Institutions as was the case with many of the other communities described. It is now necessary to resume the thread of the history of South-West Africa where it was left at the Great Peace of Okahandja.

THE PERIOD AFTER THE PEACE OF 1870.

92. The Peace was of such a nature that no permanency could be expected from it. Not only did the proximity of Herero cattle present far too great a temptation to the

Hottentots ever to assure their strict adherence to the peace, but the circumstances under which the most powerful of the Hottentot tribes the Afrikaners found themselves to be living were most unsatisfactory. In the first place the Peace Treaty gave Windhoek to Jan Jonker Afrikaner and his people merely by way of loan. The Herero chief who had been a subject of Jan Jonker's father and who now claimed for himself the right of ownership purported to grant this right. In the second place the missionaries who helped to bring the Peace about were unwilling to define the boundaries of this "loanplace"—as it is called in Palgrave's report, as that might have caused a rupture of the negotiations. Where they sought to avoid further friction by leaving this question undecided they created a new source of trouble in the attitude which the two main parties to the peace, the Afrikaners and the Hereros, took up on the boundary and ownership questions. Jan Jonker expressed his dissatisfaction with the settlement from the very beginning and also made it clear that he had no intention of regarding Windhoek as anyone's property but his own. Kamaharero, on the other hand, who in 1869 had concluded a separate secret treaty with Jan Jonker at Neu-Barmen, under which he entered into an alliance with the Hottentot chief for the spoilation of all other tribes, now felt himself so strengthened by the Great Peace of 1870 that he refused to recognise Jan Jonker's claims. He claimed himself as the master of the Windhoek *veld* and to demonstrate his right sent his herds of cattle to pasture perilously near the *werfs* of the Hottentots. The latter frequently protested against this action but without avail. Kamaharero had consolidated his position amongst the various Herero tribes and considered himself to be the Paramount Chief of all Hereroland. The other tribes were jealous of one another and individually too weak seriously to resist this claim.

93. To the meeting of Namaqua and Herero chiefs assembled at the Conference of Okahandja in 1870, came a deputation of the *Basters* under Hermanus van Wyk who, at that time, were near Chamis in the Berseba veld. The Peace Treaty was concluded between Kamaharero who signed himself as Paramount Chief of the Hereros, the other Herero chiefs and Abraham Swartbooi, chief of the Rehoboth Namaquas on the one side, and Jan Jonker Afrikaner, Chief of the Afrikaners on the other side. The Bethanie, Berseba and Witbooi chiefs attended "as impartial chiefs to confirm the peace by their presence." The *Basters* came with the object of acquiring a place to live on. They first approached Swartbooi, as the chief who had last been in possession of Rehoboth. It will be recalled that when the Swartboois joined the Hereros against the Afrikaners, they were driven from Rehoboth. Kamaharero then granted them permission to live at Bokberg in the Erongo Mountains. Ameib was their chief *werf*. According to the evidence of the Rev. Boehm, missionary to the Swartboois, Hermanus van Wyk the captain of the *Basters* asked Swartbooi and his allies the Hereros to let him have Rehoboth which at that time was unoccupied. The Swartboois agreed to allow the *Basters* to live at Rehoboth as long as they, the Swartboois, did not need the place for themselves. In return for this loan the *Basters* were to pay them a horse every year. The Hereros and the Afrikaners approved of this arrangement. A few years later Hermanus van Wyk appeared at Ameib at the head of a *Baster* deputation and declared that there was not sufficient water at Rehoboth for the requirements of the community, but that they could easily open more water by blasting the rocks. In view of the uncertainty of their tenure, they were, however, not prepared to incur the heavy expense unless they were allowed to purchase the place. The Swartboois would not sell Rehoboth at any price and it was then agreed that the *Basters* should continue to reside at Rehoboth under the old condition, but that they should have the first refusal if ever the Swartboois should decide to sell. Boehm states that this agreement was made in writing, but no such document has been found. It was probably destroyed with many other documents relating to Palgrave's enquiry in the fire, which gutted the offices of the Native Affairs Department in Cape Town some years ago. According to von Rhoden, however, European traders (who first settled at Rehoboth in 1875) proposed to the Trekboers under Commandant Alberts that they should purchase land in the vicinity. These Trekboers had arrived at Rietfontein (Otjimbinde) from Ghansi on their trek from the Transvaal in January, 1876. The question of the ownership of Rehoboth arose and the *Basters* hurried to Swartbooi to procure some document to prove their title, or at any rate to secure an option of purchase in respect of Rehoboth and the surrounding country. The Europeans on the other hand maintained that the land belonged to the Chief of the Red Nation at Hoachanas and they obtained a cession of the land from him. Light is shed upon this contention by a letter of Dr. Hugo Hahn, of 22nd October, 1885, in which the writer says:—

"Originally Rehoboth belonged to the Red Nation. The territory of the Swartboois was about the middle reaches of the Fish river, near the Blomvis river. In 1844 the old chief Willem Swartbooi asked Oasib the chief of the Red Nation and Jonker Afrikaner who had occupied Rehoboth for a time as Oasib's ally for permission to settle at Rehoboth or Annis as it was then known."

[U.G. 41.—'26.]

It must be recalled that Dr. Hahn came to South-West Africa in 1841. As a result of the intervention of the Europeans, enmity ensued between them and the *Basters*. This was the position when Palgrave arrived in the country in 1876.

94. In his report Palgrave states that when he first arrived in Okahandja on his mission to Kamaharero in 1876 the latter spoke to him about Rehoboth "which he said he considered belonged to Swartbooi, but as they had left it for such a long time, and were now living on a loan place, which was his property, he considered Rehoboth to be his." Palgrave has advised the Swartboois when he first met them to return to Rehoboth. He writes: "I am inclined to think, however, that a visit paid by Abraham Swartbooi to Rehoboth, during my stay there, convinced him of the impossibility of doing so in the face of the fact that he had already transferred the place to the Bastards, a circumstance materially affecting his position, which he had carefully concealed from me." At a subsequent meeting Palgrave advised Abraham Swartbooi not to hurry in arriving at a decision as to whether he would return to Rehoboth or remain at Bokberg. Swartbooi asked whether he could not charge the *Basters* for having lived on and had the use of the place.

"Special Commissioner: That depends upon whether you made any agreement that they should pay you."

"Abraham said: Yes, Hermanus van Wyk said that they were willing to assist us as far as lay in their power, in return for our having placed them on Rehoboth, that they were in want of ground and did not know where to go, and, in return for our kindness would supply us with people, horses, powder, and lead to enable us to look for another place."

"Special Commissioner: If you take anything from the Bastards for Rehoboth, Kamaharero will demand from you twice as much for the loan of Bokberg, so I advise you not to demand anything from the Bastards; if they chose to give you anything, let them do so by way of a present. The Bastards ask me who is to compensate them for the improvements they have made on the place, if you come back, and supposing you do not come back, and Kamaharero drives them off, who will compensate them then, if they understand that you gave them the place.

"They say, if they misunderstood you, they are willing to forego compensation and suffer, but they tell me to ask Mr. Hahn, and see whether he and others also misunderstood you at the time. You must remember too, that they are not here on Rehoboth by your permission alone, they seem to have obtained the consent of all the chiefs. I have a letter from Barnabas, the chief of the Red Nation, in my possession, in which he states that he was one of the chiefs who placed the Bastards here. I do not see how you can expect them to pay you anything."

"Abraham Swartbooi answered: I thank you for your advice and will follow it."

95. Palgrave also tells of a meeting with Hermanus van Wyk, Cornelius van Wyk and several members of the *Baster* community, as well as with the Rev. Heidmann and other Europeans, Jan Jonker Afrikaner, Abraham Swartbooi and Manasse Swartbooi, who on other occasions acted as interpreter. He writes:—

"Hermanus van Wyk stated: I was born in the Cape Colony in the district of Fraserburg, and for some years I lived in the neighbourhood of Amandelboom, and de Tuin. I trekked from the Colony in 1868 and came as far as the Berseba veldt, where I and my followers settled down and remained for about four months. I first came into this country in October, 1870. On my first coming into the country the Namaqua chiefs told me that the country was in a state of war. My object in coming was to look for ground. They, the chiefs, were then about to visit Damaraland to try and make peace, and asked me to accompany them, as I might find a piece of ground to settle on. At that time there was no one but a Berg Damara living on Rehoboth. I accompanied the Namaqua chiefs and we went to Kamaharero. The terms of peace were then discussed, and when the peace was concluded, I went to the Rev. Mr. Hahn to ask him his advice. Two of my councillors accompanied me. Mr. Hahn advised me to go to Abraham Swartbooi who, he said, had still the right to Rehoboth. Abraham Swartbooi was at Okahandja and we went to him, and asked him whether we could live on Rehoboth. Abraham agreed to our request in the presence of Jan Jonker Afrikaner, some of his own people, and my two councillors, Piet Beukes and Paul Isaacs. Abraham informed Kamaharero of this, and he expressed his satisfaction, and David Christian (Bethanie) and Jacobus Isaacs (Berseba) who were there, also expressed their satisfaction at this arrangement. When Abraham Swartbooi gave his consent, and Kamaharero expressed his satisfaction, I gave them each a horse. I promised Jan Jonker one, and when we trekked on to this place, I gave him one and also one to Aponda (Chief of the Hereros at Barmen). On our arrival here I found Barnabas, and informed him that the other chiefs had given me the place and he agreed to it, and expressed his satisfaction. This was in 1870. When we arrived we set to work and made the place habitable, opened the water and led it out to make gardens, built houses, and repaired the church." Here Piet Beukes stated; "I was present at Okahandja when

Swartbooï gave us the place to live on, and he said it was his intention to trek further in and look for a place, but was not in a position to do so, we wanted to assist him and gave him some horses." Van Wyk continued: "It was in this wise that I gave Abraham Swartbooï the eight horses. He gave us the place and ground which he said he and his people had themselves occupied. I understood that Abraham Swartbooï gave me the ground, and had no intention of returning to it; but he told me afterwards that that was not his intention. He promised at Okahandja that he would come and point out the boundaries of the place, so soon as I had brought my people to it. When I asked Abraham for the place at Okahandja, and he gave it to me, he said: 'Go and write down what I have given you, and I will sign it,' but it was not done at the time, but Abraham said that so soon as he had pointed out the boundaries, it could be written down, and he would sign it. He came some considerable time after we arrived on the place, described the boundaries, but seemed disinclined to sign anything and so it was not done. After this I offered to purchase the place. We had heard that there was another attempt made to buy the place and as we did not wish to be driven off we went and offered to buy it. We went to Bokberg, where Abraham was, and it was agreed between us that if he sold the place to anyone, it would be to us."

"MEMO.—Van Wyk produced a written agreement to this effect, in which a price is agreed upon, being 100 horses at £25 each, and 5 wagons at £50 each, dated, written and signed as witnesses by J. Boehm, and signed by Abraham Swartbooï, Captain; Simon Hendrik, Regter; Lot, Regter; Timotheus Swartbooï, Manasseh Swartbooï, Hermanus van Wyk, Cornelius van Wyk, and dated Ameib, 23rd December, 1857."

H. van Wyk continues: "As shown by the agreement, I was to pay 100 horses and 5 wagons. I have not purchased it yet. As far as Abram Swartbooï is concerned, I consider I still have the right to purchase if I choose."

96. Two volumes of the manuscript journal of the Special Commissioner, Palgrave, were recently brought to light at Walvis Bay. Two further volumes are in the Archives at Cape Town. Together these four volumes form an almost complete account of a substantial portion of his mission in 1876-80, taking the narrative down to 1879. In the margin of the manuscript from which the above portion of the report was compiled, there is a note in Palgrave's handwriting, opposite to the words "described the boundaries" in the third last paragraph "en (in) deelen afgelegd," presumably the actual words used. The attempted purchase of Rehoboth was as we have seen made by the Trekboers who eventually trekked northward to the Okavango, along this river westwards, then in the direction of the Etosha Pan, which they skirted, continuing westwards until they reached Gauko-Otavi, where they settled for a short time (1878-1880). Later they continued their trek northwards into Angola where they settled at Humpata. Some stragglers returned to South West and established the Republic of Upingtonia (Grootfontein North) and were taken under German Protection at their own request in 1887. With regard to the date quoted above, viz., 1857, this is a misprint for 1875, as appears, too, from the MS. of the journals mentioned in this paragraph.

97. Palgrave nowhere mentions what the boundaries described by Swartbooï actually were. In one place he mentions Gurumanas, which lies within the present boundaries of the Gebiet. Jonker in his statement before Palgrave says: "Carew came and asked to be allowed to leave his wife on Gurumanas, to which I assented, and then he went and asked Abraham Swartbooï and Kamaharero for the same thing, and he does this to throw discredit on me. Carew first got permission from me to settle in the country." From this it would seem that Jonker in 1876 claimed that Gurumanas lay in the "Windhoek veld." Palgrave's secretary visited Hatsamas half of which is now claimed by the Rehoboth Busters on October 14th 1876 and reports: "I found from about 12 to 18 Namaquas at Hatsamas, owing allegiance to and acknowledging Barnabas as their chief." (Manuscript journal). Barnabas was the chief of the Red Nation of Hoachanas and it would seem therefore that in 1876 his veld still included Hatsamas.

98. In a letter to Palgrave, dated 18th May 1877, the Rev. Dr. Hahn writes: "The statement of . . . Hermanus van Wyk is, so far as I know, correct and reliable. I always thought that Rehoboth was a *bona fide* gift to the Bastards, but I did not know the conditions upon which Abraham Swartbooï ceded his rights of possession to Hermanus van Wyk." The statement of van Wyk, which is dated 17th October 1876, a few days after the meeting referred to above, reads: "As we have already verbally informed you, we took advantage of the occasion of the peace conference, held at Okahandja in 1870, to obtain from Abraham Swartbooï permission to live on Rehoboth and the adjacent ground which had been previously occupied by his people. From various remarks made by Captain Abraham Swartbooï at the giving or granting of the place, as well as on other occasions, we understand that we should be able to live here and establish ourselves." He then enumerates the various works and improvements undertaken by them and continues: "All this has been done by us in the full belief that we shall never be required to leave this ground, and in this confidence we were lately strengthened by Captain Abraham Swartbooï's readiness to sell it to us. In consequence of which, some of our people went

to the Colony to buy wool sheep (merinos) and thus improve our condition in the country. The community of Rehoboth including the outlying places, consists of from eighty to ninety families, numbering about eight hundred souls, possessing twenty thousand sheep, and from two or three thousand oxen and horses. You will thus readily understand, dear Sir, how difficult it would be for us to have to leave this place. All our labour and diligence will have been in vain. The circumstances of the country thus compels all those who are here seeking to obtain a livelihood and competence in security and peace, to wish for another and good government to come into the country and protect it. We shall gladly see, aye, we long for the day, when the Cape Government will undertake to rule the country and secure protection to us."

99. We find the *Basters* then in occupation of Rehoboth by 1871. A section of them arrived in the Bethanie "*veld*" in 1873 under their captain Klaas Swart. The Rev. Heidmann tried to persuade them to join the larger community at Rehoboth but the separatist ambitions of the captain prevented this. They settled at Grootfontein South, where they received a missionary in 1876.

100. While the *Basters* were striving to secure their rights to Rehoboth, Kamaharero was still further consolidating his position. He realised that war would break out once more sooner or later and in 1872 he sent a letter to the Governor of the Cape Colony in which he asked the British Government to give the Hereros "a hint how to govern" themselves and also to enquire into the matter of the Herero-Namaqua enmity so "that peace may be maintained." There can no doubt that this letter was written by him at the instance of the missionaries who had suffered considerable setbacks in their spiritual work as well as large losses of property, and the traders who had no guarantee of security from the native chiefs and were indeed often most shamelessly robbed by them. Theal ascribes the authorship of this letter to Green and one Robert Lewis, a trader of many years residence in Damaraland. It did not meet with favourable consideration in London but at the Cape considerable interest had been shown in the country beyond the Orange River for some time past. About 1870 the Cape Government had induced the Captain of the Bondelswarts, who lived at Warmbad, to agree to protect the frontier between his country and the Colony against raiders. In return for his services, he received an annual subvention. In 1878-9 he rendered material assistance against the Koranas who were then at war with the Colonial Government.

101. In 1874 Kamaharero and two of his most influential chiefs addressed a letter to the Governor of the Cape, informing him that they had received news of an intended trek of Transvaal Boers across the Kalahari to Damaraland. This chief was not desirous of coming under Boer rule, pointing out that "the Boers are represented as people who, like ourselves, have an irrevocable attachment for cattle, and which afford them likewise chief support of their existence, consequently they would require an extensive tract of land." Kamaharero asked the British Government to induce the Boers to desist from their intended "invasion." But it was not till the year 1876 that the Cape Government decided to despatch a Commissioner to Damaraland and Namaqualand to ascertain the wishes of the natives, and to advise the Government as to its future actions. In that year Mr. Coates Palgrave, who had received the appointment of Special Commissioner, arrived at Walvis Bay. He knew country and people, having travelled, traded and hunted in South-West some years before his appointment. His instructions are contained in the following passage of a letter from the Secretary of Native Affairs:—

"4. In general terms, however, I may state that it is the desire of the Government that you should, as soon as possible, proceed to Walwich Bay, and from thence penetrate into the country north of the Orange River, both above and below Walwich Bay, visiting the various principal chiefs and tribes, and explaining to them the benefits and advantages they would derive from colonial rule and government, which, as before observed, they have from time to time, in past years, expressed themselves desirous of securing.

"5. Having had the opportunity of several interviews with you on the subject, it would be superfluous for me now to repeat the suggestions which I was then enabled to make as to the terms in which you might express yourself, in representing to the chiefs and their people the nature and extent of the obligations which would devolve upon them by their coming under the rule and influence of a civilised Government. But it may not be out of place here to remind you that it should be clearly explained to the chiefs that if they are sincerely desirous of coming under our Government, they must be prepared strictly to respect life and property and foresake those habits of injustice, violence and marauding, to which so many of them have been prone in former years. Nor is it the desire of the Government that any chief or tribe should come under its protection until the general nature and tendency of our laws and the responsibilities of all who live under them have been clearly explained to them as far as they are capable of understanding such a subject.

"6. As to the limits and extent of the country which you are to visit, that is a matter which must also, in a great measure, be left to your own discretion; it being,

of course, clearly understood that it is not the desire of this Government to intrude, in any manner, upon territory which may already have become definitely subject to any other civilised Government holding a recognised position upon the southern portion of the continent of Africa.

"7. You will, from time to time, report progress to the Government, which will be glad to receive from you any information you may be able to furnish not only as to the native tribes and the political matters above referred to, but also as to the production, climate, physical features, geography, geology, mineral resources, botany, etc., of the various sections of the country; as well as the relative numerical strength of the tribes, the areas they respectively occupy, the nature and amount of trade carried on with them, and the distance of main points, principal villages and stations from each other and from Walwich Bay. And I need not add that any reliable information you may be able to furnish as to the nature of the coast and its harbours (if any) north of Walwich Bay would also be very acceptable to the Government."

A memorandum by the Secretary for Native Affairs, dated April, 1876, states the position as follows:—

"Walwich Bay.

"Government have for some time had it in contemplation to send a Commission to Walwich Bay and the adjacent country to institute an enquiry into the state of matters among the various tribes beyond our north-western border, among whom we have large commercial interests, but until very recently, from want of a suitable agent, it has been impracticable to put into operation the intention of the Government, sanctioned by resolution of the Honourable the House of Assembly. Many of our traders in those parts have from time to time made grievous complaints of extortion or violence by Namaquas and others, who on their part complain of high-handed misconduct on the part of our traders, while some of the tribes, harassed by strifes and wars among each other, and believing that their safety depends on our authority, have requested us to take them under our protection.

"Mr. Palgrave, a man in whose ability we have the utmost confidence, and one who is well and favourably known to natives and Europeans in the interior, has been appointed as Commissioner to enquire into the matters referred to, and it is anticipated that he will have completed his labours, and have prepared a report for submission to Parliament, before its next session. The country which will be visited by Mr. Palgrave has for generations past been in a state of chronic warfare, and it has happened that some of our subjects, sometimes led by inclination, and at other times forced by necessity, have taken part in these internecine wars; and it is also affirmed that unprincipled men (our subjects) have, even for the sake of present gain, stirred up and fomented strife between the various tribes beyond our north-western border.

"It has now become imperatively necessary that we should take steps to come to a good understanding with the Namaquas, Damara and Ovaherero tribes, which are easily influenced for good or for evil, and to bring about a better understanding between the various tribes themselves, and, if possible, to put an end to the animosity which has hitherto subsisted between them. This may be accomplished. Delay will complicate matters, and may compel us to deal with the tribes, as enemies with whom we have come into collision, instead of friends seeking our protection, which they at present are.

"Should nothing else result from Mr. Palgrave's mission, we confidently anticipate that the labour and expenditure incurred will be amply repaid and justified by the good understanding which will be insured between our traders and the various tribes, and between the several tribes themselves, and that the peace and goodwill which it is our object to establish will enable men who have hitherto been at constant feud and bloodshed with each other to devote their time and attention to the peaceable and profitable occupations of developing the resources of a fine country, which has hitherto been devastated by the ravages of war, and that with peace and prosperity the efforts of the missionaries among them, often suspended or entirely stopped by the strifes of contending tribes, may now be brought into full and vigorous operation in the advancement and civilisation of the Namaquas, Damaras and Ovahereros."

102. Palgrave visited the Herero chiefs and found them willing to accept a British resident to advise them in their internal affairs and to act as an intermediary between them and the Colonial Government. Kamaharero promised to cede to the Government the entire Kaokoveld and south of this area, adjoining it a strip of land about 200 miles inland, from the coast down to the Kuisib and the intervening territory between Damaraland and Ovamboland. This "reserve" was to be used by the Government to raise the revenue

necessary for the payment of the Resident Commissioner or Commissioners. Until such time as the country produced revenue the Hereros were to defray half the cost of the establishment, the rest was to be levied from traders and hunters in the shape of licences. The Government would afford protection from inroads by surrounding tribes while the Resident Magistrate, to be sent to Damaraland by the Cape Government, would "have jurisdiction in all cases in which people who are not Damaras are concerned and in all those cases in which Damaras and those who are not Damaras are concerned. He would also be (their) confidential adviser in all matters of internal policy as well, perhaps, as the regulator of (their) external policy." Having achieved this much, Palgrave went south and in turn visited all the Namaqua chiefs endeavouring to persuade them to come to a similar arrangement with him. They were not as ready to accept a British Protectorate as the Herero chiefs had been. They feared the loss of their independence and were more-over disinclined to bind themselves to keep the peace. Palgrave returned to the Cape and in 1878 he was once more sent to Damaraland to complete his mission. A British resident was sent to Okahandja, the headquarters of Kamaharero, and in the same year Walvis Bay was formally annexed by Great Britain.

103. In July 1880 a conference of missionaries was held at Rehoboth and war was felt to be imminent. In August of the same year a conference of Namaqua chiefs met Palgrave who was anxious to further his mission, at Gobabis, to investigate the charges of robbery and murder which had been brought against the lawless Gobabis Hottentots, the same tribe which until the death of old Amraal had enjoyed the reputation of being the most law-abiding in the country. But while the meeting at Gobabis was being held, news was received that war had broken out once more between the Afrikaners and the Hereros and on 21st August 1880 the first blow had been struck near Rehoboth. According to von Rhoden some Hereros accused some herds belonging to Christian Booï's tribe of having stolen a cow. They ill-treated the herds and drove off the cattle. The Hottentots fled to their *werfs* but were pursued by the Hereros, and receiving reinforcements in the vicinity of their *werfs* they turned on their pursuers, killed thirty or forty of them and in turn took numerous cattle of the Hereros. Unfortunately, the cattle belonged to Kamaharero himself and to his commander-in-chief Riarua. Hardly had they heard of what had happened, when they gave orders for the massacre of every Hottentot in the country and for the attack on Windhoek. This version of the commencement of the hostilities is confirmed by Palgrave in his report to the Cape Government. In the same report he states that the most important of the causes of this war, was the disregard of the Damaras for previously recognised Namaquas boundaries, over which they pastured their numerous cattle. In the most important case this was done "in flagrant defiance of a treaty made in 1870 between the Damaras and the Namaquas, that gave at the very least, grazing rights and residence at Windhoek to the tribe of Jan Jonker. These rights the Damaras had for a long time tried to rescind, with the intention of compelling the Afrikaners to trek south of Rehoboth." Palgrave complains that his influence over the Hereros had been undermined by white traders who had suffered losses at the hands of the Namaquas and wished to revenge themselves upon the Hottentots with the aid of the Hereros. He himself was threatened by the Hottentots at Gobabis and had to fly to Walvis, to which place the Resident of Okahandja had also withdrawn. Palgrave left the country in 1880.

104. At the conference which Palgrave had with Kamaharero relative to the latter's request for a British Resident he drew up a map apportioning the country between the Hereros, the Hottentots and the Government. On his map, attached to the report, he made the southern boundary of Damaraland to run from Otjimbingue and from this place to Rietfontein (Otjimbinde), thus including in Damaraland, the District of Windhoek, and the northern portion of Rehoboth. But the Hereros pressed even further into the Afrikaner country with the result that the herds of the two people came even to blows in August 1880.

105. During the decade preceding the outbreak of this war the wealth of the *Basters* had attracted the attention of the surrounding tribes. The Bushmen have always regarded the cattle of other people as lawful booty and the Berg-Damaras likewise cast longing eyes upon the *Baster* cattle. The *Basters* realised moreover that Jan Jonker was doing his best to make their residence at Rehoboth as difficult as possible in the hope that they might decide to abandon the place. In 1881 the Rehoboth community was reinforced by a section of the followers of Klaas Swart at Grootfontein South, where they had suffered heavily from the depredations of the surrounding natives and from drought. The missionary also left Klaas Swart in 1882 with another section of Grootfonteiners, and in 1883 he arrived at Mier (Rietfontein), the *werf* of Dirk Philander.

106. When Jan Jonker received news of the fight near Rehoboth and the massacre of the Hottentots at Okahandja he evacuated Windhoek and decided to take to the mountains. Four days after the fight between the herds, the Hereros attacked the deserted station which they pillaged and burnt. The Afrikaners determined on revenge and instead of flying into the mountains they concentrated at Rehoboth there to await the arrival of the southern Hottentots who had promised assistance. Jan Jonker also asked the *Basters* for assistance, who at first tried to remain neutral but when six of them and a European McNab were

murdered by the Hereros while hunting, they joined in the war. In September 50 *Basters* accompanied the force of the Afrikaners, the Witboois and the men from Berseba and Bethanie. At first the allied *Basters* and Hottentots were successful and took many cattle, but on the 11th December they were defeated with considerable loss at Barmen. Jan Jonker managed to escape but Captain David Christian of Bethanie fell in battle. This turn of fortune damped the ardour of the Bethanie and Berseba people for a while, but under the leadership of Moses Witbooi, the father of Hendrik Witbooi, the Namaquas rallied and prepared to resume hostilities. Jan Jonker had retired to the Gansberg north of Hornkranz and raided Damaraland from this base. In September and October 1881, the Hottentots once more invaded Damaraland but by the end of November they were in full flight again. The Hereros were willing to make peace as long as Jan Jonker and the other Namaquas removed from their *veld* and the Rev. Kroenlein, of Stellenbosch, who had worked in Namaqualand for many years undertook to persuade the Namaqua chiefs to agree to peace. He arrived at Berseba, his old station, about the middle of January, and invited the Hottentot chiefs to a conference at Rehoboth. By that time affairs had taken an unexpected turn. Jan Jonker not satisfied with the loot he was able to seize from the Hereros, was stealing the cattle of his allies the *Basters*.

107. While the majority of the *Basters* had moved northwards against the Hereros, Jan Jonker had persuaded Abraham Swartbooi to join him in an attack on the *Basters*. Swartbooi hoped to recover Rehoboth. He had left his former allies the Hereros and made common cause with Jan Jonker, with the result that he was now exposed to Herero attack in the Bokberg. Even at the time of Palgrave's visit, we have seen that he had not abandoned all hope of returning to Rehoboth, which was a better locality than the arid mountains about Ameib. Together the two chiefs carried off some 500 cattle and 2,000 small stock, and on 21st January, 1882, they attacked and penetrated into the village of Rehoboth. The few *Basters* who had remained at home defended themselves desperately and were successful in repulsing the enemy with heavy loss. Abraham was wounded in the knee and died after lingering a long time. The Afrikaners retired to the Gansberg once more and the Swartboois prepared to emigrate to the Kaokoveld, where they settled at Franzfontein. This act of treachery forced the *Basters* into the arms of the Hereros. About the same time the Cape Government despatched a Special Commissioner to Walvis Bay in the person of the Rev. Dr. Hugo Hahn, the veteran missionary of Damaraland who was officiating in Cape Town. His mission was to ward off a reported Herero attack on Walvis Bay and he took advantage of the opportunity to mediate between the *Basters* and the Hereros. On 14th February 1882 Kamaharero and Hermanus van Wyk concluded a separate peace. As soon as the southern Namaqua chiefs received news of this, their peaceful attitude changed into one of resentment. They were all agreed that no Damara should come into country previously occupied by Hottentots. Kroenlein and the other missionaries waited for a long time for the chiefs who had promised to attend the Rehoboth conference. At last in June 1882 the chiefs of Bethanie, Berseba, Hoachanas and the chief of the Groot Doden subscribed to a peace treaty with the representatives of Kamaharero. In this treaty the Namaqua chiefs also confirmed the *Baster* Peace Treaty of February 1882. The Hereros retired to Okahandja and took the defensive against the only Hottentot chiefs who were unwilling to make peace, namely Moses Witbooi of Gibeon and Jan Jonker. These continued to harass the Hereros and the *Basters* and to carry off their cattle.

108. Hendrik Witbooi at this time first appears upon the scene. He was a remarkable man. His character was a blend of forcefulness and mysticism. Disagreeing with his father's hostility to the *Basters* he exhorted him to return their property. A split of the tribe was the result; Moses left Gibeon and moved eastwards. Hendrik Witbooi left Gibeon with the majority of the tribe and moved towards Rehoboth. The Lord he said had sent him on a mission of peace to the Hereros, and nothing would move him from his course. On 27th June 1884 he was attacked by the Hereros at Gaguis. In the biblical language of Hendrik's journal: "On the third day a cry for peace" arose from the ranks of the Hereros whereupon he declared himself prepared to negotiate. Hendrik's terms were the return of Windhoek and Gobabis to Jan Jonker and Lamberts respectively and free passage through Damaraland for himself to seek a new country. Kamaharero, however, wished Hendrik to persuade the other Namaqua chiefs also to agree to peace and come to Okahandja to a peace conference. Hendrik returned to Gibeon and in October 1885 he led a fresh campaign against Damaraland. At Osona he was attacked by the Hereros, treacherously according to his own account, and defeated with heavy loss. In April of the next year he again appeared before Okahandja and was again repulsed with heavy loss. Hendrik now changed his tactics and made Hornkranz, a mountain fastness, 45 miles west of Rehoboth, his headquarters and from this base carried on a guerilla war against the Hereros. It is not clear that he asked the *Basters* for permission to occupy Hornkranz as alleged by Niklaas Dragoener before the Commission at Rehoboth, nor is it likely that he would have done so.

109. Amongst the Hottentots themselves dissension had once more set in. Hendrik's father, Moses, who had parted from his son in anger, was challenged in the captaincy of

the remnant of his tribe by Paul Visser, his Fieldcornet. According to a letter from the Resident Magistrate of Walvis Bay, written in 1888, Visser was "one of the rebel Griquas who was driven northward by our troops in 1878" (the Korana war), "and who now hopes to avenge his losses in the Orange River islands by looting the Bay and killing all whites and Basterds." Visser had written to Moses, disputing the latter's right to sell land to Europeans, and pointing to the danger of the Hottentots gradually becoming dispossessed of all their land. He wrote in the same strain to the other Hottentot captains of the country, stressing the fact that on account of these disastrous alienations, the Hottentots had been ousted, first of all from the old Colony, and later from Griqualand. His views were quite in accordance with the principle laid down in article 5 of the "League of Nations" Treaty of 1858. Moses attacked Visser at his place Girichas, but was defeated and retired to Gibeon; whereupon a reconciliation between himself and his son Hendrik took place, who then became captain of the tribe. Previously Moses had driven out Paul Vries, who had trekked with a small section of Philander Basters into the country, and had supported Paul Visser with cattle from Kalkfontein (now Hofmeyr). The Basters moved to Hoachanas, where they lived under the protection of Manasse Noresib (not to be confused with Manasse Tyaherani, the Herero chief of Omaruru), who was the successor of Barnabas as captain of the Red Nation. Hendrik then attempted a treacherous attack on Girichas, which failed. His next campaign was against the Veldskoendraers, whose chief, Arisimab, had fraternised with Paul Visser. In a fight on 23rd January, 1888, the Veldskoendraers were defeated; their captain committed suicide when he found escape impossible. His tribe moved to the boundary of Bechuanaland, near Rietfontein in the south. Paul Visser, anxious to revenge this attack on his allies, tried to punish Hendrik, but was unsuccessful. He therefore attacked Gibeon, took Moses prisoner, sentenced him to death, and shot him in the churchyard at Gibeon on 22nd February, 1888. Moses lies buried next to his father (Kido, later David), and his grave is marked by a mound of stone. What remained of Moses' following joined Hendrik. About the same time Hendrik fought against the Groot Doden, who were living south of Hornkranz and north of Bullsport, partly within territory now claimed by the Basters, and scattered them. A portion sought refuge with the Bondelswarts at Warmbad, while another, with their leader Hendrik Windstaan Kol, joined the Hereros. In 1889 Hendrik occupied Gibeon, and killed Paul Visser, whose followers were incorporated in the Witbooi tribe. [His next objective was the Hoachanas people, the Red Nation of Manasse. He found a *casus belli* in the allegation that Manasse had supported Paul Visser and the Veldskoendraers. Manasse's denials were of no avail, and Hendrik defeated him at Zwartmodder, drove off most of his stock, and returned to Hornkranz. [He next sent a message to the Vries Basters at Hoachanas to leave the place for their own safety's sake. This they promptly did, joining the Basters of Rehoboth. In December, 1888, Manasse was once more attacked and defeated at Lidfontein, and driven from Hoachanas, which was burnt down by the Witboois, who also drove away all his stock. He fled to Kowas, about 90 miles north of his old werf, where he received a letter from Jan Jonker Afrikaner, who was hiding in the Gansberg in the neighbourhood of Hornkranz. Jan Jonker invited Manasse to join him with his people, but on the way to the Gansberg the Red Nation was attacked by Witbooi at Kawasis, south-east of Rehoboth. A portion of Manasse's people deserted to Witbooi, he himself fled to Damaraland with a few followers, and lived in a humble state amongst the Hereros at Seeis and along the Nosob River. The Germans once more placed Hoachanas at his disposal after the first Witbooi war of 1894.

110. There remained only Jan Jonker Afrikaner to dispute the predominance of Hendrik Witbooi. Jan Jonker, who had been the scourge of the country since his succession to the captaincy of the Afrikaners in 1863, had made the Gansberg and the mountains at Areb his headquarters. From here he raided the Hereros, and although he had been driven from his old seat at Windhoek, and was virtually in hiding in Areb and the Gansberg, he still considered himself the predominant Namaqua chief. This was sufficient reason to arouse Witbooi's hostility, who, moreover, had found letters in the possession of Paul Visser, from which it appeared that Jan Jonker had encouraged both Visser and Manasse in their hostility against him. He attacked the Afrikaners, defeated them, and took their cattle. He followed Jan Jonker, who was retiring towards Otjimbingue, and engaged him on the 10th August, 1889. In his journal Witbooi states that: "*Jan Jonker is ook die dag in slag gevallen*" (Jan Jonker also fell in battle on that day), but, according to the general belief of contemporaries, Witbooi enticed Jan Jonker into his camp under safe-conduct, and then had him treacherously shot. Most of the remaining tribe went over to the Witboois, and the Afrikaners ceased to exist as a nation. In about 1894 Jonker's son was living with the Hereros at Otjimbingue. Although Jan Jonker, who had been one of the causes of the wars which raged incessantly since 1880 was no more, Hendrik Witbooi's ambition also stood in the way of peace. He wished to make himself the supreme chief of Namaqualand, and his next objective was the south. He attacked and defeated the Veldskoendraers, who had sought refuge at Gaiaub and Kiriis, near Rietfontein South.

The remnant of the tribe fled to Warmbad, where Willem Christian, the captain of the Bondelswarts, took them under his protection. Hendrik protested, but bad news from the north forced him to leave the south. He arrived at Hornkranz, and found that some of Manasse's people and the Hereros had attacked his more exposed posts, and had killed about 100 of his people. The moment Hendrik's back was turned, Willem Christian took possession of Keetmanshoop, and deposed the incompetent captain Tseib. Hendrik, who arrived at Hornkranz in the beginning of 1890, issued a proclamation declaring himself Opperhoofd (Chief) of all Namaqualand. Such was the position when the Germans dropped the passive attitude which they had maintained since the declaration of their protectorate in 1884 and sent out troops to protect the life and property of those who had settled in the country. As will be seen later on, the Germans from 1884 onwards concluded treaties of friendship and protection with most of the chiefs in South-West, but failed, notwithstanding many efforts, to induce Moses Witbooi, and later his son Hendrik, to enter into any such treaty relations with them. Why Hendrik stubbornly refused to enter into such a treaty is clear from his journal, in which he kept copies of letters despatched and received, as well as records of several of his campaigns. Amongst the documents is a minute of a meeting between the German Commissioner and himself, where the former tried to persuade him to enter into such a treaty. This minute is attached to this report (Annexure IV).

111. When the German Imperial Commissioner, Dr. Goering, arrived at Okahandja in October, 1885, the forces of Witbooi were outside Okahandja, and this circumstance, coupled with the fact that there seemed to be no prospect of obtaining British protection, induced Kamaharero to conclude the Treaty of Protection and Friendship with the Germans. The Germans, however, were in no position to enforce peace in their new protectorate. The Berlin authorities were disinclined to incur any expense, and their officials did not even have a personal escort. It was only in 1888 that a force was established at the expense of the Kolonialgesellschaft. It was stationed at Otjimbingue, which had been chosen by the Commissioner as his headquarters, and consisted of two officials, five N.C.O.'s, and twenty *Basters*. Lewis, who strongly resented German penetration, countered by entering the country in the service of a Kimberley syndicate with fifteen men, with whom he proceeded in triumph to Okahandja. Indignant at the concessions which had been acquired by the Germans, he brought every influence to bear on Kamaharero, with the result that the Herero chief repudiated the German treaty on 3rd October, 1888, in the presence of Dr. Goering, his officers, missionaries Diehl and Eich, Lewis and his English supporters, and denied ever having granted the Germans any right other than to search for minerals. The result was that Dr. Goering and his officers retired to Walvis Bay, and the Protectorate Force was disbanded.

112. In July, 1889, a new Protectorate Force arrived in the country under the command of Captain C. von Francois, who first occupied Otjimbingue. Realising that he would be at considerable disadvantage at this place in the midst of a large and hostile native population, he left Otjimbingue in August, 1889, and established a fortified station at Tsaobis (Wilhelmsfeste), on the main road to Walvis Bay. Here he intercepted Lewis' wagons and served an order of expulsion on Lewis, who was at Walvis Bay. His energetic action had the effect of sobering Kamaharero. Early in 1890, Francois' force of twenty-one men was reinforced by an additional contingent of forty-three, and in May of the same year he visited Kamaharero at Okahandja with his whole force. Kamaharero was once more in a perturbed state, owing to news which he had received that Hendrik Witbooi was advancing on Okahandja. He was willing to recognise the treaty he had concluded in 1885, but he begged the German authorities to assist him against Witbooi, or at any rate to write a letter to Witbooi to leave Hornkranz. In spite of the fact that the Germans had far too few troops to enforce any such command or to punish Witbooi for disobedience, a letter was written to him on 20th May, 1890, informing him that the German Government could not look on any longer while he harassed people who stood under its protection. He was asked to desist from warfare, and to return to Gibeon. It was intimated to him that he would come to realise that the Germans had the power to do him harm. This action brought the Hereros on to the side of the Germans for some time. On the other hand, it alienated the sympathies of the Hottentots and the *Basters*. The latter sided with the Witboois after one Petrus Beukes had been murdered by an Herero in April, 1890, and some of their stock had been stolen by Hereros, who refused to make recompense. Everyone in the Protectorate expected that after his ultimatum of 20th May, the German forces would take active measures against Witbooi. He replied to Dr. Goering's letter on the 29th May, and on the next day wrote a letter to Kamaharero expressing great dissatisfaction with him for having "given his country and authority into the hands of white men." The correspondence is attached to the report (Annexure V). For the rest, it was apparent to himself, as it was to the German commander, that the German force was far too weak to enforce the terms of the German ultimatum, and he expressed this view by an attack on the Hereros at Otjituezu on 7th July of the same year. He looted several thousand head

of cattle, and carried on several raids in the following months, even attacking Otjimbingue, where there were German officials, on the 16th and 17th September, and passing with his "oorlog" (commando) within a short distance of the German fort at Tsaobis.

113. Von Francois realised that a conflict with Hendrik Witbooi was unavoidable, and requested the German Government to send adequate reinforcements. As his position at Tsaobis was not suitable for the prevention of Witbooi's raids into Damaraland, he determined on the establishment of new stations in the territory considered by the Germans as "Nomansland" between Okahandja and the *Baster Gebiet*. He decided on Windhoek, which had been deserted since the Afrikaners fled from it in 1880, as his headquarters, and took possession of Heusis as a cattle post. The civil offices of the Administration remained for the time being at Otjimbingue, while the troops established themselves at Windhoek on 18th October, 1890. On the 7th of the same month, old Kamaharero had died, and his prospective successor, Samuel Maharero, protested a few days later against the action of the German commander. When von Francois expressed his regret that he could not see his way clear to evacuate Windhoek, and referred him to the Chief Clerk at Otjimbingue in case he should desire to open negotiations, Samuel replied by letter signifying his agreement with the occupation of Windhoek. In March, 1891, the commander's brother, Lieutenant von Francois, patrolled the country between Windhoek, Rehoboth and Hornkranz, visiting Hermanus van Wyk and Hendrik Witbooi. Hendrik Witbooi thereupon made peace proposals to Samuel Maharero, as he feared that the German officer's journey had been undertaken for the purpose of spying out the land for future operations against himself. Von Francois now made definite proposals to Berlin with regard to military operations against Witbooi, and in May, 1891, he was appointed Commissioner for the Protectorate.

114. The new Commissioner made proposals to Berlin with regard to settlement of farmers in the Klein Windhoek valley and at Hoachanas, the latter being regarded by the Germans as Nomansland after Hendrik Witbooi had driven away the Red Nation and had returned to Hornkranz. He ceased the issue of licences for the importation of arms and ammunition, and on 10th August, 1892, issued a Proclamation dealing with this traffic. Hendrik Witbooi's letters reveal the indignation which he felt at the action of the Commissioner. He wrote to the British Magistrate at Walvis Bay and to the Cape Government, requesting their intervention. Further proclamations dealt with the protection of game, the sale of liquor, and the maintenance of roads. In 1891 Hendrik Witbooi undertook several campaigns against the Hereros. In May he wrote to Samuel Maharero, asking him whether he was not yet tired of war and prepared to make peace. He himself had been quiet since the beginning of the year, but the tone of his "proposals" was such that one could not blame the Hereros for refusing to treat with him. Hendrik thought that his pause of seven months would be sufficient to convince the Germans of his love of peace. In September he led his commando to Okahandja, but had to retire after several successes on account of the exhausted state of his horses. This retreat gave fresh courage to the Hereros, and a Mbanderu commando marched on Gibeon, which it attacked without being able to take the place or much booty. Witbooi retaliated, and took 2,000 head of cattle east of Okahandja in November. In the following month he attacked the miserable remnant of the Red Nation at Hoachanas, and marched in the direction of Seeis, with the object of punishing the Mbanderu for their attack on Gibeon. While on the march he received a letter from the Captain of Otjimbingue, which changed his course. In this letter the Herero Captain had called him a Bushman, and he turned towards Otjimbingue, which he attacked on 31st December, taking much cattle. He returned with his loot to Hornkranz, marching past Tsaobis. In February, 1892, he resumed his expedition against the Mbanderu, and was defeated at Otjihaenena with heavy loss. In the following April the Hereros invaded Hornkranz, but were unable to take the stronghold.

115. By this time Francois' prohibition of the traffic in firearms made itself felt, both Hereros and Hottentots were running short of ammunition. The territory occupied by the Germans had been the corridor through which the hostile tribes sent their forces, and the Germans had so far been powerless to prevent this. While on the one hand the hostility of the natives facilitated German expansion politically, the insecurity of the country was a serious obstacle to its economic development. The Commissioner decided to pay a visit to Hendrik Witbooi at Hornkranz to induce him to conclude peace and to accept a German Protectorate. By making promises of liberal subventions, and by offering to recruit a certain number of the tribe for service with the troops, he succeeded in winning over Witbooi's councillors. Witbooi himself saw no advantage in subscribing to a treaty of protection such as Francois proposed, and refused for the third time. His attitude is best explained by his own minute of the meeting. Francois next considered a united movement against Witbooi, with the Herero or the *Basters*, or both. The *Basters* had no longer the confidence in Witbooi which they had shown some years previously, and they seemed to be of opinion that they would never be secure as long as he stayed at

Hornkranz. On the other hand, Witbooi had many supporters amongst them, and Francois thought it too dangerous to take the *Basters* into his confidence. He therefore negotiated with Samuel Maharero, who agreed to join him on a certain date with a Herero commando. Maharero did not keep his appointment, making the excuse that he could not assemble his men in time. It appears that Witbooi had received news of Francois' visit to Okahandja, and had promptly offered to make peace with the Hereros. After various negotiations, this peace was concluded at Rehoboth in November, 1892.

116. Von Francois was now faced with the possibility of united action against the Germans on the part of the Hereros and the Hottentots. A period of peace would give the natives time to realise the significance of the Protectorate and the increasing immigration of German settlers. Von Francois states, in his book on South-West Africa, that his spies informed him that common action between the tribes was planned early in 1893 and Witbooi patrols paid frequent visits to Windhoek, probably to ascertain the strength of the garrison. But though there was peace between the native tribes, there was no security for the white people. Cattle thefts became more and more numerous, and Witbooi forbade Hermann, the manager of the Kolonialgesellschaft's experimental farm, to settle at Nomtsas, and another white man to settle at Hoachanas. The Hereros commenced their old practice of pestering the traders, and Maharero went so far as to close all the stores in Okahandja in February, 1893. Witbooi, however, made one serious mistake in his treatment of the *Basters*. The *Basters* had acted as mediators during the recent peace negotiations, and they had induced Witbooi to drop his claim against Maharero for an indemnity of 3,000 head of cattle. Witbooi now blamed them for this, and demanded that the *Basters* should pay this indemnity. The *Basters* sought to placate him by sending him 25 head of cattle in 1893.

117. Francois' reports to the Berlin Government at last bore fruit, and in February, 1893, reinforcements left Germany for the Protectorate, in the shape of two officers, twenty-one N.C.O.'s, and 189 soldiers. Francois decided to teach Witbooi a lesson, and on 12th April, 1893, his troops attacked Hornkranz. The surprise failed, owing to the neglect of some of the companies to take up their appointed positions timously. Witbooi and most of his fighting men escaped, but a number of women and children were killed. Witbooi wrote most indignant letters to the German commander, alleging flagrant breaches of the customs of warfare. The troops returned to Windhoek, and there received news that Witbooi had captured their spare horses from a neighbouring farm, and had taken 120 horses from a German trader who had imported them from Griqualand for the Protectorate authorities. The guerilla war which followed went, on the whole, in favour of Witbooi, whose reputation among the other tribes was growing steadily. [The Berlin authorities despatched Major Leutwein to the Protectorate. He arrived on 1st January, 1894, and took personal command of half the German forces in the country. Leutwein left Francois to watch Witbooi, while he proceeded against the tribes in the eastern portion of the Protectorate. Andries Lambert, the chief of the Khauas Hottentots, was taken prisoner at Naosanabis, and executed for the murder of a white trader and several Bechuanas. A treaty of friendship and protection was next concluded with his successor, Eduard Lambert. Thereafter a visit was paid to Simon Cooper, the chief of the Franzmann Hottentots, at Gochas, and a similar treaty concluded with him. Military stations were established at Gibeon and Berseba. Francois meantime had established similar stations at Keetmanshoop, Bethanie and Warmbad. At Bethanie Leutwein took command over the united forces, while Francois proceeded overland to Cape Town on home leave in July, 1894. Leutwein thereupon became Governor. He returned to Windhoek, where he concentrated his troops and prepared for a decisive blow against Witbooi. As his force was not strong enough, he requested further reinforcements, and concluded an armistice with Witbooi. The reinforcements arrived in July, 1894, and on 27th August, 1894, he attacked the Hottentots in the Naukluft with three companies, aggregating over 300 men with two guns, and a *Baster* contingent of 50 men. The occupation of Witbooi's stronghold took two weeks, the German losses being 27 per cent. of the total strength. Witbooi realised that he could not continue the fight, and on 15th September he concluded a treaty of friendship and protection with Leutwein. On the 16th November, 1895, he concluded a supplementary treaty, under which he bound himself to render military service to the German Government whenever called upon to do so. The Witboois evacuated the Hornkranz region in accordance with the peace treaty, and were granted a reserve at their former home at Gibeon, where they lived under the supervision of a magistrate, Lieut. von Burgsdorff. The tribe kept the peace until 1904, and frequently assisted the Germans against other restive tribes.

118. Leutwein next proceeded to found military stations in Hereroland, first at Okahandja, ostensibly to protect Samuel, the paramount chief, against the intrigues of his rival Riarua, later at Omaruru, where he induced Manasse, the local chief, to cede Okombahe to the German Government. Okombahe was proclaimed a Berg-Damara reserve. The White Nosob was fixed as the southern boundary of Hereroland by treaty between Leutwein and Samuel Maharero. The Khauas Hottentots had again given trouble and a

force was sent against them which recovered stolen stock. They lost their country and were placed under the chieftainship of Witbooi who had assisted the Germans with 70 horsemen. A demonstration against the chiefs of the Eastern Hereros, who were disregarding the southern boundary agreement resulted in their acknowledging Samuel as the Paramount Chief and stations were founded at Seeis and Oas to guard the boundary. Assisted by Samuel, the Germans made a demonstration in force through Hereroland, visiting the various chiefs. The impression made upon the Hereros by this display of force was not lasting. In March, 1896, trouble broke out amongst the Eastern Hereros under their chief Nikodemus and some Khaugas Hottentots who had returned to their former seats from Gibeon. The natives besieged Gobabis and Aais, which were relieved by von Estorff. The Khaugas Hottentots were defeated on 6th April, and lost their captain on the battlefield. Nikodemus was likewise defeated and fled towards the north. Reinforcements arrived from all directions, amongst them Hendrik Witbooi with 70 men. At Otjunda in the Epukiro area the enemy was forced into an engagement and on 6th May 1896 decisively defeated. In June a further contingent of 400 men arrived from Germany and Leutwein undertook another demonstration through Western Hereroland, establishing new stations at Outjo, Grootfontein, Otavifontein, Naidaus and Franzfontein. By the end of 1897 the total strength of the German forces in the Protectorate was 700 men.

119. For some years there was no serious conflict with the natives. Smaller troubles were speedily suppressed. The Afrikaners of the Warmbad district were driven into the Colony from which they returned to surrender to the South West authorities. Their captain Cupido was shot by court martial. In February 1898 the Swartboois of Franzfontein were defeated at the Grootberg and the whole tribe, 150 men, 400 women and children removed to Windhoek. Trouble arising out of the enforcement of the law requiring the registration of firearms made necessary an expedition to Keetmanshoop which ended without bloodshed. The leaders of the Hottentots who had caused the trouble were brought before a tribunal of chiefs and sentenced to pay the costs of the expedition. The fine was paid in the shape of land and Keetmanshoop and two farms in the Bethanie district became the property of the Protectorate Government. The Basters of Grootfontein South resisted the law requiring the registration of horses, fearing that they would be seized. Misunderstanding ensued and it became necessary to send out troops against Klaas Swart's tribe. The Basters surrendered to the expeditionary force despatched against them and the ringleaders were dealt with by a court-martial at Rehoboth, the captain having been killed in the course of the fighting.

120. In 1903 serious trouble broke out among the Bondelswarts. Abraham Christian had succeeded his father as captain of this tribe in 1902. In October 1903 he became involved in a dispute with the district officer of Warmbad, Lieut. Jobst, who led out police to arrest the captain. The Hottentots fired on the police patrol, killing the district officer and two of his men. On the Hottentot side the captain was killed. The garrison of Warmbad consisting of eleven men was next besieged by the Bondelswarts and troops were sent to its relief. Witbooi assisted the Germans with 80 men. The revolt became general amongst the Bondelswarts tribe who were led by the new Captain Johannes Christian, Morenga a Hottentot-Herero half-breed, and Morris the son of a white man by a Bondelswart woman. By the end of December the Germans had 200 white soldiers and 300 natives operating against the rebels, but the Herero rebellion, which broke out early the following month prevented a decisive blow against the Bondelswarts. Leutwein entered into negotiations with them and on 27th January 1904 concluded the peace of Kalkfontein. which gave the Bondelswarts a reserve near Warmbad and stipulated the surrender by them of their arms and of persons suspected of murder and robbery. Three hundred rifles were surrendered and the troops returned to Windhoek by way of Hoachanas where they disarmed the Red Nation which had shown an inclination to join in the war. In the north the Herero rebellion had commenced. Okahandja had been invaded on the 11th January and many of the white inhabitants were murdered before they could reach the safety of the fort. Windhoek was also threatened by the Hereros but was not actually attacked. The larger stations were attacked by the Hereros and some of the smaller ones taken and the garrisons and other occupants killed. Farmers and others to the number of 150 were murdered on the farms, these destroyed and the cattle driven away. The relief of Okahandja was the first signal success of the Germans. Captain Francke, in 1915 commander of the German forces against the Union, led a column by road from Gibeon to Okahandja and relieved the station on January 27th. On the following day the Hereros were driven from Okahandja and on the 4th February Omaruru was relieved. Reinforcements now began to arrive from Germany and on 11th February Governor Leutwein took direction of military operations at Swakopmund in person. After the preliminary actions and just prior to the decisive blow planned by Leutwein, his successor Lieut-General von Trotha arrived in the Protectorate and took over the command on 11th June 1904. Leutwein left the Protectorate shortly afterwards having been its Governor for eleven years. His successor immediately proceeded to prepare for a decisive blow and on 11th and 12th August the Hereros were defeated with heavy loss at Hamakari in the Waterberg. The Witboois as well as the Basters were represented by contingents on the German side. The majority of the enemy escaped towards the south-east into the arid Omaheke or Sandveld, which

was surrounded by a cordon of troops, and the Hereros were gradually pressed on to the Kalahari. By September, 1905, the northern portion of the Protectorate had been cleared of rebellious Hereros, and von Lindequist, who had meantime been appointed Governor, issued a proclamation calling upon the Hereros to surrender at the mission stations of Omburo and Otjihaenena. On 1st May, 1906, the remnant of the Herero nation, numbering 15,000, had surrendered. The power of the proud Herero nation, which had once been so strong, was broken. Their tribal organisation was broken up, their tribal lands confiscated, and they were forbidden to own large stock or riding animals. Their chiefs remained in exile.

121. In the initial stages of the Herero rebellion trouble had again broken out in the south where Morenga raided the eastern frontier of the Protectorate. His success resulted in a general rising of the Hottentot tribes. Witbooi who for over ten years had been a faithful subject and ally of the Germans listened to the counsels of his under-captain and a coloured man, an Ethiopian missionary from Port Elizabeth and raised the flag of revolt. The Franzmann Hottentots and Gochas joined him under Simon Cooper, the Red Nation under Manasse Noresib followed suit as well as the Veldskoendraers under Hans Hendrik. The Berseba tribe and a portion of the Bethanie people remained loyal to the German Government. Many Europeans were murdered but the villages were secured against attack. The rebels collected around Rietmond and Kalkfontein to a strength of about 600 rifles, and it was not until November, 1904, that the Germans were prepared to take the offensive. The Witboois were defeated on the 22nd at Kub, and at Naris on the 4th December and suffered a loss of 60 killed and 12,000 head of stock. The next year was a difficult one for the German forces who were new to the country and inexperienced in the methods of African warfare. The fortunes of war swayed to and fro but by the end of that year the superiority of the white man began to tell. On the 29th October 1905 Witbooi was run down at Vaalgras and killed in the course of the fight. The farm is now called Witbooisende. Cooper escaped to the Kalahari with Manasse Noresib where his strength was broken after a final expedition in 1908. He remained in British territory. [In Western Namaqualand a portion of the Bethanie tribe had risen under Cornelius who at first had assisted the Germans in the Herero war, but had afterwards murdered a German officer. From October 1905 to January 1906 he successfully evaded capture and put the Germans to heavy loss in the Tiras Mountains. In February several decisive actions were fought against him along the Aub river, and on the 17th Christian Goliath, the captain of Berseba, succeeded in persuading some 160 men with 25 rifles and 140 women and children to surrender. [Cornelius was captured in the following month at Heikoms with 86 men and 36 women. [The Bondelswarts continued to give trouble under their captain Johannes Christian and their commandants Morenga and Morris. In October 1905 the Germans concentrated their attack upon this tribe, but the difficulties of the country in which they had to operate deferred success. The Hottentots had things more or less their own way. By exceedingly clever guerilla warfare they dealt the Germans many severe blows, capturing their convoys and cutting off weak units. They were assisted in this by the mountains and waterless nature of the country and by their greater mobility. Operating near the border of the country they were able to escape into British territory whenever the enemy pressed them. The Germans, on the other hand, would not follow them as they had no desire to raise international complications. The colonial authorities tried to prevent rallies in the Colony from which the Hottentots could start on new inroads into the Protectorate, but they were unable to control the whole of the lengthy and arid border line. In May 1906 Morenga was heavily defeated at van Rooisvley and escaped over the border where he was taken to Prieska by the Cape Police. Subsequently he appeared at the border again and the Colonial Government instructed Major Elliot to capture him should he again appear in British territory. On 20th September 1907 he was brought to bay by Elliot and mortally wounded in the ensuing fight. [From April to December, 1906, the German forces were continually on the heels of Johannes Christian. On 23rd December, through the intervention of the Rev. Malinowski of the Roman Catholic Mission, the Bondelswarts agreed to surrender to the authorities and to recognise German rule and surrender their arms. The Peace of Ukamas marked the end of the Hottentot war, and of the three years' war of the various tribes against German rule. The Germans had lost 64 officers and 684 men, besides the murdered settlers, 32 officers, and 707 men died of wounds and disease. The cost of the campaign is estimated at about £30,000,000. From 1907 to 1914 peace reigned in South-West Africa, and the Germans concentrated on the economic development of the country, in which they were greatly assisted by the development of the diamond industry. The World War did not leave South-West unscathed, and the country was occupied by General Botha's troops. Subsequent events are a part of contemporary history.

122. From the end of the Great Rebellions to the outbreak of the World War, the Basters remained loyal to the German Government. Their importance to that Government decreased in proportion to the absence of powerful native tribes with whom they might throw in their lot. That being so, the German Administration did not treat them any more

with that extreme consideration which they had done hitherto. German laws were enforced more rigidly, and German Courts functioned more widely than before, but the *Basters*, while in law falling under the definition of "*Eingeborenen*," were always treated as a people superior to the natives. When the Great War broke out, the Germans called up the *Baster Militia*, which was used behind the front for non-combative purposes, such as guarding prisoners. At first they were willing enough to serve under the German colours, but, with the advance of the Union troops into the country, they became restless, and incurred the suspicion of the German Government. After the disarmament of a troop of *Basters*, they rose in open rebellion, and when General Mackenzie entered the *Baster Gebiet*, the *Basters* were cornered in the mountains to the west, where, but for his rapid advance, they would have been destroyed by the Germans, whose anger they had incurred by the killing of several farmers and policemen. As the Germans were forced to retire before the advance of the Union troops, the *Basters* returned from the mountains to the *Gebiet*.

CHAPTER II.

I now come to the matters which have been submitted to me for report, which appear to me best taken in the following order: Numbers (4), (5), (6), (7), (3), (1) and (2).

QUESTION 4.

123. The first question that arises, then, under number (4) is the political position of the Rehoboth *Gebiet* and its inhabitants under the German regime. To answer this question, it will be necessary to trace the events leading up to the establishment of a German Protectorate over South-West Africa, to consider the terms upon and the circumstances under which it was established, as well as to investigate the origin and meaning of the so-called *Schutzgebiet* or Protectorate among the European powers. Although I am asked to report only on the political position of the Rehoboth *Gebiet* and its inhabitants, the question will have to be considered as a portion of the larger one, namely, the establishment of a *Schutzgebiet* by Germany over the other parts of South-West Africa, as well as in other parts of the world.

124. As far back as the days of the North German Confederation, efforts had been made to obtain a German Protectorate over South-West Africa. In 1868 the Rhenish Mission Society petitioned King William I. of Prussia and the Chancellor of the North German Confederation for protection. As we have seen, the missionaries of the Rhenish Society had extended their sphere of activities from the Cape Colony and the Orange River northward into the interior of South-West Africa. Their labours suffered greatly under the constant wars between the Hottentot tribes and the Hereros. As a consequence of the Rhenish Society's petition, Prince Bismarck approached the British Government and proposed a joint naval demonstration on the coast of South-West Africa. The British Government, however, advised against such a course, but declared itself prepared to afford the same protection to Germans in this region as it gave to its own subjects. This promise of protection turned out to be most important when the British Government subsequently changed its policy, leaving the country open to German occupation.

125. In 1876 British traders settled at Walvis Bay, the natural port of South-West Africa, and in the same year Mr. W. Coates Palgrave visited Damaraland and Namaqualand as Special Commissioner of the Cape Government. His mission was to persuade the native chiefs to place themselves under British protection. In 1877, the Herero chiefs made a request to this effect, but Palgrave's negotiations with the Nama chiefs were not attended with success. On 12th March, 1878, Captain Sullivan, of H.M.S. "*Industry*," declared Walvis Bay and the country within a radius of 15 English miles from the flagstaff as British territory. A resident magistrate was stationed at the bay, and in the same year Palgrave returned to South-West Africa to complete arrangements for the establishment of a British Protectorate.

126. Meantime taxes were levied in the form of trading licences, which at first were paid willingly enough, as the traders counted on receiving protection from the Government in return. By 1880, however, the position had become intolerable. The Special Commissioner had no power to enforce order or to afford protection. He had to depart hurriedly from a meeting of Hottentot chiefs at Gobabis, in view of impending hostilities between the Namaquas and the Hereros.

127. Palgrave's efforts to establish a Protectorate thus proved abortive and a Protectorate was in fact never declared by Great Britain. License moneys which had been paid by traders were refunded in order to forestall any claims for damages on account of the absence of protection.

128. With the outbreak of the Native War in 1880, the Hereros prepared to drive the Missionaries away and Bismarck instructed the German Ambassador in London to request the British Government to take measures for the protection of the German

missionaries and traders. In a despatch, dated 30th December, 1880, the Earl of Kimberley, Colonial Secretary, urged upon Sir Hercules Robinson, Governor of the Cape Colony, "the necessity of not extending England's responsibilities beyond the present boundaries of Her Majesty's possessions." The despatch continues:—

"Her Majesty's Government are of opinion that the Orange River should be maintained as the north-western limit of the Cape Colony, and they will give no countenance to schemes for the extension of British jurisdiction over Great Namaqualand and Damaraland. As Walfisch Bay was proclaimed British territory, at the instance of the Cape Colony, on the ground of the importance of controlling the only port along a great extent of coast, through which arms and trade can pass into the interior, Her Majesty's Government will not disturb this arrangement on condition that the Cape Parliament will continue to make adequate provision for the maintenance of the establishments at that place."

129. In conformity with these instructions, the Foreign Secretary, Lord Granville, informed the German Ambassador that the Cape Government would readily extend protection to German subjects, but added that England could not "be held responsible for what might take place outside British Territory, which only included Walvis Bay, and a small portion of country immediately surrounding it." This statement bound the British Government; it had declared with unambiguous clearness, that it had no concern with the territory of South-West Africa, beyond the limits of Walvis Bay. In 1881 the Rhenish Mission and the Missions-Handels-Aktiengesellschaft, which had suffered considerable losses during the war between the Hereros and the Hottentots, approached the Cape Government for protection and were informed that the Government had no intention of annexing further territory beyond Walvis Bay or of interfering in the internal disturbances of the country.

130. This left the way clear for a German Protectorate. On 16th November, 1882, a Bremen merchant, F. A. E. Luederitz, informed the German Foreign Office that he intended to enter into treaties with one or more South-West African native rulers for a trading monopoly in his or their territories. He desired to place his acquisitions under the protection of the German flag and requested the Government to state whether it would grant its protection, and if so, under what conditions. Bismarck was of opinion that there was nothing in principle against the granting of such protection, but thought it desirable to acquaint the British Government with these designs. The latter represented that, although it had proclaimed British sovereignty only at certain localities, "any claims to sovereignty or jurisdiction by a Foreign Power between the southern point of Portuguese jurisdiction at latitude 18 and the frontier of the Cape Colony, would infringe Britain's legitimate rights."

131. While diplomatic negotiations were proceeding, Luederitz put his scheme into execution and purchased land at Angra Pequena. This had the effect of re-awakening interest at the Cape. On 16th May, 1884, a deputation of South African merchants protested to Lord Derby, Colonial Secretary, against the German settlement at Angra Pequena. The deputation argued that Germany had not denied any British rights over the coast between the Orange and the Portuguese possessions, but had merely enquired whether England could protect Germans settling in this region, or not, in which latter case, Germany would itself have to afford such protection. The British Government thereupon enquired from the Cape Government whether the latter was willing to assume the responsibility of maintaining order at Angra Pequena and to bear the cost thereof—to which the Cape Government replied in the negative. In the House of Lords, Lord Sidmouth, asked the Minister "which flag flew over Angra Pequena and whether sufficient measures had been taken for the British industries at that place." He mentioned Luederitz's acquisitions and the petition of the Cape Town Chamber of Commerce. Lord Granville replied that correspondence was passing between the German and British Governments on this subject.

132. A few weeks later the Cape Parliament resolved that it was advisable to annex the entire coastal territory between the Orange River and the southern limit of the Portuguese possessions, and to declare it British territory. This declaration followed on a despatch of Lord Derby's to the Cape Government to the effect that the British Government was not in a position to prevent the German Government from exercising a Protectorate. The German Government had carried on negotiations with great energy, and on 14th July, 1884, received a statement from the British Government declaring that the latter "would not contest Germany's right to afford protection to German subjects established at Angra Pequena, though, on the other hand, no doubt could be entertained as to Walfisch Bay and the islands adjacent to Angra Pequena being British."

133. This statement signified Great Britain's agreement with Bismarck's cable to the German Consul at Cape Town, dated 24th April, 1884:

"According to statements of Mr. Luederitz, Colonial authorities doubt as to his acquisitions north of Orange River being entitled to German protection. You
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will declare officially that he and his establishments are under the protection of the Empire."

Lord Granville was officially notified of this telegram by which the first German Protectorate in South-West Africa was established. The Anglo-German Treaty of 1st July, 1890, finally settled the diplomatic questions relating to South-West Africa still outstanding between the two powers.

134. Luederitz's acquisitions mark the beginning of Germany's power in South-West. His representatives entered into treaties with the native captains, and these were confirmed by the Imperial Government. In other instances the German Government itself concluded treaties of protection with the native rulers.

135. The first treaty was concluded by Vogelsang on behalf of Luederitz with Joseph Frederiks, the Captain of the Bethanie Hottentots, on 1st May, 1883. By this treaty Luederitz acquired the Bay of Angra Pequena and the surrounding area within a radius of five miles for £100 and 200 guns. On 25th August, 1883, a second treaty was concluded with the same chief, under which he sold a strip of land 20 geographical miles inland from the coast, stretching from the Orange River northward to the 26° southern latitude (inclusive of all ports and bays) for £500 and 60 guns. These acquisitions were placed under the protection of the German Empire. Apart from his telegram to the German Consul in Cape Town, Bismarck also instructed the Imperial Commissioner for the West Coast, Dr. Nachtigall, to enter into a treaty of protection and friendship with the Bethanie chief, which treaty was signed on the 28th October, 1884. The treaty of protection and friendship confirmed the cessions of land to Luederitz, and increased his rights by granting him the sole right of mining and of establishing communications within the territory retained by Frederiks. It also made provision for jurisdiction over German nationals and *Schutzgenossen*.

136. Prior to this treaty the German flag had been hoisted at Angra Pequena, and subsequently formal possession was indicated by the hoisting of flags at Cape Frio and the mouth of the Swakop River. Luederitz was formally informed of the act of possession at Angra Pequena in a letter from the captain of the German gunboat, who performed the ceremony. The following is a translation of his letter:—

South Atlantic,
10th August, 1884.

I have the honour to inform you that I arrived at Angra Pequena in H.M.S. "Elisabeth" on 6th August, there found H.M.S. "Leipzig." On the morning of the 7th August, 1884, at 8 o'clock, the Imperial flag was hoisted at a flag parade in accordance with instructions of His Majesty the Emperor. Unfortunately, I was prevented by indisposition from being present at this solemn ceremony on shore, and instructed Herbig, Captain of the Fleet, to hoist the flag on my behalf, and to read the enclosed proclamation, whereby I placed your territory under the protection of His Majesty the Emperor. I congratulate you on this success, and wish to remark that the improvements which have been made agreeably impressed me, in spite of the prevailing barrenness of the place, and it is to be hoped that they will prove the basis for a good future opening.

SCHERIG,

Captain of the Fleet and Commander
of H.M.S. "Elisabeth."

The attached copy of the proclamation reads as follows:—

"His Majesty the German Emperor William I., King of Prussia, has ordered me to proceed to Angra Pequena with His Majesty's two-decked corvette 'Elisabeth,' to place the territory belonging to Mr. A. Luederitz on the west coast of Africa under his direct protection. According to official information, Mr. A. Luederitz's territory is taken to extend from the north bank of the Orange River to 26° south latitude, 20 geographical miles inland, including the islands belonging thereto by the law of nations. In carrying out these instructions, I herewith hoist the Imperial German flag, and thus place the above-mentioned territory under the protection and sovereignty (*Oberherrlichkeit*) of His Majesty the Emperor William I., and I call upon all present to give three cheers for His Majesty: Long live His Majesty Emperor William I.!"

137. Luederitz's treaty with the Bethanie chief was followed by one with the chief of the Topnaar Hottentots, Piet Haibib, on the 19th August, 1884. Under this treaty, the chief sold to Luederitz the whole of his territory from 22° S. latitude to 26° S. latitude,

and 20 geographical miles inland from the coast. On 23rd September, 1884, the treaty was confirmed by inclusion of the acquired territory under the protection of the German Empire. [In the following year, Luederitz entered into negotiations with Jan Jonker, the chief of the Afrikaner Hottentots, and on 16th May the chief sold his entire territory to Luederitz for £600, including all rights and prerogatives, with the exception of his own and his people's private rights, consisting of the alleged claim to Windhoek and its surroundings. On 21st February, 1885, Jan Jonker had proclaimed his boundaries as extending from Hudaub, on the Kuisib River, to Onnanis, thence to Horrobbis, on the Swakop, thence to Anawood, and in a straight line to Windhoek, thence over Aris to Gaguis, and thence in a straight line past the Gansberg to Hudaub. Luederitz's next acquisition was the Kaokofeld. On 19th July, 1885, Cornelius Swartbooi, chief of Franzfontein, and Jan Uixamab, of Zesfontein, sold their territories, extending in the south from Karibib to the mouth of the Omaruru River, in the west from the mouth of the Omaruru River to Cape Frio; thence the northern boundary ran to Swartbooi Drift on the Kunene, and to Ombombo, and on the east from Ombombo via Ameib to Karibib.

138. At the instance of missionary Buettner, Captain Jacobus Isaac, of Berseba, on the 28th July, 1885, requested the German Emperor to take his territory and people under his protection. Buettner, who had the necessary authority, promised such protection under treaty, in return for which Jacobus Isaac undertook not to sell any portion of his territory to subjects of other nations without consent of the Emperor, and guaranteed free admission into his country of all German subjects. Jurisdiction in cases between Germans and other Europeans and between whites and natives was vested in the Emperor's representative. A similar treaty of friendship and protection was concluded by Buettner on 2nd September, 1885, with Captain Manasse, of the Red Nation of Hoachanas. In 1884, Dr. Hoepfner, authorised by Dr. Nachtigall, concluded an agreement with the Captain of the Rehoboth *Basters*, Hermanus van Wyk, which was confirmed by a treaty of protection and friendship on 15th September, 1885, between Buettner and Hermanus van Wyk. This treaty I shall have occasion at a later stage to consider.

139. On 21st October, 1885, Dr. Goering concluded a treaty of protection and peace with Kamaharero, the paramount chief of the Hereros. Chief Manasse, of Omaruru, was informed of the treaty on 3rd November, 1885, and subscribed to its terms in their entirety.

140. To the north of the Omaruru Hereros, a Boer settlement had established the Republic of Upingtonia in the vicinity of Otavi and Grootfontein. Subsequent to the murder of their leader, W. W. Jordan, they came to an understanding with the Germans, and invited the latter to extend their protection to this region, which was done in 1887.

141. In 1890 the Germans turned their attention once more to the south. Willem Christian, the chief of the Bondelswarts, and of the Tseib tribe of the Red Nation of Keetmanshoop, concluded a treaty of protection with Dr. Goering on 21st August, 1890. Under this treaty he recognised all existing laws and ordinances as being valid within his territory, and undertook to enforce them as far as they applied to the natives. The boundaries of the Keetmanshoop and Bondelswart tribes were also fixed by the treaty. [On the same day, and at Warmbad, Dr. Goering concluded a treaty of protection in similar terms with Captain Jan Hendriks, of the Veldskoendrners, and his Raad. This treaty, too, fixed the boundaries of the native territory. In 1892 territory between Hereroland and Ovamboland, not in the possession of any aboriginal tribe, but within the German sphere of interest, was placed under German protection and occupied.

142. With the exception of the Witbooi territory, the whole of Great Namaqualand was under German protection by the end of 1890. Hendrik Witbooi consistently refused to entertain any idea of a German Protectorate over the territory of his tribe. On 15th September, 1894, after a long and arduous campaign, the Governor, Major Leutwein, concluded a treaty of protection and friendship with this Hottentot chief, and allotted Gibeon and the surrounding area to him and his tribe as a reserve. Disputes between natives were to fall under the jurisdiction of the chief. In all other disputes, viz., between natives and Europeans, or between Europeans, the Imperial Court had jurisdiction. A German garrison was to be stationed at Gibeon. By a supplementary treaty of the 16th November, 1895, Witbooi undertook to place all his able-bodied men at the disposal of the Governor whenever he should call upon them for service against the internal and external enemies of the German Protectorate. Before the end of the Witbooi campaign, Simon Cooper, Captain of the Fransman Hottentots, acknowledged the sovereignty of the German Emperor. This treaty was concluded at Gochas on 19th March, 1894. Both Witbooi and Cooper received annual subventions in consideration of the faithful observance of their respective treaties. Finally, the Swartbooi Hottentots, who in the course of two decades had been driven from Rehoboth northward into the Kaokoveld, petitioned the German authorities at Windhoek for protection, which was assured them under treaty of 19th January, 1895.

143. In a treaty between Portugal and Germany, 30th December, 1886, the boundary between Portuguese territory and the German Protectorate on the north was defined. The boundaries between British and German territory were laid down in the treaty of 1st July, 1890. Within these boundaries the German Protectorate had an area of 835,000 square kilometres (322,400 square miles).

144. In 1894 the German Governor concluded a treaty with Manasse of Omaruru, under which the latter ceded Okombahe and the surrounding commonage to the Germans, who established there a reserve for the use of a Berg Damara (Klip Kaffir) community under their captain, Cornelius.

145. In 1903 relations were established with the Ovambos, who inhabit the extreme north of South-West Africa. The chiefs accepted German protection, but beyond the establishment of a garrison on the southern frontier of Ovamboland the Germans did not extend their activities to this part of the country. The *Caprivizipfel* (Caprivi strip), to the east of Ovamboland, a corridor to the Zambesi, was likewise under nominal protection. A Resident was stationed at Schuckmannsburg.

146. I now turn to the political position of the Rehoboth *Gebiet* and its inhabitants under the German regime. That is a question which must first be considered from the point of view of international law, which, it is important to remember, is the law of the society of states.

147. The usual classification of states is into sovereign and semi-sovereign. A sovereign state is one which is free from outside control, both in its internal and its external affairs. A semi-, or, more correctly, a part-sovereign, state, on the other hand, is one which is subject to the control of another state in its foreign relations, whilst retaining a smaller or larger measure of freedom internally. Such state is not under the sovereignty of its protector, for if that were the case, it would cease to be a state and become a province of the latter. But a protected state cannot be described as independent, or even semi-independent, for, as Westlake points out, a state is either independent or it is not, as negatives admit of no degrees. By virtue of its sovereignty over a definite tract of land, a state exercises supreme power over such territory, as well as over all persons found within the territory.

148. One class of semi-sovereign state is a Protectorate, a state dominated by another without being formally annexed to the latter. These have been known in ancient as well as in modern times. In Roman law a distinction is drawn between equal and unequal alliances. Nations bound by treaty to recognise the *majestas* of Rome were nevertheless considered free, a recognition of superiority not being considered incompatible with freedom. An instance of such a Protectorate in modern times was that of Great Britain over the Ionian Islands between the years 1815 and 1863 which, by treaties between England and Russia, Austria and Prussia, were declared to form a free and independent state (a signal abuse of the word "independent") under the immediate and exclusive protection of the King of Great Britain and Ireland. Externally the sovereignty of the Republic was completely taken away, Great Britain exclusively representing it abroad. Internally the whole of the executive authority was practically in the hands of a British commissioner. The Republic could neither accredit nor receive diplomatic representatives, nor could it accredit consuls, although it received them. On the other hand, the treaties of Great Britain did not affect it, unless that was expressly stipulated for in the treaty, its vessels carried a separate trading flag, and the British Court of Admiralty decided that it was neutral during the Crimean War, in the declaration of which by Great Britain it had not been named.

149. A Protectorate must not be confounded with simple protection, which one state may bind itself to give to another without impairing the latter's capacity for action in foreign affairs. An example of that kind is furnished by the little republic of San Marino among the Apennines, which from the beginning of the seventeenth century enjoyed the protection of the Pope under a formal treaty, and which from 1860 has been taken under "the exclusive protective friendship" of Italy, but which had a *chargé d'affaires* at Paris, and consuls at various places in Italy, France and Austria (Westlake.)

150. So far I have dealt with the relationship between States. As there were no states recognised as such by the Society of Nations in South-West Africa at the time when Germany declared a Protectorate over it, there can be no Protectorate in the proper sense of that term. A Protectorate of this kind has therefore been called a Colonial Protectorate. What that means will have to be considered later on.

151. First it is necessary to enquire by what title territory was acquired in the East and the West by the European Powers in the fifteenth and sixteenth centuries. There were no rules of international law in existence at that time. So the principles of the civil law were sought to be invoked to meet the new conditions. Reliance was at first sought to be placed upon priority of discovery. Discovery was thought by the earlier jurists to be the same thing in principle as the Roman *invento* the form of occupation by which, under the law of nature, property was acquired in a valuable object, such as a jewel

belonging to nobody. Others relied upon occupation as giving the necessary title. As is well known, in private law *occupatio*, i.e., the taking possession of a thing which belongs to nobody with the intention of becoming the owner of it, gives a good title. *Quod nullius est, id ratione naturali occupanti conceditur*. It was this principle of private law relating to the acquisition of *dominium* or ownership in a thing which was pressed into the service of international law by some of the civilised powers for the purpose of establishing *imperium* or sovereignty over the new territories. Although in the possession of the aborigines, the new countries were considered to be no man's land, and occupation by one of the Powers was held to confer the sovereignty over the territory.

152. Wheaton points out that according to the European ideas at the time the heathen nations of the other quarters of the globe were looked upon as the lawful spoil and prey of their civilized conquerors. As between the Christian powers themselves, some like Spain and Portugal relied upon the Pope as the supreme arbiter of conflicting claims. By a Bull of 1454 Nicholas V granted to King Alfonso V of Portugal the discoveries made and to be made on the west coast of Africa, and by one of 4th May 1493, Alexander VI granted to Ferdinand and Isabella of Spain, all land further west than a line drawn from north to south a hundred leagues west of the Azores, of which no Christian power had taken possession before Christmas Day 1492, the lands to the east of that line to belong to Portugal. These bulls are of special interest to South Africa as explaining how Portugal in the main came to Africa while Spain colonized the New World. But not all the Christian powers acquiesced in these bulls. Notably Great Britain, France and Holland denied the authority of the Papal See, and pushed their discoveries, conquests and settlements both in the East and West Indies; until conflicting with the paramount claims of Spain and Portugal, they produced bloody and destructive wars between the different maritime powers of Europe. There was one point however on which they all agreed, that of almost entirely disregarding the rights of the native inhabitants of these regions.

153. But though by some Powers recourse was had to priority of discovery, the title in essence was one of discovery and occupation of which public notification in some form or other had to be made. "All concur" said Lord Stowell in *The Fama* "in holding it to be a necessary principle of jurisprudence, that to complete the right of property, the right to the thing, and the possession of the thing itself, should be united. . . . This is the general law of property, and applies, I conceive, no less to the right of territory than to other rights. Even in newly discovered countries where a title is meant to be established for the first time, some act of possession is usually done and proclaimed as a notification of the fact." This often took the form of the erection of a cross and hoisting the flag of the country taking possession. For possession two elements are required, the fact of possession and the intention to hold it for oneself (*animus domini*) which, under an erroneous impression of the law only within recent times dispelled by von Savigny, was thought also to refer to the extent in space. Accordingly vast tracts of territory were claimed by virtue of acts done at certain points, coupled with the intention to take possession of the whole.

154. Such claims obviously went much too far. A Power has a clear right only to so much territory as the force it has at its command enables it to rule. Only within such area can the occupation be strictly called real or effective. On the other hand to occupy effectively takes time. Whilst therefore one Power cannot fairly exclude other Powers for an indefinite time, it would be an unfriendly act for another to step in prematurely and cut off the former's reasonable hopes. Hence arose the doctrine that in new countries civilised states only gain conclusive title by effective occupation, but a moderate time should be allowed for the extension of such occupation, over a reasonable area round the point at which it has commenced. Claims to the "*Hinterland*" where possession has been taken of the coastline are based upon this doctrine.

155. The law on the subject as viewed from the English and American standpoint was summed up by Chief Justice Marshall in the case of *Johnson and Graham's Lessee v. M'Intosh* as follows: "On the discovery of this immense continent, the great nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire. Its vast extent offered an ample field to the ambition and enterprise of all; and the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might claim an ascendancy. The potentates of the Old World found no difficulty in convincing themselves that they had made ample compensation to the inhabitants of the New, by bestowing on them civilisation and Christianity, in exchange for unlimited independence. But, as they were all in pursuit of nearly the same object, it was necessary in order to avoid conflicting settlements, and consequent war with each other, to establish a principle which all should acknowledge as the law by which the right of acquisition, which they all asserted, should be regulated as between themselves. This principle was that discovery gave title to the Government by whose subjects, or by whose authority, it was made, against all other European Governments, which title might be consummated by possession. The exclusion of all other Europeans, necessarily gave to the nation making the discovery the sole right of acquiring the soil from the natives, and establishing settlements upon it. It was a right with which no Europeans could interfere. It was a right which all asserted for themselves, and to the

assertion of which, by others, all assented. Those relations which were to exist between the discoverer and the natives, were to be regulated by themselves. The right thus acquired being conclusive, no other power could interpose between them. In the establishment of these relations, the rights of the original inhabitants were, in no instance, entirely disregarded, but were necessarily, to a considerable extent, impaired: They were admitted to be the rightful occupants of the soil, with a legal as well as a just claim to retain possession of it, and to use it according to their own discretion; but their rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principle that discovery gave exclusive title to those who made it. While the different nations of Europe respected the rights of the natives, as occupants, they asserted the ultimate *dominium* to be in themselves; and claimed and exercised, as a consequence of this ultimate dominion, a power to grant the soil, while yet in the possession of the natives. These grants have been understood by all to convey a title to the grantees, subject only to the Indian rights of occupancy. The history of America, from its discovery to the present day, proves, we think, the universal recognition of these principles."

156. Then after reviewing the history of the occupation of the Continent, he proceeds: "Thus all the nations of Europe, who have acquired territory on this continent, have asserted in themselves, and have recognised in others, the exclusive right of the discoverer to appropriate the lands occupied by the Indians. Have the American States rejected or adopted this principle? It has never been doubted that either the United States, or the several States, had a clear title to all the lands within the boundary lines described in the treaty, subject only to the Indian right of occupancy, and that the exclusive power to extinguish that right was vested in that government which might constitutionally exercise it." And at page 587: "The United States, then, have unequivocally acceded to that grant and broad rule by which its civilized inhabitants now hold this country. They hold, and assert in themselves, the title by which it was acquired. They maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest; and gave also a right to such a degree of sovereignty as the circumstances of the people would allow them to exercise. The power now possessed by the government of the United States to grant lands, resided, while we were colonists, in the crown, or its grantees. The validity of the titles given by either has never been questioned in our courts. It has been exercised uniformly over territory in possession of the Indians. The existence of this power must negative the existence of any right which may conflict with, and control it. An absolute title to lands cannot exist, at the same time, in different persons, or in different governments. An absolute title must be an exclusive title, or at least a title which excludes all others not compatible with it. All our institutions recognise the absolute title of the crown, subject only to the Indian right of occupancy, and recognise the absolute title of the crown to extinguish that right. This is incompatible with an absolute and complete title in the Indians."

157. How these so-called Colonial Protectorates originated may now be shortly traced. Westlake points out that in the eighties of last century "in the general haste to partition the globe the doctrine of international law of effective occupation seemed too slow a process. If a complete title could only be gained by means of it, at least it might be possible for a power to put in a provisional claim to a region before it suited its policy even to enter on the gradual process of effective occupation. For this reason the name of Protectorate was extended to cases where the only possible subject of protection was a native population living in that primitive social condition which, as we have seen, has never been regarded by white men as presenting an obstacle to their own assumption of political power. These are the Colonial Protectorates, and the name had the double advantage of giving a flavour of international law to a position intended to exclude other states before such exclusion could be placed on the ground of duly acquired sovereignty, and at the same time of allowing that position to be abandoned with less discredit than attaches to the abandonment of sovereignty, if the country should be found less valuable or its retention more costly than had been hoped." A more shadowy form of earmarking was therefore invented, in what are called spheres of influence or interest. The most usual way in which such a sphere of influence or interest came to be claimed was the conclusion between two powers of an agreement by which each promises not to pursue a policy of territorial expansion beyond a certain line. These agreements are clearly binding only *inter partes*. With regard to South West, agreements of this kind were as we have seen concluded between Germany and Portugal on the 30th December 1886, and between Germany and England on the 1st July 1890.

158. It is important to trace what led up to these agreements. At the instance of the Imperial Government of Germany a conference was held at Berlin in the years 1884-1885 at which most of the European Powers as well as the United States of America were represented. In the opening address Prince Bismarck, the President, *inter alia* expressed the following views: "In convoking the conference, the Imperial Government was guided by the conviction that all the Governments invited share the wish to bring the natives of

Africa within the pale of civilisation by opening up the interior of that continent to commerce, by giving its inhabitants the means of instructing themselves, by encouraging missions and enterprises calculated to spread useful knowledge, and by preparing the way for the suppression of slavery, and especially of the oversea traffic in blacks, the gradual abolition of which was proclaimed by the Congress of Vienna of 1815 as the sacred duty of all the Powers. The interest taken by all civilised nations in the material development of Africa insures their co-operation in the task of regulating commercial relations with that part of the world. The plan followed for a number of years in the dealings of the Western Powers with the countries of Eastern Asia has up to now given the best results by restraining commercial rivalries within the bounds of legitimate competition. The Government of His Majesty the Emperor of Germany has therefore felt able to advise the Powers to apply to Africa, with modifications appropriate to that Continent, the same plan, which is based on the equality of rights and uniformity of interests of all commercial nations. The Imperial Government sounded the Powers on the best mode of realising this idea. Having met with a perfect agreement of views on the part of the French Government, they were authorised by His Majesty the Emperor to invite the Powers who might be disposed to join in this agreement to meet in conference, for the purpose of deliberating on the resolutions to be taken on the basis of the programme proposed in the letters of invitation. The fundamental idea of this programme is to facilitate the access of all commercial nations to the Interior of Africa."

159. Then, after referring to the opening up of the Congo basin, the President proceeded: "The natural development of commerce in Africa gives birth to the very legitimate desire to open up to civilisation the territories which are at present unexplored and unoccupied. To forestall the disputes which might result from the fact of a new occupation, the Governments of France and Germany thought it might be useful to come to an agreement as to the formalities to be observed in order that new occupations on the African coast should be considered effective. The members of the Conference will have an opportunity of agreeing amongst themselves upon questions connected with the delimitations of the Colonial establishments of their countries or with the treatment of their respective countrymen; but it does not come within the attributes of the Assembly to decide upon the validity of previous deeds of possession. It is only in view of the future that I shall have the honour of submitting to the Conference a Project of Declaration, to the effect that henceforth the validity of a new deed of possession shall be dependent upon certain forms, such as simultaneous notification, so as to enable other Powers to recognise the act or to state their objections. For an occupation to be considered effective, it is, moreover, desirable that the occupier should manifest, within a reasonable delay, the will and power to exercise his rights within it, and to fulfil the duties which it entails. As the Conference is composed of the representatives of sovereign states, each member of it will judge for himself what communications he may think proper to make to his colleagues on behalf of his government, but proposals which are outside the limits laid down for our deliberations in the programme of invitation need not of necessity be discussed by the Assembly. Gentlemen, the interest taken by all the nations represented in this Conference in the development of civilisation in Africa—an interest unceasingly shown by bold feats of exploration, by commercial movements, and by the sacrifices and efforts made by each nation with one of these objects—affords a guarantee of the success of the labours which we are about to undertake to regulate and develop the commercial relations of our countrymen with that continent, and to render a service alike to the cause of peace and humanity."

160. Sir Edward Malet, the British plenipotentiary, while stating that the views of the British Government seemed to agree generally with those of the Imperial Government, *i.a.* added: "I cannot forget that the natives are not represented amongst us, and that the decisions of the Conference will, nevertheless, have an extreme importance for them. The principle which will command the sympathy and support of Her Majesty's Government will be that of the advancement of legitimate commerce, with security for the equality of treatment of all nations, and for the well-being of the native races."

161. Mr. Kasson, the plenipotentiary of the United States of America, after referring with justifiable pride to the explorations in Central Africa of Stanley, an American citizen, proceeded: "It was the earnest desire of the Government of the United States that these discoveries should be utilised for the civilisation of the native races, and for the abolition of the slave trade; and that early action should be taken to avoid international conflicts likely to arise from national rivalry in the acquisition of specific privileges in the vast regions so suddenly exposed to commercial enterprises. If that country could be neutralised against aggression, with equal privileges for all, such an arrangement ought, in the opinion of my Government, to secure general satisfaction."

162. At the subsequent meeting of January 31st, 1885, of the Conference, the President, Mr. Busch, explained that the order of the day comprised the discussion of the formalities to be observed in order that new occupations on the African coasts might

be considered as effective: The report of the Commission charged with the examination of the Project of Declaration respecting the new occupations on the coasts of Africa was handed in and discussed. The report concludes with the following words: "Gentlemen, after having surrounded freedom of commerce and navigation in the centre of Africa with guarantees, and after having shown your solicitude for the moral and material welfare of the population which inhabit it, you are about to introduce rules into positive international law which are destined to remove all causes of disagreement and strife from international relations. The Conference could not close its long and laborious deliberations in a more fitting manner than by devoting its last labour to the interests of peace."

163. Upon the Project of Declaration, Mr. Kasson made the following observations: "Whilst approving the two paragraphs of this Declaration as a first step, well directed though short, it is my duty to add two observations to the Protocol: (1) Modern international law follows closely a line which leads to the recognition of the right of native tribes to dispose freely of themselves and of their hereditary territory. In conformity with this principle, my Government would gladly adhere to a more extended rule, to be based on a principle which should aim at the voluntary consent of the natives whose country is taken possession of, in all cases where they had not provoked the aggression. (2) I have no doubt as to the Conference being agreed in regard to the signification of the preamble. It only points out the minimum of the conditions which must necessarily be fulfilled in order that the recognition of an occupation may be demanded. It is always possible that an occupation may be rendered effective by acts of violence which are foreign to the principles of justice, as well as to national, and even international, law. Consequently, it should be well understood that it is reserved for the respective signatory powers to determine all the other conditions from the point of view of right, as well as of fact, which must be fulfilled before an occupation can be recognised as valid."

164. The President remarked that the first portion of the declaration of Mr. Kasson touched on delicate questions, upon which the conference hesitated to express an opinion. It would suffice to reproduce in the Protocol the views put forward by the Plenipotentiary of the United States of America. The second portion of the declaration of Mr. Kasson reverted to the explanations exchanged in the Commission, from which it resulted that, in the unanimous opinion of the plenipotentiaries, the Declaration drawn up by the Conference did not limit the right which the Powers possessed of causing the recognition of the occupations which might be notified to them to be preceded by such an examination as they might consider necessary."

165. The Project as ultimately adopted in the General Act reads as follows:—

" CHAPTER VI.

" DECLARATION RELATIVE TO THE ESSENTIAL CONDITIONS TO BE OBSERVED IN ORDER THAT NEW OCCUPATIONS ON THE COASTS OF THE AFRICAN CONTINENT MAY BE HELD TO BE EFFECTIVE.

Article 34.

" Any Power which henceforth takes possession of a tract of land on the coasts of the African Continent outside of its present possessions, or which being hitherto without such possessions shall acquire them, as well as the Power which assumes a Protectorate there, shall accompany the respective act with a notification thereof, addressed to the other signatory Powers of the present Act, in order to enable them, if need be, to make good any claims of their own.

Article 35.

" The signatory Powers of the present Act recognise the obligation to insure the establishment of authority in the regions occupied by them on the coasts of the African Continent sufficient to protect existing rights, and, as the case may be, freedom of trade and of transit under the conditions agreed upon."

166. Chapter II., Article 9 of the General Act dealt with the slave trade: " Seeing that trading in slaves is forbidden in conformity with the principles of international law as recognised by the signatory Powers, and seeing also that the operations which, by sea or land, furnish slaves to trade ought likewise to be regarded as forbidden, the Powers which do or shall exercise sovereign rights or influence in the territories forming the conventional basin of the Congo declare that these territories may not serve as a market or means of transit for the trade in slaves, of whatever race they may be. Each of the Powers binds itself to employ all the means at its disposal for putting an end to this trade and for punishing those who engage in it."

167. The occupation of territory on the coast of Africa was taken a step further in 1890 by the Brussels Conference, summoned on the invitation of the Belgian Government, in agreement with the British Government, to which most of the Powers which had taken part in the Berlin Conference were parties. The act to which the Powers agreed at the Conference has been called the Magna Charta of the native races. In it the Powers devised further means for the suppression of the slave trade, and incidentally for tightening the hold of some European nations on the continent of Africa. The Act starts off by reciting that the Powers are all equally animated by the firm intention of putting an end to the crimes and devastations engendered by the traffic in African slaves, protecting effectively the aboriginal populations of Africa, and ensuring for that vast continent the benefits of peace and civilisation. It then proceeds, in Chapter I., to lay down the measures to be taken in the places of origin of slavery. Article 1 of this chapter is most important, and reads as follows:—

“ The Powers declare that the most effective means for counteracting the slave trade in the interior of Africa are the following:—

- “ 1. Progressive organisation of the administrative, judicial, religious and military services in the African territories placed under the sovereignty or protectorate of civilised nations.
- “ 2. The gradual establishment in the interior by the Powers to which the territories are subject of strongly occupied stations, in such a way as to make their protective or repressive action felt in the territories devastated by slave-hunting.
- “ 3. The construction of roads, and in particular of railways, connecting the advanced stations with the coast, and permitting easy access to the inland waters, and to such of the upper courses of the rivers and streams as are broken by rapids and cataracts, in view of substituting economical and rapid means of carriage by men.
- “ 4. Establishment of steamboats on the inland navigable waters and on the lakes, supported by fortified posts established on the banks.
- “ 5. Establishment of telegraphic lines, insuring the communication of the posts and stations with the coast and with the administrative centres.
- “ 6. Organisation of expeditions and flying columns, to keep up the communication of the stations with each other and with the coast, to support repressive action, and to insure the security of high roads.
- “ 7. Restriction of the importation of firearms, at least of modern pattern, and of ammunition, throughout the entire extent of the territories infected by the slave trade.”

168. I now proceed to consider the various questions that arise under Number 4. They are the following:—

- (i) What was the political position of the *Rehoboth Gebiet*
 - (a) from the point of view of the international law,
 - (b) from the point of view of the German Empire? and
- (ii) What measure of self-government was allowed to the inhabitants of the Rehoboth community
 - (a) by the German law and constitution,
 - (b) in actual practice?
- (iii) To what extent, if any, were the self-government enactments of the *Gebiet* subject to the approval and veto of the German administration?

169. What, then, was the political position of the Rehoboth *Gebiet* as a Colonial Protectorate of Germany? From what has been said above, it is clear that South-West Africa as a whole, or any portion of it, had no international status. According to the view of the Society of States, with the exception perhaps of the United States of America, a view which was shared by Germany, the whole of the country included in the *Schutzgebiet* was *territorium nullius*, and was therefore open to occupation by a civilised power.

170. That a country in possession of barbarians without an organised government should be considered as no man's land is not surprising. But, whatever may be said of the Hereros and the Hottentots, the *Basters*, although a small community, had a settled government, and even some system of laws. The justification for the view of the civilised Powers is thus put by Westlake: “ That civilised states should assume sovereignty over new but not uninhabited countries, on a system which they arrange among themselves without reference to the natives, can only be justified by the necessity of a government-

where whites and natives meet, and by the inability of the latter to supply a government adequate to the white men's needs or to their own protection. Accordingly, the modern tendency of thought is to place the original acquisition of title to sovereignty squarely on this basis, and so to furnish the doctrine of effective occupation with a new and solid support."

171. I am not concerned with whether the views entertained by the civilised Powers, and more especially by Germany, were just or unjust in any individual case. Their view constitutes the law for us, and there can be no doubt that the *Baster* community of Rehoboth were regarded in the same way as the other aboriginal tribes of the country, and, in fact, considered as aborigines. As Germany took possession of *territorium nullius*, it follows that, by virtue of the occupation of the territory with the consent of the various chiefs of the aborigines, Germany obtained the sovereignty over such territory.

172. The name *Schutzgebiet*, which is merely a translation of the word "Protectorate," when used with regard to territory such as South-West Africa is, therefore, a misnomer. As was pointed out above, a Protectorate properly so-called can only exist where one sovereign or semi-sovereign state has placed itself under the protection of another sovereign state. As none of the communities of South-West Africa were states, in the sense understood by the Society of Nations, there could be no question of a Protectorate by Germany over any of them.

173. Some authors maintain that the terms *Schutzgebiet* and *Schutzgewalt* were employed to denote the protection which the German Constitution affords Germans abroad, while others are of the opinion that they refer to the protection which the Empire had undertaken towards commercial colonial settlements and the chiefs of the aborigines. Prince Bismarck probably had both objects in view. It is clear he had no intention of founding colonies in the proper sense of the term, but wished to assume the protection of commercial undertakings in countries overseas. That he made clear in his speeches in the *Reichstag*. According to him, the German Empire did not intend to possess provinces overseas, but wished to leave colonisation for private companies, to which, following the example of the old Dutch and English East India Companies, the protection of the German Empire would be accorded. The meaning of this was that the Empire was not to exercise territorial jurisdiction in the new countries, but to confine itself to the protection of certain persons or companies in the same way as is done in consular districts. In Bismarck's opinion, the flag had to follow the merchant, not *vice versa*. But under no circumstances was the Empire to bear the cost of or even the responsibility for the colonial administration. The Empire was to have nothing to do with the appointment of governors and officials, or the establishment of garrisons, etc.

174. Prince Bismarck's programme was never put into action in South-West Africa. The *Deutsche Kolonialgesellschaft fuer Suedwestafrika*, which had *inter alia* taken over the rights of Luederitz, did as a matter of fact in the beginning establish a force at its own expense, but it never exercised sovereign rights. As early as the year 1885 South-West Africa was taken over by an Imperial Commissioner to be administered on behalf of the Empire. As we have seen, the extension of the Imperial administration, however, proceeded very slowly, and when the German officials were driven away, stood quite still for a time. Gradually garrisons were established, and an ordered administration of justice and of government commenced.

175. In German East Africa the *Deutsch-ostafrikanische Gesellschaft* in the beginning followed Bismarck's programme. It exercised sovereign rights for a time, but proved itself too weak to bear the sole responsibility for the administration of the territory. The Empire had to come to its assistance almost from the beginning. As a consequence of the serious risings of 1888-1890, which had to be suppressed by the Empire, the administration of the country gradually passed into the hands of the Empire.

176. Geheimer Oberregierungsrat Dr. Jur. J. Gerstmeier puts the position clearly: "As the development of the relation between the Empire and the Protectorates proceeded, the term *Schutzgewalt* obtained a broader meaning than it originally possessed, until it included the entire *Staatsgewalt*, the aggregate of the powers flowing from the sovereignty of the Empire. Nor must the word *Schutzgebiet* be understood literally. Juristically, the Protectorates have in fact always been colonies, and not Protectorates in the proper sense of the word. From the very beginning, the Empire was their sovereign. The sovereignty (*Hoheitsrechte*) which the companies exercised had been delegated to them by the Empire. Moreover, the sovereignty of the Empire was not affected by the treaties of protection. As the native tribes did not constitute states as recognised by international law, the treaties with them had no international significance, but were solely matters of internal concern (*innerstaatsrechtlich*). In any case, these treaties have now lapsed, either through effluxion of time, as in the case of the Cameroons, or as the consequence of native risings, as in South-West Africa. All that still remains in South-West Africa are the rights of certain loyal tribes to their own tribunals and to

certain royalties." One of the exceptions to which he refers is, no doubt, the Rehoboth *Basters*, who till then had remained faithful to Germany.

177. As regards writers on the subject, their name is legion. Dr. F. Schack, whose scholarly work, "*Das Deutsche Kolonialrecht in seiner Entwicklung bis zum Weltkriege*," was published as late as the year 1923, in reviewing the course of the German colonial legislation, states that during the short period of thirty years the literature on the subject, more especially in the shape of dissertations, grew to extraordinary dimensions, while the legislation attained a fulness to the point of confusion. It would therefore be all the more remarkable if there were no differences of opinion among the writers. On the point, however, as regards the nature of the relationship between Germany and her Protectorates, there are none. Both German and foreign writers agree that Protectorate was a misnomer, and that the so-called Protectorates stood under the sovereignty of Germany.

178. But there is great difference of opinion as to the title by which Germany exercised sovereign rights over those portions of the territory with regard to which she had concluded treaties with the chiefs. There are two main views on this. The general opinion is that Germany held the country by occupation. The other view is that her title was derivative, *i.e.*, by cession from the aborigines in possession through their chiefs.

179. Those who hold that Germany's title is based on occupation take one of two views of the treaties with the chiefs. Some hold that these treaties are *Scheingeschaeften*, colourable transactions, and therefore not binding at all.

180. That is a view which is disapproved of by most writers, and is clearly untenable on the simple ground that for a *Scheinvertrag* it would have been necessary for both parties to it to have intended something else than what is expressed by the document. Now whatever may have been Germany's object in concluding the treaties (and I do not wish to throw any doubt upon her *bona fides* in intending to observe the treaties), there can be no doubt that the chiefs of the aborigines intended that the treaties should be observed in the spirit as well as in the letter. The view, therefore, that the treaties with the chiefs were colourable and need not be observed, may be dismissed from further consideration.

181. The great majority of writers are of opinion that the treaties with the chiefs do not in law amount to a cession of territory. As Schack points out, this view was first voiced by von Martitz, and later on amongst others by von Stengel, and is the view which is the prevailing one.

182. Von Stengel's view was based on the argument that the agreements with the native chiefs could not be considered as treaties falling under international law, as the chiefs were not subject to it. From the conclusion of such treaties of commerce and friendship, it does not follow that the native tribes are thereby recognised as equally subject to international law; that is out of the question, because of their inferior civilisation and their lack of political organisation. The agreements, therefore, did not constitute a sufficient title for the acquisition of sovereignty. Hence "occupation" was necessary, notwithstanding the fact that the treaties had been entered into; with regard to third parties, they merely served to show that the state which entered into the treaty had taken the first step in the acquisition of the territory by occupation. They are the preliminary step to acquisition by occupation, and found a right to bring about the submission of the aborigines. Occupation by some other state, in spite of the existence of these treaties, constitutes an infringement of this right. Although the state which concludes treaties with the chiefs does not thereby acquire sovereignty from the chiefs, the validity of the treaties remains unimpaired; indeed, they are regarded as legal documents by which the parties thereto would consider themselves to be bound on the principle that *pacta sunt servanda*, and they would recognise their responsibilities. The effect of such a treaty is that the chief places his territory and his subjects under the sovereignty of the European state. On the other hand, the Power which enters into the treaty with the chief recognises the freedom and property rights of the native inhabitants. Contrary to former practice, the state recognises the juristic capacity of the aborigines. The state respects their right of self-determination, and admits that its sovereignty over the inhabitants is based on their voluntary submission.

183. The other view, namely, that the acquisition rests not upon occupation but upon cession by the chiefs, is held by very few authors, as Schack points out. Those who hold this view are of opinion that the territory of the various tribes cannot be considered as no man's land in international law. Lindley, in "*The Acquisition and Government of Backward Territory in International Law*," is one of the latest writers who agrees with this view.

184. Dr. Schack himself very strongly holds the view that Germany's title to territory where treaties were made with the chiefs is derived by cession from the chiefs. After pointing out that some states, such as Siam, Persia, without belonging to the Society of States, are for certain purposes considered as members, he applies this to primitive com-

inunities with whom treaties have been concluded. For my purposes it is not necessary to controvert the arguments in favour of this view, which seem rather to strain both the facts and the law. For, although I agree with the majority, in my opinion it makes no difference whether Germany obtained the sovereignty over the Rehoboth *Gebiet* by occupation or by cession. In either case she became the sovereign, and therefore supreme, although good faith demanded that the treaty should be observed; thereto Germany was bound *in foro conscientiae*.

185. Although, according to Hall, the native states in India are protected states, they cannot be included within the Empire of India: "They form a class apart. With many of them treaties were entered into long ago which, if no subsequent change in the relations so established had taken place, would warrant their being looked upon as independent, save in the one point of incapacity to maintain diplomatic intercourse with any European or Eastern power, or any fellow Indian protected state. Since then, however, sometimes by fresh compact, universally by usage, internal independence has been invaded to an extent which is no doubt very different in the case of the Nizam from that of the petty chiefs of Kāthiāwad or the Rajpūt princelings of the Himalayas; but which everywhere involves the exercise to a greater or less degree of territorial jurisdiction by the paramount power, and implies the reserve on its part of a certain dominant 'residuary jurisdiction,' and even of the right to disregard the plain terms of the treaties themselves when the supreme interests of the Empire are touched, or when the interests of the subjects of the native princes are gravely affected. Were the sovereignty of Great Britain less marked in fact, it would still be impossible to hold that the native states of India preserve so much independence as remains in the hands of an ordinary protected state. From the moment that the Queen was proclaimed Empress of India the sovereign powers which native princes enjoyed, and enjoy, ceased to be relics of their independence; they were kept by sufferance or delegation."

186. I have shown that whatever the origin of the terms *Schutzgebiet* and *Schutzgewalt*, they are quite misleading. By the occupation South-West Africa was added to the German Empire, and could therefore more properly have been described as a colony of that Empire. But by whatever name the country is described, the important point is that South-West Africa, and therefore the Rehoboth *Gebiet*, was under the sovereignty of Germany. It is unnecessary to determine at what period of time exactly Germany acquired the sovereignty over the *Gebiet*. Some hold that sovereignty was assumed by the *Schutzgebietsgesetz* of 17th April, 1886. However that may be, Germany had assumed the sovereignty at an early date.

187. What the relation was between the Empire and the Protectorate is a matter not free from difficulty. The *Reichs- und Staatsangehörigkeits-Gesetz* of the 22nd July, 1913, lays down who are *Reichsangehörigen* and who are *Staatsangehörigen*. The burghers of Rehoboth did not fall under either; they were *Schutzgebietsangehörigen*, subjects of the Empire by virtue of being in a Colonial Protectorate. As such they were entitled to the protection of the Empire as against foreign countries; under the existing treaties they could not be extradited, and under article 32 of the Brussels Act they might receive permission to fly the German merchant flag. As they were not *Reichsangehörigen*, they did not fall under the law imposing the duty of military service. In matters such as these I prefer to allow a recognised authority, such as Dr. J. Gerstmeier, to speak: "In view of the fact that the Protectorates have no place in the Imperial Constitution, there is some doubt as to the legal relations between them and the mother country. It is not certain in how far laws which distinguish between *Ausland* and *Inland* apply to the Protectorates, e.g., in the prosecution of criminal acts, the execution of judgments, the loss of citizenship, and taxation. Article 1 of the Imperial Constitution clearly defines 'federal territory,' and the Protectorates are neither mentioned nor subsequently included, and for this reason many have held that they cannot be considered as *Inland*. On the other hand, it is repugnant to all sense of law to designate countries over which the German flag flies, and where Germany exercises sovereignty, as being *Ausland*. Although the Protectorates do not fall under the territory of the German Confederation (*Bundesgebiet*) in the constitutional sense, they are imperial territories (*Gebiete des Reichs*) in the broad sense of the word. Under *Ausland* can only be understood territories which are subject to a foreign *Staatsgewalt*, or to none at all. In principle, the Protectorates must therefore be regarded as if they were *Inland*. The only matter to be considered is in how far this principle will be subject to exceptions, and in this regard the intention of the individual laws must decide where the text is not clear. So, for instance, the Protectorates must be regarded as *Ausland* for the purposes of the customs acts, while they are *Inland* as far as criminal law is concerned. In certain instances, the legislature itself has decided this question, e.g., it is laid down in the relative legislation that the Protectorates are to be regarded as *Inland* for the purposes of the *Staatsangehörigkeitsgesetz* and the Double Taxation Act. For the rest, the fact that the Protectorates are colonies (*Kolonien, Nebenlande*) of

the Empire entails in many respects a twofold position between that of independent states (*selbstaendigen-staatlichen Gebieten*) and that of the Empire proper. In international affairs they are represented by the Empire, while not one and the same with it. For while all international treaties are concluded on their behalf by the Empire, no such treaty applies to them unless they are specifically mentioned."

188. The answer, therefore, to the question of the political position of the Rehoboth *Gebiet* and its inhabitants under the German regime may be summed up as follows: The Treaty of Protection and Friendship concluded by the Captain and *Raad* in 1885 with Germany was merely a step to the ultimate annexation of the Rehoboth *Gebiet* to the German Empire. At an early date Germany assumed the sovereignty over the *Gebiet* and its inhabitants, but as it had entered into the treaty it was under a moral obligation to observe the terms of the treaty. The Protectorate was never incorporated into the German Empire, but under the *Schutzgebietsgesetz* the German Emperor and those officials vested with the right issued Proclamations for the Protectorate as a whole, which in most cases applied to the *Gebiet*.

189. The next question is as to the measure of self-government enjoyed by the inhabitants of the Rehoboth *Gebiet* (a) under the German law and constitution, (b) in actual practice. I have shown that, although called a *Schutzgebiet*, the whole of South-West Africa was under the sovereignty of Germany, under whose constitution supreme legislative power resided in the *Bundesrat* and the *Reichstag*. The Constitution for the German Colonies was contained in the *Schutzgebietsgesetz*, which was first promulgated in the year 1886 and subsequently amended, notably in the year 1900. By section 1 the Emperor was vested in what was called the *Schutzgewalt* in all Protectorates which he exercises in the name of the Empire and within the limits of the law. By *Schutzgewalt* was understood the supreme legislative, judicial and executive power in the territory. Being territorial in its character, all persons within the territory, including the aborigines, were subject to it. But under the treaties with the chiefs, Germany was morally bound to respect the rights of the various communities in so far as they were safeguarded by the treaties. What does that mean in the case of the Rehoboth *Gebiet* and its inhabitants?

190. The answer is to be found in the first place in the agreements between Germany and the chief of the *Basters*, the principal agreement being the Treaty of Protection and Friendship of 15th September, 1885, and the Treaty relating to Defence of the 26th July, 1895. By the treaty Germany opened to herself the way for the peaceful occupation of and consequent assumption of sovereignty over the Rehoboth *Gebiet*. In that way she would not only be able to protect Hermanus van Wyk and his people but she would also be able to protect her own subjects and discharge her international obligations. All this is implied in Section 1 of the Treaty where Hermanus van Wyk prays His Majesty the German Emperor to assume the protection of himself and his people. His Majesty the German Emperor grants the prayer and assures the Captain of his supreme protection. As an outward sign of such protection the German flag is hoisted. By section 2 the German Emperor expressly recognises the rights and the liberty which the *Basters* of Rehoboth have acquired, and undertakes *inter alia* not to interfere with the raising of revenue by the Captain in accordance with the laws and customs of his country. Section 3 on the other hand imposes obligations upon the Captain and his people not to part with his country or portions of it to other Powers or subjects of other Powers nor to enter into treaties with such Powers without the consent of the German Emperor.

191. By section 4, while the Captain promises protection to life and property to all German subjects and *Schutzgenossen*, and gives them the right to enter, reside in, work and trade in his territory, the Burghers reserve to themselves the liberty in each particular case to lay down the conditions under which the foreigners may remain in their territory. Section 4 then continues: On the other hand the German subjects and *Schutzgenossen* shall observe the laws and customs of the country, shall do nothing in conflict with the laws of their own country and pay to the Captain such amounts in taxes and otherwise as have hitherto been customary or which in future may be agreed upon between the Captain and the German Empire.

192. As regards civil and criminal jurisdiction in the Rehoboth *Gebiet*, it was agreed in section 5 that all disputes between the Burghers of Rehoboth amongst themselves should be adjudicated by their own judges and according to their own laws. Disputes between the Burghers of Rehoboth and persons who did not belong to these will be adjudicated by a mixed tribunal, to which the Emperor and the Captain will appoint judges. All disputes between persons who are neither burghers of Rehoboth nor belong to the families of such burghers as well as all criminal offences of such persons were to be adjudicated by such persons as His Majesty the German Emperor might appoint thereto. In all disputes including those of the burghers of Rehoboth an appeal lies to the Court of His Majesty the Emperor, whose judgment was to be final.

193. By section 6 the Captain binds himself to assist as far as possible in preserving peace in Great Namaqualand and the neighbouring countries. Section 7 is important as showing that the parties contemplated that whatever matters between the German Empire and the burghers of Rehoboth required to be regulated that had in future to be done by

way of agreement between the two governments. To do so by way of agreement and not by virtue of her sovereignty over the territory Germany bound herself by solemn compact.

194. Broadly speaking the following, in so far as it relates to the question of self-government, emerges from the above:—

(1) Germany was to occupy the Rehoboth *Gebiet* and assume the sovereignty over the *Gebiet* and its inhabitants. By virtue of her supreme position she would have the power to take all such measures as are necessary to protect her own subjects and give effect to her international obligations, as also such measures as she in her discretion may deem in the interests of that *Gebiet*, of South-West Africa or of the German Empire.

(2) On the other hand Germany recognises the rights and liberties of the Burghers of Rehoboth. The customs and laws of the country were to remain and to be respected. Germany expressly undertook not to interfere with the raising of revenue by the Captain in accordance with the laws and customs of the country.

(3) All civil disputes between the Burghers of Rehoboth are to be settled by their own judges according to their own laws. In the case of disputes between Burghers and non-Burghers a mixed tribunal is constituted consisting of judges appointed by the German Emperor and the Captain of the Rehoboths. But a final appeal lies to the white man's court.

(4) No further inroad is to be made upon the rights and liberties of the Burghers nor are any other measures affecting the Burghers to be taken by Germany except with their consent.

195. The customs and laws of the community were to remain. The community had its own code of laws. The Constitution was first drafted in the year 1868 at Warmbad. Thereafter it was amended at Rehoboth on the 31st January, 1872. On the same date laws were made dealing with civil and criminal cases. On the 27th February laws were enacted with regard to the crimes of murder, homicide, injury and theft; also with regard to master and servant and taxation. The following subjects were dealt with a fortnight later: the law regarding brandy and strong drink, debt, the use of another's property in case of necessity, marriage, house and garden plots. On the 10th of April laws were made dealing with lung and other infectious cattle diseases and defence. The laws of the 8th July, 1872, which make further provision for criminal and civil procedure and crime contain a remarkable article of *ex post facto* legislation. In July, 1874, Articles dealing mainly with the Constitution were passed. Thereafter for a period of close on forty years there appears to have been no legislation. On the 15th January, 1913, provision was made for divorce. Finally in the year 1917 two laws were passed by the *Raad*, the first dealing with the alienation or letting of land, the second imposing a dog tax. As I have not been able to obtain a copy of the laws of Adam Kok and the Griqua people it is impossible to say in how far these served as a model. The laws of the Rehoboth community are of considerable interest, but in estimating the stage of development of the Burghers it must be remembered that their laws were not of spontaneous growth but were framed under missionary influence. In the first instance it will be remembered that it was the Revd. Campbell who gave to the Griquas their laws as appears from section 74 above. Later on the missionaries helped to draft the *Gemeente Ordening* of Kommeegas (section 83). The present code which is attached hereto marked VI clearly shows the hand of the Revd. Heidman.

196. A signal instance of such an agreement as contemplated by section 7 of the Treaty of 1885 is contained in the agreement of the 26th July, 1895, between the Administration of South-West Africa and Hermanus van Wyk with regard to the liability to military service of the *Basters*, which but for their consent would have constituted a serious infringement of the liberties of the Burghers. Under the agreement Captain van Wyk binds himself and his successors yearly to supply to the Administration of South-West Africa a definite number of youths of the *Baster* community capable of bearing arms for the purpose of military training. The period of training is to be six weeks, followed by annual exercises of from two to four weeks. During a period of twelve years thereafter the persons so trained are liable to military service. Payment is only made in time of war—30 marks to privates and 40 marks to leaders monthly. In war time the *Basters* are subject to the rules in force in regard to war. (*Kriegsartikel*). Germany undertakes to care for the widows and orphans of *Basters* fallen in war outside the Rehoboth *Gebiet* according to her powers. Under the last section, Captain van Wyk receives a yearly stipend of 1,000 marks from the Chest of the Administration for the conscientious carrying out of the terms of the agreement as well as of the German laws and proclamations within the territory of the Rehoboth *Basters*.

197. As will be seen below under question 5, Germany freely legislated for the whole of the Protectorate, including the Rehoboth *Gebiet*. Not only the Emperor had legislative power but to a lesser degree also the Imperial Chancellor and the Governor of South-West Africa as well as subordinate officials. At the same time the treaty rights of the Burghers of Rehoboth were respected, the Burghers proving valuable allies to the Germans against the turbulent aboriginality of the Territory. A section of the Rehoboth people maintained before me that the laws enacted for South-West Africa did not run in Rehoboth *Gebiet*,

but that is not correct. Laws enacted for the *Schutzgebiet* ran everywhere in the territory unless a particular portion was expressly excepted. In this way many laws were made also for the Rehoboth Burghers. A wise ruler would consult the various chiefs before bringing in fresh legislation and no doubt this was done in the case of the Burghers of Rehoboth.

198. But already at an early date the Burghers felt that the Administration of the laws in the *Gebiet* was severe. In a letter to the Emperor dated 15th November, 1897, Hermanus van Wyk complains that the "laws have hitherto been too sharp and too severe for us." No doubt in some instances pressure was brought to bear upon the community to obtain its consent to a proposed measure. Upon the death of Hermanus van Wyk in 1905 the Germans abolished the position of Captain. His son Cornelius van Wyk was recognised by the authorities as Foreman (*Gemeindevorsteher*) and that only from year to year. But as appears from the notice issued by the District Officer of Rehoboth dated 30th January, 1906, attached hereto (Annexure VII), the change was made with the consent of the community. Lahmeyer formerly sergeant in the German Police from 1907 to 1912 and Public Prosecutor states that all the criminal laws obtained in the *Gebiet*. "To small offences we closed our eyes. We had the right to arrest any man for contravening the law. Whether the *Basterraad* also prosecuted for small offences I do not know. I never heard that it was done. As far as I know only the *Bezirksamtman* inflicted punishment in the *Gebiet*. There was an appeal to Windhoek if the sentence was too high. I have knowledge of the Mixed Tribunal. The *Bezirksamtman* nominated two and in serious cases three men to sit as assessors in order to hear what goes on. They did not sit next to him on the Bench. They had no right to ask the witness any questions. That was done by the *Bezirksamtman*. The latter decided the case and passed sentence. If the sentence was high it first went to Windhoek. Before the decision the two or three persons were never consulted. He was only allowed to make representations after sentence. Then the *Bezirksamtman* transmitted these to Windhoek." I do not doubt that the above evidence is substantially correct. Owing to the change in the Administration of the country, more exact information as to how the *Gebiet* was administered was not available. The tightening of the hold of Germany upon South-West Africa in the course of time was no doubt in accordance with the "progressive organisation of the administrative, judicial, religious and military services in the African territories placed under the sovereignty or protectorate of civilised nations" contemplated by the Brussels Conference of 1890. With this progressive organisation it was inevitable that some of the rights and liberties of the Burghers were endangered if not swept away.

199. The last question under Number 4 is to what extent, if any, were the self-government enactments of the *Gebiet* subject to the approval and veto of the German Administration. The answer to this question may be shortly put this way: The only legislative authority in the *Gebiet* were the German Emperor and those German officials authorised by law. On the other hand the rights and liberties of the Burghers were safeguarded by the Treaty of Friendship and Protection. An amendment of their own laws and customs such as the one of 1913 dealing with divorce (the only enactment under the German regime) may fairly be considered to be a right guaranteed by the treaty.

QUESTION 5.

200. I now turn to question 5 which follows naturally on the previous question. By virtue of its sovereignty over South-West Africa and therefore over Rehoboth the German Empire had supreme legislative, judicial and executive powers within the territory. The only limitation upon these powers was contained in the treaties between the Emperor and the Captain of Rehoboth. On 17th April, 1886, the *Reichstag* passed a law now known as the *Schutzgebietsgesetz* (a short statute consisting of four sections) regulating the juristic relations (*Rechtsverhaeltnisse*) in German Protectorates. This law was amended by a Novel of the 15th March, 1888. On 12th July, 1900, further amendments were made. Its final form was published on 10th September, 1900. As pointed out above the legislation which obtained in South-West Africa was in a state of great confusion. The list which is attached to this report (Annexure VIII) has been compiled by the industry of the Secretary of the Commission, but it does not claim to be complete. Valuable information in a handy form may be obtained from the Commentary of Dr. J. Gerstmeier on the *Schutzgebietsgesetz*. As regards measures of taxation imposed on the community, under Section 2 of the treaty with the Burghers of Rehoboth of the 15th September, 1885, the German Emperor undertook not to prejudice the Captain in the raising of his revenue according to the laws and customs of his country. An example of this revenue is to be found in the Land Tax imposed by the Raad which was payable by white and coloured. On the other hand it appears that the Raad objected to the levy of a land tax by the Germans (*Grund-und Bodensteuer*). In order to make the Burghers liable for the costs of administering the *Gebiet* without violating the terms of the treaty, a new agreement had therefore to be entered into. This agreement was concluded on the 31st of January, 1912. By it the community bound itself for the next four years to contribute a yearly amount of 6,000

marks towards the cost of the Administration. Upon the expiration of the four years the contribution had to be fixed anew. This was not done owing to the intervention of the Great War. The money was spent entirely in the interests of the country for roads, the opening up of water, and for poor and sick relief. The tax was paid until the outbreak of the war. Before this treaty had been entered into the Administration had imposed a land tax on the territory which appears to have been paid by the Burghers liable to it at any rate during the year 1910. In addition there were small taxes such as the wheel tax and the dog tax.

201. The principal provisions of the *Schutzgebietsgesetz* (Sch.G.G.) of 10th September, 1900, are the following:—

1. The *Schutzgewalt* in German Protectorates is exercised by the German Emperor in the name of the Empire. A similar provision was contained in the Sch. G.G. of 17th April, 1886.
2. As regards the administration of justice (*Gerichtsverfassung*) in the Protectorates the provisions of §§ 5, 7-15, 17 and 18 of the *Konsulargerichtsbarkheitsgesetz* (K.G.G.) of 7th April, 1900, apply, except that in place of the Consuls the officers vested by the Chancellor with jurisdiction should administer justice in their courts. As is well known the system of Consular Courts existed in the East, *e.g.*, in Turkey, under which the Europeans in the country were taken out of the jurisdiction of the local courts and subjected to their own tribunals under their own laws.
3. The Imperial and Prussian Laws mentioned in § 19 of the K.G.G. of 7th April, 1900, are the laws in force in the Protectorates with modifications set forth in subsequent sections of that Act.

Section 19 of K.G.G.

Unless provision to the contrary is made in this Act, the following laws shall be applicable within the area of jurisdiction of consular courts to those persons amenable to consular jurisdiction:

- (1) Such provisions of the Imperial Laws as pertain to Civil Law as well as such general laws at the same time in force in Prussia which formerly had been in effect within the area of application of the Prussian Common Law (*Allgemeine Landrecht*) and the provisions of the Civil Procedure and Costs Act and the laws relating to procedure and costs in matters falling under Voluntary Jurisdiction;
- (2) the provisions of the Imperial Laws pertaining to the Criminal Law and the provisions of these Acts relating to procedure and costs in criminal cases.
4. Natives (in which are included the Rehoboth Burghers) are subject to the jurisdiction mentioned in § 2 and to laws mentioned in § 3 only in so far as they have been expressly declared to be so by Proclamation of the Emperor.
6. By the Emperor's Proclamation penalties may be imposed in certain cases.
7. As regards marriage and the registration of the status of persons in Protectorates certain sections of the Law of 4th May, 1870, apply.
Here again natives are only subject to the above in so far as they have been declared to be so by the Emperor's Proclamation.
9. Foreigners who settle in the Protectorates as well as natives may by naturalisation be granted *die Reichsangehoerigkeit* by the Chancellor.
10. By the Emperor's Proclamation natives of the Protectorates may be placed on the same footing as *Reichsangehoerigen* in respect of flying the Imperial flag (*Reichsflagge*).
15. The Chancellor may make laws regulating police and administrative matters.
This power may also be given by the Chancellor to officials of the Protectorates.

202. EMPEROR'S PROCLAMATION relating to legislation on matters pertaining to the general administration of the Protectorates and to Customs and Taxation, dated 19th July, 1886 (Kol. G. I., p. 177) issued by virtue of Sch. G.G. of 17th April, 1886, empowers the Commissioner (Governor) of South-West Africa to make laws on above-mentioned matters subject to the veto of the Imperial Chancellor.

Under the powers vested in him by § 19 of the Sch. G.G., the Emperor by Proclamation, dated 20th February, 1896 (Kol. G. II., p. 213) authorised the Imperial Chancellor to issue the necessary legislation for the administration of justice as regards natives in the African Protectorates. This Proclamation was repealed by Proclamation of 3rd June, 1908, section 4, which, however, does not affect enactments by virtue of this Proclamation.

PROCLAMATION OF THE IMPERIAL CHANCELLOR, dated 22nd April, 1896 (Kol. G., II., p. 215) and issued by virtue of Proclamation of 25th February, 1896, relating to Criminal Jurisdiction and Disciplinary Powers over Natives in the Protectorates of East Africa,

the Cameroons and Togo is declared to be in force in South-West Africa with certain amendments, by PROCLAMATION OF THE GOVERNOR, dated 8th November, 1896 (Kol. G., II., p. 294). The principal provisions as relating to South-West Africa are the following:—

1. The Governor (*Landeshauptmann*) is vested with jurisdiction over natives in criminal matters. In the districts (*Bezirken*) the District Commissioner (*Bezirksamtmann*) takes the place of the Governor.
2. The following punishments may be inflicted: corporal punishment, fines, imprisonment with hard labour, imprisonment in chains, death penalty.
3. Against natives of the better class no corporal punishment is allowed.
13. In criminal cases the Captain or his representative acts as assessor. Where serious crimes are dealt with, several leading natives shall be called in as assessors without, however, affecting the sole responsibility of the magistrate.
17. In the case of natives in the service of or under labour contract to any person, the officer having jurisdiction may inflict disciplinary punishment (lashes and/or imprisonment in chains) for dereliction of duty or insubordination.
20. The above law only applies to matters *between natives* in so far as it is consistent with the terms of the Protection Treaties concluded with them.

PROCLAMATION OF THE GOVERNOR relating to Jurisdiction over Natives in South-West Africa, including the *Basters*, in Civil Disputes, dated 1st January, 1889, was issued by virtue of § 15 of Sch. G.G. (§ 11 of Sch. G.G. of 1888) (Vol. IV., p. 24).

1. Provides that a native could not be sued for payment of goods obtained on credit.
2. The decision of civil disputes between whites and natives (where the Defendant is a native) is transferred to the administrative organs of the Protectorate. The head official of the district is competent to try such cases. A native assessor to be called in, in accordance with the Protection Treaties and in accordance *mutatis mutandis* with section 13 of the Proclamation, dated 22nd April, 1896.
203. Notice of the Governor regarding Credit to Natives, dated 23rd February, 1899 Vol. IV., p. 42):—

1. The Governor suspends the Proclamation of 1st January, 1899.
2. Individual natives may be sued, but not the Captain or the tribe. The Magistrates are competent to try cases.
3. As the German Civil Procedure Act and the *materielle bürgerliche Recht* are not applicable to natives, the officer hearing the case can only use these laws as a guide. Accordingly he will have to mediate between the parties and where the Protection Treaties so provide he must call in assessors.

PROCLAMATION OF IMPERIAL CHANCELLOR relating to contracts and civil disputes between natives and non-natives in South-West Africa, dated 23rd July, 1903 (Kol. G., VII., p. 163), issued by virtue of section 15 of Sch. G.G. of 1900 and Proclamation of 25.2.1896 relating to jurisdiction over natives.

1. Obligations of natives arising from contracts with non-natives are prescribed in one year from the date of the contract.
3. District magistrate to decide cases brought by non-natives against natives. The Governor may issue instructions to the magistrate regarding the procedure to be observed either in general or in individual cases.
4. Provides for appeals to the superior court of South-West Africa.
12. The Proclamation has no reference to disputes regarding immovable property.
13. Repeals the Proclamation relating to civil disputes of natives and *Basters*, dated 1st January, 1899, the Governor's Notice regarding Credit to Natives of 23rd February, 1899, and the Governor's Notice regarding suits against *Basters* arising from credit transactions, dated 2nd October, 1900 (not printed). According to this section the provisions of Protection Treaties providing for the calling in of native assessors in civil cases between natives and non-natives remain unaffected by this proclamation.

204. The Emperor issued a Proclamation, dated 3rd June, 1908 (Kol. G. XII., p. 201) relating to the Government and Administration of Justice with regard to natives in South-West Africa by virtue of section 1 of the Sch. G.G.

1. Gives the Imperial Chancellor power to issue proclamations—
 - (1) for the regulation of the Administration;
 - (2) as regards native law and jurisdiction over natives, also in so far as non-natives are concerned.
2. Provides for the delegation of these powers to the Governor.

3. All previous enactments relating to matters specified in section 1 (1) and (2) remain in force until repealed or amended by enactments issued under this Proclamation.
4. Repeals the Proclamation of 25th February 1896.

In connection with the last Proclamation, it is interesting to note a Circular which was issued by the Secretary for the Colonies on 15th August, 1908 (Kol. G. XII., p. 353). It draws attention to the above proclamation which is described as removing various difficulties and doubts in connection with the Government and Administration of Justice. It states that the powers for the regulation of jurisdiction over natives as conferred on the Chancellor by the Proclamation of 25.2.1896 have been delegated to him in respect of all German Protectorates and that his authority has been so framed as to include the *materielle Recht* (*Zivil- und Strafrecht*) of the natives as well as the so-called *gemischte Recht*, i.e., the juristic relations between natives and non-natives. Section 2 of the Circular emphasises that these powers may be exercised by the Governors if authorised thereto by the Chancellor. Enactments by the Governor must indicate the authority under which they are issued. Section 6: sect. 1 (1) and (2) of the Proclamation does not affect the powers of the Governors and officials as conferred by virtue of section 15 of Sch. G.G. or sections 5 and 6 of the Chancellors Proclamation regarding legislative powers, etc., of 27.9.1903 (Vol. 7, p. 214) which authorises the issue of provisions dealing with police matters and administration. The section aims at provisions dealing with police matters and matters of *verwaltungsrechtlicher Art*, imposing commands or prohibitions on the population (See v. Stengel, *Rechtsverh.*, p. 51). They do not deal with the establishment of administrative organs, but to circumstances falling within the scope of activities of such organs. Section 9: the new law makes it quite clear (in section 3) that all legislation on matters specified in sections 1 and 2 already in existence remains valid, including all enactments by virtue of the repealed law of 25.2.1896. The Ordinance of the Chancellor of 22.4.1896 relating to Criminal Jurisdiction over natives remains in force. Section 3 of the Proclamation expressly emphasises that all enactments by the Governors or their representatives dealing with establishment of authorities, native arbitration courts, labour contracts, etc., are valid. Their legality is therefore recognised. Previously it was doubtful in view of the wording of section 4 of the Proclamation of 25.2.1896.

QUESTION 6.

205. I now come to question 6. The only encroachment upon the rights of the Community which has been suggested under this head is the fencing in or taking possession of certain small pieces of land in the village of Rehoboth by the Administration for police and other public purposes without the consent of the community and without compensation. That in my opinion would give a legitimate cause of complaint if correct. Not that the Administration is not within its rights in expropriating land for public purposes. It is by virtue of its sovereignty over a definite tract of land that a State exercises supreme power over that territory as well as over all property situate within the territory. Amongst other rights possessed by a State is what is known as the right of eminent domain (*jus dominii eminentis*). This is not a right of property in the land, but a supreme right in the sovereign to interfere with property, such as, e.g., expropriating it for public purposes (*Bynkershoek Quaest. jur. pub. Lib. 2.C.15; S. de Cocceji, Dissert. Proemial. ad. Grotium de Jure B. ac P. Diss: 12 § 629, n. 2, page 560*). In law therefore there was no encroachment upon the rights of the Community, but if any land is appropriated for public purposes, reasonable compensation should as a rule be paid for it. The Memorandum from the Secretary for South-West Africa on the subject, attached to the evidence of Mr. D. W. Drew as well as Maasdoorp's letter of 16th November, 1925, attached to that memorandum, shows that the ground about which the complaint now runs had already been appropriated by the German Administration. The complaint is therefore not well-founded.

QUESTION 7.

206. Coming now to question 7, it follows from the supreme power which Germany had over Rehoboth (to whom the Union Government under the Treaty of Versailles was the successor in title as was decided by the Appellate Division of the Supreme Court of South Africa in *Rex v. Christian*, 1924, A.D., p. 101) that the issue of Proclamation No. 28 of 1923 was within the powers of the Union Government. That being so there can in law be no question of an encroachment upon the rights of the community. But the main grievance of the party hostile to the Agreement of the 17th August, 1923, is that the Proclamation is too complicated and that they do not know to what they are bound under the Agreement. In my opinion the complaint is genuine. Unfortunately Captain Hermanus van Wyk, the trusted leader of the Burghers, has left no successor in whom the community has the same confidence; and where formerly there was only one missionary

society, ably and devotedly represented by the Rev. Heidmann, who together with Hermanus van Wyk, led the Burghers from De Tuin into an unknown country, there are now two missionary societies—a Roman Catholic and the Rhenish Society. In a community such as that of Rehoboth the absence of a trusted leader or leaders leads inevitably to distrust and division, which is a calamity to the community.

207. But a section of the Burghers claim that they are a sovereign community and independent. I have shown that this claim is without foundation. Whether they fully appreciated the force and meaning of the treaty they entered into with Germany in 1885 is a difficult question. Hendrik Witbooi in his Journal shows that he had no illusions on the subject: “. . . Ieder hoof heef zijn eigen volk en land, om daarover te heerschen want het is zoo, wanneer een hoof onder ander hoof staan, dan is die eene wat onderstaan niet zelfstandig, en hij is niet baas over hem zelve, en over zijn volk en land, want hij staat onder, en al wat onderstaan, is maar een onderdaan, van dien, die hem bescherm, want die staat boven, en wat boven staat, is de Heer, en baas en hoof van alles.” (Every chief has his own people and his own country over which to rule, for it is thus that when one chief stands under another chief, then the former is not independent, nor is he his own master, or master of his people or of his country, for he stands under another and anyone who stands under another is a subject of his protector, for the protector stands over him and he that stands over another is the Lord and master and chief of all). And it may be pointed out that in entering into the treaty they were not confronted with a new problem. The soil had previously been prepared by the British Special Commissioner Palgrave who explained to the various tribes the benefits of coming under the protection of Great Britain. Besides Hermanus van Wijk and his people had been born under the British flag in the Cape Colony. While they cannot be said to be educated, I am of opinion they had sufficient natural astuteness to appreciate the substance of the obligations they entered into. By entering into the treaty with Germany they gave up a certain amount of their freedom. But they had had enough experience of the strife and turmoil of South-West Africa to know that there were compensations. It is most probable that even so they reluctantly entered into the Treaty, but *etiam vi coactus voluit*. The rule *pacta servanda sunt*, which is perhaps the greatest contribution of Christianity and the Germanic laws to the Civil law, must be observed. Both parties were bound to the Treaty as long as it existed. The Burghers, however, broke it when they joined the Union forces, and in consequence the Treaty was repudiated by the Germans.

208. But the Burghers rely upon a promise alleged to have been made by the late General Botha, at that time Prime Minister of the Union, to Captain van Wijk when the Union Forces invaded the Territory in 1915. It is said that the Captain and some of his Councillors interviewed the Prime Minister at Swakopmund, who promised to respect the independence of the Burghers. In the telegram from the Secretary for Defence dated 9th June, 1916, in reference to this promise it is stated: “General Botha does not think we should do anything to diminish their independence or status recognised by the German Administration.” I have shown above in section 147 that the word “independence” is often abused even in State documents. The context shows General Botha did not employ it in the sense that the Sovereignty of the Burghers would be granted or even complete autonomy given to them. What was probably intended was an assurance that the Rehoboth community would at the least enjoy the same liberties under British rule which it had enjoyed under German rule. Article 22 of the Covenant of the League of Nations lays it down that the well-being and development of such peoples as the Rehoboth community form a sacred trust of civilisation and that securities for the performance of this trust should be given. H. Coccejus long before pointed out that all government is a solemn trust or duty to be executed for the public good and the well-being and guardianship of the people. On general principles as well as under the Mandate, therefore, it is the duty as it is the privilege of the Mandatory to rule the community justly and sympathetically. While the Mandatory is supreme, it is morally bound to observe the rights and liberties of the community, which should not be invaded except for good reasons. On the other hand it is idle for the community to agitate to cut itself adrift from the rest of the Territory. Situate as the Rehoboth *Gebiet* is in the heart of South-West Africa the interests of the Territory are indissolubly bound up with those of the *Gebiet*. It would be wisdom on the part of the community as well as of those who take upon themselves the onerous duty of advising it to recognise this fundamental fact.

QUESTION 3.

209. I now come to question number 3. It is unnecessary here to recapitulate the unfortunate history of this section of our population in regard to the holding of land. In my opinion there is no doubt whatever that liberty to alienate land to Europeans would inevitably result in the Burghers losing the greater portion, if not the whole, of their land within a comparatively short period of time. As that is a result which, in their own

interests, must be avoided, it is desirable that the alienation of land to Europeans should be prohibited. Mr. Smit, Secretary for South-West, in his evidence stated that the area of the *Gebiet* as demarcated by the Germans was 1,795,000 hectares. Since that time the Burghers had alienated 451,700 hectares—more than one-fourth. In 1905 Boettlin, the District Chief Officer of Rehoboth, pointed out that during the previous seven years the Burghers had alienated no less than 250,000 hectares to white people, about one-sixth of their total possessions and that that did not include land given as a dowry to *Baster* girls marrying white men. At that rate the whole of the *Baster* territory would be lost to the community in less than half a century. Maasdorp in his evidence before the Commission states:—Volgens my ondervinding is dit maar een gevaar vir 'n bruin man om sy grond te vervreem aan een witman. Persoonlik het ek ondervinding opgedaan in Gordonia, Rietfontein en hier. Die witmense is te slim vir ons bruin mense. Net soveel eerlikes as daar onder hulle is net soveel oneerlikes is daar ook onder hulle. Ek het gesien in Gordonia het ons *Basters* as geskenk van Koningin Victoria grond verkry. My vader en ander *Basters*. Destyds mag geen witman oor Grootrivier geboer het nie. Dit was in 1887. Naderhand het die witmense ingekom. Hulle het die vrugbare plase gekoop, die een vir 'n wa, die ander vir een wa met 'n span osse met pampoene daarin. Die ander het 'n paar dop brandewyn gedrink sodat hy self nie wis wat hy daarvoor gekry het nie maar hy is verkoop so het dit gegaan totdat daar die ou mense wat dit gedaan het almal dood was toe gewaar die jong kinders dat die ou mense geen reg had om die grond te verkoop. Toe kla hulle by Goewerment. Vandag is daar amper baie weinig wat nog 'n lappie grond het." (Translation: According to my experience it is dangerous for a coloured man to alienate his ground to a white man. Personally I gained experience in Gordonia, Rietfontein and here. The white men are too clever for us coloured people. Just as many honest people as there are among them, so many dishonest ones there are also among them. I have seen in Gordonia, that our *Basters* received land as a present from Queen Victoria. My father and other *Basters*. At that time no white man was allowed to farm on the other side of Grootriver. This was in 1887. Afterwards the white men came in. They bought the fertile farms, one for a wagon, the other for a wagon containing pumpkins and a team of oxen. Another drank a few dop-brandys so that he did not even know what he received, but his property was sold. Things went on in this manner till all the old people who had done this had died, then the young children discovered that the old people had no right to sell the ground. Then they complained to the Government. To-day there are very few who still own a small piece of land.) At Upington he explains there is to-day only one *Baster* in possession of a small farm of 7,000 morgen.

210. The experience of Mr. Scott, Magistrate of Omaruru, is to the same effect. He says: "The *Baster* Community of the *Gebiet* strike me as being very much the same people as those of or near Kokstad, who migrated from Philippolis in 1860 to what was then known as No Man's Land. They alienated their land to Europeans mainly, with the result that very few of them now-a-days still own farms. I do not know the *Baster* Community of the *Gebiet* very well, but they strike me as being the same kind of people as those of East Griqualand, and I am afraid, that were they permitted to alienate land to Europeans and natives, their fate would probably be the same as that of the Griquas of East Griqualand."

211. Reference to the historical introduction (Sections 77, 80, 81, 85, 86, 87, 91) will show what happened in what is now Griqualand West, in the southern Orange Free State known to the voortrekkers as *Basterland*, in Griqualand East, in Gordonia and in Little Namaqualand at Amandelboom, Schietfontein, de Tuin and at other places. To this may be added what Mr. J. H. Scott, a Magistrate of great experience among them, father of the Magistrate of Omaruru, says in section 90 above. In sections 78 and 79 I have given the opinion of the Rev. Dower, who for years laboured among the Griqua Community at Kokstad, with regard to the character of these people. The opinion of Dr. Eugen Fischer, who for some months lived among the Burghers, may also be given although one cannot agree with it in all respects: "A few observations on the community will be of interest. The community is divided into a distinct upper and lower class. I was not able to determine whether in the days of their white ancestors, the van Wijks, the Moutons, Beukes, Koopmans or Diergaarts were more prominent and respected people than the Vries, Engelbrecht, Orlams or Vrey families, but to-day, at any rate, the first-mentioned call themselves the 'good' the 'old' families and are almost all well-to-do, some of them even wealthy. There are, of course, also poorer and less prominent branches of these families. The fact that these more respected families have a more European appearance than the lower classes is due to the fact that Europeans were more easily attracted towards marriage with their daughters. With an increase of white blood went also greater energy, foresight and efficiency. These families are closely interrelated and they form a closed group. A man of the lower classes could never take a girl of the higher class to wife. They fill the Councils, and even the poorer families in whom the European blood predominates keep in close touch with them. The missionaries as well as the Administration gives this

section its support. The conditions are fairly comparable with those pertaining in the old city-states of Germany. The lower class consists of the poorer people. They live in miserable huts in the more remote parts of the *Gebiet* and many of the families have taken pure Hottentot women, many of them have lost all knowledge of their descent. This party is constantly inclined to dissatisfaction (and often, too, with some reason). It has nothing to lose and often—clearly on account of its racial composition—a smaller degree of foresight and good judgment. During the rebellions of 1904-6 this was the party which thought of joining the rebellious native tribes. The main occupation of the *Basters* is cattle raising. The *Gebiet* is excellent stock country. Originally the entire *Gebiet* was treated as a commonage. In course of time, the plots of ground in the capital became the property of the occupant. The gardenlands along the river were cut up while the remainder of the territory continued to be a commonage. When later considerable alienations of land to Europeans took place—in consideration of debts owed by the *Basters*—the remaining commonage was partitioned amongst the Burghers. The farms were stocked with cattle and horses. In 1912 the *Basters* possessed about 4,600 head of large stock, 3,500 small stock and 500 horses according to their own statements. These figures may be taken as too low in view of the fear of taxation on the part of the *Basters*, and probably 25-30 per cent. more would be a more correct estimate. The well-to-do *Baster* has his *volk*—his servants, who have charge of the herds. These are natives who, with their families, live in dependence on their *Baster* master. In 1912 there were approximately 600 adult Bergdamaras and 460 children, 500 adult Hottentots and 300 children according to the figures supplied to the German Magistrate by the *Basters*. The more well-to-do people live in houses built of stone, the others in round huts. The houses usually consist of two rooms—the *voorkhuis* and the *slaapkamer*, that is, living-room and bedroom. Frequently there is no division into two rooms, but the entire house consists of one room. These houses are built of green bricks and are rectangular in shape. The roof is a simple sloping one, in most cases consisting of reed covered with clay. The floor is of clay plastered with manure. The houses, of course, are all single storied. With regard to the huts, they resemble Hottentot huts in every respect. . . . The *Baster* nation are superior to any pure native race as far as industry and administration is concerned, but they are totally incapable of competing with men of European race. The existence of these people depends altogether upon whether the (German) Government will be able to protect them from their own desires (*Gelüste*) and their lack of forethought (*Sorglosigkeit und Voraussichtsmangel*). Were they to have full freedom of disposal over their land, the right to purchase alcoholic liquor, were they to possess the full legal capacity to buy or sell or to conclude contracts (even nuptial contracts) all their lands and the greater portion of their stock would within a very short time be in the hands of the white people, either sold or pledged to them or squandered to satisfy a momentary appetite. They should, therefore, be granted the measure of protection which as an inferior race they require from us and that only as long as they are useful to us—beyond that open competition or in other words (*Untergang*) submersion. This point of view seems a brutally egoistic one, but whoever studies racial conceptions (*Begriffe*) or the psychology of the *Basters* must arrive at the same conclusion. For the same reasons it proves in their own interests too that they should always be regarded as natives by us. Should the *Basters* be placed on the same level with the white race Hottentot blood would most certainly be absorbed by it. This would be quite unavoidable in the course of time. And though we do not yet know much about the effects of racial intermixture this much is certain that, without exception, every European nation, daughter nations included, which have assimilated the blood of inferior races have paid for this assimilation with spiritual and cultural decline. The fact that there have been halfbreeds of high standing does not contradict this rule. These statements do not refer to the *Baster* people alone but to all halfbreeds. . . . If there is the merest probability or even possibility that *Baster* blood will do harm to the European races without there being a substantial possibility on the other side that its admixture may lead to improvement all and every assimilation must be prevented. This is so clear that any other point of view can only be due to complete ignorance of biological principles. Reference has been made to the Boers and their intense pride of race—it has been said that they have produced no half-breeds at all. The fact is that they kept the Boer race completely pure and brought into existence a nation of half-breeds. But they went so far as to exclude from their communities not only the half-breed children, but even such Boers who were living with coloured women—they would have no further intercourse, no communication with him as he had torn all bonds with his own people. His descendants thereafter were natives from generation to generation.”

212. Entirely different considerations arise when the problem is viewed from the point of view of the Mandated Territory generally. But although, no doubt, there is an undercurrent of feeling that the Burghers of Rehoboth are in possession of fertile land of which they are not making the best use and of which they are not capable of making the best

use, to the credit of the white inhabitants of the Territory be it said no such representations have been made to me. But while alienation of land to Europeans should be prohibited it must be emphasised that the Burghers should be trained to make the best economic use of the magnificent tract of country of which they are in possession in every way. There is of course not the same danger of being ousted by the natives if alienation of land be permitted to them, but I am of opinion that the same prohibition should also apply to the Hereros. The Herero with his greater foresight and habits of thrift would accumulate large herds and would in a short time oust the Burger from the land. The same reasoning does not apply to the Hottentots, but in view of the fact that they have their own reserves in the mandated territory it may perhaps be deemed advisable not to allow them to obtain land in the *Gebiet*.

213. On the question whether Europeans and natives should be permitted to trade or reside within the *Gebiet*, on the whole it appears to me desirable to apply here the system which prevails in the Transkei. The spokesmen of the community admit that there are none of their people sufficiently conversant with trade so as to carry on shops, etc. Permission must, therefore, be given to whites of approved character to carry on the necessary shops, etc., under license, but the German enactment against giving credit, strongly advocated by the Burghers, should be re-introduced. Europeans should only be allowed to reside within the *Gebiet* for purposes approved of by the authorities. That does not apply to land owned by Europeans.

214. As regards natives the same restrictions must apply, certainly to the Hereros for whom their own Reserves have been set apart, and who from the point of view of the tranquility of the aborigines it is best to confine to their own reserves. The problem is more difficult with regard to the Hottentots on account of their close blood relationship in many instances. Amongst the lower classes it might be difficult to distinguish between *Baster* and Hottentot. In the last session of the Union Parliament the Richtersveld, a tract of land of approximately 1,150 square miles in extent in Little Namaqualand, was set aside for the use of the Hottentots and *Basters* who are residing therein and of such other coloured people as the Government may decide. The Berg-Damaras should in my opinion not be prohibited from residing in the *Gebiet*. To a large extent they serve an economic purpose and there is no danger of their ousting the Burgher.

215. I have hitherto viewed the question merely from the one point of view—to secure the Burghers in the possession of the land now occupied by them. But that is obviously not an exhaustive way to look at the problem. With the biological aspect of the matter touched upon by Fischer I do not however propose to deal. But it should be pointed out that unless the rising generation is trained to habits of industry and thrift the community is bound further to deteriorate.

QUESTION I.

216. Major C. N. Manning, Magistrate of Rehoboth, said in his evidence before this Commission, the Burghers never had permanent boundaries until they were demarcated by the Germans. That is correct. What was said by Lord Sumner in the report of the Privy Council in the case of *In re Southern Rhodesia* (1919, A.C., at p. 214) with regard to the position of Umsiligaas and Lobengula, namely, that “both were chiefs or kings not so much of a determinate territory as of their peoples or tribes” appears to me to describe the position of the various captains or chiefs in South-West Africa. The demarcation by the Germans in consultation with the Burghers extended over the period 1894-1909. The Burghers put forward the treaty signed by Kamaharero (Exhibit L.3) as being the title on which they based their claim. But as the report of the Drew Commission, appointed in 1922 to report on the boundary question and consisting of representatives of the Administration as well as a representative of the Burghers, dated 16th May, 1922 (Exhibit D.1) states, the treaty may be evidence of a grant of land to them by the Herero Chief, but it is not evidence of the boundaries of the area which they claim. On 20 October, 1894, the German Governor wrote a letter to the Captain of Rehoboth in which he informed him of the boundaries of the *Gebiet* which the German authorities would provisionally recognise. To this letter was attached a sketch map (Exhibit C). Thereafter various meetings took place between Burgher delegations and German officials between the years 1898 and 1909. There are five protocols of such meetings (Exhibits I, L, M, N, O). The protocols which were signed by the Burgher and German representatives are dated 24th September, 1898; 26th February, 1900; 16th March, 1900; 17th August, 1903, and the 10th February, 1909. Protocol I, ratifies the boundary which was laid down by Acting Governor von Lindequist without consultation with the Captain of the Burghers on the 14th October, 1897. The latter had been invited by the Governor to accompany him upon the inspection of this portion of the boundary, but failed to put in an appearance at the appointed place and time. A protest to the Governor's letter of the 14th October, 1897 (Exhibit E.) was sent by the Captain to the German Emperor on the 15th November,

1897 (Exhibit P.), by whom it was referred to the Governor of South-West, who, in turn, replied to the Captain of the Rehoboth community, through the District Chief Officer, on the 9th August, 1898 (Exhibit F.). It will thus be seen that in spite of the protest of the Rehoboth Captain against the letter of the Acting Governor von Lindequist, he subsequently signed the first protocol (Exhibit I.) ratifying it. The Burghers maintain that the Germans determined the boundaries, and that their signatures were given under compulsion. The boundaries laid down in the five protocols are marked by the red line on the map (Exhibit K.) attached to the Report (Annexure IX).

217. With regard to the larger boundary claimed by the Burghers, *i.e.*, the one demarcated by the blue line on Exhibit K., as early as the 7th January, 1885, Captain Hermanus van Wijk, in a letter (Exhibit A.) to the German Consul Vogelsang, states the boundaries which he claims on behalf of the community. While his western line is approximately the same as that denoted by the blue line on Exhibit K., his eastern boundary runs according to the yellow line on this map, that is, considerably to the west of either the boundary of 1909, or even that of 1923. The Burghers were, however, never able to show how these boundaries had been arrived at. In the investigation which I have conducted, there is nothing to show that Abraham Swartbooi, from whom Hermanus van Wijk is said to have obtained the *Gebiet*, claimed the country as far west as Ururas, or ever exercised sway in those regions. The evidence rather goes to show that the Governor's contention in his letter of the 9th August, 1898 (Exhibit F.) that the Burghers possessed at the time of the conclusion of the Protection Treaty no more than the place Rehoboth and its immediate surroundings—a possession constantly endangered by the wars between the Hottentots and the Hereros in its vicinity, is perhaps not entirely without foundation. However this may be, the negotiations between the German Government and the Burgher *Raad* point to the fact that the Germans were willing to meet the *Raad* in a spirit of compromise, allowing it to have unoccupied land to the east of van Wijk's eastern boundary as claimed by him in 1885, rather than to concede any vague claim on the west of the red boundary, where there were already several farms owned by Europeans, and in an area to which the Germans considered they had a right on the ground that German blood had flowed there. Governor von Lindequist certainly held the opinion that in the matter of boundaries the Burghers had been generously treated. "The Imperial Governor had, after the conclusion of the Witbooi campaign at Rehoboth, in the presence of members of the *Raad* and the Captain, clearly defined the boundaries of the *Gebiet* in general, and decided that minor alterations could be made and the final boundary settled in the near future. The area of the *Baster Gebiet* was already then very great. Taking into consideration the number of inhabitants and cattle they possessed, it was greater than was required. This was done to compensate the *Basters* for their loyalty and assistance given to the German Government in the Witbooi campaign; it was a compensation for cattle and wagons lost and looted by the Witboois."

Within that red line it will be noticed is a green line, the present boundary of the Rehoboth *Gebiet*. The farms lying between the red and the green lines, which are marked red, are farms which have been alienated by the Burghers since 1909. The green line denotes the boundary as fixed by the agreement of 1923.

218. Before the Drew Commission (Exhibit D.1), the Burghers protested against the loss of certain of these farms marked red. Maasdorp, in his evidence before me, mentions the Burgher claim to certain land at Gocheganas. With regard to this farm, the *Raad* submitted the following claim to the Drew Commission according to its minutes: "The farm Gocheganas was sold in August, 1910, to Andries de Wet by the *Raad*; the extent of the farm as sold was 10,000 hectares, and the price 3s. per ha. It has since been ascertained that the extent of this farm after it was surveyed was 10,267 ha., and the *Raad* claims the surplus of 267 hectares. From the records produced, the *Raad* is, however, satisfied that the full amount of the purchase price, with the interest thereon, was paid in respect of the farm, but maintains that some additional land has been fenced in as portion of the farm, and that this land belongs to the *Raad*. It admits that this was done with its knowledge and permission in order to facilitate the fencing of the farm, but upon the understanding that the land in question was to be given up when required. A demand has since been made for this land, but the present possessor refused to give it up. The *Raad* does not know the extent of this land." The finding of the Drew Commission is to the following effect: "After going through the official records relating to this transaction, the *Raad* was satisfied that it had been paid in full for this farm. Regarding the small piece of extra land fenced in by the owner of Gocheganas, it appears that the *Baster Raad* had given verbal permission to the owner to carry the fence over their ground, without, however, surrendering their title to the area so cut off. No record can be found in any of the files regarding this matter, and the position would clearly be that the *Baster* community still has every claim to the ground so cut off. Legally, the *Baster Raad* could claim as the property of the community any portion of the fence erected by the owner

of Gocheganas on their ground. Considering the small extent of the area in question, it is doubtful whether a re-survey of the boundary would warrant the expense." Clearly, upon these facts the community has not lost its right to the area of ground so cut off, and over which it merely granted a permission to erect a fence. With regard to the farm Ibenstein, the Drew Commission found that there were still an amount of six hundred and fifty-three marks seventy-five pfennigs due by Iben, of which five hundred and fifty-eight marks seventy-five pfennigs were due to the *Baster Raad*, and ninety-five marks to the Government.

219. With regard to the debt farms on the eastern boundary, also known as the Lekkerwater farms, according to the Drew Commission report, the Burgher *Raad* admitted that their contention with regard to these farms could not be substantiated. With regard to Isabis, according to the Report of the Drew Commission, the German Government ultimately admitted that ca. 2,300 hectares of the farm Doornboomvlei in the *Gebiet* had been surveyed into the farm Isabis outside of the *Gebiet*, and agreed to compensate the Burghers by paying them the sum of six hundred and ninety marks and giving them ground elsewhere. The Commission found that "the money was never paid, and the ground which the German Government selected for the purpose stated above was that adjoining Heigamas, an area which was then already under dispute. The Commission therefore finds that no compensation has been received by the *Baster* community for the 2,300 hectares in dispute at Isabis, an omission for which the present Administration cannot accept responsibility, and is unable to redress." The minutes of the Drew Commission contain the following entry: "From the records at the disposal of our Commission, it appears that on the recommendation of the *Bezirksamtmann* at Rehoboth, the German Government agreed to settle the question of Isabis by paying over to the *Basters* the sum of six hundred and ninety marks, at the rate of thirty pfennig per hectare, received from Neumann, and further allowing their claim to 3,000 hectares adjoining Heigamas, with permission to sell this piece of land to farmer Riep. It was then clearly stated that the cession of that certain piece of land was made on condition that the *Basters* would not bring forward any further claim in respect of the land Isabis, sold to Neumann." These records, therefore, do not quite bear out the Drew Commission's findings. The German Government did not promise to give the Burghers "ground elsewhere." In addition to paying them the sum of six hundred and ninety marks, the German Government was prepared to renounce whatever right it had to the 3,000 hectares at Heigamas in favour of the Burghers if they, on the other hand, renounced all claims in respect of the usurped land at the farm Isabis. Finally, the Governor forwarded authority to Rehoboth for the payment of the six hundred and ninety marks, and approved of the transfer of the 3,000 ha. near Heigamas, at the same time giving his sanction to the sale of those 3,000 ha. by the *Baster Raad* to farmer Augustus Riep, of Heigamas. The ground was handed over to the Burghers, and sold by the *Raad* to Riep. As a matter of fact, the extent of land handed over to the Burghers and sold to Riep was 3404 ha. and not 3000 ha. Upon these facts it appears that the settlement suggested by the Germans had been accepted by the Burghers and the land handed over to them. As the German records close with the order of the Governor of the 9th April, 1913, to pay over the 690 marks, there is no proof that the money was paid. Maasdoorp also claimed that at Bullspoot there was a portion of land belonging to the Burghers which did not appear on the diagram (Exhibit R.). This diagram, made by Surveyor Voss, and attached to the protocol of the 10th February, 1909, refers to the corner between the beacon Bullspoot and Onis. Upon being shown the map, he stated that he did not claim Onis or Haruchas, he only raised this claim because the corner between the beacons looked so small on the map. This claim is without foundation. The Drew Commission, in its report, recommended to the Administration that the farm Zandputz, in extent 8,877 hectares, be given to the community, and that the Government relinquish all claim to the Government buildings erected and existing on the farms Schlip and Gosoribis in favour of the *Raad*. This was to compensate the Burghers for any mistakes with regard to the boundary. I should like to add that the Drew Commission, after a fair and exhaustive enquiry, issued a most valuable report, with which I entirely agree, except as regards the farm Isabis. The Commission, no doubt in their anxiety to do right by the Burghers, gave the latter the benefit of what was hardly doubtful.

QUESTION 2.

220. Since the German regime, no alteration has been effected in the boundaries and extent of the *Gebiet* as determined and recognised under that regime, excepting in so far as the present Administration gave the Burghers more ground in terms of a promise made by the Administrator when negotiating the agreement of 1923 with them. Wishing "to devise some means of removing the alleged injustice" of a contraction of the boundaries of the *Gebiet*, he offered to acquire, if possible, certain eight farms within the *Gebiet* owned by Europeans, and to present them to the community. Upon signature of the

agreement, the Administration purchased from their European owners at a cost of between seven and eight thousand pounds, and gave to the Burghers, the farms Choaberib, Khos, Chauchab and Achaubmund, together amounting to 38,616 hectares in extent. Further, the Administration attempted to buy out all the owners of the other so-called white islands, but without success. Thereupon, it promised to give the Burghers the farm Zandputz, and further established a trust fund in favour of the community of £8,000. The Administration has had some difficulty in obtaining transfer of the farm Zandputz into its name, but I am informed that is being overcome, and transfer will then be passed to the community.

221. This leaves me with the war claim of the Rehoboth community. When the Burghers rebelled against the Germans in 1915, they were driven into the mountains beyond their western border in the vicinity of Nauchas. Here they were cornered by the German troops, and, had it not been for the rapid advance of General Mackenzie, it would have gone hard with them. On the arrival of the Union troops, the Germans were forced to retire, and the Burghers who had been driven from the *Gebiet* now claimed that their *Gebiet* had been enlarged by Nauchas and the surrounding farms by right of conquest. It is unnecessary to discuss a claim of this character.

222. Attached hereto, marked "X.," "XI.," "XII." and "XIII." respectively are copies of (1) the Treaty of Protection between the German Emperor and the Captain of Rehoboth; (2) the Proclamation of the Administrator of South-West Africa, No. 28 of 1923; (3) latest statistics with regard to South-West Africa and the *Gebiet*, supplied by the Administration of South-West Africa; and (4) a list of books and papers which have been consulted in conducting this enquiry.

223. I wish to take this opportunity of thanking the following gentlemen for valuable assistance rendered, viz., the Chief Archivist for the Union, Mr. C. G. Botha; and the Librarian of Parliament, Mr. P. Ribbink; the Assistant Librarian, Mr. Zahn; and Mr. C. A. Lloyd, Librarian of the S.A. Public Library, Cape Town; also Mr. J. G. Gubbins, of Malmani Oog, Transvaal; and the Rev. C. H. Hahn, of Gordon's Bay, the son of the late Rev. Dr. Hugo Hahn; Dr. L. Fourie, Medical Officer of the South West Africa Administration; Mr. H. Kreft, Director of Education, Windhoek; Dr. C. Frey, of the S.W.A. Education Department; Messrs. Schad and Cordes, Mayor and Town Clerk of Swakopmund; finally, Mr. S. H. Coates Palgrave, Salisbury, the son of Mr. W. Coates Palgrave, who furnished the Commission with the latter's copy of his report of 1877 on South-West Africa, with the author's valuable annotations in his own handwriting, as well as several gentlemen with long experience of the Burghers.

224. The work of your Commission was greatly facilitated and expedited by the assiduous attention displayed by the Secretary to the Commission, Mr. P. Bruchhausen, to whom writing the historical introduction was a labour of love. I also wish to express my thanks and appreciation of the ever-ready and valuable assistance rendered me by Mr. Henry Werdmuller.

JACOB DE VILLIERS,
Commissioner.

P. BRUCHHAUSEN,
Secretary.

Bloemfontein, 20th September, 1926.

Translation from Dutch.

ANNEXURE I.

MEETING OF OUR CAPTAINS ON THE 9TH JANUARY, 1858. ON THE FARM "HAA-NI."

Article 1.

We undersigned have decided to bind ourselves by the following treaty in the name of the Holy Trinity, the Father and the Son and the Holy Ghost. The Chief with his people will have the right when there is strife between him and another Chief, who is Great, to defend himself, but he will be compelled to place their case which they have before impartial Chiefs.

Article 2.

And, when the case has been heard by the impartial Chiefs, then the guilty party will have to be punished or a fine must be laid on him, and if he is unwilling to comply; and seeks to defend himself by force of arms, then all the Treaty Chiefs will be compelled to take arms against the guilty one and to punish him.

Article 3.

No Chief is allowed to send a Commando or allow one to be sent to the Damaras, without legitimate cause from the Damaras. When he wishes to punish them and imposes punishment on them and they are unwilling to bow thereunder and the Chief is incapable of punishing them, then the nearest Chief will be compelled to assist this Chief to deal out punishment.

Article 4.

No Chief shall permit a Petty Chief or Corporal, without the knowledge of the Chief, to dispose of big cases. No man shall have the right, when something is due to him, to take it himself.

Article 5.

No chief shall allow copper to be mined in his territory, without the knowledge and concurrence of all the Chiefs, or to sell his territory veld or farm to a white man from the Colony. He who does this will be punished with a big and heavy fine and the purchaser will have to suffer the loss, if he was acquainted with these laws beforehand.

Article 6.

We also resolve to enter upon our bond and treaty with all Griqua Chiefs when they need us in a big war which affects the country, that we will be ready to come to their assistance.

Article 7.

We the undersigned Chiefs also resolve that when anybody comes from Griqualand as a fugitive to hide himself in this country, and when his Chief makes an application, he will be given up by that Chief in whose area he is found, also the same responsibility will rest with the Griqua Chiefs.

Article 8.

The Chief who merely on rumour, prepares himself with arms without obtaining written proof thereof, will be punished heavily by a heavy fine imposed by the other Chiefs.

Article 9.

No Chief in these areas will have the right to settle murder cases by himself, and to execute the guilty person; it must be done with the concurrence and in the presence of two or three impartial Chiefs who will together bring the case to judgment and execution.

Article 10.

It is also stipulated that each year a certain month will be agreed upon, the month and the date when a general meeting will be held at the Assembly of all Chiefs with their Councillors, to consult for the welfare of the country and people.

Article 11.

A Burgher, when he is brought before his Chief, or Judge, on his own complaint, and he sees or thinks that he has been done an injustice, will have the right to bring the matter before the other Treaty Chiefs and he will have to be heard about his case, when he is dissatisfied, and when the impartial Chiefs find that an injustice has been done him, then they will have to give him justice, but if he is wrong then he will have to be satisfied.

Article 12.

When a Chief or Chiefs have ill-treated a burgher, or do him injustice with force to his stock or something else, which is not right, then such a burgher has a right to take

his case to the Treaty Chiefs. His case will have to be investigated, and if it is found at the enquiry that the Chief is guilty, the Chief will have to be punished after the Treaty Chiefs have assessed his guilt.

Discussed and agreed to, unanimously adopted by our Chiefs.

First.	Cornelus Oasebit.
Second.	Kanabi Willem Zwaartboy.
Third.	Jager x Aimabit.
Fourth.	Gariieb x
Fifth.	Hendreks Hendreks.
Sixth.	Piet Koper x
Seventh.	Coiedo x Witboy.
Eighth.	Ambral x Lambert.
Ninth.	Jonker Afriekaner.
Tenth.	Davied x Chriesjan.
Eleventh.	Paul Goljad.

ANNEXURE. II.

Captain Adam Kok to receive a commission as Justice of the Peace for such territory, and for the present to administer justice among his own people, under the laws, rules and regulations now enforced in Griqualand. It being intended by this arrangement that whilst all the powers Captain Adam Kok possesses for controlling his people and punishing offences should be maintained, he should, in addition thereto, receive all powers which a Justice of the Peace possesses within the Colony of the Cape of Good Hope. The Griquas to subdivide amongst themselves the lands they are thus to occupy.

Surveys are to be made of the several farms assigned to the Griquas, as soon as the proprietor of such farms may find it convenient to pay for the cost of survey.

The High Commissioner is to guarantee possession of each such farm to its occupant against all British subjects as fully and securely as if it were held under grant from the Crown, and to issue titles to this effect as soon as the surveys have been completed.

Quitrents to be paid on the same principles as in British Kaffraria, say about £5 per annum for an ordinary farm in the country to be occupied by the Griquas.

The same fees for licenses, &c., to be paid as in the Colony of the Cape of Good Hope.

All sums thus raised within the territory occupied by the Griquas to be expended exclusively in defraying the expenses of administration or in the improvement of that tract of country. Colonial Office 1 August, 1860.

Translation from Dutch.

ANNEXURE III.

CONGREGATIONAL ORDINANCE OF THE KOMMEGGAS INSTITUTE.

GENERAL PROVISIONS.

Arts. 1—8 of the original document deleted.

§1. The Missionary Institute. The object of Kommeeggas is to establish an Evangelic Christian Congregation amongst the heathen which will under this name connect itself with the League of Evangelic Congregations in Germany, and associate itself, in detail, with the basic principles of the Evangelic Churches.

§2. To this congregation are affiliated the clergymen and helpers sent out by the Rhenish Missionary Society, as also those of the heathen who have been baptised and not since excluded.

§3. All unbaptised persons, who live at the Institute, shall in all external things be on an equal footing with the baptised ones, as members of a Burger community.

§4. All inhabitants of the Institute shall, in accordance with the basic principles of Christianity as taught by the Holy Gospel, consider themselves subject to all human laws. As faithful and obedient subjects, they shall willingly obey the laws of the country, and respect and carry out the decisions of the authorities.

§5. As the Government has granted this area for the purpose of a Missionary Institute in order that the people may be educated, it is the duty of every inhabitant duly to send the children to school. It is also the duty of everyone not to neglect unduly the religious public services. Children shall be sent to school as soon as they have attained the age of seven years.

§6. Parents who have been baptised shall also have their little children baptised during the first weeks after birth. This shall also take place in cases where only one of

the parents has been baptised. Parents who have not been baptised shall nevertheless report the birth of each child to the clergyman. This shall also be done in all cases of death of the children.

§7. If adults desire to be baptised, they shall in the first place for some length of time receive instruction in regard to the basic truths of Christianity. They shall also, even after the baptismal, receive further instruction, and shall then be admitted to the celebration of Holy Communion.

§8. Our Evangelic Church recognizes marriage as a divine institution of God, which at the same time, is of great benefit to the order and wellbeing of society, and consequently all christian members shall, at the commencement of the marriage, be consecrated in a christianlike manner. The Government also expects the unbaptised legally to enter into marriage, and accordingly no one may live on the Institute in a savage state of co-habitation.

§9. All inhabitants of this Institute shall live in peace and harmony with each other and shall not give offence. Should anyone have a complaint against another, he shall lay his complaint before the Ruling Body of the Congregation, which shall take steps to settle the unpleasantness and to establish a brotherly feeling. The Ruling Body shall sit for this purpose once every month on the last Monday, or as often as it shall be necessary.

§10. All inhabitants shall share equally in the general labour and liabilities, for example, in the construction of Congregational Buildings, maintenance of the Cemetery, planning and maintenance of common irrigation works or dams, road-construction, etc.

§11. The leadership or government of the Institute is named the Ruling Body, which consists of: (a) the clergyman, who as the Superintendent of the place, is also at all times Chairman when the Ruling Body meets. He shall lay before the Ruling Body plans for congregational works, etc., and all decisions shall be subject to his approval. (b) Two or three elders, who shall assist the Clergyman in his care of the souls of the Congregation and who shall pay attention to the behaviour of the Congregation and other inhabitants of the Institute, reminding them if necessary and rebuking them by means of words. (c) So many Corporals as shall be deemed necessary, who shall have the supervision of all external affairs.

§12. The whole of the Ruling Body shall carry out the following duties:—(a) It shall watch the conduct of all inhabitants of the Institute in order to preserve the order of the Church and the Community. (b) It shall settle disputes which any of the members cannot adjust. (c) It pronounces its sentence over the transgressors of the Institute laws. (d) It controls ground for gardens and lands, and if anyone desires to build houses, it will point out the ground for that purpose.

§13. Transgressors of the laws shall for the first offence be severely reprimanded, for the second offence a fine shall be imposed, and for the third offence they shall lose all their right to the veld and the farm.

Special Provisions.

§14. All the water on the farm shall be opened up and kept clean communally. Every year, during the first week in October, the dams and furrows shall be cleaned. For this purpose labourers shall be detailed by the corporals

§15. Turns for irrigating the lands will be so divided by the Corporals that everyone will receive an equal share of the water to irrigate his garden. Where more than one person leads water out of the same dam, the times will have to be regulated in such a manner that each one receives a turn.

§16. No one shall have the right to appropriate ground for gardening wherever he desires. The Ruling Body shall distribute all gardening ground, for which purpose it shall meet during the month of August on a timely appointed day when all those who desire ground for gardening purposes shall apply. Those who already possess gardening ground shall retain the same, but should any person possess more ground than he can cultivate, he shall share with those of his children who do not already possess ground, or with such persons in the Congregation who are still without gardening ground.

§17. If after three years a person has not cultivated his ground, the Ruling Body shall in the fourth year hand it over to others who do not already possess gardening ground.

§18. The fences round the gardens shall be 3 feet in height. The Corporals shall inspect each fence twice every year to ascertain if the height is according to requirements and shall then have it entered as correct by the Clergyman. Only for such gardens as have fences which have been entered as correct can compensation be obtained for damage caused by cattle or horses. All other possessors of gardens who have not caused their fences to be registered as correct will only have themselves to blame if any damage is suffered by them. Those who are in a position to do so, shall as soon as possible build stone walls, which will then be permanent.

§19. Goats shall not be kept on the farm amongst the gardens, nor untethered horses. Milch cows shall be tied up during the night and during the day they shall be driven into the veld. Only team horses and calves shall be allowed to run in the valley.

§20. Each year during the month of September the Corporals shall see that a dam is made in the Kommeggas-river at the fountain for the watering of horses and cattle.

§21. The water on the mountains shall be opened up communally. Corporals shall commandeer men for this purpose during the month of January, or as often as it shall be deemed necessary.

§22. The Corporals shall see that a communal herd is appointed for the milch cows on the farm, and if a herd is not procurable, the Corporal shall commandeer a man every week from among persons possessing cows. Such person shall herd all cows for one week, and the following week another such person.

§23. No one shall appropriate corn lands wherever he desires. All corn lands shall be distributed by the Corporals who will appoint one or two days during the months of February for that purpose and all persons who desire to have corn lands shall apply to them.

§24. Early sowing shall be encouraged. Those who sow late are warned to make sure that their oxen do not damage the crops of others. All damage must be compensated. The horses and cattle of those who refuse to pay shall be taken to the pound.

§25. The land overseers shall be on their farms as soon as the ploughing is finished. If there are no land overseers available, the Corporals will act in the same manner as above stated in connection with the herding of the milch cows *i.e.*, every week one of those who have sown shall be commandeered for the purpose.

§26. Every person shall endeavour to complete the threshing of corn by the 10th of February. He who has not finished by that date shall guard his stack as the cattle can then be let loose at night and no compensation will be paid.

§27. After the ploughing season the Ruling Body shall determine which veld shall be used during the rainy season and which shall be reserved for the dry season.

§28. Only those who have signed this Congregational Ordinance shall be regarded as inhabitants of Kommeeggas. He who refuses to sign shall forfeit his right to plough and also to the garden land. Persistence in such refusal shall result in his cattle being impounded as he shall no longer be an inhabitant of the farm.

§29. All former inhabitants of the farm who have been absent for longer than one year, shall be allowed to return, but they shall only be regarded as inhabitants when they have signed their names on the Congregational Ordinance.

§30. He who has been absent from the farm for one year and who has remained in the veld only so that his children could not attend school, shall be called upon by the Ruling Body to return during the second year. If he does not return, a further period of one year shall be given him, but if he does not return during the third year, he shall forfeit all his rights to the farm and the veld.

§31. If the Ruling Body shall consider it necessary to make further laws than are herein contained, it shall, as the legislative body of the Institute, have the right to make such special laws. At least 23 of the Ruling Body shall, however, be present at a permanent decision and the Corporals shall then inform the whole Congregation of the existence of such laws. Should the Congregational Ruling Body not agree in regard to any one case, and if the majority of the voters of the Ruling Body are in favour thereof, a Congregational meeting shall be held accordingly.

§32. In connection with labour of a general nature, which has to be performed, the Ruling Body may also, if necessary, levy a tax on any legal inhabitant, which shall be paid by him on the stipulated date.

§33. For the admission of a new inhabitant to the Institute, a Congregational meeting shall be held. The Ruling Body by itself shall not have the right to admit any one as an inhabitant.

§34. By reason of the fact that such a newly admitted inhabitant will find many things for which the old inhabitants have paid or laboured, it is not more than right that he should contribute his share therein by means of a certain sum of money, to be determined in each case by the Council of the Congregation. This shall also apply to the old inhabitants who, after being absent for many years, return and find that in the meantime many improvements have been made at considerable expense.

§35. Girls of the Institute, who marry a man who does not belong to the Institute, shall follow him to his place of abode as he does not by virtue of the marriage possess any right in the farm and the veld, unless the Congregation accepts him.

§36. No inhabitant of the Institute shall have the right to sell, let or give away without rent, the ground he cultivates or his house whether the whole or any portion thereof to any strangers who do not belong to the farm without first consulting the Ruling Body and obtaining its approval.

§37. In order that the Corporals may carry out their duties more efficiently every legal inhabitant shall pay to them Rds. 1 yearly, or so much as the Congregation may decide later. The Clergymen are exempt from this and other similar taxes.

§38. The Corporals and members of the Ruling Body shall be elected by the Congregation yearly. Sitting members can be re-elected.

X Mark of Adam Fortuin.

„ Piet Cloete Gert's son.

„ Gert Cloete sen.

„ Nero Nero.

[U.G. 41—'26.]

X Mark of Piet Cloete Willem's son.

„ Andreas Ruiters.

„ Tanob Danielson sen.

„ Claas Cloete Claas' son.

X Mark of Willem Booisen.

„ April Fortuin sen.
 „ Piet Cloet Jan's son.
 „ Carolus.
 „ Adam Booisen.
 „ Adoniss Wilsehuit.
 „ Louis Andrew.
 „ Kobus Cloete Claas' son.
 „ Josef Cloete.
 „ Willem Nero.
 „ Ruiter Ruiter.
 „ Jantje Magermaan.
 „ Willem Cloete.
 „ F. L. G. Bam.
 „ April Fortuin jun.
 „ Jacob Cloete Willem's son.
 „ Gert Damon.
 „ Luis Fortuin.
 „ Jantje Ruiter sen.
 „ Paul Booi Adam's son.
 „ Nicolaas Cloete Kobus son.
 „ Willem Cloete K. Claas' son.
 „ Petrus Bam.
 „ Claas Fortuin.
 „ Jantje Ruiters jun.
 „ Jantje Ruiters.
 „ Andreas Nero.
 „ Joseph Cloete Gert Kortus' son.
 „ Gert Fortuin.
 „ Jan Cloete Gert Kortas' son.
 „ Claas Cloete sen.
 „ Jacob Danielson jun.
 „ Jasper Cloete oude Claas' son.
 „ Gert Cloete Claas' son.
 „ Claas Cloete Willem's son.
 „ Piet Cloete Jakobus' son.
 „ Jan Booi Andries' son.
 „ Joseph Cloete son of Piet Cloete.

X Mark of Gert Cloete Gert Kartas' son.

„ Jasper Cloete Gert Kartas' son.
 „ Willem Cloete Gert Kartas' son.
 „ Hans Cloete Gert Kartas' son.
 „ Piet Cloete Kobus' son.
 „ Kobus Cloete Kartas.
 „ Andries Cloete Kartas.
 „ Johannes Damon.
 „ Jan Cloete.
 „ Piet Cloete Piet Karie's son.
 „ Jacob Cloete Moses.
 „ Piet Cloete oude Claas' son.
 „ Paul de Klerk.
 „ Willem Cloete oude Kantos' son.
 „ Gert Cloete (Koster) Jan's son.
 „ Daniel Adonis.
 „ Gert Cloete Kobus' son.
 „ Gert Cloete Willem's son.
 „ Gert Cloete.
 „ Jakob Cloete Kobus' son.
 „ Willem Cloete Kobus' son.
 „ Hendrik Smit.
 „ Jan Jantjes.
 „ Willem de Klerk.
 „ Jan Jubert.
 „ Frederick Fortuin.
 „ Jan Cloete Kostjes' son.
 „ Jan Williams.
 „ Frederick Okers.
 „ Piet Cloete Jan's son.
 „ Jan Cloete (Hib.) Pietje's son.
 „ Jacob Cloete (Hib.)
 „ Jakob Cloete (Hib.)
 „ Hans Diergaardt.
 „ Jan Cloete (Hib.) sen.
 „ Claas Gertze.
 „ Tantie Cloete (Hib.)
 „ Kobus Cloete.

REGULATIONS

in connection with payment for gardens and lands, with a view to the better maintenance of the farm.

1. Every man who has a garden on the farm shall pay 10 shillings yearly. He who has two gardens shall pay 20 shillings.
2. Every man who has lands, shall pay for every piece of land on which he sows half a muid of seed, 5 shillings, for one muid 10 shillings and so on.
3. Every man who refuses to pay this sum shall not be permitted to work his ground the following year. At the instance of the Attorney-General, if he does not pay after he has been prohibited by the Council of the Congregation from working his ground, and continues to work same, the name of such a person shall be reported to the . . . (?) and such person shall then be deprived of all his rights by the Governing Authority, including any erf or lands on the farm.
4. The Council of the Congregation shall from among themselves elect a Treasurer, who shall receive the money yearly, pay the labourers and submit an account of all revenue and expenditure to the Council of the Congregation every month.
5. The Council of the Congregation shall at its monthly meetings decide which work shall be done first, and appoint one or several persons to see that the work is executed properly and with the least expense.
6. The Council of the Congregation shall render yearly to the Congregation a report of the work done and of revenue and expenditure.

The Council of the Congregation.

Kommaggas,
12th August, 1857.

These regulations have been approved by his Excellency the Governor and the Attorney-General and regarded as "very good."

ANNEXURE IV.

HENDRIK WITBOOI, JOURNAL, FOL. 209-218.

Hoornkraus,
9th June, 1892.*Words of the Imperial German Commissioner, Captain, with Captain Hendrik Witbooi at Hoornkraus.*

1. Speech of Commissioner, Captain: I hear many things about you from the white men and also from the Bastards to the effect that you return to all white men and Bastards who have no share in this war all their belongings, when they come and ask you. I am indeed very glad to hear of your friendly and just deeds, and of the good sense you have shown in that you do not desire to wrong, or cause damage to any one with whom you have nothing to do in this war. Some people, however, also tell the German Government the untruth that you only return a portion of their belongings and that you retain a portion for yourself. The Government has therefore asked me and I have written in reply saying that it is a lie and that you return everything which the owners see and recognise. But regarding the Damaras many complaints are heard about their unfair and unwise attitude towards white people and when these complaints reached the Government, the Government asked me what was to be done and what I thought the best advice and plan or the best remedy would be in the circumstances. So I have written the Government stating that I would first go to Captain Hendrik Witbooi and speak to him. I have accordingly come to you to speak with you. I have come to you as a friend to give you good advice and to ask you whether you do not want to act in a similar manner to all other chiefs in the country, because I think that that would be the best for you at the present time, namely to place yourself under German protection as other chiefs have done. In the next ship a great many European people are coming, and these people must be protected, and then the German Government will be obliged to protect all those who have placed themselves under its protection. It cannot protect the one and not the other.

2. Captain replied, H.W.: Yes, I have heard about your coming and intentions, but I am now sick and some of my big men are not here, but about the absence of the men I say nothing. This does not hinder me, but I am afraid that you will not understand correctly my replies and the questions which I want to ask, firstly, are you people sent by the German Emperor?

3. Commissioner Captain's reply: Yes, we are sent by the German Government. D. Goering has been sent, but I am now the substitute of D. Goering and have also my office.

4. Captain's reply: Secondly, I ask, what is protection and against what will we be protected. From what danger or trouble or distress is one chief protected against another chief?

5. Commissioner Captain's reply: Against the Boers and other strong nations who want to force their way into the country and live and work where they desire, without asking the permission of the country's chiefs. During my trek hither I have met Boers who are already advancing and who desire to come in on the side of Willem Christiaan, but because they are aware that this country is already under German protection, they have no right or power to come in, but Captain must correctly understand, the chiefs will not be deprived of their rights. They will retain their rights and laws. The Captain will personally punish his people, just as the Rehoboth Chief is doing.

6. Captain's reply: My opinion is this: It seems to me strange and impossible, and I cannot understand it. The duty of an independent Chief, who governs his own people and country is to protect them personally against any danger or disaster which may threaten to harm them. For this reason the kingdoms have been separated, and each Chief has his own people and land to govern. When one Chief is subordinate to another, the former is not independent and master of himself or his people and country because he is subordinate; all who are subordinate are merely subjects of the one who protects them, because he holds the upper position, and he who holds the upper position is the lord and master and chief of everything. I do not therefore see how it can possibly be argued that the chief who submits himself to another is an independent chief who can do as he pleases. Africa is a country which belongs to our red chiefs and when danger threatens a chief and he feels that he is not in a position to combat that danger singlehanded, then he can call his fellow brother or brothers, the red chiefs, and say to them—come brother or brothers, let us defend our country, Africa, and ward off this danger which threatens to force itself into our country, because we are of the same colour and characteristics. This Africa, as a whole, is the country of our red chiefs and our different kingdoms are but a trifling subdivision of one Africa.

7. Commissioner Captain's reply: Yes, what the Captain has said is true and right. Neither do I desire to stand under another chief but you must understand, Captain, that you are not compelled to go in for this protection. It is left to the Captain's free will and

choice to accept it or not, but you should take into account, Captain, that although you may have brave warriors, of what use are they when you are not equipped with ammunition when the other side is so equipped and shoots you with bullets while your men take the rifle by the barrel and hit with the butt-end, that you can surely not do. For the German Government has attributed this unending war to the English Government's allowing the free importation into this country of rifles and ammunition. The mighty nations of the world have accordingly considered what the best method and remedy would be to put an end to this unending war. These nations, German, English, Russian, French, Spanish, Italian, have agreed completely to stop the importation into this country of arms and ammunition. In that case the people will not be able to secure arms, and war will cease, because war disturbs and retards everything, it prevents freedom, it disturbs labour and commerce.

8. Captain's reply: I entirely disapprove of the work and plans of your great men. I do not call that right because it is on account of the "stopping" of your great men that the war has lasted such a long time. I do not get enough ammunition to carry on the war as I would like to carry it on and I look upon arms and ammunition quite differently to what you do. You white people have knowledge and sense to make things which are necessary for our human existence, but I consider that arms and ammunition are free things for common use and you people cannot appropriate them for yourselves only and make prohibitive laws thereon. Let the arms and ammunition come freely into the country, because arms and ammunition are indispensable to us in this life, we live on game which arms and ammunition enable us to secure, and men have to defend themselves against men, and also against wild animals. It is necessary when one has to sleep alone on the veld. It is necessary on the farm, homestead and land. Secondly: God has given you the ability and sense to make arms and ammunition with which to perform His great work. Through sin, He has instituted war on earth to punish the sins and unrighteousness of a nation and the sins and unrighteousness of a nation cannot be punished by means of a sjambek. In this manner the Lord uses one nation to punish another and provides the arms and ammunition as a scourge. To me it does not seem right, therefore, that you should stop arms and ammunition. I consider arms and ammunition to be as free as rain, because the rain falls where and when it likes, on any land or person, and nobody ever prevents or stops it. Your contention is that by prohibiting ammunition you have done the right thing and that we will make peace as a result thereof. The action taken by you has never appeared to me as a correct and sound one. It seems to me that the action of a person who stops ammunition is similar to that of a person who prevents another from drinking water. You are foreigners who have been in this country for a short time only and during that short time you have already experienced the inequitable mode of living and methods of the Damara nation because you have yourself said that many complaints about their mischievous doings have already reached you. He is a murderer, he kills and devours the people, so by rights all we red chiefs should rise and punish him until he is brought to a true conception of truth and righteousness. But now you are stopping the ammunition and by so doing, you say that peace will come, but it appears to me as if you are covering up the unrighteousness which is still taking place with a blanket when it is still unbroken. I am satisfied in my own ignorant mind that it is best that you should set the ammunition free. Permit the ammunition to come freely into the country as before through the merchants so that anyone who has the money can purchase it in order that the two chiefs who are at war may obtain sufficient to fight to a finish. Not until one or the other of them has been brought to a true conception of truth and righteousness and has divested himself of the vice for which he is being punished, will a genuine, healthy and lasting peace be achieved.

9. Commissioner Captain's reply: I think that the Captain should now make peace considering that on the last occasion he dealt the Damaras a good blow. I am extremely glad about it because the war disturbs and impedes everything, it impedes free life, labour, commerce and intercourse. If the Damaras should still do something mischievous to the Captain, after he has made peace, then the German Government will prevent it, and this will not last as long as Captain's war. In a fortnight the whole thing will be finished. With regard to the ammunition, I may say that in our country no one is given a rifle to go about with freely, because there it is not necessary for anyone to protect himself with a rifle. The Government has taken the entire protection upon itself and therefore no one need fear any danger against which to protect himself with rifle and ammunition. Ammunition was only invented in modern times. Formerly the people used bow and arrow and the assegaai. Human life does not therefore depend on ammunition only. In this country ammunition is used in a wicked and unwise manner, because people murder one another.

10. Captain's reply: We are different people and also have different laws and ways of living, and different countries. Each Chief lives with his people in accordance with his law and his country's circumstances. We cannot therefore deprive our people of their rifles so that they must live without them, and the people who formerly lived with bow and arrow and the assegaai, did not have arms and ammunition in their days, therefore they lived in that way, but we are modern people and live in the time of ammunition.

It does not happen every day that one murders the other with ammunition, nor is it done in a cold-blooded manner. It is not done by everybody either. It happens perhaps once a year and very seldom in cases where, through some misunderstanding, one becomes angry with another. It is therefore not a usual occurrence.

11. Commissioner Captain's reply: Even if the Captain should now decide to avail himself of protection, and make peace, it would perhaps be difficult for him as he does not possess sufficient provisions for his people. What he has at present is perhaps sufficient for purposes of war, but not for the purpose of starting farming operations. The Captain need not, however, worry about that. The German Government will see to that. The Captain need only ask for a certain sum of money, to be paid yearly, and he can also let me have some of his people for labour purposes. They will earn something and will be able to live. Well, Captain, the cart has arrived and I must now go.

That was the end of the entire interview.

Translation from Dutch.

ANNEXURE V.

HENDRIK WITBOOL—JOURNAL FOL. 140-142.

Hornkrams, 29 May, 1890.

Well, my dear reverend Mr. D. Goering, I have received your letter and have noted what your honour has said, but, dear sir, your letter has greatly surprised me because your honour speaks of very great, difficult and momentous matters, but I would nevertheless, in spite of the importance of those matters have tried my best to give you a definite and satisfactory reply were it not for the fact that you have left me no opportunity on any point for doing so in a straightforward manner. You have not addressed, or put a request to me as an impartial peacemaker, but you have bluntly ordered what I should do. Consequently your honour must not on this occasion expect an adequate reply from me. I am going to say something in regard to merely four points. In the first place I cannot understand the depth of your purpose, and what actually your intentions are in this matter. To me it is very deep and unintelligible. I cannot understand it at all because it is new and strange to me. I will not, therefore, go deeper into it at present.

In the second place I think that your honour has already heard enough from reliable people, red and even white people, who have already lived for a long time among the Damaras—because you have yourself lived and sojourned among them for several years, and will have personally noted and experienced the fact that the Damaras are undoubtedly murderers who do not permit any person whom they find alone in the veld to live. Whenever he sees anyone alone in the veld, he immediately plans to murder him innocently and without reason. In the veld or on the homestead, whether he is guilty or not, irrespective of person he murders, whether man or woman, child or servant, whether red or white. Such well known murderers the Damaras are. In a similar manner he also murdered my women and children last year as your honour will perhaps have heard, and in order to bring these inhuman Damaras to a true conception of truth, righteousness and piety, God has perhaps ordained this scourge of war for them. Now you interpose and take this nation under your protection, perhaps before God has achieved his purpose. Consequently I stand amazed once more at this point, and will not say anything further in connection therewith as you have taken it upon yourself. In the third place, your honour has not allowed me an opportunity to express my personal and free opinion. You have not asked me for, nor given me any, advice, but have simply ordered what I should do. Again I stand amazed at this point and will not say anything further. In the fourth place, your honour has intimated that I must return to Gibeon, but, my dear sir, I ask you kindly not to misunderstand me in regard to this last point, and please do not take offence or be annoyed as I assure you I do not mean to offend or annoy you, but I must be truthful, myself according to my light. When I moved from Gibeon nobody advised me to move from that place, as I know in what manner I moved from Gibeon, and accordingly I shall also know in what manner I shall return to Gibeon. As nobody, therefore, advised me to move from Gibeon, so shall nobody advise me to return to Gibeon. I do not say this, dear sir, in a spirit of conceit or opposition or from my own human strength. That I hope your honour will fully understand, because I cannot say anything differently to what the case appears to me. Hoping that your honour will thoughtfully consider the matter in order that we may understand each other well and continue to live with each other in that spirit, I close my letter with the best greetings to you all.

I remain,

Your friend and Captain,

HENDRIK WITBOOL.

Hornkrans, 30 May, 1890.

Well beloved Captain Maharero Tsumaua.

To you, Supreme Chief of Damaraland, I write this letter because I have received a letter from D. Goering, from which I have gathered many great things, and in these things I have seen the necessity for writing to you. I have noted, and understand from that letter of D. Goering that you have placed yourself under German protection, and that D. Goering has for that reason received the rightful authority to command and order within his right in connection with our country's circumstances, and also in connection with the war which has been in existence between us from olden times. I am therefore surprised and blame you to a great extent because you call yourself Supreme Chief of Damaraland, which is quite true, because this dry country is called by two names only, namely Damaraland and Namaland, that is to say, Damaraland belongs solely to the Herero nation, which consists of an independent kingdom in its country; Namaland belongs to the red nations only, which also consists of independent kingdoms, and the same is said of the white people's countries, Germany and England, etc. These are overseas countries, and they are also independent kingdoms. All the different peoples have their own chiefs, and each chief has his own people and country over which he alone commands and orders. No other person or Captain has the right to exercise authority over him or to order him to do or not to do a thing for every chief on this earth is but a representative of our Almighty God, and is responsible only to that great God, the King of all Kings, and Master of all Masters, before whom all we who live under the Heavens shall bend our knees and ask for help, advice and comfort, power and protection in all difficult vicissitudes of this life because He gives willingly only to those who pray to Him for it. But, dear Captain, you have now accepted another Government, and surrendered to that Government to be protected by this temporal Government against all dangers, first and foremost against me in this war which has existed between us from olden times—to be protected and assisted therein by the German Government. But, dear Captain, do you know what you have done and for whom you have done it? Have other people advised you, or did you do it by your own independent, enlightened free will? Perhaps in your heart you saw me alone standing for your whole life as an obstacle and stumbling block. Now you must destroy this powerful man. That is perhaps already your aim for acting so, but it is very difficult to say and to know for sure that you will succeed or not, and it seems to me that you have not looked at the matter sufficiently from your own point of view for the sake of your country and people and the coming generations, nor for the sake of your Captain. You are under the impression that you will retain all these things as an independent Captain after you have succeeded, as you intend, in destroying me, but, dear Captain, you will eventually regret very severely, and you will always regret, having given up your country and governing rights to the white people, because this war of ours is not so serious and difficult as to justify the great step you have taken, because our war is carried on on certain principles and for certain reasons. This war will eventually end in a genuine peace through the will and guidance of the Lord in His time, and when He has achieved His purpose. As you are aware, this war is not illegal, nor is it without a cause, but that it was caused by your unrighteous deeds and by the murderous hearts which you have possessed from olden times until to-day, and which will not even be changed by the continued preaching of the Gospel; and through the fact that you did not allow anyone whom you found alone in the veld to live, but that you immediately planned to murder him without cause or reason. To kill anyone in a war is justified, but even in this respect you go too far, in that your people in an inhuman manner chop people to bits with axes, and cut the throats of living people, and exhume dead bodies which had been buried for a long time, kill women and children as you killed my women and children last year during my absence. In this manner you kill whom you find, whether woman or child, or servant, whether red or white, whether Bastard or Mountain Damara, whether he is guilty or not. You do not regard any person as a creature of God. For this reason has God made the commandment "Thou shalt not kill," and this is the commandment which is taught to us all by the Gospel, but all this is nothing to you. Only recently, since your Peace Treaty, you murdered an innocent man, Herm. van Wijk, and this temperament of yours caused this war. The Lord has again resorted to the medium of war with the object of seeing whether he cannot, perhaps, reform you and bring you to a true conception of truth, righteousness and piety in order that you may regard a human being as a human being, but in spite of all this I still have hopes that this war of ours will come to an end, and result in peace. But this action of yours, this giving of yourself over to the Government of the white people; if you think that you have acted wisely, and planned well, then I say it will be like carrying the sun on your back. I do not know whether you have sufficiently studied and understand this business of German protection. I do not know whether you and your Herero nation will understand the ways, laws and actions of the Government, and how long you will tolerate them with security and peace,

because you will not understand, and not be satisfied with, the actions of Goering. He will not act according to your desires and habits, but then it will be too late for you because you have already given him full rights and he will not submit to you any longer, nor will you submit to him, but it will not help you because you have already placed yourself in his power. I know that Dr. Goering and you are of different nationalities, and that you have not been the best of friends since olden times, but you have merely concluded this friendship for the purpose of destroying me, just as Herod and Pilate disregarded and postponed their enmity and actions in order to do away with Jesus Christ. Furthermore, dear Captain, what have you seen or experienced? Have I conquered you, so that you feel weak and require another power to help you? I cannot believe that such a big nation and you who call yourself Supreme Chief of Damaraland, desire still another power and seek other help against me when you are in every respect better off by greater number of people, more ammunition, more money. The fact that you feel weak and helpless does not surprise me, but what does surprise me is that you should now appeal to human creatures and say "protect me!" instead of fleeing to God, our Protector, and say "Lord, help and protect me!" Now that you have given yourself up to another powerful Government, what is the position with regard to your independent Captaincy, and are you still Supreme Chief of Damaraland? I do not see that you can still call yourself by that name, because you have placed another above yourself, and made yourself subordinate to him, under his protection. He who holds the upper position is Supreme Chief, and he who is subordinate is under chief, because he is placed below the other. You have disregarded all the momentous words and matters which we discussed at Khox-ganas, words which I addressed to you, and words which you personally felt and uttered in your heart to be acknowledgments and evidence of faith, and which you personally expressed in regard to this work of mine, how and by whom it was done, but you have brought your temporal powers and helpers into this work saying that it has been revealed to you, but this is not the end of it. Do not remain devoid of feeling, but think over the words of this letter in all seriousness, and do not for one moment think that I address them to you because I am afraid of and concerned about the great danger with which you intend to overtake me. No, I feel very sorry, and it hurts me, but it will be my greatest regret if I have our Heavenly Father and True Redeemer and Protector to rely upon, and do not cling to Him, and if I have to resort to human means to help me. That will be my deepest and greatest regret—my unbelief and little faith. Hearty greetings.

I am,

CAPTAIN HENDRIK WITBOOI,
of Hornkrans

Translation from Dutch.

ANNEXURE VI.

LAW BOOK OF THE REHOBOTH BASTARDS.

PROMULGATED BY THE CAPTAIN AND HIS COUNCILLORS IN THE YEARS 1872 AND 1874.

Contents.

- (1) *Law of the Constitution of 31st January 1872.*
Deals with the Captain, the Captain's Council, the Volksraad, Burgherright, Resolutions and Suffrage.
- (2) *Law of 31st January 1872.*
Deals with the Judge, Fieldcornet and Officials.
- (3) *Law of 27th February 1872.*
Deals with murder, offences against the person, theft, ill-treatment and taxes.
- (4) *Law of 13th March 1872.*
Deals with brandy, debts, measures in cases of danger, marriages and garden-plots.
- (5) *Law of the 10th April 1872.*
Deals with infectious diseases and war.
- (6) *Law of the 8th July 1872.*
Deals with irregularities, resistance against judgments, summons, libel (slander), ill-treatment and resistance against the law.
- (7) Recapitulation of the whole Law Book in 64 articles of 1st January 1874.

(1) LAW OF THE CONSTITUTION.

On this the 31st January in the year of Our Lord One thousand Eight hundred and Seventy-two the Burgers at Rehoboth have agreed to amend the provisional form of Government instituted by them on the 15th December 1868 at Warmbad, and to ordain as follows:—

1. As Supreme Administrator of the burgers, one shall be elected and nominated from among them as Captain, who shall hold office during his life-time, provided illness or other urgent circumstances do not prevent him from doing so.

2. In the event of the decease of the Captain, or in the event of him being obliged to resign his office, the burgers shall immediately assemble for the purpose of electing and appointing another Captain.
3. During the period that the burgers shall not have elected and appointed a new Captain, the eldest of the two Councillors who assist the Captain, (to wit the eldest in office) shall take over the administration as Provisional Captain.
4. The Captain shall be assisted by a Council of two irreproachable burgers, elected by himself, for such period as he may think fit.
5. Every burger who enjoys the full burger-right is entitled to be elected as Captain.
6. The Captain's Council may at any time, be called together by the Captain in matters concerning the administration and they are entitled to be absent only in cases of extreme necessity, but must previously notify the Captain, who may thereupon for the period of absence of such Councillors appoint others to act in their stead.
7. In order that the burgers may also share in the administration, they shall elect and nominate three irreproachable men as a Volksraad.
8. The Volksraad shall be elected for one year only. Within the first fourteen days of the new year the re-election of the Volksraad shall take place.
9. The Volksraad shall choose one of its members as Chairman or Speaker who shall have the right to assemble the Volksraad as often as he may deem necessary.
10. The Chairman or Speaker is the medium of communication between the burgers and the Volksraad.
11. The members of the Volksraad are bound to guard the interests of the burgers by whom they were elected.
12. All requests and wishes of the burgers shall be communicated to their member of the Volksraad, who shall bring the same to the notice of the Captain and his Council, who after consideration and if advisable, shall deal therewith by legislation.
13. At the election of the Volksraad one of the Captain's Councillors shall always be present, in order to prevent irregularities at such election for Captain and Country. But the Councillor has no right, when everything is conducted properly, to meddle with the voting.
14. Every burger who pays taxes shall have a vote.
15. Every Bastard, or whoever has married into the Bastards, may become a burger. All others shall be granted hospitality under conditions to be laid down later.
16. Whoever desires to become a burger shall notify the Captain who shall instruct him as to the laws. Should he be willing to conform to the laws, he shall, if known, be accepted as a burger by the Captain in the presence of the Captain's Council and the Speaker of the Volksraad.
17. Should the applicant for burger-right be a stranger he shall be on probation for six months. The Captain shall thereupon report to the Speaker of the Volksraad, who shall thereupon notify the burgers in order that whoever may have objections to the application, may lodge same. Should within the six months nothing be brought up against the applicant, he shall be accepted as a burger as herein before provided.
18. Captain, Captain's Councillors, members of the Volksraad and burgers shall, one and all bind themselves by hand-shake, for an oath, to perform their duties of Office in the interests of the State, to the exclusion of personal interests.
19. Resolutions proceed from the Captain and his Council, as also Laws, and these shall thereafter be transmitted in writing to the Speaker of the Volksraad, who shall immediately assemble the Volksraad to consider the resolutions or laws so transmitted.
20. No resolution or law shall be transmitted to the Volksraad until the Captain and his Raad shall be in agreement about the same.
21. Should there be a difference of opinion in the taking of resolutions or making of laws, a vote shall take place.
22. Should the Captain and one of his Councillors have a difference of opinion and not be able to come to an agreement, the opinion of the Captain as the Supreme Head shall be accepted.
23. On the contrary, should the two Councillors be agreed, the Captain shall submit to the Councillors.
24. All differences of opinion between the Captain and his Council shall be kept secret.
25. Should any one of the Councillors divulge such difference of opinion he may be dismissed and punished.
26. When the law or resolution transmitted, is accepted by the Volksraad, it shall be returned by the Speaker to the Captain, who thereupon has the right to ordain and publish the same as law.
27. Should, on the contrary, the law transmitted be rejected by the Volksraad, the Speaker of the Volksraad shall notify the Captain thereof, who shall thereupon stipulate the time and place when and where the Captain and his Raad will meet the Volksraad to debate upon the points of difference.
28. After each party shall have brought forward its arguments and objections, a vote shall be taken.

29. Should the whole Volksraad reject a proposal of the Captain and his Council, all burgers entitled to the vote shall be called up and the difference submitted to them, upon which a vote shall be taken by the whole gathering.

30. At such voting, the Captain as Supreme Head shall have as his vote one tenth of all entitled to vote. His Councillors shall each have two votes, but the burgers and the members of the Volksraad on the contrary shall each only have one vote.

Given at Rehoboth, 31st January 1872.

Captain, H. van Wyk.
Councillors, P. Diergaard, J. van Wyk.
Speaker of the Volksraad, Mechiel Diergaard.

(2) LAW OF 31ST JANUARY 1872.

On the 31st January in the year of Our Lord One thousand Eight hundred and Seventy-two the following resolutions were also agreed to:—

1. The Captain shall in all cases of complaint, whether Criminal or Civil, appoint Judges, who shall investigate these and pass sentence and inflict punishments according to the Law Book.

2. The confirmation of the Captain is required in every Criminal case.

3. One of the Councillors shall be appointed over the Judges and their Office, and he shall be responsible that the Judges decide according to Law and Justice.

4. The Judges shall elect the Field-Cornet, Messenger of the Court and other Officers required by them, but each appointment requires the confirmation of the Captain.

5. The local Field-Cornet shall act according to the instructions given him by the Judges, and shall not exercise any rights outside thereof.

6. Should it be necessary for the Community to scatter to outside waterplaces, the Field-Cornets shall for the outside places receive other and fuller instructions.

Given at Rehoboth, on the 31st January 1872.

Captain, H. van Wyk.
Councillors, P. Diergaard, J. van Wyk.
Speaker of the Volksraad, Mechiel Diergaard.

(3) LAW OF THE 27TH FEBRUARY 1872.

On this the 27th day of the month of February in the year of Our Lord One thousand Eight hundred and Seventy-two the following laws and regulations were promulgated:—

A. In cases of Murder.

(1) The sentence of death irrevocably follows premeditated murder.

(2) Whenever anyone causes the death of another through negligence, he shall prove before the Judges with two witnesses or by oath that he has not done so with intent, or by reason of enmity, or out of revenge. He shall then not be punished with death, but in proportion to his guilt with a fine or with Corporal Punishment.

B. Offences against the Person.

(1) Whenever anyone through negligence or in a fight with fists, or in any other manner shall cause anyone else bodily harm, resulting in a serious injury to the assaulted person, he shall in proportion to the injury inflicted be punished with a fine in money or with corporal punishment.

C. Theft.

(1) Whoever shall steal large or small stock or other effects, shall return the articles stolen, or thrice the value thereof. Should he be unable to effect the return, a punishment of from one to 12 months hard labour in addition to ten lashes shall be inflicted. The lashes can be remitted during the period of his hard labour according to the behaviour of the prisoner.

(2) Whosoever knowingly purchases or hides any stolen property shall receive the same punishment as the thief.

(3) If the thief is a child or is bodily ill, this shall be taken into consideration by the Judges and the punishment reduced.

D. Treatment of Servants and their rights.

(1) No employer shall illtreat his servant under pain of being found guilty and punished. Art. 2 sub. "A" or Art. 1 sub. "B."

(2) Every servant shall have the right to lodge a complaint against his master who illtreats him, but the servant is bound, if for instance he is a cattleherd, first to hand over to his master at his homestead his cattle or what was entrusted to him, before his complaint can be accepted.

E. Remarks as to the Regulations under C.

- (1) To the owner of stolen property shall be returned twice the stolen property when the thief returns it. Should the thief be unable to pay and is punished with hard labour, the owner must bear the loss, but he has the right when no public work is available for the accused, to take him into service to work off the loss.

F. Taxes:

- (1) To meet the necessary expenditure of the Administration a tax shall be levied on the livestock of the burgers.
- (2) In order to determine the amount of tax payable by each burger, he shall up to the last day of the month of May in each year render to the Revenue Office a precise return of his large and small stock, and he shall thereupon receive his account for taxes, which he can then pay in one sum, or a quarter thereof every three months.
- (3) At the close of the year the full amount of the tax must have been paid. The Receiver of Revenue has the right to cause an attachment to be laid on the assets of anyone who is in default with his payment at the close of the year, until the tax has been paid.
- (4) At the assessment the following preliminary value shall be placed on the stock, *i.e.* on small stock six shillings each, on cattle and donkeys one pound ten shillings sterling each, on horses and mules six pounds sterling each.
- (5) The tax on livestock shall be at the rate of one pound sterling for every hundred pounds sterling of value.
- (6) Every garden plot shall be taxed at the rate of five shillings per year.
- (7) The tax on garden plots shall only take effect from the year 1873. The tax on live stock on the contrary is payable for the year 1872. For that purpose the taxpayer shall have time to the end of May to render the return of his livestock to the Revenue Office.
- (8) Whoever shall render a return of less stock than he possesses, or shall in any other way defraud the Revenue, shall pay a fine of from one to ten pounds sterling in cash or in value.
- (9) The Receiver of Revenue appointed by the Captain shall have the right, without interference on the part of anyone, to take a count of the large and small stock of the burgers.

Given under our signatures at Rehoboth, this 27th February, 1872.

Captain, H. van Wyk.

Councillors, P. Diergard.

„ Mark of Stoffel Zwart.

Speaker of the Volksraad, Me. Diergard.

(4) LAW OF 13TH MARCH, 1872.

On this the 13th day of March in the year of Our Lord One thousand Eight hundred and Seventy-two; the following laws were promulgated:

- (1) Any member of the Volksraad who is obliged to leave the village for a time, shall appoint one of the burgers in his place, and transfer to him his full rights for the term of his absence.

A. Law regarding Brandy and Intoxicating Liquor.

- (1) No merchant or burger may, without the order of the Captain, give or sell any brandy or any other intoxicating liquor, excluding wine, in the Rehoboth Ward.
- (2) Whoever shall act in contravention of this provision shall allow a proper search to be made, and whatever brandy or intoxicating liquor may be found with him shall be taken from him.
- (3) In addition to the loss of his liquor, he shall pay a fine of five pounds sterling, and, if a stranger, he shall leave the ward Rehoboth.
- (4) Only in cases of most urgent necessity shall the Captain have the right to grant an order for the sale of brandy, but not above one bottle.

B. Law in the matter of Debts.

- (1) When a debtor is sued for debt, and he refuses to pay the same, the Judges shall have the right to cause so much of his assets to be sold as shall satisfy the debt and the cost of the Judges.
- (2) As costs of the judges shall be reckoned—five shillings for the complaint, and further one shilling for every pound sterling of the claim against the debtor.
- (3) When the proceeds of the assets sold do not realise the full amount of the debt, the creditor must be satisfied with the amount realised, and he shall then, in addition to the five shillings fee for the complaint, pay to the Judges the sum of one shilling for every one pound sterling realised by him by the sale of the assets of the debtor.

- (4) Where the debtor has no assets, he must look for work in order to liquidate the debt.
- (5) Where the debtor is the father of a family he shall receive half the wages for his family, and the other half shall be paid by the employer to the creditor in reduction of the debt.
- (6) Whoever refuses to enter into service shall be punished with one month's hard labour. On termination thereof he is bound to enter into service; at every subsequent refusal the punishment shall be increased.
- (7) The debtor has the right to apply to the Judges for an extension of time for payment, not, however, exceeding one month. The creditor, when he does not immediately require the money, must grant the extension.
- (8) Where the debtor can provide a surety and the creditor is agreeable to accept him, the extension may be granted for a longer period, but the creditor may for that period charge interest at the rate of one shilling for every pound sterling.
- (9) The surety shall then, in the presence of the Judge, grant the creditor an acknowledgment of debt undertaking to pay the debt with interest on a fixed date. The surety is then liable.
- (10) The applicant for extension must consent to the attachment by the Judges of his estate to the value of the debt, and he shall within that time not dispose of the same.
- (11) The creditor shall first deposit five shillings with the Judges, which, on payment of costs being made by the debtor to the Judges, shall be refunded to him.
- (12) A poor man who has not the means to pay five shillings fee for the complaint shall have his complaint accepted by the Judges with such deposit, but he shall pay it out of the amount recovered on the debt, if the debtor cannot pay the costs.
- (13) If the poor man is also sickly or old and unable to work, the Judges shall not exact the payment of the costs from him.

C. Law about the use of another's Property in time of necessity. (Danger.)

- (1) Whoever shall, of necessity, use another's horse, ox or stock before he is in a position to ask the owner, shall immediately he comes to the owner, notify him thereof and tender his apologies, and pay him what he charges for the use thereof. The owner shall not make an unreasonable charge. For a horse not exceeding 10s. per day, and for an ox one shilling. Should he, owing to want, have to kill one of the stock, he shall pay the full value thereof.
- (2) Should in the use thereof the horse or the ox receive injury, he shall pay the damage caused. In the case of its death, full value shall be paid.

D. Laws about Marriage.

- (2) Whoever without cause deserts his wife, shall leave behind his assets, which shall be awarded to the wife. Similarly in the case of a woman deserting her husband without lawful cause.
- (2) When a child is born out of wedlock, the father thereof, in case he is married man, or if unmarried has promised to marry the mother, shall, on complaint by the latter, pay the sum of Eight pounds sterling for the maintenance of the child.

E. Laws about building and garden plots.

- (1) Houses may not be sold or mortgaged to anyone who is not a burger of the community.
- (2) No burger has the right to sell or to mortgage his garden plot.

Given under our signatures at Rehoboth, 13th March, 1872.

Captain, H. van Wyk.
 Councillor, P. Diergard.
 „ Joh. van Wyk.
 Speaker of the Volksraad, Me. Diergard.

(5) LAW OF THE 10TH APRIL, 1872.

On this the 10th day of the month of April in the year of Our Lord One Thousand Eight Hundred and Seventy-Two, the following laws were promulgated:

A. Laws about the prevention of Lung and other infectious diseases.

- (1) We hereby ordain that no stock suffering from any infectious disease may be kept on this place.
- (2) We grant the right to the Fieldcornet and direct him, whenever he notices such animal on this place, and after having warned the owner to remove and keep the

same at an appointed place, and the owner does not do so, to shoot the same on the spot. The meat thereof shall be distributed amongst the poor and the skin sold for account of the Treasury.

- (3) Cattle with doubtful diseases may not remain on the place either, but shall be immediately sent away, or their lot shall be the same as that of lung sick cattle as hereinbefore provided.
- (4) Every burger who shall see such animal on the place shall immediately notify the Fieldcornet, who shall thereupon proceed as herein provided.
- (5) Whoever desires to inoculate his cattle on this place shall be pointed out a certain spot outside which no inoculation may take place. The inoculated animals must leave the place the same day.

B. Law in case of fear of attack by enemies:

- (1) The Captain is empowered whenever any danger of an attack by enemies exists, to call up all serviceable men for defence, and every one is bound to comply. Illness is of course an exception here.
- (2) In every war the Captain holds supreme command and every one owes him and the subordinate commanders appointed by him the strictest obedience.
- (3) Whoever does not comply with the commandeering or is disobedient shall be brought before the Court Martial composed of two subordinate Commanders appointed by the Captain and one of the Captain's Council, who shall have the right according to his guilt to punish the accused with a fine of from one to fifty pounds sterling. Whoever cannot pay shall receive fifty lashes. The sentence requires the confirmation of the Captain.

Given under our signatures.

Rehoboth, 10th April, 1872.

Captain, H. van Wyk.
 Councillor, Joh. van Wyk.
 „ P. Diergard.
 Volksraad, Me. Diergard.
 x of Jacob Mouton.

(6) LAW OF THE 8TH JULY, 1872.

On this the 8th day of July in the year of Our Lord One Thousand Eight Hundred and Seventy-Two the following laws were promulgated:

- (1) As our Laws have only been commenced and have not yet been completed, we hereby ordain that from this date, whenever any irregularity shall anywhere occur to the detriment of the existence and the well-being of our State, in respect of which no law has yet been promulgated, the Captain shall have the right to lay the matter before the burgers, and should they by a majority of votes consider it an offence and lay down a punishment, the Judges shall be authorised to sentence the accused in accordance therewith. In the event of a resistance against the sentence on the part of the accused, the burgers shall be bound, under penalty of a fine of one pound sterling or one week's hard labour, to support the Judges and to force the accused to undergo the punishment inflicted.

Further the following laws are promulgated:

- (1) The Judges have full authority to subpoena all persons required to be heard by them in any case of complaint, and should anyone refuse to comply with the subpoena he shall be liable to a fine of from one to five pounds sterling or to hard labour for a period of from one to four weeks. Illness preventing such appearance naturally is an exception, but the indisposed person must in due time forward to the Judge a certificate from the Fieldcornet, or in his absence from the Assistant Fieldcornet, certifying to the impossibility of his appearance. If he neglects to do so, he shall be treated as if he had refused to comply with the subpoena.
- (2) Every summons (subpoena) with our State Seal (Provisionally a "B") is valid.
- (3) The forging of the State Seal and the unlawful use thereof shall be punished with a fine of Fifty pounds sterling or from six to twelve months hard labour.
- (4) No accused shall have the right when appearing before the Judges, to speak disrespectfully or insultingly whether to the Judges or to any person summoned by them, and if he uses disrespectful or insulting language after having been warned once, he shall be punished with a fine of from one to twenty pounds sterling or from one week to four months hard labour.
- (5) Insults to the Captain or to his Officers in or regarding their office, when they contain accusations which cannot be substantiated, shall be punished as provided for in the foregoing section.

- (6) Insults to burgers which are detrimental to their character, and which cannot be substantiated, shall be punishable with a fine of from one to five pounds sterling or from one to four weeks hard labour.
- (7) The ill-treatment of women, children and servants may be complained of by their relatives or by any burger should they have no relatives here. The accused shall upon being summoned appear before the Judges.
- (8) Where the accused has prior to his appearance before the Judges, settled the matter with the ill-treated persons, this will be taken into consideration, provided other circumstances do not demand the punishment of the accused. The costs of summons are payable by the accused.
- (9) The Judges have full authority where they think fit to bind such accused over to good behaviour, and he shall be bound to subscribe thereto his name or his mark if he cannot write.
- (10) Under ill-treatment we understand all improper flogging or the hitting with instruments dangerous to life and limb, or all brutal treatment other than flogging.
- (11) Lesser ill-treatment shall be punished with a fine of from one to three pounds sterling or from one to three weeks hard labour. For subsequent offences the punishment shall be doubled.
- (12) Ill-treatment incapacitating the ill-treated person from performing work for twenty-one days and over shall be punishable as a criminal act with a fine of from five to twenty pounds sterling or with from one to six months hard labour. Apart from this the accused shall pay to the ill-treated person if he is unmarried, for the period of his incapacitation the sum of one shilling and six pence per day. If the ill-treated person is the father of a family the rate shall be three shillings per day.
- (13) All burgers who will not submit themselves to our laws, shall lose their burger-right. Should they remain amongst us they shall still be subject to the Law like any other stranger here, and all burgers are under the penalties of section 1, bound to support the Captain and his Judges should anyone of these "bywoners" be guilty of not submitting to the law.

Rehoboth, 8th July, 1872.

Given under our Signatures.

Captain, H. van Wyk.
 Councillor, Stoffel Zwart.
 „ P. Diergard.
 Volksraad, Stoffel van Wyk.

(7) CONSTITUTION OF THE BASTARDS.

On this, the _____ of July, in the year 1874, the Burgers of Rehoboth have resolved to renew the Constitution framed at Nisbeth Bath, 1868, and amended at Rehoboth in the year 1872, by the following articles:

Article 1.

On the 1st January, 1874, Hermanus van Wyk was appointed as Captain by the resident burgers of Rehoboth. He shall retain his captaincy as Supreme Head indefinitely.

Article 2.

The burgers shall not have the right to remove the Captain from his post when they have a complaint against him, which they consider unfits him for the post. But whoever has a valid legal complaint shall submit the same to three impartial Heads of the land, who have adopted the Christian faith, who shall investigate the complaint.

Article 3.

By this shall also be understood that the Captain, as well as any burger or Councillor, is bound by the law.

Article 4.

The Captain, as the Supreme Head, shall be regarded as capable of keeping order, and of commanding on all necessary occasions for the welfare of the people.

Article 5.

Every burger shall propose ten men as councillors to assist the Captain. Of these ten men, four who receive the majority of votes, shall be appointed by the Captain as his councillors.

Article 6.

Each Councillor is elected for the term of one year, and provided he has done his duty well, may be re-elected.

Article 7.

Every burger possessed of the full burgerright is entitled to vote at the election of the Captain.

Article 8.

The Captain shall, when he leaves home or when he is indisposed, appoint one of his councillors to act in his stead.

Article 9.

The councillors of the Captain may at any time be called together in matters of administration.

Article 10.

Every councillor shall, before leaving home, notify the Captain, who shall appoint one from among the burgers to act *pro tem.* as councillor in his stead.

Article 11.

Whenever any councillor or the Captain neglects his prescribed duties on account of personal interest and neglect, he shall, in the first instance, be warned; should he still neglect he shall be summoned to give his reason for his neglect, and, in the Court, if found guilty, be sentenced to a fine of from ten shillings to one pound sterling; and if he refuses the summons he shall lose his post.

Article 12.

The same fine for any mistakes of the Captain, and should any councillor or burger refuse twice to accept a summons, he shall be liable to pay the costs at the rate of 1/6 per occasion. On the third occasion he shall pay the constable's costs in bringing him to Court, and, in addition, be fined from 5s. to £2 sterling and still be liable for the charge for which he was originally summoned.

Article 13.

In the event of danger of or of an attack by enemies, the Captain shall have the right to call up for service all able-bodied men above the age of sixteen years to assist and all such persons shall obey orders, sick people being exempted.

Article 14.

Any person who fails to respond to commandeering shall be brought before the Court Martial consisting of two subordinate commanders, chosen by the Captain, and two members of the Captain's Council, and the Court Martial shall have the right to fine the accused from £1 to £50 sterling, and if he cannot pay, to sentence him to fifty lashes. The Captain shall pronounce sentence.

Article 15.

In time of war the Captain has supreme command, and all officers under him shall obey his orders.

Article 16.

In all civil and criminal cases the Captain shall appoint judges, who shall exercise justice according to the laws of the State.

Article 17.

Any person has the right of appeal to the Captain and the Council against any sentence, and their decision shall be final. In criminal cases the Captain shall confirm all sentences passed.

Article 18.

The judges shall immediately report in writing to the Captain on all cases dealt with by them.

Article 19.

Fieldcornets shall be elected by a majority of votes of the burgers, and shall announce the result of the election to the Captain.

Article 20.

Whenever a Fieldcornet is compelled to leave his district he shall appoint a competent substitute to act for him with full rights.

Article 21.

Wilful murder shall be punished, irrevocably, by death.

Article 22.

Death sentence shall not be pronounced unless one or other of the chiefs of the Country is present.

Article 23.

Should any person be guilty of causing the death of another through negligence, he shall have to prove to the Judge by two witnesses that the deed was not wilfully done, or through revenge or enmity. In such case he shall not be punished with death, but according to his guilt, with a fine or with lashes.

Article 24.

Should any person cause bodily injury to another through carelessness or assault by which the injured person suffers permanent or temporary injury, the accused shall be liable to pay damages in accordance with the injury in addition to a fine in money or value or corporal punishment.

Article 25.

No master shall illtreat his servant without rendering himself liable to a fine of from five shillings to one pound sterling.

Article 26.

Any servant, when illtreated by his master, shall have the right to lodge a complaint against the latter, but in the event of his being a herd, he shall not leave his flock in the veld unattended in order to lodge such complaint.

Article 27.

By illtreatment shall be understood all punishment improperly inflicted, either by hitting with hands or kicking, or with stones.

Article 28.

Should any person steal cattle, sheep or other articles, he shall be bound to repay them threefold. Should he be unable to return them, he may be punished with from one to twelve months' hard labour, or with five to fifty lashes.

Article 29.

Any person who receives, sells, or hides stolen articles shall be liable to the same punishment as the thief.

Article 30.

If the thief is a child or a person in poor health, the judges shall take this into consideration and impose a lighter sentence.

Article 31.

The owner of the stolen goods shall receive back from the thief twice the amount of the goods stolen. Should the latter, however, be unable to pay, he shall be compelled to enter the service of the owner of the stolen goods or of another person, or do hard labour, as the judges may decide.

Article 32.

No burger shall be allowed to sell brandy or other spirits, excepting wine, in the district of Rehoboth, without permission of the Captain.

Article 33.

Any person acting contrary to Article 32 shall allow himself and his goods to be thoroughly examined, and all brandy or spirits found will be confiscated.

Article 34.

In addition to the loss of his liquor, he must pay a fine of £5 for the first offence, and double that amount for the second offence.

Article 35.

Any traveller or trader found guilty of selling liquor on this place shall be sentenced in the same way as the ordinary burger, and shall, in addition, be compelled to leave the place.

Article 36.

When a debtor is sued for debt and he refuses to pay, the Judges shall have the right to sell so much of his goods or cause the same to be sold, as will liquidate the debt and the costs.

Article 37.

The costs of the Judges shall be five shillings in respect of the complaint, which the plaintiff shall pay; but shall receive back afterwards when the defendant has paid.

Article 38.

Should the defendant have insufficient means to satisfy the full amount of the debt, the plaintiff shall be satisfied with the amount obtained by the Judges out of the goods sold after deduction by them of the 5s. Court expenses, and the 1s. in every pound.

Article 39.

Should the defendant be unable to pay anything, he shall be compelled to seek employment to pay off his debt.

Article 40.

If the debtor is a father of a family, half of his wages shall be given to his family and the other half to his creditor.

Article 41.

Should he refuse to go into service, the Judges shall decide as to what shall be done to him.

Article 42.

An indigent who cannot pay the Court fees shall have his case accepted without paying the fees in advance, but he shall afterwards pay if the amount recovered amounts to so much.

Article 43.

Should the indigent be too old or sickly to work, the Judges shall claim no costs.

Article 44.

Should any person be compelled in a case of urgency to use another person's horse, ox or other stock, and he is not able to obtain the owner's consent before doing so, he is to take the first opportunity to inform the owner of his action and justify his action, and pay whatever the owner claims for the use of his animal. The owner is, however, not to charge unreasonably; for a horse not more than ten shillings per diem and for an ox 1s. per diem. If through necessity he was compelled to slaughter another's animal, he shall pay the full value of such animal.

Article 45.

On the other hand should any damage be done to the horse or ox, he must pay the damage. In case the animal dies, he must pay the full value of the animal.

Article 46.

Whoever deserts his wife without cause, shall leave all his belongings behind, which shall be given to the wife. The same in the case of the woman leaving her husband without lawful cause.

Article 47.

The father of an illegitimate child, if he be a married man, or in the case of an unmarried man if he has promised marriage to the mother, shall on demand of the mother pay her eight pounds sterling towards the rearing of the child.

Article 48.

Laws regarding houses and gardens: No person is allowed to sell or mortgage his house to any person who is not a burger of the State.

Article 49.

Laws regarding safekeeping of the place from lungsickness and other infectious diseases: We herewith ordain that no animal with an infectious disease may be kept on this place.

Article 50.

Should the Fieldcornet find such animal on this place, and, after having notified the owner to remove it to a defined place, his orders are not carried out, we give him the right to shoot the animal immediately. The meat shall be given to the poor and the skin sold for the benefit of the State.

Article 51.

Should any person desire to inoculate his animal on this place, he shall do so in a place appointed by the Fieldcornet, but the inoculated animal must be removed from the farm on the same day.

Article 52.

Illtreatment of Women. Any person accused of illtreating his wife shall be liable to a fine of from three pounds to five pounds sterling, and if the illtreatment is such as to cause permanent injury, he shall be charged with a criminal offence.

Article 53.

The village of Rehoboth shall be kept in proper order and no charge shall be made for the grazing of large and small stock excepting horses.

Article 54.

No burger is entitled to keep all his livestock in the village. In addition to milch cows every burger is entitled to keep as much as he needs and one span of oxen. Should his business compel him to keep more than one span of oxen in the village, he shall immediately after the work is completed send the extra span of oxen away.

Article 55.

No dry cow, weaned calf and cow, or ox may be kept in the village.

Article 56.

Should this happen, the offender shall be fined one-halfpenny for every animal. If he sends it away to-day to the cattle post and it returns to-morrow or later, and it can be proved that he neglected to send it out, he shall be fined the same amount for each offence.

Article 57.

Further, very poor persons or burgers who have more than ten head of cattle must also keep two posts if they have dry cows, but if he owns ten head of cattle or less he will be allowed to keep them in the village even should they be dry.

Article 57.

Small stock, sheep and goats, will under certain conditions be allowed in the village. No burger is allowed to graze more than 100 small stock in the village or he will be fined one-halfpenny for every ten above that number.

Article 58.

If during severe droughts when water is scarce and difficult to obtain in the veld or if through other necessitous circumstances one or more burgers desire to have their livestock in the village, the Magistrate shall investigate their cases and if he deems it necessary he can allow them to use certain grazing areas for a certain period.

Article 59.

Missionary Heidmann is still allowed to keep his stock for this year in the village.

Article 60.

Further, certain grazing areas will be marked out for the stock in the village for all time.

Article 61.

Law against lungsickness in animals in the Village and the surrounding grazing or trek veld, so far as Rehoboth extends. If on this specified land the cattle of anybody and any burger or bywoner among us is infected with lungsickness—whether he may be of our burgers or a stranger who is a traveller—and it can be proved by two or three witnesses that he was aware that his stock was not safe, either by having been in contact with lung-sick cattle, or having been watered with them, or having used the same resting place (even although he may have kept them apart) and he treks or lets his cattle mix with others, even if the disease has not yet broken out among his cattle, and the disease breaks out later with the result that the cattle of others are infected by such carelessness, such person—whichever he may be—will be subject to such heavy fine as the Judges may impose upon him in the circumstances.

Article 62.

When a person suspects that an infectious disease has broken out amongst his cattle he is compelled to notify his nearest neighbours.

Article 63.

Law regarding strangers and "bywoners."—All strangers and bywoners living in the Rehoboth territory are to observe the laws of the Basters of Rehoboth.

Article 64.

Law regarding gardens and lands on the place. Any person who has made a garden or a land on the place shall enclose it with a hedge five feet high, and if made of branches three feet wide or if of stone two feet wide, and should any cattle or small stock break into it, and the owner of such garden or land complains . . . (Note: Conclusion missing.)

Given under our hand, at Rehoboth, the 1st day of January, 1874.

Captain, Hermanus van Wyk.
 Councillors, C. van Wyk.
 „ Afrika Izaak.
 „ Jakobus Beikis.
 „ Paul Diergard.

If any case is brought before the Court with regard to which laws have not yet been made, the case shall nevertheless be decided by the judges and their decision on the case entered into the Law Book.

REGULATIONS WITH REGARD TO MASTERS AND SERVANTS.

In all cases where possible a contract shall be drawn up between Master and Servant in the presence of witnesses, preferably members of the Council.

If the servant is hired for a fixed time, for instance for a week or a month, etc., or to do a certain work, no notice of termination of the same is necessary on the part of the contracting parties, but when a servant is hired for an indefinite period the necessary notice is as follows:—

1. If the contract is made for less than a month one week's notice shall be given by the party who wishes to terminate the contract.

2. If the contract is made for one month or more, one month's notice shall be given, except in the case where the Master desires to dismiss his servant at once, when he shall give him a week's pay in lieu of notice. In the event of a servant neglecting his duties without causing damage such as disobedience or impertinence to his master, mistress or their children or to one placed over him by his master or by leaving the service without giving due notice or neglecting to carry out duties assigned to him, the servant shall, if found guilty, be fined a sum not exceeding ten shillings sterling, for the first offence, and for every further offence the fine shall be doubled or in lieu thereof he shall receive lashes not exceeding twenty.

In the event, however, of the servant causing damage to his master in cases such as the abovementioned, he shall be fined a sum in proportion to the damage done, and in addition shall suffer corporal punishment.

The instrument of corporal punishment shall be an ordinary ox-strop.

In cases originating from the purchase by Europeans of lost or stolen stock—

Any person shall have the right to take back from a trader or other European any animals stolen from him and sold to such persons, provided that he proves that the animal belongs to him and that he has taken all possible steps to find the thief to bring him to justice.

(*Warning*).—In the event of any animal being lost or stolen, notice shall at once be given of the fact together with a full description of the animal to the traders and other Europeans in the neighbourhood.

No person shall have the right to take from a trader any animal which has been lost through his servants' negligence, and bought in good faith by the trader.

Rehoboth,

15th January, 1913.

At the last sitting of the Council and Elders the following resolution was taken and accepted as law.

1. Divorce shall only take place as a result of adultery and malicious desertion by the spouses. The guilty party shall not be allowed to re-marry.

2. If both the spouses are guilty, neither shall be allowed to re-marry.

3. The children shall be entrusted to the innocent spouse. The guilty party (spouse) is compelled to hand over all his possessions and stock to the innocent spouse and the children.

4. If both spouses should be guilty, their possessions and stock shall, at the time of the divorce, be distributed among them and their children in equal parts by an impartial Court.

5. If the minor children at the time of a divorce should be entrusted to the mother, a guardian shall be chosen for such children.

6. If a marriage cannot be arranged, that is to say, when the parents and grand parents do not, without reason, consent, then such a case shall be settled by the Elders and the Council.

Signatures of the Elders:

(Sgd.) Martinus Swarts.
Wilhelm van Wijk.
Frederik van Wijk.

Signatures of the Council:

(Sgd.) K. Zwart.
Jan Beukes.
S. Buekes.
Pieter Mouton.
W. Koopman.

REGULATIONS.

From the Office of the Council of the Community, Rehoboth.

1. On the twelfth day of January, Nineteen Hundred and Seventeen, the following Articles were enacted and ordained, by the full Council in the name of the Captain and his Council, and with the consent of the entire community of the land and territory of Rehoboth:—

2. Under reference to No. A62A, the following shall be enforced by the whole of the Council's office.

3. No burger, farm owner or land owner shall be entitled to sell or let his farm without the consent, from the office, of the Captain and the Council.

4. Farms, residential erven, garden erven and buildings, including all accessories to a farm, such as wood, water and grazing rights shall not be let or alienated by the owner without the consent of the full Council.

5. This law is ratified under the Act of 1895 and published as Article 62A.1, and comes into force on the 1st January, 1917, and shall be added to the Law Book of 1872 and 1874 as law.

ORDINANCE.

It is hereby laid down and enacted, by the Office of the Council, as follows:

No burger or woman shall have the right to keep more than one dog on the farm in future.

In connection with bitches, all are strictly warned that these shall not be kept in the village.

Anyone who keeps more than one dog in the village will be prosecuted. If any person keeps more than one dog in the village, such dogs shall be taxed, or destroyed.

Furthermore, the Council's Office shall fix the number of dogs which each person shall be allowed to keep in the village. This Ordinance shall be exhibited and sent round.

Furthermore, the removal of such dogs shall take effect from date hereof, and after eight days such dogs shall not be allowed in the village.

Furthermore, this Ordinance comes into force from this date, and shall be carried out as law under Article 62.

Rehoboth, 1st August, 1917.

(Sgd.) S. Beukes, Magistrate.
Albert Mouton, Actg. Capt.

Translation from German.

ANNEXURE VII.

Rehoboth, 30.1.06.

District Office J.338.

The Bastard Community of Rehoboth is herewith officially informed by the German Government that:

The Captaincy of the Bastards has this day ceased to exist.

The Bastard Community has of its own accord come to the conclusion that this institution being out of date and no longer suited to the greater demands of the present time, should be abolished.

The Bastard Community shall from this day be represented by the Bastard Council, and shall be governed by the German Government in conjunction with the Council.

The Bastard Council shall be composed of nine members elected by the Bastard Community and approved by His Excellency the Governor.

[U.G. 41—'26.]

1. Nels van Wyk.
2. Jan Beukes.
3. Dirk van Wyk.
4. Carolus Zwart.
5. Samuel Beukes.
6. Pieter Mouton.
7. Piet Mouton.
8. Albert Mouton.
9. Clas Dragoner.

In future the Council of the Bastard Community shall consult the representative of the government (the district magistrate) direct on any matter affecting both the German government and the Bastard Community. All matters which concern the internal affairs of members of the Community, and were hitherto within the competency of the Captain, shall continue to be despatched by the Bastards themselves. In such cases the place of the district magistrate as Chairman shall be taken by the communal head (Gemeendehoof) elected by the Bastard Community and confirmed in his appointment in the first instance for one year by its Excellency the Governor—Nels van Wyk, son of Hermanus. Should he be absent, his office shall be filled by the senior councillor, who is present.

His Excellency the Governor will himself induct the new communal head, Nels van Wyk, in his office on the occasion of his visit in February.

The Imperial District Magistrate,
Stuebel,
Lieutenant.

(Bears the Stamp of the Imperial Magistrate's Office, Rehoboth.)

ANNEXURE VIII.

A. GENERAL LAWS FOR THE WHOLE TERRITORY INCLUDING THE BASTERS.

Kol. G., Vol. I.

- Page 298. 19th April, 1886. Decree of the Acting Commissioner for South-West Africa. Mining concessions within the Protectorate may be granted or modified by the chiefs only with the consent of the Mining Authority of the Protectorate.
- Page 299. 1st April, 1890. Notice of the Commissioner for South West Africa. The decree of 19th April, 1886, also applies to the German sphere of interests in South West Africa.
- Page 299. 1st October, 1888. Proclamation of the Imperial Commissioner. No one is allowed to take possession of vacant land or to purchase land from natives without the approval of the Commissioner.
- Page 299. 1st May, 1892. Supplementary Proclamation to that of 1st October, 1888, by the Acting Commissioner. The provisions of the Proclamation of 1st October, 1888, apply *mutatis mutandis* to leases of land belonging to natives.
- Page 300. 15th August, 1889. Proclamation of the Emperor. The Mining Law for the South West African Protectorate.
- Page 310. 14th July, 1890. Proclamation of Acting Commissioner framing a regulation under the Mining Proclamation of 1889.
- Page 106. 6th September, 1893. Further Mining Proclamation of the Emperor.
- Page 313. 1st March, 1887. Commissioner's Proclamation relating to measures to be taken in case of "Longziekte."
- Page 314. 4th January, 1892. Proclamation of Acting Commissioner. Game Law.
- Page 316. 17th May, 1891. Acting Commissioner's Proclamation. Traffic from and to Walvis Bay regulated.
- Page 317. 1st April, 1890. Acting Commissioner's Notice relating to Liquor Trade. License duties imposed and trade with liquor restricted.
- Page 318. 10th August, 1892. Acting Commissioner's Proclamation dealing with the importation of fire-arms and ammunition.
- Page 320. 1st October, 1888. Proclamation relating to the imposition of export duties, by Commissioner. Imposes an export duty on livestock, ostrich feathers, etc., which may only be exported under permit from the Administration.
- Page 322. 17th May, 1891. Acting Commissioner's Proclamation. Forbids the recruiting and removal from the Protectorate of Berg-Damaras and other natives.

Kol. G., Vol. II.

- Page 167. 28th July, 1895. German Act relating to Traffic in Slaves.
- Page 291. 15th October, 1896. Proclamation of Acting Governor. Amendment of Game Law of 4th January, 1892, vol. I, p. 314.

- Page 122. 4th August, 1894. Acting Governor's Proclamation. Prohibits grass and bush fires.
- Page 120. 2nd August, 1894. Acting Governor's Proclamation. Supplements 'Lougziekte' Proclamation of 1.3.1887, vol. 1, p. 313.
- Page 246. 20th June, 1896. Governor's Proclamation. Measures for the prevention of the introduction of rinderpest.
- Page 271. 30th September, 1896. Governor's Proclamation. Amendment of Rinderpest Proclamation of 20.6.1896.
- Page 345. 15th May, 1897. Governor's Proclamation. Further amendment of Rinderpest Proclamation of 20.6.1896.
- Page 148. 12th March, 1895. Acting Governor's Proclamation. Repeals Proclamation of 17th May, 1891, (vol 1, p. 316) and substitutes a new law, relating to Traffic to and from Walvis Bay.
- Page 182. 27th September, 1895. Acting Governor's Proclamation. Amendment of Proclamation of 17th May, 1891.
- Page 205. 30th December, 1895. Governor's Proclamation. Road and Wheel Tax imposed.
- Page 264. 6th August, 1896. Acting Governor's Proclamation. All private wagons are under an obligation to carry posts, for which the postal authorities are prepared to make payment.
- Page 345. 8th May, 1897. Acting Governor's Proclamation. Permits necessary for export of skins, horns, feathers, etc.
- Page 8. 13th March, 1893. Proclamation of Acting Commissioner. Repeals Liquor Law of 1st April, 1890 (vol. 1., p. 317) and substitutes new measure.
- Page 142. 21st January, 1895. Acting Governor's Proclamation. Prohibits supply of liquor to natives, excepting under certain conditions and makes no exception in favour of the *Basters*.
- Page 158. 27th May 1895. Acting Governor's Proclamation. Deals with sale of liquor and includes same prohibitory provisions with regard to natives as the Law of 21.1.1895.
- Page 334. 29th March, 1897. Proclamation of the Governor. Deals with the importation of fire-arms and ammunition. They may be supplied to natives only with permission of the authorities. Arms in possession of any person must be registered. Native chiefs are responsible for registration and the collection of fines imposed under this proclamation.
- Page 162. 26th June, 1895. Governor's Proclamation. Taxation of hawkers in South-West Africa.
- Page 272. 10th October, 1896. Acting Governor's Proclamation. Customs Law for South-West Africa.
- Page 166. 26th July, 1895. Treaty between the Governor and the Captain of Rehoboth. Regulates military service of *Basters* and grants the Captain an annual salary for the faithful performance of the obligations imposed by the treaty and for the maintenance of German laws and proclamations within the territory of the *Basters*.

Kol. G., Vol. III.

- Page 129. 5th October, 1898. Emperor's Proclamation. Measure dealing with immovable property. Registration in the Grundbuch of property of natives is decided by the Governor from case to case. Properties once registered in the Grundbuch which subsequently pass into the possession of natives, remain subject to this Proclamation.
- Page 44. 16th June, 1898. Acting Governor's Proclamation. Pound Law.
- Page 161. 1st November, 1898. Regulations framed under the Pound Law of 18.6.1898. by the Acting Governor.
- Page 150. 11th October, 1898. Agreement between the Colonial Office and the South-West Africa Company. The Company retains the right of building railways, *i.a.* in the territory of the Rehoboth *Basters*.
- Page 123. 12th September, 1898. Governor's Regulation. At all seats of District Commissioners or District Commandants the approval of the police shall be obtained before commencement of building operations. The regulations also refer to certain sanitary matters.
- Page 7. 9th November, 1897. Acting Governor's Proclamations. Amendment of Proclamation of 8.5.1897 (vol. 2., p. 345) referring to export of skins, horns, feathers, etc.
- Page 40. 15th May, 1898. Acting Governor's Proclamation. Roads Proclamation for the Protectorate. Heads of native *werfs* responsible for maintenance of outpans and commonages.
- Page 126. September, 1898. Governor's Decree. Amendment of Roads Proclamation. Native *werf* captains to be responsible until establishment of municipal authorities.
- Page 153. 15th October, 1898. Notice of Colonial Office. Amendment of Customs Tariff published under the Proclamation of 10.10.1896. (vol. 2. p. 272).
- Page 26. 10th April, 1898. Emperor's Proclamation. Provides for the establishment of native reserves, and rights to property within them.

Kol. G., Vol. IV.

- Page 78. 3rd July, 1899. Emperor's Proclamation. Provision is made for the establishment and organisation of communal authorities.
- Page 129. 8th November, 1899. Governor's Proclamation, relating to weights and measures. Weights and measures used for public transactions in the Protectorate must be in conformity with the requirements of certain imperial laws (German).
- Page 59. 12th April, 1899. Governor's Proclamation, relating to measures to be taken for the eradication of Rinderpest. Repeals all previous enactments of the Governor relating to this subject in particular (II. p. 246) p. 271, p. 345, and makes it obligatory for every owner of stock to report suspicious cases of disease amongst his stock.
- Page 95. 25th August, 1899. Governor's Proclamation. The Proclamation of 2nd August, 1894, (II.120) relating to Longziekte is amended.
- Page 25. 1st January, 1899. Regulations framed under the Proclamation of 1.10.1888 relating to the acquisition of land.
- Page 27. 16th January, 1899. Governor's Proclamation. Draws attention to the fact that the Imperial Act relating to the dangerous and criminal use of explosives is in force in the Protectorate and enacts that the respective District Commissioners are responsible for the proper carrying out of the Act.

Kol. G., Vol. V.

- Page 45. Governor's Proclamation, 1st April, 1900. Repeals Proclamation of 12th February, 1899 (not printed) and makes provision for the conservation of timber and bush in the Protectorate.
- Page 84. Governor's Proclamation of 25th May, 1900. Prohibits importation or keeping of rabbits in the Protectorate for breeding or other purposes.
- Page 138. 7th August, 1900. Governor's Proclamation, relating to payment of duty in respect of export of livestock, amending Customs Proclamations of 10.10.1896 (Vol. II, p. 272) and 1 June, 1898 (see Vol. III, 153, dated 15.10.1898). New tariff published.
- Page 168. 15th December, 1900. Governor's Proclamation. The German Reichsmark is declared to be the only legal tender in the Protectorate.
- Page 171. 18th December, 1900. Governor's Proclamation relating to importation and sale of liquor. Includes provisions applying to supply of liquor to natives. Repeals the Proclamations of 13.3.1893 (II. 8), 21.1.1895 (II. 129), 27.5.1895 (II. 147) and 8.1.1896 (II. 246).
- Page 178. 25th December, 1900. Chancellors Decree relating to judicial and legislative powers in Protectorate. The Governor is authorised to make laws regulating police and administrative matters and to delegate this power to the district commissioners in respect of their districts under certain conditions.

Kol. G., Vol. VI.

- Page 4. 21st November, 1902. Emperor's Proclamation, relating to the law of immovable property. This proclamation contains provisions applicable in the case of natives and other coloured people. Subject to sections 5, 6, 8 and 14, the proclamation dated 5.10.1898 (III, 129) and the regulations framed thereunder are repealed.
- Page 10. 30th November, 1902. Chancellor's Decree, framing regulations for the proper carrying out of the Proclamation of 21.11.1902.
- Page 546. 7th November, 1902. Proclamation of the Emperor relating to Customs Duties in the Protectorate. Provides for penalties for smuggling or importation of contraband.
- Page 195. 10th February, 1899. Governor's Instructions to the district officials. Describes duties of Police and states that section 6 of the Prussian Police Act of 11.3.1850 applies to South-West Africa.
- Page 427. 30th November, 1901. Governor's Proclamation, relating to removal or emigration of natives. Removal of natives from Protectorate is forbidden and their emigration is subject to permission of the Governor; penalties for contraventions by natives imposed. The Proclamation of 17.5.1891 (I. 322) is repealed.
- Page 436. 24th December, 1901. Governor's Proclamation relating to suppression of stock diseases as amended by Proclamation of 25th February, 1902. New stock diseases law repealing and replacing Proclamations of 1.3.1887 (I. 313), 2.8.1894 (II. 120), 20.6.1896 (II. 246), 30.10.1896 (II. 271), 15.5.1897 (II. 345), and the supplementary provisions thereof, 12.4.1899 (IV. 59).
- Page 441. 24th December, 1901. Governor's Regulations for the proper carrying out of the Stock Diseases Proclamation of 24.12.1901.
- Page 526. 1st September, 1902. Governor's Proclamation. Replaces and repeals the Game Laws of 4.1.1892 (I. 314) and 15.10.1896 (II. 291). Natives may hunt for their food and clothing within their tribal lands without licence, but are otherwise subject to the provisions of this Proclamation, contraventions of which shall be punishable under the Disciplinary Powers Proclamation of 8.11.1896 (II. 294).

- Page 543. Governor's Proclamation. 1st October, 1902, relating to the prevention and destruction of phylloxera.
- Page 401. 10th October, 1901. Governor's Proclamation, amending the Proclamation of 26.6.1895 (II. 162) relating to taxation of hawkers.
- Page 407. 27th October, 1901. Governor's Proclamation, relating to Wheel Tax. Repeals Proclamation of 30.12.1895 (II. 205).
- Page 496. 11th August, 1902. Governor's Proclamation, relating to customs duties. Supplementary Proclamation of 7.8.1900 (V. 138) regarding export tax on livestock repealed, and new tariff introduced.
- Page 495. 8th August, 1902. Governor's Proclamation regarding Criminal Jurisdiction over Natives. The penalties provided for in the Proclamation of 8.11.1896 (II. 294) in the case of natives to be applied according to the circumstances of each case in respect of actions rendered punishable by an enactment in which the penalties are not fixed.

Kol. G., Vol. VII.

- Page 39. 14th February, 1903. Emperor's Proclamation relating to expropriation of land. This Proclamation provides for expropriation of land, where this is for the public benefit and for payment of compensation. It also contains special provisions applying to natives and *i.a.* empowers the Chancellor to expropriate land belonging to non-natives, which has passed out of the ownership of natives, for the purpose of securing to the natives the possibility of livelihood, and particularly a place to live on. Such land is to remain the property of the Fiscus. Compensation is payable for all expropriations.
- Page 236. 12th November, 1903. Chancellor's Decree. Makes provision for the carrying out of Chapter IX of the Proclamation of 14.2.1903 (VII. 36), relating to expropriation of lands to be set aside for the use of natives.
- Page 214. 27th September, 1903. Chancellor's Decree, relating to legislative powers of the Protectorate officials. Repeals and replaces Decree of 25.12.1900 (V. 9.178).
- Page 259. 23rd November, 1903. Governor's Decree, relating to delegation of the Governor's legislative powers to the district commissioners. Reaffirms the Decree of 26.2.1901.
- Page 114. 23rd May, 1903. Regulations by the Governor for the carrying out of Proclamation of 12.11.1902 (VI. 4) and the Decree of 30.11.1902 (VI. 10) relating to the law of immovable property.
- Page 12. 31st January, 1903. Chancellor's Proclamation. Customs Proclamation for South-West Africa, repeals and replaces Proclamation of 10.10.1896 (II. 272) with amendments thereto and regulations thereunder.
- Page 79. 31st January, 1903. Governor's Customs Regulations.

Kol. G., Vol. VIII.

- Page 3. 30th October, 1904. Emperor's Proclamation. Bank notes may be issued in the Protectorate only under concession from the Chancellor, and under conditions framed by him.
- Page 124. 11th June, 1904. Martial Law Regulations issued by the Commander of the Protectorate Troops. Declares martial law to be in force in South-West Africa, and empowers commanding officers to execute all natives without trial who are found participating in treasonable actions.

Kol. G., Vol. IX.

- Page 43. 1st February, 1905. Chancellor's Proclamation, relating to legal tender in the Protectorate. Repeals and replaces all previous enactments relating to legal tender in the Protectorate.
- Page 221. 8th August, 1905. Emperor's Proclamation. The mining law for S.W.A. It also deals with mineral and mining rights on native land. The Mining Proclamation of 15.8.1889 (I. 300) is repealed.
- Page 275. 3rd December, 1905. Chancellor's Decree, applying certain German and Prussian Laws to mining undertakings in South-West Africa.
- Page 284. 26th December, 1905. Emperor's Proclamation, relating to the confiscation of property of natives of South-West Africa. The tribal property of native rebels may be confiscated by the Government. This also applies to reserves set aside for natives. Where the tribal organisation of a native tribe has been broken up, the Governor may also decide to confiscate the tribal lands, even if the natives in question may not have been guilty of rebellion. Finally, the Governor may reduce any tribal area if the numbers of the tribe are too small properly to exploit the area in their possession.

Kol. G., Vol. XI.

- Page 320. 12th July, 1907. Decree of the Secretary for the Colonies, relating to corporal punishment of natives.
- Page 151. 20th March, 1907. Governor's Decree, declaring Rehoboth to be a District Magistracy.
- Page 95. 12th February, 1907. Governor's Notice. Goods and livestock may only be imported or exported over defined roads of entry.
- Page 95. 12th February, 1907. Governor's Notice, defining the roads of entry mentioned in the Notice of same date.
- Page 96. 13th February, 1907. Governor's Proclamation, repealing Customs Tariff of 31.1.1903 (VII. 24), and substituting a new tariff.
- Page 98. 13th February, 1907. Governor's Proclamation, providing for the levy of customs duty on articles already in traffic in S.W.A.
- Page 118. 23rd February, 1907. Governor's Proclamation. Dog Tax Proclamation applicable to urban areas. Native *werf* headmen responsible for the collection of fines and taxes.
- Page 120. 24th February, 1907. Governor's Notice, declaring *i.a.* that Rehoboth is an urban area for the purposes of the Dog Tax Proclamation.
- Page 338. 1st August, 1907. Governor's Decree, relating to burial fees payable to Government in respect of graves provided by it.
- Page 343. 16th August, 1907. Governor's Proclamation, Liquor Law, includes provisions applicable to natives. Repeals Proclamations of 18.12.1900 (V. 171), as amended by Proclamations of 26.2.1903 (VII. 51) and 24.4.1905 (IX. 158).
- Page 345. 18th August, 1907. Governor's Proclamation, relating to the control of natives. Natives can only acquire rights to land with the consent of the Governor. Natives are not allowed to keep riding animals or large stock; the *Basters* are exempted from this provision in so far as they are resident in the district of Rehoboth and keep their cattle there. Contains various other controlling measures.
- Page 347. 18th August, 1907. Governor's Proclamation. The Pass Law. *Basters* are exempt from this law as long as they are living within the Rehoboth district. Repeals all previous pass laws.
- Page 351. 18th August, 1907. Governor's Proclamation. Masters and Servants Proclamation, in case of native servants.
- Page 352. 18th August, 1907. Circular of Governor, issued in connection with above three enactments. Defines "native" to include "*Baster*" for the purposes of these laws. It recommends the *Basters* to take out travelling passes when leaving Rehoboth *Gebiet*, even if not surrendering domicile.

Kol. G., Vol. XII.

- Page 19. 15th October, 1908. Emperor's Proclamation, relating to copyright. The International Agreement of Berne relating to copyright, with all supplementary and amending agreements thereto, as well as the Imperial Acts and Proclamation providing for the proper carrying out of the terms of this agreement, are applied to the Protectorates, subject to the provisions of the Proclamation of 11.7.1888.
- Page 35. 14th January, 1908. Governor's Proclamation, amending Building Proclamation of 12.9.1898 (III. 123).
- Page 552. 21st December, 1908. Governor's Regulations, framed under the Proclamation of 14.7.1905 (IX. 169), relating to powers of the Administration of the Protectorate, and repealing all provisions contained in enactments of the Government or its officers referring to the procedure regulated in the Proclamation of 14.7.1905.
- Page 144. 18th April, 1908. Governor's Proclamation. Proclaims new customs tariff, amended by Proclamation of 28.9.1908 (XII. 419).
- Page 536. 16th December, 1908. Governor's Proclamation, imposing an export duty on rough or uncut diamonds.
- Page 489. 7th November, 1908. Governor's Proclamation. Deals with hawker's licences, etc., and repeals Proclamation of 26.6.1895 (II. 162) and 10.10.1901 (VI. 401).
- Page 165. 30th April, 1908. Governor's Proclamation, relating to trade in denatured spirits.
- Page 436. 16th October, 1908. Governor's Proclamation, prohibiting entry into the Caprivizipfel.
- Page 446. 21st October, 1908. Governor's Proclamation, relating to traffic in rough or uncut diamonds.
- Page 229. 23rd June, 1908. Governor's Proclamation, prohibiting the importation of large stock, hides, etc., and grass from neighbouring colonies.

- Page 28. 5th December, 1907. District Chief Officer's Proclamation, relating to close seasons for the purposes of the Game Proclamation of 1.9.1902 (VI. 526), and repealing the Proclamation of 7.2.1903 (not printed).
- Page 470. 30th October, 1908. Governor's Proclamation, relating to credit transactions of natives.

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- Page 453. 29th September, 1909. Governor's Proclamation, relating to buildings near the railway lines.
- Page 133. 28th February, 1909. Governor's Proclamation, repealing Proclamation of 16.12.1908, and providing for export duty on rough and uncut diamonds.
- Page 182. 19th March, 1909. Governor's Proclamation, relating to taxation of land, expressly applies to *Basters*.
- Page 242. 20th April, 1909. Governor's Circular Decree, repealing wheel tax imposed by Proclamation of 27.10.1901 (VI. 406).
- Page 446. 9th September, 1909. Governor's Regulations under Proclamation of 19.3.1909 (XIII. 182) declares Rehoboth to be a "small settlement" for the purpose of land taxation.
- Page 14. 16th January, 1909. Emperor's Proclamation relating to traffic in South-West African diamonds.
- Page 64. 15th February, 1909. Emperor's Proclamation relating to the export of Angora goats.
- Page 65. 15th February, 1909. Emperor's Proclamation relating to the export of ostriches.
- Page 65. 15th February, 1909. Governor's Proclamation, Game Law, repealing the Proclamation of 1.9.1902 (VI. 526). Within their tribal areas natives may hunt game under a licence; outside these areas they are forbidden to hunt game.
- Page 147. 4th March, 1909. Governor's Proclamation relating to the hunting of seals.
- Page 207. 26th March, 1909. Decree of the Secretary for the Colonies granting a concession for the exploitation of minerals in the Rehoboth *Gebiet*.
- Page 659. 27th December, 1909. The Imperial Mining Law of 8.8.05 is to apply to asbestos.
- Page 659. 27th December, 1909. Instruction of the Governor, prohibiting the sale of arms and ammunition from official supplies to natives.

Amtsblatt (Gazette), 1910.

- Page 1. 9th March, 1910. Governor's Proclamation relating to promulgation of laws.
- Page 31. 16th February, 1910. Chancellor's Proclamation relating to amendment of customs laws.
- Page 31. 25th February, 1910. Chancellor's Proclamation making regulations under the Diamond Traffic Proclamation of 16.1.1909.
- Page 33. 3rd May, 1910. Governor's Customs Regulations.
- Page 41. 12th May, 1910. Governor's Decree altering the status of the Rehoboth District Office.
- Page 50. 3rd June, 1910. Governor's Proclamation relating to the prohibition of export of stock.
- Page 158. 26th September, 1910. Governor's Small-stock Diseases Proclamation, and regulations thereunder affecting certain areas, including the Rehoboth district.
- Page 161. 26th September, 1910. Governor's Proclamation amending customs laws.
- Page 177. 27th September, 1910. Governor's Proclamation amending customs laws.
- Page 178. 4th October, 1910. Governor's Proclamation amending game laws.
- Page 178. 12th October, 1910. Governor's Proclamation relating to East Coast Fever.
- Page 193. 31st August, 1910. Chancellor's Decree conferring on District Chief Officers certain extended powers.
- Page 194. 14th October, 1910. Governor's Proclamation amending Land Tax laws.
- Page 194. 14th October, 1910. Governor's Decree conferring certain legislative power on District Chief Officers.
- Page 221. 9th November, 1910. Governor's Proclamation amending Liquor Tax law.

Amtsblatt, 1911.

- Page 57. 31st May, 1911. Governor's Proclamation amending the Diamond Traffic Proclamation of 21.10.1908.
- Page 80. 24th June, 1911. Governor's Proclamation relating to traffic in explosives.
- Page 82. 26th June, 1911. Governor's Proclamation relating to the inspection of slaughtered meat.

- Page 126. 26th July, 1911. Governor's Proclamation relating to diseases of bees.
 Page 181. 29th September, 1911. Governor's Proclamation relating to the herding of stallions.
 Page 241. 24th November, 1911. Governor's Proclamation prohibiting the importation of certain livestock.

Amasblatt, 1912.

- Page 83. 15th January, 1912. Chancellor's Press Proclamation.
 Page 85. 6th March, 1912. Governor's Proclamation amending the law relating to the importation of liquor.
 Page 186. 23rd May, 1912. Governor's Proclamation relating to registration of births of children of mixed parentage.
 Page 186. 25th May, 1912. Governor's Proclamation relating to traffic in and smoking of hemp.
 Page 216. 12th June, 1912. Governor's Brands Proclamation.
 Page 221. 14th June, 1912. Governor's Roads Proclamation.
 Page 249. 14th June, 1912. Governor's Proclamation relating to hawkers, prohibiting *i.a.* "Eingeborenen" from hawking.
 Page 309. 30th July, 1912. Governor's Proclamation relating to vaccination.
 Page 333. 16th July, 1912. Chancellors Decree empowering the Governor to assess the compensation to be paid to persons wrongly convicted.
 Page 446. 7th November, 1912. Governor's Proclamation amending the Customs Law.

Amtsblatt, 1913.

- Page 21. 31st December, 1912. District Council's Notice proclaiming roads in the Rehoboth district and the *Gebiet*.
 Page 144. 28th April, 1913. Governor's Proclamation amending customs tariff.
 Page 175. 10th April, 1913. Chancellor's Proclamation relating to the suppression of infectious and other dangerous diseases.
 Page 288. 12th August, 1913. Governor's Proclamation amending the Brands Proclamation of 12.6.12.
 Page 398. 3rd September, 1913. Emperor's Decree relating to the operations, etc., of the armed forces of the Protectorate.
 Page 428. 24th November, 1913. Governor's Proclamation amending the Land Tax Proclamation of 19.3.1909.

Amtsblatt, 1914. Not available.

ANNEXURE IX.

MAP OF REHOBOTH TERRITORY.

Translation from Dutch.

ANNEXURE X.

TREATY OF PROTECTION AND FRIENDSHIP BETWEEN THE GERMAN EMPIRE AND THE BASTARDS OF REHOBOTH.

His Majesty the German Emperor, King of Prussia, Wilhelm I, on behalf of the German Empire, of the one part, and the independent Chief of the *Bastards* of Rehoboth, in Great Namaqualand, Captain Hermanus Van Wyk for himself and his legal successors of the other part, entertain the desire to conclude a Treaty of Protection and Friendship.

For this purpose; the authorised representative of His Majesty the German Emperor, namely, the Missionary C. G. Büttner, and Captain Hermanus van Wyk and his councillors have agreed to the following points.

Article I.

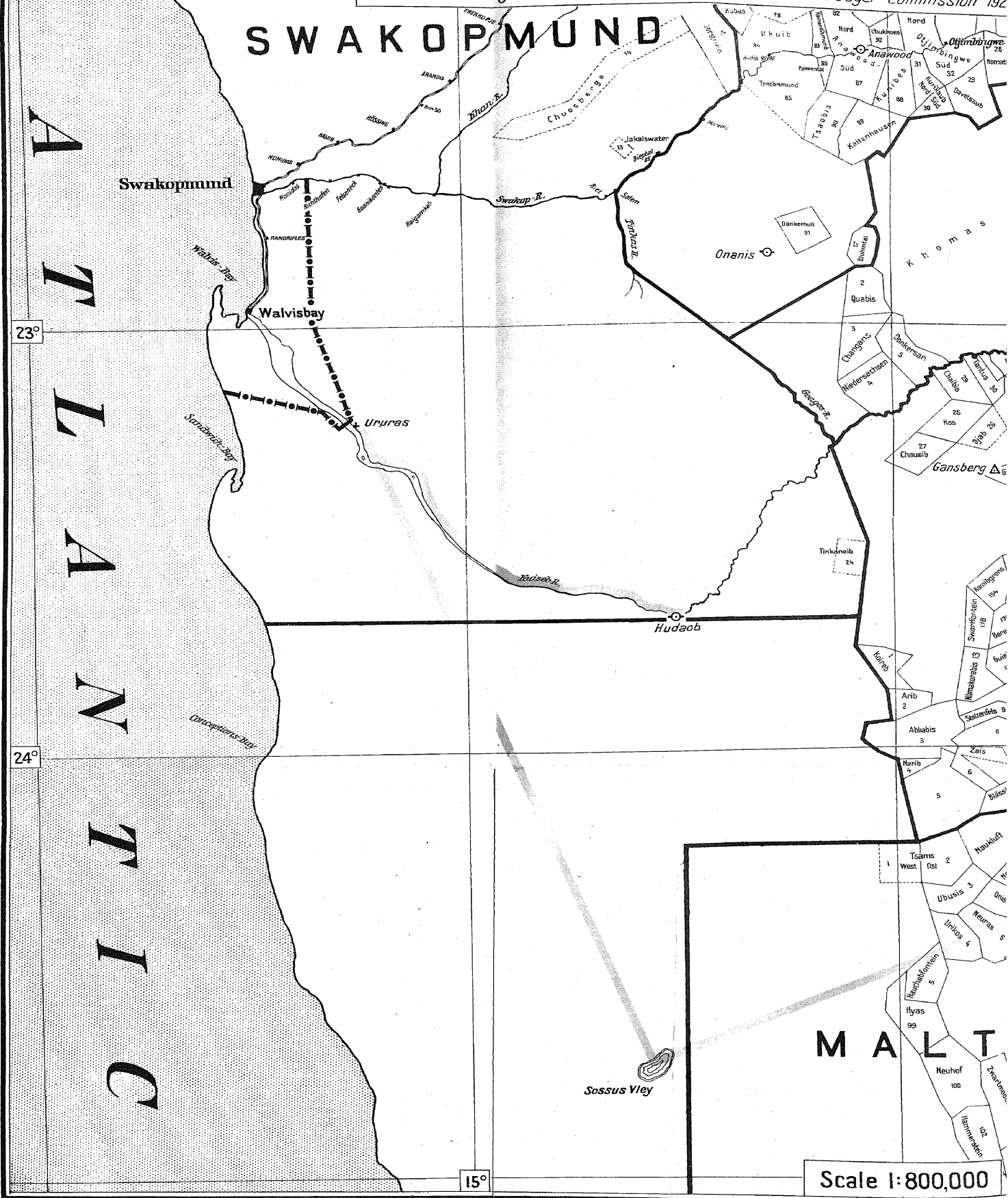
Captain Hermanus van Wyk entreats His Majesty the German Emperor to take his country and people under his protection. His Majesty the German Emperor accedes to this request and assures Captain Hermanus van Wyk of his mightiest protection. As an outward symbol of this protection the German flag shall be hoisted.

——— Boundary according to German Boundary Commission 1897 to 1909.
 ▨▨▨▨▨ Area since Sold or disposed of by Bastards
 ▩▩▩▩▩ Boundary as agreed upon between Administrator and Bastard Raad on 1
 ▧▧▧▧▧ Area bought and donated (Sandputz No.50) by the Administration and
 Total Area of Land owned I
 - - - - - Eastern Boundary claimed by H. van Wyk in his letter to Vogelsang in 186
 - - - - - Boundary claimed by Bastards at Drew and De Jager Commission 192

SWAKOPMUND

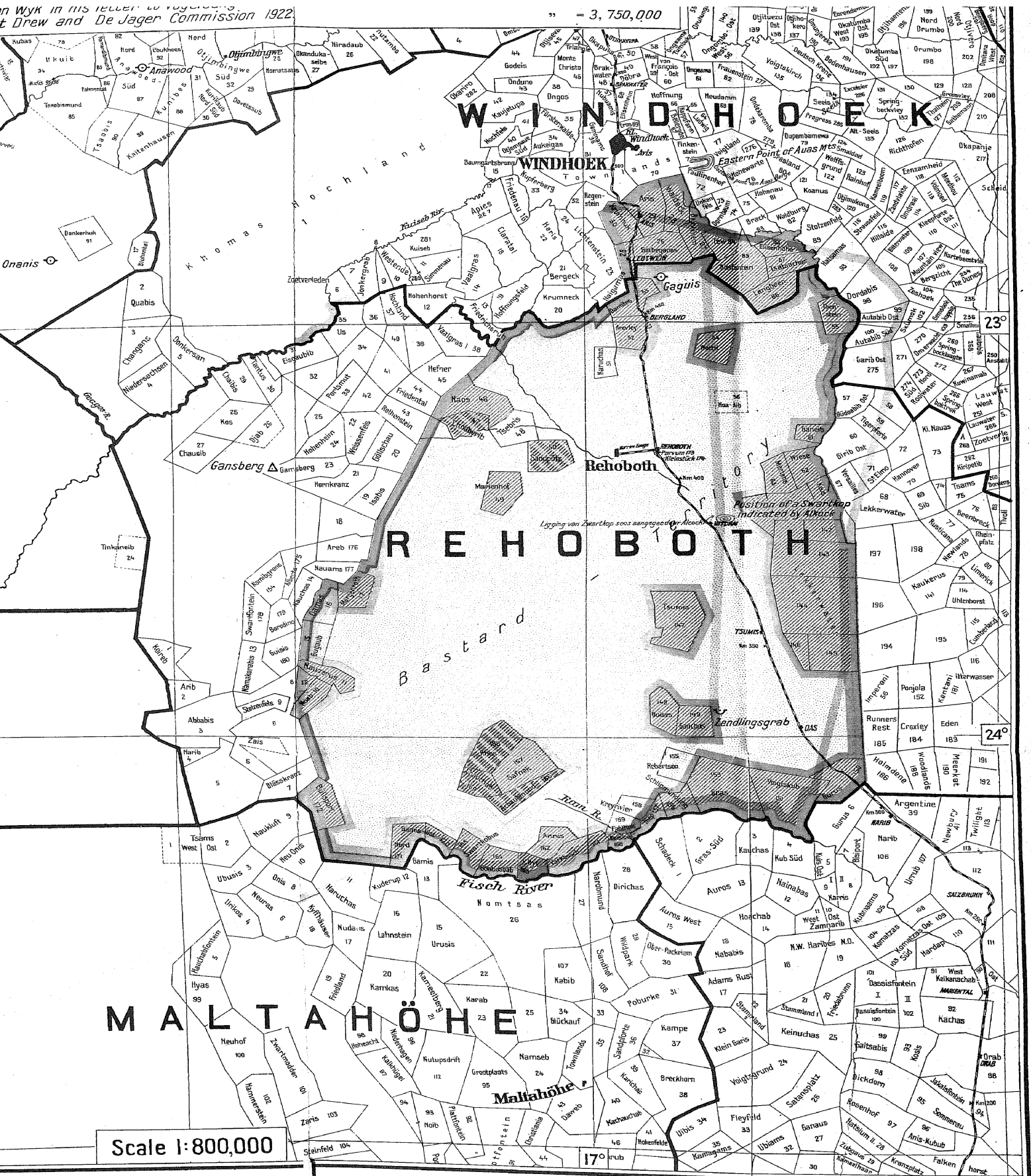
ATLANTIC

23°
 24°
 15°



Scale 1:800,000

——— Grense volgens Duitse Grenskommissie
 ▨▨▨▨▨ Oppervlakte sinds deur die Bastards
 ▩▩▩▩▩ Grense soos ooreengekom tussen Administrator en Bastard Raad
 ▧▧▧▧▧ Gronde gekoop en geskenk (Sandputz No. 50)
 - - - - - Oostelike Grens waarop H. van Wyk aanspraak maak
 - - - - - Grens waarop Bastards aanspraak maak



Scale 1:800,000

-----	Grense volgens Duitse Grenskommis... (ie, 1897 1909)		HEKTARE.
////	Oppervlakte sinds deur die Baster... (verkoop of van die hand gesit)		1,795,000
-----	Grense soos ooreengekom tussen A... (Administrateur en Baster Raad op 17 Augustus 1923)		451,733
////	Gronde gekoop en geskenk (Sandp... (z No. 50) deur die Administrasie en aan Basters teruggegee		1,343,267
	TOTALE GROOTTE VAN DIE GROND TANS DIE EIENDOM VAN DIE BASTERS		38,616
-----	Oostelike Grens waarop H. van Wy... (aanspraak gemaak het in sy brief aan Vogelsang in 1885)		1,381,883
-----	Grens waarop Basters aanspraak g... (maak het by die Drew en De Jager Kommissie, 1922)		3,750,000

Article II.

His Majesty the German Emperor recognizes the rights and the freedom which the *Bastards* of Rehoboth have established for themselves, and undertakes to respect such previous treaties as were concluded by them with other nations or their nationals, and similarly not to prejudice the Captain in the collection of the revenue to which he is entitled in terms of the laws and customs of his country.

Article III.

The Captain Hermanus van Wyk undertakes not to dispose of any land or portion thereof to any other nation, or any national thereof, nor to conclude treaties with other Governments without the consent of the German Emperor.

Article IV.

The Captain promises to protect the lives and property of all German nationals and others under German protection. He gives them the right and freedom to travel, reside, work, buy and sell as far as his land goes. The burghers of Rehoboth, however, retain the right to prescribe conditions in each and every case under which strangers shall be allowed to live in the Territory.

On the other hand, the German nationals and others under German protection shall respect the laws and customs of the country, and shall not from their side break the laws. They shall pay the taxes which have been hitherto in force to the Captain, or such as may later be agreed upon between the Captain and the German Empire.

The Captain undertakes not to give any other nation greater rights or privileges than those which he gives to German nationals.

Article V.

In connection with civil and criminal cases in the Rehoboth Territory, it is laid down that the cases between the burghers of Rehoboth shall be conducted by their own judges, and according to their own laws. The cases between the burghers of Rehoboth and persons who do not belong to Rehoboth shall be tried by a mixed tribunal whose judges shall be appointed by His Majesty the Emperor and the Captain of Rehoboth. All cases between such persons who are not burghers of Rehoboth or their families, and all criminal offences of such persons, shall be tried by such persons as His Majesty the German Emperor shall appoint. In all cases, including those of the burghers of Rehoboth, an appeal may be made to the Tribunal of His Majesty the German Emperor, and the verdict of that Tribunal shall be final.

Article VI.

The Captain undertakes to assist as far as possible in the preservation of peace in Great Namaqualand and the adjoining countries. If he should have a dispute with other chiefs in Great Namaqualand or the adjoining countries, he shall ask the opinion of the German Government, or request them to intervene and settle the dispute.

Article VII.

If there should be any further matters for adjustment between the German Empire and the Captain of Rehoboth, such shall be done by means of an agreement between the two Governments.

Rehoboth, 15th September, eighteen hundred and eighty five.

(Sgd.) C. G. BÜTTNER,
Representative of His
Majesty the German Emperor.

(Sgd.) H. VAN WYK.

Mark X of Jacobus Mouton.

(Sgd.) Johannes Diergaard.

Mark X of Dirk van Wyk

(Sgd.) Wilhelm Koopman.

(Sgd.) Willem van Wyk.

As Witness:

(Sgd.) F. Heidmann,
Missionary.

ANNEXURE XI.

Proclamation No. 28 of 1923.

Whereas on the 17th day of August 1923 an agreement was entered into at Windhoek between the Administrator of the Mandated Territory of South-West Africa as representing the Government of the Union of South Africa as the Mandatory of the said territory under the Mandate conferred in pursuance of the Treaty of Peace with Germany signed at Versailles on the 28th day of June 1919 upon His Britannic Majesty for and on behalf of the aforesaid Government of the Union of South Africa on the one part and Cornelius van Wyk, Kapitein of the Rehoboth Community and the members of the Raad of the said Community for themselves and their lawful successors as representing the said Community of the other part regulating the future administration by the Government of the Union of South Africa in its capacity as Mandatory aforesaid of the Territory situate within the district of Rehoboth occupied by the said community known as the *Gebiet*;

And whereas it is desirable that the aforesaid agreement of the 17th August 1923 should be ratified and confirmed;

Now therefore, under and by virtue of the powers in me vested, I do hereby proclaim, declare and make known as follows:—

1. The agreement dated the 17th August 1923 between the Administrator of the Territory of South West Africa and Cornelius van Wyk, Kapitein of the Rehoboth Community and the members of the Raad of the said community, a copy whereof is set out in the Schedule to this Proclamation is hereby ratified and confirmed as from the first day of October 1923 and all necessary powers and authority are hereby conferred upon the parties to the agreement for giving full and complete effect to the provisions thereof.

2. Any person who enters or resides within the boundaries of the territory known as the *Gebiet* in contravention of paragraph fourteen or fifteen of the said agreement shall be guilty of an offence, and upon conviction shall be liable to a penalty not exceeding One Hundred Pounds, or in default of payment to imprisonment for a period not exceeding twelve months. Any such offence shall be cognizable alone by the Magistrate's Court for the District of Rehoboth, which is hereby empowered to impose on summary trial the maximum punishment provided for such contravention, anything to the contrary notwithstanding contained in the law relating to Magistrates' Courts.

3. It shall be lawful for the Administrator, on the conviction of any person in respect of an offence specified in the last preceding section of this Proclamation, to direct the Secretary for South-West Africa to issue an order to such person to leave the said *Gebiet* within such time after service of such order as may be stated therein. Any person failing to comply with such order may be arrested and removed from the *Gebiet* on a warrant under the hand of the Secretary for South-West Africa.

4. Any transaction entered into with a view to the acquisition of any interest in immovable property, whether leasehold or freehold, in contravention of paragraph fifteen of the said agreement, shall be null and void, and no action may be instituted in any Court of Law within the Territory of South-West Africa for the recovery of any money or valuable consideration whatsoever which may have been paid or given in respect of any such transaction.

5. The Administrator may make rules, orders or regulations not inconsistent with the agreement in the first section mentioned for effectually carrying out and giving effect to the objects and purposes thereof.

6. This Proclamation shall be of full force and effect within the territory known as the *Gebiet*, the boundaries of which are defined in the First Schedule to the copy of agreement set out in the Schedule hereto, and shall come into operation on the first day of October, 1923.

God Save the King.

Given under my hand and seal at Cape Town this 28th day of September, 1923.

GIJS R. HOFMEYR,
Administrator.

SCHEDULE.

AGREEMENT.

BETWEEN THE ADMINISTRATOR OF THE TERRITORY OF SOUTH-WEST AFRICA AS REPRESENTING THE GOVERNMENT OF THE UNION OF SOUTH AFRICA OF THE ONE PART AND CORNELIUS VAN WIJK, KAPITEIN OF THE BURGHERS OF REHOBOTH, AND THE MEMBERS OF THE RAAD OF THE REHOBOTH COMMUNITY FOR THEMSELVES AND THEIR LAWFUL SUCCESSORS AS REPRESENTING THE COMMUNITY OF REHOBOTH, OF THE OTHER PART.

Whereas the administration of the Territory of South-West Africa lately under the sovereignty of Germany, whereof the land occupied by the Burghers of Rehoboth commonly known as the Bastard Gebiet (hereinafter referred to as the *Gebiet*) forms part, has

been placed under the Government of the Union of South Africa, as Mandatory thereof under the Mandate conferred in pursuance of the Treaty of Peace concluded at Versailles on the 28th of June, 1919, between the British Empire and certain other Allied and Associated Powers and Germany,

Now therefore, the Administrator of the Territory of South-West Africa (hereinafter styled the Administration), as representing the Government of the Union of South Africa, and Cornelius van Wijk, Kapitein of the Burghers of Rehoboth, and the members of the Raad of the Rehoboth Community for themselves and their lawful successors as representing the Rehoboth Community, do hereby covenant and agree together as follows:—

1. The Administration acknowledges the right and title of the Rehoboth Community to the land at present occupied by it within the boundaries of the *Gebiet* as defined in the First Schedule hereto.

The said boundaries shall be extended to include the farms Gamis Nord (No. 171), Arusis (No. 162), Niep (No. 157), Schlipmündung (No. 156) and Oamites (No. 53) if the registered owners of the said farms desire such inclusion and consent thereto.

2. The Administration acknowledges and recognises Cornelius van Wijk as the duly elected Kapitein of the Rehoboth Community according to the law of the said Community.

3. Subject to the provisions of this Agreement the Administration concedes to the Rehoboth Community the right of local self-government within the *Gebiet* according to the laws presently to be found in the Law Book of the Raad of the Rehoboth Community and such additions thereto or amendments thereof as may from time to time lawfully be enacted by the Raad of the Rehoboth Community.

Provided that any law hereafter passed by the Raad of the Rehoboth Community shall be presented to the Administrator of South-West Africa for his assent, who shall declare according to his discretion through the Secretary for South-West Africa that he assents thereto, or that he withholds assent or that he reserves the law for the signification of the pleasure of the Government of the Union of South Africa.

Provided further that the Administrator may before declaring his pleasure in regard to any law which shall have been so presented to him return such law to the Raad of the Rehoboth Community with such amendments as he shall consider needful or expedient. The Raad of the Rehoboth Community shall thereupon take such amendments into consideration.

4. The laws of the Territory of South-West Africa mentioned in the Second Schedule hereto shall from the date of the taking effect of this Agreement be of full force and effect within the *Gebiet* and any amendments thereof or additions thereto which may hereafter be enacted.

Provided that the Administrator shall after consultation with the Raad of the Rehoboth Community possess the power to legislate for the *Gebiet* and to extend thereto the operation of any law whether at present in force in the Territory of South-West Africa or hereafter enacted, if he considers such legislation or extension to be expedient or desirable in the interests of either the Territory of South-West Africa or the *Gebiet*.

5. All laws of the Territory of South-West Africa the operation whereof is hereby or may hereafter be extended to the *Gebiet* shall be administered by the officers of the Administration of South-West Africa, and contraventions in respect thereof shall be cognizable alone by the Courts of the Territory of South-West Africa as established by law.

6. The Administrator shall appoint a Magistrate for the District of Rehoboth (including the *Gebiet*) who shall represent the Administration of South-West Africa in its relation with the Kapitein and Raad of the Rehoboth Community. Such Magistrate shall exercise within the *Gebiet*, save where otherwise expressly provided by this Agreement, all the powers and functions of a Magistrate in the Territory of South-West Africa.

7. The Judges and Magistrates of the Rehoboth Community shall have exclusive original jurisdiction within the *Gebiet* in accordance with the laws of the said Community in all civil suits and proceedings arising therein between members of their own race and between any such member and a native or between native and native.

8. (1) The Magistrate of the District of Rehoboth shall have jurisdiction in all civil suits and proceedings between a European and a Burgher of Rehoboth or between a European and a Native where the defendant is resident in the *Gebiet* or has property therein. All such suits and proceedings shall be determined according to the local laws in force in the *Gebiet* and in case of there being a conflict between the law of the Territory of South-West Africa and the law of the *Gebiet*, the law of the Territory of South-West Africa shall apply where the defendant is a European and the local law of the *Gebiet* shall apply where the defendant is a Burgher of Rehoboth or a Native; in the absence of any local law applicable to the subject-matter of the dispute the law of the Territory of South-West Africa shall apply.

(2) The Administrator may from time to time prescribe rules or orders regulating the practice and form of procedure in cases pending before the Magistrate under the provisions of this paragraph.

(3) An appeal shall lie against the judgment of the Magistrate in cases under this paragraph to the High Court of South-West Africa in accordance with such rules and regulations in regard to procedure and practice as the Administrator in consultation with the Judge of the High Court may determine.

9. All civil suits and proceedings between Europeans shall be dealt with according to the law for the time being in force in the Territory of South-West Africa.

10. The criminal law for the time being in force in the remaining portion of the Territory of South-West Africa shall, save such penal laws created by statute the operation whereof has not been specifically extended to the *Gebiet* as herein provided, apply in respect of all acts and transactions of whatsoever nature done or performed within the *Gebiet* between Europeans or between a European and a Burgher of Rehoboth or between a European and a Native, which if done or performed in the remaining portion of the Territory of South-West Africa would have constituted a crime or offence.

11. The Judges and Magistrates of the Rehoboth Community shall have jurisdiction in accordance with the laws of the said Community in all criminal cases arising within the *Gebiet* exclusively between members of their own race and between any such member and a Native and between Native and Native. Provided that such jurisdiction shall not extend to the offences mentioned in the Third Schedule hereto and to offences involving contravention of laws of the Territory of South-West Africa, the operation whereof is hereby or may hereafter be extended to the *Gebiet* in accordance with the provisions of paragraph four hereof.

Provided further that all such criminal matters as herein excepted and in all criminal cases arising between Europeans or between a European and a Burgher of Rehoboth, or between a European and a Native, the High Court of South-West Africa and the Court of the Magistrate of the District of Rehoboth shall respectively have jurisdiction in accordance with the provisions of the criminal law for the time being in force in the Territory of South-West Africa.

The Magistrate in all such cases shall observe the rules of criminal procedure and evidence applicable to Magistrates' Courts in the rest of the Territory of South-West Africa.

12. Any person, a party to any suit or proceeding whether civil or criminal before the Judges or Magistrates of the Rehoboth Community exercising jurisdiction under the provisions of paragraphs seven and eleven of this Agreement shall possess the right of appeal from the decision of such tribunal in the first instance to a Mixed Court composed of the Magistrate of the district of Rehoboth and two Judges or Magistrates of the Rehoboth Community other than the Judge or Judges or Magistrate or Magistrates before whom the case was determined, and in the event of disagreement the decision of the Magistrate shall constitute the judgment of the Court. Provided that in all cases an appeal shall lie from the decision of such Court to the High Court of South-West Africa on such terms and conditions and in accordance with such rules and regulations as the Administrator in consultation with the Judge of the High Court may determine.

Appeals to the Mixed Court of Appeal as herein provided shall be noted and prosecuted within such period and in such manner as shall be prescribed by rules framed by the Magistrate of the District of Rehoboth with the approval of the Administrator.

All judgments of the Mixed Court of Appeal shall be executable in like manner as though they were judgments of the Magistrate's Court.

13. The Magistrate of the District of Rehoboth and the Police of South-West Africa shall possess in the *Gebiet* the same jurisdiction and powers in regard to the arrest and prosecution of offenders charged with crimes cognizable by the High Court of South-West Africa and by the Magistrate's Court of the district as are possessed by them under the laws for the time being in force in the rest of the Territory of South-West Africa. They shall further possess the power subject to the provisions of the Criminal Law for the time being in force in the rest of the Territory of South-West Africa relating to arrest, to arrest within the *Gebiet* and to remove therefrom any person required on a criminal charge in respect of any crime or offence committed outside the *Gebiet*.

14. No person other than a lawful resident of the *Gebiet* or a person *bona fide* travelling through the *Gebiet* shall be permitted to enter the *Gebiet* save with the written consent of the Magistrate of the District of Rehoboth who shall in every case prior to according or refusing such permission as the case may be consult with the Raad of the Rehoboth Community. An appeal from the decision of the Magistrate shall lie to the Administrator. Any person who unlawfully enters the *Gebiet* without the required permission shall be liable to be punished and to be removed therefrom by warrant under the hand of the Magistrate of the District of Rehoboth.

15. No person other than a lawful resident of the *Gebiet* at the date of the taking effect of this Agreement shall be permitted to reside therein or to acquire therein any interest in immovable property whether leasehold or freehold save with the written consent of the Raad of the Rehoboth Community which consent shall be subject to the approval of the Magistrate of the District; provided that in the case of a European the sanction of the Administrator of South-West Africa shall be a condition precedent to such residence in the *Gebiet* or acquisition or lease of immovable property or any interest therein; provided further that nothing in this paragraph contained shall affect any existing rights lawfully acquired before or at the date of the taking effect of this Agreement.

16. As soon as may conveniently be after the taking effect of this Agreement the Administration and the Raad of the Rehoboth Community bind themselves respectively to enact the legislation necessary to give due force and effect to the provisions herein contained.

Adequate penalties shall be prescribed for contravention of paragraphs fourteen and fifteen of this Agreement.

17. In lieu of the enforcement of any revenue laws which are hereby or may hereafter be supplied to the *Gebiet* in accordance with the provisions of paragraph four hereof the Raad of the Rehoboth Community may pay to the Administration of South-West Africa annually such sum of money as may be determined upon by the Administrator after consultation with the said Raad.

Wherever in any law the operation whereof is extended to the *Gebiet* provision is contained therein for the payment of any revenue derived therefrom to any local authority such revenue shall be paid to the Raad of the Rehoboth Community in lieu of such local authority.

18. In case of any dispute or difference of opinion arising between the Administrator and the Raad with relation to any matter flowing from this Agreement the latter shall hand a written statement to the Administrator in which its objections or such proposals as it may desire to make shall be set forth in full and may thereafter, if necessary, represent the matter to him personally. In case a satisfactory settlement of the matter in dispute is then not reached, the Raad may petition in connection with the matter to the Parliament of the Union of South Africa either direct or by petition through the mediation of the Prime Minister.

19. All agreements and treaties heretofore existing between the Burghers of Rehoboth and the late German Government, with the exception of the agreement entered into between the late German Government and the Raad of the Rehoboth Community on the 30th October, 1912, mentioned under the heading "Mining" in the Second Schedule hereto, shall be cancelled as from the date of this Agreement.

20. This Agreement shall come into force on the first day of October, 1923.

Thus done and signed at Windhoek in the Territory of South-West Africa on this the 17th day of August, 1923, in the presence of the undersigned witnesses:—

GYS R. HOFMEYR,
Administrator of South West Africa.

ALBERT MOUTON.

N. OLIVIER.

Members of the Executive Council of the Rehoboth
Community, on behalf of the Kapitein, who is ill.

GERT CLOETE.

PIETER MOUTON.

MALCOLM MCNAB.

PIET BEUKES.

JAN WITBOOI X.

GERT DE KLERK X.

F. W. MAASDORP, Secretary.

Members of the Volksraad of the Rehoboth
Community.

As Witnesses:

CHAS. M. S. FORSBROOK.

D. W. DREW.

THOMAS ALCOCK.

[U.G. 41—'26.]

FIRST SCHEDULE.

BOUNDARIES OF THE REHOBOTH GEBIET IN REHOBOTH DISTRICT.

From the south-western beacon of the farm "Bullspport" No. 172, along the boundaries of and excluding the farms:—

	No.
Bullspport	172
Blasskranz	7
Farm	8
Noab	10
Nauzerus	11
Guisis	180
Nauchas	14
Nauams	177
Morgenroth	17
Nauams	177
Areb	176
Farm	18
Isabis	19
Gollschau	20
Rothenstein	43
Naos	46
Choaberib	47
Noas	46
Hefner	45
Vaalgras I	38

to the north-eastern beacon of the last-mentioned farm; thence in an easterly direction along the boundary of the districts of Windhoek and Rehoboth, as defined in the First Schedule to Proclamation No. 40 of 1920 to the north-western beacon of the farm Oamites No. 53; thence along the boundaries of and excluding the farms:—

	No.
Oamites	53
Arovley	52

to the northern beacon of Oamites No. 53 (near the railway); thence in an easterly direction along the district boundary of Windhoek and Rehoboth as defined in the First Schedule to Proclamation No. 40 of 1920 to the north-eastern beacon of the farm Ibenstein No. 55; thence along the boundaries of and excluding this farm to its south-eastern beacon; thence in the southerly direction along the district boundary of Windhoek and Rehoboth as defined in the First Schedule to Proclamation No. 40 of 1920 to the north-western beacon of the farm Dudoabib Ost No. 57; thence along the boundaries of and excluding the farms:—

	No.
Dudoabib Ost	57
Girib Ost	60
Ganieb	61
Girib Ost	60
Wiese	62
Mertens	63
Farm	64
Farm Lekkerwater	143
Farm	144
Farm Lekkerwater	146
Farm Lekkerwater	145

to the south-eastern beacon of the last-mentioned farm; thence in a straight line to the north-eastern beacon of the farm Gurus No. 150; thence along the boundaries of and excluding the farms:—

	No.
Gurus	150
Voigtskub	151
Gras	153
Schlipmündung	156
Niep	157
Nonkarib	160
Varkbosch	161
Arusis	162

to the western beacon of the last-mentioned farm; thence along the boundaries of but including the farm Van Wijk No. 163, to the north-western beacon of this farm; thence along the boundaries of an excluding the farms:—

	No.
Goabosoab	164
Swartkobus	165
Gamis Ost	170
Gamis Nord	171

to the south-western beacon of the last-mentioned farm; thence in a westerly and north-westerly direction along the district boundary of Rehoboth and Maltahöhe as defined in the First Schedule to Proclamation No. 40 of 1920 westward and north-westward to the point of beginning.

NOTE.—Wherever a river forms the boundary the inner bank shall be taken as the line of demarcation.

GYS R. HOFMEYR,
Administrator of South West Africa.

ALBERT MOUTON.
N. OLIVIER.

Members of the Executive Council of the Rehoboth
Community, on behalf of the Kapitein, who is ill.

GERT CLOETE.
PIETER MOUTON.
MALCOLM MCNAB.
PIET BEUKES.
JAN WITBOOI X.
GERT DE KLERK X.
F. W. MAASDORP, Secretary.
Members of the Volksraad of the Rehoboth
Community.

As Witnesses:

CHAS. M. S. FORSBROOK.
D. W. DREW.
THOMAS ALCOCK.

SECOND SCHEDULE.

Arms and Ammunition.—Proclamation No. 10 of 1915 as amended by Proclamation No. 4 of 1920, and Proclamation No. 77 of 1920.

Artesian Water Control.—Proclamation No. 49 of 1921.

Cattle Brands.—Proclamation No. 36 of 1921 as amended by Proclamation No. 14 of 1923.

Coinage and Legal Tender.—Proclamation No. 3 of 1922.

Commissioner of Oaths.—Proclamation No. 17 of 1915.

Customs and Excise.—All laws in force in the Territory of South-West Africa by virtue of the provisions of Section 27 of the Union Customs and Excise Duties Amendment Act, 1921 (No. 35 of 1921).

Criminal Procedure.—The Criminal Procedure and Evidence Proclamation No. 20 of 1919, in so far as the application thereof is necessary for the due observance of paragraph eleven of the Agreement.

Cruelty to Animals.—Proclamation No. 17 of 1919.

Dog Tax.—Dog Tax Proclamation No. 16 of 1921 and No. 6 of 1922.

Game.—The Game Preservation Proclamation No. 13 of 1921 in so far only as it relates to “Royal Game” and “Big Game.”

Inquests.—The Inquests Proclamation No. 9 of 1920.

Interpretation of Laws.—Proclamation No. 37 of 1920.

Lands Expropriation.—The Lands Expropriation Proclamation No. 37 of 1922.

Licences.—The Licences Proclamation No. 21 of 1921 as amended by Proclamation No. 33 of 1921 and No. 21 of 1922.

Liquor Laws.—The Liquor Licensing Proclamation No. 6 of 1920 as amended by Proclamations No. 71 of 1920, No. 48 of 1921, and No. 7 of 1923.

Magistrates' Courts.—The Union Magistrates' Courts Act, 1917 (No. 32 of 1917) as applied to the Territory of South-West Africa by the Administration of Justice Proclamation, 1919.

[U.G. 41—'26.]

Magisterial Districts.—Proclamation re-defining boundaries of, No. 40 of 1920.

Marriage Laws.—The Solemnization of Marriages Proclamation No. 31 of 1920.

Master and Servants.—The Master and Servants Proclamation No. 34 of 1920 as amended by Proclamation No. 58 of 1920 and No. 19 of 1923.

Mining.—Subject to the agreement entered into between the German Government and the Burgher Raad on the 30th October, 1912, the following Mining Laws shall have force within the *Gebiet*:—

The Imperial Mining Ordinance for German South-West Africa of the 8th August, 1905, as amended by Proclamations Nos. 24 of 1919, 12 of 1920, 29 of 1921 and 11 of 1923.

The Imperial Ordinance relating to the Trade in South-West Africa diamonds of the 16th January, 1909.

The Ordinance of the Imperial Chancellor of the 26th February, 1909, regarding royalty on precious stones.

The Ordinance of the Governor of South-West Africa relating to the levy of an export duty on diamonds of the 28th February, 1909.

The Ordinance of the Imperial Chancellor concerning the working of the Imperial Ordinance relating to the trade in South-West Africa diamonds of the 25th February, 1910.

The Ordinance of the Imperial Governor of South-West Africa relating to the establishment of a Mining Ground Register (*Berggrundbuch*) of the 30th May, 1910.

The Ordinance of the Imperial Governor relating to the sale of German South-West Africa diamonds of the 13th December, 1913.

The Diamond Board Establishment Proclamation, 1921 (No. 4 of 1921), as amended by Proclamation 37 of 1921.

The Diamond Industry Protection Proclamation, 1922.

Native Stock Brands.—Proclamation No. 15 of 1923.

Police.—The Police Proclamation No. 56 of 1921 as amended by Proclamation No. 24 of 1922.

Prisons.—The Union Prisons and Reformatories Act, 1911, as applied to the Territory of South-West Africa by Proclamation No. 6 of 1916 as amended by Proclamation No. 20 of 1922.

Public Health.—The Public Health Proclamation No. 36 of 1920.

Railway Management.—The Acts of the Union Parliament applied to the Territory of South-West Africa in respect of Railways and Harbours by sub-section (4) of Section two of the South-West Africa Railways and Harbours Act, 1922 (No. 20 of 1922).

Stock Diseases.—The Diseases of Stock Proclamation, 1920 (No. 28 of 1920) together with the Orders and Regulations published thereunder.

Stock Theft.—The Stock Theft Repression Proclamation No. 5 of 1920.

Undesirables.—The Undesirables Removal Proclamation No. 50 of 1920.

South-West Africa Affairs Act, 1922 (No. 24 of 1922) of the Union Parliament.

GYS R. HOFMEYR,

Administrator of South West Africa.

ALBERT MOUTON.

N. OLIVIER.

Members of the Executive Council of the Rehoboth Community, on behalf of the Kapitein, who is ill.

GERT CLOETE.

PIETER MOUTON.

MALCOLM McNAB.

PIET BEUKES.

JAN WITBOOI X.

GERT DE KLERK X.

F. W. MAASDORP, Secretary.

Members of the Volksraad of the Rehoboth Community.

As Witnesses:

CHAS. M. S. FORSBROOK.

D. W. DREW.

THOMAS ALCOCK.

THIRD SCHEDULE.

High Treason. Sedition. Public Violence. Murder. Culpable Homicide. Rape. Sodomy and Bestiality. Assault with intent to commit Murder or Rape or Assault in which a dangerous wound is inflicted. Indecent Assault. Arson. Robbery. Fraud.

Forgery, or uttering a forged document knowing it to be forged. Any conspiracy, incitement or attempt to commit any of the above-mentioned offences.

GYS R. HOFMEYER,
Administrator of South West Africa.

ALBERT MOUTON.
N. OLIVIER.

Members of the Executive Council of the Rehoboth Community, on behalf of the Kapitein, who is ill.

GERT CLOETE.
PIETER MOUTON.
MALCOLM MCNAB.
PIET BEUKES.
JAN WITBOOI X.
GERT DE KLERK X.
F. W. MAASDORP, Secretary.

Members of the Volksraad of the Rehoboth Community.

As Witnesses:

CHAS. M. S. FORSBROOK.
D. W. DREW.
THOMAS ALCOCK.

ANNEXURE XII

STATISTICS

- (1) Area of South-West Africa 322,000 sq. miles
Area of the *Gebiet*—
(a) German demarcation, 1909 ca. 6,580 sq. miles
(b) Before agreement of 1923 ca. 4,925 sq. miles
(c) After agreement of 1923 ca. 5,067 sq. miles
(i.e. including the gift farms).

- (2) Population of South-West Africa in 1923 (i.e. prior to appointment of Commission)—
Europeans 19,432 (A census of Europeans was taken in 1925, which showed 24,115 Europeans.)
Hereros 42,000 }
Ovambos 102,000 } Estimated figures
Berg-Damaras 21,000 }
Hottentots 21,000 }
Bushmen 4,000 }

- (3) Population of Rehoboth *Gebiet*—
- | | 1913 | 1923
(estimate) | 1925
(latest estimate) |
|------------------------|---|--------------------|---------------------------|
| Europeans | 30 | ca. 30 adults | ca. 30 adults |
| <i>Basters</i> | 2,500–3,000 | 236 stockowners | ca. 3,500 |
| Other Natives | ca. 2,000 | 436 stockowners | ca. 2,500 |
| | of whom ca. 1,000 are Berg-Damaras and ca. 800 Hottentots | | |

- (4) Stock owned by Rehoboth *Basters* in the *Gebiet*—
- | | ca. 1912 | 1923 | 1925
(386 owners) |
|-----------------|----------|--------|----------------------|
| Horses | 500 | 914 | 664 |
| Cattle | 4,600 | 11,166 | 12,025 |
| Sheep | 35,000 | 22,039 | 20,625 |
| Goats | | 23,350 | 31,662 |
| Mules | | 2 | 1 |
| Donkeys | | 888 | 951 |

Note.—The figures for 1912, according to Fischer, can be safely increased by 25 to 30 per cent.

The Burghers were afraid of taxation, and understated the number of their stock. On account of the disturbed state of the *Gebiet* in 1923, the figures for that year cannot be guaranteed. The figures of 1925 are more reliable.

- (5) Stock owned by other Natives in the *Gebiet* in 1923 and 1925—
- | | 1923 | 1925 |
|-----------------|-------|--------|
| Horses | 334 | 120 |
| Cattle | 5,575 | 2,511 |
| Sheep | 6,847 | 2,068 |
| Goats | 4,667 | 20,267 |
| Mules | — | — |
| Donkeys | 132 | 184 |

Note.—The decreased figures for 1925, as compared to those for 1923, are due to the fact that the Administration of South-West Africa has been gradually moving the Hereros out of the *Gebiet* to their own reserves since April, 1924.

(6) The following table shows the totals of stock owned within the police zone by Europeans, *Basters* and Natives. The figures next to *Basters* include owners outside the *Gebiet* :—

No. of Owners		Sheep and Goats	Cattle	Horses	Donkeys	Mules	Pigs
3,526	Europeans ..	1,328,388	469,798	12,710	28,856	2,090	8,266
442	<i>Basters</i> ..	86,122	13,549	786	1,516	1	—
8,694	Natives ..	680,166	90,882	1,491	10,034	33	48
12,662		2,094,676	574,229	14,987	40,406	2,124	8,314

ANNEXURE XIII

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Windhoek,
5th June, 1925.

Statement made before the Honourable Jacob de Villiers, Sole Commissioner, Rehoboth Bastards Enquiry Commission, by Henry George Scott, Esquire, at Government House, Windhoek, at 3.15 p.m., Friday, 5th June, 1925.

HENRY GEORGE SCOTT, states: I am the Magistrate of Gibeon, South-West Africa, and was formerly stationed at Kokstad as Assistant Magistrate. I was there last for a continuous period of nine years and went there originally in 1900. I have been there for the best part of twenty years.

I do not know the Rehoboth people very well, but they strike me as being very much the same people as those of or near Kokstad, who migrated from Philippolis in 1862 to what was then known as No Man's Land. They alienated their land to Europeans mainly, with the result that very few of them now-a-days still own farms. I do not know the Bastard Community of the Gebiet very well, but they strike me as being the same kind of people as those of East Griqualand, and I am afraid, that were they permitted to alienate land to Europeans and natives, their fate would probably be the same as that of the Griquas of East Griqualand. The Proclamations and laws with regard to the Transkei will show under what terms and conditions Europeans would be permitted to trade and reside in the Territory.

There would be no objection to cutting out portions of land for the congregation of white people, for instance at Rehoboth, Europeans are permitted, upon application, to trade and reside in the Transkei for industrial purposes. There are also white people living in Pondoland who acquired land by concession from chiefs before the establishment of the Territory. At present no one is permitted to squat, unless for trading and industrial purposes under the conditions prescribed by the laws.

People actually resident in the Transkei are granted permission to reside at seaside resorts. Travellers may enter the Territory without permits.

The natives have no particular aptitude for trade; there are but few native artisans in the villages. The Rehoboths would probably like to have traders in their midst, though their Territory is not so densely populated as the Transkei.

There is competition between the traders and the natives are not bound to any particular man. The Magistrate would soon hear of abuses on the part of any trader. Licences are renewed yearly at the discretion of the Chief Magistrate. If a licence is not renewed, the trader will have to sell his rights.

(Sgd.) H. G. SCOTT.

Evidence taken at Rehoboth and Windhoek.

Rehoboth,
Monday, 8th June, 1925.

At 10 a.m. the Commissioner opened the enquiry, and mentioned the terms of reference. He gave a short explanation of the terms of reference, made it clear that they contained questions of great importance, not only for the burghers of the *Gebiet*, but for all the inhabitants of the mandated territory, and declared that he was prepared to adjourn the enquiry in order to give the burghers the opportunity of considering in which way and by whom they wished to put their views before the Commission. He is of opinion that time will be saved thereby. He is prepared to make a thorough enquiry in the matter and to hear everyone who may be able to throw any light on the points of reference. After the session here the Commissioner will hold sittings at Windhoek in order to learn the views of the other inhabitants of the Territory, but he will then give a few of the leaders of the Burghers of Rehoboth the opportunity to be present there, so that they can hear the evidence which will be given there, and to give their views on the evidence to the Commission if they wish to do so. At the request of Frans W. Maasdorp the enquiry is postponed till the afternoon, at two o'clock.

2.15 p.m.

Harold Pringle Smit, duly sworn, states: I am Secretary for South West Africa. I submit a copy of a letter, dated 7th January, 1885 (Exhibit "A"), written by the late Captain Hermanus van Wyk to Hans Vogelsang, Imperial German Consul at Angra Pequena. I read the portion of the letter which refers to the boundary. The boundary must therefore run past Zedelingsgraf. The Germans have as a fact granted much more ground on the eastern side of the *Gebiet* than was asked for in the letter.

I am handing in map. (Exhibit "B.")

Letter dated 20th October, 1894, by Major Leutwein, Governor of South West Africa, to Captain Hermanus van Wyk. (Exhibit "C.")

I do not know what negotiations about the boundary have taken place between 1885 and 1894.

Letter dated 24th October, 1894, from Missionary Heidmann, to Major Leutwein (Exhibit "D"). There is nothing to show that such a conversation did take place, but I presume that this was the case.

Later on a Commission was appointed by the German Administrator in order to fix the boundary with the representatives of the Baster Council. The meeting place was to be the cattle post of Rust on Lichtenstein on the 4th October, 1897. From the open letter, dated 14th October, 1897, from the Acting Governor von Lindequist to the Baster Council it appears that von Lindequist and his officers were there, but there was no representative of the Council. He then refused to meet the Captain again. Meanwhile the Surveyor surveyed the boundary and the boundary was then fixed accordingly, which is in accordance with German law. Captain van Wyk protested against it and wrote a letter direct to the Emperor. The letter fell into the hands of the Post agents and was returned to the German Governor, who forwarded it to the German Government on the 30th January, 1898. On the 12th April the letter was returned to the Governor for disposal. It appears from the correspondence that Captain van Wyk repeated his claim to Ururas, and that the claim was based on certain documents, namely, (1) a Proclamation by the old Herero Captain Kamaharero (2) a Proclamation by Captain Abraham Swartbooi, and (3) a statement by Missionary Buettnner. I hand in letter dated 9th August, 1898 (Exhibit "F") from Governor Leutwein to the District Chef at Rehoboth who was instructed to make the letter known. Thereupon the District Chef wrote the letter of 30th August, 1898 (Exhibit "G"). There is no further information about the North Western boundary. This has therefore remained unaltered as fixed by the Governor. I hand in a letter dated 22nd October, 1897, from Lieut. Wettstein (Exhibit "H.")

With reference to the other boundaries I hand in the agreements. The first agreement (Exhibit "J") is dated 24th September, 1898. From the agreement it appears that the Council concurred in the North Western boundary surveyed by the Surveyor. The red line on the map (Exhibit "K") shows the boundary of the Rehoboth *Gebiet*, fixed by the German Government. I hand in the five agreements (Exhibits J, L, M, N, O). The second agreement is dated 26th February, 1900. The third agreement, 16th March, 1900. The fourth agreement 17th August, 1903. The fifth agreement 10th February, 1909. The extent of the *Gebiet*, as determined by the German Government, was 1,795,000 hectares. Since that time the *Basters* have disposed of 451,700 hectares. This area is marked on the map in red. In terms of Proclamation No. 28 of 1923 we have therefore excluded the alienated area from the *Gebiet*. The *Gebiet* is situate in the district of Rehoboth. The extent of the *Gebiet* is therefore 1,343,267 ha. The Administrator was anxious under the Agreement of 1923 to remove the "white islands," to purchase them if possible and to hand them over to the Baster Council. Four of them were purchased by us. but the owners of the other farms were not prepared to sell. We have not yet given transfer of the first mentioned four farms, but they are in possession thereof. The extent of the four farms is 38,616 hectares. The total area now in possession of the Baster community is therefore 1,381,883 hectares.

Maasdorp requests that the letter of 15th November, 1897 (Exhibit "P") from Captain Hermanus van Wyk to His Majesty the German Emperor be read. This is done.

No further questions.

The Commissioner states that he has received a letter from P. Beukes and others, requesting him to enquire into the events of the 5th April, 1925, but that he has no instruction to that effect. He will have nothing to do with the differences of the Burghers of Rehoboth.

Carolus Swart, sworn, states: I signed the third and fifth agreements. I was Under-Captain. It is as read by Mr. Smit, the Commission was appointed, and we agreed; we cannot therefore object against the boundaries explained by Mr. Smit. There was some difficulty about the North Western boundary, but the Captain gave Dirk van Wyk authority to settle the line with von Lindequist. They negotiated about the line at Kobus and fixed it there. This was the line of the Auas mountain, about which van Lindequist was so angry. This was fixed later on. There is therefore no further question about it. About the line of Skaapriver, another Commission was appointed, Samuel Beukes, Jan Beukes and Willem Koopman. The Commission also settled the line with Duft, the German official. I do not

know why the German Emperor gave us more ground on the eastern boundary than Captain Hermanus van Wyk asked for in his letter in 1885. I was present at the fixing of the Southern boundary; this was also fixed.

Question 2.

We had many debts in those days. We therefore ceded portion of our ground at the time. I agree that if we sell ground to a white man, that ground ceases to be a portion of our territory.

Question 3.

I have not been a judge for the last ten years, but when I was still a judge we—the Council passed a resolution that we are not allowed to alienate our land, but only sell to each other. That was after the red area had been disposed of. We then got a fright and we saw that if we allowed free alienation, we would one of these days be without any ground. Thenceforward no more ground was sold, only to each other. It is therefore my opinion and also that of the Council that it is not to our interest to dispose of our ground to white men or natives. We wrote down our resolutions, but our papers were lost during the war of 1915.

Formerly there were more stores at Rehoboth than at present. There are at present about five stores. They are run by white men. A coloured man, Adam Coetzee, also has a store. Formerly if anybody wished to start a store here at Rehoboth, he made application to the Baster Council. If the Council granted him permission it was given to him in writing, and he proceeded to the Bezirksamt. If the person was approved of, the official countersigned the permission.

Formerly everybody who entered the *Gebiet*, had first to report himself here. If he was not approved of by the Bezirksamt, then he had to leave. At present I do not know. I know there are many Hereros in the country. It seems to me it would be best to maintain the old practice in this respect and to admit white men and natives only for legitimate reasons.

Question 4.

I am born in 1862 in die Tuin in the Old Colony. I left there with my parents with the emigration of 1868. We arrived here in 1871. I was afterwards told that we had bought the ground from Abram Swartbooi. Portion of the purchase price consisted of horses, the other portion of wagons. The horses were given by them. The wagons were not delivered. For that reason Swartbooi attacked us in 1882. He was accompanied by Jan Jonker and a great many other Hottentot Captains. We defeated them and we therefore remained in possession of the ground from 1871. I have heard of the Treaty of 1885 with the Germans. I have also seen it. The laws about which our Captain complained in his letter to the German Emperor were the German laws. We had our own laws and we passed our own laws, but the Germans also passed laws for us. I do not know what laws they made for us. We could not buy liquor without a permit. That was a German law. They passed the Cattle Branding law for us. We were not allowed to cut green trees for sale under the German law. The German scab law was applicable to us. Under the German law we could not sell land without consent of the Governor. In terms of the German Credit law no action could be instituted against us. We paid taxes from 1910; wheel-tax for two years up to 1912; also land-tax to the Germans. Later on we made an agreement with the Germans to pay them £300 annually in lieu of taxes. All the laws of the land were made by the Germans without consulting us. They were in force in the whole territory.

It was not compulsory for us to submit our laws to the Germans for ratification.

Questions 5 and 6.

Adjourned at 5.10 p.m., till the next day at 10 a.m.

Tuesday, 9th June, 10 a.m.

Carolus Swart, under former oath: I am an elder, and it is difficult for me to take part in political matters. I have kept out of it. I cannot throw any further light upon the matter.

Samuel Beukes asks permission to say a few words. He states there is discord amongst the Burghers and his section was against the Agreement of 1923 and wishes to consider first in how far they will be prepared to give evidence. In the meantime the evidence of the other section can be taken.

The Commissioner agrees to this and the adherents of the New Council thereupon leave the hall.

Frans Wilhelm Maasdorp, duly sworn, states: I was secretary of the Old Council from 1916 to 1924 and had the documents in my charge and wish to give evidence about them. In December 1924 the documents were handed over to the Magistrate, here. In 1916, when the Union occupation of the country commenced, the old Captain Cornelis van Wyk claimed the land which was taken from him by the German Government. This claim was sent by the Captain and the Council to the Union Government and also direct to the British Government in England. Reply was received from the Colonial Secretary, at the time Sir Walter Long, that it would be difficult to give a reply during the continuation of the war, but as soon as the war was over the Rehoboth *Gebiet* would also be taken into consideration. Also a verbal

statement by General Botha, the Prime Minister, to the same effect; when the war was over this matter would be considered. During the peace negotiations, the Captain sent a deputation to Cape Town, where I was present at an interview with Lord Buxton. At the interview we submitted a petition to Lord Buxton to be laid before the Peace Conference. At the interview Lord Buxton promised to get the Government to appoint a Commission to enquire into the matter.

Mr. Smit hands in the documents relating to the interview. (Exhibit "Q.")

Several interviews took place subsequently with General Smuts, Prime Minister, until the present Administrator of South West appointed a Commission in 1922 to enquire into the matter. The Commission consisted of Mr. Drew, Chairman, Colonel de Jager, and the Council nominated the Acting Captain, Albert Mouton, as the third member. I was the Secretary. The minutes of the Commission are also in the hands of the Administration. The report was made by Mr. Drew and Colonel de Jager. Albert Mouton submitted a minority report. Although Mattheus Gertse was present and was prepared to give evidence about the boundary, he was not called by the Commission. Now he is dead and his evidence is lost.

The minority report was read.

Later on the agreement was concluded, but the point I wish to bring out is that the agreement with the Germans was made by us under compulsion owing to the great power of the Germans. We would not have signed the agreement if the Germans had not been so powerful. During the time the Germans were here, it was nearly always martial law.

I refer the Commission to the Treaty which the Germans made with the Captain in 1885. In it the German Emperor recognised our rights. The documents of the Commission, held by the Commissioner Mr. Coates Palgrave, about the boundary, are to be found in the Parliamentary Library in Cape Town. Those documents will show that the Rehoboths were powerless against the Germans and were compelled to sign even if it was against their inclination.

Question 2.

I was on the Commission of Major Forsbrook and Colonel de Jager about the Eastern boundary. The Commission did not inspect any beacons. I am of opinion that they did not carry out their duty. I have also not seen their report.

The report is read by Mr. Smit.

I admit the Commission went to look at a beacon, but it was only a small old beacon. Nobody gave evidence but we all spoke. Three of us were there, Samuel Beukes, I and Nikolaas Draghoender.

Therefore on the eastern side the boundary is not correct, although it looks all right on the map.

I now pass to another point, Gochaganas. The Drew Commission found that what the Council had maintained was right, namely that the owner of Gochaganas had fenced in ground to which he had no right. On the western boundary is a farm Doornboomvlei. The Commission also found that the claim which the *Basters* had there, was just. This is Isabis. A portion of Isabis falls within our boundary.

(Mr. Smit states that the Administrator admits that the line surveyed by the Germans is wrong as far as Isabis is concerned. There is a difference of about 2,000 hectares. The Germans promised to pay the *Basters* 690 Mark therefor, and to give them another piece of ground in the neighbourhood of Heigenas, but this was never paid).

I now come to Bulspoort. Below Bulspoort in the corner there is another portion of ground, which belongs to the *Basters*, but which is not shown on the map. This is the first time that we bring up this point. This is *Baster* land. We do not claim New Onis nor Haruchas, but the angle appears to us to be so small on the map. We therefore think it is not included.

Mr. Smit hands in map by Surveyor Vos. (Exhibit "R.")

I now come to the Nauchas ground. Formerly this ground belonged to us, but it was taken from us by the Germans. During the war the *Basters* occupied the ground before the Union troops, and therefore the Council claimed the ground by reason of conquest from the enemy. Our blood also flowed there, and we suffered heavy losses. No compensation has been paid to us by the present Administration or any of the Allies for the losses we suffered.

Replying to a question by Mr. Smit: We have received four farms from the Administration. They were purchased for about £7,000 to £8,000. The Administration also holds for us £8,000 in lieu of the other four farms which it could not purchase. The Administration has also given one of its own farms, Sandputz. But I understand that this was not really compensation for our claims, but an act of grace.

Part of the purchase price for the farm Ibenstein is still unpaid, and the purchaser Iben has already resold it. The German Government, as our Protector, should have seen to it that we received the full purchase price.

A portion of the purchase price for Sandputz is also unpaid. The German Government purchased the farm from a burgher. Then the war broke out,

Mr. Smit points out that it appears from the report of Mr. Drew that the representatives of the *Basters*, one of whom was Maasdorp, had declared themselves satisfied with the documentary proof produced by the Commission that their contention regarding the ground ceded to certain creditors was wrong as regards the Lekkerwater farms.

Question 3.

According to my experience it is dangerous for a coloured man to sell his ground to a white man. Personally I gained experience in Gordonia, Rietfontein and here. The white men are too clever for us coloured people. Just as many honest people as there are among them, so many dishonest ones there are also among them. I have seen in Gordonia that our *Basters* received land as a present from Queen Victoria. My father and other *Basters*. At that time no white man was allowed to farm on the other side of Grootrivier. This was in 1887. Afterwards the white man came in. They bought the fertile farms, the one for a wagon, the other for a wagon containing pumpkins and a team of oxen. Another drank a few dop-brandies so that he did not even know what he received, but his property was sold. Things went on in this manner till all the old people who had done this had died, then the young children discovered that the old people had no right to sell the ground. To-day there are very few people who still own a small piece of land, and every year we are petitioning Parliament for land where we may reside and live. In 1896 Captain Dirk Filander arrived at Upington from Rietfontein. He was Captain of the *Basters*. It was at the time when the Government took over Filander. His was an independent Baster tribe there. Every Baster had to come to the Commissioner at Upington. Everybody who could prove that Filander had given him a farm, got his certificate. I was present at Upington. At that time there were about two white men who lived in Filander's territory. The other was a clerk of Filander and that is how he obtained ground. The other married a bastard woman. The only owners were bastards. Baster ground extended to the Kalahari. To-day there is only one *Baster* left who owns half a small farm of about 7,000 morgen. All the other ground belongs at present to white men. Our grown-ups told us, and later I read it in the history books, what had become of Adam Kok, of a similar coloured race. About two or three years ago I met a few hundred of Adam Kok's *Basters* at Diepriver, near Cape Town, and also at Touwsriver, woodcutters and labourers. Some of us came from Gordonia to Rehoboth because they still had a piece of ground before the great war, and at present more are always coming to find a place to settle. Alienation of ground to white men is not at all in the interests of the Rehoboth community. Luesse bought Marienhof from the *Basters*. He purchased the ground so cunningly that he obtained more ground than he had purchased. His ground is registered in the Registers of the Administration. He is always encroaching further. He is always asking for more. He requires the consent of the Council, but this he always obtains. I only mention this to show how clever the white men are—too clever for us. Now he has obtained the ground of a widow. She was always such a good friend to him. He got a surveyor and is at present fencing in the ground. On the other side he has no fence; he leaves the ground open and brings hundreds of cattle there, makes money from the sale of milk and butter, and lets his cattle graze on ground of the *Basters*. I only point out how shameful he is. He will not sell his farm. I refer to the farm of Jacobus Coetsee. He has at least 1,500 head of cattle and 2,000 sheep, and he only has 6,000 morgen. He can never make a living there. He has so many donkeys that I do not know how many. He has all the Baster ground round him. He is also not prepared to sell because he has the use of the ground of the *Basters*. Sleith Davis & Co., storekeepers at Rehoboth, have leased a farm, Duruchaus. Their cattle graze on the ground of the community just as they please. Last year hundreds of calves of the community died here, because there was not enough grass. The farm is about three hours on horseback from here. I only want to show how detrimental the white man is to the coloured man.

The Commission adjourned.

(Translation from German.)

2.30 p.m.

Georg Brauer, duly sworn, states: My name is Georg Brauer; I am owner of a piece of ground near the railway station, which I bought from the Baster community of Rehoboth in 1912 with the consent of the German Government. The ground is paid for and was registered at the time in the Land Register in my name. The extent is 5 hectares. I consider myself unrestricted owner of that piece of ground without having to ask anybody for permission what to do with it. On my piece of ground I have built an hotel and a store. I did not purchase the ground for speculative purposes. I formerly had the "Stichbahnbetrieb." I use the ground only for making a living.

During the German régime I had the right to pass a mortgage bond, in order to obtain credit, and did not require permission to do so. I had made up my mind to buy a dairy and to buy the dairy products from the farmers, and required for that purpose credit from the Bank. When this was settled, the Deeds Office informed me that the mortgage bond could not be registered in favour of the Bank without the consent of the Baster Council and the Government. The Bank refused to advance the money. My business came to a standstill; I required

money from other sources. After lengthy negotiations I at last obtained the money on a mortgage bond. If I had not had friends I would not have obtained assistance. I am in the country since 1894, and without the assistance I would have lost everything.

The consent of the *Basters* and the Government had to be obtained in accordance with the Proclamation of 1923. This Proclamation is an interference of my rights. Such restrictions and difficulties did not exist during the German régime. I was the unrestricted owner, I could do with my property as I pleased without requiring any permission. At present I am dependent upon the pleasure of the Baster Council. My personal rights are interfered with and I demand restoration of the conditions as they existed at the time I acquired the ground. I do not wish to speculate with my piece of ground, but I shall also not be able to work an uncertain right with any profit.

By Maasdorp : I have the right, as formerly, to let my cattle graze on the ground of the community near the station. This is not included in the Deed of Sale, but this was privately agreed. Before the war I was not hindered in the exercise of this right.

Question 3.

F. W. Maasdorp, under former oath : I take the case of Mr. Brauer. He has an hotel. This is the siding. Many head of cattle arrive there. There is a dipping tank, where the cattle are dipped. They cannot make much use of the ground of the community, as Mr. Brauer's cattle are grazing there. I wish to show how harmful it is for the community to have such people in the midst of the community.

Near the station there is another white man, Mr. Fraser. He has a farm outside the *Baster Gebiet*, but he does not see a chance of making a living there if he cannot make his profit here among the *Basters*.

A white man also lives at Tsumis Station. He is a contractor for wood. The wood of the community ground which adjoins Lekkerwater has been taken away by him on the pretext that the wood is from Lekkerwater. So harmful is he to the community.

On the other side of Bergland station there is a farm Aup in Baster territory. A white-man, Mr. Meyer, who has leased a small piece of ground from the community lives there. He is paying rent, but at present he is in arrear with his payment. There are several other similar cases, which I need not enumerate.

Then there are the storekeepers. In general we cannot do without the white man who has a store, because we are not well enough educated. I admit this. But I only point out how harmful he is. White men enter the country to buy grass and wood from us, about the only products of the territory. The storekeeper buys the produce from us at a low price, even when the market prices are higher. They are oppressing us wherever they have a chance. Nearly every white man in the *Gebiet* has a store on his farm. It is the number of small stores which constitutes the danger if we are not protected against them. Before a store can be opened it should be necessary to obtain permission from the Council. To protect us against the small stores, they should go. The Government also protected the *Berseba* people against the storekeepers, by sending them away. As soon as the storekeepers abuse their position, the Government should take them away. A coloured man conducted the Co-operative Store of the Council, which has cost the community £2,000. He worked for his own profit, and now the store is closed. We are not educated enough to manage a store ourselves.

I have a grievance against the white men on the boundaries ; they steal our cattle and write to the newspapers that we are stealing their cattle. We have only now received branding-irons. The Drew Commission proposed that the farmer on the boundary must fence his farm on the side of the *Gebiet*. The farmer receives support from the Land Bank and we do not get any. My experience is that the Hereros do not usually work for *Basters*. It is undesirable to allow natives in the *Gebiet*.

I come from Gordonia and have been educated there. I know Dutch and English. I do not know German. I was at school for ten years. I have the third class teacher's certificate. From there I went to Vilander's ground and thence to Rehoboth. I am not one of the original Rehoboth people. There is a Baster law, that a strange *Baster* can be accepted as burgher after six months probation if no objections or complaints are handed in. He then receives full burgher right and may use the communal grazing ground. I did not buy any land here. I received from the community a residential plot and a garden plot ; the first 35 x 25 meters, the latter 50 x 80. We do not pay for water.

There is a missionary here, Mr. Schroer of the Rhenish Mission. There is a Roman Catholic missionary here, but few of our people are Roman Catholics ; they are people from Upington district, not Rehoboth people. We have a school for our children. Paulus Vries is the teacher. The missionary also assists. The teacher is paid from contributions of the community. The school is unsatisfactory ; one teacher is insufficient. As a rule there are 200 children in the school.

Our *Baster* people is one nation, we are only one family in De Tuin and Gordonia. Adam Kok's people are other people but we also have relatives there.

The emigration-spirit of the white man has also taken hold of the *Basters*. They looked for grazing for their cattle and the white men have also pushed us on.

Our laws provide for marriage and divorce. We get married in church. We usually intermarry. There are only a few cases of our people having married Hottentot women.

Questions 4 and 5.

The Treaty speaks for itself. There is also the practice followed by the Germans. Twenty years after the Treaty, H. van Wyk complained that the German laws were too hard and too severe. This was after the Germans no longer required further assistance from the *Basters* against the natives.

The wheel-tax was a general law, also applied in the *Gebiet*, because there were many transport riders here and the roads also ran through the *Gebiet*. There were also several other laws.

I only want to say that the Germans only made peace with the tribes here in 1906-1907. Before that time martial law nearly always prevailed.

The liquor law was one of the first laws, which was made by the Captain. The Germans also made a law, which was a protection and applicable to the *Gebiet*. There was a subsequent law by the Germans, the branding law. There was the prohibition to cut green wood—the Germans acted here according to their own laws. The German scab law was only applied to goats. The Council had to obtain permission from the Government before ground could be sold to white men. The German Credit law of 1908 protected us against the storekeepers. We lost the Lekkerwater farms for a plate of milk. We requested that the law should again be applied, but our request was not granted. We should like to see the law once more in force here. The Germans compelled us to pay land-tax; subsequently we arranged that a voluntary contribution would be paid in lieu thereof.

I do not know of any law of the Council or Captain which was subject to the approval of the German Government. Only one new law was promulgated by the *Basters* between 1872 and 1914 (Divorce). I cannot say much about Questions 4 and 5, as I only arrived here in 1914.

Questions 6 and 7.

I signed the Agreement of 1923. It was the best we could have done in the interests of the Community. For us who signed it, it is difficult to say much about it on account of the discord which it has caused among the community.

By Mr. Smit: I was present at the negotiations for the Agreement. We wished to keep the boundary question an open one on the advice of Mr. Dewdney Drew. It was clearly stated by the Administrator that this question could not be kept open, but he gave us the assurance that we could submit any boundaries to the League of Nations. I understood that at any rate we could appeal to the Union Parliament and this is included in the Agreement. The Administrator has clearly said, and paragraph 19 stipulates, that the signing of the Agreement is final.

On the 18th August, 1923, Mr. Drew wrote a letter to the Administrator. (Exhibit "S.") I signed the letter. It was on the day after the Agreement was signed. The Administrator replied to it on 22nd August and again made his position clear, and also that the boundary question was finally closed. (Exhibit "T.") Mr. D. Drew had given us the impression that the Government had treated us perfidiously.

In 1917 Mr. D. Drew together with Senator Schreiner came to the *Gebiet* for the first time.

It is clear from the Treaty that the *Basters* during the German régime were dependent. I do not know whether the Germans consulted the Council in regard to application of laws. I am satisfied that the *Basters* had no self-government. Not only Mr. Dewdney Drew, but also Mr. Lloyd George told us that we would be independent here. I received the newspapers. After Lloyd George's declaration about the small nations, Mr. D. Drew carried on the correspondence on the subject of independence. We drew up documents. We made a declaration before Major O'Reilly. In it we claimed independence; the documents are in O'Reilly's bluebook. Alsace-Lorraine has also been given back and we also expected to receive our country back. Mr. D. Drew assisted us and visited us now and then.

We received a letter dated 12th January, 1918, from Mr. D. Drew. (Not put in, but see "M" p. 308).

After the Agreement had been signed, discord among the *Basters* commenced. The people had heard of the "determination of small nations" at meetings of the Captain. I received the newspapers and told the people what was in them. I do not know whether that doctrine is the source of the discord. Although Mr. Drew is a friend of mine, I did not agree with all his ideas.

In the minutes of the negotiations it is stated that the Administrator said that he gave us the farms because the Community had suffered heavy losses. I do not doubt that the Administrator said that the farms would be given by way of compensation, because it is stated in the minutes, but we did not receive them as compensation.

The storekeepers in the *Gebiet* entered the country before the Agreement was signed in 1923. The *Basters* gave permission to all the storekeepers to come here. They also obtained the permission of the Administration. When a storekeeper applied to us for permission, we granted the permission subject to certain conditions. The Agreement does not interfere with the vested rights of white men, but if the licence of a storekeeper runs for a definite time, then he cannot get it extended. Some of the licences were, however, for an indefinite period.

Pieter Mouton, duly sworn, states: I was a member of the Council from 1905 until December, 1924. I was born in De Tuin, and came hither with the second trek of 1871. I have heard the evidence of Maasdorp and agree with it. I have nothing to add to it.

Question 4.

I have heard the evidence of Karolus Zwart. I never heard that the Germans asked whether we are satisfied with their laws. They said: So it must be, and then it had to be done in that way. When I became a judge, our old Captain had died and his son was made Chief Councillor. He was not recognised as Captain by the Germans and as Chief Councillor he had to do as the Germans told him to do. H. v. Wyk died in 1905.

I have heard the name "Hoofraad" (Chief Councillor). We also dealt with trivial matters ourselves; this was done by resolutions. We did not make many laws. Our grandparents made our laws.

By Mr. Smit: I also signed the boundary agreement Maltahöhe Rehoboth. There was a difference between ourselves and the Germans. It was before the Council. They did not compel us to sign. We had a complaint against them in regard to the boundary at Bullspoort. They gave us ground near Bullspoort in exchange for other ground which we had claimed. In that way we arranged the matter and therefore I signed the agreement.

I heard you yesterday reading H. van Wyk's letter to the German Consul, in which he claimed as the eastern boundary of the *Gebiet*, the line from the junction of the Kam and Bloemvis Rivers in a northerly direction over Sendelingsgraf and Swartkoppies to Abasberg. I do not know anything about it. I do not know why the German Government gave us more ground than was claimed by H. van Wyk. When did the Germans give us that eastern boundary? Before 1895 the farm at Kub was disposed of to Mr. Voigt in payment of debt. In 1897 Gras was alienated. I only heard about the western boundary. Before the line was drawn, Haris and Vaalgras had been given out to the burghers as farms by the Captain. I think this happened in 1895. In 1895 the Captain told us to apply to him for farms. The Council did not accept the western boundary voluntarily. It was during the war against the Bondels. I heard that all the members of the Council said that the line never ran there "but what can we do: we will sign."

Cornelius Claasen, sworn, states: We lived about 1896 or 1897 on the north-western side on the farm of a burgher, Dirk Bok. Namely on Kromnek. We met Lieut. Wettstein there: he was erecting beacons there. I told Captain H. van Wyk about it. The Captain wrote to Windhoek about the beacons on his ground, and I was present when the reply was read. The German Government threatened that whoever again said that beacons were erected would be brought before the High Court. They are not boundary beacons but survey beacons. They are the same beacons which in 1898 were pointed out to the Captain and the Council as boundary beacons. They have never been satisfied about it. My father was for about 40 years clerk to the Captain (with short intervals). His name was Josef Claasen. I was 20 years old in 1896. My father told me that they could not have done otherwise, because under the German Government Might was Right. In 1902 the Germans shot Klaas Zwart of Grootfontein Suid, and our old Captain H. van Wyk had at the time to ask the forgiveness of the Germans and to admit that he was also guilty and in that way he got off free. This shows how the German Government was acting. I think there were other people, Germans and *Basters*, who were killed at Klaas Zwart's. A Rehobother was also killed there.

In 1903 *Baster* soldiers accompanied the Germans to the South after the Herero rebellion broke out. They afterwards returned after the Herero war, but were not allowed to pass through Rehoboth. The Councillors and the Captain went to Gurumanas, which they had to pass, in order to ask permission to see their women and children. The Lieutenant met them at Nareis and told them that they had to meet at Gurumanas. When they arrived there, they had to off-saddle in front of the machine-guns, because the *Baster* soldiers had also refused to go any further without seeing their wives.

I agree with Maasdorp's statement. He has omitted something—the liquor question—an evil question.

The permit system for buying brandy is for our good, but to withhold it altogether is our undoing. If I cannot get any liquor at all, the white man can ask me practically any price for a bottle of liquor. If it is a white man who always sells liquor to one, one will afterwards make a binding arrangement with him. One will sell cattle to him at low prices in order to obtain liquor from him. Because liquor was totally prohibited among the Gordonias and Rietfontein people, I am almost sure that is why they lost all their ground. They accepted the native law.

I was at one time a Magistrate at Rehoboth. From 1918 I was always acting Magistrate. In 1924 I was elected as Magistrate. I have gained therefore much experience in that capacity,

as I am the man who issued the liquor permits to the white Magistrate for his approval. My experience has taught me that as soon as permits are refused, the evil commences, and the men start scheming to get liquor into their possession.

Albert Mouton, sworn, states: I have nothing in particular to say, as it was with our consent that Maasdorp made his statement. I agree with it.

Wednesday, 10th June, 1925, 10 a.m.

Question 1.

Niklaas Dragoener, sworn, states: The former boundary runs from Auas mountains to the neighbourhood of Ururas, thence south to Sossonsvlei, thence south-east down Blomvis-river in a straight line east-north to the north-easterly point of Auas mountains. The eastern boundary runs down the Blomvisriver. To the east of Skaapriver on Dordabisberg stands the corner beacon. Below Kub is a farm called Kuis; there the boundary turned in a northerly direction, on the other side of Skaapriver up to Dordabis. This was at the time when the late Chief bought from Zwartbooi. I was born on De Tuin on the 22nd November, 1860, and I came here with the old Captain. I was then twelve years old when the old Captain bought from Zwartbooi. These were the boundaries as the old people told me. These were not the boundaries subsequently recognised by the Germans. There were no Hottentots living within the boundaries when the Captain bought from Zwartbooi. The latter had then already left. In 1882 he came from Bockberg; he lived at Zesfontein. They were six chiefs that day when they attacked us, all of them Hottentots. *Jonker Afrikaner* lived in the *Gebiet*, in the Kuisib mountains. After the Hottentots had driven him from Windhoek he lived in the *Gebiet*. He had asked permission from the Captain and he obtained it. There were Rooi Nasie, Kauas, Kowesis, Bethanie people, all from outside the *Gebiet* and the Groot-Dode.

We defeated the six chiefs that day, and pursued and drove them out of the *Gebiet*. Witbooi acted as mediator between the late Captain and Afrikaner in 1889, and they concluded peace. Afrikaner then lived on Hoornkranz and Witbooi lived at Gibeon. After the fight, in 1885, we concluded the treaty with the Germans. Mr. Heidmann was our missionary; Büttner represented the German Government. The treaty was our protection; we got the German flag in the district. In 1890 the first German Government commenced. Francois was the first. Windhoek was established in 1892. Francois made war on Witbooi at Hoornkrans. Witbooi trekked from Gibeon against the Hereros, but was defeated, and asked the Captain for Hoornkrans as a "resting place"; this was after he had shot Afrikaner at Karib.

The Germans negotiated with us about the fixing of the boundaries from 1894. Francois was the first to speak about it—he said that our territory was too large. Then Leutwein arrived, and he said the same; and Diergaardt, our War Commandant, then said: What word would you use if a piece of ground were taken away? Leutwein said: You mention the word. Diergaardt then said: I call it robbery. When this conversation took place we had not thought that the Germans would really rob us of our ground. Leutwein said: This is not my opinion, I did not come for that purpose.

I heard from the old people what Claasen mentioned yesterday about the threat that if anybody said that certain beacons were boundary beacons he would be punished. Von Lindequist wrote a letter that he would not negotiate further with the Captain; he was angry because the Captain had not met him. We then held a Council meeting and decided that we could not elect a Chief here to discuss the boundary while our Captain was the Chief of the territory. On those lines we replied to him, but we did not receive a reply from the Governor.

The Germans had the boundary surveyed, but I was not present. It was not with our consent that the Germans gave us less ground, but we knew about it.

Question 2.

The Germans had our boundaries defined, and our people signed. The alienation of our ground, which had been granted to us by the Germans, was caused by collusion between a German and a burgher. They then approached the Captain, and in that way the cession took place, the Captain subsequently giving his consent. I do not know why the burghers alienated their ground to the white men.

Question 3.

(a) It is not in our interest that our ground should be sold to white men. When we became aware of this we passed a law prohibiting the sale of any more ground. This was a resolution and a law. It is a good law. My opinion is the same as regards any other nation.

(b) Where there is civilisation there should be a store. It is necessary to have a store here. Therefore, I cannot say that a store in the village is not good. I do not mean to say that a white man must be in charge of it, but our want of education makes it necessary.

Jan Jonker

On the other hand, we do not know what the prices are. The country is poor, and the white man should therefore treat us in such a way that we can also make a living. I am of opinion that there should be no stores in the *Gebiet*, but only in the village.

There are many Klipkaffirs and Hottentots in the *Gebiet* who were born here, and whom we may call aboriginals. They can remain here. There are also many Hereros, who arrived in the country with a pass from the Union Government and who have come under the protection of the Captain. They may as well go, but it is difficult for us to drive them out. The Klipkaffirs are working for us. Our own children are also working. Our children are doing everything which is done by children of white men.

Question 4.

I have heard the evidence of Karolus Zwart on this question. Whenever I had scab amongst my goats I reported this to my Government. They reported it to the "Gemengsbank" (? Mixed Tribunal) and then I dipped my goats.

After Leutwein had finished the war with Witbooi he told the Captain that he could not protect us from Windhoek. He said that we should give our children to be drilled as soldiers. We sent them every year; they were drilled for six weeks and then returned to us.

The wheel tax was imposed by the Germans, because they had made the roads. Everybody used them; therefore everybody had to pay. The tax was continued for two years and then dropped.

The Captain prohibited the importation of liquor altogether. The Germans had an interview with the Captain, and they told him that he should not prevent the white man from importing liquor. Liquor was then admitted under permit.

Those who wanted branding irons were allowed to buy them. We branded our cattle with our irons under the law of our Captain.

There was the law of the Captain which allowed us to cut green wood for personal use, but not for sale. I only know the law of the Captain.

The mixed Court was sitting in accordance with an agreement between the Captain and the Government.

The complaint of van Wyk to the Emperor (Exhibit "P").—In terms of the Treaty of 1885 it was promised that our rights would be maintained, and the letter was a complaint that this promise was not being carried out. The Germans gradually encroached upon our rights.

Our fathers made our laws themselves. We had a copy made, and this was approved by the Germans and they had a copy thereof. Our Chief made laws independently.

Questions 6 and 7.

I do not like to express an opinion whether Proclamation 28 of 1923 interferes with our rights. I wish that somebody else who can read would give evidence on this point.

Samuel Beukes, sworn, states: I am one of the Chiefs of the Rehoboths.

I agree with Dragoener, but I wish to amplify certain points.

Question 1.

I was present at the conversation between the Captain and the Governor after the Witbooi war. They talked about the rights of the Captain obtained from Maharero and Swartbooi. The Captain submitted documents to prove that the boundary of the ground bought from Swartbooi ran from the eastern beacon of the Auas mountains to the Ururas. The Captain handed in the documents to Leutwein. They were documents which had been given by Maharero and Swartbooi. The Governor said if Palgrave had signed the documents he would have admitted them. He said that he would recognise the Captain's rights before he came into the country owing to the services rendered by the Captain. The Governor then said that the country behind Hornkranz in the Namib area was sold by Jonker Afrikaner to the Kolonial Gesellschaft. He said that he would fix the boundary in Windhoek. He pointed out that the boundary would run from the Auas with a straight line along the watershed of the Auas mountains to the Kuisib, thence from the Kuisib to the Tsauchabriver. Councillor Koopman asked how the Kolonial Gesellschaft could have bought the ground from Jonker Afrikaner, a fugitive, who had arrived at Walvis, and could have obtained the consent from the Government. The Governor said that he did not know of this.

Koopman said that the Germans had made war on our ground against Witbooi and asked whether the Germans would take Witbooi's ground for war expenses. The Major replied in the affirmative. This was Gibeon district. Koopman said that some of our people had also fallen, and where blood had been shed gave a right to the country, and what are now my rights? The Major is now taking Witbooi's ground. The Major then replied, "If you had not joined me in the fight, you would only have had Rehoboth and the waterholes in the neighborhood, but I shall recognise the rights which you had before my time." Koopman asked whether the Major recognised the eastern beacon of Dordabis. The Major replied that he would give his answer from Windhoek.

I signed the boundary agreement of 26th February, 1900, marked "L." The document is not quite correct.

We appointed a Commission when the debt farms were ceded. There was a difference about the Skaapriver, where it runs into the Visriver.

This was in 1898. The line as described in Exhibit "L" is not correct. The line should run with the Skaapriver from the Auas mountains to the "poort," and from there to the left of Skaapriver to Lekkerwater; it crosses the pool of Lekkerwater, thence through the dunes in a straight line to the top of the hill right opposite Gurus, to a sandhill called Graspens, thence in a westerly direction round Gurus to Visriver, and then with the Kuisriver down to its junction with the Visriver.

I do not know why I signed the document if it is wrong.

Question 2.

The farms in the dunes were given to farmers for debt incurred by burgers during the rinderpest. There was well-paid work during the building up of Windhoek. The people received advances for cattle which had died during the rinderpest and therefore they were in debt. The burgers were under the impression that they could pay their debt with looted land and property. The Council did not receive a share of the promised loot and had therefore to give up their land.

Question 3.

(a) I was a Magistrate; I made the law dealing with alienation of land myself with the assistance of the Council. It was a good law, and I am still of that opinion. It is not advisable to sell land to white people, but in the existing circumstances it would not be bad to lease it. This has to be agreed upon between owner and tenant. At that time a German law was promulgated in Rehoboth prohibiting leases of ground and the giving of credit. It was laid down that the creditor could not take a case to Court, which would make him careful. It was a good law, made by the Captain and approved by the Germans.

(b) We have had the storekeepers with us now for 40 years. They also fall under the Agreement. I see more danger in a smaller number of storekeepers. More stores are therefore better.

The Raad took pity on the Hereros who had no land, and those who had passes from the Union Government were admitted here. They treated us well at the time, therefore we had to give them hospitality. So far as we can admit them, we will allow them to come in. About the white men, I have not thought yet.

Questions 4 and 5.

I am of a different opinion about this. During the German régime I was a Magistrate. I cooperated with them, but I have no knowledge of laws. The criminal jurisdiction was with the Germans, but the civil jurisdiction rested with us. I for the first time to-day heard of the two kinds of laws amongst the Germans, one applicable to the whole country, and the other whereby the *Gebiet* was expressly excluded. The Germans made many claims, for instance, the dog tax in the village. Objections were raised and they did not collect the dog tax. They made the game law, but it was also not allowed by the Captain. The Germans only asked that three animals should be protected—female ostriches, female kudu and zebra. This had also to be carried out in the *Gebiet*.

The Germans also asked to introduce the pound law, but they did not press the point when the Captain refused. The German Government asked to establish a District brand in the district. The Germans allowed those of us who had branding irons to retain them, but those who had not any had to buy one for £1. There was no branding law here; it was a free choice of branding. The Germans appointed a Veterinary Surgeon, Dr. Baumgart, at Rehoboth, and built dipping tanks. He was here to enquire into the animal diseases. He did not have any power to deal with the people in connection with the diseases.

Questions 6 and 7.

The Agreement encroaches upon our rights. I was free and the Agreement now places me under the law. The Agreement is too long to deal with it at present and you must excuse me that I do not express any opinion about it. The German Treaty protects my rights; the Agreement takes my rights away. The Treaty did not place me under the law, it gave me free choice; under the Treaty I was free to accept an offer from the Government of my own free will, but there was no obligation. Under the Treaty the Germans could not impose any obligation without our consent. We were free before the Treaty, we asked for protection, and he gave it to us together with our freedom. After consultation (Section 7 of the Treaty) between the *Basters* and the Government, laws of practical use could be introduced into the *Gebiet*. The Treaty did not give the German Government the right to impose any obligation upon us.

The Germans made soldiers of us with our consent. Where a German law was of force here, it was with our consent. The Germans only had four laws over us—ammunition and arms, liquor, murder and rape.

There was a Magistrate's Court and a Mixed Court here. There were two white men and two *Basters* as judges on the Mixed Court, which dealt with cases between white men and *Basters*. This was in civil cases. For criminal cases there was also a Mixed Court which gave judgment. Whenever a white man committed rape on a coloured woman, it was dealt with

by the white court. Theft was a civil offence in the German time. A coloured man who committed rape on a coloured woman was dealt with by the Council, and the case was then sent to the High Court in Rehoboth, the *Bezirksantmann von Hiller*. He was still in prison awaiting his trial when the war broke out. I do not know of any murder case here. There were kaffirs accused of murder; their case was tried by the Mixed Court and they were hanged here.

In reply to questions by Mr. Smit: It was one of our laws that we were not allowed to alienate our ground. I admit that under the German régime not only the consent of our Council, but also that of the Government, had to be obtained. There was no other game, that we were not allowed to shoot—only those three. We could always shoot game; there was no closed season. Theft was a civil offence. I admit that the Germans punished the people, according to the list read by Mr. Smit, viz.: David Engelbrecht and others—but this was under protest from us. We have always protested against it.

We had a Master and Servant law. I do not know that we sent our natives to the *Bezirksamt* to be punished.

In the Mixed Court we sat on the other side of the German Judge. We were allowed to put questions only through the Magistrate. The judgment of the Court was unanimous. If we did not agree, the man could not be punished until proof had been produced. Where there was a difference of opinion between us and the Magistrate, the Magistrate sent the accused to the High Court in Windhoek.

In 1912 a Treaty was signed—I was one of those who signed it. The 6,000 Marks was a voluntary contribution towards the war expenses, binding for four years.

The Treaty is not correctly drawn up; it was for war expenses. (Exhibit "U.")

2.45 p.m.

By Mr. Smit: I was a Councillor from 1906 to 1915, also Magistrate. I was a member of the Boundary Commission and letter "A" from H. van Wyk to Vogelsang, dated 7th January, 1885, is unknown to me, viz.: that the eastern boundary runs over Sendelingsgraf. I was not a Councillor at the time, and also did not hear about it. I remember the agreement of 26th July, 1895, the Drill Contract. I did not read it very carefully. I understand the Drill Contract in this way that the Judges selected the soldiers; they received pay for their services. The German laws and ordinances must be understood to apply only to the soldiers. I cannot explain what was in Captain van Wyk's mind when he complained about the severe German laws—I think it was in connection with the line "P." The Germans did not consult us before the land-tax was applied. The 6,000 mark contribution had nothing to do with the landtax.

Question 6.

Encroachment commenced between 1915 and 1923, for instance the scab question. The new Government oppressed us more than the Germans, they examined the sheep with a magnifying glass. They were stricter in the application of the law. This was the only infringement.

Piet Diergaardt, sworn, declares: I was Magistrate of the Dissenting Council, by the majority of the burgers, from 1923 to 5th April, 1925. I agree with the evidence of Samuel Beukes, but wish to say something about the 7th question.

Question 7.

The Proclamation of 1923 infringed our rights, in section three. My difficulty as a burger is that I have to stand under two Governments—the Baster and South West governments. It is becoming too much for a burger to obey both laws. I am 35 years old; so far as I can remember the German laws were not in force here. The scab law was here, but this was child's play. In the presence of the German police I have dipped 2,000 sheep with one packet of Cooper's Dip. I cannot remember any other German laws.

The Agreement was rejected by the majority of burgers and notwithstanding this the Old Raad signed it afterwards.

Section four and Annexure 88 imposes many laws. There was nothing of the kind under the German Government so far as I can remember. We were independent, free and the Germans could not make laws without our consent—this I have been told.

I intended to buy a branding-iron from the Germans, I applied to the Council and they advised me not to do it because the law did not exist. My mother has a branding-iron. I had to brand, but this was under our law. The Agreement does not leave us any choice with reference to the branding-irons. I cannot remember any more German laws: I was too young. I object against all the laws, which are applied to us under the Agreement.

Question 7.

Johannes Beukes, sworn, states: Section thirteen encroaches upon our rights. I see that offenders against the laws mentioned in Annexure II. can be arrested here by the Government

police. I was summoned to appear before the Magistrate of Rehoboth for an offence outside the *Gebiet* (game law); I was not arrested, and because the war broke out, I was fined 5s. on the day of trial.

We have no confidence in section *seventeen*; this section is not at all clear to me; I do not know whether it encroaches upon our rights. We understand that if we had consented in the Agreement, we would afterwards have had to pay the Government. In the German régime, we only agreed to the voluntary contribution for four years, but in the Agreement it is not clear how much we shall have to pay—the Administration may fix any amount.

Section *one* is not clear to me; it may also contain an encroachment "At present occupied by us" is not clear to me. I am acquainted with the boundaries, but I am afraid that the first Annexure may encroach upon our rights in certain respects, about which Samuel Koopman can bear witness.

By Mr. Smit: I am an Elder of the Church, not a Councillor. I do not know that it was our law or our custom that if the Government called up the people to vote at a public meeting that those who are absent were taken to be in favour of the proposal. I saw you in Windhoek on 23rd June, 1924, and I told you that there were less than 200 people at the meeting. I also told you that there were 500 burgers entitled to vote.

By the Judge: I asked for a postponement, so that everyone could be present, but the Council disapproved; that is why there were only 200 present at the voting. I believe the Agreement was rejected with 116 votes against 42.

By Mr. Smit: There were more people at Rehoboth, but they got tired; the meeting lasted a long time. The meeting took place in August, 1923. My proposal was that the voting should be postponed. We asked the Administration for a postponement till 31st December. This was refused.

By Cornelius Claassen: I admit that Claassen was Chairman of the meeting and that he was in charge of the voting.

Samuel Koopman, sworn, states: I was a Councillor of the Dissenting Party and am 55 years old.

The boundary from Oamites to Ibenstein does not appear to me to be correct in the Agreement because 7 (9?) of our farms fall outside the line: Hatsams, Blaauwkrantz, Stinkwater-Hamis, Kutes, Honanams, Tsaub, Grasneus and Tsuis.

Hatsamas is a burger farm. The portion on the other side of the Skaaprivier belongs to the Germans.

Jacobus Beukes, sworn, states: I am a cousin of Johannes Beukes, 33 years old. I belong to the *Parlementsraad* constituted on the 23rd April, 1924.

Question 7.

I see that our law book has been incorporated in the Agreement. The German officers protected us against the German laws, as regards the Drill Contract. I wish to give evidence concerning our independence, and what this means to us. The Agreement is altogether too much for us.

I do not see the promised protection, I only see that we have been placed under all kinds of laws. Our Council is abolished, the community is deprived of its freedom. The laws are much too severe for us, there are too many laws and they are too elevated for us. Our interpretation of the Treaty with the Emperor is that it was to protect us, but not to make laws without our consent. I consider that laws are holy.

Cornelius Claassen, sworn, states: 117 were against and 42 in favour of the Agreement at the meeting under my chairmanship. At the last meeting of the Council about 1916 there were 71 or 81 present, and nevertheless the Government was satisfied with the election of the 71 or 81. Whoever does not attend is satisfied with what is done by the Captain and Council. The public meeting was a mistake; it is not provided for under our constitution, which only allows such a meeting if the Captain cannot agree with the Council.

Albert Mouton, sworn, states: The German martial law was applicable to the *Gebiet*. We signed an agreement (Exhibit "V") whereby the Germans retained the mining rights.

Pieter Mouton, sworn, states: I was a Councillor in 1905. There were many cases which were submitted to the Mixed Court under German law. The German Judge was sitting on the one side and we on the other side. The *Baster* judges had the right also to say something; the German judges gave them the opportunity when he had finished speaking. After the evidence, the sentence was discussed. We also discussed the sentence. In case of a difference of opinion between the *Baster* judges and the Magistrate, the decision of the Magistrate was final. Our Christian marriage is only in the Church. We had the right to decide cases about divorce. We never appeared in such cases before the *Bezirksamt*.

Jan De Wet, sworn, states: I am owner of Wortel in the *Gebiet*, registered in my name in Windhoek. I am the fifth or sixth white owner.

I protest against the Proclamation of 1923, which encroaches upon my former rights. The *Basters* can prevent me from selling the farm. That right did not exist under the German régime.

By Mr. Smit : I was living at Gocheganas from 1904 to 1908.

Thursday, 11th June, 1925.

9.30 a.m.

Johann Hans Lahmeyer, sworn states : I am Messenger of the Court at Rehoboth ; formerly Sergeant in the German police at Rehoboth from 1907 to 1912. I was also Public Prosecutor. Under the German law nobody was allowed to cut green wood. If detected, a prosecution followed. Under the German law I placed the farms in the *Gebiet* under quarantine in cases of scab. The German Health Law was also in force here. If there was rubbish in front of a door, a warning was issued, and if the rubbish was not removed, the offender was punished by the Court. The same applied to fast driving in the streets. All the German Criminal laws were in force in the *Gebiet* and came before the Court here. Against small offences, we closed our eyes. We had the right to have any one arrested if he transgressed the law. Whether the *Baster* Council also dealt with trivial offences, I do not know. I never heard that this was the case. As far as I know, only the *Bezirksamtmann* punished transgressions of the law in the *Gebiet*. If his sentences were too high, there was appeal to Windhoek. The *Bezirksamtmann* nominated two men and in big cases three men as assessors in order to hear what was happening. They did not sit next to him on the Bench. They had no right to put questions to the witnesses. This was done by the *Bezirksamtmann*. The *Bezirksamtmann* decided the case and pronounced judgment. If the sentence was high, it was first sent to Windhoek. Before judgment was pronounced the two or three persons were never consulted. They could only make representations after the judgment. These representations were then forwarded to Windhoek.

Questioned by Johannes Beukes : I cannot remember whether anybody was punished for cutting green wood. The law was, if one was compelled to cut a tree for a *disselboom* for instance, that two trees had to be planted instead of the tree cut, and a report had to be made and proof produced. The law was for the territory and Rehoboth was included therein.

By Maasdorp : We have nothing to do with what the Raad did. That was their private business.

By Jacobus Beukes : I do not know whether Frederik van Wyk was in prison here when the war broke out. If I consult my books, I shall be able to give names of *Basters*, who were arrested by the police. Samuel Beukes was put in prison by us because he was drunk. No, this was Lukas Beukes.

Petrus Diergaard :

Cornelius Claasen states : I take liquor, but I have never been guilty of excess.

Albert Mouton states : Proclamation 28 of 1923 does not encroach upon our rights, which we had under the Germans.

Question 3.

In 1922 the Governor said the Hereros would cause trouble between us and the Administration. We thereupon asked the Administration to allot the Hereros land outside the *Gebiet*. This was done, but as there was not enough water there, we were asked to keep the Hereros here for a little while. We complied and the difficulty has now arisen. My opinion is that before further difficulty arises, the Hereros must be removed.

By P. Diergaard : I know the Treaty of 1885. Those who committed offences were brought before the Court. I did not know that you refused to shoot your mare which was suffering from glanders and which the police had ordered you to destroy. Also for other diseases, dourine. I did not know that you sold green poles at Gochekanas.

By Hendrik Campbell : I did not know that you were before the Mixed Court and discharged by the Councillors.

By Petrus Job : I did not know that you and Albert Mouton had been assessors of the Mixed Court, and that the accused was sentenced to death with your consent. This is the case of Kefer Koeliekop. I did not know that at some other time a Hottentot was sentenced to death for cattle theft, and that you and Albert Mouton refused to consent in your capacity as Councillor and that the Hottentot then at our suggestion got ten years.

By Samuel Koopman : I know of many cases where *Basters* were arrested by the police. I did not know that you were a German policeman.

Now I am coming to the Hottentots. I have seen some Hottentots who had a kind of token which they carried affixed to their coats. This was to show that they were Americans—they also were the cause of a good deal of trouble. We also complained once to the Secretary to the Administration. My opinion is that the Hottentots must also be removed from the *Gebiet*.

The Klipkaffirs may stay—they are our servants.

I wish to speak about the outlying stores. There are some which have no owner's title, only rights under a lease. They are not to the advantage of the *Gebiet* because they obtain their trading stock from third or fourth parties. When their lease has expired, the Magistrate should send them away.

I wish to speak about the lawbook. You will not find it in the lawbook that it was a German law that the white men were not allowed to give credit. The Administrator told us that he would again introduce that law if we asked for it in writing. Our forefathers made the lawbook; we are their heirs and in order to secure the rights thereunder I signed the Agreement.

Frans Maasdorp, states: I want to speak about the five farms and £8,000 given by the Administration as an act of grace. About 1916 the Raad had a statement prepared of their losses through the Germans; the Government also made enquiries. The *Basters* suffered at least £60,000 to £70,000 damage. They are still suffering to-day from this damage. The Administration only returned them a small portion of what the *Basters* had looted. Some received a sheep or goat for the loss of a cow.

Many *Baster* women were married to white men before the boundaries were determined. The *Baster* women had received farms from the Community, more or less only from the women. If a *Baster* woman married a *Baster*, she did not receive a farm. The *Basters* were very fond of the white men in those days. It was also the practice in Upington, Gordonia, Rietfontein. I do not know why this was done. The farms are registered in Windhoek in the name of the white man and they are therefore removed from the *Baster* control. Our people married in community of property. If we married without antenuptial contract, the marriage was in community of property. I only mention the cases of the farms Khos and Choaberib-Kaluza. A German married a *Baster* woman, that is why he received the farm—he sold himself. Not long ago he died—he had a good deal of property but to-day the woman has hardly anything.

I am of opinion that it is an unsound principle to give a farm to a *Baster* woman if she marries a white man. Oamites was also given to a *Baster* woman; now the farm is outside the *Gebiet* and the woman has nothing.

I am not against the desirable white man who is to our advantage, but I am against the undesirable ones. I recognise that the *Baster* cannot develop the mineral wealth of a country.

Question 6.

In my opinion the Administration encroached upon our rights, because Section 19 concludes everything.

The first point is that the Council already had a claim at the time, not only to the old extensive boundary, but also to Nauchas, Bullsport, Zandputs and the Government buildings at Rehoboth, on account of the blood and property they lost and also because they gained a victory. Before the promulgation of the Proclamation the farms were issued to white settlers notwithstanding our claims thereto. The Council told the Administration at the time that the Community had not enough ground and that more families were coming in.

The Government buildings.—The German Government purchased the prison area and the hospital ground from the *Basters*. They built the Magistrate's house and one for the Clerk, without buying the ground. Now we notice that the Government appropriates still more burger plots behind the house of the Clerk. The Administration had the houses demolished which the burgers wished to build. This happened before and after 1923.

We have a registration of land; we have our own surveyor who measures with the chain. We have a register for farms, houses and garden plots. (Exhibit "W."). This register has been kept from the beginning. The ground is surveyed and beacons off and is then registered. We do not register in Windhoek.

Question 7.

I was present at the negotiations concerning the Agreement. We saw that our rights, in terms of the Peace Treaty, were guaranteed by the Agreement, with the exception of the Mixed Court which is not referred to in the Agreement. The Agreement provided for entrance and residence in the *Gebiet*. It was the best we could obtain at the time. General Hertzog and Mr. Hofmeyr later on declared that they were prepared, owing to the discord caused by the Agreement, to discuss any amendment of the Agreement with the legally elected Council, as soon as the Community would be unanimous on that point.

Samuel Beukes further states: I will not object to anything said by Maasdorp or agree with it; owing to the existing discord I do not wish to say anything about the question of the land until there is harmony in the *Gebiet* again. The Council must first be reinstated and all questions settled.

Hermanus Claasen, sworn, states:

By Mr. Smit: All of us paid land tax for one year, in 1910. I have my receipt Exhibit "X"). The farm was inside the *Gebiet*. All the property owners paid.

By Samuel Beukes: We did not pay voluntarily, but the Germans applied the law to us. As far as I know all of us paid. I do not know of any objection made to the Emperor.

By Judge de Villiers: We were forbidden by the German law to cut green wood for poles. We paid dog-tax to the Germans in the village here for two years. In case the tax was not paid, the dogs were killed. The right to trade was taken from us—this was only allowed to the stores. We were not allowed to shoot ostriches, etc. We were not allowed to flog our servants, we were compelled to take them to the police station.

By Campbell : I deny that we did not pay land-tax or dog-tax. I also paid farm-tax to the Community—£1 per annum. In 1910 I paid £3 15s. to the Germans.

By Judge de Villiers : I agree with Cornelius Claasen and the evidence of Maasdorp. I do not see any encroachment of our rights by the Agreement, but if the Government takes away its protection under the Agreement, then we are finished. Then our ground is gone ; then the white men will live here instead of us. It is undesirable that the white men should come here. I myself sold my farm to the German Government, and I see that it was a mistake.

We had our full rights on the Mixed Court. I was present at three cases. We were three *Basters* and three white men as assessors. On my advice two natives were acquitted from capital punishment. The white judge agreed with me. Five of us were assessors in a case against the Captain and the Bezirksamtmann allowed us to pronounce judgment. The Captain was fined £6, the Council £5, and the late Dirk van Wyk £30 in another case. The case was under our law. We had the right to speak to the Bezirksamtmann in Court and to put questions. He had the decision, but he also listened to us.

Three of us were assessors in a case against a white man, under the German law, in connection with maintenance of a child which he had had with a *Baster* woman. He was sentenced to pay £50 per annum maintenance contribution.

Cornelius Claasen further states : I paid dog-tax for two years. I believe Beukes was still a child then, not a policeman. After these two years every owner of an erf was allowed to keep a dog free of tax.

I said yesterday that I agree with Maasdorp. But I wish to say if a reserve were now to be given to the Hereros, I would vote in favour of it. We cannot live together with the Hereros ; they are not honest, they use our grazing, destroy our game with their dogs. This is impossible for us. Our forefathers came in with the Klipkaffirs and the Hottentots. They suffered with us, but they are our servants. They were under their master, but since the Union Government has been here, we cannot engage any more servants ; they are deserting their masters. The Klipkaffirs and Hottentots may stay, but they must recognise us as their masters.

The Agreement does not encroach upon our rights ; it is even giving us more rights than we had under the Germans. They took away our Captain and Council. We now have again our Captain's rights. In the German time we only had the right of appeal to the Administration ; to-day we have the right to appeal to Parliament. We now have an honest document about our boundaries : this is an important point. If the Agreement falls away, we are finished.

By Johannes Beukes : I have explained the Agreement to the people.
Adjourned at 12.10 p.m.

Note by Rev. H. Schröer, Rhenish Missionary at Rehoboth.

With reference to question 3 :

- (a) In my opinion it is not in the interest of the *Baster* Community that the alienation of land in the *Gebiet* to white men or natives shall be permitted.
- (b) Trading and living of natives in the *Gebiet* is in my opinion not in the interest of the Community.

Trading and living of *too many* white men (especially those of a bad character) will not be to the advantage of the progress of the community.

(Sgd.) H. SCHRÖER.

Rehoboth,
11th June, 1925.

THURSDAY, 18/6/25 at WINDHOEK.

ALEXANDER GUSTAV LANDSBERG, duly sworn, states :—

“ K ” was drawn up in my office. The only alteration in the boundaries made by the Agreement of 1923 is that alienated farms were excluded from the *Gebiet*.

I have seen H. v. Wijk's letter to Volgelsang, 1885, and have read the claim of Eastern boundary. Alcock indicated Zwartkop—the most easterly kop is shown on the map. I shall indicate that boundary on “ K ”. There is another Zwartkop at Tsumis, but the one marked by me gives them the benefit.

CHARLES NICOLSON MANNING, duly sworn, states :—

I am Magistrate of the District of Rehoboth ; the *Gebiet* falls within District. I have been in *Gebiet* since December, 1923.

Points 1 and 2.—Most of documents were removed by Germans in 1915. I have not principal documents. Judging from general evidence I have obtained, that on account of frequent invasions of hostile tribes, the *Bastards* never had permanent boundaries until they were demarcated by the Germans. These boundaries we found defined at the time of our occupation. It is said that at certain times the *Bastards* were consulted by the

Germans, but the *Bastards* complained that they were treated harshly. The Drew Commission investigated the position and reported. It would be a dangerous precedent if old land questions settled before our arrival were disturbed. The Union Government has not reduced the *Gebiet*, but by purchase of certain farms in the *Gebiet* and grant of same to *Bastards*, together with the Government farm Zandputs (compensation for laying of trolley line), their *Gebiet* has been extended.

The Agreement of 1923 was signed by the *Bastard* Raad, and defines boundaries and rights and privileges.

Point 3.—I shall put in a memo. later.

With regard to alienation of land to Europeans, I am emphatic that Europeans have ample scope outside the *Gebiet*, and should not be allowed to hire or purchase *Bastard* land.

The *Bastards* gave out much ground outside the *Gebiet* for debts, etc. Within the *Gebiet* they gave away good and considerable areas. A number of white people came into the *Gebiet*, in the first instance, to trade, etc. They were in *Gebiet* at time of signing of agreement, and claimed right of residence. They have no farms but many privileges. There are farmers within the *Gebiet* whose stock trespasses on *Bastard* ground. There are white men married to *Bastard* women, who claim privileges of *Bastards* and whites, namely, arms and ammunition, liquor, etc. There are people outside the *Gebiet* who encroach over the boundaries.

There is also the fact of white people living in the *Gebiet* with *Bastard* families, which will have bad effect on future of *Bastard* families. White people in the *Gebiet* increase the difficulties of Administration. If *Bastards* are allowed to dispose of their ground or to lease it without any control, it will not be long before the white people get a great part of the *Gebiet*, which should be a reserve for the *Bastards*.

The *Bastards* have not the security which the natives have in the reserves, where there is no question of alienations. The *Bastards* require protection against themselves as they have not always sufficient sense of responsibility.

5 June, 1917, letter from Minister of Defence which states that General Botha agreed that Europeans should not enter into or obtain rights within the *Gebiet*. That has always been the policy of the Union Government, and it is embodied in the agreement.

It may be argued that prohibition of sale of land by *Bastards* is infringement of their rights, but it is justified by the agreement.

The Germans cancelled the Treaty of 1885 and took away their rights.

I maintain that *Bastards* should be prohibited (protected?) against alienation, exploitation and trespass into their *Gebiet*.

There is also the danger of white people mixing with the *Bastards*—there is the undesirable result of mixed races.

The natives have reserves, or can work for white employers. They should not have ground in the *Gebiet*, but should only be permitted to remain in the *Gebiet* as labourers.

By the Judge: It is undesirable that white men should marry *Bastard* women. It makes the difficulties greater for us. It is undesirable for a white man who comes into the *Gebiet*, say, for trading, to marry or have intercourse with *Bastard* women. If white men are not to have intercourse with *Bastards* the difficulties would be increased. By Government control and establishment of a fund (which we have started) we could aid progress. We could assist in the erection of dipping tanks, dams, in agriculture, education, and industrial school to teach them trades. Rather than that they should be Bokkie-farmers and rely on the precarious livelihood of selling wood and grass. The soil is, in parts, suitable for gardens, wheat, mealies is grown in some places. Where there is enough water they grow wheat. They cannot go in for large fields as in the Union. There are, however, possibilities, but they need financial aid. Some of the farms are useless because there is no water. They sell cattle and slaughter sheep.

Owing to internal dissension, their progress has been retarded.

The *Gebiet* is ample for their requirements.

We reserve mining rights. We would have to admit whites for mining purposes, but under restrictions. Under the old *Bastard* law, whites fell under *Bastard* law, which would be difficult to enforce. I would allow any native to come into the *Gebiet* as long as he works, but no squatters.

What I have said about alienation of land applies to natives as well. The *Bastards* have folk who have been with them for generations—chiefly Klipkaffirs. I know of no Herero servants.

I have found no other *Bastard* laws except the "Wetboek" (handed in) ("W.a."). The other documents are in the form of letters. I also produce extracts from the *Bastard* Land Register ("W."). There is no accurate measurement of land. Approximate areas are estimated. The Government does not interfere with these arrangements. Many of these farms are held in many undivided portions, but it is in the name of one man.

By Maasdorp: The Wetboek states that "besluite" have force of law.

Points 4 and 5. The treatment of the *Bastards* by the Germans is shown in the records. The principal document is the Treaty of 1885, which does not give many details. After examination of available records, and also of *Bastard* and other witnesses, I have ascertained that the *Bastards* were allowed to deal with their domestic matters, but the Germans applied what laws they wished, whether they consulted the *Bastards* or not. I have seen a variety of laws issued in the German time. Lahmeyer can produce a collection of laws applied by the Germans.

The Germans made a Credit Law, which affected the business of the *Bastards*. 16/1/1910. I produce a letter applying it, it is signed "Hintrager" ("Y"). I have a regulation here referring to registration of *Bastard* firearms. The Germans enforced that law. Here is the registration of a rifle ("Z"). I produce this record from the Bezirksamt, whose successor I am.

The Germans took away *Bastard* and Government records when they retired. The German files in my office do not all bear on *Bastard* matters.

I have a file dealing with military affairs ("A I").

Regarding criminal trials, I have a record here ("B 1").

Point 6. Our Government has not encroached upon the rights the *Bastards* held at our occupation, and until the Agreement of 1923. Our troops found the Government buildings at Rehoboth in occupation of Germans. We have not erected new buildings. By the Proclamation of 1923 we have defined a number of their rights, and we have given them more than they had before. We treat them sympathetically and with due consideration of their general welfare. We received an instruction by telegram of 9/6/17 to respect their rights, to recognise the status of the burghers as it existed under the German Government before the war, to consult with Kaptein and Raad for the general welfare and administration of the *Bastards*. The officials fully complied with these directions.

Point 7. As the Administration found the *Gebiet* after the German occupation, it could have legislated as it pleased. We allowed the *Bastards* to govern themselves, and assisted them wherever we could—finally the Government made an agreement with the Kaptein and Raad in which all rights were embodied.

Apart from the rights which we could have exercised we made an agreement with them.

By Maasdorp: I know nothing about claims for compensation for war losses. There was a War Losses Commission for S.W.A.

By C. Claasen: I have no written document to show how the Germans obtained the sites for Government buildings. I only know that our troops found Germans in occupation of these buildings.

By Smit: I have made an estimate of the *Bastard* population. I estimate it at 800 men, 900 women and 2400 children, approximately. I think this is a full estimate.

MATTHYS JOHAN DE JAGER, duly sworn, states:—

By Mnr. Smit: I am Chairman of the Land Board. I know the *Gebiet* fairly well, was several times through the *Gebiet*. At present not more than one-third of the *Gebiet* is beneficially occupied. There is room for at least three times the number of cattle which is now therein. The greater part of the *Gebiet* is pasture land, but portions are suitable for crops.

Along the Rehoboth River the soil is good for summer crops. It is a long stretch of ground which runs from the beginning of Rehoboth River below the village as far as Heide Station. It is extremely suitable for dry land farming.

We caught 280 male natives (Hereros) last April. They were squatters and have many head of cattle.

By the Commission: Those portions are the most fertile in South Africa. Much can be done at Schlip, if sufficient capital is spent on it, and there are also other places. The *Gebiet* is considered as the best part of South West Africa. It is healthy for cattle and sheep. It is also suitable for merino sheep. I have heard Major Manning's statement in connection with the population figures. There is still much room for an increase of the *Bastard* population. They also give out farms on lease. They have leased to the Hereros. I am acquainted with South West Africa. The South of South West Africa is a sheep area. The *Gebiet* is that portion of the country where one can farm with cattle and sheep and go in for agriculture. In the North there is agriculture and cattle farming.

In South West Africa certain fruit can also be grown, such as figs, grapes.

By Maasdorp: I have seen the census of 1920, but did not study it.

JOHANN LAHMEYER, duly sworn, states:

I have kept this book; ("C.") I have written it myself. It is a law book, containing laws which are applicable in the whole of South West Africa, also in Rehoboth. We have

applied them in Rehoboth, and *Basters* have been punished in terms thereof. I read the list of laws. It is in my own handwriting; it was written by me at the time.

HENRY WILLIAM DREW, duly sworn, states:

I am Inspecting Magistrate in South West Africa and Native Commissioner. Formerly I was Acting Magistrate at Upington and Magistrate of Rietfontein on the border of the former German South West Africa. In 1918 I was for a time Magistrate of Rehoboth. In March, 1922, I was appointed as chairman of a Boundary Commission for the *Gebiet*. Colonel de Jager was one of the members. The Commission sat for three days in Rehoboth and two days in Windhoek. Acting Captain Mouton was one of the members. Maasdorp represented the Council before the Commission. When the Commission was at Rehoboth, the whole Council was present, with the exception of Captain van Wyk.

We handed in a report on the 16th May, 1922; I am handing in a certified copy (D 1).

Maasdorp claimed the boundary from Abas mountains along the Kuisib to Ururas, and from Ururas to Sossosvlei, thence in an easterly direction along the Bloemvisriver to Kuis, thence northwards over the Lekkerwater farms, up the Skaaprivier, over the farm Dordabis to the N.E. point of Auas mountains. Our Commission was of opinion that we could not admit the claim. (Read Report (D 1)., Maasdorp handed to us a Proclamation by Maharero. The Proclamation only gave the Southern boundary of Maharero, and we could not agree that this was also the Northern boundary of the *Basters*. Maasdorp requested that the question of the extended boundary should be submitted to the Administrator.

There was a minority report by Mouton; it is part of the document D 1.

By *Maasdorp*: I also was Magistrate of Upington and Rietfontein. I was appointed on the Drew Commission on account of my experience at the two places. There the *Basters* sold their ground to white people.

It would be a mistake to allow the Rehoboth *Basters* to sell their ground to white people. I was also Magistrate at Amandelboom (Williston) and Magistrate's Clerk in Namaqualand, and I have seen that none of the *Basters* have any ground there still.

HAROLD PRINGLE SMIT, under previous oath, states:

The *Basters* have based their claims on the Proclamation of Kamaherero and Swartbooi. The Germans took a statement from Missionary Boehm; (E 1); according to that statement the *Gebiet* was never sold by Swartbooi. I hand in Böttlin's letter of 15th July, 1905 (F. 1) dealing with the land question. He was a friend of the *Basters*. The Germans prohibited the sale of land by *Basters* and natives. The history of Adam Kok and Philander proves how dangerous it is to allow those people to sell their ground. It will also not be advisable to allow white people or natives to reside in the *Gebiet*. White people are prohibited from buying land, so that there will be no living for them except for a few missionaries, traders and teachers.

Natives are being incited by the *Basters* against the Administration, and they are a danger to the Administration. The Hereros will not work for the *Basters*; they are squatters. The laws of the country were not all applicable to the *Gebiet*, and in this way the Hereros in the *Gebiet* evaded the law.

There was a census in 1923. There were 236 *Basters* who owned cattle in the *Gebiet*. They held 405 wool sheep, 21,634 baster sheep, 343 Angora goats, 23,007 other goats, 11,166 head of cattle, 914 horses, 888 donkeys and 2 mules. There were 436 native cattle-owners. They held 6,847 baster sheep, 15 Angora goats, 34,652 Kaffir goats, a total of 41,515. *Basters* had sheep and goats 45,389; cattle, 5,575; horses, 334; donkeys, 132.

If this continues it will not be long before the natives will be farming the *Basters* out of their own country. We have made provision for natives reserves. Since the disturbance, a large number of natives have already been removed to the reserves, and the Administration intends to remove all of them. We shall only allow the necessary servants to remain there.

It has been suggested to us to get twenty-five families from the Cape to freshen the *Bastard* blood. But the Cape coloured people are not farmers, and their exists the danger that the Cape coloured people will deteriorate.

The Administration wishes to assist the *Basters* with dams, fencing and schools—they have their own funds.

My experience is that only the lowest class of white man marries coloured people and that such marriage has no good influence.

There is no *Bastard* Reserve outside the Rehoboth *Gebiet*.

Points 4 and 5. The political privileges of the *Basters* were fixed by the Treaty of 1885 (G. 1). This treaty recognised the Constitution of the *Basters*. In their own laws provision is made for dealing with theft, servants, intoxicating liquor, taxes, cattle diseases, etc., and it will be seen that the Germans made laws on the same subjects. In

1885 the Germans had no Administration in this country; that is why they entered into treaties. Subsequently more white people came into the country and the civil Administration was established, with the result that the Germans commenced to reduce the rights of the *Basters* and to introduce their own laws. The policy of the German Government is explained in a book by Dr. Hermann Hesse: "Die Schutzverträge in Süd West Afrika, 1904." I am reading page 23. (G 1a).

The Military Treaty (H. 1) grants a salary to Captain H. van Wyk for services.

Afternoon, 2.30.

From H. van Wyk's letter it is clear that the German laws were in force in the *Gebiet*. In 1897 the first Bezirksamtman was appointed. In 1913 he had a staff, according to a list (J. 1), which I hand in. According to our records, the ground was given by the Raad to the German Government. We did not erect buildings. From the evidence of the *Basters* it is clear that several German laws were in force within the *Gebiet*. Dr. Kulz writes in 1909 (Deutsch S.W.A. in 25 Jähr. deutscher Schutzherrschaft) according to translation handed in (K. 1). I hand in Boettlin's letter of 15th July, 1905 (L. 1—the same document as F. 1). After the war the following document (M.1) was written by Mr. Widmann to the Rehoboth Bezirksamt. In Boettlin's letter there was a proposal that the title of Captain should be altered. On the 30th January, 1906, the following letter was sent by the Germans to the *Basters*. (N. 1). On the 29th February, 1906, this was reported to the German Government (O. 1).

I wish to hand in a judgment of the German Court of Appeal (P. 1), from which it will appear that *Basters* were considered as aboriginals under the German law.

Ordinance of 18th August, 1907, for the Control of Natives was not applied to the Rehoboth *Basters*. (Q. 1).

Pass law (R. 1), dated 18th August, 1907, excludes *Basters*.

Liquor law (S. 1) of 1911 makes special provision for Rehoboth.

Credit law of 30th October, 1908 (T. 1), which does not specifically mention the *Basters*, but which was made applicable to them.

Law on Sale of Land (U. 1) was in force in the *Gebiet*.

Land Taxation law (V. 1) of 19th March, 1909, and 12th October, 1910, which was also applied to *Basters* by sec. 22.

The Registration law was not applied.

The Mining Law was recognised by Treaty. Wood, Game and Cattle Diseases laws were all in force. Two years before the Mining Treaty was signed, mining rights were granted by the German Government to the Hansa Mining Company. This company has ceased to exist.

I have here judgments of the German Court under German law. (W. 1).

I hand in judgments and indictments, referring to cases where the offences took place within the *Gebiet*. (X. 1.)

As regards the criminal procedure, the Germans have taken over the law of East Africa, Kamerun and Togo (22nd April, 1896, applied by law of 8th November, 1896). Taxes: There were land, wagon and dog taxes. The land tax was superseded by the Treaty of 31st January, 1912.

There existed a doubt about the legal aspect according to letter from Hintrager, handed in, (Y. 1).

It is clear that unless the *Basters* were expressly excluded, the German laws were applicable to the *Gebiet*.

By Mouton: The letter of von Lindequist, dated 1898, to the Captain about the boundary question, when the Captain was reprimanded, has been handed in.

By Claasen: I do not know of any letter in which the *Basters* asked to abolish the title of Captain.

By Maasdorp: I do not know what arrangements were arrived at between the *Basters* and the Germans about the Government buildings, except that the *Basters* granted them voluntarily.

Mr. Smit: I do not know of a piece of ground about 4 kilometers long which the Administration has appropriated on the Western side of the Government buildings on the commonage. It is shown on a map of this Administration, and it is marked as already belonging to the German Administration.

Point 6. (Maasdorp here states that that ground belongs to the Community; the Administration has not yet erected any buildings there. Burghers intended to build there, and the Administration prevented them. Mr. Rainier prevented Josef Alcock. He had to demolish his house, and he has done so.)

Point 4. Mr. Smit continues his statement: I cannot obtain any information concerning Point 4—Veto by German Government. Between 1872 and 1913 no laws were passed by the *Baster* Council. In 1913 a law was passed against divorce.

I have no information as to any further doubt as regards clashing of laws with the Treaty, except "Y."

There is a letter in 1893, which prohibits the *Basters* from taxing white people. (Z. 1.)

Point 6. On the 9th June, 1916, we received the following instruction from the Secretary for Defence. (A. 2.)

It is clear to me that the agreement does not encroach upon the rights of the Community. In my opinion they received more rights. It appears that the Germans did not consult the Council before applying their laws. In the agreement provision is made for consultation. In terms of the agreement only certain defined laws are in force in the *Gebiet*. Under the German régime it appears that all the laws were of effect in the *Gebiet*, except where the *Gebiet* was expressly excluded.

The only difference is in connection with the Mixed Court. I am not sure whether an interested white man also appeared before the Mixed Court during the German régime. There are no mixed courts under the agreement excepting for appeal cases against decisions of the Council. This is a change compared with the former position.

Point 7. As to the powers of the Union Government, I refer to the Mandate. Article 2 gives full power of administration and legislation, etc. It is clear that the *Gebiet* was a portion of German South West Africa, and that it is not excluded from the Mandate. We were not obliged to recognise the Treaty of 1885. It is doubtful whether the Treaty did exist after the outbreak of war. I hand in a copy of the letter by which the German Government declared war on the *Basters*. (B. 2.)

I said that we are not obliged under the Mandate to recognise the Treaty, because "the full right" has been given us.

As regards war losses, a Commission was appointed under Proclamation 2 of 1920, which fixed its powers. I understand their claims were not examined because the *Basters* were enemy subjects.

Evidence closed at 4 p.m.

CHARLES NICOLSON MANNING, further states :

I have no German records dealing with the Government buildings; I have a map of the Public Works Department. I see the Public Works Department has drawn a line showing the Government ground. I hand the map in (C. 2). The *Basters* state that the ground (marked in black) does not belong to the Government, but only the round spots where the houses have been built. They also state that the clerk's house has been built on ground belonging to the Community. I have never seen a German map on which the ground has been marked off.

FRIDAY, 19TH JUNE, 1925.

Major Manning hands in the Public Works Department map.

Jacob Beukes asked Mr. Smit whether there were any documents on record to show that the *Basters* had incited the Hereros against the Government.

MR. SMIT, under his previous oath, states :

We have received several letters from the New Raad, in which they refused to carry out our laws as they maintained they were independent. (D. 2.) They also considered that the natives were their subjects; they are, therefore, also subject to *Baster* laws. In May we received information that the *Baster* Council was inciting the natives. We sent a detective into the *Gebiet*, and he reported that the *Basters* forbade the natives to obey our laws. Major Manning made a trip through the *Gebiet* in January, when the natives told him that the *Basters* had threatened them: If they obeyed our laws they would be kicked out of the *Gebiet*. Among the papers of the New Raad we have found a letter written by a Herero (E. 2) in which he states that the Hereros will join the *Basters*.

We have tried to arrest the "New Raad"; they resisted, and afterwards they came together under arms, and with them were 300-400 Hereros. The *Basters* took up an insolent attitude. Langkaffer is the foreman of the Hereros. His letter shows there was communication between the *Basters* and the Hereros.

MAJOR MANNING states under former oath :

In December the natives refused to brand their cattle. On the 30th December, 1924, I held a meeting of natives (Berg Damaras, Hottentots and many Hereros) near Geelkop in the *Gebiet*. I explained the laws and warned them to obey them. Many of them said that they would wait till the *Basters* were branding their cattle and obeying the other laws. Others said that they were afraid of being ejected from the *Gebiet*, and others complained that the *Basters* ejected some of them last year because they had obeyed the laws. In January, 1925, I held a big meeting of Hereros at Kudis, near the Auas mountains, where most of the Hereros were living. I told them that they had to obey the

[U.G. 41—'26.]

laws. I also told them that the Council no longer existed, only the magistrate of the district. Many of them refused to pay the dog tax or to brand their cattle, and they said the *Basters* must first obey the laws. I was there for a few hours and very patiently I explained everything to them. Most of them would not listen. Their principal speaker was Langkaffer. I considered him as their foreman, because when he spoke all the others were quiet. It appeared to me that he had influence over them. I understand that he was a Major or Colonel in Rehoboth on the 5th April, 1924.

I know the Hereros considered him to be their foreman at Auas Mountains.

I know "E. 2". We found this among the documents of the New Raad. On the 3rd or 4th April, before the fight of the 5th April, I sent a letter to the Hereros in the village, in which I told them to come and see me or to leave the *Basters*. I did not receive any reply from them.

The Commission adjourned at 11.30 a.m.

(Free Translation from Baster Dutch.)

EXHIBIT "A."

Before we came to Rehoboth there was a war on between Captain Kamaherrero and Captain Jan Afrikander. In September, 1870, Chiefs Captain Jacobus Izaak, Captain Moses Witbooi and Captain David Christiaan proceeded to Okahandya for the purpose of witnessing and ratifying the peace treaty which had been declared between Captain Jan Afrikander and Captain Maharero in May of the same year. The three first-mentioned chiefs also invited me to accompany them to Okahandya to assist in this work. At that time I was still living at Chamis in the Bethanie Veld. On our way to Okahandya Captain Jan Afrikander joined us at Aris. On our arrival at Okahandya we found the Herero chiefs with their Supreme Chief, Captain Kamaherero, already assembled, and Captain Abraham Swartbooi had also come from Ameib. Besides the chiefs mentioned there were also present the Missionaries of Damaraland.

After the peace meeting I went to the German missionary, Mr. H. Hahn and asked him whom I should approach regarding Rehoboth, because I had already seen Rehoboth twice, and because of its vast area of ground lying unoccupied, I had an inclination to go and live there. Mr. H. Hahn told me to go to Captain Abraham Zwartbooi as the place belonged to him. I then went to the latter and asked him for Rehoboth, and he then gave me Rehoboth together with the territory belonging thereto, in so far as it was his, to live upon. We then went to Mr. H. Hahn and told him that Captain Abraham Zwartbooi had given us his ground. Whereupon Mr. Hahn replied that it was good, but that we should also now inform our ally, Captain Maharero. This was done, and I did not hear it said that he had denied Captain Abraham Zwartbooi the right to do as he pleased in connection with his own abandoned property. The other Nama Chiefs were also informed about this matter, and they were all satisfied about it. As a token of friendship, I presented each chief with a horse, and Captain Abraham Zwartbooi received in all twelve horses from me. I moved with my people in the same year still to Rehoboth, where I carried on independent government, and none of the country chiefs hindered me. We have since worked a great deal to improve the territory by blasting rocks which prevented the water from running out of the fountains; provided outlets so that we can now catch up the water in dams for gardening purposes, and also for the development of wheat fields on a small scale. We have erected permanent buildings and also dug wells in places where there was no water before. Moreover, a German Trading Company established a store here, and later other stores were opened. As a result of industries and commerce our welfare had improved greatly.

Then the war between Captain Kamaherero and the Namaquas broke out in August, 1880. My first decision was to remain neutral during this war, but the Nama Chiefs desired that I should also take part in the war against the Hereros. When, therefore, the news was received that the Hereros had killed seven of my people, among whom was a white man who had married one of us, I joined the Namaquas against the Hereros. The latter were then driven across the Zwachaub.

The war against the Hereros had not yet come to an end when I made arrangements with Captain Jan Afrikander to go to Damaraland on a war expedition. Captain Jan Afrikander's forces had already marched, but I was not quite (ready?), although my vanguard had already moved out, when the news came that Captain Jan Afrikander had returned with his forces, and three days later, on the 21st January, 1882, he attacked my posts at Ubernaoab and Turugous and took about 700 head of cattle, 2,000 sheep and 30 horses, the value of which being more than £4,000. We did not expect this, nor were we prepared for it. There were few men available, mostly women and children, otherwise he would not have succeeded to that extent. I immediately informed the Nama chiefs of this occurrence, and asked them for help against Captain Jan Afrikander.

About the same time the Cape Government sent Mr. H. Hahn, who was formerly missionary in Damaraland, to Okahandya for the purpose of working for peace. This gentleman wrote to me and said that if he could do anything for me with Captain Maharero I should write to him or send some men to Okahandya. To defend myself against enemies on two sides was too difficult a task for me, and from the Nama chiefs no help was to be expected for the present. My nearest neighbour chief, Manasse, whom I had also told of what had happened to me and asked for help, replied that he was sorry for me, but could do nothing without the co-operation of the Southern chiefs. Accordingly I stood alone and received no help from those with whom I had waged *one* war against the Hereros. I was, therefore, compelled to take advantage of the opportunity afforded me by Mr. H. Hahn, and sent two men to Okahandya to make peace with the Hereros, in which they succeeded with the assistance of Mr. H. Hahn. Meanwhile, the two missionaries, Mr. Krönlein and Mr. Hagner, sent by our Missionary Society for the purpose of making peace, arrived in my territory with the news that the Southern chiefs were in favour of peace, provided that Maharrero and the Herrero had the same intention. The missionaries wrote to the Maharrero and asked him whether he was willing to make peace with the Namaquas, and when the reply came that he was willing, the missionaries wrote to the Nama chiefs inviting them to come (because they had promised Mr. Krönlein to come when he called them) but month after month passed by and nobody came. Meanwhile the robberies of Jan Afrikander and other robber bands continued, so that Mr. Krönlein decided to return home. He left on the 3rd of May, after he had waited here for the Nama chiefs to come for three months in vain. The following day he returned unexpectedly. He had met Captain Jacobus Izaak of Berseba, who wanted Rehoboth, and who brought the news that Josef Frederiks was prevented by illness from coming, but that Captain Mozes Witbooi absolutely refused to come. After a lot of trouble on the part of the missionaries and Captain Jacobus Izaak, Captain Manasse and Hendrik Widstaan, commonly called "Kol Captain" of the Great Dead, eventually arrived. Captain Jan Afrikander was repeatedly called, but did not come. Captain Maharrero sent four men, and accordingly, on the 13th June, 1882, the Peace Treaty was signed by the three abovementioned chiefs and the authorised representatives of Captain Maharrero.

At the peace meeting Captain Jacobus Izaak promised to work to bring about peace between Jan Afrikander and the *Basters*, but peace was not established. Captain Jan Afrikander had undertaken to come here to Rehoboth, but did not come. Twice did Capt. Jacobus Izaak send messengers to ask Jan when he would come. The last messengers brought the news that he was not coming, but that a strong commando was on its way against Rehoboth. Captain Jacobus Izaak did not know what to do. He could not assist me, and I was compelled to appeal to Captain Maharrero for help. As a result of this, Captain Jacobus Izaak became vexed, and left this place angry, saying he did not wish to see the Damaras on this side of Abasberg. He had scarcely been away half an hour when the commando arrived here. Captain Jacobus Izaak must have met it on his way, and I do not know whether he endeavoured to get the commando to return.

Since that time we sometimes went out with the Herrero against Jan and drove him out of Gansberg. Some months prior to these occurrences a letter arrived from Mr. Böhm from Walvis Bay, which informed our missionary that Captain Abraham Zwartbooi was on his way to Rehoboth with the object of endeavouring, from there, to restore peace between Captain Jan Afrikander and myself. But also Abraham Zwartbooi never arrived here. On the contrary, a number of his people were on several occasions seen by us among the robber gangs.

On the 10th November, 1882, I was attacked here on this territory by Captain Jan Afrikander in company with Abraham Zwartbooi, but we repulsed them. Jan's brother was killed here, and Captain Abraham Zwartbooi received a bullet through his knee. I had an interview with Captain Kamaherrero, and we decided to make a joint effort to put an end to the war and robbery. For this purpose Captain Maharrero moved closer into our veld with his force, because, he could not, he said, get his men into the war when they have to go such a long way from their homes. We have now gone to war twice with the Herrero since they moved closer this way—once against Captain Jan Afrikander, whom we again drove out of the Gansberg to which he had again returned, but owing to the scarcity of water we could not seriously pursue him. The second time we together attacked a robbers' den in Bloemvischriver, but as the war did not end quickly the Herreros relaxed and began to trek back again. Then Hendrik Witbooi went to war against Captain Maharrero. It came to fighting, and after the fighting, to an armistice, and eventually to a kind of peace agreement. Hendrik Witbooi had scarcely gone back when the Herrero again retreated to Okahandya.

Since that time we had to stand alone, and in the subsequent attacks on us we had to help ourselves. During the four years the war had lasted nobody could drive us away from here. We defended our place and the surrounding country and kept the Namaquas out. At all the attacks against us there were present people belonging to nearly every

Nama chief, and also of Captain Manasse's people. No Captain had the power to keep his people out of the war, and, therefore, I think that I have a well-founded right to Rehoboth and surrounding territory, not only to the extent to which it was formerly owned by Captain Abraham Zwartbooi, but also a little more. I think I am entitled to extend the boundary line on the Northern side as far as Awas Mountains, and from there along the mountains to the Kuisib, and in a westerly direction from the Kuisib to the land which the Germans purchased from Piet Heibib. From here South and East of the Zauchab as far as Bloemvischriver, where the Klam runs into the Bloemvischriver, then over Zendelingsgraf and the Zwartkopjes as far as the North-Eastern point of the Awas Mountains. I repeat once more that since the outbreak of the war between Herrero and Namaquas until the time we made peace with the Herrero, and when Captain Maharrero, with my permission, trekked as far as Kurumanus for the purpose of fighting with me against Jan, no Herrero home has been seen on this side of the Awas Mountains. And now for a long time Captain Maharrero has left (me?) in the lurch, and retreated before the Namaquas back to Okahandya.

This is my title to Rehoboth and the territory which I have described above.

Rehoboth, 7th January, 1885.

Sgd. X mark of
H. v. Wyk,
Captain.

P.S. I can, if necessary, produce more points to prove that I have the fullest right to the land which I claim to be mine.

EXHIBIT " B. "

An old German Farm Area Map which has been returned to the Record Room of the Surveyor-General's office, Windhoek.

Translation from German.

EXHIBIT " C. "

To Captain Hermanus van Wyk,
Rehoboth.

Windhoek,
20th October, 1894.

Dear Captain,—I am sending you herewith a map showing the provisional boundaries of your territory, and your people may henceforth establish themselves within its boundaries.

We have not yet received the decision from Berlin as regards the territory in dispute on the North-Western boundary.

I think it would be best simply to declare that land as Government land and to pay with it the debts of the *Basters* owing to the German Government for food supplied during the campaign. The German "Kolonial Gesellschaft" would then have to stand back in favour of the Government, and the *Basters* would in this way also benefit to some extent. There will be enough land left for your people, and also for the losses sustained during the war, which land is really good and well provided with water.

Any doubtful points can be discussed between us during my next visit to Rehoboth.

Note on the attached map.

In so far as present property of white settlers on the left bank of the Schaapriver extends over the right bank, this ground will, to avoid difficulties, remain their property.

(Sgd.) LEUTWEIN.

Translation from German.

EXHIBIT " D. "

To the Imperial Governor,
Major Leutwein,
Windhoek.

Rehoboth, 24th October, 1894.

On instruction from Captain Hermanus van Wyk, I have the honour to acknowledge the receipt of the last letter addressed to him, together with the annexure, viz., the sketch of the Rehoboth Territory.

The Captain expresses thanks for the kindness of sending them, and takes the liberty to ask whether he may discuss with you some points before the question of the boundaries of the Territory are definitely fixed.

Respectfully,
F. HEIDMANN.

Translation from German.

EXHIBIT " E. "

Windhoek, 14th October, 1897.

To the Council of Rehoboth *Basters*.

I had decided, in accordance with your repeated requests, to ride along the boundary between your territory and Government land, from the farm of Mr. Rusch, known to you, on the 4th October, 1897, at 8 a.m. Your Captain, Hermanus van Wyk, called on me on the 1st October, together with Coes Diergaard and two other *Basters*. The day and place of meeting was then fully discussed in the presence of your lieutenant. Your Captain made on that occasion most exorbitant claims. It appears that the sketch made by Major Leutwein on his return from Naukluft was unknown to him; and also, that the Major at the time definitely stated that the area of Hornkrantz and Naukluft, where German soldiers had been wounded and killed, and which had been taken through the bravery of our soldiers from the Witboois, who had lived there many years, should fall to the German Government. I told him that the Major had settled this, and that he had given the *Basters* a large extension of the territory on the Skaaprivier and Visriver. The details cannot, however, be settled in a room, but this can only be done in the open on the spot. Although I had *very much* to do, as I also had to settle the affairs of the Major, I at last complied with the request of the Captain and Coes Diergaard, and promised to come to Gorumanas in order to discuss the boundaries with him there. When I arrived at Gorumanas on the appointed time, your lieutenant and the surveyor lieutenant and the other surveyor were there, but neither the Captain nor anybody from the Council. I had been informed that your Captain was in the neighbourhood of Duruchas, and that you learnt from Andreas Cotzee and Hendrik Carew that the lieutenants were there and that I had arrived, but he did not think it necessary to come to me at Gorumanas. He stayed at Windhoek till Thursday morning, instead of worrying himself about the boundaries, although he had nothing to do there. The *Captain* Hermanus van Wyk had at any rate nothing to do here otherwise he would have come to me one of those days. I do not know whether the *transportrider* Hermanus van Wyk had any business to transact with the stores, but I think that for a Captain, Government business should go before ordinary business. I rode from Gorumanas half-way to Hornkrantz without meeting the Captain or any body else of the Council; only on the return journey four Councillors met me.

What does the Captain of Rehoboth think? Does he think that he can cheat the representative of the Government as he pleases?

I tell you herewith that I shall not again discuss the boundary with Captain Hermanus van Wyk. If you wish to say anything further about it, send me another Captain or a member of the Council, who has power to discuss the whole matter on behalf of the Captain. Further, I wish to tell you that it is not true what the *Basters* are saying that the boundary was beaconed off in July. Lieutenant Wettstein did not at the time receive instructions to fix the boundary, but only to make a survey which had nothing to do with the boundary. Whoever says this again, does this although he knows better, and I shall have him prosecuted for slandering the Imperial Government. Because nobody turned up, the boundary from Arris to Gubitsaos remains as it has been pointed out by the surveyors. No alteration whatever will be made in this portion. About the boundary from Gubitsaos to the South, where members of the Council joined the survey party I am prepared to listen to representations. If the *Basters* are not satisfied with the boundary please tell them that they must not complain about the Government, as not they, but the Captain is to blame. I can also not absolve the Council from blame. According to German law, one who fails to appear at a boundary settlement has to pay all the expenses, which are very high. It is only fair and just that the *Basters* or their Captain Hermanus van Wyk shall pay these expenses.

Communicate this letter to the *Basters*. The *Basters* know that no road is too long and no trouble too much for me where it is a matter of assisting the *Basters*. They know that they would be poor to-day, and would have had no cattle left, as is the case with Tjetjo and his people, if the Government had not rendered assistance, but on the other hand I ask the *Basters* and their Captain to behave themselves towards me and the Government in such a way as is due to the representative of the Emperor in this country.

With greetings, I am,
 the acting Imperial Governor,
 VON LINDEQUIST,
 Imperial "Regierungsrat".

Translation from German.

EXHIBIT " F. "

Windhoek, 9th August, 1898.

The District Chief Officer, Rehoboth,
through the Magistrate of
Windhoek.

The Captain of Rehoboth has addressed himself to the German Emperor in terms of annexed petition. Please inform the Captain that His Majesty did not agree with him in this matter. As you are aware, the Captain did at the time not turn up at the appointed hour, and gave the Regierungsrat, who had already so much to do, sufficient reason to be dissatisfied. Moreover, the Captain has misunderstood the letter from the Regierungsrat in so far that there was no question of dismissing him as Captain, which he appears to think.

I also enclose :

Annexure 3 : a proclamation of the old Captain Maharero;

Annexure 4 : a proclamation of Captain Abraham Zwartbooi;

Annexure 5 : a statement by the missionary Buettner.

By means of these annexures the Captain evidently intended to show that he has been unjustly treated in respect of the boundary question. I am the more surprised about this attempt, as I already rejected the same documents, which the Captain also submitted to me after the Witbooi campaign at the end of 1894, as invalid. Moreover, in the presence of the Captain, I drew in rough outlines, the boundary, which was followed on horseback by the Regierungsrat, on Kruger's map, and approximately described to the Captain and his Council. By the Captain's action he is, therefore, under the suspicion that he intended to make use of my absence by attempting to obtain an advantage from my representative. The documents submitted must, moreover, be considered as of no value for the following reasons: because

Annexure 3 has been drawn up by somebody who never had any right to dispose of the *Baster* territory.

Annexure 4 Although the person had been in possession of the territory in question, he had lost it long before the document was drawn up. Otherwise the Swartbooi tribe would not have been in Ameib, but in Rehoboth.

Annexure 5 ?..... of which nothing was known in Berlin and which has therefore lapsed. The missionary Buettner could not promise protection to the *Basters* in respect of a territory which did not belong to him. When the Treaty of Protection was entered into, the *Basters* did not possess anything but the village of Rehoboth and the country immediately surrounding it which was a property constantly exposed to danger owing to the continual wars between the Hottentots and the Hereros.

The German Government then interfered in this confusion and restored order with heavy sacrifices. Included in these last-named was also the determination of the boundaries, which did up to that time not exist for the native tribes. Even the Hereros, whom the Captain now tries to refer to as authority, have accepted this boundary settlement.

Further, the boundary as defined by the Regierungsrat in the neighbourhood of Nauchas must remain unaltered. The boundary from there to Bullsport is, however, still an open question. On the 10th September, 1898, the Regierungsrat and I will be at Nauchas, and I request you also to proceed thither on that date. If the Captain wishes to make any further representations in connection with the portion of the boundary still to be fixed, or as regards the place Nauchas, he is allowed also to be present or send a representative. The territory which it is intended to give to the *Basters* is, for the rest, in proportion to the numerical strength of the tribe—the largest area of the whole protectorate—and this allotment is made because the *Basters* stood on our side in the Witbooi wars; otherwise they would only have been granted the place Rehoboth and the nearest waterholes.

In terms of the above, I request you seriously to reprimand the Captain in the presence of his Council, and to point out to him that if he acts again in such a disloyal manner the Government will break off all official communication with him. It has further come to my notice that it is only the Captain who unduly insists on an extension of the boundaries and thereby expects to derive some personal advantage, whereas the majority of the people is satisfied with the present territory.

Please hand the Captain the annexed documents with the exception of the petition, which I request you to return to me. I should like to receive your report concerning the result of your reprimand.

The Imperial Governor :

(Sgd.) LEUTWEIN.

Translation from German.

District Head Quarters
No. 587.

EXHIBIT "G."

Rehoboth,
30th August, 1898.

To the Imperial Government,
Windhoek.

Report:

re: the reprimand of the Captain in regard to his rejected petition to His Majesty the German Emperor.

Captain Hermanus van Wyk, to whom I communicated the reply of the Imperial Government in the presence of most of his Councillors and some burghers, and after reprimanding him, has requested me to inform the Imperial Government that he acknowledges that he has acted wrongly, for which he made his excuse.

The letter of the acting Imperial Governor, Regierungsrat von Lindequist, addressed to the Council of the Rehoboth *Basters*, at the time caused great consternation to the Captain as well as to the burghers. The Captain had then requested some of his Councillors to ride to Windhoek in order to, as he expressed himself, defend himself there. He could not get anybody, and he must have been so much afraid that he, neither personally nor through the local Districts Commandant, made his excuses for his failure to meet Regierungsrat von Lindequist. On the other hand, it appears that the Captain was at the time still under the impression that he was in the right in the matter of boundary claim, and after receiving the letter that the matter would not be discussed with him any further, he forwarded his petition direct. This was done to a certain extent with the consent of the Council and the Community, although only a small portion of them consented provided another discussion with Regierungsrat von Lindequist would first take place. This did, however, not take place, and with the exception of the Captain's son Dirk none of the Councillors nor burghers signed the petition.

The Imperial District Chief Officer.

FRH. VON SCHOENAU,
Second Lieutenant.

Translation from German.

EXHIBIT "H."

Haris, 22/10/97.

To the Imperial Government,
Windhoek.

On the 4th October, 1897, I commenced on instruction of the Imperial Government at the place of Rusch with the inspection of the *Baster* boundary. The blue line on the annexed sketch shows the road which was followed.

The District Chief Officer of Rehoboth, Lieutenant von Schoenau, together with Surveyor Gaertner, accompanied me along the boundary. From the place of Rusch to Gourumanas the settlers Gutsche and Meiburg joined us. From Gourumanas to Signal-Hill, the Imperial Regierungsrat von Lindequist was present.

The course of the boundary is roughly shown on accompanying sketch. The definite determination on the spot, and the erection of beacons and the survey will take several weeks and could best be done by the land surveyor who is surveying the adjoining Government farms.

The boundary follows as much as possible the natural features of the land, and wherever it was possible it runs along ridges and watersheds.

In view of the fact that near Aris the land and soil with everything on and in it remains the property of the Government for the purpose of building a dam, as far as this dam is required for purposes of irrigation, the northern boundary line has been fixed pretty near Windhoek.

As I am not very well acquainted with the conditions East of Aris, the boundary has provisionally been fixed West of the Windhoek-Aris road.

West and South-West of Aris the boundary runs in favour of the *Basters* as far as the natural high watershed in the Auas mountains.

For that reason the boundary East and South of Krummnaeck runs more in favour of the Government. The boundary, which was at the time drawn on the scale 1 = 3,000,000 cut up the farms to such extent that they were useless for both parties. Moreover,

the line on the map of 3 m.m. thickness allows really a play of 10 km. In consequence thereof the boundary fixed by Major Leutwein, and which at one time was accepted by the *Basters*, has not been exceeded.

Gourumanas remains the property of the *Basters*; North of Gourumanas alone they receive 12,000 hectares of grazing. West of Gourumanas, the boundary passes 3-4 km. distant, which is ample.

The waterhole Naos is still *Baster* land. As the boundary, however, passes close by it is worthy of recommendation that the *Basters* should give Naos to the missionary, to whom the Government has given the ground to the West of Naos.

Goubitsaos and Kabiras have also been left to the *Basters*, and there is no reason for complaint.

Nauchas, of course, remains Government ground, and the boundary extends as far as the horses graze. For the fixing of the boundary in the South, a line has been accepted which runs from East to West in the neighbourhood of Kabiras, 15 km. from Nauchas.

Areb and Schwarzfontein have been noted on the sketch for exchange purposes. We should inform the *Basters* that they, in case Areb is taken back, will no longer receive permission for their horses to graze in Nauchas or Schwarzfontein during the prevalence of horse-sickness.

The boundary has been fixed with a view to mutual rights and in accordance with the conditions of the natural boundaries, as far as they were available and answered the purpose. The boundary is complete in itself, and should either be accepted or rejected as a whole.

In the latter case the *Basters* would, because of their failure to appear, have to pay all the costs, which amount to several thousand marks. My section alone has cost approximately 2,000 marks.

I take the liberty to propose that the Imperial Government shall fix another day for discussion in Windhoek. When this discussion takes place the *Basters* should be given a certain time within which they will have to sign the agreement and decide either in favour of Areb or Schwarzfontein. If this time expires without any result being obtained, the Government to leave the boundary unaltered and to cede neither Areb nor Schwarzfontein. Any claims for compensation could be settled when later on the boundary is fixed at Bullsport and near the Fisch river. Cattle of the *Basters* which are grazing within the boundaries of Government land to be sent to the pound. Further demands of the *Basters* should not be considered by the Government, but payment of debts of the *Basters* should be insisted on.

Only in such a way can the *Basters* be prevented from interfering in the future with Government and Land-surveys. It will be detrimental to the dignity of both parties and make further boundary questions more difficult, if on this occasion no strong action is taken. A more favourable opportunity for such action will not always present itself.

The *Basters* did not raise objection against the boundary line, drawn by Major Leutwein. This map agrees with the present boundaries as fixed according to the rules of land-survey. For that reason any objection from the *Basters* is also legally of no effect.

I therefore again request that the Imperial Government may be pleased to accept the boundary line, submit it to the *Basters* and not cede any more land.

(Sgd.) WETTSTEIN,

2nd Lieutenant of the Imperial
Protectorate Troops.

Translation from German.

EXHIBIT "I."

The Imperial Government,
6th October, 1898.

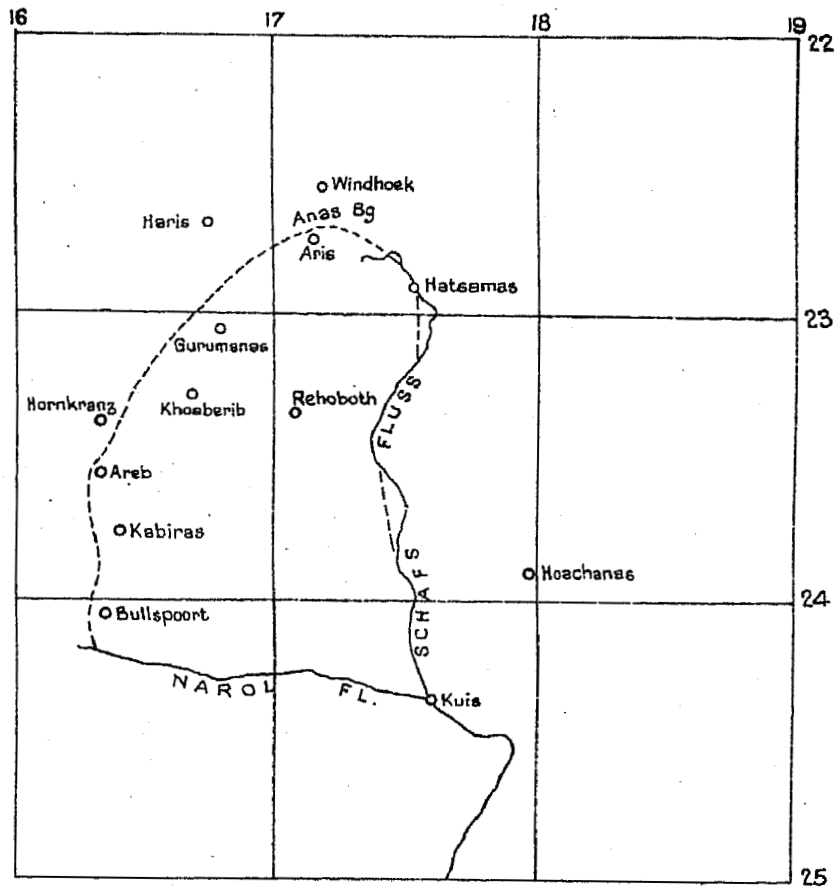
Report 1.

Negotiations between the Imperial Government of German South West Africa, represented by the Acting Governor, Regierungsrat von Lindequist and the *Baster* Community of Rehoboth, represented by the *Basters* Dirk van Wyk, Hendrik's son, Koos Diergaard, Jan Beukes and Jakobus Mouton, Koos' son, at Nauchas, regarding the Western boundary of the *Baster* territory and the farm Nauchas.

The parties have agreed that the boundary from the Auas mountains to the trigonometrical beacon, erected South of Naos, will be as determined by the Government Surveyor in October, 1897, according to which Gourumanas, with a smaller waterhole situated to the West thereof, and also Naos will remain within the *Baster* territory.

From the above trigonometrical beacon, the boundary line runs along the high mountain range in the direction of Gubitsaos, turns away near Gubitsaos, so that the vleis there fall inside the *Baster* territory, and thence run South of Gubitsaos towards the mountain

Gebiet von Rehoboth.



Translation of remark on sketch:

In so far as the property of white settlers on the left bank of the Schaf River extends over the left bank, this land shall remain white people's property to prevent future friction.

Insover die eiendom van blanke settelaars op die linker wal van die Skaap Rivier sig oor die linker wal uitstrek, sal die grond blanke eiendom bly om toekomstige twis te vermy.

range and along this to Areb, with the reservation that the water in Areb remains for the *Basters*. Because the fixing of the boundary at Areb would cause great difficulty and expense if Areb should fall outside the Government ground, the *Baster* community has agreed that the Government shall enter into direct communication with the owner, Lanz Coes Diergaard, with the purpose of acquiring the farm Areb.

At Nauchas the boundary runs towards Areb from the second high hill situated North-East of the station, and along the poort to Kobus to the Kabib river. From there the Kabib river is the boundary till the confluence with the Nauchas—Swartkamriver. Thence it runs across a mountain ridge situated South-East of the station, and about 500 to 1,000 meters from the junction of the rivers, which ridge divides the plains of Nauchas and Kabiras. A portion of the plain, through which the Witkamriver runs, to be determined later on, will fall inside the *Baster* territory.

From the Kabiras-plain the boundary runs in the direction of Bullsport, which falls inside the territory of the *Basters*, thence to the Narob river and along its Southern bank bank to the Bloemvisrivier, which forms the boundary as far as Kub.

On the East, the Skaaprivier constitutes the boundary of the *Baster* territory. Details of the boundary will be settled by a commission at a later date.

A copy of this Report will be handed to the *Baster* Community of Rehoboth.

Kobus, 24th September, 1898.

For the Imperial Government
the Acting Governor
(Sgd.) V. LINDEQUIST,
Imperial Regierungsrat.

For the Baster Community.
(Sgd.) DIERK VAN WYK.
,, JAN BEUKES.
,, JAKOB MOUTON.
,, JAKOBUS DIERGARD.

Witness:

For the Distrikt Chief Officer of Rehoboth.
(Sgd.) SIMON,
Sergeant.

Approved:

Kub, 29th September, 1898.
(Sgd.) LEUTWEIN.

Translation from German.

EXHIBIT "L."

Report of the negotiations regarding the determination of the Eastern boundary of the *Baster* territory by the Imperial Governor in terms of the agreement of 24th September, 1898.

The Boundary Commission consisted of:

as representatives of the *Baster Community*:

1. The Imperial Magistrate, Mining Inspector Duft.
2. The Imperial District Chief Officer, Lieut. von Schoenau-Wehr.
3. The Government Surveyor Gaertner.

as representatives of the *Baster Community*:

1. Wilhelm Koopman, acting Under Captain,
2. Jan Beukes, Councillor,
3. Samuel Beukes.

The members of the Commission have agreed that the *Eastern* boundary of the territory, after riding along the boundaries, and on the basis of the annexed sketch, are constituted (in the direction from North to South) by the Schaap river, from its source on the Southern ridge of the Auas Mountains to its visible course in the Poort South of Girib. From there the boundary runs in a straight line in southerly direction to Lekkerwater, excluding, however, the grazing at this waterhole, and further South in a straight line across the dunes to a point about 8-10 km. East of Oas. Thence the boundary runs along the Rehoboth river in an almost straight line to the Kalkrand North-East of Kuis. Thence to the junction with the Auiß river, 5-6 km. before its confluence with the Fish river, and then along this river course to its junction with the Fish river at Kuis.

A copy of this report will be handed to the *Baster* Community in Rehoboth, after approval by the Imperial Governor.

Kuis, 26th February, 1900.

For the Imperial Governor.
(Sgd.) DUFT,
District Magistrate.
(Sgd.) FREIHERR VON SCHOENAU,
Lieut. and District Chief Officer.
(Sgd.) G. GAERTNER,
Surveyor.

For the Baster Community.
(Sgd.) WILHELM KOOPMAN.
,, JAN BEUKES.
,, SAMUEL BEUKES.

EXHIBIT " M. "

Translation from German.

REPORT

regarding the negotiations about the further determination of the Western and Southern boundary of the *Baster* territory, in accordance with the agreement of 24th September, 1898.

The Boundary Commission consisted of:

Representing the *Imperial Government*:

1. The Imperial Magistrate, Mining Inspector Duft.
2. The Imperial District Chief Officer, Lieutenant Freiherr von Schoenau-Wehr.
3. The Government Land Surveyor Gaertner.

Representing the *Baster Community*:

1. Karolus Zwart, Vice-Captain of the Basters,
2. Petrus van Wyk, Councillor,
3. Cornelius van Wyk, Councillor.

The members of the Commission have agreed that the portion of the Kabiras plain which falls inside the *Baster* territory, of which the boundary would be determined at a later date, according to the Report of 24th September, 1898, is bounded on the Western side as follows:

By a line running in a Southerly direction which connects the ridge, mentioned in the Report, and situate South-East of the station Nauchas, with a mountain which in annexed sketch runs in a straight line to Bullsport, so that the waterholes Gusion, Anus and Bleskranz with their grazing will fall outside, but the farm Bullsport inside the *Baster* territory.

From the conical hill, which is the Southern corner beacon of Bullsport, the boundary runs in an Easterly direction to Gammis situate on the Narob-river. Thence along this river till the Bloemfish or Fishriver, which, as mentioned in the Report dated 24th September, 1898, forms the boundary as far as Kub, and as more fully provided in the Report of 26th February, 1900, is the boundary to Kuis.

A copy of this Report will be handed to the *Baster Community* in Rehoboth after approval by the Imperial Governor.

Nauchas, 16th March, 1900.

For the Imperial Government:

(Sgd.) DUFT.
 ,, FRH. V. SCHOENAU.
 ,, G. GAERTNER.

For the Baster Community:

(Sgd.) KAROLUS ZWART.
 ,, PETRUS VAN WYK.
 ,, NELS VAN WYK.

The manager of the horsebreeding station at Nauchas, in whose presence the boundary agreement at Nauchas has been concluded, has been informed of the contents of the above report.

Nauchas, 16th March, 1900.

(Sgd.) DUFT.

Copy of extract,

Nauchas, 16th March, 1900, No. 160.

The manager of the horsebreeding station
 von Clave.

Translation from German.

EXHIBIT " N. "

NEGOTIATION CONCERNING THE BOUNDARY.

Areb, 17th August, 1903.

Present:

1. The manager von Clave of the horse breeding station to represent the interests of the Imperial Government.
2. As representative of the *Baster Community*: Magistrate Dirk van Wyk.
3. The Government Land Surveyor Loewenich;
4. As witnesses: the surveyor's assistant Hergert and the non-commissioned officer Eberhardt; also the *Baster-Councillor* Koes Diergard.

With consent of Manager von Clave of the horse breeding station and the representative Dirk van Wyk, the eastern boundary from Areb has been determined as follows:

On the road from Areb to Kobus, about 6 km. from Areb a stone boundary beacon 2 M high has been erected to the left of the road on a small hill. From this beacon the boundary runs in an approximate northerly direction to a hill, situate about 8 km. from the above-mentioned beacon. The magnetic variation of this direction is 32.5 degree. The sketch of the hill, and also of the adjoining hills, is annexed, sketch No. 1.

On the hill in question another beacon of 2 m. height has been erected. From the beacon situate on the road from Kobus to Areb, the boundary runs towards the South first on the ridge, immediately South of the road, namely on the hill shown in annexed sketch, No. 2. Magnetic direction 212.5 degree. This boundary has been fixed in this way as described in the report regarding the boundary settlement of 24th September 1898. The magistrate, Dirk van Wyk, has been warned that any removal or destruction of the boundary beacons, and also the unauthorised arbitrary erection of boundary beacons, will be severely punished.

In case there does not exist another express agreement between the Imperial Government and the Baster community or the former owner or co-owner of the place Areb, the eastern boundary from Areb will not extend further east than has been fixed by the present boundary arrangement which, as already stated, agrees with that of 24th September, 1898. The contents of this boundary agreement have been interpreted for the two Basters in the Dutch language.

Read, approved and signed.

The representative of the Imperial Government,

(Sgd.) VON CLAVE

Manager horsebreeding station.

as Representative of the Baster Community,

(Sgd.) DIRK VAN WYK.

HEINRICH HERGERT,

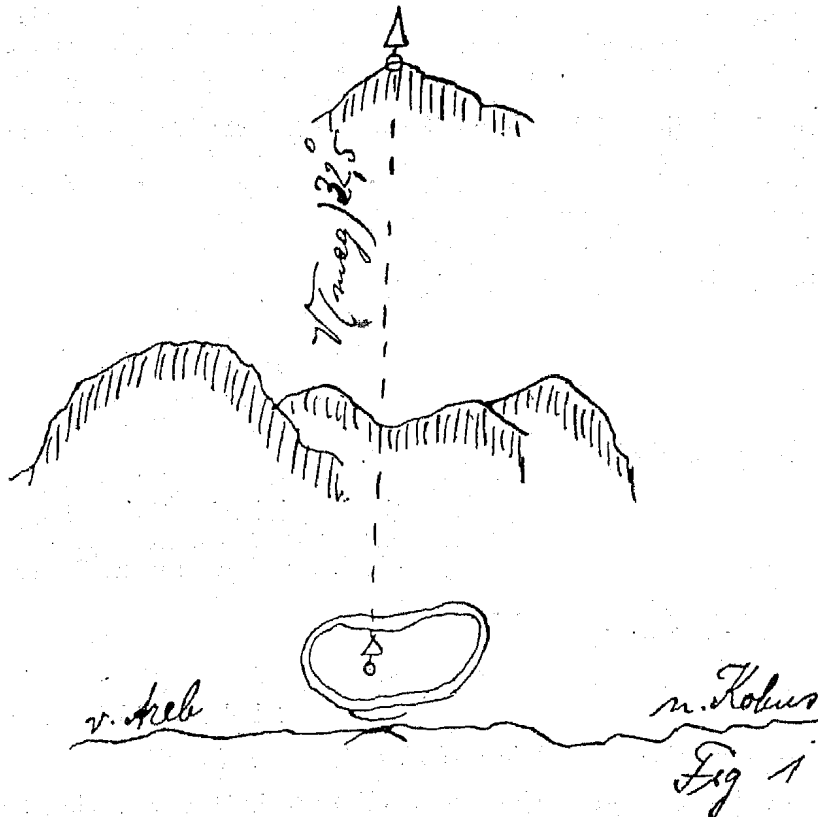
Surveyor's Assistant.

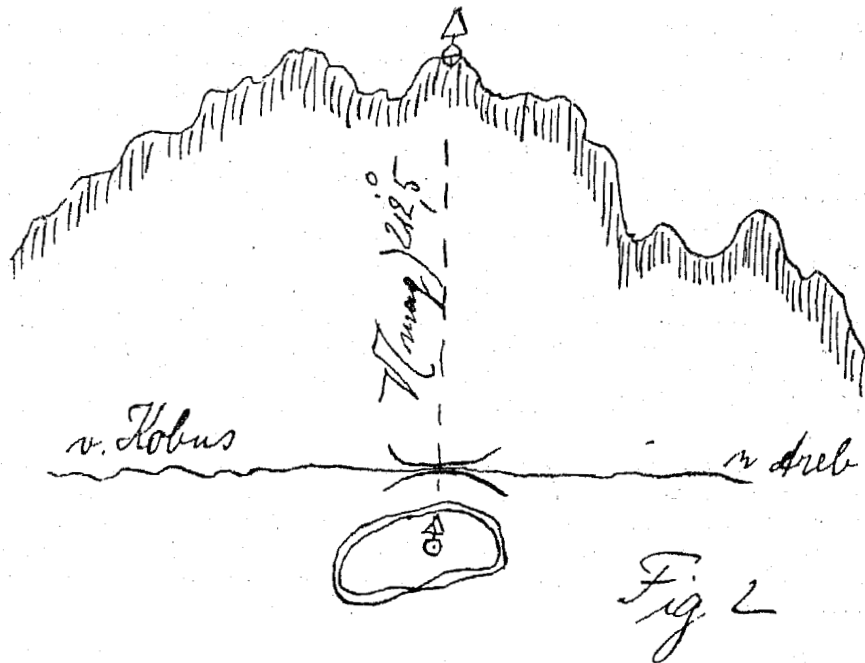
EBERHARDT,

Non-commissioned officer.

LOEVENICH,

Government Surveyor.





Translation from German.

EXHIBIT "O."

Bullspport,
10th February, 1909.

REPORT

regarding the delimitation of the *Baster* boundary regarding the districts of Rehoboth and Maltahöhe.

The Commission, which met in accordance with Government notice of 9th September 1908, No. 21987 and signed this Report, has fixed the *Baster* boundary between the districts of Rehoboth and Maltahöhe, in terms of the Reports of 24th September 1898 and 16th March 1900, and by virtue of the Government notices of 25th April 1900, No. 1715 and of 20th August 1907, No. 19731, as follows:

The boundary runs from the boundary-mountain (Grenzberg) between Nauchas and Bullspport (see sketch with Report dated 16th March 1900) along the beacons "Feuerberg", "Aub", "Bullspport", "Onis" to the South Western corner of the farm Sued Gamis. From there it runs along the western boundary of this farm to the Narob river, which is the boundary of the *Baster* territory as far as its junction with the Fish river. The Fish river then constitutes the further southern boundary as far as Kuis in terms of the Report of 16th March 1900.

The boundary line is indicated by stone beacons, the relative position and distances are shown in annexed sketch of 10th January 1909.

The authorised representatives of the *Baster* Community have agreed to the above boundary delimitation and have signed the agreement.

This Report requires the approval of the Imperial Governor.

The representatives of the *Baster* Community:

(Sgd.) K. ZWART.
 ,, DIRK VAN WYK.
 ,, PIETER MOUTON.
 ,, PIET BEUKES.
 ,, ROELOF BUKIES.

The members of the Commission:

(Sgd.) GOERGENS, Imperial Director of Surveys.
 ,, SEYDEL, District Chief Officer.
 ,, HOELSCHER, Lieutenant.
 ,, H. VOSS, Government Surveyor.

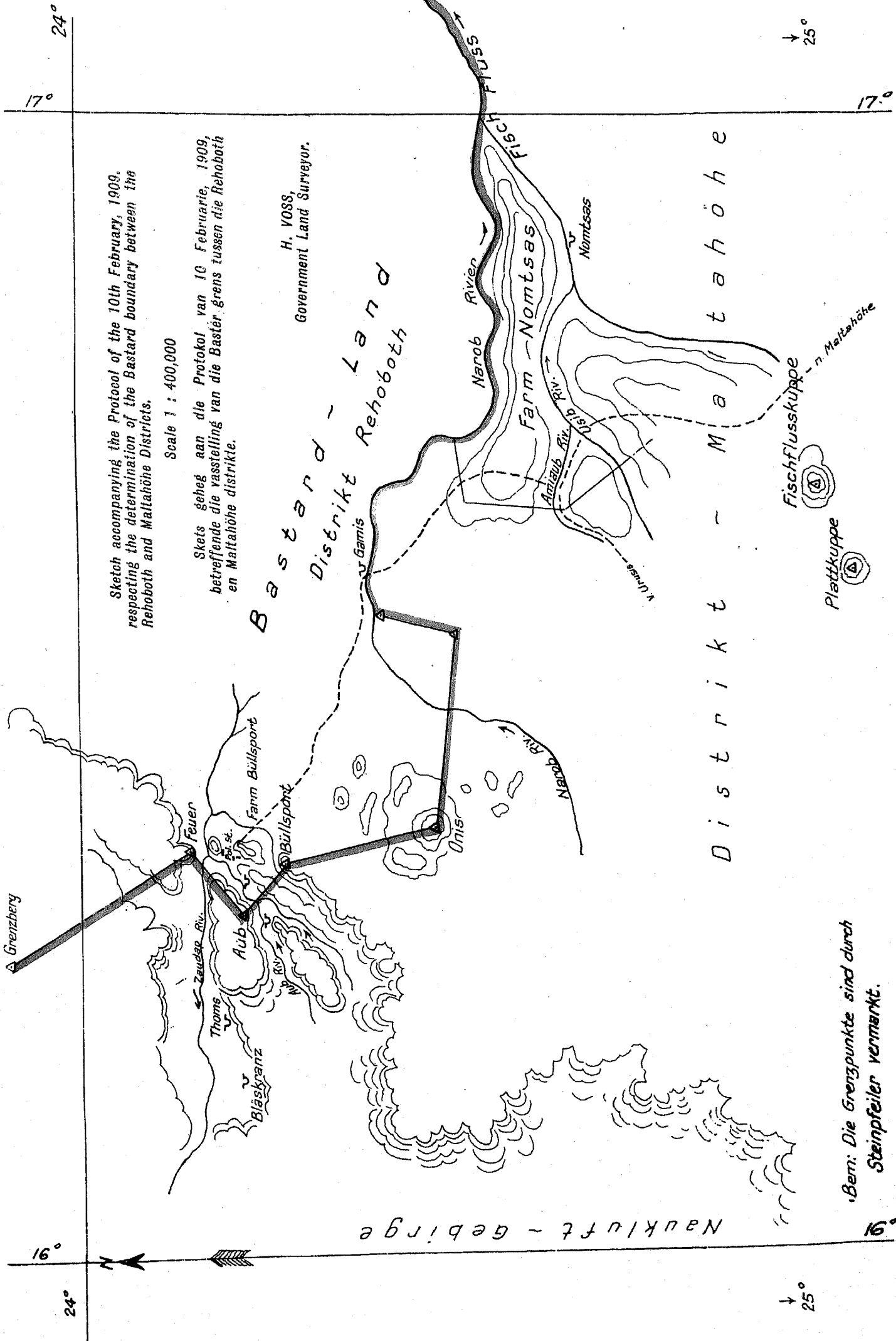
Free translation from Baster Dutch.

EXHIBIT "P."

Rehoboth, 15th November, 1897.

To His Majesty the German Emperor, King of Prussia, Wilhelm II.

I am compelled to write to Your Majesty a few lines to inform you what has happened to me. The Acting Imperial Governor (Regierungsrat), von Lindequist, invited me and my councillors to demarcate the boundary between my territory and that of the Govern-



Bem: Die Grenzpunkte sind durch Steinpfiler vermarkt.

ment. Accordingly I and one of my councillors rode to Windhoek and arrived there at the appointed time. I arranged with the other councillors to be at Haris at the appointed time. On the way to Windhoek I met with my first adversity—one of my horses died en route. But I nevertheless arrived at Windhoek on Friday morning and immediately on my arrival there I called upon the Governor, who requested me to call and see him on Saturday. Accordingly I went to him on Saturday morning and we had a talk about the boundary. Meanwhile, without my knowledge, my horse had gone back on the road to Rehoboth. Sunday afternoon I went to the place where it was arranged that I should meet Lieutenant von Schönau and told him that my horse was missing, but that I would follow him as soon it was found. My horse was brought to me late on Sunday evening at Windhoek, and I immediately followed the Lieutenant, arriving at Haris on the morning of the following day only. As I did not find him there I rode on to Mr. Rusch's farm, where I arrived about 8 o'clock in the morning, but I did not find the Lieutenant there either, and as I did not find him at the appointed place, I rode back to my home. But I was still expecting to receive a notification from the Lieutenant, but I heard nothing from him. Thursday evening four of my councillors passed me at Duru Xaus. Two of them came to my home and informed me that the Governor was coming to Gurumanas and I thereupon directed them to speak to the Governor about the boundary and appointed Deputy Captain Willem Koopman in my place, and through him I also let the Governor know that I was ill, but that if it should be considered necessary for me to be there in person, then Koopman was to notify me and I would ride thence in my oxwagon. When, however, the councillors arrived at Gurumanas, the Governor had already passed through. They had to go after him then, but only met him on his way to Gurumanas, and there the Governor was so vexed already that he hardly spoke to them. He asked them whether he was my "Bambusch", or henchman, because I was not there. Then the councillors divided, two rode on behind the two Lieutenants and the Surveyor, and the others followed the Governor as far as Gurumanas where they spoke to him a little and it was then that the Governor intimated that he did not wish to speak to me further about the boundary but promised to write them a letter from Windhoek. In accordance with his promise, he sent a letter from Windhoek to the councillors. In that letter the Governor grossly insulted me and in that letter I saw and anyone could see that he did not accept anything I told him at Windhoek and looked upon me as a liar. Consequently he wanted another Captain or a Councillor appointed by me to confer with him about the boundary. When I was in Windhoek I gave the Governor to understand, in the presence of three councillors and one burger of Rehoboth, what my fundamental reasons were and spoke to him about them and wherever it was possible to yield, I did so. When I read the letter from the Governor to my councillors, I and also the burgers of Rehoboth were greatly surprised, because, as Your Majesty will see from the copy, the letter is against me. Accusations are made therein against me in regard to which I desire to, and can, defend myself. But before whom can and must I defend myself? I therefore, appeal to Your Majesty because it is with you or in your name that I concluded a treaty. I ask you to intervene and to see that I retain my ground and my rights. Further, I wish to inform Your Majesty that up to now the laws have been too severe for us, and that I would also like to see a change in these. I have written these few lines to Your Majesty on behalf of my burgers and myself.

I am, with greetings,

Your obedient servant,

Captain of the Bastards at Rehoboth.

(Sgd.) H. van Wijk.

Your Majesty, I have closed my letter but there is something which I have forgotten. The position is this: According to our *Bastard* law, when an official like myself, Captain of the Bastards, is required to relinquish his Captaincy, the question shall be decided in the presence of three impartial chiefs to be appointed by myself. I desire Your Majesty to understand that wherever I may be required to appear, whether it is before a German Judge, or anywhere Your Majesty may direct, there also shall be present the three impartial chiefs who shall ask to be provided with evidence of the charge in respect of which I am to be deprived of my Captaincy or convicted.

With best wishes,

Your obedient servant,

Captain of the Bastards.

(Sgd.) H. VAN WIJK.

(Sgd.) CORNILUS VAN WIJK.

EXHIBIT " Q. "

COPY.

25/3263/2.

Confidential.

Protectorate of South West Africa,
Office of the Administrator,
Windhoek.
25/2/19.

Military Magistrate,
Rehoboth.

I am directed by His Excellency the Governor-General to transmit herewith notes of an interview which took place in Cape Town on the 5th instant between His Excellency and the deputation of the Bastard Raad in connection with a certain memorandum presented by them.

Kindly hand the documents to Captain van Wijk.

(Sgd.) J. F. HERBST.
Secretary for the Protectorate.

MEMORANDUM FROM THE REHOBOTH RAAD ON BEHALF OF THE REHOBOTH PEOPLE AND TERRITORY.

The undersigned, duly authorised thereto by the whole coloured community of Rehoboth, respectfully pray that the following statement may be forwarded by His Excellency the Governor-General and High Commissioner to the Secretary of State for the Colonies.

(a) A petition to the Imperial Government from the Rehoboth Raad dated August 21st or 22nd, 1917 and embodying the wishes and request of the Rehoboth Bastards was forwarded to the Imperial Government by the Governor-General.

(b) The reply to the said Petition from the Secretary of State received in April 1918, stated that it was impossible to decide questions as to the future Government of South West Protectorate as long as the war lasted, but that the community might be sure that their interests would be fully considered when the time came for the final settlement of these matters.

(c) Wherefore the undersigned respectfully beg the Imperial Government to take into such full consideration the prayers contained in the said Petition and in the Minutes of the Rehoboth Raad Meeting on November 2nd, 1917, attended by Major T. O'Reilly, Special Commissioner to enquire into Native Affairs and embodied by him in his Report published in the White Book (No. C.D. 9210, pages 19 and 20), and that the said Petition and Major O'Reilly's Report, together with the annexures and papers connected with the same, may be laid before those Authorities connected with the Peace Conference who have the consideration of the disposal of the late German Colonies in their hands.

(d) The following is a summary of the prayers of the petition and resolution mentioned above.

1. That the Rehoboth people and territory be not handed back to Germany.
2. That they be placed under direct British Imperial protection as Basutoland is.
3. That their right and title to the land they have hitherto owned be recognised and assured to them.
4. That investigation be made as to land filched from them by the German Government and that the same be restored to them.
5. That their rights under their treaty with the German Government be not abrogated.
6. That their right and practice of self-government through their Raad, Legislative and Judicial Institutions etc. be maintained.
7. That investigations be made as to material losses inflicted on them by Germans during the late war, and compensation for the same be made.

We are His Majesty King George's loyal subjects.

(Sgd.) CORNELIUS VAN WIJK, Kapitein or Chef.
 ,, ALBERT MOUTON, Under Chief
 ,, NICOLAAS OLIVIER, Chief Counsellor.
 ,, DIRK VAN WIJK, Ex-Magistrate.
 ,, FRANZ WILHELM MAASDORP, Secretary of the Council.

Cape Town,
February 4th, 1919.

NOTES OF AN INTERVIEW ON FEBRUARY 5TH, 1919 BETWEEN HIS EXCELLENCY THE GOVERNOR-GENERAL AND THE REHOBOTH BASTARDS.

The Bastards were represented by :

CORNELIUS VAN WIJK, Kapitein.
A. MOUTON, Assistant Kapitein.
N. OLIVIER, Counsellor.
DIRK VAN WIJK, Ex-Magistrate.
F. W. MAASDORP, Secretary of the Raad.

His Excellency was attended by Major J. F. Herbst, Secretary to the Administration of the South West Africa Protectorate, and the Secretary to the Governor-General. Major Herbst acted as interpreter.

The deputation presented a memorandum from the Rehoboth Raad on behalf of the Rehoboth people and territory and requested that His Excellency would telegraph the contents of the memorandum to His Majesty's Government. His Excellency said that he would do so. He added that it might be convenient and would be of assistance to himself and the deputation, as well as to His Majesty's Government, if he took the various headings of the memorandum and went through them in order to ascertain in more detail what it was that the Bastards had in their minds.

The following discussion then took place on the seven headings of the memorandum :—

1. " That the Rehoboth people and territory be not handed back to Germany."

The Governor-General said that he was in a position to give assurance that South West Africa would not be handed back to Germany.

2. " That they be placed under direct British Imperial protection as Basutoland is."

The deputation explained that what they meant by this request was not that their territory should be governed under the same laws as Basutoland, but that, like Basutoland it should be placed directly under the Imperial Government and not under the Union Government.

His Excellency said that, while the question was one for the consideration of His Majesty's Government, he felt bound to tell them at once that in his opinion the Protectorate of South West Africa would be dealt with as one Territory and would ultimately be placed under the control of the Union Government. He felt sure that His Majesty's Government would not consent to take a part of the Territory and retain it under their own control. That would be contrary to the policy adopted by His Majesty's Government when the Union of South Africa was established in 1910. The Act of Union, the South Africa Act, contained provisions in the Act and in a Schedule for the government of Basutoland, Swaziland and the Bechuanaland Protectorate in the event of the transfer of those territories to the Union; and it was clear from these provisions that the transfer at some future time of these territories to the Union was contemplated by His Majesty's Government. Full effect might not be given to that policy certainly as regards Basutoland, for many years, but there was no doubt what the policy of His Majesty's Government was in regard to the native territories in South Africa now under their direct administration, and it was extremely unlikely that they would depart from that policy in regard to any part of the conquered territory in South West Africa.

The deputation said that they introduced this point because their fathers had once been British subjects, and had encouraged them to believe that their people would one day become British subjects again. It was for that reason that they felt it impossible to take up arms for the Germans against the British.

His Excellency explained that they would be British subjects equally under the Union as under His Majesty's Government. Their views would be considered before a decision was finally come to; but he had indicated plainly what his own opinion was because he was anxious that they should not go away with false hopes.

3. " That their right and title to the land they have hitherto owned be recognized and assured to them."

His Excellency said that he did not think they need be concerned as to their rights in and titles to the land which they now occupied. Those rights and titles he was sure would be fully secured to them. He understood that the present Union Administration in South West Africa had given them only the other day proof of the desire felt by the Union Government that they should retain the land now in their possession. He was informed that the Administration had refused to recognise a transaction under which a piece of land in their territory at present owned by a Bastard would have passed into the possession of a European.

4. "That investigation be made as to land filched from them by the German Government and that the same be restored to them."

The deputation explained that in this paragraph they were referring to what had taken place in 1893 and 1898. In the former year the German Government persuaded them to take part in the campaign against the Hottentots and promised them in return for their help that their land should be increased. At the end of the campaign, however, the German Government deprived them of part of their territory, which was afterwards cut up into farms and sold to Europeans. Their territory was further reduced by the Germans in 1898. The history of these encroachments on their land was set out in the narrative portion of the Blue Book on the treatment by the Germans of the natives of South West Africa. The deputation requested that a Commission should be appointed to enquire into this matter and that the land taken away from them in 1893 and 1898 should now be restored.

His Excellency said that their request for a Commission would be considered; but he was doubtful whether it would be found possible to compensate them for the losses suffered at the hands of the Germans over twenty years ago.

5. "That their rights under their Treaty with the German Government be not abrogated."
6. "That their rights and practice of self-government through their Raad, Legislative and Judicial Institutions, etc., be maintained."

It was agreed that these two points should be taken together.

His Excellency said that he was sure there was no desire on the part of those administering the territory to restrict in any way their practice of self-government. He understood that, although the Treaty had been amended in some points and abrogated in others by the Germans themselves, its principles had been generally adhered to by the Union Administration.

The deputation agreed that this was correct, and said that they had no complaints to make against the present Administration and had been well treated by them. These rights of self-government were, however, important to them and they had raised the point because they wished to have a guarantee that their rights would be respected.

7. That investigation be made as to material losses inflicted on them by Germans during the late war, and compensation for the same be made."

The deputation explained that they had incurred heavy losses through the war, some of their houses had been burnt, their crops destroyed and their people and their stock damaged or removed. They contended that these losses had come on them through their refusal to help the Germans against the British subjects, and that the British Government was therefore responsible for compensation. They were unable to give the total amount of their losses but their claims had been filed with the Administration.

His Excellency said that their claims would be examined in due course with other claims received by the Union Government on account of losses suffered during the campaign by persons resident in South West Africa.

The deputation asked that His Excellency would let them have a written reply to their memorandum.

His Excellency said that, as they had seen, a note had been taken of the discussion, and he proposed, when this was prepared, to send one copy to His Majesty's Government and another copy to the Union Government, and he would send a third copy to the Kapitein in order that he might have a record of the proceedings. Their memorandum would be telegraphed to His Majesty's Government, and by mail a despatch would be sent with a copy of these notes of the discussion and a full explanation of all that had been said.

The deputation thanked His Excellency for receiving them, and His Excellency expressed the hope that before leaving South Africa he would be able to visit South West Africa and to see some of their territory.

A. 20/3263/2.

Windhoek,
23rd January, 1919.

Military Magistrate,
Rehoboth.

With reference to your telegram 181 of the 20th instant, on the subject of the request recently made by the Captain and certain members of the Bastard Raad for permission to proceed to Cape Town, I am directed to inform you that a reply has now been received from the Secretary for Defence at Cape Town intimating that there will be no objection to the deputation proceeding as desired.

It should be explained to Captain van Wijk and the members of the deputation who accompany him that as the Minister of Defence is responsible for the control of the Pro-

tectorate while it is in military occupation of the Union. Forces he expects that the deputation will make it their business to see the Secretary for Defence at his office in the Old Supreme Court Buildings, Cape Town, immediately on arrival.

This will be of advantage both to the Department and to the deputation and it is possible that the Department may be able to assist the deputation in some way.

Will you also inform Captain van Wijk that the request preferred verbally to the Administrator here in Windhuk on the 30th ultimo that the Administration should assist the deputation by the granting of concession railway tickets cannot, it is regretted, be agreed to. It will be necessary for the deputation to pay their own expenses.

You are authorised to issue the necessary permit to the members of the deputation, specifying each by name, to proceed to Cape Town and to return to the Protectorate.

(Sgd.) A. J. WATERS,
Acting Secretary for the Protectorate.

18/3263/2.

Windhuk, 31/12/18.

The Secretary for Defence,
Pretoria.

Referring to your Minute D.R. 33/1558/Z of the 26th February last, and to previous correspondence on the subject of the Petition of the Bastards of Rehoboth that they should, in the future, be allowed to govern themselves as an *independent community* subject only to the suzerainty of Great Britain, I am directed to state that on the 30th instant the Captain of the Bastards, accompanied by two members of his Raad and the Secretary, waited on the Administrator here in Windhoek with a request that they should be allowed to proceed to Cape Town.

On Mr. Gorges enquiring the nature of their business in the Union they stated, after some little hesitation, that they were acting on the advice contained in the accompanying letter (copy and English translation herewith) from Mr. Dewdney Drew M.L.A., and that they wished to take immediate steps to safeguard their future interests.

They were obviously perturbed and desired to leave without delay, and it required considerable explanation on the Administrator's part to convince them that there was no reason for such precipitate action.

Mr. Gorges promised to place their request for permission to go to Capetown before the Government and to communicate the reply as soon as it is received, assuring them, however, that they were needlessly alarmed and that they could well leave the protection of their interests in the hands of the Union Government who had constantly given indications of their goodwill towards the Bastard community; and pointing out that, at the present stage, it was impossible for the Union Government to say more on the subject of the position of the Bastards than had already been said or to give undertakings in advance of the decision of the Peace Conference regarding the form of government to be established over this Protectorate on the withdrawal of Martial Law.

A.B.
for Secretary for the Protectorate.

EXHIBIT " R. "

Confidential.

42/1917/11.
Rehoboth,
26th June, 1918.

The Secretary for the Protectorate
Windhuk.

I have the honour to report certain rumours concerning the Bastards which have come to my notice. You mentioned to me on my last visit that you had heard of friction between two parties of the Bastards. I have not been able to ascertain that there is anything serious in this, *but there is no doubt that there are two parties, one supporting Capt. van Wijk, and one in favour of Samuel Beukes.* The majority of the better class Bastard favours Kapt. van Wijk. I cannot find that any active propaganda is being carried on. Samuel Beukes a little while ago resigned (or was forced to resign) his Office as Member of the Raad and Magistrate. He is at present living on his farm, and is apparently keeping quiet.

The more serious aspect of my information is this. Quite recently Dirk van Wijk, a wealthy and influential Bastard, a member of the Raad and one of the Chief's Councillors, visited Windhuk and sought an interview with Major Treiner (?) Adjutant to Col. Franke. I believe Major Treiner refused to see him calling him a "Schwein-hund" etc.

[U.G. 41—26.]

This very much disturbed van Wijk who went away saying "O mijn God, waar zal ons nou heen, de Duitschers verstoot ons and ons wil die Boere niet hê." It is further said that the Bastards refuse to come under the Union or "Boer" Government, for "hulle het onze Voorouders in die Kolonie verdrukt, en wat is hulle beter dan ons. Partij is nie witter dan ons, hulle is ook maar Bastards," or words to the effect.

It is said that the plan they have made is to keep quiet until peace is declared in Europe. Then they will rise and kill every white man in the country. On being asked how this would help them, the reply was "Dan zal ons baaija buit en weer lekker leef, want hulle zal nie zoo gouw troepe hier kan krij, en als ons later aangeval wordt, zal ons maar ver ons weer overgee."

I must add that my informant is a German who is on friendly terms with certain of these people, who report these things in strict confidence and say "Ons zal ver jou waarschuwing zoals in die laatste oorlog."

I am not inclined to take a very serious view of this. As far as I am aware, the Bastards are satisfied to go on as they are pending the final issue. On the other hand these stories do come to my ears and there may be something in them. At any rate I have deemed it my duty to acquaint you with this.

I would further add that the Bastards follow the course of events closely and are most eager for news of the progress of the war. Franz Maasdorp, Secretary to the Raad, is an assiduous reader of the "Volkstem" which he gets, and I would suggest whether it would not be advisable to censor this paper in this District.

Further, I think that the issue of ammunition to the Bastards should be very limited. Recently a large quantity of cartridges (2930 rounds) was again issued to them. I was not consulted in the matter, but venture to express the opinion that in view of possible eventualities, this is not a wise step.

The reported visit to Major Treiner might be verified. The expressed opinion of the "Boers" would appear to throw some light on the "famous" petition.

I trust I will not be considered an alarmist. I report this so that the Administration may be on its guard. The fact of the contemplated exchange of prisoners has also been commented on. They say the German Prisoners-of-war will go to Germany and our men will not come here!

(Sgd.) W. P. ROSSEAU, Major,
Military Magistrate.

EXHIBIT "S."

Rehoboth,
18th August, 1923.

To His Honour,
R. Gys Hofmeyr, C.M.G.,
Administrator of South West Africa,
Windhoek.

Your Honour,—The Rehoboth Volksraad instruct me to acquaint you that they have this morning in full session approved and confirmed on their part the Agreement between yourself and their Kapitein, (he concurring) to which yesterday they appended their several signatures. They trust in due course to receive notification that the Union Parliament and His Excellency the Governor-General have on their side likewise ratified the Agreement, incorporating it, consequently, among the statutes of the Union of South Africa.

The Volksraad desire further to intimate that pursuant to conversations exchanged with Your Honour at Windhoek and in exercise of a right implicitly conferred by the Agreement they propose, by means of a respectful petition, to carry to the Union Parliament their claim for territory additional to that which Your Honour felt able to concede.

Although on the one point above mentioned Your Honour's views did not accord with those of the Volksraad, the latter wish to testify their grateful sense of the courtesy and patience which they received from you throughout the whole course of the recent negotiations. It will be their object to co-operate with you and render due obedience in a spirit of loyalty and friendship as respects your Administration generally, but especially those matters which the Agreement between yourself and them concludes and covers.

I am,

Your Honour's obedient Servant,

(Sgd.) F. W. MAASDORP.

Secretary, Rehoboth Volksraad.

EXHIBIT " T. "

3263/3.

Office of the Administrator,
Windhoek, S.W.A.,
22nd August, 1923.

Sir,—I am directed by His Honour the Administrator to acknowledge the receipt of your letter, dated the 18th instant, acquainting Mr. Hofmeyr that on the 18th August, 1923, the Rehoboth Volksraad in full session approved and confirmed (the Captain concurring) the Agreement entered into on the 17th August, 1923 between the Administrator on behalf of the Union Government and representatives of the Captain's Raad and the Volksraad on behalf of the Rehoboth Gemeente.

I am to state, for the information of the Captain and the Volksraad, that the Right Hon. the Prime Minister has approved of the Agreement which will shortly be promulgated by means of a Proclamation, thus incorporating it in the laws of the Territory.

Your intimation that the Volksraad intends to petition the Union Parliament for additional territory is noted. The Administrator directs me to say that in this matter he can only repeat what he has endeavoured to make clear to the members of the Raad who negotiated with him that he can hold out no hope of such a request being granted. Mr. Hofmeyr made it clear that he could not support such a petition and that he could recognise the Agreement just concluded as the one and only document defining the respective rights and obligations of this Administration and the Rehoboth Gemeente. Mr. Hofmeyr would advise the Raad to take careful counsel and consideration before starting a fresh agitation by way of such a petition as he can conceive of much harm being done thereby. While His Honour tenders this friendly advice, the decision in the matter must naturally rest with the Volksraad.

I am to add Mr. Hofmeyr is most pleased to be assured that it is the intention of the Volksraad to co-operate with him and to render due obedience in a spirit of loyalty and friendship to his Administration generally, but especially in regard to the terms of the Agreement.

The Administrator while reciprocating the friendly feelings of the Raad congratulates it once more on the wise step it has taken in this matter.

In conclusion, Mr. Hofmeyr desires me to say that by mutual trust and confidence and by friendly, sympathetic and loyal co-operation, he feels sure the future can only have happiness in store for us. Mr. Hofmeyr hopes that the Captain has been restored to health, and sends the Captain and the Raad his very best wishes.

I have the honour to be,

Sir,

Your obedient Servant,

(Sgd.) H. P. SMIT,

Secretary for South West Africa.

F. W. Maasdorp, Esq.,
Secretary to the Rehoboth Volksraad,
Rehoboth.

EXHIBIT " U. "

Translation from German.

AGREEMENT

between the Imperial Governor of German South West Africa and the *Baster* Community, at Rehoboth, represented by the *Baster* Council.

ARTICLE 1.

In the Treaty of Protection and Friendship of 15th September, 1885, the *Baster* Community asked for the protection of His Majesty. By the exercise thereof the German Administration has been extended to the *Baster* Territory.

ARTICLE 2.

The *Baster* Community undertakes, first for a period of four years, to contribute an annual amount of 6,000 (six thousand) mark towards the cost of the Administration, established in their interest, and to transmit this amount every year on the first of April, for the first time on the 1st April, 1912, from the *Bastard* Council to the District Office at Rehoboth.

[U.G. 41—'26.]

ARTICLE 3.

At the expiration of the agreement, it will be renewed and the amount of the contribution be fixed again.

Rehoboth,
31st January, 1912.

Windhoek, 12th February, 1912,
The Imperial Governor of
South West Africa.
(Sgd.) SEITZ.

The *Baster* Community represented by the *Baster* Council:

(Sgd.) K. ZWART.
" L. BEUKES.
" J. BEUKES.
" P. MOUTON.
" ALBERT MOUTON.
" NIEELS VAN WYK.

EXHIBIT " V. "

Translation from German.

Rehoboth, 30th October, 1912.

In the presence of the Magistrate Dr. von Vietsch.

The following *Basters*, as legal representatives of the *Baster* community of Rehoboth, appeared:

- (1) Nels van Wyk, Foreman of the Community.
- (2) Wilhelm Koopman.
- (3) Albert Mouton.
- (4) Matthaeus Gertze.
- (5) Carolus Zwart.

and they declare:—

" We relinquish on behalf of the *Baster* community, as their representatives, the rights formerly belonging to us, to prospect and mine, to grant such rights to third parties, or to issue regulations for prospecting or mining in the *Baster* territory. Further we relinquish all rights, accruing from concessions formerly granted by us, especially the share of 2 per cent. in the profits of the concession granted by us to Mr. von Lilienthal (Dr. Fleck) on the 29th March, 1889. We have been told, that by this relinquishment we are freed from the obligation to supply labour and that our claim will be recognised in accordance with Art. 83 of the Imperial Mining Regulations to $\frac{1}{4}$ of the production in terms of Art. 86 of the Imperial Mining Regulations in so far as the provisions of Art. 86 Imperial Mining Regulations have been complied with.

We are aware that the Imperial Mining Regulations of 8th August, 1905, are of force and effect in the territory of the Rehoboth *Basters*.

Read, approved and signed.
(also read and explained in Dutch.)

(Sgd.) NIEELS VAN WIJK.
" W. KOOPMAN.
" ALBERT MOUTON.
" MATTHEBUS GERTZE.
" K. ZWART.
" V. VIETSCH.

EXHIBIT " W. "

EXTRACTS FROM EXHIBIT W. WHICH HAS BEEN RETURNED TO THE MAGISTRATE OF REHOBOTH.

Farm Registration.

For the Burgher: Christoffel van Wyk.

Name of the farm: Lepel, extent:

Statement.

i. It is hereby declared by us, Captain and Council, that the farm *Lepel* is the lawful and legal property of Christoffel van Wyk. The extent is

ii. If the abovementioned farm is less than the above extent, the owner shall be satisfied with the smaller extent when the farm is being beaconsed off.

iii. Further the owner shall not have the right to lease the farm nor to sell it. Neither is the beneficial use of grass and wood allowed without the consent of the Captain and the Council.

iv. Further, after his death this farm remains the property of his heirs. These conditions remain unalterable also for his descendants. Taxes are payable as mentioned in the documents relating to the farm.

Translation of Extract from Rehoboth landregister.

Farm Registration.

For the burgher: Elizabeth Beukes, widow.

Name of the farm: Kudis, extent: 7,000 hectares.
granted 31st January, 1895.

Statement.

i. It is hereby declared by us, Captain and Council, that the farm *Kudis* is the lawful and legal property of Elizabeth Beukes. The extent of the farm is 7,000 (seven thousand) hectares.

ii. If the above mentioned farm is less than the above extent, the owner shall be satisfied with the smaller extent when the farm is being beaconsed off.

iii. Further the owner shall not have the right to lease the farm nor to sell it. Neither is the beneficial use of grass and wood allowed without the consent of the Captain and the Council.

iv. Further, after his death this farm remains the property of his heirs. These conditions remain unalterable also for his descendants. Taxes are payable as mentioned in the documents relating to the farm.

Captain and Council.

Translation of Extract from Land Register of Rehoboth.

EXHIBIT "X."

Translation from German.

NOTICE OF LANDTAX TO BE PAID BY HERMANUS CLAAZEN, REHOBOTH.

In terms of Art. 3 of Proclamation dated 19th March, 1909, the following landtax for the financial year 1909 is payable:

for the farm Kudikosp II	...	7,500 hectares:	75 mark.
„ „ lot in	...	„	„
„ „ erf in	...	sq.m.	„
„ „ erf in	...	sq.m.	„
Total			75 mark.

This amount must be paid, in terms of Art. 15 of the Proclamation, in one payment, not later than the 31st October of this year at the District office, failing which the Administration will take legal steps for the collection of the amount.

Within 2 months after receipt of this Notice an appeal may be lodged with the Appeal-Commission which must be submitted by the below-mentioned office in writing. The noting of an appeal does not confer the right to postpone the payment of the landtax.

District Office Rehoboth.

Delivered by Rehoboth Ebrecht on the 4th March, 1910.

Baster Tax List No. 45.

Observation.

The fixing and collection of the landtax takes place by the District office in whose administrative area the land is situate. Written or verbal notice must be given to the office concerned of every purchase, exchange or other transfer of a farm, plot or any other land. The date of transfer, the description, the situation and extent of the area are also to be given.

Whoever fails to pay the tax due in terms of the Proclamation of 19th March, 1909, is liable to pay, in addition to the tax due, a fine not exceeding five times the amount of the unpaid tax.

Amount received
Rehoboth,
9th May, 1910,
District office
Dietrich.

(Translation, as handed in.)

EXHIBIT "WA."

LAW BOOK OF THE REHOBOTH BASTARDS. Promulgated by the CAPTAIN and his COUNCILLORS in the years 1872 and 1874.

Contents:

- (1) *Law of the Constitution of 31st January, 1872.*
Deals with the Captain, the Captain's Council, the Volksraad, Burgerright, Resolutions and Suffrage.
- (2) *Law of 31st January, 1872.*
Deals with the Judge, Fieldcornet and Officials.
- (3) *Law of 27th February, 1872.*
Deals with Murder, Offences against Life, Theft, Ill-Treatment and Taxes.
- (4) *Law of 13th March, 1872.*
Deals with Brandy, Debts, Measures in cases of danger, Marriages and Garden-Plots.
- (5) *Law of the 10th April, 1872.*
Deals with infectious diseases and war.
- (6) *Law of the 8th July, 1872.*
Deals with irregularities, resistance against Judgments, summons, libel (slander) ill-treatment and resistance against the Law.
- (7) *Recapitulation of the whole Law Book in 64 Articles of 1st January, 1874.*

BASTAARD RAAD—ELECTIONS.

The Head of the Raad and of the nation is the Kapitein, who is elected for life (Clause I of the laws of 31st January, 1872). He appoints two Councillors (Geheime Raad) who hold office during pleasure, and are *ipso facto* members of the Raad (Clause 4). The Raad consists of twelve members, viz:—

The Kapitein, the two Privy Councillors and nine members elected by the voters. (a) A "registered voter" is a Burger who pays taxes. The nine members of the Raad are elected for two years, and are eligible for re-election. (The Law—Clause 8—provides that these hold office for one year only. I am, however, informed that by an amending law they serve for two years. It is alleged that the German Administration first of all amended this law by making five years the time for which Raad members were elected.)

When a new election has to be held the Raad propose twice the number of candidates that is required (at present twice nine). Notice of the names of candidates proposed is given to the Burgers, and to the candidates at least a month before the election. The candidates dare not refuse office. Voting is "open."

On the appointed day a recorder and two assessors sit with a list of the proposed candidates before them. Each voter's name is recorded as he appears to vote. He then tells the recorder for whom he wishes to vote, and the votes are recorded by placing an "X" behind the names of his choice.

Every voter has one vote for each candidate and is not permitted to "plump."

A member of the Raad may lose his seat if found guilty of a crime or irregularity, after trial by his Peers.

(1). *Law of the Constitution of 31st January, 1872.*

On this the 31st January in the year of Our Lord One Thousand Eight Hundred and Seventy Two the Burgers at Rehoboth have agreed to amend the provisional form of Government instituted by them on the 15th December, 1868, at Warmbad, and to ordain as follows:—

1.

As Supreme Administrator of the burgers, one shall be elected and nominated from among them as Captain, who shall hold office during his life-time provided illness or other urgent circumstances do not prevent him from doing so.

2.

In the event of the decease of the Captain, or in the event of his being obliged to resign his office, the burgers shall immediately assemble for the purpose of electing and nominating another Captain.

3.

During the period that the Burgers shall not have elected and nominated a new Captain, the eldest of the two councillors (to wit, the eldest in office) who assist the Captain, shall take over the Administration as Provisional Captain.

4.

The Captain shall be assisted by a council of two irreproachable burgers, elected by himself for such period as he may think fit.

5.

Every burger, who enjoys the full burger-right is entitled to be elected as Captain.

6.

The Captain may at any time, in matters concerning the Administration call together his (Captain's) Councillors who are entitled to be absent only in cases of most extreme necessity, but must previously notify the Captain, who may thereupon for the period of absence of such councillors nominate others to act in their stead.

7.

In order that burgers may also share in the administration they shall elect and nominate three irreproachable men as a Volksraad.

8.

The Volksraad shall be elected for one year only. Within the first fourteen days of the new year the re-election of the Volksraad shall take place.

9.

The Volksraad shall choose one of its members as Chairman or Speaker who shall have the right to assemble the Volksraad as often as he may deem necessary.

10.

The Chairman or Speaker is the medium of communication between the burgers and the Volksraad.

11.

The members of the Volksraad are bound to guard the interests of the burgers by whom they were elected.

12.

All requests and wishes of the burgers shall be communicated to their member of the Volksraad, who shall bring the same to the notice of the Captain and his Council, who after consideration and if advisable, shall deal therewith by legislation.

13.

At the election of the Volksraad one of the Captain's Councillors shall always be present, in order that no irregularity may occur at such election for Captain and Country. The Councillor has no right, however, when everything is conducted orderly, to meddle with the voting.

14.

Every burger who pays taxes shall have a vote.

15.

Every Bastard, or whoever has married into the Bastards may become a burger. All others shall be granted the right of protection under conditions to be laid down.

16.

Whoever desires to become a burger shall notify the Captain who shall instruct him as to the Laws. Should he be willing to conform to the Laws, he shall, if known to the Captain, be accepted in the presence of the Captain's Council and the Speaker of the Volksraad.

17.

Should the applicant for burger-right be a stranger, he shall be on probation for six months. The Captain shall thereupon report to the Speaker of the Volksraad, who shall thereupon notify the burgers in order that whoever may have objections to the application, may lodge same. Should within the six months nothing be brought up against the applicant, he shall be accepted as burger as hereinbefore provided.

18.

Captain, Captain's Councillors, members of the Volksraad, shall one and all by handshake instead of by oath, be bound to perform his duties of office in the interests of the State, to the exclusion of personal interests.

19.

Resolutions proceed from the Captain and his Council, as also Laws, and these shall thereafter be transmitted in writing to the Speaker of the Volksraad, who shall immediately assemble the Volksraad to consider the resolutions or laws so transmitted.

20.

No resolution or law shall be transmitted to the Volksraad until the Captain and his Raad shall be in agreement about the same.

21.

Should there be a difference of opinion in the taking of resolutions or making of laws, a vote shall take place.

22.

Should the Captain and his Councillors each have a difference of opinion and they can come to no agreement, the opinion of the Captain as the Supreme Head shall be accepted.

23.

On the contrary, should the two councillors be agreed, the Captain shall submit to the Councillors.

24.

All differences of opinion between the Captain and his Council shall be kept secret.

25.

Should any one of the Councillors divulge such difference of opinion he may be dismissed and punished.

26.

When the law or resolution transmitted, is accepted by the Volksraad, it shall be returned by the Speaker to the Captain, who thereupon has the right to ordain and make the same as law.

27.

Should on the contrary the law transmitted, be rejected by the Volksraad, the Speaker of the Volksraad shall notify the Captain thereof, who shall thereupon stipulate the time and place where the Captain and his Raad will meet the Volksraad to debate upon the points of difference.

28.

After each party shall have brought forward its arguments and objections, a vote shall be taken.

29.

Should the whole Volksraad reject a proposal of the Captain, all burgers entitled to the vote shall be called up and the difference submitted to them, upon which a vote shall be taken by the whole gathering.

30.

At such voting, the Captain as Supreme Head shall have as his vote one tenth of all entitled to vote. His Councillors shall each have two votes, but the burgers and the members of the Volksraad on the contrary shall each only have one vote.

Given at Rehoboth 31st January, 1872.

Captain, H. VAN WIJK.

Councillors, P. DIERGARD.

J. VAN WIJK.

Speaker of the Volksraad, MECHIEL DIERGARD.

(2). Law of the 31st January, 1872.

On the 31st January in the year of Our Lord One Thousand Eight Hundred and Seventy Two the following resolutions have also been agreed to:—

1.

The Captain shall for all cases of complaint, whether Criminal or Civil, appoint Judges, who shall investigate these and pass sentence and inflict punishments according to the Law Book.

2.

The confirmation of the Captain is required in every Criminal case.

3.

One of the Councillors shall be appointed for the Judges and their Offices, and he shall be responsible that the Judges decide according to Law and Justice.

4.

The Judges shall elect the Field-Cornets, Messenger of the Court and other Officers required by them, but each appointment requires the confirmation of the Captain.

5.

The Field-Cornet shall act according to the instructions given him by the Judge, and shall not exercise any rights outside thereof.

Should it be necessary for the Community to separate to outside streams, the Field-Cornets shall for the outside places receive another and further instruction.

Granted at Rehoboth 31st January, 1872.

Captain, H. VAN WIJK.
Councillors, P. DIERGARD.
J. VAN WIJK.
Speaker of the Volksraad, M. DIERGARD.

(3). *Law of the 27th February, 1872.*

On this the 27th day of the month of February in the year of Our Lord One Thousand Eight Hundred and Seventy Two the following laws and regulations were promulgated:

(a) *In Cases of Murder:*

- (1) The sentence of death irrevocably follows murder with intent.
- (2) Whenever anyone causes the death of another through negligence, he shall prove before the Judges with two witnesses or by Oath that he had not done so with intent, by reason of enmity, or out of revenge. He shall then not be punished with death, but in comparison with his guilt with a fine or with Corporal Punishment.

(b) *Offences Against Life:*

- (1) Whenever anyone through negligence or in a fight with fists, or in any other manner shall cause any one else bodily harm, resulting in a serious injury, he shall, in comparison with the injury inflicted be punished with a fine in money or value or with Corporal Punishment.

(c) *Theft:*

- (1) Whoever shall steal large or small stock or other effects, shall return thrice the articles stolen, or the value thereof. Should he be unable to effect the return, a punishment of from one to 12 months hard labour in addition to ten lashes shall be inflicted.
The lashes may in comparison with the periods of hard labour be omitted.
- (2) Whosoever knowingly purchases or hides any stolen property shall receive the same punishment as the thief.
- (3) If the thief is a child or physically ill, this shall be taken into consideration by the Judges and the punishment reduced.

(d) *Treatment of Servants and Their Rights:*

- (1) No employer may maltreat his servant under pain of being found guilty and punished. Art. 2 Sub. "A" or Art. 1 Sub. "B."
- (2) Every servant shall have the right to lodge a complaint against his Master who maltreats him, but the servant is bound, if for instance he is a cattleherd, to first hand over to his Master at his Werft his cattle or what was entrusted to him, before his complaint can be accepted.

(e) *Remarks as to the Regulations under "C":*

- (1) To the owner of stolen property shall be returned twice the stolen property when the thief returns it. Should the thief be unable to pay he is punished with hard labour and the owner must bear the loss, but he has the right when no public work is available for the accused, to take him in service to work off the loss.

(f) *Taxes:*

- (1) To meet the required expenditure of the Administration a tax shall be levied on the livestock of the burgers.
- (2) For determining the amount of tax payable by each burger, he shall up to the last day of the month of May in each year render to the Revenue Office a precise return of his large and small stock, and shall thereupon receive the account for taxes, which he can then pay in one sum, or a quarter thereof every three months.
- (3) At the close of the year the full amount of the tax must be paid. The Receiver of Revenue has the right to cause an attachment to be laid on the estate of any one who is in default with his payment at the close of the year, until the tax has been paid.

- (4) At the assessment the following preliminary value shall be placed on the stock *i.e.*, on small stock six shillings each, on cattle and donkeys one pound ten shillings sterling each, on horses and mules six pounds sterling each.
- (5) The Assessment of the tax shall be at the rate of one pound sterling for every hundred pounds sterling value of live stock.
- (6) Every garden plot shall be encumbered with a tax of five shillings per year.
- (7) The tax on garden plots shall only take effect as for and from the year 1873. The tax on livestock on the contrary is payable for the year 1872. For that purpose the taxpayer shall have time to the end of May to render the return of his livestock to the Revenue Office.
- (8) Whoever shall render a return of less stock than he possesses, or shall in any other way defraud the Revenue, shall pay a fine of from one to ten pounds sterling in cash or in value.
- (9) The Receiver of Revenue appointed by the Captain shall have the right, without interference of any one, to take a count of the large and small stock of the burgers.

Given under our Signatures at Rehoboth, this, 27th February, 1872.

Captain, H. VAN WIJK.
 Councillors, P. DIERGARD.
 X of STOFFEL ZWART.
 Speaker of the Volksraad, ME. DIERGARD.

(4). *Law of the 13th March, 1872.*

On this the 13th day of March, A.D. 1872 the following Laws were promulgated:

- (1) Whoever shall be obliged by the Volksraad to leave the place (farm?) for a time, shall appoint one of the burgers for the period of his absence with his full rights.

(a) *Law about Brandy and Strong Drink:*

- (1) No merchant or burger may without the order (permission) of the Captain, in the ward Rehoboth, give or sell any brandy or any other strong drink, excluding wine.
- (2) Whoever shall act in contravention of this provision shall allow a proper search to be made and whatever shall be found with him of brandy or strong drink shall be taken from him.
- (3) In addition to the loss of his liquor, he shall pay a fine of five pounds sterling, and if a stranger, shall leave the ward Rehoboth.
- (4) The Captain shall have the right, only in cases of direct necessity, to grant an order for the sale of brandy not above one bottle.

(b) *Law in the Matter of Debts:*

- (1) No merchant or burger may without the order (permission) of the Captain, in the same, the Judges shall have the right to cause so much of his assets to be sold as shall satisfy the debt and the costs of the Judges.
- (2) *As costs of the Judges shall be reckoned:* Five shillings for the complaint in addition to one shilling for every pound sterling of the complaint against the debtor.
- (3) When the proceeds of the assets sold do not realise the full amount of the debt, the Creditor must be satisfied with the amount realised, and he shall then in addition to the five shillings fee for the complaint pay to the Judges (Treasury) the sum of one shilling for every one pound sterling realised by him on the sale of the assets of the debtor.
- (4) Where the debtor has no assets, he must look for work in order to liquidate the debt.
- (5) Where the debtor is the father of a family he shall receive half his wages for his family, and the other half shall be paid by his employer to his Creditor in reduction of the debt.
- (6) Whoever refuses to enter into service shall be punished with one month's hard labour. On termination thereof he is bound to enter into service; at every subsequent refusal the punishment shall be increased.
- (7) The debtor has the right to apply to the Judges for an extension of time for payment, not however exceeding one month. The Creditor, when he does not immediately require the money must grant the extension.
- (8) Where the debtor can provide a surety and the Creditor is agreeable to accept him, the extension may be granted for a longer period, but the Creditor may for that period charge interest at the rate of one shilling for every pound sterling.

- (9) The surety shall then, in the presence of the Judge, grant the Creditor an acknowledgment of debt, undertaking to pay the debt with interest on a fixed date. The surety is then liable.
- (10) The applicant for extension must consent to the attachment of his estate to the value of the debt, and he shall within that time not dispose of the same.
- (11) The Creditor shall first deposit five shillings with the Judges, which, on payment being made by the debtor to the Judges, shall be refunded to him.
- (12) A poor man, who has not the means to pay five shillings fee for the complaint shall have his complaint accepted by the Judges without a deposit, but he shall out of the amount recovered on the debt, and provided the debtor cannot pay the costs, pay the same.
- (13) If a poor man is also decrepit or old and unable to work the Judges shall not exact the payment of any costs from him.

(c) *Law about the Use of Another's Property in Time of Necessity (Danger).*

- (1) Whoever shall of necessity use another's horse, ox or cattle before he is in a position to ask the owner, shall, immediately he comes to the owner, notify him thereof and tender his apologies, and pay him what he charges for the use thereof. The owner may not make an unreasonable charge. For a horse, not exceeding 10/- per day, and for an ox one shilling. Should he, owing to want, have to kill one of the stock, he shall pay the full value thereof.
- (2) Should, in the use the horse or ox receive injury, he shall pay the damage caused. In the case of its death, full value shall be paid.

(d) *Law about Marriage:*

- (1) Whoever, without cause, deserts his wife, shall leave behind his assets, which shall be awarded to the wife. Similarly in the case of the woman deserting her husband without lawful cause.
- (2) When a child is born out of wedlock, the father thereof, in case he is a married man, or if unmarried, had promised to marry the mother, on complaint by the latter, shall pay the sum of eight pounds sterling for maintenance of the child.

(e) *Laws about House Building and Garden Plots:*

- (1) Houses may not be sold or mortgaged to any one who is not a burger of the Community.
- (2) No burger has the right to sell or to mortgage his garden plot.

Given under our hands, Rehoboth, 13th March, 1872.

Captain, H. VAN WIJK.

Councillors, P. DIERGARD.

JOH. VAN WIJK.

Speaker of the Volksraad, ME. DIERGARD.

(5). *Law of the 10th April, 1872.*

On this, the 10th day of the month of April, A.D. 1872, the following laws were promulgated:—

(a) *Laws about the Prevention of Lung and other Infectious Diseases.*

- (1) We hereby stipulate that no stock suffering from any infectious disease may be kept on the place.
- (2) We grant the right to the Fieldcornet and direct him, whenever he notices such animal on the place, and, after having warned the owner to remove and keep the same at an appointed place, to shoot the same on the spot. The meat thereof shall be distributed amongst the poor and the skin sold for account of the Treasury.
- (3) Cattle with doubtful diseases may not remain on the place either, but be immediately sent away, or to these also fall the same lot as to lung sick cattle as hereinbefore provided.
- (4) Every burger who shall see such animal on the place shall immediately notify the Fieldcornet, who shall thereupon proceed as herein provided.
- (5) Whoever desires to inoculate his cattle on the place shall be pointed out a certain spot outside which no inoculation may take place. The inoculated animals must leave the place the same day.

(b) Law in Case of Fear of Attack by Enemies :

- (1) The Captain is empowered, whenever any danger of an attack by enemies exists, to call up all serviceable men for defence, and every one is bound to comply. Illness, of course, here is an exception.
- (2) In every war the Captain holds supreme command, and every one owes him and the subordinate commanders appointed by him the strictest obedience.
- (3) Whoever does not comply with the commandeering or is disobedient shall be brought before a Court Martial composed of two subordinate commanders appointed by the Captain and one of the Captain's Council, who have the right, in comparison with his crime, to punish the accused with a fine of from one to fifty pounds sterling. Whoever cannot pay shall receive fifty lashes. The sentence requires the confirmation of the Captain.

Given under our hands, Rehoboth, 10th April, 1872.

Captain, H. VAN WIJK.
 Councillors, JOH. VAN WIJK.
 P. DIERGARD.
 Volksraad, ME. DIERGARD.
 X of JACOB MOUTON.

(6). Law of the 8th July, 1872.

On this the 8th day of July A.D. 1872 the following laws were promulgated:—

- (1) As our Laws have only been started and have not yet been completed, we hereby ordain, that as and from this date, whenever any irregularity shall anywhere occur to the detriment of the existence or the well being of our State, in respect of which no law has yet been promulgated, the Captain shall have the right to lay down the matter before the burgers, and should they by a majority of votes consider it a crime and have laid down a punishment to authorise the Judges to sentence the accused in accordance therewith. In the event of a resistance against the sentence on the part of the accused the burgers shall be bound, under penalty of a fine of one pound sterling or one week's hard labour to support the Judges and to force the accused to undergo the punishment inflicted.

Further the following laws are promulgated:

- (1) The Judges have full authority to subpoena all persons required to be heard by them in any case of complaint, and should any one refuse to comply with the subpoena he shall be liable to a fine of from one to five pounds sterling or to hard labour for a period of from one to four weeks. Illness preventing such appearance naturally is an exception, but the indisposed person must in due time forward to the Judge a certificate from the Fieldcornet, or in his absence from the assistant Fieldcornet certifying to the impossibility of his appearance. If he neglects to do so, he shall be treated as if he had failed to comply with the subpoena.
- (2) Every summons (subpoena) provided with our State Seal (provisionally a " B ") is valid.
- (3) The forging of our State Seal and the unlawful use thereof shall be punished with a fine of fifty pounds sterling or with six to twelve months' hard labour.
- (4) No accused shall have the right when appearing before the Judges, to speak disrespectfully or insultingly whether to the Judges or to any person.
 Subpoenaed by the Judges, and when using such disrespectful or insulting language, after having once been warned, may be punished with a fine of from one to twenty pounds sterling or to from one week to four months' hard labour.
- (5) Insults to the Captain or to his officers regarding their office when they contain accusations which cannot be substantiated shall be punished as provided for in the foregoing section.
- (6) Insults to burgers which are bad and detrimental to their character, and which cannot be substantiated shall be punishable with a fine of from one to five pounds sterling or from one to four weeks' hard labour.
- (7) The ill-treatment of women, children and servants may be complained of by their relatives or by any burger should they have no relatives here. The accused shall after summons, appear before the Judges.
- (8) Where the accused has prior to his appearance before the Judge, settled the matter with the persons ill-treated, this will be taken into consideration, provided other circumstances do not demand his punishment. The costs of summons are payable by the accused.

- (9) The Judges have full authority where they think fit to place such accused under a "bond" and he shall be bound to subscribe thereto his name or his mark if he cannot write.
- (10) Under ill-treatment we understand all improper flogging or the hitting with instruments dangerous to life and limb, or all brutal treatment without flogging.
- (11) Lesser ill-treatment shall be punished with a fine of from one to three pounds sterling or from one to three weeks' hard labour. For subsequent offences the punishment shall be doubled.
- (12) Ill-treatment, incapacitating the ill-treated person from performing work for twenty-one days and over shall as a criminal act be punishable with a fine of from five to twenty pounds sterling or with from one to six months' hard labour. Apart from this the accused shall pay to the ill-treated person when he is unmarried, for the period of his incapacitation the sum of one shilling and six pence per day. If the ill-treated person is the father of a family, he shall pay him at the rate of three shillings per day.
- (13) All burgers who will not submit themselves to our Laws, shall lose their burger-right. Should they remain amongst us they shall still be subject to the Law as any other stranger here, and all burgers are under the penalties of section 1 bound to support the Captain and his Judges should any one of these "bywoners" be guilty of not submitting himself to the law.

Given under our hands, Rehoboth, the 8th July, 1872.

Captain, H. VAN WIJK.
 Councillors, STOFFEL ZWART.
 P. DIERGARD.
 Volksraad, STOFFEL V. WIJK.

(7) *Constitution of the Bastards.*

On this the of July in the year 1874 the Burgers of Rehoboth have resolved to renew the Constitution framed at Nisbeth Bath 1868 and amended at Rehoboth in the year 1872 by the following articles.

Article 1.

On the 1st January, 1874, Hermanus van Wijk was appointed as Captain. He shall retain his Captaincy as Supreme Head indefinitely.

Article 2.

The Burgers shall not have the right to remove the Captain from his post when they have a complaint against him, which they consider unfits him for the post. But whoever has a valid legal complaint shall submit the same to three impartial Heads of the Land who shall investigate the complaint.

Article 3.

By this shall be understood that the Captain as well as any Councillor is bound by the Law.

Article 4.

The Captain as the Supreme Head shall be considered as capable to keep order, to command at all necessary occasions for the welfare of the people.

Article 5.

Every Burger shall propose ten men as councillors to assist the Captain. Of these ten men, four who receive the majority of votes, shall be appointed by the Captain as his Councillors.

Article 6.

Each Councillor is elected for the term of one year, and provided he has done his duty well, may be re-elected.

Article 7.

Every Burger possessed of the full burgerright, is entitled to vote at the election of the Captain.

Article 8.

The Captain shall when he leaves home or when he is indisposed appoint one of his Councillors to act in his stead.

Article 9.

The Councillors of the Captain, may at any time be called together in matters of administration.

Article 10.

Every Councillor shall, before proceeding from home, notify the Captain, who shall appoint one from among the Burgers to act protem as Councillor in his stead.

Article 11.

Whenever any Councillor or the Captain neglects his prescribed duties, by personal interests and neglect, he shall for the first contravention be warned; should he still neglect he shall be summoned and give reason for his neglect, and if found guilty in the Court be sentenced to a fine of from ten shillings to a pound sterling; and if he refuses the summons he shall lose his post.

Article 12.

Should the Captain, a Councillor or any Burger be summoned to appear before the Court and he refuses he shall be liable to pay the costs of each summons *i.e.* 1s. 6d.. If he refuses to appear after having been summoned twice for the same offence he shall be made to appear and shall pay the Court and Police expenses in addition to a fine of from 5s. to £2 sterling and is still liable to be punished for the original charge for which he was summoned to appear.

Article 13.

In the event of disturbance or of an attack by an enemy the Captain shall have the right to call up for service any ablebodied men above the age of sixteen years and any such person shall be under strict military discipline. Sick persons are exempted.

Article 14.

Any person who fails to respond shall be brought before a Court Martial consisting of two officers chosen by the Captain and two members of the Council. If found guilty he shall be liable to be fined from £1 to £50 Sterling and in addition 50 lashes. The Captain shall pronounce sentence.

Article 15.

In time of war the Captain has supreme command and all officers under him shall obey his orders.

Article 16.

In all civil and criminal cases the Captain shall appoint Judges who shall execute justice according to the Laws of the State.

Article 17.

Any person has the right of appeal to the Captain and the Council against any sentence, and their decision shall be final. In criminal cases the Captain shall confirm all sentences passed.

Article 18.

The Judges shall immediately report to the Captain on all cases dealt with by them.

Article 19.

Fieldcornets shall be elected by a majority of votes of the burgers who will announce the result of the election to the Captain.

Article 20.

Whenever a Fieldcornet is compelled to leave his district, he shall appoint a substitute to act for him.

Article 21.

Wilful murder shall be punished, irrevocably, by death.

Article 22.

Death sentence shall not be passed unless another Chief (Landshoofd) is present.

Article 23.

Should any person be guilty of causing the death of another through negligence, he shall have to prove to the judges by two witnesses that the deed was not wilfully done, or through revenge or enmity. In such case he shall not be punished with death, but according to his guilt with a fine or with lashes.

Article 24.

Should any person cause bodily injury to another through carelessness or assault (*bakleierei*) by which the injured person suffers permanent or temporary injury, the accused shall be liable to pay damages in addition to a fine or corporal punishment.

Article 25.

No master shall illtreat his servant without rendering himself liable to a fine of from five shillings to one pound sterling.

Article 26.

Any servant, when illtreated by his master, shall have the right to lodge a complaint against the latter, but in the event of him being a herd, he may not leave his flock in the veld unattended in order to lodge such complaint.

Article 27.

By illtreatment shall be understood all punishment improperly inflicted either by hitting with hands or kicking or with stones.

Article 28.

Should any person steal cattle sheep or other articles, he shall be bound to repay them threefold. Should he be unable to return them, he may be punished with from one to twelve month's hard labour or with from five to fifty lashes.

Article 29.

Any person who receives, sells or hides stolen articles, shall be liable to the same punishment as the thief.

Article 30.

If the thief is a child or a person in poor health, the judges shall take this into consideration and impose lighter sentences.

Article 31.

The owner of the stolen goods shall receive back from the thief twice the amount of the goods stolen. Should the latter, however, be unable to pay that amount, he shall be compelled to enter the service of the owner or of another person, or do hard labour, as the judges may decide.

Article 32.

No burger shall be allowed to sell brandy or other spirits, excepting wine, in the district of Rehoboth, without the permission of the Captain.

Article 33.

Any person acting contrary to Article 32, shall allow himself and his goods to be thoroughly examined, and all brandy or spirits found will be confiscated.

Article 34.

In addition to the loss of his liquor, he must pay a fine of £5 for the first offence and double that amount for the second offence.

Article 35.

Any traveller or trader found guilty of selling liquor, shall be sentenced in the same way as the ordinary burger, and shall in addition be compelled to leave the Territory.

Article 36.

When a debtor is sued for debt and he refuses to pay, the judges shall have the right to sell his goods or cause the same to be sold until the debt and costs of the Court are paid.

Article 37.

The costs of the Judges shall be five shillings per case which the Plaintiff shall pay but can recover from the Defendant after the case.

Article 38.

Should the Defendant have insufficient means to satisfy the full amount with costs the Plaintiff shall be satisfied with the amount obtained by the Judges, but shall pay to the Judges 5s. Court expenses and in addition 1s. for every Pound obtained.

Article 39.

Should the Defendant be unable to pay anything, he shall be compelled to enter service to pay off his debt.

Article 40.

If he is the father of a family, half of his wages shall be given to his family and the other half to his creditor.

Article 41.

Should he refuse to go into service the Judges shall decide as to what shall be done to him.

Article 42.

An indigent who cannot pay the Court fees shall have his case accepted without paying the fees in advance, but after the case shall pay the expenses out of the amount awarded to him.

Article 43.

Should he be too old and sickly to work, the Judges shall not ask him to pay any costs.
[U.G. 41—'26.]

Article 44.

Should any person be compelled in a case of extreme urgency to use another person's horse or other animal, and he is not able to obtain the owner's consent before doing so, he is to take the first opportunity to inform the owner of his action and justify his position, and must pay whatever the owner claims for the use of his animal. The owner, however, is not to charge more than 10s. per day for a horse or 1s. per day for an ox. If he has through want been compelled to slaughter another's animal, he is to pay the full value of such animal to the owner.

Article 45.

On the other hand should any damage be done to the animal, he is to pay the damage. In case the animal dies, he is to pay the full value of the animal.

Article 46.

Should a husband without cause desert his wife, he shall leave all his belongings to be given to his wife. The same in the case of the woman leaving her husband without just cause.

Article 47.

The father of the illegitimate child, if he is a married man, or in the case of an unmarried man if he promised marriage to the mother, shall on demand of the mother pay her eight pounds sterling towards rearing of the child.

Article 48.

Laws regarding Houses and Gardens.—No person is allowed to sell or mortgage his house to any person who is not a burger of the State.

Article 49.

Laws regarding Safekeeping of the Place from Lung-sickness and other Infectious Diseases.—Herewith we decide that no animal with an infectious disease may be kept on the place.

Article 50.

Should the field-cornet find such animal and after having notified the owner to remove it to a defined place, his orders are not carried out, he is given the right immediately to shoot the animal. The meat shall be given to the poor and the skin sold for the benefit of the State.

Article 51.

Should any person desire to inoculate a sick animal he shall do so in a place pointed out by the field-cornet, but the inoculated animal must be removed from the farm on the same day.

Article 52.

Ill-treatment of Women.—Any person accused of ill-treating his wife shall be liable to a fine of from three pounds to five pounds sterling, and if the ill-treatment is such as to cause permanent injury, he shall be charged with criminal assault.

Article 53.

The village of Rehoboth shall be kept in proper order and the grazing of cattle and sheep regulated, but horses are excepted.

Article 54.

A burger shall not be allowed to keep all his cattle and livestock on the village grounds. He is, however, allowed to keep one span of oxen and as many cows in milk as he requires for his use. Should his work compel him to keep more than one span of oxen on the village grounds he shall immediately after his work is completed send the extra span of oxen away.

Article 55.

No slaughter ox, cow not in milk, or weened calf may be kept on the village grounds.

Article 56.

Should this happen the trespasser shall be fined one-half penny for every head of cattle. If he sends it away on the same day and it comes back the day after or after a longer period, it being proved that the owner neglected to send it far enough he shall be fined the same amount for each trespass.

Article 57.

Further, very poor persons or burgers who have more than ten head of cattle must also keep two kraals even if these cattle consist of slaughter oxen or cows not in milk, but if he owns ten head of cattle he will be allowed to keep them on the place even should they be slaughter oxen or cows not in milk.

Article 58.

Small stock will under certain conditions be allowed on the village grounds. No burger is allowed to graze more than 10 small stock on the village grounds or he will be fined one-half penny for every ten above that number.

Article 59.

If during severe droughts when water is scarce and difficult to get in the veld or if through other necessary circumstances one or more burgers desire to have their livestock on the village grounds they shall apply to the Magistrate, who will investigate their cases and if he deems it necessary the Magistrate can allow them to use certain portions of veld for fixed periods, in the meanwhile.

Article 60.

Missionary Heidmann is still allowed for this year to graze all his stock on the village grounds.

Article 61.

Certain portions of veld will be marked out for stock grazing on the place.

Article 61A.

Law Against Lung Sickness.—In animals in the village of Rehoboth and in the veld adjoining as far as Rehoboth extends; should any burger traveller or stranger bring cattle on to the land specified above which have been in contact with lung sickness or are suffering therefrom, or are suspected of suffering therefrom, with the result that animals belonging to a burger or "bywoner" are infected, the Magistrate has the power on the evidence of two witnesses to impose very heavy fines on such burger, traveller, or stranger.

Article 62.

When a person suspects that an infectious disease has broken out amongst his cattle he is compelled to notify his nearest neighbours.

Article 63.

Law Regarding Strangers and "Bywoners": All strangers and bywoners living in the Rehoboth territory are to observe the laws of the bastards at Rehoboth.

Article 64.

Law Regarding Gardens and Lands on the Place: Any person who has made a garden or a land on the place shall enclose it with a hedge five feet high and if made of branches three feet wide or if of stone two feet wide and should any cattle or small stock break into it, the owner of such garden or land can lodge a complaint. If any case is brought before the Court with regard to which laws have not yet been made the case shall be decided by the judges and their decision on the case entered into the Lawbook.

Rehoboth, 1st January, 1874.

Signed by

H. VAN WIJK, Captain.
C. VAN WIJK, Councillor.
AFRIKA IZAK.
JACOBUS BEUKES.
PAUL DIERGAARD.

REGULATIONS WITH REGARD TO MASTERS AND SERVANTS.

In all cases where possible a contract should be drawn up between Master and Servant in the presence of witnesses preferably members of the Council. If the servant is hired for a certain time for instance for a month or a week or he is hired to do a certain work, it is not necessary to stipulate on the contract regarding notice but when the contract was made for an indefinite period the following rules will indicate what notice is to be given:

I. If the contract is made for less than a month, one week's notice shall be given by the party who wishes to discontinue the contract.

II. If the contract is made for one month or more, one month's notice shall be given except in the case where the Master desires to dismiss his servant at once when he shall give him a weeks pay in lieu of notice. In the event of a servant neglecting his duties and doing damage to the master, or if he is guilty of disobedience and rudeness to his master, mistress or their children or to one placed over him or leaving the service without giving due notice or neglecting to carry out duties assigned to him the servant shall, if found guilty, be fined a sum not exceeding ten shillings sterling, for the first offence and for every further offence the fine shall be doubled or he shall receive not more than 20 lashes. In the event however of the servant causing damage to his master through negligence etc. he shall be fined a sum in proportion to the damage done and in addition shall be given corporal punishment. The instrument of punishment shall be an "ossenstrop."

In Cases Originating from the Purchase by Europeans of Lost or Stolen Stock.

Any person shall have the right to take back from a trader or other European any animals stolen from him and sold to such persons provided that he proves that the animal belongs to him and that he has taken all possible steps to find the thief to bring him to justice. In the event of any animal lost or stolen notice shall at once be given of the fact together with a full description of the animal to the traders and Europeans in the neighbourhood.

No person shall have the right to take from a trader any animal which has been lost through the owner's or his servant's negligence and bought in good faith by the trader.

EXHIBIT "Y."

Translation from German.

Windhoek, 18th January, 1910.

From the Imperial Governor of South West Africa.
To the Imperial Magistrate's Office, Rehoboth.

With reference to the Report of 17th December, 1909.

The Ordinance of 30th October, 1908, on the subject of trading with natives on credit, does not only apply to the destitute but also to the well-off natives (*Basters*). It should not only prevent the frivolous and unscrupulous granting of credit by European traders, but if possible, prevent the giving of credit altogether.

It is therefore unlawful if credit is allowed to the well-off *Baster*, even for a small amount. This especially cannot be allowed, considering that the subsequent private execution seems to be the necessary consequence, which is, however, not free from objection. There is no objection, however, if the creditor proceeds from werrf to werrf and collects the amounts due by the *Basters* without using pressure. I however request that a close watch be kept on the actions of the creditors. In case these people should make any representations, it should be pointed out to them specially that they demand payment for unlawful transactions, and that it is really the duty of the authorities to point out to the *Basters* that they have transacted business which is against the law and that they are in terms of the law not liable for payment. I request that also in the future credit business only be allowed, if a refusal would entail an economic disadvantage to the person who obtains the credit. The fact that the *Basters* have up to now been used to let an account with a trader run up to a large amount and then to pay the account with cattle, should not be taken into consideration. Also the natives, and the *Basters* especially, should accustom themselves to the circulation of ready money, to payments in cash.

Should any difficulty arise in the private collection of debts, it will be necessary to interfere.

Assistance or pressure from the side of the authorities must be avoided absolutely, as it is one of the principal purposes of the Credit Ordinance that no co-operation by the Administration in the collection of debts from natives may be given.

By order:

EXHIBIT "Z."

Translation from German.

Imperial Governor of South West Africa.
No. 11730.

Windhoek, 17th May, 1907.

It is requested that the District officer will urgently report, in how far Art. 4 of the Ordinance, regarding the importation of fire arms and ammunition in South West Africa, dated 29th March (Kolonialgesetzblatt 11, p. 334) is understood and carried out there.

Where the issue of a permit to non-natives to import fire arms and ammunition for private use in terms of Art. 2 of the Ordinance has been reserved to the District officer, this will even more apply to the issue of the official permit required in terms of Art. 4. It appears however that in some districts it is left to the police to issue permits for the issue of fire arms and ammunition to natives.

The report will also specially state to what extent and on what principle, the authority to allow the issue of fire arms and ammunition to natives is exercised.

By order

(Sgd.) HINTRAGER.

To the Imperial Officer,

EXHIBIT " A 1."

File V. 2 a. vol. 1 handed in, (page four of second part of evidence) is a file entitled " Kolonialgesetzgebung " and contains *i.a.* a list of laws applicable to natives. The " military affairs " referred to in the evidence is the Treaty between the Governor and the Rehoboth Captain, of 26.7.1895 handed in as Exhibit " H I " on page 9 of the second part of the Evidence.

EXHIBIT " B 1."

A " Record of criminal trials "; the original has been returned to the Magistrate of Rehoboth. The book is a " convictions register ", and includes the names of Bastards sentenced to various terms of imprisonment by the Rehoboth District Office.

Translation from German.

EXHIBIT " C 1."

Ordinance regarding Cattle Diseases.
 Distribution and Object of Police Force.
 Rights and Duties of the Police.
 Training and Service of the Police.
 Ordinance regarding the shooting of game.
 Ordinance regarding the Conservation of Forests.
 Ordinance regarding Forest—and Veld-fires.
 Sales in Execution.
 Ordinance regarding the Taxation of Peddlers.
 Ordinance regarding the Importation of Spirituous liquors.
 Ordinance regarding Pound and Pound-kraals
 Ordinance regarding Wheel tax.
 Ordinance regarding the Control of Natives.
 Control Ordinance.
 Pass Ordinance.
 Servants Ordinance.
 Examination of Witnesses.

EXHIBIT " D 1."*

Copy.

Office of the Administrator,
 Windhoek,
 16th May, 1922.

The Secretary for South West Africa,
 Windhoek.

Bastard Boundary Commission.

With reference to your minute No. 3263/2 dated the 9th February last, the following is the report of a Commission appointed by His Honour the Administrator to enquire into and report upon the boundaries of the *Bastard Gebiet* and to adjudicate upon the claims preferred by the *Bastard Raad* to certain land which they allege was unlawfully taken from them by the German Government.

The Minutes of the proceedings of the Commission (numbered 1) with annexure marked A-E, are attached for your information.

We propose dealing first with the boundaries of the *Gebiet* and then with the claims of the *Bastard Raad* to government and privately owned land and buildings lying within those boundaries.

It will be seen from the proceedings and from the map attached thereto that the Bastards lay claim to a tract of country more than twice the size of the territory occupied by them under German rule and that this includes a large number of privately owned farms as well as a vast extent of Crown Land.

In support of this claim they produce an original Proclamation by Maharero Tyamusa paramount Chief of Damaraland of which annexure " A " is a copy. This document which bears no date nor place of execution may be evidence of a grant of land to them by Maharero, but not of the boundaries of the area which they claim.

We have not been able to trace amongst the old German records any evidence in support of this claim or that it was even put forward, though there is no doubt whatever that as the result of various petty wars with neighbouring tribes and particularly with Jonker Africander the *Bastards* at one time actually held a larger extent of territory than they now do. We feel, however, that the scope of our enquiry on this particular point is limited to whatever rights they enjoyed at the time of the occupation of this country by the Union troops; besides which, it would be extremely risky and unsatisfactory for us at this stage to go into questions which arose in those far off days and in regard to which the

* For marginal note by Administrator, see p. 182.
 C. C. 41—'26 1

persons best qualified to give information are either dead or have left this country. To-day we are almost entirely dependent upon *ex parte* statements so that any conclusion reached by us might possibly inflict hardship or injustice upon others. In our opinion this claim is impracticable and should not be entertained.

We find that the present boundaries were fixed in terms of various agreements between the German Government and the Bastard Raad, and it will be observed that in paragraph 3 on page 2 of the proceedings the Bastards do not dispute these agreements nor do they deny their signatures thereto, but say that they were forced by circumstances to sign them. This latter statement may or may not be correct, but the documentary evidence at our disposal goes to show that whenever such questions arose between the German Government and the Bastards the latter were always requested to send their representatives to meet those of the Government at the spot, and the matter was then gone into and usually resulted in the signatures of both parties being attached to the agreements. In 1897 when the boundary along the farms Krumhuk, Haigamas and Goas was under consideration the Bastards received notice to send their representatives to the spot but failed to do so and the line was fixed in their absence but ratified by them in the year following. This is the only instance of that sort that we could find; but we understand that the procedure was in terms of the existing German Law which was introduced in this country by the Imperial Edict No. 1736 dated 7th July, 1887 (Reichs Gesetzblatt No. 26).

We are, however, not prepared to say that the Bastards were not overawed by the Germans in regard to these matters, but must point out that the Germans in their procedure appeared to be acting according to the laws in force in the Protectorate, and that we have not been able to trace an instance of where the Bastards signed a boundary agreement under protest or of any subsequent protest having been lodged by them.

In view of the fact therefore that the boundary of the *Bastard Gebiet* as described in the first schedule to the proposed agreement between this Administration and the Bastard Raad was not only fixed by mutual arrangement between the Raad and the late German Government but also was at the time of the occupation of this territory by the Union Troops still existing and remained undisturbed to date, we are of opinion that the said boundary may be definitely accepted as defining the limits of the *Bastard Gebiet*.

A copy of the schedule referred to is attached for your information, marked No. 2.

With regard to the claims of the Bastard Raad to certain land and buildings lying within the present boundaries of the *Gebiet* and numbered 1 to 9 in the proceedings, we proposed to deal with these seriatim.

No. 1. Gochaganas (para. 4, page 3).—After going through the official records relating to this transaction the Raad was satisfied that it had been paid in full for this farm. Regarding the small piece of extra land fenced in by the owner of Gochaganas it appears that the Bastard Raad had given verbal permission to the owner to carry the fence over their ground without however surrendering their title to the area so cut off. No record can be found in any of the files regarding this matter and the position would clearly be that the Bastard Community still has every claim to the ground so cut off. Legally the Bastard Raad could claim as the property of the Community any portion of the fence erected by the owner of Gochaganas on their ground. Considering the small extent of the area in question it is doubtful whether a re-survey of the boundary would warrant the expense.

No. 2 Farm Marienhof No. 49.—See Minutes of Commission taken on the 27th March 1922, page 11 para. (a). It appears that the sum of 2650.50 M. is still due by Lisse to the Bastard Community.

No. 3. Farm Wortel No. 54.—For reasons set out in the minutes of the Commission, taken on the 27th March 1922, page 12, para (b), the Commission finds that the Bastard Raad is not entitled to claim payment for the additional 145 hectares of land.

No. 4. Farm Ibenstein No. 55.—As will appear from the Minutes of the Commission recorded on page 12, para. (c) and page 13, there is still an amount of 653.75 M. due by Iben, i.e. 558.75 M. to the Bastard Raad and 95 M. to the Government.

No. 5 Debt Farms.—The Bastard representatives expressed themselves satisfied that the documentary evidence produced by the Commission proved that their contention regarding land handed over to certain creditors is wrong. See page 4 of Minutes para (5).

No. 6 Railway track. North—South. (para. (6), page 5).—From records scrutinized by the Commission it is clear that this matter was finally settled between the late German Administration and the Bastard Raad and that compensation was granted the Bastard Community to the extent of 1,500 M. After all documents relative to this matter were produced to the Bastard representatives their claim in this connection dwindled down to a contention that the compensation given them was insufficient. The Commission is of opinion that as the Raad had signed the agreement (*vide* Annexure E) in regard to this compensation they cannot now raise the question. We feel however that their request that the railway line passing through the *Gebiet* should be fenced in is a reasonable one and we suggest that either this be done, or a higher rate of compensation be paid them for animals killed on the line. Their complaint as to the high rental charged them by the Railway Administration for a siding and a dumping site in their own territory is one which should receive the consideration of the Administration.

No. 7. Rehoboth Branch Line (para. (7), page 5).—There is nothing on record to prove that permission to build this line was ever obtained from the Bastard Raad. The Bastard representatives state that permission was never given by them to build this line, they were

very much opposed to the building thereof, but the Germans ignored them and the line was laid down by the late German Administration. In a letter dated the 21st January, 1913 (Annexure E. 2) from the Bezirksamtman at Rehoboth to the Administration it is stated that he, the Bezirksamtman had experienced a lot of trouble with the Raad *re* this line. When the question of compensation for the ground taken up for the Rehoboth Station was brought up the German Government decided to pay the *Bastard* Community the sum of 900 M. as compensation. The Bezirksamtman at Rehoboth thereupon wrote to the Government and for certain reasons suggested that the amount of compensation be raised to 1,500 M. To this the Government agreed, *vide* Minute to the Bezirksamtman dated the 26th March, 1913 (See Annexure E.) It will be clear that the increased compensation was to have included the Rehoboth branch line. The final agreement between the Germans and the *Bastard* Raad, however, makes no mention of this branch line and the 1,500 M. compensation would therefore only have been in respect of the North—South line. It is quite clear from the German records that the Government not only recognised the right of the *Bastards* to claim compensation for the tract of land traversed by the line, but also admitted its liability for the payment thereof.

The Commission is of opinion that in regard to this particular claim, the present Administration is under a moral obligation to the *Bastard* Community.

No. 8. Houses and Land (para. 8 page 5).—The *Bastards* claim by right of conquest certain land and buildings in the *Gebiet* owned by the German Government when hostilities broke out in 1915. This claim includes such buildings as the Court House, Gaol, Police Camp and Magistrate's Residence in Rehoboth, the Police Stations on the farms Gosorobis and Schlip as well as the farms Zandputs, Areb and Bullsport. They never at any time exercised effective occupation of this property but contend that they could have burnt down the houses during the campaign and that there was no one to stop them from doing so. Effective occupation is an essential to a claim by right of conquest and it would seem from the evidence taken by Colonel de Waal in 1915 that at the time of outbreak of hostilities between the Germans and the *Bastards* the latter practically evacuated Rehoboth and only returned after the Germans had retired before the oncoming Union Troops. The farms Zandputs and Areb were sold by individual *Bastard* Burghers to the German Government with the consent of the *Bastard* Raad. In the case of Areb the full amount of the purchase price was paid but there is an amount of 253.75 M. due to Hermanus and Neels Klasse by the German Government in respect of Zandputs. Bullsport is the property of the Government and has since been disposed of under the Land Settlement Proclamation. As stated above there is no obligation upon the part of this Administration as successor to the late Government to pay the debts due by it.

No. 9 Isabis (para. (9) page 6).—In regard to this claim it appears that the German Government ultimately admitted that the *Bastard* Raad was right, *i.e.* that ca. 2,300 hectares of the *Bastard Gebiet* (Doornboom Vley) had been surveyed into the farm Isabis and agreed to compensate the *Bastards* by paying them the sum of 690 M. and giving them ground elsewhere. "The money was never paid and the ground which the German Government selected for the purpose stated above was that adjoining Heigamas, an area which was then already under dispute. The Commission therefore finds that no compensation has been received by the *Bastard* Community for the 2,300 hectares in dispute at Isabis, an omission for which the present Administration cannot accept responsibility and is unable to redress."

In further connection with this, the Commission may mention that a subsequent inspection of the disputed boundary was made by a *third* Surveyor, *viz*: Surveyor Kruger and from a report submitted by him it appears that he upholds Surveyor Schaefer's finding, *i.e.* that no encroachment was made upon *Bastard Gebiet*. The fact is that the north-western boundary of the *Gebiet* was very vaguely described in the agreement of 1898. Beacons were however subsequently erected by the German Government and the boundary line as fixed thereby must stand. We however, beg to suggest that a Surveyor be instructed to inspect and report upon the north-western boundary of the *Bastard Gebiet*.

No. 10. Farm Khos (page 16 of Minutes).—Secretary Maasdorp on behalf of the Raad claimed 4,549 hectares of the farm Khos at the final meeting of the Commission. The particulars upon which this claim is based will be found on page 16 of the Minutes. A reference to the Deeds Office records showed that the farm was registered in the Grundbuch on the 24th April, 1915, in the name of Carl Peeken, with an extent of 11,549 hectares. The notice calling on objections was advertised up to the 3rd February, 1915, and a certificate of Substituted Title was issued to Peeken on the 22nd September, 1920. There are three Mortgage Bonds registered against the property, *viz*:—

15/12/1914	...	15,000 M.	in favour of	Lanwers.
15/12/1914	...	7,000 M.	"	Panzlaff.
22/9/1922	...	£2,750	"	Ettmann & Co.

It will therefore be clear that the claim of the *Bastard* Community has not been secured and that there is little or no chance of recovering the debt.

Regarding farms sold to Europeans in respect of which certain payments are still to be made to the *Bastard* Raad, the Commission wish to bring to the notice of the Administrator that during the German regime it was customary for the Government in all such transactions to take care of the interests of the *Bastard* Community and the Bezirksamtman at Rehoboth was responsible and had to see that the *Bastards* were fairly dealt with and that they received their due. Since 1910 payments for farms sold by the *Bastards*

with the consent of the German Government had to be made with the *Bezirkskasse* and the *Bezirksamtmann* in turn paid the money over to the Bastards. It must therefore be considered right and proper for the Bastard Raad to bring their complaints regarding such outstanding matters to the notice of the Administration and to seek redress through that channel, and in the opinion of the Commission, the Administration should, as far as possible, assist in the matter of recovering such outstanding amounts, plus interest on behalf of the Bastard Community, without, however, accepting responsibility in the event of non-payment by the debtors.

As will be seen from the proceedings, all points raised by the *Bastards* representatives bear on matters dating from before the war and prior to our occupation of the country. The Commission wishes to emphasize the fact that not a single point or matter raised on their behalf before the Commission had any bearing or in any way brings into question the actions or policy of the present Administration in respect of matters touching the welfare of the *Bastard* Community. The *Bastards* as a Community have undoubtedly suffered considerable losses during the late war, deservedly or undeservedly, and have on that account experienced a setback under which they are to-day still labouring.

While it is impracticable and impossible for the present Administration to entertain and give effect to their desires in respect of grievances, real or imaginary, which they may cherish against the late German Administration, the Commission desires to recommend as an act of grace and proof of the sincerity of our Government towards their Community that the farm *Zandputz* in extent 8,877 hectares be given them and that the Government relax all claim to Government buildings erected and existing on the farms *Schlip* and *Gosorobis* in favour of the *Bastard* Raad. This would more than fulfil the moral obligation of this Administration in respect of the trolley line and at the same time afford a certain measure of relief to the *Bastard* Community.

As will be seen, from the map, the farm *Zandputz* is situated close to the village of Rehoboth and in the opinion of the Commission it would not be desirable to allot it to a European settler.

(Sgd.) HARRY DREW (Chairman).

" M. J. DE JAGER.

Members of the Boundary Commission.

(Sgd.) ALBERT MOUTON.

Signed subject to the contents of the Minority Report of 13th May, 1922.

As Witnesses:

1. F. W. Maasdorp.
2. Malcolm McNab.

Copy.

Bastard Boundaries Commission.

Rehoboth 20th March, 1922.

Proceedings of a Commission appointed by His Honour the Administrator to enquire into and report upon the Boundaries of the *Bastard Gebiet*. This Commission met at Rehoboth on Monday the 20th March, 1922.

Present as representatives of the Administration of South West Africa:—

H. Drew, Chairman.

Col de Jager, D.S.O.

F. Minder, clerk in charge of German records.

As representatives of the *Bastard* Raad:—

Albert Mouton, Acting Captain.

The full Raad with the exception of Captain Cornelius van Wyk and Dirk van Wyk was present as follows:—

Pieter Mouton.

Malcolm MacNab.

Piet Beukes.

Jan Witbooi.

Gert de Klerk.

Gert Cloete.

Mattheus Gertze

and Franz Maasdorp, Secretary.

The Raad agreed that Albert Mouton, the acting Captain should represent it on this Commission.

The following claims were submitted to the Commission by Secretary Maasdorp.

1. That the original boundary of the *Bastard Gebiet* ran from Abbasberg (Regenstein) along the mountain range to the Kuiseb River in a westerly direction and then along the Kuiseb River to Ururas on the southern boundary of Walvis Bay. In support of this claim he hands in a copy of a Proclamation by Maharero Tyamuseta. This is undated. The original forms part of his official records and is stamped with the official seal of Mahahero. The *Bastards* contend that this is their proper boundary to-day.

They say that they were not strong enough to enforce this claim during the late German regime as they were overawed by the Germans and afraid to do so.

He also hands in a copy of a declaration by Dirk van Wyk whom he said is too ill to attend. Further, he says that Mattheus Gertze can give evidence as to this particular boundary claim.

Maasdorp further claims on behalf of the *Bastard Raad* that the boundary runs from Ururas in a southerly direction to Sossus Vley and thence in an easterly direction along the Tsauchub river (Sessriem) towards Neuras, more or less, and thence towards the Fishriver and along this river eastwards to Kuis. From here it takes a northerly direction over Lekkerwater and thence along a line parallel to and five miles east of the banks of the Schaaprivier to the farm Dordabis and from there to the north easterly point of the Auas mountains and then a westerly direction to the original point of Abbasberg. He says that this was the original boundary of the *Bastard Gebiet* and that the *Bastards* claim was to have all the ground within this defined area returned to them. He said "We do not dispute that various boundary agreements between the German Government and ourselves have from time to time been entered into, nor do we deny our signatures to these agreements but we say that we were forced by circumstances to sign them."

At this stage it was pointed out to the *Bastard Raad* that this Commission was appointed to enquire into and report upon the disputes regarding the boundaries of the *Bastard Gebiet*, and that it proposed taking as a basis the boundaries shown on the existing map of the Protectorate together with the various aforesaid agreements in support thereof.

The claim now put forward by the *Bastard Raad* however, being of such a stupendous nature seeing that its object is to annul all existing agreements referred to above the Commission is of opinion that issues are now being raised which fall entirely beyond its scope.

The impossibility of entertaining such a claim was clearly pointed out to them and they were advised to carefully reconsider the matter and an adjournment was made to 3.30 p.m. to enable them to do so.

The Commission met at 3.30 p.m. All present. The Raad adhered to the claim it put forward this morning and desired that the matter be referred to the Administrator.

In regard to certain farms lying within the boundaries of the *Gebiet* and to internal land matters generally the following claims were submitted by the *Bastard Raad*:—

(1) The farm Gocheganas was sold in August, 1910, to Andries de Wet by the Raad the extent of the farm as sold was 10,000 hectares and the price 3s. per ha. It has since been ascertained that the extent of this farm after it was surveyed was 10,267 ha. and the Raad claims the surplus of 267 hectares. From the records produced the Raad is however satisfied that the full amount of the purchase price with the interest thereon was paid in respect of the farm but maintains that some additional land has been fenced in as portion of the farm and that this land belongs to the Raad. It admits that this was done with its knowledge and permission in order to facilitate the fencing of the farm, but upon the understanding that the land in question was to be given up when required. A demand has since been made for this land but the present possessor refuses to give it up. The Raad does not know the extent of this land.

(2) Farm 49 Marienhof now owned by one Lisse.—This farm was sold by the *Bastard Raad* as being 7,000 ha. in extent. It now appears that upon survey the extent is 8,767 ha. The Raad therefore claims the difference between 7,000 ha. and 8,767 ha. viz: 1,767 ha. All farms in the *Bastard Gebiet* granted to *Bastard* Burghers were 7,000 ha. in extent and those granted to members of the Raad were 10,000 ha. In regard to the farm Marienhof payment was made for 7,000 ha. only at 1s. 6d. per ha.

(3) Farm 54: Wortel.—This was sold by the Raad as being 7,000 ha. in extent and it appears now from the Government records as being 7,145 ha. The Raad claims 145 ha. as it only received payment for 7,000 ha. at 1s. 6d. per ha.

(4) Farm Ibenstein No. 55.—This was sold by the Raad as being 7,000 ha. in extent at 1s. 6d. per ha.

It appears from the Government records that the extent of the farm after survey was 8,157 ha. The Raad now claims 1,157 ha. as it only received payment for 7,000 ha.

At the time of the sale of these farms they were unsurveyed and the arrangement was that when the survey was completed payment was to be made in accordance with the extent.

(5) Debt Farms.—The Raad states that 100,000 ha. of land on their eastern boundary was to have been handed over to certain creditors in payment of certain debts and it contends that the area as subsequently surveyed is far in excess of this extent.

The Commission proceeded to examine the records relating to this transaction and adjourned to 9 a.m. on the 21st March, 1922.

21st March, 1922.

The Commission resumed its sitting at 9 a.m. Dirk van Wyk who was absent on previous day was present, but several members of the Raad were absent.

Special mention was made of the claim of Wecke & Voigts against the *Bastard* Community and it was contended that this firm was fully paid in being given the farm "Kub."

It would appear from the old German records, W. 11 c. 3, Volume 3, pages 47, 48 and 49 that only a portion of the firm's account was paid for by their obtaining Kub and that the balance was settled 13 years afterwards by the firm receiving 12,790 ha. of the [U.G. 41—'26.]

Lekkerwater farms (*vide* record U. 11 B. 2 Vol. 1 page 54). The position as disclosed by records was fully explained to the members of the Raad who expressed themselves as satisfied. The Commission obtained and attached hereto a copy of the report dated 12/9/21 of a previous Commission on the question of the Lekkerwater farms and this explains the position.

(6) The Raad demands payment for ground occupied by the Railway passing through their territory in extent approximately 1,400 ha. for the Railway track and the areas of the station referred to in the agreement of the 11th October, 1912 and 16th May, 1913.

(7) The Raad claims payment for the land on which the trolley line to Rehoboth village is constructed as it maintains that permission for this construction was never obtained and that it was directly opposed to the building thereof. Before its construction members of the Community were able to earn a livelihood by transport riding between the railway station and the village.

(8) The Raad further claims as its property by right of conquest all ground formerly owned by the German Government and situated within the boundaries of the *Gebiet*, i.e. the farms Areb and Sandputz. This claim extends to all Government Buildings within the township of Rehoboth and also to Police and other buildings existing on land the property of the burghers of Rehoboth. In this connection reference was made to a letter received from the Administrator No. 948/3 dated the 3rd May, 1916 (original produced) (Exhibit "C 2").

(9) The Raad also says that when the farm Isabis lying on the border of the *Gebiet* was surveyed it was found that a portion 2,300 ha. in extent fell inside the *Gebiet*. It protested against the sale of this land and the German Government decided to pay the Raad Marks 690 at the rate of 30 pfennig per ha. With this price the Raad was not satisfied as it wanted 1s. per hectare.

From the records at the disposal of the Commission it appears that on the recommendation of the Bezirksamtmann at Rehoboth, the German Government agreed to settle the question of Isabis by paying over to the *Bastards* the sum of Marks 690—at the rate of 30 pfennig per hectare, received from Neumann, and further allowing their claim to 3,000 hectares adjoining Haigamas with the permission to sell this piece of land to farmer Riep. It was then clearly stated that the cession of that certain piece of land was made on condition that the *Bastards* would not bring forward any further claim in respect of the land Isabis, sold to Neumann.

At this stage the Secretary of the *Bastard* Raad intimated to the Commission that the Raad had no further claims in regard to land to lay before the Commission.

The Commission adjourned to 9 a.m. on the 22nd March, 1922.

22nd March, 1922. The Commission resumed its sitting.

Present are the following members of the Raad:—Dirk van Wyk, Olivier, Pieter Beukes, Pieter Mouton and Maasdorp, Secretary of the Raad.

Statement is taken from Dirk van Wyk in respect to their claim to certain 2,300 ha. wrongfully occupied by Neumann at farm Isabis.

Dirk van Wyk states:—

From 1892 to 1905 I was Magistrate of the *Bastards* and member of the *Bastard* Raad. I am still a member of the Raad. When Mr. Neumann took possession of the farm "Isabis"—I don't remember the date—he occupied a portion of the *Bastard Gebiet* adjoining Isabis, known as Doornboom Vley. He built a house on Doornboom Vley. When he was building the house I brought some of his building material on my wagon from Rehoboth station to my farm Kobus. Neumann came there with a cart to fetch this material. I then told him that the place where he was erecting his house was in the *Bastard Gebiet* and not on the farm Isabis. At a distance I pointed him out the boundary beacons of the farm Isabis. He replied that he was only making the bricks. Subsequently I went to where he was camped at Doornboom Vlei and found that he had sunk a well there. I asked him how it was that he had a well there and he replied that he was afraid that the water in the vlei would dry up before he had finished making his bricks. I then informed him that I would report the matter to the Bezirksamtmann and protest against his trespass on the *Bastard Gebiet*. He said nothing but was angry. I came to Rehoboth and reported the matter to the Raad and also to the Bezirksamtmann. The latter replied that he would send a surveyor to the place to ascertain whether my statement was correct. The position remained at this stage until Neumann had completed the building of his house. After this I had a dispute with Neumann about a horse and the Bezirksamtmann came out to my farm. He and I then rode over to Neumann's house on Doornboom Vlei and I pointed out to the Bezirksamtmann the boundaries of the farm Isabis between the *Bastard Gebiet* and that farm. The Bezirksamtmann replied that the matter would be enquired into and a land surveyor sent out to investigate. The surveyor was subsequently sent.

He sent for me to my farm and asked me to come to Doornboom Vlei. Koos Diergaard, a member of this Raad and myself met the surveyor at Doornboom Vlei and the three of us proceeded to the boundary of the farm Isabis. I pointed out the *Gebiet* boundary to the surveyor. The latter then produced a map which he consulted and said that the boundary as indicated by me was correct. He then told me to go home and he would complete the work. He had his instruments with him. I came to Rehoboth and saw the

Bezirksamtman who admitted that my contention as to the boundary beacons was correct, but said that as Neumann had already built a house in the *Bastard Gebiet* he, the Bezirksamtman would give the *Bastards* another piece of ground in place of that occupied by Neumann in the *Gebiet*. I replied: "No we cannot take other ground as that particular piece of ground had already been allotted to one of the burghers." I saw him again at the school later about this matter. Nikolaas Olivier was with me and the Bezirksamtman replied "what I have done I have done." In his office a day or two after this he told me in the presence of the whole *Bastard Raad* that the would compensate the Raad for the ground taken by Neumann in giving it some ground in the vicinity of Haigamas and also give the Raad £150 in compensation. We did not then know what ground he referred to in the vicinity of Haigamas. The Bezirksamtman at that time was being transferred from Rehoboth. Shortly after he left we asked the Secretary about the £150 referred to by the Bezirksamtman. He replied that the Bezirksamtman had left no money for us. The war then intervened and the matter was left unsettled and I only heard yesterday for the first time what land it was that the Bezirksamtman had referred to. As far as I know the Raad never received the £150 in compensation. The piece of ground adjoining Haigamas which I now hear was to have formed part of the compensation to be given to the Raad was that owned by two *Bastard* Burghers Abraham van Wijk and Friedrich van Wijk, and was portion of the *Bastard Gebiet*. In respect of this particular piece of ground the Raad had applied to the German Government for permission to sell same to farmer Riep and this was granted by the Government. The position to-day is that the Raad still lays claim to that portion of the farm Isabis laying in the *Gebiet*.

(Sgd.) DIRK VAN WYK.

The Commission was desirous of taking a statement from burgher Frederik van Wyk who has been sent for and is due to arrive during the course of the day.

It was agreed that in the event of van Wyk not arriving to-day his statement should be taken by the Chairman of the Commission who is remaining in Rehoboth whilst Colonel de Jager and Mr. Minder will return to Windhoek tonight. The records bearing on several points raised by the *Bastards* are in Windhoek and will be investigated by Colonel de Jager.

The Commission accordingly adjourns *sine die*.

(Sgd.) HARRY DREW, Chairman.

„ M. J. DE JAGER.

„ ALBERT MOUTON, Actg. Capt.

„ F. W. MAASDORP, Sec. B.R.

Windhoek, 27th March, 1922.

Commission assembled at Government Buildings at 10 a.m.

Present:—H. Drew, Col. de Jager, D.S.O., Mr. Minder, Acting Capt. Albert Mouton and Secretary Maasdrorp.

The following further evidence was taken:—

Karolus Swart states: I was a member of the *Bastard Raad* from 1894 to 1915. During this period I was Onder Kapitein. An Onder Kapitein represented the Captain of the *Bastards* in most matters relating to the *Bastard Gebiet*. I know the boundary at Isabis. I cannot give the year in which the question was brought up, but I was present when a Land Surveyor of the German Government fixed the beacons of the boundary farm Isabis. According to his beacons the farm Doornboom Vley was excluded from the *Bastard Gebiet*. I know that the *Bastard Raad* complained to the German Government about these beacons and as a result another Government Land Surveyor was sent out to the spot, and he fixed the boundary of the farm Isabis in such a way that the farm Doornboom Vley fell within the *Bastard Gebiet*. I was present when this surveyor pointed out the beacons of the farm Isabis. The farm Isabis was granted by the German Government to a farmer named Neumann and he built a house, sunk a well and made a dam on the farm Doornboom Vley in the *Bastard Gebiet*. The *Bastard Raad* objected to this and the Bezirksamtman pointed out to the Raad that it would be impossible for Neumann to give up Doornboom Vley as he had made so many improvements thereon. The Bezirksamtman then offered the Raad some money—I think £32 but I am not certain—and some ground in compensation for Doornboom Vley, but I don't know where this ground was situated. The Raad agreed to accept this compensation but the money was never paid nor was any ground given. The piece of ground at Haigamas in dispute was sold to farmer Riep with the permission of the German Government in 1913. I was present when Land Surveyor Kruger pointed out the beacons of this land which we had sold to Riep. I represented the Raad on that occasion. Riep was also present. I never at any time heard that this ground was intended as compensation for Doornboom Vley.

(Sgd.) C. SWART.

The following claims advanced by the *Bastard* Raad were investigated by the Commission, the results of which are recorded hereunder:—

(a) Farm Marienhof No. 49, District Rehoboth (see Minute of Commission on page 3, paragraph 5). This farm was sold by the *Bastard* Raad to farmer Lisse—*vide* Deed of Sale dated the 31st March, 1910. The area sold was 7,000 hectares and the usual proviso regarding any difference less than 5 per cent. was included in the agreement. After survey of the farm the extent was proved at 8,767, *i.e.* 1,767 hectares more than the area sold. On 19/12/1913 Lisse was informed of the result of survey and it was decided that he should pay for the surplus of 1,767 hectares at the rate of 1.50 M. per hectare, *i.e.* the sum of 2650.50 M. The records do not disclose that any payment was made and it must therefore be taken that the amount is still due by Lisse to the *Bastard* Raad. In connection with this matter Secretary Maasdorp informed the Commission that Lisse had admitted this indebtedness.

(b) Farm Wortel No. 54, District Rehoboth (See Minutes of Commission, page 4, paragraph 2). According to the Deed of Sale dated the 11th August 1910 the farm Wortel was sold by the *Bastards* to certain G. Redecker at 1/25 M. per hectare. The farm was unsurveyed, but the extent of the area sold was ca. 7,000 hectares and the purchase price was fixed accordingly at 8,750 M. Paragraph 3 of the Deed of Sale specially provides that if after the survey the difference between 7,000 ha. and the actual size of the farm is found to be less than 5 per cent. the purchase price will remain unaltered. The actual size of the farm proved to be 7,145 hectares the difference being 145 hectares only and less than 5 per cent. The *Bastard* Raad is therefore not entitled to payment for the additional 145 hectares. (Lands Department File 2015).

(c) Farm Ibenstein No. 55 (See Minute, page 4, paragraph 3.) This farm was sold by the *Bastards* to farmer Iben in 1907. According to the Deed of Sale, dated the 18th July 1907, 7,000 hectares of certain land was sold for the sum of 12,000 M. The farm was unsurveyed, but three of the boundaries were defined in paragraph 2 of the Deed of Sale, the Southern boundary was not fixed but had to be so surveyed as to bring the extent of the farm to 7,000 hectares. According to the records examined by the Commission (Lands Department File 2415), the actual size of the farm after survey was completed was found to be 7,745 hectares. Mr. Iben was duly notified that the farm had been surveyed and that the extent was in excess of what he actually purchased and it was decided that he should pay for the additional 745 hectares at the rate of 1.75 M. per hectare, *i.e.* the sum of 1303.75 M. To this Mr. Iben agreed and the first instalment of 650 M. was effected on 20/6/1910. Of the 1303.75 M. it appears that 745 M. had to go to the heirs of certain Engelbrecht, while the sum of 558.75 M. had to be paid into the *Bastard* Community Fund by direction of "K. Swart", Member of the Raad. The sum of 650 M. was paid out on behalf of the heirs on 20/2/1911, signed for by K. Swart, the guardian (of) Leeman and Petrus Engelbrecht and on 8/6/11 the balance due to them (95 M) was paid out of the *Bezirk*skasse and signed for by K. Swart and Petrus Engelbrecht.

It further appears from the records that on the 20th February 1911 the balance of 653.75 M. which became due on 1/1/11 was still unpaid by Mr. Iben. He was then called upon to pay over this amount and there are records of subsequent reminders, but there is nothing on record to show that the money was ever paid in by him. As already stated 558.75 M. had to be paid into the *Bastard* Community Fund for public purposes, when the money was received from Iben, while the balance, *i.e.* 95 M. would probably have gone to reimbursing the *Bezirk*skasse for the amount paid out on 8/6/1911.

The Chairman handed in the statement of Frederich van Wyk taken by him at Rehoboth in the presence of Albert Mouton and Secretary Maasdorp. It is marked D. (1-2).

Claim No. 6. (para. 2, page 5 of Minutes). In regard to this claim the position as disclosed by Annexure E (1-13) was discussed by the Commission and the representatives of the *Bastards*. Acting Captain Mouton and Secretary Maasdorp merely remarked upon the low rate of compensation which was paid to the Raad by the German Government. They complained however that since the occupation of this country by the Union troops they had lost a large number of stock killed on the line and wanted the Administration to fence in the line throughout the *Gebiet*. They mentioned that on one occasion six head of cattle had been killed by a train and that they had only received £4 in compensation and also that upon another occasion they were paid £2 for an ox so destroyed.

They also complained of the high rents charged them for a siding at kilo. 105 in the *Gebiet* of £4 11s. 6d. per month and a stand site of £3 5s. 0d. per month.

Claim No. 7. (para. 3, page 5 of evidence). In addition to the reasons already given on page 5 of the evidence the Raad complains that the trolley line cuts through several erven at its entrance to the village of Rehoboth and renders these erven practically useless for occupation purposes. The representatives present were unable to say what amount of compensation the Raad would be prepared to accept for the ground occupied by the line, but state that the Raad were prepared to take over the running and maintenance thereof.

Claim No. 8 (para. 4, page 5 of evidence). In regard to this claim, the representatives of the *Bastard* Raad were asked if they had anything further to advance in its support and they contended that if the property they claimed was handed over to them it would to some extent compensate them for the severe losses sustained during the late campaign.

They state that their claim does not include the Elizabeth House in Rehoboth and that the only ground purchased from them by the German Government was the site upon which the prison now stands. In regard to the farm Zandputs they say that it was bought from the Raad by the German Government but not paid for in full and that there is still owing by the Government a sum of £34 10s. 0d. due to Niels Klasse whilst Hermanus Klasse has not been compensated for a dam which he made upon the farm. If the farm is returned to the Raad by this Administration, it will be prepared to pay out these claimants. The farm Areb was sold to the German Government and paid for in full. Regarding the Police buildings mentioned in this claim (No. 8) they say that they refer to those on the farm Schlip and Gosorobis, and that these buildings are not being used by this Administration but are being occupied by the owners of the farms. They claim also the farm Bullsport which was purchased from them by the German Government.

At this stage Secretary Maasdorp on behalf of the *Bastard* Raad laid claim to 4,549 hectares of the farm Khos or to payment therefor. The position appears to be this. A German named Peekem married a *Bastard* woman who was a member of the *Bastard* Community of Rehoboth and who was entitled as such to 7,000 hectares of land in the *Gebiet*. He obtained authority from the German Government for the transfer of this land which he called Khos to his name. Upon survey it was found that the area of the farm was 4,549 hectares in excess of the 7,000 hectares to which he was entitled. A deed of sale was entered into between Peekem and the *Bastard* Raad in paragraph 3 whereof it was stipulated that Peekem should pay the Raad 4,549 M. for this excess area. In paragraph 5 of this deed it was laid down that the purchase price had to be paid in one sum to the Bezirksamtman's office in Rehoboth as soon as the approval to the Deed of Sale had been received from the Governor. This approval was obtained on the 25th July 1914, but payment has not yet been made nor have the other provisions of the Deed of Sale been complied with. Furthermore, on the 28th August 1914 a writ was issued against Peekem for the payment of 4,776 M. 63 pfennig transfer duty and 37 M. 60 pfennig costs and interest as from 1st October 1913 and the German Government gave instructions that this interdict be registered against the property in the Grundbuch and Land register.

Translation from Dutch.

ANNEXURE "A" TO EXHIBIT "D 1."
PROCLAMATION.

I, Maharero, Supreme Chief of Damaraland, on behalf of myself and Under Captains, hereby declare that the boundaries of my country are as follows:—

- (1) In the North, the whole of the Kakao Territory as far as the Coast.
- (2) In the West, the Tsoachaub and the Omaruru Territory as far as the mouths of these rivers.
- (3) The Kuisib Territory as far as Ururas.
- (4) In the South, the Rehoboth Territory which was given by me to my *Bastard* allies, and I hereby strongly protest against all kinds of ownership of land and mineral rights within the abovementioned boundaries which have been or may be bought or received from persons other than myself, as being contrary to all rights and absolutely invalid.

(Sgd.) MAHARERO TYMUTA.

Dictated by Maharero and written by his Secretary, Wilhelm Kaumunieka.
Seal.

Muhona
Munene
ua Ovaherero
Von Hereroland.

ANNEXURE "B" TO EXHIBIT "D 1."

Free Translation from Baster Dutch.

*Proceedings of the Committee at Rehoboth, ex-Magistrate and now Councillor
Dirk van Wijk.*

In the year 1885 the Treaty was concluded between the German Empire, represented by Commissioner Carl Budner, and Captain Hermanus van Wijk at Rehoboth.

In 1889 Hauptman Francois and his Colonial troops occupied Tsaubes. In the year 1890, 18th October, he established Windhoek. At that time the German Government negotiated with our Captain Hermanus van Wijk, in regard to the boundaries. Our Captain Hermanus van Wijk at that time described how the *Bastard* boundary ran in the direction of the Western point of the Auas Mountain and the Northern point of the Auas Mountain, which he had purchased from Abraham Zwartbooi.

[U.G. 41—'26.]

In 1893 war broke out between the German Government and Captain Hendrik Witbooi. Further, Captain Hendrik Witbooi had asked Captain Hermanus van Wijk for equipment when he was driven out of Nauas by the forces of the Hereros, and accordingly equipment was given to him by Captain Hermanus van Wijk at Hoornkraus.

Further, the German Government had said that we must defend our own land, so we were at war side by side with the Germans from Hoornkraus to Naauwkloof in 1894, and lost our leaders, Hans Diergaard, Hendrik van Wijk, Josef Vries, Gert Oorlam and Albert Mouton. Peace was established between the German Government and Captain Hendrik Witbooi at Naauwkloof.

When the German Government returned from Naauwkloof, they requested us to supply soldiers for our own defence. We replied that we could not supply soldiers as we did not understand what soldiering meant, and the reply which we received then was to the effect that it was for the defence of our existence in the territory of Rehoboth. We then asked whose soldiers they would be, and the reply was our own soldiers.

As soon as the first had been drilled, they would be returned to us and others would be trained and returned and so on.

We asked further, whether, in the event of war taking place outside our territory, the soldiers would be called upon to take part, and the reply was in the affirmative. Thereupon we asked what the remuneration of the soldiers would be, and the reply was £1 10s. per month for each soldier, and, in addition, land and livestock booty would be equally shared. In the event of a soldier possessing his own horse, then 6d. per day extra.

In 1895 war broke out against Kahihemima and Nicodemus (Hereros). In this war Flors Smith was killed and Paul McNab was seriously wounded. Both of these men looked forward to the promised booty, but they saw nothing, nor did they receive anything. In 1897 we received a letter from the German Government saying that we must put the boundary right. An authorized deputation of Councillors was sent to Naries, where it was arranged we should meet Governor von Lindequist, but at Naries we learned from a white man there that they had already commenced to survey at Aries before we had come together. The authorized Councillors were Dirk van Wijk, Piet van Wijk and Jacobus Mouton. When I heard this, we rode back to Rehoboth because I noticed that already at the commencement of the survey our ground was being cut out. The former Captain Hermanus van Wijk had authorized the former Deputy Captain Willem Koopman to act on his behalf. We then returned to Gautsoas, where we met each other on the boundary proposed by them. We then noticed what the boundary was meant to be, and did not agree with them. It was at Gautsoas, on our arrival there, that von Lindequist came up to us and asked "Where is your Captain?" Our reply was "He is at Duruchaus. He is ill." He then spoke as follows: "Your Captain must not think that I came from Germany to be a 'Bamboes' to him. The last sentence he spoke to me was 'Ride after the two Lieutenants that they shall not take your farm Kobus.'" He then returned to Windhoek. From Gautsoas, Willem Koopman and I followed von Lindequist, because, as I said to Willem Koopman, the affair was not in order, let us follow him. We overtook him at Kurumanas. He asked us why we followed him, and I replied that the affair was not in order. He asked me in which manner the affair was not in order. I replied that in 1896 you completed the boundary, and it only remains for me to see. In reply to this statement of mine, we received a letter from Windhoek, intimating that if anyone should again say that the boundary was not correct he would be punished by the Court—severely punished. In 1898 we were appointed to meet at Nauchas. I was empowered to act in place of the Captain. When I arrived there I was asked by von Lindequist where the Captain was. I then showed him my credentials. Mr. von Lindequist deputed a Lieutenant to show me how the boundary ran to and from a certain conical hill, and here the Lieutenant and I misunderstood one another and parted. I was asked by the Governor what the misunderstanding was, and I told him that it was in connection with the boundary. The Governor then directed that the whole Commission should go to Schlip, where everything would be put right and completed. Accordingly all the creditors went there and everything was completed. In regard to the Western boundary, however, we were not satisfied. When Windhoek was laid out, the *Bastards* received permission to obtain two or more spans of oxen each and to pay for them by means of transport-riding.

In 1897 the rinderpest broke out and all the cattle died therefrom, and the Burgers got into debt. I was empowered, in the name of the Captain, to put everything right. I was, therefore, compelled to give up some farms along the Vischriver, such as Gras and Kub, to the creditors in payment of the claims. That was in the year 1898. The Germans contested us and said that our boundary ran down the Narobriver. I told them that the boundary ran down the Bloemvischriver. In consequence of their assertion that the boundary ran down the Narob, they took from us the farms Witkobos, Zwartkobus and Springbokhaar. I told them that I could prove that our Southern boundary ran along the Bloemvischriver. I had a letter from Governor von Lindequist. Our Magistrate, Mr. Hulzer, asked me in the presence of Magistrate Maltahöhe, a Chief Surveyor and another surveyor to prove to them that the boundary ran along the Bloemvischriver. When

we reached a certain conical hill on the boundary, I, at the request of our Magistrate, Hulzer, took out my paper and showed it to them. Magistrate van Maltahöhe then replied saying, " *Bastards*, you are right, but what are we to do now? The Government has already sold the farms to the Germans, and they have already been registered in the land register." The Councillors who were present were Karolus Zwart, Piet Beukes, Pieter Mouton and Piet van Wijk and myself, as the substitute of Captain Hermanus van Wijk.

In 1898 our soldier-children went to Grootberg to the war against the Zwartbooi Tribe under the promise that all booty, such as land and livestock would be equally divided amongst them, and of the payment, in addition, of £1 10s. per month and the 6d. per day for their horses. Up to the present they have not seen anything of the promised booty.

In 1903 they went, under the same conditions, to the war against the Bondelzwarts, and again, in 1904, against the Hereros, but they have seen nothing either. From the Orange River, where they fought against the Bondelzwarts, they marched to Damaraland to fight against the Hereros. They did not pass through Rehoboth to say goodbye to their wives and mothers, but trekked over Kobos to Damaraland. Four of them remained there; three died of illness, viz., Adrian Diergaard, Johannes van Wijk and Hendrik Beukes, and the other, Christoffel Klazen, died of typhus fever. Adrian Diergaard and Christoffel Klazen were married, but their wives received nothing under the booty promise. The parents of Johannes van Wijk shared the same fate. The reward was that in the last war against the Union Government our soldier children were ill-treated, and one of them was shot like an ox through the head. His name was Petrus Beukes, and it happened at Zandputs.

P.S. I may state that I remark in conclusion that our soldier children here and there received some of the promised booty in the form of livestock, but no ground whatsoever.

P.S. At the last meeting with Governor von Lindequist I had with me at Nauchas, Councillor Zwart Jacob Mouton, who is still alive.

ANNEXURE "C 1." TO EXHIBIT "D 1."

Copy.

2/2/21/9.

Rehoboth,
12th September, 1921.

Boundary Commission: Rehoboth.

A Commission having been appointed by His Honour the Administrator to inquire into and to report upon the boundaries of certain farms situate on the Eastern portion of the District of Rehoboth which adjoins certain portions of the *Bastard Gebiet*.

The Commission is constituted as follows:—

Chairman:—Major C. M. S. Forsbrook, Acting Magistrate for the District of Rehoboth.

Members:—Col. M. J. de Jager, D.S.O. and Mr. Samuel Beukes, a *Bastard* Burger, nominated by the *Bastard Raad*.

Pursuant to order the Commission duly assembled at the farm "Lekkerwater" in the District of Rehoboth, on the 31st July, 1921. Witnesses were heard and the original beacon was pointed out. This beacon appeared to be a fixture and no satisfactory evidence was adduced to prove that it had been altered, removed or in any way interfered with. It was there(fore) decided to examine the records at Windhoek.

On the 6th September, 1921, the Commission again assembled and at the office of the Lands Branch Department, Windhoek, the records were produced and it was found that per agreement dated 12th June, 1911, and signed by Holcher, Bezirksamtman, Rehoboth, Jan Beukes, S. Beukes, K. Zwart, Pieter Mouton, and W. Koopman, the area (affixed by the Raad) assigned by the *Bastard Raad* comprised a total of 107,006 ha. approximately as follows:—

Martens & Siechel	25,000	ha.
Martens & Siechel	5,844	"
Martens & Siechel	29,437	"
Wecke & Voigts	12,247	"
Gläubiger Vereinigung	10,706	"
Gläubiger Vereinigung	10,011	"
G. Weise	7,140	"
G. Mertens	6,621	"

107,006 ha.

Whereas the ground actually surveyed and taken over comprised:—

	Hec.		M.
G. Weise No. 62	7,170		
G. Mertens 63	6,606	82	80
Vereinigste 64	6,298	17	78
Gläubiger 65	9,989		
Farm 142	5,854	74	90
Lekkerwater 142	24,882	86	97
Lekkerwater 144	29,733	20	29
Lekkerwater 145	12,790	76	49
Ver: Gläubiger 146	3,711	89	12
	107,037	48	35

According to these figures the former authorities actually took over some 31 hectares over and above the number assigned to them by the *Bastards*, but a margin of 5 per cent. each way was allowed for in the survey, it therefore follows that this overplus cannot be considered.

Mr. S. Beukes moved, at the request of the Raad, that the Enquiry adjourn *sine die* in order that the Southern beacons can be inspected and examined by a committee appointed by the Raad, that this inspection cannot take place until after the rains.

The motion was agreed to and the Enquiry adjourned accordingly.

(Sgd.) C. M. S. FORSBROOK
Chairman.

Members:

M. J. de Jager.
S. Beukes.

ANNEXURE " C 2." TO EXHIBIT " D 1."

Copy.

Office of the Administrator
South West Africa,
1st May, 1916.

Captain Cornelis van Wijk,
Chief of the *Bastards*,
Rehoboth.

I am in receipt of a communication from the Military Magistrate, Rehoboth, in which he states that in discussion with the Raad the Members of that body informed me that they are most anxious to come to a complete understanding with the Administration with regard to loot matters and that notwithstanding that your people consider they have a just claim to the captured goods of the enemy with whom they were at war, they are willing to return everything which was taken from private owners during the hostilities between your community and the Germans in April and May last. In this connection I should like to point out to you that in warfare one of the first rules is that private property must be respected, and that it may not be confiscated or looted, so that your people should understand that they have no legal claim to the property of individuals. Property captured from the German Government, on the field of battle is, however, another matter.

I am aware that very serious wrongs were committed against your people by the German troops in April and May of last year, and that a considerable amount of livestock of yours was captured and destroyed by those troops. As already explained to the Raad, it is the intention of the Administration to make good, as far as possible, by the issue of other livestock, all *bona-fide* losses which were so suffered by your people, and I will, accordingly, appoint a Commission to deal with the matter. I feel assured of the cordial co-operation of yourself and Raad.

Major Rosseau will explain to you that it will be necessary for us to have the temporary use of one or two farms, and some hands to look after the cattle.

(Sgd.) E. H. L. GORGES
Administrator.

ANNEXURE " D " TO EXHIBIT " D 1."

Copy.

Frederick van Wyk states: I am one of the Rehoboth *Bastard* burghers and am 64 years of age. I was born in the district of Calvinia, Cape Province. I came to this country in 1881 through Warmbad and Grootfontein (Maltahöhe). I resided in the village of Rehoboth from 1881 to 1895. In 1895 I was granted the farm Goas by the *Bastard* Raad. In 1897 the year of the rinderpest I left my farm Goas and went to Walvis Bay doing transport riding for the Germans. At that time Surveyor Wittsteen erected beacons along a line

which included most of my farm in German Territory and I was present in Rehoboth when Surveyor Wittsteen told Capt. Hermanus van Wyk that these were temporary and not final beacons. When I returned from transport riding in 1898 I found that the greater portion of my farm had been cut off by these beacons and was in German territory and not in the *Bastard Gebiet* and that the remainder of the farm was of too small an extent to enable me to carry on farming. This was when the Governor von Lindequist had arranged to meet Capt. Hermanus van Wyk near Mr. Rust's farm in 1898 in connection with the fixing of the boundaries of the *Gebiet*. Capt. van Wyk was not present on this occasion as he was in Windhoek and the representatives of the *Bastard Raad* only came up to von Lindequist when the latter was returning from his inspection of the boundary. Willem Koopmann now dead was one of the representatives of the *Bastard Raad* on this boundary commission. Sometime afterwards myself and two other Bastards went by wagon to the district of Windhoek on a visit. The road to Windhoek passes close to my farm Goas and we outspanned near the farm. A German came up to us and we asked him where he had come from. He said he had come from his farm and was asked the name of his farm. He replied "Goas." One of the men with me said pointing to me "But here is the owner of the farm "Goas." The German merely shrugged his shoulders and said nothing. Upon our return to Rehoboth from this trip I reported the matter to the Capt. Hermanus van Wyk and he investigated it and found that I had correctly been informed that the major portion of my farm had been included in German territory. As the remainder of the farm was too small for me I told the Raad that I did not want it and the Raad accordingly resumed possession of it. I never received any payment for the farm or any portion thereof from any German or from the German Government.

From 1895 to 1898 the farm was unsurveyed. It was bounded on the west by Kromneck and Harris and on the east by Haigainas Gocheganus and Kromneck and south by Ninais in the *Gebiet*, but I don't know the name of the farm in the north. I think it was called Lichtenstein. I did not build a house on my farm Goas and lived there for a short while after it was granted to me. I used to visit it from time to time when my cattle were there. I don't know what happened to the remainder of the farm after I had handed it back to the Raad. The late Abraham van Wyk was a distant relative of mine and lived on the farm Haigainas when I owned "Goas." He died during the late war. I don't know how he disposed of his farm.

(Sgd.) FREDERIK VAN WYK.

Before me at Rehoboth on 23rd March, 1922.

(Sgd.) HARRY DREW.

ANNEXURE "E" TO EXHIBIT "D 1."

Translation from German.

No. 88/13

Imperial District Office,
Rehoboth,
21st January, 1913.

In continuation of the Report, dated 23rd May, 1912, to the Imperial Railway Commissioner, Windhoek.

The recognition of the negotiations in regard to the boundary of the area lying on the North-South Railway will in a short time be signed by the *Basters*.

They were told by the former Governor, Mr. von Lindequist, that the railway track from Aris to the Southern boundary of the *Gebiet* must be ceded by the *Baster* Community free of charge, but that they will be compensated for the land required for the station Rehoboth. That also land for the stations at Heide, Tsumis, ballast siding at Kilo 174, etc., should be ceded free of charge was new to them. The negotiations were very difficult for the *Bezirksamt*, especially with regard to the shifting of the branch line to Rehoboth village. In terms of information received from the Imperial Government I understand that a round sum of 900 marks is at the disposal of the Government for compensation. As the *Basters* have been informed by their European friends that the compensation is very small, which is clear from letters from *Basters*, it would, at this juncture, be very desirable that compensation should be increased and be paid soon. The mind of the native is not so developed that they will understand that the compensation is equal to that granted to Europeans for plots of ground, and they believe that they have been done down by the Government. I therefore respectfully recommend that the amount for compensation be increased to 1,500 Marks. I shall take care that this amount, in so far as compensation is not payable to individual *Baster* burghers for privately owned land, is spent in the public interests of the *Baster* community, and administered through the *Bezirksamt*, in order that it will not be squandered, as usually is done, although the *Basters* do not acknowledge it. I refer to the conversation with *Regierungsrat Reinhardt*.

(Sgd.) VON VIETSCH.

Translation from German.

No. 176/13

Imperial District Office,
Rehoboth, 11th March, 1913.

I respectfully beg to request that I be furnished with the Government's decision in regard to the compensation to be paid in respect of land ceded by the *Baster* community for the station areas at Rehoboth, Bergland, Tsumis and Kalkrand. I have repeatedly, verbally and in writing, requested a decision, in view of the fact that the *Basters* have many a time asked for payment of the promised compensation, the amount of which they very much need at present, as the *Basters*, just as Europeans, have no market for their cattle. It is not a very pleasant duty for the representative of the Government again and again to tell the natives that they must wait, especially in view of the fact that I am compelled to demand from them settlement of taxes due according to law and enforce punctual payment.

The areas surveyed by the surveyor have been shown to the *Basters*, and have been handed over by them to the Government. The agreement has not yet been signed, as in the drawing by the surveyor the station Bergland, which is in the *Baster Gebiet*, was not shown.

I shall be glad if my request, dated 21st January, 1913, No. 88, to increase the amount of compensation to 1,500 Mark will be granted in view of the political situation.

As the *Basters* will all assemble at Easter and will then again ask for a settlement, I shall be thankful if you will enable me to settle this matter.

(Sgd.) VON VIETSCH.

Translation from German.

Windhoek,
26th March, 1913.

To the District Officer,
Rehoboth.

Your Minutes of the 21st January, No. 88 and 11th March, 1913, No. 176.

I herewith authorise payment of the increased amount of 1,500 mark to the *Basters*, in view of special circumstances, this payment to be in full compensation for the cession of all ground and land by the *Basters* in respect of the building and maintaining of the North-South Railway and the *Branch line to Rehoboth village* and station.

(Sgd.) KASTL,
for GOVERNOR.

Translation from German.

Office of the Imperial Railway Commissioner,
Windhoek, 2nd May, 1913.

Subject: Payment of 1,500 Mark as compensation to the *Basters* of Rehoboth.

I have instructed the *Bezirksamt*, on the 28th March, to pay to the *Basters* the sum agreed upon of 1,500 Mark for all ground and land ceded for the building and maintenance of the North-South Railway, and the branch line to Rehoboth.

Accounts to be rendered through the Treasury, Windhoek. A reply from the *Bezirksamt* has not yet been received.

(Sgd.) MARING,
Chief Engineer.

No. _____

Imperial District Office,
Rehoboth, 15th May, 1913.

To the Imperial Government,
Windhoek.

In reply to your letter of the 18th March, 1913, No. 703/13, I beg to inform you that the sum of 1,500 Mark has this day been paid to the *Baster* community.

The amount will appear in the accounts for the 4th quarter of 1912.

Bezirksamt.
(Sgd.) VON VIETSCH.

Translation from German.

No. 111/13.

Imperial District Office,
Rehoboth, 1st February, 1913.

Attached please find an agreement in respect of the negotiations re the boundary on the North-South Railway. The *Basters* have acknowledged same. There is, however, no agreement in respect of the area for the station Bergland, which lies on ground which is the property of the *Baster* community. The recognition of the beacon erected there will not cause any difficulty. I only request that, before the signatures are obtained of the representatives of the *Baster* community, the Report will be completed accordingly.

(Sgd.) VON VIETSCH.

German Record L IV. 3a North,
page 111.

Copy.

The agreement is the one which has been deposited in the Deeds Registry and attached to the records marked "A."

Page 112.

Acknowledgment as to the cession of certain area for the station Bergland. 16th, May, 1913.

CERTIFIED TRUE COPY OF ORIGINAL AGREEMENT REGARDING CESSION
OF LAND BY *BASTARD* RAAD.

For the purpose of building the North-South Railway line through the *Bastard Gebiet*.
Records in Deeds Registry.

(Sgd.) F. MINDER.

Windhoek, 24th March, 1922.

Translation from German.

Proceedings at Rehoboth,
on 4th March, 1914.

Imperial Magistrate's Court.

Present: As Judge, by instruction of the Imperial District Court in Windhoek. Secretary Widman; also acting District Magistrate. As Clerk of the Court, District Clerk Schluttig.

Appeared as representatives of the *Baster* community in Rehoboth, the Councillors all personally known: (1) Karolus Zwart; (2) Wilhelm Koopmann; (3) Piet Beukes; (4) Jan Beukes; (5) Mateus Gerze, who make the following statement:—

The *Baster* territory is traversed by the North-South Railway, Windhoek-Keetmanshoop. The narrow strip, 60 m. broad, on both sides of the railway track becomes the property of the Government. The total area to be fenced off measures about 1,400 hectares. The new boundaries will run 60 m. distant parallel from the railway track. The latter is fixed and marked by the section-points of the curves. On the sections the farms Arovley and Gurus are each marked by beacons. The railway stations are also marked.

- (1) *Tsumis*, long 500 meter and wide 180 meter (on the side of the station 100 m., and on the other side 80 m.) with 2 beacons.
- (2) *Heide* in one length of 500 meter and width of 160 meter (on the side of the station 100 m., and on the other side 60 m.) with 2 beacons.
- (3) *Rehoboth* in one length of 600 meter and width on the side of the station of 100 m., and on the other side, to the Usiber River, with altogether 13 beacons. On the side of the station, the hotelkeeper Braeuen holds an area of 50 x 40 meter for building a railway hotel.
- (4) The ballast siding at kilometer 174 to a length of 609.30 meter, and width of 400 meter, namely, at the ballast siding self 340 meter, and on the opposite side 60 meter, with 6 beacons.
- (5) *Bergland* in one length of 500 meter, on the station side 100 meter wide and on the other side 60 meter wide. On the station side farmer Quenzer retains an area of 2,500 square meter.

[U.G. 41—'26.]

We, the undersigned Councillors, have agreed with the railway authorities of German South West Africa that the above-mentioned railway areas shall become the property of the German South West Africa authorities, and we declare at the same time that we are satisfied with the compensation to an amount of 1,500 mark.

Read, approved and signed.

K. ZWART.
 W. KOOPMANN.
 MATEUS GERTZE.
 P. BEUKES.
 JAN BEUKES.

WIDMANN,
 Secretary,
 As Judge, by order of the Imperial
 District Judge, Windhoek.

SCHLUTTIG,
 Clerk of the Court.

Copy.

First Schedule.

BOUNDARIES OF THE BASTARD GEBIET IN REHOBOTH DISTRICT.

From the South-Western beacon of the farm Bullsport, No. 172, along the boundaries of and excluding the farms:—

	No.
Bullsport	172
Blasskranz	7
Farm	8
Noab	10
Nauzerus	11
Guisis	180
Nauchas	14
Nauams	177
Morgenroth	17
Nauams	177
Areb	176
Farm	18
Isabis	19
Gollschau	20
Rothenstein	43
Naos	46
Choaberib	47
Hefner	45
Vaalgras 1	38

to the North-Eastern beacon of the last-mentioned farm; thence in an Easterly direction along the district boundary to the North-Western beacon of Oamites, No. 53; thence along the boundaries of and excluding the farms:—

	No.
Oamites	53
Arovley	52

to the Northern beacon of Oamites, No. 53 (near the railway); thence in an Easterly direction along the district boundary to the North-Eastern beacon on the farm Ibenstein, No. 55, thence along the boundaries of and excluding this farm to its South-Eastern beacon; thence in a Southerly direction along the district boundary to the North-Western beacon on the farm Dudoabib Ost, 57; thence along the boundaries of and excluding the farms:—

	No.
Dudoabib Ost	57
Girib Ost	60
Ganeib	61
Girib Ost	60
Wiese	62
Mertens	63
Farm	64
Farm	143
Farm	144
Farm	146
Farm	145

to the South-Eastern beacon of the last-mentioned farm, thence in a straight line to the North-Eastern beacon of the farm Gurus No. 150; thence along the boundaries of and excluding the farms

	No.
Gurus	150
Voigtskub	151
Gras	153
Schlipmundung	156
Niep	157
Nonkarib	160
Varkbosch	161
Arusis	162

to the Western beacon of the last-mentioned farm; thence along the boundaries of but including the farm van Wijk No. 163, to the North-Western beacon of this farm; thence along the boundaries of and excluding the farms

	No.
Goabosoab	164
Swartkobus	165
Gamis Ost	170
Gamis Nord	171

to the South-Western beacon of the last-mentioned farm; thence along the district boundary westward and north-westward to the point of beginning.

NOTE: Wherever a river forms the boundary the innerbank shall be taken as the line of demarcation.

MINORITY REPORT.

Free translation from Baster Dutch.

The Secretary for South West Africa.

Bastard Boundary Commission.

With reference to your Minute No. 3263/2, dated 9th February last, the following is a minority report of the Commission appointed by His Honour the Administrator for the purpose of representing the *Bastard Raad* on the Commission to investigate and report on the claims made by the *Bastard Raad* to certain land, which, they allege, was illegally taken from them by the German Government.

The minutes of the proceedings of the Commission, with annexures, were submitted to you by the Chairman.

As will be observed from the report of the majority of the Commission the land to which claim is laid at present consists of a number of private properties and also Government land, and that on this point the Commission declared that the claim had no practical significance, and ought not to be taken into consideration, and further, that it would be unsatisfactory at this stage to go into questions which had their origin so far back in the past.

In my opinion, now that I have heard this, the case does not appear to be one which falls within the jurisdiction of the Administration, because, according to Article 51 of the Peace Treaty, the Allied Powers have gone into matters much more antiquated than ours and, therefore, it will be the duty of the Raad to lay their claims before them.

Taking the facts into consideration, this land was taken from us after we had, together with the German Government, conquered or destroyed all the mighty aboriginal races.

With reference to the report of the Commission, in which it declares that it did not succeed in finding one single instance where we were compelled or dominated in regard to such cases, I mention the following examples:—

In connection with the regulating of boundaries, I refer the Administration to a letter from Governor von Lindequist regarding the boundary transactions in 1898 in which he personally declared that nobody was allowed to say anything about the boundary question as will appear from the declaration made by Dirk van Wijk, marked B—see proceedings.

To mention more examples: Captain Nicolaas Zwart, of Grootfontein South, who protested because a certain number of riding horses were demanded from him, to be supplied whenever required—what was the result? He was shot dead and his land was confiscated. Many more instances can be mentioned. Once we appealed to the Supreme Court against a verdict of the Magistrate, Rehoboth, and the result was that the appeal was by him personally dismissed, and was never referred by him to the Supreme Court.

With reference to the claims of the *Bastard* Raad to certain land and buildings situated within the present boundaries of the territory numbered 1 to 9 in the Proceedings, my views are in agreement with those of the Commission as far as Nos. 1 to 5 are concerned, but with regard to No. 6 I maintain that, in fairness, the sum of £75 is an unreasonable price for such a large piece of land, viz., 14,000/ha. It is, therefore, necessary that the Government should take this into consideration. In regard to No. 7, my view is that the Administration is under a moral obligation to the *Bastard* Raad. In regard to No. 8, my opinion is that it was altogether unnecessary for the *Bastard* to be dragged into the war, because it was an European war. If the German Government had not compelled the *Bastard* to take up arms against the Union Troops or to fight, the *Bastard* would not have spilt so much blood, or suffered other losses. The claim does not only include victory rights, but also compensation. The houses mentioned were built on *Bastard* land by the German Government without authority. The farms Bullsport, Nauchaus and Zandput were occupied by the *Bastards* before the Union troops took possession of them. Therefore, this matter demands the earnest attention of the Government.

No. 9. The farm Doornboomvlei was land which the late German Government recognised as belonging to the *Bastards*, and, therefore, it is clear that it was under dispute and that it was not settled. It is also necessary that the present Administration should cause the matter to be investigated by a surveyor.

No. 10. In my opinion it is inconsistent with the civilised laws that a farm should be registered when an interdict against registration had been issued as will be observed from the Magistrate's letter of 1st October, 1913, and it will also be observed that the farm was registered on the 24th April, 1915, after hostilities had already taken place between the *Bastards* and the Germans.

Moreover, during this period Martial Law was in full operation. Is it possible, therefore, that such civil cases should be conducted during such a time? Therefore, this matter should receive the attention of the Government, and the registration of this farm (24th September, 1920) should be cancelled. In my opinion I did not consider it proper to sign the report of the Commission as I thought that the present Government would not compel anyone to sign anything against his convictions and also that it should not happen again in future, that we should be compelled to affix our signatures, whether we were satisfied or not, I write this minority report.

In conclusion, I wish to state, with reference to the Commission's recommendation that the farm Zandput and the buildings at Schlip and Gosorobis be granted to the Raad as an act of grace, and that this action should completely release the Administration from its moral obligation in regard to the trolley line, it seems to me that in view of the small compensation, 1,500 mark, for the North-South Railway the majority of the Commission have also come to the same conclusion that the compensation is insufficient. Therefore they intend giving additional compensation for the trolley line of Rehoboth by returning the farm Zandputs and the two station buildings of Schlip and Gosorobis, so as to compensate adequately for the North-South railway line.

In my opinion it would not be fair to allow interference with private property of burghers, in respect of the building at Schlip and Gosorobis.

(Sgd.) ALBERT MOUTON.

Rehoboth,
13th May, 1922.

Certified a true copy of the original.

HARRY DREW,
Chairman Rehoboth Boundary Commission.

Marginal note to above letter:

The Secretary,

1. If the Raad is prepared to sign the draft agreement I will approve of the gift of the farm Zandputs and the buildings on the farms Schlip and Gosorobis to them as I am anxious to come to a finality in this question.

2. Though we can accept no obligation this office will (a) make representations to the Railway Department *re* high rentals charged for siding and dumping site; (b) assist as far as possible in the recovery of what private parties owe them.

3. Raad should be summoned at once to Windhoek to discuss the whole question so that a final decision can be reached.

G. H. OFMEYER.

17.5.1922.

EXHIBIT " E 1."

Translation from German.

Swakopmund,
26th February, 1898.

Present:

Court Assessor Fischer, Judge.
Mounted trooper Trümper, Clerk.

Missionary Boehm appears, who makes the following statement:—

My name is Johann Boehm. I am 64 years old. Protestant.

The old Jonker Afrikaner made himself Supreme Chief of the Hereros, and prohibited the other Namaqua tribes to enter Herero territory, to shoot, and to steal cattle. This annoyed the other Namaqua tribes and caused mutual wars; the Swartboys at Rehoboth were nearest to Jonker Afrikaner, and therefore most of the time at war with him. In one of the first years after 1860 Jonker Afrikaner died and his son Christian succeeded him as head of the Government. The Hereros had learnt warfare under Jan Jonker, especially the young Kamaharero, father of the present Samuel Kamaharero. As soon as the old Jonker Afrikaner was dead, Kamaharero rose and left Christian Afrikaner, who was looking after his cattlepost, and he also took a portion of the cattle of his Chief with him to Otjimbingwe, where he collected the other Herero tribes to assist him. Christian Jonker called up the Namaqua tribes to his assistance. The red people of Hoachanas, the Veldskoendraers proceeded with Christian to Otjimbingwe. The Swartboys, however, remained behind and joined the Hereros (partly in order to settle the old account with the Jonkers, partly because they, as they said, had become Christians, and Christians had no right to reduce other nations of slavery). The joint Namaquas suffered a serious defeat at Otjimbingwe in 1863 and Christian Afrikaner was killed. His brother Jan Jonker Afrikaner became the Chief of the Jonkers, At first he intended with his allies to attack the Swartboys of Rehoboth, because they had not assisted him but the Hereros. Rehoboth was made too hot for the Swartboys and Kamaharero said: come to me in Damaraland and select a place there for yourselves. A Herero force would meet the Swartboys and help and protect them during the journey. The Hereros, however, did not come and the Swartboys had to defend themselves on the road against attacks of Jan Jonker Afrikaner to the best of their ability and arrived at Damaraland after suffering great losses. After living for a time below Otjimbingwe and also in the neighbourhood of Baobis, the Swartboys came to me in Salem in 1865. (Their missionary Kleinschmidt could not stand the hardships of the journey from Rehoboth to Damaraland and died at Otjimbingwe.)

Salem, however, proved to be unsuitable for the Swartboys. Kamaharero at their request, declared himself satisfied that the Swartboys in 1867 moved to Ameib at the foot of the Erongo-Bockberg. Ameib was the principal station, the outposts were situate from Ubib to Karibib in the Kaanriver to Goabib, and in the neighbourhood of Ameib to Okombahe, there were also cattleposts on the Bockberg. I am not aware of a special agreement having been concluded regarding the terms of the cession.

The Swartboys told me that they have just as much right to live in the country as the Hereros, because they assisted the latter against the former Chief Jan Jonker.

In 1870 peace was concluded between the Hereros and Swartboys and their enemies Jan Jonker and his allies, at Okahandya. Jan Jonker Afrikaner only obtained Windhoek on lease from the Hereros with the warning that if he started any further trouble, he would be driven from Windhoek. The Swartboys retained the area near Ameib which they had occupied.

At the peace conference *Basters* from the Colony also appeared together with Hermanus van Wyk, and requested the Swartboys and their allies, the Hereros, to cede them Rehoboth, which was unoccupied. The Swartboys told them that they would give Rehoboth to the *Basters* to live there so long as they, the Swartboys, did not require the place and the *Basters* would have to give them a horse every year, as evidence that the place was only given them on lease. The Hereros and Namaquas agreed to this condition. A few years later Hermanus van Wyk arrived with a *Baster* deputation at Ameib and said they had not enough water at Rehoboth but could easily obtain more water by removing the rocks at the spring with dynamite. Before going to this great expense, they had to be sure that they could remain at Rehoboth: they wished to buy the place. The Swartboys would, however, not sell the place at any price. It was then agreed that the *Basters* would continue to live at Rehoboth on the old condition and whenever the Swartboys intended to sell the place, the *Basters* would have the first option. This agreement was made in writing. After 1870 the Cape Government sent a Commissioner, Palgrave, to Damaraland in order to conclude agreements with them and eventually to take over the government of the country. Palgrave reserved to the tribes in the country vast territories as their unassailable property, in which no strangers were allowed to settle without their permission. For the Swartboys he

reserved the territory above described, far into the desert in the direction of the sea. But beyond this, all the land round the whole of Hereroland, was set aside by him as a Government reserve, which the Government intended later on to sell to Europeans in order to raise funds for the expenses of the Government of the country. A map to show this was also made and printed. I have it no longer. The Cape Parliament postponed the recognition of the arrangements made by Palgrave, and England first annexed Walfish Bay only.

In the year 1880 the war broke out again. This time all Namaqua tribes combined, also the Swartboys and the *Basters*, against the Hereros. It happened to be a very dry year, the springs at Ameib dried up. The drought and the fear of not being able to defend Ameib against an attack of the Herero, induced Swartboy to abandon Ameib provisionally and to concentrate at first at Karibib. I moved my family to Otjimbingwe, and travelled to and fro between my family and the Swartboys. At Karibib I received a letter from Kamaharero, written by the English Magistrate at Okahandya, his last official act in Damaraland, as the Cape Government recalled its officials from Damaraland. I was asked to tell the Swartboys, that he did not wish to wage war against them; if he would remain neutral, they could remain on their land, and in addition he would give them the whole Kaokofeld. The Swartboys, however did not allow themselves to be kept out of the war. After the combined Namaquas had been defeated a few times by the Hereros, the Southern Namaqua tribes had enough of the war; the *Basters* also made peace with the Hereros and because Jan Jonker with his other allies threatened the *Basters*, the latter joined the Hereros. Captain Abraham of the Swartboys paid a visit with a small number of his people to his relations in Namaqualand. When he arrived at Jan Jonker Afrikaner, who had hidden in the Tausberge and from there made his raids, he persuaded Abraham to join him in an attack on Rehoboth. The matter, however, ended in a reverse.

Abraham got a shot in the thigh, was ill nearly a year and succumbed to it. The *Basters* ceased from then the payment to the Swartboys and maintained that they had now conquered and occupied Rehoboth in the war against the Swartboys. As the Herero had received breathingspace in the South and nothing was to be feared from that direction for some time, they could better watch the Swartboys in the North West, so that war did not pay them any more and in order to prevent any attack, they retreated to Franzfontein, from where they made a separate peace at Omaruru with the Hereros. When this took place, I cannot remember.

I personally negotiated with Kamaharero about the cession of Ameib to the Swartboys. The Swartboys wanted at first to proceed to Ameib without permission, but I told them that Kamaharero was their ally and that they should first discuss the matter with him. I therefore rode with some of them to Otjimbingwe and proposed to Kamaharero that Salem could not any longer afford the Swartboys a living, and that he should agree that they could settle at Ameib. After lengthy negotiations he agreed to this.

Read, approved and signed.

(Sgd.) JOHANN BOEHM.
 „ FISCHER.
 „ TRUEMPER.

(Continuation of E 1.)

Translation from German.

Omaruru, 24th August, 1897.

Present:

The Court Assessor Fischer, Judge.

Mounted Trooper Truemper, Clerk.

The Swartboy Hottentots Lazarus Swartboy and Josef Peterson appeared and having been made acquainted with the subject of the enquiry, gave the following evidence:—

When the Hottentots waged war against the Hereros in the year 1863, we, the Swartboys, stood on the side of the Hereros. In consequence thereof, the other Hottentot tribes made war against us, and at Rehoboth it came to a fight in the course whereof we retreated to Kuisib (1864) where we had another fight and where Willem and Zacharias with the Otjimbingwe Hereros come to our assistance and saved us. The Hereros gave us permission to remain at Arubis near Otjimbingwe. In the same year, however, we moved with the permission of the Damaras to Salem (1864). After staying there for 6 or 7 months we moved to Ameib, which place was our centrum. Swartboy had namely requested the old Wilhelm and Samuel Maharero through the intermediation of the missionary Boehm, to be good enough to give them Ameib as a place of residence, and the Swartboys obtained permission from them to live there. Afterwards we settled at Ameib, and occupied the posts Karibib, Eorongo, Aukhas, and Onguati, Usakos, Uwib, Otjipatera. We occupied all these places in peace between the years 1864-80. Frightened on account of the fighting between Jan Jonker and Samuel Maharero, Petrus Swartboy, who lived at Omaruru, fled

quite unexpectedly. The Field-Hereros attacked us, and a fight took place at Otjipatera in December 1880. In January 1880 (1881?) we fought with the Hereros for our waterholes at Otjipatera. After this fight, we moved to Otjimbingwe and fought with the Hereros there, fetched our cattle which we had left in the mountains and moved to Ubib. The Damaras came thither from Umaruru and we had to fight them. After this fight we moved to Tsawisis. Thence we moved to Heigamkhab and in the same year to Rooibank. There we remained till 1883, in which year we moved to Brandberg.

Ameib and the outposts were left by us in the year 1880.

In the neighbourhood of the Brandberg we joined a portion of the Swartboys, who during the abovementioned moves, had been in the Kaokofeld under Samuel, and who had looked after some of our cattle.

We admit that during our stay in Ameib, Bawisis, Etusis and Salem, we lived in the land of the Damaras and that we only had permission to graze our cattle there, but not the right to sell the land.

We declare that Piet Haibib and his people have always only occupied the land near the Coast, in the Narras but that they never had any right to sell a portion of the land, now called Damaraland.

Read, approved and signed.

(Sgd.) LAZARUS SWARTBOY.
 ,, JOSEFAT PETERSEN.
 ,, FISCHER.
 ,, TRUEMPER.

Translation from German.

Omaruru, 18th August, 1897.

Present:

Court Assessor Fischer, Judge.
 Mounted Trooper Truemper, Clerk.

Missionary Dannert appeared, and states, after having been informed of the subject of the enquiry:

My name is Eduard Dannert. I am 48 years old. Protestant.

In 1884-1855 the Hereros, to the north of Swakop, were in no way subject to the authority of the Namas. In 1870 peace was concluded between the two tribes at Okahandja, from which date the Hereros have always been recognised as an independent people. This is also clear from the fact that the Hottentots obtained Windhoek to a certain extent on a lease. Missionary Brincker, who should be well informed about the agreement arrived at, has frequently pointed this out to me.

North of the Swakop, the tribe of the Swartboys were the only Hottentots who lived there, viz., at Ameib. With the exception of these, only the Topnaars lived on the sea-coast, and the tribe of the Uichamab North of Uchab.

The Swartboys lived also in Karibib, where I have personally met them. I understand that they have also lived West of the line Ameib-Karibib, as they required these places for their cattle. I have never heard that the Hottentots claimed the right of ownership of the land. I have always been under the impression that they obtained the permission to live there exclusively from the Hereros.

In the year 1880 the war broke out between the Hereros and the Hottentots. As the Namas at Ameib, as I have been told, had become suspicious owing to several murders of Hottentots committed by the Southern and Eastern Hereros, they evacuated Ameib and moved to Otjipatera. There they were surprised by the Hereros, and they consequently retreated to Ubib. Thence they undertook another expedition to Omaruru, where a fight took place. From Omaruru they immediately proceeded to Otjimbingwe. There another fight took place. Afterwards they retreated further West and remained for some time at Scheppmannsdorf, from where they, in 1883, or at the latest in 1884, went back to the North as far as Uchab.

(Sgd.) ED. DANNERT, Missionary.

The witness then took the oath as prescribed.

(Sgd) FISCHER.
 ,, TRUEMPER.

Translation from German.

EXHIBIT " F 1."

Imperial District Office,
Rehoboth,
15th July, 1905.

To His Excellency the Imperial Governor and Officer Commanding the German Protectorate troops for South West Africa, Keetmanshoop.

As in recent newspaper articles the question has often been discussed as to what was going to happen after the war to the land and people of the tribes which did not join the rebellion, I shall be glad if the following points can also receive consideration when the settlement of this question takes place.

1. *Question of Land.*

In terms of the Treaty of Protection of 15th September, 1885, the boundary of the *Baster* territory was generally fixed after the Witbooy War of 1894. According to that arrangement, the *Baster* territory had an approximate extent of 15,000 Square km. The boundaries were afterwards further determined from 1897 to 1900 by administrative officers, assisted by Government surveyors. From this allotted territory, the *Baster* community disposed of approximately 250,000 hectares (i.e., 1-6 of their total possession) to Europeans during the last seven years. The farms given as a present to *Baster* women who married Europeans are not included. If the disposal of land to Europeans continues at the same rate, all the land in possession of *Basters* will have passed into the hands of Europeans in thirty-five years. I should, therefore, not consider it advisable to take away land which the *Basters* have not yet put under cultivation but which falls within the present *Baster* territory, apart from the fact that the Damara and Namaqualands, which have been become available, will be sufficient for settlement purposes for many years.

2. *The question of Captain.*

In terms of the Treaty of Protection, the *Basters* may settle their civil and police matters by their own judges according to their own laws. Every *Baster* has, however, the right of appeal in case he is not satisfied with the decision of this judge or that of the Captain, to a German Court (District Magistrate, or as a last resort, the Government). In my opinion, this can be left unaltered in the future, especially as this procedure has so far not given rise to any difficulty. In case people at home object to the term "Captain," this can easily be altered into local foreman or something similar. Hermanus van Wijk, after all, never had any more rights than are held by a mayor of a small village at home.

3. *The question of rifles.*

The *Basters* are at present in possession of about 300 rifles M 71 and a few Martini-Henry rifles, which are practically useless to them as they have no ammunition. In addition, I have issued about 80 rifles, pattern 88. I issued these chiefly so that when I or a higher authority ordered concentrations of able-bodied *Basters* they would join me immediately in the threatened part of the country, and dispense with their riding several days to Rehoboth in order to receive rifles and ammunition. In the meantime, the rifles also served them as protection and strengthening of the rich cattle posts. Everyone who received a rifle was expressly told that this rifle was only issued on loan, and would be called in after the suppression of the rebellion. Recently I also frequently pointed this out in conversations with the Captain, Councillors and other influential *Basters*, so that the calling in of the rifles pattern 88 will surely not cause any difficulty, and also not create any unrest. I request, however, that the other breech-loading rifles, which are private property, may remain at any rate in their possession. The Rehoboth *Basters* have so far not used these rifles against us, and will surely never do this at any future time, since they have with their own eyes witnessed to some extent the power of the German Empire.

(Sgd) BOETTIN,
Captain and District Chief Officer.

EXHIBIT " G 1."

TREATY OF PROTECTION AND FRIENDSHIP BETWEEN THE GERMAN EMPIRE
AND THE BASTERS OF REHOBOTH.

His Majesty the German Emperor, King of Prussia, Wilhelm I, on behalf of the German Empire, of the one part and the independent chief of the Basters of Rehoboth in Great Namaqualand, Captain Hermanus van Wyk for himself and his legal successors of the other part, entertain the desire to conclude a Treaty of Protection and Friendship.

For this purpose, the authorised representative of His Majesty, the German Emperor, namely, the Missionary C. G. Buettner and Captain Hermanus van Wyk and his Councillors have agreed to the following points.

ARTICLE I.

Captain Hermanus van Wyk entreats His Majesty the German Emperor to take his country and people under his protection. His Majesty the German Emperor accedes to this request and assures Captain Hermanus van Wyk of his mightiest protection. As an outward symbol of this protection the German flag shall be hoisted.

ARTICLE II.

His Majesty the German Emperor recognizes the rights and the freedom which the *Basters* of Rehoboth have established for themselves and undertakes to respect such previous treaties as were concluded by them with other nations or their nationals and similarly not to prejudice the Captain in the collection of the revenue to which he is entitled in terms of the laws and customs of his country.

ARTICLE III.

The Captain Hermanus van Wyk undertakes not to dispose of any land or portion thereof to any other nation, or any national thereof, nor to conclude treaties with other Governments, without the consent of the German Emperor.

ARTICLE IV.

The Captain promises to protect the lives and property of all German nationals, and others under German protection. He gives them the right and freedom to travel, reside, work, buy or sell as far as his land goes. The burgers of Rehoboth, however, retain the right to prescribe conditions in each and every case, under which strangers shall be allowed to live in the Territory.

On the other hand the German nationals and others under German protection shall respect the laws and customs of the country, and shall not from their side break the laws. They shall pay the taxes which have been hitherto in force to the Captain, or such may be agreed upon between the Captain and the German Empire.

The Captain undertakes not to give any other nation greater rights or privileges than those which he gives to German nationals.

ARTICLE V.

In connection with civil and criminal cases in the Rehoboth Territory, it is laid down that the cases between the burgers of Rehoboth shall be conducted by their own judges, and according to their own laws. Cases between the burgers of Rehoboth and persons who do not belong to Rehoboth, shall be tried by a mixed tribunal whose judges shall be appointed by His Majesty the German Emperor and the Captain of Rehoboth. All cases between such persons who are not burgers of Rehoboth or their families, and all criminal offences of such persons shall be tried by such persons as His Majesty the German Emperor shall appoint. In all cases, including those of the Burgers of Rehoboth, an appeal may be made to the Tribunal of His Majesty, the German Emperor, and the verdict of that Tribunal shall be

ARTICLE VI.

The Captain undertakes to assist as far as possible in the preservation of peace in Great Namaqualand and the adjoining countries. If he should have a dispute with other chiefs in Great Namaqualand or the adjoining countries, he shall first ask the opinion of the German Government, or request them to intervene and settle the dispute.

ARTICLE VII.

If there should be any further matters for adjustment between the German Empire and the Captain of Rehoboth, such shall be done by means of an agreement between the two Governments.

Rehoboth, 15th September Eighteen hundred and eighty-five.

(Sgd.) C. G. BUETTNER,

(Sgd.) H. VAN WYK.

Representative of His Majesty the German Emperor.

Mark X of JACOBUS MOUTON.
(Sgd.) JOHANNES DIERGAARD.
Mark X of DIRK VAN WYK.
(Sgd.) WILHELM KOOPMAN.
(Sgd.) WILLEM VAN WYK.

As Witness:

(Sgd.) F. HEIDMANN,
Missionary.

Translation from German.

EXHIBIT "G 1a."

Extract from "Die Schutzvertraege in Sued West Africa," by Dr. Hesse.

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It is essential for a State that no native and no baster tribe in the Protectorate shall possess a separate position, a self Government by a treaty.

Therefore several privileges of the Treaties of Protection have subsequently been altered by way of agreement. An instance is the above-mentioned Treaty of Defence with the *Basters* of Rehoboth, whose Captain has been reduced to a position of dependence in regard to the Government by granting him an annual salary. He has thereby acquired the status of an official, and his political independence is at an end.

Nevertheless, the original Treaty of Protection is still in force in so far as it has not been repealed and altered by the Treaty of Defence, and it will have to be decided later on, when matters in South West Africa are being readjusted, which of the territorial rights of the Rehoboth *Basters* may still have to be set aside.

EXHIBIT "H 1."

Translation from German.

156. AGREEMENT BETWEEN THE GOVERNOR OF SOUTH WEST AFRICA AND THE CAPTAIN OF THE BASTARDS, REGARDING THE OBLIGATION OF THE BASTARDS TO DO MILITARY SERVICE.

26th July, 1895 (Kol. Bl. 1895, 535.)

The following agreement with regard to the military obligations of the *Bastards* is concluded between the Imperial Government for South West Africa, represented by the Acting Governor, Government Assessor v. Lindequist, and the community of the Rehoboth *Bastards*, represented by Captain Hermanus van Wijk.

1. In order to give effect to Sections 1 and 4 of the Protective Agreement of 15th September, 1885, providing that the Germans and *Bastards* shall afford one another assistance against all enemies, Captain Hermanus van Wijk pledges himself and his successors to place a certain number of *Bastards* of the Rehoboth community, who are capable of bearing arms, at the disposal of the Imperial Government annually, for the purpose of military training.

2. During the current year 40-50 *Bastards*, and in every succeeding year, 15-20 *Bastards* shall be trained as soldiers.

3. On January 1st of each year the Captain shall transmit to the Government, through the police authority at Rehoboth, a list of men capable of bearing arms to be trained. The final selection shall rest with the Government. A copy of this list shall be continued by the Government and by the police authority at Rehoboth, and shall always be kept up-to-date.

The Captain shall be responsible for the recruits, and those who have to undergo further training presenting themselves at the time and place fixed by the Governor.

4. Arms and rations shall be provided by the Imperial Defence Force. Arms shall be given back after the training is over.

Those liable to obligatory military duty shall provide their own clothing, and shall receive a distinguishing badge from the officer commanding the troop.

5. The period of training shall last six weeks; the annual practice drill 2-4 weeks. The men shall be called up for service and the training regulated by the Imperial Governor in accordance with the suggestions made by the officer commanding the troop.

The officer in command shall be empowered to promote the most able men to be file-leaders in time.

6. The *Bastards*, who have undergone training, shall be liable to be called upon for military service for twelve years. During this time they are under the control of the police authority at Rehoboth.

Every man liable to service shall notify any change of residence to the police authority at Rehoboth within twenty-four hours. This shall also apply to any absence from his place of residence which is likely to exceed fourteen days.

In the event of war every man shall report himself immediately to the nearest local police authority, and will return without delay to Rehoboth, unless he shall receive other orders.

7. Pay shall only be granted in time of war, and shall amount to thirty marks per month, and forty marks in the case of file-leaders. Payment shall be made through the troop.

8. During their period of service the *Bastards* shall be subject to the provisions of military laws. It shall be left to the officer in command of the troop to indicate specially the most important for the *Bastards* of the provisions thus applicable.

Punishments shall be inflicted by the officer commanding the troop during the period of service, and, after its conclusion, by the Captain of Rehoboth, at the request of the officer, and in accord with the police authority of that place.

9. The Imperial Government undertakes to contribute to the utmost of its ability towards the maintenance of the widows and children of *Bastards* who have fallen in war outside the Rehoboth territory.

10. An annual salary of 1,000 marks (in words: one thousand marks) shall be paid to Captain Hermanus van Wijk for the conscientious carrying into execution of the provisions of this Agreement, and of the German laws and ordinances within the territory of the Rehoboth *Bastards*. This sum may be drawn by him in half-yearly retrospective instalments from the Imperial Exchequer, Windhoek, the first instalment being payable 1st January, 1896.

Rehoboth 26 July, 1895.

(Sgd.) Acting Governor v. LINDEQUIST
for Imperial Governor.

(Sgd.) H. v. WIJK.
Captain of the Rehoboth *Bastards*.

EXHIBIT " I 1."

The Secretary.

POLICE POSTS AND STRENGTH OF FORCE UNDER THE LATE GOVERNMENT IN DISTRICT
REHOBOTH.

Accurate figures are only available for the year 1913, the German Police records being partly destroyed in 1915.

Police Stations were:

Rehoboth, Hoachanas, *Bullspport*, *Schlip*, *Gosorobis*, Hornkrantz, *Gochaganas* and Donkersand.

Those in italics were within the *Bastard Gebiet*.

The strength was as follows:—

Rehoboth: 2 Sergeant Majors, 3 European Constables and 8 Native Constables.

Civil Staff: 1 Bezirksamtman (Magistrate).
1 Secretary (Assistant Magistrate).
1 Clerk.

<i>Bullspport</i> :	2	European Constables and	3	Native Constables
Donkersand:	2	"	3	"
Gochaganas:	3	"	4	"
Gosorobis:	2	"	3	"
Hoachanas:	3	"	4	"
Hornkrantz:	2	"	3	"
<i>Schlip</i> :	2	"	3	"

On the border of the *Gebiet* was also the Police Training Depôt KUB with one Captain, one Sergeant Major and from ten to fifteen constables.

In 1912 the Governor sanctioned the employment and engagement of seven "Feldkornetts," which were recruited from the *Bastards* at Rehoboth, preferably from those who served under the Military. Their salary was from 70 to 90 marks. They were allotted to the stations *within* the *Gebiet*.

F. MINDER.

Windhoek, the 15th June, 1925.

EXHIBIT " K 1."

The following is an extract (translated) from a book entitled "Deutsch-Südafrika im 25. Jahre deutscher Schutzherrschaft" published in 1909 by Dr. Wilhelm Külz, who was sent to the Territory by the German Government to enquire into the form of administration here, and to report upon and make recommendations in connection with the new constitution which it was then proposed to grant to the Territory:—

"Politically the *Bastards* have been broken of the habit of having a Captain and their internal affairs have with their consent been referred to a *Bastard* Communal Council since 1905, consisting of tribesmen with the German District Chief Officer as Chairman. The D.C.O. is the head (Chief) (Opperhoof) of the *Bastards* in peace and war, he is responsible for the administration and military training of the tribe and accordingly his position requires him to be an officer. The *Bastards* have thus maintained their political and self-government to the present day, although to a limited extent and they are apparently very happy under the German Administration."

EXHIBIT " L 1."

Translation from German.

Rehoboth,
15th July, 1905.

To the Imperial Governor and Commander of the Defence
Force for South West Africa, Keetmanshoop.

As there has recently been a considerable amount of discussion in the press as to the disposal after the war of the land and people of the non-rebellious tribes, I would ask that the following statements may be taken into consideration on the occasion of the forthcoming re-organisation of affairs.

1. *The Land Question.*

By reason of the Protective Treaty of 15th September, 1885, the boundaries of the *Bastard* Territory were more accurately defined after the Witbooi War of 1894. According to this definition of boundaries, the area of the *Bastard* territory amounted to 15,000 sq. kms. During the period from 1897 to 1900 these boundaries were further determined by administrative officials, accompanied from time to time by a Government surveyor. Of the territory thus assigned to it, the *Bastard* community has ceded about 250,000 ha., *i.e.*, about one sixth of its total possessions, to white people in the course of the last seven years. This does not include land given as a dowry to *Bastard* girls marrying white men. Should the cession of the land to white men continue at the same rate as hitherto, the whole of the *Bastard* territory would have passed into the possession of white people in about another 35 years. I should not, therefore, consider it advisable to deprive the *Bastards* of land which they have not as yet taken into cultivation, but which lies within the *Bastard* territory, quite apart from the fact that Damara and Namaqua Land, which are now available, should suffice for settlement purposes for many years to come.

2. *The Question of the Captain.*

In terms of Section 5 of the Protective Treaty, "civil and police cases" may be settled by the *Bastards* before their own judge and in accordance with their own laws. Any *Bastard* who is dissatisfied with the judgment given by these judges, or the Captain, is, however, at liberty to appeal to the German jurisdiction (district, sub-district Courts, and as the Supreme Court of Appeal, the Government.) This may in my opinion be left as it is, especially as this arrangement has not been the cause of any difficulties up to the present time. If objections are raised at home to the title "Captain," it can easily be changed to "local magistrate" or something of the kind. Hermanus van Wijk has never had much more power than the mayor of a small place at home.

3. *The Question of Fire-Arms.*

At the present time the *Bastards* own about 300 M.21 rifles, in addition to a few Henry-Martini rifles, which are of practically no use to them owing to the lack of proper ammunition for them. They have also about 80 rifles issued by me. I took this step mainly so that in the event of the concentration of seditious *Bastards* being ordered either by myself or by higher authority, the men should be able to betake themselves at once to the menaced points, without having to ride for several days to Rehoboth for the issue of arms and munition.

Between the whites, of course, the fire-arms served for the protection and strengthening of the prosperous *Bastard* cattle posts. Each man to whom a rifle was issued was at the same time informed that it was only being lent to him and must without fail be brought back when the rebellion had been suppressed. I have, moreover, laid stress on this point in recent conversations with the Captain, the members of the Council and other influential persons, so that the calling in of the M. 88 rifles will not be the cause of any difficulties, or excite any disquietude. As to the remaining rifles, which are in private possession, I would ask you on no account to take them from their owners. The Rehoboth *Bastards* have never used their firearms against us and will still be less likely to do so now that they have seen a small portion of the power of the Empire for themselves.

(Sgd.) BOETTLEIN.
Captain & District Commander.

EXHIBIT " M 1."

MEMORANDUM BY MR. WIDMAN, GOVERNMENT RESIDENT IN THE
REHOBOTH DISTRICT UNTIL THE OUTBREAK OF HOSTILITIES RE-
GARDING JUDICIAL MATTERS IN CONNECTION WITH THE BASTARD
COMMUNITY OF REHOBOTH, d.d. 29/7/1915.

Politics.

After leaving South Africa, guided by Missionary Heidmann, the *Bastards* conquered the country where they are at present living, from the Hottentots. The *Bastard* country was in years gone by a very sparsely populated country, situated between that of the Hereros and the Hottentot tribes. These two tribes were continually at war. After establishment

of the German Protectorate the German Government and the *Bastards* united themselves which brought about the Treaty of peace and friendship of 1887. The Treaty was concluded by Major Leutwein on behalf of the German Emperor and by C. van Wyk of the Bastard Community. The principal contents of this Treaty were that the German Government undertook to protect the *Bastards*, while they had to promise to be loyal to the German Government. Furthermore they were not allowed to conclude any treaties with other nations without the consent of the German Government. The Germans were allowed to trade and settle down in the *Bastard* country, whilst the *Bastards* were granted all their former rights, *viz.*, self-taxation, game laws, permit to carry rifles, and the right to settle in other territory without being taxed.

In 1895 a protective Treaty was concluded, (Kolon. Gesetzgebung Sam. Vol. II). This Treaty was, except in 1896 and 1904/1907, during the Hottentot and Herero Wars, not always carried out. Right through these wars the *Bastards* remained loyal to the Germans. Hermanus van Wyk was held responsible to the German Government until his death. After his death, in accordance with a wish expressed by the Government, seven *Bastards* (elected Councillors) took his place. The Magistrate of the District (District Officer) represents the German Government, and it is through him that all views and representations of the Councillors are submitted to the Government.

Judicial.

Criminal Justice as well as minor Judicial cases amongst the *Bastard* Community were left to the *Bastards*. Serious cases and those committed against the white population were dealt with by the Magistrate in accordance with the laws prescribed by the Imperial Chancellor regarding the jurisdiction over Natives. The *Bastards* have a Dutch Code for the settlement of quarrels and family rights amongst themselves.

Private Rights.

Quarrels about movable and immovable property and other family rights amongst *Bastards* are settled by the Council. The Magistrate decides the question on appeal. Disputes between Whites and *Bastards* are heard by a District Court when Whites are the defendants, and where *Bastards* are the defendants the Magistrate decided and the Governor settles the question on appeal. The legislation for Whites is also applicable to the Rehoboth *Bastards*.

The boundaries of the Territory belonging to the *Bastard* Community are defined by the councillors and the German Government. Every *Bastard* citizen gets 7,000 Cape morgen of land from the community. This property is inheritable. The Rehoboth Town is divided into various properties, all inherited. The *Bastards* are in possession of documents to this effect. Land belonging to the *Bastard* Community cannot be sold to whites without the consent of five councillors, the District Officer and the Governor. If these parties have agreed the land in question becomes legally the real property of the whites. According to stipulations, regarding real property of Natives, such could not be entered in the legal register of landed property. The consequences were that these properties could neither be encumbered with mortgages, nor pledged, and that no forcible expropriation could take place.

Should trading, *viz.*, buying and exchanging take place between the *Bastards* and whites (unless for ready money) this form of business could not be legally recognised, unless the District Officer had consented thereto. For this reason debts by *Bastards* to whites could not be recovered by legal process when incurred without the sanction of the Magistrate.

Miscellaneous.

The Government Secretaries, von Lindequist and Dernburg, at various times pointed out and made clear the legal rights and obligations of the *Bastards* as differing from those of other natives. The *Bastards* were only liable to notify their intentions and to procure travelling passes when they proceeded beyond the boundaries of the Rehoboth District, when they became subject to the legislation *re* employment.

The Magistrate was authorised to grant trustworthy *Bastards* permission to buy small quantities of liquor from licensed dealers.

With regard to the shooting season the *Bastards* were bound to act according to the law prescribing the period of closed season for the Protectorate. No limit was prescribed by the Government as regards the amount of stock on a *Bastard's* farm. This also applies to servants, the *Bastards* being entitled to keep as many servants (Hottentots, Kaffirs and Hereros) as they desired. The Rheinisch Mission School at Rehoboth was financially supported by the Government.

The rights of working Mines in the *Bastard* country are in the hands of private concerns.

N.B.—Documents *re* Decrees and enactments are unfortunately not at present available. An official document regarding the general legal matters relative to *Bastards* is either in Rehoboth (if it has not been destroyed by the *Bastards*) or else in Grootfontein, with the documents in connection with Finance.

Translation from German.

EXHIBIT " N 1."

E.3.h.1.

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District Office, Rehoboth,
30th January, 1906.

The *Baster* Community of Rehoboth is hereby officially informed by the German Government that the Captainship of the *Basters* has ceased to exist from to-day.

The *Baster* Community have themselves come to the conclusion to abolish this position as out of date and not satisfying the higher demands of the present time.

The *Baster* Community will henceforth be represented by the *Baster* Council, and be governed by the German Government in conjunction with the Council.

The Council of the *Baster* Community will consist of nine members elected by the *Basters* and approved by the Governor:

1. Nels van Wyk.
2. Jan Beukes.
3. Dirk van Wyk.
4. Carolus Zwart.
5. Samuel Beukes.
6. Pieter Mouton.
7. Piet Beukes.
8. Albert Mouton.
9. Clas Dragoner.

The Council will in future consult in all matters which affect both the German Government and the *Baster* Community, direct with the representative of the Government (District Chef).

All matters only affecting members of the community will, so far as the Captain formerly had jurisdiction, also in future be settled by the Council—therefore by the *Basters* themselves. Instead of the District Chef, Nels van Wyk, son of Hermanus van Wyk, elected by the *Baster* Council and provisionally confirmed for one year by the Governor as Foreman of the community, will in such cases be Chairman. During his absence, his place will be taken by the oldest member of the Council who is present.

His Excellency the Governor will personally install the new Foreman of the community, Nels van Wyk, in his position on the occasion of his next visit towards the middle of February.

The Imperial District Chief Officer

(Sgd.) STUEBEL,
Lieutenant.

Translation from German.

EXHIBIT " O 1."

Telegraph Department of the German Empire,
Office, Windhoek (German South West Africa).

Telegram from Rehoboth 27/26 W. 1906, 29th, 1.10 a.m.

Basters decided to abolish Captainship.

Composition of Council of Community as reported in writing. Representative of District Chef in *Baster* matters, Nels van Wyk, as foreman, for 2 years. Please confirm. Stuebel.

On reverse.

Foreign Office, Berlin.

Rehoboth *Basters* have voluntarily decided, on representations made by me to the Council, to abolish the Captainship. Next to the District Chef Nels van Wyk, the eldest son of the former Captain, elected for 2 years, will act as foreman of the community in all *Baster* matters. His appointment provisionally confirmed by me for one year.

District Office, Rehoboth.

Resolution of *Basters*, and person of Foreman of Community, approved. Intend provisionally for one year to confirm Nels van Wyk. I reserve the right to instal him personally in his position when visiting Rehoboth middle of February.

Translation from German.

EXHIBIT " P 1."

In the Name of the Emperor.

In the criminal case: versus the Engineer Karl Hermann Ludwig Baumann for embezzlement.

The Imperial High Court of Windhoek, in its Session of 12th March, 1913, considered the appeal by the accused against the judgment of the Imperial District Court of Swakopmund of the 10th January, 1913, and decided:

The judgment of the Imperial District Court of Swakopmund of 10th January, 1913, is set aside. The ordinary courts for non-natives (District and High Court) are not competent to pass judgment on the crime of the accused, owing to the fact that the accused is a native in terms of Section 4 of the Schutzgebietsgesetz and native law is therefore applicable in his case.

The costs of the case are payable by the Treasury.

In accordance with the judgment of the Imperial District Court of Swakopmund of 10th January, 1913, the accused was sentenced to two years' imprisonment for fraud and condemned to pay the costs of the case in accordance with Section 266 (1) of the penal code. He was also deprived of his burgherrights for a period of five years. He was found guilty of having, in the Protectorate of German South West Africa, during the years 1909-1912, in his capacity as executor in the estate of Whitaker, acted intentionally to the prejudice of the estate entrusted to his care by benefiting himself financially in that he misappropriated 600-700 mark from to the estate.

Against this sentence, the accused has correctly and in good time noted an appeal.

During the consideration of the appeal it appeared from an enquiry into the personality of the accused that he is a descendant of a native on his mother's side. He is the son of the missionary Christian Baumann and Maria Baumann, born Kleinschmidt, and was born at Schepmansdorf, near Walfish Bay. His mother was the daughter of the missionary Kleinschmidt and a certain Schmehl, the latter being the daughter of missionary Schmehl, who was married to a African native (Nama or Namabastard).

The accused is owing to this descent to be considered as a native in accordance with Section 4 of the Schutzgesetz, and is, therefore, not subject to the law for Europeans, but the special laws for natives are in this case applicable. The High Court has on several occasions laid down who is to be considered a native (in re; criminal case against Krabbenhoeft X 1/11 i divorce case Leinhos vs Leinhos U 39/08). There are no grounds for a different opinion in this case. Whether a person is a native or belongs to the European race is the question to be decided. A legal definition on this point does not appear in any existing law. This point could, in terms of the law for the Protectorate (Schutz-Gebietsgesetz Section 4) only be settled by a special Imperial ordinance. This has so far not been done.

The question whether or not anybody belongs to the native race can therefore only be judged according to the general public opinion as it has developed in the course of time. Considered as natives are all blood-relations of those natives or semi-cultured races which have lived or are still living in the colonies, and their descendants. In South West Africa the *Basters* are also considered as such. Blood-relations of those tribes also remain the descendants of natives born out of the miscegenation with members of the European race, that is by their blood-relationship. Everyone whose genealogical tree can be traced back from mother's or father's side to a native, therefore also a *Baster*, must be considered as being a native and be treated accordingly. The degree of this blood-relationship is immaterial.

The accused, a great-grand-child of a native must therefore be considered to be a native, however hard this may be on him with a view to his education and his social position, and such being the case, native law will be applicable to him. The Court of Appeal must officially examine the jurisdiction after an objection against it has been lodged. (Loewe St. P.O.—Remark on par. 13 G. V. G.)

A reference of the case to the said Court in accordance with Art. 369, sub-section 3, St. P.O. was not feasible as such cases do not fall under the jurisdiction of the High Court.

The costs to be taxed in terms of Art. 497, 499 St. P.O.

Signatures :

Translation from German.

EXHIBIT " Q 1."

212. Proclamation by the Governor of South West Africa containing provision for the control of natives. Dated 18th August, 1907. (Kol. Bl. p. 1181).

In terms of Art. 15 of the Protectorate Law (Reichsgesetzbl. 1900 p. 813) and of article 5 of the Regulations of the Imperial Chancellor dated 27th September, 1903, regarding [U.G. 41—'26.]

the marine and consular authority and the power of the authorities to issue proclamations in the Protectorates of Africa and of the South Sea, it is hereby proclaimed in respect of the territory of the South West Africa Protectorate, as follows:—

1. Natives can only acquire the right or title to land with the approval of the Governor.

(2) The natives are only allowed to possess riding animals or cattle with the approval of the Governor.

This Regulation is not applicable to the *Basters* of Rehoboth, in so far as they reside in the District of Rehoboth and possess cattle.

Translation from German.

EXHIBIT " R 1. "

213. Proclamation of the Governor of German South West Africa concerning the native Pass Law, dated 18th August, 1907. (Kol. Bl. p. 1182).

In terms of Art. 15 of the Protectorate Law (Reichsgesetzbl. 1900 p. 813) and of Art. 5 of the Regulations of the Imperial Chancellor, dated 27th September, 1903 regarding the Marine and Consular authority and the power of the authorities to issue proclamations in the Protectorates of Africa and of the South Sea, it is hereby proclaimed in respect of the territory of the South West Africa Protectorate, as follows:—

1. All natives in the Protectorate must carry a pass. Excepted are:—

- (i) Children under the age of 7 years;
- (ii) The *Basters* of Rehoboth, so long as they have their residence within that district;
- (iii) Such *Basters*, who possess a foreign national status and who are, according to the law of their State, not considered as natives.

Translation from German.

EXHIBIT " S 1. "

Official Gazette for the Protectorate of German South West Africa. Vol. 1, No. 25, Windhoek, 18th March, 1911.

Proclamation of the Governor of German South West Africa, regarding the importation and sale of spirituous liquors in the South West Africa Protectorate.

In terms of article 15 of the Protectorate Law (Reichsgesetzblatt 1900, p. 813) and of Art. 5 of the Regulations of the Imperial Chancellor dated 27th September 1903, regarding the Marine and Consular authorities, and the power of the authorities to issue proclamations in the Protectorates of Africa and of the South Sea (Kolonialbl. p. 509), it is hereby proclaimed as follows:—

Article 10.

No spirituous liquor or extracts of ether or alcohol of whatever kind may be supplied to natives. Extracts are in this respect understood to include all extracts from animal or vegetable products known in the trade as essences, extracts or tinctures prepared with ether or alcohol.

Masters may, however, give natives, who are in their employ, spirituous liquor, in small quantities in a glass; the liquor may not, however, wholly or partly, take the place of wages.

As masters will also be considered persons to whom natives have been given by their masters for temporary work.

In the District of Rehoboth, the District officer may issue permits to some persons to supply spirituous liquor in small quantities to such *Basters* of Rehoboth who have no masters. The name of the *Baster* concerned and the maximum quantity of liquor to be supplied must be stated in the permit.

Article 15.

This Proclamation will come into force on the 1st April, 1911. The Proclamation of the Governor of German South West Africa, regarding the importation and the sale of spirituous liquor in the South West Africa Protectorate, dated 16th August, 1907 (Kol. Bl. p. 1033) is repealed from the same date.

Windhoek, 11 March, 1911.

The Imperial Governor,

SEITZ.

Translation from German.

EXHIBIT " T 1. "

Proclamation of 30th October, 1908 of the Governor of South West Africa, regarding the granting of credit to natives.

In terms of Art. 2 of the Imperial Proclamation regarding the establishment of the Administration and native Courts in the African and South Sea Protectorates, dated 3rd June 1908 (Reichsgesetzbl. p. 397) it is hereby proclaimed by authority of the Imperial Chancellor (Reichs-Kolonialamt), as follows:—

1. Natives may only do business on credit with the approval of the District Officer concerned.
2. This approval shall only be granted in exceptional cases.
3. Under business on credit under this Proclamation will be understood:—
 - (a) Purchases and exchanges, where the return-service to be rendered by the natives does not take place immediately;
 - (b) Loans, where the native is the receiver of the advance.
4. Business, which a native has concluded on credit without the approval of the officer concerned, is null and void. Whatever has been supplied to the native on credit cannot be claimed back, because the business on credit was null and void.
5. The necessary approval of a transaction on credit, intended by the native, must be in writing. The approval shall be contained in a document, stating:—
 - (i) the name of the native;
 - (ii) the name of the other party;
 - (iii) the kind of business (purchase, exchange, loan);
 - (iv) the article which the native has received or will receive;
 - (v) the return service to be rendered by the native;
 - (vi) the signature of the official and the name of the place and date of document.
6. This document shall be preserved by the official concerned for two years, and in cases of immovable property for ten years.
A copy thereof shall be handed to the other party. It will be sufficient if this copy is produced at the time the business is concluded.
7. Agreements by which any provision of this Proclamation is evaded or not carried out and also legal acts by which this Proclamation is circumvented (especially promises to pay and promissory notes) are null and void.
8. The District Officer etc. may, with the approval of the Governor, delegate the power under this Proclamation to issue written consents to some officials who are subordinate to him.
9. This Proclamation shall take effect from the date of publication.

Windhoek, 30th October, 1908.

The Acting Imperial Governor,

HINTRAGER.

Translation from German.

EXHIBIT " U 1. "

PROCLAMATION DEALING WITH THE ACQUISITION OF LANDED PROPERTY.

Within the jurisdiction of the German sphere of influence, it is prohibited until the conditions regarding landed property are settled in any other way, to take possession of derelict property without permission of the Imperial Commissioner, or to enter into purchase-agreements with the natives regarding land or to take possession thereof.

Contraventions will be punished with fines to an amount not exceeding two thousand mark. The German Imperial Government moreover does not recognise such appropriations as legal. The Imperial Commissioner reserves the right to attach certain conditions to the acquisition of land, and to grant the permission in every case where the land has not been acquired by taking advantage of the natives and the acquisition is not contrary to the interests of the Protectorate.

The Imperial Commissioner,
DR. GOERING.

Otjimbingue,
1st October, 1888.
[U.G. 41—'26.]

Translation from German.

EXHIBIT " V 1."

Proclamation of the Governor of German South West Africa regarding the taxing of landed property in the German South West Africa Protectorate. Dated 19th March, 1909.

In terms of Art. 15 of the Protectorate law (Reichsgesetzbl. 1900 p. 813), and Art. 5 of the Regulations of the Imperial Chancellor, dated 27th September, 1903 (Kolonialbl. p. 509) and Art. 36, Section 2 of the Imperial Proclamation of 14th July, 1905 (Reichsgesetzbl. p. 717) it is proclaimed with the approval of the Imperial Chancellor (Reichskolonialamt) as follows:—

Art. 1. Within the jurisdiction of the German South West Africa Protectorate, the cultivated and uncultivated landed property is subject to a land-tax and a transfer duty.

Art. 2. The landtax and the transfer duty are payable both in cases of farming and town property, and settlements.

As town property will be considered all properties situate within a village or town. The Governor will decide which settlements in the meaning of this Proclamation are to be considered as town property or as closer settlements, and their extent.

All landed property which is in terms hereof not considered to be town property or a closer settlement, is farming property.

Art. 12. The fixing of the amount and the collection of the landtax and transfer duty will take place by the District Officers.

Art. 22. The provisions of this Proclamation are applicable to the landed property of the Rehoboth *Basters*.

The Governor will decide in how far other natives are subject to the provisions of this Proclamation.

Art. 23. This Proclamation will take effect from 1st April, 1909.

Windhoek, 19th March, 1909,

The Acting Imperial Governor,

HINTRAGER.

Translation from German.

EXHIBIT " W 1."

FOR THE GOVERNMENT.

No.	Name.	Offence.	Sentence.	Date of Sentence.	Remarks.
8	Bastard Gert Artam ..	Contravention of game law, Art. 5 & 7 of the Procl. of 15.11.09. 4.10.10	Confiscation of rifle. Fine 100 m.	9.1.14	Judicial.
8	Bastard Jan Witboy ..	Contravention of the game law, Art. 5 & 7 of the Procl. of 15.11.09. 6.10.10.	Confiscation of rifle. Fine 60 m.	9.1.14	Judicial.
9	Bastard Wilhelm Goliath..	Contravention of the game law, Art. 5 & 7 of the Procl. of 15.11.09. 4.10.10.	Confiscation of rifle. Fine 40 m.	2.9.13	Judicial.
25	Bastard Katharina Cloute (40 years).	Complicity Receiving Art. 257 of Imperial Code.	100 m. fine.	15.1.14	Judicial.
39	Bastard Tom Smiths (30 years).	Theft, Art. 370, Section 2 Imp. Penal Code.	20 m. fine.	24.11.14	Judicial.

Translation from German.

EXHIBIT " X 1."

Rehoboth,
1st October, 1908.

PUBLIC SITTING.

Present as President:

The Imperial District Chief Officer,
Lieut. Hoelscher.

As assessors:

Government Veterinary Surgeon Dr. Scheben, Merchant Leuben, and the following natives: Wilhelm Koopman, Albert Maton. Clerk: Sergt. Wiessemann.

Accused: (1) Nels Campbell; (2) Hendrik van Wyk; (3) Hewetiel.
 Offence against section 6 of Proclamation dd. 1st September, 1902, regarding the game law.

The three accused: We have hunted without a licence and have shot 12 gemsbuck.
Sentence:—Nels Campbell, Hendrik van Wyk, Hewetiel are each fined 30 mark for contravention of section 6 of the proclamation of 1st September, 1902, regarding the Game Law.

(Sgd.) HOELSCHER.

Translation from German.

Rehoboth,
 1st October, 1908.

PUBLIC SITTING.

Present as President:

The Imperial District Chief Officer:
 Lieutenant Hoelscher.

As Assessors:

Govt. Vet. Surgeon Dr. Scheben, Merchant Leube and natives: Wilhelm Koopman, Albert Maton, Clerk: Police Sergt. Wiessemann.

Accused: Paul van Wyk and Hendrik van Wyk (contravention of Art. 6 of Proclamation dd. 1st September, 1902, regarding the Game Law).

Accused Paul and Hendrik van Wyk: Our statements made on 15th or 19th June are the truth.

Sentence:—Paul and Hendrik van Wyk are each fined 15 mark for contravention of Section 6 of Proclamation dd. 1st September, 1902 regarding the Game Law.

(Sgd.) HOELSCHER.

Translation from German.

Rehoboth, 22nd July, 1906.

Complaint against the *Baster* Gert Engelbrecht, the *Baster* Thomas Jaarmann, the *Baster* Friedrich Bak of Rehoboth for contravening Art. 2 of Proclamation dd. 22nd January, 1906 regarding the preservation of cleanliness on public roads, streets and squares of section 2 of the relative Government notice of 11th March, 1908.

The above-mentioned have deposited rubbish on the local public square, or ordered natives in their employ to deposit same.

Witness:

Police Sergeant Lippke,
 Dietrich Police Sergeant Major.

To the Imperial District Officer,
 Rehoboth,

Rehoboth,
 1st October, 1908.

PUBLIC SITTING.

Present as President:

Imperial Distr. Chef,
 Lieut. Hoelscher.

As Assessors:

Govt. Vet. Surgeon Dr. Scheben, Merchant Leube.
 Natives also present in Court: Wilhelm Koopmann, Albert Mouton.
 Clerk: Police Sergt. Wiesemann.

Sentence: The Basters—

- (1) Gert Engelbrecht.
- (2) Thomas Jaarmann.
- (3) Friedrich Bock

are sentenced, for infringing the Proclamation of 22nd January, 1906, to pay each a fine of 3 M.

(Sgd.) HOELSCHER.

Translation from German.

Rehoboth, 22 July, 1908.

Complaint against the *Bastard*: Nels Izaak, of Kaumas, for contravention of Section 366 subsection (2) of the Imperial penal code.
 [U.G. 41—'26.]

The above mentioned rode too fast in the village of Rehoboth on the 10th instant.

(Sgd.) DIETRICH,
Police sergeant.

To the Imperial District Office,
Rehoboth.

1st October, 1908.

PUBLIC SITTING.

Present as President of the Court:

The Imperial Distr. Chef, Lieut. Hoelscher.

As Assessors:

Government Veterinary Surgeon Dr. Scheben, Merchant Leube.

Clerk of the Court: Police Sergeant Wiesemann.

Also present the natives: Wilhelm Koopmann, Albert Mouton.

Sentence:—Nels Izaak, of Kaumas, is fined 3 mark for contravention of Art. 366, sub-section (2) of the Imperial Penal Code.

(Sgd.) HOELSCHER.

EXHIBIT "Y 1."

Translation from German.

Copy A 11 2940.

Wurzberg,
28th August, 1912,
Schellingstr. 21 a.

Subject:—*Basters* in German South West Africa. As I am completing a book on the subject of the *Basters* in Rehoboth (German South West), I shall be glad to obtain information on the following points:—

(1) Major Bayer states in his book that the *Basters* did not elect another Captain. In Rehoboth, however, a certain Cornelius van Wyk is generally called Captain. I shall be glad if you will let me know:

(a) Is the above "Captain" official?

(b) Is he in receipt of an annual salary from the Imperial Government as his predecessor?

(c) If so, is this arrangement also of effect as regards his successors?

(4) Did the *Basters* recognise the recently introduced transfer duty and landtax; are they really required to pay taxes, and what amount has been received? Is publication thereof allowed?

(Sgd.) DR. EUGEN FISCHER.

Translation from German.

No. 986/12.

Imperial District Office,
Rehoboth,
7th November, 1912.

Re: Point 1.

..... The former Captainship—Hermanus van Wyk—was abolished on 30th January 1906 in accordance with an agreement with the *Baster* Community. In its stead the Council of the Community has come under the foreman of the Community (Gemeentehoofd). The son of the old Captain, Nels (Cornelius) van Wyk was appointed Foreman. Within the *Baster* Community the term "Captain" is generally adhered to; the former "onderkaptein", Carolus Zwart, is also called by his old title.

[Unfortunately some of the Europeans also speak in their relations with natives of Captain and under-captain especially in matters of business.]*

The *Baster* Foremen (Councillors) are in receipt of an amount of 1,000 M. per annum, in terms of the agreement of 26th July, 1895. The foreman of the Community receives the same amount as the others. The arrangement is of a permanent nature

Translation from German.

Windhoek,
30th November, 1912.

To Professor Dr. Eugen Fischer,
Wuerzburg.

Re: Point 4.

The *Baster* Council appealed against the imposition of the land tax on the ground of the provisions of the old Treaty of Protection dated 15th September 1885. In order to be

able to obtain from the *Basters* a contribution to the expenses of the Administration, without interfering with this Treaty, it was necessary to conclude a fresh Treaty. This was done on the 31st January, 1912.

The *Baster* Community has undertaken for the following four years to contribute an annual amount of 6,000 mark to the expenses of the Administration. At the expiration of the 4 years, the amount of the contribution will be fixed again.

The contribution is spent exclusively in the interests of the *Baster* Community for the building of roads, opening of springs, poor relief and medical attendance, etc.

This information relative to point (4) should be treated as confidential and not be published.

EXHIBIT " Z 1."

Translation from German.

Windhoek,
1st November, 1893.

To Captain Hermanus van Wyk.

It appears from two letters, addressed by you to Mr. Schluckwerder and Mr. Conradt, and which came into my hands to-day, that you have demanded from these gentlemen the payment of taxes, which were not payable prior to the conclusion of the Treaty between you and the German Empire.

Apart from the fact that you have agreed, in terms of Section 4 of the above Treaty, to obtain the approval of the German Government in such cases, I cannot approve of the measures taken by you in their present form, in view of the fact that it is to be feared that the interests of your burghers and trade will thereby be harmed.

When the question of the boundary of your territory is settled, I intend at the same time to make proposals, as requested by you, providing for the collection of the revenue of your community.

For the Imperial Commissioner,
v. FR.

EXHIBIT " A 2."

Instruction from Secretary for Defence dated 9.6.1916. " General Botha does not think we should do anything to diminish their independence or status *recognised by the German Administration.*"

EXHIBIT " B 2."

Translation from German.

Rehoboth,
22nd April, 1915.

To the Council of the Basters
of Rehoboth.

The order of His Excellency the Governor to hand over the rifles on account of the treachery in the Camp of Uitdraai, has not yet been complied with by the *Bastard* soldiers.

Notwithstanding negotiations with the *Baster* Council, which lasted three days, the return of the rifles has not been effected.

The time asked for consideration, after promises of compliance, has been used for the secret sending away of the families and their possessions.

During the negotiations for a friendly solution, the *Basters* have robbed and murdered Europeans.

By this action and by the offences against the Europeans, the Treaty of Protection and Friendship of 15th September 1885 has been broken by the *Basters*.

This disloyalty accompanied by reckless crimes constitutes an open hostile action against the Imperial German Government.

The Imperial German Government is therefore compelled for the safeguarding of its interests, for the preservation of order and security in the Protectorate and for the protection of persons and property of the German nationals in German South West Africa and of all other persons who are entitled to its protection, to take the necessary steps, the serious consequences whereof will have to be suffered by all the *Basters* of Rehoboth.

The negotiations which have been carried on hitherto, I hereby declare as broken off. In the name and by order of the Imperial Governor of German South West Africa.

BETHE,
Lieut. Colonel.

EXHIBIT " D 2."

Free translation from Baster Dutch.

Burger Magistrate's Office,
1st December, 1924.
Rehoboth.

Most honoured Local Magistrate,—Your honoured letter addressed to me has been laid before the present Raad and I hereby send you the reply as follows:—

Up to now we have done everything in our power and as nothing helps, we withdraw ourselves altogether. We will no longer ask you for counsel or advice, nor are we in a position to accept the suggestions made by the Administrator in his letter, and from now onwards we remain entirely independent of you. We now clearly see that the Magistrate and also the Administrator himself, are once and for all determined to compel the people against their will to bend under the rejected Raad and also under the agreement. We as the chosen representatives of the people are henceforth in duty bound to expose this condition in our Territory in all the newspapers as far as in Europe, considering that the treatment which we now receive in Rehoboth is foreign to us. The people of Rehoboth will be the only people who will have no right to their property. Further we want to impress upon you that we will not submit to any law which Nels Klazen may make.

We are only called upon to obey Councillors, and laws or orders which are chosen by the (*Baster*) Empire for imposition on land and people. We therefore let you know that we withdraw ourselves from you and continue to exist as the chosen Raad, subjecting ourselves to the Fatherly laws which still continue in force.

With regards.

On behalf of the Parliamentary " Raad " and Captain of the " Volksraad."

(Sgd.) JACOBUS BEUKES.
" DAVID ZWART.
" FREDRIK DRAGONDER.
" ZAK BEUKES.
" NICOLAAS DRAGONDER.
" CORNELIUS DE TOOI.
" JORS . . .
" JAKOBUS MOUTON.
" P. DIERGAARD, Magistrate.
" JAKOB BEUKES.

EXHIBIT " E 2."

To the Burgher Magistrate,
P. Diergaard.

Dear Magistrate,—I am writing you this letter in order to let you know that no Hereros wish to stay behind, because the Hereros will go and defend themselves. So nobody will remain behind.

Jakopuis Lank Kafer.

Nalsgau,
8th November, 1924.

REHOBOTH COMMISSION.

Evidence taken at Bloemfontein, Wednesday, 1st July, 1925, 10 a.m.

Point 1. DEWDNEY WILLIAM DREW, d.s.s.: I have a map which I put in (F 2). This shows the boundaries of the Rehoboth Gebiet, at various periods under the Germans. I prepared this map in the magistrate's office, Rehoboth. The *green* line represents the boundaries claimed by the Old Raad according to the Kamaherero Treaty. I have an affidavit by Mattheus Gertse, now deceased, who said this was the Rehoboth boundary (G 2). I think the western boundary is the sandy, useless, uninhabitable country.

The treaty with Kamaherero fixed the northern boundary. I have a German treaty which defined the eastern boundary. I hand in the affidavits of M. Gertse and others (H 2). These affidavits were made before the Bastard " Regters," and they gave them to me.

The eastern boundary is not in dispute, excepting for a strip of four or five miles on the other side of the Schaapriver. I know nothing of exhibit " A " (van Wyk's letter to Vogelsang, 1885). I thought that, according to the blue books, there was no question about the eastern boundary, but only about the western. It is a pity that Gertse's and Dirk van Wyk's evidence was not taken before the Drew commission.

The *red* line is what the Rehoboth people want. When they say "they claim," they mean that this is their claim in equity, namely, up to the Ururas, but they will be satisfied with the land within the red line.

The *purple* line shows the boundary defined by the German Treaty of 1898, which the Rehoboths told me they signed under force of circumstances. I hand in all the documents with regard to the boundary (I 2).

The only things I attach importance to are the affidavits of Gertse, Zwart, and the members of the Raad.

All the changes of boundaries of the Gebiet signified reductions of area. The territory, at last recognised by the German Government on the western boundary, was gradually reduced, not at once. I learnt of one thing about this: the Rehoboths spoke of a consultation about the boundary on the eastern side. The question was where should the land be found to satisfy the debts due to the German storekeepers. The German Government strongly advised the Raad, about 1896 or 1897, before the passing of the law regarding native credit, to provide the land in a single block on their border, and the Rehoboths alienated the Skuldplase, marked on F 2. The other consultations referred to in the Drew Commission's report took the form of summonses or instructions to appear at a certain spot.

The Rehoboths told me of the circumstances of the 1898 treaty relating to the western boundary.

(I met the Rehobothers in 1917 with Senator Schreiner, we spent two days with them. We advised them with regard to the framing and forwarding of a petition to the Imperial Government, requesting that they be made a separate territory like Basutoland, with a Resident Commissioner appointed from overseas. They sent a petition which I did not see, but I sent a separate memo to Mr. Lloyd George, who wrote to me and them that the matter would be settled after the war.)

Jaarman, who was a member of the old Raad, and his father, were building a kraal not far south of the Auas Mountains. They saw a German lieutenant, who was also a surveyor, engaged daily in putting up stone landmarks, and on returning to Rehoboth, they told the Raad thereof.

The Raad were called to Windhoek shortly afterwards on other business, and communicated to the Governor that they feared an encroachment on their territory. They met the Lieutenant-Surveyor and the Governor, who told them that these were not landmarks (boundary beacons), but "peilbakens" (surveyor's points), and rebuked them for harbouring suspicions. The Governor said that any Rehobother who said that the Germans were putting up boundary beacons was committing an offence. This was in 1896. I brought this matter before the Raad, and found that there were four or five of the Raad at least who knew of this, and they were definite about it: Mouton, Dirk van Wyk, Albert Mouton, Jaarman, George Alcock and others. About 1897 the Raad received a summons to meet a party of the Administration, including von Lindequist, at a point near Krumneck. They arrived a little late, and followed von Lindequist, who was travelling west and south. They rode two hours, and found that they were following the line of the "peilbakens." They declare that this boundary is the "peilbaken-line," and they were dictated to sign the relative document, which is with the German records.

In Mr. H. Drew's and Colonel de Jager's reports, question arises whether the boundary of farm Isabis overlaps the Gebiet boundary as surveyed. The Rehobothers claimed land west of the boundary. The Commission says that the line was settled by the "peilbakens," placed by mutual consent. But these "peilbakens" were not placed by mutual consent, they were erected two years before the agreement was signed. I would like you to have the evidence of the Bastards on this point. I wish to draw your attention to some articles written by me in the "Rand Daily Mail" two years ago. The Prime Minister's office have copies. I there refer to this point. When I wrote those articles, my information was not perfect. I have since found a report of Palgrave's (put in) (K 2).

Dr. Hahn was a missionary with the Hereros for 30 years, and he gave some information to the Cape Government. There is here a letter speaking of the gift of their land to the Bastards by Kamaherero. Dr. Hahn says he had a very good right to give the land. I hand in the book on this point (L 2). It is common cause that the German Government never gave compensation for the land they took on various occasions. The Rehoboths pleaded pressure. The Germans were steadily diminishing their rights under their treaty. Cornelius van Wyk repeatedly told me that when he met General Botha in 1914, he showed him a copy of the Kaiser's treaty. General Botha said: "You shall have at least what this treaty gave you, but it requires alterations to meet modern conditions, and this can be done by mutual agreement." I urged that this meant: "The Bastards should recover what the treaty gave them, less what they might have surrendered voluntarily." Mr. Hofmeyr agreed that this was a fair interpretation. I think the Union should make good General Botha's promise. The Bastards have never recovered from the losses suffered by them as a result of the action they took in the late war. The Bastards gave out farms to the

west of the western line (west of Kubis), as is proved by their Grondboek of 1894 and 1895; thus they actually disposed over some of the land which the "peilbakens" cut out.

I would submit that, from the point of view of the League of Nations, the Rehoboths would be entitled to that land in the west which they reoccupied in 1915, and which is claimed by them as originally acquired from Kamaherero. The Raad gave out farms in this region.

First there was acquisition by treaty with Kamaherero. Secondly, the right of repossession in 1915, following on military engagement with the Germans.

In the far south of this region there were very few farms belonging to white people. In 1915, some of these farms were the private property of white people. The acquisition of these by the Bastards would have been subject to treaty between the Bastards and the owners. But there are Nauchas and others which were Government property or vacant. My argument applies only to farms which were not private property. The Rehoboths had a prior right over the Union to this land. The Raad never claimed the land to the north. We asked Mr. Hofmeyr to permit the Bastards to obtain the vacant land to the east of the Gebiet and also to the west, so that the Raad could provide farms for the burgers. Colonel de Jager maintains that the Rehoboths do not use half their land. The reason is that this is a dry area, and they have not the means for opening water.

Only about 400 own farms: there are about 1,000 to 1,200 able-bodied men. Looking to the future, we expect that they will never have the means to buy land in competition with the whites, but we must provide for them for this and the future generations. The tribe will increase in numbers. So far as I can see, the Union Government was careful not to encroach on the Bastards' rights under the Kaiser treaty, but they have done nothing for them. Mr. Hofmeyr wished to assist them on the £ for £ system to build a dam, but I was told he advised them to bond their land in order to raise their quota. They refused, as they are a very suspicious people, as they feared that they might ultimately lose their land.

Point 5. I went into this point with the Raad, and it seemed, from German records, that they had paid taxes. The Raad explained that taxes were demanded from them after the Witbooi war. They appealed to Berlin, and their appeal was upheld. The Germans then said that it was only fair that they should contribute to the expenses, and they agreed to do this for a term of two or three years in the amount of £300-£400. The Germans had no right to tax under the Kaiser treaty. The whites, indeed, had to pay taxes to the Raad. The only tribute they paid was in military service. The position was analogous to the London Convention. I have seen the Military Service Treaty. I do not see, however, how that modifies the 1885 treaty. The Rehoboths never looked upon it in this way. They would not see it in the legal light. (One of their rules is that no lawyer may practise in the Gebiet.) That treaty does not openly override the 1885 treaty.

Point 3: I have referred to this in my statement, which I put in (M 2). My remarks apply to letting and alienation of land. With regard to the Hereros, there are about 1,000 in the Gebiet. I asked C. van Wyk, in July, 1923, why he permitted them to reside in the Gebiet, and van Wyk told me that the Hereros had said that they had come into the Gebiet because the Administration's taxation was too heavy, and would mean that they would lose their stock, and there was no reserve provided for them. Van Wyk further said that they felt under an obligation to them for past kindnesses, and they allowed them to stay. They were persevering, and paid their poll tax regularly to the Raad, etc. The Raad never kept accounts of their revenue. I have heard that the Raad spent revenue in drinks. Van Wyk said further that they had asked Mr. Hofmeyr to remove the Hereros, and he promised to do so if given time to find other land for them, but he delayed because he could not find water in the land which he had marked for them. Mr. Hofmeyr had pushed forward European settlement, so that there was no land available for the natives at the time. Mr. Collie advised that this was a mistake. The Land Bank and Land Board have lost heavily—sums in excess of £100,000; I have not the exact figures. Many farmers were ruined. This was all due to lack of provision of water and non-accessibility of markets. The Reports, 1922-1924, speak of the difficulties of opening water in the reserves, and consequently the Administrator said he could not remove the natives from Rehoboth.

I think the Hereros should not have been admitted to the Gebiet, nor should they be there now. They should be given their own reserve.

The Rehoboths have fallen from the moral position the German missionaries had lifted them to. Palgrave says that they were very industrious. The Rehoboths to-day know no crafts, they have their own native servants, and as sons of landowners they are averse to manual labour, and little employment, and that at very low pay, is obtainable in the Gebiet.

The Government should limit the number of native servants, so that work may be found for the landless Bastards, and remove the other natives.

They are at present not fit for full self-governing responsibility. I told Mr. Hofmeyr in their presence that it was necessary that at times they should have to be governed against their own will.

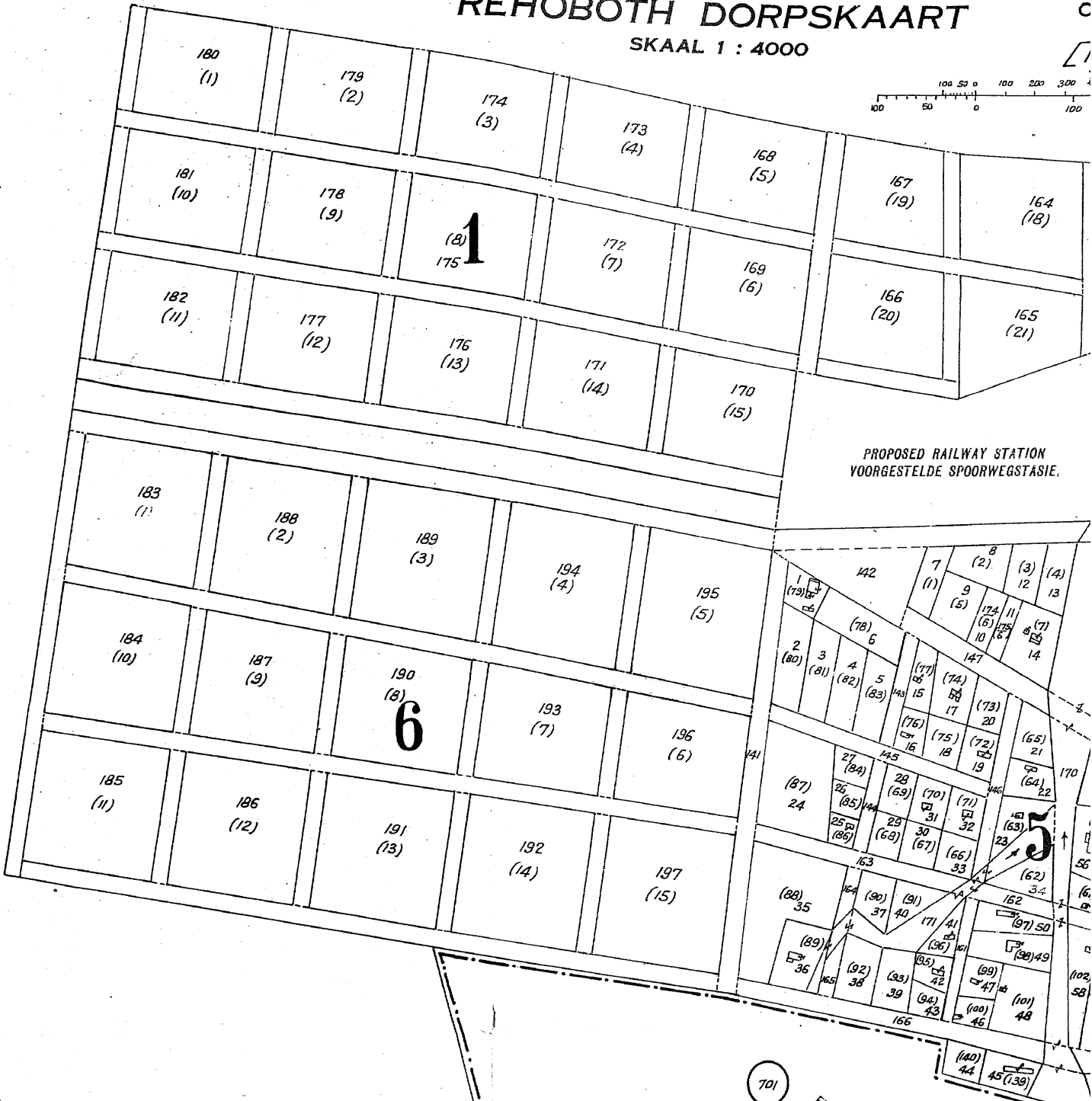
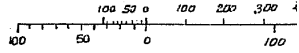
REHOBOTH TOWNSHIP PLAN

SCALE M. 1 : 4000

OLD N
C

REHOBOTH DORPSKAART

SKAAL 1 : 4000



BUILDING No	MAP No	PLOT No	ALLOCATION. PLAASAANWYSING.
701	7	Govt. reserve	MAGISTRATE'S HOUSE MAGISTRAATS HUIS.
702	"	"	MAGISTRATE'S CLERK'S HOUSE MAGISTRAATSKLERK SE HUIS
703	"	portions of 212	COURT-HOUSE & GAOL GEREGSHOF EN GEVANGENIS
704	"	"	POLICE CAMP POLIESIE KAMP
705	"	136 (2)	DWELLING-HOUSE WOONHUIS
706	"	Govt reserve 212 portion	POST-OFFICE POSKANTOOR

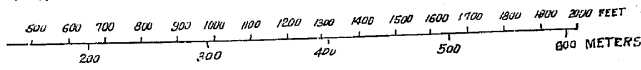
701
MAGISTRATE'S HOUSE
MAGISTRAATS HUIS.

702
MAGISTRATE'S CLERK'S HOUSE
MAGISTRAATSKLERK SE HUIS

GROUND SURROUNDING GOVERNMENT BUILDINGS CLAIMED BY
GROND WAT DIE GOEWERMENTS GEBOUE OMRING, DEUR BASTER
C. N. MANNING, Magistrate,
Rehoboth, 1925.
(Get.) C. N. MANNING

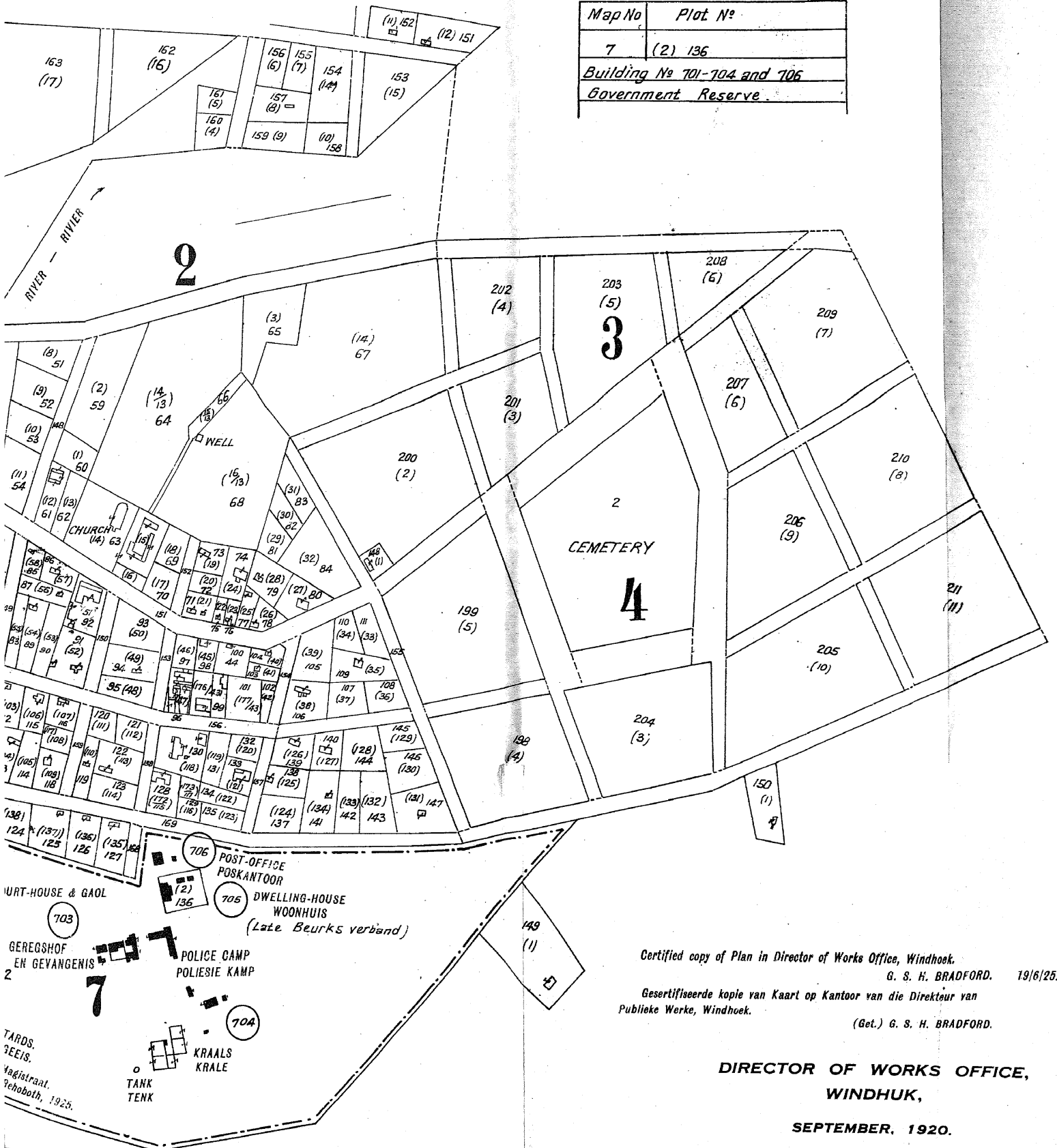
IMBERING OF PLOTS SHOWN (18)
 I NOMMERS AANGETOON (18)

1 INCH = 101.58 METRES or 111.11 YARDS or 333.33 FEET



GOVERNMENT PLOTS.

Map No	Plot No
7	(2) 136
Building No 701-704 and 706	
Government Reserve	



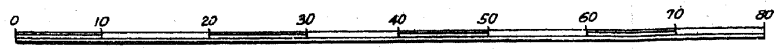
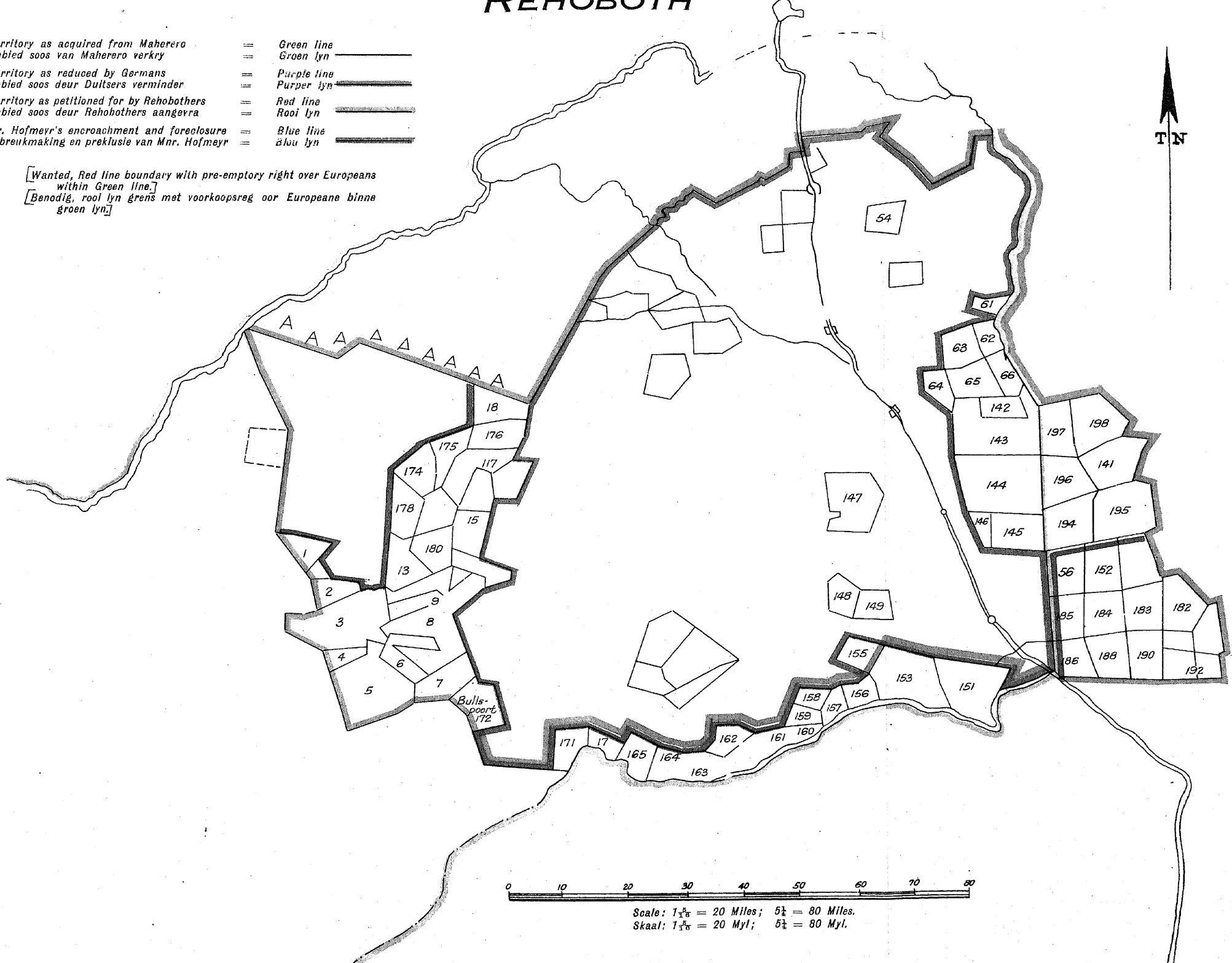
Certified copy of Plan in Director of Works Office, Windhoek.
 G. S. H. BRADFORD. 19/6/25.
 Gesertifiseerde kope van Kaart op Kantoor van die Direkteur van
 Publieke Werke, Windhoek.
 (Get.) G. S. H. BRADFORD.

DIRECTOR OF WORKS OFFICE,
 WINDHUK,
 SEPTEMBER, 1920.

REHOBOTH

- | | | |
|---|----|-------------|
| Territory as acquired from Maherero | == | Green line |
| Gebied soos van Maherero verkry | == | Groen lyn |
| Territory as reduced by Germans | == | Purple line |
| Gebied soos deur Duitsers verminder | == | Purper lyn |
| Territory as petitioned for by Rehobothers | == | Red line |
| Gebied soos deur Rehobothers aangevra | == | Rooi lyn |
| Mr. Hofmeyr's encroachment and foreclosure | == | Blue line |
| Inbreukmaking en preklusie van Mnr. Hofmeyr | == | blou lyn |

[Wanted, Red line boundary with pre-emptory right over Europeans within Green line.]
 [Benodig, rooi lyn grens met voorkoepsreg oor Europeane binne groen lyn.]



Scale: 1 1/8" = 20 Miles; 5 1/2" = 80 Miles.
 Skaal: 1 1/8" = 20 Myl; 5 1/2" = 80 Myl.

The agreement of 1923 represents, undoubtedly, an encroachment on their previous rights. They had not given up their right of sole taxation or exclusive legislation, but the agreement provides only for their consultation before legislation, and leaves to the Administration the final right of legislation. It is true that they have an appeal to Parliament. When the Administration saw that the growing majority of burghers were against the agreement, it should have dropped the agreement and relied exclusively on its mandatory rights. The liberties granted them under the Kaiser treaty are in excess of what they can at present be entrusted with. But General Hertzog said: "I do not wish to take away your rights; I would add to them as you grow fit to enjoy them." They are not ripe for them to-day, and they should be kept under "paternal oversight." The privileges assured under the agreement seem to me well-suited to their present condition.

One of the reasons for the opposition of the majority to the agreement is religious, and is advanced by the Elders, who have not the practical political experience of the Raad. They maintain that in the course of their strenuous history they have been repeatedly saved from disaster by divine intervention.

They look upon their existing rights and liberties as bestowed by the hands of God himself and urge that to renounce any part of these would be to confess themselves unworthy of His trust.

[Read over and adhered to by the witness.—P. B., 1.7.25.]

EXHIBIT "G 2."

PROCLAMATION.

Translation from German.

I, Maharero, Supreme Chief of Damaraland, on behalf of myself and Under Captains, hereby declare that the boundaries of my country are as follows:—

- (1) In the North the whole of the Kaoko Territory as far as the Coast.
- (2) In the West, the Tsoachaub and the Omaruru Territory as far as the mouths of these rivers.
- (3) The Kusib Territory as far as Ururas.
- (4) In the South, the Rehoboth Territory which was given by me to my *Bastard* allies, and I hereby strongly protest against all kinds of ownership of land and mineral rights within the abovementioned boundaries which have been bought or may be bought or received from persons other than myself, as being contrary to all rights and absolutely invalid.

(Sgd.) MAHARERO TYMUHA.

Dictated by Maharero and written by his Secretary Wilhelm Kaununiaka.

Seal.

MUHONA

MUNENE

UA OVAHERERO

VON HEREROLAND.

EXHIBIT "H 2."

Translation from Dutch.

Our boundary was North the Awas mountains westwards over the High Veld as far as Kuisib over Kuisib to Ururas. North East 5 Kilometres on the other side of Schaapriver, over farm called Gorodabis, with a straight line over Haries as far as Fishriver, south up the Fishriver as far as Saugap then as far as the Sea.

(These affidavits were made during my visit in Oct—Nov., 1919

(Sgd.) D. W. DREW.

26/6/25.)

Translation from Dutch.

Declaration of ex-Elder Mattheus Gertze in connection with the Ground incident:

I was present when the late Captain Maherero gave his adjoining lands to our late Captain Hermanus van Wyk in the year 1873. I cannot recollect the date or the month. The Rehoboth ground referred to, so much as belonged to Zwartbooi at the time, was by him, Abraham Zwartbooi, given to Maherero and his community in exchange for other ground, to wit: Bokberg and its territory. In this manner did Captain Maherero and his community hand Rehoboth with its territory over to Captain Hermanus van Wyk and his people, who were with him at Rehoboth, as their legal property.

This grant was made in the presence of three Missionaries as witnesses, namely Missionary Carel Hugo Hahn and Henrich Brenker and Felip Dhiel and there were also present other Chiefs, namely Abraham Zwartbooi and Jan Jonker Afrikander, together with the Councillors of Captain Maherero and Captain Hermanus van Wyk. At that time the

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the boundary of the Rehoboth Territory was from the North-eastern point of the Awas mountains in the west with the Kuisib River as far as Ururas and from the North-eastern point of the Awas mountains to Dordabis, five kilometres across the Schaapriver and from the Schaapriver to Lekker Water through the sand dunes in a straight line to Fishriver and up the Fishriver to Sasos or Fredriksdam. The Eastern boundary was fixed by Barbabas, Chief of the Red Nations, and Captain Hermanus van Wyk, in accordance with his declaration. There was never any doubt that the German Government after we had won all the wars with them in 1898 cut up our land illegally.

(Sgd.) MATTHEUS GERTZE.
(Elder.)

Witnesses:

- (1) (Sgd.) Albert Mouton, Actg. Capt.
- (2) (Sgd.) F. W. Maasdorp, Sec.

PROCLAMATION.

Translation from Dutch.

I, Maharero, Supreme Chief of Damaraland, on behalf of myself and Under Captains, hereby declare that the boundaries of my country are as follows:—

- (1) In the north the whole of the Kakao Territory as far as the Coast.
- (2) In the West, the Tsoachaub and the Omaruru Territory as far as the mouths of these rivers.
- (3) The Kuisib Territory as far as Ururas.
- (4) In the South, the Rehoboth Territory which was given by me to my *Bastard* allies, and I hereby strongly protest against all kinds of ownership of land and mineral rights within the abovementioned boundaries which have been or may be bought or received from persons other than myself, as being contrary to all rights and absolutely invalid.

(Sgd.) MAHARERO TYMUATA.

Dictated by Maharero and written by his Secretary Wilhelm Kaumunieka.

Seal.
MUHONA
MUNENE
UA OVAHERERO
VON HEREROLAND.

(Note in Mr. D. W. Drew's handwriting, on separate sheet of paper.)

The border question.

In '85 / treaty w / Kaiser took place.* / Germans not having yet arrived in the country. In '89 Hauptman Francois with colonial troops occupied Tsaubes.

In 1890 Hermanus v. Wyk had a transaction with Hauptman Francois who (18 October had established / Windhuk as / capital) relating to / boundaries. The line ran as H. v. Wyk said, to / westerly point from Auas Berg & / northern point from Auas Berg which he had bought from Abraham Zwartbooi.

(In pencil)

Farming in the Gebied.
Carl Woermann and Dirk v. Wyk.

*This was effected by the Commissary Karl Badiner.

Declarations of the Commission at Rehoboth in connection with:

- (1) The land which the German Government took by force, namely, the north-eastern boundary as far as the south-eastern side
- (2) and the land which the German farmers received for book debts, namely, the eastern boundary as far as the south-eastern side.

1. In 1873 the main boundary was fixed north-east of the Abas mountains by a direct line 5 kilometers on the other side of Schaap River across the farm named Korodabees, in the presence of Abram Zwartbooi, Chief of the Red Nations, formerly Chief of Rehoboth, and Jan Afrikaner, Chief of the Afrikaner Hottentots, when I, Mattheus Gerdze, formerly Schoolmaster of the Rehoboth Community, was also personally present when the north-eastern boundary, as far as the south-eastern side, was fixed by the supreme Chief of Damaraland, Kamaherrero, and the property granted to Captain Hermanus van Wijk, Chief of the Rehoboth *Bastards*.

2. In 1898 this aforesaid boundary was resurveyed by the German Government and, without any reason, put back as far as the Schaap River and along the Schaap River to where the Kois River runs into the Visch River.

3. In 1896 the German merchants issued oxen and other goods to the burgers of Rehoboth on credit and also lent them money, for the purpose of transporting supplies from Zwakopmund and Walvisch Bay and in this manner repayment was to have been effected. In 1897, however, a terrible cattle disease broke out in our country, namely, the rinderpest, which wiped out practically all the cattle. Shortly afterwards, about a year or so, the German merchants sent in their accounts to the *Bastard* government and claimed their money, threatening to report them to the German Government if they did not pay their debts. Captain H. van Wijk thereupon sent me, and another member of the Raad, a former deputy Captain, Willem Koopman by name, as a Commission to confer with the German Government with the object of persuading them to give us the land they promised us if the *Bastard* soldiers went over the border to fight with them, so that the debts can be paid thereby. Then Dirk van Wijk and I went and interviewed the German Government but instead of giving us a reply, they advised us to give up some of the boundary farms situated in the outlying districts and said that by so doing, the German merchants would not penetrate into our midst. Besides it would protect us against the Hottentots, because they were formerly our enemies, and in order that we should not come into contact with each other again, and also to prevent war with the Hottentots. For these reasons the land referred to, namely, the north-eastern portions as far as the south-eastern side and the two rivers Schaapriver and Vischriver, was given to the German merchants. The Captain made still further requests for assistance to the burgers in some other way, but these were not heeded.

4. Our Captain and Council thereupon asked for a specified account, but up to the present no specified account has been received. We received an account of grand totals, but as this was not considered sufficient, they promised to send us a specified one, but up to now we have not received it.

5. Furthermore, at the second granting of ground on the eastern boundary the Captain again asked for a specified account, which has up to now not come to hand, but a merchant named Schreder, of the district of Otjemheunkwe, has rendered a small account in which one bottle of milk at 6d. and one dish of milk at 1s. are charged for. Consequently the ground has been taken for one bottle of milk ($\frac{1}{2}$ hectar) and one dish of milk (one hectar), and up to the present we have not received a receipt, nor a diagram showing how much land was taken for the abovementioned debts.

6. Moreover, the German Government did not give us any assistance in obtaining a specified account. Subsequently the Captain and Council made representations in regard to such doings of the white people, and the Government consoled the Captain and Council by assuring them that these things would not occur again, namely, that book debts be paid for in the shape of land, and that a law would be passed providing that any white man who, in future, allowed credit to a *Bastard* or native without entering into a contract in front of the District Officer or "Bezerk," would not be entitled to prosecute the *Bastard* and his plea would not be accepted. In this manner the German Government protected many of the *Bastard* burgers, so that they received protection for once.

7. We were not satisfied with any of the above-mentioned points, because we had seen what happened to the Chiefs who resisted, we kept quiet, but the greatest injustice was committed. Everything mentioned herein is the gospel truth, and we, the undersigned, saw and discussed it ourselves and we can swear to it before God.

(In pencil.)

RAAD.

W. KOOPMAAN, Former Deputy Captain.

S. BEUKES, Former Magistrate.

C. ZWAART, Former Member of Council.

M. GERDZEE, Former Schoolmaster at Rehoboth, now Elder at Rehoboth.

Free translation from Basters Dutch.

STATEMENT OF COUNCILLOR PIETER MOUTON.

I was present with the duly authorised Councillor Dirk van Wyk as Captain, to settle the southern boundary. That day Councillor Dirk van Wyk, and the representatives of the German Government acted as if the boundary was wrong and produced a document. The representatives of the German Government agreed that it was right, but they could not now alter matters because the ground had already been entered in the German Grund-
[U.G. 41—'26.]

buch, and had been sold to German farmers. They would therefore give another piece of ground in exchange for the ground which had been included within their line. They pointed out to us a mountain range (to the west of Bulspoort)* They gave us ground which is of no use to us, and which is already our own ground.

EXHIBIT "I 2."†

Translation from Dutch.

COPY OF A COPY OF PROTOCOL ENTERED INTO ON 20TH MARCH, 1900,

in connection with the action by the Imperial Governor, arising out of the agreement of the 24th September, 1898, in connection with the fixing of the eastern boundary of the *Bastard Territory*.

The Commission was constituted as follows:—

REPRESENTING THE IMPERIAL GOVERNMENT:

- (1) The Imperial Magistrate.
- (2) The Imperial District Commandant, Senior Lieutenant Freiherr von Schoenau-Wehr.
- (3) Government Surveyor Gaertner.

REPRESENTING THE BASTARD COMMUNITY.

- (1) Willem Koopman, Acting Deputy Captain.
- (2) Jan Beukes, Member of the Raad.
- (3) Samuel Beukes, " " "

The members of the Commission agree, after having ridden along the boundary, that the Eastern Boundary of the *Bastard Territory* be fixed in accordance with the attached sketch. (In the direction from north to south.) Through the Schaapriver where it begins at the southern ridge of Auasberg as far as its course is visible in the pass south of Girib. From there the boundary is a straight line in a southerly direction as far as Lekkerwater, but excluding the grazing veld at this watering place. Further south a straight line over the dunes to a point about 8-10 km. from Oas. From there the boundary runs along the Rehobother river (Oan-ob) in a direct line as far as Kalkrand, north-east of Kuis and from there to the Pass through which the Huibriver runs, 5-6 km. before its mouth in the Fischriver, and so along this river to its junction with the Fischriver at Kuis.

A duly prepared copy of this Protocol shall be given to the *Bastard* community at Rehoboth after the consent of His Majesty's Governor has been obtained.

Kuis, 26th February, 1900.

For the Imperial Government:

- (Sgd.) DUFT,
Bezirksamtman.
(Sgd.) FRHR. VON SCHOENAU.
(Sgd.) G. GAERTNER,
Land Surveyor.

For the *Bastard* Community.

- (Sgd.) WILLEM KOOPMAN.
(Sgd.) JAN BEUKES.
(Sgd.) SAMUEL BEUKES.

Handed to the Bastard Raad by direction.

Rehoboth, 9/8/00.

Imperial Magistrate.
(Sgd.) VIETSCH.

* Deleted in original.
† Cf. Exh. "L."

PROTOCOL OF THE AGREEMENT*

between the Imperial Government of German South-West Africa (represented by Acting Governor Regeringsraad, Von Lindequist) and the *Bastard* Community (represented by the *Bastards* Dirk van Wijk (Hendrik's son), Koes Diergaard, Jan Beukes and Jakobus Mouton (Koes' son), at Nauchas, in connection with the western boundary of the *Bastard* Territory and the farm Nauchas.

The parties have agreed that the boundary line from the Auas mountains to the beacon erected for survey purposes south of Naos shall be such as was fixed by the Government Surveyor in October 1897, whereby Gurumanas and a small watering place west of Gurumanas, and also Naos, remained in the *Bastard* Territory.

From the beacon referred to the boundary line follows the larger mountain top in the direction of Gubitsaus, branching off shortly before Gubitsaus so that the vleis in this locality fall within the *Bastard* Territory. Then it runs in a southerly direction from Gubitsaus to the mountain top and then there along as far as Areb, with the provision that the water in Areb remains for the *Bastards*. As the delimitation of boundary at Areb entails great difficulties and expense if Areb is excluded from Government property, the *Bastard* Community, therefore, gives its consent to negotiations being conducted by the Government direct with the owner, long Koes Diergaard with a view to the purchasing of the farm Areb.

At Nauchas, the boundary runs past Areb to the second mountain top north-east of the station situate at the mountain top and along this through the Pass of Kobus as far as Rabibriver. From there the Rabibriver is the boundary up to the point where it runs into the Nauchas-Zwart-Kamriver. From this point it runs over a mountain ridge which divides the Nauchas from the Kabiras plain and which lies south-east of the station and from 500 to 1,000 metres from the point where the rivers separate. As a result of this, a portion of the plain through which the Wit Kamriver flows, later to be decided upon, will fall within the *Bastard* Territory. From the Kabiras plain the boundary runs to Bulpoot, which farm falls within the *Bastard* Territory, and from there to the Narob river along the southern right bank as far as Bloemvischriver, which river is the boundary onwards to Kub.

In the east the Schaapriver is the boundary of the *Bastard* Territory. The route of the boundary in that region is held over until ridden off by a Commission.

A copy of this protocol will be handed to the *Bastard* community in Rehoboth.

Kobus, 24th September, 1898.

For the Imperial Government:

The Acting Governor,
(Sgd.) VON LINDEQUIST,
Imperial Councillor.

For the *Bastard* Community:

(Sgd.) DIRK VAN WIJK.
" JAN BEUKES.
" JAKOB MOUTON.
" JAKOBUS DIERGAARD.

As witness for the District Magistrate of Rehoboth.

(Sgd.) SIMON,
Sergeant.

Translation from German. †

20th March, 1900.

REPORT of the negotiations regarding the determination of the eastern boundary of the *Baster* territory by the Imperial Governor in terms of the agreement of 24th September, 1898.

The boundary commission consisted of:

As representatives of the *Imperial Government*:

- (1) The Imperial Magistrate, Mining Inspector Duft.
- (2) The Imperial District Chef, Lieut. von Schoenhausen-Wehr.
- (3) The Government Surveyor Gaertner.

As representatives of the *Baster Community*:

- (1) Wilhelm Koopman, acting Under Captain.
- (2) Jan Beukes, Councillor.
- (3) Samuel Beukes.

* Cf. Exh. "I 2.", p. 206.
† Cf. Exh. I.

The members of the Commission have agreed that the *eastern* boundary of the territory, after riding along the boundaries, and on the basis of the annexed sketch (in the direction from north to south) is the Schaapriver, from its source on the southern ridge of the Auas mountains to its visible course in the poort south of Girib. From there the boundary runs in a straight line in a southerly direction to Lekkerwater, excluding, however, the grazing at this waterhole, and further south in a straight line across the dunes to a point about 8-10 km. east of Oas. Thence the boundary runs along the Rehoboth river, in an almost straight line to the Kalkrand north-east of Kuis. Thence to the point where it crosses the Auib river, 5-6 km. before its confluence with the Fish river, and then along this river course to its junction with the Fish river at Kuis.

A copy of this Report will be handed to the *Baster* Community in Rehoboth, after approval by the Imperial Governor.

Kuis, 26th February, 1900.

For the Imperial Governor:

- (Sgd.) DUFT,
District Magistrate.
(Sgd.) FREIHERR VON SCHOENAU,
Lieut. and District Chef.
(Sgd.) G. GAERTNER,
Surveyor.

For the *Baster* Community:

- (Sgd.) WILHELM KOOPMAN.
(Sgd.) JAN BEUKES.
(Sgd.) SAMUEL BEUKES.

Copy handed to *Baster* Council in terms of instructions.

Rehoboth, 9th August, 1900.

Imperial Magistrate's Office,
(Sgd.) v. VIETSCH.

EXHIBIT "K 2."

PALGRAVE'S REPORT OF 1877.

Returned to Parliamentary Library.

EXHIBIT "L 2"*

The House of Assembly,
Tuesday, 18th July, 1922.

Question No. IV.

Mr. Alexander:—To ask the Prime Minister:

- (1) Whether there is a dispute between the community of Rehoboth and the Union Government, represented by the Administrator of South-West Africa, with reference to the right of the community to occupy certain land in South-West Africa;
- (2) Whether a Commission was appointed to go into the matter;
- (3) Whether, while the matter was being considered by the Commission, the land in dispute was parcelled out among white settlers; and, if so, why; and
- (4) Whether the Government is prepared to lay the majority and minority reports of the Commission upon the Table?

Reply.

(1), (2) and (3). The Rehoboth community claim land which they alleged had been allotted to them by the German Government but on the appointment of a Commission on which the Rehoboth Raad was represented they failed to establish their claim to the land which is Government land and is available for settlement purposes.

- (4) Reports of this character are not submitted to the Government.

EXHIBIT "M 2."

MEMORANDUM BY MR. DEWDNEY W. DREW.

This memorandum has reference to the matters which the Rehoboth Commission, appointed under proclamation of His Excellency the Governor-General, is presently investigating, and on which I had the privilege of giving some evidence at Bloemfontein on the 1st inst.

* See page 232.

1.

My acquaintance with the Rehoboth people dates from August, 1917, when the late Senator Schreiner and I (then travelling in the S.W. Territory with other members of the Union Parliament) were given by the late Sir Howard Gorges (the Administrator of the Territory) the opportunity of meeting them. We spent two days with the Volksraad, whom we found desirous of presenting a petition to the Imperial Government. On that matter, as in respect of their affairs generally, we gave them such advice as we could. Senator Schreiner died about two years later, retaining his interest in the Rehoboth community to the last. Our views ran parallel on the subject of their interests, and I kept in mind what we had agreed on by letter and conversation when I made my second visit to their Stad in October and November, 1919. I went with the knowledge and approval of General Smuts, then Prime Minister of the Union. By his wish I enquired among the local Europeans, especially the Germans, what they would consider a proper settlement of Gebiet affairs. As to the Bastard inhabitants, none were in favour of their being allowed any more land, and I found little importance attached to this people's treaty with the Kaiser which there was no doubt, the German Government had set itself for years to break down. Europeans in the district would have been best pleased to see the Bastard Territory declared open, with freedom to the landowners to bond or alienate their farms as they might please. Had that been done the consequences, without possibility of doubt, would have been the same, that we have seen in Gordonia, Griqualand East and other places where commerce in land has been permitted between coloured owners and Europeans.

A fortnight's conference with the Rehoboth Volksraad at the time I write of eventuated in the framing of a draft constitution or Charter by which, in substitution for the Kaiser Treaty, the Raad had the hope that their relations with the Union Government, as Mandatory would be determined. Their object was to obtain what the late General Botha had suggested to their Kapitein an amended or rather substitutionary treaty in place of one they previously had with the Kaiser, but which needed adapting to new conditions. General Smuts, so far as I knew, took no notice of their proposals. Mr. Hofmeyr rejected them as "not worth the paper they were written on." After years of waiting a five days' conference with the Administrator led to the drafting of an agreement, which the Raad, after much hesitation, signed, but which the majority of the burgers were found as time passed to be unalterably opposed to. I was present with the Raad at Windhuk and there led them in stating their case. For some years I have held their Volmacht to represent them in political matters. I have visited them on an average nearly once a year since 1917 and been in frequent correspondence with them.

The above gives account briefly of my personal share in their affairs and explains my standing ground as their witness. It remains for me to state the grounds on which, as I conceive, the *land claim of the Rehobothers* can fairly be rested, and secondly to indicate a political settlement which may reconcile the rights and interests of the people with the proper authority of the Union Government as mandatory.

2.

The land claim of the Rehobothers is based (1) on a ground of fair acquisition by treaty and purchase. By treaty with the Bastards of Rehoboth, dated 15th September, '85, the then German Kaiser bound himself "To acknowledge such treaties as other nations, or persons belonging thereto, had contracted with them."

Two letters of Hermanus van Wyk, the first Rehoboth Kapitein, indicate what the territorial engagements were which the Kaiser's undertaking covered. One was written in 1876 to W. Coates Palgrave, Commissioner of the Cape Government, who at that time was visiting the South-West Territory and there sounding the minds of the Chiefs about coming under British protection. Van Wyk is seen in this letter cordially welcoming the idea, and, indeed, begging that his land and people may be annexed to the Cape portion of Her Majesty's Dominions. He describes his acquisition of Rehoboth and its district since years earlier, telling how on the advice of the late Rev. Dr. C. H. Hahn (whom he met with at Okahandya) he approached Zwartbooi, a Hottentot chief, previously owning Rehoboth, whence another Hottentot chief, by name Jan Jonker Afrikander, had expelled him in the previous year. From Zwartbooi van Wyk obtained a deed of cession which, says the letter, Kamaherero confirmed: The value to be given consisted, if I remember, of a number of horses, but Palgrave, in whose reports the letter now referred to is printed, gives with it one text of the contract, which will be found between the 80th and 90th pages. I have seen among documents of the Rehoboth Raad some reference to a rather evasive undertaking by Zwartbooi to sell Rehoboth to the Bastards, if he sold it to anybody. Also, the Raad are not sure that van Wyk ever delivered the full quantum of the horses. These points do not seem to me very material. A fugitive from Jonker's enmity, Zwartbooi had only a contingent hope of being able to give transfer of the ground and the right which he ceded had no high purchase value. Palgrave says in his report that he advised him not to press van Wyk for more payment since

anything got would no doubt be impounded by Maherero, the *de facto* owner of Rehoboth. Whatever may have been the obscurities or irregularities of the transaction, Palgrave shows us that after full discussion with all concerned, viz., Jonker, Zwartbooi, van Wyk and Kamaherero, he had satisfied himself all claims were fairly met by van Wyk and that all parties were satisfied.

It is to be noted that Kamaherero purports to have bestowed Rehoboth as a gift. Ostensibly, the ground of the benefaction was assistance received from van Wyk in confirming a general peace among the heads of the tribes in the South-West Territory at a conference held at Okahandya in September, 1870. The Bastards, however, possessed horses and rifles and their friendship would thus have value for the Damara chief. He seems to have been in chronic war with the Hottentot clans, and it can be questioned whether, despite the protestations of the belligerents to the missionaries, the chief negotiators of the then called "Groot Vrede," any of them intended to observe the treaty any longer than it might serve their convenience. In any case they seem all to have been at war with one another again and Rehoboth, the place of room and rest, which van Wyk and his people thought they had found after their long and perilous trek (itself originating in the encroachment of the Colonial farmers) was frequently their chosen battle ground. Kamaherero's hopes of the Bastards were, however, not disappointed. Save for one bloody misunderstanding, when several Rehoboth burgers were murdered by Hereros, the friendship and alliance of the two peoples continued firm. We have a present outcome of it in the harbourage which, as I write, some hundreds of Hereros and their families are enjoying in the Rehoboth Gebiet.

We have additional light on the Zwartbooi—van Wyk—Maherero contract in certain replies of the Rev. Dr. Hahn to Mr. J. M. Orpen, M.L.A., Chairman of a Select Committee of the Cape House of Assembly which in 1881 was enquiring into Damaraland affairs. "Kamaherero," says the doctor, "had a special and good claim to Rehoboth. The Namaqua chief, Abraham Zwartbooi, to whom Rehoboth had belonged, had fled during the war before his own countrymen, the Namaquas, to Damaraland and took refuge there. Kamaherero gave him protection and a large tract of country, equally as extensive and good as that which he had been compelled to leave. In this tract he and his tribe have ever since lived unmolested and again got wealthy. As Kamaherero had driven Zwartbooi's enemies from Rehoboth, he claimed it now as a compensation. However, he was quite willing to cede it again to Zwartbooi should he choose to return to his former place." (The document whence this quotation is extracted, I put in at Bloemfontein.)

In the event last-named the Bastards would, I surmise, have got Bokkeberg. But, as we see in Palgrave's report (also put in at Bloemfontein): Zwartbooi eventually decided to remain where he was. I think few people can trace such fair and honourable title to their national homes as can the Rehobothers.

Kapitein van Wyk's other letter to which reference is made above carries the question of land title a stage further for the purpose of the present enquiry. Writing on the 7th January, '85, at Rehoboth for the information of Herr Heinz Vogelzang, German Consul at Angra Pequena, but, at the moment a visitor in Rehoboth, he indicated his boundaries as follows: "Ik denk ik bezit het recht mijn grenslijn in de noorderkant tot aan het Awasgebergte uit te strekken, en van daar, langs het gebergte tot aan den Kuisib, en westwaarts, met den Kuisib af, tot aan den grond, die de Duitsche van Piet Heibib gekocht hebben—van hier zuidwaarts en oostwaarts de Zauchab, tot aan Bloemvisrivier, waar de Klam in Bloemvisrivier inloopt; verder over Zedelingsgraf en de Zwartkopjes tot aan de noordoostpunt van Awasberg." (Translation:—"I think I have the right to extend my boundary line on the north side to the Awas range, and thence along the mountain to the Kuisib, and westwards with the Kuisib down, to the ground which the Germans have purchased from Piet Heibib—from here southwards and eastwards the Zauchab, to the Bloemvis river, where the Klam runs into Bloemvis river; thence via Zedelingsgraf and Zwartkopjes to the north-eastern point of Awas mountain.")

The above clear concise statement fills in the outline of a proclamation by Maherero (whereof I put in the original at Bloemfontein) as to which it was objected by the official members of a commission, appointed by Mr. Hofmeyr in 1922, that it might be evidence of a gift, but described no boundaries. For that reason, as well as because the document bore no date whether of place or time, these Commissioners set it aside as of little evidential value. A little research, had this even been limited to data which at the moment was to hand and offering, would have shown it to be really an important link in a chain both of historical and living testimony. There were affidavits of leading Rehobothers available, which had been sworn at my suggestion at Rehoboth in October, 1919, before the Raad Rechter. All the deponents were first hand witnesses and all but one, Willem Koopman, were still alive. The most important of them all, Mattheus Gertze, was actually standing in the presence of the Commission and the Secretary of the Raad, F. W. Maasdorp, has informed me of his asking if this witness should be examined. The request was strangely

ignored. Mattheus Gertze had assisted as a young man of 21 and in the capacity of interpreter at the actual treaty-making which the Proclamation, *inter alia*, covered, viz., in its reference to the Rehoboth Gebiet, as having been given by Kamaherero to his Bastard allies. Gertze deposed as follows:—

I was present in 1873 when the late Kapitein Maherero gave Rehoboth and its country to our late Kapitein Hermanus van Wyk (the month I cannot remember). The said Rehoboth country had been given by Abram Zwartbooi to Maherero, for as large as it then was, in exchange for another tract of land, viz., Bokberg, with its district. Thus Maherero bestowed Rehoboth, with its district on Kapitein Hermanus van Wyk and his people, to be their lawful possession. The gift was made in the presence of clergymen who were witnesses, viz., the Revds. Sarel Hugo Hahn, Heinrich Brenker and Philip Dhiel. Other chiefs were also present, viz., Abram Zwartbooi and Jan Jonker Afrikander, together with the councillors of Kapitein Maherero and Kapitein Hermanus van Wyk.

At that time the boundary of the Rehoboth Gebiet ran from the north-easterly point of the Awas range westward with the Kuisib Rivier to Ururas, and again from the said north-easterly point of the Awas range five kilometres over the Schaap Rivier and with this river away through the sand dunes in a straight line to Visch Rivier, whence with the Visch Rivier, it went on to Sassos or Frederiks dam. The eastern boundary marched with that of Barnabas, chief of the Red nation: Kapitein Hermanus confirmed the above demarcation by declaration. There was never any doubt on the part of the Germans, that after we with it, the German Government, had won all the wars, it unlawfully cut away our lands."

The above affidavit was made on the 15th of August, 1922, and was witnessed by the acting kapitein and also the secretary of the Raad. The day following Mattheus told me, as we were seated at Rehoboth on the stoep of the Mission Pastorie, that he recollected the veld was showing the approach of winter when the proceedings took place to which he testified as above. By his concluding sentence he had meant (he said) that the German Government knew quite well there was nothing to be said against Maherero's bestowal of Rehoboth nor yet against Hermanus van Wyk's declaration on the subject. I suppose he referred to something done of as public a character as was Maherero's proclamation. I have never met with such a document. Possibly, since he refers to it as something well-known to the Germans, it was the statement of Hermanus to the German Consul, which we have in our hands, though I had not seen it until it was handed to me by the present commission during the giving of my evidence. Unfortunately, Gertze died about 18 months ago, or we could get full particulars. In an earlier affidavit, which he delivered jointly with Willem Koopman, S. Beukes and C. Zwart, a declaration by Raad members and Church Elders—he interpolated this personal note: "and I was also there (by name Mattheus Gertze, old schoolmaster of the Rehoboth community), when the Paramount Chief of Damaraland, Kamaherero, fixed the boundary, from north-east to south-east, and gave the land westwards thereof to Hermanus van Wyk, as supreme chief of the Rehoboth Bastards."

It is worth observing how easy these land marks are to be carried in the memory. Everything west of a certain line and between two rivers (the Fish and the Kuisib), was the Rehoboth Gebiet. That known, as everybody present at the function described by Gertze would know it, the relevance of Maherero's proclamation becomes unmistakable.

The affidavit signed by the four above-mentioned describes the principle boundary line as running in 1873 from the north-east extremity of the Awas Range in a straight line five kilos on the further side of the Sheep River over the farm known as Koradabis. "This," it says, "was agreed to in the presence of Abram Zwartbooi, head of the Red Nation, and Jan Afrikander, head of the Afrikaner Hottentots." There follows Gertze's personal note, and the four continue: "The German Government in 1898 cut away this line and put it back to the Sheep Rivier, and thence, along the Sheep to the Kois River, where this runs into the Fish River, but did so with no cause."

In August, 1917, when the late Senator Schreiner and I together made our original acquaintance with the Volksraad, I took a note of their statements as they spoke. This note I have now before me. Among those named as present in a well-attended meeting of ten, was Willem Koopman, Under Kapitein. The subject of boundaries came up and, as the best evidence I can give, of the then Raad's testimony, I transcribe what I hurriedly noted at the moment, making this a facsimile of the actual writing:—

Re Boundary:
Beaconed by the old Capt. Hermanus van Wyk. Mr. Koopman did the beaconing. (88)* '78.
Old Hottentots can still be found to prove the beacons.

W. sea water.
E. Fish River & Schaap River.
S. Fish River.
N. Rwy tunnel, a beacon still standing above the tunnel, 4 days on horseback N. to S., 2½ days Reh—to the E.

* Deleted in original.
[U.G. 41—'26.]

1. Want get back the ground illegally taken by the Germans.
2. Westwards will be satisfied to go as far as Ururas—1½ days to paard this side of the sea.
3. Want: Impl. Com. to go into these boundaries.

In this declaration we have mention of beaconing. The date given as '78 rather surprises me by its lateness, but as I seem to have corrected it on the moment from '88, no doubt, the former figure is right. It will be seen that while the Raad claimed sea water as their western boundary, they would be satisfied to go as far as Ururas, which is consistently noted in the subsequent affidavit of 1919 as their extreme western limit. What lies between this and the sea as one traces the course of the Tschauhab, I understand to be valueless desert. If the beacon still stands above the rwy. tunnel it is, at least, easily discoverable. Witnesses must be still available to prove it, for I learned from several of the Raad as lately as the 19th February, 1924, that "September" who carried the stones, and Victor, a brother-in-law of the late Mattheus Gertze, were still then living. I have been surprised to hear that neither of these was produced to the Commission at Rehoboth. There may have been difficulties, even if they were not dead. Of course the Administration by delaying enquiry for ten years has in various ways increased the burden of proof to the Rehobothers. Willem Koopman and Dirk van Wyk are now also gone, like Mattheus, the second mentioned not a year ago. I have a note of another original witness, not to the beaconing, but the Zwartbooi transaction, who may conceivably be still living. On the 10th of last June, while reading to some of the Raad Palgrave's account, new to them, of the purchase of Rehoboth by Hermanus, Piet Mouton remembered that a certain Koos Mouton accompanied the Kapitein on his journey to Bokkeberg, where he met Zwartbooi and came to agreement with him.

All testimonies agree with regard to the Kuisib line. An apparent discrepancy exists between the statement of Hermanus (in his letter to the German Consul) and the affidavits as to the position of the south-eastern corner of the Gebiet. Whether real conflict exists would perhaps exist on how the west boundary of the Red Nation actually ran, for the two, according to Marthinus were identical for some distance from the Fish River northwards. The explanation, perhaps, is that the deponents had become so accustomed to the existing boundary on the south-east that they overlooked the change there made by the Germans—so far to their advantage. At the same time their forgetfulness would not be evidence of ingratitude. This piece of land, it appears from von Lindequist's letter to the Raad, dated 14th October, '97, was given as a matter of compensation for the much greater area in the west and north whereof the Administration was depriving them. The Raadsleden may have been confused by the sudden emergence in court of testimony from the pen of their old Kapitein exhibiting face conflict with their own, but I should be surprised if, on taxing their collective memory, they could not find the true explanation.

We have now before us a fair amount of testimony as to what the Rehoboth boundary was as acquired by Hermanus van Wyk. His letter to the German Consul has the value of also showing that the Rehobothers, though beset by enemies among the tribes—Palgrave records an additional menace from emigrant white farmers—succeeded in keeping what Kamaherero bestowed. They are shown as having maintained effective occupation to the date of the Kapitein's writing, 7th January, '85, and as having repulsed and ejected all challengers. Whether Manasse, Jan Afrikaner, Zwartbooi or the leaders of any of the roving depredatory bands, which at intervals roamed the Territory. The mention of Jan's expulsion more than once from the Gansberg is something to the very point of this enquiry, for the district named is central to the large area of which (as the Rehobothers allege) the German Administration deprived them. Even had the Kaiser's treaty not covered Kamaherero's gift, the Germans made it a broken treaty by taking the Gansberg. This portion the Rehobothers had won back repeatedly and were firmly holding under conditions when no treaty counted; when Kamaherero himself, as van Wyk mentions, was having a rough experience with Jan Afrikaner and was, indeed, in retreat at Okahandya. "Zoo denk ik," sums up Hermanus, "het ik verworven regt op Rehoboth en het omliggende gebied." (Translation:—"I therefore think that I have acquired the right to Rehoboth and the surrounding territory.") The phrase which is relevant in the Kaiser's treaty corresponds verbally, if I remember. I have not the Dutch by me, but an English translation now under my eye describes the German Emperor as "recognising the rights and freedom which the Bastards of Rehoboth have secured for themselves" as well as "binding himself to acknowledge the treaties which other nations may have contracted with them." The words I have underlined cover "the somewhat more" of territory which Hermanus possessed in 1885 as compared with what Zwartbooi ceded to him in 1870. Among their secured rights was their unloosed hold on Rehoboth.

Thus in September, 1885, when the German occupation was beginning, we find the Rehoboth rights of land and freedom acquired originally by treaty and preserved afterwards by their rifles, confirmed and guaranteed in clear contract under the seal of his German Majesty.

All boded fair for the Rehobothers with their passing under German protection, reluctantly though they did so. They had regarded themselves as continuing to be British subjects, though they years before quitted British territory, but apart from a natural preference for the Government of the Colony whence they sprang, they could have no objection to the new order. The German Government was likely to bring money into their country for purposes of construction and development, as, indeed, it did, and they benefited, in an economic sense, as by transport riding and disposal of their small stock, to an extent which probably far surpassed anything they had hoped or imagined. Their share of the white man's civilisation, his culture and his religion, which they justly prized and wished rightly to increase, they owned more than anything else to the splendid and self sacrificing work of the German missionaries, of whom some, such as Hahn and Heidmann, though less known, deserve to rank with Moffat and Livingstone. It could not be feared that a German Administration would be unsympathetic to a community whose elevation from the heathen level was the work of the Germans engaged in the highest of callings and labouring in the best German spirit. In the case of meeting with injustice at the hands of the officials and soldiers who composed the local government they had a strong charter of rights on which they might hopefully base an appeal to Berlin.

Events differed widely from expectations. The Raad, at their meeting with Senator Schreiner and me, said, through one of their number: "We entered into a friendly treaty with the Germans not of our wish but of theirs. They broke their agreement by daily squeezing us and taking our land."

The first trouble on the subject of land of which I have heard occurred in January or February of 1894. I took down a brief account of it from the lips of Raadslid McNab: "Before the German time," he said, "two men had fallen in a war with the Topnaar Hottentots, their names being Gert Beukes and Jonker van Wyk. The Burgers drove out the Hottentots. This happened in 1890, but in January or February of 1894, Major Francois and Hans Diergaard, with other burgers, visited the locality. This was the first occasion of the Germans finding themselves in this part of the country, of which they knew nothing. The company were at Noiras (Xoiras?) proceeding along the Tsouchaub River, when Hans Diergaard said to the major: "Now we are on our line." "'Tis impossible," he exclaimed, "that you can have so much ground." Then said Hans Diergaard: "Here we shed our last blood. It will be an injustice if we are not permitted to have (toevertrouwd) this land, where we shed our blood." Major Francois answered: "With our rifles and ammunition you make this present war (*i.e.*, in '94 against Witbooi)." Hernam Diergaard: "Dan vat ik mijn geheele manschappij terug en trek Rehoboth toe, als gij mij dit land niet erken waarop ons bloed lig." Toen het hulle uitmekaar geloop. (Translation:—Diergaard rejoined: "Then I take all my men back and go to Rehoboth, if you do not admit our right to this land, where we shed our blood." Then they separated.) The two had no more conversation, but Andrews Kotzee, Dirk van Wyk (Kolonie), Onder Kapitein Willem Koopman and Piet van Wyk talked together. What they said I don't know, but they got so far with Hans Diergaard as to induce him to stay and to go on with the war, the idea being to discuss the boundary later. So we went on with the war until Hans Diergaard fell on the 27th August, 1894, and until peace arrived about a fortnight later. This was the first dispute about the line.

On the same occasion that McNab spoke with regard to the west and south-west boundary, Piet Mouton, Raadslid, added his testimony, of which I have the following note in his own words: "In 1897 is de westelijke lijn vast gezet, zoals hij nu in de kaart verschijnt. Na die was een strijd o'er die lijn. Toe het hulle in kommissie gegaan, Lt. Freiherr von Zenowheer was daar. Toe is weer klagtè gewees vir die grond, en een Kommissie van Maltahohe en Rehoboth uitgekome. Ik en ou Piet Beukes, Raad, was tegenwoordig. Toen ons bij de Spitzkop kom op de lijn daar het de Duitse Kommissie erkend dat de eerste kommissie de lijn niet reg gemaak had. Zo kan ons die grond niet terug krij nie, omdat die grond reeds in die Grond Boek ingedra is. Zo zal hulle ander grond gee westelijk van Bullspoort en zuid-west, en hulle het ons die grond gegee." (Translation:—"In 1897 the western boundary was defined, as it now appears on the map. Afterwards there was a dispute about the line. Then they went into commission. Lt. Freiherr von Zenowheer was present. Later on there were further complaints about the land, and a commission came from Maltahöhe and Rehoboth. I and old Piet Beukes, councillor, were present. When we arrived at the Spitzkop on the line, the German commission admitted that the first commission had not defined the boundary correctly. We could not get the ground back again, as it had already been entered in the Land Register. They would give us another piece of ground, west of Bullspoort and south-west, and that piece of ground has been given to us.")

The objection of the German officers to admit mistake by altering a record once made is significant. The land does not, as I have always heard, improve in quality with its westerly extension. But if Piet Mouton was right in his declaration to me an important

admission was at least *once* made by the German authorities as to the correctness of the Bastards' claim in the matter of their western boundary.

Raadslid McNab, according to my note, resumed after Mouton to this effect: "The first commission drew the line as we want it, but Ober-Lt. Hulzer and the Distrikts Amtmann Zeital from Maltahöhe, with a Surveyor, also from Maltahöhe, acknowledged that too much had been cut off. In compensation government would give ground, as Mouton had said. They did not, however, restore a fraction of what they took."

The land granted on the above-noted occasion was, I learned, divided among Malcolm, Paul and Johann McNab. Along with Malcolm McNab, Pieter Mouton and Piet Beukes are witnesses to the south-western boundary.

The above statements were made to me in Albert Mouton's house at Rehoboth in June of last year. At an earlier date (I take it to have been in 1919), Pieter Mouton made as follows an affidavit of which the original was, I assume, given to the Commission when it visited Rehoboth:—

"I was present with Raadslid Dirk van Wyk, who was empowered to settle the boundary in the south. On that day the members of the German commission began with the view that the boundary, as existing, was not right, and showed a document. They were brought to agree, however, that it was right, but could not do otherwise because the land was already entered in the German Ground Book and sold to German farmers. But they would give us another piece of ground in place of that which their line took from us. They showed and made over to us some mountain land which was valueless to us and also our own ground."

In the south there were other deprivations of Bastard land to satisfy the claims of German storekeepers against individual burgers. The land there taken being considered of insufficient value to liquidate these claims, more was appropriated in the Lekkerwater district on the eastern side of the Gebied. I transcribe from my note taken at the time and now before me the account of this matter which was given me by the Raad in one of our numerous meetings in October, 1919: "When the Germans established Windhoek, they wanted materials and foodstuffs for the work. Government advanced some of the people money for transport to be worked off (*i.e.*, they were to buy oxen and wagons). Also the storekeepers gave them oxen and wagons, to be paid for in transport. The storekeepers wanted only transport and nothing else; the burgers had to work the account off. At that time the Government paid 25s. per 100 lbs. from Walvis and Swakop to Windhoek. Most of the people took some oxen, the ordinary value of which would be £3 a piece. The dearest—slaughter—oxen would be about £5. A new wagon, got up from Cape Town would cost about £120—130. Perhaps 200 people took oxen and wagons. Most had wagons already; say one apiece, and also oxen, but some took more and some had as many as six. At that time, if a Bastard came with money to pay a storekeeper, he would not take it; he wanted transport. The burgers began riding transport in 1890 with their own gear and animals, but got more with advances from the storekeepers.

The rinderpest broke out in 1897. (Beukes thinks that the disease was brought in by some of the Nicodemus people with whom the Germans were at war and who fled into Rhodesia, afterwards returning to German South-West.) The police met the wagons on the road and in some cases shot the oxen dead; a good many were thus destroyed. Others they put in quarantine. In the end, most of the oxen died; some burgers had but an animal or two left in their spans. Voigt, one of the biggest creditors, had sold a lot of oxen to the Bastards, and it was among them that the rinderpest first broke out. The German Government paid no compensation for the oxen—not even for those that it shot. The greatest part of the oxen died after being inoculated. The government's oxen were also inoculated, but did not die. Police and others inoculated the Bastard's oxen; the government sent a veterinary officer to their own. C. Klaassen accused the government of inoculating many of the Bastard's oxen (deliberately) with bad gall. At any rate, in one place where 16 Bastard and Herero wagons were quarantined, the Government's animals survived and nearly all the others died.

The oxen began to die in April, '97, and in March, '98, the storekeepers began to send in their accounts. These were not detailed; nothing was set-off for transport riding and not even the number of the oxen and other commodities bought by the Bastard were stated. (Pieter Mouton got such an indefinite bill for £48, and disputed it, but eventually had to pay.)

A policeman in '98 brought the debt reckonings against several burgers before the Raad, who discussed the matter with the people. The Raad then asked the Government to take in payment the land promised three years before for help given against the Hereros. Government refused to do so and counselled surrender of the farms along the two rivers, rather than have German owners scattered about their Gebied. The policeman had previously stated that if the Raad did not pay, the Government would sell the debtors up. About 149,000 morgen were sold at an average price of 1s. to 1s. 6d.

First of all, Government demanded for the storekeepers the river farms on the south (the Visch River). They would not begin with those on the east, saying these were too dry. A surveyor was sent to find out what area the farms along the Visch River made. (The map shows that farms were taken along nearly the whole length of the border.) Afterwards von Lindequist informed the Raad that more land had to be taken. This was got on the east border and within it, where the Germans took 100,000 hectares valued at 1s. per h. and 49,000 also on the south, making the debt 149,000s. (The shilling was reckoned as equal to a mark.)

In connection with the above, I further transcribe that part of the affidavit sworn by the two Raadsleden and two elders (viz. W. Koopman, S. Beukes, C. Zwart and M. Gertze) which relates to the appropriation of the schuldplaatsen, as the burgers call the farms which were seized for their German creditors:

"In 1896 the German traders had provided oxen and expenses and also advanced goods to burgers of Rehoboth, for the purpose of riding transport from Swakopmund and Walvis Bay. They were to make repayment with the proceeds of their journeys as they went on. A frightful cattle disease broke out in 1897, that is to say rinderpest, whereby almost all the cattle perished. Shortly afterwards (about a year or so), the German traders sent in their accounts to the Volksraad, demanding their money, with the threat that if payment was not made they would complain to the Government. Kapt. Hermanus van Wyk then commissioned me, with some other Raad members, to wait upon the German Government. I, the old under kapitein, Willem Koopman, besought the German Government to extend consideration to us in our difficulty according to their aforesaid promise, and because our soldiers also had left the Gebied to assist the Government in its wars. We looked for its assistance that the debt might thereby be paid off. But when Dirk van Wyk and I met the Government, we got, instead of a favourable reply, the advice that we could and should meet the debt by the sale of border farms, and thus prevent the settlement of Germans in our midst. Also it was represented that they would be a protection to us against the Hottentots, who had previously been our enemies. We could thus escape contact and be rid of wars in their direction. Thus the land referred to became the property of German traders, viz., from the north-eastern side, that is to say, between the two rivers Schaap and Visch. I made further entreaty, asking that the burgers might be differently helped, but my prayer was disregarded.

"On the second occasion of giving up ground on the eastern border, the captain again demanded a detailed account, which, as before, remained unfurnished. But a German named Schroeder sent in a small account wherein 6d. was charged for a bottle of milk and a shilling for a dish (bord) of milk. Thus half a hectare of land was taken from us for a bottle of milk and a hectare for a dish of milk. We have never obtained either receipt or map of the land whereof we were deprived in order to satisfy the debt above referred to. Also the German Government assisted in no way towards obtaining a detailed account for us.

"Afterwards the Captain and Raad, having made their troubles—as created by the white man's doings—a subject of conversation (with the Government), they so far obtained consolation that book debts were made unpayable with ground. A law was promised, forbidding any white man to make a Bastard or native his debtor, and providing that if he did so without permission of the district officer he would be debarred from suing. In this way the German Government became a protection to many of our burgers. Although we were not satisfied in respect of the above-mentioned matters, we saw what had happened to objecting chiefs in other cases, and observed silence. Great injustice was, however, done. All that is here alleged is the simple truth, which we, the undersigned, have ourselves seen and experienced, and can swear to before God."

A paragraph from the introductory part of this affidavit may here be conveniently incorporated, though it has been textually given before it completes the story of German encroachment on the eastern border: "The German Government in 1898 cut away this line, viz., that sworn to by the four as running in '73 from N. east of the Awas range 5 kilos. on the east side of the Schaap river over the farms Koradabis, and put it back to the Sheep River; thence along the Sheep River to the Kois River, where this runs into the Fish River, but did so with no cause."

Tracing the inroads on Rehoboth territory from the south-west, we have turned east along the Fish River, which makes the original southern boundary, and thence we proceed northwards on the eastern side of the Gebied. I have no information as to alleged reasons of the German Government for taking the narrow strip lying on the left bank of the Sheep River, but no doubt the excellent quality of the river farms into which that ribbon of land would cut was not overlooked. Once, in the course of a wagon trip, I was near enough to this river to see the country across it, and it certainly appeared to be, in a pastoral view, all that the Raad member who was with me described it. The deprivation, according to the above affidavit, was made in the same year in which the remaining section of boundary—that from north-east to south-west—was so altered as to cut off from the Rehoboth community nearly the half of their Gebied.

This wholesale appropriation was an event which threw its shadow well ahead. I have heard from some of the Raad how Piet Beukes and his father—the latter the owner of a farm called Haris, and lying in the north-eastern corner of the Gebied—watched from their house in 1893 the march of a German contingent which was proceeding in the Hornkranz direction in order to attack Witbooi. Hans, the father, happened in August of the same year to meet with a number of Hendrik Witbooi's Hottentots as he was riding transport on a return journey from Walvis in company with his servants. They shot the whole party dead. A year later the German Government took the farm of Hans, which had been registered in the Raad Grond Boek as his since 1890, and sold it to a German named Bes. A. Schmerenbeck. The house stood empty at the time, the district having been made temporarily unsafe by the Government's operations against Witbooi. There would probably have been no danger to Hans had he not been a member of a community which was under call to render military service to the Germans, and engaged, when fallen in with by the Hottentots, in riding transport for their enemy. Thus it was the fate of this Rehoboth burger to be murdered by a savage foe, while his property, which the Volksraad would have confirmed to his widow, was seized by a civilised ally. Such an incident will suggest to the Commission the little respect the German Administration had for the rights of its treaty wards who, in this very war, were shedding their blood in its cause.

Whether the Rehoboth burgers read the injustice done to the widow of Hans as a portent of more wholesale land-grabbing, I do not know, but in another two or three years an event occurred which made them suspicious. Neils Claassen, a Raad member, has told me how in the year 1897, he and his father were together building a kraal on the farm Haris for a German who was, no doubt, the new owner according to German law. A surveyor, by name Lieut. Ecksteen, came (said Neils Claassen) and stood on the same farm where he began measuring. He went on measuring from that point for a month (so Neils and his father learned, when some time afterwards they went to Rehoboth). They had themselves observed, in going round the neighbourhood, that the course of this surveyor was steadily south-west, and that he was putting up beacons as he progressed. From Jacob Morkel, a driver, and some kaffirs, they got the information that he was extending the line of these beacons as far as Nauchas. Arriving at Rehoboth stad in the Christmas season, they gave their news at once to the Kapitein, who seemed surprised, but the same day wrote a letter to the Administration. A reply came back, stating that if anybody represented the Government was putting up beacons in Bastard ground, he would have to appear before the Court at Windhoek. It was not beacons defining a boundary that were being erected, said the letter, but merely survey beacons.

At this point Raadslid Piet Mouton was called in, he not having heard the description which Claassen gave me. We were in the house of Albert Mouton, the date being the 10th of June, 1924, when the "New Raad," as they are generally known, had possession of the Raad Huis. He stated that it was in the year 1896 Lieut. Ecksteen was making the beacons, and that the Administration, on receiving complaint on the subject, sent a letter or a message (he thought a letter) declaring that anybody who said a boundary was being marked by the said beacons would be telling lies, and would have to answer for so doing before the High Court.

Neils Claassen, confronted with the apparent discrepancy of dates, consulted his memory so as to get events in their order of time. The kraal wall (he said) he and his father had finished before they trekked away from Haris, which was in March, 1897. Consequently, it must have been (he thought) in November, 1896, that Ecksteen was busy with the beacons, report to the Kapitein having been followed next month during a Christmas visit. It could not have been in 1897, because he recalled that on finally leaving Haris his father and he trekked to Swakopmund, and thence rode transport to Windhoek. The oxen they had earned at the kraal died of rinderpest at a farm Appakuka (Okapuka?) on the other side of Windhoek (from Rehoboth, as I suppose).

Following on the discussion about dates Piet Mouton resumed his testimony to this effect (I give this statement, like that of Claassen, from my note on the occasion):

In 1897, when the Landmeter and von Lindequist came from Windhoek, the former sent a letter saying: You must come. Let us fix the boundary. The Kapitein sent Raadsleden, among them Dirk van Wyk. When they came to Haris (Hans Beukes sy plaats) they did not find the Commission, so they returned to Rehoboth. A second time they went out—to Gurumonas, where they heard the Commission was, but it had left the same day, before they arrived. So they followed it, but in the road met von Lindequist, who was returning from the Commission. He was very angry, and said: "Dirk, you must ride in order that the surveyor does not take in your farm also." Dirk, however, sent two men (Jan Beukes and my brother Jacobus) to the surveyor, while he (Dirk) and Koopman followed after von Lindequist to Gurumonas. Arrived there he was still angry with old Dirk and with the Kapitein. What conversation they there had, I don't well know, except that von Lindequist said to Dirk: "Dit is tot straf, omdat U telaat gekom

het; de lyn loop nou zoals de bakens vroeger gezit is. Hulle zal niet meer veranderd word." (Translation:—"This is a punishment for your coming late; the line will now run as it has formerly been beacons off. They will not be altered again.") Jan Beukes and Jacobus returned with the word that as von Lindequist had described the line, so they had found it.

I have before me a copy of a letter in German written by von Lindequist to the Rehoboth Volksraad, and dated from Windhoek on the 14th October, 1897. Herein he states: "It is not true what the Bastards say, that already in July the boundary was marked off." I should infer that considerably before July the course of the new line was pretty well fixed in the mind of somebody in authority. It must be understood that Gurumonas, the place named by Piet Mouton, was on the line of beacons, and there stood von Lindequist's wagon with the horses when the Raadsleden arrived. Von Lindequist had gone on south-westwards with the Commission, and as he was returning they met him. Can it be supposed that a new plan had suddenly entered the heads of the Commission—one which by pure chance happened to coincide with the sequence of the beacons? Certainly, if so, nothing could more effectually dispose of the idea of Mr. Hofmeyr's Commissioners that beacons were placed by mutual consent.

That the new line cut away recognised Bastard territory further appears from the fact that several Germans living in the excised portion occupied farms which they had bought under Raad titles. They, however, received exemption from Volksraad taxes, an unwise concession, no doubt, for it established independent white landowners amid a brown burgerryk, but the Raad have told me they voluntarily granted it, as part of their agreement with the burgers. Is it conceivable that the German Government, if it regarded itself as having sovereign rights over this land, would have permitted such transactions? At the least, if it sanctioned transfer, it would have caused the purchase money to be paid into its own coffers.

Still more proof, and in the same direction as that above, derives from the previous undoubted ownership for several years by the Rehoboth burgers of a number of farms which the von Lindequist line separated from the Gebied. I have two lists of such farms, making ten in all, particulars of which I either saw myself appearing in the Raad Grondboek, under dates anterior to that of the German appropriation, or took them down in Raad meeting from the testimony of members present. I transcribe below the two lists, taking them separately from notes which were made by me on two different occasions in June of last year:—

(1) 4th June, '24. Farms given out west of the 1898 line were:

<i>Farm</i>	<i>Owner</i>	<i>Year of Registration.</i>
1. Haris	Hans Beukes	
2. Vaalgras	Dirk van Wyk (matroos	Given out after 1894.
3. Hoornkranz	voorlopig tot Witbooi)	
4. Nauchas	Perde plaas	4.1.97.
5. Witkhobos	Jacobus Isaac	6.9.95.
6. Springbokhart	Malcolm McNab	

(2) 18th June, '24.

7. Gurumonas	Maria Margaritha Carew	8th April, '90.
Haris	Hans Beukes	1890.
8. Fonteinjes	Nicolaas Kotze	10.1.95.
9. Korgwas	Mattheus Diergaard	6.9.95.
10. Doornboomkalk	Mechiel Diergaard	6.9.95.
Vaalsgras	Dirk van Wyk (matroos)	
	oom van tegenwoordig	
	Dirk van Wyk, Kommandant	

I find in a note made by me on the 5th June, '24, the underneath reference to the subject of farms given out by the Raad among what are commonly called the "afgenomene plaatzen" (translation: "the farms taken away"):

"The record of several is to be found in the Raads Grond Boek, e.g., as on page 38 hereof. (The reference is to list No. 2 transcribed above, which I had entered the previous day, when sitting with the Raad.) Of the above," my note continues, "Nauchas, as the one healthy area in the sickness season, was made a perde plaas whereon any burger might run his horses. Dirk van Wyk and Jacobus Isaac exchanged the farms Vaalgras and Wit Khobus with each other, after getting them registered in their respective names as above. The farms Wit Khobus and Springbokhart lie south of the present line of the Gebied between the Bloem and Visch rivers. Dirk van Wyk [the Kommandant who died in August, '24] recalled yesterday morning in the midst of the Raad that these farms were given out by

the Raad prior to the drawing of the German line. I have now traced the full circle of German encroachments, on which criticism may here be in place. First, it is to be noted that these deprivations involved for the Rehoboth burgers reduction of their Gebied to about half of its original size. Apart from a special case to be adverted to below, there was no pretence of giving compensation on the Administration's side. But neither is it alleged that the burgers failed to observe properly that part of the mutual contract which specified their obligations. They made no more independent treaties with the tribes, and we hear of no call for military co-operation in maintaining the Government's authority in South-West Africa to which they did not respond. If my memory serves, there is to be found among the German records a high tribute to dutifulness and efficiency. There can be seen, affixed to an inside wall of their church at Rehoboth stad, a brass tablet, with names inscribed of burgers who fell in supporting the forces of the Administration in the field. They, therefore, did not furnish without sacrifice the services which were required of them. Beneath the list of the killed, as given on the tablet referred to, there appears this epitaph:

' They fell in the best interests of the Bastards.' "

The map does not suggest it. This shows a constricting line which, despite the pledge of " friendship and protection " by the Administration that drew it, took from the burgers, if anything, the larger part of their territory. Hence the complaint of Mattheus Gertze: " The Germans unlawfully cut into and took away our land, after having had our assistance in winning their various wars." Or, to recall the account of the matter given by the Volksraad: " They broke their agreement by daily squeezing us and taking our land." From the Deed of Friendship which German and Bastard mutually subscribed, we can see the profits which accrued to the former; the losses experienced by the latter are equally evident. When it appears that the strong partner takes the profits and the weak is left with the losses, there arises a presumption on which I need not dilate.

The German alterations of the boundary require on their face a good deal of justification. So far as I am aware, this has only been attempted along the undermentioned lines:

- (1) Jan Jonker was the true owner of northern Rehoboth.
- (2) Witbooi was too strong for the Bastards.
- (3) Germans spilt blood in defending Rehoboth.
- (4) They gave ground in exchange for what they took.
- (5) There were Rehoboth debts paid in land.
- (6) Volksraad signatures confirm German-drawn boundary.

(1) Hermanus is said to have claimed too much; in particular, a tract of ground marching with the southern bank of the Kuisib, of which Jan Jonker Afrikaner, with his people, was lawful owner, but which he sold to one Luderitz, who transferred his rights to the German Government. I have seen a German Proclamation, dated 7th January, '85, announcing this purchase from Luderitz.

What is known historically both of him and of Jan Jonker would dispose nobody to assume the full value of their business dealings. Luderitz was a notorious concession hunter. At the date above given he was suspected of working in collusion with the German authorities who were desirous of acquiring rights of land and other interests in South-West Africa as affording colourable reasons for annexing the territory. That he was reckless of statement when he had an object to gain can be seen in the Cape blue book on Damaraland affairs (A5-'85), where a minute by the late Sir Thomas Upington appears (page 5) refuting two or three misstatements by him on the subject of Cape rights north of the Orange River. The same publication exposes (on pages 11, 15 and 17) the worthlessness of a certain land concession which he obtained in the year 1884 from a Namaqua chief, Joseph Fredericks, of Bethany. This land, or at least the coastal part of it, appears to have been previously twice sold by the father of Fredericks, and there was a farcical ceremony of crowning Fredericks himself " King of Bethany," an assumption of authority which found no recognition from local chiefs.

It can be said generally of the concessions acquired by Luderitz that they did not stand the test of enquiry when submitted, in the year 1920, to a Commission of which Mr. Justice Carl Jeppe was president. On that occasion Mr. Adv. Blackwell, M.L.A., examined them with destructive effect, though there was engaged in their defence one of the ablest jurists from Germany.

Jan Jonker's character comes out pretty distinctly on a perusal of the papers and correspondence connected with the mission of the Rev. Dr. C. H. Hahn to Damaraland (A71-82), printed by order of the Cape Assembly, covering the merging periods of the years 1881 and 1882. What Hermanus van Wyk relates of his treachery at Durigous (cf., the letter to the German Consul frequently above quoted from) is amply confirmed by these documents. Dr. Hahn, in a letter to be found among them, marks Jan Jonker as a man who had been at the bottom of most of the disturbances among the tribes in his time, and the doctor, it should be remembered, had lived more than thirty years as a neighbour to

this troubler of the peace. A chief who would raid the cattle of his ally in the presence of the common enemy would not be superior to the vamping of a fictitious title to ground, especially if, besides getting something in hand, he could thereby revenge himself for old grudges. And this, in respect of his land transactions with Luderitz, Jonker eminently stood to do. That he had no status in law as a seller is evident from the fact deposed to in the affidavit of the four Raadsleden and elders, that he was present as a witness when Kamaherero gave Rehoboth to the Bastards. The chief's proclamation clearly covered the strip of ground afterwards indicated in the suppositive sale to Luderitz, viz., the land lying on the south side of the Kuisib and adjacent thereto. If Jonker disliked the bestowal of this tract on the Bastards, the time of his witnessing the gift was the time to have protested. We have, however, testimonies of Dr. Hahn and Mr. Palgrave, reinforcing that of Hermanus, that all the neighbouring chiefs, of whom he was one, were content with the arrangement. Like the others, he received horses from the Kapitein of the Bastards in friendly acknowledgment of countenance or assistance given them in acquiring their new home land. Jonker's claim, as against Hermanus, could not, I may remark, be helped even if he had lived at some past time in bona fide and unchallenged occupation of the Kuisib strip. He had committed, as I personally learned from old Gertze (who knew the circumstances), cowardly aggression on another's land, and got deservedly thrown out of his own, if his it ever was.

Without legal right to the land which he ostensibly sold to Luderitz, Jonker also lacked any claim of conquest or continuous occupation such as, among the tribes, or between himself and the Germans, might perhaps count for more than law. It is here to be noted how Hermanus, in his letter sketching his boundaries, emphasises that with or without the help of Kamaherero he had time and again chased Jonker and, for the four preceding years, kept him out of the Gansberg. The place thus named was a mountain fastness which a map published in 1889 by Messrs. Juta & Co., of Cape Town, located as hardly ten miles south of the Kuisib, consequently well within the ground which Jonker is described in the German Proclamation as having parted with to Luderitz. So the defeated chief sells territory to which many years before he had resigned any right that he might have imagined himself to possess, and on which, after being several times forcibly ejected thence, he had for four years not dared to reappear! What is more amazing, the foundation thus becomes laid (as some would have it) for the presentation of a serious claim of State by the German Kaiser!

When did Hermanus first hear of the Jonker-Luderitz transaction and the claim to a part of his territory founded thereon by the German Proclamation of the 7th February, '85? My sources do not enable me to say. Perhaps he never knew, for the proclamation may not have been effectively published. But this I do not think likely. We cannot suppose the Germans to have taken up their administrative responsibilities in a spirit of bad faith towards the tribes, or to have hid from any chief their claim (should they have thought they had one) to a portion of his ground. Besides, there is that in the treaty which the Kaiser's deputy signed with Hermanus in September, '85 (seven months posterior to the Luderitz proclamation), which would agree well with the theory that the Kapitein had entered a protest and been specially met thereon. I refer to the second article of the agreement, which guarantees three things: (1) The rights and freedom which the Bastards of Rehoboth have secured for themselves; (2) acknowledgment of their past treaties; and (3) no damage to the revenue of the Kapitein. The first two undertakings look like a precise response to the claims formulated in the letter of Hermanus. He there sketches his boundaries, which he justifies as derived for the most part from treaties and since defended in their full extent by the rifles of his burgers. The Kaiser, in reply, gives him a charter, which expressly recognises both grounds of his claim. The phrasing is so apt, as against the Luderitz Proclamation, that one might suppose the framers of the treaty as deliberately shaping it to an over-riding effect. Did Kamaherero's proclamation exclude Jan Jonker from the strip of land which marched with and lay adjacent to the south bank of the Kuisib River? Palpably so, because, apart from the plain meaning of the language which assigned the Gebied to the Bastards from the Kuisib southwards, we have the testimony (above alluded to) of Dr. Hahn and Mr. Palgrave that Jonker was accommodated with a rust-plaats at Windhoek. Whoever could claim north Rehoboth, he was shut out. But did Jonker not perhaps acquire title in that region by conquest and occupation? On the contrary, if Hermanus is to be believed, he was driven out whenever he got in, and at last desisted permanently from intrusion.

Everything so far accords with the theory that Hermanus knew early of the Luderitz Proclamation, which purported to appear a month subsequent to the day when he made his statement of rights to the German Consul, and that he entered a protest at some time during the subsequent negotiations, the issue of which was a treaty so drawn as, among other things, to destroy the title to north Rehoboth acquired by Luderitz, and therewith make a dead letter of the proclamation which the German Administration had founded thereon.

Of course, one can understand that fourteen years later, when new administrators became installed at Windhoek with men covetous of the Rehoboth country, reputed the best anywhere in the Protectorate, and desirous of plausible arguments for drawing a new boundary, one or other of them may have lighted on this old proclamation, about the history of which he probably knew little, and thought it serviceable for the meditated aggression. If so, the strong objections which Hermanus was able to enter and, no doubt, did enter, would speedily undeceive him, and the peremptory closure of the Kapitein's argument which we read of in von Schoenau's report, dated 30th August, 1898, would not be surprising, at least, to nobody knowing the psychology of the Kaiser's vice-regents in Windhoek at the period referred to. Von Schoenau has left in the document above-mentioned a striking tribute to the sincerity of van Wyk in vindicating his people's territorial right. He therein records that on the point of his boundary claim the Kapitein "evidently believed he had right." It was a case of another's consciousness being correctly read. Otherwise, would van Wyk have risked for years the giving out to his burgers and the occasional alienation to Germans?

(2) *Witbooi was too strong for the Bastards.* If he were, was this a reason for depriving them of some of their land, a people who had a treaty claim to protection? Relations between the Witboois and the Rehobothers, though subject to changes, were, however, for the most part as friendly as the arrival of the German Government in South-West Africa would let them be. One member of the Volksraad described the chief Witbooi to me as "the best friend the Rehoboth community ever had." The father of this member was an Englishman to whom Witbooi had shown kindness (as he usually did to white men who were British subjects), and had even given him a farm or two—I fear, in recognition of firearms and ammunition run by him into the country. There can be no doubt that a friendly feeling existed for years between the two peoples. The helpful offices which they reciprocated would, I am told, be found shown in the chief's diary (*dag boek*), which, when I last heard of it, was understood to be in the possession of Mrs. Roussouw, at Upington. Her late husband was resident magistrate of Rehoboth in 1917. This document, I am informed, would throw light on the reasons why Witbooi was living at Hoornkranz with his tribe in the year 1893, when the Germans attacked. We have seen that the Rehoboth Volksraad had voted him a temporary right of occupation. They had learned to appreciate him as a most trustworthy ally. But nearly always in South Africa, as perhaps elsewhere in the world, the first establishment of a white government in uncivilised countries has worked evil to the inhabitants. The incoming authority appropriates land for its own people, and the extruded tribe or tribes have to fight elsewhere for a habitation. After the war that the invader brings, there follow the wars with each other into which the invaded are squeezed. If the conqueror teaches the conquered the arts whereby they can live better on less land, a tardy compensation arrives. Affairs in South-West Africa, at the time I here write of, were in the first chapter of this history. The Rehoboth community, in order to keep their own ground, had to assist the German Government in dispossessing others. They did so in conformity to treaty against Witbooi, whom it did not suit the Windhoek authorities to leave undisturbed so near their capital as the farm Hoornkranz; his "rustplaats" was a convenient basis for operations against themselves. At the same time the Rehobothers were getting displeased with the position. If the two enemies fought, it would be on their ground. Moreover, Witbooi was evincing too much attachment to his temporary dwelling place. Dirk van Wyk and other members of the Raad were emphatic (this matter having once come up as we sat together) that the reason why they fought Witbooi was that, aside from their treaty obligation, they wanted to protect their right to the portion of their ground, merely lent to him, but which he was aiming to make permanently his own. They responded, so far, very willingly to the call of the Germans, "Come along and fight for your country." The issue of the struggle, of which the severest part befell themselves, was Witbooi's ejection, whereupon the Germans appropriated Hoorn Kranz, representing that

(3) *Ground which German blood had bedewed had to become German.* This flimsy pretext is to be seen solemnly put forward, in the letter of von Lindequist to the Volksraad, on the 14th October, '97. It therein appears to have been "expressly said by Major Leutwein," the Governor, "that the district of Hoornkranz and Nauwkloof, whereon German soldiers had fallen, and which, thanks to the courage of the German troops, had been taken from the Witboois, after being many years in their possession, must pass beneath German rule." Nothing, it seems, could be considered except the blood and bravery of the Germans; the fact that, as Piet Mouton declared to me before his brother Raadsleden, the Rehoboth burgers lost more blood in their fighting than the Germans, the right of the burgers to the land as recognised in the Kaiser's treaty, and the further understanding of the Kaiser to protect that right, could not be admitted into the account between Kapitein and Governor.

The above was characteristic reasoning of Leutwein and von Lindequist, and not much improved in point or force by the reminder that

(4) *The Raad had received a large and compensating piece of land*, situated on the Sheep and Fish Rivers. The gift referred to perhaps makes up the surface extent by which the boundary on the east, as claimed by Hermanus, fails to equate with that which the Germans recognised as limiting the Gebied eastwards. I have no maps which would enable me to judge, when we consider how far the German deprivations went, even to the extent of cutting off about half of the Rehoboth territory, it seems that what they gave was less than a sixth of what they took.

(5) *Debt was paid with ground*. Perhaps more than the real debt was thus paid—so the Raad's affidavit on this matter suggests. Plainly, the Administration came short of its duty in some important respects. It should have put pressure on the storekeepers to furnish detailed accounts. In the circumstances, seeing that credit had been pushed on the transport riders, these ought to have been granted a moratorium—the more so as the lenders were taking advantage of an "act of God," the ravage of the rinderpest, to come upon them for cash. More suitably, the Administration might have advanced the required sum, after proper auditing of the figures and guarantee of repayment from the Raad, out of earmarked revenues. Alternatively, had there ever been any honest meaning in the promise of land to the Rehobothers in recognition of war services (assuming the promise to have been actually made), such land would have furnished a preferable satisfaction. There were many ways of securing the storekeepers better and more honourable than that of compelling the Raad to sell land away from their people. These schuld plaatzen, as the burgers call them, became lost not merely to individual owners, but to the nation. Here the Government distinctly violated their treaty undertaking "not to cause damage to the captain by appropriating the revenue belonging to him in accordance with the customs and laws of his country." The Raad servitudes over the land ought to have remained. There was provision in the existed treaty, provision for upholding and enforcing debtor and creditor relations as between German and Bastard. This appears in clause IV., under which German subjects obtained the rights of travel, residence, industry and trade (buying and selling of land not debarred) for as far as the Captain's territory ran. Such subjects, on the other hand, were to pay to the Captain, were to conform to the regulations laid down by the Raad for their behaviour, as well as to the laws of their own country, and to pay all customary dues and taxes to the Captain. Within these terms, the storekeepers could have got from the mixed tribunals, which the treaty further created, a judgment to take land in lieu of payment. But this could not have been pleasing to the Government, which evidently foresaw the miscegenation of races that would result if Germans should live on lonely and scattered farms among the Bastards. As a matter of fact, that has happened in the Gebied, though to a smaller extent than was threatened by the situation here described. It better suited the developing policy of the Administration to get the Raad to alienate border blocks, which the storekeepers, it seems, were allowed to pick where they liked, and of course they took river farms. The Administration tacitly admitted the impolicy of letting debts to whites be redeemable in ground (which was also a treaty infraction) by prohibiting it in the Gebied thereafter.

I would submit that the Mandatory has a duty to restore the Raad rights and servitudes over these farms, or give compensation in lieu thereof.

(6) *Raad signatures legitimated the alteration of boundary*. And incidentally saved, no doubt, what remained of the people's land and liberty. The pathetic remark of the four Raadsleden and elders in concluding their deposition on the boundaries just conveys the position. They saw what had happened to other chiefs and peoples who did not obey the German will, and kept silence, though, they add, "undoubtedly great injustice was done." What else stands out from the face of the map, as one traces the all-round reductions made in the Gebied? The Raadsleden would have been madmen to have subscribed voluntarily such huge inroads of the Administration. The so-called compensation to which von Lindequist referred was but a lenitive of wrong. It can be doubted if it was wholly even that, for Piet Mouton tells of the Bastards having been somewhere compensated with their own ground. Personally, I would want no better evidence of the enforced nature of the Raad signatures than that with which von Schoenau supplies us in his reports above quoted from. He communicates therein van Wyk's apology for having attempted to excuse himself under the strictures of von Lindequist by direct letter to the Kaiser, and then acquaints the Administration of the agitated state of mind in which he found the Raad to have been thrown by what von Lindequist wrote to them. They were too fearful to ride to Windhoek and defend their Kapitein, even on the personal point of his alleged remissness or insolence in not meeting the Boundary Commission at the appointed time and place. Much less could one imagine them endeavouring to carry further the boundary question, on which von Lindequist had intimated that, so far as the line from Aris to Gubitsaos was concerned, he would listen to no more representations. To a certain extent, so von Schoenau reports, the personal petition had been drawn up and forwarded with the approval of the Raad and burgers, though only a small portion of them concurred at the time, and that provisionally pending further discussion of the matter with von Lindequist. This, he adds, did not take

place, and besides the son of the Kapitein, Dirk, neither Raadslid nor burger had signed the petition. The community, we can see, had been terrorised by von Lindequist's hectoring tone into practically deserting their Kapitein. And when I use the word "tone," I refer to the manner in which he appears to have stormed at the Raadsliden who encountered him returning from the surveying party, as well as to his expression with his pen. What he said in rage, viz., that the penalty for the absentee party at the boundary fixing would be the drawing of the line as those present liked it, he confirmed in writing. "Therefore," he says, "because nobody came, the boundary from Aris to Gubitsaos remains as the land surveyor has decided it; so far it will not be changed." Anything less agreeing with Mr. Hofmeyr's commissioners (referred to above), "that the beacons were fixed by mutual consent," could hardly be conceived. But von Lindequist left open the question of the land beyond Gubitsaos to the southern border, and, doubtless, the fear of losing this also deterred the Raad from supporting their Kapitein. So van Wyk was left alone as "the village Hampden" with enough dauntlessness of breast to oppose the local tyrant, and even he ended by apologising. I cannot see him doing so had they stood man to man, but there was the censure upon him of the whole angry Administration, whom he had given the go-by in his endeavour to get truth direct to the Kaiser. In Berlin the reasonableness of his representations (Mr. Hofmeyr agreed when at Windhoek that they were reasonable, and I hope the Commission, on reading van Wyk's defence, will be of the same view), so far made impression that we find Kettwig, Secretary for the Colonial Department, deprecating any sharpening of the difference between the Kapitein and the Administration. (See his letter, 30th January, 1898.)

It is relevant to mention another occasion when, also, necessity of apologising to the Government befell the Kapitein. My sources do not give the date, but no great period of time seems to have separated it from that of the boundary proceeding above described. Which apology was the earlier, I cannot say, but Nels Claassen, who gave me the particulars of the latter, would probably remember. The late Kapitein of Grootfontein (father of Marthinus Zwart, present elder at Rehoboth) had been ordered by Lieut. Lechow to supply 40 horses and soldiers. I gather from the son's declaration which lies before me in writing (confirmed by M. Benade, a well-known burger of Rehoboth), that the Witbooi war was just breaking out (viz., in 1903-4). Kapitein Zwart pleaded that as to the horses, he had only six at hand and four others in the veld. These did not satisfy the requisitioning officer, who represented that as Kapitein he could take from his burgers, but Zwart replied that he was not Kapitein over their property. He began to realise that he had brought himself in danger, and next day retreated to a certain hill, where he was followed by the officer with some men, who fired upon him. Zwart discharged one shot in reply, and then was fatally wounded. His people fled, and were pursued into Bethany district, where one of them was also killed. Kapitein van Wyk, for the offence of having described these occurrences (one or both of them) as murder, had to stand before the German guns, trained on his stad. and say: "Forgive me, I am guilty." The German way (to say no more of it) was sharp and stern, and the Kapitein and Raad, judging by familiar signs, evidently gathered that in respect of the boundary difference slender official patience with them was about stretched to its limit. They wanted to save what they could of land and liberty, there was none to deliver them out of the hand of the Administration, and their appeal against the land commission was rejected from Berlin; consequently, they wisely submitted to the inevitable and signed—how else can I call it?—the dictated boundary.

Of course, their subservience did not prevent the extension of the encroaching line. It went on, tracing always the course pre-laid by Government surveyor, and did not stop until it had reached the last of those beacons as to which the burgers had been threatened with citation before the High Court should they dare to say these merely trigonometrical marks were intended to define a new boundary.

III.

The deprivations of land which the Rehoboth burgers were destined to suffer under German rule appear to have been completed in the year 1898. But there was another kind of encroachment directed against their political independence and chartered liberties which proceeded more slowly. The reason why this was so is, I think, to be found in the remark made by the late Sir Howard Gorges, on the occasion of our visit to the Territory. "The Bastards," he said, "had been of much use to the Germans in their wars with the tribes, but they had found the treaty with the Kaiser inconvenient, and were undoubtedly marking time on them. Their turn was about to come, when the war intervened."

When the Volksraad delegates and I met Mr. Hofmeyr at Windhoek, the latter put before us what purported to be a summary of the stages by which, in his view, the burgers had practically surrendered their self-governing status as recognised in the treaty of 1885. These were that in 1893 their stad became a military station; in 1895, from 40 to 50 burgers were annually sent to be drilled under the German colours; in 1897 Rehoboth was made a military district; and, finally, a German Resident in 1903 took active part in the internal affairs of the Gebied. He had, however, to consult the Raad.

To the above apparent indications of rights relinquished by the Volksraad may be added a clause of the military service agreement which the Kapitein signed, and in which the latter is described as receiving a salary of 1,000 marks per annum "for the faithful execution of the duties therein defined, and of the German laws and ordinances in the Gebied." This last reference, I am informed, has been claimed by, as I understand, some German official and jurispudent as virtually degrading the Rehobothers from the position of a protected state to that of a subject community.

The Raad themselves did not omit to tell Mr. Schreiner and me of various infractions on their rights other than the appropriations of their land, wherein the German Administration overran the rights of the burgers. It broke the agreement, they said, by "sentencing and shooting coloured men like sheep or goats." For instance, they mentioned three Berg Damaras as having been hanged for stealing sheep, under the governorship of von Veitsch. They spoke of two boys who, having been denied food by their master, were compelled to dig for ointjes in the veld, at length stole sheep, they were flogged and given back into his employ. A Bastard, Plessis, was stated to have been sentenced to death for giving food to the British prisoners, but the rapid approach of the Union forces left no time to execute the penalty. The Raad complained also of the brutal treatment of the police, who, they said, flogged Bastards as well as natives. Sir Howard Gorges told me of the difficulty he for some time experienced in restraining the Union Police from carrying on the evil tradition. Then the law, according to their story, was not equally administered, nor yet applied in Court, as between Bastards and Germans.

These things had evidently created a burning resentment among the burgers. Observing their state of mind, I thought it not improbable there might be some truth in the allegations then circulating among the Germans of murders having been perpetrated by the Bastards on the Europeans, but this they strenuously denied. Some murders, they said, were committed by Hottentots, but outside British territory. Col. Mentz, we were told, thanked the Raad for their care of a German woman and her child, whom they sent to him. From what Germans have told me, I would not answer that there was no needless killing in the heat of the close engagement on the veld, but, on the other hand, we have the well-attested cold-blooded murder of several women and children of the Kapitein's family, whom a German patrol wantonly slew, finding them left helpless on the homestead.

The above paragraph is perhaps a digression, but I am desirous the Commission should have the atmosphere, as well as the particulars of the Raad testimony given to Mr. Schreiner and me in 1917. What they said of the conduct of the mixed trials relates more to the question of infringement of treaty rights. The German magistrate, according to the agreement with the Kaiser, was to handle such cases together with the Raad rechters, but in practice the former was stated to have done the handling, while the Raad, though they sat with him, had nothing to say.

In my mind there is no doubt that the Germans in various ways overrode their covenant with the Rehobothers, though some of the worst encroachments were, as will be shown, not unsuccessfully withstood. If one looks at dates, the contempt of the Administration for their written undertaking seems to have increased as, with the subjugation of the tribes, the work for which they wanted the assistance of the burgers came near to completion. True, they took no land after 1898, and it was not until six years afterwards that the long and expensive Witbooi war broke out. This they probably had not expected, and to have increased the great deprivation of land already suffered by the Bastards might have excited questions in Berlin. I have sometimes thought that had the German missionaries dared to move the churches in Germany against von Lindequist and Leutwein as John Mackenzie, for example, moved those of England against Cecil Rhodes when the latter meditated the despoilment of Khama, the Rehoboth map would have undergone less alteration during the period of German rule.

Even if the Union Administration considers itself liable to recognise only as much of the Kaiser's treaty as the Germans left intact, it will have no inconsiderable responsibility for Rehoboth rights. The burgers appear to have defended on the whole very successfully their rights not to be taxed, except for the purposes of their own Gebied, and then only by resolution of their Volksraad. The instances relied on by Mr. Hofmeyr to prove their amenableness to imperial taxation, as that they appeared to have paid £300 a year in a lump sum into the Protectorate's treasury will be found, I think, not to help him on fuller enquiry. The Raad's explanation of the matter to me was that on an occasion when the German Government was desirous of seeing improvements in and near their stad, for instance, roads mended and wells dug, they proposed a tax. But in this the Raad of the day objected, and an arrangement was come to on a £ for £ principle. The Raad carried out work to a certain value, and the Germans contributed £300 per year to the expenses thereof. I never interrogated the Raad in full sitting on this point that I can remember, the reason being that the question cropped up in the course of the conversation at Windhoek, and at the close of the sitting wherein it did so two of the Raad delegates came to me with the information above given. The wells and windmills which the money provided are to

be seen in Rehoboth to-day. It may have been that the German Administration paid the workers and kept the accounts—that I could think very likely—and in that case the Raad would have paid in to the Kaiser's treasury as its own revenues accrued. I have heard from some of the Raad that one of the German Administrators, on the question of taxes being raised, consulted the original treaty, and on doing so exclaimed: "Pay taxes to us? No, we pay them to you." The result is said to have been that for years the Administration paid £50 per year into the Raad's chest in lieu of taxes due from its own officials resident in the Gebiet. It is to be noticed that von Lindequist, in a telegram which he addresses "Bastards!" from Berlin, under date 3rd July, 1910, says the Kaiser has referred to him the matter of a petition on the subject of land-tax (grond belasting) received from the Rehoboth Volksraad. It appears that von Lindequist had become at the date mentioned "the highest of the colonial officials" in the Imperial service, for so he describes himself. He goes on: "Ik het van plan om in het aankomende voorjaar na de regentyd naar de Kolonie te komen, en by die gelegenheid die zaak persoonlyk volgens 7 van het traktaat met julle te bepraten en in orde te brengen. Tot die tyd zal hetgeen betaald is voor grond belasting worden bewaard." (Translation:—"I propose during the next spring, after the rainy season, to visit the Colony, and on that occasion to discuss the matter personally with you in accordance with Art. 7 of the Treaty, and to settle the matter. Until such time all moneys paid for land tax will be retained.")

What I have quoted from is the Dutch version of von Lindequist's message supplied at Windhoek by order of Dr. von Veitsch, and forwarded to the Volksraad on the 5th August, 1910. The paragraph of the treaty to which von Lindequist refers is that which provides "that if other matters have yet to be regulated between the German Empire and the Kapitein of the Rehoboth, they shall subsequently be settled by agreement between the two governments."

I cannot help observing a difference in the style and manner of von Lindequist according as he is dealing with the Bastards under his hands in the remote Protectorate, or telegraphing from Berlin, with the eye of the Kaiser upon him, is given the task of settling with them "according to the treaty" a matter of land taxation complained of by them, and which to anybody who knew the treaty would convey the suspicion that money had been taken from them contrary to his terms. I have above given proof of his letter of October, 1897, of his high-handed administrative doings in the capacity of "the man on the spot." But from Berlin he sends a message which looks to me as if it were more meant for edifying reading there than to be honestly applied in Rehoboth. It contains a lot of cajolery, as where the sender takes the receivers to witness that they have known him for a number of years, and that he has always treated them kindly and uprightly. He reminds them of the transactions of the year 1895 on the subject of the military service contract, and even has the assurance to invoke their memory of those relating to the determination of their boundary in 1898. I have shown what then happened, and in what manner it was done. The Commission will have seen the soreness with which both parties of the burgers recall the occasion, and how little of either justice or kindness they associate with von Lindequist's behaviour thereon. What took place in 1906 at the Windhoek office, "waar de rechten en plichten van de Bastard vas was besloten" ("where the rights and obligations of the Bastards were firmly determined"), I do not know, but should be surprised if the result was to leave the Raad "heelemaal daarmee tevrede" ("quite satisfied with them"). It may have been that they then won their struggle against the attempt of the Administration to degrade the captaincy of the Gebiet, making the post that merely of Raad leader—Hofraad was the term used by the two Raad members who informed me of this particular conflict. Testimony on all the points raised in this message must be still available. If it has not yet been led, I would hope means may be found of supplying it to the Commission.

The value of this message of von Lindequist is, from my viewpoint, that it shows the treaty as being for him—when in Berlin—the rule and norm for all dealings with the Rehoboth burgers, however he may have disregarded it as an upper servant of the Kaiser dealing at a distance with a humble folk under the Imperial protection. The Volksraad always gives me to understand that their petitions to Berlin on the subject of taxation were upheld. Mr. P. Leube, a much-respected German resident and trader in Rehoboth, whom I came to know intimately, informed me how he once assisted the Raad to draw up a petition to the Kaiser against the wheel-tax which the local administration were seeking to impose. The appeal to the treaty brought from Berlin a veto on the intended impost. The Raad have told me that on the close of the Witbooi war—I should suppose somewhere about 1907 or 1908—the Administration at Windhoek tried to make them pay a tax, against which their appeal to Berlin also met with a favourable reply. The local government, however, thereupon changed ground, and represented that as the Witbooi war had been costly, it was but fair that the Rehoboth burgers should contribute something. The Raad met the Administration on this statement of the case, and voted a sum of two or three hundred pounds per year for, I believe, two years or three "as a present." The incident is very reminiscent of the device of benevolence by which commons and king were wont to

compromise the taxation question in English constitutional history. Why the Windhoek officials failed as against the Raad when they tried to impose taxes, and won in their appropriations of land is, I suspect, partly to be explained by the circumstance that it would be easier to mislead the Kaiser's advisers about boundaries than to show that taxes objected to by the Volksraad did not infringe treaties.

No formal repudiation of the Kaiser treaty is on record, nor do I know of anything done by the German authorities purporting to be in any degree an abrogation thereof. They thought, it would seem, that clause 7, providing for the regulation "by mutual agreement" of other matters not mentioned in the text, gave them the means of violating the spirit of the agreement, while preserving its form. Thus we find von Lindequist representing even the land appropriations of 1898 as done conformably to treaty and covered by the clause above referred to; these were not a wholesale annexation—merely "de nauwkeurige vastlegging van de lyn van het bastardland, waarmede jully heelemaal tevreden was" ("the careful defining of the boundary of the Bastard land, with which you were quite satisfied"). If the Rehobothers can show that assent on their side was yielded in any case under pressure which could not have been resisted without grave danger or damage to their people, they would, I submit, be entitled to demand relief from the Union Government (the Kaiser's successor in the South-West Administration) in so far as the treaty may be morally (or, perhaps, more than morally) a living document to-day.

The argument based by the German legal authority above referred to on "the drill contract" (as von Lindequist calls it) appears to me to be barred by two or three simple considerations. For this contract von Lindequist claims cover under the clause I have above quoted from, but which it may be well here to set out verbatim:

"If further other matters may yet have to be regulated between the German Empire and the Captain of the Rehoboth, they shall subsequently be settled by agreement between the two Governments."

Now the "drill contract" purports to specify how the military assistance which the main treaty guarantees the Kaiser shall be prepared and organised. I would agree that this document derives full covenant authority from clause 7, because far from implementing anything contrary to the tenor of the above-mentioned treaty it carries out part of its purpose, and because I have never heard the Volksraad speak of it as unwillingly signed on their part.

But when my attention is drawn to the reference in the contract to the Kapitein's salary as paid, *inter alia*, for giving effect to certain German laws and regulations within the Gebied, and I am asked to admit that thereby the fundamental status of the Rehoboth burgers as an "independent protected state" is undermined, and that they become subjects of the Kaiser amenable to any or all of his laws, I submit such an inference is far too wide. The object here supposed is something totally different from, as well as more important than, that which the contract ostensibly aims at—the regulation of a previously agreed on assistance. If the words "en de duitsche wetgeving en verordeningen in het Gebied" were intended by the German authority to carry the construction which a German lawyer and official (as I understood he was) afterwards placed on them, then I would say they had no proper place in this agreement. The hidden meaning (for it certainly was hidden to the Bastards) ought to have been clearly stated in a separate agreement, and in such separate agreement it would have been necessary to denounce with the solemnly subscribed assent of the Volksraad that part of the original treaty of 1885 which bore on the status of their community, seeing that so far the said treaty would, in effect, have been repealed. I know that no speaker of a parliament would allow two disconnected legislative effects to be aimed at in one bill, much less the major one to be purely inferential, while the minor alone was clearly expressed. I would represent that a people enjoying virtually independent status under clear charter cannot be deprived thereof by verbal innuendo dug out of a contract purporting to deal with something quite different. Besides, the clause can bear a meaning innocuous to the rights of the Rehoboth, as having a reference merely to certain German laws and regulations which the Kapitein had been or might be pleased to take over in the interests of the Gebied and with the view to easy co-operation between the Kaiser and himself. It is clear from the letter of von Lindequist five years afterwards that he, at least, did not think the Rehoboth treaty to have been abrogated. His viewpoint clearly is that nothing can be done lawfully in the Gebied without consent first obtained from the Kapitein and his Volksraad.

We have seen the Rehoboth people, after acquiring their liberty by emigration, and framing a constitution for themselves by mutual resolution, obtain their land by treaty, as against valuable consideration, partly a payment of horses, partly an alliance with the chief who bestowed on them a special tract of country in virtue of his own "special and good claim thereto."

We have seen them maintain the above-described manifold right against all aggressors, notwithstanding that the chief who gave them their land fell into difficulties and lost power to assist them.

We have seen the German Kaiser solemnly acknowledge this full right of the Rehobothers as referred to in clause or article 2 of his treaty of friendship and protection which was signed by himself and their kapitein, military assistance in maintaining the internal peace of his South-West African territory being undertaken on their part.

We have seen the rights of the Rehobothers undergo successive encroachments notwithstanding the treaty, the half of their land having been taken, with the merest semblance of compensation and without allegation of any failure on their part in discharging their treaty obligation. At the same time we have seen them maintain their substantial liberties, particularly in the vital matter of taxation. And the latest extant reference to the treaty by the Kaiser's Secretary of State for his colonies in 1910 indirectly but unmistakably regards this document as having still a living and binding force.

The story of the Rehoboth right has thus been traced through three chapters, which might respectively be headed:

- (i) The right acquired.
- (ii) The right maintained.
- (iii) The right confirmed but invaded.

There now opens a final chapter, which is that of (iv) The right recovered and re-confirmed, but also re-invaded. I would ask the Commission to glance through the three press articles attached hereto on the subject of the part which the Rehoboth burgers took in respect of military operations between the Kaiser's forces and those of the Union. I wrote the narrative therein contained from first-hand information, my aim being to show events as the burgers regarded them, but also with the closest possible approximation to what they discoverably were. The story thus given makes, I trust, a fair presentation of the Rehoboth case as against the Germans and towards the Union.

The burgers, though often associated with the German troops in active service, deliberately refused to take any part in the operations, albeit essentially defensive, which were directed against the Union. They held that a white man's struggle was not one in which their treaty called them to participate. They were also unwilling to oppose the King's troops, whose fellow-subjects they all were in their sympathies, while many of their leaders had been actually so. They desired to stand neutral, and, with the view of keeping their attitude clear, refused even to stand guard over the British who, at Zandfontein and elsewhere, had become prisoners of the German soldiers. Their difference with the Administration on this matter reached its crisis when they met Col. Francke, the chief commanding officer of the Protectorate, at Rehoboth railway station on a certain Thursday in March or April. He declined to accept at the moment their refusal of what he urged upon them as their duty, but fixed a subsequent Saturday for receiving it at the same place. Governor Seitz' "commando brief" ordering co-operation of the burgers is, I believe, among the Windhoek papers. When the Volksraad rode over to keep the appointment, he was not present, but their decision, which was the same refusal as before, was communicated to him by telegram. The sequel, as soon as the troops for whom he had been waiting arrived from the south, was a series of outrages and assaults (mostly described in my articles to the press above-mentioned) and culminating in the attack on the encampment of the burgers in their mountain retreat at Kubis.

The German troops, after a day of sharp fighting, which was renewed during a part of the night, withdrew at daybreak, while the burgers stood their ground. This result, by the criteria of all military writers, constituted a victory for the Rehoboth community. They took advantage of it to reoccupy their old ground, particularly the portion thereof in the south-west which the Germans had left for the most part uncolonised. The God of battles, in their view of the case, had given them back their country, a belief which they the more strongly held because deliverance arrived at the moment when their cartridges were spent, and they were about to be done in by the enemy's bayonets. That ordering of events by which, unknown to them, a Union detachment was pressing from the south while the German officer attacked, and which caused urgent recall to be despatched to him from his base, 80 miles distant at the railway, was, they felt sure, the answer of Heaven to the prayers that, during the struggle, went up from the men on the field and their women sheltering in the caravan behind them.

Thus they recovered their wrongfully appropriated land. Their political rights and constitution had, in a manner hardly less remarkable, been not merely regained, but also reguaranteed, and in the fullest way, by authority not lower than that of the Prime Minister of the Union and commander-in-chief of the forces belonging thereto.

When the Kapitein Cornelis van Wyk, slipping with his two or three attendants through the German lines, arrived at Walvis Bay, he was there given audience of General Botha, to whom he presented the text of the Kaiser treaty. The General, having read it, having heard from the Kapitein the situation in which his people stood, daily expecting to be fallen upon by the German troops, and having been asked that, if he got the country he would respect the rights of the Rehoboth people, answered in the following words, or to

like effect: "All that this treaty gives you shall, at the least, remain yours." No stenographer was present, nor, though I have on several occasions heard the Kapitein and others describe or refer to the occasion, I could not guarantee the *ipsissima verba*. But the point on which the Kapitein was emphatic, and on which others who heard the General repeat his pledge at Windhoek and Pretoria supported his testimony, was this: What the Kaiser gave the King, of course, as advised by his Minister of the Union, would, at the least, allow the burgers to keep. I have before me a note of a conversation with Major Herbst, then Secretary of the South-West Africa Territory, which I entered on the evening of the 20th August, '22, the interview having taken place in the afternoon of the same day. I extract the one sentence which bears on the question of what the Prime Minister's guarantee may have been. I wish Major Herbst (who knows nothing of what I am now writing) might be asked by the Commission to give his memory of the occasion here referred to, supposing he has not already appeared as a witness. "Botha" (said Herbst) "promised the Rehobothers in his presence" (that of Herbst) "that all the rights they had held under the Germans should still be theirs."

How should this be interpreted? Manifestly, that the rights as given, not revoked, as guaranteed, not broken down, should still belong to the Rehobothers. Any contrary interpretation would involve that the more these people had been wronged by the Germans, the less they could expect from the Union Government. The emphatic "at least" in General Botha's promise, which I can still hear the late Kapitein stressing, proves my point. The feature of the General's promise was that it implied something more than was asked. It was largely because of the rights which the Germans had taken away that he had the Kapitein petitioning before him. Was it the request of the latter that he would respect the remaining sound portions of the largely broken treaty—that of their land and liberties he would, at least, let the Rehobothers keep what their oppressors had left them? Certainly not; it was for treaty rights intact. And the reason why the General's answer so greatly pleased the Kapitein was that it promised him "these at least."

Mr. Hofmeyr, in our conversations at Windhoek before the Raad and his officials, seemed at first to favour the narrow construction of General Botha's commitment. "The promise was," he thought, "that what Rehobothers had, they should hold. But how much had they any longer in hand?" I argued very much as above, for the broad interpretation, one agreeing, with the spirit in which a great public man of General Botha's known nobility, pledges what is just and reasonable to allies who are standing on the verge of destruction for their friendship to himself and his cause. Having so spoken, I proposed the following to Mr. Hofmeyr as a just construction of what General Botha undertook, viz., that all what the treaty guaranteed to the Rehoboth burgers should be theirs, less anything whereof they might afterwards have devolved themselves with their free consent or by way of negotiation in return for value received.

He listened, paused a moment or two, and then said: "Yes, I think that would be fair." If the note taken by the shorthand writer who was present is extant, it would confirm my words. Mr. Hofmeyr intimated that the record of our conversations would be preserved as a Protocol and be available for inspection. So far, I know of nobody who has seen it.

I have among my records two notes on the subject of General Botha's promise which I reproduce exactly as they were written by me on the dates attached to them. The first relates to the first meeting of Mr. Schreiner and me with the Volksraad on Monday, 12th August, 1917, at 10 a.m. After recording our welcome by Albert Mouton, vice-Captain, Captain Cornelis van Wyk, being reported sick on his farm, and after giving the names of the Raadsleden present, the entry proceeds: "The first subject dealt with was that of the negotiations with General Botha entered into by Cornelis van Wyk in behalf of the Bastard people. It appeared that Cornelis had seen General Botha alone, from whom there was a letter to the Raad, but it contained no definite undertaking as to the status which the Gebied would occupy under the Union, should the latter ultimately take over the country. There was, however, a letter subsequently written by Col. Mentz and both from this and a report of a conversation with the latter in Windhoek in '15, in which conversation Olivier and Maasdorp took part and as to which they deposed it appeared that the Union Government stood pledged generally to respect the treaty between the Bastards and the Kaiser, though, 'there might' so Col. Mentz was stated to have said, 'be amendments to be agreed upon by the Raad and the Union Government.'"

It was not until I met the late Kapitein Cornelis van Wyk, viz., in October, 1919, that I learned the phrasing of General Botha's promise and how fully it secured the Rehobothers their historic rights and liberties. A note which appears in the margin of the page carrying the entry above given must have been made there by me subsequently to this visit. It reads: "Afterwards after the meeting at Walvis, General Botha was seen by Cornelis van Wyk, Mouton and Dirk van Wyk. This interview took place in December, '15. General Botha (with his secretary Theron) Dower and Major Herbst were the others present." Of the seven present on the occasion next above noted only Mouton, Theron and Herbst still live.

I can find no note of the first description which Cornelis gave me of his interview with General Botha at Walvis, though I believe I must have made one and may yet possibly turn it up. The last occasion on which Kapitein Cornelis declared to me his testimony of the promise made by General Botha in connection with the Treaty was one which I well remember, I transcribe beneath in facsimile the hurried memorandum of the interview which I made on leaving him. I was on my way with the Raad delegates to meet Mr. Hofmeyr at Windhoek:

" 14/7/23.

w Maasdrorp.

This morning at 11 visited the Kapitein who told me, interpreting, how he met Genl. Botha at Walvis Baai, Windhoek and Pretoria
At W. B. " what you have you hold." do. at Windhoek and do. at Pretoria, w this additn:
Amendments wanted to adapt the Treaty to new conditions, but nothing shall be taken off from yr rights and liberties."

Maasdrorp (the Raad Secretary) and I found the Kapitein lying in bed, suffering from an illness or decline of which he died towards the end of the same year. Several of his family and friends were with him, of whom one, at least, was pointed out to me as having been present on one or other of the three occasions on which the alleged promise was given by the Prime Minister. "What you have you hold" is merely my memorise note of the Kapitein's statement which went into particulars which I have forgotten and, I regret to say, nowhere recorded as far as I can discover. But of this I am positive, what General Botha referred to the Kapitein as "having" was, according to the testimony of Cornelis, the rights of his people, as set forth in the treaty and acknowledged above the signatures of the Kaiser's deputy.

So the German period closes with repossession by the burgers of part of their former land and with a guarantee to them by the authoritative agent and spokesman of "at least" the treaty rights of which the text had been shown him by their Kapitein.

V.

The chapter of Union occupation to date shows history unhappily repeating itself in fresh encroachments both on their land and liberty.

The burgers had obeyed perforce a command which was laid upon them by the Union authorities to evacuate the ground of which they had re-taken possession. They did not, of course, expect that their claim as a thing settled at once and for ever. World-war was still afoot and the time had not arrived for permanent arrangements. But what was there against allowing provisional occupation? I have been told the boundary agreement lying among the German records, with Raad signatures attached, according to which the burger forces had transgressed over their line. And had not the Union forces transgressed over theirs? Strictly speaking, the Rehoboth burgers had as good a right as the Union Government to annex ground and dig themselves in; for they were, in law, a civilised Christian and independent community, all whose obligations to the late German Government had, by the fact of conquest, disappeared—their boundary agreement as much as any other. Their belligerent status was as high as that of the Union, perhaps morally higher; for hostilities had been forced upon them in defence of their neutrality which, as desired by them in a white man's war, the sentiment of all South Africa would approve. It might be easy to argue in behalf of the Union that her invasion of the Kaiser's Protectorate was merely defensive. In an international view, the right of the Rehobothers to keep as well as to take the ground they claimed was obviously better than any claim to the same piece of territory that the Union could prefer to the same piece of territory. Nobody denied this piece to have been originally theirs, they had preferential title as earlier emigrants from the old Colony, out of which the Union had expanded, the preference which is always due to pioneers over late comers. Inspired and guided by their German missionaries they had for years carried what is called the white man's burden, though only partly white themselves, for they had given an example to the tribes of religious observance and of a settled mode of life and of an industry to which Mr. Palgrave, bore striking testimony, in his official report, when he visited them about six years later. Their previous occupation of this country, which they were now commanded to withdraw from, had lasted fully a quarter of a century. It was the sort of occupation to be expected from a people. They employed it mainly for trek pastures, very much as, until late years as the Transvaal European farmers did the low veld, and to part of it they sent their horses in the sick season. They did not oppress the natives whom they found there, but established a democratic constitution

which interposed no colour bar to the acquisition of burger rights. Black-skinned natives, on attaining to a certain standard of civilisation, character and property might share their franchise and, in fact, some do so to-day. I am sure there are no non-European inhabitants of the Gebied who, if they were given the option, would not ask for the continuance of Raad rule in its fullest measure rather than come under Union rule. That is not saying that Raad rule would necessarily be better for them, but simply that it did not lack that consent of the governed without which the title to govern cannot be considered complete—at least, it would not have been so considered by the humane and liberal jurists—by a Bentham or a Hallam—of some generations ago. Add to all the above-mentioned considerations that the Rehobothers did not propose to resume any occupied or settled areas—saving that they would have to treat with a few European owners of land clustered in a corner—but demanded only what the Germans had left uncolonised, I think there existed a strong case why they should have been accorded at least provisional occupation.

However, the command to, evacuate was given and obeyed, but, in obeying, the Volksraad put up earnestly their plea of moral ownership and demanded enquiry.

It has taken them just ten years to get this eminently reasonable request accorded to, for what was staged three years ago by Mr. Hofmeyr's departmental commission, or the official members thereof, was not an enquiry: it was simply an opportunity offered to the Volksraad to present such proofs and witnesses as they had. Of documents they had few—the Germans having burned most of them. Their witnesses, notably Mattheus Gertze (minuted as present), were not examined, their claim was dismissed as "stupendous" (an echo, here, of von Lindequist's "unbelievable") and as going far beyond the German line which Mr. Hofmeyr's officials took as "basic," and in three hours the so-called investigation was over. What the Raad representatives had written in subscribing the boundary agreement put before them by the German Government, they had written, and, for the purposes of the Commission, the writing had to stand, "possibly they signed under duress; possibly not; which was the case would be a matter rather difficult to decide, owing to long time that had meanwhile passed and the death or absence from the country of important witnesses. Undeniably it was easier to close the enquiry, and take the land, and, to one of the members, viz., Col. de Jager, Chairman of the Land Settlement Board, this was at the same obviously an advantageous course. From the nature of his office, he would want to keep open for European settlement as much good land as he could, and this which the Raad claimed, included some of the best in South-West Africa. If there is any question of his having wanted full official zeal in this respect I am sure Major Herbst would give him a character and it would be very ungrateful of Mr. Hofmeyr not to do so. But I would submit that appointing Col. de Jager as member of the Commission now referred to was like including a cat in a jury of reference as to whether that animal had *locus standi* within the chicken house. Major Forsbrook, the resident magistrate of Rehoboth, a man known for his judicial temperament, who also well knew the burgers, and in whose fairness they had confidence, was, however, left off the Commission, though originally appointed thereto. The reason given him was: it would be better that he should not sit, since, should the Commission find against the burgers, his influence over them might be weakened.

Well, the burgers were turned off their land and, after seven years, they got the enquiry which I have above described. The omens for the Union Government's redemption of General Botha's promises to them began very early to fade. Though not as yet permitted to occupy their former land, they preserved hopes of a good settlement. Mr. Lloyd George, to whom at the request of the Volksraad I sent in 1917 an account of their position, returned to me through his private secretary the assurance that though nothing could be done while the war lasted, their interests would not be neglected in the peace-making. Sir Howard Gorges, at that time the Administrator of South-West Africa, was very definite both to Senator Schreiner and me that the disputed land would not be touched, pending proper adjudication on its ownership. A deputation of three Raadsleden, who visited Parliament in, I believe, the main session of 1919, were received in the most friendly way. I well remember the earnestness with which Col. Mentz, then Minister of Lands, protested to them the entire trustworthiness of the Union Government to do the right thing by them. But when, the peace having been made they found themselves mandated under the Union, their views about their destiny not having been for a moment invited, the Government seemed to grow colder. Lord Buxton, who visited them in October of 1919, "did not think it all probable that the land which the Germans had taken away over 20 years ago could be restored to them." On the question of their constitutional liberties he was more encouraging, being, "sure there would be no desire on the part of the Union to interfere with their self-government as now existing, so long as they were well conducted! To their claim to be compensated for war losses, he replied "That the war was one for which the Germans and not the Union Government were responsible. Their claim if put forward, would be examined, but he could not hold out much prospect of any compensation for losses incurred during a state of war."

The outlook for the Rehobothers clouded badly with the arrival of Mr. Hofmeyr in 1920 and his taking over the Administration. I transcribe the following note which I took down from information of the Raad on the 27th July, 1922:—

Present at meeting with Mr. Hofmeyr at Windhoek in December, 1920: A. Mouton (acting Kapitein), G. Alcock, Jan Witbooi, M. McNab and Gert Cloete (Raadsleden), and Major Herbst.

Mr. Hofmeyr said: King no longer had any right over this Territory, the Government having passed to him (Hofmeyr) as Administrator. Compensation for war losses impossible. Giving back of the stolen farms impossible. Second meeting at Windhoek in October, 1921. Mr. Hofmeyr and Major Herbst, met by Kapitein van Wyk, Albert Mouton, Olivier, Piet Beukes, Piet Mouton, Cloete, Dirk van Wyk, Gert Klerck, McNab and Sam'l Beukes.

The Raad attended on a matter of cattle disease, but on this second occasion Mr. Hofmeyr also brought up the matter of the Rehoboth's political status, saying he would draw up an agreement which would be practicable (uitvoerbaar). He repeated the three statements above: No Imperial protection; the King too far off to intervene; no compensation; no return of the stolen farms.

Took the above depositions at the Raadzaal on Thursday morning, 27th, between 11.30 and 1 p.m. This runs my note, recording language and an attitude of the Union Administrator very different from the undertakings of General Botha. One or two points of the intimation to the Raad need explaining. The reference to the King, as having parted with authority over South-West Africa had to do, no doubt, with the Raad's original petition to his Majesty to be taken, with their people, under his direct protection, "like Basutoland."

What was in Mr. Hofmeyr's mind in speaking of a "practicable agreement which he would draw up" was, as the Raad gave me to understand, their petition of November, 1919, to the then Prime Minister, General Smuts, wherein they covered a draft Treaty representing their scheme of amendments necessary, as General Botha had said, to "adapt the Kaiser Treaty to new conditions." A copy of this draft agreement, dated 25th March, 1920, exists among the Government records and I would invite it to the notice of the Commission, since it shows that the Raad were taking General Smuts at the word of his predecessor in office and trying honestly to meet him thereon. What they thus put forward as a basis of discussion Mr. Hofmeyr described, they told me, as not worth the paper it was written on.

When the Raad obtained his "practicable" scheme, they found that their old status as a protected independent people had completely disappeared. It left them a limited measure of local government only. Dr. Abdurahman, Mr. Alexander, M.L.A., and I advised them not to sign it.

It is clear that Mr. Hofmeyr was meditating appropriation of the disputed land *without enquiry*. He could not know that he might not thus complete a robbery which the German Administration had begun. This possibility he seems to have ignored and also to have forgotten that he stood clothed with a mandate from the conscience of European civilisation to deal fairly by them.

On the point of the war losses, it will be noticed that he falsified the Governor-General's engagement "that if the Rehoboth burgers put forward their claims, they would be examined." Why Lord Buxton should have been so pessimistic as to add "that he could not hold out much prospect of any compensation resulting," I have not been able to understand. Mr. Collie, of the Union Treasury Department, states in his careful "Notes on the economic position in South-West Africa, 1921." In 1921, the Government paid out £260,000 awarded as compensation by the War Losses Commission to British and Allied subjects for war losses and to enemy subjects for goods commandeered."

I lay before the Commission a precise of such information as I possess on the subject of what losses the Bastards sustained as the result of the war carried by the Union into South-West Africa, most of it inflicted by the German military and also German farmers in their rage over the Volksraad's refusal to break neutrality, but some was due to looting by the German troops. The late Kapitein gave me particulars in a conversation I had with him on the morning of the 7th August, '22, as we were sitting outside the Pastorie at Rehoboth, Piet Mouton also being present. He lost through looting a good deal of his own cattle. One animal, an ox, he was surprised to recognise in the following December (*i.e.*, of 1915) on a farm near Pretoria. I have heard that a good deal of looted stock was removed by train from the South-West Territory while war operations were proceeding or shortly afterwards. The shortage of stock for compensating the Rehobothers on the principle laid down by Sir (then Mr.) Howard Gorges may be thus partly explained. The last-named decided that, as it was irritating to Germans to recognise their own animals in the possession of the Bastards and the converse spectacle equally annoying to the Bastards, both parties should surrender looted stock into custody of the military, who would restore to each his own. See letter from Deputy Secretary for the Protectorate, 9th September, '16, of which copy marked is attached. The Bastards were guaranteed "that, in consideration of having

been badly handled by the German troops and having suffered losses they would receive cattle to the number or value (whichever might be the easier to distribute) of what they handed over."

This system, of course, meant that the Bastards were called on to give up the admittedly considerable quantity of enemy stock which they had seized and to take their chance that the depletions of the German herds and flocks, due to ravages and the private looting of the Union forces, would leave sufficient to balance their own surrenders. What stock of the Bastards the Germans had in their hands at the date of the Administrator's letter (through the Deputy Secretary) was described in that communication as "a small amount." When Mr. Schreiner and I met the Raad in August, 1917, the latter gave us figures, showing 1,450 head of cattle to have been handed over by the Burgers, against which 637 beasts and 60 horses had still to be received. But this was only the adverse balance on an exchange of looted stock. "When the trouble broke out," said Piet Mouton on the morning above referred to, "the German residents fled, leaving their cattle which the Rehobothers seized (along with no little huis-raad, as he freely admitted)." But the Germans had already shot down the trek oxen in the wagons; about 28, with spans of from 12 to 25 animals apiece. Also the troops had shot a large number of cows, sheep and goats. The klein vee were collected into a big flock and destroyed by rifle fire. For damage which the Germans might thus have done or, indeed, for any losses that the Bastards suffered in or through the war the Administrator made it plain in his notification above referred to that he took no responsibility; anything he did give was bestowed purely out of pity. The Bastards were not reckoned as British subjects, though they had so much considered themselves so that they had stood to the death rather than lift a hand against the King's troops—even to stand guard over the prisoners taken from them. They were not even enemy subjects who had suffered requisitioning by the Union military; they had only been looted.

The Kapitein and Mouton confirmed what Geo. Alcock (afterwards a Raadslid) and Mr. Leube (my German friend above-mentioned), had told me as to the looting done by British officers. Besides the taking of live stock, a considerable quantity of the furniture and other movable property belonging to the Rehobothers made up their losses. Among the Raad papers among my possession one which appears to be a rough draft of a letter dated 11th May, '16, to the Administrator touches on this aspect of the matter. The handwriting, if I mistake not, is that of Franz Maasdorp, the Raad Secretary. He says: "Onze meubels hebben zij stuk geslagen, verbrand en vernietigd, en er wordt van geen melding gemaak." ("Our furniture was smashed, burnt and destroyed by them, and no mention is made of it.") Under this head of the reckoning much more had naturally been taken or destroyed belonging to the Bastards, who were many, and the Germans of whom the number in the Gebied was small. But Maasdorp intimates that nevertheless they submit to the order of restoration, which will be obeyed, though what they took from the Germans had appeared to the Bastards fair spoils of war, seeing all male Germans, not too old for service, were soldiers, "And," he continues, "het was juist die private Duitschers die meer als een van onze burgers dood geschoten, en onze goederen vernield, had" ("it were especially the private Germans who had shot more than one of our burgers, and destroyed our property"). "Gij weet zelf," so he concludes with a touch of personal remonstrance to the Administrator, "hoe wij door de vijand vernield en geruineerd was" ("You know yourself . . . how we were annihilated and ruined by the enemy").

I asked the Kapitein for a conservative estimate of the war losses. Going over the principal features of damage, he, with Mouton calculated as follows:—

500 oxen (shot down with the wagons) @ £10	£5,000
28 wagons @ £100	2,800
Cows (say 1,000) @ £8	8,000
Sheep (say 8,000) @ 5s.	2,000
Furniture, etc.	1,000
	<hr/>
	£18,000

The above total takes no account of the balance on exchange of looted stock, viz., 637 head of cattle, still due to the Rehobothers. "Col. Mentz," said the Raad to Senator Schreiner and me, "gave the right to the Bastards to look for their cattle among the Germans. We have found hundreds of head, and reported to the police, who say we must wait until after the war. (This was in 1916.) But German cattle must be handed over at once by us. Bastards are also afraid to go among the Germans and seek their cattle."

How serious to the Bastards these unrequited losses were will be apparent when it is seen that census of the Territory for 1923 gives the total of the Bastards' cattle as 12,551 head. The number within the Gebied proper would be, I should judge, a thousand or so less. They must have lost between shooting and looting about an eighth part of their cattle or stock, and of their whole belongings, other than their land, nearer a fourth part in value.

The damages I have detailed would be spread over 500 to 600 families, averaging the economic standard of many an old-fashioned Boer, whose thousands of morgen would often not yield him a cash balance of £100 a year. Mr. Harry Drew, a witness assuredly not partial to the Rehobothers, writes in his report as one of Mr. Hofmeyer's Boundary Commission: "The Bastards as a community have undoubtedly suffered considerable losses during the late war, deservedly or undeservedly, and have on that account experienced a set-back under which they are still labouring."

I have not given the above narration expecting or wishing that the present Commission should add to its labours a detailed investigation of the Rehobother's war losses, but for two quite different reasons. One is to give some idea of how meanly the wealthy Union behaved to its poor allies. They suffered loss for our sake, and to this day are straitened thereby. We did not compensate them to the extent of a fourth part of the damage they incurred. They shed their blood for us. We left the dependents of their dead, without a penny of assistance!

I do not think this story would read well in a sitting of the Mandates Commission of the League of Nations! Had Mr. Hofmeyr, in the recent cordial exchanges between that body and himself (of which he writes in his latest report) extended his frankness so far as to give the narrative, and had he then added that he had, from the first, firmly declined either to consider the slightest pecuniary recognition of the Rehobothers' sacrifices or even to let them get back the little of their appropriated land that their despoilers had left open—well, I suspect "the visit paid them by the highest official of the South-West Territory" would in that case, have been less "highly appreciated."

My other reason is that, although the period for assessing and recouping individual losses may be too late, the material harm that a small people may have suffered may be made good by the larger and wealthier nation in whose interest and, certainly, on whose side of a national quarrel, it suffered. I hope the Commission will recognise these losses as adding weight to a general argument for redress towards effecting which I propose to outline a tentative scheme further down. Thus Mr. Hofmeyr refused consideration for the war losses of the Rehoboth burgers and proposed to replace their wonted rights and liberties with something that he called workable—an Agreement conceding merely consultative rights. He proceeded to carry out his obvious intention of appropriating without enquiry the land which they claimed as rightfully theirs.

I have information that he cut this disputed ground into farms for Europeans months before his Commission of 1922 reported. Without access to the *Government Gazettes* and also the minutes of the South-West Africa Executive Council and Land Board, I could not fix dates to the stages by which settlement took place. But Major Herbst, who was Secretary for the Territory until the 1st April, 1923, and Major Forsbrook, lately Resident Magistrate at Rehoboth, can confirm my statement that appropriation was prepared for, if not effectively begun, before there was any so-called inquiry into the question of ownership.

The following lies within my own knowledge on this subject: On the 18th July, Mr. Advocate Alexander, M.L.A., put to the Prime Minister a question in the House which he had framed upon information supplied to him by a deputation of the Raad. (The Secretary and Acting Captain who had arrived in Cape Town a fortnight earlier). I herewith put in the official copy* as well of the question as of the Prime Minister's reply, which was distributed at the time in the Press gallery of the House. It will be noted that the question speaks, *inter alia*, of certain ground claimed by the Raad as having been divided among white settlers while a Commission of Enquiry was still investigating, and that the Prime Minister in his reply did not deny that the fact was so. He added that the Raad had failed to prove their claim to the Commission and that the land was available for settlement purposes. A curious error is discoverable in the reply where the burgers are represented as claiming this ground by grant of the German Government, the fact being that it was never that Government's to give, but, as the Raad complained had been forcibly appropriated, notwithstanding the Kaiser's undertaking to respect their boundaries which their Kapitein had clearly traced and despite the faithful performance by themselves of their treaty engagements with his Majesty.

I would point out that if the ground was allotted while the commission sat, settlement with or without inquiry was necessarily predetermined, for the surveying of the farms and other preliminary steps would occupy months. The revival of the Kaiser treaty by General Botha, and the letter of Col. Mentz subscribing its provisions, save as these might be altered by mutual consent, seem not have been recked of. The Prime Minister's concluding sentence was probably so far correct that certain of the farms remained, at the moment still unallotted.

All the circumstances of the inquiry made it suspicious in the eyes of the burgers—the cutting up of the ground months beforehand; the removal from the Commission of the Local Magistrate whose position and character were guarantees of a fair consideration for Rehoboth interests; the inconsequence of the official members in shunning investigation

* See Exhibit "L 2" on page 208.

after admitting the land of the community to have been, perhaps, forcibly encroached on; their feeble excuse of "dead or missing witnesses," (when they dismissed unheard those who were alive and present) and of scanty evidence considering the mass of important documents since unearthed;) their begging, as basic, the very question to be proved or disproved, the authentic character of the German-drawn boundary, and, lastly, their amazing discovery that their terms of reference precluded consideration by them of any claim which the assumption named might happen to shut out. Palpably, if that was the case, an honest consideration of the Rehobothers' claim was never intended, but I have read several times the Proclamation appointing the Commissioners without being once able to see how they gathered their professed inference from its text.

At the close of the Parliamentary session of 1922 I accompanied the Raad delegation on their return to Rehoboth. Shortly after our arrival (on the 23rd July) a message was received from the Administrator verbally communicated by the Resident Magistrate, Major Forsbrook, the effect of it being that settlement of the disputed ground would remain at a standstill "pending negotiations." Such was the construction which Mr. Hofmeyr subsequently placed on his undertaking in a letter which I long after received from him. I was not present when Major Forsbrook delivered the message, but understood, as I believe the Raad did, that settlement would cease until the contention about the ground should be closed either by agreement between the parties or adjudication of external authority. It did not occur to me that Mr. Hofmeyr was keeping himself free to discard the part of negotiator and award to himself the asset in dispute should the Raad not succeed in convincing him of their claim. This, however, his letter, (which I put in marked) shows him actually to have done, whether by intention or after-thought. "I undertook," he writes, "some time back that a reasonable time would be allowed for completing the negotiations which were taking place with the Raad and that for such periods European settlement on certain vacant Government land adjoining the Gebied would be suspended. This was carried out, but, when the agreement was signed with the distinct understanding that so far as I was concerned the boundary question was closed, the suspended land settlement was resumed and is now (8th November 1923) already in an advanced stage of progress."

I must remark on the last above sentence that there existed no such understanding as it claims. Mr. Hofmeyr, as a private individual might have held what views he liked about the right of the Raad to the land in question, but, as Administrator he was bound under his own signed agreement with them, (see clause 18), to await the finding of Parliament when they referred to that body their difference with him in accordance with formal notice given on their part and accepted on his.

The statements in the third paragraph of the letter, where the Raad is represented as "having failed to establish any claim, to the additional land &c." are question-begging or incorrect or irrelevant or all three together. I can say much the same things of every important remark in the letter, but the details would weary the Commission. It is a comprehensive answer that the Raad met the Administrator as negotiator but not as judge. When he refused to concede their claim, I proposed for them as a compromise, (but without prejudice in the event of another refusal,) to accept as a full settlement a rectification of boundaries corresponding with the redline shown in the map put in by me on the 1st of July. This, too, being declined, we notified appeal and he, as his letter reveals, proceeded to alienate the ground. I submit that if difficulty proves thereby to have been created for Government in giving effect to any recommendation which the Commission may see fit to make, the responsibility will be his.

I should here state that Mr. Hofmeyr, besides promising suspension of settlement, notified the Raad in July 1922 that the Native Affairs Commission would investigate their land claim. Dr. Senator Roberts declined, however, to act unless he could report direct to the Prime Minister, which condition being rejected by the Administrator, the proposed inquiry never took place. The negotiations to which Mr. Hofmeyr refers did not strictly begin until the Raad met him and his officials at Windhoek in July 1923, when I was present by invitation of both parties to assist the Raad in stating their case. An agreement was come to on all questions, saving that of the land. I informed the Administrator that the Raad was not prepared to subscribe the clause relating to boundaries. He insisted on an unlimited subscription or none, and it seemed that negotiations would prove abortive. After a little thought, however, he added that he had purposely so drawn the boundary clause that the Raad might be able to accept it without prejudice to their territorial claim. He invited us to observe that the clause in question guaranteed the burgers every foot of land that the German Administration had recognised as theirs, and left quite open the question: Were they entitled to more? If they thought they were, nothing in the agreement forbade them from having recourse to higher authority, for instance, Parliament, to get it. At the same time he disadvised such a course, having regard to the disappointment which he believed would alone result from it.

He then adverted to the subject of the German-owned farms within the Gebied, about eight in number, and said he would endeavour to buy them for the Raad so soon as the agreement should be signed. With the acquisition of these he thought the burgers should

consider themselves substantially compensated for the non-fruition of larger hopes of land which they might previously have cherished.

I immediately informed him that it was impossible for the Raad to accept the *quid pro quo* which he offered. The land taken far exceeded in extent and value what he promised to try to make available. If acceptance of the eight farms was to be understood as in any degree a surrender of the larger claim, he could give or withhold them as he pleased but the agreement would not be signed.

He thereupon definitely said that the only condition he attached to the gift of the eight farms was that the Raad should have signed the agreement on or before a certain date. This was named as the 9th of the following month, (August) afterwards extended to the 17th. He did not even stipulate that the Raad should get ratification from the burgers, an uncertain contingency, though the Raad, albeit not without doubts, were then hopeful it would eventuate. Four farms were secured, at a cost of about £2,000 a piece, and handed over to the Raad. In lieu of the other four, whose owners were said to demand unreasonable prices, Mr. Hofmeyr created a Gebied fund, endowing it with a deposit of some £8,000, the money to be drawn only for development, and never without the special consent of the Administrator for the time being.

On the 18th August 1923, the Raad in full session ratified the signatures which their delegates on the previous day had appended to the agreement, and, at the same time, gave the Administrator formal notice of their intention to seek restoration of their land from Parliament. He, as formally, accepted the intimation, though not without re-stating his personal dislike of the course decided on. With the concurrence of the Raad I had written him a personal note, saying that while the Raad gave notice of appeal to preserve their case, they cherished some hope that a friendly three-cornered conference, including the Prime Minister, (who was to return from Europe two or three months later) would reconcile all views before Parliament could meet. On the 10th December, 1923, I addressed a letter to General Smuts, then newly back in the country, but instead of over-turning further negotiation I had to protest against his Administrator's action in giving himself a verdict and settling the disputed ground instead of abiding the decision of Parliament. The petition was proceeded with, but the Smuts Government suddenly went out of office in the ensuing session before it could be presented. The new Parliament met in the following August, but with no time for other than the most urgent business, and before the beginning of this year's session, the Gebied was in hopeless turmoil over the question of the agreement, so that there no longer existed any body combining the necessary *de facto* and *de jure* qualifications wherewith to speak for the community.

I think I have now sufficiently traced the sequence of events relating to the question of land as between Mr. Hofmeyr and the burgers. But according to what I have learned within the last week from Franz W. Maasdorp, Secretary of the former Raad, a further and most extraordinary encroachment on the land of the burgers has taken place. Maasdorp writes that the *Gazette* of the S.W.A. Territory shows the Administrator to be taking farms on the eastern side, and giving them to Europeans, where even the German Government acknowledged Rehoboth ownership. The old Raad, he states, have entered a strong protest. As requested by him, I have conveyed the substance of his letter to the Prime Minister, as I hereby lay it before the Commission, desiring the one as I have asked the other, to annul any encroachment which an investigation of the facts show to have been afoot. Maasdorp's report amazes me, but it has been my experience of the old Raad that they are not soon perturbed, neither do they act hastily.

Communication received by the Commission from Mr. D. W. Drew at this stage of his Memorandum.

P.O. Box 286,
Bloemfontein, O.F.S.

28 Aug. '25.

Dear Sir, I had to stop writing owing in part to overwork & temporary eye strain. But you have had already much the largest part of the Memorandum, while of the balance I have written half or more, and trust to bring the final section with me when I return from Thaba 'Nchu on Monday morning.

It may be well the Commission shd know that I received a few days ago a letter from the secy of the old Raad, stating that a strong protest had been entered by that body against new appropriations (as indicated in the S.W.A. *Gazette*) of ground wh. the German administration always recognised as theirs. The secy. described this land as situate on the East side of the Rehoboth Gebied & as given or to be given (according to the *Gazette*) to European settlers. As requested by the secy, (F. W. Maasdorp) I reported the fact of the Raad's protest to the Prime Minister, stating also that it was my purpose to draw the attention of the Commission thereto. I expect to receive further particulars soon from the Old Raad.

Believe me,

ffy yrs.,

(sgd.) D. W. DREW.

P. Bruchhausen, Esq.
Secy Rehoboth Commission,
Bloemfontein.

Translation from Dutch.

Rehoboth, 21.8.25.

Mr. D. W. Drew,
Daspoort,
Pretoria.

You will perhaps take it amiss that only now you receive a letter after all the great sacrifices and privations, but do not suspect me too much. Truly, in such a time as we are having in Rehoboth, one can easily lose one's head. The former Captain Mouton was away, and the letter was left in the post for two months. He has told me to write you everything in detail. I have done my best to make the Judge understand everything in connection with the land question, and have pointed that out to him as you reminded me. That old schoolmaster, Gertze, was present at the Commission of Mr. Harry Drew, but they did not take a declaration from him and therefore of what use would it have been to us. The other old people are all dead, except Koos Mouton. I and the old Council wanted to give the Judge a memorandum, but there is a difference of opinion between us, some wanted to hear the Report first. Now, honoured sir, on behalf of us all, I thank you always for the interest which you have shown and continue to show in us.

I shall be pleased to relate to you verbally what has taken place, and I hope that the Lord will spare us for that purpose.

With regard to the condition of the Community, I must say that the discord is greater than ever. The arms of the majority have been taken away from them, and we, the loyalists, have retained ours, and still they believe that they have acted correctly in forcibly disobeying the laws. As soon as you see the report of Judge de Villiers, please send it to me. We have not heard anything yet. I must also inform you that Mr. Hofmeyr is coming to take his leave of us on the 26th of September, and also that I see in the newspaper that he is again granting some of our land on the eastern side to the Settlers. We have protested strongly against it. Be so good as to bring it to the notice of the Prime Minister. He does not wait for the verdict of the Judge, but takes our own land, which the German Government admitted, and gives it to white settlers. If the old Council meets next week, I will write to you fully.

With best regards from us all

Yours obediently,

(Sgd.) F. W. MAASDORP.

P.S. Fever is very prevalent amongst the Community.

There can, I think be no doubt that Mr. Hofmeyr has invaded the treaty liberties of the Rehobothers, as well as encroached on their land.

The late Kapitein Cornelis van Wyk, during an interview which I had with him at the Raad's Kantoor on Monday morning, the 5th of July, described among other things how the Administrator, while holding himself from the Raad, was putting Government machinery into motion in the Gebied in a manner which was "onbestaanbaar" at any rate as regarded scab. I attended the same day some prosecutions which took place in the Magistrate's Court, and some of the Raadsleden were also present. Four accused (one of them, if I remember, a German) were dealt with, each of whom got full opportunity to state his case. The offence of "not reporting" was proved against all. The burger defendant set up the dual plea of extenuating circumstances and that they were not amenable under Raad law. The Magistrate inflicted small fines, except that an elderly defendant of fine and even venerable appearance—the image of a substantial old-time Boer, in all but his colour—was let off with a "fatherly caution" to the great annoyance of the German press.

Here we have a clear case of encroachment by the Administrator on treaty rights of the Rehobothers. He had not consulted the Raad about introducing the stock diseases law of the Territory, indeed, it did not even appear that the Ordinance had been proclaimed in the Gebied, at least not to the knowledge of the Raad. It is true that this body in their provisional scheme of amendments to the Kaiser treaty, had offered to accept uniform legislation with the rest of the Territory in respect of animal and human disease, but only as part of an amended Treaty recognising their continued substantial independence. Moreover, according to their proposal such legislation was to be enforced by regulations drawn up in consultation with the Kapitein and his advisers. This document the Administrator had rejected as "unworkable" and he could not, therefore, derive from it any presumption that the Raad would accept his scab enactments without consultation, which at this period he did not deign to accord.

It shows how little either the Kaiser Treaty or General Botha's promise to maintain that instrument in operation had sanctity when I add that the High Court at Windhoek quashed the conviction of a native for theft by Major Forsbrook, because the latter, desirous of

respecting the Gebied customs, had associated a Raad Rechter with himself as assessor in trying the case! Evidently the High Court recognised nothing but Union Law as applying under the Mandate. Apparently General Botha, in his unexpectancy of his premature and regrettable death, had neglected to provide for the honouring of his promise to the Kapitein by his successors in Government. I found even Major Forsbrook under the impression that the German usurpations of the Raad's judicial rights were answer enough to the burgers (from their own point of view) in objecting to the scab prosecutions. But I believe that in fact the Germans never prosecuted for scab.

They certainly did not enforce any branding ordinance, such as that which was the proximate cause of the late disturbance. No doubt Mr. Hofmeyr did not in this matter claim countenance of the Kaiser Treaty, but only of the Agreement, which the Raad in August, '23, signed with himself. According to all discoverable precedent the Raad had the right to subscribe that document and to bind the Territory Administration and the Rehoboth community mutually in the terms thereof. But the circumstances in which the Raad signed and the subsequent course of affairs in the Gebied must not be overlooked.

Prior to the signing it had become obvious that a considerable element among the burgers was opposed to acceptance of the Agreement. Their numerical strength could not be very well computed, because those who attended the referendum to which the Raad invited all burgers hardly exceeded one fourth of the number entitled to vote. What the Raad wanted was a clear expression of the community's will, but it was ominous that of those who did attend, about 80 per cent. voted negatively. The Raad, however, asked themselves what were the consequences should the agreement lapse? Mr. Hofmeyr had made it abundantly clear that if the burgers refused to be governed by law, in terms of the Agreement, he would govern without law, other than what he might himself proclaim. At the same time, he rejected a request very earnestly presented by the Raad for extension of time wherein to educate the burgers to the wisdom of accepting the Agreement. They wanted grace until Christmas of 1923. This, he said, he could not accord. Pressure, he said, was being put on him both by the Union Government and Europeans within the South-West Africa Territory to terminate the then existing uncertainty as to Gebied affairs. What the local Europeans had to do with the matter, he did not explain, but some of them, we suspected, were wanting Rehoboth farms. The Administrator, as above shown, did not wait long to gratify them, but it was to prevent such encroachment, as well as to save the Gebied from being proclaimed a coloured reserve on the footing of an ordinary Kaffir location, that the Raad not without grave misgiving, finally decided to sign.

They, with me, discussed various conceivable alternatives; that which seemed the most hopeful or (shall we say?) least likely to be quite useless, was an appeal to the League of Nations. This project was ruled out on the score of cost; the burgers, almost ruined by their sacrifices on the side of the Union, and not being helped pecuniarily by the Administration, as were the new settlers, could not afford the expenses of a delegation to Geneva. Also a verdict for them against South African opinion, the brunt of which their community would have to bear, was felt to be almost as serious a matter as winning their case. Consequently the Raad resolved to sign, trusting to be ultimately supported by a clear majority of the burgers.

In the event, just the contrary happened. With each passing week after the signing the opposition party increased in numbers and bitterness. At the same time Mr. Hofmeyr pushed on his settlement measures, thus completing the extensive land appropriations of the Germans. He consequently placed the Raad in the invidious light of having handed over their people to a betrayer and strengthened the arguments of the objecting majority. Given their reason for originally signing the Agreement (I asked myself), were they morally called upon to split their community for the sake of a treaty from which the other contracting party had departed? It seemed to me that the document had become a dead letter. Neither could I see that either the Raad or the Administrator were entitled to bind a self-governing people to an undertaking which it had become evident, the majority of them had firmly repudiated from the first moment that they grasped its import. The opposition leaders might have been grievously irregular in their methods, but they had the people with them, and the people were the constitutional source of authority, the Volksraad only its channel.

In August of last year I therefore advised the Raad that it would be better to let the agreement go or even, as the opposition wanted, positively denounce it, rather than risk a fatal schism in their community. The advice was not liked, and, though the Raad eventually abdicated, they did so in a manner which, I fear, looked to the most of the burgers more like handing them over to the Administrator for punishment than discharging themselves of responsibility. It seemed a parallel case to that of the church invoking the secular arm to deal suitably with heretics. On the other hand, the Administrator to whose mercies the people were consigned was no longer the servant of General Smuts, but of General Hertzog, and that made an enormous difference, though I doubt if the opposition recognised it. They had been met in the fairest and friendliest manner by the new Prime

Minister, and, had their leaders possessed the least qualification for their position, they would have done as he advised them—arranged with the old Raad for a new election, and thus given him a legally accredited, as well as representative, body to deal with.

Reviewing the whole case, I am not prepared to blame the old Raad, who, I am sure, acted honestly under undeserved insults and persecutions, and still followed the idea of saving a misled people from their ignorant leaders. With regard to Mr. Hofmeyr, I have the feeling that the agreement mattered to him according to whether it suited his purpose or not. It counted for nothing if the Raad were appealing against his appropriation of land which they considered theirs; it was sacrosanct when he wanted a "test case" to put refractory burgers in the wrong. It may have been that when he forcibly intervened in the domestic affairs of the Gebied, some such action was necessary to protect life or limb or property, but, if so, why invoke the very disputable sanction of the agreement? Why not rather have clothed himself with the authority of the Mandatory and the moral urgency of the situation? If the Hereros were up, incited by half mad instigators, and if there was danger of the other tribes being carried away by their example, he had the same right to enforce order that a householder has to put out a dangerous fire on a neighbour's premises. But bludgeoning burgers into submission to a Branding Ordinance savoured somewhat of bombing Bondels for refusing a dog tax.

And then there arises the question why had the burgers become so intractable? Why were they so afraid of the agreement, and so incapable of believing that the protection of the Union Parliament which this assured them was any guarantee of just or kindly government? The answer is to be found partly in the long history of wrong suffered by them and their fathers at the hands of the white man. The story of which I have above to some extent unfolded; partly, too, in the poor requital received by this people for their sufferings and losses arising out of their loyalty to old ties with the Cape; partly again in the dishonour done by the South-West Administration (seemingly, with the concurrence of General Smuts) to General Botha's promises. Finally, we see in the grudging eye cast by Mr. Hofmeyr on the land and liberties of the burgers part of the reason why they are unamenable to Union rule.

VII.

There remains the last part of my task in preparing this memorandum, which is to attempt constructive suggestions for the future Administration of the Gebied.

I would not propose a new constitution. At the moment of writing this, viz., 31st August, 1925, no system of government which depends on the voluntary co-operation of the burgers with the Mandatory appears to be workable. The letter above referred to, dated the 21st inst., which I received last week from the Secretary of the Old Raad, describes the state of schism in the community as worse than before. The late insurgent majority appear to resent the retention of their rifles by the loyal minority, while themselves being deprived of theirs. They still claim, as I understand Maasdorp, that they did quite right to compel obedience by force to the orders which they issued as a revolutionary government. Obviously, while such a condition of things obtains, the Mandatory has no option but to shoulder "the white man's burden," and rule a misguided people for their own good, even if against their will.

But I would earnestly press, as I stated in giving verbal evidence, that the agreement may not be cancelled, but simply held in suspense until the Rehoboth people come to a wiser frame of mind. If and when they are found willing to elect a new Volksraad according to Grondwet, they would have taken at least one step towards the position in which they must stand in order to receive back the self-governing privileges which the Mandatory has been temporarily obliged to withdraw. But more than this will, of course, be necessary; the Mandatory, before delegating to an elected Raad and Kapitein its responsibility for the internal order and well-being of the Gebied, must have tangible evidence of a disposition among the burgers as a whole to co-operate with itself along the lines of the agreement.

I would not despair of such a disposition being created within a few years, given two or three simple conditions. (1) Nominate a Volksraad (if not also a Kapitein), and thus enable the consultative provisions of the agreement to come again into operation. At first the Administration's nominees will be held up to contempt and derision as traitors and time servers, even though they would not be chosen (as I hope would not have to be the case) exclusively from what is called "the loyal section"—still less from the Old Raad alone. No matter; they would have the countenance and protection of government; they should also draw moderate salaries, according to the nature of their duties, whether deliberative merely or also magisterial and administrative. Whatever their duties, punctual and faithful discharge thereof should be required by the magistrate or commissioner under whom they would have to work, and remissness or misconduct should involve dismissal from office.

The nominated body should be reasonably large, so as to give the greatest number possible a training in matters of government. At present, only a few members of the Old Raad have the least knowledge of such things. It is necessary to educate an administrative leadership against the day when the people will again have in considerable measure the direction of their own affairs. The duty which the Mandatory has accepted towards the League of Nations requires this to be done. The Rehoboth community are to-day, without question, less capable of self-government than they were when the Kaiser took them under his protection 30 years ago. Their hard experiences in the meantime, the frequent wars in which they had to assist the Germans, their shattering losses through the military conflict which the Union brought into their country, the bad times since, the want of education and employment for a rising and increasing generation, and, finally, the wrong handling of the people by Mr. Hofmeyr, present themselves to me as the obvious causes of an undoubted degeneration. The last of the above-mentioned factors had the unhappy consequence that even when Mr. Hofmeyr wanted to help the people, as by teaching in books, industry and husbandry, they refused the proffered assistance, regarding it as the mess of pottage which was to buy their birthright.

But if the Administration will establish two or three schools, teaching the use of simple tools and machinery, along with the rudiments of letters and figures, and will compel the children's attendance; if it will provide employment and prosecute for vagabondage, if it will remove from the Gebied the last native not possessing a clear right to live there, if it will encourage agricultural and industrial enterprise, with a colour bar against the employment of either Europeans or natives as labourers, and thus train the young Bastards to do the full work of their community, and if, in addition, the Rhenish Mission always appoint one or two of its best pastors to the Rehoboth charge—men rivalling the consecration and good sense of the late Rev. Mr. Heidmann—then I make no doubt that the Rehoboth community will not only regain their lost ground, but advance to the farthest step of a civilised development that it is in them to reach; and who can say where that will be?

Agricultural progress, it is to be expected, will be slow and difficult, owing to the poverty into which the people have sunk. Col. de Jager, after travelling a year or two ago through their territory, reported that they possessed twice as much land as they were able to use. But he did not add why the case was so. He made no reference to the ruinous destruction and looting of stock which they suffered at the hands of the German soldiers and farmers and, to some extent, the troops from the Union, which things Mr. Harry Drew had in mind when reporting that they had never recovered from their war losses. Col. de Jager said nothing of the waterlessness of their land which makes much of it uninhabitable and unusable, even by the stock, except for a short period after the falling of rains, which may be intermitted for a couple of years. He made no reference to the industry with which the Rehoboth farmers have dug wells, and still have not got water. Neither did he speak of the excellent stock bred by a number of them, some of which used to fetch high prices on the Windhoek market in the German time. There exist striking references to the industry of the Rehoboth Bastards in the accounts of the early visitors to their territory. If it is asked, Why, then, did they not progress? one answer is that until the taking over of the country by the Union Government they did not enjoy four continuous years of peace, and that then there befell them the crushing losses above-mentioned, followed by a long and, at the same time, acute depression of the stock market. In parallel circumstances, would European farmers have done or fared much better than the Rehobothers have done? Can we not indicate parts of the Union where, from similar causes, they have suffered a worse decline? Certainly, if we now expect successful farming from the Bastards of Rehoboth, without Government assistance, we are asking of them what hundreds of European settlers in South-West Africa could not do with it. These last began their enterprise in possession of flocks and herds which the Land Board judged sufficient, and they also received their share of a loan and development expenditure amounting to several hundred thousands of pounds, and yet they failed.

If Col. de Jager thinks the Rehoboth Gebied of about two and a half million hectares too big for the requirements of nearly 6,000 burgers and their families living, as they were wont to do, in the manner of European stock farmers, how does he justify himself in having divided, as chairman of the South-West Africa Land Board, 6,700,000 hectares among less than one thousand settlers? There are not, I believe, 400 surveyed farms in the Gebied, so much of the country being uninhabitable. The Administration, of course, has done quite right in helping the settlers from the Union by advancing loans and boring for water, but why has not a penny of similar assistance been forthcoming for the much distressed farmers of Rehoboth, men to whom, as our allies, we had a special obligation?

It would accord, I submit, with our undertaking as a Mandatory State and the equities of the case, that the Administration should assign a sum of money as a free gift to be applied for restocking purposes. The necessary amount and its proper distribution would have to be determined by careful enquiry and inspection of the farms. From that point onwards,

however, all monetary assistance should be restricted to loans. But boring for water is most necessary, and the farmers lack the means of hiring private drills, but Government could advance the necessary costs, perhaps through a Land Bank, and earmark certain monies of the Gebied or, if necessary, impose new taxes as security. Such provisions would naturally continue to operate after the recovery by the burgers of self-governing privileges, until by these or other means the Administration became reimbursed. What I suggest is wholly in line with the proposals of the Raad, as made by themselves in 1919 when presenting their draft of a new treaty to replace the old one with the Kaiser. I would invite the attention of the Commission to clause v. of this document which, though not adaptable in form to present conditions, was framed in a spirit of self-helpfulness, the want whereof would sadly vitiate any resettlement of Rehoboth affairs. Not only agricultural assistance, but also that which must be further rendered in respect of education, hygiene and industry, should carry the same condition that what is temporarily given free or below cost should in the end be paid for. But while I say this, being anxious that at all costs the people should not be pauperised, I would equally press for a fair and careful consideration of the per contra account in which the Administration stands to them; I refer especially to their war losses and their appropriated lands.

I would not say that the Union had a duty to compensate the Rehobothers for damage suffered by them at the hands of our late enemy, were it not that blood was lost by them along with their substance—blood shed out of an honourable loyalty to us, loyalty to old ties of friendship and to a duty, consequently, to offer us no violence that their treaty with the Kaiser, contracted on the advice of the Queen's Commissioner, did not justify. If we paid out £260,000 as compensation—some of the money to enemy subjects from whom goods were commandeered, and much of it to South Africans who risked neither life nor limb in our cause—was it right to take no liability for the war losses of the Rehoboth burgers, and to leave their wounded and the dependents of their fallen totally unprovided for?

It may be objected that the small numbers of the Rehobothers, which hardly amount to six thousand, must be productive of an inbreeding tendency, and thereby frustrate any attempt to educate and raise this people as a separate community. Dr. Eucken Fischer, in a work largely anthropological, reports degeneracy as having taken place among them, owing to a considerable fusion of Hottentot and Bantu blood. I have seen the interesting photographs included in his book, which reveal successive degradations from the strict Bastard type (a first cross with the European) as having taken place among them. It is rather the evils of miscegenation than of inbreeding which these portraits illustrate, but Dr. Fischer would, no doubt, observe that miscegenation, occurring in a small, congested state, necessarily induces inbreeding, for the higher-bred families, finding their numbers decreased by race fusion, will deliberately seek to preserve their type, and this they can only do by inter-marrying. How far the European blood may have become diluted among the burgers of Rehoboth generally, the photographs do not show. Viewing the people, as at *Nachtmaal* celebrations, I have taken the impression that about half of them correspond racially with any equal number of Cape coloured folk encountered at random in the streets of Cape Town, while the other half would be somewhat darker.

Some might deem it expedient to sweep away the Rehoboth constitution, and to apply to the Gebied the laws obtaining in the European portion of the South-West territory. These, as far as I know them, do not prevent Cape coloured men from owning land, or, if they do, it would be easy to issue a proclamation safeguarding the rights of the Rehoboth coloured landowners to their present properties. Most of their holdings, if this were done, would unquestionably pass into European hands within about ten years, and there then would no longer remain any problem of a separate Bastard community to worry the Administration. No doubt, but such easy escape from difficulties is denied to the Mandatory by the nature of its commitments. If the late Prime Minister engaged for the Government of the Union that it would respect, broadly and in the spirit, the terms of a particular document, viz., the treaty between the Rehoboth Kapitein and the Kaiser, granting that some provision of this instrument may be impracticable, and that the people in their unenlightenment may refuse their consent to necessary amendments, the Mandatory cannot honourably deviate from the extant text, except in a view to the higher welfare of its wards. It may be necessary to govern them in some things against their will, for their own good; otherwise their self-determining right must be respected, except, of course, that the Mandatory must conserve the legitimate interests of other communities in South-West Africa. For instance, a right of Gebied inhabitants to breed scab or spread smallpox could not be recognised. The Mandatory has undertaken, as above stated, that it will promote the civilised development of the Rehoboth people until they become able to stand alone in the modern world. Consistently with that obligation they must, for an indefinite time, be segregatively dealt with. The inbreeding evil can be cured by giving them more land, which will provide room for selected immigrants from the Cape, belonging racially, of course, to their own type. Miscegenation might, at the same time, be stopped by removing the aboriginal and

non-burger elements, the Korannas, Klip Kaffirs and the like, to separate locations. These people would be much better off in European service, judging by what I have seen of their condition. But I would not advocate a wholesale compulsory removal; rather that they should be given opportunity to pasture their stock outside the Gebied, each race obtaining for this purpose its own reserve, while the majority of the males become free to earn wages. A squatters' law is necessary within the Gebied to restrict the congregation of aborigines on private land. It should be so drafted as to limit the number of non-Bastards on any farm having an interest in the soil or the right of depasturing stock. The Bastard owners may be expected for some years to employ the largest number that either the law or their purses will allow of, but as the children of their own race multiply, the pressure on employment should exclude the non-Bastard servants whom, consequently, the outside locations that I have suggested should be made large enough to receive. I do not forget the impossibility of keeping land indefinitely open, and would therefore propose a ten years' limit, within which all non-Bastards should be required to leave the Gebied, save by special permission of the Administrator. There might be sick or aged servants whom their employers were willing to shelter, and generally a dispensing power to obviate cases of hardship seems a desirable provision.

Rectification of Gebied boundaries by due enlargement to something approaching their historical extent, with concurrent elimination of the aboriginal elements, would enable some scores of the best class of Cape coloured families to settle among the Rehobothers, some cultivating the land or some pursuing stock farming, some in commerce and industry, and some supplying a serious need for teachers, doctors and (as time advances) other professional men. I anticipate that to such immigration, albeit carefully selected, there would arise an unthinking outcry from the German population of the territory. With them the suppression of non-Europeans appears to have become so near a religion, that we find Mr. Hofmeyr recording in his current annual report that the orders which were tardily given by the Kaiser's Administration for extending the patently inadequate native reserves encountered their dislike. Probably the whole policy of redressing the injustices suffered by the Rehobothers under German rule will be distasteful to them. They cannot forgive the Rehoboth burgers for having refused to take sides with their old Government in the late war. By the Europeans who have immigrated from the Union, the desirableness of importing into a reserve of coloured Cape Afrikaners enough of the best of their own blood to save them from degeneracy should be easily understood. I have put this proposition to no cultured European without finding it heartily endorsed. Major Herbst, I am sure, will permit me to cite his own cordial acceptance thereof, one which is noteworthy as accorded by an able administrator who, as Secretary of the South-West Territory, had full knowledge of the conditions in the Rehoboth Gebied. Sitting in his office at Windhoek in July, 1922, he expressed his full concurrence with substantially what I have above suggested, both on the points of admitting needed new blood into the Gebied, and making the necessary extension of boundaries for such purpose. I do not see how otherwise the Mandatory can hope to discharge its undertakings in respect of the Rehoboth community. Certainly, the measures proposed will greatly simplify its task. What teacher, placed in charge of a sixth or seventh standard class would not clear out morons of but fourth standard capacity whom he might discover there, and gladly welcome in their places the brightest obtainable pupils standing at the suitable stage for his own instructions?

Endow the coming generations of Rehoboth with a better heredity, and their education will be a comparatively simple affair. On the other hand, if the various populations of the Gebied are left together within their present confines, the progressive degeneracy of the better elements becomes almost inevitable. Such herding enforced in the nature of a segregation policy would be a cruelty the more piteous as inflicted most on the class nearest in blood and aspirations to ourselves. It would also gratuitously complicate the problem of the Mandatory. I ask, reverting to the above applied parallel of school conditions, would any teacher, having to carry his pupils through a difficult examination, deliberately impose upon them deteriorative conditions to their physique and intelligence?

It is very thinkable that the Rehoboth landowners will not enthusiastically welcome the immigration above recommended. It would mean sharing their political and social influence with newcomers more educated than themselves and better versed in affairs of the modern world. I must, however, state that the Old Raad always told me they would offer no objection if and when they recover their wrongfully appropriated lands. There can be no doubt that the landowners will also not be pleased to lose a considerable number of their servants; hence my suggestion to let them keep temporarily a limited number. They could not object if the Administration should provide adequate territorial homes elsewhere for the tribes within the Gebied, and more, I imagine, would not be necessary to induce the most of them to leave. To the young men of the majority of the Bastard community such a measure would, of course, be popular, as opening up profitable employment on the farms, with the prospect, very likely, of acquiring lands for themselves. I would urge that all restored or added land should be reserved for settlement by Bastards under conditions to

be approved of by the Mandatory; not a foot of it should increase any existing farm or property within the Gebied. If the Mandatory advances funds for development, it could equitably demand the reservation of certain sources of taxation, with which the debt of the Gebied might gradually be liquidated. The land of the Rehobothers will for a long time have to contribute most of their public revenues. Properties not beneficially occupied should be differentially taxed. In cases where the Administration might increase land values by public expenditure, notably in the case of irrigation works, it would be reasonable that, as the Irrigation Commission has recommended in respect of the Union, owners should sell to the Administration, as trustee for the Gebied, such portion of their ground as they might be unable to use. Land would thus be liberated for occupation by thrifty and hard-working burgers. It will be of little use to teach the children the elements of civilised economics and to initiate them to industry and enterprise without introducing a land system under which the lessons learned in the schools can be put into subsequent practice. The electoral system also wants modifying to the extent of allowing the burgers to nominate candidates, a right which, hitherto, the Raad has reserved to itself, without, so far as I can see, any authorisation from the written statutes. The present suspension of political rights within the Gebied may work a good result if the Mandatory avails itself of the opportunity thus afforded to introduce necessary reforms. These the people may at present be too uneducated to welcome, but, as experience and the schoolmaster free their minds from beclouding prejudice, they will infallibly pronounce them to have been wise and salutary.

There remains the questions where to find and how to acquire the land which will be necessary for redressing the territorial wrongs and making possible the desirable immigration above enlarged on?

Looking at the European encroachment, as shown on the Rehoboth map, we see there, besides the "white islands," of which Mr. Hofmeyr has bought back four for the burgers, what I may call a "white peninsula" jutting into the Gebied on the north-west side; also there are the "Debt Farms" acquired by Germans on the eastern side, and a strip of land (likewise European-owned) which runs with the Visch Rivier, the original southern boundary. If these respective pieces of country were restored to the Rehobothers, they would recover their old boundaries on the east and the south, and the objectionable piebald aspect of their Gebied would have disappeared. I would suggest that these areas be compulsorily expropriated at valuation with a tenth added as compensation for disturbance. This would be done, as a matter of course, for a State object such as building a railway. We shall probably see it done in some districts of the Union as the only possible means of adjusting to existing conditions the segregation policy which the Prime Minister has lately foreshadowed. The present object is strictly analogous. The owners to be expropriated will, I think, not object, because, in addition to their disturbance allowance, they would receive an unearned increment which the Mandatory has created by its settlement measures in their neighbourhood, and in other ways. There would still remain (ignoring for a moment the south-western portion which the Germans left uncolonised, and which the Raad consequently had hoped, and still hopes to get) more than a sixth of the original Gebied, a portion situated along the Kuisib River and, I believe, about the best in its extent. It is filled up to-day with improved farms. The Government revenues from which, if capitalised, should exceed the expropriation costs of the border and interior farms, presently European owned. The recovery of these would assist the redress of a wrong, and would have great advantages for the Rehobothers. It would create (1) a clear frontier all round, (2) a homogeneous population (I assume the elimination of the Hereros and Hottentots along with the Europeans), and would restore to the Gebied some of its original river farms. Of these, with their irrigation possibilities, it has been completely deprived by the German encroachments, which no doubt was what was aimed at. The unfairness of taking from a people their hope of meeting future needs by intensive agriculture, I need not stress.

To the above-mentioned advantages there is to be added that of the easier administration of a compact country from which heterogeneous elements have been excluded. Should the cost of the expropriations exceed my indirect estimate, I would observe (1) that a good deal of it may become recoverable as the training of the Mandatory improves the economic status of the Rehoboth community, and (2) that the Union, by its own cheap acquisition of the South-West Territory, has received already far more than the equivalent of any expenses or pains which its Mandatory duties, not alone to the Rehobothers, but to the other tribes, may involve; it has in reality been paid in advance.

In this concluding portion I desire to sum up and extend the proposals already made for settlement of land questions connected with the Gebied, and so suggest one or two administrative changes, together with an amendment of "The Agreement" of 1923 between the Administrator of South-West Africa and the then Volksraad.

On the subject of land settlement, one would naturally ask for the restoration of the Gebied to its original shape and extent as covered by the Kaiser Treaty, less, of course, any

alienations which may have taken place under unconstrained authority of the Volksraad. But such a claim, rightful though it would be, the Administration would have great difficulty in satisfying, for it would involve the compulsory expropriation of two considerable blocks of improved farms, neither would the result be wholly convenient to the Rehoboth community, among whom it would leave a number of European-owned farms, which the Raad voluntarily sold. Having now further considered this matter, I now submit the following definite proposals as the best I can think of for reconciling the Mandatory difficulties with the substantial justice which is due to the Rehobothers:—

1. Taking the map of the Gebied, as we to-day have it, expropriate and restore to the Rehoboth community all European-owned land shown therein eastward of the Leutwein line.

2. Restore the block of land which makes roughly the southern half of what lies west of the Leutwein line. This portion includes the farms on which Mr. Hofmeyr has placed settlers—the “afgenomene plaatzen,” as the burgers call them.

3. To whatever extent, if any, the Union Government may deem the above two proposals impracticable, it should grant the Rehobothers alternative land elsewhere, which will be equally serviceable, and whereon those who remove to it may live together as a separate community. Mr. Hofmeyr has emphasised in his latest report that there still remains in South-West Africa plenty of land suitable for settlement, and that it can be availed of without detriment to any vested rights of Europeans. From the context of his statement it is, however, to be inferred that such land would not be colonisable except with Government assistance, which accordingly should be provided to the Rehoboth settlers. If it is found by the Commission that Mr. Hofmeyr's haste to appropriate the western lands gratuitously increased the Government difficulties in rectifying the Rehoboth situation, it would follow that so far any substitutionary land awarded them should be made fully habitable without cost to themselves. In respect of land which Government may prefer to give them in lieu of the European-owned farms in the eastern portion of their Gebied, they would again require Government assistance in order to take possession, but they might be held liable to reimburse the Administration on the same terms as European settlers. I would suggest the creation of a Land Board and Land Bank, from which the Rehobothers might get help both for the above-mentioned settlement and for their general farming.

In determining any settlement costs which may be deemed fairly chargeable to the Rehobothers for alternative lands to those which are owned by Europeans lying east of the Leutwein line, the Government ought, I submit, to estimate the revenue worth of the north-western or Kuisib area which the Germans appropriated, and allow accordingly. If the Rehoboth claim to this region is founded, the Administration, morally considered, is exploiter of a stolen asset.

4. I can hardly suppose that the Union Government will neither restore such land as the Commission may find to have been wrongfully taken from the Rehobothers, nor yet grant them alternative country. Yet, should this happen, I would submit that as the absolute minimum of redress all the Raad servitudes on alienated properties (whether omitted in the German registers or not) should be made strictly enforceable. These impose a needful control over the disposal of wood and grass, and limit transfer of the land to persons approved of by the Raad. The whole Gebied as covered by the Kaiser's Treaty should also be declared an area in which Rehoboth burgers and their adult womenfolk have the right of owning or occupying land. Moreover, they should be declared eligible for assistance under the Land Settlement Act, with a view of acquiring fixed property there. It may be said that I cannot consistently object to “white islands” inside the Bastards' portion of the Gebied, if I propose to create brown ones outside. But the reply is obvious: I make this proposal only in the event of full compensation for their lost territory not being given, and as the lesser of two evils. Better the mixing of white and brown ownerships in chessboard style over the face of a country than the continuance of an unredressed wrong as borne by either community. Besides, there is this important distinction between what I conditionally propose for the Kuisib area and the existing state of things in the rest of the Gebied, viz.: that the inhabitants would all be living under the rule of the magistrate instead of some under his control and most under Raad rule. All would have to conform to European law. Squatting on farms would, for instance, not be permitted. I have heard it stated by representatives of farming constituencies that in their experience they found the neighbourhood of native landowners quite unobjectionable, providing they were farming according to the ways of the Europeans, and did not convert their farms into Kaffir locations. In the Thaba Nchu district, where I am now writing, we have a number of non-European landowners, who are mostly natives, but also a small Bastard element, and it occurs to nobody to complain of their presence. Probably, the European public opinion of South-West Africa would be adverse to my proposal, but the Commission, having visited the Territory, has probably gauged the general temper of the white population in matters of colour. Whether this or the attitude of the progressive farmers in the Cape and the Free State accords with the obligations undertaken by the Mandatory, is a question which answers itself by merely being put. The local prejudice

can hardly expect to prevail over the conscience of white civilisation. Even the late German Government ignored and disregarded this prejudice, as Mr. Hofmeyr records, by giving instructions shortly before the war for extending the meagre native locations, "though in opposition to local wishes." But, as I have above stated, a clean-cut settlement, either restoring the taken territory of the Rehobothers or giving them adequate alternative land, is much to be preferred to any intermixing of population and interests.

6. Overflow reserves or locations should be appointed wherein the natives of the Rehoboth Gebied can be accommodated, each tribe among its own people. If this is not done, there will soon arise in the Gebied a "poor brown" problem, analogous to the "poor white" problem of the Union. Granted that external room for bestowal of the families and the live stock is accorded to the Klip Kaffirs, the Korannas, other Hottentots and the Hereros now living among the burgers as their servants or (as in the case of the Hereros) as tenants of the Volksraad, more labour will be available for the European farmers. The younger generation of Rehobothers are becoming sufficiently numerous for all the work of the Gebied. Elimination of the natives will arrest the degenerative miscegenation to which I have above referred, and, if associated with deterrents to the non-beneficial occupation of land, will provide farms for more families without enlarging the borders of the Gebied; but such measures should, of course, be gradually introduced.

7. The case of the Hereros in the Gebied is special. Mr. Hofmeyr has for some years declared himself to be preparing a reserve exclusively for these people. He has never explained to the Raad what his difficulties are, but I suppose they relate to the provision of water. In his latest report he shows a disposition to qualify his repeated undertakings to the Volksraad to relieve them of their Herero guests, about a thousand in number, who were purely out of loyalty to an historic friendship. Their harbourage was to have been temporary; without it, indeed, they were in danger of being taxed by the Administration out of the ownership of nearly all their stock. Mr. Hofmeyr now talks of removing such as may not have acquired vested rights from the late so-called "New Raad." It is noticeable that in generally disallowing and denouncing the acts of that body, he recognises those which promise to relieve him to an extent from an inconvenient commitment. His difficulties in providing territorially for the strangers in the Rehoboth Gebied have arisen from a policy of settlement which appropriated the habitable lands for Europeans, leaving little that would meet the needs of the natives without expensive preparation.

8. The Volksraad claim certain erven and buildings within their stad as rightfully theirs, though they had perforce to yield up the ground to the late German Administration. The Union Administration took possession, and has ignored, I understand, more than one representation of the Raad on the unsatisfactory character of its title. I have not with me the details of the case for the Raad, but presume that the ex-members of that body did not overlook them in their statement to the Commission. The clearing up of the Rehoboth situation would hardly be complete, I should suppose, without a pronouncement on this matter.

9. I would most earnestly press that Government should accede to the petition of the Raad formulated in 1919, for the administration of their Gebied as a separate area by a Resident Commissioner. Such an official was requested as the special representative of the Administration to the Rehobothers, and of the latter to the Administration. This prayer was renewed by the Volksraad in the course of the Windhoek negotiations of 1923, and the Administrator undertook to consider it, but it remained unsatisfied; matters might otherwise have gone better in the Gebied. There exists far too much intercourse to-day between the lower class of Europeans and the corresponding order among the Rehobothers. Even the using of the stad by perfectly respectable farmers and their families, as for business calls, social functions and attendance at the magistracy, has indirectly one bad effect. The Europeans must have liquor, and once the sale thereof is licensed to them, the supply reaching the burgers escapes control. The hotel- or bar-keeper is by no means necessarily to blame. A bad type of Europeans keep themselves both in money and drink by purchasing liquor, say a bottle at a time, ostensibly for their own use, but when they have been supplied they pass to a Bastard outside some of what they have bought, and receive, probably, more money for the part than they have paid for the whole. Having now known the Gebied for eight years, I doubt if it is possible to apply the spirit of the Mandate therein, in what pertains to the liquor traffic, unless the Rehobothers' portion is segregated, as the Raad have asked. It should be remembered that the undivided opinion of the burgers was behind this request in the year 1919. Total prohibition I should deprecate as undesirably restricting the liberty of a minority who can use intoxicating liquors not only without harm, but to their positive good, and as likely also to defeat its own end by provoking illicit importations. These last no ordinary staff of police could possibly prevent. If the Europeans cease to be habitual users of the Gebied (officials, clergy and licensed storekeepers excepted), and if liquor is only to be obtained on permit of the magistrate or commissioner, or on that of the Raad countersigned by the European authority, all interests (including the supreme one of temperance) will, I think, be as well served as is possible in an imperfect world.

As illustrating the difficulties of administering a mixed Gebied I attach to this page a letter received by me some 18 months ago from Major Forsbrook, who, at that date had been for several years Resident Magistrate at Rehoboth. His services in steadying the mass of the burgers during the excitement of the Agreement were of great value to the Administration. He entirely won the confidence of the Rehoboth community, who believed thoroughly in his integrity and fairmindedness, as they had right to do. I have marked in red pencil the relevant passages on official matters, and in blue pencil several allusions of a private nature, which the Commission will, I am sure, regard as confidential.

The Residency, Bethanie, via Keetm.,
South-West Africa.
24th March, '24.

My dear Mr. Drew,—There are a couple of points which I omitted to mention in my last letter to you—by the way, did you get the letter? I addressed it “The Senate, Parliament Buildings, Cape Town.” I did not add “Press Correspondent”! It, the letter, should have reached you on the 22nd inst.

You and I worked together in the Rehoboth matter, we were on the spot, and we know each other's value; such being the case I am sure you will acquit me of any desire or intention of unnecessarily “butting in” and that, even if my opinions do not agree with yours, you will accept what I say in the spirit in which it is offered.

As you know I have always maintained that there should be two entirely different local administrations, *i.e.*, a magistrate for the Europeans in the District and one for the Rehobothers. The Rehobothers must be taught that it is the very first duty of a citizen to maintain law and order. For the moment they are in a very elementary stage in this respect, and such being the case, it presents a very grave difficulty. In order to combat this and win their respect and confidence, we must educate them to higher ideals. If we bring them to a Court of Law and severely punish them for any offences or omissions, it will mean that we shall entirely lose their confidence, and that we shall always be burdened with a dissatisfied, sullen and disloyal people. Can we expect anything else? They are like children, and are therefore very quick to spot any form of injustice. The only remedy, in my opinion—I speak from personal experience—is to teach them. They should be taught how to recognise scab, to whom to report it and how to cleanse it. The same applies to all affairs of this nature—locust, stock diseases, etc. The teaching staff, police and in fact every official employed within the Gebiet should be under the magistrate. A number of Europeans in the Dist. were “up against me” for favouring (!) the Rehobothers. Naturally, where two distinct classes are daily brought into contact and more sympathy is shown to one class rather than to the other, this deplorable condition and discontent must prevail. In my opinion to you as my friend, I think it a very great mistake to have allotted one farm* in the District to a European. However, this is done now, and the only thing is either to make the Gebiet the District of Rehoboth and apportion the European part of the Dist. to other districts, or to appoint a separate magistrate for the Europeans. It is impossible for one man to please both parties.

[*Major Forsbrook explained to me in a subsequent letter (which I can produce) that he meant to say “even one farm.” As to his supposed failure, he is too self-depreciative. Neither Mr. Hofmeyr nor Mr. Smit (State Secretary) imputed any failure to him, but a man does not get fitter for trying work as he ages.—D.W.D., 14.9.24.]

Another thing. The Rehobothers must not be allowed to go back one single step. They must be helped to prosperity. As you have yourself suggested, the very first thing to be done is irrigation. Decent cottages must be built, the farms properly stocked, dips built, etc. Where is the money to come from? I think the best way out of the difficulty would be to establish a Government Agricultural Bank for bona fide Rehobothers only. This would be the very first great step to success—it would go far to establish that degree of confidence which it is so necessary for them to have if we are going to successfully govern their country. It would I think be better for all parties concerned if the Gebiet was directly under the Union Government.

In short what the people really require is money—then new coloured blood—extension of territory and to be ruled by their own Magistrate. I hope the selection of this official will not be left to the Civil Service Commission. In such case they will be guided by red tape rules, *i.e.*, the next man for promotion will be put into the job no matter whether he is fitted for it or not.

In my last letter—I am anxious to know if you received it—I asked you to come to us here when and for as long as you like. I can promise you two things, viz., a welcome and a perfect rest.

I understand that Leube is working on a farm in the district; he is a peculiar man and of funny temperament. I don't think he is quite the success which we anticipated.

Mr. Schroer (Missionary) is a first-class man. He has the real interests of these people at heart—in their interests he has been loyal to us and I respect him for it.

Yours sincerely,

CHAS. M. S. FORSBROOK.

P.S.—The Rehobothers must have money for development and I have therefore suggested a Bank to you. We cannot leave them to themselves or they will be at the mercy of any unscrupulous European speculator who may approach them. I am quite sure that you have considered this matter and you will probably be in a much better position to make suggestions than I am. My anxiety on their behalf is purely disinterested as I feel confident that they will never consent to appointing me in that district again. I take an interest in their welfare and I would like to see them placed in such a position that they can help themselves.—C.M.S.F.

10. When conditions improve and the burgers become re-entrusted with self governing privileges, it will be desirable to leave the policing of the Gebied to the Volksraad—of course, under the Resident Commissioner. The Magistrate of Rehoboth, at present, has nothing to say about the doings of the police within his jurisdiction, this body being controlled in all things by a Chief of Police at Windhoek. It is a system ill calculated to support the dignity of the Government's local representative. As far as possible, coloured men should be employed as police. It might for some time be difficult to get locally a sufficiency of coloured men having enough education for the work, but plenty who are suitable could doubtless be obtained in the Cape Province, whence I trust the Administration would import them. Mr. Hofmeyr was obviously inclined to grant the request of the Volksraad for a police recruited from their own people, but let himself be overruled by his own Chief of Police. Among the objections offered by this official there seemed to me to be only one having any point in it, viz., that if a white policeman was tracking, say a stock thief, who was found to be heading for the Rehoboth Gebied, it would never do to let the officer be held up at the border. The odds were, said this official, that time would be lost in getting a Bastard policeman to take over the pursuit. Of this I am sure: that the coloured farmers of Rehoboth would be the last people to sympathise with escaping stock thieves. How the co-working of a white and native police is arranged on the border between the Free State and Basutoland, I do not know, but have never heard complaints on that matter. Human nature being what it is, a coloured self-governing community will not be inclined to co-operate with a white police as they would with one of their own blood. They have the feeling of being looked down upon by the European officers, whom they tend to regard as their oppressors rather than their protectors. The spirit of the Mandate as well as the undertaking of the late Union Prime Minister (General Botha) requires that Raad law as much and Union law as little, as possible should be applicable within the Gebied, from which it is a derivative that the police should be countrymen of the inhabitants as soon as circumstances will allow. There is, of course, nothing to prevent the Volksraad from appointing their own police, if they like to pay them, but what real authority can such a body possess if the Administration maintains a white police to take their work off their hands?

11. Reviewing "The Agreement" in the light of two years' working, its safeguards of Rehoboth liberties appear to need strengthening. Practically all of this sort that the treaty contains, is a right of appeal to the Union Parliament. No doubt, the old grondwet of the Rehobothers is guaranteed, and the same thing can be said of their land. Yet the latter has already undergone encroachment, or, at least, the Administrator took possession of a disputed area without awaiting the decision of Parliament to whom the Raad notified him they were referring their claim. Conceivably some future Administrator may take a verdict for himself after the precedent set by Mr. Hofmeyr. Parliament being a slow moving body, he was able to settle and seize the ground before the House could be in session to consider a petition. Parliament can, theoretically, restore this land if the Commission reports that it was misappropriated, but will it do anything so distasteful to the European element? To grant the land, were it still lying empty, would be easy, but to dispossess European farmers from their homesteads, which they, on their part, have lawfully and in good faith created with labour and expense, would be something much harder—especially to do it for the replacement of white owners by coloured. The best we can hope is, I fear, that the Rehobothers may get some alternative ground, but it will not be the same thing as remaining an undivided community in their old country. My point is that the notification of an appeal to Parliament did not prevent the Administrator from enormously prejudicing the issue, which was to come before the House.

What has happened may recur in a different class of cases. So far there has been no attempt on the part of the Administration to introduce new taxation, but more revenue

will become necessary if the Gebied is to develop. What is to prevent the saddling of the Volksraad with a share of the "overhead" expenses of Administration in respect of the whole South-West Africa Territory? And if this is determined on, will not the Administrator be able to impose and collect a tax or taxes pending appeal? In like manner, one asks, what check are the Volksraad to have upon unduly ambitious schemes, say of irrigation or education within the Gebied, which perhaps, an over-progressive Administrator may see fit to institute? Again the appeal to Parliament. But the scheme may have been meantime begun and a whole train of expenses become involved which Parliament may be loth to leave entirely as a charge to the Administration. Thus the issue will, once more have been prejudiced.

The Administrator's assumed prerogative of taking his own course, even against a notice of appeal, and leaving Parliament afterwards to remedy a possible wrong if it can, threatening also the constitutional liberties of the Rehobothers. We saw Mr. Hofmeyr sweep these away wholesale by a stroke of his pen last December, and he made not the least reservation under which they might later claim them back. "The Agreement" simply vanished. As for appeals to Parliament, the body that could present them, viz., the Volksraad simultaneously appeared and its duties including that of representing in emergency the cause of the people against the Administrator, were vested in the Magistrate, the Administrator's paid servant.

There seems to be necessity first for keeping appeals of the Rehobothers to Parliament as far as possible unprejudiced—preserving, if I may bluntly say so, the assets intact in respect whereof they arise; secondly, as regards taxation and financial obligations, which may be laid upon the Rehoboth community to get something of a limiting nature incorporated in the Agreement. As promoting the first of these two objects, I would suggest that whenever the Volksraad appeals, the Appellate Court shall have the right of staying temporarily, if requested by the Appellant, the action of the Administrator to which objection is taken. Secondly, there ought, I think, be some protecting clause in the Agreement laying down the principle which we find in the Native Urban Areas Act as governing the taxation of locations, viz., that all revenue raised within the taxed area must be spent locally and for the benefit of the inhabitants. I refer to a clause which was specially drafted to prevent Municipalities from exploiting the locations with a view to lightening the burdens of the European ratepayers. A future Volksraad at Rehoboth would have something to go upon in appealing against unfair or excessive taxation, if their Agreement with the Union Government contained an equivalent protection. In their case it would be necessary to provide that not only taxation must be for the benefit of the Rehobothers and wholly spent on their behalf, less necessary administrative costs, but that the figure of it should be scaled to agree with their resources and their ability to pay, in short, that the benefit proposed was value for their money. The safeguard I am here pleading for seems very necessary, because an undeveloped people could be taxed out of existence in the process of tuning them up too quickly to a civilised standard. I would not, however, trust any Assembly of politicians to decide upon the reasonableness of taxation which was to be laid down upon a community to whom its members were not personally responsible. If we take away the historic self-taxing right of the Rehoboth community—one which is amply covered in their treaty that General Botha's pledge, in its turn, covers—we ought at least to give them some definite undertaking of fair treatment such as I have above suggested. Once that kind of contract was incorporated in their Agreement with the Administration they could refer to the Courts the question whether the purpose, amount or any other feature of any proposed tax or financial disposition of the Administrator was in harmony with its terms. For the sake, however, of securing the most competent and independent verdict I would ask that the reference should go direct to the Appellate Court. There we have a body, the supreme judiciary of the land, whose finding given in equity as well as in law, would go forth with the authority of the nation's highest conscience. Parliament, I suppose, can do all things it likes, but it would be very slow to pass annulling legislation by which the sort of veto I have mentioned might on later occasions be got over.

A limiting provision on the subject of taxation, secured by an equity reference, to the Appellate Court, would be a real protection to the Rehobothers. At the same time it would enable the Administration to require from them reasonable costs for their own development, to which many of their burgers might be too conservatively opposed. Such a provision would, I think, please the League of Nations, who would deduce from it the wish of the Union to apply its Mandate conformably to the spirit and principles appearing in the League Covenant.

(Sgd.) DEWDNEY W. DREW.

Bloemfontein, 20th October, 1925.

REPLY BY THE SECRETARY FOR SOUTH WEST AFRICA TO MR.
DEWDNEY DREW'S MEMORANDUM.

Boundaries.—The Administration has tendered all the evidence in its possession on this point, and can only leave it to the Commission to decide what the true position was. Mr. Drew bases his entire case on one point, viz., the interpretation of a statement alleged to have been made by General Botha to Cornelis van Wijk at Swakopmund (see p. 227) "All that this treaty gives you shall at least remain yours."

This statement is purely hearsay and it has not been possible to obtain confirmation of it, but it is believed that a note of the conversation between General Botha and van Wijk was kept. The Prime Minister's Office has been requested to endeavour to trace this if possible and to forward it direct to the Commission.

Mr. Drew admits he cannot guarantee the *ipsissima verba*, but he proceeds to argue for a very broad interpretation of what General Botha is stated to have said to the Bastards in Major Herbst's hearing (see p. 227). It is thought the Prime Minister's intention is clearly expressed in the telegram of 9th June, 1916, from Defence to the Administration, a copy of which was handed in at the enquiry. This reads as follows:—

"D.16/1558. June 9. Your G. 447/948 yesterday. General Botha's concern is only in general policy and future this community. He does not think we should do anything to diminish their independence on status recognised by the German Administration."

Mr. Drew does not allege that the boundary as fixed by the Rehoboth Agreement of 1923 altered the boundaries as fixed by the German Government from 1897 onwards and accepted by the Bastards—it is stated under duress—but it is contended that the German Government robbed the Bastards of their land and that in accordance with the implied promise given by General Botha the Administration should have restored this.

The position taken up by the Administration after consultation with the Union Government was that the Bastards should be given the rights they actually enjoyed under the German Government when the war broke out, and it is submitted that the Rehoboth Agreement of 1923, not only did this, but conferred additional rights and privileges.

A Commission was appointed to enquire into certain boundary questions, but beyond this it was not possible to go. A copy of the Administration's reports have been handed in.

The Administration was not prepared to re-open the boundary disputes of the late nineties. Years have passed since then, the country had become more settled, and it was decided that the position as it existed when the Union Government took the country over should apply. If all these questions are to be re-opened then it may well be agreed that the land taken by the German Government from the Hereros with whom a treaty of friendship and protection had also been entered into, and from the Bondelzwarts, should also be restored to them.

Even the handing over the "Schuldplaatsen" is attacked by Mr. Drew as having been tainted. So far as this Administration is aware this is the first occasion that the *bona fides* of that transaction have been questioned. The Bastards themselves frankly admitted that an agreement had been come to between the Raad and the German Government to hand the land over in settlement of the Community's debts and they seemed to regard the arrangements as a perfectly natural and equitable one.

As to the claim that the Bastards were entitled to certain recovered ground by right of conquest (p. 226), the actual position was that the Bastards had been driven by the German Forces out of their own Gebiet and according to Mr. Drew's own statement their ammunition was spent, and they were awaiting annihilation. The advance of the Union troops forced the German troops to withdraw and to evacuate the Gebiet. May it not be urged and with greater force that the German troops had conquered the Gebiet and that the Union troops re-conquered it, so that the whole Gebiet fell to the Associated Powers by right of conquest? The argument of conquest by the Bastards is ridiculous.

With regard to Mr. Drew's imputations of bad faith on the part of the Administration in regard to the boundary question it is desired to contradict the following statements contained in his memorandum.—

P. 222. "Mr. Hofmeyr agreed when at Windhoek that they (van Wijk's representations) were reasonable."

Mr. Hofmeyr made no such statement.

P. 224. Nothing can be traced here indicating that the German Government ever paid taxes on behalf of its officials to the Raad, nor indeed did the Bastards themselves suggest it during the enquiry held by the Commission.

The telegram stated to have been sent by von Lindequist on 3rd July, 1910, from Berlin cannot be traced. It may be in one of the files which is at present in the possession of the Commission.

P. 224. Nor can any record be traced of the interview which is alleged to have taken place at Windhoek in 1906 when the rights and obligations of the Bastards are stated to have been determined.

P. 227. Mr. Hofmeyr made no such statement as is imputed to him in paragraph 4 of this page. It would have been quite inconsistent with the agreement which was then under consideration. A transcript of the verbatim notes referred to is attached hereto (marked "A").

P. 228. Mr. Drew's statement that "The chapter of Union Occupation to date shows history unhappily repeating itself in fresh encroachments both on their land and liberty," is nonsensical and is inconsistent with the map he himself has submitted.

He shows in this map the Gebiet as defined by the German Government, and he does not dispute the fact that the boundaries so fixed were accepted by the Administration with a few slight modifications in respect of land which had been alienated to Europeans and which the Bastards themselves agreed to. Whatever claims the Bastards may have made to the land to the west of the Gebiet they never either under the present or under the German regime claimed as a right the land indicated by the blue line lying to the south-east of the Gebiet, though they asked that it be given to them as compensation for the land which they alleged had been taken away from them in the west. The Administration cannot "encroach" on its own ground. Mr. Drew appears to have allowed his sensational journalistic instinct to run away with him.

P. 230. When Mr. Drew says "thus runs my note recording language and an attitude of the Union's Administrator very different from (what) the undertakings of General Botha," he assumes that the broad promises which General Botha is alleged to have made have been proved.

A copy of the draft agreement referred to on page 230 is attached hereto (marked "B").

Prior to the statements alleged to have been made by Mr. Hofmeyr (p. 230) Lord Buxton and Prince Arthur of Connaught gave practically similar replies. Copies of these were I believe handed to the Commission, but a copy of the former's statement is attached for the sake of convenience (marked "C"). I cannot at the moment trace a copy of the statement made by the latter.

Pages 230, 231 and 232. In terms of Proclamation No. 2 of 1920, compensation for war losses was confined to:—

- (1) Claims by British, Allied or Neutral subjects for losses sustained directly attributable to military action in South-West Africa during the 1914 and 1915 campaign.
- (2) Claims in respect of property *bona fide* requisitioned or commandeered for the service of the Union forces in the field.

The Proclamation excluded claims:—

- (1) In which the property requisitioned or commandeered had been used for military purposes by the enemy.
- (2) In which enemy property had been looted.
- (3) In which the damage done to or the loss sustained in respect of enemy property was the result of military action other than *bona fide* requisitioning or commandeering for the service of the Union forces in the field.
- (4) For indirect losses sustained by any claimants enemy or otherwise.

The Bastards did not fall within the Proclamation and they were not compensated for damage which was done by the German troops.

Pages 233 and 234. The statements made by Mr. Drew regarding Mr. Hofmeyr's alleged promises to keep the boundary question open are untrue.

The attached transcript of the shorthand notes of the negotiations in connection with the agreement will show exactly what occurred. Attention is invited to certain passages marked in blue pencil.

It will be remembered that the question was put to Maasdorp in the course of the Commission's enquiry at Rehoboth and he then admitted that the Raad was under no misapprehension as to the Administrator's attitude regarding the boundary question, *i.e.*, the Administrator regarded that as finally closed when the agreement was concluded.

A copy of a letter written to Maasdorp on 22nd August, 1923 (marked "D") in this connection is attached hereto.

Page 234. The statement that "the Administrator is taking farms on the eastern side and giving them to Europeans where even the German Government acknowledged Rehoboth ownership" is untrue. The Administrator interviewed the Raad and ascertained that the land referred to lies immediately to the east of the "Schuldplaatsen." On the map attached by Mr. Drew, the land would embrace the farms 194, 195, 196, 141, 197, 198 and the farms to the east of that. The old German line indicated in green ran to the west of this land, and the Bastards admittedly handed over the "Schuldplaatsen" quite voluntarily and accordingly agreed to the alteration of the boundary to the purple line to the west of the "Schuldplaatsen." The ground to the east of the green line was never recognised by the Germans as Bastard ground nor did the Bastards allege that it had ever been their property though as previously stated they asked for the land as compensation for the land alleged to have been taken from them in the west.

P. 235. Mr. Drew's statement with reference to the enforcement of the stock diseases law are as surprising and valueless as many other statements made by him. On reference to Schedule 2 to the Rehoboth Agreement of 1923, it will be seen that "Stock Diseases Laws and Regulations and any amendments thereof" definitely included as being of application to the Gebiet. Owing to the political position in the Gebiet the Scab Law was not rigidly enforced until quite recently and the "Old" Raad again and again pressed for the enforcement of this and the Branding Proclamation as a method of bringing the recalcitrant "New" Raad and their supporters to heel. They also pressed for a law prohibiting the sale of stock not bearing the seller's brand or the removal of undipped stock from the Gebiet as other methods of bringing economic pressure to bear on the "New" Raad. It may be stated that while compulsory dipping of small stock was carried out throughout the whole of the southern portion of the Territory two years ago, similar action in regard to the Gebiet was for the reasons mentioned suspended until two months ago. The "New" Raad themselves attempted to carry out a simultaneous dipping last year, and being ignorant of the proper methods being employed, it is understood that very considerable losses occurred.

It will be observed that on page 239 Mr. Drew himself states that the Administration of the scab law could not be entrusted to the Bastards.

Page 236. It is quite true that there was opposition to acceptance of the agreement and in exactly the same way as they had vacillated for years past the people wished to vacillate still further and defer the signing of the agreement. Mr. Drew knew precisely what the position was and he strongly advised the Raad to sign. His statement that "Mr. Hofmeyr made it abundantly clear that if the Burghers refused to be governed by law in terms of the agreement he would govern without law other than what he might himself proclaim" is untrue. The actual position was that if the agreement was not accepted by the Raad it was intended to issue a Proclamation conferring the rights embodied in the agreement upon the community as the Government was not prepared to give more than the agreement gave. A telegram containing an instruction to this effect was received from the Prime Minister in August, 1923.

P. 237. Mr. Drew puts the questions why the burghers had become so intractable, and why they were so afraid of the agreement. It is submitted that his interference and meddling in Rehoboth affairs was largely if not entirely to blame for this. It was clearly proved in the course of the enquiry that the Bastards were certainly not independent under the German regime, and that German laws applied to them. Yet they strenuously contended that they were to all intents and purposes an independent self-governing people. It is submitted that the agreement of 1923 in no way reduced the rights which they in fact had enjoyed under the German regime, but they were dissatisfied with it because nothing short of independence would suit them and there can be little doubt that he instilled these absurd ideas into their minds. Copies of the following correspondence are attached:—

Annexure E: Minute from Administrator to Minister of Defence, dated 18 September, 1917.

„ F: Letter from D. Drew to van Wyk, dd. 3/10/17.

„ G: Letter from D. Drew to Administrator, dd. 13/10/17.

„ H: Minutes of Meeting of Raad, dd. 2/11/17.

„ I: Letter, with annexure from Administrator, S.W.A. to Sec. for Defence, dd. 7/11/17.

„ J: Minute from Administrator, S.W.A. to Sec. for Defence, dated 16/11/17.

„ K: Letter to Sir E. L. Gorges from D. Drew, dated 25/11/19.

„ L: Letter to E. van Wyk from D. Drew, dd. 9/12/18.

„ M: Letter from D. Drew to Members of Rehoboth Raad, dated 12/1/18.

These indicate clearly how he misguided these unfortunate people. His references in his memorandum to his correspondence with Mr. Lloyd George on the subject of their destiny is also instructive.

A large section of the people rejected the agreement because they cherish hopes of obtaining what he had held out to them.

His references to bludgeoning the burghers into submission are absurd. The position was that the burghers took up an attitude of deliberate defiance to the Administrator, that they definitely refused to obey the laws of the Administration such as laws relating to scab and branding which he himself admits on page 239 are essential. In June, 1924, when feeling in the Gebiet was running high Mr. Drew urged the Administration to send an adequate force to Rehoboth with machine guns to protect the members of the old Raad and their followers—a provocative step which was naturally declined. Is this what Mr. Drew means when he says that "he (the Administrator) had the same right to enforce order that a householder has to put out a dangerous fire on a neighbour's premises." Apparently he considers bludgeoning too crude a method of dealing with such situations. In an endeavour to secure independence the "New" Raad actually came out into open rebellion and incited the natives to do likewise.

His condemnation of what he considers the Administrator's attempt to reduce the liberties of the people are inconsistent with his own admission of their unfitness to govern themselves and his recommendations as to their future form of government. If the Administrator committed an error at all it was perhaps in showing too much patience and leniency in the enforcement of authority.

With regard to the remedies suggested by Mr. Drew it is interesting to note that while he censures the Administrator for diminishing the rights of the Bastards not only as regards the alleged deprivation of land, but also as regards the constitutional rights under the Treaty of Friendship and Protection, he is strongly of opinion that they are not fit to exercise the full measure of government granted them under that Treaty. He is particularly definite on this point in the evidence given by him before the Commission on the 1st July, 1925. On page 203 he says: "The liberties granted them under the Kaiser Treaty are in excess of what they can at present be entrusted with."

He then proceeds to suggest various prohibitions and obligations to be enforced upon them, such as the limitation of native servants in order to force the Bastards to work, compulsory school attendance, which will of course entail further legislation to which no doubt the Community will not agree. On page 238 of his memorandum he also advocates making vagabondage a penal offence. These suggestions come strangely from a man who objects to the enforcement of the scab and branding laws.

To return to the memorandum—

P. 237. The suggestion to nominate a Volksraad is not practicable at present, the reason being the schism to which Mr. Drew refers on the same page. Recently the Administration attempted to appoint a representative of each party to assist the Magistrate in an advisory capacity, but they refused to work together and the proposal was perforce dropped. The only course appears to be for the Administration to govern the community as it is doing at present, until such time as the people become more amenable to reason and prove their capacity to exercise even a limited measure of self-government. Later on when the two factions show a disposition to work together an advisory council might be appointed as a first step.

Generally speaking Mr. Drew wishes the Bastards to enjoy all the benefits of the Land Bank, Land Settlement, etc., without contributing a penny towards the revenue of the Territory. He urges that all taxes collected from them should be spent entirely on the Gebiet—which as a matter of fact is to-day the case.

His statement on page 238 that there are 6,000 burghers with their families in the Gebiet is obviously incorrect. The total Bastard population is about 6,000, while the number of burghers is estimated to be about 700 to 800 at most.

There are no surveyed farms in the Gebiet, and probably less than 400 occupied farms, but that does not alter the fact that there is a great deal of unoccupied land in the Gebiet which might be beneficially utilised. The Commissioner has himself seen part of the Gebiet, and he surely is satisfied that there is room for many more than 700 or 800 burghers and their families. The position will be much eased when all the natives with their large herds of stock are cleared out and so make further way for the Bastards.

The removal of the Natives is being proceeded with as rapidly as possible.

Prior to the rebellion in April last the position of the Administration was by no means easy as the "New" Raad was strongly opposed to the removal of the Natives, one of their strongest motives, no doubt, being that they required the support of the Natives in the event of a conflict with the Administration. Since the rebellion 80 male adult Natives with 1,763 head of large and 198 head of small stock have actually left. Many were detained until such time as their stock could be dipped and this was dependent on the simultaneous dipping which has just been completed. 205 male adult Natives (and their

families) with 58,473 small and 2,023 large stock are now ready to move out of the Gebiet and will go as soon as the stock has been inspected by the police. There is suitable accommodation for them in the Aminuis Reserve in the Gobabis district. It is estimated that within a year all natives who are not required for labour in the Gebiet will have to be removed to Reserves.

The attitude of the so-called "New Raad" in this connection is, however, indicated in the following telegram on the 12th instant to the Prime Minister by Jacobus Beukes, a notorious leader of the "New Raad":—

"Volgens vernomen word Herero Nama Bergdamara bevolking dringend uit die Gebiet Rehoboth verwijs. Volgens antwoord Goevernement is verslag Regter nie uit nie. Verblijf Herero Nama Bergdamara binnen Gebiet Rehoboth Regter voorgelê met andere kwessies. Bid onderdanigs wat is grond."

Having criticised certain misstatements of Mr. Drew it may be stated that the Administrator is sympathetically inclined towards the establishment of schools and the development of farming in the Gebiet, as he realises that only by inducing the Bastards to work and by endeavouring to bring about greater prosperity can the Bastards rise from the condition into which they have sunk. But it is feared the schemes outlined by Mr. Drew are somewhat ambitious.

The expropriation of land occupied by Europeans as suggested (p. 242) is out of the question. It is contended that there is still ample room for expansion in the Gebiet itself if only the Burghers will settle down and work, and that unless a large scheme of settlement of coloured people from the Union is to be undertaken as proposed by Mr. Drew, no further land will be necessary for some time to come, and when that time comes the question can be considered. It is, of course, also contended that the community is not entitled to compensation for any land which is alleged to have been taken away from them by the German Government nearly thirty years ago, even if it is found as a fact that the allegations made are true. The present Government could only take the position as it found it.

The Administration does not view with favour the importation of a large number of coloured families from the Union which will merely serve to aggravate the existing problem. The Rehoboth Bastards are purely pastoral and there is little room and no need for the introduction of a number of craftsmen from the Union. If they did come there would be no scope for them in the Gebiet and the result would be that they would either have to seek employment or scope elsewhere or else they, being very much in the minority would simply assimilate the habits of the local people and degenerate. Nor does the idea of importing a number of coloured farmers from the Cape commend itself to the Administration. This step is not necessary to improve the farming methods of the Bastards who have the example of the European farmers all round them to follow if they wish.

An industrial school would probably better serve the purpose aimed at if such could be established.

In February, 1921, the Administrator in the course of an interview with the Raad offered to contribute £500 towards the erection and equipment of an industrial school at Rehoboth if the community would contribute a like amount, and further undertook that the Administration would pay the salary of the instructor.

Mr. Drew seems to suggest that the presence of Natives in the Gebiet has resulted in considerable miscegenation, but it is exceedingly doubtful whether this has occurred to any extent with the natives. Being neither white nor black the tendency has been towards white blood, and whereas it is clear that the community encouraged either marriage or cohabitation with Europeans, similar relations with natives were discouraged and involved practically social ostracism. The Magistrate of Rehoboth, I think, described to the Commissioner a recent wedding at Rehoboth, in which one of the parties was a Herero, and the Bastards would have nothing to do with the proceedings.

That there has been a considerable amount of miscegenation with Europeans is clear, and this has introduced a certain amount of fresh blood into the people.

P. 243. Here again we have an allegation of forcible deprivation of land in the village of Rehoboth. Although several members of the "Old Raad" did dispute the extent of the land occupied by the German Government for official purposes in or bordering the village my recollection is that in evidence they did not for a moment suggest that the community had not willingly given a certain amount of ground to the German Government or that the latter had purchased or acquired some land by exchange. They laid no claim to the police station, magistrate's offices or official residences, but claimed certain unoccupied ground which they said had been marked off in excess of that granted by the Raad. The German documents show that all the land in question was acquired by the Raad, and it is most probable that these statements are correct. It is hardly likely that the German Government would have accepted separate scattered pieces of ground which would have entailed their officials having to live amongst the Bastards, and the probabilities are that they

acquired a continuous strip as the documents show. A surveyor has just examined the whole position in the village and he has discovered the pegs put in by the German surveyors which coincide with the ground claimed by the German Government. A letter from Maasdorp to this effect is attached (marked "H").

P. 243. The suggestion of a Resident Commissioner appears to be unnecessary. A glance at the map will show how difficult the removal of the magistrate from the Gebiet will make administration. The European farmers in the area surrounding the Gebiet would have to be brought under the magistracies of Windhoek, Maltahöhe and Gibeon, and the enormous inconvenience which this would cast upon them will be obvious. The sparse populations to the east and west of the Gebiet do not warrant the creation of separate magistracies there. By reason of its geographical position, it is utterly impossible to make the Gebiet a closed reserve and to exclude the European population entirely from passing through it. The railway runs through the Gebiet, and Europeans must accordingly have access thereto. Main roads connecting the northern and southern portions of the Territory run through it, and Europeans must utilise these. It is not the casual visits of Europeans residing outside the Gebiet which mean substantial danger. That can only arise from the permanent residence of Europeans in the Gebiet, and this aspect of the question has already been placed before the Commission.

Not having seen Major Forsbrook's letter (p. 244), the Administration is not in a position to comment upon it, but with the Europeans and Bastards separated there is no reason why one officer should not administer both sections of the community satisfactorily, and in fact that is the case to-day. In the Union also magistrates administer successfully districts with large mixed populations.

Mr. Drew's remarks concerning police (p. 245) are quite incorrect. The magistrate of each district in the Territory is in charge of the police in his area, and the same applies to Rehoboth.

Under the agreement of 1923 the Raad was supposed to maintain its own police force. The police of the Administration had no power of arrest for offences against the Bastard laws. Their powers of arrest were confined to contraventions of the laws of the Administration specially applied to the Gebiet. They also patrolled the European areas of the Rehoboth magisterial district. Obviously, it would be impossible to allow Bastard police to arrest Europeans. So far as the coloured section of the Administration's police are concerned, the Administration sees no objection to the employment of Bastards, and, indeed, that is the Administration's policy. The police force in the Gebiet consists of eight Europeans, three Bastards and four natives. It is absolutely necessary that the Administration should maintain a few white police there. Mr. Drew carries his argument to an extreme.

P. 246 *et seq.* Mr. Drew's fears are quite unfounded. The agreement has not vanished, though in a sense it may have been suspended. He himself advised the "Old Raad" in July, 1924, to surrender the agreement, and the Administration took the action it did with the consent—indeed, at the urgent request—of the "Old Raad," who found themselves impotent to govern as a result of the unfortunate schism in the community. The constitution and laws of the community have been retained, but for the time being the powers of the Raad have been vested in the magistrate. No other course was open to the Administration, as the attitude of the Rehobothers menaced the safety of the country, and the first duty of the Government was naturally to take such steps as were necessary for public safety.

The suggestion, however, to virtually appoint the Appellate Division of the Supreme Court to exercise control, even though temporarily, over the powers of legislation granted to the Administrator by the Mandatory Power, is an extraordinary one. At the present time the Administrator possesses full powers of legislation over the Territory. On what grounds is the Appellate Division going to suspend any legislation he may pass?

Under the Constitution for South-West Africa (Union Act No. 42 of 1925), the Governor-General has full power of legislation in respect of South-West Africa, and it would therefore not be necessary for the Bastards to appeal to Parliament. They can appeal at once to the Governor-General-in-Council, and there is therefore no reason why there should ever be any delay—indeed, there may be less delay than may occur when the Appellate Division is not sitting. Then there arises the question of the costs of an appeal which would presumably be borne by the Bastards in the event of their losing. The safeguards contained in the agreement are adequate. There is no ground for assuming that the Union Government or Administration will deal unjustly with the Bastards, which is clearly what Mr. Drew suggests. A provision of the kind mentioned is merely going to mean constant appeals to the Appellate Division, whose function is not to decide the policy of laws.

With reference to the suggestion made on page 246 that provision should be made similar to that contained in the Native Urban Areas Act, 1913, in respect of revenue raised in native locations, *i.e.*, that all revenue raised within the Gebiet must be spent locally and for the benefit of the inhabitants, it may be pointed out that under their constitution the Bastards have the power to impose, and in fact did impose, their own taxation. The only

other direct tax imposed on them is Dog Tax. The proceeds of their own taxation are, of course, saved to them by the agreement. Then, under the agreement, all revenue ordinarily surrendered by the Administration to local authorities is handed over to the community's fund, so that, although they only pay dog tax, the Administration hands over to their fund the proceeds of all trading licences (including liquor), the dog tax collected in the Gebiet, and motor-car licences. On the other hand, they do not contribute directly one penny to the cost of Administration. The salaries of the magistrate and his staff, and of the Administration's police, the salary of the district surgeon, the cost of administering the scab, branding and other laws, and generally the cost of administering the Gebiet in so far as the Administration is directly concerned, is borne by the Administration. If a provision such as that referred to by Mr. Drew were included, all these administrative charges would form a first charge against the revenue of the Gebiet, and the treasury of the community would, no doubt, be considerably worse off than it is at present.

There is no reason why such a provision should be made. It is clear that for years to come, at all events, the community cannot be self-supporting, and that out of the general revenue of the country a considerable amount must be added to what the Bastards themselves contribute by way of taxation.

With regard to Mr. Drew's comparison of the European settlers and the Bastard farmers, and to his statement that the Administration has lost many thousands of pounds as a result of its settlement policy, it may be stated that the total cash loss to the Administration to date is approximately nine hundred pounds (£900) sterling.

The views of the Administration with regard to the remedies to be adopted in the Gebiet have already been stated in evidence before the Commission. The establishment of a separate Land Bank and Land Board for the Gebiet is not practicable—at least in so far as this Administration is concerned.

ANNEXURE " A " TO REPLY TO MEMORANDUM BY MR. DEWDNEY W. DREW.

NOTES ON CONFERENCE BETWEEN HIS HONOUR THE ADMINISTRATOR AND THE BASTARD RAAD OF REHOBOTH, ON THE QUESTION OF THE TREATY, HELD IN THE ADMINISTRATOR'S OFFICE, WINDHOEK, ON MONDAY, 16TH JULY, 1923, AT 10 A.M.

There were present: His Honour the Administrator, Mr. H. P. Smit (Secretary for South-West Africa), Mr. H. W. Drew (Native Commissioner), Mr. C. M. S. Forsbrook (Acting Magistrate, Rehoboth), Mr. Bruchhausen (Interpreter), and Mr. Dewdney Drew (Agent of the Raad); also the following members of the Raad: Mouton (Acting Kapitein), Cloete (Magistrate), Alcock, Beukes, Witbooi, McNab, Thomas Armin Mouton, and Maasdorp (Secretary).

Frans Maasdorp stated the Kapitein had asked him to tender his apologies to the Administrator for his absence, due to illness. The Kapitein had long since recognised that there were a number of difficulties in connection with the proposed Treaty, and they had therefore decided, if possible, to meet the Administrator and to discuss these with him, with a view to a settlement being arrived at. He asked that the Administrator give the Raad a full and patient hearing, and stated that they had asked Mr. Dewdney Drew to attend the Conference for the purpose of assisting them.

The Administrator: Mr. Dewdney Drew and friends, I am sorry that the Kapitein is not well enough to be present at this Conference. When we considered the terms of the draft agreement in 1922 he was able to take part in the discussions. I hope he will soon be restored to health, and that he will long be spared to lead his people, and to advise us on their behalf. You have asked for an interview on this matter, which is one of very great importance and urgency, and we are obliged to carry on the negotiations without him. I extend a hearty welcome to you all.

It has been my endeavour all along to see whether I could remove any of the difficulties which you felt stood in the way of a settlement. The draft agreement was placed before you last year, and you know the provisions it contains. You have asked to come before I was quite ready. It occurred to me that it would be a very substantial concession to you if the Administration could devise ways and means to remove the small white islands in your Gebiet; and I was busy with this question when your request for an interview came. Although, therefore, the present moment was inopportune, I consented to receive you at once, as I surmised that you wished to save as much of the expense as possible as is involved in the retention of the services of Mr. Dewdney Drew for the purposes of these negotiations. There are some eight farms within your Gebiet which are owned by Europeans, and I was busy trying to see whether it was possible to purchase these from the owners and present them to the Rehoboth people. I felt that if an agreement were reached, the Administration should undertake to acquire these eight farms owned by Europeans, and to present these with one Government farm which is also within the Gebiet, to the Rehoboth people, whereby

your area would be considerably increased. This I wished to do as an earnest indication that the Administration is most anxious to meet you as far as it possibly could. We were busy trying to get options for the purchase of these farms, a business which could not be rushed, and which required to be done quietly and without making it known that the Administration desired to acquire the farms in question, to avoid the owners immediately asking impossible prices. Major Herbst knows, and Mr. Smit has learnt of it since his arrival, that I have been busy for the last two years to try and find a way out of the difficulties. They know that I have taken the necessary advice, and that I have done my utmost to find a feasible solution. I was busy, as stated, with this matter when your request to see me was preferred, and was, therefore, not quite prepared to receive you. I am also on the point of going up north, and much work had to be got through before I could get away. However, in view of the urgency and importance of this question, I decided that I must put aside everything in order to meet you. I thought this right and proper, especially as Mr. Dewdney Drew was here to try and assist you and me. My idea was that I should see you after I had secured the options over these farms, but now we must try and attain our object in spite of the fact that I have not as yet managed to get the options. I am prepared to give you and Mr. Dewdney Drew all information, and we must make up our minds to exercise all possible patience and care. No stone must be left unturned in our endeavour to come to a satisfactory agreement. This matter is a very difficult one, but the time has arrived when it should be settled. When you were here last time I told you you could remain as long as you liked; that I would not hurry you. This I repeat to-day, with this difference, that on this occasion finality must be reached. A settlement is already overdue. There is a danger of the matter becoming further involved unless a conclusion is arrived at before you leave Windhoek. I am now prepared to hear your proposals.

Mr. Dewdney Drew: Your honour, I wish to express our sense of indebtedness to you for consenting to receive us this morning. The Raad is the more obliged as you have put off a very important engagement to go north. I think I can safely say on their behalf that they share your view as to the urgency of a settlement of the questions under consideration. No effort will be wanting on their part of bringing the matter to a successful conclusion. Let me briefly put before your honour the substance of the Raad's remarks. They are embodied in a typed memorandum, which was handed to your honour this morning, but which you have not had time to read. There are a few minor mistakes in my copy, but they are not of any importance.

The observations in question are as follows:—

“ The Volksraad of the Rehoboth Gebiet approach His Honour the Administrator of South-West Africa, desiring that he will admit them to his friendship and protection. They ask for an agreement with him that will replace their treaty with the former German Kaiser and define the position of their people as a mandated folk under the care of the Union Government. The covenant with the Kaiser they conceive to be in an important sense still a living document, inasmuch as it shows what the status was which they had won for themselves prior to the establishment of the Kaiser's Government in this country, a status which in most material respects it preserved to them, and which they continued to enjoy until the Union Government assumed authority here. That some infractions of the treaty were committed by the Kaiser's servants, they do not deny. The worst of these was that under pressure of a superior force the Volksraad at one time was made to sign the cession of a considerable tract of this land the Kaiser found them in undisputed possession and occupation, and their title to which nobody had ever questioned. This injury, however, would naturally not be condoned by the Union Government, since it was done to a friendly people, formerly making part of the Cape population, and who proved their loyalty to old ties by not only refusing, though with dire peril and considerable loss of life and property, to resist the entrance of Union troops, but on the arrival of the latter actively co-operated with them. Such condonation would be the less thinkable seeing that the ill-treatment suffered by the non-European inhabitants at the hands of the German authorities became one of the published reasons which moved the Great Powers to withdraw the rule of Germany from all their oversea possessions. Accordingly, the Rehoboth Volksraad assume that when the Prime Minister of the Union refers to their treaty as ‘ dead,’ he does so merely in respect of its obligation upon the Kaiser, and that his honour the Administrator has in his latest report on the Territory described in the same sense as abrogated.

“ The Treaty above-mentioned derives, in the view of the Volksraad, a further claim on his honour's consideration from the fact that the Rehoboth people entered into covenant relations with the German Kaiser on the advice, personally tendered to them by Mr. Coates Palgrave, Special Commissioner of Her late Majesty, for the Cape Colony. He carried to the Rehobothians the message that they were no longer

to consider themselves British subjects, since Her Majesty was inviting her nephew of Germany to undertake the development and civilisation of their part of South Africa, and counselled them to seek from him the best terms that might be obtainable. The result of their negotiations was the treaty now under discussion. The Volksraad looks upon it as an instrument which, though determined as to one of the contracting parties, leaves in a moral and international view an obligation on the Union Government and the League of Nations, who as Mandatory and Mandate giver, have succeeded to the Kaiser's rights and responsibilities in this Territory.

"The document referred to shows the status of the Rehobothians to have been that of a protected but largely independent people. They furnished a military force to the Kaiser for the maintenance of order within the S.W.A. Territory, but they made their own laws and paid taxes only to their own Raad and Kapitein, to whom taxes were also paid by the Kaiser's Government on behalf of certain German subjects living in their midst.

"On several occasions their right and title to their land and the continuance of their right and practice of self-government have been solemnly assured to them by the highest and most responsible authorities of the Union Government. The late General Botha gave Kapitein Cornelis van Wyk and some with him definite promises to the above-stated effect, first at Walvis Bay, again at Windhoek, and later at Pretoria during and at the close of the military operations. Lord Buxton also twice engaged himself in the same sense as Governor-General of the Union, namely, at Rehoboth in February and October, 1919. General Smuts, as Prime Minister, spoke publicly in the year 1920 to like effect, also at Rehoboth. Of what transpired on these occasions, the Volksraad ask permission to give testimony to his honour.

"As already stated, the Rehoboth people desire his honour's protection as representative of the Union under the British flag. They also acknowledge the administrative authority over their Gebiet which belongs to the Union as Mandatory of the Allied Great Powers. The Raad would respectfully request that the position of their people may be defined and assured by a covenant between his Honour and themselves, and that such agreement shall take the form of a contract or charter specifying their rights and obligations as a Mandated people, codifying their laws and rectifying their boundaries. They thank his Honour for his willingness to confer with them, and engage that in the event of an agreement being reached, which they hope, they will sign after his Honour a formal document embodying the understanding arrived at, the same time to be submitted by them at the earliest possible date to a plebiscite of Rehoboth burghers."

Mr. Drew, continuing: It is the wish of the Raad that discussions should be on the copy of the treaty which has been supplied to them, and with which they are fully acquainted.

The Administrator: Before we go any further, I would like to say a few words to the members of the Raad and to Mr. Dewdney Drew as their representative. In the memorandum just presented by Mr. Drew there are several points on which there are differences of opinion, but I think these can be dealt with when we later go into the draft agreement. It may be that you have in your possession information, documentary or otherwise, of which the Administration has no knowledge, and this may throw light on points to which I refer. Some of these points are contrary to the information which we possess, and I will be glad to be supplied with copies of any documents or with any other information in your hands which the Administration has not got. We may be able to put you right on certain points, and similarly you may be able to assist us where we are incorrectly informed. There must be a definite understanding to ensure a peaceful future for the Territory. To know a people one must follow their history and traditions. I have considered it my duty to go into the history of the Rehoboth people, which I find very interesting, and which reminds me very forcibly of the history of the Boer Voortrekkers when they went into the wilds in search of a new home in what is to-day Natal, Transvaal and Orange Free State. Apparently the same "trekgeest" which influenced them was shared by your people. I find that as far back as 1863 some of the Rehoboth people came up from the northern portions of the old Cape Colony and crossed the Orange River into South-West Africa. Ever since I have come here I have interested myself in your cause, and considered how best the difficulties in the way of a satisfactory settlement being arrived at could be removed. As I have said, to know the history of a people is to realise to some extent their aspirations and wishes. And with such knowledge we are able to find the road which will bring us to the goal we aim at of living together in peace in this country. Even before 1863, I find, some of your people lived in South-West Africa, as in that year your "Ouderling" Hoofdman Mattheus Gertze was born at Groot Barmen in the Okahandja district.

The big trek of your people, which consisted of fifty families, however, began in 1868, and Aais, as Rehoboth was then called, was regarded by your people as their new land of Canaan. After suffering great hardships on the road, as the Boer Voortrekkers and the Israelites of old had done before you, Rehoboth was reached in 1871. Even while in the Old Cape Province you had learned that a people without proper government could not exist, and, just as the old Boer Voortrekkers had done in the early days, you framed your first constitution while en route at Warmbad. Later, at Rehoboth in 1872 (the same year in which the Cape Colony received responsible government), the constitution adopted at Warmbad was improved, and so well and complete was it made to comply with your requirements, that it has remained unaltered until the present day: The same can be said of your ordinary laws. These were made between 1872 and 1874, and have undergone no amendment since, except one in respect of divorce, which was made in 1913. I think the accusation which Mr. Merriman has made against the Union Parliament that they make too many laws cannot be levelled at your Raad. You lived at Rehoboth up to 1884 for a period of 13 years without hindrance from anyone in the world, except perhaps some of the natives with whom you came into conflict. Then a new authority came to disturb your happiness, repeating the history of the old Boer Voortrekkers who went to the Free State, Transvaal and Natal in the early days. Through the reluctance (whatever may have been the reason) of the British Government to assume control, though requested thereto by German missionaries, traders and others, even, I believe, including Count Bismarck, the German Government became the new authority in the land, and what is to-day South-West Africa was in 1884 declared a Schutzgebiet under Germany. Later, on the 15th September, 1885, a Treaty of Friendship and Protection was concluded between the German Government and your people. The terms of the Treaty are well known to you, and I need not therefore read them to you. Further negotiations with the German Government took place from time to time, of which the following is, I believe, a correct summary:—

(1) In 1893, at the request of the burghers, the German Government opened a military station in the Gebiet, and placed there 40 men as a protective measure, in view of the attitude of Witbooi's tribe.

(2) On the 26th July, 1895, a further agreement was made with the German authorities by which the Raad agreed to place annually from 40 to 50 men with the Germans for six weeks to undergo military training. They also agreed to provide from 15 to 20 men per annum for military service. These men remained liable for military service for 12 years with annual training of from two to four weeks. (I read this in case our information is wrong. If it is, you can put us right.) In 1903, 133 burghers were trained, while 60 had already been placed on the reserve list. In all the wars waged by the Germans against the natives, they were assisted by the burghers.

(3) In 1897 the military commander at Rehoboth was appointed District Chief. No objection appeared to have been raised by the burghers; on the contrary, they granted free of charge ground for Government purposes, such as magistrate's court, police station, hospital, etc.

(4) Apparently the District Chief or German Resident took an active part in the internal matters of the Gebiet, and he insisted upon being consulted by the Raad. When, on the 5th September, 1905, Captain Hermanus van Wijk died and an election of Captain and Raad had to take place, the German Administration adopted the attitude that any appointments by the burghers would have to be sanctioned by the German Imperial Government, and when on the 31st January, 1906, Cornelius van Wijk, son of the late Captain, was chosen as Captain for a period of two years, the Government sanctioned his appointment as "Voorman" and not as "Captain" for a period of one year only. This really meant that the "Voorman" was to be the Chairman of the Raad, but the District Chief, or German Resident, was to be the virtual Chief of the Gebiet. At the expiration of the year the burghers again chose Cornelius van Wijk as Captain for a period of three years, but again the Government's sanction of the appointment was made conditional upon his holding the title of "Voorman," and for a period of two years only. The burghers, however, always referred to their chief as "Captain," and at the next election van Wijk was chosen as Captain for a period of five years. From what can be gathered from the correspondence and various memoranda relating to the Gebiet, a dual administration was established at Rehoboth on the appointment of a District Chief or German Resident, and most of the burgher laws remained in name only, while the German rule was slowly introduced.

(5) On the 21st January, 1912, an agreement was entered into under which the burghers paid the German Government a sum of £300 per annum in consideration whereof they were absolved from payment of land tax and game licences. (Before 1912 you had already paid the German Government 11,670 M. by way of land tax).

The position is reflected in the following extract from a report submitted on the 14th June, 1917, by the inspecting magistrate:—

“ A large number of arms licences have been issued free. The Bastards paid in 1916, but their licences for 1917 have been renewed without any payment. I notice also in cases of transfers of rifles the new owner gets a licence free instead of paying for same. It would seem more control over the ownership and disposal of arms by Bastards is very desirable. The Bastards do not pay for game or dog licences, and kill big and small game without control. Nor do the burghers pay us any lump sum.”

(6) On the 30th October, 1912, an agreement was made under which the Raad relinquished mining rights, etc., to the German Government.

(7) During the recent war, in view of the refusal of the burghers to assist the Germans, the treaty of 1885 was denounced by the Governor, and a state of war declared. For a full report of the proceedings which led to this, see report on the enquiry in regard to the German Bastard Treaty held at Rehoboth and other places in the Military Protectorate in June, 1915.

Now, friends, we have dealt with the first new authority after you have lived at Rehoboth quietly in peace for 13 years. A second authority came. The Great War intervened. The Union Government assumed occupation after the Treaty of Korab, which was signed on the 15th July, 1915. Thereafter peace at last arrived, and subsequent to the treaty signed in France, the Administration of this country, including Rehoboth, was entrusted to the care of the Union Government under a special Mandate. The late General Botha, one of the greatest Africander leaders in South Africa, one of the best friends the non-European people ever had, made certain promises to your people. In regard to these there is unfortunately nothing in writing, but I believe the promises made have been redeemed. He promised you protection and the recognition and maintenance of the rights acknowledged by the German Government and actually enjoyed by you at the outbreak of the Great War. He promised you, further, that your old customs would not be disturbed. The late General gave instructions that no European should be allowed to purchase land in your Territory, conclusive evidence of his concern for your welfare, as he recognised if this were allowed you would gradually lose your land, and your people would in consequence be broken up. All these are signs of the good feeling entertained for you, and I believe all the promises made on behalf of the Union Government have been fully carried out. If that is not the case I shall be glad to be informed of any instance where we have failed to do so. Further, I believe, all reasonable requests preferred by you to this Administration have been met from time to time.

On our occupation of the country, a magistrate was placed at Rehoboth with special instructions to use the utmost tact in his relations with the burghers.

The Secretary for Defence, by telegram dated 9th June, 1916, to the Administrator, stated: “ General Botha does not think we should do anything to diminish their independence or status recognised by the German Administration.”

By letter dated the 5th June, 1917, the Secretary for Defence intimated to the Administrator that “ General Botha quite agreed that as a matter of general policy no European should be allowed to settle or acquire rights of any description over land in the Gebiet, and he approves of your refusing to entertain any such applications as those which you bring to notice.”

From time to time instructions were issued to the magistrate in regard to our relations with the burghers. These were given by the late General Botha, who thoroughly understood the position, and wished you to be treated fairly and justly. Among these instructions are:—

- (a) *Police*: “ There is no objection to the appointment by the Raad of their own police, provided they do not interfere with Europeans and are paid by the Raad.”
- (b) “ The magistrate will in future definitely recognise the status of the burghers as it existed under the German Government prior to hostilities, and also consult with the Captain and the Raad in all matters of administration and the general welfare of the district.”
- (c) “ European police will interfere as little as possible in the internal relations of burghers, and should leave the investigation and punishment of minor offences and offences relating to property to the Raad. Serious crimes of assault and crimes affecting the Government and European community must be dealt with by the police, and should be brought before the magistrate for trial.”

On the 26th May, 1916, a petition was sent by the burghers to General Botha through a coloured man, Thomas, in Cape Town, drawing attention to certain grievances, and
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asking for the removal of the gun licence and the military. General Botha informed the Administration that Mr. Malan would visit the Protectorate and the Bastards in connection with the petition, which he subsequently did.

I wish to sincerely thank the burghers of Rehoboth for the assistance they offered during the Bondelzwarts rising. This offer was very much appreciated by me.

Now, friends, I would like to say a few more words. I believe what I have said here is proof of the fact that the new Administration has kept to its promises, and its attitude towards you has always been most friendly. It has been said that you were better off during the German regime. It is for you to say whether or not this is so, but I would ask you not to draw comparisons, as it is quite unnecessary to create bad blood. Let the record of the old Administration speak for itself, and give the new Administration time to establish its record. How have we treated you since we came into the country? We have treated you as respectable people, which is only as it should be. You have all along stated that you were an important and decent community, and that you would continue to carry out the customs of your forefathers. You have always tried to carry out the law, and have been orderly; and when there was trouble in the country, you came to the assistance of the Government. There are four monuments in the country bearing not only the names of the Europeans who fell, but also those of your people who helped to quell the rebellions. You have always met your responsibilities towards the Administration, and have always taken the right path. You have carried out your duty, and have been honest. You have remained true to the traditions of your ancestors. Like your forefathers and like the Boers who came here in 1884, you have also maintained your duty towards God. This is all as it should be. I took part in your Jubilee Celebrations in 1921, for which I specially travelled down to Windhoek to see you. I took that opportunity to ask you to co-operate with me in this country as Administrator and representative of the Union Government. I told you you must bring your difficulties, large and small, before me. I assured you that everything would always be done by me to clear up such difficulties. I told you I would help wherever I could. On the other hand, I informed you that, where in my opinion you were wrong, I would have to retain the right to draw your attention thereto, and to expect you to put matters right. Now what is the impression you have made on me? When I came here I thought it was only right to treat you as decent coloured people. I recognised that you were people like all others, except that you were of a different colour. I recognised that you, in common with the other people, were responsible for the development of the Territory. It was my desire to clear up the position. Some said the treaties with the German Government were still in force, whilst others stated that they had been cancelled. I saw that unless the position were cleared up, there would be difficulties in the future. I have gone into the matter to try and clear up the position for the benefit of the country as a whole. Any new agreement must be so worded that there can be no misunderstanding in the future. The draft contract has been carefully drawn up, and is a practical one. One does not know what is going to happen in the future. I have always recognised you as a peace-loving people. Whenever I have spoken of the Great War I have reminded people of its gruesomeness, and I have said let us do everything in our power to avoid wars in the future. Let us so arrange matters that there will never be another war. The whole world is tired of war. Whatever difficulties are in our way, we must come together, be patient, discuss matters quietly and find solutions. If not, sooner or later there is bound to be trouble, which I am trying to avoid. We must go back to the old road of love and peace. If we do, we will always find a way out of our difficulties. We must use our common sense, and not add to the difficulties that exist in the world to-day. We must work on the path of co-operation, peace and love; and look for a solution of our difficulties. My suggestion that the draft agreement should be taken as a basis for our discussions is, I think, a good one. The document is simple and clear. As regards the boundary question, this will have to be fixed by law, in addition to being settled in the agreement. The position is serious. The draft contract which we discussed last time substantially carries out the promises made by the late General Botha and by General Smuts. There is only one exception, and that is in regard to the mixed courts. When considering a question of this nature, we must follow the position existing in South Africa. In the Union the people were unable to remain in separate camps—there they joined hands. An advanced people cannot keep itself apart from the rest of the population. The Union is now one country, and its people are united, which must also happen here. The people here must work together. Now the main points in the draft agreement are:

- (1) The burghers are recognised as the lawful owners of the land occupied by them within the boundaries of the Gebiet.
- (2) Cornelius van Wyk is recognised as the Kapitein of the Rehoboth community.
- (3) Subject to the provisions of this agreement, self-government in terms of their own laws is conceded to the burghers.

- (4) Certain laws of the Territory will come into force in the Gebiet. The Administrator may also, after consultation with the Raad, make laws for the Gebiet, or declare any law of the Territory to be of force therein.
- (5) The administration of all laws applied to the Gebiet will be carried out by officers of the Administration.
- (6) A magistrate will be appointed to represent the Administration.
- (7) Judges and magistrates of the Rehoboth community will have jurisdiction within the Gebiet in terms of the community's laws in all civil cases between members of their own race, or between such a member and a native, or between two natives.
- (8) The Administration's magistrate will have jurisdiction in other civil cases. The Administrator may make regulations. Appeals may be made to the High Court.
- (9) Provisions regarding civil cases between Europeans.
- (10) Application to Gebiet of criminal law in cases between Europeans, or between Europeans and coloured persons.
- (11) Excepting certain crimes, judges and magistrates of the Rehoboth community in terms of the community's laws will have jurisdiction in the Gebiet in all criminal cases between members of their own race, or between such member and a native, or between two natives.
- (12) Right of appeal first to mixed court, and thereafter to High Court.
- (13) Jurisdiction of magistrate and police within the Gebiet.
- (14) Permits required to enter Gebiet, except by residents and bona fide travellers.
- (15) Permission to reside in Gebiet, or right to acquire fixed property therein.
- (16) Permits for import and export of live stock.
- (17) Necessary law will have to be passed to carry out this agreement.
- (18) Fixed sums can be paid annually to Administration in place of lawful taxes due. Certain monies will be payable to Raad.
- (19) All agreements with the German Government, excepting that of the 30th October, 1912, are regarded as cancelled.

I wish to deal with a few of these points. In regard to the courts, it would certainly create very bad blood between the people if, for instance, a white man had to be tried by a coloured court. If we wish to avoid difficulties in the future, we must use our common sense in these matters. So far as the European population is concerned, there is a strong feeling against your having any courts. The system worked during the German regime, but it caused bad blood between your people and the Germans. People who had to live there became dissatisfied and left, whilst there were many others opposed to the system. I now ask you to assist me in bringing about a change, because I am afraid of the old system. There must not be bad feeling between you and the Europeans. If we work on this basis we will trust one another and we will co-operate; and if we co-operate we work for the common good of the country. I aim at the best for your people. If we agree on this point, it may be the means of removing some of the other difficulties. In terms of the treaty with the German Government, you were compelled to provide military recruits, thereunder you are still liable to serve; and you are still liable for the payment of £300 annually for Land Tax. Under the proposed agreement, all this falls away. The tax in the future may be more or less than what it was in the past. You will have to take that risk, but in the meantime you are not asked for anything. Your Kapitein is recognised as such—no longer merely as a foreman. For these reasons I ask you to assist me to come to a conclusion. I trust you, but still we wish to clear up matters. The alteration of the tax to be paid is a matter of form. We have done away with the term "Bastards." These are small things, but they must represent something to you. If we come to an agreement, I am prepared to do what I have promised about those farms. I am prepared, if necessary, to mention these properties in the proposed agreement, and we will make provision to stop Europeans from coming in again. The present to you will comprise 77,635 ha. of land. We have the proposed agreement before us, and will give you a copy. If there are any provisions in it that you wish altered, or any additions you wish to suggest, you must let me know, when we can discuss them. Mr. Drew will assist you, and he will also help us. I hope the draft agreement will be accepted in the light in which I have spoken to you. If there is anything in the agreement contrary to the promises that have been made, I shall be glad if you will let me know what it is. On the last occasion you mentioned the question of the boundary. If you will look at the map, you will see that the farms you want are occupied. How are you going to remove the people that are occupying them—who have lived on them for years, and have effected considerable improvements?

If you think it necessary and desire it, the agreement could be ratified by the people by taking a referendum; and it could thereafter be submitted to the Union Government for approval. I hope we will now reach an agreement. We will take the points of the

agreement with which you do not agree, and you can then submit anything that is not provided for. I again repeat that the matter is most urgent, and that it must be cleared up. The sooner we can tell the world what our position is, the better. Many people may think that my conditions are too liberal, but I wish to bring this matter to a conclusion. We must not raise impossible conditions; and we must study also the feelings of the European population. In the past many mistakes have been made, because Europeans have not studied the natives.

- (1) The provisions of the Peace Treaty relating to the non-Europeans are clear :
 - (a) The Union as the Mandatory Power has full administrative and legislative powers over Rehoboth as it has over any other portion of South-West Africa.
 - (b) Certain restrictions have to be observed in regard to the indigenous population, wherein presumably the Rehoboth burghers are included, viz. :
 - (i) Restriction on sale of arms and drink (liquor).
 - (ii) No slavery or military training, except for local defence or police purposes.
- (2) Excepting these conditions which must be observed, the Union Government has full right to use its own discretion in the administration of the Territory (Rehoboth included).
- (3) Although the Union Government has full power and say in regard to Rehoboth in terms of the Peace Treaty, it desires through the Raad and Kapitein to grant the Rehoboth community a certain measure of self-government.
- (4) The object of the draft agreement is to define and to fix that measure of self-government.
- (5) As already stated, matters must now come to a conclusion. As far back as the 22nd-23rd June, 1922—over a year ago—the proposed agreement was discussed here between myself and the Raad. The Raad was then represented by Messrs. Kapitein van Wyk, A. Mouton, C. Cloete, N. Olivier, G. de Klerk, P. Beukes, M. McNab, — Alcock and Frans Maasdorp.
- (6) On that occasion I drew attention to :
 - (a) The impossibility of making the Gebiet an independent state.
 - (b) To continue in this hope was unreasonable, because it was bound later on to bring reaction against the Rehoboth burghers.
 - (c) A reasonable and practical attitude would strengthen the present friendly relations, whilst the opposite attitude would have the effect of widening the breach between the Europeans and the Rehoboth burghers.
 - (d) Already then there were continual complaints that the Gebiet was a refuge for people who wished to avoid meeting their obligations.
- (7) Therefore I make an earnest appeal to you not to press for impossible conditions, because it is my sincere wish that we should reach an agreement satisfactory to both sides.
- (8) Then will not only mutual confidence and respect be strengthened, but we will be assured of a peaceful and happy future.

The Union Government, you see, has full administrative and legislative powers in regard to South-West Africa. Now, I hope you will have a pleasant stay in Windhoek, and that you are comfortably housed. I have given instructions that reasonable expenses are to be paid you. We will have to decide on the procedure we are going to follow, but meantime I think you are tired and want a rest. I will hand you copies of the draft agreement as amended, and you can look through it. After you have gone through the proposed agreement, *you can see what points you wish altered or added*. Then perhaps a small committee representative of your own and my people could meet to consider the points. Failing this, the full meeting will have to consider them.

Mr. Dewdney Drew : We wish to express our thanks to you for having so clearly stated the position this morning. We have understood everything. There can be no misunderstanding about the provisions of the proposed agreement. I think it would be best if we were to resume the meeting this afternoon, and then consider point for point. What you have submitted to us is an endeavour to see how near we can come to an agreement, and to find out what suggestions we have to make. If you are agreeable, we could meet to-morrow morning.

The meeting was adjourned at 12.45 p.m., it being agreed that it would be resumed at 10 a.m. on the 17th July, 1923.

It could not resume at 10 a.m. on the 17th July, 1923, owing to the indisposition of Mr. Dewdney Drew, but in the afternoon of that day, at 3 p.m., representatives of the Rehoboth community, viz., Albert Mouton, Maasdorp, Alcock and Jarman (with Mr. Dewdney Drew),

met Messrs. Smit, Col. de Jager, Harry Drew and Major Forsbrook in the office of the Land Board, to go into the question of the boundary.

The following are the minutes of this special committee:—

Mr. Dewdney Drew: The Raad wish the question of the farms taken away from them to be gone into. They wish these farms to be restored to them and to be included in the Gebiet. The farms in question are outside the line recognised by the German Government, and are "Gamis Noord" No. 171, "Arusis" No. 162, "Niep" No. 157, and "Oamitee" No. 53. We wish it understood that we make no claim on the northern farms, though they originally formed part of the Gebiet. The other farm is "Choaberib" No. 47.

Mr. Smit: The latter farm has already been included in the list of those mentioned by the Administrator. We are trying to purchase it. This farm need not, therefore, be discussed. To whom do the farms "Kruis Rivier" and "Vaalhoek" belong?

Maasdorp: They belong to burghers. "Slipmondig" also belongs to a burgher, Dirk van Wyk, who is dead.

Mr. Dewdney Drew: Mattheus Gertze was present and acted as interpreter on the occasion of the signing of the Proclamation by Maherero.

Mr. Smit: I will read the letter from Governor Leutwein to the District Commissioner of Rehoboth and given to the Bastard Kapitein van Wyk at the time. Mr. Smit then read the letter as follows:—

"The District Commissioner was instructed to inform the Captain that he is absolutely wrong with his complaint to the Emperor and that Von Lindequist was within his rights. That it appears to him that the Captain used his (the Governor's) absence from the country for the purpose of renewing his claims which he had already refused as they were based on invalid documents. That the matter must stand over until the return of von Lindequist, absent on duty. Whether this official after his return will negotiate with the Captain direct is left to his discretion. But it must be understood that the boundaries as laid down remain as they are. A little delay is not necessarily dangerous as in many cases when dealing with Natives such delay is better than immediate action."

After some time, on the 9th August 1898, Leutwein sent the following letter to the District Commissioner at Rehoboth to be made known in public and to be properly explained to the Bastards.

"The District Commissioner, Rehoboth.

"The Captain of the Rehoboth Bastards has addressed himself direct to the Emperor as per enclosed letter. Berlin has returned his complaint to be dealt with by me. You will please inform the Captain and the Raad of the following: His Majesty does not agree with this complaint.

"The Captain of the Bastards, as you are aware was requested to be at a certain place for the purpose of accompanying the Boundary Commission; but did not appear. This was sufficient reason for the Regierungsrat (Government Councillor) who had a lot of work, to be dissatisfied. Captain van Wyk has also misunderstood the letter which von Lindequist wrote to the Bastards Raad; there was no question or mention of relief from office of the Captain.

"I enclose further:—

- (1) A Proclamation of the old Captain Maherero.
- (2) A Proclamation of Captain Abraham Zwartbooi, and
- (3) A declatation by Missionary Buttner.

"With these documents the Captain apparently intends to prove that he has been cheated in the boundary question.

"The first time when Captain van Wyk submitted these documents to me was after the conclusion of the Witbooi War in 1894. I refused to accept them and declared them as invalid (inadmissabale).

"My reasons therefor were:

"As to (1) the document has been written by some person who never had the disposal over the Bastard Gebiet;

"As to (2) the document is drawn up by a person who, is it true, had owned the area in question, but who, at the time of issue of the Proclamation had already lost it again; otherwise the Zwartbooi Tribe would at that time not have been at Ameib but at Rehoboth.

"As to (3) this is a document of which nothing is known at Berlin, therefore it is inadmissible. Missionary Buttner could not promise protection over a country which did not belong to the Bastards.

(This is in conjunction with the Treaty of 1885. F.M.)

"At the time of the Treaty of 1885 the Bastards were not in possession of anything but the place Rehoboth and its surrounding water-places and neighbourhood and furthermore, they were in constant danger of losing this also in view of the everlasting wars between Hottentots and Hereros.

"To this chaos the German Government put a stop and with great sacrifice established order. It was necessary for such order that the boundaries of each tribe be clearly defined, boundaries which were practically non-existent at the time.

"Even the Hereros, now quoted by Captain van Wyk as authority, have agreed to this and submitted to the regulation of the boundaries.

"As to the boundaries in the North-West as laid down by the Government Councillor von Lindequist as far as Nauchas the Bastards must now abide. The boundary Nauchas to Bullspoor are yet left open and I shall, together with von Lindequist visit Nauchas on the 10th September, 1898. You are requested to meet us there. Should the Captain have any further requests as to this boundary he may come himself and submit them or be represented.

"The area which has been set aside for the Bastards is the most extensive one in this territory; it was only given to them to such extent in view of the fact that they were loyal during the Witbooi war and assisted us. Otherwise they would have had nothing but the place Rehoboth and surrounding water places."

"In view of the foregoing I request you to inform the Captain in the presence of the Raad, that his behaviour was insolent and that, should he maintain his attitude towards the Government I will break off all official intercourse with them.

"Further,—it has come to my notice that Captain van Wyk—with his continuous pressing for an extension of the Gebiet is doing nothing but trying to fether his own nest and that the bulk of the burghers is at present quite satisfied with the extension of the Gebiet.

"The enclosures I beg to return to the Captain with the exception of the letter to His Majesty.

Imperial Governor,
(sgd.) LEUTWEIN.

In reply to this letter Kapitein van Wyk wrote an apology for what he had done.

Mr. Dewdney Drew: Might we get von Lindequist's letter?

Mr. Smit: A copy of von Lindequist's letter has already been supplied to the Raad on the 25th August last.

Mr. Harry Drew read the letter from von Lindequist to the Bastard Council of Rehoboth as follows:

"Letter from the Acting Governor von Lindequist to the Raad of the Bastards, dated the 14th October, 1897, forwarded through the District Commissioner at Rehoboth to be read in public before all the burghers.

"To the Raad of the Bastards at Rehoboth.

"After many petitions from your side to have the boundaries of your Gebiet finally determined I gave orders that on the 4th October 1897 the Boundary Commission should start its work and determine once and for all the boundaries of your Gebiet. As the starting point of the Commission, Rust's farm, which is well known to you, was decided upon.

"Your Captain van Wyk and Councillor Coes Diergaard, as well as two other members of the Raad appeared at my office on the 1st October this year when every detail was discussed, the time fixed for starting of the work, the place from where it would start and the members who should accompany the Commission were nominated and approved of by me.

"At this meeting your Captain made the most incredible claims about the extension of the boundary. He behaved himself as if he had no knowledge about the letter and map which was sent to him in 1894 and which he had acknowledged through Missionary Heidmann. You may remember that Major Leutwein, the Governor, told you after the conquest of the Hottentots that the places Hornkrantz and Naukluft where German soldiers fought for the country and for you and lost their lives *should and must be* Government property, and that he would give another good part of the country in compensation. You also know that the boundary cannot be decided upon in an office but must be fixed on the spot, although I have much work to do I agreed to your wish to come personally to Gurumanas to talk over with you the boundary question. When I arrived on the fixed day and expected you with your representatives to be there I found nobody was there. Neither you or any of your Councillors were there. As I found out, your Captain was sitting at "Duruchas" and I sent him word that I was waiting for him. But your Captain did not find it convenient or necessary to come and see me and left me and my officers waiting. I afterwards learnt that he went to Windhoek where he had nothing to do instead of coming to meet me and discuss the boundary question with us. I did think that the boundary question of your Gebiet was more urgent than the Captains private business. His business seems to have been nothing else but trading during that time and attending to his store. I should think that the boundary question is more important than his store, seeing that it affects your own territory.

"What does the Captain think?"

"Does he believe he can humbug the Government?"

"I tell you this: I shall never speak to Hermanus van Wyk again about the boundary of the Gebiet. If you desire to speak about it to me you must send me another Captain or a representative of the Raad, some Alderman or other.

"I also tell you further: It is not true what the Captain says, that the boundary had already been fixed in July by Lieutenant Wettstein. He only took measurements which have nothing to do with the boundaries. I must tell you that by not appearing at the place appointed for starting the work to fix the boundary you are liable according to German Law, to pay all costs of the Commission. From Aris to Gabitsaos, the boundary as "now fixed by the Commission must remain and you have no claim to any alteration thereof. But with regard to the other boundaries, if some of your Raad members are present, they will be determined according to their wishes as far as possible. If you have any complaints now about the boundary you must not blame the representative of the Government, but your Captain and nobody else. I again tell you that in terms of the Law, because you have not appeared at the Boundary Commission, you are liable to payment of all expenses and furthermore, you have no claim to any alteration, because you were not there to dispute the boundary. Inform all the Bastards of this my letter. The Bastards know there is no road too long and no trouble too great for me if I can help them. The Bastards would be absolutely poor to-day and would not have a single head of cattle if it was not for the Government who helped them.

"I tell you one thing I can expect that the Bastards and their Captain behave themselves in a proper manner towards myself and the Government, who are the representatives of the Emperor of this country.

(Sgd.) VON LINDEQUIST,
Acting Imperial Governor."

Mr. Dewdney Drew: Herman van Wyk deeply regretted that he was so disrespectful to the Government. From information I have received from witnesses it would appear that a great deal of what was said in both Leutwein and Lindequists letters was unhistorical. There exists the testimony of four or five living witnesses of the period. There also exist maps by great London publishers, showing the land westward of Rehoboth as Bastard country. Mattheus Gertze states he was present when in the year 1873 Maherero gave the Rehoboth Territory vacated by Abraham Swaartbooi to the Bastards. Maherero was the dominant chief and could have cleared out all the people. As to Leutwein's assertion that the Bastards were never in occupation of the country, that is wrong, because they were in occupation at the time of the entrance of the Union Troops. We have no guarantee that coloured people in this Territory will have the right to purchase land if the Union Government moves out. Colonel Reitz with the consent of General Smuts has marked out 1,000,000 acres of land in the Kalahari for occupation by coloured people. The land cannot be alienated and will always remain in the possession of the coloured people. The Land Board cannot give land to the coloured people, yet at the same time we Europeans wish to do justice to the coloured people. Our request is that the Rehoboth people should have the right to secure the land roughly indicated on the map. This includes a number of farms occupied by European settlers or private owners. We request that the area be declared an area in which land can be required by coloured people, if the Government cannot purchase it, and present it to them. Coloured people could then purchase from Europeans from time to time. We also ask that the Government give us the unoccupied portions of land in the neighbourhood. With regard to the eastern boundary, broadly the Raad accept the German boundary as indicated on the map. The Government should acquire the "Debt" farms, or otherwise the coloured people should have the right to purchase privately owned farms from Europeans. There are two or three farms on the western side to which the Raad lays special claim, e.g., Nauchas. Mattheus Gertze denies that the Raad willingly agreed to the Cession to the German Government. Nauchas was to have been reserved for the purpose of accommodating the Germans' and the Bastards' horses during the horse-sickness season. The Germans monopolised the farm and did not carry out their promises. The Administrator agreed last year to defer any settlement of land there until this question was settled.

Maasdorp: The farm "Bullspoort" belonged to the German Government. During the last war there was fighting on Bullspoort when it was occupied by the Bastards. Sir Howard Gorges gave us the right to confiscate this property. I have listened to Leutwein's letter. The Administrator has referred to us as being in a similar position to the Boers, and we should therefore receive sympathetic consideration. Some of our people were killed on "Nauchas." This Government settled people on this farm after the Bastards had lodged their protest.

Mr. Smit: It seems to me that we cannot go further, because you are now putting up a new claim.

Maasdorp: Half of "Niep" belonging to a Bastard woman.

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Mr. Dewdney Drew: Although the Administrator did not bar a discussion of the question, he was not prepared to concede anything more than the German boundary, with the exception of the nine farms which he stated the Administration intended acquiring and presenting to the Bastard Raad.

Mouton: Some of the farms have been acquired by Europeans from Bastard women. Cannot the Administration purchase these farms and give them back to the women?

Mr. Smit: They could be given land in the area the Administration proposes presenting to the Raad. It will be impossible for the Administration to consider your proposal on the western side. It is occupied by Europeans to a large extent, and the vacant land cannot be given to you, because we cannot establish further white islands.

Maasdorp: The farm "Choaberib" was sold to a Bastard woman on the same terms as others. It is now registered in the name of an European. The farm "Marienhof" was legally sold. There was some agreement of which Mr. Drew knows; and there was a dispute. If the Administration goes into the figures it will find that a very considerable portion of land has been sold, which is really our property. In place of getting 77,000 ha. we will be really getting so much less, because some of the land already belongs to us.

Mr. Smit: I advise you to accept the Administrator's offer, and I do not think we can agree to your proposals regarding an extension of the boundaries on the east and west.

There was no further discussion.

The full meeting resumed on the 18th July, 1923, when in addition to the others, Colonel de Jager was also present.

The Administrator: Gentlemen, I only want to say that we could not proceed with our meeting yesterday morning, because Mr. Dewdney Drew was not well. Fortunately he was sufficiently well yesterday afternoon to take part in the discussions of the Committee on the boundary question. I understand that he is not quite well this morning but I hope he will be able to take part in the discussions to-day, because he and you all and also we are anxious to expedite matters. Yesterday morning I had an informal discussion with Mr. Dewdney Drew, Messrs. Mouton and Maasdorp, during the course of which it appeared that the boundary question was the burning one with you, and that it depended on the settlement of that question whether or not we would reach an agreement. I hope my impression was wrong, and that we will keep an open mind in all these discussions, to see whether we can find a solution. Notwithstanding that as the question appeared to me yesterday morning to be one to which you attached so much importance, we mutually agreed to appoint a committee to investigate this matter further. I did not know whether you were in a position to place further evidence before this Committee than that which was placed before the Boundary Commission, but it seemed to me that it would be easier for a small committee to discuss this matter at a round table conference. It could then be seen what further evidence, if any, you could lead—evidence which was not in our possession. The Committee consisted of Mr. Smit, Col. de Jager and Mr. Harry Drew, together with your representatives. Both Col. de Jager and Mr. Harry Drew were members of the Boundary Commission. Mr. Smit, Col. de Jager and Mr. Harry Drew were appointed to represent the Administration, whilst Mr. Dewdney Drew, Acting Kapitein Mouton, Maasdorp, Alcock and Jarmain represented you on the Committee yesterday afternoon. Kapitein Mouton was also a member of the Boundary Commission. At yesterday's meeting there was also present the Magistrate (Major Forsbrook). I shall now be glad to receive a report of the discussions of the Committee.

Committee:

Mr. Smit: The Raad preferred three main requests to us. The first was that the following farms, situate outside the Gebiet as at present defined, which are known as the "afgenome plaatse" be restored to them, viz: Schlipmunding, Niep, Arusis, Oamites, Gamis Noord.

A question was also raised in regard to the farm Schlip which is stated to have been exchanged by the Germans for Bullspoort. We agreed to look into the matter of the title. We have now obtained particulars from the Deeds Office to the effect that the farm Schlip is not registered there and consequently forms part of the Gebiet but we have no evidence of an exchange for Bullspoort which is a Government farm.

The second request was that the Rehoboth Community desire the area indicated roughly on the map marked "A" on the west, and the three "Schuld Plaatse" on the east marked "B," together with a piece of vacant crown land on that side. The request was that the Administration acquire the privately-owned and settlement farms on behalf of the Bastards.

The Administrator: Does that affect privately-owned farms on both the east and the west?

Mr. Smit: Yes. Further, that the vacant crown land be made over to them. If the Administration could not see its way clear to purchase the occupied farms on behalf of the Raad, they asked that provision be made in the treaty reserving to the Rehoboth community the right to purchase these lands as opportunity offers. In addition to this, the

Raad raised questions with regard to two farms in this area, namely, "Nauchas" and "Bullspoord," falling within the area desired on the west side. They claim the farm "Nauchas" because they allege there was an agreement between them and the Germans, laying down that this farm was to be reserved for the use of both for their horses during horse-sickness seasons. They claim that they should have access to the farm equally with Europeans.

The Administrator: So that, as a matter of fact, you only claim a half-share in this farm for that particular purpose?

Mr. Dewdney Drew: They wish to point out that even what was given them by the Germans has been taken away.

Mr. Smit: But in practice the alleged arrangement regarding the farm was not carried out.

The Administrator: I am not aware what transpired at the Committee meeting, but I want to establish whether the right to take horses there was actually granted and exercised, and whether you have any title.

Maasdorp: No, but this farm is in the "Afgenomene" area.

The Administrator: I just want to say if you lay claim to the whole area on the west as land that has been alienated and taken away from you by the Germans, why do you single out these two farms as being those to which you should have title?

Mr. Dewdney Drew: Could this not wait until later, when I will make a general statement?

The Administrator: I am merely asking for information.

Mr. Smit: Quite apart from the general question, I understood they laid particular claim to these two farms. With regard to "Bullspoord," apart from the general question of the boundary, that is taking the boundary as it was fixed, it is admitted by the Raad that it is German property because it was exchanged for Schlip, but they now claim it by right of conquest because they occupied it during the campaign. They claim, as they were in occupation when the Union forces came along, they should have it.

The Administrator: Is that the only farm you occupied when the Union troops came in?

Maasdorp: We explained to Mr. Smit that we lost some of our people on "Bullspoord" and "Nauchas." We were in possession of "Nauchas" when the Union troops came in, also "Sandputz," which is outside the Gebiet. The right of conquest is now extended to "Nauchas" by reason of the fact that we were in occupation of the whole of Rehoboth at the time when the Union troops entered it.

Mr. Smit: With regard to the general question of the boundaries, particularly the western boundary, no evidence was placed before the Committee. We merely have the statement that the original boundary was further west than at present.

Mr. Dewdney Drew: I propose to lay evidence before Your Honour this morning, because I understood Your Honour to say we could discuss the question of the boundary, although we had no power to settle it. We mentioned some facts on the question.

Mr. Smit: We went into the whole question by giving information and answering questions put to us.

The Administrator: An opportunity will be given Mr. Drew to present the evidence later.

Mr. Smit: Apart from a statement that the boundary extended further west than that fixed by the Germans, no actual evidence was placed before us. On the general question, I read out to the Raad the following letter addressed by Governor Leutwein to the District Commissioner at Rehoboth. I have not got a copy of Kapitein van Wyk's letter, but there is a note here to the effect that Kapitein van Wyk replied that he was wrong, and he apologised. We also read a copy of von Lindequist's letter, but as the Raad has a copy it is not necessary to repeat it here. Von Lindequist's letter was written some time in 1897. I have not the exact date. That completes the report, but since yesterday we have discovered in the correspondence the original sketch, which shows what was the Bastard Gebiet in 1894. We did not produce this yesterday. Mr. Dewdney Drew stated yesterday that Leutwein's letter was historically incorrect.

The Administrator: I think that is a full report of yesterday's deliberations. I would first like to ask whether anyone has any remarks to offer on this report, before I ask Mr. Dewdney Drew to put up your view on the boundary question. If you are satisfied that the report is correct as put to us by Mr. Smit, we need not waste any more time on it, and I will call on Mr. Dewdney Drew to submit your case.

Maasdorp: We are satisfied with the report, but we want to ask one question. Can the letter written by van Wyk to the Kaiser be read?

The Administrator: Yes.

Mr. Smit read the letter, dated 15th November, 1897.

The Administrator: The reading of this letter should be recorded in the minutes of this conference. It is most important that such documents should form part of the record. We must not get impatient in considering this boundary question. We must take the
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opportunity of investigating all these matters, if only to collect all the evidence on this question, which will then form the record for the future. I understand there is a further letter or report on the German file. (Letter by von Schoenau read.) Although, as I said from the beginning this boundary question is a difficult one for us to reopen, because our standpoint is that we acknowledge and we also act according to the rights which you had and exercised under the German Government at the time of our occupation. But, as I understand from you that this is a burning question with you, I thought it right to go into all these points and to have a record of everything we can gather on this question, because it may be in case we cannot come to an agreement here that the evidence that we get in this way can be of some use if the question is raised in the future. I only want to make this point clear, because I already mentioned it in my opening address. If there are no other remarks on the report, I will ask Mr. Dewdney Drew to explain the matter from your and his point of view.

Maasdorp: Is there a reply from the Kaiser, in which he acknowledges receipt of the letter? Did the letter reach the Kaiser?

Mr. Harry Drew explained that the letter in question was posted at Walvis Bay, but the postal agents there, Messrs. Mertens and Sichel, intercepted it, and forwarded it to the Acting Governor, von Lindequist, at Windhoek. The latter, however, transmitted it to Berlin under care of a letter dated the 30th January, 1898, and it was returned on the 12th April following to the Governor, who was instructed to deal with the matter himself.

Mr. Dewdney Drew: We wish to thank Your Honour for investigating the question of the "Afgenome" farms, and I am empowered by the Volksraad to make to you the proposal that with your consent we shall first endeavour to come to an understanding on the question of the Government of the Gebiet, and leave the question of the "Afgenome" farms for later consideration. If time permits before lunch, we would like to put before you briefly the views of the Raad.

The Administrator: I have no objection, but it must be clearly understood that it will not be necessary to repeat everything that has just been stated on the boundary question.

Mr. Dewdney Drew: You have before you a few of our full and matured proposals on the whole field of negotiations. I wish this morning briefly to indicate our views, and as regards the government of the Gebiet to mention two or three difficult questions, because I feel that if they can be settled there will be very little difficulty about the others. I can assure Your Honour that you cannot be more desirous than the Raad that the position of the Raad should be regularised so that the people may know definitely the constitution under which from henceforth they are to live. There are very urgent reasons for an early settlement of this question. In many respects the people are going back. They are becoming impoverished. There is a sad lack of education, and in other respects (which I need not mention) it is desirable that an improvement should take place. As was stated at our first meeting with Your Honour, the Raad desire a definite contract or charter. They feel that you have already met them on that point in your offer to have the whole agreement, if we arrive at it as we hope to do, made law and published as such. As to what is to be embodied in the contract, they desire that fundamentally its provisions may be in accordance with the promises given to their Kapitein on two or three occasions. What General Smuts promised as understood by the Raad is very concisely stated in a letter by Cornelius van Wyk, which I have here. It was addressed to me from Rehoboth on the 27th August, 1917, and I will read it with your permission, about his interview with the late General Botha:

(Translation.)

Mr. Dewdney Drew,

As I was absent when you visited Rehoboth, I feel compelled to express to you my sincere and hearty thanks. I am very pleased with the reception which my Councillors have given you; also for the kindness which both of you have shown to them and to the whole community. My thanks are also due to the Government which has sent you hither.

I am pleased to hear that you have not only an interest in our temporal life but also for our spiritual welfare. May the many prayers which you have sent up on our behalf bear spiritual fruit. It is my prayer that the Lord may spare you a long time to continue your great work for the land and the people, and the Lord may hear your prayers on our behalf. I can give you the assurance that my feelings are as my Councillors have explained to you. We hope and believe that we shall not suffer again under the oppressive yoke of the German Government, as that Government has shed so much of my personal blood in an indifferent and cold-blooded manner, and not only mine but of all of us since the time that the Germans came into the country.

I have been informed that you have enquired from my Councillors what conversation took place between General Botha and myself when we met each other. When I arrived at Walvis Bay I first reported my arrival to the Officer Command-

ing, and told General Botha that the German Government wished us to fight together with them against the British troops, and because we are British subjects by birth, we refused. General Botha then asked me where I was born; I told him in the Cape Colony. I told him that my father, before he died, had told me to seek protection with the old British Government. General Botha told me he was British and that he was fighting for the British Government. I also told him that if we refuse to assist the Germans, we have to flee because they would shoot us, and if it became necessary for us to flee, he (General Botha) should protect us. I did not forget to tell General Botha that if the Germans fired on us we would also shoot. General Botha asked me whether I wanted protection for my person only, and I told him: No, for my whole territory. General Botha then said that he was glad to know that we were not on the side of the Germans, in Rehoboth, and that he knew how to carry on the war now. General Botha received me very kindly, for which I am still thankful.

Once more we thank you for coming, and that you have not forgotten also to address the mothers and children.

It is my sincere desire that the Lord may spare you to bring us another visit, if possible.

In conclusion, I wish that you will let me know soon whether you have received this letter.

Wishing you God's richest blessings, I am

Your obedient servant,

(Sgd.) CORNELIUS VAN WYK, Kapitein.

The Administrator to Maasdoorp: You know about this letter. Was a similar letter ever addressed to my predecessor or to my Administration?

Maasdoorp: I think so.

Mr. Dewdney Drew: There were two witnesses present, as I learned afresh from Kapitein Cornelius van Wyk on Saturday, and their corroborating testimony could be obtained. Their names can be furnished.

Maasdoorp: One is Jacobus van Wyk and the other was Willem Cloete.

Mr. Dewdney Drew: Subsequently at Windhoek, according to a statement made by me, at which Maasdoorp was present, General Botha repeated substantially the assurance contained in that letter. I believe Col. Mentz was present on that occasion. Again in Pretoria in the presence of witnesses General Botha renewed his assurances.

Mr. Smit: Major Herbst put in an official report of what occurred at the time, and he contradicts this.

Maasdoorp: The matter was raised. I can produce papers in proof of this.

Mr. Dewdney Drew: I am only repeating what Cornelius van Wyk solemnly declared to me on his sick-bed on Saturday morning in the presence of Maasdoorp. There was, according to what he then told me, a distinguishing feature of what General Botha said in Pretoria. It occurred in connection with the treaty with the Kaiser, a copy of which was shown to General Botha. Reading it, he said that treaty requires to be improved on in certain respects, but he said, substantially, what you have you shall keep. We understand Your Honour's position as expressed to us yesterday or the day before is that the treaty has been encroached upon through "indringing deur die Duitse Regering" from time to time. You referred to the two breaches in the relations between the German Government and the Volksraad, in which they consented to certain alterations in their status. Those that seem material—one that was material—relates to their apparent acquiescence in the degradation of their chief to the position of a foreman. On that point the Raad will tell you that they never acquiesced conscientiously in any such change of their Kapitein's status.

The Administrator: I just want to make this clear, that although the German Government reduced the status of the head of your Gebiet to a foreman on paper, your people always regarded him, and spoke and wrote of him, as your Kapitein.

Mr. Dewdney Drew: Your Honour's recognition of that fact makes it unnecessary for me to go further on this point, except that one or two members of the Raad think there is some misunderstanding in this sense, that the German Resident Officer was recognised, not as chief of the Gebiet, but as chief of recruits. Then, on the point of the £300 tax and the 11,700 M. which had actually been paid in taxation, Mr. Beukes, Mr. Piet Mouton and Mr. Albert Mouton, Acting Kapitein, will be able to tell Your Honour that an appeal was noted at Berlin against any such tax as the £300, and that the appeal was upheld in Berlin.

They were notified accordingly by the Kaiser's Administrator. It happened, however, that on the occasion when one of the members of the Raad had made an uncautious remark, which was to the effect that the German Government was engaged in military operations which necessarily would involve cost to the country, the Raad would not have

been unwilling to make a voluntary contribution had such been solicited. The German local Administrator, on getting the verdict from Berlin, went back on this remark, and said "We hold you to this promise that you will make a voluntary contribution." He proceeded to define what the voluntary contribution would be, and he laid it down that £300 per annum should be paid for four years. He held on to the 11,000 odd M. collected. The contribution was assessed on the land of the burghers, according to the value of each farm. I mention this because the Mandate is in the nature of a trust. Your interest in the Rehoboth people shows this spirit.

The Administrator: And for that reason I stated yesterday that any promise made by the late General Botha would have to be taken as subject to the terms of the Peace Treaty, which was subsequently signed, and under which the Mandate was handed over to the Union.

Mr. Dewdney Drew: We quite understand that, but there are indications in the form of the Mandate under which the Union functions in this country that the League was not aware of the peculiar conditions obtaining in this Territory. Apart from the fact that the Rehobothers were originally British subjects, they possess a civilised status which corresponds with that of people in other Mandated Territories different to that given to the Union. They belong to that class of people who, like the Armenians, are described in the League Covenant as being a people already considerably advanced in civilisation, and wanting the assistance of a stronger power to lead them, to bring them far enough later to look after themselves, and to have their own Administration.

The Administrator: Your contention is that they should have fallen under Class B instead of Class C Mandates. You have studied the Mandate very carefully. Do you regard the Rehoboth people as the indigenous population referred to or not.

Mr. Dewdney Drew: I should doubt it.

The Administrator: Then we are, I think, on sound ground. We are agreed that the protection vouchsafed to the indigenous population under the special Mandates does not extend to the Rehoboth people. Whatever the doubts or want of knowledge may have been in the minds of the people who framed the Treaty of Versailles, it is perfectly clear that no one is vouchsafed any protection or any privilege who does not fall under the term "indigenous population." What is clear is that the Union Government, as the Mandatory Power, has the absolute right to govern South-West Africa, including the Rehoboth Gebiet, as an integral part of the Union itself, and that it can, without any restriction or reservation, apply the laws of the Union as a whole to South-West Africa, and make whatever new legislation it thinks fit to govern this country as such integral part of the Union. That is perfectly clear under the Peace Treaty.

Mr. Dewdney Drew: Undoubtedly the Mandate confers the administrative and legislative authority over all classes of the population with, however, the important addition, which must not be lost sight of, that these great powers and responsibilities are to be carried out for the attainment of a certain object, and that is—advancing the people who are not yet sufficiently strong to govern themselves. The powers are great, but the trust imposed is sacred. That I think Your Honour will not deny.

The Administrator: I admit that the trust is sacred, and I say that it is the full intention of the Union Government to fulfil that trust to the utmost of its ability, but deny that the people of South-West Africa or any section fall under the category fixed by the League of Nations as having to be helped until they can stand alone.

Mr. Dewdney Drew: There I must ask permission to differ from Your Honour.

The Administrator: I base my conclusion in that respect on the facts as disclosed in the Peace Treaty. I find no provision in the Peace Treaty in regard to C Mandates, in which South-West Africa is specially mentioned, for the nursing of people until they are sufficiently strong to look after themselves. The Union Parliament exercises sovereign legislative powers over South-West Africa. It was clearly laid down that the Council of the League of Nations would define the degree of authority that would be exercised by the Mandatory Power, and that it would define the rights of the Mandated people. The only people whose rights have been defined in the Mandate itself as fixed by the Council of the League are the members of the indigenous population of South-West Africa.

Mr. Dewdney Drew: There also I am in agreement with you. You have stated the facts of the position, and I doubt whether these people can be fairly ranked with the indigenous population, but were the League of Nations aware of the existence of these people? I doubt whether the League was aware of the fact that there existed in this Territory other than Europeans and natives.

The Administrator: I am just informed that a report on the composition of the population here was made by Major O'Reilly, and that this report was submitted to the League of Nations.

Mr. Dewdney Drew: It would be interesting to know what special consideration their case received. This is the first authentic information I have received on the subject. All I can say is that it seems that their case did not receive special consideration; but broadly,

what we wish to bring out is that General Botha promised that they would continue to govern themselves and have their own institutions. Whatever they may have suffered under force does not affect their moral claim.

The Administrator: It may be convenient here to elucidate the question of General Botha's promises. Do you assert that General Botha promised them independence?

Mr. Dewdney Drew: No.

The Administrator: Do you accept my statement of the case that I interpret General Botha's promise to be that he undertook that all the rights which they exercised and which were acknowledged by the German Government at the time of our occupation would be honoured by us?

Mr. Dewdney Drew: I hold that that would not fully discharge them.

The Administrator: If you concur in that, then the only question which remains for us to consider is whether the draft agreement which I have submitted to you substantially fulfils that undertaking. I base my interpretation of this matter also on what subsequently transpired between the Rehoboth people and General Smuts and other highly-placed Union people who visited South-West Africa.

Mr. Dewdney Drew: The Raad claim that General Botha committed himself to more than what the German Government had allowed them in several respects.

The Administrator: Let us immediately investigate that point by my asking you on what you base that assertion?

Mr. Dewdney Drew: I base that on his statement that the treaty required alteration in some respects; but the rights previously enjoyed by them would continue.

The Administrator: What evidence have you that General Botha's promises are other than those that I have explained?

Mr. Dewdney Drew: They resumed certain rights when the Germans cleared out.

The Administrator: I interpret General Botha's promises to mean that they would exercise the rights enjoyed during the German regime and acknowledged by the German Government at the time of occupation. If that is not a correct statement according to your views, what evidence can you produce that General Botha promised more?

Mr. Dewdney Drew: The only acknowledgment of the rights of the Rehobothers by the Germans is contained in the treaty of 1885. That document, he undertook, would be recognised as a basis, but it would have to be altered in certain respects. His promise must therefore be considered as morally honouring that treaty, and if any additions or subtractions of the rights conferred by that treaty are alleged to have taken place, it must be proved that these were made with the consent of the people, because superior force would not absolve the Union Government of that obligation.

The Administrator: Just to elucidate that, I would like to know in what respect—I mentioned one exception in my introductory address—the draft agreement which I have put before you does not carry out what the treaty with the Germans contained?

Mr. Dewdney Drew: I was not leading up to an accusation that your Government has committed any breach. I wish to define what the promise was.

The Administrator: I think we will come to a clearer issue if we tackle each point as we come to it. Mr. Dewdney Drew says that he considers General Botha's promises to mean the carrying out of the treaty made between the Rehoboth people and the German Government in 1885. Now we don't want to beat the air. We want to come to practical questions. I ask in what respect does the draft agreement fail to carry out the terms of the treaty of 1885? If we could direct our attention to that at once, it would help to shorten our proceedings. I would like to have an answer from Mr. Dewdney Drew to this question. He has been studying this question for a long time, and is fully acquainted with all the documents. He therefore ought to be in a position to tell me at once in what respects the draft agreement which I have put before you falls short of the treaty with the Germans. Mr. Drew, it will facilitate matters if you will make your answer as concise as possible, and let us have it at two o'clock.

Mr. Drew: Clause 4 of the draft agreement in spirit does not meet General Botha's promise. We are advised by Advocate Alexander, whom you know as an advocate of standing, that everything conceded in the draft agreement can arbitrarily be taken away at Your Honour's pleasure. No one can anticipate the question of legislation; that is a right of Parliament.

The Administrator: In what part of the treaty with the German Government was it deprived of the right of legislating in regard to the Gebiet?

Mr. Dewdney Drew: Nowhere.

The Conference was adjourned at 12.50 p.m.

The conference was resumed at two p.m. on Wednesday, 18th July, 1923.

The Administrator: Just a few words before we resume. Yesterday, at Mr. Dewdney Drew's request, a Committee was appointed to go into the boundary question, because it was considered a question which might form a stumbling-block in our arriving at an agreement. At Mr. Drew's request to-day (on your behalf) we have switched off from the

consideration of the boundary question in order, first of all, if possible, to see whether we can come to a conclusion as to the exact extent to which self-government will be exercised by you in the Gebiet. That question rested in some aspects on certain promises alleged to have been made by the late General Botha, and Mr. Dewdney Drew before the luncheon hour interpreted those promises to mean that the treaty of 1885, subject to such modifications as had taken place in practice with your consent, should be honoured and adhered to. In answer to a question put by me to Mr. Dewdney Drew as to any respect in which the draft agreement does not carry out the treaty of 1885, he stated that paragraph 4 of the draft agreement failed to give effect to that treaty. The power taken under paragraph 4 is one of the right of legislation by this Administration within your Gebiet. His answer to that question was not in what respect the draft agreement differed from the treaty of 1885. Now in the draft agreement we are making a concession to you, because in the first place we are prepared to discuss with you the laws which we propose applying to your Gebiet as mentioned in Schedule II to our draft agreement; and in the second place we make express provision in the draft agreement that in future, before any laws are applied to your Gebiet, you will be consulted. I think this represents more or less the position arrived at before the luncheon hour, and I will therefore ask Mr. Drew to proceed with his statement. I may just mention the fact to confirm my reading of the treaty of 1885, that the German Government actually specifically applied some of their laws to your Gebiet, such as their health laws, game laws, land tax, road ordinance, mining ordinance and so forth, and, so far as I know, without consulting your Raad.

Mr. Dewdney Drew: I thought the first question you put me was—where did the Mandate take away the right of the Administrator to make laws in the Gebiet, and to that I replied—nowhere.

The Administrator: My question was on your statement as to what you understood General Botha's promise implied. I asked you in what respect the draft agreement failed to carry out the provisions of the Treaty of 1885, and your answer to that was that clause 4 of the agreement failed to carry out the provisions of the Treaty of 1885. Thereupon I asked you under what provision the German Government had deprived itself of the right of legislation within the Gebiet, and your answer to that was—nowhere in the Treaty of 1885. You say that paragraph 4 of the agreement fails to carry out the terms of the Treaty of 1885. As paragraph 4 deals with the right of legislation, I repeat the question—where in the Treaty of 1885 did the German Government deprive itself of the right of legislating?

Mr. Dewdney Drew: My answer to that is first of all the Treaty purports to be one between His German Majesty the King of Prussia and an independent Chief. Consequently the one party only takes from the other such pre-existing right of that other as that said other many dispossess himself of. Nowhere in this Treaty do I find any recognition of the right of the Empire to make laws for the Gebiet. He supervises their external and their Treaty relations, but claims no right of legislation over their internal affairs. On the contrary, he instructs that his subjects will obey their laws and conform to their customs. Also they must pay to the Chief such taxes as may be agreed upon between the Chief and the Emperor. To that extent they forego the existing rights, that they may not impose taxes which he has not consented to. Then follows the clause which makes provision for the internal affairs; and it provides that any future matters can be settled later by agreement between the two governments. As you have pointed out some laws external to the Gebiet were made applicable therein. I have heard the Raad speak of this that a number of laws were made after mutual agreement between themselves, but you may wish to address them some questions on that point. I admit, if the question is raised, that there is nothing in the basis of the agreement that conflicts with the terms of the Mandate. It is not the Mandate we are pleading, but the promises of the late General Botha, confirmed in substance as we conceive, by Lord Buxton on behalf of General Botha, and of the present Prime Minister, General Smuts, but let me assure Your Honour that we don't approach this clause in a spirit of suspicion as regards yourself. I will even go further and say you might find it necessary to apply to the Gebiet laws which may not agree with the views of a number of its residents. For instance, a scab act or diseases act may be opposed by people who do not know better, and we consider it proper in the interests of the good government of the people that this should be thoroughly considered. The clause as it stands is dangerous in the sense that it will enable somebody perhaps not so friendly as the Administrator to invalidate the spirit of General Botha's promises. As a tutor to the people who look to your protection, we know that we must be taught self-government. The Raad suggests an amendment which will be to the effect and would, I believe, conform with the German practice, that laws might be applied by the joint consent of yourself and the Raad. They are already willing that the scab act be applied to their Territory provided there is consultation and that local regulations are framed; but if you think that that amendment is unsatisfactory I do not conceive it impossible for another to be proposed which might meet with your views, but before we come to that, which is a

committee matter so to speak, we would rather hear how you view this point. There are two or three other important points, but not so important as this one. The first is that we heartily approve of the clause you have inserted to the effect that you are responsible for keeping out undesirable people, but we hope you will see your way clear to treat the Gebiet on segregation lines, excluding Europeans therefrom as you have already intimated your intention to be. To point one—the officer there will be your chief representative in the Gebiet in all respects. We think he should have the title of Resident Commissioner; and we ask that the Departments that work in this Territory under your control shall deal with the Rehoboth Gebiet through this officer instead of carrying on independent operations therein, which have been cause of a certain amount of trouble and difficulty in the past. I think if we can arrive at an understanding on these few points, other difficulties could be removed.

The Administrator: Let me begin with the last point, that is the appointment of a special officer in your Gebiet, through whom the Administration will conduct all its business with the Rehoboth people. I would like to say at once that that is a matter for the Administration. It does not seem to me to be necessary to lay down definitely now the manner in which or the agency through which the Government will carry on its administration in your Territory. This is a matter that I think should be left to the discretion of the Administration, and I have not the slightest doubt that in the exercise of our administrative functions in accordance with any agreement that we may now arrive at, such a proposal would receive sympathetic consideration; but I do not think that we would further our negotiations and the object we have in view if we now wish to enter into matters of detail of administration which properly should belong to the Union Government through its representative here. I am prepared to lay this matter before the Union Government for its sympathetic consideration, but as I have said before, I don't see how we are going to make that part and parcel of the agreement we are trying to conclude. With regard to the application of the laws which are in force generally all over South-West Africa also to your Gebiet, Mr. Drew states that if that were done by mutual consent only, that that would give effect to what was the practice in German times. Is that so? Did the German Government whenever they thought it fit to apply a law to your Gebiet get the consent of your Raad. My information is to the contrary, and that is why I said in the paragraph as drafted (which I very carefully drafted myself) that although for obvious reasons, some of which Mr. Drew has himself just now admitted, it is not possible for the Government, the ruling authority in the land, to stultify the Administration by making it possible for an ignorant element to stop such application when it is in the people's own interests. As I have already stated we regard you as a civilised people, and consider it right that you should be consulted before any laws are applied to your Gebiet. I pride myself on the fact that I have met you in this way. In doing that we were meeting you in a more liberal spirit than it was possible for the old Government to do. The principal reason I had for inserting this paragraph was that I could hardly conceive that the Union Government would put a man in my position who was not sympathetic to you; and that if the Administrator found it necessary to apply a general law of this Territory to your Gebiet, you would after having considered such law be able to induce the Administration to apply it to your Gebiet with such amendments as might meet the local requirements. As Mr. Drew has pointed out to you himself this afternoon, and he is a man of great experience that is why he has candidly admitted—I thank him for his candour—that certain laws must be applied to your Gebiet whether you like it or not. My proposal is to consult you before such laws are applied. If it is admitted that some laws must be applied to the Territory generally and not to the Gebiet then my difficulty will be, where are we to draw the line. It seems to me that the only practical solution of the whole difficulty is the one that I have suggested in paragraph 4, namely, that we should consult together before a law is applied to your Gebiet so that we can see in how far we can meet you and if necessary modify or amend any law to meet your requirements. Then I come to the last point which was first raised by Mr. Drew and that is, that you may get here an Administrator who is unsympathetic and may use the power under clause 4 of depriving you of all the benefits which you may receive under the agreement. I will only say this that then as now you will have the right of appeal to the Union Government, the King's representative in the Union and to the Union Parliament itself; but what is more this contract will have to be read as a whole—it will have to be regarded as a sacred document—an agreement arrived at between you and this Administration of behalf of the Union Government, and I dare not conceive of any man holding the responsible position that I hold to-day, detracting from the provisions of this agreement. You must not forget what Mr. Drew has hailed with satisfaction, and I think he is right there, that that is the pivot on which this whole charter will turn—that is that we are going to make this agreement a law of the land. This contract will have force of law, and I think that ought to satisfy you, that when once we have arrived at an agreement, that that agreement will never be broken or modified without your consent, because it forms part and parcel of the statute book of the land.

I think that if you can view these points in the light put to you, as Mr. Drew has said, there should be no difficulty for us to arrive at an agreement on all the provisions in the draft agreement, with such modifications as we may be able to make.

Mr. Dewdney Drew: We are very glad to hear you express yourself in the manner in which you have now done. Will you consider a suggestion which we wish to make? You have almost anticipated this. Take the case of a change of purpose, as to which no man can anticipate, towards the Rehoboth people. We have no doubt of the right of appeal to the Governor-General, the Prime Minister and to Parliament of which you have spoken, but it would help to put matters on a clearer footing and avoid friction perhaps if this clause could finish somewhat to this effect, that in the event of the Rehobothers not concurring with the Administrator, the latter should have the right of addressing a report to the Prime Minister, which should be laid on the Tables of both Houses. I have in view the analogy of the South Africa Act as applied to the Native Territories.

The Administrator: We are anxious to make progress. We are not likely to finish to-day, which I had hoped we would be able to. I will consider this request sympathetically, and I will let you know my decision tomorrow. I understand your request to be this: that when a law is applied that in the opinion of the Rehoboth Raad should not be applied, provision should be made in the agreement that in such a case the Raad will be at liberty to address a petition to the Prime Minister setting out what the objection of that law is, which petition the Prime Minister will be requested to lay before Parliament. If I understand that to be your request, I shall give it very serious consideration and let you know whether we can add it to this clause. If you can see your way clear to accept this suggestion, we can proceed to discuss the further paragraphs.

Mr. Dewdney Drew: If you can see your way clear to alter that clause, it will remove many of the difficulties before us.

The Administrator: I have always told you I am anxious to meet you, and any reasonable request, as I said the day before yesterday, would always receive my sympathetic consideration. Can we now take the draft agreement clause for clause?

Mr. Dewdney Drew: I think so.

Maasdorp: I want to say something about the boundary. I wish to say a few words about General Botha's promises. Everything with regard to those promises has been brought out, except the one word which General Botha used and that is "that improvements would be made in the Treaty." In regard to this General Botha meant that wherever we had not been fairly treated, improvements would be effected. We have two witnesses here who can prove this.

The Administrator: We can now go on to the draft Treaty. Is there anything in the preamble that you want improved? In order that there can be no misunderstanding the interpreter will read the draft agreement clause for clause.

Mr. Loots: then read the preamble.

There was no objection raised to the preamble.

Section 1. The Administrator proposed that this stand over until the Schedule has been agreed to. No objection.

Section 2. Passed.

Section 3. In place of "staat verzekert" it was decided to leave it to the Administrator to draft a clause along with clause 4, and to submit the same to the Raad.

Section 4. Passed, subject to the addition of the right of appeal clause.

Section 5. Agreed to.

Section 6. Agreed to.

Section 7. Alter to "tussen naturellen".

Section 8. *Mr. Dewdney Drew:* I would suggest that the question of mixed courts be left over until we have had a further consultation. It was agreed that this stand over accordingly.

Section 9. Agreed to.

Section 10. Agreed to.

Section 11. Agreed to.

Section 12. Agreed to.

Section 13. Agreed to.

Section 14. Agreed to.

Section 15. Agreed to.

Section 16. To stand over till to-morrow. The Secretary to go into it.

Section 17. Agreed to.

Section 18. To stand over.

Section 19. To stand over. The Raad suggested that the police force should consist entirely of Bastards under the control of two Police Sergeants and the Magistrate. The Administrator stated he was prepared to take the matter into consideration, to see how this could be met; and that as far as possible Bastards from the Gebiet would be appointed to our Police Force for that area.

The Administrator: While you have been talking about it, I have come to the conclusion that it is quite impossible for the Administration to bind itself as to where it will recruit its Police Force. This is a matter of ordinary administration and should be left to the Administrator. I hope you will accept that position as I am satisfied that the

suggestion made by you would not work. If I make you promises which I cannot carry out afterwards you will have a grievance and I see a host of difficulties in the way of making such a promise.

Mr. Dewdney Drew: Do you veto the employment of any Bastard Police?

The Administrator: No. All I say is that the Administration should retain discretion as hitherto in regard to the appointment of the members of the Police Force.

Maasdorp: I don't want to be arrested by a Native Policeman, because I am not a Native.

The Administrator: There are certain things which cannot be included in the law. Matters of this sort must be left to the discretion of the Administration.

Mr. Dewdney Drew: On the question of military service. Under the old system they rendered service willingly to the Kaiser, which falls away now, but they are willing to make an offer if the Government wish it. They don't wish to be behind the Europeans in the event of their assistance being required, so that they would like to continue as at present until their position as British subjects has been cleared up.

The Administrator: If they wish to form a portion of the Burger Force, I shall consider the matter.

Mr. Dewdney Drew: They will make representations as soon as British citizenship is applied to them.

The Administrator: If I were in the place of the Rehoboth people, I would consider myself a British subject, and act up to it.

On a question by Mr. Drew the *Administrator* stated that he was quite prepared to consider the advisability of again applying to the Gebiet, the law in regard to book debts, provided ample notice is given to the people affected. You must consider this matter very carefully, and if you ask me to make representations to the Union Government, I shall be quite prepared to do so.

The Administrator: All the laws that are on your Statute Book to-day will remain in force, in terms of Section Three of the Draft Agreement. We can now proceed to consider the Second Schedule, in regard to the application of the laws. We will take item for item.

Arms and Ammunition. Agreed to.

Artesian Water. Agreed to.

Branding laws. To stand over.

Coinage law. Agreed to.

Commissioner of Oaths. Agreed to.

Customs and Excise. To stand over.

Criminal procedure. Agreed to.

Cruelty to animals. Agreed to.

Dog Tax. To stand over.

Game laws: Royal Game. To stand over.

Inquests. Agreed to.

Interpretation of laws. Agreed to.

Land Expropriation. To stand over.

Licences. To stand over.

Liquor. Agreed to.

Magistrate's Courts. Agreed to.

Magisterial districts. Agreed to.

Marriage laws. Agreed to.

Masters and Servants. Agreed to.

Mining laws. To stand over.

Native Branding law. To stand over.

Police. Agreed to.

Prisons. Agreed to.

Public Health. Agreed to.

Railways. Agreed to.

Stock Diseases. To stand over.

Stock Thefts. Agreed to.

Undesirables. Agreed to.

Mandate. To stand over.

The Conference was adjourned at 6 p.m.

The Conference resumed at 10 a.m., on Thursday, 19th July, 1923.

The Administrator: When we rose yesterday we were discussing the second schedule to the draft agreement, and we practically agreed to the whole schedule. Only a few items were left over for consideration to-day. I believe Mr. Drew has a suggestion to make in regard to a new procedure. I think it would be as well if he submitted his proposal now, but I hope we will be able to come to a conclusion this morning so that the agreement can be carefully typed out and checked and read over for your signature to-morrow, because I presume you will want to go back by to-morrow night's train. Then I understand there remain a number of other questions which do not fall to be incorporated

in the agreement, but upon which you would like to submit your views to me. As soon as we can come to a conclusion on the agreement, and while that is being typed out, we might discuss the other questions. I just wish to make a short statement as I am anxious to meet you as far as possible, before Mr. Drew makes his proposal. I have been considering some of the points you raised yesterday. I am prepared to include a clause or paragraph in the agreement which will provide generally that in any matter arising out of this agreement the Raad should approach the Administrator in the first instance, and if no satisfactory agreement is arrived at then the Raad will be at liberty to petition the Union Parliament. I presume that that will meet your case.

Mr. Dewdney Drew: In what form may the petition be made? Can a letter be addressed to the Prime Minister, to be placed on the Table of the House?

The Administrator: I am prepared to do anything you wish in this respect, but I cannot compel the Prime Minister to place the papers on the Table of the House; and for this reason I mentioned the Union Parliament, to strengthen your case.

Mr. Dewdney Drew: That meets us.

The Administrator: With regard to the Branding of stock, it is absolutely essential to apply that law to the Gebiet. I have already pointed out to you the difficulties of identification in the case of stock thefts unless the law were applied to the whole of South-West Africa; and I want to avoid friction between your Gebiet and the rest of the country. I would like to point out to you also the advantage under that law. Unless stock is branded it cannot be exported to the Union. This condition has been imposed by the Union Government. At present the Union is our only market; and I am sure you do not wish that closed to you simply because of the branding restriction. Unless therefore the law is applied to your Gebiet you will not have the benefit of that market, and that, I think, will be a mistake. I have taken into careful consideration what you have said in regard to branding irons, and the fact that some of your stock is already branded by owners who still possess that stock and who own their own brands. Under the new law you would be put to the expense of getting new branding irons. I have suggested that the law which is applicable to the European should be made applicable to your Gebiet, so far as your community is concerned, which would mean that every owner would acquire his own brand and keep it in his possession. Now, what I am prepared to do is this. All branding irons applied for before the 30th June, 1924, will be supplied to you free of cost; only you will have to pay the small registration fee, which will be evidence of your ownership of the iron. I hope that that will meet you in your difficulties there; and let me say thus at once—what I am going to say will apply also to the scab law and to any laws that are now applied or may in the future be applied to your Gebiet—that to some extent the application of some of these laws is experimental. We will have to see how they work; and I can give you the assurance that if the laws work in a manner that is irksome to you, and if my advice is that they can be modified so far as your Gebiet is concerned, then I will be quite prepared to discuss those difficulties with your Raad and to make necessary amendments. We cannot now foresee every difficulty that will arise. We must trust each other and later meet as friends when difficulties arise. This is the spirit in which I approach the whole matter. Then with regard to the Dog Tax; I have decided to meet you in that respect as follows: There can be no differential treatment in your Gebiet from the rest of the country. When this law was first made, it was made with the object of putting an end to the indiscriminate destruction of game, and in the second place to put a stop to the means of livelihood made by some people, who are no good to themselves or to the country. It was a well-known fact that people kept thousands of dogs when I came here for the sole purpose of getting game for them; but I promised the public—both the Europeans and the other sections—that as soon as an improvement was reported to me, I would reconsider the law. As you know in 1922 the licence fees were reduced by 50 per cent. because there was an improvement. At that time I promised the people that as soon as there was a further improvement, I would consider a further reduction. I made this promise on my recent tour through the Gobabis district; and now that you have brought the question up in this pointed form, I have decided to reduce the dog tax again by another 50 per cent. Dogs that are kept specially for hunting, such as grey hounds and others, we propose to specially tax, but for the rest I propose to reduce the tax by half, so that one dog will cost you 5s. per annum as from the 1st April, 1924. I propose to give instructions that the dog tax law will remain in force in your Gebiet as at present until the 31st March next. In terms of this no dog tax will be collected in your Gebiet under our law between this and the next financial year. The whole question still remains in the hands of the Raad because the money will be paid to it, and it can either remit the collections to the people or use them for improvements or other advancement in the Gebiet. With regard to the application of the Stock Diseases laws, I think we can agree to eliminate paragraph 16 from the draft agreement. We would then merely leave the stock diseases law and the regulations as at present in the Schedule. That will make their position very flexible. It will enable me then to discuss with you in

which respects you find the regulations are irksome. We can talk about those things from time to time, and where possible we can amend these regulations or the law. I think those are the only difficult points between us, and I have tried to meet you. I have gone very far to do so. There is, I know a strong difference of opinion that I am perhaps too lenient in some respects, but I am anxious, as I said before, to meet you in as liberal a spirit as possible. I hope therefore that you will see your way to accept the position as I have stated it, and that this will now facilitate and shorten our discussion on the remaining points in the draft agreement.

Mr. Dewdney Drew: I am sure we are obliged to you for the substantial concessions which you have seen fit to make.

The Administrator: There is still the question of the game laws. There is a mistake in this—a clerical error in the Schedule. The laws should apply to the Gebiet so far as protected and big game are concerned. You will see that that is obvious. I know you are as much concerned about the preservation of our big game in the country as the Europeans; but of course you remain perfectly free as regards small game. If the Raad wishes to impose a small fee for the shooting of small game, you are at liberty to do so and to take the money. That is an illustration of how your Raad can raise money in the Gebiet. Although I cannot put this in the agreement, I am prepared to allow your Raad to shoot a number of big game every year without a licence—say 12 or so. Royal Game would of course be excluded. You would have to inform your Magistrate to whom permits have been given to allow the shooting of game only in every open season. This is an exceptional privilege that is made in your favour, and I hope you will appreciate it.

Mr. Dewdney Drew: I am sure the concession Your Honour has been so good as to grant, and also the spirit in which you have done it, is recognised and appreciated by the Volksraad. There will, however, be some questions which we want to put before certain of these laws are gazetted as applicable to the Gebiet; but as the principle of applying the laws has already been adopted, I regard these questions as merely a matter of procedure. If Your Honour feels that you have the time to spare to discuss such matters as scab, public health and a portion of the game laws, the Raad will be pleased to wait on Your Honour. But we know that your time is short, and the Raad also desire to leave not later than to-morrow night if they can; so I would suggest that we dispose of the constitution and go through the draft agreement clause for clause, on the understanding that it is left open on the question of the boundaries. We would like to put before you just a short view in regard to that question when we come to it, and see whether it is not possible very largely to come to an agreement on that point as well. If we were to follow that course we will not be able to discuss the new laws, but each law could be added to the schedule as agreed upon; and I suggest a further consultation if necessary could be deferred. The procedure and the conditions already laid down must ultimately be settled in regard to each law. Perhaps some of the consultations could be conducted through the medium of the local Magistrate.

The Administrator: So far as the procedure is concerned, I welcome the suggestion made by Mr. Drew, and I would suggest, if possible, that we complete the agreement during the course of the morning. At 3 p.m. we could meet for the discussion of such of the details as you have referred to when the officers of the different Departments concerned could be present—such as the Senior Veterinary Officer and our Medical Adviser. I am in disagreement with Mr. Drew when he suggests practically that we should leave the schedule out of the agreement, or rather to leave it in skeleton form, to be discussed from time to time and gradually to fill in the schedule. I do not think that that is a practical way of doing it. We know all the laws that are in force. I have a list of laws here for subsequent discussion with you which I have left out of the schedule. The laws which I have included in the schedule are absolutely essential for the general machinery of government, and yesterday we practically approved of the whole schedule, except the few laws on which I told you this morning how far I was prepared to meet you. I told you in what way we would discuss the actual working of these laws, and the extent to which I was prepared to meet you in regard to any difficulties you might encounter in the administration of those laws in your Gebiet. Take the list of laws that I have left out. They are the laws that I should discuss with the Raad first because they are not at present absolutely essential for the general machinery of government. There is for instance the law in regard to the Administration of Estates; the Estate duty Proclamation; wills; insolvency, bills of exchange, census Proclamation, Deeds Registry Proclamation, Medical Practitioners, Law Society, Public Service, Education, Shop Hours, half holidays, public holidays, Sunday Trading, The Lord's Day Observance, Stamp Duties and Fees, Prevention of concealment of birth, Girls and Mentally Defective Women's, and the Usury Proclamation. I mention these to show you that there are a number that have not been included in the schedule and that should be discussed with you, to see whether they should be applied to the Gebiet or not. I propose also to include a clause in the agreement to the effect that it will take effect on the 1st October this year, from which date all laws included in the schedule should

come into force in the Gebiet with the exception of the dog tax law which will only have effect from the 1st April next year. Then as to the administration of those laws in regard to which you see difficulties, these can be discussed this afternoon and if necessary to-morrow morning when the various responsible officers will be present. We will then be able to see in what way they will be administered and how they work. We can effect improvements where necessary to the mutual satisfaction of both yourselves and the Administration, I would therefore suggest that we begin where we stopped yesterday, namely, to consider the few laws that are standing over. We can see whether in the light of the explanation I have given you are prepared to fall in with my suggestions. The first law is the Branding law.

Maasdorp: Were the laws as contained in the second schedule already applicable to the Gebiet?

The Administrator: Some of them are in force already. The position is that the Union Parliament and the Administrator have unlimited powers for making laws also in your Gebiet. We are now consulting you people in regard to the application of these laws; even the laws which are already applicable to your Gebiet and which are included in the second schedule. I mention this to show how far we are going to meet you. It is a sign of our goodwill and our earnest desire that the future relations between us should be peaceful. On the question put to me, I can definitely answer that many of the laws are already in force in the Gebiet. We don't want to come back to this whilst Colonel de Jager is present. The newspapers are full of all sorts of things many of which are untrue. These refer to the dog tax, branding and stock thefts. They allege that the Gebiet is the hiding place for thieves and a refuge for people who keep a lot of dogs. A Bastard usually kills his game with a gun. The records of the Magistrate will show how many stock thefts take place in every district during every month throughout the year. The stock thefts law is one which is altered almost every year. Mr. Louw has introduced a new law in Parliament now. We do not approve of thieving. The public health law is one of the first that the Raad should discuss with the Government because it is a question that affects the welfare of the people as a whole. This law cannot be applied to the Gebiet as it stands, and for this reason we have promised that we would act according to local circumstances in the administration of the law. The Medical Adviser should be present when the regulations are being drawn up. He will be of great assistance to us. The stock diseases law is also one that affects the welfare of the whole community. Lately there have been one or two unpleasant incidents. As we are not all inspectors who have microscopes and other things, we cannot see as well as they can what is wrong. It is therefore most desirable that the Senior Veterinary Officer should be present when we discuss this law.

Maasdorp: Everything possible is being done to comply with the law, by the Rehoboth burghers.

The Administrator: I am very pleased to hear what Mr. Maasdorp has said, because it gives me the opportunity of remarking that I have never yet believed what has been alleged against the Rehoboth community. I am therefore anxious that they should meet us and assist us in the application of these laws, because that is the only way to prove to the world the untruth of all the accusations that have been made against your people. Under these circumstances I understand there will be no objection to the branding laws being included in the schedule, subject to the promise I have made in regard to the issue of branding irons, and if you approve of this Proclamation it naturally follows that the Native Branding law will also be included.

Mr. Dewdney Drew: It should be clearly understood that although they agree to the inclusion of the laws in the schedule, they will be able to discuss the method of their administration with you later.

The Administrator: I can only say that I have already given you the assurance that it is my desire that the officers of my Administration should go fully into the manner in which these laws should be applied in your Gebiet, and that they will consider any difficulties that you might raise. I give you the further assurance that if amendments can be made with safety, so long as the object of the law is not defeated, I shall do everything possible to meet you. I cannot give you any further assurances than these.

The inclusion of the branding laws was then agreed to and the consideration of the other outstanding laws proceeded with.

Customs and Excise: Agreed to.

Dog Tax: *Beukes*: I wish to know about the dog tax. Will the Police still collect the tax, or will that be done by the Raad?

The Administrator: That is a matter for the Administration.

Jan Mouton: The Raad should collect the tax.

The Administrator: I am anxious to meet the Raad. If they wish to collect the tax, that could perhaps be arranged.

Beukes: Every farm should have one dog free.

Big Game Proclamations: The Administrator explained that Royal Game might not be shot under any circumstances. He also informed the Raad of the number of big game that can be shot under a licence.

Maasdorp: Could we not be allowed to shoot big game on our farms without a licence?

The Administrator: No. You must have a licence. Nobody can shoot big game without a licence. You can shoot small game in your Gebiet without a licence. Nobody else may shoot in your Gebiet whether in possession of a licence or not, unless you have previously given the necessary permission. The inclusion of the Game laws was then agreed to.

Land Expropriation Proclamation: Agreed to.

Mining laws: Agreed to. The Administrator promised to consider the question of allowing Bastards to prospect within their own Gebiet. The Raad denied the existence of the agreement of 1912 relative to mining rights in the Gebiet. Even after the original document was produced to them—which contained among others Albert Mouton's signature—he showed a disposition to dispute the matter; but the remaining members of the Raad were satisfied as to the genuineness of all signatures of the Bastards to the agreement.

The Administrator: We will now revert to paragraph 1 standing over. This paragraph deals with the boundary question, and I understand Mr. Drew has a short statement to make on this matter.

Mr. Dewdney Drew: I desire to add a few points to those already made on the question of the land of which they were deprived by the German Government, and then, having done so, to submit a proposal for Your Honour's consideration. The Raad as you have seen aver that they agreed to the existing boundary under pressure, and observe that there is a good deal in the records of the German Administration that makes them suspicious on that point. We have a difference in the constitution of the Volksraad in the matter of the registration of farms. As Mr. Harry Drew pointed out in regard to certain four farms, they were all registered as sold by the Raad. Only one had a servitude registered against it, but according to the laws such farms can only be sold with the consent of the Raad. I trust Your Honour will again take that fact into consideration. The latest information we possess is to the effect that the land west of the German line originally belonged to the Rehobothers. We have the evidence of the living witnesses. There is a map printed in or about the year 1886 or 1887 which shows a portion on both sides of the German line as coloured (Bastards) property. This map was printed by a leading London publishing company and is in possession of the Raad, but I regret that we have not got it with us here. Then we have the Proclamation of Maherero as to which I have here the evidence that is supplementary to anything that has yet been brought to Your Honour's notice, namely, that of a certain Mattheus Gertze at present an Elder in the Lutheran Church at Rehoboth. The evidence was read as follows:—

Vide Document "A" attached to Annexure "A" to Reply to Memorandum of Mr. Dewdney W. Drew.

I drafted a memorandum the day after Mattheus Gertze had made the declaration on the 16th August, 1922. My note is to the effect that in going through his evidence with him this morning he makes clear his meaning in the concluding sentence, this being that the German Government knew quite well that there was nothing to be said against the Cession to the Rehoboth Bastards by Maherero, nor against the declaration of Hermanus van Wyk which I have not got with me, as to the circumstances in which the land was granted by Maherero, but Mattheus Gertze states after the Germans had had the assistance of the Bastards in winning their various wars against the surrounding tribes they unlawfully cut into and took away their land. Now the manner in which Mattheus Gertze describes the boundary agrees with Maherero's Proclamation and roughly shows that the western Territory extended practically to the sea. How far the eastern boundary goes he describes also, showing that it was as far as the Schaap River and from there to Lekkerwater through the sandhills in a direct line with the Fish River. The eastern line was that occupied by Barnabas the head of the Rooi Nasie, as Capt. Hermanus van Wyk has stated in his declaration. After sifting the evidence there can be no question that the land to the west was in possession of the Rehobothers up to the date mentioned. This indeed seems to be the information of the Commission which you appointed a few years ago, and which refers to the evidence given in this matter of the western boundary by Albert Mouton. Mr. Mouton said that we do not dispute that various agreements on the boundary question were made with the German Government nor do we deny our signatures, but we say we were forced by circumstances to sign. The Commission said they did not feel entitled to consider this question. The claim they describe as being of a stupendous nature as it was to upset existing agreements and raise issues outside of the terms of reference; but in their report to you on the subject they say we have not been able to trace among the old German records any evidence in support of the Bastards' claim, although there is no doubt whatsoever as a result of the wars with petty tribes and particularly the one with Jonker, the

Bastards at one time actually held a larger extent of land than what they now have. I invite attention to the information of the Commission that the Rehobothers at one time had a larger territory than to-day, but the question as to whether that territory could be allotted to the Bastards was too big for the Commission. Then on the question whether the Bastards signed under pressure, the Commission had the statement that we were compelled to sign—that it may or may not be correct; but the documentary evidence at our disposal goes to show that whenever such questions were raised between the Bastards and the German Government, the former were always asked to send their representatives to meet the German Government on the spot. The matter was then gone into and usually resulted in the signatures of both parties being attached to the agreement. We consider this throws a little more light on what transpired yesterday, and I think it backs the contention of the Raad that the documents were signed under pressure. It appears from the letter of Cornelius van Wyk and also from the letter of Governor Leutwein that an appeal had been made against the boundary line as drawn up by the German Government.

Mr. Smit: The deductions made by Mr. Drew from that letter are incorrect. The letter stated that they would have to abide by the line as drawn by the Government.

Mr. Dewdney Drew: Mr. Smit is not correct in stating that they would have to stand by the line as drawn. Governor Leutwein indicated to the Raad the decision from Berlin which was to the effect that they must abide by the line as shown there. Some correspondence had already passed between the Raad and the Acting Governor von Lindequist, and it is not surprising in view of the tone of that letter and in view of the decisive answer received from Berlin that the boundary was not alterable; and in view of the demand for an apology in respect of what seems to have been quite innocent behaviour on the part of the Kapitein, that the Raad felt there was practically no option but to sign. Apparently they did so only after Berlin had taken the case into consideration. They stood to lose the whole Treaty protection they had, had they not signed that document. It is corroborative evidence of their having signed under pressure, because there is no mention of compensation. It speaks for itself that a nation does not surrender half of its possession without compensation. There was a clear infraction of the Treaty entered into between the Kaiser and the Chief, and it was in my view made on the one side. I will not go further into the questions of evidence, except to say that an enquiry would reveal a good deal more. There lives at Somerset Strand a Miss Kreft who has in her possession, I am informed, a diary which was kept very carefully indeed by the late Rev. Heidmann of Rehoboth. It seems to me very probable that as he was interested in the first place to get the Treaty with the German Government signed, and as he was present at Rehoboth at the time the alleged infraction took place, that entries bearing on the subject may be found in his diary. The only further thing I would remark upon is the spirit in which the German Government dealt with documents that passed between non-Europeans. Governor Leutwein said to Kapitein Herman in the presence of Mr. Pieter Mouton, who sits on my left, that he would accept documents which Europeans had signed as evidence, but that those which only bore coloured men's signatures were valueless. Mr. Mouton also remembers the persons that were present when the Maherero concessions were signed. I can deal in detail with Governor Leutwein's objections to the Treaty. They appear to me to be rather superficial as when he says that Swartbooi had an unduly large area at Rehoboth he had lost it. Swartbooi according to my information was really a Chief under Maherero. He was driven out of the Rehoboth area by a hostile Chief with a rifle and willingly confirmed the concessions made by Maherero. But Swartbooi received another area in exchange, and was glad to have Rehoboth between him. There is another claim that is of importance, that is the claim of conquest. At the time when the Union troops entered the country the Rehobothers were discovered by them in possession of several parts of the disputed Territory. I think an interesting point in the constitutional law here creeps in. The Rehobothers owing to their vitality—to the old ties with the Union—withstood the assault by the German troops. Their peril was extreme, but providentially they were able to hold the enemy at bay until the advance of General MacKenzie, leaving them by the recognised laws in possession and therefore victors. They took possession not only in the capacity of victors but, I submit of British subjects. They had reluctantly given up their British citizenship or rather had acquiesced in being deprived of it as a working reality for no other reason than that the Queen felt she could no longer accept responsibility for them and handed them over to the German Emperor. If people were ever entitled to recognition of their lost citizenship it is a people who base that claim on their blood that they have shed to withstand the enemies of the country to whose citizenship they ask to be readmitted. The point is a new one of constitutional and international law, and the Rehobothers must be regarded as being in rightful possession of that property in so far as conquest can give title as the Union troops in the rest of the country of which they took possession, and in any case the grounds on which they claim to have this land is a question which should be dealt with by the Union Government as if they were friends and allies who had given the last proof of their loyalty by their losses and sacrifices; and in that sense they are entitled to sympathetic considera-

tion. I would point out in conclusion that if the test of how much land is to be conceded to them is to be the area they held under their existing rights at the time of the Union's entrance or rather the areas last marked off by the Germans in their favour, then it would follow the more they had been wronged by the Germans the more we were entitled to keep. We are perfectly sure that is not the spirit in which you or the late General Botha regarded this question, and we ask you to take it into consideration. The Territory officially recognised as the Gebiet to-day is probably less than half of what it originally was. While we know that existing rights have to be recognised we do make an urgent and respectful appeal that Your Honour will consider the question of the extension of the official boundaries as far as is practicable, and I conclude with a suggestion in alternative form. One of the two suggestions would be that Your Honour orders some special investigation to be made taking up that aspect of the question which your previous Commission did not feel justified to investigate, and that it should be a Commission with powers to call the attendance of witnesses and the production of documentary facts. The other suggestion is, since an inquiry would be rather a tedious one, and since we are mutually desirous of coming to a final understanding, the consideration of the renunciation through the Volksraad of all land lying westward of the official line, while Your Honour would open for their settlement the south-eastern portion into which the "Schuld plaatse" intrude. We will put it to Your Honour for consideration to assist the consideration of this request on your part, that as regards these so-called "Schuld plaatse," the Raad would be prepared, if possible, to purchase the farms themselves. They recognise that you are treating them in no unhand-some manner with regard to the farms in the Gebiet, and they feel they should also help themselves in this matter. It might not be beyond their reserves to purchase these farms if Your Honour will superintend and assist them to get money; and the reason why we would desire Your Honour's careful and sympathetic consideration of this request is that you, no more than we, can ignore the prejudice that exists amongst many Europeans against the acquisition of land by non-Europeans. We conceive it rather doubtful whether the acquisition of any considerable tract of land in the European parts of the Territory will be practicable; but it would be following the analogy of the ear-marking of nearly 1,000,000 acres of land in the Kalahari for the occupation of coloured people. A definite piece of ground is there guaranteed to the coloured people of Gordonia. Whether they will ever get any more is very doubtful. Certainly there is no prospect of their getting any more Crown land. Seeing, therefore, that the Rehobothers have been deprived of perhaps the larger portion of their Territory unlawfully by the Government which should have protected them; seeing that they have given such striking proof of their loyalty to the Union Government, and seeing the difficulties, both political and otherwise, that will hinder their acquisition, if not effectually prevent it, of land outside the Gebiet, they desire, as I have said, your sympathetic consideration of this request. They would accept that as a final end of all questions of their land, with just one reservation which is of a minor nature, and that relates to one farm on the western side which they call "Sterfplatz," where they can send their horses in the horse-sickness season. They possess a letter received from Sir Howard Gorges, saying that the Union Government would be prepared to give them such farms as might officially become the property of the Government.

Maasdorp: Sir Howard Gorges said that we could keep the property which we took from the Germans, and which belonged to the German Government.

Mr. Smit: That had nothing to do with fixed property.

Mr. Dewdney Drew: I misunderstood the position there. They would like to get some pastoral land on the western side which might enable them to save their horses during the horse-sickness season.

Maasdorp: The Raad still believes that that answer came from Berlin.

Mr. Smit: It is a letter on record.

The Administrator: Mr. Drew has made a very long plea on your behalf with regard to this boundary question. He will not take offence when I say that he has touched on matters relevant and otherwise. That, perhaps, is unavoidable in an informal discussion like this, and one therefore should not mind that. We will adjourn for lunch now, and I will give you my reply at 2.15 p.m.

The conference was adjourned at 12.40 p.m.

The conference resumed at 2.15 p.m.

The Administrator: Before I reply to the representations on your case in reference to the boundary question, I would like to say that I have looked into the question as to whether you will be allowed to prospect under the mining laws in your Gebiet, and I find that as the law now stands, there is nothing whatsoever to prevent you from doing so. You are entitled as much as anyone to apply for prospecting licences and to carry on mining operations subject to the laws. Now, with reference to the boundary question, Mr. Drew has referred at some length to the attitude of the officials who acted here on behalf of the German Government. I do not hold a brief for those people, but at the same time I do not feel myself called upon specially to defend them, though I would like to say that

the impression made upon me by the whole correspondence is that there appears to have been considerable misunderstanding. Undoubtedly the German Governor took strong objection to the fact that the Kapitein of the Rehoboth people did not meet him at the appointed place to discuss the question, and in the absence of any satisfactory explanation from the side of the Kapitein or the Raad, I can quite understand that a man in the position of the Governor of the country, with all the multifarious duties that he has to perform—that when he took the trouble to go out there to meet the Raad personally—he certainly had cause for a certain amount of irritation. I find, for instance, that even after he had taken the Kapitein to task for his conduct in the matter, he said in his letter in regard to the boundary north-west as laid down by the Regierungsrat, as far as Nauchas was concerned, the Bastards would have to abide by that. The boundary from “Nauchas” to “Bullspoord” would be left an open matter, and together with von Lindequist he would visit Nauchas on the 10th September, 1898. “You are requested to meet us there. Should the Kapitein have any further request as to this boundary he may come himself to submit it or be represented.” As I understand the German law, it was this—where an appointment of this character is made for two sides to meet at a certain place to settle such a question, the actions of the absent party are taken as implying consent to whatever is done. Now I must say that this subsequent letter does not suggest to my mind that the Governor Leutwein was actuated by any feelings of hostility or unfriendliness. I feel it my duty to say this because, to fairly view the position at this distance of time, when you make such a cardinal question of this boundary, it was, to say the least of it, strange conduct on the part of your representatives not to make either every possible effort to be there on the spot, or to send somebody at all cost to represent you on so important a question. Whatever may be the rights and wrongs connected with these negotiations, the fact remains that Kapitein van Wyk admitted subsequently that he was wrong, and he apologised to the Governor. Now, Mr. Drew has stated that in the treaty with Maherero the boundaries were indicated. I believe that is not in accordance with fact. The boundaries were not indicated, so far as I know, in his Proclamation. Mr. Drew has also referred to your loyalty to the Government. I can only assure you that the Government appreciates that very highly, and I appreciate your loyalty to the Administration very highly. I think my attitude towards you in this whole matter, involving in the first place the suspension of our laws until we had had an opportunity of discussing them together, and in the second place the long and patient discussions, is proof of our appreciation. This has been the attitude of this Administration because we believe your intention is to be loyal, and that you want to co-operate with the Administration and the Union Government in a friendly spirit. I wish, however, to point out to you that, while one appreciates the loyalty of a people, one should not be led away with the idea that such loyalty should be paid for. On the other hand, if you are loyal you can expect from the governing Administration the protection of such rights as you can prove you possessed, and in this respect I think the Administration has met you and has proved its bona fides. You have put forward a claim for the extension of your boundary, and you have based it on the possession of a larger area of land at an earlier date and on the fact that a contraction of your territory took place without your consent and against your will. Now you are asking not for the restoration of the boundaries as you allege they originally existed, but for land both on the west and the east of your Gebiet, as a measure of compensation for the land which you allege you lost in the manner I have indicated. There are insuperable difficulties in the way of granting your request. On both sides considerable portions of the land which you wish to be incorporated in your area is owned by private people, and is comprised of farms they have acquired by purchase, to which they hold undisputed title. I can see no reason for attempting to dispossess those people of their rights. Supplementary to that, or as an alternative to that, you are not quite clear on that point—you are asking me to declare those portions as areas in which you alone will be entitled to acquire property as it comes on the market. Mr. Drew has referred to the prejudice there is against the coloured people owning land in what may be styled white areas. That prejudice, we may take it, also subsists in this Territory, and if that is so then those white people who own these farms will immediately come forward with a complaint that by extending this right to you their properties will immediately depreciate in value. I just mention these few aspects of the question, not for the purpose of traversing the whole of the ground connected with this boundary dispute, but rather to indicate to you how impossible it is for this Administration to reopen the question. I did not wish to exclude any discussions in connection with this Treaty, that is why we have patiently listened to you; and we have on our side placed all the evidence we have on the table. However, as I indicated to you at the outset, this is a most difficult question. It is an impossible question, and I have come to the conclusion that it would not be fair to you to hold out any hopes of your boundaries being extended in the direction in which you desire. We would merely be laying up another store of discontent. There is an old English saying which is perfectly true, namely, “Hope deferred maketh the heart sick.” Therefore, if I were to accede to

your request to appoint another commission, I feel absolutely convinced in my own mind that I shall be setting in motion machinery which will raise hopes that can never be fulfilled, and so would remain a bone of contention, to the discomfort of yourselves and the Administration; and to some extent retard the development of the country and its peaceful occupation. I find that the commission which was appointed, and on which you had representation, made the following statement: "We found abundant evidence in the German records that the boundaries were always fixed by mutual agreement between the Government and the Bastards, and that these agreements were signed by both parties." In these circumstances, I feel myself obliged to adhere to the boundaries as fixed between you and the German Government. As already pointed out to you, while I take up that attitude, I have been considering for the last twelve months in what way we could in a measure remove your difficulties—that sense of injustice under which you tell me you suffer. I have come to the conclusion that it is impossible to extend the boundaries. But I have also come to the conclusion that it should go a long way to remove that sense of injustice—at any rate it should, beyond the shadow of doubt, establish our earnest endeavour to remove or minimise that sense of injustice—if we could remove all the white islands that at present exist in your Gebiet, and if we could thereafter prevent white people from purchasing land therein, so as to avoid conflict with your internal government and trouble in the future. Now I thought I had gone a very long way to meet you when I offered, as the opportunity presented itself, to acquire the farms mentioned, and to add thereto the Government farm, "Sandputz." I offered to present these to you free, with all the buildings and improvements made on them. There is no doubt that the people who occupy them at present have effected considerable improvements. These farms together would give you an additional area of approximately 77,000 ha. I thought myself that that was a very substantial measure of meeting you in this matter. Now you have raised the question of the inclusion in your Gebiet of a number of other farms. Well, I am prepared, in addition to the offer I have made you—and I would like to say here that this offer, of course, is made in the hope and on condition that we come to an agreement now, because if we don't come to an agreement now you will find that more farms will get into the hands of white people, and the position will become more and more difficult—we will enter into negotiations with the owners of these farms that I have mentioned, and if the owners are prepared to agree to it, to include those farms in your Gebiet, and to amend the boundary accordingly. A paragraph to this effect will be included in the draft agreement. Now, I would like to say to you that having heard the difficulties that I put before you, I hope you will agree to accept the boundary of your Gebiet as it existed according to your agreement with the German Government, and as we propose to fix it anew by law as set out in the first schedule to this agreement. It is useless, in my opinion, to keep this matter alive. We will only make ourselves unhappy—we will only hope for something we can never attain, and therefore, however regrettable may be the misunderstandings that have occurred between you and the German Government, I find it impossible to accede to your request to reopen this whole question, and I would appeal to you to accept such amends for these misunderstandings as I have been able to offer you, and thus close that chapter of our history and make a fresh start.

Beukes: We had a complaint in regard to the eastern boundary where Colonel de Jager went, and that has not been dealt with. It is in respect of "Lekkerwater."

The Administrator: I understand this and other farms were legally sold by you to pay off your debts.

Beukes: It seemed to us that the beacons were not right. The main boundary seems to run up on the mountain.

The Administrator: I will ask Colonel de Jager what he knows of the matter.

Colonel de Jager: Major Forsbrook, together with myself and a representative of the Raad, were appointed to investigate this eastern boundary. The point raised by the Raad was that the ground encroached too much on the railway line; and they were of the opinion that a much bigger area had been cut off than that to which the creditors were entitled. They were also under the impression that between the boundary line on the east and the block of "schuld plaatse" there was a small strip of land which still belonged to the Bastard Gebiet. Major Forsbrook and I were on this ground, and they showed us a few beacons there; and from there I returned to Windhoek. We then investigated all documents with reference to these transactions. We placed an enlarged map before the Surveyor-General, and asked if he could more or less compute the extent of this area. We then found that the difference was more or less 31 ha.—that is the difference between the area sold and as it was surveyed afterwards. We also found that the eastern line of the "schuld" farms is the eastern boundary of the Gebiet, so that there is no Bastard ground wedged in between those farms and Bastard area. All that remained then was that a surveyor had to come and indicate exactly how the boundary ran. Representatives of the Bastard Raad who were present alleged that there were more beacons which confused them,

and they asked that the investigation be deferred. With regard to the difference of 31 ha., that falls under the general clause—namely, where there is a difference of less than 5 per cent., no notice is taken of it. That is the position.

The Administrator: We are now on paragraph 4.

Mr. Dewdney Drew: I would ask that a decision hereon be deferred until we have gone through the whole thing.

The Administrator: Clause 4 is accepted.

Clause No. 8.

Maasdorp: Under this clause the magistrate has all the powers.

The Administrator: I will explain. The case is first heard before your own magistrates or judges. If, then, either the plaintiff or defendant is dissatisfied, he notes his appeal. Then we say the Court of Appeal will consist of two of your judges, and to their number is added our magistrate, who together act as the Court of Appeal. If the three cannot agree, then the magistrate gives the decision. If then the parties are still not satisfied, they can appeal to the High Court.

Maasdorp: We understand that.

Clause 8 was then agreed to.

Mr. Dewdney Drew: Your Honour, I think you have had direct from them evidence of their earnest desire to meet you. I hope you will take this surrendered privilege on the part of the Raad as proof of their earnest desire to meet the Administration. The right to their magistrates to sit on the bench together with the magistrate of the Union Government accorded them a certain status. That they have now given up. I trust, and have every reason to hope, that they will find they have done this in their own interests in the long run. They have given evidence of faith in the Government, which I hope will not be overlooked.

The Administrator: I will only say I realise that this was a concession of considerable importance that we asked them to make. That is why I referred to it at the outset. I said that that was one of the privileges I was going to ask you to give up in the common interest of the peaceful occupation of the country; and the manner in which you have met me places me and will place my successors under an obligation to meet you in the administration of our laws in your Gebiet in every possible way. We can now go on to paragraph 18.

Mr. Dewdney Drew: I don't know that this rightly belongs to an agreement like this, but would like an understanding on the subject. We ought to put something on record.

The Administrator: I am personally quite prepared to eliminate it if you wish it, and to apply our taxation laws from time to time.

Mr. Dewdney Drew: We know it will be a safeguard in the event of undue taxation taking place, but we hope this will not be necessary, and that they will never be taxed more than they can carry.

The Administrator: I don't want this question to be misunderstood. I say this because I am fully acquainted with your position—because I don't want to see the taxation laws generally applied to your Gebiet in all their rigour—that I propose in this paragraph that a taxation law shall only be applied after we have consulted each other. I hope that it will never be necessary to apply a law to your Gebiet without your consent, and that we shall always come to an agreement about that. After such a law has been applied to your Gebiet it will prevent the rest of the country from saying that you are carrying no obligations whilst you are enjoying all the privileges. It will quieten down such criticism in view of your peculiar conditions there. It will not press too heavily upon you; and in order to leave you alone as much as possible, I suggest that we should meet and agree that, instead of letting the revenue officers go into the Gebiet to collect taxes, we should come to an agreement as to the amount to be paid—I hope it will always be a moderate amount that you will contribute towards the revenue of the Territory as a whole.

Beukes: It seems rather funny to me. Why should we pay taxes when we are an independent race, as the Administrator has admitted?

The Administrator: We have to maintain a police force and other branches of the Administration for the good of the people in the country as a whole, and therefore you must, in common with the rest, bear your share of the taxation when such becomes necessary; otherwise the European community would have cause for serious complaint owing to differential treatment.

Maasdorp: If a man receives protection he must pay something. I see the Union Government contributes so much each year towards the Imperial Government's funds.

The Administrator: All local taxes will be paid to the Raad. Any taxes payable to the Administration will be decided in consultation with you.

Mr. Dewdney Drew: I think this provision is in the interests of the Volksraad. It governs all taxation that you have to pay directly to the Administration, and it will all go towards the services performed on your behalf by the Administration. All revenue of the Gebiet not required to be paid over for services to the Administration will go to the Raad. On the question of how much you are able to bear or how much it is fair to ask you to pay,

the Administrator undertakes that he will consult you; and he gives you the assurance of his intention to deal fairly with you in leaving you free, if you are dissatisfied, to make your petition to Parliament. You have your friends in Parliament, and they can speak on your behalf, so that in an indirect way this clause gives you representation in Parliament in view of the fact, as the Administrator has stated, that the Great Powers have given the Union complete legislative and taxation powers over the Territory. I think the Administrator is meeting you not unreasonably.

The clause was then agreed to.

The Administrator: We have finished now, and I just want to say this: I think the best thing for you to do now is to consider this contract as a whole. We have agreed to all the paragraphs now with the amendments that we have made together, but naturally the contract is not binding upon you until it is signed. So you have time till to-morrow to consider the whole thing calmly. I will in the meantime have clean copies prepared for signature, if after this further consideration that I have referred to you are prepared to sign the contract. Before we go any further Mr. Smit will read the three additional paragraphs, embodying what we have agreed to.

- (1) Should any dispute or difference of opinion occur between the Administration and the Raad in regard to any matter arising out of this agreement, the latter shall submit to the Administration a written statement setting out fully its objections or such representations as it may desire to make, and may thereafter, if necessary, make personal representations to the Administrator. If a satisfactory adjustment of the matter in dispute has not been found, the Raad may petition Parliament either directly or by way of address through the Prime Minister of the Union of South Africa, on such question.
- (2) If the owners of the farms "Ghamis Noord," "Arusis," "Niep," "Schlipmunding," etc., agree to be included in the Gebiet, the boundary will be altered to that extent.
- (3) This contract will come into force on the 1st October, 1923.

The Administrator: Before we start on the other business, if you sign the agreement to-morrow I propose to arrange with you for the celebration at Rehoboth of this great event. But at this moment I wish to place on record that I have made certain promises to you during the course of these deliberations. You have requested that you should be treated more or less on a basis of segregation, and that a special commissioner should be appointed to go through all your affairs and to be an intermediary between you and the Administration. I have undertaken to place this before the Prime Minister; and I hope it will be possible for us to arrange something in that direction. I promised you also that I would bring prominently before the Prime Minister your position as citizens, so that while you are still regarding yourselves as British subjects your position should be defined beyond any doubt; and I have also promised to make representations to him on the question of extending to you in some form or another the franchise when representative institutions are introduced in this Territory. These points I will not only discuss with the Prime Minister when I see him again, but in forwarding him this agreement, as I hope to do during the next few days, I will take care to place all these points on record, so that he can see at once that these were part and parcel of the negotiations which have led, as I hope they will lead, to the attainment of an agreement mutually satisfactory to us both. If you have no further observations to make on what I have said, I propose to ask the officers connected with the scab department, with animal diseases and with mining, to answer any questions in regard to the administration of those laws, and we can answer any questions on any other laws which appear in the schedule. I also wish to place on record in your presence that it is my desire that the laws which we extend to your Gebiet should be administered sympathetically and with tact, so as to avoid friction. It is my wish that the officers should study your conditions and meet them as far as possible. I need only say, in conclusion, that I appreciate very much the manner in which you have approached this difficult question, and the patience that you have exercised, and I am quite sure that through these mutual discussions our mutual confidence has been strengthened, and that we can therefore look forward to the future with hope, and trusting that the best has been secured for you and your children.

Mr. Dewdney Drew: I hardly need say, on behalf of the Raad, that the spirit in which you have received them and myself is greatly appreciated by us all, and we confidently expect that the understanding which has begun in the last two days will be preserved and will increase in the future and during the remainder of the term of your responsible office. I believe you will find that you have no more loyal, law-abiding or well-disposed community in South-West Africa than the Rehobothers. Naturally, I am not at this moment able to state firmly the decision that has yet to be come to by the Raad on the question of the

boundary, but without prejudice to anything that may be decided on this point, I am quite sure that the Raad would wish me to express their acknowledgment of your courtesy and consideration, and of the concessions accorded to them.

The Administrator: Mr. Drew, I only wish to say to you and the members of the Raad for whom you have spoken, that I appreciate your remarks, and I thank you sincerely for them. Mr. Frood is now here to answer any questions on the mining laws.

Maasdorp: We wanted some information regarding prospecting, and this the Administrator has given us. We want to know whether any prospector who holds a licence for prospecting in the Rehoboth district can go and peg off prospecting claims on a farm owned by a member of the Rehoboth community.

Mr. Frood: With regard to that—the whole country, including the farms, is open to prospecting, but the law makes very full provision for compensation being made to the farmer or the owner of ground for the use of the ground, and for any damage that may be done to the ground. It also prohibits prospectors from coming on a man's enclosed grounds, or within a certain distance of his building. Generally speaking, one should impress upon them that the law makes full provision for compensation for any damage done or for the use of the land, and for pegging for any time over three years.

Mr. Dewdney Drew: Does the law allow an owner to peg off claims?

Mr. Frood: The owner must be in possession of prospecting licences.

Mr. Dewdney Drew: What are the fees (royalties?) payable to the State?

Mr. Frood: The Administration takes 2 per cent. royalty on base or such other metals—not on diamonds.

The Administrator: In regard to diamonds: at the present moment our diamond taxation Act only applies to the diamond area, but I expect that if diamonds were found elsewhere in the country that law would be extended there.

Mr. Dewdney Drew: What is the fee for a diamond prospecting licence?

Mr. Frood: 2s. 6d. a month.

Mr. Dewdney Drew: Apart from royalties, there is nothing taken by the State?

Mr. Frood: Once you peg a claim you have to report it to the Mines Department within a month. I would point out that claims in this country are a very big affair; in the case of base minerals an area of 1,200 × 600 metres, and in the case of precious minerals 400 × 200 metres, which latter also refers to diamonds. I have made it clear that you must have prospecting licences from the magistrate, and you can peg just where you like in the district, apart from the reservations I have stated. Once you have pegged off your claims and have reported them to the Mines Department, they are registered. The licence fee for a registered prospecting claim is 5s. a month for base minerals, and 10s. a month for precious stones.

Mr. Dewdney Drew: What is the taxation in respect of copper?

Mr. Frood: The law is rather elaborate for people who don't understand it. When regular mining starts, then the royalty comes in. Regular mining claims are cheaper than prospecting claims, viz., 1s. per ha. for base minerals, and 30s. for precious stones.

Mr. Dewdney Drew: What would be the approximate royalty on precious stones?

Mr. Frood: The Administration takes 66 per cent. of the gross proceeds, and pays 77 per cent. of the working expenses.

Maasdorp: If this contract comes into force, the Gebiet will be open to prospecting. It has been closed up to now.

Mr. Frood: Yes.

Maasdorp: The magistrate will have to exercise caution, and not let anyone come and prospect there.

The Administrator: That should be the policy of the Department and of the magistrate. When once the law is in force, can we prohibit anyone from prospecting in the Gebiet on the ground of his being a suspicious character?

Mr. Frood: Yes.

There were no further questions to Mr. Frood from the Raad.

Mr. Goodall then entered the conference.

The Administrator: Mr. Goodall, the members of the Raad would like to get some information from you in regard to the movement of stock and the scab regulations. I may at once say that I have informed the Raad that in the administration of these laws in their Territory, we want to be as sympathetic as possible so long as we can meet the objects of the law, and we shall keep an open mind in regard to any alterations in these laws and regulations, to suit the local conditions.

Maasdorp: What are the export regulations?

Mr. Goodall: They would be exactly the same for them as they are for the rest of the Territory. What I presume they mean is the export to the Union. All those regulations are framed by the Union authorities. We have to act in conjunction with them. I can assure them their cattle and sheep will be treated the same as the Europeans', provided they conform to the law. I cannot go into the whole question now. There are several markets in the Union, the quarantine and the open markets. A very essential point in the open

market is that the beast must bear the owner's three-piece brand. That is the only condition under which the Union will allow our cattle to come into the open market. I will give them a copy of the regulations, and they can study them. They are printed. No difference will be made between their cattle and those of Europeans, so long as they conform to the law. With regard to the scab regulations, I can only say that the Union are watching us very closely, and we run a grave risk, if we send scabby sheep to the Union, of having the border closed to us, so it is our duty to get rid of scab as quickly as we can, from a business point of view. These regulations are intended to assist us to get rid of this disease. It is an easy thing to cure, and it is everyone's duty to try and stamp out the disease. We don't wish to persecute the people, but to help them.

Mr. Dewdney Drew: Does Mr. Goodall think it possible to arrange with the Rehobothers and the Veld Cornets for a simultaneous dipping?

Mr. Goodall: I would welcome that very much indeed. We are trying to bring it in now throughout the country, but of course you must understand that a thing of this sort, to be done at all, must be done well. It must be thoroughly done throughout the district. Everybody must do it at once. If the Raad undertake such a thing, I can promise them all assistance in my power, and I will go further than that: if you make your district clean, we will make it a semi-protected area. That means that any animals going into it will have to be specially treated before they come into contact with your animals. If you will help me in this, it will be of great assistance to us. As you know, dip can now be obtained at practically cost price from all police posts. That is not done in the Union—it only applies in South-West Africa, and you can have the full benefit of this privilege.

Mr. Dewdney Drew: We thank Mr. Goodall for his replies. Assuming a scheme were worked out between the Raad and Mr. Goodall, would the Administrator suspend a portion of the penal regulations up to that date, the date, etc., to be fixed by Mr. Goodall?

The Administrator: If Mr. Goodall can assure me that it will not interfere with our plans to eradicate scab, I shall agree to that.

Maasdorp: We would like a résumé of what a sheep inspector is required to do. The policeman is in a position to tell whether an animal has scab or not, because he has a microscope.

Mr. Goodall: Like most people, you have made a mistake. Any man can tell scab. The actual cause of it is a parasite. I can see it, and if others cannot a microscope serves the purpose. The inspector, to make quite sure, will take it under the microscope. You would not call a doctor a fool because he uses the microscope. Any practical farmer ought to know scab. I will be only too pleased, if any of you come to my office, to make you a present of some glasses, and show you how to use them, but you must not think that our inspectors carry about those glasses just to catch you. The glasses are only used to make quite certain.

Maasdorp: We are pleased to hear Mr. Goodall say that scab can be recognised with the naked eye.

Mr. Goodall: No man can be prosecuted unless the inspector can show a parasite. That is the law for everybody.

Maasdorp: If I cannot see, I am prosecuted.

Mr. Goodall: No magistrate will ever sentence on that condition. The idea of the law is to protect the man who requires protection and who is careful.

Maasdorp: Would it not be better for the Administration if the Field Cornets were to report scab to the Raad, and the Raad to the inspectors?

Mr. Goodall: So long as it is reported, it does not matter through whom the reports come.

The Administrator: When you are free to-morrow, the members of the Raad can go and see Mr. Goodall on all these questions.

The conference was adjourned till 11 a.m. on Friday, 20th July, 1923, it being arranged that Dr. Fourie would attend at 12 noon to reply to any questions on the public health laws.

The conference resumed at 11.15 a.m. on Friday, 20th July, 1923, when Dr. Fourie was also present.

Dr. Fourie explained the Public Health Act for the benefit of members of the Raad.

The Administrator: You desired to see some of the heads of departments in order in my presence to elucidate certain questions in connection with certain laws that will be applied to your Gebiet. I have now had here three heads of departments concerned, and I think you will agree with me that there is nothing like personal conversations with responsible officials. These will not only tend to remove the difficulties that face us, but will establish mutual interest and mutual confidence, and all I wish to say to you on that score now is that whenever you have any difficulties, whether they concern public health, removal of stock, stock diseases, administration of justice, or any other law, I am always prepared, when you make a special request, to send down to you a head official to discuss your difficulties with you and with the local magistrate. I want you to remember that,

and not to harbour grievances. When you feel aggrieved in any way, you can always go to your magistrate first, or to the official in charge of your district, and if, after seeing him you still feel aggrieved, you can write to this office, when I will give instructions at once to the Secretary that he is to authorise any head official to come and discuss matters with you and clear them up if possible. It is our wish, and the wish of the local magistrate, to further our mutual friendly relations; therefore the magistrate will never take it amiss if you request the presence of a head official. If a question is of great importance and you find it inconvenient to come up here to see us, even the Secretary, who is the highest official under the Administration, will be prepared to come and discuss matters with you.

Mr. Dewdney Drew: The Raad is very much obliged to you for your consideration in allowing them to see the various heads of departments concerned. They appreciate this, and the assurance you have given them of your readiness to meet them whenever necessary. If necessary, they will approach you personally.

The Administrator: I am always accessible to them.

Maasdorp associated himself with the thanks that had been expressed by Mr. Drew.

The Administrator: Let me add this: that has been my policy ever since I came to this territory. I have made it a point specially to visit everywhere the non-European people, and I have practically always said to them what I have just told you, but of course the opportunity to record it has not always been there. What I have said here must stand and must be carried out, whether you sign the Treaty or not. That has nothing to do with the signing of the agreement. That is part and parcel of my general policy.

Mr. Dewdney Drew: I am not in a position to give the final reply of the Volksraad on the proposals which you have been good enough to submit to us. Before I do so I would like to say that I had no conference with them since we broke up yesterday, except for a few minutes in these grounds. I asked them one by one to give me their individual opinion about the agreement. Their views were identical with mine, which I had reserved from them. I have written down in advance what I thought would be their ideas, and with your leave I will read them to you. (Mr. Dewdney Drew then read his statement). Vide Document B, attached to Annexure "A" to reply to Memorandum of Mr. Dewdney W. Drew.

The Administrator: I would like to analyse the statement just read by Mr. Drew, so as to get at its real meaning. I gave you my decision yesterday that I was unable to reopen the boundary question. To that I must adhere. Now in order to reduce the differences of opinion and what seems to me to be based on a misunderstanding, I would like to put the matter in this way. Are you prepared to sign without reservation the Treaty, except for paragraph 1? I have explained what my policy will be in the administration of our laws in your Gebiet. That cannot be made part and parcel of the Treaty, nor can it form a reservation to the signing of the Treaty. I regard a treaty of this character as a sacred document. Therefore, arising out of the statement just made, I want to know whether you are prepared to sign the Treaty as it stands without reservation, except for paragraph 1.

Mr. Dewdney Drew: Certainly, except in so far as the provisions of the last clause, Clause 19 of the agreement, are concerned: and one of the Raad suggests that the boundaries could be fixed by Proclamation.

The Administrator: I want a definite reply to my question. I would like to point out to you that it is a dangerous thing to make verbal reservations to a written document. Through that misunderstandings arise afterwards as to the precise meaning of verbal reservations, and just as much as it is difficult to allow you to make verbal reservations so naturally you could not accept verbal reservations on the part of the Administration. This document is the result of a compromise. There are a number of points upon which the Administration would like to make reservations, but I realise that that would lead to misunderstandings.

Mr. Dewdney Drew: They have no objection to the application of the mining and other laws. All I said was that there were points as to the administration of which there would have to be further consideration.

The Administrator: I understood from the statement made by Mr. Drew that he would like to make certain reservations that you would like recorded in the minute in connection with the signing of the agreement. If that is so—in order to reduce the differences between us—I want to narrow the issue so as to find out exactly where the difficulty lies. He has mentioned very specially the boundary question which is dealt with in paragraph 1, and that is why I put the question to you; and notwithstanding the statement he has made, any possible interpretation that may be put on it—are you prepared to sign all the paragraphs in the agreement without reservation, except paragraph 1. If that is so, I will come back to that. I don't want to take any advantage of the Raad. Reference has been made to paragraph 19 which speaks of the abrogation of all contracts between you and the German Government, except the one in which the application of the Imperial German Mining Ordinance to your Gebiet is acknowledged, in which you renounce rights to concessions, in which you are absolved of obligations, in which you are assured of a quarter of all royalties which the German Government can

claim on all precious stones and base minerals, excluding diamonds. I have explained to you that I have retained that in here to preserve to you the right to that revenue. Naturally if we make an agreement now it must be final. We cannot have all sorts of vague agreements in the air. Not a single one has been placed before us. The evidence which has emanated from this enquiry to which Mr. Drew has referred has in every instance only served to strengthen the views of the present Administration, and supported the attitude it has taken. Therefore whatever agreement we arrive at now that must be the final charter to guide us in the future in our relations. Now I understand from Mr. Drew that he did not mean by his statement to impose any reservations and I presume now—I hope I am correctly interpreting what he meant by that statement—that you want to preserve the right to re-open on your own account hereafter the boundary question. I would like to point out to you that that clause which is the crux of the whole question, does not deprive you of the right on your own account to re-open the boundary question. All that clause says is that the Administration acknowledges the right and title of the Rehoboth community to the land at present occupied by it within the boundaries of the Gebiet as defined in the first schedule hereto.

It does not take away the right of appeal or to re-open the matter. It may be that Mr. Drew has drawn an inference from this that you are deprived of the right if you wish to approach the authorities hereafter—either myself, or the Prime Minister of the Union Parliament, but that is not what this clause means. The only thing that I wanted to make clear to you was that I could not as an inducement for you to sign this agreement, promise to re-open the boundary question.

Mr. Dewdney Drew: On that point I would like to say that my statement said nothing as to what clauses should be signed—but merely that we could not accept as a settlement of the boundary question what was defined in the first schedule. But that left out and anything else that would prejudice our case in going further in regard to the boundary question omitted, we could sign the Treaty. The last clause seems to contain something which would in practice deprive them of that right.

The Administrator: We appointed a Commission on which the Raad was represented. We have searched all the documents which we have in our office, and we have found nothing to strengthen your case. You were unable to prove your case before the Commission. If there are any agreements which you consider of value, they ought surely to be in your possession. If there are any treaties in existence, which would impose obligations upon this Administration or on the Union Government as the successors of the German Government, then these should have been put on the table now. But we must come to an end on all these vague allegations of the existence of agreements. We have acknowledged the obligations in the agreement of 1885 between you and the German Government and subsequent agreements. I have endeavoured, as I pointed out to you, to incorporate all the rights that you possessed under those agreements in this agreement. I have pointed out to you that under this agreement you get a number of rights which you could not claim under the former agreements, such as for instance the right of consultation. But now if those agreements are incorporated in this document then surely your common sense must tell you that there must be a clause in this agreement to say those agreements are at an end, and that this treaty takes the place of those agreements. It is consequently impossible for me to eliminate this clause; but in one of those agreements there was a clause in regard to your share of income from mining in your Gebiet, and in justice to yourselves I was obliged to say that you must continue to enjoy that right, and that is what this paragraph 19 means.

Mr. Dewdney Drew: But this paragraph takes away from the Raad the right of appeal, which they had under the Treaty with the Kaiser.

The Administrator: I have said that Mr. Drew wants to have his pudding and eat it too, in that he wants me to keep alive the Treaty or certain provisions that he reads into that Treaty, and to incorporate them into the agreement which is expressly designed to take the place of the previous Treaty. That is beyond me to understand. If he wishes to refer to that Treaty as an obligation which I no longer acknowledge after the signing of this agreement—if he wishes to refer to that document for what it is worth in the prosecution of any future claims in connection with the boundary question. Naturally it is open to him to do so. I have given you my decision on the boundary question. I have given you time since yesterday to consider whether you want the agreement as it stands or not. I have given you a very patient hearing before we came to a conclusion on this agreement, and I think it is for you to say whether you accept the agreement or not.

Mr. Dewdney Drew: As I understand the position, it is that the moment the draft agreement is signed the treaties with the Kaiser fall away. Anything in the clauses of previous agreements is regarded as dead and gone.

The Administrator: The issue is a perfectly simple one. You must either sign the agreement without any reservation, or you must leave it. If you desire further time, I will give you till 3 o'clock this afternoon.

Mr. Dewdney Drew: Let us take Clause 1. It does not bind the Raad to accept the final settlement of the demarkation of the boundaries as laid down. The only point which

to my mind is material, is to what extent the signing of Clause 19 will put the Raad out of court when referring the question of the boundaries to the Union Parliament. Will it stop them?

The Administrator: I have explained Clause 1 to you, and I think you are in a position to understand it. I will again read you Clause 1. The Administration does not say that they don't recognise any other rights which you may have.

Maasdorp: Cannot we resume at 2 p.m.?

The Administrator: We don't want to go into the whole business again.

Maasdorp: We have a full Power of Attorney to act for the community. If we have the assurance that the boundary question remains open, and that Clause 19 does not adversely affect us, then I see no reason why we should not sign the draft agreement.

The conference was adjourned at 12.30 p.m.

The conference was resumed at 2.30 p.m.

The Administrator: Before we resume I would like to say one word to you. Even at this eleventh hour, when we are all tired and exhausted we must pull ourselves together and exercise a little more patience. If there is any way to be found out of this one difficulty that Mr. Drew has raised, I am prepared to consider that question; and I would therefore say this to you, that if we cannot come to an agreement this afternoon I am prepared to continue the discussions even if they go into next week—even if it means that all arrangements for my trip to the north have to be cancelled. We have taken so much trouble over the matter, and so much depends on whether we come to a decision or not, that I do not wish to hurry you.

Mr. Dewdney Drew: We thank you for having expressed the willingness to again consider this question, but we do not think it necessary to try your patience any longer. We have taken legal advice from Mr. Advocate Toms on the one point—which is purely a legal one. Having seen the draft agreement and a copy of the former treaty with the Kaiser, he advises that a very short amendment would enable us to sign the agreement without any reservations whatsoever. It means the insertion of a few words in Clause 19. With your leave I will read the Clause as it would read with these words added "All agreements and treaties heretofore existing between the Rehoboth people and the Kaiser, including the agreement entered into between the late German Government and the Raad of the Rehoboth community in September 1885, in so far as it may relate to the boundary rights, or previous treaties covering such rights, etc."

The Administrator: A new proposal has just been made on your behalf, and it may become necessary for me to discuss the same with my legal advisers, but before deciding as to whether that is necessary or not it may be advisable to clear up one or two points in connection with this matter. We have endeavoured to arrive at an agreement, which will be the charter between ourselves. In this we have avoided the boundary question, because as you know I have had to take up the attitude that I could not admit the alleged promises that there was a right to a larger area than that solemnly agreed upon by the Rehoboth community and the late German Government. A commission sat more than 12 months ago. It was appointed by me expressly to elucidate that question. The Raad was represented upon that Commission. The Commission was unable to find in favour of your contention. At the same time you have made it clear to me that you have felt this alleged contraction of boundary, however it was brought about, as a grievance; and I have pointed out to you from the outset that while I was unable to admit your claim in that respect, I have been busy for a long time to see whether I could devise some means of removing that alleged injustice. To that end I have offered to acquire these eight farms within the Gebiet as recognised by us, and to present them to you. In addition to these, I have offered to give you the Government farm "Sandputz." These nine farms in the aggregate constitute an area of 77,635 ha. I have offered to purchase those farms with all the buildings and improvements thereon and to make you a present of them, to compensate you in a measure for the sense of injustice you allege you have suffered. Since then you have drawn my attention to the fact that there are some farms, namely, "Ghamis Noord," "Niep," etc. which adjoin your boundary as acknowledged by us, but which are outside your boundary,—you desire these to be included in the Gebiet. These are farms occupied by Europeans who are married to Bastard women. I have offered to negotiate with these people and if the owners consent, to bring those farms within the boundaries of your Gebiet, which would probably add another area of some 25,000 ha. or more to your territory. If you wish to reserve the whole of this boundary question it seems to me a logical following that any compensation which the authorities may eventually find it can make, should also be left an open question. Therefore, I want to put you this question. If I am to discuss the alteration of Clause 19 with my legal advisers, do you agree that we will discuss it in the light of the withdrawal of the offer of compensation that I have made to you, and to leave that also an open question? If you agree to that—and that seems to me to be only logical and fair—I will do my level best with my legal advisers to see whether we can accept the amendment as proposed by your legal adviser, or to suggest such modification as may be acceptable to both sides. We would then ask you to give us half an hour or so to consult; and meet you later. Do you agree that any further discussion from then will take place with the understanding that if we have to alter the

clause as drafted in such a way as to leave the boundary question open so as to make applicable thereto any provisions that may be contained in the Treaty of 1885 or other treaties as you have stated—that that will mean the withdrawal of the offer of compensation if one may so call it, in the direction of the nine farms and the addition of the farms of the Europeans who are married to Bastard women?

Mr. Dewdney Drew: On that point I would say that we regard the offer referred to by you as a matter of grace, not as a matter of agreement. Consequently it remains for you to say whether you extend it or withdraw it. We are looking at the question of the final determination of the land rights of the people in respect of what moral and international usage may be termed right. The extent to which Your Honour has felt able to admit our claim, even including the additional farms, we appreciate very much, also the spirit that has actuated you to do this, but that seems to us quite aside from our present negotiations. We are willing to sign the Treaty as it stand without reservations, provided only you can see your way to accept the amendment suggested by Mr. Advocate Toms, or some such amendment which in our view will safeguard what we feel you have naturally all along intended to give us, namely the right of taking special steps to take our claim further.

The Administrator: I don't want to prolong the argument, but I have all along taken up the attitude that, while I do not deny for a single moment your right which is an inherent right of any citizen under the constitution under which we live—to go to the highest authority with a view to getting any wrong which you feel you suffer put right, I made it quite clear that I could not in this agreement acknowledge in any shape or form or acquiesce in any rights other than those which we found—I am of course speaking of the boundary question as settled between you and our predecessors. I think the minutes will bear me out also that I made it perfectly clear because I was compelled to take that attitude—and the special consideration which I submitted in the shape of these farms and so forth was intended to meet your difficulties that you felt specifically in regard to the boundary question. If therefore now you wish to insert something in the contract to which I am to be a party, that you wish to keep alive treaties which we had hoped we would be able to supplant by this agreement, it seems logical that then the consideration which I have offered in connection with this matter should also remain an open question until such time as the whole question is cleared up. The offer that I have made must in consequence be withdrawn, and it is impossible for me to say whether it can be repeated in the same or in amplified or modified form at a later date. That seems to me to follow. I would be the last person to ask you to renounce any rights in previous treaties. We are now busy trying to secure your rights. The request you have preferred would mean the extension of the area of your Gebiet. If you ask us to leave that question open, and to leave in force in that respect the treaties with the former Government, then I think we must leave the whole question connected with the boundary open.

Mr. Dewdney Drew: We don't object to that interpretation. The offer of compensation is an act of grace on your part. We are advised by Mr. Advocate Toms that the amendment he proposes will not keep those treaties alive for any other purpose than keeping the boundary question alive.

The Administrator: I don't want to mislead my friends, and I have taken considerable trouble to avoid any misunderstanding. If therefore in this matter I have withdrawn the offer which I have made, and to leave the general question of compensation, if any, open, you must not in any sense deduct from that that I will be able to repeat that offer. That I cannot undertake. I don't like to say anything to induce you Mr. Drew—because I appreciate the spirit in which you have helped in these negotiations—to get our friends to sign the document unless they are absolutely clear on all points. But one of my colleagues, who is a great friend of the non-Europeans of South Africa as a whole, has just pointed out to me that it is perhaps fair to tell you—and this did not occur to me when I spoke on the matter—that if in these further negotiations, if they take place, it appears that you fail to make out a good case or even as good a case as I think morally you have submitted, that then those who think now that I have gone too far already in offering you this, may get others to side with them; and it may deprive us of the opportunity of giving you what we are offering you to-day.

Maasdorp: The question which we have discussed is a most difficult one and it has been our desire to settle this not only in our own interest but in the interests of our children. We recognise that the offer has been made as an act of grace.

The Administrator: Here the Kaiser in the Treaty says that you will be protected in your land. Thereafter the agreement was reached between you and the German Government, in which the boundaries were fixed. What proof are you going to bring that they were wrong? There is nothing in the documents to show that you people were compelled to sign the agreement on the question of the boundaries. As I have pointed out, we have endeavoured to honour General Botha's promises in this proposed treaty, and I have pointed out the respects in which we have gone beyond those promises, because those promises implied that we would respect that and subsequent treaties. We have more than honoured General Botha's promises. I claim that; and I have repeatedly asked you in what instances we have not carried out General Botha's promises.

Mr. Harry Drew: We suggested to you in our report, as we felt that there was a moral obligation on our part to compensate them for the trolley line, that they should have "Sandputz" and the buildings on "Schlipmunding" and "Gusoribis." We had no authority to make them any offer.

The Administrator: If there was a misunderstanding, I would give you the farm "Sandputz."

Maasdorp: Will it be noted in Clause 19, that there will be no bar to our re-opening the boundary question.

The Administrator: There is nothing in the Treaty to prevent you making further representations in the matter.

Maasdorp: We wish the boundary question to be left an open one.

The Administrator: We can agree to that, but the offer of these farms will fall away. If you take advice other than that given by me you must take the risk of getting nothing at all in the event of the Union Government not conceding your request for the extension of your boundary.

Mr. Dewdney Drew: We are advised by Mr. Advocate Toms that we are running the risk of weakening our case unless the clause is amended as suggested.

The Administrator: We have taken the amendment suggested by you to paragraph 19 into very serious consideration. We find ourselves up against this difficulty that we are entering into a new treaty, which is going to be a treaty between ourselves. We propose to put an end to all previous agreements, and you are asking us now to put in an amendment, the effect of which will be that some of the provisions of the previous treaties will still be in force. As regards one or more treaties that are in existence the amendment is vague, and we find that it is impossible for us to accede to your request. I want to know whether in these circumstances, while we are up against an actual difficulty from the Administration's point of view you are not prepared to relinquish this vague right, and to sign the Treaty as it stands. That will not mean that you will be deprived of the opportunity of appealing to the Prime Minister or to the Union Parliament for permission to go afresh into the boundary question.

Mr. Dewdney Drew: I don't quite see your difficulty. Our amendment only proposes to keep alive that treaty in respect of that one particular point, namely, the settlement of the boundary question.

The Administrator: I can assure you we fully understand that point. It is something that is wholly foreign in a document of this character.

Mr. Dewdney Drew: Have you any other suggestion?

The Administrator: If you think that the door is still open even if you sign the agreement—if you regard the Treaty as bestowing benefits on your people in that it defines your rights—your local self-government is bestowed upon you; you are given the right of consultation as to the application of laws in your Gebiet, with an express provision that you can appeal to the Prime Minister or the Union Parliament on any question on which you don't agree with the Administration and other benefits—the only alternative I can suggest, if you see eye to eye with me, as one who is endeavouring to befriend you, is that you would be acting in the interests of your people if you were to sign the agreement.

Mr. Dewdney Drew: Would your legal adviser advise us what we have been advised by two advocates of standing, namely, Messrs. Alexander and Toms, in regard to the alternative?

The Administrator: If the legal adviser will also advise you he is at liberty to do so. The evidence which came before me in the course of these negotiations will not take us any further. With the evidence before me I would unhesitatingly advise them to sign the treaty.

Mr. Dewdney Drew: We want something of the equivalent of the amendment we have suggested, if not the exact wording thereof.

The Administrator: I am acting for the Union Government and for the people whose guardian I am on behalf of the League of Nations. If they don't sign the draft agreement, I will be compelled to withdraw the privileges, which I might not be able to offer again at a later date.

Maasdorp: The Administrator has stated that we will still retain the right of appeal to the Prime Minister or to the Union Parliament. If that is so, then I think we could withdraw the amendment. I don't quite understand the position.

Mr. Dewdney Drew: We are advised that if we want to make use of those documents we must not agree to their being wholly cancelled. We agreed to their being cancelled for every purpose except the one—the forwarding of our case for the rectification of the boundaries. The advice is definite on that point, and unless you or your legal adviser can suggest an alternative we are helpless.

The Administrator: After going very carefully into it we have tried to find a way out, but we have failed. I don't want to say one word to induce you to sign the document in which you feel you are surrendering certain rights which may be of great importance to you in the future. But the decision is naturally in your hands now. You know what evidence

you have got. Mr. Drew says he has additional evidence. You know what importance you can attach to that evidence, and if you think that that is of more importance than the Treaty then no one can blame you for refusing to sign the Treaty; but you must carry the responsibility.

Mr. Dewdney Drew: We thought you could keep the questions of the constitution and of the boundary apart. It has more than once been represented to me that we need not delay the settlement of the Territory merely to ascertain the area within which that government should be exercised.

The Administrator: I could not have said that or conveyed that impression for the reason that to enable one to bestow powers of legislation and jurisdiction upon a people one must define the boundaries within which that power of legislation and jurisdiction are to be exercised. Therefore I could not have made such a statement, nor could I have conveyed such an impression.

Mr. Dewdney Drew: I don't follow that so long as there is an area agreed upon—as there is in this case to which the Treaty applies, but you leave it open for us to ascertain whether we can get a larger area to come in.

The Administrator: I cannot for that purpose stultify myself by keeping former treaties alive, the place of which this new agreement is to take.

Mr. Dewdney Drew: For the one purpose only. Not that you are going to allow us to recognise it. If you take up that position I don't think we can sign. We have agreed to the Treaty in all other respects.

The Administrator: I have tried to make it clear to you that it is impossible for us to accept the amendment. I deny your claim in any shape or form—directly or indirectly.

Mr. Dewdney Drew: Neither can we surrender our claim.

The Administrator: Our friends must say whether their claim is stronger than the Treaty. If you would like more time to consider matters, I am prepared to give it. If you wish to again see your legal adviser or to have a further consultation, I am anxious to meet you, though it is time we come to a conclusion.

Acting Kapitein Mouton: What Mr. Drew is going to say will be the opinion of the Raad.

Mr. Dewdney Drew: After consultation, while we would like to sign the Treaty and agree with all its provisions as to the government of the Territory, we cannot on the advice of our responsible advisers divest ourselves of the means on which we rely for the forwarding of our case for the rectification of our boundaries, and we consider such documents to be the means. We therefore await Your Honour's views as to what our position will be now.

The Administrator: Are you sure that you don't require further time to consider this question. You could go back to Rehoboth if you prefer it.

Mouton: Yes.

Mr. Dewdney Drew: We have given you our reply, and would like to know (having received that reply) what the position will be?

The Administrator: If you want more time then we must wait until that time has expired and then hear your considered opinion. There is your old respected Kapitein who is ill, but he is a very wise man. There are no doubt other people, outside of the Raad, whom perhaps you would like to consult on this Treaty as a whole. Therefore if you desire further time to discuss this matter with your Kapitein and the people, I am quite prepared to give you that time.

Mr. Dewdney Drew: I am quite willing that the Raad should avail themselves of that offer.

The Administrator: If that is your wish, although it is to be regretted that we have not come to a conclusion, I will offer no objection. Will a fortnight do?

Mr. Dewdney Drew: We want to consult Mr. Alexander in Cape Town. We have no legal adviser with us.

The Administrator: If your legal adviser thinks you are giving up a right then naturally it would be unwise of you to act contrary to the advice given you, because I would be at one with your legal adviser if you have a substantial right—that would mean something to you—I would not like to deprive you of that right. On the other hand, if you don't feel justified in signing the Treaty in view of the fact that it has to be submitted to your people although that is not provided in the Treaty to which we have agreed, I am prepared to give you time. If you do sign the Treaty I will have to submit it to the Prime Minister for approval.

Mr. Dewdney Drew: You will only allow us to sign it as it stands. Will you not suggest an alternative?

The Administrator: We have considered the matter, but it is impossible for us to frame anything that will cancel the previous agreements and yet keep them alive.

Mr. Dewdney Drew: Will you allow us to go before our people with the honourable undertaking that we will recommend the acceptance of the Treaty in so far as it affects the

administration of the Gebiet? In the meantime we could get full advice on the outstanding point.

The Administrator: Tell me definitely whether you are not able to sign this Treaty, seeing that it has to go to your people for confirmation.

Mr. Dewdney Drew: Would not the Raad stultify themselves if they had to tell the people that what they have signed will be a danger to them in a certain respect. The people would then say why did you not ask for a modification. Our answer would be that we did so, but that we did not get it. They would then say why did you put your names which you are not prepared to honour to such a document? How can you expect us to accept a treaty which you cannot recommend as a whole?

The Administrator: Your reply to that might be that the right for which you fought was after all not defined—it was uncertain—whilst in the Treaty you were granted certain definite benefits. You could say that that was why you had signed the Treaty, and why you had come to them as your people to see whether you had done the right thing.

Mr. Dewdney Drew: Would it be right for the Raad to tell the people that though they had not signed the agreement, they recommend it in every respect as regards the constitution, and ask the people whether they accepted the agreement.

The Administrator: If you submit the Treaty you cannot say that you are accepting some of the provisions and not others. You will have to either accept it as a whole or leave it.

Mr. Dewdney Drew: That brings us back to our original difficulty.

Maasdorp: It brings us into a very difficult position, because we hold a Power of Attorney. We hold a Power of Attorney authorising us definitely to come to an agreement. If we agree with all points we can sign, with the proviso that it must be submitted to a plebiscite of the Rehoboth burghers.

The Administrator: As you have not agreed on all points, I suggest that you take further time.

Maasdorp: The proposition made by His Honour to give us further time is very acceptable to us. We are in a difficult position.

Mr. Dewdney Drew: If you go back to the Kapitein and people that treaty is given you to take or leave, but His Honour has not yet told you what the consequences are going to be. What will the position then be?

The Administrator: I cannot see my way clear to agree to the amendment. As I told you candidly yesterday, personally I would like to see an end to this vague position. I then told you if I put my hand to this Treaty and I should leave you a hope of getting your boundaries extended as you wish to have them extended, then I would make myself guilty of something which would mean that in the hope of getting that, you signed the Treaty. I told you my opinion straight out, putting it this way—you are crying for cheese in the moon. I told you it was better to relinquish that thing because it would not be realised—because I didn't want to put anything in the Treaty, even though it was possible, that would induce you to sign it—that would induce your people to ratify it—and that you will afterwards say the Government knew very well that we would not get a bit of what we hoped to get, and yet they allowed us to sign the Treaty.

Mr. Dewdney Drew: We must await the issue of events.

The Administrator: I am prepared to meet you later this evening or to-morrow or on Monday. It was my intention if you had signed the agreement that you should take your plebiscite on the 6th August and if you gave me the information that it was confirmed I was coming down the same evening to celebrate the occasion with you on the 7th. I consider that this would be a very great event in our history if we could get the Treaty through, because in it I see an earnest desire on both sides to live together in peace and happiness in the future. For that reason it was my intention to go down to Rehoboth personally.

Mr. Dewdney Drew: The Raad hope they will still have the pleasure of welcoming you; but they must not sign away their right to get their boundaries rectified.

Albert Mouton: The Administrator's proposal was a good one. It will be a great pleasure to us to sign the Treaty if the people are satisfied with it. I consider therefore that we should accept Your Honour's proposal to allow us time to go back, and we will give you our reply as soon as possible. Perhaps our people can help us on that point, where we seem to have arrived at a dead-lock.

The Administrator: You will of course place before your people everything that has taken place here. My idea was that we should sign to-day, because we also require the confirmation of the Union Government. General Smuts is going to Europe soon, and I had hoped that we would have his decision by the 6th.

Albert Mouton: We can give our reply on the 6th—perhaps even earlier.

The Administrator: If I have news from you that you accept the agreement by the 4th, I will come down and sign it at Rehoboth.

The Conference then closed.

DOCUMENT "A" ATTACHED TO ANNEXURE "A" TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

COPY.

14th August, 1922.
(Seal) Council Office,*Translation from Dutch.*

Declaration of ex-Elder Mattheus Gertze in connection with the Ground incident:

I was present when the late Captain Maherero gave his adjoining lands to our late Captain Hermanus van Wyk, in the year 1873, at Okahandja. I cannot recollect the date or the month. The Rehoboth ground referred to, so much as belonged to Zwartbooi at the time, was by him, Abram Zwartbooi, given to Maherero and his community in exchange for other ground, to wit: Bokberg and its territory. In this manner did Captain Maherero and his community hand Rehoboth with its territory over to Captain Hermanus van Wyk and his people, who were with him at Rehoboth, as their legal property.

This grant was made in the presence of three Missionaries as witnesses, namely, Missionary Carel Hugo Hahn and Henrich Brenker and Phil Dhiel and there were also present other Chiefs, namely, Abram Zwartbooi and Jan Jonker Afrikander, together with the Councillors of Captain Maherero and Captain Hermanus van Wyk. At that time the boundary of the Rehoboth Territory was from the North-eastern point of the Awas mountains in the west with the Kuisib River as far as Ururas, and from the North-eastern point of the Awas mountains to Dordabis, five kilometers across the Schaapriver and from the Schaapriver to Lekker Water through the sand dunes in a straight line to Fishriver and up the Fishriver to Sasos or Fredriksdam. The Eastern boundary was fixed by Barnabas, Chief of the Red Nations, and Captain Hermanus van Wyk, in accordance with his declaration.

There was never any doubt that the German Government, after we had won all the wars with them in 1898, cut up our land illegally.

(Sgd.) MATTHEUS GERTZE
(Elder).

Witnesses:

- (1) (Sgd.) ALBERT MOUTON,
Actg. Capt.
- (2) ,, F. W. MAASDORP,
Sec.

DOCUMENT "B" ATTACHED TO ANNEXURE "A" TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

20/7/23.

NOTES ON CONFERENCE BETWEEN RAAD AND ADMINISTRATOR.

The Raad will sign draft agreement in so far as it establishes and defines constitution. The Raad decline settlement offered in respect of their land and feel they should not dispossess themselves of their right to carry further their claim for rectification of boundaries. They will submit their decision in both respects for confirmation by a plebiscite of their people.

It is assumed by the Raad that the constitution as agreed on, will function within the boundaries which the Administration has all along recognised, viz.: Those defined in schedule I, and if so much is assured to their people. Any enlargement of their boundaries will depend on what may come from their recourse to other and higher authority.

The parties to these negotiations have reached agreement on all fundamental points saving alone the question of the extent and situation of the land whereof the Rehoboth Gebiet is to consist. But the Raad would make clear as to the second schedule that while the laws therein mentioned are accepted as applicable to the Gebiet there are points relative to the Administration and perhaps modification of certain of them, for instance, the Stock Diseases and Mining Laws which still have to be settled between His Honour the Administrator and themselves according to the provisions laid down in the agreement.

The Raad regret that in this one matter of land a conclusion as between the Mandatory and themselves has not been reached. They feel however that a much more searching investigation than has yet taken place, or perhaps has been possible, is required before they would be justified in advising their people to renounce their claim to more than half the territory which they regard as rightfully theirs. They have in these negotiations only endeavoured to sketch to Your Honour the nature of evidence on which they rely. Even in these short discussions new facts have come to light and more can probably be found. The case needs closer sifting. The Commission appointed a year or two ago by His Honour

ruled out as inadmissible any claim conflicting with settlements mutually subscribed by representatives of the Kaiser's Government and the Rehoboth people. The question whether in circumstances the latter would be considered free agents was never examined.

They would observe as to the treaty engagements on which they partly base their claim that these were never waived by themselves except under pressure of superior force. What they conceive themselves warranted in asking from the Union Government in respect of their boundaries is not limited by the legal recognition of these which the ex-Kaiser Government left them, nor would it, in their view, accord with the moral character or the trust reposed in the Mandatory that it should be so.

While the Raad thus express themselves in respect to the boundary question they wish to testify their deep appreciation for the considerate and friendly manner in which His Honour has dealt with them throughout these negotiations. They recognise gratefully that you have met them in a fair and liberal manner on a number of important points. If you have not felt able to go further, they understand that you have your own responsibilities to consider. Whatever may be the ultimate settlement of the boundaries question they accept your personal administration with a peculiar confidence that it will be both just and sympathetic as towards their people, of whose loyalty and co-operation they feel able fully to assure you.

Translation from Dutch.

ANNEXURE "B" TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

To His Honour

Sir Howard Gorges,
Administrator of South-West Africa.

Herewith the humble petition of the "Volksraad" of Rehoboth, as follows:—

Your petitioners, being the elected representatives of the burgers of Rehoboth hereby request your Honour to be so good as to lay the following respectful request before the Prime Minister of South Africa:—

- I. An enquiry into the circumstances under which the Community of Rehoboth was unlawfully (in the opinion of your petitioners) deprived of an important piece of their Territory during and by the local government of the former German Emperor. Your petitioners and others, being in possession of direct data regarding this matter, are prepared to give evidence before such court as may be constituted by your Honour and at such time or place as may be deemed suitable by your Honour.
- II. The return of the remaining stock which were stolen by the enemy from the burgers of Rehoboth during the late war. In this connection your petitioners request you to consent to an interview in order that they may explain their case by means of a deputation to be chosen from their midst.
- III. An agreement between the burgers of Rehoboth and the Administration of His Majesty, King George, in South-West Africa, of which your Honour is Head and Representative. Your petitioners enclose herein a concept treaty under which they desire to be protected by your Honour's Administration and are prepared to bind themselves thereunder to loyalty, obedience and service.

Rehoboth,
25th March, 1920.

(Sgd.) F. W. MAASDORP,
Sec.

(Sgd.) C. VAN WYK, Captain.
ALBERT MOUTON, Actg. Capt.
DIRK VAN WIJK, Councillor.
N. OLIVIER, Capt.'s Councillor.
MALCOLM McNAB.
P. BEUKES.

Translation from Dutch.

DRAFT TREATY BETWEEN HIS BRITANNIC MAJESTY, GEORGE V. AND
CAPTAIN CORNELIS VAN WYK OF REHOBOTH.

Whereas the burgers of Rehoboth have up to the present been party to a Treaty with the former German Emperor;

And whereas the Administration of the aforesaid Emperor has been abolished as a result of the late war, and whereas the Union of South Africa, by direction of the League of Nations, has accepted a mandate for the Administration of the Country named South-West Africa, of which the territory belonging to the Rehoboth burgers forms a part, it is essential that an agreement be concluded between His Britannic Majesty, King George V. (in whose Empire the Union of South Africa is included) on the one side and Cornelis van Wijk, Captain of the aforesaid Rehoboth burgers on the other side.

Now therefore, the said King George the Fifth for himself and his successors and the aforesaid Captain Cornelis van Wijk for himself and his legal successors, bind themselves and agree as follows:

- I. Captain Cornelis van Wijk requests His Britannic Majesty to take his country and people under his protection. His Britannic Majesty accedes to this request and assures the Captain of his absolute protection. As an outward symbol of this protection, the Union Jack shall become the flag of the Rehoboth Territory. His Majesty shall appoint a Resident Commissioner through the medium of whom his rule shall be carried on.
- II. His Britannic Majesty recognizes that the Rehoboth burgers have for fifty years existed as a self-governing people in their own territory. He does not desire to curtail their old recognized rights but rather to confirm them. Consequently he assures the burgers of Rehoboth of the continuance of their system of self-government, subject to any alteration which may be introduced therein by means of an agreement between himself and their Captain.
- III. The laws of the Rehoboth Territory shall be such as will apparently be found in the Law Book of the "Volksraad", with such amendments and additions as may be introduced by the "Volksraad", subject to His Majesty's veto. With regard to Public Health, Veterinary and Agricultural Administration, the Union laws which are applicable to the remaining portion of South-West Africa shall also apply to the Rehoboth territory in so far as they are promulgated by the Resident Commissioner, who shall also draw up suitable regulations to be applied under the aforesaid laws. With regard to Civil and Criminal Court cases amongst the burgers of Rehoboth mutually, it is laid down that these shall be tried by their own judges only and in accordance with their own laws. In the event of cases in which other chief persons who are not burgers of Rehoboth are concerned, the trials shall be conducted by a tribunal whose members shall be appointed by His Majesty and the Captain of Rehoboth. All differences between persons who are not burgers of Rehoboth, or who do not belong to their families, or live in their locations, as well as all crimes committed by such persons, shall be dealt with by judges to be appointed by His Majesty.
In all civil or criminal cases in which any of the burgers of Rehoboth are concerned, an appeal shall be made to the judicature of His Majesty, whose Court shall give the final verdict.
- IV. His Majesty decides that, after the boundaries of Rehoboth shall have been fixed by a Commission to be appointed by him no person who is not a burger or one of the existing owners or his heir, shall be entitled to landownership within the Territory of Rehoboth. If an European landowner in the Territory, who is not married, or does not live with a coloured woman, desires to sell his land and leave the Territory, and cannot obtain a reasonable price therefor, he shall be entitled to ask that a price be fixed by the Resident Commissioner or his deputy who shall take the case into consideration. The Captain shall then have the right to buy the land of the European in question for the burgers of Rehoboth at the fixed price. In the event of the Captain not desiring to do this, the European landowner may apply to be exonerated from the authority of the Captain and allowed to remain in the Territory under the authority of the Resident Commissioner only.
- V. The Volksraad alone shall have the right to impose direct taxes, but undertakes to supply the necessary funds, in the first place, for the salary of the Resident Magistrate and for the maintenance of his office, the scale of which shall be equivalent to that of a magistrate and his office in the Union; and in the second place, for Police, Prisons, Posts and Telegraphs, in so far as they are of service to the community of Rehoboth, and lastly, for elementary, technical and agricultural schools, for experimental farms and agricultural administration, for irrigation and public works, for institutions, hospitals and for such other services within the Territory as shall be carried on by the Resident Magistrate in consultation with the Captain of Rehoboth. The Resident Magistrate shall lay before the Captain, once yearly, an estimate in respect of these different services on the understanding that the sum claimed by the Resident Magistrate shall form a first charge against the revenue of the community of Rehoboth without the necessity for the sanction of the Volksraad. His Majesty shall through the medium of his Resident Magistrate (Commissioner?) administer all the services, personnel and institutions referred to in this Chapter, but in so far as it is consistent with efficient administration it shall be his first aim to fill the legislative

and later the administrative posts with burgers of the Rehoboth Territory, with the exception of the post of Resident Magistrate. The burgers of Rehoboth are desirous of maintaining adequate machinery for the administration of their Territory on a civilized basis, but they desire likewise that it should be maintained in proportion to the economy and resources of the inhabitants. It is agreed that the cost to be payable by the inhabitants for the use of railways passing through the Territory, whether goods or passenger traffic, shall not be higher than similar costs in other parts of South-West Africa.

- VI. All taxes which are imposed by His Majesty's Receiver of Revenue on in-coming and out-going goods, or taxes imposed with the concurrence of the Captain of Rehoboth, shall be credited to the Captain of Rehoboth to cover his responsibility in connection with expenditure on public services carried out by the Union Government within the Territory and in accordance with the provisions of Chapter Five hereof. In the event of there being any balance in the hands of His Majesty's Receiver of Revenue after the expenditure in question has been met, such balance shall be handed over to the Captain of Rehoboth for the services of the Territory.
- VII. It is clear that, while the League of Nations prohibits the carrying of arms and ammunition by aboriginals of a mandated Territory, such will not be applicable to the burgers of Rehoboth who are not aboriginals living under more or less uncivilized conditions, but a civilized people who are mostly of European descent. The aforesaid burgers shall as formerly have the right to carry rifles and to buy a reasonable amount of ammunition on permits to be issued by the Resident Commissioner. Under these circumstances, His Majesty and Captain Cornelis van Wijk intimate their complete approval to the Mandate which applies to the Rehoboth Territory.
- VIII. If there should still be further matters requiring adjustment between the Union of South Africa and the Community of Rehoboth, such matters shall be settled by agreement between His Majesty and the Captain of Rehoboth.

ANNEXURE " C " TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

NOTES OF AN INTERVIEW ON FEBRUARY 5TH, 1919, BETWEEN HIS EXCELLENCY THE GOVERNOR-GENERAL AND THE REHOBOTH BASTARDS.

The Bastards were represented by:—

Cornelius van Wijk, Kapitein.
 A. Mouton, Assistant Kapitein.
 N. Olivier, Counsellor.
 Dirk van Wijk, ex-Magistrate.
 F. W. Maasdorp, Secretary of the Raad.

His Excellency was attended by Major J. F. Herbst, Secretary to the Administration of the South-West Africa Protectorate, and the Secretary to the Governor-General. Major Herbst acted as interpreter.

The deputation presented a memorandum from the Rehoboth Raad on behalf of the Rehoboth people and territory and requested that His Excellency would telegraph the contents of the memorandum to His Majesty's Government. His Excellency said that he would do so. He added that it might be convenient and would be of assistance to himself and the deputation, as well as to His Majesty's Government, if he took the various headings of the memorandum and went through them in order to ascertain in more detail what it was that the Bastards had in their minds.

The following discussion then took place on the seven headings of the memorandum:—

(1) " That the Rehoboth people and territory be not handed back to Germany."

The Governor-General said that he was in a position to give assurance that South-West Africa would not be handed back to Germany.

(2) " That they be placed under direct British Imperial protection as Basutoland is."

The deputation explained that what they meant by this request was not that their territory should be governed under the same laws as Basutoland, but that, like Basutoland, it should be placed directly under the Imperial Government and not under the Union Government.

His Excellency said that, while the question was one for the consideration of His Majesty's Government, he felt bound to tell them at once that in his opinion the Protectorate of South-West Africa would be dealt with as one Territory, and would ultimately be placed under the control of the Union Government. He felt sure that His Majesty's Government would not consent to take a part of the Territory and retain it under their own control. That would be contrary to the policy adopted by His Majesty's Government when the Union of South Africa was established in 1910. The Act of Union, the South Africa Act, contained provisions in the Act and in a schedule for the government of Basutoland, Swaziland and the Bechuanaland Protectorate in the event of the transfer of those territories to the Union; and it was clear from these provisions that the transfer at some future time of these territories to the Union was contemplated by His Majesty's Government. Full effect might not be given to that policy, certainly as regards Basutoland, for many years, but there was no doubt what the policy of His Majesty's Government was in regard to the native territories in South Africa now under their direct administration, and it was extremely unlikely that they would depart from that policy in regard to any part of the conquered territory in South-West Africa.

The deputation said that they introduced this point because their fathers had once been British subjects, and had encouraged them to believe that their people would one day become British subjects again. It was for that reason that they had felt it impossible to take up arms for the Germans against the British.

His Excellency explained that they would be British subjects equally under the Union as under His Majesty's Government. Their views would be considered before a decision was finally come to; but he had indicated plainly what his own opinion was because he was anxious that they should not go away with false hopes.

(3) "That their right and title to the land they have hitherto owned be recognized and assured to them."

His Excellency said that he did not think they need be concerned as to their rights in and titles to the land which they now occupied. Those rights and titles he was sure would be fully secured to them. He understood that the present Union Administration in South-West Africa had given them only the other day proof of the desire felt by the Union Government that they should retain the land now in their possession. He was informed that the Administration had refused to recognise a transaction under which a piece of land in their territory at present owned by a Bastard would have passed into the possession of a European..

(4) "That investigation be made as to land filched from them by the German Government and that the same be restored to them."

The deputation explained that in this paragraph they were referring to what had taken place in 1893 and in 1898. In the former year the German Government persuaded them to take part in the campaign against the Hottentots and promised them in return for their help that their lands should be increased. At the end of the campaign, however, the German Government deprived them of part of their territory, which was afterwards cut up into farms and sold to Europeans. Their territory was further reduced by the Germans in 1898. The history of these encroachments on their land was set out in the narrative portion of the Blue Book on the treatment by the Germans of the natives of South-West Africa. The deputation requested that a Commission should be appointed to enquire into this matter and that the land taken away from them in 1893 and 1898 should now be restored.

His Excellency said that their request for a Commission would be considered; but he was doubtful whether it would be found possible to compensate them for the losses suffered at the hands of the Germans over twenty years ago.

(5) "That their rights under their Treaty with the German Government be not abrogated."

(6) "That their rights and practice of self-government through their Raad, Legislature and Judicial Institutions, etc., be maintained."

It was agreed that these two points should be taken together.

His Excellency said that he was sure there was no desire on the part of those administering the territory to restrict in any way their practice of self-government. He understood that, although the Treaty had been amended in some points and abrogated in others by the Germans themselves, its principles had been generally adhered to by the Union Administration.

The deputation agreed that this was correct, and said that they had no complaints to make against the present Administration and had been well treated by them. These rights of self-government were, however, important to them and they had raised the point because they wished to have a guarantee that their rights would be respected.

(7) "That investigation be made as to material losses inflicted on them by Germans during the late war, and compensation for the same be made."

The deputation explained that they had incurred heavy losses through the war, some of their houses had been burnt, their crops destroyed and their people and their stock damaged or removed. They contended that these losses had come on them through their refusal to help the Germans against the British subjects, and that the British Government was therefore responsible for compensation. They were unable to give the total amount of their losses but their claims had been filed with the Administration.

His Excellency said that their claims would be examined in due course with other claims received by the Union Government on account of losses suffered during the campaign by persons resident in South-West Africa.

The deputation asked that His Excellency would let them have a written reply to their memorandum. His Excellency said that, as they had seen, a note had been taken of the discussion, and he proposed, when this was prepared, to send one copy to His Majesty's Government and another copy to the Union Government, and he would send a third copy to the Kapitein in order that he might have a record of the proceedings. Their memorandum would be telegraphed to His Majesty's Government, and by mail a despatch would be sent with a copy of these notes of the discussion and a full explanation of all that had been said.

The deputation thanked His Excellency for receiving them, and His Excellency expressed the hope that before leaving South Africa he would be able to visit South-West Africa and to see some of their territory.

ANNEXURE " D " TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

Copy.

3263/3.

Office of the Administrator,
South-West Africa,
Windhoek,
August 22nd, 1923.

Sir,—I am directed by His Honour the Administrator to acknowledge the receipt of your letter, dated the 18th instant, acquainting Mr. Hofmeyr that on the 18th August, 1923, the Rehoboth Volksraad, in full session, approved and confirmed (the Captain concurring) the Agreement entered into on the 17th August, 1923, between the Administrator on behalf of the Union Government and representatives of the Captain's Raad and the Volksraad on behalf of the Rehoboth Gemeente.

I am to state, for the information of the Captain and the Volksraad, that the Right Hon. the Prime Minister has approved of the Agreement which will shortly be promulgated by means of a Proclamation, thus incorporating it in the laws of the Territory.

Your intimation that the Volksraad intends to petition the Union Parliament for additional territory is noted. The Administrator directs me to say that in this matter, he can only repeat what he has endeavoured to make clear to the members of the Raad who negotiated with him, that he can hold out no hope of such a request being granted. Mr. Hofmeyr made it clear that he could not support such a petition and that he could recognise the Agreement just concluded as the one and only document defining the respective rights and obligations of this Administration and the Rehoboth Gemeente. Mr. Hofmeyr would advise the Raad to take careful counsel and consideration before starting a fresh agitation, by way of such a petition as he conceived of much harm being done thereby. While His Honour tenders this friendly advice, the decision in the matter must naturally rest with the Volksraad.

I am to add Mr. Hofmeyr is most pleased to be assured that it is the intention of the Volksraad to co-operate with him and to render due obedience in a spirit of loyalty and friendship to his Administration generally, but especially in regard to the terms of the Agreement.

The Administrator, while reciprocating the friendly feelings of the Raad congratulates it once more on the wise step it has taken in this matter.

In conclusion, Mr. Hofmeyr desires me to say that by mutual trust and confidence and by friendly, sympathetic and loyal co-operation, he feels sure the future can only have happiness in store for us. Mr. Hofmeyr hopes that the Captain has been restored to health, and sends the Captain and the Raad his very best wishes.

I have the honour to be,

Sir,

Your obedient servant,

(Sgd.) H. P. SMIT,

Secretary for South-West Africa.

F. W. MAASDORP, Esq.,
Secretary to the Rehoboth Volksraad,
Rehoboth, S.W.A.

ANNEXURE "E" TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

3/3263/2.

Office of the Administrator,
South-West Africa,
Windhoek.

18th September, 1917.

Confidential.

The Secretary for Defence,
Pretoria.

I have the honour to enclose for the information of the Minister a Petition in original (annexure 1) signed by the Captain and Members of the Bastard Raad at Rehoboth and presented by that body to the Magistrate of the District on the 22nd ultimo for transmission to His Excellency the Governor-General of the Union. The petition is accompanied by a copy of the "Traktaat" (annexure 2) between the German Government and the Bastards. The burden of the petition is that their independence should be maintained under the suzerainty of the British Crown.

As will be seen from the accompanying copy of a Confidential Minute (annexure 3) dated 11th instant from the Magistrate the submission of the petition appears to be largely due to the advice tendered to the Raad by Mr. Dewdney Drew, one of the party of Members of Parliament which recently visited the Protectorate who with Mr. T. Schreiner broke his return journey at Rehoboth and remained there for three days. The framing of the petition was, I suspect, the work of Thomas whom you know of. It is a great pity that Thomas was ever allowed to come to Rehoboth. He is, so I am assured by the Magistrate, not a Cape boy at all as was represented to you, but an Indian, and, with the higher intelligence he possesses amongst the inexperienced Bastards he will, I am sure, sooner or later prove a source of trouble. For the petition of Thomas to General Botha, referred to in the third paragraph of the Magistrate's Minute, please see your papers D12/1558/9199 and my Minute to you of the 18th July, 1916.

Mr. Dewdney Drew's interference in this matter can, I think, only be characterised as mischievous. He has been led away by what he is pleased to regard as the romance attaching to the history of this people and has, I understand, embarked on a series of newspaper articles in the Union papers in which the Bastards' aspirations to remain a separate state under the direct aegis of the Imperial Government will doubtless be referred to, with the inevitable result of making the Raad take themselves more seriously than the needs of the situation demand.

From the concluding paragraph of the Magistrate's Minute the Minister will observe what is at the root of this attitude of the Bastards, viz.:—Fear of being dispossessed of their lands by a Boer Government. Knowing what the policy of the present Union Government is in the matter of native lands and the segregation of Natives thereon with a modified form of self-government, Mr. Drew might very well have reassured the Bastard Raad, but seemingly he did not.

There have, as I had to inform the Minister before, been indiscreet acts on the part of some of our officers operating in the Rehoboth area—instance the instructions given by Lieut.-Col. Fouche in regard to furniture looted by the Bastards from the Germans during the hostilities of April, 1915 (see my minute to you of the 23rd May, 1916—your minute 11/1558/9199), which led to "Bastardland" being removed, for police purposes, from the

jurisdiction of the Military Constabulary Headquarters. I have, furthermore, several times in Rehoboth area and outside it, heard opinions expressed by responsible military officers showing that Rehoboth, as an area for future white settlement, is much coveted by them. The Bastards well know of these opinions—I doubt not that on occasions they have been expressed direct to them, and I am sure that those Germans who live amongst them (there are several who are married to Bastard women) assiduously keep this idea alive—and they are undoubtedly apprehensive of their future.

It has probably also been some matter of surprise to the Bastards that, with one or two exceptions, all the officers belonging to this Administration with whom they have come into contact are of Dutch extraction.


Apart from the incident mentioned above, and occasional minor indiscretions on the part of subordinates in the constabulary, the Bastards have no reason whatever to complain of their treatment by the Administration, which has scrupulously observed the policy of the Government.

If I may suggest a course of action, I would recommend that I be authorised to inform Cornelius van Wyk that the petition has been duly submitted to General Botha (whom he knows), who directs me to say that the position will receive most careful consideration after the war; that the Bastards need have no fears that their claims will not be most carefully considered and rights safeguarded, and that, seeing that the entire conduct of operations and control of affairs here have been vested by the Imperial Government during the continuance of the war in the hands of the Union Government, it is not competent for the Raad to go over the head of the Union Government, as they are apparently seeking to do.

I do not think the Government need anticipate the slightest trouble from the Bastards. They are peaceful and law-abiding, stupid, but exceedingly suspicious, possessing an exaggerated idea of their own importance, which has recently become inflated by the attentions bestowed on them by Messrs. Schreiner and Drew. I may state that the Bastards extended a very pressing invitation to Mr. Merriman to visit them, but he, realising the inadvisability of meeting them under present circumstances, declined, and in conversation with me expressed his astonishment at the action of Senator Schreiner and Mr. Drew in going out of their way to meet the Bastards.

In my opinion, the petition should not be taken too seriously. It is the outcome of a fear that the Bastards will, under the Union Government, be reduced to the status of the ordinary native, and it has, without a doubt, received encouragement from Messrs. Schreiner and Dewdney Drew, for the Raad would not have had the temerity alone to put it forward. It must also not be overlooked that their last experience of South African politics dated back to the seventies.

E. H. L. GORGES,

Administrator. 

ANNEXURE " F " TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

Copy.

Germiston, 3rd October, 1917.

Dear Captain,—On returning here this morning from Thaba 'Nehu I found your letter of the 24th ultimo awaiting me. I have written this morning for the second time to Colonel Mentz, Acting Minister of Defence, to remind him of his promise to me with regard to the question of the ammunition.

This was that the Rehoboth burghers would receive permits to buy 15 cartridges a piece per year. But they would be required in each case to bring the empty cases to the magistrate before getting a new supply. This he undertook to do when I had an interview with him at Pretoria about a fortnight ago.

He also said he would have the Field Force Canteen removed from the Rehoboth Territory. You must not take this letter as official, but wait, of course, until the magistrate gets instructions.

I forgot during the interview to refer to the loose Germans in the Territory, some of whom were said to be very provocative in their behaviour to the burghers, and whose removal was desired by the Volkraad, but I afterwards wrote to Colonel Mentz on the subject. I understand from Major Rousseau, whom I met at Upington on Sunday week last for a few minutes, that he insists on your head schoolmaster being European.

This may be wise enough, as I think it is, if he is a man who really cared for your people. You should cause due inquiries to be made on that point. I hope your Raad will not grudge decent salaries for qualified teachers from among your own people. You won't get really efficient teachers without paying pretty high for them, but no others will be of use in the special circumstances.

A point which you and your Raad should begin to consider is that of the power which you are willing the King's Administrator shall possess should the Imperial Government grant your petition and place you under its own rule.

The Commissioners in Bechuanaland and Basutoland make the laws and impose the taxes after consultation with the people's council. But the Commissioner governs, the Council only advises. Will your Volksraad be willing to advise merely and to give up their present powers? If not, what arrangement would they propose? The King, if he takes you over, will insist on his authority being obeyed, and reasonable funds being provided for his Government. At the same time it would be a government in the interests of your people, but would they be enlightened enough always to see this when called upon to pay taxes? I hope you will all think carefully about this point.

With kind regards,
Yours faithfully,
D. W. DREW.

P.S.—I expect to return to Thaba 'Nchu about Monday, the 8th October.—D. W. D.

ANNEXURE "G" TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

Annexure "F."

Copy.

Germiston, Hotel Alexander,
P.O. Box 153,
13th October, 1917.

Dear Mr. Gorges,—On returning from my visit to your Protectorate I called on Col. Mentz at his office in Pretoria, and gave him a pretty full account of the communications held by Mr. Schreiner and myself with the Rehoboth Volksraad. Perhaps I ought to have written first to you, but I hope you will excuse this omission, seeing my hands were full of work, and that I was careful to keep Major Rousseau, our exceedingly kind host, fully informed about all that happened.

There existed no sign of dissatisfaction among the Volksraad with regard to your Administration. This appeared to me to be conducted in the true spirit of a Protectorate, and I see Mr. Schreiner has publicly expressed the same impression. But there were troubles about liquor and want of rifle ammunition of which the Volksraad spoke to us, and they also made complaint about the behaviour of certain "loose" Germans, not land-owners, resident within their territory. Col. Mentz has told us that he thinks, as Minister of Defence, he might go so far in the matter of ammunition as to allow permits for 15 cartridges per burgher per annum. He concurs with the view of the Volksraad that the best solution of the liquor difficulty would be to remove the Field Force Canteen. I believe he is writing to you on these points as well as about the "loose" Germans. (Some of the Raad's leaders, I suspect, did not, without an inward struggle, associate themselves with the request of the removal of the canteen, but it is well if they know their weakness.) The petition for the direct administration of the territory by the Imperial Government was dated 1st January, 1916, but had not been delivered owing to the advice which Major Bourne was said to have given to the messenger of the Volksraad, an Indian storekeeper, who conveyed the document to Cape Town. Mr. Schreiner and I pointed out to the Raad the danger of antagonising the Union Government and the Dutch population by proceeding with such a petition, but their minds were evidently made up. I wish I could feel that their instinct in this matter was not right. They distrust the Dutch majority in the Union Parliament. One feels that their treaty with the Kaiser gives them larger powers of self-government than they know how to use, in their own interest. Possibly they too have some diffidence on the point, but I share their distrust that any Administration responsible to the Union Parliament would not be conducted more in the white man's interest than their own. This doubt, together with the leading facts of the case, I have conveyed in an informal letter to Mr. Lloyd George. But as the difficulties of a separate Administration are serious, I have suggested that an agreement might be possible between the Imperial and Union Governments, guaranteeing to the Rehoboth folk the inalienability of their land and the continuance substantially of their representative system. Pray accept my thanks for my share—a very liberal one—of your great kindness to our whole party, which made our visit to your country so enjoyable, and believe me,

Faithfully yours,
DEWDNEY DREW.

To the Hon. H. Gorges,
Administrator of S.W. Africa,
Windhoek.

Translation from Dutch.

ANNEXURE " H " TO REPLY TO MEMORANDUM OF MR. DEWIDNEY
W. DREW.

Minutes of a Special Meeting of the Council and leading men of the Bastard nation, held at Rehoboth on the 2nd November 1917.

Present:—Cornelius van Wijk, Captain.
Albert Mouton, Deputy Captain.
Nicolaas Olivier, Captains' Council.
Samuel Beukes, Magistrate.
Dirk van Wijk, Former Magistrate.
Wilhelm Koopman, Former Deputy Captain.
Piet Beukes, Councillor.
Pieter Mouton, Councillor.
Malcolm McNab, Councillor.
Gert Cloete, Councillor.
Jan Witbooi, Councillor.
Gert de Klerk, Councillor.
Frans W. Maasdorp, Clerk of the Council.

The Chairman explained the object of this meeting. The following was proposed by Council Member Nicolaas Olivier and seconded by Council Member Pieter Mouton:

That we, as a people and nation, respectfully but urgently request the Imperial (British) Government not to return South-West Africa to the Germans, but to retain this country under the British flag and protection, and further that we, the Bastards of Rehoboth, through the medium of this our Council, respectfully request that His Majesty the King of Great Britain will take the Territory of Rehoboth under his protection and flag on the same conditions which exists in Basutoland.

Unanimously accepted.

The members of the Raad give the following reasons for no longer desiring to be under the German flag, *i.e.*:

- (1) Our forefathers were British subjects, originally from the Cape Colony, and therefore it is our desire and wish to be protected by the British Government.
- (2) The Treaty of Friendship which existed between us was continually broken by the German Government after we had together suppressed the revolts in this country.
- (3) After they had destroyed the chiefs of the country with their power, they threatened that they would not recognize our Chief as Captain.
- (4) The German Government with its mighty power continually worried us in order to secure any false reason for taking our country by force, which it has also done, and unjustly appropriated a large portion of our country, in connection with which we ask the Government for a Commission to inquire into the matter carefully.
- (5) The terrible execution and shooting policy of the German Government and the never-ending beating to death with the sjambok, especially of women and children. The German Government also ill-treated innocent people in a most cruel manner.
- (6) " One for all and all for one " was the motto with which the German Government administered this Colony and exterminated its peoples.
- (7) The improper conduct of their Police, not only to hit with the sjambok, but also to shoot dead with the rifle. Whether he killed with the sjambok or rifle did not matter—the Government always approved of his actions.
- (8) In legal cases between Germans and Bastards, no sworn declaration was accepted from a coloured person.
- (9) Also the denying to us of the Holy Gospel and education.
- (10) Even now the Germans are still saying: " Wait a bit, we will get the country back, and we will hang them all."
- (11) Experience has taught us that the German Government is an unjust Government. The German motto is: " Might is Right," and under those conditions we had to work together and submit against our will.

After proper discussion the above points were unanimously accepted.

Captain C. van Wijk further proposed, and Deputy Captain Albert Mouton seconded, as follows: That if this Country is handed back to the German Government, we pray that His Majesty's Government will make provision for a piece of land for us—another piece of land which is not in the neighbourhood of this Country where the Germans are.

ANNEXURE " I " TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

A.6/3263/2.

Office of the Administrator,
South-West Africa,
Windhoek.
7th Nov., 1917.

Copy.

CONFIDENTIAL.

The Secretary for Defence, Pretoria.

Re BASTARD PETITION.

With reference to my Minute No. 3/3263/2 of the 18th September last on the above subject, I have the honour to enclose, for the information of the Minister, extracts from a letter dated 3rd ultimo, addressed by Mr. Dewdney Drew to Captain van Wyk of the Rehoboth Bastards, which accidentally came into the hands of the magistrate at Rehoboth, and was referred to me.

I consider Mr. Drew's advice, in the present circumstances of this country, to be mischievous, and calculated to make difficulties for me in my future control of these people while military occupation lasts.

If the Government can see its way to intervene, I think it should address a strong remonstrance to him on the subject of his interference in matters of this kind.

E. H. L. GORGES,
Administrator.

ANNEXURE " J " TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

A.7/3263/2.

Office of the Administrator,
South-West Africa,
Windhoek.
16.11.17.

Copy.

CONFIDENTIAL.

The Secretary for Defence, Pretoria.

When I was recently in Pretoria I had a discussion with Mr. Bourne on the subject of the petition of the Bastard Raad of Rehoboth which formed the enclosure to my Confidential Minute 3/3263/2 of the 18th September.

I subsequently saw Mr. Burton, who was at the time the Minister in charge of the Defence Department, and undertook to draft a Ministers' Minute to the Governor-General dealing with the matter. I informed Mr. Bourne of this, and he had the papers filed meantime.

I have now made a draft which I forward herewith. The necessary annexures to the Minute (the petition and treaty) you will find in the enclosure to my confidential communication of the 18th September in your office.

E. H. L. GORGES,
Administrator.

Prime Minister's Office, Pretoria.

CONFIDENTIAL.

Draft.

MINUTE.

Ministers have the honour to enclose for the information of His Excellency the Governor-General, and for transmission to the Right Honourable the Secretary of State for the Colonies, a copy of a translation of a petition which has been received from the Captain and Raad of the Rehoboth Bastards through the Administrator of the South-West Africa Protectorate.

[U.G. 41—'26.]

This community resides in an area, known locally as the Bastard Gebiet, situated inside the administrative district of Rehoboth, the Gebiet consisting of a portion of the district kept aside by arrangement with the German Government for occupation by the Bastard people and administered by them subject to such restrictions as that Government imposed upon them. In the Gebiet itself are also certain farms occupied by Germans, who acquired them either by marriage with the daughters of Bastard owners, or by purchase with the consent of the Bastard Raad.

The original Bastard community consisted of a number of families who migrated from the Cape Colony between the years 1863 and 1868. They were the descendants of European farmers by native women. As grazing became circumscribed, and gratification of their nomadic habits became more difficult owing to the settlement of a permanent population upon the farms in the Cape Colony, these people were constantly pushed north by the energies of the Boer pioneers at their heels. Dissatisfied with their status under the Cape Government, and unable to obtain any large tract of land which they could call their own, they trekked north across the Orange River, and sought an outlet in a strange land.

Hermanus van Wyk, father of the present Captain, Cornelius van Wijk, was chief of these people. After wandering for several years amongst the various Hottentot tribes occupying the southern portion of this territory, these Bastard families, numbering about 2,000 souls, settled down in the district of Rehoboth with the permission of the Hottentot chief, Abram Zwartbooi, and here they maintained themselves as an independent race. They were accompanied by their missionary, the Rev. F. Heidmann.

A constitution for the government of the people and a simple code of laws were drawn up in 1872, presumably with the help of the missionary. The constitution consisted of 30 articles dealing with the election of the Chief, or Captain, and his two Councillors, the election of three Volksraad members as representing the people, rights of citizenship and franchise, and the mode in which laws may be made and promulgated. Other laws dealt with criminal and civil jurisdiction, liquor traffic, the collection of debts, marriage, etc. It is remarkable that since the year 1874 no necessity has apparently arisen for the promulgation of any new laws, beyond a law in 1913 relating to divorce.

Up to the year 1884 the Bastards led an independent existence, but in that year the Germans arrived, and immediately set about obtaining the signatures of the various native chiefs in the territory to treaties of protection and friendship. In 1885 the Rev. C. G. Buttner, a missionary, was deputed by the German Government to enter also into negotiations with the Bastards. As a preliminary step he proposed that the Bastards should grant the German Government a piece of land for a police post, but the proposal was declined, and Buttner was informed that they did not wish to have living amongst them policemen, who they feared might be men of doubtful morals. However, on the 15th September, 1885, a Treaty of Friendship and Protection was concluded, and a copy of this interesting document is attached. Up to the 22nd April, 1915, this treaty was still in force, though, characteristically, various inroads upon the privileges conferred upon the Bastards in that document had been made from time to time by the German Government. On that date, owing to the hostile attitude of the Bastards towards the Germans, and the suspicion that they were about to take up arms with the Union forces, the treaty was terminated. Never at any time previous to the outbreak of the present war did the Bastards do anything to disturb the friendly relations existing between themselves and the German Government. With remarkable intuition they at once recognised the strength of the new power, and throughout the years when the Germans were involved in the numerous wars with the natives, when at times their hold on the country was very precarious, the Bastards never wavered in their support of, and loyalty to, the Government. So highly did the German Government value the help of the Bastards, that in the various monuments erected at Windhoek and elsewhere to the memory of fallen soldiers, the Bastards were always included. Frequent references, also, to the valuable assistance given in the campaigns are recorded in the German records in the Protectorate. The Germans, prior to 1914, treated the Bastards with every respect and consideration, and cultivated friendly relations with them with studious care. There is, however, ample evidence to show that the Government was only biding its time for a fitting opportunity to cast aside the treaty and rid itself of the incubus of this semi-independent state of Rehoboth. It showed itself first in the choice of a successor to the chieftainship at the decease of Hermanus van Wijk. On the election of Cornelius van Wijk, the German Government refused to acknowledge him as Captain in terms of the treaty, but approved of his appointment as Headman for one year. He was subsequently appointed Headman for periods of one year at a time. In various other directions the authority of the Raad was attacked, and van Wijk and his people eventually felt that their days as a separate people under the German regime were numbered.

While General Botha was at Swakopmund in the early part of 1915 with the Union forces, van Wijk secretly went there to confer with him, and on van Wijk's return to Rehoboth relations with the German troops became very strained, owing to their fear that

he contemplated action against them. At length, owing to the definite refusal of the Bastards to furnish men to guard the captured Union prisoners in the hands of the Germans, he was attacked by German troops, who seized the cattle, waggons and other property of the Bastards, and wilfully destroyed them. Those of the Bastards who were armed immediately mobilised, and there was considerable fighting and bloodshed before the Germans evacuated the district in their retirement north before the advance of the Union troops.

After the establishment of an Administration in the Protectorate, a resident magistrate was appointed at Rehoboth, whose business it is to superintend generally the preservation of law and order in the district, and to act as intermediary between the Raad and the Administration. This appointment and the functions of the officer filling it accord in every respect with the pre-war administrative practice of the German Government. The Bastards themselves have no machinery for preserving order. One of the members of the Raad is styled "Magistrate," but his duties are largely nominal. The Bastards are rustics, and live solely from the increase of their flocks and herds. They are almost entirely uneducated, and, as a class, are described by those who are well acquainted with them as lazy and thriftless, and much given to the consumption of strong drink when such can be obtained. The European strain in them is becoming more and more attenuated, owing to marriage with pure-blooded natives of the Hottentot and Damara tribes in the Protectorate, and the product is not a desirable one. Were they left uncontrolled, a most unsatisfactory state of affairs would assuredly arise both within and beyond the borders of the Gebiet, as that area would speedily become a sanctuary for stock thieves and other depredators.

For the last two years the inhabitants have lived in apparently complete accord with the Protectorate Administration, which has endeavoured scrupulously to maintain the position between the Bastards and the other elements of the Protectorate population as it existed up till 1914, and a very large measure of independence has been allowed these people within their own boundaries.

With the advent, however, of certain well-meaning but indiscreet advisers, a change has recently come over the attitude of the Captain and the Raad, and the petition referred to in the opening paragraph of this Minute can, in the opinion of the Administrator of the Protectorate, who has local knowledge, be directly traceable to the influence of Senator Schreiner and Mr. Dewdney Drew, members of the Union Parliament, who were given permission to visit the Gebiet in July last. The views of these gentlemen on native questions do not wholly coincide with the policy of Ministers, and there is no doubt that they have been preaching to the Bastards distrust of the Union Government in its future treatment of that community in the event of the incorporation of the Protectorate in the Union.

Although the conduct of affairs in the Protectorate has been placed by His Majesty's Government entirely in the hands of the Union Government, and although the Bastards are not British subjects, Ministers think it is but proper that His Excellency and Mr. Long should be placed in possession of the petition and of these facts connected with the people who have presented it.

Ministers would further suggest that, with the concurrence of the Secretary of State, they should cause a reply to be sent to the Captain and Raad through the Administrator to the effect that the desire of these people to govern themselves according to their constitution and laws is strongly sympathised in, and that the terms of their treaty with the Germans will be carefully observed, but that it is not possible during the continuance of the war to decide any questions relating to the future government of the Protectorate, or of the Gebiet which forms part thereof, and that the Bastards may rest assured that their interests will be fully considered when the time arrives for a final settlement of these matters.

ANNEXURE "K" TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

Daspoort, Pretoria.
25th November, 1919.

Sir E. H. L. Gorges,
Administrator of S.W. Africa,
Windhoek.

Dear Sir Ernest, The sum of the wishes expressed by the Rehoboth Volksraad is that their territory may be administered as heretofore, on the footing of a Protectorate.

They have noted very hopefully, I find, the assurance give them by Lord Buxton on his recent visit, that there exists no desire to interfere with their established customs of self-government. These, as you know, are extensive. They have enjoyed a large measure of autonomy over 50 years, having never in that time paid any taxes, except such as they voted themselves, and conducted their criminal and civil cases according to their own

laws. The (as to 1) mixed tribunals which dealt in the Kaiser's time with cases as between Bastards and Europeans, they desire it to stand, but I take this to be an academic point seeing that their territory will be closed to further ingress of Europeans if their petition respecting landownership is granted and that the Europeans presently in the territory are likely, under the same condition, to become even fewer than their present small number. The existing appeals to the European tribunals whether in mixed cases or those of Bastards alone, will, of course, continue. The Volksraad pray that, after rectification of their boundaries, a matter on which they desire to lead evidence before a Government Commission no land of their people shall be alienable except to a burgher of their community and that all persons living from that date in the territory shall be subjects to authority of the Raad. There will be the necessary exception that heirs of existing European owners not being burghers, must be allowed to inherit. They further propose that such Europeans as may desire to sell their land in order to leave the territory but cannot obtain what they regard as a fair price, shall have the right to apply to the Resident Magistrate to fix a price, either he or the Volksraad, in behalf of the Rehoboth community or private individuals, they imagine, may then be disposed to buy, but the purchaser if a private person must be approved of by the Raad and must live under its authority as a burgher. Supposing no purchaser to be forthcoming, the owner may apply to be exempted from the authority of the Volksraad and to live in the territory under direct rule of the Magistrate. I may point out that under treaty with the Kaiser Europeans living in the Gebied were subject to the rule of the Kapitein to whom, for instance, their quit-rents were payable. You see the idea in the above; it is to make the Rehoboth Gebied a reservation for coloured folk as distinguished alike from natives and Europeans. This purpose of course, fits in with the segregation policy, which in its essentials, I take to have been always the coloured and native policy of the Union. There can, I submit, be no difficulty about bringing immediately under the rule of the Volksraad those Europeans who have married, or are cohabiting with Bastard women. Their children will be Bastards. By their own act they have cut themselves off from European society and in the political sense they will enjoy full rights as burghers. The Germans with whom I conversed i.e., such men as Mr. Sieviere formerly of the General Council for the Protectorate, and Mr. Woermann of Gras, a man of wealth and culture, recognised that the Europeans above referred to have forfeited their claim to be treated within the Gebied, as other than Bastards. The number of these is, I learnt, about a dozen, and the total number of European property owners within the Gebied, is given to me as perhaps 70. As you know, I have been strongly of opinion ever since making acquaintance with the Rehoboth people that they need the white man's guidance in their own interests, and even a measure of his authority. This I find is felt—I think I may say generally felt—by the people themselves. Naturally the Volksraad desires to preserve its status and I think it is in the main desirable if they do so. I would go further and say that the hope for the future of the community is that their discipline in self-government shall continue. But their little ship of State will wreck itself unless under European captaincy, to a captaincy it should be of initiative, intervention and veto rather than of direct administration. How to balance the two authorities so that the people may enjoy a real self-government and their Volksraad be steadied by a genuine responsibility while the Union Administrator still holds and exercises at need a supreme command is a big problem. It occupied and perplexed me for days. Finally I endeavoured to approach its solution along the lines now to be stated, and in so doing was able to carry the Volksraad with me:—

The Magistrate (whom the Raad would like to have the style and status of a Resident Commissioner) should have exclusive control of the Police, but the Volksraad desire that he will recruit as many of the force as possible from their own people.

The laws of the territory shall be those in existing law books, with such alterations, cancellations and additions as may be made therein by the Volksraad subject to the King's veto. The internal constitution of the Government—the system of Kapitein, executive. Volksraad, elections should remain. (By the way, I found the Volksraad opposed to any use of the word "republic," it savoured, they thought, of Hertzogism).

Note: I would state that the Volksraad want their new constitution to be formally embodied in a written deed and agreement which will replace their treaty with the Kaiser.

While the community desire to reserve their right of exclusive taxation through their Volksraad, they will bind themselves that certain charges of the Union Government, whereof estimates should be presented to the Volksraad in advance shall become a first charge on their revenue, for instance the Resident Commissioner's Office, the Police, Posts and Telegraphs and any services in respect of education, theoretical or practical, experimental farms, irrigation and any other administrative service which the Union Government may render. The scale of these services in so far as they can be considered a fair debit to the territory should be matter for conference between the Commissioner and the Kapitein. As far as I put it to the Raad the whole of the Commissioner's expenses and the whole of the Police upkeep would naturally be their liability. Part of the posts and telegraphs expenses might be considered as answering to an interest of the Union Government, but I am not sure if the point is important. There was the possibility that

the Volksraad might be inclined to starve important services as those of education, public health and irrigation. Undoubtedly a percentage of the coloured farmers will object to much increase of their taxes for such objects. Accordingly I put it to the Raad that the Union would certainly never agree to protect a lazy unprogressive people. Were they willing, I asked, to find money for the proper schooling of their children particularly in the teaching of trades, and would they face the necessary expense for the improvement of their agriculture under the guidance and with the help of the Union Government? I pointed out that with the best will in the world no Government could long secure to a backward folk the enjoyment of their land, while all round them they had a go-ahead people who were putting the soil to full use. The Volksraad replied that they and their people desired to advance along the path of a christian civilisation. They wanted the services I had sketched and were prepared to pay for them, with the proviso that the Union Government in mapping its estimates would consider their ability to pay, and not commit them to expense beyond what they could see their way to meet. They however were willing that any service, particularly that of education which might be conducted in their territory, though it would naturally be smaller in scale should not be lower in efficiency than the corresponding service in the Union.

When I put the above statement of their views before General Smuts the other day he found little in them to criticise. He felt, he said, that the Rehoboth community in virtue of their history, their espousal of the Government's cause in the war and their attainment in civilisation, had to be dealt with in quite a different manner from any other non-European people in the Union. He asked however, what authority the Union Government was to have in matters as that of infectious diseases among livestock? It would not do, he observed, that the territory should become or be seemingly regarded by the neighbouring European farmers as a breeding ground of pests. I take it the Union Government will enforce the necessary regulations by Proclamation, if the Volksraad, after having had the situation laid down before them, do not themselves take immediately the necessary action. If the case is urgent as to which the Union Government would be the judge, I assume the proclamation would precede conference. You will feel, I think, it is always better, when practicable, to get co-operation rather than apply compulsion. Anyhow, the Volksraad, after having asked (as they will do through their petition) to be led forward in the path of civilisation cannot object to the administration of their own territory in the manner necessary to protect the civilised development of the enclosing European area.

The Volksraad ask that a sum equivalent to the amounts contributed from the territory to the customs may be made available for the local revenue and be at the disposal of the Kapitein. This is the principal of the South Africa Act with regard to the contemplated taking over of the Native territories in South Africa. I think it should in substance be capable of application to the Rehoboth Gebied, though I cannot say how a correct allowance should be computed.

The Volksraad desire payment of an alleged balance of compensation for war losses which is still due to them. I have not attempted to go into this matter in any detail. My intention is merely to include their request on this point in the petition which I have been asked to draw up. This you will receive in the usual official way after the Volksraad have received it in the Dutch version, which I have been asked to arrange for them. In the first place, I have to draft the petition in English, the points of it merely having been so far settled by the Volksraad. They will get the document from me in Dutch and it does not become their petition until they have read and adopted it, with or without modification, in that language. I am hindered in this work by the delay of the Protectorate railways in forwarding certain luggage which contains the necessary papers for my purpose.

About the only other things, so far as I can remember which the Volksraad want to ask for are the continued restriction of the drink trade and the right of burghers to carry rifles and obtain cartridges subject to permit of Resident Magistrate.

Before I left the Gebied I had the pleasure of a journey by cart through a good deal of it. The Bastards are not farming worse than the poorer class of European and some of them farm better but they could do still much better with Government assistance and direction.

I am obediently yours,

(sgd.) D. W. DREW.

P.S.—I ought to add that in the course of many hours of unrestrained conversation with the Volksraad as well as other burghers, I did not hear a word of complaint against your administration, on the contrary its considerateness is evidently much appreciated. It was a great pleasure to meet Colonel Curtis.

(Intd.) D. W. D

Translation from Dutch.

Copy.

ANNEXURE "L" TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

Thaba 'Nchu, O.F.S.,
9th December, 1918.

Mr. E. van Wyk,
Captain of the Bastard People,
Rehoboth.

Dear Sir,

Owing to influenza illness of which I have only these last few days recovered I find I shall not be able to pay you a visit, as I intended to do. But will your Volksraad not be able to send one or more delegates to Cape Town in order to consult there with your friends in the Union Parliament? In consequence of the armistice in Europe there are serious questions which closely affect the future of your people. The Parliament of the Union assembles on the 7th January. Try your best to meet Mr. Schreiner and myself in Parliament Buildings on that date or as soon as possible thereafter.

I presume you have already received a reply to your petition. That it was unfavourable I would learn without surprise. Nevertheless, according to the speech which Mr. Lloyd George, Prime Minister, held on the 5th January your case is strong and clear. But I am not writing without authority if I give you to understand that General Botha is prepared to give your people such conditions as he considers favourable and fair—this of course, in case the people in question will be satisfied to come into the Union and to bow to his Government. There arises a question about which Mr. Schreiner and I would be glad to learn your views, but preferably not by means of a letter, rather verbally. Your people has now reached a stage which is extremely important for their future. A great deal depends on which your leaders will now decide and do, and I believe it will be worth the expense to your Volksraad to send delegates to their friends in Cape Town.

Faithfully yours,

(Sgd.) DEWDNEY W. DREW.

Translation.

ANNEXURE "M" TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

Thaba 'Nchu, O.F.S.,
12 January, 1918.

Dear Sirs,

As desired by you I will endeavour to answer your letter of the 26th ultimo in Dutch, although I cannot claim to be master of the language in the slightest degree. Together with your letter I have also received the minutes enclosed therein.

I have carefully read the report of your "Volksraad" meeting held on the 2nd November. It appears to me that your people's reasons for not desiring to bend under the Germans again are very well put. I do not doubt that your declaration will create a deep impression with the Imperial Government. As far as I can see, your Volksraad has very properly taken advantage of the opportunity of laying a copy of your petition, which you had already sent to Lord Buxton, before Major O'Reilly. Perhaps you have read Mr. Lloyd George's last speech in which he made a statement on behalf of the British Empire in regard to the question of peace terms. In regard to the German Colonies he said that these were not countries inhabited by white people and that their future would therefore depend upon the decision of their coloured inhabitants, as expressed by their Captains and Councils with regard to your petition, one cannot possibly deduct anything else from its wording than that this has already been granted by the Imperial Government. In a letter which I recently received from Mr. Lloyd George, he only mentioned difficulties in connection with your petition, but added, nevertheless, that I would hear later from the Colonial Office officially. I am now awaiting this reply. In connection with the questions of ammunition and the Defence Force Canteen, I will write to you later, as soon as I have consulted Senator Schreiner, whom I hope to meet in Cape Town in the course of a few days. With the best wishes for the New Year.

I remain, yours,

DEWDNEY W. DREW.

To Messrs.

C. van Wijk, Captain;
A. Mouton, Deputy-Captain;
and F. W. Maasdorp, Clerk of the Council
of the Cape Afrikaner or Bastard Republic at Rehoboth Institutions.

P.S.—I am glad to hear that the straggling Germans have already been taken away.

Germiston, 3rd Oct. 1917.

Copy.

Post-script.—To provide starting points for your thoughts on the subject of a possible agreement between your people and His Majesty the King of England I suggest the following provisions:—

1. Land of the Territory not to be alienable except to the burghers in it.
2. Revenue raised in and out of the Territory to be available and to be spent only for the benefit of the Territory.
3. No intoxicating liquor to be sold in the Territory and the use thereof, inside the territory except by medical permit, to be illegal.
4. The Burghers to be recognized as British subjects.
5. The Territory to be governed by an Administrator responsible directly to the Imperial Government in London.
6. The Administrator to make laws and impose taxes, the Imperial Government may authorize him after consultation on his part with the Captain and Raad.
7. Representative institutions to cultivate in full responsible Government when the progress of the people shall so allow.

What I mean by the last article No. 7 is that the Rehoboth Territory should be free, if its people like, to come into the Union of S.A. as a new province and on the same footing as the existing provinces, it would then send its own members to the Union Parliament. Of course the consent of the Union would have to be obtained. This is looking far ahead, but it may be well to take everything into consideration.

D.W.D.

To Kapitein Van Wyk, Rehoboth.

ANNEXURE " N " TO REPLY TO MEMORANDUM OF MR. DEWDNEY W. DREW.

A. 206/1.

Rehoboth,

16th November, 1925.

Translation from Dutch.

The Secretary for South West Africa,
Windhoek.

Dear Sirs,

Rehoboth Village.

When Surveyor Mr. Parry visited Rehoboth last week to make certain surveys for fencing purposes, and placed certain pegs in the neighbourhood of the Government Buildings, I saw the old pegs which he used for his survey, and I recognise them as the beacons which the German Government had put in, and they are the beacons of the ground with which we are now dealing.

Cornelius Clazen has pointed out these beacons to Mr. Parry.

(Sgd.) G. W. MAASDORP.